

**STORMWATER STORAGE AGREEMENT
FOR
HOLIDAY HILLS RECREATION AREA NO. 1**

THIS AGREEMENT ("Agreement") is effective as of the date of the last authorizing signature affixed hereto. The parties ("Parties") to this Agreement are the City of Olympia (the City) and the Holiday Hills Recreation Association (the Association).

WHEREAS, due to capacity limits of the stormwater management systems in the Log Cabin/Cain Road Area, the Holiday Hills Recreation Area (the Recreation Area) may receive regionally generated stormwater from surrounding streets and development; and

WHEREAS, the Recreation Area is situated in the City of Olympia, Thurston County, Washington, to wit:

Lot 74 of the Plat of Holiday Hills as recorded in Volume 14 of Plats, at page 43, records of Thurston County, Washington.

and

WHEREAS, the City has constructed a stormwater system (the System), which is designed to meet certain standards and to potentially utilize the Recreation Area during (and only during) extreme precipitation events; and

WHEREAS, the City recognizes that accepting stormwater from outside Holiday Hills is an impact on Holiday Hills; and

WHEREAS, the Association requires the formal establishment of certain rights with respect to the use of the Recreation Area for the periodic storage and infiltration of excess stormwater therein; and

WHEREAS, the Association is willing to grant such rights to the City, subject to certain conditions.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Definitions.

- A. "System" means the street drains, pipes, ditches, and other conveyances leading water from the Nottingham and Canterbury subdivisions to Nottingham Pond, Nottingham Pond, the conveyance system from Nottingham Pond and Whitmore Glen to Cedars Kettle, a return force line from Cedars Kettle to Nottingham Pond, the conveyance system from Nottingham Pond to North Street, the conveyance system into the Recreation Area, and all appurtenances associated with all of the above elements.
- B. "Recreation Area" means Recreation Area No. 1 as recorded on the plat of Holiday Hills.

- 2. This Agreement shall extend only to waters generated outside of Holiday Hills and conveyed to the Recreation Area via the System.
- 3. The System, as it exists at the time of this Agreement, shall be considered to be "at capacity" with respect to accepting additional stormwater. However, the City shall not be precluded from allowing additional stormwater into the Cedars Kettle, if the kettle is enlarged, with prior notice to the Association, and the City reasonably demonstrates that the frequency and/or severity of stormwater releases to the Recreation Area will not be increased.
- 4. The City will make reasonable efforts to avoid impacts to trees and property adjacent to the storm drain easement, entering the Recreation Area from the east during maintenance of the pipe. The City will seek in good faith to work with the affected property owner(s) to avoid damage, and if damage occurs, to make appropriate repairs.
- 5. The Association hereby agrees to grant the City the right to deposit stormwater upon the Recreation Area, in accordance with the terms of this Agreement. The term of this lease shall be fifteen (15) years.
- 6. The City agrees to indemnify, defend, and hold the Association, its officers and its members harmless from any suits, actions, or damages for personal injury or death or from actual damage to real or personal property, including reasonable attorney's fees and court costs, arising out of the City's maintenance or use of the lease here granted or from operation of the System, provided this indemnity

shall not apply to any loss in property value of the Recreation Area itself, except as expressly provided herein.

7. In consideration for the rights granted by the Association, the City agrees, during the term of this lease and a mutually agreed extension, if any, to make payments to the Association as follows:

In the calendar months in which significant releases of water are released from the System into the Recreation Area, determined by the measured water depth in the Recreation Area exceeding three (3) feet at any point for any period of time, the sum of Three Thousand Dollars and No/100 (\$3,000.00) to be escalated each year following execution of this Agreement at the rate of inflation as determined by the United States Consumer Price Index.

Payment by the City is not contingent on a demand by the Association.

8. In any year in which the turf in the Recreation Area is damaged due to the storage and infiltration of stormwater from the System, the City shall, as soon as feasible in the spring, restore the damaged area for recreational use. Restoration efforts shall include, but may not be limited to, removal of silt, debris, and thatch, if any, aeration, weed control, and insect control as needed, and seeding or turf installation adequate to restore the field surface for recreation use within six (6) weeks of seeding or installation, including any necessary temporary irrigation.
9. The City agrees to promptly remediate any measurable contamination above regulatory standards which has been conveyed to the Recreation Area from outside Holiday Hills by way of the System. The City agrees to reimburse the Association for the reasonable costs of a baseline test.
10. Each party and signatory represents and warrants that they have the authority to enter into this Agreement.
11. Venue. Any lawsuit to enforce the terms of this Agreement shall be filed in Thurston County Superior Court.

CITY OF OLYMPIA

Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:

Darren Nieheber

DEPUTY CITY ATTORNEY

STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

On the _____ day of _____ 2014, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Steven R. Hall, to me known to be the City Manager of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature

Print Name: _____

NOTARY PUBLIC in and for the State of Washington, residing at _____

My commission expires _____

HOLIDAY HILLS RECREATION ASSOCIATION

Gregory Allen

Signature

Print Name Gregory Allen

Title HHRA co-president

Date: 7/11/14

STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

On the 11th day of July 2014, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Gregory Allen, to me known to be the President of the Holiday Hills Recreation Association, who executed the foregoing instrument and acknowledged the said instrument to be the

free and voluntary act and deed of said Association for the uses and purposes therein mentioned and on oath states that He is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.



Jennifer Lee
Signature
Print Name: Jennifer Lee
NOTARY PUBLIC in and for the State of
Washington, residing at Olympia
My commission expires 12/19/17