

RECORDING REQUESTED BY:
Town of Los Gatos

WHEN RECORDED MAIL TO:
Clerk Administrator
Town of Los Gatos
110 E. Main Street
Los Gatos, CA 95030

*Record without fee pursuant to
Government Code Section 6103*

**STORMWATER TREATMENT AND DETENTION MEASURES
MAINTENANCE AGREEMENT AT
SOLANA**

This Stormwater Treatment Measures Maintenance Agreement (“Agreement”) is entered into this ____ day of _____, 2026, by and between the Town of Los Gatos, a municipal corporation (“Town”) and SummerHill 50 LGSR LLC, a California limited liability company (the “Property Owner”).

RECITALS

WHEREAS, on May 11, 2022, the Regional Water Quality Control Board, San Francisco Bay Region, adopted Order R2-2022-0018, CAS612008, reissuing the San Francisco Bay Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit for the municipalities and countywide Clean Water Programs in Alameda County, Contra Costa County, San Mateo County, Santa Clara County, the cities of Fairfield and Suisun City, and the City of Vallejo and the Vallejo Sanitation and Flood Control District; and

WHEREAS, the Town of Los Gatos is member agency of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPP), an association of 13 south bay cities, the Santa Clara Valley Water District, and Santa Clara County; and

WHEREAS, Provision C.3.h. of this NPDES permit, and as it may be amended or reissued, requires the Town to provide minimum verification and access assurances that all stormwater treatment and detention measures shall be adequately operated and maintained by persons and entities responsible for the stormwater treatment measures; and

WHEREAS, Property Owner is the owner of real property commonly known as the “Solana” development, located within the Town (the “Property”), and more particularly described in the attached **Exhibit A**, upon which stormwater treatment measures are located or to be constructed, as shown in the attached **Exhibit B**; and

WHEREAS, the Town is the permittee public agency with jurisdiction over the Property.

WHEREAS, the Property Owner, its administrators, co-owners, executors, successors, heirs, assigns or any other persons, including any homeowners association (hereinafter collectively referred to as “Property Owner”) recognizes that the stormwater treatment and detention measure(s) more particularly described and shown on **Exhibit B**, of which the approved full-scale plans and any approved amendments thereto are on file with the Engineering Division of the Parks & Public Works Department of the Town of Los Gatos, must be installed and maintained as indicated in this Agreement and as required by the NPDES permit;

WHEREAS, as a Conditions of Approval of for Architecture and Site Application No. S-23-042 and a Conditions of Approval for Vesting Tentative Map Application No. M-23-009 approved by the Town Council on March 4, 2025, for the development of the Property, the Town of Los Gatos requires that the Property Owner enter into an agreement for the maintenance of the Storm Water Treatment Facility for the Property;

WHEREAS, the Town and the Property Owner agree that the health, safety and welfare of the citizens of the Town require that the stormwater treatment and detention measure(s) detailed in the approved Site Plan shall be constructed and maintained on the Property; and

WHEREAS, the Town’s Stormwater Management Ordinance, guidelines, criteria and other written directions require that the stormwater treatment and detention measure(s), as shown on the approved Site Plan, be constructed and maintained by the Property Owner.

NOW, THEREFORE, in consideration of the benefit received by the Property Owner as a result of the Town’s approval of the Application Nos. S-23-042 and M-23-009, the Property Owner hereby covenants and agrees as follows:

SECTION 1: CONSTRUCTION OF TREATMENT MEASURES

The on-site stormwater treatment measure(s) and offsite BR-7 shown on the approved Site Plan is a private facility and shall be constructed or cause to be constructed by the Property Owner in strict accordance with the approved plans and specifications identified for the Property and any other requirements thereto that have been approved by the Town in conformance with appropriate Town ordinances, guidelines, criteria and other written direction.

SECTION 2: OPERATION & MAINTENANCE RESPONSIBILITY

This Agreement shall serve as the signed statement by the Property Owner accepting responsibility for operation and maintenance of stormwater treatment measures as set forth in this Agreement until the responsibility is legally transferred to another entity. Prior to transferring title for all or any part of the Property, Property Owner shall provide to the Town at least one of the following:

- A. A signed statement from the entity assuming post-construction responsibility for treatment measure maintenance and that the treatment measures meet all local agency design standards; or

- B. Written conditions in the sales or lease agreement requiring the buyer or lessee to assume responsibility for operation and maintenance (“O&M”) consistent with this provision, which conditions, in the case of purchase and sale agreements, shall be written to survive beyond the close of escrow; or
- C. Written text in Property conditions, covenants and restrictions (CC&Rs) for residential properties assigning O&M responsibilities to the homeowners association for O&M of the treatment measures; or
- D. Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of treatment measures.

SECTION 3: MAINTENANCE OF TREATMENT MEASURES

The Property Owner shall not destroy or remove the stormwater treatment measures from the Property or modify or otherwise allow the stormwater treatment system to exist in any manner that lessens its effectiveness and shall, at its sole expense, adequately maintain the stormwater treatment measure(s) in good working order acceptable to the Town (which acceptance shall not be unreasonably withheld, conditioned or delayed) and in accordance with the Maintenance Plan submitted by the Property Owner and approved by the Town Engineer or his or her designee and in accordance with all federal, state or local laws and regulations, attached hereto as **Exhibit C** and incorporated herein by this reference. This includes all pipes, channels or other conveyances built to convey stormwater to the treatment measure(s), as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as maintaining the described facilities in good working condition so that these facilities continue to operate as originally designed and approved. The maintenance plan shall include a detailed description of and schedule for long-term maintenance activities.

In the event the stormwater treatment measures are destroyed, damaged, removed or modified in a manner that lessens their effectiveness, the Property Owner, at its sole expense, shall restore them such that they perform as intended.

SECTION 4: SEDIMENT MANAGEMENT

Sediment accumulation resulting from the normal operation of the stormwater treatment measure(s) will be managed appropriately by the Property Owner. The Property Owner will provide for the removal and disposal of accumulated sediments. Disposal of accumulated sediments shall not occur on the Property, unless provided for in the maintenance plan. Any disposal or removal of accumulated sediments or debris shall be in compliance with all federal, state and local law and regulations.

SECTION 5: ANNUAL INSPECTION AND REPORT

The Property Owner shall, on an annual basis, complete the Treatment Measure Operation and Maintenance Inspection Report (Annual Report), attached to this Agreement as **Exhibit D**. The Annual Report shall include all completed Inspection and Maintenance Checklists, in the form attached to this Agreement as **Exhibit D** for the reporting period and shall be submitted to the Town in order to verify that inspection and maintenance of the applicable stormwater treatment measure(s) have been conducted pursuant to this Agreement. The Annual Report shall be submitted no later than December 31 of each year, under penalty of perjury, to:

Town of Los Gatos – Engineering Division, Public Works Department
41 Miles Avenue, Los Gatos, CA 95030
Attn: Stormwater Reporting

or another member of the Town staff as directed by the Town. The Property Owner shall conduct a minimum of two (2) inspections of the stormwater treatment measure(s) annually, and provide reports once in the Fall by October 1st, in preparation for the wet season, and once in the Winter by March 15th. This inspection shall occur between August 1st and October 1st each year. More frequent inspections may be required by the Maintenance Plan at **Exhibit C**. The results of inspections shall be recorded on the Inspection and Maintenance Checklist(s) attached as **Exhibit D**.

The Property Owner shall retain each annual report at a location on the Property for a period of at least three years from the date generated, or as directed by Regional Water Board. The Town may request Property Owner to provide copies of any or all annual reports prepared during the previous three years in order to verify that inspection and maintenance of the applicable stormwater treatment measures have been conducted pursuant to this Agreement. Property Owner shall comply with any such request within ten (10) working days.

SECTION 6: NECESSARY CHANGES AND MODIFICATIONS

At its sole expense, the Property Owner shall make changes or modifications to the stormwater treatment measure(s) and/or the long-term Maintenance Plan, **Exhibit C**, as may be determined as reasonably necessary by the Town to ensure that treatment measures are properly maintained and continue to operate as originally designed and approved.

Property Owner is required to obtain written approval from the Town prior to performing any structural alterations or modifications to the stormwater treatment measure(s) and/or the long-term Maintenance Plan. The Property Owner shall obtain all necessary permits as required by the Town Municipal Code and Ordinance. Upon the Town's approval, any necessary modifications to this Agreement shall be made in the form of an amendment, which shall be signed by all parties and recorded.

SECTION 7: ACCESS TO THE PROPERTY

The Property Owner hereby grants permission to the Town; the San Francisco Bay Regional Water Quality Control Board (Regional Board); the Santa Clara County Department of Environmental Health, Vector Control District; and their authorized agents and employees to enter upon the Property at reasonable times and in a reasonable manner to inspect, assess or observe the stormwater treatment measure(s) in order to ensure that treatment measures are being properly maintained and are continuing to perform in an adequate manner to protect water quality and the public health and safety. This includes the right to enter upon the Property when it has a reasonable basis to believe that a violation of this Agreement, the Town's stormwater management ordinance, guidelines, criteria, other written direction, or the Santa Clara Countywide Clean Water Program's NPDES municipal stormwater permit (Regional Board Order R2-2022-0018, and any amendments or re-issuances of this permit) is occurring, has occurred or threatens to occur. The above listed agencies also have a right to enter the Property when necessary for abatement of a public nuisance or correction of a violation of the ordinance guideline, criteria or other written direction. Whenever

possible, the Town, Regional Board, or the Vector Control District shall provide reasonable notice to the Property Owner before entering the Property.

SECTION 8: FAILURE TO MAINTAIN TREATMENT MEASURES

In the event the Property Owner fails to accomplish the necessary maintenance of the stormwater treatment measure(s), as shown on the approved Site Plan or comparable document, in good working order acceptable to the Town and in accordance with the Maintenance Plan incorporated in this Agreement, within ten (10) days of written notice by the Town, the Town and its authorized agents and employees may enter the Property and take whatever steps it deems necessary and appropriate to return the treatment measure(s) to good working order, in addition to all other rights and remedies available in law and in equity. Any costs incurred by Town shall be the sole responsibility of the Property Owner. Prior notice will not be necessary if emergency conditions require immediate remedial action. This provision shall not be construed to allow the Town to erect any structure of a permanent nature on the Property. It is expressly understood and agreed that the Town is under no obligation to maintain or repair the treatment measure(s) and in no event shall this Agreement be construed to impose any such obligation on the Town.

SECTION 9: REIMBURSEMENT OF TOWN EXPENDITURES

In the event the Town, pursuant to this Agreement, performs work of any nature (direct or indirect), including any reinspections, repairs or any actions it deems necessary or appropriate to return the treatment measure(s) in good working order as indicated in Section 8, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the Town, or shall forfeit any required bond upon demand within thirty (30) days of receipt thereof for the costs incurred by the Town hereunder. If these costs are not paid within the prescribed time period, the Town may assess the Property Owner the cost of the work, both direct and indirect, and applicable penalties. Said assessment shall be a lien against the Property, or prorated against the beneficial users of the Property or may be placed on the property tax bill and collected as ordinary taxes by the Town. The actions described in this section are in addition to and not in lieu of any and all legal remedies as provided by law, available to the Town as a result of the Property Owner's failure to maintain the treatment measure(s). This shall include, but is not limited to, required Municipal Regional Permit (MRP) annual inspections, or any other inspections as required by the Town's Municipal Regional Permit. Inspection fees shall be paid pursuant to the Town's Fee Schedule as applicable.

SECTION 10: INDEMNIFICATION

The Property Owner shall indemnify, hold harmless and defend the Town and its authorized agents, officers, officials and employees from and against any and all claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorney fees claimed or which might arise or be asserted against the Town that are alleged or proven to result or arise from the construction, presence, existence or maintenance of the treatment measure(s) by the Property Owner or the Town. In the event a claim is asserted against the Town, its authorized agents, officers, officials or employees, the Town shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim. If any judgment or claims against the Town, its authorized agents, officers, officials or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith. This section shall not apply to any claims, demands, suits, damages,

liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorney fees claimed which arise due solely to the negligence or willful misconduct of the Town and/or its authorized agents, officers, officials and employees.

SECTION 11: NO ADDITIONAL LIABILITY

It is the intent of this Agreement to insure the proper maintenance of the treatment measure(s) by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability not otherwise provided by law of any party for damage alleged to result from or caused by storm water runoff.

SECTION 12: PERFORMANCE FINANCIAL ASSURANCE

If the Property Owner fails to maintain the stormwater treatment measure(s) after written notice and opportunity to cure, the Town may request the Property Owner to provide a performance bond, security or other appropriate financial assurance providing for the maintenance of the stormwater treatment measure(s) pursuant to the Town's ordinances, guidelines, criteria or written direction.

SECTION 13: TRANSFER OF PROPERTY

This Agreement shall run with the land and shall be binding upon all heirs, successors, and assigns of Property Owner. The Property Owner further agrees whenever the Property is held, sold, conveyed or otherwise transferred, it shall be subject to this Agreement, which shall be assigned to, apply to, bind and be obligatory to all present and subsequent owners of the Property. Notwithstanding any provisions of this Agreement to the contrary, once an owners association (the "Association") commences operation and maintenance of the Stormwater Treatment Measures that are the Association's responsibility to maintain as set forth in an applicable Declaration of Restrictions, SummerHill 50 LGSR LLC shall automatically be released of its obligations and responsibilities under this Agreement that accrue or arise after the date the Association commences such operation and maintenance.

SECTION 14: SEVERABILITY

The provisions of this Agreement shall be severable and if any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision is adjudged invalid or unconstitutional by a court of competent jurisdiction, or the applicability to any Property Owner is held invalid, this shall not affect or invalidate the remainder of any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision of this Agreement.

SECTION 15: RECORDATION

This Agreement shall be recorded by the Property Owner, or by the Town by mutual agreement, within five (5) business days, or such time as agreed upon by both parties, after the execution date of this Agreement as stated above among the deed records of the County Recorder's Office of the County of Santa Clara, California at the Property Owner's expense. A copy of the recorded Agreement shall be provided to the Town as required by the Conditions of Approval of the Project.

SECTION 16: RELEASE OF AGREEMENT

In the event the Town determines that the stormwater treatment measures located on the

Property are no longer required, then the Town, at the request of the Property Owner, shall execute a release of this Inspection and Maintenance Agreement, which the Property Owner, or the Town by mutual agreement, shall record in the County Recorder's Office at the Property Owner's expense. The stormwater treatment measure(s) shall not be removed from the Property unless such a release is so executed and recorded.

SECTION 17: EFFECTIVE DATE AND MODIFICATION

This Agreement is effective upon the date of execution as stated at the beginning of this Agreement. This Agreement shall not be modified except by written instrument executed by the Town and the Property Owner at the time of modification. Such modifications shall be effective upon the date of execution and shall be recorded.

SECTION 18: MISCELLANEOUS

a. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Santa Clara.

b. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, expert's fees and costs, and litigation expenses and other costs which shall become part of the lien against the Property.

c. If Property Owner consists of more than one party, each person, entity, or other party described as the "Property Owner" in this Agreement and/or executing this Agreement for the Property Owner shall be jointly and severally liable for each and every obligation and requirement imposed on Property Owner herein.

d. Nothing in this Agreement or anything provided herein shall in any way defeat, invalidate or impair the obligation secured by or the security of any deed of trust now or hereafter encumbering the Property or any part thereof, and any lender who forecloses or otherwise acquires title to the Property or any part thereof shall only be obligated for matters under this Agreement which first arise after the time any such lender acquired title.

SECTION 19: NOTICE

Any notice required to be given hereunder shall be deemed to have been provided by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO TOWN: Town of Los Gatos
Engineering Division, Public Works Department
110 E. Main Street
Los Gatos, CA 95030
Attn: Stormwater Reporting

TO PROPERTY OWNER: SummerHill 50 LGSR LLC
6101 Bollinger Canyon Road
San Ramon, CA 94583
Attn.: SVP of Development

with a copy to

SummerHill 50 LGSR LLC
777 California Ave.
Palo Alto, CA 94304
Attn.: General Counsel

Change of address is official only after providing written notice thereof to the other party. Notice(s) shall be deemed effective upon receipt or seventy-two (72) hours after deposit in the U.S. mail, whichever is earlier.

[SIGNATURES ON FOLLOWING PAGE]

In Witness Whereof, the Parties have executed this Agreement as of the date first written below.

PROPERTY OWNER

**SUMMERHILL 50 LGSR LLC,
a California limited liability company**

By: SummerHill LGL Venture LLC,
a Delaware limited liability company,
its Sole Member

By: SummerHill LGL Venture Manager LLC, a
Delaware limited liability company,
its Managing Member

By: SummerHill Homes LLC,
a California limited liability company,
its Manager

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

TOWN OF LOS GATOS

RECOMMENDED BY:

TOWN MANAGER

DATE: _____

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)
_____)

On _____, before me, _____, a Notary Public, personally appeared _____, 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 _____

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, _____, a Notary Public, personally appeared _____, 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 _____

Exhibit A

LEGAL DESCRIPTION OF SOLANA --- TO BE UPDATED

Exhibit B

STORM WATER TREATMENT MEASURES LOCATIONS --- TO BE UPDATED

Exhibit C

OPERATIONS MAINTENANCE PLAN --- TO BE UPDATED

Exhibit D

**ANNUAL REPORT FORM FOR TREATMENT MEASURE OPERATION
AND MAINTENANCE INSPECTION CHECKLISTS**

**Treatment Measure Operation and Maintenance Inspection Report to the Town of Los
Gatos, Santa Clara County, California**

This report and attached inspection checklists document the inspection and maintenance conducted for the identified stormwater treatment measure(s) subject to the Maintenance Agreement between the Town and the property owner during the annual reporting period indicated below.

I. Property Information:

Property Address or APN:

Property Owner:

II. Contact Information:

Name of person to contact regarding this report:

Phone number of contact person:

Email:

Address to which correspondence regarding this report should be directed:

III. Reporting Period:

This report, with the attached completed inspection checklists, documents the inspections and maintenance of the identified treatment measures during the time period from January 1, 20-- to December 15, 20--.

IV. Treatment Measure Information:

The following stormwater treatment measures (identified treatment measures) are located on the property identified above and are subject to the Maintenance Agreement:

Identifying Number of Treatment Measure	Type of Treatment Measure	Location of Treatment Measure on the Property

V. Sediment Management

The sediment was removed and disposed of as follows: _____

VI. Inspector Information:

The inspections documented in the attached inspection checklists were conducted by the following inspector(s):

Inspector Name and Title	Inspector's Employer and Address

VII. Statement of Treatment Measure Condition

Based on the inspections documented in the attached checklists, is(are) the treatment measure(s) identified in this report present, functional and being maintained as required by the Maintenance Plan? (Check yes or no.)

___ YES ___ NO

If "NO", describe problem, proposed solution and schedule of correction:

VIII. Certification:

I hereby certify, under penalty of perjury, that the information presented in this report and attachments is true and complete:

Signature of Property Owner or Other Responsible Party

Date

Type or Print Name

Company Name

Address _____ City, State, Zip _____

Phone number: _____ Email: _____

*Attachments to the
Treatment Measure Operation
and Maintenance Inspection Report:
Completed Inspection Checklists*