

DECLARATION

THIS DECLARATION ("Declaration") is made this _____ day of _____, 2019, by the City of Blaine, a home charter city of the State of Minnesota ("Declarant") in favor of the Rice Creek Watershed District ("District"), a special purpose governmental subdivision with powers set forth in Minnesota Statutes Chapters 103B and 103D and drainage authority under Minnesota Statutes chapter 103E.

RECITALS

WHEREAS, Declarant is the owner of real property within the City of Blaine, Anoka County, Minnesota, legally described as:

The South 123.38 feet of the North Half of the Northeast Quarter of Section 11, Township 31, Range 23, except the West 1170 feet of said Northeast Quarter, and the North 176.62 feet of the South Half of the Northeast Quarter of Section 11, Township 31, Range 23, except the West 1170 feet of said Northeast Quarter, EXCEPT Parcel 48, Anoka County Highway Right-of-Way Plat No. 61. ("Burdened Property").

(the Property) and no one other than Declarant has any right, title or interest in the Property; and

WHEREAS, the Property constitutes the entirety of the land to which District Permit # 19-036 applies; and

WHEREAS, Declarant desires to subject the Property to certain conditions and restrictions imposed by the District as a condition to issuance of District Permit # 19-036 for the benefit of the District and the owners of the Property.

NOW THEREFORE, Declarant makes this Declaration and hereby declares that this Declaration constitutes covenants to run with the Property in perpetuity, and further declares that the Property will be owned, used, occupied, and conveyed subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which bind all persons owning or acquiring any right, title or interest in the Property, and their heirs, successors, personal representatives, and assigns.

1. Wetland Buffer and Upland Habitat. Vegetated wetland buffer and upland habitat are established as delineated on the scaled site plan for the Property attached hereto and incorporated herein as Attachment A. The wetland buffer and upland habitat are subject to the following terms:
 - a. The wetland buffer and upland habitat will consist of vegetated land, consisting primarily of plant species native to this region, that is not cultivated, cropped, pastured, mowed, fertilized, used as a site for depositing snow removed from roads, driveways or parking lots, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the wetland buffer or upland habitat, actions to address disease or invasive species, or other actions to maintain or improve wetland buffer or upland habitat quality, each as approved in writing by District staff. The wetland buffer and upland habitat will be maintained in accordance with the vegetation management plan attached hereto and incorporated herein as Attachment B.
 - b. No above- or below-ground structure or impervious surface will be placed within the wetland buffer or upland habitat permanently or temporarily, except as follows:
 - i. A structure may extend over or be suspended above the wetland buffer or upland habitat if the impact of any supports within the wetland buffer or upland habitat is negligible, the design allows sufficient light to maintain the species shaded by the structure, and, for wetland buffer, the structure does not interfere with the protection afforded by the wetland buffer.
 - ii. A public utility, or a structure associated with a public utility, may be located within a wetland buffer or upland habitat if the District has concurred in writing that there is no reasonable alternative that avoids or reduces the proposed intrusion. The utility or structure shall minimize the area of permanent vegetative disturbance.
 - iii. Wetland buffer or upland habitat may enclose a linear surface no more than 10 feet in width and, for buffer, no less than 25 feet from the delineated wetland edge for non-motorized travel if wetland habitat will not be measurably reduced.
 - iv. A vegetated vehicle access path to Blaine Municipal Well 19 as permitted under District Permit # 19-036.
 - c. Wetland buffer may be disturbed to alter land contours or improve buffer function if the following criteria are met:

- i. An erosion control plan is submitted to the District under which: alterations are designed and conducted to expose the smallest area of disturbed ground for the shortest time possible; fill or excavated material is not placed to create an unstable slope; mulches or similar materials are used for temporary soil coverage; and permanent native vegetation is established as soon as possible.
 - ii. Wooded buffer and native riparian canopy trees are left intact;
 - iii. When disturbance is completed, sheet flow characteristics within the buffer are improved; average slope is no steeper than preexisting average slope or 5:1 (horizontal:vertical), whichever is less steep (preexisting slopes steeper than 5:1 containing dense native vegetation will not require regrading); the top 18 inches of the soil profile is not compacted, has a permeability at least equal to the permeability of the preexisting soil in an uncompacted state and has organic matter content of between five and 15 percent; and habitat diversity and riparian shading are maintained or improved.
 - iv. A re-vegetation plan is submitted to the District, specifying removal of invasive species and establishment of native vegetation suited to the location.
 - v. For three years after the site is stabilized, the property owner will correct erosion, maintain and replace vegetation, and remove invasive species to establish permanent vegetation according to the vegetation management plan in Attachment B.
 - vi. Disturbance is not likely to result in erosion, slope failure or a failure to establish vegetation due to existing or proposed slope, soil type, root structure or proposed construction methods.
- d. Material will not be excavated from or placed in a wetland buffer or upland habitat, except for temporary placement of fill or excavated material pursuant to duly-permitted work in the associated wetland or upland habitat.
- e. The wetland buffer and upland habitat will be indicated by permanent, free-standing markers at the wetland buffer's or upland habitat's upland edge, with a design and text approved by District staff in writing. A marker will be placed at each lot line, with additional markers at an interval of no more than 200 feet. If a District permit is sought for a subdivision, the monumentation requirement will apply to each lot of record to be created.

2. Notice. Any notice under this Declaration will be sent by certified mail, return receipt requested, or delivered to the following address:

**City of Blaine
10801 Town Square Drive NE
Blaine, MN 55449**

Declarant may change this address by a certified letter to the District referencing the permit number.

3. Recordation/Registration. Declarant will file an executed copy of this Declaration with the Anoka County Recorder's Office, with the filing cost to be borne by Declarant. This Declaration will be unlimited in duration without being re-recorded. The covenants and restrictions set forth in this Declaration are established for the benefit of the District as a public body and the benefit of appurtenant public resources, and are not intended as "private covenants, conditions or restrictions" within the meaning of Minnesota Statutes § 500.20.
4. Recitals. The recitals set forth above expressly are incorporated herein.

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

Tom Ryan, Mayor, City of Blaine
DECLARANT

STATE OF MINNESOTA)
) ss.
COUNTY OF Anoka)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by Tom Ryan, Mayor, City of Blaine.

Notary (stamp)

This instrument was drafted by:

City of Blaine
10801 Town Square Drive NE
Blaine, MN 55449