GOVERNMENT OF THE DISTRICT OF COLUMBIA

**Office of the Attorney General**

##### Commercial Division

**Procedure and Protocol for obtaining legal and technical sufficiency review of an AMENDED Stormwater Management Declaration of Covenants**

DC Official Code Section 8-103.01 provides for the promulgation of rules to implement the provision. Section 529 of Title 21 of the District of Columbia Municipal Regulations (DCMR) requires that, under certain circumstances, owners of real property execute a stormwater declaration of covenants containing a stormwater management plan (SWMP) and an easement in favor of the Department of Energy and Environment (DOEE) ensuring access. Section 529.3 of the DCMR provides that the declaration of covenants and easement shall “be determined legally sufficient by the Attorney General or the Department’s (DOEE’s) Designee.” DOEE and OAG have agreed that OAG shall determine legal sufficiency.

**Instructions: Owner/developer must:**

1. Draft the Amended Declaration of Covenants when requested by the DOEE plan reviewer. A template has been provided to assist with language. Edit the highlighted sections to reflect the proposed recitals and exhibit revision(s).
2. If the stormwater Best Management Practices (BMPs) plan (Exhibit B) is to be revised, provide the updated site plan showing all required stormwater BMPs in both the private and public right-of-way and land covers.
3. If new or additional stormwater BMPs are to be used, provide an updated (Exhibit C) maintenance plan of all stormwater BMPs, stormwater infrastructure, and land covers for District approval pursuant to 21 DCMR § 519.
4. If the Stormwater Management Plan Compliance Data Sheets including Maintenance signature and Offv stamps from DOEE’s [Surface and Groundwater System (SGS)](https://doee.dc.gov/sgs) are revised, update Exhibit D.
5. Email a pdf of the covenant amendment based on the attached form and modified and completed for execution (with Exhibits A, B, C, and D) to the Contact Person at OAG and DOEE reviewer [**the submission need not be executed**].
6. Once the OAG Contact Person and DOEE reviewer have preliminarily approved the form of your Amended Declaration of Covenants, upload the complete, signed, and notarized Declaration of Covenants **excluding instruction page** to the project’s page in DOEE’s SGS by selecting "Covenant" as the Type of Document. Indicate the page number under “Page of covenant with technical and legal sufficiency signatures” field. All covenants are electronically signed and stamped in DOEE’s SGS. Once approved, the signed covenant may be downloaded from the SGS.
7. Download the approved Covenants Amendments from the DOEE SGS and have it recorded at the Office of Tax and Revenue, Recorder of Deeds. Documents can be processed online electronically. <https://otr.cfo.dc.gov/node/1240941>
8. Upload a copy of the recorded document into the DOEE Surface and Groundwater System by selecting "Recorded Declaration of Covenant" as the Type of Document. Once the final DOEE fees have been paid, the approved plan set is accessible to download from the DOEE SGS.

Additional covenant instructions are available on DOEE’s [Stormwater Management Guidebook page](https://doee.dc.gov/swguidebook).

**Contact Person at OAG: Contact Person at DOEE:**

Lawrence WolkSee the SGS project page for the assigned

Assistant Attorney General DOEE reviewer and contact information.

Commercial Division

D.C. Office of the Attorney General

 400 6th Street, NW, Suite 9100

Washington, DC 20001

Tel: (202) 724-5094 Cell (202)236-4654

Fax: (202) 741-0420

lawrence.wolk@dc.gov

**THE GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Energy and Environment**

**NATURAL RESOURCES ADMINISTRATION**

**REGULATORY REVIEW DIVISION**

**AMENDMENT TO DECLARATION OF COVENANTS**

**For a Stormwater Management Facility**

THIS AMENDMENT TO DECLARATION OF COVENANTS (the “**Amendment**”) is made this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20­\_\_, by **OWNER** and its successors and assigns (“**Owner**”) to amend the Declaration of Covenants dated\_\_\_\_\_\_\_\_\_\_\_\_, previously approved and recorded with the Recorder of Deeds as Instrument Number \_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Declaration**”) for the benefit of the District of Columbia, a municipal corporation (the “**District**”).

**RECITALS**

A. The Owner is the owner in fee simple of certain real property and improvements (collectively, the “**Property**”) located in the District of Columbia and more particularly described in **Exhibit A** attached hereto and made a part hereof. No other person or entity has an ownership interest in the Property.

B. In order to manage stormwater flow conditions resulting from certain improvements Owner will make to the Property, the regulations of the District, found at Title 21, Chapter 5, of the District of Columbia Municipal Regulations (“DCMR”) require that Owner develop and submit for approval a Stormwater Management Plan (“SWMP”) for the installation and maintenance of all stormwater best management practices (“BMPs”), stormwater infrastructure, and land covers on the Property (collectively, the “Facility”), and including any obligation to achieve Off-Site Retention Volume (Offv).

C. Section 529 of Title 21 of the DCMR requires that Owner execute and record, with the District of Columbia Recorder of Deeds, a declaration of covenants running with the land that set forth Owner’s responsibilities under the SWMP.

NOW, THEREFORE, for and in consideration of the issuance of building permits and approval of Owner’s plans by the District, and other good and valuable consideration the sufficiency of which is hereby acknowledged, for the benefit of and limitation upon Owner and all future owners of the Property, and for the benefit of the District, Owner for itself, its successors and assigns, does hereby acknowledge, represent, covenant, agree, and warrant to the District as follows:

 1. The Facility defined in Recital B and referenced throughout the Declaration is now identified as [**Stormwater BMPs and land covers**].

2. Exhibits [ A,] B, C and D of the Declaration are deleted and replaced with the attached [**Exhibit A**,] **Exhibit B**, **Exhibit C, and Exhibit D**.----ONLY DELETE AND REPLACE THOSE BEING CHANGED- IF EXHIBIT A IS NOT CHANGING, DO NOT LIST HERE

3. The Facility and any responsibility to achieve Off-Site Retention Volume (Offv), as stated in gallons in the Stormwater Management Plan Compliance Data Sheets attached hereto as **Exhibit D**, is shown on the plans approved by the District attached hereto as **Exhibit B**, the Site Plan, as the same may be amended pursuant to the District’s approval.

4. All other provisions of the Declaration shall remain in full force and effect.

**[SiGNATURES FOLLOW]**

IN WITNESS WHEREOF, Owner has, as of the day and year first above written, caused this Amendment to be signed by NAME OF PERSON SIGNING.

NAME OF OWNER

By: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_

 NAME OF PERSON SIGNING,TITLE

**ACKNOWLEDGMENT**

\_\_\_\_\_\_LIST STATE\_\_\_\_\_\_\_\_\_\_\_\_ )

 ) ss:

\_\_\_\_\_\_LIST COUNTY\_\_\_\_\_\_\_\_\_\_ )

I, NAME OF NOTARY, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that NAME OF PERSON SIGNING ON BEHALF OF OWNER, who is personally well known (or satisfactorily proven) to me, and being authorized to do so, executed the foregoing Declaration of Covenants and has acknowledged the same to be the act and deed of NAME OF OWNER, and that s/he delivered the same as such.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires:

[NOTARIAL SEAL]

**Approved as to technical sufficiency:**

District of Columbia Department of Energy and Environment

Natural Resources Administration

Regulatory Review Division

By:

Name:

Title:

Date:

**APPROVED AS TO LEGAL SUFFICIENCY:**

District of Columbia Office of the Attorney General

Commercial Division

By:

Title:

Date:

**Property Address [include Square and Lot(s)]:**

**EXHIBIT A**

[LEGAL DESCRIPTION]

**EXHIBIT B**

[SITE PLAN]

**EXHIBIT C**

[MAINTENANCE SCHEDULE]

**EXHIBIT D**

[STORMWATER MANAGEMENT PLAN COMPLIANCE DATA SHEETS]