RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

CITY OF ONTARIO

RECORDS MANAGEMENT DEPARTMENT

303 EAST “B” STREET ONTARIO, CA 91764-4196

Exempt Recording Fees per Government Code Sections 6103 and 2738**3**

AGREEMENT

Water Quality Management Plan and Stormwater BMP Transfer, Access and Maintenance Agreement

between

(Applicant Name) and the City of Ontario Property Address: , Ontario, CA

APN:

City of Ontario Reference Project File:

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING

INFORMATION (Additional Recording Fees Apply)

# Water Quality Management Plan and Stormwater BMP Transfer, Access and Maintenance Agreement

|  |
| --- |
| **OWNER NAME :** |
| **PROPERTY ADDRESS:** |

# APN:

**THIS AGREEMENT** is made and entered into in

|  |  |  |
| --- | --- | --- |
|  Ontario  | ,California, this  | day of |
|  |  , by and between |  |

 , herein after

referred to as “Owner” and the CITY OF ONTARIO, a municipal corporation, located in the County of San Bernardino, State of California hereinafter referred to as “CITY”;

**WHEREAS,** the Owner owns real property (“Property”) in the City of Ontario, County of San Bernardino, State of California, more specifically described in Exhibit “A” and depicted in Exhibit “B”, each of which exhibits are attached hereto and incorporated herein by this reference;

**WHEREAS,** at the time of initial approval of the development project known as

 within the Property described herein, the City required the project to employ Best Management Practices, hereinafter referred to as “BMPs,” to minimize pollutants in urban runoff;

**WHEREAS,** the Owner has chosen to install structural BMPs and implement non- structural BMPs as described in Exhibit “C” and depicted in Exhibit “D”, each of which exhibits are attached hereto and incorporated herein by this reference and also in the Water Quality Management Plan document, on file with the owner or its successors or assigns, and the City, hereinafter referred to as “WQMP”, to minimize pollutants in urban runoff and to minimize other adverse impacts of urban runoff;

**WHEREAS,** said WQMP has been certified by the original Owner and reviewed and approved by the City;

**WHEREAS,** said BMPs, with installation and/or implementation on private property and draining only private property, are part of a private facility with all implementation, maintenance or replacement, therefore, the sole responsibility of the Owner in accordance with the terms of this Agreement;

**WHEREAS,** the Owner is aware that periodic and continuous maintenance, including, but not necessarily limited to, regular pavement sweeping, litter and landscape waste removal, pumping/cleaning and maintenance of stormwater treatment devices, water quality basins, trenches, drywells, underground chambers and pervious pavement, is required to assure peak performance of all BMPs listed in the approved WQMP and that, furthermore, such maintenance activity will require compliance with all Local, State, or Federal laws and regulations, including those pertaining to confined space and waste disposal methods, in effect at the time such maintenance occurs;

**NOW THEREFORE,** it is mutually stipulated and agreed as follows:

1. Owner hereby provides the City of Ontario’s designee complete access, of any duration, to the BMPs and their immediate vicinity at any time, upon reasonable notice, or in the event of emergency, as determined by the City’s Engineer, no advance notice, for the purpose of inspection, sampling, testing of device(s), and in case of emergency, to undertake all necessary repairs or other preventative measures at owner’s expense as provided in paragraph 3 below. City shall make every effort at all times to minimize or avoid interference with Owner’s use of the Property.
2. Owner shall use its best efforts diligently to maintain all BMPs in a manner assuring implementation and peak performance, at all times. All reasonable precautions shall be exercised by Owner and Owner’s representative or contractor in the removal and extraction of any collected waste material(s) from the BMPs and the ultimate disposal of these material(s) shall be done in a manner consistent with all relevant laws and regulations. The Owner(s) shall also maintain all documentation of BMP maintenance activities, including the devices maintained, quantity of material(s) removed, disposal destination, dates of activities and shall provide copies of all maintenance records to the City of Ontario, upon request.
3. In the event Owner, or its successors or assigns, fails to maintain the BMP facilities in good working condition, as solely determined by the City, or removes, backfills, demolishes, re-grades or replaces any BMP, within five (5) days of being given written notice, the City is hereby authorized to cause any maintenance or restoration necessary and charge the entire cost and expense to the Owner or Owner’s successors or assigns, including administrative costs, attorneys fees and interest thereon, at the maximum rate authorized by the Civil Code from the date of the notice of expense, until paid in full.
4. This agreement shall be recorded in the Office of the Recorder of San Bernardino County, California and shall constitute notice to all successors and assigns of the title to said Property, of the obligation herein set forth, and also a lien in such amount as will fully reimburse the City for incurred costs to enforce the obligations of this Agreement, including interest as herein above set forth, subject to foreclosure in event of default in payment.
5. In event of legal action occasioned by any default or action of the Owner, or its successors or assigns, then the Owner and its successors or assigns agree(s) to pay all costs incurred by the City in enforcing the obligations of this Agreement,

including reasonable attorney’s fees and costs, and that the same shall become a part of the lien against said Property.

1. It is the intent of the parties hereto that burdens and benefits herein undertaken shall constitute covenants that run with said Property and constitute a lien there against.
2. The obligations herein undertaken shall be binding upon the heirs, successors, executors, administrators and assigns of the parties hereto. The term “Owner” shall include not only the present Owner, but also its heirs, successors, executors, administrators, and assigns. Owner shall notify any successor to title of all or part of the Property about the existence of this Agreement. Owner shall provide such notice prior to such successor obtaining an interest in all or part of the Property. Owner shall provide a copy of such notice to the City at the same time such notice is provided to the successor.
3. Time is of the essence in the performance of this Agreement.
4. Any notice to a party required or called for in this Agreement shall be served in person, or by deposit in the U.S. Mail, first class postage prepaid, to the address set forth below. Notice(s) shall be deemed effective upon receipt, or seventy-two

(72) hours after deposit in the U.S. Mail, whichever is earlier. A party may change a notice address only by providing written notice thereof to the other party.

**IF TO CITY: IF TO OWNER:**

**IN WITNESS THEREOF,** the parties hereto have affixed their signatures as of the date first written above.

**PROPERTY OWNER:**

**Signature Title**

**Print Name Date**

# NOTARIES ON FOLLOWING PAGE

A notary acknowledgement is required for recordation (attach appropriate acknowledgement).

ACCEPTED BY:

*Khoi Do, City Engineer*

City of Ontario

Date:

Attachment: Standard Notary Acknowledgement

# EXHIBIT A

***(Legal Description)***

# EXHIBIT B

***(Vicinity Map)***

# EXHIBIT C

***(LIST Of BMP MAINTENANCE ITEMS)***

|  |  |  |  |
| --- | --- | --- | --- |
| BMP Description | Description of Maintenance Procedures | Minimum Inspection/Maintenance Frequency | Maintenance Responsible Party |
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# EXHIBIT D

***(BMP Site Map)***