

Recorded at the request of:
CITY OF SACRAMENTO
DEPARTMENT OF UTILITIES
No Fee per Government Code 6130

After recording, return to:
Office of the City Clerk
Historic City Hall
915 "I" Street, 1st Floor
Sacramento CA 95814

**STORMWATER TREATMENT DEVICE
ACCESS AND MAINTENANCE AGREEMENT**

OWNER: _____

PROPERTY ADDRESS: _____

APN: _____

THIS AGREEMENT is made and entered into in Sacramento, California, this _____ day of _____ 20____, by and between _____ ("Owner"), and the CITY OF SACRAMENTO, a municipal corporation ("City").

WHEREAS, the Owner owns real property (the "Property") in the City of Sacramento, County of Sacramento, State of California, more specifically described in Exhibit "A" and depicted in Exhibit "B", each of which exhibits is attached hereto and incorporated herein by this reference; and

WHEREAS, at the time of initial approval of the development project on the Property known as _____, the City's conditions of approval included a requirement for the Project to employ on-site control measures to minimize pollutants in urban runoff; and

WHEREAS, the Owner has chosen to install _____ (collectively referred to herein as the "Device"), as the on-site control measure to minimize pollutants in urban runoff; and

WHEREAS, the Device has been installed in accordance with plans and specifications accepted by the City; and

WHEREAS, the Device, with installation on private property and draining only private property, is a private facility and all maintenance or replacement of the Device is the sole responsibility of the Owner in accordance with the terms of this Agreement; and

WHEREAS, the Owner is aware and agrees that periodic and continuous maintenance, including, but not necessarily limited to, filter material replacement and sediment removal, is required to assure peak performance of the Device 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. The foregoing recitals are incorporated herein by this reference.
2. Owner hereby provides the City or City's designee complete access to the Device and its immediate vicinity at any time and for any duration, upon twenty-four (24) hour advance notice in writing, for the purpose of inspection, sampling and testing of the Device. City shall make every effort at all times to minimize or avoid interference with Owner's use of the Property.
3. Owner shall use its best efforts diligently to maintain the Device in a manner assuring peak performance at all times, including but not necessarily limited to performance of the maintenance and repair measures specified on Exhibit "C", attached hereto and incorporated herein by this reference. All reasonable precautions shall be exercised by Owner and Owner's representative or contractor in the removal and extraction of material(s) from the Device and the ultimate disposal of the material(s) in a manner consistent with all relevant laws and regulations in effect at the time. As may be requested from time to time by the City, the Owner shall provide the City with documentation identifying the material(s) removed, the quantity, and disposal destination. In addition, Owner shall provide maintenance reports to the City on an annual basis, not later than 60 days after receiving City's maintenance report request.
4. If Owner, or its successors or assigns, fails to accomplish the necessary maintenance contemplated by this Agreement, within five (5) days of being given written notice by the City, the City is hereby authorized (but shall not have any obligation) to cause any maintenance necessary to be done and charge the entire cost to the Owner or Owner's successors or assigns, including administrative costs and interest thereon at the maximum rate authorized by the Civil Code from the date of notice of the cost until paid in full.
5. The City may require the Owner to post security in a form and for a time period satisfactory to the City, to guarantee performance of the obligations stated herein. Should the Owner fail to perform its obligations as required under this Agreement, the City may, in the case of a cash deposit or letter of credit, use the proceeds to pay costs incurred by the City to take any action(s) authorized by this Agreement, or in the case of a surety bond, the City may require the sureties to perform the Owner's obligations under the Agreement.
6. This Agreement shall be recorded in the Office of the Recorder of Sacramento County, California, at the expense of the Owner and shall constitute notice to all successors and assigns of the title to the Property of the obligations herein set forth, and also a lien in such amount as will fully reimburse the City for costs incurred pursuant to Section 4, above, including interest as hereinabove set forth, subject to foreclosure in event of default in payment.
7. In the event of legal action occasioned by any default or action of the Owner, or its successors or assigns, then the Owner, on behalf of itself and its successors or assigns, agree(s) to pay all costs incurred by the City in enforcing the terms of this Agreement, including reasonable attorney's fees and costs, and further agrees that the same shall become a part of the lien against the Property.
8. It is the intent of the parties hereto that burdens and benefits herein undertaken shall

constitute covenants that run with the Property and constitute a lien against the Property.

- 9. 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 any part of the Property of 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. If an Owner shall convey all of its interest in the Property, the Owner shall be released from any obligations arising under this Agreement in connection with the maintenance of or failure to maintain the Device occurring after the date of such conveyance.
- 10. Time is of the essence in the performance of this Agreement.
- 11. 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:

Director of Utilities – Stormwater Program
 City of Sacramento, Department of Utilities
 1395 35th Avenue
 Sacramento, CA 95822

IF TO OWNER:

- 12. If Owner consists of more than one party, each person, entity or other party described as the "Owner" in the first paragraph of this Agreement and/or executing this Agreement for Owner shall be jointly and severally liable for each and every obligation and requirement imposed on Owner herein.
- 13. The Owner acknowledges and agrees that nothing contained in this Agreement reduces or otherwise affects Owner's responsibility to comply with all applicable provisions of the City of Sacramento's Stormwater Management and Discharge Control Code, set forth in Chapter 13.16 of the Sacramento City Code, and nothing contained in this Agreement shall in any way limit the City's right to enforce any provisions of the Stormwater Management and Discharge Control Code in accordance with the provisions of that Code.

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

APPROVED AS TO FORM:

City Attorney

CITY OF SACRAMENTO:

Dave Brent
Director, Department of Utilities

ATTEST:

City Clerk

Date

OWNER:

Signature of Authorized Person

Print Name: _____

Title: _____

NOTARIES ON FOLLOWING PAGE

EXHIBIT A
[Legal Description of Parcel]

EXHIBIT B
[Map/Illustration]

EXHIBIT C
[Inspection and Maintenance Guidelines]