STORMWATER TREATMENT DEVICE
ACCESS AND MAINTENANCE AGREEMENT

After recorded, return to:
Teri Chapa
City of Stockton
Municipal Utilities Department
2500 Navy Drive
Stockton, CA 95206

MUNICIPAL UTILITIES DEPARTMENT
After Recording Transmit Copy to:

___ Owner of Record
___ Municipal Utilities Department
____City Clerk (Original)

OWNER NAME (S) _____
(as shown on deed) &
MAILING ADDRESS _____

O&M CONTACT _____
PERSON & PHONE #
_____

FACILITY NAME _____
AND ADDRESS
_____

ASSESSOR PARCEL NO. _____

THIS AGREEMENT is made and entered into in Stockton, California, this _____ day of _____, by and between _____.hereinafter referred to as "Owner" and the CITY OF STOCKTON, a municipal corporation, located in the County of San Joaquin, State of California hereinafter referred to as "CITY,"

WHEREAS, the Owner owns real property ("Property") in the City of Stockton, County of San Joaquin, State of California, depicted in Exhibit "A" and intends to install a pollution control system described in Exhibit "B", both of which are attached hereto and incorporated herein by this reference;

WHEREAS, at the time of initial approval of development project known as _____ within the Property described herein, the City required the project to employ on-site control measures to minimize pollutants in urban runoff;

WHEREAS, the Owner has chosen to install a_____, hereinafter referred to as "Device", as the on-site control measure to minimize pollutants in urban runoff;

WHEREAS, said Device has been installed in accordance with the requirements of the City of Stockton Stormwater Quality Control Criteria Plan and the Owner's plans and specifications accepted by the City;

WHEREAS, said Device, with installation on private property and draining only private property, is a private facility with all operation, maintenance and 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, sediment removal, is required to assure peak performance of 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. Owner hereby provides the City or City's designee complete access, of any duration, to the Device and its immediate vicinity at any time, upon reasonable notice, or in the event of emergency, as determined by City's Director of Municipal Utilities with no advance notice, for the purpose of inspection, sampling, testing of the Device, and in case of emergency, to undertake all necessary repairs or other preventative measures at owner's expense as provided in paragraph 3 below. The Owner/Operator shall retain all operation and maintenance records at the facility for City inspection, and a copy shall be provided to the City if requested. 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 to diligently maintain the Device in a manner assuring 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 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. When 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.

3. In the event 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 to cause any maintenance necessary to be done and charge the entire cost and expense to the Owner or Owner's successors or assigns, including administrative costs, attorney's 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, and Owner hereby agrees to pay such charge within 30 days of receipt of City's written demand for payment.

4. The City may require the owner to post security in form and for a time period satisfactory to the

City of guarantee the performance of the obligations stated herein. Should the Owner fail to perform the obligations under the Agreement, the City may, in the case of a cash bond, act for the Owner using the proceeds from it, or in the case of a surety bond, require the sureties to perform the obligations of the Agreement. As an additional remedy, the Director may withdraw any previous stormwater related approval with respects to the property on which a Device has been installed until such time as Owner repays to City its reasonable costs incurred in accordance with paragraph 3 above.

5. This agreement shall be recorded in the Office of the Recorder of San Joaquin County, California, at the expense of the Owner 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, including interest as herein above set forth, subject to foreclosure in event of default in payment.

6. 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 terms of this Agreement, including reasonable attorney's fees and costs, and that the same shall become a part of the lien against said Property.

7. 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.

8. 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.

9. Time is of the essence in the performance of this Agreement.

10. Any notice or demand for payment 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 addresses listed on Page 1 of this agreement either for the Owner or City. 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.

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

CITY OF STOCKTON, a
Municipal Corporation

ATTEST: APPROVED AS TO FORM:

By _____
KURT O. WILSON
CITY MANAGER

OFFICE OF THE CITY ATTORNEY

By_____
Deputy City Attorney

_____
NAME OF PROPERTY OWNER

By _____
PROPERTY OWNER

Name _____

Title _____

CITY ACKNOWLEDGMENT

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 SAN JOAQUIN)

On _____before me, _____
(insert name and title of the officer)

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_____ **(Seal)**

OWNER ACKNOWLEDGMENT

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, _____
(Insert Name and Title of Officer)

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.

_____ **(Seal)**
Signature of Notary

_____

OWNER ACKNOWLEDGMENT

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COUNTY OF _____)

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WITNESS my hand and official seal.

_____ **(Seal)**
Signature of Notary

EXHIBIT A

(Deed Copy)

EXHIBIT B

(Operation & Maintenance Plan)