

RECORDING REQUESTED BY:

City of Victorville
Engineering Department

AND WHEN RECORDED MAIL TO:

City of Victorville
Engineering Department
14343 Civic Drive
Victorville, CA 92392

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION

**Water Quality Management Plan and Stormwater Best Management Practices
Transfer, Access and Maintenance Agreement**

OWNER NAME: _____

PROPERTY ADDRESS: _____

APN: _____

THIS AGREEMENT is made and entered into in

_____, California, this _____ day of

_____, by and between

_____, hereinafter

referred to as Owner, and the CITY OF VICTORVILLE, 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 Victorville, 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;

WHEREAS, at the time of initial approval of 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 and/or implement BMPs as described in the Water Quality Management Plan, on file with 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 Owner and reviewed and approved by the City;

WHEREAS, the Owner is aware that periodic and continuous maintenance, including, but not necessarily limited to, filter material replacement and sediment removal, is required to assure peak performance of all BMPs in the 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. All maintenance or replacement of BMPs proposed as part of the WQMP are the sole responsibility of the Owner in accordance with the terms of this Agreement.
2. Owner hereby provides the City of Victorville'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 Director of Public Works, 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 City shall make every effort at all times to minimize or avoid interference with Owner's use of the Property. Denial of access to any premises or facility that contains WQMP features is a violation of the City Stormwater Ordinance. If there is reasonable cause to believe that an illicit discharge or breach of the WQMP operation and maintenance commitments is occurring on the premises then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction in addition to other enforcement actions.
3. Owner shall use its best efforts diligently to maintain all BMPs 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 any material(s) from the BMPs 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.
4. 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 against the property and/or to the Owner or Owner's successors or assigns, including administrative costs, attorneys fees and interest thereon at the maximum rate authorized by the City Code from the date of the notice of expense until paid in full.
5. The City may require the owner to post security in form and for a time period satisfactory to the City to 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 of Public Works may withdraw any previous stormwater-related approval with respect to the property on which BMPs have been installed and/or implemented until such time as Owner repays to City its reasonable costs incurred in accordance with paragraph 3 above.

6. This agreement shall be recorded in the Office of the Recorder of San Bernardino 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.
7. 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 hold the City harmless and 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.
8. 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.
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 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.
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.
12. The Owner its successors and assigns, hereby agrees to save and hold harmless the City, any of its departments, agencies, officers or employees, all of whom while working within their respective authority, from all cost, injury and damage incurred by any of the above, and from any other injury or damage to any person or property whatsoever, any of which is caused by an activity, condition or event arising out of the performance, preparation for performance or nonperformance of any provision of this agreement by the Owner, its agents, or any of its independent contractors.

IF TO CITY:

City of Victorville – Engineering Department

14343 Civic Drive, _____

Victorville, CA 92392 _____

IF TO OWNER:

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

OWNER:

Signature: _____

Name: _____

Title: _____

OWNER:

Signature: _____

Name: _____

Title: _____

NOTARIES ON FOLLOWING PAGE

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

ACCEPTED BY:

Brian W. Gengler., City Engineer for City of Victorville

Date: _____

Attachment: Standard Notary Acknowledgement

EXHIBIT A
(Legal Description)

EXHIBIT B
(Map/illustration)