

Recorded at the request of:

City/County of Manteca

After recording, return to:

City/County of Manteca

City/County Clerk

Lisa Blac mon

**STORMWATER TREATMENT CONTROL MEASURE
MAINTENANCE ACCESS AGREEMENT**

OWNER: Resham Singh

PROPERTY ADDRESS: 445 N. Walnut Avenue

APN: 217-590-03

THIS AGREEMENT is made and entered into in Manteca, California, this day of , by and between Resham Singh, hereinafter referred to as "Owner" and the CITY/COUNTY OF Manteca, a municipal corporation, located in the County of San Joaquin, State of California hereinafter referred to as "CITY/COUNTY";

WHEREAS, the Owner owns real property ("Property") in the City/County of Manteca, County of San Joaquin, 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 North Walnut Townhouses within the Property described herein, the City/County required the project to employ on-site control measures to minimize pollutants in urban runoff;

WHEREAS, the Owner has chosen to install (a/n) Bioretention Basins and a treatment swale, hereinafter referred to as "Stormwater Treatment Control Measure(s)", as the on-site control measure to minimize pollutants in urban runoff;

WHEREAS, said Stormwater Treatment Control Measure(s) has/have been installed in accordance with plans and specifications accepted by the City/County;

WHEREAS, said Stormwater Treatment Control Measure(s), with installation on private property and draining only private property, is a private facility with all 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, vegetation management, filter material replacement, and sediment removal, is required to assure peak performance of the Stormwater Treatment Control Measure(s) 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;

WHEREAS, the Owner is required to implement the Operations and Maintenance Plan, more specifically described in Exhibit "C", which is attached hereto and incorporated herein by this reference;

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

- 1) Owner hereby provides the City/County or City's/County's designee complete access, of any duration, to the Stormwater Treatment Control Measure(s) and its immediate vicinity at any time, upon reasonable notice, or in the event of emergency, as determined by City's/County's Director of Public Works no advance notice, for the purpose of inspection, sampling, testing of the Stormwater Treatment Control Measure(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/County 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 operate and maintain the Stormwater Treatment Control Measure(s) in a manner assuring peak performance at all times in accordance with the Operation and Maintenance Plan, which is incorporated into this Agreement as Exhibit C. All reasonable precautions shall be exercised by Owner and Owner's representative or contractor in the removal and extraction of material(s) from the Stormwater Treatment Control Measure(s) 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/County, the Owner shall provide the City/County 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/County, the City/County 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, 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) The City/County may require the Owner to post security in form and for a time period satisfactory to the City/County of guarantee of the performance of the obligations stated herein. Should the Owner fail to perform the obligations under the Agreement, the City/County 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 respect to the Property on which a Stormwater Treatment Control Measure has been installed until such time as Owner repays to City/County 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/County, 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/County 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/County 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 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/COUNTY:

IF TO OWNER:

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

APPROVED AS TO FORM:

OWNER:

City/County Attorney

Owner

Name: _____

Title: _____

CITY/COUNTY OF _____:

OWNER:

Name: _____

Name: _____

Title: _____

Title: _____

ATTEST:

City/County Clerk Date

Notaries on Following Page

EXHIBIT A
(Legal Description)

PARCEL 3 AS SHOWN ON THE MAP ENTITLED "PARCEL MAP", IN THE CITY OF MANTECA, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 217 OF PARCEL MAPS, PAGE 59, SAN JOAQUIN COUNTY RECORDS.

EXHIBIT B
(Map/illustration)

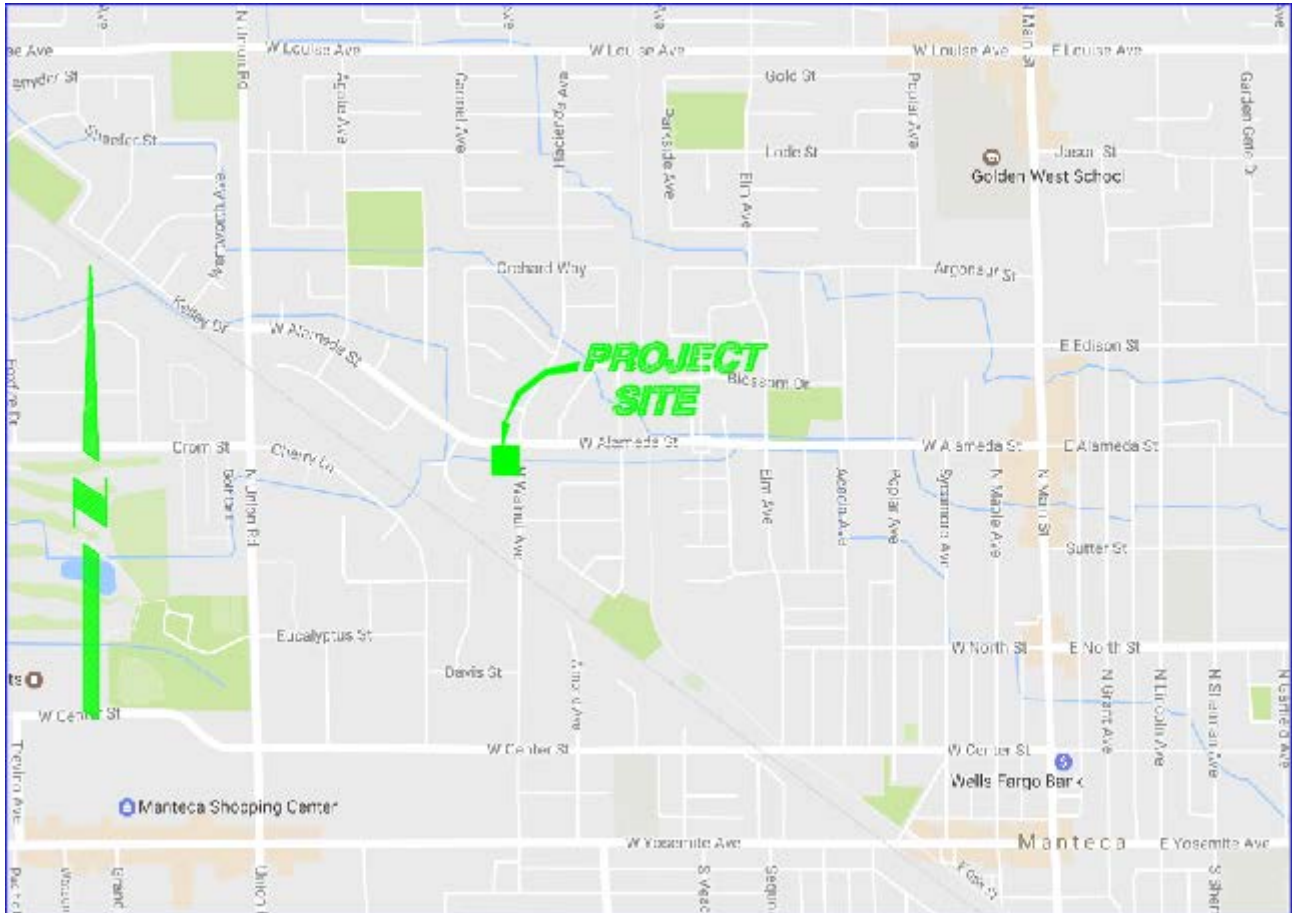


EXHIBIT C

(Operations and Maintenance Plan)

**OWNER'S CERTIFICATION
OPERATION AND MAINTENANCE PLAN
for
NORTH WALNUT TOWNHOUSES**

This Operations and Maintenance Plan (Plan) was prepared for _____ (Project
_____ Palm, Jr LLC. _____ by Benchmark Engineering.

_____ This Plan is intended to comply with all requirements specified in the
City/County of Manteca Stormwater Management and Discharge Control Ordinance .
_____.

The undersigned understands that stormwater treatment control measures are enforceable requirements under the Municipal Code. The undersigned, while owning the property on which such stormwater treatment control measures are to be implemented, is responsible for the implementation of the provisions of this Plan and for the operation and maintenance of all structural stormwater treatment control measures and agrees to ensure that the conditions on the project site conform to the requirements specified in the Municipal Code.

Once the undersigned transfers its interest in the project property, its successors-in-interest shall bear the aforementioned responsibility to maintain

Name of Owner: Resham Singh

Address of Owner: 113 Palm Avenue

Phone number of Owner: (209)422-3011

Signature: _____

Print Name: _____

Title _____

Date _____