

RECORDING REQUESTED BY
AND WHEN RECORDED
MAIL TO:

City Clerk
City of Burbank
P.O. Box 6459
Burbank CA 91510

Space Above This Line for Recorder's Use

COVENANT AND AGREEMENT FOR ON-SITE STORMWATER TREATMENT
DEVICES MAINTENANCE

DATE: _____

PARTIES: CITY OF BURBANK, a municipal corporation
275 East Olive Avenue
P. O. Box 6459
Burbank, California 91510
(hereinafter "City")

(hereinafter "Owner")

SUBJECT PROPERTY:

The real property located at _____, in the City of Burbank, County of Los Angeles, State of California, and more particularly described as follows:

Recitals:

A. The City requires under the provisions of Burbank Municipal Code Ordinance No. 3552, adopted September 5, 2000, relating to storm water discharge and urban runoff (the "Ordinance"), that certain storm water treatment devices are to be properly maintained on a regular basis. Said Ordinance incorporates the "Standard Urban Stormwater Mitigation Plan for Los Angeles County and Cities in Los Angeles County" adopted by the Regional Water Quality Control Board, Los Angeles Region, on March 8, 2000 ("SUSMP").

B. The Building Official has the authority to execute these covenants under Burbank Municipal Code (BMC) Section 8-1-1007 in order to assure proper maintenance of the Best Management Practices ("BMP's"). BMP's are defined in BMC 9-3-407, (and as amended) which definition is incorporated herein by this reference.

Covenant and Agreement:

1. Owner. The Owner certifies that it owns Subject Property within the City of Burbank, described on the first page, and is developing a commercial project under Building Permit number: _____ that is required to incorporate BMPs attached on Exhibit "A". Exhibit "A" shall list the location and type of each post-construction BMP feature installed on the Subject Property and identified on a site diagram.

2. Maintenance obligations. Owner shall maintain the BMPs listed on Exhibit A in good condition at all times, and shall repair or replace the devices so that they are always functional and operationable to ensure compliance with the Ordinance. Owner shall provide City Building Official with an annual certification in a form submitted by Owner and approved by the Building Official. The form shall be signed under penalty of perjury by Owner, and Owner shall certify that all of the required BMPs are functioning properly and being maintained. In addition, Owner shall keep a log of all inspection and maintenance performed on the BMPs on-site, which City may inspect upon request.

3. Notice to Repair. Owner shall repair and replace any or all of the BMPs whenever repair or replacement is necessary in the opinion of the Building Official. Owner shall immediately, upon receipt of written notice, repair or replace those BMPs within such time as the Owner and the Building Official may mutually agree.

4. Nuisance and revocation remedy. In the event the Owner fails to perform any or all of the obligations of this Agreement, such failure shall be conclusively presumed to constitute a nuisance and such nuisance may be abated by any legal means. In addition, the Certificate of Occupancy for the commercial development at Subject Property can be revoked if Owner fails to replace or repair BMP's within the time allowed by Building Official as set forth in paragraph 3

5. Indemnification. Owner agrees to and shall indemnify, defend and hold the

City, its officers, agents, employees, and representatives, harmless from all liability for damage or claims for damage for personal injury, and claims for property damage, which may arise from the required maintenance or lack of by Owner of the BMPs or Owner's contractors, subcontractors, agents, employees, or other persons acting on the Owner's behalf, and for all damages and claims for damages suffered or alleged to have been suffered by City due to a violation or possible violation of the City's National Pollution Discharge Elimination System (NPDES) Permit related to the obligations referred to in this Agreement.

6. Notices. All notices required or provided for under this Agreement shall be in writing, shall be delivered in person or by first class mail, postage prepaid, addressed to the parties as indicated above. Any notice so delivered shall be effective upon the date of personal delivery or, in the case of mailing, on the date of mailing. Any party may change its address for notice by giving ten days' notice of such change in the manner provided for in this paragraph.

7. Runs with the Land. This Agreement is an instrument affecting the title or possession of the Subject Property. All the terms, covenants, and conditions herein imposed shall be binding upon and inure to the benefit of the successors in interest of Owner. Upon the sale of the Subject Property, the terms of this Agreement shall apply and the owner of the Subject Property shall succeed to the obligations imposed on Owner.

8. Severance. If any part of this Agreement is held invalid, the remaining terms and conditions shall not be affected unless their enforcement under the circumstances would be unreasonable, inequitable, or otherwise frustrate the purposes of this Agreement.

9. Recording fees. Owner shall provide recording fees to the City to pay for recording costs required by the Los Angeles County Recorder's Office, and the City shall cause this Agreement to be recorded.

10. Time is of the essence of this Agreement and of each of every item and condition hereof.

11. Termination. In accordance with BMC 8-1-1007, BMPs set forth in Exhibit A must be maintained until alternative BMPs have been substituted in to the project, or are otherwise no longer necessary, as determined or approved by the Building Official. Exhibit "A" sets forth the required BMPs.

(signatures on next page)

ACCEPTED BY:

"CITY"

"OWNER"

CITY OF BURBANK, a municipal
corporation

By: _____

Name: _____

Title: _____

*

**[Signature of Parties must be notarized as required by the County
Recorder's Office. Please attach appropriate acknowledgements.]**

Approved as to Form
Office of the City Attorney

By: Joseph H. McDougall, Chief Asst. City Attorney