

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Fontana
8353 Sierra Avenue
Fontana, CA 92335
Attn: Department of Engineering

(Space above for Recorder's Use)

GRANT OF RIGHT OF ENTRY TO CONSTRUCT AND MAINTENANCE AGREEMENT

Between

**Andy Than, Property Owner
7893 Sierra Avenue, Fontana, CA 92335**

And

**City of Fontana
A municipal corporation**

GRANT OF RIGHT OF ENTRY TO CONSTRUCT AND MAINTENANCE AGREEMENT

This GRANT OF RIGHT OF ENTRY TO CONSTRUCT AND MAINTENANCE AGREEMENT ("Agreement") is entered into on this _____ day of _____ by and between Andy Than ("Grantor") and the City of Fontana, a California municipal corporation ("Grantee").

Recitals

WHEREAS, Grantor, is the owner of certain real property located at 7893 Sierra Avenue in the City of Fontana, County of San Bernardino, State of California, as more particularly described in Exhibit A, attached hereto and incorporated herein, (hereinafter "Grantor Property"); and

WHEREAS, Grantee will construct drainage improvements along the fence line on the southern property line; and

WHEREAS, Grantee, desires to obtain a right of entry in, under, over, across, and through a portion of a Grantor's Property for the purpose of constructing under sidewalk drainage within the Easement Area for the Drainage Project; and

WHEREAS, Grantor is willing to grant to Grantee a right of entry to construct in, under, over, across, and through the Grantor's property for the purposes of constructing under sidewalk drainage ; and

WHEREAS, the parties acknowledge that the drainage equipment and under sidewalk drainage must be properly maintained; and

WHEREAS, the parties desire to set forth their respective responsibilities for maintenance of the drainage equipment and drainage channels, which shall be allocated between the parties as provided in this Agreement.

Agreement

For valuable consideration, receipt of which is hereby acknowledged, and subject to the terms and conditions set forth herein:

1. Grant Right of Entry to Construct

Grantor hereby grants to Grantee a Right of Entry to accommodate construction activities to be performed by or on behalf of Grantee within the property in connection with the Drainage Project, including but not limited to constructing drainage improvements as shown on City-approved plans attached hereto as Exhibit A and incorporated herein (hereinafter "Improvements").

2. Notice of Entry. Grantee shall provide Grantor with advance notice before occupying any part of the area of the Temporary Construction Easement.

3. Restoration

Grantee shall, at its sole cost and expense, promptly repair and restore any damage to the construction area or other portions of the Grantor Property that occurs as a direct result of the work performed

under this agreement. Such repair and restoration shall be to a condition equal to or as near as equal as reasonably possible to the condition existing immediately prior to the damage.

4. Maintenance.

a) Grantor

Upon completion of the Improvements on the Grantor's Property, the Grantor shall be solely responsible, at its cost and expense, for the maintenance, repair, and replacement of the Improvements located on the Grantor's Property and shall maintain all such Improvements in good order and repair, including debris clean-up. The Grantor shall also be responsible, at its sole expense, for the maintenance and repair of the traffic mirror located at the southern driveway.

b) Grantee

The Grantee shall be responsible, at its cost and expense, for the maintenance, repair, and replacement of any Improvements located within the public right-of-way and shall maintain all such Improvements in good order and repair..

5. Waiver, Release and Indemnification

The Grantor, on behalf of itself and its successors and assigns, hereby releases, acquits, and forever discharges the Grantee, its officers, agents, employees, and contractors (collectively, the "Grantee Parties") from any and all liabilities, claims, demands, damages, losses, or expenses, whether known or unknown, that arise out of, are related to, or result from any work, construction, access, or other activities performed pursuant to the rights granted by this Agreement, or any condition, issue, or defect arising from or related to the existence or use of the Easement Area.

Furthermore, the Grantor hereby covenants and agrees not to sue the Grantee or Grantee Parties for any such claims, demands, damages, or losses. This waiver and release shall be binding upon the Grantor and shall inure to the benefit of the Grantee and Grantee Parties.

The Grantor shall indemnify, defend, and hold harmless the Grantee, its officers, agents, employees, and contractors (collectively, the "Indemnified Parties") from and against any and all claims, demands, liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees) that arise out of, are related to, or result from the condition, existence, maintenance, use, or operation of the Improvements subsequent to the City's initial installation and completion thereof within the Easement Area. The Grantor's obligation to indemnify the Grantee and Grantee Parties under this Agreement shall not extend to any loss, liability, or damage to the extent such is caused by the Grantee's sole negligence or willful misconduct.

6. Notices

All notices or communications shall be delivered to the following:

City of Fontana

Attn: Jeffrey Kim, Engineering Manager
Public Works Department / Engineering Division
8353 Sierra Avenue, Fontana, CA 92335
Email: jkim@fontanaca.gov

Property Owner

Andy Than

7893 Sierra Avenue, Fontana, CA 92335
Email: andythan@yahoo.com

7. Miscellaneous.

- a) *Recitals.* The foregoing Recitals are true, correct and incorporated herein by this reference.
- b) *Entire Agreement.* This Agreement, together with all attachments and exhibits hereto, constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous understandings, negotiations, representations, promises, and agreements, oral or written, by or between the parties, with respect to the subject matter of this Agreement. No representations, inducements, promises, or agreements have been made in connection with this Agreement by any party, or anyone acting on behalf of any party, other than those expressly set forth herein.
- c) *Binding Effect.* This Agreement, including, without limitation, the easements granted and the covenants made herein, generally shall be binding on, and inure to the benefit of, Grantor and Grantee, and their respective transferees, devisees, successors, and assigns.
- d) *Governing Law.* This Agreement shall be governed by, and construed in accordance with the laws of the State of California.
- e) *Assignment.* Parties shall not assign their rights and obligations with respect to the Agreement without the written approval of the non-assigning party, which approval shall not unreasonably be withheld. Any such attempted assignment without the consent of the non-assigning party shall be null and void and of no force or effect.
- f) *Counterparts.* This Agreement may be executed in one or more counterparts, each of which counterparts shall, for all purposes, be deemed an original and all of which counterparts, when taken together, shall constitute one and the same instrument.
- g) *Non-Waiver.* No waiver by either party of any default in performance on the part of the other party, or of any breach or series of breaches of the terms, covenants, or conditions of this Agreement, will constitute a waiver of any subsequent breach or a waiver of any term, covenant, or condition.
- h) *Severability.* If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, will be construed as if the void or unenforceable provision were not included in this Agreement.
- i) *Attorney's Fees.* If an action is commenced to enforce or interpret any provision of this Agreement, each party shall be responsible for its own attorney fees and costs incurred in the action.
- j) *Amendments.* No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.

- k) *Construction.* The rule of strict construction does not apply to this Agreement. The language of this grant shall be construed simply, according to its fair meaning, so that the intention of the Parties is carried out.
- l) *Exhibits.* All exhibits attached and referred to in this Agreement are hereby incorporated herein as though fully set forth herein (and shall be deemed to be a part of this Agreement).
- m) *Survival.* The indemnification obligations provided herein shall survive the termination of this Agreement.
- n) *Authority to Execute.* The individuals executing this Agreement and the instruments referenced herein each represent and warrant that they have the legal power, right and actual authority to bind their respective Parties to the terms and conditions hereof and thereof.

Signatures

CITY OF FONTANA

By: _____

Matthew Ballantyne, City Manager

Date: _____

PROPERTY OWNER

By: _____

Andy Than

Date: Dec. 03. 2025

Attest:

By: _____

City Clerk

Dare: _____