



## Stormwater NPDES Submittal Requirements for Discretionary Approval of Projects

Projects that involve replacing and/or creating impervious areas that are identified as "C3 Reregulated Projects" under the RWQCB Stormwater permit are required to submit a stormwater management plan (SWMP) prior to final discretionary approval. To determine whether a project is a "C3 Regulated Project", applicants must complete the "Stormwater Requirement Checklist" form which is available on City website at <http://www.cityofpleasantonca.gov/business/planning/StormWater.html>

SWMP information must contain all necessary calculations and drawings to clearly show that sufficient areas are allocated on applicant's site to install stormwater facilities in accordance with the City's NPDES permit. A SWMP at minimum shall include the following:

- 1) Submit the completed/signed "Stormwater Requirement Checklist" form.
- 2) Submit calculations for sizing Low Impact Development (LID) treatment areas calculations.
- 3) Submit calculations for sizing hydro-modification facilities for projects that create/replace more than one acre of impervious area. Project applicants may utilize Bay Area Hydrology Model (BAHM) software for calculating the sizing. BAHM software is available at [www.cleanwaterprogram.org](http://www.cleanwaterprogram.org) for download at no cost.
- 4) Submit calculations for sizing trash capture devices. All new and redevelopment regulated C3 projects, except for single family subdivision tracts and individual single family homes, are required to install trash capture device systems at all stormwater discharge points to public storm drain system.
- 5) All stormwater facilities must be installed within the boundary limits of a private development site. No facilities shall be installed in public rights of way unless approved by the City Engineer.
- 6) Submit drawings that show the LID treatment systems, hydro-modification facilities, and trash capture systems. The drawing must include the boundary of drainage management areas (DMAs), dimensions (width and length) of each DMA, a table listing area of each DMA, the type of impervious areas (roof, sidewalk, parking, etc.), area of each LID treatment, and the type of treatment devices. The drawing must include details of the treatment devices, trash capture devices, and hydro-modification areas.
- 7) If the applicant desires and the project meets the conditions provided in the stormwater Municipal Regional Permit (MRP) for utilizing special projects categories A, B, or C non-LID credit, the applicant must submit feasibility analysis for City's review and consideration. The analysis must include a narrative discussion of the feasibility or infeasibility of 100% LID treatment. Both technical and economic feasibility and infeasibility shall be discussed, as applicable. The discussion shall contain enough technical and/or economic detail to document the basis of the infeasibility used. If the project qualifies and the feasibility analysis confirms that the LID reduction credits are warranted, submit calculations for sizing Non-LID treatment devices and clearly show them on the drawings.

The above information is considered as preliminary and applicant may revise the location of the stormwater facilities during improvement plan review process by City Engineering. Prior to City issuing any construction permit, site owner or its authorized representative will be required to sign/notarize a Stormwater Operation and Maintenance Agreement for annual inspection, maintenance, and reporting of facilities in the SWMP in perpetuity. A copy of the standard Operations and Maintenance Agreement is attached for reference. Questions for the above to be directed to Abbas Masjedi ([amasjedi@cityofpleasantonca.gov](mailto:amasjedi@cityofpleasantonca.gov)).

CITY OF PLEASANTON

When Recorded, Return to:  
Office of the City Clerk  
City of Pleasanton  
P.O. Box 520  
Pleasanton, CA 94566

Recording requested Pursuant to  
Government Code Sections  
No Fee - 27383 & 6103

**STORMWATER TREATMENT MEASURES  
INSPECTION AND MAINTENANCE AGREEMENT**

This Stormwater Treatment Measures Inspection and Maintenance Agreement ("Agreement") is entered into this \_\_\_ day of \_\_\_\_\_ 201\_ by and between the City of Pleasanton ("City") and

\_\_\_\_\_  
[insert name of property owner], the owner of real property described in this Agreement.

**RECITALS**

A. On October 14, 2009, the Regional Water Quality Control Board (RWQCB), San Francisco Bay Region, adopted Order R2-2009-0074, CAS612008, reissuing the Alameda Countywide National Pollution Discharge Elimination System ("NPDES") municipal storm water permit as Municipal Regional Storm Water NPDES Permit for San Francisco Bay Region.

B. Provision C.3.h of this NPDES permit, and as it may be amended or reissued, requires the permittee public agencies to provide minimum verification and access assurances that all stormwater treatment measures shall be adequately operated and maintained by entities responsible for the stormwater treatment measures.

C. City is the permittee public agency with jurisdiction over the real property sited at \_\_\_\_\_ [insert address] Pleasanton, CA and more particularly described in the legal description attached and incorporated as **Exhibit A1 and A2**, assessor's parcel number (APN) \_\_\_\_\_ ("Property").

D. The owner of the Property, its administrators, executors, successors, heirs, assigns or any other persons, including any homeowners association (collectively referred to as "Owner") recognizes that the stormwater treatment measures on the Property must be installed and maintained as more particularly described and shown on the attached and incorporated **Exhibit B** ("Stormwater Treatment Site Plan"), of which full-scale plans and any amendments are on file with the Community Development Department of the City of Pleasanton.

- E. City and Owner agree that the health, safety and welfare require that the Owner:
- 1) Constructs and maintains stormwater treatment measures detailed in the Stormwater Treatment Site Plan;
  - 2) Files annually a Treatment Measure Operation and Maintenance Inspection Report with City;
  - 3) Implements changes to the stormwater treatment measures as required by City;
  - 4) Provides a performance bond or other financial security to City as required;

- 5) Notifies City within 30 days of the transfer in ownership of Property;
- 6) Grants City and other public agencies access to Property; and
- 7) Maintains all documents regarding stormwater treatment measures on site.

**NOW, THEREFORE**, in consideration of the benefit received by Owner as a result of the City's approval of the Stormwater Treatment Site Plan, Owner hereby agrees with City as follows:

#### **SECTION 1: CONSTRUCTION OF TREATMENT MEASURES**

Owner shall construct the on-site stormwater treatment measures shown on the Stormwater Treatment Site Plan in strict accordance with the approved plans and specifications identified for the development and any other requirements that have been approved by City in conformance with appropriate City ordinances, guidelines, criteria and other written direction.

#### **SECTION 2: MAINTENANCE OF TREATMENT MEASURES**

Owner shall not destroy or remove the stormwater treatment measures from the Property nor modify the stormwater treatment system in a manner that lessens its effectiveness and without prior written approval of City. Owner shall, at its sole expense, adequately maintain the stormwater treatment measures in good working order acceptable to the City and in accordance with the Maintenance Plan attached and incorporated as **Exhibit C**. Adequate maintenance is defined as maintaining all pipes, channels or other conveyances built to convey stormwater to the treatment measures, as well as all structures, improvements, and vegetation in good working condition, as determined by City inspection so that these facilities continue to operate as originally designed and approved. The Maintenance Plan shall include a detailed description and schedule for long-term maintenance activities.

#### **SECTION 3: COORDINATION WITH THE MOSQUITO AND VECTOR CONTROL**

Owner shall coordinate with the Alameda County Mosquito Abatement District and provide site name, site address, description and locations of treatment measures and hydromodification controls with a copy of the site plan and date of installation.

#### **SECTION 4: SEDIMENT MANAGEMENT**

Sediment accumulation resulting from the normal operation of the stormwater treatment measures will be managed appropriately by the Owner and as determined by City inspection. Owner, at its sole expense, shall provide for the removal and disposal of accumulated sediments as part of the Maintenance Plan. Disposal of accumulated sediments shall not occur on the Property, unless provided for in the approved Maintenance Plan. Any disposal or removal of accumulated sediments or debris shall be in compliance with all federal, state and local laws and regulations.

#### **SECTION 5: ANNUAL INSPECTION AND REPORT**

Owner shall, on an annual basis, complete the Stormwater Treatment Measure Operation and Maintenance Inspection Report ("Annual Report"), attached and incorporated as **Exhibit D**, and submit it to the Operation Services Center– Clean Water Program, 3333 Busch Road, P.O. Box 520, Pleasanton, CA 94566-0802 by October 31 of each year covering the prior reporting period of October 1 to September 30. The Annual Report shall be submitted in order to verify that inspection and maintenance of the applicable stormwater treatment measures have been conducted pursuant to this Agreement. Owner shall provide a record of the volume of all accumulated sediment removed from the treatment measures in the Annual Report. Owner shall conduct a minimum of one annual inspection of the stormwater treatment measures before the wet season. This inspection shall occur between August 1<sup>st</sup> and September 30<sup>th</sup> each year. The Maintenance Plan may require more frequent inspections.

## **SECTION 6: NECESSARY CHANGES AND MODIFICATIONS**

Owner, at its sole expense, shall modify the Stormwater Treatment Site Plan and Maintenance Plan as may be determined as reasonably necessary by City to ensure that treatment measures are properly maintained and continue to operate as originally designed and approved.

## **SECTION 7: PERFORMANCE FINANCIAL ASSURANCE**

City may request Owner to provide a performance bond, security, or other appropriate financial assurance, as determined by City, providing for the maintenance of the stormwater treatment measures pursuant to the City's ordinances, guidelines, criteria or written direction.

## **SECTION 8: TRANSFER OF PROPERTY**

This Agreement shall run with the title to the land. Owner further agrees whenever the Property is held, sold, conveyed or otherwise transferred, it shall be subject to this Agreement which shall apply to, bind and be obligatory to all present and subsequent owners of the Property. Upon transfer of Property, Owner shall notify the Operation Services Center– Clean Water Program, 3333 Busch Road (P.O. Box 520, Pleasanton, CA 94566-0802) within thirty days of the transfer and provide new contact information for the Property and the Stormwater Treatment Site Plan.

## **SECTION 9: ACCESS TO THE PROPERTY**

Owner hereby grants permission to the City; the San Francisco Bay Regional Water Quality Control Board (Regional Board); the Alameda County Mosquito Abatement District (Mosquito Abatement District); and their authorized agents and employees to enter upon the Property at reasonable times and in a reasonable manner to inspect, assess or observe the stormwater treatment measures in order to ensure that treatment measures are being properly maintained and are continuing to perform in an adequate manner to protect water quality and the public health and safety. This includes the right to enter upon the Property when it has a reasonable basis to believe that a violation of this Agreement, the City's stormwater management ordinance, guidelines, criteria, other written direction, or the Alameda Countywide Clean Water Program's NPDES municipal regional storm water permit (MRP) (Regional Board Order R2-2009-0074, and any amendments or re-issuances of this permit) is occurring, has occurred or threatens to occur. The above listed agencies also have a right to enter the Property when necessary for abatement of a public nuisance or correction of a violation of the ordinance guideline, criteria or other written direction. Whenever possible, City, Regional Board, or the Mosquito Abatement District shall provide reasonable notice to the Property Owner before entering the property. Such notice will not be necessary if emergency conditions require immediate remedial action. City, as necessary, may inspect the site unannounced.

## **SECTION 10: FAILURE TO MAINTAIN TREATMENT MEASURES**

In the event Owner fails to maintain the stormwater treatment measures as shown on the Stormwater Treatment Site Plan in good working order acceptable to City and in accordance with the Maintenance Plan, City, and its authorized agents and employees with reasonable notice, may enter the Property and take whatever steps it deems necessary and appropriate to return the treatment measures to good working order. Such notice will not be necessary if emergency conditions require immediate remedial action. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the Property. It is expressly understood and agreed that City is under no obligation to construct, maintain or repair the treatment measures and in no event shall this Agreement be construed to impose any such obligation on City.

## **SECTION 11: REIMBURSEMENT OF CITY EXPENDITURES**

In the event City, pursuant to the Agreement, performs work of any nature (direct or indirect), including any re-inspections or any actions it deems necessary or appropriate to return the treatment measures in good working order as indicated in Section 9, or expends any funds in the performance of said work for

labor, use of equipment, supplies, materials, and the like, Owner shall reimburse the City, and/or shall forfeit any required bond upon demand within thirty (30) days of receipt of a notice from City. If these costs are not paid within the prescribed time period, City may assess Owner the cost of the work, both direct and indirect, and applicable penalties. Said assessment shall be a lien against the Property, or prorated against the beneficial users of the Property or may be placed on the property tax bill and collected as ordinary taxes by the City. The actions described in this section are in addition to and not in lieu of any and all legal remedies as provided by law, available to City as a result of Owner's failure to maintain the treatment measures.

#### **SECTION 12: INDEMNIFICATION**

Owner shall indemnify, hold harmless and defend City and its authorized agents, officers, officials and employees from and against any and all claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorneys' fees, claimed or which might arise or be asserted against City that are alleged or proven to result or arise from the construction, presence, existence or maintenance of the treatment measures by the Owner or City. In the event a claim is asserted against City, its authorized agents, officers, officials or employees, City shall promptly notify Owner and Owner shall defend at its own expense any suit based on such claim. If any judgment or claims against City, its authorized agents, officers, officials or employees shall be allowed, Owner shall pay for all costs and expenses in connection herewith. This section shall not apply to any claims, demands, suits, damages, liabilities, losses, accidents, casualties, occurrences, claims and payments, including attorneys' fees claimed which arise due to the sole negligence or willful misconduct of City.

#### **SECTION 13: NO ADDITIONAL LIABILITY**

It is the intent of this Agreement to ensure the proper maintenance of the treatment measures by Owner; provided, however, that this Agreement shall not be deemed to create any additional liability not otherwise provided by law of any party for damage alleged to result from storm water runoff.

#### **SECTION 14: MISCELLANEOUS PROVISIONS**

A. Severability. The provisions of this Agreement shall be severable and if any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision is adjudged invalid or unconstitutional by a court of competent jurisdiction, or the applicability to Owner is held invalid, this shall not affect or invalidate the remainder of any phrase, clause, section, subsection, paragraph, subdivision, sentence or provision of this Agreement.

B. Recordation. This Agreement shall be recorded by Owner, or by the City by mutual agreement, at the Alameda County Recorder's Office, at Owner's expense, prior to issuance of a building permit or approval of a subdivision, whichever occurs first.

C. Release of Agreement. In the event that City determines that the stormwater treatment measures located on the Property are no longer required, then City, at the request of Owner, shall execute a release of this Agreement, which Owner, or the City by mutual agreement, shall record in the County Recorder's Office at Owner's expense. The stormwater treatment measures shall not be removed from the Property unless such a release is so executed and recorded.

D. Effective Date and Modification. This Agreement is effective upon the date of execution as stated at the beginning of this Agreement. This Agreement shall not be modified except by written instrument executed by City and Owner at the time of modification. Such modifications shall be effective upon the date of execution and shall be recorded.

**City of Pleasanton:**

**Owner:**

\_\_\_\_\_  
Nelson Fialho, City Manager

\_\_\_\_\_  
\_\_\_\_\_

Type or print name (Notarize signature) and title

Approved as to Form:

\_\_\_\_\_  
Jonathan P. Lowell, City Attorney

Attest:

\_\_\_\_\_  
Karen Diaz, City Clerk

Exhibit A - Property Description

Exhibit B - Stormwater Treatment Site Plan

Exhibit C - Maintenance Plan

Exhibit D - Treatment Measure Operation and Maintenance Inspection Report ("Annual Report")