

3A Sample Memorandum of Understanding

AGREEMENT

PROVIDING FOR IMPLEMENTATION OF THE
ALAMEDA COUNTY URBAN RUNOFF CLEAN WATER PROGRAM

THIS AGREEMENT is made and entered into this day of ,
1991 by and between the following undersigned public agencies, all
which are referred to collectively as the Parties.

THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
a local public agency of the State of California;
Zone 7 of ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION
DISTRICT, a local public agency of the State of California;
COUNTY OF ALAMEDA, a subdivision of the State of California;
CITY OF ALAMEDA, a municipal corporation of the State of California;
CITY OF ALBANY, a municipal corporation of the State of California;
CITY OF BERKELEY, a municipal corporation of the State of California;
CITY OF DUBLIN, a municipal corporation of the State of California;
CITY OF EMERYVILLE, a municipal corporation of the State of
California;
CITY OF FREMONT, a municipal corporation of the State of California;
CITY OF HAYWARD, a municipal corporation of the State of California;
CITY OF LIVERMORE, a municipal corporation of the State of California;
CITY OF NEWARK, a municipal corporation of the State of California;
CITY OF OAKLAND, a municipal corporation of the State of California;
CITY OF PIEDMONT, a municipal corporation of the State of California;

CITY OF PLEASANTON, a municipal corporation of the State of California;

CITY OF SAN LEANDRO, a municipal corporation of the State of California;

and CITY OF UNION CITY, a municipal corporation of the State of California.

RECITALS

A. The 1986 Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan), adopted by the Regional Water Quality Control Board in implementation of the Federal Clean Water Act, requires that the PARTIES develop a Program to control the discharge of pollutants from urban runoff.

B. In furtherance of their responsibilities pursuant to the Basin Plan, the PARTIES have previously entered into a series of agreements to jointly fund the cost of preparing an action plan to evaluate nonpoint source pollutants, monitor identified pollutants and develop control measures to mitigate or reduce nonpoint sources of pollutants. Collectively, the measures undertaken pursuant to the previous agreements and anticipated to continue pursuant to this Agreement, are known as the Alameda County Urban Runoff Clean Water Program (hereinafter "Program"). The Program contains certain elements which provide a general benefit to the parties (such as monitoring, public education, program administration, etc.), and these elements of joint responsibility among the parties are termed the "General Program". In addition, the Program contains other elements

which are an individual Party responsibility and which provide individual benefits (such as construction site controls, catch basin cleaning, and illicit and illegal connection inspections, monitoring and enforcement), and these elements are termed the "Individual Programs". A description of the General and Individual Programs' elements, major tasks, schedules, and budgets will be developed as part of the "Work Plan for Cities in Alameda County, Alameda County, and the Alameda County Flood Control and Water Conservation District to file for a NPDES Permit" dated August 24, 1990.

C. The previous Agreements that have been executed are the following: The November 10, 1987 "Agreement Regarding Evaluation of Non-Point Source of Water Pollution" and the October 17, 1989 "Agreement Regarding Implementation of Nonpoint Source Control Evaluation Program". In addition there is a pending agreement titled "Agreement Regarding Development of a Proposed Alameda County Nonpoint Source Control Management Plan" which will provide funding through June 1991 for implementation of the August 24, 1990 work plan.

D. The PARTIES desire to continue the Program and to enter into this Agreement for the purpose of ensuring continued participation, in terms of cost and administrative responsibilities.

E. This Agreement does not amend or supersede any prior agreement among the PARTIES regarding the Program, but is to be read as in accord with and implementation thereof.

F. The Alameda County Flood Control and Water Conservation District (District) is a local public agency of the State of California duly organized and existing and empowered to conserve water and to provide maintenance and flood control management of the water courses and has the authority to control the discharge of surface waters to its facilities. The County of Alameda and all of the cities therein are subdivisions of the State with authority to control the discharge of surface waters from their respective jurisdictions.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. A Management Committee is hereby created to provide overall program direction, review and recommend an annual budget for approval by the PARTIES, and budget oversight, all in accordance with the Alameda County Urban Runoff Clean Water Program. Management Committee members, and their alternates, shall be appointed by the City Manager or the equivalent of the respective Parties and a confirming letter sent to the authorized representative of the District. The Management Committee shall adopt bylaws for its governance.

(a) Each Party to this agreement is allocated the number (or fraction thereof) of votes shown in Exhibit A. This allocation of voting strength is based on the formulas stated in Exhibit B to the Agreement.

(b) A quorum for the conduct of business by the Management Committee shall be a majority of the voting Parties to the Agreement. The voting strength allocated to a Party shall not be considered in the determination of a quorum.

(c) Approval of actions by the Management Committee shall require a two-thirds affirmative vote of all allocated votes as shown in Exhibit A.

No action shall be taken by the District which requires expenditures by any party other than the District without prior Management Committee approval.

2. Pursuant to direction of the Management Committee, the District shall administer and coordinate the Program, which duties include but are not limited to:

- (a) Applying on behalf of the PARTIES to become co-applicants for a National Pollutant Discharge Elimination System (NPDES) permit;
- (b) Preparing draft annual budget and, periodic status reports on Program activities and expenditure and distributing same to PARTIES at least quarterly;
- (c) Consolidating and submitting reports prepared by the several PARTIES required by the NPDES permit;
- (d) Letting and administering approved consultant contracts according to District policies and procedures and considering other members' requirements. All consultant contracts will contain hold harmless and indemnity provisions and insurance requirements for the benefit of all PARTIES;
- (e) Conducting audits of consultant contracts in accordance with District policies and procedures;

- (f) Maintaining knowledge of and advising the PARTIES regarding current and proposed state and federal policies, regulations and programs that impact nonpoint source pollutant control programs; assisting the PARTIES in development and presentation of positions on these issues before local, State and Federal agencies;
- (g) Preparing an annual report on the implementation of the Program;
- (h) Representing the PARTIES in participation in the Bay Area Stormwater Management Agencies Association; and
- (i) Formally advising the appropriate State and Federal agencies of termination or amendment of this Agreement.

3. The PARTIES accept and agree to perform the following duties:

- (a) Each will authorize a representative to apply for an NPDES permit as co-applicants with the other Parties;
- (b) Each will fully comply with the NPDES permit conditions applicable to its Individual Program and its identified portion of the General Program;
- (c) Each will select a representative and an alternate to participate in Management Committee meetings and other required meetings of the PARTIES;
- (d) Each will fund and implement its own Individual Program, and will fund and implement its share of the General Program. The District intends to provide funding to support new and expanded activities required by the

General and Individual Programs for Cities located in District zones with Benefit Assessment Programs. Such funding will be provided to the extent that it is available and with the concurrence of the applicable City if it results in deferring flood control projects.

(e) Each will provide agreed upon reports (certified under penalty of perjury) to the District on compliance with applicable provisions of the NPDES permit and program implementation.

4. A proper accounting of funds and reports of all receipts and disbursements shall be made, including funds disbursed to individual parties for implementation of permit programs. Upon completion of the purposes of this Agreement, any surplus money on hand shall be returned in proportion to the contributions made. In the event a Party terminates this Agreement, any unexpended portion of its share of cost funds shall be returned to it.

5. By agreement of the PARTIES, budget allocations for the General Program shall be made according to a formula which for the municipalities allocates proportional shares based on a 50 percent weight given to the area and a 50 percent weight given to the population within each municipalities' jurisdiction (excluding open water and wetland areas of San Francisco Bay). The attached Exhibit B provides a copy of the formulas which are used to allocate costs. Each Parties' share of the General Program's costs for fiscal year 1991/92 will be according to the percentages provided in Exhibit A.

Cost shares will be recalculated based on updated information on population and area using the formulas in Exhibit B for fiscal year 1992/93 and at appropriate future intervals as specified in the bylaws. The budget allocation for the Individual Programs shall be made directly by the individual responsible parties.

6. This Agreement shall have a term of six (6) years from the first day of April 1991, subject to automatic renewal for a five (5) year period in the absence of objection thereto made in writing by any Party 90 days in advance of the renewal date. The participation of any Party to this Agreement may be terminated by a two-thirds affirmative vote of all allocated votes in any year in which the funds necessary for its continued involvement are not appropriated by its legislative body.

7. The PARTIES shall retain the ability to individually (or collectively) request permit modifications and initiate permit appeals for permit provisions to the extent that a provision affects an individual party or group of PARTIES.

8. This agreement may be amended from time to time by written agreement of the Parties' governing bodies representing two-thirds or more of all allocated votes as shown in Exhibit A.

9. Participation in this Agreement may be terminated by any Party for any reason after the Party complies with all of the conditions of termination. The conditions of termination include the

following: the Party shall notify all of the other Parties to the Agreement 90 days prior to its termination in the Agreement, the Party shall obtain its own NPDES permit for urban runoff, and the Party shall have its name deleted as a co-permittee of the Parties' NPDES permit through an amendment of the Parties' NPDES permit. Any expenses associated with terminating the Agreement including but not limited to filing for and obtaining the individual NPDES permit and the amendment of the Parties' NPDES permit will be solely the responsibility of the Party terminating its participation in the Agreement.

10. It is understood and agreed that, pursuant to Government Code 895.4, each Party ("indemnitor") shall, to the extent permitted by law, defend, indemnify and save harmless every other Party, and its officers and employees from all claims, suits or actions of every name, kind and description resulting from indemnitor's performance of this Agreement, excluding any injuries, death, damage or liability resulting from the negligence or willful misconduct of the other Parties or their officers or employees.

EXHIBIT A

ALAMEDA COUNTY URBAN RUNOFF CLEAN WATER PROGRAM
MANAGEMENT COMMITTEE

	Voting and General Program Cost <u>Share Percentages</u>
• Alameda	4.96
• Alameda County	9.28
• Alameda County Flood Control and Water Conservation District	0.00
• Zone 7 of Alameda County Flood Control and Water Conservation District	0.00
• Albany	0.80
• Berkeley	6.22
• Dublin	2.34
• Emeryville	0.40
• Fremont	17.04
• Hayward	11.52
• Livermore	5.40
• Newark	3.04
• Oakland	23.80
• Piedmont	0.76
• Pleasanton	4.46
• San Leandro	4.84
• Union City	<u>5.14</u>
Total	100.00

EXHIBIT B


FORMULAS FOR CALCULATING PERCENTAGE CONTRIBUTIONS
TO SUPPORT GENERAL PROGRAM

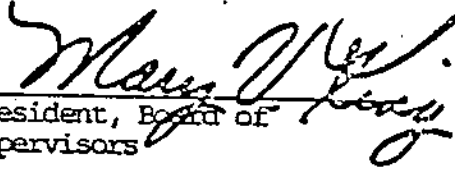
$$\text{Alameda County Percentage Share} = \frac{\text{Population within Alameda County Unincorporated Areas}}{\text{Total Population Within Alameda County}} \times 100\%$$

$$\text{Each Municipality's Percentage Share} = (100 - \text{Alameda Co. Share}) \times \frac{0.5 (\text{Area within Municipality}) + (\text{Total Area of All Municipalities})}{0.5 (\text{Population within Municipality}) + (\text{Total Population of All Municipalities})}$$

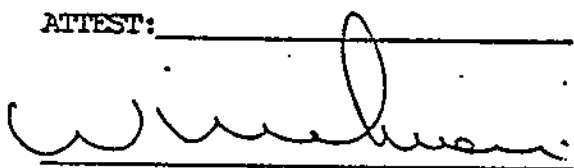
ALAMEDA COUNTY FLOOD CONTROL
AND WATER CONSERVATION
DISTRICT, a local public
agency of the State of
California

APPROVED AS TO FORM:


County Counsel

By: 
President, Board of
Supervisors

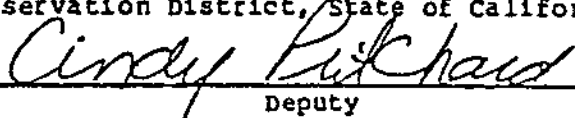
ATTEST:


William Mehrwein, Clerk
The Board of Supervisors, Alameda
County Flood Control and Water
Conservation District

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the Alameda County Flood Control and Water Conservation District by a majority vote of the Board on MAY 14 1991; and that a copy has been delivered to the President as provided by Government Code Section 25103.

Dated: MAY 14 1991

WILLIAM MEHRWEIN, Clerk, Board of Supervisors
Alameda County Flood Control and Water
Conservation District, State of California

BY 
Deputy

AGREEMENT**PROVIDING FOR IMPLEMENTATION OF
THE SANTA CLARA VALLEY URBAN RUNOFF
POLLUTION PREVENTION PROGRAM**

THIS AGREEMENT, is made and entered into this _____ day of _____ 1998 by and between the

SANTA CLARA VALLEY WATER DISTRICT (District), a local public agency of the State of California; COUNTY OF SANTA CLARA, a subdivision of the State of California; CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; CITY OF MILPITAS, a municipal corporation of the State of California; CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; and CITY OF SUNNYVALE, a municipal corporation of the State of California.

All of the previous above-mentioned entities are hereinafter collectively referred to as "PARTIES" or individually as "PARTY."

SECTION I**RECITALS:**

- A. The 1986 Water Quality Control Plan for the San Francisco Bay (Basin Plan), adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, in implementation of the Federal Clean Water Act, required that PARTIES develop a program to control pollution from urban runoff, or nonpoint sources of water pollution in the Santa Clara Valley.
- B. In furtherance of their responsibilities pursuant to the Basin Plan, the PARTIES have previously entered into a series of agreements to jointly fund the cost of preparing an action plan to evaluate nonpoint source pollutants, monitor identified pollutants, and develop control measures to mitigate or reduce nonpoint source pollution. Collectively, the measures undertaken pursuant to the previous agreements and anticipated to continue pursuant to this Agreement, were known as the Santa Clara Valley Nonpoint Source Pollution Control Program and upon execution of this agreement henceforth shall be known as the Santa Clara Valley Urban Runoff Pollution Prevention Program (hereinafter called "Program").
- C. Congress in 1987 added Section 402(p) to the Federal Clean Water Act (CWA) (33 U.S.C. Section 1342(p)), which requires certain municipalities and industrial facilities to obtain a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of stormwater to navigable waters. NPDES permits are also required under Section 402(p) for any stormwater discharge which EPA or a State has determined contributes to a violation of a water quality standard or is a significant contributor of pollutants to surface waters.

- D. Section 402(p) further required the Federal Environmental Protection Agency (EPA) to promulgate regulations for initial NPDES permit applications for stormwater discharges. The EPA promulgated such regulations in November 1990.
- E. The EPA has delegated authority to the California State Water Resources Control Board to administer the NPDES permit process within California and, in turn, the California Regional Water Quality Control Board - San Francisco Bay Region (RWQCB-SFBR) to administer the NPDES permit process within the region.
- F. Pursuant to Section 402(p) of the CWA and EPA regulations, the RWQCB-SFBR adopted the following orders further defining the program that the PARTIES are to develop and implement:
 - 1. Order No. 90-094 (NPDES Permit No. CA0029718); adopted June 20, 1990
 - 2. Order No. 92-021 Amendment to Order 90-094; adopted February 19, 1992
 - 3. Order No. 93-164 (further addressing Order 90-094); adopted December 15, 1993
 - 4. Order No 95-180 (NPDES Permit No. CAS029718); adopted August 23, 1995
(which rescinds and supersedes Orders No. 90-094, 92-021 and 93-164)
- G. In and for the mutual interest of the PARTIES, the PARTIES wish to continue the Program by entering into this Agreement for the purpose of ensuring continued participation, in terms of cost and administrative responsibilities.
- H. The District is a local public agency of the State of California duly organized and existing and empowered to provide maintenance and flood control management of the streams and to manage the discharge of storm waters in certain surface streams, reservoirs, or conduits within the area of the County of Santa Clara. The County of Santa Clara and all of the other PARTIES therein are subdivisions of the State of California with limited authority to regulate the discharge of certain storm waters within and from their respective jurisdictions.
- I. The RWQCB-SFBR is conducting a Watershed Management Initiative (WMI) in Santa Clara County. The Program is required, as part of its NPDES permit, to develop and implement a Watershed Management Measures Strategy. The Urban Runoff Management Plan of the Program contains the Program's Watershed Management Measures Strategy. This strategy, consistent with the NPDES permit, coordinates Program activities with the WMI to develop and implement cost-effective approaches to address specific urban runoff pollution problems. The Program, through a continuous improvement process, annually reviews the strategy.

SECTION II

NOW, THEREFORE, THE PARTIES HERETO FURTHER AGREE, AS FOLLOWS

- A. The Santa Clara Valley Nonpoint Source Pollution Control Program is hereby continued as the Santa Clara Valley Urban Runoff Pollution Prevention Program to fulfill the requirements of NPDES Permit No. CAS029718 or subsequent NPDES permit(s); (hereinafter referred to as "NPDES Permit").
- B. A Management Committee is hereby reconfirmed to provide for overall Program coordination, review, and budget oversight, in accordance with the NPDES Permit. The Management Committee membership is comprised of one representative from each agency shown on Exhibit A hereto.
- C. The Management Committee shall, as necessary, adopt Bylaws for its governance and further definition of the Program or assignment of duties.

- D. The PARTIES shall pay a yearly assessment into a fund established for Program operations for their assigned portion of the Program budget. The amount of the Program budget that each PARTY shall pay shall be in the proportions shown in the schedule marked Exhibit B hereto. The Management Committee may re-evaluate and modify the proportion of the annual Program contribution that each PARTY shall pay. This cost-share allocation re-evaluation may be conducted periodically, as deemed necessary, by the members of the Management Committee in accordance with a process set forth in the Bylaws (Section 400.2).
- E. The Management Committee shall select an agency or PARTY to act as fiscal agent for Program Management. The Fiscal Agent shall be the treasurer of the Program Fund. The Fiscal Agent, in accordance with generally accepted accounting procedures, shall keep the Program Fund segregated from other funds, credit the Program Fund with its appropriate interest income earned in each fiscal year, and shall not expend any funds except in accordance with the annual budget approved by the Management Committee or as otherwise directed by the Management Committee. The Management Committee, through its Bylaws, may establish procedures for tracking, accounting for, and auditing the Program Fund. The Fiscal Agent, at its discretion, may be reimbursed, from the Program Fund, for costs incurred while providing services as treasurer.
- F. The Management Committee shall select an agent or PARTY to act as contracting agent for the Program. The Contracting Agent shall be a legal government entity capable of executing contracts with consultants or contractors. The Management Committee shall be responsible for selecting the consultant or contractor in a manner acceptable to the Contracting Agent and for providing the Contracting Agent with the scope of work for the contract. The Contracting Agent shall act in a reasonable amount of time to execute the contract. A copy of the executed contract shall be sent to the Management Committee Chairperson, the Program Manager and any co-permittee upon request. The Contracting Agent at its discretion, and with Management Committee approval, may be reimbursed, from Program funds, for the cost incurred while providing the services noted herein.
- G. The Management Committee shall select a consultant or PARTY to act as Program Manager for the Program. The Program Manager shall be responsible for Program Management and Administration, Permit Management, and Technical Program Management all in accordance with the PARTIES' NPDES Permit, this Agreement, Program Bylaws, and as directed by the Management Committee in the best interest of the PARTIES as a whole and individually. The Program Manager shall be reimbursed, from Program funds, for the cost incurred while providing the services noted herein.
- H. The Management Committee shall select a consultant or PARTY to act as legal agent for the Program. The legal agent is responsible for providing legal advice to the Management Committee on all matters affecting compliance with NPDES permits for the Program.
- I. In addition to the participation in the Management Committee, the PARTIES accept and agree to perform the following duties:
1. Each will comply with the NPDES Permit conditions set forth in its Community-Specific plan;
 2. Each will participate in Management Committee meetings and other required meetings of the PARTIES;
 3. Each will implement its Community-Specific program; and
 4. Each will provide agreed upon reports to the Program for purposes of reporting, on a joint basis, compliance with applicable provisions of the NPDES Permit and Program implementation.

- J. The term of this Agreement shall commence on the date the last duly authorized representative of the PARTIES executes it.
- K. Any PARTY may terminate its participation in this Agreement in any year by giving the Chair of the Management Committee a 30 day written notice. The terminating PARTY will bear the full responsibility for its compliance with the NPDES Permit commencing on the date it terminates its participation. Termination shall constitute forfeiture of all of the terminating PARTY's share of the Program budget, as described in Section F., for the fiscal year that the termination occurred (both paid and obligated but unpaid amounts) and all previous fiscal years. The cost allocations for the remaining PARTIES shall be recalculated for the following fiscal year pursuant to Section II. D.
- L. This Agreement does not restrict the PARTIES from the ability to individually (or collectively) request NPDES Permit modifications and/or initiate NPDES Permit appeals for permit provisions to the extent that a provision affects an individual party (or group of PARTIES); however, any such PARTY (or PARTIES) shall make reasonable efforts to provide advance notice of their action to the other PARTIES and allow them to comment upon or join in their action before proceeding.
- M. This Agreement supersedes any prior agreement among all the PARTIES regarding the Program, but does not supersede any other individual agreements between any of the PARTIES.
- N. This Agreement may be amended by unanimous written agreement of the PARTIES. All PARTIES agree to bring any amendment to this agreement to their Council or Board, as applicable, within three (3) months following acceptance by the Management Committee.
- O. This Agreement shall have a term of five (5) years subject to automatic renewal for a like period in the absence of objection thereto made in writing by any party 90 days in advance of the renewal date.
- P. This Agreement may be executed and delivered in any number of copies ("counterpart") by the PARTIES, including by means of facsimile. When each PARTY has signed and delivered at least one counterpart to the Program, each counterpart shall be deemed an original and, taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the day and year first above written.

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SANTA CLARA VALLEY WATER DISTRICT, a body corporate and politic of the State of California

Date: _____

By: _____
Chair, Board of Directors

Date: _____

By: _____
General Manager

APPROVED AS TO FORM:

Date: _____

By: _____
General Counsel

ATTEST:

Date: _____

By: _____

EXHIBIT A

**SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM
MANAGEMENT COMMITTEE**

- Campbell
- Cupertino
- Los Altos
- Los Altos Hills
- Los Gatos
- Milpitas
- Monte Sereno
- Mountain View
- Palo Alto
- San Jose
- Santa Clara
- Santa Clara County
- Santa Clara Valley Water District
- Saratoga
- Sunnyvale
- Regional Water Quality Control Board (ex-officio)

EXHIBIT B

**SANTA CLARA VALLEY NONPOINT SOURCE PROGRAM
SCHEDULE OF COST-SHARING PROPORTIONS**

Jurisdiction	Proportional Share
Campbell	1.88%
Cupertino	2.46%
Los Altos	1.59%
Los Altos Hills	0.43%
Los Gatos	1.74%
Milpitas	2.75%
Monte Sereno	0.14%
Mountain View	3.91%
Palo Alto	4.06%
Santa Clara	6.23%
Saratoga	1.59%
Sunnyvale	7.25%
<u>Santa Clara County</u>	<u>5.94%</u>
Subtotal	39.97%
San Jose	30.01%
<u>District</u>	<u>30.02%</u>
TOTAL	100.00%

Santa Clara Valley Urban Runoff Pollution Prevention Program Management Committee Agenda Item	AGENDA ITEM #: V.A.2.
	ACTION: Information Only
	DATE: February 19, 1998

SUBJECT: Information on Storm Water Program Funding Methods Used by San Mateo County and Alameda County

RECOMMENDED ACTION: None

DISCUSSION: The attached sheets provide information on the methods of funding used by the San Mateo Countywide Stormwater Pollution Prevention Program (STOPPP) and the Alameda Countywide Clean Water Program.

In San Mateo County, the Flood Control District is authorized by AB 2635 (1992) to impose a parcel tax to fund storm drainage programs such as STOPPP. In FY 97-98, the charge was \$3.44 per household. The participating municipalities must approve a resolution each year allowing these charges.

In Alameda County, the cost of the stormwater program is allocated based half on population and half on area within each municipality (the area of the County used in the formula represents the urbanized area only). The Alameda Flood Control and Water Conservation District pays Oakland and Emeryville's contributions as well as half of the County's contribution (a total of about 30%) because of historical benefit assessment collections.

Helms

SAMPLE

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF _____
RECOMMENDING THAT THE SAN MATEO COUNTY FLOOD CONTROL DISTRICT
IMPOSE CHARGES FOR FUNDING COUNTY-WIDE NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) GERNERAL PROGRAM**

WHEREAS, The Environmental Protection Agency, under amendments to the 1987 Federal Clean Water Act, imposed regulations that mandate local governments to control and reduce the amount of stormwater pollutant runoff into receiving waters.

WHEREAS, under the authority of California Porter-Cologne Water Quality Act, the State Water Resources Control Board has delegated authority to its regional boards to invoke permitting requirements upon counties and cities.

WHEREAS, in July 1991, the San Francisco Bay Regional Water Quality Control Board notified San Mateo County of the requirement to submit an NPDES Permit Application by November 30, 1992.

WHEREAS, in furtherance of the NPDES Permit Process, San Mateo County in conjunction with all incorporated cities in San Mateo County has prepared a Stormwater Management Plan which has a General Program as a fundamental component of the Management Plan.

WHEREAS, the Stormwater Management Plan has been submitted to the San Francisco Bay Regional Water Quality Control Board and the Management Plan has been approved by the Board and made part of the NPDES Waste Discharge Permit CA 0029921, issued September 13, 1993 and remaining in effect through June 30, 1998.

WHEREAS, the San Mateo County Flood Control District Act, as amended by the State Legislature in 1992 (Assembly Bill 2635), authorizes the San Mateo County Flood Control District to impose charges to fund storm drainage programs such as the NPDES Program: County-wide General Program charges for Fiscal Year 1997/98 as anticipated to be \$958,900 or; Single Family Resident: \$3.44/APN; Miscellaneous, Agricultural, Vacant and Condominium: \$1.72/APN; all other land uses a base rate of \$3.44/APN plus \$0.3127 per 1,000 additional square feet of parcel area.

WHEREAS, the City of _____ has held a hearing upon the proposal to fund the County-wide NPDES General Program through the San Mateo County Flood Control District; and City Council makes the below resolve following that hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of _____ that:

1. The City of _____ respectfully requests the San Mateo County Board of Supervisors, acting as the governing board of the San Mateo County Flood Control District, to impose those charges necessary to fund the County-wide NPDES General Program; and
2. The City Clerk is hereby directed to forward a copy of this Resolution to the San Mateo County Board of Supervisors.

I, _____, City Clerk of the City of _____, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the City Council held on the _____ day of _____, 1997 and was adopted thereafter by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

City Clerk

EXHIBIT B

FORMULAS FOR CALCULATING PERCENTAGE COST AND VOTING SHARES TO SUPPORT GENERAL PROGRAM

$$\text{Each Municipality's Percentage Cost Share} = \left[\frac{0.5 (\text{Area within Municipality})}{(\text{Total Area of All Municipalities})} + \frac{0.5 (\text{Population within Municipality})}{(\text{Total Population of All Municipalities})} \right] \times 100$$

If based on this calculation the share would be < 1.00, assign a value of 1.00% to the municipality and recalculate the other municipalities allocation based on the remaining unallocated percentage.

For Alameda County the population of the entire unincorporated portion of the county is used, but the area of the county used in the formula is 50.2 square miles.

The cost allocation percentage equals the voting share for each agency except as follows:

Alameda County's Voting Share = Calculated Cost Share - 1.00%

District's Voting Share = 1.00%

3B Model Urban Runoff Ordinance

MODEL ORDINANCE

**ORDINANCE NO. _____ C.S.
ORDINANCE ADDING NEW ARTICLE 2 TO CHAPTER 31.5
OF THE [Municipality] CITY CODE REGARDING
URBAN STORM WATER QUALITY MANAGEMENT AND DISCHARGE CONTROL**

THE COUNCIL OF THE CITY OF [Municipality] DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Article 2 is hereby added to Chapter 31.5 of the [Municipality] City Code regarding Urban Storm Water Quality Management and Discharge Control, which shall read in its entirety as follows:

"ARTICLE 2.

**URBAN STORM WATER QUALITY MANAGEMENT AND
DISCHARGE CONTROL.**

Division I.

Title, Purpose and General Provisions.

Section 31.5-4. **Title.**

This Article shall be known as the "Urban Storm Water Quality Management and Discharge Control Ordinance" of the City of [Municipality] and may be so cited.

Section 31.5-5. **Purpose and Intent.**

The purpose and intent of this Article is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system.

Section 31.5-6. **Definitions.**

The terms used in this Article shall have the following meanings:

(a) **Best Management Practices.** Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and

waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants. Please refer to the City of [Municipality] *BMP Guidance Series*, as discussed further in Section 31.5-16(c) herein, for specific requirements.

(b) City. The City of [Municipality].

(c) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(d) Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

(e) Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed (California Health and Safety Code §25117).

(f) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Division II, Section 31.5-12 of this chapter.

(g) Illicit Connections. An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

(h) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

(i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act. The California Regional

Water Quality Control Board, Central Coast Region (hereinafter, Regional Board) and the State Water Resources Control Board have adopted general storm water discharge permits, including but not limited to the General Construction Activity and General Industrial Activity permits.

(j) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

(k) Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

(l) Pollution. The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses (California Water Code §13050).

(m) Porter-Cologne Act. The Porter-Cologne Water Quality Control Act and as amended (California Water Code §13000 et seq.).

(n) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(o) Storm Drain System. Publicly-owned facilities operated by the City by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the City and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.

(p) Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from rain storm events.

(q) Waters of the United States. Surface watercourses and water bodies as defined at 40 CFR § 122.2. including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

Section 31.5-7. Applicability.

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the City of [Municipality] including any amendments or revisions thereto.

Section 31.5-8. Responsibility for Administration.

The Public Works Director of the City shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.

Section 31.5-9. Severability.

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Article.

Section 31.5-10. Regulatory Consistency.

This Article shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

Section 31.5-11. Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This Article shall not create liability on the part of the City of [Municipality], or any agent or employee thereof for any damages that result from any discharger's reliance on this Article or any administrative decision lawfully made thereunder.

Division II.

Discharge Prohibitions.

Section 31.5-12. Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(a) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this ordinance: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; and flows from fire fighting.

(b) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City of [Municipality] for any discharge to the storm drain system.

(c) With written concurrence of the Regional Board, the City of [Municipality] may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drain system nor waters of the U.S.

Section 31.5-13. Prohibition of Illicit Connections.

(a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Section 31.5-14. Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

Section 31.5-15. Discharges in Violation of Industrial or Construction Activity NPDES Storm Water Discharge Permit.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Division III.

Regulations and Requirements.

Section 31.5-16. Requirement to Prevent, Control, and Reduce Storm Water Pollutants.

(a) Authorization to Adopt and Impose Best Management Practices. The City will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. as a separate *BMP Guidance Series*. Where Best Management Practices requirements are promulgated by the City or any federal, State of California, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

The Public Works Director will report to the City Council annually on the status of implementation of BMP's, the pollutants of concern to be addressed the next year, and any new BMPs to be developed. BMP's developed under this program will be included in the City of [Municipality] *BMP Guidance Series*.

(b) New Development and Redevelopment. The City may adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The City shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Article and the City Storm Water Utility Ordinance, Chapter 31.5, Article 1.

(c) Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (a) and (b), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement Best Management Practices to the extent they are technologically achievable to prevent and

reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

Best Management Practices required by the City can be obtained from the Public Works Department by requesting the BMP manual appropriate to a commercial or industrial activity from the *BMP Guidance Series*. BMP's are broken into three categories: "high priority" which are required to be implemented, "medium priority" which are desirable to implement, and "low priority."

Section 31.5-17. Requirement to Eliminate Illegal Discharges.

Notwithstanding the requirements of Division IV, Section 31.5-23 herein, the Public Works Director may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

Section 31.5-18. Requirement to Eliminate or Secure Approval for Illicit Connections.

(a) The Public Works Director may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Article.

(b) If, subsequent to eliminating a connection found to be in violation of this Article, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

Section 31.5-19. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in

order to protect against erosion and degradation of the watercourse originating or contributed from their property.

Section 31.5-20. Requirement to Remediate.

Whenever the Public Works Director finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or water of the U.S., the Public Works Director may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of sections 31.5-25 through 31.5-28 below.

Section 31.5-21. Requirement to Monitor and Analyze.

The Public Works Director may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the storm drain system or waters of the U.S., to undertake at said person's expense such monitoring and analyses and furnish such reports to the City of [Municipality] as deemed necessary to determine compliance with this Article.

Section 31.5-22. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City's Public Works Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Division IV.

Inspection and Monitoring.

Section 31.5-23. Authority to Inspect.

Section 31.5-26 Appeal.

Notwithstanding the provisions of Section 31.5-29 below, any person receiving a Notice of Violation under Section 31.5-25 above may appeal the determination of the Public Works Director to the City Manager. The notice of appeal must be received by the City Manager within 5 days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his/her designee shall take place within 15 days from the date of City's receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

Section 31.5-27 Abatement by City.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or , in the event of an appeal under section 31.5-26, within 10 days of the decision of the City Manager upholding the decision of the Public Works Director, then the City or a contractor designated by the Public Works Director shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

Section 31.5-28 Charging Cost of Abatement/Liens.

Within 30 days after abatement of the nuisance by City, the Public Works Director shall notify the property owner of the property of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The City Clerk shall set the matter for public hearing by the City Council. The decision of the City Council shall be set forth by resolution and shall be final.

If the amount due is not paid within 10 days of the decision of the City Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

Section 31.5-29 Urgency Abatement.

The Public Works Director is authorized to require immediate abatement of any violation of this Article that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Public Works Director, the City of [Municipality] is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of [Municipality] shall be fully reimbursed by the property owner and/or

Whenever necessary to make an inspection to enforce any provision of this Article, or whenever the Public Works Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Article, the Director may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Section 31.5-24. Authority to Sample, Establish Sampling Devices, and Test.

During any inspection as provided herein, the Public Works Director may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

Division V.

Enforcement.

Section 31.5-25. Notice of Violation.

Whenever the Public Works Director finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation or maintenance of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the Public Works Director and the expense thereof shall be charged to the violator pursuant to Section 31.5-27 below.

responsible party. Any relief obtained under this section shall not prevent City from seeking other and further relief authorized under this Article.

Section 31.5-30. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. A violation of or failure to comply with any of the requirements of this Article shall constitute a misdemeanor and shall be punished as set forth in City Code Section 1.7.

Section 31.5-31. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Public Works Director may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Section 31.5-32. Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

Section 31.5-33. Acts Potentially Resulting in a Violation of the Federal Clean Water Act and/or California Porter-Cologne Act.

Any person who violates any provision of this Article or any provision of any requirement issued pursuant to this chapter, may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Article shall also include written notice to the violator of such potential liability."

SECTION 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect 30 days after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF [Municipality] this

___ day of _____, 19___, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

APPROVED:

/s/
Mayor of said City

ATTEST:

/s/
City Clerk thereof

Date of Publication:

3C Model General Plan Language

GENERAL PLAN AMENDMENTS

I. THE MODEL ELEMENT

A. Urban Runoff Water Quality

1. Introduction

Nationwide there are many major sources of water pollution. Pollution that originates from a specific, discrete location, referred to as a "point" source, includes: effluent from municipal wastewater treatment plants; regulated industrial wastewater discharges; hazardous wastes and materials from spills, mishandling, and industrial accidents; effluent from inadequately functioning septic systems; and illegal dumping activities.

There are also pollutants contained in urban stormwater runoff, referred to as "non-point" source pollution, due to the diffuse origins of such pollutants. These include metals, organic wastes, pesticides, and a variety of other pollutants. Other types of pollutants include those which result from disinfection of drinking water and the intrusion of salt water from the ocean into nearby groundwater aquifers. The Water Quality and Watershed Management element is designed to protect receiving waters from those pollutants referred to as "non-point" source.

In both urban and rural areas of the state, substances are deposited on the surface of the land which are carried into the area's drainage system by stormwater runoff. However, given the much more extensive amount of impervious surface area within urbanized areas, non-point source pollution is often an urban area pollution problem. Although it is a much less obvious source of pollution, it can be a significant contributor of pollutants to receiving waters throughout the state.

2. Urban Runoff Pollution Control

GOAL: Protection and enhancement of local urban creeks, lakes, wetlands, and beaches is a city goal. Policies and programs should reflect this goal by providing ways to prevent water pollution before it occurs. Achievement of this goal will result in maintaining and enhancing the quality of life valued by residents and visitors.

Policies & Programs

The intent of this general plan is to provide policies and programs that will protect receiving waters from pollutants discharged to the storm drain system. The following policies and programs address non-point source pollution issues and their "solutions."

a. Public Education

Policy 1 Coordinate with other agencies in the watershed area to develop public education programs that will get the most exposure for the money spent.

Program 1a Encourage local schools, business and neighborhood associations to become educated in urban runoff issues using the available resources of the City and other involved agencies.

Program 1b Establish a business education program to provide information and incentives to local businesses for the implementation of "Best Management Practices" for pollution prevention and control.

b. Public Outreach

Policy 2 Coordinate with existing public outreach programs and create programs to involve the community in addressing urban runoff pollution problems and raising awareness of how individuals' activities contribute to urban runoff pollution.

Program 2a: Establish a storm drain stenciling program and/or coordinate with an existing program to label catch basins with warning signs (No Dumping-Flows to Bay/Creek/River/Lake).

Program 2b: Establish a local pollution sampling and monitoring program including citizens monitoring and/or coordinate with existing regional programs.

Program 2c: Encourage public input on development and implementation of urban runoff pollution control and programs by meeting with or sending copies of proposed plans to neighborhood and business association representatives.

c. Illicit Discharge Detection and Elimination

Policy 3: Encourage measures to promote proper disposal of pollutants to the sanitary sewer or hazardous waste facilities rather than to the storm drainage system.

Program 3a: Establish and promote used oil recycling and/or hazardous waste recycling facilities and drop-off locations.

Program 3b: Review plans for new development and redevelopment for connections to storm drain system. Inspectors should field check for such connections when performing building inspections.

Program 3c: Establish a city program for following up on complaints of illegal discharges to the storm drain and creeks.

d. Construction Site Storm Water Discharge Control

Policy 4: Encourage contractors to comply with accepted storm water pollution prevention planning practices for all projects subject to erosion potential.

Program 4a: Institute routine inspection practices and training for Building Inspectors and Public Works Inspectors to check for proper erosion control methods and housekeeping practices during construction.

Program 4b: Enforce requirements for contractors to provide Storm Water Pollution Prevention Plans, grading and housekeeping plans including erosion control measures as necessary.

Program 4c: Enforce erosion control ordinances.

e. Post-Construction Controls for Development and Redevelopment

Policy 5: Establish requirements for installation and maintenance of storm water structural controls to reduce peak discharges and to maximize pollutant removal from runoff.

Program 5a: Establish discharge limits and/or maintenance requirements to be included in site plan review covenants, conditions, and restrictions(CC&R's) for private development, and requirements for City projects. These requirements should be included by Public Works and Community Development Departments responsible for project management.

Program 5b: Where feasible, encourage establishment or re-establishment of vegetated wetland areas, which can effectively serve as natural water pollutant removal filtration systems. Other vegetated areas (eg. buffer strips) can also effectively remove pollutants from runoff, and their establishment should also be encouraged.

f. Good Housekeeping Practices for Municipal Operations

Policy 6: Establish and coordinate good housekeeping procedures for all City Departments to assure that water quality objectives are not threatened by in-house operations and an example is established for the community.

Program 6a: Incorporate water quality objectives into existing regular safety inspections. Institute additional inspections as necessary.

Program 6b: Establish Best Management Practices to be followed by City Departments and hold training sessions on a regular basis to ensure that employees are familiar with those practices.

Program 6c: Educate City employees on sources and impacts of pollutants in urban runoff and actions that can be taken to reduce these sources.

Program 6d: Ensure that contractors used by City are aware of and implement urban runoff control programs.

LIST OF RECOMMENDED AMENDMENTS TO EXISTING ELEMENTS

Background Statements

Surface Runoff

The U.S. Environmental Protection Agency has identified urban surface runoff as a significant cause of water pollution in the United States. Surface runoff water may contain a variety of pollutants including: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind. These pollutants are typically generated from a variety of diffuse sources present throughout the urban environment, and are referred to herein as "nonpoint" source pollution.

Common pollutants contained in urban runoff generally include:

- tire wear material;
- metals such as copper, chromium, lead, cadmium and other toxics produced by combustion, leakages, metal plating, vehicle wear, and weathered paint;
- motor fuels, lubricants, and other fluids which are inadvertently spilled or leak from vehicles, or which are purposely dumped into the ground or into the storm drainage system;
- pesticides, herbicides, and fertilizers applied to agricultural crops, landscaping, and roadsides;
- biological contaminants from litter, organic matter, and animal wastes; and
- detergents and solvents used to clean urban surfaces.

Some of these pollutants are introduced to the drainage system by individuals who are uninformed of their effects on the environment. One of the most notorious examples is that of individuals who dump used motor oil into storm drains or onto the ground. Few are aware that one quart of used motor oil is capable of contaminating 250,000 gallons of water, or that substances disposed of into the stormwater drainage system are not treated before entering receiving waters. Other substances are introduced as the result of intentional efforts to avoid the costs of legal disposal and conformance with water quality regulations. The "Illegal Dumping Elimination Program" is one component of the overall Nonpoint Source Pollution Control Program intended to help reduce such activities.

The variety of sources and concentrations of pollutants, as well as the variability of runoff, make the "end-of-pipe" treatment methods, which are often used to address industrial discharges, impractical and ineffective alternatives for non-point source pollution control. Although not without its own difficulties, the most effective means of reducing non-point source pollution are those which prevent pollutants from being introduced into, or prevent their conveyance through, the storm drainage system to receiving waters. Prevention is the key to a successful urban runoff

program with treatment of non-point source pollution used only if prevention fails to meet the goals of the Clean Water Act.

Comprehensive Watershed Management Planning

Increasingly, the governmental entities responsible for water supply will rely upon comprehensive watershed management planning in order to ensure that the quality of the waters entering local reservoirs and rivers recharging groundwater are of the highest quality. These plans involve the cooperation and coordination of many jurisdictions having land use authority and regulatory powers within the watershed or drainage area. Subjects of major concern include retention of ground cover and vegetation, timber harvesting, development impacts, land use, grading and earth moving, grazing practices, and other activities which affect urban runoff, primarily in the rural areas of the watershed.

Strategies, Policies, and Implementation

A comprehensive approach to managing water quality should include the following basic strategies, in addition to ongoing point source regulation:

- Strategy #1: Reduce Non-Point Source Pollution
- Strategy #2: Restore Wetlands, Riparian Areas, and Other Habitats that Improve Water Quality
- Strategy #3: Prepare and Implement Comprehensive Watershed Management Plans

These strategies reflect a comprehensive approach to safeguard water resources, improve water quality, and protect the health of species dependent on them, including humans.

Insertions

Urban Runoff

Urban runoff from [municipality] is discharged into local creeks which empty into [local receiving water]. Both state and federal authorities have identified urban runoff as a major source of pollution adversely affecting the beneficial uses of waters statewide. Some of those impaired beneficial uses are recreation, commercial and sport fishing, estuarine habitat, and the preservation of rare and endangered species. [The state has issued a National Pollutant Discharge Elimination System (NPDES) Permit to [municipality] for which a municipal storm water management program must be developed and implemented.]

It is extremely difficult and expensive to control the composition of urban runoff discharges through conventional wastewater treatment technologies. Therefore, it is critical that [municipality] implement measures to identify and control the sources of pollutants before they are actually discharged into the storm drain system. In order to control the nonpoint sources of pollutants, [municipality] has reviewed the types of land uses and practices which have the potential to discharge pollutants into the storm drain system. In doing so, [municipality] has identified several key areas to control and reduce potential pollutants in urban runoff including: industrial and commercial discharges, new development and redevelopment, construction activities, illegal dumping, illicit connections to storm drains, public information and participation, and public agency activities.

General Plan Elements

A. Land Use

Apply the following watershed protection activities to all new development and redevelopment proposals during the planning, project review, and permitting processes:

- Avoid conversion of areas particularly susceptible to erosion and sediment loss (e.g., steep slopes) and/or establish development guidance that identifies these areas and protects them from erosion and sediment loss. It is a general policy to limit grading permits or allow grading in those areas susceptible to erosion from October through April.
- In order to prevent undue erosion of creek banks, [municipality] should seek to retain creek channels in their natural state. Regulate development near water courses to reduce erosion and pollution and to provide open natural areas.
- Preserve or restore areas that provide water quality benefits and/or are necessary to maintain riparian and aquatic biota.
- Promote site development that limits impact on and protects the natural integrity of topography, drainage systems, and water bodies.
- Promote integration of storm water quality protection into construction and post-construction activities at all development sites. Evaluate the ability of a land parcel to detain excess storm water runoff and require incorporation of appropriate controls, for example, through use of detention facilities. As part of site approval or as a condition of tentative maps, require permanent storm water pollution control measures or systems and an ongoing maintenance program, as necessary.

B. Circulation

- Work to reduce transportation related sources of water pollution, particularly in storm water runoff. Any means by which vehicle-miles-traveled are reduced benefits congestion and reduces air and water pollution.
- Recognize and publicize the relationship between air pollution and water pollution in the deposition onto streets and other surfaces of airborne contaminants, including metals and fine particulate matter (PM10).

C. Housing

- Housing policies and programs stated in the General Plan should be consistent with water quality preservation goals stated within the conservation element.

D. Conservation

- Comprehensive watershed management plans should be developed and implemented for drainage basins in [municipality]. In order to do this, close coordination should take place among the County, the cities, and the various special districts whose decisions and activities affect the county's and cities' watersheds and other natural resources.
- [Municipality] shall implement urban runoff pollution control measures and programs to attempt to reduce and control the discharge of pollutants into the municipality's storm drains and local creeks to the maximum extent practicable.
- Reduce the quantity of runoff and discharge of pollutants to the maximum extent practicable by integrating surface runoff controls into new development and redevelopment land use decisions.

- [Municipality] should support, and contribute to, the acquisition of areas of open space that have water quality significance by City and County Parks, State Parks, and other agencies and non-profit organizations for permanent preservation.
- Work with other local government agencies on land use issues county-wide in order to maintain a watershed-based approach to land use, flood control, and nonpoint source pollution prevention.
- Hazard and resource areas with the following characteristics shall be considered unsuited for urban development: flood potential; wetlands; riparian corridors; and areas generally above 25% slope.
- Land uses which pose a major threat to water quality, including commercial and industrial uses such as automobile dismantlers, transportation and vehicle storage facilities, waste transfer disposal facilities, light industries, and other uses that have a significant potential for pollution, shall not be located within the vicinity of streams, reservoirs, or percolation facilities or where pollutants could easily come in contact with flood waters, high groundwater, flowing streams, or reservoirs. Such uses shall be required to reduce any threat of pollution to an insignificant level as a condition of approval.
- Particulate matter pollution shall be minimized through control over new and redevelopment (including erosion and sediment controls on grading, quarrying, vegetation removal, construction and demolition), industrial processes, parking lots, and other activities which pose such a threat to water quality.

E. Open Space

- Open space policies and programs should be consistent with those water quality policies and programs set forth in the conservation element. Open space areas should be managed with erosion control and pollution prevention measures in the forefront.

F. Safety

- Water quality protection measures set forth throughout the General Plan are the result of United States Environmental Protection Agency legislation under the Clean Water Act. The intent of these measures is to protect the health and safety of humans as well as to protect the beneficial uses of receiving waters.

G. Noise

- Not applicable to water quality.

3D CEQA Checklist Revisions

MURP Comments Attachment 1
Proposed Revisions to Existing Appendix H Environmental Information Form

Appendix H: Environmental Information Form

► Adapted from Appendix H of the 1996 CEQA Guidelines with MURP's suggested revisions in **bold underline**.

(To be completed by applicant)

Date filed: _____

General Information

1. Name and address of developer or project sponsor: _____

2. Address of project: _____
Assessor's Block and Lot Number: _____
3. Name, address, and telephone number of person to be contacted concerning this project:

4. Indicate number of the permit application for the project to which this form pertains: _____
5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:

6. Existing zoning district: _____
7. Proposed use of site (Project for which this form is filed): _____

Project Description

8. Site size.
9. Square footage.
- 10. Existing and proposed impervious surface coverage.**
- 11. Number of floors of construction.**
- 12. Amount of off-street parking provided.**
- 13. Attach plans.**
- 14. Proposed scheduling.**
- 15. Associated project.**
- 16. Anticipated incremental development.**
- 17. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected.**
- 18. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities.**
- 19. If industrial, indicate type, estimated employment per shift, and loading facilities.**

MURP Comments Attachment 1
Proposed Revisions to Existing Appendix H Environmental Information Form

Appendix H continued (note MURP's suggested revisions in bold underline)

- 20. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project.
- 21. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

	Yes	No
22. Change in existing features of any bays, tidelands, beaches, <u>wetlands, riparian areas, ponds, springs, creeks, streams, rivers, lakes, estuaries,</u> or hills, or substantial alteration of ground contours.	<input type="checkbox"/>	<input type="checkbox"/>
23. Change in scenic views or vistas from existing residential areas or public lands or roads.	<input type="checkbox"/>	<input type="checkbox"/>
24. Change in pattern, scale or character of general area of project.	<input type="checkbox"/>	<input type="checkbox"/>
25. <u>Generate</u> significant amounts of solid waste or litter.	<input type="checkbox"/>	<input type="checkbox"/>
26. Change in dust, ash, smoke, fumes or odors in vicinity.	<input type="checkbox"/>	<input type="checkbox"/>
27. Change in ocean, bay, lake, stream, <u>wetland, riparian area, pond, spring, creek, river, estuary, tidal area</u> or ground water quality or quantity, <u>or</u> alteration of existing drainage patterns, <u>or untreated runoff will leave the site.</u>	<input type="checkbox"/>	<input type="checkbox"/>
28. Substantial change in existing noise or vibration levels in the vicinity.	<input type="checkbox"/>	<input type="checkbox"/>
29. Site on filled land or on slope of 10 percent or more.	<input type="checkbox"/>	<input type="checkbox"/>
30. Use or disposal of potentially hazardous materials, such as toxic substances, flammables or explosives.	<input type="checkbox"/>	<input type="checkbox"/>
31. Substantial change in demand for municipal services (police, fire, water, sewage, <u>storm drain,</u> etc.).	<input type="checkbox"/>	<input type="checkbox"/>
32. Substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.).	<input type="checkbox"/>	<input type="checkbox"/>
33. Relationship to a larger project or series of projects.	<input type="checkbox"/>	<input type="checkbox"/>

Environmental Setting

- 34. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, waterbodies (wetlands, riparian areas, ponds, springs, creeks, streams, rivers, lakes, estuaries, tidal areas, bays, ocean, etc.), and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Snapshots or polaroid photos will be accepted.
- 35. Describe the surrounding properties, including information on plants and animals, adjacent waterbodies (wetlands, riparian areas, ponds, springs, creeks, streams, rivers, lakes, estuaries, tidal areas, bays, ocean, etc.), and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity. Snapshots or polaroid photos will be accepted.

Certification

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Date _____ Signature _____
 For _____

(Note: This is only a suggested form. Public agencies are free to devise their own format for initial studies.)

Appendix G: Environmental Checklist Form

► MURP's suggested revisions in bold underline.

Page 8, Section VII (Hydrology and Water Quality); The following additional questions should be added:

- h) Will the project result in discharge, directly or through a storm drain system, into surface waters (including, but not limited to, wetlands, riparian areas, ponds, springs, creeks, streams, rivers, lakes, estuaries, tidal areas, bays, ocean, etc.)?**
- i) Will the project alter ground water or surface water quality, temperature, dissolved oxygen, or turbidity?**
- j) Will the project introduce typical storm water pollutants (including, but not limited to: paints, varnishes, and solvents; hydrocarbons and metals from vehicle use or business operations; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; other sediments and floatables; metals and acidity from mining operations.) into ground or surface water?**

--- OR, ALTERNATIVELY, QUESTION J COULD READ (with or without footnote) ---

- j) Will the project introduce typical storm water pollutants¹ into ground or surface water?**

Page 11, Section XVI (Utilities and Service Systems), Question c should be revised as follows:

- c) Require or result in the construction of new storm water drainage or water quality control facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?**

¹Typical storm water pollutants" include, but are not limited to: paints, varnishes, and solvents; hydrocarbons and metals from vehicle use or business operations; non-hazardous solid wastes and yard wastes; sediment from construction activities (including silts, clays, slurries, concrete rinsates, etc.); ongoing sedimentation due to changes in land cover/land use; nutrients, pesticides, herbicides, and fertilizers (e.g., from landscape maintenance); hazardous substances and wastes; sewage, fecal coliforms, animal wastes, and pathogens; dissolved and particulate metals; other sediments and floatables; metals and acidity from mining operations.

3E Utility Ordinance and Resolution

ORDINANCE NO. _____ C.S.

**ORDINANCE CREATING A NEW MONTEREY CITY CODE
CHAPTER 31.5 ENTITLED "STORM WATER MANAGEMENT
UTILITY" AND A NEW STORM AND SURFACE WATER
MANAGEMENT ENTERPRISE AND UTILITY.**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council is aware of the problems facing the City relating to storm and surface water runoff in terms of public safety, flooding, property damage, erosion, water quality, and potential pollution of Monterey Bay, and finds as follows:

1. All developed real property in the City contributes to increased storm and surface water runoff into the storm drainage system by virtue of increased runoff from impervious improvements to the property, thereby adding to the storm drainage problem; and
2. All developed real property in the City uses and benefits from an adequate, functioning, storm and surface drainage system; and
3. The City has studied the storm and surface water runoff and the existing and proposed storm and surface water management system and associated improvements, and determined that the storm and surface water management system should be operated, maintained, constructed, and reconstructed as an enterprise and utility of the city; and
4. The City currently maintains the ditches, pipes, culverts, streamways, and other portions of the storm and surface water management system through general fund expenditures; and
5. The City is faced with increased state and federal mandates to reduce deposits of toxic substances and pollutants into Monterey Bay from storm water runoff; and
6. A need exists for additional funding for the storm and surface water management program of the City, and creation of an enterprise and utility of the City for this purpose will best facilitate and control the funding and maintenance of this program.
7. The provisions of this Ordinance do not constitute a project under the provisions of the California Environmental Quality Act.

SECTION 2. A new Chapter 31.5 is hereby created to establish a Storm Water Management Utility to read as follows:

**"CHAPTER 31.5
STORM WATER MANAGEMENT UTILITY**

- § 31.5-1 Utility created.
- § 31.5-2 Management of system.
- § 31.5-3 Fee; Collection.

Sec. 31.5-1 Utility created.

A Storm Water Management Utility is created as a City enterprise and utility to operate, maintain, and fund the City's storm and surface drainage system. The purpose of this utility includes, but is not limited to, permitting, maintenance, planning, design, construction, regulation, surveying, water quality testing, and inspection relating to storm and surface water management facilities.

Sec. 31.5-2 Management of system.

(a). The Public Works Director shall act as director of the Utility and shall be responsible for administering and managing the operations of the storm and surface water management system in accordance with the provisions of management programs adopted by the City Council.

(b). The City Council may adopt a storm and surface water management program or regulations to facilitate operation of the Utility.

Sec. 31.5-3 Fees; Collection.

(a). The City Council may establish a Storm Water Management Utility fee to be imposed upon users of the storm water drainage system, with the basis and amount of the fee to be established by Resolution. The purpose of the fee is to provide for the costs and expense of improving the water quality of storm and surface water control facilities, the costs of planning, permitting, designing, establishing, acquiring, developing, constructing, or improving storm and surface water management facilities or improvements, or to pay or secure the payment of any indebtedness incurred for such purpose.

(b). Collection. Any fee imposed pursuant to this Chapter shall be collected by the Finance Director in accordance with provisions set forth in the Resolution establishing the basis and amount of the fee. The fees may be collected directly from users, or the collection may be contracted to other public or private utilities for collection in conjunction with their utility bills."

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect 30 days after its final passage and adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
MONTEREY this 6th day of July, 1993, by the following vote:

AYES: _____	COUNCILMEMBERS:
NOES: _____	COUNCILMEMBERS:
ABSENT: _____	COUNCILMEMBERS:

APPROVED:

/s/ _____
Mayor of said City

ATTEST:

/s/
City Clerk thereof

Date of Publication:

ATTACHMENT A

RESOLUTION NO. _____

**RESOLUTION AMENDING UTILITY FEE FOR STORM
AND SURFACE WATER MANAGEMENT**

The Council of the City of Monterey does **RESOLVE** as follows:

WHEREAS, the City Council finds that the City is subject to damage from storm waters from existing water courses and drainage facilities such that existing storm and surface water drainage facilities require continuous operation, maintenance, renewal and replacement; and

WHEREAS, each owner and occupier of a lot or parcel of real property within the City, to the extent that such person and property makes use of, and is served by the City's storm and surface water runoff beyond that amount of storm and surface water which would occur if that real property were undeveloped in its natural state, should pay for the use and the availability for use of such facilities; and

WHEREAS, the City Council has adopted an ordinance which established the Storm and Surface Water Management System Enterprise and Utility; and

WHEREAS, the City Council intends to establish reasonable storm drainage fees computed on a basis of the use made of, and the need for, and the service provided by the storm drainage system of the City; and

WHEREAS, the purpose of the fees established herein is to provide a method for payment of all or any part of the cost and expense of improving the quality of storm and surface water runoff, maintaining and operating storm and surface water control facilities, all or any part of the cost and expense for of planning, designing, establishing, acquiring, developing, constructing and improving of such facilities, or to pay or secure the payment of all or any portion of any indebtedness incurred for such purpose.

NOW, THEREFORE, the Council of the City of Monterey does **RESOLVE** that this Resolution will establish rates and regulations for the storm and surface water management system as a City enterprise and utility. The Council hereby approves and adopts Utility Rate Schedule and Special Storm and Surface Water Management Utility Regulations attached hereto and incorporated herein by this reference to be effective as of January 1, 1996. Purposes for establishing such enterprise and utility include, but are not limited to, maintenance, planning, design, construction, regulation, surveying, and inspection relating to surface and storm water management facilities of the City.

AND BE IT FURTHER RESOLVED that, since larger floods from storm water runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this division, neither this Resolution nor the Rate

Schedule and Rule and Regulation adopted herewith imply that property liable for the fees and charges established herein will always be free from storm water flooding or flood damage. Nor shall this Resolution create a liability on the part of, or cause of action against, the City of any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this Resolution purport to reduce the need or the necessity for obtaining flood insurance;

AND BE IT FURTHER RESOLVED that if any section, sentence, clause, or phrase of this resolution or the Rate and Regulation adopted herewith is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution;

AND BE IT FURTHER RESOLVED that the Council finds that the provisions of the Resolution do not constitute a project under the provisions of the California Environmental Quality Act.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF Monterey this 17th day of October, 1997 by the following vote:

AYES: _____ COUNCILMEMBERS:
NOES: _____ COUNCILMEMBERS:
ABSENT: _____ COUNCILMEMBERS:

Approved:

/s/Daniel Albert
Mayor of said City

Attest:

/s/Cynthia Parham
City Clerk thereof

**SPECIAL STORM AND SURFACE
WATER MANAGEMENT UTILITY REGULATIONS**

A. DEFINITIONS

For the purposes of the attached Utility Rate Schedule and these Special Storm and Surface Water Management Utility Regulations, the following words and terms shall be defined as follows, unless the context in which they are used clearly indicates otherwise.

1. "Developed Parcel" shall mean any lot or parcel of land altered from its natural state by the construction, creation or addition of impervious area, except public streets and highways.
2. "Equivalent Residential Unit (ERU)" shall mean the basic unit for the computation of storm drainage fees. All single-family and duplex units are considered one (1) ERU based on data for City of Monterey, and are considered to have an average impervious area of 3,313 square feet. All other properties will have ERUs computed to the nearest 1/10 ERU using the following formula:

$$\text{No. of ERU} = \frac{\text{Impervious Area (Sq. Ft.)}}{3,313 \text{ Sq. Ft.}}$$

No property shall have an ERU less than 1.0.

3. "Impervious Area" shall mean any part of any developed parcel of land that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions pre-existent to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions pre-existent to development. By way of example, common impervious areas include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, or any cleared, graded, paved, graveled, or compacted surface or packed earthen materials, or

areas covered with structures of other surfaces which similarly impede the natural infiltration of surface water into the soil mantle.

4. "Non-Single-Family Residential Property" shall include all developed parcels zoned or used for multi-family, commercial, industrial retail, governmental, or other non-single family residential purposes and shall include all developed parcels in the City not defined as single-family residential property herein.
5. "Parcel" shall mean the smallest separately segregated lot, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the Monterey County Assessor.
6. "Single-Family Residential Property" shall include all developed parcels with either one single-family detached housing units or one two-unit attached dwelling structures commonly known as "duplexes."
7. "Storm and Surface Water Control Facilities" shall mean all man-made structures or natural water courses facility improvement, development, property or interest therein, made, constructed or acquired for the conveyance of storm or surface water runoff for the purpose of improving the quality of, controlling, or protecting life or property from any storm, flood or surplus waters.
8. "Storm Drainage Facilities" shall mean the storm and surface water drainage systems comprised of storm water control facilities and any other natural features which store, control, treat and/or convey surface and storm water. The Storm Drainage Facilities shall include all natural and man-made elements used to convey storm water from the first point of impact with the surface of the earth to a suitable receiving body of water of location internal or external to the boundaries of the City. The storm drainage system includes all pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations,

channels, streams, ditches, wetlands, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities whether public or private. Regardless of whether or not the City shall have recorded rights-of-way or easements, it is presumed that the City has a prescriptive right of access to all stormwater management facilities for operation, maintenance, rehabilitation, or replacement.

9. "Surface Water" shall mean water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.
10. "Undeveloped Parcel" shall mean any parcel which has not been altered from its natural state by the construction, creation, or addition of impervious area.

B. STORM DRAINAGE FEES:

There is hereby imposed on each and every developed parcel of land within the City, and the owners and occupiers thereof, jointly and severally, a storm drainage fee. This fee is deemed reasonable and is necessary to pay for (1) improving the quality of storm and surface water runoff, (2) the operation, maintenance, improvement and replacement of the existing and future City storm drainage facilities, and (3) the planning, designing, establishing, acquiring, developing and construction of such facilities. All of the proceeds of these fees are deemed to be in payment for use of City storm drainage facilities by the developed parcels on, and with respect to, which the fee is imposed, and the owners and/or occupiers thereof.

The storm drainage fee shall be payable monthly and shall be paid to the City (or the collection may be contracted to other public or private utilities for collection in conjunction with their utility bills), as billed by the City, by the owner or occupier of each and every developed parcel in the City who shall be presumed to be the primary utility rate payer unless otherwise agreed in writing by the City. In any event, the parcel owner or occupier shall be responsible to pay all delinquent or unpaid storm drainage fees. If a developed parcel does

not have a utility account on the effective date of this Rule and Regulation, a new account shall be established for that parcel and billed to the owner as shown on the latest County Assessor's property tax rolls. When an undeveloped parcel is developed, a new account shall be established and billed to the owner of that parcel as shown on the latest property tax rolls of the Monterey County Assessor.

1. Basis for Calculation:

The storm drainage fee shall be based on the relative contribution of surface and storm water runoff from a given developed parcel to City storm drainage facilities. The relative contribution of surface and storm water runoff from each developed non-single family residential property parcel shall be based on the amount of impervious area on that parcel and shall determine that parcel's storm drainage fee. The extent of impervious area will be established to the nearest square foot by any of the following methods to be selected by the City Engineer:

a. Computation of the impervious area using on-site measurements of the apparent outside boundaries of the impervious area in or on such developed parcels made by the City or on its behalf; or

b. Computation of the impervious area using the dimensions of the impervious area in or on the developed parcels which are set forth and contained in the records of the office of the County Assessor.

c. Estimation, calculation and computation of the impervious area using aerial photography or photogrammetry, or using the information and data from on-site measurements of like or similar property or features or as contained in the records of the City or County.

d. The burden of reestablishing the extent of impervious area shall be on the parcel owner and to the satisfaction of the City Engineer under Administrative Review Procedures.

2. Calculation of Monthly Fee:

a. Single-Family Residential: Monthly fees for single family residential parcels shall be equal to the rate for 1 ERU as set forth in Utility Rate Schedule.

b. Non-Single-Family Residential: Monthly fees for non-single-family residential parcels shall be computed in accordance with the following formula:

Number of ERUs x Rate per ERU as set forth in Utility Rate Schedule

3. Application:

a. Developed Parcels: storm drainage fees shall apply to all developed parcels within the City, including those classified as non-profit or tax-exempt for ad valorem tax purposes. It shall apply to all government properties, to the full extent permitted by the constitutions of the United States and the State of California, including (some but not all) developed parcels of the City of Monterey, including (some but not all) City-owned buildings and parks, but excluding public streets and highways.

b. Undeveloped Parcels: Storm drainage fees shall not be levied against undeveloped parcels that have not been altered from their natural state as defined herein under "Impervious Area."

c. Proportional Reduction of Fees: Developed parcels that have their own maintained stormwater management facility or facilities that do not fully utilize City facilities or make no substantial or only a partial contribution of storm or surface water to the City's

storm drainage facilities shall be subject to the storm drainage fee only to the extent they do contribute storm or surface water runoff to City storm drainage facilities or utilize storm and surface water treatment services of the City. Developed parcels that have a portion of their impervious area within the City shall be charged only for that portion of impervious area which is in the City. The burden of establishing the reduced extent of contribution to the City's storm drainage facilities or utilization of City storm and surface water treatment services shall be on the parcel owner and to the satisfaction of the City Engineer under Administrative Review Procedures.

C. ADMINISTRATIVE REVIEW:

Any person who disputes the amount of any storm drainage fee made against their developed parcel or who requests a deferred payment schedule therefore may request a revision or modification of such fee from the City Engineer. The City Engineer may notify any owner or occupier in the event he considers the fee for any developed parcel to be inadequate or improper. The parcel owner shall make such request in writing to the City Engineer.

GENERAL STORM AND SURFACE WATER DRAINAGE
UTILITY RATE SCHEDULE

APPLICABILITY:

This schedule applies to all storm and surface water drainage service, excepting only those users and to the extent that they are constitutionally exempt under the Constitution of the State of California or who are determined to be exempt pursuant to the Special Storm and Surface Water Management Utility Regulations.

TERRITORY:

Inside the incorporated limits of the City of Monterey and land owned or leased by the City.

RATES:

Per Month:

Storm Drainage Fee per Equivalent Residential
Unit (ERU). \$2.09]

Special Notes:

1. An Equivalent Residential Unit (ERU) is the basic unit for computation of storm drainage fees for residential and non-residential customers. All single-family and duplex units are considered 1 ERU based on data for Monterey and are considered to have an average impervious area of 3,313 square feet. All other properties will have ERUs computed to the nearest 1/10 ERU using the following formula:

$$\text{No. of ERU} = \frac{\text{Impervious Area (S. Ft.)}}{3,313}$$

3,313 S. Ft.

2. For more details on the storm drainage fee, refer to the Special Storm and Surface Water Management Utility Regulations.

3. The fee does not exceed the reasonable cost of providing storm and surface water management.