

***Appendix XXI. MOU for Storm Water Compliance Inspection of
Construction and Permanent BMPs***

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CITY OF SAN DIEGO

MEMORANDUM OF UNDERSTANDING

between

DIVISION OF BUILDING CONSTRUCTION & SAFETY

DEVELOPMENT SERVICES DEPARTMENT

and

FIELD ENGINEERING DIVISION

PUBLIC WORKS DEPARTMENT

for

STORM WATER COMPLIANCE

INSPECTION OF CONSTRUCTION AND PERMANENT
BMP'S

Parties to the Memorandum of Understanding (MOU)

This MOU is made and entered into on March 24, 2014, by and between the Division of Building Construction & Safety (DBC&S) of the Development Services Department (DSD) and the Field Engineering Division (FED) of the Public Works Department (PWD).

Purpose

The purpose of this MOU is to promote and provide for harmonious relations, cooperation, and understanding between the Parties; to provide general procedures for the inspection of Construction and Permanent BMP's; to provide procedures for an orderly and reasonable means of resolving any misunderstandings or differences which may arise during the course of construction inspections; to maintain open lines of communication between the Parties; and to set forth the understanding of the Parties to comply to the maximum extent practical with all applicable State and local Storm Water rules and regulations.

Basis for MOU

The City is responsible for ensuring compliance with all applicable Federal, State and local Storm Water ordinances and regulations which prohibit sediment and other pollutants from entering the municipal separate storm sewer system.

These regulations include:

- State Construction General Permit (CGP)
- Order No. R9-2007-0001, the San Diego County Municipal Storm Water Permit (MS4)
- City Municipal Code Section §43.03 Storm Water Management and Discharge Control
- City's Storm Water Standards Manual

Ensuring compliance with these regulations requires that the City implement and develop an inspection program, which may include procedures for inspections and documentation to verify proper construction practices and installation of Construction Best Management Practices (BMPs) and Treatment Control BMPs (TCBMPs), also referred to as Permanent BMPs.

The MS4 also requires an annual report that confirms TCBMPs are being implemented for all projects that require a Standard Urban Storm Water Mitigation Plan (SUSMP).

Background

PWD-FED Resident Engineers (RE) inspect Engineering Permits, which include public improvements, grading and subdivision construction, for compliance with approved plans, and in accordance with the Greenbook, White Book, Standard Drawings and Municipal Code. The engineering plans are approved by and on behalf of the City Engineer.

DSD DBC&S inspectors (Inspector) inspect building construction on private property for compliance with the California Building Standards Codes, City Municipal Codes and City approved building plans. Building plans are approved by and on behalf of the Chief Building Official.

DBC&S and PWD also inspect Storm Water Construction BMPs and TCBMPs for compliance with all applicable State and local rules and regulations.

Roles and Responsibilities

The Parties agree to take responsibility for the following:

Building Permits

DBC&S Inspectors are responsible for inspecting all construction work associated with a Building, Mechanical, Plumbing, Electrical, Fire and Demolition Permits. Additionally, they inspect associated Construction BMPs for erosion and sediment control, materials handling, and general housekeeping. Inspection of TCBMPs may consist of private facilities including, but not limited to, media filters, bio-retention basins, flow-through planters, vegetated swales, Green roofs, and other TCBMPs as shown on City approved plans. Inspection of Low Impact Development (LID) features may include landscaping, pervious pavement or pavers for overflow parking lots, pathways, site drainage and improvements as shown on City approved plans.

Engineering Permits and Subdivisions

RE's are responsible for inspecting all construction work associated with Engineering Permits and Subdivisions for grading and/or public improvements, in the right-of-way (ROW), and on private property. Additionally, they inspect associated Construction BMPs for erosion and sediment control, materials handling, and general housekeeping. Inspection of TCBMPs may consist of private facilities including, but not limited to, media filters, bio-retention basins, flow-through planters, vegetated swales, Green roofs, and other TCBMPs as shown on City approved plans.

Inspection of Low Impact Development (LID) features may include pervious pavement or pavers for overflow parking lots, sidewalks, pathways, site drainage and improvements as shown on City approved plans.

Procedure for Construction Best Management Practices (BMPs)

Field Engineering Division - Public Works Department

1. Pre-Construction: As required by the engineering permit, it is the responsibility of contractors to schedule a pre-construction meeting (pre-con) with an RE for projects associated with an Engineering Permit or Subdivision. The RE is responsible for ensuring Storm Water BMP topic is on the Pre-con Agenda.
 - a. Storm Water Construction BMP requirements are addressed at the onsite pre-con along with all project related issues.
2. Once work is initiated the contractor notifies the RE to inspect improvements that are under construction, including Storm Water BMPs.
 - a. During construction the RE continues to inspect the site for BMPs at regular intervals, prior to and after rain events, and more as needed which includes a written BMP Notice.
 - b. BMP inspections continue on the job site until the project is complete.
3. In the event of non-compliance, the RE issues a BMP notice that details the issues that need to be addressed per PWD's Standard Operating Procedure (SOP) and the time frame for which the issues are to be addressed. The RE re-inspects the site to confirm the issue(s) has been adequately addressed.
 - a. BMP notices are issued at a frequency required in the CGP/MS4 and as needed to enforce compliance from contractors and developers responsible for the project site.
4. Should an RE determine that construction BMPs are deficient on any actively permitted **building sites**;
 - a. Notification: RE will immediately notify their Supervising Engineer and the Senior Engineer.
 - b. Photo Documentation: RE shall take photos and/or video of the violations, if possible.
 - c. Coordination: The Senior Engineer will collect and email all the project information to the DBC&S Inspector and their supervisor.
 - d. Follow-up: DBC&S will take the lead to enforce storm water compliance.

Division of Building Construction & Safety – Development Services Department

1. Pre-construction: As required by the building permit, it is the responsibility of contractors to schedule a pre-construction meeting (pre-con) with the Inspector for building projects associated with an Engineering Permit or Subdivision. The Inspector is responsible for ensuring Storm Water BMP topic is on the Pre-con Agenda. The Inspector shall invite the RE of the Engineering/Subdivision permit to attend the pre-con with 5 working days notice.
2. During the course of the work, the Inspector records all inspection results in the City's Project Tracking System (PTS).
3. The Inspector documents inspection of Storm Water BMP's with one of the following: Pass, Fail, or Partial Pass.
4. In the event that non-compliance is observed, the Inspector shall "Fail" or "Partial Pass" a Storm Water BMP inspection and a BMP Notice is issued to the contractor detailing the issue(s) and time frame within which to comply.
5. At the next scheduled inspection, the Inspector re-inspects the site to confirm the issue(s) has been adequately addressed.
6. Should DCB&S determine that construction BMPs are deficient on any active **engineering permit/subdivision site**,
 - a. Notification: Inspector will notify their supervisor and the RE as soon as possible.
 - b. Photo Documentation: Inspector shall also take photos and/or video of the violations, if possible.
 - c. Coordination: The inspector's supervisor will collect and email all the project information to the FED Senior Engineer.
 - d. Follow-up: FED will take the lead to enforce storm water compliance

Procedure for Treatment Control Best Management Practices (TCBMPs)

Division of Building Construction & Safety - Development Services Department

1. Inspector will inspect TCBMPs as required on building plans.
2. Once project TCBMPs are installed, the Inspector will collect the completed Permanent BMP Construction Certification form (DS-563) from the Engineer of Work (EOW) or Contractor prior to final approval and occupancy.
3. The DS-563 will be filed with DSD and a copy will be forwarded via email to the Storm Water Division of the Transportation & Storm Water Dept (TSW) .

Field Engineering Division - Public Works Department

1. RE will inspect TCBMPs as required on the engineering plans.
2. Once TCBMPs are installed, the RE will require the submission of a completed DS-563 on the final punch list.
3. The DS-563 is required prior to as-built approvals, final sign off and project completion in PTS.
4. REs will collect the completed DS-563 from the Project Engineer or Contractor for all engineering permits and subdivisions that require TCBMPs.
5. A copy of the executed DS-563 will be forwarded via email to the Storm Water Division of TSW with a copy filed in the RE's project file.

General

Primary Contacts

The Parties agree to designate a representative as Primary Contacts for this MOU. The Primary Contact for each party will serve as the primary liaison and will be authorized to make changes to the procedural aspects of this MOU, as required. In addition, the Primary Contacts will meet on a regular basis to coordinate Engineering Permits, Subdivisions and Storm Water issues and improvements as required.

- FED designates Julie Ballesteros, Senior Civil Engineer
- DSD designates Akram Bassyouni, Senior Civil Engineer.

The Parties will maintain and share area assignments and contact information for all DSD and PWD Staff involved in enforcing the Storm Water regulations.

In the event that the Regional Board issues a Notice of Violation or notifies the City of an inspection where non-compliance with the CGP or MS4 has occurred and both Parties are affected, the Parties agree to coordinate a response and provide supporting documentation in a timely manner.

Dispute Resolution

The Parties agree to use their best efforts to resolve any disputes that might arise related to this MOU. The Parties agree that conflicts on enforcement policy should not be a discussion held in the field nor in front of a contractor. The Parties agree to include their immediate supervisor and Primary Contacts when disagreements occur in determining the responsible party related to Construction and Permanent BMP inspection.

In the event that a dispute cannot be resolved by the Primary Contacts it shall be referred to their respective Management Team for further resolution.

Exclusions: This MOU is exclusively for notification of non-compliant construction BMPs and TCBMPs. This MOU does not address any other processes associated with building permits, engineering permits or subdivisions.

Term

This MOU will commence on the date signed by the Parties.

Signatures

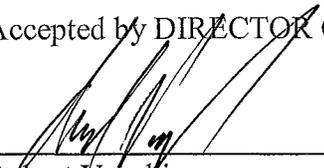
Accepted by DIRECTOR OF THE PUBLIC WORKS DEPARTMENT



James Nagelvoort
Director of Public Works

4/7/14
Date

Accepted by DIRECTOR OF THE DEVELOPMENT SERVICES DEPARTMENT



Robert Vacchi
Director of Development Services

4/24/14
Date

END