

RECORDING REQUESTED BY:  
CITY OF PINOLE

**When Recorded Mail To:**

City Clerk  
City of Pinole  
2131 Pear Street  
Pinole, CA 94564

*Fee Waived per GC 27383*

Space above this line for Recorder's use

**STORMWATER MANAGEMENT OPERATION & MAINTENANCE AGREEMENT:**  
**FULL TRASH CAPTURE DEVICES**

This Stormwater Management Maintenance Agreement ("Agreement") is entered into by and between the City of Pinole ("City") and \_\_\_\_\_, a property owner of a real property described in Exhibit A of this Agreement ("Property Owner").

RECITALS

- A. On November 19, 2015, the Regional Water Quality Board, San Francisco Bay Region, adopted Order R2-2015-0049, CAS612008, issuing the Municipal Regional Stormwater NPDES permit ("MRP") for the San Francisco Bay Region; and
- B. The City is a permittee of the MRP; and
- C. Provision C.3.h of the MRP requires the City to implement an Operation and Maintenance Verification Program ("Program") for stormwater treatment systems, which are defined as "any engineered system designed to remove pollutants from stormwater runoff by settling, filtration, biological degradation, plant uptake media, media absorption/adsorption or other physical, biological or chemical process," and "includes landscape-based systems such as grassy swales and bioretention units as well as proprietary systems" (MRP, pg. 151). As part of this program, the City is required to ensure that all installed stormwater measures are adequately operated and maintained by entities responsible for such stormwater treatment systems or measures, such as the Property Owner; and
- D. The Property Owner of real property commonly known as APN: \_\_\_\_\_ (the "Property"), which is more particularly described in Exhibit A, upon which full trash capture device(s) are to be constructed or located, operated and maintained; and
- E. The full trash capture device(s) are more particularly described in Exhibit B – Full Trash Capture Site Plan of which full scale project plans and any revisions thereto approved under \_\_\_\_\_, are on file with the Public Works Department of the City; and
- F. The City is the permittee public agency within jurisdiction over the Property.

- G. The Property Owner, its administrators, co-owners, executors, successors, heirs, assigns or any other persons, including any homeowners association (collectively hereinafter referred to as “Property Owner”) recognizes that the full trash capture device(s) must be installed and maintained on the Property as indicated in this Agreement and as required by the MRP; and
- H. The City and the Property Owner agree that the health, safety and welfare on the citizens of the City, together with the provisions of Pinole Municipal Code Chapter 8.20 and other applicable City guidelines, require that the full trash capture device(s) detailed in Exhibit B are to be constructed, operation and maintained on the Property by the Property Owner; and
- I. The Property Owner accepts the responsibility for constructing, operating, and maintaining the full trash capture device(s) on the Property.

**NOW, THEREFORE,** with reference to the above recitals and in consideration of the mutual promises, obligations, and covenants herein, the Property Owner agrees as follows:

**SECTION 1: CONSTRUCTION OF FULL TRASH CAPTURE DEVICE**

The on-site full trash capture device(s) described in Exhibit B shall be constructed by the Property Owner in strict accordance with the approved plans and specifications identified for the development and any other requirements thereto which have been approved by the City in conformance with appropriate City ordinances, guidelines, criteria and other written direction.

**SECTION 2: OPERATION & MAINTENANCE RESPONSIBILITY**

This Agreement shall serve as the signed statement by the Property Owner accepting responsibility for operation and maintenance of the full trash capture device(s) as set forth in this Agreement until the responsibility is legally transferred to another entity.

**SECTION 3: MAINTENANCE OF FULL TRASH CAPTURE DEVICE**

The Property Owner shall not destroy or remove the full trash capture device(s) from the Property nor modify the full trash capture device(s) in a manner that lessens its effectiveness, and shall, at its sole expense, adequately maintain the full trash capture device(s) in good working order acceptable to the City and in accordance with the Maintenance Schedule, attached as Exhibit C. Adequate maintenance is herein defined as maintaining the described facilities in good working condition so that these facilities continue to operate as originally designed and approved.

In the event the stormwater treatment measures or full trash capture device(s) are destroyed damaged, removed, or modified in a manner that lessens their effectiveness, the Property Owner, at its sole expense, shall restore them such that they perform as intended.

**SECTION 4: ANNUAL INSPECTION AND REPORT**

The Property Owner shall maintain all full trash capture device(s) installed on the property. Hydrodynamic separators are required to be cleaned a minimum of once per seasonal cycle. Inlet filters are required to be serviced by a third-party company a minimum of three times per seasonal cycle. Additional information on the required maintenance of the full trash capture device(s) is included in Exhibit C.

The Property Owner is responsible for submitting an annual inspection report as described in Exhibit D to the City. Maintenance records provided to the Property Owner by the third-party company shall also accompany the inspection report for the City to verify that the maintenance of the full trash capture device(s) have been conducted pursuant to this agreement.

The inspection report and maintenance records shall be submitted no later than December 31<sup>st</sup> of each year, under penalty of perjury, to the City of Pinole, Attention: City Engineer at 2131 Pear Street, Pinole CA 94564. The maintenance records shall include the volume of all accumulated sediment and trash removed from the full trash capture device(s).

SECTION 5: NECESSARY CHANGES AND MODIFICATIONS

At its sole expense, the Property Owner shall make any changes or modifications to the full trash capture device(s) as the City may determine to be reasonably necessary to ensure that the full trash capture device(s) are properly maintained and continue to operate as originally designed and approved.

SECTION 6: ACCESS TO THE PROPERTY

The Property Owner hereby grants permission to the City; the San Francisco Bay Regional Water Quality Control Board (RWQCB); the Contra Costa Mosquito & Vector Control District, and their authorized agents and employees (hereinafter “Agencies”) to enter upon the Property at reasonable times and in a reasonable manner to inspect, assess or observe the full trash capture device(s) in order to ensure that the full trash capture device(s) are being properly operated and maintained and are continuing to perform in an adequate manner to protect water quality and the public health and safety. This includes the right to enter upon the Property when the Agency or Agencies has/have a reasonable basis to believe that a violation of this Agreement, the City’s Stormwater Management Program, guidelines, criteria, or the MRP, and any amendments or re-issuances of this permit, is occurring, has occurred or threatens to occur. The above listed Agencies also have a right to enter the Property when necessary for abatement of a public nuisance or correction of a violation of the Inspection Report criteria. Whenever possible, the Agencies shall provide reasonable notice, delivered pursuant to Section 8 of this Agreement, to the Property Owner before entering the property.

SECTION 7: FAILURE TO MAINTAIN FULL TRASH CAPTURE DEVICES

In the event the Property Owner fails to maintain the full trash capture device(s) shown on the approved Site Plan or comparable document in good working order acceptable to the City, the City, and its authorized agents and employees with reasonable notice, delivered pursuant to Section 8 of this Agreement, may enter the Property and take whatever steps it deems necessary and appropriate to return the full trash capture device(s) to good working order. Such notice will not be necessary if emergency conditions require immediate remedial action. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the Property. It is expressly understood and agreed that the City is under no obligation to maintain or repair the full trash capture device(s) and in no event shall this Agreement be construed to impose any such obligation on the City.

SECTION 8: NOTICES

All notices herein required shall be in writing, and shall be given by personal delivery, by messenger or courier service, by registered United States mail, postage prepaid, addressed as set forth below:

Notices required to be given to the City shall be addressed as follows:

City Engineer  
City of Pinole  
2131 Pear Street  
Pinole, CA 94564

Notices required to be given to Property Owner or Property Manager shall be addressed as follows:

Company Name: \_\_\_\_\_  
Attention: \_\_\_\_\_

Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

Any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address. Any notice sent by messenger or courier service shall be deemed received on the day of the actual delivery as shown by the confirmation of delivery by the messenger or courier service. Any notice sent by mail shall be deemed received two (2) days after the date of mailing. If the date of receipt of any notice to be given hereunder falls on a weekend or legal holiday, then such date of receipt shall automatically be deemed extended to the next business day immediately following such weekend or holiday for purposes of calculating time periods commencing upon date of service.

#### SECTION 9: REIMBURSEMENT OF CITY EXPENDITURES

In the event the City, pursuant to this Agreement, performs work of any nature (direct or indirect), including any re-inspections or any actions it deems necessary or appropriate to return the full trash capture device(s) in good working order as indicated in Section 7, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the City of Pinole upon demand within thirty (30) days of receipt thereof for the costs incurred by the City hereunder, including reasonable mark-ups for overhead and expenses pursuant to Pinole Municipal Code Sections 8.20.160 and 8.20.180. The actions described in this section are in addition to and not in lieu of any and all legal remedies as provided by law, available to the City as a result of the Property Owner's failure to maintain the full trash capture device(s).

#### SECTION 10: INDEMNIFICATION

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

#### SECTION 11: NO ADDITIONAL LIABILITY

It is the intent of this Agreement to ensure the proper maintenance of the full trash capture device(s) by the Property Owner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability not otherwise provided by law of any party for damage alleged to result from or caused by stormwater runoff.

#### SECTION 12: TRANSFER OF PROPERTY

This Agreement shall run with the title to the land. The Property Owner agrees that, whenever the Property is held, sold, conveyed or otherwise transferred, the property shall be subject to this Agreement which shall apply to, bind and be obligatory to all present and subsequent owners of the Property. Before the Property is legally transferred to another entity, the Property Owner shall provide written notice of the Agreement to the transferee and provide the City a copy of such notice.

**SECTION 13: SEVERABILITY**

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

**SECTION 14: RECORDATION**

This Agreement shall be recorded by the Property Owner, or by the City by mutual agreement, within thirty (30) days after the execution date of this Agreement as stated above among the deed records of the County Recorder’s Office of the County of Contra Costa, California at the Property Owner’s expense.

**SECTION 15: RELEASE OF AGREEMENT**

In the event that the City determines that the full trash capture device(s) located on the Property are no longer required, then the City, at the request of the Property Owner shall execute a release of this Agreement, which the Property Owner, or the City by mutual agreement, shall record in the County Recorder’s Office at the Property Owner’s expense. The full trash capture device(s) shall not be removed from the Property unless such a release is so executed and recorded.

**SECTION 16: EFFECTIVE DATE AND MODIFICATION**

This Agreement is effective upon the date on which all signatures are obtained. This Agreement shall not be modified except by written instrument executed by the City and the Property Owner at the time of modification. Such modifications shall be effective upon the date of execution and shall be recorded.

**SECTION 17: MISCELLANEOUS**

The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Contra Costa.

In the event of legal action occasioned by any default, inaction or action of the Property Owner, the Property Owner agrees to pay all costs incurred by the City in enforcing the terms of this Agreement, including reasonable attorney’s fees, litigation expenses, including experts’ fees and costs, and other costs which shall become part of the lien against the Party.

CITY:  
CITY OF PINOLE

PROPERTY OWNER:

By: \_\_\_\_\_  
Tamara Miller  
Development Services Director/ City  
Engineer

\_\_\_\_\_  
Signature  
By: \_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**(ATTACH NOTARY ACKNOWLEDGEMENT)**

**EXHIBIT A – PROPERTY DESCRIPTION**

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## **EXHIBIT B – FULL TRASH CAPTURE SITE PLAN**

*Each trash capture device must be assigned a unique number (i.e. 1, 2, 3) which will be referenced for reporting requirements identified in Exhibit D. Site plan must show the location of all trash capture devices on the property with corresponding number. A legend should also be provided on the site plan to denote the type of trash capture device.*

## **EXHIBIT C – MAINTAINENCE SCHEDULE FULL TRASH CAPTURE**

### **Inlet Filters:**

#### **Maintenance & Inspections:**

- All inlet filters installed on the property shall be inspected and serviced at a minimum of three times per seasonal cycle.
- A third-party company must inspect and service the inlet filters. The third-party company shall be approved by the City.
- In some instances, the frequency and length of duration between inspections and maintenance may fluctuate based on specific site conditions, such as weather, site use and pollutant type and loading volume. The third-party company will provide information on the appropriate duration between inspections.
- The third-party company must report on the quantity of material removed and how full the trash capture device is. If such device is found to have a plugged or blinded screen, or is greater than 50% full of trash during a maintenance event, the maintenance frequency shall be increased so that the device is neither plugged nor more than half full at the next maintenance event.

#### **Filter Media Replacement:**

- The media in the filter shall be replaced when 50% or more of the outer surface of the media is coated with contaminants.
- The media pack shall be replaced a minimum of one time per year.
- The third-party company servicing the filter shall determine when the media requires replacement

### **Hydrodynamic Separators and Trash Screens:**

- All hydrodynamic separators or trash screens installed on the property shall be inspected and serviced (as necessary) at least twice per seasonal cycle, with inspections spaced at least three months apart.
- A third-party company must inspect and service the hydrodynamic separators or trash screens. The third-party company shall be approved by the City.
- In some instances, the frequency and length of duration between inspections and maintenance may fluctuate based on specific site conditions, such as weather, site use and pollutant type and loading volume.
- A typical maintenance event includes the vacuuming and disposal of floatable pollutants and sediment.
- The third-party company must report on the quantity of material removed and how full the trash capture device is. If such device is found to have a plugged or blinded screen, or is greater than 50% full of trash during a maintenance event, the maintenance frequency shall be increased so that the device is neither plugged nor more than half full at the next maintenance event.



**EXHIBIT D – INSPECTION REPORT**

This report, attached inspection checklists, and maintenance backup provided by third-party company collectively document the inspection and maintenance conducted for the identified stormwater treatment measures subject to the Maintenance Agreement between the City and the property owner during the annual reporting period indicated below.

**I. Property Information:**

Property Address: \_\_\_\_\_  
APN: \_\_\_\_\_  
Property Owner: \_\_\_\_\_

**II. Contact Information:**

Name of person to contact regarding this report: \_\_\_\_\_  
Phone number of contact person: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Address to which correspondence regarding this report should be directed:  
\_\_\_\_\_

**III. Reporting Period:**

This report, with the attached completed inspection checklists, and maintenance backup documentation provided by third-party company collectively document the inspections and maintenance of the identified treatment measures during the time period from January 1 to December 31 annually.

**IV. Stormwater Treatment Measure**

*All trash capture devices on the property must be shown and numbered on Exhibit B of the Maintenance Agreement.*

The following trash capture devices are located on the property identified above and are subject to the Maintenance Agreement:

# Trash Capture Device	Type of Device

Complete the Full Trash Capture Device Inspection and Maintenance Checklist for EACH trash capture device.

**V. Sediment Removal**

Total amount of accumulated sediment removed from the stormwater treatment measure(s) during the reporting period: \_\_\_\_\_cubic yards.  
The sediment was removed and disposed as follows:  
\_\_\_\_\_

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**VI. Inspector Information**

The inspections documented in the attached inspection checklists were conducted by the following inspector(s):

Inspector Name and Title	Inspector's Employer and Address

**VII. Statement of Stormwater Treatment Measure Condition**

Based on the inspections documented in the attached checklists, are the stormwater treatment measures identified in this report present, functional and being maintained as required by the Maintenance Agreement? (Check yes or no)

Yes                       No

If "No", describe problem, proposed solution and schedule for correction:

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**VIII. Certification**

I hereby certify, under penalty of perjury, that the information presented in this report and attachments is true and complete:

\_\_\_\_\_  
Signature of Property Owner or Other Responsible Party

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

Full Trash Capture Device Inspection and Maintenance Checklist

Property Address: \_\_\_\_\_ APN: \_\_\_\_\_

Trash Capture #: \_\_\_\_\_ Date of Inspection: \_\_\_\_\_ Inspector(s): \_\_\_\_\_

Type of Inspection:       Monthly                               Pre-Wet Season                               After heavy runoff (1" or greater)  
 End of Wet Season                               Other

Defect	Conditions When Maintenance Is Needed	Maintenance Needed (Y/N)	Comments*	Results Expected When Maintenance is Performed
1. Trash and Debris Accumulation	Trash and debris accumulated in the trash capture device.			Trash capture device is free of trash and debris.
2. Standing Water	When water ponds behind the trash capture device or the outflow pipe.			No standing water behind the trash capture device.
3. Structural Integrity	Concrete stormwater inlet has cracks and/or leaks.			Cracks and leaks are repaired, and the stormwater inlet is structurally sound.
4. Miscellaneous	Any condition not covered above that needs attention in order for the trash capture device to function as designed.			Trash capture device operates per the design specifications.

\*Describe maintenance completed and if needed maintenance was not conducted, note when it will be completed.