COUNCIL AGENDA: 02-23-10
ITEM: a.13

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: February 3, 2010

Approved Paul Krutko Date 2/10/10

COUNCIL DISTRICT: City-Wide
SNI AREA: All

SUBJECT: REVISE CITY COUNCIL POLICY 8-14: POST-CONSTRUCTION HYDROMODIFICATION MANAGEMENT

RECOMMENDATION

Recommend approval of the Revised City Council Policy 8-14: Post-Construction Hydromodification Management to bring the Policy into conformance with the new Hydromodification Management requirements of the San Francisco Bay Regional Water Quality Control Board (RWQCB) Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Permit Number CAS612008), which was adopted on October 14, 2009 by:

1) Reducing the size of projects that are required to design, build, and maintain project-related hydromodification management controls (HMCs) for projects that create and/or replace one acre or more of impervious surface in subwatersheds and catchment areas that are identified in the RWQCB's Hydromodification Management (HM) Applicability Map for Santa Clara County;

2) Reducing the area of the City that is subject to such requirements in accordance with the RWQCB's HM Applicability Map for Santa Clara County;

3) Clarifying the types of projects that are exempt from HM requirements;

4) Adopting detailed descriptions of acceptable HMCs;

5) Delineating additional performance criteria for demonstrating that post-project stormwater runoff does not exceed estimated pre-project runoff rates and durations; and

6) Including additional criteria beyond cost for determining when HMCs are impractical.

OUTCOME

Approval of the Revised City Council Policy 8-14 will ensure that the City of San José is consistent in its review of applicable new development proposals with regard to the new RWQCB Hydromodification Management (HM) requirements.

BACKGROUND

The Federal Clean Water Act requires the City of San José to operate under a Municipal Stormwater NPDES Permit for the discharge of stormwater via the City's stormwater collection system. On October 14, 2009, the RWQCB adopted the Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) for the San Francisco Bay Region. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 76 Bay Area municipalities, including the City of San José.

Under the Municipal Stormwater NPDES Permit, the City of San José is required to manage new development- and redevelopment-related increases in peak runoff flow, volume, and duration ("hydromodification"), where such hydromodification is likely to cause increased erosion, silt pollutant generation or other adverse impacts to local rivers and creeks. This is typically achieved with source control measures and treatment control measures to reduce runoff and flow duration controls to temporarily detain runoff. For purposes of the Municipal Regional Stormwater NPDES Permit, "new development" is considered construction on a vacant, unpaved site. "Redevelopment" is considered the reuse of previously developed or paved sites.

The current Policy 8-14 was adopted by the City Council on October 18, 2005 to meet the hydromodification management requirements of an adopted Municipal Stormwater NPDES Permit that was issued by the RWQCB to San José and other jurisdictions in Santa Clara County. The proposed Revised Policy 8-14 is consistent with the requirements of the RWQCB's Municipal Regional Stormwater NPDES Permit that was adopted on October 14, 2009, which became effective for all 76 Bay Area municipalities, including the City of San José, on December 1, 2009.

ANALYSIS

The proposed Revised City Council Policy 8-14 incorporates as City policy key provisions for new development and redevelopment projects within the RWQCB's adopted Municipal Regional Stormwater NPDES Permit regarding Hydromodification Management (HM), including the following:

- Applicable HM Projects
- Exempt Projects
- The HM Standard
- Types of Hydromodification Management Controls (HMCs)
- Performance Criteria
- Impracticality Provisions

Each of these key provisions, which are discussed in more detail below, are consistent with the requirements contained in the newly adopted Municipal Regional Stormwater NPDES Permit. The attached Santa Clara Permittees' HM Applicability Map classifies subwatersheds and catchment areas for determining applicability of HM requirements.

In general, the most substantive change proposed to the current City Council Policy 8-14 (last revised October 18, 2005) is to the size of a project that is subject to the requirement to include Hydromodification Management Controls (HMCs). The current Policy defines applicable projects requiring HMCs as either:

- New development and redevelopment projects that create or replace one (1) acre or more of impervious surface on sites equaling or exceeding twenty (20) acres or more and located in subwatersheds that are less than 90% built out (e.g., proposed projects of 20 acres or more, such as the eastern foothills).

- New development and redevelopment projects that create or replace one (1) acre or more of impervious surface on sites equaling or exceeding fifty (50) acres in size and located in subwatersheds that are greater than or equal to 90% built out and containing less than 65% existing impervious surface area (e.g., proposed projects of 50 acres or more, such as North Coyote Valley).

The newly adopted Municipal Regional Stormwater NPDES Permit removes the 20-acre and 50-acre project size minimums within certain subwatershed areas, and requires projects of at least one acre in size that create and/or replace one (1) acre or more of impervious surface, which are located in certain subwatershed areas, to design, build, and maintain project-related HMCs. Fewer subwatershed and catchment areas are subject to the new Hydromodification Management requirements (shown on the attached HM Applicability Map for Santa Clara County) than the current policy.

Applicable HM Projects

The following types of projects (HM Projects) are required to be designed and built to control project-related hydromodification:

New development and redevelopment projects that;

a) Create and/or replace one (1) acre or more of impervious surface*; and

b) Are located in subwatersheds that are less than 65% impervious or are "Under Review" (see green and pink areas on the attached HM Applicability Map).

Exempt Projects

Per the proposed Revised City Council Policy 8-14, the following projects are not considered HM Projects:

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* For example, if the resulting condition is one (1) acre or more of impervious surface area and represents an increase over the pre-project impervious surface condition.

1) Projects that do not create an increase in impervious surface over pre-project (existing) conditions (e.g., new development on an existing paved parking lot site, regardless of size, that does not result in an increase of impervious surface).

2) Projects located within catchment areas that drain to hardened channels that extend continuously to the Bay, or projects located within tidally-influenced creek areas or Bayland areas (see purple and light blue areas on the attached HM Applicability Map) (e.g., proposed projects generally located in parts of North San José, Alviso, etc.).

3) Projects located within catchment and subwatershed areas that are greater than or equal to 65% impervious (see red areas on the attached HM Applicability Map) (e.g., most existing developed portions of San José including Downtown, many existing neighborhoods, etc.).

4) Projects draining to an underground storm drain that discharges directly to the San Francisco Bay (e.g., proposed projects generally located very near the San Francisco Bay, such as Alviso).

The above described exemptions are consistent with the requirements of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit.

The HM Standard

Consistent with the new Municipal Regional Stormwater NPDES Permit, staff is recommending that City Council Policy 8-14: Post-Construction Hydromodification Management be revised to state that stormwater discharges from HM Projects must not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) condition. Increases in runoff flow and volume must be managed so that post-project runoff does not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause the increased potential for erosion of stream beds and banks, silt pollution generation, or other adverse impacts. All HM Projects are required to install Post-Construction Hydromodification Management Control (HMCs). These controls are discussed below. This proposed new definition of the HM Standard is similar to what is described in the current Policy 8-14 under General Guidelines for "Group 1 Projects."

Types of Hydromodification Management Controls (HMCs)

Per the proposed Revised City Council Policy 8-14, Post-Construction HMCs, may include:

- Onsite HMCs: flow duration control structures and hydrologic source controls that collectively result in the HM Standard being met at the point(s) where stormwater runoff discharges from the project site (e.g., detaining and gradually releasing runoff using onsite basins or underground vaults).

- Regional HMCs: flow duration and control structures that collect stormwater runoff discharge from multiple projects within the same drainage area (of which each project shall also incorporate onsite hydrologic source control measures) and are designed such that the HM Standard is met for all projects at the point where the Regional HMC discharges (e.g., detaining and gradually releasing runoff using basins or underground vaults that collect stormwater runoff discharge from multiple projects within the same drainage area).

- In-stream HMCs: shall be an option only where the stream, receiving runoff from the project, is already impacted by erosive flows and shows evidence of excessive sediment deposition, erosion, or is a hardened channel. In-stream HMCs involve modifying the receiving stream channel slope and geometry so that the stream can convey the new flow regime without increasing the potential for erosion and aggradation. In-stream HMCs are intended to improve the long-term channel stability and prevent erosion by reducing the erosive forces imposed on the channel boundary. In-stream HMCs, or a combination of in-stream and onsite HMCs, shall be designed to achieve the HM Standard from the point where the project(s) discharge(s) to the stream to the mouth of the stream, or to achieve an equivalent degree of flow control mitigation as part of an in-stream project located in the same watershed.

All Post-Construction HMCs must be maintained to operate effectively. Regional or In-stream HMCs may be implemented to address potential project impacts in combination with Onsite HMCs, where an approved plan, including an appropriate funding mechanism, is in place that accounts for the stream changes expected to result from changes in project runoff conditions. The regional or in-stream HMCs, or combination of HMCs, must be designed to achieve the HM Standard of no increase in the erosion potential.

The current Policy 8-14 simply states that, Post-Construction HMCs may include a combination of "On-site," "Off-site (same drainage area)" and "In-stream" measures that must be maintained to operate effectively. Per the proposed Revised City Council Policy 8-14, the above bulleted HMCs, and their more-detailed usage and maintenance criteria also described above, is consistent with the requirements of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit.

Performance Criteria

Per the proposed Revised City Council Policy 8-14, HM Projects shall demonstrate that post-project stormwater runoff does not exceed estimated pre-project (existing) runoff rates and durations. HM Projects must provide HMCs designed such that post-project stormwater discharge rates and durations match pre-project rates and durations from 10% of the pre-project 2-year peak flow up to the pre-project 10-year peak flow. This performance criteria for HM Projects, as described in the proposed Revised Policy 8-14, is the same performance criteria in the current Policy 8-14 for HMCs for Group 1 Projects. To be consistent with the requirements of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit, the proposed Revised Policy 8-14 further delineates additional performance criteria now required to demonstrate that post-project stormwater runoff does not exceed estimated pre-project runoff rates and durations.

Impracticality Provisions

The proposed Revised City Council Policy 8-14 includes specific criteria for determining when HM measures are impractical. These include the following provisions from the RWQCB's adopted Municipal Regional Stormwater NPDES Permit: "where conditions (e.g., extreme space limitations) prevent a project from meeting the HM Standard on site for a reasonable cost, *and* where a project's runoff cannot be directed to a Regional HMC within a reasonable timeframe, *and* where an In-stream HMC is not practicable, the project shall use on site design for hydrologic source control, and stormwater Treatment Control Measures (TCMs) that collectively minimize, slow, and detain runoff to the maximum extent practicable." Additionally, if the cost of providing on site design for hydrologic source control and TCMs to the maximum extent practicable does not exceed 2% of project costs, the project shall make a financial contribution to an Alternative HM Project. These proposed impracticality provisions within the proposed Revised Policy 8-14 are consistent with the requirements of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit. The impracticality provision in the current Policy 8-14 does not include consideration of space limitations or the practicality of Regional and In-stream HMCs.

EVALUATION AND FOLLOW-UP

Staff does not anticipate that adoption of the proposed Revised City Council Policy 8-14 will result in additional development costs to applicable projects. This is due to the fact that, per other requirements within the C.3 Provision of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit and per the City's adopted City Council Policy 6-29: Post-Construction Urban Runoff Management, projects are still required to provide Source Control Measures (SCMs) and Treatment Control Measures (TCMs), that will have stormwater runoff flow and duration control benefits to prevent erosion, silt pollutant generation, and/or other adverse impacts to local rivers and creeks.

As a result of the aforementioned changes to Policy 8-14, a greater number of projects will need to include measures to control the timing and amount of runoff from a site in addition to remove pollutants. However, it is likely that stormwater control plans will be designed to include measures that achieve both flow/duration control as well as pollutant removal.

City Council Policy 8-14 is not implemented in the Title 20 Zoning Ordinance or elsewhere in the Municipal Code, and the proposed Revised Policy 8-14 will not cause the need to update any City Guidelines. City Council Policy 6-29: Post-Construction Urban Runoff Management, and its associated references in the Title 20 Zoning Ordinance, will also need to be revised to comply with the recently adopted Municipal Regional Stormwater NPDES Permit. A proposed Revised Policy 6-29 and its associated changes in the Title 20 Zoning Ordinance will be brought to City Council prior to the December 1, 2011 effective date for the mandatory Low Impact Development provisions.

POLICY ALTERNATIVES

Failure to implement the requirements of the adopted Municipal Regional Stormwater NPDES Permit could lead to an enforcement action by Federal or State agencies, and/or environmental groups. This proposed Revised Policy 8-14 was prepared to meet the new requirements for Hydromodification Management to be consistent with the RWQCB's adopted Municipal Regional Stormwater NPDES Permit. Additional proposed alternatives for revising Policy 8-14 were not considered since the RWQCB's Municipal Regional Stormwater NPDES Permit was adopted on October 14, 2009 and went into effect on December 1, 2009 for all 76 Permittees in the Bay Area.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.
(Required: Website Posting)

☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff presented the adopted changes to the RWQCB's Municipal Regional Stormwater NPDES Permit and the proposed Revised Policy 8-14 on the following occasions:

- Planning, Building, and Code Enforcement (PBCE) Developer Roundtable Meetings on October 2, 2009 and November 6, 2009;
- Department of Public Works (DPW) Developer Representative Industry Meetings on November 5, 2009 and (is scheduled to be presented) on February 4, 2010; and
- Transportation and Environment Council Committee Meeting on February 1, 2010.

A draft proposed Revised Policy 8-14 and Santa Clara Permittees' HM Applicability Map is posted on the City website. The draft proposed Revised Policy 8-14 will also be sent via email to the PBCE Developer Roundtable Group and the DPW Developer Representative Industry Group. Staff is available to respond to comments and questions.

COORDINATION

This development of this Policy was created in coordination with the Department of Public Works, Environmental Services Department and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The proposed Revised City Council Policy 8-14 is consistent with the requirements of the RWQCB's adopted Municipal Regional Stormwater NPDES Permit. In addition, the revised policy is supportive of the environmental protection components of the General Plan Sustainable City Major Strategy as the proposed hydromodification management measures will limit the potential impact of new development to creek channel erosion, as well as flooding, and habitat loss.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Exempt.

Laurel Prevetti

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Rich Buikema, Senior Planner at 408-535-7823.

Attachment:

- Proposed Revised City Council Policy 8-14, including the Hydromodification Management Applicability Map for Santa Clara County.

City of San José, California
CITY COUNCIL POLICY

TITLE	PAGE	POLICY NUMBER
POST-CONSTRUCTION HYDROMODIFICATION MANAGEMENT	1 of 5	8-14
	EFFECTIVE DATE	**REVISED DATE**
	October 18, 2005	February 23, 2010

REVISION APPROVED BY COUNCIL ACTION
Scheduled for Council Consideration on February 23, 2010

PURPOSE

It is the purpose of this Policy to establish an implementation framework, consistent with the San Francisco Bay Regional Water Quality Control Board (RWQCB) Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit requirements, for incorporating measures to control hydromodification impacts from new development and redevelopment projects where such hydromodification is likely to cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks.

BACKGROUND

The Federal Clean Water Act requires the City of San José to operate under a Municipal Stormwater NPDES Permit for the discharge of stormwater from urbanized areas to surface waters via the City's stormwater collection system. On October 14, 2009, the RWQCB adopted the Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) for the San Francisco Bay Region. In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 76 Bay Area municipalities, including the City of San José.

Under the Municipal Regional Stormwater NPDES Permit, the City of San José is required to manage new development- and redevelopment-related increases in peak runoff flow, volume, and duration ("hydromodification"), where such hydromodification is likely to cause increased erosion, silt pollutant generation or other adverse impacts to local rivers and creeks. For purposes of the Municipal Regional Stormwater NPDES Permit, "new development" is considered construction on a vacant, unpaved site. "Redevelopment" is considered the reuse of previously developed or paved sites.

City Council Policy 6-29: Post-Construction Urban Runoff Management that addresses the reduction of storm water runoff pollution is a related companion policy to this Council Policy 8-14.

POLICY

The following types of projects are defined as Hydromodification Management Projects (HM Projects) and are required to be designed and built to control project-related hydromodification.

New development and redevelopment projects that:

a) Create and/or replace one (1) acre or more of impervious surface and

b) Are located in subwatersheds or catchment areas that are less than 65% impervious or are "Under Review" (see green and pink areas on the attached Santa Clara Permittees Hydromodification Management Applicability Map).

The following projects are not HM Projects:

1. Projects that do not create an increase in impervious surface over pre-project (existing) conditions.

2. Projects located within catchment areas that drain to hardened channels that extend continuously to the Bay, or projects located within tidally-influenced creek areas or Bayland areas (see purple and light blue areas on the attached Santa Clara Permittees' HM Applicability Map).

3. Projects located within catchment and subwatershed areas that are greater than or equal to 65% impervious (see red areas on the attached Santa Clara Permittees' HM Applicability Map).

4. Projects draining to an underground storm drain that discharges directly to the San Francisco Bay.

HYDROMODIFICATION MANAGEMENT (HM) STANDARD

Stormwater discharges from HM Projects shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) condition. Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of stream beds and banks, silt pollution generation, or other adverse impacts. All HM Projects are required to install Post-Construction HMCs.

TYPES OF HYDROMODIFICATION MANAGEMENT CONTROLS (HMCs)

Post-Construction HMCs, as described below, may include onsite, regional, or in-stream measures, or a combination thereof. All Post-Construction HMCs must be maintained to operate effectively.

1. Onsite HMCs are flow duration control structures and hydrologic source controls that collectively result in the HM Standard being met at the point(s) where stormwater runoff discharges from the project site.

2. Regional HMCs are flow duration and control structures that collect stormwater runoff discharge from multiple projects within the same drainage area (of which each project shall also incorporate onsite hydrologic source control measures) and are designed such that the HM Standard is met for all projects at the point where the Regional HMC discharges.

3. In-stream HMCs shall be an option only where the stream receiving runoff from the project is already impacted by erosive flows and shows evidence of excessive sediment deposition, erosion, or is a hardened channel. In-stream HMCs involve modifying the receiving stream channel slope and geometry so that the stream can convey the new flow regime without increasing the potential for erosion and aggradation. In-stream HMCs are intended to improve the long-term channel stability and prevent erosion by reducing the erosive forces imposed on the channel boundary.

   In-stream HMCs, or a combination of In-stream and Onsite HMCs, shall be designed to achieve the HM Standard from the point where the project(s) discharge(s) to the stream to the mouth of the stream, or to achieve an equivalent degree of flow control mitigation (based on amount of impervious surface mitigated) as part of an in-stream project located in the same watershed. Designing In-stream HMCs requires a hydrologic and geomorphic evaluation (including a longitudinal profile) of the stream system downstream and upstream of the project. As with all in-stream activities, other regulatory permits must be obtained by the project applicant.

Regional or In-stream HMCs may be implemented to address potential project impacts in combination with Onsite HMCs, where a approved plan (by the City of San José, Water District, or other agency with appropriate jurisdiction) including an appropriate funding mechanism, is in place that accounts for the stream changes expected to result from changes in project runoff conditions. The Regional or In-stream HMCs, or combination of HMCs, shall be designed to achieve the HM Standard of no increase in the erosion potential.

PERFORMANCE CRITERIA FOR HM PROJECTS

HM Projects shall demonstrate that post-construction stormwater runoff of a specific development (post-project) does not exceed estimated pre-project (existing) runoff rates and durations by including the following:

1. Range of Flows to Control: HMCs shall be designed such that post-project stormwater discharge rates and durations match pre-project discharge rates and durations from 10% of the pre-project 2-year peak flow up to the pre-project 10-year peak flow.

2. Goodness of Fit Criteria: The post-project flow duration curve shall not deviate above the pre-project flow duration curve by more than 10% over more than 10% of the length of the curve corresponding to the range of flows to control.

3. Allowable Low Flow Rate: Flow control structures may be designed to discharge stormwater at a very low rate that does not threaten to erode the receiving waterbody. This flow rate shall be no greater than 10% of the pre-project 2-year peak flow unless a modified value is substantiated by analysis of actual channel resistance.

4. Precipitation Data: Precipitation data used in modeling of HMCs shall, at a minimum, be 30-years of hourly rainfall data representative of the area being modeled. Where a longer rainfall record is available, the longer record shall be used.

5. Calculating Post-Project Runoff: Retention and detention basins shall be considered impervious surface for the purpose of calculating post-project runoff. Pre- and post-project runoff shall be calculated and compared for the entire site, without separating or excluding areas that may be considered self-retaining.

6. Standard HM Modeling: Onsite and Regional HMCs designed using the Bay Area Hydrology Model (BAHM) and site-specific input data shall be considered to meet the HM Standard. Such use must be consistent with directions and options set forth in the most current BAHM User Manual.

7. Alternate HM Modeling and Design: The project applicant may use a continuous simulation hydrologic computer model to simulate pre-project and post-project runoff and to design HMCs. To use this method, the project applicant shall compare the pre-project and post-project model output for a rainfall record of at least 30-years, and shall show that all applicable performance criteria above are met.

IMPRACTICALITY PROVISION

Where conditions (e.g., extreme space limitations) prevent a project from meeting the HM Standard onsite for a reasonable cost, *and* where the project's runoff cannot be directed to a Regional HMC within a reasonable time frame, *and* where an In-stream HMC is not practicable, the project shall use (1) onsite design for hydrologic source control *and* (2) stormwater Treatment Control Measures (TCMs) that collectively minimize, slow, and detain runoff to the maximum extent practicable. In addition, if the cost of providing onsite design for hydrologic source control and TCMs to the maximum extent practicable does not exceed 2% of project costs (excluding land costs, which is defined below), the project shall make a financial contribution to an Alternative HM Project as set forth below:

1. Reasonable Cost: To show that the HM Standard cannot be met onsite at a reasonable cost, the project applicant must demonstrate that the total cost to comply with both the

HM Standard and numeric sizing criteria for stormwater treatment system requirements exceeds 2% of the project construction costs, excluding land costs. Costs of HM and TCMs shall not include land costs, soil disposal fees, hauling, contaminated soil testing, mitigation, disposal, or other normal site enhancement costs such as landscaping or grading that are required for other development purposes.

2. Regional HMC: A Regional HMC shall be considered available if there is a planned location for the Regional HMC and if appropriate funding mechanism for a Regional HMC is in place by the time of project construction.

3. In-stream HMC Practicability: In-stream HMCs shall be considered practicable when an In-stream HMC for the project's watershed is planned and an appropriate funding mechanism for an in-stream measure is in place by the time of project construction.

4. Financial Contribution to an Alternative HM Project: If the cost of onsite design for hydrologic source control plus the cost of TCMs is less than 2% of the project construction costs, excluding land costs, a financial contribution shall be made to an alternative HM Project, such as a stormwater treatment retrofit, HM retrofit, Regional HMC, or In-stream HMC. The amount of any required financial contribution to an Alternative HM Project shall not exceed the lesser of the amount necessary to mitigate for the impact of project runoff that is not being mitigated onsite, or 2% of the project construction costs, excluding land costs, minus the amount spent for onsite design for hydrologic source control plus cost of TCMs, exclusive of land costs. Preference shall be given to projects discharging, in this order: to the same tributary; mainstem; watershed; and within the City of San José.

Project applicants shall submit cost documentation to support any claim of impracticability for the City to determine that compliance with the above performance criteria is impracticable based on cost.

Classification of Subwatersheds and Catchment Areas For Determining Applicability of HMP Requirements For Santa Clara County