

APPENDIX C

MEMORANDUM OF UNDERSTANDING
Metro Contract #926225

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding is intended to guide responsible control of stormwater flow over property within the ownership and/or management responsibilities of City of Wilsonville ("the City"), Villebois LLC ("Villebois"), and Metro Regional Parks and Greenspaces ("Metro").

Background

Historical overland flow of precipitation runoff from the proposed Villebois Village (Villebois) site in Wilsonville has been significantly altered by the construction of the former Dammasch Hospital Facility. Historic runoff flowed into three local stream basins: Coffee Lake Creek, Arrowhead Creek, and Mill Creek. Currently, all runoff from the Costa Pacific portion of the Villebois site is collected and conveyed into an unnamed intermittent stream located on Metro property known as Graham Oaks. This out-of-basin transfer of flow has resulted in significant degradation of the intermittent stream channel, herein referred to as "tributary of Mill Creek", on property owned and managed by Metro. The out of basin transfer has been estimated as approximately 57 cfs.

Currently, stormwater from approximately 112 acres of the Villebois site is conveyed through a concrete stormwater pipe beneath the surface of Metro property to the tributary of Mill Creek. The integrity of the outfall structure on the tributary to Mill Creek is compromised by severe erosion caused by these stormwater flows. Down cutting and head cutting of the stream channel has resulted in an outfall structure that is on the verge of collapse. Until the out-of-basin transfer of stormwater flow is eliminated from the tributary of Mill Creek, stream channel instability will continue to threaten the outfall structure.

Returning stormwater flows to historic basins will reduce the erosion occurring in the tributary of Mill Creek but may have other impacts on property downstream of the Villebois site. The impacts of returning the historic flows into the Coffee Lake Creek and Arrowhead Creek basins are not known at this time. Villebois has been conditioned by the City to prepare an engineering report addressing the impacts and to construct the improvements necessary to minimize/eliminate the impacts on the receiving basins. Potential impacts may include property damage due to flooding, and alterations to the hydrology of existing wetlands.

The City of Wilsonville Stormwater Master Plan states the ultimate goal for managing stormwater at the Villebois site is to return stormwater to the historical drainage basins, a goal supported by the City, Metro and Villebois. Meeting this goal will reduce the current degradation of the tributary to Mill Creek and allow for its restoration. In working toward this goal, several interim steps must be taken.

The City of Wilsonville has conditioned SAP South, Phase 1 of Villebois to construct certain improvements before allowing a connection to the concrete stormwater pipe within the Metro property from the newly constructed improvements within Phase 1. These improvements may include, but are not limited to re-enforcement/reconstruction of the outfall structure and replacement/repair of damaged sections of the underground stormwater pipe on Metro property. Due to the onset of wet weather conditions of winter 2004-05, it has been agreed upon by all parties that to minimize any adverse impacts on the Metro property that these repairs will be temporarily delayed until July 15, 2005 or sooner as determined by the City and Metro.

Resolution

City of Wilsonville, Villebois LLC ("Villebois"), and Metro agree to the following:

1. By March 1, 2005 Villebois will submit to the City and Metro a comprehensive plan for the replacement of the damaged sections of the concrete stormwater pipe, with suitable materials as approved by the City, and stabilization/reconstruction of the outfall structure. City and Metro agree to review said plan and will respond to Villebois with appropriate comments by March 30, 2005.
2. All costs associated with said improvements shall be borne by Villebois.
3. No construction shall commence until this agreement, all applicable construction plans and permits have been secured, and a minimum of 48-hour notice is provided to the City and Metro.
4. Villebois agrees to defend and hold harmless the City and Metro, and their respective officers, agents and employees, from any and all liability, causes of action, claims, losses, damages or other costs or expenses, in connection with any claim, demand, or cause of action made or brought by a third party, which in any way arises from Villebois' failure and delay in complying with the condition respecting re-enforcement or reconstruction of the outfall structure and replacement/repair of the damaged section of the underground storm water pipe on Metro property.
5. During the interim period of winter 2004/05, Villebois shall monitor the conditions of the outfall for potential failure of the stormwater conveyance pipe and outfall structure. In the event there is a structural failure that may further compromise the function of the conveyance system, as determined by the City, Villebois will take immediate action to remedy the problem. Any remedial action occurring on Metro property must be approved by Metro prior to the activity occurring on site.
6. A hydrologic and wetland habitat enhancement study of Arrowhead Creek is required to determine the amount of stormwater that can be safely returned to the creek. Villebois has been conditioned to prepare this study by the City. The City, Villebois and Metro are however, collectively proceeding in securing funds for conducting the study of Arrowhead Creek basin through the U.S. Army Corps of Engineers (Corps). In the event sufficient funds are secured for completion of the Arrowhead Creek study through the Corps, by

October 1, 2005, it is anticipated that study results will define feasible alternatives for diverting stormwater flows in a manner consistent with historical conditions. Should the study funding through the Corps not be obtained by October 6, 2005, Villebois will initiate these improvements by October 1, 2006.

7. If sufficient funds for the study are ^{not} secured by October 2005, then the City will determine with the information available at that time, improvements to be made by Villebois necessary for acceptance of the storm water conveyance pipe and outfall as a public utility. Villebois will make these improvements on or before October 1, 2006.

Signatures

Villebois LLC

Don'te Rogers
Name

VILLEBOIS PROJ MGR.
Title

12.21.04
Date

City of Wilsonville

A. Koble
Name

City Manager
Title

12/21/04
Date

Metro

Jane Caldwell
Name

Director, Metro Regional
Title Parks & Greenspaces

1/4/2005
Date