

drainage facilities. The fact that v-ditches typically cross many private properties to protect the underlying hillside does not relieve any property owner of the responsibility to maintain their drainage facilities. Staff does recommend that these owners work together to ensure the entire length of each drainage facility is routinely kept clear of debris and is in a good state of repair so that the entire length of the drainage facility can function properly especially during heavy rain events.

Some have expressed concern for whose responsibility it is for maintaining private drainage facilities which cross over or through Public Utility Easements (PUEs). A PUE serves to provide water, sewer, electrical and gas service, cable television services and other public utilities to Millbrae residents, but these easements were not granted to convey private surface storm water drainage. Because privately owned drainage facilities are not affected by the operation or use of the public utility easements, the property owner is still responsible for the regular maintenance and repair of their drainage facilities. The property owner is also in the best position to regularly inspect and monitor the condition and operation of their drainage facilities and to maintain and repair them.

Accordingly, staff recommends that Council adopt a formal policy declaring that the obligation for inspection, operation, monitoring, maintenance, preservation, reconstruction and repair of any private drainage facility and any associated pipes and culverts remain with the private property owner regardless of the proximity to a public utility easement. Further, that the City shall bear no responsibility for such drainage facilities on private property unless it becomes necessary to maintain or repair a private drainage facility as a result of a malfunction of a public utility for which the City is responsible within the public utility easement.

FISCAL IMPACT: None.

COUNCIL ACTION: Approve the attached resolution to establish and confirm a policy for the maintenance of privately owned storm water drainage facilities.

**CITY OF MILLBRAE, COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

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**ESTABLISHING AND CONFIRMING CITY-WIDE POLICY FOR THE
MAINTENANCE OF PRIVATE STORM WATER DRAINAGE FACILITIES**

WHEREAS, in the hillside areas within the City of Millbrae, there exist certain concrete storm drainage facilities known as v-ditches or j-ditches (hereafter referred to as “Drainage Facilities”) which serve to transport surface storm water across the hillside to culverts and through pipes and ultimately into the City's storm drainage system; and

WHEREAS, many of these Drainage Facilities are located on private hillside properties and serve the purpose of draining surface storm waters that originate on private property, and pass from property to property, thereby directly benefiting the underlying properties by helping to preserve the stability of these hillsides; and

WHEREAS, public utility easements available for use by the City and other public utilities are also located in some of these hillside private property areas; and

WHEREAS, the purpose of public utility easements is to facilitate the provision of water or sewer services, electric service, cable television service and other public utilities, but these easements were not granted for or intended to convey surface storm water drainage; and

WHEREAS, in certain locations in the hillside private property areas, the Drainage Facilities may coincidentally follow, intersect, cross, parallel, or run through, near or within public utility easements; and

WHEREAS, these Drainage Facilities are not affected by the operation or use of the public utility easements for the underground utilities referenced above; and

WHEREAS, regular maintenance and repair of the Drainage Facilities are required in order to sustain and facilitate proper drainage of surface storm water, and the need for such maintenance and repair is independent of the proximity of these facilities to public utility easements; and

WHEREAS, the private property owners are in the best position to inspect the condition and monitor the operation of the Drainage Facilities, and to undertake this maintenance and repair work; and

WHEREAS, in light of the foregoing, the City Manager, Director of Public Works, Community Development Director, and City Attorney recommend to the City Council the adoption of a formal policy declaring that the obligation for inspection, operation, monitoring, maintenance, preservation, reconstruction and repair of any Drainage Facility, and the associated pipes and culverts which are located on private property, remains with the private property owner, regardless of the Drainage Facility's proximity to a public utility easement, and the City bears no responsibility for such Drainage Facilities on private property unless the necessity for maintenance or repair of the Drainage Facility arises from the malfunction of a public utility for which the City is responsible within a public utility easement.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MILLBRAE hereby adopts, declares and confirms the formal policy that the responsibility and obligation for inspection, operation, monitoring, maintenance, preservation, reconstruction and repair of any Drainage Facility, and the associated pipes and culverts which are located on private property, remains with the private property owner, regardless of the

Drainage Facility's proximity to a public utility easement, and the City bears no responsibility for such Drainage Facilities on private property unless the necessity for maintenance or repair of the Drainage Facility arises from the malfunction of a public utility for which the City is responsible within a public utility easement. To ensure compliance with this policy in situations where private property owners share ownership of and responsibility for common Drainage Facilities, the City Council encourages such private property owners to implement all appropriate means to cooperate with adjacent property owners to effectively satisfy all of the responsibilities listed above for the preservation of the jointly owned Drainage Facilities and overall hillside stability.

REGULARLY PASSED AND ADOPTED this 28th day of February 2006.

MAYOR

ATTEST:

CITY CLERK