

Appendix B Off-Site Mitigation

I. A permittee that relies on off-site mitigation to meet the Additional Performance Standard for the redevelopment of impervious surfaces set forth in Section V (B) of the RIA General Stormwater Permit and/or the Additional Performance Standard for discharges to TMDL-identified stormwater- impaired surface waters set forth in Section V (C) of the RIA General Stormwater Permit shall comply with all of the following requirements:

(A) A Stormwater Professional shall make a complete evaluation of all possible on-site stormwater management measures, including, without limitation, environmentally sensitive site design, LID techniques and structural stormwater BMPs, and identify the highest practicable level of on-site stormwater management.

(B) The Stormwater Professional shall include his or her findings in the Stormwater Report required by Section VI (D) of the RIA General Stormwater Permit.

(C) The highest practicable level of stormwater management identified by the Stormwater Professional shall be implemented on-site.

(D) The LID techniques and structural stormwater BMPs constructed off-site and the on-site LID techniques and structural stormwater BMPs shall collectively satisfy the applicable Additional Performance Standards.

(E) All LID techniques and structural stormwater BMPs needed to provide the required level of off-site mitigation (collectively the “mitigation BMPs”) shall be designed and constructed in accordance with all applicable requirements of Section V of the RIA General Stormwater Permit.

(F) If an owner of the Permitted RIA Site engages in an activity that can reasonably be expected to result in a stormwater discharge to a TMDL-identified stormwater-impaired-surface water, the off-site mitigation shall reduce the loadings of the pollutant of concern in the same TMDL-identified stormwater-impaired surface water.

(G) If an owner of the Permitted RIA Site engages in an activity that can reasonably be expected to result in a stormwater discharge within a Zone II or IWPA of a public water supply, the mitigation BMPs shall provide the required infiltration within the same Zone II or IWPA.

(H) The stormwater discharge from the mitigation BMPs shall not cause or contribute to a violation of the Massachusetts Surface Water Quality Standards or

impair the ability of the ground water to act as an actual or potential source of potable water.

(I) The permittee shall submit the Stormwater Professional's Certification and accompanying Stormwater Report in accordance with the requirements of Sections VI (C) and (D) of the RIA General Stormwater Permit. The Stormwater Professional's Certification shall be on a Department-approved form and include a certification that the mitigation BMPs comply with the requirements set forth in Appendix B to the RIA General Stormwater Permit.

(J) The mitigation BMPs shall be operated and maintained in accordance with the requirements applicable to on-site LID techniques and structural stormwater BMPs set forth in Section IV(H) of the RIA General Stormwater Permit; and

(K) The O & M Certification. The permittee shall submit an Operation and Maintenance Certification (the "O & M Certification") to the Department as follows:

(a) The O & M Certification shall be submitted to the Department each year, as part of the Annual Compliance Certification required by Section (VI) (A) of the RIA General Stormwater Permit.

(b) The O & M Certification shall certify that the mitigation BMPs are being operated and maintained in accordance with the same operation and maintenance requirements that would apply to on-site LID techniques and structural stormwater BMPs set forth in Section IV(H) of the RIA General Stormwater Permit; and

(c) The O & M Certification shall be signed and certified by the owner of the RIA Site and the owner of the site where the off-site mitigation is to take place (the "OSM Site") in accordance with the requirements of Section VI (J) through (L) of the RIA General Stormwater Permit.

(L) The Off-Site Mitigation Agreement. The permittee shall enter into an Off-Site Mitigation Agreement (the "OSM Agreement") with the owner of the OSM Site. Any person that owns the OSM Site, including, without limitation, a local government unit, may enter into an OSM Agreement with the owner of the RIA Site. The OSM Agreement shall:

(1) provide that all mitigation BMPs are designed, constructed, operated, and maintained to meet the requirements and performance standards that are applicable to on-site LID techniques and structural stormwater BMPs set forth in Sections IV(H) and V of the RIA General Stormwater Permit;

(2) identify the persons responsible for the design, construction, operation and maintenance of the mitigation BMPs, submittal of the Stormwater

Professional's Certification and accompanying Stormwater Report, and submittal of the O & M Certification;

(3) provide that the permittee and the Department shall have access to the OSM Site for the purpose of determining whether the mitigation BMPs have been designed, constructed, operated, and maintained in accordance with Sections IV (H) and V of the RIA General Stormwater Permit and Appendix B; and

(4) provide that the OSM Agreement shall be kept at the RIA Site and the OSM Site and made available to the Department upon request.

II. Qualifying Local Off-Site Mitigation Program. As an alternative to complying with the requirements of Section I of Appendix B to the RIA General Stormwater Permit, a permittee may rely on off-site mitigation to meet some or all of the Additional Performance Standards by participating in a Qualifying Local Off-Site Mitigation Program (a "Qualifying Local OSM Program") established by a local government unit in accordance with the requirements established by the Department and by paying all mitigation fees in accordance with the terms and conditions of the Qualifying Local OSM Program.