



Regular Meeting Agenda
City Council

Mark Turner - Mayor
Rene Spring - Mayor Pro Tem
Gino Borgioli - Council Member
Marilyn Librers - Council Member
Yvonne Martínez Beltrán - Council Member

Wednesday, March 15, 2023 7:00 PM

Council Chamber Building
17555 Peak Avenue, Morgan Hill, CA 95037

Morgan Hill City Council meetings are held in person with the option for the public to attend in-person or by teleconference/video conference. Information on how the public may observe and participate in the meeting is located below.

MEETING PARTICIPATION AND PUBLIC COMMENT

City Council meetings will be live-streamed on Channel 17, the City's website, and the City's Facebook page.

Those members of the community that would like to participate in the meetings remotely may do so by joining virtually at: <https://bit.ly/MHCityCouncilMeeting> or by calling (669) 900-9128, then enter the webinar id: 873 3200 8380#. Public comment may be provided in the following ways:

- Provide public comment in-person
- Join the City Council meeting virtually via the link above. When public comment is opened, raise your virtual hand and be called upon to speak for up to 3 minutes (YOU MUST BE RUNNING THE MOST CURRENT VERSION OF ZOOM TO BE UNMUTED)
- Join virtually by calling the number above, dial *9 to raise your hand, and be called upon to speak for up to 3 minutes
- Public comment in writing may be submitted via email to ccpubliccomment@morganhill.ca.gov or by mail to the City Clerk at 17575 Peak Avenue, Morgan Hill, CA 95037. Please email your comments to the City Clerk no later than 3:00 p.m. on Tuesday (the day before the City Council meeting) for your comments to be submitted to the members of the City Council with sufficient

time to review the comments. You may continue to provide written comments up to noon on Wednesday (the day of the meeting although Council Members may not have sufficient time to review them before the meeting. Public comments submitted to the City Clerk after noon the day of the meeting will be provided to the City Council as time allows.

Written comments WILL NOT be read aloud during the City Council Meeting. Please note that written comments are posted on the City's website, so do not include any personal information you do not want to be posted on the web.

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATIONS

YAC Presentation - Asset #17 - Creative Activities

PROCLAMATIONS

Youth Arts Month
Solidarity with Ukraine
Cesar Chavez Day
Women's History Month

CITY COUNCIL REPORTS

Council Member Marilyn Librers

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

This opportunity for public comment is for items that are not on the agenda. If you would like to make comments on an item that is on the agenda, please wait until we get to that item to offer your comments. Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. Public comment is intended for comments. Questions posed during public comment are not generally answered. If you have questions, please send them to the City Clerk at ccpubliccomment@morganhill.ca.gov to receive a response. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

CONSENT CALENDAR

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. **ACCEPT THE 2022 GENERAL PLAN AND HOUSING ELEMENT ANNUAL PROGRESS REPORT (APR)**
Recommendation:
Accept the 2022 General Plan and Housing Element Annual Progress Report (APR) and direct staff to file the report with the Governor's Office of Planning and Research (OPR) and the State Department of Housing and Community Development (HCD).
2. **ACCEPT \$595,748 IN GRANT FUNDS FROM SILICON VALLEY CLEAN ENERGY**

Recommendation:

Authorize City Manager to execute and administer grant funding agreements with Silicon Valley Clean Energy.

3. ACCEPTANCE OF EAST DUNNE REHABILITATION PROJECT IN THE AMOUNT OF \$2,090,840

Recommendation:

1. Accept as complete the East Dunne Rehabilitation Project;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

4. ACCEPT 2022 PAVEMENT REHABILITATION PROJECT IN THE AMOUNT OF \$4,001,888

Recommendation:

1. Accept as complete the 2022 Pavement Rehabilitation Project;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office

5. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

Recommendation:

1. Accept the Community Law Enforcement donation of:

- a. Canine Challenge Coins,
- b. cash donation in the amount of \$8,727 for equipment, and
- c. cash donation in the amount of \$29,868 to reimburse the City of Morgan Hill for expenses related to the December 10, 2022, Gun Buyback Event.

2. Adopt a resolution to amend the City's Fiscal Year 2022-23 General Fund budget, accepting a donation of \$38,595 and appropriating \$38,595.

6. ACCEPT 2022 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND ADOPT RELATED RESOLUTIONS

Recommendation:

Adopt resolution:

1. Authorizing the City Manager to execute and administer the Memorandum of Understanding with the County of Santa Clara for the 2022 Emergency Management Performance Grant; and

2. Amending the City's Fiscal Year 2022-23 adopted budget to recognize revenue and appropriate related expenditures, in the amount of \$15,200 from the General Fund.

7. **ADOPT ORDINANCE NO. 2344, NEW SERIES, APPROVING A ZONING MAP AMENDMENT FROM PLANNED DEVELOPMENT/GENERAL COMMERCIAL TO MIXED USE FLEX FOR A MIXED-USE DEVELOPMENT ON A 3.82-ACRE SITE LOCATED ON THE SOUTHWEST QUADRANT OF COCHRANE ROAD AND MONTEREY ROAD (MONTEREY – CITY VENTURES (THE GATES)) (APNS 764-10-013 AND 764-10-015)**

Recommendation:

Waive the reading, adopt Ordinance No. 2344, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

8. **ADOPT ORDINANCE NO. 2345, NEW SERIES, AMENDING SECTION 2.04.010 OF THE MUNICIPAL CODE, REGARDING THE TIME AND LOCATION OF THE COUNCIL MEETINGS**

Recommendation:

Waive the reading, adopt Ordinance No. 2345, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

9. **ADOPT RESOLUTION OPPOSING BALLOT INITIATIVE #21-0042A1, SPONSORED BY CALIFORNIA BUSINESS ROUNDTABLE, LOBBYING ARM OF THE LARGE CORPORATIONS IN CALIFORNIA**

Recommendation:

1. Adopt resolution to oppose ballot Initiative #21-0042A1; and
2. Authorize staff to send a letter to the League of California Cities formalizing the City's position.

10. **APPROVE PURCHASE OF MAINTENANCE DIVISION DUMP TRUCK**

Recommendation:

1. Approve the purchase of a 2022 Ram 5500 Chassis Cab Dump Truck from the Gilroy Chrysler Dodge Jeep Ram in the amount of \$114,887 to replace vehicle D08127; and
2. Authorize the disposal of the surplus vehicle D08127 in accordance with Section 3.04.400 of the City of Morgan Hill Municipal Code.

11. **APPROVE UPDATED EMERGENCY OPERATIONS PLAN**

Recommendation:

Approve the distribution and use of the updated City of Morgan Hill's Emergency Operations Plan.

12. APPROVE THE FEBRUARY 15, 2023 CITY COUNCIL MEETING MINUTES

Recommendation:

Approve the February 15, 2023 City Council Meeting Minutes

13. APPROVE SEWER AND TRAFFIC IMPACT FEE FINANCING AND SECURITY AGREEMENT WITH JOHN MICHAEL MONACO AND NORA GAYLE MONACO REVOCABLE LIVING TRUST AT 195 MAST ST

Recommendation:

Adopt resolution authorizing the City Manager to execute a Sewer and Traffic Impact Fee Financing and Security Agreement, consistent with the Sewer and Traffic Impact Fee Deferral Program and Government Code section 53083, with John Michael Monaco and Nora Gayle Monaco Revocable Living Trust for the approved Conditional Use (Indoor Recreation/Gym) on a property zoned for light industrial at 195 Mast Street.

14. APPROVE UPDATES TO THE SUSTAINABLE MORGAN HILL DOCUMENT AND COUNCIL POLICY REGARDING RULES FOR CONDUCT OF CITY COUNCIL MEETINGS, PLACEMENT OF ITEMS ON THE AGENDA, AND MATTERS TO BE RECONSIDERED

Recommendation:

1. Adopt updates to the Sustainable Morgan Hill document; and
2. Adopt updates to City Council Policy (CP 97-01) - Rules for the Conduct of City Council Meetings, Placement of Items on the Agenda, and Matters to be Reconsidered.

15. RECEIVE ANNUAL REPORT ON 2022 CITY ENGINEER ACCEPTANCES OF PUBLIC IMPROVEMENTS COMPLETED BY PRIVATE DEVELOPMENT PROJECTS

Recommendation:

Accept and file Annual Report on 2022 City Engineer acceptances of public improvements completed by private development projects.

16. RECEIVE MONTHLY BUDGET UPDATE AND JANUARY 2023 FINANCIAL AND INVESTMENT REPORTS

Recommendation:

Accept and file report.

17. TERMINATE LOCAL EMERGENCY PROCLAMATION

Recommendation:

Proclaim the termination of the local emergency related to the winter storms.

PUBLIC HEARINGS

18. ADOPT UPDATED WATER CAPACITY (IMPACT) FEES

Recommendation:

1. Open/Close Public Hearing; and
2. Adopt resolution approving the 2023 NBS Water Capacity Fee Analysis and updating the Water Capacity (Impact) Fee as proposed in the study.

OTHER BUSINESS

19. APPROVE DESIGN CONSULTANT AGREEMENT WITH VERDE DESIGN FOR BUTTERFIELD PARK

Recommendation:

1. Authorize the City Manager to execute and administer a design consultant agreement for \$296,454 with Verde Design for the design of the Butterfield Park Site; and
2. Adopt a resolution to amend the City's Fiscal Year 2022-23 adopted budget to appropriate \$180,000 from the Park Impact Fund.

20. APPROVE PARTNER AGREEMENT FOR BUTTERFIELD PARK DEVELOPMENT WITH FOUNDATION FOR A BETTER RIDE IN COLLABORATION WITH USA BMX

Recommendation:

Authorize the City Manager to execute and administer an operator agreement with Foundation for a Better Ride for the construction, operations, and maintenance of a BMX facility at the Butterfield Park site.

CLOSED SESSION

REAL PROPERTY NEGOTIATIONS

Pursuant to: Government Code Section 54956.8

Property: APN - 81706002

Negotiating Parties: City Manager and Public Services Director

Under Negotiation: Price and Terms

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

FUTURE COUNCIL INITIATED AGENDA ITEMS

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

SUSTAINABLE MORGAN HILL



Vision

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community.



Choose Morgan Hill

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.



City Council Ongoing Priorities

- Enhancing Public Safety
- Protecting the Environment and Preserving Open Space and Agricultural Land
- Maintaining and Enhancing Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Diversity and Inclusiveness
- Advancing Regional Initiatives



2022-2023 Strategic Priorities

- Fiscal Sustainability
- Affordable Housing and Homelessness
- Community Outreach, Engagement, and Messaging
- Economic Development
- Transportation



These strategic priorities were established prior to the COVID-19 pandemic. In light of recent events, we recognize that all of these goals and priorities will be viewed through the lens of the global pandemic, and we will continue to have equity, public health, and financial responsibility in mind.

March 15, 2023
10



CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Adam Paszkowski, Principal Planner

APPROVED BY: City Manager

ACCEPT THE 2022 GENERAL PLAN AND HOUSING ELEMENT ANNUAL PROGRESS REPORT (APR)

RECOMMENDATION(S)

Accept the 2022 General Plan and Housing Element Annual Progress Report (APR) and direct staff to file the report with the Governor's Office of Planning and Research (OPR) and the State Department of Housing and Community Development (HCD).

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Supporting our Youth, Seniors, and Entire Community

Enhancing Diversity and Inclusiveness

Advancing Regional Initiatives

2022-2023 Strategic Priorities

Affordable Housing and Homelessness

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

California Government Code Section 65400 mandates that all 58 counties and noncharter cities, including the City of Morgan Hill, submit an Annual Progress Report (APR) on the status of the General Plan and progress made regarding its implementation. The APR must be submitted to the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1st of each year. APRs must also be presented to the local legislative body for review and acceptance, as a consent or discussion item on a regular agenda.

The APR for 2022, includes implementation highlights of the Morgan Hill 2035 General Plan and lists applications submitted in 2022 for General Plan Land Use Map amendments.

The Housing Element implementation portion of the APR is reported on separate forms adopted by HCD. These completed forms are attached to the APR and provide information regarding the City's progress towards meeting its "fair share" of Regional

Housing Needs Allocation (RHNA) goals and compliance with State Housing Law.

COMMUNITY ENGAGEMENT:

Inform

This report serves to inform the community about the City's progress towards meeting its "fair share" of Regional Housing Needs Allocation (RHNA) goals and compliance with State Housing Law.

ALTERNATIVE ACTIONS:

Not Applicable

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 25, 2022, the Planning Commission held a workshop for the 6th Cycle Housing Element Update regarding an "Introduction to the 2023-2031 Housing Element Update." The workshop included discussions on what is a Housing Element, new Housing Element laws, Affirmatively Furthering Fair Housing (AFFH), and Housing Needs Assessment, and a brief description of the Regional Housing Need Allocation (RHNA) and the Sites Inventory.

On February 22, 2022, the Planning Commission held a workshop for the 6th Cycle Housing Element Update regarding the "Site Inventory." The workshop included discussions and a deeper explanation into the Regional Housing Need Allocation (RHNA), what is a Sites Inventory, residential projects in the pipeline, and Site Inventory laws.

On March 8, 2022, the Planning Commission held a workshop for the 6th Cycle Housing Element Update regarding the "Evaluation of Past Performance." This workshop highlighted the accomplishments of the current 5th Cycle Housing Element, reviewed previous and present Housing Element Programs, reviewed the survey results from the 'Morgan Hill 6th Cycle Housing Element Questionnaire,' and discussed the review of the 5th Cycle Housing Element Policies and Programs.

On July 26, 2022, the Planning Commission held a public hearing recommending the City Council directs Staff to submit the Draft 2023-2031 Housing Element to HCD for review.

On August 17, 2022, the City Council held a public hearing directing Staff to submit the Draft 2023-2031 Housing Element to HCD for review.

On January 25, 2023, the City Council held a public hearing adopting the 2023-2031 Housing Element and directing Staff to submit the adopted 2023-2031 Housing Element to the California HCD for review.

FISCAL AND RESOURCE IMPACT:

Staff annually submits an APR to the State in compliance with State Housing Law; and therefore, the cost is borne, and work is accommodated, within the respective division's

annual workplan and budget.

CEQA (California Environmental Quality Act):

Not a Project

Pursuant to CEQA Guidelines Section 15378(b)(5), the Morgan Hill 2035 APR is not considered a "project" in that it is considered an administrative activity of government that will not result in direct or indirect physical changes in the environment.



Annual Progress Report

2022

1. Introduction

On July 27, 2016, the Morgan Hill 2035 General Plan was adopted by City Council [Resolution No. 16-128](#). The Morgan Hill 2035 General Plan is a comprehensive update of the City's 2001 General Plan.

The General Plan incorporates the City's Housing Element, which was adopted by the City Council on January 25, 2023.

On December 6, 2017 the City Council adopted [Resolution No. 17-098](#) approving General Plan Land Use and Text Amendments (File Nos. GPA2017-0001 and GPA2017-0002) to correct miscellaneous Land Use Map, figure, and text errors.

Government Code Section 65400 mandates that certain cities and all 58 counties submit an annual progress report (APR) on the status of the General Plan and progress on its implementation to the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1 of each year. This document and the attached forms meet this requirement for the City of Morgan Hill.

2. Implementation Highlights by General Plan Element

CITY AND NEIGHBORHOOD FORM ELEMENT

Development Services - Planning

- Continued to implemented permit processing for SB330 including utilizing objective criteria established at the end of 2019.
- Created new guidance documents for SB9 application processing.
- Continued to provide planning services and functions in a virtual environment.
- Continued to create and improve resources for public information regarding development activity in the city.

Goal CNF-1 An improved, effective, efficient, fair, equitable, flexible, and user-friendly planning and decision-making process.

- Amended the Zoning Ordinance implementing miscellaneous code amendments due to clerical errors and inconsistencies.

Goal CNF-2 An improved, orderly, and efficient pattern of urban development.

HOUSING ELEMENT

- See Attached Housing Element Annual Progress Report

Development Services - Housing

- Led 20 Affordable Housing Program communication efforts in both English and Spanish through webinars, townhalls, tabling at resource fairs, and submitting articles.
- Assisted in the processing of 554 Affordable Rental Units in the development pipeline at various stages of the development process from the tax credit application process to several of the groundbreakings.
- Processed 174 referrals and connected with 155 households at-risk of or currently experiencing homelessness by providing case management and supportive services through the City's Unhoused Specialist.
- Implemented coordination of a bi-monthly local service provider meeting with the MHUSD and other community-based organizations, and local medical providers to improve collaboration and coordinate efforts that respond to the various needs of lower income and special needs households.
- Increased collaboration with Saint Vincent DePaul to identify funding for local Housing Problem Solving, housed 20 clients, and connected 30 individuals to shelter. Supported efforts to fundraise for local housing problem solving (\$45,000).

- Entered into agreement with the County to be a Homeless Management Information System (HMIS) partner agency, granting limited access to the countywide homeless database.
- Continued an agreement with the County for the countywide Homeless Prevention Rental Assistance Program, 20 households were served, total assistance distributed was \$60,031.
- Operated a 10-bed Inclement Cold Weather shelter in partnership with Community Christian Church during inclement cold weather episodes.
- Continued to partner with the Morgan Hill Bible Church Safe Car Parking Program that operates year-round for 8 families (30 people max) where they are provided meals, showers, restrooms, washer & dryer, and case management by the South County Compassion Center.
- The Destination Home capacity building grant has supported the Unhoused Specialist since December 2021. The first annual report was completed, and the City received confirmation of the 2nd grant installment in the amount of \$150,000 to continue to advance local implementation of the Community Plan to End Homelessness.
- Continued to partner with HouseKeys to provide oversight and implementation of the Inclusionary Housing Ordinance and the Below Market Rate (BMR) Program consisting of nearly 600 units.
- Oversaw the renovation of necessary dry rot repairs (\$208,000) on Villa Ciolino Apartments, a 42-unit affordable family housing apartment community.

Goal HE-1 Provide a diversified housing stock to meet the full range of future community housing needs; Goal HE-2 Encourage Extremely Low-Income (ELI) housing production, increasing availability of affordable and workforce housing; Goal HE-4 Preserve and rehabilitate existing housing supply; Goal HE-5 Promote housing for people experiencing homelessness; Goal HE-6 Provide adequate housing for groups with special needs; and Goal HE-7 Increase community outreach and promote education of affordable housing.

Development Services - Planning

- Held 30 public meetings regarding the Housing Element update, laying the groundwork for ensuring the draft Housing Element responded to community needs and concerns.
- Conducted eight Planning Commission workshops and hearings on the draft Housing Element concentrating on a different section of the document in each meeting.
- Submitted the 2023-2031 draft Housing Element to the State Department of Housing and Community Development (HCD) for review.
- Completed revisions to the 2023-2031 Housing Element based on HCD comments.
- Utilized Local Early Action Planning (LEAP) grant for \$150,000 and Regional Early Action Planning (REAP) grant for approximately \$27,000 to assist in funding the

preparation and adoption of the Housing Element Update and accompanying CEQA Addendum to facilitate compliance with the sixth cycle RHNA.

Goal HE-1 Provide a diversified housing stock to meet the full range of future community housing needs; Goal HE-2 Encourage Extremely Low-Income (ELI) housing production, increasing availability of affordable and workforce housing; Goal HE-3 Advance Equity and inclusion throughout the City; Goal HE-4 Preserve and rehabilitate existing housing supply; Goal HE-5 Promote housing for people experiencing homelessness; Goal HE-6 Provide adequate housing for groups with special needs; and Goal HE-7 Increase community outreach and promote education of affordable housing.

ECONOMIC DEVELOPMENT ELEMENT

Economic Development

- Received Council approval on the Industrial Land Preservation and Optimization Policy to protect the City's limited supply of industrial land for long term economic vitality and expand opportunities to attract new medical offices.
- Received Council approval on the Hotel Strategy and Incentive Policy to encourage new hotel development and encourage reinvestment in existing hotels to improve the quality of hotels and increase Transient Occupancy Tax (TOT) generation.
- Formed the Downtown Property Based Improvement District (PBID) to improve the safety and cleanliness of Downtown Morgan Hill while investing in programs to increase vitality.
- Received Council approval on the Hotel MOHI Planned Development that allows for the addition of a partial fifth floor and resumption of construction on this important Downtown project.
- Updated the Impact Fee Freeze Policy to reduce the potential financial impact to the City's General Fund.
- Updated the ChooseMorganHill.com Permitting Portal (Open Counter) to increase the on-line tool's accuracy and more actively promote it to external users.
- Launched a new Economic Development monthly eNewsletter to keep our business and community more informed about current economic development issues and initiatives.
- Updated the Retail Opportunity and Downtown Opportunity Map to use as sales collateral at International Council of Shopping Centers (ICSC) conferences, links on our website, and for City promotion purposes.
- Updated the Significant Projects Movie Reel to include Residential projects allowing expanded use to aid in the recruitment of potential retailers to Morgan Hill.
- Partnered with Silicon Valley Business Journal to plan, organize and execute the Meet Morgan Hill Virtual Webinar that promoted the City of Morgan Hill for development and investment opportunities.

- Conducted a Manufacturing Day event, including a Manufacturing Roundtable Webinar to promote Morgan Hill and the region as a leader in the manufacturing industry, and partner with the Morgan Hill Unified School District to lead High School Student Tours of two local employers to increase the students awareness of manufacturing as a career opportunity.

Goal ED-2 A strong, unique, stable, and diverse economic base that supports fiscal sustainability; Goal ED-3 A high-quality business community with established roots in Morgan Hill; Goal ED-6 A mix of uses along Monterey Corridor that supports the Downtown and encourages walking and biking; and Goal ED-8 Office and industrial areas that provide high-quality work locations for existing and new businesses.

Development Services - Planning

- Continued work on the revised draft of a Form-Based Code for the Monterey Road Corridor.

Goal ED-6 A mix of uses along Monterey Corridor that supports the Downtown and encourages walking and biking and Goal ED-8 Office and industrial areas that provide high-quality work locations for existing and new businesses.

HEALTHY COMMUNITY ELEMENT

Public Services

- Completed construction of the Magical Bridge Playground.
- Partnered with the Living Above the Influence organization to support the afterschool programming at the Community and Cultural Center (CCC).
- Converted outdoor basketball courts at Community Park to shared use for pickleball and basketball and started adult and youth pickleball courses.
- Reinstated the Adult Sports Program by offering Competitive and Recreational Men's Basketball Leagues.
- Reinstated the Senior Nutrition Program indoor dining, currently serving an average of 80 meals a day. In addition, most of the pre-pandemic programming has been reinstated with an additional Alzheimer's support group and two evidence based Matter of Balance classes.

Goal HC-3 Usable, complete, well-maintained, safe, and high-quality activities and amenities, including active and passive parks and recreational facilities, community gardens, and trails that are accessible to all ages, functional abilities, and socio-economic groups.

TRANSPORTATION ELEMENT

Economic Development

- Received Council approval on the Hotel Strategy and Incentive Policy to encourage new hotel development and encourage reinvestment in existing hotels to improve the quality of hotels and increase Transient Occupancy Tax (TOT) generation.
- Improved signalization of Butterfield Boulevard.
- Created the Outdoor Dining & Parklet Manual to improve the standards and to streamline the permitting process for restaurants who want to operate in the public right of way.

Goal TR-4 Emphasis on transportation improvements in the Butterfield, Hale/Santa Teresa, and Monterey corridors.

Development Services - Planning

- Continued work on the transition from Level-of-Service (LOS) to Vehicle-Miles-Traveled (VMT) metric for transportation analysis under the California Environmental Quality Act (CEQA) for development projects.
- In coordination with Engineering, contributed to the development of the scope for the Transportation Master Plan.

Goal TR-11 Coordinated transportation planning efforts with local, regional, State and federal agencies.

Public Services

- Managed construction of the Hale Avenue Extension Project first phase.
- Completed the 2022 pavement rehabilitation project paving sections of three arterial streets, three collector streets, and 15 residential streets.

Goal TR-3 A coordinated, continuous network of streets and roads.

- Replaced 5,500 square feet of damaged sidewalks throughout the City.
- Explored a lane reduction in Downtown.
- Identified strategies to improve parking management and improve pedestrian walkability.

Goal TR-2 A system designed for a healthy, active community based on complete streets, smart growth, and Sustainable Communities strategies; reflecting a balanced, safe, multi-modal transportation system for all users, especially in Downtown where pedestrian, bicycle, and transit facilities will be emphasized along with vehicular facilities.

- Launched MoGo: Morgan Hill Quick Ride in September, an on-demand rideshare service operated in partnership with RideCo. MoGo offers trips to and from fixed points citywide, within ¼ mile of all neighborhoods and key commercial and community spaces in the City limits. Over 134 unique users were serviced in the first four months, with 100+ users per week and an average rating of 4.9/5.

Goal TR-2 A safe and efficient transit system that reduces congestion by providing viable non-automotive modes of transportation.

NATURAL RESOURCES AND ENVIRONMENT ELEMENT

Public Services

- Wrote and was awarded a Silicon Valley Clean Energy (SVCE) grant to fund a new part-time teammate for two years, who will focus solely on outreach activities listed in the City's adopted Climate Action Plan (CAP).
- Responded to drought emergency declarations by collaborating with the community on water savings. Consistently saved at levels that met regional and State goals.
- Supported Council approval of the Electric Vehicle Infrastructure Code.

Goal NRE-15 An adaptive and resilient community that responds to climate change.

SAFETY, SERVICES, AND INFRASTRUCTURE ELEMENT

City Manager

- Served as the City of Morgan Hill's Director of Emergency Services throughout COVID-19 and winter storms.

Goal SSI-11 Efficient police, fire, and emergency medical response and services, and access to local medical facilities and Goal SSI-12 Reduce risk to life and property associated with emergencies and natural and manmade disasters.

Fire

- Completed design of Butterfield Fire Station with tentative construction start date of Fall 2023.
- Placed Squad 59 in service and staffed at El Toro Fire Station.
- Began design of new Type I Fire Engine for new Butterfield Fire Station.
- Implemented defensible space inspections conducted by Fire Engine companies.
- CAL FIRE awarded the City of Morgan Hill a CCI Fire Prevention Grant to purchase a Green Climber to greatly improve vegetation management throughout the City.

Goal SSI-3 Minimal threat to persons, property, and the environment from fire hazards and Goal SSI-12 Reduce risk to life and property associated with emergencies and natural and manmade disasters.

Police

- Reactivated Volunteers in Policing (VIPs) program following COVID and expanded services provided by the program.
- Submitted a Sideshow Ordinance that was approved and adopted by City Council.
- The Crime Prevention Unit held 12 community meetings on a variety of crime topics.
- Coordinated with MHUSD and American Medical Response (AMR) to offer driving under the influence programs at local high schools (e.g., Sober Graduation, Zero Tolerance).
- Council approved a Community Service Officer (CSO) to manage the Youth Diversion Program.
- Implemented Youth Restorative Justice Program diverting 28 youth from the criminal justice system to diversion and continued our partnership with MHUSD on providing Restorative Justice Practices for our students.
- School Resource Officer and the Community Tobacco Enforcement Officer partnered with MHUSD to provide training to students and staff on the dangers surrounding vaping, tobacco use and distracted driving.
- Conducted Run, Hide, Defend trainings at MHUSD schools, local private schools, and businesses.
- Collaborated with the Santa Clara County's Mobile Crisis Response Team (MCRT) and addressed chronic clients who were in crisis or in need of resources.
- Implemented a Psychiatric Emergency Response Team (PERT) in partnership with County Behavioral Health Services.

Goal SSI-11 Efficient police, fire, and emergency medical response and services, and access to local medical facilities and Goal SSI-12 Reduce risk to life and property associated with emergencies and natural and manmade disasters.

3. General Plan Amendment Applications

The City of Morgan Hill did not receive any General Plan Amendment applications within the 2022 calendar year.

4. General Plan Full Buildout

The Morgan Hill 2035 General Plan EIR evaluated the projected development that could occur under the General Plan through its horizon year of 2035. Pursuant to the Morgan Hill 2035 General Plan EIR, the “full buildout” of the General Plan would be the development of underutilized and vacant parcels at the mid-point of the maximum allowed density under the General Plan, based on the past and projected development patterns in Morgan Hill. The horizon-year projection is based on an estimate of the amount of development that would occur by 2035 as evaluated in the Morgan Hill 2035 General Plan EIR.

The table below shows the net growth of Morgan Hill from the 2015 base year of the General Plan through June 30, 2022, as well as the total horizon year projection and the total full buildout of the General Plan as evaluated in the Morgan Hill 2035 General Plan EIR. As indicated in the below table, Morgan Hill has seen faster growth within the Industrial sector and slower growth within the Retail & Service and Office sectors than expected within the Morgan Hill 2035 General Plan EIR. However, all of the sectors are well below the Total Full Buildout of the General Plan.

Table 1: General Plan Full Buildout Progress

Categories	GP Existing Development 2015	Existing Development June 30, 2022 ¹	Total Horizon Year 2035 Projection	Total Full Buildout Projection
Housing Units				
Residential Units	14,969	16,293	22,400	22,400
Population	45,171	47,738 ²	68,057 ³	68,057
Non-Residential Square Footage				
Retail & Service	2,729,825	2,902,290	3,902,930	4,805,214
Office	521,788	525,428	1,150,486	2,141,804
Industrial	5,935,000	7,670,129	7,712,385	12,126,643
Public Facilities	463,000	521,565	750,377	774,377

Notes: 1. Numbers based on yearly VTA Congestion Management reporting.
 2. 47,738 is a project/estimate based on California Department of Finance (DOF) estimate of 2.93 residents per household. The DOF 2022 population estimate for Morgan Hill is 46,451.
 3. General Plan policy CNF-3.4 called for a 2035 population of 58,200 residents, however, the General Plan EIR studied the buildout projection as the Horizon Year.

Please Start Here

General Information	
Jurisdiction Name	Morgan Hill
Reporting Calendar Year	2022
Contact Information	
First Name	Christie
Last Name	Thomas
Title	Housing Program Coordinator
Email	christie.thomas@morganhill.ca.gov
Phone	4083104674
Mailing Address	
Street Address	17575 Peak Avenue
City	Morgan Hill
Zipcode	95037

Optional: Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated. If a project is no longer has any reportable activity, you may delete the project by selecting a cell in the row and typing ctrl + d.

[Click here to download APR Instructions](#)

1_23_23

Optional: This runs a macro which checks to ensure all required fields are filled out. The macro will create two files saved in the same directory this APR file is saved in. One file will be a copy of the APR with highlighted cells which require information. The other file will be list of the problematic cells, along with a description of the nature of the error.

Optional: Save before running. This copies data on Table A2, and creates another workbook with the table split across 4 tabs, each of which can fit onto a single page for easier printing. Running this macro will remove the comments on the column headers, which contain the instructions. Do not save the APR file after running in order to preserve comments once it is reopened.

Optional: This macro identifies dates entered that occurred outside of the reporting year. RHNA credit is only given for building permits issued during the reporting year.

Link to the online system: <https://apr.hcd.ca.gov/APR/login.do>

Submittal Instructions

Please save your file as Jurisdictionname2022 (no spaces). Example: the city of San Luis Obispo would save their file as SanLuisObispo2022

Housing Element Annual Progress Reports (APRs) forms and tables must be submitted to HCD and the Governor’s Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year; submit separate reports directly to both HCD and OPR pursuant to Government Code section 65400. There are two options for submitting APRs:

1. Online Annual Progress Reporting System - Please see the link to the online system to the left. This allows you to upload the completed APR form into directly into HCD’s database limiting the risk of errors. If you would like to use the online system, email APR@hcd.ca.gov and HCD will send you the login information for your jurisdiction. *Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is opr.apr@opr.ca.gov.*

2. Email - If you prefer to submit via email, you can complete the excel Annual Progress Report forms and submit to HCD at APR@hcd.ca.gov and to OPR at opr.apr@opr.ca.gov. Please send the Excel workbook, not a scanned or PDF copy of the tables.

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table A2
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units

[illegible]

Jurisdiction	Morgan Hill
Reporting Year	2022 (Jan. 1 - Dec. 31)
Planning Period	5th Cycle 01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

Table B														
Regional Housing Needs Allocation Progress														
Permitted Units Issued by Affordability														
		1		2								3	4	
Income Level		RHNA Allocation by Income Level		2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	273	-	12	29	-	39	-	-	6	225	-	311	-
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-		
Low	Deed Restricted	154	-	118	23	13	24	11	1	2	253	-	445	-
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-	-		
Moderate	Deed Restricted	185	-	-	-	-	1	1	-	1	17	-	769	-
	Non-Deed Restricted		-	107	6	9	262	13	5	13	334	-		
Above Moderate		316	-	647	219	192	193	142	38	82	104	-	1,617	-
Total RHNA		928												
Total Units				884	277	214	519	167	44	104	933	-	3,142	-
Progress toward extremely low-income housing need, as determined pursuant to Government Code 65583(a)(1).														
		5										6	7	
		Extremely low-income Need		2015	2016	2017	2018	2019	2020	2021	2022	2023	Total Units to Date	Total Units Remaining
Extremely Low-Income Units*		137		-	11	-	8	-	-	-	91	-	110	27

*Extremely low-income housing need determined pursuant to Government Code 65583(a)(1). Value in Section 5 is default value, assumed to be half of the very low-income RHNA. May be overwritten.

Note: units serving extremely low-income households are included in the very low-income RHNA progress and must be reported as very low-income units in section 7 of Table A2. They must also be reported in the extremely low-income category (section 13) in Table A2 to be counted as progress toward meeting the extremely low-income housing need determined pursuant to Government Code 65583(a)(1).

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will only include units that were permitted since the start of the planning period. Projection Period units are in a separate column.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Jurisdiction		Morgan Hill	
Reporting Year		2022	(Jan. 1 - Dec. 31)
Table D			
Program Implementation Status pursuant to GC Section 65583			
Housing Programs Progress Report Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
INCLUSIONARY HOUSING ORDINANCE NO. 2278	REQUIRE EACH NEW DEVELOPMENT TO PROVIDE AT LEAST 15% AFFORDABLE HOUSING OUTSIDE OF DOWNTOWN AND 10% DOWNTOWN	2018-2023	EFFECTIVE 07/25/18
City of Morgan Hill Below Market Rate (BMR) Program	Facilitate the construction of very low and low rental BMR's (55 year affordability restriction, and moderate ownership BMRs (45 year affordability restrictions)	2015-2023	2 Low Income and 11 Moderate Income ownership BMR permits and 78 Very Low Income rental BMR permits issued were in 2022. 2 Low Income ownership BMR permits were finalized in 2022. 23 Moderate Income BMR units were entitled in 2022. To date, Morgan Hill's BMR program consist of over 574 (some have aged out of program this past year) BMR's as a result of the City's RDCS system (Residential Development Control System) AND Inclusionary Housing Ordinance No. 2278.
City of Morgan Hill Housing Rehab Program, <i>Minor</i> Home Repair	Facilitate the rehabilitation of affordable housing units	2015-2023	The City rehabbed 32 senior low income mobile and single family residence home units in 2022, through a grant program administered by Rebuilding Together. Repairs are funded by County Community Development Block Grant Funds through the Urban County Consortium that the city is a member of.
City of Morgan Hill "Unhoused Specialist" Case Manager	Outreach, engagement and case management with the unhoused to provide support, services, offer shelter, basic needs, and to facilitate housing opportunities	2015-2023	FY 21/22 -22/23 City of Morgan Hill has allocated \$50,000. per FY to create 1 full time Case Manager. City Received \$450,000 (3 year) capacity building grant from Destination Home to hire an "Unhoused Case Manager," who began in December of 2021. Since Dec 2021, the Unhoused specialists has processed 265 referrals, connected successfully with 241 individuals, housed 27 (unhoused and housing insecure), connected 71 people to shelters, connected 22 people to legal services, and increased coordination with teammates across departments and collaborated with community based organizations and the faith based community.

Measure A Housing Bond, County of Santa Clara	Create new units at the ELI and VLI level. \$3,400,000 in Measure A funds provided to a Very Low Income Project (The Crossings UHC) that was finalized and leased up in 2021 - consists of 39 units (7 eli, 25 vli, & 8 li) (received \$5.5 million of Measure A funds). Two additional 100% affordable projects were entitled in 2021, "Magnolia's" First Community Housing - consists of 66 units (42 eli, 9 vli, 14 li, & 1 managers unit) and the "Royal Oak Village" UHC - consists of 73 units (48 eli, 24 vli, & 1 managers unit) (will receive \$9.9 million in Measure A funds - Royal Oak Village project broke ground in 2022 and expects to occupancy date to be in January of 2024.	2015-2023	In November of 2016 Santa Clara County voters approved a \$950 million bond (Measure A) which will fund the development of 4,800 extremely low-income (ELI) housing units throughout the County serving the homeless. It is expected that the 4,800 - unit goal will generate 10,000 new construction, affordable housing units countywide, by leveraging resources. Additionally, \$150 million of Measure of Measure A funds will be set aside for workforce housing and down payment assistance. The County's goal is to create 4,800 affordable ELI units Countywide, of which 97 units have been designated as the Measure A affordable housing goal for the City of Morgan Hill, over a ten-year period. Morgan Hill has already almost met that goal and intends to develop additional units ELI & Low Income ownership units with additional Measure A funding. The remaining balance is planned to be distributed throughout the County in the other cities equivalently, based on Regional Housing Needs Allocation (RHNA) methodology. The Housing team has actively participated in discussions regarding implementation of the bond program and provided program recommendations. As of Nov, 2022, \$643,345,710 Measure A funding has been approved (included are 9 cities, 4,363 new apartments, 689 units renovated, 47 new housing developments, and \$25 million to First-Time Homebuyer program).
Homeless Prevention through rental assistance	Prevent residents from experiencing homelessness	2015-2023	City and County Partnership: August 1, 2017 - current: Homeless Prevention Program (one time rental assistance) Program for families, targeting families with children in the school district at risk of homelessness. The City contributed \$50,000. in fy 17/18, an additional \$25,000 in 2018/19, \$25,000 in 2019/2020, \$25,000 in 2020/2021 fy and \$50,000 in 2021/2022 fy and \$50,000 in 2022/2023 to this larger countywide effort. UPDATE: From 1/1/2022 to 12/31/2022 - xxMorgan Hill individuals enrolled on the Rapid Rehousing waiting list, with the intent to provide rapid rehousing. Out of the xx enrolled, xx have been housed.

Homeless Safe Parking Program	Provide respite and services, and attempts to provide housing for South County residents living in their vehicles	2015-2023	Partnered with the faith based community to create an (8) eight space, pet welcome, Safe Parking Program called "Focus". It was launched on July 8, 2017 at a local church for eight homeless families living in their cars (up to 30 people) where they are receiving coordinated assessment, services, meals, and support with the goal of providing some stability and getting them into permanent housing. The Program typically serves eight families, (approx. 25 people and 8 children.) City contributed \$30,000 in fy 2018/2019, \$30,000 in fy 2019/2020, \$30,000 in fy 2020/2021 and \$30,000 in fy 2021/2022 and \$50,000 in fy 2022/2023. City has also funded porta potty and handwashing stations for the Safe Park since its inception - \$11,538 for fy' 19/20 - 21/22 and \$12,276 for fy's 22/23 - 23/24. During 2021, 8 households were housed with the help of this program.
Housing Authority of the County of Santa Clara Section 8 Program	Maintain full lease up of section 8 vouchers	2015-2023	There are XX total vouchers in Morgan Hill.
Accessory Dwelling Unit Ordinance update	Implement AB68 prior to January 1, 2020	2015-2023	EFFECTIVE January 2020 - continuing to update as Legislation passes and to make permit issuance streamlined.

Inclement Cold Weather Shelter	Partner with Community Christian Church to create an Inclement Weather Shelter	2015-2023	In January 2020, the City of Morgan Hill partnered with Community Christian Church to create an Inclement Cold Weather Weather shelter that operates when the County issues a Cold Weather alert. The shelter has a 10 bed capacity. City of Morgan Hill provides cots, bedding, snacks, water, COVID PPE, and training of volunteers. The city also funds Gilroy Compassion Center employee(s) to process referrals and manage check in process (Budget included in Safe Park Budget contract). City pays for nightly security at shelter from 7pm - 7am. Shelter is mostly run by volunteers - \$25,000 per fy budgeted since fy 19/20. As of December 2021, the cities "Unhoused Specialist" goes out into the community to let unhoused individuals know that the shelter is open, and Santa Clara County Homeless Hotline alerts individuals of its location as well.
Rehabilitation and Preservation of existing affordable units	Preservation of Existing Stock	2015-2023	Murphy Ranch I & II - 100 units including 2, 3, & 4 bedrooms - will complete a substantial remodel - City resubordinated 2 loans totalling \$8,903,902.44 for an additional 55 years - Villa Ciolino - City waiver of surplus funds in the amount of \$44,777 so that project could undergo a substantial remodel of 42 units - including 1,2 & 3 bedrooms
City funding contribution to 100% Affordable Project	Production of new housing inventory to diversify housing stock	2015-2023	Royal Oak Village - The City of Morgan Hill has funded this project \$400,000.

Jurisdiction	Morgan Hill	
Reporting Period	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table F									
Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)									
Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table A2 and not reported in Table F.									
Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government Code Section 65583.1 ⁺ . For detailed reporting requirements, see the ckcklist here: https://www.hcd.ca.gov/community-development/docs/adequate-sites-checklist.pdf
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Mobilehome Park Preservation									
Total Units by Income									

[illegible]

Jurisdiction	Morgan Hill	
Reporting Year	2022	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	01/31/2015 - 01/31/2023

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	225
	Non-Deed Restricted	0
Low	Deed Restricted	253
	Non-Deed Restricted	0
Moderate	Deed Restricted	17
	Non-Deed Restricted	334
Above Moderate		104
Total Units		933

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
SFA	122	79	16
SFD	116	38	32
2 to 4	0	12	0
5+	93	781	0
ADU	25	23	8
MH	0	0	0
Total	356	933	56

Housing Applications Summary	
Total Housing Applications Submitted:	8
Number of Proposed Units in All Applications Received:	367
Total Housing Units Approved:	122
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	1
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Jurisdiction	Morgan Hill	
Reporting Year	2022	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT Local Early Action Planning (LEAP) Reporting (CCR Title 25 §6202)					
Please update the status of the proposed uses listed in the entity's application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.					
Total Award Amount	\$ 150,000.00 Total award amount is auto-populated based on amounts entered in rows 15-26.				
Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
Task 1: Project Coordination	\$8,000.00	\$0.00	Completed	None	
Task 2: Community Engagement	\$12,500.00	\$0.00	Completed	None	
Task 3: 2023-2031 Housing Element	\$100,000.00	\$0.00	Completed	None	
Task 4: Consultation with HCD	\$5,000.00	\$0.00	Completed	None	
Task 5: Inclusionary Housing Ordinance	\$12,500.00	\$0.00	Completed	None	
Task 6: Public Hearings	\$12,000.00	\$0.00	Completed	None	

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	23
	Non-Deed Restricted	28
Above Moderate		305
Total Units		356

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	225
	Non-Deed Restricted	0
Low	Deed Restricted	253
	Non-Deed Restricted	0
Moderate	Deed Restricted	17
	Non-Deed Restricted	334
Above Moderate		104
Total Units		933

Certificate of Occupancy Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	2
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	8
Above Moderate		46
Total Units		56

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Tanya Carothers, Environmental Services Administrator

APPROVED BY: City Manager

ACCEPT \$595,748 IN GRANT FUNDS FROM SILICON VALLEY CLEAN ENERGY

RECOMMENDATION(S)

Authorize City Manager to execute and administer grant funding agreements with Silicon Valley Clean Energy.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Advancing Regional Initiatives

2022-2023 Strategic Priorities

Fiscal Sustainability

Community Outreach, Engagement, and Messaging

Guiding Documents

Climate Action Plan

REPORT NARRATIVE:

The purpose of this staff report is to give City Council the opportunity to authorize the City Manager to accept funds for two grants that have been issued to the City by Silicon Valley Clean Energy (SVCE). The City of Morgan Hill has a key central goal of reducing greenhouse gas (GHG) emissions by reaching carbon neutrality by 2045 and working toward this goal through a number of sub-goals, action items, and planning efforts as identified in the Morgan Hill 2021 Climate Action Plan (CAP). The financial support from the two grants described below would strategically align with the City's efforts in achieving CAP goals.

SVCE Community Decarbonization Demonstration Grant

The City's CAP includes a goal to convert all municipal buildings to all-electric by 2035. The City has been offered \$500,000 in funding through the SVCE Community Decarbonization Demonstration Grant Program for the development of a new all-electric

Fire Station and interpretive meeting area in an adjacent park space. The interpretive area will serve as a meeting point to start and conclude ongoing fire station tours and will consist of picnic tables and displays describing how the all-electric fire station building operates, the basics of how all-electric facilities reduce carbon emissions, and why that is important. The interpretive area will increase overall Fire Station project costs by approximately \$186,000, with remaining grant funds of approximately \$314,000 supporting electrical components within the Fire Station. This grant agreement has been included as Attachment A.

SCVE Community Decarbonization Engagement Grant

The City has been offered funding through the SVCE Community Decarbonization Engagement Grant Program to implement the outreach, education and engagement components of the CAP. Primary activities will include booth supplies and events, design of brochures and flyers, outreach campaigns, a Loaner Induction Stove Program, development of Clean Air Week, surveys and research, and hiring a part-time teammate to support in planning and implementation of these work items. The ultimate goal of this project, through engagement with the community, is to generate discussion, interest and presence around the topics of decarbonization and climate change. The City requested \$95,748 to implement the outreach, education and engagement components of the CAP, and has been offered the full amount. This grant agreement has been included as Attachment B.

COMMUNITY ENGAGEMENT:

Not Applicable. This is an administrative item and the recommended action will allow the City to accept funding that will reduce negative impacts from climate change within the community.

ALTERNATIVE ACTIONS:

City Council could choose not to authorize the City Manager to accept the SVCE Grant funds. This would result in missed opportunities to achieve CAP goals. Funding for the fire station to be constructed as an all-electric facility would need to come from a different source, and the City would not have resources to begin on its CAP outreach, education, and engagement goals.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City's CAP was adopted in December 2021. The CAP established goals which the two grant opportunities will help to fulfill.

FISCAL AND RESOURCE IMPACT:

The total cost of the fire station electrification project is projected to be approximately \$647,000 and the City has been offered \$500,000 in grant funding for this project. Costs associated with implementation of this grant will not be incurred until FY 2023-24. Costs associated with this project will be appropriated with the award of the construction contract for the Fire Station.

The City requested \$95,748 to implement CAP outreach, education and engagement components through the end of calendar year 2024, and has been offered the full amount. The grant will start in March 2023. Costs associated with implementation of the grant from March to the end of FY 2022-23 will total approximately \$19,000 and these costs will be covered by the existing 010.5800 Environmental Services budget. A midcycle budget adjustment will be needed for implementation of the grant in FY 2023-24. In FY 2024-25, any remaining costs related to implementation and close-out of the grant will be incorporated into the normal budget cycle.

CEQA (California Environmental Quality Act):

Not a Project.

This is an organizational/administrative action that will provide funding to help reduce negative impacts from climate change within the community.

SILICON VALLEY CLEAN ENERGY

DECARBONIZATION GRANT PROGRAM AGREEMENT

THIS AGREEMENT is made and effective as of _____, 2023 (“Effective Date”), by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY (“SVCE”), an independent public agency, and *The City of Morgan Hill*, a municipal corporation (“Recipient”). In consideration of the covenants, conditions and undertakings set forth herein, the parties agree as follows:

1. RECITALS. This Agreement is made with respect to the following facts and purposes which each of the parties acknowledge and agree are true and correct:

A. SVCE’s decarbonization grant program (“Program”) will provide over \$1.5M in grants to member jurisdictions, public agencies, and community groups to plan and develop decarbonization demonstration and engagement projects.

B. Recipient submitted an application for Program funding, attached hereto and incorporated herein as Exhibit A, for a decarbonization demonstration or engagement project (“Project”). The scope and estimated budget for the Project are included in Exhibit A.

C. SVCE finds that the use of Grant Funds described herein furthers a public purpose and meets the goals and objectives established for the Program, and desires to award Recipient a one-time grant pursuant to the terms of this Agreement.

2. GRANT. SVCE hereby agrees to provide funding to Recipient in an amount not to exceed **\$500,000**, subject to the provisions of this Agreement (“Grant Funds”). Such Grant Funds shall be disbursed to Recipient on a reimbursement basis. It is agreed and understood that the Grant Amount is a ceiling and that SVCE will only reimburse the allowable cost of services actually rendered as authorized by SVCE at or below the Grant Amount established herein.

3. REIMBURSEMENT OF GRANT FUNDS. Grant Funds shall be reimbursed pursuant to the following process:

A. SVCE shall reimburse Recipient for its actual and reasonable costs of constructing the Project up to the agreed upon Grant Funds.

B. Requests for payment submitted to SVCE shall include: 1) an itemized list of all expenditures; and 2) supporting documentation that clearly identifies the expenditure(s) in relation to the scope of the Project set forth in Exhibit A of this Agreement. Payment requests should be aggregated and submitted no more often than once per month.

C. SVCE shall process requests for payment and remit payment within 30 days.

D. If, in SVCE’s sole discretion, the request for payment is incomplete, inadequate, or inaccurate, SVCE may dispute the invoice for reasonable cause and hold all or a portion of the payment request until all required information is received or corrected. Any penalties imposed on the Recipient by a contractor, or other consequence, because of delays in payment or other breach of the agreement between the Recipient and the contractor are the responsibility of the Recipient and are not reimbursable under this Agreement.

E. Unless otherwise authorized by SVCE in writing, Recipient shall submit all documentation of Project completion, including a final request for payment, within sixty (60) days of Project completion.

F. Final payment of remaining Grant Funds, including any amounts withheld from previous payments, shall be paid up to the total amount of the actual Project cost, not to exceed the Grant Funds amount set forth in this Agreement, upon completion of the Project, receipt of the final report and final request for payment from the Recipient in a form and content satisfactory to SVCE.

4. USE OF GRANT FUNDS. Recipient shall use the Grant Funds to support the Program as set forth in Exhibit A. Any use(s) of Grant Funds not contemplated in this Agreement must be approved in writing by SVCE. This Agreement was awarded to Recipient based on the application submitted by Recipient with the intention that the awarded funds would be used to implement the Project as described in Exhibit A. Any substantive deviation during Project implementation may require reevaluation or result in loss of funding. In no event shall Recipient's Grant Funds or scope of work be increased. If Recipient knows or should have known that substantive changes to the Project will occur or have occurred, Recipient will immediately notify SVCE in writing. SVCE will then determine whether the Project is still consistent with the overall objectives of the Program and whether the changes would have negatively affected the Project ranking during the Grant evaluation process. SVCE reserves the right to have Grant Funds withheld from Recipient, or refunded to SVCE, due to Recipient's failure to satisfactorily complete the Project or due to substantive changes to the Project.

5. TERM. This Agreement shall commence on the Effective Date, and shall remain and continue in effect until the final Grant Funds are paid to Recipient, unless sooner terminated pursuant to the provisions of this Agreement. Projects must be complete no later than December 31, 2024.

6. REPORTING AND RECORDS. Recipient agrees to cooperate with SVCE and provide requested information, if any, related to the use of Grant Funds and the Project, including for the purposes of SVCE's evaluation, measurement, and verification activities for the Program. Recipient will cooperate in good faith with SVCE or its authorized representative in performing evaluation, measurement and verification (EM&V) of the Program. Information accessed for EM&V may include, but is not limited to, onsite verification of Project operation, Program compliance, and Project records, analysis of facility billing metered data, analysis of data collected from facility-owned submetering, and collection of supplementary metered data on-site. All information collected will be held confidentially and will be used by SVCE or its authorized representative for Program analysis purposes only. Recipient is responsible for ensuring, through a separate agreement between Recipient and property owner, that property owner shall cooperate with SVCE to provide any documentation and assist in analysis and provide access to the Project site at reasonable times, during the construction of the Project and for a period of up to two (2) years from the completion of the Project. During the course of the Project and for three (3) years thereafter from the receipt of the final Grant Funds, the Recipient agrees to maintain, intact and readily accessible, all communications, data, documents, reports, records, contracts, and supporting materials relating to the Project, as SVCE may require. The Recipient agrees to have financial and compliance audits performed as SVCE may require.

7. LEGAL RESPONSIBILITIES. Recipient shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance under this Agreement. Recipient shall at all times observe and comply with all such ordinances, laws and regulations. SVCE, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Recipient to comply with this Section.

8. PREVAILING WAGES. By accepting the Grant Funds, Recipient as a material term of this Agreement shall be fully responsible for complying with all California public works requirements including but not limited to payment of prevailing wage. Therefore, as a material term of this Agreement, to the extent required by California law, Recipient shall ensure that prevailing wages are paid, that the project budget for labor reflects these prevailing wage requirements, and that the project complies with all other requirements of prevailing wage law, including that Recipient's subcontractors also comply with all applicable public works/prevaling wage requirements.

9. PROCUREMENT. At minimum, Recipient shall solicit at least three bids and select the lowest bidder when procuring goods or services, where the costs are eligible for reimbursement under this Agreement. In the event the Recipient is required by statute or policy to solicit additional bids or follow a more stringent solicitation

process, Recipient shall follow such process. Recipient may also procure goods and services through California Government Code section 4217.10.

10. CALIFORNIA PUBLIC RECORDS ACT. Recipient acknowledges that SVCE is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq.*). SVCE acknowledges that Recipient may submit information to SVCE that Recipient considers to be confidential, proprietary, or trade secret information. Only such information clearly designated in writing as “confidential” shall be deemed “Confidential Information.” Upon request or demand of any third person or entity (“Requestor”) for the production, inspection, and/or copying of Confidential Information, SVCE shall notify Recipient that such request has been made. Recipient shall be solely responsible for taking whatever legal steps are necessary to protect Confidential Information and to prevent its release to the Requestor. Without limiting SVCE’s right to disclose Confidential Information as may be required by law, if Recipient takes no such action after receiving the foregoing notice from SVCE, SVCE shall be permitted to release information it deems subject to disclosure.

11. NOTICES. Any notices provided under this Agreement must be in writing and may be given either by mail or e-mail to the following addresses:

SVCE: Silicon Valley Clean Energy Authority
333 W. El Camino Real #330
Sunnyvale, CA 94087
Attention: _____

RECIPIENT: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Christina Turner, City Manager

12. INDEPENDENT CONTRACTOR.

A. Recipient shall at all times remain as to the SVCE a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Recipient shall at all times be under Recipient's exclusive direction and control. Neither SVCE nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Recipient or any of Recipient's officers, employees, or agents except as set forth in this Agreement. Recipient shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the SVCE. Recipient shall not incur or have the power to incur any debt, obligation or liability whatever against SVCE, or bind SVCE in any manner.

B. No employee benefits shall be available to Recipient in connection with the performance of this Agreement. Except for the fees paid to Recipient as provided in the Agreement, SVCE shall not pay salaries, wages, or other compensation to Recipient for performing services hereunder for SVCE. SVCE shall not be liable for compensation or indemnification to Recipient for injury or sickness arising out of performing services hereunder.

13. INDEMNIFICATION. Recipient shall indemnify, protect, defend and hold harmless SVCE, its elected officials, officers, employees, volunteers, and representatives from any and all suits, claims, demands, losses, defense costs or expenses, actions, liability or damages of whatsoever kind and nature which SVCE, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Recipient’s acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement.

14. INSURANCE.

A. On or before the commencement of the term of this Agreement, Recipient shall furnish SVCE with certificates showing the type, amount, class of operations covered, effective dates, and dates of expiration of insurance coverage in compliance with the requirements in this Section. Recipient shall maintain such coverage in full force at all times for the duration of this Agreement, at its sole cost and expense. Nothing herein shall be construed as a limitation on Recipient indemnification obligations under this Agreement.

B. Recipient shall maintain the following minimum insurance coverages:

- 1) Workers' compensation, as required by the State of California;
- 2) Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required;
- 3) Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.

C. Such coverages shall be issued by an insurer(s) licensed to conduct business in the State of California, with a minimum A.M. Best's Insurance Rating of A:VII unless otherwise approved in writing as satisfactory to SVCE. The Recipient may satisfy its obligations under this Section through self-insurance.

D. The insurance limits required by SVCE are not represented as being sufficient to protect Consultant. Recipient is advised to confer with its insurance broker to determine adequate coverage for Recipient.

15. DEFAULT AND TERMINATION. Should an Event of Default occur, SVCE shall provide a notice of default to Recipient and shall give Recipient at least fifteen (15) calendar days from the date the notice is sent to cure the Event of Default. If Recipient fails to cure the Event of Default within the time prescribed, SVCE may, at SVCE's sole discretion, withhold Grant Funds not yet disbursed hereunder, require the return or repayment of Grant Funds already disbursed, and/or terminate this Agreement by written notice which shall be effective upon receipt by Recipient. "Event of Default" shall mean the occurrence of any one or more of the following events by Recipient: (a) any false statement, representation, or warranty contained in this Agreement, the Application, or any other document submitted to SVCE; (b) failure to comply with applicable laws; (c) a failure to maintain in effect any policy of insurance required under this Agreement; or (d) a material breach of this Agreement.

16. NON-APPROPRIATION. Recipient acknowledges that SVCE is a public agency. In the event that sufficient funds for the performance of this Agreement are not appropriated by the SVCE Board of Directors in any fiscal year covered by this Agreement, this Agreement may be terminated by SVCE, without penalty, by giving notice to Recipient of such facts and of SVCE's intention to terminate.

17. NON-WAIVER. Failure to exercise any right the SVCE may have or be entitled to, in the event of default hereunder, shall not constitute a waiver of such right or any other right in the event of a subsequent default.

18. AMENDMENT OF AGREEMENT. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by the Recipient and the SVCE.

19. ASSIGNMENT PROHIBITED. In no event shall the Recipient assign or transfer any portion of this Agreement.

20. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of Santa Clara, State of California.

21. NO THIRD-PARTY BENEFIT. The provisions of this Agreement are for the sole benefit of the parties hereto and confer no rights, benefits, or claims upon any person or entity not a party hereto.

22. SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

23. RECIPIENT'S AUTHORITY. Recipient represents and warrants that (a) it has the power and authority to enter into this Agreement and to perform its obligations hereunder; (b) the person who executes this Agreement on its behalf has the necessary authority to bind Recipient; and (c) neither the execution and delivery of this Agreement nor the performance of its obligations hereunder will constitute a violation of, a default under, or conflict with any term of any governance documents or other agreements to which it is bound.

24. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. Faxed and PDF counterpart signatures are sufficient to make this Agreement effective.

25. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

26. COMMUNICATIONS AND ENGAGEMENT. Recipient agrees that SVCE may use and publicize information and visual materials (photos, videos, etc.) related to this project, including (but not limited to) information and visual materials provided in this application, updates, or follow-up information. Recipient will coordinate in good faith with SVCE on follow-up activities, such as interviews, outreach coordination, photo or video shoots, requests for additional information, and the design of educational materials and signage related to the project. Recipient will work with SVCE to schedule all coordination and activities within a determined and mutually agreed-upon time frame and understand that refusal or failure to collaborate on marketing and outreach may result in termination of the funding.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

SILICON VALLEY CLEAN ENERGY AUTHORITY

Girish Balachandran, Chief Executive Officer

APPROVED AS TO FORM:

Trisha Ortiz, General Counsel

[RECIPIENT]

By: _____

Name: Christina Turner

Title: City Manager

By: _____

Name:

Title:

[*Note: Signatures of two corporate officers are required for corporations – First signature must be one of the following: 1) the chairman of the board; 2) the president; or 3) any vice president. The second corporate signature must be one of the following: 1) the secretary; 2) any assistant secretary; 3) the chief financial officer; or 4) any assistant treasurer. Signature of City Manager is required for cities.]

EXHIBIT A

[attach Application]



17575 Peak Avenue
Morgan Hill, CA 95037-4128
TEL: (408) 778-6480
FAX: (408) 779-7236
www.morganhill.ca.gov

November 4, 2022

Silicon Valley Clean Energy 333
W. El Camino Real, #330
Sunnyvale, CA 94087

RE: Community Decarbonization Demonstration Grant

To: Silicon Valley Clean Agency Grant Coordinator

The City of Morgan Hill is seeking funding through the Community Decarbonization Demonstration Grant Program for the development of a new all-electric Fire Station to serve our residents. We feel that this project is an excellent fit for this grant opportunity with its intent to employ decarbonization efforts through electrification of a public facility and with educating the community about the benefits and ultimate goals of these efforts. The total cost of the project is projected to be approximately \$647K and the City is requesting consideration of \$500K in grant funding.

The City of Morgan Hill has a key central goal of reducing GHG emissions and reaching carbon neutrality by 2045 and is committed to reaching this goal through a number of sub-goals, action items, and planning efforts as identified in the Morgan Hill 2021 Climate Action Plan (CAP). Secondly, the City has a goal for converting all municipal buildings to all-electric by 2035. The financial support from this grant opportunity would strategically align with the City's efforts in achieving these crucial goals.

If we were to receive funding, our project would also contain a significant educational and outreach component. The City plans to develop a land parcel adjacent to the fire station as a Demonstration Plaza for gathering and informative purposes. The Plaza would include the construction of a small meeting area with tables and benches that would be able to accommodate up to a classroom of students. This meeting area would include interpretive displays describing how the all-electric fire station building operates, the basics of how all-electric facilities reduce carbon emissions, and why that is important. Coordinated tours of the fire station itself would also be conducted, originating from the Plaza location. Providing this opportunity to the community to better understand the environmental benefits achieved through electrification and visualize the concept, can promote the use of efficient and low-carbon technologies, and may ultimately influence the actions and behaviors of our residents in the future.

We are very excited by the opportunities created by this grant and thank you for considering our application. If you desire additional information, please do not hesitate to contact Chris Ghione at (408) 782-9154 or chris.ghione@morganhill.ca.gov.

Sincerely,

Christina Turner
City Manager

Community Decarbonization Demonstration Grant

Application For Submittal

1. Legal name of organization, address of local office(s), and email and phone number for your main point of contact.

- City of Morgan Hill
- 17575 Peak Avenue, Morgan Hill, CA 95037
- Chris Ghione, Public Services Director
- Chris.ghione@morganhill.ca.gov
- (408) 782-9154

2. One paragraph summary of proposal with amount requested.

The City of Morgan Hill is requesting funding to develop its new Fire Station as an all-electric demonstration site. The new Fire Station would be combined with a display and meeting area in an adjacent park space, with interpretative signage to highlight the benefits of electrification. This demonstration site would be unique in creating an all-electric facility in an extremely high traffic location in downtown Morgan Hill. Additionally, the adjacent Demonstration Plaza and its meeting space could support classes, organizations, and businesses attending field trips and tours to the site. The total request for funding for this electrification project is \$500,000, with a total cost for the project of \$646,820.64. The City will provide the matching funds for all projected expenses beyond those of the grant funding.

3. Full description of the building electrification project.

Beginning in March 2020, the City of Morgan Hill required all new construction to be all-electric. In 2023 the City will be constructing its first all-electric City owned building, the Butterfield Fire Station, at 17265 Butterfield Boulevard. As the first City facility to be all-electric the City proposes partnering with Silicon Valley Clean Energy on the development of the facility and on an adjacent interpretive demonstration site.

The fire station will be an exciting addition to the community. In addition to being an all-electric building, the station may be developed with a solar and battery system intended to allow the facility to run completely on its own microgrid.

Development of the microgrid is dependent on obtaining additional grant funding outside of the SVCE decarbonization demonstration grant.

The project will consist of three major components. The first will be the actual construction of the all-electric fire station facility. The second will be the construction of an interpretive meeting area in an adjacent park space. The third will be guided tours of the facility and ongoing messaging.

The Butterfield Fire Station is a 5,800 square foot facility that will be constructed for approximately \$8 million. The station is being designed to accommodate one engine company and supporting personnel. It will begin construction in 2023 and open by August 2024. The current cost estimates identify the cost for installing the all-electric HVAC system at approximately \$363,000, with associated electrical systems and equipment to support the project at \$98,000. Costs for the microgrid system are not included in the grant application.

The new fire station's location, being so close by Downtown Morgan Hill, is an optimum location for a demonstration site. Near the site is an existing landscape demonstration garden and park area. This area connects the high traffic Caltrain and VTA Transportation Parking Lot, as well as the County Courthouse to the downtown area and is highly trafficked. The intent of the second component of the grant is to construct a small meeting area with tables and benches that are able to accommodate up to a classroom of students. This meeting area will provide interpretive displays describing how the all-electric fire station building operates, the basics of how all-electric facilities reduce carbon emissions, and why that is important. The displays will be intended to be something available to all those passing through the area as well as something that can be used for school groups or other groups visiting the site.

The final component of the grant programming will be ongoing tours and meetings provided by the Fire Department to showcase the all-electric facility. It is estimated that the Fire Department may provide multiple tours each month to school groups as well as tours to builders and other agencies upon request. The park display area would be used as the meeting point to start and conclude tours.

In addition to the high pedestrian traffic in the area there is more than ample convenient parking for cars and busses in the adjacent public transportation parking lot. To support the tours the City would also develop a trifold brochure and webpage that could be used to provide additional information on the site to those visiting or who are interested.

4. Estimated reduction in methane gas use anticipated to result from the project.

In determining the estimated reduction in methane gas use, we evaluated a similar sized fire station within the City which currently utilizes natural gas for some of its energy related needs, including appliances and hvac systems. Over the recent one-year period its total usage natural gas usage was 472.99 therms or an average of 39.42 therms per month. As natural gas is made up of a mixture of four naturally occurring gases, one of which is methane, the actual methane gas in that usage would equate to approximately 70-90% of the total.

Beyond considering methane as a primary component of natural gas, methane must also be recognized as a potent greenhouse gas (GHG), which negatively affects the earth's climate system. Calculating the potential methane emissions created by the above noted natural gas therms, results in a potential release of 7.7099 pounds of methane into the atmosphere. A study conducted by the California Energy Commission in 2018 found that the average methane emissions from California Homes and Combustion Appliances was 34.6Gg or roughly 7.63 pounds which is in line with our calculation.

When considering the concept of reduction of methane gas, leaks from gas pipelines and distribution equipment and within the building itself, must also be factored into the equation along with actual usage. It is thought that these cumulative leakages will double the impact from natural gas combustion over a twenty-year horizon.

While methane from the natural gas system constitutes a smaller portion of the total human related GHG emissions, effective mitigation efforts are available to the vast majority through electrification efforts. According to the 2018 Integrated Energy Policy Report by the California Energy Commission, high rates of building

electrification were found to be one of the lower-cost and lower-risk pathways to achieving deep decarbonization of buildings in California.

* Natural Gas Methane Emissions from California Homes, California Energy Commission, August 2018

5. Project budget including total cost for the electrification project and source of other funds needed to complete the project. (See example at <https://svcleanenergy.box.com/s/3b2y1bnf38ethnq1fx87zwec1xh8mjy>)

Project budget under separate cover.

6. Project workplan and timeline.

The Project Workplan is outlined below:

March 2023	Complete Fire Station Design and Bid Project
June 2023	Fire Station Construction Commences
June 2023	Marketing and Communication for Fire Station All-Electric Facility Commences
	- Press Release on Grant and Project - Project Website Live - City communicates project via City Communication Channels
July 2023	Complete Park Plaza Demonstration Site Design
Complete Demonstration Site Displays Design	
March 2024	Construction of Park Plaza Improvements Commences
July 2024	Marketing and Communications for City's first All-Electric Facility Opening
	- Press Release - Website updated for tour coordination - City communicates project via City Communication Channels - Tri-fold brochure complete and available
August 2024	Fire Station Complete
Park Plaza Demonstration site Complete	Facility Tours Begin

7. Outreach and community education plan to share the project with the community in order to maximize its benefit as a demonstration site for community electrification. This plan should include approximate details on the intended signage, interpretive information, and/or hosted events that will be a part of the project.

The community outreach and education plan will occur in three phases, project commencement, pre-construction activities, and post-construction activities. While the long-term significant impact of the demonstration project will occur following the completion of the Fire Station and Demonstration Plaza, the initial phases will be important to share the benefits to the community sooner.

With the commencement of the project the City will utilize the opportunity to share the benefits of electrification with the community. A press release noting the partnership with SVCE and highlighting the construction of the City's first all- electric facility will be released. The City will use the Fire Department as the lead department highlighting the project, as it is believed that the community has a very high level of trust in its first responders which may lend enhanced interest and credibility to communication efforts. Creating an all-electric public safety facility will be an additional bonus in communicating the benefits of electrification. Prior to the press release going live, the City will create a webpage on its website to highlight the project. This webpage will serve as the basis of information for a media campaign conducted by the City. This campaign will utilize the City's social media and electronic media channels. Additionally, a sign highlighting the facility as an all-electric facility will be placed at the site on Butterfield Boulevard, which receives tens of thousands of cars traveling past it each day.

Following the project commencement communications, the City will enter into the pre-construction phase of outreach and communication. During this phase the City will provide regular communications regarding project construction. This will include updates to the webpage and City outreach using its media channels. During the construction of the building the City will take extra care to take pictures and document installation of the key all-electric components such as HVAC systems and water heating systems. In addition to project updates through this phase, the City will work to communicate through coordination with our local

environmental support groups including the high school age Morgan Hill Climate Action Team (MHCAT) and the climate action section of our local AAUW group. Working with these organizations will support additional outreach to the community. These groups will also be asked to provide feedback on the Demonstration Plaza display panels. During this phase the City will also develop the tour scheduling program for groups.

The final phase of communication will occur during the opening of the Fire Station and Demonstration Plaza. For this opening the City will be prepared with the completed demonstration panels and tri-fold brochures. The City will issue a press release with information on the opening of the Station, highlighting it as an all- electric facility. A ribbon cutting event will occur, which will include the ribbon cutting for the Demonstration Plaza as part of the ceremony. Ongoing communications will occur during the first year of operations. Long-term, tours will be available for years to come. Since fire station tours for school groups, scout groups, and others are normal, the Demonstration Plaza and Fire Station will provide for an ongoing system of communication and education. Additionally, the City would be committed to providing tours offered and coordinated by SVCE for other agencies.

8. Your organization's history of and demonstrated capacity to complete the project including history of community engagement and experience in administering grants.

The City of Morgan Hill has considerable experience with effective management of grant funded projects, including aspects related to implementation, reporting, and completion requirements. The management team complies with the City of Morgan Hill's Finance Department's Grant Policy and Procedure guidelines of 2018 and are subject to audit review as applicable.

Morgan Hill currently has an executed grant agreement with SVCE through its Community Grant Resilience Program. This project will design and install a new battery energy storage system, microgrid controller, and sufficient electrical infrastructure to provide utility demand charge reduction and backup power to the site in the case of an electrical grid outage at the City's Centennial Recreation Center. This project is currently making great progress towards completion, and the co-ordination with the SVCE grant project team has been very effective.

The City actively engages in numerous grant funding opportunities to support City resources and promote solutions for the various needs of our community. One very successful grant just completed was funded through the State of California Natural Resources Agency, Urban Greening Grant Program- Senate Bill (SB) 859- Greenhouse Gas Reduction Fund. This project added approximately 1.2 miles of Class 1 bicycle and pedestrian pathway along Butterfield Boulevard in Morgan Hill, with approximately 481 trees planted along the pathway. This newly installed bike pathway and associated tree planting demonstrates the City's goal to provide beneficial and functional assets within the community while promoting climate enhancements.

Other recent grant engagements would include the development of numerous pedestrian and bike trails and pathways within the City to promote not only environmental benefits, but public health, economic and transportation benefits, and recreational opportunities. Two recent grant-funded trailways would include the Madrone Channel Trail and the West Little Llagas Trail. Between these two efforts, the City is successfully managing eight different grant agreements to actualize these projects, which are both nearing completions.

Community Engagement is very important to the City of Morgan Hill as is indicated previously. We make every effort to keep the community informed using a variety of communications channels. In 2021, the City of Morgan Hill released a comprehensive Climate Action Plan (CAP). Development of the CAP goals and action items involved extensive community outreach and engagement. The City held a Community Meeting on the CAP as a kick-off to the outreach effort. Community members were invited to participate in a Working Group. Once formed, the Working Group had substantial involvement in developing the CAP over several months. In addition, a town hall meeting was dedicated to the CAP. City staff and members of the CAP Working Group established a roadmap for GHG reduction that can be implemented to secure a resilient future for the City of Morgan Hill. The development and creation of the CAP is an excellent example of a successful community engagement partnership, which provided for community inputs and discussions through a multitude of avenues.

These outreach efforts for the CAP are on-going, including posting of SVCE messaging and flex alerts to our Facebook pages. We also engage with the AAUW

Climate Education and Action committee (CEAC) on climate issues. Currently they are helping to engage the community around electrification in support of the goals of the City's Climate Action Plan.

9. Required Attachments:

- If working with a fiscal sponsor, your fiscal sponsor organization will need to provide:
 - o Letter of request authorizing your organization to apply to SVCE for the amount you are requesting (Separate Cover).

Project Budget Template

City of Morgan Hill- All-electric Fire Station Project

Line Item Description	SVCE Grant Funding	Other Funding*	Total Cost (Line B + C)
Electrical Design Elements			
Residential Equipment-All Electric			
GE 7.5 cu. ft capacity frontload dryer	\$ 991.44	\$ -	\$ 991.44
GE 4.5 DOE cu. ft capacity frontload washer	\$ 1,425.83	\$ -	\$ 1,425.83
Refrigerator with bottom freezer and factory installed icemaker (2)	\$ 7,427.60	\$ -	\$ 7,427.60
Icemaker	\$ 838.60	\$ -	\$ 838.60
Electric cooktop	\$ 4,252.90	\$ -	\$ 4,252.90
Dishwasher	\$ 1,365.58	\$ -	\$ 1,365.58
Range hood	\$ 1,218.69	\$ -	\$ 1,218.69
Plumbing	\$ -	\$ -	\$ -
Water Heater, Electric	\$ 8,300.00	\$ -	\$ 8,300.00
Heating, Ventilating & Air Conditioning	\$ -	\$ -	\$ -
HVAC System. (GSF)	\$ 362,500.00	\$ -	\$ 362,500.00
Electrical	\$ -	\$ -	\$ -
HVAC and equipment connections (GSF)	\$ 17,400.00	\$ -	\$ 17,400.00
Convenience Power (GSF)	\$ 55,100.00	\$ -	\$ 55,100.00
Marketing Materials			
Brochures-including design & printing	\$ -	\$ 10,000.00	\$ 10,000.00
Demonstration Plaza Site			
Tables (6)	\$ -	\$ 36,000.00	\$ 36,000.00
Shade Structure	\$ -	\$ 70,000.00	\$ 70,000.00
Display Boards/interpretive Signage-Including design, printing & construction	\$ -	\$ 20,000.00	\$ 20,000.00
Site Improvements	\$ 39,179.36	\$ 10,820.64	\$ 50,000.00
Totals	\$ 500,000.00	\$ 146,820.64	\$ 646,820.64

*Other Funding should match Project Funding Sources below.

Project Funding Sources

Please list all the sources of other funding below. The total of Other Funding Sources should match Total Other Funding Contribution above.

Source of Other Funding	Monetary	In-Kind \$ Value	Total Contribution of Funding from Other Sources (Line B + C)	Funding Secured (yes/no)
City of Morgan Hill	\$ 146,820.64	\$ -	\$ 146,820.64	Yes
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	

	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
Totals Other Funding Contributions	\$ 146,820.64	\$ -	\$ 146,820.64

SILICON VALLEY CLEAN ENERGY

DECARBONIZATION GRANT PROGRAM AGREEMENT

THIS AGREEMENT is made and effective as of _____, 2023 ("Effective Date"), by and between the SILICON VALLEY CLEAN ENERGY AUTHORITY ("SVCE"), an independent public agency, and **City of Morgan Hill** a municipal corporation ("Recipient"). In consideration of the covenants, conditions and undertakings set forth herein, the parties agree as follows:

1. RECITALS. This Agreement is made with respect to the following facts and purposes which each of the parties acknowledge and agree are true and correct:

A. SVCE's decarbonization grant program ("Program") will provide over \$1.5M in grants to member jurisdictions, public agencies, and community groups to plan and develop decarbonization demonstration and engagement projects.

B. Recipient submitted an application for Program funding, attached hereto and incorporated herein as Exhibit A, for a decarbonization demonstration or engagement project ("Project"). The scope and estimated budget for the Project are included in Exhibit A.

C. SVCE finds that the use of Grant Funds described herein furthers a public purpose and meets the goals and objectives established for the Program, and desires to award Recipient a one-time grant pursuant to the terms of this Agreement.

2. GRANT. SVCE hereby agrees to provide funding to Recipient in an amount not to exceed **\$95,748**, subject to the provisions of this Agreement ("Grant Funds"). Such Grant Funds shall be disbursed to Recipient on a reimbursement basis. It is agreed and understood that the Grant Amount is a ceiling and that SVCE will only reimburse the allowable cost of services actually rendered as authorized by SVCE at or below the Grant Amount established herein.

3. REIMBURSEMENT OF GRANT FUNDS. Grant Funds shall be reimbursed pursuant to the following process:

A. SVCE shall reimburse Recipient for its actual and reasonable costs of constructing the Project up to the agreed upon Grant Funds.

B. Requests for payment submitted to SVCE shall include: 1) an itemized list of all expenditures; and 2) supporting documentation that clearly identifies the expenditure(s) in relation to the scope of the Project set forth in Exhibit A of this Agreement. Payment requests should be aggregated and submitted no more often than once per month.

C. SVCE shall process requests for payment and remit payment within 30 days.

D. If, in SVCE's sole discretion, the request for payment is incomplete, inadequate, or inaccurate, SVCE may dispute the invoice for reasonable cause and hold all or a portion of the payment request until all required information is received or corrected. Any penalties imposed on the Recipient by a contractor, or other consequence, because of delays in payment or other breach of the agreement between the Recipient and the contractor are the responsibility of the Recipient and are not reimbursable under this Agreement.

E. Unless otherwise authorized by SVCE in writing, Recipient shall submit all documentation of Project completion, including a final request for payment, within sixty (60) days of Project completion.

F. Final payment of remaining Grant Funds, including any amounts withheld from previous payments, shall be paid up to the total amount of the actual Project cost, not to exceed the Grant Funds amount set forth in this Agreement, upon completion of the Project, receipt of the final report and final request for payment from the Recipient in a form and content satisfactory to SVCE.

4. USE OF GRANT FUNDS. Recipient shall use the Grant Funds to support the Program as set forth in Exhibit A. Any use(s) of Grant Funds not contemplated in this Agreement must be approved in writing by SVCE. This Agreement was awarded to Recipient based on the application submitted by Recipient with the intention that the awarded funds would be used to implement the Project as described in Exhibit A. Any substantive deviation during Project implementation may require reevaluation or result in loss of funding. In no event shall Recipient's Grant Funds or scope of work be increased. If Recipient knows or should have known that substantive changes to the Project will occur or have occurred, Recipient will immediately notify SVCE in writing. SVCE will then determine whether the Project is still consistent with the overall objectives of the Program and whether the changes would have negatively affected the Project ranking during the Grant evaluation process. SVCE reserves the right to have Grant Funds withheld from Recipient, or refunded to SVCE, due to Recipient's failure to satisfactorily complete the Project or due to substantive changes to the Project.

5. TERM. This Agreement shall commence on the Effective Date, and shall remain and continue in effect until the final Grant Funds are paid to Recipient, unless sooner terminated pursuant to the provisions of this Agreement. Projects must be complete no later than December 31, 2024.

6. REPORTING AND RECORDS. Recipient agrees to cooperate with SVCE and provide requested information, if any, related to the use of Grant Funds and the Project, including for the purposes of SVCE's evaluation, measurement, and verification activities for the Program. Recipient will cooperate in good faith with SVCE or its authorized representative in performing evaluation, measurement and verification (EM&V) of the Program. Information accessed for EM&V may include, but is not limited to, onsite verification of Project operation, Program compliance, and Project records, analysis of facility billing metered data, analysis of data collected from facility-owned submetering, and collection of supplementary metered data on-site. All information collected will be held confidentially and will be used by SVCE or its authorized representative for Program analysis purposes only. Recipient is responsible for ensuring, through a separate agreement between Recipient and property owner, that property owner shall cooperate with SVCE to provide any documentation and assist in analysis and provide access to the Project site at reasonable times, during the construction of the Project and for a period of up to two (2) years from the completion of the Project. During the course of the Project and for three (3) years thereafter from the receipt of the final Grant Funds, the Recipient agrees to maintain, intact and readily accessible, all communications, data, documents, reports, records, contracts, and supporting materials relating to the Project, as SVCE may require. The Recipient agrees to have financial and compliance audits performed as SVCE may require.

7. LEGAL RESPONSIBILITIES. Recipient shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance under this Agreement. Recipient shall at all times observe and comply with all such ordinances, laws and regulations. SVCE, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Recipient to comply with this Section.

8. PREVAILING WAGES. By accepting the Grant Funds, Recipient as a material term of this Agreement shall be fully responsible for complying with all California public works requirements including but not limited to payment of prevailing wage. Therefore, as a material term of this Agreement, to the extent required by California law, Recipient shall ensure that prevailing wages are paid, that the project budget for labor reflects these prevailing wage requirements, and that the project complies with all other requirements of prevailing wage law, including that Recipient's subcontractors also comply with all applicable public works/prevaling wage requirements.

9. PROCUREMENT. At minimum, Recipient shall solicit at least three bids and select the lowest bidder when procuring goods or services, where the costs are eligible for reimbursement under this Agreement. In the event the Recipient is required by statute or policy to solicit additional bids or follow a more stringent solicitation

process, Recipient shall follow such process. Recipient may also procure goods and services through California Government Code section 4217.10.

10. CALIFORNIA PUBLIC RECORDS ACT. Recipient acknowledges that SVCE is subject to the California Public Records Act (Gov. Code § 7920.000 *et seq.*). SVCE acknowledges that Recipient may submit information to SVCE that Recipient considers to be confidential, proprietary, or trade secret information. Only such information clearly designated in writing as “confidential” shall be deemed “Confidential Information.” Upon request or demand of any third person or entity (“Requestor”) for the production, inspection, and/or copying of Confidential Information, SVCE shall notify Recipient that such request has been made. Recipient shall be solely responsible for taking whatever legal steps are necessary to protect Confidential Information and to prevent its release to the Requestor. Without limiting SVCE’s right to disclose Confidential Information as may be required by law, if Recipient takes no such action after receiving the foregoing notice from SVCE, SVCE shall be permitted to release information it deems subject to disclosure.

11. NOTICES. Any notices provided under this Agreement must be in writing and may be given either by mail or e-mail to the following addresses:

SVCE: Silicon Valley Clean Energy Authority
333 W. El Camino Real #330
Sunnyvale, CA 94087
Attention: _____

RECIPIENT: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Christina Turner, City Manager

12. INDEPENDENT CONTRACTOR.

A. Recipient shall at all times remain as to the SVCE a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Recipient shall at all times be under Recipient's exclusive direction and control. Neither SVCE nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Recipient or any of Recipient's officers, employees, or agents except as set forth in this Agreement. Recipient shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the SVCE. Recipient shall not incur or have the power to incur any debt, obligation or liability whatever against SVCE, or bind SVCE in any manner.

B. No employee benefits shall be available to Recipient in connection with the performance of this Agreement. Except for the fees paid to Recipient as provided in the Agreement, SVCE shall not pay salaries, wages, or other compensation to Recipient for performing services hereunder for SVCE. SVCE shall not be liable for compensation or indemnification to Recipient for injury or sickness arising out of performing services hereunder.

13. INDEMNIFICATION. Recipient shall indemnify, protect, defend and hold harmless SVCE, its elected officials, officers, employees, volunteers, and representatives from any and all suits, claims, demands, losses, defense costs or expenses, actions, liability or damages of whatsoever kind and nature which SVCE, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Recipient’s acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement.

14. INSURANCE.

A. On or before the commencement of the term of this Agreement, Recipient shall furnish SVCE with certificates showing the type, amount, class of operations covered, effective dates, and dates of expiration of insurance coverage in compliance with the requirements in this Section. Recipient shall maintain such coverage in full force at all times for the duration of this Agreement, at its sole cost and expense. Nothing herein shall be construed as a limitation on Recipient indemnification obligations under this Agreement.

B. Recipient shall maintain the following minimum insurance coverages:

- 1) Workers' compensation, as required by the State of California;
- 2) Commercial general liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage. ISO occurrence Form CG 0001 or equivalent is required;
- 3) Comprehensive automotive liability coverage with minimum limits of \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.

C. Such coverages shall be issued by an insurer(s) licensed to conduct business in the State of California, with a minimum A.M. Best's Insurance Rating of A:VII unless otherwise approved in writing as satisfactory to SVCE. The Recipient may satisfy its obligations under this Section through self-insurance.

D. The insurance limits required by SVCE are not represented as being sufficient to protect Consultant. Recipient is advised to confer with its insurance broker to determine adequate coverage for Recipient.

15. DEFAULT AND TERMINATION. Should an Event of Default occur, SVCE shall provide a notice of default to Recipient and shall give Recipient at least fifteen (15) calendar days from the date the notice is sent to cure the Event of Default. If Recipient fails to cure the Event of Default within the time prescribed, SVCE may, at SVCE's sole discretion, withhold Grant Funds not yet disbursed hereunder, require the return or repayment of Grant Funds already disbursed, and/or terminate this Agreement by written notice which shall be effective upon receipt by Recipient. "Event of Default" shall mean the occurrence of any one or more of the following events by Recipient: (a) any false statement, representation, or warranty contained in this Agreement, the Application, or any other document submitted to SVCE; (b) failure to comply with applicable laws; (c) a failure to maintain in effect any policy of insurance required under this Agreement; or (d) a material breach of this Agreement.

16. NON-APPROPRIATION. Recipient acknowledges that SVCE is a public agency. In the event that sufficient funds for the performance of this Agreement are not appropriated by the SVCE Board of Directors in any fiscal year covered by this Agreement, this Agreement may be terminated by SVCE, without penalty, by giving notice to Recipient of such facts and of SVCE's intention to terminate.

17. NON-WAIVER. Failure to exercise any right the SVCE may have or be entitled to, in the event of default hereunder, shall not constitute a waiver of such right or any other right in the event of a subsequent default.

18. AMENDMENT OF AGREEMENT. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by the Recipient and the SVCE.

19. ASSIGNMENT PROHIBITED. In no event shall the Recipient assign or transfer any portion of this Agreement.

20. GOVERNING LAW. This Agreement shall be governed by the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of Santa Clara, State of California.

21. NO THIRD-PARTY BENEFIT. The provisions of this Agreement are for the sole benefit of the parties hereto and confer no rights, benefits, or claims upon any person or entity not a party hereto.

22. SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

23. RECIPIENT'S AUTHORITY. Recipient represents and warrants that (a) it has the power and authority to enter into this Agreement and to perform its obligations hereunder; (b) the person who executes this Agreement on its behalf has the necessary authority to bind Recipient; and (c) neither the execution and delivery of this Agreement nor the performance of its obligations hereunder will constitute a violation of, a default under, or conflict with any term of any governance documents or other agreements to which it is bound.

24. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. Faxed and PDF counterpart signatures are sufficient to make this Agreement effective.

25. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

26. COMMUNICATIONS AND ENGAGEMENT. Recipient agrees that SVCE may use and publicize information and visual materials (photos, videos, etc.) related to this project, including (but not limited to) information and visual materials provided in this application, updates, or follow-up information. Recipient will coordinate in good faith with SVCE on follow-up activities, such as interviews, outreach coordination, photo or video shoots, requests for additional information, and the design of educational materials and signage related to the project. Recipient will work with SVCE to schedule all coordination and activities within a determined and mutually agreed-upon time frame and understand that refusal or failure to collaborate on marketing and outreach may result in termination of the funding.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

SILICON VALLEY CLEAN ENERGY AUTHORITY

Girish Balachandran, Chief Executive Officer

APPROVED AS TO FORM:

Trisha Ortiz, General Counsel

[RECIPIENT]

By: _____

Name: Christina Turner

Title: City Manager

By: _____

Name:

Title:

[*Note: Signatures of two corporate officers are required for corporations – First signature must be one of the following: 1) the chairman of the board; 2) the president; or 3) any vice president. The second corporate signature must be one of the following: 1) the secretary; 2) any assistant secretary; 3) the chief financial officer; or 4) any assistant treasurer. Signature of City Manager is required for cities.]

EXHIBIT A

[attach Application]



17
Morgan Hill, CA 95037-4128

TEL: (408) 778-6480
FAX: (408) 779-7236
www.morganhill.ca.gov

November 4, 2022

Silicon Valley Clean Energy 333
W. El Camino Real, #330
Sunnyvale, CA 94087

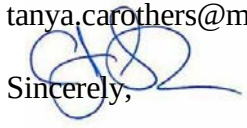
RE: Community Decarbonization Engagement Grant To:

Silicon Valley Clean Agency Grant Coordinator

The City of Morgan Hill is seeking funding through the Community Decarbonization Engagement Grant Program to assist with the implementation of the City of Morgan Hill's Climate Action Plan (CAP). We feel that this project is an excellent fit for this grant opportunity with its primary intention of providing meaningful engagement with the community surrounding climate change. The total cost of the project is projected to be approximately \$95,748 and the City is requesting consideration of this total amount in grant funding.

The City of Morgan Hill has a key central goal of reducing GHG emissions and reaching carbon neutrality by 2045 and is committed to reaching this goal through a number of sub-goals, action items, and planning efforts as identified in the Morgan Hill 2021 Climate Action Plan (CAP). With the assistance of this grant funding, the City would be well-poised to move forward with the implementation of the outreach, education, and engagement components as outlined in the CAP. Under the messaging umbrella of *Morgan Hill, for a Fossil Free Future*, the benefits and methods to achieve decarbonization would be communicated to our community through a multitude of activities including the implementation of Clean Air Week, partnering with existing campaigns and community groups, webinars, event participation, surveys, social media, etc. The ultimate goal of the project, through engagement with the community, would be to generate discussion, interest, and presence around the topics of decarbonization and climate change.

We are very excited by the opportunities created by this grant and thank you for considering our application. If you desire additional information, please do not hesitate to contact Tanya Carothers at (408) 763-5200 or tanya.carothers@morganhill.ca.gov.


Sincerely,

Christina Turner
City Manager

CITY OF MORGAN HILL

Application For Submittal

1. Legal name of organization, address of local office(s), and email and phone number for your main point of contact.

- City of Morgan Hill
- 17575 Peak Avenue, Morgan Hill, CA 95037
- Chris Ghione, Public Services Director
- Chris.ghione@morganhill.ca.gov
- (408) 782-9154

2. One paragraph summary of proposal with amount requested.

The City of Morgan Hill is requesting funding for implementation of the Climate Action Plan (CAP) Outreach and Engagement Project (Project). Currently, the City lacks resources to engage significantly in a meaningful way with the community around climate change. The Project would enable the City to implement the public outreach and engagement component of its recently adopted CAP (December, 2021) which concentrates on reduction of greenhouse gas emissions (GHGs) through the building and transportation sectors. The CAP includes a menu of outreach, education and engagement activities directly focused on decarbonization including establishment and implementation of Clean Air Week, partnering with existing campaigns and community groups, webinars, event participation, surveys, social media, etc. The Project will include these items as deliverables over the course of the two-year grant. The Project messaging will be *Morgan Hill, for a Fossil Free Future*. The ultimate goal of the project will be to engage with the community to generate discussion, interest and presence around the topics of decarbonization and climate change. The Project will seek opportunities to engage with under-resourced populations when possible, for equitable outreach and distribution of resources.

The City of Morgan Hill is requesting \$95,748 to implement the CAP Outreach and Engagement Project.

3. Full description of the community engagement project.

Success of the CAP Community Outreach and Engagement Project will be measured using an Outreach and Engagement Database that: 1) shows social media post data (e.g. reaches, likes, etc.); 2) tracks numbers of participants at outreach engagements and events; and 3) tracks the number of educational materials given away at each outreach engagement or event. The Project will be administered with oversight from the Environmental Programs Administrator and monitored by following the Work Plan and Timeline shown below under question #5.

The project will include the following components:

Booth Events – *Measured by number of events attended by staff, minimum four per year.*

- 1) Conduct CAP outreach and engagement at no less than four local booth events per year for the duration of the grant term (2 years) including Earth Day, Art a la Carte, National Night Out, and one (or more) additional booths to be determined.

Loaner Induction Stove Program – *Measured by tracking number of participants.*

- 1) Purchase Induction Stoves
- 2) Research programs in other jurisdictions
- 3) Launch a loaner induction program with programming

Outreach Materials and Campaign– *Measured by tracking materials disseminated.*

- 1) Research, design and print CAP outreach materials brochures and flyers for dissemination at community events. Promote *Morgan Hill, for a Fossil Free Future*. Translate key materials into Spanish.
- 2) Purchase giveaways that promote *Morgan Hill, for a Fossil Free Future*.
- 3) Implement an outreach campaign that includes social media, newsletters, publications, etc. to educate about decarbonization.
- 4) Design and disseminate resources to property owners including lists of contractors, rebate information, and alternative appliance options.

Community Support – *Measured by tracking participant numbers.*

- 1) Create new opportunities for meaningful community engagement through staff availability at community meetings, events, in classrooms, etc.

Surveys and Research – *Measured by tracking improvements to the program based on research and survey findings.*

- 2) Identify barriers to electrification in the community through surveys, research, and partnering with community and/or regional groups. Adjust outreach and engagement strategies and messaging to address barriers over the course of the grant term.
- 3) Complete two (2) surveys during the grant term.

Clean Air Week – *Measured by tracking participation to the extent possible.*

- 1) Plan and implement Clean Air Week which could consist of, but is not limited to:
 - EV car showcase
 - Electric landscaping alternative displays and demonstrations
 - Vehicle idling reduction promotion in congested areas
 - Outreach regarding bike lane updates and maps
 - Induction cooking display and demonstration
 - Other outreach methods to encourage building decarbonization and electric vehicles
4. Project budget including total cost for the electrification project and source of other funds needed to complete the project. (See example at <https://svcleanenergy.box.com/s/3b2y1bnf38ethnq1fx87zwec1xh8mjjy>)

The total cost of the project at the scope proposed is \$95,748. Please see the attached budget worksheet for a detailed breakdown of the budget proposed.

5. Project workplan and timeline.

The Project would last two years beginning in January 2023 and ending December 2024. The Work Plan and Estimated Timeline are presented below - note that timeline is approximate and may not be exact. All deliverables and work listed will be completed.

Work Plan and Timeline for the Morgan Hill Climate Action Plan Outreach and Engagement Project		
	YEAR 1 - 2023	YEAR 2 - 2024
January	- Recruit and hire a Part Time Teammate to implement the project - Start researching outreach methods, resources, and community barriers to decarbonization - Research and engage with existing community groups, local and regional. - Research equitable decarbonization	- Revise outreach materials and engagement methods based on Electrification Survey results from end of 2023 and lessons learned so far in the program. - Update City CAP website - Update handouts and other outreach materials - Ongoing outreach and engagement with community groups - Manage Induction Stove Loaner Program
February	- Research contractors, rebates, and alternative compliance options for property owners. Compile information into handout for outreach events, and for posting to City website - Update City CAP Website with community resources for electrification and outreach messaging (<i>for a Fossil Free Future</i>) - Design outreach flyers/brochures for dissemination at community events, utilize research findings from beginning of year - Have key outreach materials translated into Spanish - Research first year of CAP community giveaways - Write a Social Media Plan for Year 1 Posts - Ongoing outreach and engagement with community groups	- Research and purchase second year of CAP community giveaways - Write a Social Media Plan for Year 2 posts. - Ongoing outreach and engagement with community groups - Manage Induction Stove Loaner Program
March	- Research and purchase first year of CAP community giveaways - Finish design and printing of outreach flyers/brochures for dissemination at community events	Work with Community Engagement Specialist on a Year 2 Electrification Campaign for implementation in the spring including design of a Social Media Plan, posters, and flyers.

	• Start preparing materials and activities for April booth events • Ongoing outreach and engagement with community groups	• Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
April	• Booth Event preparation • Booth Event #1: Earth Day • Booth Event #2: Art A La Carte • Work with Community Engagement Specialist on a Year 1 Electrification Campaign for implementation in the summer including design of a Social Media Plan, posters, and flyers • Research Induction Stoves, design Induction Stove Loaner Program • Ongoing outreach and engagement with community groups	• Booth Event preparation • Booth Event #1: Earth Day • Booth Event #2: Art A La Carte • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
May	• Finalize Induction Stove Loaner Program • Finish planning for Year 1 Electrification Campaign. • Ongoing outreach and engagement with community groups	• Finish planning for Year 2 Electrification Campaign • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
June	• Roll out Induction Stove Loaner Program • Implement Year 1 Electrification Campaign • Ongoing outreach and engagement with community groups	• Implement Year 2 Electrification Campaign • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
July	• Plan for Clean Air Week • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Plan for Clean Air Week • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
August	• Clean Air Week planning • Booth Event #3: National Night Out • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Clean Air Week planning • Booth Event #3: National Night Out • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
September	• Clean Air Week planning	• Clean Air Week planning

	• Design first year Survey via Utility Bill inserts • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Design second year Survey via Utility Bill inserts • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
October	• Implement Clean Air Week in alignment with Clean Air Day • Finish designing first year Survey via Utility Bill inserts, and send out to community • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Implement Clean Air Week in alignment with Clean Air Day • Finish designing second year Survey via Utility Bill inserts, and send out to community • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
November	• Compile takeaways and lessons learned from Clean Air Week • Research opportunities to encourage direct access customers (those businesses that independently procure electricity) to switch to carbon-free power. Post resources/findings to City Website. • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Compile takeaways and lessons learned from Clean Air Week • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program
December	• Input first year Survey results into SurveyMonkey and compile analytics • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program	• Input second year Survey results into SurveyMonkey and compile analytics • Ongoing outreach and engagement with community groups • Manage Induction Stove Loaner Program

6. Your organization's history of and demonstrated capacity to complete the project including history of community engagement and experience in administering grants.

The City of Morgan Hill has considerable experience with effective management of grant funded projects, including aspects related to implementation, reporting,

and completion requirements. The management team complies with the City of Morgan Hill's Finance Department's Grant Policy and Procedure guidelines of 2018 and are subject to audit review as applicable.

Morgan Hill currently has an executed grant agreement with SVCE through its Community Grant Resilience Program. This project will design and install a new battery energy storage system, microgrid controller, and sufficient electrical infrastructure to provide utility demand charge reduction and backup power to the site in the case of an electrical grid outage at the City's Centennial Recreation Center. This project is currently making great progress towards completion, and the co-ordination with the SVCE grant project team has been very effective.

The City actively engages in numerous grant funding opportunities to support City resources and promote solutions for the various needs of our community. One very successful grant just completed was funded through the State of California Natural Resources Agency, Urban Greening Grant Program- Senate Bill (SB) 859- Greenhouse Gas Reduction Fund. This project added approximately 1.2 miles of Class 1 bicycle and pedestrian pathway along Butterfield Boulevard in Morgan Hill, with approximately 481 trees planted along the pathway. This newly installed bike pathway and associated tree planting demonstrates the City's goal to provide beneficial and functional assets within the community while promoting climate enhancements.

Other recent grant engagements would include the development of numerous pedestrian and bike trails and pathways within the City to promote not only environmental benefits, but public health, economic and transportation benefits, and recreational opportunities. Two recent grant-funded trailways would include the Madrone Channel Trail and the West Little Llagas Trail. Between these two efforts, the City is successfully managing eight different grant agreements to actualize these projects, which are both nearing completions.

Community Engagement is very important to the City of Morgan Hill. We make every effort to keep the community informed using a variety of communications channels. In 2021, the City of Morgan Hill released a comprehensive Climate Action Plan (CAP). Development of the CAP goals and action items involved extensive community outreach and engagement. The City held a Community Meeting on the CAP as a kick-off to the outreach effort. Community members

were invited to participate in a Working Group. Once formed, the Working Group had substantial involvement in developing the CAP over several months. In addition, a town hall meeting was dedicated to the CAP. City staff and members of the CAP Working Group established a roadmap for GHG reduction that can be implemented to secure a resilient future for the City of Morgan Hill. The development and creation of the CAP is an excellent example of a successful community engagement partnership, which provided for community inputs and discussions through a multitude of avenues.

These outreach efforts for the CAP are on-going, including posting of SVCE messaging and flex alerts to our Facebook pages. We also engage with the AAUW Climate Education and Action committee (CEAC) on climate issues. Currently they are helping to engage the community around electrification in support of the goals of the City's Climate Action Plan.

Project Budget Template - CAP Outreach and Engagement Project

Line Item Description	SVCE Grant Funding	Other Funding*	Total Cost (Line B + C)
Part Time Environmental Tech for two years	\$ 62,370.00	\$ -	\$ 62,370.00
Env. Services Administrator @ 5% for two years	\$ 20,378.00	\$ -	\$ 20,378.00
Fossil Free Future - Outreach Event Giveaways and Booth Supplies (\$3000/year)	\$ 6,000.00	\$ -	\$ 6,000.00
Informational Bruchures, Flyers, Posters Etc. for Two Electrification Outreach Campaigns and General Outreach Materials	\$ 1,000.00	\$ -	\$ 1,000.00
Induction Cooktop Loaner Program - Stove Purchases + Accessories and Programming (e.g. cases, demo supplies, etc.),	\$ 1,000.00	\$ -	\$ 1,000.00
Utility Bill Inserts for Electrification Surveys - twice in Grant term	\$ 3,000.00	\$ -	\$ 3,000.00
Clean Air Week - 2 Events	\$ 2,000.00	\$ -	\$ 2,000.00
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -
Totals	\$ 95,748.00	\$ -	\$ 95,748.00

*Other Funding should match Project Funding Sources below.

Project Funding Sources

Please list all the sources of other funding below. The total of Other Funding Sources should match Total Other Funding Contribution above.

Source of Other Funding	Monetary	In-Kind \$ Value	Total Contribution of Funding from Other Sources (Line B + C)	Funding Secured (yes/no)
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	

	\$	-	\$	-	\$	-
Totals Other Funding Contributions	\$	-	\$	-	\$	-

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

ACCEPTANCE OF EAST DUNNE REHABILITATION PROJECT IN THE AMOUNT OF \$2,090,840

RECOMMENDATION(S)

1. Accept as complete the East Dunne Rehabilitation Project;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

2022-2023 Strategic Priorities

Transportation

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

On April 20, 2022, the East Dunne Rehabilitation Project was awarded to A. Teichert & Son DBA Teichert Construction in the amount of \$2,153,195 with an authorized contingency of \$430,639. The project included pavement rehabilitation along East Dunne Avenue between Lower Thomas Grade Road to the easterly City limit (See Attachment 1).

The East Dunne Avenue Rehabilitation Project was programmed by the Federal Highway Administration (FHWA) and CALTRANS to receive \$857,000 in federal funding through the One Bay Area Grant Program (OBAG 2). The City is required to follow the procedures and guidelines from the Caltrans Local Assistance Procedure Manual (LAPM) that include but are not limited to: civil rights and disadvantaged business enterprises; advertisement and award of the project; construction contract administration and inspection; and project completion. Additionally, the City is required to maintain project records to support the adequacy of field supervision, inspection and

testing; conformance to contract specifications; and payments to the contractor. The project's files may be reviewed by Caltrans Construction Oversight Engineers throughout construction for compliance with federal and state requirements. Staff will work with CALTRANS to provide all necessary documentation for full reimbursement for this project.

The project's scope of work included the following: pavement milling, pavement rehabilitation, hot mix asphalt concrete pavement, replacement of existing traffic striping and legends, and utility adjustments. The project began on July 5, 2022 and was substantially completed by February 1, 2023. Three change orders were authorized with a final deduction of \$62,355 for the project (Attachment 2). The final construction contract with Teichert Construction is \$2,090,840.

Staff recommends the acceptance of this project as it is complete in accordance with the plans and specifications and directs the City Clerk to file the Notice of Completion (Attachment 3).

COMMUNITY ENGAGEMENT:

Inform

Prior to and during construction, City staff coordinated construction activities and roadway closures through citywide emails, social media posts, and the City's website. Regular updates were made to inform the community of traffic impacts caused by the construction of this project. The contractor provided written notification to affected residents and/or businesses through mail in advance of commencement of work.

ALTERNATIVE ACTIONS:

Accepting the project in accordance with the contract documents is a required process and enables the City to release any retained funds owed to the contractor per California Public Contract Code Section 7107.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- On April 4, 2018, the City Council approved a resolution of local support for this specific project and authorized the filing of the grant application.
- On April 3, 2019, City Council approved a funding agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Local Streets and Roads Program.
- On June 17, 2020, the City Council adopted the FY 2020-21 through 2025-26 Capital Improvement Project.
- On October 20, 2021, the City Council approved CALTRANS Disadvantaged Business Enterprise (DBE) Implementation Agreement in association with the East Dunne Pavement Rehabilitation Project.
- On March 2, 2022, the City Council received an update regarding pavement rehabilitation planning for calendar years 2021 through 2024.

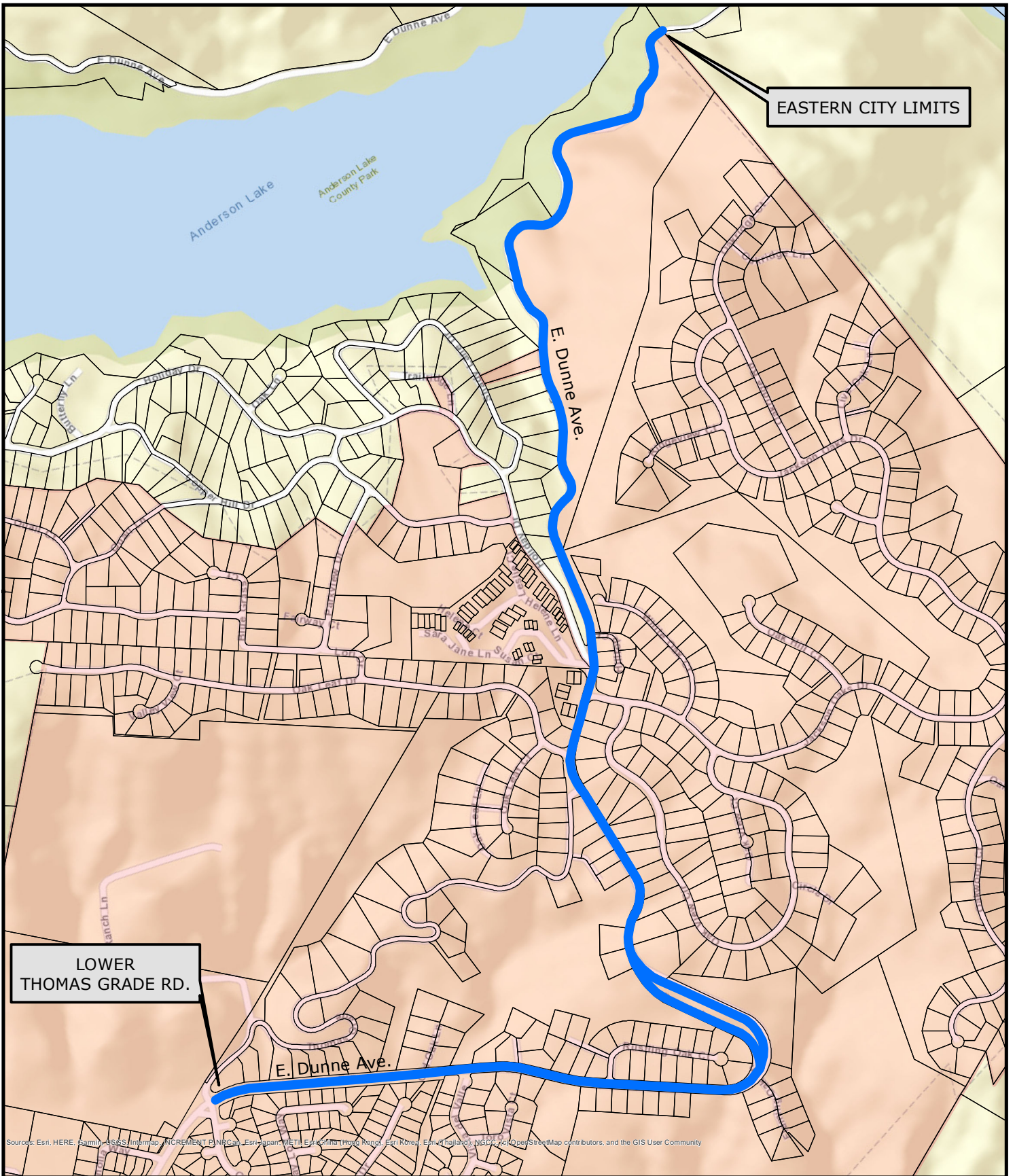
- On April 20, 2022, the City Council awarded East Dunne Avenue Rehabilitation Project to A. Teichert & Son, Inc. DBA Teichert Construction.

FISCAL AND RESOURCE IMPACT:

The final contract amount for the East Dunne Rehabilitation Project is \$2,090,840 (including three change orders in the amount of -\$62,355.42). The project was awarded to A. Teichert & Son, Inc. DBA Teichert Construction in the amount of \$2,153,195 with an authorized contingency of \$430,639 (Total of \$2,583,834). This project is funded in the adopted Capital Improvement Program budget, under Project #519000 - Pavement Rehabilitation, funded by the Street CIP Fund (308). The balance of \$492,994 will be returned to the Street CIP Fund (308).

CEQA (California Environmental Quality Act):**Categorical Exemption**

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject work involves the repair, maintenance, or minor alteration of existing City facilities involving negligible or no expansion of use of those facilities.

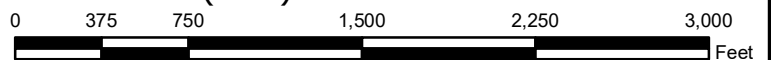


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Esri Korea, Esri (Thailand), NGIS, IGN, CNIG, OpenStreetMap contributors, and the GIS User Community



Engineering and Utilities Division
Capital Improvement Program

PROJECT MAP EAST DUNNE AVENUE REHABILITATION PROJECT STPL-5152(022)



CIP Contract Acceptance Funding Closeout Statement

Project:	East Dunne Rehabilitation Project		
Project No:	519000		
Date of Project Award:	20-Apr-22	Project Award Amount:	
Funding Source:	F308	Contingency Authorized:	
Date of Project Acceptance:	1-Mar-23	Total Authorized:	
		Actual Base Contract Spent:	

Change Orders			
	Description	Date	Council Approval Req'd? (Y/N)
C.O. #1:	Change from 2" overlay to 3" Mill and Fill (Station 35+50 to 68+66)	15-Jun-22	N
C.O. #2:	Add 2 rumble strips in place of bot dots and add 4 arrows	10-Oct-22	N
C.O. #3:	Overage and Underage on Overall Project	31-Jan-23	N
			Total C.O.:

Additional Appropriations		
Source	Amount	Date
None		

Construction Fund Balance:	\$492,994.42	Total Construction Amount (Base Contract plus CO's):
----------------------------	--------------	--

\$2,153,195
\$430,639
\$2,583,834
\$2,153,195

\$232,437.60
\$10,050.00
-\$304,843.02
-\$62,355.42

\$2,090,839.58

Recording Requested By:

When Recorded Mail To:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

Civil Code §§ 8182, 8184, 9204, and 9208

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the Owner or agent of the Project described below.
2. Owner's full name is City of Morgan Hill.
3. Owner's address is 17575 Peak Avenue, Morgan Hill, CA 95037.
4. The nature of Owner's interest in the Project is:
XX Fee ownership ___ Lessee ___ Other:
5. Construction work on the Project performed on Owner's behalf is generally described as follows: Pavement Rehabilitation within City of Morgan Hill
6. The name of the original Contractor for the Project is: Teichert Construction
7. The Project was completed on: February 1, 2023
8. The Project is located at: East Dunne Avenue from City Limits to Lower Thomas Grade Road

Verification: In signing this document, I, the undersigned, declare under penalty of perjury under the laws of the State of California that I have read this notice, and I know and understand the contents of this notice, and that the facts stated in this notice are true and correct.

Date and Place

Signature

Scott Creer, City Engineer

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

ACCEPT 2022 PAVEMENT REHABILITATION PROJECT IN THE AMOUNT OF \$4,001,888

RECOMMENDATION(S)

1. Accept as complete the 2022 Pavement Rehabilitation Project;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

2022-2023 Strategic Priorities

Fiscal Sustainability

Transportation

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

On June 1, 2022, the 2022 Pavement Rehabilitation Project was awarded to A. Teichert & Son, Inc. DBA Teichert Construction in the amount of \$3,879,053 with an authorized contingency of \$387,906. The project included pavement rehabilitation at the following locations (Vicinity Map 1, 2, 3):

- Murphy Avenue (San Pedro Avenue to Barrett Avenue)
- Hill Road (East Dunne Avenue to Barrett Avenue)
- Condit Road (San Pedro Avenue to Barrett Avenue)
- East Dunne Avenue (Hill Road to Thomas Grade Road)
- Jackson Oaks Drive
- White Oak Court
- Oak Hill Court
- Oak Wood Court

- Oak Canyon Drive
- Live Oak Court
- Oakridge Court
- Ridgeview Court
- Rustling Oak Court (Rustling Oak Lane not included)
- Church Street (Approximately 231' North of San Pedro Avenue to Tennant Avenue)
- Mast Street (Vineyard Boulevard to Church Street)
- Vineyard Boulevard (Tennant Avenue to Mast Street)
- West Main Avenue (DeWitt Avenue to John Telfer Drive)
- Via Grande Court
- Hidalgo Court
- La Giralda Court
- Thomas Grade
- Jackson Oaks Court
- El Toro Court
- Lindo Lane

The project's scope of work included the following: pavement milling, pavement rehabilitation, hot mix asphalt concrete overlay, full-depth asphalt concrete repairs, crack sealing, replacement of existing traffic striping and legends, utility cover adjustments, traffic signal loop detector replacement, etc. During construction, additional pavement rehabilitation work was added to the project on Hill Road between San Pedro Avenue and Barrett Avenue. The project began on July 5, 2022 and was substantially completed by November 18, 2022. Four change orders were authorized in the amount of \$122,835.34 (Attachment 2). The final construction contract with Teichert Construction is \$4,001,888.34.

While repaving Lindo Lane, a section of unstable subgrade was encountered between Del Monte Avenue and El Toro Court. As a result, the new pavement section was affected and will need to be addressed in the future.

Staff recommends accepting this project as it is complete in accordance with the plans and specifications and directing the City Clerk to file the Notice of Completion (Attachment 3).

COMMUNITY ENGAGEMENT:

Inform

Prior to and during construction, City staff coordinated construction activities and roadway closures through citywide emails, social media posts, and the City's website. Regular updates were made to inform the community of traffic impacts caused by the construction of this project. Additionally, the contractor provided written notification to residents and/or businesses that were directly affected by the construction of this project in advance of commencement of work.

ALTERNATIVE ACTIONS:

Accepting the project in accordance with the contract documents is a required process and enables the City to release any retained funds owed to the contractor per California Public Contract Code Section 7107.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- * On June 17, 2020, the City Council adopted the FY2020-21 through 2025-26 Capital Improvement Project.
- * On March 2, 2022, the City Council received an update regarding pavement rehabilitation planning for calendar year 2021 through 2024.
- * On April 20, 2022, the City Council awarded the partially federal grant funded East Dunne Pavement Rehabilitation Project to Teichert Construction.
- * On June 1, 2022, the City Council awarded the 2022 Pavement Rehabilitation project to Teichert Construction.

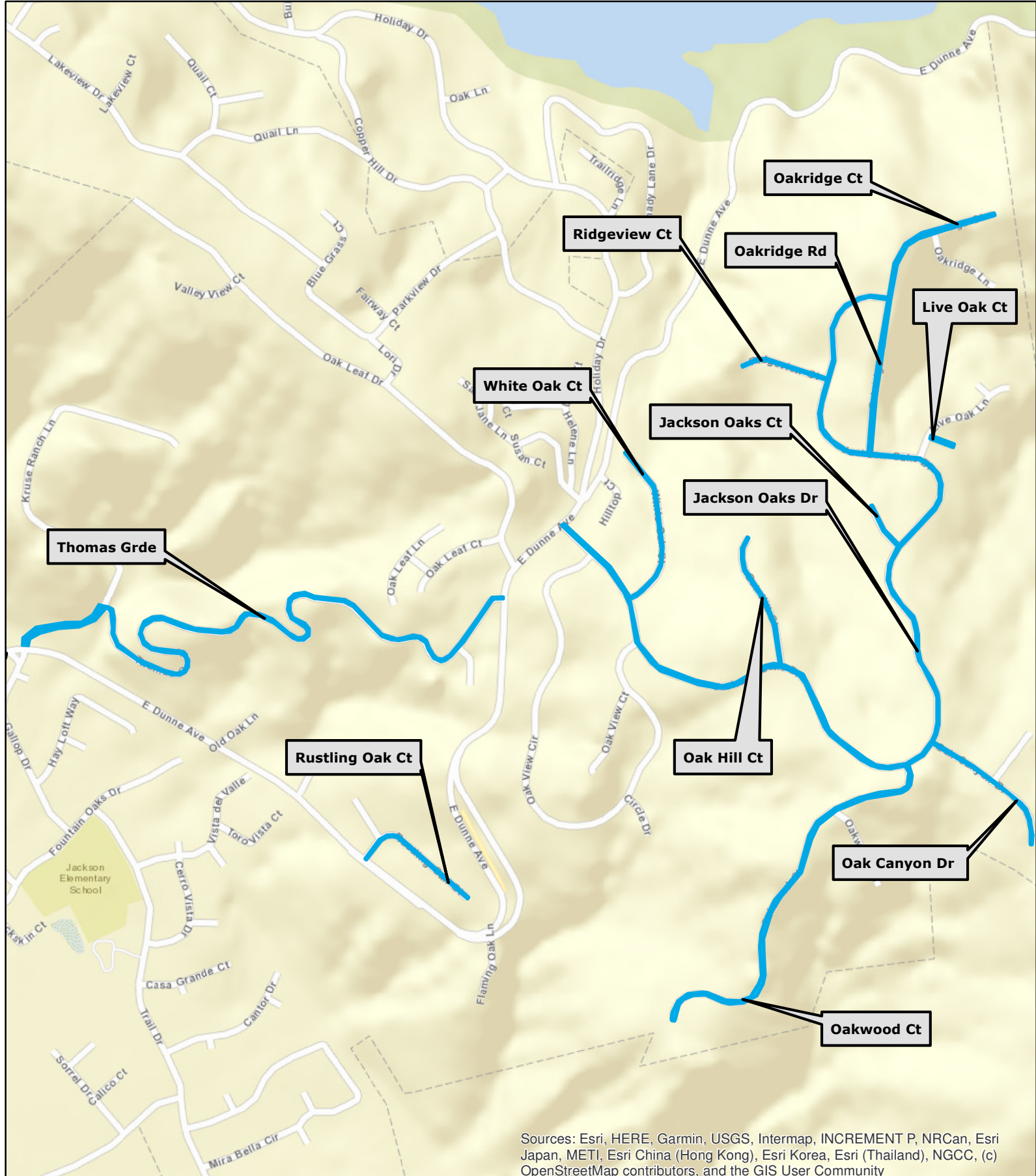
FISCAL AND RESOURCE IMPACT:

The final contract amount for the 2022 Pavement Rehabilitation Project is \$4,001,888.34 (Including four change orders in the amount of \$122,835.34). The project was awarded to A. Teichert & Son, Inc. DBA Teichert Construction in the amount of \$3,879,053 with an authorized contingency of \$387,906 (Total of \$4,266,959). This project is funded in the adopted Capital Improvement Program budget, under Project #519000 - Pavement Rehabilitation, funded by the Street CIP Fund (308). The balance of \$265,070.66 will be returned to the Street CIP Fund (308).

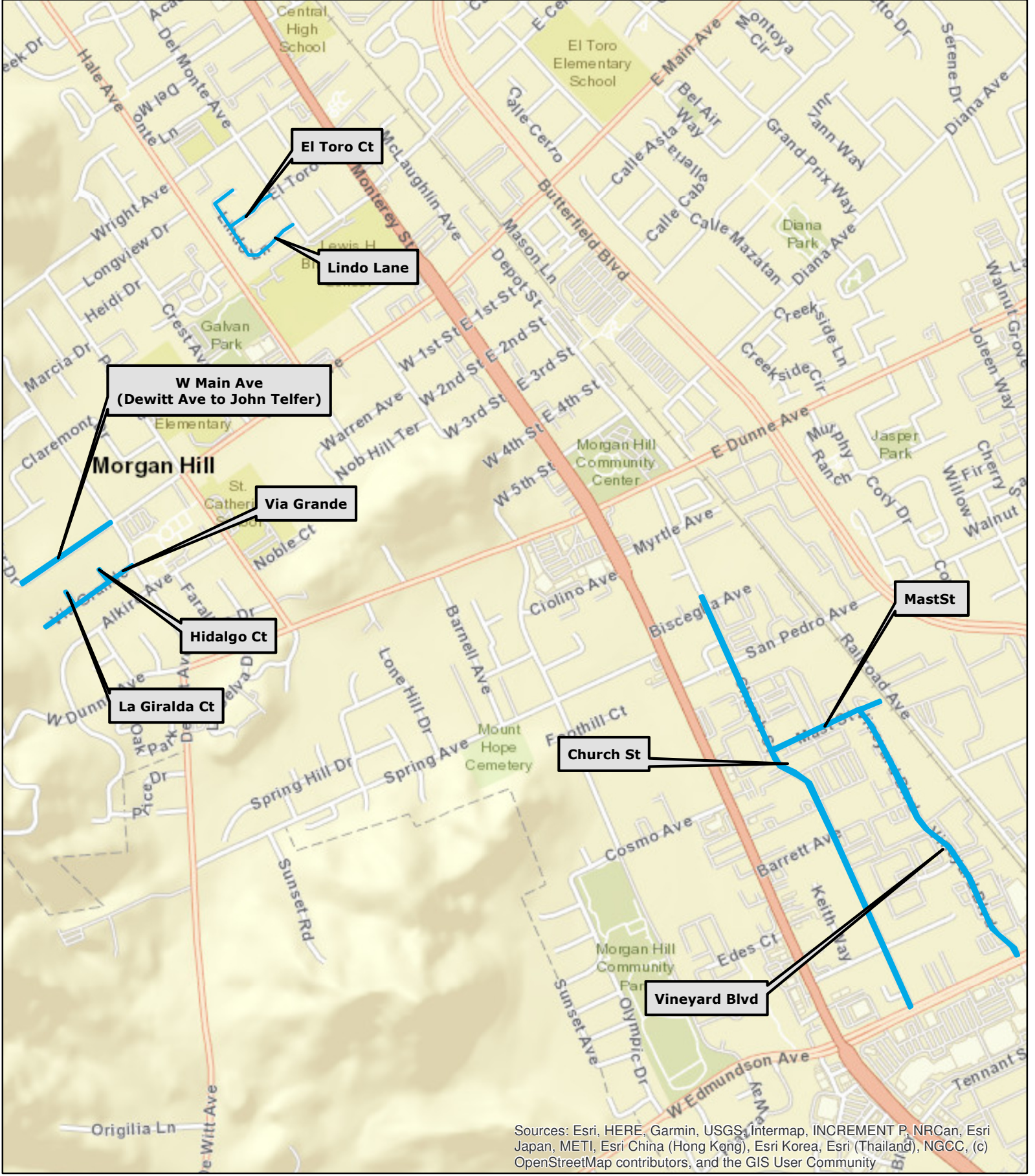
CEQA (California Environmental Quality Act):

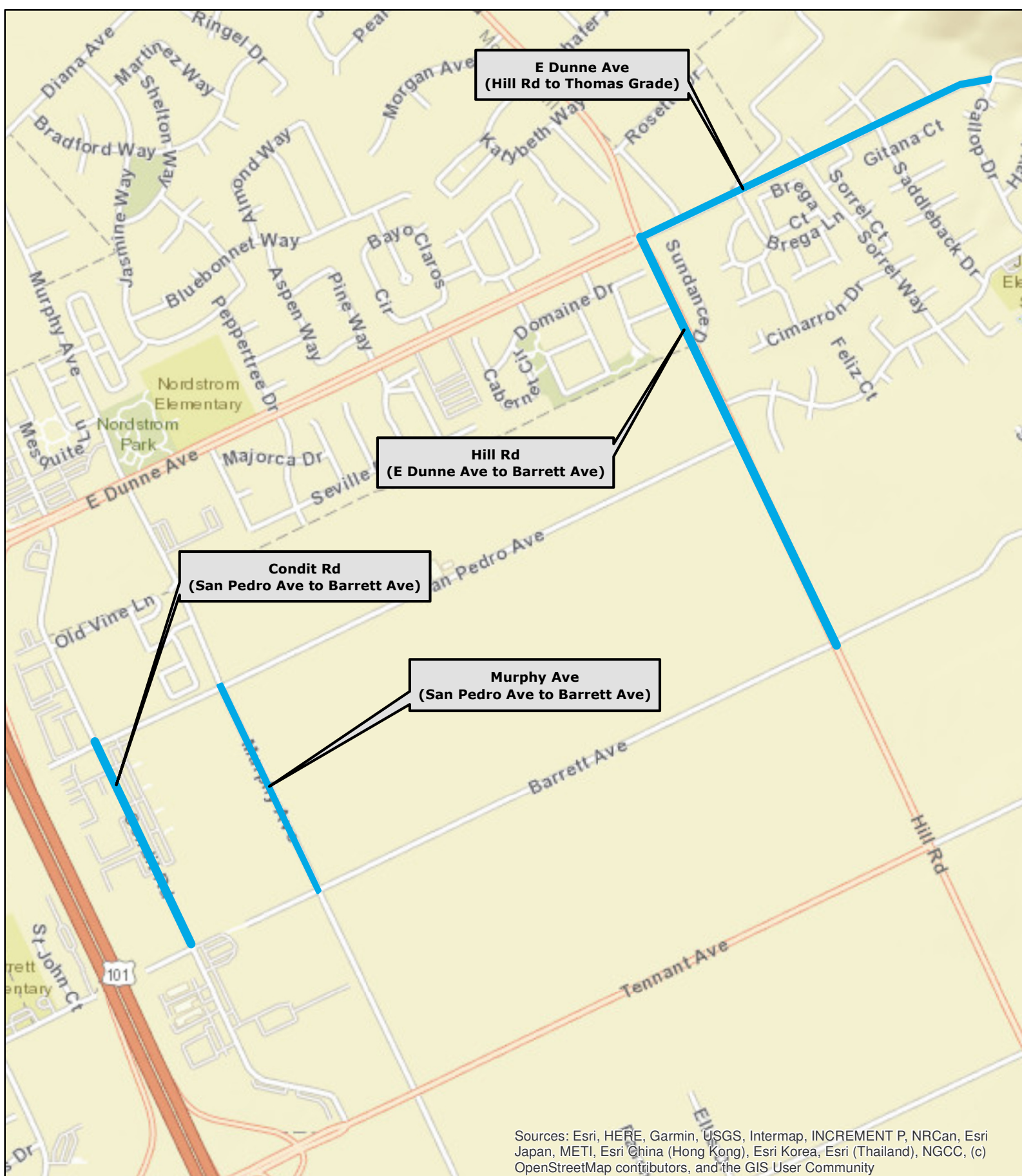
Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject work involves the repair, maintenance, or minor alteration of existing City facilities involving negligible or no expansion of use of those facilities.



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community





**Engineering and Utilities Department
CIP Engineering Division**

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2022 PAVEMENT REHABILITATION PROJECT



820 410 0 820 1,640 2,460

Page 36 of 412

CIP Contract Acceptance Funding Closeout Statement

Project:	2022 Pavement Rehabilitation Project		
Project No:	519000		
Date of Project Award:	1-Jun-22	Project Award Amount:	\$3,879,053
Funding Source:	F308	Contingency Authorized:	\$387,906
Date of Project Acceptance:	1-Mar-23	Total Authorized:	\$4,266,959
		Actual Base Contract Spent:	\$3,879,053

Change Orders				
	Description	Date	Council Approval Req'd? (Y/N)	
C.O. #1:	Additional AC Berm not on Plans	1-Sep-22	N	\$18,125.00
C.O. #2:	Change from Type II Slurry to Cape Seal	1-Sep-22	N	\$42,740.78
C.O. #3:	Additional 3" Mill and Fill at Hill Road from San Pedro Avenue to Barrett Avenue, Additional striping, and lower utility cover not on plans at Jackson Oaks Drive	1-Sep-22	N	\$220,764.60
C.O. #4:	Contract Overage and Underage Unit Items and Miscellaneous Additional Work	21-Dec-22	N	-\$158,795.04
			Total C.O.:	\$122,835.34

Additional Appropriations		
Source	Amount	Date
None		

		Total Construction Amount (Base Contract plus CO's):	\$4,001,888.34
Construction Fund Balance:	\$265,070.66		

Recording Requested By:

When Recorded Mail To:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

Civil Code §§ 8182, 8184, 9204, and 9208

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the Owner or agent of the Project described below.
2. Owner's full name is City of Morgan Hill.
3. Owner's address is 17575 Peak Avenue, Morgan Hill, CA 95037.
4. The nature of Owner's interest in the Project is:
XX Fee ownership ☐ Lessee ☐ Other:
5. Construction work on the Project performed on Owner's behalf is generally described as follows:
2022 Pavement Rehabilitation Project within City of Morgan Hill
6. The name of the original Contractor for the Project is: Teichert Construction
7. The Project was completed on: November 18, 2022
8. The Project is located at:
 - Murphy Avenue (San Pedro Avenue to Barrett Avenue)
 - Hill Road (East Dunne Avenue to Barrett Avenue)
 - Condit Road (San Pedro Avenue to Barrett Avenue)
 - East Dunne Avenue (Hill Road to Thomas Grade Road)
 - Jackson Oaks Drive
 - White Oak Court
 - Oak Hill Court
 - Oak Wood Court
 - Oak Canyon Drive
 - Live Oak Court
 - Oakridge Court
 - Ridgeview Court
 - Rustling Oak Court (Rustling Oak Lane not included)
 - Church Street (Approximately 231' North of San Pedro Avenue to Tennant Avenue)
 - Mast Street (Vineyard Boulevard to Church Street)
 - Vineyard Boulevard (Tennant Avenue to Mast Street)
 - West Main Avenue (DeWitt Avenue to John Telfer Drive)
 - Via Grande Court
 - Hidalgo Court
 - La Giralda Court
 - Thomas Grade
 - Jackson Oaks Court
 - El Toro Court
 - Lindo Lane

Verification: In signing this document, I, the undersigned, declare under penalty of perjury under the laws of the State of California that I have read this notice, and I know and understand the contents of this notice, and that the facts stated in this notice are true and correct.

Date and Place

Signature

Scott Creer, City Engineer

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Mario Ramirez, Police Captain

APPROVED BY: City Manager

ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

RECOMMENDATION(S)

1. Accept the Community Law Enforcement donation of:

- a. Canine Challenge Coins,
- b. cash donation in the amount of \$8,727 for equipment, and
- c. cash donation in the amount of \$29,868 to reimburse the City of Morgan Hill for expenses related to the December 10, 2022, Gun Buyback Event.

2. Adopt a resolution to amend the City's Fiscal Year 2022-23 General Fund budget, accepting a donation of \$38,595 and appropriating \$38,595.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Fostering a Positive Organizational Culture

Preserving and Cultivating Public Trust

Enhancing Diversity and Inclusiveness

2022-2023 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Public Safety Master Plan

REPORT NARRATIVE:

The Community Law Enforcement Foundation (CLEF) of Morgan Hill is a not-for-profit volunteer organization dedicated to supporting and promoting public safety through partnerships that provide resources to enhance the operation of the Police Department. CLEF Board of Directors and volunteers work to raise funds for the purchase of equipment and materials that are not within the Department's operating budget.

1. The CLEF Board of Directors approved the purchase of 200 Canine Challenge

Coins for the Police Department's Canine program. CLEF purchased the challenge coins with its own funds and donated the coins to the Police Department. The canine challenge coin will be used as a public relations commodity to build positive relationships between the Police Department and the community. The Canine Challenge Coins are valued at \$1,921.12.

2. The CLEF Board of Directors approved a cash donation in the amount of \$8,726.87 to reimburse the City of Morgan Hill for the expenditures associated with purchasing a Jamar Technologies Traffic Data Radar (\$5,624.17) and 8 Police Office Honor Guard uniforms (\$3,102.70). The Traffic Data Radar provides the Police Department's Traffic Team with objective vehicle speed data for targeted directed enforcement.
3. The CLEF Board of Directors approved a cash donation in the amount of \$29,867.68 to reimburse the City of Morgan Hill for expenses related to the December 10, 2022, Gun Buyback Event. CLEF was the non-profit organization selected by the Santa Clara County District Attorney's Office as the fiduciary organization to issue payments for the guns turned in at the buyback event. The left-over funds were allocated to reimburse agencies for expenses (to include overtime) related to the event.

The Gun Buyback funding was provided by the Santa Clara County Board of Supervisors and Santa Clara County District Attorney's Office. The Morgan Hill Police Department's expenditures totaled \$25,327.48. The Gilroy Police Department will be invoicing the City of Morgan Hill for their staff time, which totaled \$4,540.20. The total reimbursement to the City of Morgan Hill is \$29,867.68.

COMMUNITY ENGAGEMENT:

This staff report will serve as notification to the community of the donation from CLEF for the Canine Challenge Coins and the monetary donation of \$38,594.55 towards reimbursement for the purchase of the Jamar Technologies Traffic Data Radar, the honor guard uniforms, and the Gun Buyback expenditures.

ALTERNATIVE ACTIONS:

City Council could decide not to receive the funds and/or Canine Challenge Coins.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has previously accepted donations from CLEF to enhance the Police Department's operations every year since 2010. CLEF's total donations to date have exceeded \$225,000. The budget appropriations for those donations were approved and incorporated into the respective year's budget.

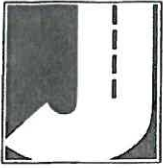
FISCAL AND RESOURCE IMPACT:

The City will recognize \$38,594.55 as revenue towards CLEF Donations (010.37516), appropriate a maximum of \$8,726.87 in Field Operations in other supplies (010.3210.42248) for the cost associated with the Jamar Technologies Traffic Data Radar and the Honor Guard Uniforms, and appropriate \$29,867.68 in the Field Operations supplies and services account (010.3210.42248) for the cost associated with the Gun Buyback. There is no fiscal impact for the Canine Challenge Coin donation. A Budget Scorecard is attached.

CEQA (California Environmental Quality Act):

Not a Project

Continuing administrative activities, such as purchases for supplies and equipment, is not a project subject to environmental review.



JAMAR Technologies, Inc.

DISTANCE MEASURING EQUIPMENT AND SUPPLIES
TRAFFIC COUNTING EQUIPMENT AND SUPPLIES

1500 Industry Road, Suite C

Hatfield, PA 19440

Phone 215-361-2244 • Fax 215-361-2267

Invoice

0057835

DATE

8/5/2022

check sent / by

copy
PAGE: 1

P- (669) 253-4928 Ext. 0000

F- (000) 000-0000 Ext. 0000

BILL TO:

MORGAN HILL POLICE DEPT.
16200 VINEYARD BLVD.
MORGAN HILL CA 95037

SHIP TO:

MORGAN HILL POLICE DEPT.
16200 VINEYARD BLVD.
MORGAN HILL CA 95037

CAPT. RAY RAMOS

PURCHASE ORDER NO.		CUSTOMER ID	SALES ID	SHIPPING METHOD	PAYMENT TERMS	REQUIRED SHIP DATE	MASTER NUMBER		
VERBAL		20566	DS	UPS	NET 30	8/4/2022	161,841		
QUANTITY ORDERED	QUANTITY SHIPPED	QUANTITY B/O	ITEM NUMBER	DESCRIPTION			DISCOUNT	UNIT PRICE	EXTENDED PRICE
1	1	0	RRLE-II-BT-SC	LAW ENFORCEMENT II RADAR KIT W/LAPTC SN: LE2-220140, KEY #307 STARNEXT SN: 12498 LAPTOP SN: 5CD2138CRC			\$0.00	\$5,095.0000	\$5,095.00
1	1	0	BR-4002	RADAR RECORDER SQUARE MOUNTING CL <i>CPD - Aug</i>			\$95.00	\$95.0000	\$0.00
							Subtotal		\$5,095.00
							Misc		\$0.00
							Tax		\$465.17
							Freight		\$64.00
							Total		\$5,624.17
<i>Thank You</i>									

Thank You



MORGAN HILL POLICE DEPARTMENT

16200 Vineyard Blvd., Morgan Hill, CA 95037 Office: (408)779-2101 Fax: (408)776-7328

Stratton Campaign Style Felt Hat - \$160.00



Silver Cord for hat - \$17.00



White Shoulder Cord - \$19.00



White Gloves - \$22.00 a pair



White Flying Cross uniform shirt - \$60.00



Bates High Gloss Oxford Shoes - \$70.00





13512

Point Emblems

1885 W. 5075 S.
Roy, Utah 84067
385-206-3115
dixi@pointemblems.com

INVOICE NO. 13512
DATE August 29, 2022
CUSTOMER ID



TO

SHIP TO Morgan Hill Police Department
Sergio Pires
16200 Vineyard Blvd.
Morgan Hill, CA 95037
669-253-4983

SALESPERSON	JOB	SHIPPING METHOD	SHIPPING TERMS	DELIVERY DATE	PAYMENT TERMS	DUE DATE
Dixi	PTE-9515	FEDEX	2-3 business days	5-7 Weeks	UPFRONT	5-7 Weeks

QTY	ITEM #	DESCRIPTION	UNIT PRICE		LINE TOTAL
200.00		1.75" Cut Shaped, Hard Enamel, Antiqued	\$8.55		\$1,710.00
1.00		Shipping and Handling	\$50.00		\$55.00
					-

Payment Due Upfront - Check, Direct Deposit or Credit Card

TOTAL DISCOUNT	
SUBTOTAL	\$1,765.00
SALES TAX 9.13%	\$156.12
TOTAL	\$1,921.12

Payment is due within 30 days of receiving product on all PO's.
After 60 days there will be a 5% penalty, after 90 days there will be a 10% penalty.

Make all checks payable to Point Emblems
THANK YOU FOR YOUR BUSINESS!

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 22-23 BUDGET ACCEPTING A DONATION OF \$38,595 FROM CLEF AND APPROPRIATING \$38,595 FOR THE PURCHASE OF EQUIPMENT AND EXPENSES RELATED TO GUN BUYBACK EVENT

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, the reasons supporting the purchase described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled Accept a donation submitted for City Council consideration at its meeting of March 15, 2023, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 22-23, as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public meeting at which meeting the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the City is in support of the payment for the purchase equipment and expenses related to Gun Buyback Event; and
- b. That the City's previously adopted Fiscal Year 22-23 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- c. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 22-23 Budget of the City; and
- d. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 15th day of March 2023 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:

DATE: _____

Mark Turner, MAYOR

➤ **CERTIFICATION** ☞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX , adopted by the City Council at the meeting held on March 15, 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

Michelle Bigelow, CITY CLERK

Exhibit A

AGENDA BUDGET SCORECARD

FISCAL YEAR 2022-2023

ADJUSTMENT #

004

FUND:

DEPARTMENT:

OBJECT:

010 General Fund
3210 Police-Patrol
42248 OTHER SUPPLIES

AGENDA DATE:

03/15/23

AGENDA ITEM TITLE:

Accept CLEF Donation

	07/01/22 AUDITED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/23 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	33,685,888	50,511,569	55,830,094	28,367,363
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	15,200	15,200	-
RECOMMENDED ACTION		38,595	38,595	-
RESULT OF RECOMMENDED ACTION	<u>33,685,888</u>	<u>50,565,364</u>	<u>55,883,889</u>	<u>28,367,363</u>

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Jennifer Ponce, OES Coordinator

APPROVED BY: City Manager

ACCEPT 2022 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND ADOPT RELATED RESOLUTIONS

RECOMMENDATION(S)

Adopt resolution:

1. Authorizing the City Manager to execute and administer the Memorandum of Understanding with the County of Santa Clara for the 2022 Emergency Management Performance Grant; and
2. Amending the City's Fiscal Year 2022-23 adopted budget to recognize revenue and appropriate related expenditures, in the amount of \$15,200 from the General Fund.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Preserving and Cultivating Public Trust

2022-2023 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Public Safety Master Plan

REPORT NARRATIVE:

The County Civil Protection and Emergency Services Ordinance establishes the Operation Area Council (OAC) and endows the OAC with governing body authority to enhance planning and preparedness for large-scale emergencies in the Santa Clara Operational Area, including by making funding allocation decisions for the Emergency Management Performance Grant (EMPG) funding awarded by the United States Department of Homeland Security to the California Office of Emergency Services ("Cal OES"), and subsequently sub-awarded to the County.

Cal OES is expected to award Santa Clara County 2022 EMPG funding in the amount of \$623,063 for the purpose of sustaining and improving comprehensive emergency management programs.

Per the Memorandum of Understanding (MOU) with the County, Morgan Hill will receive up to \$15,200 in grant funds for equipment to enhance the Emergency Operations Center (EOC) technology capabilities for use by the City's EOC team during training, exercises and activations.

Although the grant amount is within the City Manager's signatory authority, pursuant to the Grant Certification and Assurances, the governing body must authorize the acceptance and approval of the grant expenditure.

COMMUNITY ENGAGEMENT:

Inform

This grant is administered by the County of Santa Clara with funds that originate with FEMA. The City is eligible to receive the grant funding as part of the EMPG program. This staff report serves to inform the community of the City's grant award and subsequent expenditures and activities associated with the grant funds.

ALTERNATIVE ACTIONS:

One alternative action by the Council could be to decline the funds for the EOC equipment. Without approval, the EOC would continue to function without enhanced technology capabilities.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In 2022, City Council accepted the EPMG grant for the 2021 cycle year.

FISCAL AND RESOURCE IMPACT:

The City will recognize \$15,200 in grant revenue towards the Homeland Security Grant account (010.37561) and appropriate this maximum of \$15,200 in expenditures to the Office of Emergency Services operating budget (010.3230.42245). A Budget Scorecard is attached.

CEQA (California Environmental Quality Act):

Not a Project

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
THE CITY OF MORGAN HILL GRANTING PROGRAM FUNDS FOR THE
2022 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG¹)**

THIS AGREEMENT is made effective July 1, 2022, by and between the County of Santa Clara (“County”) and the City of Morgan Hill (“City”) for the allocation and distribution of 2022 Emergency Management Performance Grant (“EMPG”) funds.

RECITALS

WHEREAS, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San José, Santa Clara, Saratoga, Sunnyvale, the Towns of Los Gatos and Los Altos Hills, and the County of Santa Clara are parties to the 1994 Operational Area Interim Agreement; and

WHEREAS, the Santa Clara County Emergency Operational Area Council (“EOAC”) is the advisory body of the Santa Clara Operational Area in matters affecting disaster preparedness throughout the Operational Area. EOAC membership includes 5 city council members representing cities in the Operational Area as well as representatives of the Santa Clara Valley Water District, Office of the County Executive, County Board of Supervisors, City Managers’ Association, Police Chiefs’ Association, Fire Chiefs’ Association, County Public Health Department, County Social Services Agency, County Emergency Medical Services Agency, Santa Clara Valley Transportation Authority, and emergency management representatives; and

WHEREAS, the County Emergency Management Ordinance establishes the EOAC and endows the EOAC with authority to enhance planning and preparedness for large-scale emergencies in the Santa Clara Operational Area, including by making funding allocation recommendations for EMPG funding awarded by the United States Department of Homeland Security to the California Governor’s Office of Emergency Services (“Cal OES”), and subsequently sub-awarded to County; and

WHEREAS, Cal OES has awarded County 2022 EMPG funding in the amount of \$623,063 for the purpose of sustaining and improving comprehensive emergency management programs;

NOW, THEREFORE, this AGREEMENT is to allocate the sum of **\$15,200** from County to City, so that City may implement the “EOC Technology” and “CSTI and Emergency Manager Training” projects as provided under this Agreement and specified in the EMPG Grant Certifications and Assurances, Exhibits B, C & D. The performance period for County for this grant expires on June 30, 2024. The performance period for City for the subgrant expires on March 31, 2024.

County and City agree as follows:

THE AGREEMENT

Article I. Definitions

1. Specific Terms

(a) **“Burdened Labor Rate”** shall mean the labor rate including benefits, taxes and other

¹ 2021 Homeland Security Grants, version 1

deductions from an employee's paycheck. This rate does not include vacation benefits. The hourly burdened labor rate is used to calculate City's match obligation.

- (b) **"City"** shall mean the City of Morgan Hill, its officers, board members, employees, and agents.
- (c) **"County"** shall mean the County of Santa Clara, its officers, board members, employees, and agents.
- (d) **"EMPG funds" or "EMPG funding"** shall mean the funding City receives under this Agreement.
- (e) **"Emergency Operations Center" or "EOC"** shall mean the physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place.
- (f) **"Federal Program Guidance"** shall mean guidance documents issued by the Federal Emergency Management Agency, including the EMPG Program Funding Opportunity Announcement, for Fiscal Year 2022.
- (g) **"Grant Certifications and Assurances"** shall mean the FY21 "Standard Assurance For Cal OES Federal Non-Disaster Grant Programs" (EXHIBIT B), "Certification Regarding Lobbying" (EXHIBIT C), and "Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure" (EXHIBIT D).
- (h) **"Highly Compensated Individual"** shall mean an individual whose income is \$300,000 or more per year.
- (i) **"Prime Recipient"** shall refer to County.
- (j) **"Project Manager"** shall refer to the City employee identified as "Requestor" on an EMPG Project Proposal form.
- (k) **"Spend Plan"** shall mean a written document that explains the project on which City intends to spend 2022 EMPG funding, including project deliverables and milestone dates by which any funds allocated to City must be spent.
- (l) **"State Guidance"** shall mean the California Supplement to the Federal Notice of Funding Opportunity Announcement, issued by Cal OES for Fiscal Year 2022 for Emergency Management Performance Grants.
- (m) **"Subgrant"** shall mean funds awarded to the City under this Agreement.
- (n) **"Sub-Recipient"** shall refer to City.

2. References to This Agreement

Any reference to this Agreement shall include: (a) the Agreement; (b) all exhibits, appendices, schedules, and attachments to this Agreement; (c) all statutes, ordinances, regulations, rules, or other

documents incorporated by reference into this Agreement; (d) all amendments, modifications, or supplements to this Agreement.

Article II. Allocation and Spend Plans

1. Allocation.

The 2022 EMPG funds shall be disbursed pursuant to the County's FY 2022 EMPG Grant application for each City. County shall reimburse to City funds that City expends under the 2022 EMPG program for eligible expenditures. The amount for City shall not exceed **\$15,200** unless additional funds become available under the 2022 EMPG program following the execution of this Agreement. If additional funds are allocated, an amendment to this Agreement shall follow.

City acknowledges and agrees that County shall have no obligation to disburse EMPG funds to City until County and City have fully and finally executed this Agreement.

City acknowledges and agrees that County shall have no obligation to disburse EMPG funds to City unless and until the State of California has approved \$623,063 in FY 2022 EMPG funding.

2. Spend Plans

Upon execution of this agreement, City shall provide County with Spend Plans for review by County's Office of Emergency Management ("OEM") Director or designee. All Spend Plans must be approved by County's OEM Director or designee based on projects County has submitted to the State for the 2022 EMPG program. If County's OEM Director does not approve City's Spend Plan, County OEM shall notify City, and City shall have 10 days from the date of the notice to submit a revised Spend Plan to County OEM for approval or risk reallocation of funds. City's Spend Plans are a required part of this MOU.

Article III. Requests for Reimbursement and Reimbursements

1. Required Documentation for Reimbursement

The EMPG is a reimbursement grant under which Cal OES disburses reimbursement funds to County, and County disburses reimbursement funds to City. No cash advances are permitted under the EMPG program.

The EMPG is a matching funds grant that requires City to provide a dollar-for-dollar match for any EMPG funds it receives. All invoices/ requests for reimbursement from City must include appropriate documentation such as receipts or payment records as well as other documentation required under Federal or State grant program requirements (see Article III).

(a) Requests for Equipment

City is solely responsible for procuring any equipment under this Agreement in accordance with the most current applicable Federal requirements for procuring grant-funded equipment; and, if more restrictive, applicable City procurement policies and requirements.

Prior to purchasing any equipment under this Agreement, when required, City must submit an

Environmental and Historic Preservation (EHP) Screening form and receive written approval from FEMA.

The following documentation must be provided along with any reimbursement requests for equipment:

- Quote or solicitation documents
- Summary of pricing and chosen vendor
- Documentation that vendor is not on the excluded parties list (<https://sam.gov/>) a print-out of the search result page will suffice)
- Purchase order and/or contract
- Receiving documentation/packing slip
- Invoice
- Proof of payment

All equipment must be indicated in the Spend Plan City submits to County, and must be authorized per the web-based Authorized Equipment List published by FEMA and available via: <https://www.fema.gov/authorized-equipment-list>.

(b) Subcontracts

Subcontracts totaling \$25,000 or more require preapproval from County. If City is allowed to award subcontracts totaling \$25,000 or more, it must report on any such subcontracts and on Highly Compensated Individuals on the Financial Disclosure Form, Exhibit E, within 30 days of the award. The following information must be included in City's report on any sub-award exceeding \$25,000:

- Name of entity receiving award;
- Amount of award;
- Funding agency;
- Catalog of Federal Domestic Assistance program number;
- Award title (descriptive of the purpose of the funding action);
- Location of the receiving entity and primary location of performance including city, state, and federal Congressional district;
- Federally issued "Unique Entity ID" of the receiving entity, and of its parent if applicable; and
- Total compensation and names of receiving entity's five most highly compensated executives if:
 - In the preceding fiscal year, the subcontractor received 80 percent or more, and \$25,000,000 or more, of its gross annual revenue from federal procurement contracts or subcontracts or from federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.230; and
 - The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), 78o(d), or under section 6104 of the Internal Revenue Code of 1986.
 - City must report subcontractor executive compensation by the end of the month following the month in which it makes the subaward. For example, if the

subaward is obligated in any date in April 2023, City must report any required compensation information by May 31, 2023.

Classified information that, in the interest of national security, requires protection against unauthorized disclosure (i.e., information deemed Top Secret, Secret, or Confidential under Executive Order 12958) is exempt from the Prime and Sub-Recipient reporting requirements, as are contracts with individuals.

(c) Sole Source Contracts

Sole source contracts of \$250,000 or more are not allowable under the EMPG program unless first approved by Cal OES. City must obtain sole source request documentation and submit it to the Grants Manager of County's OEM. Upon City's completion and submission of the required sole source documentation, County's Grants Manager shall forward all sole source documents to the appropriate Cal OES contact for review and approval. Only after Cal OES approval is given can a sole source procurement be completed and expenditures reimbursed using EMPG allocated funds. All sole source procurements must follow the most current applicable Federal procurement requirements for grants and, if more restrictive, City's own procurement policies.

(d) Grant Funded Personnel

EMPG grant-funded personnel are any personnel paid at any percentage with EMPG funding. This includes M&A staff funded by EMPG Program funds. All EMPG Program funded personnel shall complete the training requirements in Article IV, Section 2 (c) by December 31, 2023.

Recorded proof of completion, such as all certificates of completion, must be submitted by the City to County (OEM) before any reimbursements to the City will be made. In any case, proof of completion must be provided by December 31, 2023.

Documentation of participation in exercises is also required by the grant and progress towards meeting this requirement must be reported to the grant manager at least quarterly.

Time reporting requirements: To receive payments for personnel costs, City must submit time and payroll documentation that meets Federal Grant, State Grant (Cal OES) and County reporting requirements.

(e) Other Requests

The following documentation is required for all reimbursement requests for contractors:

- Quote or solicitation documents
- Executive summary of how contractor was chosen
- Documentation that vendor is not on the excluded parties list (<https://www.sam.gov/>) (a print-out of the search result page will suffice)
- Purchase order and/or contract
- Invoice showing deliverables and milestones completed
- Proof of payment

- Financial Disclosure Form (Exhibit E) if awarded contract exceeds \$25,000

2. Submission of Requests for Reimbursement

- (a) City shall submit reimbursement requests to County's OEM on a quarterly basis, as detailed in the chart below. Unless pre-approved by County's OEM Director or designee, all reimbursement requests shall be due fifteen calendar days after the end of the quarter, with the exception of the final expenditure and/or invoice, as indicated below. Any expenditure during the final period identified in the chart below shall be made by March 15, 2024, and any related invoice shall be submitted by March 31, 2024, unless otherwise pre-approved by County's OEM Director or designee, in order to meet 2022 EMPG deadlines. Reimbursement requests shall be due for expenditures during specified periods as follows:

For Expenditures During the Period:	Due Dates for Reimbursement Requests:
July 1, 2022 through December 31, 2022	January 20, 2023
January 1, 2023 through June 30, 2023	July 20, 2023
July 1, 2023 through December 31, 2023	January 20, 2024
January 1, 2024 through March 15, 2024	March 31, 2024

- (b) During the term of this Agreement, County is not obligated to honor any request for reimbursement that is submitted after the due dates for reimbursement requests for expenditures within a given quarter as specified above in Article II, Section 2(a).
- (c) All grant funds not claimed by City via a proper reimbursement request, which includes all required documentation, by April 15, 2024 will be forfeited. County may then determine how to spend those funds in accordance with grant requirements.

Article IV. Use of Funds

1. Master Grant Obligations

- (a) City shall comply with the EMPG Federal Program Guidance, the State Guidance, and the Grant Certifications and Assurances, attached as Exhibits B, C & D. City shall require any subgrantee, contractor, or other entity receiving EMPG funds through or from City to execute a copy of the Grant Certifications and Assurances, and shall be responsible for ensuring that subgrantee, contractor, or other entity complies with the Grant Certifications and Assurances.
- (b) City shall ensure its Project Manager attends a grant kickoff meeting with County OEM staff. Additionally, City shall ensure its Project Manager is available to meet with County OEM staff upon request during the period of this agreement to report on progress on each project funded under this Agreement.
- (c) City shall comply with all other applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement, provided that if any provisions of this Agreement conflict with any State requirements, the State requirements will control. City shall ensure that any subgrantee, contractor, or other entity

receiving EMPG funds through or from City complies with all applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement.

- (d) By executing this Agreement, City certifies that it is not debarred, suspended, or otherwise ineligible to receive EMPG funds. In addition, City shall ensure and independently verify that any subgrantee, contractor, or other entity receiving EMPG funds through or from City is not debarred, suspended, or otherwise excluded from participation in the EMPG program. City shall maintain documentary proof of this verification in its files.

2. Scope of Services

- (a) City shall use the funds granted under this Agreement only for the purpose of implementing applicable initiatives under the 2022 EMPG program, as indicated in Exhibit E, Program Narrative. City shall not use the funds granted under this Agreement for any other purpose. County shall not be required to disburse funds to or otherwise pay City for services, materials, equipment, or supplies provided by City that are beyond the scope of the services, materials, equipment, or supplies agreed upon in this Agreement or a lawfully executed written amendment.

Indirect costs are allowable under the FY22 EMPG grant. Allowability of Indirect costs does not increase the total amount of the State, Operational Area or other sub-recipient (i.e. jurisdictions) grant awards. Claims for indirect costs therefore necessarily decrease the federal funds available to pay for direct project costs. Subawards are based on the direct cost of approved projects. Sub-recipients wishing to claim indirect costs must use an indirect cost rate in compliance with the most current applicable Federal guidance and regulations including 2 C.F.R. § 200.68 and Subpart E.

- (b) All EMPG grant-funded personnel (e.g. an Emergency Preparedness Planner employed by the City under this grant) shall participate in no less than two exercises in a 12-month period. These exercises must align to an identified priority area. EMPG grant-funded personnel are any personnel paid at any percentage with EMPG funding. This includes contracted personnel, as well as M&A staff funded by EMPG grant funds. There is no specific requirement for level of “participation” in the exercises – i.e., observation and attendance satisfies the objective. The exercises can be of any type (e.g., Drills, Tabletop Exercises, or Functional) within the performance period (see <https://hseep.dhs.gov>). Participation in exercises by grant funded staff must be reported quarterly to ensure adequate progress is being made toward meeting this requirement.
- (c) To ensure the development of a professional emergency management workforce, all EMPG grant-funded personnel shall complete the following 11 training requirements and shall record proof of completion:
- National Incident Management System (NIMS) Training:
 - i. IS 100 Introduction to Incident Command System
 - ii. IS 200 ICS for Single Resources and Initial Action Incident
 - iii. IS 700 National Incident Management System, An Introduction

- iv. IS 800 National Response Framework, An Introduction
- FEMA Professional Development Series:
 - v. IS 120.c Introduction to Exercises
 - vi. IS 230.e Fundamentals of Emergency Management
 - vii. IS 235.c Emergency Planning
 - viii. IS 240.b Leadership and Influence
 - ix. IS 241.b Decision Making and Problem Solving
 - x. IS 242.b Effective Communication
 - xi. IS 244.b Developing and Managing Volunteers

The aforementioned courses are all available for free on-line at the following links:

<http://training.fema.gov/IS/NIMS.aspx> & <http://training.fema.gov/emiweb/PDS/>

Note: The “G” course series and classroom-based equivalents can be used as an alternate to satisfy these training requirements. Past completion of the above courses (or qualifying equivalent) may be considered acceptable in meeting this requirement.

Article V. Term and Termination

1. Term of Agreement

This Agreement is effective from July 1, 2022 through June 30, 2024—the FY 2022 EMPG performance period established by Cal OES for the County.

2. Availability of Funds

- (a) The parties acknowledge and agree that this Agreement is dependent upon the availability of County, regional, State and/or federal funding.
- (b) Budgetary Contingency: This Agreement is contingent upon the appropriation of sufficient funding by County for the products and services covered by this Agreement. If funding is reduced or eliminated by County for the products or services covered by this Agreement, County has the option to either terminate this Agreement with no liability occurring to County or to offer an amendment to this Agreement indicating the reduced amount.
- (c) The obligations of County to make payments in accordance with the provisions of this Agreement may be delayed, reduced or terminated as a result of any delay, reduction, or change in allocation or allotment in funding to County from federal, State or other regional funding sources.

3. Termination

- (a) Termination for Convenience. County shall have the option, in its sole discretion, to terminate this Agreement at any time without cause upon written notice to City. The written notice shall specify the date on which termination shall become effective, which shall be no less than seven (7) days from the date of the notice.
- (b) Termination for Cause. Either party may terminate this Agreement for cause upon written

notice to the other party. The written notice shall specify the date on which termination shall become effective, which shall be no less than thirty (30) days from the date of the notice. Termination for cause includes, but is not limited to, a material breach of this Agreement, a violation of any applicable laws, or failure to comply with applicable EMPG guidelines.

- (c) Opportunity to Cure. In the event of termination for material breach of this Agreement, the non-breaching party shall give written notice of the breach to the breaching party, specifying the breach/cause. The breaching party shall not be deemed in default and the non-breaching party shall not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within thirty (30) days after the breaching party's receipt of the notice of breach, or within such longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced its cure, correction or remedy within the thirty (30) day period and diligently and continuously pursues that cure, correction or remedy.
- (d) If this Agreement is terminated, City shall return EMPG funding in accordance with EMPG program guidelines.

Article VI. Indemnification and Liabilities

1. Indemnification by City

In lieu of and notwithstanding the pro rata risk allocation that might otherwise be imposed between the parties under Government Code section 895.6, County and City agree instead that under Government Code section 895.4, City shall fully indemnify and hold County, its officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of City, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to City under this Agreement. This indemnity shall include, without limitation, reasonable attorneys' fees, consultants and experts and related costs, and County's cost of investigating any claim.

2. Duty to Defend

City acknowledges and agrees that its obligation to defend County under Article V.1: (a) is an immediate obligation, independent of its other obligations under this Agreement; and (b) applies to any claim, expense, cost, damage, or liability falling within the scope of Article V.1, regardless of whether the allegations made in connection with that claim, expense, cost, damage, or liability may be groundless, false, or fraudulent. County shall provide City with prompt notice of any claim, expense, cost, damage, or liability under Article V.1 and City shall have the right to defend, settle, or compromise that claim, expense, cost, damage, or liability, provided, however, that County shall have the right to retain its own counsel at City's expense if representation of County by counsel retained by City would result in a conflict of interest, and that City shall obtain County's prior written consent to settle or compromise if City contends that County shares in any liability. County's failure to notify City promptly of any claim, expense, cost, damage, or liability shall not relieve City of liability to County under Article V.1 unless that failure materially impairs City's ability to defend against the claim, expense, cost, damage, or liability.

3. Limitation on Liability

County, its officers, board members, employees, and agents shall not be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of City, its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to City under this Agreement.

County's obligations under this Agreement shall be limited to the aggregate amount of EMPG funds actually disbursed. Notwithstanding any other provision in this Agreement or any other document or communication between County and City relating to this Agreement, in no event shall County be liable for any damages arising out of or in connection with this Agreement, the EMPG funds, City's Spend Plan, or any activities performed in connection with this Agreement.

Article VII. Miscellaneous

1. Notice

All notices required by this Agreement shall be deemed given when provided in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To City:

Jennifer Ponce, Emergency Services Coordinator
Morgan Hill Police Department
16200 Vineyard Blvd
Morgan Hill, CA 95037

To County:

Ivan Williams
EMPG Grant Manager
County of Santa Clara Office of Emergency Management
55 W. Younger Ave., Suite 450
San José, CA 95110

2. Compliance with all Laws, Including Nondiscrimination, Equal Opportunity, and Wage Theft Prevention

- (a) Compliance with All Laws: City shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- (b) Compliance with Non-Discrimination and Equal Opportunity Laws: City shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor

Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, City shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall City discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

- (c) Compliance with Wage and Hour Laws: City shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.
- (d) Definitions: For purposes of this Subsection, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality of Assurance.
- (e) Prior Judgment, Decisions or Orders against City: By signing this Agreement, City affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that City violated an applicable wage and hour law or pay equity law. City further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.
- (f) Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract: If at any time during the term of this Agreement, City receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then City shall promptly satisfy and comply with any such Final Judgment. City shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. City shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are

separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

- (g) Access to Records Concerning Compliance with Pay Equity Laws: In addition to and notwithstanding any other provision of this Agreement concerning access to City's records, City shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, City shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during City's normal business hours upon no less than 10 business days' advance notice.
- (h) Pay Equity Notification: City shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to City for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of City's Employees and Job Applicants.
- (i) Material Breach: Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:
 - 1. Suspend or terminate any or all parts of this Agreement.
 - 2. Withhold payment to City until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
 - 3. Offer City an opportunity to cure the breach.
- (j) Subcontractors: City shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

3. County No-Smoking Policy

City and its employees, agents and subcontractors shall comply with County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where County is the sole occupant, and (3) in all County vehicles.

4. Food and Beverage Standards

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by City with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1)

fruits, vegetables, whole grains, and low-fat and low-calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, City shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high-calorie desserts; (3) attempt to accommodate special dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the City should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are: (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, for which sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored reduced fat (either nonfat or 1% low-fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8-ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8-ounce serving. Sugar-sweetened beverages shall not be provided.

5. Governing Law, Venue

This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the County of Santa Clara.

6. Assignment

No assignment of this Agreement or of the rights and obligations hereunder shall be valid without the prior written consent of the other party.

7. Entire Agreement

This Agreement and its Appendices (if any) constitutes the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

8. Amendments

This Agreement may only be amended by a written instrument signed by the Parties.

9. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

10. Contract Execution

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

11. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

12. Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party shall be in writing and shall apply to the specific instance expressly stated.

13. Conflicts of Interest

City shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County. In accepting this Agreement, City covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of services under this Agreement. City is responsible for assuring compliance of its subcontractors, if any, with the requirements of this provision.

14. Contracting Principles

All entities that contract with the County to provide services where the contract value is \$100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, the City and all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the contract; (4) upon the County’s request, provide the County reasonable access, through representatives of the City, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules.

15. California Public Records Act

County and City are public agencies subject to the disclosure requirements of the California Public Records Act (“CPRA”). If either County’s or City’s proprietary information is contained in documents or information submitted to the other party, and the submitting party claims that such information falls within one or more CPRA exemptions, the submitting party must clearly mark such information “CONFIDENTIAL AND PROPRIETARY,” and identify the specific lines containing the information. In the event of a request for such information, the receiving party will make best efforts to provide notice to the submitting party prior to such disclosure. If the submitting party contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the receiving party is required to respond to the CPRA request. If the submitting party fails to obtain such remedy within the time the receiving party is required to respond to the CPRA request, the receiving party may disclose the requested information.

16. Third Party Beneficiaries

This agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties.

17. COVID-19 Requirements

City shall comply with all County requirements relating to COVID-19 for persons who routinely perform services for the County onsite and share airspace with or proximity to other people at a County facility as part of their services for the County, including but not limited to vaccination, as applicable and periodically updated, and available at <https://procurement.sccgov.org/doing-business-county/contractor-vaccinations> and incorporated herein by this reference. If applicable, City shall complete the Contractor Certification of Compliance with COVID-19 Vaccine Requirements (“Certification”), attached hereto as Exhibit G. City shall comply with the requirements of this Section for the entire term of this Agreement.

City shall comply with all reasonable requests by County for documentation demonstrating City’s compliance with this Section. Failure by City to comply with any of the requirements of this Section (including but not limited to vaccination and masking requirements and completion and submittal of the Certification) is a material breach of this Agreement, and the County may, in its sole discretion terminate this Agreement immediately or take other action as the County may determine to be appropriate.

18. Prohibition on Contracting for Covered Telecommunications Equipment or Services

- (a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy #405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services.
- (b) *Prohibitions.*
 - 1. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. §200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or

loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

2. Unless an exception in paragraph (c) of this clause applies, City and any contractor and/or subcontractor may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract or other contractual instrument, any equipment, system or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

1. This clause does not prohibit City or its contractors or subcontractors from providing—
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
2. By necessary implication and regulation, the prohibitions also do not apply to:
 - a. Covered telecommunications equipment or services that:
 - i. Are not used as a substantial or essential component of any system; and
 - ii. Are not used as critical technology of any system.
 - b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

1. In the event the City or its contractor or subcontractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or City or its contractor or subcontractor is notified of such by a subcontractor at any tier or by any other source, City shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
2. City shall report the following information pursuant to paragraph (d)1 of this clause:
 - a. Within one business day for the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

- b. Within 10 business days of submitting the information in paragraph (d)2a of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts.

City shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

19. Domestic Preferences for Procurement²

- a. As appropriate and to the extent consistent with law, City should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all contracts and purchase orders for work or products under this agreement.
- b. For purposes of this section:
 - i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

20. Certified Resolution of Signature Authority

Upon request of County, City shall deliver to County a copy of the resolution(s) authorizing execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of City.

Signed:

COUNTY OF SANTA CLARA

CITY OF MORGAN HILL

By _____
Jeffrey V. Smith
County Executive

Date

Christina Turner
City Manager

Date

² “Local preference” is still prohibited under 2 CFR Part 200 Section 200.319(c)

Approved as to Form and Legality:

Approved as to Form:

Kavita Narayan
Assistant County Counsel

Date

Donald Larkin
City Attorney

Date

Enclosures

- | | |
|-----------|--|
| Exhibit A | Santa Clara County EMPG Notification of Subrecipient Application Approval |
| Exhibit B | Standard Assurances for Cal OES Federal Non-Disaster Grant Programs |
| Exhibit C | Certification Regarding Lobbying |
| Exhibit D | Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure |
| Exhibit E | Project Narrative(s) |
| Exhibit F | Functional Timesheet Sample |
| Exhibit G | Contractor Certification of Compliance with COVID-19 Vaccine Requirements |

GAVIN NEWSOM
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR



October 14, 2022

Jeffrey V. Smith
County Executive
Santa Clara County
70 West Hedding St. 11th Floor
San Jose, CA 95110

SUBJECT: NOTIFICATION OF SUBRECIPIENT SUBAWARD APPROVAL

Fiscal Year (FY) 2022 Emergency Management Performance Grant
Program (EMPG)

Subaward #2022-0005, Cal OES ID#085-00000

Subaward Performance Period: July 1, 2022, to June 30, 2024

Dear Mr. Smith:

We are pleased to announce the approval of your FY 2022 EMPG subaward in the amount of \$623,063.

Once the completed application is received and approved, reimbursement of eligible subaward expenditures may be requested using the California Governor's Office of Emergency Services (Cal OES) Financial Management Forms Workbook. Failure to provide documentation in a timely manner could result in a hold on funding, pursuant to Title 2, Code of Federal Regulations (CFR), Sections 200.338(a) and 200.207(b)(1)-(2).

This subaward is subject to requirements in 2 CFR, Part 200, including the Notice of Funding Opportunity (NOFO), the Preparedness Grants Manual, the California Supplement to the NOFO, and all applicable federal, state, and local requirements. All activities funded with this subaward must be completed within the subaward performance period.



3650 SCHRIEVER AVENUE, MATHER, CA 95655
www.CalOES.ca.gov

Subrecipients must obtain additional written approval **prior** to incurring costs for activities such as aviation, watercraft, allowability request logs, noncompetitive procurement, and projects requiring Environmental Planning and Historic Preservation review.

Your organization will be required to prepare and submit the Biannual Strategy Implementation Report to Cal OES via the Federal Emergency Management Agency Grants Reporting Tool (GRT) semi-annually for the duration of the subaward period of performance or until all activities are completed and the subaward is formally closed. Failure to submit required reports could result in subaward reduction, suspension, or termination. Throughout the subaward cycle, milestones set in the GRT will be used as indicators of project feasibility, performance, and grant management capacity. This information may also be used in assessing proposals in future grant opportunities.

Your dated signature is required on this letter. Please sign and return the original to your Cal OES Program Representative within 20 calendar days upon receipt and keep a copy for your records. For further assistance, please contact your Cal OES Program Representative.

Sincerely,



MARK S. GHILARDUCCI
Director

Jeffrey V. Smith
Santa Clara County

Date



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

As the duly authorized representative of the Applicant, I hereby certify that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application, within prescribed timelines.

The requirements outlined in these assurances apply to Applicant and any of its subrecipients.

I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements within the:

- (a) Applicable Federal Regulations (see below);
- (b) Federal Program Notice of Funding Opportunity (NOFO);
- (c) Federal Preparedness Grants Manual;
- (d) California Supplement to the NOFO; and
- (e) Federal and State Grant Program Guidelines.

Federal Regulations

Government cost principles, uniform administrative requirements, and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the [Office of Management and Budget \(OMB\)](http://www.whitehouse.gov/omb/) and can be found at <http://www.whitehouse.gov/omb/>.

State and federal grant award requirements are set forth below. The Applicant hereby agrees to comply with the following:

1. Proof of Authority

The Applicant will obtain proof of authority from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- (a) To provide all matching funds required for the grant project and that any cash match will be appropriated as required;
- (b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- (c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board, or authorized body;



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

- (d) The Applicant is authorized by the city council, governing board, or authorized body to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project cost, if any) to ensure proper planning, management and completion of the project described in this application; and
- (e) Official executing this agreement is authorized by the Applicant.

This Proof of Authority must be maintained on file and readily available upon request.

2. Period of Performance

The period of performance is specified in the Award. The Applicant is only authorized to perform allowable activities approved under the award, within the period of performance.

3. Lobbying and Political Activities

As required by Section 1352, Title 31 of the United States Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The Applicant shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

The Applicant will also comply with provisions of the Hatch Act (5 U.S.C. §§ 1501- 1508 and §§ 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.214 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its subrecipients:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

5. Non-Discrimination and Equal Employment Opportunity

The Applicant will comply with all state and federal statutes relating to non-discrimination, including:



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et. seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§ 12101- 12213), which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs;
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)— be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
- (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

- (k) DHS policy to ensure the equal treatment of faith-based organizations, under which the Applicant must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
- (l) The Applicant will comply with California's Fair Employment and Housing Act (FEHA) (California Government Code §§ 12940, 12945, 12945.2), as applicable. FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave, military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions;
- (m) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- (n) The requirements of any other nondiscrimination statute(s) that may apply to this application.

6. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

7. Environmental Standards

The Applicant will comply with state and federal environmental standards, including:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000-21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000-15387);
- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

- (e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- (f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- (g) Executive Order 11514 which sets forth national environmental standards;
- (h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- (i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- (j) The Endangered Species Act of 1973, (P.L. 93-205);
- (k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- (l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- (m) Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

8. Audits

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will perform the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

9. Cooperation and Access to Records

The Applicant must cooperate with any compliance reviews or investigations conducted by DHS. In accordance with 2 C.F.R. § 200.337, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

10. Conflict of Interest

The Applicant will establish safeguards to prohibit the Applicant's employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

11. Financial Management

False Claims for Payment - The Applicant will comply with 31 U.S.C §§ 3729-3733 which provides that Applicant shall not submit a false claim for payment, reimbursement, or advance.

12. Reporting - Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), including but not limited to (a) the reporting of subawards obligating \$30,000 or more in federal funds, and (b) executive compensation data for first-tier subawards as set forth in 2 C.F.R. Part 170, Appendix A. The Applicant also agrees to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A.

13. Whistleblower Protections

The Applicant must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

14. Human Trafficking

The Applicant will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits the Applicant or its subrecipients from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

15. Labor Standards

The Applicant will comply with the following federal labor standards:

- (a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- (b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires federal award subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

- (c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.); and
- (d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

- (a) Not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- (b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- (c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

19. Use of Cellular Device While Driving is Prohibited

The Applicant is required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

20. California Public Records Act and Freedom of Information Act

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM (EMPG) – PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS

21. Acknowledgment of Federal Funding from DHS

The Applicant must acknowledge its use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

22. Activities Conducted Abroad

The Applicant must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

23. Best Practices for Collection and Use of Personally Identifiable Information (PII)

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. If the Applicant collects PII, the Applicant is required to have a publicly-available privacy policy that describes standards on the usage and maintenance of PII they collect. The Applicant may refer to the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as a useful resource.

24. Copyright

The Applicant must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

25. Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude the Applicant from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

26. Energy Policy and Conservation Act

The Applicant must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

27. Federal Debt Status

The Applicant is required to be non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

28. Fly America Act of 1974

The Applicant must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

29. Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, the Applicant must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

30. Non-supplanting Requirement

If the Applicant receives federal financial assistance awards made under programs that prohibit supplanting by law, the Applicant must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non- federal sources.

31. Patents and Intellectual Property Rights

Unless otherwise provided by law, the Applicant is subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. The Applicant is subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

32. SAFECOM

If the Applicant receives federal financial assistance awards made under programs that provide emergency communication equipment and its related activities, the Applicant must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

33. Terrorist Financing

The Applicant must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. The Applicant is legally responsible for ensuring compliance with the Order and laws.

34. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the Applicant's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the Applicant must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.



Standard Assurances

For Cal OES Federal Non-Disaster Grant Programs

35. USA Patriot Act of 2001

The Applicant must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

36. Use of DHS Seal, Logo, and Flags

The Applicant must obtain permission from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

37. Applicability of DHS Standard Terms and Conditions to Tribes

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon the Applicant and flow down to any of its subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

38. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

The Applicant must comply with the “Build America, Buy America” Act (BABAA), enacted as part of the Infrastructure Investment and Jobs Act and Executive Order 14005. Applicants receiving a federal award subject to BABAA requirements may not use federal financial assistance funds for infrastructure projects unless:

- (a) All iron and steel used in the project are produced in the United States – this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

- (b) All manufactured products used in the project are produced in the United States – this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (c) All construction materials are manufactured in the United States – this means that all manufacturing processes for the construction material occurred in the United States.

The “Buy America” preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Per section 70914(c) of BABAA, FEMA may waive the application of a Buy America preference under an infrastructure program in certain cases.

On July 1, 2022, OMB approved FEMA’s General Applicability Public Interest Waiver of the BABAA requirements to be effective for a period of six months, through January 1, 2023. Applicants will not be required to follow the BABAA requirements for FEMA awards made, and any other funding FEMA obligates, during this waiver period. For any new awards FEMA makes after January 1, 2023, as well as new funding FEMA obligates to existing awards or through renewal awards where the new funding is obligated after January 1, 2023, Applicants will be required to follow the BABAA requirements unless another waiver is requested and approved.



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

IMPORTANT

The purpose of these assurances is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in these assurances. These assurances are binding on Applicant, its successors, transferees, assignees, etc. as well as any of its subrecipients. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the Applicant may be ineligible for award of any future grants if Cal OES determines that the Applicant: (1) has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of the language contained within this document must be included in the award documents for all subawards at all tiers. Applicants are bound by the Department of Homeland Security Standard Terms and Conditions 2022, Version 3, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.

Applicant: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____



Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, 'Disclosure of Lobbying Activities,' in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Certification Regarding Lobbying

The Subrecipient, as identified below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____



Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure

Public Law (PL) 109-282 Federal Funding Accountability and Transparency Act of 2006, as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (PL 110-252), which is outlined in the Federal Emergency Management Agency, Grant Programs Directorate Information Bulletin No. 350.

As defined by the Office of Management Budget, the following are subject to FFATA reporting requirements:

1. All new federal awards of \$30,000 or more, as of August 13, 2020.
NOTE: Cal OES reports on this requirement in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS).
2. The Total Compensation and Names of the top five executive, if the Subrecipient in the preceding year received:
 - a. 80 percent or more of its annual gross revenues in Federal Awards; **and**
 - b. \$25,000,000 or more in annual gross revenues from Federal awards; **and**
 - c. The public does not have access to information about the compensation of the senior executives of the entity.

Subrecipients are required to provide the Executive compensation information in the below chart, if applicable.

Executive Name	Title	Annual Salary	Annual Dollar Value of Benefits	Total Compensation

☐ Not subject to the Executive Compensation requirement of the FFATA Financial Disclosure.



Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure

The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____

2022 EMPG

Project Proposal Request Form / Template



I. Background Information

I	A.	Requestor Contact Information
	Agency	Santa Clara County Office of Emergency Management
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Management 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	ivan.williams@oem.sccgov.org
I	B.	Project Name
CSTI and Emergency Manager Training		
TOTAL PROJECT COST (Insert the total from Funding section)		\$50,000
I	C.	Project Type Use the checkbox to indicate corresponding project
	☐ This project is a new Project.	
	☐ This project is part of an ongoing Project.	
	☒ This project is for sustainment of a previously funded Project.	

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

I	D. Solution Areas				
	☐ Planning	☐ Organization	☐ Equipment	☒ Training	☐ Exercises
Choose ONLY <u>one</u> Sub Area (Sub Category) for Mission Areas above					
☐ Community Outreach ☐ Conference ☐ Develop and Enhance Plans, Protocols and Systems		☐ Staffing ☐ Day to Day Activities/operations that support emergency management	☐ Information Technology ☐ Cyber Security Enhancement Equipment ☐ Interoperable Communications Equipment ☐ Other Authorized Equipment	☒ Staff Expenses ☐ Course Development ☒ Course Delivery and Evaluation ☒ Staff Expenses ☒ Certification / Recertification of instructors	☐ Design/Develop ☐ Conduct / Attend / Evaluate ☐ Supplies / Materials / Production Costs

I E. Core Capability and Community Lifelines - Identify each of the 12 Emergency Management Core Capabilities (or other Core Capability) this project addresses as well as the Community Lifeline(s) this project is most likely to help restore. Please check all that apply.				
☒ Planning	☒ Public Information & Warning	☒ Operational Coordination	☒ Long-Term Vulnerability Reduction	☒ Risk and Disaster Resilience Assessment
☒ Situational Assessment	☒ Community Resilience	☒ Threats and Hazard Identification	☒ Logistics and Supply Chain	☒ Mass Care Services
☐ Economic Recovery	☐ Other (please specify) _____			
Please identify the Community Lifelines this project is most likely to help stabilize:				
☐ Safety and Security	☒ Food, Water, Shelter	☒ Health and Medical	☐ Energy (Power & Fuel)	☒ Communications
☐ Transportation	☐ Hazardous Materials			

I F. Project Description/Justification - Briefly describe exactly what the project entails (including any equipment purchases or contracting that will be necessary for the project). Please also describe how the project is expected to impact (improve/sustain) the Core Capability(ies) and restore the Community Lifelines identified above.
This project supports the provision of Emergency Management courses to individuals assigned to an Emergency Operations Center (EOC), Department Operation Center (DOC), Joint Information Center (JIC), or Multiagency Coordination (MAC) Group. The CSTI Emergency Management curriculum provides training in all phases of emergency management/homeland security (prevention, protection, mitigation, response, and recovery) as well as specialized training in crisis communications, exercise design, and emergency planning for schools. Specific Emergency Management courses are selected for funding under this project because they are required for professional certification, needed for EOC credentialing, address needs identified in the Operational Area's Multiyear Training and Exercise Plan (MY-TEP) or were identified in an Operational Area Exercise After-Action Report. To provide access to CSTI courses using these project funds—based on interest and expected attendance—the Santa Clara County Office of Emergency Management (SCC OEM) will host courses in the Operational Area whenever possible and practicable. IAEM and 2023 CESA Annual Training and Conference--Allows Emergency Managers from across the Operational Area to attend the International Association of Emergency Managers (IAEM) and California Emergency Services Association (CESA) 2023 Annual Training Conferences. Specific topics from past conferences include public information, plan writing, terrorism, California's Emergency Management Mutual Aid (EMMA) process, whole community planning, how C-PODs work, situational awareness and so on. Grant funding is only available for pre-approved qualifying course registration, related travel and lodging. Grant funding is specifically <u>not available</u> for: 1) meal reimbursement or per diem; 2) Emergency Manager regular time, overtime or backfill spent attending training; or 3) for "IS" (Independent Study) courses. Grant funding is limited to 90% of the total pre-approved qualifying course registration and related travel and lodging expenses (excluding any meal reimbursement and per diem).

I	G.	Does this project require a sole source?
	☒ Yes	If "Yes", please explain ☐ No N/A
The California Specialized Training Institute (CSTI), is a government agency (a division of the California Governor's Office of Emergency Services--CalOES) that is the primary provider of emergency management courses in California that meet both FEMA and CalOES requirements. The California Emergency Services Association (CESA) is the State professional association for Emergency Managers. CESA holds an annual conference with the 2022 conference being held in San Diego from April 30, 2022 to May 4, 2022.		

I	H.	Installation
		- Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
	☐ Yes, If "Yes", please:	☒ No
1. Provide an explanation AND Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195		

III. FUNDING

III	A.	Proposed funding amount														
		- Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). - Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.														
		<table border="1"> <thead> <tr> <th>ELEMENT</th> <th>PROPOSED FUNDING</th> </tr> </thead> <tbody> <tr> <td>☐ Planning</td> <td>\$</td> </tr> <tr> <td>☐ Equipment</td> <td>\$</td> </tr> <tr> <td>☐ Management & Administration</td> <td>\$</td> </tr> <tr> <td>☒ Training</td> <td>\$50,000</td> </tr> <tr> <td>☐ Exercise</td> <td>\$</td> </tr> <tr> <td>TOTAL PROJECT COSTS</td> <td>\$</td> </tr> </tbody> </table>	ELEMENT	PROPOSED FUNDING	☐ Planning	\$	☐ Equipment	\$	☐ Management & Administration	\$	☒ Training	\$50,000	☐ Exercise	\$	TOTAL PROJECT COSTS	\$
ELEMENT	PROPOSED FUNDING															
☐ Planning	\$															
☐ Equipment	\$															
☐ Management & Administration	\$															
☒ Training	\$50,000															
☐ Exercise	\$															
TOTAL PROJECT COSTS	\$															

Description of Expenditures That Will Be Used for Project Grant Match
OEM Equipment or OEM Personnel Costs

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/authorized-equipment-list
☐	Information Technology
☐	Cyber Security Enhancement Equipment
☐	Interoperable Communications Equipment
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment

☐	Power Equipment
☐	CBRNE Logistical Support Equipment
☐	Other Authorized Equipment: Contact grants manager prior to selected this sub-category

III B. Other Source(s) of funding	
- List other source(s) of funding that is being requested or utilized for this project (<i>check the appropriate box(es) on the left side</i>)	
ELEMENT	PROPOSED FUNDING
☐ UASI	\$
☐ SHSGP	\$
☐ General Funds	\$
☐ Other Grant Funds	\$
TOTAL OTHER FUNDING	\$

Other Funds: - Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.
The UASI T&E program has begun paying for some CSTI Training to be provided in our Operational Area based on input from our T&E staff. EMPG CSTI Training funds will be used to pay for needed training that isn't funded by UASI.

PROJECT MANAGEMENT AND IMPLEMENTATION

IV A. Milestones Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2022 EMPG. No start date should begin before July 1, 2022 and no end date should end after March 31, 2024. These dates are subject to change based on notification of application approval. No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. If unsure of exact dates, use Quarter timeframes Include key steps in the procurement process—i.e. RFP issuance, Contract execution, PR issuance, delivery, etc.			
MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	Identification of Specific CSTI Courses	Y1 Q3	Y2 Q1
2	Scheduling of Identified CSTI Course Delivery Dates	Y1 Q3	Y2 Q2
3	Delivery of Identified CSTI Courses	Y1 Q3	Y2 Q3
IV B. Project Outcomes - Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should address specific community lifelines wherever possible.			

- A greater number of individuals from across the Operational Area that are trained to plan for, mitigate, respond to, and recover from disasters.
- A greater number of individuals trained to work effectively in an EOC, DOC, JIC, MAC or as a DSW during a disaster.
- A greater number of highly trained individuals (i.e. have received advanced training) in the Operational Area who are prepared to mitigate, plan for, respond to, or recover from a disaster.

IV C. Project Deliverables

- Describe the specific deliverables that will be produced as a result of this project.

- Delivery of at least 4 CSTI courses in the Operational Area.
- Total attendance (headcount) of at least 120 individuals at CSTI courses (~30-40 individuals per course).



I	A.	Requestor Contact Information
	Agency	Santa Clara County Office of Emergency Management
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Management 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	ivan.williams@oem.sccgov.org
I	B.	Project Name
EOC Technology		
TOTAL PROJECT COST (Insert the total from Funding section)		\$80,000 (scalable)
I	C.	Project Type Use the checkbox to indicate corresponding project
	☐	This project is a new Project.
	☐	This project is part of an ongoing Project.
	☒	This project is for sustainment of a previously funded Project.

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

I	D.	Solution Areas				
		☐ Planning	☐ Organization	☒ Equipment	☐ Training	☐ Exercises
						
Choose ONLY one Sub Area (Sub Category) for Mission Areas above						
		☐ Community Outreach ☐ Conference ☐ Develop and Enhance Plans, Protocols and Systems	☐ Staffing ☐ Day to Day Activities/operations that support emergency management	☒ Information Technology ☒ Cyber Security Enhancement Equipment ☒ Interoperable Communications Equipment ☒ Other Authorized Equipment	☐ Staff Expenses ☐ Course Development ☐ Course Delivery and Evaluation ☐ Staff Expenses ☐ Certification / Recertification of instructors	☐ Design/Develop ☐ Conduct / Attend / Evaluate ☐ Supplies / Materials / Production Costs

I E. Core Capability and Community Lifelines - Identify each of the 12 Emergency Management Core Capabilities (or other Core Capability) this project addresses as well as the Community Lifeline(s) this project is most likely to help restore. Please check all that apply.				
☒ Planning	☒ Public Information & Warning	☒ Operational Coordination	☒ Long-Term Vulnerability Reduction	☐ Risk and Disaster Resilience Assessment
☒ Situational Assessment	☐ Community Resilience	☐ Threats and Hazard Identification	☐ Logistics and Supply Chain	☒ Mass Care Services
☐ Economic Recovery	☐ Other (please specify) _____			
Please identify the Community Lifelines this project is most likely to help stabilize:				
☐ Safety and Security	☒ Food, Water, Shelter	☒ Health and Medical	☒ Energy (Power & Fuel)	☒ Communications
☐ Transportation	☐ Hazardous Materials			

I F. Project Description/Justification - Briefly describe exactly what the project entails (including any equipment purchases or contracting that will be necessary for the project). Please also describe how the project is expected to impact (improve/sustain) the Core Capability(ies) and restore the Community Lifelines identified above.
This project enables Operational Area emergency managers to fully leverage data communication capabilities and sharing of critical information in their EOCs. Laptops and other computers support response and mitigation during emergencies and disasters via common operating picture and resource management web-based programs such as Web EOC, HSIN, COPLink, Mutualink, etc. as well as by supporting situational awareness. Eligibility of Operational Area jurisdictions for this funding is based on the following criteria: <u>Equipment Criteria—Laptops/Computers</u> • Funding is primarily for replacement of existing EOC laptops/computers that are at least 4 years old. • Written justification must be provided if funding is requested for additional laptop capacity (i.e. non-replacement laptops) in the City/Town EOC. This written justification must identify the specific EOC needs the additional laptop(s) would provide for as well as specifically how the laptop will be used in the EOC during an activation. These requests will be evaluated and approved on an individual basis. • Funding is limited to a maximum of \$1,900 per computing device (including all peripherals, tax and shipping). • Grant funds generally cannot be used to purchase warranties, maintenance/service agreements, or software that aren't bundled/included with the laptop unless preapproved. • Any computing device purchased under this project must be capable of running WebEOC—e.g. able to connect to the city/town network and run the necessary browser or other software to access WebEOC. <u>Equipment Criteria—Projectors/Screens/Monitors/Displays/Printers/Laminators/Switches/Networking/Audio or Visual Communications Equipment (e.g. speakers, microphones, cameras, mixers, etc.)</u>

- Each piece of equipment under this category must be fully described including both equipment quantities and specifications (e.g. 2 50" displays), where in the EOC it will be mounted/ located (e.g. North wall) and how it will be used (e.g. to provide situational awareness, WebEOC status boards, etc.).
- Mounted equipment will require State and Federal Environmental and Historic Preservation (EHP) approval prior to purchase of equipment. Forms must be submitted as soon as possible after grant award.
- Cost estimates, including actual bids/pricing information for the equipment must be provided to the grant manager for review and approval. The overall EOC technology project budget may require prioritization of individual jurisdiction's specific technology projects.

Satellite Phones

- Satellite phone equipment for emergency communication with the City/Town or County EOC may be purchased though the City/Town will be responsible for paying for satellite phone service and any phone maintenance or repair.

City/Town Criteria

- The City/Town must email their intent to use EMPG funding for computing devices—along with the number and type (e.g. laptop) of devices and any required justifications—by September 30, 2022.
- Each City/Town must enter into an MOU with the County for the computers by July 31, 2023.
- Each City/Town must procure any approved laptops/computers under an existing competitive contract OR obtain bids (at least 2) in accordance with local (City/Town) and Federal procurement rules (whichever is more restrictive).

Each City/Town must procure any approved computers / equipment and submit all invoices to the County Office of Emergency Management by March 31, 2024.

I	G.	Does this project require a sole source?
	☐ Yes	If "Yes", please explain ☒ No N/A

I	H.	Installation
	-	Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
	☒ Yes, If "Yes", please:	☒ No
	1.	Provide an explanation AND Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195
	Specific Jurisdiction equipment may be mounted and require an EHP. Completed EHP forms will be required once a specific project that requires installation is selected.	

III. FUNDING

III	A.	Proposed funding amount
	-	Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply).
	-	Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
	ELEMENT	PROPOSED FUNDING
☐	Planning	\$

☒	Equipment	\$80,000
☐	Management & Administration	\$
☐	Training	\$
☐	Exercise	\$
TOTAL PROJECT COSTS		\$

Description of Expenditures That Will Be Used for Project Grant Match
OEM Equipment or OEM Personnel Costs

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/authorized-equipment-list
☐ 04HW-01-INHW 04MD-03-DISP 04MD-02-PROJ	Information Technology
☐	Cyber Security Enhancement Equipment
☐ 06CC-03-SATP	Interoperable Communications Equipment <i>Phone, Satellite Portable</i>
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment
☐	Power Equipment
☐	CBRNE Logistical Support Equipment
☐ 21GN-00-OCEQ	Other Authorized Equipment: Contact grants manager prior to selected this sub-category

III	B.	Other Source(s) of funding
		- List other source(s) of funding that is being requested or utilized for this project (check the appropriate box(es) on the left side)
ELEMENT		PROPOSED FUNDING
☐	UASI	\$
☐	SHSGP	\$
☐	General Funds	\$
☐	Other Grant Funds	\$
TOTAL OTHER FUNDING		\$N/A

Other Funds:
- Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.

PROJECT MANAGEMENT AND IMPLEMENTATION

IV A. Milestones

Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2022 EMPG.

No start date should begin before July 1, 2022 and no end date should end after March 31, 2024.

These dates are subject to change based on notification of application approval.

No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent.

If unsure of exact dates, use Quarter timeframes

Include key steps in the procurement process—i.e. RFP issuance, Contract execution, PR issuance, delivery, etc.

MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	MOU between City/Town and County in Place	As early as Dec 1, 2022	No later than Feb 28, 2023
2	Environmental Historic Preservation (EHP) Forms for FEMA Review Completed (If applicable)	As early as Dec 1, 2022	No later than June 30, 2023
3	City/Town Performance Period	As early as July 1, 2022	No later than March 31 2024
4	City/Town Procurement of Project Equipment (once grant award is made, MOU is signed, and required EHPs approved)	As early as Jan 1, 2023	No later than March 31, 2024
5	Installation and testing of Project Equipment	As early as Jan 1, 2023	No later than March 31, 2024
6	City/Town submits invoice to County for reimbursement	As early as January 1, 2023	No later than April 15, 2024

IV B. Project Outcomes

- Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should address specific community lifelines.

EOC laptops and EOC equipment will increase the ability for first responders and emergency managers to effectively collect and provide information and data throughout the operational area and region. In addition, they enhance local emergency managers' abilities to respond to and mitigate the emergency or disaster. Laptops must meet minimum standard requirements to support WebEOC, HSIN, COPLink, and WebLink as well as other websites and software that may be needed in a disaster.

A laminator with the capacity to create large sized documents and maps provides staff with the ability to quickly create operational maps and charts when a hazard occurs. Maps and charts of relevant information, such as the location of the city's power lines, can be made in advance and prepared so that in an emergent situation they can be quickly accessed and used.

Enhanced technology in EOCs create more efficient and effective Emergency Operations Center. The equipment will be interoperable with existing communications systems, enabling live updates during hazard events. Situational awareness will be available to all EOC personnel at all times, with multiple screens in various strategic locations around the room projecting and sharing updated information for events throughout the City/Town as well as the region.

Updated technology facilitates the exchange of real time data with outside agencies and provides timely communication and notification to the public when a hazard occurs.

IV C. Project Deliverables

- Describe the specific deliverables that will be produced as a result of this project.

EOC laptops for jurisdictions within the Operational Area capable of supporting and displaying WebEOC, HSIN, COPLink, and WebLink as well as the other work of an Emergency Operations Center during a disaster.

EOC displays (projector, monitor, wall maps, etc.) will be upgraded to facilitate better situational awareness and to communicate a common operating picture within the EOC as well as facilitate interoperable communication with the public and outside agencies.

New and upgraded audio and visual equipment enhances communication with entities outside the primary EOC location whether during virtual EOC operations (such as during the pandemic) or in coordination with other EOCs, Department Operations Centers (DOCs), Incident Command Posts (ICPs), or others.

EXHIBIT F

LABOR DISTRIBUTION TIME SHEET	Week Ending	First and Last Name										City/County Participating			
	1/9/22	Emergency Manager's Name										SCC OEM			
WBS #														107-G107EM22	
PROJECTS	HOURS WORKED BY DAY														
	M	T	W	TH	F	S	S	M	T	W	TH	F	S	S	TOTAL
	12/27/21	12/28/21	12/29/21	12/30/21	12/31/21	1/1/22	1/2/22	1/3/22	1/4/22	1/5/22	1/6/22	1/7/22	1/8/22	1/9/22	HOURS
A - EMPG Grant Administration															
B - EOAC Liaison															
C - CSTI Training															
D - EOC Technology															
E - ReadySCC App															
F - Preparedness Materials and Outreach															
G - CADRE Community Preparedness															
H - Emergency / Risk Communications Officer															
I - Remote Automated Weather Station (RAWS)															
Emergency Manager CERT Related Activities															
Emergency Manager PLANNING Activities															
Emergency Manager TRAINING Administration, Development and Delivery or EXERCISE Activities															
Emergency Manager OPERATIONAL READINESS Activities															
Emergency Manager COVID-19 Related Activities															
Public Risk Communication Officer/PIO Activities															
STO / Vacation / Leave															
Total Work Hours															
Employee Signature Supervisor's Signature															

**CONTRACTOR CERTIFICATION OF COMPLIANCE WITH
COVID-19 VACCINE REQUIREMENTS
(Version Effective September 27, 2022)**

Contractor Information:

Contractor name:

Name of Contractor representative:

Contractor phone number:

Contractor email address:

Contractor Certification. On behalf of Contractor, I hereby certify that:

1. Contractor has reviewed and is in compliance with all current County requirements regarding COVID-19 vaccination applicable to contractor's personnel working at County facilities, including but not limited to the requirements in the County's memorandum regarding COVID-19 Vaccine Requirement for County Personnel ("County Vaccine Policy"), the County's memorandum regarding Application of COVID-19 Vaccination Requirement to County Contractors, Interns, and Volunteers, all current State and County Health Officer orders, and any other County requirements. These memoranda and current County policies are accessible at <<https://procurement.sccgov.org/doing-business-county/contractor-vaccinations>>. Contractor understands that it is responsible for reviewing and maintaining compliance with all subsequent revisions or amendments to State and County orders and requirements regarding COVID-19.
2. As of the date signed below:
 - a. Contractor understands that it must confirm, and has confirmed, that all of contractor's personnel (including any subcontractor personnel) who routinely perform services for the County onsite and share airspace with or proximity to other people at an indoor County facility as part of their services for the County¹ are:

- i. Fully vaccinated against COVID-19 as defined and required in the County Vaccine Policy;² **or**

¹ As established in the County's Memorandum Regarding Application of COVID-19 Vaccination Requirement to County Contractors, Interns, and Volunteers, contractors performing work at closed construction sites are not required to comply with the County's vaccination requirements, but must comply with all applicable federal, state, and local public health laws, including but not limited to any vaccination, testing, and masking requirements.

² County departments are required by law to implement any State-issued requirements, including ones that are more restrictive than the County's internal policies. As of the date of this policy, the California Department of Public Health (CDPH) requires that workers in [health care facilities](#), as well as specified workers in [custodial settings](#), obtain a COVID-19 booster dose. Thus, contractor personnel subject to this CDPH booster requirement are expected to comply with it, in addition to the County's policy. The exemption process in Section C of the County Vaccine Policy shall apply to any requests for exemption from the State booster requirement.

- ii. Have a legally sufficient and approved medical, disability, or religious exemption from vaccination that has been granted by contractor.
- b. Contractor has verified and will continue to verify the vaccination status of all staff working on site at any County facility, and has obtained proof of vaccination from its staff in a form consistent with the California Department of Public Health's Vaccine Records Guidelines and Standards.
3. If contractor seeks to send any personnel who are not fully vaccinated to work indoors at any County facility because the contractor has granted them an exemption, contractor shall notify the County in writing by providing a list of any such personnel to the COVID-19 Designee for the department that manages the facility where the contractor personnel will be working at least 96 hours in advance of any such personnel arriving onsite so that the department has sufficient time to determine whether it will approve the contractor's requests that its personnel work onsite and, if approved, can ensure that the contractor has complied with all applicable COVID-19 safety requirements for unvaccinated individuals, including, where applicable, regular testing and the use of a fit-tested N95 mask.³ Notice must be separately provided to each department that manages a facility where contractor seeks to assign personnel to work onsite.
4. If any of contractor's personnel are noncompliant with vaccination or testing requirements, contractor will notify the County Department for which they are providing services immediately and will not permit those personnel to go onsite at a County facility without express written permission from the County.
5. Contractor will comply with all reasonable requests by the County for documentation demonstrating the contractor's compliance with this Certification.

I verify the truth and accuracy of the statements in this Certification under penalty of perjury under the laws of the State of California.

Name of authorized representative of
Contractor

Title

Signature

Date

³ If contractor sends personnel who are not fully vaccinated, it is contractor's obligation to ensure that it has any necessary authorization under the California Confidentiality of Medical Information Act, Cal. Civ. Code §§ 56 *et. seq.*, and under any other laws to share this information with the County.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND ADMINISTER, THAT CERTAIN GRANT AGREEMENT WITH COUNTY OF SANTA CLARA FOR THE 2022 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2022/2023 BUDGET IN THE GENERAL FUND (FUND NO. 010) TO APPROPRIATE \$15,200 THEREFORE

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, the reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Memorandum of Understanding for Emergency Management Performance Grant" submitted for City Council consideration at its meeting of March 15, 2023, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 2022/2023, as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

WHEREAS, the activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public meeting at which the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the Memorandum of Understanding Agreement with County of Santa Clara for the Emergency Management Performance Grant substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the “Agreement”) is hereby approved; and
- b. That the City Manager is hereby delegated authority to and is authorized and directed to execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit B; provided, specifically, that the total amounts to be received in grant funds by City under the Agreement shall in no event exceed Fifteen Thousand Two Hundred Dollars (\$15,200); and
- c. That the City’s previously adopted Fiscal Year 2022/2023 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- d. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City’s Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2022/2023 Budget of the City.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 15th day of March 2023 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:
COUNCIL MEMBERS:

DATE: _____

Mark Turner, MAYOR

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX , adopted by the City Council at the meeting held on March 15, 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

Michelle Bigelow, CITY CLERK

AGENDA BUDGET SCORECARD**FISCAL YEAR 2022-2023****ADJUSTMENT #**

003

FUND:

010 General Fund

DEPARTMENT:

3230 Police-Emergency Services

OBJECT:

42248 OTHER SUPPLIES

AGENDA DATE:

03/15/23

AGENDA ITEM TITLE:

2023 Emergency Management Performance Grant MOU

	07/01/22 AUDITED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/23 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	33,685,888	50,511,569	55,830,094	28,367,363
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION		15,200	15,200	-
RESULT OF RECOMMENDED ACTION	<u>33,685,888</u>	<u>50,526,769</u>	<u>55,845,294</u>	<u>28,367,363</u>

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE NO. 2344, NEW SERIES, APPROVING A ZONING MAP AMENDMENT FROM PLANNED DEVELOPMENT/GENERAL COMMERCIAL TO MIXED USE FLEX FOR A MIXED-USE DEVELOPMENT ON A 3.82-ACRE SITE LOCATED ON THE SOUTHWEST QUADRANT OF COCHRANE ROAD AND MONTEREY ROAD (MONTEREY – CITY VENTURES (THE GATES)) (APNS 764-10-013 AND 764-10-015)

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2344, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

2022-2023 Strategic Priorities

Affordable Housing and Homelessness

Economic Development

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

On February 15, 2023, the City Council introduced Ordinance No. 2344 New Series, by the following roll call vote: Ayes: Borgioli, Librers, Martinez Beltran, Turner; Noes: Spring; Abstain: None; Absent: None.

The Ordinance implements the Zoning Map Amendment from Planned Development/General Commercial to Mixed Use Flex for a 3.82-acre site to allow for the development of a mixed-use project consisting of 5 commercial flex units, 49 townhome-style condominiums, and associated amenities.

COMMUNITY ENGAGEMENT:

A project webpage was created on the Morgan Hill website. The date and time of this meeting was publicly noticed (mailed to property owners within 600-feet of the project site and newspaper legal notice) for the minimum 10-day period and a project

development sign was posted at the property location pursuant to the Planning Division requirements.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The existing "Gateway Center" Planned Development (PD) was approved by the City Council (Ordinance No. 1549) on May 1, 2002.

The Planning Commission conducted a public hearing on January 11, 2022, for the Preliminary Plan Review SR2021-0020 project proposal, as required by Section 18.115.100 (Preliminary Review) of the Morgan Hill Municipal Code (MHMC). All General Plan Amendments require a Preliminary Plan Review prior to the formal submittal of a General Plan application. After receiving input from the Planning Commission, the applicant, City Ventures, worked with City staff and changed the site layout to improve on-site circulation and address concerns regarding ingress/egress and access to the site via Monterey Road.

The Planning Commission reviewed the project on December 13, 2022 and accepted public comment on the proposed project. The Planning Commission recommended approval of the Zoning Amendment application.

On February 15, 2023, the City Council approved the MND and the Mitigation Monitoring and Reporting Program, approved the resolution approving an amendment to the General Plan land use designation, and introduced the Zoning Amendment Ordinance.

FISCAL AND RESOURCE IMPACT:

The City's development review functions are cost-recovery, with fees collected from applicants to cover the cost of services. These fees have been collected.

CEQA (California Environmental Quality Act):

An initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project by Raney Planning & Management, Inc. dated October 2022 in conformance with the California Environmental Quality Act (CEQA). The IS/MND was circulated for 30 days from November 11, 2022 to December 12, 2022. On February 15, 2023, the City Council approved the MND and the Mitigation Monitoring and Reporting Program.

ORDINANCE NO. 2344, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
APPROVING A ZONING MAP AMENDMENT FROM
PLANNED DEVELOPMENT/GENERAL COMMERCIAL
TO MIXED USE FLEX FOR A MIXED-USE
DEVELOPMENT ON A 3.82-ACRE SITE LOCATED ON
THE SOUTHWEST QUADRANT OF COCHRANE ROAD
AND MONTEREY ROAD (MONTEREY – CITY VENTURES
(THE GATES)) (APNS 764-10-013 AND 764-10-015)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS
FOLLOWS:**

SECTION 1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.

The proposed project is consistent with the policies of the General Plan and also the proposed General Plan designation of Mixed-Use Flex.

SECTION 2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The project is a mixed use development that would provide housing and commercial opportunities. The proposed project is not expected to detrimental to public interest, health, safety, convenience, or welfare of the City. An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project per the California Environmental Quality Act (CEQA). A Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the project which includes all measures required to reduce potentially significant environmental impacts to a less-than significant level which will be incorporated into any approval of a future development project.

SECTION 3. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the zoning code and general plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

The amendment would allow for development of a mixed-use project. Based upon analysis of the conceptual plan, the project would comply with all the required development standards outlined in the MU-F zone district. The project site is large enough to fit the proposed project and be complementary to the other residential mixed-use projects located along Monterey Road. The zone change would provide an appropriate transition from the lower density single-family detached

neighborhoods to the north and west of the project site to the higher density single-family attached neighborhoods and commercial areas along Monterey Road.

SECTION 4. The request was considered by the Planning Commission at its regular meeting of December 13, 2022, at which time the Planning Commission recommended approval of Zoning Amendment application, ZA2021-0006: Monterey – City Ventures (The Gates).

SECTION 4. Effective Date; Posting.

This Ordinance shall take effect on the 31st day after adoption. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15TH DAY OF FEBURARY 2023, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15TH DAY OF MARCH 2023, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

APPROVED:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, MICHELLE BIGELOW, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2344, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15th day of March 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

MICHELLE BIGELOW, City Clerk

**MEMORANDUM OF UNDERSTANDING
WITH RESPECT TO “THE GATES”**

This Memorandum of Understanding (“MOU”) is made this 15th day of March, 2023, by and between CITY VENTURES, LLC, a Delaware limited liability company (“City Ventures”), and CITY OF MORGAN HILL, a municipal corporation (the “City”), with respect to the following facts:

A. City Ventures has made application to the City for the approval of the entitlements (the “Application”) with respect to a project commonly known as “The Gates” which is located at 18545-18565 Monterey Road, Morgan Hill (the “Property”). The Application presently proposes a mixed-use project with both residential and commercial uses as described in the General Plan Amendment application GPA2021-0005 and Zoning Map Amendment application ZA2021-0006: Monterey – City Ventures (The Gates) on the Property. A copy of the Application is attached hereto as Exhibit A.

B. The City is in the process of amending its General Plan covering an area within the City of Morgan Hill which includes the Property, in a manner which would allow for the Property to be developed as an all-residential project.

C. The City seeks the assurance of City Ventures that City Ventures will preserve the mixed-use designation on the site and not amend the Application or leverage any state laws to build a residential-only project.

NOW THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, City Ventures hereby provides its assurance to the City that City Ventures will not amend the Application to build a residential-only project and will maintain the commercial space substantially as shown on the Application.

IN WITNESS WHEREOF, City Ventures and the City have executed this MOU as of the date and year first written above.

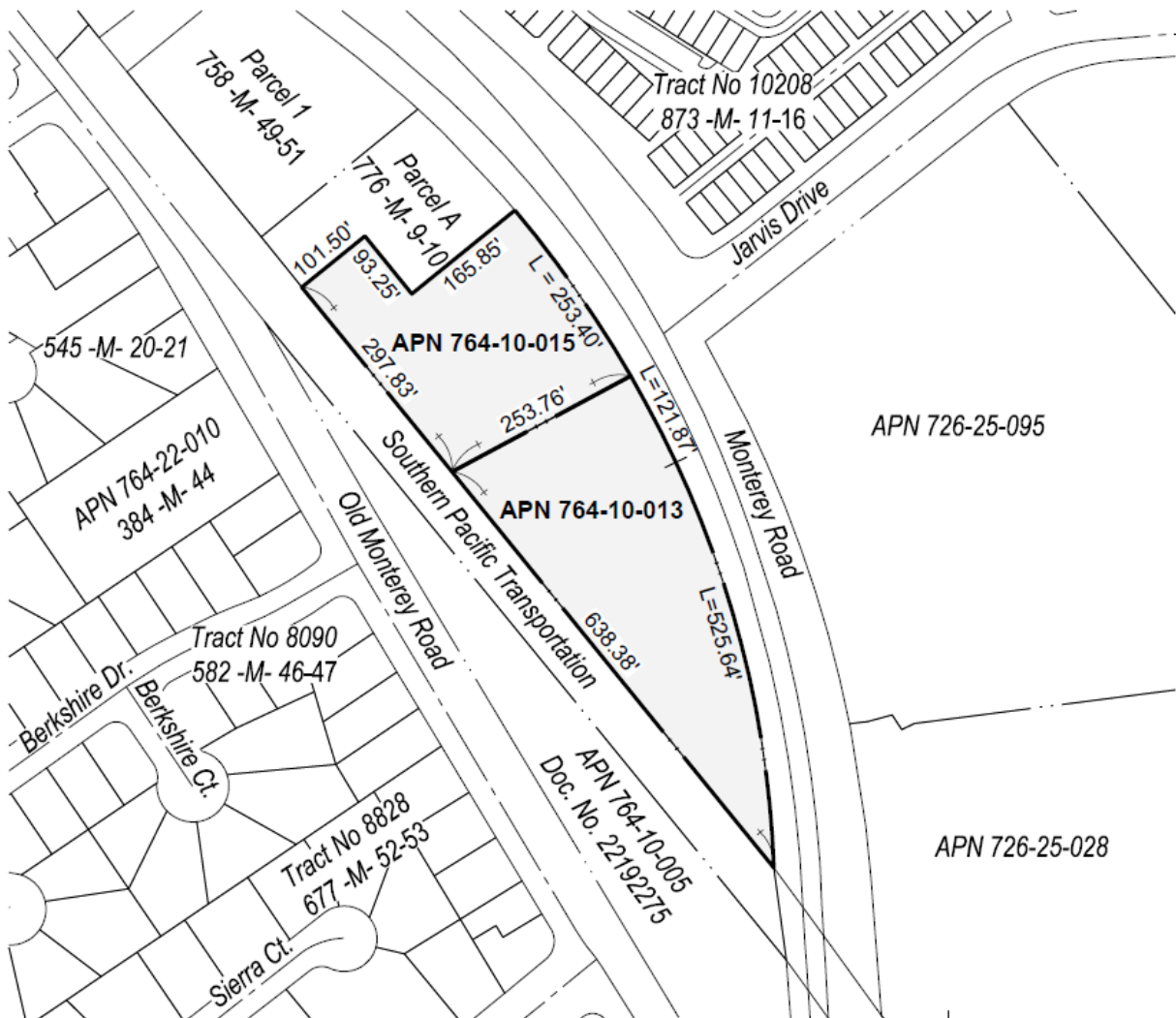
CITY VENTURES, LLC,
a Delaware limited liability company

By: Samantha Hauser
Name: Samantha Hauser
Its: Executive Vice President

CITY OF MORGAN HILL,
a Municipal corporation

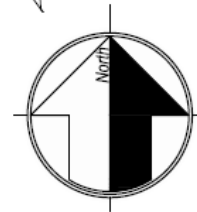
By: _____
Name: _____
Its: _____

EXHIBIT
APPLICATION



Legend

	Property Boundary
	General Plan Change Area
From:	Commercial
To:	Mixed Use Flex (MUF)



Scale: 1"=200'



**Proposed General Plan Amendment
to the City of Morgan Hill
entitled
"City Ventures Homebuilding, LLC"**



MH engineering Co.

16075 VINEYARD BOULEVARD MORGAN HILL, CA 95037

(408) 779-7381

SCALE: 1" = 200'

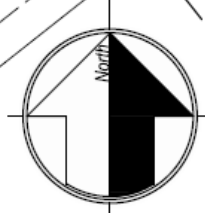
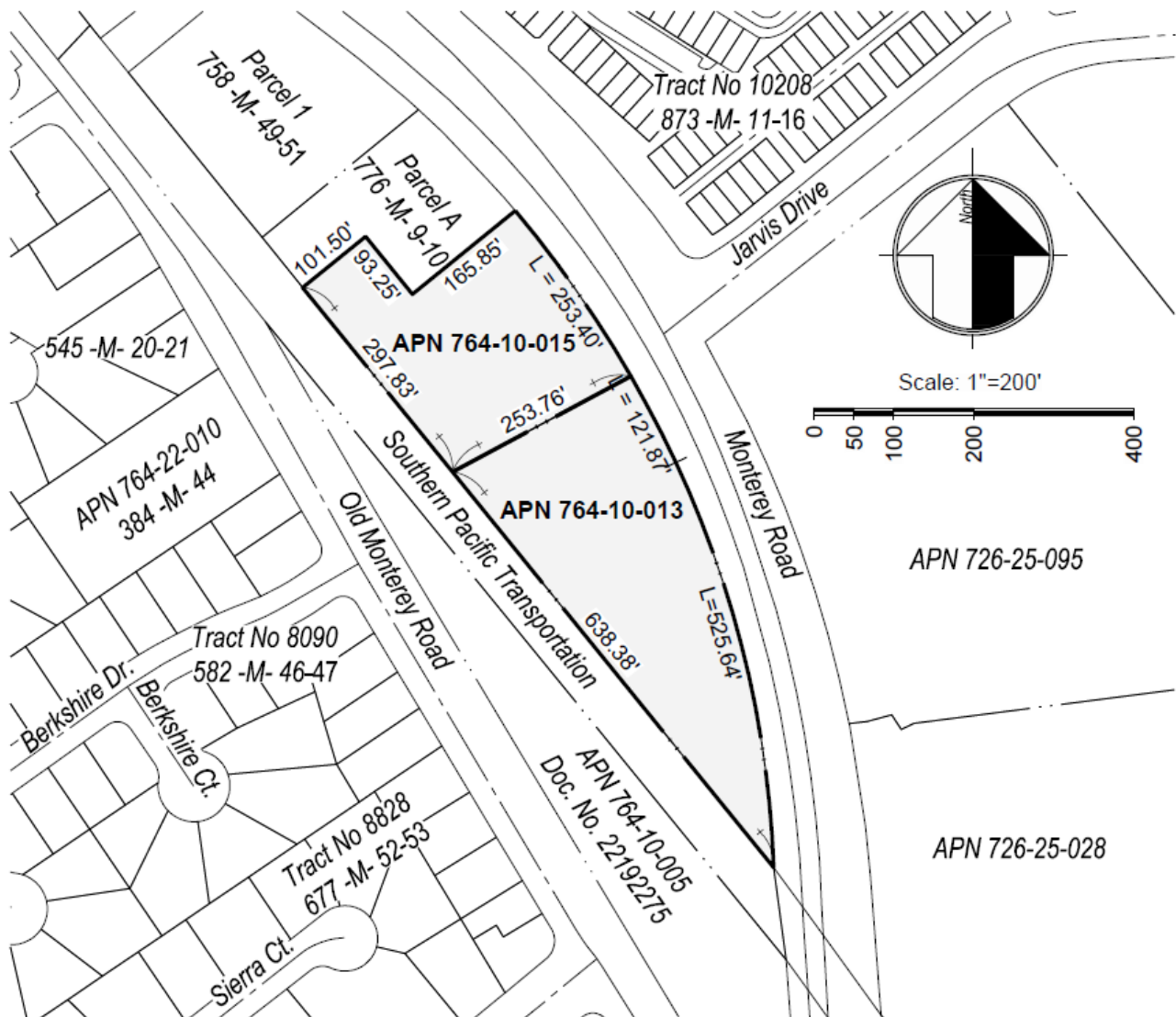
JOB #: 221005

SHEET

DRAWN BY: MiguelM

DATE: October 20, 2021

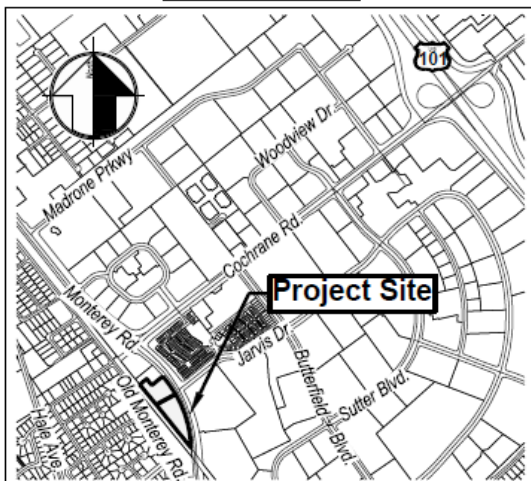
1 of 1



Scale: 1"=200'



Vicinity Map



Legend

-  Property Boundary
-  Zoning Change Area
From: General Commercial (PUD)
To: Mixed Use Flex (MUF)

"Exhibit B"
Map showing Rezoning
Lands of
"City Ventures Homebuilding, LLC"
City of Morgan Hill
Being a Part of
Ordinance No. _____, New Series

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE NO. 2345, NEW SERIES, AMENDING SECTION 2.04.010 OF THE MUNICIPAL CODE, REGARDING THE TIME AND LOCATION OF THE COUNCIL MEETINGS

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2345, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Protecting the Environment and Preserving Open Space and Agricultural Land

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Fostering a Positive Organizational Culture

Preserving and Cultivating Public Trust

Preserving our Community History

Enhancing Diversity and Inclusiveness

Advancing Regional Initiatives

2022-2023 Strategic Priorities

Fiscal Sustainability

Affordable Housing and Homelessness

Community Outreach, Engagement, and Messaging

Economic Development

Transportation

REPORT NARRATIVE:

On February 15, 2023, the City Council introduced Ordinance No. 2345 New Series, by the following roll call vote: Ayes: Borgioli, Librers, Spring, Turner; Noes: Martinez Beltran; Abstain: None; Absent: None.

Adoption of the attached ordinance changes the Morgan Hill City Council's regular meeting start time from 7:00 pm to 6:00 pm. The ordinance would be effective on the 31st day after adoption of the ordinance.

COMMUNITY ENGAGEMENT:

This report serves to inform the community of the proposed change to the start time of City Council meetings.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Not Applicable.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with this action.

CEQA (California Environmental Quality Act):

Not a Project. Administrative activities of governments that do not result in direct physical changes in the environment do not qualify as a project for purposes of CEQA.

ORDINANCE NO. 2345, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
AMENDING SECTION 2.04.010 OF THE MUNICIPAL
CODE, REGARDING THE TIME AND LOCATION OF
THE COUNCIL MEETINGS**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

Section 1. Amendment of Municipal Code. Section 2.04.010 of the Morgan Hill Municipal Code is hereby amended to read:

Section 2.04.010 Meetings – Time and Location

The regular meeting of the City Council shall be held on the first, third, and fourth Wednesdays of every month. If at any time a regular meeting falls on a City holiday, such regular meeting shall be canceled. All meetings shall be held in the Council Chamber located at the Civic Center, 17555 Peak Avenue, Morgan Hill, California, at 6:00 p.m., or at another time or location as designated by minute order of the City Council.

Section 2 Effective Date

This ordinance shall become effective on the 31st day after adoption.

The foregoing ordinance was introduced at a Regular meeting of the City Council held on the 15th day of February 2023 and was finally adopted at a Regular meeting of the City Council held on the 15th day of March 2023 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	Gino Borgioli, Marilyn Librers, Rene Spring, Mark Turner
NOES:	COUNCIL MEMBERS:	Yvonne Martinez Beltran
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, MICHELLE BIGELOW, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2345, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15th day of March 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

MICHELLE BIGELOW, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Hilary Holeman, Administrative Analyst

APPROVED BY: City Manager

ADOPT RESOLUTION OPPOSING BALLOT INITIATIVE #21-0042A1, SPONSORED BY CALIFORNIA BUSINESS ROUNDTABLE, LOBBYING ARM OF THE LARGE CORPORATIONS IN CALIFORNIA

RECOMMENDATION(S)

1. Adopt resolution to oppose ballot Initiative #21-0042A1; and
2. Authorize staff to send a letter to the League of California Cities formalizing the City's position.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

Preserving and Cultivating Public Trust

Advancing Regional Initiatives

2022-2023 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

On February 1, 2023, the purported "Taxpayer Protection and Government Accountability Act," or [AG# 21-0042A1](#), qualified for the November 2024 ballot. The measure would amend the California Constitution with provisions that limit voters' authority and input, adopt new and stricter rules for raising taxes and fees, and may make it more difficult to impose fines and penalties for violation of state and local laws. The initiative includes provisions that would retroactively void all state and local taxes or fees adopted after January 1, 2022 if they did not align with the provisions of the initiative. The measure is sponsored by the California Business Roundtable (CBRT) — the lobbying arm of the largest and wealthiest corporations in California.

The League of California Cities alerted member cities and requested they take action to join a broad coalition of local governments, labor, public safety, education, and infrastructure advocates, to strongly oppose this initiative.

COMMUNITY ENGAGEMENT:

Inform - This report serves to inform the community about the City's position on pending legislation that directly impacts the City of Morgan Hill.

ALTERNATIVE ACTIONS:

The City Council could decide not to oppose this initiative.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

City Council periodically approves City positions on various pending State, County or other regional board legislations or actions that have a direct impact on the City of Morgan Hill.

FISCAL AND RESOURCE IMPACT:

The Taxpayer Protection and Government Accountability Act puts billions of local government tax and fee revenues at risk statewide with related core public service impacts. Any City of Morgan Hill fees that have been adopted by the City Council since January 1, 2022, such as the Development Services User Fees adopted on January 19, 2022, indexed fees that adjusted over time for inflation, or other factors such as User Fees and Impact Fees, would be subject to legal peril.

CEQA (California Environmental Quality Act):

Not a Project - Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

RESOLUTION NO:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL OPPOSING BALLOT INITIATIVE 21-
0042A1, INITIATIVE CONSTITUTIONAL AMENDMENT
WHICH WOULD LIMIT ABILITY OF VOTERS AND
STATE AND LOCAL GOVERNMENTS TO RAISE
REVENUES FOR GOVERNMENT SERVICES.**

WHEREAS, an association representing California's wealthiest corporations and developers is spending millions to push a deceptive proposition aimed for the November 2024 statewide ballot; and

WHEREAS, the measure includes provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure creates new constitutional loopholes that would allow corporations to pay less than their fair share for the impacts they impose on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure may make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure threatens billions of dollars currently dedicated to state and local services, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to address homelessness, mental health services, and more; and

WHEREAS, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, ports, drinking water, sanitation, utilities, and more.

NOW, THEREFORE, BE IT RESOLVED that the City Council of City of Morgan Hill finds the Initiative #21-0042A1, if enacted, would threaten the City's ability to provide essential services and infrastructure needs; and

BE IT FURTHER RESOLVED that the City Council opposes Initiative #21-0042A1.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Morgan Hill at a Regular Meeting held on March 15, 2023

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

APPROVED:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. xx-xxxx, adopted by the City Council at a special meeting held on March 15, 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

MICHELLE BIGELOW, City Clerk



17575 Peak Avenue
Morgan Hill, CA 95037-4128
TEL: (408) 779-7271
FAX: (408) 779-3117
www.morganhill.ca.gov

March 16, 2023

Bismarck Obando
Director of Public Affairs, League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter Opposing Initiative 21-0042A1

On March 15, 2023, the City of Morgan Hill voted to adopt a resolution opposing Initiative 21-0042A1, a deceptive, developer-sponsored proposition aimed for the November 2024 statewide ballot that would significantly jeopardize cities' ability to provide essential services and infrastructure for our residents.

The measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and projects and would limit voter input by prohibiting local advisory measures where voters can express a preference on how they want their local tax dollars spent.

This measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including impacts on local infrastructure and our environment.

This measure also may make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Unless defeated, the measure puts billions of dollars currently dedicated to local services at risk, and could force cuts to fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.

The measure benefits wealthy corporations and real estate developers while decimating our local communities and neighborhoods.

You may list the City of Morgan Hill in formal opposition to Initiative #21-0042A1 and include our city as part of the growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state opposed to this deceptive proposition.

Sincerely,

Mark Turner, Mayor
City of Morgan Hill

Cc: Seth Miller, Regional Public Affairs Manager, League of California Cities, smiller@cacities.org
Meg Desmond, League of California Cities, cityletters@cacities.org
BallotMeasures@calcities.org

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Keri Russell, Maintenance Coordinator

APPROVED BY: City Manager

APPROVE PURCHASE OF MAINTENANCE DIVISION DUMP TRUCK

RECOMMENDATION(S)

1. Approve the purchase of a 2022 Ram 5500 Chassis Cab Dump Truck from the Gilroy Chrysler Dodge Jeep Ram in the amount of \$114,887 to replace vehicle D08127; and
2. Authorize the disposal of the surplus vehicle D08127 in accordance with Section 3.04.400 of the City of Morgan Hill Municipal Code.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2022-2023 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

Staff prepared detailed specifications for the Maintenance Division dump truck scheduled for replacement in Fiscal Year (FY) 2021-22 based on Division needs and requested quotes from the National Auto Fleet Group using a Sourcwell purchasing agreement. However, to date this request was met with no responses as there has been no available vehicles in inventory nor the ability to order the needed vehicle due to manufacturing and supply delay issues. The National Auto Fleet group encompasses many manufacturers such as Ford, Chevrolet, and Dodge but had no vehicles comparable to a Ford F-250 and above to offer. City staff have spent significant time reviewing alternative vehicle options but were unable to find any available vehicles with ordering options.

City staff have also tried to work with the Ford Store of Morgan Hill and NorCal Kenworth and have been unable to find a 3-4 ton dump truck available to purchase. City staff engaged with the Gilroy Chrysler Dodge Jeep Ram who has one vehicle on the lot that meets the needs of the City and a quote was requested. Gilroy Chrysler Dodge Jeep Ram does not anticipate any more dump trucks to arrive for at least another 6 months.

The current Dump Truck is 15 years old and has high use and a limited life expectancy. Therefore, staff recommends the Council approve the purchase of this dump truck from Gilroy Chrysler Dodge Jeep Ram. The Municipal Code allows for the City Council to approve a purchase without a competitive bid upon a determination that competitive bids would not be likely to result in a lower price to the city or would cause unnecessary expense or delay under the circumstances. Staff is also recommending that the vehicle being replaced be declared as surplus to be disposed of via auction, to obtain the highest possible revenue from the surplus sale.

COMMUNITY ENGAGEMENT:

Not Applicable

The replacement of equipment and vehicles are necessary functions to support basic operations within the Maintenance Division and therefore no community engagement was necessary.

ALTERNATIVE ACTIONS:

The Council could choose not to approve the recommended purchase. However, purchase of a replacement dump truck is an extremely high priority due to uses supporting base maintenance needs. Should the current vehicle go out of service, the City would risk not being able to respond to basic street and park maintenance needs of the City.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

There have been no previous actions relating to the purchase of this specific vehicle. The City purchases replacement vehicles and equipment annually and funding for the purchase was appropriated with the adoption of the Fiscal Year 2022-23 and 2023-24 Biennial Budget.

FISCAL AND RESOURCE IMPACT:

The vehicle replacement purchases are included in the FY 2022-23 budget within the Equipment Replacement Fund (790), in which adequate funds are set aside for these replacements. The revenue received from the surplus sales of vehicles and equipment will be deposited into the Equipment Replacement Fund, to credit towards future replacement vehicles.

CEQA (California Environmental Quality Act):

Not a project

Vehicle replacement is an administrative program that will not result in a change to the physical environment. This action is not a project under the California Environmental Quality Act.



Gilroy Chrysler Dodge Jeep Ram
455 Automall Dr
Gilroy
CA, 95020
www://gilroychryslerdodgejeepram.com

Deal #
112498

Customer #
62276

Anthony Sida
Contact Sales: (408) 842-8244

CITY OF MORGAN HILL
(408) 776-7333
100 EDES ST, MORGAN HILL, CA 95037

2022 Ram 5500 Chassis Cab
Tradesman
VIN : 3C7WRNBL2NG374006 | Stock # : 22T2347
Mileage : 140 mi
Color : Bright White

	Cash
\$0.00 Customer Cash	\$114,887.25

Payment Detail	
MSRP	\$107,233.00
Discount	\$2,918.08
Total Savings	\$2,918.08
Your Price	\$104,314.92
Other F&I Products	\$349.00
Fees	\$672.75
Taxes (9.125%)	\$9,550.58
Unpaid Cash Balance	\$114,887.25
Amount Financed	\$114,887.25

X

Customer Signature & Date

X

Anthony Sida | Manager Signature & Date

Payments offered here are all subject to final credit approval from the lending institution. Vehicle Price does not include accessories and is before Taxes and/or applicable fees. Leases in some cases require additional cash for Security Deposit, and at Lease's End, Lessee is responsible for \$0.25 per Mile over 12000 Miles per year and a Disposition Fee of \$495.00. Wear and tear guidelines apply. All prices, specifications, and availability subject to change without notice.

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Jennifer Ponce, OES Coordinator

APPROVED BY: City Manager

APPROVE UPDATED EMERGENCY OPERATIONS PLAN

RECOMMENDATION(S)

Approve the distribution and use of the updated City of Morgan Hill's Emergency Operations Plan.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Preserving and Cultivating Public Trust

2022-2023 Strategic Priorities

Community Outreach, Engagement, and Messaging

Guiding Documents

Public Safety Master Plan

REPORT NARRATIVE:

The Office of Emergency Services is charged per City ordinance with the preparation and execution of a written plan designed to address the City's response to man-made and natural disasters.

Staff from the Morgan Hill Office of Emergency Services has updated the Emergency Operations Plan consistent with current standards in emergency management. The plan outlines the necessary roles and responsibilities that will be discharged by City staff and volunteers in the event a disaster strikes Morgan Hill.

This plan continues the City's compliance with the California Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS). It facilitates multi-agency and multi-jurisdictional coordination during emergency operations, public information functions, and resource management.

COMMUNITY ENGAGEMENT:

Inform

The Emergency Operations Plan is a public document that outlines the City of Morgan Hill's actions before, during, and after an emergency and guides the City's response to major emergencies/disasters.

ALTERNATIVE ACTIONS:

If this plan is not updated, the current plan dated February 16, 2022 will remain in place.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The previous Emergency Operations Plan was approved by City Council on February 16, 2022.

FISCAL AND RESOURCE IMPACT:

The City of Morgan Hill must follow the Standardized Emergency Management System (SEMS) and National Incident Management System (NIMS) to be eligible for homeland security grant and hazard mitigation grant opportunities. This plan outlines how the City follows both SEMS and NIMS.

CEQA (California Environmental Quality Act):

Not a Project

Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.



Emergency Operations Plan



***“Partnering with the community to improve the quality of life
in Morgan Hill through preparedness”***

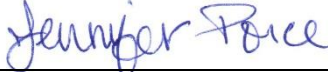
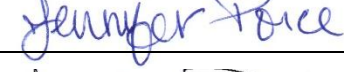
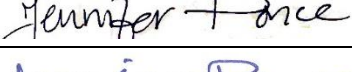
Revision 2.4
March 15, 2023



Revision History

REV	DATE	DESCRIPTION	AUTHOR
1.0	06-JAN-2013	Initial Release	Jennifer Ponce
2.0	11-JAN-2018	New document format with multilevel paragraph & subject numbering; Added activation levels chart (page 9); Updated EOC Organization (pages 13-15); EOC Operations update (page 17); Dissemination of Information update (page 18); Removed CERT Section (page 21); Updated web reference links (pages 27, 30, 31); Appendices broken out into new separate document.	Jennifer Ponce
2.1	08-FEB-2018	Inserted Letter of Promulgation	Jennifer Ponce
N/A	23-JAN-2019	Annual Review; No changes	Jennifer Ponce
2.2	13-JAN-2021	Revised with minor updates to sections 2.1, 2.2.6, 2.3.11.3, 3, 4.3.1, 4.2, 4.3.2, 4.7, 10. New Letter of Promulgation from Mayor Constantine	Jennifer Ponce
2.3	02-FEB-2022	Annual Review; Added Call Center into section 2.3.11.2 (Ops Section); New Letter of Promulgation	Jennifer Ponce
2.4	15-MAR-2023	Annual Review; Revised with minor updates to sections 1.3, 2.2, 2.3, 2.4, 4.1, 4.2, 4.7, 7.1, 9.1, 10.4, 12.1, 13.4, 14, 15; New Letter of Promulgation	Jennifer Ponce

Approval Signatures

REV	NAME	TITLE/POSITION	SIGNATURE
1.0	Jennifer Ponce	OES Coordinator	
2.0	Jennifer Ponce	OES Coordinator	
2.1	Jennifer Ponce	OES Coordinator	
N/A	Jennifer Ponce	OES Coordinator	
2.2	Jennifer Ponce	OES Coordinator	
2.3	Jennifer Ponce	OES Coordinator	
2.4	Jennifer Ponce	OES Coordinator	



17555 PEAK AVENUE
MORGAN HILL, CA 95037
PHONE: (408) 776-7373
FAX: (408) 778-7869
www.morgan-hill.ca.gov

Reserved for Letter of Promulgation

Table of Contents

<u>SECTION 1: EXECUTIVE SUMMARY</u>	6
<u>1.1 PURPOSE</u>	6
<u>1.2 CONCEPT OF OPERATIONS</u>	6
<u>1.3 THE CITY OF MORGAN HILL'S EMERGENCY ORGANIZATION</u>	7
<u>SECTION 2: PLAN DETAILS</u>	8
<u>2.1 PLAN OVERVIEW</u>	8
<u>2.2 ACTIVATION OF THE EOC</u>	8
<u>2.3 ORGANIZATIONAL STRUCTURE</u>	10
<u>2.4 COORDINATION WITH THE FIELD RESPONSE LEVEL – ICS</u>	15
<u>2.5 THE ACTION PLANNING PROCESS (DURING AN INCIDENT)</u>	16
<u>SECTION 3: EOC OPERATIONS</u>	17
<u>3.1 EOC SET UP</u>	17
<u>3.2 EOC STAFFING</u>	17
<u>3.3 EOC TRAINING</u>	17
<u>SECTION 4: DISASTER SERVICE WORKERS – EMPLOYEES AND VOLUNTEERS</u>	18
<u>4.1 CITY EMPLOYEES</u>	18
<u>4.2 VOLUNTEER ORGANIZATIONS AND PRIVATE AGENCIES</u>	18
<u>4.3 COORDINATION OF VOLUNTEERS</u>	19
<u>4.4 REGISTRATION</u>	19
<u>4.5 WORKER'S COMPENSATION CLAIMS</u>	19
<u>4.6 LIABILITY CLAIMS</u>	19
<u>4.7 ACTIVATION OF DISASTER SERVICE WORKERS (DSWs)</u>	19
<u>4.8 EMPLOYEE EMERGENCY PREPAREDNESS TRAINING</u>	20
<u>SECTION 5: WEBEOC</u>	20
<u>SECTION 6: EMERGENCY PROCLAMATIONS</u>	20
<u>6.1 WHAT CONSTITUTES AN EMERGENCY?</u>	20
<u>6.2 LOCAL EMERGENCIES</u>	21
<u>SECTION 7: CONTINUITY OF GOVERNMENT</u>	21
<u>7.1 LINES OF SUCCESSION</u>	21
<u>7.2 RECONSTITUTION OF THE GOVERNING BODY</u>	22
<u>7.3 PROTECTION OF VITAL RECORDS</u>	22
<u>SECTION 8: MULTI-AGENCY / INTERAGENCY COORDINATION</u>	22
<u>8.1 MULTI-AGENCY OR INTERAGENCY COORDINATION IN THE EOC</u>	23
<u>SECTION 9: MUTUAL AID SYSTEM</u>	23
<u>9.1 MUTUAL AID AGREEMENTS/COUNTY OPERATIONAL AREA COORDINATORS</u>	23
<u>9.2 MUTUAL AID POLICIES AND PROCEDURES</u>	24
<u>SECTION 10: HAZARD ANALYSIS</u>	24
<u>10.1 SEISMIC HAZARDS</u>	24
<u>10.2 GEOLOGICAL HAZARDS</u>	24
<u>10.3 WILDFIRE HAZARDS</u>	24
<u>10.4 FLOODING</u>	25
<u>SECTION 11: HAZARD MITIGATION</u>	25
<u>11.1 THE CASE FOR HAZARD MITIGATION</u>	25
<u>11.2 HAZARD MITIGATION ACTIONS</u>	25

SECTION 12: AFTER THE DISASTER.....26
 12.1 LOCAL..... 26

SECTION 13: RECOVERY OPERATIONS.....27
 13.1 SHORT TERM OBJECTIVES 27
 13.2 MID TERM OBJECTIVES 27
 13.3 LONG TERM OBJECTIVES 28
 13.4 DISASTER RECOVERY ASSISTANCE CENTERS 28
 13.5 RECOVERY PLANNING 28
 13.6 RECOVERY FUNDING..... 28

SECTION 14: PUBLIC EDUCATION – DISASTER PREPAREDNESS28

SECTION 15: APPROVALS, AUTHORITIES, AND REFERENCES29

SECTION 1: EXECUTIVE SUMMARY

1.1 PURPOSE

The purpose of the Emergency Operations Plan (EOP) is to define the actions required of the City of Morgan Hill before, during, and after an emergency and to guide the City's response to major emergencies/disasters.

Additionally, this EOP supports the Morgan Hill Municipal Code Chapter 2.44 Civil Disaster and Emergency Organization Purposes, which are "to provide for the preparation and carrying out of plans for the protection of persons and property within the city in the event of an emergency..."

1.2 CONCEPT OF OPERATIONS

The City of Morgan Hill's Emergency Operations Center (EOC) follows California's Standardized Emergency Management System (SEMS) and the National Incident Management System (NIMS) as the emergency management response structure for disaster operations. These systems provide for Management, Operations, Logistics, Planning and Intelligence, and Finance and Administration sections of the organization.

The operational priorities are protecting lives, meeting human welfare needs, temporary restoration of publicly provided facilities and services, as well as those provided by private organizations and special districts, protecting property, preserving the environment, and permanent restoration of facilities.

The Office of Emergency Services (OES) identifies potential threats to life, property and the environment, and then develops plans, procedures, and guidelines to minimize or respond to those threats. Together these documents will help coordinate and support emergency response and recovery and will be tested through exercises and validated by the results of actual response. The goal is to maintain a robust emergency management organization with collaborative ties among governments, community based organizations, volunteers, public service agencies and the private sector.

Morgan Hill OES follows the four (4) phases of Emergency Management.

- **Mitigation**
Actions taken to reduce the exposure to, probability of, or potential loss from hazardous events. Mitigation is often accomplished in conjunction with other local, state, and/or federal agencies.
- **Preparedness**
Establishing of authorities and responsibilities for emergency actions and the garnering of resources to support them. Preparedness includes staff training, identifying possible facility, and asset needs and encompasses a program of tests, drills, and exercises. Public outreach is imperative and Community Emergency Response Team (CERT) training is an excellent vehicle to accomplish this work.
- **Response**
Time-sensitive actions taken to save lives and protect property, including actions which stabilize the situation. Response includes notifying and activating the emergency management organization, warning, evacuating, or sheltering the local population, keeping the population informed, rescuing individuals and providing emergency medical care, maintaining law and order, assessing damage addressing mitigation issues that arise from response actions, and requesting help from outside sources, when needed.
- **Recovery**
Efforts to restore the infrastructure, social, and economic life of the City. Recovery actions can last over an

extended period of time and involve costly expenditures, including Disaster Assistance funding from state and federal sources.

1.3 THE CITY OF MORGAN HILL'S EMERGENCY ORGANIZATION

1.3.1 Municipal Leadership

The Municipal Code provides for a Disaster Council to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements. The Disaster Council shall meet upon call of the Chair or in his/her absence the Vice Chair. It is important to note this Council does not have a response role during times of disaster and that it acts solely in an advisory capacity. The Disaster Council is comprised of:

- Council Chair – the Mayor
- Council Vice Chair – the Director of Emergency Services
- Assistant Director of Emergency Services
- The Chief of Police, Director of Public Works, and the Fire Chief
- Such other persons as may be appointed by the Mayor with the advice and consent of the City Council

1.3.2 Director of Emergency Services

This position is filled by the City Manager, who according to the Municipal Code is empowered to make a variety of decisions and take a variety of actions during an emergency on behalf of the City, including acting in the absence of the City Council. Several, but not all, of these powers and duties include:

- Request the City Council proclaim a local emergency
- Request the Governor proclaim a state of emergency
- Control and direct the emergency efforts of the City
- Direct cooperation and coordination between services and staff of the emergency organization of the city
- Represent the City in all dealings with public or private agencies on matter pertaining to emergencies
- Require emergency services of any City staff in the event of a proclamation

1.3.3 City Organization

- Field Personnel
 - Morgan Hill Police Department
 - Morgan Hill Fire Department (Cal Fire)
 - Corporation Yard Staff
 - Volunteers - Community Emergency Response Team (CERT), Amateur Radio Emergency Services (ARES)/Radio Amateur Civil emergency Service (RACES), Volunteers in Policing (VIP), and spontaneous volunteers, while under supervision
- EOC Personnel
 - Dedicated City staff who are trained in EOC operations
 - Other City staff to serve as needed
 - Volunteers – CERT, ARES/RACES, VIP
 - Fire Representative
 - Morgan Hill Unified School District Representative
 - American Red Cross Representative
 - Outside agencies as needed

SECTION 2: PLAN DETAILS

2.1 PLAN OVERVIEW

The City of Morgan Hill Emergency Operations Plan (EOP) is an all hazards document describing the City's Emergency Operations organization, compliance with relevant legal statutes, other guidelines, and critical components of the Emergency Response System. This plan is not intended to address specific emergency responses.

It is the responsibility of the Office of Emergency Services (OES) Coordinator to develop emergency plans. The OES Coordinator will update and seek approval of the plan as needed.

The Morgan Hill EOP addresses the planned response to and recovery from conditions of disaster or of extreme peril to the safety of persons, property and the environment, by natural or human causes, affecting the City of Morgan Hill and its sphere of influence.

The Plan delineates the City emergency management organization and identifies policies, priorities, responsibilities, and procedures for the EOC.

The Plan also establishes the framework for implementation of SEMS within the City of Morgan Hill and guides its relationship with other levels of government as well as with Field Level Incident Commanders.

The plan is aligned with the State of California Emergency Plan, the Santa Clara Operational Area Interim Agreement, Santa Clara County Emergency Operations Plan, the Morgan Hill Municipal Code, as well as plans and Standard Operating Procedures (SOPs) of contract agencies and Special Districts.

The Plan is designed to guide the EOC staff through all phases of emergency management. It is flexible and can be used for all sorts of emergencies and will facilitate both short-term response and long-term recovery.

The Plan describes the basic concept of emergency management. It also describes the structure of the City of Morgan Hill emergency management organization, its responsibilities, and the operational concepts for all-hazard emergencies.

2.2 ACTIVATION OF THE EOC

The EOC is activated by an order of the Director of Emergency Services, or designated representative, in response to threats or disasters which may affect the City of Morgan Hill.

Other times when the EOC will be activated include:

- When the Governor has proclaimed a State of Emergency in an area that includes the City of Morgan Hill
- By a Presidential Declaration of a National Emergency
- The existence of a State of War Emergency

The Director of Emergency Services is authorized to activate the City of Morgan Hill's EOC. In the absence of the City Manager, the Police Chief, Assistant City Manager for Development Services, or any of the City Director Heads may activate the EOC.

These personnel have the responsibility to determine whether the emergency condition requires the partial or full mobilization of the City Emergency Operations Organization to staff the EOC.

The response to an incident affecting the City of Morgan Hill will be dictated by the overall impact of the incident, rather than the type of incident.

2.2.1 General Criteria for an EOC Activation

- Resources beyond the local capabilities are/will be required
- The emergency may be of a long duration
- Major policy decisions may be needed
- A local or state emergency has been declared
- Activation of the EOC will be advantageous to the successful management of the incident

2.2.2 The EOC Activation Process

Upon notification of the existence of a threat to public safety, property or the environment, (e.g. winter storm, flooding), the Director of Emergency Services (DES) will call together key City staff to assess the scope of the incident/emergency and make a decision regarding EOC activation and the level of activation. These response levels are described within the following Levels of Activation chart.

EVENT/INCIDENT EXAMPLES	ACTIVATION LEVEL	MINIMUM STAFFING	AUTHORIZATION LEVEL
MAJOR EVENT • Multiple site • Regional disaster • Multiple agencies involved • Extensive evacuations • Resources or support required	THREE	• All EOC functions and positions as required	• DES • Department Head(s)
MODERATE EVENT • Single site • Several response agencies involved • Partial evacuation	TWO	• City Manager or designate • EOC Coordinator • Public Information Officer • Liaison Officer • Section Coordinators	• DES • Department Head(s)
MINOR EVENT • Single site • Two or more departments involved • Potential threat of flood, severe storm, interface fire	ONE	• EOC Coordinator • Public Information Officer • Liaison Officer • Operations Coordinator	• DES • Department Head(s) • OES Coordinator

Levels of Activation

2.2.3 City EOC Management, Direction and Control

The EOC is managed by the Director of Emergency Services. The City of Morgan Hill's EOC will utilize multi/interagency coordination as defined in SEMS.

2.2.4 Concept of Operations

Emergency operations address the entire spectrum of contingencies, ranging from relatively minor incidents, such as a utility failure, to large scale disasters such as an earthquake. Some emergencies will be preceded by a buildup or warning period, providing sufficient time to warn the public and implement mitigation measures designed to reduce loss of life, property damage and effects on the environment. Other emergencies occur with little or no

advance warning, thus requiring immediate activation of the Emergency Operations Plan and efficient and coordinated mobilization and deployment of resources. City departments and agencies must be prepared to respond promptly and effectively to any foreseeable emergency, including the provision for, and utilization of, mutual aid assets.

2.2.5 Coordination with Other Emergency Responders

The City of Morgan Hill has identified the jurisdictions, special districts, community-based organizations (CBOs), volunteer agencies, private agencies, including non-government organizations (NGOs) that operate within the City's geographical area and sphere of influence. Many organizations will have a response role during an incident. Their roles will be coordinated by the OES, usually through pre-established relationships, and may include:

- American Red Cross, Silicon Valley Chapter
- CERT
- Faith-based organizations
- Local medical clinics
- Local veterinary clinics
- Medical Volunteer Disaster Response (MVDR, aka Medical Reserve Corps)
- Morgan Hill Amateur Radio Emergency Services (MHARES)
- Morgan Hill Unified School District (MHUSD)
- Mount Madonna Y.M.C.A
- Volunteers in Policing (VIP)

Deactivation will occur at the direction of the Director of Emergency Services or designee.

2.2.6 Shelter Operations

In the event of a large scale emergency or disaster, it may be necessary to open a shelter (or shelters) due to evacuation or damage to residences. Sheltering is the responsibility of the City; however, the American Red Cross (ARC) will join efforts as soon as they are able to respond. The City has established sheltering relationships with several local churches who have completed ARC training in shelter management and shelter operations with a dedicated team of City and Volunteer Disaster Service Workers.

In Morgan Hill shelter surveys are conducted to identify facilities that meet the minimum requirements of the Americans with Disabilities Act of 1990.

2.3 ORGANIZATIONAL STRUCTURE

2.3.1 Incident Command System (ICS)

The Incident Command System (ICS) is a nationally used, standardized, on-scene emergency management system specifically designed to allow the user(s) to adopt an integrated organizational structure equal to the complexity and demands of single or multiple incidents without being hindered by jurisdictional boundaries. ICS addresses both organization and process. ICS is used to manage facilities, equipment, personnel, procedures, and communications through the use of a common organizational structure and standardized procedures.

ICS was developed in California by the Fire Resources of California Organized for Potential Emergencies (FIRESCOPE) to enable successful multi-agency operations during emergency response operations. In addition, it has been adopted by the state and is specifically required for SEMS compliance. It has been adopted by the federal government and is specifically required for NIMS compliance.

2.3.2 Standardized Emergency Management System (SEMS)

The Standardized Emergency Management System (SEMS) is the system required by California Government Codes §8607(a) for managing response to multi-agency and multi-jurisdiction emergencies in California.

SEMS incorporates the use of the ICS, the Master Mutual Aid Agreement and existing mutual aid systems, the Operational Area Concept, the Operational Area Satellite Information System (OASIS), and multi-agency coordination. Local governments must use SEMS to be eligible for reimbursement of their response-related personnel costs under state disaster assistance programs.

2.3.3 SEMS Functions

There are five (5) designated levels in the SEMS organization: Field Response, Local Government, Operational Area, Regional, and State. Each level is activated as needed.

- The **Field Response Level** commands emergency response personnel and resources to carry out tactical decisions and activities in direct response to an incident or threat.
- The **Local Government Level** manages and coordinates the overall emergency response and recovery activities within its jurisdiction. The local government level includes cities, counties, and special districts.
- The **Operational Area Level** manages and/or coordinates information, resources, and priorities among local governments; and serves as the coordination and communication link between the local government level and the regional level. The Operational Area includes all the jurisdictions and special districts within the county geographical area. The County of Santa Clara is the lead agency for the Operational Area.
- The **Regional Level** manages and coordinates information and resources among operational areas within the mutual aid region designated and between the operational areas and the state level. This level, along with the state level, coordinates overall state agency support for emergency response activities.
- The **State Level** manages state resources in response to the emergency needs of the other levels, manages and coordinates mutual aid among the mutual aid regions and between the regional level and state level, and serves as the coordination and communication link with the federal disaster response system.

2.3.4 Local Government Level in SEMS

The basic role of a local government is to manage and coordinate the overall emergency response and recovery activities within its jurisdiction.

Under SEMS, special districts are units of local government (other than a city, county, or city and county) with authority or responsibility to own, operate or maintain a project (as defined in the California Code of Regulations for purposes of natural disaster assistance). This may include a joint powers authority.

The City is responsible for emergency response within its boundaries, although some services are contracted for from other agencies. All local governments are responsible for coordinating with other local governments, to their field response level, and with the operational area. The City may support its emergency response by opening its EOC and providing mutual aid within its capabilities.

The City is primarily responsible during emergencies for restoration of services that it normally provides. It is also responsible for safety of people at its facilities or on its property and for warning of hazards from its facilities or operations. Some special districts may assist other local governments in the emergency response.

2.3.5 SEMS Requirements for Local Governments

The City will comply with SEMS regulations in order to be eligible for state funding of response-related personnel costs and will:

- Use SEMS when a local emergency is declared or proclaimed.
- Establish coordination and communications with field incident commanders.
- Use existing mutual aid systems to assist in dealing with fire, law enforcement, and all other incidents.
- Establish coordination and communications between the City EOC when activated, to the Operational Area's EOC, and any state or local emergency response agency having jurisdiction for an incident.
- Use coordination with other agencies to facilitate decisions for emergency response activities.

2.3.6 National Incident Management System (NIMS)

Homeland Security Presidential Directive (HSPD) – 5 requires all states and local governments to adopt and implement NIMS.

NIMS includes the following components:

- Command and management, including the ICS
- Communications and information management
- Preparedness
- Resource management
- Multi-Agency coordination
- Supporting technologies
- Joint Information System (JIS)
- NIMS management and maintenance

2.3.7 Operational Area Responsibilities under SEMS and NIMS

The implementation of SEMS and NIMS is a cooperative effort of all departments and agencies within the county, cities, and special districts that have an emergency response role.

All City staff who may work in the EOC, in a Departmental EOC or at the field level will receive appropriate SEMS/NIMS/ICS training as recommended by the Department of Homeland Security. To validate preparedness and planning efforts, the City will develop an exercise program that provides periodic exercises for EOC and DEOC personnel under SEMS/NIMS/ICS guidelines.

2.3.8 National Response Framework (NRF)

The National Response Framework (NRF) is built upon the premise that incidents are typically handled at the lowest jurisdictional level. In the vast majority of incidents, state and local resources and interstate mutual aid will provide the first line of emergency response and incident management support. When state resources and capabilities are overwhelmed, governors may request federal assistance. The NRF provides the framework for federal interaction with state, local, tribal, private sector, and non-governmental entities in the context of domestic incident management to ensure timely and effective federal support. The NRF is the core operational plan for national incident management, and establishes national-level coordinating structures, processes, and protocols that will be incorporated into certain existing federal interagency incident-specific or hazard-specific plans.

2.3.9 Special District Involvement

Special districts are defined as local governments in SEMS. The emergency response role of special districts such as the Valley Water is generally focused on the return to normal services. During disasters, some types of special districts will be extensively involved in the emergency response by assisting the City.

2.3.10 Area Command and Unified Command

An Area Command may be established when the complexity of an incident or incident management span-of-control issues are present. An Area Command oversees the management of multiple incidents, each being handled by separate ICS organizations. These incidents may also be non-site-specific, geographically dispersed or evolve over a long period of time (e.g., a bio-terrorism incident). An Area Command organization can also be used if there are a number of incidents in the same area and of the same type, such as Hazardous Materials (HAZMAT) spills or wildfires. These are incidents using the same resources. Multi-jurisdictional incidents may be handled by a Unified Command wherein each jurisdiction has a representative in the command structure.

2.3.11 Incident Command System under SEMS

ICS/SEMS is composed of five (5) functions: Management, Operations, Planning/ Intelligence, Logistics and Finance/Administration. These functions are present in every EOC and mirror the ICS functions which may, or may not, be contained in Field Level Command Posts. The exact EOC organizational staffing level is decided by the Director of Emergency Services, upon consultation with the EOC Section Coordinators, with consideration given to the circumstances and scope of the emergency/disaster.

2.3.11.1 Management Section “Leads It”

The Director of Emergency Services/EOC Director has responsibility for the overall management of the City’s response. The Director ensures that all EOC functions are staffed by the most qualified individuals. This section sets objectives, reviews and approves action plans, provides public information, keeps track of legal concerns and makes policy decisions, subject to later ratification by the City Council. The EOC Management Section should focus on strategy and policy, not tactics. This section also coordinates the activities of other county, state, and federal agencies with the City.

The Management Section Staff consists of:

- Director of Emergency Services (DES)
- EOC Coordinator / Liaison Officer
- Public Information Officer
- Legal Advisor
- Safety & Security Officer

2.3.11.2 Operations Section “Does It”

The Operations Section Coordinator is responsible for the coordination and management of all branches in the Operations Section. Depending upon the type of event which is occurring, the Operations Section Coordinator may be from the Public Works Branch, the Law Enforcement Branch or the Fire Services Branch. This section develops the Operations Section of the EOC Action Plan to meet objectives set by the Management Section. It allocates personnel and equipment, identifies staging areas and manages mutual aid. Multi-purpose staging areas are also under the management of this section. This section responds to field requests, anticipates needs, and coordinates information gathering in conjunction with the Plans Section.

This section may have to deal with inmate issues (the Boys Ranch), special populations, animal control issues, hazardous materials, coroners, emergency medical, crisis counseling for emergency responders, urban search and

rescue, disease control, utility restoration, flooding, damage assessment, safety assessments, sheltering and feeding, and potable water.

The Operations Section Staff consists of:

- Law Enforcement Branch
 - CERT Field Unit (if needed)
- Fire and Rescue Branch
 - CERT Field Unit (if needed)
- Public Works/Engineering Branch
 - Building Inspection Unit
 - Department Emergency Operations Center (DEOC)
- Community Services Branch
 - American Red Cross Unit
 - MHUSD Unit
 - Call Center
 - Care and Shelter Unit
 - Shelter Operations Field Unit

2.3.11.3 Planning/Intelligence Section “Plans It”

The Planning/Intelligence Section Coordinator leads this section which may be structured into several units depending upon the needs of the incident. Situation Analysis and Damage Assessment are examples of units which may be formed within this section. The Planning/Intelligence Section is responsible for gathering, tracking, and displaying verified information which correctly describes the incident status. It compiles the status of utilities, road conditions, public buildings, schools, shelters, and damaged/destroyed buildings and homes.

Planning/Intelligence maintains documentation for historical and legal records. It makes projections on the course of the event and makes forward-looking plans. The Planning/Intelligence Section is also responsible for compilation of and publication of the Incident Action Plan and ensures information reporting is shared with the Operational Area via the countywide web based system “WebEOC”.

The Planning/Intelligence Section is responsible for the collection, distribution, and display of information related to the incident status. As the incident progresses, the section anticipates the needs for demobilization long before needed.

The Planning/Intelligence Section Staff consists of:

- Situational Analysis Branch
- Advanced Planning Unit
- Documentation Unit
 - GIS/CAD Unit
 - WebEOC Unit

2.3.11.4 Logistics Section “Gets It”

The Logistics Section Coordinator leads the section and is responsible for providing all support needs to the incident. This section maintains records of requests and the disposition of resources. It provides personnel support including volunteers, specialized equipment and contractor services not available in-house, transportation, housing, feeding, tracking of resources as they move, provision of sanitation services, information technology support, and communications. Requests for personnel, equipment, supplies, and shelters are a few examples of what this section handles.

The Logistics Section Staff consists of:

- Personnel Branch
- Resources Branch
 - Supply Unit
- Transportation Branch
- Communication/IT Branch
 - ARES Unit

2.3.11.5 Finance/Administration Section “Pays for It”

The Finance/Administration Section Coordinator leads this section and is responsible for fiscal management, time-keeping on personnel and equipment, and tracking the overall cost of the incident. This section handles procurement, the administration of vendor contracts, compensation, travel requests, and claims. Finance also prepares and maintains adequate records for cost recovery.

The Finance/Cost Recovery Section Staff consists of:

- Time Branch
- Cost Branch
- Compensation & Claims Branch

2.4 COORDINATION WITH THE FIELD RESPONSE LEVEL – ICS

Common terminology is used to describe organizational functions, resources, and facilities within ICS/SEMS.

Modular organization is the method by which the organizational structure develops based upon the kind and size of the incident. The organization's staff builds from the top down with responsibility and performance placed initially with the Incident Commander. Several sections may be covered by one person in a relatively simple organization.

Unified Command is a structure which allows all agencies with responsibility for the incident, either geographical or functional, to manage an incident by working with other agencies in establishing a common set of incident objectives. This is accomplished without losing or abdicating agency authority, autonomy, responsibility, or accountability.

An Incident Action Plan identifies objectives and strategies made by the Director of Emergency Services for the incident based upon the requirements of the jurisdiction. In the case of Unified Command, the event objectives must adequately reflect the policy and needs of all the jurisdictional agencies. The Incident Action Plan for an event documents the support activities required for the operational period

Span of control within the EOC is a limitation on the number of EOC staff positions that can effectively be supervised or directed by an individual. The span-of-control range is usually from three (3) to seven (7) personnel.

Comprehensive resource management is the identification, grouping, assignment, and tracking of resources.

Integrated communications are established through the use of a communications plan.

2.5 THE ACTION PLANNING PROCESS (DURING AN INCIDENT)

2.5.1 Purpose of the EOC Action Plan

- Establishes the direction and priorities for EOC operations operational objectives for each SEMS function in the EOC and tracks progress.
- Establishes the operational period timeframe for completion of objectives.
- Operational periods are normally in twelve (12) hour increments except for the first and last period.
- May be set by Santa Clara Operational Area for area-wide disasters.
- Provides for accountability and reduces redundancy.
- Provides documentation for the After Action Report.

2.5.2 Emergency Management Teams Action Planning Responsibilities

- **Director of Emergency Services**
Ensures the Incident Action Plan is accomplished.
- **Planning/Intelligence Coordinator:**
Acts as the Facilitator for the Action Planning process. Conducts the Action Planning meeting and prepares or assigns staff to reproduce and distribute the Action Plan.
- **Situation Analysis Unit Leader:**
Assists the Planning/Intelligence Coordinator as required in the preparation of the Action Plan.
- **Documentation Unit Leader:**
Assists in the preparation and distribution of the Plan. Keeps a permanent record of all documents related to the incident.
- All Section Coordinators provide input for the Incident Action Plan.

2.5.3 Planning Meeting

- Reviews the initial situation immediately upon EOC activation.
- Guides the EOC Team through the Action Planning process.
- Develops the incident objectives.
- Decides on initial size of EOC staff.
- Announces when first action planning meeting will occur. (Usually within two (2) hours of EOC activation).
- Considers declaration of Local Emergency. Initial meeting is brief - usually no longer than twenty (20) minutes.
- Holds the meeting at a site away from the EOC, and the Director, Command and General Staff attend, along with any Liaison Officers.
- The Action Plan can be written on digital or paper ICS forms.

SECTION 3: EOC OPERATIONS

The City is prepared to operate a primary or alternate EOC when emergencies occur. The locations and facilities of the primary and secondary EOCs have been predefined, equipped and organized. The City is also prepared to activate the EOC remotely.

3.1 EOC SET-UP

The set-up of the EOC is the responsibility of the EOC Coordinator. Instructions for the set-up of the EOC can be found in "Set-up Guides" located at EOC locations.

3.2 EOC STAFFING

Staffing decisions will be driven by the nature and scope of the emergency and the activation level ordered by the Director of Emergency Services. The EOC sections must be prepared for extended operations on a twenty-four (24) hour basis using two (2) twelve (12) hour shifts. Incidents requiring extended EOC operations may see adjustments in the staffing shift hours, staffing levels, or a combination thereof. The Safety Officer is authorized to recommend to section coordinators to order EOC staff members exhibiting fatigue or stress to leave the EOC.

EOC staff assignments (at least one (1) primary and an alternate) are pre-designated by the Director of Emergency Services in the EOC Staffing Plan which is published separately and updated by the OES.

Contract agencies, special districts, utilities, Community Based Organizations (CBOs), and Non-Governmental Organizations (NGOs) may be requested to send agency liaison representatives to the EOC.

ARES/RACES volunteers play a significant role in EOC operations, donating their time, personal communications equipment, and expertise to maintain an auxiliary set of communications channels (voice/packet computer/bulletin board) with other cities/towns/special districts and the Santa Clara County EOC. A secondary or backup ARES/RACES capability may be located in the volunteers' vehicles to ensure there are no lost communications during incidents.

3.3 EOC TRAINING

The EOC Staff will participate in an ongoing training program. The OES will make this training available to the team. This program will include the following elements:

3.3.1 Basic Training:

Orientation to the EOC, introduction to the Emergency Operations Plan and basic SEMS/NIMS, used primarily to brief new EOC Staff members.

3.3.2 Specialized/Technical Training:

Training focused on and emphasizing procedures such as WebEOC reporting or setting up a shelter.

3.3.3 Exercises

Table top exercises, functional exercises, or full scale exercises may be used to involve Emergency Management Team members in the processes of emergency management. The team will have at least one (1) exercise each year, unless it is involved in an actual EOC activation during the year.

SECTION 4: DISASTER SERVICE WORKERS – EMPLOYEES AND VOLUNTEERS

Disaster Service Workers (DSWs) are defined as:

- Any person properly registered for the purpose of engaging in disaster service, including paid staff and volunteers.
- Any person registered with an accredited Disaster Council for the purpose of engaging in disaster service without pay or other consideration.
- Unaffiliated persons impressed into service by competent authority during an incident.

4.1 CITY EMPLOYEES

4.1.1 During Working Hours:

When an emergency occurs, all on-duty City staff must remain at work until properly relieved or excused by their supervisors.

4.1.2 During Non-Duty Hours:

During non-working hours, when emergencies occur, City employees with EOC or other emergency assignments should:

- Immediately look to the safety and security of their families.
- As soon as possible, contact their City work station or EOC Section Coordinator to advise of their family status and availability for disaster duties.

4.1.3 Dissemination of Information:

The Public Information Officer of the City, or EOC personnel, can disseminate employee work information during an emergency by the following means.

- The Personnel Branch of the EOC
- Alert SCC
- Police Department Dispatch

4.2 VOLUNTEER ORGANIZATIONS AND PRIVATE AGENCIES

These groups constitute a significant part of Morgan Hill's emergency response resources. Groups including the Santa Clara Chapter of the American Red Cross are essential elements of the public response efforts to meet the care and shelter needs of local disaster victims. Private sector medical/health resources provide emergency medical care. Government radio communication nets are backed up in the Morgan Hill EOC by highly qualified amateur radio operators of the Morgan Hill ARES/RACES who offer their own equipment and separate auxiliary nets as well as field communications units from sources such as fire stations, school campuses, and the Community Emergency Response Team (CERT).

Private agencies, organized groups and service clubs which desire to volunteer to perform specific tasks during emergencies should identify their interests and goals to the OES for pre-disaster recognition and registration processing.

4.2.1 Length of Activation

The Emergency Management Team is authorized to establish staffing shifts, and to coordinate the activities of the various volunteer groups in preparing for emergencies. Spontaneous volunteers (see below for further definition)

will normally be assigned shifts only for the length of the on-going disaster at the time they come forth to provide assistance. Termination may be accomplished if the volunteers fail to perform their responsibilities.

4.3 COORDINATION OF VOLUNTEERS

4.3.1 Pre-Registered Volunteers

Pre-registered volunteers have been assigned specific disaster duties by nature of their registration, i.e., ARES/RACES, CERT, Volunteers in Policing (VIPs), etc. These pre-registered volunteers will work under lines of authority designated before the emergency. However, once deployed to field sites on order of the EOC sections, these organized volunteers will report either individually or as a unit to the Incident Commander at the Incident Command Post. In certain instances, such as a major disaster, these pre-registered volunteers may operate independently but under positive communications control of their respective organizational representative present in the EOC.

4.3.2 Spontaneous Volunteers

Community members may offer their services to the City during emergency situations. Although appreciated, the coordination of Spontaneous Volunteers is crucial and must be coordinated through the EOC or OES. The key to successful volunteer employment is to identify individuals' skills and utilize the volunteers in a safe, supervised manner to the extent of their capabilities. These volunteers must register as DSWs prior to serving the City and fall under the control of a designated team/project leader who will supervise their work efforts.

DSW volunteers registered under this program are considered to be acting within the scope of disaster service duties while assisting any unit of an emergency organization or performing any act contributing to the protection of life, property, and the environment or mitigating the effects of a potential emergency.

4.4 REGISTRATION

DSW Volunteers must have certain data registered with the City Clerk's Office and execute a signed loyalty oath or affirmation subscribed by an officer authorized to administer oaths. The City Clerk (or designee) is authorized to administer the loyalty oath to DSWs. Spontaneous Volunteers will receive the Oath upon activation.

4.5 WORKER'S COMPENSATION CLAIMS

All DSW volunteers are eligible to submit claims for worker's compensation for injuries sustained while performing disaster service under the same authority and guidelines as paid government employees. Injuries sustained should be reported immediately to the volunteer's supervisor who is responsible to advise the EOC Logistics Section, Personnel Branch and/or the Morgan Hill Human Resources Director.

4.6 LIABILITY CLAIMS

Any liability claims or actions filed against a DSW volunteer will be immediately delivered to the City Attorney or the EOC Finance Section, Claims Branch.

4.7 ACTIVATION OF DISASTER SERVICE WORKERS (DSWs)

During instances of activation of the EOC, affiliated volunteers shall be available to assist in the disaster response based on their qualifications. These volunteers are expected to respond to notifications by phone or email.

Requests for DSWs may be announced via:

- Telephonic requests from the EOC, Police Dispatch, or OES
- Email announcement
- AlertSCC
- Announcements on the City's Public Service Television Channel-17 Cable
- Postings on the City's Website
- Social Media

4.8 EMPLOYEE EMERGENCY PREPAREDNESS TRAINING

All new employees are required to attend a training session on Emergency Preparedness within the initial first year of employment. The class includes SEMS/NIMS/ICS, personal and family preparedness, requirements of being a DSW, and contents of each employee's seventy two (72) hour emergency kit. All City employees and volunteers are expected to have an emergency kit containing the equipment that might reasonably be required during an activation.

Specialized training is available for EOC Staff members and may include WebEOC, AlertSCC, EOC section, and position training, ICS and other advanced courses available through FEMA, Emergency Management Institute, and California Specialized Training Institute.

City employees may attend free CERT training or other programs offered by the City OES, American Red Cross, ARES/RACES, and other organizations involved in disaster preparedness. The OES will announce training schedules, dates, times and enrollment information as they become available.

SECTION 5: WEBEOC

The City of Morgan Hill utilizes a web-based system of information sharing and reporting. The WebEOC system is used to report emergency information to the Santa Clara County Operational Area (SCC OES).

WebEOC is an internet-based system that assists the Emergency Management Team in capturing and reporting resource status and requests, and also has standard formats for the various ICS forms in use. These forms can be found online, filled out and submitted electronically.

SECTION 6: EMERGENCY PROCLAMATIONS

6.1 WHAT CONSTITUTES AN EMERGENCY?

The California Emergency Services Act § 8550 and SEMS defines an emergency as "conditions of disaster or of extreme peril to the safety of persons and property..."

Morgan Hill Municipal Code (MHMC) § 2.44.020 defines emergency as "the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake, or other conditions including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the city, requiring the combined forces of other political subdivisions to combat."

6.2 LOCAL EMERGENCIES

The City Council or the City Manager, or designee, may proclaim a Local Emergency in Morgan Hill when there is a threat to the safety of people and property within the City boundaries.

The proclamation of a Local Emergency provides legal authority for the Director of Emergency Services to:

- Request that the Governor proclaim a State of Emergency.
- Put forth orders and regulations to protect life and property, including emergency orders to command the aid of citizens in the community.
- Provide mutual aid to and for the people of the City.
- Require the services of any local official or employee.
- Requisition necessary personnel and material of any department or agency.
- Obtain vital supplies and equipment and, if there is an immediate need, to commandeer the same for public use.
- Impose penalties for violation of lawful orders.

Proclamations of a Local Emergency must be submitted for approval to the City Council by the City Manager and extended or cancelled after periodic reviews within specific timeframes (MHMC § 2.44.070).

SECTION 7: CONTINUITY OF GOVERNMENT

A major disaster could result in the death or injury of key government officials, the partial or complete destruction of established seats of government, and the destruction of public and private records essential to continued operations of government. At all levels, government is responsible for providing continuity of effective leadership and authority and for the direction of emergency operations and management of recovery operations. It is essential that the County of Santa Clara and all the cities/towns and special districts within the county continue to function as government entities.

The California Government Code and other California laws provide the authority for state and local governments to reconstitute themselves in the event incumbents are unable to serve.

7.1 LINES OF SUCCESSION

The California Government Code permits the appointment of up to three (3) standby officers for each member of the governing body. This code also provides for the succession of officers who head departments responsible for maintaining law and order, or for furnishing public services relating to health and safety. The standby officers shall have the same authority and powers as the regular officers or department heads.

Additionally, procedures exist to assure continued functioning of political subdivisions in the event the governing bodies, including standby officers, are unavailable to serve.

The Line of Succession for Director of Emergency Services in Morgan Hill is as follows:

- Chief of Police
- Public Services Director
- Assistant City Manager For Development Services
- City Director heads as available

The Acting Director of Emergency Services shall serve until the Director is available or until a successor is appointed by the City Council.

Any questions as to the availability of the Director of Emergency Services shall be decided by the City Council or any remaining available members of said body.

7.2 RECONSTITUTION OF THE GOVERNING BODY

The California Government Code authorizes local governing bodies to convene, as soon as possible, whenever a State of Emergency or Local Emergency exists and at a place not necessarily within the political subdivision. The duties of a governing body during emergencies include ascertaining the damage to the jurisdiction and its personnel and property, reconstituting itself and any subdivisions, performing functions in preserving law and order, and furnishing local services.

The California Government Code establishes a method for reconstituting the governing body. In the case that all members, including all standbys, be unavailable, temporary officers shall be appointed by the chair of the County Board of Supervisors, in which the political subdivision is located, by the Chair of the Board of Supervisors of any other county within one hundred and fifty (150) miles or by the Mayor of any City within one hundred and fifty (150) miles.

The City Government could be reconstituted at City Hall or at any of the alternate EOC locations.

7.3 PROTECTION OF VITAL RECORDS

In the City of Morgan Hill, the City Clerk's Office is responsible for the preservation and protection of vital records. Each department within the City shall identify, maintain, and protect its vital records. Vital records are defined as those records that are essential to the rights and interests of individuals, governments, corporations and other entities, including vital statistics, land and tax records, license registers, articles of incorporation, and historical information. Vital records also include those records essential for emergency response and recovery operations, including utility system maps, emergency supply and equipment locations, emergency operations plans and procedures, and personnel rosters.

These vital records will be essential to the reestablishment of normal government functions, protecting the rights and interests of government. These rights and interests may include the constitutions, charters, statutes, ordinances, court records, official proceedings, and financial records of Morgan Hill.

Vital records of City of Morgan Hill are routinely stored in the City Clerk's Office, in the files of the various departments, and in off-site storage.

SECTION 8: MULTI-AGENCY / INTER-AGENCY COORDINATION

Multi-agency or inter-agency coordination is the participation of agencies and disciplines involved at any level of the ICS/SEMS organization working together in a coordinated effort to facilitate decision-making for overall emergency response activities, including the sharing of critical resources, information and the prioritization of incidents. The Multi-Agency Coordination System (MACS) is a decision-making system used by member jurisdictions of the Santa Clara Operational Area to prioritize and coordinate resource allocation and response to multiple incidents affecting the Operational Area. MACS is usually implemented during a large-scale incident involving multiple agencies or jurisdictions.

Multi-agency or inter-agency coordination is important for:

- Establishing priorities for response
- Allocating critical resources
- Developing strategies for handling multi-agency response problems
- Sharing information
- Facilitating communications

8.1 MULTI-AGENCY OR INTER-AGENCY COORDINATION IN THE EOC

Multi-agency or inter-agency coordination is an integral part of the functioning of the City's EOC. The EOC is staffed by representatives from City departments and agencies who work together at the EOC to coordinate the City's emergency response. Representatives from outside agencies including special districts, volunteer agencies and private organizations may also participate at the EOC with departmental representatives in coordinating the City's response efforts. Coordination with agencies not represented in the EOC may be accomplished through telecommunications, emails, or faxes.

SECTION 9: MUTUAL AID SYSTEM

The foundation of California's emergency planning and response is a statewide mutual aid system which is designed to ensure that adequate resources, facilities, and other support is provided to jurisdictions whenever their own resources prove to be inadequate to cope with a given incident. The basis for the system is the California Master Mutual Aid Agreement, as provided in the California Emergency Services Act. It created a formal structure in which each jurisdiction retains control of its own personnel and facilities, but can give and receive help whenever it is needed. The state government is obligated to provide available resources to assist local jurisdictions in emergencies.

The statewide system includes several discipline-specific mutual aid systems, such as, but not limited to, fire and rescue, law, emergency managers, medical, and public works. The adoption of ICS/SEMS does not alter existing mutual aid systems. To further facilitate the mutual aid process, particularly during day-to-day emergencies involving public safety agencies, fire and rescue, and law enforcement mutual aid coordinators have been selected and function at the Operational Area, regional and state levels.

Incoming mutual aid resources may be received and processed at several types of facilities including: Incident Command Posts, staging areas, bases, camps, and mobilization centers. Units in staging areas are ready to be sent directly to the disaster site. Staging Areas are off-incident locations at which emergency response personnel and equipment are temporarily located pending assignment, release or reassignment.

During a proclaimed emergency, mutual aid will be coordinated by the Operational Area. The Santa Clara County EOC/Santa Clara Operational Area will coordinate mutual aid requests between the Operational Area member jurisdictions and the State OES Regional Emergency Operations Center (REOC).

9.1 MUTUAL AID AGREEMENTS/COUNTY OPERATIONAL AREA COORDINATORS

The following depicts the statewide mutual aid agreements, some of which are still under development, in which the Santa Clara County/Santa Clara Operational Area is a participant:

- Medical Examiner/Coroner
- Disaster Medical/Health Mutual Aid
- Emergency Managers Mutual Aid Agreement

- Fire Mutual Aid
- Hazardous Materials Mutual Aid
- Law Enforcement Mutual Aid Agreement
- American Red Cross
- Mental Health Mutual Aid
- Public Works Mutual Aid Agreement
- Search and Rescue Mutual Aid
- Urban Search and Rescue Mutual Aid

Morgan Hill is located in Mutual Aid Region II. This Region is geographically the same as the Coastal OES Region. It is administered by the California Emergency Managers Association Regional Headquarters.

9.2 MUTUAL AID POLICIES AND PROCEDURES

Mutual aid resources will be provided and utilized in accordance with the California Master Mutual Aid Agreement and supporting separate agreements.

Due to the incompatibility of radio communications equipment between most agencies, local agencies should, where possible, provide incoming mutual aid forces with portable radios using local frequencies.

SECTION 10: HAZARD ANALYSIS

The City of Morgan Hill is a reasonably safe place to live and work. Natural threats to life and property include earthquakes, flooding, wildfires, environmental problems and landslides. Human-caused threats to life and property include aircraft crashes, hazardous materials incidents, utility interruptions, communicable diseases, terrorist acts, train derailments, and dam failure. For more information on Anderson Dam, see the Valley Water “Emergency Action Plan for Anderson Dam”.

10.1 SEISMIC HAZARDS

The City lies between the Calaveras Fault Zone to the east and the San Andreas Fault system to the west. The off-shore San Gregorio Fault Zone lies a few miles further west. At the western edge of the Diablo Mountain Range lies a segment of the Silver Creek Fault, three (3) Coyote Creek Thrust faults, a small horseshoe shaped, unnamed fault, and the Range Front Thrust Fault.

10.2 GEOLOGICAL HAZARDS

Landslides are a geological hazard in the foothills and low mountains of the City and adjacent area. Occurrences can range from rapid rock falls to slow soil and bedrock creep. Natural contributing causes include weak soil and rock over hillsides made steeper by rapid stream erosion, adverse geological structure, ground water levels, and high rainfall rates. Man-made causes include improper grading altering surface and sub-surface drainage, excessive irrigation, and removal of natural vegetation.

10.3 WILDFIRE HAZARDS

Wildfires can occur in Morgan Hill. Narrow ingress/egress routes can impede residents’ escape. The access of first responders to favorable tactical positions to combat the fire’s leading edges may also be limited. Failure of homeowners and tenants to trim back flammable decorative landscaping and failure to replace wood shake or

shingle roofs with non-flammable roofs compound the dangers to property and lives of both residents and firefighters.

10.4 FLOODING

Watersheds in mountain ranges produce creeks, streams and rivulets in the City with continual flooding potential. Hillside soil composition contributes to saturation during the winter rainy season, particularly during the climate patterns known as El Nino and Atmospheric Rivers. Elevated flows, higher stream velocity, and debris accumulation may occur in watercourses. Coyote Creek, located on the east side of the City, can threaten the developments west of Malaguerra Avenue-Cochrane Road. West Little Llagas Creek can inundate portions of the downtown business district as well as areas along Monterey Road between Cochrane Road and Watsonville Road.

SECTION 11: HAZARD MITIGATION

11.1 THE CASE FOR HAZARD MITIGATION

Every disaster can teach us valuable lessons about building construction, land use, and emergency response. Unfortunately, many of these lessons are soon forgotten and there is a tendency to return to poor construction, unsafe land use, and other short-sighted practices that add to the disaster's negative impact. For this reason, the federal and state governments require safe land use and construction practices as a condition of receiving federal disaster aid. Mitigation has been shown to significantly reduce emergency costs.

11.2 HAZARD MITIGATION ACTIONS

11.2.1 Avoid the Hazard

Avoiding a hazard usually involves restricting land use near the hazard area. This can be accomplished by the following:

11.2.2 Zoning

Zoning is usually a function of local government, except where state or federally-owned lands are exempt from local zoning laws. Other interests may propose zoning regulations, but only local government can adopt them. By mutual agreement, state or federal restrictions may be locally adopted and enforced.

Zoning can be useful, but its powers are limited. Therefore, zoning usually reflects, rather than dictates, current land use trends. Zoning is vulnerable to political pressure. This is particularly true if an area is very attractive for development and rarely experiences major disasters.

Zoning is generally best suited to restricting the use of smaller areas (such as very steep slopes) within larger areas, as opposed to restricting large areas (such as areas of potential earthquake shaking).

11.2.3 Purchase

The most reliable way to restrict the use of land is to buy the land outright. Although this can be expensive, costs must be weighed against the repercussions of future disasters. Lands purchased for hazard mitigation can often be used for parks, agriculture, or other constructive purposes. In Santa Clara County, the Open Space District is a public agency that buys open space for, among other reasons, hazard mitigation.

11.2.4 Improve Building Standards

Buildings in hazardous areas can often be made safe. This can be as simple as the addition of a fireproof roof or as extensive as demolishing the building. Building standards can be implemented for a variety of reasons.

11.2.4.1 Local Standards

Building codes are usually a function of local government, except where state or federal buildings are exempt from local codes. Codes can be strengthened for hazardous areas. Usually stronger codes are enforced only for new construction or remodeling, but some recent laws require hazard related inspections for existing buildings that are considered at risk. Inspections will produce knowledge of liability, which will motivate the owners to improve their buildings.

11.2.4.2 State Standards

For state-owned facilities and schools which are outside the jurisdiction of local governments, construction standards are adopted and enforced by the responsible state agency(s). In some cases, these standards may serve as models for local governments.

11.2.4.3 Federal Standards

A federal agency may require local or state governments to adopt and enforce certain hazard mitigation regulations as a condition for federal assistance or participation in federally assisted programs.

The Governor's Office and the Federal Emergency Management Agency (FEMA) may be involved in establishing construction standards for hazard mitigation projects.

Federal law authorizes, as a condition of any disaster loan or grant, the recipient shall agree that any repair or construction to be financed by the loan or grant shall be in accordance with applicable standards of safety, decency and sanitation, in conformity with applicable codes, specifications, and standards.

As a further condition of any loan or grant made, the state or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land use and construction practices.

11.2.4.4 Reduce the Hazard

The hazard itself can be reduced. This depends on the type of hazard, for example; double containment of a storage tank will reduce the hazard from the chemical inside, but an earthquake or a storm cannot be stopped.

The City may decide to expend its funds to reduce hazards. The City maintains its Local Hazard Mitigation Plan (LHMP), identifying hazards.

The LHMP can be found by visiting the Santa Clara County's Office of Emergency Management website: [Santa Clara County's Office of Emergency Management website](#).

SECTION 12: AFTER THE DISASTER

The Governor, with the federal government, may execute a Federal/State Agreement, which includes hazard mitigation measures.

12.1 LOCAL

The City's Authorized Representative, the City Manager, is responsible for local performance of hazard mitigation measures under the terms of a Federal/State Agreement. The City Manager, in coordination with the Governor's Authorized Representative, shall:

- Appoint a Local Hazard Mitigation Coordinator to work with the Federal/State/County Hazard Mitigation Team.
 - Submit adequate assurance that required hazard mitigation measures have been taken or will be completed for any project application.
 - Implement and enforce land use regulations and safe construction practices which are agreed upon as conditions for FEMA grants or loans, to the extent of legal authority. Cities may request state or federal advice or assistance in taking these actions.
 - Provide evidence of compliance with conditions for any approved FEMA grants or loans as required by the Governor's Authorized Representative.
- Local Hazard Mitigation Coordinator
 - Work with the Federal/State/County Hazard Mitigation Team, the City's Hazard Mitigation Coordinator to assess disaster damage within the local jurisdiction.
 - Arrange for local participation in the Federal/State/County Hazard Mitigation Team.
 - Inform local officials and citizens about significant team activities, collect any local comments on these matters, and report them to the Hazard Mitigation Coordinator.
 - Work with the Federal/State/County Hazard Team to review and update existing hazard mitigation plans, or in developing new hazard mitigation plans.

SECTION 13: RECOVERY OPERATIONS

A recovery operation refers to certain measures undertaken by the City both during and following a disaster. Effective recovery consists of a complex array of interdependent and coordinated actions which may include federal and state disaster relief efforts.

A successful recovery starts at the beginning of the incident. There is no clearly defined separation between the response and recovery efforts.

Recovery operations are divided into three (3) phases.

1. Short Term Recovery (Disaster impact to two (2) months) - The focus is on debris removal, building safety inspections, coordination of shelter services to victims, information on assistance programs, and providing basic emergency services (particularly public safety).
2. Mid-Term Recovery (Two (2) months to one (1) year) - The "rehabilitation" or reconstruction period between immediate response and long-term recovery.
3. Long Term Recovery (One (1) to ten (10) years and beyond) - Actions that will return the jurisdiction's social and economic situation back to normal pre-disaster levels of service or improved levels.

13.1 SHORT TERM OBJECTIVES

- Protection of individual well-being and private/public property
- Family reunification
- Restoration of essential public services and public safety

13.2 MID TERM OBJECTIVES

- Restoration of infrastructure/physical recovery to pre-disaster levels
- Restoration of normal government operations

13.3 LONG TERM OBJECTIVES

- Permanent restoration of private and public property
- Economic, social, and institutional stabilization
- Assess needs for, and accomplish, hazard mitigation
- Update Emergency Plans based on lessons learned

13.4 DISASTER RECOVERY ASSISTANCE CENTERS

Joint Federal, State and Local Assistance Center (LAC) may be set up in affected areas.

These centers are staffed under the one-stop shopping concept by disaster relief agencies' specialists, local officials, and representatives from private relief organizations.

Individual citizens and organizations desiring to donate money, food, clothing, and other goods or services to disaster victims may contact these LACs. Federal relief policy calls for cash donations to be given to private non-profit organizations involved in disaster relief services such as the American Red Cross, the Salvation Army, the Goodwill, or Faith Based Organizations (FBOs).

Additional information about Morgan Hill's LAC is contained in the Local Assistance Center Emergency Guideline.

13.5 RECOVERY PLANNING

As soon as the EOC is operational, recovery planning begins. The Advanced Planning Unit, under the Planning/Intelligence Section Coordinator, has primary responsibility for recovery planning. Recovery considerations will be reflected in the Incident Action Plans as the scope and approximate duration of the incident is identified. The City Recovery Plan will provide a road map for planning actions. Availability of funding will also dictate the exact steps in the recovery process.

13.6 RECOVERY FUNDING

13.6.1 Federal

Federal disaster assistance is available to communities which are covered by Presidential Proclamations. This assistance, provided under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, is coordinated through FEMA.

13.6.2 State

California's Emergency Management Agency coordinates disaster recovery and mitigation activities within California.

SECTION 14: PUBLIC EDUCATION – DISASTER PREPAREDNESS

If the general public knows what to do before, during and after a disaster, the impact of the disaster can be greatly reduced in saved lives and preserved property. Public education is largely a local function, although the state and federal governments make a variety of educational materials available.

The Morgan Hill OES routinely conducts or sponsors public education seminars on the subject of disaster preparedness and related topics.

The OES offers the “Map Your Neighborhood” and “Do-1-Thing” (<https://www.morganhill.ca.gov/2131/Do-1-Thing>) programs to assist neighborhoods and families in preparing for emergencies. In addition, it offers CERT training and opportunities for volunteering in a number of emergency response roles.

SECTION 15: APPROVALS, AUTHORITIES, AND REFERENCES

1. Morgan Hill City Council approval of this plan
2. City of Morgan Hill Municipal Code, <https://www.morgan-hill.ca.gov/655/Municipal-Code>
3. State Laws
 - i) California Emergency Services Act, Chapter 7 of Division 1 of Title 2 of the Government Code
 - ii) California Code of Regulations (CCR) Title 19, Chapter 2, Subchapter 3, 2620 et seq.
 - iii) CCR Title 21, Division 2
 - iv) California Government Code 8607 (a)
4. Federal Laws and Mandates
 - i) Federal Disaster Relief Act of 1974 (PL 93-288)
 - ii) Federal Civil Defense Act of 1950 (PL 920)
 - iii) Public Law 84-99 (Emergency Flood Assistance), http://www.mvp.usace.army.mil/Portals/57/docs/Operations%20Center/Emergency_Assistance_2011.pdf
 - iv) Homeland Security Presidential Directives 5, <https://www.dhs.gov/sites/default/files/publications/Homeland%20Security%20Presidential%20Directive%205.pdf>
 - v) Homeland Security Presidential Directives 8, <https://www.dhs.gov/presidential-policy-directive-8-national-preparedness>
 - vi) National Incident Management System (NIMS) at the NIMS Integration Center, <https://www.fema.gov/national-incident-management-system>
 - vii) Americans with Disabilities Act (ADA), 1990, <https://www.ada.gov/pubs/adastatute08.htm>
5. References
 - i) National Response Framework, <https://www.fema.gov/media-library/assets/documents/32230>
 - ii) NFPA 1600, <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=1600>
 - iii) Emergency Management Accreditation Program, <https://www.emap.org/>
 - iv) US Department of Homeland Security National Preparedness Goal, <https://www.dhs.gov/national-preparedness-goal>
 - v) FEMA National Exercise Plan, <https://www.fema.gov/national-exercise-program>
 - vi) A Guide To the Disaster Declaration Process and Federal Disaster Assistance, https://www.fema.gov/pdf/rrr/dec_proc.pdf
 - vii) California Constitution, <http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=CONS&tocTitle=+California+Constitution+-+CONS>
 - viii) California Fire Service and Rescue Emergency Mutual Aid System – Mutual Aid Plan, https://www.caloes.ca.gov/wp-content/uploads/Fire-Rescue/Documents/CalOES_-_Fire_and_Rescue_-_Mutual_Aid_Plan.pdf

- ix) California Emergency Plan, <https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/state-of-california-emergency-plan-emergency-support-functions/>

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

APPROVE THE FEBRUARY 15, 2023 CITY COUNCIL MEETING MINUTES

RECOMMENDATION(S)

Approve the February 15, 2023 City Council Meeting Minutes

COUNCIL PRIORITIES, GOALS & STRATEGIES

REPORT NARRATIVE:

COMMUNITY ENGAGEMENT:

ALTERNATIVE ACTIONS:

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

FISCAL AND RESOURCE IMPACT:

CEQA (California Environmental Quality Act):



City Council

Meeting Minutes

Mark Turner - Mayor
Rene Spring - Mayor Pro Tem
Gino Borgioli - Council Member
Marilyn Librers - Council Member
Yvonne Martinez Beltran - Council Member

Wednesday, February 15, 2023 5:00 PM

Council Chamber Building
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council was called at 5:00 pm for the purpose of conducting Parks and Recreation Commission interviews.

SPECIAL MEETING

5:00 pm - Parks and Recreation Commission interviews

CALL TO ORDER

Mayor Turner called the Special City Council meeting to order at 5:00 pm.

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow called the roll.

PRESENT	Rene Spring, Gino Borgioli, Yvonne Martinez Beltran, Mark Turner, Marilyn Librers
ABSTAIN	None
ABSENT	None

DECLARATION OF POSTING AGENDA

City Clerk Michelle Bigelow declared the posting of the agenda.

COMMISSION INTERVIEWS

1. INTERVIEW CANDIDATES TO FILL ONE (1) SEAT ON THE PARKS AND RECREATION COMMISSION

Recommendation:

1. Mayor shares the characteristics/traits that a successful applicant would possess;
2. Conduct Interviews;
3. Council Members identify the top applicant and provide recommendations to the Mayor; and
4. Discuss and/or appoint applicant.

City Clerk Michelle Bigelow provided a report. The Mayor shared what the City Council looks for in an ideal applicant.

The following applicants were interviewed:

Shishir Jani

Julie Lucido

Ramanathan Nagarajan

Natalie Prcevski

City Clerk Michelle Bigelow tallied the votes.

The Mayor appointed Julie Lucido to serve on the Parks and Recreation Commission for a term ending April 1, 2026.

The special meeting adjourned at 5:59 pm.

REGULAR MEETING

Mayor Turner called the Regular City Council meeting to order at 7:00 pm.

PRESENTATIONS

YAC Presentation- Asset # 8- Youth as Resources

California Department of Insurance Presentation

RECOGNITIONS

2022 STEM Winners

PROCLAMATIONS

Black History Month

CITY COUNCIL REPORTS

Council Member Gino Borgioli spoke about his recent tour of the Anderson Dam project. He also provided an update on the Little Llagas Creek project.

CITY MANAGER'S REPORT

City Manager Christina Turner invited the community to join the Cities of Morgan Hill and Gilroy and the Housing Trust's Homebuyer team to learn how the County of Santa Clara's down payment assistance program can help you buy your first home. Tomorrow, Thursday, February 16th, from 6 to 7 pm, they will be hosting an informational webinar. To learn more and to sign up, please visit housingtrustsv.org.

She announced that the second day of the City Council Goal Setting Workshop will be held in person on Friday, March 3rd, beginning at 9:00 am in the Council Chamber. We will discuss our 2022-2023 Sustainable Morgan Hill Strategic Priorities in detail.

She announced the upcoming State of the City address, which will take place on Wednesday, March 8th, at 6:30 pm.

She concluded by sharing that the Community Engagement Team will again be hosting an informational table on a variety of City topics at the Farmers Market beginning Saturday, March 11th, from 9:00 am to noon. They will be there the second Saturday of each month through October to connect with the community and answer questions.

CITY ATTORNEY'S REPORT

City Attorney Larkin shared that he is on the Board of Directors for PLAN JPA, our liability and property form of insurance. At a special board meeting late last year, they learned about problematic issues concerning property damage insurance prices increasing significantly.

OTHER REPORTS

Council Member Yvonne Martinez Beltran reported on the Silicon Valley Clean Energy (SCVE) board meeting. She also mentioned that all SVCE member agencies voted to adopt reach codes requiring varying degrees of electric readiness, all electric requirements for new construction and electric charging vehicles.

Mayor Mark Turner announced that starting February 25, 2023 he will be doing a series of Coffee with the Mayor. The first will be February 25, 2023 at 9:00 am at the Centennial Recreation Center. It will be held monthly. He also announced that he will be starting Get the Scoop with the Mayor monthly. It will be held at Baskin Robbins on Cochrane beginning March 4, 2023.

PUBLIC COMMENT

Public comment opened at 7:26 pm. The following people were called to speak:

Michael Burchfield

Ben Palm

Mauricio Chavez (Zoom)

There being no further requests to speak, public comment closed.

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Mayor Pro Tem Spring
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	None

CONSENT CALENDAR

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

Time Estimate for Consent Calendar: 1 - 10 Minutes

Public comment opened at 7:36 pm.

Joe Baranowski was called to speak.

There being no further requests to speak, public comment closed.

MOTION:

Approving consent calendar items 2 through 4.

RESULT:	Passed
MOVER:	Council Member Martinez Beltran
SECONDER:	Council Member Borgioli
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	None

2. **ADOPT ORDINANCE NO. 2341, NEW SERIES, AMENDING VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING MINOR AMENDMENTS DUE**

**TO CLERICAL ERRORS, INCONSISTENCIES, AND UPDATES TO
ACCESSORY DWELLING UNIT PROVISIONS TO COMPLY WITH STATE
LAW**

Recommendation:

Waive the reading, adopt Ordinance No. 2341, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

3. **ADOPT ORDINANCE NO. 2342, NEW SERIES, AMENDING SECTION 13.04.010 (DEFINITIONS) AND SECTION 13.04.330 (WASTING OF WATER AND DROUGHT EMERGENCIES) OF CHAPTER 13.04 (WATER SYSTEM) OF TITLE 13 (PUBLIC SERVICES), TO ADD REGULATIONS PROHIBITING THE USE OF POTABLE WATER ON NON-FUNCTIONAL TURF AND PROHIBITING NEW PRIVATE WATER WELLS**

Recommendation:

Waive the reading, adopt Ordinance No. 2342, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

4. **APPROVE THE JANUARY 11, 2023 AND JANUARY 25, 2023 CITY COUNCIL MEETING MINUTES AND THE JANUARY 27, 2023 GOAL SETTING WORKSHOP MINUTES**

Recommendation:

Approve Minutes.

PUBLIC HEARINGS

5. **MONTEREY - CITY VENTURES (THE GATES): ADOPT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM; APPROVE GENERAL PLAN AMENDMENT FROM COMMERCIAL TO MIXED USE FLEX; AND INTRODUCE ZONING AMENDMENT TO ALLOW FOR THE FUTURE DEVELOPMENT OF A MIXED-USE PROJECT. THE 3.82-ACRE SITE IS LOCATED ON THE SOUTHWEST QUADRANT OF MONTEREY ROAD AND COCHRANE ROAD WITH ACCESS OFF SOUTHBOUND MONTEREY ROAD AND INTERSECTION OF MONTEREY ROAD AND COCHRANE ROAD (ZA2021-0006/GPA2021-0005/EA2021-0015)**

Recommendation:

1. Open/close the public hearing;
2. Adopt a Resolution approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project;
3. Adopt a Resolution approving an amendment to the General Plan land use designation;

4. Waive the first and second reading of the Zoning Amendment Ordinance;
and
5. Introduce the Zoning Amendment Ordinance.

Mayor Mark Turner, Mayor Pro Tem Rene Spring, and Council Members Yvonne Martinez Beltran, Gino Borgioli, and Marilyn Librers announced their ex-parte contacts.

Assistant Planner Joey Dinh and Development Services Director Jennifer Carman provided a report and presentation.

The public hearing opened at 8:16 pm. The following people were called to speak:

Samantha Hauser - Applicant

Scott Schilling (Zoom)

Joe Baranowski

Doug Muirhead

Phil Kerr - Applicant

There being no further requests to speak, the public hearing closed.

MOTION:

Approving recommended actions 2 and 3, requiring that an MOU requiring mixed use come back at the second reading of the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Librers
AYES:	Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers
NAYS:	Mayor Pro Tem Spring
ABSTAIN:	None
ABSENT:	None

MOTION:

Waiving the first and second reading of the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Martinez Beltran
AYES:	Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers

NAYS:	Mayor Pro Tem Spring
ABSTAIN:	None
ABSENT:	None

MOTION:

Introducing the ordinance.

RESULT:	Passed
MOVER:	Council Member Librers
SECONDER:	Council Member Borgioli
AYES:	Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers
NAYS:	Mayor Pro Tem Spring
ABSTAIN:	None
ABSENT:	None

The meeting recessed at 9:17 pm and reconvened at 9:28 pm.

6. ADOPT RESOLUTION APPROVING COMMENCEMENT OF 2023 HAZARDOUS VEGETATION ABATEMENT PROGRAM

Recommendation:

1. Open/Close public hearing; and
2. Adopt Resolution A authorizing Santa Clara County to commence hazardous vegetation abatement activities on the attached list; and
3. Adopt Resolution B authorizing Santa Clara County to commence hazardous vegetation abatement activities for the remaining parcel.

Council Member Librers announced a conflict of interest on Resolution B and stepped down from the dais.

Community Services Supervisor Nichole Martin provided a report.

The public hearing for resolution B opened at 9:33 pm. There being no requests to speak, the public hearing closed.

MOTION:

Adopting Resolution B.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Martinez Beltran
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner
NAYS:	None
ABSTAIN:	Council Member Marilyn Librers
ABSENT:	None

Council Member Librers took her seat at the dais.

The public hearing for resolution A opened at 9:35 pm. There being no requests to speak, the public hearing closed.

MOTION:

Adopting Resolution A.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Librers
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Council Member Martinez Beltran, Mayor Turner, Council Member Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	None

OTHER BUSINESS

7. INTRODUCE AMENDMENT TO TITLE 2, SECTION 2.04.010 OF THE MORGAN HILL MUNICIPAL CODE ESTABLISHING REGULAR MEETING DATES FOR THE CITY COUNCIL AND TO CITY COUNCIL POLICIES (CP) 06-02 AND 98-02 CHANGING THE DATE OF THE GOAL SETTING WORKSHOP

Recommendation:

1. Waive the first and second readings of the Ordinance;
2. Introduce the Ordinance; and
3. Approve amended City Council Policies 06-02 City Council Meeting Schedule and 98-02 Time Established for Public Hearings.

City Manager Christina Turner provided a report.

Public comment opened at 9:37 pm. The following people were called to speak:
 Joe Baranowski
 There being no further requests to speak, public comment closed.

MOTION:

Approving amended City Council Policies 06-02 City Council Meeting Schedule and 98-02 Time Established for Public Hearings.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Mayor Pro Tem Spring
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Mayor Turner, Council Member Librers
NAYS:	Council Member Martinez Beltran
ABSTAIN:	None
ABSENT:	None

MOTION:

Waiving the first and second reading of the ordinance.

RESULT:	Passed
MOVER:	Mayor Pro Tem Spring
SECONDER:	Council Member Borgioli
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Mayor Turner, Council Member Librers
NAYS:	Council Member Martinez Beltran
ABSTAIN:	None
ABSENT:	None

MOTION:

Introducing the ordinance.

RESULT:	Passed
MOVER:	Mayor Pro Tem Spring
SECONDER:	Council Member Borgioli
AYES:	Mayor Pro Tem Spring, Council Member Borgioli, Mayor Turner, Council Member Librers
NAYS:	Council Member Martinez Beltran

ABSTAIN:	None
ABSENT:	None

8. REVIEW THE PROCESS FOR FUTURE COUNCIL INITIATED AGENDA ITEMS INCLUDED IN CITY COUNCIL POLICY (CP) 97-01 AND REVIEW AND PROVIDE DIRECTION ON FIVE PREVIOUSLY REQUESTED FUTURE AGENDA ITEMS; 1. LOCAL LAW ENFORCEMENT AGENCIES SUMMIT ON CUT-THROUGH TRAFFIC, 2. UNCLAIMED FUNDS GOING INTO COMMUNITY FUND RATHER THAN GENERAL FUND, 3. CITY COUNCIL HAVING A VOICE IN THE RECRUITMENT OF BOARD OF DIRECTORS FOR THE CITY'S PARTNER COMMUNITY GROUPS, 4. LANDSCAPE REQUIREMENTS FOR DEVELOPMENTS ALONG THE FREEWAY AND MAJOR ARTERIES TO INCLUDE MORE TREES, AND 5. LOCAL WORKFORCE PROJECT LABOR AGREEMENTS

Recommendation:

1. Review the process for addressing Future Council Initiated Agenda Items included in Council Policy CP 97-01; and
2. Continue the discussion on five Future Council Initiated Agenda Items discussed at the Goal Setting Workshop to determine if the majority of the City Council wants the following items agendized at a future meeting for discussion:
 1. Holding a summit of law enforcement agencies regarding cut-through traffic;
 2. Exploring if unclaimed funds can go into a community fund rather than the City's General Fund;
 3. Discussion regarding the recruitment of Board of Directors for the City's partner community groups;
 4. Review of landscaping requirements on developments along the freeway and major arteries to include more trees; and
 5. Discussion on Local Workforce Project Labor Agreements.

City Manager Christina Turner provided a report.

Public comment opened at 10:18 pm. The following people were called to speak: Joe Baranowski

There being no further requests to speak, public comment closed.

The council conducted a straw poll vote:

1. Summit of Law Enforcement Agencies: yes; Gino/no Rene, Mark, Marilyn, Yvonne
2. Unclaimed Funds to community fund: yes; Yvonne/ no Rene, Mark, Marilyn, Gino
3. Partner Group Board of Directors: yes; Yvonne, Rene/ no Mark, Marilyn / Abstain Gino

4. Landscaping requirements along highways: yes Rene, Mark, Yvonne/ no Marilyn / Abstain Gino
5. Workforce labor agreements: will fold this into the fire station discussion

9. **RECEIVE MONTHLY BUDGET UPDATE; DECEMBER 2022 FINANCIAL AND INVESTMENT REPORTS; AND THE CITY MANAGER AUTHORITY REPORT**

Recommendation:

Accept and file report.

Finance Director Dat Nguyen provided a report and presentation.

Public comment opened at 10:40 pm. There being no requests to speak, public comment closed.

Report accepted.

FUTURE COUNCIL INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Mayor Turner adjourned the meeting at 10:41 pm.

Minutes Prepared by:

Michelle Bigelow, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Matthew Mahood, Economic Development Director

APPROVED BY: City Manager

APPROVE SEWER AND TRAFFIC IMPACT FEE FINANCING AND SECURITY AGREEMENT WITH JOHN MICHAEL MONACO AND NORA GAYLE MONACO REVOCABLE LIVING TRUST AT 195 MAST ST

RECOMMENDATION(S)

Adopt resolution authorizing the City Manager to execute a Sewer and Traffic Impact Fee Financing and Security Agreement, consistent with the Sewer and Traffic Impact Fee Deferral Program and Government Code section 53083, with John Michael Monaco and Nora Gayle Monaco Revocable Living Trust for the approved Conditional Use (Indoor Recreation/Gym) on a property zoned for light industrial at 195 Mast Street.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

2022-2023 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Economic Blueprint

REPORT NARRATIVE:

Impact fees are required by law to pay for specific impacts caused by a user on the City's infrastructure. The fee is calculated based on the type and size (square footage) of the business. The City calculates impact fees when an applicant submits building permits or tenant improvements, at which point the specific layout of the use throughout the building is specified. The accuracy of the impact fee cannot be finalized until the building permits and tenant improvements have been submitted and approved. Impact fees are usually paid before a tenant occupies a building. These fees are often covered by the property owner as the benefit remains with the property. When there is a known change in occupancy or change in use of an existing property, impact fees are recalculated and adjusted accordingly.

In 2020, Titans Sports Academy (Titans) & Kinetic Performance Institute (KPI) relocated their operations to 195 Mast Street, which is zoned General Industrial (IG). Since Commercial Recreation/Indoor is not permitted in General Industrial (IG) zoning district,

Titans/KPI applied for a Conditional Use Permit (CUP). The CUP application was denied by the Planning Commission, but upon appeal to the City Council, the CUP was approved.

Titans & KPI moved into 195 Mast Street and began operations prior to securing the necessary City permits. The impact fees were recalculated during the processing of the tenant improvement permits. The updated traffic and sewer impact fees total \$225,608, which includes a credit for the previously accounted for General Industrial use (Attachments 3 & 4). Due to the significant expense of the impact fees, the property owners, John Michael Monaco and Nora Gayle Monaco, have requested to participate in the City's Sewer and Traffic Impact Fee Deferral Program (hereinafter "Fee Deferral Program").

Fee Deferral Program Guidelines

In 2006, the City Council created a Sewer and Traffic Impact Fee Financing Program (also known as the Fee Deferral Program) to facilitate commercial and industrial development and assist with development impact fees. The Program was amended to support projects both inside and outside the former Redevelopment Project Area (2009) and Micro Residential Units (2015).

The Program helps projects by allowing them to make installment payments for traffic, sewer, and utility undergrounding impact fees. The City Council has provided the City Manager authority to approve fee financing agreements for up to \$99,999. Projects that request financing of \$100,000 or more require City Council approval. The Program requires a 20% down payment at the time of permit and allows the remaining 80% balance to be paid over five years in monthly installments.

The Sewer and Traffic Impact Fee Financing Program calculates interest at Local Agency Investment Fund (LAIF) + $\frac{1}{2}$ percent, allowing the City to recover the lost interest it would have earned if the payment was made all at one time, plus $\frac{1}{2}\%$. The City Manager has the authority to impose other conditions consistent with the Program goals and requirements or to reject any Program request if there is inadequate security or to minimize risk to the City. The February 27, 2023 LAIF quarter to date rate was 2.52% plus .50% = 3.02%, to be used for this agreement.

The Program has been used by commercial developments/businesses over the years, including Madrone Village and several of the retail center's commercial tenants, Cochrane Animal Hospital, The Granary, 76 Gas Station at Cochrane Commons, Shoe Palace, Applied Motion, Alara Cellars, and most recently, Giorgio's Italian Grill and Pizzeria.

Titans/KPI Impact Fees

The impact fees for traffic and sewer at 195 Mast Street total \$225,608. The Program requires 20% to be paid at the time of building permit issuance. A deposit of \$45,122 would be required and the remaining \$180,487 balance would be repaid via monthly installments (\$3,244.72, principal and interest), over five years at an interest rate of 3.02%. The loan amortization schedule is attached. (Attachment 5)

With City Council approval of the Resolution authorizing the City Manager to execute the Sewer and Traffic Impact Fee Financing and Security Agreement (Attachment 2), the property owner and tenants will be able to maintain operations at 195 Mast Street and make the tenant improvements they are requesting.

COMMUNITY ENGAGEMENT:

Inform.

The table below addresses the requirements set forth in State of California AB 562 (Government Code 53083) for publication of information related to an economic development subsidy and public hearings.

Name/address of the beneficiary of the subsidy:	John Michael Monaco and Nora Gayle Monaco Revocable Living Trust, 195 Mast St, Morgan Hill, CA 95037
Start and end dates, schedule for the subsidy:	The Sewer and Traffic Impact Fee Financing and Security Agreement will start June 1, 2023. The financing agreement is for a term of five years for \$180,487.00. The beneficiary will pay monthly payments of \$3,244.72 over the course of five years.
Describe the subsidy, estimated total amount of expenditure of public funds or revenue lost:	The Sewer and Traffic Impact Fee Financing and Security Agreement allows the beneficiary to make a 20% down payment on the Sewer and Traffic Impact fees and finance the balance over five years. The City charges the beneficiary an interest rate of the Local Agency Investment Fund (LAIF) + ½ percent. If the Sewer and Traffic Impact fees are not paid by the beneficiary, the City will collect pledged collateral to cover the balance of the sewer and traffic impact fees. In addition, future building permits will not be issued until all impact fees are paid. No anticipated expenditure of public funds or revenue lost as interest will be collected over the term of the financing agreement.
State of public purpose:	Fee Financing Agreements are generally used to expand and enhance economic opportunities for businesses in the City, continue to expand the City's employment base, and continue to generate the hereinafter defined Property Tax and Sales Tax that the City can utilize to fund general governmental services such as police, fire, street maintenance, and parks and recreation programs.
Projected tax revenue:	The projected increase in tax collected from improvements at this site is nominal.
Estimated number of jobs created	No new jobs are being created by this subsidy. It

by subsidy:

is a change in use that is driving new, increased impact fees on this property.

ALTERNATIVE ACTIONS:

The City Council could choose not to approve the Agreement which would require the property owner to pay the balance of \$225,609 in impact fees immediately.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In February 2006, the Council created the Fee Financing (Deferral) Program to stimulate commercial/industrial development. The existing program was modified in July 2009 to provide additional enhancements to projects both inside as well as outside the former Redevelopment Project Area.

On February 17, 2021, the City Council called for a review of the Planning Commission decision to deny Conditional Use Permit (UP2020-0004) of Titans/KPI use at 195 Mast Street. After review and discussion, the City Council unanimously voted to adopt Resolution 21-005 overturning the Planning Commission decision and making the necessary findings supporting a Conditional Use Permit.

FISCAL AND RESOURCE IMPACT:

The project's total impact fees for traffic and sewer are \$225,608, of which 20% (\$45,122) will be paid up front with the execution and approval of the fee financing agreement, and the remaining deferred balance of \$180,487 will be repaid via monthly installments of principal and interest, over five years.

CEQA (California Environmental Quality Act):

Not a Project

This financing agreement is exempted from environmental review under Section 15061(b)(3) of the State CEQA Guidelines. The incentive agreement is covered by the general rule that CEQA applies only to projects which have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The financing agreement will not result in any direct impact upon the physical environment. Environmental review for the project was performed at the time the Conditional Use permit was approved.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SEWER AND TRAFFIC IMPACT FEE FINANCING AGREEMENT WITH JOHN MICHAEL MONACO AND NORA GAYLE MONACO REVOCABLE LIVING TRUST IN THE AMOUNT OF \$180,487 FOR THE ONGOING OPERATION AND TENANT IMPROVEMENTS A 40,925 SQUARE FOOT OFFICE AND INDOOR GYM/RECREATION FACILITY LOCATED AT 195 MAST STREET, MORGAN HILL

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California (“City”), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, the reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report submitted for the City Council meeting scheduled for March 15, 2023, submitted to the City Council by the City Manager (the “Staff Report”), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council meeting agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a public meeting on the adoption of this Resolution at which meeting the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other information provided in connection with the adoption of this Resolution; and

WHEREAS, existing law generally allows local governments to make their own decisions regarding local economic development matters; and

WHEREAS, the loss of redevelopment has left the City, as well as all cities within the State, with a loss of local resources to encourage economic development; and

WHEREAS, the City Council has made findings consistent with Section 53083 of the California Government Code Assembly Bill 562 (“AB 562”). AB 562, titled “Economic Development Subsidies: Review by Local Agencies”, which was codified on October 13, 2013, and went into effect on January 1, 2014, require each local agency, as defined, to provide specified information to the public before approving an economic development subsidy or assistance of \$100,000 or more, as defined, within its jurisdiction, and to review, hold hearings, and provide reports at specified intervals. Based upon the decision to terminate redevelopment statewide, the

Governor and State Legislature recognized the necessity for local governments to encourage employment and retain jobs and businesses by giving economic assistance to businesses and the importance of facilitating public input; and

WHEREAS, encouraging and developing other businesses in the City that are, or can be, key sources of sales tax revenue would diversify and increase revenue sources for the City's general fund, which supports public services provided by the City to its residents and local businesses; and

WHEREAS, the City Council determines that the Sewer and Traffic Impact Fee Financing Agreement is consistent with the City's Sewer and Traffic Impact Fee Deferral Program adopted in July 2007 to stimulate commercial development and is necessary for the preservation and protection of the public health, safety or welfare of the community, and is in accord with the public purposes and provisions of applicable State and local laws and requirements.

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

a. That the Sewer and Traffic Impact Fee Financing Agreement dated March ___, 2023 with John Michael Monaco and Nora Gayle Monaco Revocable Living Trust, for the on-going operation and tenant improvements to a 40,925 square foot office and indoor gym/recreation facility at 195 Mast Street, substantially in the form attached hereto as Exhibit A and incorporated herein by this reference (the "Sewer and Traffic Impact Fee Financing Agreement"), is hereby approved.

b. That the City Manager is hereby delegated authority to and is authorized and directed to do everything necessary and appropriate to execute the Agreement substantially in the form attached hereto as Exhibit A; provided, specifically, that the total amounts to be financed under the Sewer and Traffic Impact Fee Financing Agreement shall in no event exceed One Hundred Eighty Thousand and Four Hundred Eighty-Seven Dollars (\$180,487).

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Council of Morgan Hill at the meeting held on this _____ day of _____, 2023 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

APPROVED:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. xx-xxx adopted by the City Council at the meeting held on March15, 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL

DATE: _____

MICHELLE BIGELOW, City Clerk

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO**

City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

TO BE RECORDED WITHOUT FEE
PER GOVERNMENT CODE 27383 and 6103

(SPACE ABOVE LINE FOR RECORDER'S USE)

APN: 817-02063

SEWER/TRAFFIC FEE FINANCING AGREEMENT AND SECURITY AGREEMENT

This Sewer/Traffic Fee Financing Agreement and Security Agreement (the "Agreement") is entered into as of _____, 2023, by and between the John Michael Monaco and Nora Gayle Monaco Revocable Living Trust (the "Borrower") and the City of Morgan Hill, a municipal corporation duly organized and existing under the laws of the State of California, California, ("City") with reference to the following facts and purposes:

RECITALS

- A. The City has established a Sewer/Traffic Fee Financing Program (the "Program") to defer sewer and traffic fees for new and expanding industrial and commercial businesses.
- B. Borrower is a legal tenant of that certain real property in the City described in the attached Exhibit A (the "Property") upon which improvements are to be made for a new or expanding industrial or commercial business (the "Improvements").
- C. On _____, 2023, the City granted a request of the Borrower to be a Program participant with respect to John Michael Monaco and Nora Gayle Monaco Revocable Living Trust, Sewer and Traffic Fees in the aggregate amount of Two Hundred Twenty-Five Thousand, Six Hundred Eight Dollars (\$225,608.00) (the "Fees"), payable by the Borrower in connection with Improvements on the Property.
- D. As a condition of participation in the Program and in consideration of the City's agreement to defer payment of the Fees as specified herein, the Borrower is required to execute this Agreement and the documents specified herein setting forth the terms and conditions for payment of the Fees by the Borrower to the City and establishing security for such payment.

NOW, THEREFORE, the City and the Borrower agree as follows:

1. Financing of Fee. Upon satisfaction of the conditions set forth in Section 3 below but not later than the date the Borrower is required to pay a minimum of twenty percent (20%) of the Sewer/Traffic Fees for the Improvements on the Property, by July 1, 2023 ("Initial Payment Date"), in accordance with applicable City ordinances and regulations, the Borrower shall be granted the right to pay the Fees pursuant to the Program in accordance with the payment terms set forth in Section 2 below. If the conditions set forth in Section 4 below are not satisfied in full, the Borrower shall pay the Fees in their entirety on the Initial Payment Date or on such other

date(s) as provided in the applicable City ordinances and regulations, and this Agreement shall terminate and be of no further force and effect.

2. Payment of Fees. The Fees shall be paid as follows:

- (a) Twenty percent (20%) of the Sewer and Traffic Impact Fees, Forty-Five Thousand One Hundred Twenty-Two Dollars (\$45,122.00), shall be paid to the City on the Initial Payment Date as the "Down Payment".
- (b) The remaining balance of the Fees (total fees minus the Down Payment) of One Hundred Eighty Thousand, Four Hundred Eighty-Seven Dollars (\$180,487.00) ("Financed Fees") shall be paid in sixty (60) equal monthly installments and shall bear interest at Three and Two hundredth percent (3.02%) per annum compounded monthly. The monthly installment shall be \$3,244.72 per month which shall commence on July 1, 2023, continuing on the first day of each month thereafter until full principal amount and all interest thereon has been paid. Maturity date is June 1, 2028. Borrower may prepay the balance without penalty.

3. Security Agreement. In order to secure and perfect Borrowers' obligation to repay the Financed fees, Borrower agrees to execute a promissory note in the form provided by City (the "Note"), which shall be secured by an executed and recorded Uniform Commercial Code filing in the form provided by City (the "UCC-1 Filing"). This Agreement, the Note and the UCC-1 Filing shall be collectively referred to herein as the "Loan Documents." City and the Borrower agree that the Loan Documents shall create and perfect the City's security interest in the personal property set forth in Exhibit A as collateral ("Collateral") for the payment of the Financed Fees

4. Conditions to Financing of Fees. As conditions to the Borrower's right to finance payment of the Fees in the manner set forth in Sections 1 and 2, the representations set forth in Section 7 must remain true and correct as of the Initial Payment Date, and the following actions must be completed by not later than the Initial Payment Date (unless waived in writing by the City):

- (a) Delivery to the City of the Down Payment;
- (b) Execution by the Borrower and delivery to the City of the appropriate Loan Documents;
- (c) Recordation in the official records of the California Secretary of State of the UCC-1 Filing as a lien against the Collateral;

5. Events of Default. Each of the following shall constitute a "Default" by the Borrower under the Agreement and the other Loan Documents:

- (a) Failure by the Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan Documents (including, without limitation, the obligation to repay the Financed Fees as provided in Section 2(b) of this Agreement), if such failure remains uncured fifteen (15) days after written notice of such failure is mailed by the City to the Borrower; provided, however, that if a lesser period or notice requirement is allowed before a Default occurs under any of the following subsections or under any other Loan Document, such lesser requirement shall control in this Agreement.
- (b) Any representation or warranty contained in any Loan Document proves to have been incorrect in any material respect when made or on the Initial Payment Date.
- (c) A court having jurisdiction shall have made or entered any decree or order (1) adjudging the Borrower to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Borrower or seeking any arrangement for the Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the

Borrower in bankruptcy or insolvency or for any of their properties, or (4) directing the winding up or liquidation of the Borrower, if any such decree or order described in clauses (1) to (4), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period is permitted for cure under any other lien on the Collateral, in which event such lesser time period will apply under this subsection (c) as well; or the Borrower shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive. The occurrence of any Default in this subsection shall act to accelerate automatically, without the need for any action by the City, the indebtedness evidenced by the Note.

(d) The Borrower shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure under any other lien on the Collateral, in which event such lesser time period shall apply under this subsection (d) as well) or prior to sooner sale pursuant to such sequestration, attachment, or execution. The occurrence of any Default in this subsection shall act to accelerate automatically, without the need for any action by the Agency, the indebtedness evidenced by the Note.

(e) The Borrower shall have voluntarily suspended its business or, if the Borrower is a partnership, the partnership shall have been dissolved or terminated.

(f) The condemnation, seizure, or appropriation of all or, in the opinion of the City, a substantial part of the Collateral, except for a condemnation initiated by the City.

(g) There shall not take place any default declared by any lender under any loan document related to any other loans secured by a deed of trust or lien on the Collateral. The occurrence of Default under this subsection (g) shall act to accelerate automatically, without the need for any action by the City, the indebtedness evidenced by the Note.

6. Remedies. The occurrence of any Default will, either at the option of the City or automatically, where so specified, give the City the right to proceed with any and all remedies set forth in this Agreement and the Loan Documents, including but not limited to the following:

(a) The City shall have the right to cause all indebtedness of the Borrower to the City under this Agreement, together with any accrued interest thereon, to become immediately due and payable. The Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The City may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the City as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure upon the Collateral under the UCC Filing. The Borrower shall be liable to pay the City on demand all expenses, costs and fees (including, without limitation, attorney's fees and expenses) paid or incurred by the City in connection with the collection of the Financed Fees and the preservation, maintenance, protection, sale, or other disposition of the Collateral given for the Financed Fees.

(b) The City shall have the right to mandamus or other suit, action or proceeding at law or in equity to require the Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things which may be unlawful or in violation of the provisions of the Loan Documents.

(c) The City shall have the right to cure any monetary default by the Borrower under a loan in connection with the Collateral; provided, however, that if the Borrower is in good faith contesting a claim of default under a loan and the City's interest under the Loan Documents are not imminently threatened by such default, in the City's sole judgment, the City shall not have the right to cure such default. The Borrower agrees to reimburse the City for any funds advanced by the City to cure a monetary default by Borrower upon demand therefore, together with

interest thereon at the interest rate established for the Financed Fees in Section 2(b) above from the date of expenditure until the date of reimbursement.

No right, power, or remedy given to the City by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of any such instrument, or by any statute or otherwise against the Borrower and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

7. Representations and Warranties. The Borrower hereby represents and warrants to the City as follows:

(a) The Borrower is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) The Borrower and the Guarantor, as applicable, have full power and authority to execute and deliver this Agreement and to make and accept the obligations contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of the Borrower and the Guarantor, as applicable, and all actions required under the Borrower's and the Guarantor's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) This Agreement and the Loan Documents and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Borrower, as applicable, enforceable against them in accordance with their respective terms.

(e) The Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or the Property, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to the Borrower, materially affect the Borrower's ability to meet its obligation or impair the security to be given to the City pursuant hereto.

(f) To the best knowledge of the Borrower:

(1) The Property is not and has not been a site for the use, generation, treatment, manufacture, storage, disposal or transportation of any hazardous materials and there are no hazardous materials located in, on or under the Property;

(2) The Property is presently in compliance with all hazardous materials laws, including, without limitation, those relating to soil and ground water conditions;

(3) No investigations, inquiries, notices, orders, hearings, actions, or other proceedings by or before any governmental agency are pending or threatened against the Borrower and/or the Property pertaining in any way to (A) the use, generation, treatment, manufacture, storage, presence, disposal or transportation of hazardous materials from, under, into or on the Property or any portion thereof and/or (B) the violation or alleged violation of, or the noncompliance or alleged noncompliance with, any hazardous materials law; and

(4) No underground storage tanks are presently located, or in the past have been located, in, on or under the Property.

8. General Provisions.

(a) Time is of the essence in the performance of all obligations under this Agreement and the Other Loan Documents.

(b) Any notice requirement set forth herein shall be deemed to be satisfied three (3) days after mailing of the notice first-class United States certified mail, postage prepaid, addressed to the appropriate party as follows:

Borrower:

The John Michael Monaco and Nora Gayle Monaco
Revocable Living Trust
Attn: John M. Monaco & Nora Monaco
1682 Monaco Place
San Martin, CA 95046

City: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Finance Director

Copy to: City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Such addresses may be changed by notice to the other party given in the same manner as provided above.

(c) If either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder or under any of the Loan Documents, the prevailing party shall be entitled to recover from the other party its costs of suit and reasonable attorneys' fees which shall be fixed by the court.

(d) If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired.

(e) This Agreement and the Loan Documents and other instruments given pursuant to this Agreement shall be construed in accordance with and be governed by the laws of the State of California. Any action commenced about this Agreement or any of the Loan Documents shall be filed in the central branch of the Santa Clara County Superior Court.

(f) This Agreement may not be changed orally, but only by agreement in writing signed by the Borrower and the City.

(g) The Loan Documents together embody the agreement between the City and the Borrower for the payment of the Fee. No verbal agreements or conversations with any officer, agent or employee of the City prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in the Loan Documents. Any such verbal agreement shall be considered unofficial information and in no way binding upon the City.

(h) This Agreement and its terms and conditions shall be binding on the successor in interest to Borrower's business or the Property.

(i) No official or employee of the City shall be personally liable for any default or liability under this Agreement.

(j) The Borrower covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, or ancestry in any activity pursuant to this Agreement.

(k) The Borrower shall comply with all applicable laws ordinances, codes, and regulations of the federal, state, and local governments.

(l) The Borrower shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

(m) Whenever any approval, notice, direction, consent, request, waiver of condition or other action by the City is required or permitted under this Agreement, such action may be given, made, or taken by the City Manager or Finance Director, or by any person who shall have been designated in writing to the Borrower by the City Manager or Finance Director, without further approval by the City Council, and any such action shall be in writing.

(n) The following exhibits are attached to and incorporated by reference in this Agreement:

Exhibit A	Description of the Collateral
Exhibit B	Form of UCC-1 Filing
Exhibit C	Promissory Note

(o) If any term or provision of any Loan Document conflicts with any term or provision of this Agreement, the term or provision of this Agreement shall control to the extent of such conflict.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BORROWER:

John Michael Monaco and Nora Gayle
Monaco Revocable Living Trust

John Michael Monaco

Date: _____

Nora Gayle Monaco

Date: _____

CITY:

CITY OF MORGAN HILL
a municipal corporation

Christina Turner, City Manager

Date: _____

Approved as to Form:

Donald A. Larkin, City Attorney

Date: _____

Attest:

Michelle Bigelow City Clerk
Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**)
County of Santa Clara)

On _____, 2023, before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**)
County of Santa Clara)

On _____, 2023, before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**)
County of Santa Clara)

On _____, 2023, before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT A
DESCRIPTION OF COLLATERAL

This Exhibit A is attached to that certain UCC-1 Financing Statement identified as follows:

1. DEBTOR:

John Michael Monaco and Nora Gayle Monaco Revocable Living Trust

2. DESCRIPTION OF COLLATERAL:

A. All inventory, furnishings, fixtures, equipment, supplies, construction materials, goods and other article of personal property, which are now or hereafter owned by debtor and located at, placed upon or about, or affixed or attached to or install in or on the commercial premises ("Premises") commonly known as 195 Mast Street, Morgan Hill, California containing approximately 40,925 square feet of office and indoor gym/recreation space as described in Section C, and used or to be used in the connection with or otherwise relating to the premise or the ownership, use, development, construction, maintenance, management, operation, marketing leasing or occupancy, therefor, and all accessories, attachments, parts or repairs of or to any of such property.

B. All accounts, general intangibles, chattel paper, letter of credit rights, deposit accounts, money, investment property, documents, certificate of title and instruments (whether negotiable or nonnegotiable), contract rights, insurance policies, and all rights to payment of many kind relating to or otherwise arising in connection with or derived from the Premises, (ii) refunds, rebates, reserves, deferred payments, deposits, costs savings and payments of any kind due from or payable by (A) any federal, state, municipal or other government or quasi-government agency, authority or district (individually, a "Government Agency"), or (B) any insurance or utility company, in either case relating to any or all of the Premise, (iii) refunds, rebates and payment of any kind due from or payable by any Governmental Agency for any taxes, assessments, or governmental or quasi-governmental charges or levies imposed upon Debtor with respect to or upon any or all of the Premises.

C. TENANT'S PARCEL LEGAL DESCRIPTION: The land referred to in this Commitment is situated in the City of Morgan Hill, county of Santa Clara, State of California, and is described as follows:

APN: 817-02063

BEING A PORTION OF LOT 13, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "CATHERIN DUNNE RANCH MAP NO. 5" FILED IN BOOK "I" OF MAPS AT PAGE 59, SANTA CLARA COUNTY RECORDS, AND A PORTION OF LOT 1, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "HENRI MARTENS SUBDIVISION NO. 2" FILED IN BOOK "P" OF MAPS AT PAGE 39, SANTA CLARA COUNTY RECORDS.

EXHIBIT B
FORM OF UCC FILING

This will be the filed UCC

EXHIBIT C
Promissory Note

\$180,487.00

Morgan Hill, California
_____, 2023

FOR VALUE RECEIVED, the undersigned, John Michael Monaco and Nora Gayle Monaco Revocable Living Trust (“Maker”), hereby promises to pay to the order of the CITY OF MORGAN HILL, a municipal corporation (“Holder”), without deduction or offset, the sum of One Hundred Eighty Thousand Four Hundred Eighty-Seven Dollars and Zero Cents (\$180,487.00) as much as may be disbursed thereof.

This Note is entered into and arises pursuant to that certain Sewer/Traffic Fee Financing Agreement and Security Agreement (the “Agreement”) dated on or about the same date herewith by and between Maker and Holder, which is incorporated herein by this reference, and evidences the obligation to repay the Loan described therein. Payments shall be due under this Note as follows: Beginning the first of the month following the issuance of the Certificate of Occupancy, Maker shall make sixty (60) equal monthly payments of Three Thousand Two Hundred Forty-Four Dollars and Seventy-Two Cents (\$3,244.72) which shall bear simple interest at Three and Two hundredth percent (3.02%). The monthly installment payments shall commence on the first of the month following the issuance of the Certificate of Occupancy and continuing on the first day of each month thereafter with the remaining balance of principal due and payable on the first day of the sixty first (61st) month following the date of the issuance of the Certificate of Occupancy, provided, however, that Maker’s obligation to repay this Note may be accelerated in accordance with the Agreement or the terms of this Note. Monthly payments are due on the first day of the month and considered delinquent on the fifteenth day of the month.

All sums paid under this Note shall be applied against the balance of unpaid principal and interest, and no interest shall thereupon accrue upon principal paid to date.

Should any sum due hereunder not be paid by the **fifteenth (15th)** day after written notice of such default is given by the Holder to the Maker, then all sums of unpaid principal and accrued interest may immediately be deemed due and payable and shall thereafter bear interest at the rate of ten percent (10%) per annum, until paid.

Neither the failure of Holder to exercise its right to accelerate, nor reinstatement of this Note after such exercise, shall constitute a waiver of the right to exercise such rights at any other time.

This Note is to be construed so as to give effect to the intent of the parties to conform strictly to the law, and all interest payable on account of this Note shall be reduced, if necessary, to the highest amount allowable under the usury laws or other laws governing this transaction, should this transaction not be exempt from the same. This Note shall be governed by and construed in accordance with the laws of the State of California.

All parties who are obligated to pay any portion of the indebtedness represented by this Note, whether as principal, surety, guarantor or endorser, hereby waive presentment for payment,

demand, protest, notice of protest and notice of dishonor, and all other notices to which they might otherwise be entitled.

If any sum due under this Note is not paid when due, Maker hereby covenants and agrees to pay all costs and expenses of collection, whether by suit or otherwise, at any time and from time to time incurred, including, without limitation, attorney's fees.

Subject to the foregoing, the terms of this Note shall be binding upon and inure to the benefit of the respective heirs, successors in interest and assigns of Maker and Holder.

All notices and demands shall be given in writing by certified mail, postage prepaid, and return receipt requested, by personal delivery or by overnight courier. Notices shall be considered given upon the earlier of (a) personal delivery; (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested; or (c) one (1) business day following deposit with an overnight courier. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

Holder: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attn: Economic Development

Copy to: City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attn: City Clerk

Maker: John Michael Monaco and Nora Gayle Monaco
Revocable Living Trust
1682 Monaco Place
San Martin, CA 95046
Attn: John M. Monaco & Nora Monaco

Time is of the essence with respect to each and every provision hereof. If any provision hereof is found to be invalid or unenforceable by a court of competent jurisdiction, the invalidity thereof shall not affect the enforceability of the remaining provisions of this Note.

MAKER:

John Michael Monaco and Nora Gayle Monaco Revocable Living Trust

By: _____
John M. Monaco

By: _____
Nora Monaco

4. WATER IMPACT FEE: **651-37648** Subtotal: \$0

Single Family	\$4,264	/DU	x	0	DU	=	\$0
Multi Family	\$3,847	/DU	x	0	DU	=	\$0
Senior/Downtown	\$3,847	/DU	x	0	DU	=	\$0
Commercial	\$12,104	/AC	x	0	AC	=	\$0
Industrial	\$12,104	/AC	x	0	AC	=	\$0
Office	\$12,104	/AC	x	0	AC	=	\$0
Auto Dealership	\$12,104	/AC	x	0	AC	=	\$0
Hotel	\$12,104	/AC	x	0	AC	=	\$0

WATER CREDITS \$0 / x 0 / = \$0

5. SEWER IMPACT FEE: **641-37648** Subtotal: \$20,061

Single Family	\$16,687	/DU	x	0	DU	=	\$0
Multi Family	\$14,123	/DU	x	0	DU	=	\$0
Senior/Downtown	\$14,123	/DU	x	0	DU	=	\$0
Commercial	\$54.95	/GPD	x	365	GPD	=	\$20,061
Industrial	\$54.95	/GPD	x	0	GPD	=	\$0
Office	\$54.95	/GPD	x	0	GPD	=	\$0
Auto Dealership	\$54.95	/GPD	x	0	GPD	=	\$0
Hotel	\$54.95	/GPD	x	0	GPD	=	\$0

SEWER CREDITS \$0 / x 0 / = \$0

RDA SEWER CREDIT	Single Family	\$16,687	/DU	x	0	DU	=	\$0
	Multi Family	\$14,123	/DU	x	0	DU	=	\$0
	Commercial	\$54.95	/GPD	x	0	GPD	=	\$0
	Industrial	\$54.95	/GPD	x	0	GPD	=	\$0
	Office	\$54.95	/GPD	x	0	GPD	=	\$0
	Auto Dealership	\$54.95	/GPD	x	0	GPD	=	\$0
	Hotel	\$54.95	/GPD	x	0	GPD	=	\$0

6. STORM DRAIN IMPACT FEE: **303-37648** Subtotal: \$0

	Single Family	\$2,115	/DU	x	0	DU	=	\$0
>1,200 SF	Multi Family	\$1,204	/DU	x	0	DU	=	\$0
< 1,200 SF	Multi Family	\$560	/DU	x	0	DU	=	\$0
>1,200 SF	Senior/Downtown	\$1,204	/DU	x	0	DU	=	\$0
< 1,200 SF	Senior/Downtown	\$560	/DU	x	0	DU	=	\$0
	Commercial	\$22,901	/ACRE	x	0	AC	=	\$0
	Industrial	\$16,861	/ACRE	x	0	AC	=	\$0
	Office	\$22,901	/ACRE	x	0	AC	=	\$0
	Auto Dealership	\$22,901	/ACRE	x	0	AC	=	\$0
	Hotel	\$339	/ROOM	x	0	RM	=	\$0

STORM CREDITS \$0 / x 0 / = \$0

7. TRAFFIC IMPACT FEE: **309-37648** Subtotal: \$54,569

	Single Family	\$3,675	/DU	x	0	DU	=	\$0
>1,200 SF	Multi Family	\$2,277	/DU	x	0	DU	=	\$0
< 1,200 SF	Multi Family	\$1,434	/DU	x	0	DU	=	\$0
>1,200 SF	Senior/Downtown	\$2,277	/DU	x	0	DU	=	\$0
< 1,200 SF	Senior/Downtown	\$1,434	/DU	x	0	DU	=	\$0
	Secondary DU	TBD	/DU	x	0	DU	=	\$0
	Commercial	\$3,675	/PHT	x	14.85	PHT	=	\$54,569
	Industrial	\$3,675	/PHT	x	0	PHT	=	\$0
	Office	\$3,675	/PHT	x	0	PHT	=	\$0
	Auto Dealership	\$3,675	/PHT	x	0	PHT	=	\$0
	Hotel	\$3,675	/PHT	x	0	PHT	=	\$0

TRAFFIC CREDITS \$0 /PHT x 0 PHT = \$0

8. PARK IMPACT FEE: **301-37648** Subtotal: \$0

Subdivision:	Single Family	\$6,327	/DU	x	0	DU	=	\$0
	Multi Family	\$6,096	/DU	x	0	DU	=	\$0
	Senior/Downtown	\$4,175	/DU	x	0	DU	=	\$0
	Secondary DU	TBD	/DU	x	0	DU	=	\$0
No Subdivision	Single Family	\$4,600	/DU	x	0	DU	=	\$0
	Multi Family	\$4,437	/DU	x	0	DU	=	\$0
	Senior/Downtown	\$3,036	/DU	x	0	DU	=	\$0
	Secondary DU	TBD	/DU	x	0	DU	=	\$0

PARK CREDITS \$0 / x 0 / = \$0

8a. PARK MAINTENANCE DEV. FEE: **302-37649** Subtotal: \$0

\$0 / x 0 EAC = \$0

9. PUBLIC FACILITIES IMPACT FEE: **347-37648** Subtotal: \$0

Single Family	\$602	/DU	x	0	DU	=	\$0
Multi Family	\$580	/DU	x	0	DU	=	\$0
Senior/Downtown	\$398	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$1,327	/ACRE	x	0	AC	=	\$0
Industrial	\$1,857	/ACRE	x	0	AC	=	\$0
Office	\$1,577	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$532	/ACRE	x	0	AC	=	\$0
Hotel	\$15	/ROOM	x	0	RM	=	\$0

PUBLIC FACILITIES CREDITS \$0 / x 0 / = \$0

10. LIBRARY IMPACT FEE: **348-37648** Subtotal: \$0

Single Family	\$2,324	/DU	x	0	DU	=	\$0
Multi Family	\$2,238	/DU	x	0	DU	=	\$0
Senior/Downtown/SDU	\$1,532	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0

LIBRARY CREDITS \$0 / x 0 / = \$0

11. COMMNTY/REC CNTRS IMPACT FEE: **360-37648** Subtotal: \$0

Single Family	\$4,309	/DU	x	0	DU	=	\$0
Multi Family	\$3,781	/DU	x	0	DU	=	\$0
Senior/Downtown	\$2,853	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0

COMMNTY/REC CNTRS CREDITS \$0 / x 0 / = \$0

12. PUBLIC SAFETY FACILITIES IMPACT FEE: **315-37648** Subtotal: \$0

Single Family	\$2,115	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$1,870	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$1,400	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$1,870	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$1,400	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$11,818	/ACRE	x	0	AC	=	\$0
Industrial	\$14,184	/ACRE	x	0	AC	=	\$0
Office	\$14,168	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$5,668	/ACRE	x	0	AC	=	\$0
Hotel	\$65	/ROOM	x	0	RM	=	\$0

POLICE CREDITS \$0 / x 0 / = \$0

13. ENGINEERING & INSPECTION FEE: **206-38734** Subtotal: \$0

ENGR ESTIMATE:	\$0	13.3%	\$1	to	\$100,000	=	\$0
ENGR EST. DATE:		11.8%	\$100,001	to	\$200,000	=	\$0
		10.3%	\$200,001	to	\$500,000	=	\$0
		8.8%	OVER		\$500,000	=	\$0
DEPOSIT PAID						=	\$0

14. LONG RANGE PLANNING FEE: **207-37912** Subtotal: \$0

LONG RANGE PLANNING FEE (15% of E&I) = \$0

15. GIS FEE: **206-37913** Subtotal: \$0

GIS/TECHNOLOGY FEE (5% of E&I) = \$0

16. MAP CHECK FEE: **206-38716** Subtotal: \$0

PARCEL MAP:	\$5,752	=	\$0
TRACT MAP:	\$9,248	=	\$0

17. OTHER FEES:Subtotal: \$0

Certificate of Compliance	\$ 3,760	206-38430	=	\$0
Lot Line Adjustment/Merger	\$ 3,151	206-38712	=	\$0
Engineering Services	\$ 203 /hr	206-38719	=	\$0
Public Easement Review	\$ 2,541	206-38737	=	\$0
Street Vacation Review	\$ 203 /hr	206-38737	=	\$0
Easement Abandonment	\$ 4,471	206-38737	=	\$0
Plan Revision Review	\$ 509 /hr	206-38737	=	\$0
Reimbursement Agreement	\$ 2,202	206-38741	=	\$0
FEMA Compliance - Base Fee	\$ 406	206-38725	=	\$0
FEMA Comp. w/ CLMOR/LOMR	\$ 2,236	206-38725	=	\$0
FEMA Comp. w/ Pub. Outreach	\$ 814	206-38725	=	\$0
Storm Water Runoff Mangnt Plan Review	\$ 2,846	206-38734	=	\$0
SWPPP Document Review 1st	\$ 1,219	232-37687	=	\$0
SWPPP Document Review 2nd	\$ 756	232-37687	=	\$0
SWPPP Offsite Inspection - 6 month	\$ 6,097	232-37688	=	\$0
SWPPP Offsite Inspection - 12 month	\$ 12,195	232-37688	=	\$0
SWPPP Offsite Inspection - 24 month	\$ 24,390	232-37688	=	\$0
Post Construction BMP Initial/Base Setup	\$ 595.73	206-38734	=	\$0
Post Construction Each Additional BMP	\$ 119.15 /BMP	206-38734	=	\$0
RDCS School Pedestrian Safety	\$	355-37655	=	\$0
RDCS Public Facilities	\$	346-37649	=	\$0
RDCS Park Development	\$	302-37649	=	\$0
RDCS Public Facilities Circulation	\$	346-37649	=	\$0
RDCS LED Streetlight Fund	\$	010-37722	=	\$0

TOTAL FEES DUE: \$74,630Notes & Comments: **Kinetic Performance Institute`**

6725 sq. ft. =	Total Area
1345 sq. ft. =	Office area allowance not charged impact fee (20% of total area)
1115 sq. ft. =	Total Office Area (office, breakroom, storage, restroom, lobby, hallway, and misc)
0 sq. ft. =	New Office Area (Total Office Area - Office Area Allowance = New Office Area) to be charged impact fees
5610 sq. ft. =	Gym Area (Total Area - Total Office Area = Gym Area) to be charge Impact fees

Traffic Impact Fee

1.49 pht/1000 sf =	Office peak hour trips per 1000 square feet per Memo E20
0.00 PHT =	Office Peak Hour Trips x New Office Area
3.45 pht/1000 sf =	Gym peak hour trips per 1000 square feet per ITE 492 - Fitness Club
19.35 PHT =	Gym Peak Hour Trips x Gym Area
4.51 PHT =	Prior Credit for Manufacturing per ITE 140
14.85 PHT =	Total Peak Hour Trips

Sanitary Sewer Impact Fee

0.093 gpd/sf =	Office sanitary coefficient, gallons per day per square feet
0 gpd =	Office gallons per day x New Office Area
0.137 gpd/sf =	Gym sanitary coefficient, gallons per day per square feet
769 gpd =	Gym gallons per day x Gym Area
404 gpd =	Prior Credit for Industrial use per Memo E20
365 gpd =	Total Gallons Per Day



CITY OF MORGAN HILL PUBLIC WORKS DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 - Office (408) 778-6480 Fax (408) 779-7236

FEE SCHEDULE: 01.15.2022

PROJECT INFO	
TRACT # / APN:	817-02-063
ADDRESS / LOT:	195 Mast Street, ste 100
PROJECT DESC:	Titans Sports
APPLICANT INFO	
APPLICANT NAME:	TITANS SPORTS ACADEMY & KPI
MAILING ADDRESS:	8524 Otoole Court
CITY, STATE, ZIP:	Gilroy, CA 95020
PHONE NUMBER:	

DATE PREPARED:	2/9/2022
EXPIRATION DATE:	7/15/2022
CALCULATED BY:	CHARLIE HA
CHECKED BY:	CHARLIE HA
BUILDING PERMIT #:	BCOM2021-0052
BLD PERMIT ISS. DATE:	N/A

☐ THIS FEE SCHEDULE IS ESTIMATE ONLY

SEWER IMPACT FEES WITHIN RDA BOUNDARY

CHECK APPLICABLE SCENARIO BELOW

COMMERCIAL OR INDUSTRIAL WITHIN RDA BOUNDARY

SEWER IMPACT FOR COMMERCIAL & INDUSTRIAL PROJECTS TEMPORARILY ADJUSTED TO \$0 EFFECTIVE 02/05/07 PER RES# 6082.

RESIDENTIAL PROJECTS WITHIN RDCS DOWNTOWN AREA

SEWER IMPACT FOR SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL TEMPORARILY ADJUSTED TO \$0 EFFECTIVE 02/05/07.

NOT IN RDA AREA BOUNDARY

** BOTH NORMAL FEES AND ADJUSTED FEES ARE SUBJECT TO ANNUAL CPI INCREASES.

☐ COMMERCIAL OR INDUSTRIAL SHELL

MULTI-FAMILY IS DEFINED AS ANY UNIT WITH TWO BEDROOMS OR LESS.
SINGLE FAMILY IS DEFINED AS ANY UNIT WITH 3 BEDROOMS OR MORE.

1. METER DEPOSIT: 650-37672 Subtotal: \$0

1"	\$516	x	0	=	\$0
1 1/2"	\$1,602	x	0	=	\$0
2"	\$1,808	x	0	=	\$0
3" or larger-Time & Material + Meter Cost				=	\$0

METER CREDITS \$0 / x 0 / = \$0

2. BACKFLOW CONST. INSPECTION: 650-37859 Subtotal: \$0

\$68 x 0 Each = \$0

3a. WATER FRONTAGE CHARGE: 650-37663 Subtotal: \$0

1 Side	\$74	x	0	LF	=	\$0
2 Sides	\$40	x	0	LF	=	\$0

3b. SEWER FRONTAGE CHARGE: 640-37663 Subtotal: \$0

1 Side	\$74	x	0	LF	=	\$0
2 Sides	\$40	x	0	LF	=	\$0

3c. STORM FRONTAGE CHARGE: 304-37663 Subtotal: \$0

1 Side	\$121	x	0	LF	=	\$0
2 Sides	\$59	x	0	LF	=	\$0

3d. UNDERGROUNDING UTILITIES: 350-37649 Subtotal: \$0

1 Side	\$762	x	0	LF	=	\$0
2 Sides	\$385	x	0	LF	=	\$0

4. WATER IMPACT FEE: **651-37648** Subtotal: \$0

Single Family	\$4,264	/DU	x	0	DU	=	\$0
Multi Family	\$3,847	/DU	x	0	DU	=	\$0
Senior/Downtown	\$3,847	/DU	x	0	DU	=	\$0
Commercial	\$12,104	/AC	x	0	AC	=	\$0
Industrial	\$12,104	/AC	x	0	AC	=	\$0
Office	\$12,104	/AC	x	0	AC	=	\$0
Auto Dealership	\$12,104	/AC	x	0	AC	=	\$0
Hotel	\$12,104	/AC	x	0	AC	=	\$0

WATER CREDITS \$0 / x 0 / = \$0

5. SEWER IMPACT FEE: **641-37648** Subtotal: **\$32,804**

Single Family	\$16,687	/DU	x	0	DU	=	\$0
Multi Family	\$14,123	/DU	x	0	DU	=	\$0
Senior/Downtown	\$14,123	/DU	x	0	DU	=	\$0
Commercial	\$54.95	/GPD	x	597	GPD	=	\$32,804
Industrial	\$54.95	/GPD	x	0	GPD	=	\$0
Office	\$54.95	/GPD	x	0	GPD	=	\$0
Auto Dealership	\$54.95	/GPD	x	0	GPD	=	\$0
Hotel	\$54.95	/GPD	x	0	GPD	=	\$0

SEWER CREDITS \$0 / x 0 / = \$0

RDA SEWER CREDIT

Single Family	\$16,687	/DU	x	0	DU	=	\$0
Multi Family	\$14,123	/DU	x	0	DU	=	\$0
Commercial	\$54.95	/GPD	x	0	GPD	=	\$0
Industrial	\$54.95	/GPD	x	0	GPD	=	\$0
Office	\$54.95	/GPD	x	0	GPD	=	\$0
Auto Dealership	\$54.95	/GPD	x	0	GPD	=	\$0
Hotel	\$54.95	/GPD	x	0	GPD	=	\$0

6. STORM DRAIN IMPACT FEE: **303-37648** Subtotal: \$0

Single Family	\$2,115	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$1,204	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$560	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$1,204	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$560	/DU	x	0	DU	=	\$0
Commercial	\$22,901	/ACRE	x	0	AC	=	\$0
Industrial	\$16,861	/ACRE	x	0	AC	=	\$0
Office	\$22,901	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$22,901	/ACRE	x	0	AC	=	\$0
Hotel	\$339	/ROOM	x	0	RM	=	\$0

STORM CREDITS \$0 / x 0 / = \$0

7. TRAFFIC IMPACT FEE: **309-37648** Subtotal: **\$118,175**

Single Family	\$3,675	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$2,277	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$1,434	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$2,277	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$1,434	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$3,675	/PHT	x	32.16	PHT	=	\$118,175
Industrial	\$3,675	/PHT	x	0	PHT	=	\$0
Office	\$3,675	/PHT	x	0	PHT	=	\$0
Auto Dealership	\$3,675	/PHT	x	0	PHT	=	\$0
Hotel	\$3,675	/PHT	x	0	PHT	=	\$0

TRAFFIC CREDITS \$0 /PHT x 0 PHT = \$0

8. PARK IMPACT FEE: **301-37648** Subtotal: \$0

Subdivision: Single Family	\$6,327	/DU	x	0	DU	=	\$0
Multi Family	\$6,096	/DU	x	0	DU	=	\$0
Senior/Downtown	\$4,175	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
No Subdivision Single Family	\$4,600	/DU	x	0	DU	=	\$0
Multi Family	\$4,437	/DU	x	0	DU	=	\$0
Senior/Downtown	\$3,036	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0

PARK CREDITS \$0 / x 0 / = \$0

8a. PARK MAINTENANCE DEV. FEE: **302-37649** Subtotal: \$0

\$0 / x 0 EAC = \$0

9. PUBLIC FACILITIES IMPACT FEE: **347-37648** Subtotal: \$0

Single Family	\$602	/DU	x	0	DU	=	\$0
Multi Family	\$580	/DU	x	0	DU	=	\$0
Senior/Downtown	\$398	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$1,327	/ACRE	x	0	AC	=	\$0
Industrial	\$1,857	/ACRE	x	0	AC	=	\$0
Office	\$1,577	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$532	/ACRE	x	0	AC	=	\$0
Hotel	\$15	/ROOM	x	0	RM	=	\$0

PUBLIC FACILITIES CREDITS \$0 / x 0 / = \$0

10. LIBRARY IMPACT FEE: **348-37648** Subtotal: \$0

Single Family	\$2,324	/DU	x	0	DU	=	\$0
Multi Family	\$2,238	/DU	x	0	DU	=	\$0
Senior/Downtown/SDU	\$1,532	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0

LIBRARY CREDITS \$0 / x 0 / = \$0

11. COMMNTY/REC CNTRS IMPACT FEE: **360-37648** Subtotal: \$0

Single Family	\$4,309	/DU	x	0	DU	=	\$0
Multi Family	\$3,781	/DU	x	0	DU	=	\$0
Senior/Downtown	\$2,853	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0

COMMNTY/REC CNTRS CREDITS \$0 / x 0 / = \$0

12. PUBLIC SAFETY FACILITIES IMPACT FEE: **315-37648** Subtotal: \$0

Single Family	\$2,115	/DU	x	0	DU	=	\$0
>1,200 SF Multi Family	\$1,870	/DU	x	0	DU	=	\$0
< 1,200 SF Multi Family	\$1,400	/DU	x	0	DU	=	\$0
>1,200 SF Senior/Downtown	\$1,870	/DU	x	0	DU	=	\$0
< 1,200 SF Senior/Downtown	\$1,400	/DU	x	0	DU	=	\$0
Secondary DU	TBD	/DU	x	0	DU	=	\$0
Commercial	\$11,818	/ACRE	x	0	AC	=	\$0
Industrial	\$14,184	/ACRE	x	0	AC	=	\$0
Office	\$14,168	/ACRE	x	0	AC	=	\$0
Auto Dealership	\$5,668	/ACRE	x	0	AC	=	\$0
Hotel	\$65	/ROOM	x	0	RM	=	\$0

POLICE CREDITS \$0 / x 0 / = \$0

13. ENGINEERING & INSPECTION FEE: **206-38734** Subtotal: \$0

ENGR ESTIMATE:	\$0	13.3%	\$1	to	\$100,000	=	\$0
ENGR EST. DATE:		11.8%	\$100,001	to	\$200,000	=	\$0
		10.3%	\$200,001	to	\$500,000	=	\$0
		8.8%	OVER		\$500,000	=	\$0
DEPOSIT PAID						=	\$0

14. LONG RANGE PLANNING FEE: **207-37912** Subtotal: \$0

LONG RANGE PLANNING FEE (15% of E&I) = \$0

15. GIS FEE: **206-37913** Subtotal: \$0

GIS/TECHNOLOGY FEE (5% of E&I) = \$0

16. MAP CHECK FEE: **206-38716** Subtotal: \$0

PARCEL MAP:	\$5,752	=	\$0
TRACT MAP:	\$9,248	=	\$0

17. OTHER FEES:Subtotal: **\$0**

Certificate of Compliance	\$ 3,760	206-38430	=	\$0
Lot Line Adjustment/Merger	\$ 3,151	206-38712	=	\$0
Engineering Services	\$ 203 /hr	206-38719	=	\$0
Public Easement Review	\$ 2,541	206-38737	=	\$0
Street Vacation Review	\$ 203 /hr	206-38737	=	\$0
Easement Abandonment	\$ 4,471	206-38737	=	\$0
Plan Revision Review	\$ 509 /hr	206-38737	=	\$0
Reimbursement Agreement	\$ 2,202	206-38741	=	\$0
FEMA Compliance - Base Fee	\$ 406	206-38725	=	\$0
FEMA Comp. w/ CLMOR/LOMR	\$ 2,236	206-38725	=	\$0
FEMA Comp. w/ Pub. Outreach	\$ 814	206-38725	=	\$0
Storm Water Runoff Mangnt Plan Review	\$ 2,846	206-38734	=	\$0
SWPPP Document Review 1st	\$ 1,219	232-37687	=	\$0
SWPPP Document Review 2nd	\$ 756	232-37687	=	\$0
SWPPP Offsite Inspection - 6 month	\$ 6,097	232-37688	=	\$0
SWPPP Offsite Inspection - 12 month	\$ 12,195	232-37688	=	\$0
SWPPP Offsite Inspection - 24 month	\$ 24,390	232-37688	=	\$0
Post Construction BMP Initial/Base Setup	\$ 595.73	206-38734	=	\$0
Post Construction Each Additional BMP	\$ 119.15 /BMP	206-38734	=	\$0
RDCS School Pedestrian Safety	\$	355-37655	=	\$0
RDCS Public Facilities	\$	346-37649	=	\$0
RDCS Park Development	\$	302-37649	=	\$0
RDCS Public Facilities Circulation	\$	346-37649	=	\$0
RDCS LED Streetlight Fund	\$	010-37722	=	\$0

TOTAL FEES DUE: \$150,978**Notes & Comments: Titans Sports Academy - Traffic and Sanitary Sewer Calculations**

17108 sq. ft. =	Total Area
3422 sq. ft. =	Office area allowance not charged impact fee (20% of total area)
5258 sq. ft. =	Total Office Area (office, breakroom, storage, restroom, lobby, hallway, and misc)
1836 sq. ft. =	New Office Area (Total Office Area - Office Area Allowance = New Office Area) to be charged impact fees
11850 sq. ft. =	Gym Area (Total Area - Total Office Area = Gym Area) to be charge Impact fees

Traffic Impact Fee

1.49 pht/1000 sf =	Office peak hour trips per 1000 sqaure feet per Memo E20
2.74 PHT =	Office Peak Hour Trips x New Office Area
3.45 pht/1000 sf =	Gym peak hour trips per 1000 sqaure feet per ITE 492 - Fitness Club
40.88 PHT =	Gym Peak Hour Trips x Gym Area
11.46 PHT =	Prior Credit for Manufacturing per ITE 140
32.16 PHT =	Total Peak Hour Trips

Sanitary Sewer Impact Fee

0.093 gpd/sf =	Office sanitary coefficient, gallons per day per square feet
171 gpd =	Office gallons per day x New Office Area
0.137 gpd/sf =	Gym sanitary coefficient, gallons per day per square feet
1623 gpd =	Gym gallons per day x Gym Area
1026 gpd =	Prior Credit for Industrial use per Memo E20
597 gpd =	Total Gallons Per Day

Loan Amortization Schedule

Enter values	
Loan amount	\$180,487.00
Annual interest rate	3.02 %
Loan period in years	5
Number of payments per year	12
Start date of loan	6/1/2023
Optional extra payments	\$ -

Loan summary	
Scheduled payment	\$ 3,244.72
Scheduled number of payments	60
Actual number of payments	60
Total early payments	\$ -
Total interest	\$ 14,196.17

Lender name: LAIF Source plus 1/2% , <https://www.t>

Pmt. No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	7/1/2023	\$ 180,487.00	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,790.49	\$ 454.23	\$ 177,696.51	\$ 454.23
2	8/1/2023	\$ 177,696.51	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,797.52	\$ 447.20	\$ 174,898.99	\$ 901.43
3	9/1/2023	\$ 174,898.99	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,804.56	\$ 440.16	\$ 172,094.43	\$ 1,341.59
4	10/1/2023	\$ 172,094.43	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,811.62	\$ 433.10	\$ 169,282.82	\$ 1,774.70
5	11/1/2023	\$ 169,282.82	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,818.69	\$ 426.03	\$ 166,464.13	\$ 2,200.72
6	12/1/2023	\$ 166,464.13	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,825.78	\$ 418.93	\$ 163,638.34	\$ 2,619.66
7	1/1/2024	\$ 163,638.34	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,832.90	\$ 411.82	\$ 160,805.45	\$ 3,031.48
8	2/1/2024	\$ 160,805.45	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,840.03	\$ 404.69	\$ 157,965.42	\$ 3,436.18
9	3/1/2024	\$ 157,965.42	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,847.17	\$ 397.55	\$ 155,118.25	\$ 3,833.72
10	4/1/2024	\$ 155,118.25	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,854.34	\$ 390.38	\$ 152,263.91	\$ 4,224.10
11	5/1/2024	\$ 152,263.91	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,861.52	\$ 383.20	\$ 149,402.39	\$ 4,607.30
12	6/1/2024	\$ 149,402.39	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,868.72	\$ 376.00	\$ 146,533.66	\$ 4,983.30
13	7/1/2024	\$ 146,533.66	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,875.94	\$ 368.78	\$ 143,657.72	\$ 5,352.07
14	8/1/2024	\$ 143,657.72	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,883.18	\$ 361.54	\$ 140,774.54	\$ 5,713.61
15	9/1/2024	\$ 140,774.54	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,890.44	\$ 354.28	\$ 137,884.10	\$ 6,067.89
16	10/1/2024	\$ 137,884.10	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,897.71	\$ 347.01	\$ 134,986.39	\$ 6,414.90
17	11/1/2024	\$ 134,986.39	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,905.00	\$ 339.72	\$ 132,081.39	\$ 6,754.62
18	12/1/2024	\$ 132,081.39	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,912.31	\$ 332.40	\$ 129,169.07	\$ 7,087.02
19	1/1/2025	\$ 129,169.07	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,919.64	\$ 325.08	\$ 126,249.43	\$ 7,412.10
20	2/1/2025	\$ 126,249.43	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,926.99	\$ 317.73	\$ 123,322.44	\$ 7,729.83
21	3/1/2025	\$ 123,322.44	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,934.36	\$ 310.36	\$ 120,388.08	\$ 8,040.19
22	4/1/2025	\$ 120,388.08	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,941.74	\$ 302.98	\$ 117,446.34	\$ 8,343.16
23	5/1/2025	\$ 117,446.34	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,949.15	\$ 295.57	\$ 114,497.19	\$ 8,638.74
24	6/1/2025	\$ 114,497.19	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,956.57	\$ 288.15	\$ 111,540.62	\$ 8,926.89
25	7/1/2025	\$ 111,540.62	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,964.01	\$ 280.71	\$ 108,576.61	\$ 9,207.60
26	8/1/2025	\$ 108,576.61	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,971.47	\$ 273.25	\$ 105,605.14	\$ 9,480.85
27	9/1/2025	\$ 105,605.14	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,978.95	\$ 265.77	\$ 102,626.20	\$ 9,746.62
28	10/1/2025	\$ 102,626.20	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,986.44	\$ 258.28	\$ 99,639.75	\$ 10,004.90
29	11/1/2025	\$ 99,639.75	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 2,993.96	\$ 250.76	\$ 96,645.80	\$ 10,255.66
30	12/1/2025	\$ 96,645.80	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,001.49	\$ 243.23	\$ 93,644.30	\$ 10,498.88
31	1/1/2026	\$ 93,644.30	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,009.05	\$ 235.67	\$ 90,635.25	\$ 10,734.56
32	2/1/2026	\$ 90,635.25	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,016.62	\$ 228.10	\$ 87,618.63	\$ 10,962.65
33	3/1/2026	\$ 87,618.63	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,024.21	\$ 220.51	\$ 84,594.42	\$ 11,183.16

Pmt. No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
34	4/1/2026	\$ 84,594.42	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,031.82	\$ 212.90	\$ 81,562.60	\$ 11,396.06
35	5/1/2026	\$ 81,562.60	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,039.45	\$ 205.27	\$ 78,523.14	\$ 11,601.32
36	6/1/2026	\$ 78,523.14	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,047.10	\$ 197.62	\$ 75,476.04	\$ 11,798.94
37	7/1/2026	\$ 75,476.04	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,054.77	\$ 189.95	\$ 72,421.27	\$ 11,988.89
38	8/1/2026	\$ 72,421.27	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,062.46	\$ 182.26	\$ 69,358.81	\$ 12,171.15
39	9/1/2026	\$ 69,358.81	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,070.17	\$ 174.55	\$ 66,288.64	\$ 12,345.70
40	10/1/2026	\$ 66,288.64	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,077.89	\$ 166.83	\$ 63,210.75	\$ 12,512.53
41	11/1/2026	\$ 63,210.75	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,085.64	\$ 159.08	\$ 60,125.11	\$ 12,671.61
42	12/1/2026	\$ 60,125.11	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,093.40	\$ 151.31	\$ 57,031.71	\$ 12,822.92
43	1/1/2027	\$ 57,031.71	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,101.19	\$ 143.53	\$ 53,930.52	\$ 12,966.45
44	2/1/2027	\$ 53,930.52	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,108.99	\$ 135.73	\$ 50,821.52	\$ 13,102.18
45	3/1/2027	\$ 50,821.52	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,116.82	\$ 127.90	\$ 47,704.70	\$ 13,230.08
46	4/1/2027	\$ 47,704.70	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,124.66	\$ 120.06	\$ 44,580.04	\$ 13,350.14
47	5/1/2027	\$ 44,580.04	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,132.53	\$ 112.19	\$ 41,447.52	\$ 13,462.33
48	6/1/2027	\$ 41,447.52	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,140.41	\$ 104.31	\$ 38,307.11	\$ 13,566.64
49	7/1/2027	\$ 38,307.11	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,148.31	\$ 96.41	\$ 35,158.79	\$ 13,663.04
50	8/1/2027	\$ 35,158.79	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,156.24	\$ 88.48	\$ 32,002.56	\$ 13,751.53
51	9/1/2027	\$ 32,002.56	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,164.18	\$ 80.54	\$ 28,838.38	\$ 13,832.07
52	10/1/2027	\$ 28,838.38	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,172.14	\$ 72.58	\$ 25,666.23	\$ 13,904.64
53	11/1/2027	\$ 25,666.23	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,180.13	\$ 64.59	\$ 22,486.11	\$ 13,969.24
54	12/1/2027	\$ 22,486.11	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,188.13	\$ 56.59	\$ 19,297.98	\$ 14,025.83
55	1/1/2028	\$ 19,297.98	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,196.15	\$ 48.57	\$ 16,101.82	\$ 14,074.39
56	2/1/2028	\$ 16,101.82	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,204.20	\$ 40.52	\$ 12,897.63	\$ 14,114.92
57	3/1/2028	\$ 12,897.63	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,212.26	\$ 32.46	\$ 9,685.37	\$ 14,147.38
58	4/1/2028	\$ 9,685.37	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,220.34	\$ 24.37	\$ 6,465.02	\$ 14,171.75
59	5/1/2028	\$ 6,465.02	\$ 3,244.72	\$ -	\$ 3,244.72	\$ 3,228.45	\$ 16.27	\$ 3,236.57	\$ 14,188.02
60	6/1/2028	\$ 3,236.57	\$ 3,244.72	\$ -	\$ 3,236.57	\$ 3,228.43	\$ 8.15	\$ -	\$ 14,196.17

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Christina Turner, City Manager

APPROVED BY: City Manager

APPROVE UPDATES TO THE SUSTAINABLE MORGAN HILL DOCUMENT AND COUNCIL POLICY REGARDING RULES FOR CONDUCT OF CITY COUNCIL MEETINGS, PLACEMENT OF ITEMS ON THE AGENDA, AND MATTERS TO BE RECONSIDERED

RECOMMENDATION(S)

1. Adopt updates to the Sustainable Morgan Hill document; and
2. Adopt updates to City Council Policy (CP 97-01) - Rules for the Conduct of City Council Meetings, Placement of Items on the Agenda, and Matters to be Reconsidered.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Protecting the Environment and Preserving Open Space and Agricultural Land

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Fostering a Positive Organizational Culture

Preserving and Cultivating Public Trust

Preserving our Community History

Enhancing Diversity and Inclusiveness

Advancing Regional Initiatives

2022-2023 Strategic Priorities

Fiscal Sustainability

Affordable Housing and Homelessness

Community Outreach, Engagement, and Messaging

Economic Development

Transportation

REPORT NARRATIVE:

On January 27 and March 3, 2023, the City Council held its annual Goal Setting Workshop where they reviewed and discussed Council Policies, Procedures, and Protocols, and received briefings on each of the 2022-2023 Strategic Priorities.

The City Council reaffirmed the current vision, ongoing priorities, and the strategic priorities with a few amendments. The Council amended existing strategic priorities to include "Quality of Life" and "Advocating for Local, Regional, and State Legislative Initiatives." Edits were also made to the definitions of strategic priorities to better align with the current staff workplan. See Attachment 1 for the updated Sustainable Morgan Hill document.

During the workshop, Council also reviewed and discussed Council Policy #97-01 - Rules for the Conduct of City Council Meetings, Placement of Items on the Agenda, and Matters to be Reconsidered. The recommended changes to the policy are included (Attachment 2) based on City Council's direction. The changes include: process of extending meetings, process to add Future Council Initiated Items to an agenda, clarification on the procedure of submitting public comments, and revisions to the time frames for Council questions and discussion.

COMMUNITY ENGAGEMENT:

Involve - the City Council Goal Setting Workshops were open to the public and recorded for later viewing on the City's website.

ALTERNATIVE ACTIONS:

City Council could decide to make additional or no changes to Sustainable Morgan Hill and/or City Council Policy #97-01.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council reviews its goals and priorities at the beginning and middle of each year.

FISCAL AND RESOURCE IMPACT:

Updating Sustainable Morgan Hill and City Council Policy #97-01 does not have an immediate fiscal or resource impact.

CEQA (California Environmental Quality Act):

Not a Project - Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

SUSTAINABLE MORGAN HILL



Vision

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community.



Choose Morgan Hill

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.



City Council Ongoing Priorities

- Enhancing Public Safety and Quality of Life
- Protecting the Environment and Preserving Open Space and Agricultural Land
- Maintaining and Enhancing Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Diversity and Inclusiveness
- Advocating for Local, Regional, and State Legislative Initiatives



2022-2023 Strategic Priorities

- Fiscal Sustainability
- Affordable Housing and Homelessness
- Community Outreach, Engagement, and Messaging
- Economic Development
- Transportation



These strategic priorities were established prior to the COVID-19 pandemic. In light of recent events, we recognize that all of these goals and priorities will be viewed through the lens of recovering from the global pandemic, and we will continue to have equity, public health, and financial responsibility in mind.



2022-2023 STRATEGIC PRIORITIES

Fiscal Sustainability

The City will continue to be financial stewards of its resources and assets to ensure long-term fiscal sustainability. Through the budget development process, the City, within the fiscal sustainability path, will prudently carry out the City Council's priorities, while maintaining adequate fund balance reserves. The City will continue to explore new or expand existing revenue sources to ensure fiscal sustainability.

Affordable Housing and Homelessness

Morgan Hill will continue to improve, preserve, and develop new safe, quality, rental, and ownership housing for residents at all income levels. To the extent possible, the City will respond to and reconcile new housing initiatives and legislative mandates. The City is guided by the vision of its General Plan, a long-term plan for the physical development of the community. The vision includes the preservation of agriculture, incentives to foster infill development, and new housing for families of various sizes, ages, and incomes. Like many other cities in the Bay Area, Morgan Hill is experiencing transformative growth and working to meet the housing needs of its current and future residents. The City's Housing Program project is grounded on five key pillars:

- **Production of New Affordable Housing Units:** Morgan Hill will continue to improve, preserve, and develop new safe, quality, rental and ownership housing for residents at all income levels. City will seek partnerships that create new housing opportunities directly aligned with the City's "fair share" Regional Housing Needs Allocation (RHNA).
- **Preservation of Existing Affordable Housing Inventory:** The City has a robust inventory of Below Market Rate housing units. Through the City's thoughtful planning, affordable housing has been integrated throughout the community and balanced throughout new developments. The City's Inclusionary Housing Ordinance further ensures future production of income-restricted units. The City will coordinate the lease up process of upcoming affordable developments to ensure residents are aware of and accessing upcoming housing opportunities.
- **Promotion of Housing Program:** The City manages an inventory of Below Market Rate deed-restricted units and collaborates with the County of Santa Clara and local non-profits to connect residents to resources. Staff will focus on communications, engagement, and education of services with particular attention to the Spanish-speaking residents.
- **Prevention of Homelessness:** Implement the Countywide Community Plan to End Homelessness by continuing to identify barriers and housing problem solve at the local level, and advance efforts to increase coordination in South County among its service providers. The City will continue to employ a balanced approach, offering resources and referrals to services, partnering with the faith-based community and non-profits to create appropriate local service points, while also utilizing available resources to reduce encampments.

- **Protection of Quality of Life for New and Existing Neighborhoods:** The City will continue to seek quality development and balance the needs of existing and new neighborhoods.

Community Outreach, Engagement, and Messaging

The City's Communications, Outreach, and Engagement Plan defines the messages, priorities, strategies, and tools the City will use when communicating with the community. Through the Plan, the City will tell the Morgan Hill story and work to build trust with the community and ensure that we provide effective engagement. Through effective application of communication strategies, the Plan will ensure that all City Council Members, Commissioners, and teammates have the tools to provide accurate, timely, and relevant information to the community. The Plan aligns communication resources with the goals to set clear communications expectations for the community, ensuring that the City can continue providing excellent services that reflect the strength of the City's outreach initiatives while supporting the implementation of the City Council's strategic priorities.

- Encourage community engagement through audience-appropriate two-way communication, and ensure opportunities for constructive feedback
- Share accurate, non-biased information promptly through a variety of communication channels
- Work directly with the Council, staff, and community partners to ensure communication and outreach efforts, objectives, and outcomes align with the strategic priorities and promote community understanding
- Keep City teammates informed and involved in public dialogue to aid in telling the Morgan Hill story

Economic Development

The City's Economic Development efforts focus on implementing the Economic Blueprint strategies and actions to help build long-term fiscal sustainability and improve quality of life for residents. This will be achieved by attracting jobs and commercial investment which generate revenues to support essential City services and improve critical City infrastructure. The Economic Blueprint is focused on advancing economic prosperity and vitality by attracting investment, development, and jobs in four key industries:

- **Healthcare:** Grow and foster medical and diagnostic services by advancing and supporting the entitlement process for medical facilities. Promote and market Morgan Hill as a desired location for medical and diagnostic providers.
- **Innovation and Advanced Manufacturing:** Grow existing companies, attract new industry, and grow high-quality jobs. Support and advance the entitlement and permit process of new developments. Promote and market Morgan Hill as a premier location for commercial and industrial investment.
- **Retail:** Grow retail offerings and strengthen commercial nodes. Develop a retail incubator program and a retail concentration strategy. Utilize incentives and available tools to attract new investments that increase both jobs and revenue to the community.

- **Tourism:** Grow leisure, agriculture, wine country and recreational tourism. Continue to nurture Downtown's transformation as a community gathering place. Implement Property Based Improvement District and manage parking supply. Support additional lodging investments and partner with Visit Morgan Hill to implement activations that support tourism and vibrancy.

Transportation

The City has clearly identified traffic and transportation issues facing Morgan Hill as regional in nature. Morgan Hill will continue to partner with the City of Gilroy to advocate for improvements and funding for the South Santa Clara County Transportation Corridor. The City will actively advocate on regional transportation planning issues. Locally, the City will prioritize funding for Vision Zero safety strategies over congestion management. The City will take actions to implement its goal to create a culture that prioritizes safety, creates livable streets, and seeks to eliminate traffic fatalities. Safety of pedestrians, bicyclists, drivers, and passengers is paramount.

- Complete construction of Hale Avenue Extension
- Advocacy will include:
 - Working with the Valley Transportation Authority (VTA), Caltrain, the County, the HSRA and the State to enhance service, secure funding for transportation projects and road maintenance, and protect the community from negative impacts of regional projects
 - Expansion of Highway 101 between Morgan Hill and Gilroy to reduce pass-through traffic and improve commute traffic for South County residents
 - Electrification of commuter rail from San Francisco to Gilroy
 - Funding for priority projects in the South County
- Advocate for grade separations and the design of a Downtown station and emergency response design solutions as it relates to the High-Speed Rail Authority's (HSRA) project
- Advocate for the ongoing provision of funding of innovative local transit services that matches the needs of the Morgan Hill Community and supports paratransit needs.

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-97-01

SUBJECT: RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS, PLACEMENT OF ITEMS ON THE AGENDA, AND MATTERS TO BE RECONSIDERED

EFFECTIVE DATE: May 7, 1997

REVISED DATE(S): ~~July 25, 2018, February 5, 2020, February 17, 2021~~ March 15, 2023

ORIGINATING DEPARTMENT: CITY MANAGER

SECTION 1 - SCOPE

- 1.1** These rules shall establish the procedures for the conduct of all meetings of the City Council of the City of Morgan Hill. The purpose of these rules is to provide procedures consistent with the Ralph M. Brown Act, establish procedures which will be convenient for the public, be fair to all members of the City Council, and contribute to the orderly conduct of City business.

SECTION 2 - MEETINGS

- 2.1** Open to Public: All meetings of the City Council, whether regular or special, shall be open to the public, unless a closed session is scheduled as authorized by law.
- 2.2** Regular Meetings: The City Council shall conduct its regular meetings at the time and place established by ordinance, if specified in the ordinance or resolution.
- 2.3** Review Status of Agenda at ~~109~~:00 p.m.: The City Council may review the agenda at ~~109~~:00 p.m. to determine if it will be able to conclude its business by ~~110~~:00 p.m. If, at ~~110~~:00 p.m., the City Council has not concluded its business, before continuing the meeting it shall review and discuss the status of the remaining agenda items and determine by majority vote whether to continue any remaining items to a future regular or special meeting, adjourn the meeting to another date and time, or extend the meeting beyond ~~110~~:00 p.m. as needed. The meeting may be extended beyond 10:00 p.m. one time. Additional extensions of time will be at the Mayor's discretion.
- 2.4** Special Meetings/Workshops: A special meeting and/or workshop may be called at any time by the Mayor or Presiding Officer of the City Council or by three members of the City Council. Written notice of any such meeting must specify the purpose of the meeting. Notice of the meeting must be made in accordance with the law.
- 2.5** Closed Sessions: The City Council may hold closed sessions during a regular or special meeting, or at any time authorized by law, to consider or hear any matter which is authorized by law. At times, Closed Sessions may have to be held in an order different than presented due to the timeliness of the matter, to save the City money when an outside attorney has been retained or due to the need for extra time to discuss and deliberate an

important closed session item. Closed session items may be continued to the conclusion of the agenda.

- 2.6 Quorum:** Three (3) members of the City Council shall constitute a quorum and shall be sufficient to transact business. If less than three Council members appear at a regular meeting, the Mayor, Mayor Pro Tempore in the absence of the Mayor, any member of the City Council, or in the absence of all Council members, the City Clerk or Deputy City Clerk shall adjourn the meeting to a stated day and hour.
- 2.7 Adjourned Meetings:** The City Council may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment and permitted by law.

SECTION 3 - POSTING NOTICE AND AGENDA

- 3.1 Posting of Notice and Agenda:** For every regular or special meeting, the City Clerk or other authorized person, shall post a notice of the meeting specifying the time and place at which the meeting will be held and an agenda containing a brief description of all items of business to be discussed at the meeting. The notice and agenda may be combined in a single document.
- a. Posting for Regular Meetings:** For any regular meeting of the City Council, the notice and agenda shall be posted no later than seventy-two (72) hours prior to the time set for the meeting consistent with all Brown Act requirements.
 - b. Posting for Special Meetings:** For any special meetings of the City Council, the notice and agenda shall be posted no later than twenty-four (24) hours prior to the time set for the meeting consistent with all Brown Act requirements.
- 3.2 Location of Posting:** The notice and agenda shall be posted on the City's website and in a place to which the public has unrestricted access during at least normal business hours and where the notice and agenda are not likely to be removed or obscured by other posted materials.
- 3.3 Availability of the Agenda to the Public:** The agenda for any regular or special meeting shall be made available to the public as soon as is practical after delivery to the members of the City Council.

SECTION 4 - AGENDA CONTENTS

- 4.1 Description of Matters:** All items of business to be discussed at a meeting of the City Council shall be briefly described on the agenda. The description of the item and the proposed action to be considered should be set forth as clearly as practical so that members of the public will know the nature of the action under review and consideration.
- 4.2 Placement of items on the agenda:** The Mayor, City Manager, or City Attorney may place items on the agenda. Members of the City Council may request items to be added to an upcoming City Council agenda by requesting an item during the "Future Council Initiated Agenda Items" Section of the agenda. ~~A City Council verbal report will then be placed on an upcoming agenda for Council discussion and consideration. When a Future Council Initiated Agenda Item is requested, the Council Member making the request will send the~~

City Manager a brief summary outlining the request and any relevant background. If the requested item is not included in the current Strategic Priorities Workplan, the team will bring forward the item at a future Council Meeting within 30-45 days of the request via a brief staff report, including the brief summary provided by the requesting Council Member. At that meeting, the City Council will review the request and determine if the majority of the City Council wants the items agendaized at a future meeting for discussion.

4.2

- 4.3** Limitation to Act on Only Items on the Agenda: No action shall be taken by the City Council on any item not on the posted agenda, subject only to the exceptions listed below:
- a. Upon a majority determination that an "emergency situation" (as defined by State Law) exists; and
 - b. Upon a determination by a 4/5 vote of the City Council that there is a need to take immediate action and that the need to take the action came to the attention of City officials subsequent to posting of the agenda.
- 4.4** Change in Order of Business: The Mayor or Presiding Officer may decide to take matters listed on the agenda out of the prescribed order unless a majority of members present object to this variation.
- 4.5** City Council Reports: On an alternating basis, at each Regular City Council meeting, with a time limit of three minutes, a Council Member has the opportunity to share with the Council and community any pertinent updates or information in regard to their appointments to outside agencies, upcoming events, or relevant City business. These are non-action items.
- 4.6** City Manager Report: These are updates on current City activities, reports on issues raised at previous Council meetings, or recognitions. These are non-action items.
- 4.7** City Attorney Report: These are updates on current City activities, reports on issues raised at previous Council meetings, or reportable actions of the City Council in Closed Sessions and/or current litigation. These are non-action items.
- 4.8** Other Reports: These are pertinent updates or information on upcoming activities or events relevant to City business with a time limit of one minute. These are non-action items.
- 4.9** Public Comment for items not on the agenda: This refers to those matters not scheduled on the agenda where a member of the public wants to address a matter of importance to the City Council. Since the matter is not on the agenda, no action by Council can be taken. If a member of Council so desires, the matter can be placed on the agenda of a future Council meeting for review and consideration.
- 4.10** Consent Calendar: These are items of a routine or generally uncontested nature. Any member of the Council or member of the public may request to have an item pulled from the consent calendar and acted on individually by the Council. Items pulled will be discussed after action is taken on the balance of the consent calendar. The Mayor shall decide if the items are heard before or after moving on to public hearing and other business items.

4.11 Public Hearings: These are matters that are duly noticed and published in a newspaper of general circulation and where required by law, written notice is given to the affected residents who have the opportunity to speak in favor or against a matter or ask questions about the matter.

4.12 Other Business: These are other matters of City business which are not appropriately placed on the consent calendar and do not require published notices and require Council action and direction.

4.12

4.13 Future Business: These are items that members of the City Council wish to discuss to potentially take action on or have placed on future agendas.

SECTION 5. ORDER OF BUSINESS

5.1 The order of business at meetings of the City Council shall be as follows:

- a. CALL TO ORDER
- b. ROLL CALL ATTENDANCE
- c. DECLARATION OF POSTING AGENDA
- d. WORKSHOP (~~if needed; 5:00-6:00 p.m., or as deemed appropriate~~)
- e. CLOSED SESSION (~~if needed; 6:00-7:00 p.m., or as deemed appropriate~~)
- f. SILENT INVOCATION
- g. PLEDGE OF ALLEGIANCE
- h. PRESENTATIONS
- i. PROCLAMATIONS
- j. RECOGNITIONS
- k. CITY COUNCIL REPORTS
- l. CITY MANAGER'S REPORT
- m. CITY ATTORNEY'S REPORT
- n. OTHER REPORTS
- o. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA
- p. ADOPTION OF AGENDA
- q. CONSENT CALENDAR
- r. PUBLIC HEARINGS
- s. OTHER BUSINESS

- t. FUTURE COUNCIL INITIATED AGENDA ITEMS
- u. CLOSED SESSION
- v. ADJOURNMENT

SECTION 6. PUBLIC COMMENT

- 6.1** Public Comment: Persons present at meetings of the City Council may comment on individual items on the agenda at the time the items are scheduled to be heard. In addition, comments may be offered on items not on the agenda under that portion of the agenda. In accordance with State law, matters not scheduled on the agenda cannot be acted upon by the City Council, but items raised by the public during public comment may be referred to a future City Council agenda at the request of the Mayor or City Council.
- 6.2** Limitations: The public comment period may be 3 minutes for items on the agenda or items not listed on the agenda. Speakers are called in the order the speaker cards are submitted. Project applicants or appellants will be allowed more than the designated 3 minutes in accordance with City Council Policy 03-01. Consistent with this policy, the Mayor or Presiding Officer may recall an applicant or appellant to address questions after the public comment is heard. In addition, applicants will be given time at the end of the public hearing to address any questions or comments.

The Mayor or Presiding Officer may allow speakers who wish to speak under public comment for items not on the agenda to concede a portion of their time, specifically, one speaker may concede a portion of their time to one other speaker. For all other business items, the Mayor or Presiding Officer may allow speakers more time and/or allow speakers to concede a portion of their time to a designated speaker of a group, specifically up to two speakers may concede their time to one speaker, unless a majority of the City Council objects. Speakers that wish to designate a group speaker shall notify the City Clerk before discussion on the item begins. Additionally, any speaker that concedes their time must be present at that City Council meeting. Speaker who would like to share documents or presentations may do so by submitting said document to the City Clerk by noon on the day of the City Council Meeting. Speaker may not share videos or presentations with videos embedded within them.

- 6.3** Procedure: To address the City Council, each speaker is requested to fill out a Speaker Card and turn it in to the City Clerk before discussion on the agenda item begins. The speaker is requested to provide their name, contact information, and the subject(s) upon which the speaker wishes to address the City Council. Speakers who do not wish to provide their name should provide an alternative designation so that they can be called to speak by the City Clerk.

Public comment may be provided in writing for items on the agenda, as well as for items not on the agenda. Public comment in writing may be submitted via email to ccpubliccomment@morganhill.ca.gov or by mail to the City Clerk at 17575 Peak Avenue, Morgan Hill, CA 95037. Please email your comments to the City Clerk no later than 3:00 p.m. on Tuesday (the day before the City Council meeting) for your comments to be submitted to the members of the City Council with sufficient time to review the comments.

You may continue to provide written comments up to noon on Wednesday (the day of the meeting although Council Members may not have sufficient time to review them. Public comments submitted to the City Clerk after noon the day of the meeting will be provided to the City Council as time allows.

6.3 Written comments WILL NOT be read aloud during the City Council Meeting. Please note that written comments are posted on the City's website, so do not include any personal information you do not want to be posted on the web.

SECTION 7. PROCEDURES FOR THE CONDUCT OF MEETINGS

7.1 Role of the Mayor/Presiding Officer:

- a.** The Presiding Officer of the City Council, who shall be the Mayor or in the Mayor's absence shall be the Mayor Pro Tempore, or in their absence any other designated member of the City Council, shall be responsible for maintaining the order and decorum of meetings. It shall be the duty and responsibility of the Presiding Officer to ensure that the rules of operation and decorum contained herein are observed. The Presiding Officer shall maintain control of communication between Council Members and between the Council, staff, and public.
- b.** Communication with Council Members:
 1. Council Members should request the floor from the Presiding Officer before speaking.
 2. When one member of the Council has the floor and is speaking, other Council Members shall not interrupt or otherwise disturb the speaker.
 3. During ~~both~~ questions ~~and discussion~~, when one Council Member has the floor, they are limited to 5 minutes. After each Council Member that wishes to speak has done so, a Council Member may speak again for up to 5 minutes. During discussion, the Mayor and Council Members as a whole are limited to 15 minutes. The time limit may be extended at the Mayor's discretion.
 4. With the concurrence of the Mayor, a Council Member holding the floor may address a question to another Council Member. The Council Member being questioned may or may not respond while the floor is still held by the Council Member asking the question. The reply shall be limited to the question asked.
- c.** The Mayor or Presiding Officer may declare that an item within the meeting will be conducted in "workshop" format, which means that the procedures described in section 7.1B do not strictly apply. This is to allow for a more open discussion without strict formalities. The Mayor or Presiding Officer may end the workshop format for the item at his/her discretion.
- d.** Communication with Members of the Public Addressing the Council
 1. The Mayor or Presiding Officer shall open the floor for public testimony as appropriate.

2. After a witness or subject matter expert has addressed the City Council during public comment, Council members may only ask questions of witnesses or subject matter experts. Such questions should be directed to the person through the Presiding Officer unless the Presiding Officer grants the Council Member permission to directly question the person.

2.

3. Staff members, through the City Manager, shall be a resource to the City Council to answer questions arising during discussions between Council Members and between Council Members and members of the public. Communications in this regard shall be through the Presiding Officer.
4. Members of the public shall direct their questions and comments through the Presiding Officer.

7.2 Rules of Order: The City Council adopts no specific rules of order except those listed herein. The City Council shall refer to The Standard Code of Parliamentary Procedure by Alice Sturgis (McGraw Hill) as a guide for the conduct of meetings. The Sturgis guideline regarding not requiring seconds for governmental bodies' motions, resolutions or ordinances is not adopted as the rule in the City. The Mayor or Presiding Officer has the discretion to impose reasonable rules at any particular meeting based upon facts and circumstances found at any particular meeting. These latter rules will be followed unless objected to by a majority of the City Council members present.

7.3 Motions: The Mayor or any member of the City Council may bring a matter of business on the agenda before the Council by making a motion. Before the matter can be considered or debated it must be seconded. Once the motion has been properly made and seconded, the Presiding Officer shall open the matter for full debate offering the first opportunity to debate to the moving party and, thereafter, to any Council Member recognized by the Mayor or Presiding Officer. Debate shall be closed upon consent of a majority of the Council.

7.4 Reconsideration: Immediately after a vote on a matter, any member of the City Council may request to have his/her vote changed on a matter before the Council moves on to the next item. Such a request will be granted by the Mayor or Presiding Officer unless a majority of the Council objects.

A matter may be reconsidered by the City Council if a member on the prevailing side of the vote requests reconsideration. Such a motion may be made at a meeting where such action is taken or at a subsequent meeting of the Council, however, nothing in this policy precludes the majority of members of the City Council from requesting reconsideration of any item.

7.5 Debate:

- a. The discussions and deliberations at meetings of the City Council are to secure the informed judgement of Council members on proposals submitted for decision. This purpose is best served by the exchange of thought through discussion and debate.

Debate is regulated by these rules in order to assure every member a reasonable and

equal opportunity to be heard.

b. Obtaining the Floor for Debate:

As soon as a debatable motion has been stated to the Council by the Mayor or Presiding Officer, any member of the Council has a right to discuss it after obtaining the floor. The member obtains the floor by seeking recognition from the Mayor or Presiding Officer. A member who has been recognized is entitled to be heard so long as he/she observes the rules of debate.

c. Speaking More Than Once:

To encourage the full participation of all members of the Council, no member or members shall be permitted to monopolize the discussion of the question. If a Council member has already spoken and other members wish to speak, the latter members should be recognized in preference to the member who has already spoken. However, if no other members seek recognition, the Mayor or Presiding Officer may recognize the member who has already spoken.

d. Relevancy of Debate:

All discussion must be relevant to the motion before the City Council. A member is given the floor only for the purpose of discussing the pending question; discussion which departs is out of order. The Mayor or Presiding Officer should then direct the speaker to limit discussion to the question before the City Council.

A motion-its nature or consequences-may be attacked vigorously. But it is never permissible to attack the motives, character, or personality of a member either directly or by innuendo or implication. It is the duty of the Mayor or Presiding Officer instantly to stop any member who engages in personal attacks. It is the motion, not its proposer, that is the subject of debate. Meetings must discuss measures and ideas, not people.

Arguments, for or against a measure, should be stated as concisely as possible.

Debate must be fundamentally impersonal. All discussion is addressed to the Mayor or Presiding Officer and must never be directed to any individual.

e. Mayor's Duties During Debate:

The Mayor or Presiding Officer has the responsibility of controlling and expediting debate. A Council member who has been recognized to speak on a question has a right to the undivided attention of the Council.

It is the duty of the Mayor or Presiding Officer to keep the subject clearly before the members, to rule out irrelevant discussion, and to restate the question whenever necessary.

SECTION 8. DECORUM

- 8.1 Council Members:** Members of the City Council value and recognize the importance of the trust invested to them by the public to accomplish the business of the City. Council

Members shall accord the utmost courtesy to each other, to City employees, and to the public appearing before the City Council.

8.2 City Employees: Members of City staff shall observe the same rules of order and decorum applicable to the City Council. City staff shall act at all times in a business and professional manner towards Council Members and members of the public.

8.2

8.3 Public: Members of the public attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council.

8.4 Noise in the Chambers: Noise emanating from the audience within the Council Chambers or lobby area, which disrupts City Council meetings, shall not be permitted.

8.5 Sergeant-at-Arms: The Chief of Police, or his/her designated representative shall be ex-officio Sergeant-at-Arms of the City Council.

SECTION 9. VIOLATIONS OF PROCEDURES

9.1 Nothing in these policies and procedures shall invalidate a properly noticed and acted upon action of the City Council in accordance with State Law.

This policy shall remain in effect until modified by the City Council.

APPROVED:

RICH ——— CONSTANTINE MARK
TURNER, MAYOR

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Maria Angeles, Senior Civil Engineer

APPROVED BY: City Manager

RECEIVE ANNUAL REPORT ON 2022 CITY ENGINEER ACCEPTANCES OF PUBLIC IMPROVEMENTS COMPLETED BY PRIVATE DEVELOPMENT PROJECTS

RECOMMENDATION(S)

Accept and file Annual Report on 2022 City Engineer acceptances of public improvements completed by private development projects.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Preserving and Cultivating Public Trust

REPORT NARRATIVE:

On December 2, 2020, the City Council approved the delegation of authority, from the City Council to the City Engineer, to accept the public improvements completed by private development projects. This delegation of authority was done to streamline the project acceptance process and result in savings in staff cost and time.

Also at the December 2020 City Council meeting, City Council directed staff to bring back periodic reports to Council on the project acceptances performed by the City Engineer.

The first annual report on the development projects accepted by the City Engineer was presented to the City Council on February 16, 2022. This is the second annual report to the City Council. The attached report (Attachment 1) shows detailed information about the five (5) development projects accepted by the City Engineer in calendar year 2022.

COMMUNITY ENGAGEMENT:

Inform: This report serves to inform the City Council and community about the project acceptances performed by the City Engineer in calendar year 2022.

ALTERNATIVE ACTIONS:

Not Applicable – acceptance of a report only; no action is required.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

December 2, 2020 – City Council formally delegated the authority to accept the public improvements completed by private development projects from the City Council to the City Engineer.

February 16, 2022 – City Council accepted first annual report on City Engineer acceptances of public improvements completed by private development projects in calendar year 2021.

FISCAL AND RESOURCE IMPACT:

The acceptance of this report has no fiscal impact.

CEQA (California Environmental Quality Act):

Not a Project

The acceptance of this report is considered “an organizational or administrative activity of a government that will not result in direct or indirect physical changes in the environment.”

LIST OF DEVELOPMENT PROJECTS WITH PUBLIC IMPROVEMENTS ACCEPTED BY THE CITY ENGINEER **CALENDAR YEAR 2022**

No.	Date of Acceptance by City Engineer	Date of Project Completion	Project Name	Project Description	Project Location	APN	Developer Name	Date of Subdivision Improvements Agreement or Improvement Agreement	Date of Council Approval of Final Map	Streets Accepted	Street Lengths (miles)	Other Improvements Accepted	Value of the Public Improvements Accepted
1	5/10/2022	2/11/2022	Sanchez Drive - Brewer	2-Lot residential subdivision	West side of Old Monterey Road and Sanchez Drive (185 Sanchez Drive)	764-24-075	Mike Brewer	11/10/2020	10/21/2020	No new street miles	0.00	Frontage improvements along Sanchez Dr (driveway approach, curb & gutter, sidewalk, water service and meter, sanitary sewer lateral, and street tree)	\$ 70,923
2	8/4/2022	7/29/2022	Evergreen Village	Commercial and Retail Center with 12-parcel commercial subdivision	Southeast corner of Cochrane Road and Butterfield Boulevard	726-58-001 thru -012	Evergreen–Butterfield & Cochrane, LLC	7/2/2019	6/26/2019	No new street miles	0.00	Frontage improvements along Cochrane Road, Butterfield Blvd, and Jarvis Drive (new/replacement of curb, gutter & sidewalk, new driveway approaches, streetlights, street trees, extension of landscaped median, new traffic signal, public water main, water services and meters, and sewer laterals)	\$ 853,451
3	11/29/2022	7/12/2022	San Sebastian Phase 1 - Tract No. 10176	21-Lot residential subdivision	Cochrane Road, approximately 600 feet east of San Rafael Street	728-60-001 thru -021	Toll CA XX, LP	8/5/2016	7/27/2016	No new street miles	0.00	Frontage improvements along Cochrane Rd (new curb, gutter & sidewalk, driveway approaches, streetlights, and overhead utility undergrounding)	\$ 588,975
4	11/29/2022	7/12/2022	San Sebastian Phase 1B - Tract No. 10330	33-Lot residential subdivision	Cochrane Road, approximately 1,500 feet east of Saint Marks Drive	728-60-023 thru -055	Toll CA XX, LP	9/22/2016	8/24/2016	No new street miles	0.00	Connection of private water line to public water main along St. Katherine Drive	\$ 220,000
5	12/13/2022	11/18/2022	Diamond Creek Phase 2 - Tract No. 10216	21-Lot residential subdivision	West side of Monterey Road, south of Vineyard Boulevard	767-54-014 thru -034	Diamond Creek Villa, LLC	6/14/2014	6/4/2014	Rome Avenue	0.05	Frontage improvements along Rome Avenue and Valencia Avenue (new curb, gutter & sidewalk, driveway approaches, streetlights, and overhead utility undergrounding)	\$ 525,690
										Valencia Avenue	0.10		

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Dat Nguyen, Finance Director

APPROVED BY: City Manager

RECEIVE MONTHLY BUDGET UPDATE AND JANUARY 2023 FINANCIAL AND INVESTMENT REPORTS

RECOMMENDATION(S)

Accept and file report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Preserving and Cultivating Public Trust

2022-2023 Strategic Priorities

Fiscal Sustainability

Community Outreach, Engagement, and Messaging

REPORT NARRATIVE:

As part of the City Council's expectation to maintain a high level of transparency and to be responsible stewards of public funds, staff is providing this monthly budget update, along with the January 2023 financial and investment reports.

January 2023 Financial Report

The Revenue and Expense Summary through January 2023 is included on the first page of the monthly financial report. Overall, General Fund revenues total \$24.4 million or about 48% of the budget. Expenditures, including encumbrances, amounted to \$34.6 million or 60% of the budget, compared to prior year to date expenditures, including encumbrances, of \$28.2 million. This represents an increase of \$6.4 million in total year to date expenditures, including encumbrances, compared to the prior year to date.

Excluding the encumbrances, year to date expenditures increased by about \$4.5 million mainly due to new programs launched this year, such as Innovative Transit and County Solid Waste Program, gradual recovery in Recreation Services, as well as additional staffing programmed in the current year along with better staff recruitment and retention efforts citywide.

Budget Update

There has been no material change to the City's revenue since the last budget update to the Council on February 15, 2023. Recreation Services revenues continue to recover from the pandemic and are on target with budget. For water revenue, Morgan Hill

residents consumed about 14% less water through January compared to the prior three-year average. As such, the 10% revenue stabilization water rate has been implemented.

COMMUNITY ENGAGEMENT:

Inform

Finance staff prepares these financial reports to inform City officials, the Council, the community, and various lenders and stakeholders about the financial health of the organization, which assists each one of the interested parties in making sound financial and investment decisions.

ALTERNATIVE ACTIONS:

No alternative action is recommended, as this is a monthly financial report on City transactions which have already occurred.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council receives and files the financial and investment report for each month. At the September 16, 2015 meeting, City Council recommended monthly financial and investment reports be agendaized under the Consent Agenda, and quarterly financial and investment reports be presented to City Council as an “Other Business” item.

FISCAL AND RESOURCE IMPACT:

The preparation of the report is a part of the Finance workplan.

CEQA (California Environmental Quality Act):

Not a Project

This report is not a project, as defined in Section 15378 of the State CEQA Guidelines. Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

CITY OF MORGAN HILL
Monthly Financial and Investment Reports
January 31, 2023 - 58% of Year Complete



CITY OF MORGAN HILL

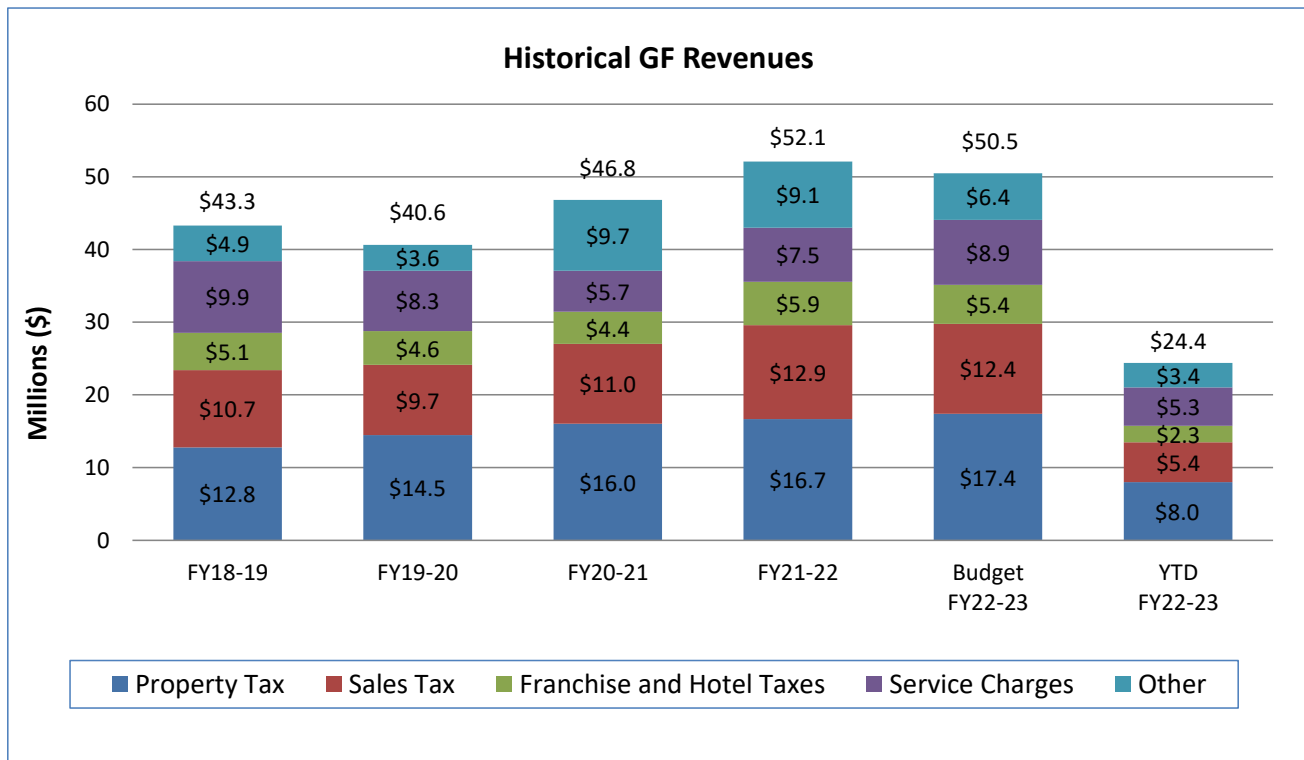
Prepared by:
FINANCE DEPARTMENT



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2022-23
FOR THE MONTH ENDED JANUARY 2023 – 58% OF YEAR COMPLETE

- **General Fund** – Revenues through January totaled \$24.4 million, or about 48% of the budgeted revenues. For property tax revenue, the most recent County estimates project the City will receive approximately \$17.7 million for the current fiscal year, slightly more than the budget of \$17.4 million. As for sales tax, HdL, the City's sales tax consultant raised the City's current fiscal year sales tax revenue estimate to \$12.5 million, an increase of approximately \$0.5 million from the prior estimate in its most recent projection.

The chart below shows historical General Fund revenues by major revenue category from FY18-19 through FY21-22 Actual, FY22-23 Budget, and YTD as of January 31, 2023.



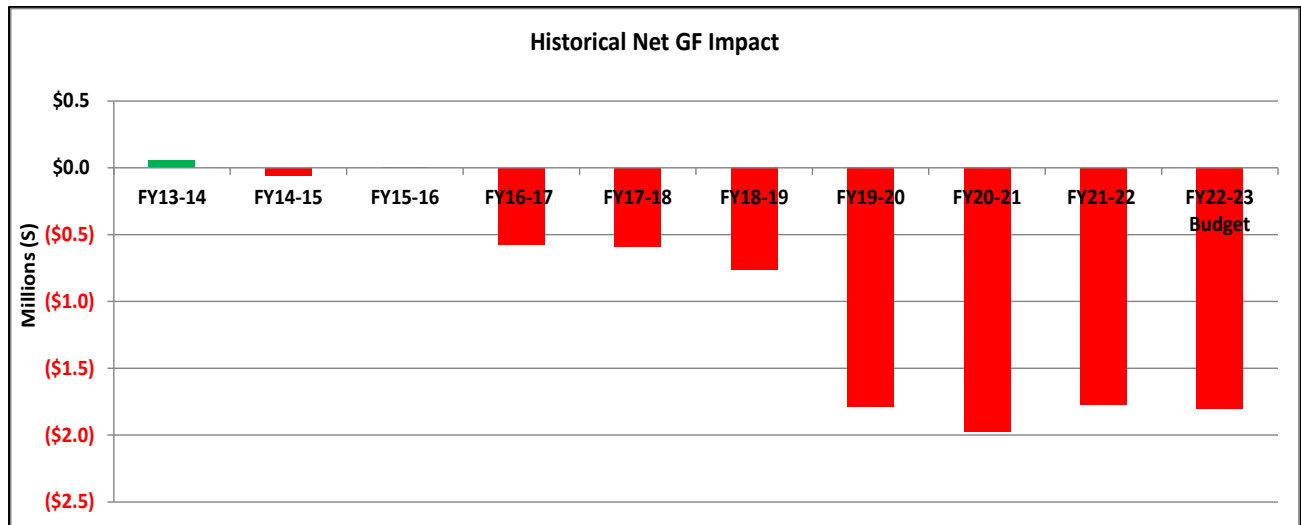
General Fund expenditures and encumbrances as of January 31, 2023 totaled \$34.6 million, of which approximately \$3.1 million is attributable to outstanding encumbrances, compared to prior year to date expenditures, including encumbrances, of \$28.2 million. This represents an increase of \$6.4 million in total year to date expenditures, including encumbrances, compared to the prior year to date. Excluding the encumbrances, year to date expenditures increased by about \$4.5 million mainly due to new programs launched this year, such as Innovative Transit and County Solid Waste Program, gradual recovery in Recreation Services, as well as additional staffing programed in the current year along with better staff recruitment and retention efforts citywide.

- **Community Services** – The Community Services Department’s recreation operations, as reflected in the schedule presented on page 7 of the Monthly Financial and Investments Reports, shows a negative impact to the General Fund of approximately \$1.4 million as of January 31, 2023. Recreation Services revenues continue to recover from the pandemic and are on target with budget.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2022-23
FOR THE MONTH ENDED JANUARY 2023 – 58% OF YEAR COMPLETE

The chart below shows the historical net impact of Recreation Operations to the general fund.



Due to longstanding governmental accounting and budgeting convention, the City’s recreation operations are not charged for indirect costs (known in Morgan Hill as “General Fund Administration”) from the central services departments of City Attorney, City Manager, and Administrative Services. The City’s other governmental funds, such as Development Services, and the proprietary funds, such as Water and Wastewater, and the Information Services Fund, are assessed such charges through the City’s indirect cost allocation plan, prepared in compliance with the guidelines set forth in the Code of Federal Regulations Title 2, Chapter II, Part 200 (formerly OMB Circular No. A-87), which mandates certain calculation and cost allocation practices that must be followed in order to qualify for Federal grant funding, but which also represent best practice for non-grant funded City operations like utilities and information services.

- **Development Services Fund** – Revenues through January totaled \$3.8 million compared to prior year to date amount of approximately \$2.6 million, partially due to a result of the fees increase approved by the City Council on January 19, 2022. Expenditures, including encumbrances, totaled \$3.5 million.
- **Debt Service Funds** – Expenditures through January totaled \$0.6 million. The debt service for the first half of the year includes both interest and principal, while the second half of the year will include interest only. Debt service payments were all scheduled when the bonds were issued and are budgeted for in the months delineated in the underlying bond documents. The General Fund’s portion of the annual debt service payments is approximately \$200,000, less than one percent of the General Fund’s budgeted revenues.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2022-23
FOR THE MONTH ENDED JANUARY 2023 – 58% OF YEAR COMPLETE

- **Wastewater Operations** – Revenues from Sewer Operations through January totaled \$7.7 million. Expenditures and outstanding encumbrances totaled \$9.1 million or 56% of the budget. The table below shows historical Sewer Operations revenues and expenditures from FY18-19 through FY21-22 Actual, FY22-23 Budget, and YTD as of January 31, 2023.

(amount in millions)	FY18-19	FY19-20	FY20-21	FY21-22	Budget FY22-23	YTD FY22-23
Revenues	11.4	11.9	13.3	14.9	14.8	7.7
Expenditures	11.4	12.3	13.3	14.8	16.3	9.1
Operating Margin	-	(0.4)	-	0.1	(1.5)	(1.4)
Operating Margin without Encumbrances	0.4	(0.1)	-	0.1	(1.5)	(1.3)

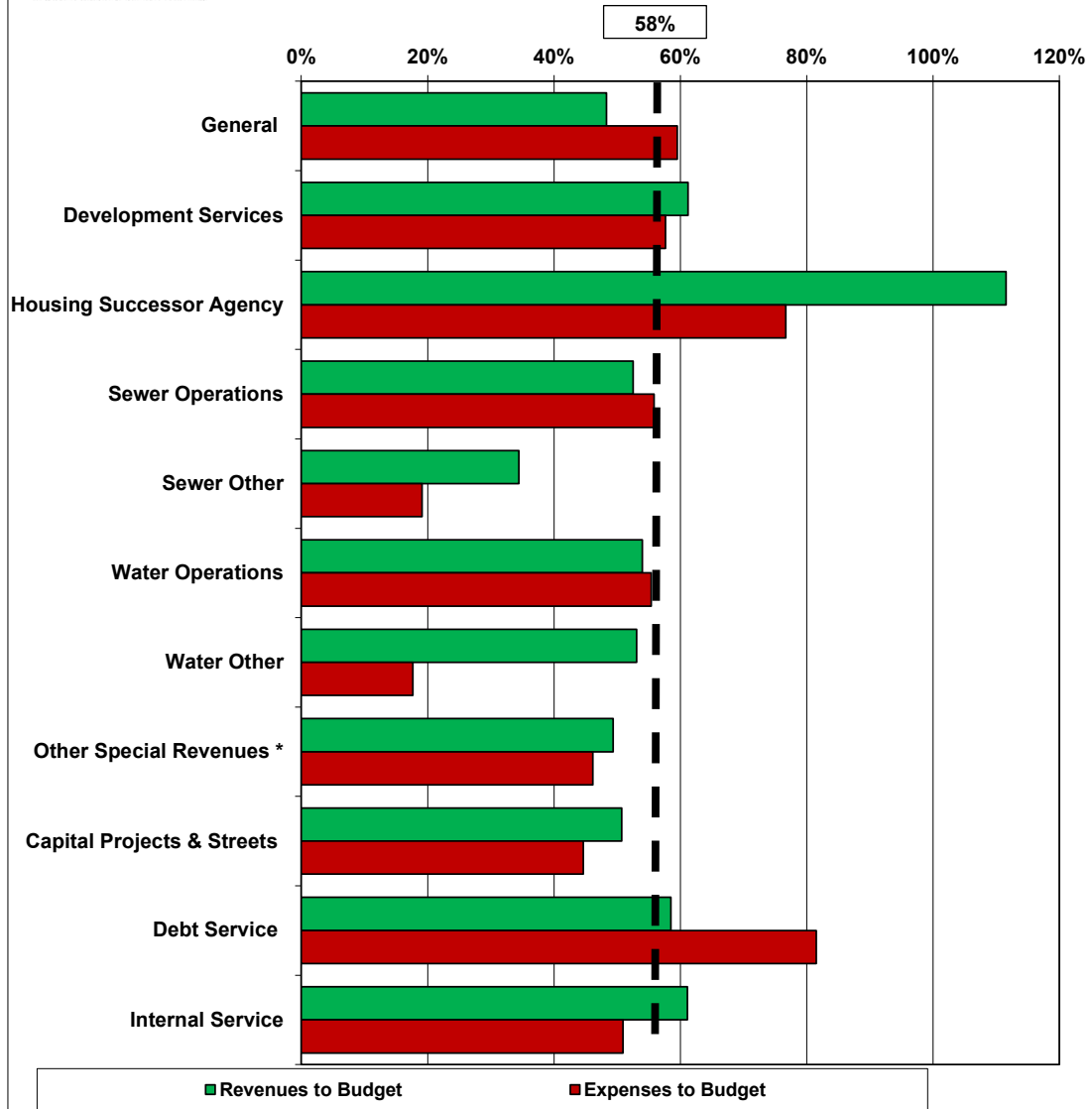
Water Operations – Water Operations includes Utility Billing, Water Conservation, and Water Operations. Revenues from Water Operations through January totaled \$9.5 million. Water Operations expenditures, including outstanding encumbrances, totaled \$9.8 million. The table below shows Water Operations revenues and expenditures from FY18-19 through FY21-22 Actual, FY22-23 Budget, and YTD as of January 31, 2023.

(amount in millions)	FY18-19	FY19-20	FY20-21	FY21-22	Budget FY22-23	YTD FY22-23
Revenues	14.2	15.3	16.5	16.0	17.6	9.5
Expenditures	14.3	16.4	16.5	15.2	17.6	9.8
Operating Margin	(0.1)	(1.1)	-	0.8	-	(0.3)
Operating Margin without Encumbrances	0.8	(0.1)	-	0.8	-	0.4

- **Investments** – Six securities were purchased. Total interest earnings received on investments were \$271,000 during the month.



Morgan Hill YTD Revenue & Expense Summary January 31, 2023 - 58% of Year Complete



FUND NAME	REVENUES		EXPENSES	
	ACTUAL	% OF BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET
General	\$ 24,406,147	48%	\$ 34,616,142	60%
Development Services	3,783,695	61%	3,535,929	58%
Housing Successor Agency	260,628	112%	876,896	77%
Sewer Operations	7,748,933	53%	9,102,310	56%
Sewer Other	8,425,451	34%	10,682,765	19%
Water Operations	9,524,981	54%	9,767,815	55%
Water Other	3,219,991	53%	1,150,170	18%
Other Special Revenues *	2,524,369	49%	3,376,050	46%
Capital Projects & Streets	12,380,794	51%	23,827,588	45%
Debt Service	397,762	59%	554,009	82%
Internal Service	7,605,082	61%	6,936,613	51%
TOTAL FOR ALL FUNDS	\$ 80,277,833	49%	\$ 104,426,286	44%

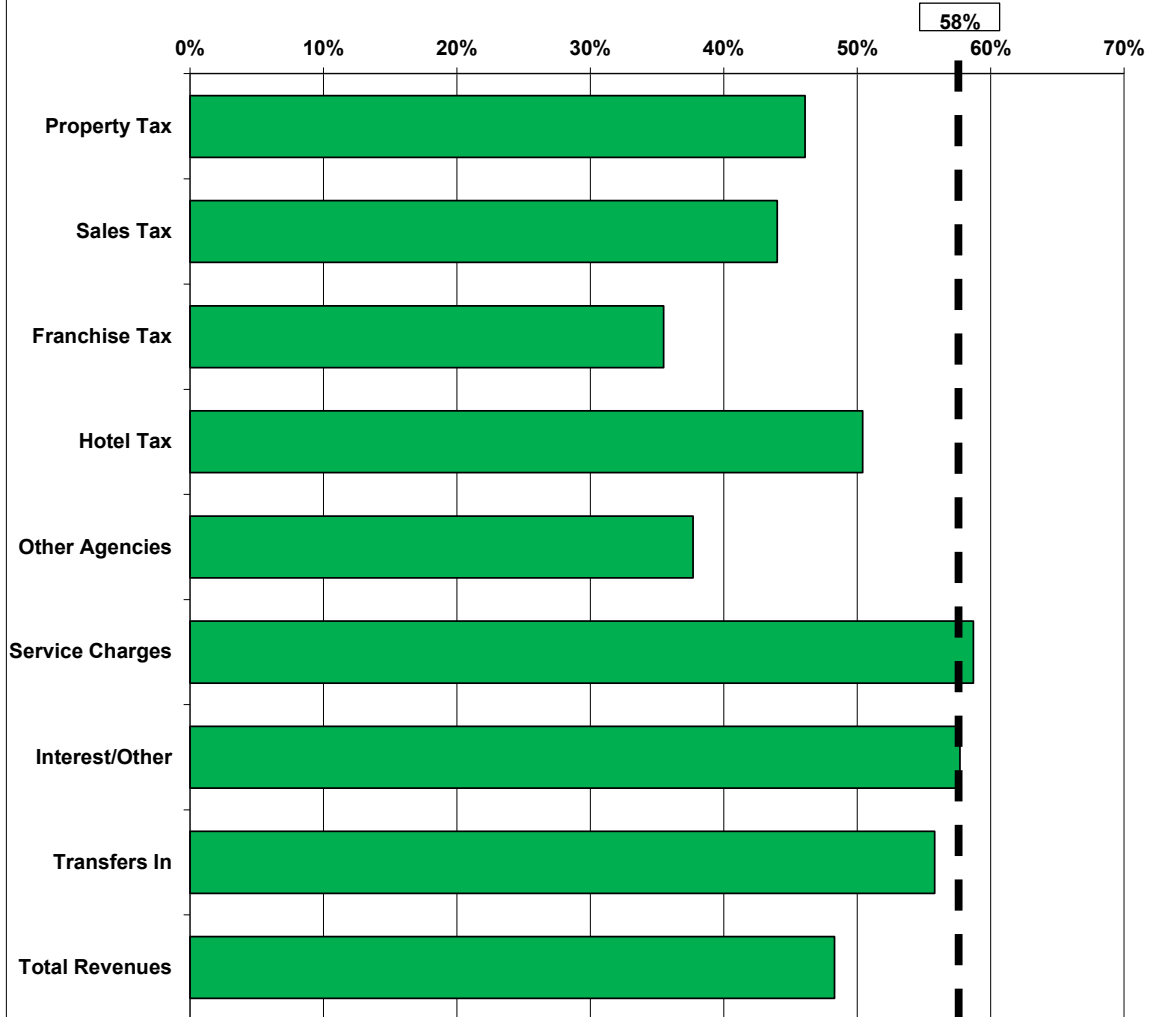
* Includes all Special Revenue Funds except Development Services Fund, Street Funds, and RDA and Housing Successor Agencies.



Morgan Hill YTD General Fund Revenues

January 31, 2023 - 58% of Year Complete

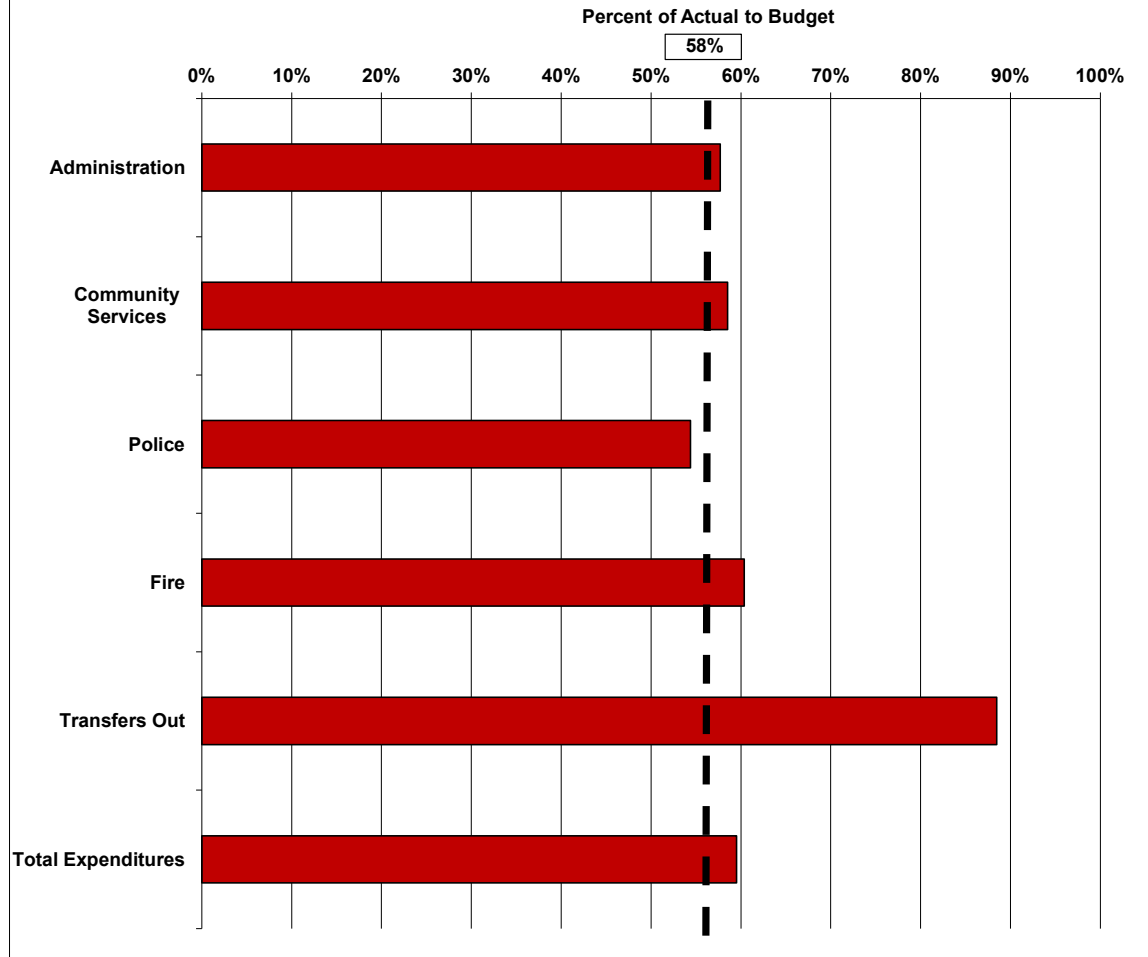
Percent of Actual to Budget



REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
Property Tax	\$ 17,383,705	\$ 8,019,244	46%	\$ 7,372,660	9%
Sales Tax	12,395,413	5,454,588	44%	5,025,846	9%
Franchise Tax	2,760,000	980,611	36%	971,018	1%
Hotel Tax	2,600,000	1,309,950	50%	1,310,992	0%
Other Agencies	1,304,130	491,574	38%	242,263	103%
Service Charges	8,942,658	5,252,380	59%	4,358,318	21%
Interest/Other	1,980,126	1,143,398	58%	1,041,074	10%
Transfers In	3,145,538	1,754,401	56%	1,708,442	3%
TOTAL REVENUES	\$ 50,511,570	\$ 24,406,147	48%	\$ 22,030,613	11%



Morgan Hill YTD General Fund Expenditures January 31, 2023 - 58% of Year Complete



EXPENDITURE CATEGORY	BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET	PRIOR YTD PLUS ENCUMBRANCES	% CHANGE FROM PRIOR YEAR
Administration	\$ 6,720,240	\$ 3,878,037	58%	\$ 2,906,392	33%
Community Services	16,221,529	9,489,692	59%	7,160,605	33%
Police	21,908,484	11,913,496	54%	10,672,459	12%
Fire	8,653,847	5,223,983	60%	4,443,458	18%
Transfers Out	4,647,315	4,110,934	88%	3,046,125	35%
TOTAL EXPENDITURES	\$ 58,151,414	\$ 34,616,142	60%	\$ 28,229,040	23%



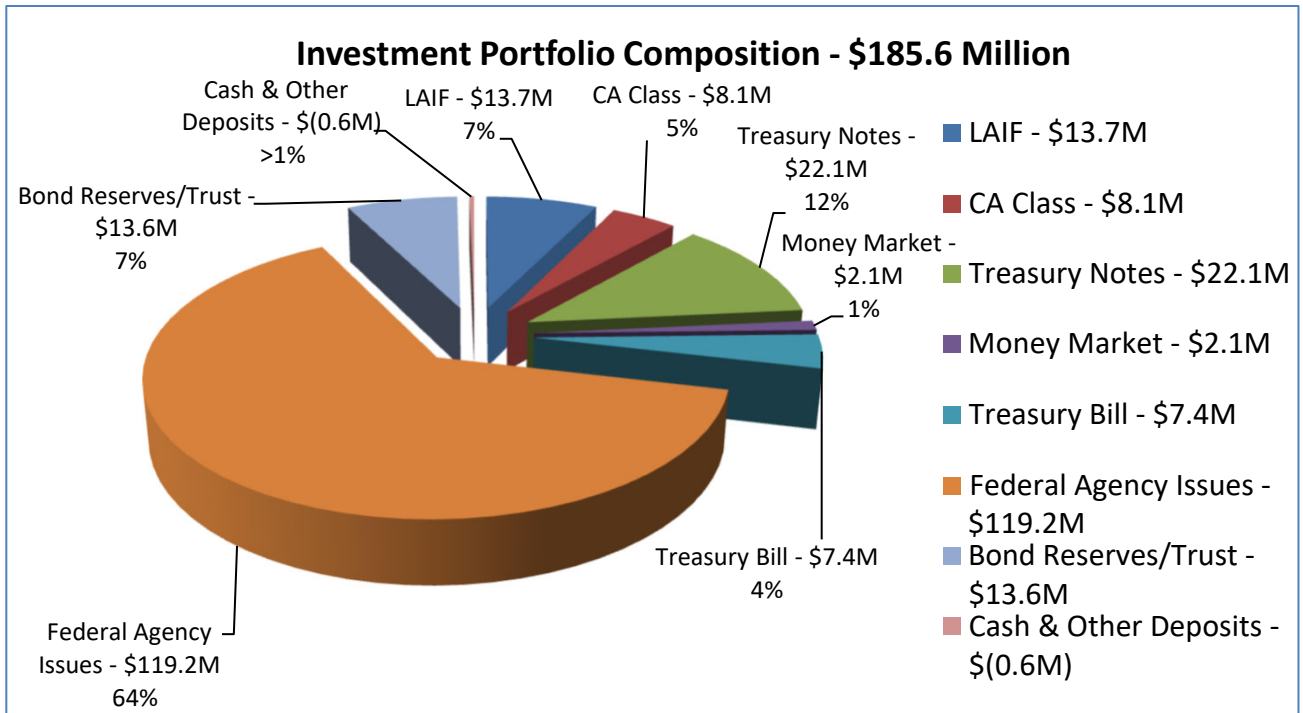
**City of Morgan Hill
Recreation Report - Fiscal Year 2022-23
For the Month Ended January 31, 2023
58% of Year Complete**

	<u>Budget</u>	<u>January 2023</u>	<u>YTD</u>	<u>% of Budget</u>
Revenues				
Membership Services & Rec Programs	\$ 5,136,869	\$ 388,132	\$ 2,940,304	
Facility Rentals	819,459	134,133	660,645	
Community Services	127,498	1,825	38,823	
Transfers in	75,000	6,250	43,750	
Total Revenues	<u>\$ 6,158,826</u>	<u>\$ 530,340</u>	<u>\$ 3,683,523</u>	60%
Less: Expenditures				
Membership & Program Services	\$ 6,772,195	\$ 397,841	\$ 3,513,431	
Facility Rentals	546,870	32,645	285,940	
Community Services	644,107	38,434	314,361	
Total Expenditures	<u>\$ 7,963,173</u>	<u>\$ 468,919</u>	<u>\$ 4,113,732</u>	52%
Net Impact without encumbrances	<u>\$ (1,804,347)</u>	<u>\$ 61,421</u>	<u>\$ (430,210)</u>	
Encumbrances	-	-	1,008,420	
Net Impact with encumbrances	<u>\$ (1,804,347)</u>	<u>\$ 61,421</u>	<u>\$ (1,438,630)</u>	

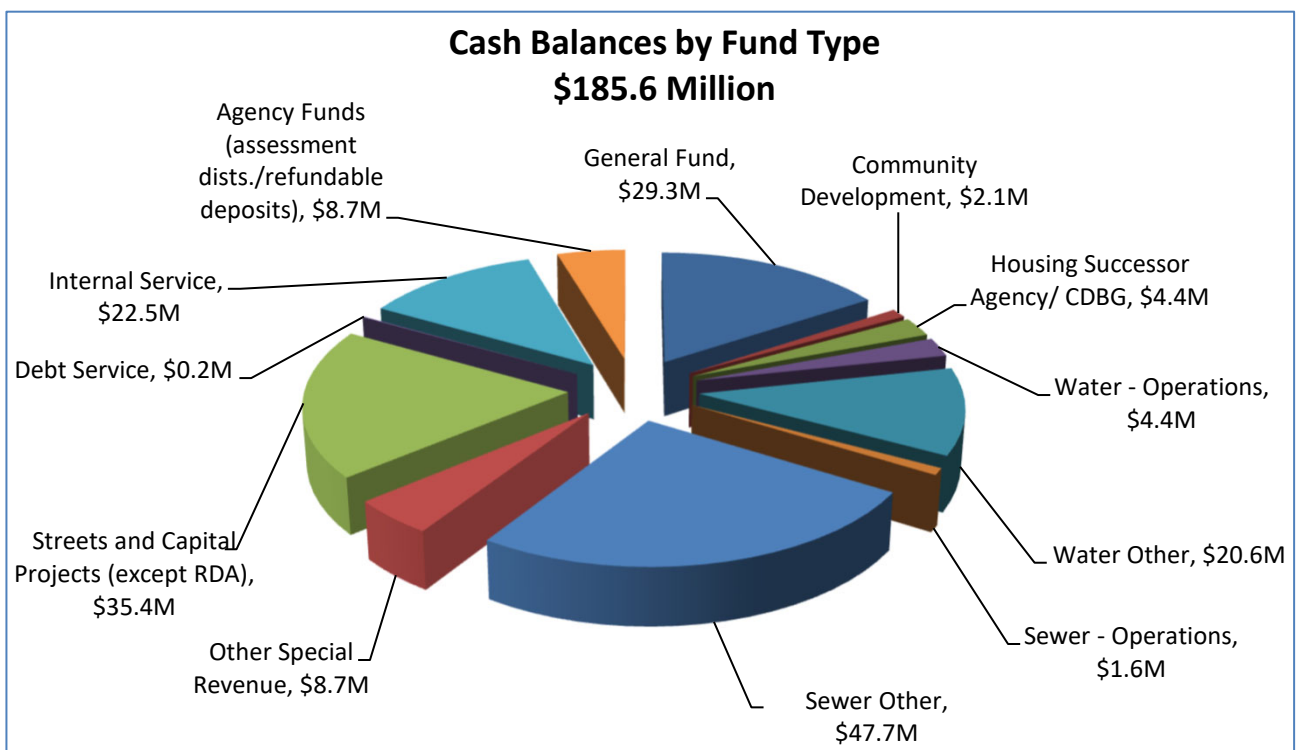
City of Morgan Hill

Monthly Investment Report - January 31, 2023

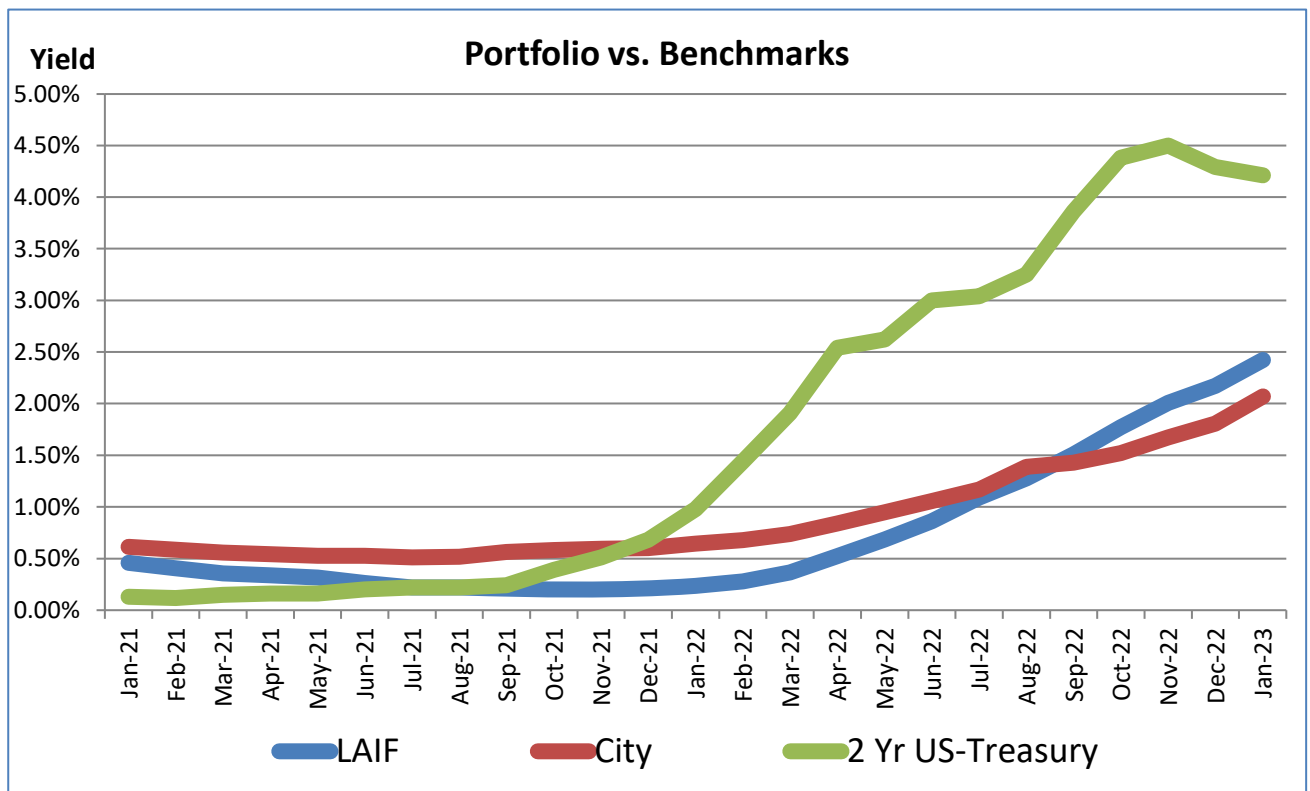
The following are the snapshots of City's investment portfolio as of January 31, 2023. The first chart shows the portfolio composition by investment type:



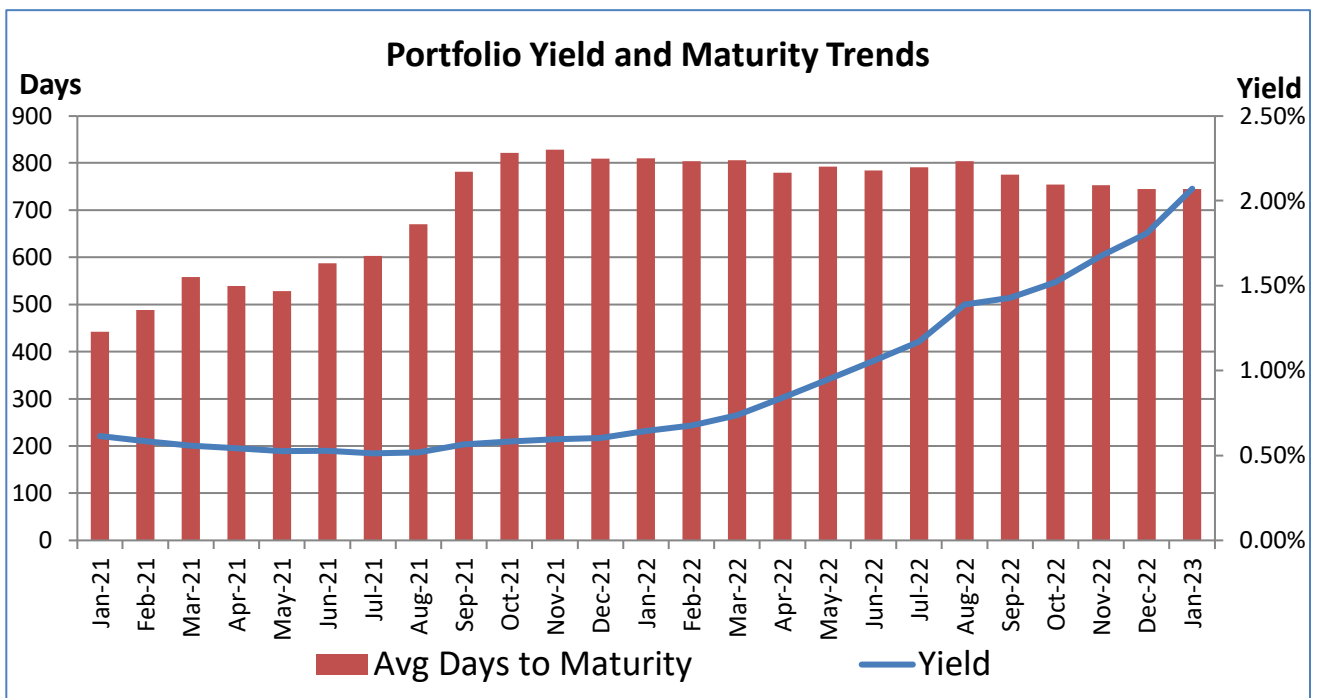
The chart below shows cash balances by fund type reconciled to City's financial system:



The following chart illustrates a yield comparison by month among the City's portfolio, LAIF and 2-Year US Treasury:



The chart below illustrates monthly average days to maturity of the City's portfolio along with the weighted average yield for the past two years:





City of Morgan Hill
Investment Portfolio Detail
As of January 31, 2023

Investment Type	CUSIP	Settlement Date	Cost Value	Book Value	% of Portfolio	Market Value	YTM at Cost	Next Call Date	Date of Maturity
L A I F			\$ 13,660,101	\$ 13,660,101	7.36%	\$ 13,405,876	2.43%		
California C L A S S			8,076,188	8,076,188	4.35%	\$ 8,076,188	4.52%		
City Managed									
Treasury Bill	912796XY0	8/17/2022	\$ 2,423,428	\$ 2,459,147	1.33%	\$ 2,439,725	3.22%	8/10/2023	8/10/2023
Treasury Bill	912796YA1	8/18/2022	4,925,304	4,993,433	2.69%	4,991,050	3.04%	2/16/2023	2/16/2023
Treasury Note	912828Q29	4/30/2018	4,246,875	4,491,685	2.42%	4,477,500	2.73%	3/31/2023	3/31/2023
Treasury Note	91282CCZ2	10/8/2021	1,987,656	1,990,915	1.07%	1,803,980	1.00%	9/30/2026	9/30/2026
Treasury Note	91282CDR9	1/4/2022	1,999,141	1,999,605	1.08%	1,928,600	0.77%	12/31/2023	12/31/2023
Treasury Note	91282CDR9	1/19/2022	1,989,688	1,995,156	1.08%	1,928,600	1.02%	12/31/2023	12/31/2023
Treasury Note	91282CDV0	2/11/2022	1,977,969	1,988,816	1.07%	1,924,680	1.44%	1/31/2024	1/31/2024
Treasury Note	9128286R6	3/28/2022	1,996,320	1,997,808	1.08%	1,942,120	2.34%	4/30/2024	4/30/2024
Treasury Note	912828S35	4/12/2022	1,985,703	1,995,170	1.08%	1,972,900	1.97%	06/30/2023	6/30/2023
Treasury Note	912828U24	6/13/2022	1,904,688	1,918,371	1.03%	1,876,960	3.16%	11/15/2026	11/15/2026
Treasury Note	912828ZP8	8/17/2022	2,446,680	2,479,538	1.34%	2,467,775	3.04%	5/15/2023	5/15/2023
Treasury Note	91282CAW1	11/17/2022	1,246,984	1,257,938	0.68%	1,254,344	4.49%	11/15/2023	11/15/2023
FFCB Bond	3133ELVX9	4/8/2020	2,000,000	2,000,000	1.08%	1,911,020	0.88%	4/8/2023	4/8/2024
FFCB Bond	3133ELC28	5/27/2020	2,000,000	2,000,000	1.08%	1,845,540	0.73%	5/27/2023	5/27/2025
FHLMC Bond	3134GVYN2	6/3/2020	2,000,000	2,000,000	1.08%	1,870,200	0.60%	6/3/2023	12/3/2024
FHLMC Bond	3134GWZG4	10/20/2020	2,000,000	2,000,000	1.08%	1,818,660	0.60%	4/20/2023	10/20/2025
FHLMC Bond	3134GW3X2	10/27/2020	2,000,000	2,000,000	1.08%	1,818,960	0.63%	4/27/2023	10/27/2025
FHLMC Bond	3134GW6E1	11/2/2020	2,000,000	2,000,000	1.08%	1,934,340	0.32%	5/2/2023	11/2/2023
FFCB Bond	3133EMFR8	11/3/2020	2,000,000	2,000,000	1.08%	1,808,840	0.54%	5/3/2023	11/3/2025
FNMA Bond	3135GA4P3	11/18/2020	2,000,000	2,000,000	1.08%	1,812,500	0.65%	5/18/2023	11/18/2025
FHLMC Bond	3134GXEJ9	11/24/2020	2,000,000	2,000,000	1.08%	1,811,200	0.64%	5/24/2023	11/24/2025
FFCB Bond	3133EMHF2	11/24/2020	1,000,000	1,000,000	0.54%	904,560	0.60%	5/24/2023	11/24/2025
FHLMC Bond	3134GXCS1	11/25/2020	3,000,000	3,000,000	1.62%	2,715,450	0.63%	5/25/2023	11/25/2025
FHLMC Bond	3134GXFA7	11/30/2020	2,000,000	2,000,000	1.08%	1,811,480	0.65%	5/26/2023	11/26/2025
FFCB Bond	3133EMLC4	12/22/2020	2,000,000	2,000,000	1.08%	1,803,300	0.47%	6/22/2023	12/22/2025
FHLB Bond	3130AKQ74	1/22/2021	2,000,000	2,000,000	1.08%	1,803,660	0.63%	7/22/2023	1/22/2026
FNMA Bond	3135G06R9	1/28/2021	2,000,000	2,000,000	1.08%	1,798,720	0.55%	7/28/2023	1/28/2026
FHLB Bond	3130AKRN8	1/28/2021	2,000,000	2,000,000	1.08%	1,804,240	0.65%	7/28/2023	1/28/2026
FHLB Bond	3130ALCV4	2/24/2021	2,000,000	2,000,000	1.08%	1,802,000	0.75%	2/24/2023	2/24/2026
FHLB Bond	3130ALDB7	2/25/2021	2,000,000	2,000,000	1.08%	1,796,780	0.66%	2/25/2023	2/25/2026
FHLB Bond	3130AKZ25	2/26/2021	2,000,000	2,000,000	1.08%	1,796,060	0.65%	2/26/2023	2/26/2026
FHLB Bond	3130ALGS7	3/10/2021	2,000,000	2,000,000	1.08%	1,809,100	0.85%	3/10/2023	3/10/2026
FHLB Bond	3130ALEP5	3/16/2021	2,000,000	2,000,000	1.08%	1,799,720	0.70%	3/16/2023	3/16/2026
FHLB Bond	3130ALDN1	3/16/2021	2,000,000	2,000,000	1.08%	1,805,480	0.80%	3/16/2023	3/16/2026
FHLB Bond	3130AMNH1	6/9/2021	2,000,000	2,000,000	1.08%	1,813,560	1.08%	6/9/2023	6/9/2026
FHLB Bond	3130AMYJ5	6/30/2021	2,000,000	2,000,000	1.08%	1,806,260	1.00%	6/30/2023	6/30/2026
FHLB Bond	3130AMYP1	7/15/2021	3,000,000	3,000,000	1.62%	2,712,720	1.13%	7/15/2023	7/15/2026
FHLB Bond	3130AMYS5	7/15/2021	2,000,000	2,000,000	1.08%	1,843,420	0.85%	7/15/2023	7/15/2025
FHLB Bond	3130ANJC5	8/26/2021	2,000,000	2,000,000	1.08%	1,781,920	0.80%	2/26/2023	8/26/2026
FHLB Bond	3130ANLW8	8/26/2021	3,000,000	3,000,000	1.62%	2,692,230	1.00%	2/26/2023	8/26/2026
FHLB Bond	3130ANLZ1	8/26/2021	2,000,000	2,000,000	1.08%	1,788,420	0.90%	2/26/2023	8/26/2026
FHLB Bond	3130A8XY4	9/13/2021	2,103,340	2,074,717	1.12%	1,861,500	0.82%	3/11/2023	9/11/2026
FFCB Bond	3133EM4X7	9/28/2021	1,982,960	1,987,579	1.07%	1,792,000	0.98%	3/10/2023	9/10/2026
FHLB Bond	3130APCH6	9/29/2021	3,000,000	3,000,000	1.62%	2,701,110	1.13%	3/29/2023	9/29/2026
FHLB Bond	3130ANZE3	9/30/2021	2,000,000	2,000,000	1.08%	1,782,980	0.88%	3/30/2023	9/30/2026
FHLB Bond	3130AP6N0	9/30/2021	3,000,000	3,000,000	1.62%	2,693,640	1.05%	3/30/2023	9/30/2026
FHLB Bond	3130AP6M2	9/30/2021	3,000,000	3,000,000	1.62%	2,690,670	1.02%	3/30/2023	9/30/2026
FHLB Bond	3130APCG8	10/19/2021	2,000,000	2,000,000	1.08%	1,790,540	1.00%	4/19/2023	10/19/2026
FHLB Bond	3130APNX9	11/18/2021	2,000,000	2,000,000	1.08%	1,812,320	1.30%	5/18/2023	11/18/2026
FHLB Bond	3130AQFL2	12/29/2021	2,000,000	2,000,000	1.08%	1,926,700	0.75%	6/29/2023	12/29/2023
FHLB Bond	3130AQHU0	1/19/2022	2,000,000	2,000,000	1.08%	1,849,000	1.74%	7/19/2023	1/19/2027
FHLB Bond	3130AQKT9	1/25/2022	2,000,000	2,000,000	1.08%	1,880,300	1.51%	7/25/2023	7/25/2025
FHLB Bond	3130AR4F5	3/10/2022	2,000,000	2,000,000	1.08%	1,920,500	3.48%	3/10/2023	3/10/2027

Investment Type	CUSIP	Settlement Date	Cost Value	Book Value	% of Portfolio	Market Value	YTM at Cost	Next Call Date	Date of Maturity
FHLB Bond	3130ARH20	3/30/2022	3,000,000	3,000,000	1.62%	2,986,830	1.62%	3/30/2023	3/30/2023
FHLMC Bond	3137EAES4	5/3/2022	1,954,860	1,984,152	1.07%	1,963,680	2.25%	6/26/2023	6/26/2023
FHLB Bond	3130ASB65	5/27/2022	3,000,000	3,000,000	1.62%	2,994,840	1.88%	2/23/2023	2/23/2023
FHLMC Bond	3134GXUZ5	6/15/2022	2,000,000	2,000,000	1.08%	1,940,740	3.28%	6/15/2023	12/15/2025
FHLB Bond	3130ASPE3	7/28/2022	2,000,000	2,000,000	1.08%	1,962,240	4.30%	7/28/2023	7/28/2027
FNMA Bond	3135GACZ2	11/25/2022	2,000,000	2,000,000	1.08%	1,997,820	5.40%	5/25/2023	11/25/2024
FHLMC Bond	3134GY4B5	11/28/2022	2,000,000	2,000,000	1.08%	1,992,520	5.00%	5/15/2023	11/15/2023
FFCB Bond	313312MF4	12/19/2022	1,930,440	1,941,047	1.05%	1,938,500	4.65%	9/27/2023	9/27/2023
FHLMC Bond	3134GYC26	12/29/2022	2,000,000	2,000,000	1.08%	1,992,720	4.80%	6/29/2023	12/29/2027
FHLB Bond	313384ED7	1/6/2023	1,976,552	1,982,788	1.07%	1,982,420	4.59%	4/10/2023	4/10/2023
FHLB Bond	313384CP2	1/6/2023	1,986,622	1,992,594	1.07%	1,992,220	4.35%	3/3/2023	3/3/2023
FHLB Bond	313384JC4	1/13/2023	1,953,994	1,958,544	1.06%	1,957,120	4.72%	7/14/2023	7/14/2023
FHLB Bond	3130AUFT6	1/27/2023	2,000,000	2,000,000	1.08%	2,002,480	5.43%	4/27/2023	1/27/2025
FHLB Bond	3130AUP32	1/27/2023	2,250,000	2,250,000	1.21%	2,248,493	5.98%	4/27/2023	1/27/2028
FHLMCMTN Bond	3134GYGB2	1/30/2023	2,000,000	2,000,000	1.08%	2,000,320	5.20%	10/26/2023	1/26/2028
Sub Total/Average			\$ 148,269,203	\$ 148,739,003	80.15%	\$ 140,182,777	1.89%		
Money Market			\$ 2,112,770	\$ 2,112,770	1.14%	\$ 2,112,770	4.23%		
Total City Managed/Average			\$ 172,118,262	\$ 172,588,062	88.65%	\$ 163,777,611	2.09%		
Bond Reserve Accounts - Held By Trustees			\$ 6,788,452	\$ 6,788,452	3.66%	\$ 6,788,452			
Cash/Deposits			\$ (587,148)	\$ (587,148)	-0.32%	\$ (587,148)			
PARS and CALPERS CERBT Trust			\$ 6,787,404	\$ 6,787,404	3.66%	\$ 7,390,486			
GRAND TOTAL/AVERAGE			\$ 185,106,970	\$ 185,576,771	100%	\$ 177,369,402			



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
FOR THE MONTH OF JANUARY 31, 2023
FOR THE FISCAL YEAR OF 2022-23

	Invested in Fund	Yield	Book Value End of Month	% of Total	Market Value
Investments					
State Treasurer LAIF - City	All Funds Pooled	2.43%	\$ 7,262,310	3.91%	\$ 7,127,153
2015 Wastewater Rev Bonds - CIP	Wastewater Fund	2.43%	6,397,791	3.45%	6,278,723
California CLASS	All Funds Pooled	4.52%	8,076,188	4.35%	8,076,188
Federal Issues	All Funds Pooled	1.81%	119,171,422	64.22%	112,428,887
US Treasury Notes	All Funds Pooled	2.05%	22,115,001	11.92%	20,323,115
US Treasury Bills	All Funds Pooled	3.10%	7,452,581	4.02%	7,430,775
Dreyfus Treas Cash Management Acct	All Funds Pooled	4.23%	2,112,770	1.14%	2,112,770
	SUBTOTAL		\$ 172,588,062	93.00%	\$ 163,777,611
Bond Reserve Accounts - held by trustees					
Zions Bank - Civic Center/Library Facility					
Blackrock Liq Fund	Debt Service	3.80%	312	0.00%	312
Zions Bank - MH Police Facility Lease Revenue Bonds					
Blackrock Liq Fund	Debt Service	3.80%	396	0.00%	396
BNY - RDA Bonds					
Dreyfus Cash Mgmt 521	Agency Fund	0.00%	6,262,044	3.37%	6,262,044
Zions Bank - MH Ranch 2015					
Blackrock Liq Funds Fed Fund -DI -2015	Agency Fund	3.80%	259,202	0.14%	259,202
Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015					
Blackrock Liquidity Temp Fund-2015	Agency Fund	3.80%	266,499	0.14%	266,499
	SUBTOTAL		6,788,452	3.66%	6,788,452
Other Cash/Deposits					
General Checking	All Funds		(633,148)	-0.34%	(633,148)
Workers' Comp Administrators	Workers' Comp		30,000	0.02%	30,000
Petty Cash & Emergency Cash	General Fund		16,000	0.01%	16,000
CALPERS CERBT - OPEB Trust			4,487,404	2.42%	4,900,333
PARS - PENSION Trust			2,300,000	1.24%	2,490,153
	SUBTOTAL		6,200,256	3.34%	6,803,338
Total Cash and Investments			\$ 185,576,771	100.00%	\$ 177,369,402

CASH ACTIVITY SUMMARY
FY 2022-23

Fund Type	07/1/22 Balance	Change in Cash Balance	1/31/2023 Balance
General Fund	\$ 26,535,041	\$ 2,802,456	\$ 29,337,497
Community Development	1,919,696	149,482	2,069,179
Housing Successor Agency/ CDBG	4,670,910	(239,429)	4,431,481
Water - Operations	2,980,708	1,450,495	4,431,203
Water Other	18,208,344	2,355,985	20,564,329
Sewer - Operations	1,663,439	(35,964)	1,627,475
Sewer Other	50,357,493	(2,701,456)	47,656,037
Other Special Revenue	8,482,063	187,393	8,669,456
Streets and Capital Projects (except RDA)	38,126,094	(2,707,789)	35,418,306
Debt Service	339,861	(154,169)	185,692
Internal Service	21,185,083	1,334,264	22,519,346
Agency Funds (assessment dists./refundable deposits)	9,072,901	(406,132)	8,666,769
Total	\$ 183,541,633	\$ 2,035,138	\$ 185,576,771

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.

I certify the information on the investment reports has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by:

Gina Nazareno, Senior Accountant

Approved by:

Reviewed by:

Dat Nguyen, Finance Director

Caitlin Jachimowicz, Treasurer



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2022-23
For The Month Ended January 31, 2023
58% of Year Complete

	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
010 GENERAL FUND							
<u>TAXES</u>							
Property Tax - Secured/Unsecured	\$ 14,753,873	14,753,873	\$ 6,836,592	46%	\$ 6,492,699	\$ 343,894	5%
Property Tax - RPTTF Residual Distribution	2,429,832	2,429,832	987,196	41%	808,731	178,466	22%
Property Tax - Supplemental Roll	200,000	200,000	195,456	98%	71,230	124,225	174%
Sales Tax	11,950,308	11,950,308	5,300,697	44%	4,834,237	466,460	10%
Public Safety Sales Tax	445,105	445,105	153,891	35%	191,608	(37,717)	-20%
Transient Occupancy Taxes	2,600,000	2,600,000	1,309,950	50%	1,310,992	(1,042)	0%
Franchise (Refuse ,Cable ,PG&E)	2,760,000	2,760,000	980,611	36%	971,018	9,593	1%
Property Transfer Tax	500,000	500,000	198,276	40%	388,040	(189,764)	-49%
TOTAL TAXES	35,639,118	35,639,118	15,962,669	45%	15,068,556	894,114	6%
<u>LICENSES/PERMITS</u>							
Business License	170,000	170,000	133,828	79%	163,512	(29,684)	-18%
Other Permits	53,975	53,975	222,727	413%	3,630	219,097	6036%
TOTAL LICENSES/PERMITS	223,975	223,975	356,555	159%	167,142	189,413	113%
<u>FINES AND PENALTIES</u>							
Parking Enforcement	2,932	2,932	3,061	104%	1,977	1,083	55%
Bails & Fines	46,480	46,480	21,663	47%	21,340	323	2%
Administrative Citations	20,000	20,000	7,028	35%	-	7,028	0%
TOTAL FINES AND PENALTIES	69,412	69,412	31,752	46%	23,318	8,434	36%
<u>OTHER AGENCIES</u>							
Motor Vehicle in-Lieu	40,000	40,000	-	n/a	-	-	n/a
Other Revenue - Other Agencies	1,304,130	1,304,130	491,574	38%	242,263	249,311	103%
TOTAL OTHER AGENCIES	1,344,130	1,344,130	491,574	37%	242,263	249,311	103%
<u>CHARGES CURRENT SERVICES</u>							
Police False Alarm Charge	32,280	32,280	18,973	59%	16,879	2,094	12%
Business License Application Review	53,000	53,000	27,019	51%	24,377	2,642	11%
Membership Services & Rec Programs	5,136,869	5,136,869	2,940,304	57%	2,400,054	540,250	23%
Facility Rentals	819,459	819,459	660,645	81%	312,322	348,323	112%
Community Services	127,498	127,498	38,823	30%	98,830	(60,007)	-61%
General Administration Overhead	1,775,408	1,775,408	1,035,655	58%	1,068,844	(33,189)	-3%
Other Charges Current Services	998,144	998,144	530,961	53%	437,011	93,950	21%
TOTAL CURRENT SERVICES	8,942,658	8,942,658	5,252,380	59%	4,358,318	894,063	21%
<u>OTHER REVENUE</u>							
Use of money/property	774,829	774,829	385,264	50%	301,834	83,430	28%
Other Revenues	371,910	371,910	171,551	46%	160,740	10,811	7%
TOTAL OTHER REVENUE	1,146,739	1,146,739	556,815	49%	462,574	94,241	20%
<u>TRANSFERS IN</u>							
One Time Transfer	180,000	180,000	105,000	58%	61,250	43,750	71%
Public Safety Facilities Fund	50,000	50,000	29,167	58%	58,324	(29,157)	-50%
Supplemental Law Enforcement Fund	100,000	100,000	100,000	100%	100,000	-	n/a
Countywide Solid Waste	355,000	355,000	207,083	58%	325,000	(117,917)	-36%
Streets	904,438	904,438	405,424	45%	324,267	81,156	25%
Park Maintenance	650,000	650,000	379,169	58%	379,169	-	n/a
Sewer Operations	375,000	375,000	218,750	58%	208,341	10,409	5%
Water Operations	375,000	375,000	218,750	58%	208,341	10,409	5%
Open Space	81,100	81,100	47,308	58%	-	47,308	n/a
Park Development	75,000	75,000	43,750	58%	43,750	-	n/a
TOTAL TRANSFERS IN	3,145,538	3,145,538	1,754,401	56%	1,708,442	45,959	3%
TOTAL GENERAL FUND	50,511,570	50,511,570	24,406,147	48%	22,030,613	2,375,534	11%
SPECIAL REVENUE FUNDS							
<u>202 STREET MAINTENANCE</u>							
Gas Tax 2105 - 2107.5	909,478	909,478	413,734	45%	319,937	93,797	29%
Interest / Other Revenue/Other Charges	58	58	2,143	3694%	394	1,749	444%
202 STREET MAINTENANCE	909,536	909,536	415,877	46%	320,331	95,545	30%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2022-23
For The Month Ended January 31, 2023
58% of Year Complete

	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
SPECIAL REVENUE FUNDS							
205 SUPPLEMENTAL LAW ENFORCEMENT FUND							
Interest Income	1,438	1,438	2,111	147%	589	1,522	258%
Police Grant/SLEF/JAG	100,000	100,000	98,605	99%	94,618	3,986	4%
205 SUPPLEMENTAL LAW ENFORCEMENT FUND	101,438	101,438	100,716	99%	95,207	5,508	6%
206 DEVELOPMENT SERVICES							
Building Fees	3,433,600	3,433,600	2,248,518	65%	1,648,906	599,612	36%
Planning Fees	1,259,167	1,259,167	454,254	36%	497,986	(43,732)	-9%
Engineering Fees	1,142,289	1,142,289	856,331	75%	361,430	494,902	137%
Other Revenue/Current Charges	346,181	346,181	224,592	65%	112,311	112,281	100%
206 DEVELOPMENT SERVICES	6,181,237	6,181,237	3,783,695	61%	2,620,633	1,163,062	44%
207 LONG RANGE PLANNING	995,882	995,882	577,181	58%	406,411	170,770	42%
215 and 216 HCD BLOCK GRANT							
Interest Income/Other Revenue	244	244	470	192%	167	302	181%
215 and 216 HCD BLOCK GRANT	244	244	470	192%	167	302	181%
225 ASSET SEIZURE	979	979	740	76%	361	380	105%
229 LIGHTING AND LANDSCAPE	199,916	199,916	110,675	55%	104,867	5,808	6%
230 COMMUNITY FACILITIES DISTRICT	37,591	37,591	26,714	71%	11,766	14,948	127%
232 ENVIRONMENTAL PROGRAMS	553,277	553,277	314,810	57%	307,233	7,577	2%
234 MOBILE HOME PARK RENT STAB.	441	441	6,105	1384%	7,982	(1,876)	-24%
236 HOUSING MITIGATION	1,575,835	1,575,835	577,414	37%	827,680	(250,266)	-30%
240 EMPLOYEE ASSISTANCE	20,673	20,673	4,751	23%	6,984	(2,232)	-32%
246 COUNTYWIDE SOLID WASTE	1,628,603	1,628,603	803,802	49%	699,112	104,690	15%
247 ENVIRONMENT REMEDIATION	1,023	1,023	993	97%	1,225	(233)	-19%
255 HOUSING SUCCESSOR AGENCY	233,641	233,641	260,628	112%	284,662	(24,035)	-8%
260 PUBLIC ART	501	501	-	n/a	1,100	(1,100)	-100%
TOTAL SPECIAL REVENUE FUNDS	12,440,818	12,440,818	6,984,569	56%	5,695,721	1,288,848	23%
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	1,369,271	1,369,271	1,645,268	120%	5,934,606	(4,289,337)	-72%
302 PARK MAINTENANCE	540,773	540,773	507,669	94%	458,182	49,487	11%
303 LOCAL DRAINAGE	374,484	374,484	924,926	247%	585,911	339,015	58%
304 LOCAL DRAINAGE/NON AB1600	29,166	29,166	97,911	336%	86,905	11,006	13%
306 AGRICULTURE & OPEN SPACE PRESERVATION	5,058	5,058	51,218	1013%	120,474	(69,255)	-57%
308 STREET CIP	5,662,650	5,662,650	2,560,069	45%	3,110,049	(549,980)	-18%
309 TRAFFIC IMPACT	5,019,799	5,019,799	3,529,365	70%	6,726,984	(3,197,620)	-48%
315 PUBLIC SAFETY FACILITIES IMPACT	6,221,575	6,221,575	86,764	1%	148,515	(61,751)	-42%
346 PUBLIC FACILITIES NON-AB1600	1,165,537	1,165,537	382,591	33%	35,760	346,831	970%
347 PUBLIC FACILITIES IMPACT	138,168	138,168	25,144	18%	35,706	(10,561)	-30%
348 LIBRARY	480,582	480,582	65,709	14%	161,665	(95,956)	-59%
350 UNDERGROUNDING	29,592	29,592	12,098	41%	403,828	(391,731)	-97%
355 SCHOOL PEDESTRIAN/TRAFFIC SAFETY	482,291	482,291	208,925	43%	29,720	179,205	603%
360 COMMUNITY/REC IMPACT FUND	1,335,488	1,335,488	319,991	24%	202,144	117,847	58%
375 QUIMBY FEE	653,451	653,451	1,547,270	237%	-	1,547,270	n/a
TOTAL CAPITAL PROJECTS FUNDS	23,507,885	23,507,885	11,964,918	51%	18,040,448	(6,075,530)	-34%
DEBT SERVICE FUNDS							
420 CIVIC CENTER DEBT	292,184	292,184	171,649	59%	178,367	(6,718)	-4%
441 POLICE FACILITY BOND	387,490	387,490	226,114	58%	224,177	1,936	1%
TOTAL DEBT SERVICE FUNDS	679,674	679,674	397,762	59%	402,544	(4,782)	-1%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2022-23
For The Month Ended January 31, 2023
58% of Year Complete

	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
ENTERPRISE FUNDS							
640 SEWER OPERATION							
Sewer Service Fees	14,400,000	14,400,000	7,477,680	52%	7,176,755	300,925	4%
Interest Income/Transfers	38,548	38,548	20,402	53%	5,723	14,679	256%
Other Revenue/Current Charges	319,809	319,809	250,850	78%	198,057	52,793	27%
640 SEWER OPERATION	14,758,357	14,758,357	7,748,933	53%	7,380,535	368,398	5%
641 SEWER EXPANSION							
Interest Income	64,455	64,455	173,506	269%	60,975	112,531	185%
Development Impact Fee	4,336,657	4,336,657	505,602	12%	1,930,692	(1,425,090)	-74%
Transfer From-643 (Sewer Replacement)	13,310,782	13,310,782	3,748,942	28%	-	3,748,942	n/a
641 SEWER EXPANSION	17,711,894	17,711,894	4,428,050	25%	1,991,667	2,436,383	122%
642 SEWER RATE STABILIZATION	50,000	50,000	49,692	99%	94,487	(44,796)	-47%
643 SEWER-CAPITAL PROJECT	6,710,456	6,710,456	3,947,709	59%	2,754,522	1,193,187	43%
TOTAL SEWER FUNDS	39,230,707	39,230,707	16,174,383	41%	12,221,212	3,953,172	32%
650 WATER OPERATION							
Water Sales	16,400,000	16,400,000	8,667,639	53%	7,422,512	1,245,127	17%
Meter Install & Service	50,000	50,000	63,278	127%	36,611	26,667	73%
Transfers-In / Interest Income	580,372	580,372	351,530	61%	284,872	66,658	23%
Other Revenue/Current Charges	614,770	614,770	442,534	72%	507,250	(64,717)	-13%
650 WATER OPERATION	17,645,142	17,645,142	9,524,981	54%	8,251,245	1,273,735	15%
651 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	21,044	21,044	21,058	100%	8,764	12,294	140%
Development Impact Fee	918,214	918,214	140,572	15%	341,051	(200,479)	-59%
651 WATER EXPANSION	939,258	939,258	161,630	17%	349,815	(188,185)	-54%
652 WATER RATE STABILIZATION	-	-	23,629	n/a	81,093	(57,464)	-71%
653 WATER CAPITAL PROJECT	5,128,809	5,128,809	3,034,732	59%	2,959,590	75,142	3%
TOTAL WATER FUNDS	23,713,209	23,713,209	12,744,972	54%	11,641,743	1,103,229	9%
TOTAL ENTERPRISE FUNDS	62,943,916	62,943,916	28,919,355	46%	23,862,955	5,056,400	21%
INTERNAL SERVICE FUNDS							
730 INFORMATION SYSTEMS	2,233,768	2,233,768	1,307,526	59%	1,312,657	(5,131)	0%
740 BUILDING MAINTENANCE	1,655,704	1,655,704	965,867	58%	659,621	306,246	46%
741 BUILDING REPLACEMENT	836,114	836,114	500,919	60%	410,063	90,856	22%
745 CIP ADMINISTRATION	1,977,307	1,977,307	1,060,606	54%	1,106,214	(45,608)	-4%
760 UNEMPLOYMENT INSURANCE	2,317	2,317	2,173	94%	840	1,333	159%
770 WORKERS COMPENSATION	719,150	719,150	514,043	71%	444,608	69,435	16%
790 EQUIPMENT REPLACEMENT	2,219,595	2,219,595	1,622,284	73%	654,094	968,189	148%
791 EMPLOYEE BENEFITS	813,718	813,718	473,120	58%	355,179	117,941	33%
795 GENERAL LIABILITY INSURANCE	1,981,019	1,981,019	1,158,543	58%	1,003,144	155,399	15%
TOTAL INTERNAL SERVICE FUNDS	12,438,692	12,438,692	7,605,082	61%	5,946,421	1,658,661	28%
TOTAL FOR ALL FUNDS	\$ 162,522,555	\$ 162,522,555	\$ 80,277,833	49%	\$ 75,978,702	\$ 4,299,131	6%



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2022-23
For the Month Ended January 31, 2023
58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
010 GENERAL FUND								
I. ADMINISTRATION								
	CITY COUNCIL	\$ 17,335	\$ 430,915	\$ 251,675	\$ -	\$ 251,675	58%	\$ 224,067
	CITY ATTORNEY	64,359	1,081,769	453,995	160,604	614,599	57%	401,870
	CITY MANAGER	46,618	854,800	356,068	10,150	366,218	43%	362,885
	HUMAN RESOURCES	59,508	847,361	473,575	-	473,575	56%	404,758
	COUNCIL SVCS & RECORDS MGMT							
	Council Svcs & Records Mgmt	47,160	595,414	315,410	1,600	317,010	53%	351,760
	Elections	198,410	357,836	208,160	-	208,160	58%	13,941
	COUNCIL SVCS & RECORDS MGMT	245,570	953,250	523,570	1,600	525,170	55%	365,700
	FINANCE	137,684	2,552,145	996,807	649,993	1,646,800	65%	907,710
	TOTAL ADMINISTRATION	571,075	6,720,240	3,055,690	822,347	3,878,037	58%	2,666,991
II. COMMUNITY SERVICES								
	Membership Services & Rec. Programs	397,841	6,772,195	3,513,431	918,537	4,431,967	65%	2,877,255
	Recreation Facility Rentals	32,645	546,870	285,940	31,325	317,265	58%	307,660
	Innovative Transit	56,532	887,471	250,687	601,332	852,019	96%	-
	Community Services	38,434	644,107	314,361	58,559	372,920	58%	288,050
	Park Maintenance	89,496	1,495,918	707,301	56,250	763,551	51%	598,513
	Environmental Services	29,397	390,733	140,459	-	140,459	36%	120,516
	Countywide Solid Waste Program	29,901	354,416	206,149	-	206,149	58%	95,925
	Street Maintenance	316,866	2,710,389	1,342,416	119,056	1,461,472	54%	1,235,007
	Downtown Maintenance	14,949	325,886	102,417	18,987	121,404	37%	155,309
	Cable Television	14,328	74,758	23,674	-	23,674	32%	19,173
	COMMUNITY SERVICES	1,020,389	14,202,742	6,886,835	1,804,046	8,690,881	61%	5,697,408
	CODE COMPLIANCE	18,884	319,550	104,270	-	104,270	33%	101,686
	INFRASTRUCTURE PLANNING & CONGESTION MGMT	24,462	491,888	180,282	8,031	188,313	38%	172,923
	ECONOMIC DEVELOPMENT PROGRAMS	58,902	1,207,348	462,062	44,166	506,228	42%	411,432
	TOTAL COMMUNITY SERVICES	1,122,637	16,221,529	7,633,449	1,856,243	9,489,692	59%	6,383,450
III. PUBLIC SAFETY								
	POLICE							
	PD Administration	104,584	1,676,697	887,282	38,311	925,593	55%	981,936
	Field Operations	761,503	10,591,376	5,769,161	22,969	5,792,130	55%	5,300,715
	Support Services	214,105	3,389,174	1,596,119	-	1,596,119	47%	1,498,329
	Emergency Services/Haz Mat	17,562	234,368	120,603	-	120,603	51%	111,419
	Special Operations	301,758	3,900,732	2,308,177	-	2,308,177	59%	1,560,573
	Dispatch Services	154,989	2,116,137	1,170,875	-	1,170,875	55%	1,030,987
	POLICE	1,554,500	21,908,484	11,852,216	61,280	11,913,496	54%	10,483,958
	FIRE	763,228	8,653,847	4,845,459	378,524	5,223,983	60%	4,441,733
	TOTAL PUBLIC SAFETY	2,317,728	30,562,331	16,697,675	439,804	17,137,479	56%	14,925,691
IV. TRANSFERS								
	Other	1,067,276	4,647,315	4,110,934	-	4,110,934	88%	3,046,125
	TOTAL TRANSFERS	1,067,276	4,647,315	4,110,934	-	4,110,934	88%	3,046,125
	TOTAL GENERAL FUND	5,078,717	58,151,414	31,497,748	3,118,394	34,616,142	60%	27,022,256



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2022-23
For the Month Ended January 31, 2023
58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
SPECIAL REVENUE FUNDS								
202	STREET MAINTENANCE	405,844	909,478	408,364	-	408,364	45%	326,794
205	PUBLIC SAFETY/SUPP.LAW	100,104	101,252	100,730	-	100,730	99%	104,228
206	DEVELOPMENT SERVICES FUND							
	Planning	133,605	1,772,972	929,786	931	930,717	52%	1,161,783
	Building	209,901	2,452,139	1,259,649	134,548	1,394,196	57%	1,230,970
	Engineering	130,349	1,907,855	933,494	277,521	1,211,016	63%	863,597
206	DEVELOPMENT SERVICES FUND	473,855	6,132,966	3,122,929	413,000	3,535,929	58%	3,256,350
207	LONG RANGE PLANNING	81,945	936,040	523,456	34,985	558,441	60%	349,241
215/216	CDBG	7	81	47	-	47	58%	3,206
225	ASSET SEIZURE	63	759	443	-	443	58%	14,232
229	LIGHTING AND LANDSCAPE	8,482	224,538	103,187	17,646	120,833	54%	93,356
230	COMMUNITY FACILITIES DISTRICT	1,488	39,852	19,070	-	19,070	48%	15,236
232	ENVIRONMENT PROGRAMS	40,953	525,533	285,478	12,290	297,768	57%	231,632
234	MOBILE HOME PARK	73	881	514	-	514	58%	259
236	HOUSING MITIGATION	63,170	1,900,261	458,984	166,786	625,770	33%	396,427
240	EMPLOYEE ASSISTANCE	3,340	20,919	7,730	-	7,730	37%	9,613
246	COUNTYWIDE SOLID WASTE PROGRAM	130,917	1,842,223	869,207	757,447	1,626,655	88%	615,036
255	HOUSING SUCCESSOR AGENCY	48,796	1,143,490	693,563	183,333	876,896	77%	644,544
260	PUBLIC ART	57	17,000	18,050	-	18,050	106%	3,993
TOTAL SPECIAL REVENUE FUNDS		1,359,095	13,795,273	6,611,751	1,585,488	8,197,240	59%	6,064,150
CAPITAL PROJECT FUNDS								
301	PARK DEVELOPMENT	-	2,961,569	672,472	277,463	949,934	32%	4,149,377
302	PARK MAINTENANCE	59,441	664,980	390,797	-	390,797	59%	394,165
303	LOCAL DRAINAGE	10,928	11,167,922	756,791	1,037,694	1,794,485	16%	37,090
304	LOCAL DRAIN. NON-AB1600	2,559	279,113	45,810	21,332	67,142	24%	2,085
306	AGRICULTURE & OPEN SPACE PRESERVATI	10,488	275,854	73,415	-	73,415	27%	5,400,261
308	STREET CIP	513,866	8,318,556	6,812,727	1,021,660	7,834,387	94%	2,894,890
309	TRAFFIC IMPACT	465,880	9,301,872	4,126,884	5,124,624	9,251,507	99%	6,634,065
315	PUBLIC SAFETY FACILITIES IMPACT	177,534	10,050,626	548,990	386,034	935,024	9%	138,922
346	PUBLIC FAC.NON AB1600	1,259	3,413,224	24,131	466	24,598	1%	88,029
347	PUBLIC FACILITIES IMPACT	2,429	279,154	17,006	-	17,006	6%	15,939
348	LIBRARY IMPACT	18,576	222,916	130,034	-	130,034	58%	128,041
350	UNDERGROUNDING	95	1,194,704	666	-	666	0%	665
355	SCHOOL PEDESTRIAN & TRAFFIC SAFETY	4,359	443,838	41,322	1,350	42,672	10%	1,149,060
360	COMM/REC CENTER IMPACT	103,187	2,326,276	690,587	790,569	1,481,156	64%	218,671
375	QUIMBY FEE	102,510	1,564,865	176,764	249,634	426,398	27%	114
TOTAL CAPITAL PROJECTS FUNDS		1,473,111	52,465,468	14,508,397	8,910,827	23,419,224	45%	21,251,373
DEBT SERVICE FUNDS								
420	CIVIC CENTER DEBT	1,032	292,184	236,106	-	236,106	81%	233,828
441	POLICE FACILITY BOND DEBT	1,327	387,490	317,903	-	317,903	82%	312,609
TOTAL DEBT SERVICE FUNDS		2,359	679,674	554,009	-	554,009	82%	546,437



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2022-23
For the Month Ended January 31, 2023
58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
ENTERPRISE FUNDS								
SEWER								
640	SEWER OPERATIONS	951,475	16,300,411	8,969,493	132,817	9,102,310	56%	7,365,690
641	SEWER CAPITAL EXPANSION	84,890	32,172,615	2,440,496	1,089,320	3,529,816	11%	297,983
642	SEWER RATE STABILIZATION	151	1,818	1,060	-	1,060	58%	665
643	SEWER-CAPITAL PROJECTS	(6,626,035)	23,759,295	6,405,685	746,204	7,151,889	30%	5,251,172
TOTAL SEWER FUND(S)		(5,589,518)	72,234,139	17,816,734	1,968,341	19,785,075	27%	12,915,510
WATER								
	Water Operations	1,105,016	16,045,940	8,342,484	644,872	8,987,356	56%	7,766,859
	Utility Billing	97,178	1,147,979	540,507	55,120	595,627	52%	505,300
	Water Conservation	19,304	439,985	141,666	43,165	184,832	42%	62,719
650	WATER OPERATIONS	1,221,497	17,633,904	9,024,657	743,157	9,767,815	55%	8,334,878
651	WATER CAPITAL EXPANSION	59,823	893,125	417,624	20,315	437,939	49%	480,220
652	WATER RATE STABILIZATION	113	1,362	794	-	794	58%	217
653	WATER-CAPITAL PROJECTS	23,186	5,617,611	305,433	406,004	711,437	13%	543,193
TOTAL WATER FUND(S)		1,304,620	24,146,001	9,748,509	1,169,476	10,917,985	45%	9,358,509
TOTAL ENTERPRISE FUNDS		(4,284,899)	96,380,140	27,565,243	3,137,817	30,703,060	32%	22,274,018
INTERNAL SERVICE FUNDS								
730	INFORMATION SYSTEMS	140,975	2,619,930	1,197,624	134,825	1,332,449	51%	1,004,905
740	BUILDING MAINTENANCE	138,276	1,668,218	756,147	94,339	850,485	51%	603,732
741	BUILDING REPLACEMENT	20,484	1,836,451	89,010	56,894	145,904	8%	181,156
745	CIP ADMINISTRATION	143,828	1,982,153	1,055,523	11,290	1,066,813	54%	981,273
760	UNEMPLOYMENT	-	15,000	10,642	-	10,642	71%	3,846
770	WORKERS COMPENSATION	40,584	1,106,358	656,847	-	656,847	59%	707,534
790	EQUIPMENT REPLACEMENT	48,019	1,805,964	374,085	266,014	640,098	35%	423,735
791	EMPLOYEE BENEFITS FUND	107,405	700,000	530,446	-	530,446	76%	536,268
795	GEN. LIABILITY INSURANCE	10,100	1,893,436	1,698,279	4,650	1,702,929	90%	1,493,139
TOTAL INTERNAL SERVICE FUNDS		649,672	13,627,510	6,368,601	568,011	6,936,613	51%	5,935,587
REPORT TOTAL		\$ 4,278,056	\$ 235,099,480	\$ 87,105,749	\$ 17,320,537	\$ 104,426,286	44%	\$ 83,093,822

		 City of Morgan Hill Fund Activity Summary - Fiscal Year 2022-23 For The Month Ended January 31, 2023 58% of Year Complete							
Fund No.	Fund	Beginning Fund Balance 07-01-22	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved
010	GENERAL FUND	\$ 33,685,888	\$ 24,406,147	48%	\$ 31,497,748	54%	\$ (7,091,601)	\$ 3,118,394	\$ 23,475,893
TOTAL GENERAL FUND		\$ 33,685,888	\$ 24,406,147	48%	\$ 31,497,748	54%	\$ (7,091,601)	\$ 3,118,394	\$ 23,475,893
202	STREET MAINTENANCE	63,915	\$ 415,877	46%	\$ 408,364	51%	\$ 7,512	\$ -	\$ 71,427
205	PUBLIC SAFETY/SUPPL. LAW	251,291	100,716	99%	100,730	49%	(15)	-	251,276
206	DEVELOPMENT SERVICES	(495,437)	3,783,695	61%	3,122,929	51%	660,766	413,000	(247,672)
207	LONG RANGE PLANNING	1,197,975	577,181	58%	523,456	56%	53,725	34,985	1,216,715
215 / 216	CDBG	29,812	470	192%	47	58%	422	-	30,234
225	ASSET SEIZURE	101,644	740	76%	443	58%	298	-	101,942
229	LIGHTING AND LANDSCAPE	190,530	110,675	55%	103,187	46%	7,489	17,646	180,372
230	COMMUNITY FACILITIES DISTRICT	132,368	26,714	71%	19,070	48%	7,644	-	140,012
232	ENVIRONMENTAL PROGRAMS	236,258	314,810	57%	285,478	54%	29,332	12,290	253,300
234	MOBILE HOME PK RENT STAB.	69,992	6,105	1384%	514	58%	5,591	-	75,583
235	SENIOR HOUSING	236,079	-	n/a	-	n/a	-	-	236,079
236	HOUSING MITIGATION	5,879,386	577,414	37%	458,984	24%	118,430	166,786	5,831,030
240	EMPLOYEE ASSISTANCE	61,964	4,751	23%	7,730	37%	(2,978)	-	58,986
246	COUNTYWIDE SOLID WASTE	129,862	803,802	97%	869,207	47%	(65,406)	757,447	(692,991)
247	ENVIRONMENT REMEDIATION	139,118	993	97%	-	n/a	993	-	140,111
255	HOUSING SUCCESSOR AGENCY	3,091,721	260,628	112%	693,563	61%	(432,935)	183,333	2,475,452
260	PUBLIC ART	67,129	-	n/a	18,050	106%	(18,050)	-	49,079
TOTAL SPECIAL REVENUE FUNDS		\$ 11,383,607	\$ 6,984,569	56%	\$ 6,611,751	48%	\$ 372,817	\$ 1,585,488	\$ 10,170,936
301	PARK DEV. IMPACT FUND	\$ (822,989)	\$ 1,645,268	120%	\$ 672,472	23%	\$ 972,797	\$ 277,463	\$ (127,655)
302	PARK MAINTENANCE	2,567,344	507,669	94%	390,797	59%	116,872	-	2,684,216
303	LOCAL DRAINAGE	11,596,359	924,926	247%	756,791	7%	168,135	1,037,694	10,726,800
304	LOCAL DRAINAGE/NON-AB1600	1,374,682	97,911	336%	45,810	16%	52,101	21,332	1,405,451
306	AG. AND OPEN SPACE PRESERVATION	589,238	51,218	1013%	73,415	27%	(22,196)	-	567,042
308	STREET CIP	5,741,205	2,560,069	45%	6,812,727	82%	(4,252,658)	1,021,660	466,887
309	TRAFFIC IMPACT FUND	1,187,038	3,529,365	70%	4,126,884	44%	(597,519)	5,124,624	(4,535,105)
315	PUBLIC SAFETY FACILITIES IMPACT	3,221,824	86,764	1%	548,990	5%	(462,227)	386,034	2,373,563
346	PUBLIC FACILITIES NON-AB1600	2,878,803	382,591	33%	24,131	1%	358,459	466	3,236,796
347	PUBLIC FACILITIES IMPACT FUND	1,017,051	25,144	18%	17,006	6%	8,138	-	1,025,189
348	LIBRARY IMPACT FUND	1,444,583	65,709	14%	130,034	58%	(64,325)	-	1,380,258
350	UNDERGROUNDING	1,600,648	12,098	41%	666	0%	11,432	-	1,612,080
355	SCHOOL PEDESTRIAN/TRAFFIC SFTY	(46,063)	208,925	43%	41,322	9%	167,602	1,350	120,189
360	COMM/REC CTR IMPACT FUND	1,295,025	319,991	24%	690,587	30%	(370,596)	790,569	133,860
375	QUIMBY FEE	839,370	1,547,270	237%	176,764	11%	1,370,506	249,634	1,960,242
TOTAL CAPITAL PROJECT FUNDS		\$ 34,484,118	\$ 11,964,918	51%	\$ 14,508,397	28%	\$ (2,543,479)	\$ 8,910,827	\$ 23,029,812
420	CIVIC CENTER DEBT	\$ 173,445	\$ 171,649	59%	\$ 236,106	81%	\$ (64,457)	\$ 312	\$ 108,677
441	POLICE FACILITY BOND DEBT	166,744	226,114	58%	317,903	82%	(91,790)	396	74,558
TOTAL DEBT SERVICE FUNDS		\$ 340,189	\$ 397,762	59%	\$ 554,009	82%	\$ (156,247)	\$ 707	\$ 183,234
640	SEWER OPERATIONS	\$ 4,567,000	\$ 7,748,933	53%	\$ 8,969,493	55%	\$ (1,220,560)	132,817	3,213,623
641	SEWER IMPACT FUND*	20,552,531	4,428,050	25%	2,440,496	8%	1,987,554	1,089,320	21,450,765
642	SEWER RATE STABILIZATION	2,726,339	49,692	99%	1,060	58%	48,631	-	2,774,970
643	SEWER-CAPITAL PROJECTS	22,007,034	3,947,709	59%	6,405,685	27%	(2,457,976)	746,204	18,802,854
650	WATER OPERATIONS	4,289,349	9,524,981	54%	9,024,657	51%	500,323	743,157	4,046,515
651	WATER IMPACT FUND*	2,924,596	161,630	17%	417,624	47%	(255,994)	20,315	2,648,287
652	WATER RATE STABILIZATION	3,154,313	23,629	n/a	794	58%	22,835	-	3,177,148
653	WATER -CAPITAL PROJECT	10,397,946	3,034,732	59%	305,433	5%	2,729,299	406,004	12,721,241
TOTAL ENTERPRISE FUNDS		\$ 70,619,108	\$ 28,919,355	46%	\$ 27,565,243	29%	\$ 1,354,112	\$ 3,137,817	\$ 68,835,404
730	INFORMATION SERVICES	\$ 795,800	\$ 1,307,526	59%	\$ 1,197,624	46%	\$ 109,902	\$ 134,825	\$ 770,877
740	BUILDING MAINTENANCE	(166,058)	965,867	58%	756,147	45%	209,720	94,339	(50,676)
741	BUILDING REPLACEMENT	3,719,439	500,919	60%	89,010	5%	411,910	56,894	4,074,455
745	CIP ENGINEERING	8,327	1,060,606	54%	1,055,523	53%	5,084	11,290	2,120
760	UNEMPLOYMENT	316,781	2,173	94%	10,642	71%	(8,469)	-	308,312
770	WORKERS COMPENSATION	1,944,442	514,043	71%	656,847	59%	(142,804)	30,000	1,771,638
790	EQUIPMENT REPLACEMENT	6,113,244	1,622,284	73%	374,085	21%	1,248,199	266,014	7,095,429
791	EMPLOYEE BENEFITS FUNDS	(161,343)	473,120	58%	530,446	76%	(57,325)	-	(218,668)
795	GEN. LIABILITY INSURANCE	1,123,565	1,158,543	58%	1,698,279	90%	(539,736)	4,650	579,179
TOTAL INTERNAL SERVICE FUNDS		\$ 13,694,197	\$ 7,605,082	61%	\$ 6,368,601	47%	\$ 1,236,481	\$ 598,011	\$ 14,332,666
SUMMARY BY FUND TYPE									
GENERAL FUND GROUP		\$ 33,685,888	\$ 24,406,147	48%	\$ 31,497,748	54%	\$ (7,091,601)	\$ 3,118,394	\$ 23,475,893
SPECIAL REVENUE GROUP		11,383,607	6,984,569	56%	6,611,751	48%	372,817	1,585,488	10,170,936
DEBT SERVICE GROUP		340,189	397,762	59%	554,009	82%	(156,247)	707	183,234
CAPITAL PROJECTS GROUP		34,484,118	11,964,918	51%	14,508,397	28%	(2,543,479)	8,910,827	23,029,812
ENTERPRISE GROUP		70,619,108	28,919,355	46%	27,565,243	29%	1,354,112	3,137,817	68,835,404
INTERNAL SERVICE GROUP		13,694,197	7,605,082	61%	6,368,601	47%	1,236,481	598,011	14,332,666
TOTAL ALL GROUPS		\$ 164,207,107	\$ 80,277,833	49%	\$ 87,105,749	37%	\$ (6,827,916)	\$ 17,351,244	\$ 140,027,946

For Enterprise Funds: Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

*Unreserved fund balance includes bond proceeds reserved for projects listed in bond documents.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Cynthia Hasson, Assistant City Attorney

APPROVED BY: City Manager

TERMINATE LOCAL EMERGENCY PROCLAMATION

RECOMMENDATION(S)

Proclaim the termination of the local emergency related to the winter storms.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Preserving and Cultivating Public Trust

2022-2023 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The City of Morgan Hill experienced significant winter storms that commenced on December 31, 2022. Due to the extensive size of the storm, the Governor of California proclaimed a state of emergency throughout California on January 4, 2023. On January 5, 2023, the Morgan Hill Director of Emergency Services proclaimed a local emergency due to the ongoing winter storm causing damage throughout the City of Morgan Hill. City Council ratified the proclamation on January 11, 2023. Heavy rains, high winds, and flooding caused damage in several areas of the City. The emergency proclamation allowed the City's emergency operations team to issue orders and regulations necessary to protect public health and safety. The proclamation also allows the City to seek reimbursement for activities taken in response to the emergency. The City expended extensive resources to support the protection of public infrastructure and to support the health and safety of its residents. Now that this winter storm event is concluded, staff recommends the City Council terminate the local emergency.

COMMUNITY ENGAGEMENT:

Inform. City staff took extensive action during the emergency to inform residents about the storm threat, including frequent e-mail and social media updates and operating a 24/7 call center specific to the storm.

ALTERNATIVE ACTIONS:

None. The City is required to proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 5, 2023, the Director of Emergency Services proclaimed a local emergency due to the ongoing winter storm causing damage throughout the City of Morgan Hill.

City Council ratified the proclamation on January 11, 2023.

FISCAL AND RESOURCE IMPACT:

The estimated cost of the damage within the City is approximately \$500,000. The City is currently working with FEMA to obtain financial assistance.

CEQA (California Environmental Quality Act):

Not a Project. This is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment.

**A PROCLAMATION BY THE DIRECTOR OF EMERGENCY SERVICES
OF THE CITY OF MORGAN HILL
PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY**

WHEREAS, Ordinance number 706 (Municipal Code Chapter 2.44) of the City of Morgan Hill empowers the City Manager, as Director of Emergency Services, to proclaim, subject to ratification by the City Council within seven (7) days, the existence or threatened existence of a local emergency when the City of Morgan Hill (the "City") is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, the Director of Emergency Services of the City of Morgan Hill does hereby find:

That conditions of extreme peril to the safety of persons and property have arisen within the City, caused by winter storm with heavy rain and high winds expected with potential for flooding, commencing at or about 7:00 a.m. on December 31, 2022; and

That these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of said City, and

That the City Council of the City of Morgan Hill is not in session and cannot immediately be called into session;

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES DOES HEREBY FIND, DETERMINE, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. That the existence of a local emergency is hereby proclaimed throughout the City; and

Section 2. That during the existence of said local emergency, the powers, functions, and duties of the Director of Emergency Services and the emergency organization of the City shall be those prescribed by state law, ordinances, and resolutions of the City Council and the City's Emergency Operations Plan; and

Section 3. That the Emergency Services Coordinator, or his/her designee, is hereby designated as the authorized representative of the City of Morgan Hill for public and individual assistance for the purpose of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance; and

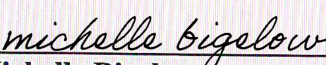
Section 4. This Proclamation shall remain in effect until such time as it is continued or terminated by the City Council of the City of Morgan Hill.

DATE: January 5, 2023



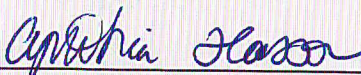
Christina J. Turner
Director of Emergency Services

ATTEST:



Michelle Bigelow
City Clerk

APPROVED AS TO FORM AND LEGALITY



Cynthia Hasson
Assistant City Attorney

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Dat Nguyen, Finance Director

APPROVED BY: City Manager

ADOPT UPDATED WATER CAPACITY (IMPACT) FEES

RECOMMENDATION(S)

1. Open/Close Public Hearing; and
2. Adopt resolution approving the 2023 NBS Water Capacity Fee Analysis and updating the Water Capacity (Impact) Fee as proposed in the study.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

2022-2023 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Water System Master Plan

REPORT NARRATIVE:

The City engaged NBS to conduct a water capacity (impact) fee study in conjunction with the recent water rate study update for two primary reasons: (1) to ensure that the fees are updated to comply with legal requirements and industry standards, and (2) to ensure that these fees reflect the cost of capital infrastructure needed to serve new connections or any person requesting additional capacity in the City's water utility.

The fees updated in this study are commonly referred to as "connection fees," "development impact fees," "capital facility fees," or, in this case, "capacity fees." The terms are often used interchangeably, and California Government Code Section 66013 defines these types of fees (referred to as a "capacity charge") as a one-time "charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities."

Whereas water rate increases imposed on existing customers require a protest ballot

under Proposition 218, capacity fees do not because they are considered an appropriate funding mechanism for facilities that benefit new development citywide. Therefore, these fees may be imposed by a majority vote of the governing legislative body which, in this case, is the Morgan Hill City Council.

NBS has calculated the new water capacity fees by meter size. A typical residential home uses the meter size of 5/8 to 1 inch. The proposed updated water capacity fee as calculated by NBS is \$11,692 per unit/meter versus an existing fee of \$4,908. The City uses capacity fee proceeds to fund capital investments in the water system, which include the future design and construction of planned facilities. The City has made investments in water infrastructure and plans to invest further in expanded and upgraded facilities. These investments make possible the availability and continued reliable service of high-quality water sufficient to meet the demands of growth within the City's service area. Significant inflationary and regulatory factors are driving increased capital costs, which are partially driving increased fees. Without these fees being increased for development, the City will not have appropriate resources to properly fund the required expansion of the system for that new development, which will put the City's water system and ratepayers at risk in the future.

The table below shows the proposed updated water capacity fees by meter size:

Meter Size	Capacity Fee Per Meter Size
5/8-1 inch meter	\$11,692
1.5-2 inch meter	\$23,385
2-3 inch meter	\$37,415
3-4 inch meter	\$74,830
4-6 inch meter	\$116,923
6-8 inch meter	\$233,845
8-inch meter	\$374,152

COMMUNITY ENGAGEMENT:

Inform

Public Notices related to water capacity fees consideration by the City Council have been distributed and advertised in accordance with the provisions of Sections 66016 through 66018 of the California Government Code.

A virtual public meeting with the developers and community members was held on

February 9, 2023.

ALTERNATIVE ACTIONS:

The City Council could direct staff to make adjustments to the proposed updated water capacity fees, phase in the increases, or delay updating the fees.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

December 5, 2007, City Council adopted updated certain impact fees, including Water Capacity Fee.

FISCAL AND RESOURCE IMPACT:

The fiscal impact of preparing this report is included in the staff's annual workplan. The proposed updated water capacity fees would provide sufficient funding from new development for capital improvements related to that development. The effective date of the updated fees will be 60 days from the adoption date by the City Council.

CEQA (California Environmental Quality Act):

Not a Project

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

FINAL REPORT

Water Capacity Fee Analysis

City of Morgan Hill

January 2023



OFFICE LOCATIONS:

Temecula – Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592

San Francisco – Regional Office
870 Market Street, Suite 1223
San Francisco, CA 94102

California Satellite Offices
Atascadero, Davis
Huntington Beach,
Joshua Tree, Riverside
Sacramento, San Jose

www.nbsgov.com



TABLE OF CONTENTS

Table of Figures	1
Section 1. Executive Summary	1
A. Background and Purpose	1
B. Overview of Capacity Fee Program Methodology	1
Section 2. Water Capacity Fee Study.....	3
A. Existing Connections and Projected Future Growth	3
B. Existing and Planned Assets	4
C. Adjustments to the Cost Basis.....	6
D. Calculated Capacity Fees	7
E. Water Capacity Fee Findings Statements	8
Section 3. Recommendations and Next Steps.....	9
A. Consultant Recommendations and Next Steps	9
B. Principal Assumptions and Considerations.....	9
Appendix - Water Capacity Fee Study Summary Tables	10

Table of Figures

<u>Figure</u>	<u>Page</u>
Figure 1. Current Water Customers.....	3
Figure 2. Existing and Projected Service Numbers	4
Figure 3. Summary of Existing Asset Values	5
Figure 4. Planned Assets Allocated to Current & Future Customers	6
Figure 5. Cash Reserves Allocated to Future Customers	6
Figure 7. Summary of Cost Basis Allocated to Future Customers	7
Figure 8. Summary of New Base Capacity Fees	7
Figure 9. Updated Water Capacity Fees	8

Section 1. Executive Summary

A. Background and Purpose

The City of Morgan Hill retained NBS to conduct a water capacity fee study in conjunction with the recent water rate study update for two primary reasons: (1) to ensure that the fees are updated to comply with legal requirements and industry standards, and (2) to ensure that these fees reflect the cost of capital infrastructure needed to serve new connections or any person requesting additional capacity in the City's water utility (referred to throughout as "future customers").

The fees updated in this study are commonly referred to as "connection fees," "development impact fees," "capital facility fees," or, in this case, "capacity fees." The terms are often used interchangeably, and California Government Code Section 66013 defines these types of fees (referred to as a "capacity charge") as a one-time "charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities."

This authorizes public agencies to impose capacity fees on customers connecting to, or upsizing their connection to the water system, to ensure that they pay their fair share of existing utility asset costs plus the costs of new facilities needed to serve them. In its simplest form, capacity fees are the result of dividing the cost (or value) of the Utility's current system assets, plus planned capital improvements, by the expected number of future customers. As a result, future customers connecting to the City's water utility would enter as equal participants with current customers regarding their financial commitment and obligations to the Utility.

Whereas water rate increases imposed on existing customers require a protest ballot under Proposition 218, capacity fees do not because they are considered an appropriate funding mechanism for facilities that benefit new development citywide. Therefore, these fees may be imposed by a majority vote of the governing legislative body which, in this case, is the Morgan Hill City Council. This report provides the documentation and findings necessary for the adoption of the proposed capacity fees.

B. Overview of Capacity Fee Program Methodology

Various methodologies have been and are currently used to calculate water capacity fees. The following lists the most common methodologies from the American Water Works Association's *Principles of Water Rates, Fees, and Charges*,¹ also referred to as Manual M1:

- The value of existing (historical) system assets, often called a "system buy-in" methodology.
- The value of planned future improvements, also called the "incremental" or "system development" methodology.

¹ *Principles of Water Rates, Fees, and Charges, Manual of Water Supply Practices*, Manual M1, American Water Works Association (AWWA), Seventh Edition, 2017.

- A combination of these two approaches.

This analysis uses the “Combination Approach,”² which requires new customers to pay both their fair share of existing system assets as well as their share of the planned future capital improvements needed to provide them with capacity in the City’s water system.

- Costs of planned future facilities and improvements required to serve new development are those that can reasonably be allocated to future development.
- The number of new units (i.e., growth) are those units projected to occur within the timeframe covered by the capacity fee analysis.

Capacity fees are one-time fees intended to reflect the cost of existing infrastructure and planned improvements available to new services which place new utility customers, or existing customers requesting an increase in service capacity, on equal basis with existing rate customers. Once new customers are added to the system, they then incur the obligation to pay the same service charges or water rates that existing customers pay.

This capacity fee study and the recommended fees assume a given level of development activity over the course of the study period based on data available from the City’s 2021 Water Supply Master Plan. The development that occurs may result in both different impacts and fee revenues than those that are calculated in this study. For that reason, regular updates are recommended to adjust the fees to match the needs created by the rate of actual development.

In developing the proposed fees, NBS worked cooperatively with City staff. The fees presented in this study reflect input provided by City staff regarding financial matters, available capacity in the water system, existing asset values, and planned capital improvements.

Section 2 discusses in more detail the development of the water capacity fees and presents the updated fees recommended for new and upsized connections.

² Method of calculating capital facility fees (also known as System Development Fees, Connection Fees, Capacity Fees) are set forth in the American Water Works Association’s *Principles of Water Rates, Fees and Charges*, Seventh Edition (2017), pages 311 to 347.

Section 2. Water Capacity Fee Study

A. Existing Connections and Projected Future Growth

The City currently has approximately 17,086 equivalent 1-inch water meters connected to the water system. The City has now implemented 1-inch meters as the standard (or base) meter size installed, but there are over 13,000 5/8- and 3/4-inch meters connected to the system. For the purpose of this study, 5/8- and 3/4-inch meters are treated the same as 1-inch meters, which is a common industry practice when setting rates and fees for smaller meter sizes. **Figure 1** shows the current number of meters connected to the system by size, meter equivalency factors, and meter equivalent units.

Figure 1. Current Water Customers

Meter Size	Existing Water Meters ¹	Meter Equivalence		1-inch Meter Equivalent Units
		Maximum Flow (gpm) ²	Equivalency to 1-inch meter	
5/8-1 inch meter	13,684	50	1.00	13,684
1.5-inch meter	401	100	2.00	802
2-inch meter	609	160	3.20	1,949
3-inch meter	14	320	6.40	90
4-inch meter	43	500	10.00	430
6-inch meter	5	1,000	20.00	100
8-inch meter	1	1,600	32.00	32
Total	14,757			17,086

1. Number of meters by size and customer class for May 2021.

2. Meter flow rates are from AWWA M-1 Table B-1.

Larger meters have the potential to use more of the system's capacity compared to smaller meters. The potential capacity demanded by each meter is proportional to the maximum hydraulic flow through each meter size as established by AWWA's hydraulic capacity ratios. The hydraulic capacity ratios (also known as flow factors or meter equivalencies) used in this study are shown in the fourth column of Figure 1. The maximum flow rate, in gallons per minute (gpm) for each size meter, is used to determine the number of equivalent 1-inch meter units currently connected to the water system.

For example, a 2-inch meter has a greater capacity, or potential peak demand, than a 1-inch meter. The "equivalency to a 1-inch meter" is calculated by dividing the maximum capacity or flow of larger meters by the capacity of the base (1-inch) meter size. The meter capacity factors shown in Figure 1 are the ratio of potential flow through each meter size compared to the flow through a 1-inch meter. The 1-inch meter is the base meter size for the Utility and is used to compare the capacities of the larger meters. For instance, column 4 in Figure 1 shows that the equivalency of a 2-inch meter is 3.20 times greater compared to a 1-inch meter.

The actual number of meters by size is multiplied by the corresponding meter equivalency to calculate the total number of equivalent meters. The number of equivalent meters is used as a proxy for the potential demand that each customer can place on the water system. A significant portion of a water system's peak capacity and, in turn, the Utility's fixed capital costs, is related to meeting system capacity

requirements. Therefore, the capacity fee for a new connection will be proportional to the service’s meter equivalence.

The equivalent meter calculation is summarized for standard use meters in Figure 1. Given that the State now requires fire suppression systems in all new single-family home construction, the minimum meter size going forward is a 1-inch meter. This difference has not changed the expected use within the home. Consequently, the City has chosen to treat 5/8-inch and 3/4-inch meters equivalent to 1-inch meters for the following reasons:

- The desire for a single, fixed meter charge across all customer classes.
- The overwhelming number of meters between 3/4-inch and 1- inch are for single-family or small multi-family residential properties.

The result of this analysis, summarized in Figure 1, is that while there are currently 14,757 connections to the potable water system, there are 17,086 equivalent (i.e., 1-inch) potable water meter units.

Figure 2 shows the existing and projected service numbers for the water utility. The anticipated future connections are based on the City’s planned customer growth rate of 2.1% annually for the next 16 years (per historical population growth). Existing capacity in the City’s water utility is allocated to current and future customers and the percentage assigned to current and future customers is based upon their assigned share of 1-inch meter equivalent units. As shown in Figure 2, new customers will be allocated about 29.8% of existing assets, planned assets, cash, and debt in the capacity fee calculation. This is calculated by taking the expected number of units (7,421) divided by the projected number of equivalent meters (24,327).

Figure 2. Existing and Projected Service Numbers

Demographic Statistics	Existing	Estimated Growth thru 2038 ¹	% Allocation Factors		Cumulative Change	
			Existing Customers	New Customers	Number of Units	% Increase
Equivalent Meters	17,086	24,327	70.2%	29.8%	7,241	42.4%

1. Customer growth is based on the historical population growth.

B. Existing and Planned Assets

The capital assets addressed in this study include existing assets and planned capital improvements (i.e., the system buy-in and incremental assets). An important aspect of this study is how the value of existing utility assets is determined. For example, the purchase price does not account for wear and tear, and current book value (i.e., purchase price less accumulated depreciation) typically underestimates the “true value” of facilities as it does not account for cost increases over time. Therefore, this study uses the replacement-cost-new-less-depreciation (RCNLD) approach summarized in **Figure 3** to estimate existing asset values that reflect estimated cost inflation and depreciation.

Figure 3. Summary of Existing Asset Values

Asset Category ¹	System Buy-In Cost Basis	Allocation Basis (%) ²		Distribution of Cost Basis (\$)	
		Existing Customers	Future Customers	Existing Customers	Future Customers
WATER BUILDING AND IMPROVEMENTS	\$ 34,732,548	70.2%	29.8%	\$ 24,394,899	\$ 10,337,649
WATER INFRASTRUCTURE	44,798,230	70.2%	29.8%	31,464,674	13,333,556
WATER EQUIPMENT/METERS	3,037,257	100.0%	0.0%	3,037,257	-
WATER LAND	-	0.0%	0.0%	-	-
VEHICLES	1,368,762	70.2%	29.8%	961,369	407,392
Total Capital Facilities & Equipment	\$ 83,936,797	71.3%	28.7%	\$ 59,858,200	\$ 24,078,597

1. Source file for Morgan Hill current water assets as of July 2022: FA1. *Water.xls*

2. Based on proportionate allocation between existing and future users. See Table 2 in Exhibit 1 for demographic expectations.

Some assets are excluded or allocated to existing customer only because rate payers will incur these expenses once connected to system.

Land is excluded from the analysis as it is not a depreciable asset.

The RCNLD is calculated by escalating the book value of existing assets to current-day values using inflation factors from the Handy-Whitman Index of Public Utility Construction Costs for Water Utility Construction. Figure 3 summarizes the System Buy-In Cost Basis by Asset Category for the water utility. For this analysis, assets that have exceeded their useful life (as defined in the City's asset records) were considered to have no remaining value. This approach was used for all assets, except land, which does not depreciate and is excluded from the analysis.

Most of the RCNLD costs were allocated to current customers based on the 70.2% allocation factor previously shown in Figure 2. When certain assets are considered to only serve current customers, they are allocated 100% to current customers. For example, existing meters are allocated 100% to current customers since they do not benefit future customers. Figure 3 shows the allocation of the \$83.9 million system buy-in costs to current and future customers. Future customers are allocated approximately \$24 million of the existing water utility assets, or about 28.7%, due to some assets being excluded from the calculation.

The City's capital improvement plans for the water utility extend to FY 2037/38 in the 2021 Water System Master Plan. Some of the cost estimates for planned future improvements used to calculate the system development component of the capacity fees are allocated using the allocation factors developed in the Master Plan, as these projects benefit both current and future customers. **Figure 4** includes a list of future capital improvement projects, where future customers are allocated about \$59.4 million of the planned asset costs.

Figure 4. Planned Assets Allocated to Current & Future Customers

Capital Project Description ¹	Future Cost Estimate (2020-2038) ¹	% Allocation		Distribution of Cost Basis (\$)	
		Existing Customers	Future Customers	Existing Customers	Future Customers
Pipeline Capacity Improvements	\$ 16,603,707	6.8%	93.2%	\$ 1,135,717	\$ 15,467,990
Storage Reservoir Capacity Improvements	\$ 16,712,442	50.6%	49.4%	\$ 8,453,440	\$ 8,259,002
Groundwater Well Capacity Improvements	\$ 30,240,228	18.5%	81.5%	\$ 5,605,821	\$ 24,634,407
Pump Station Capacity Improvements	\$ 5,846,185	50.3%	49.7%	\$ 2,938,790	\$ 2,907,395
Pressure Reducing Valve Capacity Improvements	\$ 101,878	55.0%	45.0%	\$ 56,033	\$ 45,845
Known Pipeline Renewal and Replacement	\$ 3,267,410	100.0%	0.0%	\$ 3,267,410	\$ -
Recommended Annual Pipeline Condition Renewal and Replacement (10-year)	\$ 18,297,698	100.0%	0.0%	\$ 18,297,698	\$ -
Reservoir Condition Improvements	\$ 3,863,750	100.0%	0.0%	\$ 3,863,750	\$ -
5-Year Improvement Projects	\$ 3,900,000	100.0%	0.0%	\$ 3,900,000	\$ -
Comprehensive Plan Updates	\$ 1,782,000	65.0%	35.0%	\$ 1,158,300	\$ 623,700
Calendar Year Budget Expansion	\$ 7,500,000	0.0%	100.0%	\$ -	\$ 7,500,000
Total	\$ 108,115,298	45.0%	55.0%	\$ 48,676,959	\$ 59,438,339

1. Capital Improvement Program projects and allocation to future customers from Water Supply Management Plan projects.

Source file: 2021_WSMPSUpdate_Report_FinalDraft_120321.pdf

* Some projects postponed 2 years from Water Supply Management Plan. Source file: Water CIP from MP revised.pdf

The City may have additional capital projects that are needed to serve future developments, and the costs of such projects may be recovered through a development agreement. This will be evaluated on a case-by-case basis as part of the development review process.

C. Adjustments to the Cost Basis

Before the capacity fees are developed, an adjustment is applied to the cost basis to account for existing un-restricted cash reserves and outstanding debt principal. Existing cash reserves are treated as an asset because they were funded by current customers and are available to pay for capital and/or operating costs of the water utility that future customers will benefit from, once connected. The cash reserves are, in a sense, no different than any other water utility asset. The existing cash reserves allocated to current and future customers are summarized in **Figure 5** using the same allocation factors from Figure 2. Future customers are allocated about \$6 million in cash reserves.

Figure 5. Cash Reserves Allocated to Future Customers

Cash Reserves	Beginning Cash ²	% Allocation		\$ - Allocation	
		Existing Customers	Future Customers	Existing Customers	Future Customers
Un-restricted Reserves					
Water Operations Fund (650)	\$ 2,842,432	70.2%	29.8%	\$ 1,996,423	\$ 846,009
Water System Replacement Fund (653)	\$ 11,271,126	70.2%	29.8%	\$ 7,916,436	\$ 3,354,690
Rate Stabilization Fund (652)	\$ 3,151,127	70.2%	29.8%	\$ 2,213,239	\$ 937,888
Restricted Reserves					
Impact Fund (651)	\$ 2,941,398	70.2%	29.8%	\$ 2,065,933	\$ 875,465
Total Beginning Cash	\$ 20,206,083	70.2%	29.8%	\$ 14,192,030	\$ 6,014,053

2. Total beginning cash is the sum of the projected cash balances in Funds 650, 651, 652, and 653 as of 07.01.21. Source file: Cash balance as of 6-30-22.xlsx

Since the water utility is including current debt service towards the capacity fees, the capacity fee calculation must include an adjustment to the cost basis to account for this. Since new connections pay

their share of existing asset values, including the debt payment principals on those same assets would double count the asset values included in the capacity fees. Therefore, future customers are credited approximately \$4.8 million as shown in **Figure 6**.

Figure 6: Debt Service Allocated to Future Customers

Bond Issue	Outstanding Principal ¹ (Fund 651/653)	% Allocation		\$ - Allocation	
		Existing Customers	Future Customers	Existing Customers	Future Customers
2014 Water Refunding & CIP Revenue Bonds	\$ 6,711,700	70.2%	29.8%	\$ 4,714,058	\$ 1,997,642
2014 Water Refunding & CIP Revenue Bonds	\$ 9,658,300	70.2%	29.8%	\$ 6,783,644	\$ 2,874,656
Grand Total	\$ 16,370,000	70.2%	29.8%	\$11,497,702	\$ 4,872,298

1. The 2014 Water Revenue Bonds were issued to: (1) finance 2014 Projects; (2) refinance 1999 Projects and refund the Series 1999 COPs; (3) refinance 2004 Projects and refund the Series 2004 Bonds; and, (4) to pay certain costs of issuance. Source file: 2014 water bonds debt service schedule.pdf.

D. Calculated Capacity Fees

The sum of the existing and future planned asset values (i.e., the system buy-in and system development costs), along with the adjustment for cash reserves, defines the total cost basis allocated to future customers. **Figure 7** summarizes this calculation.

Figure 7. Summary of Cost Basis Allocated to Future Customers

System Asset Values Allocated to Future Development	
<i>Costs Included in Existing System Buy-In:</i>	
Existing Assets	\$ 24,078,597
Planned, Future Capital Projects	59,438,339
Total: Existing & Future System Costs	\$ 83,516,936
<i>Adjustments to Cost Basis:</i>	
Cash Reserves	\$ 6,014,053
Outstanding Long-Term Debt (Principal)	(4,872,298)
Total: Adjustments to Cost Basis	\$ 1,141,756
Total Cost Basis for New Development	\$ 84,658,692

The total adjusted cost basis is then divided by the number of future customers, measured in 1-inch meter equivalents, expected to connect to the water utility (that is, the 7,241-meter equivalents) in order to determine the base capacity charge for a 1-inch water meter. This calculation is shown in **Figure 8**.

Figure 8. Summary of New Base Capacity Fees

Summary of Capacity Fee Calculation	Adjusted System Cost Basis	Build-Out Total (Units)	Base Capacity Fee
Proposed Capacity Fee	\$ 84,658,692	7,241	\$11,692

Based on the combined system buy-in and incremental capacity fee methodology, and the assumptions used in this analysis, NBS has calculated the new water capacity fees by meter size, as shown in **Figure 9**. The updated fees represent the maximum that the City can charge for new connections.

Figure 9. Updated Water Capacity Fees

Meter Size	Equivalency Factor		Capacity Fee Per Meter Size
	Maximum Continuous Flow (gpm) ¹	Equivalency to 1-inch meter	
5/8-1 inch meter	50	1.00	\$11,692
1.5-inch meter	100	2.00	\$23,385
2-inch meter	160	3.20	\$37,415
3-inch meter	320	6.40	\$74,830
4-inch meter	500	10.00	\$116,923
6-inch meter	1,000	20.00	\$233,845
8-inch meter	1,600	32.00	\$374,152

1. Source: AWWA M1, Table B-2. Assumes displacement meters for 3/4" through 2", Compound Class I for 3" through 6", and Turbine Class II for 8" through 10".

E. Water Capacity Fee Findings Statements

The new water capacity fees calculated in this report are based on regulatory requirements and generally accepted industry standards, and further detailed in *Appendix A*. This study concludes the following findings:

- The purpose of the City's water capacity fees is to ensure that new and upsized connections reimburse and/or mitigate a reasonable portion of the City's planned capital investment projects. These investments benefit and/or are necessary to accommodate the increased demand for water services.
- The City uses capacity fee proceeds to fund capital investments in the water system, which include the future design and construction of planned facilities.
- Capacity fees for new water customers vary depending on the size of the water meter serving the connection. Meter size is generally proportionate to the demands that a parcel places on the water utility system, specifically the peaking requirements related to the meter size.
- The City has made investments in water infrastructure and plans to invest further in expanded and upgraded facilities. These investments make possible the availability and continued reliable service of high-quality water sufficient to meet the demands of growth within the City's service area.
- Without capital investment in existing facilities, the water system capacity available to serve the needs of future connections would be uncertain. Without planned investments in future facilities, water service would not be sustainable at the level of service received by current users. The total value of planned water system assets that are attributable to serving future connections is identified in *Appendix A*.
- Upon payment of a capacity fee, a new customer incurs the obligation to pay the same ongoing service rates as existing customers, regardless of the date of connection to the system or the actual start of service. These fees ensure that, over time, ongoing service rates are not disproportionately burdened by the accommodation of system growth.

Section 3. Recommendations and Next Steps

A. Consultant Recommendations and Next Steps

NBS recommends the City take the following actions:

- **Approve and Accept this Study Report:** NBS recommends the City Council formally approve and adopt this study and its recommendations and proceed with the steps outlined below to implement the new capacity fees. This will provide documentation of the study and the basis for adopting the new capacity fees.
- **Implement New Water Capacity Fees:** Based on the analysis presented in this report, the City Council should implement the new water capacity fee of \$11,692 per 1-inch equivalent water meter unit, as described in this study.
- **Periodically Review Capacity Fees:** Any time an Agency adopts capacity fees, they should be periodically reviewed to incorporate new capital facility plans, significant repair and replacement projects, or new planning data (i.e., customer growth estimates). This will help ensure the fees generate sufficient revenue to cover the cost of capital projects, support the fiscal health of the City, and ensure that future customers bear their fair share of infrastructure costs. NBS also recommends applying an inflation factor to the capacity fees on an annual basis. Annually, the City should review the Engineering News Record's Construction Cost Indices and calculate the percentage change in construction costs and apply that change to the capacity fees to ensure they keep pace with cost inflation. Beginning January 1, 2022, the nexus study must be updated every eight years.
- The Mitigation Fee Act requires an agency to prepare a Development Impact Fee Report within 180 days of the last day of the fiscal year. This report should identify the beginning and ending balances in the fee report, the fees collected in the preceding year, the projects the fees were used for along with the percentage of the total project costs funded with fees, and the date expected projects are to start.

B. Principal Assumptions and Considerations

In preparing this study and the recommendations included herein, NBS has relied on a number of principal assumptions and considerations with regard to financial matters, number of customer accounts, asset records, planned capital improvements, and other conditions and events that may occur in the future. This information and assumptions were provided by sources we believe to be reliable, although NBS has not independently verified this data.

While we believe NBS' use of such information and assumptions is reasonable for the purpose of this Study and its recommendations, some assumptions will invariably not materialize as stated herein or may vary significantly due to unanticipated events and circumstances. Therefore, the actual results can be expected to vary from those projected to the extent that actual future conditions differ from those assumed by us or provided to us by others.

Appendix - Water Capacity Fee Study Summary Tables

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CITY OF MORGAN HILL
Water Capacity Fee Analysis
Demographic Data and Projections

EXHIBIT 1

TABLE 1 - METER EQUIVALENT UNITS

Meter Size	Existing Water Meters ¹	Meter Equivalence		1-inch Meter Equivalent Units
		Maximum Flow (gpm) ²	Equivalency to 1-inch meter	
5/8-1 inch meter	13,684	50	1.00	13,684
1.5-inch meter	401	100	2.00	802
2-inch meter	609	160	3.20	1,949
3-inch meter	14	320	6.40	90
4-inch meter	43	500	10.00	430
6-inch meter	5	1,000	20.00	100
8-inch meter	1	1,600	32.00	32
Total	14,757			17,086

1. Number of meters by size and customer class for May 2021.

2. Meter flow rates are from AWWA M-1 Table B-1.

TABLE 2 - EXISTING AND PROJECTED SERVICE NUMBERS

Demographic Statistics	Existing	Estimated Growth thru 2038 ¹	% Allocation Factors		Cumulative Change	
			Existing Customers	New Customers	Number of Units	% Increase
Equivalent Meters	17,086	24,327	70.2%	29.8%	7,241	42.4%

1. Customer growth is based on the historical population growth.

TABLE 3 - EXISTING ASSETS, ALLOCATION TO EXISTING AND FUTURE CUSTOMERS

Asset Category ¹	System Buy-In Cost Basis	Allocation Basis (%) ²		Distribution of Cost Basis (\$)	
		Existing Customers	Future Customers	Existing Customers	Future Customers
WATER BUILDING AND IMPROVEMENTS	\$ 34,732,548	70.2%	29.8%	\$ 24,394,899	\$ 10,337,649
WATER INFRASTRUCTURE	44,798,230	70.2%	29.8%	31,464,674	13,333,556
WATER EQUIPMENT/METERS	3,037,257	100.0%	0.0%	3,037,257	-
WATER LAND	-	0.0%	0.0%	-	-
VEHICLES	1,368,762	70.2%	29.8%	961,369	407,392
Total Capital Facilities & Equipment	\$ 83,936,797	71.3%	28.7%	\$ 59,858,200	\$ 24,078,597

1. Source file for Morgan Hill current water assets as of July 2022: FA1. Water.xls

2. Based on proportionate allocation between existing and future users. See Table 2 in Exhibit 1 for demographic expectations.
Some assets are excluded or allocated to existing customer only because rate payers will incur these expenses once connected to the system. Land is excluded from the analysis as it is not a depreciable asset.

TABLE 4 - ALLOCATION OF DEBT TO EXISTING AND FUTURE USERS

Bond Issue	Outstanding Principal ¹ (Fund 651/653)	% Allocation		\$ - Allocation	
		Existing Customers	Future Customers	Existing Customers	Future Customers
2014 Water Refunding & CIP Revenue Bonds	\$ 6,711,700	70.2%	29.8%	\$ 4,714,058	\$ 1,997,642
2014 Water Refunding & CIP Revenue Bonds	\$ 9,658,300	70.2%	29.8%	\$ 6,783,644	\$ 2,874,656
Grand Total	\$ 16,370,000	70.2%	29.8%	\$ 11,497,702	\$ 4,872,298

1. The 2014 Water Revenue Bonds were issued to: (1) finance 2014 Projects; (2) refinance 1999 Projects and refund the Series 1999 COPs; (3) refinance 2004 Projects and refund the Series 2004 Bonds; and, (4) to pay certain costs of issuance. Source file: *2014 water bonds debt service schedule.pdf*.

TABLE 5 - ALLOCATION OF CASH RESERVES TO EXISTING AND FUTURE USERS

Cash Reserves	Beginning Cash ²	% Allocation		\$ - Allocation	
		Existing Customers	Future Customers	Existing Customers	Future Customers
Un-restricted Reserves					
Water Operations Fund (650)	\$ 2,842,432	70.2%	29.8%	\$ 1,996,423	\$ 846,009
Water System Replacement Fund (653)	\$ 11,271,126	70.2%	29.8%	\$ 7,916,436	\$ 3,354,690
Rate Stabilization Fund (652)	\$ 3,151,127	70.2%	29.8%	\$ 2,213,239	\$ 937,888
Restricted Reserves					
Impact Fund (651)	\$ 2,941,398	70.2%	29.8%	\$ 2,065,933	\$ 875,465
Total Beginning Cash	\$ 20,206,083	70.2%	29.8%	\$ 14,192,030	\$ 6,014,053

2. Total beginning cash is the sum of the projected cash balances in Funds 650, 651, 652, and 653 as of 07.01.21. Source file: *Cash balance as of 6-30-22.xlsx*

TABLE 6 - PLANNED CAPITAL IMPROVEMENT COSTS, ALLOCATED TO EXISTING AND FUTURE CUSTOMERS

Capital Project Description ¹	Future Cost Estimate (2020-2038) ¹	% Allocation		Distribution of Cost Basis (\$)	
		Existing Customers	Future Customers	Existing Customers	Future Customers
Pipeline Capacity Improvements	\$ 16,603,707	6.8%	93.2%	\$ 1,135,717	\$ 15,467,990
Storage Reservoir Capacity Improvements	\$ 16,712,442	50.6%	49.4%	\$ 8,453,440	\$ 8,259,002
Groundwater Well Capacity Improvements	\$ 30,240,228	18.5%	81.5%	\$ 5,605,821	\$ 24,634,407
Pump Station Capacity Improvements	\$ 5,846,185	50.3%	49.7%	\$ 2,938,790	\$ 2,907,395
Pressure Reducing Valve Capacity Improvements	\$ 101,878	55.0%	45.0%	\$ 56,033	\$ 45,845
Known Pipeline Renewal and Replacement	\$ 3,267,410	100.0%	0.0%	\$ 3,267,410	\$ -
Recommended Annual Pipeline Condition Renewal and Replacement (10-year)	\$ 18,297,698	100.0%	0.0%	\$ 18,297,698	\$ -
Reservoir Condition Improvements	\$ 3,863,750	100.0%	0.0%	\$ 3,863,750	\$ -
5-Year Improvement Projects	\$ 3,900,000	100.0%	0.0%	\$ 3,900,000	\$ -
Comprehensive Plan Updates	\$ 1,782,000	65.0%	35.0%	\$ 1,158,300	\$ 623,700
Calendar Year Budget Expansion	\$ 7,500,000	0.0%	100.0%	\$ -	\$ 7,500,000
Total	\$ 108,115,298	45.0%	55.0%	\$ 48,676,959	\$ 59,438,339

1. Capital Improvement Program projects and allocation to future customers from Water Supply Management Plan projects.

Source file: 2021_WSMUpdate_Report_FinalDraft_120321.pdf

* Some projects postponed 2 years from Water Supply Management Plan. Source file: *Water CIP from MP revised.pdf*

CITY OF MORGAN HILL
Water Capacity Fee Analysis
Unit Cost Calculation

EXHIBIT 5

TABLE 7 - DEVELOPMENT OF THE COST BASIS FOR NEW CUSTOMERS

System Asset Values Allocated to Future Development	
<i>Costs Included in Existing System Buy-In:</i>	
Existing Assets	\$ 24,078,597
Planned, Future Capital Projects	59,438,339
Total: Existing & Future System Costs	\$ 83,516,936
<i>Adjustments to Cost Basis:</i>	
Cash Reserves	\$ 6,014,053
Outstanding Long-Term Debt (Principal)	(4,872,298)
Total: Adjustments to Cost Basis	\$ 1,141,756
Total Cost Basis for New Development	\$ 84,658,692

TABLE 8 - DEVELOPMENT OF THE MAXIMUM CAPACITY FEE PER METER EQUIVALENT

Summary of Capacity Fee Calculation	Adjusted System Cost Basis	Build-Out Total (Units)	Base Capacity Fee
Proposed Capacity Fee	\$ 84,658,692	7,241	\$11,692

1. Refer to Exhibits 2 and 7 for detail of existing assets.
2. Refer to Exhibit 4 for detail related to planned assets.
3. Refer to Exhibit 3 for detail related to cash reserves and outstanding debt.
4. Refer to Exhibit 1 (Demographics) for growth projections.

CITY OF MORGAN HILL**Water Capacity Fee Analysis****Water Fee Classification and Calculation of Maximum Fee****EXHIBIT 6****TABLE 9 - WATER CAPACITY FEE BASED ON METER SIZE**

Meter Size	Equivalency Factor		Capacity Fee Per Meter Size
	Maximum Continuous Flow (gpm) ¹	Equivalency to 1-inch meter	
5/8-1 inch meter	50	1.00	\$11,692
1.5-inch meter	100	2.00	\$23,385
2-inch meter	160	3.20	\$37,415
3-inch meter	320	6.40	\$74,830
4-inch meter	500	10.00	\$116,923
6-inch meter	1,000	20.00	\$233,845
8-inch meter	1,600	32.00	\$374,152

1. Source: AWWA M1, Table B-2. Assumes displacement meters for 3/4" through 2", Compound Class I for 3" through 6", and Turbine Class II for 8" through 10".

Dat Nguyen

From: Dat Nguyen
Sent: Tuesday, February 21, 2023 9:51 AM
To: D. Muirhead
Subject: RE: comments Water Capacity Fee Analysis Study

Hello Doug,

Please see responses to your questions below:

Thanks,

Dat Nguyen, CPA, CGFM
Finance Director

City of Morgan Hill
Finance
17575 Peak Avenue, Morgan Hill, CA 95037

P 408.776.7379
dat.nguyen@morganhill.ca.gov
morgan-hill.ca.gov | [facebook](https://www.facebook.com/cityofmorganhill) | [twitter](https://twitter.com/cityofmorganhill)

From: D. Muirhead
Sent: Wednesday, February 8, 2023 8:48 AM
To: Dat Nguyen <Dat.Nguyen@morganhill.ca.gov>
Subject: comments Water Capacity Fee Analysis Study

Hello Dat,
My comments and questions on Water Capacity Fee Analysis Study.
Thanks, DougM

Water Capacity Fee Analysis
City of Morgan Hill January 2022
Community Meeting Thu Feb 09, 2PM-3PM @ ID: 893 6814 0878
comments dat.nguyen@morganhill.ca.gov

[Study] Background and Purpose
To ensure that the fees are updated to comply with legal requirements
and industry standards,

[Comment] Please identify those legal requirements and industry standards.

Legal Requirements. The Mitigation Fee Act (California Government Code sections 66010-66025) authorizes an agency to establish, increase, or impose fees as a condition for approval of a development project.

- The fees need to have a reasonable relationship between the amount of the fee and the cost of the public facilities attributable to the new development.
- The fees can only be used for the purpose for which the fee was collected.

- These fees may be imposed by a majority vote of the governing legislative body.

California Government Code Section 66013 defines a capacity fee as a one-time “charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities.” It authorizes public agencies to impose capacity fees, which are also referred to as system capacity charges, connection fees, or capital impact fees, on customers connecting to or upsizing their connection to the system, to ensure that they pay their fair share of utility assets, plus the costs of new facilities needed to serve them. In its simplest form, capacity fees are the result of dividing the cost (or value) of the Utility’s current system assets plus planned capital improvements, by the expected number of future customers. As a result, future customers connecting to the City’s utility would enter as equal participants, along with current customers, regarding their financial commitment and obligations to the City.

Industry Standards. In working with water agencies and their attorneys across California, NBS has found that the defensibility of the fee calculations is improved if the methodology follows an industry standard and that is used by many other agencies.

[Study] Overview of Capacity Fee Program Methodology

Consultants cite the most common methodologies from the American Water Works Association's Principles of Water Rates, Fees, and Charges, Seventh Edition, 2017.

[Comment] What legal or other authority specifies using this particular Association's definitions? A collection of water agencies are not a neutral party.

There are no legal requirements to use the AWWA standards. However, as mentioned above, using industry standards helps defensibility. AWWA is a professional society for water industry practitioners, whose members include water agencies, regulatory bodies, academics, as well professionals working with water. The society has many committees, one which focuses on water charges and fees, and publishes the referenced source. AWWA M1 Manual is a nationwide standard manual in calculating water related fees and charges. It has been a standard across America since the 1950's.

We acknowledge it is not a neutral party, but that could be said for almost all professional societies, associations, etc. For example, people give credibility to the American Medical Association and their publications and research, even though that association is comprised of medical professionals.

[Study] Existing and Planned Assets

The replacement-cost-new-less-depreciation (RCNLD) is calculated by escalating the book value of existing assets to current-day values using inflation factors from the Handy-Whitman Index of Public Utility Construction Costs for Water Utility Construction.

[Comment] There is no citation for the Handy-Whitman Index. What legal or other authority specifies using this particular publication's inflation factors?

There are no legal or regulatory requirements to use the Handy Whitman Index. There are several ways to escalate construction costs, but the Engineering News Record's Construction Cost Index and the Handy Whitman Index are two of the more popular sources used by cost estimators. NBS prefers the Handy Whitman Index as their indices are prepared by equipment/structure type.

[Study] Existing Connections and Projected Future Growth

The City has now implemented 1-inch meters as the standard (or base) meter size installed, but there are over 13,000 5/8- and 3/4-inch meters connected to the system. For the purpose of this study, 5/8- and 3/4-inch meters are treated the same as 1-inch meters, which is a common industry practice when setting rates and fees for smaller meter sizes.

[Comment] What is the basis for the Consultant's claim that this is "common industry practice"?

The 5/8 inch, ¾ inch, and 1 inch meters are sizes used by single-family residences. Many agencies are moving from the 5/8 and ¾ inch meters to 1 inch meters for single-family residences. The rate study assumption to treat them the same is based on their representation of a single-family residence.

[Comment] Since 5/8- and 3/4-inch meters support lower peak flows, it appears that you do this up-sizing solely to simplify the arithmetic.

New homes are being asked to install a 1 inch meter for fire protection. The 5/8 inch, ¾ inch, and 1 inch meters were combined to reflect residential users of the existing system.

[Study] Existing Connections and Projected Future Growth

The anticipated future connections are based on the City's planned customer growth rate of 2.1% annually for the next 16 years (per historical population growth).

[Comment] The historical population growth was influenced by the housing growth control limits of the RDCS. State housing law removed those limits and have higher numbers of housing units going forward. Please justify your projected future connections growth rate given that the past is a poor predictor of the future in this case.

The City uses three (3) years average data from 2019-2022 to project future growth. SB 330, which suspended the City's RDCS, went into effect January 1, 2020, so the Projected Future Growth took into account the impact of the suspension of the City's RDCS.

[Study] Consultant Recommendations and Next Steps

Implement New Water Capacity Fees: Based on the analysis presented in this report, the City Council should implement the new water capacity fee of \$11,692 per 1-inch equivalent water meter unit,

[Comment] Does this study protect you from claims that the new Housing Element does not encourage affordable housing by removing barriers,

in this case a building cost of \$11,692 per 1-inch equivalent water meter unit?

This study represents the maximum amount the City can charge for a capacity fee. It is the City Council's prerogative to adopt any fee that does not exceed this calculation. Adopting a fee lower than recommended means the City will need to find another funding source for the new development. The only feasible alternative funding source would likely be user rates. The City is not recommending supporting new development with user rates. Without appropriate fundings the City will not be able to construct the necessary improvements such as wells and reservoirs to support reliable water service to the City as development occurs.

[Study] Water Capacity Fee Findings Statements

- * The purpose of the City's water capacity fees is to ensure that new and upsized connections reimburse and/or mitigate a reasonable portion of the City's planned capital investment projects.
- * These capacity fees ensure that, over time, ongoing service rates are not disproportionately burdened by the accommodation of system growth.

[Study] Background and Purpose

- * To ensure that these fees reflect the cost of capital infrastructure needed to serve new connections or any person requesting additional capacity
- * This authorizes public agencies to impose capacity fees on customers connecting to, or upsizing their connection to the water system, to ensure that they pay their fair share of existing utility asset costs plus the costs of new facilities needed to serve them. ... Future customers connecting to the City's water utility would enter as equal participants with current customers regarding their financial commitment and obligations to the Utility.

[Comment] I can understand a new customer paying for expansion of the existing system if it cannot accommodate that need. And I assume that debt service on the existing system is factored into the monthly billing for all. But I do not understand this "backdating" where the new customer is charged for some part of the existing system even when no change is needed to that system to serve the new connection.

Since current customers have previously invested in the current system, capacity fees for new customers are to equitably buy-in the existing ratepayers' investment in oversizing the infrastructure to accommodate future customers. This puts the future customers on a 'level playing field' as current customers in regard to their investment in the current capacity of the system.

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL UPDATING THE WATER CAPACITY (IMPACT) FEES

WHEREAS, new development within the City of Morgan Hill ("City") will continue to result in additional population and business growth, and such growth will continue to place additional burdens on various City facilities, infrastructure and services, requiring construction of expanded and/or new City facilities and services; and

WHEREAS, all development within the City should bear a proportionate financial burden in the construction and improvement of public facilities and services necessary to service the growth engendered by such development; and

WHEREAS, the imposition of development impact fees is the preferred method of ensuring that new development bears its proportionate share of the cost of public facilities and service improvements; and

WHEREAS, imposition of impact fees to finance public facilities and service improvements required by new development is necessary in order to avoid adversely impacting existing facilities and services; and

WHEREAS, consistent with these principles, Chapter 3.56 of the City's Municipal Code establishes Development Impact Mitigation Fees; and

WHEREAS, Municipal Code Section 3.56.060 provides for revision of established fees, including increases, by resolution; and

WHEREAS, the City Council has received and duly considered the report authored by NBS Government Finance Group ("NBS") entitled "Water Capacity Fee Analysis" dated January 2023 (the "NBS Report"), and presented to the City Council on March 15, 2023; and

WHEREAS, the NBS Report analyzed the City's development activity based on data available from the 2021 Water System Master Plan; and

WHEREAS, as the NBS Report determined the public facilities and system improvements engendered by anticipated development in light of those various plans and existing and projected land use patterns and zoning; and

WHEREAS, as the NBS Report demonstrate, the water capacity (impact) fees adjusted by this resolution is based upon estimated costs for new public facilities and service improvements that will be required, incrementally, by new development within the City's sphere of influence; and

WHEREAS, as the NBS Report demonstrate, the water capacity (impact) fees adjusted by this resolution do not exceed the reasonable cost of providing public facilities and service improvements occasioned by development projects within the City; and

WHEREAS, the fees recommended by the NBS Report rationally relate to the reasonable cost of providing public facilities occasioned by the development projects and service improvements within the City's sphere of influence; and

WHEREAS, the NBS Report and all background data referenced in the report were available for public inspection and review at the City Clerk's office of the City of Morgan Hill; and

WHEREAS, City staff emailed information regarding the proposed adoption of and public hearing on the fees and a copy of the NBS Report to all known regular real estate and development firms and individuals who have done business in the City in the recent past; and

WHEREAS, on February 9, 2023, NBS and City staff hosted virtual community meeting on the NBS Report for those firms and individuals to provide them an opportunity to query the consultant and staff on how the water capacity (impact) fees were calculated; and

WHEREAS, a public hearing on adoption of this resolution and the updated fees shown in Exhibit A was noticed pursuant to and in compliance with Government Code section 6062(a), and set as part of a regular City Council meeting held on March 15, 2023, in the Council Chamber located at City Hall, 17555 Peak Avenue; and

WHEREAS, the City Council has received and duly considered all written and oral comments provided to it by staff and the public, which comments are hereby incorporated into the record on this matter; and

WHEREAS, the City Council deems it necessary that the water capacity (impact) fees be adjusted to ensure that new development in the City continues to pay its proportionate share of public facilities and service improvements necessary to accommodate such development in order to promote the public health, safety and welfare; and

WHEREAS, the City Council hereby incorporates the findings made in Municipal Code Section 3.56.010 and applies them in support of the adoption of this Resolution; and

WHEREAS, the Projects approved pursuant hereto are exempt from the California Environmental Quality Act (CEQA) under Section 15273 of Guidelines for CEQA and Public Resources Code Section 21080(b)(8) because they establish, modify and approve rates and charges for the purposes of obtaining funds for capital projects; and

WHEREAS, further reasons supporting the adjustment of the water capacity (impact) fees described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Updating Water Capacity (Impact) Fees" submitted for City Council consideration at its meeting of March 15, 2023, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference.

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that:

Section 1. The recitals, findings and determinations set forth above are true and correct and are incorporated by reference herein.

Section 2. The City Council hereby further finds as follows, with respect to the requirements of California Government Code sections 66000 through 66025:

- A. *Purpose of Fee.* The purpose of the water capacity (impact) fees is to ensure that new and upsized connections reimburse and/or mitigate a reasonable portion of the City's planned capital investment projects. These investments benefit and/or are necessary to accommodate the increased demand for water services.
- B. *Use of Fee Revenues.* The updated fees would be used to fund capital investments in the water system, which include the future design and construction of planned facilities.
- C. *Benefit Relationship.* The City has made investments in water infrastructure and plans to invest further in expanded and upgraded facilities. These investments make possible the availability and continued reliable service of high-quality water sufficient to meet the demands of growth within the City's service area. Without capital investment in existing facilities, the water system capacity available to serve the needs of future connections would be uncertain. Without planned investments in future facilities, water service would not be sustainable at the level of service received by current users.
- D. *Burden Relationship.* Facilities need is based on a combination of "system buy-in" and "system development" methodologies which requires new customers to pay both their fair share of existing system assets as well as their share of the planned future capital improvements needed to provide them with capacity in the City's water system.
- E. *Proportionality.* Capacity (impact) fees for new water customers vary depending on the size of the water meter serving the connection. Meter size is generally proportionate to the demands that a parcel places on the water utility system, specifically the peaking requirements related to the meter size.

Section 3. The City Council hereby adjusts the water capacity (impact) fees as stated in Exhibit A, which is attached hereto and incorporated by this reference. Except as modified herein, Resolution No 5592 and its attached fee schedule, along with the corresponding automatic annual adjustments pursuant to Municipal Code Section 3.56.050, shall remain in full force and effect.

Section 4. The City Council hereby orders that all adjustments in the water capacity (impact) fees be effective 60 days following adoption of this ordinance.

Section 5. The City Council hereby finds the approval of the adjustments in the water capacity (impact) fees of the City of Morgan Hill to be exempt from CEQA.

Section 6. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this resolution is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivision, sentences, clauses, phrases, words, or portions thereof be declared invalid.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 15th day of March, 2023 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

APPROVED:

MARK TURNER, Mayor

ATTEST:

MICHELLE BIGELOW, City Clerk

☐ **CERTIFICATION** ☐

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. ____, adopted by the City Council at a regular meeting held on March 15, 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

Michelle Bigelow, CITY CLERK

Exhibit A

UPDATED WATER CAPACITY (IMPACT) FEES

Meter Size	Capacity Fee Per Meter Size
5/8-1 inch meter	\$11,692
1.5-inch meter	\$23,385
2-inch meter	\$37,415
3-inch meter	\$74,830
4-inch meter	\$116,923
6-inch meter	\$233,845
8-inch meter	\$374,152

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Chris Ghione, Public Services Director

APPROVED BY: City Manager

APPROVE DESIGN CONSULTANT AGREEMENT WITH VERDE DESIGN FOR BUTTERFIELD PARK

RECOMMENDATION(S)

1. Authorize the City Manager to execute and administer a design consultant agreement for \$296,454 with Verde Design for the design of the Butterfield Park Site; and
2. Adopt a resolution to amend the City's Fiscal Year 2022-23 adopted budget to appropriate \$180,000 from the Park Impact Fund.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Supporting our Youth, Seniors, and Entire Community

2022-2023 Strategic Priorities

Economic Development

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

City staff has been working for the past few years to develop the Butterfield Park site in partnership with two potential operators. The potential site plans and approval to negotiate with partners were approved by the Council on August 3 and December 7, 2022. The City has completed negotiations with one of the potential partners and that proposed agreement is on the agenda for approval under another agenda item. The purpose of this agenda item is to enter into an agreement for the design of the City portions of the facility as well as the shared components.

The City is requesting approval for Verde Design to complete a design that can be bid for construction this summer. The agreement is for \$296,454. Verde Design has done the initial preliminary design work for the proposed site and the previous design for the original park site. Staff is recommending that Verde Design be awarded this project to reduce delays and for cost savings associated with providing the previous design work

on the project. The design work is expected to take 16 weeks. It is anticipated the partner agreements will reimburse the City for a percentage of the design and construction costs associated with the project.

COMMUNITY ENGAGEMENT:

Involve/Collaborate

Through the prior grant process, significant outreach to the community was performed on the design of the site. It is the intent of staff to utilize the existing design as the basis for any future partnership development. The proposed collaboration with the community partners is critical for the financial feasibility of the project. The invitation for letters of interest was posted on the City website and sent directly to local sports organizations.

ALTERNATIVE ACTIONS:

The City Council could choose to provide alternate direction to City staff. This alternate direction could include not moving forward with the project, delaying the project, directing staff to conduct a request for proposals on the design, and/or other actions. Should the alternate direction delay the design work, this could result in delays in moving forward with the partnership agreements.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Developing new park and recreation facilities is a central tenet of the Bikeways, Trails, Parks and Recreation Master Plan that the Council adopted in July 2017. The City Council authorized a grant application for development of this park site in July 2019 and again in October 2020. The City Council received an update on the partnership opportunities on August 3, 2022. The Parks and Recreation Commission reviewed this item and recommended moving forward with partnership agreement negotiation on November 15, 2022. On December 7, 2022, the City Council approved moving forward with negotiation of potential partners for the design of the facility.

FISCAL AND RESOURCE IMPACT:

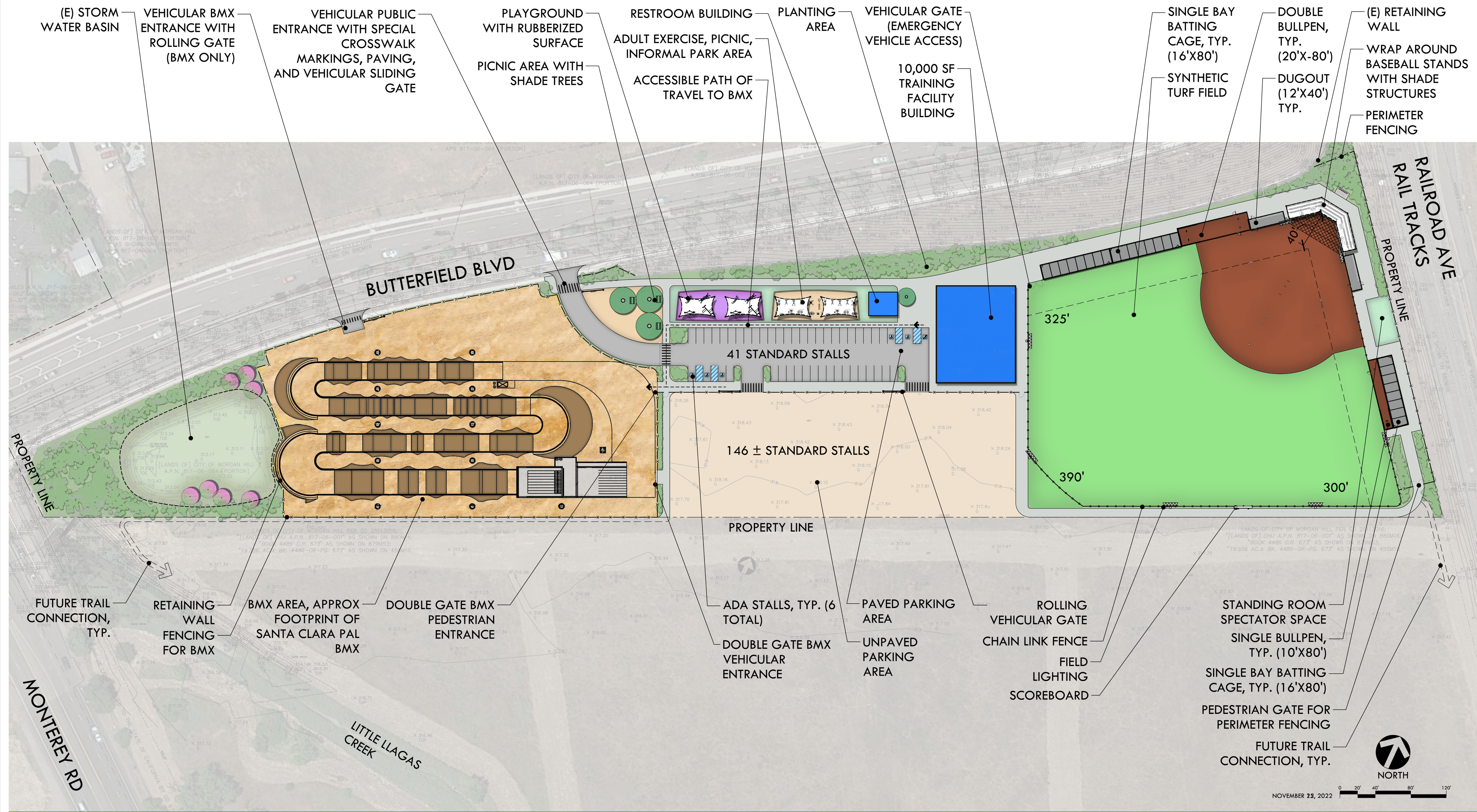
To fund the design work an additional appropriation of \$180,000 is necessary from Park Impact Fee Fund (Fund 301). Additionally, should construction of the site be approved by the Council this summer, an appropriation of approximately \$1.5 - \$2 million would be required to construct the City/shared portion of the site. Currently, the City's Capital Improvement Budget has funding of \$3.5 million for the park in FY 2025-26. City staff believe that higher than expected revenues in Quimby Fee Fund (Fund 375) and the lower cost of allowing partners to build-out the adjacent site, will allow for construction to begin this summer. The first of the two partner agreements is designed to allow the City to recover approximately 1/3 of the cost of design and construction of the shared improvements as part of the partner agreement.

CEQA (California Environmental Quality Act):

Mitigated Negative Declaration

An environmental assessment, including an Initial Study and Mitigated Negative Declaration, has been prepared for the project by David J. Powers & Associates, Inc. in

conformance with CEQA for the initial site plan and uses. Should the Council move forward with the design work, the City shall move forward with a consultant providing an updated analysis on the changes to the original design, which would likely result in an amendment to the initial Mitigated Negative Declaration.



CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS VERDE DESIGN

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Verde Design a California corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, ____, 20__.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2025 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be design of the Butterfield Park Site as further described in **Exhibit A**.
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$296,454.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Two Hundred Ninety Six Thousand Four Hundred Fifty Four dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement, and provided further that in no event shall such maximum compensation allowed for the term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 13 Notices. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which

compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The City Manager of CITY is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

- 5.1. **Non-Appropriations.** Notwithstanding anything contained in this Agreement to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for CITY for any reason whatsoever in any fiscal year, for payments due under this Agreement, CITY will immediately notify CONSULTANT of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** CONSULTANT represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by CONSULTANT in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of the CONSULTANT'S profession. By delivery of completed work, CONSULTANT certifies that the work conforms to the requirements of this Agreement and all applicable federal, state, and local laws. CONSULTANT shall perform all work and services under this Agreement in conformance with the time schedule set forth on Exhibit C, "Schedule of Performance," attached hereto and incorporated herein by this reference. CITY'S City Manager is authorized on behalf of CITY to modify the timeframes set forth on the Schedule of Performance within the term of this Agreement. If CONSULTANT desires to leave or store any of CONSULTANT'S equipment at a CITY site while CONSULTANT is performing work or service pursuant to this Agreement, CONSULTANT will first obtain the consent of CITY'S City Manager, or his/her delegate, to do so, and any such storage shall occur only in the manner and location allowed by such CITY official and entirely at CONSULTANT'S sole risk.

7. **Insurance Requirements.** CONSULTANT shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of CONSULTANT, including its subcontractors, employees, and agents, relating to, or arising from, the performance of any work or service under this Agreement, and must remain in full force and effect at all times during the period covered by this Agreement. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. CONSULTANT further understands that the CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to CONSULTANT, at any time as deemed necessary to protect the interests of the CITY.

7.1. **Insurance Types and Amounts.**

- 7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- 7.1.2. Automobile Liability. CONSULTANT shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if CONSULTANT does not own automobiles, then CONSULTANT shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.3. Workers' Compensation Insurance and Employer's Liability. CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If CONSULTANT is self-insured, CONSULTANT shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.
- 7.1.4. Pollution (Environmental) Liability. If the performance of CONSULTANT'S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, CONSULTANT shall procure and maintain Pollution Liability covering the CONSULTANT'S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.5. Professional Liability.
- 7.1.5.1. If the performance of CONSULTANT'S work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), CONSULTANT shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if CONSULTANT maintains a claims-made policy, CONSULTANT shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.
- 7.1.5.2. If the performance of CONSULTANT'S work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers,

hardware engineers, or other systems consultants), CONSULTANT shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of CONSULTANT'S work or service under this Agreement involves contact with minors, CONSULTANT shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.2. **Endorsements**. CONSULTANT shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

7.2.1. General Liability and pollution liability (when pollution liability applies).

7.2.1.1. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations.

7.2.1.2. "Waiver of Rights of Subrogation" - The insurer waives the right of subrogation against the City of Morgan Hill and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and

7.2.1.3. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.

7.2.2. Workers Compensation.

If the performance of CONSULTANT'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, CONSULTANT'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

7.3. **Qualification of Insurers**. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.

7.4. **Certificates**. CONSULTANT shall furnish CITY of Morgan Hill with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the CONSULTANT'S

agreement with the CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this section 7. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue
Morgan Hill, CA 95037

8. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.
- 9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against CONSULTANT and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT CONSULTANT OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision

or order finding that CONSULTANT or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision, or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision, or order within five (5) days of satisfying the final judgment, decision, or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

10. **Independent Contractor.** CONSULTANT is an independent contractor and not an agent or employee of CITY.

11. **Confidentiality.** All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.

12. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

13. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Verde Design
2455 The Alameda, Suite 200
Santa Clara, CA 95050

Address of CITY is as follows:

Chris Ghione
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

with a copy to:
City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

14. **Licenses, Permits and Fees.** CONSULTANT shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes, and regulations of the federal, state, and local government.

15. **Consultant's Proposal.** If applicable, this Agreement shall include CONSULTANT'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

16. **Maintenance of Records.**

16.1. **Maintenance.** CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then CONSULTANT shall retain said records until such action is resolved.

16.2. **Access to and Audit of Records.** The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

16.3. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT for work performed under this Agreement shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

17. **Familiarity with Work.** By executing this Agreement, CONSULTANT represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.

18. **Time of Essence.** Time is of the essence in the performance of this Agreement.

19. **No Assignment.** Neither this Agreement nor any portion shall be assigned by CONSULTANT, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be

void and, at CITY'S option, shall terminate this Agreement effective as of the date of such attempted assignment.

20. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

21. **Defense and Indemnification.**

- 21.1. **Defense and Indemnification for Design Professional Services.** Consistent with California Civil Code Section 2782.8, for design professional services to be performed under this agreement by a design professional, as that term is defined under said Section 2782.8, CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, and/or its agents, officers, employees, subcontractors, or independent contractors in performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement ("CLAIM") to the extent of CONSULTANT'S proportionate percentage of fault.
- 21.2. **Defense and Indemnification for Non-Design Professional Services.** For all services performed under this agreement not covered by Section 21.1 above, CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by CONSULTANT, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").
- 21.3. **Exceptions.** CONSULTANT is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence, active negligence, or willful misconduct of the CITY.
- 21.4. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMS alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by CONSULTANT.
- 21.5. **Right to Offset.** CITY shall have the right to offset against any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT'S failure to pay CITY promptly any indemnification arising under this Section (21) and any amount due CITY from CONSULTANT arising from CONSULTANT'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

- 21.6. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of the CONSULTANT to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.
22. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified, or provisions waived, only by a subsequent mutual written agreement executed by CITY and CONSULTANT. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.
23. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.
24. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.
25. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.
26. **Binding Agreement.** Notwithstanding the provisions of Section 19 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.
27. ☐ **Data Sharing.** This Agreement requires access by CONSULTANT to CITY'S Geographic Information System (GIS) DATA for CONSULTANT to perform the work. CITY agrees to provide the GIS DATA to CONSULTANT solely for the purpose of performance of contracted work with the CITY upon the terms and conditions specified in Exhibit D, incorporated herein by this reference.
28. **Electronic Signatures.** Unless otherwise prohibited by law or CITY policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the CITY.

[Signatures on Next Page]

29. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

IN WITNESS THEREOF, these Parties have executed this Agreement on the day and year shown below.

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

ATTEST:

CITY OF MORGAN HILL

City Clerk/Deputy City Clerk

City Manager

Michelle Bigelow
Print Name

Christina J. Turner
Print Name

Date: _____

Date: 2-13-23

APPROVED AS TO FORM:

Verde Design

City Attorney

By:

Derek McKee

Digitally signed by Derek McKee
DN: C=US, E=derek@verdedesigninc.com,
O=Verde Design, Inc., CN=Derek McKee
Date: 2023.02.13 10:21:44-08'00'

Derek McKee, President

Donald A. Larkin
Print Name

Print Name and Title of Signer.
If Corporate: Chairman, President or Vice
President

Date: _____

Date: _____

Nance H. Cronin, CFO
By:

Nance H. Cronin CFO

Print Name and Title of Signer.
If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: 2/13/2023

EXHIBIT A SCOPE OF SERVICES

Consultant shall provide design services for the Phase 1 Development of Butterfield Park. The following elements will be part of Phase 1 development as shown in the Preliminary Design Concept (included in this proposal):

- Asphaltic Parking Lot with Entry Driveway**
- Playground**
- Picnic Area**
- Dog Park**
- Security Fencing & Gate**
- Park Landscaping**
- Park Furnishings: Benches, Drinking Fountain, Parking Lighting, Bike Racks, Trash & Recycle Receptacles**
- Pre-fabricated restroom building (Optional Service)**

Verde Design shall undergo a design process to include start-up and 30% schematic design, 60% design development submittal, 95% submittal, 100% construction documents, bid and construction support services. Plans will be developed as one increment and a single bid package.

Starting with a review of the preliminary design concept that Verde Design developed, consultant will review the proposed programs with staff for alignment with any standards and equipment selection. A site walk and meeting with the City staff will occur to review input and program needs. Consultant will review conditions and proposed needs for the paving/circulation, parking, lighting, utility and other upgrades.

Consultant will review the site survey provided during the schematic design phase and can utilize any as-built plans the City has for the base information. A base plan will be setup per the proposed programs. Geotechnical report will be prepared.

After the start-up phase, consultant will develop the schematic design package. Consultant shall meet with staff halfway through this process to review the progress and verify questions on the design and engineering. Consultant will setup a systems design for the grading, drainage, material and electrical for the proposed programs and site work for discussion and review at the meeting.

Consultant shall include review and approval of schematic design by the Parks and Recreation Commission and City Council.

Following the approval of the design development package, consultant will move forward with 60% and 95% construction documents. Consultant will review the package with staff and coordinate comments. The next submittal will be the final bid submittal for a final review and design coordination. City specifications, bidding documents and standards will be incorporated. A bid set of plans will be prepared for bidding.

Included are services for storm water treatment alignment for the impervious surfacing being added. We may need to add or modify the drainage system for the proposed programs and storm water requirements. Storm water calculations and coordination with the City engineers

will occur to align the plans with the City's stormwater requirements. An erosion control plan and SWPP will be provided. Inspection services or QSP services will not be included within this scope. Consultant team includes ACEE to provide electrical design services for parking lot and pedestrian path lighting, electric vehicle (EV) chargers, power outlets, a new PG&E service application, and meter and switchboard design to accommodate this phase and future developments. AKH Structural Engineers will provide the structural design. Geo-Engineering Solutions is included for geotechnical coordination. A Public Restroom Company is included to provide engineering plan for a new restroom building to be reviewed by the City's Building Department. Included are several meetings with the City staff during the design process and construction documents phases.

The scope shall include the following phasing:

I. Start-Up Phase

- A. Establish files and in-house documentation.
- B. Receive all available data, maps, reports, etc.
- C. Obtain City documents relating to the site and other requirements, standards and regulations for development of the facilities.
- D. Coordinate any as-builts and site maps available with the City.
- E. Provide a draft milestone schedule.
- F. Review the site survey from the schematic design phase.
- G. Provide geotech reports for the project site for paving and subgrade construction recommendations. Percolation tests are also included for storm water treatment planning.
- H. Visit the project site to complete a visual inventory of the existing conditions and review pedestrian circulation, paving conditions, and proposed park elements with City staff.
 - 1. Kick-Off Meeting 1. Staff meeting to review schedule, deliverables, budget, and project process.
 - 2. Review any relevant City Standards and any other related projects or future work anticipated in the park.
 - 3. Review the park's preliminary design concept for direction related to this project scope.
 - 4. Review project schedule.

II. Schematic Design Phase - The following outlines the work to be completed to prepare plans and specifications for construction.

A. 30% Submittal Package

- 1. The submittal includes plans that will be developed to a preliminary level for discussion. We plan to make an approach to the design and engineering of the plans/systems and review our progress with City and then complete the design based on input. The plans show overall site design including:
 - a. Cover Sheet
 - b. Existing Conditions Plan
 - c. Grading Plan
 - d. Drainage and Utility Plan
 - e. Stormwater Treatment Plan
 - f. Layout Plan
 - g. Material and Detail Reference Plan
 - h. Conceptual Planting Plan & Palette
 - i. Construction Details
 - j. Electrical Plans

2. Provide representative technical specifications for the project with a table of contents listing. Specifications will be provided in six-digit CSI format.
 3. The submittal book supplements the plans and specifications showing:
 - a. Progress Report
 - b. Statement of Probable Construction Costs
 - c. Material cut sheets
 4. Redline and review, Internal Quality Control (QC).
 5. Submittal Preparation and coordination of plans and specifications will be provided for review.
- B. One review meeting with City staff to review plans and receive comments.
- C. Presentation to the City Council and Parks and Recreation Commission to review plans and receive comments.

II. Design Development Phase - The following outlines the work to be completed to prepare plans and specifications for construction.

A. 60% Submittal Package

1. The submittal includes plans and draft technical specifications. The plans show overall site design including:
 - a. Cover Sheet
 - b. Existing Conditions Plan
 - c. Demolition Plan
 - d. Grading Plan
 - e. Drainage and Utility Plan
 - f. Stormwater Treatment Plan
 - g. Layout Plan
 - h. Material and Detail Reference Plan
 - i. Irrigation Plan
 - j. Planting Plan
 - k. Construction Details
 - l. Electrical Plans
 - m. Structural Plans
 2. Setup technical specifications for the project. Specifications will be provided in six-digit CSI format. Setup City front end documents and overall table of contents.
 3. The submittal book supplements the plans and specifications showing:
 - a. Progress Report
 - b. Statement of Probable Construction Costs
 - c. Material cut sheets
 4. Redline and review, Internal Quality Control (QC).
 5. Submittal Preparation and coordination of plans and specifications will be provided for review.
- B. One review meeting with City staff to review plans and receive comments.

III. Construction Document Phase - The following outlines the work to be completed to prepare plans and specifications for construction.

A. 95% Submittal Package

1. The submittal includes plans and draft technical specifications. The plans show overall site design including:
 - a. Cover Sheet
 - b. Access Plan
 - c. Existing Conditions Plan
 - d. Demolition Plan

- e. Grading Plan
 - f. Drainage and Utility Plan
 - g. Storm Water Plan
 - h. Layout Plan
 - i. Material and Detail Reference Plan
 - j. Irrigation Plan
 - k. Planting Plan
 - l. Construction Details
 - m. Electrical Plans
 - n. Structural Plans
 - 2. The technical specifications show representative specifications for the project. Specifications will be provided in six-digit CSI format. City front end specification updates.
 - 3. The submittal book supplements the plans and specifications showing:
 - a. Progress Report
 - b. Statement of Probable Construction Costs
 - 4. Redline and review, Internal Quality Control (QC).
 - 5. Submittal Preparation and coordination of plans and specifications will be provided for review.
 - B. Edit technical specifications, City standard specifications and front-end documents.
 - C. City building department review and coordinate comments.
 - D. 100%/Bid Submittal – Coordinate, update and provide final bid package.
 - E. One review meeting with City staff to review plans and receive comments.
 - F. Play equipment inspection during plan development.
- IV. Bidding and Construction Support Phase**
- A. Bidding Services**
- 1. Answer questions during bidding
 - 2. Prepare addenda
 - 3. Evaluate the bids received and provide a recommendation on award.
 - 4. Prepare a conform set of plans for construction purposes.
- B. Construction Services**
- 1. Attend the pre-construction meeting.
 - 2. Review and approve shop drawings in a timely manner.
 - 3. Assist staff with RFI responses.
 - 4. Provide field directives for updates to the plan.
 - 5. Assist the City in evaluating any necessary contract change orders.
 - 6. Provide up to 20 site visits/construction meetings to review construction progress.
 - 7. Provide a final punch walk and report.
 - 8. As-builts and closeout documents review.
 - 9. Project administration.

Verde Design will provide the following products as outlined in the above Scope of Services:

- 1. 30% submittal – one electronic and two hardcopy sets of plans, costs and specifications
- 2. 60% submittal – one electronic and two hardcopy sets of plans, costs and specifications
- 3. 95% submittal – one electronic and two hardcopy sets of plans, costs and specifications
- 4. Bid submittal – one set of stamped plans / costs and specifications.
- 5. Bidding/Construction support – responses to bidder and contractor RFIs, addenda, conform set plan.

Exclusions:

Without attempting to be all-inclusive and for purposes of clarity, the following items are specifically not included in the Scope of Services:

1. Meetings other than those listed
2. Renderings and presentations to public bodies other than those listed
3. SWPPP services for design (QSP) inspection during construction. Services to be provided by contractor for inspection.
4. Testing during construction
5. Underground utility surveys
6. Utility runs off-site
7. Survey property lines or easement locations
8. Permit fees associated with the project
9. Access plans – ADA site plan and evaluation of existing conditions
10. Pump or lift station design
11. 3D graphics
12. Arborist report
13. CEQA process

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

Phase A: 30% Submittal \$92,029
Phase B: 60% Submittal \$51,905
Phase C: 95% & Bid Submittal \$57,510
Phase D: Bid & Construction Support \$48,400
Pre-Fab Building - Engineering Plans \$12,015
Pre-Fab Building – Electrical Service \$4,595
Design Contingency (Additional Work Outside Scope) - \$30,000

Total - \$296,454

Project Rates

Principal	\$255.00 per hour
Project Manager/Construction Manager	
Level Four	\$240.00 per hour
Level Three	\$220.00 per hour
Level Two	\$180.00 per hour
Level One	\$165.00 per hour
Project Engineer	
Level II	\$180.00 per hour
Level I	\$165.00 per hour
IT Manager	\$180.00 per hour
CAD Manager	\$175.00 per hour
Project Designer	\$160.00 per hour
Job Captain/Staff Engineer/Construction Administrator	\$150.00 per hour
Draftsperson Level II	\$145.00 per hour
Draftsperson Level I	\$140.00 per hour
Project Administrator	\$85.00 per hour
Intern	\$75.00 per hour

Reimbursable Rates

Blueprints, Printing and Reproductions	Cost plus 10%
Sub Consultant Services	Cost plus 10%

Reimbursable Expenses

Blueprints and Reproductions Travel Expenses
Photography Parking and Toll Expenses
Models and Renderings Permit Fees
Postage/Overnight Mail Service Courier Delivery Service

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

30% Submittal: 4 Weeks

60% Submittal: 4 Weeks

95% Submittal: 4 Weeks

Bid Submittal: 4 Weeks

Bidding/Construction 28 Weeks or as extended by the City

RESOLUTION NO. 22-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL APPROVING AN AMENDMENT TO
THE CITY'S FISCAL YEAR 2022-2023 BUDGET IN THE
PARK IMPACT FUND (FUND NO. 301) TO APPROPRIATE
\$180,000, THEREFOR**

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, the reasons supporting this Resolution are set forth in detail in that certain City Council Staff Report entitled "Approve Design Consultant Agreement with Verde Design for Butterfield Park" submitted for City Council consideration at its meeting of March 15, 2023, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 2022-2023 as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public meeting at which the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the City's previously adopted Fiscal Year 2022-2023 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and

- b. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2022-2023 Budget of City.

Section 3. This Resolution shall take effect immediately upon adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 15th day of March 2023 by the following vote:

AYES:	COUNCIL MEMBERS:	None
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

∞ **CERTIFICATION** ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-_____ adopted by the City Council at the meeting held on the 15th day of March 2023.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

MICHELLE BIGELOW, City Clerk

AGENDA BUDGET SCORECARD**FISCAL YEAR 2022-2023****ADJUSTMENT #**

005

FUND:**DEPARTMENT:****OBJECT:**

301	Park Impact Fund
8051	Park Development
86360	CONSTRUCTION

AGENDA DATE:

03/15/23

AGENDA ITEM TITLE:

Approve Design Consultant Agreement with Verde Design for Butterfield Park

	07/01/22 AUDITED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/23 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	831,183	1,369,271	1,278,096	922,358
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	244,063	(244,063)
RECOMMENDED ACTION		-	180,000	(180,000)
RESULT OF RECOMMENDED ACTION	831,183	1,369,271	1,702,159	498,295

CITY COUNCIL STAFF REPORT

MEETING DATE: March 15, 2023

PREPARED BY:

Chris Ghione, Public Services Director

APPROVED BY: City Manager

APPROVE PARTNER AGREEMENT FOR BUTTERFIELD PARK DEVELOPMENT WITH FOUNDATION FOR A BETTER RIDE IN COLLABORATION WITH USA BMX

RECOMMENDATION(S)

Authorize the City Manager to execute and administer an operator agreement with Foundation for a Better Ride for the construction, operations, and maintenance of a BMX facility at the Butterfield Park site.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Supporting our Youth, Seniors, and Entire Community
Enhancing Diversity and Inclusiveness

2022-2023 Strategic Priorities

Economic Development

Guiding Documents

Bikeways, Trails, and Recreation Master Plan
Economic Blueprint

REPORT NARRATIVE:

On December 7, 2022, the City Council authorized staff to pursue partnership agreements with Dub Baseball and USA BMX for development of portions of the Butterfield Park site. This authorization occurred after a long review period by staff and previous direction and recommendations by the City Council and the Parks and Recreation Commission. The City property at Butterfield Boulevard and Monterey Road has been identified as a potential new park space containing both ball fields, a BMX pump track, and other amenities. The property is approximately 8 acres and has been designated for future park use. This property has been environmentally cleared for park development with the designated amenities through a CEQA process. Additionally, the City has recently purchased approximately 20 additional acres of adjacent property. However, this recently purchased property is outside the City limits and within the County, and development of this property is planned for further down the road.

The initial development process for this park site was completed for an application to

the State of California Department of Park and Recreation for its Statewide Parks Program. Unfortunately, due to the competitive nature of the grant program and the City's demographic makeup, the City's grant applications for the program were not successful. However, during the grant application process, the City engaged potential partners who were willing to take on significant portions of the park maintenance, as the City does not have the funding available to increase park maintenance services on a Citywide basis. Over the past two years, the City has continued to see interest from prospective partners in the development of this property for both the benefit of the community and the partner organizations. Based on this interest, the City released an "Invitation to Partner" to allow the City to more formally explore potential partners in the development and operation of the park and recreation space. Without partners, the full development of even the first 8 acres will be at least a decade into the future. In submitting proposals, potential partners were asked to use the criteria outlined in developing their letters of interest. The required criteria in the RFP included:

- Provides a direct benefit to the public and an opportunity for direct use by the public.
- Aligns with the environmental documents prepared for the site.
- Safe use of the site from a public safety perspective.
- Compatible with the future development of park space on the site and adjacent site.

Additionally, desired criteria were also included in the RFP:

- Contribution of capital funding for the development of park amenities.
- Contribution of operational funding to support overall site maintenance beyond maintenance of the direct amenities used by the partner organization.

Following the update on August 3, 2022, City staff began moving forward with a design consultant and the two organizations to space plan for a build out with both organizations and City park facilities on the 8 acres. Additionally, the City would work to develop a general partnership framework with both partners on site development. Following this work, the next step was to return to the Council with a site development plan, which is the purpose of this item. An initial site development/space planning plan has been created and is included as Exhibit B of the Attached Agreement. As can be viewed in the site plan, the site can be segmented into three areas. The first on the west side of the site includes the BMX area. The second, on the east side of the site, includes the baseball field area. The third in the center would include public park space and shared parking space. The additional undeveloped 20 acres is planned for use for overflow parking and also could include walking trails in the near term, until it is formally developed down the road.

The existing site plan (Attachment 1), previously reviewed by the Council, demonstrated that there will be adequate space for both partners on the site. The proposed park space would be developed in a public non-profit partnership with two partners. The site would include the following amenities:

1. City non-leased property for public park space and shared amenities. City to lead operations and maintenance, with identified payment from groups for shared costs.
2. Baseball leased property to be developed privately for the organization's use and required public access use of the facilities.
3. BMX leased property to be developed privately for the organization's use and required public access use for the facilities.

The purpose of the partner agreements was to allow development of the site with funding from the non-profit partners while ensuring a benefit to the Morgan Hill community. The major benefits discussed by the Council and Parks and Recreation Commission were ensuring the facilities are available for the community and specifically supporting the underrepresented portions of the community.

The first of the two partner agreements has been negotiated between City staff and Foundation for a Better Ride. Foundation for a Better Ride is a local non-profit organization that is working as a member non-profit under USA BMX. The proposed agreement is included as Attachment 2. The key provisions of the agreement are outlined below:

- Operator agreement that allows construction and operations of a BMX track on the west side of the park property
- 10 Year Agreement Term
- Ability for the City to terminate the agreement early with repayment of costs spent by the Operator on development of the site
- Requires the Operator to provide the minimum Community Benefits outlined below:
 - Discounted fees shall be provided to all Morgan Hill residents.
 - To encourage participation from females in Morgan Hill, the Operator shall provide a 25% discount on all fees to female participants residing within Morgan Hill.
 - To encourage participation from low-income areas, youth participants residing in Morgan Hill shall be eligible for up to a 50% discount based upon income level. Income levels shall be determined by the City of Morgan Hill Recreation Division's current Financial Assistance levels.
 - The Operator shall provide free use to Morgan Hill residents following all Sunday races for a minimum of 2 hours, unless earlier closure is required due to sunset occurring prior to 2 hours following completion of the races.
- Requires the operator to pay the City back for 1/3 of the improvements made to the shared section of the facility.
- Provide the City with Quarterly Financial Statements

It is envisioned that the BMX track will host regular track practices and local/regional races and will provide some sports tourism benefits to the community. The track would

not bring larger scale events within its first several years, as organizers must provide a previous track record of being able to host events. The track's primary benefit shall be local in nature to Morgan Hill and Santa Clara County. While not required under CEQA requirements, the City would review congestion management numbers in relation to its CEQA work. City staff believe that the increased traffic will be based on the following use estimates.

- Local Traffic - 2-3 Afternoons and Evenings per week 4pm to 9pm - Approximately 75 cars
- Regional Traffic - 1 Weekend day per week 7am to 5pm - Approximately 120 cars
- National/Statewide Events - 1-2 weekends per year - 750 cars (will not have national events in first 3-5 years of operation)

After receiving an anonymous letter providing some negative comments regarding Foundation for a Better Ride organization, City staff have spent additional time reviewing the organization and the claims outlined in the letter. Prior to recommending moving forward with this partnership, City staff have found that Foundation is in good standing with USA BMX and that USA BMX will be the oversight sanctioning entity for the track, providing insurance, track design and other services on the Project. Furthermore, City staff has structured a strong agreement to protect the interests of the City.

One additional benefit from a development perspective of the current design concept is that development of the site can occur in numerous phases as funding for specific elements becomes available. This could come from both the City and the partners. It is the intent of the operator to construct a basic track first and other amenities such as lights further down the road.

COMMUNITY ENGAGEMENT:

Involve/Collaborate

Through the prior grant process, significant outreach to the community was performed on the design of the site. It is the intent of staff to utilize the existing design as the basis for any future partnership development. The proposed collaboration with the community partners is critical for the financial feasibility of the project. The invitation for letters of interest was posted on the City website and sent directly to local sports organizations.

ALTERNATIVE ACTIONS:

The City Council could choose to provide alternate direction to City staff. This alternate direction could include not moving forward with the agreement or directing staff to further negotiate specific points of the agreement.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 7, 2022, the City Council authorized staff to pursue partnership agreements with Dub Baseball and USA BMX for development of portions of the Butterfield Park site.

FISCAL AND RESOURCE IMPACT:

Should the City Council move forward with the partnership as outlined in the agreement, the City is recommending funding the design work at a cost of approximately \$300,000. This appropriation is included in a separate item on this agenda. Additionally, should construction of the site be approved by the Council this summer, an appropriation of approximately \$1.5 - \$2.0 million would be required to construct the City/shared portion of the site. Currently, the City's Capital Improvement Budget has funding of \$3.5 million for the park in FY 2025-26. City staff believe that higher than expected revenues in the Quimby Fee Fund (375) and the lower cost of allowing partners to build-out the adjacent site, will allow for construction to begin this summer. The first of the two partner agreements is designed to allow the City to recover approximately 1/3 of the cost of design and construction of the shared improvements as part of the partner agreement.

CEQA (California Environmental Quality Act):**Mitigated Negative Declaration**

An environmental assessment, including an Initial Study and Mitigated Negative Declaration, has been prepared for the project by David J. Powers & Associates, Inc. in conformance with CEQA for the initial site plan and uses. Should the Council move forward with the design work, the City shall move forward with a consultant providing an updated analysis on the changes to the original design, which would likely result in an amendment to the initial Mitigated Negative Declaration.

**AGREEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE
OF
BUTTERFIELD PARK BMX FACILITY**

Between

THE CITY OF MORGAN HILL

And

FOUNDATION FOR A BETTER RIDE

DRAFT

Dated: _____, 2023

**AGREEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF
THE**

BUTTEFIELD PARK BMX FACILITY

TABLE OF CONTENTS

Contents

SECTION 1. DEFINITIONS.....	5
SECTION 2. PERMISSION GRANTED.....	6
SECTION 3. BUTTERFIELD PARK AND PREMISES	7
SECTION 4. TERM OF AGREEMENT.....	7
SECTION 5. OPERATOR PAYMENT AND COMMUNITY BENEFIT	8
SECTION 6. LATE PAYMENT	9
SECTION 7. FACILITY USAGE, FEES AND CHARGES.....	9
SECTION 8. OPERATOR RESPONSIBILITIES	12
SECTION 9. MAINTENANCE AND REPAIR	15
SECTION 10. INFRASTRUCTURE IMPROVEMENT RESPONSIBILITY	16
SECTION 11. LIABILITY.....	18
SECTION 12. PROHIBITED ACTS.....	18
SECTION 13. PERFORMANCE, DEPOSIT, AND ASSURANCES	19
SECTION 14. INDEPENDENT CONTRACTORS/CONSULTANTS	20
SECTION 15. PERMITS, TAXES, AND LICENSES.....	20
SECTION 16. ASSIGNMENT, SUBLEASE, BANKRUPTCY	20
SECTION 17. BUSINESS RECORDS	21
SECTION 18. REGULATIONS AND INSPECTIONS.....	21
SECTION 19. TERMINATION.....	22
SECTION 20. SURRENDER OF POSSESSION	25

SECTION 21. WAIVER	26
SECTION 22. FORCE MAJEURE	26
SECTION 23. REMEDIES ARE NON-EXCLUSIVE AND MEDIATION REQUIREMENT	26
SECTION 24. LAW OF CALIFORNIA APPLIES.....	26
SECTION 25. VENUE.....	26
SECTION 26. SEVERABILITY	26
SECTION 27. ATTORNEY’S FEES	27
SECTION 28. NOTICES	27
SECTION 29. INTERPRETATION.....	28
SECTION 30. AGREEMENT CONTAINS ENTIRE AGREEMENT	28
SECTION 31. TIME OF THE ESSENCE.....	28
SECTION 32. INCORPORATION OF DOCUMENTS	29

**AGREEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE
OF
BUTTERFIELD BMX FACILITY**

Between

THE CITY OF MORGAN HILL

And

FOUNDATION FOR A BETTER RIDE

This agreement is made and entered into on this day of _____, 2023, by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY"), and FOUNDATION FOR A BETTER RIDE ("OPERATOR"), non-profit 501(c)(3) corporation. Collectively CITY and OPERATOR may be referred to as "PARTIES."

Recitals

The following recitals are a substantive portion of this Agreement:

1. The CITY issued an Invitation for Letters of Interest ("ILOI") for the development, operation and maintenance of recreation facilities at the Butterfield Park Site in February of 2022.
2. FOUNDATION FOR A BETTER RIDE submitted a Letter of Interest in partnership with USA BMX in May 2022.
2. The Parks and Recreation Commission reviewed the responses to the ILOI and recommended that the City move forward with partnering with FOUNDATION FOR A BETTER RIDE in development and operation of a BMX Facility at the City's Butterfield Park site.
3. The City Council determined that FOUNDATION FOR A BETTER RIDE was responsive to the ILOI and selected this proposer to construct and operate the BMX Facility on a portion of the Butterfield Park site in accordance with the terms and conditions of this Construction, Operations and Maintenance Agreement ("AGREEMENT").
4. FOUNDATION FOR A BETTER RIDE is a 501(c)(3) LLC with the following purpose: "FOUNDATION FOR A BETTER RIDE programs are beginner and family inclusive programs, allowing racers of all ages to compete together and share experiences through thoughtfully designed weekly coaching, practice and competitive cycling events."
4. OPERATOR desires to enter into an agreement in accordance with the foregoing and undertakes to provide services of the type and character required by CITY for the benefit of the residents of the CITY and other users at the Butterfield Park site.

5. The principal motivation for CITY to enter into this AGREEMENT is to serve the public by providing a well-maintained and operated BMX Facility as well as related facilities and services.

6. CITY and OPERATOR intend to work together in good faith to ensure that the BMX Facility to be located at the Butterfield Park site is constructed and becomes a first-class sports facility which is operated in a professional manner.

NOW THEREFORE, in consideration of the premises and of the terms, covenants, and conditions to be kept and performed by the PARTIES, the PARTIES agree as follows:

SECTION 1. DEFINITIONS

For the purpose of this AGREEMENT, the following capitalized words and phrases not defined elsewhere in this AGREEMENT are defined and shall be construed as set forth:

AGREEMENT: This “AGREEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE BMX FACILITY” and Exhibits (A-H) attached hereto and incorporated herein.

BALL FIELD PREMISES: The geographical area, as defined in Exhibit A, attached hereto and incorporated herein which is the subject of a potential AGREEMENT which has not been entered into at this time in which the OPERATOR will construct, operate and maintain its improvements.

BMX PREMISES: The geographical area, as defined in Exhibit A, attached hereto and incorporated herein which is the subject of this AGREEMENT and in which the OPERATOR will construct, operate and maintain its IMPROVEMENTS as defined below.

BUSINESS MANAGER: OPERATOR’S representative appointed by OPERATOR to be the primary point of contact for City with respect to operations at the Facility. OPERATOR will notify CITY promptly upon any change of the appointed BUSINESS MANAGER.

CITY/SHARED PREMISES: The geographical area, as defined in Exhibit A, which shall be constructed, operated and maintained by the CITY. The area will contain public park amenities and shared facilities for use in conjunction with the BMX PREMISES and proposed BALL FIELD PREMISES. The CITY Improvement Plan and CITY construction plan is attached hereto and incorporated herein as Exhibit E.

CODE: Morgan Hill Municipal Code.

COMMUNITY BENEFIT: As described further below, the OPERATOR shall provide a community benefit to CITY in return for use of the portion of Butterfield Park site for its FACILITY.

DIRECTOR: The City representative appointed by the City Manager to oversee the Butterfield Park. The City initially appoints the Public Services Director or his or her designee.

FACILITY: The IMPROVEMENTS constructed by the OPERATOR on the BMX PREMISES and shown on Exhibit “B” attached hereto and incorporated herein.

FISCAL YEAR: The period from July 1 of one calendar year to June 30 of the next calendar year.

IMPROVEMENTS: All buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY owned facilities (including, but not limited to track components, turf, fences, posts, signs, electrical hook-ups, irrigation systems, plumbing, tracks, tanks, etc.).

LIMITED USE AREA: Parking or other areas designated on Exhibit "A" that are unimproved, typically used for parking and not designed for day-to-day use and which may only be used following prior written permission by CITY.

SECTION 2. PERMISSION GRANTED

A. Permission for Entry BMX PREMISES: For and in consideration of the receipt of the community benefit or community benefit in lieu fee as described below and subject to all of the terms and conditions of this AGREEMENT, CITY hereby grants to the OPERATOR the exclusive right and obligation to: make improvements to the BMX PREMISES, schedule the use of the FACILITY; and to operate and maintain the FACILITY for the purpose of hosting, organizing, or scheduling the FACILITY for sporting events and sports training activities along with uses ancillary to the sporting events appropriate for the FACILITY; and not for any other purpose without the prior written consent of DIRECTOR. OPERATOR may also schedule the use of the FACILITY for non-sporting events as described herein. The rights granted by this AGREEMENT shall be carried on solely within the limits and confines of the areas designated as BMX PREMISES.

B. Permission for Entry CITY/SHARED PREMISES: For and in consideration of the receipt of the SHARED USE PAYMENT (as described in section 5B), the CITY hereby authorizes access to the CITY/SHARED PREMISES for the non-exclusive use of visitors to the FACILITY. CITY may allow operator to make improvements to the CITY/SHARED USE PREMISES. Improvements must be approved in writing and in advance by the DIRECTOR.

C. Permission for Entry LIMITED USE AREA: For and in consideration of the receipt of the SHARED USE PAYMENT (as described in section 5B), the CITY shall authorize limited uses of the CITY/SHARED PREMISES. All uses must be scheduled and approved in advance in writing and in advance by the DIRECTOR. DIRECTOR shall not unreasonably withhold approval of use of the LIMITED USE AREA.

SECTION 3. BUTTERFIELD PARK AND PREMISES

A. The BMX PREMISES (Exhibit “A”) subject to this AGREEMENT is located at 16000 Butterfield Boulevard, Morgan Hill, CA. This Butterfield Park site is a shared facility and includes the following areas as further described in Exhibit “A”: CITY/SHARED PREMISES, proposed BALL FIELD PREMISES, BMX PREMISES AND LIMITED USE AREA.

B. The FACILITY:

The FACILITY includes, includes the unimproved land located within the BMX PREMISES and any future IMPROVEMENTS constructed by the OPERATOR.

C. No Violation of Law: OPERATOR shall not use or allow the FACILITY or the BMX PREMISES to be used, in whole or in part, for any use in violation of any present or future laws, ordinances, rules, and regulations of any public or governmental authority or agencies, departments or officers thereof, including CITY. These ordinances, rules, and regulations include, but are not limited to those which relate to sanitation, public health, and safety.

SECTION 4. TERM OF AGREEMENT

A. Term: The term of the AGREEMENT shall be ten (10) years from July 1, 2023 subject, to early termination as set forth below. The AGREEMENT shall commence when formally executed by CITY.

B. Term Extension: The term may be extended on the same terms and conditions by up to two (2) additional five (5) year terms at the discretion of the CITY. The CITY shall not unreasonably withhold approval of either extension if OPERATOR has not breached AGREEMENT. OPERATOR shall provide eighteen (18) months' notice prior to any extension period should it wish to utilize the additional five (5) year terms. CITY shall notify OPERATOR of CITY'S approval or disapproval of the extension within ninety (90) days of OPERATOR'S notice unless this time is extended based upon mutual agreement of the PARTIES.

C. Transition Plan: At least 6 months prior to the conclusion of this Agreement, by its own terms, if not extended by the PARTIES, OPERATOR shall meet and confer with CITY in good faith.

D. Termination: The CITY may terminate this AGREEMENT upon an event of default as set forth herein.

E. Termination Provision: The CITY may terminate this AGREEMENT pursuant to Section 19.A.

F. Following termination of this AGREEMENT and payback by the CITY of any funds due to OPERATOR, as described below, all right, title and interest in the IMPROVEMENTS shall be conveyed to CITY.

SECTION 5. OPERATOR PAYMENT AND COMMUNITY BENEFIT

A. OPERATOR Provided COMMUNITY BENEFIT in Lieu Payment: The OPERATOR shall provide the following benefits ("COMMUNITY BENEFIT"):

1. Discounted fees shall be provided to all Morgan Hill residents. These fees shall be referred to as "COMMUNITY BENEFIT FEES" and are outlined in Exhibit "F".

2. To encourage participation from females in Morgan Hill the OPERATOR shall provide a 25% discount on all fees to female participants within Morgan Hill.
3. To encourage participation from low-income youth participants residing in Morgan Hill shall be eligible for up to a 50% discount based upon income level. Income levels shall be determined by the City of Morgan Hill Recreation Division's current Financial Assistance levels.
4. The OPERATOR shall provide free use to Morgan Hill residents following all Sunday races for a minimum of 2 hours, unless earlier closure is required due to sunset occurring prior to 2 hours following completion of the races.

Reporting of the Community Benefit to CITY shall occur on a quarterly basis as outlined in Section 5.C.2. If the OPERATOR does not provide the required COMMUNITY BENEFIT as described in this section; the operator shall make a payment of \$100,000 annually for any year that the Community Benefit has not been provided ("COMMUNITY BENEFIT IN LIEU FEE"). The payment amount shall increase or decrease in subsequent years based upon the CPI increase or decrease of the prior year for the San Francisco/Oakland/San Jose CPI for Urban Consumers. Payment shall be made within 3 months of the end of each FISCAL YEAR. OPERATOR shall not be subject to this in lieu payment until completion of the construction of IMPROVEMENTS and opening of the BMX Facility as necessary to allow use of the IMPROVEMENTS.

B. OPERATOR Payment for Shared Use: In exchange for visitors' use of the CITY/SHARED USE PREMISES operator shall pay 33% of the costs associated with the shared use of the facility ("SHARED USE PAYMENT"). Shared use costs shall include all costs associated with maintaining and repairing the CITY/SHARED USE PREMISES by the CITY, excluding recreational facilities, such as playgrounds, fitness equipment, meeting rooms, and/or other areas designated by the CITY. SHARED USE PAYMENTS shall be made quarterly within 30 days of billing by CITY.

C. Annual and Quarterly Reports:

1. OPERATOR shall transmit a Statement of Revenue and Expense in the form of a Profit and Loss Statement (Exhibit "H"), for every Fiscal Year during the Term. Reports shall be due by September 30 of each year.
2. OPERATOR shall maintain and submit to the CITY monthly statistical information and reports quarterly (July-September, October-December, January-March, and April-June) on the following: ongoing programs, hours of track use, participant levels, use age and gender type, local vs. regional use levels, hours of use, GROSS RECEIPTS and net profits, expenses and revenues. OPERATOR shall provide detailed statistics as outlined above specifically on the COMMUNITY BENEFIT. OPERATOR shall provide statistics for all hosted major events, including estimated attendance, estimated percentage of overnight stays, average travel distance to reach the facility. MAJOR EVENTS are defined as those events where it is anticipated that there will be more than 500 attendees. Reports shall be due 30 days after the end of each quarter. At the request of CITY, OPERATOR shall provide an hour by hour booking schedule for the use of the FACILITY.

SECTION 6. LATE PAYMENT

A. Late Payment: The failure of OPERATOR to pay any payments required by this AGREEMENT on or before the payment due date is a breach of the AGREEMENT. The CITY may terminate the AGREEMENT and take other legal action for such a breach as set forth herein.

B. Late Fees: Without waiving any rights available at law, in equity, or under the AGREEMENT, in the event of late or delinquent payments, OPERATOR recognizes that CITY will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, OPERATOR agrees to pay the CITY a late fee set forth below to compensate CITY for all expenses and or damages and loss resulting from the late or delinquent payments.

1. The charge for each late payment shall be \$200.00, for each month after the due date. In addition, OPERATOR shall pay interest calculated at the rate of eighteen percent (18%) per annum or one and one-half percent (1.5%) for each month, after the due date, assessed daily, on the balance of the unpaid amount, unless otherwise prohibited by law. Payments are past due if postmarked or electronically transferred after the fifth (5th) day on which payment was due.

SECTION 7. FACILITY USAGE, FEES AND CHARGES

A. Usage: Subject to the conditions set forth below, CITY agrees that OPERATOR, upon providing the COMMUNITY BENEFIT or paying the COMMUNITY BENEFIT IN LIEU PAYMENT, and all other charges and payments due from OPERATOR under the terms of this AGREEMENT, and upon observing and keeping the required terms, conditions and covenants of this AGREEMENT, and provided that OPERATOR is not in breach or default of this AGREEMENT, shall lawfully and quietly hold, use, and enjoy the FACILITY during the term of and for purposes specified in this AGREEMENT. In the case of disputes, during the term of the AGREEMENT, about any conditions which may impede the OPERATOR'S quiet enjoyment of the FACILITY, the DIRECTOR and OPERATOR shall meet and confer to determine the resolution to the dispute.

B. Usage Fees: OPERATOR has the right to determine facility usage fees and other charges with the following limitations:

1. Fees associated with local community use outlined in 5A as a COMMUNITY BENEFIT shall be established by this AGREEMENT as the rates or charges are shown in Exhibit "F" attached hereto and incorporated herein by this reference. Exhibit "F" shall include standard fees as well as COMMUNITY BENEFIT FEES. Fee increases in subsequent years shall not exceed the CPI increase of the prior year for the San Francisco/Oakland/San Jose CPI for Urban Consumers.

4. There are no rate caps or increase caps on regional uses such as races.

5. All fees shall not be excessively high, low, unreasonable, or discriminatory based upon the circumstances.

C. Charges and Pricing: OPERATOR shall have the right to charge and establish prices for the entrance, advertising, and any other usage of the BMX FIELD PREMISES permitted under this AGREEMENT. OPERATOR shall provide the DIRECTOR with a list of prices for all services and goods offered. OPERATOR shall update the list and provide a copy to the DIRECTOR whenever any prices are changed.

D. Maximization of Use: OPERATOR shall make available the FACILITY in a manner that maximizes the safe use of the FACILITY, while maintaining the FACILITY at the maintenance standards specified in this AGREEMENT. Nothing in this AGREEMENT shall require OPERATOR to make the FACILITY available on a fee basis below those charges specified in Exhibit "G," attached hereto and incorporated herein in order to maximize use.

E. City Use: CITY shall have the right to forty (40) hours of scheduled use at the FACILITY at no charge to the CITY. CITY may use this free time for CITY sponsored or CITY partner programs. The total free time shall not exceed 40 hours during a calendar year. The CITY'S use shall not exceed one weekend day per year. OPERATOR shall use reasonable efforts to schedule the CITY'S request. If the CITY uses the FACILITY for hours over the free 40 hours, CITY shall pay the standard rental rate established by the OPERATOR.

F. Parking Use: The parking lots located within the CITY/SHARED PREMISES under this AGREEMENT shall be regularly available for use by the general public and visitors to the proposed BMX PREMISES and proposed BALL FIELD PREMISES. Upon consultation all parking may be closed to the General Public for a limited number of special events to be hosted annually. Closure of the parking lot for special event use by the OPERATOR shall require a City Special Event permit.

OPERATOR, the City, and the Business Manager of the BMX PREMISES shall provide each other with monthly calendars to ensure clear communication of when events are occurring at the BUTTERFIELD PARK SITE. During regular shared use, a parking fee cannot be charged. OPERATOR shall work in good faith with CITY to develop event parking plans to manage the Parking in an integrated fashion. Parking fees for portions or all of the parking areas, may be allowed by the OPERATOR, CITY, or Business Manager of the BALL FIELD PREMISES with advance written approval and a Special Event Permit from the CITY. The special event parking fees shall be the property of whichever OPERATOR is hosting the event. The OPERATOR, City and Business Manager of the potential BALL FIELD PREMISES shall meet monthly to establish and plan for parking operations. All three organizations shall have equal right to host special events. Should proposed special events create a conflicting use the City shall determine which event shall be permitted.

1. When a special event permit is required, OPERATOR must apply for the permit no less than 60 days prior to the special event. Major special events that require public safety review shall require 6 months advance notice. OPERATOR shall be responsible for management and clean-up of any special event use of parking facilities during and at the conclusion of OPERATOR'S use.

2. Use of the LIMITED USE AREA for parking or other uses shall be allowed following advance written approval from the City.

G. Advertising: OPERATOR shall have the right to pursue advertising and sponsorship agreements and offer space and locations within the BMX PREMISES for advertising that are consistent with the CITY'S approved policy. OPERATOR may have temporary advertising for alcohol products during "ADULT ONLY" tournaments occurring at the BMX PREMISES, upon prior written pre-approval by DIRECTOR. ADULT ONLY tournaments are those tournaments or events where the participants are exclusively adults, 21 years of age or older.

H. Naming Rights: OPERATOR shall have the right to pursue and have the authority to enter into agreements for advertising naming rights for the amenities within the BMX PREMISES, provided that the term of any such agreement shall not continue beyond the term of this AGREEMENT.

I. Food and Beverage Concession Stand: OPERATOR shall have the right to establish or permit food and beverage sales within the BMX PREMISES; provided that OPERATOR shall not sell any alcohol or tobacco products without prior written consent from DIRECTOR. All food and beverage sales shall comply with local, state, and federal laws and regulations, including, but not limited to all County Health Department regulations or requirements. No products containing CBD, marijuana or marijuana extracts shall be sold on the BMX PREMISES.

J. Vending Machines: OPERATOR shall not install, or allow to be installed, any vending machines, electronic games, or other coin-operated machines without prior written approval of DIRECTOR. DIRECTOR shall have the right to order the immediate removal of any unauthorized machines. DIRECTOR shall not unreasonably withhold permission for the installation of vending machines.

K. Non-Sporting Events: OPERATOR shall not schedule any non-sporting, recreational or BMX related events, without the prior written permission of DIRECTOR. DIRECTOR shall not unreasonably withhold permission for events to be hosted.

L. Event Schedule: OPERATOR shall maintain an online schedule of events that is available to the CITY and the public. The schedule will show all MAJOR EVENTS.

M. Signage. OPERATOR may design and construct a permanent sign on the BMX PREMISES to advertise the location of the FACILITY, subject to the approval of DIRECTOR. OPERATOR may design and install temporary signage concerning events at the FACILITY if the signage is professional in appearance and permitted under local and state laws.

N. Proposed BALL FIELD. The BALL FIELD is proposed, and no agreement has been reached with the provider. This Agreement is not contingent upon the approval, development or construction of the BALL FIELD. Should CITY in its sole discretion choose not to enter into an Agreement concerning the construction of the BALL FIELD such an occurrence shall not constitute default under this Agreement.

SECTION 8. OPERATOR RESPONSIBILITIES

OPERATOR shall, at all times during the term of the AGREEMENT, comply with the following conditions:

A. Conduct: OPERATOR shall at all times conduct its business in a professional, and orderly manner to the reasonable satisfaction of DIRECTOR. OPERATOR shall use its best efforts to exclude intoxicated person(s), profane or indecent language, or boisterous or loud conduct in or about the BMX PREMISES and shall not knowingly allow the use or possession of illegal drugs, narcotics, or controlled substances on the BMX PREMISES. OPERATOR shall ensure that all activities at the BMX PREMISES do not constitute a public nuisance due to spillover effects upon adjacent properties or public safety response requirements.

B. Non-Discrimination: OPERATOR, in its operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person shall be excluded from the BMX PREMISES or FACILITY or activities thereon or be denied the benefits of or subjected to discrimination on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation; (2) in the construction of any improvements on, over or under the BMX PREMISES authorized to be improved herein and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation. In addition, OPERATOR, during the term of the AGREEMENT, agrees not to unjustly discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical disability, or sexual orientation. All contracts entered into by OPERATOR shall contain a similar provision.

C. Qualified Personnel: OPERATOR will, in the operation of the FACILITY, employ or permit the employment of only personnel who will provide a high standard of service to the public and cooperation with CITY. All personnel, while on or about the BMX PREMISES, shall be neat in appearance and courteous at all times and shall be appropriately attired, with badges or other suitable means of identification. OPERATOR shall make all reasonable efforts to ensure no person employed by OPERATOR, while on or about the BMX PREMISES, shall be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate conduct for a work environment. In the event an employee's conduct is not satisfactory, the DIRECTOR may, but is not required to, direct OPERATOR to remove that person from the BMX PREMISES and OPERATOR shall do so.

D. Employees of Operator: OPERATOR shall appoint a Business Manager, upon commencement of operation of the FACILITY for the management and operation of the FACILITY. If OPERATOR elects to subcontract the management of any of the portions of the operations, subject to approval by CITY, to a managing entity or entities, the provisions of this section shall also apply to that entity. The BUSINESS MANAGER will be responsible for the appearance, conduct, and demeanor of OPERATOR'S agents, contractors, and employees. The BUSINESS MANAGER shall be available during regular business hours and, at all times during that person's absence, a

responsible designee shall be in charge and available. The BUSINESS MANAGER shall have the authority to: hire, fire, and schedule personnel; order repairs, maintenance work, merchandise and materials; oversee inventory control and tracking; oversee field maintenance; implement a marketing plan; maintain accounting records; book parties and events; oversee operations; train employees (to include such areas as customer service) and have ultimate on-site decision-making responsibility.

E. BUSINESS MANAGER: The BUSINESS MANAGER shall be the single point of contact for the DIRECTOR. The BUSINESS MANAGER shall be available at all normal business hours and any hours in which the FACILITY is in use to be contacted by the DIRECTOR or his or her designee should that be necessary. If the BUSINESS MANAGER is unavailable, then an alternative employee shall be available for contact by the DIRECTOR. If, for reasons of ill health, incapacitation, or death, the BUSINESS MANAGER becomes incapable of performing all terms and provisions of the AGREEMENT and no substitute is immediately forthcoming from OPERATOR, DIRECTOR may, following seven days written notice in his or her sole discretion, terminate the AGREEMENT.

G. Utilities: OPERATOR shall be responsible for all utility charges related to the BMX PREMISES and its fair share of all utility charges for the CITY/SHARED PREMISES. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for gas, electricity, water, heat, air-conditioning, and other utility services to PREMISES, and shall be paid in a timely fashion by OPERATOR regardless of whether utility services are furnished by CITY or by other utility service providers. Any utility service shared between the proposed BALL FIELD PREMISES, BMX PREMISES, AND CITY/SHARED PREMISES shall be paid by the CITY and fair share reimbursed by the appropriate OPERATOR as part of payment under section 5.B. The percentage of the bill paid by the OPERATOR will be based on the estimated percentage of use of that specific utility for the BMX PREMISES.

1. CITY will incur the cost of all refuse collection from the main dumpster to be located within the CITY/SHARED PREMISES during the term of this AGREEMENT. Notwithstanding the foregoing, OPERATOR agrees to pay a fair share of the cost of refuse collection for the PREMISES if the CITY'S agreement with its current refuse hauler terminates.

2. OPERATOR hereby expressly waives all claims for compensation against CITY, for any loss or damage sustained by OPERATOR resulting from any defect, deficiency, or impairment of the water, heating, or air conditioning systems, electrical apparatus, or wires furnished to the PREMISES from any cause, or from any loss resulting from water, earthquake, wind, civil commotion, or riot. OPERATOR hereby expressly releases and discharges CITY and its officers, employees, and agents from any and all demands, claims, actions, and causes of action arising from any of these causes. In addition to the foregoing waivers, any damage to any utility service line if caused by OPERATOR, its employees, contractors, sub-contractors, suppliers, agents, or invitees, OPERATOR shall be responsible for the cost of repairs and all damages incurred.

H. Safety: OPERATOR shall correct safety deficiencies and violations of safety practices as soon as reasonably possible after the condition becomes known, or DIRECTOR notifies OPERATOR of the condition if OPERATOR is unaware of the condition. OPERATOR shall cooperate fully

with CITY in the investigation of accidents occurring on the BMX PREMISES. In the event of injury to a patron or customer requiring emergency medical response, OPERATOR shall reasonably ensure that the injured person receives prompt and qualified medical attention. Notice to CITY within 48 hours or sooner if practicable shall be provided. Email is acceptable form of Notice under this provision. OPERATOR shall notify the CITY in writing describing the names of the person(s) injured, and the time, place, and nature of the injury. If OPERATOR fails to correct hazardous conditions specified by the DIRECTOR in a written notice, which have led, or in the opinion of CITY could lead, to injury, the DIRECTOR may, but is not required to, in addition to all other remedies which may be available to CITY, repair, replace, rebuild, redecorate, or paint the BMX PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by OPERATOR to CITY on demand. OPERATOR is solely responsible for safety at the FACILITY.

I. Security: OPERATOR shall be responsible for the security of the BMX PREMISES. OPERATOR may install equipment approved by the CITY, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any security equipment must be purchased, installed, and maintained by OPERATOR. OPERATOR is solely responsible for the security of the FACILITY except for live security provided by the CITY during events which are solely run by the CITY or the CITY and its partner(s).

J. Environmental Sensitivity: The OPERATOR must operate the FACILITY in an environmentally sensitive manner and all operations must comply with CITY policies and ordinances regarding protection of the environment. OPERATOR shall not use or allow the use on the PREMISES of environmentally unsafe products. OPERATOR shall develop and submit a water conservation plan to the DIRECTOR.

K. Fund-Raising Activities: OPERATOR shall cooperate with CITY personnel on all matters relative to the conduct of fundraising and/or special events on the BMX PREMISES.

L. Community Outreach: OPERATOR shall coordinate and cooperate with CITY to develop strategies to contact all members of the community, particularly those living in low-to-moderate income areas, fixed-income households, youth, the disabled, etc., to provide its services to these members of the community who may not otherwise have the opportunity to utilize the opportunities provided by OPERATOR.

SECTION 9. MAINTENANCE AND REPAIR

A. “As Is”: OPERATOR acknowledges that it is taking control of the BMX Premises in an “as is”, unimproved condition.

B. Maintenance and Operating Standards: During all periods that the BMX PREMISES are used or are under the control of the OPERATOR for the uses, purposes, and occupancy set forth in this AGREEMENT, OPERATOR shall maintain and operate the BMX PREMISES and the FACILITY at its own expense, in compliance with law and, unless otherwise more specifically set

forth, to a standard equal or better than standards in place as of the effective date of the AGREEMENT.

C. OPERATOR shall maintain the BMX PREMISES at standards to a level equal to or better than other City of Morgan Hill Park Facilities.

F. Improvements: OPERATOR shall, at its own expense, keep and maintain IMPROVEMENTS. The CITY shall have no responsibility for maintenance of the BMX PREMISES, FACILITY, OR IMPROVEMENTS. OPERATOR'S maintenance duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning, and interior and exterior painting that may be required to properly maintain the premises in a safe, clean, operable, and attractive condition.

G. Pest Control: OPERATOR shall be responsible for pest control in and around the BMX PREMISES, including but not limited to, abatement of insects, roaches, ants, spiders, rodents, vermin, and other nuisance pests.

I. Property Damage and Theft Reporting: OPERATOR shall notify the CITY in writing of any damage or destruction to the BMX PREMISES and/or CITY-owned property within 48 hours of OPERATOR'S discovery thereof, or sooner if practicable. Notice by email under this provision shall be sufficient.

J. Damage or Destruction to Premises:

1. Partial Damage: If all or a portion of the IMPROVEMENTS are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy, or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by OPERATOR at its own cost and expense, subject to the limitations as hereinafter provided. If any damage to the CITY/SHARED PREMISES or the LIMITED USE Area is caused by the negligent acts or omissions of OPERATOR, its agents, officers, or employees, OPERATOR shall be responsible for reimbursing CITY for the cost and expense incurred in making the repairs.

If the damages as described above in "Partial Damage" are so extensive as to render the IMPROVEMENTS or a portion thereof uninhabitable or unusable for its primary purpose, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, OPERATOR shall endeavor to repair the damage with due diligence by OPERATOR at its own cost and expense, subject to the following limitations: the damage must be a covered claim under the OPERATOR's insurance and the damage must not be from a Federal, State or locally declared disaster. Should OPERATOR not have the financial ability to reconstruct until the insurance claim payment is made, additional time shall be provided to OPERATOR to complete the repairs.

2. Complete Destruction: In the event all or a substantial portion of the BMX PREMISES are completely destroyed by fire, explosion, the elements, public enemy, or other casualty, or are so damaged that they are uninhabitable or unusable for its primary purpose and cannot be replaced except after more than sixty (60) days, OPERATOR shall be under no obligation to repair, replace or reconstruct the BMX PREMISES. This provision only applies to Complete Destruction or destruction of a substantial portion of the BMX PREMISES. If the damage or destruction to the

PREMISES has not been repaired or reconstructed within 4 months, OPERATOR may terminate this AGREEMENT in its entirety as of the date of the damage or destruction. Notwithstanding the foregoing, if the BMX PREMISES, or a substantial portion thereof, are completely destroyed as a result of the negligent acts or omissions of OPERATOR, its agents, officers, or employees, OPERATOR shall pay to CITY the insurance proceeds or the value of the depreciated IMPROVEMENTS prior to the destruction whichever is greater, if OPERATOR does not rebuild the IMPROVEMENTS.

3. Limits of CITY'S Obligation Defined: In the application of the foregoing provisions, OPERATOR may, but shall not be obligated to, repair or reconstruct the IMPROVEMENTS. If OPERATOR chooses to do so, OPERATOR'S obligation shall also be limited to repair or reconstruction of the IMPROVEMENTS to the same extent and of equal quality as originally constructed by OPERATOR, less ordinary wear and tear, at the commencement of its operations.

SECTION 10. INFRASTRUCTURE IMPROVEMENT RESPONSIBILITY

A. OPERATOR Infrastructure Improvements to BMX PREMISES: OPERATOR shall improve the BMX PREMISES by constructing IMPROVEMENTS in the concept design (Exhibit "B") on the BMX PREMISES.

1. OPERATOR shall submit plans for approval to DIRECTOR prior to commencing construction of any improvements. Director shall not unreasonably withhold approval if plans are aligned with the concept design (Exhibit "B").

2. OPERATOR shall follow all required laws and permitting requirements for construction of the IMPROVEMENTS. This includes the City development/building permitting process, with all expenses the responsibility of the OPERATOR.

3. CITY recognizes that construction of improvements within the BMX PREMISES shall be phased with some improvements constructed before others. OPERATOR agrees that the track facility shall be the first IMPROVEMENT constructed on the BMX PREMISES. OPERATOR agrees to complete the construction of the BMX track and ancillary required improvements for its use within 5 years of the effective date of this AGREEMENT.

4. OPERATOR and the CITY agree that the building identified in the concept design (Exhibit "B") shall not be included in the initial phase of IMPROVEMENTS and shall require additional environmental review to meet any requirements of the California Environmental Qualities Act.

5. OPERATOR shall submit to CITY bills, invoices and other documentation to show the actual cost of IMPROVEMENTS paid for by OPERATOR.

6. CITY intends to construct the basic improvements within the CITY/SHARED PREMISES to support access and development of the BMX PREMISES. A tentative list of the specific improvements and target construction dates are included in Exhibit "F" attached hereto and incorporated herein. CITY does not commit to meet the target dates specified in the Exhibit "F".

7. The OPERATOR, CITY and the operator manager of the BMX PREMISES shall be responsible for the costs associated with the basic amenities constructed by CITY at the CITY/SHARED PREMISES. The OPERATOR shall be responsible for reimbursing the CITY for 33% of all costs associated with the costs of construction of the basic amenities in Exhibit "E". OPERATOR shall pay CITY 1/20 of the capital costs of construction of the basic amenities each year, starting the first year after the completion of the basic amenities, but not before the construction of the IMPROVEMENTS on the BMX PREMISES and the opening of the BMX Facility. The payment shall last for a period of 20 years, should the Agreement be renewed for additional terms. Should OPERATOR terminate the Agreement with cause this sum shall not be an outstanding obligation of OPERATOR. Should OPERATOR choose not to renew the Agreement after the first ten-year period or the first subsequent five-year extension term, then any remaining payment shall not be an outstanding obligation of OPERATOR. Should CITY terminate this Agreement for any reason, other than default by OPERATOR, OPERATOR shall not have an outstanding obligation to reimburse CITY for these expenses.

8. The CITY and OPERATOR recognize there is significant uncertainty within the construction industry as it relates to material availability and cost escalation. Should the construction of improvements by the CITY, within the CITY/SHARED PREMISES be significantly delayed the CITY and OPERATOR shall meet in good faith to develop alternative options for development of the basic amenities within the CITY/SHARED PREMISES necessary for use and access of the BMX PREMISES. The CITY, at its sole discretion, may approve the construction of basic amenities by the OPERATOR.

9. Should OPERATOR not complete construction of the IMPROVEMENTS, by the end of the fifth year of this Agreement, this Agreement shall terminate, and CITY shall have ownership of any IMPROVEMENTS constructed to date. This provision may be extended upon mutual written agreement of the PARTIES.

10. OPERATOR shall submit a proposed construction schedule delineating the approximate number of years for the IMPROVEMENTS to be constructed. CITY shall grant extension of these deadlines, but no further than five years from the date of execution of this Agreement. The proposed construction schedule shall be provided prior to commencement of this Agreement and be attached hereto and incorporated herein as Exhibit "C".

11. All construction performed on the BMX PREMISES of the IMPROVEMENTS shall be subject to prevailing wage requirements. All maintenance of the IMPROVEMENTS, if required by law, shall be subject to prevailing wage requirements. It shall be the responsibility of OPERATOR to ensure that all contractors, subcontractors or any entities retained by OPERATOR to construct the PREMISES pay prevailing wage and provide all documentation necessary or required by law in order to comply with State prevailing wage requirements. To the extent permitted by law, uncompensated volunteers participating in or coordinating construction or maintenance shall not be subject to prevailing wage requirements.

SECTION 11. LIABILITY

A. Indemnification:

1. Except for the active negligence or willful misconduct of CITY, OPERATOR undertakes and agrees to defend, indemnify, and hold harmless CITY and its officers, agents, and employees from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and costs of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including OPERATOR'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this AGREEMENT on the part of OPERATOR, its officers, agents, employees, or subcontractor of any tier.

2. Except for the active negligence or willful misconduct of CITY, the OPERATOR, in consideration of the granting of this AGREEMENT, agrees to hold the CITY harmless for any and all claims or rights of action for damages which may or might arise or accrue to the OPERATOR or, its officers, agents, servants, employees, or others who may be at the FACILITY as part of an BMX PREMISES event or for any other reason by reason of injury to the property, or the persons of any of them resulting from the entry upon or the use of the BMX PREMISES, by the CITY at any time, for any purpose necessary or convenient in connection with the FACILITY.

3. No member, official or employee of CITY shall be personally liable to OPERATOR, or any successor in interest, in the event of any default or breach by CITY or for any amount which may become due to OPERATOR, or on any obligations under the terms of this Agreement. OPERATOR hereby waives and releases any claim it may have against the members, officials, or employees of CITY with respect to any Default or breach by CITY or for any amount which may become due to OPERATOR under the terms of this Agreement.

B. Insurance Required: OPERATOR shall, at its own cost and expense, purchase and maintain throughout the term of this AGREEMENT the insurance listed in Exhibit "D":

SECTION 12. PROHIBITED ACTS

OPERATOR shall not:

A. Rent, sell, lease, or offer any space for storing of any articles whatsoever within or on the BMX PREMISES other than as specified herein, without the prior written approval of DIRECTOR;

B. Do or permit to be done any act or thing upon the FACILITY which will invalidate, suspend or increase the cost of any insurance policy required under the AGREEMENT, or carried by CITY.;

C. Use, create, store, or allow any hazardous materials as defined in Title 26, Section 13-1160.3(d) of the California Code of Regulations, or those which meet the criteria of the above Code, as well as any other substance which poses a hazard to health and environment. No products containing

glyphosate may be used on the BMX PREMISES. Nothing contained herein shall preclude OPERATOR from bringing, keeping, or using on or about the BMX PREMISES, materials, supplies, equipment, and machinery as are appropriate or customary in carrying on its business, except that all hazardous materials must be stored and used in compliance with all city, state and federal rules, regulations, ordinances, and laws; or

D. Use the BMX PREMISES in any manner that will constitute waste.

SECTION 13. PERFORMANCE, DEPOSIT, AND ASSURANCES

A. Performance Deposit: OPERATOR shall pay to the CITY \$10,000 to guarantee payment of fees and as a damage deposit to be used in accordance with the default provisions of this AGREEMENT. This deposit shall be returned to OPERATOR after the expiration or earlier termination of the AGREEMENT and any exit audit(s) performed in conjunction with the AGREEMENT. The CITY reserves the right to deduct from the deposit, any amounts up to and including the full amount of the deposit owed to the CITY by OPERATOR as shown by any exit audit(s) performed by CITY, or as compensation to CITY for failure to adhere to the terms and conditions of the AGREEMENT.

B. Construction Deposit: All ordinary and usual bond requirements for public improvements will be required for the IMPROVEMENTS to be constructed by OPERATOR. OPERATOR shall be solely responsible for the costs of the ordinary and usual bond requirements. CITY standard bond forms are attached hereto and incorporated herein as Exhibit "G."

B. Financial Assurances: OPERATOR represents to the CITY that it has sufficient capital, credit, and investment available to it for the purposes of meeting its obligations set forth in this AGREEMENT. In order to demonstrate the OPERATOR'S financial capacity to perform under this AGREEMENT, OPERATOR shall provide to the CITY evidence of its source of capital and operational funding upon execution of this Agreement and annually, in the future, upon the CITY'S request.

SECTION 14. INDEPENDENT CONTRACTORS/CONSULTANTS

The OPERATOR is acting as an independent contractor and not as an agent or employee of the CITY. The OPERATOR shall not represent or otherwise hold itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY.

SECTION 15. PERMITS, TAXES, AND LICENSES

A. Permits: OPERATOR shall obtain and maintain at its sole expense any approvals, permits, or licenses that may be required in connection with the operation of the BMX PREMISES including, but not limited to, tax permits, business licenses, health permits, building permits, police and fire permits, etc.

B. Taxes: OPERATOR shall pay all taxes of whatever character that may be levied or charged upon the rights of OPERATOR to use the BMX PREMISES, or upon OPERATOR'S improvements, fixtures, equipment, or other property thereon or upon OPERATOR'S operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as "Possessory Interest" and such property interest may be subject to property taxation. OPERATOR, as the party to whom the Possessory Interest is vested, may be liable for the payment of the property taxes levied by the state and county upon such interest. If OPERATOR becomes subject to any tax including, but not limited to a Possessory Interest Tax due to its entry into this Agreement, OPERATOR shall be solely liable for the payment of these taxes.

C. Business License: During the entire term of the AGREEMENT, OPERATOR must hold a current Morgan Hill Business License as required by the CODE Section 5.04.110 and pay applicable fees and taxes pursuant to Chapter 5.04 of the CODE.

D. City's Increase in Taxes Due: If OPERATOR'S operation of the BMX PREMISES results in any additional property, income, or other taxes to CITY, those obligations shall be those of the OPERATOR'S.

SECTION 16. ASSIGNMENT, SUBLEASE, BANKRUPTCY

Prohibition of Sublease: OPERATOR shall not under-let or sub-let the subject BMX PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign the AGREEMENT nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the prior written consent of CITY. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the rights and obligations under this AGREEMENT or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to the AGREEMENT or right of use of the whole or any portion of the FACILITY upon any such purported assignee, mortgagee, encumbrancer, pledgee or other lien holder, successor, or purchaser. CITY entered into this AGREEMENT with OPERATOR based upon the unique qualifications of the OPERATOR, including but not limited to 501(c)(3) status, reputation, experience and financial capabilities. These are individual characteristics of the OPERATOR and organization involved. These characteristics require that this AGREEMENT, or any portion of it, cannot be assigned to another entity without the prior written approval of CITY, which CITY may withhold in its sole discretion.

SECTION 17. BUSINESS RECORDS

A. Record Retention: During the term of the AGREEMENT and for 3 years thereafter, OPERATOR shall maintain all of its books, ledgers, journals, and accounts in which are kept all entries reflecting the GROSS RECEIPTS received or billed by it, and expenses recorded from the

business transacted pursuant to the AGREEMENT. These books, ledgers, journals, accounts, and records shall be available for inspection and examination by DIRECTOR, or a duly authorized representative of the CITY, during ordinary business hours at any time during the term of this AGREEMENT and for at least three (3) years thereafter.

D. Termination for Failure to Meet Performance Goals: Based on the annual and quarterly progress reports, OPERATOR shall demonstrate that it has met the performance goals by spending no less than two hundred fifty thousand dollars (\$250,000) for infrastructure IMPROVEMENTS to the BMX PREMISES over the first five years of this AGREEMENT.

SECTION 18. REGULATIONS AND INSPECTIONS

A. Regulations: The operations conducted by OPERATOR pursuant to the AGREEMENT shall be subject to:

1. Any applicable rules, regulations, orders, and restrictions which are now in force, or which may be hereafter adopted by CITY with respect to the operation of the FACILITY;
2. Any orders, directions or conditions issued, given, or imposed by DIRECTOR with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas, or CITY/SHARED PREMISES and other public areas adjacent to the BMX PREMISES;
3. Any applicable laws, ordinances, statutes, rules, regulations or orders, including the CODE, and of any governmental authority, federal, state or municipality, lawfully exercising authority over the OPERATOR'S operations;
4. Any applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons, including the Americans with Disabilities Act; and
5. OPERATOR acknowledges that the BMX PREMISES shall be operated smoke-free and smoking or vaping shall be prohibited.

B. Permissions:

Any permission required by the AGREEMENT shall be secured in writing by OPERATOR from CITY or the DIRECTOR and any errors or omissions therefrom shall not relieve OPERATOR of its obligations to faithfully perform the conditions. OPERATOR shall immediately comply with any written request or order submitted to it by CITY or DIRECTOR provided the request or order is consistent with the terms of this AGREEMENT.

C. Right of Inspection:

CITY and the DIRECTOR, their authorized representatives, agents and employees shall have the right to enter upon the PREMISES at any and all reasonable times for the purpose of inspection, evaluation, and observation of OPERATOR'S operation.

SECTION 19. TERMINATION

A. Termination By CITY:

CITY may not terminate this Agreement without cause within the first five years of the Agreement. CITY may terminate without cause starting at the end of the fifth year of the Agreement or thereafter without cause, following a one year written notice of termination.

For any event of default under this Agreement, with the exception of those listed below, CITY may, by 90-day written notice, terminate the AGREEMENT in its entirety and all rights ensuing therefrom as provided by applicable law. However, no such notice, default or event of default shall occur until OPERATOR is provided with written notice of the event of default and fails to cure within ten (10) days after the date of the written notice from CITY. If the default cannot reasonably be cured within ten (10) days or fulfillment of OPERATOR'S obligation requires activities over a period of time, OPERATOR shall timely commence performance and such performance shall be diligently pursued without interruption.

The following listed events of default shall include the written notice and time period to cure (if any) described within each event of default:

1. OPERATOR fails to pay any payment obligation due under this AGREEMENT and OPERATOR fails to pay within twenty-one (21) days after the date of a written notice of default from the CITY;
2. OPERATOR fails to keep, perform, and observe any promise, covenant, and condition set forth in the AGREEMENT and OPERATOR fails to perform following thirty (30) days written notice of the event of default and then OPERATOR fails to cure within ten (10) days after the date of the written notice from CITY. If the default cannot reasonably be cured within ten (10) days or fulfillment of OPERATOR'S obligation requires activities over a period of time, OPERATOR shall timely commence performance and such performance shall be diligently pursued without interruption.;
3. OPERATOR'S interest in the AGREEMENT is assigned, transferred, passed to or devolved upon, by operation of law or otherwise, any other person, firm or corporation without the written consent of DIRECTOR;
4. OPERATOR becomes, without the prior written approval of DIRECTOR, a successor or merged corporation in a merger, a constituent corporation in a consolidation or a corporation in dissolution;

5. The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed or set aside within a period of ten (10) days, and which does, or as a direct consequence of such process will, interfere with OPERATOR'S use of the FACILITY or with its operations under the AGREEMENT;

6. OPERATOR becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or of any state law, or consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property or its property located within the BMX PREMISES;

7. By order or decree of court, OPERATOR is adjudged bankrupt, or an order is made approving a petition filed by any of the creditors or stockholders of OPERATOR seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any law or statute of the United States, or any state thereof;

8. A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute is filed against OPERATOR and is not dismissed within one hundred twenty (120) days;

9. By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of OPERATOR;

10. Cessation or deterioration of service for any period which, in the reasonable opinion of DIRECTOR, materially and adversely affects the operation or service required to be performed by OPERATOR under the AGREEMENT following thirty (30) days written notice of the event of default and then OPERATOR fails to cure within ten (10) days after the date of the written notice from CITY. If the default cannot reasonably be cured within ten (10) days or fulfillment of OPERATOR'S obligation requires activities over a period of time, OPERATOR shall timely commence performance and such performance shall be diligently pursued without interruption.

11. Any lien is filed against the BMX PREMISES because of any act or omission of OPERATOR and the lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within thirty (30) days written notice; or

12. OPERATOR voluntarily abandons, deserts, vacates, or discontinues its operation of the business herein authorized.

No acceptance by CITY of payments specified herein, in whole or in part, and for any period, after a default of any of the terms, covenants and conditions to be performed, kept or observed by OPERATOR, other than the default in the payment thereof, shall be deemed a waiver of any right on the part of CITY including the right to terminate the AGREEMENT on account of such default.

B. Payment to OPERATOR following Termination by CITY.

If CITY terminates this AGREEMENT without cause, after the fifth year of this Agreement, OPERATOR shall be entitled to a reimbursement of the actual expense paid for any IMPROVEMENTS at the FACILITY less 5% for each full year that has elapsed since the IMPROVEMENTS have been constructed. Should OPERATOR construct additional improvements over the life of this Agreement, or extensively retrofit or remodel any existing IMPROVEMENTS each significant addition shall be calculated as of the date of completion of construction with the 5% annual reduction not utilized until at least one year has passed since the completion. If CITY terminates this AGREEMENT without cause prior to the end of the fifth year of the Agreement, OPERATOR is entitled to the actual expense incurred. CITY shall be entitled to all rights, title and possessory interest in the improvements should any of these payments be made by CITY. At the conclusion of 20 years under the AGREEMENT CITY shall not be liable for any payment, except if there has been subsequent construction or extensive remodeling or reconstruction after the fifth year of the AGREEMENT and then the actual cost less 5% per year shall be paid to OPERATOR, should OPERATOR's Term not be extended by actions of the CITY.

C. CITY'S Right of Reentry:

CITY shall, as an additional remedy, upon an event of default as provided above, have the right to reenter the BMX PREMISES and every part thereof on the effective date of termination without further notice of any kind, remove any persons present and may regain and resume possession either with or without the institution of summary or legal proceedings or otherwise. Such reentry, however, shall not in any manner affect, alter or diminish any of the obligations of OPERATOR under the AGREEMENT.

D. Additional Rights of CITY:

CITY, upon termination of the AGREEMENT, or upon reentry, regaining, or resumption of possession of the BMX PREMISES, may occupy the BMX PREMISES and shall have the right to permit any person, firm, or corporation to enter upon the BMX PREMISES and use it. This occupation by others may be of only a part of the BMX PREMISES, or the whole or a part of together with other space, and for a period of time the same as or different from the balance of the term remaining in this AGREEMENT, and on terms and conditions the same as or different from those set forth in the AGREEMENT.

E. Survival of OPERATOR'S Obligations:

In the event the AGREEMENT is terminated by CITY for cause, or in the event CITY reenters, regains, or resumes possession of the PREMISES upon default, all of the obligations of OPERATOR shall survive and shall remain in full force and effect for the full term of the AGREEMENT.

F. Termination By OPERATOR:

The AGREEMENT may be terminated by OPERATOR, by a 30-day written notice, upon the happening of one or more of the following events of default:

1. The complete destruction of all or a substantial portion of the PREMISES from a cause other than the negligence or omission of OPERATOR, its agents, officers, or employees.;
3. The default by CITY in the performance of any material covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of thirty (30) days after receipt from OPERATOR of written notice to do so and then CITY fails to cure within ten (10) days after the date of the written notice from OPERATOR. If the default cannot reasonably be cured within ten (10) days or fulfillment of CITY'S obligation requires activities over a period of time, CITY shall timely commence performance and such performance shall be diligently pursued without interruption.
4. If OPERATOR terminates for cause, OPERATOR is entitled to have its investment returned to it at 100% for the first five years, declining by 5% each year thereafter and reaching 25% in the 20th year.

SECTION 20. SURRENDER OF POSSESSION

OPERATOR agrees to yield and deliver possession of the BMX PREMISES to CITY on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by OPERATOR or CITY, normal use and wear and tear thereof excepted. No agreement of surrender or to accept a surrender shall be valid unless and until the same is in writing and signed by the duly authorized representatives of CITY and OPERATOR. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of CITY shall be deemed an acceptance of a surrender of the BMX PREMISES utilized by OPERATOR under the AGREEMENT.

OPERATOR shall have the right to remove its equipment, supplies, furnishings, inventories, removable fixtures and personal property from the BMX PREMISES within thirty (30) days before the expiration or earlier termination of the AGREEMENT. If OPERATOR fails to remove the property within the last thirty (30) days of the AGREEMENT, the property shall be considered abandoned, and CITY may dispose of the property as it sees fit.

SECTION 21. WAIVER

A waiver of a default of any part, term, or provision of the AGREEMENT shall not be construed as a waiver of any succeeding default or as a waiver of the part, term, or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

SECTION 22. FORCE MAJEURE

Neither party hereto shall be liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants or conditions of the AGREEMENT due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of nature, landslides, earthquakes, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion or sabotage.

SECTION 23. REMEDIES ARE NON-EXCLUSIVE AND MEDIATION REQUIREMENT

No right, power, remedy, or privilege of CITY shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of these rights, powers, remedies, or privileges shall be deemed cumulative and additional and not in lieu or exclusive of each other or of any other remedy available to CITY at law or in equity. No litigation may be filed concerning this Agreement unless both parties have participated in non-binding mediation prior to the filing of a lawsuit. The only exception to this clause is if either party reasonably believes that an emergency exists, and a Temporary Restraining Order may be sought prior to engaging in mediation.

SECTION 24. LAW OF CALIFORNIA APPLIES

The laws of the State of California shall govern the performance and enforcement of this AGREEMENT.

SECTION 25. VENUE

Venue of any action brought in connection with the AGREEMENT shall lie in Santa Clara County Superior Court.

SECTION 26. SEVERABILITY

If any term, provision, condition or covenant of this Agreement or its application to any Party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

SECTION 27. ATTORNEY'S FEES

Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of the action shall be entitled to reasonable attorneys' fees, court costs, and other such costs as may be fixed by the court. Reasonable attorneys' fees of the City Attorney's Office if private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County.

SECTION 28. NOTICES

A. To CITY:

Unless otherwise stated in the AGREEMENT, written notices to CITY shall be addressed to the Department of Public Services, Attn: Department Director, 17555 Peak Avenue Morgan Hill, CA 95037, with a copy to City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037-4128.

All notices may either be delivered personally or may be deposited in the United States mail, properly addressed with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt. This address may be used for service of process.

CITY shall provide OPERATOR with written notice of any address change within thirty (30) days of the occurrence of said address change.

B. To OPERATOR:

All notices may either be delivered personally to the OPERATOR or to any officer or responsible employee of OPERATOR or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt. This address may be used for service of process.

Written notices to OPERATOR shall be addressed to OPERATOR as follows:

FOUNDATION FOR A BETTER RIDE

c/o Nick Valencia

17513 Woodridge Court

Salinas, CA 93908

OPERATOR shall provide CITY with written notice of any address change within thirty (30) days of the occurrence of said address change.

SECTION 29. INTERPRETATION

OPERATOR and CITY agree that the AGREEMENT shall be deemed to have been jointly drafted and shall be construed according to its fair meaning and not strictly for or against either CITY or OPERATOR. The section headings are for the convenience of CITY and OPERATOR, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of the AGREEMENT. If any provision of the AGREEMENT is determined to be void by any court of competent jurisdiction, then this determination shall not affect any other provision of the AGREEMENT, and all such other provisions shall remain in full force and effect; and it is the intention of the PARTIES that if any provision of the AGREEMENT is capable of two constructions, one of which render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid. The use of any gender shall include all genders and the use of any number shall be construed as the singular or the plural, all as the context may require.

SECTION 30. AGREEMENT CONTAINS ENTIRE AGREEMENT

The provisions of the AGREEMENT contain the entire agreement between the PARTIES and said AGREEMENT may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and OPERATOR.

SECTION 31. TIME OF THE ESSENCE

Time is of the essence for all provisions of the AGREEMENT

SECTION 32. INCORPORATION OF DOCUMENTS

This AGREEMENT and incorporated documents represent the entire integrated agreement of the PARTIES and supersedes all prior written or oral representations, discussions, and agreements.

IN WITNESS WHEREOF, THE CITY OF MORGAN HILL has caused this AGREEMENT to be executed on its behalf by its duly authorized representative and OPERATOR has executed the as of the date first written above.

CITY:

CITY OF MORGAN HILL, a California municipal corporation

By:

Christina Turner, City Manager

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

ATTEST:

By:

Michelle Bigelow, City Clerk

OPERATOR:

FOUNDATION FOR A BETTER RIDE
a California non-profit 501(c)(3) corporation

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

Exhibits:

“A”: Map of PREMISES

“B”: CONCEPT MAP and LIST of all IMPROVEMENTS

“C”: Proposed Construction Schedule of OPERATOR for IMPROVEMENTS

“D”: Insurance Requirements

“E”: CITY Improvement Plan and CITY Construction Plan for CITY/SHARED Use AREA

“F”: Standard Fees and COMMUNITY BENEFIT FEES List

“G” CITY Bond Forms

“H” Form Example of Profit and Loss Statement for BMX PREMISES

DRAFT

EXHIBIT A - PREMISES

Draft - Legal Description to be Added Following Council Approval

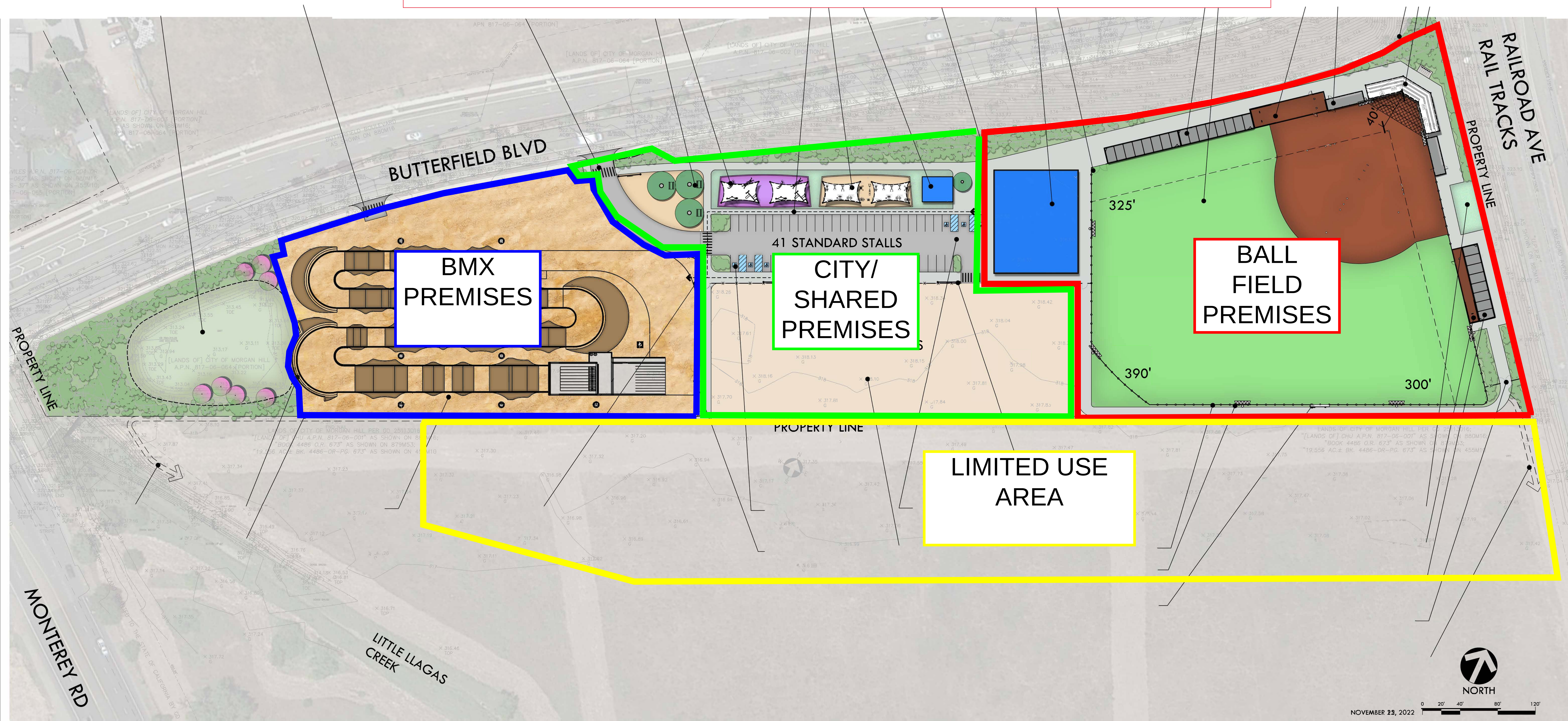


EXHIBIT B

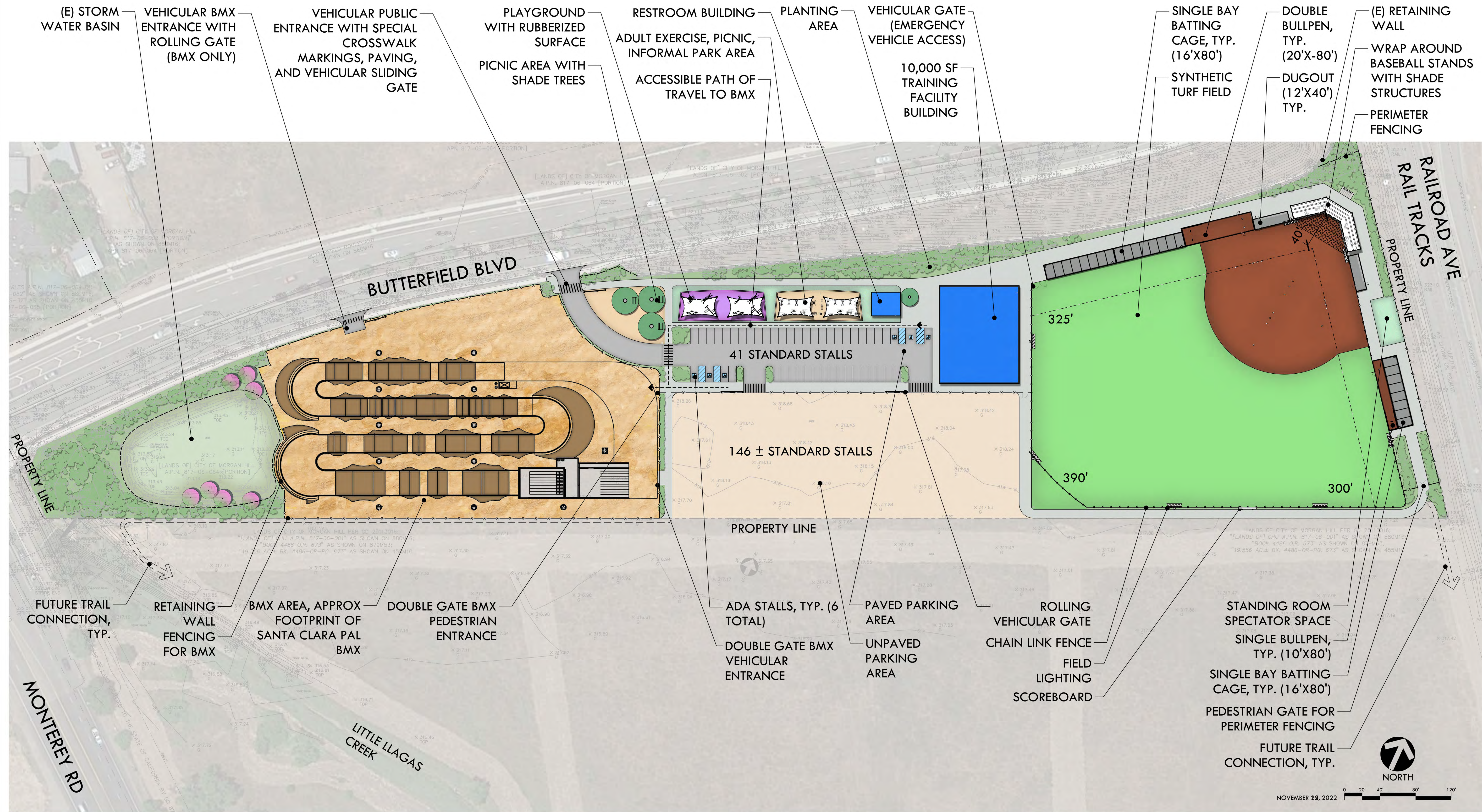


Exhibit C - Proposed Construction Schedule of Operator for Improvements

Construction within first two years of agreement:

- Construction of BMX race course and fencing to secure the course.
- Installation of landscaping to beautify the space to include mulch, drought tolerant plants, etc.
- Storage unit(s) to secure loaner bikes and equipment.

Construction within first 5 years of agreement:

- Temporary style office building on premises will also be planned for race day office programming and computer storage.
- Lighting system to facilitate the possibility of evening programming and race events. This will be looked to be executed in year 1 as funds become available for this project.
- Concrete walkways/bike paths inside the track area to keep dust minimal and improve aesthetics.

EXHIBIT “D”

PART 1 of 2: Insurance required for construction of FACILITY:

No later than ten (10) days following issuance of the notice to proceed, OPERATOR is required to procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of OPERATOR and its Subcontractors relating to or arising from the performance of work associated with the construction of the FACILITY, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the FACILITY has been accepted for maintenance and operation by the City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or “umbrella” policies, provided each such policy complies with the requirements set forth herein. Any self-insured retentions must be declared to and approved by City.

Coverages may be provided by OPERATOR's General Contractor if OPERATOR is not directly insuring such exposures under an “Owners and Contractors Protective Liability Policy (OCP)” on which CITY would be an additional insured. If OPERATOR will utilize the services of a General Contractor to perform all of the work associated with the construction of the FACILITY, then OPERATOR may opt to have all coverages provided by OPERATOR's General Contractor, provided that a written contract is executed between OPERATOR and the General Contractor whereby the written contract specifically required General Contractor to fulfill all of the City insurance requirements as outlined in this Agreement, including all endorsements in favor of the City. Verification of the written contract must be provided to City upon request.

If OPERATOR fails to provide any of the required coverage in full compliance with the requirements of the Agreement, City may, at its sole discretion, purchase such coverage at OPERATOR's expense and invoice OPERATOR for the costs incurred, or terminate the Agreement for default. OPERATOR further understands that City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to OPERATOR, at any time as deemed necessary to protect the interests of City.

(a) **Policies and Limits.** The following insurance policies and limits are required for this Contract unless otherwise specified in the Special Conditions:

- (1) Commercial General Liability Insurance (“CGL”).** OPERATOR shall maintain CGL and shall include coverage for liability arising from OPERATOR's or its Subcontractor's acts or omissions in the performance of the construction of the FACILITY against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) combined single limit each occurrence and either a general aggregate limit of ten million dollars (\$10,000,000.00) or a general aggregate limit of five million dollars (\$5,000,000.00) as applied on a “per project” or “per location” basis, or (ii) the maximum amount of such insurance available to

Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.
- b. CGL policy must include contractor's protected coverage, blanket contractual, and completed operations.

(2) Workers' Compensation Insurance and Employer's Liability: OPERATOR shall maintain Workers Compensation coverage, as required by law. The policy must comply with the requirements of the California Workers' Compensation Insurance and Safety Act and provide protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If OPERATOR is self-insured, OPERATOR must provide its Certificate of Permission to Self-Insure, duly authorized by the State of California Department of Industrial Relations.

(3) Automobile Liability: OPERATOR shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if OPERATOR does not own automobiles, then OPERATOR shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) combined single limit, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(4) Pollution (Environmental) Liability: If the performance of OPERATOR's work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, OPERATOR shall procure and maintain Pollution Liability covering OPERATOR's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) One Million Dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(5) Professional Liability: Because the performance of OPERATOR's work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, legal

services, and appraisers), OPERATOR shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) One Million Dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if OPERATOR maintains a claims-made policy, OPERATOR shall provide written evidence of such insurance to City for at least five (5) years after the completion of work performed under this Agreement.

(b) **Required Endorsements.** OPERATOR shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below.

(1) All Policies except Professional Liability:

"Waiver of Subrogation" - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) General Liability, Automobile, and if required, Pollution Liability:

a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations and at least as broad as ISO Form CG 20 37 for completed operations.

b. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01;

(3) General Liability:

a. "Separation of Insureds" endorsements stating that the inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(c) **Subcontractors.** OPERATOR must ensure that each Subcontractor is required to maintain the same insurance coverage required under this EXHIBIT "D," as appropriate based on each subcontractor's scope of work associated with the construction of the FACILITY, including all required endorsements.

(d) **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M.

Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better.

(e) **Certificates.** OPERATOR shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, OPERATOR shall promptly furnish CITY with copies of all policies outlined herein. No policy subject to this Agreement shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this EXHIBIT "D". Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue
Morgan Hill, CA 95037

Part 2 of 2: Insurance required for the maintenance and operations of facility:

OPERATOR shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of OPERATOR, including its subcontractors and invitees, for liability arising out of or relating to OPERATOR's use or occupancy of the FACILITY or the conduct of its operations under this Agreement, and must remain in full force and effect at all times during the period covered by this Agreement, including any extensions of time as may be granted. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any self-insured retentions must be declared to and approved by CITY. OPERATOR further understands that CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to OPERATOR, at any time as deemed necessary to protect the interests of CITY.

(a) **Policies and Limits.** The following insurance policies and limits are required for this Agreement:

(1) **Commercial General Liability Insurance ("CGL"):** OPERATOR shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) two million dollars (\$2,000,000.00) combined single limit each occurrence and either a general aggregate limit of four million dollars (\$4,000,000.00) or a general aggregate limit of two million dollars (\$2,000,000.00) as applied on a "per location" basis, or (ii) the maximum amount of such insurance available to OPERATOR under

OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(2) **Workers' Compensation Insurance and Employer's Liability:** OPERATOR shall maintain Workers Compensation coverage, as required by law. The policy must comply with the requirements of the California Workers' Compensation Insurance and Safety Act and provide protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If OPERATOR is self-insured, OPERATOR must provide its Certificate of Permission to Self-Insure, duly authorized by the State of California Department of Industrial Relations.

(3) **Automobile Liability:** OPERATOR shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if OPERATOR does not own automobiles, then OPERATOR shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(4) **Other Liability Insurance:** Because the OPERATOR's activity outlined in this Agreement involves contact with minors, OPERATOR shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of (i) two million dollars (\$2,000,000.00) each claim, or (ii) the maximum amount of such insurance available to OPERATOR under OPERATOR's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(5) **Property:** OPERATOR shall maintain Property Insurance to cover OPERATOR's personal property, including furniture and fixtures, at an amount equal to the full replacement cost of such property. Such coverage shall include protection against fire, theft, vandalism, sprinkler leakage, malicious activity, and all other forms of loss ("all-risk" coverage). OPERATOR may elect to self-insure OPERATOR's personal property by written notice given to CITY.

(b) **Required Endorsements.** OPERATOR shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below.

(1) ALL Policies:

"Waiver of Subrogation" - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have

against the City of Morgan Hill and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) ALL Policies except Workers Compensation:

- a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds. Further, for the CGL policy, the additionally insured endorsement will be provided on a form at least as broad as ISO Form CG 20 10 for ongoing operations.

(3) General Liability:

- a. "Primary and Non-Contributing" - Insurance shall be primary non-contributing on a form at least as broad as ISO Form CG 20 10 for ongoing operations;
- b. "Separation of Insureds" - The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(c) **Subcontractors.** OPERATOR must ensure that each Subcontractor is required to maintain the same insurance coverage required under this EXHIBIT "D" as appropriate based on each subcontractor's scope of work, with respect to the management or operations of the PROPERTY, including all required endorsements.

(d) **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better.

(e) **Certificates.** OPERATOR shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, OPERATOR shall promptly furnish CITY with copies of all policies outlined herein. No policy subject to this Agreement shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this EXHIBIT "D". Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

City of Morgan Hill

Attn: Risk Management
17575 Peak Avenue
Morgan Hill, CA 95037

Exhibit E - CITY Improvement Plan and CITY Construction Plan for CITY/SHARED PREMISES

Initial Construction Phase (All Components are included as basic amenities)

- Driveway into Park
- 40 stall or greater parking improved parking lot
- 145 stall or greater dirt parking lot
- Wet utilities within the Shared Premises area (storm drainage and filtration systems, sanitary sewer, and water)
- Electricity within the Shared Premises
- Internal travel paths and sidewalk

Potential Future Phase:

- Restroom Building (basic amenity)
- Playground (City only amenity)
- Picnic Area (City only amenity)
- Trail Connection to South Property (City only amenity)
- Outdoor exercise equipment (City only amenity)

Exhibit F

Standard Fees and COMMUNITY BENEFIT FEE List

Standard Race day entry \$12 Community (Morgan Hill Resident) race day entry
\$10

Standard Sunday post race track practice \$5 Community (Morgan Hill Resident)
track time Free No Charge

Standard Skills clinic practice session \$25 Community (Morgan Hill Resident) price
\$20

Standard Bike/Equipment rental \$5 Community (Morgan Hill Resident) price \$4

Financial assistance shall be provide to Female Morgan Hill Residents at 25% of
standard fees listed above.

Financial assistance shall be provided to low income Morgan Hill Residents at up
to 50% based upon income level. Income levels shall be determined by the City of
Morgan Hill Recreation Division's current Financial Assistance levels.

Special one off events will strive to keep a discount consistent with favor given to
community members whenever possible. Additional scenarios will exist in the
future where discount can be overridden by fee waivers through Foundation For
A Better Ride or USABMX Foundation non profit entities.

EXHIBIT G - PERFORMANCE BOND

The City of Morgan Hill ("City") and Foundation for a Better Ride a 501(c)(3) non-profit corporation ("OPERATOR") have entered into an AGREEMENT for work on the Butterfield Park BMX Facility ("Project"). The Agreement between the City and OPERATOR is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, OPERATOR as Principal and _____, its surety ("Surety"), are bound to City as obligee for an amount not less than _____ Dollars (\$ _____) (the "Bond Sum"). By executing this Bond, OPERATOR and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.
2. **Surety's Obligations.** Surety's obligations are co-extensive with OPERATOR's obligations under the AGREEMENT. If OPERATOR fully performs its obligations under the AGREEMENT, including its warranty obligations under the AGREEMENT, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations under this bond will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the AGREEMENT made under the applicable provisions of the AGREEMENT Documents, including changes to the scope of Work or extensions of time for performance of Work under the AGREEMENT. Surety waives the provisions of Civil Code Sections 2819 and 2845.
4. **Limitation upon Surety Liability for Project.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, the Surety is only liable for the total amount of construction costs to complete the Project based upon the AGREEMENT's requirements.
5. **OPERATOR Default.** Upon written notification from City that OPERATOR is in default under Article 19 of the AGREEMENT, time being of the essence, Surety must act within the time specified in Article 19 to remedy the default through one of the following courses of action:
 - 5.1 Arrange for completion of the Work under the AGREEMENT by OPERATOR, with City's consent, but only if OPERATOR is in default solely due to its financial inability to complete the Work;
 - 5.2 Arrange for completion of the Work under the AGREEMENT by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety, at Surety's expense, or

5.3 Waive its right to complete the Work under the AGREEMENT and reimburse City the amount of City's costs to have the remaining Work completed.

- 6. Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.
- 7. Notice.** Any notice to Surety may be given in the manner specified in the AGREEMENT and delivered or transmitted to Surety as follows:

Attn: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
Email: _____

- 8. Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.
- 9. Effective Date; Execution.** This Bond is entered into and effective on _____, 20____.

[Signatures are on the following page.]

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgment with Notary
Seal and Power of Attorney)

OPERATOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Donald A. Larkin, City Attorney

Date: _____

END OF PERFORMANCE BOND

Exhibit H - Profit and Loss Statement Format

Sales	
Food and Drink	
Race Fees	
Practice Session Fees	
Special Event Fees	
Rental Fees	
Merchandise	
Total SALES	
Cost of Goods Sold (COGS)	
Food and Drink	
Race Fees	
Practice Session Fees	
Special Event Fees	
Rental Fees	
Merchandise	
Total COGS	
Gross Profit	
Labor Cost	
Operating Costs	
Rent	
Utilities	
Property Tax	
Waste Removal	
Insurance	
Equipment Repairs	
Total Operating Cost	
Net Profit/Loss	