



Special/Regular Meeting Agenda
City Council

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

Wednesday, May 15, 2024 5:00 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 view 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 view the meetings remotely may do so by joining virtually at: <https://bit.ly/MHCityCouncilMeeting>, by calling (669) 900-9128, then enter the webinar id: 873 3200 8380# or on our website at <https://www.morganhill.ca.gov/2101/Agendas-Minutes>.

Public comment may only be provided in the following ways:

- In-person at the City Council Meeting;
- In writing
 - o Via email to ccpubliccomment@morganhill.ca.gov; or
 - o Hard copy hand delivered 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 12:00 p.m. 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. It is recommended that you do not include any personal information that you do not want to be posted on the web. Please be advised that communications directed to the City Council are public records and are subject to disclosure pursuant to the California Public Records Act and Brown Act unless exempt from disclosure under the applicable law. Communications will NOT be edited for redactions and will be printed/posted as submitted.

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.

SPECIAL/REGULAR MEETING

A special meeting of the City Council is called at 5:00 p.m. for the purpose of conducting a closed session.

SPECIAL MEETING

5:00 p.m. Closed Session

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

CLOSED SESSION

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

City of Morgan Hill v. Rocke and Glenda Garcia et al. (Santa Clara County Case No. 21CV385524)

Conference with Legal Counsel – Anticipated Litigation

Significant exposure to litigation pursuant to § 54956.9(b): (one case)

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

REGULAR MEETING

6:00 pm

RECOGNITIONS

Recognizing Michael Greymont for his volunteer work for the Morgan Hill Aquatics Center

PROCLAMATIONS

Proclaiming May 15, 2024 as Peace Officers Memorial Day and the week of May 12 - 19, 2024 as National Police Week

Proclaiming the week of May 19 - 25, 2024 as National Public Works Week

Proclaiming the month of May 2024 as Affordable Housing Month

Proclaiming the month of May 2024 as Wildfire Awareness Month

Proclaiming the month of May 2024 as Foster Care/Resource Parent Month

PRESENTATIONS

YAC Presentation

CITY COUNCIL REPORTS

Council Member Spring

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.

1. **ACCEPTANCE OF FISHER BASIN EXPANSION PROJECT IN THE AMOUNT OF \$2,488,052**

Recommendation:

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

2. **ADOPT 2024 WASTEWATER COLLECTION SYSTEM MASTER PLAN UPDATE**

Recommendation:

Adopt the 2024 Wastewater Collection System Master Plan Update.

3. **ADOPT MITIGATED NEGATIVE DECLARATION FOR THE EAST DUNNE AVENUE HILLSIDE WATER RESERVOIR PROJECT**

Recommendation:

1. Adopt and certify the project Mitigated Negative Declaration;
2. Approve the Mitigation Monitoring and Reporting Program; and
3. Authorize the City Clerk to file the Mitigated Negative Declaration with the County Recorder's Office.

4. **ADOPT ORDINANCE 2354, NEW SERIES, REPEALING AND REPLACING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS AND MASSAGE PROFESSIONALS PERMIT REQUIREMENTS) OF TITLE 5 (BUSINESS LICENSES GENERALLY) TO ESTABLISH A PERMITTING PROCEDURE FOR MASSAGE THERAPY ESTABLISHMENTS AND SERVICES**

Recommendation:

Waive the reading, adopt Ordinance No. 2354, 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.

5. **ADOPT ORDINANCE 2355, NEW SERIES, AMENDING SECTION 13.20.030 (DEFINITIONS) AND SECTION 13.20.090 (SPECIFIC POLLUTANT LIMITATIONS) OF CHAPTER 13.20 (SEWERS AND INDUSTRIAL WASTE) OF TITLE 13 (PUBLIC SERVICES), TO REGULATE SEWER USE AND SET UNIFORM REQUIREMENTS FOR DISCHARGES INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM**

Recommendation:

Waive the reading, adopt Ordinance No. 2355, 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.

6. **ADOPT RESOLUTION APPROVING FY 2024-25 LIST OF STREET REHABILITATION PROJECTS FUNDED BY SENATE BILL (SB) 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT**

Recommendation:

Adopt a resolution approving a list of street rehabilitation projects for Fiscal Year 2024-25 funded by SB1, the Road Repair and Accountability Act of 2017.

7. **APPROVE THE APRIL 24, 2024 CITY COUNCIL MEETING MINUTES**

Recommendation:

Approve minutes.

8. **APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR EMERGENCY MEDICAL DISPATCHING SERVICES**

Recommendation:

1. Authorize the City Manager to enter into a one-year amendment to the agreement with the County of Santa Clara for Emergency Medical Dispatch Services for \$73,260 with an option to extend for an additional three years, subject to budget appropriation and approval as to form by the City Attorney; and
2. Authorize the City Manager to execute all future agreements with the County of Santa Clara to ensure continued medical dispatch services for our Community.

9. **APPROVE THE SECOND AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT WITH ASSOCIATED ENGINEERING-SURVEYING SERVICE, INC., DBA HANNA-BRUNETTI, FOR ON-CALL MAP REVIEW AND CITY SURVEYOR SERVICES FOR LAND DEVELOPMENT ENGINEERING**

Recommendation:

1. Approve the Second Amendment to the professional service agreement with Hanna-Brunetti for On-Call Map Review and City Surveyor Services for Land Development Engineering to add \$40,000 to the contract amount for a total not-to-exceed amount of \$100,000 with the term of the agreement unchanged; and
2. Authorize the City Manager to execute the Second Amendment.

10. **AWARD 2024 PAVEMENT REHABILITATION PROJECT TO A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION IN THE AMOUNT OF \$3,437,968**

Recommendation:

1. Approve 2024 Pavement Rehabilitation plans and specifications;
2. Award contract to A. Teichert & Son, Inc. DBA Teichert Construction for the 2024 Pavement Rehabilitation Project in the amount of \$3,437,968;
3. Authorize the expenditure of construction contingency not to exceed \$343,797; and
4. Authorize the City Manager to execute and administer the construction contract with A. Teichert & Son, Inc. DBA Teichert Construction.

11. **AWARD 2024 SEAL COAT & STRIPING PROJECT TO DRYCO CONSTRUCTION, INC. IN THE AMOUNT OF \$77,241**

Recommendation:

1. Award contract to DRYCO Construction, Inc. in the amount of \$77,241;

2. Authorize the expenditure of contingency funds not to exceed \$7,724; and
3. Authorize City Manager to execute and administer the construction contract with DRYCO Construction, Inc.

12. AWARD ON-CALL ELECTRICAL MAINTENANCE AND REPAIR SERVICE AGREEMENTS

Recommendation:

1. Award maintenance service agreements to MJR Electric, Inc. and One Day Installation & Repairs, Inc. for up to \$100,000 each for on-call electrical maintenance and repair services; and
2. Authorize the City Manager to execute and administer the agreements.

13. RATIFY CITY POSITION ON PENDING LEGISLATION, ASSEMBLY BILL 3035 (PELLERIN) AGRICULTURAL EMPLOYEE HOUSING: STREAMLINED MINISTERIAL APPROVAL: COUNTIES OF SANTA CLARA AND SANTA CRUZ

Recommendation:

Ratify the City's support position on pending legislation, Assembly Bill 3035 (Pellerin) Agricultural employee housing: streamlined ministerial approval: Counties of Santa Clara and Santa Cruz.

PUBLIC HEARINGS

14. CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION TO ESTABLISH OLD MONTEREY ROAD UNDERGROUND UTILITIES DISTRICT NO. 1 – OLD MONTEREY ROAD FROM LLAGAS ROAD TO MONTEREY ROAD

Recommendation:

1. Open/Close Public Hearing;
2. Adopt Resolution Establishing Old Monterey Road Underground Utilities District No. 1 - Old Monterey Road from Llagas Road to Monterey Road; and
3. Direct the City Clerk to notify all affected utilities and all persons owning real property within ten (10) days after the date of the adoption of the resolution.

OTHER BUSINESS

15. PROVIDE INPUT ON TRANSPORTATION MASTER PLAN GOALS AND ADOPT SPEED LIMITS IN ACCORDANCE WITH UPDATED ENGINEERING AND TRAFFIC SURVEY

Recommendation:

1. Provide input and direction on Transportation Master Plan Goals and Priorities;
2. Repeal Resolution No. 15-223 based on 2015 Engineering and Traffic Survey; and
3. Adopt Resolution establishing speed limits on City Streets.

16. APPROVE SOUTH COUNTY RECYCLED WATER DISTRIBUTION MASTER PLAN

Recommendation:

Review and approve final draft of the South County Recycled Water Distribution Master Plan.

17. INTRODUCE THE RECOMMENDED FY 2024-25 AND FY 2025-26 BIENNIAL OPERATING AND FY 2024-25 THROUGH FY 2029-30 CAPITAL IMPROVEMENT PROGRAM BUDGETS

Recommendation:

Receive the Introduction to the Recommended Budget Presentation.

18. PROVIDE DIRECTION REGARDING REMOTE PUBLIC COMMENTS AT CITY COUNCIL MEETINGS

Recommendation:

Provide direction to staff regarding the allowance of remote public comment on Zoom.

19. PROVIDE DIRECTION REGARDING OPTIONS FOR PUBLIC ART FUNDING

Recommendation:

Receive report and provide direction on policy for public art funding.

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 request an item on the agenda for a future City Council meeting. 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.

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.

Strategic Priorities 2024-2025

- Fiscal Sustainability
- Affordable Housing and Homelessness
- Community Engagement
- Economic Development and Tourism
- Transportation
- Healthy Community

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

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

ACCEPTANCE OF FISHER BASIN EXPANSION PROJECT IN THE AMOUNT OF \$2,488,052

RECOMMENDATION(S)

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

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Storm Drain Master Plan

REPORT NARRATIVE:

On June 7, 2023, the Fisher Basin Expansion Project was awarded to Galeb Paving, Inc. in the amount of \$2,568,800 with a construction contingency of \$385,320. The project scope of work includes the excavation, offhauling, and grading of the Fisher Basin (approximately 44,000 Cubic Yards) along with the construction of a 12-foot wide access road and rock rip-rap outfall at multiple locations on site. The completion of this project resulted in additional storm water storage capacity and helped the overall system in reducing flooding in the area (Attachment 1 for Vicinity Map).

The project began on October 4, 2023, and was substantially completed by February 2024. While the project presented challenges with wet conditions and continual storm water flow into the project site throughout the project, staff and contractor were able to collaborate and complete the project within the project's time frame. One deductive change order was authorized and approved in the amount of \$80,748 (Attachment 2). This net credit change order included additional costs relating to dewatering and wet

soil conditions during construction and deduct on a bid line item for excavation and offhauling. The final construction contract with Galeb Paving, Inc. is \$2,488,052.

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

COMMUNITY ENGAGEMENT:

Inform

Staff provided regular updated construction information weekly through Nextdoor and onto the City website.

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 September 6, 2018, the City Council adopted the 2018 Storm Drain Master Plan.
- On June 15, 2022, the City Council adopted the FY2022-23 through 2027-28 Capital Improvement Program Project Budget.
- On June 7, 2023, the City Council awarded Fisher Basin Expansion Project to Galeb Paving, Inc. in the amount of \$2,568,800.

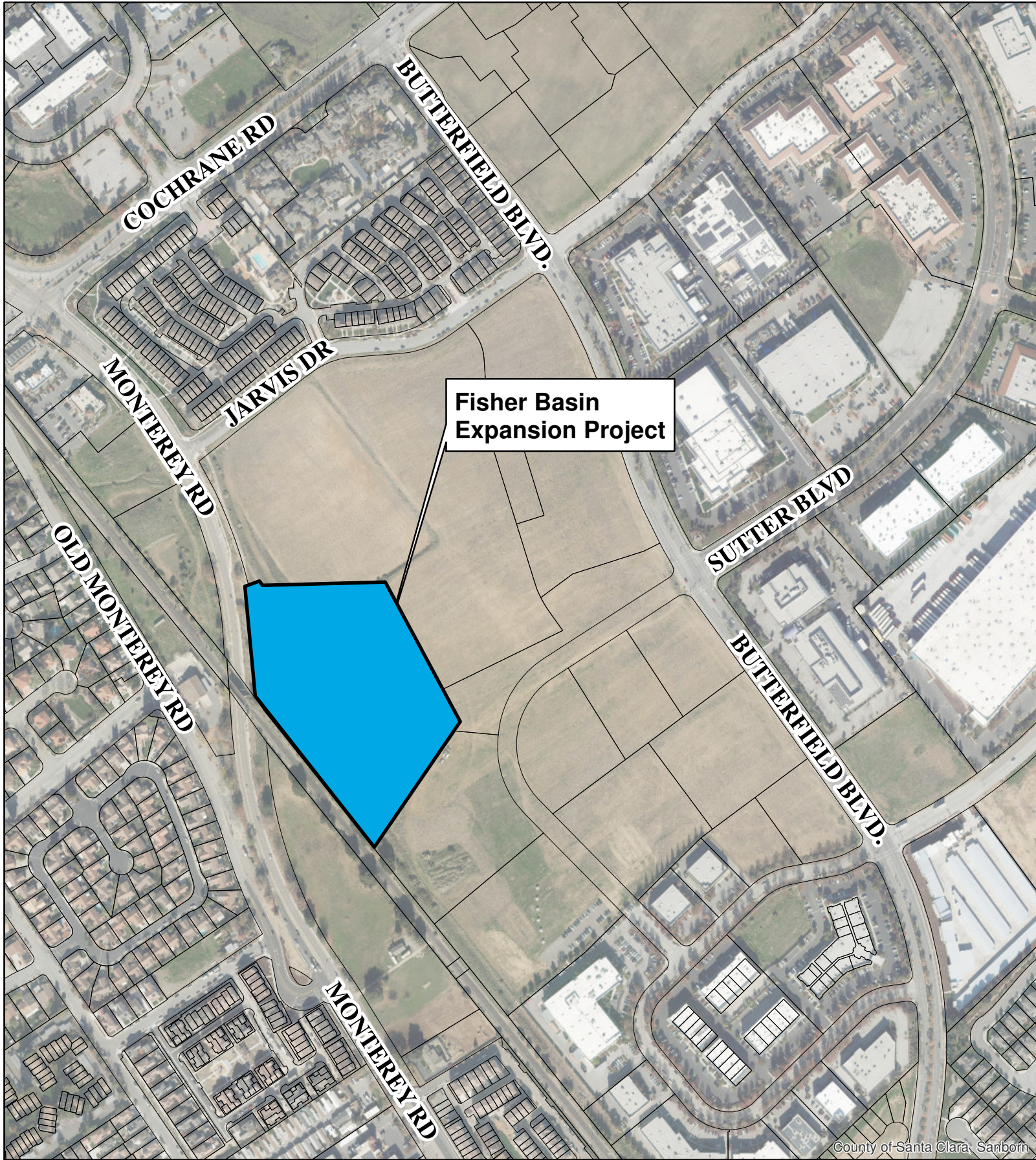
FISCAL AND RESOURCE IMPACT:

The final contract amount for the Fisher Basin Expansion Project is \$2,488,052.31 (including one deductive change order in the amount of \$80,747.69). The project was awarded to Galeb Paving, Inc. in the amount of \$2,568,800 with a contingency of \$385,320 (Total \$2,954,120). The project is funded in the adopted Capital Improvement Program budget, Project 415020, Fisher Basin Expansion Project, under the Local Drainage Impact Storm Drainage Fund (303). The balance of \$466,067.69 will be returned to the Local Drainage Impact Storm Drainage Fund (303).

CEQA (California Environmental Quality Act):

Mitigated Negative Declaration

A Mitigated Negative Declaration for this project was approved in November 2021 in accordance with CEQA. Mitigation measures are imposed upon the project to reduce potential impacts to a less than significant level.



County of Santa Clara, Sanborn



**Engineering and Utilities Department
CIP Engineering Division**

Document Path: G:\R-14\PROJ\Agustin\GIS\Fisher Basin Expansion Project.mxd

FISHER BASIN EXPANSION PROJECT



0 190 380 760 1,140 1,520 Feet

CIP Contract Acceptance Funding Closeout Statement

Project:	Fisher Basin Expansion Project	
Project No:	415020	
Date of Project Award:	7-Jun-23	Project Award Amount:
Funding Source:	F303	Contingency Authorized:
Date of Project Acceptance:	15-May-24	Total Authorized:
		Actual Base Contract Spent:

Change Orders			
	Description	Date	Council Approval Req'd? (Y/N)
C.O. #1:	Wet Vegetation, Premium Saturday Work, DeWatering, Pump and Hose Purchase, Bond Premium, Overage/Underage to Contract Items	17-Jan-24	N
			Total C.O.:

Additional Appropriations		
Source	Amount	Date
None		

	Total Construction Amount (Base Contract plus CO's):
Construction Fund Balance:	\$466,067.69

\$2,568,800
\$385,320
\$2,954,120
\$2,568,800

-\$80,747.69
-\$80,747.69

\$2,488,052.31

Recording Requested By:
The City of Morgan Hill

When Recorded Mail To:

<name, title>
<street address>
<city, state and zip>

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

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 agent of the owner of the Project described below.
2. Owner's full name is City of Morgan Hill ("City")
3. City's address is 17575 Peak Avenue Morgan Hill, CA 95037
4. The nature of City's interest in the Project is:
XX Fee Ownership ___ Lessee ___ Other: _____
5. Construction work on the Project performed on City's behalf is generally described as follows:
Excavate and Haul off approximately 44,000 CYS and Grading of Fisher Basin.
6. The name of the original Contractor for the Project is: Galeb Paving, Inc.
7. The Project was accepted as complete on: May 15, 2024
8. The Project is located at: APN 726-25-028

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.

Signature

Date

Scott Creer, City Engineer

*EXEMPT FROM NOTARY ACKNOWLEDGMENT REQUIREMENTS PER
GOVERNMENT CODE § 27287 AND CIVIL CODE § 920*

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

James Sylvain, Deputy Director Utility Services

APPROVED BY: City Manager

ADOPT 2024 WASTEWATER COLLECTION SYSTEM MASTER PLAN UPDATE

RECOMMENDATION(S)

Adopt the 2024 Wastewater Collection System Master Plan Update.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

Upon the completion of the 2035 General Plan in 2016, the City's utilities master plans were updated to reflect the infrastructure that needs to be associated with the growth anticipated in the General Plan. The Wastewater Collection Master Plan was included in this effort and completed in 2017. In keeping with industry best practices, master plans are updated regularly. The 2024 Wastewater Collection Master Plan Update has been developed by planning consultant, Akel Engineering, in coordination with City staff and is now ready for City Council review.

The 2024 Wastewater Collection System Master Plan Update is available for download here:

https://www.morganhill.ca.gov/DocumentCenter/View/48724/MH_WCSMP_FINAL_042324

Utilities master plans are the City's blueprint for building wastewater, sewer, and storm drain infrastructure to meet the community's needs now and as the city grows. In the case of the 2024 Wastewater Collection System Master Plan Update, the growth horizon is 2035. In addition to identifying future infrastructure, the Plan also identifies existing system deficiencies to allow the city to plan for the resources necessary for both maintaining the existing systems and to build out the future infrastructure.

Developing the Master Plan Update:

The 2024 Plan Update includes the following objectives:

- Summarize the City's existing wastewater collection system facilities.
- Document growth assumptions based on the City's 2035 General Plan.
- Summarize the wastewater collection system performance and design criteria.
- Project future wastewater flows for the General Plan horizon.
- Develop a Geographic Information Systems (GIS)-based hydraulic model of the City's wastewater collection system.
- Complete a Flow Monitoring Program to collect data from 11 strategic sites and calibrate the hydraulic model.
- Evaluate system capacity under existing and future flow conditions.
- Identify capacity improvements needed to maintain the target level of service.
- Document the City's Rehabilitation and Replacement (R&R) Program improvements.
- Recommend a Capital Improvement Program with an opinion of probable construction costs.
- Prepare a 2024 Wastewater Collection System Master Plan Update Report

Recommendations in the Wastewater Master Plan:

The Wastewater Collection System Master Plan Update provides for a comprehensive list of miscellaneous and replacement work, new pipeline size increases for capacity, and wastewater trunk improvements. Starting with an evaluation of the existing wastewater system and using sensors citywide to measure wastewater flows and trends, the study provides an assessment of how well existing needs are being met. The report documents the City's performance and design criteria for evaluating the domestic wastewater system. The system performance and design criteria are used to establish guidelines for determining future wastewater demands and the sizing of future facilities. Future needs are based on the growth identified in the General Plan build-out.

The total capital costs projected in the Updated Wastewater Master Plan are \$138.1 million with approximately 42% of that amount paid for by future users. The remainder is to be paid for by existing rate payers. Included in the Plan is a variety of wastewater improvements citywide, such as: Hydraulic Capacity Improvements, Rehabilitation and Miscellaneous Improvements, and Existing Joint Trunk Improvements.

Factors used for future flows:

Future wastewater flows were projected based on land uses in the City's 2035 General Plan and unit flow factors developed through calibration. Additionally, the Plan reviewed existing changes in land use and known likely changes in land used based on the City's most recent planning data. This land-use based approach accounts for urbanization of undeveloped land as well as re-development or intensification in specific growth areas. For future wet weather conditions, the volume of Inflow and Infiltration (I&I) entering the collection system was decreased by 20 percent to account for the City's planned R&R improvements. Future wastewater flow projections are documented and estimated as follows:

- Average Dry Weather Flow (ADWF) of 4.3 million gallons per day (mgd)
- Peak Dry Weather Flow (PDWF) of 7.3 million gallons per day (mgd)
- Peak Wet Weather Flow (PWWF) of 15.2 million gallons per day (mgd)

COMMUNITY ENGAGEMENT:

The Plan Update was prepared as an update to the 2017 Plan, which had amendments made at the staff level in 2019 and 2022, which will formally be incorporated into the 2024 Plan Update. For the last 15 days, the Plan has been posted on the City's website for the Community's review and comment ahead of the City Council meeting.

ALTERNATIVE ACTIONS:

The Wastewater Collection System Master Plan is critical to the future build-out of infrastructure in support of the Community's growth. No alternative action is proposed due to the importance of having this utility Master Plan adopted.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council reviewed the growth assumptions and recommendations of the General Plan 2035 on numerous occasions in previous years. Those efforts led to the assumptions and findings for the 2017 wastewater collection system master plan and for this 2024 wastewater collection system master plan update.

FISCAL AND RESOURCE IMPACT:

Adoption of the Wastewater Collection Master Plan Update has an indirect fiscal impact. The recommendations contained in the Plan will be used to guide future Capital Improvement Program (CIP) spending plans. However, costs to ratepayers and potential impact fees will be reviewed in a formal rate study. When the rate study comes forward, the Council will be able to provide direction on the timing of projects to be implemented as well as financing options that may be required to fund improvements without too significantly increasing rates.

CEQA (California Environmental Quality Act):

The proposed 2024 Wastewater Collection System Master Plan (WSMP) is consistent with the development assumptions in the General Plan 2035. On July 27, 2016, the Morgan Hill City Council adopted Resolution No. 16-127, certifying the Final EIR for the Morgan Hill 2035 General Plan consistent with the requirements of the California Environmental Quality Act (CEQA) and adopting a Statement of Overriding Considerations regarding environmental impacts and a related Mitigation Monitoring and Reporting Program (MMRP).

2024 Wastewater Collection System Master Plan Update (WCSMP)

Presentation

May 15th, 2024



Presentation Overview



2024 WCSMP. What is it? Why and how often do we need one?

The City's wastewater infrastructure overview (Hydraulic improvement areas and flow conditions)

Capital Improvement Program (CIP) - allocation of costs

Questions

2024 Wastewater System Master Plan

- **Who:** Wastewater service providers of all sizes, public or private look periodically at their infrastructure and plan accordingly.
- **What:** An assessment of our wastewater infrastructure for capacity adequacy of the existing system and for recommending improvements to mitigate current deficiencies, as well as for servicing future growth.
- **Why:** This tool helps plan, phase, and develop capital improvement program (CIP) with opinion of probable construction and allocation of costs.
- **When:** The best management practices is to update the WCSMP regularly (MH last WCSMP was in 2017 with amendments in 2019 & 2022).

The **2024** WCSMP Update complies with best management practices

Overview of Existing Wastewater Infrastructure

- Wastewater Infrastructure
 - 159 Miles of Gravity Pipes
 - 3 Miles of Force Mains
 - 2 Miles of Siphons
 - 3800 Manholes
 - 14 Lift Stations

(The service area is about 12.9 square miles)

2024 Wastewater System Master Plan

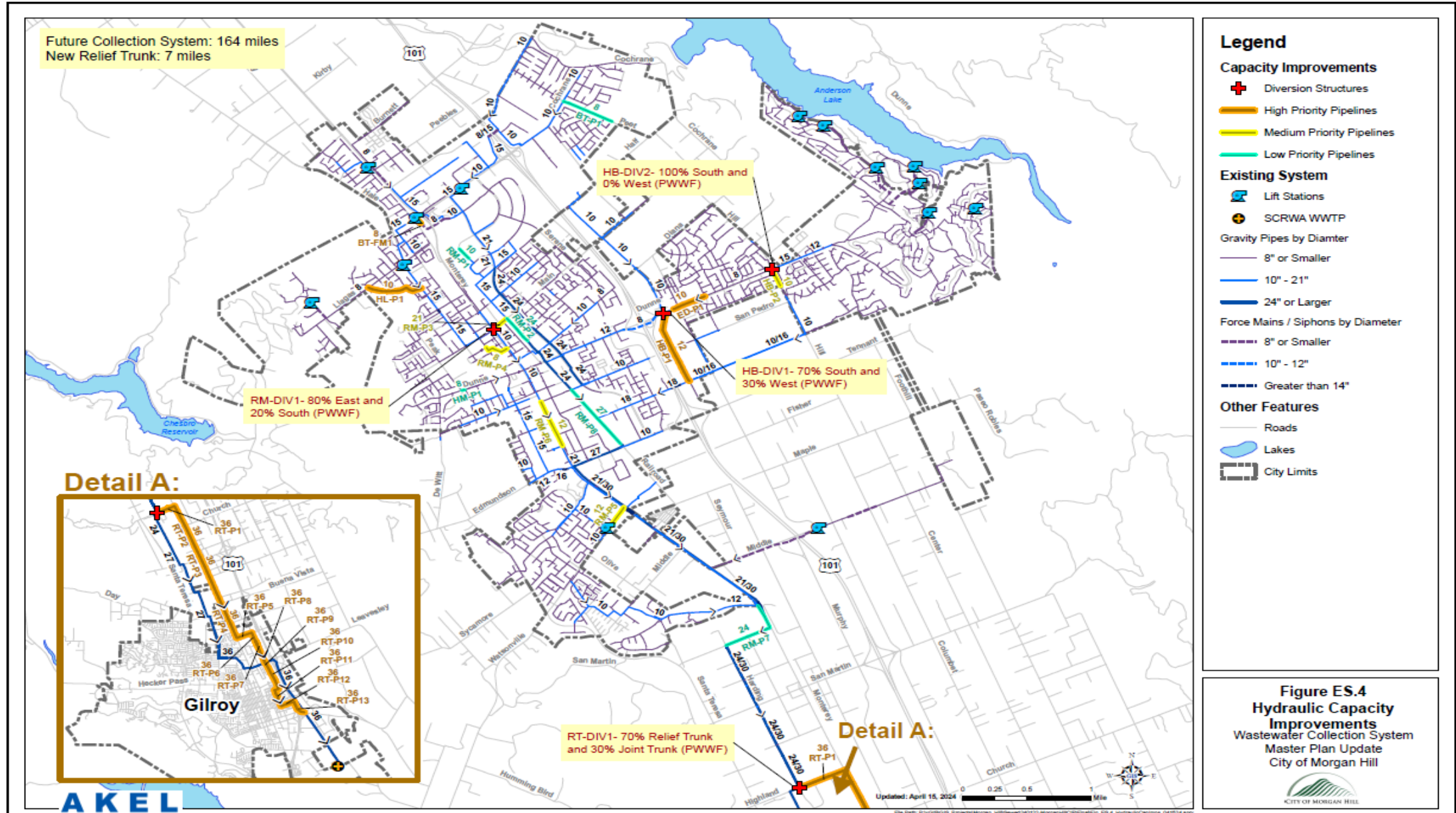


Table ES.3 Wastewater Collection System Flows

Wastewater Collection System Master Plan Update
City of Morgan Hill

Hydraulic Model Scenarios	Average Dry Weather Flow ADWF (mgd)	Peak Dry Weather Flow PDWF (mgd)	Peak Wet Weather Flow PWWF (10-Year 24-Hour Design Storm) (mgd)
Existing Conditions ^{1,2}	2.8	4.7	13.9
Future Conditions ³	4.3	7.3	15.2



4/23/2024

- Notes:
- 1. Existing flows were obtained from the permanent meter located along the Joint Trunk at the intersection of Harding Avenue and Highland Avenue.
 - 2. Select pipes within the upstream tributary areas were upsized to alleviate hydraulic model overflows and capture the design peak wet weather flow.
 - 3. Future conditions include buildout flow projections and a 20% Infiltration and Inflow reduction to account for the City's planned R&R improvements.

2024 Wastewater System Mater Plan

Table ES.5 Capital Improvement Program

Wastewater Collection System Master Plan Update
City of Morgan Hill

Improvement Description and Details								Opinion of Probable Construction Cost				Implementation			Capacity and Cost Allocation			
Project ID	Type of Improv.	Main Street	Construction Limits	New/ Replace/ Repair	Existing Diameter	Proposed Diameter	Total Length ¹	Unit Cost ²	Baseline Cost ³	Construction Cost ⁴	Total Capital Cost ⁵	Project Priority	Phasing Schedule	Construction Trigger	Existing Flows	Future Flows	Existing Users	Future Users
					(inches)	(inches)	(feet)	(\$/ foot)	(\$)	(\$)	(\$)				(%)	(%)	(\$)	(\$)
Total Capital Cost Estimates															Cost Distribution			
A. Hydraulic Capacity Improvements								\$50,140,000	\$65,196,000	\$86,968,000	High, Medium and Low	2024 - 2035 and Beyond	Varies	34%	66%	\$29,399,350	\$57,568,650	
B. Rehabilitation and Miscellaneous Improvements								-	-	\$42,770,000	1A, 1B, 2A, 2B and 3	2024 - 2035	Varies	99%	1%	\$42,531,000	\$300,000	
C. Existing Joint Trunk Improvements								-	-	\$8,335,000	1 and 2	2027 - 2035	Defects	100%	0%	\$8,335,000	\$0	
Total Capital Improvement Program Cost										\$138,073,000						\$80,265,350	\$57,868,650	



2024 Wastewater Collection System Master Plan

QUESTIONS?

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

David Gittleson, Associate Engineer

APPROVED BY: City Manager

ADOPT MITIGATED NEGATIVE DECLARATION FOR THE EAST DUNNE AVENUE HILLSIDE WATER RESERVOIR PROJECT

RECOMMENDATION(S)

1. Adopt and certify the project Mitigated Negative Declaration;
2. Approve the Mitigation Monitoring and Reporting Program; and
3. Authorize the City Clerk to file the Mitigated Negative Declaration with the County Recorder's Office.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Water System Master Plan

REPORT NARRATIVE:

The East Dunne Hillside Water Reservoir Project is included in the Water Master Plan and the FY 22/24 Capital Improvement Program. The East Dunne Hillside Water Reservoir Project (proposed project) would include the construction of an 850,000-gallon above-ground welded steel water supply reservoir and a future pump station, as well as a 15-foot-wide perimeter access strip encircling the water reservoir, an underground bio-filtration vault with rock-armored outfall, and landscaping to filter views of the reservoir. In addition, the project would include the replacement of two existing pumps currently in use at the East Dunne Booster Station at 2375 East Dunne Avenue with larger electric pumps. The project will be located adjacent to East Dunne Avenue on the hillside (Attachment 3).

The East Dunne Hillside Reservoir design was initially approved by City Council in January 2016. A Draft Initial Study was also completed by Geier & Geier Consulting in

November 2016. The project reached completion in December 2018. However, staffing levels and funding to construct the project were not in place, so the project was put on hold. Since that time, the City was awarded a \$4 million grant from the State Department of Water Resources to support the project. On June 7, 2023, City Council approved a contract to complete the project by updating the Plans/Specifications to current standards and regulations. In addition, Raney Planning & Management was hired to review and update the 2016 Initial Study as Geier & Geier were no longer in business.

The updated Initial Study was completed by Raney Planning & Management in March 2024 with a Mitigated Negative Declaration finding. During the 30-day public review period, the City only received comments from the Department of Fish and Wildlife. Their comments did not alter the study's findings, but were implemented into the final Mitigated Negative Declaration and final Mitigation Monitoring and Reporting Program.

The City then posted a Notice of Intent to Adopt the Initial Study/Mitigated Negative Declaration on May 3, 2024, which stated that based upon the conclusions set forth in the Initial Study, the CEQA Lead Agency finds that the proposed Project, which includes measures and mitigation designed to minimize environmental impacts, would not result in significant adverse effects on the environment (Attachment 1). The CEQA Lead Agency has prepared this Notice of Intent pursuant to 14 CCR Section 15072. Subsequently, a Mitigation Monitoring and Reporting Plan (Attachment 2) was prepared and posted on the City's website.

The construction plans were completed in April 2024 and the project is forecast to be under construction in July 2024. Thus, staff recommends that City Council adopt and certify the Mitigation Negative Declaration and approve the Mitigation Monitoring and Reporting Program so that the construction can move forward this summer.

COMMUNITY ENGAGEMENT:

Inform:

Staff has provided presentations regarding the project to the communities of Jackson Oaks and Holiday Lake Estates multiple times since 2015, but most recently on January 30, 2024. The presentations provide design elements and updates on the status of the project. Staff will continue community engagement for the new water reservoir as the design plans are completed.

ALTERNATIVE ACTIONS:

City Council could decide not to adopt and certify the Mitigated Negative Declaration if the report is deemed deficient in some way. However, doing so will delay the construction of the project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 20, 2016, City Council approved a Professional Service Agreement with Kennedy Jenks Consultants to design the East Dunne Avenue Reservoir project for \$390,278.

On August 24, 2016, City Council approved a Second Amendment with Kennedy Jenks Consultants for a total contract price of \$526,074.

On June 7, 2023, City Council approved a professional services agreement with Kennedy Jenks Consultants to complete the design for the East Dunne Avenue Hillside Water Reservoir project not to exceed \$240,187.

FISCAL AND RESOURCE IMPACT:

Fiscal:

No fiscal impacts

CEQA (California Environmental Quality Act):

Project:

An Initial Study (IS) and Mitigated Negative Declaration was updated by Raney Planning & Management to identify and mitigate all environmental impacts from the project. The Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan are attached for Council's review and approval. If approved, the Mitigated Negative Declaration will be filed with the County Recorder's Office and construction will move forward.



PLANNING DIVISION

17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: March 14, 2024

APNs: 729-09-001 and 728-1-003

Project Title: East Dunne Hillside Water Reservoir Project

Project Location: 3000 East Dunne Avenue, 220 feet northeast of Flaming Oak Lane Intersection
2375 East Dunne Avenue
Morgan Hill, CA 95037

Project Proponent: City of Morgan Hill Public Works Department
17575 Peak Avenue
Morgan Hill, CA 95037

Project Description: The proposed project consists of the construction of an 850,000-gallon above-ground welded steel water supply reservoir and a future pump station, as well as a 15-foot-wide perimeter access strip encircling the water reservoir, an underground biofiltration vault with rock-armored outfall, and landscaping to filter views of the reservoir. In addition, the project would include the replacement of two existing pumps currently in use at the East Dunne Booster Station at 2375 East Dunne Avenue with larger electric pumps.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures will be included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** has been prepared.

III. MITIGATION AND AVOIDANCE MEASURES

A. Biological Resources

MM-BIO-1: Special-Status and Migratory Bird Species

The following avoidance measures shall be required to avoid the project's potential effects on Swainson's hawk, grasshopper sparrow, golden eagle, white-tailed kite, or any other special-status or migratory bird species.

- a. *If land clearing and grading are to be conducted outside of the breeding season (i.e., September 1 through January 31), a preconstruction survey for nesting migratory birds is not warranted.*
- b. *If land clearing and grading are to be conducted during the breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted. The survey shall be performed by a qualified biologist no more than seven days prior to the initiation of work. If no nesting or breeding activity is observed, work may proceed without restrictions. To the extent allowed by access, all active nests identified within 76 m (250 ft) for raptors and 15 m (50 ft) for passerines shall be mapped.*
- c. *For any active nests found near the construction limits (76 m [250 ft] for raptors and 15 m [50 ft] for passerines) the Project Biologist shall make a determination as to whether or not construction activities are likely to disrupt reproductive behavior. If it is determined that construction is unlikely to disrupt breeding behavior, construction may proceed. If it is determined that construction may disrupt breeding, the no-construction buffer zone shall be expanded; avoidance is the only mitigation available. The ultimate size of the no-construction buffer zone may be adjusted by the Project Biologist based on the species involved, topography, lines of site between the work area and the nest, physical barriers, and the ambient level of human activity.*
- d. *If it is determined that construction activities are likely to disrupt raptor breeding, construction activities within the no-construction buffer zone may not proceed until the project biologist determines that the nest is long longer occupied.*
- e. *If maintenance of a no-construction buffer zone is not feasible, the Project Biologist shall monitor the nest(s) to document breeding and rearing behavior of the adult birds. If it is determined that construction-related activities are likely to cause nest abandonment, work shall cease immediately and the CDFW shall be contacted for guidance. Work may not resume until an agreement has been reached with the authorities specifying the conditions under which work may proceed.*

MM-BIO-2: Crotch's Bumble Bee

*Prior to commencement of construction activities, a habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee and submitted to the City of Morgan Hill Development Services Department for review. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bees feed. Further guidance on habitat surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species.*

If Crotch's bumble bee habitat is present within the project area, a pre-construction survey shall be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bees and submitted to the City of Morgan Hill Development Services Department. If CESA candidate bumble bees will be captured or handled, surveyors should obtain a 2081(a) Memorandum of Understanding from CDFW.

Surveys shall be conducted during the colony active period (i.e., April through August) and when floral resources are in peak bloom. Bumble bees move nest sites each year, therefore, surveys shall be conducted each year that project work activities will occur. Further guidance on presence surveys can be found within the Survey Considerations for CESA Candidate Bumble Bee Species, referenced above.

If Crotch's bumble bees are detected during pre-construction surveys, a Crotch's bumble bee avoidance plan shall be developed and provided to City of Morgan Hill Development Services Department and CDFW for review prior to work activities involving ground disturbance or vegetation removal.

MM-BIO-3: American Badger

A qualified biologist shall conduct focused den surveys (e.g., walking line transect surveys) within the project area and within a 250-foot radius surrounding the work area, to the maximum extent feasible, at least 14 days prior to the start of construction activities, as well as daily prior to beginning the ground-disturbing work for the day. The focused den surveys shall be submitted to the City of Morgan Hill Development Services Department for review.

If American badger dens are observed at the project site, and the construction activities for the proposed project are to occur during the gestation and pup-rearing period (i.e., February 15 through July 1), a buffer of 250 feet shall be established around the den complex and construction activities shall not occur within the 250-foot buffer. A qualified biologist shall monitor the observed den(s) to detect when young American badgers are nearing independence (e.g., can be observed emerging from den opening or are located outside of the den) and disperse.

After the gestation and pup-rearing period for the American badger, a qualified biologist shall conduct focused surveys to determine if the American badger den is active (e.g., burrow scoping, camera stations, track plates, observation of new signs such as tracks, claw marks, or fur). If it is determined that the American badger den is active, and it is not feasible to establish an avoidance buffer surrounding the active den, an American Badger Mitigation Plan shall be developed and submitted to the City of Morgan Hill Development Services Department and CDFW. Any American badger habitat permanently lost shall be compensated at a suitable offsite location at a minimum 1:1 replacement ratio with the same or greater quality habitat.

B. Geology and Soils

MM-GEO-1: Erosion and Landslide Hazards

Prior to grading permit issuance, the applicant shall submit a final design-level geotechnical report of the project site that provides final design recommendations for tank foundation and surface drainage controls to ensure slope stability hazards are minimized. The geotechnical report shall be reviewed and approved by the City Engineer, Chief Building Official, and a qualified Geotechnical Engineer to ensure that all geotechnical recommendations specified in the geotechnical report are properly incorporated and utilized in the project design in order to adhere to all geotechnical requirements contained in the California Building Code.

III. FINDING

The City of Morgan Hill hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the initial study will reduce the impacts to a less-than-significant level.

David Gittleson
David Gittleson, Associate Engineer

4-29-2024 Date

**MITIGATION MONITORING AND REPORTING PROGRAM
EAST DUNNE HILLSIDE WATER RESERVOIR PROJECT
MORGAN HILL, CALIFORNIA**

Prepared for the:



Public Works Department
17575 Peak Avenue
Morgan Hill, CA 95037
408.778.6480

Prepared by:

Raney Planning & Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834

May 2024

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

The City of Morgan Hill, as Lead Agency under the California Environmental Quality Act (CEQA) and State CEQA Guidelines, has prepared the Final Mitigated Negative Declaration (MND) for the East Dunne Hillside Water Reservoir Project (proposed project). When a lead agency makes findings on significant effects identified in an MND, it must also adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of project approval (Public Resources Code [PRC] Section 21081.6[a]; State CEQA Guidelines Sections 15091[d], 15097).

This document represents the mitigation monitoring and reporting program (MMRP) prepared by the City of Morgan Hill for the proposed project. This MMRP includes all measures required to reduce potentially significant environmental impacts to a less-than-significant level. In addition, the MMRP identifies the timing of implementation; the agency responsible for implementing the mitigation; and the agency responsible for monitoring the mitigation. The mitigation measures, timing, and responsibility are summarized in Table 1, and the full text of the mitigation measures follows. The implementation and monitoring of the mitigation measures, in conjunction with the implementation of the City's Standard Measures required for such projects, will ensure the reduction of potentially significant environmental effects to less-than-significant levels.

This MMRP has been prepared by the City of Morgan Hill, with technical assistance from Raney Planning & Management, Inc., an environmental consulting firm. Questions should be directed to David Gittleton, Associate Engineer, at the City of Morgan Hill.

Contact Information:

City of Morgan Hill
Public Works Department
17575 Peak Avenue
Morgan Hill, CA 95037
408.310.4642

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility ¹	Timing of Implementation
Prior to Construction			
BIO-1: The following avoidance measures shall be required to avoid the project's potential effects on Swainson's hawk, grasshopper sparrow, golden eagle, white-tailed kite, or any other special-status or migratory bird species.	Project Applicant with a Qualified Biologist	City of Morgan Hill Development Services Department	No more than seven days prior to the start of construction, if construction is proposed during the breeding season (February 1 to August 31)
a. If land clearing and grading are to be conducted outside of the breeding season (i.e., September 1 through January 31), a preconstruction survey for nesting migratory birds is not warranted. b. If land clearing and grading are to be conducted during the breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted. The survey shall be performed by a qualified biologist no more than seven days prior to the initiation of work. If no nesting or breeding activity is observed, work may proceed without restrictions. To the extent allowed by access, all active nests identified within 76 m (250 ft) for raptors and 15 m (50 ft) for passerines shall be mapped. c. For any active nests found near the construction limits (76 m [250 ft] for raptors and 15 m [50 ft] for passerines) the Project Biologist shall make a determination as to whether or not construction activities are likely to disrupt reproductive behavior. If it is determined that construction is unlikely to disrupt breeding behavior, construction may proceed. If it is determined that construction may disrupt breeding, the no-			

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility ¹	Timing of Implementation
construction buffer zone shall be expanded; avoidance is the only mitigation available. The ultimate size of the no-construction buffer zone may be adjusted by the Project Biologist based on the species involved, topography, lines of site between the work area and the nest, physical barriers, and the ambient level of human activity. d. If it is determined that construction activities are likely to disrupt raptor breeding, construction activities within the no-construction buffer zone may not proceed until the project biologist determines that the nest is no longer occupied. e. If maintenance of a no-construction buffer zone is not feasible, the Project Biologist shall monitor the nest(s) to document breeding and rearing behavior of the adult birds. If it is determined that construction-related activities are likely to cause nest abandonment, work shall cease immediately and the CDFW shall be contacted for guidance. Work may not resume until an agreement has been reached with the authorities specifying the conditions under which work may proceed.			
BIO-2: Prior to commencement of construction activities, a habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee and submitted to the City of Morgan Hill Development Services Department for review. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other	Project Applicant with a Qualified Entomologist	City of Morgan Hill Development Services Department and CDFW	Prior to commencement of construction activities

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility¹	Timing of Implementation
Bombus species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other Bombus species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bees feed. Further guidance on habitat surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (https://wildlife.ca.gov/Conservation/CESA). If Crotch's bumble bee habitat is present within the project area, a pre-construction survey shall be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bees and submitted to the City of Morgan Hill Development Services Department. If CESA candidate bumble bees will be captured or handled, surveyors should obtain a 2081(a) Memorandum of Understanding from CDFW. Surveys shall be conducted during the colony active period (i.e., April through August) and when floral resources are in peak bloom. Bumble bees move nest sites each year, therefore, surveys shall be conducted each year that project work activities will occur. Further guidance on presence surveys can be found within the Survey Considerations for CESA Candidate Bumble Bee Species, referenced above. If Crotch's bumble bees are detected during pre-construction surveys, a Crotch's bumble bee avoidance plan shall be developed and provided to City of Morgan Hill Development Services Department and			

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility ¹	Timing of Implementation
CDFW for review prior to work activities involving ground disturbance or vegetation removal. BIO-3: A qualified biologist shall conduct focused den surveys (e.g., walking line transect surveys) within the project area and within a 250-foot radius surrounding the work area, to the maximum extent feasible, at least 14 days prior to the start of construction activities, as well as daily prior to beginning the ground-disturbing work for the day. The focused den surveys shall be submitted to the City of Morgan Hill Development Services Department for review. If American badger dens are observed at the project site, and the construction activities for the proposed project are to occur during the gestation and pup-rearing period (i.e., February 15 through July 1), a buffer of 250 feet shall be established around the den complex and construction activities shall not occur within the 250-foot buffer. A qualified biologist shall monitor the observed den(s) to detect when young American badgers are nearing independence (e.g., can be observed emerging from den opening or are located outside of the den) and disperse. After the gestation and pup-rearing period for the American badger, a qualified biologist shall conduct focused surveys to determine if the American badger den is active (e.g., burrow scoping, camera stations, track plates, observation of new signs such as tracks, claw marks, or fur). If it is determined that the American badger den is active, and it is not feasible to establish an avoidance buffer surrounding the active den, an American Badger Mitigation Plan shall be developed and submitted to the City of Morgan Hill Development Services Department and CDFW. Any American badger habitat permanently lost shall be	Project Applicant with a Qualified Biologist	City of Morgan Hill Development Services Department and CDFW	At least 14 days prior to the start of construction activities

TABLE 1. MITIGATION MONITORING AND REPORTING PROGRAM – SUMMARY OF MITIGATION MEASURES

Mitigation Measure	Implementation Responsibility	Monitoring Responsibility¹	Timing of Implementation
compensated at a suitable offsite location at a minimum 1:1 replacement ratio with the same or greater quality habitat.			
GEO-1: Prior to grading permit issuance, the applicant shall submit a final design-level geotechnical report of the project site that provides final design recommendations for the tank foundation and surface drainage controls to ensure slope stability hazards are minimized. The geotechnical report shall be reviewed and approved by the City Engineer, Chief Building Official, and a qualified Geotechnical Engineer to ensure that all geotechnical recommendations specified in the geotechnical report are properly incorporated and utilized in the project design in order to adhere to all geotechnical requirements contained in the California Building Code.	Project Applicant with a Qualified Geotechnical Engineer	City Engineer and Chief Building Official	Prior to grading permit issuance

¹ The City of Morgan Hill may hire a qualified contractor to conduct mitigation monitoring.

BIOLOGICAL RESOURCES

The project's construction-related activities could have potentially significant effects on special-status bird species, including nesting migratory birds and raptors protected by the Migratory Bird Treaty Act (MBTA), as well as on Crotch's bumble bee and American badger. Implementation of the following measures would reduce the potentially significant impact to a less-than-significant level.

MM BIO-1: Special-Status and Migratory Bird Species

The following avoidance measures shall be required to avoid the project's potential effects on Swainson's hawk, grasshopper sparrow, golden eagle, white-tailed kite, or any other special-status or migratory bird species.

- a. If land clearing and grading are to be conducted outside of the breeding season (i.e., September 1 through January 31), a preconstruction survey for nesting migratory birds is not warranted.
- b. If land clearing and grading are to be conducted during the breeding season (i.e., February 1 through August 31), a preconstruction nesting bird survey shall be conducted. The survey shall be performed by a qualified biologist no more than seven days prior to the initiation of work. If no nesting or breeding activity is observed, work may proceed without restrictions. To the extent allowed by access, all active nests identified within 76 m (250 ft) for raptors and 15 m (50 ft) for passerines shall be mapped.
- c. For any active nests found near the construction limits (76 m [250 ft] for raptors and 15 m [50 ft] for passerines) the Project Biologist shall make a determination as to whether or not construction activities are likely to disrupt reproductive behavior. If it is determined that construction is unlikely to disrupt breeding behavior, construction may proceed. If it is determined that construction may disrupt breeding, the no-construction buffer zone shall be expanded; avoidance is the only mitigation available. The ultimate size of the no-construction buffer zone may be adjusted by the Project Biologist based on the species involved, topography, lines of site between the work area and the nest, physical barriers, and the ambient level of human activity.
- d. If it is determined that construction activities are likely to disrupt raptor breeding, construction activities within the no-construction buffer zone may not proceed until the project biologist determines that the nest is long longer occupied.
- e. If maintenance of a no-construction buffer zone is not feasible, the Project Biologist shall monitor the nest(s) to document breeding and rearing behavior of the adult birds. If it is determined that construction-related activities are likely to cause nest abandonment, work shall cease immediately and the CDFW shall be contacted for guidance. Work may not resume until an agreement has been reached with the authorities specifying the conditions under which work may proceed.

MM-BIO-2: Crotch's Bumble Bee

Prior to commencement of construction activities, a habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee and submitted to the City of Morgan Hill Development Services Department for review. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bees feed. Further guidance on habitat surveys can be found within Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species (<https://wildlife.ca.gov/Conservation/CESA>).

If Crotch's bumble bee habitat is present within the project area, a pre-construction survey shall be conducted by a qualified entomologist familiar with the behavior and life history of Crotch's bumble bees and submitted to the City of Morgan Hill Development Services Department. If CESA candidate bumble bees will be captured or handled, surveyors should obtain a 2081(a) Memorandum of Understanding from CDFW.

Surveys shall be conducted during the colony active period (i.e., April through August) and when floral resources are in peak bloom. Bumble bees move nest sites each year, therefore, surveys shall be conducted each year that project work activities will occur. Further guidance on presence surveys can be found within the Survey Considerations for CESA Candidate Bumble Bee Species, referenced above.

If Crotch's bumble bees are detected during pre-construction surveys, a Crotch's bumble bee avoidance plan shall be developed and provided to City of Morgan Hill Development Services Department and CDFW for review prior to work activities involving ground disturbance or vegetation removal.

MM-BIO-3: American Badger

A qualified biologist shall conduct focused den surveys (e.g., walking line transect surveys) within the project area and within a 250-foot radius surrounding the work area, to the maximum extent feasible, at least 14 days prior to the start of construction activities, as well as daily prior to beginning the ground-disturbing work for the day. The focused den surveys shall be submitted to the City of Morgan Hill Development Services Department for review.

If American badger dens are observed at the project site, and the construction activities for the proposed project are to occur during the gestation and pup-rearing period (i.e., February 15 through July 1), a buffer of 250 feet shall be established

around the den complex and construction activities shall not occur within the 250-foot buffer. A qualified biologist shall monitor the observed den(s) to detect when young American badgers are nearing independence (e.g., can be observed emerging from den opening or are located outside of the den) and disperse.

After the gestation and pup-rearing period for the American badger, a qualified biologist shall conduct focused surveys to determine if the American badger den is active (e.g., burrow scoping, camera stations, track plates, observation of new signs such as tracks, claw marks, or fur). If it is determined that the American badger den is active, and it is not feasible to establish an avoidance buffer surrounding the active den, an American Badger Mitigation Plan shall be developed and submitted to the City of Morgan Hill Development Services Department and CDFW. Any American badger habitat permanently lost shall be compensated at a suitable offsite location at a minimum 1:1 replacement ratio with the same or greater quality habitat.

GEOLOGY AND SOILS

Due to the soils underlying the project site, project development could result in impacts related to erosion and landslide hazards. Implementation of the following measure would reduce the potentially significant impact to a less-than-significant level.

MM GEO-1: Erosion and Landslide Hazards

Prior to grading permit issuance, the applicant shall submit a final design-level geotechnical report of the project site that provides final design recommendations for tank foundation and surface drainage controls to ensure slope stability hazards are minimized. The geotechnical report shall be reviewed and approved by the City Engineer, Chief Building Official, and a qualified Geotechnical Engineer to ensure that all geotechnical recommendations specified in the geotechnical report are properly incorporated and utilized in the project design in order to adhere to all geotechnical requirements contained in the California Building Code.

FINDING

The City of Morgan Hill Development Services Director hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the MND are included in the project.

Jennifer Carman
Development Services Director

Date: _____





CITY OF MORGAN HILL
Engineering Division
Community Development Agency

Path: G:\R-14\PROJ\GIS\Marks\SITE MAPS\SiteMap_EDunne_HillsideReservoir.mxd

SITE MAP **East Dunne** **Hillside Water Reservoir**

0 35 70 140 210 280
Feet



CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE 2354, NEW SERIES, REPEALING AND REPLACING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS AND MASSAGE PROFESSIONALS PERMIT REQUIREMENTS) OF TITLE 5 (BUSINESS LICENSES GENERALLY) TO ESTABLISH A PERMITTING PROCEDURE FOR MASSAGE THERAPY ESTABLISHMENTS AND SERVICES

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2354, 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

Preserving and Cultivating Public Trust

Guiding Documents

Economic Blueprint

Public Safety Master Plan

REPORT NARRATIVE:

On April 24, 2024, the City Council introduced Ordinance No. 2354 New Series, by the following roll call vote: AYES: Borgioli, Libreros, Spring, Turner NOES: None; ABSTAIN: None; ABSENT: Martinez Beltran.

Background

The City of Morgan Hill has seen a significant increase in the number of massage businesses within the City. In 2022, the City received complaints related to illegal activity occurring at certain massage establishments in Morgan Hill. Over the last year, the Police Department, Code Compliance, and the Economic Development Department have been working with the City Attorney's Office to evaluate best practices to improve the permitting and regulation of massage establishments in the City of Morgan Hill. To support better oversight of massage establishments, staff recommends the repeal and replacement of Chapter 5.32 (Massage Establishments and Massage Professionals

Permit Requirements) of Title V (Business Licenses Generally) to establish a permitting procedure for massage therapy establishments and services. The proposed changes will establish new permitting guidelines aligned with the California Massage Council and will help the City combat prostitution, human trafficking, and other illegal activity.

COMMUNITY ENGAGEMENT:

Inform

On March 20, 2024, the Economic Development team emailed all existing massage establishment owners and shopping center property owners who have an existing massage establishment located within their property. The communication included a copy of the new administrative policy, the proposed new regulations that may go into effect July 1, 2024, and a copy of the new massage establishment permit application.

On Monday, March 25, 2024, a hard copy of the notice and corresponding documents was also sent via US Mail to the addresses of all existing massage establishments and the property tax assessment addresses of all property owners where a massage establishment is currently operating.

On March 7, 2024, and on April 4, 2024, City Manager Christina Turner included this topic in her City Manager update at the Morgan Hill Chamber Breakfast.

On April 12 and April 19, 2024, information on the proposed ordinance update was included in the City 411 communication.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 5, 2018, the City Council adopted the Massage Establishment Fees.

FISCAL AND RESOURCE IMPACT:

Costs of the permitting and inspection are covered in the initial permit application and renewal fees. These fees are updated every year on July 1st.

CEQA (California Environmental Quality Act):

Not a Project - This is a regulatory action that will not have any foreseeable impact on the environment.

ORDINANCE NO. 2354, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL REPEALING AND REPLACING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS AND MASSAGE PROFESSIONALS PERMIT REQUIREMENTS) OF TITLE 5 (BUSINESS LICENSES GENERALLY) TO ESTABLISH A PERMITTING PROCEDURE FOR MASSAGE THERAPY ESTABLISHMENTS AND SERVICES

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

Section 1. Chapter 5.32 (Massage Establishments) of Title 5 (Business Licenses Generally) is hereby repealed in its entirety.

Section 2. Chapter 5.32 (Massage Establishments and Massage Professionals Permit Requirements) of Title 5 (Business Licenses Generally) is hereby added as follows:

Chapter 5.32. MASSAGE ESTABLISHMENTS AND MASSAGE PROFESSIONALS PERMIT REQUIREMENTS

5.32.010. Purpose and intent.

In enacting this chapter, the City Council recognizes that massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services, but that unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. It is the purpose and intent of this chapter to provide for the orderly regulation of offices and establishments providing massage therapy services, and to prevent and discourage the misuse of massage therapy as a front for human trafficking, prostitution, and related activities in violation of state law, all in the interests of the public health, safety, and welfare, by providing certain minimum building, sanitation, and operation standards for such businesses, and by requiring certain minimum qualifications for the operators and practitioners of such businesses. It is the further intent of this chapter to streamline local massage therapy permitting procedures, while still facilitating and advancing the ethical practice of massage therapy, by relying upon the uniform statewide regulations enacted by the Legislature in 2008 as Business and Professions Code Sections 4600 *et seq.*, known as the Massage Therapy Act, as subsequently amended, and by restricting the commercial practice of massage in the city to those persons duly certified to practice by the California Massage Therapy Council formed pursuant to those statutes.

5.32.020. Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section shall have the meanings that are given them in this section:

- (a) “Authorized massage professional” means a massage professional who is identified in a permit issued pursuant to this chapter as a person employed or retained by a massage establishment to practice massage.
- (b) “California Massage Therapy Council” or “CAMTC” means the massage therapy organization formed pursuant to Business and Professions Code Section 4600 *et seq.*
- (c) “CAMTC-certified massage professional” means any individual currently certified by the California Massage Therapy Council as a massage therapist or massage practitioner pursuant to Business and Professions Code Section 4600 *et seq.*
- (d) “City Manager” means the city manager of the City of Morgan Hill or his or her designee.
- (e) “Compensation” means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.
- (f) “Employee” means any person employed by a massage business who may render any service to the business, and who receives any form of compensation from the business, including but not limited to an independent contractor.
- (g) “Inspector” means the person or persons designated by the city to conduct any inspections required or permitted under this chapter.
- (h) “Massage,” “massage therapy,” and/or “bodywork” for purposes of this chapter mean the skillful application of touch, including but not limited to, pressure, stroking, kneading, compression on or movement of the external surfaces of the body by a practitioner to produce increased awareness, relaxation, pain relief, injury rehabilitation, or neuromuscular reeducation.
- (i) “Massage establishment” means any business that offers massage therapy, baths or health treatments including, but not limited to, aromatherapy, vapor, shower, electric tub, sponge, hot towels, mineral fermentation, sauna, steam or any other type of bath, involving massages or baths in exchange for compensation. Home-based massage businesses and businesses that provide outcall massage services are also considered to be massage establishments. For purposes of this chapter, the term “massage establishment” may be applied to include establishments which offer or advertise themselves as providing “relaxation” or “tanning” where the essential nature of the interaction between the employee and the customer involves “massage” as defined herein. The terms, names or phrases listed on business license or fictitious name application forms are not necessarily conclusive as to the nature of the business.

- (j) “Massage establishment permit” means a permit to operate a “Massage establishment” as provided in this Chapter.
- (k) “Operator” or “massage establishment operator” means any person who is an owner or manager of a massage establishment.
- (l) “Outcall massage service” means the engaging in or carrying on of massage therapy for compensation at locations other than a massage establishment at a fixed location.
- (m) “Owner” or “massage establishment owner” means any of the following persons:
 - (1) The sole proprietor of a sole proprietorship operating a massage establishment.
 - (2) Any general partner of a general or limited partnership that owns a massage establishment.
 - (3) Any person who has a ten percent or greater ownership interest in a corporation that owns a massage establishment.
 - (4) Any person who is a member of a limited liability company that owns a massage establishment.
 - (5) All owners of any other type of business association that owns a massage establishment.
- (n) “Patron” means an individual on the premises of a massage establishment for the purpose of receiving massage therapy.
- (o) “Person” means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals.
- (p) “Police Chief” means the chief of police of the City of Morgan Hill or his or her designee charged with the administration of this chapter.
- (q) “Reception and waiting area” means an area immediately inside the main entry door of the massage establishment dedicated to the reception and waiting of patrons or visitors of the massage establishment and which is not a massage therapy room or otherwise used for the provision of massage therapy services.
- (r) “Sole proprietorship” means a massage establishment where the owner owns one hundred percent of the business and has one or no other employees or independent contractors.

- (s) “Visitor” means any individual not retained or employed by the massage establishment and not receiving or waiting to receive massage therapy services, but excluding law enforcement personnel or governmental officials performing governmental business.

5.32.030. Business license required.

The requirements of this chapter are in addition to any business license and business license tax requirements imposed pursuant to Chapter 5.04 of this code.

5.32.040. Other permits and authorizations required.

The requirements of this chapter are in addition to any permits or authorizations that may be required under other applicable laws including but not limited to the city’s building, fire, zoning, and health regulations.

5.32.050. Exemptions.

This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

- (a) Physicians, surgeons, chiropractors, osteopaths, podiatrists, physical therapists, nurses, acupuncturists or any other person licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code when engaging in such practice within the scope of his or her license and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.
- (b) Trainers of any amateur, semi-professional, or professional athlete or athletic team, so long as such persons do not practice massage therapy as their primary occupation at any location where they provide such services in the city.
- (c) Barbers, estheticians, and cosmetologists who are duly licensed under the laws of the State of California, while engaging in practices within the scope of their licenses.
- (d) Individuals administering massages or health treatments involving massage to persons participating in single-occurrence athletic, recreational, or educational events such as road races, track meets, triathlons, educational events, or conferences, provided that the event is open to the public or to a significant segment of the public such as employees of sponsoring or participating corporations, and the massage services are provided at the site of the event during, immediately preceding, or immediately following the event.

- (e) Somatic practitioners who use no physical touch of any kind at any time in their practice.
- (f) Enrolled students of a school of massage when they are performing massage within the city as part of a formal supervised internship or training program operated by the school, without compensation other than school credit, on the premises of a massage establishment duly authorized to operate pursuant to the terms of this chapter; and provided that the operator of the massage establishment has first notified the Police Chief in writing of the name, residence address, and school of the students and the dates of the trainings.

5.32.060. CAMTC certification required.

It shall be unlawful for any individual to practice massage therapy for compensation within the city unless that individual is a CAMTC-certified massage professional.

5.32.080. Massage establishment permit required—Prohibited conduct.

- (a) It is unlawful for any person to operate a massage establishment within the city without first obtaining a massage establishment permit from the Police Department of the City of Morgan Hill.
- (b) It shall be unlawful for a massage establishment operator to employ or retain any person to practice massage therapy for compensation, or to allow any person to perform massage therapy for compensation on the premises of a massage establishment, unless that person is a CAMTC-certified massage professional and unless that person is identified as an authorized massage professional on the permit issued pursuant to this chapter. For purposes of this chapter, a massage establishment operator “employs or retains” a person to practice massage therapy for compensation when:
 - (1) That person is a directly paid employee of the massage establishment; or
 - (2) That person’s association with a massage establishment is that of an independent contractor who receives compensation for massage therapy provided to patrons of the massage establishment; or
 - (3) That person receives a referral of patrons from the massage establishment and, at any time before or after the referral, arranges in any way for compensation to flow to the massage establishment operator.
- (c) It is unlawful for a massage establishment to operate under any name or conduct business under any designation not specified in the massage establishment permit issued pursuant to this chapter.

- (d) It is unlawful for a massage establishment to continue to operate following the sale or transfer of any interest in the massage establishment to a person who was not identified as an owner in the massage establishment permit application.

5.32.090. Permit application.

The owners of the massage establishment shall file an application for a permit on a form provided by the Police Chief. The application shall be accompanied by the fee established by the city's fee schedule. Any change in ownership or location requires a new application. The application shall include the following information:

- (a) The name, address, and telephone number of the massage establishment. It shall be the responsibility of each owner or operator to notify the city of any intention to rename, change management, or convey the business to another person within 7 days of the change.
- (b) The name, date of birth, residence address and telephone number, and business address and telephone number of each owner of the massage establishment.
- (c) The form of business under which the applicant will be conducting the massage establishment, i.e., corporation, general or limited partnership, limited liability company, or other form and the state of formation. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the names and residence addresses of each of its officers, directors, and each shareholder holding more than ten percent of the stock of the corporation. If the applicant is a general or limited partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply. If the applicant is a limited liability company, the application shall set forth the name and residence address of each of the members. If one or more of the members is a partnership, limited liability company, or corporation, the provisions of this section pertaining to a partnership, limited liability company, or corporate applicant shall apply, as applicable.
- (d) The name, address, and telephone number of the owner of the real property upon, in, or from which the certified massage establishment is to be operated. In the event the applicant is not the legal owner of the property, the application shall be accompanied by a copy of any written lease between the applicant and the property owner authorizing use of the premises for a massage establishment, or, alternatively, if there is no written lease, then a written, notarized acknowledgment from the property owner that the property owner has been advised that a massage establishment will be operated by the applicant upon, in, or from the property owner's property.

- (e) If the massage establishment will be located on a property in a residential or commercial condominium or other common interest development, the applicant shall submit a notarized statement from the homeowner's association or condominium owner's association acknowledging that the association has been advised that a massage establishment will be operated by the applicant and that such use of the property is allowed by the property's covenants, codes, and restrictions.
- (f) A description of the proposed massage establishment, including the type of treatments to be administered.
- (g) The name and date of birth of each individual who the massage establishment employs or retains to perform massage therapy for compensation, whether on or off the massage establishment premises. It shall be the responsibility of each owner or operator to notify the city within seven days of any change in persons providing massage services and to provide copies of the state massage certification for all such persons to the city prior to such persons providing massage services.
- (h) The name of each individual who is regularly employed or retained by the massage establishment to perform services on the premises other than massage therapy, and the nature of their services.
- (i) For each individual who the massage establishment does or will employ or retain to perform massage therapy for compensation, whether on or off the massage establishment premises, a color copy of that individual's current certification from the CAMTC as a certified massage practitioner or certified massage therapist, and a color copy of his or her current CAMTC-issued identification card.
- (j) For each owner of the massage establishment who is a CAMTC-certified massage professional, a color copy of his or her current certification from the CAMTC as a certified massage practitioner or as a certified massage therapist and a color copy of his or her current CAMTC-issued identification card.
- (k) For each owner of the massage establishment who is not a CAMTC-certified massage professional, the following information:
 - (1) Whether any owner of the massage establishment has within the five years immediately preceding the date of application been convicted of any felony in any state.
 - (2) Whether any owner of the massage establishment is currently required to register under the provisions of Section 290 of the California Penal Code.

- (3) The business, occupation, and employment history of each owner of the massage establishment for five years preceding the date of application, and the inclusive dates of same.
- (4) One set of fingerprints to be taken at the permit authority, and any required fee for such fingerprinting shall be paid by the applicant.
- (l) Provide a complete massage permit history including whether any license or permit has ever been issued to the applicant by any jurisdiction under the provisions of any ordinance or statute governing massage or somatic practice, and as to any such license or permit, the name and address of the issuing authority, the effective dates of such license or permit, whether such license or permit was ever suspended, revoked, withdrawn, or denied; and copies of any documentary materials relating to such suspension, revocation, withdrawal, or denial.
- (m) Detailed diagram showing the interior floorplan of the premises and depicting all interior rooms. It shall be the responsibility of each owner or operator to notify the city within seven days of any change to the floor plan. Building Code requirements are applicable and interior changes may require a building permit.
- (m) Such other information as may be required by the permit authority to determine compliance with any other eligibility requirements for issuance of the permit as specified by federal, state, or local law.
- (n) A statement that within the last five years the applicant has not failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

5.32.100. Permit issuance.

- (a) The Police Chief shall issue a massage establishment permit if the applicant meets the requirements of this chapter and no grounds for denial exist under Section 5.32.110. The Police Chief may impose conditions on the permit consistent with this chapter and applicable law.
- (b) Notice to Property Owner. If the applicant is not the record owner of the property where the massage establishment is located, the Police Chief may send a written notice to the property owner advising of the issuance of the permit and of the regulations applicable to the massage establishment. The Police Chief may also

provide the property owner with copies of any other notices or communications with the applicant sent at any time before or after issuance of the permit.

- (c) Term. A massage establishment permit issued pursuant to the terms of this chapter shall be valid for the fiscal year in which it is issued, and, unless suspended or revoked, must be renewed by the massage establishment operator annually so long as the massage establishment is operating within the city.

5.32.110. Permit denial.

The Police Chief may deny an application for a massage establishment permit on any of the following grounds:

- (a) The massage establishment, as proposed by the applicant, would not comply with the requirements of this chapter.
- (b) The massage establishment, as proposed by the applicant, would not comply with any applicable law, including, but not limited to the city's building, fire, zoning, and health regulations.
- (c) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for a massage establishment permit. Any omission or falsified information within the application, will result in an automatic denial.
- (d) Any owner of the massage establishment, within five years immediately preceding the date of filing of the application, has been convicted in a court of competent jurisdiction of any offense that relates directly to the operation of a massage establishment whether as a massage establishment owner or operator or as a person practicing massage for compensation, or as an employee of either; or has at any time been convicted in a court of competent jurisdiction of any felony the commission of which occurred on the premises of a massage establishment.
- (e) Any owner of the massage establishment is currently required to register under the provisions of Section 290 of the California Penal Code.
- (f) Any owner of the massage establishment, within five years of the date of application, has been convicted in a court of competent jurisdiction of any violation of Sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22 of the California Penal Code, or conspiracy or attempt to commit any such offense, or any offense in a jurisdiction outside of the State of California that is the equivalent of any of the aforesaid offenses.
- (g) Any owner of the massage establishment has been subjected to a permanent injunction against the conducting or maintaining of a nuisance pursuant to

Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in a jurisdiction outside the State of California.

- (h) Any owner of the massage establishment, within five years of the date of application, and as established by clear and convincing evidence, has engaged in acts prohibited under California Penal Code Sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22.
- (i) Any owner of the massage establishment is an individual who has not attained the age of eighteen years.
- (j) Any owner of the massage establishment, within five years immediately preceding the date of filing of the application, has had a permit or license to practice massage for compensation or to own and/or operate a massage establishment revoked or denied in any jurisdiction.
- (k) Any owner of the massage establishment currently owns or operates a massage establishment in the city of Morgan Hill that is not in good standing due to the existence of uncorrected violations or unpaid fines or fees.
- (l) Within the last five years, the applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

5.32.120. Notice of denial—Appeal.

- (a) If an application for a massage establishment permit is denied, the Police Chief shall give written notice to the applicant specifying the grounds for denial.
- (b) The applicant may appeal the decision to deny a massage establishment permit by filing a written notice of appeal with the city manager or designee within fifteen days after deposit of the decision in the mail, specifying in detail the grounds for such appeal.
- (c) The city manager or designee shall set a time and place for the hearing on the appeal not less than fifteen days after the date the appeal was received by the city manager, and shall give written notice by mail to the applicant of the date, time, and place for the hearing. The hearing shall be conducted in accordance with Section 5.32.180.

- (d) After the hearing on the appeal, the city manager or designee may refer the matter back to the Police Chief for a new investigation and decision, may affirm the decision of the Police Chief, or may direct the Police Chief to issue the license. The decision of the city manager or designee upon such appeal shall be final and shall be subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6.

5.32.130. Amendments to permit.

- (a) Whenever the information provided in the application for a certified massage establishment on file with the city changes, the operator shall file an application, provided by the Police Chief, to amend the permit to reflect such change. An application to amend a massage establishment permit shall be made by submitting an application on a form provided by the Police Chief. The application shall be accompanied by the fee established by the city's fee schedule.
- (b) The application shall not be approved unless the Police Chief determines that the terms of the amended permit comply with all requirements of this chapter and all other local, state, and federal laws, and the massage establishment has no outstanding violations or unpaid citations or fees. Inspection of the massage establishment may be required prior to approval of the amendment.
- (c) An amendment shall not be used to change the location or owners of a massage establishment. Instead, a new permit application is required pursuant to section 5.32.090.
- (d) A denial of an application to amend a massage establishment permit may be appealed in the same manner as a denial of an application for a permit under Section 5.32.120.

5.32.140. Requirements for all massage establishment facilities and operations.

- (a) Operational Requirements. Except as otherwise specifically provided in this chapter, the following operational requirements shall be applicable to all massage establishments located within the city:
 - (1) No massage establishment shall be kept open for business between the hours of ten p.m. of one day and eight a.m. of the following day. A massage begun any time before ten p.m. must nevertheless terminate at ten p.m.
 - (2) The hours of operation of the massage establishment shall be displayed in a conspicuous public place in the reception and waiting area and in any front window clearly visible from outside of the massage establishment.

- (3) Patrons and visitors shall be permitted in the massage establishment only during the hours of operation.
- (4) During the hours of operation, patrons shall be permitted in massage therapy rooms only if at least one duly authorized certified massage professional is present on the premises of the massage establishment. Patrons shall not be permitted in any employee break room on the premises.
- (5) During the hours of operation, visitors shall not be permitted in massage therapy rooms except as follows:
 - (A) The parents or guardian of a patron who is a minor child may be present in the massage therapy room with that minor child;
 - (B) The minor child of a patron may be present in the massage therapy room with the patron when necessary for the supervision of the child; or
 - (C) The conservator, aid, or other caretaker of a patron who is elderly or disabled may be present in the massage therapy room with that elderly or disabled person.
- (6) During the hours of operation, except as otherwise provided herein, no visitors shall be permitted in massage therapy rooms, break rooms, dressing rooms, showers, or any other room or part of the massage establishment premises other than the reception and waiting area or toilet rooms.
- (7) Except for a patron who is inside a massage therapy room for the purpose of receiving a massage, no patrons or visitors shall be permitted in or on the massage establishment premises at any time who are less than fully clothed in outer garments of nontransparent material, or who display or expose themselves in underclothing or similar intimate apparel.
- (8) A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in English and may also be described in such other languages as may be convenient. No massage establishment operator shall permit, and no person employed or retained by the massage establishment shall offer to perform any services or request or demand fees other than those posted.
- (9) The massage establishment shall keep on the premises a complete and current roster of all owners, operators, and managing employees of the

message establishment and all massage professionals and other persons employed or retained by the massage establishment. The roster shall include the name, residence address, and phone number of each individual. The roster shall be available for inspection by city officials charged with the enforcement of this chapter.

- (10) All massage services and all tips, if any, shall be paid for in the reception area. Massage establishments may utilize a system where tip envelopes are provided in the treatment rooms to be utilized and deposited by the client in the reception area.
 - (11) All owners and operators are expected to comply with the City's Wage Theft Prevention Policy (CP-17-01) adopted by City Council on July 26, 2017.
- (b) Physical Facility and Building and Fire Code Requirements. Except as otherwise specifically provided in this chapter, the following physical facility and building code requirements shall be applicable to all massage establishments located within the city:
- (1) Main entry door and reception and waiting area required. One main entry door shall be provided for patron entry to the massage establishment, which shall open to an interior patron reception and waiting area immediately. All patrons and any persons other than individuals employed or retained by the massage establishment shall be required to enter and exit through the main entry door. Unless the massage establishment is a sole proprietorship or a home occupation with one or no other employees, the main entry door shall be unlocked at all times during business hours.
 - (2) No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises.
 - (3) All interior doors, including massage therapy rooms or cubicles, but excluding individual dressing rooms, showers, and toilet rooms, shall be incapable of being locked and shall not be blocked to prevent opening. Draw drapes, curtain enclosures, or accordion-pleated closures in lieu of doors are acceptable on all inner massage therapy rooms or cubicles.
 - (4) Minimum lighting equivalent to at least one forty-watt light shall be provided in each massage therapy room or cubicle.

- (5) A massage table or professional massage chair specifically designed for seated massage shall be used for all massage therapy, with the exception of “Thai,” “Shiatsu,” and similar forms of massage therapy, which may be provided on a padded mat on the floor, provided the patron is fully attired in loose clothing, pajamas, scrubs, or similar style of garment. Massage tables shall have a minimum height of eighteen inches.
 - (6) Beds, floor mattresses, and waterbeds are not permitted on the premises of the massage establishment, and no massage establishment shall be used for residential or sleeping purposes, which may be shown by circumstantial evidence such as the presence of bedding, pillows, sleeping bags, suitcases, clothing, toiletries or other personal belongings, cooking appliances, utensils, or food in excess of a business establishment’s normal requirements.
 - (7) All locker facilities that are provided for the use of patrons shall be fully secured for the protection of the patrons’ valuables, and each patron shall be given control of the key or other means of access.
 - (8) The massage establishment shall comply with all applicable state and local building and fire codes as adopted in Title 15 of this code.
- (c) Health and Safety Requirements. Except as otherwise specifically provided in this chapter, the following health and safety requirements shall be applicable to all massage establishments located within the city:
- (1) The massage establishment shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens, and all massage tables or chairs shall be covered with a clean sheet or other clean covering appropriate to the equipment for each patron. After a towel, covering, or linen has been used once, it shall be deposited in a closed receptacle, or directly into a washing machine, and not used again until properly laundered and sanitized. Towels, coverings, and linens shall be laundered either by regular commercial laundering, or by a noncommercial laundering process that includes immersion in water at least one hundred forty degrees Fahrenheit for not less than fifteen minutes during the washing or rinsing operation. Clean towels, coverings, and linens shall be stored in closed, clean cabinets when not in use. A certified massage professional engaged in the practice of outcall massage shall carry a sufficient quantity of clean and sanitary towels, sheets, and linens to comply with the requirements.
 - (2) All massage therapy rooms or cubicles, wet and dry heat rooms, toilet rooms, shower compartments, hot tubs, and pools shall be thoroughly cleaned and disinfected as needed, and at least once each business day

when the premises has been or will be open and such facilities in use. All bathtubs shall be thoroughly cleaned and disinfected after each use.

- (3) All liquids, creams, or other preparations used on or made available to patrons shall be kept in clean and closed containers. Powders may be kept in clean shakers. All bottles and containers shall be distinctly and correctly labeled to disclose their contents. When only a portion of a liquid, cream, or other preparation is to be used on or made available to a patron, it shall be removed from the container in such a way as not to contaminate the remaining portion.
- (4) Unless otherwise licensed under state or local law, no invasive procedures shall be performed on any patron. Invasive procedures include, but are not limited to:
 - (A) Application of electricity that contracts the muscle;
 - (B) Penetration of the skin by metal needles;
 - (C) Abrasion of the skin below the nonliving, epidermal layers;
 - (D) Removal of skin by means of any razor-edged instrument or other device or tool;
 - (E) Use of any needle-like instrument for the purpose of extracting skin blemishes; and
 - (F) Other similar procedures.
- (5) All bathrobes, bathing suits, and/or other garments that are provided for the use of patrons shall be either fully disposable and not used by more than one patron, or shall be laundered after each use pursuant to subsection (c)(1) of this section.
- (6) All combs, brushes, and/or other personal items of grooming or hygiene that are provided for the use of patrons shall be either fully disposable and not used by more than one patron, or shall be fully disinfected after each use.
- (7) No patrons shall be allowed to use any shower facilities of the massage establishment unless such patrons are wearing slip-resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flip-flops that are provided for the use of patrons either shall be fully disposable and not used by more than one patron, or shall be fully disinfected after each use.

- (8) Patrons' genitals and female patrons' breasts must be fully draped at all times while any individual employed or retained by the massage establishment is in the massage room or cubicle with the patron. No massage shall be provided to a patron that results in intentional contact, or occasional and repetitive contact, with the genitals or anal region of a patron, or of a female patron's breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider.
 - (9) No alcoholic beverages shall be sold, served, or furnished to any patron or visitor; nor shall any alcoholic beverages be consumed, kept, or possessed on the premises of a massage establishment.
 - (10) No birth control device or aid, including but not limited to condoms, shall be stored, kept, or distributed on the premises of a massage establishment.
- (d) Attire and Physical Hygiene Requirements. The following attire and physical hygiene requirements shall be applicable to all employees and any other persons who work permanently or temporarily on the premises of a massage establishment within the city, including, but not limited to, all persons who are employed or retained to practice massage for the massage establishment:
- (1) No person shall dress in:
 - (A) Attire that is transparent, see-through, or substantially exposes the person's undergarments;
 - (B) Swim attire, unless providing a water-based massage modality approved by the CAMTC;
 - (C) A manner that exposes the person's chest, breasts, buttocks, or genitals;
 - (D) A manner that constitutes a violation of Section 314 of the California Penal Code.
 - (2) No massage establishment operator, employee, or visitor shall, while on the premises of a massage establishment or while performing any outcall massage service, and while in the presence of any patron, customer, employee or visitor, expose his or her chest, breast, buttocks, or genitals.
 - (3) All persons shall thoroughly wash their hands with soap and water or any equally effective cleansing agent immediately before providing massage to a patron. No massage shall be provided upon a surface of the skin or scalp

of a patron where such skin is inflamed, broken (e.g., abraded or cut), or where a skin infection or eruption is present.

- (e) Display of Permit and Certifications.
 - (1) The massage establishment permit shall be displayed in an open and conspicuous place on the premises visible from the main entry door and/or reception and waiting area of the massage establishment.
 - (2) Each person employed or retained by a massage establishment to perform massage in or on the premises or through an outcall massage service shall display on his or her person the original, valid current photograph-bearing identification card issued to that employee by the CAMTC. A copy of each such identification card and the person's original CAMTC certificate shall also be displayed in an open and conspicuous place visible from the main entry door and/or reception and waiting area of the massage establishment. The home address of any employee need not be displayed.
- (f) Display of Human Trafficking Notices. The massage establishment shall comply with the requirements in California Civil Code Section 52.6 related to the posting of information for victims of human trafficking.
- (g) Home Occupation and Outcall-Only Businesses—Exemptions.
 - (1) Where a certified massage establishment is a home occupation, and the operator has complied with the provisions of Section 18.92.060 of this code pertaining to home occupations, the provisions of subsections (a)(2), (b)(1)—(3), and (b)(6) of this section shall not apply, and the portions of the residence subject to the requirements of subsections (b) and (c) of this section shall be only those portions that are used at any time by the patron of the massage establishment.
 - (2) For massage establishments that provide outcall-only services and have no fixed location for performing massage, provisions of this section related to businesses with fixed locations shall not apply. Specifically, the provisions of subsections (a)(2) – (9), (b)(1) - (4), (b)(6) - (8), (c)(2) and (7), (e)(1), and (f) of this section shall not apply to outcall-only establishments.

5.32.150. Massage establishment inspections.

- (a) The inspector shall have the right to enter any massage establishment, other than an establishment providing outcall-only services, during regular business hours, without a search or inspection warrant, to make reasonable inspection to ascertain whether there is compliance with the provisions of this chapter. Inspectors shall have access to all areas of the massage establishment, including but not limited to

drawers and cupboards used for storage. Identification may be requested of any employee within the establishment who is not displaying a CAMTC identification card. Photographs and digital and video recordings may be taken by the inspector to document the violations. For home occupations, reasonable inspection shall be limited to the portions of the residence open to patrons.

- (b) The massage establishment operator shall take immediate action to correct each violation noted by the inspector. A reinspection will be performed to ensure that each violation noted by the inspector has been corrected.

5.32.160. Violations—Moratorium.

- (a) For the purpose of enforcing the requirements of this chapter, all owners and operators of the massage establishment shall be jointly and severally responsible for the conduct of all massage establishment employees, agents, independent contractors, or other representatives while such persons are on the premises of the massage establishment or providing outcall massage services on behalf of the massage establishment.
- (b) In addition to any other remedy available to the city under applicable law, a massage establishment permit may be suspended or revoked as provided in Sections 5.32.170 and 5.32.180. Upon issuance of a final order by the Police Chief or city manager to revoke the massage permit, the massage establishment shall immediately cease operation, and, if so ordered by the hearing officer, no other massage establishment shall be permitted to operate at that location by any person for a period of not less than five years (“the moratorium period”). If the operator is not also the legal owner of the real property on which the massage establishment is situated, notice of such revocation and the five-year prohibition shall be provided by the permit authority to the owner of record of the property as shown on the latest county assessment roll.
- (c) In addition to any other remedy available to the city under applicable law, a massage establishment permit may not be renewed or amended unless and until all due and unpaid citations issued pursuant to this chapter are paid in full, and all outstanding violations have been corrected.
- (d) Notwithstanding any other provision of this chapter, where a Notice of Revocation or Suspension has been issued to the operator of a massage establishment pursuant to Section 5.32.180 of this chapter, the Police Chief shall not process or grant an application for a massage establishment permit for a new massage establishment at the same premises unless and until such Notice of Revocation or Suspension is dismissed; or a final determination is made pursuant to that section that the current operator’s massage establishment permit is not or should not be revoked; or any moratorium period imposed pursuant to this chapter has expired.

5.32.170. Revocation or suspension.

All massage establishment operators shall be deemed to know and understand the requirements and prohibitions of this chapter. Any massage establishment permit issued pursuant to this chapter may be suspended or revoked by the Police Chief after a hearing, where the Police Chief finds that any of the following have occurred on even a single occasion:

- (a) The permittee or any person employed or retained by the massage establishment has violated any provision of this chapter, California Business and Professions Code Sections 4600 et seq., or any local, state, or federal law.
- (b) The permittee or any person employed or retained by the massage establishment has been convicted in a court of competent jurisdiction of having violated, or has engaged in conduct constituting a violation of, any of the following: California Penal Code Sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22, or conspiracy or attempt to commit any such offense, or any offense in a jurisdiction outside of the State of California that is the equivalent of any of the aforesaid offenses.
- (c) The permittee or any person employed or retained by the massage establishment is required to register under Section 290 of the California Penal Code.
- (d) The permittee has been subject to a permanent injunction against the conducting or maintaining of a nuisance pursuant to this code, or Sections 11225 through 11235 of the California Penal Code, or any similar provision of law in any jurisdiction outside the State of California.
- (e) The permittee or any person employed or retained by the massage establishment has engaged in fraud or misrepresentation or has knowingly made a misstatement of material fact while working in or for the massage establishment.
- (f) The permittee has continued to operate the massage establishment after the massage establishment permit has been suspended.
- (g) Massage has been performed on the premises of the massage establishment, with or without the permittee's actual knowledge, by any person who is not a duly authorized CAMTC-certified massage professional.
- (h) A person who is not a duly authorized CAMTC-certified massage professional has provided outcall massage services through or on behalf of the massage establishment.
- (i) There have been one or more acts prohibited under California Penal Code Sections 266, 266a, 266e, 266f, 266g, 266h, 266i, 266j, 315, 316, 318, 647(b), or 653.22 taking place on the premises of the massage establishment,

whether or not any criminal prosecution has been pursued or conviction obtained for such acts, and whether or not they occurred with or without the actual knowledge of the permittee.

- (j) The permittee or any person employed or retained by the massage establishment or any other person on the premises of the massage establishment has engaged in conduct or committed acts that a reasonable person in the patron's position would understand as an offer to perform on or engage in with the patron acts that are sexual in nature or that involve touching of the patron's genitals, or anal region.
- (k) The permittee or any person employed or retained by the massage establishment has engaged in sexually suggestive advertising related to massage services on the premises of the massage establishment, including, but not limited to displaying photographs of individuals clothed in swim attire, or attire that is transparent, see-through or substantially exposes the individual's undergarments, breasts, buttocks, or genitals, describing massage services as "erotic," "sensual" or similarly sexual in nature, listing advertisements in adult media, or describing the appearance or age of massage providers.
- (l) If the applicant has failed to comply with a final court order or administrative action of an investigatory agency finding a violation of applicable federal, state and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local minimum wage ordinance or prevailing wage requirements. For purposes of this subsection, a final court order or administrative action is one as to which there is no pending appeal and the time for filing an appeal has passed.

5.32.180. Hearing for revocation or suspension.

- (a) The Police Chief shall give written notice of a hearing for the revocation or suspension of any permit granted pursuant to this chapter to the permittee. The notice shall set forth the time and place of the hearing, the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual issues in support thereof. The notice shall be mailed, postage prepaid, addressed to the permittee at the last known address of the permittee, or it shall be delivered to the permittee personally, at least ten days prior to the hearing date. The owner/operator has the right to attend the hearing.
- (b) Within ten days of the hearing the Police Chief shall render his or her decision in writing, stating his or her findings and the action taken, if any. The decision letter shall be mailed, postage prepaid, addressed to the permittee at the last known address of the permittee, or it shall be delivered to the permittee personally.
- (c) Within ten days from the deposit of the decision letter in the mail or its receipt by the permittee, whichever occurs first, the permittee may appeal the decision in

writing to the city manager or designee, setting forth with particularity the ground or grounds for the appeal.

- (d) The city manager or designee shall give written notice of the hearing on the appeal not less than ten days from the date the appeal was received by the city manager or designee. The hearing shall be conducted in accordance with Section 5.32.190.
- (e) After the hearing on the appeal, the city manager or designee may refer the matter back to the Police Chief for a new investigation and decision, may affirm the decision of the Police Chief, may dismiss the disciplinary action, or may revoke or suspend the permit. The decision of the city manager or designee upon such appeal shall be final and shall be subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6.
- (f) The notices provided to the massage establishment pursuant to this section may also be sent to the owner of the premises where the massage establishment is located. However, failure to provide notice to the property owner shall not invalidate any actions taken by the city.

5.32.190. Hearing rules.

The following rules shall apply to any hearing required by this chapter. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this chapter may be continued for a reasonable time for the convenience of a party or witness.

5.32.200. Violations unlawful and a public nuisance—Penalties, nuisance abatement, and other remedies.

Any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be, and the same is hereby declared to be, unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law. Such remedies shall be in addition to any other judicial and administrative penalties and remedies available to the city under this code or under state law.

Section 3. **Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

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 24th DAY OF APRIL 2024, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15th DAY OF MAY 2024, 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. 2354, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15th day of May, 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE 2355, NEW SERIES, AMENDING SECTION 13.20.030 (DEFINITIONS) AND SECTION 13.20.090 (SPECIFIC POLLUTANT LIMITATIONS) OF CHAPTER 13.20 (SEWERS AND INDUSTRIAL WASTE) OF TITLE 13 (PUBLIC SERVICES), TO REGULATE SEWER USE AND SET UNIFORM REQUIREMENTS FOR DISCHARGES INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2355, 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

Maintaining and Enhancing Infrastructure

Advancing Regional Initiatives

REPORT NARRATIVE:

On April 24, 2024, the City Council introduced Ordinance No. 2355 New Series, by the following roll call vote: AYES: Borgioli, Libreros, Spring, Turner NOES: None; ABSTAIN: None; ABSENT: Martinez Beltran.

The updates came about through a periodic routine Audit of the Pretreatment Program (aka Wastewater Source Control Program) and Communications with the State Water Resources Control Board and the South Central Regional Wastewater Agency (SCRWA). Since the City's Pretreatment Program is administered by SCRWA, the requirement by the State for SCRWA to update their Sewer Uses Ordinances means the City must update its Sewer Use Ordinances as well. In April 2024, City staff introduced an ordinance updating the requirement. This creates uniformity between the City's and SCRWA's Sewer Use Ordinances and more importantly, it clarifies certain terms for the users.

The changes are minor, and they affect only sections 13.20.030 (Definitions) and 13.20.090 (Local Limit Value). Council approved the amendments to the proposed sections mentioned earlier on April 24, 2024; the same item is back to ask that the Council adopt the ordinance. If approved, the ordinance would go into effect 30 days from the date of adoption.

COMMUNITY ENGAGEMENT:

Inform

The City advertised the Sewers and Industrial Waste Ordinance Update in the Weekly 4-1-1, the City's webpage, social media, etc. A community meeting was not necessary since this update is more for uniformity and compliance with SCRWA Sewer Use Ordinance Updates.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City's sewers and industrial waste ordinance was amended by the Council in July 2014, and again in June 2021.

FISCAL AND RESOURCE IMPACT:

There are no direct fiscal impacts associated with adopting the updated ordinance as it does not change the fiscal impacts (namely reduced sewer sales revenues and increased pretreatment program costs) associated with pollutants and other contaminants that already exist under the current ordinance. Administering the City's sewer waste and pollutant response programs are activities included in the work program of the Public Services Department.

CEQA (California Environmental Quality Act):

Categorical Exemption

This Ordinance and actions taken hereafter pursuant to this Ordinance are exempt from the California Environmental Quality Act as actions intended to preserve and protect natural resources (CEQA Guidelines section 15307).

ORDINANCE NO. 2355, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING SECTION 13.20.030 (DEFINITIONS) AND SECTION 13.20.090 (SPECIFIC POLLUTANT LIMITATIONS) OF CHAPTER 13.20 (SEWERS AND INDUSTRIAL WASTE) OF TITLE 13 (PUBLIC SERVICES), TO REGULATE SEWER USE AND SET UNIFORM REQUIREMENTS FOR DISCHARGES INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM.

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

Section 1. Section 13.20.030 (Definitions) of Chapter 13.20 (Sewers and Industrial Waste) of Title 13 (Public Services) is hereby amended to read as follows:

13.20.030 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
2. "Categorical Pretreatment Standards or Categorical Standards" means National Pretreatment Standards or Pretreatment Standard.
3. "City certified contractor" means a contractor that is certified by an accredited agency along with the City of Morgan Hill to perform inspection and repair on private sewer lateral and sanitary sewer collection system.
4. "Common interest development" means a development managed or governed by a homeowners' association. Examples of common interest developments may include condominium projects (in which the individual units are owned), planned unit developments, community apartment projects (in which the individual units are leased to tenants), and stock cooperatives.
5. "Domestic waste" means a combination of liquid or water containing human waste, conducted away from residences, business buildings, and institutions.

6. "Environmental Protection Agency (USEPA)" means the U.S. Environmental Protection Agency; or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.
7. "Garbage," "refuse" and all other terms used in this chapter shall have the same meaning given to them in Section Code 13.28.010.LLL
8. "Homeowners' association" means a non-profit corporation or unincorporated association created for the purpose of managing or governing a common interest development and that operates in accordance with governing documents, whether or not the corporation or association is formally designated or commonly referred to as a homeowners' association.
9. Indirect Discharge or Discharge: The discharge or the introduction of non- domestic pollutants from any source regulated under section 307(b) and (c) or (d) by the Act, into the Plant (including holding tank waste discharged into the system).
10. Industrial User (or User): Any contributor of industrial waste or wastewater or a source of indirect discharge.
11. "Industrial waste" means a combination of liquid or water-carried waste resulting from the manufacturing process employed in commercial or industrial establishments, including washing, cleaning, or drain water from such processes.
12. "Inspector" means the authorized inspector or representative of the city engineer.
13. "Interceptor" means a device or trap to prevent the amount of grease, sand, oil or other solids or semi-solids from entering the sewer system.
14. "Interference " means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
 - (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act

15. "National Pretreatment Standard, Pretreatment Standard, or Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to [§ 403.5](#).
16. "National Prohibitive Discharge Standard" or "prohibitive discharge standard" means any regulation developed under the authority of Section 307(b) of the Act and 40 Codified Federal Regulations (CFR), Section 403.5.
17. "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) Categorical Pretreatment Standard.
18. "Permittee" means the person to whom a wastewater permit has been issued pursuant to this chapter.
19. "Person" means an individual, firm, partnership, corporation, or government agency, and their heirs, assigns or agents.
20. "Pretreatment" or "standard" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants' properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works (POTW). The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes, or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
21. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard imposed on a user.
22. "Private sanitary sewer collection system" shall mean any sanitary sewer pipe originating or located at least partially on a common interest development collecting wastewater from more than one building sanitary sewer, including, but not limited to: apartment buildings, business complexes, mobile home parks, condominiums, or townhomes. This excludes single-family residential property with an accessory dwelling unit.

23. "Private sewer lateral" means the sewer pipeline from the plumbing of a building to a public sewer collection line, including portions that extend across public rights-of-way and the Saddle, wye or other physical connection to the collection line. Private sewer laterals are privately owned and maintained.
24. "Public sewer" means a main or collector sanitary sewer dedicated to public use.
25. "Qualified contractor" means, for the purposes of private sewer lateral inspection or repair and private sanitary sewer collection system inspection or repair, a licensed plumbing contractor with a City of Morgan Hill business license and an active pipeline or lateral assessment certification from the National Association of Sewer Service Companies.
26. "Sale of property" means a change in ownership by purchase or otherwise involving a transfer of legal title to real property, except for any transfer excluded from property tax reassessment by Revenue and Taxation Code Section 60 et seq. and/or as determined by the Santa Clara County assessor.
27. "Significant industrial user" means any industrial user of the city's wastewater disposal system who (a) has a discharge flow of ten thousand gallons or more per average workday; or (b) has a flow greater than five percent of the flow in the city's wastewater treatment system; or (c) has wastes which are toxic pollutants as defined pursuant to Section 307 of the Act or State of California Statutes and rules; or (d) is found by the city, state control agency or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system; or (e) is subject to categorical pretreatment standards

Section 2. Section 13.20.090 (Specific Pollutant Limitations) of Chapter 13.20 (Sewers and Industrial Waste) of Title 13 (Public Services) is hereby amended to read as follows:

13.20.090 - Specific pollutant limitations.

It unlawful for any user to discharge wastewater containing in excess of:

610 mg/L	BOD
1000 mg/L	TSS
100 mg/L	Grease and oil as petroleum hydrocarbons
40 degrees C.	Temperature
6.5 to 11.0 pH units	pH
0.88 mg/L	Arsenic
0.01 mg/L	Cadmium
5.1 mg/L	Total chromium
1.8 mg/L	Copper
1.8 mg/L	Cyanide
0.5 mg/L	Lead
0.03 mg/L	Mercury
2.7 mg/L	Nickel
4.2 mg/L	Silver
1.4 mg/L	Zinc
2,900 mg/L	Chloride
2,500 mg/L	Sodium
9,500 mg/L	Total dissolved solids
Trace mg/L	Total identifiable chlorinated hydrocarbons

Trace mg/L	Toxic organic compounds (priority pollutants as defined by the EPA)
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Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metals unless indicated otherwise.

The administrator may impose mass limitations in addition to or in place of the concentration-based limitations above.

Section 3. Severability

If any section, subsection, sentence, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of the Ordinance will not be affected. The city council hereby declares it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

Section 4. Effective Date; Posting.

This Ordinance shall take effect 30 days after adoption by Council. 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 24th DAY OF APRIL 2024, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15th DAY OF MAY 2024, 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. 2355, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15th day of May 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Nolen Ugalde, Assistant Engineer

APPROVED BY: City Manager

ADOPT RESOLUTION APPROVING FY 2024-25 LIST OF STREET REHABILITATION PROJECTS FUNDED BY SENATE BILL (SB) 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT

RECOMMENDATION(S)

Adopt a resolution approving a list of street rehabilitation projects for Fiscal Year 2024-25 funded by SB1, the Road Repair and Accountability Act of 2017.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

Preserving and Cultivating Public Trust

2024-2025 Strategic Priorities

Fiscal Sustainability

Transportation

REPORT NARRATIVE:

City staff are in the process of awarding the 2024 Pavement Rehabilitation Project construction contract, which is scheduled for construction this summer. The 2024 Pavement Resurfacing Project will include pavement rehabilitation and maintenance treatments for the following streets:

- East Dunne Avenue Overpass between Condit Road and Laurel Road
- Vineyard Blvd between Monterey Road and LaCrosse Drive
- Vineyard Court
- Del Monte Avenue between 2nd Street and Keystone Avenue
- Keystone Avenue between Del Monte Avenue and Monterey Road
- Del Monte Avenue between Ciolino Avenue and Cosmo Avenue
- Manor Court
- Matilda Court
- Foothill Court
- San Pedro Avenue between Butterfield Boulevard and Walnut Grove Drive
- San Ramon Drive between San Pedro Avenue and San Marcos Drive

- Markcross Court
- Cochrane Circle
- Digital Drive

This will be the eighth year the City has been receiving SB1 fund allocations and the City is continuing to prioritize these funds towards the repair of the City's arterial and collector roadways, while beginning the process of repairing the worst residential streets in the City.

SB 1, also known as the Road Repair and Accountability Act of 2017, established a tax that formed the Road Maintenance and Rehabilitation Account (RMRA). The RMRA is intended to fund basic road maintenance and rehabilitation needs on the local street and road systems within the State. Prior to receiving RMRA funds for the Fiscal Year (FY) 2024-25, the City must submit a list of projects proposed to be funded with RMRA funds, adopted by resolution, to the California Transportation Commission (CTC) by July 1, 2024. The list of projects proposed to be funded must include a description and the location of each proposed project, a proposed project schedule, and the estimated useful life of the improvement (Streets and Highways Code Section 2034(a)).

To ensure that the City is eligible for FY 2024-25 SB1 RMRA funding, the proposed resolution (Attachment 1) identifies the City street locations proposed to be funded by the FY 2024-25 SB1 RMRA funds. These streets include all of the project streets for the 2024 Pavement Rehabilitation Project to ensure full utilization of the FY 2024-25 funding. The proposed resolution is expected to fulfill the CTC's requirement that the City Council adopt, via resolution, a list of projects proposed for the next fiscal year's SB1 RMRA funds and meets the intention of prioritizing these funds for basic road maintenance and rehabilitation projects, and on critical safety projects.

COMMUNITY ENGAGEMENT:

Inform

City staff are working on a significant communication planning effort to be implemented ahead of the work, which is planned to occur during the summer months. The City has recently developed a page dedicated to pavement rehabilitation on the City's website that outlines long term planning for pavement rehabilitation. The webpage is available at [Pavement Rehab & Street Cut Moratorium | City of Morgan Hill, CA - Official Website](#).

ALTERNATIVE ACTIONS:

The City Council could direct staff to submit a funding request for an alternative project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- On June 15, 2022, City Council adopted the FY 2022-23 through FY 2027-28 Capital Improvement Budget.

- On June 21, 2023, City Council passed Resolution No. 23-030 adopting a list of street rehabilitation projects for FY 2023-24 funded by SB1.
- On January 17, 2024, City Council received an update regarding pavement rehabilitation planning.

FISCAL AND RESOURCE IMPACT:

The FY 2024-25 SB1 RMRA projected revenue of \$1,174,484 will be included as a revenue source for Fund 308 (Street CIP) in the City's CIP under the Pavement Rehabilitation Program (Project No. 519000) as part of the FY 2024-25 project budget.

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.

RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2024-25 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$1,174,484 in RMRA funding in Fiscal Year 2024-25 from SB 1; and

WHEREAS, this is the eighth year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has undergone a robust public process to ensure public input into our community's transportation priorities/the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City maintain and rehabilitate the East Dunne Avenue overpass at US 101, one of the City's arterial streets; portions of Del Monte Avenue, San Pedro Avenue, and Vineyard Blvd, three of the City's collector streets; and portions of Cochrane Circle, Del Monte Avenue, Digital Drive, Foothill Court, Keystone Avenue, Manor Court, Markross Court, Matilda Court, San Ramon Drive, and Vineyard Court, multiple

local/residential streets throughout the City this year and multiple similar projects into the future;
and

WHEREAS, the 2023 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in a good condition and this revenue will help us increase the overall quality of our road system and over the next decade will maintain our streets and roads in a good condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Morgan Hill, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The following list of newly proposed projects will be funded in-part or solely with Fiscal Year 2024-25 Road Maintenance and Rehabilitation Account revenues:

1) **Project Title:** 2024 Pavement Rehabilitation Project

Project Description: 3" Pavement Mill and Fill, 2" Grind and Overlay, Full Depth Asphalt Concrete Pavement Repairs, Crack Sealing, Type II Slurry Seal, Vehicle Detector Loop, Replacement of all Existing Traffic Delineation and Markings, Utility Cover Adjustments, and all related work on various streets within the City Limits.

Project Locations: 1) East Dunne Avenue Overpass between Condit Road and Laurel Road; 2) Vineyard Blvd between Monterey Road and LaCrosse Drive; 3) Vineyard Court; 4) Del Monte Avenue between 2nd Street and Keystone Avenue; 5) Keystone Avenue between Del Monte Avenue and Monterey Road; 6) Del Monte Avenue between Ciolino Avenue and Cosmo Avenue; 7) Manor Court; 8) Matilda Court; 9) Foothill Court; 10) San Pedro Avenue between Butterfield Boulevard and Walnut Grove Drive; 11) San Ramon Drive between San Pedro Avenue and San Marcos Drive; 12) Markcross Court; 13) Cochrane Circle; 14) Digital Drive

Estimated Project Schedule: Start (June 2024)– Completion (October 2024) based on the component being funded with RMRA funds.

Estimated Project Useful Life: The City's Pavement Management System estimates a new useful life of 20 years for these roadways.

PASSED, APPROVED, AND ADOPTED by the City Council of to the City of Morgan Hill, State of California at its meeting held on this 15th day of May, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNCIL MEMBERS:

COUNCIL MEMBERS:

COUNCIL MEMBERS:

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.24-xxx , adopted by the City Council at the meeting held on 15th day of May, 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk



City Council

Meeting Minutes

Mark Turner - Mayor
Marilyn Librers - Mayor Pro Tem
Gino Borgioli - Council Member
Rene Spring - Council Member
Yvonne Martinez Beltran - Council Member

Wednesday, April 24, 2024 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 p.m. for the purpose of conducting Library, Culture, and Arts Commission and Parks and Recreation Commission interviews.

SPECIAL MEETING

5:00 p.m. - Library, Culture, and Arts Commission and Parks and Recreation Commission interviews

CALL TO ORDER

Mayor Turner called the meeting to order at 5:00 p.m.

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow called the roll.

PRESENT	Rene Spring, Mark Turner, Marilyn Librers, Gino Borgioli
ABSENT	Yvonne Martinez Beltran

DECLARATION OF POSTING AGENDA

City Clerk Michelle Bigelow declared the posting of the agenda.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

COMMISSION INTERVIEWS

1. **REAPPOINTMENT OF THREE (3) COMMISSIONERS ON THE LIBRARY, CULTURE AND ARTS COMMISSION (LCAC) AND ONE (1) COMMISSIONER ON THE PARKS AND RECREATION COMMISSION (PRC) AND INTERVIEW CANDIDATES TO FILL THE REMAINING TWO (2) SEATS ON THE LIBRARY, CULTURE, AND ARTS COMMISSION AND REMAINING TWO (2) SEATS ON THE PARKS AND RECREATION COMMISSION**

Recommendation:

1. Reappointment of Commissioners Suman Ganapathy, Amanda Santiago, and Jake Thompson to the Library, Culture, and Arts Commission with terms ending April 1, 2028;
2. Appointment of Commissioner Poonam Chabra to the Parks and Recreation Commission (currently on LCAC) with a term ending April 1, 2028;
3. Mayor shares the characteristics/traits that a successful applicant(s) would possess;
4. Conduct Interviews;
5. Council Members identify the top applicant(s) and provide recommendations to the Mayor; and
6. Discuss and/or appoint applicant(s).

Mayor Turner shared the ideal traits the City Council is looking for in

commissioners.

MOTION:

Approving recommended actions 1 and 2.

RESULT:	Passed
MOVER:	Mayor Pro Tem Librers
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Borgioli, Council Member Martinez Beltran

The City Council interviewed and appointed Robyn Carillo to the Library, Culture, and Arts Commission and Tanaya Rose and Saied Zargar to the Parks and Recreation Commission.

REGULAR MEETING

Mayor Turner called the City Council meeting to order at 6:00 p.m.

PRESENTATIONS

YAC Presentation

RECOGNITIONS

Recognizing Alban Diaz for his 18 years of serving the Youth of Morgan Hill

PROCLAMATIONS

Proclaiming the month of March as Red Cross Month

Proclaiming April 22, 2024 as Earth Day

Proclaiming April 14-20, 2024 as Public Safety Telecommunicators Week

Proclaiming the month of May as Older Americans Month

Proclaiming the month of May as Water Safety Month

CITY COUNCIL REPORTS

Mayor Pro Tem Librers shared that she attended the League of California Cities Transportation Policy Committee meeting in Burbank last month. The committee dug deep into the traffic issues that can be addressed. She announced that the City has received some grants that will help the commute traffic.

CITY MANAGER'S REPORT

City Manager Christina Turner announced the grants the City recently received from Congresswoman Zoe Lofgren's office. She mentioned that the City is putting the final touches on the City's budget document that will cover the next two fiscal years. We will have a table at the Open Streets event on Saturday, May 11, 2024 to share information about the City's budget. In addition, there will be a Budget Workshop on Wednesday, May 22, 2024, at 5:00 p.m. She announced that a pilot program for Solar permits is underway, which means that contractors getting solar permits can acquire them through the automated solar app program as a result of a grant the City applied for in 2023. Online applications for all are expected to be available by summer. On Thursday, May 30, 2024, from 7:30 a.m. - 1:00 p.m. we will have an Economic Mobility Symposium at the Granada Theater. More information and the link to purchase tickets can be found on the City's website. The 2024 Sidewalk Saturday season has begun. They are held on the 2nd Saturday of every month from 10:00 a.m. - 3:00 p.m. April - December. Last Saturday, the City held a ribbon cutting for its first session of the Indoor Adaptive Play Area at the Centennial Recreation Center. She mentioned that Art a la Carte is on Saturday, May 4, 2024, at the Community and Cultural Center (CCC) from 11:00 a.m. to 2:00 p.m. Open Streets: Morgan Hill is back on May 11, 2024, in Downtown Morgan Hill. Join us from 9:00 a.m. to 1:00 p.m. for fun activities including a bike rodeo, a fun run and 5k (pre-register online), CRC fitness classes, Sidewalk Saturday's vendors, and more. Stop by the Family Health and Wellness Resource Fair on Saturday, May 18, 2024 from 10:00 a.m.-2:00 p.m. at the CCC for performances, health screenings, family resources, workshops, and more. The Public Works week event will be held on Wednesday, May 22, 2024 from 9:00 a.m. - 11:00 a.m. at the City's Corporation Yard. Lastly, the Pride Flag Raising ceremony will be at the Civic Center on May 31, 2024 at 6:00 p.m.

CITY ATTORNEY'S REPORT

On March 6, 2024, the Council met in closed session. City Attorney Don Larkin announced that there was no reportable action.

OTHER REPORTS

Mayor Turner thanked the Morgan Hill Rotary Club for planting 30 trees in Community Park near the Magical Bridge Playground. He announced that the Hwy 101 and Hwy 25 interchange phase one is fully funded. That work is scheduled to begin in early 2025 and should be completed by the end of 2027. He mentioned that VTA is ranked among the top 5 nation's transit agencies in ridership growth. The VTA board also opposed SB 1031, a bill aiming at consolidating all the transit operators in the Bay Area. Caltrain ridership has increased by 38% since the adoption of the fourth train in South County. He also noted that the Cities Association received a presentation from Bay Area Housing Finance Authority (BAHFA) regarding a regional affordable housing bond that they are trying to get on the ballot. He attended the League of California Cities, City Leaders Conference in Sacramento last week and shared some information. He also spoke about a trail that he would like to start to promote restaurants in our Community.

It is called the Guac Walk. There are 15 Mexican restaurants in our Community on board, as well as Region Market. Also, the Mushroom Festival will be on May 25th and 26th.

PUBLIC COMMENT

Public comment opened at 6:32 p.m.

Anonymous was called to speak.

There being no further requests to speak, public comment closed.

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	Passed
MOVER:	Council Member Spring
SECONDER:	Council Member Borgioli
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

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.

MOTION:

Approving consent calendar items 2 through 11.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

2. **ADOPT ORDINANCE 2352, NEW SERIES, AMENDING VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING THE CITY OF MORGAN HILL 2023-2031 HOUSING ELEMENT; UPDATES TO ELECTRIC VEHICLE CHARGING PROVISIONS TO PROVIDE CONSISTENCY WITH CHAPTER 15.62 (ELECTRIC VEHICLE CHARGING INFRASTRUCTURE); UPDATES TO PARKING PROVISIONS TO COMPLY WITH ASSEMBLY BILL 894; AND IMPLEMENTING MINOR AMENDMENTS DUE TO CLERICAL ERRORS AND INCONSISTENCIES**

Recommendation:

Waive the reading, adopt Ordinance No. 2352, 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. **APPROVE A CONSULTANT AGREEMENT WITH SAN JOSE CONSERVATION CORPS FOR RECYCLING AND REUSE HOTLINE AND WEBSITE ADMINISTRATION PROJECT IN THE AMOUNT OF \$544,400**

Recommendation:

1. Approve a contract with San Jose Conservation Corps for \$544,400 to provide Recycling and Reuse Hotline and Website Administration Services with \$4,400 allocated to FY 2023-24, and \$180,000 allocated annually thereafter through FY 2026-27, contingent on approval of the annual funds by the Recycling and Waste Reduction Commission; and
2. Authorize the City Manager to execute and administer the consultant agreement with San Jose Conservation Corp, and to enter into up to two one-year extensions of the contract; and
3. Adopt a Resolution appropriating an additional \$4,400 to the City's Countywide Solid Waste Program for FY 2023-24 (Fund 246).

4. **APPROVE FIRST AMENDMENT TO ENVIRONMENTAL SYSTEMS, INC. HVAC MAINTENANCE SERVICES AGREEMENT**

Recommendation:

1. Approve the First Amendment to the maintenance services agreement with Environmental Services, Inc. (ESI) to increase the amount by \$600,000 for a total agreement amount of \$1,262,944.
2. Authorize the City Manager to execute and administer the first amendment with Environmental Services, Inc.

5. **APPROVE FIRST AMENDMENT TO THE WEST COAST ARBORISTS, INC. MAINTENANCE SERVICES AGREEMENT**

Recommendation:

1. Approve the first amendment to the maintenance services agreement with West Coast Arborists, Inc. to increase the amount by \$200,000 for a total agreement amount of \$852,000; and
2. Authorize the City Manager to execute and administer the first amendment with West Coast Arborists, Inc.

6. **APPROVE AN AGREEMENT WITH SOLUTIONZ, INC. FOR THE PURCHASE AND INSTALLATION OF THE COUNCIL CHAMBER AUDIO/ VISUAL EQUIPMENT REPLACEMENT AND UPGRADES IN THE AMOUNT OF \$465,103 AND A 10% CONTINGENCY NOT TO EXCEED \$46,510**

Recommendation:

1. Approve an agreement with Solutionz, Inc. for Council Chamber Audio/Visual Equipment Replacement and Upgrades in the amount of \$465,103 and a 10% contingency not to exceed \$46,510;
2. Authorize the City Manager to execute and administer the consultant agreement with Solutionz, Inc.; and
3. Adopt resolution amending the FY 2023-24 Information Systems Fund (Fund 730) Budget to appropriate \$256,612.

7. **APPROVE THE 2023 MILITARY EQUIPMENT USE REPORT AND PURCHASE OF A Lenco BEARCAT AND FIVE COLT CARBINE RIFLES**

Recommendation:

1. Approve 2023 Military Equipment Use Report and approve the continued use of military equipment contained in the report;
2. Authorize the purchase of one Lenco BearCat from Lenco Industries, Inc. dba in an amount not to exceed \$410,000;
3. Authorize the purchase of five Colt Carbine Rifles in an amount not to exceed \$9,000;
4. Authorize the City Manager to execute the purchase agreement with Lenco Industries, Inc. dba.;
5. Adopt resolution to amend the FY23-24 Budget to appropriate \$127,000 to the Vehicle Replacement Fund (790); and
6. Amend Morgan Hill Police Department Policy 709 (Military Equipment) to include the five additional patrol rifles.

8. **APPROVE THE PURCHASE OF CLA-VALVE REPAIR AND REBUILD KITS IN THE AMOUNT OF \$103,718 FROM ICONIX WATERWORKS**

Recommendation:

Approve and authorize the City Manager to execute a purchase order to Iconix

Waterworks in the amount of \$103,718 for the purchase of Cla-Valve repair and rebuild kits for repairs to the City's water infrastructure.

9. APPROVE THE MARCH 6, 2024 CITY COUNCIL MEETING MINUTES

Recommendation:

Approve minutes.

10. AWARD CONDIT SEWER CAPACITY UPGRADE PROJECT TO SUBTERRA CONSTRUCTION, INC. IN THE AMOUNT OF \$1,824,097

Recommendation:

1. Approve the Condit Sewer Capacity Upgrade Project Plans and Specification;
2. Award contract to SubTerra Construction Inc. for the Condit Sewer Capacity Upgrade Project in the amount of \$1,824,097;
3. Authorize expenditure of construction contingency funds not to exceed \$364,820; and
4. Authorize the City Manager to execute and administer the construction contract with SubTerra Construction, Inc.

11. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2024-25;
2. Approve the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 5, 2024.

PUBLIC HEARINGS

12. HOLD PUBLIC HEARING AND TABULATE BALLOTS FOR SPARHAWK SUBAREA OF MORGAN HILL LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

1. Open public hearing;
2. Accept public input on ballot proceeding;
3. Announce close of public hearing is pending – Any property owner wishing to withdraw or submit their ballot must do so now;

4. Close public hearing;
5. Take a five minute recess for ballot tabulation;
6. Accept verbal report from the City Clerk on Sparhawk ballot tabulation results; and
7. Adopt Resolution A or B certifying the Sparhawk ballot proceeding results.

Public Services Director Chris Ghione provided the report.

The public hearing opened at 6:36 p.m. There being no requests to speak, the public hearing closed.

The meeting recessed at 6:36 p.m. to tabulate the votes and reconvened at 6:43 p.m.

The City Clerk announced the ballot tabulation results. Of the 18 ballots, 13 were received of which 11 are in favor and 2 opposed to the increased rate assessment.

MOTION:

Adopting Resolution A certifying the results of the ballot tabulation for the assessment ballot proceeding to submit to the qualified property owners the question of the proposed increase in the maximum assessment rate for the Sparhawk subarea of landscape maintenance assessment district number 1 beginning in fiscal year 2024/25.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

13. APPROVE SOLID WASTE MANAGEMENT RATE ADJUSTMENT FOR 2024

Recommendation:

Adopt resolution approving an adjustment in the maximum allowable solid waste charges effective July 1, 2024.

Environmental Services Administrator Tanya Carothers provided the report and presentation.

The public hearing opened at 6:48 p.m. There being no requests to speak, the public hearing closed.

MOTION:

Approving the recommended action.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Mayor Pro Tem Librers
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

OTHER BUSINESS

14. ADOPT ORDINANCE NO. 2353, NEW SERIES, AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF MORGAN HILL AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Recommendation:

Waive the reading, adopt Ordinance No. 2353, 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.

Human Resources Director Michael Horta provided the report.

Public comment opened at 6:51 p.m. There being no requests to speak, public comment closed.

MOTION:

Approving the recommended action.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

15. APPROVE LEADERSHIP MORGAN HILL PROJECT AT THE COMMUNITY AND CULTURAL CENTER

Recommendation:

1. Approve Leadership Morgan Hill project at the Community and Cultural Center to improve splash pad area: and
2. Authorize the City Manager to execute agreements as needed with Leadership Morgan Hill and associated contractors to complete the installation.

Public Services Director Chris Ghione provided a report and presentation, along with Scott Geffre with Leadership Morgan Hill Class of 2024.

Public comment opened at 7:01 p.m. There being no requests to speak, public comment closed.

MOTION:

Approving recommended actions.

RESULT:	Passed
MOVER:	Council Member Spring
SECONDER:	Council Member Borgioli
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

16. INTRODUCE ORDINANCE REPEALING AND REPLACING CHAPTER 5.32 (MESSAGE ESTABLISHMENTS AND MESSAGE PROFESSIONALS PERMIT REQUIREMENTS) OF TITLE 5 (BUSINESS LICENSES GENERALLY) ESTABLISHING A PERMITTING PROCEDURE FOR MESSAGE THERAPY ESTABLISHMENTS AND SERVICES

Recommendation:

1. Waive first and second reading of the Ordinance; and
2. Introduce new Ordinance replacing Chapter 5.32 (Message Establishments and Massage Professionals Permit Requirements).

Economic Development Director Matt Mahood presented a report.

Public comment opened at 7:28 p.m. There being no requests to speak, public comment closed.

MOTION:

Waiving the first and second reading of the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

MOTION:

Introducing the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

17. SEWERS AND INDUSTRIAL WASTE ORDINANCE UPDATES

Recommendation:

1. Waive first and second reading of the Ordinance; and
2. Introduce Ordinance updating the City's sewer use provisions.

Deputy Director for Utilities James Sylvain presented the report.

Public comment opened at 7:40 p.m. There being no requests to speak, public comment closed.

MOTION:

Waiving the first and second reading of the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

MOTION:

Introducing the ordinance.

RESULT:	Passed
MOVER:	Council Member Borgioli
SECONDER:	Council Member Spring
AYES:	Council Member Spring, Council Member Borgioli, Mayor Turner, Mayor Pro Tem Librers
NAYS:	None
ABSTAIN:	None
ABSENT:	Council Member Martinez Beltran

18. RECEIVE MONTHLY BUDGET UPDATE; MARCH 2024 FINANCIAL AND INVESTMENT REPORTS; AND CITY MANAGER AUTHORITY REPORT

Recommendation:

Accept and file report.

Finance Director Dat Nguyen presented the report.

Public comment opened at 7:54 p.m. There being no requests to speak, public comment closed.

The report was accepted.

PROPOSED FUTURE COUNCIL INITIATED AGENDA ITEMS

19. PROVIDE DIRECTION TO STAFF ON PROPOSED FUTURE COUNCIL INITIATED AGENDA ITEMS

Recommendation:

Determine if the majority of the City Council wants the following items agendized at a future meeting for discussion:

1. Appointing versus electing the City Treasurer; and
2. Creating term limits for the City Treasurer; and
3. A policy to prevent the City Council from taking positions on foreign or international events; and
4. A disturbance policy for City Council meetings.

City Manager Christina Turner introduced the item and provided a high-level overview.

A majority of the City Council directed staff to bring all four items to a future meeting for a formal discussion.

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Borgioli asked that no campaigning from the dais be added to the City Council norms.

Council Member Spring asked for a discussion or some sort of educational forum regarding insurance companies canceling homeowners' insurance policies.

Council Member Spring asked for discussion or other forum to address loneliness.

CLOSED SESSION

City Attorney Larkin announced the closed session items.

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

City of Morgan Hill v. Rocke and Glenda Garcia et al. (Santa Clara County Case No. 21CV385524)

Conference with Legal Counsel – Anticipated Litigation

Significant exposure to litigation pursuant to § 54956.9(b): (one case)

OPPORTUNITY FOR PUBLIC COMMENT

Public comment opened at 8:14 p.m. There being no requests to speak, public comment closed.

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 8:15 p.m.

ADJOURNMENT

There being no further business, Mayor Turner adjourned the meeting at 8:53 p.m. with no reportable action.

Minutes Prepared by:
Michelle Bigelow, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Sarah Tada, Support Services Manager

APPROVED BY: City Manager

APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR EMERGENCY MEDICAL DISPATCHING SERVICES

RECOMMENDATION(S)

1. Authorize the City Manager to enter into a one-year amendment to the agreement with the County of Santa Clara for Emergency Medical Dispatch Services for \$73,260 with an option to extend for an additional three years, subject to budget appropriation and approval as to form by the City Attorney; and
2. Authorize the City Manager to execute all future agreements with the County of Santa Clara to ensure continued medical dispatch services for our Community.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Preserving and Cultivating Public Trust

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Public Safety Master Plan

REPORT NARRATIVE:

The City of Morgan Hill has historically contracted with Santa Clara County to provide Emergency Medical Dispatch services on its behalf. The existing contract amendment expires on June 30, 2024 and can be extended by one three-year term as mutually agreed upon by both parties. Santa Clara County provides certified medical dispatchers 24/7/365 through this Emergency Medical Dispatch (EMD) contract using International Academy of Emergency Dispatch (IAED) certified Emergency Medical Dispatchers. All dispatchers providing EMD services use the most current version of the Medical Priority

Dispatch System as determined by the IAED. The Morgan Hill Police Department Communications Center provides law enforcement dispatching only and the center nor the staff are certified to provide emergency medical dispatching services, which would require extensive training, software, and staffing increases to ensure that the call-taker can stay on the phone and provide pre-arrival instructions in compliance with national standards.

COMMUNITY ENGAGEMENT:

This staff report serves to inform the Community of the City's desire to enter into a one-year agreement with Santa Clara County for County Communications emergency medical dispatching services.

ALTERNATIVE ACTIONS:

The alternative is for the Morgan Hill Police Department to increase its staffing by approximately four (4) full-time employees and obtain International Academy of Emergency Dispatch (IAED) certification. The Morgan Hill Police Department Communications Center provides law enforcement dispatching only and the center nor the staff are certified to provide emergency medical dispatching services, which would require extensive training and staffing increases to ensure that the call-taker can stay on the phone and provide pre-arrival instructions.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City of Morgan Hill has contracted with Santa Clara County to provide Emergency Medical Dispatch services on its behalf for decades. City Council approved the current City budget that included the current contract with Santa Clara County which expires on June 30, 2024.

FISCAL AND RESOURCE IMPACT:

The one-year agreement is for \$73,260 for fiscal year 24/25 (subject to +/- 5% adjustment after July 1, 2025). Below is the cost breakdown provided by Santa Clara County:

1. EMD Program Cost for Fiscal Year 2024-25 (and Example Methodology for Outlying Years):	
\$698,107	FY 2024/2025 total EMD cost (5% of total estimated medical dispatching cost)
X	CITY's share of EMD activity
10.494%	2,604 CITY's EMD events = 10.494% of 24,814 total EMD events handled by COUNTY (events averaged for FY 2021 – FY 2023)
\$73,260	CITY's EMD cost for FY 2024/2025 (Subject to +/- 5% adjustment after July 1, 2025)

Funding for the agreement will be included in the budget process.

CEQA (California Environmental Quality Act):

Not a project.

This agreement entails organizational or administrative activities of governments and will not result in direct or indirect physical changes in the environment.

**FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE
COUNTY OF SANTA CLARA AND THE CITY OF MORGAN HILL
FOR EMERGENCY MEDICAL DISPATCH SERVICES**

This is the First Amendment to the Agreement (“Agreement”) by and between the County of Santa Clara (“COUNTY”) and the City of Morgan Hill (“CITY”) originally entered into on July 1, 2023, for the provision of Emergency Medical Dispatch services to the CITY.

This Agreement is amended as follows, effective July 1, 2024:

1. Article 3.1 (a) and (b), regarding the Term of Agreement, is amended to read as follows:
 - (a) This Agreement is effective from July 1, 2023, until June 30, 2025, unless terminated earlier in accordance with Article 3.2 of the Agreement.
 - (b) This Agreement may be extended for **one (1) three-year term** as mutually agreed by both parties.
2. Article 6.16 “Levine Act Compliance” is hereby added and incorporated into the Agreement and reads as follows:

CITY will comply and will ensure that its agents (as that term is defined under 2 Cal. Code Regs. § 18438.3(a)) and its subcontractors (“Subcontractors”) comply, with California Government Code section 84308 (“Levine Act”) and the applicable regulations of the Fair Political Practices Commission concerning campaign disclosure (2 California Code of Regulations sections 18438.1 – 18438.8), which (1) require a party to a proceeding involving a contract to disclose on the record of the proceeding any contribution, as defined by Government Code section 84308(a)(6), of more than \$250 that the party or their agent has made within the prior 12 months, and (2) prohibit a party to a proceeding involving a contract from making a contribution, as defined by Government Code section 84308(a)(6), of more than \$250 to any COUNTY officer during the proceeding and for 12 months following the final decision in the proceeding. CITY agrees to submit disclosures required to be made under the Levine Act at the Office of the Clerk of the Board of Supervisors website at <http://www.sccgov.org/levineact>, and CITY shall require Subcontractors to do the same. If this Agreement is to be considered or voted upon by the COUNTY’s Board of Supervisors, CITY shall complete the Levine Act Contractor Form: Identification of Subcontractors and Agents, and if applicable, shall ensure that any Subcontractor completes the Levine Act Subcontractor Form: Identification of Agents, and CITY must submit all such forms to the COUNTY as a prerequisite to execution of the Agreement.
3. Replace Exhibit B Compensation for Services with Exhibit B-1 Compensation for Services, attached hereto and incorporated herein by this reference.

EXHIBIT B-1
COMPENSATION FOR SERVICES

A. Emergency Medical Dispatching (EMD) Cost and Billing Methodology

1. The total County of Santa Clara (“COUNTY”), Communications Department, costs for providing dispatching services are allocated to four service areas (law enforcement, medical, fire and local government), based on the most recent three-year average number of events. Costs include direct expense and indirect dispatch operations expense. Of the amount allocated to medical dispatching, 5% is attributable to the COUNTY’s EMD program cost and is apportioned between all agencies receiving EMD services from the COUNTY, based on proportionate average event activity for the past three years.
2. EMD costs will be estimated based on the most current budget cost information available for the applicable fiscal year and will be established each year of the Agreement by March 31st to be effective the following fiscal year beginning July 1st. In the first quarter of the fiscal year after the service year, actual event activity data will be used to calculate actual cost and make an adjustment to the previous year’s billing. The increase or decrease adjustment will not exceed 5% above or below the previously billed amount. The COUNTY shall notify the CITY of any adjustment prior to billing the CITY’s final fourth quarterly installment. Billing questions may be directed by email to Accounts Payable at Accounts.Payable@911.sccgov.org.

B. EMD Program Cost for Fiscal Year 2024-25 (and Example Methodology for Outlying Years):

\$698,107	FY 2024/2025 total EMD cost (5% of total estimated medical dispatching cost)
X 10.494%	CITY’s share of EMD activity 2,604 CITY’s EMD events = 10.494% of 24,814 total EMD events handled by COUNTY (events averaged for FY 2021 – FY 2023)
\$73,260	CITY’s EMD cost for FY 2024/2025 (Subject to +/- 5% adjustment after July 1, 2025)

All other provisions of the Agreement remain in full force and effect. In the event of a conflict between the original Agreement and this First Amendment, this First Amendment controls. The Agreement as amended constitutes the entire agreement of the parties concerning the subject matter herein and supersedes all prior oral and written agreements, representations and understandings concerning such subject matter.

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IN WITNESS WHEREOF, the COUNTY and the CITY have caused this Amendment to the Agreement to be executed by their duly authorized representatives effective July 1, 2024.

SIGNATURES:

COUNTY OF SANTA CLARA

CITY OF MORGAN HILL

MATTHEW HADA
Director of Procurement

Date

CHRISTINA TURNER
City Manager

Date

ATTEST:

MICHELLE BIGELOW, MMC, CPMC
City Clerk

APPROVED AS TO FORM AND LEGALITY:

APPROVED AS TO FORM:

STEPHANIE M. JACKSON
Deputy County Counsel

DONALD LARKIN
City Attorney

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
THE CITY OF MORGAN HILL
FOR EMERGENCY MEDICAL DISPATCH SERVICES**

BACKGROUND

The City of Morgan Hill (“CITY”) wishes to contract with a provider of Emergency Medical Dispatch (“EMD”) services for the provision of EMD services on its behalf. This agreement (“Agreement”) between the County of Santa Clara (“COUNTY”) and the CITY for EMD services outlines the terms and conditions by which the COUNTY shall provide effective, timely and efficient EMD services to the CITY.

THE AGREEMENT

Article 1. Nature of Services

1.1 Scope of Services

The service obligations of the Parties are described in **Exhibit A** “Emergency Medical Dispatch Process & Procedural Requirements,” which is attached and incorporated herein by this reference.

Article 2. Compensation

2.1 Amount of Payment

The CITY shall compensate the COUNTY for the services provided under this Agreement in accordance with the cost methodology set forth in **Exhibit B** “Compensation for Services,” which is attached and incorporated herein by this reference. The costs set forth in Exhibit B are inclusive of all costs incurred in providing the services, and the COUNTY shall not charge the CITY general overhead costs in accordance with Government Code Section 51350.

2.2 Payment Terms

The CITY shall pay the COUNTY within thirty (30) calendar days of receipt of quarterly billing for EMD program services.

Article 3. Term and Termination

3.1 Term of Agreement

(a) This Agreement is effective for **one (1) year**, beginning at 12:00 a.m., **July 1, 2023**,

and ending at 11:59 p.m. on **June 30, 2024**, unless terminated earlier in accordance with Section 3.2 or extended pursuant to the provisions herein.

- (b) This Agreement may be extended for **one (1) four-year term** as mutually agreed by both parties.
- (c) **Exhibit A** through **B** are living documents and may be updated by written mutual agreement as required during the life of this Agreement.

3.2 Termination

(a) Termination for Cause

Either party may terminate this Agreement for cause upon ninety (90) days written notice to the other in accordance with Section 6.1. For purposes of this Agreement, cause includes, but is not limited to, a material breach of this Agreement or a violation of any applicable laws. Such notice will specify the reason for termination and will indicate the effective date of the termination.

(b) Opportunity to Cure

- (1) The non-breaching Party will give written notice of a material breach to the breaching Party, specifying the breach.
- (2) The breaching Party will not be deemed in default of this Agreement and the nonbreaching Party will not institute proceedings or exercise any remedies against the breaching Party unless the breach has not been cured, corrected, or remedied within:
 - (A) 15 business days after notice of the breach is provided; or
 - (B) upon mutual agreement of the Parties, within a longer period as may be reasonably required to cure, correct, or remedy the breach, provided the breaching Party has commenced to cure, correct, or remedy the breach within 15 business days after notice is provided and diligently and continuously pursues such cure, correction, or remedy.

(c) Termination for Convenience

Either Party may terminate this Agreement without cause by giving the other Party ninety (90) calendar days written notice.

(d) Compensation in the Event of Termination

In the event of termination, the COUNTY shall be entitled to compensation due for services performed prior to the effective date of the termination as provided herein.

Article 4. Liabilities and Indemnification

4.1 Mutual Indemnification

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata, but instead the COUNTY and the CITY agree that pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify, defend with counsel acceptable to the non-indemnifying Party, whose approval shall not be unreasonably withheld, and hold each of the other Parties, their 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 the indemnifying Party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such Party under this Agreement. No Party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring wholly by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other Party under this Agreement.

Article 5. Dispute Resolution

In the event of any dispute between the Parties arising from or relating to this Agreement, the Parties will attempt to resolve the dispute initially by informal means. Upon the request of either Party, the contract administrators of each Party will meet to discuss the dispute, will exchange any information that they mutually agree is relevant to the issues in dispute and will use all reasonable efforts to resolve the dispute without the need for further proceedings.

Article 6. Miscellaneous

6.1 Notice

All notices required by this Agreement will be deemed given when in writing and delivered personally, electronically via email, 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 the CITY:

Attn: Chief of Police
City of Morgan Hill
Morgan Hill Police Department
16200 Vineyard Blvd.
Morgan Hill, CA 95037

To the COUNTY:

Attn: Communications Director
County of Santa Clara
Communications Department
2700 Carol Drive
San Jose, CA 95125

6.2 Compliance and Nondiscrimination

The Parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 (Sections 503 and 504), the California Fair Employment and Housing Act (Government Code sections 12900 et seq.), and California Labor Code sections 1101 and 1102. The Parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the Parties discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

6.3 Relationship of Parties; Independent Contractor

The COUNTY will perform all work and services described in this Agreement as an independent contractor and not as an officer, agent, servant, or employee of the CITY. None of the provisions of this Agreement is intended to create, nor shall be deemed or construed to create any relationship between the Parties other than that of independent Parties contracting with each other for purpose of effecting the provisions of this Agreement. The Parties are not and will not be construed to be in a relationship of a joint venture, partnership, or employer-employee. Neither Party has the authority to make any statements, representations, or commitments of any kind on behalf of the other Party or to use the name of the other Party in any publications or advertisements, except with the

written consent of the other Party or as is explicitly provided in this Agreement.

6.4 Governing Law

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

6.5 Assignment

The Parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

6.6 Entire Agreement

This document represents the entire Agreement between the Parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the Parties with respect to the subject matter of this Agreement are merged into this Agreement.

6.7 Amendments

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

6.8 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.

6.9 Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will 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.

6.10 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 must be in writing and shall apply to the specific instance expressly stated.

6.11 Survival

All provisions of this Agreement allocating liability between the CITY and the COUNTY, payment obligations, and the duty to defend, indemnify and hold harmless shall survive the termination of this Agreement.

6.12 Integration and Order of Precedence

This Agreement, including all Exhibits, represents the entire and integrated contract between the CITY and the COUNTY and supersedes all prior negotiations, representations, or agreements, either written or oral. In the event of a conflict between the provisions of the main body of the Agreement and its Exhibits, the provisions of the main body shall control. In the event of a conflict between Exhibits A and B, the provisions of Exhibit A shall control.

6.13 Time of the Essence

The Parties acknowledge that time is of the essence of this Agreement. Either Party's failure to complete any of the obligations outlined herein during the term of the Agreement shall be deemed a breach of the Agreement.

6.14 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.

6.15 Budget Contingency

This Agreement is contingent upon the appropriation of sufficient funding by the CITY for the services covered by this Agreement. If funding is reduced or deleted by the CITY for the services covered by this Agreement, the CITY has the option to either terminate this Agreement with no liability occurring to the CITY (other than for services already performed) or to offer an amendment to this Agreement indicating the reduced amount.

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IN WITNESS WHEREOF, the COUNTY and the CITY have caused this Agreement to be executed by their duly authorized representatives as of the day and year written above.

Signed:

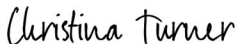
COUNTY OF SANTA CLARA:

DocuSigned by:

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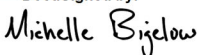
MATTHEW HADA Date
Director of Procurement

CITY OF MORGAN HILL:

DocuSigned by:

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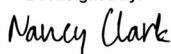
CHRISTINA TURNER Date
City Manager

ATTEST:

DocuSigned by:

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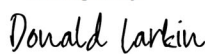
MICHELLE BIGELOW, MMC, CPMC
City Clerk

APPROVED AS TO FORM AND LEGALITY:

DocuSigned by:

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NANCY CLARK
Deputy County Counsel

APPROVED AS TO FORM:

DocuSigned by:

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DONALD LARKIN
City Attorney

Exhibits to this Agreement:

Exhibit A – Emergency Medical Dispatch Process & Procedural Requirements

Exhibit B – Compensation for Services

EXHIBIT A

EMERGENCY MEDICAL DISPATCH PROCESS & PROCEDURAL REQUIREMENTS

To ensure the safe and efficient transfer of callers requiring Emergency Medical Dispatch (EMD) services from the Morgan Hill Police Department Support Services (“CITY”) to the County of Santa Clara Communications Department (“COUNTY”), the CITY and the COUNTY agree to process 9-1-1 and ten-digit calls using the following process and procedural requirements:

1. The CITY will use a “3-way” telephone call transfer process to route callers to the COUNTY for EMD services. This process will:
 - Use a “one-button” method to minimize transfer time;
 - Result in Morgan Hill Public Safety Dispatchers:
 - Using a scripted transfer statement prior to caller transfer; and
 - **Remaining on the line silently until the provision of an MPDS “Determinant” or until call demand requires them to leave the call.**
2. The COUNTY will provide the CITY with continuous (24 hours per day, 7 days per week) EMD services using International Academy of Emergency Dispatch (IAED) certified Emergency Medical Dispatchers. All dispatchers providing EMD services will use the most current version of the Medical Priority Dispatch System as determined by the IAED.
3. The COUNTY will use IAED certified Emergency Medical Dispatch Quality (EMD-Q) reviewers to score and calculate protocol compliance reports. The number and method of cases for review will be in accordance with IAED Accreditation requirements.
4. The COUNTY agrees to participate in periodic “special case” reviews, in the event they are requested by the CITY.
5. The COUNTY and the CITY agree that the determination “EMD Is Unavailable” will occur following a “three-ring” wait time for EMD caller transfers to the COUNTY for 9-1-1 or designated ten-digit number transfers.
6. The COUNTY and the CITY agree to work together to develop or revise policies and procedures for the receipt and management of callers requiring EMD services following written request by either agency.
7. The COUNTY will include the CITY and CAL FIRE, Morgan Hill’s contract Fire Department personnel, in quality improvement feedback processes and the Medical Dispatch Review Committee used to maintain and improve EMD compliance to protocol.

The COUNTY will also provide quarterly protocol compliance reports reporting:

- Percentage of cases that are High Compliance

- Percentage of cases that are Compliant
 - Percentage of cases that are Partial Compliance
 - Percentage of case that are Low Compliance
 - Percentage of cases that are Non-Compliant
8. The COUNTY will maintain IAED ACE (Accredited Center of Excellence) compliance levels, which are currently:
- Partial Compliance – 10% or less of cases
 - Low Compliance – 10% or less of cases
 - Non-Compliant – 7% or less of cases
9. The COUNTY will provide eight Field Responder Guides (FRG), or access codes for an electronic app. FRG, to CAL FIRE, as Morgan Hill's contract fire service provider.

EXHIBIT B
COMPENSATION FOR SERVICES

Emergency Medical Dispatching (EMD) Cost and Billing Methodology

The total County of Santa Clara Communications Department (“COUNTY”) costs for providing dispatching services are allocated to four service areas (law enforcement, medical, fire and local government), based on the most recent three-year average number of events. Costs include direct expense and indirect dispatch operations expense. Of the amount allocated to medical dispatching, 5% is attributable to the COUNTY’s EMD program cost and is apportioned between all agencies receiving EMD services from the COUNTY, based on proportionate average event activity for the past three years.

EMD costs will be estimated based on the most current budget cost information available for the applicable fiscal year and will be established each year of the Agreement by March 31st to be effective the following fiscal year beginning July 1st. In the first quarter of the fiscal year after the service year, actual event activity data will be used to calculate actual cost and make an adjustment to the previous year’s billing. The increase or decrease adjustment will not exceed 5% above or below the previously billed amount. The COUNTY shall notify the CITY of any adjustment prior to billing the CITY’s final fourth quarterly installment. Billing questions may be directed by email to Accounts Payable at Accounts.Payable@911.sccgov.org.

EMD Program Cost for Fiscal Year 2023-24 (and Example Methodology for Outlying Years):

	\$540,059.19	FY 2023/2024 total EMD cost (5% of total estimated medical dispatching cost)
X	10.76%	CITY’s share of EMD activity 2,431 CITY’s EMD events = 10.76% of 22,599 total EMD events handled by COUNTY (events averaged for FY 2020 – FY 2023)
	\$58,110.37	CITY’s EMD cost for FY 2023/2024 (Subject to +/- 5% adjustment after July 1, 2024)

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Maria Angeles, Senior Civil Engineer

APPROVED BY: City Manager

APPROVE THE SECOND AMENDMENT TO PROFESSIONAL SERVICE AGREEMENT WITH ASSOCIATED ENGINEERING-SURVEYING SERVICE, INC., DBA HANNA-BRUNETTI, FOR ON-CALL MAP REVIEW AND CITY SURVEYOR SERVICES FOR LAND DEVELOPMENT ENGINEERING

RECOMMENDATION(S)

1. Approve the Second Amendment to the professional service agreement with Hanna-Brunetti for On-Call Map Review and City Surveyor Services for Land Development Engineering to add \$40,000 to the contract amount for a total not-to-exceed amount of \$100,000 with the term of the agreement unchanged; and
2. Authorize the City Manager to execute the Second Amendment.

COUNCIL PRIORITIES, GOALS & STRATEGIES

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The City has a current contract with Hanna-Brunetti for staff augmentation services and is one of three on-call consultants who assist the Land Development Engineering section of the Public Services Department with the review of tract maps, parcel maps, lot line adjustments, plat and legal description of various easements, other survey-related tasks, and to act as the City Surveyor. Hanna-Brunetti has been assigned the majority of the City's mapping reviews. The services performed by Hanna-Brunetti have been on an as-needed basis since 2010.

Hanna-Brunetti's recent contract with the City was approved and executed by the City Manager on February 12, 2023, pursuant to the authority of the City Manager per Chapter 3.04 of the Morgan Hill Municipal Code, with an initial contract amount of \$55,000.

As allowed by the contract, a subsequent First Amendment was approved by the City Manager to increase the contract amount by \$5,000, and extend the contract term through June 30, 2024. The First Amendment increased the total not-to-exceed contract

amount to \$60,000. To date, the total contract amount has been used up.

The need for engineering and surveying services for Land Development Engineering has been greater than expected since the prior contract amendment. These services are cost recovery as developers are charged fees for these services. However, to meet legal requirements associated with development reviews relating to maps, easements and other reviews, additional significant funding is necessary to complete the fiscal year.

The purpose of this proposed Second Amendment to Hanna-Brunetti's contract is to increase the total not-to-exceed contract amount by \$40,000 for the remainder of FY 2023-24 which will result in a total not-to-exceed contract amount of \$100,000. This new amendment will not change the current term of the agreement. Since the resulting contract amount will exceed the City Manager's authorized approval amount, approval by the City Council is required.

Hanna-Brunetti's contract and the contracts of Land Development Engineering's other on-call consultants will expire no later than June 30, 2024. A new Request for Qualifications was published by Land Development Engineering on February 27, 2024 to establish a new on-call list of pre-qualified consultants. The final consultant selection is underway. The new contracts for the selected consultants will be presented to the City Council for approval in June 2024.

COMMUNITY ENGAGEMENT:

Not applicable

The services provided for land development engineering review are legally required by the City for development within the City.

ALTERNATIVE ACTIONS:

There is no feasible alternative action as Land Development Engineering does not have sufficient technical expertise to perform mapping reviews without an on-call map review consultant and there is no staff member that holds the required Professional Land Surveyor license to sign final maps. Aside from possible delays in processing and approving final maps and other mapping documents, Land Development Engineering will incur additional consultant expenses when obtaining the services of another on-call map review consultants to finish or repeat the review of final maps and other mapping documents that Hanna-Brunetti has started.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has not taken previous action related to this specific contract with Hanna-Brunetti as it was originally approved under the City Manager's authority. The City Council has approved various on-call engineering service contracts in recent years.

FISCAL AND RESOURCE IMPACT:

The current agreement with Hanna-Brunetti expires on June 30, 2024 and has a total not-to-exceed amount of \$60,000. If the requested Second Amendment is approved, the

total not-to-exceed amount will be increased to \$100,000, an increase of \$40,000. Services rendered by Hanna-Brunetti are paid for by developer fees.

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 are exempted from environmental review under Section 15061(b)(3) of the State CEQA Guidelines. The contract is covered by the general rule that CEQA applies only to projects which have the potential for causing 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.

SECOND AMENDMENT TO AGREEMENT HANNA-BRUNETTI

This SECOND AMENDMENT TO AGREEMENT is entered into and becomes effective on _____ (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and Associated Engineering-Surveying Service, Inc., a California Corporation doing business as Hanna-Brunetti ("CONSULTANT"), hereinafter referred to collectively as the "Parties".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Second Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. The CITY and CONSULTANT entered into that "CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS" made as of February 12, 2023, for consultant services for a maximum compensation of fifty five thousand dollars (\$55,000.00) ("CONSULTANT AGREEMENT").
3. The CITY and CONSULTANT entered into a "First Amendment to Agreement" made as of July 26, 2023, under which the maximum compensation under the CONSULTANT AGREEMENT, as amended, was increased to sixty thousand dollars (\$60,000.00) and the term extended through June 30, 2024. The CONSULTANT AGREEMENT and the First Amendment thereto are attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Amendments:** All terms and conditions of the CONSULTANT AGREEMENT, as amended, as attached as Exhibit "1," shall remain in full force and effect; except that the following amendments shall be made as set forth below:
 - A. Paragraph 4.1 shall be amended and replaced in its entirety by the following:

"4.1. Amount. Compensation under this Agreement shall not exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) and shall be billed based on the rate and basis set forth in **Exhibit B.**"
2. **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.

3. **Conflicts.** In the event of a conflict between the terms and provisions of this SECOND AMENDMENT to Agreement and the terms and provisions of the CONSULTANT AGREEMENT or any earlier amendment, the terms of this SECOND AMENDMENT to Agreement shall govern and control.

TWO SIGNATURES ARE REQUIRED FOR 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

Michelle Bigelow, City Clerk

Christina Turner, City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

HANNA-BRUNETTI

Donald A. Larkin, City Attorney


Amanda Musy-Verdel
Chief Executive Officer and Chief
Financial Officer

Date: _____

Date: 4/24/24

EXHIBIT 1**FIRST AMENDMENT TO AGREEMENT
HANNA-BRUNETTI**

This FIRST AMENDMENT TO AGREEMENT is entered into and becomes effective on 7/26/2023 (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and Associated Engineering Surveying Services, Inc., a California corporation DBA HANNA-BRUNETTI ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This First Amendment to Agreement is entered into based upon the authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. The CITY and CONSULTANT entered into that "Consultant Agreement for Design Professionals" made as of February 12, 2023, for consultant services for a maximum compensation of Fifty-Five Thousand Dollars (\$55,000.00) ("CONSULTANT AGREEMENT"). The CONSULTANT AGREEMENT is attached as Exhibit "1" to this Agreement.
3. The parties hereto acknowledge that the CONSULTANT AGREEMENT entered into by the parties on February 12, 2023, expired by its terms as of June 30, 2023. The parties desire to continue the CONSULTANT AGREEMENT from June 30, 2023 to June 30, 2024.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Continuation of Term.** The CONSULTANT AGREEMENT expired by its terms as of February 12, 2023, and the parties to the CONSULTANT AGREEMENT expressly agree that the term of the CONSULTANT AGREEMENT shall be extended from June 30, 2023, to June 30, 2024.
2. **Amendments:** All terms and conditions of the CONSULTANT AGREEMENT, as amended, as attached as Exhibit "1," shall remain in full force and effect; except that the following amendments shall be made as set forth below:

Paragraph 2 shall be amended and replaced in its entirety by the following:

"2. **Term of Agreement.** This Agreement shall be effective and cover services rendered from February 12, 2023, until June 30, 2024. The City Manager is authorized to extend the term of this Agreement, provided the compensation does not exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code. Any such extension shall be in writing and signed by both parties to this Agreement."

Paragraph 4.1 shall be amended and replaced in its entirety by the following:

"4.1. Amount. Compensation under this Agreement shall not exceed SIXTY THOUSAND DOLLARS (\$60,000.00) and shall be billed based on the rate and basis set forth in Exhibit B."

3. **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.

4. **Conflicts.** In the event of a conflict between the terms and provisions of this First Amendment to Agreement and the terms and provisions of the CONSULTANT AGREEMENT, the terms of this First Amendment to Agreement shall govern and control.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; **AND**
(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

ATTEST:

DocuSigned by:
Michelle Bigelow
City Clerk
Date: 7/27/2023

APPROVED AS TO FORM:

DocuSigned by:
Donald Larkin
City Attorney
Date: 7/25/2023

THE CITY OF MORGAN HILL

DocuSigned by:
Christina Turner
City Manager
Date: 7/26/2023

HANNA-BRUNETTI

Amanda M
By: Amanda Mosy-Verdel
Title: President
Date: 7/24/23

John K. King
By: JOHN K. KING
Title: SECRETARY
Date: 7-25-23

EXHIBIT 1

**CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS
HANNA-BRUNETTI**

THIS AGREEMENT is entered into and becomes effective on 2/12/2023 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Associated Engineering Surveying Services, Inc, DBA Hanna-Brunetti, 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 authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2023 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 On-Call Map Review & City Surveyor Services for Land Development Engineering as further described in **Exhibit A**.
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$55,000. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Fifty Five Thousand 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 riskmamt@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 an 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:

HANNA-BRUNETTI
7651 Egleberry Street
Gilroy, CA 95020-5122

Address of CITY is as follows:

Maria Angeles
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:

DocuSigned by:
Michelle Bigelow
City Clerk/Deputy City Clerk

Michelle Bigelow
Print Name

Date: 2/13/2023

APPROVED AS TO FORM:

DocuSigned by:
Cynthia Hanson
City _____,

Donald A. Larkin
Print Name

Date: 2/10/2023

CITY OF MORGAN HILL

DocuSigned by:
Christina Turner
City Manager

Christina J. Turner
Print Name

Date: 2/12/2023

HANNA-BRUNETTI

Amanda M...
By: President

Amanda Mosy-Verdel
Print Name and Title of Signer.
If Corporate: Chairman, President or Vice President

Date: 2/8/23

John K. King
By: SECRETARY

John K. King
Print Name and Title of Signer.
If Corporate: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer

Date: 2/8/23

EXHIBIT A SCOPE OF SERVICES

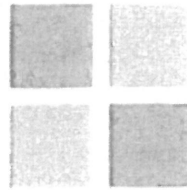
Under the direct supervision of a Land Development Engineering staff, the CONSULTANT will provide On-Call Map Review & City Surveyor Services through June 30, 2023.

The following are the types of tasks that are included in the CONSULTANT'S scope of services:

- Review of tract maps and parcel maps for conformance with the Subdivision Map Act.
- Provide stamp and signature on maps and other documents, as necessary, as the Acting City Surveyor.
- Review of land surveying aspects of tentative maps for conformance with City standards as part of the City's entitlement process
- Review of lot line adjustments, certificates of compliance, easement plat maps, legal descriptions, and closure calculations for technical accuracy
- Traditional topographic surveys to determine locations and elevations of existing improvements, structures, and topographic features
- Develop legal descriptions and plat maps, and other survey-related tasks as needed

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

(see next page)



HANNA-BRUNETTI

EST. 1910

**CIVIL ENGINEERS • LAND SURVEYORS
CONSTRUCTION MANAGERS**

**PROFESSIONAL SERVICES HOURLY FEE SCHEDULE
OFFICE AND PROFESSIONAL**

Principal Engineer	\$ 200.00
Associate Engineer/Project Manager	\$ 175.00
Project Engineer	\$ 160.00
Surveyor Manager	\$ 190.00
Design Engineer	\$ 140.00
Surveyor	\$ 160.00
Junior Civil Engineer	\$ 125.00
Technician	\$ 125.00
Inspector	\$ 135.00
Draftsperson	\$ 120.00
Clerical	\$ 74.00
Witness – Per Deposition Appearance	Minimum 4-hour increments
Witness – Per Court Appearance	Minimum 4-hour increments

FIELD

Survey Crew	\$ 275.00
-------------	-----------

MISCELLANEOUS EXPENSE SCHEDULE

Transportation	\$.625 per mile
Reprographics, prints and materials	Cost + 20%
In-House – 24"X36" Prints	\$ 5.00 per print
Copies– 8"X11"	\$.39 per page
Outside Consultant Services	Cost + 15%
Filing and Permit Fees	Cost + 15%
Outside Delivery Service	Cost + 15%
Equipment Rentals	Cost + 15%
Special Fees, Permits or Insurance	Cost + 15%

*This hourly rate schedule is effective July 1, 2022 – June 30, 2024
The rates and fees for all services performed subsequent to that date shall be adjusted to reflect increased operating, overhead
and inflationary costs.*

7651 Egleberry Street
Gillroy, CA 95020-5122

408-842-2173
Email:engineering@hannabrunetti.com

EXHIBIT C
SCHEDULE OF PERFORMANCE

CONSULTANT'S services will be on an as needed, on-call basis.

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

AWARD 2024 PAVEMENT REHABILITATION PROJECT TO A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION IN THE AMOUNT OF \$3,437,968

RECOMMENDATION(S)

1. Approve 2024 Pavement Rehabilitation plans and specifications;
2. Award contract to A. Teichert & Son, Inc. DBA Teichert Construction for the 2024 Pavement Rehabilitation Project in the amount of \$3,437,968;
3. Authorize the expenditure of construction contingency not to exceed \$343,797; and
4. Authorize the City Manager to execute and administer the construction contract with A. Teichert & Son, Inc. DBA Teichert Construction.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

The City conducts annual pavement rehabilitation projects to improve the overall pavement conditions within the City. Upon reviewing the Pavement Rehabilitation List in April 2023 for the 2024 Pavement Rehabilitation Project, adjustments were made to the proposed pavement rehabilitation treatment list during the design phase of the project. The Updated 2024 Pavement Rehabilitation List includes the resurfacing or surface treatment of the following streets (Attachment 1):

- East Dunne Avenue Overpass between Condit Road and Laurel Road
- Vineyard Blvd between Monterey Road and LaCrosse Drive

- Vineyard Court
- Del Monte Avenue between 2nd Street and Keystone Avenue
- Keystone Avenue between Del Monte Avenue and Monterey Road
- Del Monte Avenue between Ciolino Avenue and Cosmo Avenue
- Manor Court
- Matilda Court
- Foothill Court
- San Pedro Avenue between Butterfield Boulevard and Walnut Grove Drive
- San Ramon Drive between San Pedro Avenue and San Marcos Drive
- Markross Court
- Cochrane Circle
- Digital Drive

The project's scope of work is described as follows but not limited to: Pavement, Milling and Filling, Slurry Seal, Full Depth Asphalt Concrete Pavement Repairs, Cracksealing, Replacement of all Existing Traffic Delineation and Markings, Utility Adjustments, Traffic Signal Loop Removal and Restoration, and all other related work within the City Limits.

Staff set out to prepare plans and specifications in December 2023, and the plans and specifications were completed in March 2024. The bid opening was held on April 25, 2024. Five (5) bids were received and are as listed below:

	Base Bid	Additive Alternate
A. Teichert and Son, Inc. DBA Teichert Construction	\$ 3,437,968.00	\$ 688,932.00
DeSilva Gates Construction	\$ 3,843,843.00	\$ 594,443.00
Radius Earthwork, Inc.	\$ 4,237,122.58	\$ 667,861.32
Graniterock	\$ 4,797,249.30	\$ 597,168.00
O'Grady Paving, Inc.	\$ 4,912,883.20	\$ 675,556.50

While the project included a base bid and an additive alternative bid, the lowest responsible bidder was based on the lowest base bid only as stipulated in the project specifications. After further review of the project's overall budget, staff recommends the award of this project for the base bid only to A. Teichert & Son DBA Teichert Construction. The low bidder's bid amount of \$3,437,968 is approximately 5% higher than the engineer's estimate of \$3.3 million. The low bidder, A. Teichert & Son DBA Teichert Construction, is an experienced public contractor with many years of paving construction experience. Staff recommends the award of the contract to A. Teichert & Son, Inc. DBA Teichert Construction in the amount of \$3,437,968. Due to possible unforeseen conditions, staff is requesting a ten (10) percent construction contingency

for the project of \$343,797. This project is scheduled to start in July 2024 and be completed by November 2024.

The plans and specifications are available for review on the City's webpage under the Government tab and Community Project site at <https://www.morganhill.ca.gov/1436/Project-Plans-Specifications-and-Bid-Res>

COMMUNITY ENGAGEMENT:

Inform

Staff understands the disruptions and cooperation needed from residents/business owners during the course of our annual pavement project. Unfortunately, the likelihood of roadway closure and disruption will happen. The project engineer, contractor, and other staff members will make best efforts to provide notification prior to and during the course of construction through citywide emails, social media posts, and regular updates on the City website. These updates will also include and inform the community of impacts, roadway closures and possible interruptions that may arise due to construction.

ALTERNATIVE ACTIONS:

City Council may elect to reject all bids for the 2024 Pavement Rehabilitation Project and direct staff to rebid the project. Rebidding the project would require City Council award and approval in July for the work to be completed in 2024. Alternatively, the City may reject all bids and delay the project to the summer of 2025. Staff does not recommend either of these alternatives as this project was competitively bid with five bids received by the City. Furthermore, rebidding the project may not yield significant savings and will delay the project for a minimum of three months.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 17, 2024, the City Council received the Pavement Condition Update and Pavement Rehabilitation Planning Update.

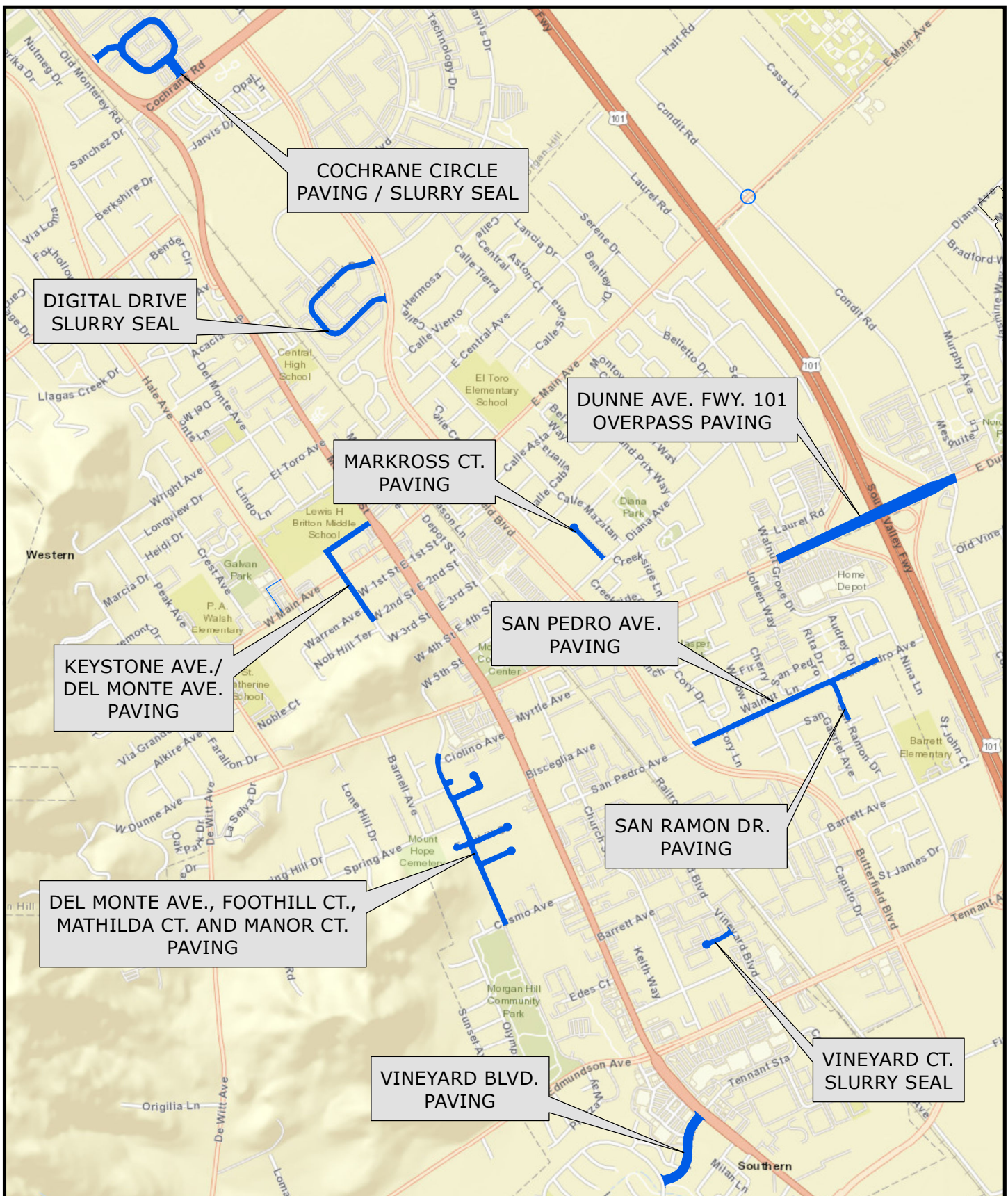
FISCAL AND RESOURCE IMPACT:

If approved, the total authorization for this project shall be \$3,781,765 which includes a 10% contingency of \$343,797. This project will occur in FY 24/25 and funding is proposed in the FY 24/25 Capital Improvement Budget presented to the City Council on the same date as this report. It is recommended this project be approved now ahead of the budget adoption to allow for the project to commence in July while school is not in session.

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.



**Engineering and Utilities Division
Capital Improvement Program**

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**LOCATION MAP
2024 PAVEMENT
REHABILITATION PROJECT**



0 700 1,400 2,800 4,200 5,600 Feet

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Cynthia Iwanaga, Management Analyst

APPROVED BY: City Manager

AWARD 2024 SEAL COAT & STRIPING PROJECT TO DRYCO CONSTRUCTION, INC. IN THE AMOUNT OF \$77,241

RECOMMENDATION(S)

1. Award contract to DRYCO Construction, Inc. in the amount of \$77,241;
2. Authorize the expenditure of contingency funds not to exceed \$7,724; and
3. Authorize City Manager to execute and administer the construction contract with DRYCO Construction, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The purpose of this item is to present the City Council with an opportunity to review and consider the contract prepared to complete the City's 2024 Seal Coat & Striping Project. The scope of work for the 2024 Seal Coat & Striping Project will include asphalt pavement seal coating and associated striping at three locations: Morgan Hill Police Department Parking Lot, the Alkire Parking Lot at the Civic Center, and the Linear Park Trail along Northbound Butterfield Boulevard from Fisher Avenue to East Central Avenue. Bidders were asked to provide a base bid for all three locations, and a bid alternate cost to grind the thermoplastic coating along the Linear Park Trail.

In soliciting bids for this project, the City contacted licensed contractors on the City's Bidders' list with the following Contractor's State Licensing Board (CSLB) classifications: Class A-General Engineering, C-12 Earthwork and Paving, or C-32 Parking and Highway Improvements. The bid was also advertised in the Morgan Hill Times on

February 23, 2024. The bid documents were posted on the City of Morgan Hill website, the Public Purchase online bid service, the County of Santa Clara Builders Exchange, Bay Area Builders Exchange, San Francisco Builders Exchange, and two online construction trade journals, Dodge & Data Analytics and the Construction Bid Board.

The bid opening was held online via a Zoom meeting on April 2, 2024, and eleven bids were received.

Bidder's Name	Base Bid	Bid Alternate
Always Paving, Inc.*	\$ 68,628.00	\$26,475.00
DRYCO Construction, Inc.	\$ 77,241.24	\$ 3,177.00
Arrow Asphalt	\$ 77,538.00	\$ 3,893.00
Graham Contractors, Inc.	\$ 85,551.97	\$ 9,178.00
Silicon Valley Paving, Inc.	\$ 85,946.20	\$ 5,012.60
American Asphalt Repair & Resurfacing Co., Inc.	\$ 86,374.77	\$ 6,947.04
Bond Pavement Solutions	\$ 86,422.84	\$ 1,853.25
JP Paving and Grading, Inc.	\$ 89,256.00	\$ 7,210.00
RNR Paving, Inc.	\$ 95,121.85	\$ 1,756.00
Pacific Surfacing	\$102,814.91	Not Stated
MBS Engineering, Inc.	\$143,945.45	\$ 2,118.00

*Deemed nonresponsive

Per the bid documents, the City elected to award the contract based on the lowest base bid. Although Always Paving, Inc. had the lowest base bid of \$68,628 at the bid opening, after reviewing their bid proposal, their bid was deemed non-responsive because their CSLB license had expired. The Contractor with the next lowest base bid is DRYCO Construction, Inc. with a base bid of \$77,241. The maintenance team determined that City staff can cost-effectively complete the grinding of the thermoplastic striping along the Linear Park Trail and is not recommending the inclusion of the bid alternate in the contract.

DRYCO Construction, Inc. was established in 1985, and has over 39 years of experience as a major commercial paving contractor in the Bay Area and Central Valley. They successfully completed the City's 2021 Seal Coat project, and staff was satisfied with their work. Staff recommends the award of this contract to DRYCO Construction, Inc. for \$77,241, and recommends a 10% contingency of \$7,724 for a total construction authorization of \$84,965.

The project is anticipated to begin construction in early June, and is expected to be completed within 60 calendar days from the commencement of construction.

COMMUNITY ENGAGEMENT:

Inform

The Contractor is required to post signs informing the public of the dates and times of work at least three (3) days prior to the commencement of work. In addition, the City will include information about the planned project in the The Scoop.

ALTERNATIVE ACTIONS:

An alternative action would be to not approve the project or to delay the work. This is not recommended as eleven bids were received, and staff does not believe that rebidding this project would result in lower pricing.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

While the City Council has not previously taken action on this particular item, conducting seal coat paving and striping projects is an ongoing public safety activity and the Council has approved numerous contracts for seal coat paving and striping projects with the most recent award in April 2022. Due to a smaller scope of work, the contract for the 2023 project was below the \$60,000 threshold amount requiring City Council approval. The annual seal coat scope of work is planned on a rotational basis with different lots and trails receiving treatments each year.

FISCAL AND RESOURCE IMPACT:

The authorized amount for this contract is \$77,241 with a 10% contingency of \$7,724 for a total authorization of \$84,965. This project is budgeted in Fund 741 - Building Replacement.

CEQA (California Environmental Quality Act):

Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 (c) of 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.

CONTRACT

This public works contract ("Contract") is entered into by and between the City of Morgan Hill ("City") and DRYCO Construction, Inc., a California Corporation ("Contractor") for work on the 2024 Seal Coat and Striping Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Informal Bids, Contractor has submitted a Bid Proposal to perform work on the Project, and on _____, 2024, (Contract Date) City authorized award of this Contract to Contractor for the amount of Contractor's bid.

2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
 - 2.1 Notice Inviting Informal Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment and Performance Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Drawings and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Award;
 - 2.12 Notice to Proceed;
 - 2.13 And the following:

No Other Documents

3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor Seventy Seven Thousand Two Hundred Forty One Dollars and Twenty-Four Cents (\$77,241.24) (the "Contract Price"), in accordance with the payment provisions in the General Conditions. The Contract Price includes all applicable federal, state, and local taxes.
5. **Time for Completion.** Contractor will fully complete the Work for the Project within Sixty (60) calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of Five Hundred Dollars (\$500.00) for each day of unexcused delay in completion, and the Contract Price will be reduced accordingly.
7. **Labor Code Compliance.**
 - 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
 - 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
 - 7.3 **DIR Registration.** City will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Under Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. **Notice.** Any notice required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Phone: (409) 779-7259
Attn: City Clerk
Email: michelle.bigelow@morganhill.ca.gov
Copy to:keri.russell@morganhill.ca.gov

Contractor:

Name: DRYCO Construction, Inc.
Address: 42745 Boscell Road
City/State/Zip: Fremont, CA 94538
Phone: 510-438-6500
Attn: Saeed Yousuf, President
Email: stephen@dryco.com
Copy to:

10. General Provisions.

- 10.1 **Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's successors and permitted assigns.
- 10.2 **Third Party Beneficiaries.** There are no intended third-party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 10.3 **Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Santa Clara County, and no other place.
- 10.4 **Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

- 10.5 Integration; Severability.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.
- 10.6 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two (2) officers of the corporation are required pursuant to California Corporation Code Section 313.
- 10.7 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 are on the following page.]

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.

The parties agree to this Contract as witnessed by the signatures below:

CITY OF MORGAN HILL:

Christina J. Turner
City Manager

Date: _____

Attest:

Michelle Bigelow
City Clerk

Date: _____

Approved as to Form:

Donald A. Larkin
City Attorney

Date: _____

CONTRACTOR:

DRYCO CONSTRUCTION, INC.

Signature

Saeed Yousuf, President
Name/Title [print]

Date: April 15, 2024

Corporate entities must provide a second signature:

Signature

Alan Berger, Operations Manager
Name/Title [print]

Date: April 15, 2024

540379
Contractor's License Number(s)

09/30/2024
Expiration Date(s)

Seal:

1000003241
Contractor's DIR Registration Number(s)

06/30/2026
Expiration Date

END OF CONTRACT

GENERAL CONDITIONS

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Article 1 Definitions

1.1 Definitions. The following definitions apply to all of the Contract Documents unless otherwise indicated. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the words “day,” “furnish,” “including,” “install,” “work day” or “working day.”

Allowance means an amount included in the Bid Proposal for Work that may or may not be included in the Project, depending on conditions that will not become known until after bids are opened. If the Contract Price includes an Allowance and the cost of performing the Work covered by that Allowance is greater or less than the Allowance, the Contract Price will be increased or decreased accordingly.

Article, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.

Change Order means a written document duly approved and executed by City, which changes the scope of Work, the Contract Price, or the Contract Time.

City means the City of Morgan Hill, acting through its City Council, officers, employees, and authorized representatives.

City Engineer means the City Engineer for the City and his or her authorized delegee(s) designated to oversee and manage the Project on City’s behalf.

Claim means a separate demand by Contractor for change in the Contract Time or Contract Price, that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

Contract means the signed agreement between City and Contractor.

Contract Documents means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Informal Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the notice of award and notice to proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Drawings and Specifications; any Change Orders; and any other documents expressly made part of the Contract Documents.

Contract Price means the total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, or equipment following submission of the Bid Proposal. The Contract Price is deemed to include all applicable federal, state, and local taxes.

Contract Time means the number of calendar days for performance of the Work, as set forth in the Contract and as amended by Change Order.

Contractor means the individual, partnership, corporation, or joint-venture who has signed the Contract with City to perform the Work.

Day means a calendar day unless otherwise specified.

Design Professional means the licensed individual(s) or firm(s) retained by City to provide architectural or engineering services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.

Drawings means City-provided plans and graphical depictions of the Project requirements, and does not include Shop Drawings.

Engineer means the City Engineer for the City of Morgan Hill and his or her authorized delegate(s).

Final Completion means Contractor has fully completed all of the Work required by the Contract Documents, including all punch list items, any required commissioning, and has provided all required submittals, including the warranty bond, instructions and manuals, and as-built drawings to City's satisfaction.

✓ **Final Payment** means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld pursuant to the Contract Documents, including liquidated damages, up to one hundred twenty five percent (125%) of the amount of any unreleased stop notice, amounts subject to setoff, up to one hundred fifty percent (150%) of any unresolved third-party claim for which Contractor is required to indemnify City, and up to one hundred fifty percent (150%) of any amount in dispute as authorized by Public Contract Code Section 7107.

Furnish means to purchase and deliver to the Worksite designated for installation.

Hazardous Materials means any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal, or cleanup.

Including, whether or not capitalized, means “including, but not limited to,” unless the context requires otherwise.

Inspector means the individual(s) or firm(s) retained by City to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all applicable codes, regulations, and permits.

Install means to fix in place for materials, and to fix in place and connect for equipment.

Project means the public works project referenced in the Contract.

Project Manager means the individual designated by City to oversee and manage the Project on City’s behalf and may include his or her authorized delegate(s) when Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer.

RFI means a written request from Contractor for information from City or Design Professional.

Section as used in these General Conditions, means a numbered Section of the General Conditions, unless otherwise indicated by the context.

Shop Drawings means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to City approval, which are

intended to provide details for fabrication, installation, and the like, of items required by or shown in the Drawings and Specifications.

Specifications means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into this Project by or on behalf of City, and does not include the Contract, General Conditions or Special Conditions.

Subcontractor means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors, suppliers, fabricators, and equipment lessors of all tiers, unless otherwise indicated by the context.

Technical Specifications means Specifications.

Work means all of the construction and services necessary or incidental to completing the Project in conformance with the requirements of the Contract Documents.

Work Day or Working Day, whether or not capitalized, means a weekday which is not a holiday observed by City.

Worksite means the place or places where the Work is performed.

Article 2 Roles and Responsibilities

2.1 Design Professional.

(A) **General.** Design Professional, as City's representative, is responsible for the overall design of the Project, and to the extent authorized by City, may act on City's behalf to ensure performance of the Work in compliance with the Contract Documents.

(B) **Interpretation.** Design Professional will decide all questions pertaining to interpretation of the Drawings or Specifications. Design Professional's decision regarding interpretation of the Drawings or Specifications is final and conclusive.

2.2 Contractor.

(A) **General.** Contractor must provide all labor, materials, equipment and services necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economic and efficient manner in the best interests of City.

(B) **Responsibility for the Work.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for, and required to exercise full control over, construction means, methods, techniques, sequences, procedures, and coordination of all portions of the Work with that of all other Contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions.

(C) **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including phone numbers and email address, for the officer or employee in Contractor's organization who is to serve as Contractor's primary representative for the Project, and who has authority to act on Contractor's behalf. A Subcontractor may not serve as Contractor's primary representative.

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent, acceptable to City, and assistants, as necessary, who must be physically present at the Project site while any aspect of the Work is being performed. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of

Contract Time, until the superintendent is physically present to supervise the Work. Contractor must provide written notice to City, as soon as practicable, before replacing the superintendent.

(E) **Standards; Compliance.** Contractor must, at all times, ensure that the Work is performed in a good workmanlike manner following best practices and in full compliance with the Contract Documents and all applicable laws, regulations, codes, standards, and permits.

(F) **Responsible Party.** Contractor is solely responsible to City for the acts or omissions of any party or parties performing portions of the Work or providing equipment, materials or services for or on behalf of Contractor or its Subcontractors. If any person employed by Contractor fails or refuses to comply with the Engineer's directions regarding the performance of the Work, or is determined by the Engineer to be incompetent to perform the Work, or acts in a disorderly or improper manner at the Worksite, that person may be permanently dismissed from the Project at the request of the Engineer.

(G) **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by City, Project Manager, or the Inspector to be deficient or defective in workmanship, materials, and equipment.

(H) **Contractor's Records.** Contractor must maintain all of its records relating to the Project in any form, including paper documents, photos, videos and electronic records. Project records subject to this provision include, but are not limited to, Project cost records and records relating to preparation of Contractor's bid.

(1) Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as extra work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

(2) Contractor must continue to maintain its Project records in an organized manner for a period of four (4) years after City's

acceptance of the Project or following termination, whichever occurs first. Subject to prior notice to Contractor, City is entitled to inspect or audit any of Contractor's Project records relating to the Project or to investigate Contractor's plant or equipment during Contractor's normal business hours.

2.3 Subcontractors.

(A) **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors. City reserves the right to approve or reject any and all Subcontractors proposed to perform the Work.

(B) **Contractual Obligations.** Contractor must require every Subcontractor to be bound to the provisions of the Contract Documents as they apply to the Subcontractor's portion(s) of the Work, and to likewise bind their subcontractors or suppliers. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and City, but City is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

Copies of subcontracts must be available to the Engineer upon request. Before a Subcontractor commences Work on the Project, Contractor must provide the Engineer a written statement with the name of the Subcontractor, a description of each portion of the Work performed by the Subcontractor, and the percentage of the overall Work to be performed by the Subcontractor.

(C) **Termination.** If the Contract is terminated, each Subcontractor's agreement must be assigned by Contractor to City, subject to the prior rights of any surety, provided that City accepts the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.

(D) **Substitution of Subcontractor.** If Contractor requests substitution of a listed Subcontractor under Public Contract Code Section 4107, Contractor is solely responsible for all costs City incurs in responding to the request, including legal fees and costs to conduct a hearing.

2.4 Coordination of Work.

(A) **Concurrent Work.** City reserves the right to perform or to have performed other work on or adjacent to the Project site while the Work is being performed. Contractor is responsible for coordinating its Work with other work being performed on or adjacent to the Project site, and must avoid hindering, delaying, or interfering with the work of other contractors

and subcontractors. To the full extent permitted by law, Contractor must hold harmless and indemnify City, Design Professional, and Project Manager against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of another contractor or subcontractor.

(B) **Defects.** Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give Project Manager prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any such known defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work.

2.5 Submittals. Unless otherwise specified, Contractor must submit to Project Manager for review and approval, all schedules, Shop Drawings, samples, product data and similar submittals required by the Contract Documents, or upon request by Project Manager. Unless otherwise specified, all submittals, including Requests for Information ("RFIs") are subject to the provisions of this Section.

(A) **General.** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

(B) **Time and Manner of Submission.** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current approved schedule for the Work and within the applicable time specified elsewhere in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Project.

(C) **Required Contents.** Each submittal must include the Project name, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and references to applicable Specification section(s) and/or drawing and detail number(s).

(D) **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections in full conformance with the requirements of this Section.

(E) **Effect of Review and Approval.** Review and approval of a submittal by City will not relieve Contractor from complying with the requirements of the Contract Documents. Contractor is responsible for any errors in any submittal, and review or approval of a submittal by City is not an assumption of risk or liability by City.

(F) **Enforcement.** Any Work performed or material used without prior approval of a required submittal will be performed at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work, and the cost of additional time or services required of the Design Professional, Project Manager, or Inspector.

(G) **Excessive RFIs.** RFIs will be considered excessive or unnecessary if the Engineer determines that the explanation or response to the RFI is clearly and unambiguously discernable in the Contract Documents. City's costs to review and respond to excessive or unnecessary RFIs may be deducted from payments otherwise due to Contractor.

Article 3 Contract Documents

3.1 Interpretation of Contract Documents.

(A) **Drawings and Specifications.** The Drawings and Specifications included in the Contract Documents are complementary. If Work is shown on one but not on the other, Contractor must perform the Work as though fully described on both, consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Drawings and Specifications are deemed to include and require everything necessary and reasonably incidental to completion of the Work, whether or not particularly mentioned or shown. Contractor must perform all work and services and supply all things reasonably related to and inferable from the Contract Documents. In the event of a conflict between the Drawings and Specifications, the Specifications will control.

(B) **Duty to Notify.** If Contractor becomes aware of any ambiguity, discrepancy, omission, or error in the Drawings or Specifications, Contractor must immediately notify the Design Professional and request clarification of such, by submitting a written request for information (RFI) in the manner specified by City. The Design Professional's clarifications or interpretations will be final and binding.

(C) **Figures and Dimensions.** Figures control over scaled dimensions.

(D) **Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

(E) **Measurements.** Contractor must verify all relevant measurements at the Worksite before ordering any material or performing any Work, and will be responsible for the correctness of those measurements.

3.2 Order of Precedence. Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest:

- (A) Change Orders;
- (B) Addenda;
- (C) Contract;
- (D) Notice to Proceed;
- (E) Notice of Award;
- (F) Special Conditions;
- (G) General Conditions;
- (H) Payment and Performance Bonds;
- (I) Specifications;
- (J) Drawings;
- (K) Contractor's Bid Proposal and attachments;
- (L) Notice Inviting Informal Bids;
- (M) Instructions to Bidders; and
- (N) Any documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, e.g., Caltrans Standard Specifications or Caltrans Special Provisions.

3.3 Caltrans Standard Specifications. Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including "Standard Specifications," "Caltrans Specifications," "State Specifications," or "CSS," means the most current edition of Caltrans' Standard Specifications, unless otherwise specified ("Standard Specifications"), including the most current amendments as of the date that Contractor's bid was submitted for this Project. The following provisions apply to use of or reference to the Standard Specifications:

(A) **Limitations.** None of the "General Provisions" of the Standard Specifications, i.e., Sections 1 through 9, applies to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

(B) **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Standard Specifications and a provision of these Contract Documents, as determined by City, the provision in the Contract Documents will govern.

(C) **Meanings.** Terms used in the Standard Specifications are to be interpreted as follows:

(1) Any reference to the "Engineer" is deemed to mean the City Engineer.

(2) Any reference to the "Special Provisions" is deemed to mean the Special Conditions.

(3) Any reference to the "Department" or "State" is deemed to mean City.

3.4 For Reference Only. Contractor is responsible for the careful review of any document, study, or report appended to the Contract Documents solely for informational purposes and identified as "For Reference Only." Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. However, Contractor is advised that City or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Contractor must promptly notify City of any perceived or actual conflict between the Contract Documents and any document provided "For Reference Only."

Article 4 **Bonds, Indemnity, and Insurance**

4.1 Payment and Performance Bonds. Within ten (10) days following issuance of the notice of award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than one hundred percent (100%) of the Contract Price, using the bond forms included with the Contract Documents. Each bond must be issued by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven (7) days following written notice from City, Contractor must substitute a surety acceptable to City. If Contractor fails to substitute an acceptable surety within the specified time, City may, at its sole discretion, withhold payment from Contractor until the surety is replaced to City's satisfaction, or terminate the Contract for default.

4.2 Indemnity. To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless City, its agents and consultants, and Design Professional (individually, an "Indemnatee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, expenses (including, without limitation, attorney fees, expert witness fees,

paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or its failure to comply with any of its obligations under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this provision will be deemed a material breach of this Contract. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code Section 9201.

- 4.3 Insurance.** No later than ten (10) days following issuance of the notice of award, Contractor 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 Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract until the date of recordation of the notice of completion. **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.** If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, City may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for default. **Contractor further understands that City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Contractor, at any time as deemed necessary to protect the interests of City.**

(A) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. If the City's Risk Manager determines that the deductibles and/or self-insured retentions are unacceptably high, at City's option, Contractor must either reduce or eliminate the deductibles and/or self-insured retentions as they apply to City and all required Additional Insured; or must provide a financial guarantee, to City's satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.

(B) **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”).**

Contractor shall maintain CGL and shall include coverage for liability arising from Contractor’s or its Subcontractor’s acts or omissions in the performance of the Work 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 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) **Builder’s Risk Insurance:** The Builder’s Risk Insurance policy must be issued on occurrence basis, for all-risk coverage (including Flood and Earthquake) on a one hundred percent (100%) completed value basis on the insurable portion of the Project for the benefit of City.

(3) **Workers’ Compensation Insurance and Employer’s Liability:** Contractor 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 Contractor under Contractor’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

- (4) **Automobile Liability:** Contractor shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Contractor does not own automobiles, then Contractor 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 Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- (5) **Pollution (Environmental) Liability:** If the performance of Contractor's work or service under this Contract involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, Contractor shall procure and maintain Pollution Liability covering Contractor'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 Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- (6) **Professional Liability:**
- a. If the performance of Contractor's work or service under this Contract involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, legal services, and appraisers), Contractor 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 Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if Contractor maintains a claims-made policy, Contractor shall provide written evidence of such insurance to City for at least five (5) years after the completion of work performed under this Contract.

- b. If the performance of Contractor's work or service under this Contract relates to Information Technology or related services (examples include, but are not limited to computer programmers, hardware engineers, or other systems consultants), Contractor 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 Contractor under Contractor's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(C) **Required Endorsements.** Contractor must provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

- (1) For all Policies except Builder's Risk and Professional Liability:
 - a. "Waiver of Subrogation" endorsements providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.
- (2) General Liability, Automobile, and 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.

(D) **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the additional insureds and waiver of subrogation.

(E) **Qualification of Insurers.** All insurance required pursuant to this Contract 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.

(F) **Certificates.** Contractor must 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, Contractor shall promptly furnish City of Morgan Hill with copies of all policies outlined herein. No policy subject to Contractor's Contract with City may be reduced, canceled, allowed to expire, or materially changed except after thirty (30) days' notice by the insurer to City, unless due to non-payment of premiums, in which case ten (10) days written notice must be made to City. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address as follows:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue
Morgan Hill, CA 95037

- 4.4 Warranty Bond.** As a condition precedent to Final Completion, Contractor must submit a warranty bond, using the form provided by City, to guarantee its Work as specified in Article 11, Completion and Warranty Procedures. The warranty bond must be issued by a surety admitted in California for fifty percent (50%) of the final Contract Price or as otherwise specified in the Contract Documents. If an issuing surety cancels the bond or becomes insolvent, within seven (7) days following written notice from City, Contractor must substitute a surety acceptable to City.

Article 5

Contract Time

- 5.1 Time is of the Essence.** Time is of the essence in Contractor's performance and completion of the Work, and Contractor must diligently prosecute the Work and complete it within the Contract Time.

(A) **General.** Contractor must commence the Work on the date indicated in the notice to proceed, and must fully complete the Work, in strict compliance with all requirements of the Contract Documents, and within the Contract Time.

(B) **Rate of Progress.** Contractor and its Subcontractors must, at all times, provide workers, materials, and equipment sufficient to maintain the rate of progress necessary to ensure full completion of the Work within the Contract Time. If City determines that Contractor is failing to prosecute the Work at a sufficient rate of progress, City may, in its sole discretion, direct Contractor to provide additional workers, materials, or equipment, or to work additional hours or days without additional cost to City, in order to achieve a rate of progress satisfactory to City. If Contractor fails to comply with City's directive in this regard, City may, at Contractor's expense, separately contract for additional workers, materials, or equipment or use City's own forces to achieve the necessary rate of progress. Alternatively, City may terminate the Contract based on Contractor's default.

5.2 Schedule Requirements. All schedules must be prepared using standard scheduling software acceptable to City, and must provide schedules in electronic and paper form as requested.

(A) **As-Planned (Baseline) Schedule.** Within fifteen (15) calendar days following issuance of the notice of award (or as otherwise specified in the Special Conditions), Contractor must submit to City for review and approval an as-planned (baseline) schedule showing in detail how Contractor plans to perform and fully complete the Work within the Contract Time using critical path methodology. The as-planned schedule must include the work of all trades required for the Work, and must be sufficiently comprehensive and detailed to enable progress to be monitored on a day-by-day basis. For each activity, the as-planned schedule must be dated, provided in the format specified in the Contract Documents or as required by City, and must include, at a minimum, a description of the activity, the start and completion dates, and the duration.

(B) **Progress Schedules.** Contractor must submit an updated progress schedule and three (3) week look-ahead schedule, in the format specified by City, for review and approval with each application for a progress payment. The progress schedule must show how the actual progress of the Work to date compared to the as-planned schedule, and must identify any actual or potential impacts to the critical path.

(C) **Recovery Schedule.** If City determines that the Work is more than one (1) week behind schedule, within seven (7) days following written notice of such determination, Contractor must submit a recovery schedule,

showing how Contractor intends to perform and complete the Work within the Contract Time, based on actual progress to date.

(D) **Effect of Approval.** Contractor and its Subcontractors must perform the Work in accordance with the most current approved schedule unless otherwise directed by City. City approval of a schedule does not operate to extend the time for completion of the Work or any component of the Work, and will not affect City's right to assess liquidated damages for Contractor's unexcused delay in completing the Work within the Contract Time.

(E) **Posting.** Contractor must at all times maintain a copy of the most current approved progress or recovery schedule posted prominently in its on-site office.

(F) **Reservation of Rights.** City reserves the right to direct the sequence in which the Work must be performed or to make changes in the sequence of the Work in order to facilitate the performance of work by City or others, or to facilitate City's use of its property. The Contract Time or Contract Price may be adjusted to the extent such changes in sequence actually increase or decrease Contractor's time or cost to perform the Work.

(G) **Authorized Working Days and Times.** Contractor is limited to working Monday through Friday, excluding City of Morgan Hill-observed holidays, during City's normal business hours, except as expressly provided in the Special Conditions, or as authorized in writing by City. City reserves the right to charge Contractor for additional costs incurred by City due to Work performed on days or during hours not expressly authorized in these Contract Documents, including reimbursement of costs incurred for inspection, testing, and construction management services.

5.3 Delay and Extensions of Contract Time.

(A) **Excusable Delay.** The Contract Time may be extended if Contractor encounters an unavoidable delay in completing the Work within the Contract Time due to causes completely beyond Contractor's control, and which Contractor could not have avoided or mitigated through planning, foresight, and diligence ("Excusable Delay"). Grounds for Excusable Delay may include fire, earthquake, acts of terror or vandalism, epidemic, unforeseeable adverse government actions, unforeseeable actions of third parties, encountering unforeseeable hazardous materials, unforeseeable site conditions, suspension for convenience under Article 13, or unusually severe weather.

(B) **Non-Excusable Delay.** Excusable Delay does not include delay that is concurrent with non-Excusable Delay, and does not include delay caused by:

- (1) weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten (10) years;
- (2) Contractor's failure to order equipment and materials sufficiently in advance of the time needed for timely completion of the Work;
- (3) Contractor's failure to provide adequate notification to utility companies for connections or services necessary for the timely performance and completion of the Work;
- (4) foreseeable conditions Contractor could have ascertained from reasonably diligent inspection of the Worksite or review of the Contract Documents; or
- (5) Contractor's financial inability to perform the Work, including insufficient funds to pay its Subcontractors or suppliers.

(C) **Request for Extension of Contract Time.** A request for an extension of time and associated delay costs must be submitted in writing to City within ten (10) calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or will be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6, below. Strict compliance with these requirements is necessary to ensure that any delay or delay costs may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project and timely performance of the Work. Any request for an extension of time or delay costs that does not strictly comply with the requirements of Article 5 and Article 6 will be deemed waived.

- (1) **Required Contents.** The request must include a detailed description of the cause(s) of the delay, and must also describe the measures that Contractor has taken to mitigate the delay and/or its effects, including efforts to mitigate the cost impact of the delay, e.g., by workforce management, change in sequencing, etc. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor's plan for continued mitigation of the delay or its effects.

(2) *Delay Days and Costs.* The request must specify the number of days of Excusable Delay claimed, or provide a realistic estimate if the duration of the delay is not yet known. The request must specify the amount of any delay-related costs that are claimed, or provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known.

(3) *Supporting Documentation.* The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including schedule and cost impacts, including a time impact analysis using critical path methodology, and demonstrating unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to City.

(4) *Burden of Proof.* Contractor has the burden of proving 1) that the delay was an Excusable Delay, as defined above, 2) that Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts, 3) that the delay will unavoidably result in delaying Final Completion, and 4) that any delay costs claimed by Contractor were actually incurred and were reasonable under the circumstances.

(5) *Recoverable Costs.* If Contractor is granted an extension of time for Excusable Delay, recompense for delay costs will be limited to actual, direct, reasonable, and substantiated costs, and will not include home office overhead, or markup for overhead and profit.

(6) *Legal Compliance.* Nothing in this provision is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code Section 7102.

(7) *No Waiver.* Any grant of an extension of time or delay costs due to an Excusable Delay will not operate as a waiver of City's right to assess liquidated damages for unexcused delay.

(8) *Dispute Resolution.* In the event of a dispute over entitlement to an extension of time or delay costs, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work. Contractor's sole recourse for an unresolved dispute based on City's rejection of a Change Order

request for an extension of time or delay costs is to comply with the Dispute Resolution provisions set forth in Article 12, below.

5.4 Liquidated Damages. It is expressly understood that if Final Completion is not achieved within the Contract Time, City will suffer damages which are difficult to determine and accurately specify. Pursuant to Public Contract Code section 7203, if Contractor fails to achieve Final Completion within the Contract Time, City may charge Contractor in the amount specified in the Contract for each calendar day that Final Completion is delayed beyond the Contract Time, as liquidated damages and not as a penalty.

(A) **Liquidated Damages.** Liquidated damages will not be assessed for any Excusable Delay, as set forth above.

(B) **Milestones.** Liquidated damages will also be separately assessed for failure to meet milestones specified elsewhere in the Contract Documents.

(C) **Setoff.** City is entitled to set off the amount of liquidated damages assessed against any payments otherwise due to Contractor, including setoff against release of retention. If there are insufficient Contract funds remaining to cover the full amount of liquidated damages assessed, City is entitled to recover the balance from Contractor or its performance bond surety.

(D) **Occupancy or Use.** Occupancy or use of the Project in whole or in part prior to Final Completion does not constitute City's acceptance of the Project and will not operate as a waiver of City's right to assess liquidated damages for Contractor's unexcused delay in achieving Final Completion.

Article 6 Contract Modification

6.1 Changes in Work. City reserves the right to make changes in the Work without invalidating the Contract. City may direct or Contractor may request changes in the Work, and any such changes will be formalized in a Change Order, which may include commensurate changes in the Contract Price or Contract Time as applicable. Contractor must promptly comply with City-directed changes in the Work in accordance with the intent of the original Contract Documents, even if Contractor and City have not yet reached agreement as to adjustments to the Contract Price or Contract Time.

(A) **City-Directed Change.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to a City-directed change, Contractor must perform the Work as directed and may not delay its work or cease work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute.

(B) **Contractor's Obligations.** In the event that City and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents as opposed to changed or extra Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute.

(C) **Remedy for Non-Compliance.** Contractor's failure to promptly comply with an City-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, City may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor's sole expense, and may deduct the cost from the Contract Price.

(D) **Dispute Resolution.** Contractor's sole recourse for an unresolved dispute related to changes in the Work is to comply with the dispute resolution provisions set forth in Article 12, below.

6.2 Contractor Change Order Requests. Contractor must submit a request or proposal for a change in the Work or a change in the Contract Price or Contract Time as a written Change Order request or proposal.

(A) **Time for Submission.** Any request for a change in the Contract Price must be submitted in writing to Project Manager within ten (10) calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time.

(B) **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, and subcontract amounts. Any estimated cost must be updated in writing as soon as the actual amount is known.

(C) **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-

related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions.

(D) **Required Form.** Contractor must use City's form(s) for submitting all Change Order requests or proposals, unless otherwise specified by City.

(E) **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete, and agrees that any costs, expenses, or time extension request not included herein is deemed waived. Contractor understands that submission of claims which have no basis in fact or which Contractor knows to be false may violate the False Claims Act, as set forth in Government Code Sections 12650 et seq."

6.3 Adjustments to Contract Price. The amount of any increase or decrease to the Contract Price will be determined based on one (1) of the following methods in the order provided:

(A) **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, either in a bid schedule or schedule of values, will apply if unit pricing has previously been provided in Contractor's accepted bid schedule or schedule of values for the affected Work;

(B) **Lump Sum.** A mutually agreed upon lump sum;

(C) **Time and Materials.** On a time and materials basis, which may include a not-to-exceed limit, calculated as the total of the following sums:

- (1) All direct labor costs plus fifteen percent (15%) for overhead and profit;
- (2) All direct material costs, including sales tax, plus fifteen percent (15%) for overhead and profit;
- (3) All direct plant and equipment rental costs, plus fifteen percent (15%) for overhead and profit;
- (4) All direct subcontract costs plus ten percent (10%) for overhead and profit; and

- (5) Increased bond or insurance premium costs computed at one- and one-half percent (1½%) of total of the previous four (4) sums.

6.4 Unilateral Change Order. If City disagrees with the amount of compensation or extension of time that Contractor has requested, City may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time in the amount City believes is merited. Contractor's sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.

6.5 Non-Compliance Deemed Waiver. Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to full comply with the provisions of this Article. Contractor will not be paid for unauthorized extra work.

Article 7 General Construction Provisions

7.1 Permits and Taxes.

(A) **General.** Contractor must obtain and pay for any and all permits, fees, or licenses required to perform the Work, unless otherwise indicated in the Contract Documents. Contractor must cooperate with and provide notifications to government agencies with jurisdiction over the Project, as may be required. Contractor must provide City with copies of all notices, permits, licenses, and renewals required for the Work.

(B) **Federal Excise Tax.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that City is exempt from Federal Excise Tax.

7.2 Temporary Facilities. Contractor must provide, at Contractor's sole expense, any and all temporary facilities, including onsite office, sanitary facilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any utility services incidental thereto.

(A) **Standards.** Such structures must be safe and adequate for the intended use, and installed and maintained in accordance with all applicable federal, state, and local laws, codes, and regulations.

(B) **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any

damage to City's property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

(C) **Additional Requirements.** Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

7.3 Signs. No signs may be displayed on or about City's property, except signage which is required by law or by the Contract Documents, without City's prior written approval as to content, size, design, and location.

7.4 Protection of Work and Property.

(A) **General.** Contractor is responsible at all times for protecting the Work and materials and equipment to be incorporated into the Work from damage until the Notice of Completion has been recorded. Except as specifically authorized by City, Contractor must confine its operations to the area of the Project site indicated in the Drawings. Contractor is liable for any damage caused to City's real or personal property, the real or personal property of adjacent property owners, or the work or personal property of other contractors working for City.

(B) **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Drawings or apparent from inspection of the Project site, Contractor must promptly notify Project Manager, and must avoid taking any action which could cause damage to the facilities or utilities pending further direction from Project Manager. If Project Manager's subsequent direction to Contractor affects Contractor's cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6, above.

(C) **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, underpinning, etc., necessary to provide support to City's property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by law.

7.5 Noninterference. Contractor must take reasonable measures to avoid interfering with City's use of its property at or adjacent to the Project site, including use of roadways, entrances, parking areas, walkways, and structures.

7.6 Materials and Equipment.

(A) **General.** Unless otherwise specified, all materials and equipment required for the Work must be new and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation, and must be installed in accordance with the manufacturer's recommendation. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work, and is responsible for protecting the Work and all of the required materials, supplies, tools and equipment at Contractor's sole cost until City accepts the Project.

(B) **City-Provided.** If the Work includes installation of materials or equipment to be provided by City, Contractor is solely responsible for the proper examination, handling, storage, and installation of such items in accordance with the Contract Documents. Contractor must promptly notify City of any defects discovered in City-provided materials or equipment. Contractor is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor's custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

(C) **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization required for use of patented or copyright protected materials, equipment, devices or processes that are incorporated into the Work. Contractor's indemnity obligation in Article 4, applies to any claimed violation of intellectual property rights in violation of this provision.

7.7 Substitutions.

(A) **"Or Equal."** Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate quality and type of item or service desired, and Contractor may request use of any equal material, product, thing, or service.

(B) **Request for Substitution.** A request for substitution must be submitted to Project Manager for approval within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within thirty-five (35) days after the date of award of the Contract, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

(C) **Substantiation.** All data substantiating the proposed substitute as an "equal" item or service must be submitted with the written request for substitution. Contractor's failure to timely provide necessary substantiation is ground for rejection of the proposed substitution, without further review.

(D) **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution. City has sole discretion to determine whether a proposed substitution is "equal," and City's determination is final.

(E) **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs associated with the substituted item(s). If the proposed substitution is rejected, Contractor must, without delay, install the item specified.

(F) **Contractor's Obligations.** City's review of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

7.8 Testing and Inspection.

(A) **General.** All materials, equipment, and workmanship used in the Work are subject to inspection by Inspector at all times and locations during construction and/or fabrication. All manufacturers' application or installation instructions must be provided to the Inspector at least ten (10) days prior to the first such application or installation. Contractor must, at all times, make the Work available for inspection.

(B) **Scheduling and Notification.** Contractor must schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must provide timely notice to all necessary parties as specified in the Contract Documents.

(C) **Responsibility for Costs.** City will bear the initial cost of testing to be performed by independent testing consultants retained by City, subject to the following exceptions:

(1) Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

(2) Contractor will be responsible for inspection costs, at City's established rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.

(3) In addition, if any portion of the Work which is subject to testing is covered or concealed by Contractor prior to testing, Contractor will bear the cost of making that portion of the Work available for the testing required by the Contract Documents, and any associated repair or remediation costs.

(D) **Contractor's Obligations.** Any Work that fails to comply with the requirements of the Contract Documents must be promptly repaired, replaced, or corrected by Contractor, at Contractor's sole expense, even if that Work was previously inspected or included in a progress payment. Contractor is solely responsible for any delay occasioned by remediation of noncompliant Work. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified.

(E) **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.

(F) **Final Inspection.** The provisions of this Section 7.8 apply to final inspection under Article 11, Completion and Warranty Provisions.

7.9 Project Site Conditions and Maintenance. Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all Laws pertaining to safety, air quality, and dust control. Adequate toilets must be provided, and properly maintained and serviced for all workers on the Project site, located in a suitably secluded area, subject to City's prior approval. Contractor must also, on a daily basis and at its sole cost, remove and properly dispose of the debris and waste materials from the Project site.

(A) **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws. Contractor must comply with all Laws, including the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.).

(B) **Dust and Debris.** Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour

after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use the minimum necessary. Contractor must take all necessary steps to keep wastewater out of streets, gutters, or storm drains. See Section 7.19, Environmental Control. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project site and any dirt deposited on public streets.

(C) **Clean up.** Before discontinuing Work in an area, Contractor must clean the area and remove all rubbish debris and waste along with the construction equipment, tools, machinery, waste, and surplus materials. Contractor must, at all times, minimize and confine dust and debris resulting from construction activities.

(1) Except as otherwise specified, all excess Project materials, and the materials removed from existing improvements on the Project site with no salvage value or intended reuse by City, will be Contractor's property.

(2) Hauling trucks and other vehicles leaving the Project site must be cleaned of exterior mud or dirt before traveling on City streets. Materials and loose debris must be delivered and loaded to prevent dropping materials or debris. Contractor must immediately remove spillage from hauling on any publicly traveled way. Streets affected by Work on the Project must be kept clean by street sweeping.

(D) **Disposal.** Contractor must dispose of all Project debris and waste materials in a safe and legal manner. Contractor may not burn or bury waste materials on the Project site. Contractor will not allow any dirt, refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed of onto streets, into manholes or into the storm drain system.

(E) **Completion.** At the completion of the Work, Contractor must remove from the Project site all of its equipment, tools, surplus materials, waste materials and debris., presenting a clean and neat appearance. Before demobilizing from the Project site, Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas. Contractor must ensure that all parts of the construction are properly joined with the previously existing and adjacent improvements and conditions. Contractor must provide all cutting, fitting, and patching needed to accomplish that

requirement. Contractor must also repair or replace all existing improvements that are damaged or removed during the Work, both on and off the Project site, including curbs, sidewalks, driveways, fences, signs, landscaping, utilities, street surfaces and structures. Repairs and replacements must be at least equal to the previously existing improvements, and the condition, finish and dimensions must match the previously existing improvements. Contractor must restore to original condition all property or items that are not designated for alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by City.

- (F) **Non-Compliance.** If Contractor fails to comply with its maintenance and cleanup obligations within two business days following written notification from any City or its representative clean up order, City may, acting in its sole discretion, elect to suspend the Work until the condition(s) is corrected with no increase in the Contract Time or Contract Price, or undertake appropriate cleanup measures without further notice and deduct the cost from any amounts due or to become due to Contractor.

7.10 Instructions and Manuals. Contractor must provide three (3) copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for City to easily maintain and service the materials and equipment installed for this Project.

- (A) **Submittal Requirements.** All manufacturers' application or installation instructions must be provided to the Inspector at least ten (10) days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to City for review.

- (B) **Instruction of Personnel.** Contractor or its Subcontractors must instruct City's personnel in the operation and maintenance of any complex equipment as a condition precedent to Final Completion, if required in the Contract Documents.

7.11 As-built Drawings. Contractor and its Subcontractors must maintain on the Worksite a separate complete set of the Drawings which will be used solely for the purpose of recording changes made in any portion of the Work in order to create accurate record drawings at the end of the Project.

- (A) **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. Progress payments may be

delayed, in whole or in part, until the as-built drawings are brought up to date to the satisfaction of City. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities, etc., installed underground, in walls, floors, or otherwise concealed. Deviations from the original Drawings must be shown in detail. The location of all main runs, whether piping, conduit, ductwork, drain lines, etc., must be shown by dimension and elevation.

(B) **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver the complete set of as-built drawings to City for review and approval as a condition precedent to Final Completion.

7.12 Existing Utilities. As required by Government Code Section 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by City in the Contract Documents, Contractor must immediately provide written notice to City and the utility. City assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project site, if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor's failure to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Drawings or Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Contractor will not be assessed liquidated damages for delay in completion of the Work, to the extent such delay was caused by City's failure to provide for removal or relocation of the utility facilities.

7.13 Notice of Excavation. Government Code Section 4216.2, requires that except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert at 800-642-2444 (for Northern California), at least two (2) working days, but not more than fourteen (14) calendar days before starting any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations, and if practical, Contractor must delineate with white paint or other suitable markings the area to be excavated.

7.14 Trenching and Excavations.

(A) **Duty to Notify.** Contractor must promptly, and before the following conditions are disturbed, provide written notice to City if Contractor finds any of the following conditions:

(1) Material that Contractor believes may be a hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law;

(2) Subsurface or latent physical conditions at the Worksite differing from those indicated by information about the Worksite made available to bidders prior to the deadline for submitting bids; or

(3) Unknown physical conditions at the Worksite of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.

(B) **City Investigation.** City will promptly investigate the conditions and if City finds that the conditions do materially differ or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, City will issue a Change Order.

(C) **Disputes.** In the event that a dispute arises between City and Contractor regarding any of the conditions specified in subsection (A) above, Contractor will not be excused from any scheduled completion date provided for in the Contract Documents, but must proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by the Contract or by law which pertain to the resolution of disputes between Contractor and City.

7.15 Trenching of Five Feet or More. As required by Labor Code Section 6705, if the Contract Price exceeds Twenty Five Thousand Dollars (\$25,000.00) and the Work includes the excavation of any trench or trenches of five (5) feet or more in depth, a detailed plan must be submitted to City or its civil or structural engineer, for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a registered civil or structural engineer. Use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

7.16 New Utility Connections. City will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify City sufficiently in advance of the time needed

to request service from each utility provider so that connections and services are initiated in accordance with the Project schedule.

7.17 Lines and Grades. Contractor is required to use any benchmark provided by the Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work.

7.18 Historic or Archeological Items.

(A) **Contractor's Obligations.** Contractor must ensure that all persons performing Work at the Project site are required to immediately notify Project Manager, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project site (collectively, "Historic or Archeological Items").

(B) **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an eighty-five (85) foot radius of the find and may not resume until authorized in writing by City. If required by City, Contractor must assist in protecting or recovering the Historic or Archeological Items, any such assistance to be compensated as extra work on a time and materials basis under Article 6, Contract Modification. Any suspension of Work required due to discovery of Historic or Archeological Items will be treated as a suspension for convenience under Article 13.

7.19 Environmental Control. Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor and its Subcontractors must at all times in the performance of the Work comply with all applicable federal, state, and local laws and regulations concerning pollution of waterways.

(A) **Stormwater Permit.** Contractor must comply with all applicable conditions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity ("Stormwater Permit").

(B) **Contractor's Obligations.** If required for the Work, a copy of the Stormwater Permit is on file in City's principal administrative offices, and Contractor must comply with the same without adjustment of the Contract Price or the Contract Time. Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit, Contractor must comply with all other applicable

state, municipal or regional laws, ordinances, rules or regulations governing discharge of stormwater, including applicable municipal stormwater management programs.

Article 8 Payment

8.1 Schedule of Values. Prior to submitting its first application for payment, Contractor must prepare and submit to Project Manager a schedule of values apportioned to the various divisions and phases of the Work. Each line item contained in the schedule of values must be assigned a value such that the total of all items equals the Contract Price. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's bid.

8.2 Progress Payments. Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.

(A) **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Worksite, as well as authorized and approved Change Orders. Each pay application must be supported by Contractor's schedule of values and any other substantiating data required by the Contract Documents.

Each application for payment shall be accompanied by completed "Contract Balance Form," a copy of which is provided at the end of Article 8.

(B) **Payment of Undisputed Amounts.** City will pay the undisputed amount due, as certified by the Design Professional, within thirty (30) days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code Section 20104.50. City will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may deduct additional amounts as set forth in Section 8.3, below.

8.3 Adjustment of Payment Application. City may adjust or reject a payment application, including application for Final Payment, in whole or in part, based upon any of the circumstances listed below. Contractor will be notified in writing of the basis for the adjustment, and will be promptly

paid once the basis for that adjustment has been remedied and no longer exists.

(A) Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items;

(B) Loss or damage caused by Contractor or its Subcontractor(s) arising out of or relating to performance of the Work;

(C) Contractor's failure to pay its Subcontractors and suppliers when payment is due;

(D) Failure to timely correct rejected, nonconforming, or defective Work;

(E) Unexcused delay in performance of the Work;

(F) Any unreleased stop notice, retained as one hundred twenty five percent (125%) of the amount claimed;

(G) Failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents;

(H) Failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents;

(I) Work performed without approved Shop Drawings, when approved Shop Drawings are required before proceeding with the Work;

(J) Contractor's payroll records are delinquent or inadequate; and

(K) Any other costs or charges that may be offset against payments due, as provided in the Contract Documents, including liquidated damages.

8.4 Acceptance of Work. Neither City's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of any part of the Work.

8.5 Retention. City will retain five percent (5%) of the amount due on each progress payment, or the percentage stated in the Notice Inviting Informal Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work.

(A) **Substitution of Securities.** As provided by Public Contract Code Section 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by City. Any escrow agreement entered into pursuant to this provision must fully comply with Public Contract Code Section 22300, and will be subject to approval as to form by City's legal counsel.

(B) **Release of Undisputed Retention.** All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld under Section 8.3 or 8.6 will be released as Final Payment to Contractor no sooner than thirty five (35) days following recordation of the notice of completion, and no later than sixty (60) days following acceptance of the Project by City's governing body or authorized designee, or, if the Project has not been accepted, no later than sixty (60) days after the Project is otherwise considered complete under Public Contract Code Section 7107(c).

8.6 Setoff. City is entitled to set off any amounts due from Contractor against any payments due to Contractor. City's entitlement to setoff includes progress payments as well as Final Payment and release of retention.

8.7 Payment to Subcontractors and Suppliers. Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment incorporated into the Work or delivered to the Worksite by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of the law, and those of the Contract Documents and applicable subcontract or supplier contract.

(A) **Withholding for Stop Notice.** City will withhold one hundred twenty five percent (125%) of the amount claimed by an unreleased stop notice, a portion of which may be retained by City for the costs incurred in handling the stop notice claim, including attorneys' fees and costs, as authorized by law.

(B) **Joint Checks.** City reserves the right to issue joint checks made payable to Contractor and its Subcontractors or suppliers. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by City. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between City and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.

- 8.8 Final Payment.** Final Completion, acceptance of the Work by City, and recordation of the Notice of Completion, and any release required by the Contract Documents are conditions precedent to Final Payment and release of undisputed retention, as set forth above. Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final Payment. The date of Final Payment is deemed to be effective on the date that City acts to release retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment. If the amount due from Contractor to City exceeds the amount of Final Payment, City retains the right to recover the balance from Contractor or its sureties.
- 8.9 Release of Claims.** City may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing City with a written release of all claims against City arising from or related to the portion of Work covered by those undisputed amounts. Any disputed amounts may be specifically excluded from the release.
- 8.10 Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to City free of any claims, liens, or encumbrances upon payment to Contractor.

CONTRACT BALANCE FORM

Project Name: 2024 Seal Coat and Striping Project

Note: A detailed invoice MUST be attached to this Contract Balance Form.

CONTRACTOR NAME: _____	DATE: _____
MAILING ADDRESS: _____	TELEPHONE NO.: _____
_____	FAX NO.: _____
_____	PROJECT NO.: _____
	INVOICE NO.: _____

- | | | |
|--|-------------|----------------|
| 1. ORIGINAL CONTRACT AMOUNT: | \$ _____ | |
| 2. APPROVED CHANGE ORDERS TOTAL: | \$ _____ | |
| 3. REVISED CONTRACT AMOUNT: | | (1+2) \$ _____ |
| 4. PREVIOUS BALANCE PAID: | \$ _____ | |
| 5. REMAINING BALANCE: | | (3-4) \$ _____ |
| 6. CURRENT PROGRESS PAYMENT DUE: | \$ _____ | |
| (before retention) | | |
| 7. 5% RETENTION FROM WORK DONE: | (-)\$ _____ | |
| 8. CURRENT BALANCE DUE: | | (6-7) \$ _____ |
| 9. REMAINING BALANCE OF REVISED CONTRACT AMOUNT: | | (5-8) \$ _____ |
| (including retention) | | |

Article 9 Labor Provisions

9.1 Discrimination Prohibited. Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Federal and California laws including the California Fair Employment and Housing Act (Government Code Sections 12900 et seq.), Government Code Section 11135, and Labor Code Sections 1735, 1777.5, 1777.6, and 3077.5.

9.2 Labor Code Requirements.

(A) ***Eight Hour Day.*** Under Labor Code Section 1810, eight (8) hours of labor constitute a legal day's work under this Contract.

(B) ***Penalty.*** Under Labor Code Section 1813, Contractor will forfeit to City as a penalty, the sum of Twenty Five Dollars (\$25.00) for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight (8) hours in any one (1) calendar day or more than forty (40) hours per calendar week, except if such workers are paid overtime under Labor Code Section 1815.

(C) ***Apprentices.*** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code Section 1777.5, which is fully incorporated by reference.

(D) ***Notices.*** Under Labor Code Section 1771.4, Contractor is required to post all job site notices prescribed by law or regulation.

9.3 Prevailing Wages. Each worker performing Work under this Contract that is covered under Labor Code Section 1720, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in Sections 1720.3, 1771, and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Worksite.

(A) ***Penalties.*** Under Labor Code Section 1775, Contractor and any Subcontractor will forfeit to City as a penalty up to Two Hundred Dollars (\$200.00) for each calendar day, or portion a day, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(B) **Federal Requirements.** If this Project is subject to Federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the current applicable prevailing wage rates under federal law, available online at <http://www.access.gpo.gov/davisbacon/ca.html>.

9.4 Payroll Records. Contractor must comply with the provisions of Labor Code Sections 1771.4, 1776, and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for electronic submission of payroll records.

(A) **Contractor and Subcontractor Obligations.** Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) Contractor or Subcontractor has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(B) **Certified Record.** A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, or to the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations, and as further provided by the Labor Code.

(C) **Enforcement.** Upon notice of noncompliance with Labor Code Section 1776, Contractor or Subcontractor has ten (10) days in which to comply with requirements of this section. If Contractor or Subcontractor fails to do so within the ten (10) day period, Contractor or Subcontractor will forfeit a penalty of One Hundred Dollars (\$100.00) per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from progress payments then due.

9.5 Labor Compliance. Under Labor Code section 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

9.6 Wage Theft Prevention. Compliance with Wage and Hour Laws: Contractor, 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 Contractor and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CONTRACTOR 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 CONTRACTOR OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR 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 Contractor or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed, Contractor 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. Contractor 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 Contractor 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 Contractor 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 Contractor 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.

Article 10 Safety Provisions

10.1 Safety Precautions and Programs. Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work. Contractor and its Subcontractors must comply with all applicable safety laws, rules and regulations and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at the Worksite, materials and equipment stored on or off site, and property at or adjacent to the Worksite.

(A) **Reporting Requirements.** Contractor must immediately provide a written report to City of all recordable accidents and injuries occurring at the Worksite. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to City.

(B) **Legal Compliance.** Contractor's safety program must comply with the applicable legal and regulatory requirements. Contractor must provide City with copies of all notices required by law or regulation.

(C) **Contractor's Obligations.** Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.

(D) **Remedies.** If City determines, in its sole discretion, that any part of the Work or Worksite is unsafe, City may, without assuming responsibility for Contractor's safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to City's satisfaction. If Contractor fails to promptly take the required corrective

measures, City may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor's compliance with City's request for corrective measures pursuant to this provision.

10.2 Hazardous Materials. Unless otherwise specified, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Worksite that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to City. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.

10.3 Material Safety. Contractor must maintain Material Safety Data Sheets ("MSDS") at the Worksite, as required by law, for materials or substances used or consumed in the performance of the Work. The MSDS will be accessible and available to Contractor's employees, Subcontractors, and City.

(A) **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Worksite and/or used in the performance of the Work.

(B) **Labeling.** Contractor must ensure proper labeling on any material brought onto the Worksite so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

Article 11

Completion and Warranty Provisions

11.1 Final Completion.

(A) **Final Inspection.** When the Work required by this Contract is fully performed, Contractor must provide written notification to Project Manager requesting final inspection. Based on this inspection, the Design Professional will prepare a punch list of items that are incomplete, incorrectly installed, or not operating as required by the Contract Documents. The omission of any such item from this punch list will not

relieve Contractor from fulfilling all requirements of the Contract Documents.

(B) **Punch List.** City will promptly deliver the punch list to Contractor and will specify the time by which all of the punch list items must be completed or corrected. The punch list may include City's estimated cost to complete each punch list item if Contractor fails to do so within the specified time.

(C) **Requirements for Final Completion.** Final Completion will be achieved upon completion or correction of all punch list items, as verified by inspection, and upon satisfaction of all other Contract requirements, including any commissioning required under the Contract Documents, and submission of all final submittals, including a warranty bond as required under Section 4.4, instructions and manuals as required under Section 7.10, and as-built drawings as required under Section 7.11, all to City's satisfaction. Once Final Completion is achieved, and the Project has been formally accepted by City, City will file a notice of completion with the County Recorder.

(D) **Final Payment.** Final Payment and release of retention, less any sums withheld pursuant to the provisions of the Contract Documents, will not be made sooner than thirty-five (35) days after recordation of the notice of completion. If Contractor fails to complete all of the punch list items within the specified time, City may elect to accept the Project and record the notice of completion, and withhold up to one hundred fifty percent (150%) of City's estimated cost to complete the remaining items from Final Payment.

11.2 Warranty.

(A) **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. At City's request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor's warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

(B) **Warranty Period.** Contractor's warranty must guarantee its Work for a period of one (1) year from the date of recordation of the notice of completion (the "Warranty Period"), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors,

suppliers and manufacturers any special or extended warranties required by the Contract Documents.

(C) **Warranty Documents.** As a condition precedent to acceptance, Contractor must supply City with all warranty and guarantee documents relevant to equipment and materials incorporated into the Work and guaranteed by their suppliers or manufacturers.

(D) **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor expressly agrees to act as co-guarantor of such Work.

(E) **Contractor's Obligations.** Upon written notice from City to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor's obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period.

(F) **City's Remedies.** If Contractor and/or its responsible Subcontractor fails to correct defective Work within ten (10) days following notice by City, or sooner, if required by the circumstances, Contractor expressly agrees that City may correct the defects to conform with Contract Documents at Contractor's sole expense, and Contractor agrees to reimburse City for its costs within thirty (30) days following City's submission of a demand for payment pursuant to this provision. If City is required to initiate legal action to compel Contractor's compliance with this provision, and City is the prevailing party in such action, Contractor is solely responsible for all of City's attorney's fees and legal costs expended to enforce Contractor's warranty obligations herein in addition to any and all costs incurred by City to correct the defective Work.

11.3 Use Prior to Final Completion. City reserves the right to occupy or make use of the Project, or any portions of the Project, prior to Final Completion if City has determined that the Project or portion of it is in a condition suitable for the proposed occupation or use, and that it is in its best interest to occupy or make use of the Project, or any portions of it, prior to Final Completion. City will notify Contractor in writing of its intent to occupy or make use of the Project or any portions of the Project, pursuant to this provision.

(A) **Non-Waiver.** Occupation or use prior to Final Completion will not operate as acceptance of the Work or any portion of it, nor will it operate as a waiver of any of City's rights or Contractor's duties pursuant to these

Contract Documents, and will not affect nor bear on the determination of the time of substantial completion with respect to any statute of repose pertaining to the time for filing an action for construction defect.

(B) **City's Responsibility.** City will be responsible for the cost of maintenance and repairs due to normal wear and tear with respect to those portions of the Project that are being occupied or used before final completion. The Contract Price or the Contract Time may be adjusted pursuant to the applicable provisions of these Contract Documents if, and only to the extent that, any occupation or use under this Section actually adds to Contractor's cost or time to perform the Work.

11.4 Substantial Completion. For purposes of determining "substantial completion" with respect to any statute of repose pertaining to the time for filing an action for construction defect, "substantial completion" is deemed to mean the last date that Contractor or any Subcontractor performs Work on the Project prior to recordation of the Notice of Completion, except for warranty work performed under this Article.

Article 12 Dispute Resolution

12.1 Claims. This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

(A) **Definition.** "Claim" means a separate demand by Contractor, submitted in writing, for change in the Contract Time or Contract Price that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part.

(B) **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and City. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to City in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by City.

(C) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount, and applies in addition to the provisions of Public Contract Code Section 9204 and Sections 20104, et seq.

(D) **No Work Delay.** Notwithstanding the submission of a Claim or any other dispute between the parties related to the Project or the Contract Documents, Contractor must perform the Work and may not delay or cease Work pending resolution of the Claim or other dispute, but must continue to diligently prosecute the performance and timely completion of the Work, including the Work pertaining to the Claim or other dispute.

12.2 Claims Submission. The following requirements apply to any Claim subject to this Article:

(A) **Substantiation.** The Claim must be submitted to City in writing, clearly identified as a "Claim" submitted pursuant to this Article 12, and must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of City's written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of the relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each claimed cost. Any Claim for an extension of time or delay costs must be substantiated with schedule analysis and narrative depicting and explaining claimed time impacts.

(B) **Claim Format.** A Claim must be submitted in the following format:

- (1) General introduction, specifically identifying the submission as a "Claim" submitted under this Article 12.
- (2) Relevant background information, including identification of the specific demand at issue, and the date of City's rejection of that demand.
- (3) Detailed explanation of the issue(s) in dispute. For multiple issues, separately number and identify each issue and include the following for each separate issue:
 - (a) The background of the issue, including references to relevant provisions of the Contract Documents;
 - (b) A succinct statement of the matter in dispute, including Contractor's position and the basis for that position;
 - (c) A chronology of relevant events;

(d) The identification and attachment of all supporting documents (see subsection (A), above, on Substantiation); and

(e) Use of a separate page for each issue.

(4) Summary of issues and damages.

(5) The following certification, executed by Contractor's authorized representative:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Claim are true and correct. Contractor warrants that this Claim is comprehensive and complete as to the matters in dispute, and agrees that any costs, expenses, or delay claim not included herein are deemed waived. Contractor understands that submission of a Claim which has no basis in fact or which Contractor knows to be false may violate the False Claims Act (Government Code Section 12650 et seq.)."

(C) ***Submission Deadlines.***

(1) A Claim must be submitted within fifteen (15) days following the date that City notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part.

(2) With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment, or will be deemed waived.

(3) A Claim disputing the amount of Final Payment must be submitted within fifteen (15) days of the effective date of Final Payment, under Section 8.8, above.

(4) Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.

12.3 City's Response. City will respond within forty-five (45) days of receipt of the Claim with a written statement identifying which portion(s) of the Claim are disputed, unless the forty-five (45) day period is extended by mutual agreement of City and Contractor. However, the City may first request, in

writing, within thirty (30) days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that City may have against Contractor. If Contractor fails to submit the additional documentation to City within fifteen (15) days of receipt of City's request, the Claim will be deemed waived.

(A) **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of City and Contractor.

(B) **City's Response.** City's written response to the Claim, as further documented, will be submitted to Contractor within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by Contractor in producing the additional information, whichever is greater.

(C) **Non-Waiver.** Any failure by City to respond within the times specified above may not be construed as acceptance of the Claim in whole or in part, or as a waiver of any provision of these Contract Documents.

12.4 Meet and Confer. If Contractor disputes City's written response, or City fails to respond within the specified time, Contractor must notify City in writing, either within fifteen (15) days of receipt of City's response, or within fifteen (15) days of City's failure to respond within the specified time, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to notify City in writing of the dispute, and demand an informal conference to meet and confer, within the specified time, Contractor's Claim will be deemed waived.

(A) **Schedule Meet and Confer.** Upon receipt of the demand to meet and confer, City will schedule the meet and confer conference to be held within thirty (30) days, or later if needed to ensure the mutual availability of all of the individuals that each party requires to represent its interests at the meet and confer conference.

(B) **Location for Meet and Confer.** The meet and confer conference will be scheduled at a location at or near City's principal office.

(C) **Written Statement After Meet and Confer.** Within ten (10) working days after the meet and confer has concluded, City will issue a written statement identifying which portion(s) of the Claim remain in dispute, if any.

(D) **Submission to Mediation.** If the Claim or any portion remains in dispute following the meet and confer conference, within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute, the disputed portion(s) will be submitted for mediation as set forth below.

12.5 Mediation and Government Code Claims.

(A) **Mediation.** Mediation under this Article will be scheduled within sixty (60) days following conclusion of the meet and confer process, with a mediator that the parties mutually agreed upon. The mediation itself may take place more than sixty (60) days following conclusion of the meet and confer process to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. The parties must share the costs of mediation equally, except costs incurred by each party for representation by legal counsel or any other consultant.

(B) Government Code Claims.

(1) Timely presentment of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract.

(2) The time for filing a Government Code Claim will be tolled from the time Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied as a result of the meet and confer process, including any period of time used by the meet and confer process. If the parties agree to mediation, the time for filing a Government Code Claim will be tolled until conclusion of the mediation if the Claim is not fully resolved by mutual agreement of the parties during the mediation or any continuation of the mediation.

12.6 Tort Claims. This Article does not apply to tort claims and nothing in this Article is intended nor will be construed to change the time periods for filing tort-based Government Code Claims.

12.7 Arbitration. It is expressly agreed, under California Code of Civil Procedure Section 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator's award must be supported by law and substantial evidence.

12.8 Damages. Contractor bears the burden of proving entitlement to and the amount of any claimed damages. Contractor is not entitled to damages calculated on a total cost basis, but must prove actual damages.

Contractor is not entitled to recovery of any alleged home office overhead. The Eichleay Formula or similar formula may not be used for any recovery under the Contract. Contractor is not entitled to consequential damages, including home office overhead or any form of overhead not directly incurred at the Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract.

- 12.9 Other Disputes.** The procedures in this Article 12 will apply to any and all disputes or legal actions, in addition to Claims, arising from or related to this Contract, unless and only to the extent that compliance with a procedural requirement is expressly and specifically waived by City. Nothing in this Article is intended to delay suspension or termination under Article 13.

Article 13 Suspension and Termination

- 13.1 Suspension for Cause.** In addition to all other remedies available to City, if Contractor fails to perform or correct work in accordance with the Contract Documents, City may immediately order the Work, or any portion of it, suspended until the cause for the suspension has been eliminated to City's satisfaction.

(A) ***Failure to Comply.*** Contractor will not be entitled to an increase in Contract Time or Contract Price for a suspension occasioned by Contractor's failure to comply with the Contract Documents.

(B) ***No Duty to Suspend.*** City's right to suspend the Work will not give rise to a duty to suspend the Work, and City's failure to suspend the Work will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.

- 13.2 Suspension for Convenience.** City reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for City's convenience, and not due to any act or omission by Contractor or its Subcontractors. Upon notice by City pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work as directed by City. The Contract Price and the Contract Time will be equitably adjusted by Change Order to reflect the cost and delay impact occasioned by such suspension for convenience.

13.3 Termination for Default. Contractor may be deemed in default for a material breach of or inability to perform the Contract, including Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; refusal or failure to make prompt payment to its employees, Subcontractors, or suppliers or to correct rejected work; disregard of laws, regulations, ordinances, rules, or orders of any public agency with jurisdiction over the Project; or if Contractor lacks financial capacity to complete the Work within the Contract Time; or is otherwise responsible for a material breach of the Contract requirements.

(A) **Notice.** Upon City's determination that Contractor is in default, City may provide Contractor and its surety written notice of default and intent to terminate the Contract.

(B) **Termination.** Within seven (7) calendar days after notice of intent to terminate for default has been given, unless the default is cured or arrangements to cure the default have been made and memorialized in writing, to City's satisfaction, City may terminate the Contract by written notice to Contractor with a copy to Contractor's surety.

(C) **Waiver.** Time being of the essence in the performance of the Work, if Contractor's surety fails to arrange for completion of the Work in accordance with the Performance Bond, within seven (7) calendar days from the date of the notice of termination, Contractor's surety will be deemed to have waived its right to complete the Work under the Contract, and City may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that City determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by City to complete the Work following termination. In addition, City will have the right to use any materials, supplies, and equipment belonging to Contractor and located at the Worksite for the purposes of completing the remaining Work.

(D) **Wrongful Termination.** If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contractor's damages will be strictly limited to the compensation provided for termination for convenience, in Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including consequential damages, lost opportunity costs or lost profits.

13.4 Termination for Convenience. City reserves the right to terminate all or part of the Contract for convenience upon written notice to Contractor. Upon receipt of such notice, Contractor must immediately stop the Work,

comply with City's instructions to protect the completed Work and materials, and use its best efforts to minimize further costs. In the event of termination for convenience, the parties agree that the following will constitute full and fair compensation to Contractor, and that Contractor will not be entitled to any additional compensation:

(A) **Completed Work.** The value of its Work satisfactorily performed to date, including Project overhead and profit based on Contractor's schedule of values;

(B) **Demobilization.** Actual and substantiated demobilization costs; and

(C) **Markup.** Five percent (5%) of the total value of the Work performed as of the date of notice of termination or five percent (5%) of the value of the Work yet to be completed, whichever is less.

13.5 Provisions Remaining in Effect. Upon termination pursuant to this Article, the provisions of the Contract Documents remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, or other such rights and obligations arising prior to the termination date.

Article 14 Miscellaneous Provisions

14.1 Assignment of Unfair Business Practice Claims. Under Public Contract Code Section 7103.5, Contractor and its Subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or subcontract. This assignment will be effective at the time City tenders Final Payment to Contractor, without further acknowledgement by the parties.

14.2 Provisions Deemed Inserted. Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be amended accordingly.

- 14.3 Waiver.** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by the waiving party.
- 14.4 Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5 Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that bids were due.

END OF GENERAL CONDITIONS

SPECIAL CONDITIONS

Not Applicable

City of Morgan Hill

2024 Seal Coat & Striping Project Scope of Work and Technical Specifications

SCOPE OF WORK

Furnish all labor, equipment, materials, and performance of operation in connection with the application of Asphalt Pavement Coating, including but not limited to:

- Remove and sterilize any incidental vegetation
- Repair cracks with hot applied product(s)
- Patch low areas and failed pavement
- Clean pavement surface
- Application of bond coat (if required)
- Application of under sealer coat with 2 lb.- 30 mesh sand/ gal sealer
- Application of top sealer coat; no granular or aggregate additives
- Re-striping to match existing
- A phased project approach will be required to maintain 24/7 access to portions of the Morgan Hill Police Department back parking lot using at least one of the two available security gate driveways during construction.

MATERIALS

Asphalt Pavement Coating will meet the following specifications or approved alternative:

Pavement coating shall be composed of a refined petroleum asphalt emulsion, fillers, and fibers such as Overkote manufactured by Reed and Graham, Inc., or approved equal. Screenings shall be of 30 mesh blast sand composed of clean, hard, durable, uncoated particles free of clay or organic matters. Sealer shall be mixed to a uniform, free-flowing consistency. Water shall be added to obtain a semi-fluid consistency. The amount of water added shall not exceed fifteen percent (15%) by volume.

Contractor shall remove all weeds and vegetation growing through the pavement surface to be sealed. All surface cracks one-half inch (1/2") or wider in width shall be cleaned and filled with asphalt concrete. Cracks one-eighth inch (1/8") to one-half inch (1/2") wide shall be cleaned and filled with crack filler. Cracks that are smaller than one-eighth inch (1/8") in width shall be cleaned and filled with multiple coats of sealer.

Remove oil and grease deposits by scraping, burning or the use of detergent. When detergent is used, the pavement shall be thoroughly rinsed with water. After the oil or grease deposits are removed, the areas shall be sealed with oil-spot sealant prior to seal coat application. A tack

coat consisting of one part emulsified asphalt binder (SS-1h) and four parts water shall be uniformly applied over the entire pavement surface at the rate of 0.05 to 0.10 gallon per square yard. Sweep out any "pools" of wet binder remaining in depressions. Allow the tack coat to dry before applying seal coat.

No seal coating work shall be performed when the ambient temperature is below 55°F or above 110°F or within 24 hours prior to or during rainfall. Sealer shall be applied in continuous parallel lines and spread immediately by use of rubber face squeegees or power spreader. Pavement surface to be sealed shall receive two coats of sealer.

A primary seal coat application of a minimum thirty (30) gallons of undiluted sealer per one thousand (1,000) square feet of area shall be done to smooth out the rough surface. The surface after this primary application shall be uniformly smooth and show no evidence of coarse or uneven texture. As soon as the primary application is dry to the touch and will not scuff when walked on, another application shall be made. After the second application, the surface shall be allowed at least twenty-four (24) hours for complete curing.

The Contractor shall protect all manhole and valve covers from seal coat by oiling or masking.

SURFACE PREPARATION

- Damaged asphalt and areas completely saturated by oil or grease shall be removed and replaced or repaired as required.
- All weed or other vegetation growing through the asphaltic concrete shall be removed and sprayed with a suitable chemical sterilant in accordance with the City of Morgan Hill's Integrated Pest Management Plan for Facilities, Parks, Streets and Public Open Space. (Scope of Work and Technical Specifications-Attachment A)
- Thoroughly clean all cracks of foreign matter. Cracks 1/8" to a maximum of 1/2" in width should be cleaned and filled with crack filler, per manufacturer's recommendations. Cracks wider than 1/2" should be repaired with asphaltic concrete. Allow crack filler to cure prior to sealing. All cracks under 1/8" should be filled with multiple coats of sealer.
- The surface must be free of all foreign material, such as sand, dust, clay and grease, which might adversely affect bonding of the sealer. High pressure air blowers, vacuums or sweepers shall be used to remove these objectionable materials. Where there are deposits of grease and oil, these areas must be cleaned by scraping, burning and/or the use of a detergent. Trisodium Phosphate and a stiff brush should be used to scrub area clean. When detergents are used, the pavement shall be thoroughly rinsed with water, maintaining all environmental controls to assure no intrusion to

storm systems or waterways. After cleaning and removing grease and oil spots, seal areas with oil spot sealant.

BOND COAT (if required*)

- A tack coat consisting of one (1) part emulsified asphalt binder (SS-1h) and four (4) parts water, shall be uniformly applied over the entire surface at the rate of .05 to .10 gallon per square yard. Sweep out any “pools” of wet binder remaining in the depressions. Allow it to dry before applying sealer. *A bond coat is recommended in any case where the bond between the asphalt pavement and sealer may be questionable.

EQUIPMENT

- Mixing or agitating equipment furnished shall be a tank-type power mixer with a round bottom and equipped with a power driven mixer of sufficient capacity to maintain the mineral content in complete suspension.
- The mixture shall be applied by the combined or individual use of rubber faced squeegees and/or mechanized material spreading equipment or other suitable method approved by the inspector.

APPLICATION PROCEDURES

- Sealer shall be mixed to a uniform free-flowing consistency. Water shall be added (not to exceed 15% by volume) to obtain a semi-fluid consistency.
- Prior to the first application of sealer in extremely hot weather, dampen the surface with water. Remove any excess water to leave the surface only slightly damp.
- Sealer should be applied to the area in continuous parallel lines and spread immediately by use of rubber faced squeegees and/or mechanized material spreading equipment.

APPLICATION – NEW PAVEMENT OR OLD PAVEMENT WITH ONLY MINOR VOIDS

- First application – to each gallon of Sealer should be added 2 lbs. of 30 mesh sand. Water shall be added to obtain a semi-fluid consistency.
- Subsequent application – Final application will be made using a minimum of 40 gallons of undiluted sealer per 1,000 square feet of area. The surface will be smooth and uniform, showing no evidence of course or uneven texture.

GENERAL

- Asphalt should be fully cured before application (new pavement – allow at least 30 days before application)
- Weather limitation – No part of the construction involving the application of sealer shall take place during or just prior to rainfall or

freezing temperatures. Air temperature shall be at least 55OF and rising, or as per manufacturers recommendations. Do not apply if rain is forecast within 48 hours after application.

- Curing time – As per manufacturer’s specs, generally as soon as application is dry to the touch and won’t scuff under normal walking, another application may be made.
- Contractor will supply the City of Morgan Hill with scale tags for the project with the following information: Product, Project Name, Gallons/Tons supplied to the project.
- Contractor will supply all MSDS (or MDS) for all materials used on the project.
- A phased project approach will be required to maintain 24/7 access to portions of the Morgan Hill Police Department back parking lot using at least one of the two available security gate driveways during construction.

SUPPLEMENTAL WORK:

The City is estimating supplemental contingency of \$5,000 per site in the bid schedule. This supplemental work contingency would only be paid to the Contractor if supplemental work is authorized by the City and completed by the Contractor.

PROJECT AREAS AND ESTIMATED QUANTITIES

All quantities are estimates. It is the contractor's sole responsibility to ensure accuracy by verifying field measurements for accurate bidding.

#1 Morgan Hill Police Department– 16200 Vinyard Boulevard

Description of Bid Item	Approximate Quantity/Unit of Measure
Mobilization	LS
Seal Coat of parking lots	46,755 SF
4" white lines (47 ea. @ 14')	658 LF
4" white lines (4 ea. @ 16')	64 LF
4" white lines (17 ea. @ 10')	56 LF
4" yellow lines (4 ea. @ 14')	56 LF
4" blue lines (ADA Parking)	81 LF
4" green lines (6 ea. @ 14')	84 LF
Hashed Area 4" white lines	713 LF
ADA Symbol	3 EA
"NO PARKING" Stencil 12"	2 EA
"SAFE EXCHANGE ZONE" Stencil 9"	3 EA
"SLOW" Stencil 36"	1 EA
Crack sealing	100 LF
EV Parking Stencil 24"	3 EA

Supplemental Work Allowance: The City is estimating a supplemental allowance of \$5,000 per site in the bid schedule. This supplemental work allowance /contingency would only be paid to the Contractor if supplemental work is authorized by the City and completed by the Contractor.	LS
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2 The Villas– 535 Alkire Avenue

Description of Bid Item	Approximate Quantity/Unit of Measure
Mobilization	LS
Seal Coat of parking lots	13,116 SF
4" white lines (25 ea. @ 18')	450 LF
Hashed Area 4" white lines	183 LF
4" Blue Lines	44 LF
ADA Symbol	2 EA
Crack sealing	100 LF
Supplemental Work Allowance: The City is estimating a supplemental allowance of \$5,000 per site in the bid schedule. This supplemental work allowance /contingency would only be paid to the Contractor if supplemental work is authorized by the City and completed by the Contractor.	LS

#3 Linear Park Trail – Northbound Butterfield Boulevard from Fisher Avenue to East Central Avenue

Description of Bid Item	Approximate Quantity/Unit of Measure
Mobilization	LS
Seal Coat of trail	91,450 SF
Shared Use Trail, Passing Permitted 4" Yellow (Figure 9C-2)	9,145 LF
Crack sealing	100 LF
Supplemental Work Allowance: The City is estimating a supplemental allowance of \$5,000 per site in the bid schedule. This supplemental work allowance /contingency would only be paid to the Contractor if supplemental work is authorized by the City and completed by the Contractor.	LS



City of Morgan Hill

Integrated Pest Management

Plan for Facilities, Parks, Streets and Public Open Space

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I. IPM Definition and Plan Goals

The goal of the City of Morgan Hill IPM Plan is to align city maintenance practices in public buildings, parks, landscaped grounds, public right of way and open space areas with the Integrated Pest Management (IPM) approach to pest control.

Integrated Pest Management, per the California Healthy Schools Act of 2000 (Assembly Bill 2260), is "a pest management strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment, are used only after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds."

Through use of a combination of preventive and suppressive pest control methods, IPM optimizes pest control effectiveness and reduces problems that can result from reliance on a single method. The IPM method does not usually include eradication as a practical or cost effective goal.

This Plan applies to all city facilities and all maintenance activities. This plan DOES NOT INCLUDE management of parks or grounds within the City limits that are privately owned, for private use, and/or managed by private entities such as HOA's or property management companies.

Typical pests that are managed under this Plan include weeds and undesirable foliage, insects, and rodents. These activities occur in the public rights of way, parks, and facilities that are within the jurisdiction of the City of Morgan Hill.

II. Legal Requirements, Environmental and Health Concerns

Many federal and state agencies have jurisdiction over pest control activities related to: use of pesticides, vegetation management, worker safety, hazardous material disposal, impacts of pesticide use on air and water quality and on wildlife. Primary pesticide regulation is by the US Environmental Protection Agency (EPA) with additional regulation and enforcement by the California Environmental Protection Agency. The California Department of Pesticide Regulation (DPR) is the regulatory arm of California EPA. Local enforcement of pesticide regulations performed by the Santa Clara County Department of Agriculture. Additional agencies with involvement in pesticide use include:

- US Occupational Safety and Health Administration
- US Fish and Wildlife Service
- California Division of Occupational Safety and Health Administration
- CA Department of Fish and Game
- CA Air Resources Control Board and Regional Air Pollution Control Districts
- CA Water Resources Control Board and Regional Water Quality Control Boards

In 2007, California AB 2865 extended the Healthy Schools Act to child care centers including public child care centers. The law requires that early childhood care and education providers designate an IPM coordinator, notify parents of pesticide use, maintain a registry of parents and staff, post warning signs and keep written records of pesticide use. Use of pesticides around children requires extra precautions since children are typically more vulnerable to the effects of pesticides in their environment than adults.

III. Management Policy Statement

The City of Morgan Hill will carry out pest management operations using Integrated Pest Management techniques to control pests effectively and also minimize the use of pesticides. Whenever feasible, non-toxic alternative pest control methods will be used. The City will seek new technology, best management practices and least toxic approaches to address all pest control issues. The City will educate staff and the public about its commitment to and implementation of IPM practices.

IV. IPM Implementation Responsibilities

- a. Implementation of a successful IPM Plan relies on the coordinated efforts of employees across the organization. To ensure necessary employee communication, training, contractor selection and public coordination, the City Manager will designate a City IPM Plan Administrator. The IPM Plan Administrator will be responsible for IPM implementation, staff training, annual reporting, public outreach and updating of the IPM Plan when needed. The IPM Plan Administrator will assist site IPM coordinators as needed in developing specific pest control plans, will track citywide pesticide usage and trends, and will research new IPM strategies to address the City's pest issues.

- b. Department managers shall designate site IPM Coordinators for major facilities and locations including:
 - Civic Center (County Library excluded)
 - Community and Cultural Center
 - Centennial Recreation Center
 - Aquatics Center
 - Corporation Yard
 - Water and Wastewater facilities
 - Public right of way
 - City owned parks and trails
 - City owned open space
 - Other City owned properties
- c. The IPM Coordinators shall be responsible for developing plans (Attachment A) to address specific pest problems at assigned location(s). Site IPM implementation shall include: identifying key pests, monitoring, establishing action threshold levels, overseeing pest prevention and suppression measures, documenting and reporting actions taken.

IPM Coordinators will report, on a monthly basis, all pesticide use by staff and by contractors, at assigned facilities, to the City IPM Plan Administrator (Attachment B).
- d. The IPM Coordinator at each child care facility shall also document compliance with the requirements of the CA Healthy Schools Act.
- e. Contractors for the City that provide pesticide management in any form within their scope are contractually bound to follow the most current City of Morgan Hill IPM, including having staff with the proper licensing and reporting the usage volumes and locations to the proper agencies. Contractors also must be able to provide records of usage upon request by the City of Morgan Hill, however these records are rarely requested as use reporting is mandatory for maintaining licensing and is overseen and reviewed by Santa Clara County and the California Department of Pesticide Regulation.
- f. Structural pest problems will be managed by Building Department staff.

City of Morgan Hill
Integrated Pest Management Plan for Facilities, Parks, Streets and Open Space

V. Citywide IPM Requirements

- a. All staff and city contractors working for the City of Morgan Hill will adhere to the City IPM Plan as well as plans developed by site IPM coordinators to address specific pest problems.
- b. No pesticides shall be purchased by city staff or contractor application authorized without prior approval from the City IPM Plan Administrator.
- c. Contractors hired to perform pest control of any kind shall be familiar with IPM and shall use IPM methods in their work for the City.
- d. Prohibited Pesticides - No federal or state restricted materials, or pesticides labeled with signal word "Danger" will be used for routine maintenance by staff or by city contractors.
- e. Limitations on Certain Pesticides – Pesticides containing glyphosate shall not be used in City Parks. Pesticides labeled with the signal word "Warning" shall be limited in use and may only be used when the pesticide is organic in nature. Use of pesticides with the signal word "Warning" must be approved by the IPM Administrator and Public Services Director.

VI. Staff Training

- a. All staff who manage pest problems and who apply pesticides as part of their job must be trained according to the CA Department of Pesticide Regulations requirements.
- b. The IPM Plan Administrator will inform all city staff on an annual basis about the City's IPM Plan, restrictions on pesticide usage and appropriate procedures for controlling pests.
- c. The IPM Plan Administrator will document staff training.

VII. IPM Resources

Statewide IPM Plan information for dealing with specific pests, training and general information about IPM is available at: <http://www.ipm.ucdavis.edu/>. California School IPM requirements and detailed information about school IPM, including IPM at child day care facilities, is available at: <http://apps.cdpr.ca.gov/schoolipm/>.

VIII. Record Keeping and Annual Report

The IPM Plan Administrator will compile monthly pesticide usage reports from site IPM Coordinators into a single annual IPM Plan report. The report shall be provided to the City Manager, City Council and the public via the City website by the end March of each year.

The report is to include:

- General overview of the city's IPM Plan
- Pest problem trends
- Pesticides used during the past year, quantities used of each chemical, general locations where they were applied and target pests

City of Morgan Hill
Integrated Pest Management Plan for Facilities, Parks, Streets and Open Space

- Nontoxic solutions used
- New technologies, strategies tried during the year
- Overview of staff training and public outreach accomplished
- Goals for the coming year

IX. Public Outreach

- a. The City will use appropriate opportunities (booths at special events, utility bill inserts, city website, email blasts, etc.) to communicate with the public about the IPM approach to pest management and its benefits in the home and in the workplace.
- b. When applying pesticides for seasonal weed abatement in parks or on City Streets and right of ways adjacent to schools or daycare facilities, public notification will be provided by posting signs at the entrances to the parks, or at the ends of the area to be treated on roadways and right of ways. The signs will be of a size no smaller than 11" X 17" and will be installed no later than three (3) days prior to the application and will be removed no earlier than 1 day after the area is safe to enter. The signs will be in English and Spanish, and will contain the following information:
 - i. The date of the posting
 - ii. The name of the pesticide being applied
 - iii. The active ingredient(s)
 - iv. The purpose for the pesticide
 - v. The date(s) the area will be treated
 - vi. When the area will be safe to enter
 - vii. A contact name and phone number for concerns or questions.
 1. The contact must be able to provide copies of the SDS for any pesticide being applied

Attachment A
Site Specific Integrated Pest Management Plan

IPM Coordinator	
Site	
Specific Location (provide map if needed)	
Pest	
Date identified	
Monitoring frequency	
Threshold for action	
Prevention methods: (inspections, housekeeping, altering environment, barriers, etc.)	
Nonchemical control methods: (traps, mechanical removal, etc.)	
Pesticides used - only if no other effective measures are available:	
Evaluation of current method(s) used/Notes	
Suggestions for future improvements/actions needed to deter pests	

City of Morgan Hill
Integrated Pest Management Plan for Facilities, Parks, Streets and Open Space

Attachment B
Monthly Pesticide Use Report*

IPM Coordinator	
Month/Year	
Site/Location(s)	
Pesticide Name (commercial name and chemical)	
Quantity used in month	
Pest to be controlled	
Reason nonchemical methods were not used	
Pesticide Name (commercial name and chemical)	
Quantity used in month	
Pest to be controlled	
Reason nonchemical methods were not used	
Pesticide Name (commercial name and chemical)	
Quantity used in month	
Pest to be controlled	
Reason nonchemical methods were not used	

* send to IPM Plan Administrator

Document Control

Revision	Date of Revision	Changes from Previous
CMH.IPM.2015.a	8/21/2015	Added footer to include revision name, revision date and total pages. Added "Document Control" table (this table). Added "End of Document" statement.
CMH.IPM.2017	3/17/2017	Review. No Document Changes
CMH.IPM.2018	3/22/2018	Updated incorrect revision date on cover sheet (footer section stated August 21, 2015 on previous revision)
CMH.IPM.2019	2/13/2019	Removed information that previously indicated exempting water quality and sewer operations facilities. (Section I, paragraph 4) Included a statement noting the City does not provide IPM direction for private entities. (Section I, paragraph 4) Added typical pests and locations that the IPM addresses. (Section I, paragraph 5) Added contractor responsibilities. (Section IV. e.) Formatted document for consistency
CMH.IPM.2021	3/16/2021	Removed the word 'warning' from prohibited pesticides (Section V. d.) Added Section V. e. Limitations on Certain Pesticides

End of Document

BIDDER'S NAME: DRYCO Construction, Inc.REVISED BID SCHEDULE
dated 3/21/2024

2024 SEAL COAT & STRIPING PROJECT

Quantities shown are required for bid purposes and may or may not be final pay quantities. Actual quantities, if different, shall be substantiated during the Project by the Contractor (either by field measurement, trucking tags, or other means acceptable to the Engineer).

LS = Lump Sum

SF = Square Feet

LF = Linear Feet

EA = Each

#1 MORGAN HILL POLICE DEPARTMENT: 16200 Vineyard Boulevard

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
1	Mobilization	LS	na	300.00
2	Seal Coat of parking lots	46,755 SF	0.285	13,325.18
3	4" white lines (47 ea. @ 14')	658 LF	1.50	987.00
4	4" white lines (4 ea. @ 16')	64 LF	1.50	96.00
5	4" white lines (17 ea. @ 10')	56 LF	1.50	84.00
6	4" yellow lines (4 ea. @ 14')	56 LF	1.50	84.00
7	4" blue lines (ADA Parking)	81 LF	1.50	121.50
8	4" green lines (6 ea. @ 14')	84 LF	1.50	126.00
9	Hashed Area 4" white lines	713 LF	1.50	1,069.50
10	ADA Symbol	3 EA	200.00	600.00
11	"NO PARKING" Stencil 12"	2 EA	200.00	400.00
12	"SAFE EXCHANGE ZONE" Stencil 9"	3 EA	200.00	600.00
13	"SLOW" Stencil 36"	1 EA	200.00	200.00

14	Crack sealing	100 LF	1.00	100.00
15	EV Parking Stencil 24"	3 EA	200.00	600.00
16	Supplemental Work (City Estimate)*	LS	na	\$5,000
#1: Morgan Hill Police Department Bid Schedule Total				23,693.18

#2 THE VILLAS: 535 Alkire Avenue

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
1	Mobilization	LS	na	300.00
2	Seal Coat of parking lots	13,116 SF	0.285	3,738.06
3	4" white lines (25 ea. @ 18')	450 LF	1.50	675.00
4	Hashed Area 4" white lines	183 LF	1.50	274.50
5	4" blue Lines	44 LF	1.50	66.00
6	ADA Symbol	2 EA	250.00	500.00
7	Crack sealing	100 LF	1.00	100.00
8	Supplemental Work (City Estimate)*	LS	na	\$5,000
#2: Villas Bid Schedule Total				10,653.56

#3 LINEAR PARK TRAIL: Northbound Butterfield Boulevard from Fisher Avenue to East Central Avenue

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
1	Mobilization	LS	na	300.00
2	Seal Coat of trail	91,450 SF	0.285	26,063.25
3	Shared Use Trail, Passing Permitted 4" Yellow (Figure 9C-2)	9,145 LF	1.25	11,431.25
4	Crack sealing	100 LF	1.00	100.00
5	Supplemental Work (City Estimate)*	LS	na	\$5,000

#3: Linear Park Trail Bid Schedule Total	42,894.50
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GRAND TOTAL:	
#1 Morgan Hill Police Department + #2 Villas + #3 Linear Park Trail (Enter this number in Bid Proposal)	77,241.24

*The City of Morgan Hill is estimating a supplemental contingency of \$5,000 per site in the bid schedule. This supplemental work contingency would only be paid to the Contractor if supplemental work is authorized by the City and completed by the Contractor.

BID ALTERNATIVE #1 ON NEXT PAGE

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Cynthia Iwanaga, Management Analyst

APPROVED BY: City Manager

AWARD ON-CALL ELECTRICAL MAINTENANCE AND REPAIR SERVICE AGREEMENTS

RECOMMENDATION(S)

1. Award maintenance service agreements to MJR Electric, Inc. and One Day Installation & Repairs, Inc. for up to \$100,000 each for on-call electrical maintenance and repair services; and
2. Authorize the City Manager to execute and administer the agreements.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this report is to provide the City Council with an opportunity to consider awarding agreements to two electrical contractors for on-call services in the amount of \$100,000 each.

The City has contracted for electrical maintenance and repair services for many years on an on-call, as-needed basis as the City does not have the staffing resources to perform the work internally. As the City's current on-call electrical service agreements expire on June 30, 2024, a Request for Proposals (RFP) for on-call electrical maintenance and repair services was issued on February 27, 2024. All contractors responding to the RFP were required to be licensed electrical C-10 contractors by the California Contractor State Licensing Board (CSLB).

In soliciting proposals for this project, the City contacted contractors on the City's bidders' list with the CSLB C-10 electrical licensing classification. The RFP was also advertised in the Morgan Hill Times on February 23, 2024. The bids were posted on the City of Morgan Hill website, Public Purchase online bid service, County of Santa Clara Builders Exchange, Bay Area Builders Exchange, and San Francisco Builders

Exchange.

Three proposals were received in response to the RFP -- from MJR Electric, Inc., One Day Installation & Repairs, Inc., and JT Electric, Inc. JT Electric's proposal was incomplete and deemed non-responsive. Maintenance staff evaluated and scored the two responsive proposals based on each contractor's pricing, references, and narrative responses to questions regarding previous experience, work quality, client relations, and communication systems. Attached is a bid evaluation summary (Attachment #1). Based upon the scoring criteria, One Day Installation & Repairs scored the highest with 86.0 points and MJR Electric scored 69.6 points. The primary reason for the point difference was One Day Installation & Repairs' lower hourly rates.

Staff believes that having a contract with more than one electrical contractor is necessary in order to ensure there is adequate coverage for on-call electrical repair services and recommends awarding contracts to both firms. If approved by the City Council, the contract terms would begin on July 1, 2024 and end on June 30, 2026 with options to extend each agreement for three, one-year periods.

COMMUNITY ENGAGEMENT:

On-call electrical maintenance and repair is a routine and standard service provided at City facilities. Staff will post signage informing the public of any electrical maintenance repairs that affect the use of City facilities. If the electrical repairs will occur over several days, a general notice will be posted on the City's website, and on Nextdoor Morgan Hill informing residents of any disruptions to services at City facilities.

ALTERNATIVE ACTIONS:

An alternative action would be to approve a contract with only one firm. This would limit the City's options when repairs are needed, and may result in impacts to public services.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council previously awarded contracts for on-call electrical repair services on June 26, 2019, and these contracts are now expiring which necessitated this RFP process.

FISCAL AND RESOURCE IMPACT:

The electrical repair costs will be included in the recommended building maintenance budgets for city facilities and parks. The total not-to-exceed amount was set at \$100,000 to ensure that the contract maximum amounts do not restrict the City's capacity to obtain needed repairs in a timely manner in order to limit any disruption to services or public safety issues.

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.

2024 City of Morgan Hill On-Call Electricians Proposals Scoring

Narrative Scoring (60 points)	Points Available	MJR Electric	One Day Installation & Repair
Previous Experience in providing superior level service on like-sized public and/or private projects	20.0	15.0	16.0
Assessment of Work Quality, Performance and Working Relationships with Current and Recent Clients	15.0	13.0	11.0
Qualifications of Staff to be Assigned to Provide Electrical Services at City Facilities	10.0	8.0	7.0
Well Organized Communication Systems and Reporting Capabilities	15.0	13.0	12.0
Total Narrative Points (A)	60.0	49.0	46.0

Pricing Scoring (40 points)	Bid Pricing				Point Scoring		
	Price from Lowest Bidder	MJR Electric	One Day Installation & Repair		Points Available	MJR Electric	One Day Installation & Repair
Shop Rate Apprentice (M-F: 8am to 5 pm)	125.0	250.0	125.0		10.0	5.0	10.0
Shop Rate Journeyman (M-F: 8am to 5 pm)	175.0	300.0	175.0		10.0	5.8	10.0
Overtime Rate Apprentice (M-F: 5 pm to 8 am)	165.0	375.0	165.0		5.0	2.2	5.0
Overtime Rate Journeyman (M-F 5 pm to 8 am)	225.0	450.0	225.0		5.0	2.5	5.0
Saturday, Sunday and Holiday Rate-Apprentice	165.0	375.0	165.0		5.0	2.2	5.0
Saturday, Sunday and Holiday Rate- Journeyman	257.0	450.0	257.0		5.0	2.9	5.0
Total Pricing Points (B)					40.0	20.6	40.0

Point Score is lowest bidder's price divided by each of the bid pricing items times the number of points available.

GRAND TOTAL POINTS (A + B)	100.0	69.6	86.0
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MAINTENANCE SERVICE AGREEMENT
MJR Electric, Inc.

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and MJR Electric, Inc. a California corporation ("SERVICE PROVIDER") 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, 2026 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum of three one-year extensions. 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 SERVICE PROVIDER shall be on-call electrical maintenance and repair services as further described in **Exhibit A.**
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$100,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One-Hundred Thousand 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 SERVICE PROVIDER during that extended term period, 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 each subsequent extended one-year term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the immediately preceding prior year of service.
 - 4.2. **Billing.** SERVICE PROVIDER 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 SERVICE PROVIDER 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 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. 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 SERVICE PROVIDER 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, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager 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 SERVICE PROVIDER 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.

5.2. **Temporary Suspension of Services.** CITY'S need for services may be suspended due to unforeseeable or unavoidable circumstances beyond its control. Such circumstances include, but are not limited to, earthquake, fire, explosion, flood, or other natural catastrophe; governmental legislation, condemnation, acts, orders, or regulation; war or acts of terrorism; strikes or labor difficulties; and quarantine, epidemic, or pandemic. CITY shall provide a 5-days' written notice or less under urgent circumstances to temporarily suspend services at specific CITY facilities. CITY reserves the right to request which CITY facilities are to be serviced or not serviced due to unforeseeable or unavoidable circumstances; and the level of service at each CITY facility. Upon suspension, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid up to the date of the suspension. No further payments will be made for services provided after the date of the suspension. CITY shall provide 5 days' written notice when the circumstances for the suspension of specific facilities' services are removed for SERVICE PROVIDER to commence providing services.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state, and local laws. SERVICE PROVIDER is liable for any property damage caused by SERVICE PROVIDER or its Subcontractors during performance of the services and shall notify the CITY of damage within 24 hours of the occurrence. SERVICE PROVIDER must promptly repair or replace any real or personal property damage, and must promptly restore the property to its original or intended condition. CITY may repair or replace the real or personal property damage if SERVICE PROVIDER fails to do so, and the cost of the repairs or replacement may be deducted or offset from any compensation due to SERVICE PROVIDER.

6.1. **Schedule.** SERVICE PROVIDER 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. The 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.

6.2. Storage of Service Provider's Equipment. If SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER'S equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of the 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 SERVICE PROVIDER'S sole risk.

7. Hazardous Materials. Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, if SERVICE PROVIDER needs to use any material or chemical considered to be a hazardous material under any federal, state, or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal, or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

8. Insurance Requirements. SERVICE PROVIDER 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 SERVICE PROVIDER, 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. SERVICE PROVIDER further understands that CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to SERVICE PROVIDER, at any time as deemed necessary to protect the interests of CITY.

8.1. Insurance Types and Amounts.

8.1.1. Commercial General Liability (CGL). SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.2. Automobile Liability. SERVICE PROVIDER shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if SERVICE PROVIDER does not own automobiles, then SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.3. Workers' Compensation Insurance and Employer's Liability. SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If SERVICE PROVIDER is self-insured, SERVICE PROVIDER shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

8.1.4. Pollution (Environmental) Liability. If the performance of SERVICE PROVIDER'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, SERVICE PROVIDER shall procure and maintain Pollution Liability covering the SERVICE PROVIDER'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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5. Professional Liability.

8.1.5.1. If the performance of SERVICE PROVIDER'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), SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if SERVICE PROVIDER maintains a claims-made policy, SERVICE PROVIDER shall provide written evidence of such insurance to CITY for at least five (5) years after the completion of work performed under this Agreement.

8.1.5.2. If the performance of SERVICE PROVIDER'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), SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- 8.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of SERVICE PROVIDER'S work or service under this Agreement involves contact with minors, SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 8.2. Endorsements. SERVICE PROVIDER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:
- 8.2.1. General Liability and pollution liability (when pollution liability applies).
- 8.2.1.1. "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.
- 8.2.1.2. "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
- 8.2.1.3. "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.
- 8.2.2. Workers Compensation.
- If the performance of SERVICE PROVIDER'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, SERVICE PROVIDER'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.
- 8.3. 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.
- 8.4. Certificates. SERVICE PROVIDER 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, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with 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 8. 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

9. **Non-Liability of Officials and Employees of CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

10. **Compliance with Law.**

- 10.1. SERVICE PROVIDER 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. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon any basis prohibited by State or Federal law, including but not limited to, 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.
- 10.2. Without limiting the provisions of Section 10.1 above, each worker performing work under this Agreement shall be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. SERVICE PROVIDER shall post a copy of the applicable prevailing rates at the Worksite. Pursuant to Labor Code Section 1775, SERVICE PROVIDER and any Subcontractor shall forfeit to CITY as a penalty up to two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. SERVICE PROVIDER shall also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- 10.3. DIR Registration. CITY will not accept a Bid Proposal from or enter into a contract with a SERVICE PROVIDER, without first receiving proof to the satisfaction of CITY that SERVICE PROVIDER and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. Under Labor Code section 1771.4, this Agreement is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.
- 10.4. Compliance with Wage and Hour Laws: SERVICE PROVIDER, 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 SERVICE PROVIDER and/or its Subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER 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 SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER 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 SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER 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. SERVICE PROVIDER 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. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER 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, CITY reserves the right to withhold payment to SERVICE PROVIDER 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.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.

12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are

deemed confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.

13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

14. **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 SERVICE PROVIDER is as follows:

MJR Electric, Inc.
P.O. Box 668
Morgan Hill, CA 95038
Attn: Michael Rauschnot, President

Address of CITY is as follows:

Keri Russell, Maint. Manager	with a copy to:
City of Morgan Hill	City Clerk
17575 Peak Avenue	City of Morgan Hill
Morgan Hill, CA 95037	17575 Peak Avenue
	Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER 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.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'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.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER 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. SERVICE PROVIDER 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 SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER 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 CITY or as part of any audit of 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.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER 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 SERVICE PROVIDER 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 SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, 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.

21. **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.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER 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 SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER 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 or willful misconduct of CITY.

22.3. **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 SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **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 SERVICE PROVIDER 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.

23. **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 SERVICE PROVIDER. 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.

24. **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.

25. **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.

26. **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.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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.

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Signatures are on the following 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: _____

APPROVED AS TO FORM:

MJR ELECTRIC, INC.

City Attorney

By: _____

Donald A. Larkin
Print Name

Michael Rauschnot - President
Print Name and Title of Signer.

If Corporate: Chairman, President or
Vice President

Date: _____

Date: _____

By: _____

Nicholas Rauschnot - Secretary
Print Name and Title of Signer.

If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: _____

1000033504

439357

Contractor's License Number(s) (if applicable)

Contractor's DIR Registration Number(s) (if applicable)

Expiration Date(s) 05/31/2025

Expiration Date(s) 06/30/2024

EXHIBIT A SCOPE OF SERVICES

Contractor will provide full-service, on-call electrical maintenance and repair services at City facilities in compliance with all applicable laws, regulations, policies and procedures. Firms submitting bids must be prepared to immediately enter into a contract ("Agreement") for the services and duties as set forth in this RFP.

Services to be performed include the furnishing of all labor, materials, tools, equipment, supplies, services, tasks and incidental and customary work necessary to competently perform on-call electrical maintenance and repair work at various City facilities (see Attachment A).

The work will include the provision of a total maintenance and repair program consisting of a variety of tasks including, but not limited to, laying out, installing, replacing, wiring and testing electrical service and electrical wire systems and components used to provide heat, light, power, air conditioning, and refrigeration in municipal buildings and facilities. Services may also include installing and repairing conduit and other materials; connecting electrical machinery, equipment and controls and transmission systems and servicing other electrical related issues as they arise and services necessary to insure safe, well maintained electrical systems for City employees and the public. The scope and number of projects and tasks are unknown at the time of contract execution.

The Contractor shall leave work areas free of all dirt, litter, lubricants, or other materials utilized to perform electrical maintenance.

The Contractor shall erect barricades, warning signs, and any other devices to prevent unauthorized access by the public or unauthorized City staff to work areas.

The Contractor shall respond to all requests for repairs or unscheduled emergency repairs as required, 24 hours per day, 365 days per year, including holidays. All costs for labor and materials for these calls shall be included in the proposal. Response time by the Contractor shall be within four (4) hours of all requests.

The successful proposer will be responsible for providing labor, supervision, materials, equipment, transportation, service and the shop facilities necessary to perform high quality work. Contractor will also be responsible for discarding all used materials.

It is the intent of the City of Morgan Hill to identify and establish long term partnerships with highly qualified contractors. To achieve the best level of service, the City believes that the relationship must be based on mutual trust and respect. Teamwork, flexibility, and cooperation will be essential characteristics of the successful Contractor.

2-1 SCOPE OF SERVICE The Contractor shall provide full-service on-call electrical maintenance and repair services to City Facilities as outlined in this document. Contractor shall retain professional personnel who have successfully and competently provided municipal facility electrical maintenance and repair services on projects of similar scope and complexity. It shall be the Contractor's responsibility to effectively repair and maintain, to the satisfaction of the City representative, all aspects of electrical systems in City defined facilities with minimal downtime. All maintenance and repairs shall be provided in accordance with the

highest standards of the industry, skill, workmanship, applicable trade practices, shall meet warranties and be in conformance to all applicable laws, codes and regulations. The successful Contractor's electrical maintenance and repairs shall, at a minimum, include but not be limited to the specifications outlined herein.

2-2 SERVICES TO BE PROVIDED It is the Proposer's responsibility to provide an appropriate level of staffing and provide appropriate tools and vehicles necessary to support all facility electrical maintenance and repair functions during hours of operation and for response after normal working hours. Proposer shall maintain the appropriate license and will comply with all other license, insurance and permit requirements of the City, State and Federal governments, as well as all other requirements of the law.

2-3 TERM OF SERVICE The term of the contract will be from July 1, 2024 through June 30, 2026. The contract may be canceled or any portion thereof at any time during the term of service and such cancellations shall be effective upon giving thirty (30) days written notice. The City, at its option, may renew this contract for up to three, one year periods, beginning on July 1, 2026. This option will be exercised only if the contractor has demonstrated superior performance in provision of On-Call Electrical Maintenance and Repair Services to the City.

Pricing entries in the Bid Proposal apply to the period of July 1, 2024 to June 30, 2026. If the contract is renewed, a cost escalation will be reviewed each subsequent year beginning on July 1, 2026.

2-4 WORK HOURS Scheduled maintenance and repairs shall typically occur during normal business hours. Facility business hours are:

- Aquatics Center is open weekdays from 5:00 a.m. to 8:00 p. m., Saturdays from 7:00 a.m. to 1:00 p.m. (summer season to 6:30 p.m.), and Sundays 7:00 a.m. to 10:00am. (summer season to 6:30 p.m.).
- Centennial Recreation Center is an active facility on Weekdays from 5:00 a.m. to 9:30 p.m., Saturdays and Sundays from 6:30 a.m. to 5:00 p.m.
- City Hall is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- Chambers Building is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- The Community and Cultural Center is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- The Police Department is open Monday-Friday 8:00 a.m. – 5:30 p.m.
- The Public Works Corporation Yard is open Monday-Thursday 6:30 a.m. – 4:00 p.m. and Fridays from 6:30 a.m. - 3:00 p.m.
- The Villas are open Monday-Friday 8:00 a.m. – 5:00 p.m.
- Community Park Restrooms are open seven days a week 6:00 a.m. to 10:00 p.m.
- Galvan Park Restroom are open seven days a week 6:00 a.m. to 10:00 p.m.
- Railroad Park Restroom are open seven days a week 6:00 a.m. to 10:00 p.m.

2-5 SERVICE AVAILABILITY The contractor shall have trouble-call service available on a twenty-four hours a day, seven days a week basis with a response time not to exceed the following:

EMERGENCIES.....two-hour response time
NON-EMERGENCIES..... four-hour response time

Time to respond shall start when the City calls the problem into Contractor's designated emergency phone number. Additionally, the contractor shall provide the ability to respond

immediately to situations involving the health and safety of employees and/or the public and the comfort and operational capability of any public meeting space. Routine repairs, service requests or other non-urgent tasks shall be completed by journey level staff within one (1) working day from the date of request by City Representative. Contractor's inability to respond to emergencies in a timely manner will result in a penalty fee of \$100 per response.

2-6 TROUBLE-CALL/REPAIR SERVICE Should the City request the contractor to make unscheduled, emergency electrical system repairs, the City shall be responsible for labor and travel costs associated therewith. These costs, as listed in the proposal, will be a critical part of the bid evaluation in determining the lowest responsive and responsible contractor. Rates shall be firm for the term of the contract. The City reserves the right to contract with others for trouble calls and repairs.

2-7 BILLABLE WORK The Contractor shall not bill for unnecessary repairs, for repairs that were not completed satisfactorily, for repairs that did not fix an identified problem, or for facility visits that are made by staff unqualified to complete needed repairs.

2-8 STAFFING, WORKMANSHIP AND QUALITY LEVEL The Contractor shall provide a staffing level to perform on-call electrical maintenance and repair services at designated City facilities in a thorough and professional manner, so that the City is provided with reliable and high quality electrical maintenance at all times. The Contractor shall possess and maintain a C-10 General Electrical license by the State of California Contractors Licensing Board through the term of the contract. All personnel performing work under this Contract shall possess and maintain a state journeyman certification and be directly employed and supervised by the Contractor. Any assigned apprentice shall work directly under the supervision of a qualified journeyman. The Contractor shall provide management and technical supervision through competent supervisors as required. The Contractor shall be responsible for the skills, methods and actions of all employees, subcontractors and for all work done.

2-9 MAINTENANCE AND REPAIR LOCATIONS See Section 2-Attachment A

2-10 TOOLS AND EQUIPMENT The Contractor shall furnish and maintain all equipment necessary for properly servicing and maintaining electrical systems in City buildings. The City of Morgan Hill reserves the right to inspect equipment to be used to perform services under this contract. Any equipment determined to be in poor condition must be replaced immediately, at the contractor's expense. Failure to provide suitable equipment for carrying out all requirements of this contract may be grounds for termination.

2-11 PARTS AND MATERIALS The Contractor shall furnish all parts and materials necessary for properly maintaining and repairing electrical systems in City buildings. Mark-up on parts and materials may not exceed 10% of Contractor's cost. Invoices must identify the work performed, cost of labor, parts/materials used, parts/materials cost, and parts/materials mark-up cost.

2-12 INSPECTIONS AND REMEDIES So as to ensure consistent quality of the work being performed, the City Representative will perform periodic inspections of electrical systems to ensure compliance with the contract specifications. Inspections may be made by the City at any time to confirm that work performed meets specifications. If corrective work is required, the City will provide a written list of items and the Contractor shall correct deficiencies as directed. If deficiencies are not corrected in a timely manner, the City may perform the work using others and deduct the cost from the Contractor's payment.

2-13 DAMAGES The Contractor will be responsible for all damages to the facility or contents caused by Contractor, their staff or subcontractors during the performance of their duties.

2-14 SAFETY & SECURITY The Contractor and staff shall follow all established safety procedures and shall take special care not to endanger themselves and the public in any way. The Contractor is responsible for the security of all doors at the conclusion of work in each room. All exterior doors should remain locked at all times. Interior doors that are found open or unlocked shall be left in the same position/condition in which they were found.

2-15 FINGERPRINTING (Live Scan State of California Criminal Records Check): All Contractor staff who will be working on City facilities must pass a State of California Department of Justice (DOJ) Criminal Records and FBI Background Check at the contractor's expense. The background checks can be performed at a Live Scan State of California Criminal Records Check locations or at the City of Morgan Hill Police Department. If the Contractor chooses to complete the background check at the Morgan Hill Police Department, the fingerprinting appointments can be scheduled by calling 408-776-7300 or via online at <https://calendly.com/mhpdrecords/30min>. The Morgan Hill Police Department is located at 16200 Vineyard Boulevard, Morgan Hill. The total fee is currently \$69.00 per person (\$20.00 for PD appointment and \$32 for DOJ check and \$17 for FBI check) payable at the time of the appointment. The Contractor is responsible for providing the City of Morgan Hill with updated records check information for their employees.

2-16 EMERGENCY SITUATIONS For medical or public safety emergencies occurring at the Facilities call 9-1-1. For all building maintenance emergencies (water leaks, etc.) contact the Maintenance Manager or designated staff to report the issue immediately (24-hours/day).

2-17 REPORTS / INVOICING

All invoices should include a detailed summary of all work and repairs performed. Should a repair need to be made over \$1,000 a quote will need to be provided to the City before any work can be authorized.

ATTACHMENT A

MUNICIPAL FACILITIES LOCATIONS

ELECTRICAL SYSTEMS TO BE MAINTAINED AT THESE LOCATIONS

BUILDING/FACILITY	ADDRESS	SQUARE FOOTAGE
Aquatics Center (office area)	16200 Condit Road	5,294
Centennial Recreation Center	171 West Edmundson Avenue	25,135
City Hall	17575 Peak Avenue	13,900
Community and Cultural Center and Playhouse	17000 Monterey Road	20,500; 5,000
Council Chamber Building	17555 Peak Avenue	12,104
Police Department	16200 Vineyard Boulevard	43,286
Public Works Corporation Yard	100 Edes Court	4,583
The Villas	535 Alkire Avenue	4,500
Dunne Hill Fire Station	2100 East Dunne Avenue	
El Toro Fire Station	18300 Old Monterey Road	

All other parks and City-owned properties

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Please see hourly rates on the next page

ATTACHMENT A COST SCHEDULE

Electrical On-Call Maintenance Services at Morgan Hill City Facilities*

Name of Contractor: MJR Electric

Base Bid Item #	Item	Hourly Rate	Comments
1.	Shop Rate for Electrical Services – Apprentice (8:00 a.m. to 5:00 p.m.)	\$ \$250	
2.	Shop Rate for Electrical Services- Journeyman (8:00 a.m. to 5:00 p.m.)	\$ \$300	
3.	Shop Rate for Other Electrical Services- Describe in Comments Section	\$ n/a	
4.	Overtime Rate for Electrical Services- Apprentice (5:00 p.m. to 8:00 a.m.)	\$ \$375	
5.	Overtime Rate for Electrical Services- Journeyman (5:00 p.m. to 8:00 a.m.)	\$ \$450	
6.	Other Overtime Rate – Describe in Comments Section	\$ n/a	
7.	Saturday, Sunday and Holiday Rate- Apprentice	\$ \$375	
8.	Saturday, Sunday and Holiday Rate- Journeyman	\$ \$450	

*Please attach a separate "Equipment Rate Schedule": Describe Equipment Hourly Rate or Flat Rate

THIS FORM MUST BE USED WHEN SUBMITTING PROPOSAL

EXHIBIT C
SCHEDULE OF PERFORMANCE

Services to be scheduled on an on-call basis with City Maintenance Staff.

MAINTENANCE SERVICE AGREEMENT
One Day Installation & Repairs, Inc.

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and One Day Installation & Repairs, Inc. a California corporation ("SERVICE PROVIDER") 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, 2026 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum of three one-year extensions. 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 SERVICE PROVIDER shall be on-call electrical maintenance and repair services as further described in **Exhibit A.**
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$100,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One-Hundred Thousand 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 SERVICE PROVIDER during that extended term period, 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 each subsequent extended one-year term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the immediately preceding prior year of service.
 - 4.2. **Billing.** SERVICE PROVIDER 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 SERVICE PROVIDER 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 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. 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 SERVICE PROVIDER 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, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager 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 SERVICE PROVIDER 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.

5.2. **Temporary Suspension of Services.** CITY'S need for services may be suspended due to unforeseeable or unavoidable circumstances beyond its control. Such circumstances include, but are not limited to, earthquake, fire, explosion, flood, or other natural catastrophe; governmental legislation, condemnation, acts, orders, or regulation; war or acts of terrorism; strikes or labor difficulties; and quarantine, epidemic, or pandemic. CITY shall provide a 5-days' written notice or less under urgent circumstances to temporarily suspend services at specific CITY facilities. CITY reserves the right to request which CITY facilities are to be serviced or not serviced due to unforeseeable or unavoidable circumstances; and the level of service at each CITY facility. Upon suspension, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid up to the date of the suspension. No further payments will be made for services provided after the date of the suspension. CITY shall provide 5 days' written notice when the circumstances for the suspension of specific facilities' services are removed for SERVICE PROVIDER to commence providing services.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state, and local laws. SERVICE PROVIDER is liable for any property damage caused by SERVICE PROVIDER or its Subcontractors during performance of the services and shall notify the CITY of damage within 24 hours of the occurrence. SERVICE PROVIDER must promptly repair or replace any real or personal property damage, and must promptly restore the property to its original or intended condition. CITY may repair or replace the real or personal property damage if SERVICE PROVIDER fails to do so, and the cost of the repairs or replacement may be deducted or offset from any compensation due to SERVICE PROVIDER.

6.1. **Schedule.** SERVICE PROVIDER 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. The 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.

- 6.2. **Storage of Service Provider's Equipment.** If SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER'S equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of the 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 SERVICE PROVIDER'S sole risk.

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, if SERVICE PROVIDER needs to use any material or chemical considered to be a hazardous material under any federal, state, or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal, or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

8. **Insurance Requirements.** SERVICE PROVIDER 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 SERVICE PROVIDER, 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. SERVICE PROVIDER further understands that CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to SERVICE PROVIDER, at any time as deemed necessary to protect the interests of CITY.

8.1. **Insurance Types and Amounts.**

- 8.1.1. **Commercial General Liability (CGL).** SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 8.1.2. **Automobile Liability.** SERVICE PROVIDER shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if SERVICE PROVIDER does not own automobiles, then SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.3. Workers' Compensation Insurance and Employer's Liability. SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If SERVICE PROVIDER is self-insured, SERVICE PROVIDER shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

8.1.4. Pollution (Environmental) Liability. If the performance of SERVICE PROVIDER'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, SERVICE PROVIDER shall procure and maintain Pollution Liability covering the SERVICE PROVIDER'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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5. Professional Liability.

8.1.5.1. If the performance of SERVICE PROVIDER'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), SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if SERVICE PROVIDER maintains a claims-made policy, SERVICE PROVIDER shall provide written evidence of such insurance to CITY for at least five (5) years after the completion of work performed under this Agreement.

8.1.5.2. If the performance of SERVICE PROVIDER'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), SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- 8.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of SERVICE PROVIDER'S work or service under this Agreement involves contact with minors, SERVICE PROVIDER 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 SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 8.2. **Endorsements**. SERVICE PROVIDER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:
- 8.2.1. General Liability and pollution liability (when pollution liability applies).
- 8.2.1.1. "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.
- 8.2.1.2. "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
- 8.2.1.3. "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.
- 8.2.2. Workers Compensation.
- If the performance of SERVICE PROVIDER'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, SERVICE PROVIDER'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.
- 8.3. **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.
- 8.4. **Certificates**. SERVICE PROVIDER 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, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with 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 8. 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

9. **Non-Liability of Officials and Employees of CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

10. **Compliance with Law.**

- 10.1. SERVICE PROVIDER 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. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon any basis prohibited by State or Federal law, including but not limited to, 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.
- 10.2. Without limiting the provisions of Section 10.1 above, each worker performing work under this Agreement shall be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. SERVICE PROVIDER shall post a copy of the applicable prevailing rates at the Worksite. Pursuant to Labor Code Section 1775, SERVICE PROVIDER and any Subcontractor shall forfeit to CITY as a penalty up to two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. SERVICE PROVIDER shall also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- 10.3. DIR Registration. CITY will not accept a Bid Proposal from or enter into a contract with a SERVICE PROVIDER, without first receiving proof to the satisfaction of CITY that SERVICE PROVIDER and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. Under Labor Code section 1771.4, this Agreement is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.
- 10.4. Compliance with Wage and Hour Laws: SERVICE PROVIDER, 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 SERVICE PROVIDER and/or its Subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER 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 SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER 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 SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER 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. SERVICE PROVIDER 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. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER 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, CITY reserves the right to withhold payment to SERVICE PROVIDER 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.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.

12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are

deemed confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.

13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

14. **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 SERVICE PROVIDER is as follows:

One Day Installation & Repairs, Inc.
482 Reynolds Circle
San Jose, CA 95112
Attn: Gabriel V. Valencia, President/CEO

Address of CITY is as follows:

Keri Russell, Maintenance Manager	with a copy to: City Clerk
City of Morgan Hill	City of Morgan Hill
17575 Peak Avenue	17575 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER 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.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'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.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER 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. SERVICE PROVIDER 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 SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER 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 CITY or as part of any audit of 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.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER 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 SERVICE PROVIDER 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 SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, 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.

21. **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.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER 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 SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER 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 or willful misconduct of CITY.

22.3. **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 SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **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 SERVICE PROVIDER 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.

23. **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 SERVICE PROVIDER. 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.

24. **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.

25. **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.

26. **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.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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 are on the following 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: _____

APPROVED AS TO FORM:

ONE DAY INSTALLATION & REPAIRS, INC.

City Attorney

By:

Donald A. Larkin
Print Name

Print Name and Title of Signer.
If Corporate: Chairman, President or
Vice President

Date: _____

Date: _____

By:

Print Name and Title of Signer.
If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: _____

890565
Contractor's License Number(s) (if applicable)

1000024655
Contractor's DIR Registration Number(s) (if applicable)

Expiration Date(s) 02/28/2025

Expiration Date(s) 06/30/2025

EXHIBIT A SCOPE OF SERVICES

Contractor will provide full-service, on-call electrical maintenance and repair services at City facilities in compliance with all applicable laws, regulations, policies and procedures. Firms submitting bids must be prepared to immediately enter into a contract ("Agreement") for the services and duties as set forth in this RFP.

Services to be performed include the furnishing of all labor, materials, tools, equipment, supplies, services, tasks and incidental and customary work necessary to competently perform on-call electrical maintenance and repair work at various City facilities (see Attachment A).

The work will include the provision of a total maintenance and repair program consisting of a variety of tasks including, but not limited to, laying out, installing, replacing, wiring and testing electrical service and electrical wire systems and components used to provide heat, light, power, air conditioning, and refrigeration in municipal buildings and facilities. Services may also include installing and repairing conduit and other materials; connecting electrical machinery, equipment and controls and transmission systems and servicing other electrical related issues as they arise and services necessary to insure safe, well maintained electrical systems for City employees and the public. The scope and number of projects and tasks are unknown at the time of contract execution.

The Contractor shall leave work areas free of all dirt, litter, lubricants, or other materials utilized to perform electrical maintenance.

The Contractor shall erect barricades, warning signs, and any other devices to prevent unauthorized access by the public or unauthorized City staff to work areas.

The Contractor shall respond to all requests for repairs or unscheduled emergency repairs as required, 24 hours per day, 365 days per year, including holidays. All costs for labor and materials for these calls shall be included in the proposal. Response time by the Contractor shall be within four (4) hours of all requests.

The successful proposer will be responsible for providing labor, supervision, materials, equipment, transportation, service and the shop facilities necessary to perform high quality work. Contractor will also be responsible for discarding all used materials.

It is the intent of the City of Morgan Hill to identify and establish long term partnerships with highly qualified contractors. To achieve the best level of service, the City believes that the relationship must be based on mutual trust and respect. Teamwork, flexibility, and cooperation will be essential characteristics of the successful Contractor.

2-1 SCOPE OF SERVICE The Contractor shall provide full-service on-call electrical maintenance and repair services to City Facilities as outlined in this document. Contractor shall retain professional personnel who have successfully and competently provided municipal facility electrical maintenance and repair services on projects of similar scope and complexity. It shall be the Contractor's responsibility to effectively repair and maintain, to the satisfaction of the City representative, all aspects of electrical systems in City defined facilities with minimal downtime. All maintenance and repairs shall be provided in accordance with the

highest standards of the industry, skill, workmanship, applicable trade practices, shall meet warranties and be in conformance to all applicable laws, codes and regulations. The successful Contractor's electrical maintenance and repairs shall, at a minimum, include but not be limited to the specifications outlined herein.

2-2 SERVICES TO BE PROVIDED It is the Proposer's responsibility to provide an appropriate level of staffing and provide appropriate tools and vehicles necessary to support all facility electrical maintenance and repair functions during hours of operation and for response after normal working hours. Proposer shall maintain the appropriate license and will comply with all other license, insurance and permit requirements of the City, State and Federal governments, as well as all other requirements of the law.

2-3 TERM OF SERVICE The term of the contract will be from July 1, 2024 through June 30, 2026. The contract may be canceled or any portion thereof at any time during the term of service and such cancellations shall be effective upon giving thirty (30) days written notice. The City, at its option, may renew this contract for up to three, one year periods, beginning on July 1, 2026. This option will be exercised only if the contractor has demonstrated superior performance in provision of On-Call Electrical Maintenance and Repair Services to the City.

Pricing entries in the Bid Proposal apply to the period of July 1, 2024 to June 30, 2026. If the contract is renewed, a cost escalation will be reviewed each subsequent year beginning on July 1, 2026.

2-4 WORK HOURS Scheduled maintenance and repairs shall typically occur during normal business hours. Facility business hours are:

- Aquatics Center is open weekdays from 5:00 a.m. to 8:00 p. m., Saturdays from 7:00 a.m. to 1:00 p.m. (summer season to 6:30 p.m.), and Sundays 7:00 a.m. to 10:00am. (summer season to 6:30 p.m.).
- Centennial Recreation Center is an active facility on Weekdays from 5:00 a.m. to 9:30 p.m., Saturdays and Sundays from 6:30 a.m. to 5:00 p.m.
- City Hall is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- Chambers Building is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- The Community and Cultural Center is open Monday-Friday 8:00 a.m. – 5:00 p.m.
- The Police Department is open Monday-Friday 8:00 a.m. – 5:30 p.m.
- The Public Works Corporation Yard is open Monday-Thursday 6:30 a.m. – 4:00 p.m. and Fridays from 6:30 a.m. - 3:00 p.m.
- The Villas are open Monday-Friday 8:00 a.m. – 5:00 p.m.
- Community Park Restrooms are open seven days a week 6:00 a.m. to 10:00 p.m.
- Galvan Park Restroom are open seven days a week 6:00 a.m. to 10:00 p.m.
- Railroad Park Restroom are open seven days a week 6:00 a.m. to 10:00 p.m.

2-5 SERVICE AVAILABILITY The contractor shall have trouble-call service available on a twenty-four hours a day, seven days a week basis with a response time not to exceed the following:

EMERGENCIES.....two-hour response time
NON-EMERGENCIES..... four-hour response time

Time to respond shall start when the City calls the problem into Contractor's designated emergency phone number. Additionally, the contractor shall provide the ability to respond

immediately to situations involving the health and safety of employees and/or the public and the comfort and operational capability of any public meeting space. Routine repairs, service requests or other non-urgent tasks shall be completed by journey level staff within one (1) working day from the date of request by City Representative. Contractor's inability to respond to emergencies in a timely manner will result in a penalty fee of \$100 per response.

2-6 TROUBLE-CALL/REPAIR SERVICE Should the City request the contractor to make unscheduled, emergency electrical system repairs, the City shall be responsible for labor and travel costs associated therewith. These costs, as listed in the proposal, will be a critical part of the bid evaluation in determining the lowest responsive and responsible contractor. Rates shall be firm for the term of the contract. The City reserves the right to contract with others for trouble calls and repairs.

2-7 BILLABLE WORK The Contractor shall not bill for unnecessary repairs, for repairs that were not completed satisfactorily, for repairs that did not fix an identified problem, or for facility visits that are made by staff unqualified to complete needed repairs.

2-8 STAFFING, WORKMANSHIP AND QUALITY LEVEL The Contractor shall provide a staffing level to perform on-call electrical maintenance and repair services at designated City facilities in a thorough and professional manner, so that the City is provided with reliable and high quality electrical maintenance at all times. The Contractor shall possess and maintain a C-10 General Electrical license by the State of California Contractors Licensing Board through the term of the contract. All personnel performing work under this Contract shall possess and maintain a state journeyman certification and be directly employed and supervised by the Contractor. Any assigned apprentice shall work directly under the supervision of a qualified journeyman. The Contractor shall provide management and technical supervision through competent supervisors as required. The Contractor shall be responsible for the skills, methods and actions of all employees, subcontractors and for all work done.

2-9 MAINTENANCE AND REPAIR LOCATIONS See Section 2-Attachment A

2-10 TOOLS AND EQUIPMENT The Contractor shall furnish and maintain all equipment necessary for properly servicing and maintaining electrical systems in City buildings. The City of Morgan Hill reserves the right to inspect equipment to be used to perform services under this contract. Any equipment determined to be in poor condition must be replaced immediately, at the contractor's expense. Failure to provide suitable equipment for carrying out all requirements of this contract may be grounds for termination.

2-11 PARTS AND MATERIALS The Contractor shall furnish all parts and materials necessary for properly maintaining and repairing electrical systems in City buildings. Mark-up on parts and materials may not exceed 10% of Contractor's cost. Invoices must identify the work performed, cost of labor, parts/materials used, parts/materials cost, and parts/materials mark-up cost.

2-12 INSPECTIONS AND REMEDIES So as to ensure consistent quality of the work being performed, the City Representative will perform periodic inspections of electrical systems to ensure compliance with the contract specifications. Inspections may be made by the City at any time to confirm that work performed meets specifications. If corrective work is required, the City will provide a written list of items and the Contractor shall correct deficiencies as directed. If deficiencies are not corrected in a timely manner, the City may perform the work using others and deduct the cost from the Contractor's payment.

2-13 DAMAGES The Contractor will be responsible for all damages to the facility or contents caused by Contractor, their staff or subcontractors during the performance of their duties.

2-14 SAFETY & SECURITY The Contractor and staff shall follow all established safety procedures and shall take special care not to endanger themselves and the public in any way. The Contractor is responsible for the security of all doors at the conclusion of work in each room. All exterior doors should remain locked at all times. Interior doors that are found open or unlocked shall be left in the same position/condition in which they were found.

2-15 FINGERPRINTING (Live Scan State of California Criminal Records Check): All Contractor staff who will be working on City facilities must pass a State of California Department of Justice (DOJ) Criminal Records and FBI Background Check at the contractor's expense. The background checks can be performed at a Live Scan State of California Criminal Records Check locations or at the City of Morgan Hill Police Department. If the Contractor chooses to complete the background check at the Morgan Hill Police Department, the fingerprinting appointments can be scheduled by calling 408-776-7300 or via online at <https://calendly.com/mhpdrecords/30min>. The Morgan Hill Police Department is located at 16200 Vineyard Boulevard, Morgan Hill. The total fee is currently \$69.00 per person (\$20.00 for PD appointment and \$32 for DOJ check and \$17 for FBI check) payable at the time of the appointment. The Contractor is responsible for providing the City of Morgan Hill with updated records check information for their employees.

2-16 EMERGENCY SITUATIONS For medical or public safety emergencies occurring at the Facilities call 9-1-1. For all building maintenance emergencies (water leaks, etc.) contact the Maintenance Manager or designated staff to report the issue immediately (24-hours/day).

2-17 REPORTS / INVOICING

All invoices should include a detailed summary of all work and repairs performed. Should a repair need to be made over \$1,000 a quote will need to be provided to the City before any work can be authorized.

ATTACHMENT A

MUNICIPAL FACILITIES LOCATIONS

ELECTRICAL SYSTEMS TO BE MAINTAINED AT THESE LOCATIONS

BUILDING/FACILITY	ADDRESS	SQUARE FOOTAGE
Aquatics Center (office area)	16200 Condit Road	5,294
Centennial Recreation Center	171 West Edmundson Avenue	25,135
City Hall	17575 Peak Avenue	13,900
Community and Cultural Center and Playhouse	17000 Monterey Road	20,500; 5,000
Council Chamber Building	17555 Peak Avenue	12,104
Police Department	16200 Vineyard Boulevard	43,286
Public Works Corporation Yard	100 Edes Court	4,583
The Villas	535 Alkire Avenue	4,500
Dunne Hill Fire Station	2100 East Dunne Avenue	
El Toro Fire Station	18300 Old Monterey Road	

All other parks and City-owned properties

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Please see hourly rates on the next page

ATTACHMENT A COST SCHEDULE

Electrical On-Call Maintenance Services at Morgan Hill City Facilities*

Name of Contractor: One Day Installation and Repairs, Inc.

Base Bid Item #	Item	Hourly Rate	Comments
1.	Shop Rate for Electrical Services – Apprentice (8:00 a.m. to 5:00 p.m.)	\$ \$125.00	
2.	Shop Rate for Electrical Services- Journeyman (8:00 a.m. to 5:00 p.m.)	\$ 175.00	
3.	Shop Rate for Other Electrical Services- Describe in Comments Section	\$ 175.00	
4.	Overtime Rate for Electrical Services- Apprentice (5:00 p.m. to 8:00 a.m.)	\$ \$165.00	
5.	Overtime Rate for Electrical Services- Journeyman (5:00 p.m. to 8:00 a.m.)	\$ \$225.00	
6.	Other Overtime Rate – Describe in Comments Section	\$ \$225.00	
7.	Saturday, Sunday and Holiday Rate- Apprentice	\$ \$165.00	
8.	Saturday, Sunday and Holiday Rate- Journeyman	\$ \$257.00	

***Please attach a separate “Equipment Rate Schedule”: Describe Equipment Hourly Rate or Flat Rate**

THIS FORM MUST BE USED WHEN SUBMITTING PROPOSAL

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

Services to be scheduled on an on-call basis with City Maintenance Staff.

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Hilary Holeman, Administrative Analyst

APPROVED BY: City Manager

RATIFY CITY POSITION ON PENDING LEGISLATION, ASSEMBLY BILL 3035 (PELLERIN) AGRICULTURAL EMPLOYEE HOUSING: STREAMLINED MINISTERIAL APPROVAL: COUNTIES OF SANTA CLARA AND SANTA CRUZ

RECOMMENDATION(S)

Ratify the City's support position on pending legislation, Assembly Bill 3035 (Pellerin) Agricultural employee housing: streamlined ministerial approval: Counties of Santa Clara and Santa Cruz.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety and Quality of Life
Supporting our Youth, Seniors, and Entire Community
Preserving and Cultivating Public Trust
Advocating for Local, Regional, and State Legislative Initiatives

2024-2025 Strategic Priorities

Affordable Housing and Homelessness
Healthy Community

REPORT NARRATIVE:

Per Resolution No. 20-010 (attachment 1), the City Council recognizes occasional situations arise where communication indicating support or opposition on pending State, County, or other regional boards' legislation or action that could be important and may occur prior to the next scheduled City Council meeting. Under these circumstances, the Mayor or City Manager is delegated the authority to prepare, execute and transmit written or verbal communications indicating a City's position when any of the following criteria are met: a) the League of California Cities, or a similar organization, has requested the City to comment or take a position, b) the timing to express a position occurs prior to the next scheduled Council meeting, or c) the pending State, County, or other regional boards' legislation or action clearly supports or clearly hinders the implementation or fulfillment of an adopted City Council Priority, Goal, or Strategy in a substantial manner such that it is in the best interest of the City to indicate its comment or position. When this occurs, a written report to the City Council for acceptance is required at the next possible meeting.

Assembly Bill 3035 (attachment 2) authored by Assembly Member Pellerin expands, in the counties of Santa Clara and Santa Cruz, the existing streamlined, ministerial approval process for farmworker housing established by AB 1783 (Rivas). Specifically, this bill:

1. Allows, in the Counties of Santa Clara and Santa Cruz, the streamlined, ministerial approval process for farmworker housing established by AB 1783 to apply to agricultural housing developments of 150 units or fewer and within 15 miles of an area designated as farmland or grazing by the Department of Conservation.
2. Specifies an eligible agricultural employee housing development under these provisions may not be ineligible for state funding pursuant to a specified provision of the Joe Serna, Jr., Farmworker Housing Grant Program, which prohibits funding under that program to an agricultural employer or farm labor contractor who employs at least one H-2A worker, as specified, and would make additional clarifying changes.

On April 11, 2024, the County of Santa Clara, Office of the County Executive, requested the City send a letter of support prior to the Assembly Housing and Community Development Committee meeting on April 24, 2024. On April 17, 2024, the Mayor communicated the City's support of AB 3035 (attachment 3).

COMMUNITY ENGAGEMENT:

Inform - this report serves to inform the Community of the City's position on pending legislation that may directly impact the City of Morgan Hill.

ALTERNATIVE ACTIONS:

The City Council could rescind the position taken.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

City Council periodically ratifies 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:

Tracking legislation is an activity included in the annual workplan of the City Manager's Office.

CEQA (California Environmental Quality Act):

Not a Project - administrative action/activity without an impact.

RESOLUTION NO. 20-010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE MAYOR OR CITY MANAGER TO PREPARE, EXECUTE AND TRANSMIT COMMUNICATIONS INDICATING A POSITION ON PROPOSED STATE, COUNTY, OR OTHER REGIONAL BOARDS' LEGISLATION OR ACTION ON CERTAIN MATTERS THAT MAY HAVE IMPACTS UPON THE CITY IN CERTAIN CIRCUMSTANCES AND DIRECTING A REPORT BACK TO CITY COUNCIL ON ANY SUCH COMMUNICATIONS TRANSMITTED. (THIS RESOLUTION RESCINDS RESOLUTION NO. 6851)

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 indicate City's position on proposed legislation of the State of California and is sometimes requested to so indicate City's position on such legislation for the benefit of the City; and

WHEREAS, the reasons supporting the adoption of this Resolution are set forth in detail in that certain City Council Staff Report submitted for City Council consideration at its meeting of February 5, 2020, 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 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 prefers, whenever possible, that determinations on whether to take a position on pending State, County, or other regional boards' legislation or action be brought before the City Council as a whole for consideration and action. However, the City Council recognizes that occasional, limited situations arise where communications indicating support or opposition on pending State, County, or other regional boards' legislation or action that could be important to City are requested from cities within timeframes that have deadlines occurring prior to the next scheduled meeting of the City Council as a whole at which the City Council could consider and determine City's position on such pending legislation. For these reasons, the City Council does further resolve, order and/or direct as follows:

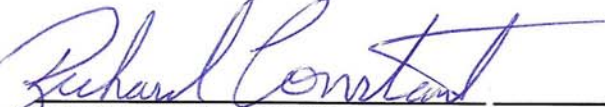
- a. That the Mayor and/or the City Manager is delegated authority to and is authorized to prepare, execute and transmit written or verbal communications indicating a City position on proposed pending State, County or other regional boards' legislation or action that may have impacts upon City when any of the following criteria are met:
 - i. The League of California Cities, or a successor or similar organization, has requested City comment or position on a piece of pending legislation or action, or the City has otherwise become aware of such pending legislation or action;
 - ii. A public hearing and an opportunity for City to comment or take a position upon such pending legislation or action is occurring in a timeframe and with a deadline to comment or express a position that occurs prior to the next scheduled meeting of the City Council at which the City Council could consider and determine City's comment or position on such pending legislation or action; or
 - iii. The pending legislation or action clearly supports or clearly hinders the implementation or fulfillment of an adopted City Council Priority, Goal or Strategy in a substantial manner such that it is in the best interests of City to indicate its comment or position on such pending legislation or action.
- b. That the Mayor and/or City Manager is hereby directed to provide a written report to the City Council for the Council's comment and acceptance at the City Council's next possible meeting whenever the Mayor or City Manager prepares, executes and transmits a communication indicating a comment or position on pending legislation or action pursuant to the authority delegated under this Resolution, which report shall include a copy of such pending legislation or action, and the comment or position transmitted.

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 5th day of February 2020 by the following vote:

AYES:	COUNCIL MEMBERS:	Yvonne Martinez Beltran, Rene Spring, John McKay, Larry Carr, Rich Constantine
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:



RICH CONSTANTINE, Mayor

ATTEST:



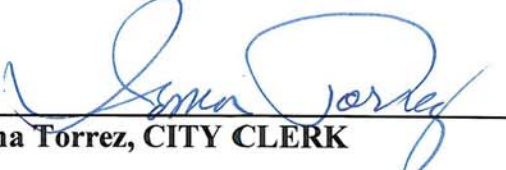
IRMA TORREZ, City Clerk

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 20-010, adopted by the City Council at the meeting held on the 5th day of February 2020.

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

DATE: 3/3/2020



Irma Torrez, CITY CLERK



AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 3035

Introduced by Assembly Member Pellerin
(Principal coauthors: Assembly Members Kalra, Lee, and
Robert Rivas)

February 16, 2024

An act to amend Section 17021.8 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 3035, as amended, Pellerin. ~~Agricultural employees; employee housing; streamlined, ministerial approval; Counties of Santa Clara and Santa Cruz.~~

Existing law, the Employee Housing Act, generally regulates employee housing, as defined. Among other things, the act authorizes a development proponent to submit an application for a development that is subject to a streamlined, ministerial process, as specified, and is not subject to a conditional use permit if certain requirements are met, including that the development is located on land designated as agricultural in the applicable city or county general plan, and that the development is an eligible agricultural employee housing development. The act defines eligible agricultural housing development as, among other things, an agricultural employee housing development that consists of no more than 36 units or spaces designed for use by a single family or household and is not ineligible for state funding under a provision that prohibits state funding from being provided to an employer who employs at least one H-2A worker, as specified.

This bill would additionally authorize a development proponent to submit an application for a development that would subject to the above-described conditions, if the development is located on land in the County of Santa Clara or the County of Santa Cruz that is within 15 miles of an area designated as farmland or grazing by the Department of Conservation. The bill would also increase the maximum number of units in an eligible agricultural employee housing development from 36 units to 150 units if the development is located with the County of Santa Clara or the County of Santa Cruz. The bill would also specify that an eligible agricultural employee housing development under these provisions may not be ineligible for state funding pursuant to a specified provision of the Joe Serna, Jr., Farmworker Housing Grant Program, which prohibits funding under that program to an agricultural employer or farm labor contractor who employs at least one H-2A worker, as specified, and would make additional clarifying changes. By expanding the scope of housing developments eligible for approval under these provisions, thereby increasing the duties of local officials, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Santa Clara and the County of Santa Cruz.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the Department of Housing and Community Development to establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds, there are made to local public entities, nonprofit corporations, limited liability companies, and limited partnerships, among other things, loans for the construction or rehabilitation of rental housing for lower income agricultural employees and their families, including the cost of acquiring the land and any building related thereto and constructing or rehabilitating-related support facilities necessary to the housing, as specified.~~

~~This bill would express the intent of the Legislature to enact legislation that would relate to promoting the development of farmworker housing.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17021.8 of the Health and Safety Code
2 is amended to read:
3 17021.8. (a) A development proponent may submit an
4 application for a development that is subject to a streamlined,
5 ministerial approval process, provided in subdivision (b), and is
6 not subject to a conditional use permit if all of the following
7 requirements are met:
8 (1) The development is located on land ~~designated that meets~~
9 one of the following:
10 (A) Is designated as agricultural in the applicable city or county
11 general plan.
12 (B) Is located in the County of Santa Clara or the County of
13 Santa Cruz and is within 15 miles of an area designated as
14 farmland or grazing by the Department of Conservation.
15 (2) The development is not located on a site that is any of the
16 following:
17 (A) Within the coastal zone, as defined in Division 20
18 (commencing with Section 30000) of the Public Resources Code.
19 (B) Wetlands, as defined in the United States Fish and Wildlife
20 Service Manual, Part 660 FW 2 (June 21, 1993).
21 (C) Within a very high fire hazard severity zone, as determined
22 by the Department of Forestry and Fire Protection pursuant to
23 Section 51178 of the Government Code, or within a high or very
24 high fire hazard severity zone as indicated on maps adopted by
25 the Department of Forestry and Fire Protection pursuant to Section
26 4202 of the Public Resources Code.
27 (D) A hazardous waste site that is listed pursuant to Section
28 65962.5 of the Government Code or a hazardous waste site
29 designated by the Department of Toxic Substances Control
30 pursuant to Article 5 (commencing with Section 78760) of Chapter
31 4 of Part 2 of Division 45, unless the Department of Toxic
32 Substances Control has cleared the site for residential use or
33 residential mixed uses.
34 (E) Within a delineated earthquake fault zone as determined by
35 the State Geologist in any official maps published by the State

1 Geologist, unless the development complies with applicable seismic
2 protection building code standards adopted by the California
3 Building Standards Commission under the California Building
4 Standards Law (Part 2.5 (commencing with Section 18901)), and
5 by any local building department under Chapter 12.2 (commencing
6 with Section 8875) of Division 1 of Title 2 of the Government
7 Code.

8 (F) Within a flood plain as determined by maps promulgated
9 by the Federal Emergency Management Agency, unless the
10 development has been issued a flood plain development permit
11 pursuant to Part 59 (commencing with Section 59.1) and Part 60
12 (commencing with Section 60.1) of Subchapter B of Chapter I of
13 Title 44 of the Code of Federal Regulations.

14 (G) Within a floodway as determined by maps promulgated by
15 the Federal Emergency Management Agency.

16 (H) Lands identified for conservation in an adopted natural
17 community conservation plan pursuant to the Natural Community
18 Conservation Planning Act (Chapter 10 (commencing with Section
19 2800) of Division 3 of the Fish and Game Code), habitat
20 conservation plan pursuant to the federal Endangered Species Act
21 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
22 resource protection plan.

23 (I) Lands under conservation easement. For purposes of this
24 section, “conservation easement” shall not include a contract
25 executed pursuant to the Williamson Act (Chapter 7 (commencing
26 with Section 51200) of Division 1 of Title 5 of the Government
27 Code).

28 (J) Lands with groundwater levels within five feet of the soil
29 surface and for which the development would be served by an
30 onsite wastewater disposal system serving more than six family
31 housing units.

32 (3) The development is an eligible agricultural employee housing
33 development that satisfies the requirements specified in subdivision
34 (i).

35 (b) (1) If a local government determines that a development
36 submitted pursuant to this section does not meet the requirements
37 specified in subdivision (a), the local government shall provide
38 the development proponent written documentation of which
39 requirement or requirements the development does not satisfy and

1 an explanation for the reason or reasons the development does not
2 satisfy the requirement or requirements, as follows:

3 (A) Within 30 days of submission of the development to the
4 local government pursuant to this section if the development
5 contains 50 or fewer housing units.

6 (B) Within 60 days of submission of the development to the
7 local government pursuant to this section if the development
8 contains more than 50 housing units.

9 (2) If the local government fails to provide the required
10 documentation pursuant to paragraph (1), the development shall
11 be deemed to satisfy the requirements specified in paragraph (2)
12 of subdivision (a).

13 (c) The local government's planning commission or an
14 equivalent board or commission responsible for review and
15 approval of development projects, or the city council or board of
16 supervisors, as appropriate, may conduct a development review
17 or public oversight of the development. The development review
18 or public oversight shall be objective and be strictly focused on
19 assessing compliance with criteria required for streamlined projects,
20 as well as any reasonable objective development standards
21 described in this section. For purposes of this subdivision,
22 "objective development standards" mean standards that involve
23 no personal or subjective judgment by a public official and are
24 uniformly verifiable by reference to an external and uniform
25 benchmark or criterion available and knowable by both the
26 development applicant or proponent and the public official prior
27 to submission. The development review or public oversight shall
28 be completed as follows and shall not in any way inhibit, chill, or
29 preclude the ministerial approval provided by this section or its
30 effect, as applicable:

31 (1) Within 90 days of submission of the development to the
32 local government pursuant to this section if the development
33 contains 50 or fewer housing units.

34 (2) Within 180 days of submission of the development to the
35 local government pursuant to this section if the development
36 contains more than 50 housing units.

37 (d) An agricultural employee housing development that is
38 approved pursuant to this section shall not be subject to the density
39 limits specified in Section 17021.6 in order to constitute an
40 agricultural land use for purposes of that section.

(e) Notwithstanding Section 17021.6, a local government may subject an agricultural employee housing development that is approved pursuant to this section to the following written, objective development standards:

(1) (A) A requirement that the development have adequate water and wastewater facilities and dry utilities to serve the project.

(B) A requirement that the development be connected to an existing public water system that has not been identified as failing or being at risk of failing to provide an adequate supply of safe drinking water.

(C) If the development proposes to include 10 or more units, a requirement that the development connect to an existing municipal sewer system that has adequate capacity to serve the project. If the local agency has adopted an approved local agency management program for onsite wastewater treatment systems, those requirements shall apply to the development.

(2) A requirement that the property on which the development is located be either:

(A) Within one-half mile of a duly designated collector road with an Average Daily Trips (ADT) of 6,000 or greater.

(B) Adjacent to a duly designated collector road with an ADT of 2,000 or greater.

(3) A requirement that the development include off-street parking based upon demonstrated need, provided that the standards do not require more parking for eligible agricultural employee housing developments than for other residential uses of similar size within the jurisdiction.

(4) Notwithstanding Section 17020 or any other law, health, safety, and welfare standards for agricultural employee housing, including, but not limited to, density, minimum living space per occupant, minimum sanitation facilities, minimum sanitation requirements, and similar standards.

(5) Standards requiring that if a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(f) Neither the approval of a development pursuant to this section, including the permit processing, nor the application of development standards pursuant to this section shall be deemed

1 to be discretionary acts within the meaning of the California
2 Environmental Quality Act (Division 13 (commencing with Section
3 21000) of the Public Resources Code).

4 (g) Notwithstanding Section 17021.6, a local agency may impose
5 fees and other exactions otherwise authorized by law that are
6 essential to provide necessary public services and facilities to the
7 eligible agricultural employee housing development.

8 (h) This section shall not be construed to:

9 (1) Prohibit a local agency from requiring an eligible agricultural
10 employee housing development to comply with objective,
11 quantifiable, written development standards, conditions, and
12 policies that are consistent with subdivision (e) and appropriate
13 to, and consistent with, meeting the jurisdiction's need for
14 farmworker housing, as identified pursuant to paragraph (7) of
15 subdivision (a) of Section 65583 of the Government Code.

16 (2) Prohibit a local agency from disapproving an eligible
17 agricultural employee housing development if the eligible
18 agricultural employee housing development as proposed would
19 have a specific, adverse impact upon the public health or safety,
20 and there is no feasible method to satisfactorily mitigate or avoid
21 the specific, adverse impact without rendering the development
22 unaffordable to lower income households, as defined in Section
23 50079.5, or rendering the development financially infeasible. As
24 used in this paragraph, a "specific, adverse impact" means a
25 significant, quantifiable, direct, and unavoidable impact, based on
26 objective, identified written public health or safety standards,
27 policies, or conditions as they existed on the date the application
28 was deemed complete.

29 (3) Prohibit a local agency from disapproving an eligible
30 agricultural employee housing development if that project would
31 be in violation of any applicable state or federal law.

32 (4) Change any obligations to comply with any other existing
33 laws, including, but not limited to, Section 116527, Section 106.4
34 of the Water Code, Division 7 (commencing with Section 13000)
35 of the Water Code, and Part 12 (commencing with Section 116270)
36 of Division 104.

37 (i) For purposes of this section, "eligible agricultural employee
38 housing development" means an agricultural employee housing
39 development that satisfies all of the following:

1 (1) The agricultural employee housing does not contain
2 dormitory-style housing.

3 (2) The development consists of no more than ~~36~~ *either of the*
4 *following*:

5 (A) *Thirty six* units or spaces designed for use by a single family
6 or household.

7 (B) *One hundred fifty units or spaces designed for use by a*
8 *single family or household if the development is located in the*
9 *County of Santa Clara or the County of Santa Cruz.*

10 (3) (A) Except as otherwise provided in subparagraph (B), the
11 agricultural employee housing will be maintained and operated by
12 a qualified affordable housing organization that has been certified
13 pursuant to Section 17030.10. The development proponent shall
14 submit proof of issuance of the qualified affordable housing
15 organization's certification by the enforcement agency. The
16 qualified affordable housing organization shall provide for onsite
17 management of the development.

18 (B) In the case of agricultural employee housing that is
19 maintained and operated by a local public housing agency or a
20 multicounty, state, or multistate agency that has been certified as
21 a qualified affordable housing organization as required by this
22 paragraph, that agency either directly maintains and operates the
23 agricultural employee housing or contracts with another qualified
24 affordable housing organization that has been certified pursuant
25 to Section 17030.10.

26 (C) The local government ensures an affordability covenant is
27 recorded on the property to ensure the affordability of the proposed
28 agricultural employee housing for agricultural employees for not
29 less than 55 years. For purposes of this paragraph, "affordability"
30 means the agricultural housing is made available at an affordable
31 rent, as defined in Section 50053, to lower income households, as
32 defined in Section 50079.5.

33 (4) The agricultural employee housing is not ineligible for state
34 funding pursuant to paragraph (1) of subdivision (b) of Section
35 ~~50205~~. *50205 or paragraph (1) of subdivision (b) of Section*
36 *50517.10. All subdivisions of agricultural employee housing in*
37 *the development and the entire scope of the development are not*
38 *ineligible for funding pursuant to paragraph (1) of subdivision (b)*
39 *of Section 50205 or paragraph (1) of subdivision (b) of Section*
40 *50517.10. The use of the term "unit or space" shall not be*

1 construed to limit those provisions' prohibition on the use of state
2 funding to support H-2A employer obligations. Consistent with
3 paragraph (2) of subdivision (b) of Section 50205 and paragraph
4 (1) of subdivision (b) of Section 50517.10, any employer or other
5 recipient of state funding who utilizes state funding for a purpose
6 prohibited under those provisions shall reimburse the state or the
7 state agency that provided the funding in an amount equal to the
8 amount of that state funding expended for those prohibited
9 purposes.

10 (j) For purposes of this section, "agricultural employee housing"
11 means employee housing for agricultural employees as both terms
12 are defined in Sections 17008 and ~~17021~~ 17021, respectively.

13 (k) The Legislature hereby declares that it is the policy of this
14 state that each county and city shall permit and encourage the
15 development and use of sufficient numbers and types of agricultural
16 employee housing as are commensurate with local need. The
17 Legislature further finds and declares that this section addresses
18 a matter of statewide concern rather than a municipal affair as that
19 term is used in Section 5 of Article XI of the California
20 Constitution. Therefore, this section applies to all cities, including
21 charter cities.

22 *SEC. 2. The Legislature finds and declares that a special statute*
23 *is necessary and that a general statute cannot be made applicable*
24 *within the meaning of Section 16 of Article IV of the California*
25 *Constitution because of the unique need to build agricultural*
26 *employee housing within the County of Santa Clara and the County*
27 *of Santa Cruz.*

28 *SEC. 3. No reimbursement is required by this act pursuant to*
29 *Section 6 of Article XIII B of the California Constitution because*
30 *a local agency or school district has the authority to levy service*
31 *charges, fees, or assessments sufficient to pay for the program or*
32 *level of service mandated by this act, within the meaning of Section*
33 *17556 of the Government Code.*

34 ~~SECTION 1. It is the intent of the Legislature to enact~~
35 ~~legislation that would relate to promoting the development of~~
36 ~~farmworker housing.~~

1		_____
2	REVISIONS:	
3	Heading—Line 2.	
4		_____

O



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

April 17, 2024

The Honorable Gail Pellerin
California State Assembly
1021 O Street, Suite 6310
Sacramento, CA 95814

RE: AB 3035 (Pellerin) Agricultural employee housing: streamlined approval: Counties of San Mateo, Santa Clara, and Santa Cruz – SUPPORT

Dear Assemblymember Pellerin:

The City of Morgan Hill supports Assembly Bill 3035, which would create a pilot program for developing affordable housing for agricultural employees in Santa Clara, Santa Cruz, and San Mateo Counties. Specifically, AB 3035 would expand an existing streamlined approval process for agricultural employee housing to apply to larger development projects in areas that are more likely to have access to reliable infrastructure and public amenities.

Santa Clara County's agriculture industry boasts a \$1.6 billion production value and supports 8,150 jobs. This diverse sector, encompassing crops, mushrooms, and nurseries alongside processing and wineries, contributes significantly to the local economy (evidenced by its \$832 million net production value).

While Santa Clara County has a rich agricultural legacy, the County has an estimated shortfall of 1,400 seasonal and 700 long-term housing units for agricultural workers. These workers and families are often forced into substandard living conditions, including temporary shelters, motels, garages, and vehicles. Housing needs for agricultural employees are also acute in Santa Cruz and San Mateo Counties, where studies have identified the need for thousands of new units of housing affordable to agricultural employees and their families. While common, the economic hardships faced by Spanish-speaking families often remain unseen. A recent study by the City of Morgan Hill's [I Belong/Elevate Morgan Hill](#) initiative highlights significant challenges impairing their quality of life. Housing emerged as the most pressing need, followed by food insecurity and the lack of trusted resources within the community.

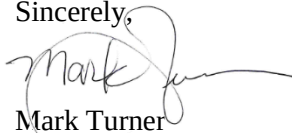
The City of Morgan Hill is actively working to address the critical need for affordable housing. We proudly anticipate the July 2024 ribbon-cutting for our upcoming Royal Oak Village community. This partnership with Santa Clara County will provide 73 new units, offering much-needed housing for individuals and families. Importantly, 30 units are specifically designated for agricultural worker households, with the remainder serving very low-income families. Furthermore, the City is supporting the development of Magnolias, a 65-unit affordable family complex that includes 28 units for agricultural workers.

The City of Morgan Hill recognizes the urgent need for affordable housing and is dedicated to creating solutions. State law currently offers a patchwork of special rules for affordable housing for farmworkers. Most recently, Assembly Speaker Robert Rivas authored AB 1783 – the Farm Worker Housing Act of 2019, which created ministerial standards for certain agricultural employee housing operated by affordable housing organizations or public housing agencies. Unfortunately, AB 1783's streamlining provisions are limited to

areas zoned for agriculture, which often lack access to cost-effective, safe, and reliable drinking water and wastewater services, as well as other municipal services.

To overcome these challenges, AB 3035 proposes to expand existing law to allow streamlined development of agricultural worker housing in three pilot counties. This change would encompass broader geographic areas surrounding agricultural land that have access to municipal services. Additionally, AB 3035 would increase the cap on the number of units for a housing project so that larger, more cost-effective developments are an option. We are pleased to support AB 3035, which will help expedite the development of much-needed agricultural employee housing in areas with access to community amenities and necessary infrastructure.

Sincerely,



Mark Turner
Mayor

cc: Assemblymember Gail Pellerin

Senator John Laird

Seth Miller, Regional Public Affairs Manager, League of California Cities, smiller@cacities.org

Meg Desmond, League of California Cities, cityletters@cacities.org

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION TO ESTABLISH OLD MONTEREY ROAD UNDERGROUND UTILITIES DISTRICT NO. 1 – OLD MONTEREY ROAD FROM LLAGAS ROAD TO MONTEREY ROAD

RECOMMENDATION(S)

1. Open/Close Public Hearing;
2. Adopt Resolution Establishing Old Monterey Road Underground Utilities District No. 1 - Old Monterey Road from Llagas Road to Monterey Road; and
3. Direct the City Clerk to notify all affected utilities and all persons owning real property within ten (10) days after the date of the adoption of the resolution.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this item is to start the process to underground overhead utility lines located along Old Monterey Road from Monterey Road to Llagas Road using PG&E Rule 20A funds. Rule 20A is a program by the California Public Utilities Commission (CPUC) that allocates ratepayer-funded work credits to California's communities to fund underground utility conversion projects. These work credits are paid for by customers through their monthly electric utility bill(s). In order to use these Rule 20A work credits, individual cities are required to establish an Underground Utility District (UUD) with established boundaries to include all properties affected by the undergrounding work. By forming the UUD, this prompts the utility company to a City's intention of an underground utility project using Rule 20A allocations.

The area identified for undergrounding work is depicted on the location map as Exhibit A of the attached resolution. This area was selected for multiple reasons. The Rule 20A

program is coming to an end and the City has very limited funds to accomplish a project in a limited time. This section of Old Monterey Road will provide a simple undergrounding project which will assist in improving the aesthetics of an arterial roadway, which several residents utilize to enter their neighborhood. While there is a need for undergrounding across the City, most areas are too complex and costly to complete with the limited Rule 20A funds.

Through the use of the City's Municipal Code, Chapter 12.12, the process for establishing a UUD requires a legally noticed public hearing with notice to all affected property owners with a project boundary (Attachment A of the resolution). If, after said public hearing, the Council adopts the UUD, all affected property owners will be notified that they shall accommodate the conversion of their individual service connections from overhead to underground. Rule 20A funding includes an option to fund the cost of the individual service conversions as well as the installation of the service conduit up to 100 feet from the street right-of-way. City staff recommends utilizing this option so that affected property owners will be fully covered. While this notification will occur, a very small number of residents will actually be impacted by the proposed work.

Within 10 days of the UUD approval, all affected utility companies and residents/business owners will be notified. Subsequently, the design process will be initiated with PG&E. It is anticipated that construction will begin sometime between 48 and 96 months after the establishment of the UUD. This long time span is primarily due to scheduling logistics for PG&E's limited design and construction staff.

The current balance of Rule 20A work credits for the City is \$489,283 and this will be spent during the design and construction phase with PG&E.

COMMUNITY ENGAGEMENT:

Inform

Staff will work with PG&E on a project timeline and inform affected residence/business owners in advance of any construction activities through Citywide emails, social media posts, and routine updates on the website.

ALTERNATIVE ACTIONS:

City Council may elect to not approve or delay the approval of the UUD. However, this will delay any work with PG&E and may jeopardize the Rule 20A funds as PG&E is looking to end this allocation in the near future.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

No previous actions have occurred specifically in relation to this undergrounding project.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with this project.

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

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 (Replacement or Construction), as the subject work involves the conversion of overhead electric utility distribution system facilities to underground including connection to existing overhead electric utility distribution lines where the surface is restored to the condition existing prior to the undergrounding work.

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
ESTABLISHING OLD MONTEREY ROAD UNDERGROUND UTILITIES
DISTRICT NO. 1 – OLD MONTEREY ROAD FROM LLAGAS ROAD TO
MONTEREY ROAD**

WHEREAS, a Public Hearing was called for on May 15, 2024 at the hour of 6:00 P.M. or thereafter, in the Morgan Hill City Council Chambers, 17555 Peak Avenue, Morgan Hill, California, to ascertain whether the public necessity, health, safety or welfare required the removal of poles, overhead wires and associated overhead structures, and the underground installation of wires and facilities for supplying electric, communication or similar or associated services, within that certain area of the City described as follows:

That portion of Old Monterey Road between Llagas Road and Monterey Road, See **Exhibit A** for Detailed Map, and

WHEREAS, Notice of such hearing was given to all affected property owners as shown on the last equalized assessment roll and to all affected utilities, in the manner and for the time required by law; and;

WHEREAS, such hearing was duly held, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council determined after hearing on the subject that the Old Monterey Road Underground Utilities District No. 1 herein created is in the general public interest reason that:

The undergrounding to be accomplished will avoid or eliminate an unusually heavy concentration of overhead distribution facilities; and the streets, roads or rights-of-way in the District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic.

THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that pursuant to Section 12.12.030 of the Morgan Hill Municipal Code, the above-described area is hereby designated as Old Monterey Road Underground Utilities District No. 1 of the City of Morgan Hill. Attached, marked **Exhibit A**, and incorporated as part of this Resolution, is a map delineating the boundaries of said District;

RESOLVED, FURTHER, that the City Council does hereby fix December 31, 2035, as the date on which affected property owners must be ready to receive underground service, and does hereby order the removal of all poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar or associated service within Old Monterey Road Underground Utilities District No. 1 on or before December 31, 2035.

RESOLVED, FURTHER, that any electric, communication or similar or associated utility which undertakes underground installation of its facilities shall use its underground conversion funds computed pursuant to decisions of the Public Utilities Commission of the State of California or franchise for the purpose of providing to each premises on Old Monterey Underground Utilities District No. 1 requiring it, a maximum of one hundred feet of individual electric service trenching and conductor (as well as

backfill, paving and conduit, if required). Each property owner in the Old Monterey Road Underground Utilities District No. 1 shall be responsible for providing the City and its Contractor access rights onto their property for the installation of the electric service lateral and any electric panel modifications needed to receive underground service to their property and therefore provide for the maintenance of the electric lateral, conduit, panel and termination box located on, under or within any structure on the premises served.

AND BE IT FURTHER RESOLVED that the utility which undertakes underground installation of its facilities shall use the decisions of the Public Utilities Commission of the State of California for the purpose of providing to each premises in Old Monterey Road Underground Utilities District No. 1 requiring it a maximum of 100 feet of individual electric service trenching and conductor (as well as backfill, paving, and conduit, if required). Each other serving utility will provide service trenching and conductor in accordance with its tariffs on file with the California Public Utilities Commission or as required by its Franchise Agreement with the City. Each property owner in Old Monterey Underground Utilities District No. 1 shall be responsible for the installation and maintenance of the conduit and termination box located on, under or within any structure on the premises served.

RESOLVED, FURTHER, that the City Clerk is hereby instructed to notify all affected utilities and all persons owning real property within ten (10) days after the date of such adoption. The City Clerk shall further notify said property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or other similar or associated service, they or such occupant shall, by the date fixed in this Resolution, or at the time fixed in any extension of said date or dates, provide the City or its contractor a right of entry and access to their property to make necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Public Utilities Commission of the State of California. Failure to provide the City or its contractor Right of Entry and access to their property to make the necessary changes shall obligate the property owner, rather than the City to pay for such changes. Notification to the property owners shall be made by mailing a copy of this resolution, together with a copy of said Chapter 12 of the Morgan Hill Municipal Code to all affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 15th day of May 2024 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. 24-_____ adopted by the City Council at the meeting held on the 15th day of May 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk



Source: Esri, DigitalGlobe,
GeoEye, Earthstar



CITY OF MORGAN HILL

Engineering and Utilities Department

G:\R-14\Proj\GIS\Agustin\PGER20.mxd

PG&E Rule 20A Program



0 90 180 360 540 720
Feet

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Chris Ghione, Public Services Director

APPROVED BY: City Manager

PROVIDE INPUT ON TRANSPORTATION MASTER PLAN GOALS AND ADOPT SPEED LIMITS IN ACCORDANCE WITH UPDATED ENGINEERING AND TRAFFIC SURVEY

RECOMMENDATION(S)

1. Provide input and direction on Transportation Master Plan Goals and Priorities;
2. Repeal Resolution No. 15-223 based on 2015 Engineering and Traffic Survey;
and
3. Adopt Resolution establishing speed limits on City Streets.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Advocating for Local, Regional, and State Legislative Initiatives

2024-2025 Strategic Priorities

Healthy Community

Transportation

Guiding Documents

Morgan Hill 2035 General Plan

Vision Zero

REPORT NARRATIVE:

In June 2023, the City contracted with Hexagon Transportation Consultants for creation of the City's first comprehensive Transportation Master Plan. The Plan is intended to provide numerous components, including traffic counts, future traffic modeling, updated speed survey to set speed limits, review of existing transportation infrastructure, specific review and analysis of bike and pedestrian infrastructure, development of transportation priorities for the City, creation of a capital improvement program, and numerous other components.

The purpose of this item is to provide the City Council with an opportunity to receive an update on the Plan and provide input and direction on the multiple components of the Plan. These components include:

- Provide general input the Council is receiving from residents on the Plan
- Provide specific direction and input on the Draft Goals and Strategies (Attachment 1)
- Provide specific direction and input on the Prioritization Criteria (Attachment 2)

Additionally, as a component of the Plan, the City is updating the City's Speed Limits through conducting an Engineering and Traffic Survey, which is now ready for review and adoption by the City Council.

The initial months of the process to develop the Plan were used to gather existing data, collect current condition data, and engage with the community to understand community priorities. Known issues the Plan will review and address include: Traffic Congestion & Speeding, Regional Cut-Through Traffic, Biking & Walking Safety, Closing of Pedestrian and Bikeways Gaps, Identifying Transit Needs and Gaps, Prioritize Multi-Modal Inter-City Travel, and Alignment of City Transportation Policies (LOS/VMT/Multi-Modal Travel). Additionally, through engagement with residents, stakeholders, staff, Commissions and the Council, additional priorities are being established. Significant detailed data/information is available on the project website at:

www.morganhill.ca.gov/2423/Transportation-Master-Plan-Update. This data/information includes:

- Transportation Demand Forecasting Model Update - [Direct Link](#)
- Level of Service Analysis, Policy and Congestion Research - [Direct Link](#)
- Cut Through Traffic Destination Study - [Direct Link](#)
- Community Survey Results - [Direct Link](#)
- Data on Intersection Traffic Counts - [Direct Link](#)
- Data on Roadway Traffic Counts - [Direct Link](#)
- All presentations, meeting notes, and handouts from Stakeholder Group Meetings

Goals and Strategies

Based on the purpose of the Plan and best practices in transportation planning combined with analysis of the City's existing data and community concerns expressed through the process, so far, draft strategies and goals have been developed for the Council's review and input. This was accomplished through work with the stakeholders group and receipt of community feedback. In addition to concern about improving roadway congestion, significant community concern related to pedestrian & bicycle safety, speeding/collisions, regional cut-through traffic, and gaps in the system exist within the community. While analysis performed as part of the Plan shows that Morgan Hill is safe in comparison to the State and other local jurisdictions, community concern highlights the need to work to address these issues further. The goals and strategies

outlined in Attachment 1 are intended to provide the basis for future work in this area. Feedback from the Council is desired on the draft Goals and Strategies.

Improvement and Strategy Prioritization

Knowing that the City has limited resources to address the overall needs of the City, prioritization work is required in all areas. The City has historically operated on a lean team managing transportation and traffic for the City, which requires clear priorities to efficiently operate and provide service to the community. To support the Council and staff in future decision-making, the development of criteria for transportation projects and strategies is proposed as part of the plan. The draft criteria outlined in Attachment 2 related to transportation safety, gaps, and operations has been developed to prioritize those improvements and strategies. Feedback from the Council is desired in this area.

Engineering and Traffic Survey (E&TS) Summary

Earlier this year, as part of the Plan update, Hexagon conducted an E&TS study for 98 roadway segment locations in Morgan Hill. The full ET&S survey is available online for download at:

www.morganhill.ca.gov/DocumentCenter/View/48826/MH-2023-ETS-Report-20240506-signed

This study has been conducted in accordance with the requirements of the California Vehicle Code (CVC) and the California Manual on Uniform Traffic Control Devices (CA MUTCD) for the establishment of posted speed zones. The purpose of this study was to develop recommendations for maintaining or modifying the posted speed limits on each of the study locations. Hexagon staff reviewed all newly passed legislation as it relates to setting speed limits and evaluated options for reducing speed limits throughout the City. While new legislation provided some support in reducing speed limits, there are still very specific criteria for reducing speed limits, which is based on multiple factors but still includes the survey of existing travel speeds on City roadways. This study serves as an update to the Morgan Hill 2015 E&TS. Therefore, there are components of this study that utilize information provided in the 2015 study.

In summary, the findings in the survey note that speeding is prevalent throughout the City. While the community has expressed a desire to reduce speed limits, the current law still limits the City's ability to reduce posted speeds. In support of the City's concern about speeding, the update to the E&TS proposes reducing the posted speed limit in five locations within the City and does not propose raising the speed limit in any locations.

The locations recommended for reductions in speed limits include:

- Depot Street from E. Main Avenue to E. Dunne Avenue from 30 to 25mph
- La Crosse Drive from Vineyard Boulevard to Vineyard Boulevard from 30 to 25mph
- W. Main Avenue from John Telfer Drive to Hale Avenue from 30 to 25mph
- Monterey Road from San Pedro Boulevard to Dunne Avenue from 35 to 30mph

- San Pedro Avenue from US 101 to Railroad Avenue from 35 to 30mph

Additionally, the City and Hexagon consultants took a significant look at reducing the speed limit on Monterey Road through the Downtown below 25mph. Ultimately, however, the stretch of Monterey Road between Dunne Avenue and Main Avenue is not eligible for reduction even under the updated law based on the fact there is a higher speed limit in the adjacent sections both north and south of the Downtown. The reduction of the speed limit proposed between San Pedro and Dunne Avenue on Monterey Road may help in future efforts to reduce the speed limit Downtown. However, to reduce the speed limits in this area and others, reduced travel speeds are necessitated. Additional enforcement can support this effort in the future.

With approval, the resolution in Attachment 3 will update the City's current speed limits, reducing the posted speed limits in the 5 noted areas.

COMMUNITY ENGAGEMENT:

Involve

The development of the Transportation Master Plan will require significant community outreach and will include a variety of public meetings as well as the development and participation of a stakeholders group for those with an even higher level of interest. The Plan will have multiple review points by advisory commissions and the City Council to ensure there is significant opportunity for engagement as well as direction by the Council.

ALTERNATIVE ACTIONS:

The purpose of the first recommendation in this item is to engage the Council and receive feedback. There is no formal action required, but feedback and direction on goals, strategies and prioritization will support alignment of the draft Plan with the Council's direction. For the recommendations in relation to the E&TS resolution adoption, the Council may choose to provide additional feedback on specific speed limits. Should the Council wish to further review any specific section, it is still recommended the E&TS resolution is adopted tonight and that the Council then direct staff to perform additional review on specific areas of the study.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council authorized the City Manager to execute an agreement with Hexagon Transportation Consultant on June 7, 2023. The City Council provided initial feedback on the TMP work on November 15, 2023. The Parks and Recreation and Planning Commissions also provided feedback on the Plan work in the Fall of 2023. The Planning Commission will review and provide input on the Goals/Strategies and Prioritization Criteria on Tuesday, May 14. The Parks and Recreation Commission will provide additional feedback at their next meeting on May 21, 2024.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with this specific item. Ultimately, implementing the

Plan will require significant fiscal resources. Development of funding plans and mechanisms associated with the priorities and projects outlined in the Plan will be required.

CEQA (California Environmental Quality Act):

Categorical Exemption 15262:

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors.



Draft TMP Goals, Strategies & Actions

Goal TMP-1: Safety. Eliminate traffic fatalities and reduce the number of non-fatal collisions for all modes within the City.

- **Strategies & Actions TMP-1.1:** Apply road design techniques that reduce excess speeding and accommodate the needs of all road users.
- **Strategies & Actions TMP-1.2:** Prioritize projects that are likely to reduce collisions along the City's High Injury Network.
- **Strategies & Actions TMP-1.3:** Apply strategies identified in *Vision Zero Morgan Hill*.
- **Strategies & Actions TMP-1.4:** Utilize grant funding for pedestrian, bicycle, and vehicle safety educational programming.
- **Strategies & Actions TMP-1.5:** Pursue grant funding to implement focused and effective speed reduction marketing campaigns in coordination with police department.
- **Strategies & Actions TMP-1.6:** Provide increasing levels of traffic enforcement through the Police Department.
- **Strategies & Actions TMP-1.7:** Decrease emergency response times through the implementation of technology.

Goal TMP-2: Increased Transportation Options – Provide a range of high-quality and comfortable bikeways, trails, pedestrian facilities, and local transit options to create a safe, connected, balanced, and convenient transportation system for all ages, abilities, and socioeconomic groups.

- **Strategies & Actions TMP-2.1:** Apply multimodal street design to create high-comfort and low-stress walking and biking facilities and accommodate other forms of micromobility (e.g., e-bikes).
- **Strategies & Actions TMP-2.2:** Create well-connected networks of bikeways and trails that allow for travel across the City of Morgan Hill.
- **Strategies & Actions TMP-2.3:** Improve connections between the local bicycle network and regional bicycle network.
- **Strategies & Actions TMP-2.4:** Identify and secure long-term funding for the VTA and/or the City to provide local transit service, including MoGo.
- **Strategies & Actions TMP-2.5:** Advocate for VTA to provide additional bicycle facilities and close network gaps in Morgan Hill's sphere of influence in the VTA Countywide Bike Plan.

Goal TMP-3: Access to Regional Transit Services and Local Destinations – Enhance access to regional transit services and local destinations like Downtown, schools, parks, and services through improved multimodal connections and local transit options that enable more trips to take place without relying on a private vehicle.

- **Strategies & Actions TMP-3.1:** Invest in complete sidewalks and frequent crossings in pedestrian priority zones.

- **Strategies & Actions TMP-3.2:** Improve first mile/last mile connections to the Morgan Hill Caltrain station and local bus stops.
- **Strategies & Actions TMP-3.3:** Prioritize pedestrian and bicycle improvements on roadways identified as ped/bike priority corridors.
- **Strategies & Actions TMP-3.4:** Improve access and safety to trailheads.
- **Strategies & Actions TMP-3.5:** Proactively encourage the use of non-auto modes of travel to local destinations and schools via community educational and marketing programs.
- **Strategies & Actions TMP-3.6:** Complete school area safety assessments to identify pedestrian/bicycle safety improvements.

Goal TMP-4: Congestion Management – Reduce travel time and improve vehicular throughput on city streets by improving intersection and corridor operations, minimizing the extent of regional cut-through traffic, and encouraging mode shift.

- **Strategies & Actions TMP-4.1:** Identify and procure funding for increased congestion management resources and driver education within the City.
- **Strategies & Actions TMP-4.2:** Apply feasible physical intersection improvements or signal timing improvements and equipment upgrades to reduce delay along city streets.
- **Strategies & Actions TMP-4.3:** Implement traffic calming measures to discourage speeding and reduce cut-through traffic.
- **Strategies & Actions TMP-4.4:** Design vehicular access on all future roadways to minimize adverse traffic operations and conflicts with pedestrians and bicyclists.
- **Strategies & Actions TMP-4.5:** Ensure the design of all new streets planned as part of the General Plan network and that link new development to existing roadways include bike/ped facilities.
- **Strategies & Actions TMP-4.6:** Participate in regional TDM programs to reduce overall traffic volume by encouraging a shift in travel modes.
- **Strategies & Actions TMP-4.7:** Advocate and lead efforts for the expansion of toll/Express/HOV lanes on Highway 101 to reduce congestion management services.
- **Strategies & Actions TMP-4.8:** Implement VMT policies designed to reduce the number of vehicles on City roadways (including last mile transit service options such as MoGo).
- **Strategies & Actions TMP-4.9:** Advocate and identify opportunities to support increases in regional transit services, including regional bus service, rail service, and other.
- **Strategies & Actions TMP-4.10:** Coordinate with Santa Clara County on implementing roadway improvements within Morgan Hill's sphere of influence.



PROJECT PRIORITIZATION & EVALUATION CRITERIA

Priorities		Evaluation Criteria	Applicable goals
#1 PRIORITY			
1	Safety	Located along the HIN or at intersections that have a collision history	Goal TMP-1: Safety
		Proposed measure is an identified effective safety countermeasure by FHWA	
		Includes pre-determined set of speed management/traffic calming techniques	
COMMUNITY CONSIDERATION			
2	Pedestrian Safety, Comfort, and Connectivity	Improves ped safety, comfort, and/or closes network gaps in ped priority zones	Goal TMP-1: Safety, Goal TMP-2: Increased Transportation Options, Goal TMP-4: Congestion Management
		Improves comfort and/or provides new connections across US 101	
		Includes ped friendly urban design and placemaking elements like landscaping, wayfinding, lighting along the public ROW	
3	Bike Safety, Comfort, and Connectivity	Improves and/or provides new bicycle facilities along bike/ped priority corridors	Goal TMP-1: Safety, Goal TMP-2: Increased Transportation Options, Goal TMP-4: Congestion Management
		Improves comfort and/or provides new connections across US 101	
		Improves connections between the local bicycle network and regional bicycle network	
		Accommodates other modes of micromobility (e.g. e-bikes)	
4	Access to Key Destinations	Location of the project is within 1/2 mile of an identified destination like a school, park, Downtown, or services	Goal TMP-1: Safety, Goal TMP-2: Increased Transportation Options, Goal TMP-3: Access to Regional Transit Services and Local Destinations, Goal TMP-4: Congestion Management
		Improves first mile/last mile connections to the Morgan Hill Caltrain station and local bus stops.	
		Improves access and safety to trailheads	
5	Vehicle Operations	Reduces travel time and improves vehicle throughput along City streets for inner city trips	Goal TMP-4: Congestion Management
		Improves/adds street connections based on projected growth in the city (All new street connections will be designed with bike/ped facilities)	
		Encourages modeshift for the purpose of reducing VMT	
6	Regional Cut-through Traffic	Includes pre-determined set of traffic calming techniques that reduce regional cut-through traffic	Goal TMP-4: Congestion Management
		Signal timing adjustments on city arterials to discourage regional cut-through traffic	
7	Equity	Proximity to high levels of higher density housing/low-income housing	Goal TMP-2: Increased Transportation Options, Goal TMP-3: Access to Regional Transit Services and Local Destinations
ENGINEERING/STAFF CONSIDERATION			
8	Consistency with other City Plans or Programs	Project previously identified in local or regional plan	--
9	Engineering Feasibility	Project applies current design standards and design is feasible and constructible, i.e. it can be completed within existing curb lines or right of way	--
10	Operational Cost	On-going expenses for the project	--
11	Funding	City has an available funding source for the project	--
		Likelihood of receiving grant funding	
12	Impact to Value Ratio	Expected project costs will be weighed against project benefits	--
13	Implementation	Project is wholly City-led versus requiring developers to lead it or requiring coordination with County	--

RESOLUTION NO. 24-xxx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING DESIGNATED SPEED LIMITS AND REPEALING RESOLUTION NO. 15-223

WHEREAS, as required by the California Vehicle Code, the City of Morgan Hill has conducted a new Engineering and Traffic Survey (the “study”); and

WHEREAS, the new limits for the hereinafter described street segments are based on information obtained as part of this study; and

WHEREAS, Section 10.20.010 of the Municipal Code provides that the City Council may, by resolution, designate speed limits different from those prescribed State law; and

WHEREAS, the new speed limits will facilitate the orderly movement of vehicular traffic, are reasonable and safe, and should be declared the prima facie speed limit;

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

Section 1. The City Council of the City of Morgan Hill has determined, upon the basis of an engineering and traffic survey, that the following speed limits will facilitate the orderly movement of vehicular traffic, are reasonable and safe, and shall be deemed the prima facie speed limits on the designated streets in the City of Morgan Hill as indicated below.

Twenty Five Miles Per Hour

Cosmo Avenue	Del Monte Avenue	to	Monterey Road
Del Monte Avenue	Cosmo Avenue	to	West Dunne Avenue
Depot Street	East Main Avenue	to	East Dunne Avenue
East Dunne Avenue	Holiday Drive	to	Anderson Lake
Fountain Oaks Drive	Hill Road	to	Saddleback Drive
Fountain Oaks Drive	Saddleback Drive	to	Trail Drive
Jarvis Drive	Sutter Boulevard	to	Monterey Road
Jarvis Drive	Sutter Boulevard	to	Butterfield Boulevard
La Alameda	Watsonville Road	to	La Crosse Drive
La Crosse Drive	Vineyard Boulevard	to	Vineyard Boulevard
Llagas Road	Woodland Avenue	to	Castle Lake Drive
West Main Avenue	John Telfer Drive	to	Hale Avenue
Monterey Road	Main Avenue	to	East Dunne Avenue
Native Dancer Drive	West Middle Avenue	to	Santa Teresa Boulevard
Saddleback Drive	East Dunne Avenue	to	Fountain Oaks Drive

Thirty Miles Per Hour

Barrett Avenue	Railroad Avenue	to	Butterfield Boulevard
Barrett Avenue	Butterfield Boulevard	to	US 101

Barrett Avenue	Trail Drive	to	Hill Road
East Central Avenue	Butterfield Boulevard	to	Serene Drive
Church Street	Tennant Avenue	to	East Dunne Avenue
Diana Avenue	Butterfield Boulevard	to	US 101
Llagas Road	Castle Lake Drive	to	Teresa Lane
West Main Avenue	Hale Avenue	to	Monterey Road
East Main Avenue	Monterey Road	to	Butterfield Boulevard
West Middle Avenue	Amberwood Lane	to	Walnut Drive
Monterey Road	San Pedro Avenue	to	Dunne Avenue
Monterey Road	Wright Avenue	to	Main Avenue
Old Monterey Road	Llagas Road	to	Monterey Road
Peak Avenue	Wright Avenue	to	West Main Avenue
Peak Avenue	West Main Avenue	to	West Dunne Avenue
Peet Road	Morning Star Drive	to	Cochrane Road
San Pedro Avenue	US 101	to	Railroad Avenue
Spring Avenue	Dewitt Avenue	to	Monterey Road
Vineyard Boulevard	La Crosse Drive	to	Monterey Road
Wright Avenue	Peak Avenue	to	Hale Avenue
Wright Avenue	Hale Avenue	to	Monterey Road

Thirty Five Miles Per Hour

Burnett Avenue	Monterey Road	to	City Limit
Dewitt Avenue	West Dunne Avenue	to	Spring Avenue
Diana Avenue	Murphy Avenue	to	Hill Road
West Dunne Avenue	Peak Avenue	to	Monterey Road
East Dunne Avenue	Monterey Road	to	Butterfield Boulevard
East Dunne Avenue	Rustling Oak Court	to	Holiday Drive
West Edmundson Avenue	Olympic Drive	to	Monterey Road
Hale Avenue	Wright Avenue	to	West Main Avenue
Half Road	Mission View Drive	to	Elm Road
Juan Hernandez Drive	Barrett Avenue	to	Tennant Avenue
Madrone Parkway	Monterey Road	to	Cochrane Road
Monterey Road	San Pedro Avenue	to	Vineyard Boulevard
Monterey Road	Cochrane Road	to	Wright Avenue
Murphy Avenue	Diana Avenue	to	East Dunne Avenue
Peebles Avenue	Monterey Road	to	City Limit
Peet Road	Cochrane Road	to	Avenida De Los Padres
Sutter Boulevard	Cochrane Road	to	Butterfield Boulevard
Tennant Avenue	Monterey Road	to	Vineyard Boulevard
Tennant Avenue	Vineyard Avenue	to	US 101
Tilton Avenue	Hale Avenue	to	Monterey Road
Vineyard Boulevard	Mast Street	to	Tennant Avenue
Vineyard Boulevard	Tennant Avenue	to	Monterey Road
Walnut Grove Drive	East Dunne Avenue	to	San Pedro Avenue

Forty Miles Per Hour

Cochrane Road	US 101	to	Mission View Drive
Cochrane Road	Mission View Drive	to	Malaguerra Avenue
Condit Road	East Dunne Avenue	to	Tennant Avenue
Condit Road	Diana Avenue	to	City Limit
East Dunne Avenue	Butterfield Boulevard	to	Condit Road
East Dunne Avenue	Condit Road	to	Hill Road
East Dunne Avenue	Hill Road	to	Thomas Grade
East Dunne Avenue	Thomas Grade	to	Rustling Oak Court
Hale Avenue	Llagas Road	to	Wright Avenue
Hale Avenue	Via Loma	to	Llagas Road
Hill Road	East Main Avenue	to	East Dunne Avenue
Hill Road	East Dunne Avenue	to	Barrett Avenue
Llagas Road	Teresa Lane	to	Llagas Court
Llagas Road	Llagas Court	to	Hale Avenue
Llagas Road	Hale Avenue	to	Old Monterey Road
East Main Avenue	Butterfield Avenue	to	Serene Drive
East Main Avenue	Serene Drive	to	Condit Road
East Main Avenue	Live Oak High School	to	Elm Road
Mission View Drive	Cochrane Road	to	Avenida De Los Padres
Mission View Drive	Avenida De Los Padres	to	Half Road
Murphy Avenue	Barrett Avenue	to	East Dunne Avenue
Railroad Avenue	San Pedro Avenue	to	Tennant Avenue
Sunnyside Avenue	Edmundson Avenue	to	Watsonville Road

Forty Five Miles Per Hour

Butterfield Boulevard	Cochrane Road	to	East Central Avenue
Butterfield Boulevard	East Central Avenue	to	East Dunne Avenue
Butterfield Boulevard	East Dunne Avenue	to	San Pedro Avenue
Butterfield Boulevard	San Pedro Avenue	to	Barrett Avenue
Butterfield Boulevard	Barrett Avenue	to	Tennant Avenue
Butterfield Boulevard	Tennant Avenue	to	Monterey Road
Cochrane Road	Monterey Road	to	US 101
Cochrane Road	Malaguerra Avenue	to	City Limit
Condit Road	Diana Avenue	to	East Dunne Avenue
Foothill Avenue	Maple Avenue	to	City Limit
Hale Avenue	Tilton Avenue	to	Via Loma
Monterey Road	Peebles Avenue	to	Cochrane Road
Monterey Road	Vineyard Boulevard	to	Watsonville Road
Santa Teresa Boulevard	Watsonville Road	to	City Limit
Watsonville Road	Santa Teresa Boulevard	to	Monterey Road

Fifty Miles Per Hour

Monterey Road	City Limit	to	Peebles Avenue
Monterey Road	Watsonville Road	to	East Middle Avenue

Section 2. These speed limits shall be effective when appropriate signs giving notice thereof are erected upon the street.

Section 3. Resolution No. 15-223 is hereby repealed.

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 May 2024 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. 24-xxx adopted by the City Council at the meeting held on the 15th day of May 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Chris Ghione, Public Services Director

APPROVED BY: City Manager

APPROVE SOUTH COUNTY RECYCLED WATER DISTRIBUTION MASTER PLAN

RECOMMENDATION(S)

Review and approve final draft of the South County Recycled Water Distribution Master Plan.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment and Preserving Open Space and Agricultural Land

Maintaining and Enhancing Infrastructure

Advocating for Local, Regional, and State Legislative Initiatives

2024-2025 Strategic Priorities

Healthy Community

Guiding Documents

Water System Master Plan

REPORT NARRATIVE:

Since 1999, the City of Morgan has collaborated with the Santa Clara Valley Water District (Valley Water) and the City of Gilroy to ensure the utilization and expansion of non-potable water reuse in South Santa Clara County (South County). The City of Morgan Hill has 41.9 percent interest in the South County Regional Wastewater Authority's Treatment Plant, with Gilroy owning the remaining percentage. At the Plant, Valley Water has constructed and expanded non-potable recycled water treatment and distribution facilities. These facilities serve the south end of the County with customers in Gilroy and adjacent county agricultural users.

The recycled water treatment facility relies on the wastewater, which is received via the wastewater utility collection systems owned by the City of Morgan Hill and the City of Gilroy. However, the flows at the plant have remained flat for the last 8 years, with exceptions of years with significantly wet winters. This flat line of wastewater flows is directly tied to local water conservation efforts and State plumbing code changes. This situation significantly limits the wastewater available for recycling.

In 2017, the Joint Water Resources Committee (Committee) was established by the Valley Water Board of Directors to advance water reuse interests in South County, which includes identifying future demand for purified and recycled water in South County and funding sources to implement South County recycled water master plans. This committee is comprised of two Council members from each City and two representatives from the Valley Water Board of Directors. The group is advisory to the Cities and Valley Water. The group also has a technical/staff level working group that meets regularly to collaboratively discuss water reuse issues. In April, the Committee received an update on recycled water planning activities and the draft South County Recycled Water Distribution Master Plan (Attachment 1), which was prepared by Akel Engineering in coordination with the Technical Working Group.

The purpose of this report is to provide the draft plan for review by the full City Council for discussion and potential approval. The Plan is an update to the original reuse master plan developed by the three agencies in 2004 and updated in 2015. The Plan takes into account the flatlining of wastewater flows at the plant and additionally reviews the feasibility of emerging technologies including indirect potable reuse (IPR) and direct potable reuse (DPR). The key attributes of the plan include:

- Revisions to South County water reuse infrastructure (new pipeline)
- Recycled water customer updates and their reuse potential
- Recommendations for new users along the distribution system
- Priorities of planned future system expansion and upgrades
- Discussion of the opportunities and challenges to future expansion of water reuse in Morgan Hill

For Morgan Hill, the highlighted discussion for the City will undoubtedly focus on bringing recycled water opportunities into the City of Morgan Hill. However, continued recycling at the Plant for non-potable reuse should also be a focus of the City for multiple reasons, including:

1. Water sustainability is a regional and statewide effort. A city the size of Morgan Hill cannot manage its water sustainability in a bubble and must rely on Valley Water as the groundwater management agency and water wholesaler to ensure sustainability of the overall water supply.
2. The recycled water used outside the plant near Gilroy offsets and reduces the need for the extraction of groundwater in the Llagas subbasin, which is shared by Gilroy, Morgan Hill, and unincorporated south Santa Clara County.
3. Improvements to the existing recycled water facilities at the treatment plant are the most cost-effective way to increase recycled water use for the South County. This is important to note as costs for new facilities are passed on by Valley Water to the City water utilities (and ultimately City residents) through groundwater extraction fees.

Separate from the proposed expansion of existing facilities, the Plan does evaluate

specific options for recycled water to reach Morgan Hill. Seven different scenarios were evaluated for this purpose. All seven options have been reviewed in the past through numerous planning documents produced by Valley Water and the City of Morgan Hill (Table 5 of Attachment 1). The purpose of the evaluation is to identify the most realistic opportunities for future potential recycled water to reach Morgan Hill. By narrowing down options, Valley Water and the City can continue to focus on those opportunities. The top three most feasible options identified include:

- Option 1a: Direct Potable Reuse via Treated Water Augmentation into water system (via satellite treatment facility) - This option consists of the development of a satellite wastewater treatment facility in combination with an Advanced Water Purification Facility (AWPF) that utilizes the City's wastewater.
- Option 1b: Direct Potable Reuse via Treated Water Augmentation into water system (via purified water pumped from SCRWA) - This option would include an AWPF at SCRWA, approximately 12 miles of 24-inch pipeline, and a pump station.
- Option 2 NPR+ from South Bay Water Recycling - This option includes importing recycled water supplies from South Bay Water Recycling (SBWR) via 16 miles of 16-inch pipeline. A transmission main from SBWR would connect to a future recycled water distribution system in Morgan Hill.

Detailed information on these projects and the feasibility and limitations associated with them is available within the Plan.

City staff are requesting the City Council approve the draft plan or at minimum provide feedback on the proposed options to support future work with Valley Water and the City of Gilroy in this area. This is important as Valley Water has received a planning grant from the United States Bureau of Reclamation (USBR) to develop a South County Recycled Water System Feasibility Study. This study will expand the analysis of future opportunities in South County, including purified water implementation. A USBR adopted feasibility study is a prerequisite toward seeking many sources of federal funding assistance for capital projects.

COMMUNITY ENGAGEMENT:

Inform

The Joint Water Resources Committee previously published and took public comment on this Plan on April 3, 2024. The updated draft plan was posted on the City's website on May 1, 2024 and shared through the City's email newsletter, the 411.

ALTERNATIVE ACTIONS:

The City Council could choose not to approve the draft plan and provide comments to the staff on the proposed plan. The Council could also choose to provide further direction to staff on recycled water.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City approved the 2021 Water System Master Plan and the 2020 Urban Water Management Plan, which both included information on potential recycled water for Morgan Hill.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact with this planning item. Implementation of recycled water projects would be significantly expensive from both a capital and operations perspective and will continue to be evaluated as planning and analysis continues in the future.

CEQA (California Environmental Quality Act):

Categorical Exemption 15262:

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors.



**South County Regional
Wastewater Authority**

SOUTH COUNTY RECYCLED WATER DISTRIBUTION SYSTEM MASTER PLAN

FINAL DRAFT

March 2024



March 1, 2024

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686

Attention: Mr. David Tucker, P.E.
Associate Engineer, Project Manager

Subject: South County Recycled Water - Distribution System Master Plan

Dear David:

We are pleased to submit this 2023 South County Recycled Water Distribution System Master Plan. The report includes the following major tasks:

- Performing a capacity analysis and evaluation of the existing distribution system and improvement alternatives.
- Provide recommendations for mitigating existing distribution system capacity deficiencies and servicing the short-term users.
- Summarizing the Morgan Hill recycled water options.
- Developing mapping of the existing distribution system, customers, and proposed improvements.
- Developing an updated distribution system Capital Improvement Program (CIP) for a short-term horizon (5-yr).

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Sincerely,

AKEL ENGINEERING GROUP, INC.

Tony Akel, P.E., D.WRE
President



Acknowledgements

Valley Water Board of Directors

John L. Varela, District 1

Barbara Keegan, District 2

Richard Santos, District 3

Jim Beall, District 4

Nai Hsueh, District 5

Tony Estremera, District 6

Rebecca Eisenberg, District 7

Valley Water Management Personnel

Hossein Ashktorab, Ph.D., Recycled & Purified Water Manager

David Tucker, Associate Engineer

Kirsten Struve, Assistant Officer for Water Supply

South County Regional Wastewater Authority

Saeid Vaziry, Environmental Programs Manager

Jimmy Forbis, General Manager

City of Morgan Hill

Chris Ghione, Public Services Director, City of Morgan Hill

James Sylvain, Deputy Director of Utilities

Tanya Carothers, Environmental Programs Administrator

City of Gilroy

Karl Bjarke, Interim Public Works Director

Jeff Castro, Operations Supervisor

Valley Water

South County Recycled Water Distribution System Master Plan

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South County Recycled Water Distribution System Master Plan

1.0 PURPOSE AND SCOPE

This 2023 Recycled Water Distribution System Master Plan provides an update of the distribution system capacity evaluation component of the previous 2015 South County Recycled Water Master Plan (2015 Master Plan) prepared for Santa Clara Valley Water District (Valley Water) and the South County Regional Wastewater Authority (SCRWA) in May of 2016. Since the completion of the 2015 Master Plan, new pipelines have been constructed, customer demands have increased, and operation at the Wastewater Treatment Plant (WWTP) has become increasingly challenging during peak usage and the high demand season.

Purpose

This study provides an updated **2023 Distribution System capacity evaluation** to the 2015 South County Recycled Water Master plan, with a 5-year short-term planning horizon. It also provides a summary for the **Morgan Hill potential RW options**.

This project, located in South Santa Clara County in the City of Gilroy (**Figure 1**), consisted of updating and evaluating the short-term capacity requirements for the South County Recycled Water Distribution System. It is intended as an update superseding the capacity analysis from the 2015 Master Plan.

Scope

This report documents the following scope of work tasks:

- Updating the inventory of the existing South County recycled water pipelines.
- Documenting the existing and short-term users recycled water demands.
- Updating the short-term recycled water demand projections.
- Performing a capacity analysis and evaluation of the existing distribution system and improvement alternatives.
- Providing recommendations for mitigating existing distribution system capacity deficiencies and servicing the short-term users.
- Summarizing the Morgan Hill recycled water options.
- Developing detailed mapping of the existing distribution system, customers, and proposed improvements.
- Developing an updated distribution system Capital Improvement Program (CIP) for a short-term horizon (5-yr).

2.0 RELEVANT DOCUMENTS

The 2015 South County Recycled Water System Master Plan is the primary document that was updated in this effort. This section lists other relevant reports that were referenced during the completion of this distribution system capacity master plan update to the 2015 Master Plan, along with a brief description of each document.

- **2020 Countywide Water Reuse Master Plan (2020 CoRe Plan).** This document was developed to identify opportunities for Santa Clara County to expand water reuse and improve water supply reliability. This plan included water reuse options for the North County (San Jose, Palo Alto, and Sunnyvale) and the South County (Morgan Hill, Gilroy)
- **2019 Sustainable Water Management Plan (2019 SWMP).** This document presents water supply alternatives available for the Llagas and Coyote Valley Groundwater Subbasins and included a qualitative analysis and ranking system to prioritize impacts for each project and the benefits for each alternative.
- **2015 South County Recycled Water Master Plan Update (2015 Master Plan).** This report was an update to the 2004 Master Plan and updated the existing recycled water demands, identified and prioritized future users, performed a hydraulic analysis, and prepared a capital improvement program to mitigate existing system deficiencies and serve future users.
- **2010 South County Recycled Water Pipeline Short-Term Phase 1, Planning Study Report (2010 Planning Study).** This document includes information for the updated potential future users list and contains updates to the 2004 Master Plan short term facilities.
- **2004 South County Recycled Water Master Plan (2004 Master Plan).** This report included the development of potential recycled water users and a hydraulic model of Valley Water's recycled water system. The hydraulic model was used to evaluate the existing recycled water system and recommended improvements to accommodate future growth.
- **2000 South Bay Water Recycling, Phase 2 Concept Design Report (2000 Design Criteria).** This document includes Valley Water's design criteria for the recycled water system facilities.

3.0 EXISTING AND PLANNED RECYCLED WATER DISTRIBUTION SYSTEM

This section documents the existing recycled water infrastructure including the distribution system pressure zones, pump stations, storage tanks and includes a brief description for the planned baseline system.

3.1 Existing System

The existing recycled water distribution system is comprised of two separate delivery systems: the North System and the South System (Pajaro River Pipeline). The system consists of approximately 91,300 linear feet (17.3 miles) of 8-inch to 36-inch diameter pipelines, a 4 million gallons per day (mgd) booster pump station, and a 1.5 million gallons (MG) off-site storage tank, and is supported by a 3 MG on-site reservoir, a 6.9 mgd pump station, and a 6.0 mgd pump station at the SCRWA WWTP shown graphically on [Figure 2](#) and documented in [Table 1](#).

3.1.1 North System Distribution Pipelines

The North System is comprised of two pressure zones and serves the existing recycled water customers north of the SCRWA WWTP. The North System Pressure Zones are documented on [Figure 2](#).

- **Pressure Zone 1:** This zone is pressurized by the Area 93 Pump Station at the WWTP and includes a 200 cubic feet (ft³) pressurized surge tank.

The existing pipeline alignment heads north from the WWTP along Engle Way with parallel 12-inch and 36-inch mains and east with a 12-inch main along Southside Drive to supply the Gilroy Shooting Range. The 12-inch main then follows the Miller Slough north to the Princeville Drain flood control maintenance road. A 12-inch spur from this intersection supplies the Calpine Energy Center to the east.

From the Calpine Energy Center spur, the 12-inch main continues west along the Princeville Drain to supply the McCarthy Business Park and United Natural Food. The 12-inch pipeline continues west to supply water to B&T Farms and then crosses under Highway 101. At Monterey Road and the Princeville Drain, a 12-inch extension supplies water south to the Gilroy Sports Park. The 12-inch pipeline then continues west along the Princeville Drain and crosses through Gilroy High School to supply water to Christmas Hill Park and ending at the Zone 2 Pump Station.

Construction of a 30-inch main from Southside Drive in Luchessa Avenue (and through the Glen Loma development) to Christmas Hill Pump Station is nearing completion. There is one section of pipeline in the Glen Loma Development along Luchessa Avenue between Miller Avenue and Vintner Court that is not constructed. Once this last section is constructed, the southern loop will be complete which will enhance the existing system operations.

- **Pressure Zone 2:** This zone is supplied by the Zone 2 Pump Station (Christmas Hill Park) located just west of Christmas Hill Park which pumps water to the 1.5 MG Hoylelake Tank.

From the Zone 2 Pump Station a 14-inch pipeline parallels the Uvas Creek Preserve along Grenache Way. At Club Drive there is an 8-inch spur which has been used to temporarily

supply the Glen Loma Ranch Development with recycled water for grading and other construction activities. From Club Drive the 14-inch continues north-west to Santa Teresa Boulevard where the turnout is located for the Eagle Ridge Golf Course. From Santa Teresa Boulevard the 14-inch continues west where the pipeline splits to the north and west. The 12-inch north branch supplies water to the Gilroy Golf Course, a couple of HOA's, and City of Gilroy parks. The 14-inch west branch continues southwest along Club Drive and connects to the 1.5 MG Hoylake Tank.

3.1.2 South System Distribution Pipelines (Pajaro River Pipeline)

The majority of the South System is owned and maintained by SCRWA under joint operations since it primarily serves agricultural customers that pay Valley Water. The pipeline was installed for discharge to the river in case of an emergency (e.g. high inflow conditions and low recycled water demands), but SCRWA has never used it for such a purpose, and instead distributes recycled water year-round to agricultural customers south of the WWTP.

This system is pressurized by the Area 94 Pump Station which pumps into a 20-inch pipeline that heads south-west then south-east from the WWTP ([Figure 2](#)). The pipeline goes through a right-of-way in the SCRWA Farms Agriculture lands to the intersection of Bloomfield Avenue and Sheldon Avenue. A 22-inch, inner diameter main continues south-east for 700 feet and decreases in diameter to a 20-inch main which continues south-east to a discharge turnout located on the Pajaro River near the railroad tracks. Turnouts along this pipeline serve the San Felipe Farms.

3.1.3 Distribution System Pump Stations

The existing recycled water distribution system has three pump stations, documented on [Table 1](#), and summarized as follows:

- **Area 93 Pump Station (North System, Pressure Zone 1)**. The Area 93 Pump Station is located at the SCRWA WWTP at an elevation of 154 feet and is comprised of five pumps. Each of the five pumps has a variable frequency drive that provides up to 1,530 gallons per minute (gpm). Thus, the total existing capacity is 7,650 gpm and the firm capacity is 6,120 gpm. During peak months the pumps are generally operated to maintain approximately 95 pounds per square inch (psi) in the North System Pressure Zone 1.
- **Zone 2 Christmas Hill Pump Station (North System Pressure Zone 2)**. The Zone 2 Christmas Hill Pump Station is located west of Christmas Hill Park at an elevation of 222 feet and is comprised of three pumps. Each of the three pumps has a variable frequency drive that provides up to 1,375 gpm. Thus, the total existing capacity is 4,125 gpm and the firm capacity is 2,750 gpm. The pumps are generally operated by water levels in the Hoylake Tank that is located west of Santa Teresa Boulevard within the Eagle Ridge Golf Community.

The existing distribution system currently experiences high headlosses in the pipelines due to high water demands, resulting in low pressures near the Christmas Hill Pump Station. Due to the restrictions in the existing system (causing low pressures) this pump station's speed is operated between 65% to 85% in order to maintain a suction pressure of 20 psi.

- **Area 94 Pump Station (South System)**. The Area 94 Pump Station is located at the SCRWA WWTP at an elevation of 154 feet and is comprised of three pumps. Each of the three pumps has a variable frequency drive that provides up to 2,100 gpm. Thus, the total existing capacity is 6,300 gpm and the firm capacity is 4,200 gpm. When serving customers in the South System the pumps are generally operated with high head to maintain approximately 80-85 psi in the South System. During river discharge pumping, which generally does not occur, the pumps are operated with low head as high pressures are not required for river discharges.

3.1.4 Storage Tanks/Reservoirs

The existing distribution system has two storage tanks/reservoirs with a combined volume of 4.5 MG.

- **3.0 MG Reservoir at the SCRWA WWTP**. The 3.0 MG reservoir located at the SCRWA WWTP has a base elevation of 160 feet. This reservoir also has a return pump station with a capacity of 3 mgd, and which is used to drain the 3.0 MG reservoir. The same pipeline that is used to drain this reservoir is also used to fill it. Therefore, this critical reservoir operates by alternating between fill and drain mode but cannot do both at the same time. This reservoir is used to support the distribution system during peak demands, provides equalization of treatment flows at the WWTP, and the Area 93 and Area 94 Pump Stations both pump from this reservoir.

This critical reservoir operates by alternating between fill-and-drain cycles but cannot do both at the same time. Operational enhancements are recommended at this critical facility.

- **1.5 MG Reservoir in Pressure Zone 2 (North System)**. The Hoylake Tank is the second storage reservoir, and it is located in Zone 2 (North System). This tank is located at the end of Hoylake Court, has a capacity of 1.5 MG, and a base elevation of 385 feet. The Zone 2 Christmas Hill Pump Station is set to fill this tank based on the water levels.

3.2 Planned Recycled Water System (Baseline System)

The planned recycled water system (baseline) from the 2015 Recycled Water Master Plan was developed to mitigate the existing system deficiencies and to expand service to the most viable customers based on the market assessment that was performed. These planned and future alignments included in this distribution system capacity master plan are documented on [Figure 3](#).

The hydraulic analysis will focus on these pipelines and identify the potential customers in close proximity that could connect with minimal required infrastructure.

4.0 OPERATIONAL CONSTRAINTS

The South County recycled water system is operated by the South County Regional Wastewater Authority, and at the Wastewater Treatment Facility located in the City of Gilroy. Jacobs Solutions Inc. have been providing management and staffing assistance at the SCRWA Wastewater Treatment Facility for many years, and they were consulted during this study. This section documents the operational constraints observed by the system operators, and they include distribution constraints that are being mitigated by the large distribution main projects constructed by Valley Water, and on-site storage constraints experienced during peak season usage.

4.1 Distribution System Constraints

The distribution main constraints were identified in previous studies including the 2004 and 2015 South County Master Plans. The existing 12-inch main in the North System, Pressure Zone 1 experiences high headlosses during peak recycled water usage resulting in low pressures and restricted operations at the Christmas Hill Booster Station. Valley Water has been diligently working on resolving the distribution bottle necks and is planning on completing several large diameter pipeline projects in the near-term. SCRWA operational staff commented on the constraints as follows:

Valley Water is addressing the distribution constraints by completing several large diameter conveyance pipeline segments in the North System.

“The SCRWA recycled water system has evolved over the years. In the past 7 years, constraints on the system have also evolved. Early on the main constraint was being able to get water offsite. With the upgrades to SCRWA’s 93 pumpstation and flow meters, this constraint has been alleviated to some degree”. (SCRWA operations staff, 2022).

It should be noted that since Valley Water has been actively resolving the distribution system bottlenecks, staff will further experience enhanced operations.

4.2 SCRWA WWTP On-site Operational Storage Constraints

The SCRWA WWTP on-site operational storage constraints were identified in the 2015 South County Master Plan. These current constraints are related to recycled water delivery scheduling, chances of overlapping delivery hours, and the unpredictable nature of the users. Additional storage and pumping will alleviate the current on-site operational constraints. The projects to address these constraints have not been initiated, and they include on-site storage as well as updates to the booster station. SCRWA operations staff commented on this constraint as follows: *“Our main current constraints are storage and pumping capacity”*.

Additional storage and pumping capacity add resilience to the Recycled Water system operation and provide SCRWA operations staff with leverage to better serve existing and anticipated future customers.

Operations staff currently schedule all planned equipment maintenance activities during the low recycled water usage season (wet months). However, when issues arise during the dry season, and which require immediate repairs, they work harder to resolve the operational issue, and mitigate service interruptions.

“If an issue arises prior to refilling the reservoir, we work with the users to reduce their demand. This includes but is not limited to having farmers switch from recycled water to their well systems, shutting off Eagle Ridge Golf course (if their pond is full), reducing onsite usage, and working with other users as necessary to lower usage”. (SCRWA operations staff, 2022).

Additional storage and pumping capacity add resilience to the Recycled Water system and provide SCRWA operations staff more leverage to better serve existing and anticipated future customers.

5.0 SUPPLY ANALYSIS AND RECYCLED WATER DEMANDS

This section documents the recycled supply versus demand analysis, the existing and potential recycled water users, usage types, and diurnal patterns.

5.1 Supply vs. Demand Analysis

The recycled water system relies on water from the SCRWA Wastewater Treatment and Reclamation Plant, which collects and treats wastewater flows from the cities of Morgan Hill and Gilroy. Approximately 73% of the influent flows are from residential customers, 17% from commercial/institutional customers, and 10% are from industrial customers. **Figure 5** documents the monthly historical WWTP influent flow versus the recycled water production. Since 2017, the WWTP influent water has been trending down due to conservation measures and plumbing code changes, while the recycled water production has been trending higher.

The monthly recycled water usage is documented on [Figure 6](#) which identifies the recycled water use type (landscape irrigation, municipal and industrial (M&I), agriculture water (crop irrigation), and utility) by month (June 2021 to May 2022) as compared to the wastewater annual treatment plant influent flow. The WWTP influent average is approximately 6.1 mgd and the annual recycled water usage is 2.09 mgd, however during peak usage recycled water demands increase up to 5.7 mgd. The maximum day demands by hour are documented on [Figure 7](#), which shows peak recycled water use above the WWTP influent flows during high use periods. These peak flows have to be supplied by the existing 1.5 MG tank in Zone 2 and the 3.0 MG recycled water tank at the WWTP. There is approximately 0.4 mgd of surplus capacity for future users during peak summer months.

5.2 Existing Recycled Water User Demands

The existing recycled water users (meter locations) are identified on [Figure 4](#). The historical recycled water use has been generally consistent as documented on [Figure 5](#), with only a slight upward trend. Based on the historical recycled water production analysis, the existing recycled water demands for these users are based on the most recent monthly billing records from June 2021 to May 2022 and adjusted to the total recycled water production. These recent demands and allocation will provide the most up to date and accurate results for the hydraulic analysis. The annual recycled water use (including utility water) was approximately 2,338 AFY as documented on [Table 2](#).

The maximum day demands were developed based on peak month SCADA from the Area 93 and 94 pump stations and is estimated at 3,945 gpm as documented on [Table 2](#) (North System: 1,912 gpm and South System: 1,404 gpm). The peak hour demands were developed based on the reported hours of operation extracted from the yearly recycled water use permits that are submitted to SCRWA. [Figure 8](#) and [Figure 9](#) document the north and south system user demands diurnals.

5.3 Potential Recycled Water Users and Demands

The 2015 Recycled Water Master Plan included a thorough market assessment and customer ranking system for potential recycled water users. This capacity analysis focused on these high ranking and potential customers near the baseline system as identified on [Figure 10](#) and documented on [Table 3](#). The annual demands for each user were extracted from the 2015 Master Plan and the peaking factors developed from the updated existing system demand analysis were applied to determine the projected maximum day demands. The projected demand of the baseline potential users is approximately 4,529 gpm. Two potential long-term users were also included in this analysis, Gilroy Gardens and Western Tree and Nursery.

6.0 HYDRAULIC MODEL UPDATE AND CALIBRATION

The South County's recycled water distribution system hydraulic model combines information on the physical characteristics of the recycled water system (pipelines, pump, storage reservoirs) and operational characteristics (how they operate). The hydraulic model then performs calculations and solves a series of equations to simulate flows in pipes and calculate pressures at nodes or junctions. The recycled water model was developed using the water modeling software, InfoWater Pro by Autodesk, which offers an intuitive graphical interface and robust integration with ESRI's ArcGIS.

6.1 Hydraulic Model Update

The hydraulic model was updated to reflect current facility improvements and pipeline alignments based on recent construction. The existing water demands were also updated in the hydraulic model to reflect the most recent billing records and spatial allocation.

6.2 Hydraulic Model Calibration

Calibration is intended to instill a level of confidence in the pressures and flows that are simulated, and it generally consists of comparing model predictions to field measured results, and making necessary adjustments. The calibrated hydraulic model was updated with system operational controls, and was verified with Supervisory Control and Data Acquisition (SCADA) system data obtained for July 2021.

The model calibration consisted of comparing the pump flows from the Area 93 and Area 94 pump stations to SCADA for the summer months. **Figure 11** documents multiple peak use days from July 2021 (SCADA) as compared to the hydraulic model outputs. The demand allocation and diurnal patterns developed in the demand analysis resulted in an acceptable match between the SCADA and model outputs. The hydraulic model is now an established benchmark and can be used for system evaluations.

7.0 HYDRAULIC ANALYSIS AND USER OPTIMIZATION

The section documents the evaluation criteria utilized in the hydraulic analysis for the existing and planned baseline system and includes recommendations for system operations to optimize and maximize the capacity of the existing facilities and limited supply. The scenarios included in this analysis are as follows:

- **Existing System Evaluation:** This scenario evaluates the existing system and recycled water usage to identify the deficiencies in the distribution system.
- **Existing Recycled Water User Optimization:** This scenario evaluates the existing system with optimized use of recycled water usage.

- **Baseline System Evaluation with Optimized Operations:** This scenario evaluates the existing system plus the currently under-construction baseline system improvements with optimized operations.
- **Near-Term Users Evaluation with Optimized Operations:** This scenario evaluates the baseline system with additional users to maximize the available recycled water.
- **Conceptual Baseline System Buildout:** This scenario evaluates the conceptual buildout of the baseline system (included for long-range planning purposes only).

7.1 Design Criteria

Velocity, headlosses and pressures are important factors in the design of a recycled water distribution system. To properly serve customers, the velocities and headlosses need to be a reasonable and provide adequate pressure for customers.

The criterion used in the analysis of the recycled water system was originally obtained from the South Bay Water Recycling, Phase 2 Concept Design Report, dated February 2000. The criterion is intended for maintaining efficient system operation while providing a reliable service to the recycled water system customers.

Table 4 documents the criterion used for evaluating the capacity adequacy of the distribution system during peak day demands and peak hour demands.

Design Criteria

- Velocities less than 5 feet per second (fps).
- Headlosses less than 4 feet per 1,000 feet (ft/kft).
- Minimum Pressures at 35 pounds per square inch (psi).
- Operating pressures ranging between 60 and 120 psi (ideal).

7.2 Existing System Evaluation

The hydraulic analysis for the existing system identified numerous pipelines and pressures under the SCRWA criteria. The existing 12-inch main will experience headlosses up to 17 ft/1000ft (criteria is < 4 ft/1000ft). These high headlosses result with service pressures below the 35 psi minimum criteria (preferred 60-120 psi). As a result, the Christmas Hill booster station has to operate at a lower speed in order to maintain a suction pressure above 20 psi. The hydraulic analysis results are documented on **Figure 12**.

The existing system operations are documented on **Figure 13**. This figure documents the recycled water flow as compared to the system demands and the high peak demands that must be supplied by the existing tanks in order to meet the demands. The peak demands in the system are 9.2 mgd while peak flows from the WWTP are 7.5 mgd. Additionally, due to the low pressures at Christmas Hill booster station, the pump runs at a reduced capacity resulting with near constant flow during high demand periods to maintain the Hoylake Tank.

7.3 Existing Recycled Water User Optimization

During summer months the recycled water system experiences high peak usage due to the agricultural and irrigation uses. Being able to shift some of the water usage during peak hours to off-peak will ease the operations and depletion of the storage tanks.

Stantec was retained by SCRWA during this distribution system master plan update to perform a high-level analysis to identify opportunities for shifting demands during peak usage, and thus optimize the system operations. The approach of this optimization is summarized as follows:

- Step 1. Identify which users’ “hours of use” can be shifted. Which users are not flexible, which are flexible.
- Step 2. Work with the “flexible” users to optimize the daily water use.

The existing user demands, and their current hours of operations are inventories on Table 2. This information was provided to Stantec to review the permitted hours of operation, and the results of the high-level analysis provided by Stantec are summarized as follows:

“We have reviewed the data for each user and ... There are a lot of limitations with the users and why their hours cannot change. For the few users that have flexibility, the changes are very minor and therefore would not help to optimize the existing recycled water usage. We have talked about this with Valley Water staff as well and they agree any changes would be minor and not help to optimize the recycled water usage. There is potential to take the data ... provided into consideration when new users come online and set their hours of operation accordingly”.
Stantec, 2023.

Operation limitations on the users’ side indicate no flexibility in shifting the desired deliveries. Thus, the recycled water system’s current operation is considered running at, or near, an optimized level.

Based on the results of this analysis the users’ hours of operation will remain the same for the future system analyses.

7.4 Baseline System Evaluation with Optimized Operations

Valley Water is actively constructing several segments along the distribution system, and which intended to resolve existing bottlenecks and for future system expansion. The construction of the segments in the North System (baseline system) are occurring in difference phases, with some segments constructed but are currently inactive while others are under construction as documented on Figure 3. The baseline improvements in this scenario include the 30-inch main from Southside Drive to the Christmas Hill booster station (P-1, P-2, P-4, plus the constructed but inactive mains) and the 18-inch main that links the new 30-inch main to the existing 12-inch main in Cameron Boulevard (P-3). Please note this segment (P-3) has not been constructed and may not since Valley Water has been unable to secure an easement.

With the construction and activation of the Baseline system improvements, pipeline headlosses are reduced resulting in higher and more adequate pressures experienced in Zone 1. These higher pressures allow the Christmas Hill booster station to operate at a higher capacity and allow for more optimized operations. With the higher suction pressures, Christmas Hill pumping capacity can be increased back to full capacity allowing for filling the Hoylake Tank during off-peak hours. **Figure 14** documents Baseline system with existing demands but with optimized operations. The peak hour flows are reduced from 7.5 mgd to 6.4 mgd which eases the stress on the WWTP operations and tank depletion.

Completing the imminent and near-term improvements will result with more adequate pressures in Zone 1, and more efficient and reliable operations at the Christmas Hill Booster Station.

The hydraulic analysis results for the Baseline system with optimized operations are documented on **Figure 15**. The 14-inch discharge pipeline in Zone 2 had pipeline headlosses over criteria (up to 6.6 ft/kft), but system pressures and operations are not impacted.

7.5 Near-Term Users Evaluation with Optimized Operations

The near-term scenario includes two new potential users (Glen Loma and the Data Center) to maximize the use of the available recycled water. The selection of users presented here is speculative and actual potential customers will vary depending on their projected demands and interest in using recycled water. There is approximately 0.4 mgd of surplus capacity for future near-term users during peak summer months.

The hydraulic analysis utilized the optimized operations at Christmas Hill and is documented on **Figure 16**. The hydraulic analysis results are documented on **Figure 17**. The addition of these new users causes minor impacts to the baseline system but will increase the stress on the WWTP operations and reliance on WWTP on-site reservoir.

7.6 Conceptual Baseline System Buildout

The conceptual baseline buildout (long-term) scenario includes each of the potential future users from **Table 3**. This scenario will require the following improvements:

- Zone 2 pipeline improvements (P-5, P-6)
- Pipe improvements to service the large users of Gilroy Gardens and Western Tree and Nursery on the west side of the system (LT-P-8, LT-P-9).
- A new booster station from Zone 2 to the new Zone 3.
- Booster station capacity upgrades at Area 93 and Christmas Hill.
- Additional storage in Zone 2.

System expansion for the baseline long-term users will require additional improvements to the existing distribution system.

The hydraulic analysis results are documented on [Figure 18](#). The Zone 2 pipeline improvements P5, and P-6 mitigate the high headlosses observed in the previous scenarios and the planned baseline improvements are adequate for the potential long-term demands.

Please note, this scenario is conceptual and is highly dependent on wastewater influent flow increases plus additional treatment capacity. The existing WWTP influent flow is approximately 6.1 mgd and the buildout demands in this scenario is 11.6 mgd. This buildout scenario is conceptual and included for long-range planning purposes only.

8.0 RECYCLED WATER OPTIONS FOR MORGAN HILL

There is currently no recycled water delivered within the City of Morgan Hill's service area, though delivering recycled water to Morgan Hill from the SCRWA WWTP and other sources has been considered in the 2015 Master Plan and in other feasibility studies. Morgan Hill has been consistently interested in exploring potential feasible opportunities where recycled water can be implemented in the future and added to their water supply portfolio. This section is intended to provide an updated summary of the currently considered six feasible reuse options.

Morgan Hill has been consistently interested in exploring potential opportunities to add water reuse to their supply portfolio. This section provides an update on six potentially feasible options.

8.1 Morgan Hill Reuse Options Relevant Studies

This section lists previous relevant reports and studies which explored the opportunities and potential costs of adding recycled water to the water supply portfolio in Morgan Hill.

- **2015 South County Recycled Water Master Plan Update.** The Santa Clara Valley Water District, the South County Regional Wastewater Authority, the City of Morgan Hill (Morgan Hill), and the City of Gilroy (Gilroy) partnered to explore the continued use, promotion, and expansion of the recycled water in the region. The agencies retained the services of Stantec and Akel Engineering Group to complete the 2015 South County Recycled Water Master Plan Update and which included a market assessment and developed project alternatives for expanding the existing recycled water system currently serving the City of Gilroy and adjacent County users. One of the considered alternatives included extending a recycled water pipeline from the SCRWA wastewater plant northward to service the City of Morgan Hill.
- **2016 Recycled Water Feasibility Evaluation.** With intent to provide more focus on the City of Morgan Hill recycled water needs, Morgan Hill retained the services of Akel Engineering Group and Stantec to further explore opportunities in recycled water for Morgan Hill, and to prepare the 2016 Recycled Water Feasibility Evaluation. This study identified potential recycled water users through a market assessment and included high

level costs for the potential alternatives. As identified in the market assessment, the potential future users of recycled water in the City include landscape irrigation, agricultural irrigation, industrial processes, and indirect potable reuse. As part of the 2016 RWFE, infrastructure required to convey recycled water from the South County Regional Wastewater Authority Wastewater Treatment Plant in the City of Gilroy to the potential users was identified.

- **2019 Sustainable Water Management Plan.** The 2019 Sustainable Water Management Plan, by Akel Engineering Group, Inc. was finalized in September 2019 for the cities of Morgan Hill and Gilroy. This plan documents the water supply alternatives analysis and project rankings for the Llagas Groundwater Subbasin and Coyote Valley. This report is intended to identify on-going and potential projects impacting the water supplies for the groundwater aquifers and includes a quantitative analysis to rank each alternative.
- **2020 Countywide Water Reuse Master Plan (2020 CoRe Plan).** This Countywide Water Reuse Master Plan (CoRe Plan) by Brown and Caldwell was finalized in June 2021. This countywide plan explores opportunities for reliable local water, imported water, and recycled water within Valley Water’s service area. This report is intended to identify opportunities to expand water reuse throughout Valley Water’s service area, including the City of Morgan Hill. The report identified three alternatives (options) with potential costs and risk levels, which are documented in this section.

8.2 Updated Morgan Hill Reuse Options

This section summarizes six potential recycled water options for the City of Morgan Hill. These six options were extracted from the following relevant studies, which were referenced in the previous section: *2020 Valley Water’s Countywide Reuse Master Plan*, *2016 Recycled Water Feasibility Evaluation*, *2015 South County Recycled Water Master Plan Update*, and the *2019 Sustainable Water Management Plan*.

The six Morgan Hill reuse options were further refined and developed during discussions between Valley Water, Morgan Hill, and Gilroy. It should be noted that during peak recycled water usage there is no additional wastewater available for treatment. For this scenario, either reductions to existing users or additional storage would be required to supply recycled water.

8.2.1 Option 1a and 1b – Direct Potable Reuse

In December of 2023 the California State Water Resources Control Board adopted new regulations for direct potable reuse (DPR). While not explored in-depth in the CoRe Plan, direct potable reuse or the planned introduction of recycled water either directly into a public drinking water system, or into a raw water supply immediately upstream of a drinking water treatment plant may provide opportunity for a secure water source that can supply recycled water directly into the City of Morgan Hill’s water system. Once the new regulations are finalized in 2024, water systems

will be able to submit plans for DPR for approval. Should DPR projects prove to be a feasible path in the future, the City of Morgan Hill could consider moving in that direction.

There are two likely options to deliver purified water to the Morgan Hill Water System ([Figure 19](#)): The 1a option consists of the development of a satellite wastewater treatment facility in combination with an Advanced Water Purification Facility (AWPF) that utilizes the City's wastewater. The 1b option consists of the construction of the AWPF at the South County Regional Wastewater Authority and pumping the treated water back to Morgan Hill.

Option 1a: Direct Potable Reuse via Treated Water Augmentation into water system (via Satellite WWTP and AWPF). This option would include a satellite WWTP and an AWPF.

Option 1b: Direct Potable Reuse via Treated Water Augmentation into water system (via purified water pumped from SCRWA). This option would include an AWPF at SCRWA, approximately 12 miles of 24-inch pipeline, and a pump station.

These options were not included in the CoRe Plan but a brief summary of benefits and limitations is provided as follows:

Benefits. *These options would require less pipeline infrastructure and have less operations and maintenance (O&M) costs than a satellite WWTP and AWPF. Provides a drought-resilient water supply for the City of Morgan Hill.*

Limitations. *There is a high cost of infrastructure which would be borne by Llagas subbasin unless there is grant funding, high O&M costs, and additional solids loading and reduced recycled water availability at SCRWA.*

8.2.2 Option 2 – NPR+ from South Bay Water Recycling

This option includes importing recycled water supplies from South Bay Water Recycling (SBWR) via 16 miles of 16-inch pipeline. A transmission main from SBWR would connect to a future recycled water distribution system in Morgan Hill. This option is documented on [Figure 20](#).

Benefits. *According the 2020 CoRe Plan, this option would improve groundwater management (water supply reliability) for Morgan Hill by importing NPR+ supply from SBWR to serve non-potable demands in place of groundwater, which is currently the sole water source of Morgan Hill.*

Limitations. *According to the 2020 CoRe Plan, an agreement to establish terms of exporting SBWR NPR+ supply from San Jose and neighboring areas to Morgan Hill would be needed, as the existing Silver Creek Agreement between Valley Water and San José expires in 2027. Long-term supply reliability is unconfirmed. Operational impacts to the SBWR system have not been evaluated, and a new reservoir may be needed to supply reliable summertime flows. Valley Water may need to reassess the potential impacts of recycled water on the Llagas Subbasin prior to moving forward as there is potential for groundwater quality degradation*

from using recycled water for irrigation. Given shifting development trends in Morgan Hill, an updated NPR market assessment is needed. Additionally, without grant funding the cost would be borne entirely by Llagas subbasin for the operations and maintenance.

8.2.3 Option 3 – Satellite Advanced Water Purification Facility for Groundwater Recharge (GWR)

This option includes recharging the Llagas subbasin in the San Pedro Ponds with purified water, which would be produced at a satellite WWTP treating the City’s wastewater and an AWPf. This purified water would be conveyed to San Pedro Ponds through 3 miles of 16-inch pipelines along Maple Avenue and Hill Road. This option is shown on [Figure 21](#).

Benefits. According to the 2020 CoRe Plan, this option would improve water supply reliability and drought resilience for Morgan Hill by recharging the Llagas Subbasin with purified water.

Limitations. According to the 2020 CoRe Plan, high unit costs with uncertain value to improving South County water supply reliability. Limited wastewater available for satellite treatment in Morgan Hill and relied upon for meeting existing South County Recycled Water System (RWS) demands. A Morgan Hill satellite facility would increase solids loads to SCRWA, posing operational issues that may be substantial. If implemented in Morgan Hill, solids handling requires further study and may increase costs significantly. Density and proximity of active private wells limit GWR locations in South County. San Pedro Ponds recharge facility is assumed the delivery point; which currently have significant recharge restrictions due to groundwater level issues/septic interference. Valley Water has recently finished a high-level feasibility study to identify alternatives to restore the capacity of these ponds, however conditions and reliability of increasing raw water delivery to Llagas Subbasin and specific recharge facility still need to be confirmed. A drought-resilient source of water would be ideal to combat droughts as Valley Water delivers raw water to all recharge facilities in Llagas Subbasin when supplies are available. Prolonged droughts impact the deliveries, albeit Valley Water does prioritize Morgan Hill facilities. Additionally, the assumed location for the evaporation pond for reverse osmosis concentrate management (ROC) in Gilroy gets inundated with stormwater (unsuitable for evaporation pond). New permits from Regional Board(s) and/or State Water Resources Control Board’s Division of Drinking Water are also needed for discharging purified water.

8.2.4 Option 4 – Satellite Advanced Water Purification Facility for Surface Water Augmentation (SWA)

This option includes supplementing recharge of the Llagas Subbasin with water supplies provided by Valley Water, which would be delivered to ponds within the City’s service area. In exchange for these water supplies, the City would deliver purified water delivered to Valley Water’s Anderson Reservoir northeast of the City’s service area. This option would include a satellite WWTP, an AWPf, and approximately 6 miles of 16-inch pipeline. This option is shown on [Figure 22](#).

Benefits. According to the 2020 CoRe Plan, this option would improve water supply reliability and drought resilience for Morgan Hill by recharging the Llagas Subbasin with raw water supplied from Valley Water via the Santa Clara Conduit in exchange for an equivalent amount of purified water delivered to Anderson Reservoir for SWA.

Limitations. According to the 2020 CoRe Plan, high unit costs with uncertain value to improving South County water supply reliability. Limited wastewater available for satellite treatment in Morgan Hill and relied upon for meeting existing South County RWS demands. Morgan Hill satellite facility would increase solids loads to SCRWA, posing operational issues that may be substantial. If implemented in Morgan Hill, solids handling requires further study and may increase costs significantly. New permits from Regional Board(s) and/or State Water Resources Control Board's Division of Drinking Water needed for discharging purified water to Anderson Reservoir. Conditions and reliability of increasing raw water delivery to Llagas Subbasin and specific recharge facility need to be confirmed.

8.2.5 Option 5 – Pumping Recycled Water from SCRWA to a Morgan Hill Recycled Water System

This recycled water option was extracted from the 2015 South County Recycled Water Master Plan Update and was also a high-ranking project in the 2019 Sustainable Water Management Planning study. This is identified as Alternative 1 or 2 in the 2015 SCRWMP Update and includes 9 miles of 24-inch transmission mains, 4 miles of distribution mains, and a pump station. This option would deliver recycled water from SCRWA to a recycled water system in the City of Morgan Hill. This option is shown on [Figure 23](#).

This option was not included in the CoRe Plan but a brief summary of benefits and limitations is provided as follows:

Benefits. This option would provide recycled water services to Morgan Hill and require less O&M costs than a satellite plant.

Limitations. This option has a high cost of infrastructure and there is currently no recycled water availability during peak usage periods. As with Option 2, Valley Water may need to reassess potential impacts of recycled water in the Llagas Subbasin prior to moving forward.

8.2.6 Option 6 – SCRWA Advanced Water Purification Facility for Groundwater Recharge in Morgan Hill

This recycled water option was also extracted from the 2015 South County Recycled Water Master Plan Update and was one of the highest high-ranking projects in the 2019 Sustainable Water Management Planning study. This option includes an AWPF at the SCRWA, 12-miles of 24-inch pipeline, and a pump station. This option would deliver purified water from SCRWA for groundwater recharge in the City of Morgan Hill. This option is shown on [Figure 24](#).

This option was not included in the CoRe Plan but a brief summary of benefits and limitations is provided as follows:

***Benefits.** This option would provide recycled water for groundwater recharge in Morgan Hill.*

***Limitations.** This option has a high cost of infrastructure which would be borne by Morgan Hill and Gilroy/Llagas subbasin if there is no grant funding.*

8.3 Morgan Hill Recycled Water Options Comparison

The six Morgan Hill reuse options are summarized on [Table 5](#), with a brief description, the amount of reuse augmentation added to the Morgan hill portfolio, the major infrastructure requirements, high-level opinion of conceptual project costs, likelihood of implementation, feasibility of implementation, advantages, and disadvantages.

It should be noted that the costs presented on [Table 5](#) were extracted from the relevant reports and may include varying levels of assumptions, cost estimate classification, cost accuracy, and contingencies. This study recommends these costs be further revisited and scrutinized for a more accurate and fair comparison of costs between the presented options.

When comparing the high-level opinion of conceptual costs, Option 2 (NPR+ from South Bay Water Recycling) seems to have one of the lowest implementation costs and highest feasibility ratings, however actual implementation requires negotiations and an agreement with the City of San José.

Newer technologies and recently adopted DPR regulations may unlock new options for the City of Morgan Hill in the future leading to Options 1a and 1b becoming more feasible. The City of Morgan Hill intends to continue to work in partnership with Valley Water to determine the best path forward to enhance its water supply and resiliency portfolio.

Morgan Hill intends to continue to work in partnership with Valley Water to determine the best path forward to enhance its water supply and resiliency portfolio.

9.0 RECOMMENDED IMPROVEMENTS AND SYSTEM OPERATIONS

This section provides a summary of the recommended recycled water distribution system improvements to mitigate existing capacity deficiencies and accommodate future system expansion within the City of Gilroy. The recommended improvements are shown on [Figure 3](#) and summarized on [Table 6](#). They are also described in this section.

9.1 Constructed but Inactive Improvements

These pipelines have been constructed but are currently inactive. There is approximately 13,650 feet of 30-inch main that can be activated once the remaining baseline system improvements in Zone 1 are constructed. These pipelines are highlighted in gray on [Figure 3](#).

9.2 Recently Constructed Improvements

- **P-1.** This 30-inch pipeline starts at Southside Drive, continues north through an agriculture right of way, and ends at Luchessa Avenue. This pipe is approximately 3,380 feet in length.
- **P-2.** This 30-inch pipeline starts at Luchessa Avenue and an agricultural right of way, continues west on Luchessa Avenue and ends at Greenfield Drive. This pipeline is approximately 10,270 feet in length.

9.3 Near-Term Improvements

- **P-3.** This 18-inch pipeline starts at Luchessa Avenue and an agricultural right of way, continues east on Luchessa Avenue turns north at Cameron Boulevard and ends at the Princeville Drain. This pipeline is approximately 2,450 feet in length.
- **P-4.** This 30-inch pipeline starts at West 10th Steet, continues west on Luchessa Avenue, and ends at Miller Avenue. This pipeline is approximately 960 feet in length.
- **P-4a.** This improvement is a 42-inch pipe casing for the 30-inch crossing at the Reservoir Canyon Creek. This casing is approximately 100 feet in length.
- **WWTP-1.** This improvement is a 3 MG recycled water reservoir expansion at the WWTP.
- **WWTP-2.** This improvement is a recycled water pump station at the WWTP to aid in filling/draining of the on-site storage reservoir.
- **WWTP-3.** This improvement is for the on-site pipelines (approximately 1,500 feet) for the reservoir expansion and proposed pump station improvements.

9.4 Long-Term Improvements (*Conceptual*)

- **P-5.** This 24-inch pipeline starts at the Zone 2 pump station, continues west through the Home Ranch development, and ends at Uvas Creek. This pipeline is approximately 4,250 feet in length.
- **P-6.** This 24-inch pipeline starts at Uvas Creek, continues west on Santa Teresa Boulevard, and ends at Cobblestone Court. This pipeline is approximately 1,620 feet in length.
- **LT-P-8.** This 18-inch pipeline starts at the Meritage development, continues west in the Uvas Creek right of way and then south in the Gilroy Gardens Service Road, and ends at the new Zone 2 Tank/Zone 3 Booster Station. This pipeline is approximately 3,700 feet in length.

- **LT-P-9.** This 18-inch pipeline starts at the new Zone 2 Tank Site/Zone 3 Booster Station, continues west in the Gilroy Gardens right of way, and ends at Lake Kathryne. This pipeline is approximately 3,230 feet in length.
- **LT-T1.** This improvement is a new 1.5 MG storage reservoir in Zone 2.
- **LT-BS1.** This improvement is for a new 2,250 gpm total capacity Zone 3 booster pump station.
- **LT-BS2.** This improvement is for a Christmas Hill pump station capacity upgrade to 5.5 mgd (total).
- **LT-BS3.** This improvement is for an Area 93 pump station capacity upgrade to 9.3 mgd (total).

Please note that this Long-Term scenario is conceptual and is highly dependent on wastewater influent flow increases plus additional treatment capacity. The existing WWTP influent flow is approximately 6.1 mgd and the buildout demands in this scenario is 11.6 mgd.

9.5 Operational Improvements

Due to the existing system restrictions and storage constraints, the Christmas Hill pump station operates at a reduced flow to maintain adequate suction pressures and needs to operate almost 24/7 during high use periods (**Figure 13**). With the activation and construction of the recently constructed and Near-Term pipelines, the Christmas Hill pump station will be able to pump at its design capacity. This will allow operations to pump during off-peak hour to fill the Hoylake tank and ease the storage constraints at the WWTP (**Figure 14**).

10.0 CAPITAL IMPROVEMENT PROGRAM (5-YR)

This section provides a summary of the recommended domestic water system improvements costs. The section also presents the cost criteria and methodologies for developing the Capital Improvement Program.

10.1 Cost Estimate Accuracy

Cost estimates presented in the capital improvement program were prepared for general master planning purposes and, where relevant, for further project evaluations. The final costs of a project will depend on several factors including the specific project scope of work, costs of labor and material, and market conditions during construction.

AACE International (Association for the Advancement of Cost Engineering, International) has defined five estimate classes for general construction based on the maturity level of the project scope definition. These estimate classes are extracted from the *AACE International Recommended Practice No. 56R-08, Cost Estimate Classification System – As Applied in*

Engineering, Procurement, and Construction for the Building and General Construction Industries (Rev. August 2020) and briefly summarized on the following matrix.

Costs developed in this study should be considered “Class 5” and have an expected accuracy range of **-30 percent** and **+50 percent**.

Class	Description	Data Availability and Percent Accuracy
Class 5	This classification is also known as an order of magnitude estimate and is generally intended for long-range capital planning and master plans . This estimate is not supported with detailed engineering data about the specific project, and its accuracy is dependent on historical data and cost indices.	The data is 0% to 2% complete and includes the location and proposed project. It is generally expected that this estimate would be accurate within -30 percent to +50 percent .

10.2 Cost Estimate Methodology

Cost estimates presented in this section are opinions of probable construction and other relevant costs developed from several sources including cost curves, Akel experience on other master planning projects, and input from City staff. Where appropriate, costs were escalated to reflect the more current ENR (formerly Engineering News Record) Construction Cost Index (CCI). The ENR CCI is a cost estimating tool updated weekly, used by engineers to gage the current cost for new construction.

This section documents the unit costs used in developing the opinion of probable construction costs, the Construction Cost Index, and markups to account for construction contingency and other project related costs.

10.2.1 Unit Costs

The unit cost estimates used in developing the CIP are summarized in **Table 7**. The unit costs are intended for developing the Class 5, Order of Magnitude estimates, and do not account for site specific conditions, changes in labor or material costs during the time of construction, final project scope, implementation schedule, detailed utility and topography surveys, investigation of alternative routings for pipes, and other various factors. The CIP included in this report accounts for construction and project-related contingencies as described in this section.

10.2.2 Construction Cost Index

Costs estimated in this study are adjusted utilizing the ENR CCI, which is widely used in the engineering and construction industries.

The costs in this Water System Master Plan were calculated using a 20-City national average ENR CCI of 13,171, reflecting a date of August of 2022.

10.2.3 Estimating Contingency Allowance

Knowledge about site-specific conditions for each proposed project is limited at the master planning stage; therefore construction contingencies were used. In the absence of bid tabulations, the estimated construction cost includes a **20 percent** contingency allowance to account for unforeseen events and unknown field conditions.

10.3.1 Project Related Costs

The capital improvement costs also account for project-related costs, comprised of construction and administration. The construction costs contingency is comprised of engineering design, construction management, and inspection. In the absence of bid tabulations, the construction related costs were estimated by applying an additional **20 percent** to the baseline costs. The administration contingency costs are comprised of project administration (developer and City staff) and legal costs and are estimated by applying an additional **30 Percent** to the baseline.

10.4 CAPITAL IMPROVEMENT PROGRAM

This section documents the capital improvement program, including estimated costs.

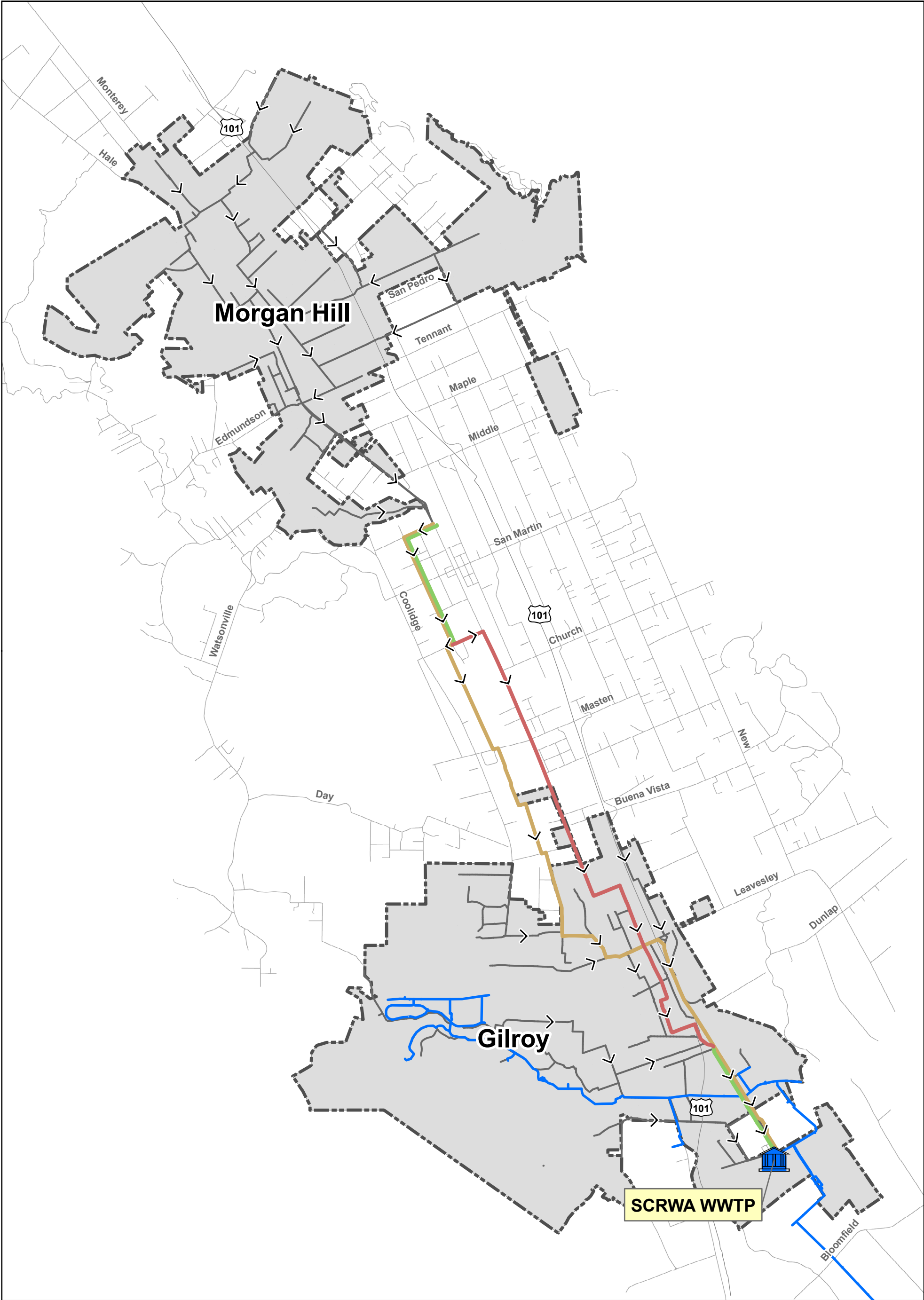
10.4.1 Capital Improvement Costs

The Capital Improvement Program costs for the projects identified in this master plan for mitigating existing deficiencies and for servicing anticipated future growth throughout the City are summarized on **Table 8**. The Capital Improvement Program lists the type of improvement, location, and cost.

Each improvement was assigned a unique coded identifier associated with the improvement type and is summarized graphically on **Figure 3**.

**South County Recycled Water
Distribution System Master Plan**

FIGURES



Legend

Morgan Hill to Gilroy System

- Future Relief Trunk
- Existing Relief Trunk
- Joint Trunk
- Existing Major Sewer Trunks

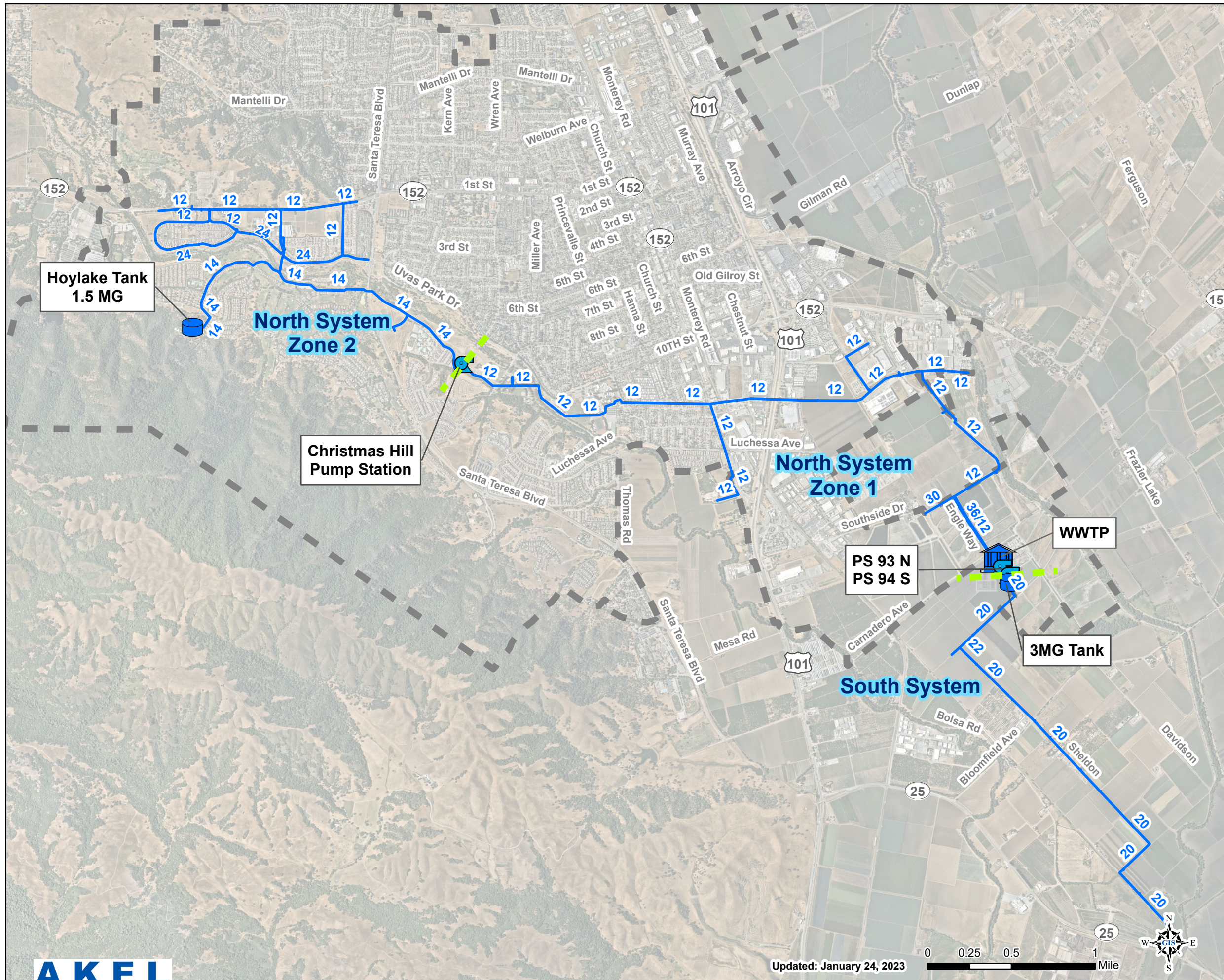
Recycled Water Distribution System Existing Features

-  SCRWA WWTP
- Distribution Pipelines
- City Limits Boundary
- City Limits Area
- Roads



**Figure 1
Study Area**

Recycled Water Distribution System
Master Plan
Santa Clara Valley Water District



Legend

Existing System

-  WWTP
-  Booster Station
-  Storage Tank
-  Pipes
-  Pressure Zone Boundary

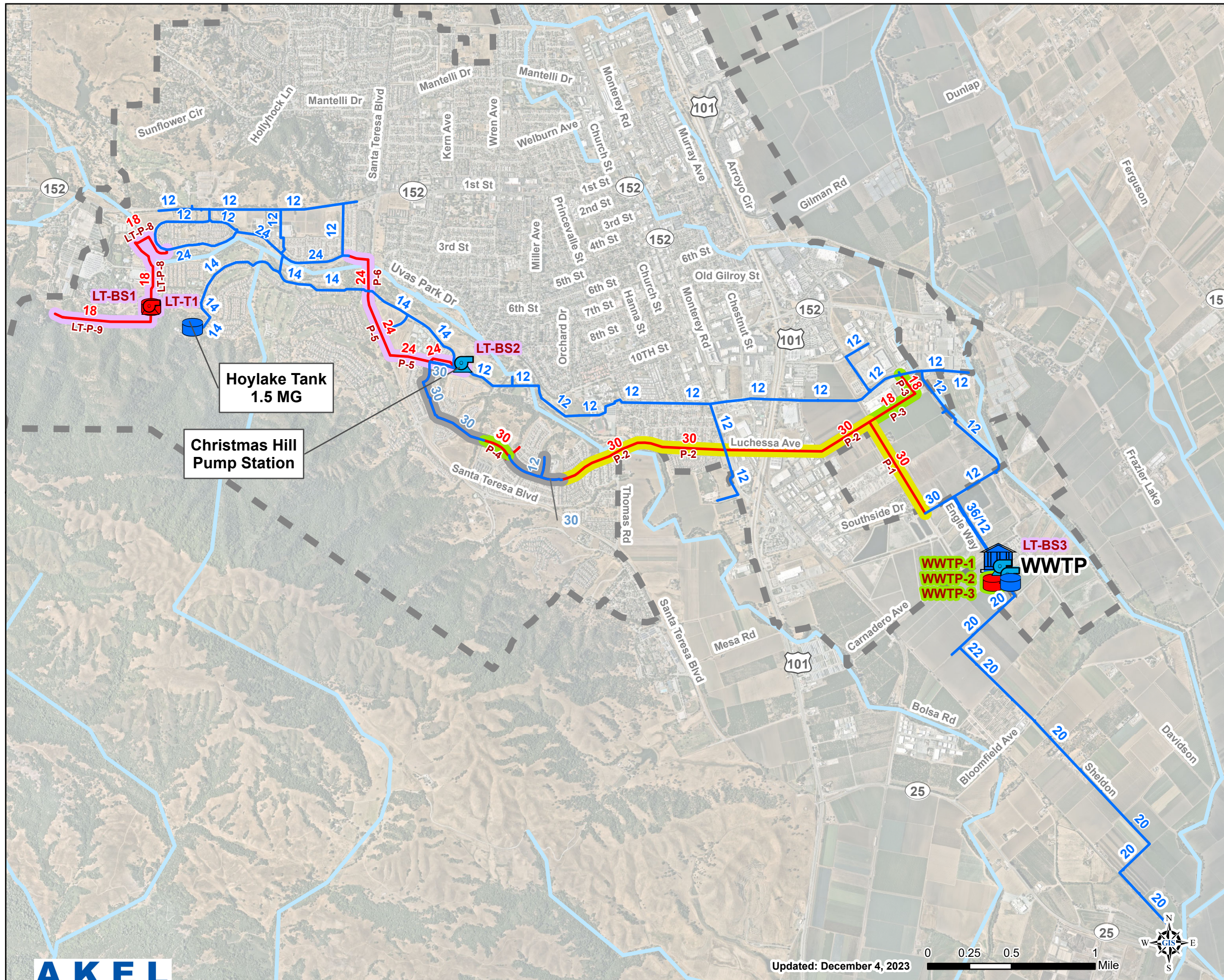
Existing Features

-  Rivers
-  City Limits

**Figure 2
Existing System**

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District





Legend

Baseline System Improvements

-  Tanks
-  Booster Stations
-  Pipelines
-  Constructed but Inactive
-  Recent Construction
-  Near-Term Improvements
-  Long-Term Improvements

Existing System

-  WWTP
-  Booster Station
-  Storage Tank
-  Pipelines

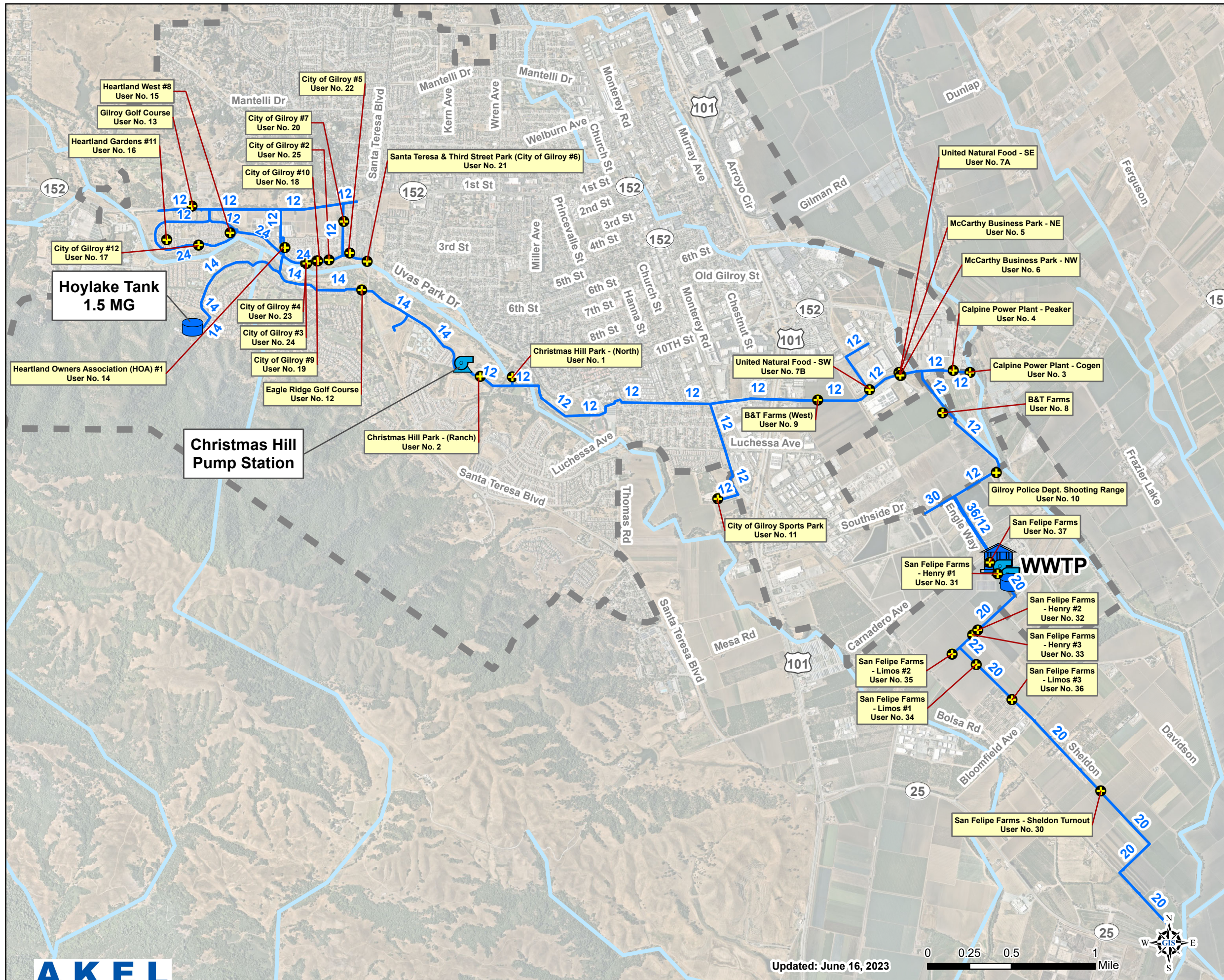
Existing Features

-  Rivers
-  City Limits

Figure 3 Planned / Future Pipeline Improvements

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District





Legend

Existing System

- WWTP
- Booster Station
- Storage Tank
- Recycled Water Meters
- Pipes

Existing Features

- Rivers
- City Limits

Figure 4
Existing Customer
Connections

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

Season	2015		2016		2017		2018		2019		2020		2021	
	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production	WWTP Influent	Recycled Water Production
	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)	(mgd)
Summer	5.7	2.9	6.1	2.6	6.3	2.7	5.9	2.8	6.1	2.7	6.2	3.3	6.0	3.4
Shoulder	5.9	2.2	6.3	1.9	8.1	1.6	6.4	1.7	7.2	1.6	6.5	2.0	6.1	2.2
Winter	6.0	1.5	6.2	1.2	8.3	1.1	6.1	1.2	6.7	1.4	6.2	1.4	6.3	1.3
Total	5.9	2.2	6.2	1.9	7.6	1.8	6.1	1.9	6.7	1.9	6.3	2.2	6.1	2.3

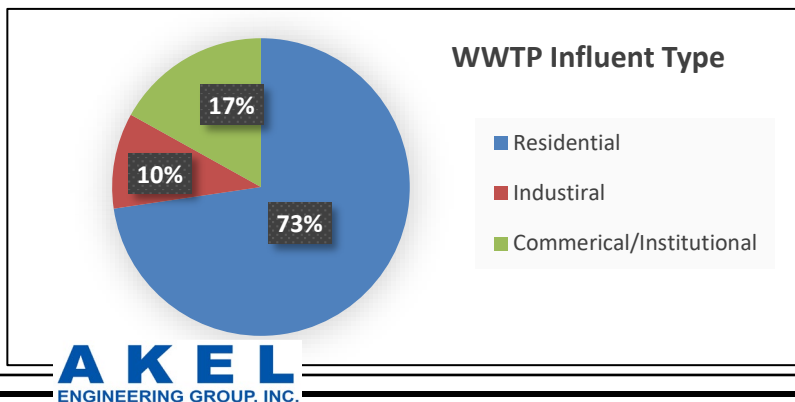
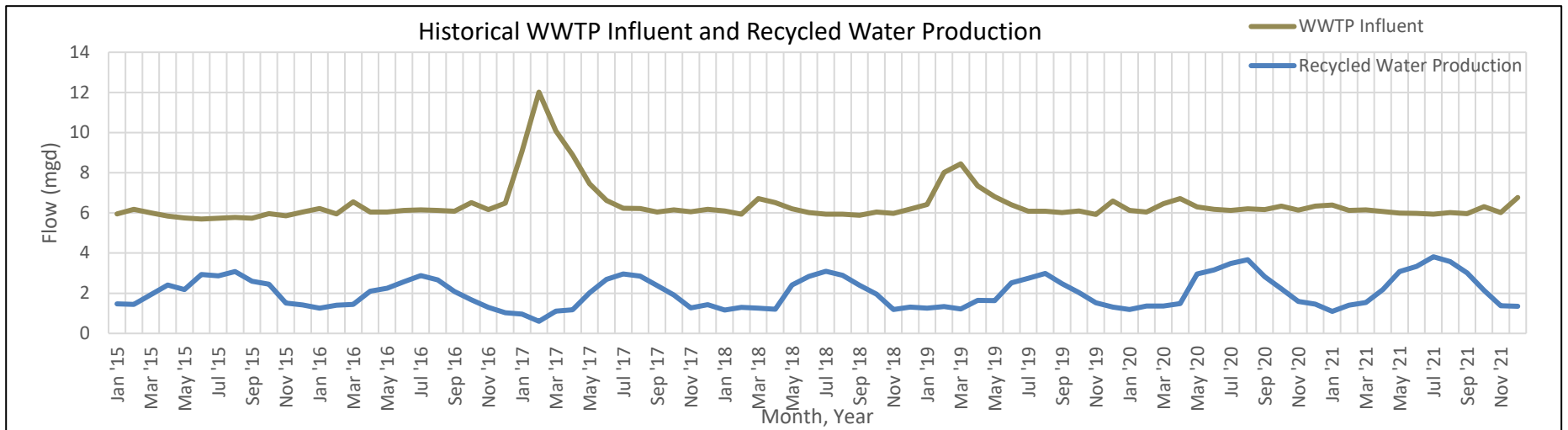
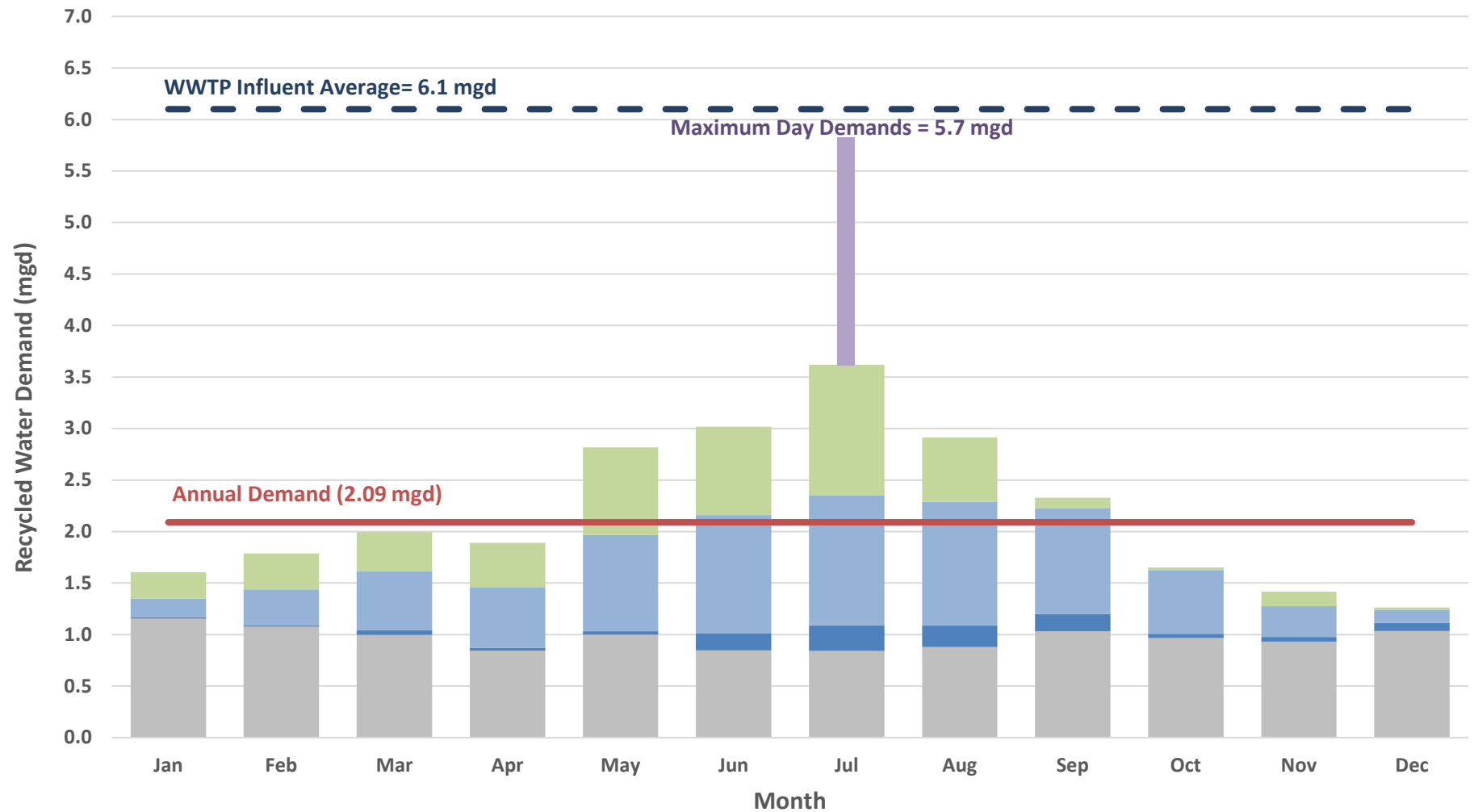


Figure 5
Historical WWTP Influent and RW Production
 Recycled Water Distribution System Master Plan
 Santa Clara Valley Water District

Valley Water

February 28, 2024



LEGEND

- WWTP Utility Water
- M&I
- Irrigation
- Agriculture
- Average Monthly Demand (Billing Records)

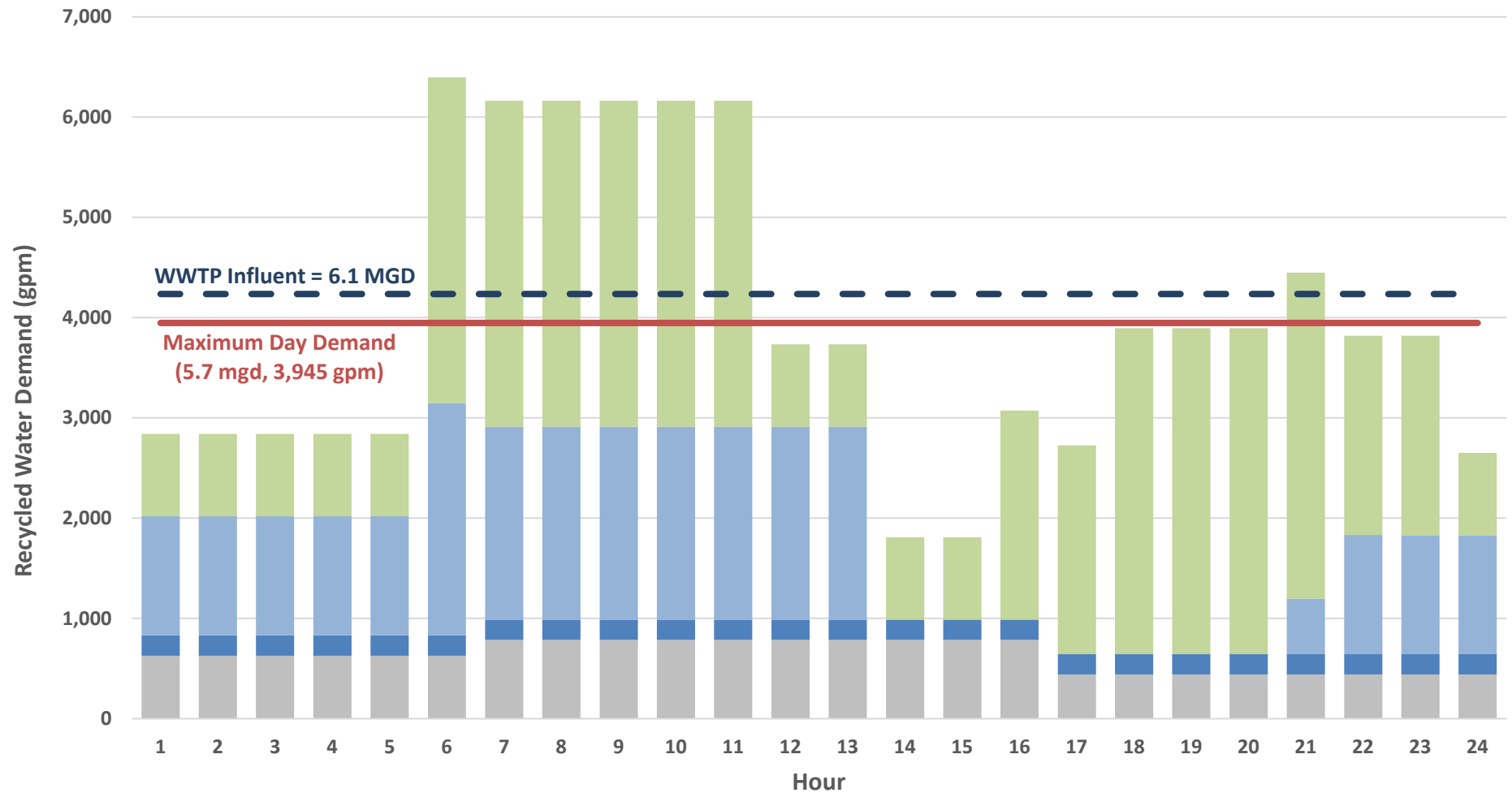
AKEL
ENGINEERING GROUP, INC.

January 4, 2022

Figure 6 Existing Users Monthly Demands

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District





LEGEND

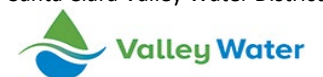
- Utility
- M&I
- Irrigation
- Agriculture
- Average Recycled Water Use

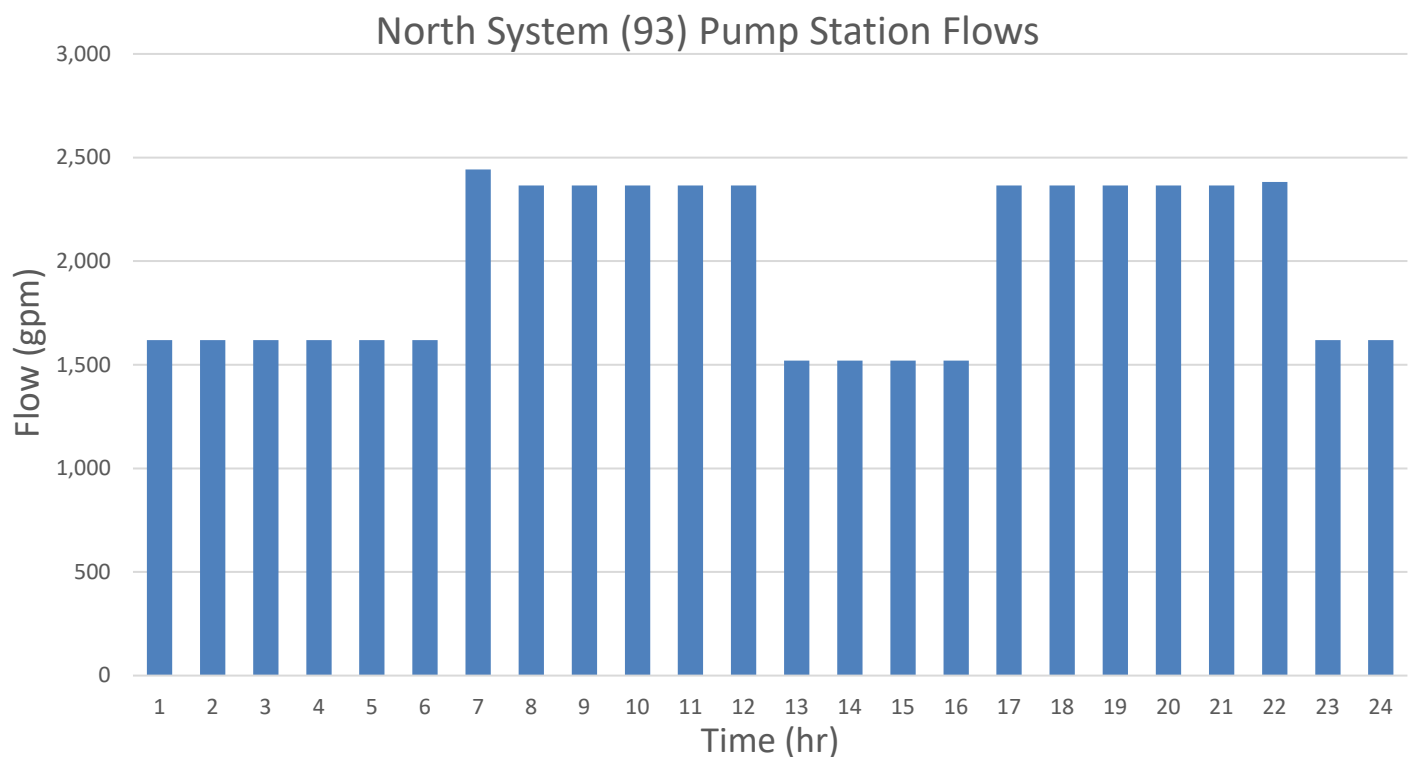
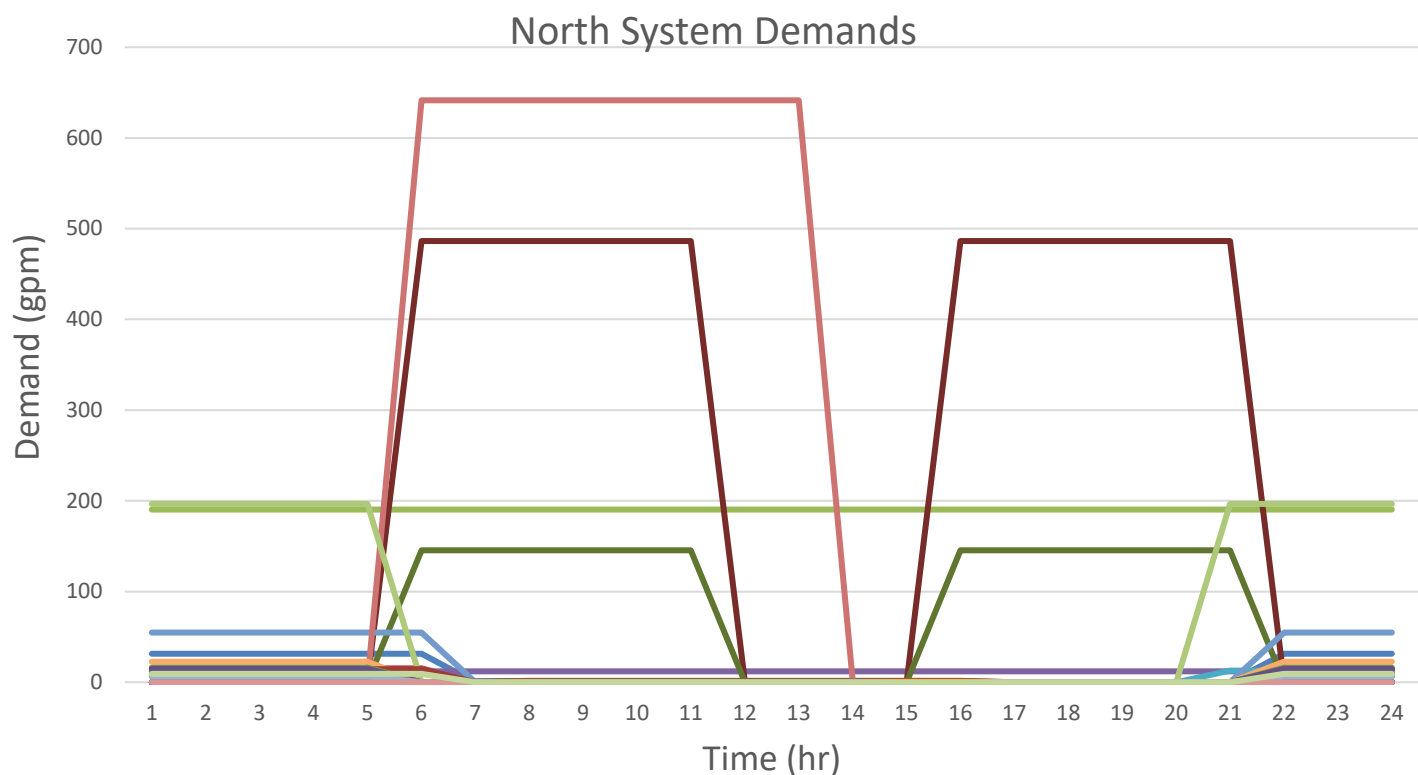
AKEL
ENGINEERING GROUP, INC.

January 4, 2022

Figure 7
Existing User Hourly
Demands, MDD

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District





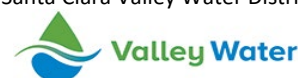
LEGEND

Christmas Hill Park - (North)	Christmas Hill Park - (Ranch)
Calpine Power Plant - Cogen	Calpine Power Plant - Peaker
McCarthy Business Park - NE	McCarthy Business Park - NW
United Natural Food	B&T Farms
B&T Farms (West)	Gilroy Police Dept. Shooting Range
Tri Pointe (North)	Tri Pointe (South)
City of Gilroy Sports Park	Eagle Ridge Golf Course
Gilroy Golf Course	Heartland Owners Association (HOA) #1
Heartland Owners Association (HOA) #8	Heartland Owners Association (HOA) #11
Trinchero Construction Company	City of Gilroy #12
City of Gilroy #10	City of Gilroy #9
City of Gilroy #7	Santa Teresa & Third Street Park (City of Gilroy #6)

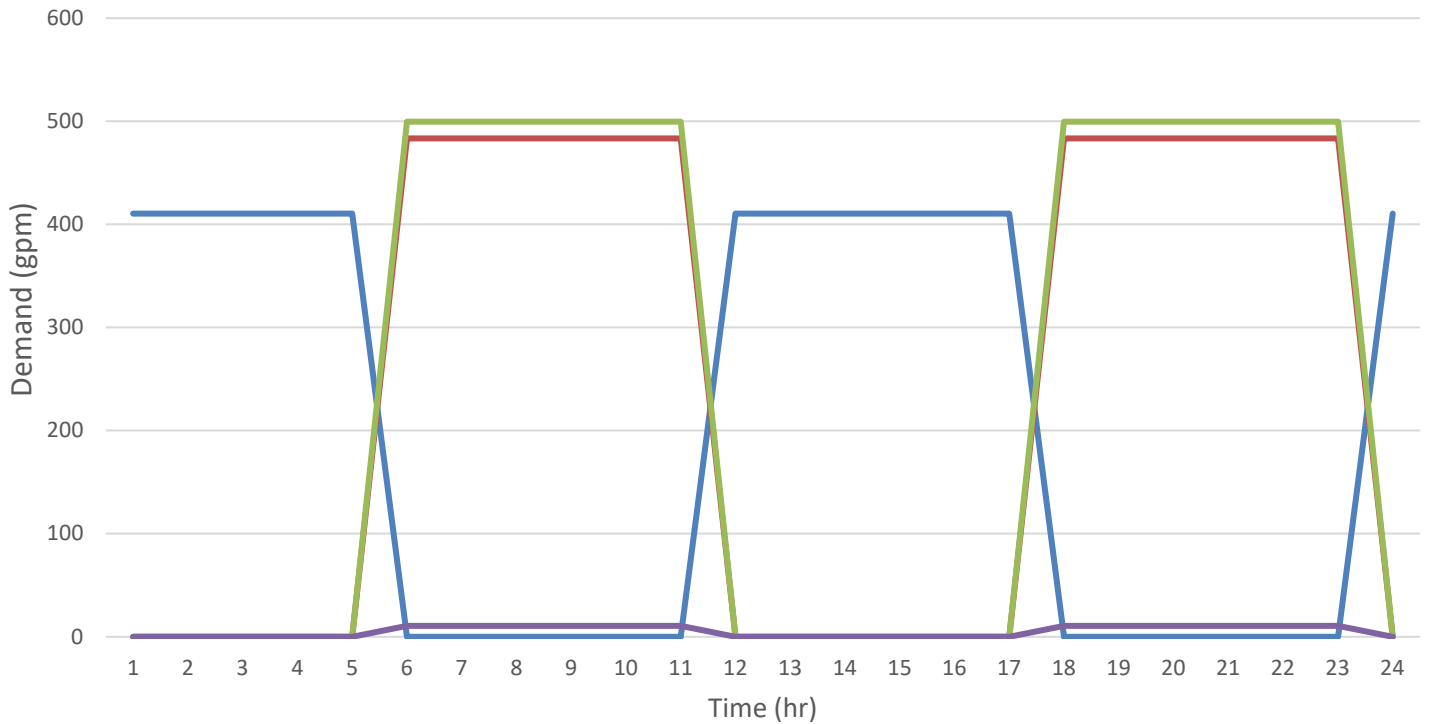
January 12, 2023

Figure 8 North System Demands

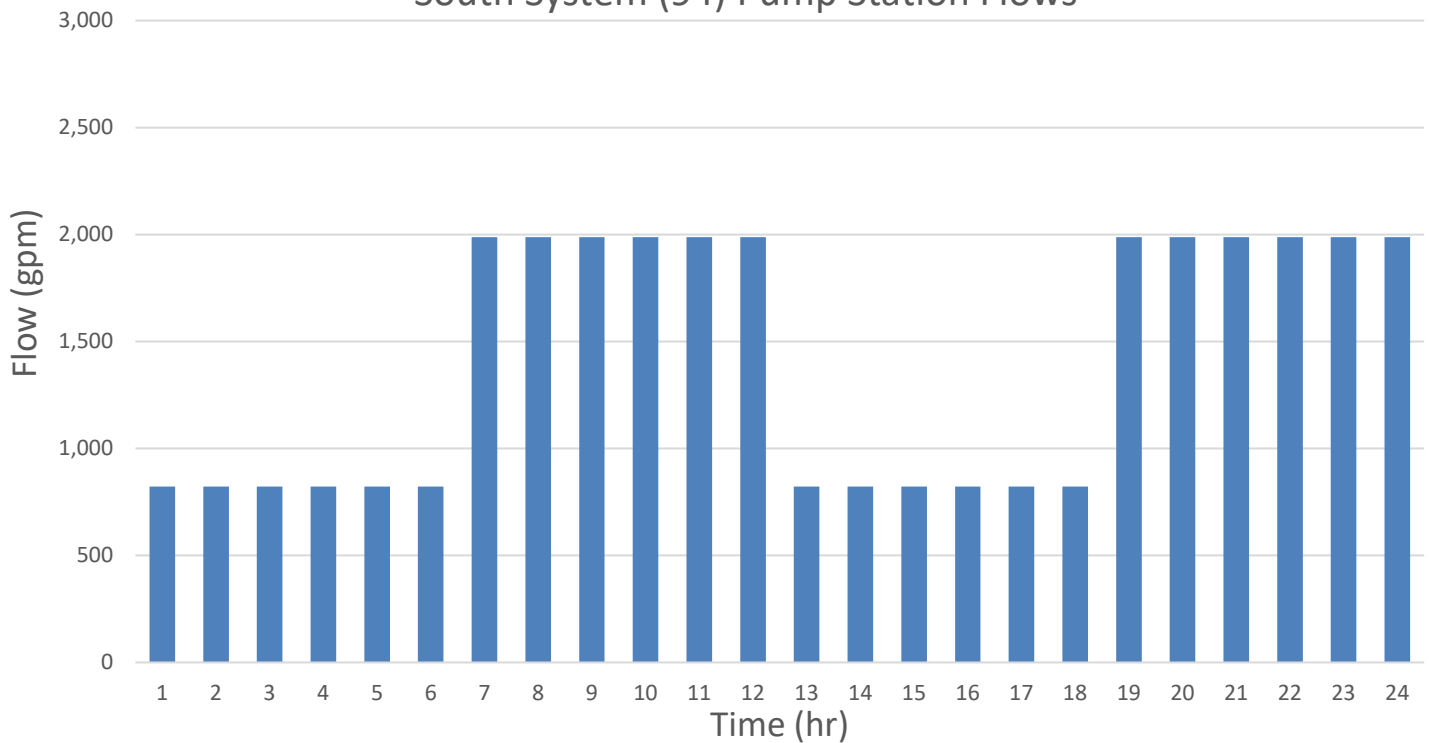
Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District



South System Demands



South System (94) Pump Station Flows



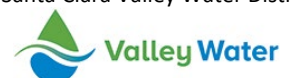
LEGEND

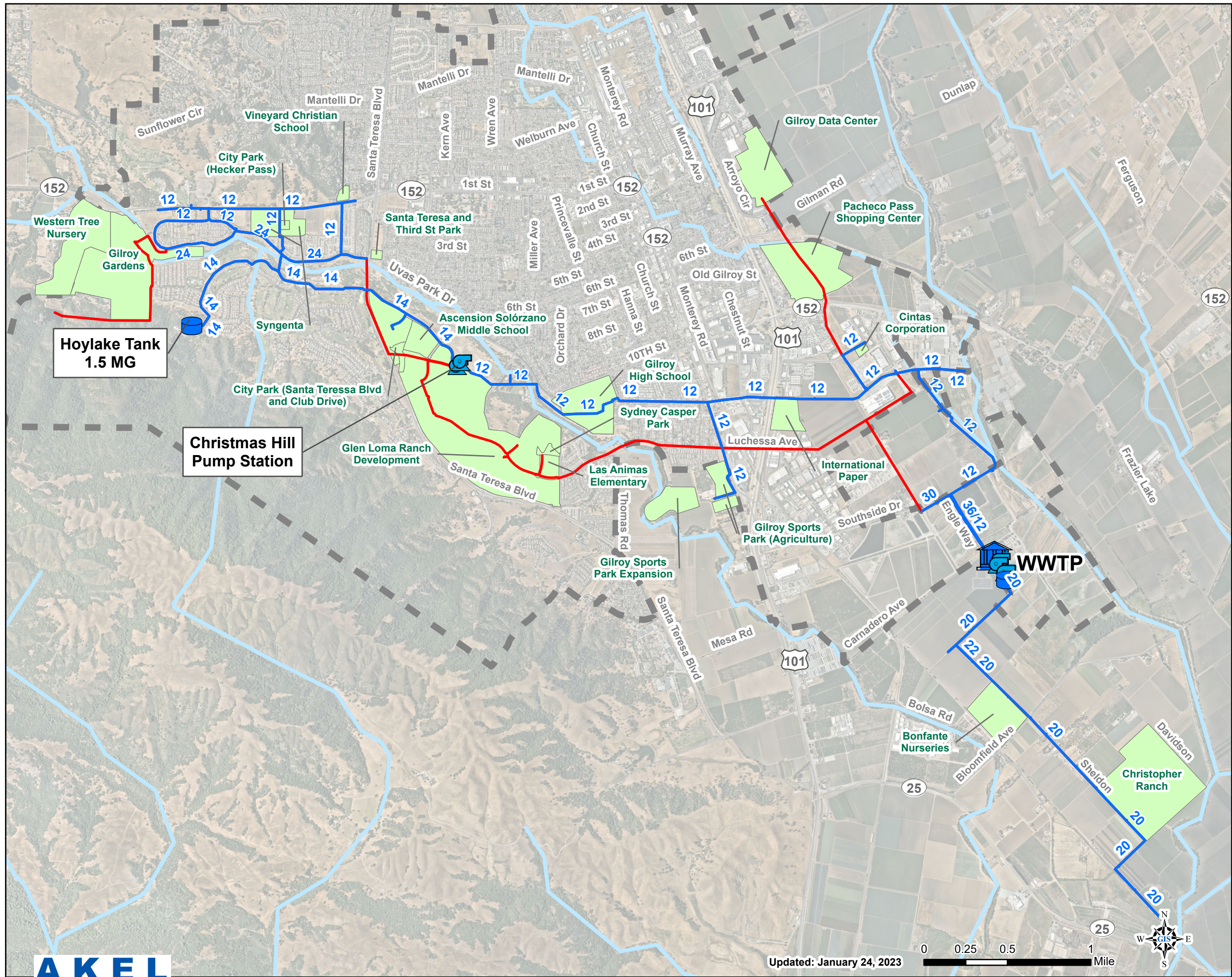
- San Felipe Farms - Sheldon Turnout
- San Felipe Farms #135116
- San Felipe Farms #135115
- San Felipe Farms #135711

Figure 9

South System Demands

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District





Legend

Future System

- Planned Baseline System
- Immediate Potential Users

Existing System

- WWTP
- Booster Station
- Storage Tank
- Pipelines

Existing Features

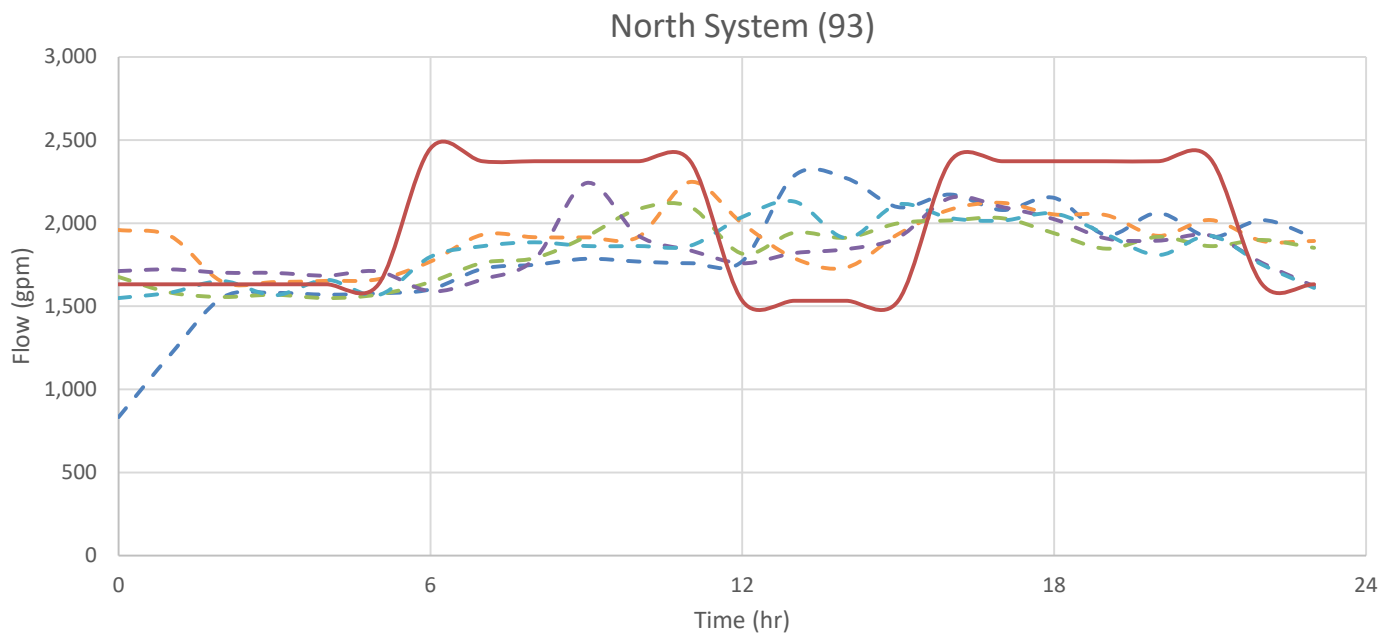
- Rivers
- City Limits

Figure 10
Potential Future Users

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

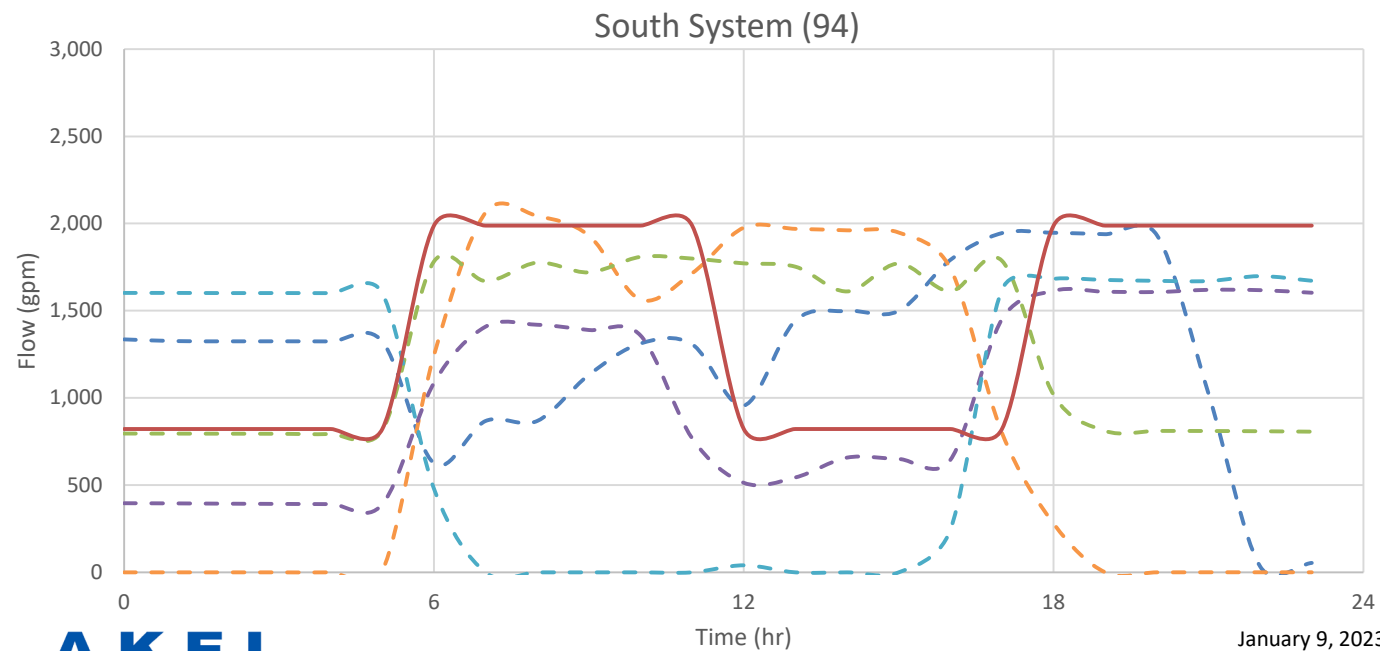


Attachment 2



LEGEND

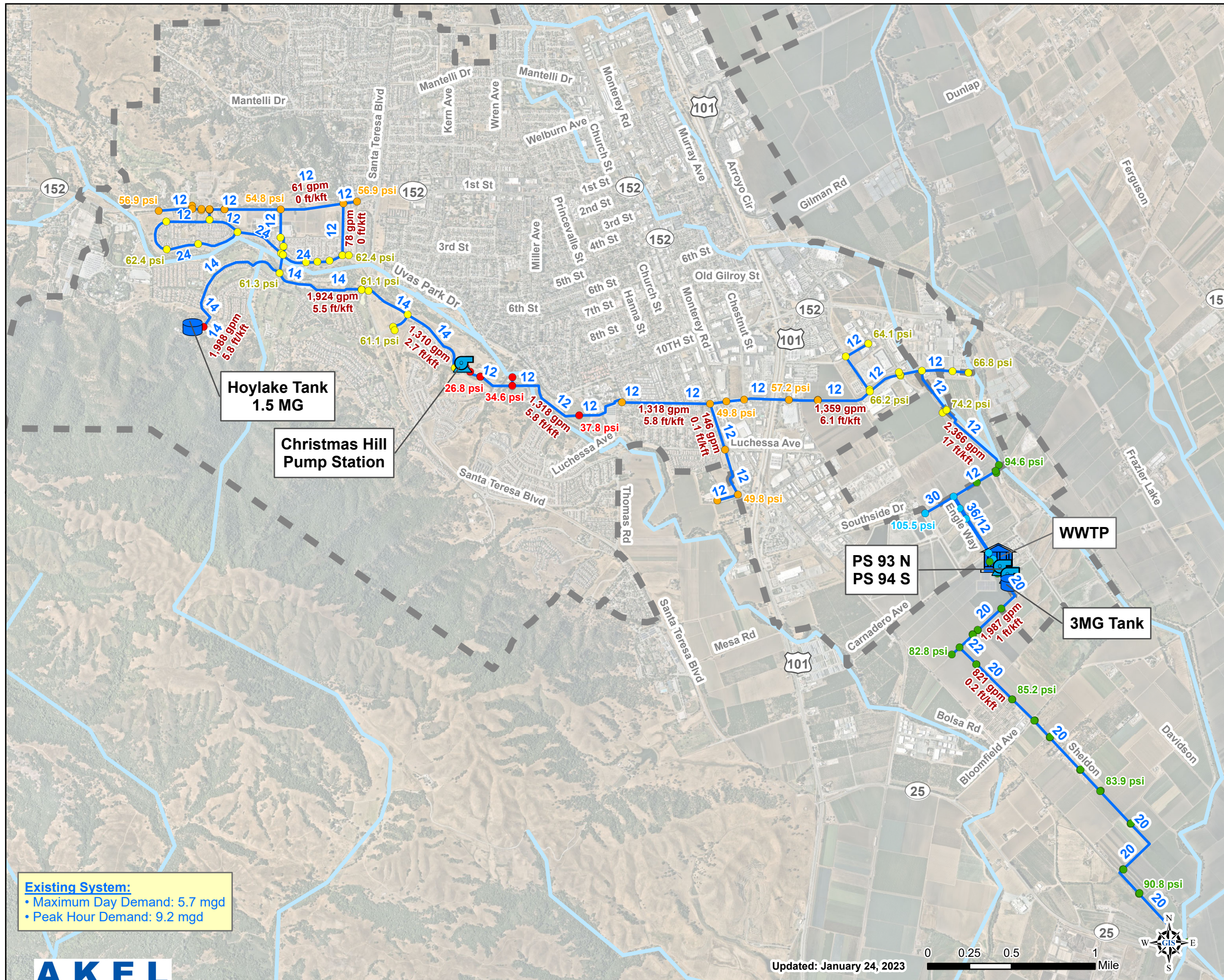
- 7/9/2021
- 7/10/2021
- 7/13/2021
- 7/20/2021
- 7/23/2021
- Model



- 7/2/2021
- 7/7/2021
- 7/10/2021
- 7/14/2021
- 7/15/2021
- Model

Figure 11
Hydraulic Model
Calibration
 Recycled Water Distribution
 System Master Plan
 Santa Clara Valley Water District





Existing System:

- Maximum Day Demand: 5.7 mgd
- Peak Hour Demand: 9.2 mgd

Legend

Peak Hour Pressures

- Greater than 100 psi
- 80 - 100 psi
- 60 - 80 psi
- 40 - 60 psi
- Less than 40 psi

Existing System

- WWTP
- Booster Station
- Storage Tank
- Pipes

Existing Features

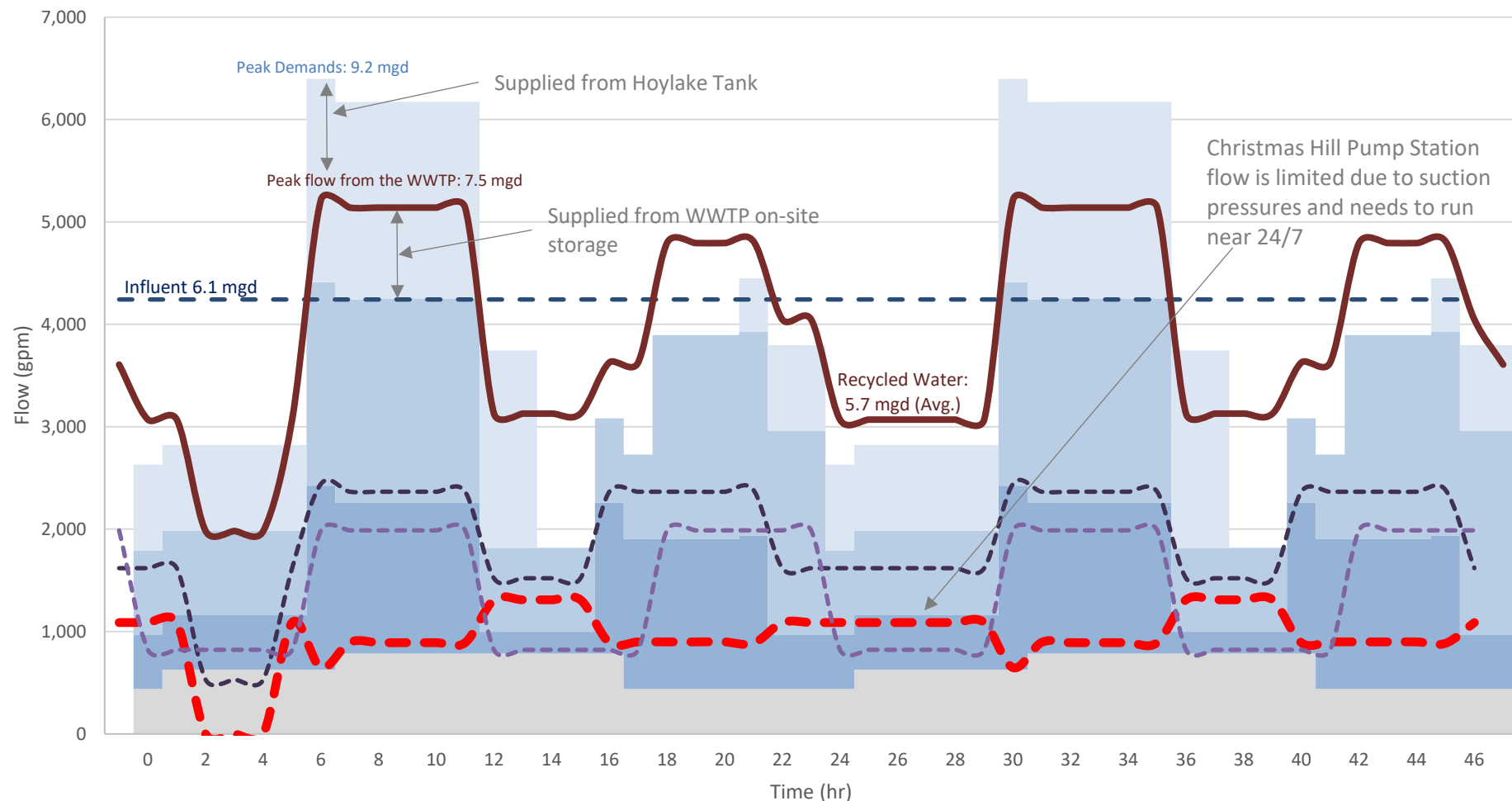
- Rivers
- City Limits

Notes:

- Christmas Hill Pump Station flow limited due to low suction pressures caused by high pipeline headlosses
- Maximum Day Demand: 5.7 mgd
- Peak Hour Demand: 9.2 mgd
- Pipe flows and system pressures documented are during peak hour demands

Figure 12
Existing System Evaluation
 Recycled Water Distribution System Master Plan
 Santa Clara Valley Water District

Existing Operations



LEGEND

- Zone 2 Demands
- South Demands
- Zone 1 Demands
- WWTP Utility Water
- X-Mas Hill PS Flow
- WWTP Influent (Avg.)
- Recycled Effluent
- North PS (Area 93) Flow
- South PS (Area 94) Flow

AKEL
ENGINEERING GROUP, INC.

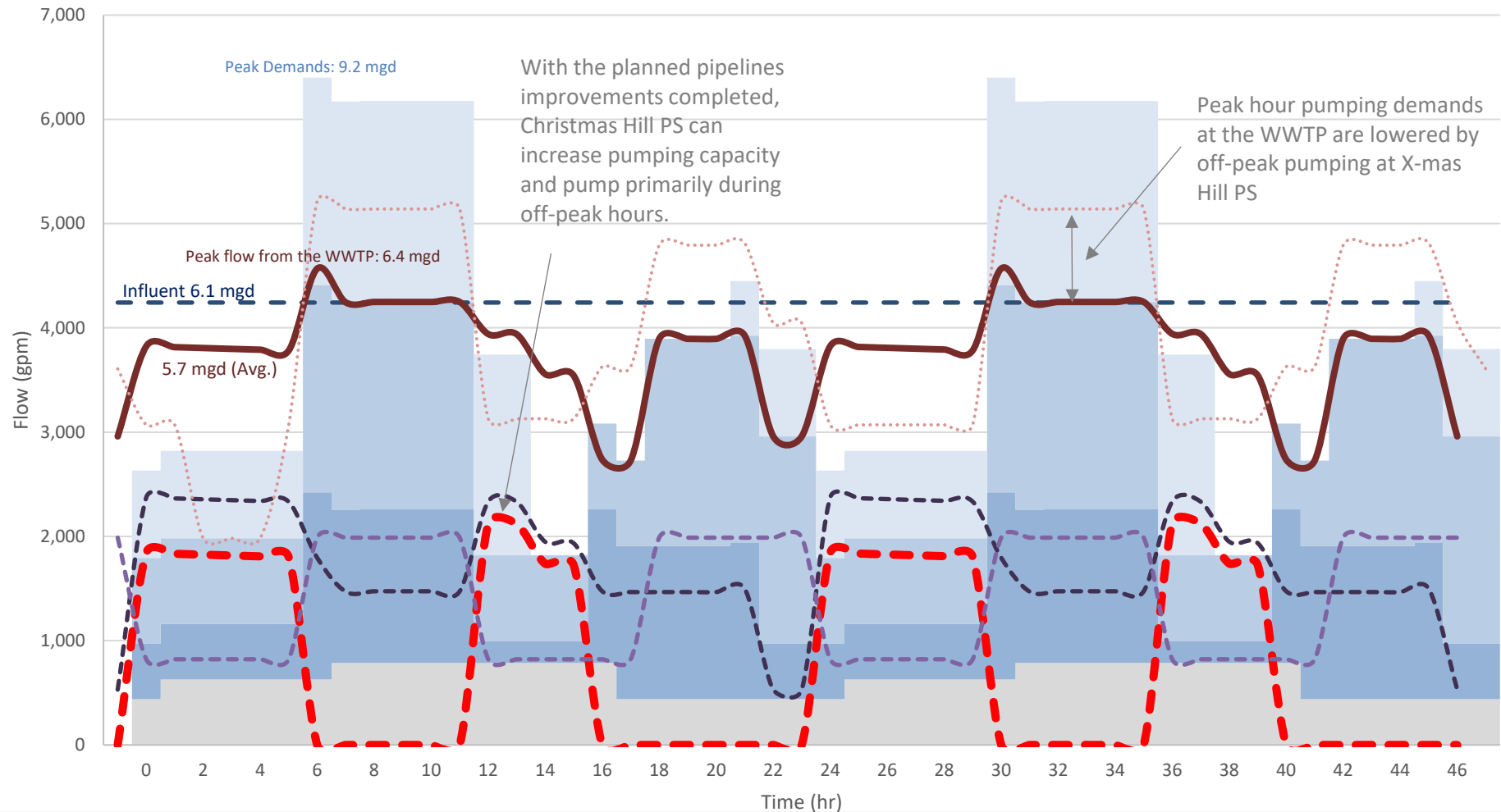
January 4, 2023

Figure 13 Existing MDD Operations

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District



Optimized Operations with Pipeline Improvements



LEGEND

- Zone 2 Demands
- South Demands
- Zone 1 Demands
- WWTP Utility Water
- X-Mas Hill PS Flow
- WWTP Influent (Avg.)
- Recycled Water Effluent
- North PS (Area 93) Flow
- South PS (Area 94) Flow
- ... Existing Recycled Effluent

Notes:

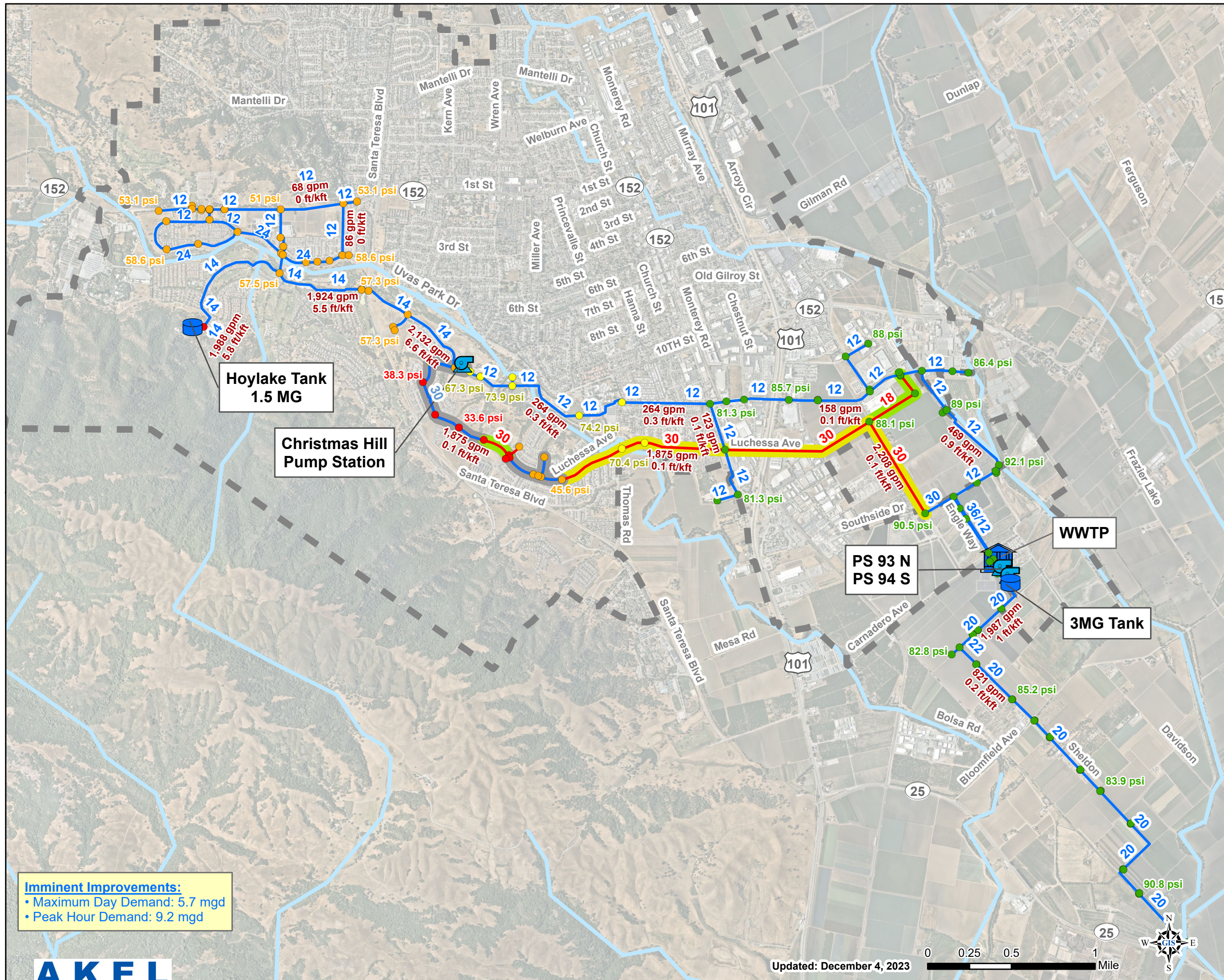
1. Pipeline improvements include the Under Construction, Constructed but Inactive, and Imminent pipelines

January 4, 2023

Figure 14 Optimized MDD Operations

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District





Legend

Peak Hour Pressures

- Greater than 100 psi
- 80 - 100 psi
- 60 - 80 psi
- 40 - 60 psi
- Less than 40 psi

Baseline System Improvements

- Pipelines
- Constructed but Inactive
- Recent Construction
- Near-Term Improvements

Existing System

- WWTP
- Booster Station
- Storage Tank
- Pipes

Existing Features

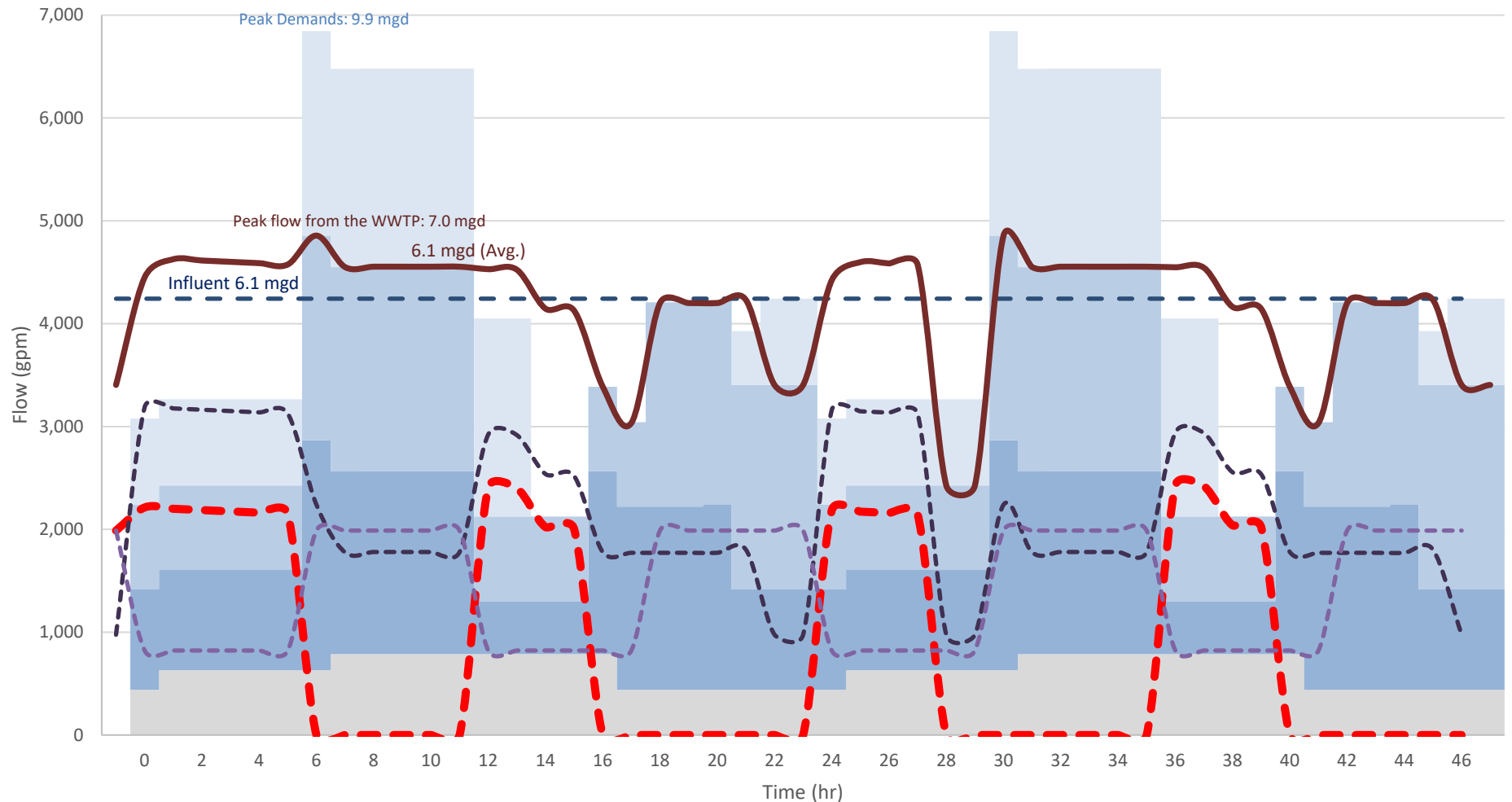
- Rivers
- City Limits

Notes:

- Christmas Hill Pump Station operates during off-peak hours
- Maximum Day Demand: 5.7 mgd
- Peak Hour Demand: 9.2 mgd
- Pipe flows and system pressures documented are during peak hour demands

Figure 15
Baseline Improvements plus
Optimization Evaluation
 Recycled Water Distribution System Master Plan
 Santa Clara Valley Water District

Optimized with Near Term Users



LEGEND

- Zone 2 Demands
- South Demands
- Zone 1 Demands
- WWTP Utility Water
- X-Mas Hill PS Flow
- WWTP Influent (Avg.)
- Recycled Effluent
- North PS (Area 93) Flow
- South PS (Area 94) Flow

Notes:

1. Pipeline improvements include the Under Construction, Constructed but Inactive, and Imminent pipelines
2. Near-Term users include Gilroy Data Center and Glen Loma

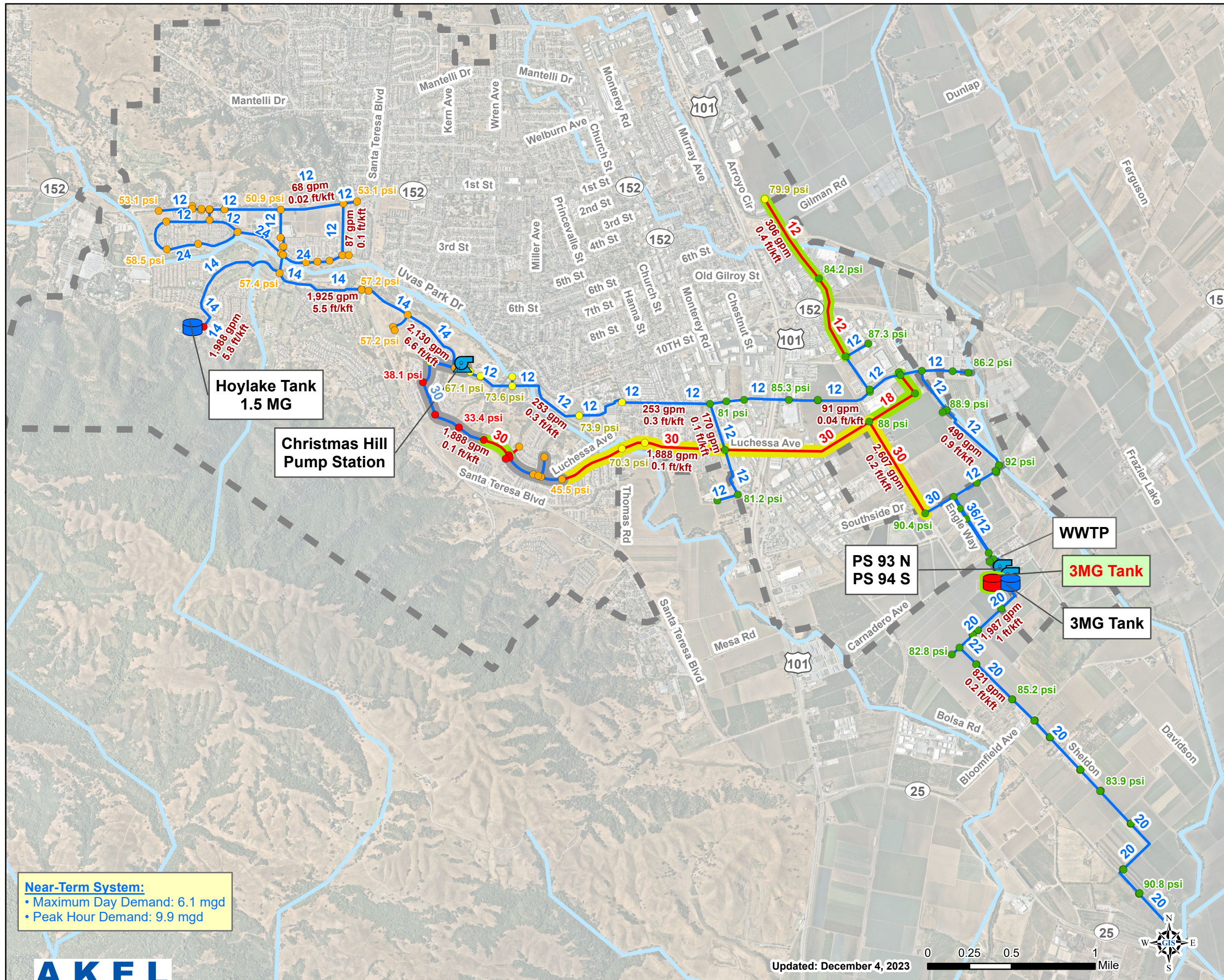
January 4, 2023

Figure 16

Optimized MDD Operations + Near Term Users

Recycled Water Distribution
System Master Plan
Santa Clara Valley Water District





Near-Term System:

- Maximum Day Demand: 6.1 mgd
- Peak Hour Demand: 9.9 mgd

Legend

- Peak Hour Pressures**
- Greater than 100 psi
 - 80 - 100 psi
 - 60 - 80 psi
 - 40 - 60 psi
 - Less than 40 psi

Baseline System Improvements

- Tanks
- Pipelines
- Constructed but Inactive
- Recent Construction
- Near-Term Improvements

Existing System

- WWTP
- Booster Station
- Storage Tank
- Pipes

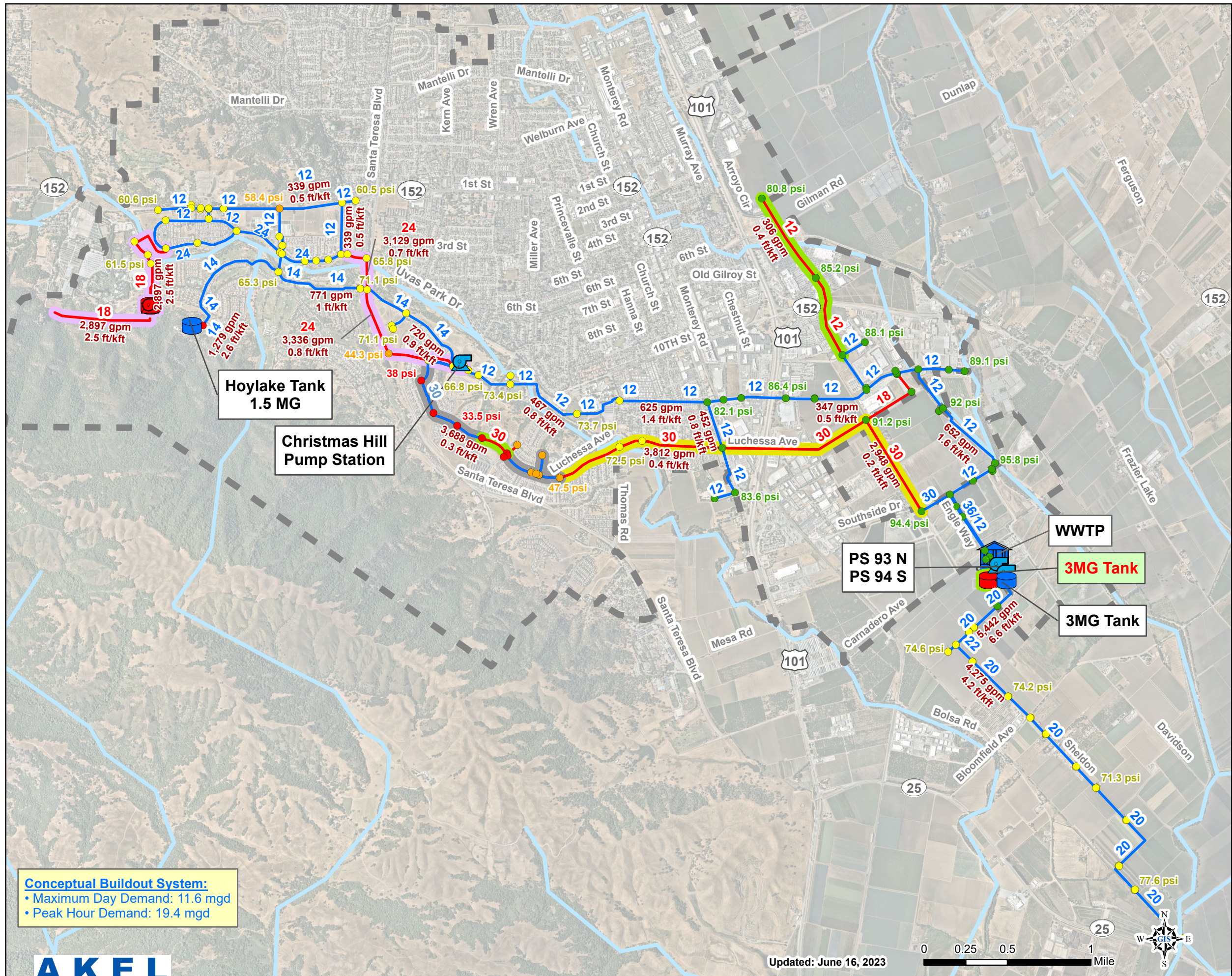
Existing Features

- Rivers
- City Limits

Notes:

- Christmas Hill Pump Station operates during off-peak hours
- Maximum Day Demand: 6.1 mgd
- Peak Hour Demand: 9.9 mgd
- Pipe flows and system pressures documented are during peak hour demands
- Near-Term users included are the Gilroy Data Center and Glen Loma

Figure 17
Near-Term Users Evaluation
 with Optimized Operations
 Recycled Water Distribution System Master Plan
 Santa Clara Valley Water District



Legend

Peak Hour Pressures

- Greater than 100 psi
- 80 - 100 psi
- 60 - 80 psi
- 40 - 60 psi
- Less than 40 psi

Baseline System Improvements

- Tanks
- Booster Stations
- Pipelines
- Constructed but Inactive
- Under Construction
- Imminent Improvements
- Near-Term Improvements
- Long-Term Improvements

Existing System

- WWTP
- Booster Station
- Storage Tank
- Pipes

Existing Features

- Rivers
- City Limits

Notes:

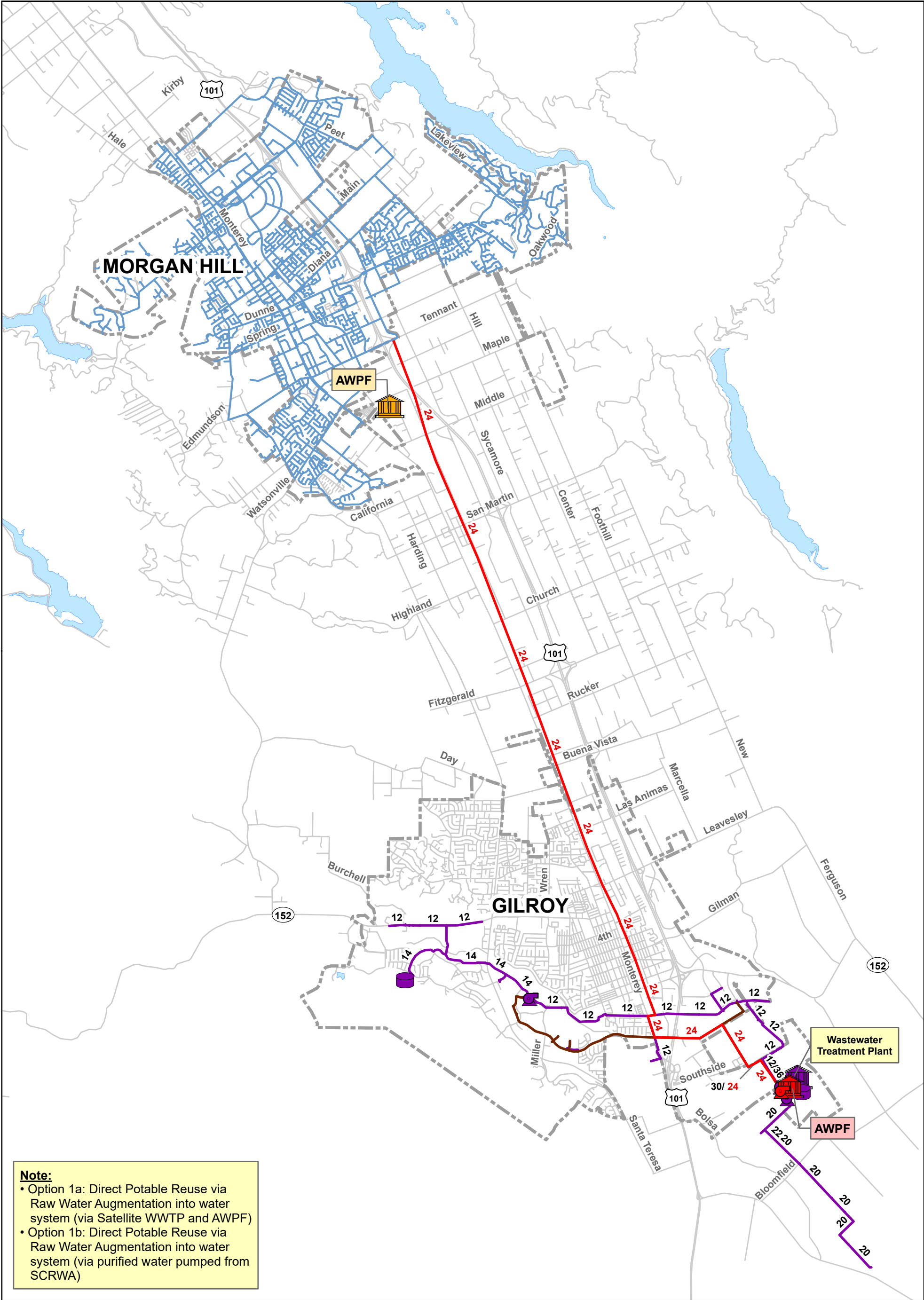
- Maximum Day Demand: 11.6 mgd
- Peak Hour Demand: 19.4 mgd
- Pipe flows and system pressures documented are during peak hour demands

Figure 18 Conceptual Baseline Buildout

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District



Attachment 2



Note:

- Option 1a: Direct Potable Reuse via Raw Water Augmentation into water system (via Satellite WWTP and AWP)
- Option 1b: Direct Potable Reuse via Raw Water Augmentation into water system (via purified water pumped from SCRWA)

Legend

Option 1a



Water Purification Facility

Option 1b



Water Purification Facility

SCVWD Improvements



Baseline Improvements

Existing



WWTP



City Limits



Roads



Lakes



Storage Tanks



Booster Stations



Recycled Water Pipelines



Morgan Hill Water System



Recycled Water Recharge Pipeline



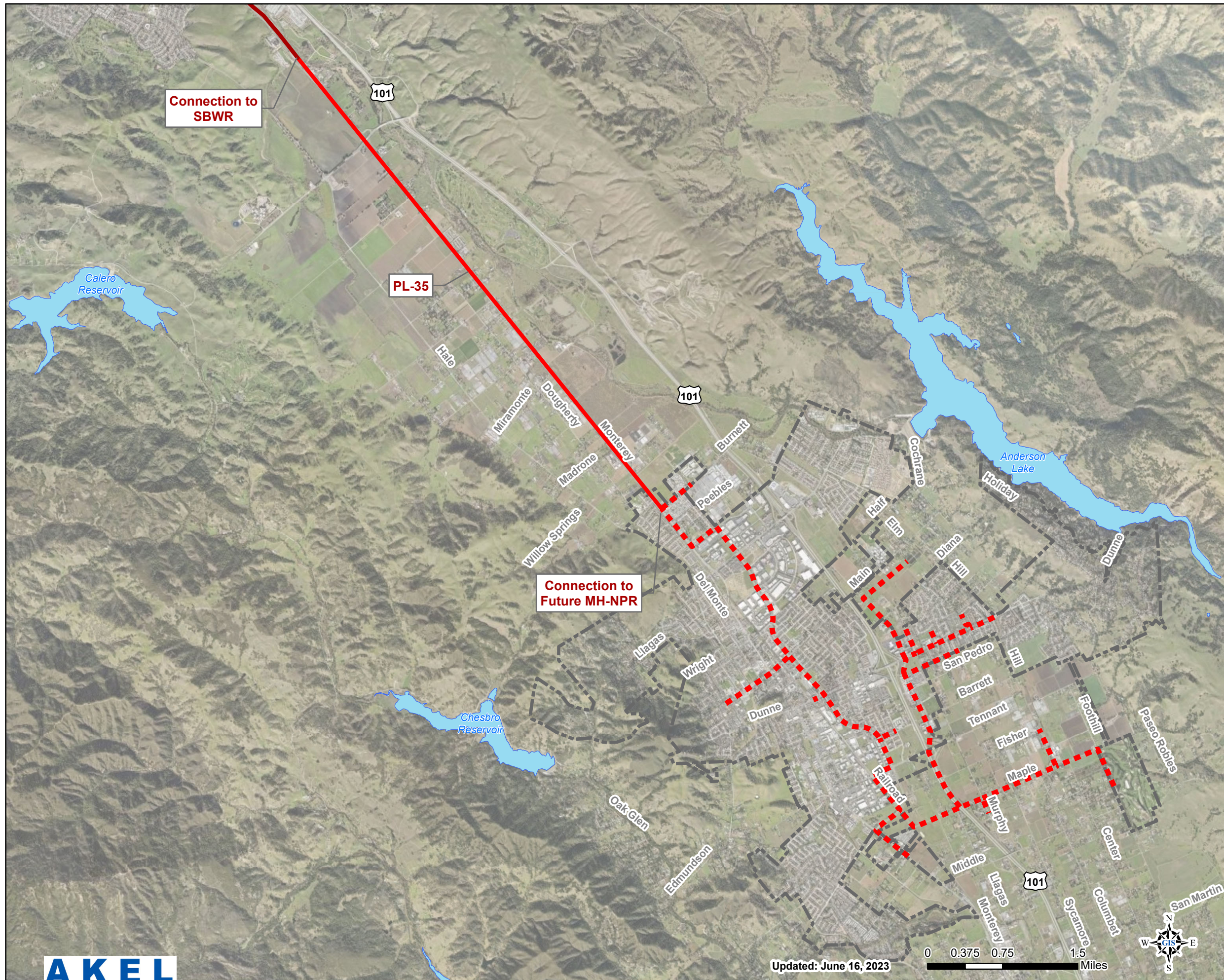
Booster Stations

PRELIMINARY

Figure 19
Morgan Hill Recycled Water
Option 1 - Direct Reuse
Recycled Water Distribution System
Master Plan
Santa Clara Valley Water District

Attachment 2





Legend

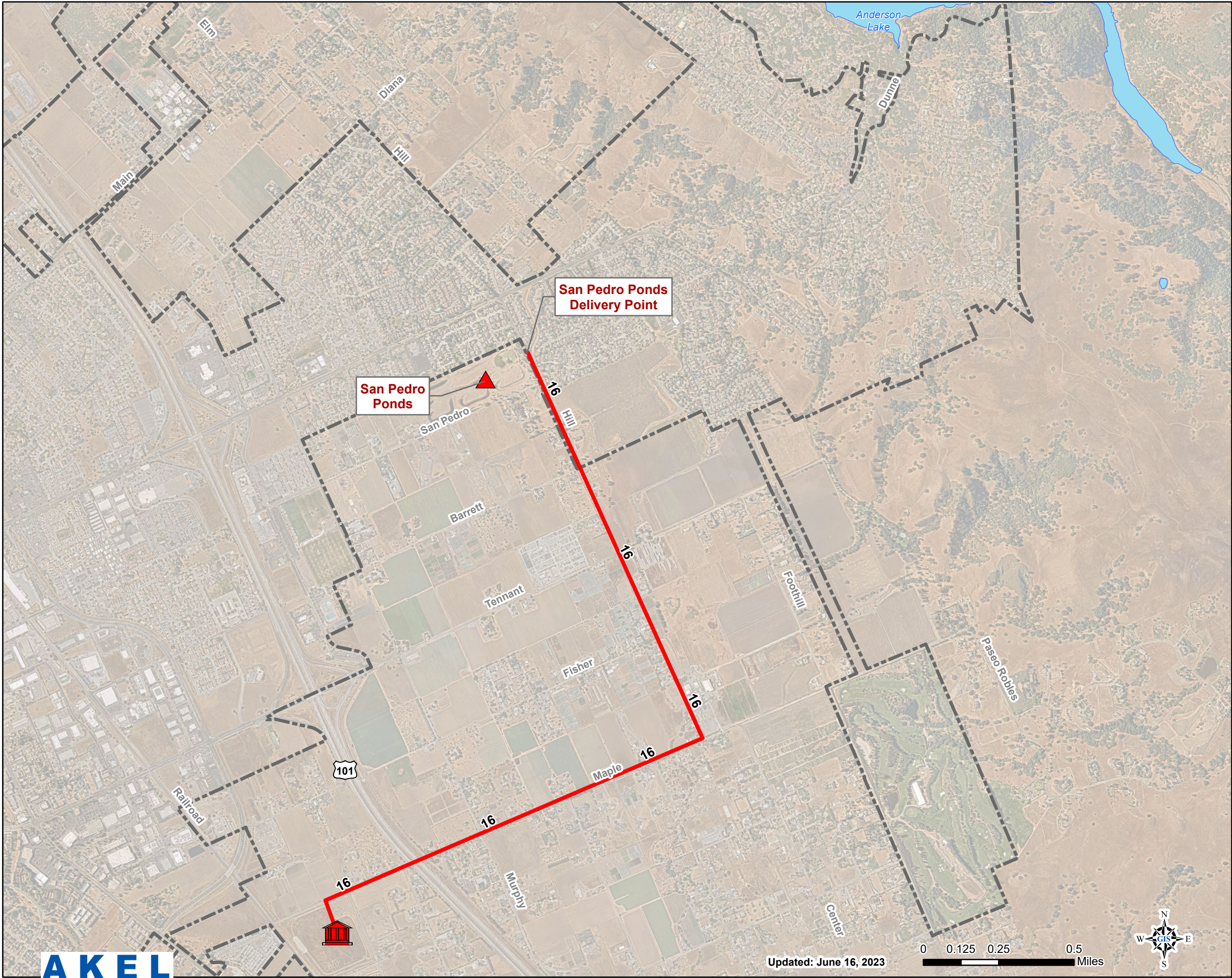
Raw Water System

- Existing SBWR Pipeline
- Proposed RW Pipeline
- - - Morgan Hill RW System
- ~ Lakes
- City Limits

Source:
Countywide Water Reuse
Master Plan (CoRe Plan),
October 2020

Note:
• NPR+ from South Bay
Water Recycling

Figure 20
Morgan Hill Recycled
Water Option 2 - NPR +
Recycled Water Distribution System Master Plan
Santa Clara Valley Water District



Legend

Water Purification System

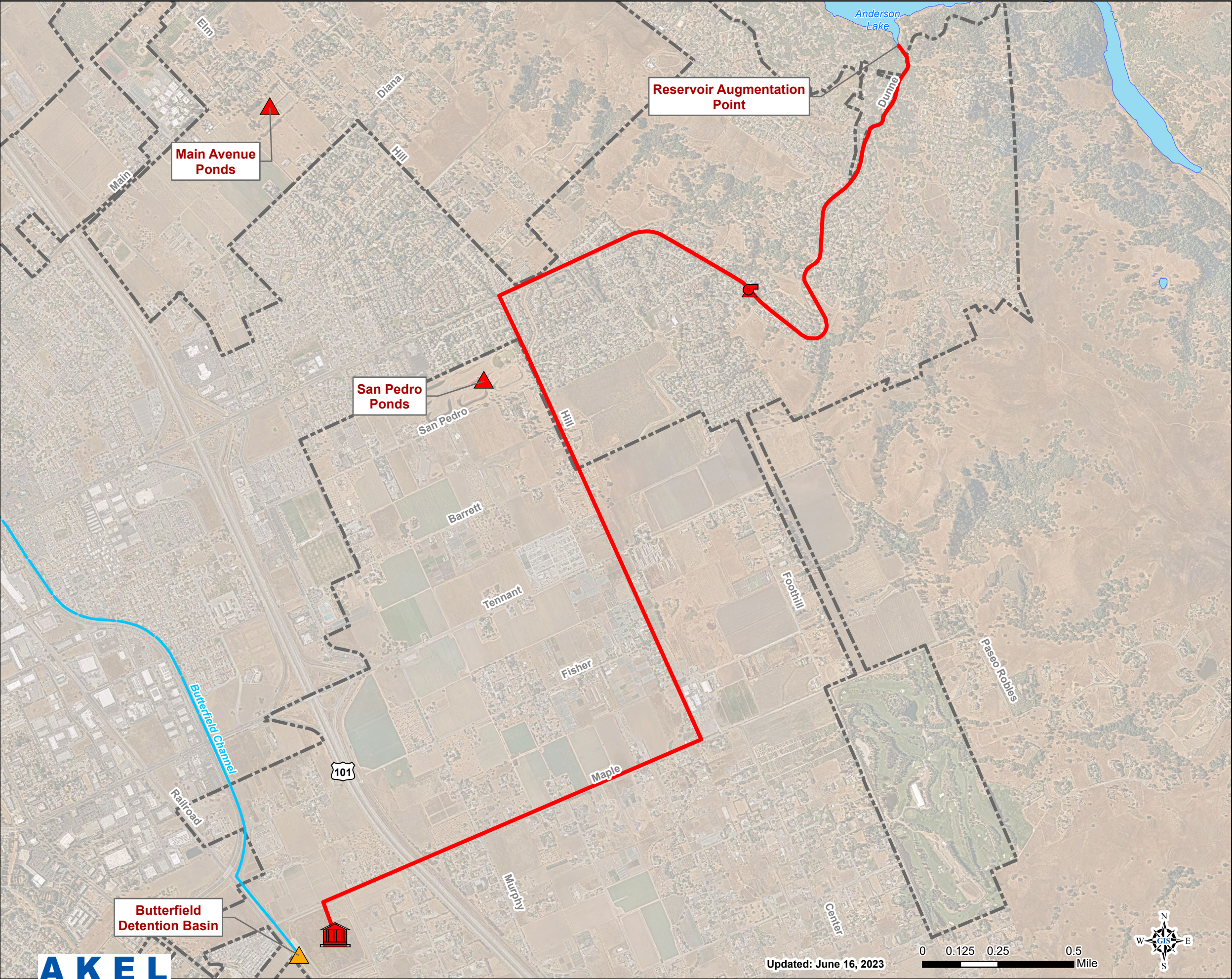
-  Water Purification Facility
-  San Pedro Ponds
-  Purified Water Pipeline
-  Lakes
-  City Limits

Source:
Countywide Water Reuse
Master Plan (CoRe Plan),
October 2020

Note:

- Satellite Advanced Water
Purification Facility (AWPF)
for Groundwater Recharge
(GWR)

Figure 21
Morgan Hill Recycled Water
Option 3 - GWR
Recycled Water Distribution System Master Plan
Santa Clara Valley Water District



Legend

Water Purification System

-  Water Purification Facility
-  Booster Station
-  Detention Basin
-  Recharge Ponds
-  Purified Water Pipeline
-  Butterfield Channel
-  Lakes
-  City Limits

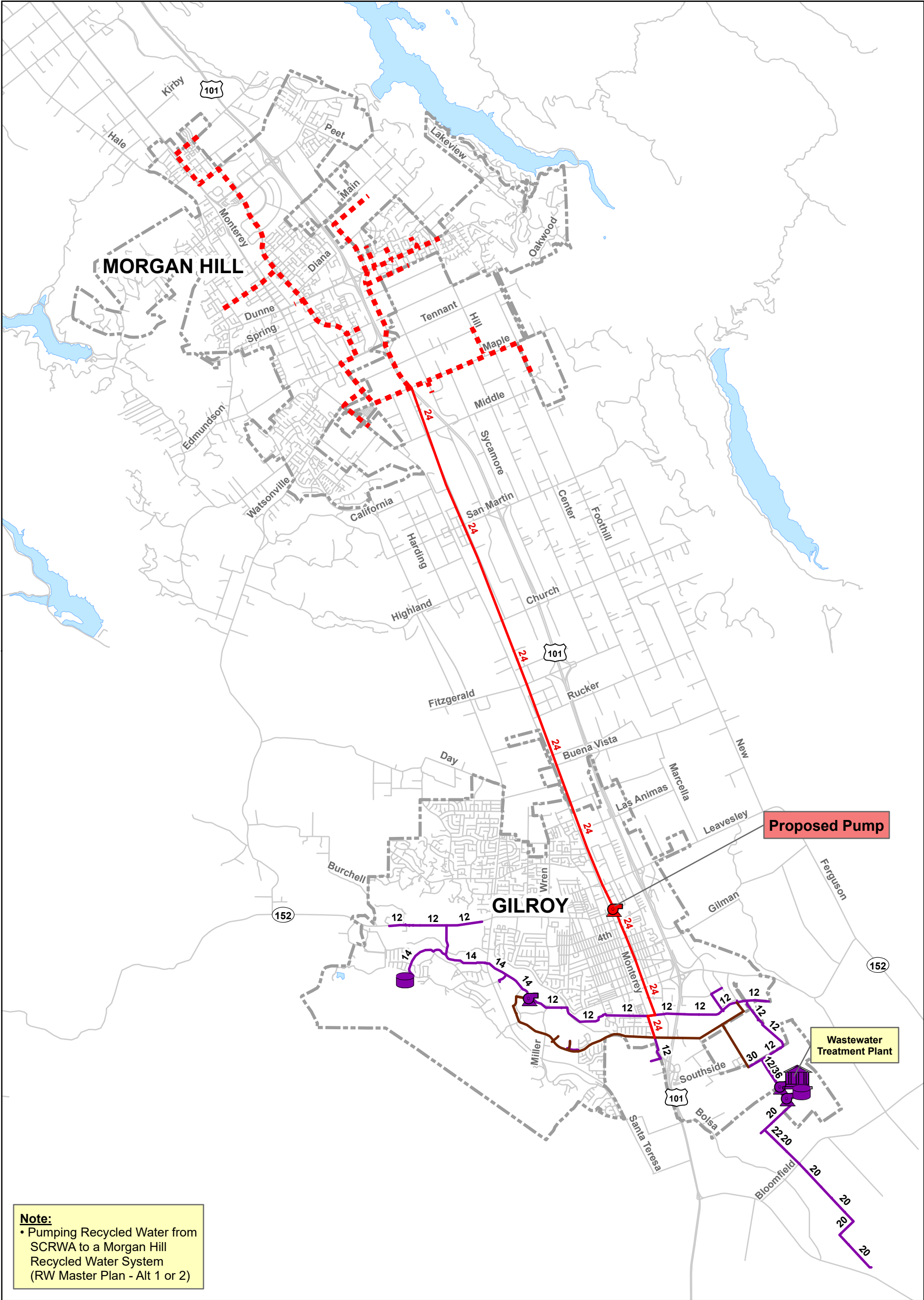
Source:
Countywide Water Reuse
Master Plan (CoRe Plan),
October 2020

Note:
• Satellite Advanced Water
Purification Facility (AWPF)
for Surface Water
Augmentation (SWA)

Figure 22
Morgan Hill Recycled
Water Option 4 - SWA

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District





Note:
• Pumping Recycled Water from SCRWA to a Morgan Hill Recycled Water System (RW Master Plan - Alt 1 or 2)

Legend

Option 5

- Booster Stations
- Recycled Water Recharge Pipeline
- Morgan Hill's Proposed RW System

Proposed

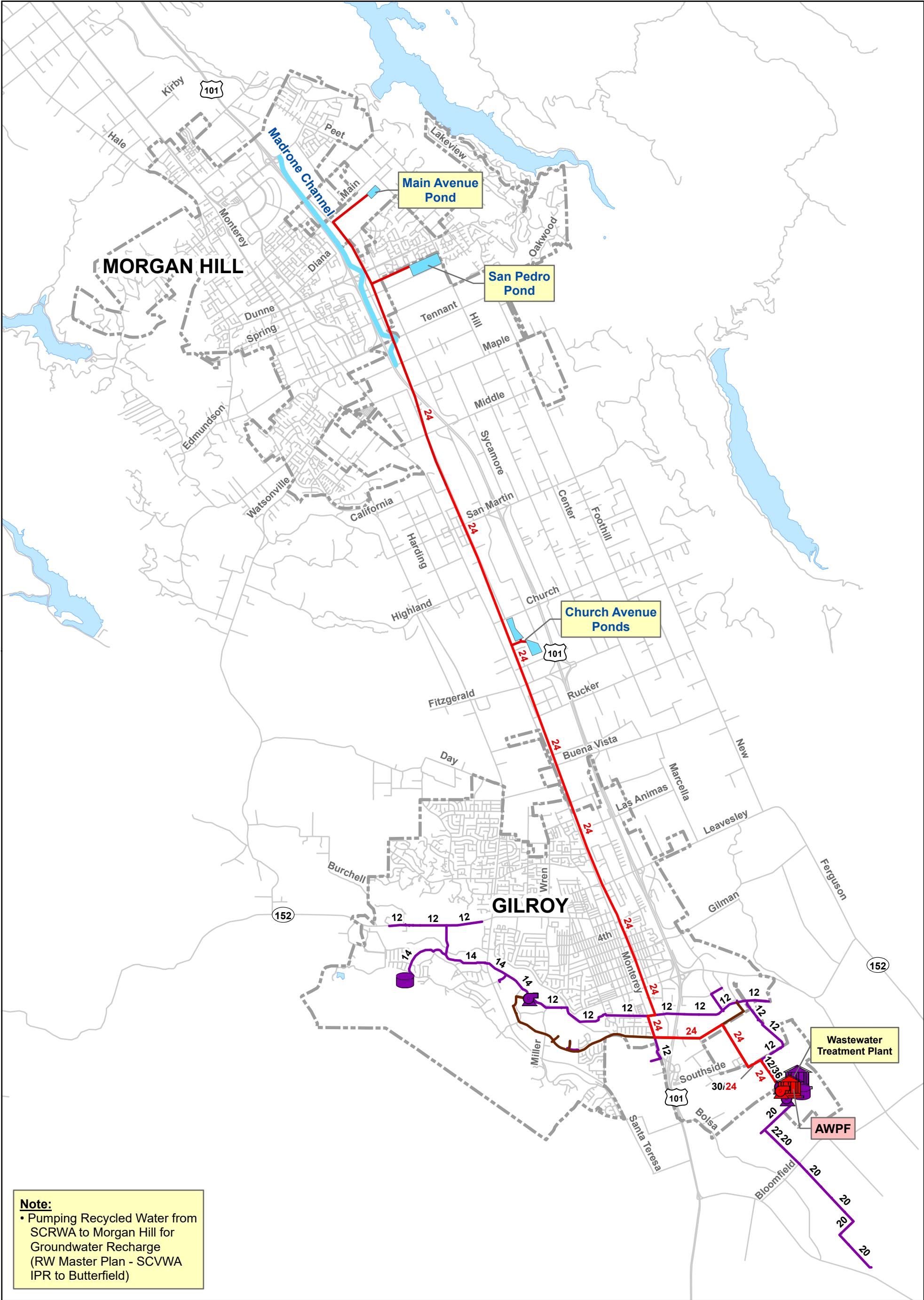
- Storage Tanks
- Booster Stations
- Baseline Improvements

Existing

- WWTP
- Storage Tanks
- Booster Stations
- Recycled Water Pipelines

- Recharge Ponds
- City Limits
- Roads
- Lakes

Figure 23
Morgan Hill Recycled Water
Option 5 - RW from SCRWA
Recycled Water Distribution System
Master Plan
Santa Clara Valley Water District
Attachment 2



Legend

Proposed

Water Purification Facility

Recharge Pipeline Project Alternative 6

SCVWD Improvements

Baseline Improvements

Existing

WWTP

Storage Tanks

Booster Stations

Recycled Water Pipelines

Recharge Ponds

City Limits

Roads

Lakes

Updated: June 16, 2023

0 0.25 0.5 1 Mile



Figure 24

Morgan Hill Recycled Water

Option 6 - AWPf Water

from SCRWA for GWR

Recycled Water Distribution System

Master Plan

Santa Clara Valley Water District



**South County Recycled Water
Distribution System Master Plan**

TABLES

Table 1 Existing System Inventory

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

Pipes				
Pipe Diameter	Length			
(in)	(ft)	(mi)		
North System				
8	750	0.1		
12	50,600	9.6		
14	11,750	2.2		
24	6,350	1.2		
30	1,400	0.3		
36	3,100	0.6		
Sub-Total	73,950	14.0		
South System				
10	350	0.1		
12	400	0.1		
20	15,650	3.0		
22	750	0.1		
30	200	0.0		
Sub-Total	17,350	3.3		
Total	91,300	17.3		
Booster Stations				
Booster Station ID	Pump No.	Head (ft)	Flow (gpm)	
North System				
Zone 1 Pump Station (Area 93)	1	295	1,200	
	2	295	1,200	
	3	295	1,200	
	4	295	1,200	
	5	295	1,200	
	Total Capacity	6,000 gpm / 8.6 mgd		
	Firm Capacity	4,800 gpm / 6.9 mgd		
Zone 2 Pump Station (Christmas Hill)	1	276	1,375	
	2	276	1,375	
	3	276	1,375	
	Total Capacity	4,125 gpm / 5.9 mgd		
	Firm Capacity	2,750 gpm / 4.0 mgd		
South System				
South Zone Pump Station (Area 94)	1	170	2,100	
	2	170	2,100	
	3	170	2,100	
	Total Capacity	6,300 gpm / 9.0 mgd		
	Firm Capacity	4,200 gpm / 6.0 mgd		
Tanks				
Tank ID	Height (ft)	Diameter (ft)	Volume (MG)	Base Elevation (ft)
WWTP Reservoir	22.5	150	3.0	160
North System Tank (Hoylake)	22.5	105	1.5	385

1/12/2023

Table 2 Existing Recycled Water System Demands
Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

User No.	Customer Name	Meter Number	Usage Type	System	Zone ¹	Hours of Usage		Annual Demand ¹		Maximum Month Demand ²	Maximum Day Demand ³	Peak Hour Demand ^{4,5}
						(period)	(hrs)	(AFY)	(gpm)	(gpm)	(gpm)	(gpm)
Existing Users - North System												
1	Christmas Hill Park - (North)	893178	Irrigation	North	1	10pm - 7am	9	19.2	11.9	25.3	31.5	83.9
2	Christmas Hill Park - (Ranch)	70020157	Irrigation	North	1	10pm - 7am	9	10.6	6.6	12.4	15.4	41.2
3	Calpine Power Plant - Cogen	64897928	M&I	North	1	24hr	24	97.9	60.7	153.0	190.4	190.4
4	Calpine Power Plant - Peaker	61767407	M&I	North	1	24hr	24	4.6	2.9	9.7	12.1	12.1
5	McCarthy Business Park - NE	65660171	Irrigation	North	1	9pm - 7am	10	11.8	7.3	10.3	12.9	30.9
6	McCarthy Business Park - NW	64308108	Irrigation	North	1	9pm - 7am	10	0.0	0.0	0.0	0.0	0.0
7	United Natural Food SW	66435006	Irrigation	North	1	10pm - 7am	9	8.4	5.2	7.9	9.8	26.2
7a	United Natural Food SE	66435007	Irrigation	North	1	-	-	-	-	-	-	-
8	B&T Farms	904393	Agricultural	North	1	6am - 12pm and 4pm to 10pm	12	164.2	101.8	390.7	486.4	972.7
9	B&T Farms (West)	994024-8	Agricultural	North	1	6am - 12pm and 4pm to 10pm	12	67.3	41.8	116.9	145.5	291.0
10	Gilroy Police Dept. Shooting Range	60852362	Irrigation	North	1	7am - 11pm	16	0.2	0.1	0.1	0.2	0.3
11	City of Gilroy Sports Park	77132138	Irrigation	North	1	10pm - 7am	9	38.1	23.7	44.0	54.8	146.2
12	Eagle Ridge Golf Course	892545	Irrigation	North	2	6am - 2pm	8	532.3	330.0	515.4	641.5	1,924.5
13	Gilroy Golf Course	84633020	Irrigation	North	2	9pm - 6am	9	82.4	51.1	158.0	196.6	524.3
14	Heartland Owners Association (HOA) #1	78846906	Irrigation	North	2	10pm - 6am	8	2.2	1.3	5.2	6.5	19.4
15	Heartland West #8	64926314	Irrigation	North	2	10pm - 6am	8	7.3	4.5	6.7	8.4	25.1
16	Heartland Gardens #11	65939514	Irrigation	North	2	10pm - 6am	8	13.3	8.3	18.2	22.7	68.1
17	City of Gilroy #12	63267486	Irrigation	North	2	10pm - 7am	9	5.3	3.3	11.6	14.4	38.5
18	City of Gilroy #10	65939449	Irrigation	North	2	10pm - 6am	8	9.3	5.8	13.0	16.2	48.5
19	City of Gilroy #9	63267477	Irrigation	North	2	10pm - 6am	8	15.7	9.7	12.0	14.9	44.7
20	City of Gilroy #7	81877686	Irrigation	North	2	10pm - 6am	8	5.3	3.3	7.0	8.7	26.2
21	Santa Teresa & Third Street Park (City of Gilroy #6)	81877638	Irrigation	North	2	10pm - 6am	8	5.2	3.2	5.8	7.2	21.5
22	City of Gilroy #5	79448993	Irrigation	North	2	10pm - 6am	8	4.5	2.8	5.1	6.3	19.0
23	City of Gilroy #4	78255939	Irrigation	North	2	10pm - 6am	8	0.0	0.0	0.0	0.0	0.0
24	City of Gilroy #3	78846903	Irrigation	North	2	10pm - 6am	8	0.0	0.0	0.0	0.0	0.0
25	City of Gilroy #2	78293084	Irrigation	North	2	10pm - 7am	9	5.5	3.4	7.5	9.3	24.8
						Existing Users - North Subtotal		1,111	689	1,536	1,912	3,782
Temporary Construction Users - North System												
26	Overaa Construction	-	Construction	North	1	7am - 3:30pm	8.5	-	-	-	-	-
27	Tri Pointe (North)	1567721	Construction	North	1	7:30am - 5pm	9.5	1.8	1.1	1.1	1.4	3.5
28	Tri Pointe (South)	1590955	Construction	North	1	7:30am - 5pm	9.5	2.0	1.3	1.3	1.6	4.1
29	Trinchero Construction Company	A1068	Construction	North	2	7am - 3:30pm	8.5	0.9	0.6	0.6	0.7	2.1
Existing Users - South System												
30	San Felipe Farms - Sheldon Turnout	135164	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	108.0	67.0	171.5	410.5	820.9
31	San Felipe Farms - Henry #1	134051	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	0.0	0.0	0.0	0.0	0.0
32	San Felipe Farms - Henry #2	78334101	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	0.0	0.0	0.0	0.0	0.0
33	San Felipe Farms - Henry #3	20091455-08	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	0.0	0.0	0.0	0.0	0.0
34	San Felipe Farms - Limos #1	135116	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	59.0	36.6	202.0	483.4	966.8
35	San Felipe Farms - Limos #2	135115	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	96.6	59.9	208.7	499.6	999.2
36	San Felipe Farms - Limos #3	135711	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	2.1	1.3	4.4	10.6	21.2
37	San Felipe Farms	862840	Agricultural	South	-	6am - 12pm and 6pm - 12am	12	0.0	0.0	0.0	0.0	0.0
						Existing Users - South Subtotal		266	165	587	1,404	1,988
WWTP Utility Water ⁶						24hr	24	961.2	597.0	716.0	629.0	786.3
						Total		2,338	1,450	2,838	3,945	6,557

AKEL



3/1/2024

Notes:

- 1. Annual demands are based on monthly billing records from June 2021 to May 2022 and adjusted to production
- 2. Billing records from June 2021 to May 2022 were used to develop peak month factors for each user.
- 3. Maximum Day Demands were derived using SCADA from peak month of July to develop a MDD to MMD peaking factor for north and south users.
- 4. Peak hour demand was estimated using the formula PHD=(24/hours of permitted usage) x MDD
- 5. User peak hour demands are not additive, peak hour demand sub-totals and totals based on hours of operation
- 6. WWTP utility water historically peaks in the winter months, the MDD and PHD documented is based on max usage observed in SCADA from July 2021 (recycled water system maximum month).

Table 3 Potential Recycled Water Users
Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

Customer Name ¹	Usage Type	System	Zone	Hours of Usage	Hours	Site Area (acres)	Average Demand ² (gpm)	Maximum Month Demand ³ (gpm)	Maximum Day Demand ³ (gpm)	Peak Hour Demand ⁴ (gpm)
Baseline System - Potential Users										
Gilroy Data Center	M&I	North	1	12am-12am	24	56.3	13.0	37.7	305.6	305.6
Glen Loma Ranch Development	Irrigation	North	1	10pm-7am	9	318.7	18.0	41.4	52.2	139.2
International Paper	M&I	North	1	8am-5pm	9	20.0	10.2	29.6	37.7	100.6
Vineyard Christian School	Irrigation	North	2	10pm-7am	9	3.3	4.0	9.2	11.6	30.9
Ascension Solorsano Middle School	Irrigation	North	1	10pm-7am	9	17.0	17.0	39.1	49.3	131.5
Gilroy Sports Park Expansion	Irrigation	North	1	10pm-7am	9	10.6	10.0	23.0	29.0	77.3
Gilroy Sports Park (Agriculture)	Agricultural	North	1	6am-5pm	11	5.7	21.0	75.6	113.4	247.4
Pacheco Pass Shopping Center	Irrigation	North	1	10pm-7am	9	67.0	3.4	7.7	9.7	25.9
Sydney Casper Park	Irrigation	North	1	10pm-7am	9	3.3	8.0	18.4	23.2	61.9
Syngenta	Irrigation	North	2	8am-5pm	9	29.1	12.0	27.6	34.8	92.8
Santa Teresa & Third Street Park	Irrigation	North	2	10pm-7am	9	2.2	8.0	18.4	23.2	61.9
City Park (Hecker Pass)	Irrigation	North	2	10pm-7am	9	2.0	8.0	18.4	23.2	61.9
Las Animas Elementary	Irrigation	North	1	10pm-7am	9	8.1	8.0	18.4	23.2	61.9
City Park (Santa Teresa Blvd and Club Drive)	Irrigation	North	2	10pm-7am	9	4.8	8.0	18.4	23.2	61.9
Cintas Corporation	M&I	North	1	24hr	24	2.2	74.0	214.6	273.8	273.8
Gilroy Gardens	Irrigation	North	2	10pm-7am	9	136.8	105.0	241.5	304.5	812.0
Western Tree Nursery	Irrigation	North	2	24hr	24	160.4	371.0	853.3	1,075.9	1,075.9
Gilroy High School	Irrigation	North	1	10pm-7am	9	55.4	48.0	110.4	139.2	371.2
Bonfante Nurseries	Agricultural	South	-	6am-5pm	11	44.9	133.0	478.8	718.2	1,567.0
Christopher Ranch	Agricultural	South	-	6am-5pm	16	149.4	233.0	838.8	1,258.2	1,887.3
Sub-Total							1,113	3,120	4,529	7,448
Long-Term Potential Users										
Gilroy Gardens	Irrigation	North	3	10pm-7am	9	136.8	105.0	241.5	304.5	812.0
Western Tree Nursery	Irrigation	North	3	24hr	24	160.4	371.0	853.3	1,075.9	1,075.9
Sub-Total							476	1,095	1,380	1,888
Total							1,589	4,215	5,910	9,336



3/1/2024

- Notes:
1. This table represents users within close proximity to existing recycled water pipelines and planned baseline system that have a potential for using recycled water
 2. Average day demands were obtained from the 2015 South County Recycled Water Master Plan.
 3. Maximum month and day peaking factors are based on billing records from June 2021 to May 2022 for similar use types (Ag, M&I, and Irrigation).
 4. Peak hour demand was estimated using the formula PHD=(24/hours of permitted usage) x MDD

Table 4 Recycled Water System Criteria
 Recycled Water Distribution System Master Plan
 Santa Clara Valley Water District

Distribution System Performance Criteria	
Pipe Headloss	< 4 ft/kft
Pipe Velocity	< 5 fps
Minimum Pressure	35 psi
Normal Pressure Range	60 to 120 psi
Pump Station Performance Criteria	
Pressure Zone with Storage	Meet maximum day demand with largest unit out of service.
Pressure Zones without Storage	Meet peak hour demands with largest unit out of service.
Demand Peaking Factors	
Maximum Day Demand	
Agricultural Users	5.4 x ADD
M&I Users	3.7 x ADD
Irrigation Users	2.9 x ADD

3/1/2024

Table 5 Morgan Hill Recycled Water Options

Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

Options ^{1,2,3}	Brief Description	Portfolio	Major Infrastructure	Costs ^{4,5}	Likelihood	Feasibility	Advantages	Disadvantages
1	2	3	4	5	6	7	8	9
Option 1	Option 1a: Direct Potable Reuse via Treated Water Augmentation into water system (via Satellite WWTP and AWWP)	1,100 - 2,900 AFY	Satellite WWTP and AWWP Facility	\$120M	Med./Low	Med./Low	- Less pipeline infrastructure required	- DPR recycled water regulations have not been adopted - High Cost of Infrastructure (satellite WWTP and AWWP) - Additional solids loading and reduced recycled water availability at SCRWA - High O&M Costs
	Option 1b: Direct Potable Reuse via Treated Water Augmentation into water system (via purified water pumped from SCRWA)	1,100 - 2,900 AFY	AWPF at SCRWA, 12 miles of 24-inch pipeline, pump station	\$150M	Med./Low	Med./Low	- Less O&M costs than a satellite WWTP/AWWP	- Current recycled water regulations - High Cost of Infrastructure (AWPF, pipelines, and pump station) - Additional solids loading and reduced recycled water availability at SCRWA
Option 2	NPR+ from South Bay Water Recycling	Delivers 2,900 AFY of NPR+ from SBWR to a new Morgan Hill recycled water system	16 miles of 16-inch pipeline	\$80M	Med./Low	Med.	- Availability of Water - Less O&M costs than a satellite plant and AWWP - Lowest cost opportunity	- Requires agreement with San Jose - High Cost of Infrastructure - Potentially high cost of water due to long distance pumping
Option 3	Satellite Advanced Water Purification Facility (AWPF) for Groundwater Recharge (GWR)	Delivers 1,900 AFY from a Morgan Hill 2.5-mgd satellite WWTP and 2.1-mgd AWWP to recharge facilities in Morgan Hill for GWR	Satellite WWTP and AWWP Facility 3 miles of 16-inch pipeline	\$140M	Low	Low	Groundwater recharge in Morgan Hill	- High Cost of Infrastructure (satellite plant, AWWP, and pipelines) - Inability to meet existing Customer demands during peak demand periods - Inadequate flow in sewer collection system could create odor and clogging problems - Resulting sludge loading and reduced flow could substantially change composition of WWTP influent potentially leading to compliance issues - High O&M Costs
Option 4	Satellite Advanced Water Purification Facility (AWPF) for Surface Water Augmentation (SWA)	Delivers 1,900 AFY from a Morgan Hill 2.5-mgd satellite WWTP and 2.1-mgd AWWP to Anderson Reservoir for SWA	Satellite WWTP and AWWP Facility 6 miles of 16-inch pipeline	\$160M	Low	Low	Surface Water Augmentation in Anderson Reservoir	- High Cost of Infrastructure (satellite plant, AWWP, and pipelines) - Inability to meet existing Customer demands during peak demand periods - Inadequate flow in sewer collection system could create odor and clogging problems - Resulting sludge loading and reduced flow could substantially change composition of WWTP influent potentially leading to compliance issues - High O&M Costs
Option 5	Pumping Recycled Water from SCRWA to a Morgan Hill Recycled Water System (RW Master Plan - Alt 1 or 2)	Delivers 3,000 AFY NPR water from SCRWA to Morgan Hill	9 miles of 24-inch pipeline, 4 miles of distribution pipelines, pump station	\$75M	Low	Med./Low	- RW Service to Morgan Hill - Less O&M costs than a satellite plant	- High Cost of Infrastructure (Pipelines, and Pump Station) - Availability of RW during peak usage
Option 6	Pumping Recycled Water from SCRWA to Morgan Hill for Groundwater Recharge (RW Master Plan - SCVWA IPR to Butterfield)	Delivers 3,000 AFY of AWWP water from SCRWA for IPR in Butterfield Channel	AWPF at SCRWA, 12 miles of 24-inch pipeline, pump station	\$146M	Low	Med./Low	RW Groundwater recharge in Morgan Hill	- High Cost of Infrastructure (AWPF, Pipelines, EIR, CalTrans Permits for crossing Hwy 101, and a Pump Station)

Notes:

- Option 1a and 1b are potential future options depending on changes in the recycled water regulations
- Options 2, 3, 4 were extracted from the 2020 Countywide Water Reuse Master Plan (CoRe Plan)
- Options 5 and 6 were extracted from the 2019 Sustainable Water Management Plan
- Costs documented have been escalated to April 2023 (ENR 13230)
- Costs for each option and are order of magnitude. Cost information for Options 1a, 2, 3, and 4 are based on the CoRe Plan and Options 1b, 5, and 6 are based on the 2015 Recycled Water Master Plan

2/28/2024

Table 6 Baseline System Improvement Summary

Recycled Water Distribution System Master Plan

Santa Clara Valley Water District

Scenario	Demands		Distribution System Improvement Summary
	Maximum Day (mgd)		
Existing	5.7 mgd		-
Baseline System: Imminent -Term	5.7 mgd		Imminent Term Distribution System Improvements: - Recent Construction: 13,650 feet of 30-inch diameter pipeline - Constructed but Inactive: 6,120 feet of 30-inch diameter pipeline 770 feet of 16-inch diameter pipeline 640 feet of 12-inch diameter pipeline - Near-Term: 2,450 feet of 18-inch diameter pipeline
Baseline System: Near - Term	6.1 mgd		Near-Term Distribution System Improvements: 960 feet of 30-inch diameter pipeline (plus 100' pipe casing) Planned WWTP Recycled Water Projects: - Reservoir Expansion (Additional 3 MG) - New Reservoir Pump Station 1,500 feet of on-site piping
Conceptual Baseline Buildout: Long - Term ¹	11.7 mgd		Long-Term Distribution System Improvements: 5,870 feet of 24-inch diameter pipeline 6,930 feet of 18-inch diameter pipeline - New 1.5 MG Zone 2 Tank - New 1,500 gpm (Firm) Zone 3 Pump Station - Christmas Hill Pump Station Capacity Upgrade to 5.5 mgd - Area 93 Pump Station Firm Capacity Upgrade to 9.3 mgd

Notes:

12/1/2023

1. Long-Term recycled water usage dependent on wastewater influent flow increase plus treatment capacity

Table 7 Cost Estimating Criteria

Recycled Water Distribution System Master Plan

Santa Clara Valley Water District

Pipe Size (Inner Diameter)	Unit Costs ¹
(in)	(\$/lineal foot)
8	187
10	211
12	253
14	283
16	304
18	312
24	400
30	500
36	560
Pump Stations	
Pump Station Within WWTP or Upgraded Capacity at Existing Site	
Estimated Pumping Station Project Cost = $1.2 * 10^{(0.7583 * \log(Q) + 3.1951)}$; where Q is in gpm	
New Pump Station Outside WWTP	
Estimated Pumping Station Project Cost = $2.4 * 10^{(0.7583 * \log(Q) + 3.1951)}$; where Q is in gpm	
Storage Reservoirs (\$/gal)	
Earthwork, Lined and Covered Storage Pond	\$0.25
Steel Tank - Above Ground	
≤ 1.0 MG	\$2.69
1.1 MG - 3.0 MG	\$2.15
3.1 MG - 5.0 MG	\$1.55
> 5.0 MG	\$1.16
Costs Estimating Contingencies²	
Estimating	20%
Construction	20%
Administration	30%

AKEL
ENGINEERING GROUP, INC.

12/22/2023

Notes:

1. Construction costs estimated using August 2022 ENR CCI of 13,171.
2. Contingencies:
 - Estimating contingency of 20% to account for unforeseen events and unknown conditions.
 - Construction contingency of 20% to account for engineering design and construction management and inspection.
 - Administration contingency of 30% to account for administration and legal costs.

Table 8 Capital Improvement Program
Recycled Water Distribution System Master Plan
Santa Clara Valley Water District

Itemized Cost Estimate														
Improvement Number	Pressure Zone	Type of Improv.	Street	Limits	Pipeline and Appurtenances Costs				Baseline Construction Cost (\$)	Estimating Contingency Cost ³ (\$)	Construction Contingency Cost ⁴ (\$)	Administration Contingency Cost ⁵ (\$)	Total Estimated Capital Cost (\$)	
					Diam. (in)	Length (ft)	Unit Cost ² (\$)	Pipe Cost (\$)						
Recent Construction Improvements														
Distribution System														
P-1	North - Zone 1	Pipe	Through Agriculture Fields ROW	Southside Dr. to Luchessa Ave.					Cost extraced from bid tabs - Phase 1B, 2A, 2B					21,300,000
P-2	North - Zone 1	Pipe	Luchessa Avenue	Agriculture ROW to Greenfield Dr										
Recent Construction Subtotal											21,300,000			
Near-Term Improvements														
Distribution System														
P-3	North - Zone 1	Pipe	Luchessa Avenue/Cameron Boulevard	Luchessa Ave to Princeville Drain					Cost extraced from bid tabs - Phase 1C					1,700,000
P-4	North - Zone 1	Pipe	Luchessa Avenue	W 10th St to Miller Ave	30	960	500	480,000	480,000	96,000	96,000	144,000	820,000	
P-4a	North - Zone 1	Casing	Luchessa Avenue	Reservoir Canyon Creek Crossing	42	100	705	70,500	70,500	14,100	14,100	21,150	120,000	
											Distribution System Subtotal			2,640,000
Other On-Site WWTP Recycled Water Projects														
WWTP-1	WWTP	Lined Reservoir ¹	Recycled Water Reservoir Expansion (Additional 3 MG)		3.0 MG				2,060,000	412,000	412,000	618,000	3,500,000	
WWTP-2	WWTP	Pump Station ¹	New Reservoir Pump Station						815,000	163,000	163,000	244,500	1,390,000	
WWTP-3	WWTP	Pipe	On-Site Pipelines						500,000	100,000	100,000	150,000	850,000	
											WWTP On-Site Subtotal			5,740,000
Near-Term Subtotal											8,380,000			
Long-Term Improvements														
Distribution System														
P-5	North - Zone 2	Pipe	ROW through Home Ranch Development	Zone 2 Pump Station Outlet to Uvas Creek	24	4,250	400	1,700,000	1,700,000	340,000	340,000	510,000	2,890,000	
P-6	North - Zone 2	Pipe	Santa Teresa Boulevard	Uvas Creek to Cobblestone Ct	24	1,620	400	648,000	648,000	129,600	129,600	194,400	1,100,000	
LT-P-8	North - Zone 2	Pipe	Uvas Creek ROW/Gilroy Gardens Service Rd	Meritage Loop to New Zone 2 Tank Site/Zone 3 PS (Elev. 383)	18	3,700	312	1,154,400	1,154,400	230,880	230,880	346,320	1,960,000	
LT-P-9	North - Zone 2	Pipe	Gilroy Gardens ROW	New Zone 2 Tank Site/Zone 3 PS to Lake Kathryne	18	3,230	312	1,007,760	1,007,760	201,552	201,552	302,328	1,710,000	
LT-T1	North - Zone 2	Tank ¹	Gilroy Gardens	Zone 2 Storage Expansion	1.5 MG			3,225,551	3,225,551	645,110	645,110	967,665	5,480,000	
LT-BS1	North - Zone 3	Pump Station ¹	2 x 750 gpm Duty + 750 gpm Standby		2,250 gpm (total)			1,310,000	1,310,000	262,000	262,000	393,000	2,230,000	
LT-BS2	North - Zone 2	Pump Station ¹	Christmas Hill Capacity Upgrade		5.5 mgd (total)			978,390	978,390	195,678	195,678	293,517	1,660,000	
LT-BS3	North - Zone 1	Pump Station ¹	North (Area 93) Recycled Water Pump Station Upgrade		9.3 mgd (total)			1,457,121	1,457,121	291,424	291,424	437,136	2,480,000	
Long-Term Subtotal											19,510,000			
Capital Improvement Summary														
Note: 1. Tank and pump station pricing can vary widely with site conditions. 2. Cost estimates are based on the Engineering News Record (ENR) construction cost index (CCI) of 13171 for the 20 cities for August 2022. 3. Baseline construction cost plus 20% to account for unforeseen events and unknown conditions (Estimating Contingency). 4. Baseline construction cost plus 20% to cover other costs including: engineering design, construction management, and inspection (Construction Contingency). 5. Baseline construction cost plus 30% to account for project administration (developer and City staff) and legal costs (Administration Contingency).														
											Recent Construction: 21,300,000			
											Immediate and Near-Term Subtotal: 8,380,000			
											Estimated Total: 49,190,000			

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From: [D. Muirhead](#)
To: [CC Public Comment](#)
Cc: [Chris Ghione](#); [Dave Tucker](#)
Subject: [EXTERNAL] comment Morgan Hill City Council May 15 2024 # South County Water Reuse Master Plan
Date: Wednesday, May 8, 2024 11:56:22 AM

Greetings Morgan Hill City Council and City Staff,
A comment for your May 15 2024 meeting
South County Water Reuse Master Plan
For your edification, this comment is approximately
the one I presented at the last South County Joint
Water Resources Committee meeting in April 2024.

As you consider if and how you are willing to prepare
for climate cycles of extreme drought and extreme heat,
I suggest that you keep in mind what Governor Newsom
said at his press conference during the April snow survey:

"The water system in California was designed
for a world that no longer exists."

And I would add:

"Conservation fails if you have no water to conserve."
In my ideal world, Morgan Hill would capture and reuse
our wastewaters to recharge our groundwater basin to
provide Local Resilience Under Local Control.

The South County Recycled Water Distribution System
Master Plan of March 2024 is much the same as the Master
Plan from 2015. Although the new plan is named "South County",
both 2015 and 2024 are mostly Gilroy. "Existing System" (3.1)
and "5-year Capital Improvement Program" (10.0) are Gilroy only.

While the 2015 report concluded that recycled water was not
justified for Morgan Hill, the 2024 report summarizes a set
of six reuse options considered feasible for Morgan Hill but
with no plan.

One constraint that I consider a violation of the 1997
Joint Powers Agreement that created the South County Regional
Wastewater Authority is that the design of the newly-expanded
SCRWA facility requires all Morgan Hill wastewater be
delivered to SCRWA for the plant to function properly.

I have reminded elected officials that the MOU that created
SCRWA explicitly authorized our City to build its own facilities.
The impacts to SCRWA operations are explicitly mentioned in
Morgan Hill Recycled Option 2 (8.2.3) and Option 3 (8.2.4):

"Wastewater available for satellite treatment in Morgan Hill
[is] relied upon for meeting existing South County Recycled
Water System (RWS) demands."

"A Morgan Hill satellite facility would increase solids loads
to SCRWA, posing operational issues that may be substantial."
Wastewater is a precious and limited resource. It is needed

to continue to manufacture purified water for the Gilroy system. The 2024 report includes an analysis "Existing Recycled Water User Optimization" (7.3) which concludes:

"There are a lot of limitations with the [Gilroy] users and why their hours cannot change. For the few users that have flexibility, the changes are very minor and therefore would not help to optimize the existing recycled water usage."

"Updated Morgan Hill Reuse Options" (8.2) notes that during peak recycled water usage there is no additional wastewater available for treatment. For this scenario, either reductions to existing users or additional storage would be required to supply recycled water.

Now to the long-awaited "Recycled Water Options for Morgan Hill" (8.0). We all know that there is currently no recycled water delivered within the City of Morgan Hill's service area.

It is helpful to know what are considered limitations for the "Updated Morgan Hill Reuse Options" (8.2).

One action common to these options is:

"Valley Water may need to reassess the potential impacts of recycled water on the Llagas Subbasin prior to moving forward as there is potential for groundwater quality degradation from using recycled water for irrigation."

Who and when will this reassessment occur?

"Option 2" (8.2.2) is 16 miles of 16-inch pipeline from South Bay Water Recycling. Exporting supply from San Jose and neighboring areas to Morgan Hill would need a new agreement as the existing Silver Creek Agreement between Valley Water and San José expires in 2027.

Long-term supply reliability is unconfirmed.

Operational impacts to the SBWR system have not been evaluated.

A new reservoir may be needed to supply reliable summertime flows.

Without grant funding the cost would be borne entirely by Llagas subbasin for the operations and maintenance.

Going forward, I continue to see no sense of urgency.

The closing section "Morgan Hill Recycled Water Options Comparison" (8.3) of the Morgan Hill focus has no Who or When or Why:

"Newer technologies and recently adopted DPR regulations may unlock new options for the City of Morgan Hill in the future leading to Options 1a and 1b becoming more feasible. The City of Morgan Hill intends to continue to work in partnership with Valley Water to determine the best path forward to enhance its water supply and resiliency portfolio."

I will repeat that I strongly support a solution that does not depend on other jurisdictions. Local Resilience Under Local Control.

Where the conversation has always stopped in the past (never really started) is that without grant funding the cost for a local Morgan Hill facility would be borne entirely by Llagas subbasin for the operations and maintenance.

Conservation fails if you have no water to conserve.
Doug Muirhead, Morgan Hill resident

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CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Monica Delgado, Budget Manager

APPROVED BY: City Manager

INTRODUCE THE RECOMMENDED FY 2024-25 AND FY 2025-26 BIENNIAL OPERATING AND FY 2024-25 THROUGH FY 2029-30 CAPITAL IMPROVEMENT PROGRAM BUDGETS

RECOMMENDATION(S)

Receive the Introduction to the Recommended Budget Presentation.

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

Advocating for Local, Regional, and State Legislative Initiatives

2024-2025 Strategic Priorities

Fiscal Sustainability

Affordable Housing and Homelessness

Community Engagement

Economic Development and Tourism

Transportation

Healthy Community

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

Climate Action Plan

Communications, Outreach, and Engagement Plan

Economic Blueprint

Fire Services Standards of Coverage

GIS Strategic Plan

Morgan Hill 2035 General Plan

Public Safety Master Plan

Storm Drain Master Plan
 Vision Zero
 Water System Master Plan
 Wastewater System Master Plan

REPORT NARRATIVE:

On Friday, May 3, the Recommended FY 2024-25 and FY 2025-26 Biennial Operating and FY 2024-25 through FY 2029-30 Capital Improvement Program (CIP) Budgets were distributed to the City Council and made available for public review.

The total Recommended Budget is \$205.9 million in FY 24-25 and \$254.4 million in FY 25-26. The FY 24-25 budget includes \$62.0 million for General Fund expenditures, \$60.7 million for CIP, and \$83.2 million for non-General Fund expenditures. For FY 25-26, the recommended budget includes \$63.2 million for General Fund expenditures, \$108.5 million for CIP, and \$82.7 million for non-General Fund expenditures. Details of each Division's budget, project descriptions, and funding requirements can be found in the accompanying operating departments and CIP sections of the budget document.

These recommended budgets are the product of many teammates working in a collaborative manner to align resources that are consistent with the City Council's and Community's priorities, while continuing to maintain fiscal responsibility.

[Recommended FY 2024-25 and 2025-26 Operating and FY 2024-25 through FY 2029-30 Capital Improvement Program Budgets](#)

COMMUNITY ENGAGEMENT:

Involve

May 11, 2024 - Open Streets Budget Engagement with the Community

In addition to introducing the recommended budget on May 15, the Community is invited to participate in the City Council Budget Workshop which is scheduled for May 22 at 5:00 pm.

ALTERNATIVE ACTIONS:

Not Applicable

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council received the last recommended biennial operating and CIP budgets in May 2022 which was subsequently adopted in June 2022.

FISCAL AND RESOURCE IMPACT:

The budget documents are the product of many employees working in a collaborative manner to strive to attain the Council's and Community's priorities in a cost-effective manner while maintaining the City's goal of fiscal sustainability.

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.

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Michelle Bigelow, City Clerk

APPROVED BY: City Manager

PROVIDE DIRECTION REGARDING REMOTE PUBLIC COMMENTS AT CITY COUNCIL MEETINGS

RECOMMENDATION(S)

Provide direction to staff regarding the allowance of remote public comment on Zoom.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Supporting our Youth, Seniors, and Entire Community

Fostering a Positive Organizational Culture

Preserving and Cultivating Public Trust

Enhancing Diversity and Inclusiveness

2024-2025 Strategic Priorities

Community Engagement

Guiding Documents

Communications, Outreach, and Engagement Plan

Economic Blueprint

REPORT NARRATIVE:

This item was initially presented at the City Council meeting on December 6, 2023 as a Future Council Initiated Agenda Item. The City Council directed staff to explore options to allow for public comment on Zoom requiring registration/authentication. A conversation about remote public comment was held during the City Council's Goal setting workshop on Friday, February 1, 2024, at which there was not a majority consensus to allow remote public comment. This item is returning after direction from City Council at the March 6, 2024 meeting to be heard by all members of the City Council.

Background

At the October 4, 2023, City Council meeting, hateful and hostile comments were made by people participating on Zoom for public comment. This occurred in Morgan Hill and throughout the nation. In response, public comment on Zoom was no longer allowed.

Several factors contributed to this decision:

- Promoting a safe and inclusive space: The City works to create an environment where everyone feels safe and respected during public meetings. Hate speech can create a hostile atmosphere that hinders meaningful public participation and disrupts the purpose of the meetings.
- Protection of vulnerable communities: Hate speech often targets specific communities based on their characteristics, such as race, religion, gender, or sexual orientation. Taking steps to prevent hate speech protects these communities from harm and harassment. Further, as an employer, the City must take reasonable steps to prevent exposure to verbal conduct based on protected classifications (including race, religion, gender, and/or sexual orientation) that are objectively and subjectively offensive.
- Ensuring efficient meetings: The City's goal is to conduct productive and efficient meetings that allow for the exchange of diverse opinions and ideas. Hate speech can disrupt these meetings, making maintaining a respectful and constructive environment challenging.

Through this change, the City of Morgan Hill aimed to strike a balance between promoting free speech and protecting the safety and dignity of all participants in its public meetings.

The State's Brown Act, which governs public access to government meetings, only requires cities to offer the public a chance to comment in person at public sessions. Since the pandemic, many cities have allowed the public to comment by Zoom or phone. However, a growing number of cities in the Bay Area, including Morgan Hill, have moved to prohibit remote comments because of the increasing incidents of antisemitic and/or hate speech callers.

Staff is seeking direction from the City Council on whether to allow public comments. If not, no further discussion is needed.

If the City Council wants to consider allowing public comments, staff seeks directions on whether the City Council wishes to put a registration and/or verification in place to help protect employees and the Community from hostile verbal conduct. Some options are as follows:

- Option 1: Require both registration and authentication on Zoom (Staff recommendation if the Council wishes to allow remote public comment)
 - Uses an existing available tool requiring no additional expenditures or staff management of another program during City Council meetings
 - Authentication allows the host (the City) to restrict webinar attendees to sign-in users only, confirming that they have a legitimate email account
 - Registration allows the host to view and manage the registrants, be aware of how many will potentially join, and it ensures that attendees do not share their attendance link with others, ensuring that each person joining

- has to register with a unique email address
 - Scheduling a webinar with registration requires registrants to complete a brief form before receiving the link to join the webinar. This allows the agency to collect the names, email addresses, and other information from the registrants
 - It can be set not to allow attendees to change their name
- Option 2: Require registration through an online form
 - Requires speakers to sign up via an online form on the City website
 - Requires a cutoff time to allow staff review
 - Requires more staff time to manage speakers/requests
 - No added cost, as the form would be created through the City's website
 - Registration allows the host to view and manage the registrants and be aware of how many will potentially join
- Option 3: CivicBell Virtual Speaker Card
 - This product is still in the beta testing phase and has no current agencies using it
 - Ensures the speaker is a real person and not a "bot"
 - Prevents participant from changing name
 - Cost \$2,000 annually
 - Requires an additional tool and additional staff time

* Important note: We cannot prohibit speakers from using assumed or false names. None of the options listed above stop workarounds, and we may still experience hate speech and use of vulgar names.

Staff believes the Council should consider the continuation of our existing practice, which permits public comments exclusively in person or in writing. This approach is not only a pragmatic response to the escalating threats we face but also a commitment to prioritizing the safety and integrity of our meetings.

COMMUNITY ENGAGEMENT:

This report serves to inform the community of the Council's discussion regarding whether to allow remote public comment at City Council and Planning Commission meetings.

ALTERNATIVE ACTIONS:

Not applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

This item was initially presented at the City Council meeting on December 6, 2023 as a

Future Council Initiated Agenda Item. The City Council directed staff to explore options to allow for public comment on Zoom requiring registration/authentication. A conversation about remote public comment was held during the City Council's Goal setting workshop on Friday, February 1, 2024, at which there was not a majority consensus to allow remote public comment.

FISCAL AND RESOURCE IMPACT:

Seeking direction from the Council on this item has no fiscal impact. However, if the City Council chooses to implement the CivicBell product, there would be an annual cost of \$2,000 for the product as well as additional staff time.

CEQA (California Environmental Quality Act):

Not a Project.

Organizational or administrative activities of governments will not result in direct or indirect physical changes in the environment.

CITY COUNCIL STAFF REPORT

MEETING DATE: May 15, 2024

PREPARED BY:

Edith Ramirez, Assistant City Manager

APPROVED BY: City Manager

PROVIDE DIRECTION REGARDING OPTIONS FOR PUBLIC ART FUNDING

RECOMMENDATION(S)

Receive report and provide direction on policy for public art funding.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

Fostering a Positive Organizational Culture

Preserving our Community History

Enhancing Diversity and Inclusiveness

2024-2025 Strategic Priorities

Fiscal Sustainability

Community Engagement

Economic Development and Tourism

Healthy Community

Guiding Documents

Economic Blueprint

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

POLICY CONSIDERATIONS:

Should the City develop a dedicated art fund (Percent for Art) to enhance the City's Art Program and further the Morgan Hill 2035 General Plan goals?

BACKGROUND:

On November 3, 2023, Mayor Mark Turner submitted a request to discuss the feasibility of creating a fee-based revenue stream for public art to advance the City's goals of community development, tourism, and economic development. The City of Morgan Hill established art goals in the Morgan Hill 2035 General Plan and Downtown Specific Plan to enhance the visibility of art and elevate creative culture. The City currently has an art program guided by the Library, Culture and Arts Commission (LCAC) but does not have

a sustainable art fund to support the ongoing installation and maintenance of art. The LCAC's Art Program is codified in Chapter 2.68 of the City's Municipal Code and aims to grow new projects, art installations, preserve city public art collection, art maintenance, support Morgan Hill Public Art, and Adopt an Art Program.

The current inventory of public art contains over 40 pieces (see attached "Inventory of Public Art"). In recent years, the City has seen several new art installations, which include the "Morgan Hill Peace Monument" (2022) and the "Never Forgotten" memorial bronze sculpture (2021), with both projects being partially funded with public and private dollars. In addition to the sculptures, the City has successfully integrated artwork into numerous City Park projects through grant funding and fundraising. These exhibits include the Taylor Gallegos Mural at the Magical Bridge as well as the soon-to-be installed Mural at the Galvan Park Restrooms by Abigail Dunnivan. Additionally, the City and the LCAC have been highly successful at working with various groups to partner on artwork opportunities. Leadership Morgan Hill recently created and funded an enormous mural at Community Park created by local artist Lina Velasquez (2023) and the City partnered with the Beautiful Day organization to install a large mural on the Friendly Inn Building at Galvan Park (2022).

Another thriving program under the LCAC program is the Utility Box Art Program. The original program completed by Leadership Morgan Hill funded the installation of 11 utility box art murals (2018). In continuance of this effort, the LCAC has partnered with artists to create 5 additional utility art murals in the last 4 years, with the murals coming from a variety of artists (including youth). The City is well on its way to having artwork on every City-owned traffic signal utility box within the City.

The LCAC's volunteer efforts have not ended with permanent public art. The Commission has also started a youth art show at the Art à la carte event, supported local artists in hosting art shows at City facilities, has restarted the rotating art displays at the Community and Cultural Center, and has partnered with the Morgan Hill Community Foundation to host the Morgan Hill Open Studios Event annually for the last several years.

Despite this significant work being completed, the City does not have a dedicated funding source for art. All efforts are based on fundraising, grants, and individual funding opportunities. The City's Art Fund (260) is primarily used by LCAC, which raises funds for artwork maintenance and installation. Additionally, the City received a one-time development contribution that has \$48,000 remaining for use on a one-time art project, which the LCAC is currently reviewing. Per LCAC Policy LCAC-08-02, funding resources include gifts and donations, grants, fund-raising, fees, levies, assessments, and other funds allocated by the City through the budgetary process that are used to support LCAC services and resources, not designated solely for public art. The 260 Fund currently has very limited funds and there is no ongoing revenue source. The City has been able to secure art installations through the City's former Residential Control Growth System (RDCS) contributions, and donations. Additionally, the Commission partners with the Community Foundation in managing the Foundation's arts component to support the arts. This fund is limited and relies on contributions from donors or art

event revenue to collect funds. The public art inventory is listed in Exhibit A.

ANALYSIS

One of the ways municipalities can advance public art is by mandating public art be included in public and private projects and/or imposing an art fee that can fund public art. Municipalities that have an adopted art program often have a mandatory fee for public and private development codified in the City's Municipal Code (see attached Exhibit B "Art Funding City Comparison Table"). Recent research that examined 23 California cities that have a Percent for Art Program showed that the majority of cities impose a public art fee on public projects (approximately 91%) and 69% of these cities impose an art fee on both public and private development.

Details for imposing the art fee policy vary across cities. Based on the study, assessment measures vary by project development type, project size, and project construction cost. Assessment fees for public developments can range from 0.5% of total capital improvement cost to 2% of total capital improvement OR 1% to 1.5% in-lieu fees. Assessment fees for private developments range from 0.5% to 1.75% OR 0.5% to 1% in-lieu fees. Alternatively, the art percent policy could be applicable only to developments exceeding \$1 million, developments exceeding a set size, or type of development, i.e., residential projects over 20 units, or commercial projects over 2,000 SF.

As noted, the City has a significant public art collection and a highly successful arts commission. However, the City is limited in its ability to fully implement an arts program due to resource constraints. While public art has many benefits, including supporting the City's identity, community inclusiveness and supporting placemaking, tourism, and economic development, imposing a fee for public art is a significant request for both public and private projects. The current economic conditions coupled with the high costs of construction have impacted all construction projects. Many residential and commercial projects are on hold, being value-engineered or experiencing delays as they try to secure financing. Public projects may have to seek discretionary revenues for art programming (General Fund). The City is currently focused on core city services, such as public safety. Utilization of the General Fund for art programming purposes is not realistic at this point. Equally, privately funded projects may be further set back with an additional fee. It is important to note that the City can require art and art-like features of public projects that may not strain the project's budget if integrated within the design of the facility. Examples include the Downtown Parking Garage that obtained the glass staircase and Tarantula as part of the design-built project. The Downtown parks have also integrated design features that enhance the facility such as murals, signage and fencing.

Should the Council wish for staff to continue to explore this topic, below are some of the policy considerations:

Should a Public Art requirement be applied to both public and private developments?
Should certain projects be exempt from the Public Art requirement? By size or type?
If public art is not feasible or desired on site, would the City accept an in-lieu fee?

What amount should the in-lieu fee be? And should the fee be the same for both public and private projects?

A sample policy may require that only private projects dedicate one percent of construction costs to public art or pay a one percent in-lieu fee. Projects that may be exempt from this policy may include projects smaller than 10,000 SF, very low-income projects, or very small housing projects of 25 units or less.

Should the City Council wish to explore a Public Art Policy that mandates the incorporation of art into projects, staff would recommend engaging the Community for feedback and working with LCAC to develop a recommendation.

COMMUNITY ENGAGEMENT:

Inform. The noticing and public hearing for this Council meeting serves as the public outreach for this item.

ALTERNATIVE ACTIONS:

The Council may wish to delay the exploration of a Public Art Fee.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City of Morgan Hill's Art Program was incorporated in 1998. In 2008, City Council approved two policies relating to the LCAC:

- LCAC-08-01, approved on 10/16/2008, states that the City of Morgan Hill encourage arts and cultural activities to enhance, enliven, and enrich the city.
- LCAC-08-02, approved on 10/16/2008, states that Arts and Culture in Morgan Hill can thrive and invigorate the community with consistent attention from a combination of public and private sources. It is the policy of the Library, Culture, and Arts Commission to pursue funding for the arts through a variety of options.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated at this time. If City Council chooses to adopt a dedicated Art Fund (Percent for Art) and impose art fees on public projects, the cost of these projects would likely increase.

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 and the organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment are exempt activities pursuant to CEQA.

Inventory of Public Art in Morgan Hill

Item No.	Title	Artist	Year Dedicated	Materials - Format	Maintenance	Date Inspected	Notes	Location	Location Detail
1	Morgan Hill's City Rock, Poppy Jasper	n/a	2001	Encased Rock Sample	Dusting of Case.	10/9/2018		Morgan Hill Community and Cultrual Center	Inside CCC
2	A View of El Toro in October	Dave Sellers		Framed Painting	Dusting.	10/9/2018		Morgan Hill Community and Cultrual Center	Inside CCC
3	Our Inspiration (Flower)	Helen M. Nauss	2006	Framed Painting	Dusting.	10/9/2018		Morgan Hill Community and Cultrual Center	Inside CCC
4	Clay Model of "Waiting For The Train	Marlene Amerian	2007	Clay model	Dusting of Case.	10/9/2018	Commissioned.	Morgan Hill Community and Cultrual Center	Inside CCC
5	Encompass	Blessing Hancock	2015	Powder Coated Metal	Cleaning/ repainting - as needed	10/16/2018	Commissioned.	Morgan Hill Community and Cultrual Center	Monterey Road - entrance to Community Center
6	Framed 3-D Vase	Sister City Gift	2008	Matting, metal	Dusting.			Morgan Hill Civic Center	Inside City Council Chamber Bldg
7	2 Mexican Paintings	Unknown	NS	Oil Painting	Dusting.			Morgan Hill Civic Center	Inside City Council Chamber Bldg
8	Leadership Morgan Hill Photo Collage	Leadership MH 2014	2014	Large photo collage	Dusting: as needed	10/16/2018	Donated by Leadership MH.	Morgan Hill Civic Center	Inside City Council Chamber Bldg
9	Never Forgotten Tara Romero Sculpture		2021	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.		Installed	Morgan Hill Civic Center	Grounds outside Council Chambers entrance
10	Harmony Tree	Saori Ide & Jonathan Russell	2018	Metal Sculpture	Routine Stainless steel cleaning, lighting replacement.	10/16/2018	Commissioned.	Morgan Hill Civic Center	Between City Hall & Council Chambers Bldg
13	Liberty	Evelyn Davis	2006	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	11/5/2018	Cleaned bi-annually by volunteers from the Masonic Temple. Commissioned.	Centennial Recreation Center & Community Park	Behind CRC on walking path
14	Skate Park Art	Tanya Golphin	2008	Metal Sculpture	Remove debris & graffiti as needed		Commissioned.	Centennial Recreation Center & Community Park	On fence at skate park
15	Loki Owl Sculpture	Evelyn Davis	2019	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.			Centennial Recreation Center & Community Park	Adjacent to CRC Parking Lot on Trail
16	Waiting for the Train	Marlene Amerian	2007	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	10/16/2018	Cleaned bi-annually by volunteers from the Masonic Temple. Commissioned.	Downtown Morgan hill	Morgan Hill Train Station
17	Bicycle and Town View	Joan Harkness, Art Decker, Steve Harkness	2015	Mural	Inspection and Graffiti Abatement	1/16/2019		Aquatics Center	Aquatics Center Mini Golf Area
18	Family of Deer	Eveylyn Davis	2015	Bronze Sculptures	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	10/16/2018	Commissioned.	Downtown Morgan hill	Median on Monterey Road between 3rd & 4th Streets
19	Tarantula	Gordon Huether	2015	Metal Construction	Clean as needed, replace lighting.	10/9/2018	Commissioned.	Downtown Morgan hill	South side of Parking Structure on 4th Street
20	Poppy Jasper	Gordon Huether	2015	Plastic Wall	Bi-annual inspection & clean as needed (bi-monthly)	10/9/2018	Commissioned.	Downtown Morgan hill	3rd St. entrance to Parking Structure
21	Railroad Park Mural	Pam Mossing	2017	Mural	Remove graffiti and wipe down as needed,	10/9/2018	Commissioned.	Downtown Morgan hill	Railroad Park
22	Small Steps (Fox Sculpture)	Evelyn Davis	2017	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	1/5/2019	Cleaned bi-annually by volunteers from the Masonic Temple. Bronze patina starting to turn green. Needs attention. Commissioned.	Downtown Morgan hill	Downtown Creek Park

Inventory of Public Art in Morgan Hill

Item No.	Title	Artist	Year Dedicated	Materials - Format	Maintenance	Date Inspected	Notes	Location	Location Detail
23	Once Upon a Mushroom	Evelyn Davis	2007	Bronze Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	9/18/2018	Cleaned bi-annually by volunteers from the Masonic Temple. Commissioned.	Morgan Hill Library	Front of library
24	Story Time	Purchased Leadership Morgan Hill Class Of 2007	2007	Bronze Plated Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	9/18/2018	Cleaned bi-annually by volunteers from the Masonic Temple. Donated by LMH.	Morgan Hill Library	Front of library
25	Knowledge is Power	Purchased Leadership Morgan Hill Class Of 2007	2007	Bronze Plated Sculpture	Bronze Care: Monthly Inspections/Cleaning. Annual Waxing.	9/18/2018	Cleaned bi-annually by volunteers from the Masonic Temple. Donated by LMH.	Morgan Hill Library	Front of library
26	Be Your Own Hero	Vanessa Davidson	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 1	Downtown Morgan hill	Railroad Park
27	Courage Does Not Always Roar	Lina Velasquez	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 2	Downtown Morgan hill	Monterey Rd. & Main St.
28	Inspire Change	Danielle DeRome	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 3	Downtown Morgan hill	Monterey Rd. & Dunne Ave.
29	Inspire Others	Patty Cutis	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 4	City Steets	Tennant Ave.& Vineyard Ave.
30	Kindness First - Words Matter	Teresa Anguiano	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 5	City Steets	Dunne Ave.& Peppertree Ave.
31	Never Give Up	Teresa Anguiano	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 6	City Steets	Dunne Ave. & Peppertree Ave.
32	Let Nature Sing	Jann Griffiths	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 7	City Steets	Dunne Ave. & Hill Road
33	Love Everyone	Shawna Gonzales	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 8	City Steets	Main St. & Calle Mazatan
34	Never Stop Learning	Pamela Mossing	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 9	City Steets	Monterey Rd. & Tennant Ave.
35	Welcome Home	Lina Velasquez	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 10	City Steets	Main St. & Butterfield Blvd.
36	What You Think You Become	Noah Chin	LMH Class of 2018	Mural on Utility Box	Graffiti abatement		Funded by 2018 Leadership MH Class Project Box 11	City Steets	Hale Ave & Llagas Road
37	The Eagle	Louis Latronica	2020	Poppy Jasper	None		Donated by Louis Latronica	Council Chambers	Lobby
38	28 At Pieces of Louis Latronica	Louis Latronica	2021	Various Sculptures in Cabinet	None		Donated by Louis Latronica	Council Chambers	Council Chambers
39	Magical Bridge Playground Restroom Mural	Taylor Gallegos	2022	Mural on Restroom Building	Graffiti abatement			Community Park	Community Park
40	2 Utility Box Art Pieces	Lina Velasquez	2022	Mural on Utility Box	Graffiti abatement			Community Park	Community Park
41	Utility Box Art Community Park Stage Area	Lina Velasquez	2022	Mural on Utility Box	Graffiti abatement			Community Park	Community Park
42	Community Park Stage Mural	Lina Velasquez	2023	Mural on Building	Graffiti abatement			Community Park	Community Park

Inventory of Public Art in Morgan Hill

Item No.	Title	Artist	Year Dedicated	Materials - Format	Maintenance	Date Inspected	Notes	Location	Location Detail
43	Galvan Park Building Mural			Mural on Building	Graffiti abatement			Galvan Park	Galvan Park
44	Galvan Park Restroom Mural	Abigail Dunnivan	2024	Mural on Restroom Building	Graffiti abatement			Galvan Park	Galvan Park
45	It is Forever as Mothers...	Crystal Riley	2022	Mural on Utility Box	Graffiti abatement		Artist donated	City Streets	Dunne and Murphy Ave
46	Love the Planet	Lina Velasquez	2021	Mural on Utility Box	Graffiti abatement		Artist donated	City Streets	Butterfield and West Dunne
47	Utility Box Art	Rehat Sra	2022	Mural on Utility Box	Graffiti abatement		Artist donated	City Streets	John Wilson Way and Monterey Road
48	Utility Box Art	Patty Curtis		Mural on Utility Box	Graffiti abatement			City Streets	
49	Utility Box Art	Amanda Santiago	2024	Mural on Utility Box	Graffiti abatement			City Streets	
50	Salmon Statue	Evelyn Davis	2023	Mural on Utility Box	Graffiti abatement			West Little Llagas Creek Trail	
51	Morgan Hill Pieace Monument	David Middlebrook	2022	Mural on Utility Box	Graffiti abatement			Civic Center	

Exhibit B

Art Funding City Comparison Table

CITY	FUNDING STRUCTURES	
Cupertino	1% of the first \$100 million construction valuation and 0.9% in excess of \$100 million.	1.25% in-lieu fee.
Los Altos	1% of construction costs.	1% in-lieu fee.
Los Gatos	1% of construction valuation.	In-lieu fee equivalent to public art cost.
Milpitas	0.5% of building development costs for nonresidential building developments over 2,000 square feet.	0.5% in-lieu fee.
Palo Alto	1% of construction valuation for first \$100 million and 0.9% in excess of \$100 million (valuation adjusted with CPI).	1% in-lieu fee.
Redwood City	1% of new commercial development over 50,000 square feet.	1% in-lieu fee. If the developer does not spend all 1%, the remaining amount can go into the fee.
San Mateo	1.19% of building permit fee for commercial/ multi-family projects over \$3 million construction valuation.	1.19% in-lieu fee.
Sunnyvale	2% of construction valuation. If the developer does not spend the entire 2%, remaining amount contributed to the public arts fund.	1.1% in-lieu fee.