



Special/Regular Meeting Agenda
City Council

<i>Mark Turner</i>	-	<i>Mayor</i>
<i>Yvonne Martínez Beltrán</i>	-	<i>Mayor Pro Tem</i>
<i>Soraida Iwanaga</i>	-	<i>Council Member</i>
<i>Marilyn Librers</i>	-	<i>Council Member</i>
<i>Miriam Vega</i>	-	<i>Council Member</i>

Wednesday, February 19, 2025 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 participate by teleconference/video conference. Information on how the public may observe and participate in the meeting is below.

MEETING PARTICIPATION

Morgan Hill City Council meetings are held in person. The community may attend in person or via Zoom (video/teleconference). The meetings are also live-streamed on the City's website, Facebook page, and Channel 17.

As a courtesy, and technology permitting, members of the public may attend online. However, the City cannot guarantee that the public's access to online technology will be uninterrupted, and technical difficulties may occur from time to time. Unless required by the Ralph M. Brown Act, the meeting will continue despite technical difficulties for participants using the online option.

Those wishing to participate in the meetings remotely must register in advance at <https://bit.ly/CityCouncilZoomRegistration>. Additionally, Zoom participants must be running the latest version or will be required to update to the latest version before being able to join the meeting remotely.

Remote participation is also available by calling (669) 900-9128 and entering webinar id: 873 3200 8380#. Dial *9 to raise your hand, and be called upon to speak for up to 3 minutes. Dial *6 to unmute.

PUBLIC COMMENT

Public comment may be offered verbally at the meeting or in writing before the meeting. Public comment is limited to three minutes, but the Mayor may adjust time limits for individual or total comments while ensuring all viewpoints are heard, encouraging speakers to avoid repetition, and allowing a designated spokesperson for organized support or opposition to present longer if needed.

Those attending remotely may only offer public comment for items on the agenda in one of four categories:

- Consent Calendar
- Other Business
- Public Hearings
- Closed Session

Public comment will be heard from those attending in person first with the submission of a speaker card. Once that is complete, we will move to those on Zoom that have their hand raised. Following public comment from Zoom, we will close the public comment period for that item.

Remote public comment for items not on the agenda will not be accepted.

Written public comment may be submitted to the City Clerk:

- In person at the City Council Meeting;
- Via email to ccpubliccomment@morganhill.ca.gov; or
- Hand delivered or mailed 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) so that your comments can be submitted to the members of the City Council with sufficient time to review them. You may continue to provide written comments up to noon on Wednesday (the day of the meeting), although Council Members may not have sufficient time to review them before the meeting. Public comments submitted to the City Clerk after noon (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 or by email at 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)

Mary Volz v. RJ Cassiba, et al.

Santa Clara County Case No. 23-CV-413053

Esmerelda Johl v. City of Morgan Hill, et al.

Santa Clara County Case No. 23-CV-428058

Conference with Legal Counsel—Anticipated Litigation

Initiation of litigation pursuant to § 54956.9(c):

(One Case)

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

REGULAR MEETING

6:00 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS

Aquatics Foundation donation
Dairy Delight

PRESENTATIONS

YAC Presentation

CITY COUNCIL REPORTS

Mayor Pro Tem Martinez Beltran

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. **ACCEPT \$30,000 DONATION FROM THE FRIENDS OF MORGAN HILL SENIOR CENTER**

Recommendation:

1. Accept a \$30,000 donation from the Friends of the Morgan Hill Senior Center to support services at the Centennial Recreation Senior Center; and
2. Authorize the City Manager to execute any agreements necessary for donation acceptance.

2. **ACCEPT DONATION OF NEW POOL LANE LINES VALUED AT \$17,089 FROM THE MORGAN HILL AQUATIC FOUNDATION**

Recommendation:

Accept donation of lane lines from the the Morgan Hill Aquatic Foundation valued at \$17,089.

3. **ACCEPT THE POLICE DEPARTMENT BUILDING EXPANSION PROJECT IN THE AMOUNT OF \$245,771**

Recommendation:

1. Accept the Police Department Building Expansion Project by Jahn Plumbing, Inc. as complete;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

4. **ADOPT ORDINANCE NO. 2362, NEW SERIES, AMENDING VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING UPDATES TO ACCESSORY DWELLING UNIT PROVISIONS TO COMPLY WITH SENATE BILL 477 AND SENATE BILL 1211; IMPLEMENTING REPRODUCTIVE HEALTH COMMUNITY CLINICS BY-RIGHT TO COMPLY WITH ASSEMBLY BILL 2085; UPDATES TO PARKING PROVISIONS TO COMPLY WITH ASSEMBLY BILL 2097; AND IMPLEMENTING MINOR AMENDMENTS DUE TO CLERICAL ERRORS AND INCONSISTENCIES**

Recommendation:

Waive the reading, adopt Ordinance No. 2362, 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. **APPROVE FINAL MAP FOR THE GATES - TRACT NO. 10627 AND RELATED SUBDIVISION IMPROVEMENTS AGREEMENT**

Recommendation:

1. Approve the Final Map;
2. Approve a Subdivision Improvements Agreement with CITY VENTURES HOMEBUILDING LLC, a Delaware Limited Liability Company;
3. Authorize the City Manager to execute the Subdivision Improvements Agreement; and

6. **APPROVE PROFESSIONAL SERVICES AGREEMENT WITH HYDROSCIENCE ENGINEERS FOR THE GLEN AYRE RESERVOIR PROJECT FOR A TOTAL AMOUNT NOT TO EXCEED \$417,019**

Recommendation:

1. Approve Service Agreement for Design Professionals with HydroScience Engineers, Inc. for a total not to exceed contract amount of \$417,019 to design the Glen Ayre Reservoir Project; and
2. Authorize the City Manager to execute and administer the Service Agreement for Design Professionals with HydroScience Engineers, Inc. for the Glen Ayre Reservoir Project.

7. **APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE DAKOTA DUNNE RESIDENTIAL SUBDIVISION (APN 726-09-104, -105, AND -106)**

Recommendation:

1. Approve the First Amendment to the Subdivision Improvements Agreement for the Dakota Dunne Residential Subdivision;
2. Authorize the City Manager to execute the First Amendment to the Project's Subdivision Improvements Agreement with Michael F. Dunne, Jr. and Jonna M. Dunne; and
3. Authorize the recordation of the First Amendment to the Subdivision Improvements Agreement.

8. **APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE SABINI COURT RESIDENTIAL SUBDIVISION (APN: 773-32-017, -018, -019, AND -020)**

Recommendation:

1. Approve the First Amendment to the Subdivision Improvements Agreement for the Sabini Court Subdivision;
2. Authorize the City Manager to execute the First Amendment to the Project's Subdivision Improvements Agreement with Strolata Properties, LLC; and

3. Authorize the recordation of the First Amendment to the Subdivision Improvements Agreement.

9. **APPROVE CITY COUNCIL ASSIGNMENTS TO OUTSIDE AGENCIES FOR 2025**

Recommendation:

1. Approve the City Council assignments to Outside Agencies; and
2. Direct the City Clerk to notify the appropriate agencies of the updated assignments and update the Form 806 as necessary.

10. **APPROVE THE JANUARY 15, 2025 CITY COUNCIL MEETING MINUTES**

Recommendation:

Approve minutes.

11. **AWARD MORGAN HILL MAGICAL BRIDGE SHADE STRUCTURE PROJECT TO G&G BUILDERS INC. IN THE AMOUNT OF \$392,933**

Recommendation:

1. Approve the Morgan Hill Magical Bridge Shade Structure Project Plans and Specifications;
2. Award contract to G&G Builders Inc. in the amount of \$392,933;
3. Authorize the expenditure of construction contingency funds not to exceed \$100,000;
4. Authorize the City Manager to execute and administer the construction contract with G&G Builders Inc.

12. **RECEIVE ANNUAL REPORT ON 2024 CITY ENGINEER ACCEPTANCES OF PUBLIC IMPROVEMENTS COMPLETED BY PRIVATE DEVELOPMENT PROJECTS**

Recommendation:

Accept and file Annual Report on 2024 City Engineer acceptances of public improvements completed by private development projects.

PUBLIC HEARINGS

13. **ADOPT RESOLUTION AMENDING THE TEXT OF THE MORGAN HILL 2035 GENERAL PLAN TO ELIMINATE THE FLOOR AREA RATIO FOR THE MIXED USE FLEX LAND USE DESIGNATION AND INTRODUCE ORDINANCE (ZA2024-0002) AMENDING CHAPTER 12.32 (RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES); AMENDING SECTIONS 17.20.040 (FORM AND CONTENTS) AND 17.24.030 (FORM AND CONTENTS)**

**RELATING TO TENTATIVE MAPS WITHIN TITLE 17 (SUBDIVISIONS)
IMPLEMENTING MINOR AMENDMENTS DUE TO INCONSISTENCIES WITH
CHAPTER 12.32 PROPOSED AMENDMENTS; AND AMENDING TABLE
18.22-2 (DEVELOPMENT STANDARDS IN MIXED USE ZONING DISTRICTS)
WITHIN SECTION 18.22.040 (DEVELOPMENT STANDARDS) TO REMOVE
THE MAXIMUM FLOOR AREA RATIO (FAR) AND BUILDING COVERAGE
WITHIN THE (MIXED USE FLEX) MU-F ZONING DISTRICT**

Recommendation:

1. Open/close the public hearing;
2. Adopt a Resolution approving an amendment to the text of the Morgan Hill 2035 General Plan to eliminate the Floor Area Ratio for the Mixed Use Flex land use designation;
3. Waive first and second reading of the Ordinance Amendment; and
4. Introduce Ordinance Amendment.

OTHER BUSINESS

**14. PROVIDE DIRECTION TO STAFF ON PROPOSED FUTURE COUNCIL
INITIATED AGENDA ITEM**

Recommendation:

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

Adopt a resolution protecting the rights and safety of immigrant communities.

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 described in the notice of this meeting during consideration of that item. If you wish to address the Council on any item on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk before the City Council discussion on the item. You are not required to give your name on the speaker card 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: February 19, 2025

PREPARED BY:

Jennie Tucker, Recreation Manager

APPROVED BY: City Manager

ACCEPT \$30,000 DONATION FROM THE FRIENDS OF MORGAN HILL SENIOR CENTER

RECOMMENDATION(S)

1. Accept a \$30,000 donation from the Friends of the Morgan Hill Senior Center to support services at the Centennial Recreation Senior Center; and
2. Authorize the City Manager to execute any agreements necessary for donation acceptance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Supporting our Youth, Seniors, and Entire Community

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

Over the past several years, the Friends of the Morgan Hill Senior Center have supported operations at the Centennial Recreation Senior Center through annual financial donations to the City. The donations offset the Senior Center's costs. The donation typically includes support for staffing and program costs and allows a higher level of service than what would be provided by City funds alone. Previous donations have supported specific programs such as senior transportation and helped the Senior Center reopen after the COVID-19 pandemic.

The Friends of the Morgan Hill Senior Center was established in 2011 with the primary purpose of raising funds to support Senior Center operations. "Friends," a group of more than 40 community volunteers, host the ongoing Tuesday night Bingo at the Community and Cultural Center as its primary fundraising activity.

This year, the Friends of the Morgan Hill Senior Center presented the City with a \$30,000 donation to help fund the Center's operations.

When the City took over management of the Senior Center in 2015, the Friends estimated that \$20,000 per year would be available to support the City's operation of the Center. The donations have been at that level or higher every grant period. In partnership with the Friends, financial sustainability continues to be a focus area of the Senior Center.

COMMUNITY ENGAGEMENT:

None

The Friends shared the open application period with City staff and provided City staff with a deadline to apply for funds. The City continues to recognize the Friends' contributions at the Senior Center and publicly when receiving donations.

ALTERNATIVE ACTIONS:

The City Council could choose not to accept the donation.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council has accepted annual donations from the Friends.

FISCAL AND RESOURCE IMPACT:

The \$30,000 will be accepted into the General Fund and will directly offset costs associated with operating the Senior Center. The current fiscal year budgeted donation for the Morgan Hill Senior Center is \$30,000.

CEQA (California Environmental Quality Act):

Not a Project

Since the resulting activity is an administrative program that will not result in a change to the physical environment, this action is not a project under the California Environmental Quality Act.

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Molly Fittro, Aquatics Supervisor

APPROVED BY: City Manager

ACCEPT DONATION OF NEW POOL LANE LINES VALUED AT \$17,089 FROM THE MORGAN HILL AQUATIC FOUNDATION

RECOMMENDATION(S)

Accept donation of lane lines from the the Morgan Hill Aquatic Foundation valued at \$17,089.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

2024-2025 Strategic Priorities

Fiscal Sustainability

Healthy Community

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

The Morgan Hill Aquatic Foundation (MHAF) was established in 2004 to provide financial assistance for group swim lessons and help cover the significant costs associated with new equipment for operating the Morgan Hill Aquatics Center.

One purpose of the MHAF is to ensure the year-round operation of the Morgan Hill Aquatics Center by funding selected capital improvement projects and providing support to individuals and organizations that prioritize the aquatic sports community in Morgan Hill. Throughout the years, MHAF has supported the Aquatics Center through financial donations, which have helped offset costs. These donations typically cover new equipment expenses and swim lessons scholarships.

This year, MHAF has supported the Aquatics Center by purchasing twenty-four new lane lines for the competition and instructional pools, which cost \$17,089. This donation improves the quality of training at the Aquatics Center and the appearance of potential competitions hosted in the City of Morgan Hill.

COMMUNITY ENGAGEMENT:

Involve

Patrons, teammates, and rental groups provided feedback on potential improvements to the facility. One primary input was the need to replace the lane lines. Replacing the lane lines has enhanced the facility's overall appearance and met the expectations of pool users.

ALTERNATIVE ACTIONS:

The City Council could choose not to accept the donation.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council has accepted donations throughout the history of the Aquatics Center.

FISCAL AND RESOURCE IMPACT:

This donation directly offsets future costs for the City associated with replacing lane lines at the pools.

CEQA (California Environmental Quality Act):

Categorical Exemption

The planned maintenance and management of city facilities, including replacing lane lines, falls within the CEQA categorical exemption of Class 1, Existing Facilities.

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Mario Ramirez, Police Captain

APPROVED BY: City Manager

ACCEPT THE POLICE DEPARTMENT BUILDING EXPANSION PROJECT IN THE AMOUNT OF \$245,771

RECOMMENDATION(S)

1. Accept the Police Department Building Expansion Project by Jahn Plumbing, Inc. as complete;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Guiding Documents

Public Safety Master Plan

REPORT NARRATIVE:

On February 21, 2024, Jahn Plumbing, Inc. was awarded the Morgan Hill Police Department Building Expansion Project for \$229,221 with an authorized contingency of \$22,922. The project involved renovating the north end of the police department, which had previously been subleased as commercial office space. The renovations also added office space for the Police Department's Special Operations and Traffic Bureaus.

The project began in March 2024 and was substantially completed in November 2024. Two change orders were authorized for \$16,550 due to additional work and contract deducts (Attachment 1). The final construction contract with Jahn Plumbing, Inc. was \$245,771. Staff recommend accepting this project as it is complete and in accordance with the plans and specifications. By accepting this project, the City Clerk will file a Notice of Completion for this project (Attachment 2).

COMMUNITY ENGAGEMENT:

Inform

This staff report informs the community that the Police Department Building Expansion Project has been completed.

ALTERNATIVE ACTIONS:

Accepting the project in accordance with the contract documents is a required process. It 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 February 21, 2024, the City Council awarded the Police Department Building Expansion Project to Jahn Plumbing, Inc.

FISCAL AND RESOURCE IMPACT:

The final amount of the Jahn Plumbing contract for the Police Department Expansion Project is \$245,771. The project was programmed in the FY23-24 Budget.

CEQA (California Environmental Quality Act):

Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15302 of CEQA Guidelines (Existing Facilities). The project consisted of removing and replacing or reconstructing existing structures and facilities, with the new structure located on the same site as the old one and having substantially the same purpose and capacity.

CIP Contract Acceptance Funding Closeout Statement

Project:	Police Expansion Project		
Project No:	PF2002		
Date of Project Award:	21-Feb-24		Project Award Amount:
Funding Source:	F315		Contingency Authorized:
Date of Project Acceptance:	*****		Total Authorized:
			Actual Base Contract Spent:

Change Orders			
	Description	Date	Council Approval Req'd? (Y/N)
C.O. #1:	Additional Work at Interrogation Room, Credit for Doors not Installed and Project Line Item Over/Under	1-Jul-24	N
C.O. #2:	Furnish and Install Handrails to comply with ADA sidewalk	21-Oct-24	N
			Total C.O.:

Additional Appropriations		
Source	Amount	Date
None		

		Total Construction Amount (Base Contract plus CO's):
Construction Fund Balance:	\$6,372.00	

\$229,221
\$22,922
\$252,143
\$229,221

\$10,930.00
\$5,620.00
\$16,550.00

\$245,771.00

Recording Requested By:

When Recorded Mail To:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

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

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the Owner or agent of the Project described below.
2. Owner's full name is City of Morgan Hill.
3. Owner's address is 17575 Peak Avenue Morgan Hill, CA 95037.
4. The nature of Owner's interest in the Project is:
XX Fee ownership ___ Lessee ___ Other: _____
5. Construction work on the Project performed on Owner's behalf is generally described as follows: Renovate 6,080 square feet of office space located at the north end of the Morgan Hill Police Department
6. The name of the original Contractor for the Project is: Jahn Plumbing, Inc.
7. The Project was completed on: November 1, 2024
8. The Project is located at: 16200 Vineyard Boulevard Morgan Hill, CA 95037.

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

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE NO. 2362, NEW SERIES, AMENDING VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING UPDATES TO ACCESSORY DWELLING UNIT PROVISIONS TO COMPLY WITH SENATE BILL 477 AND SENATE BILL 1211; IMPLEMENTING REPRODUCTIVE HEALTH COMMUNITY CLINICS BY-RIGHT TO COMPLY WITH ASSEMBLY BILL 2085; UPDATES TO PARKING PROVISIONS TO COMPLY WITH ASSEMBLY BILL 2097; AND IMPLEMENTING MINOR AMENDMENTS DUE TO CLERICAL ERRORS AND INCONSISTENCIES

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2362, 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

Protecting the Environment and Preserving Open Space and Agricultural Land

Supporting our Youth, Seniors, and Entire Community

Fostering a Positive Organizational Culture

Enhancing Diversity and Inclusiveness

2024-2025 Strategic Priorities

Affordable Housing and Homelessness

Economic Development and Tourism

Healthy Community

Guiding Documents

Climate Action Plan

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

On January 15, 2025, the City Council introduced Ordinance No 2362, New Series, by the following roll call votes: Ayes: Turner, Vega, Librers, Iwanaga, Martinez Beltran;

Noes: None; Abstain: None; Absent: None;

Staff regularly brings forward minor amendments as necessary to enhance, correct, and/or refine the Code. The purpose of the Ordinance is to implement and correct the following items:

- Amending the Zoning Code to be consistent with State Law to comply with Senate Bill 477, Senate Bill 1211, Assembly Bill 2085, and Assembly Bill 2097 regarding accessory dwelling unit provisions, reproductive health community clinics, and updates to parking provisions;
- Update other varying Sections within Title 18 (Zoning) due to miscellaneous corrections and clerical errors.

COMMUNITY ENGAGEMENT:

Inform.

A 10-day public hearing notice was published in the Morgan Hill Times on Friday, January 3, 2025, pursuant to Government Code Sections 65090-65096. The notice was also provided on the website, via email, and social media with the City's 411 distribution. On December 10, 2024, the Planning Commission held a public hearing regarding the proposed Municipal Code amendments, and a 10-day public hearing notice was published in the Friday, November 29, 2024, edition of the Morgan Hill Times.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 6, 2018, the City Council adopted Ordinance No. 2277 N.S., a comprehensive update of Title 18 – Zoning of the City of Morgan Hill Municipal Code. The update included an amendment to the City's official zoning map consistent with the Morgan Hill 2035 General Plan.

On December 18, 2019, the City Council adopted Ordinance No. 2313 N.S. to update Chapter 18.84 (Accessory Dwelling Units) of Title 18 (Zoning) to implement changes to accessory dwelling units (ADUs) pursuant to Assembly Bill 68, Assembly Bill 881, and Senate Bill 13.

On September 6, 2023, the City Council unanimously adopted Ordinance No. 2348, establishing Chapter 18.29 (Monterey Corridor Form-Based Code) of Title 18 (Zoning).

On December 10, 2024, the Planning Commission considered and recommended, unanimously, the City Council approve the proposed draft Ordinance.

FISCAL AND RESOURCE IMPACT:

Staff regularly brings forward municipal code amendments as necessary to enhance, correct, and/or refine the Code; and therefore, the cost is borne, and work is

accommodated, within the respective division's annual workplan and budget.

CEQA (California Environmental Quality Act):

The proposed amendments are categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The proposed project is covered by the common-sense exemption that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed project will not result in any direct impact upon the physical environment. Any development that occurs in the future subject to such standards will undergo an independent analysis per the requirements of CEQA.

ORDINANCE NO. 2362, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING UPDATES TO ACCESSORY DWELLING UNIT PROVISIONS TO COMPLY WITH SENATE BILL 477 AND SENATE BILL 1211; IMPLEMENTING REPRODUCTIVE HEALTH COMMUNITY CLINICS BY-RIGHT TO COMPLY WITH ASSEMBLY BILL 2085; UPDATES TO PARKING PROVISIONS TO COMPLY WITH ASSEMBLY BILL 2097; AND IMPLEMENTING MINOR AMENDMENTS DUE TO CLERICAL ERRORS AND INCONSISTENCIES

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

Section 1. Section 18.12.080 (Setbacks) of Chapter 18.12 (Rules of Measurement) of Title 18 (Zoning) is hereby amended to read as follows:

- A. Required Setback Area. Required setback areas shall be kept free of buildings and structures. Except as otherwise permitted, required setback areas shall be used only for landscaping, pedestrian walkways, driveways, uncovered off-street parking, recreational activities, or similar accessory activities.
- B. Setback Measurements. Setback distances shall be measured at right angles from the designated property line (e.g., front, interior side, street-side, rear) establishing a setback area line parallel to the designated property line at the required setback distance. See Figure 18.12-4. Designated property lines are determined as follows:
 - 1. Front Property Line. The front property line shall be the narrowest property line which abuts a public or private street easement or drive-aisle. For corner lots, the front property line shall be the shortest street frontage, regardless of where the front door is located. For flag lots, the front property line shall be the property line that abuts the access corridor.
 - 2. Rear Property Line. The rear property shall be the property line which is opposite and most distant from the front property line and most parallel to the front property line.
 - 3. Side Property Line. The side property line shall be those property lines that are not the front or rear property lines.
 - 4. Street Side Property Line. The street side property line shall be those side property lines that abuts a public or private street.

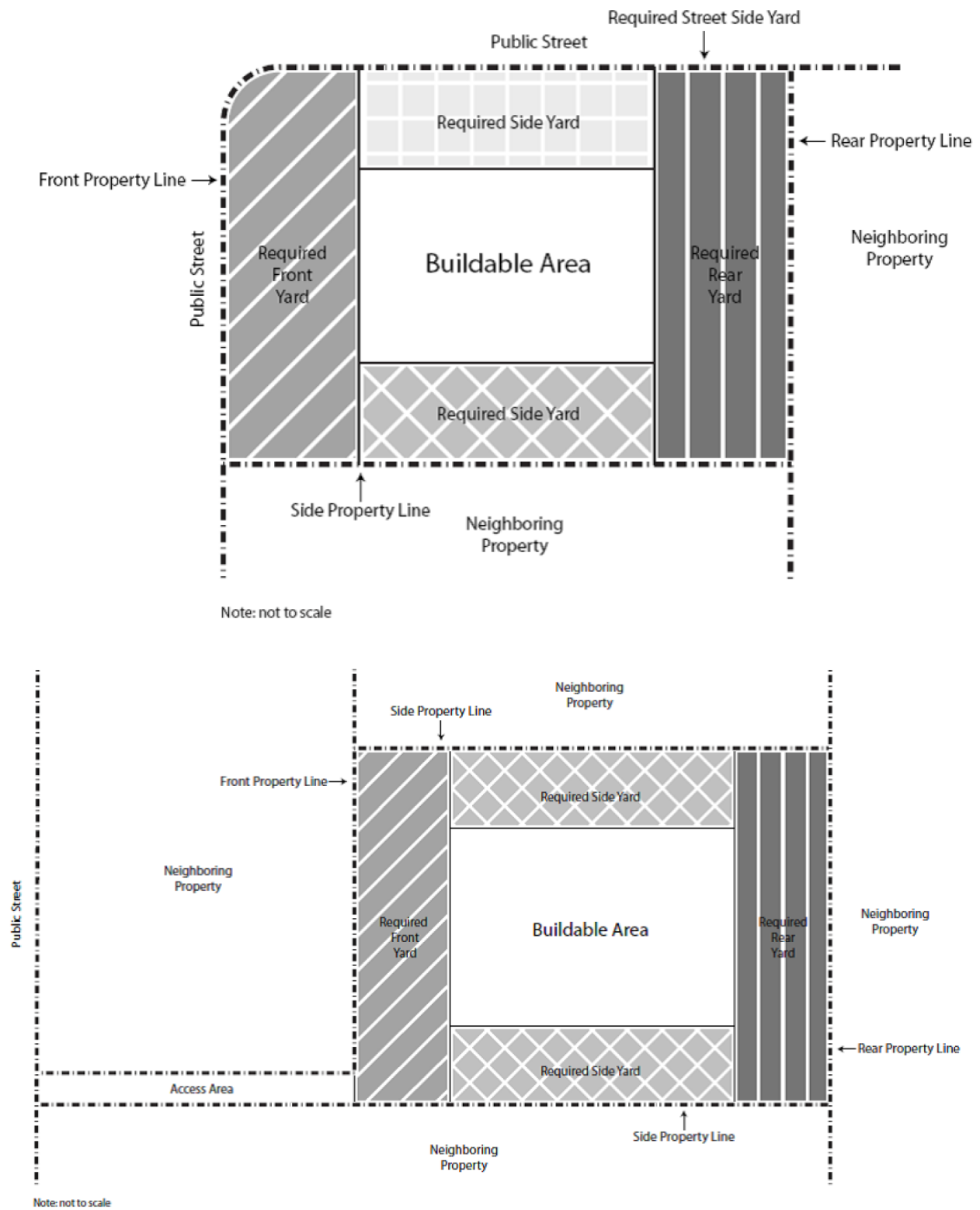


Figure 18.12-4: Setbacks

- C. **Planned Street Widening.** Where a lot abuts a street designated for a future widening, required minimum setbacks shall be measured from the edge of the planned future right-of-way.
- D. **Future Street Right-of-Way.** Where a future street right-of-way is planned or established, required minimum setbacks shall be measured from property lines that define the edge of the future right-of-way.
- E. **Alleys.**
 - 1. If side lot line abuts an alley, the lot line shall be treated as interior side lot line for the purpose of establishing minimum required setbacks.
 - 2. The width of an adjoining alley is not included in the measurement of a required setback.
- F. **Irregularly Shaped Lots.** Where the side lot lines converge to a point at the rear of the lot and make an angle ninety degrees or less, a line ten feet long within the lot, parallel to and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback area. Where the angle created by the convergence of two side lot lines at the rear of the lot is greater than ninety degrees, a line ten feet long measured from the point of convergence and perpendicular to the front lot line shall establish the location of the required rear setback line. See Figure 18.12-4.

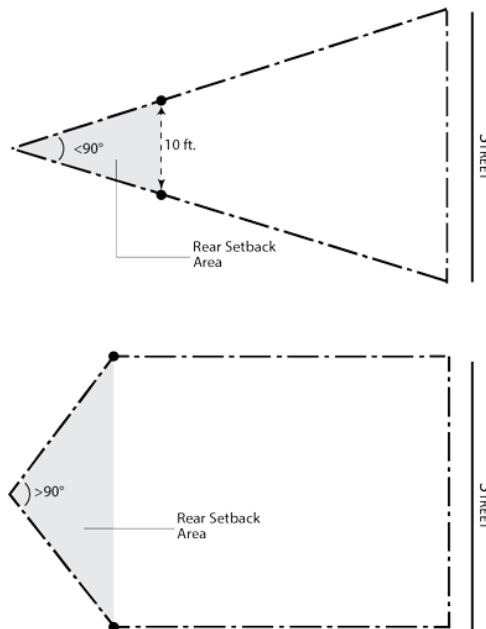


Figure 18.12-4: Rear Lot Lines for Irregularly Shaped Lots

- G. **Double-Frontage Lots.** The location of the front and rear yard setbacks on double-frontage lots shall be determined by the development services director based on the placement of existing buildings on adjacent lots.

- H. **Measuring Structure Distance from Lot Lines.** The distance of a structure from a lot line shall be measured as the distance between the lot line and the closest point on the exterior of a building or structure along a line at right angles to the lot line. See Figure 18.12-5.

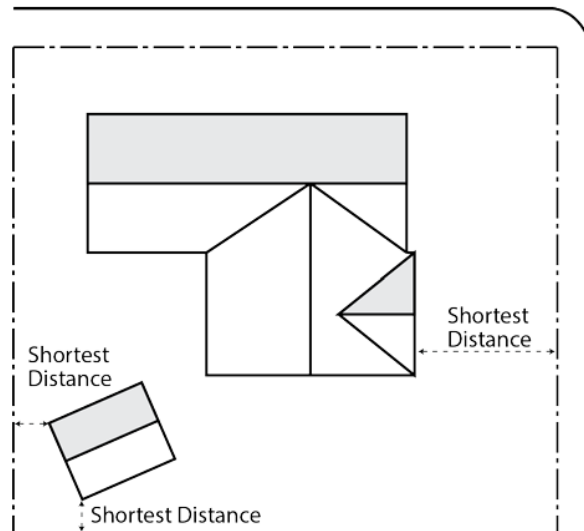


Figure 18.12-5: Measuring Structure Distance from Lot Lines

Section 2. Table 18.18-2 (Residential Attached Low Density Development Standards) within Section 18.18.030 (Development Standards) of Chapter 18.18 (Residential Attached Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.18-2: Residential Attached Low Density Development Standards

	Residential Attached Low Density Subzones		Additional Standards
	RAL-3,500	RAL-3,000	
Site Requirements			
Lot Area, Minimum			
Duplex lots	7,000 sq. ft.	6,000 sq. ft.	
Duplex corner lots	7,500 sq. ft.	6,500 sq. ft.	
Duet lots	3,500 sq. ft.	3,000 sq. ft.	
Duet corner lots	3,750 sq. ft.	3,250 sq. ft.	
Multifamily and other uses	3,500 sq. ft.	3,000 sq. ft.	
Lot Width, Minimum			18.18.030.D
Duplex lots	70 ft.	70 ft.	
Duplex corner lots	80 ft.	80 ft.	
Duet and single-family attached lots	30 ft.	30 ft.	
Duet and single-family attached corner	40 ft.	40 ft.	

lots			
Other uses allowed in Table 18.18-1	50 ft. or as determined through the Conditional Use Permit		
Lot Depth, Minimum	85 ft.	85 ft.	
Building Coverage, Maximum	50%	50%	
Site Area per Dwelling Unit, minimum	3,500 sq. ft.	3,000 sq. ft.	
Structure Requirements			
Setbacks, Minimum			18.56.030
Front	20 ft.	20 ft.	18.18.030.E
Rear	15 ft.; or 20 ft. for two-story, located adjacent to a single-family district	15 ft.; or 20 ft. for two-story, located adjacent to a single-family district	
Interior Side	5 ft. [1]	5 ft. [1]	
Street Side	15 ft.	15 ft.	
Height, Maximum	30 ft.	30 ft.	18.56.020

Notes:

[1] A zero-foot setback is acceptable for Duets along the property line on the shared building wall.

Section 3. Table 18.18-3 (Residential Attached Medium Density and High Density Development Standards) within Section 18.18.030 (Development Standards) of Chapter 18.18 (Residential Attached Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.18-3: Residential Attached Medium Density and High Density Development Standards

	RAM	RAH	Additional Standards
Site Requirements			
Lot Area, Minimum	6,000 sq. ft.; 4,500 sq. ft. for corner lots	6,000 sq. ft.; 6,500 sq. ft. for corner lots	
Lot Width, Minimum	60 ft.	40 ft.	18.18.030.D
Lot Depth, Minimum	85 ft.	75 ft.	

Building Coverage, Maximum	60%	60%	
Site Area per Dwelling Unit, Minimum	2,000 sq. ft.	1,100 sq. ft.	
Structure Requirements			
Setbacks, Minimum			18.56.030
Front	15	15	18.18.030.E
Rear	20	15	
Interior Side	5 [1]	5 [1]	
Street Side	15	15	
Height, Maximum	3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure	3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure	18.56.020

Notes:

[1] A zero-foot setback is acceptable for Duets along the property line on the shared building wall.

Section 4. Table 18.24-1 (Permitted Land Uses in the Commercial Zoning Districts) within Section 18.24.020 (Land Use Regulations) of Chapter 18.24 (Commercial Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.24-1 Permitted Land Uses in the Commercial Zoning Districts

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required — Use not allowed	Zoning District					Additional Regulations
	CO	CN	CG	CH	CS	
Residential Uses						

Caretaker Quarters	—	—	C	—	C	
Nursing Homes and Long-Term Care	C	C	C	—	—	
Residential Care Facilities	—	C	—	—	—	
Public and Quasi-Public Uses						
Colleges and Trade Schools	—	C	C	—	—	
Community Assembly	C	C	C	—	—	
Cultural Institutions	C	C	C	—	C	
Day Care Centers	—	C	A	—	C	
Government Offices	—	P	P	—	C	
Instructional Services	P	A	A	A	A	
Medical Offices and Clinics	P	P	P	A [4]	C [4]	
Schools, Public and Private	C	C	C	—	—	
Social Services	C	C	C	—	C	
Commercial Uses						
Animal-Related Uses	—					
Animal Boarding	—	C	C	—	C	
Cat Café	—	—	P	—	—	Title 6
Veterinarian Clinics and Hospitals	P	A	A	A	P	
Banks and Financial Institutions	P	P	P	P	P	
Business Support Services	—	P	P	P	P	
Cinemas and Theatres	—	A	A	A	A	
Commercial Recreation, Indoor						
≤ 15,000 sq. ft.	C	P	P	P	P	
> 15,000 sq. ft.	—	C	C	C	C	
Drive-Through and Drive-In Facilities	C	C	C	C	C	18.92.040
Eating and Drinking Uses						
Bars and Nightclubs	—	C	C	—	—	
Restaurants, Fast Food	—	C	P	P	C	

Restaurants, Sit-Down	—	C	P	P	C	
Tasting Rooms	—	C	A	P	C	
Funeral Parlors and Mortuaries	—	—	C	—	C	
Lodging Facilities						
Hotels and Motels	—	C	A	P	A	
Mini-Storage	—	—	C	—	C	
Personal Services	P	P	P	—	C	
Plant Nurseries	—	—	C	—	P	
Professional Offices	P	P	P	P	P	
Retail Uses						
Convenience Markets	—	C	C	C	C	
Convenience Market with Fuel and Service Station	—	C	C	C	C	
General Retail	—	P	P	P	C	
Home Improvement Centers	—	—	P	—	P	
Liquor Store	—	C	C	C	C	
Large Commodity Retail	—	—	C	—	C	
Vehicle-Related Uses						
Convenience Market with Fuel and Service Station	—	C	C	C	C	
Fuel and Service Stations	—	C	C	C	C	
Towing and Impound	—	—	—	—	C	
Vehicle Rentals	—	C [2]	C [2]	P	P	
Vehicle Repair and Maintenance, Minor	—	—	C	—	P	
Vehicle Sales and Leasing	—	C [1]	C [1]	P	P	
Vehicle Washing	—	C	C	C	C	
Wholesaling	—	—	C	—	P	
Industrial Uses						
Construction and Material Yards	—	—	—	—	C	
Food and Beverage Production						

< 5,000 sq. ft. [3]	—	A	A	A	A	
5,000 sq. ft. to 10,000 sq. ft. [3]	—	A	A	C	A	
> 10,000 sq. ft.	—	—	—	—	C	
Research and Development	—	—	—	—	C	
Warehousing and Distribution, Large and Small	—	—	—	—	C	
Transportation, Communication, and Utility Uses						
Freight Terminals and Transfer	—	—	—	C	—	
Light Fleet-Based Services	—	C	C	—	C	
Parking Lots and Structures	—	—	C	—	C	
Recycling Facilities						
Reverse Vending Machine	—	C	C	C	C	
Recycling Collection Facility	—	—	—	—	C	
Transportation Terminals		—	—	—	C	
Utilities, Major	—	—	C	—	C	
Wireless Communications Facilities	See Chapter 18.96					
Other Uses						
Accessory Uses	See Chapter 18.44					
Temporary Uses	See Section 18.92.150					

Notes:

[1] Allowed only when conducted entirely within an enclosed building without outdoor storage and display of vehicles.

[2] Vehicles stored outdoors must be fully screened from public view.

[3] On-site wholesale or retail sales required.

[4] Reproductive health community clinics consistent with Government Code Section 65914.900 are permitted by right.

Section 5. Table 18.29-2 (Permitted Land Uses in the Form-Based Zoning Districts) within Section 18.29.070 (Land Use Standards) of Chapter 18.29 (Monterey Corridor Form-Based Code) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.29-2 Permitted Land Uses in the Form-Based Zoning Districts

P = Permitted Use

A = Administrative Use Permit required (See Section 18.108.020 (Administrative Use Permits))

C = Conditional Use Permit required (See Section 18.108.030 (Conditional Use Permits))

T = Temporary Use Permit required (See Chapter 18.108.090 (Temporary Use Permits))

- = Use not permitted

Land Use	Permit Required by Zone			Additional Regulations
	FB-N	FB-C	FB-UG	
Residential Uses				
Accessory Dwelling Unit (ADU)	P	P	P	See Chapter 18.84
Duplex/Duet	P	P	P	See Subsection 18.29.100.D
Group Housing	P	P	P	
Live/Work Unit	P	P	P	
Mixed-Use Residential	P	P	P	
Multi-Family Dwellings	P	P	P	See Subsection 18.29.070.C.3
Nursing Homes and Long-Term Care	C	C	C	
Residential Care Facilities	P	P	P	
Residential Care Facilities, Small	P	P	P	
Senior Housing, Independent Living	P	P	P	
Single-Family Attached Dwelling	P	P	P	
Single-Family Detached Dwelling	P	-	-	
Public and Quasi-Public Uses				
College and Trade Schools	C	P	P	

Community Assembly	C	C	C	
Cultural Institutions	A	A	A	
Day Care Centers	C	C	C	
Emergency Shelters	C	C	C	See Section 18.92.050
Government Offices	A	A	A	
Home Day Care, Large	P	P	P	
Home Day Care, Small	P	P	P	
Hospitals	-	C	C	
Instructional Services	A	P	P	
Medical Offices and Clinics	A	P	P	
Park and Recreational Facilities	P	P	P	
Public Safety Facilities	C	C	C	
Schools, Public and Private	C	C	C	
Social Services	C	C	C	
Commercial Uses				
Cat Café	P	P	P	See Title 6
Veterinarian Clinics and Hospitals	C	C	C	
Banks and Financial Institutions	P	P	P	
Business Support Services	P	P	P	
Cinemas and Theaters	A	A	P	
Commercial Recreation, Indoor				
≤ 15,000 sq. ft.	A	P	P	
> 15,000 sq. ft.	A	A	A	

Drive-Through Facilities	-	C	C	See Subsection 18.29.070.C.2
Eating and Drinking Uses				
Bars and Nightclubs	-	C	C	
Restaurant, Fast Food	C	P	P	
Restaurant, Sit Down	P	P	P	
Tasting Rooms	A	P	P	
Farmers Markets	A	A	A	
Lodging Facilities				
Bed and Breakfast	P	P	P	
Hotels and Motels	C	C	C	
Personal Services	A	P	P	
Professional Offices	A	P	P	
Retail				
Convenience Market	A	P	P	See Section 18.92.030
General Retail	A	P	P	
Vehicle-Related Uses				
Fuel and Service Station	-	-	C	
Vehicle Rentals	-	-	C	
Vehicle Washing	-	-	C	
Industrial Uses				
Food and Beverage Production				
< 5,000 sq. ft. ¹	-	P	P	
5,000 sq. ft. to 10,000 sq. ft. ¹	-	C	C	

Transportation, Communication, and Utility Uses				
Parking Lots or Structures ²	C	C	C	
Recycling Facilities				
Reverse Vending Machines	-	C	C	
Transportation Terminals	-	-	-	
Wireless Communication Facilities	See Chapter 18.96			
Other Uses				
Accessory Use(s)	See Chapter 18.44			
Home Occupations	See Section 18.92.060			
Temporary Use(s)	See Section 18.92.150			
Urban Agriculture				
Community Garden	A	A	A	
Home Gardens	P	P	P	
Urban Farm	C	C	C	
Notes:				
1. On-site wholesale or retail sales required.				
2. When proposed as a primary use.				

Section 6. Table 18.40-2 (Medium Density Residential Development Standards) within Section 18.40.050 (Development Standards) of Chapter 18.40 (Alternative Standards for Medium Density Residential Development) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.40-2: Medium Density Residential Development Standards

	Housing Type					
	Duet	Courtyard	SFD	TH	Duplex	Multi

Lot Area (min sq. ft.) [1] [2]	3,000	1,920— 2,999	4,500— 5,500	1,440— 3,999	6,000	6,000
Lot Width (min)	30 ft.	24 ft.	40 ft.	24 ft.	60 ft.	60 ft.
Lot Depth (min)	85 ft.	60 ft.	80 ft.	60 ft.	85 ft.	85 ft.
Lot Coverage (max) [3]	50%	45%	N/A	55%	1 story: 40% 2+ story: 50%	60%
Floor Area Ratio (max)	N/A	N/A	52%	N/A	N/A	N/A
Height	See base zoning district					
Setbacks						
Front [4]	10 ft.	N/A	15 feet	N/A	20 ft.	15
Interior Side	3 ft. [5]	5 ft. [7]	4 ft. [6]	N/A	5 ft. [7]	5 ft.
Street Side	6 ft.	5 ft.	8 ft.	5 ft.	10 ft.	15 ft.
Rear	10 ft.	N/A	15 ft.	N/A	15 ft.	20 ft.

Notes:

[1] Subject to the density requirements specified in the General Plan.

[2] Standards are for individual lots and not for the subdivision as a whole.

[3] Lot coverage limits apply to individual, subdivided parcels and to accessory structures as well as the primary residential structure on the site. Development in the RAL and RAM zoning districts is also subject to an aggregate lot coverage limit for the entire subdivision. See Section 18.18.060.A.

[4] Additional requirements apply for street-facing garages. See Section 18.40.070.H.7.

[5] A zero-foot setback is acceptable for Duets along the property line on the shared building wall

[6] A reduced setback (as low as zero feet) is acceptable on one side yard; provided, that the sum of both side yard setbacks is at least eight feet.

[7] A reduced setback (as low as zero feet) is acceptable on one side yard; provided, that the sum of both side yard setbacks is at least ten feet.

Section 7. Subsection A of Section 18.44.030 (Accessory Structures in Residential Zoning

Districts) of Chapter 18.44 (Accessory Structures and Uses) of Title 18 (Zoning) is hereby amended to read as follows:

- A. **Applicability.** This section applies to the following types of accessory structures in residential zoning districts.
1. Roofed structures, including, but not limited to, detached garages, carports, sheds, shade structures, play structures, covered dog enclosures, and gazebos, over seven feet in height and/or one hundred twenty square feet in size.
 2. Detached open, unroofed, and roofed structures such as decks.
 3. Trellises and other similar structures over seven feet in height.
 4. Mechanical equipment and mechanical equipment enclosures such as solar panels and water storage tanks, heating, and air conditioning equipment, and other similar mechanical equipment detached from the main building on the site.
 5. Pools, spas and hot tubs.
 6. Ponds eighteen inches or more in depth.
 7. Fireplaces, barbeque structures, statuary, fountains, and other similar ornamental features.

Section 8. Subsection B of Section 18.44.030 (Accessory Structures in Residential Zoning Districts) of Chapter 18.44 (Accessory Structures and Uses) of Title 18 (Zoning) is hereby amended to read as follows:

- B. **Limitation on Use.**
1. Accessory structures may not be used as living space which is heated and/or cooled.
 2. Accessory structures, including pool houses, may be equipped with a half bath only (toilet and sink).
 3. An accessory structure that does not comply with these use limitations shall be considered an accessory dwelling unit subject to the requirements of Chapter 18.84 (Accessory Dwelling Units).

Section 9. Subsection A of Section 18.64.070 (Landscaping Maintenance and Enforcement) of Chapter 18.64 (Landscaping) of Title 18 (Zoning) is hereby amended to read as follows:

- A. **Maintenance Required.**
1. **Approved Plans.** Landscaping shall be maintained consistent with the plans approved as part of the design permit. Any significant alteration to the landscaping requires development services director's approval.
 2. **Dead and Dying Plants.** All landscaping shall be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight or disease. Dead or dying plants shall be removed and replaced with landscaping of similar size and maturity.
 3. **Weed Removal.** Landscaping shall be kept free from weeds and undesirable grasses.

4. Tree Pruning. Trees shall be allowed to grow their natural size and shape. Periodic pruning shall be as appropriate for the health of the tree species and may not exceed twenty-five percent of the tree height or volume at any given time unless the development services director approves a tree removal permit in accordance with Municipal Code Chapter 12.32.
5. Tree Topping/Heading Cuts. Topping/heading cuts that reduce a tree's size and height by shortening of limbs or branches back to a predetermined crown limit is prohibited unless the development services director approves a tree removal permit in accordance with Municipal Code Chapter 12.32 (Protected and Significant Trees).

Section 10. Subsection G is hereby added to Section 18.72.030 (Required Parking Spaces) of Chapter 18.72 (Parking and Loading) of Title 18 (Zoning) to read as follows:

G. Parking Not Required within One-Half Mile of a Major Transit Stop.

1. Minimum parking requirements identified within this Section shall not be required within one-half mile of a major transit stop as defined in Public Resources Code Section 21155.
2. The city may impose minimum parking requirements within one-half mile of a major transit stop if written findings are made that not imposing or enforcing minimum parking requirements on the development would have a substantially negative impact on any of the following:
 - a. The city's ability to meet its share of the regional housing need for low- and very low-income households.
 - b. The city's ability to meet any special housing needs for the elderly or persons with disabilities.
 - c. Existing residential or commercial parking within one-half mile of the housing development project.
3. For a housing development project, Subdivision 18.72.030.G.2 shall not apply if the housing development project satisfies any of the following:
 - a. The development dedicates a minimum of twenty percent of the total number of housing units to very low-, low-, or moderate-income households, students, the elderly, or persons with disabilities.
 - b. The development contains fewer than twenty housing units.
 - c. The development is subject to parking reductions based on the provisions of any other applicable law.
4. Notwithstanding the above, an event center shall provide parking for employees and other workers.
5. This subsection shall not apply to hotels, motels, bed and breakfasts, or other transient lodging.

6. This subsection shall not reduce, eliminate, or preclude new multi-family residential or non-residential development to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities.

Section 11. Section 18.84.010 (Purpose) of Chapter 18.84 (Accessory Dwelling Units) of Title 18 (Zoning) is hereby amended to read as follows:

This chapter establishes standards for the location and construction of accessory dwelling units and junior accessory dwelling units (jointly referred to "accessory units" in this chapter) in conformance with Government Code Sections 66314 through 66332 and 66333 through 66339, respectively. These standards are intended to allow for accessory units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods in Morgan Hill, and to comply with State law.

Section 12. Section 18.84.050 (Site and Design Standards) of Chapter 18.84 (Accessory Dwelling Units) of Title 18 (Zoning) is hereby amended to read as follows:

A. General.

1. Accessory units are subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district except as specified in this section.
2. An accessory dwelling unit shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density, building coverage, or floor area ratio for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

B. Number of Accessory Units.

1. Single-Family Dwelling. No more than one detached accessory dwelling unit, no more than one attached accessory dwelling unit, and no more than one junior accessory dwelling unit is permitted on a single lot with an existing or proposed single-family dwelling.
2. Proposed Multifamily Dwellings. Proposed multifamily dwelling structures may have no more than two detached accessory dwelling units on a lot.
3. Existing Multifamily Dwellings.
 - a. Existing multifamily dwelling structures may have no more than eight detached accessory dwelling units on a lot. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.
 - b. Existing multifamily dwelling structures may also have no more than one accessory dwelling unit or up to twenty-five percent of the existing multifamily dwelling units, whichever is larger, within portions of an existing multifamily dwelling structure that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

C. Relationship to Primary Dwelling.

1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof. No passageway (as defined in Government Code Section 66313(i)) is required in conjunction with the construction of an accessory dwelling unit.
2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and exterior access separate from the primary dwelling.
3. The city shall allow junior accessory dwelling units as defined in Government Code Section 66313(d) to be constructed within the walls of the proposed or existing single-family residence with a separate entrance from the main entrance to the primary dwelling, an efficiency kitchen (consisting of a cooking facility with appliances, a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit) and shared or independent bathroom facilities. If a junior accessory dwelling unit does not include a separate bathroom from the single-family residence, the junior accessory dwelling unit shall include an interior entry to the main living area of the single-family residence.
4. The accessory unit shall be clearly subordinate to the primary dwelling by size, appearance, and location on the parcel and shall comply with all applicable building and safety codes.
5. A detached accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a proposed or existing single-family dwelling may be combined with a junior accessory dwelling unit.

D. Maximum Unit Size.

1. Except as specified in this subsection, Table 18.84-1 identifies the maximum floor area for detached and attached accessory dwelling units.

Table 18.84-1: Maximum Accessory Dwelling Unit Floor Area

Zoning District	Maximum Floor Area
RE 10	1,200 sq. ft.
RE 2.5	1,000 sq. ft.
RE 1	900 sq. ft. (1 bedroom) 1,000 sq. ft. (2 or more bedrooms)
All other zoning districts	850 sq. ft. (1 bedroom) 1,000 sq. ft. (2 or more bedrooms)

2. The maximum floor area of junior accessory dwelling units shall be five hundred square feet.
3. The conversion of an existing accessory structure to an accessory dwelling unit, within the same location and to the same dimensions as the existing accessory structure, is not subject to unit size requirements.
4. An accessory dwelling unit or junior accessory dwelling unit created within an existing accessory structure or a portion of the existing or proposed single-family

dwelling may be expanded up to one hundred fifty square feet beyond the same physical dimensions as the existing accessory structure to accommodate ingress and egress only.

5. An attached accessory dwelling unit permitted within the front yard setback, pursuant to Subsection E of this Section, shall be limited to 800 square feet.

E. Property Line Setbacks.

1. No setback is required for an existing accessory structure or living area as defined by Government Code Section 66313 that is converted to an accessory dwelling unit.
2. No setback is required for an accessory dwelling unit constructed in the same location and the same footprint as an existing accessory structure.
3. A minimum setback of four feet from the side and rear property lines is required for an accessory dwelling unit.
4. An attached or detached accessory dwelling unit shall comply with the front setback requirements of the applicable zoning district. If an attached or detached accessory dwelling unit of at least eight hundred square feet in size is not permitted due to front, side, and rear setback requirements, then an attached accessory dwelling unit may be permitted within the front setback that complies with Section 18.92.080 (Intersection Sight Distance).

F. Height.

1. An attached accessory dwelling unit shall be limited to twenty-five feet in height or the height limitation of the applicable zoning district, whichever is less.
2. A detached accessory dwelling unit that does not comply with the side and rear setbacks of the applicable zoning district shall be limited to sixteen feet in height, unless any of the following applies:
 - a. On a lot within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Section 21155 of the Public Resources Code, a detached accessory dwelling unit up to eighteen feet in height, and an additional two feet in height to accommodate a roof pitch, is permitted.
 - b. On a lot with an existing or proposed multifamily, multi-story dwelling, a detached accessory dwelling unit up to eighteen feet in height is permitted.

G. Parking.

1. Except as specified in this subsection, required minimum on-site parking for accessory dwelling units shall be one parking space per accessory dwelling unit. On-site parking spaces for accessory dwelling units may be covered or uncovered and may be located within the front, side or rear setback areas (may be tandem).
2. No off-street parking is required for an accessory dwelling unit in the following cases:
 - a. The accessory dwelling unit is located within one-half mile walking distance of public transit.

- b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - c. When an accessory dwelling unit is constructed within the primary residence or an accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.
 3. When an existing garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit, or converted to an accessory dwelling unit, the on-site parking spaces are not required to be replaced.
 4. On-site parking spaces are not required for junior accessory dwelling units.
- H. Design. The design of accessory units shall be compatible with the design and scale of the primary dwelling (using substantially the same landscaping, color, materials and design on the exterior) and the general character of the neighboring residential properties.
- I. Doors and Windows. Openings (e.g., doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to minimize privacy impacts and maintain access to light and ventilation on adjacent properties.
- J. Utility Connections.
 1. General. An accessory unit shall not be considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service unless constructed in conjunction with a new single-family residence.
 2. Accessory Units in Existing Space. For accessory units within an existing primary dwelling, garage, or other accessory structure, the city shall not require an applicant to install a new or separate utility connection directly between the accessory unit and the utility or impose a related connection fee or capacity charge.
 3. Attached and Detached Accessory Dwelling Units. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
 4. Fire Sprinklers. The installation of fire sprinklers shall not be required in an accessory unit if sprinklers are not required for the primary residence.
- K. Septic Tank Disposal System.
 1. In areas where septic tank disposal systems are allowed due to lack of sanitary sewer lines, detached accessory dwelling units shall be served by separate and independent septic tank sewage disposal systems. All leach lines shall be designed and installed in

accordance with current septic system requirements of the Santa Clara County Environmental Health Services.

2. In other areas of the city, accessory dwelling units shall be connected to the sanitary sewer system through the existing lateral line serving the primary dwelling unit.

Section 13. Subsection G of Section 18.88.020 (Definitions) of Chapter 18.88 (Signs) of Title 18 (Zoning) is hereby amended to read as follows:

G. Types of Signs.

1. A-Frame Sign. A portable sign with two opposing flat faces designed to be self-supporting on the ground.
2. Awning Sign. A sign incorporated into, attached, or painted on the face or valance of an awning.
3. Banner Sign. A sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.
4. Beacon Sign. A beam of light designed to draw attention to a particular location.
5. Changeable Copy Sign. A sign with copy that that can be changed or rearranged electronically or manually without altering the face or surface of the sign.
6. Directional Signs. A sign that provides directions to a place, structure or use, excluding signs installed by a public agency.
7. Directory Sign. A sign which lists and identifies the location of the occupants of a multi-tenant building or site.
8. Hospital Sign. A sign for a medical facility providing patient services primarily on an in-patient basis.
9. Inflatable Balloon Sign. A sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.
10. Feather Sign. A sign composed of durable lightweight fabric with a sturdy frame enclosing only a portion of the material's edge so that it can remain upright and still be flexible in the breeze, generally shaped to be tall and narrow when affixed into the ground or other bottom support, affixed to a pole. Includes Teardrop Signs.
11. Flags. Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.
12. Freeway-Oriented Sign. A sign intended to be viewed primarily by motorists traveling on Highway 101.
13. Freestanding Sign. A sign attached to an independent, freestanding structure that is

not attached to a building.

14. Marque Sign. A sign made a part of or in any manner attached to a marquee.
15. Monument Signs. A freestanding sign that is supported by a solid-appearing base constructed of permanent material.
16. Pole Sign. A freestanding sign that is supported by one or more poles which do not have a solid-appearing base constructed of permanent material.
17. Political Sign. A temporary sign that encourages a particular vote in a scheduled election.
18. Post Sign. A temporary sign suspended from a horizontal swingpost that is attached to a vertical post mounted in the ground.
19. Projecting Sign. A sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.
20. Property Identification Sign. A sign identifying the name of a residential property or subdivision with ten or more units.
21. Roof Signs. A sign erected upon, against, or directly above a roof above the parapet of a building.
22. Site Sign. A temporary sign allowed on sites with uses under construction or not yet occupied.
23. Suspended Sign. A sign attached to or suspended from the underside of an arcade, canopy, or marquee and oriented to pedestrian traffic.
24. Wall Sign. A sign attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.
25. Window Sign. A sign posted, painted, placed, or affixed in or on a window exposed to public view.

Section 14. Subsection A of Section 18.88.040 (Signs Allowed Without Permits) of Chapter 18.88 (Signs) of Title 18 (Zoning) is hereby amended to read as follows:

- A. Types of Signs. The following signs are exempt from the permit requirements of this chapter and shall not be counted towards the allowable sign area or number of signs on a parcel:
 1. A-Frame Signs. Each commercial business location shall be permitted one A-frame sign per street frontage. The sign shall not exceed four feet in height or a width of three feet, shall be unlighted, and shall be stored indoors during non-business hours. A multiple-occupancy building shall constitute one business location for the purpose

of determining the number of signs permitted. A-frame signs shall not obscure or visually impair vehicular traffic and shall not be placed within a public right-of-way or on publicly owned property or affect access to a structure.

2. Alley and Service Area Signs. Signs fronting an alley or service area mounted flat against a wall and not exceeding twenty-five square feet in aggregate area.
3. Commemorative Plaques. One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
4. Decorations. Holiday and cultural observance decorations on private property which do not include any commercial advertising.
5. Directional Signs. On-site directional signs located entirely on the property to which they pertain, identifying direction to parking, restrooms, and similar public facilities, each not exceeding five feet in height and five square feet in area for non-residential uses and two square feet for residential uses.
6. Directory Signs. One directory sign per street frontage as follows:
 - a. Maximum area: One square foot per tenant up to twenty-four square feet.
 - b. Maximum height: Six feet if freestanding.
 - c. Internal illumination prohibited.
7. Feather Signs. Up to three feather signs may be allowed for thirty days after the initial opening (i.e. grand opening) of a business or housing development. The sign shall not exceed nine feet in height or a width of three feet and shall be unlighted. The signs shall not obscure or visually impair vehicular traffic and shall not be placed within a public right-of-way or on publicly owned property or affect access to a structure.
8. Flags. Flags bearing noncommercial messages or graphic symbols as follows:
 - a. No more than three flags are permitted per parcel.
 - b. For flags flown on a flagpole longer than six feet, the longest dimension of the flag shall not exceed one-third the height of the flagpole; otherwise the longest flag dimension shall not exceed six feet.
9. Government Signs. Signs installed by a governmental agency, including signs advertising community activities and local nonprofit, civic, or fraternal organizations.
10. House Number and Nameplates. House numbers and nameplates up to four square feet for each residential dwelling.
11. Informational Signs. Signs with information for the safety and convenience of the

- public such as address, hours and days of operation, whether a business is open or closed, no smoking notices, up to three square feet per sign and ten square feet in total.
11. Internal Signs. Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.
 12. No Trespassing Signs. "No trespassing" signs, each not more than one square foot in size, placed at each corner and each entrance to property, and at intervals of not less than one hundred feet, or in compliance with the requirements of state or federal law.
 13. Non-Commercial Bulletin Boards. One bulletin board on a parcel occupied by a non-commercial place of public assembly, with a maximum area of twelve square feet.
 14. Political Signs. Temporary political signs consistent with Section 18.88.120 (Temporary Signs) that are generally placed not sooner than 90 days prior to the scheduled election and are typically removed within 10 days after that election and has a statement of responsibility filed with the city certifying a person who will be responsible for removing the temporary political sign and who will be responsible for any incurred violations of this Chapter.
 15. Real Estate Listings. Real estate listings posted in the window of a real estate office, with a maximum area of twenty-five percent of the total window area.
 16. Restaurant Menu Signs. Restaurant menu signs attached to a building, with a maximum area of three square feet.
 17. Temporary Signs. Temporary signs consistent with Section 18.88.120 (Temporary Signs).
 18. Traffic-Control Devices. Official traffic-control devices in accordance with Municipal Code Chapter 10.16 (Traffic-Control Devices)

Section 15. Subsection A of Section 18.88.120 (Temporary Signs) of Chapter 18.88 (Signs) of Title 18 (Zoning) is hereby amended to read as follows:

- A. Residential Zoning Districts. Temporary signs in residential zoning districts shall comply with the standards in Table 18.88-1.

Table 18.88-1: Temporary Residential Sign Standards

	Type of Temporary Sign	
	Window, Wall, Freestanding, and Post Signs	Site Signs
Number of Signs	No max.	1 per property frontage; 2 max.
Area Per Sign	6 sq. ft. max.	32 sq. ft. max.
Area for All Signs Combined	24 sq. ft. max. per parcel	64 sq. ft. max. per site

Sign Height	6 ft. max.	8 ft. max. sign face, 12 ft. max. total
Setback from Property Line	No min. setback	5 ft. min.
Illumination	Not permitted	
Duration	See 18.88.120.C	
Other Requirements	—	Allowed only on sites with residential uses under construction or not yet occupied.

Section 16. Subsection C of Section 18.88.120 (Temporary Signs) of Chapter 18.88 (Signs) of Title 18 (Zoning) is hereby amended to read as follows:

- C. Duration. Temporary signs in all zoning districts shall be removed the earliest of when:
1. A commercial message is obsolete and has become misleading (e.g., a "for lease" or "for sale" sign in front of a building that is leased or sold);
 2. The sign falls into disrepair; or
 3. The sign has been displayed for the maximum number of days shown in Table 18.88-3.

Table 18.88-3: Temporary Sign Duration Standards

Sign Type and Material	Maximum Duration within a twelve (12) month period
Wall, Freestanding, Banner, and Window Signs	
Paper or cardboard sign face	3 months
Laminated paper; plastic lined polyethylene bags and comparable materials	3 months
Wood, corrugated plastic, metal, or vinyl sign face	3 months
Post Signs	
Wood, corrugated plastic, or metal sign face and finished wood or metal structure	6 months
Site Signs	
Vinyl sign face	1 month

Corrugated plastic sign face	6 months
Wood or metal sign face	6 months

Section 17. Subsection C of Section 18.88.140 (Violations and Enforcement) of Chapter 18.88 (Signs) of Title 18 (Zoning) is hereby amended to read as follows:

C. Removal of Hazardous and Illegal Signs.

1. The city may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
2. For illegal signs that do not place the public in immediate peril and are located on private property, the city shall serve the business owner, property owner, or person responsible for the sign a written certified notice that:
 - a. Describes the physical characteristics of the subject sign.
 - b. Explains the nature of the violation.
 - c. States that the sign shall be removed or brought into compliance with this article within ten days after the notice is received.
 - d. States that the city may remove the sign if the business owner, property owner, or person responsible for sign does not correct the violation within ten days after the notice is received.
 - e. States that the city may destroy the illegal sign if it is not retrieved within ten days after removal by the city.
 - f. States that the business owner, property owner, or person responsible for sign shall be responsible for all costs associated with the removal, storage, and destruction of the sign.
3. If an illegal sign is not removed or brought into compliance within ten days after a notice is received, the city may issue a citation to the business owner, property owner, or person responsible for the sign as provided in Chapter 18.120 (Enforcement) and Municipal Code Title 1 (General Provisions) and may remove or cause the removal of the sign.
4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.

Section 18. Subsection L of Section 18.124.030 (Public and Quasi-public Uses) of Chapter 18.124 (Land Use Definitions) of Title 18 (Zoning) is hereby amended to read as follows:

- L. **Medical Offices and Clinics.** Facilities where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. May include educational aspects such as medical instruction and/or training as well as house a laboratory, radiology/imaging, pharmacy, rehabilitation and other similar services as accessory uses. Excludes "hospitals." Includes reproductive health community clinics consistent with Government Code Section 6514.900 that provide medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy

Section 19. Subsection B of Section 18.124.040 (Commercial Uses) of Chapter 18.124 (Land Use Definitions) of Title 18 (Zoning) is hereby amended to read as follows:

B. Animal-Related Uses.

1. **Animal Boarding.** A facility for keeping, boarding, training, breeding or maintaining four or more dogs, cats, or other household pets not owned by the facility owner or operator. Includes kennels, pet day care, and animal shelters. Excludes "veterinarian clinics and hospitals" and pet shops that provide grooming service.
2. **Cat Café.** An establishment whose principal business includes a restaurant/café at which cats may be adopted by patrons during normal business hours and boarded during off-business hours with a maximum of twenty (20) cats permitted at any time on the premises. All cats made available for adoption at the cat café shall be obtained from an animal rescue organization, shall be spayed or neutered, and shall have received all required vaccinations prior to being permitted at the cat café premises. The cat café shall comply with Title 6 (Animals) and the Santa Clara County Department of Environmental Health.
3. **Equestrian Centers.** A commercial or private facility created and maintained for accommodating, training or competing horses. May include barn or stables, riding halls, and riding academies.
4. **Veterinarian Clinics and Hospitals.** Office and medical treatment facilities used by veterinarians where animals receive medical and surgical treatment, including large and small animal veterinary clinics and animal hospitals. Grooming and temporary boarding of animals for thirty days is included if incidental to the hospital use. Excludes "animal boarding" and pet stores ("retail sales").

Section 20. Subsection 1 of Subsection S of Section 18.128.020 (Definitions) of Chapter 18.128 (General Terms) of Title 18 (Zoning) is hereby amended to read as follows:

1. **Setback.** The minimum distance between by which any building or structure must be separated from a lot line, public or private street easements, or drive-aisles.

Section 21. Subsection A of Section 18.152.030 (Definitions) of Chapter 18.152 (Agricultural

Mitigation) of Title 18 (Zoning) is hereby amended to read as follows:

- A. Agricultural Land. For "agricultural land" that requires off-setting preservation/mitigation under this agricultural lands preservation program, agricultural land is defined as land that is depicted on the current map of the Farmland Mapping and Monitoring Program (FMMP) of the California Department of Conservation as Prime Farmland, Farmland of Statewide Importance, and Unique Farmland and that was not subsequently developed for non-agricultural use prior to August 1, 2014 or subsequently developed per the provisions of this ordinance. Lands identified as grazing land are not subject to the offsetting preservation/mitigation requirements set forth in this policy.

Section 22. **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 23. **Effective Date; Posting.** This Ordinance shall take effect on the 31st day following adoption. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 15TH DAY OF JANUARY, 2025, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 19TH DAY OF FEBRUARY, 2025, 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. 2362, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 19th day of February, 2025.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Charlie Ha, Supervising Civil Engineer

APPROVED BY: City Manager

APPROVE FINAL MAP FOR THE GATES - TRACT NO. 10627 AND RELATED SUBDIVISION IMPROVEMENTS AGREEMENT

RECOMMENDATION(S)

1. Approve the Final Map;
2. Approve a Subdivision Improvements Agreement with CITY VENTURES HOMEBUILDING LLC, a Delaware Limited Liability Company;
3. Authorize the City Manager to execute the Subdivision Improvements Agreement; and

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment and Preserving Open Space and Agricultural Land
Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Economic Development

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The Gates -Tract No. 10627 is a mixed-use development consisting of 49 single-family, attached townhome-style condominiums, five commercial units, and associated improvements. The Gates Project is located at the southwest quadrant of Cochrane Road and Monterey Road, as shown on the attached Site Map (Attachment 1). The project site also has an existing man-made storm drain ditch identified by the Water Board as a wetland area. The project was recently issued a 401 Water Quality Certification and Order by the San Francisco Bay Regional Water Quality Control Board, which regulates and allows this project to modify the man-made ditch to be integrated into the project's development while addressing mitigation measures to maintain the ditch as a wetland.

Subdivision Improvements Agreement

The project's Subdivision Improvements Agreement (Attachment 2) requires the

development to construct various public improvements along Monterey Road, including, but not limited to, curb and gutter, sidewalk, and streetlights. These improvements will need an offer of dedication to the City for appropriate rights-of-ways, easements, or other interests in real property.

Final Map

The Developer, CITY VENTURES HOMEBUILDING LLC, has completed all the conditions specified in the project's Vesting Tentative Map (Resolution 23-13), which was approved by the Planning Commission, and the conditions in the Design Permit (Approval Certificate No. 23-020), which the Development Services Director administratively approved.

The City Council is required to approve the Final Map (Attachment 3) if it conforms to all the requirements of the Subdivision Map Act and any conditions of approval for the Vesting Tentative Map.

The Developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions to provide the City with the required fees, security, and insurance before the Final Map is recorded. The Final Map conforms to the requirements of the Subdivision Map Act, and the conditions of approval have been met.

Staff recommends that the City Council approve the Final Map and authorize the City Manager to sign the Subdivision Improvements Agreement pending review and approval by the City Attorney.

COMMUNITY ENGAGEMENT:

Inform

The Planning Commission approved the project's Vesting Tentative Map (SD2021-0006) at its October 24, 2023 meeting. The project's Design Permit (SR2023-0010) was separately approved administratively by the Development Services Director on October 24, 2023. The project was publicly noticed including a mailing to property owners within 600 feet of the project.

ALTERNATIVE ACTIONS:

There is no feasible alternative action as the Developer has met the requirements of the Vesting Tentative Map conditions approved by the Planning Commission to file for a Final Map approval and has furnished the necessary documents to complete the processing of the Subdivision Improvements Agreement.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

February 15, 2023 - City Council approved Resolution No. 23-005 approving the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for

the project.

October 24, 2023 – Planning Commission adopted Resolution No. 23-13 approving the project's Vesting Tentative Map.

FISCAL AND RESOURCE IMPACT:

Development review costs for this project are paid for from development processing fees.

CEQA (California Environmental Quality Act):

Project

A Mitigated Negative Declaration was approved on February 15, 2023.



County of Santa Clara, Santa Cruz County, Maxar, Microsoft, Esri, HERE, Garmin, IPC



Public Services Department
Land Development Engineering

Site Map
The Gates
Tract No. 10627



RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

CITY OF MORGAN HILL
City Clerk's Office
17575 PEAK AVENUE
MORGAN HILL, CA 95037

(RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383)

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBDIVISION IMPROVEMENTS AGREEMENT

CITY VENTURES HOMEBUILDING LLC

THE GATES – TRACT NO. 10627

This Subdivision Improvements Agreement ("Agreement") between the City of Morgan Hill, a municipal corporation ("City"), and **CITY VENTURES HOMEBUILDING LLC**, a Delaware Limited Liability Company ("Subdivider"), is entered into this ____ day of _____, 2025. City and Subdivider hereby acknowledge the following:

1. Subdivider has filed a Tentative Subdivision Map and supporting documents for the subdivision known as **The Gates, Tract No. 10627** ("Map").
2. City desires, as part of the conditions of approval ("Conditions") of the Final Tract Map or Parcel Map ("Final Map"), that certain improvements be installed by Subdivider ("Improvements") as shown on the City Engineer approved and signed Subdivision Improvement Plans entitled "**Improvement Plans - The Gates, Tract No. 10627**" ("Plans").
3. Subdivider has been unable to complete, prior to filing of the Final Map, all of the improvements required by City to the satisfaction of the City Engineer.
4. Subdivider is required by the terms of the Morgan Hill Municipal Code ("Municipal Code"), to improve all streets, highways, or public areas which are part of the development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer and to post certain securities to secure the completion of the Improvements.
5. To assure City that Subdivider will construct, install and complete all Improvements required for the Subdivision, the parties have entered into this Agreement.

6. This Agreement is executed pursuant to California Government Code Section 66410 et seq., and Chapter 17.32 of the Municipal Code in order to provide for the manner in which Improvements shall be constructed and completed.

NOW, THEREFORE, and in consideration of the approval of the Final Map, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under the Conditions, the Subdivision Map Act, and applicable ordinances of City, the parties hereto, for themselves, their successors, and assigns, hereby agree as follows:

Section 1. Incorporation by Reference

The Development Agreement between Subdivider and City, if applicable, Subdivider's Map application, the Conditions, the Map, all Plans as referenced in Section 2 below and all items submitted to the Planning Department, Planning Commission and City Council, all are incorporated herein by reference. In the event of any inconsistency between their representations in any incorporated documents and this Agreement, this Agreement shall govern.

Section 2. Construction of Improvements

(a) Subdivider shall construct, as provided for in the Conditions, the Improvements as shown fully executed in the Plans entitled "Improvement Plans - The Gates, Tract No. 10627" subject to the approval of City.

(b) Subdivider shall acquire and dedicate, or pay the cost of acquisition by City, of all rights-of-way, easements, and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances.

(c) Survey Monumentation:

(1) Subdivider shall place survey monumentation as described on the Map.

(2) Subdivider shall replace or repair all survey monumentation that is destroyed or damaged as a result of Subdivider's activities. Any such repair or replacement shall be to the satisfaction and subject to the approval of City.

(d) Injury to Improvements, Public Property or Public Utilities Facilities.

(1) Subdivider shall replace or have replaced, or repair or have repaired, as the case may be, all Improvements, public utilities facilities and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement.

(2) Subdivider shall bear the entire cost of replacement or repairs of any and all public or public utility property damaged or destroyed by reason of any work done under this Agreement, whether such property is owned by the State of California, or any agency or political subdivision thereof, or by City, or any public or private utility corporation, or by any combination of such owners. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer, which approval shall not be unreasonably withheld, conditioned, or delayed.

Section 3. Modification of Plans

Subdivider agrees that, if during the construction of the Improvements, it is determined by City that revisions to the Plans are necessary in the interest of the public, Subdivider will undertake such design and construction changes required by City.

Section 4. Security

(a) Pursuant to California Government Code Section 66499.3(a), and the Municipal Code, Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to one hundred percent (100%) of the estimated construction cost of the Improvements as security guaranteeing the faithful performance of the Improvements and this Agreement ("Performance Bond").

Improvements and the City Engineer's Estimated Costs of Improvements as of **February 15, 2024** are attached hereto as Exhibit "A".

The Performance Bond shall be in a form substantially the same as Exhibit "B".

(b) Pursuant to California Government Code Section 66499.3(b), Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to one hundred percent (100%) of the estimated construction cost of the Improvements (as listed in Section 4(a) above) as security guaranteeing the payment to the contractors, subcontractors and persons furnishing labor, materials, or equipment in connection with this Agreement ("Labor and Materials Bond"). The Labor and Materials Bond shall be in a form substantially the same as Exhibit "C".

(c) Subdivider shall, upon completion of the Improvements, furnish a surety bond in an amount equal to fifty percent (50%) of the construction cost of the Improvements to secure the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof by the City Council ("Warranty Period") against any defective work or labor performed, or defective materials furnished by Subdivider in connection with this Agreement ("Warranty Bond"). The Warranty Bond shall be in a form substantially the same as Exhibit "D".

(d) Pursuant to Government Code Section 66499.9, any liability upon the security given for faithful performance of any act or agreement shall be limited to:

- (1) The performance of the work covered by the Agreement or the performance of the required act.
- (2) The performance of any changes or alterations in such work; provided that all changes or alterations do not exceed ten percent of the original estimated cost of the Improvements.
- (3) The guarantee and warranty of the work for a period of one year following completion and acceptance thereof, against any defective work or labor done or defective materials furnished in the performance of the Agreement or the performance of the act.
- (4) Costs and reasonable expenses and fees, including reasonable attorneys' fees.

(e) The surety on each bond and the form thereof shall be satisfactory to City. The surety shall be furnished by a surety company authorized to write the same in the State of California and that is approved and accepted by the City's risk manager.

(f) Subdivider agrees to furnish any bonds required by the State or County for Improvements outside the City's jurisdiction.

(g) The release of any securities shall be governed by the provisions of Government Code Section 66499.7.

Section 5. Inspections

At least fifteen (15) calendar days prior to the commencement of any work hereunder, Subdivider shall notify City in writing of the fixed start date of construction so that City shall be able to provide inspection services. Subdivider shall at all times maintain proper facilities and provide safe access to all parts of the work site(s) for City inspections, including any workshops or plants where work related to the Improvements is being conducted.

Subdivider shall pay and reimburse City for all expenses incurred by City for inspecting and checking all work to be performed under the provisions of the Municipal Code or this Agreement. City Engineering plan checking and field improvement inspection costs are included in the Department of Public Works Fee Schedule which may be revised from time to time.

Upon completion of the work, the Subdivider's Engineer shall file original sealed "as-built" plans with City Engineer and shall submit a sealed letter to City Engineer certifying that Subdivider's Engineer has inspected the Improvements throughout construction and that said Improvements are completed in conformance with the Improvement Plans and in accordance with this Agreement.

Section 6. Timing of Performance

Subdivider agrees to perform and complete all Improvements within eighteen (18) months from the date of the recording of the Final Map; provided however, the City Manager may extend the deadline for completion by not more than six (6) months at his or her reasonable discretion and determination that granting the extension will not be detrimental to the public welfare. No extension of this deadline for completion shall be made except upon the basis of a written application made by Subdivider stating fully the ground for the application and the facts relied upon for an extension.

It is further agreed by and between Subdivider and City that any extension granted shall in no way affect the validity of this Agreement or release the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. Subdivider further agrees to maintain the securities described in Section 4 above in full force and effect during the terms of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by City.

Section 7. Work Performance and Warranty

(a) Subdivider shall construct, at Subdivider's own expense, all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto, in accordance with the Plans

and to the satisfaction of City, including any changes required by City which in City's opinion are necessary to complete the Improvements.

(b) All work shall be conducted and completed in accordance with the Plans and federal, state, Municipal Code, laws, ordinances, and regulations. For any Improvements partially completed prior to this Agreement, Subdivider agrees to complete the Improvements in accordance with this Agreement.

(c) Neither Subdivider, nor any of Subdivider's agents or contractors in connection with Subdivider's obligations under this Agreement are, or shall be considered to be, employees or agents of City.

(d) The work performance for the Improvements shall not be deemed complete until such time as such Improvements have been accepted for maintenance by the City Council.

(e) Subdivider warrants that: (1) it has investigated the work to be performed under this agreement, (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 Subdivider discover any conditions materially differing from those inherent in the Improvements or work or as represented by City, it shall immediately inform City and shall not proceed, except at Subdivider's risk, until written instructions are received from City.

(f) Subdivider guarantees and warrants the work required by this Agreement and agrees to remedy any defects in the Improvements or work arising from faulty or defective materials or construction occurring within one year after its acceptance. Following notice, Subdivider shall, without delay or cost to City, repair, replace, or construct any defective or unsatisfactory portion of the Improvements. City may, at its sole option, perform the repair or replacement itself if Subdivider or its surety has failed to commence repair within twenty (20) days after City has mailed written notice to Subdivider. In such event, Subdivider or its surety agrees to pay the cost of repair and replacement to City, plus fifteen percent (15%); and City may recover such costs as a lien against the Subdivision. City may proceed immediately to make repairs should an emergency arise.

Section 8. Acquisition and Dedication of Easements or Rights-of-Way

(a) No construction or installation of the Improvements shall be commenced before:

(1) The offer of dedication to City of appropriate rights-of-way, easements, or other interests in real property for the Improvements, which offer of dedication shall be irrevocable and remain open pursuant to California Government Code Section 66477.2, and authorization from the property owner to allow construction or installation of Improvements, or

(2) The dedication to, and acceptance by, City of appropriate rights-of-way, easements, or other interests in real property, as determined by the City Engineer, or

(3) The issuance by a court of competent jurisdiction pursuant to state Eminent Domain Law of an order of possession.

(b) Except as otherwise provided by this Agreement, City rejects all lands, rights-of-way, and easements offered for dedication on the Final Map of the Subdivision. All such offers shall, however,

remain open, and shall constitute irrevocable offers of dedication in accordance with Government Code Section 66477.2. All such offers may be accepted by City in its sole discretion at any later date without further notice to Subdivider as provided by law. By way of explanation only, it is the current intention of City to accept all or part of the irrevocable offers to dedicate upon acceptance of the Improvements called for in this Agreement.

(c) Nothing in this Section 8 shall be construed as authorizing or granting an extension of time to Subdivider.

Section 9. Indemnity

Subdivider hereby agrees to save harmless and indemnify, including, without limitation, City's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of any injuries or damages sustained by any person or property resulting or arising, or alleged to have resulted or arisen, from Subdivider or Subdivider's contractors, subcontractors, agents, or employees activities, omissions or operations pursuant to this Agreement. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Subdivider will defend City, (at City's request and with counsel satisfactory to City) and will indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise.

Subdivider shall defend, indemnify, and hold harmless the City and its elective and appointive boards, officials, officers, agents, employees and volunteers from any claim, action, or proceeding to review, set aside, void, or annul an approval of the City concerning the Map and acts made in respect thereof, provided any such action is brought within the time period provided for in California Government Code Section 66499.37.

City shall promptly notify Subdivider of any claim, action, or proceeding, and cooperate fully in the defense of any claim, action, or proceeding.

It is expressly understood and agreed that this Section 9 will survive termination of this Agreement.

Section 10. Insurance

Concurrent with the execution of this Agreement, Subdivider 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 Subdivider and its Subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by the City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. If the Subdivider will utilize the services of a General Contractor to perform all of the work associated with the Improvements, then Subdivider may opt to have all coverages provided by Subdivider's General Contractor, provided that a written contract is executed between Subdivider and the General Contractor whereby the written contract specifically required General Contractor to fulfill all of the City insurance requirements as outlined in this Agreement, including all endorsements in favor of the

City. Verification of the written contract must be provided to City upon request. If Subdivider fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement City shall issue a stop work order, or terminate the Agreement for default. Subdivider further understands that the City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Subdivider, at any time as deemed necessary to protect the interests of the City.

(a) Policies and Limits. The following insurance policies and limits are required for this Agreement:

(1) Commercial General Liability Insurance ("CGL"): Subdivider shall maintain CGL and shall include coverage for liability arising from Subdivider's or its Subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) combined single limit each occurrence and either a general aggregate limit of ten million dollars (\$10,000,000.00) or a general aggregate limit of five million dollars (\$5,000,000) as applied on a "per project" or "per location" basis, or (ii) the maximum amount of such insurance available to Subdivider under Subdivider's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if CGL coverage is being provided by Subdivider's General Contractor pursuant to Section 10, General Contractor may elect to insure the CGL exposures under an "Owners and Contractors Protective Liability Policy (OCP)" on which the City is included as an additional insured.

a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

b. CGL policy must include blanket contractual and completed operations.

c. CGL policy will apply as though separate policies have been issued to each insured ("separation of insureds").

(2) Workers' Compensation Insurance and Employer's Liability: Subdivider 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 Subdivider under Subdivider's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If Subdivider is self-insured, Subdivider must provide its Certificate of Permission to Self-Insure, duly authorized by the State of California Department of Industrial Relations.

(3) Automobile Liability: Subdivider shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Subdivider does not own automobiles, then Subdivider 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 Subdivider under Subdivider's

combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(4) Pollution (Environmental) Liability: The performance of Subdivider’s work or service under this Agreement involves handling of hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials. Subdivider shall procure and maintain Pollution Liability covering the Subdivider'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 Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(b) Required Endorsements. Subdivider shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below. Further, if coverages are being provided by Subdivider’s General Contractor pursuant to Section 10, endorsements may not be restricted to work performed “under a written contract” (i.e. “blanket endorsements”)

(1) ALL Policies:

“Waiver of Subrogation” - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and the City’s elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) ALL Policies except Workers Compensation:

a. “Additionally Insured” - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds 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.

(c) Subcontractors. Subdivider must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 10 as appropriate based on each subcontractor’s scope of work, with respect to its performance of work associated with the Improvements, including those requirements related to the additional insureds and waiver of subrogation.

(d) Qualification of Insurers. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of “A” or better and a financial size rating of “VIII” or better.

(e) Certificates. Subdivider 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, Subdivider shall promptly furnish City of Morgan Hill with copies of all policies outlined herein. No policy subject to the Subdivider's agreement with the City shall 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 provided herein.

Certificate Holder address:

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

Section 11. Permits and Requisite Fees

(a) Subdivider shall pay all current fee obligations in the total amount of **\$3,161,768.64** due under City Resolution No. 5592, as amended, in accordance with the Department of Public Work fee schedule, as follows:

(1) **\$ 897,423.59** payable at the time of recording of the Final Map, and

(2) **\$ 2,264,345.05** payable on a pro-rata basis for each individual lot in the Subdivision prior to final inspection of each and every residence.

(3) All fees payable pursuant to this Subsection (a) constitutes valid and due consideration for City's approval of the Final Map, and amounts set forth are estimates that are subject to change prior to the issuance of building permit(s), subject to resolution or ordinance of the City Council.

(b) Subdivider shall, at its expense, obtain all necessary permits and licenses for the construction of the Improvements, give all necessary notices, and pay all fees and taxes required by law.

(c) Subdivider shall obtain a City of Morgan Hill Business License.

(d) Subdivider agrees to procure, at its expense, any necessary permits for Improvements outside the City's jurisdiction.

Section 12. On-Site Supervision

Subdivider shall designate an on-site supervisor, satisfactory to City, who shall be on the work site(s) at all times during the construction of the Improvements, and who has the authority to act on behalf of Subdivider when communicating with City personnel.

Section 13. Waiver

Waiver by City or Subdivider of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this Agreement. Acceptance by City of any work by Subdivider shall not be a waiver of any of the provisions of this Agreement.

Section 14. Notices. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. 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.

- a. Address of Subdivider is as follows:

CITY VENTURES HOMEBUILDING LLC
444 Spear Street, Suite 200
San Francisco, CA 94105

- b. Address of City is as follows:

City Engineer
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

Section 15. Noncompliance

If City determines that Subdivider is in violation of any federal, state, County or City laws, ordinances, rules, regulations, and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action City deems necessary.

Section 16. Notice of Breach and/or Default

City may serve written notice upon Subdivider and surety of breach of this Agreement or of any portion thereof, and default of Subdivider for any of the following circumstances:

- (a) Subdivider refuses or fails to complete the Improvements as required in Section 6 above.
- (b) Subdivider refuses or fails to perform or cure any defects in the Improvements as required in Section 7.
- (c) Subdivider is insolvent, is subject to a receivership, or files any petition in bankruptcy, either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days.
- (d) The commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance in lieu of or in avoidance of foreclosure.

(e) Subdivider or any of Subdivider's contractors, subcontractors, agent, or employees materially violates any of the provisions of this Agreement and not cure the violation within a reasonable time.

Section 17. Performance by Surety or City

(a) In the event of a material breach and/or default by Subdivider, Subdivider's surety shall have the duty to take over and complete the Improvements.

(b) If the surety, within a reasonable time after receiving notice of Subdivider's default does not provide City written notice to take over the performance of this Agreement or if the surety does not commence performance thereof within the time specified in such notice to City, City may take over the construction of the Improvements and prosecute the same to completion, by contract or by any method City may deem advisable, on behalf and at the expense of Subdivider, and Subdivider's surety shall be liable to City for any excess cost or damages incurred by City thereby. In such event, City, without liability for so doing, may take possession of and utilize such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefore to complete the Improvements.

(c) City shall have the right to draw upon or utilize the appropriate security provided for in Section 4 to recover costs and damages to City damages. The right of City to draw upon or utilize the security is additional and not in lieu of any other remedy available to City at law or in equity. The parties agree that the estimated costs and security amounts may not reflect the actual cost of construction or installation of Improvements, and therefore, City damages for Subdivider's default shall be measured by the cost of completing the required Improvements.

(d) Failure of Subdivider to comply with terms of this Agreement shall constitute consent to filing by City of a notice of violation against all lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedies provided in this Subsection (d) are in addition to and not in lieu of other remedies available to City.

(e) In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligation, including the costs of suit and reasonable attorney's fees.

(f) The failure by City to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or subsequent default or breach.

Section 18. Successors in Interest

This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties. It shall be recorded in the Office of the Recorder of Santa Clara County concurrently with the Final Map of the Subdivision and shall constitute a covenant running with the land and an equitable servitude upon the real property within the Subdivision. It shall be the responsibility of City to cause the executed Agreement to be recorded. Sale of all or part of the lands of the underlying Subdivision shall not serve to transfer the obligations of the Subdivider under this Agreement. All obligations under this Agreement attach to Subdivider until all obligations of Subdivider are fulfilled or transferred by substitution of replacement agreement and replacement securities acceptable to City.

Section 19. Effective Date

This Agreement shall be effective as of the date and year first above written.

Section 20. Amendment of Agreement

This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby.

Section 21. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of Subdivider. The undersigned, on behalf of Subdivider, binds Subdivider, its partners, successors, executors, administrators, and assigns with respect to the terms and conditions of this Agreement.

Section 22. 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.

Section 23. Law to Govern: Venue

The law of the State of California shall govern this Agreement. In the event of litigation between the parties, the action must be filed in the Santa Clara County Superior Court.

Section 24. Limitations Upon Subcontracting and Assignment.

Neither this Agreement or any portion shall be assigned by Subdivider without prior written consent of City. Subdivider shall provide City with written notice of any assignment or transfer of all or a portion of the Subdivision property no later than thirty calendar days prior to such action. The notice shall indicate the portion of the Subdivision to be assigned and describe, with supporting evidence, the proposed assignee's reputation, experience, financial resources and access to credit, and capability to successfully carry out the development of the Subdivision Improvements to completion.

Section 25. Miscellaneous

- (a) Compliance with Law: Subdivider shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
- (b) Non-Discrimination. Subdivider covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, ancestry, or sexual orientation in any activity pursuant to this Agreement.
- (c) Conflict of Interest and Reporting. Subdivider shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
- (d) Time of Essence. Time is of the essence in the performance of this Agreement.
- (e) Interpretation. This Agreement shall be interpreted as though prepared by both parties.

(f) Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

(g) Negotiated Document. It is agreed and understood by the parties hereto, that this Agreement has been arrived at through negotiations and that neither party is deemed to be the party which prepared the Agreement within the meaning of Civil Code Section 1654.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

[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.]

CITY OF MORGAN HILL

By:

Christina J. Turner, City Manager

Date: _____

ATTEST:

By:

Michelle Bigelow, City Clerk

Date: _____

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

Date: _____

"Subdivider"

**CITY VENTURES
HOMEBUILDING LLC**

By:

Samantha Hauser
~~Executive Vice President~~ *Authorized Signatory*
(If Corporation, must be Chairperson of the Board, President, or Vice President)

Date: _____

By:

Print Name and Title

(If Corporation, must be Secretary, Assistant Secretary, CFO, or Assistant Treasurer)

Date: _____

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of San FranciscoOn 2/5/2025 before me, Jake Jansen
Date Here Insert Name and Title of the Officerpersonally appeared Samantha Hauser
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature [Signature]
Signature of Notary Public**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20____, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20____, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT "A"

IMPROVEMENTS AND

ESTIMATED COSTS OF IMPROVEMENTS

AS OF FEBRUARY 2024

MH 221005 (02/15/2024)

The Gates, Tract 10627
 Engineer's Cost Estimate for City Use ONLY-Public Improvements

Item	Item Description	Quantity	Unit	Unit Price	Total
<i>Schedule I - Surface Improvements</i>					
1	Street finish grading	15,215	SF \$	0.50	\$ 7,607.50
2	Monterey Road widening pavement (6"AC on 18" agg base)	8,783	SF \$	10.50	\$ 92,221.50
3	Min. 2" AC grind & overlay Monterey Road	13,944	SF \$	3.00	\$ 41,832.00
4	City std sidewalk on agg base (incl. HC ramps)	1,405	SF \$	11.00	\$ 15,455.00
5	2"AC shoulder	1,090	SF \$	5.00	\$ 5,450.00
6	City std curb & gutter on agg base	693	LF \$	35.00	\$ 24,255.00
7	City std street name signs	1	EA \$	1,200.00	\$ 1,200.00
8	City std street monuments	1	EA \$	1,000.00	\$ 1,000.00
9	Relocate existing electroliers	3	EA \$	3,000.00	\$ 9,000.00
10	City std electroliers (incl. conduit & pull boxes)	2	EA \$	5,500.00	\$ 11,000.00
11	Concrete retaining wall (Max 24" high)	106	EA \$	80.00	\$ 8,480.00
12	Street striping & markings	1	LS \$	20,000.00	\$ 20,000.00
13	'No Parking R26 (CA)' Signs along Monterey Road	8	EA \$	400.00	\$ 3,200.00
14	Erosion Control	1	LS \$	8,500.00	\$ 8,500.00
Total Schedule I					\$ 249,201.00
<i>Schedule II - Water, Sewer & Storm</i>					
1	8"Ø C900 sewer forced main (includes valves & fittings & Monterey Road pavement restoration)	510	LF \$	90.00	\$ 45,900.00
2	8" Water connection (incl valves & fittings)	90	LF \$	60.00	\$ 5,400.00
3	6" Master meter including DD check valve assembly	1	LS \$	20,000.00	\$ 20,000.00
4	Relocate existing fire hydrant	1	LS \$	5,000.00	\$ 5,000.00
5	1.5"Ø City std landscape water service with RPBF	1	EA \$	4,000.00	\$ 4,000.00
6	Triple 24"Ø culvert extension	1	LS \$	10,000.00	\$ 10,000.00
7	12"Ø RCP storm	38	LF \$	55.00	\$ 2,090.00
8	City std SD-5 curb inlet	1	EA \$	4,000.00	\$ 4,000.00
Total Schedule II					\$ 345,591.00
Total Schedule I & II					\$ 594,792.00

10% CONTINGENCY = \$59,479.00

TOTAL = \$654,271.00

EXHIBIT "B"
PERFORMANCE BOND
(100% of Engineer's Estimate)

Bond No.: _____

Premium: _____

Whereas, the City Council of the City of Morgan Hill, State of California, and **CITY VENTURES HOMEBUILDING LLC** (hereinafter designated as "principal") have entered into a Subdivision Improvement Agreement:

CITY VENTURES HOMEBUILDING LLC
THE GATES – TRACT NO. 10627

(Form Document – DO NOT EXECUTE)

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 20_____, and identified as project **The Gates, Tract No. 10627**, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the City of Morgan Hill hereinafter called ("City"), in the penal sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The Surety's office is located at _____,

Telephone No. _____; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number are as follows:

License No.: [Form Document – Do Not Execute]

Address: _____ [Form Document – Do Not Execute]

Telephone No.: _____ [Form Document – Do Not Execute].

The non-resident agent for the Surety, if any, is a party to the transaction:

Name of non-resident
agent:

Non-resident agent's office
address:

Telephone
No.:

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Executed this _____ day of _____ 20____.

[form document – do not execute]

[form document – do not execute]

Principal

Principal

By: *[form document – do not execute]*

Surety

By: *[form document – do not execute]*

Attorney-in Fact

By: *[form document – do not execute]*

California Resident Agent

By: *[form document – do not execute]*

Non-resident Agent - Attorney-in-Fact

APPROVED:

[form document – do not execute]

Scott Creer, City Engineer

Date:

APPROVED AS TO FORM:

By: *[form document – do not execute]*

Donald A. Larkin, City Attorney

Date:

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT "C"
LABOR AND MATERIAL BOND
(100% of Engineer's Estimate)

Bond No.: _____

Premium: _____

Whereas, the City Council of the City of Morgan Hill, State of California, and **CITY VENTURES HOMEBUILDING LLC** (hereinafter designated as "the principal") have entered into a Subdivision Improvement Agreement:

CITY VENTURES HOMEBUILDING LLC
THE GATES – TRACT NO. 10627

(Form Document – DO NOT EXECUTE)

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 20_____, and identified as project **The Gates, Tract No. 10627**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto the City of Morgan Hill and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of _____ dollars (\$_____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Morgan Hill in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with

Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety's office is located at _____,

Telephone No. _____; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number as follows:

License No.: [Form Document – Do Not Execute]

Address: [Form Document – Do Not Execute]

Telephone No.: [Form Document – Do Not Execute].

The following non-resident agent, if any, for the Surety is a party to the transaction:

Name of non-resident agent: _____,

Non-resident agent's office address: _____

Telephone No.: _____.

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Executed this _____ day of _____ 20 _____.

[form document – do not execute]

[form document – do not execute]

Principal

Principal

By: [form document – do not execute]

Surety

By: *[form document – do not execute]*

Attorney-in Fact

By: *[form document – do not execute]*

California Resident Agent

By: *[form document – do not execute]*

Non-resident Agent - Attorney-in-Fact

APPROVED:

[form document – do not execute]

Scott Creer, City Engineer

Date:

APPROVED AS TO FORM:

By: *[form document – do not execute]*

Donald A. Larkin, City Attorney

Date:

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT "D"
WARRANTY BOND
(50% of Cost of Construction)

Bond No.: _____

Premium: _____

Whereas, the City Council of the City of Morgan Hill, State of California (hereinafter designated as "City"), and **CITY VENTURES HOMEBUILDING LLC** (hereinafter designated as "Principal") have entered into a Subdivision Improvement Agreement (hereinafter "Agreement"):

CITY VENTURES HOMEBUILDING LLC
THE GATES – TRACT NO. 10627

(Form Document – DO NOT EXECUTE)

whereby the Principal agrees to install and complete certain designated public improvements (hereinafter "Improvements"), which said Agreement, dated _____, 20_____, and identified as project _____, is hereby referred to and made a part hereof; and

Whereas, under the terms of said Agreement, the Principal is required to furnish a bond to guarantee and warrant the work required by said Agreement for a period of one year following the completion and acceptance by the City of the Improvements, against any defective work or labor performed, or defective materials furnished by Principal.

Now, therefore, we, the Principal and _____ as Surety, are held and firmly bound unto the City of Morgan Hill in the penal sum of _____ dollars (\$____) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

If Principal faithfully carries out and performs its guarantee and warranty under the Agreement, and, on due notice from City, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Principal promptly reimburses City for all loss and damage that City sustains because of Principal's failure to makes such repairs in accordance with the Agreement requirements, then Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.

Surety waives the provisions of Civil Code Sections 2819 and 2845. Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Warranty Bond Page 1 of 4
Version July 2017

Any notice to Surety may be given in the manner specified in the Agreement and delivered or transmitted to Surety as follows:

Attn: _____

Address: _____

City/State/Zip: _____

Phone: _____

Fax: _____

Email: _____

This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

In witness whereof, this instrument has been duly executed by the principal and surety above named.

SURETY:

Principal:

Date: _____

Date: _____

s/ *[form document – do not execute]*

s/ *[form document – do not execute]*

Name: _____

Name: _____

Title: _____

Title: _____

(Attach Acknowledgment with Notary

Seal and Power of Attorney)

APPROVED:

[form document – do not execute]

Scott Creer, City Engineer

Date:

APPROVED AS TO FORM:

By: *[form document – do not execute]*

Donald A. Larkin, City Attorney

Date:

END OF WARRANTY BOND

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

Warranty Bond Page 4 of 4
Version July 2017

Owner's Statement

We hereby state that we are the owners of, or have some right, title, or interest in and to the real property included within the subdivision shown upon the herein map; that we are the only persons whose consents are necessary to pass a clear title to said real property; that we hereby consent to the preparation and filing of said map and subdivision as shown within the distinctive boundary line.

The real property described below is dedicated as an easement for public purposes: easements for public service facilities including, but not limited to sidewalks, wires and conduits for electrical, telephone, television, gas, storm, sanitary and water services, and all appurtenances thereto under, upon and across the land designated as Public Service Easement (P.S.E.) as shown upon the within map.

The real property described below is dedicated as an easement for public purposes: easements for the installation and maintenance of public utility facilities including but not limited to electrical and gas facilities, and appurtenances thereto lying in, under, upon and across those strips of land delineated and designated as Public Utility Easement (P.U.E.) as shown upon the within map.

The real property described below is dedicated as an easement for public purposes: upon and over those strips of land delineated and designated as Emergency Vehicle Access Easement (E.V.A.E.), for emergency vehicle access purposes.

The real property described below is dedicated as an easement for public purposes: a storm drainage easement in, under, over, upon, and across those certain strips of land delineated as Storm Drainage Easement (S.D.E.) for the installation and maintenance of storm drainage facilities, and access thereto.

We hereby reserve for the non-exclusive use of the owners of Parcel 1 and Parcel A for the storage of storm water as detention mitigation a private storm drainage easement in, under, upon and across those strips of land delineated and designated as Private Storm Drainage Easement (P.S.D.E.). Said Parcel 1 being shown upon that certain Parcel Map, filed for record on March 10th, 2003 in Book 758 of Maps, pages 49-51 and said Parcel A being shown upon that certain Parcel Map for Lot Line Adjustment, filed for record on Oct. 1st, 2004 in Book 776 of Maps, pages 9 and 10. We also hereby reserve for the non-exclusive use of the owners of Gates Subdivision a private storm drainage easement in, under, upon and across those strips of land delineated and designated as Private Storm Drainage Easement (P.S.D.E.). Said easement shall be conveyed to and maintained by the Homeowner's Association created for this subdivision.

We hereby reserve the Wetland Area for the purposes of a wetland mitigation area which shall be conveyed to the Homeowners Association created for this subdivision for those purposes set forth in the applicable Mitigation and Monitoring Plan and Long-Term Management Plan.

All of the herein described streets, parcels, and easements shall be kept free of buildings, except lawful unsupported roof overhangs, and obstructions that do not impair the use of or are inconsistent with the purposes of the streets, parcels, and easements.

The herein described offers of dedication to the City of Morgan Hill are to be accepted only when the City Council of the City of Morgan Hill or its successor agency adopts and records in the office of the Recorder of Santa Clara County a resolution accepting said streets and easements. Until said resolution(s) are recorded, all streets and easements encompassed within such offers of dedication shall be maintained by the developer during any required warranty period and thereafter by the owner(s) of the lots or parcels in the subdivision. The City of Morgan Hill shall not be responsible for maintenance and shall incur no liability with respect to such offered streets and easements or any improvement thereon. All dedicated Rights-of-Way and Easements not accepted for maintenance by the City or other public agency shall be maintained by the owner(s) of the lots or parcels in the subdivision.

As Owner(s):
City Ventures Homebuilding LLC, a Delaware limited liability company

By: Samantha Hauser
Name: Samantha Hauser
Its: Authorized Signatory

Tract No. 10627
The Gates
For Condominium Purposes

- 49 Condominium Residential Units -
- 5 Condominium Commercial Units -

Being All of Parcel B as shown upon that certain map entitled "Lot Line Adjustment Parcel Map", filed for record on October 01, 2004, in Book 776 of Maps at Pages 9 and 10; AND All of Parcel 4 as shown upon that certain map entitled "Parcel Map", filed for record on March 10, 2003, in Book 758 of Maps at Pages 49 thru 51,
Santa Clara County Records.

Lying within the
City of Morgan Hill, County of Santa Clara, State of California
December 2024

NOTES

1. The distinctive boundary line indicates the boundaries of the land subdivided by this Final Map.
2. The area within the distinctive boundary is 3.815 Ac.
3. All distances and dimensions are in feet and decimals thereof.

Notary Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State Of California
County Of San Francisco

On February 5, 2025, before me, Jake Jansen
personally appeared Samantha Hauser
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: Jake Jansen, Notary Public In
And For Said County And State

(Seal)

Principal County Of Business: San Francisco
Commission Expires: September 16, 2028
Commission # Of Notary: 2499903

Abandonment of Public Easements

Per sections 66434(g) and 66499.20.2 of the Subdivision Map Act, the following public easements shall constitute abandonment; as certified in the City Clerk's Statement:

A 10.00 feet wide Storm Drainage Easement, previously dedicated per that certain Parcel Map, filed for record in Book 776 of Maps at Pages 9 and 10, Santa Clara County Records.

A 15.00 feet wide Storm Drainage Easement, previously dedicated per that certain Parcel Map, filed for record in Book 758 of Maps at Pages 49 thru 51, Santa Clara County Records.

A 20.00 feet wide Drain Ditch Easement, previously dedicated per Instrument Number 140249, in Book 893 of Official Records, at Page 169, Santa Clara County.

A triangular shaped Public Storm Drainage Easement, located in the south end of Parcel 4, previously dedicated per that certain Parcel Map, filed for record in Book 758 of Maps at Pages 49 and 51, Santa Clara County Records.

City Clerk's Statement

I hereby state that the City Council of the City of Morgan Hill at its regular meeting held on 20, duly approved the final map shown hereon, authorized its recordation, and accepts on behalf of the public, subject to their improvement in accordance with city standards, the streets and easements offered for dedication for public use in conformity with the terms of the offer of dedication. Also, I certify that said City Council authorized the abandonment of those public easements noted on Sheet 1 and delineated on Sheet 2 of this map. Per sections 66434(g) and 66499.20.2 of the Subdivision Map Act.

Michelle Bigelow
City Clerk of the City of Morgan Hill

DATE

Surveyor's Statement

This map was prepared by me or under my direction and is based upon a Field Survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of City Ventures Homebuilding, LLC, on January 01 2024. I hereby state that all the monuments are of the character and occupy the positions indicated or that they will be set in those positions before April 30, 2026 and that the monuments are, or will be sufficient to enable the survey to be retraced, and that this final map substantially conforms to the conditionally approved Tentative Map. The survey is true and complete as shown.

Harinder Singla
Harinder Singla
P.L.S. 8347

DATE 2/03/25

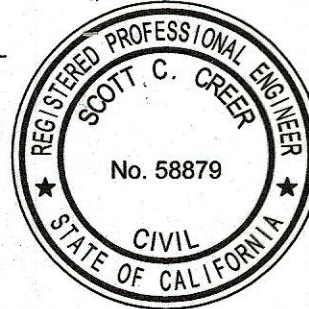


City Engineer's Statement

I hereby state that I have examined this final map. The Subdivision as shown is substantially the same as it appeared on the Tentative Map, if required, and any approved alterations thereof. All provisions of the Subdivision Map Act, as amended, and of any local ordinances applicable at the time of approval of the Tentative Map, if required, have been complied with.

Scott C. Creer - City Engineer
City of Morgan Hill, California
R.C.E. NO. 58879

DATE



City Surveyor's Statement

I hereby state that I have examined this final map and that I am satisfied that said map is technically correct.

John K. King - Acting City Surveyor
Hanna - Brunetti
P.L.S. NO. 6809

DATE



Planning Commission Statement

I hereby state that the tentative map for the final map shown hereon was conditionally approved on October 24, 2023, by the Planning Commission of the City of Morgan Hill, California, by Resolution Number 23-13, application number SD2021-0006.

Jennifer Carman
Secretary of the Planning Commission

DATE

County Recorder's Statement

Filed this ___ day of ___, 20___ at ___ M. In Book ___ of Maps, at Pages ___ at the request of First American Title Co.

File No. ___ Fee: ___

Regina Alcomendras, County Recorder of Santa Clara County

BY: Deputy



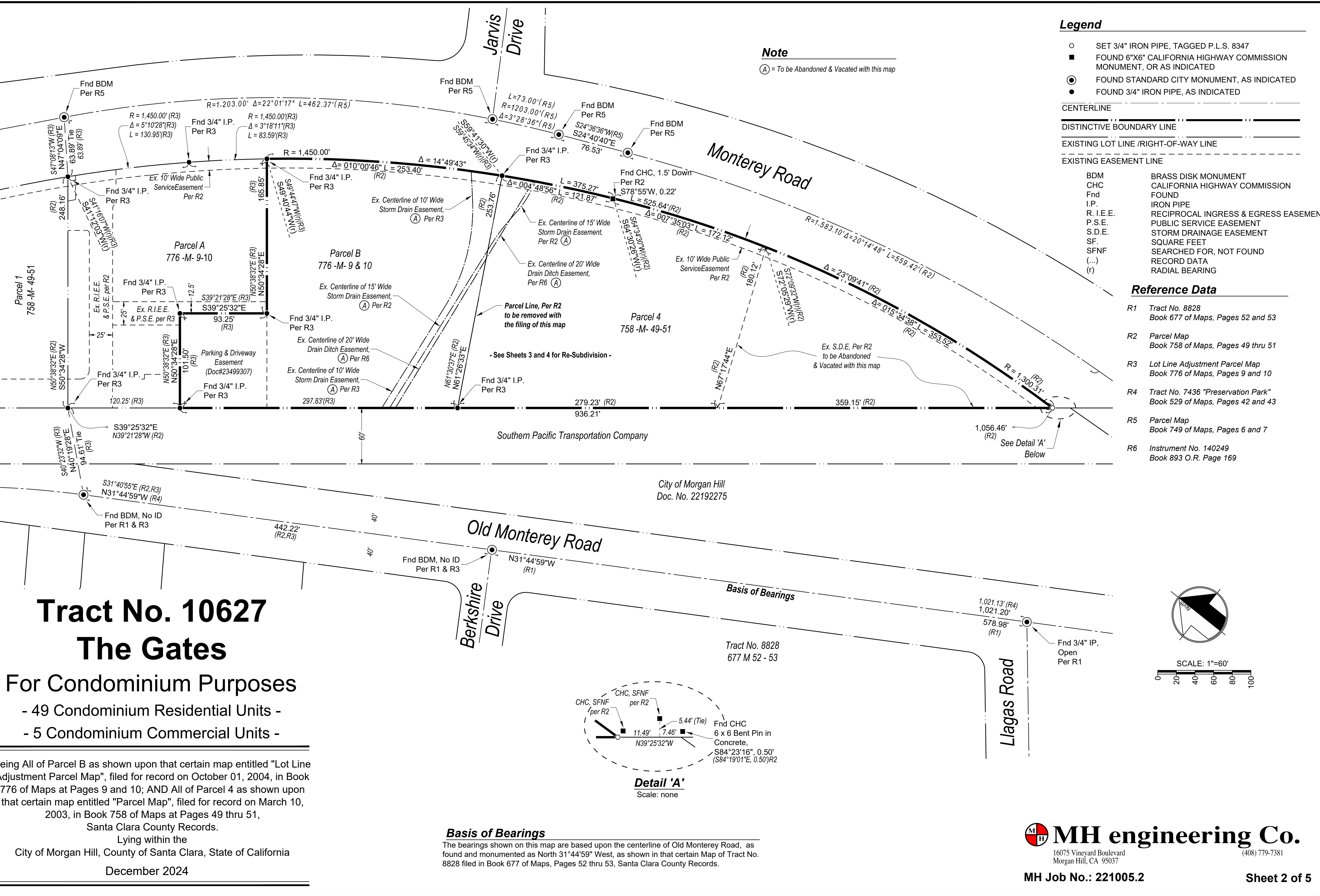
MH engineering Co.

16075 Vineyard Boulevard
Morgan Hill, CA 95037

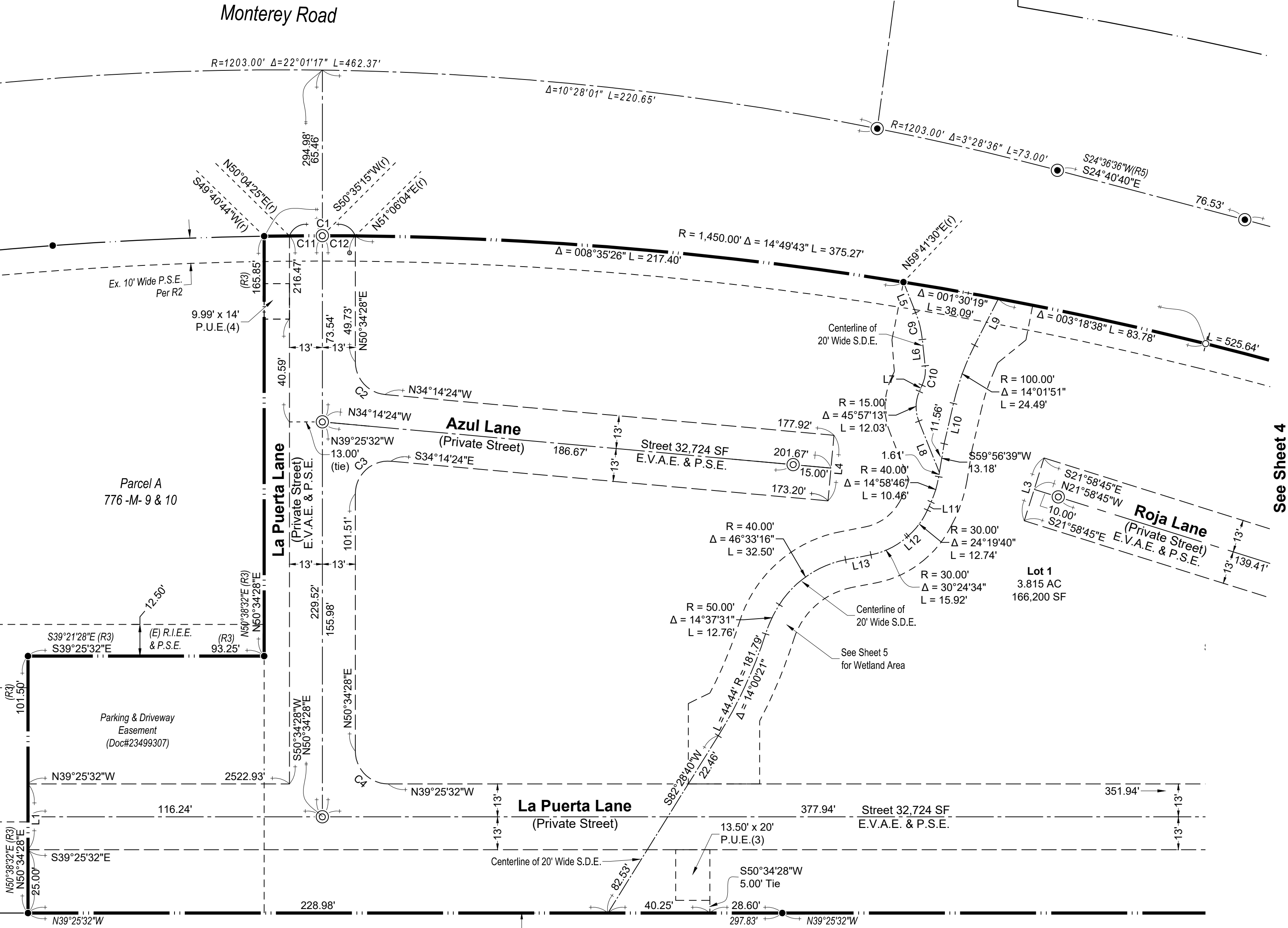
(408) 779-7381

MH Job No.: 221005

Sheet 1 of 5

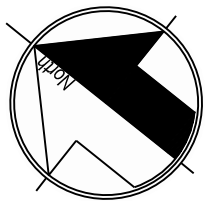


Note
For Line & Curve Table Data
See Sheet 4



Basis of Bearings
The bearings shown on this map are based upon the centerline of Old Monterey Road, as found and monumented as North 31°44'59" West, as shown in that certain Map of Tract No. 8828 filed in Book 677 of Maps, Pages 52 thru 53, Santa Clara County Records.

Southern Pacific Transportation Company



SCALE: 1"=30'
0 10 20 30 40 50 60

Legend	
○	SET 3/4" IRON PIPE, TAGGED P.L.S. 8347
■	FOUND 6"x6" CALIFORNIA HIGHWAY COMMISSION MONUMENT, OR AS INDICATED
●	FOUND STANDARD CITY MONUMENT, AS INDICATED
●	FOUND 3/4" IRON PIPE, AS INDICATED
CENTERLINE	
DISTINCTIVE BOUNDARY LINE	
EXISTING LOT LINE /RIGHT-OF-WAY LINE	
NEW EASEMENT LINE	
EXISTING EASEMENT LINE	
BDM	BRASS DISK MONUMENT
CHC	CALIFORNIA HIGHWAY COMMISSION
Fnd	FOUND
E.V.A.E.	EMERGENCY VEHICULAR ACCESS EASEMENT
R.I.E.E.	RECIPROCAL INGRESS & EGRESS EASEMENT
I.P.	IRON PIPE
P.S.E.	PUBLIC SERVICE EASEMENT
P.S.D.E.	PRIVATE STORM DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
S.D.E.	STORM DRAINAGE EASEMENT
SF	SQUARE FEET
SFNF	SEARCHED FOR, NOT FOUND
(...)	RECORD DATA
(r)	RADIAL BEARING

Reference Data	
R1	Tract No. 8828 Book 677 of Maps, Pages 52 and 53
R2	Parcel Map Book 758 of Maps, Pages 49 thru 51
R3	Lot Line Adjustment Parcel Map Book 776 of Maps, Pages 9 and 10
R4	Tract No. 7436 "Preservation Park" Book 529 of Maps, Pages 42 and 43
R5	Parcel Map Book 749 of Maps, Pages 6 and 7
R6	Instrument No. 140249 Book 893 O.R. Page 169

Tract No. 10627

The Gates

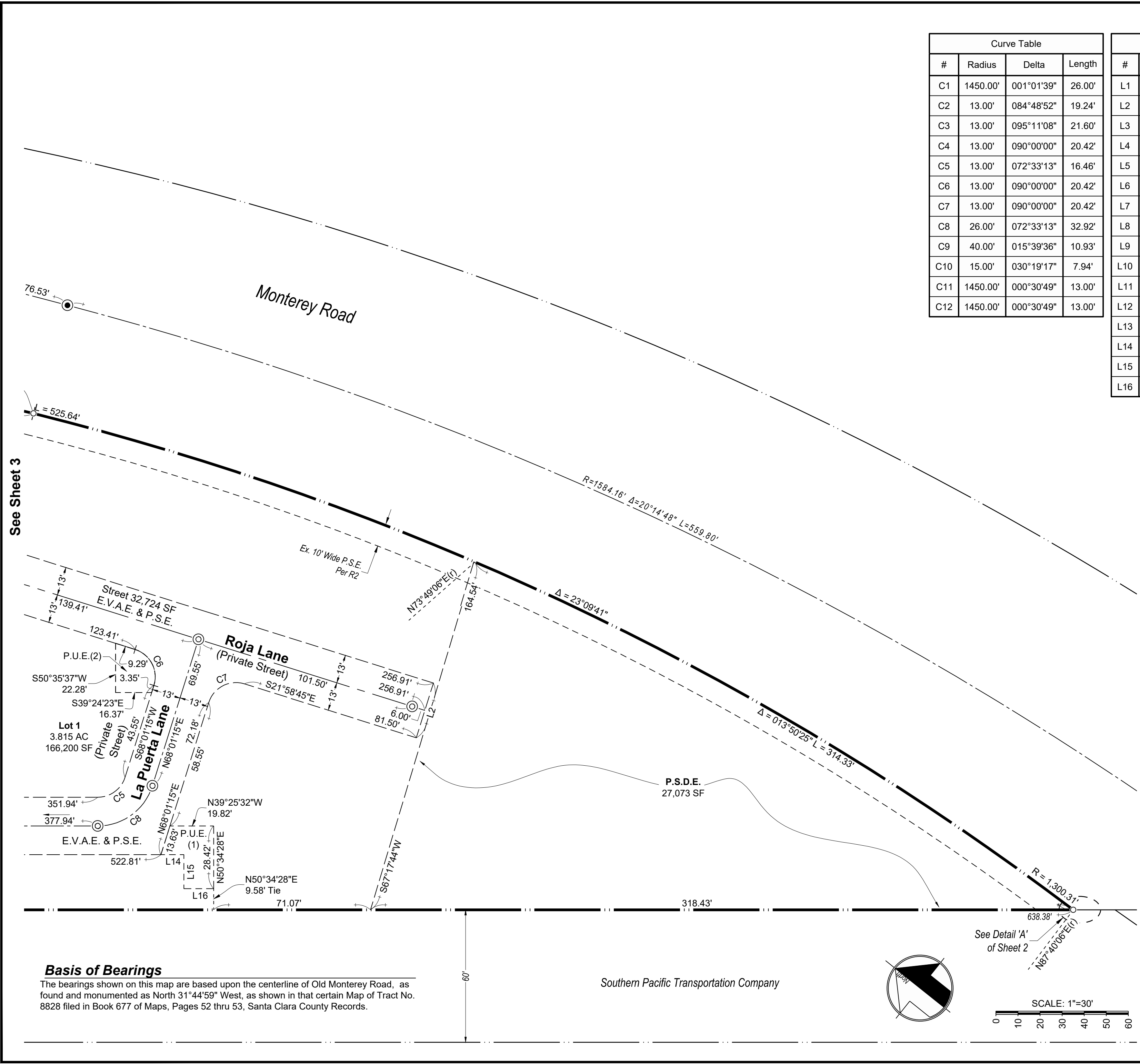
For Condominium Purposes

- 49 Condominium Residential Units -
- 5 Condominium Commercial Units -

Being All of Parcel B as shown upon that certain map entitled "Lot Line Adjustment Parcel Map", filed for record on October 01, 2004, in Book 776 of Maps at Pages 9 and 10; AND All of Parcel 4 as shown upon that certain map entitled "Parcel Map", filed for record on March 10, 2003, in Book 758 of Maps at Pages 49 thru 51, Santa Clara County Records.
Lying within the
City of Morgan Hill, County of Santa Clara, State of California
December 2024

MH engineering Co.
16075 Vineyard Boulevard
Morgan Hill, CA 95037
(408) 779-7381

MH Job No.: 221005.2 Sheet 3 of 5



Curve Table			
#	Radius	Delta	Length
C1	1450.00'	001°01'39"	26.00'
C2	13.00'	084°48'52"	19.24'
C3	13.00'	095°11'08"	21.60'
C4	13.00'	090°00'00"	20.42'
C5	13.00'	072°33'13"	16.46'
C6	13.00'	090°00'00"	20.42'
C7	13.00'	090°00'00"	20.42'
C8	26.00'	072°33'13"	32.92'
C9	40.00'	015°39'36"	10.93'
C10	15.00'	030°19'17"	7.94'
C11	1450.00'	000°30'49"	13.00'
C12	1450.00'	000°30'49"	13.00'

Line Table		
#	Direction	Length
L1	S50°34'28"W	26.00'
L2	N68°01'15"E	26.00'
L3	S68°01'15"W	26.00'
L4	N55°45'36"E	26.00'
L5	S28°45'21"W	13.02'
L6	S44°24'57"W	10.47'
L7	S74°44'14"W	2.60'
L8	S28°47'01"W	21.95'
L9	S77°35'40"W	20.70'
L10	S63°33'48"W	16.36'
L11	S74°55'25"W	3.53'
L12	N80°44'55"W	0.85'
L13	N50°20'21"W	10.20'
L14	S39°25'32"E	10.41'
L15	S50°34'28"W	15.42'
L16	S39°25'32"E	13.50'

Legend

○ SET 3/4" IRON PIPE, TAGGED P.L.S. 8347

■ FOUND 6"x6" CALIFORNIA HIGHWAY COMMISSION MONUMENT, OR AS INDICATED

● FOUND STANDARD CITY MONUMENT, AS INDICATED

● FOUND 3/4" IRON PIPE, AS INDICATED

CENTERLINE

DISTINCTIVE BOUNDARY LINE

EXISTING LOT LINE /RIGHT-OF-WAY LINE

NEW EASEMENT LINE

EXISTING EASEMENT LINE

BDM BRASS DISK MONUMENT

CHC CALIFORNIA HIGHWAY COMMISSION

Fnd FOUND

E.V.A.E. EMERGENCY VEHICULAR ACCESS EASEMENT

I.P. IRON PIPE

P.S.E. PUBLIC SERVICE EASEMENT

P.S.D.E. PRIVATE STORM DRAINAGE EASEMENT

P.U.E. PUBLIC UTILITY EASEMENT

S.D.E. STORM DRAINAGE EASEMENT

SF. SQUARE FEET

SFNF SEARCHED FOR, NOT FOUND

(...) RECORD DATA

(r) RADIAL BEARING

Reference Data

- R1 Tract No. 8828
Book 677 of Maps, Pages 52 and 53
- R2 Parcel Map
Book 758 of Maps, Pages 49 thru 51
- R3 Lot Line Adjustment Parcel Map
Book 776 of Maps, Pages 9 and 10
- R4 Tract No. 7436 "Preservation Park"
Book 529 of Maps, Pages 42 and 43
- R5 Parcel Map
Book 749 of Maps, Pages 6 and 7
- R6 Instrument No. 140249
Book 893 O.R. Page 169

Tract No. 10627

The Gates

For Condominium Purposes

- 49 Condominium Residential Units -

- 5 Condominium Commercial Units -

Being All of Parcel B as shown upon that certain map entitled "Lot Line Adjustment Parcel Map", filed for record on October 01, 2004, in Book 776 of Maps at Pages 9 and 10; AND All of Parcel 4 as shown upon that certain map entitled "Parcel Map", filed for record on March 10, 2003, in Book 758 of Maps at Pages 49 thru 51, Santa Clara County Records.

Lying within the

City of Morgan Hill, County of Santa Clara, State of California

December 2024



MH engineering Co.

16075 Vineyard Boulevard
Morgan Hill, CA 95037

(408) 779-7381

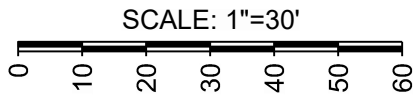
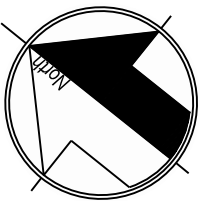
MH Job No.: 221005.2

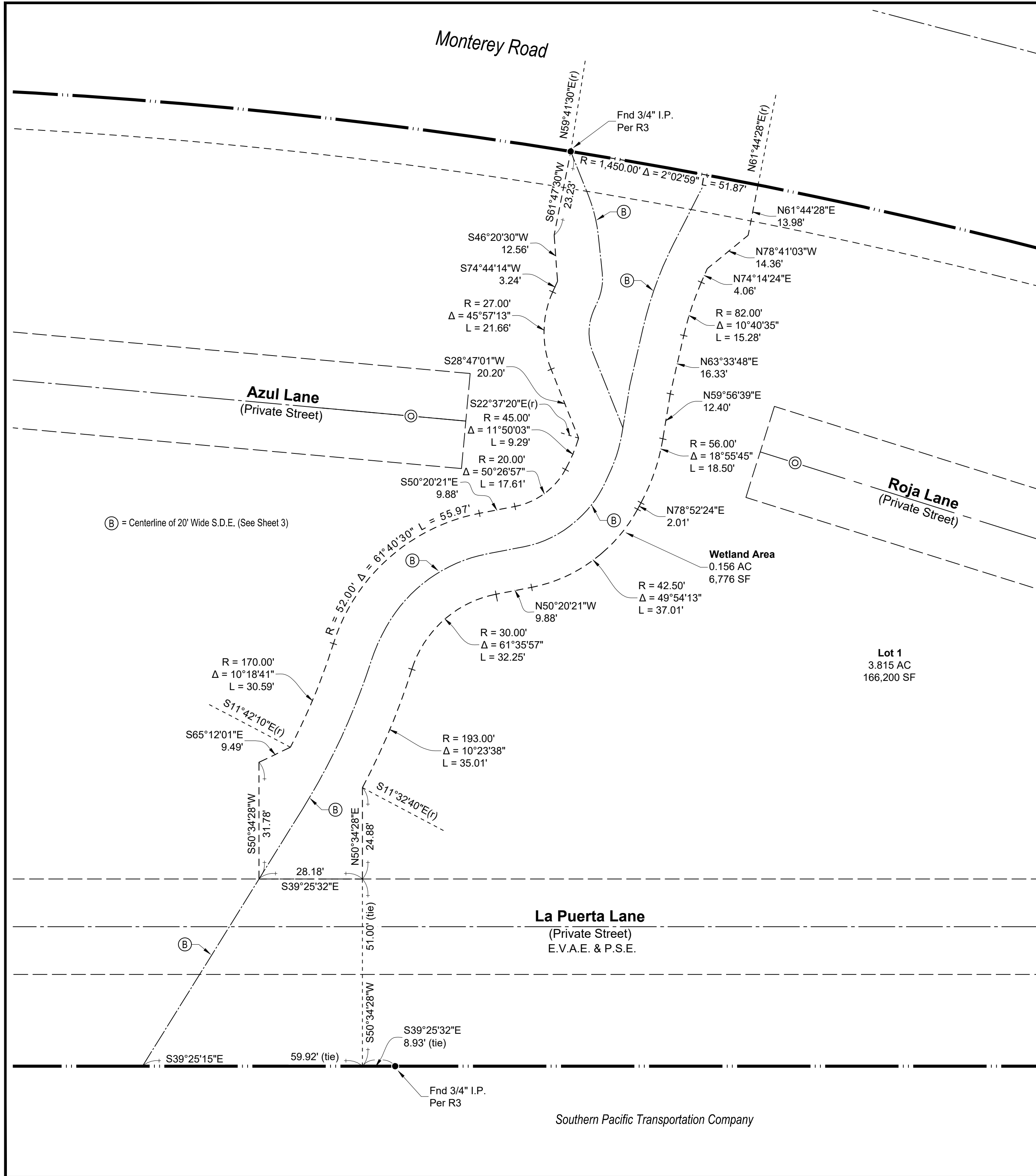
Sheet 4 of 5

Basis of Bearings

The bearings shown on this map are based upon the centerline of Old Monterey Road, as found and monumented as North 31°44'59" West, as shown in that certain Map of Tract No. 8828 filed in Book 677 of Maps, Pages 52 thru 53, Santa Clara County Records.

Southern Pacific Transportation Company





Legend

○	SET 3/4" IRON PIPE, TAGGED P.L.S. 8347
■	FOUND 6"x6" CALIFORNIA HIGHWAY COMMISSION MONUMENT, OR AS INDICATED
⊙	FOUND STANDARD CITY MONUMENT, AS INDICATED
●	FOUND 3/4" IRON PIPE, AS INDICATED

CENTERLINE	---
DISTINCTIVE BOUNDARY LINE	---
EXISTING LOT LINE /RIGHT-OF-WAY LINE	---
NEW EASEMENT LINE	---
EXISTING EASEMENT LINE	---

BDM	BRASS DISK MONUMENT
CHC	CALIFORNIA HIGHWAY COMMISSION
Fnd	FOUND
I.P.	IRON PIPE
P.S.E.	PUBLIC SERVICE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
S.D.E.	STORM DRAINAGE EASEMENT
SF.	SQUARE FEET
SFNF	SEARCHED FOR, NOT FOUND
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Tract No. 10627
The Gates
For Condominium Purposes
- 49 Condominium Residential Units -
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Being All of Parcel B as shown upon that certain map entitled "Lot Line Adjustment Parcel Map", filed for record on October 01, 2004, in Book 776 of Maps at Pages 9 and 10; AND All of Parcel 4 as shown upon that certain map entitled "Parcel Map", filed for record on March 10, 2003, in Book 758 of Maps at Pages 49 thru 51, Santa Clara County Records.
Lying within the
City of Morgan Hill, County of Santa Clara, State of California
December 2024

 **MH engineering Co.**
16075 Vineyard Boulevard
Morgan Hill, CA 95037
(408) 779-7381

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

David Gittleson, Associate Engineer

APPROVED BY: City Manager

APPROVE PROFESSIONAL SERVICES AGREEMENT WITH HYDROSCIENCE ENGINEERS FOR THE GLEN AYRE RESERVIOR PROJECT FOR A TOTAL AMOUNT NOT TO EXCEED \$417,019

RECOMMENDATION(S)

1. Approve Service Agreement for Design Professionals with HydroScience Engineers, Inc. for a total not to exceed contract amount of \$417,019 to design the Glen Ayre Reservoir Project; and
2. Authorize the City Manager to execute and administer the Service Agreement for Design Professionals with HydroScience Engineers, Inc. for the Glen Ayre Reservoir Project.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

Healthy Community

Guiding Documents

Water System Master Plan

REPORT NARRATIVE:

The existing Glen Ayre Reservoir tank was built in 1979 with a capacity of 100,000 gallons of water. In the 2021 Water System Master Plan, the need for a larger reservoir at the Glen Ayre site was identified to meet the community's future water needs, enhance hydraulic reliability, and ensure adequate service levels. The Adopted Fiscal Year 2024-25 through 2029-30 Capital Improvement Program includes the construction of a new 250,000-gallon Glen Ayre Reservoir under the Capital Improvement Project number WA6008.

Staff requested proposals from qualified firms in October 2024 to provide design services for a new larger tank. Proposals were received by Hydroscience Engineers,

Sandis Engineers and Planners, and Water Works Engineers in November 2024. The consultant proposals were reviewed and scored by engineering and maintenance staff. HydroScience Engineers, Inc. was chosen for this work due to their site-specific proposal, well-defined scope of work, and reservoir design experience.

The scope of work includes a demo of the existing tank, providing temporary tanks, constructing a new, larger 250,000-gallon steel tank, new piping appurtenances, control valves, new telemetry and electronic controls, and new security fencing. In addition, the existing tank sits on a fairly small easement, and staff anticipates the need to obtain a larger easement or, at a minimum, possibly a temporary easement for the temporary tanks. Survey investigation and mapping are included in the scope of work.

Water storage reservoirs are vital to the City's water distribution system. Staff recommends that HydroScience Engineers, Inc. be awarded the Glen Ayre Reservoir design contract. According to the HydroScience Engineer's tentative schedule, the Reservoir design should be complete by the end of 2025, with construction commencing in the summer of 2026.

COMMUNITY ENGAGEMENT:

Inform

If the project moves forward, staff will begin engaging the adjacent property owners and the rest of the neighborhood and notify them of the project. Staff will continue to provide weekly project updates through Nextdoor, the City's website, and the "Scoop."

ALTERNATIVE ACTIONS:

The approval of this agreement will facilitate the City's goal to increase the Glen Ayre reservoir capacity per the recommendation of the 2021 Water System Master Plan. No alternative actions are presented at this time.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 15, 2021, the City Council adopted the 2021 Water System Master Plan.

On June 19, 2024, the City Council approved the Fiscal Year 2024-25 through 2029-30 Capital Improvement Program Budget, including the Glen Ayre Reservoir construction.

FISCAL AND RESOURCE IMPACT:

The current Fiscal Year 2024-25 through 2029-30 Capital Improvement Budget, project #WA6008—Reservoir Capacity Improvements, from the Water Impact Fund (651) and Water Capital Project Fund (653), provides sufficient funding for this action.

CEQA (California Environmental Quality Act):

Project

The project will require CEQA review. Staff plans to use our existing on-call environmental consultant to perform the required studies. An Initial Study is anticipated to be required with a mitigated negative declaration.

CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS
HydroScience Engineers, 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 HydroScience Engineers, Inc. a California corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority**. This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement**. This Agreement shall cover services rendered from the Effective Date of this Agreement until January 1, 2026 at which time CONSULTANT'S services shall be completed. 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, unless otherwise authorized by City Council. 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 to design and prepare construction plans and specification to build a new 250,000 gallon reservoir at the Glen Ayre site as further described in **Exhibit A**.
4. **Compensation**. CONSULTANT shall be compensated as follows:
 - 4.1. **Amount**. \$417,019.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Four Hundred Seventeen Thousand and Nineteen dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement, and provided further that in no event shall such maximum compensation allowed for the term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council.
 - 4.2. **Billing**. CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 13 Notices. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.

5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The City Manager of CITY is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

5.1. **Non-Appropriations.** Notwithstanding anything contained in this Agreement to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for CITY for any reason whatsoever in any fiscal year, for payments due under this Agreement, CITY will immediately notify CONSULTANT of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** CONSULTANT represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by CONSULTANT in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of the CONSULTANT'S profession. By delivery of completed work, CONSULTANT certifies that the work conforms to the requirements of this Agreement and all applicable federal, state, and local laws. CONSULTANT shall perform all work and services under this Agreement in conformance with the time schedule set forth on Exhibit C, "Schedule of Performance," attached hereto and incorporated herein by this reference. CITY'S City Manager is authorized on behalf of CITY to modify the timeframes set forth on the Schedule of Performance within the term of this Agreement. If CONSULTANT desires to leave or store any of CONSULTANT'S equipment at a CITY site while CONSULTANT is performing work or service pursuant to this Agreement, CONSULTANT will first obtain the consent of CITY'S City Manager, or his/her delegate, to do so, and any such storage shall occur only in the manner and location allowed by such CITY official and entirely at CONSULTANT'S sole risk.

7. **Insurance Requirements.** CONSULTANT shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of CONSULTANT, including its subcontractors, employees, and agents, relating to, or arising from, the performance of any work or service under this Agreement, and must remain in full force and effect at all times during the period covered by this Agreement. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. CONSULTANT further understands that the CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to CONSULTANT, at any time as deemed necessary to protect the interests of the CITY.

7.1. **Insurance Types and Amounts.**

7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S

combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

- 7.1.2. Automobile Liability. CONSULTANT shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if CONSULTANT does not own automobiles, then CONSULTANT shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater.
- 7.1.3. Workers’ Compensation Insurance and Employer’s Liability. CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater. If CONSULTANT is self-insured, CONSULTANT shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.
- 7.1.4. Pollution (Environmental) Liability. If the performance of CONSULTANT’S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, CONSULTANT shall procure and maintain Pollution Liability covering the CONSULTANT’S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater.
- 7.1.5. Professional Liability.
 - 7.1.5.1. If the performance of CONSULTANT’S work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), CONSULTANT shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater. Further, if CONSULTANT maintains a claims-made policy, CONSULTANT shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

7.1.5.2. If the performance of CONSULTANT'S work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers, hardware engineers, or other systems consultants), CONSULTANT shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of CONSULTANT'S work or service under this Agreement involves contact with minors, CONSULTANT shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.2. **Endorsements**. CONSULTANT shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

7.2.1. General Liability and pollution liability (when pollution liability applies).

7.2.1.1. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations.

7.2.1.2. "Waiver of Rights of Subrogation" - The insurer waives the right of subrogation against the City of Morgan Hill and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and

7.2.1.3. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.

7.2.2. Workers Compensation.

If the performance of CONSULTANT'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, CONSULTANT'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

7.3. **Qualification of Insurers**. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.

- 7.4. **Certificates.** CONSULTANT shall furnish CITY of Morgan Hill with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the CONSULTANT'S agreement with the CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this section 7. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

8. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon 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.
- 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 including, without limitation, complying with California Government Code section 1090 *et seq.*, the California Political Reform Act (California Government Code section 87100 *et seq.*) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 *et seq.*). CONSULTANT will further comply, and will ensure that its agents and its 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).

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:

HydroScience Engineers, Inc.
Bill Slenter, Principal
741 Allston Way
Berkeley, CA 94710

Address of CITY is as follows:

David Gittleson, PE	with a copy to:
Development Services Center	City Clerk
City of Morgan Hill	City of Morgan Hill
17575 Peak Avenue	17575 Peak Avenue
Morgan Hill, CA 95037	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. **Notice of Security and/or Privacy Incident.** If CONSULTANT, or its subconsultant, suspect, discover or are notified of a data security incident or potential breach of security and/or privacy relating to CITY PII, PHI and/or PCI, CONSULTANT shall immediately, but in no event later than forty-eight (48) hours from suspicion, discovery or notification of the incident or potential breach, notify CITY of such incident or potential breach. CONSULTANT shall, upon CITY's request, investigate such incident or potential breach, inform the CITY of the results of any such investigation, and assist the CITY in maintaining the confidentiality of such information. In addition to the foregoing, CONSULTANT shall provide CITY with any assistance necessary to comply with any state and/or federal laws requiring the provision of notice of any privacy incident or security breach with respect to any CITY PII, PHI and/or PCI to the affected or impacted individuals and/or organizations, in addition to any notification to applicable state and federal agencies. CONSULTANT agrees that it shall reimburse CITY for all expenses, costs, attorneys' fees, and resulting fines, penalties, and damages associated with such incident, breach, investigation and/or notification.

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 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.

28. ☐ **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.

29. **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.

30. **Counterpart Signatures.** This Agreement may be signed in multiple counterparts, which shall, when executed by all the parties, constitute a single binding agreement.

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[Signatures on Next Page]

31. **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:
Donald A. Larkin

HydroScience Engineers, Inc.

City Attorney

By: _____
William J. Slenter
Vice President

Print Name

Print Name and Title of Signer.
If Corporate: Chairman, President or Vice
President

Date: _____

Date: **01/30/2025**

By: _____

HILDEGARD M. HARRIS, CFO
Print Name and Title of Signer.
If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: **1-30-25**

Scope of Work

Project Understanding

The Glen Ayre Hillside Water Reservoir Project will replace an aging potable water storage tank in the Glen Ayre pressure zone with a new 250,000-gallon welded steel reservoir. The replacement will renew the asset and increase the storage volume to address a Master Plan recommendation per the City of Morgan Hill Water System Master Plan, Akel Engineering Group, 2021. The scope of work shall include a geotechnical study, topographic survey, CEQA documentation, design, bid support, and engineering services during construction (ESDC) services.

Plan sheets included in the RFP include a parcel map and lot line adjustment, as-built sheet for the roadway, and a tank foundation plan sheet showing the tank facility. A 90-foot wide by 80-foot long utility easement is shown, with a 20-foot wide driveway easement. The property abuts a residential property and the County line. The exact dimensions of the utility easement vary between the sheets provided, and do not fully line up with an approximate overlay on a Google Earth aerial image. The existing fence line appears to extend past the northern boundary, and the access road is shifted north. The residential property abutting to the south has a strip of landscaped sloped land that appears to extend into

the easement. Note that our overlays are approximate and will be confirmed via a conceptual boundary survey during the early stages of design. A record boundary survey may also be needed and is listed as an optional scope item in the enclosed fee.

The new larger tank with setbacks and access/parking will consume a larger site footprint. An expansion of the utility easement may be required. The City desires some basic screening landscaping around the tank perimeter. Visual impacts to the nearby homes, particularly the one abutting the south easement boundary, are a concern and any increase in visual impacts shall be minimized. The adjacent property to the north and east is a residential property with a significant amount of open space and a barn or secondary unit is accessed by a newly paved driveway extending from the tank facility driveway.

The existing tank is 35-foot diameter and estimated to have approximately 14-foot sidewater depth plus freeboard. It is plumbed to the distribution system with an altitude valve. The tank is filled from pressure generated by the Glen Ayre Booster Pump Station. The City has indicated that the tank volume is fully cycled each day, so mixing and water age are not major concerns. SCADA telemetry via radio is desired for altitude position and tank level. The City believes an existing antenna is installed on the tank. A meter pedestal is visible alongside the access driveway and is assumed to be sufficient to power replacement the instrumentation and radio.

The distribution system requires continuous availability of storage at this tank site. Given the small site footprint, temporary tanks will be required and a temporary construction easement (TCE) will be needed to place those tanks and plumb them into the distribution system. Any permanent piping upgrades are expected to be confined to the limits of the utility easement.

Enlargement of the tank and reconfiguration of the site will require CEQA clearance. Our scope shall include environmental services to address this need. Removal of one large tree near the tank will likely be needed.



The existing 100,000 gallon welded steel tank is within a compact fenced footprint. Private residential property abuts the site to the north and south. A newly paved access road extends from the City's driveway to a residential garage to the north. This project must manage visual impacts and consider a potential need to enlarge the utility easement.

Approach

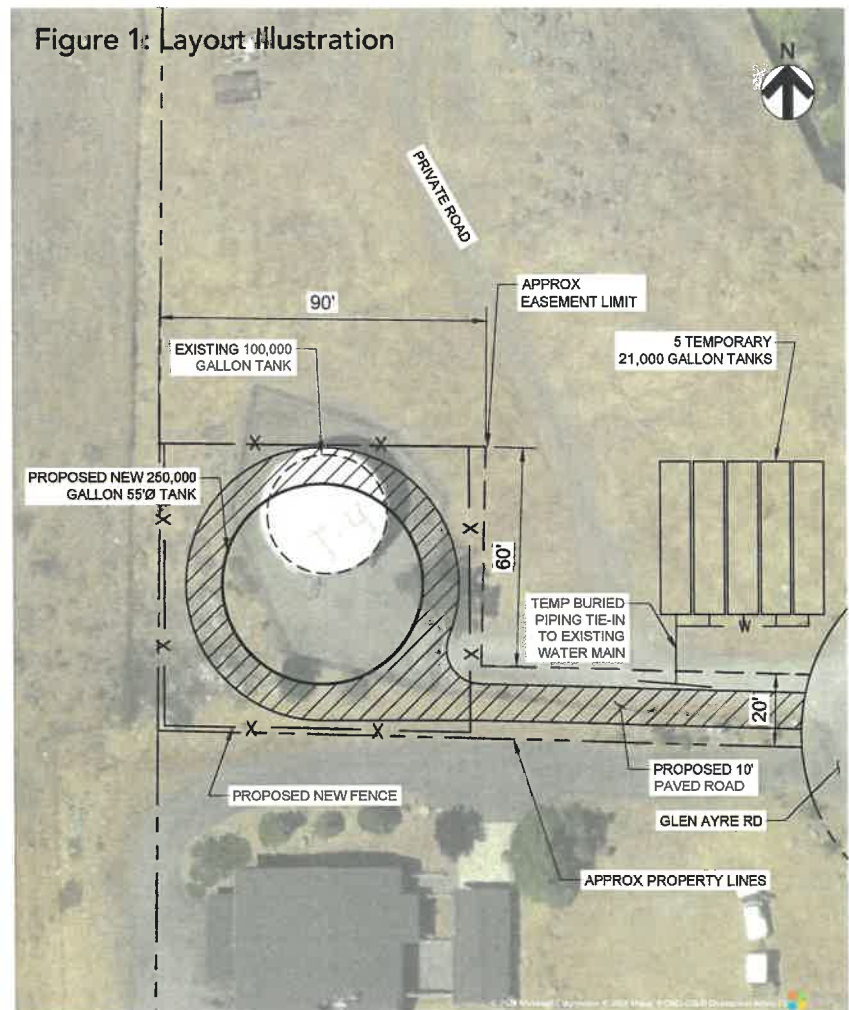
Our project approach emphasizes a collaborative design process with the City, led by our most experienced water system design staff, to effectively address the key project challenges. These are expected to include layout challenges, visual impact mitigation, construction sequencing and temporary tank staging, coordination of construction sequencing with City Operations and Maintenance (O&M), and neighbor impact avoidance. The following discussion describes how our team plans to address these key issues so that the City's project needs and objectives are reliably achieved.

Design Approach

Our project team developed a conceptual design figure to illustrate our approach to addressing the key design challenges (see Figure 1). The figure does not seek to present a resolution to all the layout issues but illustrates some key challenges that our approach addresses, as discussed below. We will review this plan with the City and adjust it with the City's input. To follow is a discussion of key issues and proposed solutions.

Figure 1 shows a 55-foot diameter, 14-foot sidewater depth tank installed within the likely current utility easement footprint with a 10-foot wide access road/setback. The actual easement boundaries will be researched during the survey, and resolved if the optional survey line item is selected for implementation. Landscape approach will be determined early in design, and the layout updated to accommodate that. The layout shown is expected to be shifted north to avoid the sloped landscaped area adjacent to the residence to the south. Land north of the tank will require a cut slope to create a flat tank pad. Smaller tank diameters are available but require additional tank height. These features are not currently shown but will be evaluated in coordination with the City and our subconsultants.

Visual Impacts: We will configure the tank to minimize visual impacts while providing the storage required to meet the City's needs. A new tank of similar sidewater depth to the existing (14-foot) would be 55-foot in diameter, or approximately 60% larger in footprint than the existing tank (see figure). As shown in the figure, this may require an enlargement of the utility easement.



Survey will confirm actual easement boundaries. Smaller diameter taller tank option also to be evaluated. Cut slope will be required to the north, not currently shown. Cut slope, landscaping, and actual driveway location may require easement enlargement.

Various height to diameter ratios will be evaluated in consideration of visual impacts, hydraulic requirements for tank filling, and site footprint. Another option that could be considered is a 2:1 diameter to height ratio, or 44-foot diameter and 22-foot sidewater depth. However, this would increase the visual impact of the tank.

Temporary storage: The figure illustrates installation of five temporary 21,000-gallon tanks on adjacent property alongside the driveway and plumbed into the incoming water line to provide 100,000 gallons of storage. HydroScience will work with the City to determine if wintertime construction during low water demands is feasible and if this storage amount can be downsized based on winter demand patterns. Downsizing would reduce construction costs and land impacts.

Access: During preliminary design, in consideration of the factors described above and the easement information from the survey, we will develop a proposed upgraded facility layout that provides driveway access to the tank facility, parking for a City vehicle, and O&M access around the tank. The default is to keep the driveway in its current alignment and repair/resurface the road as part of the upgrade project. Access to the residential parcel from this driveway is expected to remain.

Operation: To meet DDW Waterworks standards, the tank will be designed with separate inlet and outlet piping, with an outlet shut-off valve. The piping will be configured to provide adequate mixing and prevent stagnation. Inlet piping will be designed to prevent splashing and potential loss of chlorine residual. The tank's drain and overflow piping will be located to tie into the existing storm drain system. The design will also include provisions for dechlorination of the water from the tank's drain and overflow piping while still meeting DDW's Waterworks standards.

Landscaping: We have included scope to develop screening landscaping as part of our design, assuming that this will consist of trees or shrubs around the site perimeter inside of the fence line, and an irrigation system powered by the existing utility service and supplied by the potable water system. The figure layout leaves very little room for landscaping. This will be reconciled once the survey is completed, easement boundaries better understood, a tank diameter selected, and a final landscaping approach and the width required for its installation is determined.

Design Schedule

A preliminary project schedule is shown on the next page. It assumes a notice to proceed on January 6, although we are ready to begin sooner if needed. The schedule for bidding is driven by the CEQA schedule. That activity is initiated by development of a project description which will begin as soon as the site layout strategy is fully understood and a preliminary site plan and tank elevation can be developed. The schedule shows advertising the project by September 2025 and construction completion by May 2026. HydroScience will refine this schedule in coordination with the City prior to beginning the project. Two weeks are provided for City review of each deliverable.

Scope of Work

The scope of design addressed below includes: welded 250,000 gallon steel tank on ring foundation, altitude valve assembly in a vault, tank discharge, tank overflow to storm sewer, grading design, access driveway improvements, site and tank drainage, screening landscape with irrigation system, tank and yard piping, connection to the water main on Glen Ayre Drive, replacement tank and valve monitoring instrumentation powered by the existing site electrical service, lighting and security, and a link to SCADA via an upgraded radio and antenna. The following provides a summary of our proposed Scope of Services. This will be further detailed for attachment to an engineering services agreement:

Task 1 – Project Management and Coordination.

Includes overall management and tracking of the project; coordination with the City, team members, and subconsultants; invoicing and monthly reporting.

Meetings: Onsite kickoff meeting and site visit, bi-weekly Teams status calls (10), Teams design review meetings at each design milestone (3), attend in-person public meetings (2), attend one in-person meeting with the Building Department. Prepare agendas and handouts for all meetings except regular status calls. Prepare Power Point slides conveying technical aspects of the project for two public meetings.

- **Deliverables:** Monthly work summaries, invoices, schedule updates, meeting agendas and handouts, Power Point slides

Task 2 – Investigation

Review Available Data

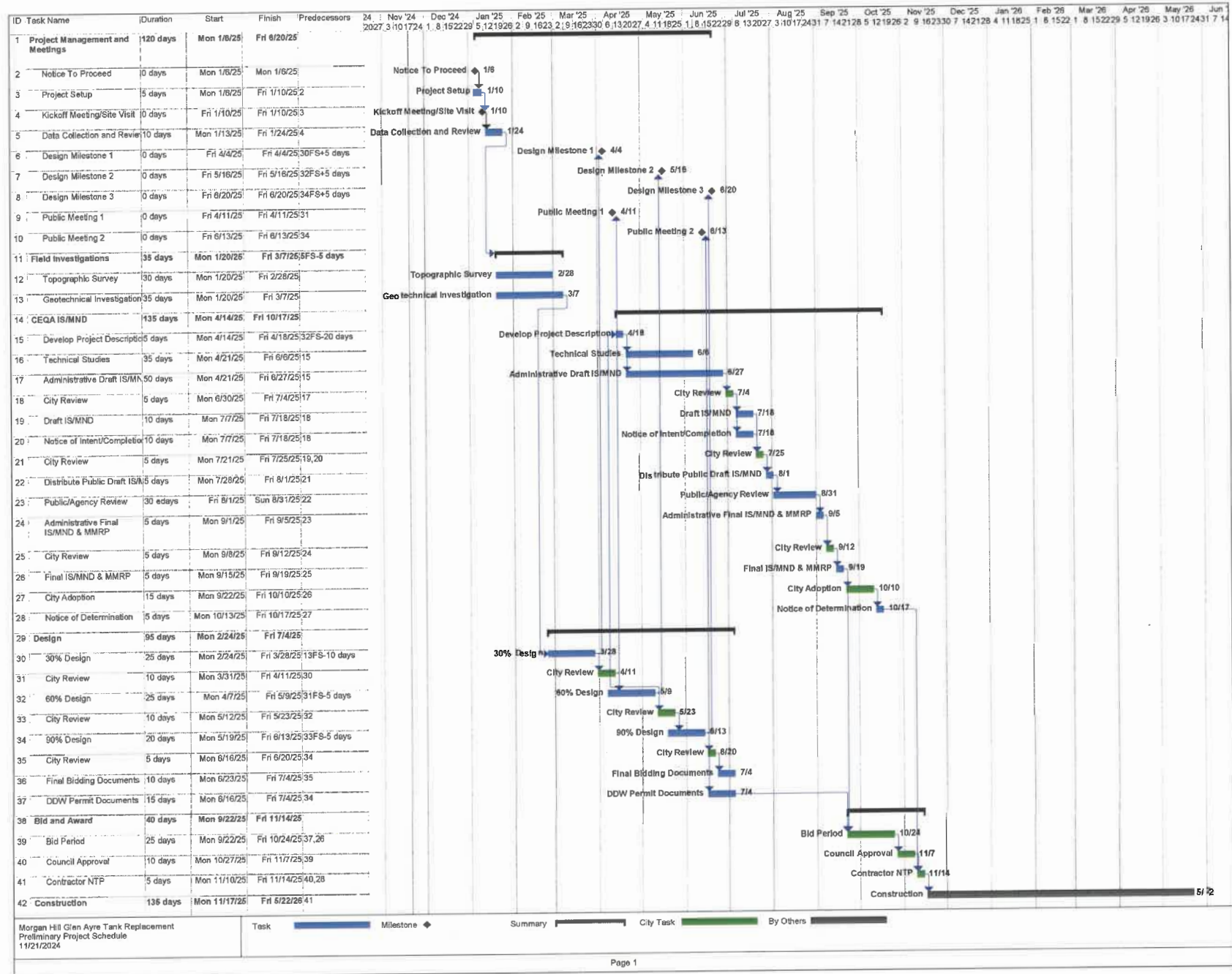
HydroScience shall develop an information needs list and collection of information and background data from the City, who shall provide available studies, as-built drawings, water system parameters, and other requested data that is available and pertinent to the project.

Topographic Survey and Mapping

Includes research of available public records to plot property lines, lot lines and public utility easements; survey of all fences, trees, and conform data at the connection of the pipeline to the main in Glen Ayre Drive; preparation of an aerial topographic survey and development of a topographic map in AutoCAD with visible surface features, record right-of-way, one-foot contours, and spot elevations at a scale of 1"=40'. Survey coverage area shall not exceed 260 ft by 140 ft.

- **Deliverables:** Exhibits in AutoCAD

Proposed Project Schedule



Geotechnical Investigation and Report

Includes review of available geologic and geotechnical reports and maps pertinent to the site; site reconnaissance; traffic control plan; subsurface exploration by drilling 2 borings in and around the tank area at depths of 30 feet below ground surface (or to refusal, whichever is less) followed by rock coring in each boring; backfill in accordance with Valley Water guidelines and distribution of cuttings on site; laboratory testing program; geotechnical engineering analysis; and development of geotechnical investigation report that addresses: grading, access road, and tank foundation. Provide review of design plans related to tank foundation.

- **Deliverables:** Geotechnical Investigation Report

Task 3 – Design Development

Develop Plans, Specifications, and Estimate

Includes design development and preparation of contract documents of the tank upgrade for public bidding. Contract documents will include general, civil, mechanical, structural, landscaping, electrical, instrumentation and controls drawings; technical specifications; and City standard front-end documents adapted to the project. Design documents will be submitted to the City for review and comment at 30%, 60%, and 90% completion levels, and will be finalized at 100% for bidding. An engineer's estimate of probable construction cost will be prepared at the 30% design completion level and will be updated and submitted with each subsequent design deliverable.

- **Deliverables:** Half size drawings, specifications (TOC only at 30%), and estimate in PDF format.

Permit Assistance

Includes coordination with local and state regulating agencies to obtain required permits and to amend the City's current water system operating permit to include the replacement Glen Ayre tank.

- **Deliverables:** Permit applications with supporting documents, two hard copies and PDF. All fees to be paid by City.

CEQA Assistance

Includes development of constraint memo, technical studies, and Initial Study / Mitigated Negative Declaration (IS/MND).

Constraint Memo: Prepare an "Environmental Constraints and Recommendations" memorandum to identify potential issues and constraints in the study area and recommend a preferred alternative.

Technical Studies: Conduct a biological resources surveys and prepare a findings memorandum. Conduct required technical studies including air quality, cultural resources literature review, energy consumption assessment, noise impact assessment, and visual assessment. Does not include testing or data recovery of any identified archaeological sites.

IS/MND: Prepare an Administrative Draft IS and submit to the team in electronic format. Receive and incorporate comments and prepare the IS/MND for public circulation. Prepare a Mitigation Monitoring and Reporting Program (MMRP) as an appendix to the IS/MND. Prepare an NOI to adopt an MND using the City's preferred format. City to coordinate and pay for publishing the NOI.

Response to Comments: Prepare written responses to up to ten individual substantive comments received during the public review period.

- **Deliverables:** Biological resources surveys findings memorandum (PDF); Santa Clara Valley Habitat Plan Reporting Form for Public Projects (1 copy and PDF); Administrative Draft IS (PDF); Draft IS/MND (PDF); Public and Agency Notices (PDF); Response to Comments (PDF)

Task 4 – Bid Support

Includes support of the City during the bidding process. City will advertise the project and field bidder inquiries. HydroScience will prepare responses to bidder inquiries and submit to the City for distribution. HydroScience will prepare up to three addenda if required to address clarifications to the contract documents. HydroScience will attend the pre-bid meeting. HydroScience will assist the City with bid review. HydroScience will prepare "issued for construction" documents.

Meetings: Attend pre-bid meeting (in-person).

- **Deliverables:** Technical addenda (up to 3), technical responses to bidder RFIs, conformed documents (PDF).

Task 5 – Engineering Services During Construction

Includes engineering services in support of the City and the City's construction manager during the construction phase. HydroScience will review and respond to up to 8 submittals, 6 RFI's, and 2 change order requests. HydroScience will attend up to 6 Teams calls and 2 site visits. HydroScience will participate in startup and commissioning and will prepare record drawings based on markups provided by the contractor.

Optional Services

Our fee includes the following optional services which can be added to the agreement upon request:

Resolved Boundary Survey: Resolve the location of property boundaries, road rights-of-way, and easements as defined by an analysis of available record maps, title report(s), supporting documents, and physical evidence. Reset missing or damaged easement corner monuments as needed. Prepare and submit a Record of Survey map to Santa Clara County. The Record of Survey Map will comply with Section 8762 of the Professional Land Surveyors' Act.

Land Description Package(s): Prepare up to one (1) land description package, including: a written description, a plat (exhibit), and closure report (if applicable) per package. Each land description package will support one acquisition type from a single owner across all contiguously owned legal parcels.

Easement Staking: Provide one (1) mobilization to stake out the horizontal location of the temporary construction easement at all corners/angle points and at regular intervals as needed to provide an intervisible series of markers.

AB 52 Tribal Coordination Support: At the discretion of the lead agency, assist City in consulting with California Native American tribes under Assembly Bill 52 (AB 52). Assistance is limited to the time and materials budget allocated, and may consist of drafting consultation letters, coordinating tribal meetings, maintaining the AB 52 administrative record, providing technical support to the agency in determining whether or not Tribal Cultural Resources will be significantly impacted by the project, and/or reviewing the Tribal Cultural Resources sections for CEQA documents.

Cultural Resources Survey and Full Inventory Report: Expand the memo report to a complete inventory report. ECORP will complete an intensive field survey of the entire Project Area. ECORP will survey all accessible portions of the Project Area using pedestrian transect intervals spaced 10 to 15 meters apart, where possible. The Project Area will be examined for evidence of

cultural resources, including pre-contact and historic-period (i.e., over 50 years of age) cultural deposits and features. If any resources are identified in the Project Area, they must be recorded and mapped in accordance with the standards of the California Office of Historic Preservation (OHP); however, for costing purposes, ECORP assumes that no cultural resources will need to be recorded. A separate scope and cost will be prepared for any recording of resources and evaluation of eligibility to be included in the California Register of Historical Resources (CRHR) or the National Register of Historic Places (NRHP) based on the level of effort required. The report will include all information included in the memo as well as the results of the pedestrian survey and background information. Task shall be authorized prior to beginning base scope cultural resources work.

Visual Impact Assessment Memorandum: ECORP will complete a Visual Impact Assessment Memorandum. ECORP will first conduct a site visit to collect photos from public observer locations (of the project site). The Visual Impact Assessment Memorandum will be created and will include photographs taken from public areas of the project site, analyzing viewers response for each location. This scope will also include one or two simple visual simulations created by our in-house team (not by a landscape architect firm). This cost estimate assumes one round of edits with the project team and one round with The City, views of the site are limited to the few surrounding neighbors and the tank will be replaced with a larger (like in kind) tank, meaning the visual character of the site will not be changed, no elevated 3-D rendering visual simulations included.

Assumptions and Exclusions

- City will provide access permission to the site for geo-technical investigation and topographical survey.
- Welded steel tank on a grade ring foundation
- Grade ring foundation designed by the tank supplier as a deferred submittal
- An altitude valve will be used to control tank filling
- No retaining wall. Retaining wall design if needed can be quoted as an additional service.
- New electrical power utility service not required.
- Radio survey for SCADA connectivity not required.
- City will lead coordination with adjacent landowners and stakeholders. HydroScience to provide technical support.
- City will provide construction management and inspection services.

EXHIBIT B SCHEDULE OF COMPENSATION RATES

HYDROSCIENCE ENGINEERS, INC.

2025 Standard Schedule of Billing Rates
Rates are subject to increase 3% annually

LABOR CLASSIFICATION	HOURLY RATE
Principal	\$315
Engineer IX	\$305
Engineer VIII	\$295
Engineer VII	\$279
Engineer VI	\$266
Engineer V	\$255
Engineer IV	\$244
Engineer III	\$227
Engineer II	\$215
Engineer I	\$197
Engineering Aide	\$110
Construction Professional VI	\$210
Construction Professional V	\$200
Construction Professional IV	\$190
Construction Professional III	\$180
Construction Professional II	\$160
Construction Professional I	\$150
Cross Connection Control Specialist	\$135
CAD Manager	\$168
CAD Designer I	\$147
Marketing Professional	\$125
Administrative II	\$115
Administrative	\$100

Hourly billing rates include postage and telephone charges that are normal to the work authorized. Other direct costs for travel, reproduction, mail service, outside services, etc. will be invoiced at 110 percent of the actual cost. Rates for expert witness services shall be billed at the quoted rates plus \$50/hour.

EXHIBIT C
SCHEDULE OF PERFORMANCE

HydroScience Engineers shall complete the design/bid package by January 1, 2026 assuming no major changes are added to the scope of work.



DESCRIPTION

	HydroScience	Water Works	Sandis
FIRM QUALIFICATIONS			
Reviewer 1	8	10	9
Reviewer 2	9	7	9
Reviewer 3	10	8	7
Reviewer 4	9	9	9
UNDERSTANDING			
Reviewer 1	9	8	10
Reviewer 2	7.5	9	6
Reviewer 3	10	8	6
Reviewer 4	8	9	7
OTHER FACTORS			
Reviewer 1	9	9	9
Reviewer 2	7	7	6
Reviewer 3	10	7	7
Reviewer 4	8	9	7
Totals	104.5	100	92

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Charlie Ha, Supervising Civil Engineer

APPROVED BY: City Manager

APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE DAKOTA DUNNE RESIDENTIAL SUBDIVISION (APN 726-09-104, -105, AND -106)

RECOMMENDATION(S)

1. Approve the First Amendment to the Subdivision Improvements Agreement for the Dakota Dunne Residential Subdivision;
2. Authorize the City Manager to execute the First Amendment to the Project's Subdivision Improvements Agreement with Michael F. Dunne, Jr. and Jonna M. Dunne; and
3. Authorize the recordation of the First Amendment to the Subdivision Improvements Agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment and Preserving Open Space and Agricultural Land

2024-2025 Strategic Priorities

Economic Development and Tourism

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The Dakota Dunne Project is a four-lot subdivision with three new single-family detached units and one existing single-family residence that will remain. It is located on the north side of Dakota Drive between Lotus Way and Corsica Way (see the attached Site Map, Attachment 1).

The City Council approved the project's Subdivision Improvements Agreement and Parcel Map on April 6, 2022; both were recorded on April 14, 2022. The public improvements required along the project frontages of Dakota Drive and Juliann Way include sanitary, storm, water, public utilities, and other associated street improvements.

The project's Subdivision Improvements Agreement has now expired. On January 15,

2025, the developers, Michael and Jonna Dunne, requested an extension of the Subdivision Improvements Agreement. The developers have made good-faith efforts to complete the public improvements. However, construction has been delayed due to the winter weather limiting the placement of the final lift of asphalt pavement along the public street frontages. The project is also applying for a future split of one of the new lots (Parcel 3) located south of Juliann Way. The extension of the term of the Subdivision Improvements Agreement will allow for the installation of utility laterals for future additional units.

Staff recommends extending the Subdivision Improvements Agreement and completing the public improvements by an additional six months from the date of the developers' request, with a new expiration date of July 15, 2025. Staff also recommends that the City Council authorize the City Manager to sign and record the First Amendment to the Subdivision Improvements Agreement (Attachment 2) on behalf of the City.

COMMUNITY ENGAGEMENT:

Inform

This report serves to inform the community of the recommended amendment to the Subdivision Improvements Agreement for the Dakota Dunne Subdivision.

ALTERNATIVE ACTIONS:

The City Council could decide not to approve the Amendment to the Subdivision Improvements Agreement. In that case, the developers would be required to enter into a new Subdivision Improvements Agreement with the City to complete the remaining public improvements required of the project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On April 6, 2022, the City Council approved the Subdivision Improvements Agreement and Parcel Map for the Dakota Dunne Subdivision.

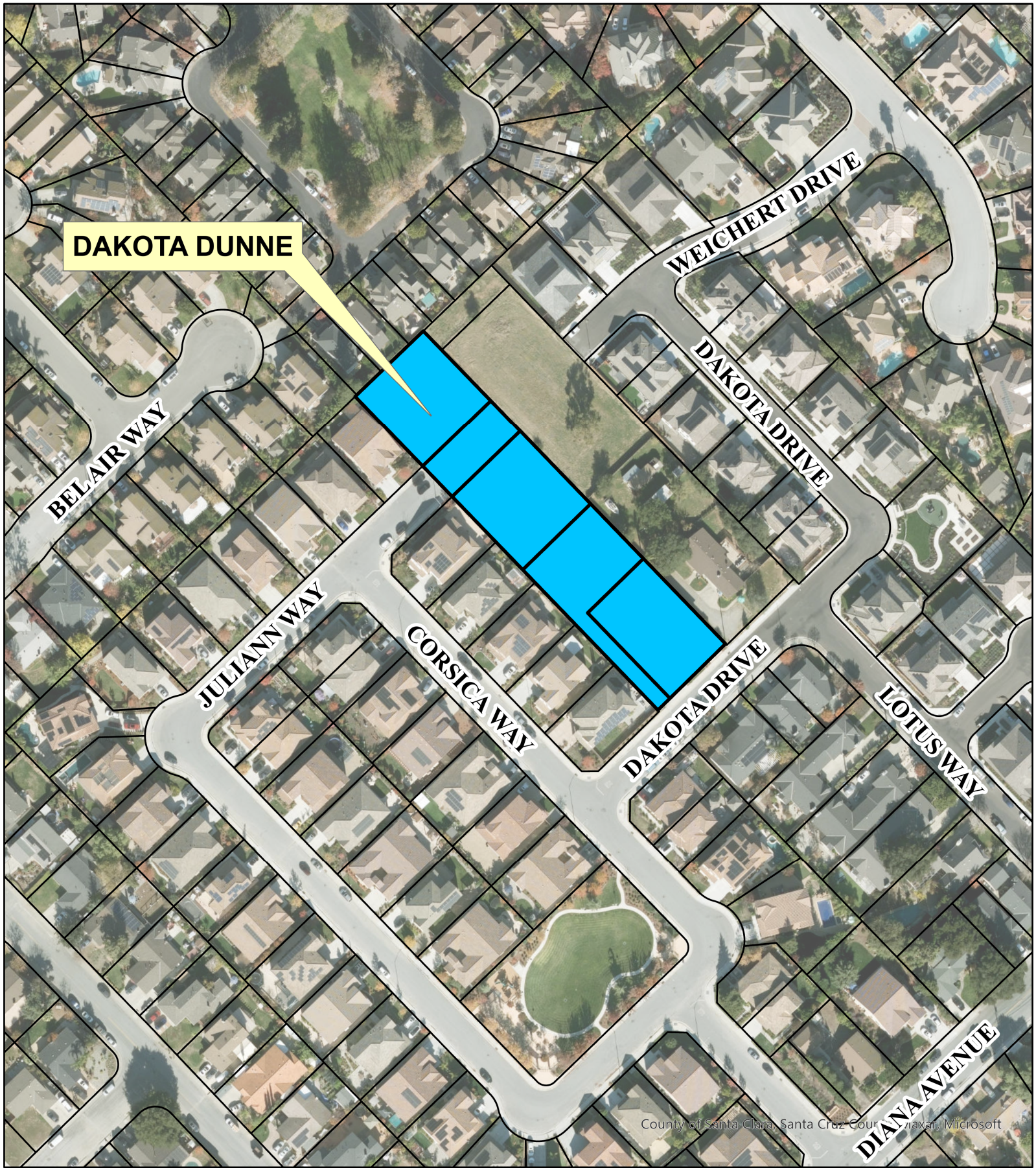
FISCAL AND RESOURCE IMPACT:

Development review costs for this project are paid for from development processing fees.

CEQA (California Environmental Quality Act):

Categorical Exemption

The project is exempt from CEQA pursuant to Section 15332, infill developments.



County of Santa Clara, Santa Cruz County, Google Maps, Microsoft



**Public Services Department
Land Development Engineering**

**SITE MAP
DAKOTA DUNNE**



0 50 100 200 300 400



RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

CITY OF MORGAN HILL
City Clerk's Office
17575 PEAK AVENUE
MORGAN HILL, CA 95037

(RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383)

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

**FIRST AMENDMENT TO SUBDIVISION IMPROVEMENTS AGREEMENT
MICHAEL F. DUNNE, JR. AND JONNA M. DUNNE – DAKOTA DUNNE
APN 726-09-104, 105, AND 106**

THIS FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT ("AMENDMENT") is dated as of this _____ day of _____, 2025, is entered into by and between the CITY OF MORGAN HILL, a California municipal corporation ("CITY"), and MICHAEL F. DUNNE, JR. AND JONNA M. DUNNE as trustees of the MICHAEL F. DUNNE, JR. AND JONNA M. DUNNE LIVING TRUST U/A 6/6/2012 ("SUBDIVIDER"). SUBDIVIDER and CITY are collectively referred to as the "Parties".

RECITALS

The following recitals are a substantive portion of this FIRST AMENDMENT:

1. This AMENDMENT is entered into pursuant to the action of the City Council on _____, 2025.
2. The CITY and SUBDIVIDER entered into that Subdivision Improvements Agreement (ORIGINAL AGREEMENT) on April 11, 2022 to develop the property located on the north side of Dakota Drive between Lotus Way and Corsica Way in Morgan Hill, California, as a residential development project designated as Dakota Dunne ("Project"). The ORIGINAL AGREEMENT was recorded on April 14, 2022 with the Santa Clara County Recorder as document number 25282838 (see EXHIBIT A).
3. On April 14, 2022, the final map for Dakota Dunne was recorded with the Santa Clara County Recorder in Book 946 of Maps, pages 44 through 46.
4. Pursuant to the ORIGINAL AGREEMENT, the SUBDIVIDER is required to perform and complete all public improvements within eighteen (18) months from the date of the recording of the Final Map.
5. Pursuant to Section 6 of the ORIGINAL AGREEMENT, the City Manager may extend the deadline for completion by not more than six (6) months at her reasonable discretion and

determination that granting the extension will not be detrimental to the public welfare; however, the Subdivision Improvements Agreement is now expired.

6. The SUBDIVIDER has made good faith efforts to complete the improvements but has suffered several delays outside of its control.
7. On January 15, 2025, the SUBDIVIDER submitted a written request to extend the deadline by an additional six (6) months to complete the public improvements due to the winter weather limiting asphalt pavement placement of the final lift of the public street frontages, which requires warm weather to lay down asphalt pavement, and the project is applying for a future lot split of an existing lot, the additional time will allow for the installation of the utility laterals for the additional parcel's unit.
8. The City Engineer deemed that the extension of the deadline by an additional six (6) months is necessary to allow the SUBDIVIDER to complete the projects public improvements.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. All terms and conditions of the ORIGINAL AGREEMENT shall remain in full force and effect, except that the following amendments shall be made as set forth below.
 - a. Pursuant to Section 6 of the SUBDIVISION IMPROVEMENTS AGREEMENT, the time for performance is extended to July 15, 2025.
 - b. Section 14 of the ORIGINAL AGREEMENT is amended to provide the address of the Subdivider as follow:
 - i. Michael and Jonna Dunne
2068 Lincoln Avenue
San Jose, CA 95125

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IN WITNESS THEREOF, the parties have executed this FIRST AMENDMENT on the day and year shown below.

ATTEST:

CITY OF MORGAN HILL

By:

By:

Michelle Bigelow, City Clerk

Christina J. Turner, City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

"Subdivider"

By:

**MICHAEL F. DUNNE, JR. AND
JONNA M. DUNNE LIVING TRUST
U/A 6/6/2012**

Donald A. Larkin, City Attorney

Date: _____

By:

Michael F. Dunne, Jr., Trustee

Date: _____

By:

Jonna Dunne, Trustee

Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT A

SUBDIVISION IMPROVEMENTS AGREEMENT

25282838

RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

CITY OF MORGAN HILL
City Clerk's Office
17575 PEAK AVENUE
MORGAN HILL, CA 95037

Regina Alcomendras
Santa Clara County - Clerk-Recorder

04/14/2022 11:22 AM

Titles: 1 Pages: 33

Fees: \$0.00
Taxes: \$0
Total: \$0.00



(RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383)

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBDIVISION IMPROVEMENTS AGREEMENT

MICHAEL F. DUNNE, JR. AND JONNA DUNNE

DAKOTA DUNNE – APN 726-09-024

This Subdivision Improvements Agreement ("Agreement") between the City of Morgan Hill, a municipal corporation ("City"), and MICHAEL F. DUNNE, JR. AND JONNA DUNNE, a individual ("Subdivider"), is entered into this 11 day of April, 2022. City and Subdivider hereby acknowledge the following:

1. Subdivider has filed a Tentative Subdivision Map and supporting documents for APN 726-09-024, the subdivision known as DAKOTA DUNNE ("Map").
2. City desires, as part of the conditions of approval ("Conditions") of the Final Tract Map or Parcel Map ("Final Map"), that certain improvements be installed by Subdivider ("Improvements") as shown on the City Engineer approved and signed Subdivision Improvement Plans entitled "Improvement Plans for DAKOTA DUNNE ("Plans").
3. Subdivider has been unable to complete, prior to filing of the Final Map, all of the improvements required by City to the satisfaction of the City Engineer.
4. Subdivider is required by the terms of the Morgan Hill Municipal Code ("Municipal Code"), to improve all streets, highways, or public areas which are part of the development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer and to post certain securities to secure the completion of the Improvements.
5. To assure City that Subdivider will construct, install and complete all Improvements required for the Subdivision, the parties have entered into this Agreement.

6. This Agreement is executed pursuant to California Government Code Section 66410 et seq., and Chapter 17.32 of the Municipal Code in order to provide for the manner in which Improvements shall be constructed and completed.

NOW, THEREFORE, and in consideration of the approval of the Final Map, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under the Conditions, the Subdivision Map Act, and applicable ordinances of City, the parties hereto, for themselves, their successors, and assigns, hereby agree as follows:

Section 1. Incorporation by Reference

The Development Agreement between Subdivider and City, if applicable, Subdivider's Map application, the Conditions, the Map, all Plans as referenced in Section 2 below and all items submitted to the Planning Department, Planning Commission and City Council, all are incorporated herein by reference. In the event of any inconsistency between their representations in any incorporated documents and this Agreement, this Agreement shall govern.

Section 2. Construction of Improvements

(a) Subdivider shall construct to the approval of City, and as provided for in the Conditions, the Improvements as shown fully executed in the Plans entitled "Improvement Plans for DAKOTA DUNNE".

(b) Subdivider shall acquire and dedicate, or pay the cost of acquisition by City, of all rights-of-way, easements, and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances.

(c) Survey Monumentation:

(1) Subdivider shall place survey monumentation as described on the Map.

(2) Subdivider shall replace or repair all survey monumentation that is destroyed or damaged as a result of Subdivider's activities. Any such repair or replacement shall be to the satisfaction and subject to the approval of City.

Section 3. Modification of Plans

Subdivider agrees that, if during the construction of the Improvements, it is determined by City that revisions to the Plans are necessary in the interest of the public, Subdivider will undertake such design and construction changes required by City. Said changes, if any, shall be confined to the premises owned by Subdivider.

Section 4. Security

(a) Pursuant to California Government Code Section 66499.3(a), and the Municipal Code, Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to at

least one hundred percent (100%) of the estimated construction cost of the Improvements as security guaranteeing the faithful performance of the Improvements and this Agreement ("Performance Bond").

Improvements and the City Engineer's Estimated Costs of Improvements as of **JUNE 2021** are attached hereto as Exhibit "A".

The Performance Bond shall be in a form substantially the same as Exhibit "B".

(b) Pursuant to California Government Code Section 66499.3(b), Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to one hundred percent (100%) of the estimated construction cost of the Improvements (as listed in Section 4(a) above) as security guaranteeing the payment to the contractors, subcontractors and persons furnishing labor, materials, or equipment in connection with this Agreement ("Labor and Materials Bond"). The Labor and Materials Bond shall be in a form substantially the same as Exhibit "C".

(c) Subdivider shall, upon completion of the Improvements, furnish a surety bond in an amount equal to fifty percent (50%) of the construction cost of the Improvements to secure the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof by the City Council ("Warranty Period") against any defective work or labor performed, or defective materials furnished by Subdivider in connection with this Agreement ("Warranty Bond"). The Warranty Bond shall be in a form substantially the same as Exhibit "D".

(d) Pursuant to Government Code Section 66499.9, any liability upon the security given for faithful performance of any act or agreement shall be limited to:

(1) The performance of the work covered by the Agreement or the performance of the required act.

(2) The performance of any changes or alterations in such work; provided that all changes or alterations do not exceed ten percent of the original estimated cost of the Improvements.

(3) The guarantee and warranty of the work for a period of one year following completion and acceptance thereof, against any defective work or labor done or defective materials furnished in the performance of the Agreement or the performance of the act.

(4) Costs and reasonable expenses and fees, including reasonable attorneys' fees.

(e) The surety on each bond and the form thereof shall be satisfactory to City. The surety shall be furnished by a surety company authorized to write the same in the State of California and that is approved and accepted by the City's risk manager.

(f) Subdivider agrees to furnish any bonds required by the State or County for Improvements outside the City's jurisdiction.

(g) The release of any securities shall be governed by the provisions of Government Code Section 66499.7.

Section 5. Inspections

At least fifteen (15) calendar days prior to the commencement of any work hereunder, Subdivider shall notify City in writing of the fixed start date of construction so that City shall be able to provide inspection services. Subdivider shall at all times maintain proper facilities and provide safe access to all parts of the work site(s) for City inspections, including any workshops or plants where work related to the Improvements is being conducted.

Subdivider shall pay and reimburse City for all expenses incurred by City for inspecting and checking all work to be performed under the provisions of the Municipal Code or this Agreement. City Engineering plan checking and field improvement inspection costs are included in the Department of Public Works Fee Schedule which may be revised from time to time.

Section 6. Timing of Performance

Subdivider agrees to perform and complete all Improvements within eighteen (18) months from the date of the recording of the Final Map; provided however, the City Manager may extend the deadline for completion by not more than six (6) months at his or her reasonable discretion and determination that granting the extension will not be detrimental to the public welfare. No extension of this deadline for completion shall be made except upon the basis of a written application made by Subdivider stating fully the ground for the application and the facts relied upon for an extension.

It is further agreed by and between Subdivider and City that any extension granted shall in no way affect the validity of this Agreement or release the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. Subdivider further agrees to maintain the securities described in Section 4 above in full force and effect during the terms of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by City.

Section 7. Work Performance and Warranty

(a) Subdivider shall construct, at Subdivider's own expense, all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto, in accordance with the Plans and to the satisfaction of City, including any changes required by City which in City's opinion are necessary to complete the Improvements.

(b) All work shall be conducted and completed in accordance with the Plans and federal, state, Municipal Code, laws, ordinances, and regulations. For any Improvements partially completed prior to this Agreement, Subdivider agrees to complete the Improvements in accordance with this Agreement.

(c) Neither Subdivider, nor any of Subdivider's agents or contractors in connection with Subdivider's obligations under this Agreement are, or shall be considered to be, employees or agents of City.

(d) The work performance for the Improvements shall not be deemed complete until such time as such Improvements have been accepted for maintenance by the City Council.

(e) Subdivider warrants that: (1) it has investigated the work to be performed under this agreement, (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 Subdivider discover any conditions materially differing from those inherent in the Improvements or work or as represented by City, it shall immediately inform City and shall not proceed, except at Subdivider's risk, until written instructions are received from City.

(f) Subdivider guarantees and warrants the work required by this Agreement and agrees to remedy any defects in the Improvements or work arising from faulty or defective materials or construction occurring within one year after its acceptance. Following notice, Subdivider shall, without delay or cost to City, repair, replace, or construct any defective or unsatisfactory portion of the Improvements. City may, at its sole option, perform the repair or replacement itself if Subdivider or its surety has failed to commence repair within twenty (20) days after City has mailed written notice to Subdivider. In such event, Subdivider or its surety agrees to pay the cost of repair and replacement to City, plus fifteen percent (15%); and City may recover such costs as a lien against the Subdivision. City may proceed immediately to make repairs should an emergency arises.

Section 8. Acquisition and Dedication of Easements or Rights-of-Way

(a) No construction or installation of the Improvements shall be commenced before:

(1) The offer of dedication to City of appropriate rights-of-way, easements, or other interests in real property for the Improvements, which offer of dedication shall be irrevocable and remain open pursuant to California Government Code Section 66477.2, and authorization from the property owner to allow construction or installation of Improvements, or

(2) The dedication to, and acceptance by, City of appropriate rights-of-way, easements, or other interests in real property, as determined by the City Engineer, or

(3) The issuance by a court of competent jurisdiction pursuant to state Eminent Domain Law of an order of possession.

(b) Except as otherwise provided by this Agreement, City rejects all lands, rights-of-way, and easements offered for dedication on the Final Map of the Subdivision. All such offers shall, however, remain open, and shall constitute irrevocable offers of dedication in accordance with Government Code Section 66477.2. All such offers may be accepted by City in its sole discretion at any later date without further notice to Subdivider as provided by law. By way of explanation only, it is the current intention of City to accept all or part of the irrevocable offers to dedicate upon acceptance of the Improvements called for in this Agreement.

(c) Nothing in this Section 8 shall be construed as authorizing or granting an extension of time to Subdivider.

Section 9. Indemnity

Subdivider hereby agrees to save harmless and indemnify, including, without limitation, City's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of any injuries or damages sustained by any person or property resulting or arising, or alleged to have resulted or arisen, from Subdivider or Subdivider's contractors, subcontractors, agents, or employees activities, omissions or operations pursuant to this

Agreement. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Subdivider will defend City, (at City's request and with counsel satisfactory to City) and will indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise.

Subdivider shall defend, indemnify, and hold harmless the City and its elective and appointive boards, officials, officers, agents, employees and volunteers from any claim, action, or proceeding to review, set aside, void, or annul an approval of the City concerning the Map and acts made in respect thereof, provided any such action is brought within the time period provided for in California Government Code Section 66499.37.

City shall promptly notify Subdivider of any claim, action, or proceeding, and cooperate fully in the defense of any claim, action, or proceeding.

It is expressly understood and agreed that this Section 9 will survive termination of this Agreement.

Section 10. Insurance

Concurrent with the execution of this Agreement, Subdivider 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 Subdivider and its Subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by the City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. If the Subdivider will utilize the services of a General Contractor to perform all of the work associated with the Improvements, then Subdivider may opt to have all coverages provided by Subdivider's General Contractor, provided that a written contract is executed between Subdivider and the General Contractor whereby the written contract specifically required General Contractor to fulfill all of the City insurance requirements as outlined in this Agreement, including all endorsements in favor of the City. Verification of the written contract must be provided to City upon request. If Subdivider fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement City shall issue a stop work order, or terminate the Agreement for default. Subdivider further understands that the City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Subdivider, at any time as deemed necessary to protect the interests of the City.

(a) **Policies and Limits.** The following insurance policies and limits are required for this Agreement:

(1) **Commercial General Liability Insurance ("CGL"):** Subdivider shall maintain CGL and shall include coverage for liability arising from Subdivider's or its Subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) combined single limit each occurrence and either a general aggregate limit of ten million dollars (\$10,000,000.00) or a general aggregate limit of five million dollars (\$5,000,000) as applied on a "per project"

or “per location” basis, or (ii) the maximum amount of such insurance available to Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater. Further, if CGL coverage is being provided by Subdivider’s General Contractor pursuant to Section 10, General Contractor may elect to insure the CGL exposures under an “Owners and Contractors Protective Liability Policy (OCP)” on which the City is included as an additional insured.

a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

b. CGL policy must include blanket contractual and completed operations.

c. CGL policy will apply as though separate policies have been issued to each insured (“separation of insureds”).

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

(3) **Automobile Liability:** Subdivider shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Subdivider does not own automobiles, then Subdivider 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 Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(4) **Pollution (Environmental) Liability:** The performance of Subdivider’s work or service under this Agreement involves handling of hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials. Subdivider shall procure and maintain Pollution Liability covering the Subdivider’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 Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(b) **Required Endorsements.** Subdivider shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below. Further, if coverages are being provided by Subdivider's General Contractor pursuant to Section 10, endorsements may not be restricted to work performed "under a written contract" (i.e. "blanket endorsements")

(1) **ALL Policies:**

"Waiver of Subrogation" - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) **ALL Policies except Workers Compensation:**

a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds.

b. "Primary and Non-Contributing" - Insurance shall be primary non-contributing.

(c) **Subcontractors.** Subdivider must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 10 as appropriate based on each subcontractor's scope of work, with respect to its performance of work associated with the Improvements, including those requirements related to the additional insureds and waiver of subrogation.

(d) **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better.

(e) **Certificates.** Subdivider 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, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the Subdivider's agreement with the City shall 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 provided herein.

Certificate Holder address:

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

Section 11. Permits and Requisite Fees

(a) Subdivider shall pay all current fee obligations in the total amount of **\$153,764.00** due under City Resolution No. **5592**, as amended, in accordance with the Department of Public Work fee schedule, as follows:

- (1) **\$ 35,802.00** payable at the time of recording of the Final Map, and
- (2) **\$117,962.00** payable on a pro-rata basis for each individual lot in the Subdivision prior to final inspection of each and every residence.

(3) All fees payable pursuant to this Subsection (a) constitutes valid and due consideration for City's approval of the Final Map, and amounts set forth are estimates that are subject to change prior to the issuance of building permit(s), subject to resolution or ordinance of the City Council.

(b) Subdivider shall, at its expense, obtain all necessary permits and licenses for the construction of the Improvements, give all necessary notices, and pay all fees and taxes required by law.

(c) Subdivider shall obtain a City of Morgan Hill Business License.

(d) Subdivider agrees to procure, at its expense, any necessary permits for Improvements outside the City's jurisdiction.

Section 12. On-Site Supervision

Subdivider shall designate an on-site-supervisor, satisfactory to City, who shall be on the work site(s) at all times during the construction of the Improvements, and who has the authority to act on behalf of Subdivider when communicating with City personnel.

Section 13. Waiver

Waiver by City or Subdivider of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this Agreement. Acceptance by City of any work by Subdivider shall not be a waiver of any of the provisions of this Agreement.

Section 14. Notices. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. 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.

- a. Address of Subdivider is as follows:

Click or tap here to enter text.

b. Address of City is as follows:

With a copy to:

City Engineer
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Section 15. Noncompliance

If City determines that Subdivider is in violation of any federal, state, County or City laws, ordinances, rules, regulations, and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action City deems necessary.

Section 16. Notice of Breach and/or Default

City may serve written notice upon Subdivider and surety of breach of this Agreement or of any portion thereof, and default of Subdivider for any of the following circumstances:

- (a) Subdivider refuses or fails to complete the Improvements as required in Section 6 above.
- (b) Subdivider refuses or fails to perform or cure any defects in the Improvements as required in Section 7.
- (c) Subdivider is insolvent, is subject to a receivership, or files any petition in bankruptcy, either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days.
- (d) The commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance in lieu of or in avoidance of foreclosure.
- (e) Subdivider or any of Subdivider's contractors, subcontractors, agent, or employees materially violates any of the provisions of this Agreement and not cure the violation within a reasonable time.

Section 17. Performance by Surety or City

- (a) In the event of a material breach and/or default by Subdivider, Subdivider's surety shall have the duty to take over and complete the Improvements.
- (b) If the surety, within a reasonable time after receiving notice of Subdivider's default does not provide City written notice to take over the performance of this Agreement or if the surety does not commence performance thereof within the time specified in such notice to City, City may take over the construction of the Improvements and prosecute the same to completion, by contract or by any method City may deem advisable, on behalf and at the expense of Subdivider, and Subdivider's surety shall be liable to City for any excess cost or damages incurred by City thereby. In such event, City, without liability for so doing, may take possession of and utilize such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefore to complete the Improvements.

(c) City shall have the right to draw upon or utilize the appropriate security provided for in Section 4 to recover costs and damages to City damages. The right of City to draw upon or utilize the security is additional and not in lieu of any other remedy available to City at law or in equity. The parties agree that the estimated costs and security amounts may not reflect the actual cost of construction or installation of Improvements, and therefore, City damages for Subdivider's default shall be measured by the cost of completing the required Improvements.

(d) Failure of Subdivider to comply with terms of this Agreement shall constitute consent to filing by City of a notice of violation against all lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedies provided in this Subsection (d) are in addition to and not in lieu of other remedies available to City.

(e) In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligation, including the costs of suit and reasonable attorney's fees.

(f) The failure by City to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or subsequent default or breach.

Section 18. Successors in Interest

This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties. It shall be recorded in the Office of the Recorder of Santa Clara County concurrently with the Final Map of the Subdivision and shall constitute a covenant running with the land and an equitable servitude upon the real property within the Subdivision. It shall be the responsibility of City to cause the executed Agreement to be recorded.

Section 19. Effective Date

This Agreement shall be effective as of the date and year first above written.

Section 20. Amendment of Agreement

This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby.

Section 21. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of Subdivider. The undersigned, on behalf of Subdivider, binds Subdivider, its partners, successors, executors, administrators, and assigns with respect to the terms and conditions of this Agreement.

Section 22. 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.

Section 23. Law to Govern: Venue

The law of the State of California shall govern this Agreement. In the event of litigation between the parties, the action must be filed in the Santa Clara County Superior Court.

Section 24. Limitations Upon Subcontracting and Assignment.

Neither this Agreement or any portion shall be assigned by Subdivider without prior written consent of City.

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Section 25. Miscellaneous

(a) Compliance with Law: Subdivider shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

(b) Non-Discrimination. Subdivider covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, ancestry, or sexual orientation in any activity pursuant to this Agreement.

(c) Conflict of Interest and Reporting. Subdivider shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

(d) Time of Essence. Time is of the essence in the performance of this Agreement.

(e) Interpretation. This Agreement shall be interpreted as though prepared by both parties.

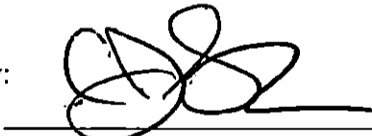
(f) Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

[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.]

CITY OF MORGAN HILL

By:



Christina J. Turner, City Manager

Date: 4/11/2022**ATTEST:**

By:



Michelle Bigelow, City Clerk

Date: 4/12/22**APPROVED AS TO FORM:**

By:

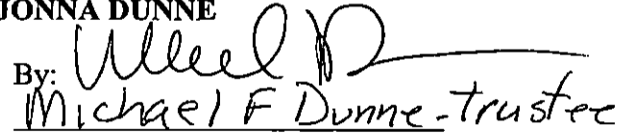


Donald A. Larkin, City Attorney

Date: 4/18/2022**"SUBDIVIDER"**

**MICHAEL F. DUNNE, JR. AND
JONNA DUNNE**

By:

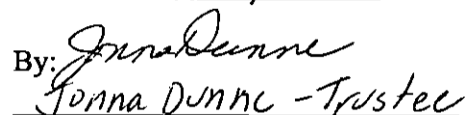


Print Name and Title

(If Corporation, must be Chairperson of the
Board, President, or Vice President)

Date: 2/25/2022

By:



Print Name and Title

(If Corporation, must be Secretary, Assistant
Secretary, CFO, or Assistant Treasurer)

Date: 2/25/2022

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

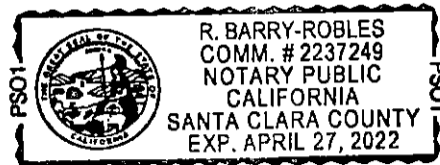
State of **California**
County of **Santa Clara**

On Feb 25 2022 before me, R. Barry Robles a Notary Public in and for said County and State, personally appeared Michael Dunne and Jonna Dunne proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

R. Barry Robles
SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

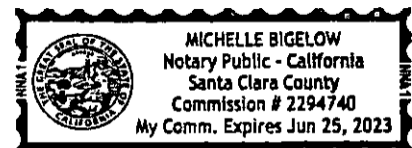
State of **California**
County of **Santa Clara**

On April 12 2022 before me, Michelle Bigelow a Notary Public in and for said County and State, personally appeared Christina Turner proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Michelle Bigelow
SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT "A"

IMPROVEMENTS AND

ESTIMATED COSTS OF IMPROVEMENTS

AS OF JUNE 2021

MH 218072

6/18/2021

Engineers Cost Estimate
For Dunne Dakota

Schedule I - In-Tract Public Improvements

1	Demo (e) dwy. approach and instal new driveway at Dakota Dr.	1	LS	\$	4,500.00	\$	4,500.00
2	Street finish grading	5,100	SF	\$	0.50	\$	2,550.00
3	AC pavement	3,425	SF	\$	6.00	\$	20,550.00
4	Sidewalk Incl. driveway approaches	1,062	SF	\$	6.00	\$	6,372.00
5	City std. curb and gutter	214	LF	\$	30.00	\$	6,420.00
6	City std. storm manhole	1	EA	\$	4,000.00	\$	4,000.00
7	18" RCP storm drain w/trench restoration	81	LF	\$	75.00	\$	6,075.00
8	City std. curb inlets	2	EA	\$	3,500.00	\$	7,000.00
9	12" RCP storm drain	36	LF	\$	50.00	\$	1,800.00
10	8" DIP water	73	LF	\$	50.00	\$	3,650.00
11	City std. fire hydrants	1	EA	\$	4,000.00	\$	4,000.00
12	City std. 1" water services	3	EA	\$	2,000.00	\$	6,000.00
13	8" PVC sanitary sewer	106	LF	\$	50.00	\$	5,300.00
14	City std. sanitary manhole	1	EA	\$	4,000.00	\$	4,000.00
15	City std. sanitary services	3	EA	\$	2,000.00	\$	6,000.00
16	Existing street light relocation	1	EA	\$	1,500.00	\$	1,500.00
17	City std. street light	1	EA	\$	3,000.00	\$	3,000.00
6	8" PVC	372	LF	\$	28.00	\$	10,416.00
7	10" RCP	32	LF	\$	45.00	\$	1,440.00
8	12" PVC	248	LF	\$	42.00	\$	10,416.00
9	12"x12" D.I.	8	EA	\$	1,800.00	\$	14,400.00
10	18"x18" D.I.	3	EA	\$	2,200.00	\$	6,600.00
11	City std. curb inlet	1	EA	\$	3,200.00	\$	3,200.00
12	Contech Barracuda Model S4 stormwater treatment unit	1	LS	\$	8,000.00	\$	8,000.00
13	Underground 48" perforated pipe for stormwater storage	5,151	CF	\$	5.00	\$	25,755.00

10% CONTINGENCY = \$17,294.40 = \$17,294.00

TOTAL COST= \$190,238.00

EXHIBIT "B"
PERFORMANCE BOND
(100% of Engineer's Estimate)

Bond No.: CIC1921275

Premium: \$5,707.00

Whereas, the City Council of the City of Morgan Hill, State of California, and **MICHAEL F. DUNNE, JR. AND JONNA DUNNE** (hereinafter designated as "principal") have entered into a Subdivision Improvements Agreement:

MICHAEL F. DUNNE, JR. AND JONNA DUNNE
DAKOTA DUNNE – APN 726-09-024

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 20_____, and identified as project **DAKOTA DUNNE**, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and _____ Capitol Indemnity Corporation, as surety, are held and firmly bound unto the City of Morgan Hill hereinafter called ("City"), in the penal sum of ONE HUNDRED NINETY THOUSAND TWO HUNDRED THIRTY-EIGHT dollars (\$190,238.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

2121 N. California Blvd, Suite 300

The Surety's office is located at Walnut Creek, CA 94596,

Telephone No. 800-462-8135; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number are as follows:

License No.: 0F15715
NFP PROPERTY & CASUALTY SERVICES, INC.
 Address: 2450 Tapo St., Simi Valley, CA 93063
 Telephone No.: 714-577-4514

The non-resident agent for the Surety, if any, is a party to the transaction:

Name of non-resident _____

Performance Bond Page 1 of 4
 Version July 2017

agent:

Non-resident
address:

agent's

N/A

office

Telephone
No.:

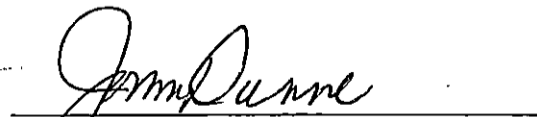
The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Executed this 25th day of February 2022


Principal


Principal

By: Capitol Indemnity Corporation
Surety

Performance Bond Page 2 of 4
Version July 2017

By: CF
 Esteban Flores, Attorney-in Fact



By: N/A

California Resident Agent

By: N/A

Non-resident Agent - Attorney-in-Fact

APPROVED:

SCC
 Scott Creer, City Engineer

Date: 3/7/22

APPROVED AS TO FORM:

By: DL
 Donald A. Larkin, City Attorney

Date: 4/8/2022

(Acknowledgment on following page.)

Performance Bond Page 3 of 4
 Version July 2017

CAPITOL INDEMNITY CORPORATION

POWER OF ATTORNEY

CIC1921275

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

MICHAEL D LAPRE; DEBORAH M MCGUCKIN; KEVIN P SHINE; JAREN MARX; ESTEBAN FLORES; R.M. FRIEDIK
YVONNE WEATHERFORD; PHILLIP SIMONS; COLLEEN E. WATSON; ARTYCE JOHNSON; SORNCHAI CHANSILA
BELINDA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$2,000,000.00 -----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of January, 2020.

Attest:

R. J. Byrnes
 Ryan J. Byrnes
 Senior Vice President,
 Chief Financial Officer and Treasurer
Suzanne M. Broadbent
 Suzanne M. Broadbent
 Assistant Secretary

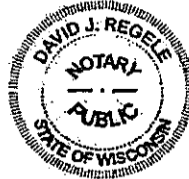


CAPITOL INDEMNITY CORPORATION

John L. Sennott, Jr.
 John L. Sennott, Jr.
 Chief Executive Officer and President

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

On the 1st day of January, 2020 before me personally came John L. Sennott, Jr., to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is Chief Executive Officer and President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



David J. Regele
 David J. Regele
 Notary Public, Dane Co., WI
 My Commission Is Permanent

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 25th day of February, 2022



Andrew B. Diaz-Matos
 Andrew B. Diaz-Matos
 Senior Vice President, General Counsel and Secretary

THIS DOCUMENT HAS BEEN GENERATED FOR A SPECIFIC BOND. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.

CIC-ePOA-M (Rev. 01-2020)

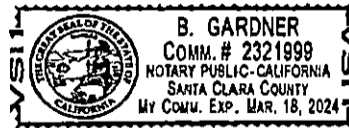
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

On MARCH 4, 2022, before me, B GARDNER a Notary Public in and for said County and State, personally appeared MICHAEL F. DUNNE JR AND JUNIVA DUNNE proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



B Gardner
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

On _____, 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

Performance Bond Page 4 of 4
Version July 2017

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Ventura

On 02/25/2022 before me, R. M. Friedik, Notary Public,
(Here insert name and title of the officer)

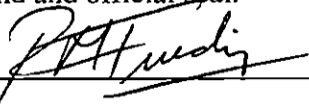
personally appeared Esteban Flores

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

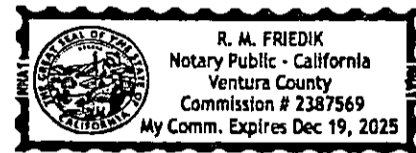
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public



(Notary Seal)

**ADDITIONAL OPTIONAL INFORMATION****DESCRIPTION OF THE ATTACHED DOCUMENT**

Bond No. CIC1921275

(Title or description of attached document)

N/A

(Title or description of attached document continued)

Number of Pages five Document Date 02/25/2022

N/A

(Additional information)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☒ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

EXHIBIT "C"
LABOR AND MATERIAL BOND
(100% of Engineer's Estimate)

Bond No.: C1C1921275

Premium: Included in Performance Bond

Whereas, the City Council of the City of Morgan Hill, State of California, and **MICHAEL F. DUNNE, JR. AND JONNA DUNNE** (hereinafter designated as "the principal") have entered into a Subdivision Improvements Agreement:

MICHAEL F. DUNNE, JR. AND JONNA DUNNE
DAKOTA DUNNE – APN 726-09-024

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 20_____, and identified as project **DAKOTA DUNNE**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto the City of Morgan Hill and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of ONE HUNDRED NINETY THOUSAND TWO HUNDRED THIRTY-EIGHT dollars (\$190,238.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Morgan Hill in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Labor and Material Bond Page 1 of 4
Version 2017

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

2121 N. California Blvd, Suite 300

The Surety's office is located at Walnut Creek, CA 94596,

Telephone No. 800-462-8135; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number as follows:

License No.: 0F15715
NFP PROPERTY & CASUALTY SERVICES, INC.
Address: 2450 Tapo St., Simi Valley, CA 93063
Telephone No.: 714-577-4514

The following non-resident agent, if any, for the Surety is a party to the transaction:

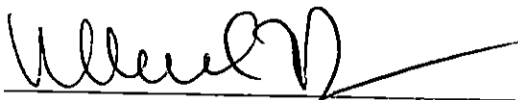
Name of non-resident agent: N/A

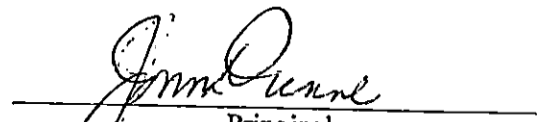
Non-resident agent's office address:

Telephone No.:

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Executed this 25th day of February 2022


Principal


Principal

Capitol Indemnity Corporation
Surety

Labor and Material Bond Page 2 of 4
Version 2017

By: CF
 Esteban Flores, Attorney-in Fact



By: N/A
 California Resident Agent

By: N/A
 Non-resident Agent - Attorney-in-Fact

APPROVED:

SCC
 Scott Creer, City Engineer

Date: 3/4/22

APPROVED AS TO FORM:

By: DL
 Donald A. Larkin, City Attorney

Date: 4/8/2022

(Acknowledgment on following page.)

Labor and Material Bond Page 3 of 4
 Version 2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

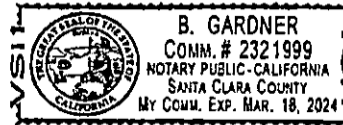
On MARCH 4 2022, before me, B GARDNER a Notary Public in and for said County and State, personally appeared MICHAEL F. DUNNE JR AND JONNA proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

B Gardner

SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

Labor and Material Bond Page 4 of 4
Version 2017

CAPITOL INDEMNITY CORPORATION POWER OF ATTORNEY

CIC1921275

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

MICHAEL D LAPRE; DEBORAH M MCGUCKIN; KEVIN P SHINE; JAREN MARX; ESTEBAN FLORES; R.M. FRIEDIK
YVONNE WEATHERFORD; PHILLIP SIMONS; COLLEEN E. WATSON; ARTYCE JOHNSON; SORNCHAI CHANSILA
BELINDA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$2,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of January, 2020.

Attest:

R. J. Byrnes
 Ryan J. Byrnes
 Senior Vice President,
 Chief Financial Officer and Treasurer
Suzanne M. Broadbent
 Suzanne M. Broadbent
 Assistant Secretary

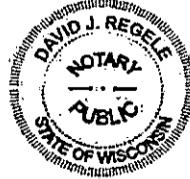


CAPITOL INDEMNITY CORPORATION

John L. Sennott, Jr.
 John L. Sennott, Jr.
 Chief Executive Officer and President

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

On the 1st day of January, 2020 before me personally came John L. Sennott, Jr., to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is Chief Executive Officer and President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



David J. Regele

David J. Regele
 Notary Public, Dane Co., WI
 My Commission Is Permanent

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 25th day of February, 2022



Andrew B. Diaz-Matos

Andrew B. Diaz-Matos
 Senior Vice President, General Counsel and Secretary

THIS DOCUMENT HAS BEEN GENERATED FOR A SPECIFIC BOND. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.

CIC-ePOA-M (Rev. 01-2020)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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State of California

County of Ventura

On 02/25/2022 before me, R. M. Friedik, Notary Public,
(Here insert name and title of the officer)

personally appeared Esteban Flores

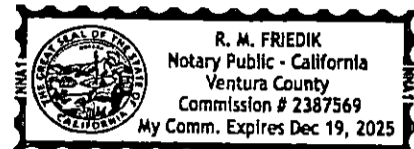
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Bond No. CIC1921275

(Title or description of attached document)

N/A

(Title or description of attached document continued)

Number of Pages five Document Date 02/25/2022

N/A

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☒ Attorney-in-Fact
☐ Trustee(s)
☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - Indicate title or type of attached document, number of pages and date.
 - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT "D"
WARRANTY BOND
(50% of Cost of Construction)

Bond No.: CIC1921276

Premium: \$2,854.00

Whereas, the City Council of the City of Morgan Hill, State of California (hereinafter designated as "City"), and **MICHAEL F. DUNNE, JR. AND JONNA DUNNE** (hereinafter designated as "Principal") have entered into a Subdivision Improvements Agreement (hereinafter "Agreement"):

MICHAEL F. DUNNE, JR. AND JONNA DUNNE
DAKOTA DUNNE – APN 726-09-024

whereby the Principal agrees to install and complete certain designated public improvements (hereinafter "Improvements"), which said Agreement, dated _____, 20_____, and identified as project **DAKOTA DUNNE**, is hereby referred to and made a part hereof; and

Whereas, under the terms of said Agreement, the Principal is required to furnish a bond to guarantee and warrant the work required by said Agreement for a period of one year following the completion and acceptance by the City of the Improvements, against any defective work or labor performed, or defective materials furnished by Principal.

Now, therefore, we, the Principal and Capitol Indemnity Corporation as Surety, are held and firmly bound unto the City of Morgan Hill in the penal sum of **NINETY-FIVE THOUSAND ONE HUNDRED NINETEEN** dollars (**\$95,119.00**) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

If Principal faithfully carries out and performs its guarantee and warranty under the Agreement, and, on due notice from City, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Principal promptly reimburses City for all loss and damage that City sustains because of Principal's failure to makes such repairs in accordance with the Agreement requirements, then Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.

Surety waives the provisions of Civil Code Sections 2819 and 2845. Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement

Warranty Bond Page 1 of 4
 Version July 2017

or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Any notice to Surety may be given in the manner specified in the Agreement and delivered or transmitted to Surety as follows:

Attn: Capitol Indemnity Corporation
 Address: 2121 N. California Blvd, Suite 300
 City/State/Zip: Walnut Creek, CA 94596
 Phone: 800-462-8135
 Fax: _____
 Email: jmcDonald@capspecialty.com

This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

In witness whereof, this instrument has been duly executed by the principal and surety above named.

Capitol Indemnity Corporation

SURETY: CF
 Date: February 25, 2022

Principal:

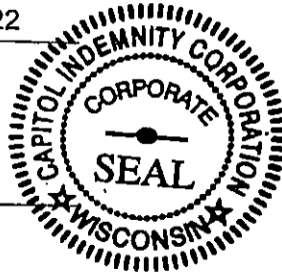
Date: _____

Name: Esteban Flores

Name: _____

Title: Attorney-in-Fact

Title: _____



(Attach Acknowledgment with Notary
 Seal and Power of Attorney)

Warranty Bond Page 2 of 4
 Version July 2017

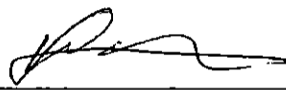
APPROVED:



Scott Creer, City Engineer

Date: 3/7/22

APPROVED AS TO FORM:

By: 

Donald A. Larkin, City Attorney

Date: 4/8/2022

END OF WARRANTY BOND

Warranty Bond Page 3 of 4
Version July 2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____, 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

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Warranty Bond Page 4 of 4
Version July 2017

CAPITOL INDEMNITY CORPORATION POWER OF ATTORNEY

CIC1921276

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

MICHAEL D LAPRE; DEBORAH M MCGUCKIN; KEVIN P SHINE; JAREN MARK; ESTEBAN FLORES; R.M. FRIEDIK
YVONNE WEATHERFORD; PHILLIP SIMONS; COLLEEN E. WATSON; ARTYCE JOHNSON; SORNCHAI CHANSILA
BELINDA JOHNSON; MICHAEL SIMONS; MICHELLE L. ELDRIDGE; J.C. SHIVELY

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$2,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

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IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of January, 2020.

Attest:

RJ Byrnes
 Ryan J. Byrnes
 Senior Vice President,
 Chief Financial Officer and Treasurer

Suzanne M Broadbent
 Suzanne M. Broadbent
 Assistant Secretary

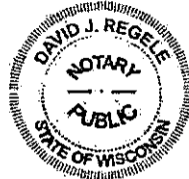


CAPITOL INDEMNITY CORPORATION

John L. Sennott, Jr.
 John L. Sennott, Jr.
 Chief Executive Officer and President

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

On the 1st day of January, 2020 before me personally came John L. Sennott, Jr., to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is Chief Executive Officer and President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



David J. Regele
 David J. Regele
 Notary Public, Dane Co., WI
 My Commission Is Permanent

STATE OF WISCONSIN }
 COUNTY OF DANE } S.S.:

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 25th day of February, 2022



Andrew B. Diaz-Matos
 Andrew B. Diaz-Matos
 Senior Vice President, General Counsel and Secretary

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CIC-ePOA-M (Rev. 01-2020)

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County of Ventura

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(Here insert name and title of the officer)

personally appeared Esteban Flores,

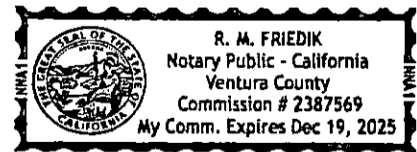
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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

**ADDITIONAL OPTIONAL INFORMATION****DESCRIPTION OF THE ATTACHED DOCUMENT**

Bond No. CIC1921276

(Title or description of attached document)

N/A

(Title or description of attached document continued)

Number of Pages five Document Date 02/25/2022

N/A

(Additional information)

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 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☒ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Charlie Ha, Supervising Civil Engineer

APPROVED BY: City Manager

APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE SABINI COURT RESIDENTIAL SUBDIVISION (APN: 773-32-017, -018, -019, AND -020)

RECOMMENDATION(S)

1. Approve the First Amendment to the Subdivision Improvements Agreement for the Sabini Court Subdivision;
2. Authorize the City Manager to execute the First Amendment to the Project's Subdivision Improvements Agreement with Strolata Properties, LLC; and
3. Authorize the recordation of the First Amendment to the Subdivision Improvements Agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment and Preserving Open Space and Agricultural Land

2024-2025 Strategic Priorities

Economic Development and Tourism

Guiding Documents

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The Sabini Court Subdivision is a 4-lot single-family detached residential subdivision located at the southeast end of Sabini Court (see attached Site Map - Attachment 1).

The project's Subdivision Improvements Agreement was approved by the City Council on May 18, 2022 and was recorded on September 8, 2022. The public improvements to be constructed along the project's Sabini Court frontage include sanitary, storm, water, and other public improvements.

The project's Subdivision Improvements Agreement is now expired. On January 10, 2025, the developer, Strolata Properties, LLC, requested an extension of the Subdivision Improvements Agreement. The developer has made good faith efforts to complete the public improvements. However, due to delays with PG&E's timing to

underground overhead utilities along the project's Sabini Court frontage, additional time is needed by the project. Also, due to unknown deficiencies in the existing water system, the project performed additional work related to water main modifications at the request of City staff which were beyond those normally required to be completed.

Staff recommends the addition of reimbursement language to the Amendment to the Subdivision Improvements Agreement related to the water main modifications and also an extension of the completion of the public improvements by an additional six months from the date of the developer's request, with a new expiration date of July 10, 2025.

In addition, staff recommends that the City Council authorize the City Manager to sign and record the First Amendment to the Subdivision Improvements Agreement (Attachment 2) on behalf of the City.

COMMUNITY ENGAGEMENT:

Inform

This report serves to inform the community of the recommended amendment to Subdivision Improvements Agreement for the Sabini Court Subdivision.

ALTERNATIVE ACTIONS:

The City Council could decide not to approve the Amendment to the Subdivision Improvements Agreement. The Developer will then be required to enter into a new Subdivision Improvements Agreement with the City to complete the remaining public improvements required of the project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On May 18, 2022, City Council approved the Subdivision Improvements Agreement for the Sabini Court Subdivision.

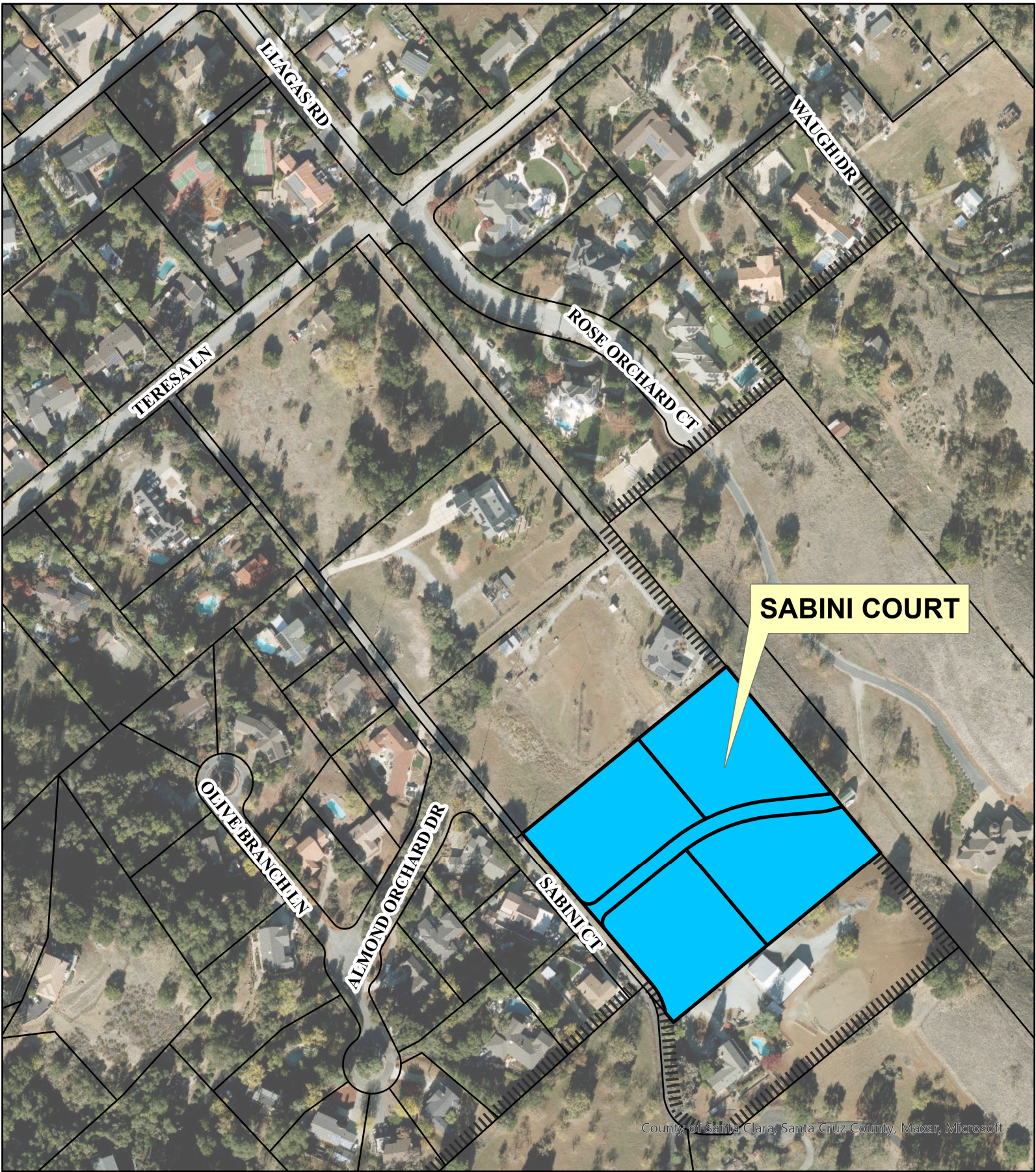
FISCAL AND RESOURCE IMPACT:

Development review costs for this project are paid for from development processing fees. The funds for reimbursement will be funded from the Water Fund as the work was done to repair the existing water system.

CEQA (California Environmental Quality Act):

Project

A Mitigated Negative Declaration was prepared in accordance with Section 21157.5 of the California Environmental Quality Act (CEQA) and approved on June 16, 2020.



County of Santa Clara, Santa Cruz County, Maxar, Microsoft



Public Services Department
Land Development Engineering

SITE MAP
SABINI COURT



0 80 160 320 480 640



RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

CITY OF MORGAN HILL
City Clerk's Office
17575 PEAK AVENUE
MORGAN HILL, CA 95037

(RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383)

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

**FIRST AMENDMENT TO SUBDIVISION IMPROVEMENTS AGREEMENT
STROLATA PROPERTIES, LLC
SABINI COURT**

THIS FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENTS AGREEMENT ("AMENDMENT") is dated as of this _____ day of _____, 2025, is entered into by and between the CITY OF MORGAN HILL, a California municipal corporation ("CITY"), and Strolata Properties, LLC, a limited liability company ("SUBDIVIDER"). SUBDIVIDER and CITY are collectively referred to as the "Parties".

RECITALS

The following recitals are a substantive portion of this FIRST AMENDMENT:

1. This AMENDMENT is entered into pursuant to the action of the City Council on _____, 2025.
2. The CITY and SUBDIVIDER entered into that Subdivision Improvements Agreement (ORIGINAL AGREEMENT) on June 2, 2022, to develop the property located on the southeast end of Sabini Court in Morgan Hill, California, as a residential development project designated as Sabini Court ("Project"). The ORIGINAL AGREEMENT was recorded on September 08, 2022, with the Santa Clara County Recorder as document number 25369670 (see EXHIBIT A).
3. On September 8, 2022, the Final Map for Sabini Court was recorded with the Santa Clara County Recorder in Book 949 of Maps, pages 4 through 5.
4. Pursuant to the ORIGINAL AGREEMENT, the SUBDIVIDER is required to perform and complete all public improvements within eighteen (18) months from the date of the recording of the Final Map.
5. Pursuant to Section 6 of the ORIGINAL AGREEMENT, the City Manager may extend the deadline for completion by not more than six (6) months at her reasonable discretion and determination that granting the extension will not be detrimental to the public welfare; however, the Subdivision Improvements Agreement is now expired.

6. The SUBDIVIDER has made good faith efforts to complete the improvements but has suffered several delays outside of its control.
7. Additional work related to water main modifications beyond those normally required to be performed was requested by the CITY and performed by the SUBDIVIDER.
8. On January 10, 2025, the SUBDIVIDER submitted a written request to extend the deadline by an additional six (6) months to complete the public improvements due to delays with PG&E's timing to underground overhead utilities along the project's frontage of Sabini Court.
9. The City Engineer deemed that the extension of the deadline by an additional six (6) months is necessary to allow the SUBDIVIDER to complete the projects public improvements.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. All terms and conditions of the ORIGINAL AGREEMENT shall remain in full force and effect, except that the following amendments shall be made as set forth below.
 - a. Pursuant to Section 6 of the SUBDIVISION IMPROVEMENTS AGREEMENT, the time for performance is extended to July 10, 2025.
 - b. SUBDIVIDER and CITY acknowledge and agree that the CITY will reimburse the SUBDIVIDER for the costs associated with the additional work completed by the SUBDIVIDER as described in Exhibit B ("Reimbursable Improvements"). A separate Reimbursement Agreement shall be entered into by the Parties.

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IN WITNESS THEREOF, the parties have executed this FIRST AMENDMENT on the day and year shown below.

ATTEST:

CITY OF MORGAN HILL

By: _____

Michelle Bigelow, City Clerk

By: _____

Christina J. Turner, City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

"Subdivider"

By: _____

Donald A. Larkin, City Attorney

STROLATA PROPERTIES, LLC

By: _____

Date: _____

Paul Latala, Member

Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT A

SUBDIVISION IMPROVEMENTS AGREEMENT

25369670

Regina Alcomendras
Santa Clara County - Clerk-Recorder
09/08/2022 11:29 AM

RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

CITY OF MORGAN HILL
City Clerk's Office
17575 PEAK AVENUE
MORGAN HILL, CA 95037

CONFORMED COPY

Copy of document recorded.
Has not been compared with original.

(RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 27383)

**CONFIRMED BY THE COUNTY OF SANTA CLARA
RECORDER'S OFFICE**
THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBDIVISION IMPROVEMENTS AGREEMENT

STROLATA PROPERTIES, LLC

SABINI COURT

This Subdivision Improvements Agreement ("Agreement") between the City of Morgan Hill, a municipal corporation ("City"), and **STROLATA PROPERTIES, LLC**, a limited liability company ("Subdivider"), is entered into this 2nd day of June, 2022. City and Subdivider hereby acknowledge the following:

1. Subdivider has filed a Tentative Subdivision Map and supporting documents for the subdivision known as SABINI COURT ("Map").
2. City desires, as part of the conditions of approval ("Conditions") of the Final Tract Map or Parcel Map ("Final Map"), that certain improvements be installed by Subdivider ("Improvements") as shown on the City Engineer approved and signed Subdivision Improvement Plans entitled "Improvement Plans for SABINI COURT ("Plans").
3. Subdivider has been unable to complete, prior to filing of the Final Map, all of the improvements required by City to the satisfaction of the City Engineer.
4. Subdivider is required by the terms of the Morgan Hill Municipal Code ("Municipal Code"), to improve all streets, highways, or public areas which are part of the development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer and to post certain securities to secure the completion of the Improvements.
5. To assure City that Subdivider will construct, install and complete all Improvements required for the Subdivision, the parties have entered into this Agreement.

6. This Agreement is executed pursuant to California Government Code Section 66410 et seq., and Chapter 17.32 of the Municipal Code in order to provide for the manner in which Improvements shall be constructed and completed.

NOW, THEREFORE, and in consideration of the approval of the Final Map, and in order to ensure satisfactory performance by Subdivider of Subdivider's obligations under the Conditions, the Subdivision Map Act, and applicable ordinances of City, the parties hereto, for themselves, their successors, and assigns, hereby agree as follows:

Section 1. Incorporation by Reference

The Development Agreement between Subdivider and City, if applicable, Subdivider's Map application, the Conditions, the Map, all Plans as referenced in Section 2 below and all items submitted to the Planning Department, Planning Commission and City Council, all are incorporated herein by reference. In the event of any inconsistency between their representations in any incorporated documents and this Agreement, this Agreement shall govern.

Section 2. Construction of Improvements

(a) Subdivider shall construct to the approval of City, and as provided for in the Conditions, the Improvements as shown fully executed in the Plans entitled "Improvement Plans for SABINI COURT".

(b) Subdivider shall acquire and dedicate, or pay the cost of acquisition by City, of all rights-of-way, easements, and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances.

(c) Survey Monumentation:

(1) Subdivider shall place survey monumentation as described on the Map.

(2) Subdivider shall replace or repair all survey monumentation that is destroyed or damaged as a result of Subdivider's activities. Any such repair or replacement shall be to the satisfaction and subject to the approval of City.

Section 3. Modification of Plans

Subdivider agrees that, if during the construction of the Improvements, it is determined by City that revisions to the Plans are necessary in the interest of the public, Subdivider will undertake such design and construction changes required by City. Said changes, if any, shall be confined to the premises owned by Subdivider.

Section 4. Security

(a) Pursuant to California Government Code Section 66499.3(a), and the Municipal Code, Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to at

least one hundred percent (100%) of the estimated construction cost of the Improvements as security guaranteeing the faithful performance of the Improvements and this Agreement ("Performance Bond").

Improvements and the City Engineer's Estimated Costs of Improvements as of AUGUST 2020 are attached hereto as Exhibit "A".

The Performance Bond shall be in a form substantially the same as Exhibit "B".

(b) Pursuant to California Government Code Section 66499.3(b), Subdivider shall, concurrently with the execution hereof, furnish a surety bond in an amount equal to one hundred percent (100%) of the estimated construction cost of the Improvements (as listed in Section 4(a) above) as security guaranteeing the payment to the contractors, subcontractors and persons furnishing labor, materials, or equipment in connection with this Agreement ("Labor and Materials Bond"). The Labor and Materials Bond shall be in a form substantially the same as Exhibit "C".

(c) Subdivider shall, upon completion of the Improvements, furnish a surety bond in an amount equal to fifty percent (50%) of the construction cost of the Improvements to secure the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof by the City Council ("Warranty Period") against any defective work or labor performed, or defective materials furnished by Subdivider in connection with this Agreement ("Warranty Bond"). The Warranty Bond shall be in a form substantially the same as Exhibit "D".

(d) Pursuant to Government Code Section 66499.9, any liability upon the security given for faithful performance of any act or agreement shall be limited to:

(1) The performance of the work covered by the Agreement or the performance of the required act.

(2) The performance of any changes or alterations in such work; provided that all changes or alterations do not exceed ten percent of the original estimated cost of the Improvements.

(3) The guarantee and warranty of the work for a period of one year following completion and acceptance thereof, against any defective work or labor done or defective materials furnished in the performance of the Agreement or the performance of the act.

(4) Costs and reasonable expenses and fees, including reasonable attorneys' fees.

(e) The surety on each bond and the form thereof shall be satisfactory to City. The surety shall be furnished by a surety company authorized to write the same in the State of California and that is approved and accepted by the City's risk manager.

(f) Subdivider agrees to furnish any bonds required by the State or County for Improvements outside the City's jurisdiction.

(g) The release of any securities shall be governed by the provisions of Government Code Section 66499.7.

Section 5. Inspections

At least fifteen (15) calendar days prior to the commencement of any work hereunder, Subdivider shall notify City in writing of the fixed start date of construction so that City shall be able to provide inspection services. Subdivider shall at all times maintain proper facilities and provide safe access to all parts of the work site(s) for City inspections, including any workshops or plants where work related to the Improvements is being conducted.

Subdivider shall pay and reimburse City for all expenses incurred by City for inspecting and checking all work to be performed under the provisions of the Municipal Code or this Agreement. City Engineering plan checking and field improvement inspection costs are included in the Department of Public Works Fee Schedule which may be revised from time to time.

Section 6. Timing of Performance

Subdivider agrees to perform and complete all Improvements within eighteen (18) months from the date of the recording of the Final Map; provided however, the City Manager may extend the deadline for completion by not more than six (6) months at his or her reasonable discretion and determination that granting the extension will not be detrimental to the public welfare. No extension of this deadline for completion shall be made except upon the basis of a written application made by Subdivider stating fully the ground for the application and the facts relied upon for an extension.

It is further agreed by and between Subdivider and City that any extension granted shall in no way affect the validity of this Agreement or release the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. Subdivider further agrees to maintain the securities described in Section 4 above in full force and effect during the terms of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by City.

Section 7. Work Performance and Warranty

(a) Subdivider shall construct, at Subdivider's own expense, all of the Improvements in a good and workmanlike manner, and furnish all required materials incident thereto, in accordance with the Plans and to the satisfaction of City, including any changes required by City which in City's opinion are necessary to complete the Improvements.

(b) All work shall be conducted and completed in accordance with the Plans and federal, state, Municipal Code, laws, ordinances, and regulations. For any Improvements partially completed prior to this Agreement, Subdivider agrees to complete the Improvements in accordance with this Agreement.

(c) Neither Subdivider, nor any of Subdivider's agents or contractors in connection with Subdivider's obligations under this Agreement are, or shall be considered to be, employees or agents of City.

(d) The work performance for the Improvements shall not be deemed complete until such time as such Improvements have been accepted for maintenance by the City Council.

(e) Subdivider warrants that: (1) it has investigated the work to be performed under this agreement, (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 Subdivider discover any conditions materially differing from those inherent in the Improvements or work or as represented by City, it shall immediately inform City and shall not proceed, except at Subdivider's risk, until written instructions are received from City.

(f) Subdivider guarantees and warrants the work required by this Agreement and agrees to remedy any defects in the Improvements or work arising from faulty or defective materials or construction occurring within one year after its acceptance. Following notice, Subdivider shall, without delay or cost to City, repair, replace, or construct any defective or unsatisfactory portion of the Improvements. City may, at its sole option, perform the repair or replacement itself if Subdivider or its surety has failed to commence repair within twenty (20) days after City has mailed written notice to Subdivider. In such event, Subdivider or its surety agrees to pay the cost of repair and replacement to City, plus fifteen percent (15%); and City may recover such costs as a lien against the Subdivision. City may proceed immediately to make repairs should an emergency arises.

Section 8. Acquisition and Dedication of Easements or Rights-of-Way

(a) No construction or installation of the Improvements shall be commenced before:

(1) The offer of dedication to City of appropriate rights-of-way, easements, or other interests in real property for the Improvements, which offer of dedication shall be irrevocable and remain open pursuant to California Government Code Section 66477.2, and authorization from the property owner to allow construction or installation of Improvements, or

(2) The dedication to, and acceptance by, City of appropriate rights-of-way, easements, or other interests in real property, as determined by the City Engineer, or

(3) The issuance by a court of competent jurisdiction pursuant to state Eminent Domain Law of an order of possession.

(b) Except as otherwise provided by this Agreement, City rejects all lands, rights-of-way, and easements offered for dedication on the Final Map of the Subdivision. All such offers shall, however, remain open, and shall constitute irrevocable offers of dedication in accordance with Government Code Section 66477.2. All such offers may be accepted by City in its sole discretion at any later date without further notice to Subdivider as provided by law. By way of explanation only, it is the current intention of City to accept all or part of the irrevocable offers to dedicate upon acceptance of the Improvements called for in this Agreement.

(c) Nothing in this Section 8 shall be construed as authorizing or granting an extension of time to Subdivider.

Section 9. Indemnity

Subdivider hereby agrees to save harmless and indemnify, including, without limitation, City's defense costs (including reasonable attorney's fees), from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of any injuries or damages sustained by any person or property resulting or arising, or alleged to have resulted or arisen, from Subdivider or Subdivider's contractors, subcontractors, agents, or employees activities, omissions or operations pursuant to this

Agreement. Should City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, Subdivider will defend City, (at City's request and with counsel satisfactory to City) and will indemnify City for any judgment rendered against it or any sums paid out in settlement or otherwise.

Subdivider shall defend, indemnify, and hold harmless the City and its elective and appointive boards, officials, officers, agents, employees and volunteers from any claim, action, or proceeding to review, set aside, void, or annul an approval of the City concerning the Map and acts made in respect thereof, provided any such action is brought within the time period provided for in California Government Code Section 66499.37.

City shall promptly notify Subdivider of any claim, action, or proceeding, and cooperate fully in the defense of any claim, action, or proceeding.

It is expressly understood and agreed that this Section 9 will survive termination of this Agreement.

Section 10. Insurance

Concurrent with the execution of this Agreement, Subdivider 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 Subdivider and its Subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by the City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. If the Subdivider will utilize the services of a General Contractor to perform all of the work associated with the Improvements, then Subdivider may opt to have all coverages provided by Subdivider's General Contractor, provided that a written contract is executed between Subdivider and the General Contractor whereby the written contract specifically required General Contractor to fulfill all of the City insurance requirements as outlined in this Agreement, including all endorsements in favor of the City. Verification of the written contract must be provided to City upon request. If Subdivider fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement City shall issue a stop work order, or terminate the Agreement for default. Subdivider further understands that the City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Subdivider, at any time as deemed necessary to protect the interests of the City.

(a) **Policies and Limits.** The following insurance policies and limits are required for this Agreement:

- (1) **Commercial General Liability Insurance ("CGL"):** Subdivider shall maintain CGL and shall include coverage for liability arising from Subdivider's or its Subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) combined single limit each occurrence and either a general aggregate limit of ten million dollars (\$10,000,000.00) or a general aggregate limit of five million dollars (\$5,000,000) as applied on a "per project"

or “per location” basis, or (ii) the maximum amount of such insurance available to Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater. Further, if CGL coverage is being provided by Subdivider’s General Contractor pursuant to Section 10, General Contractor may elect to insure the CGL exposures under an “Owners and Contractors Protective Liability Policy (OCP)” on which the City is included as an additional insured.

a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

b. CGL policy must include blanket contractual and completed operations.

c. CGL policy will apply as though separate policies have been issued to each insured (“separation of insureds”).

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

(3) **Automobile Liability:** Subdivider shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if Subdivider does not own automobiles, then Subdivider 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 Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(4) **Pollution (Environmental) Liability:** The performance of Subdivider’s work or service under this Agreement involves handling of hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials. Subdivider shall procure and maintain Pollution Liability covering the Subdivider’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 Subdivider under Subdivider’s combined insurance policies (including any excess or “umbrella” policies), whichever is greater.

(b) **Required Endorsements.** Subdivider shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below. Further, if coverages are being provided by Subdivider's General Contractor pursuant to Section 10, endorsements may not be restricted to work performed "under a written contract" (i.e. "blanket endorsements")

(1) **ALL Policies:**

"Waiver of Subrogation" - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against the City of Morgan Hill and the City's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) **ALL Policies except Workers Compensation:**

a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds.

b. "Primary and Non-Contributing" - Insurance shall be primary non-contributing.

(c) **Subcontractors.** Subdivider must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 10 as appropriate based on each subcontractor's scope of work, with respect to its performance of work associated with the Improvements, including those requirements related to the additional insureds and waiver of subrogation.

(d) **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better.

(e) **Certificates.** Subdivider 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, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the Subdivider's agreement with the City shall 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 provided herein.

Certificate Holder address:

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

Section 11. Permits and Requisite Fees

(a) Subdivider shall pay all current fee obligations in the total amount of **\$294,604** due under City Resolution No. 5592, as amended, in accordance with the Department of Public Work fee schedule, as follows:

(1) **\$ 133,392** payable at the time of recording of the Final Map, and

(2) **\$161,212** payable on a pro-rata basis for each individual lot in the Subdivision prior to final inspection of each and every residence.

(3) All fees payable pursuant to this Subsection (a) constitutes valid and due consideration for City's approval of the Final Map, and amounts set forth are estimates that are subject to change prior to the issuance of building permit(s), subject to resolution or ordinance of the City Council.

(b) Subdivider shall, at its expense, obtain all necessary permits and licenses for the construction of the Improvements, give all necessary notices, and pay all fees and taxes required by law.

(c) Subdivider shall obtain a City of Morgan Hill Business License.

(d) Subdivider agrees to procure, at its expense, any necessary permits for Improvements outside the City's jurisdiction.

Section 12. On-Site Supervision

Subdivider shall designate an on-site supervisor, satisfactory to City, who shall be on the work site(s) at all times during the construction of the Improvements, and who has the authority to act on behalf of Subdivider when communicating with City personnel.

Section 13. Waiver

Waiver by City or Subdivider of any breach of any of the provisions of the Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of the same or any other provision of this Agreement. Acceptance by City of any work by Subdivider shall not be a waiver of any of the provisions of this Agreement.

Section 14. Notices. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. 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.

a. Address of Subdivider is as follows:

Strolata Properties, LLC c/o Paul Latala
999 Franquette Avenue
San Jose, CA 95125

b. Address of City is as follows:

With a copy to:

City Engineer
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Section 15. Noncompliance

If City determines that Subdivider is in violation of any federal, state, County or City laws, ordinances, rules, regulations, and requirements, and/or the terms and provisions of this Agreement, it may issue a cease and desist order, stop work order, or other action City deems necessary.

Section 16. Notice of Breach and/or Default

City may serve written notice upon Subdivider and surety of breach of this Agreement or of any portion thereof, and default of Subdivider for any of the following circumstances:

- (a) Subdivider refuses or fails to complete the Improvements as required in Section 6 above.
- (b) Subdivider refuses or fails to perform or cure any defects in the Improvements as required in Section 7.
- (c) Subdivider is insolvent, is subject to a receivership, or files any petition in bankruptcy, either voluntary or involuntary which Subdivider fails to discharge within thirty (30) days.
- (d) The commencement of a foreclosure action against the Subdivision or any portion thereof, or any conveyance in lieu of or in avoidance of foreclosure.
- (e) Subdivider or any of Subdivider's contractors, subcontractors, agent, or employees materially violates any of the provisions of this Agreement and not cure the violation within a reasonable time.

Section 17. Performance by Surety or City

- (a) In the event of a material breach and/or default by Subdivider, Subdivider's surety shall have the duty to take over and complete the Improvements.
- (b) If the surety, within a reasonable time after receiving notice of Subdivider's default does not provide City written notice to take over the performance of this Agreement or if the surety does not commence performance thereof within the time specified in such notice to City, City may take over the construction of the Improvements and prosecute the same to completion, by contract or by any method City may deem advisable, on behalf and at the expense of Subdivider, and Subdivider's surety shall be liable to City for any excess cost or damages incurred by City thereby. In such event, City, without liability for so doing, may take possession of and utilize such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefore to complete the Improvements.

(c) City shall have the right to draw upon or utilize the appropriate security provided for in Section 4 to recover costs and damages to City damages. The right of City to draw upon or utilize the security is additional and not in lieu of any other remedy available to City at law or in equity. The parties agree that the estimated costs and security amounts may not reflect the actual cost of construction or installation of Improvements, and therefore, City damages for Subdivider's default shall be measured by the cost of completing the required Improvements.

(d) Failure of Subdivider to comply with terms of this Agreement shall constitute consent to filing by City of a notice of violation against all lots in the Subdivision, or to rescind the approval or otherwise revert the Subdivision to acreage. The remedies provided in this Subsection (d) are in addition to and not in lieu of other remedies available to City.

(e) In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligation, including the costs of suit and reasonable attorney's fees.

(f) The failure by City to take an enforcement action with respect to a default, or to declare a breach, shall not be construed as a waiver of that default or breach or subsequent default or breach.

Section 18. Successors in Interest

This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties. It shall be recorded in the Office of the Recorder of Santa Clara County concurrently with the Final Map of the Subdivision and shall constitute a covenant running with the land and an equitable servitude upon the real property within the Subdivision. It shall be the responsibility of City to cause the executed Agreement to be recorded.

Section 19. Effective Date

This Agreement shall be effective as of the date and year first above written.

Section 20. Amendment of Agreement

This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby.

Section 21. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of Subdivider. The undersigned, on behalf of Subdivider, binds Subdivider, its partners, successors, executors, administrators, and assigns with respect to the terms and conditions of this Agreement.

Section 22. 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.

Section 23. Law to Govern: Venue

The law of the State of California shall govern this Agreement. In the event of litigation between the parties, the action must be filed in the Santa Clara County Superior Court.

Section 24. Limitations Upon Subcontracting and Assignment.

Neither this Agreement or any portion shall be assigned by Subdivider without prior written consent of City.

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Section 25. Miscellaneous

(a) Compliance with Law: Subdivider shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

(b) Non-Discrimination. Subdivider covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, ancestry, or sexual orientation in any activity pursuant to this Agreement.

(c) Conflict of Interest and Reporting. Subdivider shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

(d) Time of Essence. Time is of the essence in the performance of this Agreement.

(e) Interpretation. This Agreement shall be interpreted as though prepared by both parties.

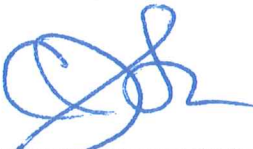
(f) Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

[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.]

CITY OF MORGAN HILL

By:



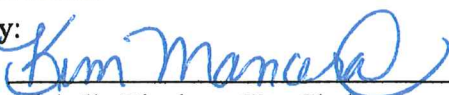
Christina J. Turner, City Manager

Date:

6/2/22

ATTEST:

By:



FOR: Michelle Bigelow, City Clerk

Date:

6/2/2022

APPROVED AS TO FORM:

By:



Donald A. Larkin, City Attorney

Date:

5/31/2022

"SUBDIVIDER"

STROLATA PROPERTIES, LLC

By:



Print Name and Title Paul Latala - member
(If Corporation, must be Chairperson of the Board, President, or Vice President)

Date:

By:

Print Name and Title

(If Corporation, must be Secretary, Assistant Secretary, CFO, or Assistant Treasurer)

Date:

EXHIBIT "A"

IMPROVEMENTS AND

ESTIMATED COSTS OF IMPROVEMENTS

AS OF 8/1/2020

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
F. PUBLIC IMPROVEMENTS					
1.	Remove Existing AC Pavement	7,960	SF	\$5.00	\$39,800
2.	Street Fine Grading (to R/W)	26,520	SF	\$1.00	\$26,520
3.	AC Pavement Sabini Ct. Frontage and Rose Orchard Pl.	26,520	SF	\$8.00	\$212,160
4.	Asphalt Overlay & Repair, Sabini Ct offsite	15,605	SF	\$2.00	\$31,210
5.	Remove and Replace Existing offsite Inlet	1	EA	\$5,000.00	\$5,000
6.	Replace Existing Offsite 12" SD with 18" RCP	30	LF	\$80.00	\$2,400
7.	6" PVC SS Main	300	LF	\$40.00	\$12,000
8.	4" Service Laterals	4	EA	\$1,000.00	\$4,000
9.	Manhole (less than 10' deep)	3	EA	\$4,500.00	\$13,500
10.	8" Water Sabini Ct to Rose Orchard Ct	1,255	LF	\$60.00	\$75,300
11.	1.5" Water Service with 1" Meter	4	EA	\$1,600.00	\$6,400
12.	Fire Hydrant (incl. lateral, valves, etc.)	1	EA	\$5,000.00	\$5,000
13.	ARV	1	EA	\$5,000.00	\$5,000
14.	Signing and Striping	1	LS	\$7,500.00	\$7,500
15.	Monuments	4	EA	\$1,000.00	\$4,000
16.	Electroliers	2	EA	\$2,500.00	\$5,000
17.	Rule 20 Overhead Utility Undergrounding		LS	NIC	NIC
Sub-Total Miscellaneous:					\$454,790

Exhibit "B"

PERFORMANCE BOND
(100% of Engineer's Estimate)

Bond No.:

1001148283

Premium: \$9,096.00 / 2-Year
Term Fully Earned

Whereas, the City Council of the City of Morgan Hill, State of California, and **STROLATA PROPERTIES, LLC** (hereinafter designated as "principal") have entered into a Subdivision Improvements Agreement:

STROLATA PROPERTIES, LLC
SABINI COURT

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated June 24, 2022, and identified as project **SABINI COURT**, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and American Contractors Indemnity Company, as surety, are held and firmly bound unto the City of Morgan Hill hereinafter called ("City"), in the penal sum of **four hundred fifty four thousand seven hundred ninety dollars (\$454,790)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The Surety's office is located at 801 S. Figueroa Street, Suite 700
Los Angeles, California 90017,

Telephone No. (310) 649-0990; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number are as follows:

License No.: Performance Bonding Surety & Insurance Brokerage
License # 0198731
Address: 15901 Red Hill Avenue, Suite 100
Tustin, California 92780
Telephone No.: (714) 505-7011

The non-resident agent for the Surety, if any, is a party to the transaction:

Name of non-resident

N/A

Performance Bond Page 1 of 4
Version July 2017

agent:

Non-resident agent's office N/A
address: N/A

Telephone
No.:

N/A

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Executed this 14th day of April 20 22.

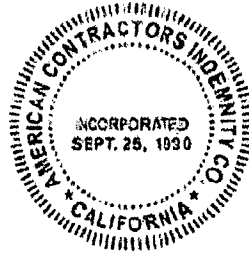
Strolata Properties, LLC
Principal

By: 

American Contractors Indemnity Company
Surety

By:

Erik Johansson, Attorney-in Fact



By:

Erik Kent Johansson, California Resident Agent
License # 0E11679

By:

N/A
Non-resident Agent - Attorney-in-Fact

APPROVED:

Scott Creer, City Engineer

Date:

4/25/22

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

Date:

5/31/2022

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

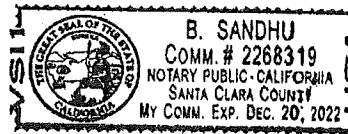
State of **California**
County of **Santa Clara**

On April 18th, 2022, before me, B. SANDHU a Notary Public in and for said County and State, personally appeared PAUL A. LATALA proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

B. Sandhu
SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

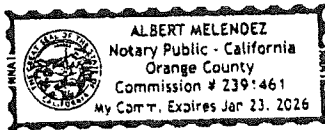
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State of California
County of Orange }

On APR 14 2022, before me, Albert Melendez, Notary Public,
personally appeared Erik Johansson

who proved to me on the basis of satisfactory evidence to be the person(X) whose name(X) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same
in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(X) on the instrument
the person(X), or the entity upon behalf of which the person(X) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.



WITNESS my hand and official seal.

SIGNATURE _____

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document
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Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

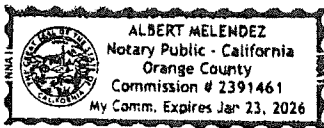
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State of California }
County of Orange }

On APR 14 2022, before me, Albert Melendez, Notary Public,
personally appeared Erik Kent Johansson

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same
in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument
the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.



WITNESS my hand and official seal.

SIGNATURE [Signature]

PLACE NOTARY SEAL ABOVE

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Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____



**TOKIO MARINE
HCC**

**POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Erik Johansson, Frances Lefler, James W. Johnson, Jennifer Anaya, Melissa Lopez,
Christina Johnson or Christina Rogers of Tustin, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** ***** Thirty Million and 00/100 ***** Dollars (***\$30,000,000.00***). This Power of Attorney shall expire without further action on January 31st, 2024. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2021.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

State of California
County of Los Angeles



By: _____

Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 23rd day of September, 2021, before me, D. Littlefield, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 14th day of April, 2022.

Corporate Seals

Bond No. 1001148283

Agency No. 19261 - PDF POA



Kio Lo, Assistant Secretary



**TOKIO MARINE
HCC**

Surety Group
801 S. Figueroa Street Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

SURETY BOND SEAL ADDENDUM

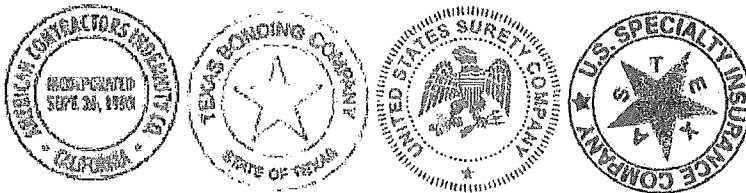
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

In response to the logistical issues associated with the Covid-19 pandemic, American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, (individually, the "Company" and collectively, the "Companies") have authorized the Attorneys-in-Fact named on the Power of Attorney attached hereto and incorporated herein by reference to affix the Companies' seal to any bond executed on behalf of the Companies by any such Attorney-in-Fact by attaching this Addendum to said bond.

To the extent this Addendum is attached to a bond that is executed on behalf of any of the Companies by such Attorney-in-Fact, each Company hereby agrees that the seal below shall be deemed affixed to said bond to the same extent as if its raised corporate seal was physically affixed to the face of the bond.

Dated this 1st day of April 2020.

American Contractors Indemnity Company, Texas Bonding Company,
United States Surety Company and U.S. Specialty Insurance Company



By: 

Frank Mester, Vice President

LABOR AND MATERIAL BOND
(100% of Engineer's Estimate)

Bond No.:

1001148283

Premium:

Included in Cost of
the Performance Bond

Whereas, the City Council of the City of Morgan Hill, State of California, and **STROLATA PROPERTIES, LLC** (hereinafter designated as "the principal") have entered into a Subdivision Improvements Agreement:

STROLATA PROPERTIES, LLC
SABINI COURT

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated JUNE 2ND, 2022, and identified as project **SABINI COURT**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto the City of Morgan Hill and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of **four hundred fifty four thousand seven hundred ninety dollars (\$454,790)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Morgan Hill in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety's office is located at 801 S. Figueroa Street, Suite 700
Los Angeles, California 90017,

Telephone No. (310) 649-0990; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number as follows:

License No.: Performance Bonding Surety & Insurance Brokerage
License # 0198731
Address: 15901 Red Hill Avenue, Suite 100
Tustin, California 92780
Telephone No.: (714) 505-7011

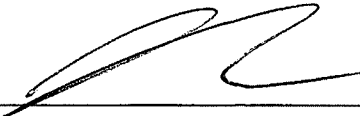
The following non-resident agent, if any, for the Surety is a party to the transaction:

Name of non-resident agent: N/A,
Non-resident agent's office address: N/A
Telephone No.: N/A

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Executed this 14th day of April 20 22.

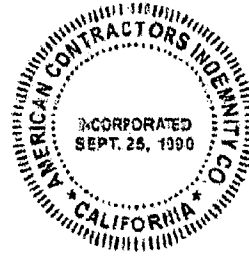
Strolata Properties, LLC
Principal

By: 

American Contractors Indemnity Company
Surety

By:

Erik Johansson
Erik Johansson, Attorney-in-Fact



By:

Erik Kent Johansson
Erik Kent Johansson, California Resident Agent
License # 0E11679

By:

N/A
Non-resident Agent - Attorney-in-Fact

APPROVED:

Scott Creer
Scott Creer, City Engineer

Date:

4/25/22

APPROVED AS TO FORM:

By:

Donald A. Larkin
Donald A. Larkin, City Attorney

Date:

5/31/2022

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

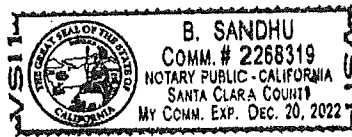
State of **California**
County of **Santa Clara**

On April 18th 2022, before me, B. SANDHU a Notary Public in and for said County and State, personally appeared PAUL A. LATALA proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

B. Sandhu
SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On _____ 20__, before me, _____ a Notary Public in and for said County and State, personally appeared _____ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

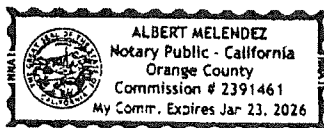
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State of California }
County of Orange }

On APR 14 2022, before me, Albert Melendez, Notary Public,
personally appeared Erik Johansson

who proved to me on the basis of satisfactory evidence to be the person(X) whose name(X) is/~~are~~
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same
in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(X) on the instrument
the person(X), or the entity upon behalf of which the person(X) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of State of California that the foregoing
paragraph is true and correct.



WITNESS my hand and official seal.

SIGNATURE _____

A handwritten signature in dark ink, appearing to be "Albert Melendez", written over a horizontal line.

PLACE NOTARY SEAL ABOVE

Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of this form to another document.

Description of attached document

Title or type of document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

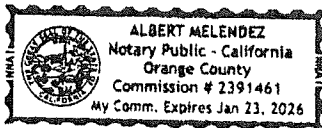
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State of California }
County of Orange }

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who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~
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in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument
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WITNESS my hand and official seal.

SIGNATURE _____

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**TOKIO MARINE
HCC**

**POWER OF ATTORNEY
AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Erik Johansson, Frances Lefler, James W. Johnson, Jennifer Anaya, Melissa Lopez,
Christina Johnson or Christina Rogers of Tustin, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** ***** Thirty Million and 00/100 ***** Dollars (**\$30,000,000.00**). This Power of Attorney shall expire without further action on January 31st, 2024. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

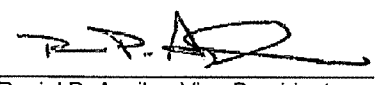
Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23rd day of September, 2021.

**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

State of California
County of Los Angeles



By: 
Daniel P. Aguilar, Vice President

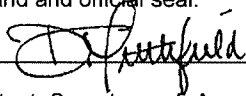
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 23rd day of September, 2021, before me, D. Littlefield, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

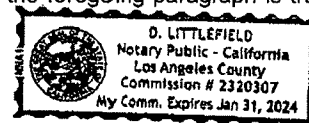
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

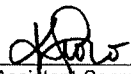
In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 14th day of April, 2022.

Corporate Seals

Bond No. 1001148283

Agency No. 19261 - PDF POA




Kio Lo, Assistant Secretary



**TOKIO MARINE
HCC**

Surety Group
801 S. Figueroa Street Suite 700
Los Angeles, CA 90017 USA
Tel: 310-649-0990

SURETY BOND SEAL ADDENDUM

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

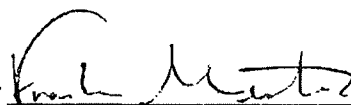
In response to the logistical issues associated with the Covid-19 pandemic, American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, (individually, the "Company" and collectively, the "Companies") have authorized the Attorneys-in-Fact named on the Power of Attorney attached hereto and incorporated herein by reference to affix the Companies' seal to any bond executed on behalf of the Companies by any such Attorney-in-Fact by attaching this Addendum to said bond.

To the extent this Addendum is attached to a bond that is executed on behalf of any of the Companies by such Attorney-in-Fact, each Company hereby agrees that the seal below shall be deemed affixed to said bond to the same extent as if its raised corporate seal was physically affixed to the face of the bond.

Dated this 1st day of April 2020.

American Contractors Indemnity Company, Texas Bonding Company,
United States Surety Company and U.S. Specialty Insurance Company



By: 

Frank Mester, Vice President

Exhibit B

Reimbursable Improvements

Item	Water Main Work	Cost
1	Locate/excavate existing City water utilities outside project	\$12,180.00
2	Plumb blowoff and air release valve (ARV) to City line	\$4,497.00
3	Trench Backfill	\$3,256.00
4	Install concrete slab and set enclosure for ARV	\$1,325.00
5	Set two G5 boxes for water utility	\$1,040.00
Total		\$22,298.00

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

APPROVE CITY COUNCIL ASSIGNMENTS TO OUTSIDE AGENCIES FOR 2025

RECOMMENDATION(S)

1. Approve the City Council assignments to Outside Agencies; and
2. Direct the City Clerk to notify the appropriate agencies of the updated assignments and update the Form 806 as necessary.

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

Healthy Community

REPORT NARRATIVE:

The City Council is committed to actively participating in regional committees and agencies as an important way to influence decisions that impact Morgan Hill and to advocate for Morgan Hill. The City Council is asked to review, discuss, and make appointments to the outside agencies and did so at the February 7 City Council Goal Setting Workshop. The Appointments to Outside Agencies chart only includes appointments made by the City Council to outside agencies. It does not include appointments made by other agencies or organizations. The Mayor makes

appointments with ratification by the City Council.

Once the appointments are made, the City must post the Fair Political Practices Commission (FPPC) Form 806 on its website. The Form 806 lists all the paid appointed positions for which an official can vote on the City's website, including those assignments that do not receive a stipend. Staff requests that council members notify the City Clerk's Office immediately when new assignments are made and when there is compensation of \$250.00 or more in a 12-month period.

COMMUNITY ENGAGEMENT:

Inform

This report serves to inform the community of the City Council assignments to outside agencies.

ALTERNATIVE ACTIONS:

Not Applicable

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council reviews and confirms the assignments to outside agencies annually.

FISCAL AND RESOURCE IMPACT:

The time necessary to prepare and present this staff report is accommodated in the Council Services and Records Management Operating Budget. The level of City Council and staff resources necessary to actively participate in each outside assignment varies with some requiring a significant amount of time.

CEQA (California Environmental Quality Act):

Not a Project

The preparation of the City Council assignments to outside agencies is an administrative task and as such, is not a project.

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Countywide	<u>Santa Clara County Library District Joint Powers Authority</u> 1370 Dell Avenue Campbell, CA 95008 Virginia Johnson, Executive Assistant vjohnson@sccl.org 408-293-2326 x3090 https://scclld.org/jpa/	Provide policy direction and governance for the Santa Clara County Library District. Cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Milpitas, Monte Sereno, Morgan Hill & Saratoga.	2025 Schedule: Meetings start at 12:00pm • April 24 • June 5 • September 4 • October 30 • January 29, 2026 1370 Dell Avenue Campbell, CA	(P) Turner (A) Vega	
Countywide	<u>Silicon Valley Interoperability Authority</u> Eric Nickel, Executive Director ENickel@svria.org (408) 615-5571 https://svria.org/	The Silicon Valley Regional Interoperability Authority (SVRIA) works to seamlessly integrate voice and data communications between law enforcement, the fire and rescue service, emergency medical services and emergency management for routine operations, critical incidents and disaster response and recovery.	For 2025, meets at 4:00 pm: • January 23 • March 27 • May 22 • September 25 • November 20 Santa Clara Police Department Common Room- 1st Floor 601 El Camino Real Santa Clara, CA	(P) Tom Cline – Gilroy (A) Turner	

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Environmental	<u>Santa Clara Valley Habitat Agency Governing Board</u> 535 Alkire Avenue, Suite 100 Morgan Hill, CA 95037 Ed Sullivan, Executive Officer Edmund.sullivan@scv-habitatagency.org (408) 779-7261 https://scv-habitatagency.org/31/Governance-Policies	Serves as governing body for JPA and makes all decisions except those delegated to the Implementation Board Staff.	Quarterly, 3rd Thursday 3:00 pm - 5:00 pm Morgan Hill City Council Chamber 17555 Peak Ave	(P) Librers (P) Vega (A) Turner (A) Iwanaga	
Environmental	<u>Santa Clara Valley Habitat Agency Implementation Board</u> 535 Alkire Avenue, Suite 100 Morgan Hill, CA 95037 Ed Sullivan, Executive Officer Edmund.sullivan@scv-habitatagency.org (408) 779-7261 https://scv-habitatagency.org/31/Governance-Policies	Makes recommendations to the Governing Board regarding fees and budget, appoints executive officers and hiring of other agency personnel, services, and equipment, makes decision regarding real property acquisition and makes recommendations to the executive officers regarding grants and other funding.	Bi-Monthly, 3rd Thursday 3:00 pm - 5:00 pm Morgan Hill City Council Chamber 17555 Peak Ave	(P) Librers (P) Vega (A) Turner (A) Iwanaga (P) Carman (A) Ramirez	

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Environmental	<u>Silicon Valley Clean Energy Authority</u> 333 W. El Camino Real, Suite 290 Sunnyvale, CA 94087 Andrea Pizano andrea.pizano@svcleanenergy.org (408) 721-5301 x.1005 https://www.svcleanenergy.org/board	The JPA created to collectively study, promote, develop, conduct, operate, and manage energy supply and efficiency programs related to the provision of clean power. Recommended two year assignment per SVCE	2nd Wednesday of the month 7:00 pm Cupertino Community Hall 10350 Torre Ave	(P) Martinez Beltran (A) Carothers	
Flood Control	<u>Santa Clara Valley Water District Elected Officials Quarterly Meeting (Llagas Creek PL 566)</u> 5750 Almaden Expressway San Jose, CA 95118-3686 (mailing address) Candice Kwok-Smith Ckwok-smith@valleywater.org 408-630-2345	Specifically address Llagas Creek flooding and Anderson Dam Retrofit Project.	Quarterly on Fridays 10:00 am Currently held via Zoom only	(P) Vega (P) Iwanaga (A) Martinez Beltran	Chris Ghione, Public Services Director

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Housing	<u>Santa Clara County Housing & Community Development Advisory Committee (HCDAC)</u> Office of Supportive Housing 3180 Newberry Drive, Ste 150 San Jose, CA 95118 Les Clark Clerk of the Board of Supervisors- Records Division Lesley.clark@cob.sccgov.org 408-299-5087 Katrina Anderson Program Manager II Katrina.anderson@hhs.sccgov.org 408-918-8626	The role of the HCD Advisory Committee is to be the policy-recommending body to the Board of Supervisors on the planning, implementation, monitoring, and evaluation of the Urban County HCD Program. The Committee guides the development of a coordinated housing and community development plan and hears project proposals, reviews staff recommendations, and makes recommendations to the Board of Supervisors for final approval and forwarding to HUD.	As needed 70 West Hedding Street, 1st Floor Board Chamber	(P) Martinez Beltran (A) Librers	John Lang, Housing and Economic Mobility Director

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Local Partnership	<u>City-School Liaison Committee</u> Morgan Hill Unified School District; 15600 Concord Circle or City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037-4128 Kelly Schriefer, Secretary to the Superintendent, MHUSD schrieferk@mhusd.org (408) 201-6001 Kim Mancera, Deputy City Clerk Kim.Mancera@morganhill.ca.gov (408) 310-4680 http://mhusd.org/board-of-education/cityschool-liaison-committee/	To facilitate communication between the City and School District on issues of common concern.	Every other month, typically on Fridays at 8:30 am Meetings alternate between the City of Morgan Hill, City Hall 17575 Peak Ave and the Morgan Hill Unified School District Office 15600 Concord Cir	(P1) Turner (P2) Vega (A1) Librers (A2) Martinez Beltran	Christina Turner, City Manager Shane Palsgrove, Police Chief Chris Ghione, Public Services Director

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Local Partnership	<u>South County Youth Task Force – Policy Team</u> 7301 Hanna Street Gilroy, CA 95020 Bernice Aguilera SCYTF Program Manager baguilera@dao.sccgov.org (408) 608-8384 Sandra Cruz South County Youth Task Force Coordinator sandra.cruz@ci.gilroy.ca.us (408) 846-0337 <u>Interim Contacts</u> Aesha Sandoval Aesha.sandoval@cityofgilroy.org Sandra Quintanar Sandra.quintanar@cityofgilroy.org	The South County Youth Task Force is a collaboration of local governments, school districts, community and faith-based organizations, and law enforcement agencies in South County who are committed to serving, supporting, and uplifting our youth so that they have the opportunity to thrive.	2025 Schedule, meets at 10:00 am - January 15 Morgan Hill Council Chamber 17555 Peak Ave - March 19 Community Room Gilroy PD 7301 Hanna St. - May 21 Morgan Hill Council Chamber - August 20 Community Room Gilroy PD - September 17 Morgan Hill Council Chamber - November 19 Community Room Gilroy PD	(P1) Turner (P2) Librers The Mayor and one Council Member are ex-officio members of the Policy Team	Christina Turner, City Manager Shane Palsgrove, Police Chief Chris Ghione, Public Services Director

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Regional Government	<u>ABAG</u> 375 Beale Street San Francisco Fred Castro, Clerk of the Board fcastro@bayareametro.gov (415) 820-7913 https://abag.ca.gov/overview/ga.html	Council of governments representing Cities & Counties in the Bay Area; a comprehensive planning agency addressing regional social, environmental, and economic issues.	Meets annually usually in June June 20, 2025 Location varies (Oakland or San Francisco)	(P) Martinez Beltran (A) Turner	(P) Jennifer Carman, Community Development Director (A) Edith Ramirez, Assistant City Manager
Regional Government	<u>Cities Association of Santa Clara County Board</u> PO Box 1079 Los Gatos, CA 95031 Shali Sirkay- Executive Director Shali@citiesassociation.org 408455-4154 http://citiesassociation.org/about-us.php	Promotes cooperation, represents the mutual interest, and presents a unified voice for the fifteen cities of Santa Clara County; each city in Santa Clara County appoints the Mayor or a Council Member to the Board of Directors; advocates for positive action to enhance the quality of life for the people of our county.	Monthly 2nd Thursday- Except for July & December 7:00 pm 456 W. Olive Ave Sunnyvale Sycamore Conference Room	(P) Turner (A) Librers	None, unless Morgan Hill serves as President, then City Manager

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Regional Government	<u>Cities Association of Santa Clara County Board City Selection Committee</u> PO Box 1079 Los Gatos, CA 95031 Shali Sirkay- Executive Director Shali@citiesassociation.org 408455-4154 http://citiesassociation.org/about-us.php	The committee makes recommendations on appointments to regional and countywide organizations.	Meets as needed before the Cities Association Board Meeting 456 W. Olive Ave Sunnyvale	(P) Turner (A) Librers	
Regional Government	<u>Cities Association of Santa Clara County Board Legislative Action Committee</u> PO Box 1079 Los Gatos, CA 95031 Shali Sirkay- Executive Director Shali@citiesassociation.org 408455-4154 http://citiesassociation.org/about-us.php	The committee provides basic legislative updates to cities with little or no legislative staff, organizes emergency responses to urgent issues, and enables the Cities Association to advocate on issues of mutual interest.	Meets as needed before the Cities Association Board Meeting 456 W. Olive Ave Sunnyvale	(P) Turner (A) Librers	
Regional Government	<u>League of California Cities Peninsula Division</u> Montana Cruz Regional Public Affairs Manager, Peninsula Division 415-298-4940 mcruz@calcities.org http://www.cacities.org/Member-Engagement/Regional-Divisions/Peninsula	Comprised of the 36 cities from San Francisco to Gilroy, division members work together to enhance the quality of life in our communities, our region, and our state.	4 meetings per year: special meetings added as needed	(P) Librers (A) Turner	

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Transportation	<u>Caltrain Local Policy Maker Group</u> 1250 San Carlos Avenue San Carlos, CA 94070 (650) 508-6200 Casey Fromson fromsonc@samtrans.com (650) 288-7625 Isabella Confertil confertil@caltrain.com http://www.caltrain.com/projectsplans/CaltrainModernization/Meetings.html	Advisory group comprised of elected officials and provides a formal venue to facilitate local input and guidance on the Caltrain Modernization Program.	Bi-Monthly 4th Thursday 5:30 pm *Tentative dates • January 23 • March 27 • May 22 • July 24 • September 25 • December 12 Zoom	(P) Librers (A) Martinez Beltran	Edith Ramirez, Assistant City Manager Tiffany Brown, Senior Planner
Transportation	<u>Comprehensive County Expressway Planning Study Policy Advisory Board</u> Santa Clara County Roads and Airports 101 Skyport Drive San Jose, Ca 95110-1302 Ben Aghegnehu ben.aghegnehu@rda.sccgov.org (408) 573-2462 http://sccgov.iqm2.com/citizens/default.aspx?	Provides an elected officials' forum for policy input to the <i>Expressway Plan 2040</i> – a long range plan for the improvement and maintenance of the eight County expressways and the Santa Teresa-Hale Corridor. All areas of need are included: capacity and operational improvements, signal operations, high-occupancy vehicle (HOV) lanes, bicycle, and pedestrian improvements, finishing elements, and ongoing operating and maintenance needs and funding strategy recommendations.	As needed 70 West Hedding Street, 1st Floor Board Chamber	(P) Turner (A) Librers	Chris Ghione, Public Services Director

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Transportation	<u>Santa Clara Valley Transportation Authority (VTA)</u> <u>Policy Advisory Committee (PAC)</u> 3331 North First Street, Building B-1st Floor San Jose, CA 95134-1927 Michelle Oblena Advisory Committee Coordinator Michelle.oblena@vta.org (408) 321-5814 Elaine Baltao, Board Secretary Board.secretary@vta.org (408) 321-5680 http://www.vta.org/get-involved/advisory-committee/policy-advisory-committee-pac	Advises the VTA Board of Directors on policy matters relating to transportation and congestion management. <i>Board Member cannot serve on the PAC.</i> <i>(Note: participation is State-mandated)</i>	Monthly, 2nd Thursday 4:00 pm VTA River Oaks Campus 1331 N. 1st Street Room B-104 San Jose	(P) Martinez Beltran (A) Librers	Chris Ghione, Public Services Director Edith Ramirez, Assistant City Manager
Transportation	<u>Santa Clara Valley Transportation Authority (VTA)</u> <u>MG - Group 4</u>	Cities of Morgan Hill and Gilroy advise the PAC (see above) on transportation policy and funding issues. Discuss transportation items of mutual interest to the cities of Morgan Hill and Gilroy	Tuesday before each Thursday Board meeting, 9:00 am Zoom	(P) Turner (A) Martinez Beltran	Christina Turner, City Manager Chris Ghione, Public Services Director Edith Ramirez, Assistant City Manager

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Transportation	<u>Santa Clara Valley Transportation Authority (VTA)</u> <u>Board of Directors</u> 3331 North First Street San Jose, CA 95134-1906 Elaine Baltao, Board Secretary board.secretary@vta.org (408) 321-5680 http://www.vta.org/get-involved/board-of-directors	Reviews issues relating to transportation and congestion management.	Monthly, 1 st Thursday 5:30 pm County Government Center 70 W. Hedding St. San Jose	(P) Turner (A) Bozzo (Gilroy) <i>(Alternates between MH and Gilroy every two years based on VTA preference – sometimes longer for continuity)</i>	Christina Turner, City Manager Chris Ghione, Public Services Director Edith Ramirez, Assistant City Manager
Water/Wastewater	<u>Santa Clara Valley Water Commission</u> 5750 Almaden Expressway San Jose, CA 95118-3686 (mailing address) Stephanie Simunic ssimunic@valleywater.org	Advises the District on water supply, legislative issues, and integrated water resource management. <i>(Note: Most issues relate to imported water; Morgan Hill is 100% ground water)</i>	Meetings at noon: - January 22 - April 9 - July 23 - October 22 Santa Clara Valley Water District Headquarters Building Boardroom 5700 Almaden Exp, San Jose	(P) Martinez Beltran (A) Vega	James Sylvain, Deputy Director for Utilities Services Tanya Carothers, Environmental Programs Administrator

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Category	AGENCY NAME	PURPOSE	MEETS	DELEGATES (P=Primary) (A=Alternate)	STAFF REP/S (If applicable)
Water/Wastewater	<u>South County Regional Wastewater Authority (SCRWA) Board Meeting</u> 1500 Southside Drive Gilroy, CA 95020 Kerry Edmonds kerry.edmonds@jacobs.com Deputy Secretary of the Board (408) 848-0480 Saeid Vaziry, P.E. Saeid.vaziry@ci.gilroy.ca.us Secretary of the Board http://www.ci.gilroy.ca.us/561/Submit-County-Regional-Wastewater- Authority	The South County Regional Wastewater Authority established by Joint Powers Agreement (cities of Gilroy & Morgan Hill) to provide common authority relating to Joint Wastewater Gilroy/Morgan Hill Sewage Treatment Plant located in Gilroy.	1st Wednesday of the Month, Quarterly 8:00 am 1500 Southside Dr Gilroy	(P1) Martinez Beltran (P2) Iwanga (A) Turner (A) Librers (A) Vega	James Sylvain, Deputy Director for Utilities Services Chris Ghione, Public Services Director Christina Turner, City Manager
Water/Wastewater	<u>Joint Water Resource Committee</u> 5750 Almaden Expressway San Jose, CA 95118-3686 (mailing address) Nicole Merritt nmerritt@valleywater.org (408) 630-3262 http://www.valleywater.org/About/CitiesofGilroyMorganHill.aspx	Advance South County Water interests. Ensure the continued utilization of recycled water in South County and promote the expansion of water reuse in the region and to advance recycled water production, distribution, and wholesaling in South County.	Meetings follow SCRWA Board Meetings - 1st Wednesday of the Month, Quarterly (at the request of the committee) 1500 Southside Dr Gilroy	(P1) Martinez Beltran (P2) Iwanaga (A) Turner (A) Librers (A) Vega The members of SCRWA board also serve on this committee.	Christina Turner, City Manager Chris Ghione, Public Services Director James Sylvain, Deputy Director for Utilities Services

LIST OF CITY COUNCIL ADJUNCT COMMITTEES

Mayor Mark Turner

- Morgan Hill Chamber of Commerce Board (Mayor is ex-officio member)
- VTA Mobility Partnership Committee
- Cities Association, City Selection Committee LAFCO Board Member

Council Member Yvonne Martinez Beltran

- Peninsula Division Executive Board Secretary, Cal Cities
- Housing, Economic, and Community Development Policy Committee for Cal Cities

Council Member Marilyn Librers

- Transportation, Communication, and Public Works Policy Committee for Cal Cities

Council Member Soraida Iwanaga

- City Liaison to the Sister City Committee

	Outside Agency	Primary 1	Primary 2	Alternate 1	Alternate 2	Alternate 3
1	SCC Library District JPA	Turner	-----	Vega	-----	-----
2	Silicon Valley Interoperability Authority	Cline (Gilroy)	-----	Turner	-----	-----
3	SCV Habitat Agency Governing Board	Librers	Vega	Turner	Iwanaga	-----
4	SCV Habitat Agency Implementation Board	Librers	Vega	Turner	Iwanaga	-----
5	Silicon Valley Clean Energy	Martinez Beltran	-----	City Teammate	-----	-----
7	SCVWD Elected Officials PL566	Vega	Iwanaga	Martinez Beltran	-----	-----
8	SCC Housing & Community Development Advisory Committee	Martinez Beltran	-----	Librers	-----	-----
9	City/School Liaison Committee	Turner	Vega	Librers	Martinez Beltran	-----
10	South County Youth Task Force	Turner	Librers	-----	-----	-----
11	ABAG	Martinez Beltran	-----	Turner	-----	-----
12	Cities Association	Turner	-----	Librers	-----	-----
13	Cities Association - City Selection Committee	Turner	-----	Librers	-----	-----
14	Cities Association - Legislative Action Committee	Turner	-----	Librers	-----	-----
15	LOCC Peninsula Division	Librers	-----	Turner	-----	-----
16	Caltrain Policy Maker Group	Librers	-----	Martinez Beltran	-----	-----
17	Comprehensive County Expressway Planning Policy Advisory Board	Turner	-----	Librers	-----	-----
18	MTA Policy Advisory Committee	Martinez Beltran	-----	Librers	-----	-----
19	MTA MG-Group 4	Turner	-----	Martinez Beltran	-----	-----
20	MTA Board of Directors	Turner	-----	Bozzo (Gilroy)	-----	-----
21	Valley Water Commission	Martinez Beltran	-----	Vega	-----	-----
22	South County Regional Wastewater Authority	Martinez Beltran	Iwanaga	Turner	Librers	Vega
23	Joint Water Resource Committee	Martinez Beltran	Iwanaga	Turner	Librers	Vega

Totals

	Primary	Alternate
Turner	9	7
Iwanaga	3	2
Librers	5	9
Martinez Beltran	7	4
Vega	4	4



City Council

Meeting Minutes

Mark Turner - Mayor
Marilyn Librers - Mayor Pro Tem
Miriam Vega - Council Member
Yvonne Martínez Beltrán - Council Member
Soraida Iwanaga - Council Member

Wednesday, January 15, 2025 6:00 PM

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

CALL TO ORDER

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

ROLL CALL ATTENDANCE

Deputy City Clerk Kim Mancera called the roll.

PRESENT	Miriam Vega, Soraida Iwanaga, Yvonne Martinez Beltran, Mark Turner, Marilyn Librers
ABSENT	None

DECLARATION OF POSTING AGENDA

Deputy City Clerk Kim Mancera declared the posting of the agenda.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATIONS

YAC Presentation

CITY COUNCIL REPORTS

Mayor Turner spoke about the past VTA board meeting he attended. He announced they have adopted the Zero Emission Bus Blueprint, which must be in place by 2040. He discussed the Santa Clara Library District's 5-year strategic plan that is in place. He mentioned that one of the four priorities is to inspire building the foundations of literacy within our community. This immersive type of children's area will be constructed at the library. It is scheduled to take place beginning mid-February and will be completed by mid-April. He announced that the Edward Boss Prado Foundation distributed approximately 1,500 jackets and sweaters. He shared that they are now collecting toiletry kits to be delivered to a facility in Southern California that will house approximately 600 to 1,000 residents. There is a repository at City Hall where toiletry kits can be dropped off. He mentioned that he has been working with Valley Water, having conversations regarding the fire safety plan for Morgan Hill and some of the concerns about water resources. They are working to set up a fire safety South County community awareness meeting sometime in February.

CITY MANAGER'S REPORT

City Manager Christina Turner gave an update on the Santa Clara County Board of Supervisors vote to dissolve the South Santa Clara County Fire District and annex its service area into the Santa Clara County Central Fire Protection District (County Fire) and the next steps. She announced that at the end of the month, the International City/County Management Association (ICMA) will host an Economic Mobility and Opportunity conference in Morgan Hill. She discussed the Point in Time Count. The 2025 Point-in-Time Count (PIT Count) is scheduled for Wednesday, January 22nd. The PIT Count, conducted biennially, is a vital tool to quantify the extent of homelessness in our community. This information is crucial for securing essential federal and state resources and informs the development and implementation of effective strategies to move individuals and families experiencing homelessness toward stable housing. She also wanted to thank the many volunteers who have signed up for the count and the community members who have donated hygiene kits. She announced that the new East Dunne Reservoir Project is now under construction. This project will construct a 900,000-gallon water tank and will take years to complete. You will see work on East Dunne Avenue, just past Flaming Oaks Drive. She discussed the Upper Llagas Flood Protection Project. Residents may be noticing significant work on Hale Avenue between Wright and Main. The current work is relocating existing utilities out of the way of the future large box culvert that will be installed under the road. Residents can expect to see minor traffic delays for the next few months before seeing a major roadway closure for the project near the end of April. She reminded residents that a Centennial Recreation Center and Aquatics Center membership is a perfect way to help kick off a healthy 2025. She concluded by sharing information about a Pilot Program for Downtown Cameras. The City is partnering with Flock to pilot up to ten PTZ (pan, tilt, zoom) cameras for 60 days in the downtown area. If successful, the cameras will be an asset for special events held on 3rd Street.

CITY ATTORNEY'S REPORT

None.

OTHER REPORTS

Council Member Martinez Beltran shared that she attended the Peninsula Division Retreat for the League of Cities on December 12. On January 24, they will be holding a legislative summit. She shared that she also attended the grand opening of Chocotella Downtown on December 12. She spoke about the Holiday Posada on December 14, which included food, music, cultural entertainment, prizes and gifts for the kids, and some bilingual caroling. She recognized Elizabeth Carvajal. She was a community leader in Morgan Hill and Gilroy. She shared that a press conference was held in Gilroy on December 19, where several leaders expressed the need to support our immigrant and undocumented population. On December 20, there was a ceremony with other leaders held in Gilroy to honor the unhoused neighbors who have passed away. She shared her condolences to the families that we lost in the recent accidents on Monterey Rd. She concluded by sharing that Supervisor Betty Duong has been sworn in and is the first Vietnamese Supervisor in Santa Clara County.

PUBLIC COMMENT

Public comment opened at 6:18 p.m. The following people were called to speak:

Steve Chappell

Mitchell Kirk

Ben Palm

Brian Turner

Levi Fistori

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted and moving item 5 to the end of the agenda with a start time of no earlier than 7:00 p.m.

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

CONSENT CALENDAR

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

Public comment opened at 6:31 p.m.

Doug Muirhead was called to speak.

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

MOTION:

Approving consent calendar items 1 and 3.

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

1. **APPROVE THE DECEMBER 4, 2024 AND THE DECEMBER 11, 2024 CITY COUNCIL MEETING MINUTES**

Recommendation:

Approve minutes.

3. **RATIFY THE CITY MANAGER'S EXECUTION OF THE FIRST AMENDMENT TO AGREEMENT WITH MONTEREY BAY OFFICE PRODUCTS, INC. FOR THE PURCHASE AND MAINTENANCE OF THE CITY'S MULTI-FUNCTION PRINTERS**

Recommendation:

Ratify the City Manager's execution of the first amendment to the agreement with Monterey Bay Office Products, Inc. for the purchase of the City's multi-function printers.

ITEMS PULLED FOR DISCUSSION

2. **AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TOOLE DESIGN FOR \$220,250 FOR THE DEVELOPMENT OF A COMPREHENSIVE SAFETY ACTION PLAN**

Recommendation:

1. Authorize the City Manager to execute a consultant agreement with Toole Design for the development of a Comprehensive Safety Action Plan for the City of Morgan Hill; and
2. Adopt a resolution amending the FY24-25 Capital Improvement Program Budget appropriating \$220,250 in expenses and \$200,500 in grant revenue within the Traffic Impact Fund (309).

Assistant City Manager/Public Services Director Chris Ghione provided a report.

Public comment opened at 6:37 p.m. There being no requests to speak, public comment closed.

MOTION:

Approving the recommended action.

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

4. RECEIVE MONTHLY BUDGET UPDATE AND NOVEMBER 2024 FINANCIAL AND INVESTMENT REPORTS

Recommendation:

Receive and file report.

Finance Director Dat Nguyen provided a report.

Public comment opened at 6:43 p.m. There being no requests to speak, public comment closed.

MOTION:

Approving the recommended action.

RESULT:	Passed
MOVER:	Mayor Pro Tem Librers
SECONDER:	Council Member Martinez Beltran
AYES:	Council Member Iwanaga, Mayor Turner, Mayor Pro Tem Librers, Council

	Member Martinez Beltran, Council Member Vega
NAYS:	None
ABSTAIN:	None
ABSENT:	None

PUBLIC HEARINGS

6. **ADOPT RESOLUTION AMENDING THE TEXT OF THE MORGAN HILL 2035 GENERAL PLAN TO ELIMINATE THE FLOOR AREA RATIO FOR THE MIXED USE FLEX LAND USE DESIGNATION AND INTRODUCE ORDINANCE (ZA2024-0002) AMENDING CHAPTER 12.32 (RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES) WITHIN TITLE 12 (STREET, SIDEWALKS AND PUBLIC PLACES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL AND VARIOUS CODE PROVISIONS WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING UPDATES TO ACCESSORY DWELLING UNIT PROVISIONS TO COMPLY WITH SENATE BILL 477 AND SENATE BILL 1211; IMPLEMENTING REPRODUCTIVE HEALTH COMMUNITY CLINICS BY-RIGHT TO COMPLY WITH ASSEMBLY BILL 2085; UPDATES TO PARKING PROVISIONS TO COMPLY WITH ASSEMBLY BILL 2097; AND IMPLEMENTING MINOR AMENDMENTS DUE TO CLERICAL ERRORS AND INCONSISTENCIES**

Recommendation:

1. Open/close the public hearing;
2. Adopt a Resolution approving an amendment to the text of the Morgan Hill 2035 General Plan to eliminate the Floor Area Ratio for the Mixed Use Flex land use designation;
3. Waive first and second reading of the Ordinance Amendment; and
4. Introduce Ordinance Amendment.

Principal Planner Adam Paszkowski provided a report and presentation.

Public comment opened at 7:12 p.m. The following people were called to speak:

Levi Fistori

Steve Chappell

Armando Benavidas

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

MOTION:

Continuing section 2 of item 6 to a future date not yet determined.

RESULT:	Passed
MOVER:	Council Member Martinez Beltran
SECONDER:	Mayor Pro Tem Librers

AYES:	Council Member Iwanaga, Mayor Turner, Mayor Pro Tem Librers, Council Member Martinez Beltran, Council Member Vega
NAYS:	None
ABSTAIN:	None
ABSENT:	None

MOTION:

Waiving the first and second reading of the ordinance.

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

MOTION:

Introducing the ordinance removing the sections on trees and FAR.

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

OTHER BUSINESS

7. DOWNTOWN MORGAN HILL IMPROVEMENT DISTRICT 2024 ANNUAL REPORT

Recommendation:

Accept and file the Downtown Morgan Hill Improvement District Annual Report.

Economic Development Director Matt Mahood provided a report and presentation.

Public comment opened at 8:00 p.m. There being no requests to speak, public comment closed.

Report received.

8. SELECT AND APPOINT CITY COUNCIL MAYOR PRO TEMPORE

Recommendation:

1. Open floor to nomination(s) for Mayor Pro Tempore; and
2. Select a Council Member to serve as Mayor Pro Tempore per City Council Policy 99-01.

City Manager Christina Turner provided a report.

Public comment opened at 8:04 p.m. There being no requests to speak, public comment closed.

Mayor Pro Tem Librers nominated Council Member Martinez Beltran. Council voted unanimously to appoint Council Member Martinez Beltran as Mayor Pro Tempore.

The meeting recessed at 8:06 p.m. and reconvened at 8:11 p.m.

5. ADOPT RESOLUTION APPROVING COMMENCEMENT OF 2025 WEED ABATEMENT PROGRAM

Recommendation:

1. Open/Close public hearing; and
2. Adopt a resolution authorizing Santa Clara County to commence hazardous vegetation abatement activities.

Assistant City Manager/Public Services Director Chris Ghione provided a report.

Council Member Librers and Council Member Iwanaga recused themselves due to a conflict of interest.

MOTION:

Approving the recommended action.

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

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Martinez Beltran would like to discuss fire safety in Jackson Oaks and Holiday Lake Estates.

CLOSED SESSION

City Attorney Donald Larkin announced the closed session item.

The meeting adjourned to a closed session at 8:19 p.m.

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

Cheryl Dominguez v. City of Morgan Hill: Workers Compensation Claim

Nos. MHL1900016

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURNMENT

There being no further business, Mayor Turner adjourned the meeting at 8:30 p.m. in honor of former Council Members Spring and Borgioli.

Minutes Prepared by:

Kim Mancera, Deputy City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Yat Cho, Senior Project Manager

APPROVED BY: City Manager

AWARD MORGAN HILL MAGICAL BRIDGE SHADE STRUCTURE PROJECT TO G&G BUILDERS INC. IN THE AMOUNT OF \$392,933

RECOMMENDATION(S)

1. Approve the Morgan Hill Magical Bridge Shade Structure Project Plans and Specifications;
2. Award contract to G&G Builders Inc. in the amount of \$392,933;
3. Authorize the expenditure of construction contingency funds not to exceed \$100,000;
4. Authorize the City Manager to execute and administer the construction contract with G&G Builders Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

Supporting our Youth, Seniors, and Entire Community

2024-2025 Strategic Priorities

Fiscal Sustainability

Healthy Community

Guiding Documents

Bikeways, Trails, and Recreation Master Plan

REPORT NARRATIVE:

The Morgan Hill Magical Bridge/Inclusive Playground Project was completed in 2022. Since its inception, there has been a need to add shade structures to the inclusive playground for shading and enhance the park's usability during warmer weather.

The City of Morgan Hill received a \$300,000 Community Development Block Grant (CDBG) from the County of Santa Clara for this project. Once the City received approval for the grant, staff began working on the design.

The plans and specifications were completed in November 2024, and the project went to bid for the installation of five shade structures within the Morgan Hill Magical

Bridge/Inclusive Playground location. The bid opening was held on January 22, 2025, and two bids were received as follows:

G&G Builders Inc.	\$392,933
Suarez and Munoz, Inc.	\$411,000

G&G's bid of \$392,933 is approximately 12.2% higher than the engineer's estimate of \$350,000. G&G is an experienced contractor with the qualifications to perform this project. Staff recommends the award of the contract to G&G Builders Inc. for \$392,933. Staff is requesting a contingency of \$100,000 as the sizing of the foundation, poles, and shade structures may change depending on the existing location of underground utilities. If approved, the project is scheduled to commence in March 2025 and be completed by late summer 2025, pending any possible weather issues.

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

COMMUNITY ENGAGEMENT:

Inform

It is important to provide community updates and outreach for this project as there may be significant impacts to the Magical Bridge/Inclusive Playground during construction. Before and during construction, the project's progress will be updated weekly on social media and the City website. Additional outreach by the contractor through signage at the park will also be implemented.

ALTERNATIVE ACTIONS:

The City Council may reject the bids for this construction contract and request that the project be re-bid. Staff does not recommend this alternative, as it may delay the project for over four months and may not result in cost savings. Any delays may jeopardize the grant funding for this project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council adopted the approved FY 2024-25 through 2029-30 Capital Improvement Program Budget on June 19, 2024.

FISCAL AND RESOURCE IMPACT:

If approved, the total authorization for this project will be \$492,933, including a \$100,000 contingency. It is funded in the current adopted budget (FY24-25) and is budgeted under Project PR1004 (Quimby Fund 375). Upon completion, staff will request a reimbursement of up to \$300,000 from the CDBG Grant. The remaining funding is available and appropriated in Project PR1005, Park Facility Renovation and Expansion.

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 CEQA Guidelines (Existing Facilities), item (e) additions to existing structures provided that the addition will not result in an increase of more than: (1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.



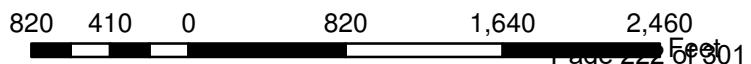
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Public Services Department
CIP Engineering Division**

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**MORGAN HILL
MAGICAL BRIDGE SHADE
STRUCTURE PROJECT**



CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Maria Angeles, Senior Civil Engineer

APPROVED BY: City Manager

RECEIVE ANNUAL REPORT ON 2024 CITY ENGINEER ACCEPTANCES OF PUBLIC IMPROVEMENTS COMPLETED BY PRIVATE DEVELOPMENT PROJECTS

RECOMMENDATION(S)

Accept and file Annual Report on 2024 City Engineer acceptances of public improvements completed by private development projects.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Preserving and Cultivating Public Trust

REPORT NARRATIVE:

On December 2, 2020, the City Council approved the delegation of authority from the City Council to the City Engineer to accept the public improvements completed by private development projects. This delegation of authority was done to streamline the project acceptance process and reduce administrative costs. At the December 2020 City Council meeting, City Council directed staff to bring back periodic reports to the Council on the project acceptances performed by the City Engineer. This is the fourth annual report to the City Council. The first, second, and third annual reports included development projects accepted in calendar years 2021, 2022, and 2023, respectively. The attached report shows detailed information about the development projects accepted by the City Engineer in calendar year 2024.

COMMUNITY ENGAGEMENT:

This report serves to inform the City Council and Community about the project acceptances performed by the City Engineer in calendar year 2024.

ALTERNATIVE ACTIONS:

Not Applicable – acceptance of a report only; no action is required.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

December 2, 2020 – City Council formally delegated the authority to accept the public improvements completed by private development projects from the City Council to the City Engineer.

February 16, 2022 – City Council accepted the first annual report on City Engineer acceptances of public improvements completed by private development projects in calendar year 2021.

March 15, 2023 – City Council accepted the second annual report on City Engineer acceptances of public improvements completed by private development projects in calendar year 2022.

February 21, 2024 – City Council accepted the third annual report on City Engineer acceptances of public improvements completed by private development projects in calendar year 2023.

FISCAL AND RESOURCE IMPACT:

The acceptance of this report has no fiscal impact.

CEQA (California Environmental Quality Act):

Not a Project

The acceptance of this report is considered “an organizational or administrative activity of a government that will not result in direct or indirect physical changes in the environment.”

LIST OF DEVELOPMENT PROJECTS WITH PUBLIC IMPROVEMENTS ACCEPTED BY THE CITY ENGINEER

CALENDAR YEAR 2024

No.	Date of Acceptance by City Engineer	Date of Project Completion	Project Name	Project Description	Project Location	APN	Developer Name	Date of Subdivision Improvements Agreement or Improvement Agreement	Date of Council Approval of Final Map	Streets Accepted	Street Lengths (miles)	Other Improvements Accepted	Value of the Public Improvements Accepted
1	3/21/2024	12/20/2023	San Sebastian Phase 2	75-Lot residential subdivision	Cochrane Road, approximately 1500 feet east of Saint Marks Drive	728-60-060 to 728-60-075; 728-61-001 to 728-61-026; 728-61-028 to 728-61-052; 728-61-053 728-61-056 to 728-61-062	TOLL CA XX, L.P.	6/7/2018	6/6/2018	No new street miles	0.00	Connection of private water line to public water main	\$ 532,575
2	4/23/2024	4/5/2024	Andalusia Tract No. 10521	46-Unit residential condominium development	Andalusia Drive and Los Castanos Drive	726-60-001 to 726-60-046	MH ANDALUSIA 2020, INC	11/22/2020	11/18/2020	Andalusia Drive	0.06	Frontage improvements along Andalusia Drive, Los Castanos Drive, St. Anthony Drive, and E. Dunne Avenue (new/replacement of curb, gutter and sidewalk, new driveway approaches, streetlights, street trees, extension of landscaped median, public water main, water services and meters, and sewer laterals)	\$ 689,334
										Los Castanos Drive	0.06		
										St. Anthony Drive	0.07		
3	5/30/2024	12/22/2023	Morgan Hill Chrysler- Dodge-Ram+Jeep Dealership	31,397 Sq. ft. Auto dealership	West side of Condit Road, south of Diana Avenue	728-17-032	TSC Motor, Inc.	7/29/2022	6/23/2021	No new street miles	0.00	Frontage improvements along Condit Road (new/replacement of curb, gutter, and sidewalk, new driveway approach, street lights, water services and meters, sewer service, and storm drain pipe	\$ 283,550
4	10/8/2024	10/8/2024	Dunne Murphy Tract No. 10387	14-Lot residential subdivision	Southeast corner of East Dunne Avenue and Murphy Avenue	817-78-004 to 817-78-017	Nordstrom Cal Homes, LLC	10/25/2017	5/3/2017	Bodega Way (previously known as Brix Lane)	0.08	Frontage improvements along Bodega Way, East Dunne Ave, and Murphy Avenue (new/replacement of curb, gutter & sidewalk, new driveway approaches, streetlights, street trees, extension of landscaped median, new traffic signal, public water main, water services and meters, and sewer laterals)	\$ 1,348,441
5	10/8/2024	9/10/2024	San Sebastian Phase 3	57-Lot residential subdivision	Northwest intersection of Peet Road and Half Road	728-62-001 to 728-61-058	TOLL CA XX, L.P.	3/9/2022	3/2/2022	No new street miles	0.00	Connection of private water line to public water main	\$ 387,050

LIST OF DEVELOPMENT PROJECTS WITH PUBLIC IMPROVEMENTS ACCEPTED BY THE CITY ENGINEER
CALENDAR YEAR 2024

No.	Date of Acceptance by City Engineer	Date of Project Completion	Project Name	Project Description	Project Location	APN	Developer Name	Date of Subdivision Improvements Agreement or Improvement Agreement	Date of Council Approval of Final Map	Streets Accepted	Street Lengths (miles)	Other Improvements Accepted	Value of the Public Improvements Accepted
6	11/21/2024	11/15/2024	Apple Tree Tract No. 10523	6-Lot residential subdivision	Southwest corner of Old Monterey Road and Mustard Avenue	764-24-078 to 764-24-082	18755 Old Monterey LLC	4/28/2022	4/20/2022	No new street miles	0.00	Frontage improvements along Mustard Avenue, Campoli Drive, and Old Monterey Road (new curb, gutter & sidewalk, driveway approaches, streetlights, street trees, public water main, water services, storm drainage, and sanitary sewer)	\$ 89,998
7	11/25/2024	11/22/2024	Morgan Hill Senior Housing	82-Unit affordable senior apartment project	Southeast corner of Monterey Road and San Pedro Avenue	817-02-068	Morgan Hill Senior Housing, L.P.	11/11/2022	N/A	No new street miles	0.00	Frontage improvements along Monterey Road, San Pedro Avenue, and Church Street (new/replacement of curb, gutter & sidewalk, new driveway approaches, streetlights, street trees, extension of landscaped median, undergrounding overhead utilities, public water main, water services and meters, and sewer laterals)	\$ 239,430
8	12/12/2024	11/22/2024	Butterfield Village (Vida at Morgan Hill)	389-Unit apartment project	Southeast corner of Monterey Road and Jarvis Drive	726-25-095 and 726-25-093	Morgan Hill Multifamily LLC	3/22/2022	N/A	No new street miles	0.00	Frontage improvements along Jarvis Drive and Sutter Boulevard (new sidewalk, new driveway approach, public water main, water services and meters, and storm drain system)	\$ 419,038

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Adam Paszkowski, Principal Planner

APPROVED BY: City Manager

ADOPT RESOLUTION AMENDING THE TEXT OF THE MORGAN HILL 2035 GENERAL PLAN TO ELIMINATE THE FLOOR AREA RATIO FOR THE MIXED USE FLEX LAND USE DESIGNATION AND INTRODUCE ORDINANCE (ZA2024-0002) AMENDING CHAPTER 12.32 (RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES); AMENDING SECTIONS 17.20.040 (FORM AND CONTENTS) AND 17.24.030 (FORM AND CONTENTS) RELATING TO TENTATIVE MAPS WITHIN TITLE 17 (SUBDIVISIONS) IMPLEMENTING MINOR AMENDMENTS DUE TO INCONSISTENCIES WITH CHAPTER 12.32 PROPOSED AMENDMENTS; AND AMENDING TABLE 18.22-2 (DEVELOPMENT STANDARDS IN MIXED USE ZONING DISTRICTS) WITHIN SECTION 18.22.040 (DEVELOPMENT STANDARDS) TO REMOVE THE MAXIMUM FLOOR AREA RATIO (FAR) AND BUILDING COVERAGE WITHIN THE (MIXED USE FLEX) MU-F ZONING DISTRICT

RECOMMENDATION(S)

1. Open/close the public hearing;
2. Adopt a Resolution approving an amendment to the text of the Morgan Hill 2035 General Plan to eliminate the Floor Area Ratio for the Mixed Use Flex land use designation;
3. Waive first and second reading of the Ordinance Amendment; and
4. Introduce Ordinance Amendment.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment and Preserving Open Space and Agricultural Land

2024-2025 Strategic Priorities

Economic Development and Tourism

Healthy Community

Guiding Documents

Climate Action Plan

Economic Blueprint

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The City Council considered the proposed Mixed Use Flex General Plan text amendment (Attachment 1) and the draft Ordinance amendments (Attachment 2) at their [January 15, 2025 meeting](#), and ultimately decided to continue the removal of the Floor Area Ratio (FAR) within the Mixed Use Flex designation and zoning district, as well as all associated proposed ordinance changes to Chapter 12.32 (Restrictions on Removal of Significant Trees), to a future public hearing.

General Plan Text Amendment:

Staff is proposing a General Plan text amendment to better align the intensity of allowed land uses within the Mixed Use Flex designation with recent changes in State law, the Monterey Corridor Form-Based Code, and the overall goals of the General Plan. The City adopted a comprehensive update of the City's General Plan in 2016 which established the Mixed Use Flex land use designation primarily along the Monterey Road corridor, north and south of Downtown. The General Plan vision for the Monterey Corridor is as follows:

“North and south of Downtown will transform from its current predominantly strip commercial character to a vibrant mixed use corridor that encourages walking and biking. Buildings will front onto the street and a range of commercial and office uses will be located within close proximity to attached residential units. Density will decrease with distance from Downtown.”

Currently, the Mixed Use Flex designation limits new development to a maximum FAR of 0.5. Floor Area Ratio is the ratio of the building square footage compared to the square footage of the lot. To achieve a 0.5 FAR, development would be limited to one-story for half of the site, two-story for one quarter of the site, and so on, with a ratio of total building area no more than 50% of the total site area. For commercial development, this would correspond to auto-oriented, low-intensity commercial uses. The current FAR of 0.5 will not support the achievement of the walkable, mixed-use corridor of Monterey Road as envisioned within the General Plan or the Monterey Corridor Form-Based Code. Therefore, the proposed text amendment will better align the text of the General Plan with the City's overarching vision for the Monterey Corridor.

Although FAR sets restrictions on limiting the size of a building on a lot, there are many other Zoning regulations that restricts building size, including, but not limited to:

- Height restrictions
- Setbacks
- Parking requirements
- Landscaping requirements
- Planned Development (PD) zoning

Furthermore, the purpose of the proposed General Plan text amendment is to remove

the Mixed Use Flex designation floor area ratio (FAR) in order to: 1) align with what State regulations promoting housing development already allow; 2) align with the development standards recently adopted through the Monterey Corridor Form-Based Code; and 3) provide equitable conditions for commercial and residential development.

Because State law allows higher densities of residential development along the Monterey Corridor than originally envisioned in the General Plan, it is necessary to make similar allowance for mixed-use and/or commercial development to achieve the overall vision for the corridor. If higher-density residential is allowed while commercial is constrained, market conditions will strongly favor residential over commercial use and over time the corridor will become completely residential. In contrast, the City's vision is that the corridor would have both residential and commercial uses. The proposed text amendment will grant commercial development similar density allowances as residential to provide equitable conditions for the two land uses.

The proposed text change can be considered routine in that it brings the General Plan into alignment with State law and/or the Monterey Corridor Form-Based Code. It is also important in that it provides clarity and equitable conditions for residential and commercial development and thereby helps the City to achieve its vision for the Monterey Corridor to be a "vibrant mixed-use corridor" as stated in the General Plan. The Planning Commission held a public hearing regarding the proposed draft General Plan text amendment on August 27, 2024, and recommended approval of the amendments to the General Plan as presented by staff. Complete details of the proposed amendments are provided in the draft Resolution (Attachment 1) and in the [Planning Commission staff report](#).

The proposed General Plan text amendment includes amending page CNF-13 of the 2035 General Plan regarding the description of the Mixed Use Flex Designation by removing the maximum Floor Area Ratio of 0.5 and revising it as follows:

Mixed Use Flex. The Mixed Use Flex designation, which is primarily applied to properties along the Monterey Road corridor north and south of downtown, allows for a mix of residential, commercial, and office uses applied either vertically (i.e., one structure with multiple uses) or horizontally (i.e., structures with different land uses located adjacent to one another). Density should transition from higher to lower at the ends of the Monterey corridor. The Mixed Use Flex designation allows 7 to 24 units per acre.

Zoning Text Amendment:

Staff has found the need to update certain portions of the Municipal Code, primarily to implement changes to Table 18.22-2 to remove the maximum FAR and building coverage within the (Mixed Use Flex) MU-F zoning district to be consistent with the above changes, and to update Chapter 12.32 (Restrictions on Removal of Significant Trees) to be consistent with industry standards in regards to tree removal permits.

The following amendments to the Municipal Code are proposed:

- Chapter 12.32 (Restrictions on Removal of Significant Trees) of Title 12 (Streets, Sidewalks and Public Places) is proposed to be renamed as the Protected and Significant Trees Chapter. Text within the Code is proposed to be revised to update language, provide internal consistency, and to be consistent with the Tree Removal Application process.
- Section 17.20.040 (Form and Contents) of Chapter 17.20 (Map Requirements-Five or More Parcels) and Section 17.24.030 (Form and Content) of Chapter 17.24 (Map Requirements-Four or Less Parcels) of Title 17 (Subdivisions) are proposed to be amended to be consistent with the proposed changes within Chapter 12.32.
- Table 18.22-2 (Development Standards in Mixed Use Zoning Districts) within Section 18.22.040 (Development Standards) of Chapter 18.22 (Mixed Use Zoning Districts) is proposed to be amended to be consistent with the proposed General Plan text amendment to remove the maximum FAR and building coverage within the (Mixed Use Flex) MU-F zoning district.

Trees:

Chapter 12.32 (Restrictions on Removal of Significant Trees) has been in effect since 1980. Changes to this Chapter include:

- Renaming the chapter to "Protected and Significant Trees";
- Consistency with tree removal and arborist industry (update outdated language, provide internal consistency, and best management practices);
- Change method of measuring trees from circumference (18-inches for native trees; and 40-inches for non-native trees) to diameter at breast height (DBH), thereby increasing the size by eight-tenths of an inch (18.8-inches and 40.8-inches, respectively) in which a tree removal permit would be required;
- Provide definitions for "Trimming" and "Pruning";
- Require a tree removal permit for land development projects (i.e. residential subdivisions, commercial and industrial development); and
- Require a tree removal permit for non-native trees within single-family residential zoned property, to be consistent with multi-family residential, mixed-use, commercial and industrial zoned properties.

A tree removal permit will not be required for:

- Native trees smaller than 6-inches at DBH (circumference of 18.8-inches);
- Non-native trees smaller than 13-inches at DBH (circumference of 40.8-inches);
- Trimming (removal of less than 25% of the tree canopy); or
- Prohibited trees (including Eucalyptus, Conifers, Redwoods, Palms, Fruit Trees, etc. as listed in Chapter 12.28.050 of the Ordinance Code).

FAR:

Chapter 18.22 (Mixed Use Zoning Districts) is proposed to be amended to be consistent with the proposed General Plan text amendment to remove the maximum FAR and building coverage within the (Mixed Use Flex) MU-F zoning district. With the adoption of the Form Based Code, the Mixed Use Flex zoning district is represented on four vacant parcels on Monterey Road. The remaining Mixed Use Flex base zoning is overridden by the Planned Development Combining District that overlays three separate areas, Phase 2 of Cochrane Commons, two half parcels on Dunne at Walnut Grove and the remaining portion of the Lillian Commons/Rosewood development at Juan Hernandez and Tennant. The removal of the FAR would have no effect because these parcels are governed by their individual Planned Development zoning and associated master plans.

Staff regularly brings forward minor amendments as necessary to enhance, correct and/or refine the Code. The Planning Commission held a public hearing regarding the proposed draft Ordinance on December 10, 2024, and recommended approval of the amendments to the Municipal Code as presented by staff. Complete details of the proposed amendments are provided in the draft Ordinance (Attachment 2) and in the [Planning Commission staff report](#).

If the proposed Ordinance is approved, the Code Amendment becomes effective 30 days following the adoption of the Ordinance by the City Council. Pursuant to Section 18.114.060 (Findings for Approval), the City Council may approve a zoning code amendment if all the following findings are made:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of the zoning code.

The proposed amendments are consistent with the above findings as they provide further clarification, or expand on certain topics, within the Municipal Code and implement minor amendments due to inconsistencies between, and within, the General Plan and Ordinance Code.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed the proposed General Plan text amendments on August 27, 2024. Following discussion, the Planning Commission unanimously approved [Resolution No. 24-08](#) recommending the City Council approve the proposed General Plan text amendments regarding the description of the Mixed Use Flex Designation as presented by staff.

The Planning Commission reviewed the proposed Zoning text amendments on December 10, 2024. Following discussion, the Planning Commission unanimously approved [Resolution No. 24-16](#) recommending the City Council approve the proposed

Municipal Code Amendments as presented by staff. The Commission also expressed that the City should explore the need for a future Heritage/Oak Tree ordinance as a future work item. Staff will evaluate the need for a Heritage/Oak Tree ordinance and will report back to the Planning Commission at a future meeting.

COMMUNITY ENGAGEMENT:

Inform

A 10-day public hearing notice was published in the Friday, February 7, 2025, edition of the Morgan Hill Times pursuant to Government Code Sections 65090-65096. Notice was also provided on the website and email/social media with the City's 411 distribution. On January 15, 2025, the City Council held a public hearing regarding the proposed General Plan text amendments in which a 10-day public hearing notice was published in the Friday, January 3, 2025, edition of the Morgan Hill Times. On August 27, 2024, the Planning Commission held a public hearing regarding the proposed General Plan text amendments in which a 10-day public hearing notice was published in the Friday, August 16, 2024, edition of the Morgan Hill Times. On December 10, 2024, the Planning Commission held a public hearing regarding the proposed Municipal Code amendments in which a 10-day public hearing notice was published in the Friday, November 29, 2024, edition of the Morgan Hill Times.

ALTERNATIVE ACTIONS:

If the City Council does not take action on the proposed General Plan amendment, the General Plan will remain as-is, and commercial development will continue to require a FAR of 0.5; whereas residential development will not have to meet the FAR requirement along the Monterey Road corridor.

If the City Council does not take action on the proposed ordinance amendments, the Municipal Code will remain as-is. The Council may also make modifications to the proposed amendments, or not approve certain sections that the Council deems appropriate.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 15, 2016, the City Council adopted Ordinance No. 2205 N.S., amending Chapter 12.32 (Restrictions on Removal of Significant Trees) of Title 12 – Streets, Sidewalks and Public Places in its entirety.

On July 27, 2016, the City Council adopted Resolution No. 16-128, adopting a comprehensive update of the Morgan Hill General Plan entitled "Morgan Hill 2035 General Plan".

On June 6, 2018, the City Council adopted Ordinance No. 2277 N.S., a comprehensive update of Title 18 – Zoning of the City of Morgan Hill Municipal Code. The update included an amendment to the City's official zoning map consistent with the Morgan Hill 2035 General Plan.

On August 27, 2024, the Planning Commission considered and recommended,

unanimously, the City Council approve the proposed Mixed Use Flex General Plan text Amendment.

On December 10, 2024, the Planning Commission considered and recommended, unanimously, the City Council approve the proposed draft Ordinance.

On January 15, 2025, the City Council considered the proposed Mixed Use Flex General Plan text Amendment and the draft Ordinance amendments, and ultimately decided to continue the removal of the FAR within the Mixed Use Flex designation and zoning district, as well as all associated proposed changes to Chapter 12.32 (Restrictions on Removal of Significant Trees) to a future public hearing.

FISCAL AND RESOURCE IMPACT:

The cost of City-initiated General Plan Amendments is borne, and work is accommodated, within the respective division's annual workplan and budget. Staff regularly brings forward municipal code amendments as necessary to enhance, correct, and/or refine the Code; and therefore, the cost is borne, and work is accommodated, within the respective division's annual workplan and budget.

CEQA (California Environmental Quality Act):

The proposed amendments are categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The proposed project is covered by the common-sense exemption that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed project will not result in any direct impact upon the physical environment. Any development that occurs in the future subject to such standards will undergo an independent analysis per the requirements of CEQA.

The Environmental Impact Report (EIR) for the Morgan Hill 2035 General Plan, which envisioned the transformation of the Monterey Corridor north and south of Downtown into a vibrant mixed-use corridor, was prepared in accordance with CEQA and certified by the Morgan Hill City Council on July 27, 2016 (SCH#2015022074).

RESOLUTION NO. 25-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING A GENERAL PLAN AMENDMENT (GPA2024-0001) TO AMEND THE TEXT OF THE MORGAN HILL 2035 GENERAL PLAN TO ELIMINATE THE FLOOR AREA RATIO FOR THE MIXED USE FLEX LAND USE DESIGNATION

WHEREAS, the City of Morgan Hill (the “City”) has an adopted General Plan, which includes all of the state mandated elements;

WHEREAS, the City proposes to amend the General Plan text to eliminate the Floor Area Ratio for the Mixed Use Flex land use designation to better align the intensity of allowed land uses within the Mixed Use Flex designation with recent changes in State law, the Monterey Corridor Form-Based Code, and the overall goals of the General Plan;

WHEREAS, this General Plan Amendment was found to be exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines;

WHEREAS, on January 3, 2025 and February 7, 2025, a public notice was published in the Morgan Hill Times, specifying the date, time, and location of the public hearing to consider the recommendation that the City Council adopt the General Plan Amendment to eliminate the Floor Area Ratio for the Mixed Use Flex land use designation;

WHEREAS, such requests were considered by the Planning Commission at its regular meeting of August 27, 2024 and by the City Council at its meeting of January 15, 2025; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The Morgan Hill City Council finds that the General Plan amendment meets the letter and intent of the General Plan goals and policies.

SECTION 2. That the City Council adopt the Resolution eliminating the Floor Area Ratio for the Mixed Use Flex land use designation as described in the attached Exhibit “A” and by this reference incorporated herein.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution.

SECTION 4. This Resolution shall take effect immediately upon its adoption by the City Council.

PASSED AND ADOPTED THIS 19th DAY OF FEBRUARY 2025, AT A MEETING OF THE CITY COUNCIL BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

MICHELE BIGELOW, City Clerk

MARK TURNER, Mayor

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 Resolution No. , adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of _____, 2025.

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

DATE: _____

MICHELE BIGELOW, City Clerk

EXHIBIT 'A'

Amend page CNF-13 description of Mixed Use Flex Designation as follows:

Mixed Use Flex. The Mixed Use Flex designation, which is primarily applied to properties along the Monterey Road corridor north and south of downtown, allows for a mix of residential, commercial, and office uses applied either vertically (i.e., one structure with multiple uses) or horizontally (i.e., structures with different land uses located adjacent to one another). Density should transition from higher to lower at the ends of Monterey corridor. The Mixed Use Flex designation allows 7 to 24 units per acre.

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CHAPTER 12.32 (RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES) WITHIN TITLE 12 (STREET, SIDEWALKS AND PUBLIC PLACES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL, AMENDING SECTION 17.20.040 (FORM AND CONTENTS) OF CHAPTER 17.20 (MAP REQUIREMENTS-FIVE OR MORE PARCELS) AND SECTION 17.24.030 (FORM AND CONTENT) OF CHAPTER 17.24 (MAP REQUIREMENTS-FOUR OR LESS PARCELS) WITHIN TITLE 17 (SUBDIVISIONS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING MINOR AMENDMENTS DUE TO INCONSISTENCIES, AND AMENDING TABLE 18.22-2 (DEVELOPMENT STANDARDS IN MIXED USE ZONING DISTRICTS) WITHIN SECTION 18.22.040 (DEVELOPMENT STANDARDS) OF CHAPTER 18.22 (MIXED USE ZONING DISTRICTS) WITHIN TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO REMOVE THE MAXIMUM FLOOR AREA RATIO (FAR) AND BUILDING COVERAGE WITHIN THE (MIXED USE FLEX) MU-F ZONING DISTRICT

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

Section 1. Chapter 12.32 (Restrictions on Removal of Significant Trees) of Title 12 (Streets, Sidewalks and Public Places) is hereby amended to read as follows:

Chapter 12.32 PROTECTED AND SIGNIFICANT TREES

12.32.010 Council determinations.

The city council finds and declares:

- A. The intent of promoting the preservation and establishment of a diverse, abundant tree canopy in the city is vital to the health and character of the community. The existing and future trees and tree communities located in the city are a valuable and distinctive natural resource. The trees and tree communities of the city enhance the economic base through agricultural production, encouragement of tourism and enrichment of the living environment.

- B. The following environmental consequences are among those which could result from the indiscriminate removal or destruction of trees and tree communities in the city:
1. Modification of microclimates;
 2. Change or elimination of animal habitat, possibly including habitats of endangered species;
 3. Change in soil conditions, resulting in modified biological activity and erosion of soils;
 4. Creation of increased susceptibility of flood hazards;
 5. Increased risk of landslides;
 6. Increased cost of construction and maintenance of drainage systems through increased flow and diversion of surface waters;
 7. Degradation of the human habitat;
 8. Loss of environmental benefits of trees in neighborhoods, such as noise reduction, oxygen replacement, carbon dioxide reduction, interception of particulates and aesthetic qualities; and/or
 9. Potential for irreparable wind damage to adjacent trees.
- C. The preservation and replacement of significant tree communities on private and public property is necessary to protect the ecology of the area and prevent undesirable changes to the natural and built environment.
- D. It is necessary to enact the ordinance codified in this chapter for the reasons stated in this section and to promote the public health, safety, general welfare and prosperity of the city, while respecting and recognizing individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity.

12.32.020 Definitions.

For the purposes of this chapter, the following words shall have the meaning ascribed to them in this section:

- A. "Arborist" means any person certified in the professional care, examination, and maintenance of trees.
- B. "City" means the city of Morgan Hill, California, acting by and through its authorized representatives.
- C. "Community of trees" means a group of trees of any size which are ecologically or

aesthetically related to each other, with a combined canopy cover of more than ten percent, and that loss of such community would cause a significant ecological, aesthetic, or environmental impact in the immediate area.

- D. "Development services director" means the development services director of the city, including their authorized or appointed representatives.
- E. "Diameter at breast height (DBH)" means the standard measurement for a tree trunk diameter, measured 4.5 feet above the average ground level.
- F. "Native tree" means any tree which is native to the Morgan Hill region. Such trees include, but are not limited to, oaks (all types), California Bays, Madrones, Sycamore, and Alder.
- G. "Nonnative tree" means any tree that is not native to the Morgan Hill region.
- H. "Person" means an individual, public agency, including the city and its departments, firms, associations, and corporations, and their employees, agents, or representatives.
- I. "Private property" means all property not owned by the city or any other public agency.
- J. "Prohibited tree" means any trees that become liabilities due to structural weaknesses, disease or insect susceptibility, short life, destructive root systems, or requiring excessive watering or maintenance as defined in Chapter 12.28.050.
- K. "Protected tree" means any native tree, significant tree, any tree designated for protecting during review and approval of a development project, public or street trees, and otherwise designated as significant status.
- L. "Prune" means the selective removal or modification of twenty-five percent or more of the tree branches, roots, buds, or limbs in such a manner that impacts the structure of the tree.
- M. "Public tree" means any tree located in any street, park, or public place or planted or maintained by the city.
- N. "Public property" means all property owned by the city, and any other city, county, city and county, special district, or other public agency in the incorporated area of the city.
- O. "Significant Tree" means any live woody plant rising above the ground with a single stem or trunk a diameter at breast height (DBH) of thirteen inches or more for nonnative tree species and a diameter at breast height (DBH) of six inches or more for native tree species. All commercial tree farms and orchards (including individual fruit trees) are exempted from the definition of tree for the purpose of this chapter.
- P. "Street Tree" is a tree, of any size, situated within the public street right-of-way or publicly accessible private street (e.g., trees within a landscape park strip), or within five feet of a publicly accessible sidewalk adjacent to a public or private street in the case of a street without a landscape park strip.

- Q. “Trimming” means the removal of less than twenty-five percent of the canopy, including overgrown or obstructing branches from a tree to maintain the shape and health of the tree, and to protect nearby structures or utilities.

12.32.030 Permit—Required.

It is unlawful for any person to cut down, prune, remove, poison, or otherwise kill or destroy, or cause to be removed, any protected tree, significant tree, street tree, public tree, or a community of trees on any public or private property without first securing a permit as provided in this chapter; provided, however, that a permit shall not be required for commercial tree farms.

12.32.040 Permit—Application.

Any person desiring to cut down, prune, remove, destroy, or cause to be removed any tree regulated in this chapter shall apply to the development services department for a tree removal permit application provided by the department. The application shall be accompanied by such drawings including a site plan, written material such as a statement of request, photographs, arborist report, and other necessary information concerning trees within the affected area and which shall include:

- A. The diameter and height of the tree;
- B. The species of each tree;
- C. A site plan or accurate sketch of location and trees proposed to be cut down, pruned, removed, or destroyed (showing other significant trees, shrubs, buildings or proposed buildings; photographs may be used to show the area);
- D. Method for marking the tree proposed to be cut down, pruned, removed, or destroyed;
- E. Description of methods to be used in cutting down, pruning, removing, or destroying the tree;
- F. Description of tree planting or replacement program;
- G. Reasons for proposing to cut down, prune, remove, or destroy the tree;
- H. Address where tree is located;
- I. Percentage of tree canopy to be removed or pruned;
- J. Arborist report indicating general health of tree to be cut down, pruned, removed, or destroyed; and
- K. Other information or materials which the development services director may require.
- L. Payment of fees shall be due upon submittal of a tree removal application as designated on the current fee schedule. The date of submittal shall be designated by receipt of payment.

12.32.050 Permit—Public notice procedures.

Within five days after submission of a completed application, the applicant shall post a public notice of the tree removal or pruning application request, provided by the development services department, in at least two conspicuous locations clearly visible to the public on or close to the property affected, indicating the date of the application, a brief description thereof, identification of the subject property, the address to which comments may be directed and from which further information may be obtained, and the final date for receipt of comments. No action shall be taken upon any application until the applicant has filed an affidavit that such posting has been completed and posted for ten days.

12.32.060 Permit—Review and action.

The development services director or their designee shall review the application and, if necessary, inspect the site, and shall determine on the basis of the information provided, the site inspection, and the criteria contained in this chapter whether to grant, grant with conditions, or deny the permit. Such action shall be taken within thirty days after receipt of the affidavit referred to in the preceding section and after the expiration of the ten-day public noticing period. Upon taking action, the development services director or their designee shall provide the applicant with a written statement indicating the action taken, any conditions of approval imposed, and the findings made in support thereof.

12.32.070 Permit—Approval—Criteria.

The development services director or any other person or body charged with determining whether to grant, conditionally grant, or deny a tree removal permit may approve a permit only if one or more of the following findings are made:

- A. Removal of the tree is warranted because the tree meets one of the following conditions:
 - 1. Is diseased as demonstrated in a report provided by a qualified arborist or tree surgeon documenting the extent and nature of the disease and how the diseased conditions warrants the trees removal,
 - 2. Could adversely affect the general public health and safety,
 - 3. Could cause substantial damage,
 - 4. Is a public nuisance (e.g., obstructing the public right-of-way),
 - 5. Is in danger of falling,
 - 6. Is too closely located to existing structures,
 - 7. All practical design alternatives for site layout have been exhausted without being able to design around the tree(s), etc.
 - 8. Interferes with utility service,

9. Acts as a host for a plant which is parasitic to another species of tree which is in danger of being infested or exterminated by the parasite,
 10. Is a substantial fire hazard,
 11. Is necessary for the continuing agricultural use of the property, or
 12. Is a street tree that is not identified on a list of suitable street trees maintained by the development services director.
- B. The required action is necessary:
1. To utilize the property in a manner which is of greater public value than any environmental degradation caused by the action, or
 2. To allow reasonable economic or other enjoyment of the property.
- C. The tree will be replaced by plantings approved by the development services director, unless special conditions indicate otherwise.

12.32.080 Permit—Approval—Conditions.

In granting any permit as provided in this chapter, the development services director, planning commission, or city council may attach reasonable conditions to ensure compliance with the intent and purpose of this chapter including, but not limited to:

- A. All protected or significant trees proposed for removal shall be replaced at a 1:1 ratio with a similar native tree species of at least minimum 15-gallon in size. In the case of nonnative trees to be removed, the replacement tree shall be a native species and at least minimum 15-gallon in size. The development services director may require additional replacement trees as necessary to mitigate the impact from the loss of tree canopy.
- B. Use of measures to affect erosion control, soil and water retention and diversion or control of increased flow of surface waters;
- C. Use of measures to ensure that the contemplated action will not have adverse environmental effects relating to shade, noise buffers, protection from wind, air pollution and historic features; and/or
- D. Posting of a bond to ensure maintenance of substitute landscaping pursuant to the requirements of Chapter 18.64 (Landscaping) of this code.

12.32.090 Application constitutes permission to enter property.

Filing of an application for a tree removal permit shall constitute a grant of permission for city personnel concerned with administering this part to enter the subject permit area during normal working hours from the date of application to the completion of any approved action for the purpose of inspecting the area for compliance with the provisions of this chapter and applicable

law.

12.32.100 Inspection—Notification of violations.

The development services department may cause sufficient inspections to be made of the permit area to assure compliance with the provisions of this chapter and the requirements of any applicable law. Upon completion of any inspection, the permittee shall be given a written notice of any violations observed at the time of inspection for correction thereof.

12.32.110 Commencement of work—Time limitations.

If work authorized by an approved permit is not commenced within a period of one (1) year from the date of approval, the permit shall be considered void.

12.32.120 Emergencies.

In case of emergency caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this chapter, except that the person responsible for the cutting or removal of the tree shall report such action to the development services director within five working days thereafter and provide retroactive payment of the tree removal permit fee.

12.32.130 Appeal procedures.

The applicant or any other person who is aggrieved by the issuance or denial of the permit or any conditions thereof may appeal in the manner set forth in Chapter 18.112 (Appeals).

12.32.140 Removal or pruning without a permit unlawful.

It is unlawful for any property owner, lessee, their agent, or representative to engage in removal or pruning or any other action that would result in tree removal or pruning without a valid tree removal permit. In addition to any other remedies that may exist by law, such party shall be liable to the city for an administrative penalty to be determined by the development services director as follows:

1. A fine equal to three times the valuation of the removed tree, as determined by a certified arborist; or
2. The amount of the cost of replacing a removed public tree with a new tree as comparable to the removed tree as is reasonably feasible; or
3. A fine equal to three times the amount of the current tree removal application permit fee.

Section 2. Subsection b of Subsection 7 of Subsection B of Section 17.20.040 (Form and Contents) of Chapter 17.20 (Map Requirements-Five or More Parcels) of Title 17 (Subdivisions) is hereby amended to read as follows:

- b. Type, diameter at breast height, and canopy of any protected trees, significant trees, street trees, public trees, or a community of trees as defined by Chapter 12.32 (Protected and Significant Trees) on public and private property. Any trees proposed to be removed shall be so indicated and shall obtain a permit as required by Chapter 12.32 (Protected and Significant Trees),

Section 3. Subsection b of Subsection 7 of Subsection A of Section 17.24.030 (Form and Content) of Chapter 17.24 (Map Requirements-Four or Less Parcels) of Title 17 (Subdivisions) is hereby amended to read as follows:

- b. Type, diameter at breast height, and canopy of any protected trees, significant trees, street trees, public trees, or a community of trees as defined by Chapter 12.32 (Protected and Significant Trees) on public and private property. Any trees proposed to be removed shall be so indicated and shall obtain a permit as required by Chapter 12.32 (Protected and Significant Trees);

Section 4. Table 18.22-2 (Development Standards in Mixed Use Zoning Districts) within Section 18.22.040 (Development Standards) of Chapter 18.22 (Mixed Use Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.22-2: Development Standards in Mixed Use Zoning Districts

	MU-D	MU-N	MU-F	Additional Standards
Site Requirements				
Lot Area, Minimum	3,500 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Lot Width, Minimum	40 ft.	60 ft.	60 ft.	
Lot Depth, Minimum	80 ft.	100 ft.	100 ft.	
Floor Area Ratio, Maximum	2.0 [1]	1.0	None	
Residential Density				
Minimum	None	8 du/acre	7 du/acre	
Maximum	None	20 du/acre	24 du/acre	
Building Coverage, Maximum	None	75%	None	

Structure Requirements				
Setbacks	See Table 18.22-3			18.56.030
Height, Maximum	3 stories and 45 ft. [2]	35 ft. [3,4]	35 ft. [3]	18.56.020

Notes:

[1] 2.25 FAR permitted on sites 22,000 sq. ft. or more.

[2] Four stories and 55 ft. permitted on sites 22,000 sq. ft. or more.

[3] 45 ft. permitted with a minimum of 10 ft. devoted to a roof element.

[4] 40 ft. allowed for vertical mixed use, regardless of roof form.

Section 5. **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 6. **Effective Date; Posting.** This Ordinance shall take effect on the 31st day following 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 ____ DAY OF _____, 2025, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____, 2025, 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. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of _____, 2025.

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

DATE: _____

MICHELLE BIGELOW, City Clerk



GPA 2024-0001 & ZA2024-0002 MU-F General Plan Amendment & Miscellaneous Code Amendments (continued item)



Project Description



Mixed Use Flex General Plan Amendment:

- Eliminate the Floor Area Ratio (FAR) for the Mixed Use Flex land use designation

Code Amendment:

- Update Table 18.22-2 (Development Standards in Mixed Use Zoning Districts) to conform to General Plan Amendment
- Update Chapter 12.32 (Restrictions on Removal of Significant Trees)
- Amend Sections 17.20.040 and 17.24.030 consistent with Chapter 12.32

Request:

Adopt Resolution & Ordinance approving the amendments as recommended by Planning Commission on August 27, 2024 and December 10, 2024

Mixed Use Flex General Plan Amendment



Amend page CNF-13 description of Mixed Use Flex Designation as follows:

 Mixed Use Flex. The Mixed Use Flex designation, which is primarily applied to properties along the Monterey Road corridor north and south of downtown, allows for a mix of residential, commercial, and office uses applied either vertically (i.e., one structure with multiple uses) or horizontally (i.e., structures with different land uses located adjacent to one another). Density should transition from higher to lower at the ends of Monterey corridor. The Mixed Use Flex designation allows 7 to 24 units per acre ~~and a maximum FAR of 0.5. Prior to development of Residential or Mixed-Use projects within the Mixed Use Flex designation a block level master plan is required to identify how commercial uses will be incorporated within the development of the block and how individual development projects will connect with each other. Commercial development may proceed without preparation of a block level master plan consistent with the Commercial designation.~~

Chapter 18.22 (Mixed Use Zoning Districts)

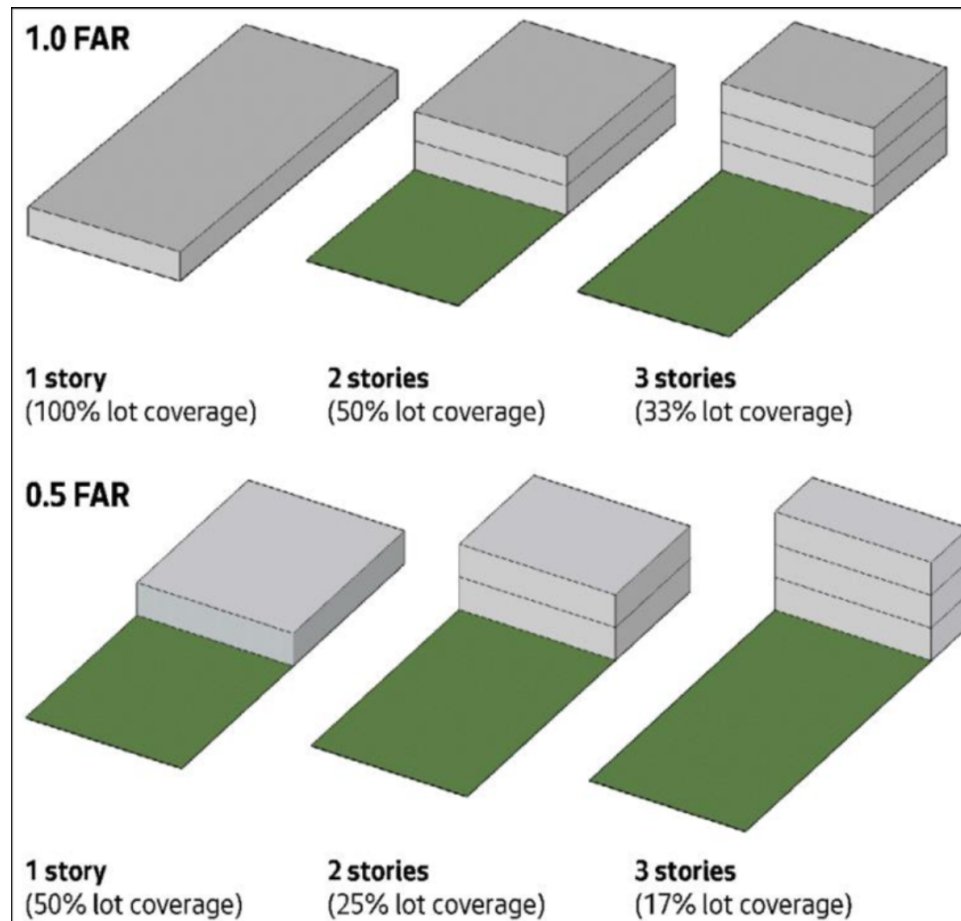


Table 18.22-2: Development Standards in Mixed Use Zoning Districts

	MU-D	MU-N	MU-F	Additional Standards
Site Requirements				
Lot Area, Minimum	3,500 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Lot Width, Minimum	40 ft.	60 ft.	60 ft.	
Lot Depth, Minimum	80 ft.	100 ft.	100 ft.	
Floor Area Ratio, Maximum	2.0 [1]	1.0	0.5 None	
Residential Density				
Minimum	None	8 du/acre	7 du/acre	
Maximum	None	20 du/acre	24 du/acre	
Building Coverage, Maximum	None	75%	50% None	
Structure Requirements				
Setbacks	See Table 18.22-3			18.56.030
Height, Maximum	3 stories and 45 ft. [2]	35 ft. [3,4]	35 ft. [3]	18.56.020

What is Floor Area Ratio (FAR)?

The ratio of the building square footage compared to the square footage of the lot



General Plan Consistency



- Monterey Corridor is intended to be redeveloped as a “vibrant mixed-use corridor that encourages walking and biking” where “a range of commercial and office uses will be located within close proximity to attached residential units”
- General Plan also calls for the subsequent adoption of implementation actions, which was achieved through the adoption of the Monterey Corridor Form-Based Code
- The current density range stated in the General Plan will not support the achievement of the walkable, mixed-use corridor; the proposed text amendment will align the text of the General Plan with the City’s overarching vision

Purpose to Remove Mixed Use Flex FAR



1. Align with State regulations

The proposed text amendment will address this change in context by referring to State law and by removing a standard that is no longer an effective limitation. This removes a potential point of confusion.

2. Align with the Monterey Corridor Form-Based Code

Removing the current density range from the General Plan text will remove an inconsistency between that text and the Monterey Form-Based Code.

3. Equitable conditions for residential and commercial development

The proposed text amendment will grant commercial development the same density allowances as residential to provide equitable conditions for the two land uses.

Market Conditions – Residential vs. Commercial

Factors	Residential Development	Commercial Development
Demand	High demand due to population growth	Demand varies based on economic conditions and population demographics
Interest Rates	Lower interest rates make mortgages more affordable	Higher interest rates slows business investment and reinvestment
Government Policies	HAA support for housing projects	Zoning laws, regulations, and fees can be restrictive
Investment Returns	Stable and predictable rental income	Returns are dependent on business vitality
Market Stability	Generally more stable, especially in suburban areas	Can be more volatile, tied to the business cycle
Legislative Support	HAA prevents unjust denial of housing projects	Fewer incentives and more regulatory hurdles

Other Restrictions Limiting Size of Buildings within MU-F zone

- Height (35 feet)
- Setbacks
- Parking requirements (1 per 250 sq. ft.)
- Landscaping (5% of site)
- Planned Development (PD) zoning
- Driveways, Roads, Retention Basins, etc.

Setback	Residential	Non-Residential
Front	15 ft	10 ft
Rear	20 ft	10 ft
Interior Side	5 ft	0 ft
Street Side	10 ft	10 ft

Planned Developments (PDs)

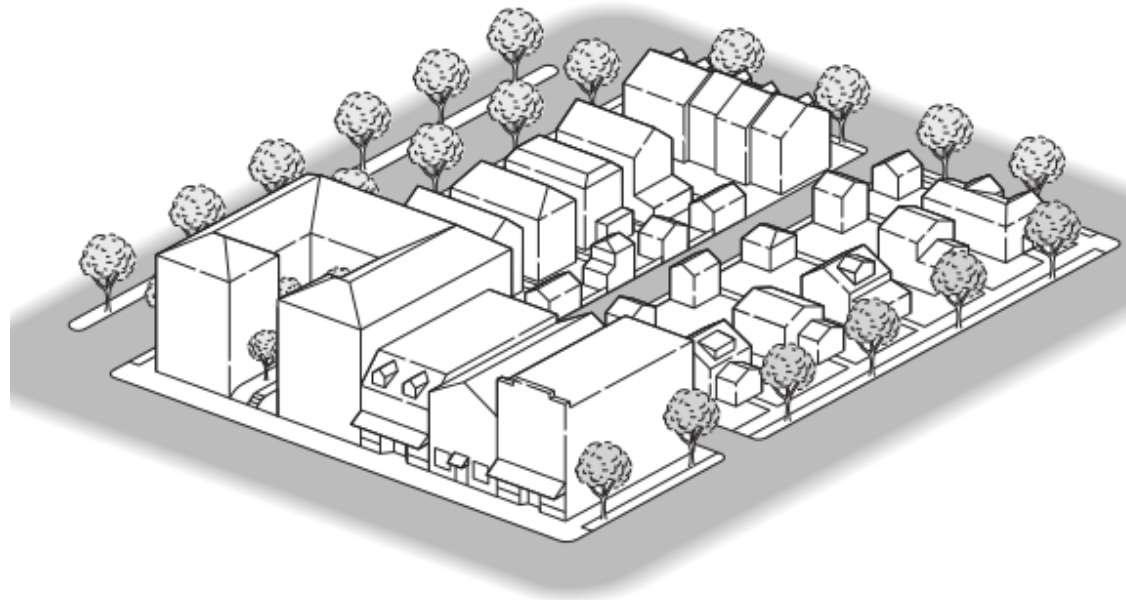


Section 18.30.050 of Municipal Code – PD Development Standards

1. Height, setbacks, and building coverage shall be established in the PD master plan for the project site
2. May deviate from zoning district
3. As an ordinance, amendments and approvals of a PD require approval by Council
4. Revisions to the master plan that accompanies the ordinance also requires approval by Council

Monterey Corridor Form-Based Code (FBC)

- Regulations vary based on the intensity of the zone to control lot dimensions, building placement, height, coverage, and encroachments
- Helps define and shape the public realm – more walkable



Form-Based Code Map



Monterey Corridor Form-Based Code Regulating Plan *Public Review Draft*

Legend

-  Neighborhood Form-Based (FB-N) Zoning District
-  Corridor Form-Based (FB-C) Zoning District
-  Urban General Form-Based (FB-UG) Zoning District
-  Form-Based Code Boundary

0 0.25 0.5 0.75 1 Miles



MU-Flex General Plan vs. FBC

MU-Flex General Plan restricts density:

Residential	Commercial
7-24 dwelling units per acre	0.5 FAR

Form-Based Code restricts:

- Lot size
- Building Placement/Setback
- Types of Buildings/Frontage/Civic Spaces
- Building Form:

Building Form	FB-N	FB-C	FB-UG
Projections	5 ft max	5 ft max	5 ft max
Height	35 ft max	45 ft max	55 ft max
Building Coverage	75%	75%	80 %

Chapter 12.32 (Restrictions on Removal of Significant Trees)

- Part of the Municipal Code since 1980
- Rename Chapter 12.32 to Protected and Significant Trees
- Consistency with tree removal and arborist industry
 - Update language
 - Provide internal consistency
 - Best management practices

Chapter 12.32 (Restrictions on Removal of Significant Trees)

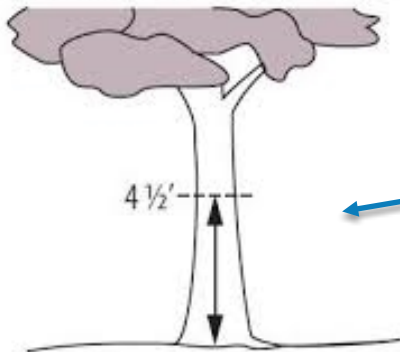
Current Code

- Indigenous tree
- Circumference
 - Non-native = 40 inches
 - Native = 18 inches
- Trimming
- Pruning = >25%

Proposed Change

- Native tree
- Diameter at Breast Height
 - Non-native = 13 in. DBH (circumference = 40.8 in.)
 - Native = 6 inches DBH (circumference = 18.8 in.)
- Trimming = <25%
- Pruning = >25%

Measuring Tree Size for Existing Trees



Where the measurement is taken does not change

Chapter 12.32 (Restrictions on Removal of Significant Trees)

Current Code

Permit NOT required for:

- Development Projects
- Non-indigenous/non-native trees within single family residential

Includes an appeal process separate from the rest of the Municipal Code

Proposed Change

REQUIRES Permit for:

- Development Projects
- Non-indigenous/non-native trees within single family residential

Consolidates the appeal process under Chapter 18.112 (Appeals)

Prohibited Trees

Do not require a Permit

- Western Sycamore
- European Plane Tree
- Tree of Heaven
- Eucalyptus
- Poplar Tree
- English Walnut
- American Black Walnut
- California Black Walnut
- Black Locust
- White Elm/American Elm
- Palms
- Redwood
- Monterey Pine
- Conifers
- Acacia
- Fruit Trees
- Carob Tree
- Camphor Tree

Title 17 - Subdivisions

Sections 17.20.040 and 17.24.030

- Amendments to these sections in the Subdivision Ordinance that reference Chapter 12.32
- Establish consistent standards for changes to trees within new subdivisions

Miscellaneous Code Amendments



Recommendation

1. Open/close public hearing
2. Adopt Resolution eliminating the Floor Area Ratio for the Mixed Use Flex land use designation
3. Waive reading of the Ordinance Amendment
4. Introduce the Ordinance Amendment

Findings

1. The proposed amendment meets the letter and intent of the general plan goals and policies
2. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by GC Section 65860
3. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City
4. The proposed amendment is internally consistent with other provisions of the zoning code

Questions?



ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CHAPTER 12.32 (RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES) WITHIN TITLE 12 (STREET, SIDEWALKS AND PUBLIC PLACES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL; AMENDING SECTIONS 17.20.040 (FORM AND CONTENTS) AND 17.24.030 (FORM AND CONTENT) RELATING TO TENTATIVE MAPS WITHIN TITLE 17 (SUBDIVISIONS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL IMPLEMENTING MINOR AMENDMENTS DUE TO INCONSISTENCIES WITH CHAPTER 12.32 PROPOSED AMENDMENTS; AND AMENDING TABLE 18.22-2 (DEVELOPMENT STANDARDS IN MIXED USE ZONING DISTRICTS) WITHIN SECTION 18.22.040 (DEVELOPMENT STANDARDS) WITHIN TITLE (18 ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO REMOVE THE MAXIMUM FLOOR AREA RATIO (FAR) AND BUILDING COVERAGE WITHIN THE (MIXED USE FLEX) MU-F ZONING DISTRICT

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

Section 1. Chapter 12.32 (Restrictions on Removal of Significant Trees) of Title 12 (Streets, Sidewalks and Public Places) is hereby amended to read as follows:

Chapter 12.32 ~~RESTRICTIONS ON REMOVAL OF~~ PROTECTED AND SIGNIFICANT TREES

12.32.010 Council determinations.

The city council finds and declares:

- A. The intent of promoting the preservation and establishment of a diverse, abundant tree canopy in the city is vital to the health and character of the community. The existing and future trees and tree communities located in the city are a valuable and distinctive natural resource. The trees and tree communities of the city ~~augment~~ enhance the economic base through agricultural production, encouragement of tourism and ~~enhancement~~ enrichment of the living environment. ~~These resources are a major component of both the highly localized and area-wide environment.~~

- B. The following environmental consequences are among those which could result from the indiscriminate removal or destruction of trees and tree communities in the city:
1. Modification of microclimates;
 2. Change or elimination of animal habitat, possibly including habitats of endangered species;
 3. Change in soil conditions, resulting in modified biological activity and erosion of soils;
 4. Creation of increased susceptibility of flood hazards;
 5. Increased risk of landslides;
 6. Increased cost of construction and maintenance of drainage systems through increased flow and diversion of surface waters;
 7. Degradation of the human habitat;
 8. Loss of environmental benefits of trees in neighborhoods, such as noise reduction, oxygen replacement, carbon dioxide reduction, interception of particulates and aesthetic qualities; and/or
 9. Potential for irreparable wind damage to adjacent trees.
- C. The preservation and replacement of significant tree communities on private and public property is necessary to protect the natural beautyecology of the area, ~~protect property values,~~ and prevent undesirable changes ~~in to~~ the natural and built environment.
- D. It is necessary to enact the ordinance codified in this chapter for the reasons stated in this section and to promote the public health, safety, general welfare and prosperity of the city, while respecting and recognizing individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity.

12.32.020 Definitions.

For the purposes of this chapter, the following words shall have the meaning ascribed to them in this section:

- A. "Arborist" means any person certified in the professional care, examination, and maintenance of trees.
- B. "City" means the city of Morgan Hill, California, acting by and through its authorized representatives.
- ~~B. "Community development director" means the community development director of the~~

~~city, including his or her authorized or appointed representatives.~~

- C. "Community of trees" means a group of trees of any size which are ecologically or aesthetically related to each other, with a combined canopy cover of more than ten percent, and that loss of such community such that loss of several of them would cause a significant ecological, aesthetic, or environmental impact in the immediate area.
- D. "Development services director" means the development services director of the city, including their authorized or appointed representatives.
- E. "Diameter at breast height (DBH)" means the standard measurement for a tree trunk diameter, measured 4.5 feet above the average ground level.
- F. "Native tree" means any tree which is native to the Morgan Hill region. Such trees include, but are not limited to, oaks (all types), California Bays, Madrones, Sycamore, and Alder.
- G. "Nonnative tree" means any tree that is not native to the Morgan Hill region.
- ~~DH.~~ "Person" means an individual, public agency, including the city and its departments, firms, associations, and corporations, and their employees, agents, or representatives.
- ~~EI.~~ "Private property" means all property not owned by the city or any other public agency.
- J. "Prohibited tree" means any trees that become liabilities due to structural weaknesses, disease or insect susceptibility, short life, destructive root systems, or requiring excessive watering or maintenance as defined in Chapter 12.28.050.
- K. "Protected tree" means any native tree, significant tree, any tree designated for protecting during review and approval of a development project, public or street trees, and otherwise designated as significant status.
- L. "Prune" means the selective removal or modification of twenty-five percent or more of the tree branches, roots, buds, or limbs in such a manner that impacts the structure of the tree.
- M. "Public tree" means any tree located in any street, park, or public place or planted or maintained by the city.
- ~~FN.~~ "Public property" means all property owned by the city, and any other city, county, city and county, special district, or other public agency in the incorporated area of the city.
- ~~GO.~~ "Ordinance-Sized Significant Tree" means any live woody plant rising above the ground with a single stem or trunk of a circumference diameter at breast height (DBH) of forty thirteen inches or more for nonindigenous-nonnative tree species and eighteen-a diameter at breast height (DBH) of six inches or more for indigenous-native tree species-measured at four and one-half feet vertically above the ground or immediately below the lowest branch, whichever is lower, and having the inherent capacity of naturally producing one main axis continuing to grow more vigorously than the lateral axes. All commercial tree farms,

~~nonindigenous tree species in residential zones~~ and orchards (including individual fruit trees) are exempted from the definition of tree for the purpose of this chapter.

HP. "Street Tree" is a tree, of any size, situated within the public street right-of-way or publicly accessible private street (e.g., trees within a landscape park strip), or within five feet of a publicly accessible sidewalk adjacent to a public or private street in the case of a street without a landscape park strip.

IQ. "Trimming" means the removal of less than twenty-five percent of the canopy, including overgrown or obstructing branches from a tree to maintain the shape and health of the tree, and to protect nearby structures or utilities.

~~"Indigenous tree" means any tree which is native to the Morgan Hill region. Such trees include, oaks (all types), California Bays, Madrones, Sycamore, and Alder.~~

12.32.030 Permit—Required.

It is unlawful for any person to cut down, prune, remove, poison, or otherwise kill or destroy, or cause to be removed, any ~~ordinance-sized~~protected tree, significant tree, street tree, public tree, or a community of trees on any city-public or private property without first securing a permit as provided in this chapter; provided, however, that a permit shall not be required for commercial tree farms.~~the following:~~

~~A. Developments which have been reviewed and approved by the planning commission or community development director and the tree removal conforms with the landscape plans of those developments.~~

~~B. Commercial tree farms.~~

~~C. Non-indigenous trees within a single family residential zoning district that do not qualify as street trees.~~

~~A permit shall otherwise be required for the removal of or pruning of which would reduce the canopy area by more than twenty-five percent of any trees as defined in subsection G. of Section 12.32.020 of this chapter.~~

12.32.040 Permit—Application.

Any person desiring to cut down, prune, remove, destroy, or cause to be removed any tree regulated in this chapter shall apply to the ~~community~~ development services department for a tree ~~cutting-removal~~ permit ~~on forms~~application provided by the department. The application shall be accompanied by such drawings including a site plan, written material such as a statement of request, photographs, arborist report, and other ~~information as are necessary to provide~~ necessary ~~data~~ information concerning trees within the affected area and which shall include:

A. The diameter and height of the tree;

- B. The ~~type-species~~ of ~~each~~ trees ~~(e.g. coniferous, evergreen hardwood and deciduous hardwood)~~;
- C. A ~~map-site plan~~ or accurate sketch of location and trees proposed to be cut ~~down, pruned, removed, or destroyed~~ (showing other significant trees, shrubs, buildings or proposed buildings; photographs may be used to show the area);
- D. Method for marking the tree proposed to be cut down, ~~pruned~~, removed, or destroyed;
- E. Description of ~~method~~methods to be used in ~~cutting down, pruning, removing, or destroying~~ the tree;
- F. Description of tree planting or replacement program;
- G. Reasons for proposing ~~to cut down, prune, removal~~remove, or destroy of the tree;
- H. Address where tree is located;
- I. Percentage of tree canopy to be removed or pruned;
- J. General healthArborist report indicating general health of tree to be cut down, ~~pruned, or removed, or destroyed~~; and
- JK. Other ~~pertinent~~information or materials which the ~~community~~development services director may require.
- L. -Payment of fees shall be due upon submittal of a tree removal application as designated on the current fee schedule. The date of submittal shall be designated by receipt of payment.

12.32.050 Permit—Public notice procedures.

Within five days after submission of a completed application, the applicant shall ~~cause a notice of application on a form~~post a public notice of the tree removal or pruning application request, provided by the ~~community~~development services department, ~~to be posted~~ in at least two conspicuous locations clearly visible to the public on or close to the property affected, indicating the date of the application, a brief description thereof, identification of the subject property, the address to which comments may be directed and from which further information may be obtained, and the final date for receipt of comments. No action shall be taken upon any application until the applicant has filed an affidavit that such posting has been ~~done~~completed and posted for ten days.

12.32.060 Permit—Review and action.

The ~~community~~development services director or ~~his or her~~their designee shall review the application and, if necessary, inspect the site, and shall determine on the basis of the information provided, the site inspection, and the criteria contained in this chapter whether to grant, grant with conditions, or deny the permit. Such action shall be taken within ~~twenty-thirty~~ days after receipt of the affidavit referred to in the preceding section and after the expiration of the ten-day

public noticing period. Upon taking action, the ~~community~~-development services director or ~~his or her~~their designee shall provide the applicant with a written statement indicating the action taken, any conditions of approval imposed, and the findings made in support thereof.

12.32.070 Permit—Approval—Criteria.

The ~~community~~-development services director or any other person or body charged with determining whether to grant, conditionally grant, or deny a tree ~~cutting-removal~~ permit may approve a permit only if one or more of the following findings are made:

A. Removal of the tree is warranted because the tree meets one of the following conditions:

1. Is diseased as demonstrated in a report provided by a qualified arborist or tree surgeon documenting the extent and nature of the disease and how the diseased conditions warrants the trees removal,
2. Could adversely affect the general public health and safety,
3. Could cause substantial damage,
4. Is a public nuisance (e.g., obstructing the public right-of-way),
5. Is in danger of falling,
6. Is too closely located to existing structures,
7. All practical design alternatives for site layout have been exhausted without being able to design around the tree(s), etc.
8. Interferes with utility service,
9. Acts as a host for a plant which is parasitic to another species of tree which is in danger of being infested or exterminated by the parasite,
10. Is a substantial fire hazard,
11. Is necessary for the continuing agricultural use of the property, or
12. Is a street tree that is not identified on a list of suitable street trees maintained by the ~~community~~-development services director.

B. The required action is necessary:

1. To utilize the property in a manner which is of greater public value than any environmental degradation caused by the action, or
2. To allow reasonable economic or other enjoyment of the property.

- C. The tree will be replaced by plantings approved by the ~~community~~-development services director, unless special conditions indicate otherwise.

12.32.080 Permit—Approval—Conditions.

In granting any permit as provided in this chapter, the ~~community~~-development services director, planning commission, or city council may attach reasonable conditions to ~~insure—ensure~~ compliance with the intent and purpose of this chapter including, but not limited to,;

- A. ~~All protected or significant trees proposed for removal shall be replaced at a 1:1 ratio with a similar native tree species of at least minimum 15-gallon in size. In the case of nonnative trees to be removed, the replacement tree shall be a native species and at least minimum 15-gallon in size. The development services director may require additional replacement trees as necessary to mitigate the impact from the loss of tree canopy. Replacement of trees removed with plantings of trees acceptable to the community development director. In all cases, native trees shall be planted to replace native trees removed unless practical reasons preclude this option;~~
- B. Use of measures to ~~effect—~~affect erosion control, soil and water retention and diversion or control of increased flow of surface waters;
- C. Use of measures to ~~insure—ensure~~ that the contemplated action will not have adverse environmental effects relating to shade, noise buffers, protection from wind, air pollution and historic features; and/or
- D. Posting of a bond to ensure maintenance of substitute landscaping pursuant to the requirements of Chapter 18.64 (Landscaping) of this code.

12.32.090 Application constitutes permission to enter property.

Filing of an application for a tree ~~cutting—removal~~ permit shall constitute a grant of permission for city personnel concerned with administering this part to enter the subject permit area during normal working hours from the date of application to the completion of any approved action for the purpose of inspecting the area for compliance with the provisions of this chapter and applicable law.

12.32.100 Inspection—Notification of violations.

The ~~community~~-development services department may cause sufficient inspections to be made of the permit area to assure compliance with the provisions of this chapter and the requirements of any applicable law. Upon completion of any inspection, the permittee shall be given a written notice of any violations observed at the time of inspection for correction thereof.

12.32.110 Commencement of work—Time limitations.

If work authorized by an approved permit is not commenced within a period of one (1) year from the date of approval, the permit shall be considered void.

12.32.120 Emergencies.

In case of emergency caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this chapter, except that the person responsible for the cutting or removal of the tree shall report such action to the ~~community~~-development services director within five working days thereafter and provide retroactive payment of the tree removal permit fee.

12.32.130 Appeal procedures.

The applicant or any other person who is aggrieved by the issuance or ~~nonissuance~~-denial of the permit or any conditions thereof may appeal in the manner set forth in ~~this section~~Chapter 18.112 (Appeals). ~~A statement by the appellant shall be required indicating how the appellant is aggrieved or adversely affected by the decision. At the time the appeal is heard, the planning commission shall rule upon the appellant's standing as an aggrieved party. If the planning commission rules that the appellant is not aggrieved, all further proceedings shall be stayed except that the appellant may appeal the planning commission decision on standing to the city council as provided in this chapter.~~

~~A. Permits considered and acted upon by the community development director may be appealed to the planning commission by filing a written notice of appeal with the secretary of the planning commission within ten days of the issuance or denial of the permit. The planning commission shall hear such appeal within thirty days of the date of filing of the written protest or at a date selected by mutual consent of the appellant and the planning commission. The planning commission shall render a decision on the appeal within fifteen days of the public hearing. The community development director shall notify the affected parties of the action.~~

~~B. Permits considered and acted upon by the planning commission may be appealed to the city council by filing a written notice of appeal with the secretary of the planning commission within ten days from the decision of the planning commission. The city council shall hear such appeal within sixty days or at a date selected by mutual consent of the appellant and the city council and render a decision within fifteen days following such hearing. The decision of the city council shall be final. The action taken by the city council shall be reported to the affected parties.~~

12.32.140 Removal or trimming without a permit unlawful.

It is unlawful for any property owner, lessee, ~~his or her~~their agent, or representative to engage in ~~tree cutting or removal or to conspire with another to engage~~pruning or any other action that would result in tree ~~cutting or removal~~ or pruning without a valid tree ~~cutting-removal~~ permit. In addition to any other remedies that may exist by law, such party shall be liable to the city for an ~~civil-administrative~~ penalty to be determined by the development services director as follows: in

1. A fine equal to three times the valuation of the removed tree, as determined by a certified arborist; or

2. ~~The~~the amount of the cost of replacing ~~the a~~ removed public tree with a new tree as comparable to the removed tree as is reasonably feasible; ~~or plus all attorney's fees.~~

3. A fine equal to three times the amount of the current tree removal application permit fee.

Section 2. Subsection b of Subsection 7 of Subsection B of Section 17.20.040 (Form and Contents) of Chapter 17.20 (Map Requirements-Five or More Parcels) of Title 17 (Subdivisions) is hereby amended to read as follows:

- b. Type, ~~circumference-diameter at breast height~~, and ~~dripline-canopy~~ of ~~existing any protected trees, significant trees, street trees, public trees, or a community of trees~~ as defined by Chapter 12.32 (Protected and Significant Trees) ~~of this code on removal of significant trees~~ on public and private property. Any trees proposed to be removed shall be so indicated and shall obtain a permit as required by Chapter 12.32 (Protected and Significant Trees),

Section 3. Subsection b of Subsection 7 of Subsection A of Section 17.24.030 (Form and Content) of Chapter 17.24 (Map Requirements-Four or Less Parcels) of Title 17 (Subdivisions) is hereby amended to read as follows:

- b. Type, ~~circumference-diameter at breast height~~, and ~~dripline-canopy~~ of ~~existing any protected trees, significant trees, street trees, public trees, or a community of trees~~ as defined by Chapter 12.32 (Protected and Significant Trees) ~~of this code on removal of significant trees~~ on public and private property. Any trees proposed to be removed shall be so indicated and shall obtain a permit as required by Chapter 12.32 (Protected and Significant Trees);

Section 4. Table 18.22-2 (Development Standards in Mixed Use Zoning Districts) within Section 18.22.040 (Development Standards) of Chapter 18.22 (Mixed Use Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows:

Table 18.22-2: Development Standards in Mixed Use Zoning Districts

	MU-D	MU-N	MU-F	Additional Standards
Site Requirements				
Lot Area, Minimum	3,500 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Lot Width, Minimum	40 ft.	60 ft.	60 ft.	
Lot Depth, Minimum	80 ft.	100 ft.	100 ft.	
Floor Area Ratio, Maximum	2.0 [1]	1.0	0.5 <u>None</u>	

Residential Density				
Minimum	None	8 du/acre	7 du/acre	
Maximum	None	20 du/acre	24 du/acre	
Building Coverage, Maximum	None	75%	50% None	
Structure Requirements				
Setbacks	See Table 18.22-3			18.56.030
Height, Maximum	3 stories and 45 ft. [2]	35 ft. [3,4]	35 ft. [3]	18.56.020

Notes:

[1] 2.25 FAR permitted on sites 22,000 sq. ft. or more.

[2] Four stories and 55 ft. permitted on sites 22,000 sq. ft. or more.

[3] 45 ft. permitted with a minimum of 10 ft. devoted to a roof element.

[4] 40 ft. allowed for vertical mixed use, regardless of roof form.

Section 5. 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 6. Effective Date; Posting. This Ordinance shall take effect on the 31st day following 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 ____ DAY OF _____, 2025, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____, 2025, 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. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of _____, 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

Holiday Motel LLC dba Holiday Motel
16210 Monterey Road
Morgan Hill CA 95037

City Council
17575 Peak Avenue
Morgan Hill, Ca 95037

February 10, 2025

Dear Morgan Hill City Council Members,

We are writing in strong support of the Planning Department’s proposal to amend the Morgan Hill 2035 General Plan to eliminate the Floor Area Ratio (FAR) restriction for the Mixed Use Flex (MU-F) land use designation.

As business owners operating under an MU-F land use designation and Corridor Form-Based (FB-C) zoning on Monterey Road, we have faced significant challenges in redeveloping our site in a financially viable way that meets the future needs of Morgan Hill’s businesses and residents. **While the MU-F designation provides flexibility in terms of the types of commercial and residential uses permitted, the FAR restriction makes both residential and commercial development financially nonviable.**

With construction costs ranging from \$200 to \$400 per square foot, the FAR limitation prevents projects from reaching the necessary scale to be economically viable. The cost of development is simply too high under the current restrictions, discouraging both housing and commercial investment in the Monterey Corridor.

To illustrate the disproportionate impact of the FAR restriction, we provide the following example, assuming a standard 1-acre (44,000 sq. ft.) parcel on Monterey Road:

Development Type	Residential (Apartments/Condos)	Commercial (Hotel or Other Business Use)
Height Limit	45 feet	45 feet
Building Coverage / FAR	75% building coverage, allowing 7-24 dwelling units per acre	0.5 FAR

Potential Build-Out	~30,000 sq. ft. per floor (3 floors) = ~90,000 sq. ft. total	~22,000 sq. ft. total across 4 stories
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Potential Use	24 large residential units (~3,300 sq. ft. each) + 10,000 sq. ft. of public & utility space	55 hotel rooms (300 sq. ft. each) + 5,000 sq. ft. for public/back-of-house spaces
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As this comparison clearly demonstrates, the FAR restriction significantly limits the development potential for both residential and commercial projects. Given the high construction costs, developers cannot achieve the necessary density to make new development financially feasible.

Why Eliminating the FAR Restriction is Critical

- **Encouraging Balanced Development:** Morgan Hill must support both commercial and residential growth to maintain a thriving, mixed-use corridor. The current FAR restriction artificially limits density, making it nearly impossible to develop cost-effectively.
- **Addressing the High Cost of Construction:** With residential and commercial development costs being what they are, projects must be able to maximize density to offset costs and remain viable. The FAR cap prevents this.
- **Economic Growth & Revenue Generation:** A vibrant commercial corridor generates jobs, tourism revenue, and increased tax income for the City. Without commercial redevelopment, Morgan Hill may miss out on critical economic opportunities.
- **Maximizing Land Potential:** Allowing greater development flexibility would help attract investment and create a more sustainable, mixed-use environment that benefits the entire community.

A Call for Action

We urge the City Council to support the Planning Department's proposal to eliminate the FAR restriction for MU-F designated properties. Removing this limitation will unlock the full potential of the Monterey Corridor, making it equally attractive for both residential and commercial redevelopment.

Thank you for your time and consideration. We look forward to your leadership in fostering a balanced, economically viable future for Morgan Hill.

	
Ramesh Mistry	Sima Patel.

CITY COUNCIL STAFF REPORT

MEETING DATE: February 19, 2025

PREPARED BY:

Hilary Holeman, Administrative Analyst

APPROVED BY: City Manager

PROVIDE DIRECTION TO STAFF ON PROPOSED FUTURE COUNCIL INITIATED AGENDA ITEM

RECOMMENDATION(S)

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

Adopt a resolution protecting the rights and safety of immigrant communities.

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

Enhancing Diversity and Inclusiveness

REPORT NARRATIVE:

Section 4.2 of City Council Policy 97-01 (Attachment 1) allows members of the City Council to request items be added to an upcoming City Council agenda by requesting an item during the "Future Council Initiated Agenda Items" section of the agenda. A City Council report will then be placed on an upcoming agenda for Council discussion and consideration.

At the City Council Goal Setting Workshop on February 7, 2025, Council Member Martinez Beltran proposed that the City Council consider adopting a resolution to protect the rights and safety of immigrant communities (Attachment 2).

The City of Morgan Hill previously affirmed a Statement of Support and Assurance on [December 14, 2016](#) (Attachment 3), assuring residents that:

- Hate crimes will not be tolerated in Morgan Hill.
- Local police will not be used for federal immigration enforcement.
- The City is committed to protecting the constitutional rights of all community members.

On [May 3, 2017](#), the City Council further reinforced these principles by adopting

Resolution #17-033 (Attachment 4), reaffirming Morgan Hill's commitment to being a diverse, inclusive, and supportive community while protecting residents' constitutional rights.

On [July 25, 2018](#), the City Council adopted Resolution #18-059 (Attachment 5), opposing the practice of separating children from their parents at the United States - Mexico border and advocating for family unity.

These values remain integral to the City's guiding framework, as reflected in the annual reaffirmation of Sustainable Morgan Hill (Attachment 6), which envisions "a safe, inclusive, socially responsible, environmentally conscious, and economically sound community."

Next Steps:

Staff is seeking direction from the City Council on whether it would like to agendize another resolution protecting the rights and safety of our Community for formal discussion at a future Council meeting. Preparing a complete City Council Staff Report on this topic would require approximately four hours of staff time.

COMMUNITY ENGAGEMENT:

This report seeks direction from the City Council on whether or not to further agendize this topic for Council consideration.

ALTERNATIVE ACTIONS:

If the City Council chooses not to pursue a new resolution regarding the rights and safety of immigrant communities, they may instead reaffirm the previously adopted statement or resolutions.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- December 14, 2016, the Council affirmed the Statement of Support and Assurance to the Community.
- May 3, 2017, the Council adopted Resolution #17-033, reaffirming Morgan Hill's commitment to being a diverse, inclusive, and supportive community while protecting residents' constitutional rights.
- On July 25, 2018, the Council adopted Resolution #18-059 to support Protecting Children and Keep Families Together.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with seeking direction from the Council on this item.

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 OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-97-01

SUBJECT: RULES FOR THE CONDUCT OF CITY COUNCIL MEETINGS, PLACEMENT OF ITEMS ON THE AGENDA, AND MATTERS TO BE RECONSIDERED

EFFECTIVE DATE: May 7, 1997

REVISED DATE: March 15, 2023

ORIGINATING DEPARTMENT: CITY MANAGER

SECTION 1 - SCOPE

- 1.1** These rules shall establish the procedures for the conduct of all meetings of the City Council of the City of Morgan Hill. The purpose of these rules is to provide procedures consistent with the Ralph M. Brown Act, establish procedures which will be convenient for the public, be fair to all members of the City Council, and contribute to the orderly conduct of City business.

SECTION 2 - MEETINGS

- 2.1** Open to Public: All meetings of the City Council, whether regular or special, shall be open to the public, unless a closed session is scheduled as authorized by law.
- 2.2** Regular Meetings: The City Council shall conduct its regular meetings at the time and place established by ordinance, if specified in the ordinance or resolution.
- 2.3** Review Status of Agenda at 9:00 p.m.: The City Council may review the agenda at 9:00 p.m. to determine if it will be able to conclude its business by 10:00 p.m. If, at 10:00 p.m., the City Council has not concluded its business, before continuing the meeting it shall review and discuss the status of the remaining agenda items and determine by majority vote whether to continue any remaining items to a future regular or special meeting, adjourn the meeting to another date and time, or extend the meeting beyond 10:00 p.m. as needed. The meeting may be extended beyond 10:00 p.m. one time. Additional extensions of time will be at the Mayor's discretion.
- 2.4** Special Meetings/Workshops: A special meeting and/or workshop may be called at any time by the Mayor or Presiding Officer of the City Council or by three members of the City Council. Written notice of any such meeting must specify the purpose of the meeting. Notice of the meeting must be made in accordance with the law.
- 2.5** Closed Sessions: The City Council may hold closed sessions during a regular or special meeting, or at any time authorized by law, to consider or hear any matter which is authorized by law. At times, Closed Sessions may have to be held in an order different than presented due to the timeliness of the matter, to save the City money when an outside attorney has been retained or due to the need for extra time to discuss and deliberate an

important closed session item. Closed session items may be continued to the conclusion of the agenda.

- 2.6 Quorum:** Three (3) members of the City Council shall constitute a quorum and shall be sufficient to transact business. If less than three Council members appear at a regular meeting, the Mayor, Mayor Pro Tempore in the absence of the Mayor, any member of the City Council, or in the absence of all Council members, the City Clerk or Deputy City Clerk shall adjourn the meeting to a stated day and hour.
- 2.7 Adjourned Meetings:** The City Council may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment and permitted by law.

SECTION 3 - POSTING NOTICE AND AGENDA

- 3.1 Posting of Notice and Agenda:** For every regular or special meeting, the City Clerk or other authorized person, shall post a notice of the meeting specifying the time and place at which the meeting will be held and an agenda containing a brief description of all items of business to be discussed at the meeting. The notice and agenda may be combined in a single document.
- a. Posting for Regular Meetings:** For any regular meeting of the City Council, the notice and agenda shall be posted no later than seventy-two (72) hours prior to the time set for the meeting consistent with all Brown Act requirements.
 - b. Posting for Special Meetings:** For any special meetings of the City Council, the notice and agenda shall be posted no later than twenty-four (24) hours prior to the time set for the meeting consistent with all Brown Act requirements.
- 3.2 Location of Posting:** The notice and agenda shall be posted on the City's website and in a place to which the public has unrestricted access during at least normal business hours and where the notice and agenda are not likely to be removed or obscured by other posted materials.
- 3.3 Availability of the Agenda to the Public:** The agenda for any regular or special meeting shall be made available to the public as soon as is practical after delivery to the members of the City Council.

SECTION 4 - AGENDA CONTENTS

- 4.1 Description of Matters:** All items of business to be discussed at a meeting of the City Council shall be briefly described on the agenda. The description of the item and the proposed action to be considered should be set forth as clearly as practical so that members of the public will know the nature of the action under review and consideration.
- 4.2 Placement of items on the agenda:** The Mayor, City Manager, or City Attorney may place items on the agenda. Members of the City Council may request items to be added to an upcoming City Council agenda by requesting an item during the "Future Council Initiated Agenda Items" Section of the agenda. When a Future Council Initiated Agenda Item is requested, the Council Member making the request will send the City Manager a brief

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summary outlining the request and any relevant background. If the requested item is not included in the current Strategic Priorities Workplan, the team will bring forward the item at a future Council Meeting within 30-45 days of the request via a brief staff report, including the brief summary provided by the requesting Council Member. At that meeting, the City Council will review the request and determine if the majority of the City Council wants the items agendaized at a future meeting for discussion.

- 4.3 Limitation to Act on Only Items on the Agenda:** No action shall be taken by the City Council on any item not on the posted agenda, subject only to the exceptions listed below:
- a. Upon a majority determination that an "emergency situation" (as defined by State Law) exists; and
 - b. Upon a determination by a 4/5 vote of the City Council that there is a need to take immediate action and that the need to take the action came to the attention of City officials subsequent to posting of the agenda.
- 4.4 Change in Order of Business:** The Mayor or Presiding Officer may decide to take matters listed on the agenda out of the prescribed order unless a majority of members present object to this variation.
- 4.5 City Council Reports:** On an alternating basis, at each Regular City Council meeting, with a time limit of three minutes, a Council Member has the opportunity to share with the Council and community any pertinent updates or information in regard to their appointments to outside agencies, upcoming events, or relevant City business. These are non-action items.
- 4.6 City Manager Report:** These are updates on current City activities, reports on issues raised at previous Council meetings, or recognitions. These are non-action items.
- 4.7 City Attorney Report:** These are updates on current City activities, reports on issues raised at previous Council meetings, or reportable actions of the City Council in Closed Sessions and/or current litigation. These are non-action items.
- 4.8 Other Reports:** These are pertinent updates or information on upcoming activities or events relevant to City business with a time limit of one minute. These are non-action items.
- 4.9 Public Comment for items not on the agenda:** This refers to those matters not scheduled on the agenda where a member of the public wants to address a matter of importance to the City Council. Since the matter is not on the agenda, no action by Council can be taken. If a member of Council so desires, the matter can be placed on the agenda of a future Council meeting for review and consideration.
- 4.10 Consent Calendar:** These are items of a routine or generally uncontested nature. Any member of the Council or member of the public may request to have an item pulled from the consent calendar and acted on individually by the Council. Items pulled will be discussed after action is taken on the balance of the consent calendar. The Mayor shall decide if the items are heard before or after moving on to public hearing and other business items.
- 4.11 Public Hearings:** These are matters that are duly noticed and published in a newspaper of general circulation and where required by law, written notice is given to the affected

residents who have the opportunity to speak in favor or against a matter or ask questions about the matter.

4.12 Other Business: These are other matters of City business which are not appropriately placed on the consent calendar and do not require published notices and require Council action and direction.

4.13 Future Business: These are items that members of the City Council wish to discuss to potentially take action on or have placed on future agendas.

SECTION 5. ORDER OF BUSINESS

5.1 The order of business at meetings of the City Council shall be as follows:

- a. CALL TO ORDER
- b. ROLL CALL ATTENDANCE
- c. DECLARATION OF POSTING AGENDA
- d. WORKSHOP (if needed; 5:00-6:00 p.m., or as deemed appropriate)
- e. CLOSED SESSION (if needed; 6:00-7:00 p.m., or as deemed appropriate)
- f. SILENT INVOCATION
- g. PLEDGE OF ALLEGIANCE
- h. PRESENTATIONS
- i. PROCLAMATIONS
- j. RECOGNITIONS
- k. CITY COUNCIL REPORTS
- l. CITY MANAGER'S REPORT
- m. CITY ATTORNEY'S REPORT
- n. OTHER REPORTS
- o. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA
- p. ADOPTION OF AGENDA
- q. CONSENT CALENDAR
- r. PUBLIC HEARINGS
- s. OTHER BUSINESS
- t. FUTURE COUNCIL INITIATED AGENDA ITEMS

u. CLOSED SESSION

v. ADJOURNMENT

SECTION 6. PUBLIC COMMENT

- 6.1 Public Comment:** Persons present at meetings of the City Council may comment on individual items on the agenda at the time the items are scheduled to be heard. In addition, comments may be offered on items not on the agenda under that portion of the agenda. In accordance with State law, matters not scheduled on the agenda cannot be acted upon by the City Council, but items raised by the public during public comment may be referred to a future City Council agenda at the request of the Mayor or City Council.
- 6.2 Limitations:** The public comment period may be 3 minutes for items on the agenda or items not listed on the agenda. Speakers are called in the order the speaker cards are submitted. Project applicants or appellants will be allowed more than the designated 3 minutes in accordance with City Council Policy 03-01. Consistent with this policy, the Mayor or Presiding Officer may recall an applicant or appellant to address questions after the public comment is heard. In addition, applicants will be given time at the end of the public hearing to address any questions or comments.

The Mayor or Presiding Officer may allow speakers who wish to speak under public comment for items not on the agenda to concede a portion of their time, specifically, one speaker may concede a portion of their time to one other speaker. For all other business items, the Mayor or Presiding Officer may allow speakers more time and/or allow speakers to concede a portion of their time to a designated speaker of a group, specifically up to two speakers may concede their time to one speaker, unless a majority of the City Council objects. Speakers that wish to designate a group speaker shall notify the City Clerk before discussion on the item begins. Additionally, any speaker that concedes their time must be present at that City Council meeting. Speaker who would like to share documents or presentations may do so by submitting said document to the City Clerk by noon on the day of the City Council Meeting. Speaker may not share videos or presentations with videos embedded within them.

- 6.3 Procedure:** To address the City Council, each speaker is requested to fill out a Speaker Card and turn it in to the City Clerk before discussion on the agenda item begins. The speaker is requested to provide their name, contact information, and the subject(s) upon which the speaker wishes to address the City Council. Speakers who do not wish to provide their name should provide an alternative designation so that they can be called to speak by the City Clerk.

Public comment may be provided in writing for items on the agenda, as well as for items not on the agenda. Public comment in writing may be submitted via email to ccpubliccomment@morganhill.ca.gov or by mail to the City Clerk at 17575 Peak Avenue, Morgan Hill, CA 95037. Please email your comments to the City Clerk no later than 3:00 p.m. on Tuesday (the day before the City Council meeting) for your comments to be submitted to the members of the City Council with sufficient time to review the comments. You may continue to provide written comments up to noon on Wednesday (the day of the meeting although Council Members may not have sufficient time to review them. Public

comments submitted to the City Clerk after noon the day of the meeting will be provided to the City Council as time allows.

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

SECTION 7. PROCEDURES FOR THE CONDUCT OF MEETINGS

7.1 Role of the Mayor/Presiding Officer:

- a. The Presiding Officer of the City Council, who shall be the Mayor or in the Mayor's absence shall be the Mayor Pro Tempore, or in their absence any other designated member of the City Council, shall be responsible for maintaining the order and decorum of meetings. It shall be the duty and responsibility of the Presiding Officer to ensure that the rules of operation and decorum contained herein are observed. The Presiding Officer shall maintain control of communication between Council Members and between the Council, staff, and public.
- b. Communication with Council Members:
 1. Council Members should request the floor from the Presiding Officer before speaking.
 2. When one member of the Council has the floor and is speaking, other Council Members shall not interrupt or otherwise disturb the speaker.
 3. During both questions, when one Council Member has the floor, they are limited to 5 minutes. During discussion, the Mayor and Council Members as a whole are limited to 15 minutes. The time limit may be extended at the Mayor's discretion.
 4. With the concurrence of the Mayor, a Council Member holding the floor may address a question to another Council Member. The Council Member being questioned may or may not respond while the floor is still held by the Council Member asking the question. The reply shall be limited to the question asked.
- c. The Mayor or Presiding Officer may declare that an item within the meeting will be conducted in "workshop" format, which means that the procedures described in section 7.1B do not strictly apply. This is to allow for a more open discussion without strict formalities. The Mayor or Presiding Officer may end the workshop format for the item at his/her discretion.
- d. Communication with Members of the Public Addressing the Council
 1. The Mayor or Presiding Officer shall open the floor for public testimony as appropriate.
 2. After a witness or subject matter expert has addressed the City Council during public comment, Council members may only ask questions of witnesses or

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subject matter experts. Such questions should be directed to the person through the Presiding Officer unless the Presiding Officer grants the Council Member permission to directly question the person.

3. Staff members, through the City Manager, shall be a resource to the City Council to answer questions arising during discussions between Council Members and between Council Members and members of the public. Communications in this regard shall be through the Presiding Officer.
4. Members of the public shall direct their questions and comments through the Presiding Officer.
- 7.2 Rules of Order: The City Council adopts no specific rules of order except those listed herein. The City Council shall refer to The Standard Code of Parliamentary Procedure by Alice Sturgis (McGraw Hill) as a guide for the conduct of meetings. The Sturgis guideline regarding not requiring seconds for governmental bodies' motions, resolutions or ordinances is not adopted as the rule in the City. The Mayor or Presiding Officer has the discretion to impose reasonable rules at any particular meeting based upon facts and circumstances found at any particular meeting. These latter rules will be followed unless objected to by a majority of the City Council members present.
- 7.3 Motions: The Mayor or any member of the City Council may bring a matter of business on the agenda before the Council by making a motion. Before the matter can be considered or debated it must be seconded. Once the motion has been properly made and seconded, the Presiding Officer shall open the matter for full debate offering the first opportunity to debate to the moving party and, thereafter, to any Council Member recognized by the Mayor or Presiding Officer. Debate shall be closed upon consent of a majority of the Council.
- 7.4 Reconsideration: Immediately after a vote on a matter, any member of the City Council may request to have his/her vote changed on a matter before the Council moves on to the next item. Such a request will be granted by the Mayor or Presiding Officer unless a majority of the Council objects.

A matter may be reconsidered by the City Council if a member on the prevailing side of the vote requests reconsideration. Such a motion may be made at a meeting where such action is taken or at a subsequent meeting of the Council, however, nothing in this policy precludes the majority of members of the City Council from requesting reconsideration of any item.

7.5 Debate:

- a. The discussions and deliberations at meetings of the City Council are to secure the informed judgement of Council members on proposals submitted for decision. This purpose is best served by the exchange of thought through discussion and debate.

Debate is regulated by these rules in order to assure every member a reasonable and equal opportunity to be heard.

- b. Obtaining the Floor for Debate:

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As soon as a debatable motion has been stated to the Council by the Mayor or Presiding Officer, any member of the Council has a right to discuss it after obtaining the floor. The member obtains the floor by seeking recognition from the Mayor or Presiding Officer. A member who has been recognized is entitled to be heard so long as he/she observes the rules of debate.

c. Speaking More Than Once:

To encourage the full participation of all members of the Council, no member or members shall be permitted to monopolize the discussion of the question. If a Council member has already spoken and other members wish to speak, the latter members should be recognized in preference to the member who has already spoken. However, if no other members seek recognition, the Mayor or Presiding Officer may recognize the member who has already spoken.

d. Relevancy of Debate:

All discussion must be relevant to the motion before the City Council. A member is given the floor only for the purpose of discussing the pending question; discussion which departs is out of order. The Mayor or Presiding Officer should then direct the speaker to limit discussion to the question before the City Council.

A motion-its nature or consequences-may be attacked vigorously. But it is never permissible to attack the motives, character, or personality of a member either directly or by innuendo or implication. It is the duty of the Mayor or Presiding Officer instantly to stop any member who engages in personal attacks. It is the motion, not its proposer, that is the subject of debate. Meetings must discuss measures and ideas, not people.

Arguments, for or against a measure, should be stated as concisely as possible.

Debate must be fundamentally impersonal. All discussion is addressed to the Mayor or Presiding Officer and must never be directed to any individual.

e. Mayor's Duties During Debate:

The Mayor or Presiding Officer has the responsibility of controlling and expediting debate. A Council member who has been recognized to speak on a question has a right to the undivided attention of the Council.

It is the duty of the Mayor or Presiding Officer to keep the subject clearly before the members, to rule out irrelevant discussion, and to restate the question whenever necessary.

SECTION 8. DECORUM

- 8.1 Council Members: Members of the City Council value and recognize the importance of the trust invested to them by the public to accomplish the business of the City. Council Members shall accord the utmost courtesy to each other, to City employees, and to the public appearing before the City Council.

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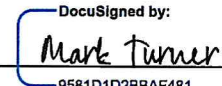
- 8.2** City Employees: Members of City staff shall observe the same rules of order and decorum applicable to the City Council. City staff shall act at all times in a business and professional manner towards Council Members and members of the public.
- 8.3** Public: Members of the public attending City Council meetings shall observe the same rules of order and decorum applicable to the City Council.
- 8.4** Noise in the Chamber: Noise emanating from the audience within the Council Chamber or lobby area, which disrupts City Council meetings, shall not be permitted.
- 8.5** Sergeant-at-Arms: The Chief of Police, or his/her designated representative shall be ex-officio Sergeant-at-Arms of the City Council.

SECTION 9. VIOLATIONS OF PROCEDURES

- 9.1** Nothing in these policies and procedures shall invalidate a properly noticed and acted upon action of the City Council in accordance with State Law.

This policy shall remain in effect until modified by the City Council.

APPROVED:

DocuSigned by:

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MARK TURNER, MAYOR

From: [Michelle Bigelow](#)
To: [Michelle Bigelow](#)
Subject: FW: Agenda Request
Date: Friday, February 14, 2025 11:04:46 AM

From: Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>
Sent: Friday, February 14, 2025 7:39 AM
To: Christina Turner <Christina.Turner@morganhill.ca.gov>
Cc: Michelle Bigelow <Michelle.Bigelow@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Shane Palsgrove <Shane.Palsgrove@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>
Subject: Re: Agenda Request

Future Agenda Item

Three weeks ago I requested a time sensitive agenda item to bring a resolution before council at our 2/7/24 workshop. The Mayor would not place the resolution on the agenda and required me to instead follow the 1.5 month process.

The resolution and request I shared then is this same template link:

https://sanjose.legistar.com/View.ashx?M=F&ID=13696508&GUID=F98527A7-1B4D-4AB8-8F8F-5028D75A0C84&fbclid=IwY2xjawlKWHJleHRuA2FlbQlXMAABHaFZh2HMw9zD_ZFbhscMQQftAlhbx2E-mKee8LB3nd4wls0wg5XponEQQ_aem_4dJhwFFMkg6Fe4keyb_N9w

to reaffirm the City's Commitment to protecting the rights and safety of immigrant communities. Attached is the suggested resolution- straightforward combined points from the City and PD statement released Jan 24th and SJ template.

Much of our community is living with extreme levels of anxiety and fear and this is urgent to reassure our residents and important to all of our community to restore calm.

In Community,

Yvonne Martínez Beltrán
Councilwoman
City of Morgan Hill

To Morgan Hill Residents,

Sam Licardo, Mayor of San Jose, recently sent out a newsletter with an article addressing the impact that recent national events are having on his city and giving reassurance that the city will stand up for all its residents. On behalf of the Morgan Hill City Council and our staff, we are providing many of the same reassurances to our residents.

Like San Jose, a large percentage of our residents are foreign-born and many fear that changes in immigration rules or enforcement could separate their families. There are also concerns about proposed federal "registries" of community members of the Muslim faith. And the recent nationwide spike in "hate crimes" is causing even more fear. Here in Morgan Hill, we cannot control the events in Washington, D.C., but we can do much to care for each other here at home. We want to assure you that:

"Hate Crimes" will not be tolerated in Morgan Hill

Our Police Department is committed to enforcing laws against commitment of hate crimes without regard to the immigration status of the victim or reporting party. Please report all incidents to the Police Department at 408-779-2101.

Our Police will not be used for federal immigration enforcement

Changes to immigration laws and enforcement are the responsibility of federal policy makers. Local police should not be involved in federal immigration enforcement and our Police Officers will continue to focus their time on high priority crimes. In accordance with best practices of local law enforcement professionals nationally, we will stay out of immigration enforcement. Our priority is to maintain the trusting relationship Morgan Hill Police Officers have with our community.

Anyone who witnesses or is a victim of any crime can contact the Police Department without fear of inquiry regarding their immigration status.

Your Constitutional rights will be protected

We cannot know if assertions made during national campaigning -- like Muslim "registries" -- will come to fruition. We will monitor any proposed legislation or executive actions from Washington and work closely with our national, state and local representatives, other cities, and if necessary, the courts, to protect the Constitutional rights of our residents.

Discrimination based on race, national origin, ethnicity, religion, age, gender, sexual orientation, color or disability is prohibited under federal and/or state law. We will protect the rights of all our residents, regardless of background or sexual orientation.

Morgan Hill residents are highly ethical; we have a set of ethical values that are fundamental to the character of our community. Foremost among the ethical values is respect. Because we respect those we interact with, we treat them honestly, fairly and responsibly. In this time of uncertainty and fear, we encourage all our residents to maintain a high level of respect in all their interactions.

Thank you for making Morgan Hill a well respected and inclusive community.

RESOLUTION NO. 17-033

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL REAFFIRMING THE CITY'S
COMMITMENT TO A DIVERSE, SUPPORTIVE,
INCLUSIVE COMMUNITY AND TO PROTECTING THE
CONSTITUTIONAL RIGHTS OF ITS RESIDENTS**

WHEREAS, On December 14, 2016 the Morgan Hill City Council affirmed a Statement of Support and Assurance to the community assuring that hate crimes will not be tolerated in Morgan Hill, our Police will not be used for federal immigration enforcement, and our Constitutional rights will be protected; and

WHEREAS, The Morgan Hill City Council adopted "Sustainable Morgan Hill" as the Council's and organization's guiding principle; and

WHEREAS, The vision of Sustainable Morgan Hill is to be "a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all"; and

WHEREAS, The Morgan Hill City Council adopted Inclusiveness as a 2017 Strategic Priority committing the City to embrace all community members as partners to advance our vision of being a socially responsible community; and

WHEREAS, The City of Morgan Hill values a community characterized by diversity, multiculturalism, and unity and acknowledges that the dignity, health, rights and privacy of all our residents must be respected; and

WHEREAS, each person is naturally and legally entitled to live a life without harassment, discrimination, persecution or assault, whether perpetrated by individuals, groups, businesses, or governments; and

WHEREAS, there exists significant and growing concern among our residents based upon recent national and regional incidents of hate crimes, intolerance of religious beliefs, discrimination, sexual harassment and assault, and the fear of a trend toward more of these crimes in the future; and

WHEREAS, there also exists considerable concern in our city about the potential risks for discrimination, harassment, persecution, assault, and deportation; and

WHEREAS, the city and its residents continually reject bigotry and affirm their commitment to a diverse, supportive, inclusive community; and

WHEREAS, all members of the city are valued regardless of religion, immigration status, ethnicity, disability, gender, sexual orientation, or gender identity.

NOW, THEREFORE, BE IT RESOLVED that the City Council reaffirms its commitment to a diverse, supportive and inclusive community and resolves as follows:

The City of Morgan Hill rejects bigotry in all its forms, including, but not limited to, Islamophobia, anti-Semitism, racism, nativism, misogyny, and homophobia; and

The City of Morgan Hill does not tolerate discrimination based on race, national origin, ethnicity, religion, age, gender, sexual orientation, color, or disability; and

The City of Morgan Hill does not tolerate Hate crimes, harassment, or assault; and

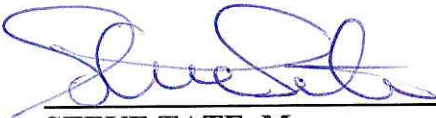
The City of Morgan Hill will oppose any attempts to undermine the safety, security, and rights of members of our community and will work proactively to ensure the rights and privileges of everyone in the city, regardless of religion, country of birth, immigration status, disability, gender, sexual orientation, or gender identity; and

The City of Morgan Hill will promote safety, a sense of security, and equal protection of constitutional and human rights, leading by example through equitable treatment of all by City officials and departments.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 3rd day of May, 2017.

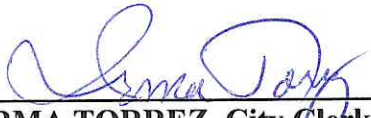
AYES:	COUNCIL MEMBERS:	Larry Carr, Rich Constantine, Rene Spring, Caitlin Robinett Jachimowicz, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:



STEVE TATE, 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. 17-033, adopted by the City Council at a regular meeting held on May 3, 2017.

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

DATE: May 9, 2017


IRMA TORREZ, City Clerk

RESOLUTION NO. 18-059

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL IN SUPPORT OF PROTECT
CHILDREN AND KEEP FAMILIES TOGETHER**

WHEREAS, the City of Morgan Hill prides itself on being inclusive and will do anything in its power to keep families together; and

WHEREAS, the Federal Government implemented a zero-tolerance immigration policy that resulted in separation of undocumented children from their parents; and

WHEREAS, the systematic practice of separating parents and children is antithetical to the values on which our great nation was founded, violates longstanding precedent protecting rights to family integrity, burdens the federal criminal justice and immigration systems, and increases the cost to the government.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL
DOES HEREBY RESOLVE AS FOLLOWS:**

1. The City of Morgan Hill registers its strong opposition to separating children from their families at the border.
2. The City of Morgan Hill encourages the Trump Administration to address these challenges by means that are humane, fair, effective – and uphold the law and our values as a country.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 25th day of July 2018.

AYES:	COUNCIL MEMBERS:	Steve Tate, Rich Constantine, Rene Spring, Caitlin Robinett Jachimowicz, Larry Carr
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:



STEVE TATE, 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. 18-059, adopted by the City Council at a regular meeting held on July 25, 2018.

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

DATE: 8/8/18

Irma Torrez
IRMA TORREZ, City Clerk

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