



Regular Meeting Agenda
City Council

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

Wednesday, June 5, 2024

6:00 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

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

Members of the Community wishing to participate in the meeting remotely must register in advance at: <https://bit.ly/MHCityCouncilMeeting>. After registering, the registrant will receive a confirmation email containing information about joining the meeting. The meeting can then be joined virtually at: <https://bit.ly/MHCityCouncilMeeting> or by calling (669) 900-9128, and entering webinar id: 873 3200 8380#.

PUBLIC COMMENT

Public comment for items **NOT** on the agenda may only be provided in the following ways:

- In-person at the City Council Meeting;
- In writing
 - o Via email to ccpubliccomment@morganhill.ca.gov; or
 - o Hard copy comments by mail or hand-delivered to the City Clerk at 17575 Peak Avenue, Morgan Hill, CA 95037.

****Please note that public comment for items not on the agenda is not accepted virtually.**

Public comment for items **ON** the Consent calendar, Public Hearings, and Other Business items, may be provided in the following ways:

- In-person at the City Council Meeting;
- Participating virtually via the Zoom link above. When the meeting gets to the item you wish to speak on, raise your virtual hand to be called upon to speak for up to 3 minutes (YOU MUST BE RUNNING THE MOST CURRENT VERSION OF ZOOM TO BE UNMUTED)
- Participating virtually by calling the number above, dial *9 to raise your hand, and be called upon to speak for up to 3 minutes
- In writing
 - o Via email to ccpubliccomment@morganhill.ca.gov; or
 - o Hard copy comments by mail or hand-delivered 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.

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

Proclaiming the month of June as LGBTQ+ Pride Month

CITY COUNCIL REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

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. **APPROVE A CONSULTANT AGREEMENT WITH INNOVATIVE CLAIM SOLUTIONS, INC. FOR THIRD PARTY CLAIMS ADMINISTRATION FOR WORKERS' COMPENSATION**

Recommendation:

Approve a five-year agreement with Innovative Claim Solutions, Inc. to provide third party claims administration for workers' compensation in an amount not to exceed \$193,662.

2. **APPROVE COUNTYWIDE AB 939 AND HOUSEHOLD HAZARDOUS WASTE COLLECTION AGREEMENTS**

Recommendation:

Authorize the City Manager to Execute the Countywide AB 939 and Household Hazardous Waste Collection Agreements.

3. **APPROVE MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE COUNTYWIDE FOOD RECOVERY PROGRAM**

Recommendation:

Authorize the City Manager to enter into a Memorandum of Understanding that will allow the City to participate in the Countywide Food Recovery Program for SB 1383 compliance, and also to administer and oversee the program in the City's capacity as Countywide Solid Waste Services Administrator and Contracting Agent.

4. **APPROVE SECOND AMENDMENT TO THE FISCAL YEAR (FY) 2023/24 COUNTYWIDE SOLID WASTE SERVICES FOOD RECOVERY PROGRAM AND THE NEW FY 2024/25 CONTRACT WITH JOINT VENTURE SILICON VALLEY**

Recommendation:

1. Approve the second amendment to the FY 2023/24 Joint Venture Silicon Valley consultant agreement to extend the effective date of services from July 4, 2023, until June 30, 2025;
2. Approve a new consultant agreement with Joint Venture Silicon Valley for FY 2024/25 Edible Food Recovery Program services in the amount of \$636,563; and
3. Authorize the City Manager to execute and administer the second amendment to the 2023/24 consultant agreement and the new 2024/25 consultant agreement with Joint Venture Silicon Valley.

5. **APPROVE THE MAY 15, 2024 CITY COUNCIL MEETING MINUTES AND THE MAY 22, 2024 BUDGET WORKSHOP MINUTES**

Recommendation:

Approve minutes.

6. **AWARD CONTRACTS FOR EMERGENCY ON-CALL SPILL RESPONSE CLEANUP SERVICES**

Recommendation:

1. Award service agreements to GrayMar Environmental Services, Inc. ("GrayMar"), HCI Environmental & Engineering Service ("HCI"), and Clean Harbors Environmental Services, Inc. ("Clean Harbors") for emergency on-call spill response cleanup services for up to \$100,000 each; and
2. Authorize the City Manager to execute and administer the Agreements.

PUBLIC HEARINGS

7. ADOPT RESOLUTION ORDERING ANNUAL ASSESSMENTS AND RELATED ACTIONS FOR CITY OF MORGAN HILL LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

1. Open and close the Public Hearing; and
2. Adopt resolution confirming Fiscal Year (FY) 2024-25 annual assessments and ordering the levy of assessments for the District.

OTHER BUSINESS

8. DISCUSS WHETHER TO CHANGE THE CITY TREASURER POSITION FROM ELECTIVE TO APPOINTIVE, AND IF THE COUNCIL WISHES TO PROCEED, ADOPT A RESOLUTION SUBMITTING THE QUESTION TO THE VOTERS

Recommendation:

1. Provide direction to staff regarding changing the City Treasurer position from elective to appointive; and
2. If approved, adopt resolution that would submit to the voters a ballot measure to change the City Treasurer position from elected to appointed.

FUTURE COUNCIL INITIATED AGENDA ITEMS

CLOSED SESSION

Conference with Legal Counsel – Existing Litigation (\$ 54956.9)

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

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

ITEM PULLED FOR DISCUSSION

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: June 5, 2024

PREPARED BY:

Michael Horta, Human Resources Director

APPROVED BY: City Manager

APPROVE A CONSULTANT AGREEMENT WITH INNOVATIVE CLAIM SOLUTIONS, INC. FOR THIRD PARTY CLAIMS ADMINISTRATION FOR WORKERS' COMPENSATION

RECOMMENDATION(S)

Approve a five-year agreement with Innovative Claim Solutions, Inc. to provide third party claims administration for workers' compensation in an amount not to exceed \$193,662.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

Preserving and Cultivating Public Trust

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

Periodically, the Human Resources Division conducts reviews of various Human Resources related vendor agreements to ensure that the City is receiving the best possible service at a reasonable cost. As part of this process, the City issued a request for proposal (RFP) to provide third party claims administration of workers' compensation services in March 2024. The City partnered with the City of Gilroy and jointly solicited proposals from qualified third party administrators for the administration of our self-insured workers' compensation program.

The City received proposals from two firms and they were both reviewed.

Provider	FY 24/25 Cost	FY 25/26 Cost	FY 26/27 Cost	FY 27/28 Cost	FY 28/29 Cost	Total Cost
1. Innovative Claim Solutions, Inc. (ICS) San Ramon, CA	\$35,755	\$37,185	\$38,673	\$40,220	\$41,829	\$193,662
2. LWP Claims	\$40,000	\$41,000	\$43,264	-	-	\$124,264

**Solutions,
Inc** Mill Valley,
CA

Plus \$8,500
Data Intake
Fee and
\$22,500
(\$7,500 per
year)
Administration
Fee

Based on a combination of factors including ability to provide the necessary scope of services, professional experience, customer service, and overall cost to the City, Innovative Claim Solutions, Inc. (ICS) emerged as the most qualified proposal to provide the best service and value to the City and was selected under Morgan Hill Municipal Code Section 3.04.250(D). ICS has been providing third party claims administration for workers' compensation to the City since July 2011 and during the years of the contract, ICS has administered several lengthy and complex workers' compensation case settlements that resulted in City Council review and approval. ICS has expended significant resources and continues to educate and inform Human Resources and the City Attorney team on the particular workers' compensation cases as well as the general aspects of workers' compensation administration and case law.

COMMUNITY ENGAGEMENT:

Not Applicable

ALTERNATIVE ACTIONS:

Council could choose to not authorize the execution and administration of the contract with ICS and direct staff to issue a new RFP for a third party claims administrator for workers' compensation. This could result in the City not having a third party claims administrator for an unspecified period of time, since the current contract with ICS is due to expire on June 30, 2024.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The table below depicts the previous City Council actions regarding the approval of consultant agreements with ICS to provide third party workers' compensation administration:

City Council Date	ICS Contract	Term
June 22, 2011	Consultant Agreement	7/1/2011 - 6/30/2013
June 19, 2013	First Amendment to the Consultant Agreement	7/1/2013 - 6/30/2014
July 2, 2014	Second Amendment to the Consultant Agreement	7/1/2014 - 6/30/2015

September 2, 2015	Continuance and Third Amendment to the Consultant Agreement	7/1/2015 - 6/30/2016
May 18, 2016	Consultant Agreement	7/1/2016 - 6/30/2018
June 7, 2018	First Amendment to the Consultant Agreement	7/1/2018 - 6/30/2019
November 14, 2019	Second Amendment to the Consultant Agreement	7/1/2019 - 6/30/2021
June 29, 2021	Third Amendment to the Consultant Agreement	7/1/2021 - 6/30/2022
April 20, 2022	Fourth Amendment to the Consultant Agreement	7/1/2022 - 6/30/2023
April 5, 2023	Fifth Amendment to the Consultant Agreement	7/1/2023 - 6/30/2024

FISCAL AND RESOURCE IMPACT:

The maximum amount of the consultant agreement is \$193,662 for a five-year period from July 1, 2024 through June 30, 2029. Sufficient funds for FY 2024-25 and FY 2025-26 have been included in the Recommended Budget. Funds for the remaining years will need to be allocated in future budget cycles.

CEQA (California Environmental Quality Act):

Not a Project-Administrative actions that will not have a reasonably foreseeable impact on the environment.

CONSULTANT AGREEMENT
Innovative Claim Solutions, Inc.

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY" or "CLIENT"), and Innovative Claim Solutions, Inc. a California corporation ("CONSULTANT" or "ICS") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2029 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 workers compensation claims administration as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$193,662. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed one hundred ninety three thousand and six hundred sixty two 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. 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.

7.1.7. **Crime/Fidelity Bond.** If the performance of CONSULTANT'S work or service under this Agreement relates to or involves handling of CITY monies, CONSULTANT shall procure and maintain Crime insurance, in the minimum amount of: (i) three hundred thousand dollars (\$300,000.00) per occurrence, covering all CONSULTANT'S officers and employees, for loss of CITY monies caused by dishonesty and/or theft.

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.

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:

Innovative Claim Solutions, Inc.
PO Box 5128
San Ramon, CA 94583

Address of CITY is as follows:

Human Resources
City of Morgan Hill
17575 Peak Ave.
Morgan Hill, CA 95037

with a copy to:
City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

14. **Licenses, Permits and Fees.** CONSULTANT shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.

15. **Consultant's Proposal.** If applicable, this Agreement shall include CONSULTANT'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

16. **Maintenance of Records.**

16.1. **Maintenance.** CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then CONSULTANT shall retain said records until such action is resolved.

16.2. **Access to and Audit of Records.** The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

16.3. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT for work performed under this Agreement shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

17. **Familiarity with Work.** By executing this Agreement, CONSULTANT represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.

18. **Time of Essence.** Time is of the essence in the performance of this Agreement.

19. **No Assignment.** Neither this Agreement nor any portion shall be assigned by CONSULTANT, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be void and, at CITY's option, shall terminate this Agreement effective as of the date of such attempted assignment.

20. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

21. **Defense and Indemnification.**

21.1. **Defense and Indemnification.** 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").

21.2. 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 or willful misconduct of the CITY.

21.3. Not limited by insurance. The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMs alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by CONSULTANT.

21.4. 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.

21.5. Interpretation. This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of 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.

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[Signatures on Next Page]

30. **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:

Innovative Claim Solutions, Inc.

City Attorney


By:

Donald A. Larkin
Print Name

Dan Greco, VP Client Services
Print Name and Title of Signer.

If Corporate: Chairman, President or
Vice President

Date: _____

Date: 5/28/2024

By:

Print Name and Title of Signer.

If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: _____

EXHIBIT A SCOPE OF SERVICES

- A. Claims Administration. ICS shall adhere to the following claims administration standards and procedures:
1. ICS shall review and process reported claims for workers' compensation benefits that have not been closed as of the Effective Date of this Agreement. and closed claims that reopen on or after the Effective Date. ICS shall have no responsibility other than custody of files and statistical reporting for claims closed prior to the Effective Date.
 2. ICS shall provide quality customer service, responsiveness, timeliness and pro-active claim handling with a consistent claims examiner assigned to the account. This includes returning calls and emails promptly (within 1 business day) and provides pro-active claim handling information and recommendations in a timely manner both public safety and non-public safety workers.
 3. Determine liability for claimed injuries and illnesses in accordance with California Workers' Compensation Laws.
 4. Review and process all claims in accordance with rules and regulations established by the Division of Industrial Relations, Department of Self-Insurance Plans.
 5. Establish files containing medical and factual Information on each reported claim together with complete accounting records and maintain same in accordance with statutory time requirements.
 6. ICS shall make all workers compensation disability payments and send all notices in a timely and accurate manner and in conformance in all material respects with all applicable provisions of the California Labor Code and the California workers' compensation laws, rules, and regulations.
 7. Determine nature and extent of permanent disability and arrange for informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.
 8. Explain to and assist employee in completing necessary forms for permanent disability ratings.
 9. Review, compute, and pay all informal rating, findings and awards, life pensions or compromise and release settlements.
 10. Maintain and establish reserve estimates for each reported claim.
 11. Arrange for and supervise all necessary investigations to determine eligibility for compensation benefits and/or liability of negligent, third parties.
 12. Identify, recommend, and obtain special fraud Investigations after obtaining advance authority from the CLIENT.
 13. As a service to the CLIENT, ICS will report all excess claims to excess reinsurance carrier, although the final responsibility for reporting such claims is that of the CLIENT's.

14. Arrange and supervise rehabilitation services where indicated.
15. Arrange for and set up system for payment of benefits and allocated expenses in accordance with CLIENT'S needs.
16. ICS shall prepare with the assistance of the CLIENT all reports, which are now, or will be required by the State of California or other government agencies with respect to self-funded programs.
17. ICS shall subscribe to and pay for enrollment in the Index Bureau System and will report to the Index Bureau on each and every Indemnity claim. The per claim cost of this service shall be posted as an allocated expense to the CLIENT.
18. On behalf of the Client, ICS will perform all workers compensation claim reporting services required by the Medicare, Medicaid, and SCHIP Extension Act (MMSEA) Section 111 Mandatory Reporting to the Centers for Medicare & Medicaid Services (CMS) for the periods identified in this contract.
19. ICS will comply with the performance standards as required by the City's excess carrier. ICS will advise if there are any exceptions, or when compliance with new standards may impact our annual fee.

B. Medical Administration. ICS shall adhere to the following medical administration standards:

1. Authorize, review, and monitor all medical treatment required on injury or illness claims.
2. Audit and pay all medical expenses in a timely manner, and within statutory guidelines.
3. Maintain close contact with treating physicians to ensure employees receive proper medical treatment and are returned to full employment at the earliest date.
4. Arrange for medical-legal opinions in disputed cases, conferring with medical examiners, CLIENT, and legal counsel where indicated.
5. Consult as required with CLIENT on those cases where injury residual might involve restriction and/or retirement potential.

C. Legal Administration. ICS shall adhere to the following legal administration standards:

1. Refer litigated cases, when needed, to attorneys recommended by ICS and approved by CLIENT for purposes of defending CLIENT'S interests before Workers' Compensation Appeals Board and the court.
2. Work closely with counsel in preparing defense of litigated cases.
3. Obtain CLIENT's authorization on all settlements or stipulations when required.
4. Work closely with applicant's attorney and legal counsel in informal dispositions of litigated cases.
5. Attend, when required, Workers' Compensation Appeals Board hearings.
6. Discharge on behalf of CLIENT all legal obligations to its injured employees imposed by

Workers' Compensation Appeals Board and higher courts.

7. Protect and preserve CLIENT's interests in all potential subrogation cases.
- D. Medical Cost Containment Services. ICS Shall adhere to the following medical cost containment services standards:
 1. ICS shall use and cooperate fully with the designated medical cost containment vendor (bill review and utilization review service provider) to review the medical bills for the CLIENT and other medical charges and provide -necessary utilization review services relating to treatment requests on all claims of industrial injury or illness.
 2. Unless otherwise directed, ICS will select the service provider to be utilized and CLIENT will pay for such services. The City of Morgan Hill shall be responsible for all Managed Care Services and Loss Adjustment Expenses. Managed Care Services shall include medical bill review, utilization review, and medical case management. Costs for such services are documented in Exhibit B; however, bill review services shall be billed at a rate not to exceed \$30.00 per bill. Loss Adjustment Expenses shall include all reasonable expenses necessary to the adjustment of a claim in accordance with the Service Agreement, including, but not limited to, fees for engaging defense counsel, court reporters, expert witnesses and field investigators, incurred on behalf of the City of Morgan Hill.
- E. Information Systems. ICS will provide a computer system with appropriate data base management capabilities to maintain records related to the administration of the Client's workers' compensation program. ICS shall coordinate data entry for employees in the program and for services supplied by ICS. The CLIENT shall have access to the computer system during normal working hours and access to the database through its own computers at its own expense. ICS shall provide computer-generated reports that are reasonably requested on a regular basis as detailed in section F below.
- F. Statistical. ICS will adhere to the following statistical report production obligations and provide all required reports to the client at agreed to intervals:
 1. Report to CLIENT, monthly status of claim payments and reserves on an individual claim basis and in the aggregate.
 2. Report to CLIENT, quarterly loss analysis of claims filed by frequency and severity.
 3. Assist in the preparation of all reports required by the State of California or other Governmental agencies relating to Workers' Compensation claims.
 4. ICS will prepare the federal information return (Form 1099) by the statutory deadline for all payments subject to 1099 reporting made by ICS on behalf of the CLIENT during the term of this Agreement.
 5. Additional ad-hoc reports will be provided to CLIENT at their request at no additional cost. Special report requests that require programming time will be charged to CLIENT at \$150 per hour, which is our direct cost. Our system is capable of generating standardized reports as follows:

Claim Logs
Claim Activity

- Claim Cost Detail
- Claim Cost Summary
- Claim Cost Summary by Year
- Examiner Activity
- Examiner Case Log
- Frequency Reports
- Location Summary
- Management Summary
- Multiple Claims Listing
- Occurrence Cost
- OSHA
- Payment Type Totals
- Vendor Payments Summary
- State Annual Report

6. Ad hoc reports queries, which require no specific programming, will be provided at no cost to CLIENT.

G. Banking Services. ICS will adhere to the following services standards, as directed by the clients:

1. The CLIENT agrees to establish, fund, and replenish an account at a financial institution agreed upon by the CLIENT and ICS for the purpose of paying benefits to workers or care providers and to pay Allocated Loss Adjustment Expenses.
2. All funds in the CLIENT Account belong to the CLIENT. ICS shall have authority to write checks on the CLIENT Account, however, two signatures may be required at client's requested level.
3. ICS shall have authority to pay Allocated Loss Adjustment Expenses from the CLIENT Account to vendors. ICS shall provide the CLIENT with detailed accountings of the expenditures from the CLIENT Account.
4. ICS agrees to make records pertinent to the CLIENT's account available to CLIENT for audit purposes at all reasonable times with at least 24 hours' notice.
5. ICS agrees to maintain CLIENT's trust fund account, if CLIENT elects such arrangement. Otherwise, CLIENT is responsible for all reconciliation and banking processes involved with CLIENT account.
6. Additional services, including but not limited to, field and investigative services, legal expenses, managed care services, index bureau inquiries, bill review and all services which are provided by outside vendors on behalf of the CLIENT shall be paid out of the CLIENT's account, or trust account.

H. Assignments. ICS shall not assign this Agreement, nor any part thereof.

- I. File Storage. Pursuant to RR 15400.2 Of the California Code of Regulations all files closed for more than 5 (five) years shall be identified. Upon CLIENT direction ICS shall return the file(s) to CLIENT, destroy file(s) or maintain file(s) at CLIENT expense with an off-site storage facility.
- J. Cooperation. In the event of early termination or non-renewal, both parties will cooperate in good faith to implement a transition to a new service provider with minimum disruption to the provision of

benefits to workers. ICS will make available to client, and to a new service provider, all files, summary data, records and information developed with respect to this Agreement, including all loss records and a record layout describing the format of the data tapes. Such information shall be made available electronically whenever possible. The CLIENT shall assume all responsibility for open claims as of the effective date of termination.

- K. Files. All claims files, records, reports and other documents pertaining to employee claims are the property of the CLIENT and CLIENT may audit or inspect the files at any time during normal business hours. ICS shall turn over possession of all files and other documents to the CLIENT or its designee promptly upon the effective date of termination or non-renewal of this Agreement. The CLIENT shall allow ICS to review all files and other documents with information relating to its performance pursuant to this agreement.
- L. Penalties and Fines. ICS and client agree to the following standards, protocols and principals relating to the fines and penalties:
 - 1. ICS and CLIENT hereto acknowledge the various penalties and administrative fines that contained in The California Workers' Compensation Reform Act of 1989 (effective January 1, 1990 and January 1, 1991) that may be imposed on both employers and claim administrators.
 - 2. ICS will be responsible for any fines or penalties associated with questionable or converted claims that ICS denies without first consulting and obtaining approval by the CLIENT for denial of the claim(s). ICS will not be responsible for any fines or penalties levied by the Division of Workers' Compensation or any other judicial or quasi-judicial organization for improper denial of a claim(s) if, over the objections of ICS, ICS has denied said claim(s) at the direction of the CLIENT.
 - 3. The CLIENT shall be responsible for all penalties where ICS has not been given sufficient notice such that ICS has had at least seven (7) working days in which to investigate the claim and to pay temporary disability or send the required wage continuation notice before the penalties were assessed. ICS shall be responsible for all penalties in which it has had seven (7) or more working days in which to investigate and pay temporary disability or send a wage continuation notice. For the purposes of this section "working days means all days except Saturdays, Sundays, and commonly observed holidays.
 - 4. The services as described in this Agreement shall be performed in all material respects in accordance with applicable laws, rules, regulations and standards of governmental authorities including, in particular, applicable Worker ' Compensation Laws of the State of California.
 - 5. This Agreement shall be construed in accordance with, and governed by, the Internal laws of the State of California and the venue for any disputes is the county of Santa Clara as requested by the CLIENT.

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

CITY shall pay CONSULTANT:

An annualized fee of \$35,755 for the period of July 1, 2024 – June 30, 2025

The payment will be made in equal monthly installments of \$2,979.58 for the current term of July 1, 2024 – June 30, 2025

An annualized fee of \$37,185 for the period of July 1, 2025 – June 30, 2026

The payment will be made in equal monthly installments of \$3,098.75 for the term of July 1, 2025 – June 30, 2026.

An annualized fee of \$38,673 for the period of July 1, 2026 – June 30, 2027

The payment will be made in equal monthly installments of \$3,222.75 for the term of July 1, 2026 – June 30, 2027.

An annualized fee of \$40,220 for the period of July 1, 2027 – June 30, 2028

The payment will be made in equal monthly installments of \$3,351.67 for the term of July 1, 2027 – June 30, 2028.

An annualized fee of \$41,829 for the period of July 1, 2028 – June 30, 2029

The payment will be made in equal monthly installments of \$3,485.75 for the term of July 1, 2028 – June 30, 2029.

CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Tanya Carothers, Environmental Services Administrator

APPROVED BY: City Manager

APPROVE COUNTYWIDE AB 939 AND HOUSEHOLD HAZARDOUS WASTE COLLECTION AGREEMENTS

RECOMMENDATION(S)

Authorize the City Manager to Execute the Countywide AB 939 and Household Hazardous Waste Collection Agreements.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this City Council report is to request authorization for the City Manager to execute the Countywide AB 939 Fee Agreement (Attachment 1) and the Countywide Household Hazardous Waste (HHW) Collection Agreement (Attachment 2).

Countywide AB 939 Fee Agreement

For well over 20 years, Santa Clara County has collected a fee to offset each jurisdiction's solid waste management and HHW management expenses. Named after the State bill that required all jurisdictions to establish recycling programs, the Countywide AB 939 Fee is collected at waste transfer and disposal facilities by facility operators and remitted to the County quarterly. In order for the fee to be practically enforced, every jurisdiction in the County must approve the same agreement.

The AB 939 Fee has two components. The first component, the Program Fee of \$1.50 per ton, is charged to assist in funding integrated waste management activities. The County transfers Program Fee revenues to each jurisdiction quarterly based on the waste tonnage emanating from the jurisdiction. The second component, the HHW Fee of \$2.60 per ton, is held by the County and used to directly offset the HHW program costs associated with the use of the program by each jurisdiction's residents. If HHW Fee revenues exceed a jurisdiction's HHW program costs at the end of the fiscal year, the remaining funds are transferred to the jurisdictions to be used to promote or support

HHW management costs.

Countywide HHW Collection Agreement

For decades, the City has met its obligation to provide for HHW management by participating in the Countywide HHW Collection Program. This popular program provides City residents with the opportunity to participate in several collection events each month. The permanent collection center in San Martin has improved the convenience associated with these services. Over 1,200 Morgan Hill households participated in collection events in FY 22/23. In FY 23/24 and 24/25 it is estimated that over 1,400 and 1,500 households will participate in the program, respectively.

The Countywide HHW Collection Program Agreement includes a base assumption that 4% of each jurisdiction's households will participate in the program annually. Typically, Morgan Hill resident participation in the HHW program has been more than 4%; therefore, an augmentation of the 4% base assumption must be specified in Section 16 of the HHW Agreement. For 2024-2025, an augmentation of \$75,407 is recommended to ensure that all Morgan Hill residents desiring to participate in the program will be allowed to do so.

COMMUNITY ENGAGEMENT:

The recommended action is the extension of a long-standing program with no scope changes proposed so no engagement activities were conducted prior to presenting the amendment for Council consideration. Should the HHW Collection Agreement be approved, staff will continue to inform the public about the availability of the County program.

ALTERNATIVE ACTIONS:

The Council could decide to not approve the Countywide HHW Collection Agreement and direct staff to further evaluate the provision of these services. There is not a viable alternative to approving the AB 939 Fee Agreement as this is a single countywide agreement that must be approved by every jurisdiction in the County.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Countywide AB 939 Fee Agreement is typically approved by the Council once every three years and the Agreement currently in place was approved in 2021. The current Countywide HHW Collection Agreement was also approved in 2021 and was amended in 2022 and 2023 to reflect the annual augmentation amount and collection dates/times. The Council has historically acted on either an HHW agreement or an amendment to the agreement for over 20 years.

FISCAL AND RESOURCE IMPACT:

Countywide AB 939 Fee Revenues

AB 939 Program Fee revenues are estimated to be \$66,353 for FY24/25.

Countywide HHW Collection Revenues

Fees collected and actual participation in HHW can vary from year to year. It is

estimated that providing HHW collection services to Morgan Hill residents participating in the County program will cost approximately \$130,743 in FY24/25. Since the HHW Fee revenues credited to Morgan Hill for this purpose will total approximately \$115,011, the City will need to pay a subsidy in the amount of approximately \$15,732 for the base HHW program in 2024/25 which assumes participation in the program by 4% of households. Additionally, the County recommends the City augment an additional \$59,675 for the purpose of attaining or increasing City household participation above the 4% participation level.

Under the City's current Franchise Agreement for solid waste collection services, implementation fees may be requested by the City at the beginning of each fiscal year to cover costs related to compliance activities required under Local, Regional, State or Federal permits, laws, and/or regulations for collection and/or management of solid waste. Because the HHW Collection Program is required as part of AB 939 compliance, in January 2025 the City will request \$75,407 (\$15,732 + \$59,675) in implementation funds to cover the anticipated maximum program costs for FY 2024/25 which are billed in 2025/26. Should the City owe less than \$75,407 for the HHW Collection Program in 2025/26, then those remaining funds will be used for local HHW programming and/or to offset the next HHW implementation funds request.

If City participation in the HHW Collection Program is lower than expected, any HHW Fee revenues remaining in the City's credit with the County will be refunded to the City for use in promoting the program.

CEQA (California Environmental Quality Act):

Approval is categorically exempt from environmental review under Section 15308 (Actions by regulatory Agencies for Protection of the Environment) of the CEQA Guidelines.

AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE

This Agreement is made by and among the Cities and Towns of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Morgan Hill, Monte Sereno, Mountain View, Palo Alto, San José, Santa Clara, Saratoga, and Sunnyvale (CITIES) and the County of Santa Clara (COUNTY) on the _____ day of _____ 2024. The term CITIES may refer to CITIES collectively or individually.

RECITALS

WHEREAS, pursuant to Public Resources Code Section 41901, a city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan;

WHEREAS, State law, Public Resource Code Section 41750, requires that the countywide integrated waste management plans contain a household hazardous waste (“HHW”) element for each city within the county as well as for the unincorporated area of the county;

WHEREAS, the Board of Supervisors of the County of Santa Clara (“Board”) has imposed a Countywide AB939 Implementation Fee (“Fee”) since July 1, 1992 to pay for the costs of preparing, adopting, and implementing integrated waste management plans and programs, including HHW program elements;

WHEREAS, the Board has approved reimposing the Fee for Fiscal Years 2025, 2026, and 2027 (July 1, 2024 through June 30, 2027) at \$4.10 per ton of waste landfilled or incinerated in the County; received at any nondisposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; and removed from any location in the County by any person or business for disposal or incineration outside the County;

WHEREAS, HHW programs provide household hazardous waste management services to residents of Santa Clara County and are necessary to meet HHW planning and management requirements under State law;

WHEREAS, jurisdictions in Santa Clara County desire to provide safe, convenient, and economical means for residents to properly dispose of household hazardous wastes in an environmentally safe manner in order to avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground or in any other manner which creates a health or environmental hazard. These wastes include, but are not limited to, common household products such as household cleaning products, spot remover, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, fluorescent lamps, and batteries; and

WHEREAS, the County will collect the Fee on behalf of the fifteen cities and for the unincorporated area of the County and will apportion the Fee according to the terms of this Agreement.

NOW THEREFORE, CITIES and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which the COUNTY will collect and distribute the Fee of \$4.10 per ton of waste to be disposed in Fiscal Years 2025, 2026 and 2027. The Fee is divided into two parts: 1) a Program Fee of \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the integrated waste management plan in the fifteen cities and the unincorporated area of the County; and 2) a Household Hazardous Waste Fee of \$2.60 per ton to provide funding to implement the Countywide HHW Program. The Program Fee will be allocated among the CITIES and COUNTY as described in Exhibit B, attached hereto and incorporated herein. The HHW Fee will be allocated to the COUNTY, CITIES, and Countywide HHW Program as described in Exhibit C, attached hereto and incorporated herein. The Fee shall be imposed on each ton of waste landfilled or incinerated within the County; received at any non-disposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Non-Disposal Facilities are defined as those facilities included in the County of Santa Clara Non-Disposal Facility Element (and subsequent amendments to that Element) and are listed in Exhibit A, attached hereto and incorporated herein.

2. SERVICES PROVIDED BY COUNTY

COUNTY will collect and distribute the Fee. COUNTY will collect the Fee from landfills and non-disposal facilities listed in Exhibit A, and any landfill or non-disposal facility subsequently permitted, on a quarterly basis using data from tonnage reports filed by landfill and non-disposal facility operators with the County Recycling and Waste Reduction Division. COUNTY shall require each landfill and non-disposal facility to submit required payment, documentation of tonnages disposed, and state-mandated Disposal Reporting System Reports on a quarterly basis, within 45 days of the end of each calendar quarter. Late submissions and/or payments shall be subject to a late filing penalty and delinquent penalties. COUNTY will research Santa Clara County tonnage reported to COUNTY by landfills outside the COUNTY in significant amounts to determine the identity of the hauler. That hauler will subsequently be billed in the same fashion subject to the same penalties as mentioned above. Collected funds and any late filing payments and delinquency penalties shall be distributed to CITIES and Countywide HHW Program based on the formula set forth in Exhibits B and C. COUNTY shall not be obligated to distribute funds that COUNTY has been unable to collect from landfill or non-disposal facility operators.

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3. ROLE OF CITIES

CITIES shall review the Disposal Reporting System Reports as prepared and submitted by the COUNTY and within 30 days of receipt shall report to COUNTY, with appropriate documentation, errors in waste allocations among jurisdictions.

4. COLLECTION AND USE OF FEE

Each ton of waste will be subject to the fee if it is landfilled or incinerated in the County; received at any non-disposal facility or collection facility in the County and subsequently transported for disposal or incineration outside the County; collected from any location within the County by a solid waste hauler operating under franchise, contract, license, or permit issued by a local jurisdiction and subsequently transported for disposal or incineration outside the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Best efforts will be made to prevent tonnage from being assessed a double fee (for instance, once at a non-disposal facility and again at a landfill within Santa Clara County). The Program Fee funding share paid to CITIES shall be used to assist in funding the CITIES' costs of preparing, adopting, and implementing the integrated waste management plan of each of the CITIES and the unincorporated area of the COUNTY. The HHW Fee portion shall be applied to fund the costs of CITIES' share of Countywide Household Hazardous Waste services; any HHW fees directly disbursed to CITIES as provided in this Agreement shall be used to fund the costs of preparing, adopting, and implementing the jurisdiction's HHW element of the Countywide integrated waste management plan, including providing HHW services to residents.

5. INSURANCE

Each party shall maintain its own insurance coverage, through third party insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage or liability arising out of the performance of its responsibilities pursuant to this Agreement. CITIES agree to provide evidence of such insurance to COUNTY via Certificate of Insurance or other documentation acceptable to the COUNTY upon request.

6. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITIES and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree that each of the parties hereto shall fully indemnify and hold each of the other parties harmless from any claim, expense or cost, damage or liability arising out of, or in connection with, performance of its responsibilities pursuant to this Agreement and as described in Exhibit D.

Additionally, CITIES shall indemnify, hold harmless, and defend COUNTY, its officers, agents, and employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, arising from any misuse of the Fee distributed to CITIES. COUNTY shall indemnify, hold harmless, and defend CITIES, its officers, agents, and employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, brought by third parties based on COUNTY's sole negligence in the collection or distribution of said Fees.

7. DISTRIBUTION OF FEE

COUNTY shall distribute the AB939 Program Fee to CITIES and the HHW Program Fee to the Countywide HHW Program pursuant to the formulas described in Exhibits B and C within 45 days of receipt of landfill and non-disposal facility payments and disposal documentation required for calculation of Fee distribution amounts. Distributions shall begin December 15, 2024, and continue quarterly through October 15, 2027.

8. PARTICIPATION IN THE COUNTYWIDE HHW PROGRAM

CITIES, at their option, may individually participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

9. LATE PAYMENTS

If Fee payments and disposal documentation are not received from landfill or non-disposal facility operators prior to scheduled distribution of payments to CITIES and the Countywide HHW Program, payment distribution shall be calculated on a pro rata share of monies received. Upon collection, late payments and accrued delinquent penalties, if any, shall be distributed among CITIES and the Countywide HHW Program according to the formula in Exhibits B and C.

10. ACCOUNTING

COUNTY shall maintain records of all transactions related to collection, use and distribution of the Fee for at least five (5) years after the termination date of this Agreement, unless otherwise required by law to retain such records for a longer period. Such records will be available for inspection upon written request by CITIES, and will include but not be limited to tonnage reports submitted by landfills and non-disposal facilities, waste stream documentation provided by cities, payments made by the landfills and non-disposal facilities to the COUNTY and by the COUNTY to CITIES, and expenditures for programmatic and overhead costs.

11. REQUEST FOR REVIEW

In the event CITIES have a dispute regarding the calculation of its share of the Fee or the distribution or use of the Fee, CITIES may request in writing a review by COUNTY within 10

days of receipt of their Fee allocation. The review shall be performed within 30 days of request and results shall be reported to CITIES in writing.

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12. EFFECTIVE DATE OF AGREEMENT

This agreement is effective upon approval by all fifteen CITIES and the COUNTY.

13. AMENDMENT

This Agreement may be amended only by an instrument signed by all fifteen CITIES and the COUNTY.

14. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

15. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2024 to June 30, 2027, or until all funds from the last quarter's Fee payments have been distributed, whichever is later. COUNTY shall bill the operators of the landfills and non-disposal facilities listed in Exhibit A for the Fee commencing with the Quarter ending September 30, 2024. Said landfills and non-disposal facilities will be billed for the Fee through June 30, 2027.

16. NOTICES

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

City of _____
Contact: _____
Title: _____
Address: _____

County of Santa Clara

Contact: Recycling and Waste Reduction Program Manager
Program: Integrated Waste Management Services
Address: 1553 Berger Drive, Building 1
San José, CA 95112

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17. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

18. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designees.

19. COUNTERPARTS

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

20. CONTRACT EXECUTION

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

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IN WITNESS WHEREOF, the parties have executed this AGENCY AGREEMENT
FOR COUNTYWIDE AB939 IMPLEMENTATION FEE on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

JAMES R. WILLIAMS
County Executive

Date: _____

CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

APPROVED AS TO FORM AND LEGALITY:

Willie Nguyen
Deputy County Counsel

EXHIBIT A

LANDFILLS LOCATED IN SANTA CLARA COUNTY

Guadalupe Rubbish Disposal Site
Kirby Canyon Sanitary Landfill
Newby Island Sanitary Landfill
Pacheco Pass Sanitary Landfill
Palo Alto Refuse Disposal Area
Zanker Materials Processing Facility
Zanker Road Landfill

NON-DISPOSAL FACILITIES AND TRANSFER STATIONS LOCATED IN SANTA CLARA COUNTY

Butterick Enterprises Recyclery
California Waste Solutions Recycling & Transfer Station
City of Palo Alto Green Composting Facility
ComCare Farms Composting Facility
Environmental Management Systems Facility
Green Waste Recovery Facility
Mission Trail Waste Systems, Inc.
Newby Island Compost Facility
Pacheco Pass Landfill Composting Facility
Pacific Coast Recycling, Inc.
Premier Recycling Facility
The Recyclery at Newby Island
San Martin Transfer Station
Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)
Z-Best Composting Facility
Zanker Materials Processing Facility

EXHIBIT B

FORMULA FOR DISTRIBUTION OF AB939 PROGRAM FEE

Each of the CITIES, and the COUNTY for its unincorporated area, will receive \$1.50 per ton of solid waste disposed of in landfills or taken to non-disposal facilities located in Santa Clara County that originates from that jurisdiction, as documented in quarterly reports submitted by the County to the State Disposal Reporting System.

Fees collected from undocumented disposed tonnage, or tonnage originating outside of Santa Clara County, will be distributed according to each jurisdiction's percent of countywide population, according to the latest available population report issued by the California Department of Finance.

EXHIBIT C

COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM FEE (HHW Fee)

1. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 et seq. Public Resources Code Section 41901 authorizes imposition of a fee to support planning and implementation of integrated waste management programs, including their HHW elements. The HHW Fee, of \$2.60 per ton, collected as part of the AB939 Implementation Fee, will be the primary source of funding for Countywide Household Hazardous Waste Collection Program (CoHHW Program) services.

Funds derived from the HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITIES' anticipated participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José.
- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Public Resources Code Section 41904.

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2. FIXED PROGRAM COST

Funds shall be allocated on a per household basis for Fixed Program Costs at the conclusion of each Fiscal Year. This portion of the funds shall be distributed directly to the Countywide HHW Program to pay for HHW Program costs. Fixed Program Costs funding shall be calculated shall not exceed \$5.07 per household in Fiscal Years 2025, 2026, and 2027. Fixed Program Costs may include, but are not limited to, eleven (11) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance, and union negotiated salary and benefit changes.

3. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$.05 per household are set forth in Attachment A, attached hereto and incorporated herein. Any existing unexpended non-profit abandoned waste fund balance may be allocated toward funding of disposal of HHW illegally abandoned at nonprofit charitable reuser organizations as defined in Public Resources Code Section 41904.

For the purposes of this agreement, a nonprofit charitable reuse organization has the definition provided in Public Resources Code Section 41904 as follows: “Nonprofit charitable reuser” means a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

4. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents’ proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.09 per car for Fiscal Years 2025, 2026, and 2027. The total San José Facility Use Surcharge for CITY will be based on CITY’s participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José.

5. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County HHW Collection

Facilities and Temporary Events. This portion of the funds shall be distributed directly to the Countywide HHW Program. The Variable Cost Per Car is estimated to be \$66.02 per car for Fiscal Years 2025, 2026, and 2027. The estimated cost per car will be adjusted annually to reflect actual service costs. After fixed costs and San José Facility Use Surcharge are allocated on a per household basis, the variable cost per car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached, the Countywide HHW Program will use the remaining balance of funds, in cooperation with the CITIES, to increase public outreach and/or provide additional services in that jurisdiction where the level of 4% is not reached the following year.

6. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion will be allocated based on the tons of waste generated within each jurisdiction and after allocation of Fixed Program Cost, San José Facility Use Surcharge, and Variable Per Car Cost. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in the jurisdiction by the Countywide HHW Program, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. CITIES authorize the COUNTY to determine appropriate uses of available discretionary funding and to use CITIES' Available Discretionary Funding portion of the AB939 HHW Fee to provide for additional HHW services requested by the CITIES.

7. PROGRAM FUNDING PASS-THROUGH

Annual funding calculations include HHW Fees collected on behalf of all jurisdictions in the County. CITIES, at their option, may participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. If CITIES elect to participate in the Countywide HHW Program, their pro-rata share of the HHW Fee shall be retained by the County to utilize for HHW Program costs, as provided in this Agreement and the Agreement for Countywide Household Hazardous Waste Collection Program. The COUNTY will distribute to CITIES not participating in the Countywide Household Hazardous Waste Collection Program their pro-rata share of funding received by the COUNTY from the HHW Fee, except that the COUNTY may retain and expend that portion of the non-participating CITIES' fee attributable to Abandoned Waste Disposal Costs.

If CITIES not participating in the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM desire to allow residents to participate in HHW Program services on an emergency basis, then services to these residents will be provided on a cost recovery basis. A charge equal to the established rates charged by the Countywide HHW Program to Conditionally Exempt Small Quantity Generators will be billed to the CITIES. A CITIES' representative must call the Countywide HHW Program appointment line to schedule

an appointment for the resident. Liability shall be apportioned as provided in Exhibit D to this Agreement.

EXHIBIT D

SECTION 28 OF AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 of the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the cities and the county as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total

liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require Conditionally Exempt Small Quantity Generators ("CESQG") and Nonprofit Charitable Reusers to indemnify COUNTY for, at minimum, their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The CESQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to CESQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

**AGREEMENT FOR COUNTYWIDE
HOUSEHOLD HAZARDOUS WASTE
COLLECTION PROGRAM**

This Agreement for Countywide Household Hazardous Waste Collection Program (“AGREEMENT”) is made by and between the _____ (“CITY”) and the County of Santa Clara (“COUNTY”) on the _____ day of _____ 2024.

RECITALS

WHEREAS, the Board of Supervisors of the County of Santa Clara (“Board of Supervisors”) has approved a Countywide Household Hazardous Waste Collection Program whereby residents of the unincorporated areas of the Santa Clara County and cities and towns within Santa Clara County participating in the Countywide program will have an opportunity to safely dispose of household hazardous wastes (HHW), regardless of the specific location at which the collection has been scheduled; and

WHEREAS, CITY desires to provide residents with convenient opportunities to safely dispose of their HHW in order to encourage the proper disposal of toxic products, and avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground, in a manner which creates a health and/or environmental hazard; and

WHEREAS, CITY desires to provide a safe, convenient, and economical means for residents to dispose of HHW. These wastes include, but are not limited to, common household products such as household cleaning products, furniture polish, solvents, oven cleaner, pesticides, oil-based paints, motor oil, antifreeze, car batteries, mercury thermostats, fluorescent lamps, household batteries, and electronic waste; and

WHEREAS, CITY desires to schedule Household Hazardous Waste Collection Events (Events) for residents for FY 2025 through FY 2027 (July 1, 2024 – June 30, 2027); and

WHEREAS, CITY desires to provide household hazardous waste collection services to a minimum of 4% of the households per fiscal year in its jurisdiction; and

WHEREAS, CITY desires to participate in the Countywide Household Hazardous Waste Collection Program to meet these objectives; and

WHEREAS, pursuant to Public Resources Code Section 41901, the Board of Supervisors has approved the collection of a \$4.10 per ton Countywide AB939 Implementation fee, including a \$2.60 per ton Household Hazardous Waste Fee (AB939 HHW Fee), for FY 2025 through FY 2027 (July 1, 2024 – June 30, 2027) on all wastes landfilled or incinerated within Santa Clara County, received at any non-disposal or collection facility located within Santa Clara County and subsequently transported for disposal or incineration outside of Santa Clara County, collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently

transported for disposal or incineration outside of Santa Clara County, or removed from any location in Santa Clara County by any person or business for disposal or incineration outside the county; and

WHEREAS, the AB939 HHW Fee is allocated to the Countywide Household Hazardous Waste Program and participating jurisdictions to fund HHW program costs in accordance with the terms of the Countywide AB939 Implementation Fee Agreement; and

WHEREAS, CITY desires for COUNTY to utilize CITY's share of the AB939 HHW Fee to provide HHW services for CITY residents.

NOW THEREFORE, CITY and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this AGREEMENT is to state the terms and conditions under which CITY will participate in the Countywide Household Hazardous Waste Collection Program (CoHHW Program) available to its residents. Participating jurisdictions are those jurisdictions that enter into this AGREEMENT with the County.

2. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 *et seq.* State law authorizes cities and counties to impose fees in amounts sufficient to support planning and implementation of integrated waste management programs, including HHW elements. The AB939 HHW Fee, of \$2.60 per ton, imposed by COUNTY as part of the AB939 Implementation Fee and collected and distributed in accordance with the Agreement for Countywide AB939 Implementation Fee will be the primary source of funding for CoHHW Program services. CITY agrees that COUNTY may utilize CITY's share of the AB939 HHW fee to provide HHW Program services in accordance with the terms and conditions of this AGREEMENT.

Funds derived from the AB939 HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITY residents' participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José, CA 95133.

- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Section 41904 of California Public Resources Code.

The projected AB939 HHW Fee Allocation by jurisdiction is set out in Attachment A, attached hereto and incorporated herein.

3. FIXED PROGRAM COST

Estimated HHW Fixed Program Costs are projected in Attachment B, attached hereto and incorporated herein. Fixed Program Costs are allocated to CITY at the conclusion of each fiscal year based on CITY's proportional share of the County population and will not exceed \$5.07 per household for Fiscal Years 2025, 2026, and 2027. Fixed Program Costs may include, but are not limited to, up to eleven (11) County HHW Program staff members, facility lease costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance and union negotiated salary and benefit changes.

4. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$0.05 per household are set forth in Attachment A, attached hereto and incorporated herein.

For the purposes of this Agreement, "Nonprofit Charitable Reuser Organization" is defined in accordance with Section 41904 of California Public Resources Code as follows: a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

5. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents' proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. Estimated San José Facility Use Surcharges are projected in Attachment A, attached hereto and incorporated herein. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.09 per car for Fiscal Years 2025, 2026, and 2027.

6. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County Household Hazardous Waste Collection Facilities (CoHHWCF) and at Temporary Events. The Variable Cost Per Car is estimated to be approximately \$66.02 per participating resident car for Fiscal Years 2025, 2026 and 2027. The estimated cost per car will be adjusted to reflect actual service costs. After Fixed Program Costs and San José Facility Use Surcharge are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached in the CITY, the CoHHW Program may use the remaining balance of funds, in cooperation with the CITY, to increase public outreach and/or provide additional services in that jurisdiction the following year.

7. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion of the AB939 HHW Fee will be allocated based on the tons of waste generated within each jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in that jurisdiction by the CoHHW Program, subsidizing curbside used motor oil collection, electronic waste (e-waste) collection, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. COUNTY has discretion to determine appropriate uses of Available Discretionary Funding in accordance with the terms and conditions in this Agreement, and to apply the funding toward those uses.

8. ADMINISTRATION AND PAYMENT OF THE AB939 HHW FEE

The County of Santa Clara Recycling and Waste Reduction Division will administer the AB939 HHW Fee, as part of the existing online disposal reporting and payment system. Administration and payment will be made in accordance with the Agreement for Countywide AB939 Implementation Agreement. Notwithstanding the foregoing, the COUNTY shall maintain records of the amount, use, and distribution of Fixed Program Cost expenditures for at least five (5) years after the termination date of this Agreement, unless otherwise required by law

to retain such records for a longer period. CITY may request in writing a review by COUNTY of the Fixed Program Cost records. The review shall be performed within 30 days of request and results shall be reported to participating cities in writing.

9. PROGRAM PUBLICITY

The CoHHW Program shall produce and make available to the public an HHW brochure for distribution. The brochure will be made available at various events, including but not limited to, environmental events and community fairs. The brochure may also be distributed, upon request, to cities within Santa Clara County and to Santa Clara County residents and businesses. The CITY shall be responsible for developing and coordinating citywide awareness of the HHW Program. The CoHHW Program shall be responsible for Countywide public education for used oil recycling. CoHHW Program public awareness responsibilities shall include, but not be limited to, the following activities:

- Serving as the formal contact to the local media such as local newspapers and television news stations;
- Providing participating jurisdictions with educational materials developed for the CoHHW Program;
- Promoting oil and oil filter recycling by developing, purchasing, and distributing educational materials, media relations materials, basic art work and camera ready advertising materials for distribution countywide and for use by jurisdictions;
- Representing the program through educational presentations at schools and businesses and attendance at community events such as local fairs and festivals; and
- Providing participating jurisdictions opportunities to review and comment on the development of countywide outreach materials.

CITY's public awareness responsibilities, at the sole discretion of the CITY, shall include, but not be limited to, the following activities:

- Providing a copy of HHW promotional materials to the CoHHW Program for review for accuracy and completeness, prior to publication;
- Developing and distributing HHW promotion communications to residents for local and CITY newsletters, newspapers and to the electronic media;
- Providing the CoHHW Program with a copy of HHW promotion materials produced by the CITY;
- Conducting and supporting outreach and publicity to attain the goal of 4% of households in the CITY participating in the CoHHW Program; and
- Providing the CoHHW Program a report summarizing all outreach activities conducted by the CITY during the fiscal year. The report is due 30 days after the end of the reporting period.

10. TEMPORARY HHW EVENTS

COUNTY shall conduct Temporary HHW Events at various sites located in Santa Clara County. COUNTY shall obtain all necessary permits and licenses required for the Temporary

HHW Events and shall provide or contract for the services of properly trained, qualified personnel and hazardous waste haulers, and shall provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at the Temporary HHW Events.

When COUNTY conducts a Temporary HHW Event in CITY's jurisdiction, CITY agrees to provide solid waste and recycling services at such event at no cost to the CoHHW Program to ensure the proper management of non-hazardous waste generated at the event. Any additional expenses for such event incurred beyond the agreed-upon budget shall be subject to negotiation and mutual agreement between the COUNTY and the CITY.

To increase the Community's awareness of and participation in any Temporary HHW Event in CITY's jurisdiction, the CITY agrees to promote, at the CITY's sole expense, each such event to the residents at least thirty (30) days in advance before the scheduled date. The promotion may include, but is not limited to, bill inserts, door hangers, flyers, in-person outreach events, newsletters, press releases, public service announcements, social media, television public access stations, websites, etc.

11. HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES

COUNTY shall conduct collection operations at two County Household Hazardous Waste Collection Facilities (CoHHWCF).

The CoHHWCF are located at:

- ◆ *San Martin, 13055 Murphy Avenue, San Martin, CA 95046*
- ◆ *San José, 1608 Las Plumas, San José, CA 95133*

The COUNTY shall obtain all necessary permits and licenses required for the CoHHWCF and shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected.

12. RECYCLING AND DISPOSAL PROGRAM FOR VERY SMALL QUANTITY GENERATORS

COUNTY will provide services to accept hazardous waste from Very Small Quantity Generators (VSQG) in accordance with Section 25218.3 of California Health and Safety Code, as amended from time to time. VSQG is defined in Section 25218.1(q) of California Health and Safety Code.

Eligible VSQGs include, but not limited to, small businesses, governmental entities, non-profit organizations, schools, special districts, etc. within the County so long as they meet the criteria as defined in Section 25218.1(q) of California Health and Safety Code. Eligible VSQGs will be allowed to bring their hazardous waste to CoHHWCF. These services to VSQGs located within the CITY will be provided on a cost recovery basis, which will include program administration,

on-site collection, transportation, and disposal costs. COUNTY will assume responsibility for fee collection from participating VSQG.

The CITY may choose to pay for services for VSQG's within the CITY and will notify the COUNTY in writing with 30-day advance notice in order to exercise this option. If the CITY exercises this option, the COUNTY will invoice the CITY for all costs associated with VSQG's within the CITY. If CITY has available Discretionary Funding, COUNTY may use this funding to pay for VSQG costs.

13. ABANDONED HOUSEHOLD HAZARDOUS WASTE

The CoHHW Program will allow for the disposal of abandoned HHW by government agencies and qualified nonprofit charitable reusers. Abandoned HHW means HHW left at a property by an unknown party. Abandoned household hazardous waste does not include waste generated by a known organization or agency in the course of normal business operations such as, but not limited to, the assembly or manufacture of products from new or used materials or the provision of charitable services such as classroom education, meal preparation, and shelter, or the provision of services for a fee.

A) GOVERNMENT AGENCIES

Government agencies shall be charged for disposal of abandoned HHW according to the CoHHW Program's rates for VSQGs.

B) NONPROFIT CHARITABLE REUSER

In order to qualify as a Nonprofit Charitable Reuser, the business must submit to the County Executive a request to be so designated. The County Executive shall review the request and supporting documentation and shall make a final decision on the designation. COUNTY will accept abandoned HHW from Nonprofit Charitable Reusers and will waive disposal fees on the cost of disposal of the abandoned HHW in an annual amount not to exceed funds available from the existing unexpended abandoned waste fund. Funding for disposal available to Nonprofit Charitable Reuser shall be on a first come first serve basis. Once the available fund to pay for the disposal of the abandoned HHW from Nonprofit Charitable Reusers is exhausted, disposal fees shall no longer be waived, and Nonprofit Charitable Reusers shall be charged for disposal of abandoned HHW according to the CoHHW Program's rates for VSQGs. No additional costs shall be applied to the budget of the CITY or any other participating jurisdiction.

14. HOUSEHOLD HAZARDOUS WASTES ACCEPTED

HHW accepted by the CoHHW Program shall be limited to those materials that qualify as "Household Hazardous Waste" pursuant to Section 25218.1(d) of California Health and Safety Code, as amended from time to time. These materials include, but are not limited to, automotive fluids, automotive and other types of batteries, latex and oil paint, oil filters, garden chemicals,

household cleaners, pool chemicals, mercury thermostats, fluorescent lamps containing mercury, household batteries, electronic waste (e-waste), and other common hazardous consumer products.

15. WASTES NOT ACCEPTED

Certain hazardous wastes shall not be accepted for collection and disposal. These include, but are not limited to, compressed gas cylinders larger than 5 gallons, radioactive materials, biohazardous waste, and explosives. Other wastes not accepted by the CoHHW Program are wastes generated as part of operating a business, including a home operated business, except that waste from VSQGs as provided for in Section 12 of this Agreement shall be accepted.

16. ADDITIONAL SERVICES UNDER THIS AGREEMENT

CITY must augment funding provided under this Agreement to cover the cost of a minimum participation level of 4% of CITY households; CITY may also elect to augment funding to provide additional services to increase CITY participation beyond the 4% minimum participation level. Additional services shall be made available upon written agreement between the CITY's authorized representative and the County Executive Officer or designee. Additional services may include, but are not limited to, additional appointments (charged at the Variable Cost Per Car rate), door-to-door HHW collection, used oil filter collection, universal waste collection, electronic waste collection, and abandoned waste collection.

CITY agrees to augment up to an additional \$ _____ to the Countywide HHW Program during Fiscal Year 2025 for the purpose of attaining or increasing CITY household participation above the 4% minimum participation level at the scheduled collection dates listed in Attachment C, attached hereto and incorporated herein. Augmentation will be calculated, where applicable, at the Variable Cost Per Car rate. Other services will be charged based on a cost recovery basis. CITY authorizes the COUNTY to use CITY'S Available Discretionary Funding portion of the AB939 HHW Fee, if available, to offset the above agreed additional augmentation amount.

CITY agrees to make an interim payment to COUNTY amounting to 50 percent of the augmentation amount stated above for each fiscal year. This interim payment shall be made no later than September 30th of each fiscal year. The remaining balance of any outstanding cost shall be reconciled and paid or refunded in accordance with the terms outlined in the annual cost statement.

At the end of each fiscal year, a final annual cost statement shall be prepared by COUNTY and issued to CITY by November 30th. The annual cost statement will take into consideration costs incurred on behalf of CITY for additional services and all payments made by CITY to COUNTY. If any balance is owed to COUNTY, it will be due within 30 days following receipt of the annual cost statement. If any credit is owed to CITY, COUNTY will refund that amount to CITY within 30 days following delivery of the annual cost statement.

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17. INFORMATION AND APPOINTMENT LINE

COUNTY will operate a telephone information and appointment desk Monday through Friday, from the hours of 9:00 a.m. to 5:00 p.m, except for COUNTY-recognized holidays. The information service will register residents for the Temporary HHW Events and the collections at CoHHWCF. The information service will provide information about hazardous household materials. CITY will be notified immediately if resident participation approaches a level of service that may not be supported by available funding.

18. SCHEDULING AND SITE SELECTION

COUNTY shall work with CITY to determine the date(s) of Temporary Events and collections at the CoHHWCF. CITY shall coordinate with COUNTY in locating and securing sites for Temporary HHW Events. It is recognized that some participating jurisdictions in the CoHHW Program may not have appropriate sites available. A proposed HHW schedule for Fiscal Year 2025 of Temporary Events and collections at CoHHWCF is included as Attachment C. COUNTY will schedule an adequate number of collection days to serve the 4% level of service. The COUNTY determines the adequate number of collection days by tracking attendance at each event.

19. OUTSIDE FUNDING

During the term of this Agreement, COUNTY may seek outside funding sources for services that would supplement existing HHW services such as permanent collection sites, equipment, retail take-back collection and operational funding. If outside funding is obtained, the CoHHW Program will, at COUNTY's discretion, proceed with development of additional programs using that outside funding without drawing on CITY's funding provided under this Agreement.

20. REGIONAL GRANT AND OIL PAYMENT PROGRAM PARTICIPATION

The CITY authorizes the CoHHW Program to apply for lead agency grants, including but not limited to Used Oil Payment Program grants, from the California Department of Resources Recycling and Recovery (CalRecycle), on behalf of participating jurisdictions. The CoHHW Program will act on behalf of all participating jurisdictions, as the lead applicant and administrator. The CoHHW Program will oversee how the moneys are used and work in cooperation with CITY as to how the funds will be spent. Nothing in this section shall preclude the COUNTY or a participating jurisdiction from applying for grant funds in any case where the CoHHW Program does not apply for the grant opportunity.

21. EMERGENCY SERVICES

Participating jurisdictions, at their option, may desire to provide residents with convenient emergency opportunities to safely dispose of their HHW in the event of a disaster. The purpose of this emergency planning for HHW is to minimize potential public health and safety impacts, as well as to minimize costs and confusion. Attachment D sets out CITY and

COUNTY responsibilities for the collection of household hazardous wastes in response to an emergency. CITY shall make good faith efforts to provide the public with information related to the problems associated with HHW. Upon the decision to hold an emergency collection event, it is CITY's responsibility to make a good faith effort to prepare and disseminate the necessary outreach to notify the public of an emergency collection event. An emergency collection event shall be initiated by a written request from CITY to COUNTY. Emergency collection events can be scheduled in as little as ten (10) working days of CITY's written request or at an agreed upon date thereafter. The emergency collection plan is set out in Attachment D, Household Hazardous Waste Emergency Collection Plan.

COUNTY agrees to conduct the Emergency Collection Event at a mutually agreeable site and time. The COUNTY will obtain the necessary permit from California Department of Toxic Substances Control and will handle wastes in accordance with applicable state laws and regulations. COUNTY will bill CITY for all Emergency Collection Events on a cost recovery basis, and all payments shall be due COUNTY within 30 days following the receipt of the invoice.

22. PRIVATE SPONSORED EVENTS

COUNTY may also secure funding from corporations or agencies to conduct HHW Collection Events for corporate employees and residents of participating jurisdictions and to pay for special programs such as Universal Waste collection at retail locations. The transportation, treatment, and disposal liability for nonresident employee participation in these events shall be shared by all participating jurisdictions, including the CITY, and the COUNTY, as described in Section 26 of this Agreement. Summary information concerning these corporate sponsored events, if any, will be included in the CoHHW Program's annual report to the participating jurisdictions.

23. INSURANCE REQUIREMENTS

Contractors who provide hazardous waste transportation, treatment, or disposal services shall have the required insurance as outlined in Attachment E, Exhibit E Insurance Requirements for Environmental Services Contract. Other contractors shall have insurance in amounts to be determined by COUNTY Insurance Manager, after consultation with CITY. COUNTY shall obtain insurance certificates from each of the contractors prior to the contractor providing service to the program naming the COUNTY as an additional insured.

24. WASTE TRACKING AND REPORTING

COUNTY will provide a mid-year report to CITY regarding participation rates from each participating jurisdiction by March 15 of each year. Mid-year and year end reports will outline the types and quantities of waste collected, the amount of waste diverted for reuse or recycling and the waste management method for each waste stream and associated costs for services. COUNTY will prepare a report summarizing program activities which will be delivered to the participating jurisdictions no later than six months after the end of COUNTY's fiscal year.

It will be assumed for cost and reporting purposes that each participating jurisdiction is contributing to the waste stream in proportion to the number of its residents who directly participate.

COUNTY shall take steps to assure that the bi-annual statements to jurisdictions reflect the funds necessary to cover costs for CITY participation in services scheduled during the next quarter.

25. PARTICIPATION REPORTING

COUNTY shall employ means necessary to verify the place of residence of all participants in the CoHHW Program.

26. HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 above.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident

employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the participating jurisdictions and the COUNTY as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require VSQGs and Nonprofit Charitable Reusers to indemnify COUNTY, at minimum, for their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The VSQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to VSQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

27. TERMINATION

This Agreement may be terminated by either the COUNTY or CITY upon thirty (30) days written notice given by the terminating party.

28. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2024 to June 30, 2027, or until all revenue from the last quarter's AB939 fee payments have expended and/or distributed, whichever is later.

29. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

30. EXECUTION BY COUNTERPART

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed an original and all of which shall together constitute one and the same instrument.

31. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

32. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designates.

33. NOTICES

All notices and communications herein required shall be in writing to the other party as follows, unless expressly changed in writing:

CITY of _____	City Representative _____
	Representative's Title _____
	City Address _____

County of Santa Clara	Director
	Consumer and Environmental Protection Agency
	1553 Berger Drive
	San José, California 95112

34. CONTRACT EXECUTION

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

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

JAMES R. WILLIAMS
County Executive

Date: _____

“CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

APPROVED AS TO FORM AND LEGALITY:

WILLIE NGUYEN
Deputy County Counsel

Attachments:

- A Projected Fiscal Years 2025, 2026, and 2027 AB939 HHW Fee Funding Allocation by Jurisdiction
- B Estimated HHW Program Fixed Costs for Fiscal Years 2025, 2026, and 2027
- C HHW Schedule of Collection Events for Fiscal Year 2025
- D Household Hazardous Waste Emergency Collection Plan
- E Exhibit-E Insurance Requirements for Environmental Services Contracts

ATTACHMENT A: PROJECTED FISCAL YEARS 2025-2027 ANNUAL HHW FEE FUNDING ALLOCATION BY JURISDICTION

Cities	No of Households	4% of Households	Disposal Tonnage	AB939 HHW Fee per Ton \$2.60	Fixed Cost per HH \$5.07	SJ Facility Surcharge \$8.09	Variable Cost per Car \$66.02	Abandoned Waste Disposal Cost per HH \$0.05	Discretionary Fund	Estimated Augmentation	Anticipated Participation	Anticipated Participation at SJ Facility
Campbell	18,451	738	37,162	\$ 98,620	\$ 93,494	\$ 5,971	\$ 48,725	\$ 923	\$ (52,493)	\$ 80,093	1,156	1,056
Cupertino	21,787	871	29,930	\$ 77,819	\$ 110,398	\$ 7,050	\$ 57,536	\$ 1,089	\$ (96,254)	\$ 133,081	1,399	936
Gilroy	18,784	751	60,599	\$ 157,558	\$ 95,181	\$ 6,079	\$ 49,605	\$ 939	\$ 5,754	\$ 27,110	1,162	154
Los Altos	11,871	475	16,597	\$ 43,153	\$ 60,152	\$ 3,842	\$ 31,349	\$ 594	\$ (52,784)	\$ 96,037	1,130	784
Los Altos Hills	3,151	126	5,589	\$ 14,531	\$ 15,967	\$ 1,020	\$ 8,321	\$ 158	\$ (10,934)	\$ 22,221	297	174
Los Gatos	14,006	560	23,770	\$ 61,802	\$ 70,970	\$ 4,532	\$ 36,987	\$ 700	\$ (51,368)	\$ 94,219	1,209	1,199
Milpitas	25,769	1,031	59,694	\$ 155,204	\$ 130,575	\$ 8,339	\$ 68,051	\$ 1,288	\$ (53,049)	\$ 79,341	1,429	969
Monte Sereno	1,353	54	735	\$ 1,911	\$ 6,856	\$ 438	\$ 3,573	\$ 68	\$ (9,024)	\$ 17,334	180	185
Morgan Hill	16,178	647	44,235	\$ 115,011	\$ 81,976	\$ 5,235	\$ 42,723	\$ 809	\$ (15,732)	\$ 75,407	1,551	392
Mountain View	39,194	1,568	51,011	\$ 132,629	\$ 198,602	\$ 12,684	\$ 103,504	\$ 1,960	\$ (184,120)	\$ 169,083	1,340	772
Palo Alto	29,285	1,171	45,188	\$ 117,489				\$ 1,464	\$ 116,025			
San Jose	345,798	13,832	827,019	\$ 2,150,250	\$ 1,752,210	\$ 111,904	\$ 913,183	\$ 17,290	\$ (644,337)	\$ 1,185,168	22,039	20,539
Santa Clara	53,370	2,135	113,691	\$ 295,597	\$ 270,434	\$ 17,271	\$ 140,939	\$ 2,069	\$ (135,715)	\$ 237,003	3,669	2,010
Saratoga	11,353	454	17,897	\$ 46,533	\$ 57,527	\$ 3,674	\$ 29,981	\$ 568	\$ (45,217)	\$ 76,767	932	800
Sunnyvale	63,111	2,524	99,239	\$ 258,021	\$ 319,793	\$ 20,423	\$ 166,664	\$ 3,156	\$ (252,014)	\$ 262,351	2,681	1,533
Unincorporated	18,558	742	45,693	\$ 118,802	\$ 94,036	\$ 6,006	\$ 49,008	\$ 928	\$ (31,176)	\$ 80,009	1,482	845
Total	692,019	27,681	1,478,050	\$ 3,842,931	\$ 3,358,172	\$ 214,467	\$ 1,750,148	\$ 34,601	\$ (1,514,457)	\$ 2,636,224	41,666	32,348

Notes: No of HH and Disposal tonnage are based on FY2022-2023 actuals. Anticipated participation and anticipated participation at SJ facility are based on 10% increase from FY2022-2023 actual participation.

ATTACHMENT B: ESTIMATED ANNUAL HHW PROGRAM FIXED COSTS FOR FISCAL YEARS 2025, 2026, AND 2027

FIXED COST		
Staff Salary and Benefits		\$ 1,926,605.10
County Admin Overhead		\$667,328
County Counsel		\$17,745
Phones and Communications		\$13,787
Facilities Lease Costs	San Jose	\$215,880
Vehicle Costs		\$44,363
Office Supplies and postage		\$4,430
Maintenance, Software		\$150,150
HHW Hotline		\$150,000
Garbage & Utilities		\$47,434
Membership & Dues		\$20,475
Training & Conference		\$6,825
Safety Wear		\$28,392
Printing		\$11,632
Other Services & Supplies		\$53,127
ESTIMATED ANNUAL TOTAL		\$ 3,358,171.77

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2025-2027***

2024/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Wed	3	San Jose	Permanent	
	Thursday	4	No Event	No Event	4th OF JULY
	Fri,Sat	5,6	San Jose	Permanent	
	Fri,Sat	5,6	San Martin	Permanent	
	Thurs,Fri	11,12	San Jose	Permanent	
	Saturday	13	Sunnyvale	Temporary	Confirmed
	Thurs,Fri,Sat	18,19,20	San Jose	Permanent	
	Thurs,Fri,Sat	25,26,27	San Jose	Permanent	
August	Thurs,Fri,Sat	1,2,3	San Martin	Permanent	
	Thurs,Fri,Sat	1,2,3	San Jose	Permanent	
	Fri,Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	8,9,10	San Jose	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Thurs,Fri	22,23	San Jose	Permanent	
	Saturday	24	Mountain View	Temporary	Confirmed
	Thurs,Fri	29,30	San Jose	Permanent	
	Saturday	31	No Event	No Event	LABOR DAY WEEKEND
September	Thurs,Fri,Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Thurs,Fri	19,20	San Jose	Permanent	
	Saturday	21	Santa Clara	Temporary	Confirmed
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	
October	Thurs,Fri,Sat	3,4,5	San Martin	Permanent	
	Thurs,Fri,Sat	3,4,5	San Jose	Permanent	
	Thurs,Fri,Sat	10,11	San Jose	Permanent	
	Saturday	12	Sunnyvale	Temporary	Confirmed
	Thurs,Fri,Sat	17,18,19	San Jose	Permanent	
	Thurs,Fri,Sat	24,25,26	San Jose	Permanent	
	Thurs	31	San Jose	Permanent	
November	Fri, Sat	1,2	San Jose	Permanent	
	Thurs,Fri, Sat	7,8,9	San Martin	Permanent	
	Thurs	7,8,9	San Jose	Permanent	
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Thurs,Fri,Sat	21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	No Event	No Event	THANKSGIVING
December	Fri, Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Thurs,Fri,Sat	19,20,21	San Jose	Permanent	
	Wed,Thurs	25,26	No Event	No Event	CHRISTMAS
	Fri,Sat	27,28	San Jose	Permanent	

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2025-2027* (Continued)**

2025/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
January	Wed	1	No Event	No Event	NEW YEAR'S
	Thurs,Fri, Sat	2,3,4	San Martin	Permanent	
	Thurs,Fri,Sat	2,3,4	San Jose	Permanent	
	Thurs,Fri	9,10	San Jose	Permanent	
	Saturday	11	Sunnyvale	Temporary	TBD
	Thurs,Fri,Sat	16,17,18	San Jose	Permanent	
	Thurs,Fri	23,24	San Jose	Permanent	
	Saturday	25	Santa Clara	Temporary	TBD
	Thurs,Fri	30,31	San Jose	Permanent	
February	Sat	1	San Jose	Permanent	
	Thurs,Fri, Sat	6,7,8	San Martin	Permanent	
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Thurs,Fri,Sat	13,14,15	San Jose	Permanent	
	Thurs,Fri,Sat	20,21,22	San Jose	Permanent	
	Thurs,Fri	27,28	San Jose	Permanent	
March	Sat	1	San Jose	Permanent	
	Thurs,Fri, Sat	6,7,8	San Martin	Permanent	
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Thurs,Fri,Sat	13,14,15	San Jose	Permanent	
	Thurs,Fri,Sat	20,21,22	San Jose	Permanent	
	Thurs,Fri,Sat	27,28,29	San Jose	Permanent	
April	Thurs,Fri,Sat	3,4,5	San Jose	Permanent	
	Thurs,Fri, Sat	3,4,5	San Martin	Permanent	
	Thurs,Fri	10,11	San Jose	Permanent	
	Saturday	12	Los Altos	Temporary	TBD
	Thurs,Fri	17,18	San Jose	Permanent	
	Saturday	19	Sunnyvale	Temporary	TBD
	Thurs,Fri	24,25	San Jose	Permanent	
	Saturday	26	Santa Clara	Temporary	TBD
May	Thurs,Fri,Sat	1,2,3	San Jose	Permanent	
	Thurs,Fri, Sat	1,2,3	San Martin	Permanent	
	Thurs,Fri,Sat	8,9,10	San Jose	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Thurs,Fri	22,23	San Jose	Permanent	
	Saturday	24	No Event	No Event	MEMORIAL DAY WEEKEND
	Thurs,Fri,Sat	29,30,31	San Jose	Permanent	
June	Thurs,Fri, Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri	12,13	San Jose	Permanent	
	Saturday	14	Milpitas	Temporary	TBD
	Thurs, Fri,Sat	19,20,21	San Jose	Permanent	
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	

*SUBJECT TO CHANGE

ATTACHMENT D:

COUNTY HOUSEHOLD HAZARDOUS WASTE EMERGENCY COLLECTION PLAN

1. PURPOSE

The purpose of the Household Hazardous Waste Emergency Collection Plan is to minimize potential public health and safety impacts, as well as to minimize costs and confusion during an emergency or disaster. This Attachment describes the services the County can provide and the responsibilities of each party for the collection of household hazardous wastes (HHW) in response to an emergency as defined by the local jurisdiction.

Jurisdictions should contact local emergency agencies, the Governor's Office of Emergency Services (OES), and California Department of Toxic Substances Control (DTSC) for more specific information on hazardous materials emergency response.

2. Timing of HHW

While it is important to have special collection opportunities for disaster-related HHW as soon as possible to avoid illegal disposal or harm to people and/or the environment, having an event or service too soon after a disaster may result in low participation. Sufficient public notification, assessment and monitoring of the disaster and cleanup process by the designated City HHW Coordinator(s) is essential.

3. Public Information/Notification:

Cities should be prepared to provide the public with information related to the problems associated with HHW along with information about special collection events and services. Upon the decision to hold an emergency collection event, it is the City's responsibility to prepare and deliver the necessary public outreach to notify the public of an upcoming event. A City's public outreach program should evaluate all forms of media including: newspaper ads, posters, flyers, press releases, banners, door-to-door notices, roadside signs, signs on dumpsters, radio public service announcements, social media outlets and television public access stations. Be aware of communities where multiple language outreach efforts will be necessary.

4. State HHW Collection Permits

DTSC is responsible for issuing the necessary state permits for HHW collection facilities. During an emergency, the County will obtain the necessary emergency permit for special collection of household hazardous waste from DTSC through their expedited approval process.

5. Collection Events

Temporary collection events can be set-up at various sites including parking lots, city maintenance yards, within neighborhoods needing service, and at landfills or a centralized

location to service larger segments of the population. Waste collected will be transported with a transportation vehicle provided by the HHW Program. In addition, events can be scheduled at the two existing Countywide Household Hazardous Waste Collection Facilities (CoHHWCF). The following options are available to each participating City.

- Neighborhood Drop-off Events: The County is able to provide localized service to specific areas in need of household hazardous waste collection services. The County will work with City Solid Waste Coordinators to conduct coordinated efforts to residents in the affected area. After a specific event, waste will be transported by County staff or a hazardous waste contractor to an appropriate facility.
- Mobile HHW Event: The County conducts Household Hazardous Waste Collection Event (Events) at various sites located in Santa Clara County throughout the year. Events will be expanded to give priority to disaster victims when requested by the City. The County shall obtain all necessary permits and licenses required for the events and shall provide and/or contract for the services of properly trained personnel and hazardous waste haulers. The County shall also provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at events.
- CoHHWCF: The County operates two permitted HHW collection facilities for the collection and storage of HHW. The County shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected at the CoHHWCF.

The CoHHWCF are located at:

San Martin, 13055 Murphy Ave, San Martin, CA 95046
San Jose, 1608 Las Plumas, San Jose, CA 95133

6. Costs, Documentation, and Reimbursements

Cities will be billed on a cost recovery basis. Costs of emergency events will be tracked and billed separately. Emergency funding applications pending from the State or Federal government for reimbursements in no way relieves the City of responsibility to make timely payment to the County in accordance with the terms of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

The County agrees to provide the City with a detailed accounting of services provided for an emergency collection. Documentation will track the time and materials of staff, outside contractor expenses, and quantities and types of waste collected to demonstrate that the wastes were generated above and beyond existing collection programs.

Services to businesses will be provided on a cost recovery basis and according to Section 12 of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM, which includes program administration, on-site collection, transportation, and disposal costs. The County will assume responsibility for collecting fees from participating businesses.

7. State and Federal Assistance and Funds

It is the City's responsibility to pursue reimbursement from State or Federal agencies.

California Governor's Office of Emergency Services (Cal OES)

Cal OES is responsible for requesting assistance if a state disaster area is declared, and the local jurisdiction deems that the needs of the disaster response are beyond the capability of local jurisdictions for resources beyond the capability of the jurisdiction. State assistance may include assistance available from State, Federal, or private sources. If a local jurisdiction exceeds its capabilities, then the local jurisdiction can request assistance and reimbursement of costs from Cal OES.

Follow Standardized Emergency Management System (SEMS)

All requests and emergency responses must be in accordance with the SEMS. DTSC may have funding available for hazardous waste response and collection.

Federal Assistance

If a state disaster area is declared a federal disaster, then federal funding assistance may be available through the Cal OES. Funding and assistance may be available from Federal agencies such as FEMA and the USEPA.

Damage estimates: The city should provide to the Cal OES estimates of damages and a "scope of work requested." It is recommended that the local HHW coordinator meet ahead of time with local emergency agencies or Cal OES contacts regarding the proper procedures and wording of requests for assistance.

Funding Process: The funding process may vary depending on the unique circumstances of the disaster. The process can either be the traditional FEMA reimbursement process, or by direct assistance from USEPA.

REFERENCES

California Integrated Waste Management Board, Integrated Waste Management Disaster Plan: Guidance for local government on disaster debris management, January 1997.

Emergency Planning Contacts and Personnel

Primary County Contact: County of Santa Clara
Consumer and Environmental Protection Agency
Household Hazardous Waste Program
ATTN: Hazardous Materials Program Manager
(408)-918-1967

For Non-Emergency after-hours, contact County Communications at: (408) 977-3220

Responsibility: Coordinate and establish proper collection and disposal methods for household hazardous waste. Assess the need for HHW and VSQG services in consultation with the City and other operations.

Cal OES Public Safety Communications Main Office

601 Sequoia Pacific Boulevard
Sacramento, CA 95811
(916) 894-5209

Cal OES

3650 Schriever Avenue
Mather, CA 95655-4203
(916) 845-8510

CHEMTREC Emergency number, (800) 424-9300
Non-emergency (800) 262-8200

Chemtrec is a public service established by the Chemical Manufacturers Association. The Center was developed as a resource for obtaining immediate emergency response information to mitigate accidental chemical releases, and as a means for emergency responders to obtain technical assistance from chemical industry product safety specialists, emergency response coordinators, toxicologists, physicians, and other industry experts to safely mitigate incidents involving chemicals.

EXHIBIT E

INSURANCE REQUIREMENTS FOR
ENVIRONMENTAL SERVICES
CONTRACTS

(Hazardous Waste Disposal, Remediation Services, Environmental Consulting, etc.)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any third party claim, liability, loss, injury or damage to the extent arising out of, or in connection with, performance of this AGREEMENT by Contractor and/or its agents or employees, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this AGREEMENT to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this AGREEMENT and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this AGREEMENT, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this AGREEMENT, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the AGREEMENT until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

Should any of the requested policies be cancelled before the expiration date, notice will be provided in accordance with policy provisions.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Products/Completed Operations aggregate - \$2,000,000
 - d. Personal Injury - \$1,000,000
2. General liability coverage shall include:
 - a. Premises and Operations
 - b. Products/Completed
 - c. Personal Injury liability
 - d. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, (Commercial General Liability Additional Insured provided pursuant to Additional Insured Endorsement #1), which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds provided pursuant to Additional Insured Endorsement Form #1.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided

Exhibit E (Continued)

under this policy. Public Entities may also be added to the Additional Insured Endorsement Form #1 as applicable by way of insurance addendum, and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles. Coverage shall include Environmental Impairment Liability Endorsement MCS90 for contracts requiring the transportation of hazardous materials/wastes.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. Contractors Pollution Liability Insurance

Coverage shall provide a minimum of not less than five million dollars (\$5,000,000) per occurrence and aggregate for bodily injury, personal injury, property damage and cleanup costs both on and offsite.

7. Professional Errors and Omissions Liability Insurance (required for contractors providing professional services, such as through a professional engineer, registered geologist, etc.)

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim/aggregate.
- b. If coverage contains a deductible or self-retention, it shall be reviewed and approved by the County's Insurance Manager prior to contract execution.
- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this AGREEMENT.

Exhibit E (Continued)

8. Claims Made Coverage

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims. If coverage terminated Run-Off (Tail) coverage will be purchased for three (3) years following termination.

E. Special Provisions

The following provisions shall apply to this AGREEMENT:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this AGREEMENT, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this AGREEMENT may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this AGREEMENT. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this AGREEMENT be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

Exhibit E (Continued)

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this AGREEMENT, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this AGREEMENT, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this AGREEMENT, at the option of County.

CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Tanya Carothers, Environmental Services Administrator

APPROVED BY: City Manager

APPROVE MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE COUNTYWIDE FOOD RECOVERY PROGRAM

RECOMMENDATION(S)

Authorize the City Manager to enter into a Memorandum of Understanding that will allow the City to participate in the Countywide Food Recovery Program for SB 1383 compliance, and also to administer and oversee the program in the City's capacity as Countywide Solid Waste Services Administrator and Contracting Agent.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment

2024-2025 Strategic Priorities

Fiscal Sustainability

Affordable Housing and Homelessness

Healthy Community

REPORT NARRATIVE:

The purpose of this staff report is to provide the City Council with an opportunity to enter into a Memorandum of Understanding (MOU) that will allow ongoing long-term City participation in the countywide Food Recovery Program, as well as oversight of the program by the City in its capacity as the Countywide Solid Waste Services (CSWS) Administrator and Contracting Agent (Attachment 1).

BACKGROUND

California Senate Bill 1383 (SB 1383) was adopted in 2016 and sets goals to reduce disposal of organic waste in landfills in an effort to decrease greenhouse gas emissions and address food insecurity. California sends 11.2 billion pounds of food to landfills annually, some of which is still fresh enough to have been recovered to feed people in need, while 9.2 million Californians experienced food insecurity in 2020. To avoid disposal of edible food, the Department of Resources Recycling and Recovery (CalRecycle) developed regulations requiring jurisdictions to establish food recovery programs that recover the maximum amount of edible food that would otherwise be sent to landfills, and use the recovered food to feed people in need. The following types of businesses are edible food generators which are covered by SB 1383 and therefore

required to arrange for food recovery: wholesale food vendors; food service providers and distributors; grocery stores over 10,000 square feet; supermarkets; restaurants over 5,000 square feet; hotels with 200 or more rooms and on-site food facilities; local education agencies with on-site food facilities; large venues/events; and health facilities with at least 100 beds and on-site food facilities.

To take advantage of economies of scale and due to the cross-jurisdictional nature of food recovery operations, in 2021 the Santa Clara County Recycling and Waste Reduction Commission (RWRC) Technical Advisory Committee (TAC) entered into an agreement with Joint Venture Silicon Valley (JVSV) to develop and manage the Santa Clara County Food Recovery Program (Food Recovery Program). This countywide program conducts the necessary tasks for SB 1383 compliance including outreach to covered edible food generators, inspections and program monitoring, connecting businesses with food recovery organizations, and gathering the required data for reporting back to CalRecycle.

During FY 2021/22 and 2022/23, the Food Recovery Program was funded using countywide solid waste planning fees. In FY 2023/24, an MOU among Local Public Agencies in Santa Clara County for Food Recovery Program Costs was developed to fund the cost of a countywide food recovery program to satisfy SB 1383 requirements for a period of one year through jurisdictional contributions. The one-year MOU was intended to provide time for participating agencies to evaluate and establish a long-term funding mechanism for the program. The short-term MOU was managed by the RWRC TAC County Fiscal Agent and by the City of Morgan Hill in its capacity as CSWS Administrator and Contracting Agent.

LONG-TERM FOOD RECOVERY PROGRAM MOU

In FY 2023/24, the TAC drafted the currently proposed long-term MOU that will become effective on July 1st, 2024 (Attachment 1). This long-term MOU is modeled off of the 2023/24 short-term MOU and extends the commitment of jurisdictions to continue participation in the countywide Food Recovery Program through submittal of annual contributions to the program. The long-term MOU and its terms will remain in effect in perpetuity unless terminated by the TAC through a formal voting process. The long term MOU will be managed by the RWRC TAC County Fiscal Agent and by the City of Morgan Hill in its capacity as CSWS Administrator and Contracting Agent.

COMMUNITY ENGAGEMENT:

Currently, ongoing community engagement on the countywide Food Recovery Program is completed by JVSV who manages the program. JVSV completes education and outreach to local businesses on behalf of all participating jurisdictions to engage on food recovery requirements under SB 1383, and provides support tools including websites, webinars, peer-to-peer learning opportunities, small infrastructure grants, etc.

ALTERNATIVE ACTIONS:

The Council could decide to not approve the countywide Food Recovery Program MOU and direct staff to further evaluate the provision of a food recovery program. Because

there is not currently a viable alternative to the established countywide program, this would result in noncompliance with the requirements of SB 1383 while the City evaluates alternative approaches. Additionally, the City would be unable to administer the countywide Food Recovery Program under the current MOU which is work that participating jurisdictions have asked that the City implement in their role as the CSWS Contracting Agent and Administrator.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In 2021, the City Council approved Ordinance 2325 to bring the City's Municipal Code into compliance with the requirements of SB 1383 by including provisions for organic waste recycling and food recovery.

In 2022, the City Council approved a Resolution for acceptance of SB 1383 Local Assistance Program (LAP) Grant funds from CalRecycle which covered FY 2023/24 Food Recovery Program costs. In 2024, the 2022 Resolution was used to accept additional Round 4 SB 1383 LAP Grant funds from CalRecycle which will cover 2024/25 through 2025/26 Food Recovery Program costs.

In 2023, the City Council approved an amendment which added program enhancements and a TAC-funded project to the countywide Food Recovery Program contract for FY 2023/24 which the City is managing in its capacity as the CSWS Administrator and Contracting Agent.

FISCAL AND RESOURCE IMPACT:

CITY PARTICIPATION IN THE COUNTYWIDE FOOD RECOVERY PROGRAM

The long-term Food Recovery Program MOU will become effective starting July 1, 2024. In FY 2024/25 and FY 2025/26 the Food Recovery Program costs will be \$14,013 and \$16,801, respectively. These costs will be fully covered by funds from Round 4 of the SB 1383 LAP Grant. The proposed City budget for FY 2024/25 and FY 2025/26 includes revenues and expenses for SB 1383 compliance and program implementation, including the Food Recovery Program.

Under the City's current Franchise Agreement for solid waste collection services, implementation funds may be requested by the City at the beginning of each fiscal year to cover costs related to compliance activities required under Local, Regional, State or Federal permits, laws, and/or regulations for collection and/or management of solid waste. Because the Food Recovery Program is required as part of SB 1383 compliance to divert edible food from landfills, the City may consider funding the program through implementation funds via the Recology contract in the event that additional new grant monies are not available to cover the costs beyond FY 2025/26. Alternatively, when grant funding is no longer available the City could consider utilizing General Fund discretionary dollars to fund participation in the State-mandated Food Recovery Program.

SB 1383 compliance activities are included in the work program of the Public Services Department.

COUNTYWIDE SOLID WASTE SERVICES OVERSITE OF THE FOOD RECOVERY PROGRAM

Each year, Santa Clara County as the current Fiscal Agent will issue invoices to the jurisdictions for their committed amounts for the Food Recovery Program. Collected funds will be directed to the City of Morgan Hill in its capacity as the RWRC TAC Administrator and Contracting Agent. The City's Fund Transfer Requests will be adjusted to cover the costs associated with the increased appropriation related to the Food Recovery Program. Because of the Fund Transfer Requests, in no case would Fund 246 go into a negative balance as a result of the City managing the Food Recovery Program contract. Per the MOU, should any unspent funds remain in the Santa Clara County Food Recovery Program account at the end of the fiscal year, disposition of those funds will be decided by the RWRC through the annual work plan and budget process, which could include: retaining surplus funds as a reserve, crediting Jurisdictions toward future payment allocations, dedicating funding to food recovery infrastructure, providing supplemental food recovery outreach and education, or other Food Recovery Program activities.

Oversight of the Food Recovery Program MOU by the City in its capacity as CSWS Administrator and Contracting Agent is included in the work program of the Public Services Department. While it is anticipated that current staff funded through the existing CSWS program can absorb the work required to administer the MOU, the long-term Food Recovery Program MOU provides an opportunity for the City to request funding for additional resources during the annual budget and work plan process if oversight of the MOU ends up taking more time to manage than expected and if additional City resources are needed.

CEQA (California Environmental Quality Act):

Not a Project.

**MEMORANDUM OF UNDERSTANDING
AMONG LOCAL PUBLIC AGENCIES
IN SANTA CLARA COUNTY
FOR COUNTYWIDE FOOD RECOVERY PROGRAM**

This Memorandum of Understanding (“MOU”) is entered into by and between the cities of Cupertino, a municipal corporation of the state of California; Gilroy, a municipal corporation of the state of California; Los Altos, a municipal corporation of the state of California; Milpitas, a municipal corporation of the state of California; Morgan Hill, a municipal corporation of the state of California; Mountain View, a municipal corporation of the state of California; Palo Alto, a municipal corporation of the state of California; San José, a municipal corporation of the state of California; Santa Clara, a municipal corporation of the state of California; Sunnyvale, a municipal corporation of the state of California; the West Valley Solid Waste Management Authority (on behalf of the cities of Campbell, Monte Sereno, Saratoga, and the Town of Los Gatos); the Town of Los Altos Hills, a municipal corporation of the state of California; and the County of Santa Clara, a political subdivision of the State of California; collectively “Parties” or individually as a “Party.”

RECITALS

- A. The signatory Parties are also “PARTIES” to the Memorandum of Agreement (“MOA”) entered into on June 14, 2013 for the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (“TAC”), which is a separate Committee created to assist the County of Santa Clara Recycling and Waste Reduction Commission (“RWRC” or “Commission”) that advances the interests of Party Jurisdictions by performing technical and policy review to inform parties and advise the Commission on solid waste management issues, and bring together varied expertise and viewpoints for planning and implementing the Commission approved annual workplan and budget. The MOA, which remains in effect, is attached hereto and incorporated herein by reference as Exhibit B.
- B. California’s Short-Lived Climate Pollutant Reduction law (SB 1383, Lara, Chapter 395, Statutes of 2016) establishes methane reduction targets for California, including a target to increase recovery by 20 percent of currently disposed edible food for human consumption by January 1, 2025.
- C. To meet the mandated statewide goal, SB 1383 requires each Jurisdiction in California to establish and monitor a robust food recovery program, which will strengthen the relationships between commercial edible food generators and food recovery organizations within their communities, requiring certain food businesses to send the maximum amount of edible food they would otherwise dispose to food recovery organizations and/or services.
- D. The Parties have previously agreed to jointly administer and fund the cost of a countywide edible Food Recovery Program (the “Program”) through the Memorandum of Understanding Among Local Public Agencies in Santa Clara County for Food Recovery Program Costs entered into and covering the time period of July 1, 2023 to June 30, 2024 (“Former MOU”) to satisfy their respective obligations under SB 1383 and the corresponding regulations. The Former MOU is attached hereto as Exhibit C.
- E. The Parties desire to execute this MOU to ensure ongoing operation of the countywide food recovery program to provide for their respective share of costs for the Program.

- F. The West Valley Solid Waste Management Authority (“Authority”) was established by the cities of Campbell, Monte Sereno, Saratoga, and the Town of Los Gatos (collectively referred to as the “Member Agencies”), pursuant to the provisions of the Joint Exercise of Powers Act (Title 1, Division 7, Article 1, Section 6500 et seq. of the California Government Code) to arrange for and manage the waste reduction, collection, reuse, disposal, recycling, and diversion of discarded materials originating in the participating municipalities; and in furtherance of that purpose, the Member Agencies and the Authority have entered into agreements authorizing the Authority to act as the representative of the Member Agencies in the Food Recovery Program.

NOW, THEREFORE, the Parties agree as follows:

SECTION 1. PURPOSE OF THE MOU

The purpose of this MOU is to establish a system of:

- 1) Ongoing management and operation of the Food Recovery Program.
- 2) Payment by the Parties for their share of the costs for implementation of the Program.

SECTION 2. EFFECTIVE DATE

This MOU shall be effective on July 1, 2024 (“Effective Date”), shall supersede the Former MOU, and shall automatically renew each year for all Parties, unless a Party withdraws, in accordance with Section 20 (Withdrawal From MOU) and subject to a Party’s annual appropriations of funds.

SECTION 3. DEFINITIONS

The original 2013 Memorandum of Agreement entered into between the parties (and as may be amended from time to time) defined in detail the duties of the TAC Administrator, Contracting Agent, and Fiscal Agent, and those definitions from the MOA shall apply to this MOU. For ease of reference, those definitions are summarized below.

- 3.1 The TAC Administrator provides administration and management services to the TAC and carries out the annual workplan.
- 3.2 The Contracting Agent executes contracts with outside contractors, including the Administrator and the Fiscal Agent that have been requested and approved by the Implementation Committee.
- 3.3 The Fiscal Agent serves as the treasurer of the countywide funds and is responsible for collecting the Solid Waste Planning Fee from all solid waste disposal facilities and non-disposal facilities located within Santa Clara County.
- 3.4 The Program Manager is the entity contracted by the Contracting Agent on behalf of the RWRC to implement the Santa Clara County Food Recovery Program.

Other terms used in this MOU that relate to the Food Recovery Program (e.g., including but not limited to the term “Jurisdictions”) are used as defined in SB 1383 and any implementing regulations, as may be amended from time to time.

SECTION 4. RESPONSIBILITIES OF THE TAC ADMINISTRATOR AND CONTRACTING AGENT

5.1 The TAC Administrator will provide administration and management of the Program. These duties include overseeing the work of the Program, development of the biennial budget, and inclusion of the Program in the annual work plan and budget. The costs to perform these duties will be included in the annual work plan and budget.

5.2 Contracts executed by the Contracting Agent with the Program, TAC Administrator and Fiscal Agent will be based on the approved budget for the Program. The Contracting Agent will provide an invoicing system to pay the Program Manager, TAC Administrator, and Fiscal Agent. The Contracting Agent shall provide the TAC Administrator with the proposed costs to perform these duties. The signatory Parties to this MOU (except when acting in their authorized capacities as Contracting Agent, TAC Administrator, and Fiscal Agent) are not direct parties to the third-party contracts entered into by those agents.

SECTION 5. RESPONSIBILITIES OF THE FISCAL AGENT

The Fiscal Agent will collect and receive funds from the Parties for implementation of the Countywide Food Recovery Program. The Countywide Food Recovery Program Funds will be segregated from the Countywide Solid Waste Program Funds in separately numbered and coded accounts that are readily identifiable as those containing Countywide Food Recovery Program Funds or Countywide Solid Waste Program Funds. The Fiscal Agent shall not expend, use or transfer any funds except in accordance with the annual work plan and budget.

The Fiscal Agent shall provide the TAC Administrator with the proposed costs to perform these duties.

SECTION 6. RESPONSIBILITIES OF THE PROGRAM MANAGER

The Program Manager will implement the Santa Clara County Food Recovery Program as described in Exhibit A.

SECTION 7. RESPONSIBILITIES OF THE PARTIES

The Parties will share costs of implementing the Program as described in Section 9 and undertake the duties assumed by the Jurisdictions as described in Exhibit A.

SECTION 8. BIENNIAL BUDGET

The TAC Administrator will prepare a biennial (two-year) budget that encompasses costs for the Program and Program Manager, the TAC Administrator, the Contracting Agent/Administration, and the Fiscal Agent. Approval of the biennial budget shall follow the annual work plan and budget process as specified in the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee MOA.

SECTION 9. FUNDING

9.1 The Parties agree to share costs of the Program based on the number of edible food generators, as defined by the California Code of Regulations (14 CCR Section 18982) operating in their Jurisdiction on an annual basis, according to the following formula: $\text{Party's Annual Share} = (\text{Total Budgeted Cost for Year})$

÷ Total Number of Edible Food Generators Under MOU) x Number of Edible Food Generators in Party's Jurisdiction.

The Parties agree to pay annually for the costs identified in the biennial budget and approved through the annual work plan and budget process as specified in the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee MOA.

9.2 The initial Program budget will be based on the Fiscal Year 2024 allocation including costs for the Fiscal Agent, totaling THREE HUNDRED AND TEN THOUSAND DOLLARS (\$310,000). No costs for TAC Administrator or Contracting Agent are included in the initial Program budget. Should cost recovery for the TAC Administrator or Contracting Agent be required in the future, these will be proposed during the annual work plan and budget process.

9.3 The Parties acknowledge that the Program Manager will evaluate the costs per Jurisdiction annually based on the number of generators operating within each Jurisdiction. Based on this evaluation, a cost adjustment will be projected to the second year of the biennial budget (see Section 8 above). The overall Program budget will not increase by more than TEN PERCENT (10%) of the prior year's Program budget without prior approval by the RWRC.

9.4 The Fiscal Agent will annually submit to the Parties an invoice for the amounts due under this MOU by May 15th of each year. Each Party will make their payment to the Fiscal Agent based on the invoice amount within ninety (90) calendar days of receipt.

9.5 The Fiscal Agent will ensure that the Santa Clara County Food Recovery Program Fund account is segregated from the Solid Waste Program Fee Fund account managed pursuant to the TAC MOA.

9.6 Should any unspent funds remain in the Santa Clara County Food Recovery Program Fund account at the end of the fiscal year, disposition of those funds will be decided by the RWRC through the annual work plan and budget process, which could include: retaining surplus funds as a reserve, crediting Jurisdictions toward future payment allocations, dedicating funding to food recovery infrastructure, and providing supplemental food recovery outreach and education or other food recovery program activities.

9.7 Jurisdictions wishing to contribute additional funds for the edible food recovery enhancement program, implemented by the Program Manager, may elect to do so during the annual work plan and budget process. Any Jurisdiction opting into any voluntary enhancement program shall do so at its own discretion and at its own cost. The Fiscal Agent will include the additional enhancement program funding formally selected by the Jurisdiction in the annual invoice submitted to each Party by May 15th of each year.

9.8 In the event of a CalRecycle Implementation Schedule for a food recovery capacity shortfall identified during a Santa Clara County Edible Food Recovery Capacity Assessment, the Program budget may increase by more than TEN PERCENT (10%) of the prior year's Program budget if needed to fund necessary capacity improvements as outlined in the CalRecycle Implementation Schedule, following prior approval of the budget increase by the RWRC.

SECTION 10. BOOKS AND ACCOUNTS

The Fiscal Agent will keep complete and accurate financial records related to accomplishing the purposes of this MOU. Upon reasonable notice to the Fiscal Agent, any Party to this MOU may inspect the financial records related to this MOU.

SECTION 11. FURTHER ASSURANCES

Each Party will adopt, execute, and make any and all further assurances, documents, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the Parties' performance of their obligations under this MOU.

SECTION 12. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to all other Parties as follows:

12.1 Authority: Each Party has the full legal right, power and authority under the laws of the State of California to enter into this MOU and to carry out all of its obligations herein.

12.2 Due Execution: Each Party's representatives who sign this MOU are duly authorized to sign and bind their respective agency.

12.3 Valid, Binding, and Enforceable Obligations: This MOU has been authorized and executed by each Party and constitutes the legal, valid, and binding agreement of the Parties, and is enforceable according to its terms.

SECTION 13. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved in this MOU is exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy provided hereunder or hereafter existing in law or in equity or by statute or otherwise, and all remedies may be exercised without exhausting and without regard to any other remedy.

SECTION 14. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Parties agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or Jurisdiction delegated to such Party under this MOU (including but not limited to work engaged in or contracts entered into by a Party acting in their capacity as Contracting Agent, Program Manager, TAC Administrator, or Fiscal Agent.). No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of any other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work

authority or Jurisdiction delegated to such other Party under this MOU, as indicated in this Section. The obligations set forth in this paragraph will survive termination and expiration of this MOU.

SECTION 15. SEVERABILITY

The provisions of this MOU shall be severable, and if any clause, sentence, paragraph, provision or other part shall be adjudged by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this MOU will be valid and binding on the Parties.

SECTION 16. AMENDMENTS

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

SECTION 17. COUNTERPARTS

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

SECTION 18. USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law, 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 writing as set forth in Evidence Code Section 1550. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the Parties. Should any Jurisdiction not permit electronic signatures only their copy of the MOU must be signed in the conventional manner.

SECTION 19. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.

This MOU, including all Exhibits attached hereto, represents the entire understanding of the Parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this MOU, the terms specified in the body of this MOU shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This MOU may be modified only by a written amendment duly executed by the Parties to this MOU. This MOU is intended to supplement the original MOA and does not replace the original MOA. The MOA shall remain in effect and to the extent that there are any contradictions between this MOU and the original MOA, the provisions in this MOU shall prevail.

SECTION 20. WITHDRAWAL FROM MOU

No individual Party may withdraw from this Agreement prior to July 1, 2025. Any party wishing to withdraw on or after July 1, 2025 must provide notice to the Contracting Agent on or before January 15 of each year. The Parties acknowledge that the Contracting Agent and each individual Party may recalculate Agreement costs pro rata in the event of any withdrawal from this Agreement and that this time is required in order to allow each remaining Party and the Contracting Agent to amend their respective budgets if needed. Any withdrawing Party must make full payments through the end of the then current term ending

on June 30. In no event shall this clause to be interpreted to prevent all Parties by unanimous mutual consent from withdrawing from this Agreement.

SECTION 21. NO LEGAL RELATIONSHIP

By entering into this MOU, the Parties are neither forming, nor do they intend to form a partnership, agency, or any other legal entity relationship. No Party is authorized to bind or to act as the agent or legal representative of the other Party for any purpose, and neither Party is granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of any other Party.

SECTION 22. GOVERNING LAW, VENUE

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

MEMORANDUM OF UNDERSTANDING AMONG LOCAL PUBLIC AGENCIES IN SANTA CLARA COUNTY FOR COUNTYWIDE FOOD RECOVERY PROGRAM

IN WITNESS HEREOF, the Parties have executed the MOU as of the last date set forth below:

City of Cupertino – City Manager

Date: _____

Approval as to form, Cupertino City
Attorney

Date: _____

City of Gilroy- City Manager

Date: _____

Approval as to form, Gilroy City
Attorney

Date: _____

City of Los Altos – City Manager

Date: _____

Approval as to form, Los Altos City
Attorney

Date: _____

Town of Los Altos Hills – Assistant to the
Town Manager

Date: _____

Approval as to form, Los Altos Hills
Town Attorney

Date: _____

City of Milpitas – City Manager

Date: _____

Approval as to form, Milpitas City
Attorney

Date: _____

City of Morgan Hill, as a Party and as
Contracting Agent and TAC
Administrator

Date: _____

Approval as to form, Morgan Hill City
Attorney

Date: _____

City of Mountain View- Acting Public
Works Director

Date: _____

City of Mountain View – Finance and
Administrative Services Director

Date: _____

City of Mountain View- City Manager

Date: _____

City of Mountain View-Assistant City Clerk

Date: _____

City of Palo Alto – City Manager

Date: _____

West Valley Solid Waste Management Authority (on behalf of the cities of Campbell, Monte Sereno, Saratoga, and the Town of Los Gatos) -Executive Director

Date: _____

City of Santa Clara - City Manager

Date: _____

Approval as to form, Mountain View Senior Assistant City Attorney

Date: _____

Approval as to form, Palo Alto Assistant City Attorney

Date: _____

Approval as to form, West Valley Solid Waste Management Authority General Counsel

Date: _____

Approval as to form, Santa Clara City Attorney

Date: _____

City of Sunnyvale – City Manager

Date: _____

County of Santa Clara, as a Party and as
Fiscal Agent - Chief Operating Officer

Date: _____

City of San José

Date: _____

Approval as to form, Sunnyvale Interim
City Attorney

Date: _____

Approval as to form and legality, Santa
Clara County Deputy County Counsel

Date: _____

Approval as to form, San José City
Attorney

Date: _____

EXHIBIT A PROGRAM OVERVIEW

This document describes the Santa Clara County Food Recovery Program, serving as the food recovery program (“Program”) on behalf of all jurisdictions (“Jurisdictions”) within the County, coordinating with the Jurisdictions performing their own enforcement. The details of the Program conform to the California Code of Regulations (14 CCR Section 18995.2 (f)(8), 14 CCR Section 18991.2 14 CCR Section 18991.1).

I. PURPOSE

The Countywide Program benefits the Jurisdictions by alleviating the need for duplicative staff, cost analysis, capacity assessment, expenditures for infrastructure, labor, administration, and record keeping for the edible food recovery activities in their Jurisdiction. Additionally, this approach creates one uniform, standardized, and coordinated effort throughout the incorporated and unincorporated areas of Santa Clara County.

II. RESPONSIBILITIES

Jurisdictions

- A. Shall develop a method to accept and keep records of written complaints, including anonymous complaints, regarding an entity that may be potentially non-compliant. Full details of the complaint will be communicated to the Program Manager within 10 days of receipt.
- B. Shall refer all questions received about the Program portions of SB 1383 implementation to the Program Manager within 10 business days. Jurisdictions should include the Program Manager in all communications to generators or food recovery organizations or services.
- C. Shall maintain access to the shared database program to stay in compliance with the intent and structure of the Implementation Record which shall follow the format and elements as promulgated by CalRecycle, or other relevant statutory or administrative requirements.
- D. On an annual basis, Jurisdictions shall review and provide feedback to the Program Manager on inspection protocol, triggers, and enforcement processes. Cities and unincorporated County are encouraged to follow the procedures and stay within the suggested timeline for enforcement action set forth in the Monitoring Procedures document.
- E. When informed by the Program Manager, Jurisdictions will work with the Program Manager in carrying out enforcement action with edible food generators or food recovery organizations or

services not in compliance. The Program Manager will recommend edible food generators or food recovery organizations or services for enforcement action, and the enforcement action taken will be at the discretion of the Jurisdiction. All enforcement action will be tracked in the Program's shared database, so it is readily available to the Program Manager, Jurisdictions, and can become part of the Implementation Record.

- F. Jurisdictions will determine what large events are happening in their jurisdiction. Within 10 days of an applicant being issued a permit for a new large event, as defined below, the Jurisdiction will notify the Program about the event, and share contact information for the event organizer. This is only for large events that meet the CalRecycle threshold for the definition: "Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. By September 1 of each year, Jurisdictions will review the large events included in the shared database of regulated entities, to update the database to ensure no recurring events have been missed.
- G. Shall work with the Program Manager on any related issues requiring Program assistance or lead in resolving the issue(s) related to complaints and/or noncompliance for any edible food generator or Food Recovery Organization or Service.

Program Manager

The Program Manager shall responsibly execute the management of the Santa Clara County Food Recovery Program (the Program). The Program Manager:

- A. Shall develop and coordinate a standardized and uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, "Short-Lived Climate Pollutants." The Program Manager will operate within the Jurisdiction's boundaries and replace the need for the Jurisdiction to create such a program on its own.
- B. In the event of a CalRecycle Implementation Schedule for a food recovery capacity shortfall identified during a Santa Clara County Edible Food Recovery Capacity Assessment, The Program will work to develop the Implementation Schedule with CalRecycle and manage the effort to fund necessary capacity improvements as outlined in the Schedule. Additional Base Program costs beyond the allowable 10% yearly increase may be needed. The RWRC will review and approve or deny any needed budget changes. Funds will be collected based on the number of edible food generators and their auxiliary sites in each Jurisdiction.

- C. Shall conduct a review, each fiscal year, of potential new edible food generators, to ensure that as businesses open in Santa Clara County the appropriate regulated entities are added to the lists. Closing businesses will be identified during the reporting process and be eliminated from the lists.
- D. Shall provide the Jurisdictions with the information and data necessary for the Jurisdictions to make their required reports to the California Department of Resources, Recycling and Recovery (“CalRecycle”).
- E. Shall retain records of inspections in the Jurisdictions for a minimum of five (5) years.
- F. Shall notify the Jurisdictions promptly about any related issues that require the Jurisdictions’ assistance or to request the Jurisdictions lead in resolving the issue(s) that arise related to non-compliance.
- G. Shall fulfill and endeavor to exceed the annual education requirement for the Jurisdictions and provide the data needed for Jurisdictions to complete required CalRecycle reports.
- H. Solicit required Food Recovery Reports from generators and Food Recovery Organization/Services, compile and provide the results to Jurisdictions for inclusion in the Implementation Records, and to Santa Clara County for use in future Capacity Planning efforts.
- I. Shall conduct inspections and monitoring in compliance with CalRecycle expectations for Edible Food Generators and Food Recovery Organizations and Services.
- J. The Program shall supply appropriate content for a web site, including a list of Food Recovery Organizations and Services (to be updated at least annually) and be accessible to Edible Food Generators.
- K. The Program shall represent the interests of the Program with other entities, counties, and CalRecycle.
- L. The Program will develop procedures and timelines for cities and unincorporated County to encourage uniformity in enforcement, which the Cities and County would be encouraged to follow.
- M. The Program shall create reports about Program activities each year in September, ahead of the budgeting process for the next fiscal year. These reports shall include a narrative about the Food Recovery Program activities, statistics, total number of pounds of food recovered as reported by

Edible Food Generators and Food Recovery Organizations (“FROs”), and any additional information needed by the Jurisdictions. Statistics about food waste prevention and food recovery in Santa Clara County will be shared publicly.

Edible Food Recovery Enhancements Program

The Edible Food Recovery Enhancements Program are any activities, annually identified by the Program Manager, that the Program Manager will undertake to ensure efficient food recovery and food waste prevention should the Jurisdictions choose to fund the chosen projects. Projects may include, but are not limited to, strategic capacity enhancements, projects that promote the efficient recovery of surplus food or the prevention of surplus food, as well as direct support of ongoing recovery activities, subject to approval of the RWRC.

Technical Advisory Committee Contracting Agent

- A. The Contracting Agent will execute a contract with the Program Manager, chosen by the TAC, for the services outlined in the responsibilities above. The Contract will go into greater detail to ensure that all SB 1383 regulatory imperatives are handled by the Program.
- B. The Contracting Agent will set up an invoicing system to pay the Program for the responsibilities outlined above.

III. ENFORCEMENT RESPONSIBILITIES FOR JURISDICTIONS

Each Jurisdiction is responsible for working with the Program on enforcement actions. Although the Jurisdiction is ultimately responsible for enforcement, the Program will support the process by drafting enforcement notices and necessary documents and by providing relevant information about previous inspections and attempts to support compliance. The Program will identify those businesses that need to be evaluated for enforcement action and will work with a Jurisdiction to ensure that CalRecycle compliant documentation is maintained.

IV. RECORDKEEPING AND REPORTING

The Program will complete all the record keeping tasks necessary for the Food Recovery Program portions of SB 1383, including records necessary for the Implementation Record. All necessary records will be stored digitally within 5 days of creation, and Jurisdictions will have real-time access to all these records.

The Program shall create a very brief report about Program activities at the end of each fiscal year. Most programmatic information will be shared in September in the annual report.

EXHIBIT B

AGREEMENT CREATING THE SANTA CLARA COUNTY RECYCLING AND WASTE REDUCTION TECHNICAL ADVISORY COMMITTEE

THIS AGREEMENT, is made and entered into this 4th day of June 2013 by and between the COUNTY OF SANTA CLARA, a political subdivision of the State of California; CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF GILROY, a municipal corporation of the State of California; CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; CITY OF MILPITAS, a municipal corporation of the State of California; CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MORGAN HILL, a municipal corporation of the State of California; CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a chartered municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; and CITY OF SUNNYVALE, a municipal corporation of the State of California.

All of the above-mentioned entities are hereinafter collectively referred to as "PARTIES" or individually as "PARTY."

RECITALS:

- A. In 1989, the California Legislature passed and enacted the California Integrated Waste Management Act, known as "AB 939", (Public Resources Code Section 40000 et. seq) requiring jurisdictions to divert 25% of waste from disposal by 1995 and 50% of waste from disposal by 2000. AB 939 required each County to develop and periodically update a County Integrated Waste Management Plan and to appoint an AB 939 Local Task Force.
- B. Prior to 1992, the Solid Waste Committee of the Santa Clara County Intergovernmental Council advised the cities and the County on solid waste and recycling issues. The Technical Advisory Committee, also originally convened by the Intergovernmental Council, provided technical advice to the Solid Waste Committee on solid waste and recycling issues.
- C. On or about February 1992, the Santa Clara County Board of Supervisors and the cities in Santa Clara County designated the Solid Waste Committee of the Intergovernmental Council as the AB 939 Task Force for Santa Clara County.
- D. On February 4, 1992, the Santa Clara County Board of Supervisors replaced the Solid Waste Committee of the Intergovernmental Council with the Solid Waste Commission of Santa Clara County ("Commission") in order to streamline the

TAC MEMORANDUM OF AGREEMENT

decision-making process on solid waste and recycling issues. (Ordinance No. NS-300.495) The powers and duties of the Commission are defined in Chapter XVII, Division A6 of the County of Santa Clara Ordinance Code.

- E. On December 4, 2001, the Santa Clara County Board of Supervisors approved Ordinance No. NS-300.658 changing the name of the Commission to the Recycling and Waste Reduction Commission of Santa Clara County.
- F. The Commission advises city councils and the Board of Supervisors in Santa Clara County on countywide solid waste and recycling planning issues and on the County Solid Waste Management Plan/County Integrated Waste Management Plan.
- G. The By-Laws of the Commission (also approved by the County Board of Supervisors on February 4, 1992) continued the existence of the Recycling and Waste Reduction Technical Advisory Committee (the "TAC"). The purpose of the TAC was to provide technical advice to the Commission on solid waste management and policy; to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions; and to assist in development of policies, programs and revisions and amendments to countywide plans.
- H. On an annual basis, the TAC prepares and submits an Annual Workplan and Budget for review and approval by the Commission. The Commission-approved Annual Workplan is then implemented by the TAC using funds in the Commission-approved Annual Budget.
- I. In accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the county and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County. The current SWPF of \$0.78 per ton was established by the County Board of Supervisors on May 19, 2009. Funds from the SWPF are used to fund the activities and programs of the Commission and the TAC. In addition, funds from grants, voluntary contributions from other agencies and other revenue sources are used to fund these activities and programs. Such funds, including monies from the SWPF, are referred to herein as "Countywide Funds".
- J. In 2011, Assembly Bill 341 ("AB 341") was signed into law establishing a statewide goal of diverting 75% of solid waste from disposal by 2020 and requiring The California Department of Resources, Recycling and Recovery to prepare and submit a plan to the Legislature on or before January 1, 2014 on how to achieve this goal.
- K. Since the TAC was originally established, the field of solid waste management and recycling has become much more complex and the PARTIES must comply with an increasing number of laws and regulations. In order to achieve the statewide goal of 75% diversion, many materials currently disposed in landfills must be segregated and

TAC MEMORANDUM OF AGREEMENT

processed at new facilities, and channeled into useful purposes. New infrastructure, diversion systems and enhanced producer responsibility measures must be implemented in order to accomplish this goal.

- L. Commensurate with changes in the breadth and complexity of the solid waste and recycling field, the work and functions of the TAC have evolved over time to encompass not only providing advice to the Commission, but also recommending, implementing and monitoring countywide public education and diversion programs included in the Commission-approved Annual Workplan and Budget where it is cost effective for the PARTIES to jointly provide such programs.
- M. The TAC requires expanded powers and authority to monitor ongoing staffing support for programs in the Commission-approved Annual Workplan as well as the power and authority to recommend, monitor and audit the funding for these programs, at the levels contained in the Commission-approved Annual Budget.
- N. In order to address these issues, the Commission appointed the Ad Hoc Committee for TAC Organizational Study, and the TAC appointed the TAC Ad Hoc Organizational Study Subcommittee. Pursuant to recommendations from these Committees, the County retained Arroyo Associates in 2010 to conduct an independent Organizational Study. The study evaluated the countywide integrated waste management programs and services and provided operational and organizational recommendations to enhance the efficiency and effectiveness of the countywide solid waste management system. The Commission's Ad Hoc Committee held a meeting on May 29, 2012 with representatives of the TAC and the public to discuss the recommendations of the Organizational Study and options for restructuring the operating parameters of the TAC.
- O. The purpose of this Agreement is to implement the recommendations of the Commission's Ad Hoc Committee and the TAC Ad Hoc Subcommittee to revise the functions, powers, membership, structure and duties of the TAC to make these consistent with the manner in which the TAC currently functions; and to simplify the reporting relationship between the Commission and the TAC. Such changes are desired by the PARTIES in order to facilitate countywide and regional approaches for meeting the statewide goal of 75% diversion articulated in AB 341; remaining in compliance with the existing requirements of AB 939, SB 1016 and all other state and federal laws and regulations, and planning for the goal of zero waste in the future.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

I. PURPOSES AND FUNDING

The Santa Clara County Recycling and Waste Reduction Technical Advisory Committee ("TAC") is hereby established to replace the Recycling and Waste Reduction Technical Advisory Committee referred to in Article V of the Commission Bylaws dated October 2001.

A. *Purposes.* The purposes of the TAC are:

TAC MEMORANDUM OF AGREEMENT

1. To implement the Commission-approved Annual Workplan and Budget;
2. To advise the Commission and the decision-making bodies of all PARTIES on technical and policy issues related to solid waste management and recycling including plans to achieve the statewide AB 341 goal of 75% diversion by 2020 and plans for working toward the goal of zero waste;
3. To bring together a wide spectrum of viewpoints and expertise to focus on countywide solid waste management, issues affecting individual communities, and solid waste and recycling issues affecting public environmental health;
4. To assist in development of policies, programs and revisions and amendments to countywide plans that can meet countywide needs and, thus, receive countywide approval;
5. To provide a forum for exchange of solid waste, recycling, composting and other diversion information;
6. To inform the PARTIES' respective agencies and jurisdictions about issues and recommendations of the Commission, and perform follow-up actions, as necessary;
7. To recommend Commission approval of countywide programs to maximize the effectiveness of local funds spent for public education and recycling programs, and to implement and monitor such programs.
8. To assist with future master planning for facilities and infrastructure, as requested by the Commission.
9. To perform technical and policy review and make technical and policy recommendations to the Commission and technical recommendations to the PARTIES concerning best practices in solid and hazardous waste management; recycling, composting, diversion programs, source reduction; litter reduction on land; reduction of litter that originates from the storage, collection, transportation, and processing of solid waste, recyclable materials and organic materials that affects water quality in local creeks, San Francisco Bay, and oceans; and 'cradle-to-cradle' extended producer responsibility for products and packaging from creation through use and ultimate recycling or other disposition, with regard to:
 - a. The feasibility of technical proposals;
 - b. Analysis of issues and problems in solid waste management;
 - c. Proposed and/or needed national and state legislation and policies;
 - d. New infrastructure required to achieve countywide goals, and;
 - e. Financing and management options for creation of such infrastructure.
10. To perform other duties as directed by the Commission.

B. *Funding.* The TAC is funded by the Solid Waste Planning Fee ("SWPF") that is charged to customers by the operators of all disposal and non-disposal facilities located within the County of Santa Clara, and remitted, by those facility operators, to the County of Santa Clara. The SWPF is also charged on tons of solid waste that are hauled directly to out-of-county disposal facilities. The amount of the SWPF is established by the Board of Supervisors based upon input and recommendations from the Commission and the TAC Implementation Committee. Additional revenues come from grants, voluntary contributions of other agencies and other sources. These, together with the SWPF funds constitute the Countywide Funds used to fund the Commission-approved Annual Workplan and Budget.

II. COMPOSITION

A. Voting members, not to exceed 27 in number, shall include:

1. One (1) staff person from each City or Town that is a PARTY
2. Three (3) staff persons from the County as follows:
 - a. One (1) to represent the Unincorporated Area
 - b. One (1) to represent County interests related to environmental health
 - c. One (1) to represent County interests related to integrated waste management
3. One (1) staff person from the Santa Clara Valley Water District
4. Up to eight (8) persons from non-governmental organizations appointed by the Commission as follows:
 - a. No more than three (3) representing for-profit industry groups and/or business organizations (however, no member shall represent a single for-profit company)
 - b. No more than four (4) representatives of non-profit groups that advocate for source reduction, recycling programs, sustainability, and/or producer responsibility
 - c. No more than two (2) representatives of institutions of higher learning located within Santa Clara County

B. *Appointment of Members.* All members representing a public agency shall be re-designated annually via a letter on agency letterhead addressed to the TAC Administrator ("Administrator"). The Commission will accept requests and nominations for non-governmental organizations to serve on the TAC. The Administrator will publish a notice in a daily local newspaper of general circulation to a minimum of two-hundred fifty thousand (250,000) people in September of every other year announcing that nominations and requests to serve are being accepted. The Administrator will take other reasonable and cost-effective measures to distribute the announcement via other media, including, but not limited to, websites, local publications and social media, to reach persons who might not see the notice in a daily newspaper. The Commission will select the non-governmental organizations to be represented on the TAC. Those organizations will, in turn, submit a letter to the Administrator designating a member and an alternate. Members representing non-governmental organizations shall serve for a period of two (2) years beginning in January. At the end of that time, the Commission shall select the non-governmental organizations to be represented on the TAC for the new two (2) year term. The initial group of non-governmental organization representatives will be selected by the Commission on or before December 31, 2013 and will begin serving their terms on January 1, 2014. The Administrator will publish a notice in the newspaper, and distribute the notice via other suitable media, in September 2013 announcing that the Commission will consider nominations and applications for non-governmental organizations to be represented on the TAC.

C. *Alternates.* Each PARTY may designate one or more alternate representative(s) to serve in the absence of the regular member. The alternate(s) will be designated in writing as described in Section II B. Alternates may serve on TAC committees,

subcommittees, and ad hoc subcommittees.

D. *Vacancies.* Each PARTY is responsible for designating a replacement for its member if the member can no longer serve. In the event of a vacancy, the Chair shall, by letter, request that the PARTY designate a new member. If a vacancy occurs with regard to a representative of a non-governmental organization, the Administrator shall notify the non-governmental organization to designate a new member. In the event the non-governmental organization declines, the TAC shall notify the Commission and request that a new non-governmental organization be selected to fill the remainder of the term created by the vacancy.

E. *Attendance.* Attendance at meetings is vital to the proper and effective functioning of the TAC. Three (3) consecutive absences or a member missing over fifty percent (50%) of the TAC meetings in a calendar year are sufficient grounds for the Administrator to notify the member and request their attendance. Should a PARTY be unable to send its representative to meetings for an extended period of time, the PARTY shall notify the Chair in writing on letterhead and a replacement representative will not be requested from that PARTY.

III. QUORUM AND VOTING

A. *Quorum.* A quorum consists of thirteen (13) voting members physically present at a meeting.

B. *Voting.* Actions of the TAC shall be taken by a majority vote of the members present at the meeting. Each member has one vote. (See Section VI B for voting and quorum requirements for the Implementation Committee that differ from those for the full TAC.)

C. *Attendance From A Remote Location.* In the event of an unavoidable schedule conflict, a member may participate in a meeting from a remote location via telephone or video-conference provided that all requirements of the Brown Act (Government Code Section 54950, et seq.) are met and further provided that the scheduled meeting room has the technical capability to accommodate the request. In such event, the member will notify the Administrator at least ten (10) days in advance of the meeting and ask to attend from a remote location. The Administrator will advise the member if this is possible. If so, the Administrator will comply with all Brown Act requirements including stating the alternate location in the meeting notice. The member shall also comply with all Brown Act requirements in Government Code Section 54953 (b), including, but not limited to, posting a meeting notice and agenda on the door of the remote location for the duration of the meeting, and allowing members of the public to participate in the meeting from the remote location along with the member. The member's vote will be counted; however, the member will not be included in the count to determine a quorum. Attendance from a remote location is to be used only in rare cases of unavoidable schedule conflicts. In-person attendance and participation at meetings is strongly preferred and encouraged.

D. *Bylaws.* The TAC may, as necessary, recommend adoption of Bylaws for its

governance to the Commission for approval, and operate according to Bylaws approved by the Commission. In the event revisions to Commission-approved Bylaws are desired, the TAC may recommend such revisions to the Commission.

IV. OFFICERS AND THEIR RESPONSIBILITIES

A. *Officer Positions.* The officers of the TAC shall be the Chair, Vice Chair, and the Subcommittee Chairs. The Chair and Vice Chair of the TAC must be voting members or alternates representing a PARTY.

B. *Election and Term.* Each officer shall be elected by majority vote of a quorum of the voting membership at the last meeting of each calendar year or as soon thereafter as possible. All officers' terms begin with the first meeting of each calendar year.

C. *Duties.* The Chair of the TAC shall be responsible for chairing all meetings of the TAC and the Implementation Committee (IC), and representing the TAC and the IC at Commission meetings. The Chair shall approve the draft agendas for TAC and IC meetings, except that any agenda item proposed by two (2) or more voting members must be placed on the next available agenda. The Vice Chair shall serve as the Chair in the Chair's absence. The Chairs of the Subcommittees shall be responsible for calling meetings of their respective Subcommittees and chairing those meetings. The Subcommittee Chairs shall approve the draft agendas for their respective Subcommittees except that any items proposed by two (2) or more voting members of a Subcommittee shall be placed on the next available Subcommittee agenda.

V. MEETINGS

A. *Meetings.* The TAC shall meet monthly at the time and place published on the agendas. Additional meetings may be called as needed. The Chair shall provide every member of the TAC with seventy-two (72) hours written notice of regular and additional TAC meetings. The agenda for each meeting shall be developed by the Administrator in consultation with the TAC Chair, and shall be approved by the Chair.

B. *Conduct of Meetings.* All meetings of the TAC, including all Committees, Subcommittees, Ad Hoc Committees and Subcommittees and any closed sessions with legal counsel, shall be properly noticed and conducted in accordance with the "Brown Act" (Government Code Section 54950 et seq.) Except for official meetings of the TAC and its Committees, Subcommittees and Ad Hoc Committees and Subcommittees, nothing herein shall be interpreted to require meetings between staff members of the individual PARTIES (including designated representatives of the PARTIES) to be subject to the Brown Act, where the Brown Act would not otherwise apply. Each PARTY is individually responsible for ensuring it complies with the Brown Act. Wherever this Agreement is silent with regard to procedure, Robert's Rules of Order shall apply.

VI. IMPLEMENTATION COMMITTEE

A. *Composition and Duties.* The TAC Implementation Committee (IC) is comprised of one voting member from each PARTY to this Agreement plus one voting member from the Santa Clara Valley Water District (SCVWD). The PARTY'S

IC representative is usually also the PARTY'S TAC representative. Each PARTY and the SCVWD may also designate an alternate. The purpose of the IC is to make decisions and recommendations on all fiscal, management and administrative issues of the TAC. The IC selects, monitors and provides oversight of the Administrator, the Fiscal Agent, the Contracting Agent, and legal counsel to the TAC. The IC recommends the level and setting of the SWPF to the Commission.

B. Quorum, Voting and Meetings. A quorum of the IC is nine (9) voting members. (Note: the City of San Jose representative counts as two (2) voting members toward the IC quorum.) The affirmative vote of at least eight (8) voting members of the IC, including PARTIES collectively representing at least forty percent (40%) of the population of the incorporated and unincorporated areas of the County of Santa Clara, is necessary to approve any measure brought before the IC. (For purposes of calculating whether or not the forty percent (40%) figure has been reached, the population of each PARTY shall be counted; however, no population shall be attributed to the SCVWD due to the fact that it encompasses such a large percentage of the population of the entire incorporated and unincorporated County.) Each member of the IC shall have one vote, with the exception of the City of San Jose which shall have two (2) votes. The IC shall meet at least annually to consider and recommend approval of the Annual Workplan and Budget to the Commission for the upcoming fiscal year. The Chair may call other meetings of the IC as needed. All IC meetings are open to the public and to all TAC members. Participation and discussion by all TAC members and by members of the public is encouraged. The Chair of the IC forwards all recommendations made by the IC directly to the Commission, and also makes an informational report to the TAC on the recommendations forwarded to the Commission. The Chair shall strive to achieve consensus among IC members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event, the Chair will report the recommendation of the IC along with the dissenting opinion(s) and viewpoints, to the Commission and to the TAC. In the event of a tie, the Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Chair may, in the Chair's sole discretion, re-agendize the item for another IC meeting.

C. Use of Outside Contractors. The IC is responsible for selecting any consultant(s) or contractor(s) ("Outside Contractors") to perform tasks included in the Commission-approved Annual Workplan and Budget and who are to be paid from Countywide Funds, using a process created in consultation with the Contracting Agent. The IC is responsible for reviewing and approving the parameters of any contracts with Outside Contractors, including the scope(s) of work, schedules of performance, use of subcontractors, and compensation for such Outside Contractors. The IC then directs the Contracting Agent to conduct the procurement process for Outside Contractors and to execute contracts with the selected Outside Contractor(s).

VII. TAC SUBCOMMITTEES

A. *Issue and Policy Subcommittees.* Issue and policy subcommittees shall be established as needed by the TAC. The TAC will evaluate and establish standing Subcommittees in December of each year. Additional Subcommittees may be established at other times throughout the year as needed.

B. *Membership and Meetings.* Membership on all issue and policy Subcommittees is open to all TAC voting members and designated alternates. There is no maximum size for each Subcommittee. The TAC shall appoint a Chair for each Subcommittee. A quorum is two (2) or more Subcommittee members. Subcommittees may elect a Vice-Chair to serve in the Chair's absence. Subcommittee chairs shall be responsible for calling and chairing meetings. The Subcommittee chairs shall approve the draft agenda and report the activities and recommendations of the Subcommittee to the TAC. Subcommittee chairs shall strive to achieve consensus among members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event, the Chair will report the recommendation of the Subcommittee along with the dissenting opinion(s) and viewpoints, to the TAC. In the event of a tie, the Subcommittee Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Subcommittee Chair, in consultation with the TAC Chair, may decide to re-agendize the item for discussion at another meeting.

C. *Ad Hoc Subcommittees.* The TAC may establish Ad Hoc Subcommittees as needed to address specific issues or problems. The TAC shall appoint a Chair for each Ad Hoc Subcommittee. All Ad Hoc Subcommittees shall follow the same operating procedures as the standing issue and policy subcommittees. The TAC Chair shall monitor the work of all Ad Hoc Subcommittees, and all such Subcommittees shall be promptly disbanded by the TAC once their tasks have been accomplished.

VIII. TAC ADMINISTRATOR

A. *Duties.* The TAC Administrator provides administration and management services to the TAC and carries out the Annual Workplan. Duties of the Administrator include, but are not limited to: scheduling meetings of the TAC and all committees, subcommittees, and ad hoc subcommittees; preparing agendas and meeting minutes; maintaining all TAC records and files; notifying the TAC of correspondence received and preparing outgoing correspondence; completing all tasks in the Annual Workplan; providing monthly reports at TAC meetings on the status of the Workplan; and other duties as directed by the IC. The Administrator reports to the Chair of the TAC. The Administrator shall work cooperatively and collaboratively with the IC, the Fiscal Agent and the Contracting Agent. The Administrator is paid from funds in the adopted TAC budget.

B. *Selection.* The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. The IC will receive and evaluate proposal(s) and make a recommendation to the Commission on selection of an Administrator, as further described in Attachment 2.

TAC MEMORANDUM OF AGREEMENT

C. Initial Administrator. The initial Administrator for the TAC shall be the County of Santa Clara, Integrated Waste Management Division ("County IWMD"). The initial staff provided is described on Attachment 1. In the event of a change in the initial staff, the procedures described in Attachment 2 shall be followed. In the event the IC determines there is a need for a change in the Administrator in the future (due to costs, availability of designated employees or for other reasons), or in the event the County IWMD is unable or unwilling to serve, the procedures for selection of a new Administrator in Attachment 2 shall be followed.

D. If Administrator Is Also A PARTY. In the event the Administrator is a PARTY, that PARTY shall appoint a TAC/IC representative whose function is to represent the PARTY's point of view on issues, policy and fiscal matters. The PARTY'S TAC/IC representative shall be a person who is not be involved in the work of the Administrator. This designation shall be made in writing on the PARTY'S letterhead to the Chair of the TAC. The person(s) fulfilling the duties of the Administrator shall act as staff to the TAC, TAC committees and subcommittees, and to the IC.

E. Contract With Administrator. All duties and responsibilities of the Administrator, and a list and description of all staff assigned to provide Administrator services, shall be included in a contract between the Contracting Agent and the Administrator. The contract term may be for a single year or for multiple years, at the discretion of the IC. In the event that the Administrator is a PARTY, a letter agreement will be prepared between the Contracting Agent and the Administrator, containing all of the duties, responsibilities, staffing commitments and costs for the Administrator to serve for the upcoming fiscal year. The letter agreement will include the Annual Workplan and costs for the Administrator's services. The letter agreement shall state that the Administrator agrees to provide the described services at the approved costs for the upcoming fiscal year and that all employee and overhead costs will be maintained at the levels specified in the agreement for that fiscal year. With regard to the initial Administrator, the first letter agreement shall be prepared and executed prior to July 1, 2014 to reflect the costs and the scope of work to be performed for FY 2014/15. If the Administrator and the Contracting Agent are the same PARTY, the letter agreement will be prepared and signed by a staff person designated to represent the Administrator and also signed by a separate staff person designated to represent the Contracting Agent.

F. Annual Workplan and Budget. As the work of the TAC progresses each year, the Administrator will maintain a list of potential work items to be placed in the Annual Workplan for the upcoming fiscal year. Beginning with preparation of the Annual Workplan and Budget for fiscal year 2014/15, the following schedule will apply. In November of each year, the IC will review the list of potential work items compiled by the Administrator, add additional items as needed, and direct the Administrator to prepare a proposed Workplan and Budget for the upcoming fiscal year. The proposed Annual Workplan will contain the elements described in Attachment 3.

The Administrator shall submit the final draft of the proposed Annual Workplan and

Budget to the IC no later than December 15 of each year. If required, the IC will provide revisions and comments to the Administrator, who will then revise and finalize the Annual Workplan and Budget. The IC will approve the Annual Workplan and Budget on or before January 31 of each year and forward it to the Commission for approval. Commission approval is anticipated to be during the month of February. Upon approval by the Commission, the Contracting Agent will prepare agreements with the Administrator, the Fiscal Agent and the Contracting Agent that include the approved Annual Workplan and Budget (for the Administrator) and the approved costs and duties (for the Fiscal Agent and the Contracting Agent) as described in Sections VIII E, IX D and X C. The agreements will be signed by designated representatives of the Administrator, the Fiscal Agent and the Contracting Agent. In the event the Administrator, the Fiscal Agent and/or the Contracting Agent are the same PARTY, that PARTY shall designate separate representatives to execute the agreements on behalf of the Administrator, the Fiscal Agent and the Contracting Agent. Said agreements shall be fully executed and in place prior to July 1 of each year.

G. Annual Reporting and Evaluation. The Administrator shall prepare a self-evaluation/audit report to the IC including significant accomplishments, work items planned but not accomplished, work items not planned but completed, and the status of all work items in the Annual Workplan. The report will include recommendations and suggestions for improving the work of the Administrator and will be submitted on or before September 15 each year. The IC will consider the report at a regular meeting and discuss and provide recommendations and feedback to the Administrator. The IC will rate the overall implementation and effectiveness of the Workplan and, in turn, rate the performance of the Administrator based upon the ability of the Administrator to meet the timelines and budget in the Workplan and to effectively support the Commission and the TAC. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Administrator. This feedback will be used by the Administrator to make any required changes in operations, procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Administrator, the IC may, at any time, discuss questions, concerns or issues of performance with the Administrator.

IX. FISCAL AGENT

A. Duties. The Fiscal Agent serves as the treasurer of the Countywide Funds and is responsible for collecting the SWPF from all solid waste disposal facilities and non-disposal facilities located within Santa Clara County. The Fiscal Agent also collects and receives grant funds and revenues from other sources. The Fiscal Agent shall diligently pursue collection of all SWPF funds and shall keep the IC apprised of the amount and entity owing delinquent payments, as well as of the status of collection activity initiated by the Fiscal Agent regarding the delinquent payments. The Fiscal Agent shall manage all funds in accordance with generally accepted government accounting procedures. The Fiscal Agent shall keep Countywide Funds segregated from all other funds administered by the Fiscal Agent in separately numbered and coded accounts that are readily identifiable as those containing Countywide Funds; shall credit appropriate interest income earned on such funds in each fiscal year; and shall not expend, use or transfer

any funds except in accordance with the Annual Workplan and Budget approved by the IC and the Commission, or as otherwise directed by the IC. In the event the Fiscal Agent is not also the Contracting Agent, the Fiscal Agent shall transfer Countywide Funds to the Contracting Agent as directed by the IC, in accordance with the procedures in Attachment 5. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. Initial Fiscal Agent. The initial Fiscal Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Fiscal Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the following procedures for selection of a new Fiscal Agent shall be followed.

C. Selection. Any PARTY willing to serve as the Fiscal Agent may be nominated by another PARTY. The nominated PARTY(IES) will submit a letter proposal to the IC containing the costs for performing the services of the Fiscal Agent, including all employee and overhead costs and all proposed expenses. If the same PARTY is also already serving, or is proposing to serve, as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The IC will hold discussions with representatives of the nominated PARTY(IES) as needed. The recommendation of the IC will be forwarded to the Commission for approval. Upon receipt of Commission approval, the Contracting Agent will execute an agreement with the new Fiscal Agent that includes the approved costs for the PARTY to provide Fiscal Agent services for the upcoming fiscal year.

D. Payment For Services. The Fiscal Agent shall provide the Administrator with proposed costs to perform the duties of TAC Fiscal Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Fiscal Agent is also serving as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs, the Chair of the IC and the Administrator will meet with the Fiscal Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Contracting Agent will prepare an agreement to be signed by the Fiscal Agent and the Contracting Agent to perform services for the new fiscal year. In the event that the Contracting Agent and the Fiscal Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Fiscal Agent and the (separate) designated employee of the PARTY serving as the Contracting Agent.

E. Quarterly and Annual Budget Status. The Fiscal Agent shall prepare and submit quarterly budget updates to the IC every three (3) months, and shall provide a Year-End Budget Report. These reports shall be formatted in a clear and concise manner such that all expenditures, revenues, movement of monies, reallocation of funds and adjustments to the budget are detailed by project and line item (i.e. numerical reference and narrative

description). The Year-End Budget Report shall be submitted to the IC on or before October 31 each year. The IC may, at any time, request additional budget information, detail, documentation and updates. The Fiscal Agent shall respond promptly to all such requests.

F. Biennial Audit. The Fiscal Agent shall arrange for an audit by an independent third party Certified Public Accounting Firm (CPA) to be conducted every other year beginning with an audit of the 2013/14 fiscal year. The Fiscal Agent may utilize the CPA firm retained by the jurisdiction of which the Fiscal Agent is a part, to perform that PARTY's annual audit. In such event, the results of the audit of the Countywide Funds and accounts shall be clearly and separately called out in the CPA's audit report. The results of the audit shall be reported to the IC on or before January 15 every other year.

G. Evaluation of the Fiscal Agent. Each year, the Fiscal Agent shall prepare a self-evaluation, along with the Year-End Budget Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Fiscal Agent. The self-evaluation shall be submitted at the same time as the Year-End Budget Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Fiscal Agent based upon the ability of the Fiscal Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Fiscal Agent. This feedback will be used by the Fiscal Agent to make any required changes in operations and procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Fiscal Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Fiscal Agent.

X. CONTRACTING AGENT

A. Duties. The Contracting Agent executes contracts with Outside Contractors, including the Administrator and the Fiscal Agent (where applicable) that have been requested and approved by the IC. The Contracting Agent consults with the IC to establish a procurement process for Outside Contractors, and then conducts that process once the IC has approved a scope of work, schedule, budget and other parameters of the contract that will be awarded by the Contracting Agent. The Contracting Agent shall conduct the procurement process and execute all contracts within a reasonable period of time after being directed to do so by the IC. The Contracting Agent shall provide a copy of any contract executed on behalf of the TAC to any PARTY, any TAC member, and to any PARTY or person designated by any PARTY or the IC upon request. The governing body of the Contracting Agent, at its discretion, may delegate authority to execute agreements and contracts approved by the IC to a designated employee. Notice of any such delegation of authority shall be provided in writing to the Chair of the IC and to the Administrator.

In the event the Contracting Agent is not also the Fiscal Agent, the Contracting Agent shall receive Countywide Funds transferred to the Contracting Agent by the Fiscal Agent on a periodic basis as described in Attachment 5. The Contracting Agent shall manage all Countywide Funds in accordance with generally accepted government accounting procedures. The Contracting Agent shall keep Countywide Funds segregated from all other funds administered by the Contracting Agent in separately numbered and coded accounts that are readily identifiable as Countywide Funds, and shall not expend, use or transfer any funds except as specifically directed by the IC. At the close of the fiscal year, the Contracting Agent shall, pursuant to the procedures in Attachment 5, comply with all directions from the IC with regard to retention of funds for contracts with Outside Contractors that are still in effect, and with regard to return of unexpended or unencumbered funds to the Fiscal Agent. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. Initial Contracting Agent. The initial Contracting Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Contracting Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the procedures for selection of a new Contracting Agent shall be the same as those for selection of a Fiscal Agent as described in Section IX C.

C. Payment For Services. The Contracting Agent shall provide the Administrator with proposed costs to perform the duties of TAC Contracting Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Contracting Agent is also serving as the Administrator, the Fiscal Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs, the Chair of the IC and the Administrator will meet with the Contracting Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Administrator will prepare an agreement to be signed by the Contracting Agent and the Administrator to perform services for the new fiscal year. In the event that the Administrator and the Contracting Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Contracting Agent and the (separate) designated employee of the PARTY serving as the Administrator.

D. Annual Contract Status Report. The Contracting Agent shall prepare and submit an annual report to the IC on the status of all contracts (listing all contracts in progress, expired, terminated, and the amount of work and budget remaining in each) on or before October 31 each year. The report shall also note the amount of Countywide Funds held by the Contracting Agent, and specify the amount(s) of funds encumbered for contracts, and the amount(s) of funds that are unspent and unencumbered. The IC may, at any time, request additional information, detail, documentation and updates on any or all contracts. The Contracting Agent shall respond promptly to all such requests.

E. *Audits.* The Contracting Agent shall cooperate with and provide all information and documentation required in order to complete the bi-annual audit described in Section IX F. In the event the IC decides that any actions or activities of the Contracting Agent are not in compliance with this Agreement, or if the IC determines there are other reasons for an audit to be performed, the IC may perform an audit of the Countywide Funds received and expended by the Contracting Agent. In such event, the Contracting Agent shall cooperate fully, and in a timely manner, with persons performing the audit.

F. *Evaluation of the Contracting Agent.* Each year, the Contracting Agent shall prepare a self-evaluation, along with the Annual Contract Status Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Contracting Agent. The self-evaluation shall be submitted at the same time as the Annual Contract Status Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Contracting Agent based upon the ability of the Contracting Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Contracting Agent. This feedback will be used by the Contracting Agent to make any required changes in operations and procedures for the next fiscal year. In addition to the annual review of the Contracting Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Contracting Agent.

XI. LEGAL COUNSEL

A. *Selection.* The IC may select an attorney or firm that is experienced in solid waste, recycling and municipal law to research legal issues, proposed legislation, and to provide legal advice to the TAC ("Legal Counsel") as provided for in the Commission-approved Annual Workplan and Budget. Legal Counsel may be a City Attorney or County Counsel (i.e. an employee of one of the PARTIES) or may be an outside attorney or law firm. The IC will interview and select Legal Counsel as needed, and direct the Contracting Agent to prepare a contract with Legal Counsel for the provision of legal services. The IC shall direct the work of Legal Counsel. The Administrator may assist in coordination of activities with Legal Counsel, but shall not give direction without prior authorization from the IC. Legal Counsel shall not be responsible for providing legal advice to individual PARTIES related to their individual compliance with Public Resources Code Section 40000 et. seq., but may provide such services under separate contract with any PARTY or PARTIES.

XII. OTHER AGREEMENTS OF THE PARTIES

A. *Term of Agreement.* The term of this Agreement shall commence on the date the last duly authorized representative of the PARTIES executes it. This Agreement shall remain in effect until terminated by the PARTIES or until eight (8) or more PARTIES containing more than fifty percent (50%) of the population of the incorporated and unincorporated areas of County of Santa Clara withdraw from the Agreement, whichever

TAC MEMORANDUM OF AGREEMENT

occurs first. A PARTY may withdraw from the Agreement by providing written notice to the Administrator, stating the effective date of the PARTY'S withdrawal. The withdrawal of a PARTY shall not entitle that PARTY to receive or retain any portion of the SWPF.

B. *Ethical Code of Conduct.* All TAC members and Alternates shall adhere to the Ethical Code of Conduct in Attachment 4. All TAC members and Alternates shall attend a TAC-sponsored ethics training every other year beginning in FY 2013/14. The Administrator shall arrange for this training and include the cost in the Annual Workplan and Budget for each year the training is required to be conducted.

C. *Counterparts.* This Agreement may be executed and delivered in any number of copies ("counterparts") by the PARTIES, including by means of facsimile and e-mail of PDF copies. When each PARTY has signed and delivered at least one counterpart to the Administrator, each counterpart shall be deemed an original, and taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

D. *Non-Compliance With State and Federal Laws.* No PARTY shall, by entering into this Agreement, participating in the TAC or the IC, or agreeing to serve as Administrator, Fiscal Agent, Contracting Agent, and/or Legal Counsel, assume or be deemed to assume responsibility for any other PARTY in complying with the requirements of state and federal solid waste and recycling laws, including but not limited to, the California Integrated Waste Management Act of 1989 as amended (Public Resources Code Section 40000 et seq). This Agreement is intended solely for the convenience and benefit of the PARTIES hereto and shall not be deemed for the benefit of any third party and may not be enforced by any third party, including, but not limited to, the United States Environmental Protection Agency and the California Department of Resources, Recycling and Recovery, or any person acting on their behalf or in their stead.

E. *Indemnification.* In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the PARTIES pursuant to Government Code Section 895.6, the PARTIES agree that all losses or liabilities incurred by a PARTY, or by the Santa Clara Valley Water District in carrying out its duties under Section VI. Implementation Committee shall not be shared pro rata, but instead the PARTIES agree that pursuant to Government Code Section 895.4, each of the PARTIES hereto shall fully defend, indemnify and hold harmless each of the other PARTIES, and the Santa Clara Valley Water District in the carrying out of its duties under Section VI. Implementation Committee, from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying PARTY, its officers agents or employees, or in connection with or arising from any work, authority or jurisdiction delegated to such PARTY under this Agreement. No PARTY, nor any officer, board member, employee or agent thereof, shall be responsible for any damage or liability incurred by reason of the negligent acts or omissions or willful misconduct of the other PARTIES hereto, their officers, board members, employees or agents under or in connection with or arising from any work, authority or jurisdiction delegated to such

TAC MEMORANDUM OF AGREEMENT

PARTY under this Agreement.

F. *Entire Agreement.* This Agreement supersedes any prior arrangement or agreement among the PARTIES regarding the composition, structure, duties and powers of the TAC including, but not limited to, the TAC Rules of Procedure dated May 22, 2006, but does not supersede any other agreements between any of the PARTIES.

G. *Amendments.* This Agreement may be amended by unanimous written agreement of the PARTIES. All PARTIES agree to bring any proposed amendments to this Agreement to their Council or Board, as applicable, within three (3) months following acceptance by the IC. The IC shall, on a biennial basis, evaluate this Agreement and determine if any amendments are needed. The first biennial evaluation shall be in 2015. The IC may recommend amendments on a more frequent basis if desired.

H. *Venue.* In the event that suit shall be brought by any PARTY to this Agreement, the PARTIES agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

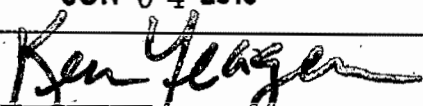
I. *Attachments.* Attachments 1 through 5 are attached hereto and incorporated herein by this reference.

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

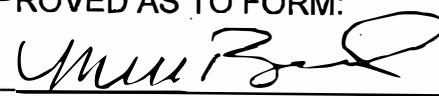
COUNTY OF SANTA CLARA, a public entity of the State of California

Date: JUN 04 2013

By: 
PRESIDENT Board of Supervisors

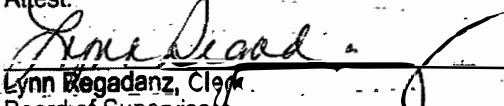
KEN YEAGER

APPROVED AS TO FORM:

By:  6/3/2013
Deputy County Counsel

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

Attest:


Lynn Regadanz, Clerk
Board of Supervisors

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

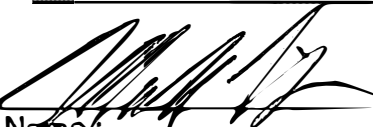
Date: _____

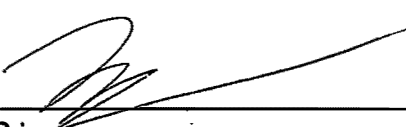
By: _____

CITY OF CAMPBELL

Date: July 17, 2013

APPROVED AS TO FORM:

By: 
Name: Mark Linder
Title: City Manager

By: 
Name: William R. Seligmann
Title: City Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

CITY OF CAMPBELL

Date: _____

By: _____

Name: Mark Linder

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF CUPERTINO

Date: 8/28/13

By: Carol Atwood for

Name: David Brandt

Title: City Manager

APPROVED AS TO FORM:

By: Melissa Thompson

Name: Melissa Thompson

Title: City Attorney

CITY OF GILROY

Date: _____

By: _____

Name: Thomas Haglund

Title: City Administrator

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF LOS ALTOS

Date: _____

By: _____

Name: Marcia Somers

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: _____

TOWN OF LOS ALTOS HILLS

Date: _____

By: _____

Name: Carl Cahill

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: Town Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF CAMPBELL

Date: _____

APPROVED AS TO FORM:

By: _____

Name: Mark Linder

Title: City Manager

By: _____

Name: _____

Title: City Attorney

CITY OF CUPERTINO

Date: _____

APPROVED AS TO FORM:

By: _____

Name: David Brandt

Title: City Manager

By: _____

Name: _____

Title: City Attorney

CITY OF GILROY

Date: 10/7/2013 7/2013

APPROVED AS TO FORM:

By: _____

Name: Thomas Haglund

Title: City Administrator

By: Linda A. Callon

Name: LINDA A. CALLON

Title: City Attorney

ATTEST:

CITY OF LOS ALTOS

Date: _____

City Clerk

APPROVED AS TO FORM:

By: _____

Name: Marcia Somers

Title: City Manager

By: _____

Name: _____

Title: _____

TOWN OF LOS ALTOS HILLS

Date: _____

APPROVED AS TO FORM:

By: _____

Name: Carl Cahill

Title: City Manager

By: _____

Name: _____

Title: Town Attorney

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

Date: _____

By: _____

CITY OF LOS ANGELES

Date: 7-9-13

APPROVED AS TO FORM:

By: Marcia Somers
Name: MARCIA SOMERS
Title: CITY MANAGER

By: Beedustan
Name: Jolie Houston
Title: CITY ATTORNEY

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

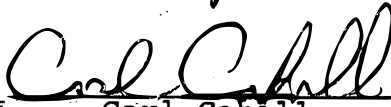
Date: _____

By: _____

CITY OF LOS ALTOS HILLS

Date: 10/14/2013

APPROVED AS TO FORM:

By: 
Name: Carl Cahill
Title: City Manager

By: 
Name: Steve Mattas
Title: City Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name : _____
Title: _____

By: _____
Name : _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

Date: _____

By: _____

~~TOWN~~
CITY OF LOS GATOS

Date: 7/1/17

APPROVED AS TO FORM:

By: [Signature]
Name: Gary Larson
Title: Town Manager

By: [Signature]
Name: Judith J. Propp
Title: Town Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

Title: City Manager

Title: Town Attorney

TOWN OF LOS GATOS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Greg Larson

Name: _____

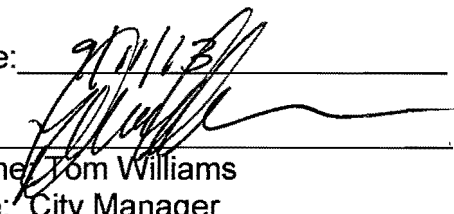
Title: Town Manager

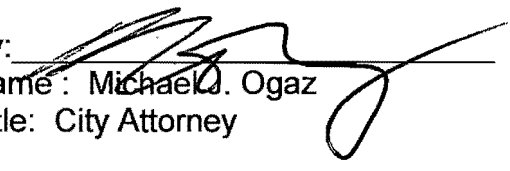
Title: Town Attorney

CITY OF MILPITAS

Date: 9/11/13

APPROVED AS TO FORM:

By: 

By: 

Name: Tom Williams

Name: Michael J. Ogaz

Title: City Manager

Title: City Attorney

CITY OF MONTE SERENO

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Brian Loventhal

Name: _____

Title: City Manager

Title: _____

CITY OF MORGAN HILL

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Steve Rymer

Name: _____

Title: City Manager

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

TOWN OF LOS GATOS

Date: _____

By: _____
Name: Greg Larson
Title: Town Manager

APPROVED AS TO FORM:

By: _____
Name: _____
Title: Town Attorney

CITY OF MILPITAS

Date: _____

By: _____
Name: Tom Williams
Title: City Manager

APPROVED AS TO FORM:

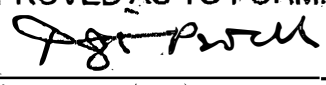
By: _____
Name: Michael J. Ogaz
Title: City Attorney

CITY OF MONTE SERENO

Date: 7/19/13

By: 
Name: Brian Loventhal
Title: City Manager

APPROVED AS TO FORM:

By: 
Name: Kirsten Powell
Title: City Attorney

CITY OF MORGAN HILL

Date: _____

By: _____
Name: Steve Rymer
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

TOWN OF LOS GATOS

Date: _____

By: _____
Name: Greg Larson
Title: Town Manager

APPROVED AS TO FORM:

By: _____
Name: _____
Title: Town Attorney

CITY OF MILPITAS

Date: _____

By: _____
Name: Tom Williams
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: Michael J. Ogaz
Title: City Attorney

CITY OF MONTE SERENO

Date: _____

By: _____
Name: Brian Loventhal
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

CITY OF MORGAN HILL

Date: 10/1/13

By: [Signature]
Name: Steve Rymer
Title: City Manager

APPROVED AS TO FORM:

By: [Signature]
for Name: Renae Guzman
Title: City Attorney
Resolution No: 6638

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: 7-24-13

By: Daniel H. Rich

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: Jannie L. Quinn

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name: Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name : Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: 7.31.13

By: [Signature]

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: [Signature]

Name: Cara Silver

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name : Rosa Tsongtaarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

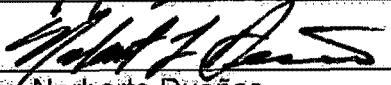
By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

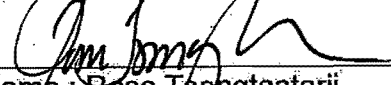
Date: 8/1/13

By: 

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: 

Name: Rosa Tsongtaatarji

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name : Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name : Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: 9-11-13

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

ALIESI
for
City Clerk

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name: Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

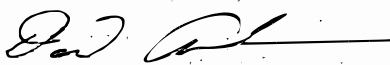
By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: 7-25-2013

By: 

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: 

Name: Richard Taylor

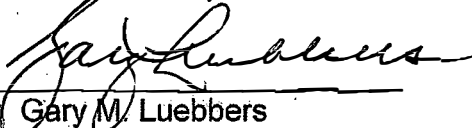
Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF SUNNYVALE

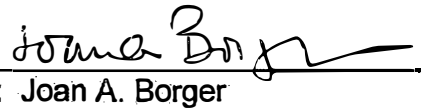
Date: 7/22/13

APPROVED AS TO FORM:

By: 

Name: Gary M. Luebbers

Title: City Manager

By: 

Name: Joan A. Borger

Title:

ATTACHMENT 1

INITIAL STAFFING OF ADMINISTRATOR

The following is the initial staff complement for the Administrator:

Staff Person	% FTE Committed To Administrator Duties	% FTE Committed To County Unincorporated Duties
Elizabeth Constantino, Program Manager II Provides oversight of all Annual Workplan tasks and all functions of the Administrator.	0.82 FTE	0.18 FTE
Lisa Rose, Senior Management Analyst Coordinates the Green Business Program, serves as staff to the Commission, and performs various other duties.	0.87 FTE	0.13 FTE
Clifton Chew, Management Analyst Serves as staff to the TAC, prepares state reporting and DRS, and performs various other duties.	0.80 FTE	0.20 FTE
Zachary DeVine, Management Analyst Contracts monitoring, budget tracking, Outreach Specialist, and various other duties.	0.67 FTE	0.33 FTE
Sue Sherrin, Associate Management Analyst B, Green Business Specialist	0.98 FTE	0.02 FTE
Sarah Smith, Management Analyst Home Composting Education Program Coordinator	1.0 FTE	0.00 FTE
Joanne Chapa, Office Specialist III	0.94 FTE	0.06 FTE

ATTACHMENT 2

SELECTION PROCESS FOR THE ADMINISTRATOR

- 1. Selection.** The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. As part of the selection process, the potential candidate(s) shall submit a proposal to the IC for providing Administrator services. The proposal shall include: a detailed scope of work for the upcoming fiscal year, detailed costs and work hours for the completion of each task, and a list of the employees proposed to perform each part of the Annual Workplan, as well as the administrative and management duties of the Administrator. The proposal shall also include a resume and description of the education, experience and expertise of each proposed staff member highlighting experience in solid waste management, recycling, diversion programs, producer responsibility, public education and outreach, legislative analysis, budgeting, public sector management, administration and policy development. It is of great importance that each member of the Administrator staff possess a high level of experience and expertise in the listed areas. The proposal shall designate the duties and activities to be carried out by each employee. The IC will review the proposal(s) and conduct interview(s) with the potential Administrator(s). The IC will select an Administrator and recommend approval to the Commission.
- 2. Change in Administrator Staff.** In the event any member of the Administrator's staff is unable or unavailable to serve in the capacity indicated in the original proposal, the IC shall work with the Administrator to determine if an acceptable alternate staff member is available. This shall include, if desired by the IC, having representatives from the IC participate in the selection process for the alternate staff person; review the resumes, references and writing samples of proposed candidates; attend and participate in interviews; and provide input to the decision-making process for selection of the proposed alternate staff member. If the proposed alternate staff person is not acceptable to the IC, and the IC determines that the employee who is unavailable is a key employee, the IC may give written notice to the Administrator that the TAC will seek another Administrator, and the IC may recommend to the Commission that the selection process for a new Administrator be commenced. Upon receipt of Commission approval, the IC will begin that process. The Administrator shall serve until such time as either a replacement Administrator is selected and approved by the Commission, or (if the Administrator is not a PARTY) until the current contract for the services of the Administrator expires, whichever occurs first. In the IC's sole discretion, the services of the Administrator may be terminated prior to the selection of a new Administrator. In the event the Administrator is not a PARTY, an early termination clause shall be placed in the contract with the Administrator for use by the IC in the event a key staff person becomes unavailable.
- 3. Key Employee.** A "key employee" includes, but is not limited to, any one of the following:

 - a. An employee who is performing twenty percent (20%) or more of the work hours in the Annual Workplan.

TAC MEMORANDUM OF AGREEMENT

- b. An employee whose work tasks require a high level of technical expertise and experience in recycling, solid and/or hazardous waste management programs and practices.
- c. An employee whose work tasks require a high level of professional judgment that is the product of numerous years of experience in recycling, solid and hazardous waste management, and/or in work for public agencies.
- d. An employee whose work tasks involve a high level of interaction with the public (e.g. in trainings, liaison with businesses or non-profit organizations, etc.).
- e. An employee whose work tasks involve presentations or testimony to public agencies (e.g. City Councils, the Board of Supervisors) and/or community organizations (e.g. service organizations, community groups, homeowner's associations, etc.).

ATTACHMENT 3

ELEMENTS TO BE CONTAINED IN THE ANNUAL WORKPLAN AND BUDGET

1. **Scope of Work.** The proposed Annual Workplan and Budget will contain a detailed scope of work for each proposed task, the employee work hours estimated to complete each task, the name(s) of the specific employees that will perform the work for each task, the cost of the work hours for each task, all proposed overhead costs for the Administrator and all other projected costs. If the Administrator is a public agency, the costs may be shown as a percentage of each Full Time Equivalent (FTE) and the cost therefore, as long as the position (such as 'Analyst I') and the name of the employee filling that position are indicated, along with the fully burdened cost of the specified percentage of each FTE. The proposed Annual Workplan shall contain a list of key milestones for each task.
2. **Administrative Tasks.** The Workplan shall include a task for providing administrative support for the TAC including work hours to prepare meeting agendas, to schedule meetings, attend meetings, prepare minutes and correspondence, and carry out the direction of the TAC and all Committees and Subcommittees. The Workplan shall also include a separate task for providing administrative support to the Commission including work hours to prepare agendas, attend Commission meetings, prepare minutes, and carry out the direction of the Commission, its Committees and Subcommittees.
3. **Other Staff Commitments.** The proposed Workplan will contain a listing of the other duties and responsibilities of each assigned employee (other than the work to be performed as Administrator for the TAC and the Commission) including the work hours and a general description of the key tasks and projects to be performed. This will serve as a cross-check (regardless of whether the Administrator is a public agency or a private firm) to ensure that the time of each employee is not overcommitted, and that sufficient time exists for each employee to complete all their assigned tasks.
4. **Fiscal Agent and Contracting Agent Costs.** The Administrator shall consult with the Fiscal Agent and with the Contracting Agent (in the event they are separate PARTIES) and shall incorporate the proposed costs for the services of each into the proposed Workplan and Budget. Such costs shall be clearly and separately identified for each function (and identified separately from those of the Administrator) and shall include the costs for employee time, expenses (such as bank fees), overhead charges and all other proposed costs.
5. **Cost Detail For Comparison.** The budget shall be formatted in a clear and concise manner such that all projected expenditures and revenues are detailed by project and line item. The proposed Workplan and Budget shall contain sufficient detail about proposed work hours and costs such that a comparison can be made between the proposed costs for the current Administrator, the current Fiscal Agent and the current

Contracting Agent, and other potential providers of these services.

- 6. Projected Amount of Fund Transfer From Fiscal Agent to Contracting Agent.** In the event the Fiscal Agent and the Contracting Agent are different PARTIES, the budget shall include the projected amount of funds to be transferred from the Fiscal Agent to the Contracting Agent in order to pay for contracts with Outside Contractors that will be awarded by the Contracting Agent in the upcoming year. Such projections shall take into account all funds currently held by the Contracting Agent (if any) and the amount of such funds already encumbered for contracts in progress. The projection shall be accompanied by a recommendation as to the frequency of fund transfers from the Fiscal Agent to the Contracting Agent that will be required to fund contracts awarded by the Contracting Agent for the upcoming year (e.g. annual one-time transfer of funds, quarterly transfer of funds, or other recommended timing.)
- 7. Discussion Concerning Potential Conflicts.** Once the initial draft of the proposed Annual Workplan is prepared, the IC Chair, the Administrator, the Fiscal Agent and the Contracting Agent shall meet to review and discuss the Workplan and shall work cooperatively to identify and address any potential conflicts that could arise with regard to policies of the Administrator, the Fiscal Agent or the Contracting Agent. Examples include proposed sale of recycling containers or other goods at less than the purchase price (i.e. subsidized cost of compost bins for the home composting program); provision of recycling grants, prizes, incentives; and other such items. At the direction of the IC Chair, the Administrator shall further investigate any potential conflicts that have been identified, and shall, in consultation with the Fiscal Agent and the Contracting Agent, research and propose solutions for each. If solutions cannot be found, the issue may be presented to the IC for further consideration and/or the IC Chair may direct the Administrator to revise the Workplan and Budget to remove the items creating the potential conflict. In this event the IC Chair will inform the IC of such action when the Annual Workplan and Budget are considered for approval.

ATTACHMENT 4

CODE OF ETHICAL CONDUCT

1. Members shall strive to conduct all meetings, discussions and deliberations in a spirit of collaboration and partnership. Members shall treat all persons with respect and courtesy. In the course of discussions, members shall make their arguments on the merits of the issue rather than engaging in personal remarks or attacks on persons holding positions other than their own.
2. All members shall remain aware that the activities of the TAC are funded by fees raised from the public; and that the TAC is recommending expenditures of public funds. Members shall act prudently and in the best interest of the public when making fiscal and policy decisions.
3. Members shall voluntarily recuse themselves from all discussions and votes, and shall refrain from expressing any opinion to other members on issues where any one of the following apply:
 - a. The member holds a financial interest such that the member could financially benefit from the action or issue being considered.
 - b. The member is an owner or investor of a business the TAC is considering doing business with.
 - c. The member owns land that is being considered for purchase or lease by the TAC or by any program funded by the TAC.
 - d. A charity, community group or non-governmental organization to which the member belongs or contributes funds would receive funds from the TAC for projects or services.
 - e. A person in the member's family could benefit financially from the action or issue being considered. Family includes the members' spouse, children, step-children, grandchildren and step-grandchildren, as well as siblings and parents of the member and the member's spouse.
4. A member recusing themselves shall mean (a) announcing the member has a conflict of interest when the item is opened for discussion, (b) leaving the meeting room before discussion on the matter commences, and (c) not returning to the room until after discussion and any vote on the matter is concluded.
5. Members shall periodically conduct a self-assessment and inventory of any potential conflicts of interest they may have and, if the member is unsure whether or not a conflict exists, the member shall discuss the issue with the TAC Chair, the Administrator, TAC Legal Counsel or legal counsel for the member's own agency.
6. In the event a member fails to recuse him or her self during discussion of an issue where the member appears to have a conflict of interest, the Chair of the meeting shall ask the member to recuse him or her self and shall halt discussion about the issue until the member has left the room.
7. Members shall not engage in financial transactions using non-public information nor allow the improper use of such information to further any personal or private interest.

TAC MEMORANDUM OF AGREEMENT

8. Members shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the TAC, or whose interests may be substantially affected by actions of the TAC. Gifts do not include coffee, tea, donuts, discounts available to the general public, greeting cards or plaques of minor intrinsic value. It is appropriate and prudent for members to decline even items of minor intrinsic value from sources described in this section.
9. Members shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the TAC to take any type of action or to approve any contract, program or other commitment.
10. Members shall not use their membership on the TAC for private gain.
11. Members shall always act impartially and objectively and not give preferential treatment to any organization or individual.
12. Members shall not seek or accept any contract to provide services to the TAC for a period of at least six (6) months after termination of their membership on the TAC.
13. Members shall adhere to, and be vigilant that the TAC adheres to, all applicable state, federal and local laws and regulations.
14. All members shall participate in a TAC-sponsored Ethics Training biennially.
15. Members shall endeavor to avoid any actions or statements that violate, or that create the appearance that they are violating, the law or any ethical standards set forth in this Attachment.

ATTACHMENT 5
PROCEDURES FOR TRANSFER OF COUNTYWIDE FUNDS FROM FISCAL AGENT
TO CONTRACTING AGENT

The following procedures shall be used in the event the Fiscal Agent and the Contracting Agent are different PARTIES.

1. As part of its review and approval of the Annual Workplan and Budget, the IC shall establish the amount of funds and the schedule for transfer of funds from the Fiscal Agent to the Contracting Agent for the upcoming fiscal year.
2. Upon approval of the Annual Workplan and Budget by the Commission, the IC may take appropriate actions consistent with the Annual Workplan and Budget, including but not limited to, the following:
 - A. Direct the Fiscal Agent to transfer specific amount(s) of Countywide Funds to the Contracting Agent on a specified schedule. The schedule may call for annual, quarterly, or more frequent transfers, as needed for the fiscal year.
 - B. Adjust the timing and/or the amount(s) of funds to be transferred by the Fiscal Agent to the Contracting agent if circumstances change during the year, or if there are other reasons to do so.
 - C. In the event the IC directs a change in the scope of work for an existing Outside Contractor that will increase the cost of the work, the IC may direct the Fiscal Agent to transfer additional funds to the Contracting Agent to pay for the amended scope of work.
3. In the event the Fiscal Agent is also serving as the Administrator, the IC shall direct the Fiscal Agent to transfer funds to the Contracting Agent for payment of the Administrator. The Contracting Agent shall pay the Administrator pursuant to the contract executed between the Contracting Agent and the Administrator.
4. If a single PARTY is serving as the Fiscal Agent and the Contracting Agent, the IC may direct that PARTY to retain a specified amount of Countywide Funds to pay the PARTY for performing the services of Fiscal Agent and Contracting Agent.
5. In the event a single PARTY is serving as the Fiscal Agent, the Administrator and the Contracting Agent, the IC will direct the PARTY to implement the Annual Workplan and Budget as approved by the IC and the Commission. This includes paying the costs specified in the approved Budget for the PARTY performing the duties of the Administrator, the Fiscal Agent and the Contracting Agent, as well as carrying out the duties of each.
6. If the Contracting Agent is, at any time, running out of funds or projects a shortfall in funds due to changed conditions or circumstances, the Contracting Agent shall immediately inform the IC and the Fiscal Agent and proceed according to the directions of the IC.
7. When making transfers of funds to the Contracting Agent, the Fiscal Agent shall make the required arrangements for an electronic transfer of funds or for preparation of a check made payable to the Contracting Agent.
8. If the Contracting Agent does not receive funds from the Fiscal Agent pursuant to the schedule directed by the IC, the Contracting Agent shall promptly inform the Fiscal Agent and the Fiscal Agent shall promptly arrange for the funds to be transferred.

TAC MEMORANDUM OF AGREEMENT

9. At the end of the fiscal year, the IC will review the Year End Contract Status Report from the Contracting Agent, the Year-End Budget Report from the Fiscal Agent, and the Year-End Report from the Administrator. The IC may direct the Contracting Agent to transfer unspent, unencumbered funds to the Fiscal Agent or to retain such funds for use in the following fiscal year. The Contracting Agent will promptly comply with the directions of the IC.

10. If the IC directs the Contracting Agent to transfer unspent funds to the Fiscal Agent, the Fiscal Agent shall acknowledge receipt of such funds to the Contracting Agent and shall note the transfer in the accounting records of the Fiscal Agent pursuant to generally accepted government accounting procedures.

County of Santa Clara

Department of Agriculture and Environmental Management
Recycling and Waste Reduction Division

1555 Berger Drive Suite 300
San Jose, CA 95112
(408) 282-3180
Fax (408) 282-3188



<http://www.ReduceWaste.org>

DATE: September 2, 2014
TO: Clerk of the Board
FROM: Lisa Rose 
RE: Memorandum of Agreement

Attached are the original, signed copies of the Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, signed by each Party to the Agreement. Please forward an executed copy to me (electronically) and I will distribute to each of the cities. Please contact me at 408-282-3166 or lisa.rose@aem.sccgov.org if you have any questions.

EXHIBIT C

MEMORANDUM OF UNDERSTANDING AMONG LOCAL PUBLIC AGENCIES IN SANTA CLARA COUNTY FOR FOOD RECOVERY PROGRAM COSTS

SECTION 1. OVERVIEW

This Memorandum of Understanding (“MOU”) is between the cities of Cupertino, Gilroy, Los Altos, Milpitas, Morgan Hill, Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale; the town of Los Altos Hills; the County of Santa Clara; and the West Valley Solid Waste Management Authority on behalf of its member agencies, the cities of Campbell, Monte Sereno and Saratoga; and town of Los Gatos; collectively “Parties” or individually as a “Party.”

SECTION 2. RECITALS

WHEREAS, the signatory Parties are also “PARTIES” to the Memorandum of Agreement for the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, which is a Committee of the County of Santa Clara Recycling and Waste Reduction Commission that advances the interests of Party jurisdictions by performing technical and policy review to inform parties and advise the Commission on solid waste management issues, and bring together varied expertise and viewpoints for planning and implementing the Commission approved annual workplan and budget;

WHEREAS, the Parties have previously agreed to jointly fund the cost of a countywide edible food recovery program to satisfy their respective obligations under SB 1383 (2016) and the corresponding regulations;

WHEREAS, the County of Santa Clara is the Fiscal Agent for the Technical Advisory Committee (TAC) to the Santa Clara County Recycling and Waste Reduction Commission and the City of Morgan Hill is the Administrator and Contracting Agent for the TAC;

WHEREAS, the City of Morgan Hill, as Program Administrator and Contracting Agent, has contracted with Joint Venture Silicon Valley to implement and manage the countywide Food Recovery Program (“Program”) for Fiscal Year 2023/24;

WHEREAS, the Parties desire to execute this MOU to provide for their respective share of costs for the Program;

NOW, THEREFORE, for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 3. PURPOSE OF THE MOU

The purpose of this MOU is to establish a means of requiring:

Payment by the Parties for their share of the costs for implementation of the Program.

SECTION 4. EFFECTIVE DATE

This MOU shall be effective upon execution of this MOU by all Parties ("Effective Date").

SECTION 5. PAYMENTS UNDER THIS MOU

For purposes of the Program, the County of Santa Clara is the Fiscal Agent and the City of Morgan Hill is the TAC Administrator and Contracting Agent, as specified in the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee MOA.

The Parties agree to share costs for the services as described in Exhibit A of this MOU.

The County of Santa Clara will, within thirty (30) days of the Effective Date of this MOU, submit to the other Parties an invoice for the amounts due under the MOU. Each party will make their payment to the County of Santa Clara based on the invoice amount.

SECTION 6. RECORDS AND ACCOUNTS

The County of Santa Clara will keep complete and accurate financial records related to accomplishing the purposes of this MOU. Upon reasonable notice to the County of Santa Clara, any Party to this MOU may inspect the financial records related to this MOU.

SECTION 7. FURTHER ASSURANCES

Each Party will adopt, execute, and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the Parties' performance of their obligations under this MOU.

SECTION 8. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to all other Parties as follows:

Authority: Each Party has the full legal right, power and authority under the laws of the State of California to enter into this MOU and to carry out all of its obligations herein.

Due Execution: Each Party's representatives who sign this MOU are duly authorized to sign and bind their respective agency.

SECTION 9. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved in this MOU is exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise, and all such remedies may be exercised without exhausting and without regard to any other remedy.

SECTION 10. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Parties agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this MOU. No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of any other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Party under this MOU. The obligations set forth in this paragraph will survive termination and expiration of this MOU.

SECTION 11. SEVERABILITY

The provisions of this MOU shall be severable, and if any clause, sentence, paragraph, provision or other part shall be adjudged by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this MOU will be valid and binding on the Parties.

SECTION 12. AMENDMENTS

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

SECTION 13. COUNTERPARTS

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

SECTION 14. USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law, 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 of Morgan Hill. For the purposes of this agreement, the approved methods of signing shall be via DocuSign or original ink signature signed in counterpart and scanned over to the CITY via electronic mail.

SECTION 15. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.

This MOU, including all Exhibits attached hereto, represents the entire understanding of the Parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this MOU, the terms specified in the body of this MOU shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This MOU may be modified only by a written amendment duly executed by the Parties to this MOU.

SECTION 16. NO LEGAL RELATIONSHIP

By entering into this MOU, the Parties are neither forming, nor do they intend to form a partnership, agency, or any other legal entity relationship. No Party is authorized to bind or to act as the agent or legal representative of the other Party for any purpose, and neither Party is granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of any other Party.

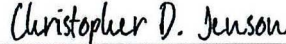
SECTION 17. GOVERNING LAW, VENUE

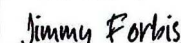
This MOU has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this MOU shall be in the County of Santa Clara.

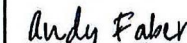
IN WITNESS OF, the Parties have executed the MOU as of the last date set forth below:

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 AA92FF3291C743B
 City of Cupertino - City Manager
 Date: 5/2/2023

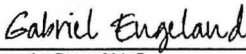
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 4EA6B27CD2B74E4
 Approval as to form, Cupertino
 Date: 5/1/2023

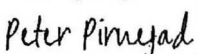
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 City of Gilroy - City Manager
 Date: 5/2/2023

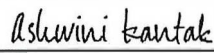
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 Approval as to form, Gilroy
 Date: 5/4/2023

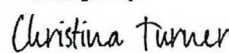
DocuSigned by:

 1404...
 5/1/2023

DocuSigned by:

City of Los Altos - City Manager
Date: 5/1/2023

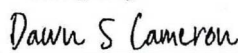
DocuSigned by:

Town of Los Altos Hills - Town Manager
Date: 5/1/2023

DocuSigned by:

City of Milpitas - City Manager / ACTING
Date: 5/10/2023

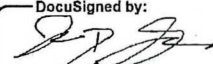
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City of Morgan Hill - City Manager
Date: 5/5/2023

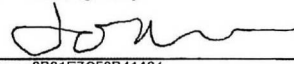
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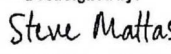
City of Mountain View - City Manager
Date: 5/5/2023

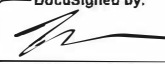
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City of Mountain View - Public Works Director
Date: 5/1/2023

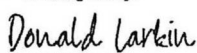

City of San Jose - City Manager
Date: 5/26/2023

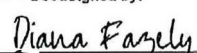
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City of Santa Clara - City Manager
Date: 5/7/2023

DocuSigned by:

Approval as to form, Los Altos
Date: 5/1/2023

DocuSigned by:

Approval as to form, Los Altos Hills
Date: 5/19/2023

DocuSigned by:

Approval as to form, Milpitas
Date: 5/1/2023

DocuSigned by:

Approval as to form, Morgan Hill
Date: 5/1/2023

DocuSigned by:

Approval as to form, Mountain View
Date: 5/3/2023

DocuSigned by:

City of Mountain View - Finance/
Administrative Services Director
Date: 5/2/2023


Approval as to form, San Jose
Date: 6/1/2023

DocuSigned by:

Approval as to form, Santa Clara (City)
Date: 5/22/2023

DocuSigned by:
Kent Steffens
City of Sunnyvale - City Manager
Date: 5/2/2023

DocuSigned by:
Matthew Hada
County of Santa Clara - Director of Procurement
Date: 5/1/2023

DocuSigned by:
Fola Hilton
West Valley Solid Waste Management
Authority - President
Date: 5/1/2023

DocuSigned by:
Ed Shikada
City of Palo Alto - City Manager
Date: 5/5/2023

DocuSigned by:
Rebecca Moon
Approval as to form, Sunnyvale
Date: 5/1/2023

DocuSigned by:
Willie Nguyen
Approval as to form, Santa Clara County
Date: 5/1/2023

DocuSigned by:
Kirsten Powell
Approval as to form, West Valley Solid
Waste Management Authority
Date: 5/8/2023

DocuSigned by:
Caro Allen
Approval as to form, City of Palo Alto
Date: 5/11/2023

EXHIBIT A

COSTS AND SCOPE OF SERVICES

Proposed Jurisdiction Contributions for Base Program and Infrastructure - FY 23-24 Program Costs									
Jurisdictions	Initial Local Asst. Grant (LAG) Allocation	Initial program "pledge" 19% of LAG	Tier 1 Generators	Tier 2 Generators	Total Generators	Base Program Contract Cost (\$133 per generator)	Base Program Contribution (\$133 per generator)	Potential Infrastructure Enhancements	Enhancement Contribution
Campbell	\$ 55,495	\$ 10,544	11	49	60	\$ 7,980	\$ 7,980	\$ 2,564	\$ 2,564
Cupertino	\$ 77,953	\$ 14,811	10	80	90	\$ 11,970	\$ 11,970	\$ 2,841	\$ 2,841
Gilroy	\$ 75,255	\$ 14,298	11	48	59	\$ 7,847	\$ 7,847	\$ 6,451	\$ 6,451
Los Altos	\$ 41,038	\$ 7,797	7	34	41	\$ 5,453	\$ 5,453	\$ 2,344	\$ 2,344
Los Altos Hills	\$ 20,000	\$ 3,800	0	2	2	\$ 266	\$ 266	\$ 3,534	\$ 3,534
Los Gatos	\$ 41,465	\$ 7,878	10	45	55	\$ 7,315	\$ 7,315	\$ 563	\$ 563
Milpitas	\$ 100,259	\$ 19,049	21	92	113	\$ 15,029	\$ 15,029	\$ 4,020	\$ 4,020
Monte Sereno	\$ 20,000	\$ 3,800	0	1	1	\$ 133	\$ 133	\$ 3,667	\$ 3,667
Morgan Hill	\$ 63,156	\$ 12,000	15	43	58	\$ 7,714	\$ 7,714	\$ 4,286	\$ 4,286
Mountain View	\$ 109,638	\$ 20,831	17	114	131	\$ 17,423	\$ 17,423	\$ 3,408	\$ 3,408
Palo Alto	\$ 89,759	\$ 17,054	7	106	113	\$ 15,029	\$ 15,029	\$ 2,025	\$ 2,025
San Jose	\$ 1,351,654	\$ 256,814	212	787	999	\$ 132,702	\$ 132,702	\$ 124,112	\$ 124,112
Santa Clara	\$ 172,504	\$ 32,776	40	162	202	\$ 26,866	\$ 26,866	\$ 5,910	\$ 5,910
Saratoga	\$ 41,085	\$ 7,806	2	26	28	\$ 3,724	\$ 3,724	\$ 4,082	\$ 4,082
Sunnyvale	\$ 202,777	\$ 39,368	26	144	170	\$ 22,610	\$ 22,610	\$ 16,758	\$ 16,758
Unincorporated SCC	\$ 113,337	\$ 23,000	13	35	48	\$ 6,384	\$ 6,384	\$ 16,616	\$ 16,616
Totals	\$ 2,575,374	\$ 491,627	402	1768	2170	\$ 288,445	\$ 288,445	\$ 203,182	\$ 203,182
West Valley Cities: FY 23-24 contributions funded by West Valley Solid Waste Management Authority							\$ 19,152		\$ 10,876

Note: Initial program pledge was based on program cost estimate before program establishment and experience with program scope of work. Enhancement Contributions may be reduced, but not the Base Program Contribution.

Contributions to Infrastructure Enhancements by each agency are subject to change pending final approvals by each Agency.

EXHIBIT A: SCOPE OF SERVICES

Base Program – Countywide Food Recovery Program Management

From July 1, 2023 to June 30, 2024, Joint Venture Silicon Valley will run the Santa Clara County Food Recovery Program, serving as the food recovery program (Program) on behalf of all jurisdictions (Jurisdictions) of the Parties, and coordinating with any Party performing their own enforcement.

The Base Program

1. Will develop and coordinate a standardized and uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, “Short-Lived Climate Pollutants.” The Program will operate within the Party’s boundaries and replace the need for the Party to create such a program on its own.
2. Each year by March, the Program will conduct a review of new Tier 1 and Tier 2 Entities, to ensure that as businesses open in Santa Clara County, the appropriate regulated entities are added to the Tier 1 and Tier 2 lists. Closing businesses will be identified during the reporting process, and be eliminated from the lists.
3. Provide Parties with requirements for inclusion in the ‘large event’ list requested from each Party, as well as provide electronic materials for distribution for large event planners.
4. Shall provide Parties with the information and data necessary for the Parties to make their required reports to CalRecycle.
5. Shall retain records of inspections for each Party for a minimum of five (5) years.
6. Shall notify the Party promptly about any related issues that require the Party’s assistance or to request the Party lead in resolving the issue(s) that arise related to non-compliance.
7. Shall fulfill the annual education requirement for the Parties and provide the data needed for the Parties to complete required CalRecycle reports.
8. Shall conduct generator and Food Recovery Organization/Services requests for reports, compile the results, and communicate those results to the jurisdictions for inclusion in the Implementation Record Data Summary, and to Santa Clara County for use in future Capacity Planning efforts.
9. Shall conduct inspections and monitoring in compliance with CalRecycle expectations for Tier One businesses, Tier Two entities and Organizations, and Food Recovery Organizations and Services.
10. The Program shall supply appropriate content for the web site, SCCFoodRecovery.org, as well as a list of Food Recovery Organizations and Services. The list will be annually updated and made accessible to Tier 1 and 2 Entities.

11. The Program leadership shall represent the interests of the Program with other entities, Counties, and CalRecycle.
12. The Program leadership shall create reports about Program activities at the end of each fiscal year. These reports shall include monitoring statistics, details on overall compliance, compliance in certain sectors, total number of pounds of food recovered, and a summary of all enforcement actions taken.
13. Statistics about food recovery in Santa Clara County will be shared on the Office of Sustainability website as part of the Sustainability Master Plan Data Dashboard and the Annual Sustainability Report.

All Parties to this MOU will receive the Base Program services.

Infrastructure Enhancements Program

As shown in Exhibit A of this MOU, jurisdictions have chosen to contribute to the edible food recovery Infrastructure Enhancements Program which will direct additional food recovery resources to participating jurisdictions between July 1, 2023 and June 30, 2024. The Infrastructure Enhancements Program will include two subprograms, described as follows:

- 1) Small Capacity Grants. Grants will be issued to increase the food recovery capacity of food recovery organizations that serve contributing jurisdictions. Applications will be solicited, awards will be issued, and funds will be distributed. Joint Venture Silicon Valley will provide information for Annual Reporting that shows how contributions to this subprogram were spent on behalf of each participating Agency.
- 2) Food Waste Prevention Classes. A webinar/in-person series will be advertised for different sectors regulated under SB 1383 (e.g., restaurants, hospitals, schools, large events). The series will promote food waste prevention measures specific to each regulated sector, provide food recovery tips and best practices, and teach businesses and organizations how to comply with SB 1383 and local ordinances. The series will start with Tier 2, and then move into Tier 1 groups that answered 'zero pounds' in their reports, if funding allows. Joint Venture Silicon Valley will provide information for Annual Reporting that shows how contributions to this subprogram were spent on behalf of each participating Party.

Certificate Of Completion

Envelope Id: F14D4D1676CD4EFEB52CB1A3240516C7

Status: Completed

Subject: Complete with DocuSign: FRP_SharedCostAgrmt_MOU_removed West Valley Cities final_4sigsMV_5.1.23.pdf

Source Envelope:

Document Pages: 9

Signatures: 27

Envelope Originator:

Certificate Pages: 12

Initials: 0

City Clerk's Office

AutoNav: Enabled

17575 Peak Ave

Envelopeld Stamping: Enabled

Morgan Hill, CA 95037

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

cityclerk@morganhill.ca.gov

IP Address: 152.44.239.118

Record Tracking

Status: Original

Holder: City Clerk's Office

Location: DocuSign

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cityclerk@morganhill.ca.gov

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Pool: StateLocal

Storage Appliance Status: Connected

Pool: City of Morgan Hill

Location: DocuSign

Signer Events

Andy Faber

andy.faber@berliner.com

City Attorney

Security Level: Email, Account Authentication
(None)

Signature

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Andy Faber
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Electronic Record and Signature Disclosure:

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Ashwini Kantak

akantak@milpitas.gov

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Caio Arellano

caio.arellano@cityofpaloalto.org

Security Level: Email, Account Authentication
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Caio Arellano
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Christina Turner

christina.turner@morganhill.ca.gov

City Manager

City of Morgan Hill

Security Level: Email, Account Authentication
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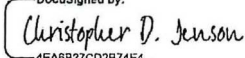
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Signer Events

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Christopher D. Jenson
christopherj@cupertino.org
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Signature

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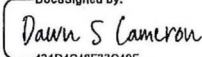
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Signed: 5/1/2023 11:17:56 AM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:16:38 AM
ID: 1b0621ee-947f-4d4e-9466-6edb7d3f2f06

Dawn S Cameron
dawn.cameron@mountainview.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:

431D4C48F33C4BF...

Signature Adoption: Pre-selected Style
Using IP Address: 38.99.34.33

Sent: 5/1/2023 11:08:43 AM
Viewed: 5/1/2023 4:53:11 PM
Signed: 5/1/2023 4:55:46 PM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 4:53:11 PM
ID: 3be33e4c-c54b-407a-a33e-0c220c19193c

Derek Rampone
derek.rampone@mountainview.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:

72AC48DEF8B4BF...

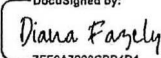
Signature Adoption: Drawn on Device
Using IP Address: 38.99.34.33

Sent: 5/1/2023 11:08:43 AM
Viewed: 5/1/2023 11:21:57 AM
Signed: 5/2/2023 3:28:25 PM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:21:57 AM
ID: a0de42d3-bc19-4af4-91ff-d09e62fa3f69

Diana Fazely
diana.fazely@mountainview.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:

7FF9A7208CBB4D1...

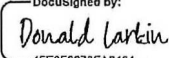
Signature Adoption: Pre-selected Style
Using IP Address: 73.189.195.168

Sent: 5/3/2023 1:48:51 PM
Viewed: 5/3/2023 2:22:56 PM
Signed: 5/3/2023 2:23:07 PM

Electronic Record and Signature Disclosure:

Accepted: 5/3/2023 2:22:56 PM
ID: 274e1052-6eb2-41dc-abdb-7e1a7fc9dc69

Donald Larkin
donald.larkin@morganhill.ca.gov
City Attorney/Risk Manager
Security Level: Email, Account Authentication
(None)

DocuSigned by:

45E8F0273EA2464...

Signature Adoption: Pre-selected Style
Using IP Address: 71.93.229.68

Sent: 5/1/2023 11:08:50 AM
Viewed: 5/1/2023 11:15:41 AM
Signed: 5/1/2023 11:16:52 AM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:15:41 AM
ID: 9330dec4-8ed0-4b73-b974-f34f502102bc

Signer Events

Ed Shikada
ed.shikada@cityofpaloalto.org
Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:
Ed Shikada
F2DCA19CC8D4F9...

Signature Adoption: Pre-selected Style
Using IP Address: 199.33.32.254

Timestamp

Sent: 5/1/2023 11:08:53 AM
Viewed: 5/3/2023 11:01:32 AM
Signed: 5/5/2023 9:56:54 AM

Electronic Record and Signature Disclosure:

Accepted: 5/3/2023 11:01:32 AM
ID: 9d7491c6-779e-4f4b-b273-c1976a41b3f0

Gabriel Engeland
gengeland@losaltosca.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:
Gabriel Engeland
1221E448CC844F9...

Signature Adoption: Pre-selected Style
Using IP Address: 98.248.50.11

Sent: 5/1/2023 11:08:42 AM
Viewed: 5/1/2023 8:37:12 PM
Signed: 5/1/2023 8:37:25 PM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 8:37:12 PM
ID: 230984e0-2f4e-4f90-b622-22a859fa831d

Jimmy Forbis
jimmy.forbis@ci.gilroy.ca.us
City Administrator
Security Level: Email, Account Authentication
(None)

DocuSigned by:
Jimmy Forbis
FAB70CFDFD9254E3...

Signature Adoption: Pre-selected Style
Using IP Address: 71.93.228.96

Sent: 5/1/2023 11:08:41 AM
Viewed: 5/2/2023 10:43:36 PM
Signed: 5/2/2023 10:43:53 PM

Electronic Record and Signature Disclosure:

Accepted: 5/2/2023 10:43:36 PM
ID: 079f1c50-59b3-4ecc-83b7-32815a1f536d

Jolie Houston
jolie.houston@berliner.com
Security Level: Email, Account Authentication
(None)

DocuSigned by:
Jolie Houston
0B31E7C58B41464...

Signature Adoption: Pre-selected Style
Using IP Address: 68.121.158.241

Sent: 5/1/2023 11:08:45 AM
Viewed: 5/1/2023 11:54:20 AM
Signed: 5/1/2023 11:54:44 AM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:54:20 AM
ID: 042df2e9-3f1d-457d-ae19-cc9eed44d0e1

Jovan D. Grogan
jgrogan@santaclaraca.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:
Jovan D. Grogan
5EA089DED5C343A...

Signature Adoption: Drawn on Device
Using IP Address: 172.58.88.157
Signed using mobile

Sent: 5/1/2023 11:08:49 AM
Viewed: 5/5/2023 7:45:07 AM
Signed: 5/7/2023 11:56:55 AM

Electronic Record and Signature Disclosure:

Accepted: 5/5/2023 7:45:07 AM
ID: 5e9934b0-786a-4665-8462-3e1f503a84ca

Kent Steffens
ksteffens@sunnyvale.ca.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:
Kent Steffens
0C91E813C0A345F...

Signature Adoption: Pre-selected Style
Using IP Address: 198.94.221.66

Sent: 5/1/2023 11:08:48 AM
Viewed: 5/2/2023 8:36:02 PM
Signed: 5/2/2023 9:33:31 PM

Electronic Record and Signature Disclosure:

Signer Events

Accepted: 5/2/2023 8:36:02 PM
ID: 40f98182-e26c-41ee-b04a-2bf2d2e405ed

Kimbra McCarthy
kimbra.mccarthy@mountainview.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 5/5/2023 7:14:02 AM
ID: 9e3ea2b7-42c9-42a5-b420-67899d0a5625

Kirsten Powell
kpowell@loganpowell.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 5/8/2023 8:30:54 AM
ID: 39ea5193-a104-46d7-be4b-b83b88d7cd9b

Luis M. Haro
ggoogins@santaclaraca.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 1:21:38 PM
ID: 5cfd82b9-2c82-46c5-a742-65b978ec1475

Matthew Hada
matthew.hada@prc.sccgov.org
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:35:37 AM
ID: 404a699c-fd90-4e90-b4ad-ffa503a42a9d

Michael Mutalipassi
mmutalipassi@milpitas.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 3:19:26 PM
ID: cc4c3433-1741-4297-a0fe-337910c7d908

Signature

DocuSigned by:
Kimbra McCarthy
253F6B1B9DFA4AB...

Signature Adoption: Pre-selected Style
Using IP Address: 104.9.124.184
Signed using mobile

DocuSigned by:
Kirsten Powell
00F15E0E71244B4...

Signature Adoption: Pre-selected Style
Using IP Address: 73.63.184.160
Signed using mobile

DocuSigned by:
Luis M. Haro
0990184AB64C4B7...

Signature Adoption: Pre-selected Style
Using IP Address: 38.99.114.1

DocuSigned by:
Matthew Hada
CEA090A27EB84EA...

Signature Adoption: Pre-selected Style
Using IP Address: 146.74.1.98

DocuSigned by:
Michael Mutalipassi
71850D37D770F8B...

Signature Adoption: Uploaded Signature Image
Using IP Address: 50.59.22.2

Timestamp

Sent: 5/1/2023 11:09:04 AM
Viewed: 5/5/2023 7:14:02 AM
Signed: 5/5/2023 7:16:33 AM

Sent: 5/1/2023 11:08:59 AM
Viewed: 5/8/2023 8:30:54 AM
Signed: 5/8/2023 8:31:40 AM

Sent: 5/1/2023 11:08:52 AM
Viewed: 5/1/2023 1:21:38 PM
Signed: 5/22/2023 12:39:39 PM

Sent: 5/1/2023 11:09:03 AM
Viewed: 5/1/2023 11:35:37 AM
Signed: 5/1/2023 11:35:53 AM

Sent: 5/1/2023 11:08:51 AM
Viewed: 5/1/2023 3:19:26 PM
Signed: 5/1/2023 3:21:21 PM

Signer Events

Pamela Wu
pamelaw@cupertino.org
Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

AA92FF3291C7438...

Signature Adoption: Pre-selected Style
Using IP Address: 64.165.34.3

Timestamp

Sent: 5/1/2023 11:08:40 AM
Viewed: 5/2/2023 8:37:35 AM
Signed: 5/2/2023 8:37:53 AM

Electronic Record and Signature Disclosure:

Accepted: 5/2/2023 8:37:35 AM
ID: 1c99465f-8f73-49c8-9b49-c01366e90343

Peter Pirnejad
ppirnejad@losaltoshills.ca.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:

7138597393344A2...

Signature Adoption: Pre-selected Style
Using IP Address: 50.239.26.174

Sent: 5/1/2023 11:08:54 AM
Resent: 5/1/2023 11:48:47 AM
Viewed: 5/1/2023 1:20:03 PM
Signed: 5/1/2023 1:21:01 PM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 1:20:03 PM
ID: 8a6c1047-d9f6-4897-b1c2-4d6b8f05017b

Rebecca Moon
rmoon@sunnyvale.ca.gov
Security Level: Email, Account Authentication
(None)

DocuSigned by:

4004B646B114497...

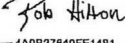
Signature Adoption: Pre-selected Style
Using IP Address: 98.37.126.212

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Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:12:13 AM
ID: 397f2456-e21a-4906-98b9-783350938b41

Rob Hilton
rchilton@hfh-consultants.com
President
Security Level: Email, Account Authentication
(None)

DocuSigned by:

4A0B27640FF14B1...

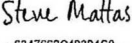
Signature Adoption: Pre-selected Style
Using IP Address: 24.6.115.57

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Signed: 5/1/2023 11:10:41 AM

Electronic Record and Signature Disclosure:

Accepted: 5/1/2023 11:09:58 AM
ID: 8f58b590-31f7-4c05-b2de-a151a100f0ad

Steve Mattas
stevem@meyersnave.com
Security Level: Email, Account Authentication
(None)

DocuSigned by:

6347662C49394C0...

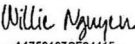
Signature Adoption: Pre-selected Style
Using IP Address: 174.197.76.94

Sent: 5/1/2023 11:08:51 AM
Viewed: 5/5/2023 9:27:32 AM
Signed: 5/19/2023 9:51:08 AM

Electronic Record and Signature Disclosure:

Accepted: 5/5/2023 9:27:32 AM
ID: 1206ba84-549d-4f5a-ac2d-a9c8ab5f27bd

Willie Nguyen
willie.nguyen@cco.sccgov.org
Security Level: Email, Account Authentication
(None)

DocuSigned by:

A175B187CF04415...

Signature Adoption: Pre-selected Style
Using IP Address: 146.74.60.99

Sent: 5/1/2023 11:08:57 AM
Viewed: 5/1/2023 11:10:42 AM
Signed: 5/1/2023 11:15:46 AM

Electronic Record and Signature Disclosure:

Signer Events Accepted: 5/1/2023 11:10:41 AM ID: a500d164-6f76-4e97-a568-7cded4a68632	Signature	Timestamp
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events Brad Eggleston brad.eggleston@cityofpaloalto.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	Status COPIED	Timestamp Sent: 5/1/2023 12:41:43 PM
Casey Leedom cleedom@losaltosca.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/1/2023 11:08:46 AM
Chuck Muir chuck.muir@cityofpaloalto.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/1/2023 11:08:47 AM Resent: 5/1/2023 12:41:42 PM
Clif Chew clifton.chew@cep.sccgov.org Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/1/2023 11:09:02 AM Viewed: 5/1/2023 11:09:52 AM
Cynthia Iwanaga cynthia.iwanaga@morganhill.ca.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 5/1/2023 9:24:00 AM ID: 66b4f104-4cd0-4412-aff0-d3ab5542acf7	COPIED	Sent: 5/2/2023 7:49:20 AM Viewed: 5/2/2023 8:25:53 AM
Dave Staub dstaub@santaclaraca.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/1/2023 11:09:01 AM Viewed: 5/22/2023 1:00:43 PM
Hailey Gordon hgordon@hfh-consultants.com Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/1/2023 11:08:59 AM

Carbon Copy Events

Status

Timestamp

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Hemali Mikhael
hemali.mikhael@mountainview.gov
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:46 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Ivan Carmona-Torres
ivan.carmonatorres@morganhill.ca.gov
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:58 AM
Viewed: 5/1/2023 11:12:26 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Jennifer Cutter
jennifer.cutter@mountainview.gov
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:52 AM
Viewed: 5/1/2023 11:28:24 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kim Mancera
kim.mancera@morganhill.ca.gov
Municipal Services Assistant
City of Morgan Hill
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:56 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Laura Lo
laura.lo@mountainview.gov
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:47 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Michele Young
michele.young@cep.sccgov.org
Security Level: Email, Account Authentication
(None), Login with SSO

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Sent: 5/1/2023 11:08:57 AM
Viewed: 5/1/2023 3:57:39 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Myvan Khuu-Seeman
mkhuuseeman@milpitas.gov
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:54 AM
Viewed: 5/22/2023 12:41:10 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Paula Borges
paula.borges@cityofpaloalto.org
Security Level: Email, Account Authentication
(None)

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Sent: 5/1/2023 11:08:55 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Carbon Copy Events

Sarina Revillar
srevillar@losaltoshills.ca.gov
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Status

COPIED

Timestamp

Sent: 5/1/2023 11:08:48 AM

Shikha Gupta
sgupta@sunnyvale.ca.gov
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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Sent: 5/1/2023 11:09:02 AM
Viewed: 5/1/2023 11:10:34 AM

Tania Katbi
tkatbi@losaltosca.gov
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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Sent: 5/1/2023 11:08:44 AM
Viewed: 5/22/2023 12:41:18 PM

Tanya Carothers
tanya.carothers@moerganhill.ca.gov
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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Sent: 5/1/2023 11:08:45 AM

Ursula Syrova
ursulas@cupertino.org
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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Sent: 5/1/2023 11:08:41 AM
Viewed: 5/22/2023 12:41:39 PM

WVSWMA
wvswma@hfh-consultants.com
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

COPIED

Sent: 5/1/2023 11:08:55 AM

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/1/2023 11:09:05 AM
Envelope Updated	Security Checked	5/1/2023 11:48:46 AM
Envelope Updated	Security Checked	5/1/2023 11:55:45 AM
Envelope Updated	Security Checked	5/1/2023 11:55:45 AM
Envelope Updated	Security Checked	5/1/2023 12:41:42 PM
Envelope Updated	Security Checked	5/1/2023 12:41:42 PM
Envelope Updated	Security Checked	5/2/2023 7:49:20 AM
Envelope Updated	Security Checked	5/3/2023 1:48:51 PM
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Certified Delivered	Security Checked	5/1/2023 11:10:42 AM
Signing Complete	Security Checked	5/1/2023 11:15:46 AM
Completed	Security Checked	5/22/2023 12:39:39 PM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: michelle.bigelow@morganhill.ca.gov

To advise City of Morgan Hill of your new email address

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To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

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ii. send us an email to michelle.bigelow@morganhill.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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- Until or unless you notify City of Morgan Hill as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Morgan Hill during the course of your relationship with City of Morgan Hill.

Item # 3

AGENDA DATE: 06/05/2024

SUPPLEMENT # 1

From: Christina Turner

To: Michelle Bigelow

Subject: Wednesday, June 5, 2024 City Council Meeting Questions

Supplement for Item 3 - APPROVE MEMORANDUM OF UNDERSTANDING FOR PARTICIPATION IN THE COUNTYWIDE FOOD RECOVERY PROGRAM

Date: Tuesday, June 4, 2024

Staff Report: California sends 11.2 billion pounds of food to landfills annually, some of which is still fresh enough to have been recovered to feed people in need, while 9.2 million Californians experienced food insecurity in 2020.

Question: How is this data generated, what organizations are involved to capture is information? If this supposed food goes into landfills, how is this tracked prior to going into the landfill? What expert organization is involved in gathering this information?

Response: This stat which is highlighted by CalRecycle on their SB 1383 website was generated as part of the [2014 Disposal-Facility-Based Characterization of Solid Waste in California](#) and is located in the data table on page 34 of the report. CalRecycle completes annual Waste Characterization Studies which determine approximately how much paper, glass, food waste, etc. is discarded in the waste stream. The 2014 waste characterization was produced under contract with Cascadia Consulting Group. The study estimates the quantity and composition of the commercial, residential, and self-hauled waste streams in California and aggregates this data to estimate the overall State composition. The data was collected via a random sampling to develop a waste composition profile, based on information gathered from 754 waste samples that the consultant's field crew sorted at 26 solid waste facilities (landfills and transfer stations) during four seasons. Please view the report for a detailed overview of methodology used to gather and analyze the data.

Staff Report: The following types of businesses are edible food generators which are covered by SB 1383 and therefore required to arrange for food recovery: wholesale food vendors; food service providers and distributors; grocery stores over 10,000 square feet; supermarkets; restaurants over 5,000 square feet; hotels with 200 or more rooms and on-site food facilities; local education agencies with on-site food facilities; large venues/events; and health facilities with at least 100 beds and on-site food facilities.

Question: Do the establishments outlined in this SB 1383 get reimbursed for the cost of these additional mandates?

Response: These establishments do not get reimbursed for the cost of complying with the SB 1383 food recovery mandate. In recognition of the challenges associated with SB 1383 compliance, the countywide Food Recovery Program includes enhancement opportunities such as Reverse Donation Logistics, a Food Hub Operating Plan, Technical Assistance Partnerships for businesses,

and more. These programs are intended to make the program as efficient, convenient, and cost effective as possible for those required to participate.

Question: How many restaurants in Morgan Hill fall into the category of “over 5,000 square feet?”

Response: There are currently 22 restaurants on the list of businesses required to comply with the SB 1383 edible food recovery mandate. Based on an evaluation of available data, these restaurants meet the compliance criteria of having either 5,000 sq ft or 250+ seats.

Question: Have food businesses in Morgan Hill been notified by either the City or the County?

Response: Education and outreach to businesses has been ongoing since 2022 and is completed through the countywide Edible Food Recovery Program which is managed by JVSV.

Question: If a restaurant is open for breakfast, lunch, and dinner, are they required to store food from breakfast to be donated to a food bank at the close of day or next day?

Response: Restaurants are required to recover the "maximum amount of edible food that would otherwise be disposed of." If a restaurant has surplus food from breakfast that would otherwise be disposed of, they must work with a food recovery organization to recover that food. When that food is picked up is a conversation between the food recovery organization and the restaurant. If the restaurant does not have room to store the food then they may need to find an organization that can pick up more frequently. The Food Recovery Program recently hosted a series of food waste prevention-focused webinars, including one for restaurants, detailing strategies to minimize surplus food.

Question: Do restaurants have discretion to determine if certain prepared foods might be a health risk beyond a certain time period?

Response: Restaurants are required to recover the "maximum amount of edible food that would otherwise be disposed of" and must follow CalCode and local food safety regulations for food donations, the same as they do for food sold to customers.

Question: The current criteria for SB 1383 is for restaurants over 5,000 square feet. Does that pertain to the building footprint only or does outdoor dining space also have to be factored in?

Response: SB 1383 regulates restaurants that are larger than 5,000 square feet and/or have 250+ seats. Square footage of a restaurant is determined by the lease agreement which identifies indoor square footage. This is a methodology consistent with current CalRecycle guidance.

Staff Report: This countywide program conducts the necessary tasks for SB 1383 compliance including outreach to covered edible food generators, inspections and program monitoring, connecting businesses with food recovery organizations, and gathering the required data for reporting back to CalRecycle.

Question: What are the food recovery organizations associated with SB 1383? Are there sufficient food banks within South County to receive and properly store the large amount of food that may be coming their way? If not, what are local restaurants to do?

Response: Currently there are 16 Food Recovery Organizations operating in Santa Clara County and seeking new food recovery partnerships. Of these, 10 provide services in the City of Morgan Hill including Chefs to End Hunger, Copia, FoodRecovery.Org, Hunger at Home, Loaves & Fishes Family Kitchen, Martha's Kitchen, Peninsula Food Runners Organization, Replate, San Jose Conservation Corps, and Second Harvest of Silicon Valley. The countywide program has a [Food Recovery Organization Matching Tool](#) on the website to help food generators and food recovery organizations connect.

Capacity planning assessments required by SB 1383 have determined that there is sufficient capacity countywide to recover all surplus edible food required to be recovered under SB 1383. The countywide Food Recovery Program will consider capacity enhancement projects, as needed, should future capacity planning assessments identify a need.

Staff Report: In FY 2023/24, an MOU among Local Public Agencies in Santa Clara County for Food Recovery Program Costs was developed to fund the cost of a countywide food recovery program to satisfy SB 1383 requirements for a period of one year through jurisdictional contributions.

Question: There is no long-term funding going forward?

Response: Correct. So far, the program has been funded through countywide solid waste planning fee funds, and through SB 1383 Local Assistance Program (LAP) grant funds through 2025/26.

Staff Report: Currently, ongoing community engagement on the countywide Food Recovery Program is completed by JVSF who manages the program. JVSF completes education and outreach to local businesses on behalf of all participating jurisdictions to engage on food recovery requirements under SB 1383, and provides support tools including websites, webinars, peer-to-peer learning opportunities, small infrastructure grants, etc.

Question: I've polled several food businesses, and none have had JVSF contact them.

Response: JVSF tracks their engagement with regulated entities. On average, they have contacted each business that needs to comply in Morgan Hill more than 12 times by phone, email, or mail. It is possible that the food businesses that were polled are not required to comply, which is why they did not hear from JVSF (e.g. they are not a restaurant over 5,000 sf, a grocery store over 10,000 sf, a hotel with more than 200 rooms, etc.). It is also possible that the contact at the business that was polled is not the person working on the business's edible food recovery program. JVSF maintains a single point of contact at each business and that person may or may not loop in others. In recognition that some businesses have a lot of turnover, JVSF sends out mailers addressed to the

businesses each year to ensure that someone always receives notice of the program requirements, no matter the turnover rate.

Staff Report: Because there is not currently a viable alternative to the established countywide program, this would result in noncompliance with the requirements of SB 1383 while the City evaluates alternative approaches.

Question: What does noncompliance mean?

Response: SB 1383 gives specific dates for agencies to comply with various parts of the law. For the Edible Food Recovery Program, the law requires cities to monitor food generator compliance with SB 1383 requirements through ongoing inspection of contracts and donation records. Businesses are required to keep a record of pounds of food donated, donation frequency, and types of food donated. The City is also required to enforce when there is noncompliance.

Should CalRecycle find in an audit that an Agency has failed to comply with SB 1383 as required under the law, then CalRecycle may enforce by issuing a Notice of Violation, a Corrective Action Plan, and/or penalties administratively as follows:

(1) A “Minor” violation means a violation involving minimal deviation from the standards of the Order, where the entity failed to implement some aspects of a requirement but has otherwise not deviated from the requirement. The penalties for this type of violation shall be no less than five hundred dollars (\$500) per violation and no more than four thousand dollars (\$4,000) per violation per day.

(2) A “Moderate” violation means a violation involving moderate deviation from the standards in this chapter. A violation which is not a minor violation or a major violation shall be a moderate violation. The penalties for this type of violation shall be no less than four thousand dollars (\$4,000) per violation and shall be no more than seven thousand five hundred dollars (\$7,500) per violation per day.

(3) A “Major” violation means a violation that is a substantial deviation from the standards in this chapter that may also be knowing, willful or intentional or a chronic violation by a recalcitrant violator as evidenced by a pattern or practice of noncompliance. The penalties for this type of violation shall be no less than seven thousand five hundred dollars (\$7,500) per violation per day and no more than ten thousand dollars (\$10,000) per violation per day.

A major violation shall always be deemed to include the following types of violations:

- (A) A jurisdiction fails to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.
- (B) A jurisdiction fails to have a provision in a contract, agreement, or other authorization that requires a hauler to comply with the requirements.
- (C) A jurisdiction fails to have an edible food recovery program.
- (D) A jurisdiction fails to have any Implementation Record.

- (E) A jurisdiction implements or enforces an ordinance, policy, procedure, 10 condition, or initiative that is prohibited under Sections 18990.1 or 18990.2.
- (F) A jurisdiction fails to submit the reports required in Sections 18994.1 and 18994.2.

Staff Report: FISCAL AND RESOURCE IMPACT: CITY PARTICIPATION IN THE COUNTYWIDE FOOD RECOVERY PROGRAM

The long-term Food Recovery Program MOU will become effective starting July 1, 2024. In FY 2024/25 and FY 2025/26 the Food Recovery Program costs will be \$14,013 and \$16,801, respectively. These costs will be fully covered by funds from Round 4 of the SB 1383 LAP Grant. The proposed City budget for FY 2024/25 and FY 2025/26 includes revenues and expenses for SB 1383 compliance and program implementation, including the Food Recovery Program.

Question: What is the estimated cost to the establishments affected by SB 1383. Given that a new law went into effect relative to minimum wages, an added costs to many establishments, now SB 1383 is asking establishments to administer these food recovery programs which will surely add costs to the bottom line of these establishments, how are we to determine viability?

Response: ESD staff have not seen a report nor heard of a report that currently presents information on estimated costs to the establishments affected by SB 1383, possibly because the program is relatively new. The Project Manager of the Santa Clara County Edible Food Recovery Program verified that JVSF is also unaware of a study or report with this information. ESD staff will stay apprised of information that may be released in the future regarding SB 1383 compliance costs to businesses.

The jurisdictions that participate in the Edible Food Recovery Program, including the City of Morgan Hill, have recognized the need to support local businesses and food recovery organizations as they find an SB 1383 compliance path. The Food Recovery Program participating agencies have funded projects including: the Small Capacity Grant Program that supports small infrastructure purchases for food recovery organizations to increase capacity and efficiency; Food Waste Prevention Webinars to enable peer-to-peer learning on compliance strategies in different business sectors including the basics, food safety, tips, and best practices; and the Surplus to Go Program that uses an app to connect people who need food with restaurants and health care facilities offering surplus food. Upcoming programs include a plan for establishment of a Food Hub to increase the convenience of food recovery operations for participating businesses and increase eligibility for additional grant funding, analyzing opportunities for businesses to save costs by taking advantage of backhauling opportunities (reverse logistics), and also Technical Assistance Partnerships to enable businesses to understand and take advantage of tax benefits related to food donation.

While there is not currently information to address costs of SB 1383 compliance to businesses, the staff report does evaluate fiscal and resource impacts to the City in its mandated role to establish and enforce the program. The costs for the next two years were estimated based on the number of regulated food generators in our jurisdiction, and the effort required to oversee and regulate that number of food generators.

Staff Report: While it is anticipated that current staff funded through the existing CSWS program can absorb the work required to administer the MOU, the long term Food Recovery Program MOU provides an opportunity for the City to request funding for additional resources during the annual budget and work plan process if oversight of the MOU ends up taking more time to manage than expected and if additional City resources are needed.

Question: With our current budget being extremely tight and staff resources for this program are little to none, taking on this additional workload at a time when there's so much uncertainty is very risky and not a prudent thing to do given the unknowns cited including not knowing how these additional costs will affect our current businesses who are struggling with the current economy.

Response: No City General Fund resources will be spent on this program. The Countywide Solid Waste Services (CSWS) Program is fully funded by countywide solid waste planning fee funds generated by waste dropped off at the landfill. In evaluating the work associated with overseeing the long-term MOU contract and based on experience overseeing the current one-year Food Recovery Program MOU, the City anticipates that oversight of the long-term MOU can be absorbed by existing CSWS staff. In the event that additional resources are needed to oversee the long-term MOU, the City can request additional funds. In no case is it anticipated that the City would incur additional unfunded expenses by taking on oversight of the long-term MOU.

CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Tanya Carothers, Environmental Services Administrator

APPROVED BY: City Manager

APPROVE SECOND AMENDMENT TO THE FISCAL YEAR (FY) 2023/24 COUNTYWIDE SOLID WASTE SERVICES FOOD RECOVERY PROGRAM AND THE NEW FY 2024/25 CONTRACT WITH JOINT VENTURE SILICON VALLEY

RECOMMENDATION(S)

1. Approve the second amendment to the FY 2023/24 Joint Venture Silicon Valley consultant agreement to extend the effective date of services from July 4, 2023, until June 30, 2025;
2. Approve a new consultant agreement with Joint Venture Silicon Valley for FY 2024/25 Edible Food Recovery Program services in the amount of \$636,563; and
3. Authorize the City Manager to execute and administer the second amendment to the 2023/24 consultant agreement and the new 2024/25 consultant agreement with Joint Venture Silicon Valley.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Protecting the Environment

REPORT NARRATIVE:

The purpose of this report is to provide the City Council with an opportunity to approve a second amendment to the City's consultant agreement with Joint Venture Silicon Valley (JVSV) for the administration and implementation of the FY 2023/24 Santa Clara County Food Recovery Program (Attachment 1), and also to approve a new consultant agreement with JVSV for the administration and implementation of the FY 2024/25 Santa Clara County Food Recovery Program (Attachment 2).

Background

In July 2021, City of Morgan Hill staff began providing Technical Advisory Committee (TAC) Administrator and Contracting Agent roles for administering the work of the Countywide Solid Waste Services (CSWS) Program. The County has retained the third role of Fiscal Agent for these programs and is the entity authorized and responsible for collecting County solid waste fees as well as managing and reporting to the State on various Countywide solid waste planning efforts. One of the largest contracts the City administers is for the Santa Clara County Food Recovery Program (Food Recovery Program) which is required under State of California law (SB 1383). The Food Recovery

Program focuses on the collection of food from specified food-generating businesses and redistribution of that food to feed people in need.

Proposed Second Amendment to the Current 2023/24 Food Recovery Program Agreement

The current FY 2023/24 contract with JVSJ for implementation of the Food Recovery Program covers base operations to reach minimum compliance with SB 1383 compliance requirements for food recovery programs, as well as program enhancements to support Small Capacity Grants and Food Waste Prevention Classes, and a TAC-funded project that utilizes an App to increase food recovery capacity. Due to program complexities, the TAC-funded App project was delayed and requires additional time to complete. Therefore, the second amendment to the current 2023/24 Food Recovery Program Agreement will extend the contract timeline to cover services from July 4, 2023, until June 30, 2025.

New 2024/25 Food Recovery Program Agreement

The new FY 2024/25 contract with JVSJ for implementation of the Food Recovery Program covers base operations to reach minimum compliance with SB 1383 compliance requirements for food recovery programs, as well as program enhancements to support Technical Assistance Partnerships, School Campus Food Recovery, and Donations Reverse Logistics. The agreement also includes a TAC-funded project to implement a Recovered Food Hub Operating Plan.

COMMUNITY ENGAGEMENT:

Not Applicable.

The subject of this staff report is entirely administrative in nature and does not impact services directly provided to the Morgan Hill community. Given this, no community engagement was conducted prior to this meeting.

ALTERNATIVE ACTIONS:

The City Council could decline approval of the second amendment to the 2023/24 JVSJ contract for services related to the Food Recovery Program, and could decline approval of the new JVSJ contract for 2024/25 Food Recovery Program services. In this scenario, the City would be unable to administer the Food Recovery Program which is work that participating jurisdictions have asked that the City implement in their role as the CSWS Contracting Agent and Administrator.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

2nd Amendment to the 2023/24 JVSJ Food Recovery Program Agreement

Per Ordinance 2321, purchases up to \$300,000 can be made under the City Manager's purchasing authority if they were made exclusively with Countywide funds for the administration of the CSWS Program. Therefore, the City Council did not take action on the original 2023/24 JVSJ agreement because the amount of the original agreement was \$288,445 and was approved via City Manager authority on July 4, 2023. The First

Amendment to the Agreement went to Council on August 23, 2023 because it added program elements to the contract which totaled \$203,182 and brought the contract amount up to \$591,627, which exceeded the \$300,000 limit of approval under the City Manager's purchasing authority.

New 2024/25 JVSF Food Recovery Program Agreement

The City Council has not taken prior action on this agreement.

FISCAL AND RESOURCE IMPACT:

2nd Amendment to the 2023/24 JVSF Food Recovery Program Agreement

The 2nd Amendment to the 2023/24 JVSF Food Recovery Program contract does not propose any changes to the current budget, it only proposes a time extension to complete the scope of services. The contract amount will remain at \$591,627 and will not affect the City budget.

New 2024/25 JVSF Food Recovery Program Agreement

The new 2024/25 JVSF consultant agreement for implementation of the Food Recovery Program was approved by the Recycling and Waste Reduction Commission (RWRC) as a funded project using a combination of jurisdiction contributions and County solid waste planning fees in the FY 2024/25 budget. There is currently \$1,755,816 proposed in Fund 246 for FY 2024/25 CSWS contracts, including the Food Recovery Program.

The proposed expense is completely offset by revenue. As Fiscal Agent, the County is the entity authorized and responsible for collecting County solid waste fees as well as revenues from other sources (e.g. grant funds, jurisdiction contributions, etc.). The City sends a Fund Transfer Request quarterly to the County to cover costs related to the City's role as TAC Administrator and Contracting Agent as well as all contract costs. The City's Fund Transfer Requests will include the costs associated with the new JVSF contract and there will be no net impact on the General Fund. Because of the Fund Transfer Requests, in no case would Fund 246 go into a negative balance. However, there is a possibility that Fund 246 will have a positive balance at the end of the year if some of the planned contract expenditures come in under budget. Any balance in Fund 246 at the end of the year would be available for future expenditures on the countywide solid waste programs.

CEQA (California Environmental Quality Act):

Not a Project.

The activities associated with this item are administrative activities that will not result in direct changes to the physical environment.

**SECOND AMENDMENT TO AGREEMENT
JOINT VENTURE SILICON VALLEY**

This SECOND AMENDMENT TO AGREEMENT is entered into and becomes effective on May 4, 2024 (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, in its capacity as contracting agent on behalf of the County of Santa Clara Recycling and Waste Reduction Commission ("CITY") and JOINT VENTURE SILICON VALLEY, a California nonprofit corporation ("CONSULTANT"), hereinafter referred to collectively as the "Parties".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Second Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, 2024.
2. The CITY and CONSULTANT entered into that "Consultant Agreement" made as of July 4, 2023, for consultant services for a maximum compensation of Two Hundred Eighty-Eight Thousand Four Hundred Forty-Five dollars (\$288,445.00) ("CONSULTANT AGREEMENT"). The CONSULTANT AGREEMENT was entered into pursuant to the authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
3. The CITY and CONSULTANT entered into a "First Amendment to Agreement" made as of August 27, 2023, under which the maximum compensation under the CONSULTANT AGREEMENT, as amended, was increased to Five Hundred Ninety-One Thousand Six Hundred Twenty-Seven dollars (\$591,627.00), and the Santa Clara County Food Recovery "Enhancements" Program and Surplus to Go App added to the Scope of Services, and the Schedule of Compensation and Schedule of Performance revised accordingly. The CONSULTANT AGREEMENT and the First Amendment thereto are attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

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

"2. **Term of Agreement.** This Agreement shall be effective and cover services rendered from July 4, 2023, until June 30, 2025."

B. The Revised Exhibit A dated August 24, 2024, in the "First Amendment to Agreement" is hereby amended and updated to the correct effective date of August 24, 2023.

C. Exhibit C—Schedule of Performance of CONSULTANT AGREEMENT is hereby amended to conform to the new end date of the Agreement of June 30, 2025.

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

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

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

Michelle Bigelow, City Clerk

Date: _____

Christina Turner, City Manager

Date: _____

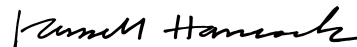
APPROVED AS TO FORM:

JOINT VENTURE SILICON VALLEY

By: _____

Donald Larkin, City Attorney

Date: _____



By: _____

Title: Russell Hancock, President & CEO

Print Name and Title of Signer.

If Corporate: Chairman, President,
or Vice President

Date: _____



By: _____

Title: Ashley Raggio, Chief Operating Officer

Print Name and Title of Signer.

If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer, or
Assistant Treasurer

Date: 5/4/24

EXHIBIT 1**FIRST AMENDMENT TO AGREEMENT
JOINT VENTURE SILICON VALLEY**

This FIRST AMENDMENT TO AGREEMENT is entered into and becomes effective on 8/27/2023 (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, in its capacity as contracting agent on behalf of the County of Santa Clara Recycling and Waste Reduction Commission Implementation Committee ("CITY") and JOINT VENTURE SILICON VALLEY, a California nonprofit corporation ("CONSULTANT"), hereinafter referred to collectively as the "Parties".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This First Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on August, 23, 2023.
2. The CITY and CONSULTANT entered into that "Consultant Agreement" made as of July 4, 2023, for consultant services for a maximum compensation of Two Hundred Eighty-Eight Thousand Four Hundred Forty-Five Dollars (\$288,445.00) ("CONSULTANT AGREEMENT"). The CONSULTANT AGREEMENT is attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

A. Paragraph 3 shall be amended by adding the following:

"The services to be performed by CONSULTANT shall consist of the following additional services set forth in Revised Exhibit 'A' dated August 24, 2023:

Santa Clara County Food Recovery 'Enhancements' Program and Surplus to Go: App based Method to Increase Food Recovery Capacity."

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

"4.1. **Amount.** Compensation under this Agreement shall not exceed FIVE HUNDRED NINETY-ONE THOUSAND SIX HUNDRED TWENTY-SEVEN DOLLARS (\$591,627.00) and shall be billed based on the rate and basis set forth in Revised **Exhibit B dated August 24, 2023**. 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, during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for 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."

C. Paragraph 6 shall be amended and replaced in its entirety by the following:

- “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 the 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 and **Revised 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.”

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[Signatures on the Next Page]

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

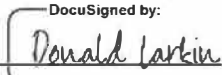
TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

CITY OF MORGAN HILL


Michelle Bigelow, City Clerk
Date: 8/28/2023

APPROVED AS TO FORM:
Donald Larkin, City Attorney

DocuSigned by:
By: 
45E6F0273EA2464...
Date: 8/24/2023


Christina Turner, City Manager
Date: 8/27/2023

JOINT VENTURE SILICON VALLEY


By:
Title: Russell Hancock, President & CEO
Print Name and Title of Signer.
If Corporate: Chairman, President,
or Vice President

Date: 08/15/2023


By:
Title: Ashley Raggio, Chief Operating Officer
Print Name and Title of Signer.
If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer, or
Assistant Treasurer

Date: 8/16/2023

**REVISED EXHIBIT A
DATED AUGUST 24, 2024
Scope of Services**

TO BE ADDED TO THE EXISTING SCOPE OF SERVICES:

1. Santa Clara County Food Recovery “Enhancements” Program
2. Surplus to Go: App-based Method to Increase Food Recovery Capacity

1. Santa Clara County Food Recovery “Enhancements” Program

Services:

Capacity Enhancements: Small Grant Program

Joint Venture will create a small grant program to fund existing food recovery programs in Santa Clara County. The grant program will focus mainly on infrastructure needs identified in the Capacity Assessment Survey: seven organizations reported the need for additional refrigeration, three for freezers, and six for dry storage. Additionally, we will open the application program to distribution sites, knowing that food isn’t truly ‘recovered’ until it is safely provided to the end recipient.

Capacity Enhancements: Food Waste Prevention Education

Joint Venture will promote and deliver a webinar/in-person education session series for different sectors regulated under SB 1383 (e.g. restaurants, hospitals, schools, large events). The series will promote food waste prevention measures specific to each regulated sector; provide food recovery tips and best practices; and teach businesses and organizations how to comply with SB 1383 and local ordinances. Education for generators about current FRO safety practices will be included.

Services:

- A. Develop localized application process and create a timeline for promoting the grant program, administering the application process, and awarding of funds.

- B. Solicit applications from FRO/FRS and distribution sites in Santa Clara County.
- C. Evaluate applications, and distribute awards.
- D. Report on funding distribution at TAC.
- E. Promote and design 6 webinar/in-person sessions over the course of the fiscal year, targeted towards specific sectors of the food industry.
- F. Conduct at least 6 webinars or in-person sessions.
- G. Solicit feedback from participants about the education sessions, both immediately after the session and 2 months later, regarding effectiveness of training.
- H. Report back on effectiveness of the program to TAC/IC, and share information with contributing jurisdictions for inclusion in CalRecycle reporting.

2. Surplus to Go: App-based Method to Increase Food Recovery Capacity

Use emerging technologies and services to develop a system to distribute surplus food directly from Tier Two businesses and organizations to clients in need free of charge. This will likely be coordinated through an existing mobile technology solution that could bring food assistance clients to restaurants/healthcare facilities for surplus food. The mobile technology company will partner with food recovery organizations who can record the pounds, as they send their clients directly to businesses to pick up the food.

Services:

- A. Partner with an existing technology company to customize and leverage their technology for use in the program.
- B. Partner with Food Recovery Organizations and possibly the Santa Clara County Public Health Department to register clients for the program.
- C. Track key statistics such as the total meals claimed and T1/T2 and client participation in the program anonymously.
- D. Create and share a Final Report with TAC/IC.

EXHIBIT B
Effective August 24, 2023

First Amendment to FY 23-24 JVSJ Consultant Agreement		
Program Management	Cost type	Cost
	Overhead, 20%, to include access to web development, communications support, and accounting.	\$57,689.00
	Staff time. Tasks include database management, Tier review, inspections, education, solicitation of generator and FRO reporting, analysis of reporting results, documentation for CalRecycle compliance for each jurisdiction, communications about the program, FRO list maintenance, and website maintenance, among other tasks. Staff include an Executive Director, Associate Director, Program Manager, and Inspector/Educator.	\$215,000.00
	Travel, inspection, and education supplies, iPad, printing of compliance letters and educational documents, database and extension subscriptions, mailings	\$15,756.00
	Total	\$288,445.00
Surplus to Go	Cost type	Cost
	Overhead, 20%, to include access to web development, communications support, and accounting.	\$20,000.00
	Staff: Assoc director, Executive Director and contractor time	\$60,000.00
	FRO stipend, admin fees, vouchers for clients	\$20,000.00
	Total	\$100,000.00
Capacity Enhancements	Cost type	Cost
	Overhead, 20%, to include access to web development, communications support, and accounting.	\$38,461.00

EXHIBIT B
Effective August 24, 2023

	Staff time. Includes created of educational materials, creation and distribution of 6 prevention webinars, creation of a small grants program, solicitation of applications, awarding of funds, and distribution of funds. Staff include Executive Director, Program Manager, and contracted staff.	\$55,876.00
	Printed materials	\$845.00
	Grants- to be distributed to food recovery organizations and food distribution locations.	\$108,000.00
	Total	\$203,182.00
	REVISED CONSULTANT AGMT AMOUNT	\$591,627.00

REVISED EXHIBIT C SCHEDULE OF PERFORMANCE

TO BE ADDED TO EXISTING SCHEDULE OF PERFORMANCE

Deliverables:

1. Santa Clara County Food Recovery Program Enhancements

- a. Submit a quarterly invoice to Countywide Solid Waste Services (City of Morgan Hill) separated into program components, categorized as Base Program, Infrastructure Enhancements, and Surplus to Go and summarize a list of tasks completed over the previous quarter.
- b. Evaluate FRO and distribution site applications for infrastructure, and distribute awards.
- c. Report on funding distribution at TAC.
- d. Promote and design 6 webinar/in-person sessions over the course of the fiscal year, targeted towards specific sectors of the food industry.
- e. Conduct at least 6 webinars or in-person sessions.
- f. Solicit feedback from participants regarding effectiveness of training.
- g. Report on program to RWRC, TAC and/or IC.

2. Surplus to Go: App-based Method to Increase Tier Two Food Recovery Capacity

- a. Develop and implement an app-based method to distribute recovered food directly to individuals free of charge.
- b. Create and share a Final Report with RWRC, TAC and/or IC.

EXHIBIT 1

128-04-23-038

**CONSULTANT AGREEMENT
Joint Venture Silicon Valley**

THIS AGREEMENT is entered into and becomes effective on 7/4/2023 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, in its capacity as contracting agent on behalf of the County of Santa Clara Recycling and Waste Reduction Commission Implementation Committee ("CITY"), and Joint Venture Silicon Valley a California nonprofit corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2024 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be the Santa Clara County Food Recovery Program - Base Program and Surplus to Go Program as further described in **Exhibit A**.
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$288,445.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Two Hundred Eighty-Eight Thousand Four Hundred Forty-Five dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 13 Notices. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and

CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The City Manager of CITY is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

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

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

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

7.1. **Insurance Types and Amounts.**

- 7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.2. **Automobile Liability.** CONSULTANT shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if CONSULTANT does not own automobiles, then CONSULTANT shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00)

combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.3. Workers' Compensation Insurance and Employer's Liability. CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If CONSULTANT is self-insured, CONSULTANT shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

7.1.4. Pollution (Environmental) Liability. If the performance of CONSULTANT'S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, CONSULTANT shall procure and maintain Pollution Liability covering the CONSULTANT'S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.5. Professional Liability.

7.1.5.1. If the performance of CONSULTANT's work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), CONSULTANT shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if CONSULTANT maintains a claims-made policy, CONSULTANT shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

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

- 7.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of CONSULTANT's work or service under this Agreement involves contact with minors, CONSULTANT shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.2. **Endorsements**. CONSULTANT shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:
- 7.2.1. General Liability and pollution liability (when pollution liability applies).
- 7.2.1.1. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations.
- 7.2.1.2. "Waiver of Rights of Subrogation" - The insurer waives the right of subrogation against the City of Morgan Hill and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and
- 7.2.1.3. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.
- 7.2.2. Workers Compensation.
- If the performance of CONSULTANT'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, CONSULTANT'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.
- 7.3. **Qualification of Insurers**. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.
- 7.4. **Certificates**. CONSULTANT shall furnish CITY of Morgan Hill with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the CONSULTANT's agreement with the CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this section 7. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

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

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.
- 9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against CONSULTANT and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT CONSULTANT OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order,

and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

10. **Independent Contractor.** CONSULTANT is an independent contractor and not an agent or employee of CITY.
11. **Confidentiality.** All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.
12. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
13. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Joint Venture Silicon Valley
Robin Franz Martin, Executive Director, Silicon Valley Food Recovery
P.O. Box 720010
San Jose, CA 95172

Address of CITY is as follows:

Environmental	Services	with a copy to:
Manager/TAC Administrator		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.** Documents created by CONSULTANT for work performed exclusively for the Recycling and Waste Reduction Commission Implementation Committee shall be the property of the Recycling and Waste Reduction Commission Implementation Committee. CONSULTANT shall provide CITY, in its capacity as contracting agent for the Recycling and Waste Reduction Commission Implementation Committee, with copies of these items upon demand.
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.** 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").

21.2. **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 or willful misconduct of the CITY.

21.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMs alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by CONSULTANT.

21.4. **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.

21.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of the CONSULTANT to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

22. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and CONSULTANT. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

23. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

24. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

25. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

26. **Binding Agreement.** Notwithstanding the provisions of Section 19 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

27. ☐ **Data Sharing.** This Agreement requires access by CONSULTANT to CITY's Geographic Information System (GIS) DATA for CONSULTANT to perform the work. CITY agrees to provide the GIS DATA to CONSULTANT solely for the purpose of performance of contracted work with the CITY upon the terms and conditions specified in Exhibit D, incorporated herein by this reference.

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

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[Signatures on Next Page]

29. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

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

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

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

ATTEST:

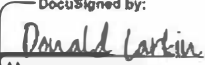
DocuSigned by:

 Michelle Bigelow
 City Clerk/Deputy City Clerk

Michelle Bigelow
 Print Name

Date: 7/5/2023

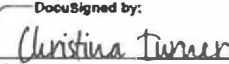
APPROVED AS TO FORM:

DocuSigned by:

 Donald A. Larkin
 City Attorney

Donald A. Larkin
 Print Name

Date: 6/29/2023

CITY OF MORGAN HILL

DocuSigned by:

 Christina J. Turner
 City Manager

Christina J. Turner
 Print Name

Date: 7/4/2023

JOINT VENTURE SILICON VALLEY


 By:

Russell Hancock

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

Date: 6/23/2023


 By:

Ashley Raggio

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

Date: 6/26/2023

EXHIBIT A SCOPE OF SERVICES

Santa Clara County Food Recovery "Base" Program

SB 1383 requires that each jurisdiction in California establish a food recovery program. In Santa Clara County, jurisdictions already working together through the Technical Advisory Committee (TAC) of the Santa Clara County Recycling and Waste Reduction Commission (RWRC) established a county-wide program.

Services for the Santa Clara County Food Recovery "Base" Program will include:

1. Develop and implement a standardized and uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, "Short-Lived Climate Pollutants." The Program will operate throughout the County and replace the need for each Jurisdiction to create such a program on its own.
2. Maintain the database of Tier 1/Tier 2 entities and food recovery organizations/services, including: keeping contact and other relevant information up to date, recording data related to Food Recovery Reporting, education/outreach; inspections, keeping records of complaints and enforcement actions current; maintaining the functionality and software integrations that enable the Program to efficiently contact regulated entities, support targeted education and outreach activities to different types of Entities, analyze data to support Program decision-making and capacity building, and provide relevant data to the Program and the Implementation Record available to jurisdictions in real-time; maintain current information about Food Recovery organizations/services and food waste prevention services for inclusion on the sccfoodrecovery.org matching tool; and conduct ongoing quality control and data cleaning activities.
3. Each fiscal year, the Program will conduct a review of new Tier 1 and Tier 2 entities, to ensure that as businesses/organizations open in Santa Clara County, the appropriate regulated entities are added to the Tier 1 and Tier 2 lists and assigned to the appropriate Jurisdiction. Businesses that have closed or no longer qualify as Tier 1 or Tier 2 will be identified during the reporting process, and be removed from the regulated business lists.
4. Provide the Jurisdiction with the information and data necessary for the Jurisdiction to make timely required reports to CalRecycle.
5. Retain records of inspections in the Jurisdiction for a minimum of five (5) years.
6. Notify the Jurisdiction promptly about any related issues that require the Jurisdiction's assistance or to request that the Jurisdiction lead in resolving any issue(s) that arises related to non-compliance.
7. Fulfill the annual education requirement for each Jurisdiction. Develop all needed educational materials and distribute to Tier 1 and Tier 2 Generators, and continue extensive educational programming-by phone, email, Zoom and in-person.
8. Solicit required Food Recovery Reports from generators and Food Recovery organizations/services, compile and provide the results to jurisdictions for inclusion in the Implementation Records, and to Santa Clara County for use in future Capacity Planning efforts.
9. Conduct at least 10% in-person and any necessary follow-up inspections for Tier 1 in compliance with CalRecycle expectations. Tier 2 entities and Food Recovery Organizations and Services will only be inspected as necessary.
10. The Program shall supply appropriate content for the web site, SCCFoodRecovery.org, including a list of Food Recovery Organizations and Services (to be updated at least annually) and maintain accessibility for Tier 1 and Tier 2 entities.
11. Represent the interests of the Program with other entities, Counties, and CalRecycle.

12. Develop procedures and timelines for cities and unincorporated County to encourage uniformity in enforcement, which the cities and County would be encouraged to follow.

13. Create a Report about Program activities each September, in advance of next fiscal year's budget conversations. This report shall include a narrative about the Food Recovery Program activities, monitoring statistics, Food Recovery Reporting summary statistics, regulated entity compliance with reporting requirements and compliance based on inspections, including by entity type, total number of pounds of food recovered as reported by generators and FROs, and a summary of all enforcement actions taken. Statistics about food waste prevention and food recovery in Santa Clara County will be shared on the Office of Sustainability website as part of the Sustainability Master Plan Data Dashboard at www.sccsustainabilityplan.org and the Annual Report.

14. Develop and/or implement any portion of the Program not stated above, but outlined in the FY 23-24 Food Recovery Program Memorandum of Understanding (Exhibit D)

EXHIBIT B**SCHEDULE OF COMPENSATION****FOOD RECOVERY PROGRAM BUDGET FY 23-24**

Base Program	Cost Type	Cost
<i>Funding Source: Voluntary Contributions from Jurisdictions - Countywide Funds</i>		
	Overhead, 20%, to include access to web development, communications support, and accounting.	\$57,689.00
	Staff time. Tasks include database management, Tier review, inspections, education, solicitation of generator and FRO reporting, analysis of reporting results, documentation for CalRecycle compliance for each jurisdiction, communications about the program, FRO list maintenance, and website maintenance, among other tasks. Staff include an Executive Director, Associate Director, Program Manager, and Inspector/Educator.	\$215,000.00
	Travel, inspection and education supplies, IPad, printing of compliance letters and educational documents, database and extention subscriptions, mailings	\$15,756.00
	Base Program Subtotal	\$288,445.00

EXHIBIT C SCHEDULE OF PERFORMANCE

Deliverables-Santa Clara County Food Recovery Program

- 1. Develop and implement a standardized and uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, "Short-Lived Climate Pollutants." The Program will operate throughout the County and replace the need for each Jurisdiction to create such a program on its own.**
- 2. Create a report about program activities to distribute in the TAC September meeting packet, and give a presentation at the TAC September meeting, in advance of next fiscal year's budget conversations. This report shall include a narrative about the Food Recovery Program activities, monitoring statistics, Food Recovery Reporting summary statistics, regulated entity compliance with reporting requirements and compliance based on inspections, including by entity type, total number of pounds of food recovered as reported by generators and food recovery organizations (FROs).**
- 3. Share statistics about food waste prevention and food recovery in Santa Clara County with the Office of Sustainability website for inclusion in the Sustainability Master Plan Data Dashboard at www.sccsustainabilityplan.org**
- 4. Distribute CalRecycle Electronic Annual Report data to each jurisdiction by June 30, 2024.**
- 5. Submit a quarterly invoice to Countywide Solid Waste Services (City of Morgan Hill) separated into program components and summarize a list of tasks completed over the previous quarter.**

Exhibit D

**MEMORANDUM OF
UNDERSTANDING AMONG LOCAL
PUBLIC AGENCIES IN
SANTA CLARA COUNTY
FOR FOOD RECOVERY PROGRAM COSTS**

SECTION 1. OVERVIEW

This Memorandum of Understanding (“MOU”) is between the cities of Cupertino, Gilroy, Los Altos, Milpitas, Morgan Hill, Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale; the town of Los Altos Hills; the County of Santa Clara; and the West Valley Solid Waste Management Authority on behalf of its member agencies, the cities of Campbell, Monte Sereno and Saratoga; and town of Los Gatos; collectively “Parties” or individually as a “Party.”

SECTION 2. RECITALS

WHEREAS, the signatory Parties are also “PARTIES” to the Memorandum of Agreement for the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, which is a Committee of the County of Santa Clara Recycling and Waste Reduction Commission that advances the interests of Party jurisdictions by performing technical and policy review to inform parties and advise the Commission on solid waste management issues, and bring together varied expertise and viewpoints for planning and implementing the Commission approved annual workplan and budget;

WHEREAS, the Parties have previously agreed to jointly fund the cost of a countywide edible food recovery program to satisfy their respective obligations under SB 1383 (2016) and the corresponding regulations;

WHEREAS, the County of Santa Clara is the Fiscal Agent for the Technical Advisory Committee (TAC) to the Santa Clara County Recycling and Waste Reduction Commission and the City of Morgan Hill is the Administrator and Contracting Agent for the TAC;

WHEREAS, the City of Morgan Hill, as Program Administrator and Contracting Agent, has contracted with Joint Venture Silicon Valley to implement and manage the countywide Food Recovery Program (“Program”) for Fiscal Year 2023/24;

WHEREAS, the Parties desire to execute this MOU to provide for their respective share of costs for the Program;

NOW, THEREFORE, for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 3. PURPOSE OF THE MOU

The purpose of this MOU is to establish a means of requiring:

Payment by the Parties for their share of the costs for implementation of the Program.

SECTION 4. EFFECTIVE DATE

This MOU shall be effective upon execution of this MOU by all Parties ("Effective Date").

SECTION 5. PAYMENTS UNDER THIS MOU

For purposes of the Program, the County of Santa Clara is the Fiscal Agent and the City of Morgan Hill is the TAC Administrator and Contracting Agent, as specified in the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee MOA.

The Parties agree to share costs for the services as described in Exhibit A of this MOU.

The County of Santa Clara will, within thirty (30) days of the Effective Date of this MOU, submit to the other Parties an invoice for the amounts due under the MOU. Each party will make their payment to the County of Santa Clara based on the invoice amount.

SECTION 6. RECORDS AND ACCOUNTS

The County of Santa Clara will keep complete and accurate financial records related to accomplishing the purposes of this MOU. Upon reasonable notice to the County of Santa Clara, any Party to this MOU may inspect the financial records related to this MOU.

SECTION 7. FURTHER ASSURANCES

Each Party will adopt, execute, and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the Parties' performance of their obligations under this MOU.

SECTION 8. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to all other Parties as follows:

Authority: Each Party has the full legal right, power and authority under the laws of the State of California to enter into this MOU and to carry out all of its obligations herein.

Due Execution: Each Party's representatives who sign this MOU are duly authorized to sign and bind their respective agency.

SECTION 9. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved in this MOU is exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise, and all such remedies may be exercised without exhausting and without regard to any other remedy.

SECTION 10. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, the Parties agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this MOU. No Party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of any other Party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Party under this MOU. The obligations set forth in this paragraph will survive termination and expiration of this MOU.

SECTION 11. SEVERABILITY

The provisions of this MOU shall be severable, and if any clause, sentence, paragraph, provision or other part shall be adjudged by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this MOU will be valid and binding on the Parties.

SECTION 12. AMENDMENTS

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

SECTION 13. COUNTERPARTS

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

SECTION 14. USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law, 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 of Morgan Hill. For the purposes of this agreement, the approved methods of signing shall be via DocuSign or original ink signature signed in counterpart and scanned over to the CITY via electronic mail.

SECTION 15. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.

This MOU, including all Exhibits attached hereto, represents the entire understanding of the Parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this MOU, the terms specified in the body of this MOU shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This MOU may be modified only by a written amendment duly executed by the Parties to this MOU.

SECTION 16. NO LEGAL RELATIONSHIP

By entering into this MOU, the Parties are neither forming, nor do they intend to form a partnership, agency, or any other legal entity relationship. No Party is authorized to bind or to act as the agent or legal representative of the other Party for any purpose, and neither Party is granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of any other Party.

SECTION 17. GOVERNING LAW, VENUE

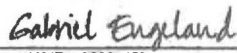
This MOU has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this MOU shall be in the County of Santa Clara.

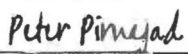
IN WITNESS OF, the Parties have executed the MOU as of the last date set forth below:

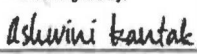
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Pamela Wu
City of Cupertino - City Manager
Date: 5/2/2023

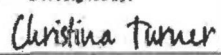
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Christopher D. Jensen
Approval as to form, Cupertino
Date: 5/1/2023

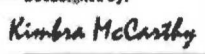
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Andy Faber
Approval as to form, Gilroy
Date: 5/4/2023 5/1/2023

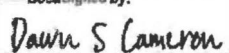
DocuSigned by:

City of Los Altos - City Manager
Date: 5/1/2023

DocuSigned by:

Town of Los Altos Hills - Town Manager
Date: 5/1/2023

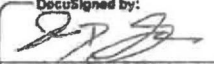
DocuSigned by:

City of Milpitas - City Manager / ACTING
Date: 5/10/2023

DocuSigned by:

City of Morgan Hill - City Manager
Date: 5/5/2023

DocuSigned by:

City of Mountain View - City Manager
Date: 5/5/2023

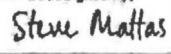
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City of Mountain View - Public Works Director
Date: 5/1/2023

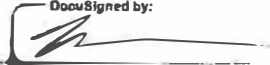

City of San Jose - City Manager
Date: 5/26/2023

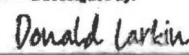
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City of Santa Clara - City Manager
Date: 5/7/2023

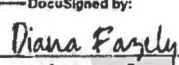
DocuSigned by:

Approval as to form, Los Altos
Date: 5/1/2023

DocuSigned by:

Approval as to form, Los Altos Hills
Date: 5/19/2023

DocuSigned by:

Approval as to form, Milpitas
Date: 5/1/2023

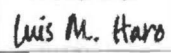
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Approval as to form, Morgan Hill
Date: 5/1/2023

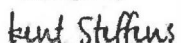
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Approval as to form, Mountain View
Date: 5/3/2023

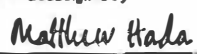
DocuSigned by:

City of Mountain View - Finance/
Administrative Services Director
Date: 5/2/2023


Approval as to form, San Jose
Date: 6/1/2023

DocuSigned by:

Approval as to form, Santa Clara (City)
Date: 5/22/2023

DocuSigned by:

City of Sunnyvale - City Manager
Date: 5/2/2023

DocuSigned by:

County of Santa Clara - Director of Procurement
Date: 5/1/2023

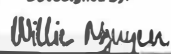
West Valley Solid Waste Management
Authority - President
Date: 5/1/2023

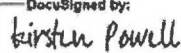
DocuSigned by:

City of Palo Alto - City Manager
Date: 5/5/2023

DocuSigned by:

Approval as to form, Sunnyvale
Date: 5/1/2023

DocuSigned by:

Approval as to form, Santa Clara County
Date: 5/1/2023

DocuSigned by:

Approval as to form, West Valley Solid
Waste Management Authority
Date: 5/8/2023

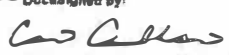
DocuSigned by:

Approval as to form, City of Palo Alto
Date: 5/11/2023

EXHIBIT A

COSTS AND SCOPE OF SERVICES

Proposed Jurisdiction Contributions for Base Program and Infrastructure - FY 23-24 Program Costs									
Jurisdictions	Initial/Local Asst. Grant (LAG) Allocation	Initial program "pledge" 19% of LAG	Tier 1 Generators	Tier 2 Generators	Total Generators	Base Program Contract Cost (\$133 per generator)	Base Program Contribution (\$133 per generator)	Potential Infrastructure Enhancements	Enhancement Contribution
Campbell	\$ 55,495	\$ 10,544	11	49	60	\$ 7,980	\$ 7,980	\$ 2,564	\$ 2,564
Cupertino	\$ 77,953	\$ 14,811	10	80	90	\$ 11,970	\$ 11,970	\$ 2,841	\$ 2,841
Gilroy	\$ 75,255	\$ 14,298	11	48	59	\$ 7,847	\$ 7,847	\$ 6,451	\$ 6,451
Los Altos	\$ 41,038	\$ 7,797	7	34	41	\$ 5,453	\$ 5,453	\$ 2,344	\$ 2,344
Los Altos Hills	\$ 20,000	\$ 3,800	0	2	2	\$ 266	\$ 266	\$ 3,534	\$ 3,534
Los Gatos	\$ 41,465	\$ 7,878	10	45	55	\$ 7,315	\$ 7,315	\$ 563	\$ 563
Milpitas	\$ 100,259	\$ 19,049	21	92	113	\$ 15,029	\$ 15,029	\$ 4,020	\$ 4,020
Monte Sereno	\$ 20,000	\$ 3,800	0	1	1	\$ 133	\$ 133	\$ 3,667	\$ 3,667
Morgan Hill	\$ 63,156	\$ 12,000	15	43	58	\$ 7,714	\$ 7,714	\$ 4,286	\$ 4,286
Mountain View	\$ 109,638	\$ 20,831	17	114	131	\$ 17,423	\$ 17,423	\$ 3,408	\$ 3,408
Palo Alto	\$ 89,759	\$ 17,054	7	106	113	\$ 15,029	\$ 15,029	\$ 2,025	\$ 2,025
San Jose	\$ 1,351,654	\$ 256,814	212	787	999	\$ 132,702	\$ 132,702	\$ 124,112	\$ 124,112
Santa Clara	\$ 172,504	\$ 32,776	40	162	202	\$ 26,866	\$ 26,866	\$ 5,910	\$ 5,910
Saratoga	\$ 41,085	\$ 7,806	2	26	28	\$ 3,724	\$ 3,724	\$ 4,082	\$ 4,082
Sunnyvale	\$ 202,777	\$ 39,368	26	144	170	\$ 22,610	\$ 22,610	\$ 16,758	\$ 16,758
Unincorporated SCC	\$ 113,337	\$ 23,000	13	35	48	\$ 6,384	\$ 6,384	\$ 16,616	\$ 16,616
Totals	\$ 2,575,374	\$ 491,627	402	1768	2170	\$ 288,445	\$ 288,445	\$ 203,182	\$ 203,182
West Valley Cities: FY 23-24 contributions funded by West Valley Solid Waste Management Authority							\$ 19,152		\$ 10,876

Note: Initial program pledge was based on program cost estimate before program establishment and experience with program scope of work.

Enhancement Contributions may be reduced, but not the Base Program Contribution.

Contributions to Infrastructure Enhancements by each agency are subject to change pending final approvals by each Agency.

EXHIBIT A: SCOPE OF SERVICES

Base Program – Countywide Food Recovery Program Management

From July 1, 2023 to June 30, 2024, Joint Venture Silicon Valley will run the Santa Clara County Food Recovery Program, serving as the food recovery program (Program) on behalf of all jurisdictions (Jurisdictions) of the Parties, and coordinating with any Party performing their own enforcement.

The Base Program

1. Will develop and coordinate a standardized and uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, “Short-Lived Climate Pollutants.” The Program will operate within the Party’s boundaries and replace the need for the Party to create such a program on its own.
2. Each year by March, the Program will conduct a review of new Tier 1 and Tier 2 Entities, to ensure that as businesses open in Santa Clara County, the appropriate regulated entities are added to the Tier 1 and Tier 2 lists. Closing businesses will be identified during the reporting process, and be eliminated from the lists.
3. Provide Parties with requirements for inclusion in the ‘large event’ list requested from each Party, as well as provide electronic materials for distribution for large event planners.
4. Shall provide Parties with the information and data necessary for the Parties to make their required reports to CalRecycle.
5. Shall retain records of inspections for each Party for a minimum of five (5) years.
6. Shall notify the Party promptly about any related issues that require the Party’s assistance or to request the Party lead in resolving the issue(s) that arise related to non-compliance.
7. Shall fulfill the annual education requirement for the Parties and provide the data needed for the Parties to complete required CalRecycle reports.
8. Shall conduct generator and Food Recovery Organization/Services requests for reports, compile the results, and communicate those results to the jurisdictions for inclusion in the Implementation Record Data Summary, and to Santa Clara County for use in future Capacity Planning efforts.
9. Shall conduct inspections and monitoring in compliance with CalRecycle expectations for Tier One businesses, Tier Two entities and Organizations, and Food Recovery Organizations and Services.
10. The Program shall supply appropriate content for the web site, SCCFoodRecovery.org, as well as a list of Food Recovery Organizations and Services. The list will be annually updated and made accessible to Tier 1 and 2 Entities.

11. The Program leadership shall represent the interests of the Program with other entities, Counties, and CalRecycle.
12. The Program leadership shall create reports about Program activities at the end of each fiscal year. These reports shall include monitoring statistics, details on overall compliance, compliance in certain sectors, total number of pounds of food recovered, and a summary of all enforcement actions taken.
13. Statistics about food recovery in Santa Clara County will be shared on the Office of Sustainability website as part of the Sustainability Master Plan Data Dashboard and the Annual Sustainability Report.

All Parties to this MOU will receive the Base Program services.

Infrastructure Enhancements Program

As shown in Exhibit A of this MOU, jurisdictions have chosen to contribute to the edible food recovery Infrastructure Enhancements Program which will direct additional food recovery resources to participating jurisdictions between July 1, 2023 and June 30, 2024. The Infrastructure Enhancements Program will include two subprograms, described as follows:

- 1) **Small Capacity Grants.** Grants will be issued to increase the food recovery capacity of food recovery organizations that serve contributing jurisdictions. Applications will be solicited, awards will be issued, and funds will be distributed. Joint Venture Silicon Valley will provide information for Annual Reporting that shows how contributions to this subprogram were spent on behalf of each participating Agency.
- 2) **Food Waste Prevention Classes.** A webinar/in-person series will be advertised for different sectors regulated under SB 1383 (e.g., restaurants, hospitals, schools, large events). The series will promote food waste prevention measures specific to each regulated sector, provide food recovery tips and best practices, and teach businesses and organizations how to comply with SB 1383 and local ordinances. The series will start with Tier 2, and then move into Tier 1 groups that answered 'zero pounds' in their reports, if funding allows. Joint Venture Silicon Valley will provide information for Annual Reporting that shows how contributions to this subprogram were spent on behalf of each participating Party.

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to michelle.bigelow@morganhill.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Morgan Hill as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Morgan Hill during the course of your relationship with City of Morgan Hill.

CONSULTANT AGREEMENT

Joint Venture Silicon Valley

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, in its capacity as contracting agent on behalf of the County of Santa Clara Recycling and Waste Reduction Commission Implementation Committee ("CITY"), and Joint Venture Silicon Valley a California corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2025 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be the Santa Clara County FY 24-25 Food Recovery Program as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$636,563.25. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Six Hundred Thirty Six Thousand Five Hundred Sixty Three dollars and Twenty-Five cents and shall be billed based on the rate and basis set forth in **Exhibit B.** If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 13 Notices. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation

has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The City Manager of CITY is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

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

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

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

7.1. **Insurance Types and Amounts.**

- 7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.2. **Automobile Liability.** CONSULTANT shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if CONSULTANT does not own automobiles, then CONSULTANT shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage

providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.3. Workers' Compensation Insurance and Employer's Liability. CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If CONSULTANT is self-insured, CONSULTANT shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

7.1.4. Pollution (Environmental) Liability. If the performance of CONSULTANT'S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, CONSULTANT shall procure and maintain Pollution Liability covering the CONSULTANT'S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

7.1.5. Professional Liability.

7.1.5.1. If the performance of CONSULTANT's work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), CONSULTANT shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if CONSULTANT maintains a claims-made policy, CONSULTANT shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

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

- 7.1.6. **Sexual Abuse/Molestation Liability (SML)**: If the performance of CONSULTANT's work or service under this Agreement involves contact with minors, CONSULTANT shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.2. **Endorsements**. CONSULTANT shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:
- 7.2.1. **General Liability and pollution liability (when pollution liability applies)**.
- 7.2.1.1. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations.
- 7.2.1.2. "Waiver of Rights of Subrogation" - The insurer waives the right of subrogation against the City of Morgan Hill and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and
- 7.2.1.3. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.
- 7.2.2. **Workers Compensation**.
- If the performance of CONSULTANT'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, CONSULTANT'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.
- 7.3. **Qualification of Insurers**. All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.
- 7.4. **Certificates**. CONSULTANT shall furnish CITY of Morgan Hill with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the CONSULTANT's agreement with the CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this section 7. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

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

9. **Compliance with Law.**

9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a “final judgment, decision, or order” refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against CONSULTANT and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT CONSULTANT OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order,

and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

10. **Independent Contractor.** CONSULTANT is an independent contractor and not an agent or employee of CITY.

11. **Confidentiality.** All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.

12. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

13. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Joint Venture Silicon Valley
Robin Franz Martin, Executive Director, Silicon Valley Food Recovery Program
P.O. Box 720010
San Jose, CA 95172

Address of CITY is as follows:

Environmental Services Mngr.	with a copy to:
City of Morgan Hill	City Clerk
17575 Peak Avenue	City of Morgan Hill
Morgan Hill, CA 95037	17575 Peak Avenue
	Morgan Hill, CA 95037

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.** Documents created by CONSULTANT for work performed exclusively for the Recycling and Waste Reduction Commission Implementation Committee shall be the property of the Recycling and Waste Reduction Commission Implementation Committee. CONSULTANT shall provide CITY, in its capacity as contracting agent for the Recycling and Waste Reduction Commission Implementation Committee, with copies of these items upon demand.
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.** 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").

21.2. **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 or willful misconduct of the CITY.

21.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMs alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by CONSULTANT.

21.4. **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.

21.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of the CONSULTANT to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

22. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and CONSULTANT. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

23. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

24. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

25. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

26. **Binding Agreement.** Notwithstanding the provisions of Section 19 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

27. ☐ **Data Sharing.** This Agreement requires access by CONSULTANT to CITY's Geographic Information System (GIS) DATA for CONSULTANT to perform the work. CITY agrees to provide the GIS DATA to CONSULTANT solely for the purpose of performance of contracted work with the CITY upon the terms and conditions specified in Exhibit D, incorporated herein by this reference.

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

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[Signatures on Next Page]

29. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

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

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

City Clerk/Deputy City Clerk

City Manager

Michelle Bigelow
Print Name

Christina J. Turner
Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

JOINT VENTURE SILICON VALLEY

City Attorney

By:

Donald A. Larkin
Print Name

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

Date: _____

Date: _____

By:

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

Date: _____

EXHIBIT A SCOPE OF SERVICES

Santa Clara County Food Recovery Program FY 2024-2025 Scope of Work for the Base Program and Enhancements

CONSULTANT shall fulfill all duties for the Program as the Program Manager specified in the Memorandum of Understanding (MOU) Among Local Public Agencies in Santa Clara County for Countywide Food Recovery Program (Exhibit D).

VOLUNTARY CONTRIBUTIONS FROM JURISDICTIONS

Base Program and Deliverables

A. Shall continue to operate a uniform method to comply with California Code of Regulations, Title 14, Division 7, Chapter 12, "Short-Lived Climate Pollutants." The Program Manager will operate within the Jurisdiction's boundaries and replace the need for the Jurisdiction to create such a program on its own. Should the jurisdictions need to increase their own capacity in order to comply with an Implementation Schedule, per CalRecycle, for a capacity shortfall, that capacity shortfall and Implementation Schedule will be addressed by the Program as part of the MOU Among Local Public Agencies in Santa Clara County for Countywide Food Recovery Program (Exhibit D).

B. Shall conduct a review of new Edible Food Generators, to ensure that as businesses open in Santa Clara County, the appropriate regulated entities are added to the lists. Closing businesses will be identified during the reporting process, and be eliminated from the lists.

C. Shall continue to work with CalRecycle, with other counties, and independently to interpret the regulations regarding refining the definitions of generators, so that the generator lists continue to accurately reflect those required to comply.

D. Shall provide the Jurisdictions with the information and data necessary for the Jurisdictions to make their required reports to CalRecycle a month before they are due.

E. Shall retain records of inspections in the Jurisdictions for a minimum of five (5) years.

F. Shall notify the Jurisdictions promptly about any related issues that require the Jurisdiction's assistance or to request the Jurisdictions lead in resolving the issue(s) that arise related to non-compliance.

G. Shall fulfill and endeavor to exceed the annual education requirement for the Jurisdictions and provide the data needed for Jurisdictions to complete required CalRecycle reports. Annual mailer to all generators; additional mailers as necessary, including letters specific to industry types; multiple rounds of email, Zoom meetings, and phone calls for general education, technical assistance, and tailored reporting follow-up and outreach. Previous years included an estimated 8,000 emails and 1,000 points of direct contact, and this year will be on a similar par.

H. Solicit required Food Recovery Reports from all Food Recovery Organization/Services and all tier 1 and tier 2 generators. Tier 2 reporting is new for this fiscal year and will require extensive outreach to these generators. Compile and provide the results to Jurisdictions for inclusion in the Implementation Records, and to Santa Clara County for use in future Capacity Planning efforts.

I. Shall conduct inspections and necessary follow-up inspections of at least 10% of the CalRecycle-defined Edible Food Generators in each jurisdiction and conduct monitoring in compliance with CalRecycle expectations for Edible Food Generators, in line with the Monitoring Plan approved by TAC at the December 2023 meeting and any edits made to this plan based on updated/additional guidance from CalRecycle. The Program will also conduct at least 3 inspections of Food Recovery Organizations and Services.

J. The Program shall supply appropriate content for a web site, including a list of Food Recovery Organizations and Services (to be updated at least annually) and be accessible to Edible Food Generators.

K. The Program Manager shall represent the interests of the Program with other entities, counties, and CalRecycle.

L. The Program Manager will follow procedures and timelines for compliance approved by cities and unincorporated County, encouraging uniformity in enforcement, which the Cities and County would be encouraged to follow.

M. The Program Manager shall create reports about Program activities each year in September, ahead of the budgeting process for the next fiscal year. These reports shall include a narrative about the Food Recovery Program activities, statistics, and total number of pounds of food recovered as reported by Edible Food Generators and Food Recovery Organizations ("FROs"). Statistics about food waste prevention and food recovery in Santa Clara County will be shared publicly.

Additionally:

- If at any time CalRecycle makes it known to either a jurisdiction or the Program that the above tasks are not sufficient to fulfill the regulatory requirements, the Program shall return to the IC to discuss amendments to this list of directives.
- The program relies on the Airtable suite of services at this time. If that service becomes prohibitively expensive or no longer serves the purpose necessary for the Program and a similarly priced program is not able to be found, the Program shall return to the IC to discuss amendments to this list of directives or associated budget.

Enhancements: Jurisdictional Contributions

The following enhancements were approved by the IC in November 2023. Cities indicated they are contributing the maximum amount, with only Milpitas contributing the minimum. Budgets have been created accordingly. I

1. Technical Assistance Partnerships

Project Narrative

Facilitate partnerships to leverage existing outreach and expertise in two specific areas of the food waste prevention and food recovery process:

- Better understanding whether generators understand and can take advantage of the tax benefits related to food donation, which generators already do so successfully and why, and what barriers may exist to taking advantage of this benefit. Food donation is incentivized by the tax code, but there is little understanding (even among organizations working on this issue at the national level, such as the NRDC) as to how compelling the incentive is, and under what conditions businesses can and do benefit from it.
- Better understand the opportunities to expand food upcycling, the opportunities for which mostly stem from pre-consumer businesses such as manufacturing and distribution.

Deliverables

1. Develop a brief that outlines the pros, cons, advantages, and barriers for generators (by different Tier 1 and Tier 2 types) taking advantage of tax benefits related to food donation, including case studies and information drawn from interviews with local generators and recommendations for any policy changes that would be supportive;
2. Formalize a recommendation about whether (and at what scale and cost) local public funding of tax expertise to generators could effectively and efficiently expand food donation;
3. Develop education/outreach materials based on the project learnings that can be used to augment the Food Recovery Program outreach to generators;
4. Identify at least 4 wholesale or distribution businesses that are good candidates for upcycling and connect them with the Upcycled Food Association and related upcycling opportunities.

2. School Campus Food Recovery

Project Narrative

The Project Manager will develop a Food Recovery Model Program at school sites in SCC to leverage the knowledge acquired by the Program through outreach activities and technical assistance calls to address the challenges schools face in complying with SB1383. The program will also aim to engage and educate other school districts in the county and provide a simple guide for compliance in schools. The Program Manager will purchase supplies for schools to defray the costs of food recovery and food waste prevention measures.

Deliverables

1. Distribute reusable resources that better enable recovery and prevention (freezer bags and ice packs, signage about foods not being opened, simple guides, etc.) to each school district office interested. The extent of resources offered will depend on the amount of funding available. The number of schools included in the program will depend on the final determination by the district and specific schools about the resources that are needed.
2. Develop a Food Recovery Model Program (a minimum of 1 to a maximum of 3) school sites for 6-8 weeks of the academic year. The Model Program will:
 - a. Provide the necessary training for the individuals that handle, serve or prepare food at the school site.
 - b. Distribute the needed supplies (mentioned above) to help recover food and prevent waste and test their effectiveness.
 - c. Support and engage school site stakeholders to ensure the sustainability of the program, ranging from school principal to parent volunteers.
 - d. Create instructional materials to inform and educate the staff and students.

3. Donation Reverse Logistics Expansion Effort

Project Narrative

As described under Recommendation 3.2.1 of *Making the Most of Surplus Food*, donation reverse logistics can improve food recovery efficiency by enlisting food distributors to also transport food donations, leveraging their existing relationships, refrigerated transport, drivers, food handling expertise, and even possibly packaging supplies (sheet pans, etc.) for their customer accounts.

Deliverables

1. Determine the overlap between the client base of food distributors with facilities located in the County and EFGs (particularly Tier 2) covered under SB 1383.
2. Create best practice materials for food donation reverse logistics, highlighting the value proposition and benefits for the third-party logistics provider, drawing from the experience of Chefs to End Hunger, Daylight, and models outside the County.
3. Distribute the materials in Deliverable 2 directly to in-county distributors, share them on the Food Recovery Program website, and promote them to relevant industry groups.
4. Develop, host, and record a virtual convening to highlight best practices, benefits and success stories related to donation reverse logistics, using the recording as

a supplement to written materials in the effort to promote the expansion of food donation reverse logistics.

5. Develop a pilot or a workable plan for a pilot donation reverse logistics program with at least 1 local food distributor.

TAC FUNDS

4. Recovered Food Hub Operating Plan

Project Narrative

The Recovered Food Hub is designed to address specific capacity shortfalls and distribution bottlenecks identified within the County's robust network of food recovery organizations, which already collect and distribute some 20 million pounds of food each year to people and communities in need. Completion of the Operating Plan will prepare the county to catalyze long-term investment in realizing one or more Surplus Food Hubs. Please see previous applications for hubs, such as the Building Back Better and CitiBank applications for more information.

Deliverables

1. Conduct detailed needs assessment and appropriate stakeholder engagement
2. Assess and select the needed operational assets and partners
3. Formalize the operating model and operational partnerships, which may include building plans, first steps towards any permitting, and identifying equipment needs.

EXHIBIT B
Schedule of Compensation
FY 24-25 Food Recovery Program (FRP)

Food Recovery Program Summary Budget

FY 2024-2025	Activity	Cost
Voluntary Contribution Funding		
	A. Base Program	\$283,451.25
	B. Enhancements	
	1. Technical Partnerships	\$ 79,625.00
	2. School Campus Food Recovery	\$106,000.00
	3. Donation Reverse Logistics Expansion Effort Project	\$ 49,112.00
	VOLUNTARY CONTRIBUTIONS FUNDS TOTAL	\$518,188.25
Recycling and Waste Reduction Commission TAC Funds		
	4. Recovered Food Hub Operating Plan	\$118,375.00
	RWRC TAC TOTAL	\$118,375.00
	TOTAL CONTRACT AMOUNT	\$636,563.25

A. Base Program Budget:

FY 2024-2025		
Base Program	Activity	Cost
	Contractor: data entry	\$3,300.00
	Travel- inspections	\$1,500.00
	Staff time. Executive Director (~15%, Associate Director ~10%), Program Manager ~70%, and Inspector/Educator, ~64%	\$211,161.00
	Database and extension subscriptions, hot spot	\$3,800.00
	Printing of compliance letters and creation of educational documents	\$7,000.00
	Overhead	\$56,690.25
	Total	\$283,451.25

B. Enhancements Budget:

1. Technical Assistance Budget

Category	Cost	Roles/Tasks
Staff time: Project Lead	\$40,000	Manage project, prepare deliverables
Staff time: Director	\$13,700	Program management
Direct Costs	\$10,000	Engage tax professionals to provide technical assistance, targeted research, and consultations with proxy generators
	\$750	“affiliate” membership in the Upcycled Food Association to gain access to resources and networking opportunities
Program Overhead, 20%	\$15,925	
Total	\$79,625	

2. School Campus Food Recovery Budget

Activity	Cost
Supplies for interested schools. Could include coolers, ice packs, bins, labels, other storage. Districts will be in the cities participating in the enhancements and described in EAR.	\$57,800.00
Staff time for soliciting school input on items, purchase, distribution	\$7,000.00
Create at least 1 (up to 3) model program/s in schools- Staff time to create a best practices program and materials that are SCC-specific	\$20,000.00
Program Overhead, 20%	\$21,200.00
Total	\$106,000.00

3. Donation Reverse Logistics Expansion Effort Budget

Activity	Cost
Project Manager Staff time, deliverables #1-5	\$38,290.00
Printed materials	\$1,000
Program Overhead, 20%	\$9,822.00
Total	\$49,112.00

4. Recovered Food Hub Operating Plan Budget

Category	Cost	Roles/Tasks
Staff time: Project Lead	\$45,000	Manage project, supervise work of contractor and collaboration with community stakeholders and County programs, prepare deliverables, facilitate a working group to build momentum and support amongst stakeholders
Staff time: Director	\$13,700	Program management
Contractor/Ops Lead	\$35,000	Operations expert. Coordinate Hub development process
Travel	\$1,000	Conduct site visits as needed (mostly in the Bay Area)
Program Overhead, 20%	\$23,675	
Total	\$118,375	

EXHIBIT C
SCHEDULE OF PERFORMANCE

Please see Deliverables listed in Exhibit A- SCOPE OF SERVICES

EXHIBIT D

**MEMORANDUM OF UNDERSTANDING
AMONG LOCAL PUBLIC AGENCIES
IN SANTA CLARA COUNTY
FOR COUNTYWIDE FOOD RECOVERY PROGRAM**

From: Christina Turner

To: Michelle Bigelow

Subject: Wednesday, June 5, 2024 City Council Meeting Questions

Supplement for Item 4 - APPROVE SECOND AMENDMENT TO THE FISCAL YEAR (FY) 2023/24 COUNTYWIDE SOLID WASTE SERVICES FOOD RECOVERY PROGRAM AND THE NEW FY 2024/25 CONTRACT WITH JOINT VENTURE SILICON VALLEY

Date: Tuesday, June 4, 2024

Staff Report: The purpose of this report is to provide the City Council with an opportunity to approve a second amendment to the City's consultant agreement with Joint Venture Silicon Valley (JVSV) for the administration and implementation of the FY 2023/24 Santa Clara County Food Recovery Program (Attachment 1), and also to approve a new consultant agreement with JVSV for the administration and implementation of the FY 2024/25 Santa Clara County Food Recovery Program (Attachment 2).

Question: Why is this being offered (extend the effective date) when the previous item #3 is being recommended to commence this year?

Response: The 2nd Amendment will extend the timeframe to complete services proposed as part of the 2023/24 Food Recovery Program deliverables, which were proposed when the participating jurisdictions were operating under the current one-year Food Recovery Program MOU. In essence, the work outlined in both this second amendment as well as the new contract in item 3 are necessary to meet Food Recovery Program commitments.

Staff Report: The new FY 2024/25 contract with JVSV for implementation of the Food Recovery Program covers base operations to reach minimum compliance with SB 1383 compliance requirements for food recovery programs, as well as program enhancements to support Technical Assistance Partnerships, School Campus Food Recovery, and Donations Reverse Logistics. The agreement also includes a TAC-funded project to implement a Recovered Food Hub Operating Plan.

Question: What is Donations Reverse Logistics? What is Recovered Food Hub Operating Plan and where is this located?

Response: The Donation Reverse Logistics and Recovered Food Hub Operating Plan projects are described under Exhibit A *Scope of Services* as part of the 2024/25 Agreement. They are as follows:

Donation Reverse Logistics Expansion Effort Project Narrative

Donation reverse logistics (also referred to as donation backhauling) can improve food recovery efficiency by enlisting food distributors to also transport food donations, leveraging their existing relationships, refrigerated transport, drivers, food handling expertise, and even possibly packaging

supplies (sheet pans, etc.) for their customer accounts. Expanding donation reverse logistics activity in Santa Clara County would make maximum use of existing infrastructure to make the Food Recovery Programs more efficient, less costly, and more convenient.

Recovered Food Hub Operating Plan Project Narrative

The Recovered Food Hub is designed to address specific capacity shortfalls and distribution bottlenecks identified within the County's network of food recovery organizations, which already collect and distribute some 20 million pounds of food each year to people and communities in need. Completion of the Operating Plan will be the first step in establishing one or more Surplus Food Hubs. The Food Hub will provide the organizational framework and operating protocols whereby the Silicon Valley's food assistance programs, food businesses, and public agencies can come together to source and repurpose additional surplus food (especially prepared foods), offer additional public food distributions, and provide community education and job training. This operating plan will provide a foundation on which to apply for grants.



City Council

Meeting Minutes

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

Wednesday, May 15, 2024 5:00 PM

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

SPECIAL/REGULAR MEETING

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

SPECIAL MEETING

5:00 p.m. Closed Session

CALL TO ORDER

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

ROLL CALL ATTENDANCE

Deputy City Clerk Kim Mancera called the roll.

PRESENT	Rene Spring, Gino Borgioli, Yvonne Martinez Beltran, Mark Turner, Marilyn Librers
ABSENT	None

DECLARATION OF POSTING AGENDA

Deputy City Clerk Kim Mancera declared the posting of the agenda.

CLOSED SESSION

City Attorney Donald Larkin announced the closed session items.

Conference with Legal Counsel – Existing Litigation (§ 54956.9)

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

Conference with Legal Counsel – Anticipated Litigation

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

OPPORTUNITY FOR PUBLIC COMMENT

Public comment opened at 5:01 p.m. There being no requests to speak, public comment closed.

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 5:01 p.m.

REGULAR MEETING

The regular meeting convened at 6:00 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS

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

PROCLAMATIONS

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

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

Proclaiming the month of May 2024 as Affordable Housing Month

Proclaiming the month of May 2024 as Wildfire Awareness Month

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

PRESENTATIONS

YAC Presentation

CITY COUNCIL REPORTS

Council Member Spring mentioned that he is currently the Chair of the South County Regional Wastewater Authority. He has been on the board for 8 years and is proud of the facility in Gilroy that continues to win awards for the way that it runs. He also noted that he is Chair of the Governing Board of the Santa Clara Valley Habitat Agency and a Board Member of the Implementation Board. There is an Implementation Board meeting tomorrow May 16, 2024, at 3:00 p.m. in the Council Chambers. One of the biggest highlights over the last few years was saving the land of the Tilton Ranch. He has been going to many events. He has learned to play bunco for a good cause, supporting the South County Tail Waggers. He has supported Operation Freedom Paws with a pasta feed. He also joined the Disaster Airlift Response team at the San Martin Airport last week.

CITY MANAGER'S REPORT

City Manager Christina introduced and recognized the City's new, promoted and retired teammates. She recognized Deputy City Clerk Kim Mancera for receiving her Certified Municipal Clerk (CMC) designation. She recognized Ryan Warren and Adrian Sapien for their excellent work in their homicide investigations that led to several arrests. In addition, Monica Travens with Calfire was recognized for her heroic life-saving work in response to a major road accident. She announced that Tanaya Rose has been appointed to the Library, Culture, and Arts Commission and John Moniz has been reappointed to the Parks and Recreation Commission. May is bike month. She mentioned that on May 16, 2024 during "Bike to Wherever Day" from 2:00 p.m. to 4:00 p.m., the City will be hosting an Energizer Station to support participating riders in the Community. The Energizer Station will be located near the Centennial Recreation Center on the West Little Llagas Creek Trail. There will be a Family Health and Wellness Resource Fair on May 18, 2024, from 10:00 a.m. to 2:00 p.m. at the Community and Cultural Center for performances, health screenings, family resources, workshops, and more! She also invited the Community to visit the City's Corporation Yard on Wednesday, May 22, 2024, from 9:00 a.m. to 11:00 a.m. to celebrate Public Works Week! At this free event, you can meet public works employees, see equipment demonstrations, and learn about the role Public Works professionals play in our everyday life. She concluded by announcing that the San Jose Panthers continue to play their home games at SAP Center and their next home game is on May 25, 2024, against the San Antonio Gunslingers at 6:05 p.m. and then on June 8, 2024, against Tucson.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin announced that there was no reportable action in the City of Morgan Hill vs. Rocke and Glenda Garcia closed session item. The second closed session item regarding Ten South Acquisitions LLC, which Council gave the authority to enter into a settlement agreement. Under the terms of the agreement, the City would not raise legal obstacles to Ten South Acquisitions LLC project. In exchange, Ten South Acquisitions LLC would agree to maintain at least 20% of the total units as very low income housing and provide a \$2 million contribution towards City infrastructure, among other things.

OTHER REPORTS

Council Member Martinez Beltran announced that on Saturday, May 18, 2024, there will be a children's art exhibit "Expressions about Palestine". This will be held at the Peace Monument from 12:00 p.m. to 4:00 p.m. She also mentioned that she is on the Peninsula Division's Executive Board for the League of California Cities. On May 22, 2024, from 11:30 a.m. to 1:00 p.m. at Cisco, they will be discussing different ballot measures. She spoke about attending the Legislative Action Day for the League of California Cities. She mentioned that the Morgan Hill Education Foundation had a ribbon cutting to support our kids. She thanked the teachers for teachers' appreciation month. She chairs the VTA PAC Committee, and they approved a \$4.2 million project

for the SR 85 corridor program.

PUBLIC COMMENT

Public comment opened at 6:43 p.m. The following person was called to speak:

Krista Rupp

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

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

CONSENT CALENDAR

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

MOTION:

Approving the agenda as posted.

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

1. ACCEPTANCE OF FISHER BASIN EXPANSION PROJECT IN THE AMOUNT

OF \$2,488,052

Recommendation:

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

2. ADOPT 2024 WASTEWATER COLLECTION SYSTEM MASTER PLAN UPDATE

Recommendation:

Adopt the 2024 Wastewater Collection System Master Plan Update.

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

Recommendation:

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

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

Recommendation:

Waive the reading, adopt Ordinance No. 2354, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

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

Recommendation:

Waive the reading, adopt Ordinance No. 2355, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

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

Recommendation:

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

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

Recommendation:

Approve minutes.

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

Recommendation:

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

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

Recommendation:

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

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

Recommendation:

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

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

Recommendation:

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

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

Recommendation:

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

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

Recommendation:

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

PUBLIC HEARINGS

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

Recommendation:

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

Senior Project Manager Yat Cho provided the report.

The public hearing opened at 6:52 p.m. There being no requests to speak, the public hearing closed.

MOTION:

Approving staff recommendation.

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

OTHER BUSINESS

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

Recommendation:

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

Public Services Director Chris Ghione provided the report and presentation, along with Robert Del Rio and Ruben Rodriguez with Hexagon Transportation

Consultants.

Public comment opened at 7:55 p.m. There being no requests to speak, public comment closed.

MOTION:

Approving staff recommendations for 15.2 and 15.3.

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

16. APPROVE SOUTH COUNTY RECYCLED WATER DISTRIBUTION MASTER PLAN

Recommendation:

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

Public Services Director Chris Ghione provided the report and presentation, along with David Tucker and Kristen Struve from Valley Water.

Public comment opened at 8:45 p.m. The following people were called to speak:
Doug Muirhead
There being no further requests to speak, public comment closed.

MOTION:

Approving staff recommendation.

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

Mayor Turner extended the end time of the meeting to no later than 10:30 p.m.

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

Recommendation:

Receive the Introduction to the Recommended Budget Presentation.

Budget Manager Monica Delgado provided the report and presentation.

Public comment opened at 9:18 p.m. There being no requests to speak, public comment closed.

Report received.

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

Recommendation:

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

City Manager Christina Turner provided the report.

Public comment opened at 9:30 p.m. The following person was called to speak:
Armando Benavidos

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

MOTION:

Approving public comment on Zoom.

RESULT:	Failed
MOVER:	Council Member Martinez Beltran
SECONDER:	None
AYES:	None
NAYS:	None
ABSTAIN:	None
ABSENT:	None

MOTION:

Approving public comment on Zoom for items on the agenda only and include a registration process.

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

19. PROVIDE DIRECTION REGARDING OPTIONS FOR PUBLIC ART FUNDING

Recommendation:

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

Assistant City Manager for Development Services Edith Ramirez provided the report and presentation.

Public comment opened at 10:32 p.m. The following people were called to speak:

David Dindak

Nick Gaich

Amanda Santiago

Marlene Amerian

Suman Ganapathy

Abigail Dunnivan

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

Report received.

Council directed staff to come back with more information.

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Spring would like to have a discussion to clarify the Council's position on festivals.

Council Member Martinez Beltran would like to have a discussion about bringing Viva Calles to Morgan Hill.

ADJOURNMENT

There being no further business, Mayor Turner adjourned the meeting at 11:01 p.m.

Minutes Prepared by:

Kim Mancera, Deputy City Clerk



City Council

Meeting Minutes

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

Wednesday, May 22, 2024 5:00 PM

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

CALL TO ORDER

Mayor Turner called the meeting to order at 5:04 p.m.

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow called the roll.

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

Council Member Borgioli arrived at 6:15 p.m.

DECLARATION OF POSTING AGENDA

City Clerk Michelle Bigelow declared the posting of the agenda.

PUBLIC COMMENT

Public comment opened at 5:05 p.m. There being no requests to speak, public comment closed.

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

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

BUDGET WORKSHOP

1. **REVIEW THE CITY MANAGER'S RECOMMENDED FY 2024-25 AND FY 2025-26 BIENNIAL OPERATING AND FY 2024-25 THROUGH FY 2029-30 CAPITAL IMPROVEMENT PROGRAM BUDGETS**

Recommendation:

Review and discuss the Recommended Budgets, including Community Funding requests.

City Manager Christina Turner provided an overview of the workshop. She then shared the biennial budget process. She provided an explanation of the City's various funds. She provided a high-level overview of the budget and turned the presentation over to Finance Director Dat Nguyen. Public Services Director Chris Ghione went through the Capital Improvement Budget. The Council reviewed and discussed the City council budget and CommunityFunding.

Public comment opened at 6:08 p.m. The following people were called to speak:

Roger Knopf

Doug Muirhead

Mattie Scariot

Joe Baranowski

Armando Benavides

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

Public comment opened at 8:13 p.m. The following people were called to speak:

Armando Benavides

Doug Muirhead

Kathy Sullivan

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

Public comment opened at 8:40 p.m. There being no requests to speak, public comment closed.

ADJOURNMENT

There being no further business, Mayor Turner adjourned the meeting at 8:41 p.m.

Minutes Prepared by:

Michelle Bigelow, City Clerk

From: [Joe Baranowski](#)
To: [Michelle Bigelow](#)
Cc: [CC Public Comment](#)
Subject: [EXTERNAL] Public Comment for June 5th CC meeting and two associated slides
Date: Wednesday, June 5, 2024 8:02:09 AM
Attachments: [Offsite Employee Spending public comment for June 5 CC meeting agenda item 5 .pdf](#)
[Slides for June 5th City Council public comment on agenda item 5 .pdf](#)

Hi Michelle,

I was glad to see that nothing was supplemented yet. Please find the updated public comment (minor corrections) and an associated two page document that I would like to have displayed during my comments on agenda item 5 this evening.

Thanks for your assistance,

Joe

---- On Mon, 03 Jun 2024 17:21:56 -0700 **Joe Baranowski** <joe.b@mh-rgc.org> wrote -
--

Hello everyone,

I have attached a public comment for the June 5th, 2024 City Council meeting, agenda item #4: Approve the May 22nd, Budget Workshop Minutes to address some comments made during that budget workshop that were either misleading or just made-up. Similar comments have been repeated in important decision-making discussions for YEARS. Really, that should stop.

Maybe you will agree after considering the attachment,

Regards,

Joe

WARNING: This message is from an external user. Confidential information such as social security numbers, credit card numbers, bank routing numbers, gift card numbers, wire transfer information and other personally identifiable information should not be transmitted to this user. For question, please contact the Morgan Hill IT Department by opening a new helpdesk request online or call 408-909-0055.

Public Comment re. June 5th, 2024 City Council meeting, agenda item #4, Approve the May 22, 2024 Budget Workshop Minutes : specifically a response to these misleading statements during the workshop: <https://youtu.be/1M3yPZ9Scm4>



Context and Purpose

How 'jobs' do and do *not* support growing General Fund revenue, and thus the fiscal sustainability of the Morgan Hill community, is of critical importance in many decisions and is especially relevant in the ongoing budget discussions. It would *seem* obvious why some people are asking the staff to provide reasonable *estimates* for the fiscal contributions (net revenue to the General Fund) that developments already complete or near completion but not yet occupied ('jobs') will have during the years which are being forecast in the budget. Unfortunately, not only have reasonable *estimates* been unavailable, misleading or ***just made-up*** statements have been made suggesting 'jobs' will *directly* ensure General Fund revenue from projects / businesses will be sufficient to justify the direct (public services the City must provide) and indirect (use of limited available land) public costs via the sales tax revenue from offsite employee spending.

The *completely* unsupported, misleading and flat-out wrong story that any development that results in jobs being created must be a good idea because employees will go around town spending their wages thus growing the City sales tax revenue has been oft-told by residents and supporters of developer projects who can be excused for not knowing better and most likely just repeating something they heard. That public employees and elected officials, who have the obligation to make decisions in the Public Interest, are repeating patently false statements and apparently *actually* believe them should be unacceptable to everyone. To those spreading misinformation, please STOP IT.

Off-site Employee Spending Impact on General Fund : Summary of data and analysis

Using industry-standard methodology and current Bureau of Labor Statistics Consumer Expenditure Survey (CES) data, the estimated gross and net General Fund revenue from sales tax resulting from employee spending, also referred to as *off-site, indirect or induced* revenue, as a function of employee income is:

Annual Estimated General Fund Revenue from Off-site Employee Spending vs Wages					
	Lowest 20 Percent	Second 20 Percent	Third 20 Percent	Fourth 20 Percent	Highest 20 Percent
Income before taxes (quintile median)	\$15,103	\$41,321	\$71,964	\$117,021	\$255,842
Total Taxable Spending % [note 3]	82.25%	41.01%	32.73%	25.26%	16.67%
Total Taxable Spending Amount	\$12,422	\$16,948	\$23,557	\$29,564	\$42,658
Estimated Capture Rate within City [note 1]	45%	45%	45%	45%	45%
Total off-site spending in City	\$5,590	\$7,626	\$10,601	\$13,304	\$19,196
Gross Sales Tax Revenue to General Fund	\$56	\$76	\$106	\$133	\$192
Estimated Net per-capita cost of services [note 2]	(\$110)	(\$110)	(\$110)	(\$110)	(\$110)
Net Revenue to General Fund per 'Job'	(\$54)	(\$34)	(\$4)	\$23	\$82

Notes:

[1] The primary assumption in the analysis is percentage of total employee spending will occur at locations within the City during the year. Assuming 45% capture rate across all categories of expenditures (see methodology below) is very optimistic – meaning the gross and net revenues shown are likely to be greater than actual.

[2] Data from July 2020 fiscal impact study by Strategic Economics [1], approximated adjustment for inflation

[3] Because there is no significant difference between wage classes and no meaningful net contribution to the General Fund, a simplified assumption is often made that the 'average worker' will spend 25% - 30% of their annual income on taxable income. Further discussion in the methodology section below explains why a slightly higher (which again would be more 'optimistic') percentage for 'average' spending across all items and wages results from the current data.

What the data means and answers to anticipated attempts to defend just making it up

1. The amount of gross sales tax revenue generated by off-site employee spending is practically insignificant across all income levels, and the *net* General Fund revenue taking per-capita expenditures and revenue associated with city services provided to employees into account is *negative* for employees making less than approximately \$100,000 per year.

Whether it be a brain surgeon working in the 155-bed hospital coming to MH in two-years (see video link) or a warehouse worker unloading a truck, the gross sales tax revenue generated by workers eating at McDonalds' or Williard Hicks, or stopping at Target to buy double-quilted super soft toilet paper or the cheap stuff is very minor.

2. But.....a person making \$246,000 should generate six times more sales tax than someone making \$41,000 (\$246,000 / 6) so your analysis is obviously wrong. And, on top of that, if you weren't trying to be so negative you would have shown higher income brackets because a brain surgeon might easily make \$1,476,000 (6 x \$246,000) per year and that person would spend six times more on stuff, so even though the economic development team argued that medical offices would only generate property tax and zero 'other' taxes when they pitched overlay zones and auto malls, a hospital really will be great for the city budget just like I said.

As the table shows, higher income people spend a smaller percentage of their income on taxable items. You can drink top-shelf liquor, but you can only drink so much, higher wage earners don't need that much more laundry detergent than low wage earners. Higher income wage earners 'spend' a lot more money on savings and investments and things like insurance. The Bureau of Labor Statistics Consumer Expenditure Survey's use the four different brackets of income shown above.

3. The fact that employee offsite spending does not lead to any meaningful General Fund revenue should not surprise anyone who was paying attention in 2020-21. In the July 2020 Trammell Crow Fiscal Impact analysis, Strategic Economics estimated that "worker spending would be approximately 25% of resident spending, or \$3,811 per worker" (\$38.11 in gross annual General Fund revenue per employee).

Consultants the City have trusted for years showed that offsite employee spending from 100 employees that "have to eat somewhere" would generate \$3,800 per year in total gross revenue. For sake of illustration, pretend the City has no associated costs to provide services to the employees and thus gross and net revenue are the same. What was right in front of anyone who wanted to look is that it would take ~6,600 new 'jobs' to support the addition of one sworn officer.

There are as many other cross-checks available as there is time someone wants to spend searching. In December 2020, Menlo Park, a rather affluent city, commissioned the 'bae urban economics' group for a "Fiscal Impact Analysis Report for the Proposed Menlo Uptown Project". The bae consultants determined that taxable sales from worker spending could be estimated accurately enough by using a single average which resulted "in an estimate that workers in Menlo Park spend an average of approximately \$3,062 per year on taxable purchases in Menlo Park". At that time Menlo Park's local sales tax rate was 1%. The gross General Fund revenue per worker per year was estimated to be **\$30.62**.

4) So, you're saying jobs don't matter at all? That's ridiculous! Yes, that would indeed be ridiculous but of course that is NOT what I'm saying. **Jobs are important for several reasons:**

a) **Advanced Manufactures** generate business-to-business sales tax that can be much higher than the total combined property taxes when they are producing something that the marketplace values and when they make continual investments in technology and equipment used to grow their business. Skilled employees, (jobs!) are often the most valuable and important resource that such companies need to grow and be successful. The MH General Plan recognizes the importance of encouraging developments that "provide high quality work locations for existing and new businesses". Jobs are important because they encourage more jobs when companies that *know* they must be able to retain existing employees and find new ones are confident that there is a strong base of existing workers. Whether it be 'traditional' direct to consumer retail sales tax from general merchandise, apparel or specialty stores, automobiles or restaurants or business-to-business sales and / or use taxes, jobs are OBVIOUSLY critically important.

HOWEVER, there are well-known businesses / industries that depend on workers (jobs) BUT do not, for various reasons, generate the amount of business-to-business taxes that advanced manufacturing businesses do. Employee spending will NOT result in those cases somehow being justified as supportive of the General Fund compared to ANY use case that

generates significant on-site sales, be it retail or business-to-business. Advanced Manufacturing cannot be an economic pillar unless those businesses generate B2B sales tax.

b) Socioeconomic. People need good jobs to have a good quality of life and helping people achieve a good quality of life *is* in the Public Interest.

Unfortunately, as the current budget discussion has highlighted, when there is not sufficient General Fund revenue, it is not possible to support the many things that will encourage more jobs, or to use public funding in a socially / morally responsible way to support creating more opportunity and upward mobility for residents that require good and stable employment.

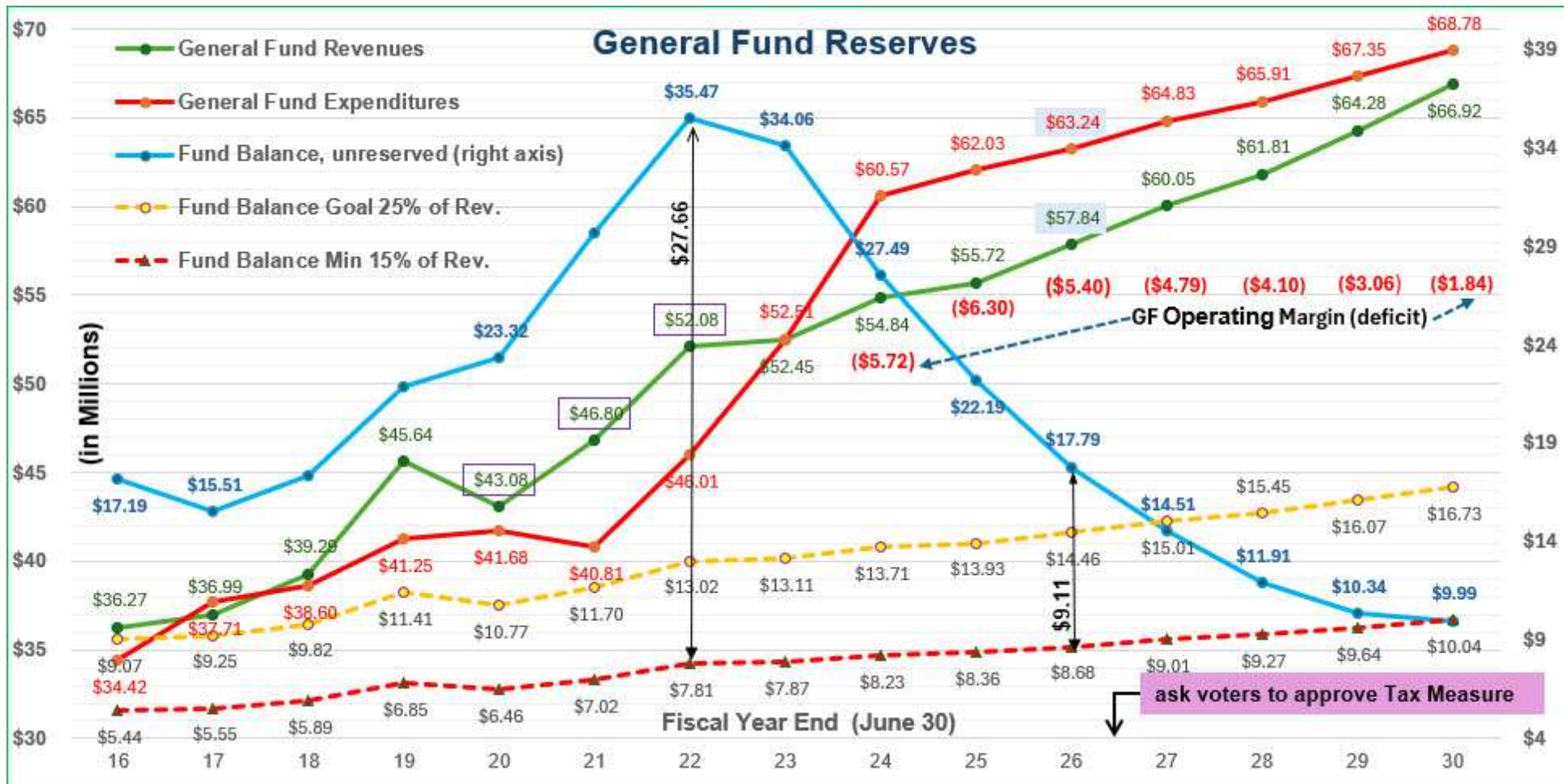
c) It is sometimes pointed out that more jobs can lead to more residents working in the City which reduces the number of commuters. That can reasonably be assumed to be a 'fact'. However, nobody has ever presented any analysis to suggest that 'jobs' filled by people who also live in the City will have any *meaningful* impact on the *huge* unfunded Transportation Infrastructure needs. I seriously doubt anyone ever will.

d) The number of employees can be, and in Morgan Hill is, used to determine Business License 'taxes'. **Which leads directly to the crux of the matter.**

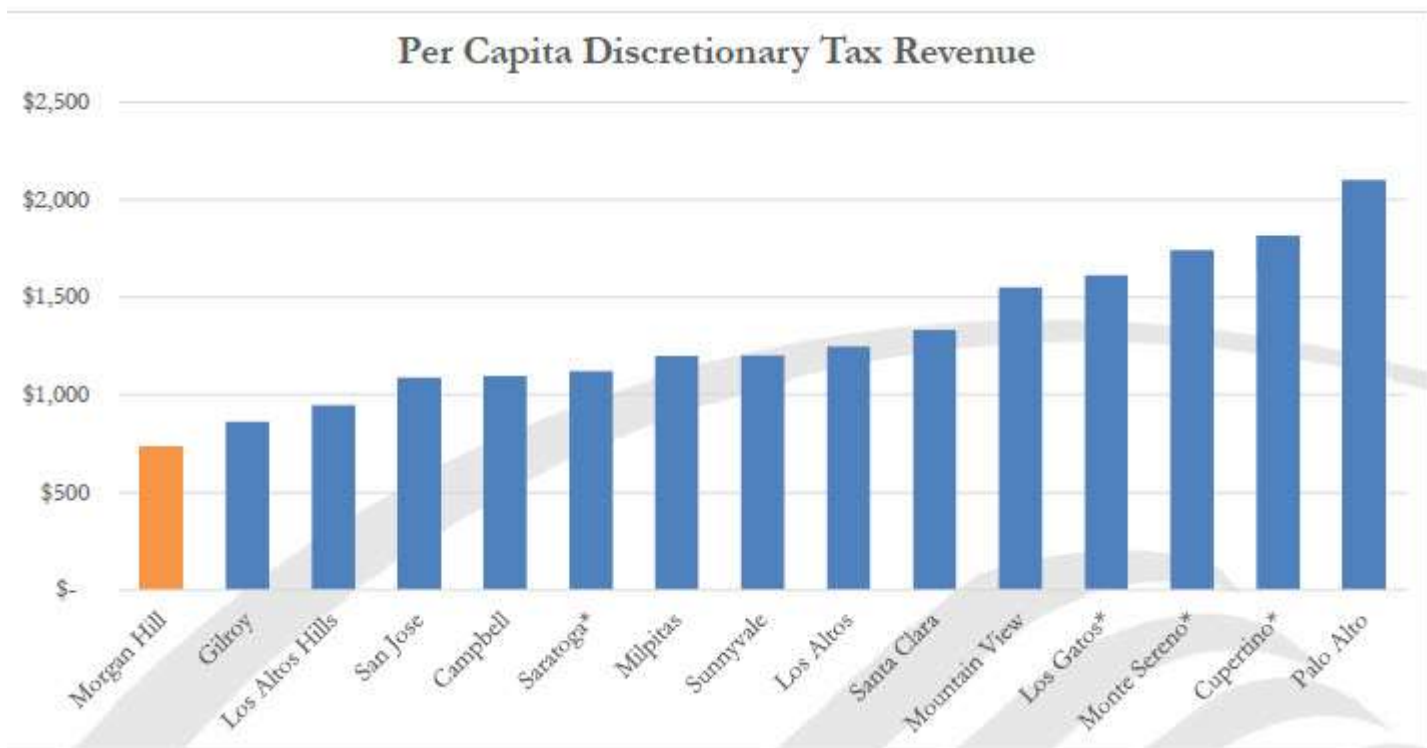
OK, offsite employee spending does not generate any revenue. So what? The new buildings are already providing an "uplift" in property taxes so who cares if some, or maybe a lot, of the space ends up getting filled with uses that don't generate the business-to-business taxes that advanced manufacturing does?

How does any of this impact the budget discussion?

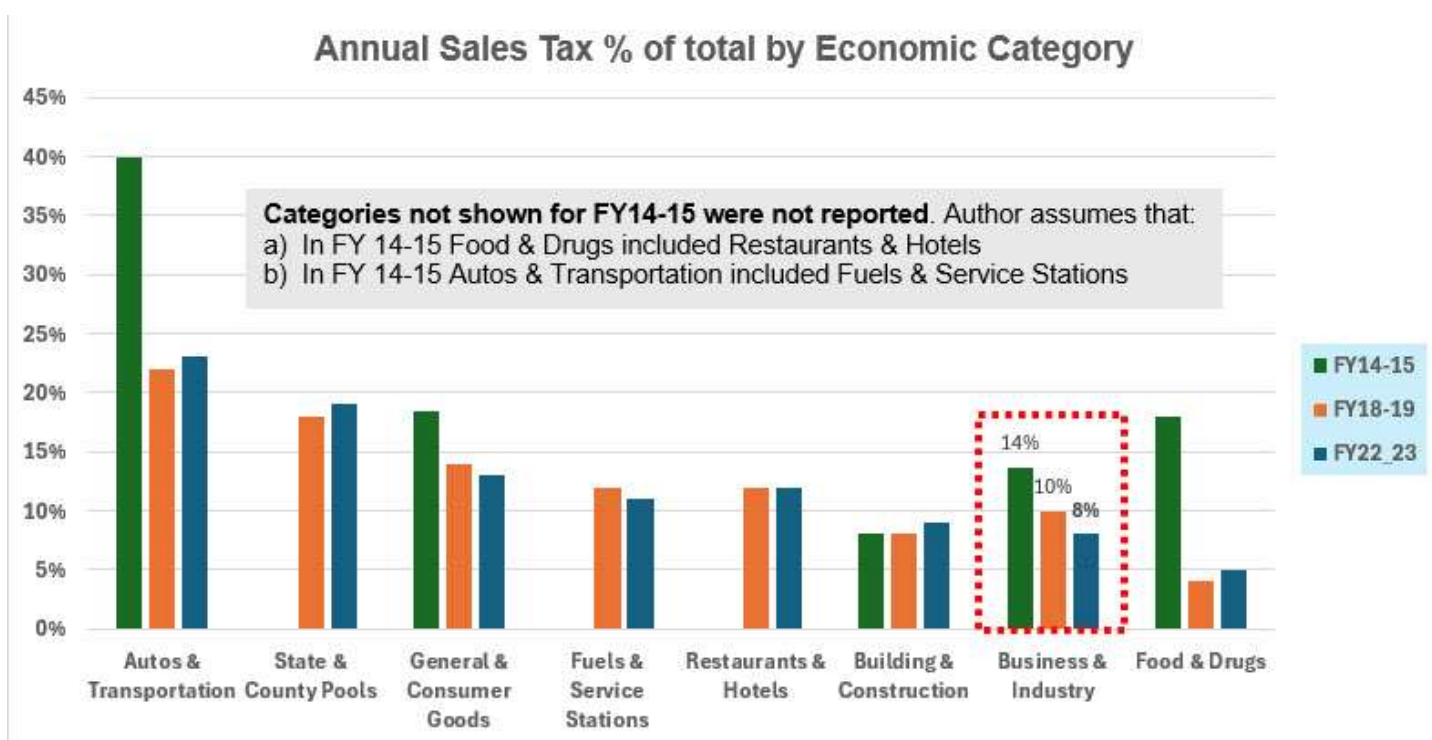
The reason that misleading statements and their resulting implications are so objectionable is because they are masking an important part of the discussion. *Many* reasons are highlighted for the General Fund problem shown on the next page.



- Wage and benefit, maintenance and practically every expenditure you can name being impacted by Inflation is 'new'.
- Recreation Services 'cost recovery', TOT revenue, empty retail all being impacted by Covid is 'new'.
- Per Capita Discretionary Tax Revenue is 'old' and a 'tax adverse' community is a primary cause?
- But what about the thing that is *not* new? And if that isn't addressed *now* is it reasonable to expect it ever will be? And, why is the assumed Tax Measure 'fix', and yes there is an assumed Tax Measure, directed so quickly at (primarily) residents?



OK but part of the reason for that 'fact' is this:



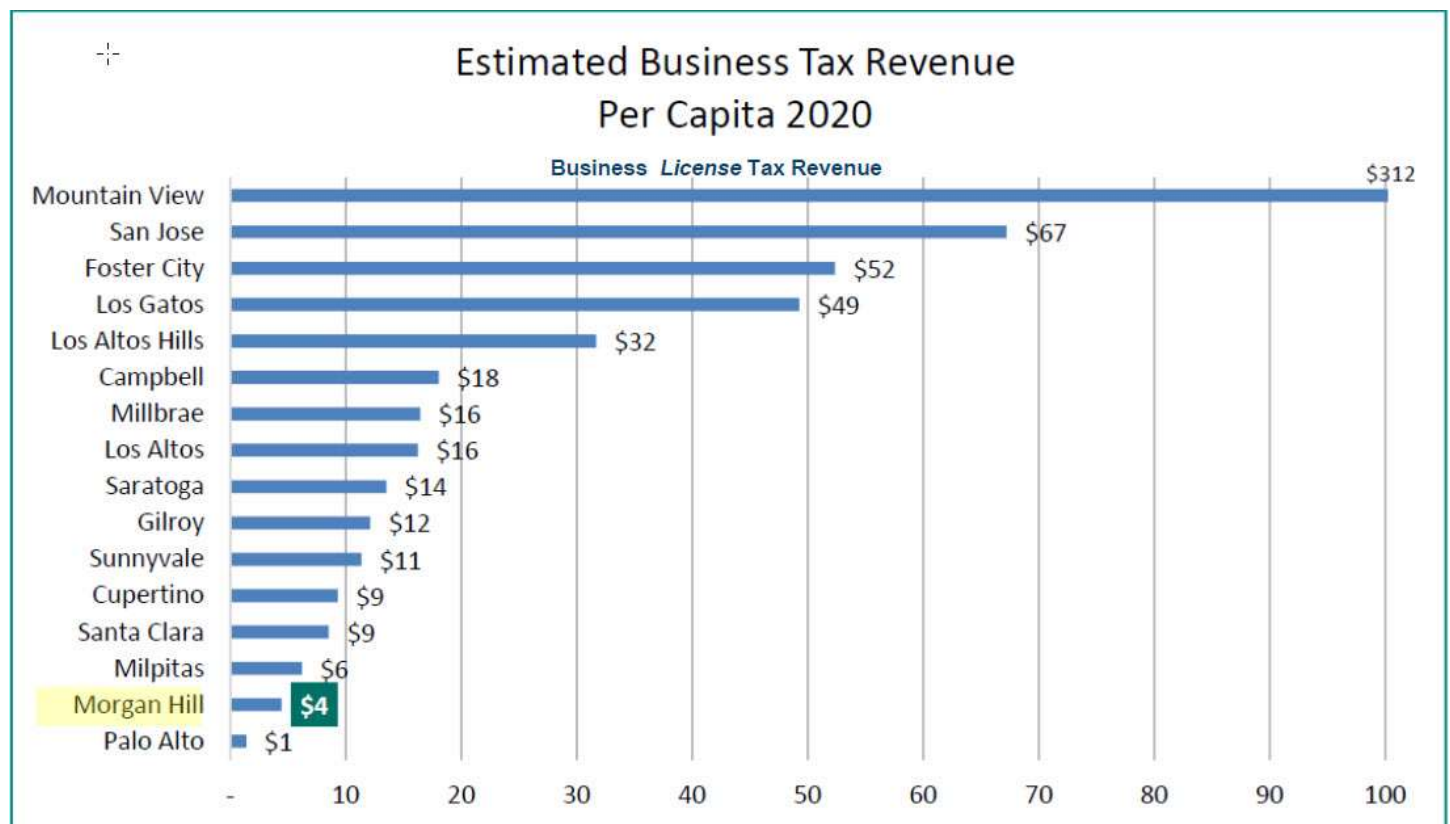
The City has failed to meaningfully grow the business-to-business sales tax revenue and as a percentage of total annual sales tax revenue it hasn't increased since the Economic Blueprint was released and is lower than it was in 2015. The most visible output of economic development has been more auto dealerships.

But, since 2020, approximately 1,400,000 square feet of high-ceiling, nearly windowless, tilt-up concrete structures have

been approved and built (Shoe Palace, Butterfield 5 and Cochrane Technology Center which was originally called Redwood). The entire premise of those buildings, which the City insisted *from the beginning* were designed to attract 'advanced manufacturing' businesses, was that promoting and encouraging 'speculative' development, despite the objections of the vast majority of residents, was the best way to 'preserve' the limited amount of developable industrial land that *was* available. Allowing developers to design buildings whose key architectural features were targeted for warehouse and distribution uses was explained-away as 'just' giving developers the 'flexibility' they needed to make their project 'pencil'. Residents were assured the benefit would be 'good jobs' and the chance to finally grow Business and Industry Sales Tax (B2B) that would support the General Fund - allowing critical services such as Public Safety to be improved.

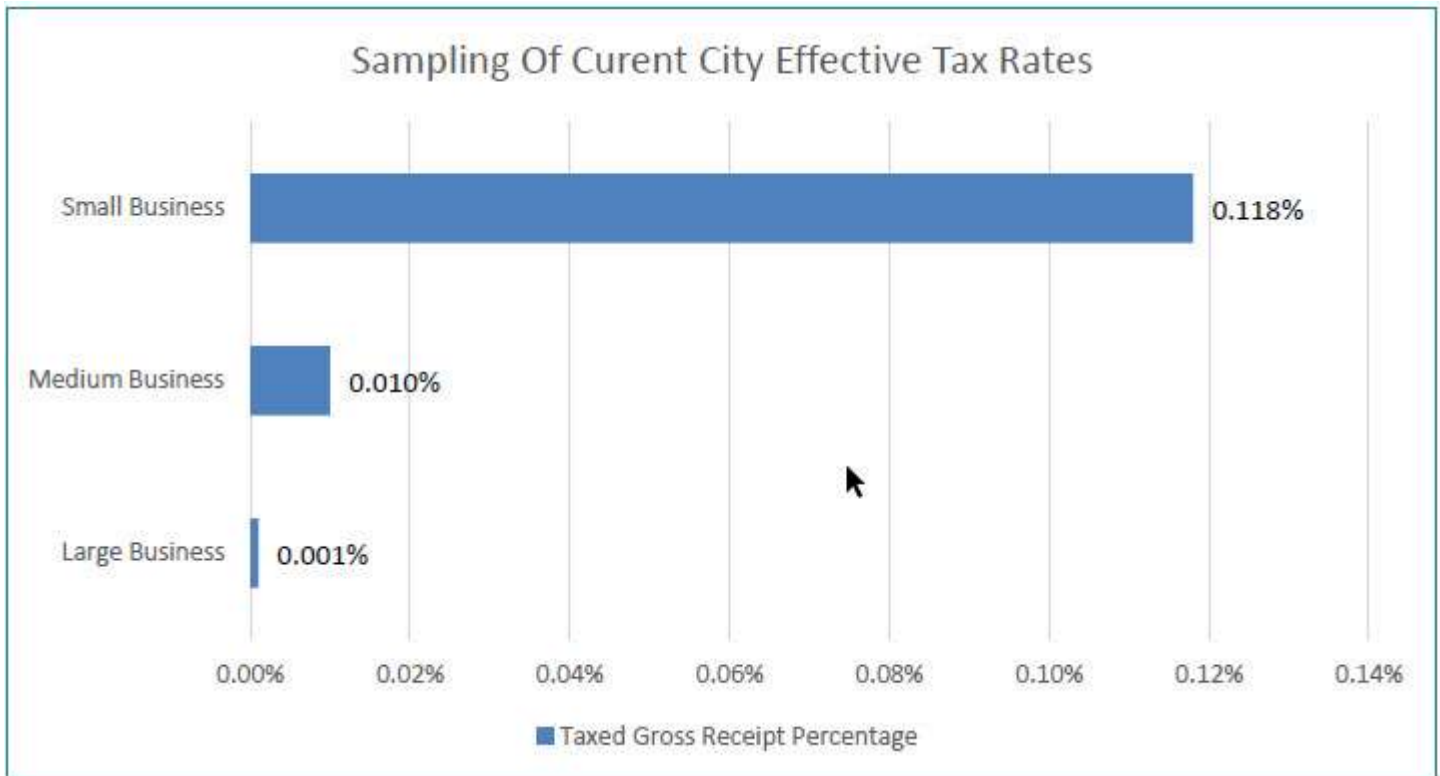
1,400,000 square feet can accommodate 15-20 new 'advanced manufacturing' businesses and those businesses must generate significant new B2B taxes IF the let them build it (large concrete bunkers) and they will come strategy is to deliver. **If B2B does not start to drive a higher percentage of sales tax growth 'now', then when?**

In the meantime....., other cities have a utility tax, but other cities have done what Morgan Hill has talked about for a long time. In Morgan Hill a very large laundry list of incentives (impact fee freeze, Development Services subsidies, statements of overriding concerns, sham traffic analyses, General Plan and Zoning Code amendments,) has been justified because supposedly MH is not 'business friendly enough'. Which, I assume is the primary reason for this:



Note: As shown the data is from 2020. I assume the numbers have change significantly and probably show an even larger disparity between Morgan Hill and every other city shown. I don't know the history of Palo Alto's low business license tax revenue or if it is still the case, but Palo Alto's 'Business and Industry' sales tax category generates approximately 29% of the total annual sales tax revenue.

Nothing has been done to address the above even though there is a well-known issue that isn't just about how much but how fair.



As the July 2020, HdL 'Business Tax Analysis and Ordinance Review' stated:

The City measures the business tax on number of employees or number of units. As with many tax structures that use employees and units, the current method of taxation creates a regressive tax rate. This means the effective tax rate on a business decreases as the size of a business increases. As a result, certain businesses pay over a 100 times the effective tax rate of other businesses. Even those within the same industry can see variances of five (5) or six (6) times a similar business.

How many millions of dollars in General Fund revenue are being impacted or will be impacted by whether B2B sales tax growth expected from advanced manufacturing is realized or not and by an existing Business License Tax structure that has needed action for years ?

Off-site employee spending forecast methodology

There are two commonly used methods to estimate off-site employee spending. As mentioned above, Strategic Economics and others use the International Council of Shopping Centers database of shopping behavior near places of work and correlate it with actual sales in the target city to estimate per worker spending.

It is not an intuitive method. The U.S. Bureau of Labor Statistics Consumer Expenditure Survey (CES) data is extremely granular, available to the public and widely discussed because it is the primary basis for the Consumer Price Index. Kosmont Companies, another consulting firm the City has used (including in the expert advisory panels that were held when the Industrial Preservation Policy was being drafted) and other well-respected groups, use the CES data in fiscal impact studies, including the example shown below which was for one particular income. The methodology is intuitively simple to understand. The dollar amount that survey participants spend on the categories shown below are tabulated in CES data which is available on state and county level. Four of the reported categories (Food at Home, Vehicle Maintenance and Repair, Drugs, and Medical Supplies) include items that are not taxable. Estimates for the percentage of taxable amounts within those categories are derived from non-listed sources. I have used the same percentages as Kosmont, but the analysis is not that sensitive to any of the estimates except Food at Home. The expenditures as a percentage of the median income in each income bracket is calculated by simple division. As mentioned above, the data

used in the top-level summary is taken from the 2021-2022 Consumer Expenditure Surveys, when CPI was near a multi-year peak. The effect is that the assumed revenue to the General Fund shown is VERY optimistic and most likely higher by ~3% - 5% than it would be in today's environment.

Appendix D: Employee Spending

Est. Average HH Income (pre-tax):			\$43,600
Annual Expenditures	Percent	Amount	
Food at home*	7.1%	\$3,106	
Food Away from Home	4.4%	\$1,921	
Alcoholic Beverages	0.7%	\$301	
Fuel oil and other fuels	0.3%	\$139	
Other household expenses	1.3%	\$583	
Housekeeping Supplies	1.2%	\$517	
Household Furn & Equip	2.5%	\$1,073	
Apparel & Services	2.6%	\$1,146	
Vehicle Purchases	4.4%	\$1,909	
Gasoline & Oil	6.0%	\$2,613	
Maintenance & Repairs**	1.5%	\$674	
Drugs**	1.1%	\$481	
Medical supplies***	0.3%	\$124	
Entertainment	4.2%	\$1,830	
Personal care products & services	1.2%	\$506	
Reading	0.2%	\$87	
Tobacco related	0.9%	\$406	
Total Taxable Spending	32.4%	\$14,100	
Total Taxable and Non-Taxable	39.9%	\$17,400	

Note: Estimated employee income based on Bureau of Labor Statistics industry average wages for Riverside County. All amounts in 2015 dollars.

*15% of "Food at home" purchases assumed to be taxable.

** 50% of "Maintenance & Repairs" and "Drugs" purchases assumed to be taxable.

*** 25% of "Medical supplies" purchases assumed to be taxable.

Source: U.S. Census (2010); Bureau of Labor Statistics; ESRI; Kosmont Companies (2015)

The full analysis using the data and assumptions stated herein is shown on the next page.

BLS Consumer Expenditure Survey, California: Quintiles of income before taxes, 2021–2022					
	Lowest 20 Percent	Second 20 Percent	Third 20 Percent	Fourth 20 Percent	Highest 20 Percent
Income before taxes	\$15,103	\$41,321	\$71,964	\$117,021	\$255,842
Annual Expenditures					
Food at Home	\$4,280	\$5,233	\$6,276	\$7,145	\$9,173
% of income	28.34%	12.66%	8.72%	6.11%	3.59%
Taxable Food at Home (15% of total) %	4.25%	1.90%	1.31%	0.92%	0.54%
Food Away from Home	\$2,090	\$2,251	\$4,328	\$4,815	\$7,471
% of income	13.84%	5.45%	6.01%	4.11%	2.92%
Alcoholic Beverages	\$274	\$362	\$715	\$791	\$1,614
% of income	1.82%	0.88%	0.99%	0.68%	0.63%
Housekeeping Supplies	\$647	\$644	\$945	\$882	\$1,306
% of income	4.29%	1.56%	1.31%	0.75%	0.51%
Household Furnishings & Equip	\$1,268	\$1,988	\$2,364	\$2,944	\$6,032
% of income	8.39%	4.81%	3.28%	2.52%	2.36%
Apparel & Services	\$1,004	\$1,531	\$2,452	\$2,078	\$3,384
% of income	6.64%	3.71%	3.41%	1.78%	1.32%
Vehicle Purchases	\$1,652	\$2,263	\$3,547	\$5,354	\$7,390
% of income	10.94%	5.48%	4.93%	4.58%	2.89%
Gas, other fuels, & oil	\$1,742	\$2,596	\$3,049	\$4,125	\$4,292
% of income	11.54%	6.28%	4.24%	3.53%	1.68%
Maintenance & Repair	\$730	\$931	\$934	\$1,639	\$1,542
% of income	4.83%	2.25%	1.30%	1.40%	0.60%
Taxable Maint&Repair (50% of total) %	2.42%	1.13%	0.65%	0.70%	0.30%
Drugs	\$411	\$412	\$452	\$507	\$719
% of income	2.72%	1.00%	0.63%	0.43%	0.28%
Taxable Drugs (50% of total) %	1.36%	0.50%	0.31%	0.22%	0.14%
Medical Supplies	\$101	\$225	\$140	\$237	\$257
% of income	0.67%	0.54%	0.19%	0.20%	0.10%
Entertainment	\$1,564	\$2,531	\$3,031	\$4,602	\$6,611
% of income	10.35%	6.13%	4.21%	3.93%	2.58%
Personal Care prod & srvc	\$502	\$699	\$1,033	\$1,167	\$1,437
% of income	3.33%	1.69%	1.44%	1.00%	0.56%
Reading	\$79	\$122	\$106	\$154	\$186
% of income	0.52%	0.30%	0.15%	0.13%	0.07%
Tobacco Related	\$286	\$276	\$213	\$271	\$172
% of income	1.89%	0.67%	0.30%	0.23%	0.07%
Total Taxable and Non-Taxable	110.11%	53.41%	41.11%	31.37%	20.16%
Total Taxable Spending %	82.25%	41.01%	32.73%	25.26%	16.67%
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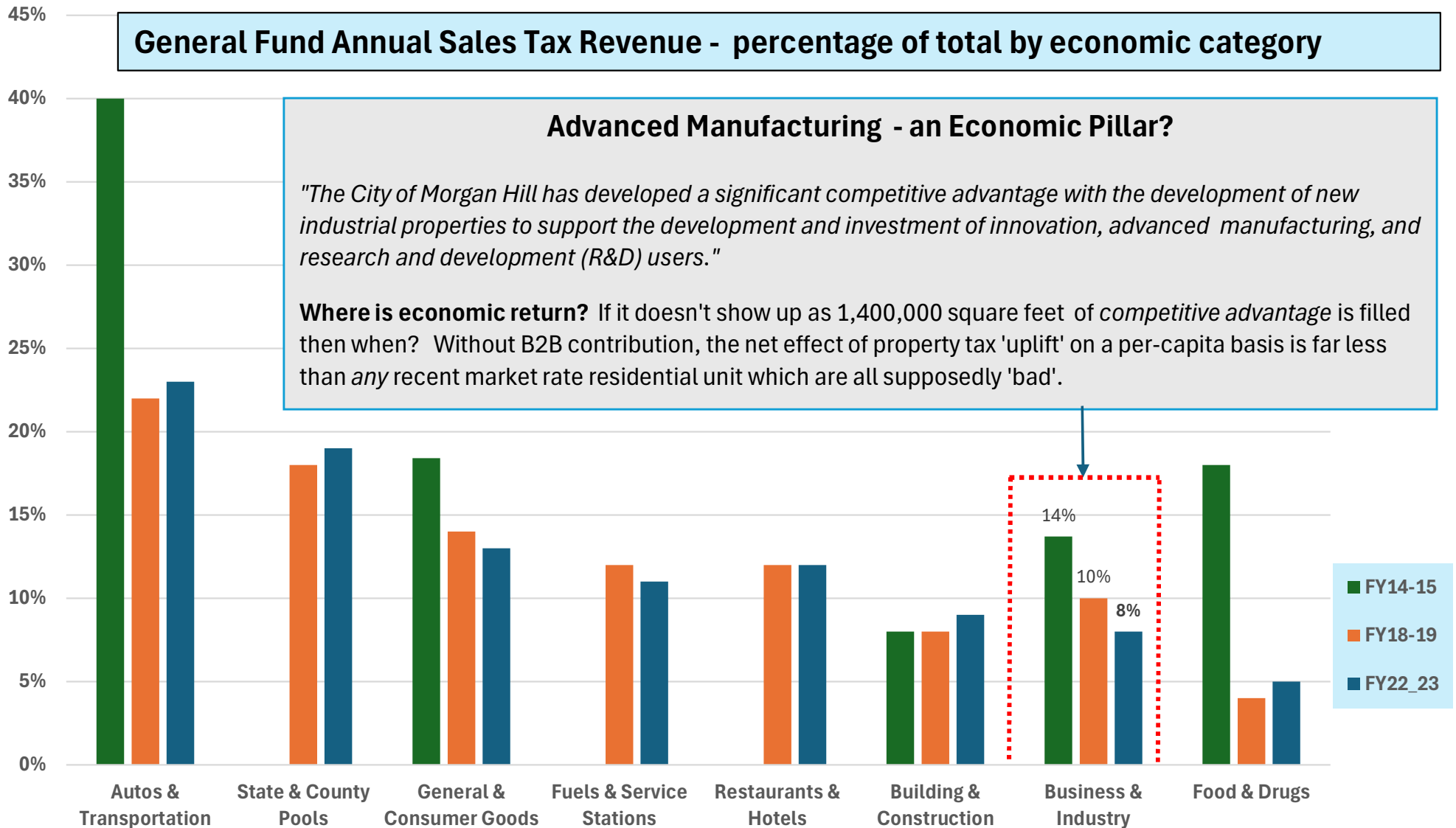
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General Fund Annual Sales Tax Revenue - percentage of total by economic category

Advanced Manufacturing - an Economic Pillar?

"The City of Morgan Hill has developed a significant competitive advantage with the development of new industrial properties to support the development and investment of innovation, advanced manufacturing, and research and development (R&D) users."

Where is economic return? If it doesn't show up as 1,400,000 square feet of *competitive advantage* is filled then when? Without B2B contribution, the net effect of property tax 'uplift' on a per-capita basis is far less than *any* recent market rate residential unit which are all supposedly 'bad'.



CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Cynthia Iwanaga, Management Analyst

APPROVED BY: City Manager

AWARD CONTRACTS FOR EMERGENCY ON-CALL SPILL RESPONSE CLEANUP SERVICES

RECOMMENDATION(S)

1. Award service agreements to GrayMar Environmental Services, Inc. ("GrayMar"), HCI Environmental & Engineering Service ("HCI"), and Clean Harbors Environmental Services, Inc. ("Clean Harbors") for emergency on-call spill response cleanup services for up to \$100,000 each; and
2. Authorize the City Manager to execute and administer the Agreements.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Enhancing Public Safety

Protecting the Environment and Preserving Open Space and Agricultural Land

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this report is to provide the City Council with an opportunity to consider awarding agreements to GrayMar Environmental Services, Inc. ("GrayMar"), HCI Environmental & Engineering Service ("HCI"), and Clean Harbors Environmental Services, Inc. ("Clean Harbors"), for emergency on-call spill response cleanup services in the amount of \$100,000 each (Attachments 1 through 3).

Most spills on public property in the City of Morgan Hill do not pose an immediate threat to human health or the environment (e.g. paint, oil, sanitary sewer leaks, etc.) and are routinely dealt with by City staff. Occasionally, there are spills (e.g. large spills, extremely hazardous materials, etc.) that are beyond the City staff's resources, and expertise, and contracted help is needed. The proposed contracts are designed to address these latter uncommon spills.

After an oil spill in 2015 made it clear that it would be wise to have an established

contractor in place when spill emergencies do occur, the Environmental Services Division released a Request for Proposals (RFP) for emergency spill cleanup services, and entered into contracts with three contractors in order to have spill cleanup services available on an on-call basis.

As the City's current emergency on-call spill response service agreements expire on June 30, 2024, this RFP was issued on March 18, 2024. The RFP was advertised in the Morgan Hill Times on March 15, 2024. The bids were posted on the City of Morgan Hill website, Public Purchase online bid service, and the County of Santa Clara Builders Exchange. All contractors responding to the RFP were required to possess relevant required licenses, and meet insurance and permit requirements of the city, state and federal governments, as well as all other requirements of the law, to perform the required services.

On April 22, 2024, three proposals were received in response to the RFP from GrayMar, HCI, and Clean Harbors. An evaluation committee comprised of Environmental Services and Maintenance Services staff evaluated and scored the three proposals. The proposals were first evaluated based on narrative responses to questions regarding previous experience, work quality, client relations, spill response time, qualifications, and well-organized communication systems. Proposals that received a minimum 55 of 70 possible points then had their cost proposals reviewed to determine which proposals offered the best overall value to the city. It should be noted that staffing requirements, equipment, and other resources needed for an incident vary based upon the circumstances of a given spill, the recommended cleanup technology, and methodologies. Cost proposals received for the service agreements reflect resources that could be used in a typical spill based upon each contractor's experience. A comparison of average hourly rates is attached to this report as Attachment 4.

Staff recommends establishing on-call service agreements with all three firms. Having multiple agreements in place will provide the City with flexibility during urgent circumstances, and enable staff to select the firm that can respond the fastest during spill emergencies. If approved by the City Council, the term of the agreements would begin on July 1, 2024 and end on June 30, 2026 with options to extend each agreement for three, one-year periods.

COMMUNITY ENGAGEMENT:

Since emergency spill response cleanup services are an expected City service, no specific engagement activities were conducted in association with the proposed emergency on-call spill response cleanup service agreements.

ALTERNATIVE ACTIONS:

An alternative action would be to approve a service agreement with only one or two firms. This would limit the City's ability to obtain contractor help in an emergency if they were unavailable during the emergency.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council previously awarded contracts for emergency on-call spill response cleanup services to All Clean Hazardous Waste Removal, Inc. and Disaster Kleenup Specialists on February 19, 2020, and those contracts are now expiring, which necessitated this RFP process.

FISCAL AND RESOURCE IMPACT:

The funds to pay for normal emergency cleanup services are included in the City's street maintenance budget. The total not-to-exceed amount was set at \$100,000 to ensure that the contracts' maximum amounts do not restrict the City's capacity to obtain the needed emergency spill response cleanup services in a timely manner in order to limit a disruption to service or public safety issues.

CEQA (California Environmental Quality Act):

Not a Project

The approval of a contract for emergency spill response services to be provided is not a project as defined in Section 15378 of the State CEQA Guidelines. Should response actually be necessary, the response will likely be Categorically Exempt per Class 30, Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release of Threat of Hazardous Waste or Hazardous Substances.

SERVICE AGREEMENT
Graymar Environmental Services, 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 GrayMar Environmental Services, Inc., a Washington corporation ("SERVICE PROVIDER") duly authorized to do business in California and will remain so during the term of this Agreement, hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2026 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of three one-year extensions. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be cleanup of emergency hazardous material spills as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$100,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One Hundred Thousand dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to SERVICE PROVIDER during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the initial term of this Agreement.
 - 4.2. **Billing.** SERVICE PROVIDER shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.

5. **Termination.** CITY or SERVICE PROVIDER shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager 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 SERVICE PROVIDER of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. SERVICE PROVIDER 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 SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER's equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of 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 SERVICE PROVIDER's sole risk.

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, because SERVICE PROVIDER will be handling material or chemical potentially considered to be a hazardous material under any federal, state or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

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

8.1. **Insurance Types and Amounts.**

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

(including any excess or “umbrella” policies), whichever is greater. Further, if SERVICE PROVIDER maintains a claims-made policy, SERVICE PROVIDER shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

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

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

8.1.7. Crime/Fidelity Bond. If the performance of SERVICE PROVIDER'S work or service under this Agreement relates to or involves handling of CITY monies, SERVICE PROVIDER shall procure and maintain Crime insurance, in the minimum amount of: (i) three hundred thousand dollars (\$300,000.00) per occurrence, covering all SERVICE PROVIDER'S officers and employees, for loss of CITY monies caused by dishonesty and/or theft.

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

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

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

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

8.2.1.3. “Primary and Non-Contributing” - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the CITY'S insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.

8.2.2. Workers Compensation.

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

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

8.4. **Certificates.** SERVICE PROVIDER shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with 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 8. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

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

10. **Compliance with Law.**

10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon any basis prohibited by state or federal law, including but not limited to, race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

10.2. Compliance with Wage and Hour Laws: SERVICE PROVIDER, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time to

appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against SERVICE PROVIDER and/or its subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. SERVICE PROVIDER and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, CITY reserves the right to withhold payment to SERVICE PROVIDER until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.

12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are deemed

confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.

13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

14. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of SERVICE PROVIDER is as follows:

GrayMar Environmental Services, Inc.
601 S. Pioneer Way, Ste. F#218
Moses Lake, Washington 98837

Address of CITY is as follows:

Tanya Carothers, ESD	with a copy to:
Administrator	City Clerk
City of Morgan Hill	City of Morgan Hill
17575 Peak Ave.	17575 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. SERVICE PROVIDER shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of CITY or as part of any audit of CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should SERVICE PROVIDER discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be void and, at CITY'S option, shall terminate this Agreement effective as of the date of such attempted assignment.

21. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of CITY.

22.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMs alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of SERVICE PROVIDER to indemnify the INDEMNITEE shall be as

broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

23. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and SERVICE PROVIDER. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

24. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

25. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

26. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

28. **Notice Of Security and/or Privacy Incident.** If SERVICE PROVIDER, or its subcontractor, 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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.

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.

[Signatures on Next Page]

30. **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:

GRAYMAR ENVIRONMENTAL SERVICES,
INC.

City Attorney

By:

Donald A. Larkin
Print Name

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

Date: _____

Date: _____

By:

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

Date: _____

EXHIBIT A SCOPE OF SERVICES

Service Provider shall provide quick and efficient cleanup of hazardous material spill incidents. All necessary equipment and expertise shall be made readily available to the City when emergency spill cleanup is required. The purpose of the on-call contract is to expedite spill response times in order to minimize potential impacts to human health and the environment.

Services may range from cleanup of hazardous materials spilled in a worst-case scenario train derailment with tanker cars, to more common cleanups including small oil spills, paint dumped in a gutter or cleanup of unknown materials from a leaking abandoned hazmat drum.

Maximum response time to be on-scene for standard clean-ups from the time of request for services is two (2) hours depending upon the type of spill.

All hazardous waste must be transported and disposed of according to local, state, and federal law. Service provider is responsible for complying with the applicable laws and regulations in the importing country and transit countries for any hazardous waste disposed of outside of the United States.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Please see attached rate sheets.

Name of Service Provider: Graymar Environmental Services, Inc.

Attachment A

City of Morgan Hill Cost Proposal: Emergency On-Call Spill Response Services

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
Travel Distance from Business Location to City of Morgan Hill: 141 miles			
Estimated Time Required to be On-Scene from the Time of Request for Services: 2.5 hour or less <i>(2-hours of less with personnel if working closer to Morgan Hill)</i>			
1	Travel to Morgan Hill - Cost to Transport Cleanup Equipment and Materials	Per Mile/ Per Vehicle	<i>Included in other fees</i>
2	Labor - List typical staff positions involved in cleanups and their hourly billing rate	Per Hour/ Per Person	Regular Time / ER & Overtime (in USD \$)
	Incident Commander		195.00
	Senior Project Manager		165.00
	Environmental Engineer		160.00
	Environmental Scientist		160.00
	Health and Safety Manager		145.00
	Project Manager		110.00 / 132.30
	Chemist		95.00 / 119.00
	Project Coordinator		86.00 / 112.30
	Supervisor		92.00 / 112.30
	HAZMAT Driver		88.00 / 112.00
	Equipment Operator		88.00 / 112.00
	HAZMAT Technician		84.00 / 112.30
	Office Administrator		45.00
3	Equipment Required - List equipment that may be used for cleanups and hourly cost to operate	Per Hour/ Per Unit	
	½ ton Pickup Truck		\$ 65.00
	One Ton Stake Bed Truck		\$ 95.00
	100 BBKL Black Iron Vacuum Truck		\$ 110.00
	100 BBL Stainless Steel Acid Vacuum Truck		\$ 110.00
	Front End Loader / Backhoe		\$ 110.00

	Roll Off Single Bin Tuck		\$ 120.00
	Emergency Response Truck		\$ 95.00
	20-30 Drum Bobtail Van		\$ 95.00
	40 – 60 Drum Semi- Van		\$ 145.00
	Pressure Washer		\$ 45.00
	4-Gas Meter	Day Rate	\$ 325.00
	Confined Space Entry Equipment	Day Rate	\$ 395.00
	SEE ATTACHED RATE SHEET FOR ADDITIONAL ITEMS		
4	Materials - List materials that may be used in cleanups and cost per unit (e.g. absorbents)		
	Absorbent Pillow / Squares		\$ 4.00
	Level D PPE		\$ 30.00
	Drum, Open Head Poly, Reconditioned, 55-Gal.		Recon \$ 65.00
	Drum, Open Poly, 16-Gal.		\$ 62.00
	Drum, Open Poly, 30-Gal.		\$ 85.00
	Drum, Poly, 5-Gal.		\$ 35.00
	Drum, Steel, Reconditioned, 55-Gal.		\$ 75.00
	Flexible Waste Container, 1 Cubic Yard	Per Unit	\$ 135.00
	Lab-Pak box, 10-Gal., poly liner included		\$ 32.00
	Lab-Pak box, 20-Gal., poly liner included		\$ 38.00
	Lab-Pak box, 30-Gal., poly liner included		\$ 40.00
	Lab-Pak box, 55-Gal., poly liner included		\$ 46.00
	Lab-Pak box, 5-Gal., poly liner included		\$ 26.00
	SEE ATTACHED RATE SHEET FOR ADDITIONAL ITEMS		
5	Hazardous Waste Disposal - List tasks associated with hazardous waste disposal and associated fees, including travel costs		
	EPA Manifest Fee		\$ 60.00
	Stop/Recovery Fee		\$ 300.00
	Washout		\$ 660.00
	Drum Transportation – (30-gallon thru 55-gal)		\$ 38.00
	Drum Transportation – (6-gallon thru 20-gal)		\$ 30.00
	Drum Transportation – (1-gallon thru 5-gal)		\$ 25.00
	Drum Transportation – (Cubic yard box or flex-bag)		\$ 48.00
	Waste Disposal (HAZARDOUS, NON-HAZARDOUS, OR BIO-HAZARDOUS)		ACTUAL INVOICE COST +18%
	SEE ATTACHED RATE SHEET FOR ADDITIONAL ITEMS		

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
6	Completion of a Cleanup Summary Report - Should include a basic list of emergency cleanup tasks completed and, if applicable, recommendations for long-term follow-up actions/remediation	Per Incident	\$ 180.00
7	Administrative Fees	Per Incident	\$ 90.00
8	Other Foreseeable Cleanup Tasks Not Listed Above		
SEE ATTACHED GRAYMAR 2024 RATE SHEET FOR FULL LISTING OF SERVICE PRICING FOR THE CITY OF MORGAN HILL UNDER THIS CONTRACT.			

SEE ATTACHED GRAYMAR 2024 RATE SHEET FOR FULL LISTING OF SERVICE PRICING FOR THE CITY OF MORGAN HILL UNDER THIS CONTRACT.

THIS FORM MUST BE USED WHEN SUBMITTING PROPOSAL

Description	UOM	Price
PERSONNEL		
Incident Commander	HR	195.00
Senior Project Manager	HR	165.00
Environmental Engineer	HR	160.00
Environmental Scientist	HR	160.00
Health and Safety Manager	HR	145.00
Project Manager	HR	110.00
Chemist	HR	95.00
Project Coordinator	HR	86.00
Supervisor	HR	92.00
Driver	HR	88.00
Equipment Operator	HR	88.00
Vessel Operator	HR	88.00
Confined Space Rescue Technician	HR	88.00
Technician	HR	84.00
Office Administrator	HR	45.00
Personnel Notes: 1. Minimum call-out is four (4) hours per person. Personnel are charged in half-hour increments. Charges are portal-to portal. 2. Straight Time - Monday through Friday from 0700-1500, including a chargeable 1/2 hour meal break. 3. Overtime - Monday through Friday 1500 to 1900 and the 1st 8 hours on Saturday. OT = 1.5 x the hourly rate. 4. Double Time - Monday through Friday from 1900-0700, all subsequent hours on Saturday, and all hours on Sunday and holidays. DT = 2.0 x the hourly rate. 5. Rate categories apply to personnel working during specified times of day regardless of the number of hours worked for the Client on that particular day. 6. Surcharges apply for remote sites and prevailing wage projects.		
PER DIEM / LODGING (PER PERSON)		
Per Diem	DAY	55.00
Lodging (rate subject to surcharge)	DAY	225.00
EQUIPMENT - POWERED TRUCKS (NON-OPERATED)		
Service Truck	HR	65.00
Box Truck	HR	95.00
Dump Truck, 5-Axle	HR	120.00
Dump Truck w/Trailer, 8-Axle	HR	150.00
Tractor w/End Dump Trailer	HR	145.00
Tractor w/Dry Van	HR	145.00
Tractor w/Flatbed/Lowboy Trailer	HR	145.00
Tractor w/Roll Off Trailer	HR	145.00
Roll Off Truck Straight	HR	120.00
Tractor w/Vacuum Trailer	HR	130.00
Vacuum Truck, Straight	HR	125.00
Tractor w/7k-10k Gal Vacuum Trailer	HR	225.00
High Powered Vacuum Truck/Guzzler/Vactor	HR	325.00
Guzzler w/High Rail	HR	365.00

Description	UOM	Price
SUPPORT EQUIPMENT		
Emergency Response Trailer	DAY	495.00
Technical Response Trailer	DAY	950.00
Utility / Support Trailer	DAY	495.00
Incident Command Trailer	DAY	1050.00
Dump Trailer	DAY	295.00
Ramps, Roll Off Bin	DAY	350.00
ATV	DAY	450.00
Jetter Trailer	HR	110.00
Skid Mounted Vacuum System	HR	105.00
Trailer Mounted Mini-Guzzler	HR	105.00
Pressure Washer	DAY	425.00
Power Broom	DAY	125.00
High Pressure Washer Surface Cleaner	DAY	165.00
High Pressure Blaster - 10,000 PSI 150 HP	HR	125.00
High Pressure Blaster - 20,000 PSI 150HP	HR	195.00
High Pressure Blaster Dry Dump System	DAY	1500.00
2D/Automated Nozzle (High Pressure Blaster)	HR	65.00
3D / Automated Nozzle (High Pressure Blaster)	HR	80.00
Hydroblaster Foot Pedal	Day	165.00
Hydroblaster Hose	FT	4.25
Portable Lights	DAY	45.00
Light Tower, Towable	DAY	350.00
Intrinsically Safe Drop Light	DAY	95.00
Generator 3.5 to 7.5 kW	DAY	295.00
Air Compressor 100-385 CFM	DAY	285.00
1" - 4" Pump, Petroleum and Chemical	DAY	285.00
Drum Vacuum	DAY	240.00
Electric Drum Pump	DAY	125.00
PNEUMATIC POWER TOOLS		
3/4" Drill, Rotary Hammer	DAY	91.00
Jackhammer, Up to 90Lb	DAY	125.00
Pneumatic Chipping Gun	DAY	95.00
Steel Nibbler, Pneumatic	DAY	122.00
MARINE RESPONSE EQUIPMENT		
Boat/Worksiff without Motor	DAY	250.00
Containment Boom - Per Foot Per Day	FT	3.15
Vessel, 12-14' with Motor	HR	75.00
Vessel, 15-17' with Motor	HR	125.00
Vessel, 18-22' with Motor	HR	210.00
Vessel, 23-26' with Motor	HR	285.00
Drum Skimmer	DAY	1250.00
Weir Skimmer	DAY	395.00

1/2" Dynamic Rope	FT	1.50
VHF Marine Radio	DAY	35.00
PFD's	DAY	30.00
 2024 Rate Sheet		
Description	UOM	Price
SAFETY MONITORING EQUIPMENT		
4 Gas/5 Gas Meter	DAY	325.00
Draeger Air Monitoring Pump	DAY	165.00
Draeger Tube	EA	65.00
Lumex RA915+ Mercury Vapor Analyzer	DAY	1050.00
Mercury Vapor Analyzer	DAY	950.00
Personal Air Pump	DAY	125.00
Radiological Meter	DAY	125.00
PID Meter	DAY	275.00
HOSES/PIPE		
1" - 6" Pump Hose	FT	2.00
4" Flex Hose	FT	3.50
6" Flex Hose	FT	5.50
Wash Hose, 1/2" x 50'	DAY	15.00
HEAVY EQUIPMENT (NON-OPERATED)		
Backhoe	HR	110.00
Mini Excavator	HR	96.00
Excavator 10 - 20 Ton	HR	240.00
Excavator 21 - 50 Ton	HR	285.00
Excavator 51 - 90 Ton	HR	345.00
Excavator W/Shear Attachment	HR	385.00
Loader, 3 Yard Bucket	HR	185.00
Dozer (D6 or Equivalent)	HR	225.00
Skidsteer	HR	96.00
Water Truck	HR	115.00
Roller, 66" or Equivalent	HR	95.00
Plate Compactor	HR	65.00
MATERIAL HANDLING/SUPPORT EQUIPMENT		
Forklift	HR	65.00
Telehandler	HR	96.00
Pallet Jack	DAY	45.00
Drum Dolly	DAY	35.00
Skidsteer Fork Attachment	DAY	225.00
Skidsteer Sweeper Attachment	DAY	295.00
Skidsteer Drum Attachment	DAY	225.00
Sawzall	DAY	90.00
Impact Drill	DAY	65.00
Cut-Off Saw	DAY	160.00
Concrete Saw	HR	50.00

Description	UOM	Price
SITE SUPPORT		
Mercury Vacuum	DAY	785.00
Wet Vacuum (Shop Vac)	DAY	50.00
15 Gal HEPA Vacuum	DAY	172.00
Filter Bags - 25 Micron	EA	12.00
Filtration Bag for Mercury Vacuum	EA	35.00
Air Scrubber/Negative Air Machine (up to 2,000 CFM)	DAY	375.00
Air Scrubber/Negative Air Machine Filter	EA	195.00
6,000 Gal Poly Acid Tank	DAY	155.00
12,000 Gal Poly Acid Tank	DAY	195.00
20,000 Gal Frac Tank	DAY	95.00
Spill Containment - Frac Tank	DAY	75.00
Dewatering Box	DAY	75.00
Roll Off Container	DAY	35.00
Vacuum Box, Watertight	DAY	95.00
Fogger	DAY	250.00
Hudson Sprayer	DAY	40.00
Tygard/Typatch	FT	5.50
Tygard Secure System	EA	350.00
Dunnage Bags	EA	18.00
Cable Seals	EA	6.50
Hand Tools	DAY	25.00
Portable Restroom/Hand Wash Station	DAY	85.00
Disposable Hand Pump	EA	30.00
Fence, Silt 50'	EA	195.00
Orange Snow/Safety Fence 100'	EA	85.00
Steel T-Post	EA	15.00
Starlink System High Speed Internet	DAY	65.00
Hand-Held Radio	DAY	35.00
Satellite Phone	DAY	280.00
SPECIALTY EQUIPMENT		
Tanker Rollover Kit	DAY	650.00
Cutting/Demo Torch Set	DAY	390.00
Nitrogen Cylinder	DAY	95.00
Welding Machine	DAY	450.00
Pressure Gauge Kit	DAY	425.00
Copus Blower (CP-20)	DAY	215.00
Electric Blower	DAY	75.00
Explosion Proof Pneumatic Fan Blower	DAY	95.00
Pipe Inspection Camera	DAY	375.00
Confined Space Entry Gear (Retrieval & Rescue Equip)	DAY	395.00
Tripod/Highline	DAY	395.00

Harness and Lanyard	DAY	95.00
Belay System (High Angle Repelling)	DAY	1195.00
Equipment Notes: 1. Minimum call-out is four (4) hours. Prices do not include operator or fuel surcharge. 2. All charges are portal to portal, beginning with equipment mobilization from GrayMar's Operations Centers. Time charges terminate after the operation, which includes demobilization back to operations centers and completion of any decontamination, re-stocking, and repair. 3. Client agrees to pay GrayMar, in accordance with the rates contained in this Rate Sheet, for any cleaning or repairs necessary to return equipment to the same condition as at the commencement of services. Only GrayMar personnel shall perform any cleaning and decontamination operations on all equipment owned, rented or subcontracted by GrayMar. 4. All equipment and supplies are subject to a replacement charge at GrayMar cost + 20% if damaged, or if decontamination is impossible.		
 2024 Rate Sheet		
Description	UOM	Price
PERSONAL PROTECTIVE EQUIPMENT (PPE)		
Level A PPE	EA	1950.00
Level B PPE	EA	285.00
Level C PPE	EA	155.00
Level D PPE	EA	30.00
Tyvek Suit, Disposable	EA	21.00
Tyvek Suit, Poly-Coated	EA	29.00
Rain Gear, Disposable	EA	28.00
Chem Tape, Roll	EA	72.00
Bunker Gear	EA	175.00
Fire Resistant Suits	EA	60.00
Blaster Gear (Turtle Suit)	DAY	155.00
GME Cartridges	PAIR	48.00
P100 Cartridges	PAIR	38.00
Mercury Vapor & Chlorine Mersorb Cartridges	PAIR	78.00
SCBA	DAY	295.00
Breathing Cascade System	DAY	395.00
Breathing Air Bottle Refill	EA	75.00
14" Nitrile Gloves	PAIR	10.00
Cut Resistant Gloves	PAIR	28.00
Gloves - 12" PVC	PAIR	12.00
Gloves - Leather	PAIR	8.00
Latex Inner Gloves	PAIR	2.00
Puncture Resistant Gloves	PAIR	78.00
Disposable Boot Covers	PAIR	18.00
Dry Suit/Wet Suit	DAY	275.00
Chest/Hip Waders	PAIR	195.00
Eyewash Station	DAY	55.00
Personnel Decon Station	DAY	75.00
Hand Cleaner	EA	15.00
DOT SHIPPING CONTAINERS		
5 Gal Metal Drum	EA	35.00
5 Gal Poly Drum	EA	35.00
15 Gal Poly Drum	EA	62.00
16 Gal Poly or Metal Drum	EA	117.00

30 Gal Poly Drum	EA	85.00
30 Gal Metal Drum	EA	177.00
55 Gal Closed Top Metal Drum	EA	120.00
55 Gal Closed Top Poly Drum	EA	132.00



2024 Rate Sheet

Description	UOM	Price
DOT SHIPPING CONTAINERS/MISC		
55 Gal Open Top Metal Drum	EA	120.00
55 Gal Open Top Poly Drum	EA	132.00
55 Gal Metal Drum, Heavy Gauge	EA	137.00
55 Gal Metal Drum, Poly Lined	EA	187.00
85 Gal Open Top Metal Overpack	EA	315.00
85 Gal Open Top Poly Overpack	EA	345.00
95 Gal Open Top Poly Overpack	EA	365.00
110 Gal Poly Overpack	EA	395.00
Drum Pak, 55 Gal	EA	75.00
Light Tube Box (4')	EA	15.00
Light Tube Box (8')	EA	20.00
Stretch Wrap (Roll)	EA	42.00
275 Gallon Poly Tote	EA	425.00
330 Gallon Poly Tote	EA	495.00
Haz Boxes	EA	98.00
Galaxy Waste Container	EA	195.00
Drum Liners	EA	12.00
Filter/Liner for Filter Box	EA	332.00
Flexbin, 1 Cubic Yard Flexbin	EA	135.00
Flexbin/Cubic Yard Box Liner	EA	35.00
Poly Bags, 4 mil	EA	5.00
Bio-Hazard Bags	EA	6.00
Poly Sheeting, 6 mil, 20' x 100'	EA	195.00
Roll Off Container Poly Liner	EA	90.00
Dump Trailer Poly Liner	EA	90.00
Caution Tape/Roll	EA	27.00
Duct Tape/Roll	EA	11.00
Pallets	EA	48.00
Plywood (sheet)	EA	78.00
SORBENT MATERIALS		
Sorbent Pads	BALE	120.00
Sorbent Boom, 5" x 10' x 4/Bale	BALE	220.00
Sorbent Boom, 8" x 10' x 4/Bale	BALE	295.00
Sorbent Roll, 38" x 144'	EA	185.00
Sorbent Rug, 36" x 300'	EA	298.00
Sorbent Sweep, 17" x 100'	BALE	190.00
HGX Absorbent (Mercury absorbent)	LB	28.00

Rags, 50 lb / 23 kg	BAG	68.00
Saw Dust, 20 lb / 9 kg	BAG	20.00
Granular Absorbent	BAG	25.00
Corn Cob, 20 lb / 9 kg	BAG	20.00
Vermiculite, 4 cu ft Bag	BAG	60.00
 2024 Rate Sheet		
Description	UOM	Price
DEGREASERS & NEUTRALIZING AGENTS		
Gold Crew	GAL	60.00
Micro Blaze	GAL	60.00
Citrus Cleaner Degreaser	GAL	50.00
Disinfectant Solution	GAL	50.00
Hydrochloric Acid	LB	4.00
Citric Acid	LB	6.00
Decontamination Solution	GAL	50.00
Neutralizing Solution	GAL	50.00
Soda Ash, 50 lb Bag	BAG	60.00
Sodium Bicarbonate	LB	5.00
Sodium Hypochlorite, 15% (Bleach)	GAL	10.00
SAMPLING AND LAB SUPPLIES		
Sample Jars	EA	8.00
pH Test Strip	EA	25.00
Fentanyl Test Strip	EA	25.00
Clor-D-Tect Sample Kit	EA	52.00
Clor-N-Oil PCB Sample Kit	EA	55.00
Sample Tube	EA	25.00
HazCat Kit	DAY	375.00
HazCat Test	EA	35.00
WASTE MATERIAL APPROVAL		
Profile Approval Fee Bulk	EA	105.00
Profile Approval Fee Non-Bulk	EA	75.00
Waste Manifest Fee	EA	50.00
NON-HAZARDOUS WASTE DISPOSAL*		
Non-Hazardous Solids/Liquids-Drums	EA	225.00
Non-Hazardous Liquids-Tote	EA	750.00
Non-Hazardous Solids-Cubic Yard Box	EA	695.00
Non-Hazardous Liquids-Bulk	GAL	2.25
Non-Hazardous Solids-Bulk *excluding county taxes*	TON	85.00
Vacuum Truck/Trailer Washout (subject to surcharge)	EA	550.00
<i>* Rates do not apply to State Regulated, RCRA, TSCA, DOT and other non-exempt waste streams</i>		
MISCELLANEOUS		
Outside Services	CP	Cost Plus 25%
Environmental/Energy Recovery Fee*	LS	18% Total Invoice
<i>*Environmental/Energy Recovery Fee is not applied to cost-plus items. The fee is subject to change based on variability in fuel pricing and other unforeseen factors.</i>		

EXHIBIT C
SCHEDULE OF PERFORMANCE

The estimated time required to be on-scene from the time of request for services is 2 hours dependent upon the type of spill.

SERVICE AGREEMENT

HCI Environmental & Engineering Service

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and HCI Environmental & Engineering Service, a Nevada corporation ("SERVICE PROVIDER") duly authorized to do business in California, and will remain so during the term of this Agreement, hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2026 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of three one-year extensions. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be cleanup of emergency hazardous material spills as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$100,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One Hundred Thousand dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to SERVICE PROVIDER during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the initial term of this Agreement.
 - 4.2. **Billing.** SERVICE PROVIDER shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.

SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager 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 SERVICE PROVIDER of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. SERVICE PROVIDER 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 SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER's equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of 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 SERVICE PROVIDER's sole risk.

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, because SERVICE PROVIDER will be handling material or chemical potentially considered to be a hazardous material under any federal, state or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

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

- 8.1. **Insurance Types and Amounts.**

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

written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

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

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

8.1.7. Crime/Fidelity Bond. If the performance of SERVICE PROVIDER'S work or service under this Agreement relates to or involves handling of CITY monies, SERVICE PROVIDER shall procure and maintain Crime insurance, in the minimum amount of: (i) three hundred thousand dollars (\$300,000.00) per occurrence, covering all SERVICE PROVIDER'S officers and employees, for loss of CITY monies caused by dishonesty and/or theft.

8.2. Endorsements. SERVICE PROVIDER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

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

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

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

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

8.2.2. Workers Compensation.

Because the performance of SERVICE PROVIDER'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, SERVICE PROVIDER'S presence

during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

- 8.3. **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.
- 8.4. **Certificates.** SERVICE PROVIDER shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with 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 8. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

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

10. **Compliance with Law.**

- 10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon any basis prohibited by state or federal law, including but not limited to, race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.
- 10.2. Compliance with Wage and Hour Laws: SERVICE PROVIDER, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against SERVICE PROVIDER and/or its subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. SERVICE PROVIDER and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, CITY reserves the right to withhold payment to SERVICE PROVIDER until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.
12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.
13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

14. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of SERVICE PROVIDER is as follows:

HCI Environmental & Engineering Service
1680 Commerce Street
Corona, CA 92880

Address of CITY is as follows:

Tanya Carothers,	with a copy to:
ESD Administrator	City Clerk
City of Morgan Hill	City of Morgan Hill
17575 Peak Avenue	17575 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. SERVICE PROVIDER shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of CITY or as part of any audit of CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should SERVICE PROVIDER discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be void and, at CITY'S option, shall terminate this Agreement effective as of the date of such attempted assignment.

21. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of CITY.

22.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMS alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of SERVICE PROVIDER to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

23. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement

may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and SERVICE PROVIDER. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

24. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

25. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

26. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

28. **Notice Of Security and/or Privacy Incident.** If SERVICE PROVIDER, or its subcontractor, 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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.

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.

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[Signatures on Next Page]

30. **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:

HCI Environmental & Engineering Service

City Attorney

By:

Donald A. Larkin
Print Name

Gregory J Parker: President

Print Name and Title of Signer.

If Corporate: Chairman, President or
Vice President

Date: _____

Date: 05 / 13 / 2024



By:

C. Robert Guy: Secretary

Print Name and Title of Signer.

If Corporate: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer

Date: 05 / 13 / 2024

EXHIBIT A SCOPE OF SERVICES

Service Provider shall provide quick and efficient cleanup of hazardous material spill incidents. All necessary equipment and expertise shall be made readily available to the City when emergency spill cleanup is required. The purpose of the on-call contract is to expedite spill response times in order to minimize potential impacts to human health and the environment.

Services may range from cleanup of hazardous materials spilled in a worst-case scenario train derailment with tanker cars, to more common cleanups including small oil spills, paint dumped in a gutter or cleanup of unknown materials from a leaking abandoned hazmat drum.

Maximum response time to be on-scene for standard clean-ups from the time of request for services is two (2) hours depending upon the type of spill.

All hazardous waste must be transported and disposed of according to local, state, and federal law. Service provider is responsible for complying with the applicable laws and regulations in the importing country and transit countries for any hazardous waste disposed of outside of the United States.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Please see attached rate sheets.

Name of Service Provider: HCI Environmental & Engineering Service

Attachment A

City of Morgan Hill Cost Proposal: Emergency On-Call Spill Response Services

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
Travel Distance from Business Location to City of Morgan Hill: <u>23 miles</u>			
Estimated Time Required to be On-Scene from the Time of Request for Services: <u>2 hours</u>			
1	Travel to Morgan Hill - Cost to Transport Cleanup Equipment and Materials	Per Mile/ Per Vehicle	Cost included in below pricing
2	Labor - List typical staff positions involved in cleanups and their hourly billing rate	Per Hour/ Per Person	
	Environmental Technician - Standard Rates		\$105.00
	Environmental Technician - Overtime Rates		\$157.50
	Environmental Technician - Double Time Rates		\$210.00
3	Equipment Required - List equipment that may be used for cleanups and hourly cost to operate	Per Hour/ Per Unit	
	Equipment Truck		\$45.00
	Emergency Response Truck		\$55.00
	Vacuum Truck (no operator)		\$90.00
	Heavy Equipment (Backhoe, skid steer)		\$175.00
	Pressure Washer		\$50.00
	Standard Generator		\$25.00
4	Materials - List materials that may be used in cleanups and cost per unit (e.g. absorbents)	Per Unit	See attached pricing
5	Hazardous Waste Disposal - List tasks associated with hazardous waste disposal and associated fees, including travel costs	Per Task	
	275 gallon tote		\$85.00
	55 gallon drum		\$85.00
	30 gallon drum		\$55.00

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
6	Completion of a Cleanup Summary Report - Should include a basic list of emergency cleanup tasks completed and, if applicable, recommendations for long-term follow-up actions/remediation	Per Incident	\$250.00
7	Administrative Fees	Per Incident	15%
8	Other Foreseeable Cleanup Tasks Not Listed Above		
	See attached pricing		

Labor Continued

Supervisor - Standard Time	\$115.00
Supervisor - Overtime	\$172.50
Supervisor - Double Time	\$230.00
Project Manager - Standard Time	\$115.00
Project Manager - Overtime	\$172.50
Project Manager - Double Time	\$230.00
Field Chemist - Standard Time	\$125.00
Field Chemist - Overtime	\$187.50
Field Chemist - Double Time	\$250.00
DOT Driver - Standard Time	\$140.00
DOT Driver - Overtime	\$210.00
DOT Driver - Double Time	\$280.00

Hazardous Waste Disposal Continued

15 gallon Drum	\$45.00
5 gallon Pail	\$345.00
Field Chemist Identification (unknown materials)	\$225.00
Analytical / Lab Results	Cost plus 25%
Waste Disposal	Cost plus 35%
Profile Fees	No charge
Manifest Fees	\$45.00

THIS FORM MUST BE USED WHEN SUBMITTING PROPOSAL

Equipment

Description	Straight Time	UOM
3,000-gallon Vacuum Truck (steel)	\$ 145.00	Hr.
3,000-gallon Vacuum Truck (stainless)	\$ 195.00	Hr.
5,000-gallon Vacuum Truck (steel)	\$ 145.00	Hr.
5,000-gallon Vacuum Truck (stainless)	\$ 195.00	Hr.
24'-48' Enclosed Van	\$ 125.00	Hr.
Stakebed Truck W/ Liftgate	\$ 125.00	Hr.
40' Flatbed	\$ 125.00	Hr.
End Dump (Standard)	\$ 150.00	Hr.
Highside End Dumps	\$ 180.00	Hr.
Roll-Off Truck	\$ 150.00	Hr.
Roll-Off Bin Rental (Daily) 20 yard	\$ 30.00	Day
Roll-Off Bin Rental (Daily) 40 yard	\$ 35.00	Day
20 Yard Bin Liner	\$ 65.00	Ea.
40 Yard Bin Liner	\$ 90.00	Ea.
20 Yard Dewatering Bin	\$ 50.00	Day
20 Yard Dewatering Bin Filter	\$ 145.00	Ea.
10,000 Gallon Frac Tank	\$ 40.00	Day
22,000 Gallon Frac Tank	\$ 45.00	Day
Frac Tank Containment	\$ 45.00	Day
Hydro-Excavation	\$ 265.00	Hr.
Ultra Vac Jetter Combo	\$ 385.00	Hr.
Ultra Vac Guzzler	\$ 240.00	Hr.
Ultra Vac Guzzler Baghouse Filters	\$ 1,650.00	Hr.
Flex Pipe	\$ 550.00	Day
Ramps	\$ 500.00	Day
Trailer Jetter w/ Utility Truck (1/2' hose)	\$ 375.00	Hr.
CCTV Truck	\$ 350.00	Hr.
Emergency Response Utility Vehicle	\$ 85.00	Hr.
Support Vehicle	\$ 75.00	Hr.
Company Auto	\$ 55.00	Hr.
Mobilization of Equipment (Per Item)	\$ 300.00	Ea.
Demobilization of Equipment (Per Item)	\$ 300.00	Ea.
Crawler Loader	\$ 175.00	Hr.
Backhoe	\$ 175.00	Hr.
Bobcat Loader W/ Trailer	\$ 175.00	Hr.
Bobcat Loader W/ Auger attachment	\$ 175.00	Hr.
Skid Steer	\$ 175.00	Hr.
Skid Steer Grapple Bucket	\$ 75.00	Hr.
Crane (15 ton)	\$ 175.00	Hr.
Water Truck	\$ 175.00	Hr.

Date _____ Initial _____

Equipment Cont'd

Description	Straight Time	UOM
Forklift - 6,000 lb.	\$ 195.00	Hr.
Forklift - 12,000 lb.	\$ 225.00	Hr.
Manlift - Telescopic (Hour)	\$ 175.00	Hr.
Manlift - Scissor (Hour)	\$ 175.00	Hr.
Steam Cleaner	\$ 175.00	Hr.
Portable Sandblaster	\$ 75.00	Hr.
Portable Heater	\$ 50.00	Hr.
Jack Hammer (Electric)	\$ 50.00	Hr.
Jack Hammer (Pneumatic)	\$ 50.00	Hr.
Barricades w/reflective tape	\$ 15.00	Ea. Per Day
Delineator/reflectors	\$ 15.00	Ea. Per Day
No turn right or left signs	\$ 15.00	Ea. Per Day
Traffic Cones	\$ 15.00	Ea. Per Day
Containment Boom Trailer	\$ 1,650.00	Day
Containment Boom 18"x50'	\$ 1,650.00	Day
Marine booms for water: Calm Water & Low Current 25' x 16" 10" Draft Dimensions	\$ 1,650.00	Day
Bottled Air/ 300 cu. ft.. cylinder	\$ 200.00	Day
Self Contained 60 min. Scott Air Pack	\$ 150.00	Day
Self Contained 30 min. Scott Air Pack	\$ 150.00	Ea.
30 Minute Cylinders SCBA	\$ 175.00	Ea.
60 Minute Cylinders SCBA	\$ 250.00	Ea.
Positive Pressure Mask W/ Egress Remote Air	\$ 60.00	Ea.
Airline Respiratory System Complete	\$ 350.00	Day
Closed Circuit Breathing Apparatus (1 Hour)	\$ 175.00	Day
Closed Circuit Breathing Apparatus (4 Hour)	\$ 350.00	Day
Air refills (plus labor)	\$ 55.00	Ea.
Lifelines, Safety Harnesses, Misc.	\$ 95.00	Day
North Organic Vapor Cartridges	\$ 45.00	Pair
North HEPA P100 Filters	\$ 15.00	Pair
Respirator Wipes	\$ 35.00	Per Box
6 pack breathing air bottles	\$ 195.00	Per Set
Regulator Manifold with L/P alarm	\$ 75.00	Day
L/P Hose 100'	\$ 55.00	Day
L/P Hose 50'	\$ 30.00	Day
Airline w/ 5 minute egress escape cylinder and full face mask	\$ 55.00	Day
Air Blower	\$ 200.00	Day
Self Contained Breathing apparatus (30min)	\$ 250.00	Ea.
Tripod w/ double winches	\$ 295.00	Day
Davit Arm Tripod	\$ 295.00	Day

Date_____Initial_____

Equipment Cont'd

Description	Straight Time	UOM
Hydraulic Drum Tipper	\$ 1,320.00	Day
Towable Trash Pump	\$ 215.00	Day

All prices, unless otherwise indicated are per hour.
Minimum charge of 4 hours applies to all personnel, equipment and vehicles.
All consumables, rentals and supply pricing is contingent upon current market rate and conditions.
~~HCI reserves the right to modify our pricing at any time due to market rate increase.~~
A fluctuating fuel surcharge on 25% of motorized vehicles/transportation based on the current monthly average per EIA for California will be invoiced.

CONSUMABLES

Description	Price	UOM
275-gallon Reconditioned Tote	\$ 195.00	Ea.
330-gallon Reconditioned Tote	\$ 225.00	Ea.
95-gallon Overpack Drum Poly	\$ 315.00	Ea.
85-gallon Overpack Drum Metal	\$ 350.00	Ea.
55-gallon Poly OT Drum	\$ 75.00	Ea.
55-gallon Poly CT Drum	\$ 75.00	Ea.
55-gallon Metal OT Drum	\$ 75.00	Ea.
55-gallon Metal CT Drum	\$ 75.00	Ea.
55-gallon Bag	\$ 30.00	Ea.
55-gallon Box	\$ 25.00	Ea.
30-gallon Poly OT Drum	\$ 75.00	Ea.
30-gallon Poly CT Drum	\$ 75.00	Ea.
30-gallon Metal OT Drums	\$ 75.00	Ea.
30-gallon Metal CT Drum	\$ 75.00	Ea.
30-gallon Box	\$ 20.00	Ea.
20-gallon Box	\$ 20.00	Ea.
15-gallon Poly OT Drum	\$ 55.00	Ea.
15-gallon Poly CT Drum	\$ 55.00	Ea.
15-gallon Metal OT Drum (New)	\$ 125.00	Ea.
15-gallon Metal CT Drum	\$ 55.00	Ea.
10-gallon Box	\$ 20.00	Ea.
5-gallon Pail w/pour spout	\$ 25.00	Ea.
5-gallon pail with screw top lid	\$ 25.00	Ea.
5-gallon Metal Pail	\$ 40.00	Ea.
5-gallon Bag	\$ 16.00	Ea.
5-gallon Box	\$ 14.00	Ea.
4' Fiber Drum	\$ 75.00	Ea.
4' Light Tube Boxes	\$ 10.00	Ea.
8' Fiber Drum	\$ 75.00	Ea.
8' Light Tube Boxes	\$ 18.00	Ea.
Cubic Yard Box w/Lid, liner and pallet	\$ 125.00	Ea.
Cubic Yard Box Liner Only	\$ 15.00	Ea.
Cubic Yard Box Lid Only	\$ 25.00	Ea.
Cubic Yard Bag w/Liner and Cage	\$ 50.00	Ea.
Cubic yard Bag w/Liner, bladder and Cage	\$ 50.00	Ea.
Cubic yard Cage	\$ 25.00	Ea.
Cubic Yard Bag Lid Only	\$ 85.00	Ea.
Pallet	\$ 40.00	Ea.
Ring Nut Bolt Assembly (55 Gallon)	\$ 25.00	Ea.
Ring Nut Bolt Assembly (30 Gallon)	\$ 25.00	Ea.
Haz Cat Strips	\$ 20.00	Ea.

Date _____ Initial _____

CONSUMABLES Cont'd

Description	Price	UOM
Gorilla Tape	\$ 15.00	Ea.
Duct Tape	\$ 15.00	Ea.
Caution Tape	\$ 25.00	Ea.
Hazardous Waste Labels	\$ 1.50	Ea.
Polyethylene Bags	\$ 95.00	Ea.
Plastic Bags (Contractor Bags)	\$ 50.00	Ea.
55-gallon Drum Liners	\$ 17.00	Ea.
20" Stretch Film	\$ 80.00	Ea.
Water Base Funnel	\$ 45.00	Ea.
FM Approved Solvent Hand Pump	\$ 180.00	Ea.
FM Approved Solvent Funnel	\$ 425.00	Ea.
Sample Tubes	\$ 150.00	Ea.
Sample Jars	\$ 2.50	Ea.
Industrial Grade Detergent	\$ 885.00	Dm.
Visqueen 100 FT Roll	\$ 185.00	Ea.
2 Drum Spill Containment	\$ 425.00	Ea.
4 Drum Spill Containment	\$ 575.00	Ea.
Drum Putty	\$ 15.00	Ea.
Dust Mask	\$ 5.00	Ea.
Face Shield	\$ 25.00	Ea.
Mop Head and Pole	\$ 45.00	Ea.
Mop Head	\$ 25.00	Ea.
White disposable suits (Tyvek)	\$ 25.00	Ea.
Yellow disposable suits (Tyvek)	\$ 35.00	Ea.
Safety Glasses	\$ 8.00	Ea.
Hard Hats	\$ 45.00	Ea.
Nitrile Gloves	\$ 35.00	Bx.
Leather Work Gloves	\$ 10.00	Ea.
12" Chemical Gloves	\$ 10.00	Ea.
3M Sorbent Rolls	\$ 125.00	Ea.
Vermiculite	\$ 25.00	Ea.
Absorbent	\$ 20.00	Ea.
Universal Socks 3"x4'	\$ 115.00	Bx.
Universal Socks 3" x 8'	\$ 90.00	Case
Universal Socks 3" x 10'	\$ 90.00	Case
Universal Socks 5" x 10'	\$ 110.00	Case
Universal Socks 5" x 20'	\$ 110.00	Case
Absorbent Pads (oil) 15"x17"	\$ 50.00	Bx.
Absorbent Pads (chemical) 15"x17"	\$ 55.00	Bx.
Black Spray Paint	\$ 10.00	Ea.
Blue Spray Paint	\$ 10.00	Ea.

Date _____ Initial _____

CONSUMABLES Cont'd

Description	Price	UOM
White Spray Paint	\$ 10.00	Ea.
Red Spray Paint	\$ 10.00	Ea.
Rags (25# Box)	\$ 50.00	Bx.
Broom	\$ 45.00	Ea.
Shovel	\$ 35.00	Ea.
Squeegee	\$ 45.00	Ea.
Bung Wrench	\$ 75.00	Ea.
Placards 4x4	\$ 0.50	Ea.
Placards 12x12	\$ 10.00	Ea.
Sand Bags	\$ 5.00	Per
Shrink Wrap	\$ 65.00	Ea.
Speed Wrench	\$ 60.00	Ea.
S3M Spray Adhesive	\$ 15.00	Ea.
Spray Bottle	\$ 190.00	Bx.
Level A Fully Encapsulated Vapor Tight Suit with SCBA	\$ 660.00	Per Man
Level B Fully Poly-Tyvek Splash-Proof/Non-Vapor tight with SCBA	\$ 495.00	Per Man
Level C Tyvek Through Saranex Suite with Air Purifying Respirator	\$ 330.00	Per Man
Level D Tyvek Poly-Tyvek Coverall or Raingear Suit w/Gloves, Boots, Hardhat		
Safety Glasses	\$ 60.00	Per Man
Light Duty Shoe Covers	\$ 5.00	Ea.
Heavy Duty Shoe Covers	\$ 5.00	Ea.
Steel-Toe Neoprene Boots	\$ 150.00	Ea.
Work Boots	\$ 150.00	Ea.
Traffic Vests	\$ 35.00	Ea.
Drinking Water	\$ 2.50	Ea.

All consumables, rentals and supply pricing is contingent upon current market rate and conditions.

HCI reserves the right to modify our pricing at any time due to market rate increase.

Date _____ Initial _____

OUTSIDE SERVICES

Description	Price	UOM
Disposal Charges*	TBD	TBD
Non Haz Tanker Wash Out**	\$ 350.00	Ea.
Non RCRA/RCRA Tanker Wash Out***	\$ 525.00	Ea.
Certified Tanker Wash Out	Cost + 35%	Ea.

***Roll off bins will be billed at a 10 ton min unless otherwise specified, material weighing <2,000lbs per cubic yard will be billed by cubic yard.**

****Includes up to 45 min wash out, >45 mins will be billed at \$100 each additional 15 mins.**

*****Includes up to 45 min wash out, >45 mins will be billed at \$175 each additional 15 mins.**

This quote is an estimate only. Pricing is based on information provided by client. Due to this being an emergency response HCI has not performed a site inspection. If scope of work varies from information provided by the client or responsible party the quote amount will be adjusted accordingly.

Notes:

Date_____Initial_____

EXHIBIT C
SCHEDULE OF PERFORMANCE

The estimated time required to be on-scene from the time of request for services is 2 hours dependent upon the type of spill.

Title	Morgan Hill Contract
File name	HCI_Service_Agmt_v2.pdf
Document ID	711613d89ff57e20ee485b7e6a635bc7b52fe6eb
Audit trail date format	MM / DD / YYYY
Status	● Signed

Document History



05 / 13 / 2024
22:20:06 UTC

Sent for signature to Gregory J Parker (greg@hcienv.com) and C. Robert Guy (rguy@hcienv.com) from cathie@hcienv.com
IP: 20.94.254.206



05 / 13 / 2024
22:21:42 UTC

Viewed by Gregory J Parker (greg@hcienv.com)
IP: 174.218.126.53



05 / 13 / 2024
22:25:00 UTC

Signed by Gregory J Parker (greg@hcienv.com)
IP: 174.218.126.53



05 / 13 / 2024
22:28:43 UTC

Viewed by C. Robert Guy (rguy@hcienv.com)
IP: 166.199.151.46



05 / 13 / 2024
22:29:12 UTC

Signed by C. Robert Guy (rguy@hcienv.com)
IP: 166.199.151.46



COMPLETED

05 / 13 / 2024
22:29:12 UTC

The document has been completed.

SERVICE AGREEMENT

Clean Harbors Environmental Services, 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 Clean Harbors Environmental Services, Inc., a Massachusetts corporation ("SERVICE PROVIDER") duly authorized to do business in California and will remain so during the term of this Agreement, hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2026 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of three one-year extensions. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be cleanup of emergency hazardous material spills as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$100,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One Hundred Thousand dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to SERVICE PROVIDER during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the initial term of this Agreement.
 - 4.2. **Billing.** SERVICE PROVIDER shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.

5. **Termination.** CITY or SERVICE PROVIDER shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager 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 SERVICE PROVIDER of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. SERVICE PROVIDER 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 SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER's equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of 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 SERVICE PROVIDER's sole risk.

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, because SERVICE PROVIDER will be handling material or chemical potentially considered to be a hazardous material under any federal, state or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

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

8.1. **Insurance Types and Amounts.**

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

(including any excess or “umbrella” policies), whichever is greater. Further, if SERVICE PROVIDER maintains a claims-made policy, SERVICE PROVIDER shall provide written evidence of such insurance to the CITY for at least five (5) years after the completion of work performed under this Agreement.

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

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

8.1.7. Crime/Fidelity Bond. If the performance of SERVICE PROVIDER'S work or service under this Agreement relates to or involves handling of CITY monies, SERVICE PROVIDER shall procure and maintain Crime insurance, in the minimum amount of: (i) three hundred thousand dollars (\$300,000.00) per occurrence, covering all SERVICE PROVIDER'S officers and employees, for loss of CITY monies caused by dishonesty and/or theft.

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

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

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

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

8.2.1.3. “Primary and Non-Contributing” - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the CITY'S insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.

8.2.2. Workers Compensation.

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

- 8.3. **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.
- 8.4. **Certificates.** SERVICE PROVIDER shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with 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 8. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

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

10. **Compliance with Law.**

- 10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon any basis prohibited by state or federal law, including but not limited to, race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.
- 10.2. **Compliance with Wage and Hour Laws:** SERVICE PROVIDER, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time to

appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against SERVICE PROVIDER and/or its subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT – THAT SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. SERVICE PROVIDER and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, CITY reserves the right to withhold payment to SERVICE PROVIDER until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.
12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are deemed

confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.

13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

14. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of SERVICE PROVIDER is as follows:

Clean Harbors Environmental Services, Inc.
42 Longwater Drive
Norwell, MA 02061

Address of CITY is as follows:

Tanya Carothers, ESD	with a copy to:
Administrator	City Clerk
City of Morgan Hill	City of Morgan Hill
Choose an item.	17575 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. SERVICE PROVIDER shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of CITY or as part of any audit of CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should SERVICE PROVIDER discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be void and, at CITY'S option, shall terminate this Agreement effective as of the date of such attempted assignment.

21. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of CITY.

22.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMS alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of SERVICE PROVIDER to indemnify the INDEMNITEE shall be as

broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

23. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and SERVICE PROVIDER. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

24. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

25. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

26. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

28. **Notice Of Security and/or Privacy Incident.** If SERVICE PROVIDER, or its subcontractor, 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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, SERVICE PROVIDER 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. SERVICE PROVIDER 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.

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.

[Signatures on Next Page]

30. **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

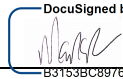
Date: _____

Date: _____

APPROVED AS TO FORM:

Clean Harbors Environmental Services, Inc.

City Attorney

DocuSigned by:

B3153BC8976741F...

By:

Marc McReynolds Senior Vice President

Donald A. Larkin
Print Name

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

Date: _____

Date: _____

By:

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

Date: _____

EXHIBIT A SCOPE OF SERVICES

Service Provider shall provide quick and efficient cleanup of hazardous material spill incidents. All necessary equipment and expertise shall be made readily available to the City when emergency spill cleanup is required. The purpose of the on-call contract is to expedite spill response times in order to minimize potential impacts to human health and the environment.

Services may range from cleanup of hazardous materials spilled in a worst-case scenario train derailment with tanker cars, to more common cleanups including small oil spills, paint dumped in a gutter or cleanup of unknown materials from a leaking abandoned hazmat drum.

Maximum response time to be on-scene for standard clean-ups from the time of request for services is two (2) hours depending upon the type of spill.

All hazardous waste must be transported and disposed of according to local, state, and federal law. Service provider is responsible for complying with the applicable laws and regulations in the importing country and transit countries for any hazardous waste disposed of outside of the United States.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Please see attached rate sheets.

Name of Service Provider: Clean Harbors Environmental Services, Inc.**Attachment A**

City of Morgan Hill
Cost Proposal: Emergency On-Call Spill Response Services

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
Travel Distance from Business Location to City of Morgan Hill: <u>20 miles</u>			
Estimated Time Required to be On-Scene from the Time of Request for Services: <u>60 to 90 minutes</u>			
1	Travel to Morgan Hill - Cost to Transport Cleanup Equipment and Materials	Per Mile/ Per Vehicle	Variable recovery fee will apply. Details are found in the attached rate sheet.
2	Labor - List typical staff positions involved in cleanups and their hourly billing rate	Per Hour/ Per Person	
	Field Technician		\$84.00/hr.
	Foreman		\$102.00/hr.
	Equipment Operator		\$102.00/hr.
3	Equipment Required - List equipment that may be used for cleanups and hourly cost to operate	Per Hour/ Per Unit	
	High Powered Vacuum Truck/Cusco		\$165.00/hr.
	Rolloff Straightjob		\$112.00/hr.
	Box Truck		\$102.00/hr.
	Emergency Response Van		\$94.00/hr.
	Pickup with Dump Body		\$35.00/hr.
	Pickup/Van/Car/Crew Cab		\$32.00/hr.
4	Materials - List materials that may be used in cleanups and cost per unit (e.g. absorbents)	Per Unit	
	Speedi Dry		\$18.00/bag
	Absorbent Boom, 5in x 10ft x 4/Bale		\$115.00/bale
5	Hazardous Waste Disposal - List tasks associated with hazardous waste disposal and associated fees, including travel costs	Per Task	
	Disposal costs vary by waste stream		case by case
	Sample & Profile Approval Fee		\$208.00/each
	Analytical/Lab Analysis		case by case

COST PROPOSAL FORM			
Bid Item	Description of Bid Item	Approx. Quantity/ Unit of Measure	Unit Price
6	Completion of a Cleanup Summary Report - Should include a basic list of emergency cleanup tasks completed and, if applicable, recommendations for long-term follow-up actions/remediation	Per Incident	\$150/report
7	Administrative Fees	Per Incident	
8	Other Foreseeable Cleanup Tasks Not Listed Above		
	*Please see the attached rate sheet		

* Please refer to the attached rate sheet for additional labor/equipment/material categories, fees and pricing conditions.

THIS FORM MUST BE USED WHEN SUBMITTING PROPOSAL



Regional Rate Sheet

* Items will be billed at a variable rate depending on supply costs at the time of order placement. Rates will be adjusted monthly as needed.

Region: Greater San Francisco

Rate Category Type: Emergency Response Rates

Currency Code: USD

Description	UOM	Price (USD)
FIELD PERSONNEL		
Field Technician	HR	\$84.00
Equipment Operator	HR	\$102.00
Foreman	HR	\$102.00
Chemist	HR	\$113.00
Supervisor	HR	\$119.00
Lead Chemist	HR	\$130.00
Project Manager	HR	\$153.00
Site Safety Officer	HR	\$186.00
TECHNICAL PERSONNEL		
Field Inspector	HR	\$89.00
Mechanic	HR	\$104.00
Welder	HR	\$104.00
Field Engineer/Scientist/Geologist	HR	\$116.00
Senior Engineer/Scientist/Geologist	HR	\$131.00
Professional Engineer/LSP	HR	\$164.00
ADMINISTRATIVE/MANAGERIAL PERSONNEL		
On Site Administration	HR	\$82.00
Emergency Response Coordinator	HR	\$137.00
General Manager	HR	\$191.00
COVID19 RESPONSE EQUIPMENT*		
Antiviral Backpack Sprayer	DAY	\$263.00
Antiviral Disinfectant Fogger	DAY	\$189.00
Antiviral Disinfectant Solution	GAL	\$49.00
Antiviral Electrostatic Sprayer	DAY	\$263.00
Decon Station	DAY	\$210.00
High Power Antiviral Fogger	DAY	\$683.00
N95 MASK	EA	\$7.90

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Regional Rate Sheet

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Description	UOM	Price (USD)
Wheeled Antiviral Sprayer	DAY	\$525.00
PER DIEM / SUBSISTENCE		
Per Diem / Subsistence	DAY	\$190.00
HEAVY DUTY TRUCKS		
Box Truck	HR	\$102.00
Dump Truck, 10 Wheel	HR	\$112.00
High Powered Vacuum Truck/Cusco	HR	\$165.00
Rolloff Straightjob	HR	\$112.00
Rolloff Two Can Trailer	HR	\$123.00
Skid Mounted Vacuum System	HR	\$75.00
Tractor Only, No Trailer	HR	\$88.00
Tractor w/Box Van	HR	\$117.00
Tractor w/Dump Trailer	HR	\$117.00
Tractor w/Flatbed/Lowbed Trailer	HR	\$125.00
Tractor w/Liquid Transporter	HR	\$141.00
Tractor w/Rolloff Trailer	HR	\$123.00
Tractor w/Vacuum Trailer	HR	\$145.00
Vactor with Jet Rodder	HR	\$165.00
Vacuum Truck, Straight	HR	\$112.00
Wet/Dry High Powered Vacuum Truck/Guzzler	HR	\$165.00
LIGHT DUTY TRUCK/RESPONSE EQUIPMENT		
Emergency Response Van	HR	\$94.00
Pickup with Dump Body	HR	\$35.00
Pickup/Van/Car/Crew Cab	HR	\$32.00
Small Box Truck / Cube Van	HR	\$50.00
Spill Trailer	DAY	\$338.00
Stake Body/Utility Truck	HR	\$44.00
Utility / Support Trailer	DAY	\$231.00
PRESSURE WASHING EQUIPMENT		
10,000 PSI - 60 GPM - HP Pump (350, 405)	HR	\$77.00
1000psi Pressure Washer	DAY	\$109.00
2-D Rotating Nozzle	HR	\$71.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
20,000 PSI - 23 GPM - HP Pump (305)	HR	\$152.00
2000psi Pressure Washer	DAY	\$118.00
2500psi Hot Water Pressure Washer	DAY	\$369.00
2500psi Pressure Washer	DAY	\$129.00
3-D Rotating Nozzle - 10K, 20-80 GPM (LV)	HR	\$93.00
3000psi Hot Water Pressure Washer	DAY	\$407.00
40,000 PSI - 12 GPM - UHP Pump (305)	HR	\$179.00
40,000 PSI - 6 GPM - UHP Pump (200 HP)	HR	\$179.00

PUMPING/TRANSFERRING PUMPS

Drum Head Vacuum System, Electric	DAY	\$58.00
Drum Loader	DAY	\$186.00
Pump - Centrifugal, 2 in	DAY	\$119.00
Pump - Diesel Lister, 3 in	DAY	\$167.00
Pump - Double Diaphragm, 1 in	DAY	\$105.00
Pump - Double Diaphragm, 2 in	DAY	\$149.00
Pump - Double Diaphragm, 2 in, Chemical	DAY	\$197.00
Pump - Double Diaphragm, 3 in	DAY	\$167.00
Pump - Double Diaphragm, 3 in, Chemical	DAY	\$218.00
Pump - Double Diaphragm, 4 in	DAY	\$229.00
Pump - Electric Drum	DAY	\$118.00
Pump - Electric Submersible, 2 in	DAY	\$94.00
Pump - Electric Submersible, 3 in	DAY	\$118.00
Pump - Electric Submersible, 4 in	DAY	\$173.00
Pump - Hand	DAY	\$38.00
Pump - Hydraulic Transfer, 4 in	HR	\$38.00
Pump - Hydraulic Transfer, 6 in	HR	\$284.00
Pump - Trash, 4 in	DAY	\$309.00

MARINE RESPONSE EQUIPMENT

Airboat, Single Engine	DAY	\$1512.00
Airboat, Twin Engine	DAY	\$4410.00
Boat/Workskiff without Motor	DAY	\$179.00
Brush Skimmer	DAY	\$1008.00
Containment Boom - 10" Per Foot Per Day	FT	\$2.25

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Regional Rate Sheet

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Description	UOM	Price (USD)
Containment Boom - 18" Per Foot Per Day	FT	\$2.51
Containment Boom - 24" Per Foot Per Day	FT	\$3.24
Containment Boom - 36" Per Foot Per Day	FT	\$3.64
Drum Skimmer (24in-36in)	DAY	\$790.00
Drum Skimmer, Double Barrel 24"	DAY	\$1234.00
Hydraulic Power Pack for Skimmer	DAY	\$278.00
Landing Craft (LCM), 26ft-29ft	DAY	\$1197.00
Landing Craft (LCM), 30ft-34ft	DAY	\$1298.00
Landing Craft (LCM), 35ft-45ft	DAY	\$1947.00
PFD Deck Suit	EA	\$731.00
PFD Life Vest	DAY	\$34.00
PFD Survival Suit / Cold Weather Survival Work Suits	DAY	\$103.00
Power Barge Boat, 26ft-30ft	DAY	\$1386.00
Power Barge Boat, 30ft-42ft	DAY	\$2520.00
Power Workboat, Fast Response, 12-14ft	DAY	\$376.00
Power Workboat, Fast Response, 15-17ft	DAY	\$449.00
Power Workboat, Fast Response, 18-22ft	DAY	\$751.00
Power Workboat, Fast Response, 23-26ft	DAY	\$945.00
Power Workboat, Fast Response, 27-36ft	DAY	\$1197.00
Rigid Hull Inflatable (RIB) (18ft-22ft)	DAY	\$990.00
Rope Mop - 4" (Per Foot)	FT	\$38.00
Rope Mop - 9" (Per Foot)	FT	\$49.00
Rotating Disc Skimmer Unit	DAY	\$1028.00
Skim Pack Skimmer	DAY	\$204.00
Skimmer - C24H Hydraulically Powered Rope Mop Wringer	DAY	\$819.00
Skimmer - C29H Hydraulically Powered Rope Mop Wringer	DAY	\$1103.00
Skimmer - CV-46H Hydraulically powered Vertical Mop Wringer	DAY	\$977.00
Skimmer, Duck Bill	DAY	\$36.00
Skimming Vessel (Marco/JBF or Equivalent) 28-30ft	DAY	\$6899.00
Skimming Vessel Belt Drive Replacement	EA	\$1691.00
Weir Skimmer Unit	DAY	\$219.00

FIELD ANALYTICAL

4 Gas/5 Gas Meter	DAY	\$193.00
Bailer & Sampling Equipment	DAY	\$66.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
Draeger Air Monitoring Pump	DAY	\$86.00
Explosion/Oxygen Meter	DAY	\$137.00
Geiger Counter Meter	DAY	\$171.00
Hydrogen Cyanide Meter	DAY	\$141.00
Interface Probe	DAY	\$137.00
Lumex RA915+ Mercury Vapor Analyzer	DAY	\$555.00
Mercury Vapor Analyzer	DAY	\$284.00
Particulate Meter, Mini Ram or equivalent	DAY	\$137.00
Personal Air Pump Meter	DAY	\$66.00
pH Meter	DAY	\$66.00
PID Meter	DAY	\$137.00
Well Purging/Sampling Pump	DAY	\$66.00

HOSES/PIPE*

Hose - Chemical, 2 in X 20 ft	DAY	\$40.00
Hose - Chemical, 3 in X 20 ft	DAY	\$56.00
Hose - Chemical, 4 in X 20 ft	DAY	\$73.00
Hose - Flex ADS, 6 in, per ft	FT	\$5.35
Hose - Flex, 4 in, per ft	FT	\$3.32
Hose - Lay Flat, 2 in X 25ft	DAY	\$30.00
Hose - Lay Flat, 4 in X 25 ft	DAY	\$66.00
Hose - Lay Flat, 6 in X 25 ft	DAY	\$86.00
Hose - Suction, 2 in X 25 ft	DAY	\$34.00
Hose - Suction, 3 in X 25 ft	DAY	\$46.00
Hose - Suction, 4 in X 25 ft	DAY	\$66.00
Hose - Suction, 6 in X 25 ft	DAY	\$95.00
Wash Hose, 1/2in x 50ft	DAY	\$19.00

EARTH MOVING EQUIPMENT

Backhoe Loader, 1 Yard Bucket	HR	\$86.00
Bobcat Loader/Mini Excavator	HR	\$80.00
Excavator, 20-30 Ton	HR	\$109.00
Fork Attachment for Bobcat Loader	DAY	\$63.00
Loader, 2-3 Yard Bucket	HR	\$83.00
Mini Excavator	HR	\$80.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
Sweeper Attachment for Bobcat Loader	DAY	\$154.00
PNEUMATIC POWER TOOLS		
3/4in Drill, Rotary Hammer	DAY	\$99.00
Airspade Pneumatic Shovel	DAY	\$72.00
Jackhammer, 40Lb	DAY	\$71.00
Jackhammer, 60Lb	DAY	\$89.00
Jackhammer, 90Lb	DAY	\$107.00
Pneumatic Chipping Gun	DAY	\$114.00
Steel Nibbler, Pneumatic	DAY	\$142.00
GAS POWERED TOOLS		
Brush Cutter/Power Broom	DAY	\$133.00
Chain Saw	DAY	\$133.00
Cutoff Saw (Demo)	DAY	\$142.00
ELECTRIC POWER TOOLS*		
1/2in Drill, Electric	DAY	\$47.00
Circular Saw, Electric	DAY	\$66.00
Mercury Vacuum	DAY	\$223.00
Reciprocating Saw (Sawzall), Electric	DAY	\$86.00
Wet Vacuum (Shop Vac)	DAY	\$47.00
SITE SUPPORT		
100 HP boiler unit	HR	\$109.00
15 Gal HEPA Vacuum	DAY	\$186.00
150,000 BTU Portable Heater	DAY	\$294.00
2 CU YD self dumping hopper	DAY	\$4.43
2,000 - 2,900 Gal Poly Storage Tank	DAY	\$81.00
3,000 - 3,900 Gal Steel Storage Tank	DAY	\$28.00
300 - 500 Gal Poly Storage Tank	DAY	\$46.00
4,000 - 6,000 Gal Poly Storage Tank	DAY	\$99.00
Air Compressor 175-185 CFM	DAY	\$284.00
Air Compressor 8-10 CFM	DAY	\$132.00
ATV, 4X4 or 4X6	DAY	\$396.00
Carbon Filter System	DAY	\$269.00

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Regional Rate Sheet

* Items will be billed at a variable rate depending on supply costs at the time of order placement. Rates will be adjusted monthly as needed.

Description	UOM	Price (USD)
Decontamination Trailer	DAY	\$188.00
Dewatering Box	DAY	\$177.00
Drum Vacuum, Pneumatic	DAY	\$198.00
Dump Trailer (Trailer Only, Staged on Site)	DAY	\$80.00
Eyewash Station	DAY	\$58.00
Frac Tank 20,000 Gal	DAY	\$167.00
Frac Tank, Double Walled	DAY	\$200.00
Generator - 12K Watt	DAY	\$271.00
Generator - 4,000 Watt	DAY	\$151.00
Generator - 5,000 Watt	DAY	\$171.00
Generator - 8,000 Watt	DAY	\$198.00
Halogen Spotlight	DAY	\$114.00
Incident Command Unit	DAY	\$1696.00
Intermodal Container	DAY	\$33.00
Intrinsically Safe Drop Light	DAY	\$114.00
Light Stand	DAY	\$114.00
Light Tower w/Generator	DAY	\$566.00
Manlift	DAY	\$271.00
Office Trailer	DAY	\$124.00
On-site Van Trailer (Tractor not included)	DAY	\$218.00
Personnel Staging Tent, 10x10 ft, Purchased	EA	\$189.00
Personnel Staging Tent, 20' x 30'	DAY	\$155.00
Pump - Trash, 2 in	DAY	\$118.00
Pump - Trash, 3 in	DAY	\$136.00
Rolloff Container with Metal lid	DAY	\$24.00
Rolloff Container with Tarp & Bows	DAY	\$21.00
Sea Container / Conex / Tool Crib, 20 ft.	DAY	\$31.00
Secondary Containment Unit	DAY	\$42.00
Skid Mounted Liquid Phase Carbon System (10GPM)	DAY	\$74.00
Tank Trailer/Transporter, No Tractor (For Storage Only)	DAY	\$493.00
Traffic Cone/Barricade Unit	DAY	\$1.63
Utility/Cross Terrain Vehicle (Mule/Gator)	DAY	\$396.00
Vacuum Box, Watertight	DAY	\$112.00
Weather Mitigation (Heat/Cold Relief)	EA	\$150.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
SPECIALTY EQUIPMENT		
Auger, Manual	DAY	\$71.00
Compactor	DAY	\$71.00
Confined Space Entry Gear (Retrieval & Rescue Equip)	DAY	\$394.00
Cutting Torch/Acetylene Torch	DAY	\$131.00
DBI/Rogliss Tripod	DAY	\$71.00
Drum Crusher, Portable	DAY	\$493.00
Drum Tilter, Mechanical	DAY	\$186.00
Electric Auger	DAY	\$80.00
Electric Blower	DAY	\$95.00
Explosion Proof Pneumatic Fan Blower	DAY	\$95.00
Fiber Optic Camera	HR	\$63.00
Fiber Optic Camera Truck	HR	\$161.00
Forklift, 2,000Lb Capacity	DAY	\$453.00
Forklift, 6,000Lb Capacity (High Reach / Lull)	DAY	\$488.00
Plasma Cutting Torch	DAY	\$257.00
Remote Drum Opener, Pnuematic	DAY	\$1290.00
Sand Blaster and Hose	HR	\$32.00
Transit Set	DAY	\$136.00
Walk Behind Concrete Saw	DAY	\$247.00
RESPIRATORY PROTECTION*		
2 Man Breathing System	DAY	\$312.00
4 Man Breathing System	DAY	\$396.00
Acid Cartridges	PAIR	\$32.00
Asbestos Cartridges	PAIR	\$33.00
Breathing Air Hose, 100ft	DAY	\$114.00
Chlorine Cartridges	PAIR	\$35.00
Mercury Cartridges	PAIR	\$59.00
MSA Chemical Cartridge	EA	\$36.00
Negative Air Machine (Blower w/ HEPA filter)	DAY	\$284.00
Organic Vapor Cartridges (No Dust)	PAIR	\$41.00
Organic Vapor/Dust Combination Cartridges	PAIR	\$74.00
Respirator, Full Face	DAY	\$40.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
Self Contained Breathing Apparatus (SCBA)	DAY	\$284.00

PERSONAL PROTECTIVE EQUIPMENT (PER PERSON PER CHANGE OUT)*

Level A w/ResponderPlus Suit/Changeout	EA	\$1028.00
Level B w/CPF2 or Polytyvek/Changeout	EA	\$217.00
Level B w/CPF3 or Saranex Suit/Changeout	EA	\$271.00
Level B w/CPF4 or Barricade Suit/Changeout	EA	\$325.00
Level C w/CPF1,2 or Polytyvek/Changeout	EA	\$66.00
Level C w/CPF3 or Saranex Suit/Changeout	EA	\$81.00
Level C w/CPF4 or Barricade Suit/Changeout	EA	\$131.00
Modified Level D (Tyvek and Boots)	EA	\$33.00

CHEMICAL PROTECTIVE GARMENTS*

Chemrel Suit, Level C	EA	\$91.00
Kappler CPF1 Suit (Blue)	EA	\$37.00
Kappler CPF2 Suit (Grey)	EA	\$61.00
Kappler CPF2 Suit w/Strapped Seams (Grey)	EA	\$102.00
Kappler CPF3 Suit w/Hood & Boots (Tan)	EA	\$138.00
Kappler CPF3 Suit w/Hood & Strapped Seams (Tan)	EA	\$174.00
Kappler CPF4 Suit w/Hood & Boots (Green)	EA	\$143.00
Nomex Suit and Hood	EA	\$197.00
Polycoated Rain Gear, 22mil	EA	\$34.00
Tyvek, Polycoat HD/BT	EA	\$24.50
Tyvek, Saranex	EA	\$62.00
Tyvek, White	EA	\$24.50

HAND/FOOT PROTECTION*

14in Neoprene Gloves	PAIR	\$14.10
Cotton Winter Glove Liners	PAIR	\$6.50
Disposable Boot Covers (Chicken Boots)	PAIR	\$13.60
Glove, Nitrile, Inner Liner	PAIR	\$3.68
Gloves - 12 in PVC	PAIR	\$12.50
Gloves - 18 in PVC	PAIR	\$13.10
Gloves - Bulking and Solvents	PAIR	\$38.00
Gloves - Dexterity	PAIR	\$23.00
Gloves - Impact and Cut Resistant	PAIR	\$32.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
Puncture Resistant Gloves	PAIR	\$109.00
Silver Shield Gloves	PAIR	\$37.00
DOT SHIPPING CONTAINERS*		
1 Cubic Yard Supersac 13H2/Y/06	EA	\$118.00
10 Gal / 40 Litre Fiber Drum	EA	\$44.00
110 Gal Steel Drum, Reconditioned 1A2/Y400S	EA	\$563.00
16 Gal / 70 L Closed Poly Drum	EA	\$89.00
16 Gal / 70 L Open Poly Drum 1H2/Y56/S	EA	\$88.00
16 Gal Fiber Drum	EA	\$37.00
18x18x24in Nonhazardous Pathological Waste Box	EA	\$11.00
20 Gal / 80 Litre Fiber Drum	EA	\$37.00
20 Gal / 80 Litre Poly Drum (1H2/Y56/S)	EA	\$109.00
275G / 1100 L Poly TOTE, DOT Rated	EA	\$625.00
275G / 1100 L Recondition Poly TOTE, DOT Rated	EA	\$365.00
30 Gal / 120 Litre Closed Poly Drum 1H1/Y1.8/100	EA	\$95.00
30 Gal / 120 Litre Closed Steel Drum, New 1A1/Y1.6/200	EA	\$130.00
30 Gal / 120 Litre Closed Steel Drum, Recond 1A1/Y1.4/100	EA	\$130.00
30 Gal / 120 Litre Fiber Drum 1G/X56/S	EA	\$56.00
30 Gal / 120 Litre Open Poly Drum 1H2/Y142/S	EA	\$108.00
30 Gal / 120 Litre Steel Drum, New 1A2/Y1.4/100	EA	\$147.00
30 Gal / 120 Litre Steel Drum, Reconditioned 1A2/Y1.2/100	EA	\$115.00
4ft Fluorescent Tube Box 4G/Y275	EA	\$26.00
5 Gal / 20 Litre Closed Poly Drum 1H1/Y1.8/170	EA	\$32.00
5 Gal / 20 Litre Closed Steel Drum 1A1/Y1.8/300	EA	\$26.00
5 Gal / 20 Litre Poly Drum 1H2/Y1.5/60	EA	\$24.00
5 Gal / 20 Litre Steel Drum 1A2/Y1.8/100	EA	\$51.00
5.5 Gal / 20 L Steel Drum 1A2/Y23/S	EA	\$27.00
55 G / 205 L Closed Steel Drum, Recon 1A1/Y1.4/100 (17-E)	EA	\$84.00
55 G / 205 L Steel Drum, Reconditioned 1A2/Y1.2/100 (17-H)	EA	\$113.00
55 Gal / 205 L Stainless Steel Drum, Reconditioned	EA	\$273.00
55 Gal / 205 Litre Closed Poly Drum 1H1/Y1.8/150	EA	\$105.00
55 Gal / 205 Litre Closed Poly Drum 1H1/Y1.8/150, Recycled	EA	\$67.00
55 Gal / 205 Litre Closed Steel Drum, New 1A1/Y1.8/300	EA	\$114.00
55 Gal / 205 Litre Fiber Drum 1G/Y190/S	EA	\$96.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
55 Gal / 205 Litre Open Head Poly, Reconditioned Drum 1H2/Y2	EA	\$100.00
55 Gal / 205 Litre Poly Drum 1H2/Y237/S	EA	\$121.00
55 Gal / 205 Litre Steel Drum, New 1A2/Y1.5/100	EA	\$138.00
85 G / 320 L Steel Drum, Reconded 1A2/X400/S (Overpack)	EA	\$370.00
85 Gal / 320 Litre Steel Drum, New 1A2/X400/S	EA	\$371.00
85 Gal / 320 Litre Steel Drum, Recycled 1A2/X400/S	EA	\$208.00
8ft Fluorescent Tube Box 4G/Y275	EA	\$45.00
95 Gal Poly Drum 1H2/Y318/S (Overpack)	EA	\$436.00
95 Gal Poly Drum, Recycled 1H2/Y318/S (Overpack)	EA	\$290.00
Drum 15 Gal / 60 Litre Poly (1H2/Y1.8/100)	EA	\$88.00
Drum Liners	EA	\$5.30
Dump Trailer Poly Liner	EA	\$104.00
Filter/Liner for Filter Box	EA	\$386.00
Flexbin, 1 Cubic Yard Flexbin 11G/Y/2022/1122	EA	\$93.00
Flexbin, Cubic Yard Box for Non-Haz Waste	EA	\$44.00
Flexbin/Cubic Yard Box Liner	EA	\$32.00
Fluorescent Bulb Tubes, 4ft 100 bulb capacity	BOX2	\$105.00
Fluorescent Bulb Tubes, 8ft 100 bulb capacity	BOX2	\$107.00
Hazardous Waste Labels / Markings	EA	\$1.80
Labels - DOT Diamonds	EA	\$1.80
Pathological Waste Bag	EA	\$6.60
Poly Bags, 6mil, per Roll	EA	\$184.00
Poly Sheet, 6mil 20ft x 100ft	EA	\$189.25
Rolloff Poly Liner	EA	\$69.00
Vacbox Liner/Bladder	EA	\$441.00
Waste Wrangler	EA	\$112.00

ABSORBENT MATERIALS*

Absorbent Boom, 3in x 4ft	EA	\$8.70
Absorbent Boom, 5in x 10ft x 4/Bale	BALE	\$115.00
Absorbent Boom, 8in x 10ft x 4/Bale	BALE	\$183.00
Absorbent Pad (101 Grade) 100/bale	BALE	\$90.00
Absorbent Roll, 38in x 144ft	EA	\$196.00
Absorbent Rug, 36in x 300ft	EA	\$325.00
Absorbent Sweep, 17in x 100ft	BALE	\$173.00

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Regional Rate Sheet

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Description	UOM	Price (USD)
HGX Absorbent (Mercury absorbent)	LBS	\$22.50
Oil Snare, on a Line, 50ft	EA	\$105.00
Poly Absorbent, 12 lb / 5.5 kg	BAG	\$114.00
Rags, 50 lb / 23 kg	BOX	\$103.00
Speedi Dry	BAG	\$18.00
SPI Solidification Particulate (Oil Bond)	LBS	\$21.00
SPI Waterbond	LBS	\$17.00
Vermiculite 4 cuft	BAG	\$70.55

DEGREASERS & NEUTRALIZING AGENTS*

Capsur	GAL	\$184.00
Cirtic Acid Solution, 15%	GAL	\$7.60
Citrus Cleaner Degreaser	GAL	\$50.00
Hydrated Lime, 50 lb / 23 kg	BAG	\$8.70
Penetone Degreaser	GAL	\$36.00
Pink Stuff Degreaser	GAL	\$39.00
Simple Green Degreaser	GAL	\$14.00
Soda Ash, 100 lb / 45 kg	BAG	\$57.00
Sodium bisulfate 50 lb / 23 kg	BAG	\$132.00
Sodium Hypochlorite, 15% (Bleach)	GAL	\$20.00

ER COVERAGE FEES/SAFETY PLANS/REPORTS

Additional Site Listings	EA	\$1000.00
Communications Package	DAY	\$53.00
ER Incident Report Fee	EA	\$400.00
OPA 90 Single Facility Fee	EA	\$2500.00
Safety Plan	EA	\$150.00

WASTE MATERIAL APPROVAL

Profile Approval Fee (No Sample)	EA	\$125.00
Profile Recertification Fee (No Sample)	EA	\$35.00
Sample & Profile Approval Fee	EA	\$208.00

MISCELLANEOUS*

Acetylene Bottle	EA	\$49.00
Bottled Water / Stress Relief	CA	\$28.00

"Confidential | Proprietary Business Information - Do Not Disclose To Any Third-Party Without Written Consent of Clean Harbors."



Regional Rate Sheet

* Items will be billed at a variable rate depending on supply costs at the time of order placement. Rates will be adjusted monthly as needed.

Description	UOM	Price (USD)
Breathing Air Bottle Refill	EA	\$33.00
Caution Tape/Roll	EA	\$61.00
Digital Camera	DAY	\$94.00
Duct Tape/Roll	EA	\$24.00
First Aid Kit, 25 Person	EA	\$90.00
Misc. Handtools	DAY	\$53.00
Rolloff Bow	EA	\$46.00
Rolloff Tarp	EA	\$453.00
Shrink Wrap	ROL	\$52.00

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

The estimated time required to be on-scene from the time of request for services is 2 hours dependent upon the type of spill.

Attachment 4

Bid Comparison of Emergency Spill Response Companies

Company	Response Time	Hourly Average Labor Rate Per Person for Key Positions	Staff Positions
GrayMar	2 hours	\$ 122.33	Incident Commander, Senior Project Manager, Environmental Engineer, Environmental Scientist, Health and Safety Manager, Project Manager, Chemist, Project Coordinator, Supervisor, HAZMAT Driver, Equipment Operator, HAZMAT Technician
HCI	2 hours	\$ 105.00	Environmental Technician
Clean Harbors	1 - 1 1/2 hours	\$ 96.00	Field Technician, Foreman, Equipment Operator

CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Keri Russell, Maintenance Manager

APPROVED BY: City Manager

ADOPT RESOLUTION ORDERING ANNUAL ASSESSMENTS AND RELATED ACTIONS FOR CITY OF MORGAN HILL LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

RECOMMENDATION(S)

1. Open and close the Public Hearing; and
2. Adopt resolution confirming Fiscal Year (FY) 2024-25 annual assessments and ordering the levy of assessments for the District.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Maintaining and Enhancing Infrastructure

2024-2025 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The City of Morgan Hill Landscape Assessment District No. 1 (District) was created to pay for the maintenance of the parks and common landscaping in neighborhoods benefiting from the open space within the District. The purpose of this item is to:

1. Provide an opportunity for public input;
2. Confirm the FY 2024-25 Assessments; and
3. Order the levy of the Assessments.

Per California Streets and Highways code Sections 22623 to 22631, the Annual Report (Attachment 1) is required to set the annual assessments in the District. In addition to approving the report on April 24, 2024, the Council declared its intent to levy assessments in the District and established June 5, 2024 as the date of the official public hearing.

COMMUNITY ENGAGEMENT:

Ongoing resident outreach is occurring in several of the subareas and City staff are striving to increase the resident outreach to others. Some areas have more active homeowners groups that work with City staff in planning maintenance projects for their subareas, while residents of other subareas are less engaged. In recent years, City staff have successfully developed relationships with resident groups in several areas. Staff are closely working with active districts on the ongoing maintenance and budgets for their district. Although outreach with residents is typically positive, not all residents are satisfied with the service being provided within their subarea. This dissatisfaction is often due to limitations of funding available to the subarea without an associated increase in assessment.

Staff is recommending increases to the assessment for the Sparhawk sub area. Staff have had a resident meeting with Sparhawk and Sparhawk recently voted to increase their maximum assessment.

ALTERNATIVE ACTIONS:

There is no other practical alternative action. The City Council could choose to provide staff with further direction on management of the District.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In 1991, the City Council, under the Landscaping and Lighting Act of 1972, created the Fox Hollow/Murphy Springs Landscape Assessment District, and in 2010 chose to rename it to the City of Morgan Hill Landscape Assessment District No. 1. In May 2011, reserve targets for each subarea were established by the Council.

On April 24, 2024, the City Council initiated the annual assessment process and approved the Engineer's Annual Report, for FY 2024-25. In addition to approving the report, the Council declared its intent to levy assessments in the District and established June 5, 2024 as the date of the official public hearing.

FISCAL AND RESOURCE IMPACT:

The cost for preparation of the Engineer's Annual Report will be paid for by the Landscape Assessment District Fund (229). It is anticipated that the District will generate \$205,688 in revenue in Fiscal Year 2024-25. Expenses are budgeted at \$210,179, meaning that overall, the District's reserves are projected to be reduced by \$4,491 in the upcoming fiscal year. Providing administrative oversight to the District is a core activity of the Public Services Department's work program.

CEQA (California Environmental Quality Act):

Categorical Exemption

The planned maintenance and management of the subareas within the lighting and landscape assessment district fall within the CEQA categorical exemption of Class 1, Existing Facilities.

CITY OF MORGAN HILL

Fiscal Year 2024/25 Engineer's Report For:

Landscape Assessment District No. 1

April 2024

Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Toll free: 800.676.7516

CITY OF MORGAN HILL
17575 Peak Avenue
Morgan Hill, CA 95037-4128
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CITY COUNCIL

Mark Turner, Mayor

Rene Spring, Mayor Pro Tem

Gino Borgioli, Council Member

Marilyn Librers, Council Member

Yvonne Martinez Beltran, Council Member

CITY STAFF

Christina Turner, City Manager

Chris Ghione, Public Services Director

Dat Nguyen, Finance Director

Keri Russell, Maintenance Manager

NBS

Melissa Ellico, Administrator

Darrylanne Zarate, Project Manager

Greg Davidson, Client Service Director

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1. EXECUTIVE SUMMARY

WHEREAS, the City Council of the City of Morgan Hill (the “City”), State of California, directed NBS to prepare and file a report, in accordance with Chapter 1, Article 4 of the Landscaping and Lighting Act of 1972 (the “Act”), presenting the plans and specifications describing the general nature, location and extent of the improvements to be maintained, an estimate of the costs of the maintenance, operations and servicing of the improvements for the City’s Landscape Assessment District No. 1 (the “District”) for Fiscal Year 2024/25. The report includes a diagram for the District, showing the area and properties proposed to be assessed, an assessment of the estimated costs of the maintenance, operations and servicing the improvements, and the net amount upon all assessable lots and/or parcels within the District in proportion to the special benefit received and;

WHEREAS, the assessment for each parcel is in compliance with the Proposition 218 Omnibus Implementation Act and Section 4 of Article XIII D of the California Constitution. The proposed assessments are not proposed to increase by more than the approved maximum allowable increases.

NOW THEREFORE, assessments have been levied in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

Zone	Units	FY 2024/25 Maximum Assessment Rate	FY 2024/25 Actual Assessment Rate	Total Assessment ⁽¹⁾
Belle Estates	36	\$502.22	\$310.00	\$11,160.00
Chang/Bertelone	8	1,215.00	550.00	4,400.00
Conte Gardens	11	477.82	365.00	4,015.00
Diana Estates	64	139.39	139.39	8,920.96
Fox Hollow ⁽²⁾	75	247.41	173.53	13,014.75
Hamilton Square	38	425.54	425.00	16,150.00
Jackson Meadows #6	70	108.10	108.00	7,560.00
Jackson Meadows #7	10	314.58	100.00	1,000.00
La Grande Estates	32	88.00	88.00	2,816.00
Lacrosse/Gera	24	142.99	50.00	1,200.00
Llagas Creek ⁽²⁾	71	333.16	233.67	16,590.57
Llagas/Obata	5	629.16	450.00	2,250.00
Mill Creek ^(2,4)	84	320.77	285.00	23,940.00
Oak Creek I, II, III	119	453.82	425.00	50,575.00
Parsons Corner ⁽³⁾	NOT APPLICABLE			
Rose Haven	27	488.47	400.00	10,800.00
Sandalwood ⁽⁴⁾	11	450.00	450.00	4,950.00
Sparhawk ^(2, 4)	18	500.00	500.00	9,000.00
Stone Creek ⁽²⁾	35	553.84	388.46	13,596.10
Sunnyside/Stonegate ⁽²⁾	10	811.66	375.00	3,750.00
Totals:	748			\$205,688.38

(1) Actual amount placed on secured tax roll may be less due to Santa Clara County submittal requirements. Amounts placed on the tax roll must be rounded down to an even number.

(2) Maximum Assessment Rate increases by 3% annually.

(3) Detachment of Parsons Corner Zone was approved in April 2019.

(4) Includes increased maximum assessment rate approved by property owners.

2. OVERVIEW

2.1 Introduction

In 1991, the City Council created the Fox Hollow/Murphy Springs Landscape Assessment District, under the Act, and in 2010 chose to rename it to the City of Morgan Hill Landscape Assessment District No. 1. The District was formed in order to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District. Following the initial formation, additional territory was annexed to the District as separate Zones. Currently, the District is comprised of 19 Zones (which decreased from 20 as a result of property owners within Parsons Corner electing to detach from the District in April 2019).

The District provides for and ensures the continued maintenance, servicing, administration, and operation of various landscaping improvements and associated appurtenances located within the public right-of-way and dedicated easements within the boundaries of the District.

2.2 Description of Boundaries

Exhibits from the Engineer's Report at the formation of the District define the boundaries and maintenance areas of each Zone within the District. These exhibits are on file and available for review at the Office of the City Engineer and, in conjunction with the County of Santa Clara (the "County") Assessor's maps of the areas annexed, comprise the assessment diagrams for the respective annexations. The Assessor's maps are on file in the office of the County Assessor and are, by reference, made a part of this Report.

2.3 Description of Improvements and Services

The improvements include the construction, operation, maintenance, and servicing of landscaping and appurtenant facilities; including, but not limited to, personnel, electrical energy, utilities such as water and gas, materials, contracting services, and other items necessary for the satisfactory operation of the following services:

"Landscape improvements provided within the District may include, but are not limited to: ground cover, shrubs, plants and trees, irrigation and drainage systems, graffiti removal, entry monuments, and associated appurtenant facilities. Services provided include all necessary service, operations, administration, and maintenance required to keep the above-mentioned improvements in a healthy, vigorous, and satisfactory condition."

Reference is made to the Plans and Specifications for the improvements, which is on file with the City.

3. ESTIMATE OF COSTS

3.1 Definitions of Budget Items

The following definitions describe some of the services and costs that may be included in the Zone Budgets:

Direct Expenses

Maintenance: Includes all regularly scheduled labor, material (i.e. pipe, fertilizer, insecticides, paint, etc.) and equipment required to properly maintain and ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.

Extra Contract Costs: Includes all labor, equipment, and material costs associated with unscheduled repairs and improvements needed to ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.

Water/Sewer: Includes the furnishing of water required for the operation and maintenance of the landscaping facilities.

Electricity Costs: Includes the furnishing of electricity required for irrigation systems for the operation and maintenance of the landscaping facilities.

Other Supplies: Includes costs that are generally unforeseen and not normally included in the yearly maintenance contract costs. This may include repair of damaged amenities due to vandalism, storms, heavy frost, etc. Also included may be planned upgrades that provide a direct benefit to the District. These upgrades could include replacing plant materials and/or renovation of irrigation systems.

Administrative Expenses

Salaries: Includes the cost to particular departments and staff of the City to provide the coordination of District services, operations, and maintenance of the improvements, response to public concerns and education, and procedures associated with the levy and collection of assessments.

Postage/Advertising: Includes the cost of providing any mailed notice to the property owners and publishing and posting the Resolution of Intention as required by the Act.

Internal Services: Includes overhead costs allocated to the District for various City staff services.

Administrative/Engineering Contract: Includes the costs associated with contracting with professionals to provide services specific to the administration of the levy.

Contingency/Capital Replacement Fund Balance (Reduction)/Reserve

Positive amounts are collected for various reasons that include, but are not limited to, any or all of the following:

- To maintain reserves which enable the City to pay for costs associated with the District during the first six months of the fiscal year,

Contingency/Capital Replacement Fund Balance (Reduction)/Reserve (continued)

- To reduce the current fund balance deficit (if any) that exists as of the beginning of the fiscal year, and
- To plan for the replacement of capital improvements in the future.

3.2 Zone Budgets

The estimated costs of servicing, maintaining, repairing, and replacing the actual improvements for each Zone for Fiscal Year 2024/25 are shown on the following pages.

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Belle Estates</u>
DIRECT EXPENSES	
Maintenance	\$6,000.00
Extra Contract Costs	1,000.00
Water/Sewer	3,200.00
Electricity Costs	0.00
Other Supplies	500.00
Subtotal Direct Expenses	<u>\$10,700.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,205.20
Postage/Advertising	10.03
Internal Services	978.26
Administrative/Engineering Contract	403.53
Subtotal Administrative Expenses	<u>\$2,597.02</u>
SUBTOTAL ZONE COST	\$13,297.02
Fund Balance (Reduction)/Reserve	(2,137.02)
TOTAL BALANCE TO LEVY	<u>\$11,160.00</u>
Number of Assessable Units	36
Assessment Rate per Unit	\$310.00
Estimated Beginning Fund Balance July 1, 2024	\$12,881.26
Fund Balance Change	<u>(2,137.02)</u>
Estimated Ending Fund Balance June 30, 2025	\$10,744.25



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	Chang / Bertelone
DIRECT EXPENSES	
Maintenance	\$3,120.00
Extra Contract Costs	500.00
Water/Sewer	1,000.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$4,620.00
ADMINISTRATIVE EXPENSES	
Salaries	\$267.82
Postage/Advertising	2.23
Internal Services	217.39
Administrative/Engineering Contract	89.67
Subtotal Administrative Expenses	\$577.12
SUBTOTAL ZONE COST	\$5,197.12
Fund Balance (Reduction)/Reserve	(797.12)
TOTAL BALANCE TO LEVY	\$4,400.00
Number of Assessable Units	8
Assessment Rate per Unit	\$550.00
Estimated Beginning Fund Balance July 1, 2024	\$12,421.67
Fund Balance Change	(797.12)
Estimated Ending Fund Balance June 30, 2025	\$11,624.56



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Budget Page 2 of 20

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Conte Gardens</u>
DIRECT EXPENSES	
Maintenance	\$0.00
Extra Contract Costs	1,000.00
Water/Sewer	2,900.00
Electricity Costs	240.00
Other Supplies	500.00
Subtotal Direct Expenses	<u>\$4,640.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$368.25
Postage/Advertising	3.06
Internal Services	298.91
Administrative/Engineering Contract	123.30
Subtotal Administrative Expenses	<u>\$793.53</u>
SUBTOTAL ZONE COST	\$5,433.53
Fund Balance (Reduction)/Reserve	(1,418.53)
TOTAL BALANCE TO LEVY	<u>\$4,015.00</u>
Number of Assessable Units	11
Assessment Rate per Unit	\$365.00
Estimated Beginning Fund Balance July 1, 2024	\$13,678.27
Fund Balance Change	<u>(1,418.53)</u>
Estimated Ending Fund Balance June 30, 2025	\$12,259.74



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Diana Estates</u>
DIRECT EXPENSES	
Maintenance	\$3,600.00
Extra Contract Costs	500.00
Water/Sewer	900.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$5,000.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$2,142.57
Postage/Advertising	17.83
Internal Services	1,739.13
Administrative/Engineering Contract	717.39
Subtotal Administrative Expenses	<u>\$4,616.92</u>
SUBTOTAL ZONE COST	\$9,616.92
Fund Balance (Reduction)/Reserve	(695.96)
TOTAL BALANCE TO LEVY	<u>\$8,920.96</u>
Number of Assessable Units	64
Assessment Rate per Unit	\$139.39
Estimated Beginning Fund Balance July 1, 2024	\$6,881.36
Fund Balance Change	<u>(695.96)</u>
Estimated Ending Fund Balance June 30, 2025	\$6,185.40



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	Fox Hollow
DIRECT EXPENSES	
Maintenance	\$3,744.00
Extra Contract Costs	1,000.00
Water/Sewer	4,400.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$9,144.00
ADMINISTRATIVE EXPENSES	
Salaries	\$2,510.83
Postage/Advertising	20.89
Internal Services	2,038.04
Administrative/Engineering Contract	840.69
Subtotal Administrative Expenses	\$5,410.46
SUBTOTAL ZONE COST	\$14,554.46
Fund Balance (Reduction)/Reserve	(1,539.71)
TOTAL BALANCE TO LEVY	\$13,014.75
Number of Assessable Units	75
Assessment Rate per Unit	\$173.53
Estimated Beginning Fund Balance July 1, 2024	\$15,690.20
Fund Balance Change	(1,539.71)
Estimated Ending Fund Balance June 30, 2025	\$14,150.49



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Hamilton Square</u>
DIRECT EXPENSES	
Maintenance	\$9,474.73
Extra Contract Costs	0.00
Water/Sewer	4,650.00
Electricity Costs	247.50
Other Supplies	1,000.00
Subtotal Direct Expenses	<u>\$15,372.23</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,272.15
Postage/Advertising	10.58
Internal Services	1,032.61
Administrative/Engineering Contract	425.95
Subtotal Administrative Expenses	<u>\$2,741.30</u>
SUBTOTAL ZONE COST	\$18,113.53
Fund Balance (Reduction)/Reserve	(1,963.53)
TOTAL BALANCE TO LEVY	<u>\$16,150.00</u>
Number of Assessable Units	38
Assessment Rate per Unit	\$425.00
Estimated Beginning Fund Balance July 1, 2024	\$9,595.56
Fund Balance Change	<u>(1,963.53)</u>
Estimated Ending Fund Balance June 30, 2025	\$7,632.03



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	Jackson Meadows #6
DIRECT EXPENSES	
Maintenance	\$1,052.75
Extra Contract Costs	1,350.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$2,402.75
ADMINISTRATIVE EXPENSES	
Salaries	\$2,343.44
Postage/Advertising	19.50
Internal Services	1,902.17
Administrative/Engineering Contract	784.65
Subtotal Administrative Expenses	\$5,049.76
SUBTOTAL ZONE COST	\$7,452.51
Fund Balance (Reduction)/Reserve	107.49
TOTAL BALANCE TO LEVY	\$7,560.00
Number of Assessable Units	70
Assessment Rate per Unit	\$108.00
Estimated Beginning Fund Balance July 1, 2024	\$2,165.54
Fund Balance Change	107.49
Estimated Ending Fund Balance June 30, 2025	\$2,273.04



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	Jackson Meadows #7
DIRECT EXPENSES	
Maintenance	\$1,092.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$1,092.00
ADMINISTRATIVE EXPENSES	
Salaries	\$334.78
Postage/Advertising	2.79
Internal Services	271.74
Administrative/Engineering Contract	112.09
Subtotal Administrative Expenses	\$721.39
SUBTOTAL ZONE COST	\$1,813.39
Fund Balance (Reduction)/Reserve	(813.39)
TOTAL BALANCE TO LEVY	\$1,000.00
Number of Assessable Units	10
Assessment Rate per Unit	\$100.00
Estimated Beginning Fund Balance July 1, 2024	\$4,852.41
Fund Balance Change	(813.39)
Estimated Ending Fund Balance June 30, 2025	\$4,039.01



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>La Grande Estates</u>
DIRECT EXPENSES	
Maintenance	\$0.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$0.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,071.29
Postage/Advertising	8.91
Internal Services	869.57
Administrative/Engineering Contract	358.70
Subtotal Administrative Expenses	<u>\$2,308.46</u>
SUBTOTAL ZONE COST	\$2,308.46
Fund Balance (Reduction)/Reserve	507.54
TOTAL BALANCE TO LEVY	<u>\$2,816.00</u>
Number of Assessable Units	32
Assessment Rate per Unit	\$88.00
Estimated Beginning Fund Balance July 1, 2024	(\$7,198.75)
Fund Balance Change	507.54
Estimated Ending Fund Balance June 30, 2025	<u>(\$6,691.21)</u>



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Lacrosse/Gera</u>
DIRECT EXPENSES	
Maintenance	\$1,092.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$1,092.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$401.73
Postage/Advertising	3.34
Internal Services	326.09
Administrative/Engineering Contract	134.51
Subtotal Administrative Expenses	<u>\$865.67</u>
SUBTOTAL ZONE COST	\$1,957.67
Fund Balance (Reduction)/Reserve	(757.67)
TOTAL BALANCE TO LEVY	<u>\$1,200.00</u>
Number of Assessable Units	24
Assessment Rate per Unit	\$50.00
Estimated Beginning Fund Balance July 1, 2024	\$2,119.18
Fund Balance Change	<u>(757.67)</u>
Estimated Ending Fund Balance June 30, 2025	\$1,361.51



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Budget Page 10 of 20

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Llagas Creek</u>
DIRECT EXPENSES	
Maintenance	\$4,752.00
Extra Contract Costs	1,000.00
Water/Sewer	4,400.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$10,152.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$2,376.92
Postage/Advertising	19.78
Internal Services	1,929.35
Administrative/Engineering Contract	795.86
Subtotal Administrative Expenses	<u>\$5,121.90</u>
SUBTOTAL ZONE COST	\$15,273.90
Fund Balance (Reduction)/Reserve	1,316.67
TOTAL BALANCE TO LEVY	<u>\$16,590.57</u>
Number of Assessable Units	71
Assessment Rate per Unit	\$233.67
Estimated Beginning Fund Balance July 1, 2024	\$11,611.11
Fund Balance Change	<u>1,316.67</u>
Estimated Ending Fund Balance June 30, 2025	\$12,927.78



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Llagas/Obata</u>
DIRECT EXPENSES	
Maintenance	\$1,752.00
Extra Contract Costs	0.00
Water/Sewer	250.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$2,002.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$167.39
Postage/Advertising	1.39
Internal Services	135.87
Administrative/Engineering Contract	56.05
Subtotal Administrative Expenses	<u>\$360.70</u>
SUBTOTAL ZONE COST	\$2,362.70
Fund Balance (Reduction)/Reserve	(112.70)
TOTAL BALANCE TO LEVY	<u>\$2,250.00</u>
Number of Assessable Units	5
Assessment Rate per Unit	\$450.00
Estimated Beginning Fund Balance July 1, 2024	\$1,267.88
Fund Balance Change	<u>(112.70)</u>
Estimated Ending Fund Balance June 30, 2025	\$1,155.18



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Mill Creek</u>
DIRECT EXPENSES	
Maintenance	\$10,527.48
Extra Contract Costs	500.00
Water/Sewer	4,250.00
Electricity Costs	252.00
Other Supplies	1,500.00
Subtotal Direct Expenses	\$17,029.48
ADMINISTRATIVE EXPENSES	
Salaries	\$2,812.13
Postage/Advertising	23.40
Internal Services	2,282.61
Administrative/Engineering Contract	941.58
Subtotal Administrative Expenses	\$6,059.71
SUBTOTAL ZONE COST	\$23,089.19
Fund Balance (Reduction)/Reserve	850.81
TOTAL BALANCE TO LEVY	\$23,940.00
Number of Assessable Units	84
Assessment Rate per Unit	\$285.00
Estimated Beginning Fund Balance July 1, 2024	\$17,609.50
Fund Balance Change	850.81
Estimated Ending Fund Balance June 30, 2025	\$18,460.31



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Oak Creek I, II, III</u>
DIRECT EXPENSES	
Maintenance	\$21,843.97
Extra Contract Costs	4,000.00
Water/Sewer	12,000.00
Electricity Costs	3,700.00
Other Supplies	1,500.00
Subtotal Direct Expenses	<u>\$43,043.97</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$3,983.85
Postage/Advertising	33.15
Internal Services	3,233.70
Administrative/Engineering Contract	1,333.90
Subtotal Administrative Expenses	<u>\$8,584.59</u>
SUBTOTAL ZONE COST	\$51,628.55
Fund Balance (Reduction)/Reserve	(1,053.55)
TOTAL BALANCE TO LEVY	<u>\$50,575.00</u>
Number of Assessable Units	119
Assessment Rate per Unit	\$425.00
Estimated Beginning Fund Balance July 1, 2024	\$36,479.39
Fund Balance Change	<u>(1,053.55)</u>
Estimated Ending Fund Balance June 30, 2025	\$35,425.83



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Rose Haven</u>
DIRECT EXPENSES	
Maintenance	\$8,421.98
Extra Contract Costs	500.00
Water/Sewer	1,050.00
Electricity Costs	270.90
Other Supplies	400.00
Subtotal Direct Expenses	<u>\$10,642.88</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$903.90
Postage/Advertising	7.52
Internal Services	733.70
Administrative/Engineering Contract	302.65
Subtotal Administrative Expenses	<u>\$1,947.76</u>
SUBTOTAL ZONE COST	\$12,590.65
Fund Balance (Reduction)/Reserve	(1,790.65)
TOTAL BALANCE TO LEVY	<u>\$10,800.00</u>
Number of Assessable Units	27
Assessment Rate per Unit	\$400.00
Estimated Beginning Fund Balance July 1, 2024	\$16,393.43
Fund Balance Change	<u>(1,790.65)</u>
Estimated Ending Fund Balance June 30, 2025	\$14,602.78



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Sandalwood</u>
DIRECT EXPENSES	
Maintenance	\$1,752.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$1,752.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$368.25
Postage/Advertising	3.06
Internal Services	298.91
Administrative/Engineering Contract	123.30
Subtotal Administrative Expenses	<u>\$793.53</u>
SUBTOTAL ZONE COST	\$2,545.53
Fund Balance (Reduction)/Reserve	2,404.47
TOTAL BALANCE TO LEVY	<u>\$4,950.00</u>
Number of Assessable Units	11
Assessment Rate per Unit	\$450.00
Estimated Beginning Fund Balance July 1, 2024	\$15,959.07
Fund Balance Change	<u>2,404.47</u>
Estimated Ending Fund Balance June 30, 2025	\$18,363.54



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Sparhawk</u>
DIRECT EXPENSES	
Maintenance	\$2,244.00
Extra Contract Costs	250.00
Water/Sewer	1,500.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$3,994.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$602.60
Postage/Advertising	5.01
Internal Services	489.13
Administrative/Engineering Contract	201.77
Subtotal Administrative Expenses	<u>\$1,298.51</u>
SUBTOTAL ZONE COST	\$5,292.51
Fund Balance (Reduction)/Reserve	3,707.49
TOTAL BALANCE TO LEVY	<u>\$9,000.00</u>
Number of Assessable Units	18
Assessment Rate per Unit	\$500.00
Estimated Beginning Fund Balance July 1, 2024	\$1,724.16
Fund Balance Change	<u>3,707.49</u>
Estimated Ending Fund Balance June 30, 2025	\$5,431.65



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Stone Creek</u>
DIRECT EXPENSES	
Maintenance	\$6,000.00
Extra Contract Costs	1,500.00
Water/Sewer	3,500.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$11,000.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,171.72
Postage/Advertising	9.75
Internal Services	951.09
Administrative/Engineering Contract	392.32
Subtotal Administrative Expenses	<u>\$2,524.88</u>
SUBTOTAL ZONE COST	\$13,524.88
 Fund Balance (Reduction)/Reserve	 71.22
TOTAL BALANCE TO LEVY	<u>\$13,596.10</u>
 Number of Assessable Units	 35
 Assessment Rate per Unit	 \$388.46
 Estimated Beginning Fund Balance July 1, 2024	 \$7,322.65
Fund Balance Change	71.22
Estimated Ending Fund Balance June 30, 2025	<u>\$7,393.87</u>



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Sunnyside / Stone Gate</u>
DIRECT EXPENSES	
Maintenance	\$2,105.50
Extra Contract Costs	400.00
Water/Sewer	500.00
Electricity Costs	0.00
Other Supplies	400.00
Subtotal Direct Expenses	<u>\$3,405.50</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$334.78
Postage/Advertising	2.79
Internal Services	271.74
Administrative/Engineering Contract	112.09
Subtotal Administrative Expenses	<u>\$721.39</u>
SUBTOTAL ZONE COST	\$4,126.89
Fund Balance (Reduction)/Reserve	(376.89)
TOTAL BALANCE TO LEVY	<u>\$3,750.00</u>
Number of Assessable Units	10
Assessment Rate per Unit	\$375.00
Estimated Beginning Fund Balance July 1, 2024	\$15,992.86
Fund Balance Change	<u>(376.89)</u>
Estimated Ending Fund Balance June 30, 2025	\$15,615.97



City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2024/25 Budget by Zone

	<u>Total of all Zones</u>
DIRECT EXPENSES	
Maintenance	\$88,574.40
Extra Contract Costs	13,500.00
Water/Sewer	44,500.00
Electricity Costs	4,710.40
Other Supplies	5,800.00
Subtotal Direct Expenses	<u>\$157,084.80</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$24,639.60
Postage/Advertising	205.00
Internal Services	20,000.00
Administrative/Engineering Contract	8,250.00
Subtotal Administrative Expenses	<u>\$53,094.60</u>
SUBTOTAL ZONE COST	\$210,179.40
Fund Balance (Reduction)/Reserve	(4,491.02)
TOTAL BALANCE TO LEVY	<u>\$205,688.38</u>
Number of Assessable Units	748
Assessment Rate per Unit	N/A
Estimated Beginning Fund Balance July 1, 2024	\$197,446.75
Fund Balance Change	<u>(4,491.02)</u>
Estimated Ending Fund Balance June 30, 2025	\$192,955.73



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4. ASSESSMENTS

The amount of the actual assessment for the Fiscal Year 2024/25 apportioned to each parcel, as shown on the latest equalized roll at the County Assessor's office, is listed in Section 6 of this Report. The description of each lot or parcel is part of the records of the County Assessor and such records are, by reference, made part of this Report.

4.1 Method of Apportionment

The assessments are levied in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation.

Pursuant to the Act and Article XIII D of the Constitution of the State of California, all parcels that have special benefit conferred upon them as a result of the maintenance and operation of improvements shall be identified and the proportionate special benefit derived by each identified parcel shall be determined in relation to the entire cost of the maintenance and operation of the improvements. Only parcels that receive direct special benefit are assessed, and each parcel is assessed in proportion to the estimated benefit received.

Several Zones have been annexed into the District and it has been determined that by reason of variations in the nature, location, and extent of the improvements, those areas will receive differing degrees of benefit from the improvements.

Within the Zones, each parcel is allocated a number of units, where each such unit is deemed to receive the same proportional special benefit from the maintenance and operation of the improvements within that Zone. The typical parcel, with a single-family residential use, will have one unit assigned. If the use or nature of a parcel confers special benefit in a greater or lesser degree than that typical use, that parcel may have greater than or less than one unit assigned.

4.2 Belle Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$502.22 per unit. There is currently no inflator associated with the Belle Estates Zone assessments.

There are currently 36 parcels within this Zone, and the total Zone costs are spread to each of the 36 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$11,160.00
Total Units	36
Fiscal Year 2024/25 Actual Assessment Per Unit	\$310.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$502.22

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$310.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$310.00
Change in the Actual Assessment Rate	\$0.00

4.3 Chang/Bertelone Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$1,215.00 per unit. There is currently no inflator associated with the Chang/Bertelone Zone assessments.

There are currently 8 parcels within this Zone, and the total Zone costs are spread to each of the 8 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$4,400.00
Total Units	8
Fiscal Year 2024/25 Actual Assessment Per Unit	\$550.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$1,215.00

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$550.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$550.00
Change in the Actual Assessment Rate	\$0.00

4.4 Conte Gardens Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$477.82 per unit. There is currently no inflator associated with the Conte Gardens Zone assessments.

There are currently 11 parcels within this Zone, and the total Zone costs are spread to each of the 11 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$4,015.00
Total Units	11
Fiscal Year 2024/25 Actual Assessment Per Unit	\$365.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$477.82

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$365.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$365.00
Change in the Actual Assessment Rate	\$0.00

4.5 Diana Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$139.39 per unit. There is currently no inflator associated with the Diana Estates Zone assessments.

There are currently 64 parcels within this Zone, and the total Zone costs are spread to each of the 64 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$8,920.96
Total Units	64
Fiscal Year 2024/25 Actual Assessment Per Unit ⁽¹⁾	\$139.39
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$139.39

(1) May be rounded down to even cents per parcel for County Tax Roll purposes.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$139.39
Fiscal Year 2024/25 Actual Assessment Per Unit	\$139.39
Change in the Actual Assessment Rate	\$0.00

4.6 Fox Hollow/Murphy Springs Zone

The assessment rate originally approved at the time of District formation was \$106.15 per unit. In July 2005, the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07.

There are currently 75 parcels within this Zone, and the total Zone costs are spread to each of the 75 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$13,014.75
Total Units	75
Fiscal Year 2024/25 Actual Assessment Per Unit ⁽¹⁾	\$173.53
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$247.41

(1) May be rounded down to even cents per parcel for County Tax Roll purposes.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$173.53
Fiscal Year 2024/25 Actual Assessment Per Unit	\$173.53
Change in the Actual Assessment Rate	\$0.00

4.7 Hamilton Square Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$425.54 per unit. There is currently no inflator associated with the Hamilton Square Zone assessments.

There are currently 38 parcels within this Zone, and the total Zone costs are spread to each of the 38 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$16,150.00
Total Units	38
Fiscal Year 2024/25 Actual Assessment Per Unit	\$425.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$425.54

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$425.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$425.00
Change in the Actual Assessment Rate	\$0.00

4.8 Jackson Meadows 6A/6B Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$108.10 per unit. There is currently no inflator associated with the Jackson Meadows 6A/6B Zone assessments.

There are currently 70 parcels within this Zone, and the total Zone costs are spread to each of the 70 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$7,560.00
Total Units	70
Fiscal Year 2024/25 Actual Assessment Per Unit	\$108.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$108.10

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$108.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$108.00
Change in the Actual Assessment Rate	\$0.00

4.9 Jackson Meadows Number 7 Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$314.58 per unit. There is currently no inflator associated with the Jackson Meadows Number 7 Zone assessments.

There are currently 10 parcels within this Zone, and the total Zone costs are spread to each of the 10 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$1,000.00
Total Units	10
Fiscal Year 2024/25 Actual Assessment Per Unit	\$100.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$314.58

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$100.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$100.00
Change in the Actual Assessment Rate	\$0.00

4.10 La Grande Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$88.00 per unit. There is currently no inflator associated with the La Grande Estates Zone assessments.

There are currently 32 parcels within this Zone, and the total Zone costs are spread to each of the 32 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$2,816.00
Total Units	32
Fiscal Year 2024/25 Actual Assessment Per Unit	\$88.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$88.00

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$88.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$88.00
Change in the Actual Assessment Rate	\$0.00

4.11 Lacrosse/Gera Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$142.99 per unit. There is currently no inflator associated with the Lacrosse/Gera Zone assessments.

There are currently 25 parcels within this Zone, and the total Zone costs are spread to each of the 25 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$1,200.00
Total Units	24
Fiscal Year 2024/25 Actual Assessment Per Unit	\$50.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$142.99

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$50.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$50.00
Change in the Actual Assessment Rate	\$0.00

4.12 Llagas Creek Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$140.84 per unit. In July 2005, the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07.

There are currently 71 parcels within this Zone, and the total Zone costs are spread to each of the 71 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$16,590.57
Total Units	71
Fiscal Year 2024/25 Actual Assessment Per Unit ⁽¹⁾	\$233.67
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$333.16

(1) May be rounded down to even cents per parcel for County Tax Roll purposes.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$233.67
Fiscal Year 2024/25 Actual Assessment Per Unit	\$233.67
Change in the Actual Assessment Rate	\$0.00

4.13 Llagas/Obata Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$629.16 per unit. There is currently no inflator associated with the Llagas/Obata Zone assessments.

There are currently 5 parcels within this Zone, and the total Zone costs are spread to each of the 5 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$2,250.00
Total Units	5
Fiscal Year 2024/25 Actual Assessment Per Unit	\$450.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$629.16

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$450.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$450.00
Change in the Actual Assessment Rate	\$0.00

4.14 Mill Creek Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$186.82 per unit. In February 2020, the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the assessment rate increase to \$285.00 per unit and the inflator. The rate increase took effect in Fiscal Year 2020/21 and the 3% inflator takes effect in Fiscal Year 2021/22.

There are currently 84 parcels within this Zone, and the total Zone costs are spread to each of the 84 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$23,940.00
Total Units	84
Fiscal Year 2024/25 Actual Assessment Per Unit	\$285.00
Fiscal Year 2024/25 Maximum Assessment Per Unit ⁽¹⁾	\$320.77

(1) Assessment Rate increase approved by property owners in February 2020.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$285.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$285.00
Change in the Actual Assessment Rate	\$0.00

4.15 Oak Creek I, II, III

The assessment rate originally approved at the time of annexing this Zone into the District was \$453.82 per unit. There is currently no inflator associated with the Oak Creek I, II, III Zone assessments.

There are currently 119 parcels within this Zone, and the total Zone costs are spread to each of the 119 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$50,575.00
Total Units	119
Fiscal Year 2024/25 Actual Assessment Per Unit	\$425.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$453.82

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$425.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$425.00
Change in the Actual Assessment Rate	\$0.00

4.16 Parsons Corner Zone

In April 2019, property owners in the Parsons Corner Zone voted to detach from the District. Therefore, there is no assessment for the Parsons Corner Zone.

4.17 Rose Haven Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$488.47 per unit. There is currently no inflator associated with the Rose Haven Zone assessments.

There are currently 25 parcels with a total of 27 units within this Zone, and the total Zone costs are spread to each of the 27 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$10,800.00
Total Units	27
Fiscal Year 2024/25 Actual Assessment Per Unit	\$400.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$488.47

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$400.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$400.00
Change in the Actual Assessment Rate	\$0.00

4.18 Sandalwood Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$192.39 per unit. In April 2018, property owners approved the assessment rate increase to \$450.00 per unit. There is currently no inflator associated with the Sandalwood Zone assessments.

There are currently 11 parcels within this Zone, and the total Zone costs are spread to each of the 11 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$4,950.00
Total Units	11
Fiscal Year 2024/25 Actual Assessment Per Unit	\$450.00
Fiscal Year 2024/25 Maximum Assessment Per Unit ⁽¹⁾	\$450.00

(1) Assessment Rate increase approved by property owners in April 2018.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$450.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$450.00
Change in the Actual Assessment Rate	\$0.00

4.19 Sparhawk Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$174.77 per unit. In July 2005, the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07. In April 2024, City Council approved the election results of a Proposition 218 proceeding to increase the maximum assessment rate to \$500.00 with a 3% annual inflator. Property owners approved the rate increase and the inflator. The rate increase took effect in Fiscal Year 2024/25 and the 3% inflator will take effect in Fiscal Year 2025/26.

There are currently 18 parcels within this Zone, and the total Zone costs are spread to each of the 18 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$9,000.00
Total Units	18
Fiscal Year 2024/25 Actual Assessment Per Unit	\$500.00
Fiscal Year 2024/25 Maximum Assessment Per Unit ⁽¹⁾	\$500.00

(1) Assessment Rate increase approved by property owners in April 2024.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$334.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$500.00
Change in the Actual Assessment Rate	\$166.00

4.20 Stone Creek Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$306.66 per unit. In July 2005, the City conducted Proposition 218 proceedings to add an annual inflator of 3% for the Zone. Property owners approved the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The inflator took effect in Fiscal Year 2005/06.

There are currently 35 parcels within this Zone, and the total Zone costs are spread to each of the 35 units as follows:

Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$13,596.10
Total Units	35
Fiscal Year 2024/25 Actual Assessment Per Unit	\$388.46
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$553.84

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2022/23 Actual Assessment Per Unit	\$388.46
Fiscal Year 2024/25 Actual Assessment Per Unit	\$388.46
Change in the Actual Assessment Rate	\$0.00

4.21 Sunnyside/Stone Gate Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$449.40 per unit. In July 2005, the City conducted Proposition 218 proceedings to add an annual inflator of 3% for the Zone. Property owners approved the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The inflator took effect in Fiscal Year 2005/06.

There are currently 10 parcels within this Zone, and the total Zone costs are spread to each of the 10 units as follows:

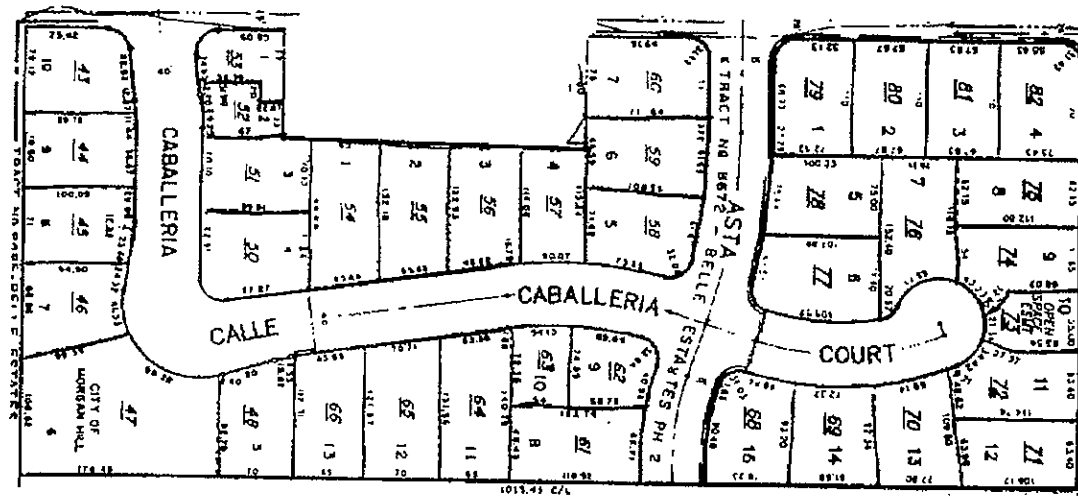
Estimated Fiscal Year 2024/25 Costs and Fund Adjustment	\$3,750.00
Total Units	10
Fiscal Year 2024/25 Actual Assessment Per Unit	\$375.00
Fiscal Year 2024/25 Maximum Assessment Per Unit	\$811.66

Any change in the assessment rate from the previous fiscal year is identified below:

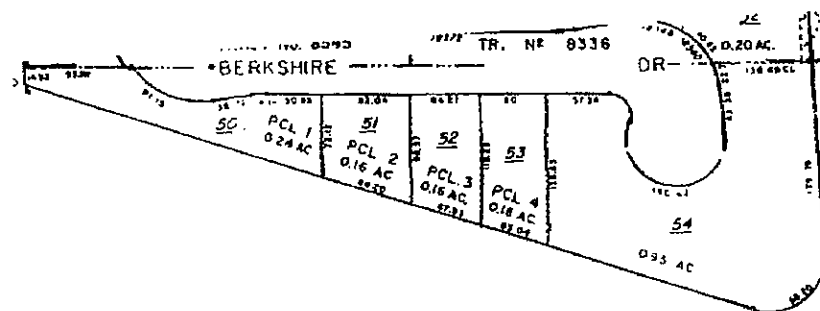
Fiscal Year 2022/23 Actual Assessment Per Unit	\$375.00
Fiscal Year 2024/25 Actual Assessment Per Unit	\$375.00
Change in the Actual Assessment Rate	\$0.00

5. ASSESSMENT DIAGRAMS

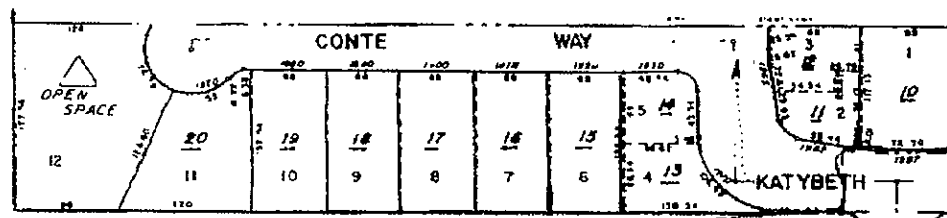
The Assessment Diagrams for each Zone in the District have been submitted to the City Clerk in the format required under the provisions of the Act. Copies of the diagrams are included herein. The lines and dimensions shown on maps of the County Assessor for the current year are, by reference, made part of this Report as well.



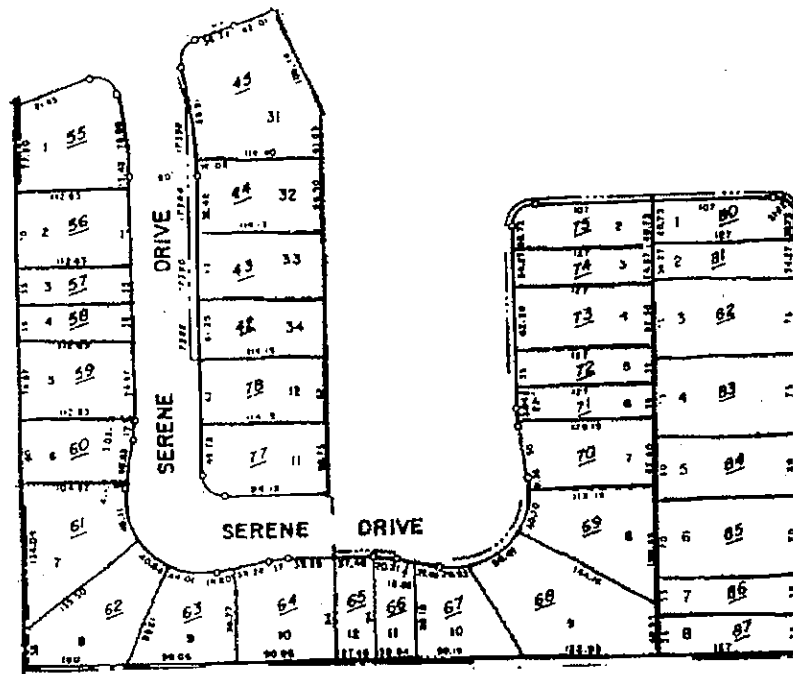
BELLE ESTATES ZONE



CHIANG/BERTELONE ZONE

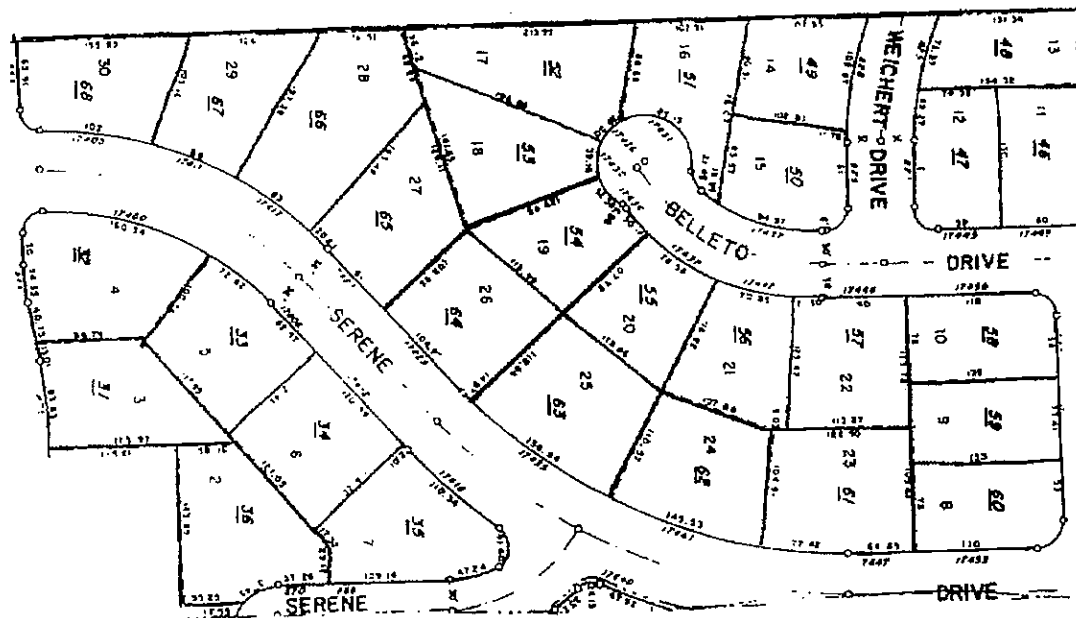


CONTE GARDENS ZONE



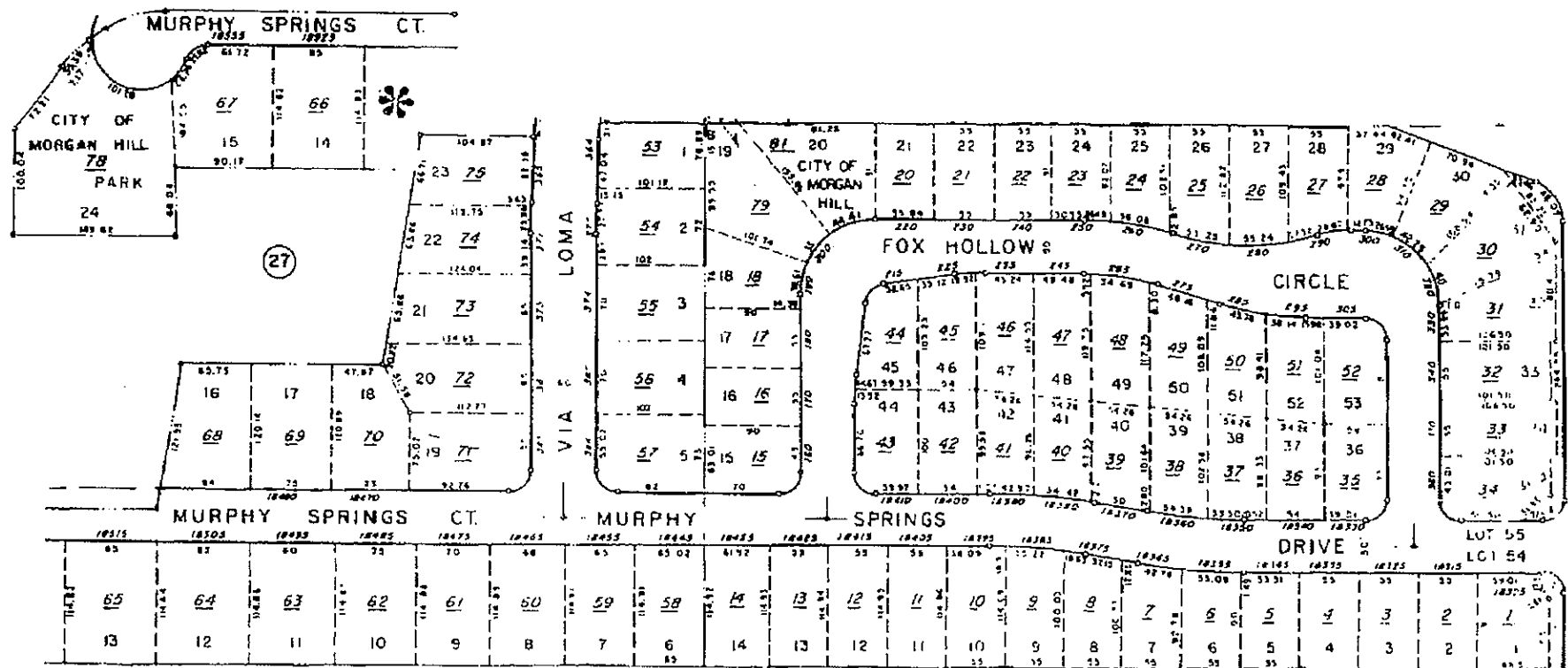
DIANA ESTATES ZONE

SHEET 1

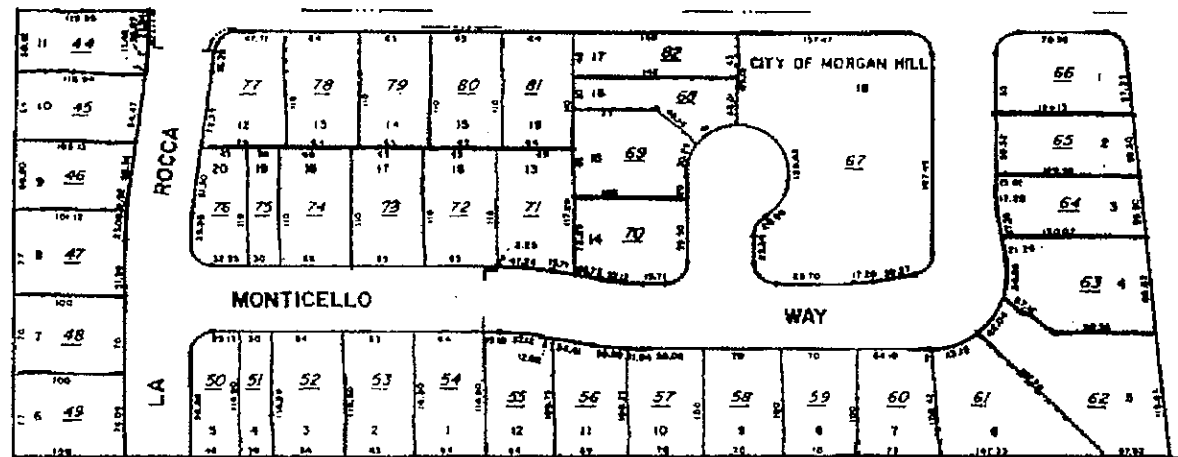


DIANA ESTATES ZONE

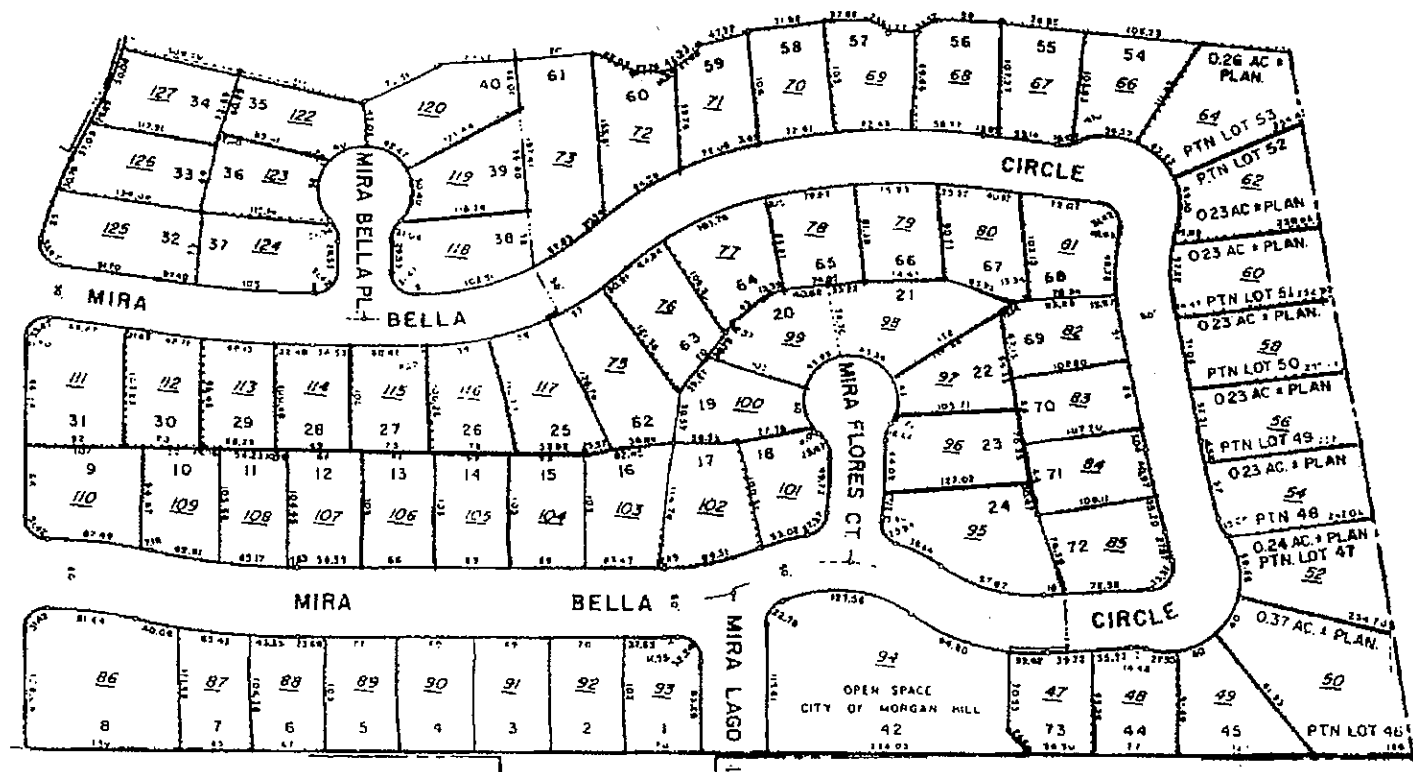
SHEET 2



FOX HOLLOW/MURPHY SPRINGS ZONE

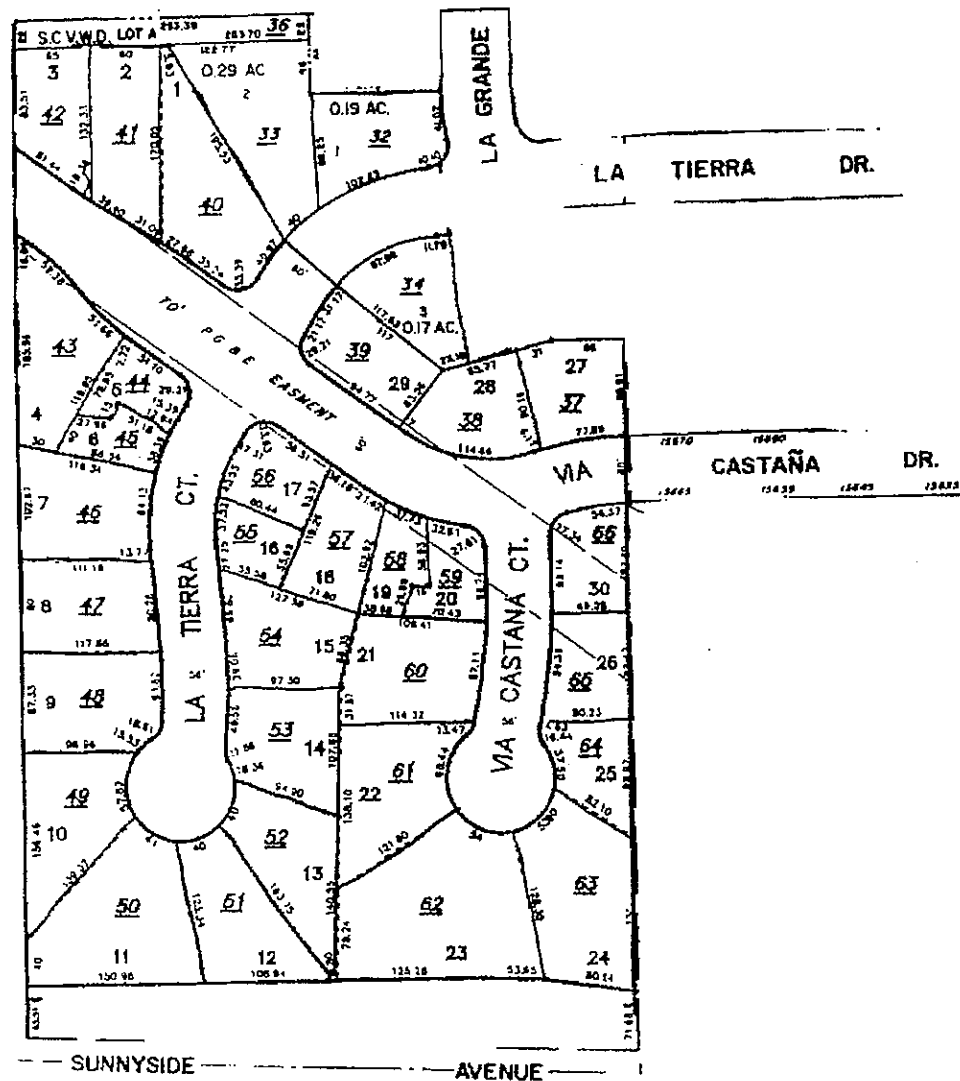


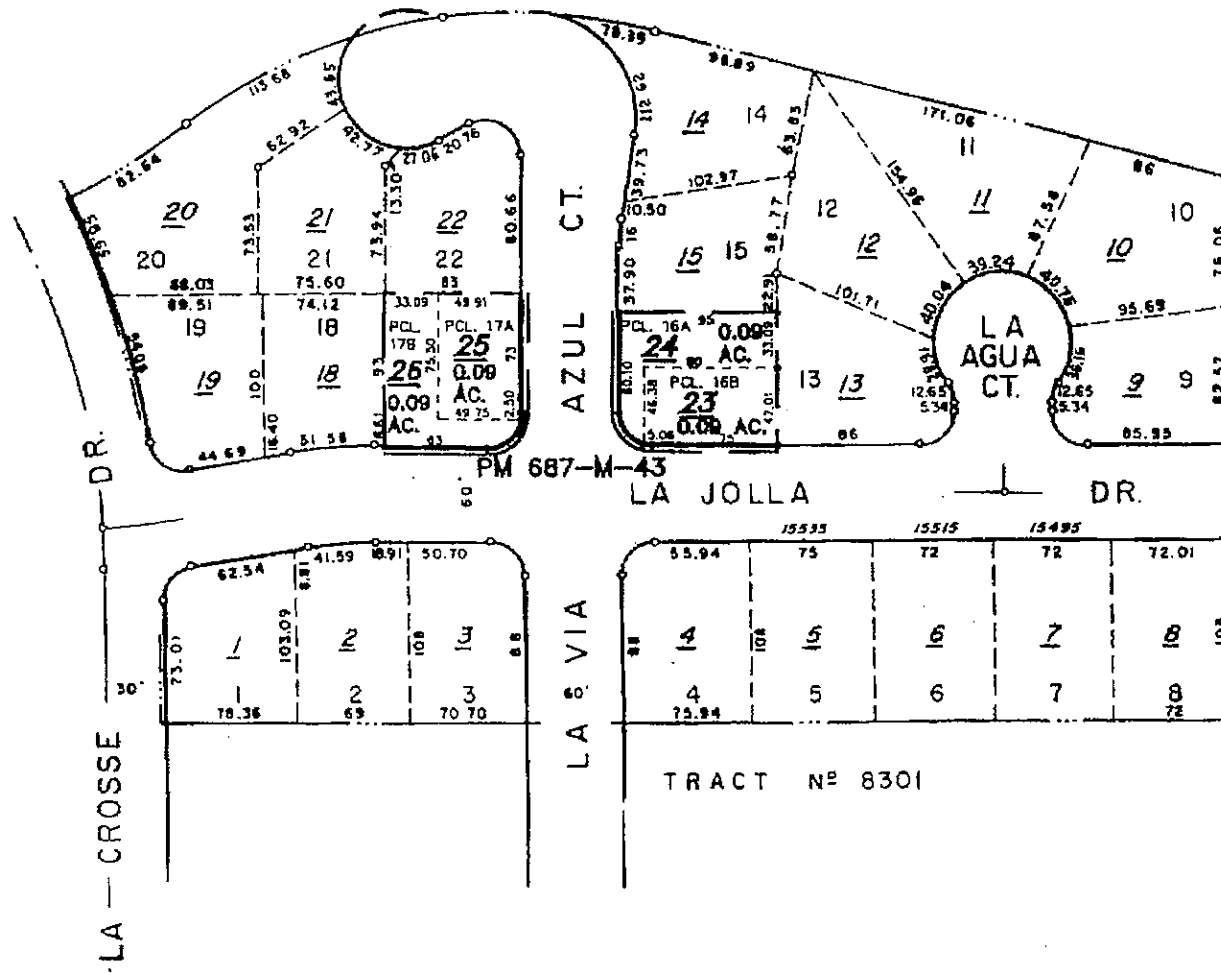
HAMILTON SQUARE ZONE



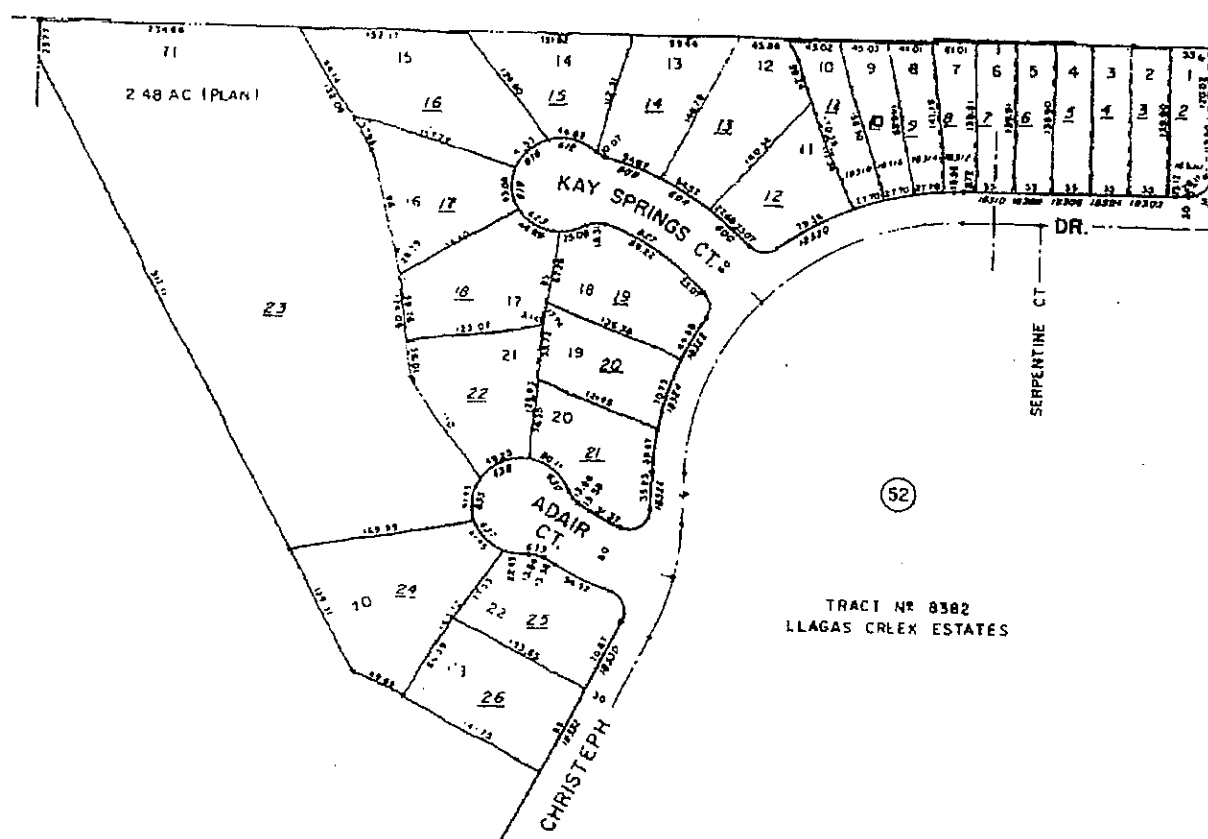
JACKSON MEADOWS #6 ZONE





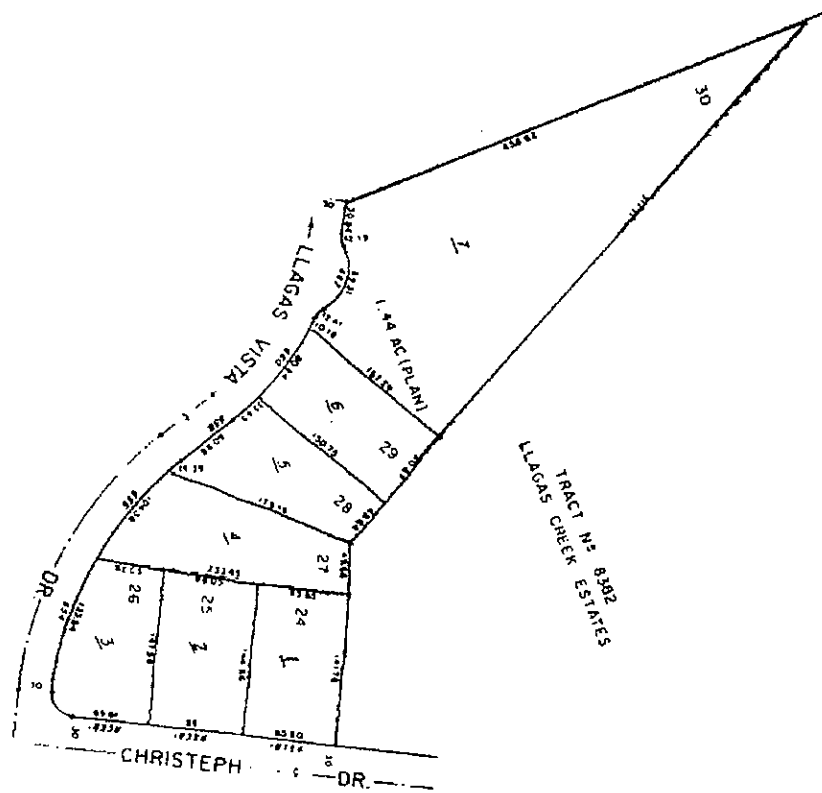


LACROSSE/GERA ZONE



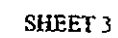
LLAGAS CREEK ESTATES ZONE

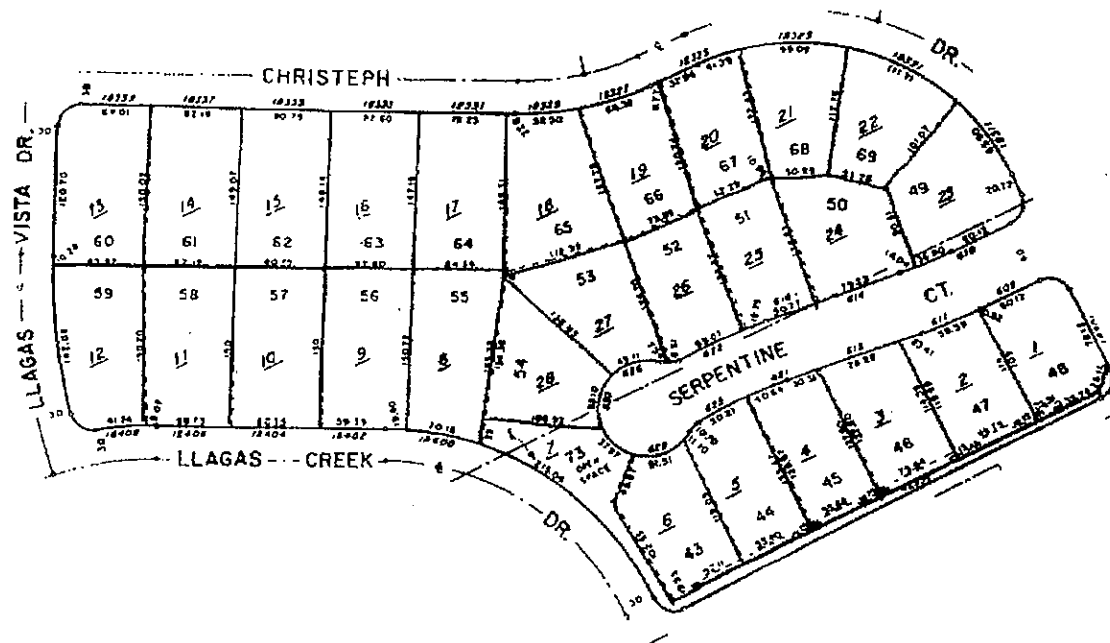
SHEET 1



LLAGAS CREEK ESTATES ZONE

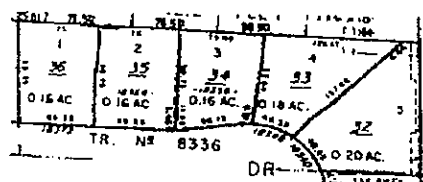
SHEET 2



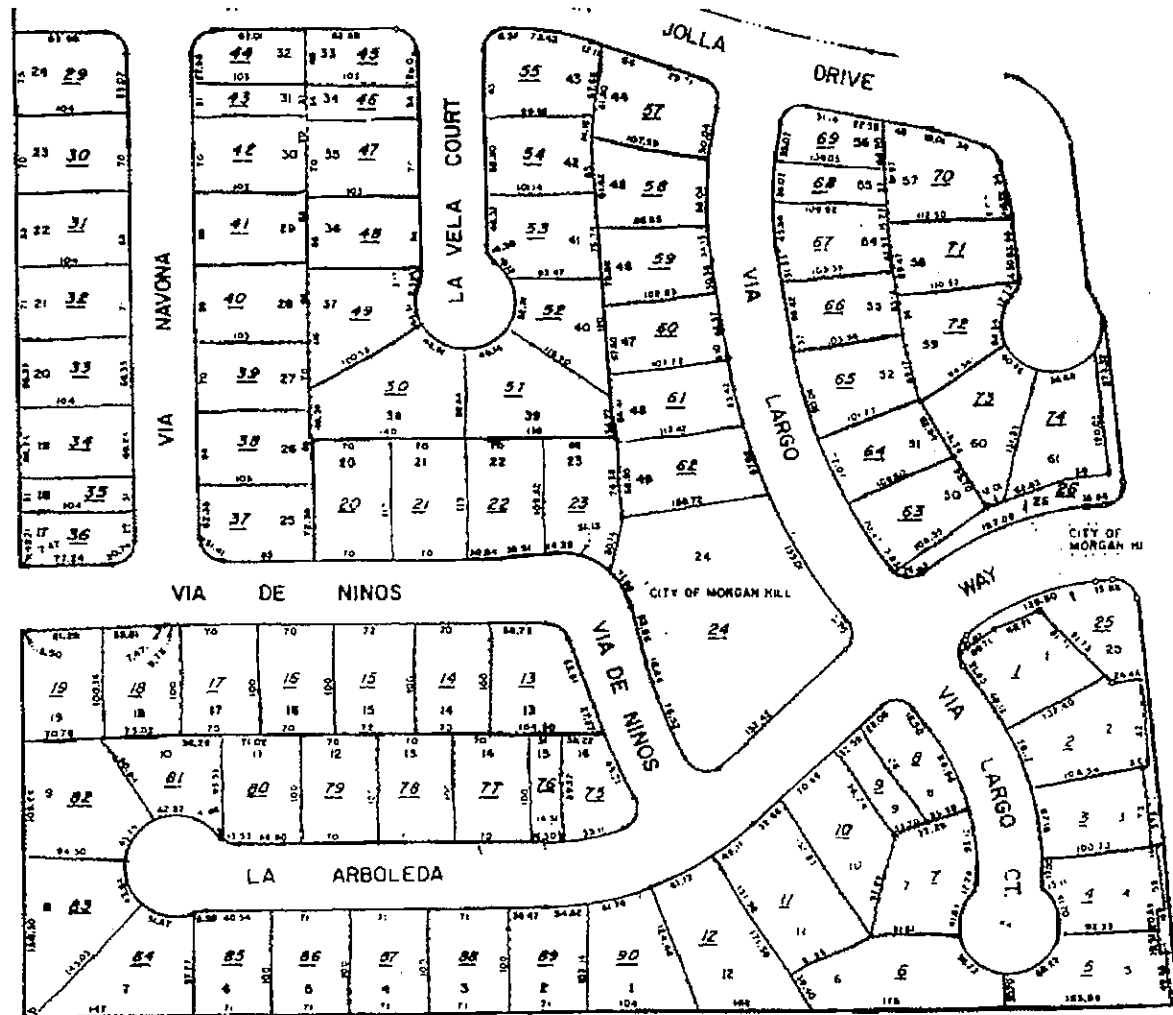


LLAGAS CREEK ESTATES ZONE

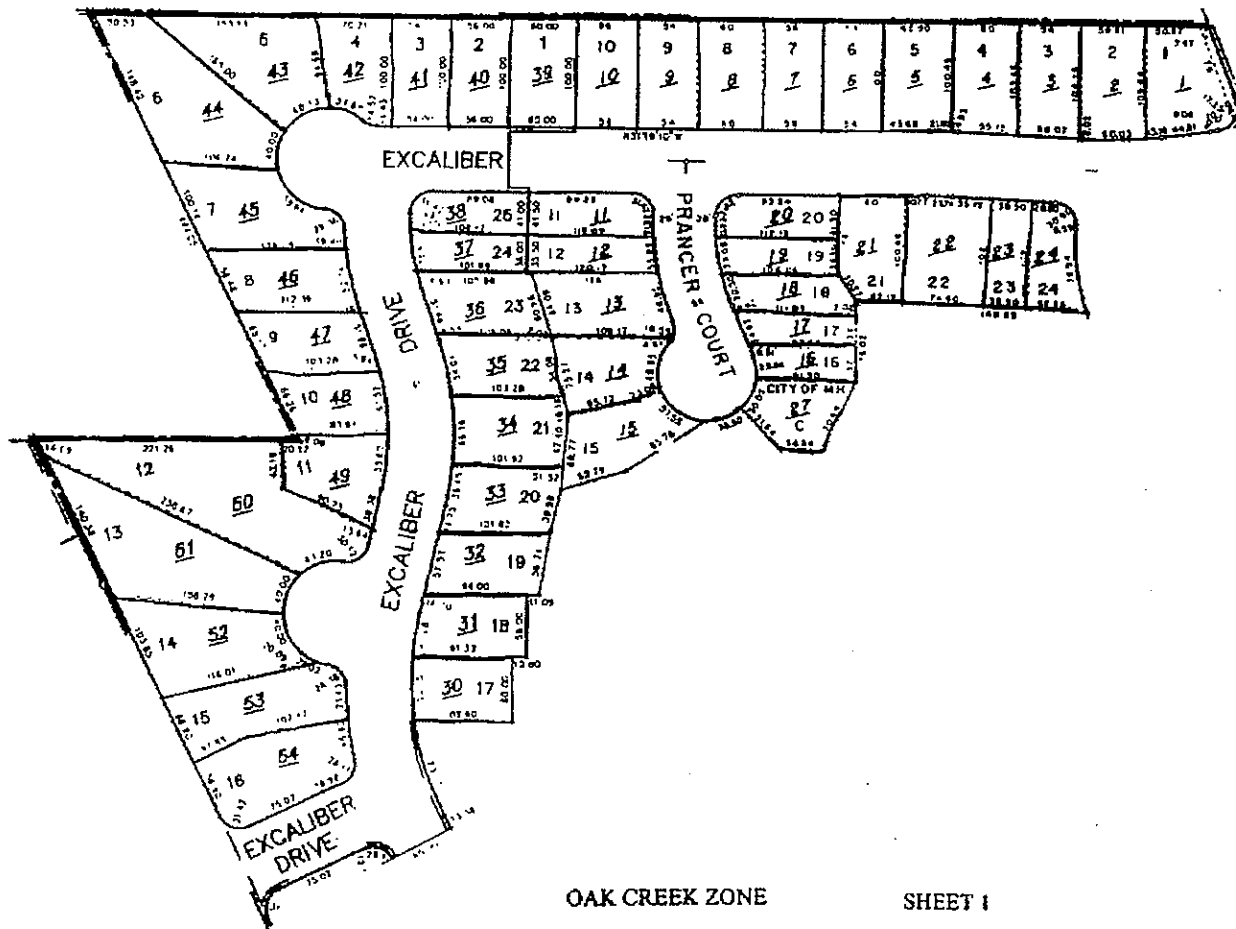
SHEET 4

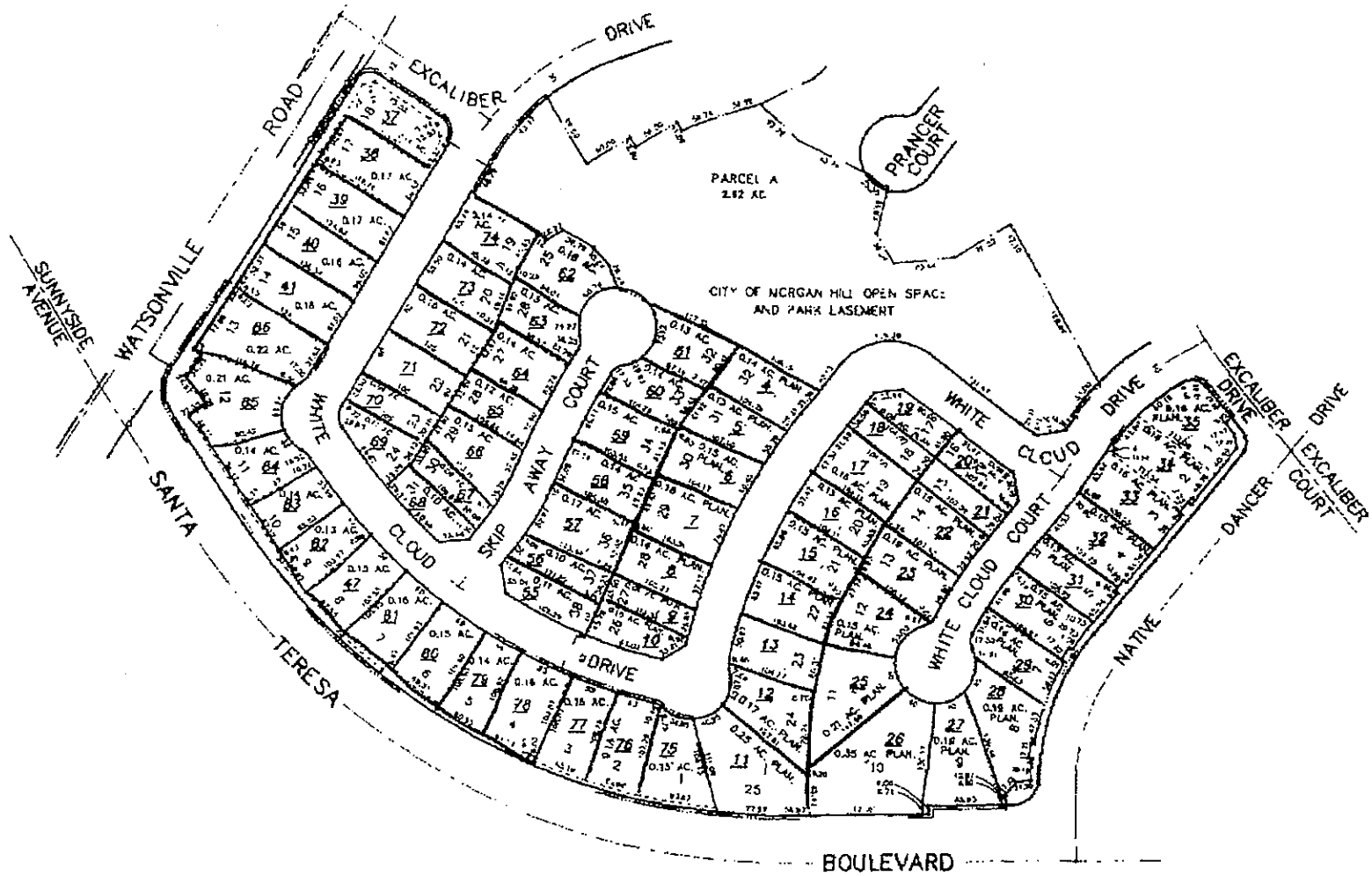


LLAGAS/OBATA ZONE



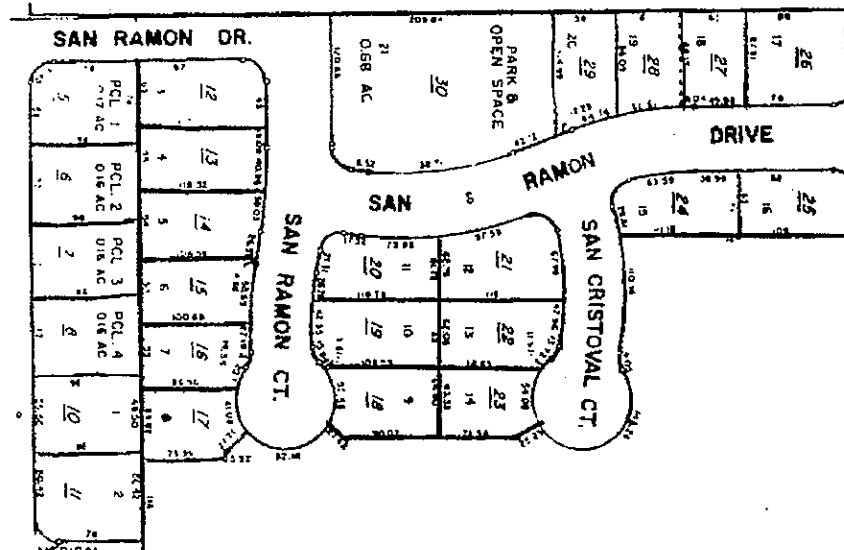
MILL CREEK ZONE



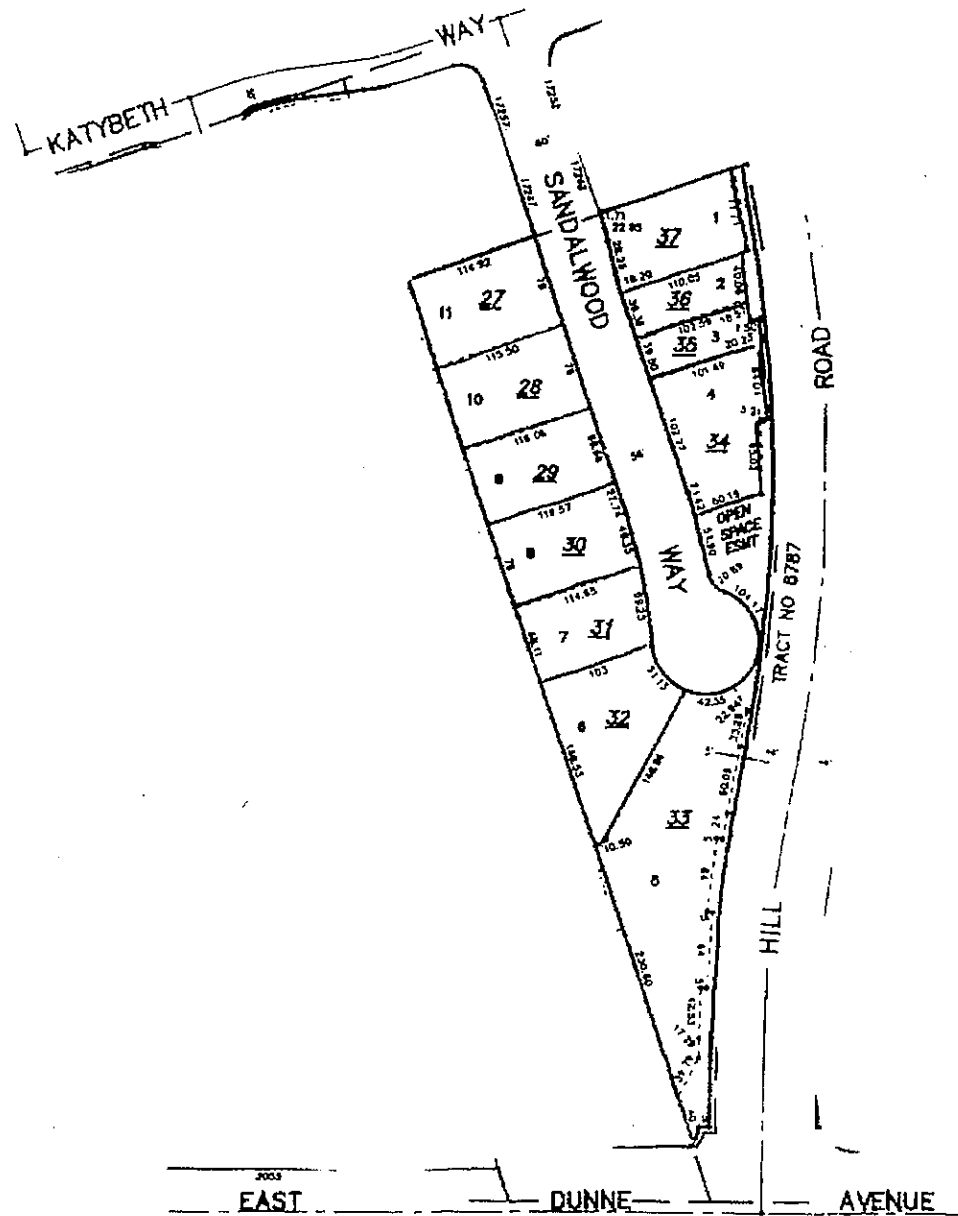


OAK CREEK ZONE

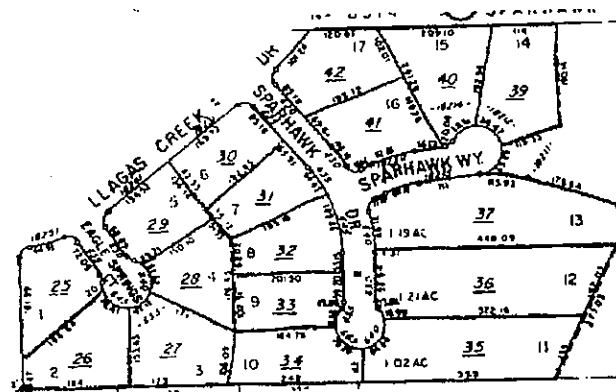
SHEET 2



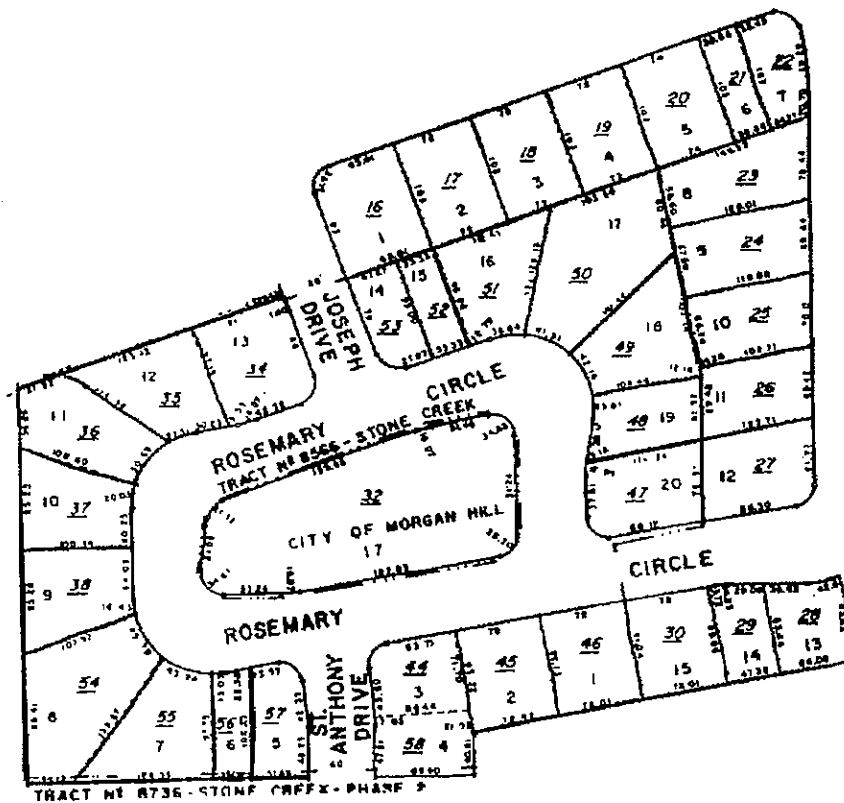
ROSEHAVEN ZONE



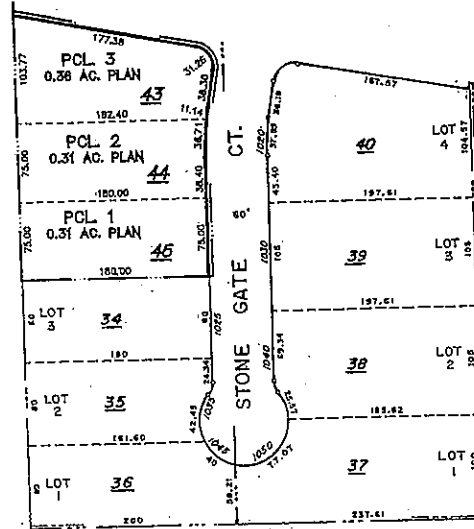
SANDALWOOD ZONE



SPARHAWK ZONE



STONE CREEK ZONE



SUNNYSIDE/STONEGATE ZONE

6. ASSESSMENT ROLL

The listing of Fiscal Year 2024/25 assessments is provided per Zone on the following pages. The description of each lot or parcel as part of the records of the County Assessor are, by reference, made part of this Report as well.

City of Morgan Hill
Belle Estates
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
726-16-043	\$310.00	1	\$0.00	\$310.00
726-16-044	310.00	1	0.00	310.00
726-16-045	310.00	1	0.00	310.00
726-16-046	310.00	1	0.00	310.00
726-16-048	310.00	1	0.00	310.00
726-16-050	310.00	1	0.00	310.00
726-16-051	310.00	1	0.00	310.00
726-16-052	310.00	1	0.00	310.00
726-16-053	310.00	1	0.00	310.00
726-16-054	310.00	1	0.00	310.00
726-16-055	310.00	1	0.00	310.00
726-16-056	310.00	1	0.00	310.00
726-16-057	310.00	1	0.00	310.00
726-16-058	310.00	1	0.00	310.00
726-16-059	310.00	1	0.00	310.00
726-16-060	310.00	1	0.00	310.00
726-16-061	310.00	1	0.00	310.00
726-16-062	310.00	1	0.00	310.00
726-16-063	310.00	1	0.00	310.00
726-16-064	310.00	1	0.00	310.00
726-16-065	310.00	1	0.00	310.00
726-16-066	310.00	1	0.00	310.00
726-16-068	310.00	1	0.00	310.00
726-16-069	310.00	1	0.00	310.00
726-16-070	310.00	1	0.00	310.00
726-16-071	310.00	1	0.00	310.00
726-16-072	310.00	1	0.00	310.00
726-16-074	310.00	1	0.00	310.00
726-16-075	310.00	1	0.00	310.00
726-16-076	310.00	1	0.00	310.00
726-16-077	310.00	1	0.00	310.00
726-16-078	310.00	1	0.00	310.00
726-16-079	310.00	1	0.00	310.00
726-16-080	310.00	1	0.00	310.00
726-16-081	310.00	1	0.00	310.00
726-16-082	310.00	1	0.00	310.00
36 Accounts		36	\$0.00	\$11,160.00

Slight variances may occur due to rounding

City of Morgan Hill
Chang/Bertelone
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-23-050	\$550.00	1	\$0.00	\$550.00
764-23-051	550.00	1	0.00	550.00
764-23-052	550.00	1	0.00	550.00
764-23-053	550.00	1	0.00	550.00
764-23-057	550.00	1	0.00	550.00
764-23-058	550.00	1	0.00	550.00
764-23-059	550.00	1	0.00	550.00
764-23-060	550.00	1	0.00	550.00
8 Accounts		8	\$0.00	\$4,400.00

City of Morgan Hill
Conte Gardens
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
728-10-010	\$365.00	1	\$0.00	\$365.00
728-10-011	365.00	1	0.00	365.00
728-10-012	365.00	1	0.00	365.00
728-10-013	365.00	1	0.00	365.00
728-10-014	365.00	1	0.00	365.00
728-10-015	365.00	1	0.00	365.00
728-10-016	365.00	1	0.00	365.00
728-10-017	365.00	1	0.00	365.00
728-10-018	365.00	1	0.00	365.00
728-10-019	365.00	1	0.00	365.00
728-10-020	365.00	1	0.00	365.00
11 Accounts		11	\$0.00	\$4,015.00

City of Morgan Hill
Diana Estates
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
726-07-042	\$139.39	1	(\$0.01)	\$139.38
726-07-043	139.39	1	(0.01)	139.38
726-07-044	139.39	1	(0.01)	139.38
726-07-045	139.39	1	(0.01)	139.38
726-07-055	139.39	1	(0.01)	139.38
726-07-056	139.39	1	(0.01)	139.38
726-07-057	139.39	1	(0.01)	139.38
726-07-058	139.39	1	(0.01)	139.38
726-07-059	139.39	1	(0.01)	139.38
726-07-060	139.39	1	(0.01)	139.38
726-07-061	139.39	1	(0.01)	139.38
726-07-062	139.39	1	(0.01)	139.38
726-07-063	139.39	1	(0.01)	139.38
726-07-064	139.39	1	(0.01)	139.38
726-07-065	139.39	1	(0.01)	139.38
726-07-066	139.39	1	(0.01)	139.38
726-07-067	139.39	1	(0.01)	139.38
726-07-068	139.39	1	(0.01)	139.38
726-07-069	139.39	1	(0.01)	139.38
726-07-070	139.39	1	(0.01)	139.38
726-07-071	139.39	1	(0.01)	139.38
726-07-072	139.39	1	(0.01)	139.38
726-07-073	139.39	1	(0.01)	139.38
726-07-074	139.39	1	(0.01)	139.38
726-07-075	139.39	1	(0.01)	139.38
726-07-077	139.39	1	(0.01)	139.38
726-07-078	139.39	1	(0.01)	139.38
726-07-080	139.39	1	(0.01)	139.38
726-07-081	139.39	1	(0.01)	139.38
726-07-082	139.39	1	(0.01)	139.38
726-07-083	139.39	1	(0.01)	139.38
726-07-084	139.39	1	(0.01)	139.38
726-07-085	139.39	1	(0.01)	139.38
726-07-086	139.39	1	(0.01)	139.38
726-07-087	139.39	1	(0.01)	139.38
726-08-031	139.39	1	(0.01)	139.38
726-08-032	139.39	1	(0.01)	139.38
726-08-033	139.39	1	(0.01)	139.38
726-08-034	139.39	1	(0.01)	139.38
726-08-035	139.39	1	(0.01)	139.38
726-08-036	139.39	1	(0.01)	139.38
726-08-046	139.39	1	(0.01)	139.38

Slight variances may occur due to rounding

City of Morgan Hill
Diana Estates
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
726-08-047	139.39	1	(0.01)	139.38
726-08-048	139.39	1	(0.01)	139.38
726-08-049	139.39	1	(0.01)	139.38
726-08-050	139.39	1	(0.01)	139.38
726-08-051	139.39	1	(0.01)	139.38
726-08-052	139.39	1	(0.01)	139.38
726-08-053	139.39	1	(0.01)	139.38
726-08-054	139.39	1	(0.01)	139.38
726-08-055	139.39	1	(0.01)	139.38
726-08-056	139.39	1	(0.01)	139.38
726-08-057	139.39	1	(0.01)	139.38
726-08-058	139.39	1	(0.01)	139.38
726-08-059	139.39	1	(0.01)	139.38
726-08-060	139.39	1	(0.01)	139.38
726-08-061	139.39	1	(0.01)	139.38
726-08-062	139.39	1	(0.01)	139.38
726-08-063	139.39	1	(0.01)	139.38
726-08-064	139.39	1	(0.01)	139.38
726-08-065	139.39	1	(0.01)	139.38
726-08-066	139.39	1	(0.01)	139.38
726-08-067	139.39	1	(0.01)	139.38
726-08-068	139.39	1	(0.01)	139.38
64 Accounts		64	(\$0.64)	\$8,920.32

City of Morgan Hill

Fox Hollow

Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-47-001	\$173.53	1	(\$0.01)	\$173.52
764-47-002	173.53	1	(0.01)	173.52
764-47-003	173.53	1	(0.01)	173.52
764-47-004	173.53	1	(0.01)	173.52
764-47-005	173.53	1	(0.01)	173.52
764-47-006	173.53	1	(0.01)	173.52
764-47-007	173.53	1	(0.01)	173.52
764-47-008	173.53	1	(0.01)	173.52
764-47-009	173.53	1	(0.01)	173.52
764-47-010	173.53	1	(0.01)	173.52
764-47-011	173.53	1	(0.01)	173.52
764-47-012	173.53	1	(0.01)	173.52
764-47-013	173.53	1	(0.01)	173.52
764-47-014	173.53	1	(0.01)	173.52
764-47-015	173.53	1	(0.01)	173.52
764-47-016	173.53	1	(0.01)	173.52
764-47-017	173.53	1	(0.01)	173.52
764-47-018	173.53	1	(0.01)	173.52
764-47-020	173.53	1	(0.01)	173.52
764-47-021	173.53	1	(0.01)	173.52
764-47-022	173.53	1	(0.01)	173.52
764-47-023	173.53	1	(0.01)	173.52
764-47-024	173.53	1	(0.01)	173.52
764-47-025	173.53	1	(0.01)	173.52
764-47-026	173.53	1	(0.01)	173.52
764-47-027	173.53	1	(0.01)	173.52
764-47-028	173.53	1	(0.01)	173.52
764-47-029	173.53	1	(0.01)	173.52
764-47-030	173.53	1	(0.01)	173.52
764-47-031	173.53	1	(0.01)	173.52
764-47-032	173.53	1	(0.01)	173.52
764-47-033	173.53	1	(0.01)	173.52
764-47-034	173.53	1	(0.01)	173.52
764-47-035	173.53	1	(0.01)	173.52
764-47-036	173.53	1	(0.01)	173.52
764-47-037	173.53	1	(0.01)	173.52
764-47-038	173.53	1	(0.01)	173.52
764-47-039	173.53	1	(0.01)	173.52
764-47-040	173.53	1	(0.01)	173.52
764-47-041	173.53	1	(0.01)	173.52
764-47-042	173.53	1	(0.01)	173.52
764-47-043	173.53	1	(0.01)	173.52

Slight variances may occur due to rounding

City of Morgan Hill
Fox Hollow
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-47-044	173.53	1	(0.01)	173.52
764-47-045	173.53	1	(0.01)	173.52
764-47-046	173.53	1	(0.01)	173.52
764-47-047	173.53	1	(0.01)	173.52
764-47-048	173.53	1	(0.01)	173.52
764-47-049	173.53	1	(0.01)	173.52
764-47-050	173.53	1	(0.01)	173.52
764-47-051	173.53	1	(0.01)	173.52
764-47-052	173.53	1	(0.01)	173.52
764-47-053	173.53	1	(0.01)	173.52
764-47-054	173.53	1	(0.01)	173.52
764-47-055	173.53	1	(0.01)	173.52
764-47-056	173.53	1	(0.01)	173.52
764-47-057	173.53	1	(0.01)	173.52
764-47-058	173.53	1	(0.01)	173.52
764-47-059	173.53	1	(0.01)	173.52
764-47-060	173.53	1	(0.01)	173.52
764-47-061	173.53	1	(0.01)	173.52
764-47-062	173.53	1	(0.01)	173.52
764-47-063	173.53	1	(0.01)	173.52
764-47-064	173.53	1	(0.01)	173.52
764-47-065	173.53	1	(0.01)	173.52
764-47-066	173.53	1	(0.01)	173.52
764-47-067	173.53	1	(0.01)	173.52
764-47-068	173.53	1	(0.01)	173.52
764-47-069	173.53	1	(0.01)	173.52
764-47-070	173.53	1	(0.01)	173.52
764-47-071	173.53	1	(0.01)	173.52
764-47-072	173.53	1	(0.01)	173.52
764-47-073	173.53	1	(0.01)	173.52
764-47-074	173.53	1	(0.01)	173.52
764-47-075	173.53	1	(0.01)	173.52
764-47-079	173.53	1	(0.01)	173.52
75 Accounts		75	(\$0.75)	\$13,014.00

Slight variances may occur due to rounding

City of Morgan Hill
Hamilton Square
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
767-36-044	\$425.00	1	\$0.00	\$425.00
767-36-045	425.00	1	0.00	425.00
767-36-046	425.00	1	0.00	425.00
767-36-047	425.00	1	0.00	425.00
767-36-048	425.00	1	0.00	425.00
767-36-049	425.00	1	0.00	425.00
767-36-050	425.00	1	0.00	425.00
767-36-051	425.00	1	0.00	425.00
767-36-052	425.00	1	0.00	425.00
767-36-053	425.00	1	0.00	425.00
767-36-054	425.00	1	0.00	425.00
767-36-055	425.00	1	0.00	425.00
767-36-056	425.00	1	0.00	425.00
767-36-057	425.00	1	0.00	425.00
767-36-058	425.00	1	0.00	425.00
767-36-059	425.00	1	0.00	425.00
767-36-060	425.00	1	0.00	425.00
767-36-061	425.00	1	0.00	425.00
767-36-062	425.00	1	0.00	425.00
767-36-063	425.00	1	0.00	425.00
767-36-064	425.00	1	0.00	425.00
767-36-065	425.00	1	0.00	425.00
767-36-066	425.00	1	0.00	425.00
767-36-068	425.00	1	0.00	425.00
767-36-069	425.00	1	0.00	425.00
767-36-070	425.00	1	0.00	425.00
767-36-071	425.00	1	0.00	425.00
767-36-072	425.00	1	0.00	425.00
767-36-073	425.00	1	0.00	425.00
767-36-074	425.00	1	0.00	425.00
767-36-075	425.00	1	0.00	425.00
767-36-076	425.00	1	0.00	425.00
767-36-077	425.00	1	0.00	425.00
767-36-078	425.00	1	0.00	425.00
767-36-079	425.00	1	0.00	425.00
767-36-080	425.00	1	0.00	425.00
767-36-081	425.00	1	0.00	425.00
767-36-082	425.00	1	0.00	425.00
38 Accounts		38	\$0.00	\$16,150.00

Slight variances may occur due to rounding

City of Morgan Hill
Jackson Meadows #6
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
817-26-047	\$108.00	1	\$0.00	\$108.00
817-26-048	108.00	1	0.00	108.00
817-26-049	108.00	1	0.00	108.00
817-26-066	108.00	1	0.00	108.00
817-26-067	108.00	1	0.00	108.00
817-26-068	108.00	1	0.00	108.00
817-26-069	108.00	1	0.00	108.00
817-26-070	108.00	1	0.00	108.00
817-26-071	108.00	1	0.00	108.00
817-26-072	108.00	1	0.00	108.00
817-26-073	108.00	1	0.00	108.00
817-26-075	108.00	1	0.00	108.00
817-26-076	108.00	1	0.00	108.00
817-26-077	108.00	1	0.00	108.00
817-26-078	108.00	1	0.00	108.00
817-26-079	108.00	1	0.00	108.00
817-26-080	108.00	1	0.00	108.00
817-26-081	108.00	1	0.00	108.00
817-26-082	108.00	1	0.00	108.00
817-26-083	108.00	1	0.00	108.00
817-26-084	108.00	1	0.00	108.00
817-26-085	108.00	1	0.00	108.00
817-26-086	108.00	1	0.00	108.00
817-26-087	108.00	1	0.00	108.00
817-26-088	108.00	1	0.00	108.00
817-26-089	108.00	1	0.00	108.00
817-26-090	108.00	1	0.00	108.00
817-26-091	108.00	1	0.00	108.00
817-26-092	108.00	1	0.00	108.00
817-26-093	108.00	1	0.00	108.00
817-26-095	108.00	1	0.00	108.00
817-26-096	108.00	1	0.00	108.00
817-26-097	108.00	1	0.00	108.00
817-26-098	108.00	1	0.00	108.00
817-26-099	108.00	1	0.00	108.00
817-26-100	108.00	1	0.00	108.00
817-26-101	108.00	1	0.00	108.00
817-26-102	108.00	1	0.00	108.00
817-26-103	108.00	1	0.00	108.00
817-26-104	108.00	1	0.00	108.00
817-26-105	108.00	1	0.00	108.00
817-26-106	108.00	1	0.00	108.00

Slight variances may occur due to rounding

City of Morgan Hill
Jackson Meadows #6
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
817-26-107	108.00	1	0.00	108.00
817-26-108	108.00	1	0.00	108.00
817-26-109	108.00	1	0.00	108.00
817-26-110	108.00	1	0.00	108.00
817-26-111	108.00	1	0.00	108.00
817-26-112	108.00	1	0.00	108.00
817-26-113	108.00	1	0.00	108.00
817-26-114	108.00	1	0.00	108.00
817-26-115	108.00	1	0.00	108.00
817-26-116	108.00	1	0.00	108.00
817-26-117	108.00	1	0.00	108.00
817-26-118	108.00	1	0.00	108.00
817-26-119	108.00	1	0.00	108.00
817-26-120	108.00	1	0.00	108.00
817-26-122	108.00	1	0.00	108.00
817-26-123	108.00	1	0.00	108.00
817-26-124	108.00	1	0.00	108.00
817-26-125	108.00	1	0.00	108.00
817-26-126	108.00	1	0.00	108.00
817-26-127	108.00	1	0.00	108.00
817-26-129	108.00	1	0.00	108.00
817-26-130	108.00	1	0.00	108.00
817-26-131	108.00	1	0.00	108.00
817-26-132	108.00	1	0.00	108.00
817-26-133	108.00	1	0.00	108.00
817-26-134	108.00	1	0.00	108.00
817-26-135	108.00	1	0.00	108.00
817-26-136	108.00	1	0.00	108.00
70 Accounts		70	\$0.00	\$7,560.00

Slight variances may occur due to rounding

City of Morgan Hill
Jackson Meadows #7
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
817-70-001	\$100.00	1	\$0.00	\$100.00
817-70-002	100.00	1	0.00	100.00
817-70-003	100.00	1	0.00	100.00
817-70-004	100.00	1	0.00	100.00
817-70-005	100.00	1	0.00	100.00
817-70-006	100.00	1	0.00	100.00
817-70-007	100.00	1	0.00	100.00
817-70-008	100.00	1	0.00	100.00
817-70-009	100.00	1	0.00	100.00
817-70-017	100.00	1	0.00	100.00
10 Accounts		10	\$0.00	\$1,000.00

City of Morgan Hill
La Grande Estates
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
767-45-032	\$88.00	1	\$0.00	\$88.00
767-45-033	88.00	1	0.00	88.00
767-45-034	88.00	1	0.00	88.00
767-45-037	88.00	1	0.00	88.00
767-45-038	88.00	1	0.00	88.00
767-45-039	88.00	1	0.00	88.00
767-45-040	88.00	1	0.00	88.00
767-45-041	88.00	1	0.00	88.00
767-45-042	88.00	1	0.00	88.00
767-45-043	88.00	1	0.00	88.00
767-45-044	88.00	1	0.00	88.00
767-45-045	88.00	1	0.00	88.00
767-45-046	88.00	1	0.00	88.00
767-45-047	88.00	1	0.00	88.00
767-45-048	88.00	1	0.00	88.00
767-45-049	88.00	1	0.00	88.00
767-45-050	88.00	1	0.00	88.00
767-45-051	88.00	1	0.00	88.00
767-45-052	88.00	1	0.00	88.00
767-45-053	88.00	1	0.00	88.00
767-45-054	88.00	1	0.00	88.00
767-45-055	88.00	1	0.00	88.00
767-45-056	88.00	1	0.00	88.00
767-45-057	88.00	1	0.00	88.00
767-45-058	88.00	1	0.00	88.00
767-45-059	88.00	1	0.00	88.00
767-45-060	88.00	1	0.00	88.00
767-45-061	88.00	1	0.00	88.00
767-45-062	88.00	1	0.00	88.00
767-45-063	88.00	1	0.00	88.00
767-45-064	88.00	1	0.00	88.00
767-45-065	88.00	1	0.00	88.00
32 Accounts		32	\$0.00	\$2,816.00

Slight variances may occur due to rounding

City of Morgan Hill
Lacrosse/Gera
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
767-46-001	\$50.00	1	\$0.00	\$50.00
767-46-002	50.00	1	0.00	50.00
767-46-003	50.00	1	0.00	50.00
767-46-004	50.00	1	0.00	50.00
767-46-005	50.00	1	0.00	50.00
767-46-006	50.00	1	0.00	50.00
767-46-007	50.00	1	0.00	50.00
767-46-008	50.00	1	0.00	50.00
767-46-009	50.00	1	0.00	50.00
767-46-010	50.00	1	0.00	50.00
767-46-011	50.00	1	0.00	50.00
767-46-012	50.00	1	0.00	50.00
767-46-013	50.00	1	0.00	50.00
767-46-014	50.00	1	0.00	50.00
767-46-015	50.00	1	0.00	50.00
767-46-018	50.00	1	0.00	50.00
767-46-019	50.00	1	0.00	50.00
767-46-020	50.00	1	0.00	50.00
767-46-021	50.00	1	0.00	50.00
767-46-022	50.00	1	0.00	50.00
767-46-023	50.00	1	0.00	50.00
767-46-024	50.00	1	0.00	50.00
767-46-025	50.00	1	0.00	50.00
767-46-026	50.00	1	0.00	50.00
24 Accounts		24	\$0.00	\$1,200.00

Slight variances may occur due to rounding

City of Morgan Hill
Llagas/Obata
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-23-032	\$450.00	1	\$0.00	\$450.00
764-23-033	450.00	1	0.00	450.00
764-23-034	450.00	1	0.00	450.00
764-23-035	450.00	1	0.00	450.00
764-23-036	450.00	1	0.00	450.00
5 Accounts		5	\$0.00	\$2,250.00

City of Morgan Hill

Llagas Creek

Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-49-002	\$233.67	1	(\$0.01)	\$233.66
764-49-003	233.67	1	(0.01)	233.66
764-49-004	233.67	1	(0.01)	233.66
764-49-005	233.67	1	(0.01)	233.66
764-49-006	233.67	1	(0.01)	233.66
764-49-007	233.67	1	(0.01)	233.66
764-49-008	233.67	1	(0.01)	233.66
764-49-009	233.67	1	(0.01)	233.66
764-49-010	233.67	1	(0.01)	233.66
764-49-011	233.67	1	(0.01)	233.66
764-49-012	233.67	1	(0.01)	233.66
764-49-013	233.67	1	(0.01)	233.66
764-49-014	233.67	1	(0.01)	233.66
764-49-015	233.67	1	(0.01)	233.66
764-49-016	233.67	1	(0.01)	233.66
764-49-017	233.67	1	(0.01)	233.66
764-49-018	233.67	1	(0.01)	233.66
764-49-019	233.67	1	(0.01)	233.66
764-49-020	233.67	1	(0.01)	233.66
764-49-021	233.67	1	(0.01)	233.66
764-49-022	233.67	1	(0.01)	233.66
764-49-023	233.67	1	(0.01)	233.66
764-49-024	233.67	1	(0.01)	233.66
764-49-025	233.67	1	(0.01)	233.66
764-49-026	233.67	1	(0.01)	233.66
764-50-001	233.67	1	(0.01)	233.66
764-50-002	233.67	1	(0.01)	233.66
764-50-003	233.67	1	(0.01)	233.66
764-50-004	233.67	1	(0.01)	233.66
764-50-005	233.67	1	(0.01)	233.66
764-50-006	233.67	1	(0.01)	233.66
764-50-007	233.67	1	(0.01)	233.66
764-51-001	233.67	1	(0.01)	233.66
764-51-004	233.67	1	(0.01)	233.66
764-51-005	233.67	1	(0.01)	233.66
764-51-010	233.67	1	(0.01)	233.66
764-51-011	233.67	1	(0.01)	233.66
764-51-012	233.67	1	(0.01)	233.66
764-51-013	233.67	1	(0.01)	233.66
764-51-014	233.67	1	(0.01)	233.66
764-51-015	233.67	1	(0.01)	233.66
764-52-001	233.67	1	(0.01)	233.66

Slight variances may occur due to rounding

City of Morgan Hill
Llagas Creek
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-52-002	233.67	1	(0.01)	233.66
764-52-003	233.67	1	(0.01)	233.66
764-52-004	233.67	1	(0.01)	233.66
764-52-005	233.67	1	(0.01)	233.66
764-52-006	233.67	1	(0.01)	233.66
764-52-008	233.67	1	(0.01)	233.66
764-52-009	233.67	1	(0.01)	233.66
764-52-010	233.67	1	(0.01)	233.66
764-52-011	233.67	1	(0.01)	233.66
764-52-012	233.67	1	(0.01)	233.66
764-52-013	233.67	1	(0.01)	233.66
764-52-014	233.67	1	(0.01)	233.66
764-52-015	233.67	1	(0.01)	233.66
764-52-016	233.67	1	(0.01)	233.66
764-52-017	233.67	1	(0.01)	233.66
764-52-018	233.67	1	(0.01)	233.66
764-52-019	233.67	1	(0.01)	233.66
764-52-020	233.67	1	(0.01)	233.66
764-52-021	233.67	1	(0.01)	233.66
764-52-022	233.67	1	(0.01)	233.66
764-52-023	233.67	1	(0.01)	233.66
764-52-024	233.67	1	(0.01)	233.66
764-52-025	233.67	1	(0.01)	233.66
764-52-026	233.67	1	(0.01)	233.66
764-52-027	233.67	1	(0.01)	233.66
764-52-028	233.67	1	(0.01)	233.66
764-53-003	233.67	1	(0.01)	233.66
764-53-004	233.67	1	(0.01)	233.66
764-53-005	233.67	1	(0.01)	233.66
71 Accounts		71	(\$0.71)	\$16,589.86

Slight variances may occur due to rounding

City of Morgan Hill

Mill Creek

Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
767-47-001	\$285.00	1	\$0.00	\$285.00
767-47-002	285.00	1	0.00	285.00
767-47-003	285.00	1	0.00	285.00
767-47-004	285.00	1	0.00	285.00
767-47-005	285.00	1	0.00	285.00
767-47-006	285.00	1	0.00	285.00
767-47-007	285.00	1	0.00	285.00
767-47-008	285.00	1	0.00	285.00
767-47-009	285.00	1	0.00	285.00
767-47-010	285.00	1	0.00	285.00
767-47-011	285.00	1	0.00	285.00
767-47-012	285.00	1	0.00	285.00
767-47-013	285.00	1	0.00	285.00
767-47-014	285.00	1	0.00	285.00
767-47-015	285.00	1	0.00	285.00
767-47-016	285.00	1	0.00	285.00
767-47-017	285.00	1	0.00	285.00
767-47-018	285.00	1	0.00	285.00
767-47-019	285.00	1	0.00	285.00
767-47-020	285.00	1	0.00	285.00
767-47-021	285.00	1	0.00	285.00
767-47-022	285.00	1	0.00	285.00
767-47-023	285.00	1	0.00	285.00
767-47-029	285.00	1	0.00	285.00
767-47-030	285.00	1	0.00	285.00
767-47-031	285.00	1	0.00	285.00
767-47-032	285.00	1	0.00	285.00
767-47-033	285.00	1	0.00	285.00
767-47-034	285.00	1	0.00	285.00
767-47-035	285.00	1	0.00	285.00
767-47-036	285.00	1	0.00	285.00
767-47-037	285.00	1	0.00	285.00
767-47-038	285.00	1	0.00	285.00
767-47-039	285.00	1	0.00	285.00
767-47-040	285.00	1	0.00	285.00
767-47-041	285.00	1	0.00	285.00
767-47-042	285.00	1	0.00	285.00
767-47-043	285.00	1	0.00	285.00
767-47-044	285.00	1	0.00	285.00
767-47-045	285.00	1	0.00	285.00
767-47-046	285.00	1	0.00	285.00
767-47-047	285.00	1	0.00	285.00

Slight variances may occur due to rounding

City of Morgan Hill
Mill Creek
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
767-47-048	285.00	1	0.00	285.00
767-47-049	285.00	1	0.00	285.00
767-47-050	285.00	1	0.00	285.00
767-47-051	285.00	1	0.00	285.00
767-47-052	285.00	1	0.00	285.00
767-47-053	285.00	1	0.00	285.00
767-47-054	285.00	1	0.00	285.00
767-47-055	285.00	1	0.00	285.00
767-47-057	285.00	1	0.00	285.00
767-47-058	285.00	1	0.00	285.00
767-47-059	285.00	1	0.00	285.00
767-47-060	285.00	1	0.00	285.00
767-47-061	285.00	1	0.00	285.00
767-47-062	285.00	1	0.00	285.00
767-47-063	285.00	1	0.00	285.00
767-47-064	285.00	1	0.00	285.00
767-47-065	285.00	1	0.00	285.00
767-47-066	285.00	1	0.00	285.00
767-47-067	285.00	1	0.00	285.00
767-47-068	285.00	1	0.00	285.00
767-47-069	285.00	1	0.00	285.00
767-47-070	285.00	1	0.00	285.00
767-47-071	285.00	1	0.00	285.00
767-47-072	285.00	1	0.00	285.00
767-47-073	285.00	1	0.00	285.00
767-47-074	285.00	1	0.00	285.00
767-47-075	285.00	1	0.00	285.00
767-47-076	285.00	1	0.00	285.00
767-47-077	285.00	1	0.00	285.00
767-47-078	285.00	1	0.00	285.00
767-47-079	285.00	1	0.00	285.00
767-47-080	285.00	1	0.00	285.00
767-47-081	285.00	1	0.00	285.00
767-47-082	285.00	1	0.00	285.00
767-47-083	285.00	1	0.00	285.00
767-47-084	285.00	1	0.00	285.00
767-47-085	285.00	1	0.00	285.00
767-47-086	285.00	1	0.00	285.00
767-47-087	285.00	1	0.00	285.00
767-47-088	285.00	1	0.00	285.00
767-47-089	285.00	1	0.00	285.00
767-47-090	285.00	1	0.00	285.00

Slight variances may occur due to rounding

City of Morgan Hill
Mill Creek
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
84 Accounts		84	\$0.00	\$23,940.00

City of Morgan Hill
Oak Creek I, II, III
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
779-51-001	\$425.00	1	\$0.00	\$425.00
779-51-002	425.00	1	0.00	425.00
779-51-003	425.00	1	0.00	425.00
779-51-004	425.00	1	0.00	425.00
779-51-005	425.00	1	0.00	425.00
779-51-006	425.00	1	0.00	425.00
779-51-007	425.00	1	0.00	425.00
779-51-008	425.00	1	0.00	425.00
779-51-009	425.00	1	0.00	425.00
779-51-010	425.00	1	0.00	425.00
779-51-011	425.00	1	0.00	425.00
779-51-012	425.00	1	0.00	425.00
779-51-013	425.00	1	0.00	425.00
779-51-014	425.00	1	0.00	425.00
779-51-015	425.00	1	0.00	425.00
779-51-016	425.00	1	0.00	425.00
779-51-017	425.00	1	0.00	425.00
779-51-018	425.00	1	0.00	425.00
779-51-019	425.00	1	0.00	425.00
779-51-020	425.00	1	0.00	425.00
779-51-021	425.00	1	0.00	425.00
779-51-022	425.00	1	0.00	425.00
779-51-023	425.00	1	0.00	425.00
779-51-024	425.00	1	0.00	425.00
779-51-030	425.00	1	0.00	425.00
779-51-031	425.00	1	0.00	425.00
779-51-032	425.00	1	0.00	425.00
779-51-033	425.00	1	0.00	425.00
779-51-034	425.00	1	0.00	425.00
779-51-035	425.00	1	0.00	425.00
779-51-036	425.00	1	0.00	425.00
779-51-037	425.00	1	0.00	425.00
779-51-038	425.00	1	0.00	425.00
779-51-039	425.00	1	0.00	425.00
779-51-040	425.00	1	0.00	425.00
779-51-041	425.00	1	0.00	425.00
779-51-042	425.00	1	0.00	425.00
779-51-043	425.00	1	0.00	425.00
779-51-044	425.00	1	0.00	425.00
779-51-045	425.00	1	0.00	425.00
779-51-046	425.00	1	0.00	425.00
779-51-047	425.00	1	0.00	425.00

Slight variances may occur due to rounding

City of Morgan Hill
Oak Creek I, II, III
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
779-51-048	425.00	1	0.00	425.00
779-51-049	425.00	1	0.00	425.00
779-51-050	425.00	1	0.00	425.00
779-51-051	425.00	1	0.00	425.00
779-51-052	425.00	1	0.00	425.00
779-51-053	425.00	1	0.00	425.00
779-51-054	425.00	1	0.00	425.00
779-52-004	425.00	1	0.00	425.00
779-52-005	425.00	1	0.00	425.00
779-52-006	425.00	1	0.00	425.00
779-52-007	425.00	1	0.00	425.00
779-52-008	425.00	1	0.00	425.00
779-52-009	425.00	1	0.00	425.00
779-52-010	425.00	1	0.00	425.00
779-52-011	425.00	1	0.00	425.00
779-52-012	425.00	1	0.00	425.00
779-52-013	425.00	1	0.00	425.00
779-52-014	425.00	1	0.00	425.00
779-52-015	425.00	1	0.00	425.00
779-52-016	425.00	1	0.00	425.00
779-52-017	425.00	1	0.00	425.00
779-52-018	425.00	1	0.00	425.00
779-52-019	425.00	1	0.00	425.00
779-52-020	425.00	1	0.00	425.00
779-52-021	425.00	1	0.00	425.00
779-52-022	425.00	1	0.00	425.00
779-52-023	425.00	1	0.00	425.00
779-52-024	425.00	1	0.00	425.00
779-52-025	425.00	1	0.00	425.00
779-52-026	425.00	1	0.00	425.00
779-52-027	425.00	1	0.00	425.00
779-52-028	425.00	1	0.00	425.00
779-52-029	425.00	1	0.00	425.00
779-52-030	425.00	1	0.00	425.00
779-52-031	425.00	1	0.00	425.00
779-52-032	425.00	1	0.00	425.00
779-52-033	425.00	1	0.00	425.00
779-52-034	425.00	1	0.00	425.00
779-52-035	425.00	1	0.00	425.00
779-52-037	425.00	1	0.00	425.00
779-52-038	425.00	1	0.00	425.00
779-52-039	425.00	1	0.00	425.00

Slight variances may occur due to rounding

City of Morgan Hill
Oak Creek I, II, III
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
779-52-040	425.00	1	0.00	425.00
779-52-041	425.00	1	0.00	425.00
779-52-047	425.00	1	0.00	425.00
779-52-055	425.00	1	0.00	425.00
779-52-056	425.00	1	0.00	425.00
779-52-057	425.00	1	0.00	425.00
779-52-058	425.00	1	0.00	425.00
779-52-059	425.00	1	0.00	425.00
779-52-060	425.00	1	0.00	425.00
779-52-061	425.00	1	0.00	425.00
779-52-062	425.00	1	0.00	425.00
779-52-063	425.00	1	0.00	425.00
779-52-064	425.00	1	0.00	425.00
779-52-065	425.00	1	0.00	425.00
779-52-066	425.00	1	0.00	425.00
779-52-067	425.00	1	0.00	425.00
779-52-068	425.00	1	0.00	425.00
779-52-069	425.00	1	0.00	425.00
779-52-070	425.00	1	0.00	425.00
779-52-071	425.00	1	0.00	425.00
779-52-072	425.00	1	0.00	425.00
779-52-073	425.00	1	0.00	425.00
779-52-074	425.00	1	0.00	425.00
779-52-075	425.00	1	0.00	425.00
779-52-076	425.00	1	0.00	425.00
779-52-077	425.00	1	0.00	425.00
779-52-078	425.00	1	0.00	425.00
779-52-079	425.00	1	0.00	425.00
779-52-080	425.00	1	0.00	425.00
779-52-081	425.00	1	0.00	425.00
779-52-082	425.00	1	0.00	425.00
779-52-083	425.00	1	0.00	425.00
779-52-084	425.00	1	0.00	425.00
779-52-085	425.00	1	0.00	425.00
779-52-086	425.00	1	0.00	425.00
119 Accounts		119	\$0.00	\$50,575.00

Slight variances may occur due to rounding

City of Morgan Hill
Rosehaven
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
817-10-005	\$400.00	1	\$0.00	\$400.00
817-10-006	400.00	1	0.00	400.00
817-10-007	400.00	1	0.00	400.00
817-10-008	400.00	1	0.00	400.00
817-10-010	400.00	1	0.00	400.00
817-10-011	400.00	2	0.00	800.00
817-10-012	400.00	1	0.00	400.00
817-10-013	400.00	1	0.00	400.00
817-10-014	400.00	1	0.00	400.00
817-10-015	400.00	1	0.00	400.00
817-10-016	400.00	1	0.00	400.00
817-10-017	400.00	1	0.00	400.00
817-10-018	400.00	1	0.00	400.00
817-10-019	400.00	1	0.00	400.00
817-10-020	400.00	1	0.00	400.00
817-10-021	400.00	2	0.00	800.00
817-10-022	400.00	1	0.00	400.00
817-10-023	400.00	1	0.00	400.00
817-10-024	400.00	1	0.00	400.00
817-10-025	400.00	1	0.00	400.00
817-10-026	400.00	2	0.00	800.00
817-10-027	400.00	1	0.00	400.00
817-10-028	400.00	1	0.00	400.00
817-10-029	400.00	1	0.00	400.00
24 Accounts		27	\$0.00	\$10,800.00

Slight variances may occur due to rounding

City of Morgan Hill
Sandalwood
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
728-11-027	\$450.00	1	\$0.00	\$450.00
728-11-028	450.00	1	0.00	450.00
728-11-029	450.00	1	0.00	450.00
728-11-030	450.00	1	0.00	450.00
728-11-031	450.00	1	0.00	450.00
728-11-032	450.00	1	0.00	450.00
728-11-033	450.00	1	0.00	450.00
728-11-034	450.00	1	0.00	450.00
728-11-035	450.00	1	0.00	450.00
728-11-036	450.00	1	0.00	450.00
728-11-037	450.00	1	0.00	450.00
11 Accounts		11	\$0.00	\$4,950.00

City of Morgan Hill
Sparhawk
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
764-31-025	\$500.00	1	\$0.00	\$500.00
764-31-026	500.00	1	0.00	500.00
764-31-027	500.00	1	0.00	500.00
764-31-028	500.00	1	0.00	500.00
764-31-029	500.00	1	0.00	500.00
764-31-030	500.00	1	0.00	500.00
764-31-031	500.00	1	0.00	500.00
764-31-032	500.00	1	0.00	500.00
764-31-033	500.00	1	0.00	500.00
764-31-034	500.00	1	0.00	500.00
764-31-035	500.00	1	0.00	500.00
764-31-036	500.00	1	0.00	500.00
764-31-037	500.00	1	0.00	500.00
764-31-038	500.00	1	0.00	500.00
764-31-039	500.00	1	0.00	500.00
764-31-040	500.00	1	0.00	500.00
764-31-041	500.00	1	0.00	500.00
764-31-042	500.00	1	0.00	500.00
18 Accounts		18	\$0.00	\$9,000.00

City of Morgan Hill
Stone Creek
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
726-06-016	\$388.46	1	\$0.00	\$388.46
726-06-017	388.46	1	0.00	388.46
726-06-018	388.46	1	0.00	388.46
726-06-019	388.46	1	0.00	388.46
726-06-020	388.46	1	0.00	388.46
726-06-021	388.46	1	0.00	388.46
726-06-022	388.46	1	0.00	388.46
726-06-023	388.46	1	0.00	388.46
726-06-024	388.46	1	0.00	388.46
726-06-025	388.46	1	0.00	388.46
726-06-026	388.46	1	0.00	388.46
726-06-027	388.46	1	0.00	388.46
726-06-028	388.46	1	0.00	388.46
726-06-029	388.46	1	0.00	388.46
726-06-030	388.46	1	0.00	388.46
726-06-034	388.46	1	0.00	388.46
726-06-035	388.46	1	0.00	388.46
726-06-036	388.46	1	0.00	388.46
726-06-037	388.46	1	0.00	388.46
726-06-038	388.46	1	0.00	388.46
726-06-044	388.46	1	0.00	388.46
726-06-045	388.46	1	0.00	388.46
726-06-046	388.46	1	0.00	388.46
726-06-047	388.46	1	0.00	388.46
726-06-048	388.46	1	0.00	388.46
726-06-049	388.46	1	0.00	388.46
726-06-050	388.46	1	0.00	388.46
726-06-051	388.46	1	0.00	388.46
726-06-052	388.46	1	0.00	388.46
726-06-053	388.46	1	0.00	388.46
726-06-054	388.46	1	0.00	388.46
726-06-055	388.46	1	0.00	388.46
726-06-056	388.46	1	0.00	388.46
726-06-057	388.46	1	0.00	388.46
726-06-058	388.46	1	0.00	388.46
35 Accounts		35	\$0.00	\$13,596.10

Slight variances may occur due to rounding

City of Morgan Hill
Sunnyside/Stonegate
Preliminary Assessment Roll for Fiscal Year 2024/25

APN	Rate Per Unit	Units	Rounding Adjustment	2024/25 Assessment
773-31-034	\$375.00	1	\$0.00	\$375.00
773-31-035	375.00	1	0.00	375.00
773-31-036	375.00	1	0.00	375.00
773-31-037	375.00	1	0.00	375.00
773-31-038	375.00	1	0.00	375.00
773-31-039	375.00	1	0.00	375.00
773-31-040	375.00	1	0.00	375.00
773-31-043	375.00	1	0.00	375.00
773-31-044	375.00	1	0.00	375.00
773-31-045	375.00	1	0.00	375.00
10 Accounts		10	\$0.00	\$3,750.00
745 Total Accounts		748	(\$2.10)	\$205,686.28

7. HISTORICAL ASSESSMENT RATES

The historical assessment rates per Zone are identified on the following pages.

City of Morgan Hill
Landscape Assessment District No. 1
Actual Historical Assessment Rates Per Zone

Zone	Belle Estates	Chang/ Bertelone	Conte Gardens	Diana Estates	Fox Hollow/ Murphy Sp.	Hamilton Square	Jackson Meadows #6	Jackson Meadows #7	La Grande Estates	Lacrosse/ Gera
Annexation Number	93-03	93-05	92-10	94-01	Original	94-03	93-06	91-03	95-03	91-04
Original Rate	\$502.22	\$1,215.00	\$477.82	\$139.39	\$106.15	\$425.54	\$108.10	\$314.58	\$88.00	\$142.99
Unit Count	36	8	11	64	75	38	70	10	32	24
1991/92	-	-	-	\$139.39	-	-	-	\$314.58	-	\$142.99
1992/93	-	-	-	-	-	-	-	-	-	-
1993/94	-	-	-	69.80	-	-	-	77.35	-	8.93
1994/95	-	-	-	69.80	\$106.15	-	-	77.35	-	8.93
1995/96	\$502.00	\$1,215.00	\$285.98	54.14	79.92	\$425.54	\$108.10	88.66	-	8.93
1996/97	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1997/98	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1998/99	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1999/00	147.81	8.93	477.82	81.03	49.11	399.71	108.10	314.50	\$88.00	8.93
2000/01	147.81	8.93	477.82	81.03	49.11	399.71	108.10	314.50	88.00	8.93
2001/02	147.80	8.92	477.82	54.80	49.10	399.70	86.38	314.50	88.00	8.92
2002/03	147.80	8.92	477.82	70.00	101.10	399.70	104.18	314.50	88.00	8.92
2003/04	175.00	8.92	477.82	80.00	101.10	399.70	104.18	314.50	88.00	8.92
2004/05	180.00	8.92	477.82	80.00	101.10	399.70	108.10	314.50	88.00	8.92
2005/06	180.00	94.92	477.82	105.00	141.10	399.70	108.10	314.50	88.00	8.92
2006/07	180.00	94.92	477.82	105.00	141.10	399.70	108.10	314.50	88.00	8.92
2007/08	194.00	94.92	477.82	135.00	141.10	399.70	108.10	314.50	88.00	8.92
2008/09	234.00	94.92	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2009/10	234.00	200.00	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2010/11	234.00	300.00	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2011/12	282.00	400.00	477.82	139.39	168.48	425.54	108.10	314.50	88.00	50.00
2012/13	282.00	400.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2013/14	320.00	500.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2014/15	320.00	500.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2015/16	320.00	550.00	400.00	139.39	173.53	425.54	108.00	140.00	88.00	50.00
2016/17	320.00	550.00	400.00	139.39	173.53	425.54	108.00	100.00	88.00	50.00
2017/18	320.00	550.00	400.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2018/19	320.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2019/20	320.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2020/21	320.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2021/22	320.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2022/23	310.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2023/24	310.00	550.00	365.00	139.39	173.53	425.00	108.00	100.00	88.00	50.00

City of Morgan Hill
Landscape Assessment District No. 1
Actual Historical Assessment Rates Per Zone

Zone	Llagas Creek Estates	Llagas/ Obata	Mill Creek	Oak Creek	Parsons Corner	Rose Haven	Sandalwood	Sparhawk	Stone Creek	Sunnyside/ Stone Gate
Annexation Number	91-05	91-07	93-01	94-04	95-02	95-01	96-01	91-06	94-02	91-01
Original Rate	\$140.84	\$629.16	\$186.82	\$453.82	\$568.32	\$488.47	\$192.39	\$174.77	\$306.66	\$449.40
Unit Count	71	5	84	119	10	27	11	18	35	10
1991/92	\$140.85	\$629.16	-	-	-	-	-	\$174.77	-	\$449.40
1992/93	-	-	-	-	-	-	-	-	-	-
1993/94	19.13	335.37	-	-	-	-	-	93.03	-	15.05
1994/95	19.13	15.05	-	-	-	-	-	308.84	-	15.04
1995/96	76.60	15.05	\$186.82	\$453.82	-	-	-	226.46	\$306.66	15.04
1996/97	59.54	8.93	64.57	47.67	\$568.32	\$488.47	-	147.33	146.66	8.93
1997/98	59.54	8.93	64.57	47.67	457.40	189.73	-	147.33	146.66	8.93
1998/99	59.54	8.93	64.57	337.09	457.40	189.73	-	147.33	146.66	8.93
1999/00	140.85	8.93	95.83	320.52	457.40	189.73	\$192.36	147.33	275.00	8.93
2000/01	140.85	8.93	158.64	245.16	457.40	189.73	192.36	147.33	275.00	8.93
2001/02	105.86	8.92	158.64	150.00	457.40	189.72	192.36	147.32	275.00	8.92
2002/03	140.00	8.92	182.64	250.00	300.00	300.00	192.36	147.32	275.00	275.00
2003/04	140.00	8.92	120.00	300.00	300.00	300.00	192.36	147.32	275.00	192.50
2004/05	140.00	8.92	120.00	300.00	300.00	300.00	192.36	147.32	306.66	192.50
2005/06	190.00	53.92	138.00	300.00	430.00	300.00	192.36	202.32	306.66	332.50
2006/07	190.00	53.92	138.00	300.00	430.00	300.00	192.36	202.32	306.66	332.50
2007/08	190.00	53.92	168.00	300.00	460.00	330.00	192.36	208.38	306.66	332.50
2008/09	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2009/10	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2010/11	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2011/12	195.70	53.92	186.82	350.00	250.00	450.00	192.36	241.58	306.66	332.50
2012/13	195.70	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	332.50
2013/14	233.67	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	412.50
2014/15	233.67	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	412.50
2015/16	233.67	143.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	375.00
2016/17	233.67	143.92	186.82	350.00	250.00	488.00	192.36	248.82	388.46	375.00
2017/18	233.67	143.92	186.82	350.00	250.00	488.00	192.36	248.82	388.46	375.00
2018/19	233.67	400.00	186.82	350.00	250.00	400.00	450.00	248.82	388.46	375.00
2019/20	233.67	400.00	186.82	350.00	0.00	400.00	450.00	248.82	388.46	375.00
2020/21	233.67	400.00	285.00	350.00	0.00	400.00	450.00	248.82	388.46	375.00
2021/22	233.67	400.00	285.00	350.00	0.00	400.00	450.00	248.82	388.46	375.00
2022/23	233.67	400.00	285.00	425.00	0.00	400.00	450.00	334.00	388.46	375.00
2023/24	233.67	450.00	285.00	425.00	0.00	400.00	450.00	334.00	388.46	375.00

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL, CALIFORNIA, CONFIRMING THE
ASSESSMENT AND ORDERING THE LEVY FOR THE CITY
OF MORGAN HILL LANDSCAPE ASSESSMENT DISTRICT
NO. 1 FOR FISCAL YEAR 2024/25**

WHEREAS, the City Council of the City of Morgan Hill (hereafter referred to as the “City Council”) previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the City of Morgan Hill (the “City”) Fox Hollow/Murphy Springs Landscape Assessment District and has by previous resolution changed the name of said district to the City of Morgan Hill Landscape Assessment District No. 1 (the “Assessment District”); and,

WHEREAS, the City has retained NBS for the purposes of assisting with the annual levy of the Assessment District, and the preparation and filing of an Annual Report; and

WHEREAS, NBS has not been required to update the Annual Report since the City Council’s preliminary approval on April 24th 2024; and

WHEREAS, the City Council has, by previous resolution, declared its intention to hold a Public Hearing concerning the levy and collection of assessments within the Assessment District; and

WHEREAS, notice of such Public Hearing was duly given in accordance with Section 22626 of the Act; and

WHEREAS, at the time and place specified in the aforementioned notice the City Council held and conducted such Public Hearing, and considered all objections to the assessment.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE COUNCIL, AS FOLLOWS:

- 1. Final Approval of Report:** The City Council approves the Annual Report concerning the levy of assessments for the fiscal year commencing July 1, 2024 and ending June 30, 2025.
- 2. Confirmation of Assessment and Diagram:** The City Council hereby confirms the assessment and the diagram as is described in full detail in the Annual Report on file with the City Clerk.

3. **Levy of Assessment:** Pursuant to Section 22631 of the Act, the adoption of this resolution shall constitute the levy of an assessment for the fiscal year commencing July 1, 2024 and ending June 30, 2025.
4. **Ordering of the Levy:** The City Council hereby orders NBS to prepare and submit the levy of assessments to Santa Clara County for placement on the Fiscal Year 2024/25 secured property tax roll.

PASSED, APPROVED AND ADOPTED by the City Council of Morgan Hill at a regular meeting held on the 5th day of June 2024.

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

APPROVED:

ATTEST:

Mark Turner, Mayor

Michelle Bigelow, City Clerk

CERTIFICATION

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. ____, adopted by the City Council at the meeting held on June 5, 2024.

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

DATE: _____

Michelle Bigelow, City Clerk

CITY COUNCIL STAFF REPORT

MEETING DATE: June 5, 2024

PREPARED BY:

Michelle Bigelow, City Clerk

APPROVED BY: City Manager

DISCUSS WHETHER TO CHANGE THE CITY TREASURER POSITION FROM ELECTIVE TO APPOINTIVE, AND IF THE COUNCIL WISHES TO PROCEED, ADOPT A RESOLUTION SUBMITTING THE QUESTION TO THE VOTERS

RECOMMENDATION(S)

1. Provide direction to staff regarding changing the City Treasurer position from elective to appointive; and
2. If approved, adopt resolution that would submit to the voters a ballot measure to change the City Treasurer position from elected to appointed.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Preserving and Cultivating Public Trust

REPORT NARRATIVE:

On December 6, 2023, Council Member Librers requested a discussion on appointing vs. electing the City Treasurer. At the February 21, 2024, City Council meeting, Council Member Librers requested a discussion on whether term limits should be put in place for the City Treasurer should the position remain elected.

If the City Council wants to change the City Treasurer position from elected to appointed, the City Council would adopt a resolution submitting to the voters a ballot measure either in 2024 or 2026. If the City Council wants to wait until the 2026 election, the resolution to place the matter on the ballot would have to come back in early 2026 for adoption. If the City Council decides to leave the position as elected and wants to establish term limits for the City Treasurer, staff will return with this item at the next City Council meeting.

State law requires all general law cities, like the City of Morgan Hill, to have a City Treasurer. The position may be appointed or elected. In the City of Morgan Hill, the office of City Treasurer is elected by the voters to a four-year term. Pursuant to Government Code Section 36502 (attachment 1), there are three qualifications for the position of elected treasurer; 1) the individual must be a resident of the city, 2) the

individual must be registered to vote in the city, and 3) the individual must be at least 18 years old. As an elected position, there are no minimum educational or professional requirements. In the City of Morgan Hill, the City Treasurer position has been elected since the City's incorporation in 1906. Government Code §36508 provides that each City Council may place the question on the ballot whether the City Treasurer should be an appointed office.

The current City Treasurer's term ends in December 2024. If the Council were to place this measure on the November 2024 ballot, and it passed, the incumbent or newly elected treasurer would remain in office until they either resigned or until the end of their term in 2028. If the City Council would like to change the City Treasurer position from elected to appointed, staff recommends placing the measure on the ballot in November 2026 at the mid-term of the Treasurer's term so that it is not a competing measure with candidates running for the Treasurer seat. Whether the Treasurer Appointment is on the ballot for 2024 or 2026, it would not be effective until 2028. In order to place the proposed resolution on the November 2024 ballot, state election law requires that certain procedures be followed by the Council. First, the Council needs to adopt a resolution requesting the services of the Registrar of Voters (ROV) of Santa Clara County to conduct the election. This was completed on February 21, 2024. Second, the Council needs to adopt a resolution placing the Treasurer Appointment measure on the ballot. Third, the Council needs to direct the City Attorney to submit an impartial analysis to the City Clerk. Lastly, the Council needs to determine the process for submission of an argument in favor of the measure and select the authors for the argument in favor. The options for the Council to consider in developing the arguments for the ballot measure are included below.

The majority of cities in California have appointed City Treasurers. In Santa Clara County, only one of the fifteen cities (Morgan Hill) has an elected city treasurer. In the past, Morgan Hill's City Treasurer's primary focus has been the investment of City funds, with the most recent portfolio balance at about \$190 million. Currently, the City's elected Treasurer reviews and signs off on the monthly investment report prepared by the Finance Department.

California Government Code §41001 (attachment 2) outlines the responsibilities of the City Treasurer as collection of City taxes and license fees, bank deposit of revenue, and payments to creditors. Most of these duties are currently delegated to the Finance Director. Effective financial management requires professional skills and expertise in areas such as electronic banking, municipal fund accounting, government reporting requirements, investment regulations, and debt management. Today's professional staff, independent audits, and internal accounting controls provide the necessary oversight and control of the City's finances.

Proponents of converting the City Treasurer position into an appointed position may argue that hiring professionals to handle the taxpayers' money may be more prudent because the City Council can establish minimum job qualifications for the position, and the City Manager can hold the individual accountable. To this end, the applicant pool would not be limited to current residents.

Opponents of converting the City Treasurer's office to an appointed position may argue that public oversight and checks and balances would be lost without the electoral process as well as the residency requirement.

Here are some additional reasons why a city might prefer one method over the other:

Appointing a City Treasurer:

- City Treasurer roles have become increasingly technical, demanding certain skills, experience, and reliability. These responsibilities are unlike those of other elected positions whose primary responsibility is policymaking.
- The California Government Code does not allow qualification criteria (beyond residency in the city) to be established for elective offices.
- Cities can set qualification criteria for appointed positions, requiring applicants to demonstrate the requisite skills.
- City Councils and City Managers are readily able and accustomed to selecting and holding appointed city positions accountable.
- Experience statewide has shown that unqualified and/or unreliable City Clerks and City Treasurers can be disruptive and damaging to local government operations.
- Cost savings of approximately \$15,000 every four years in election costs.
- Annual personnel cost savings of approximately \$9,780/year from the elimination of the elected City Treasurer position.
- No additional cost as the Finance Director would serve in this capacity.

Electing a City Treasurer:

- Elected officials are directly accountable to the voters, and a process for voters to remove a person from office has been established in the state government code.
- Elected officials are directly elected by the voters without control or influence from City Councils or City Managers.
- Encourages competition.

COMMUNITY ENGAGEMENT:

This report serves to inform the community of the City Council discussion regarding an elected versus appointed City Treasurer.

ALTERNATIVE ACTIONS:

The City Council may direct staff to take no further action.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 6, 2023, Council Member Librers requested a discussion on appointing vs. electing the City Treasurer. At the February 21, 2024, council meeting, Council

Member Librers requested a discussion on whether term limits should be put in place for the City Treasurer should the position remain elected.

FISCAL AND RESOURCE IMPACT:

No fiscal impact is associated with seeking direction from the Council on this item. Should the City Council move forward with placing a measure(s) on the ballot, the estimated one-time cost is \$60,000 per ballot measure.

CEQA (California Environmental Quality Act):

Not a Project.

Organizational or administrative activities of governments will not result in direct or indirect physical changes in the environment.



State of California

GOVERNMENT CODE

Section 36502

36502. (a) A person is not eligible to hold office as councilmember, city clerk, or city treasurer unless he or she is at the time of assuming the office an elector of the city, and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

If, during his or her term of office, he or she moves his or her place of residence outside of the city limits or ceases to be an elector of the city, his or her office shall immediately become vacant.

(b) Notwithstanding any other provision of law, the city council of a general law or charter city may adopt or the residents of the city may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve. Any proposal to limit the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall apply prospectively only and shall not become operative unless it is submitted to the electors of the city at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal. Notwithstanding the provisions of this subdivision, the provisions of any city charter that, on January 1, 1996, impose limitations on the number of terms a member of the city council may serve on the city council, or the number of terms an elected mayor may serve, shall remain in effect. Unless otherwise prohibited by a city charter, any city charter may be amended pursuant to this section or pursuant to the procedures specified in the charter, to include the limitation authorized in this subdivision.

(Amended by Stats. 1995, Ch. 432, Sec. 5. Effective January 1, 1996.)

Code: Section: [Up^](#) [Add To My Favorites](#)**GOVERNMENT CODE - GOV****TITLE 4. GOVERNMENT OF CITIES [34000 - 45345]** (Title 4 added by Stats. 1949, Ch. 79.)**DIVISION 3. OFFICERS [36501 - 41805]** (Division 3 added by Stats. 1949, Ch. 79.)**PART 3. OTHER OFFICERS [40601 - 41805]** (Part 3 added by Stats. 1949, Ch. 79.)**CHAPTER 3. City Treasurer [41001 - 41007]** (Chapter 3 added by Stats. 1949, Ch. 79.)

41001. The city treasurer shall receive and safely keep all money the treasurer receives.

(Amended by Stats. 2017, Ch. 77, Sec. 1. (SB 742) Effective January 1, 2018.)

41002. (a) The city treasurer shall comply with all laws governing the deposit and securing of public funds and the handling of trust funds in his or her possession.

(b) If the city has issued bonds, the city treasurer shall use a system of accounting and auditing that adheres to generally accepted accounting principles.

(Amended by Stats. 2017, Ch. 77, Sec. 2. (SB 742) Effective January 1, 2018.)

41003. The city treasurer shall pay out money only on warrants signed by legally designated persons.

(Amended by Stats. 2017, Ch. 77, Sec. 3. (SB 742) Effective January 1, 2018.)

41004. Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.

(Amended by Stats. 2017, Ch. 77, Sec. 4. (SB 742) Effective January 1, 2018.)

41005. The city treasurer shall perform such duties relative to the collection of city taxes and license fees as are prescribed by ordinance.

(Added by Stats. 1949, Ch. 79.)

41006. The city treasurer may appoint deputies.

(Amended by Stats. 2017, Ch. 77, Sec. 5. (SB 742) Effective January 1, 2018.)

41007. The deputies shall hold office at the pleasure of the city treasurer and receive such compensation as is provided by the legislative body.

(Added by Stats. 1949, Ch. 79.)

RESOLUTION NO. 24-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, SUBMITTING TO THE VOTERS AT THE NOVEMBER 5, 2024, GENERAL MUNICIPAL ELECTION, A BALLOT MEASURE SEEKING APPROVAL TO CHANGE THE ELECTED CITY TREASURER TO AN APPOINTED POSITION

WHEREAS, a General Municipal Election will be called and to be held in the City of Morgan Hill, California, on Tuesday, November 5, 2024; and,

WHEREAS, it is desirable that the General Municipal Election be consolidated with the statewide Gubernatorial General Election to be held on the same date and that within the city the precincts, polling places and election officers of the two elections be the same, and that the Registrar of Voters Office of the County of Santa Clara canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

WHEREAS, Morgan Hill's elected City Treasurer position was established at the time of the City's incorporation in 1906; and,

WHEREAS, over time, the duties and requirements of this position have changed; and,

WHEREAS, in a majority of California cities this position is appointed, not elected; and,

WHEREAS, on June 5, 2024 the City Council met and considered a staff report pertaining to the issues on changing the elected City Treasurer office to an appointed position; and,

WHEREAS, during the City Council meeting, the Council directed staff to move forward with placing the issue before the voters; and,

WHEREAS, Government Code section 36508 provides that the City Council may place the question on the ballot where the City Treasurer should be an appointive office.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES RESOLVE AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the State of California, at the General Municipal Election on Tuesday, November 5, 2024, the following question shall be submitted to the voters:

Shall the office of the City Treasurer be appointive?	YES
---	-----

	NO
--	----

and

SECTION 2. If the voters approve converting this elected office into an appointed position, the appointment becomes effective upon the earlier of either a vacancy or the end of the current term of office (i.e., December 2028)

SECTION 3. That the text of the ordinance is attached to this resolution as Attachment A.

SECTION 4. The ballots to be used at the election shall be in the form and content as required by law.

SECTION 5. That pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Santa Clara is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide Gubernatorial General Election on Tuesday, November 5, 2024, for the purpose of the election of a Mayor, a Member of the City Council from District A, a Member of the City Council from District C, and the City Treasurer.

SECTION 6. That the Board of Supervisors of the County of Santa Clara is requested to issue instructions to the Registrar of Voters Office to take any and all steps necessary for the holding of the consolidated election.

SECTION 7. That the Registrar of Voters of the County of Santa Clara is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the statewide/general election.

SECTION 8. That the City of Morgan Hill recognizes that additional costs will be incurred by the County of Santa Clara by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 9. The election on this measure shall be held, voting precincts designated, ballots be printed, polls opened and closed, ballots counted and returned, returns canvassed, the returns made, and result ascertained and determined, and all other proceedings conducted in connection with the election, under the regulations of the Registrar of Voters of Santa Clara County, in accordance with the provisions of the law governing general municipal elections in general law cities.

SECTION 10. The City Council authorizes all members of the City Council to file

written argument(s) In Favor of or Against the measure described in Section 1 above, not exceeding 300 words, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California.

SECTION 11. An argument for or against the measure shall not exceed 300 words in length. If more than one argument is submitted for the measure or more than one argument against the measure, the City Clerk shall select the argument to be included with the ballot materials. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk, after which no arguments for or against the measure may be submitted to the City Clerk.

SECTION 12. The primary arguments for and against the measure shall be submitted to the City Clerk by five p.m. on August 9, 2024, to meet the deadline established by the Santa Clara County Registrar of Voters for primary arguments. The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement to Be Filed by Author(s) of the Argument to be provided by the City Clerk.

SECTION 13. In accordance with Elections Code section 9285(b), the City of Morgan Hill hereby authorizes the filing of rebuttal arguments as set forth below and in accordance with state law.

The elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author, or a majority of the authors, of any argument relating to the measure may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five authors.

The rebuttal arguments shall be filed with the City Clerk, signed with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers, by five p.m. on August 16, 2024, to meet the deadline established by the Santa Clara County Registrar of Voters for rebuttal arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be provided by the City Clerk and to be filed by the author(s) of the argument.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 14. The City Attorney shall prepare an impartial analysis of the measure.

SECTION 15. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 16. If, at the election, a majority (50% plus 1) of the votes cast on the measure are in favor of the measure, then the measure shall be deemed to have been accepted and approved by the votes upon the date that the City of Morgan Hill declares the vote and shall go into effect ten (10) days after that date, pursuant to Section 9217 of the Elections Code.

SECTION 17. That notice of the time and place of holding the election is given, and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in time, form, and manner as required by law.

SECTION 17. That the City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 5th day of June 2024 by the following vote:

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

∞ CERTIFICATION ∞

I, MICHELLE BIGELOW, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 24-xxx, adopted by the City Council at a Regular Meeting held on June 5, 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

ATTACHMENT A

ORDINANCE NO. _____, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
AUTHORIZING THE CITY MANAGER TO APPOINT THE
CITY TREASURER**

THE PEOPLE OF THE CITY OF MORGAN HILL DO ORDAIN AS FOLLOWS:

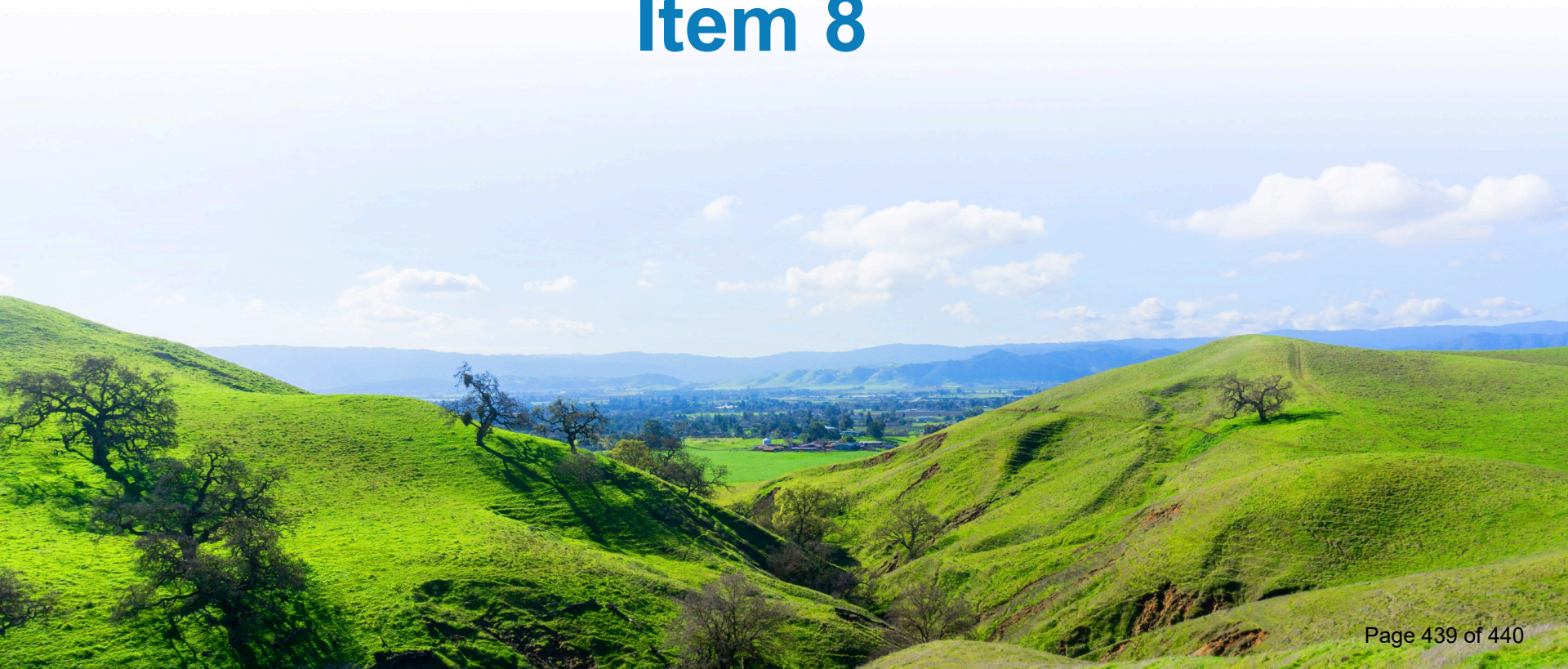
SECTION 1: At the expiration of the existing term of the City Treasurer of the City of Morgan Hill, the City Manager shall appoint the City Treasurer on the basis of their experience and ability. The City Treasurer shall hold office at the pleasure of the City Manager.

SECTION 2. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 3. Effective Date; Posting. This ordinance shall take effect on the 31st day after the certification of the election results.

June 5, 2024 City Council Meeting

Item 8



Appointed

Ballot Measure:
2024 or 2026
(effective 2028)

2024:
Adopt resolution
today

2026:
Direct staff to bring
resolution forward in
spring 2026

Elected

Term Limits:
Yes or No

Yes:
Adopt resolution
placing measure on
the 2024 ballot at the
June 19 CC meeting

No:
No further action
needed.