

From: [Chris Monack](#)
To: [Michelle Wilson](#)
Cc: [Steve Tate](#); [Larry Carr](#); [Caitlin Jachimowicz](#); [Rene Spring](#)
Subject: Public Comment for May 3rd Agenda Item #1, Planning Commission Interviews
Date: Monday, May 01, 2017 6:28:46 PM

Mayor and Council Members,

As the Council begins the interview process for filling Planning Commissioner seats, I'd like to raise a question on a topic I feel should receive some attention.

My question is whether the Council recognizes the potential for an ethical conflict between an individual's appointment to a public position where decisions are made and power exercised on behalf of the community, and that individual's concurrent position as a representative of an outside group that has specific goals that can be supported by the individual's actions while appointed to that public position.

For example, current Planning Commissioner John McKay is also the president of the Downtown Association. As a Planning Commissioner, Mr. McKay participated during the presentation and discussion of the Sunsweet development on January 10, and voted in favor of this downtown project and its recommended approval by the City Council. When the Council reviewed the Sunsweet proposal on February 1, Mr. McKay spoke on behalf of the Downtown Association as its president stating that "*We feel that these type of developments will help support all of the goals that we have as an association.*"

From his statement, it could be argued that Mr. McKay's roles as president and spokesperson in promoting developments that support the Downtown Association's goals could have influenced his participation and vote as a member of the Planning Commission on that item. It could also be argued that an open declaration of support for a private group establishes grounds to disqualify him from participating in future matters related to that group's interests downtown that also fall under the public authority of the Planning Commission. At the very least, he took advantage of an opportunity as a Downtown Association representative to further lobby a position he already spoke to and voted on as a Commissioner. While everyone in the community has the opportunity to lobby their personal or group's causes to the Council, that Commission vote is a luxury not equally enjoyed by other residents.

While this may not meet the criteria to be deemed a conflict of interest, a conflict of ethics can certainly result when an outside activity overlaps the responsibilities of a public position. Therefore, it seems reasonable to ask what ethical standard allows an individual, who is appointed by the City to represent the community's interests, to participate in what should be considered impartial decisions on any development or use of property within a specific area of the City, while at the same time publicly representing an outside group - a group that has been recognized by the City as an influential body - that has identified interests in development and use of property in that same specific area of the City.

In fairness to Mr. McKay, he has certainly demonstrated that he is qualified to act as a Planning Commissioner, and nothing presented in this letter should be construed as a criticism of his qualifications or his character. However, when the responsibilities of an appointed Commission position and the potential for public concern regarding the process for decision making come into question, the City Council should take whatever steps are prudent prior to

appointing the individual to insure any representation of outside interests or goals are identified and the potential for ethical conflicts can be resolved in the community's favor.

The Council may not have the ability to restrict an individual's right to be affiliated with a particular group, nor can the Council restrict the individual's right to speak publicly, whether as a group representative or as an individual. But the Council can, through its appointment process, provide a measure of control over the influence of outside interests on items that impact the community. Part of that measure of control is reflected in the City's Ethics Policy, specifically bullet point #2 which states "*public officials be independent, impartial, and fair in their judgment and actions.*" As it relates to the example I cited, it's possible the ethical standard of independence or impartiality is violated if an individual appointed to a public position takes part in influencing a decision, then speaks to that decision as supporting the goals of an outside group the individual has stated he/she represents. And it's a possibility that needs to be eliminated to insure there are no questions that decision are made in support of the community, not in support of an outside group's goals.

The ethical standard needs to be more than a candidate's personal assurance that he/she can remain unbiased when acting with authority on behalf of the Council and the community. If not already part of the interview process, I'm asking that the Council require candidates to identify affiliations with any outside groups and their position within the group that could be viewed as having a potential ethical conflict with their responsibilities as a Planning Commissioner, and speak to what limitations, if any, they should be willing to accept to avoid potential conflicts their dual roles could create.

Chris Monack

From: [Chris Monack](#)
To: [Michelle Wilson](#)
Cc: [Steve Tate](#); [Larry Carr](#); [Rene Spring](#); [Caitlin Jachimowicz](#)
Subject: Public Comment For May 3rd City Council Agenda Item #3, Dunne Murphy Final Map Approval
Date: Tuesday, May 02, 2017 6:32:37 PM

Mayor and Council Members,

At the April 19 City Council meeting, the developer for the Dunne Murphy development (a.k.a. Dunne-Busk) was unable to get Council's final approval for the project site map due to an issue with trees. This, coupled with the cancellation of the April 26 Council meeting, meant no Council approval would be obtained before the April 30 deadline set in the Development Agreement. The developer stated firmly to the Council he did not want an extension, even though he filed for one with the Planning Commission, and was adamant the project would meet the June 30 Commence Construction deadline. The Council voted to continue the item until the May 3 Council meeting.

So far, so good...until I read the Staff Report for this item and saw an extension was approved by the Planning Commission. While I understand the extension is not on the Council agenda, it is in the report and I feel it has some bearing on Final Map approval, so I'm bringing it up. I watched the recording of the April 25 Commission meeting and found the Staff Report really doesn't do justice to what occurred. And I am confused.

During the April 25 Planning Commission meeting, this project was incorporated into a group of projects seeking Development Agreement amendments. Dunne Murphy was in the "other delay" extension category. The project was presented by Terry Linder, Senior Planner, and it came with the recommendation by staff to deny the extension request as the City was not responsible for any delays.

The developer explained the circumstances for his extension request, stating the issue with the trees was resolved and that he wanted the compliance date of April 30 in the Development Agreement extended to May 3 so he could continue the project and meet the June 30 Commence Construction deadline. The developer stated he was *"asking for an extension on the recording of the Final Map."* The developer further stated with respect to the June 30 deadline in the Development Agreement, *"I am not asking for an extension on that timeline."* Commission Chair Tanda asked the developer as clarification, *"You're not asking for an extension?"* The developer replied, *"All I'm asking for is an extension on the recording of the Final Map."* To me, that should have been the extent of the Commission's involvement with the extension request.

Except it wasn't.

The Commission initiated an hour-long discussion among themselves and staff about whether or not to grant the developer a 6-month extension. A substantial portion of the discussion centered on what City staff needed to get the project completed, which was punctuated in a statement by Assistant City Manager Leslie Little asking the Commission to *"grant the extension for staff's benefit."* The granting of the extension was cited by Chair Tanda as a provision in Measure S giving the Commission the authority to do so. However, the provision in Measure S that I read from the City's website states *"It is the applicant's responsibility to provide evidence that the request is consistent with the requirement."* The developer didn't do

this. Instead, it was the Commission on its own that determined while the City staff was not to blame for delays, they were still partially at fault. After three motions and two votes, the Commission approved granting the developer a 4-month extension beyond the June 30 deadline in the Development Agreement.

The City Staff Report provided on April 28 as part of the May 3 agenda packet states that "*As a condition of approval of the Tentative Map, the Final Map approval requires a Site Review be completed and approved by the Planning Commission.*" But the Commission never took any action to that end. There was no motion or vote specific to that condition of approving the Site Review. All the report states is that after meeting with the "Planning team," the Site Review will move forward. This report then mentions the Commission's approval of a 4-month extension. Trying to understand what that had to do with this item led me to review the April 25 Planning Commission meeting.

While the Final Map approval wasn't done by the Commission as a noted requirement in the Staff Report, it was deemed by the City Attorney as a "de facto" approval resulting from the Commission granting a 4-month extension. That extension, by all appearances, shouldn't have been granted because the Measure S code requiring the developer to provide evidence of a delay wasn't satisfied for an extension that the developer never asked for in the first place. It appears the Planning Commission acted independently, and in a sense as an agent on the project's behalf, to establish grounds for the 4-month extension, and did so in violation of the requirement in Measure S. Based on all of that, an extension that wasn't asked for shouldn't have been approved, and the "de facto" approval of the Site Review by the Commission cited as a requirement in the Staff Report should never have happened.

So in other words, the developer did not get approval for a 4-day extension he asked for, but got a 4-month extension he didn't ask for. The Planning Commission didn't act on the conditions related to the April 30 deadline for the developer, but instead acted on its own to approve an extension for the June 30 deadline. There is the City staff that the Commission says isn't to blame for any delays, but according to the Commission is somehow still at fault. There's an extension granted through Measure S that required the developer to show evidence of a delay, which the developer didn't do, and the approved extension was apparently granted for the benefit of City staff, not for the developer. And finally, a Staff Report from April 28 that doesn't affirm that the Final Map recommendations being presented to the Council were ever formally or informally agreed to by the members of the Planning Commission, but instead includes a reference to a formal action taken by the Commission with no explanation as to what that has to do with the action currently before the Council.

The amount of time I spent trying to wrap my head around this process was ridiculous. Members of the public should have the expectation that a report on a government process should mirror what took place during that process. This report wasn't even close. That I had to go back and forth between multiple videos, staff reports, codes and ordinances, and emails I sent asking questions to attempt to clarify the number of things that didn't match what I expected or appeared to be inconsistent with what I read or what was said is deeply concerning to me. And it should be to the City Council, as well. I hope someone can clarify all of this. If they can, then my question is, "Why didn't you do so in the first place?"

As for Council's action on this item, April 30 falling on May 3 is the only thing out of this mess I can say I truly understand. Clearly the developer's Final Map would have been approved and he would have been able to meet the April 30 deadline if there been a Council

meeting on April 26. I have no problem with that, even though there's no evidence in the Staff Report that the Planning Commission approved the Site Review as stipulated. That said, I won't argue with the Council approving what the developer would have had approved before April 30, but the action taken by the Planning Commission to extend the June 30 deadline as noted in the Staff Report will be challenged should it come before the Council.

Chris Monack



Citizen-focused tools for modern governments

www.opencounter.com

25 Taylor Street, San Francisco, CA 94102

Our Story

The Penny Ice Creamery is the only ice cream shop in Santa Cruz making delicious ice cream completely from scratch in house. Our flavors change with the seasons, and feature locally farmed and organic ingredients.

Scoops

Served in a house made
cone or cup

• Kids	2.50
• Single	3.75
• Double	5.75
• Triple	6.75

Toppings

• Caramel Sauce	
• Chocolate Sauce	
• Toasted Marshmallow Fluff	75¢
• Seasonal Fruit Preserves	
• Espresso over Vanilla Ice Cream	5.50
• Traditional	5.75
• See Specials	7.00

• Warm
and

• Bon
Twe

• Floats

• Ice Cream

• Shakes

• Popsicles



21 Permits

Downtown Business Improvement District Permit, Parking District Permit, Business License, Zoning Clearance Permit, Building Permit, Refuse Container for Demolition, Fire Inspection, Certificate of Occupancy, California Food Safety / Sanitation, County Health Permit, Grease Trap Registration, Processed Food Registration Application, Food Labeling, Guidelines, Fictitious Business Filing, Business Property Tax Assessment, Incorporation, Reseller's Permit, California EDD (Payroll Tax), Worker's Compensation

PLANNING DEPARTMENT

[REDACTED]

STREET ADDRESSING/NAMING

HOURS:

MONDAY – THURSDAY

8:00 - 12:00 (NO WALK-INS AFTER 11:30 A.M.)

1:00 - 3:00 (NO WALK-INS AFTER 2:30 P.M.)

CLOSED FRIDAY

400

ZONING CLEARANCE

OCCUPANCY PERMIT APPLICATION FORM

CITY OF SANTA CRUZ DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

THIS APPLICATION FORM IS FOR ZONING CLEARANCE ONLY
AND DOES NOT AUTHORIZE OCCUPANCY WITHOUT FULLY
COMPLYING WITH ALL CITY REQUIREMENTS

FEE

TYPE OF APPLICATION	FILL OUT SECS.	
NEW USE	1, 2	
CHANGE OF USE	1, 2	
CHANGE of OWNERSHIP	1	
HOME OCCUPATION	1	

1. GENERAL INFORMATION

ADDRESS OF BUSINESS 895 NOBEL DRIVE PHONE 408-726-2207
NAME OF BUSINESS 2007
A.P.N. 002-662-12 ZONING DISTRICT RL
NAME OF APPLICANT Edmundo G. PHONE
ADDRESS 895 Nobel Dr Santa Cruz CA 95067
STREET CITY/STATE ZIP
DESCRIPTION OF BUSINESS MANAGEMENT CONSULTING
DATE OF OCCUPANCY 2/9/11 PREVIOUS USE N/A

2. LOCATION INFORMATION

1. AREA

- a. 1st FLOOR _____
b. 2nd FLOOR _____
c. OUTDOOR _____
d. TOTAL _____

2. ☐ SINGLE TENANT ☐ MULTI-TENANT

3. PARKING

- NO. OF OFF-STREET SPACES
a. AUTO _____
b. BICYCLE _____

4. SIGNAGE

ZONING ORDINANCE SECTION 24.09.520 REFERS TO SIGN PERMIT REQUIREMENTS. SHOULD A SIGN PERMIT BE NECESSARY, AND APPLICATION MUST BE APPROVED PRIOR TO PLACEMENT OF ANY SIGNAGE. FAILURE TO COMPLY COULD RESULT IN A CITATION.

3. DECLARATION

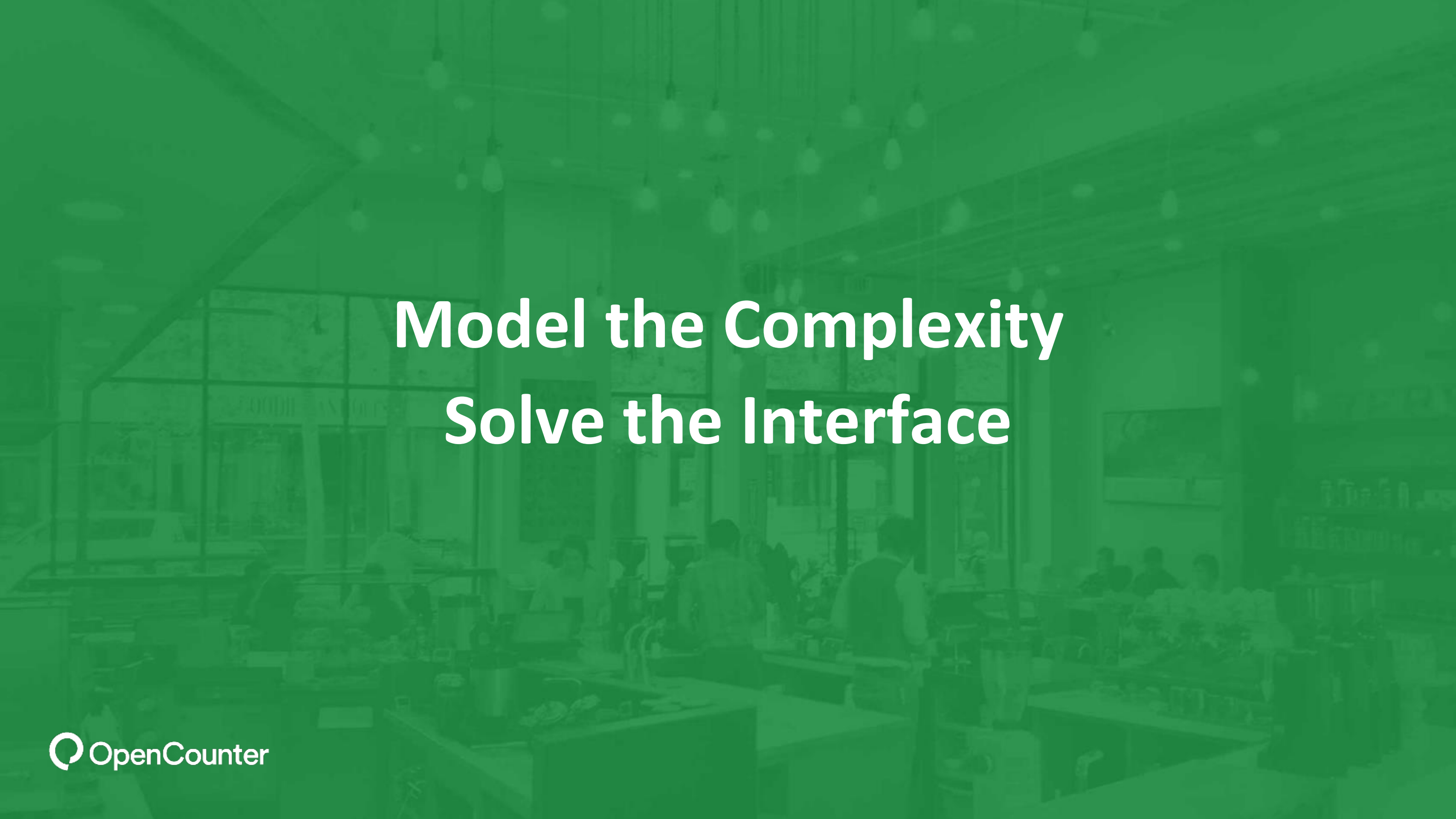
I DECLARE UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION WHICH I HAVE SET FORTH IN THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND THAT I AGREE TO OPERATE THE ABOVE DESCRIBED BUSINESS IN STRICT COMPLIANCE WITH CITY ZONING REGULATIONS GOVERNING SAME.

SIGNED THIS 7 DAY OF April, 2011

BY Edmundo G.

4. FOR OFFICE USE ONLY

ORDINANCE SECTION 29.10.160 CASE NO. 2911-0066
DATE APPROVED 3/7/11 BY JANICE LUM
DATE DENIED _____ BY _____
REASON FOR DENIAL _____
COMMENTS WILL REVIEW HOME OCCUPATION REGULATIONS



Model the Complexity Solve the Interface

Start, Expand & Locate Your Business in San Diego

The City of San Diego's strong economy, diverse population, great educational institutions, unsurpassed quality of life, and world-renowned location make it the ideal place to start, expand and locate your business. This business portal is a resource for you.

- Submit an inquiry before you sign a lease
- Immediately identify permitted locations
- Predict fees to help you plan

This site is brought to you by the City of San Diego's Economic Development Department.

Note: This site is currently set up for tenant improvements only. Projects involving an increase in square footage will be included in the next phase.

[Get Started!](#)

[PARA VERSIÓN EN ESPAÑOL OPRIMA AQUÍ](#)

[SIGN IN TO RESUME AN APPLICATION](#)

BASICS

- Business Type
- Location
- Discretionary Entitlements
- A Note About Using This Site

OPERATIONS

SITE

NEXT STEPS

SUMMARY

Basics

The information you provide on these pages will help us estimate fees and determine necessary permits.

To get started, provide your business name below.

Note: This site is currently set up for tenant improvements only. Projects involving an increase in square footage (i.e. expansions and new construction) will be included in the next phase.

ADA statement: Those persons with disabilities who require auxiliary aids or services in using City facilities, programs, or services may call 619-236-5979 | TTY: 711 to talk to the Office of ADA Compliance and Accessibility.

Business Name *

Joel's Restaurant

← Back

Continue →

BASICS

- Business Type
- Location
- Discretionary Entitlements
- A Note About Using This Site

OPERATIONS

SITE

NEXT STEPS

SUMMARY

Business Type

What business are you opening?

You may select your Use by choosing a featured icon or clicking to view the entire list of uses. Alternatively, you can type a use in the search box below and we will return a use if a match is found in our database. If nothing is returned, please try another term.

Type of business you would like to open *

Common Business Types



NURSERIES



TRADE SCHOOL



RETAIL
(CLOTHES)



TASTING ROOM



RESTAURANT



INSTRUCTIONAL
STUDIO



BARBER OR
BEAUTY SALON



BED &
BREAKFAST



PET DAY CARE



CHILD CARE
CENTER



SIDEWALK
CAFE



OFFICE



MEDICAL
OFFICE



LIGHT
MANUFACTURING

[VIEW ALL BUSINESS TYPES](#)

Search

Commercial > Services > Eating & Drinking Establishments

[← Back](#)

[Continue →](#)

BASICS

✓ Business Type

Business Type Details

Location

Discretionary Entitlements

A Note About Using This Site

OPERATIONS

SITE

NEXT STEPS

SUMMARY

Business Type Details

Please enter the following information to help us understand the scope of your land use.

Will you have live entertainment or sell alcohol other than beer and wine?

☒ Yes☐ No☐ Not Sure

Will your establishment exceed 3,000 square feet of gross floor area?

☒ Yes☐ No☐ Not Sure

Will you primarily only be selling alcoholic beverages?

☒ Yes☐ No☐ Not Sure

Will you establishment exceed 1,000 square feet of gross floor area?

☒ Yes☐ No☐ Not Sure

Will you have live entertainment before 9am or after midnight?

☒ Yes☐ No☐ Not Sure

Will you have live entertainment?

☒ Yes☐ No

Location

Please choose your location by entering an address in the search form, or clicking on the map.

Address *

East Dr, San Diego, California, 92110

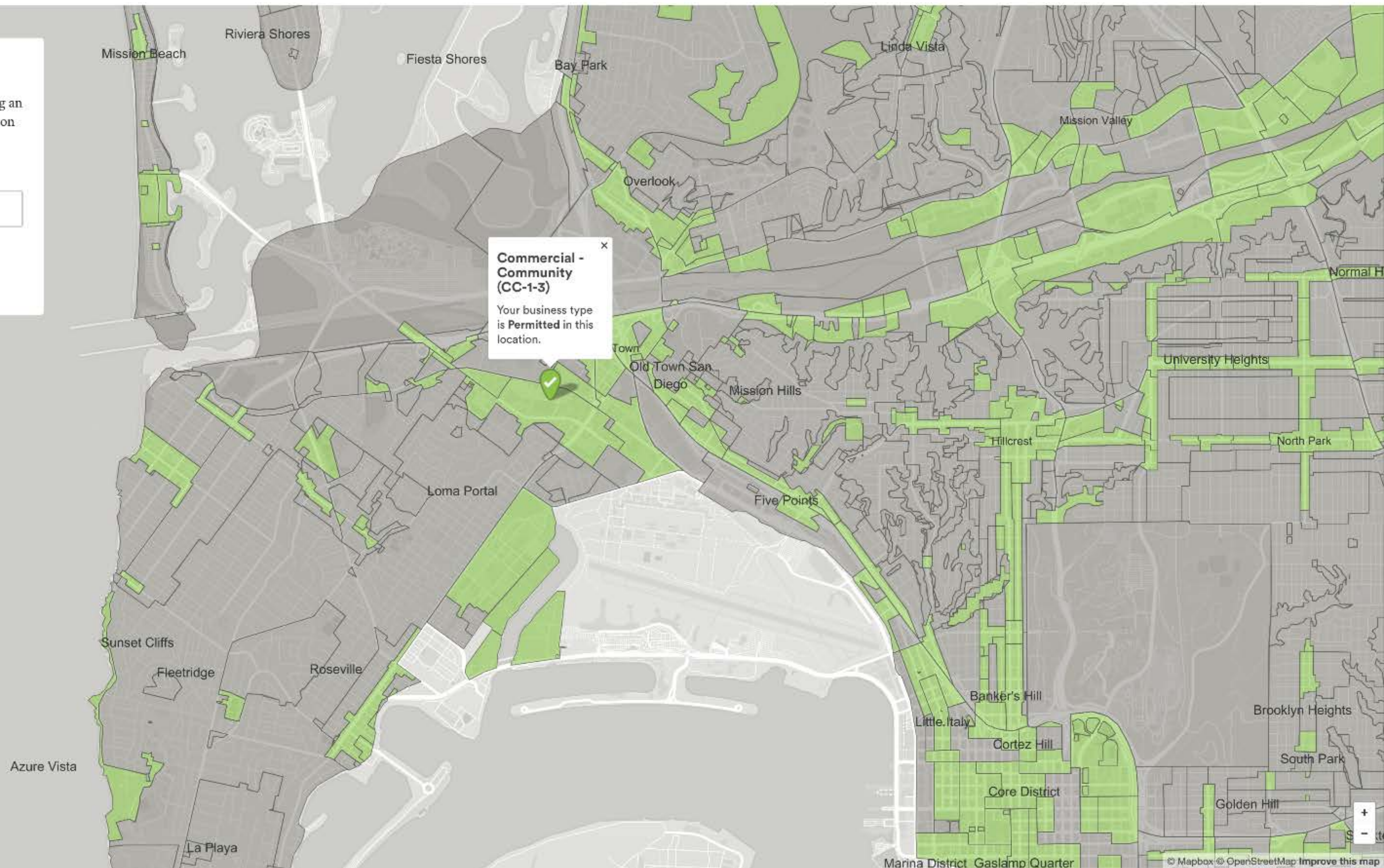
← Back

Continue →

Commercial - Community (CC-1-3)

Your business type is **Permitted** in this location.

- Permitted
- Prohibited
- Conditional



BASICS

OPERATIONS

Business Details

Applicant

Entertainment

Business Improvement District

SITE

NEXT STEPS

SUMMARY

Business Details

Tell us a little more about your business.

Suite Number, if applicable.

Employee Count *

10

Business Phone Number

5551212

Business Email Address

joel@opencounter.com

Number of owners/officers associated with this business

2

Business Square Footage *

5600

Does the name of your business include your last name or the last names of any other business owners?

Yes

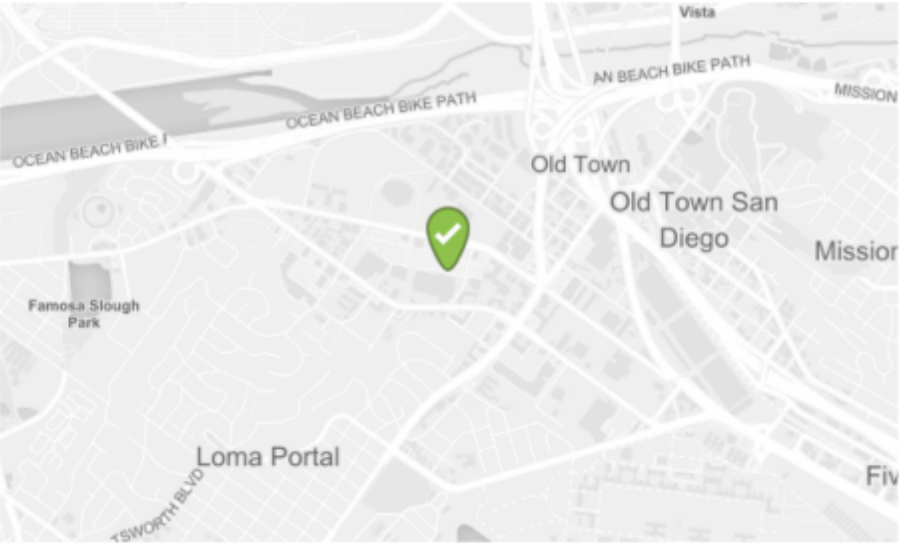
No

Not Sure

Provide a detailed description of your business.

Joel's Restaurant

EATING & DRINKING ESTABLISHMENTS



Permits (2)

— CITY

Alarm Permit	\$18.00
Zoning Use Certificate	\$17.00

TOTAL:	\$35.00
--------	---------

BASICS

OPERATIONS

SITE

- ✓ Building Project Overview
- ✓ Designated Historical Resources
- ✓ Tenant Improvement
- ✓ Change of Use
- Change of Use - Commercial
- Type of Work
- Public Improvements

TEAM

NEXT STEPS

SUMMARY

Change of Use - Commercial

By identifying the existing business type, we'll be able to more closely estimate any development impact fees.

For a more detailed description of these uses, please see [Appendix C of the City's Trip Generation Manual](#).

What commercial business currently exists at the site?

Convenience Market Chain

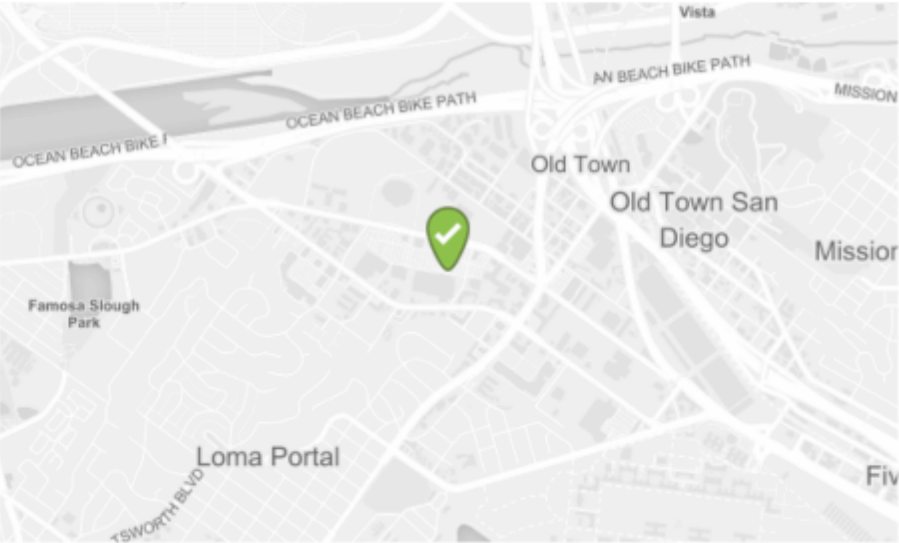
▼

← Back

Continue →

Joel's Restaurant

EATING & DRINKING ESTABLISHMENTS



Permits (6)

— CITY

Alarm Permit	\$18.00
Building Permit	\$5,105.48
Business Tax Certificate	\$34.00
Zoning Use Certificate	\$17.00
Development Impact	\$0.00

— COUNTY

Fictitious Business Name	\$42.00
--------------------------	---------

TOTAL: \$5,216.48

BASICS

OPERATIONS

SITE

- ✓ Building Project Overview
- ✓ Designated Historical Resources
- ✓ Tenant Improvement
- ✓ Change of Use
- ✓ Change of Use - Commercial
- Type of Work
- Public Improvements

TEAM

NEXT STEPS

SUMMARY

Type of Work

Building projects may include work done by specific trades, including plumbing, mechanical, electrical. What type of work will you be doing on your building project?

It is possible that upon reviewing your project, staff may determine that additional structural, mechanical, electrical, plumbing, and fire protection work must be done in order to meet state and city regulations.

Prior to signing a lease or submitting a project for review, we encourage you to engage a design professional who is familiar with the structural, life safety, and accessibility provisions of the California Code of Regulations, Title 24 in order to evaluate the requirements for your proposed project.

California Code of Regulations, Title 24 - 2013

Will you be adding or altering any electrical wiring?

Yes

No

Not Sure

Will you be adding or altering any heating, air conditioning, and/or ventilation systems?

Yes

No

Not Sure

Will you be adding or altering any plumbing?

Yes

No

Not Sure

Does the project include any permanent or temporary alterations or impacts to the exterior (cutting-patching-access-repair, roof repair or replacement, windows added-removed-repaired-replaced, etc)?

Yes

No

Not Sure

Does the project include any foundation repair, digging, trenching or other site work?

Yes

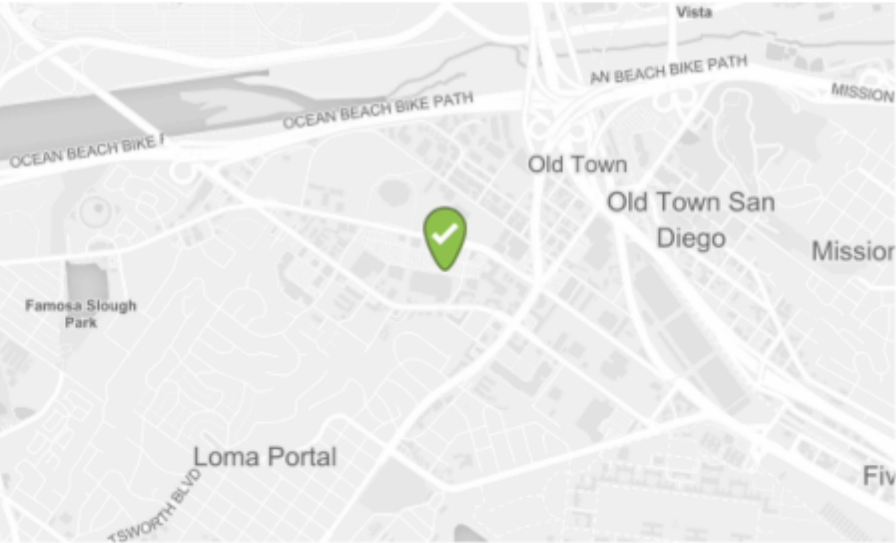
No

Not Sure

Will you be demolishing or completely removing any structures from the site?

Joel's Restaurant

EATING & DRINKING ESTABLISHMENTS



Permits (6)

— CITY

Alarm Permit	\$18.00
Building Permit	\$5,105.48
Business Tax Certificate	\$34.00
Zoning Use Certificate	\$17.00
Development Impact	\$0.00

— COUNTY

Fictitious Business Name	\$42.00
--------------------------	---------

TOTAL: \$5,216.48

BASICS

OPERATIONS

SITE

- ✓ Building Project Overview
- ✓ Designated Historical Resources
- ✓ Tenant Improvement
- ✓ Change of Use
- ✓ Change of Use - Commercial
- ✓ Type of Work
- ✓ Electrical
- Plumbing
- Mechanical
- Signs
- Fire Protection
- Traffic Control
- Public Improvements
- Water and Sewer Fees
- Potential Historical Resources

TEAM

NEXT STEPS

SUMMARY

Plumbing

Provide additional detail about your plumbing work below.

The California Code of Regulations, Title 24 (CCR) contains requirements for the design and installation of plumbing systems for all business types. Understanding the CCR requirements for your business type can help you establish realistic construction costs and anticipate any upgrades that may be required.

Prior to signing a lease or submitting a project for review, we encourage you to engage a design professional to verify the adequacy and capacity of any existing plumbing system for your proposed project.”

For more information, see:

- Info Bulletin 113 - Cross Connection Control
- Info Bulletin 166 - Water, Sewer, or Fire Services
- California Code of Regulations, Title 24 - 2013

Will you be working with a licensed plumber?

Yes

No

Not Sure

Will you be installing or modifying a bathroom?

Yes

No

Not Sure

If yes, how many fixtures will you install/modify?

4

Will you be installing or modifying a kitchen?

Yes

No

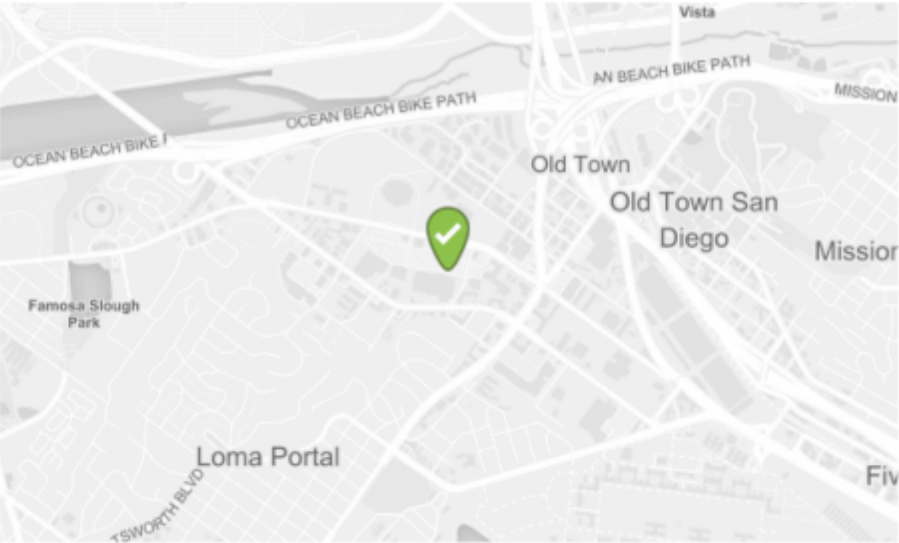
Not Sure

If yes, how many fixtures will you install/modify?

3

Joel's Restaurant

EATING & DRINKING ESTABLISHMENTS



Permits (10)

— CITY

Alarm Permit	\$18.00
Building Permit	\$5,105.48
Business Tax Certificate	\$34.00
Zoning Use Certificate	\$17.00
Right-of-Way - Traffic Control	\$73.00
Development Impact	\$0.00
Mechanical, Plumbing/Gas, Electrical Permits	\$878.00
Sign Permit	\$305.00
Right-of-Way Permit	\$1,635.00

— COUNTY

Fictitious Business Name	\$42.00
--------------------------	---------

TOTAL: \$8,107.48

BASICS

OPERATIONS

SITE

TEAM

NEXT STEPS

Fees

Next Steps

Impact Fees

SUMMARY

Fees

Fees are estimated based on the project details.

The estimate of fees tallied on this page is for informational purposes only and is not intended to be an informed decision.

Staff will need to review plans and provide a fee estimate.

← Back

Continue →

Building Permit

The total cost of a building permit is based on many different fees. The fees, at a minimum, cover the cost to review, approve, and inspect the project. The cost varies depending on the scope of the project (new construction, remodel, demolition, etc.), the size of the project (a whole building versus a one room addition), and how many times the plans get reviewed during plan check. Fees are usually charged at two different times. First, when the plans are turned in to apply for the permit, and second, when the permit is approved and issued. The fees charged when you first submit your plans for a permit include plan review fees for both the Building Division and Planning Division. The fees charged upon permit issuance may include, but are not limited to: inspection fees, general plan fees, required State fees, and development impact fees.

General Plan Maintenance

Average Processing Time: 40 days

Recurrence: One-Time

Cost: \$275.00

Mapping Fee

Average Processing Time: 30 days

Recurrence: One-Time

Cost: \$10.00

Records

Average Processing Time: 40 days

Recurrence: One-Time

Cost: \$10.00

Restaurant - Tenant Improvement (Inspection)

Average Processing Time: 30 days

Recurrence: One-Time

Cost: \$1,312.56

Restaurant - Tenant Improvement (Plan Check)

Average Processing Time: 30 days

Recurrence: One-Time

Cost: \$3,497.92

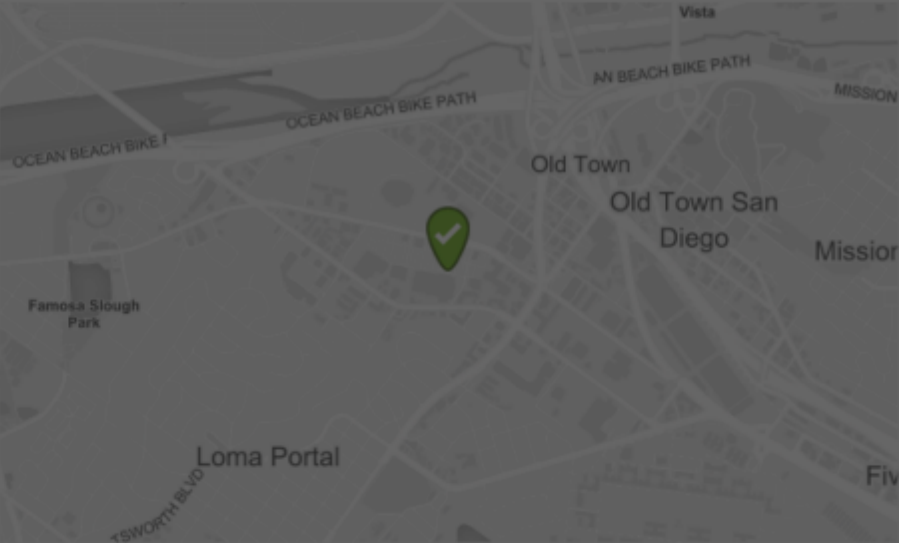
Total Cost: \$5,105.48

View in municipal code



Joel's Restaurant

EATING & DRINKING ESTABLISHMENTS



Permits (10)

— CITY

Alarm Permit	\$18.00
Building Permit	\$5,105.48
Business Tax Certificate	\$34.00
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Right-of-Way - Traffic Control	\$73.00
Development Impact	\$0.00
Mechanical, Plumbing/Gas, Electrical Permits	\$878.00
Sign Permit	\$305.00
Right-of-Way Permit	\$1,635.00

— COUNTY

Fictitious Business Name	\$42.00
--------------------------	---------

TOTAL: \$8,107.48

BASICS

OPERATIONS

SITE

TEAM

NEXT STEPS

SUMMARY

You're All Set!

Summary

Please review the information below, fill in any missing fields, and then click the 'Submit Inquiry' button at the bottom of this page.

Basics

Business Name *	Joel’s Restaurant
-----------------	-------------------

EDIT

Business Type

Type of business you would like to open *	Commercial > Services > Eating & Drinking Establishments
---	--

EDIT

Business Type Details

Will you have live entertainment or sell alcohol other than beer and wine?	Yes
Will your establishment exceed 3,000 square feet of gross floor area?	Yes
Will you primarily only be selling alcoholic beverages?	Yes
Will you establishment exceed 1,000 square feet of gross floor area?	Yes
Will you have live entertainment before 9am or after midnight?	Yes
Will you have live entertainment?	Yes

EDIT

Location

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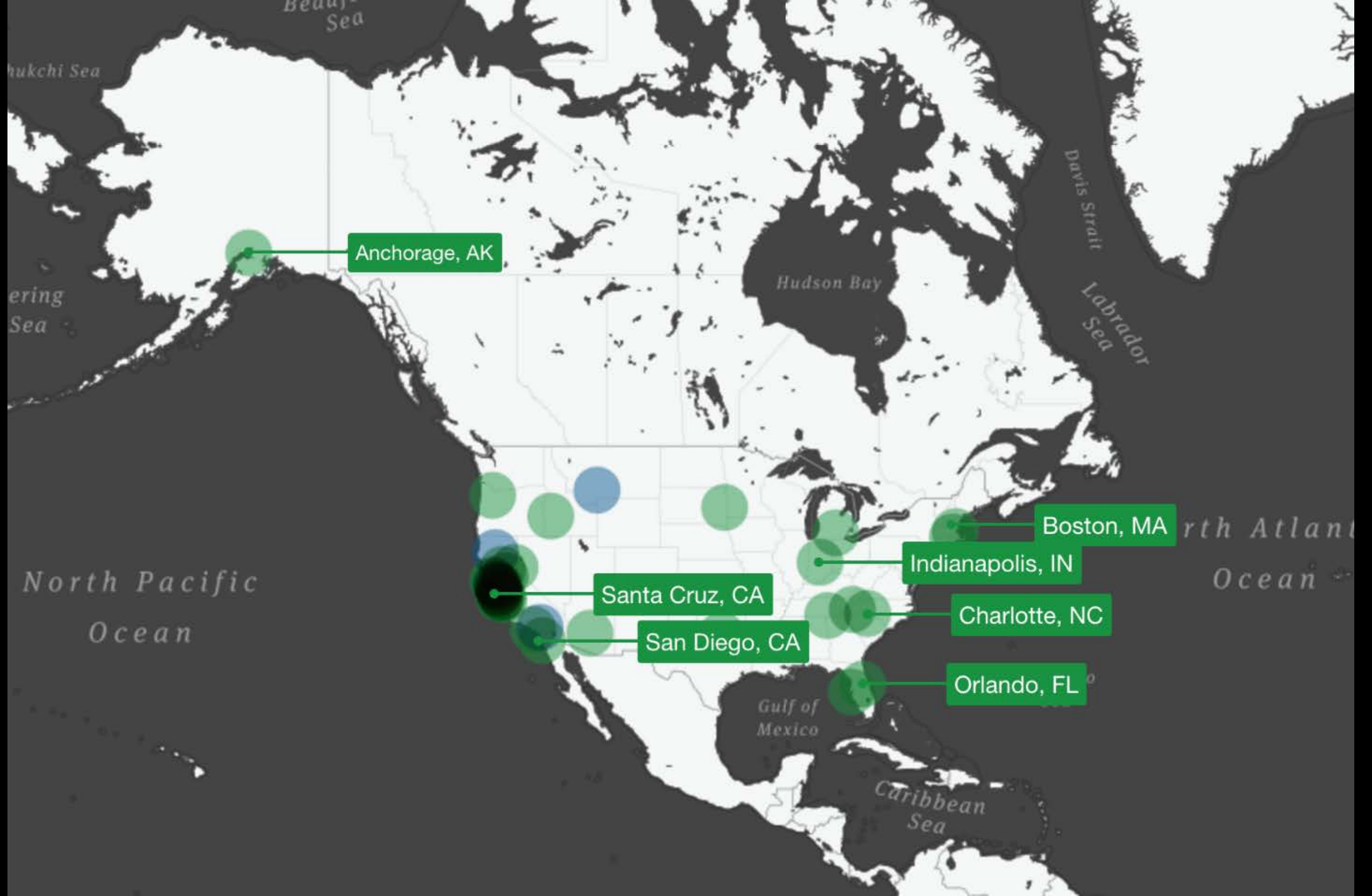
Your Application Has Been Submitted

Someone from the City will be in touch shortly.
But before you go... OpenCounter is a new tool and is still under development. We'd love to get your feedback on this process.
How was it? Were you confused at any point? Did you have problems? What could we do better? Thanks in advance for your feedback.

This is great, thanks

Send Feedback

Project Outline



Project Phases

1. Data Collection

(2 weeks)

2. Zoning and Land Use Import (Zoning Portal)

(6-8 weeks)

3. Permit Catalog (Fees, Rules)

(6-8 weeks)

4. Business Portal

(4 weeks)

5. Testing & Launch

(4 weeks min)

Thank You



peter@opencounter.com

www.opencounter.com

25 Taylor Street

San Francisco, CA 94102

Illegal Fireworks and Drinking in Public Fines Recommendation

Morgan Hill City Council

May 3, 2017



Sergeant Carson Thomas

Introduction



- Policy Considerations
- Problem Statement
- Key Findings and Recommendations
- Next Steps



Policy Considerations



- Should Council enact a higher fine to deter unlawful and unsafe behaviors during designated times of the year?

Problem Statement and Desired Outcome



- High incidences of aerial fireworks during certain times of the year.
- To increase safety by reducing the number of illegal fireworks and the subsequent police response.

Community Survey Results



Q1 What issues do you feel Morgan Hill is facing today that pertain to public safety?

Answered: 548 Skipped: 1

Red Lights Big City Parking Lots Monterey Rd
Growth Dark Downtown Unsafe Safety
Stop Signs Traffic Young
Home Burglaries Casing Theft
Law Enforcement Crime New Years
Increase Growing Community
Illegal Fireworks Kids Morgan Hill Bad Guys
Housing Speeding and Reckless Driving Walking Residents

Findings and Recommendations



- Santa Cruz, San Jose and Oakland adopted ordinances increasing fees for illegal fireworks and other designated violations during the 4th of July.
- Santa Cruz expanded program based on success in deterring unsafe behavior.

Findings and Recommendations



- Triple designated fines during the 4th of July week and the 48 hours surrounding New Years Eve
- Base fine will increase to \$300 from \$100 per violation
 - Sale or Possession of illegal fireworks
 - Illegal discharge
 - Drinking in public.

Next Steps



- Community education and engagement prior to enforcement.
- Zero tolerance enforcement during Fourth of July 2017



Questions





Special - Regular Meeting Agenda
City Council

Steve Tate - Mayor
Larry Carr - Mayor Pro Tem
Rich Constantine - Council Member
Caitlin Jachimowicz - Council Member
Rene Spring - Council Member

Wednesday, May 3, 2017 5:00 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

**(5:00 P.M. SOFTWARE TRAINING/ 6:00 P.M. COMMISSION
INTERVIEWS/ 7:00 P.M. REGULAR MEETING)**

SPECIAL/REGULAR MEETING

A Special Meeting of the City Council has been called at 5:00 p.m. for the purpose of conducting a training and commission interviews.

SPECIAL MEETING

5:00 P.M.

CALL TO ORDER

Mayor Tate

ROLL CALL ATTENDANCE

Deputy City Clerk Wilson

DECLARATION OF POSTING AGENDA

Deputy City Clerk Wilson

TRAINING

Accela WeGovern app electronic agenda access and electronic voting training.

COMMISSION INTERVIEWS

1. INTERVIEWS TO FILL ONE (1) VACANCY ON THE LIBRARY, CULTURE, AND ARTS COMMISSION AND THREE (3) VACANCIES ON THE PLANNING COMMISSION

Recommendation:

1. Accept Library, Culture, and Arts commissioner Linda Vrabel's resignation;
2. Discuss the characteristics/traits that a successful applicant(s) would possess;
3. Conduct Interviews;
4. Council Members identify top applicant(s) and provide recommendation to the Mayor; and
5. Discuss and/or appoint applicant(s).

REGULAR MEETING

7:00 P.M.

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Spring

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming May 20, 2017 as Kids to Parks Day
Proclaiming May 15, 2017 as Peace Officers' Memorial Day and
the week of May 14-20, 2017 as National Police Week
Proclaiming the week of May 7-13, 2017 as Wildfire Awareness Week
Proclaiming the month of May as Aquatics Month
Proclaiming the month of May as Foster Care/Resource Parent Month

PUBLIC COMMENT

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

RESOLUTIONS OF SUPPORT

2. ADOPT RESOLUTION REAFFIRMING THE CITY'S COMMITMENT TO A DIVERSE, SUPPORTIVE, INCLUSIVE COMMUNITY AND TO PROTECTING THE CONSTITUTIONAL RIGHTS OF ITS RESIDENTS

Recommendation:

Adopt resolution reaffirming the City's commitment to a diverse, supportive, inclusive community and to protecting the constitutional rights of its residents.

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

3. FINAL MAP APPROVAL OF DUNNE MURPHY - TRACT NO. 10387

Recommendation:

Adopt resolution:

1. Approving the Final Map;
2. Authorizing the City Manager to execute the Subdivision Improvement Agreement with Live Oak Investments LLC;
3. Authorizing the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorizing the recordation of the Final Map and the Subdivision Improvement Agreement.

4. APPROVE AMENDED CASH DEPOSIT GUARANTEEING IMPROVEMENTS FOR GIOVANNI DEVELOPMENT - TRACT NO. 9971

Recommendation:

Adopt resolution:

1. Amending Cash Deposit Agreement Guaranteeing Improvements for Giovanni Development – Tract No. 9971 with Giovanni Development Company, LLC; and
2. Authorizing the City Manager to execute the agreement pending review and approval by the City Attorney.

5. AWARD CONTRACT FOR THE MONTEREY ROAD PRESERVATION PROJECT

Recommendation:

Adopt resolution to:

1. Amend the Fiscal Year 2016-17 budget and appropriate an additional \$899,526 from the Street CIP Fund (308) for the Monterey Road Preservation Project (CIP Project No. 519Z15);
2. Approve project plans and specifications;
3. Award a contract to Granite Construction Company for the Monterey Road Preservation Project in the amount of \$2,465,933;
4. Authorize expenditure of construction contingency funds not to exceed \$246,593; and
5. Authorize the City Manager to execute and administer the construction contract with Granite Construction Company.

6. AWARD BOYS RANCH WELL #2A AND JACKSON WELL #3 PROJECT

Recommendation:

1. Approve Boys Ranch Well #2 and Jackson Well #3 Project plans and specifications;
2. Award a contract to Conco-West, Inc. for the Boys Ranch Well #2 and Jackson Well #3 Project in the amount of \$1,281,230;
3. Authorize expenditure of construction contingency funds not to exceed \$128,123; and
4. Authorize the City Manager to execute and administer the construction contract with Conco-West, Inc.

7. APPROVAL OF MICROSOFT ENTERPRISE AGREEMENT

Recommendation:

1. Approve the purchase of Microsoft Office 365 Government Enterprise 3, Exchange Plan 2 and Software Assurance and Device Client Access Licenses from Insight Public Sector, Inc. for a not-to-exceed amount of \$75,000; and
2. Authorize the City Manager to execute a Microsoft Enterprise Agreement for the licensing of City of Morgan Hill Microsoft products and services, pending review and approval by the City Attorney.

8. ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

Recommendation:

Accept the Annual Report on Centennial Recreation Center Membership.

9. SILICON VALLEY ENERGY WATCH GRANT FOR ENERGY CONTROL IMPROVEMENTS

Recommendation:

1. Accept \$90,000 grant from the City of San Jose for Silicon Valley Energy Watch funding and authorize the City Manager to execute a grant agreement subject to the review and approval of the City Attorney; and
2. Direct staff to include the grant revenue and expenditures in the Fiscal Year 2017-18 budget, including an additional appropriation of \$27,790 for City matching funds from the Building Maintenance Fund.

10. PARK PLACE AFTER SCHOOL PROGRAM CONTINUATION

Recommendation:

Direct staff to include \$13,000 in funding from the General Fund for consideration in the mid-cycle budget review for FY 2017-18 to fund the afterschool program at Park Place with the expiration of CALGRIP grant funding.

11. CITY POSITION ON PENDING LEGISLATION SB 649 AND AB 1250

Recommendation:

Receive legislative correspondence in opposition of SB 649 (Hueso) Wireless Telecommunications Facilities and AB 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal Services.

12. ADOPT ORDINANCE 2234, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR A NINE LOT DEVELOPMENT PROJECT AAE2017-0010: WALNUT GROVE-NEWLAND LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE (APN 726-07-089,726- 07-023, -024)

Recommendation:

Waive the reading, adopt Ordinance No. 2234, 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.

13. MINUTES OF SPECIAL - REGULAR MEETING MEETING HELD APRIL 5, 2017

Recommendation:

Approve Minutes.

14. MINUTES OF SPECIAL - REGULAR MEETING MEETING HELD APRIL 19, 2017

Recommendation:

Approve Minutes.

OTHER BUSINESS

15. CITY MANAGER AMENDED AND RESTATED EMPLOYMENT AGREEMENT

Recommendation:

Approve the City Manager's Amended and Restated Employment Agreement.

Estimated Time: 5 Minutes

16. MASTER SERVICES AGREEMENT WITH OPEN COUNTER ENTERPRISES, INC. FOR A WEB BASED TOOL FOR ZONING AND PERMITTING.

Recommendation:

Authorize the City Manager to execute a Master Services Agreement with Open Counter Enterprises, Inc. for a not-to-exceed fee of \$79,000 for the configuration and use of the Open Counter Economic Development software service suite for three years.

Estimated Time: 20 minutes

17. ECONOMIC BLUEPRINT BUDGET REQUEST

Recommendation:

1. Discuss the proposed budget for initial Economic Blueprint implementation; and
2. Direct staff to include funding the implementation of the Economic Blueprint as part of the budget mid-cycle workshop on May 19, 2017.

Estimated Time: 30 Minutes

18. HISTORICAL SOCIETY PARTNERSHIP FRAMEWORK

Recommendation:

1. Direct staff to develop an agreement with the Morgan Hill Historical Society for the operation of Villa Mira Monte as a public facility, based on framework outlined in this report; and
2. Direct staff to include operating and maintenance financial support for the Historical Society in the budget mid-cycle discussion.

Estimated Time: 30 Minutes

19. ACCEPTANCE OF STATE HOMELAND SECURITY GRANTS AND APPROVAL OF THE PURCHASE OF A PUBLIC SAFETY COMMAND VEHICLE

Recommendation:

1. Accept the 2016 and 2017 State Homeland Security Grant Program grants in the amount of \$690,132;
2. Approve sole source purchasing process through LDV; and
3. Direct staff to return at a future meeting with a recommendation to confirm the purchase of a Public Safety Command Vehicle.

Estimated Time: 15 Minutes

20. TRIPLING OF FINES FOR MUNICIPAL CODE VIOLATIONS DURING SPECIFIED PERIODS

Recommendation:

1. Waive the first and second reading of the ordinance; and
2. Introduce Ordinance.

Estimated Time: 20 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

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

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

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

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

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

AMERICANS WITH DISABILITIES ACT (ADA)

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



Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture ·
Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.



Inclusiveness

We will celebrate the diversity, history, and culture of our community. Through City Council workshops, community meetings, and researching successes in other communities, the City will listen to and collaborate with the community to define how inclusiveness will be further woven into our community's fabric and to increase public participation. The City's communications, services, public spaces, and projects will embrace all community members as partners, advancing our vision of being a socially responsible community.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.



Telecommunications

The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Michelle Wilson, Deputy City Clerk
APPROVED BY: City Manager

INTERVIEWS TO FILL ONE (1) VACANCY ON THE LIBRARY, CULTURE, AND ARTS COMMISSION AND THREE (3) VACANCIES ON THE PLANNING COMMISSION

RECOMMENDATION(S)

1. Accept Library, Culture, and Arts commissioner Linda Vrabel's resignation;
2. Discuss the characteristics/traits that a successful applicant(s) would possess;
3. Conduct Interviews;
4. Council Members identify top applicant(s) and provide recommendation to the Mayor; and
5. Discuss and/or appoint applicant(s).

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

At the February 15, 2017 City Council meeting, interviews were conducted to fill four vacancies on the Library, Culture & Arts Commission (LCAC). One vacancy was left unfilled. Recruitment efforts were conducted and resulted in the receipt of two applicants: Brigitte Crawford and Katie Khera.

On April 26, 2017, staff received an email from Linda Vrabel stating that she could no longer serve on the LCAC and that she would be resigning effective immediately. Government Code section 54974 states that whenever an unscheduled vacancy occurs, a vacancy notice shall be posted within 20 days of the vacancy occurring and that an appointment may not be made for at least 10 working days after the posting of the notice of vacancy. Staff recommends accepting Commissioner Vrabel's resignation and directing the City Clerk team to start the recruitment efforts.

There are three seats on the Planning Commission (PC) with terms ending June 1, 2017: John McKay, Yvonne Martinez Beltran, and Michael Orosco. All three commissioners were invited to apply for Council reappointment consideration to the PC. Commissioner Orosco indicated that he would not seek reappointment, however, he is willing to remain on the PC until his vacancy can be filled. Recruitment efforts for the PC resulted in the receipt of three applicants: Mohammad Habib, John McKay and Yvonne Martinez Beltran.

All applicants have been invited and confirmed availability to interview before the City Council on May 3, 2017. Their applications are attached for Council consideration.

COMMUNITY ENGAGEMENT: Involve

Recruitment efforts were undertaken to encourage citizens to apply for City Council appointment consideration to the Library, Culture & Arts Commission and Planning Commission via the Morgan Hill Times, City Website, Government Access Channel, and social media.

ALTERNATIVE ACTIONS:

At the May 3, 2017 meeting, the City Council may choose to make appointments to fill some or none of the four total vacant seats that can be filled at this time. If the City Council desires to have a larger pool of applicants, it could decide to re-open the application process to solicit more applicants to fill those seats not appointed at the May 3, 2017 meeting.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Library, Culture & Arts Commissioners serve two-year terms, with possible reappointment consideration. Every year, recruitment efforts are conducted to maintain the seven (7) member Commission.

Planning Commissioners serve four-year terms with possible reappointment consideration. Every year, recruitment efforts are conducted to maintain the seven (7) member Commission.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with the actions to interview and appoint, as the recruitment and appointment process is accommodated in the Administrative Services operating budget.

CEQA (California Environmental Quality Act):

Not a project – Administrative Activity

LINKS/ATTACHMENTS:

1. John McKay PC Application package 2017_Redacted
2. Yvonne Martinez Beltran PC application package 2017_Redacted
3. Mohammad Habib Application 2017_Redacted
4. Brigitte Crawford LCAC Application package 2017_Redacted
5. Katie Khera LCAC Application package 2017_Redacted

10 - Commission Member

Contact Information -- Person ID: 32083212

Name: John McKay Address: [REDACTED]
Morgan Hill, California 95037 US

Home Phone: [REDACTED] Alternate Phone:

Email: [REDACTED] Former Last Name:

Month and Day of Birth:

Personal Information

Driver's License: Yes

Can you, after employment, submit proof of your legal right to work in the United States? Yes

What is your highest level of education? Some College

Preferences

Preferred Salary: \$0.00 per hour; \$0.00 per year

Types of positions you will accept: Temporary

Types of work you will accept: Part Time

Types of shifts you will accept: Day , Evening , Weekends

Objective

Serve as Planning Commissioner

Education

JKM verified no education history.

Work Experience

JKM verified no work experience.

Certificates and Licenses**Skills**

Office Skills

Typing:

Data Entry:

Additional Information**References****Resume****Text Resume**

City of Morgan Hill has chosen not to collect this information for this job posting.

Attachments

Attachment	File Name	File Type	Created By
CITY OF MORGAN HILL resume.docx	CITY OF MORGAN HILL resume.docx	Resume	Job Seeker

MHPC app cover letter
04.17.2017.docx

MHPC app cover letter
04.17.2017.docx

**Cover
Letter**

Job Seeker

Agency-Wide Questions

1. Q: Were you ever discharged from employment or forced to resign?

A: Yes

2. Q: Are you now or have you ever been employed by the City of Morgan Hill?

A: No

3. Q: Do you have a relative who is an official or employee of the City of Morgan Hill?

A: No

Supplemental Questions

1. Q: Which commission are you interested in serving?

A: Planning Commission

2. Q: Please attach a resume or briefly describe your background listing the qualifications and skills which you can contribute to the Commission.

A: Over 20 years as a construction project manager, understand development. Helped establish Morgan Hill Tourism Alliance, work with a broad range of community members to understand different perspectives and work towards one goal. 2nd term as president of the Morgan Hill Downtown Association, familiar with the needs of a special district like the downtown. In general understand the many interrelationships of community, governmental duties, and development.

3. Q: Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

A: Bicycle Pedestrian Advisory Group (BPAG), help identify needs and opportunities regarding bicycling and pedestrians in our community and nearby region. California High-speed Rail Community Working Group, help CA High-Speed Rail Authority understand the needs of our local community

4. Q: What do you believe to be the role of the commission you are interested in serving on and why would you like to serve on this commission?

A: Residential development: to understand land use and the complex relationship between residential control, density, and available development lands in context of immediate and long term growth. Commercial/industrial development: Understand the appropriate uses in any location and look at immediate versus long term needs in land use.

5. Q: What skills and/or experience do you believe would be important to your role as a commissioner?

A: Ability to listen and learn new concepts quickly, be empathetic to everyone, understand construction documents and scheduling, understand legal documents, and having a knowledge of land use designations and zoning codes.

6. Q: How would you know if the commission is successful in supporting the City Council's Goals, Priorities, and Strategies?

A: The community of Morgan Hill grows in a predictable manner consistent with long term vision. Possibly seemingly in conflict with some current popular sentiment it meets the long term needs of the community from both a residential and commercial/industrial uses.

7. Q: What would you like to accomplish as a member of the commission?

A: Make new projects the best they can be for the community. This includes aesthetic qualities and well as functionality and amenities along with respect for the surrounding neighbors. Prepare the community for the best and wisest future development.

8. Q: What are the greatest opportunities facing the community in regards to this commission?

A: Maximizing the quality of any type of development. Getting what benefits the community best with the development controls in place and modifying controls as necessary for the long term benefit of the community.

9. Q: If you are an incumbent seeking reappointment, check all that apply:

A: You are currently serving on a committee
You are next in line to serve as chair or vice-chair

10. Q: If you are assigned to a special project, please identify the project:

A:

April 17, 2017

City of Morgan Hill City Council
17555 Peak Avenue
Morgan Hill, CA 95037

Re: John McKay Application for Re-appointment to Planning Commission

Mayor Tate and Councilmembers,

I have been honored and enjoyed the opportunity to serve on the Planning Commission the past five years.

During those five years the community of Morgan Hill has had the opportunity to affirm the value of its land use policies and develop new ones that reflect the times and the will of the community.

Morgan Hill leads Santa Clara County in efforts to control growth on some of the last green fields left outside of County lands and appears poised to continue that leadership.

It takes a great deal of effort to control growth properly and Morgan Hill is doing a great job, I hope to be able to continue working to keep it great.

Thank you.

Sincerely,

John McKay

Attachment: John McKay PC Application package 2017_Redacted (1173 : Interviews to Fill LCAC and PC vacancies)

**CITY OF MORGAN HILL
APPLICATION FOR APPOINTMENT TO
COMMISSION OR COMMITTEE**

ATTACHMENT TO QUESTIONNAIRE

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills, which you can contribute to the Commission.

Since a very early age I have had an interest in buildings, architectural design and how everything works in a city (infrastructure). I was enrolled in the architectural program at West Valley Community College before starting work full time. I worked my way up to the position of project manager and estimator in commercial construction. I also spent several years working in the field supervising projects first hand. I have now been a project manager in the field of commercial construction for over twenty years. During this time I specialized in developing projects using the “design/build” process. The design build process is typically used to accelerate the design and construction process and maximize potential savings by using the experience of the general contractor and subcontractors while the building design is still under way. This process takes advantage of the subcontractor’s design recommendations, subcontractor provided design documents in trades requiring engineering and design drawings (typically plumbing, HVAC, fire sprinkler,, and electrical), and cost savings borne out of practical knowledge. This process places a great deal of emphasis on the project manager’s construction knowledge, ability to build a team, and critical time sense. The project manager in all cases, whether “design build” or “plan and spec”, must have the ability to understand new concepts quickly and to interpret the project well enough to provide accurate cost and time estimates. A large dose of critical thinking is essential to completely understand a project by not assuming summaries are complete or correct and to dig deeper to obtain all of the necessary information for good sound and correct decisions. I believe that the skill set of a project manager will help in the execution of duties as a Planning Commissioner. This skill set includes a natural inquisitiveness, quickly understanding new concepts, understanding and balancing needs with boundaries, expressing and executing directions clearly, built in knowledge of construction, working well in a team environment while maintaining the strength to dissent, and in this case a genuine care for the City of Morgan Hill. I have also performed all of the various officers roles in Western Sea Kayaker Club in which I was instrumental in the (re)creation. I have listened to and respected the voices of others for most of my life while maintaining my individuality.

10 - Commission Member

Contact Information -- Person ID: 23696704

Name: Yvonne Martínez Beltrán Address: [REDACTED]
Morgan Hill, California 95037
US

Home Phone: [REDACTED] Alternate Phone:
Email: [REDACTED] Former Last
Name:
Month and Day of
Birth:

Personal Information

Driver's License: Yes

Can you, after employment, submit proof of
your legal right to work in the United States? Yes

What is your highest level of education? Master's Degree

Preferences

Preferred Salary:

Types of positions you will accept: Regular ,
Temporary

Types of work you will accept: Part Time
, Per Diem

Types of shifts you will accept: Day ,
Evening

Objective

I am excited to return to the workforce after taking personal leave to start a family and find a challenging yet rewarding, position that contributes to my greater community and provides opportunity for growth.

Education

College Did you graduate: Yes
SAN DIEGO STATE UNIVERSITY College Major/Minor: International
[Unspecified Start] - 2011 Business
New York, New York Degree Received: Bachelor's

Graduate School Did you graduate: Yes
NEW YORK UNIVERSITY College Major/Minor: Urban Planning
[Unspecified Start] - 5/2009 Degree Received: Master's
New York, New York

Work Experience

Planning Commissioner Hours worked per week: 12
2/2017 - Present Monthly Salary: \$0.00
May we contact this employer?
City of Morgan Hill Planning Commissiom
Morgan Hill, California

Duties

Serve on a commission of 7 members as an advisory body to support the City Council in reviewing and shaping City policy in regards to planning, subdivisions, zoning, zoning administration, residential development control, and implementing other land use regulatory controls pursuant to ordinance and state law.

Regularly meet for weekly workshops with commissioners, City Staff and the development community to draft the City's new Residential Development Control System.

Research issues and their impact on the City to address with the Commission and attend conferences relevant to the Commission.

Business Development, Infrastructure
5/2012 - 11/2012

Hours worked per week: 40
Monthly Salary: \$0.00
May we contact this employer?

UK Trade & Investment
New York, New York

Duties

Prepare briefings, off-the-shelf reports and presentations. Lead generation, manage CRM and track trade and HVO targets

Streamlined process to identify, vet and market US business opportunities in infrastructure (social/transportation/ports) to UK clients

Assisted launching an exclusive club on P3's/project finance and connecting UK PPP firms, equity and US contractors

Default Research Analyst
12/2011 - 5/2012

Hours worked per week: 40
Monthly Salary: \$0.00
May we contact this employer?

JP Morgan Chase
Brooklyn, New York

Duties

Research and analyze portfolio of 150 loans per Office of the Comptroller of the Currency Independent Foreclosure Review (IFR)

Examine and resolve defaulted loans and multiple issue IFR account for bankruptcy, foreclosures, short sale and modifications.

Free Agent, Property Manager
8/2004 - 11/2011

Hours worked per week: 40
Monthly Salary: \$0.00
May we contact this employer?

Free Agent
San Diego, California

Duties

Investigate real estate market and identify growth indicators for development. Manage properties, cash flow & capital expenditures

Project Management, Intern
5/2010 - 11/2010

Hours worked per week: 40
Monthly Salary: \$0.00
May we contact this employer?

Park Avenue Armory
New York, New York

Duties

Assist phased \$200MM historic capital project renovation in cost budgeting, value engineering and NYC funding reimbursement

Investment Analyst
10/2008 - 9/2009

Hours worked per week: 40
Monthly Salary: \$0.00
May we contact this employer?

Sperry Van Ness
White Plains, New York

Duties

Analyzed NOI, created financial profiles and prepared lease abstractions and Argus/rent-roll reports on commercial investments Conducted market research, sales and competitive comparables and

trade area reports. Strategized and marketed deals to investors

RELEVANT CONSULTING PROJECTS

Research Consultant, Powerhouse Redevelopment Project

9/2008 - 12/2008

Hours worked per week: 40

Monthly Salary: \$0.00

May we contact this employer?

Jersey City Redevelopment Agency
Jersey City, New Jersey

Duties

Researched and structured a public market/entertainment venue for the Powerhouse with tax, transportation & reinvestment funding

Resulted in closing \$50MM gap in project financing by strategizing a Public Private Partnership between the City & the developer

Project Manager, Development Project

4/2008 - 9/2008

Hours worked per week: 40

Monthly Salary: \$0.00

May we contact this employer?

Holland Horizon, Inc
New York, New York

Duties

Managed development team on Phase I (\$90.9MM) of a 90 acre mixed-use project. Pitched proposal to equity funders and investors

Performed market feasibility & due diligence to establish property's highest/best use. Liaison to government, consultants & public

Housing Project Manager, Intern

6/2007 - 9/2007

Hours worked per week: 40

Monthly Salary: \$0.00

May we contact this employer?

Hope Community
New York, New York

Duties

Managed primary study on affordable housing rates. Designed excel database & methodology. Researched & compiled data.

OTHER EXPERIENCE

Tyco Healthcare, Medical Sales Specialist San Diego, CA

Managed regional accounts over \$2.5 million. Negotiated hospital contract pricing, forecasted sales and conducted nurse education

Ranked in top 5 and as best presenter in training class. Consistently outperformed aggressive new product sales targets

Genesis Mortgage, Assistant Loan Officer La Jolla, CA

Evaluated financial portfolios, credit history and debt ratios for approval. Processed, closed and underwrote funded loans for resale.

Certificates and Licenses

Skills

Office Skills

Typing:

Data Entry:

Languages

Spanish - Speak, Read, Write

Additional Information

Professional Associations

International Council of Shopping Centers, International Project Finance Association, Urban Land Institute

Honors & Awards

Diversity Summit in Commercial Real Estate, FIPSE International Exchange Scholarship- Recipient

Honors & Awards

Mayoral Proclamation- Powerhouse Redevelopment Plan, Brodsky Fellowship- NYU Recipient, Deal No Deal Winner- Global

References**Resume****Text Resume**

City of Morgan Hill has chosen not to collect this information for this job posting.

Attachments

Attachment	File Name	File Type	Created By
Resume PC 4-2017.pdf	Resume PC 4-2017.pdf	Resume	Job Seeker
Cover PC 4-2017.docx	Cover PC 4-2017.docx	Cover Letter	Job Seeker

Agency-Wide Questions

1. Q: Were you ever discharged from employment or forced to resign?

A: No

2. Q: Are you now or have you ever been employed by the City of Morgan Hill?

A: No

3. Q: Do you have a relative who is an official or employee of the City of Morgan Hill?

A: No

Supplemental Questions

1. Q: Which commission are you interested in serving?

A: Planning Commission

2. Q: Please attach a resume or briefly describe your background listing the qualifications and skills which you can contribute to the Commission.

A: Please see attached. Thank you.

3. Q: Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

A: I currently enjoy serving on the Planning Commission.

The Planning Commission consists of 7 members as an advisory body to support the City Council in reviewing and shaping City policy in regards to planning, subdivisions, zoning, zoning administration, residential development control, and implementing other land use regulatory controls pursuant to ordinance and state law.

Currently the Commission regularly meets for weekly workshops with commissioners, City Staff and the development community to draft the City's new Residential Development Control System.

The position requires heavy reading and researching issues and their impact on the City to address with the Commission as well as attending conferences/events relevant to the Commission.

4. Q: What do you believe to be the role of the commission you are interested in serving on and why would you like to serve on this commission?

A: The role of the 7 member Commission is to serve as an advisory body to support the City Council in reviewing and shaping City policy in regards to planning, subdivisions, zoning, zoning administration, residential development control, and implementing other land use regulatory controls pursuant to ordinance and state law.

The Commission is tasked with reviewing various policies pursuant to City Planning and land use as required by the City Council's priorities, and changes in ordinances and state laws. The Commission has recently been meeting regularly for weekly workshops with Commissioners, City Staff and the development community to draft the City's new Residential Development Control System. Next, the Commission plans to help implement the new RDCS policy, update the local Zoning Ordinance and support the new Economic Blueprint should it be adopted by City Council.

As a Commissioner, one invests time reading and researching issues and their impact on the City and often attend relevant conferences to contribute rich conversation to the Commission.

5. Q: What skills and/or experience do you believe would be important to your role as a commissioner?

A: I currently serve on the Planning Commission and the time spent with my colleagues and other vital players to the City such as Staff and the development community, hearing their perspectives and learning about their challenges has helped me to garner a better understanding of the current issues.

Additionally, my background is in real estate development and this combined with my training in Urban Planning has helped me quickly ramp up to be able to contribute on the commission.

Finally, my experience in governance during my undergraduate and graduate studies have provided a strong basis to understanding the decision and policy processes used on the Planning Commission. And finally but also importantly, I am a long time resident and this means I am deeply familiar with the land uses and local issues facing Morgan Hill which is something I call on often when making decisions.

6. Q: How would you know if the commission is successful in supporting the City Council's Goals, Priorities, and Strategies?

A: If the City Council receives our suggested recommendations with little debate, the Commission can provide answers to their questions and/ or welcomes feedback from the Commission, this would signal we have been successful in supporting them in advancing their Goals, Priorities and Strategies.

7. Q: What would you like to accomplish as a member of the commission?

A: I would like to continue my work as a Commissioner to help implement the new Residential Development Control System as we approach our first competition with the new document, contribute to the Zoning Code update and help advance the City's new Economic Blueprint should it be adopted by City Council.

Specifically, in regards to the RDCS I would like to help see through the first development competition through to identify where and if changes are needed to

8. Q: What are the greatest opportunities facing the community in regards to this commission?

A: Currently, one of the greatest opportunities is to recruit high quality development with the RDCS that preserve the character of Morgan Hill, while supporting Affordable Housing and Open Space preservation so that our growth may be planned, quality development that enhances the community. Another opportunity is to update the Zoning Code to further strengthen the RDCS and encourage Monterey Corridor development. Finally, should the Economic Blueprint be adopted by City Council, this would be a great opportunity to focus City policies to drive the Economic areas outlined in and effort to offset the City's future loss of development fees as development slows.

9. Q: If you are an incumbent seeking reappointment, check all that apply:

A: You are currently serving on a committee

10. Q: If you are assigned to a special project, please identify the project:

A:

Dear Council Members,

I very much appreciate the opportunity you provided me to serve my long-time community of Morgan Hill and have enjoyed my short time as a Planning Commissioner. Most recently we have nearly completed the RDCS manual and are moving to submit it for your review. During the process I have had the chance to work with, learn from and collaborate with my fellow colleagues, City Staff, the development community and other community members. While we have covered much ground, and as you know all too well, there is much to still do. Therefore, I am seeking re-appointment to the Planning Commission and asking for your support.

I have a passion to serve my community and am committed to continuing to listen the various stakeholders' needs and balancing those with the City's Priorities, Goals and Strategies. Serving on the Commission and the time spent with my colleagues and other vital players to the City while hearing their perspectives and learning about their challenges has helped me to garner a better understanding of the current issues. Now, I am in a better position to contribute to policies that will greatly shape Morgan Hill in the future such as revising the Zoning Code and implementing new City initiatives.

I still believe my background in real estate development and my background in governance, combined with my training in Urban Planning has provided a strong basis to understanding the decision and policy processes used on the Planning Commission and have helped me quickly ramp up to contribute and will also in the future. Finally, as a long time resident I am familiar with the land uses and local issues facing Morgan Hill, which I call on often. I value my colleagues' input and ideas and if appointed, my personal and professional backgrounds would continue to enhance the diversity of the Commission. I am excited to continue to learn our community's needs and apply my experience and dedicate my time to make Morgan Hill the best it can be.

Thank you,

Yvonne Martinez Beltran

Yvonne Martínez Beltrán

PROFESSIONAL EXPERIENCE

- City of Morgan Hill, Planning Commissioner** 2/17 – present Morgan Hill, CA
 • Serve as member of an advisory body to the City Council in reviewing and shaping City policy in regards to planning, development, zoning, residential development control, and implementing other land use regulatory controls pursuant to ordinance and state law.
- UK Trade & Investment, Business Development, Infrastructure** 5/12 – 11/12 New York, NY
 • Prepare briefings, off-the-shelf reports and presentations. Lead generation, manage CRM and track trade and targets
 • Streamlined process to identify, vet and market US business opportunities in infrastructure (social/transportation/ports) to UK client
 • Assisted launching an exclusive club on P3's/project finance and connecting UK PPP firms, equity and US contractors
- JP Morgan Chase, Default Research Analyst** 12/11 - 5/12 Brooklyn, NY
 • Research and analyze portfolio of 150 loans per Office of the Comptroller of the Currency Independent Foreclosure Review (IFR)
 • Examine and resolve defaulted loans and multiple issue IFR account for bankruptcy, foreclosures, short sale and modifications.
- Free Agent, Property Manager** 8/04 – 11/13 San Diego, CA
 • Investigate real estate market and identify growth indicators for development. Manage properties, cash flow & capital expenditures
- Sperry Van Ness, Investment Analyst** 10/08 – 9/09 White Plains, NY
 • Analyzed NOI, created financial profiles and prepared lease abstractions and Argus/rent-roll reports on commercial investments
 • Conducted market research, sales and competitive comparables and trade area reports. Strategized and marketed deals to investors

CONSULTING PROJECTS

- Jersey City Redevelopment Agency, Research Consultant, Powerhouse Redevelopment Project** 9/08 – 12/08 Jersey City, NJ
 • Researched and structured a public market/entertainment venue for the Powerhouse with tax, transportation & reinvestment funding
 • Resulted in closing \$50MM gap in project financing by strategizing a Public Private Partnership between the City & the developer
- Holland Horizon, Inc., Project Manager, Development Project** 4/08 – 09/08 New York, NY
 • Managed development team on Phase I (\$90.9MM) of a 90 acre mixed-use project. Pitched proposal to equity funders and investors
 • Performed market feasibility & due diligence to establish property's highest/best use. Liaison to government, consultants & public
- Park Avenue Armory, Project Management, Intern** 5/10 – 11/10 New York, NY
 • Assist phased \$200MM historic capital project renovation in cost budgeting, value engineering and NYC funding reimbursement
- Hope Community, Housing Project Manager, Intern** 6/07 – 9/07 New York, NY
 • Managed primary study on affordable housing rates. Designed excel database & methodology. Researched & compiled data.

OTHER EXPERIENCE

- United Nations Capital Development Fund (UNCDF) Nicaragua/NYU, Capstone Project Consultant** 9/08 – 6/09 New York, NY
 • Analyzed municipal economic development projects, strategic planning, project selection and fund distribution for project feasibility.
 • Uncovered local economic development opportunities in commerce not previously entertained as viable options.
- Tyco Healthcare, Medical Sales Specialist** San Diego, CA
 • Managed regional accounts over \$2.5 million. Negotiated hospital contract pricing, forecasted sales and conducted nurse education
 • Ranked in top 5 and as best presenter in training class. Consistently outperformed aggressive new product sales targets

Yvonne Martínez Beltrán

EDUCATION

NEW YORK UNIVERSITY, Masters in Urban Planning, *Economic Development and Housing*, May 2009 New York, NY
 Leadership: Treasurer- Urban Planning Student Association (UPSA), UPSA Representative- Wagner Student Association

Debt Workout and Repositioning of Distressed Assets 2011, ICSC New York, NY
Financial Analysis for Commercial Investment (CCIM 101), Certified Commercial Investment Member Course New York, NY
Real Estate Associate Program (REAP), Leading firms train select candidates in commercial real estate careers New York, NY

SAN DIEGO STATE UNIVERSITY, Bachelor of Arts, *International Business* San Diego, CA

PROFESSIONAL SKILLS/ KNOWLEDGE/ LANGUAGE

Housing, Real Estate & Investment	Negotiation & Client Interaction	Public Finance/Tax Credits/P3s
Cash Flow Analysis	Research/Financial & Policy Analysis	Strategic Planning/Project Management
Economic Development & Project Finance	Leasing & Property Management	MS Suite/Advanced Spanish

HONORS/ COMPETITIONS/ SCHOLARSHIPS

Mayoral Proclamation- Powerhouse Redevelopment Plan, *Brodsky Fellowship*- NYU Recipient, *Deal No Deal* Winner- Global Diversity Summit in Commercial Real Estate, *FIPSE International Exchange Scholarship*- Recipient

PROFESSIONAL AFFILIATIONS

International Council of Shopping Centers, Urban Land Institute

10 - Commission Member

Contact Information -- Person ID: 32115842

Name: Mohammad Habib Address: [REDACTED]
Morgan
Hill, California 95037 US

Home Phone: [REDACTED] Alternate
Phone:

Email: [REDACTED] Former Last
Name:

Month and Day of
Birth:

Personal Information

Driver's License: Yes

Can you, after employment, submit proof of
your legal right to work in the United States? Yes

What is your highest level of education? Master's Degree

Preferences

Preferred Salary: \$0.00 per hour; \$0.00 per year

Types of positions you will accept:

Types of work you will accept:

Types of shifts you will accept:

Objective**Education****Graduate School**

Touro University
8/2016 - 12/2017
Vallejo, California

Did you graduate: No
College Major/Minor: Public
Health
Degree Received: Master's

College

San Jose State University
8/2010 - 12/2013
San Jose, California

Did you graduate: Yes
College Major/Minor: Biological
Sciences
Units Completed: 185 Semester
Degree Received: Bachelor's

Work Experience**Emergency Medical Technician**

2/2016 - Present

Royal Ambulance
San Jose, California

Hours worked per week: 25
Monthly Salary: \$0.00
May we contact this employer?

Duties

Responded to dispatched non-emergent and emergent calls, assessed patient condition and acuity, completed patient care reports, followed standards of care and protocols, interacted with varying healthcare providers and patients. Recommended and discussed company policy changes with leadership. Placed in Critical Care Transport (CCT) RN unit and Basic Life Support ambulances. Taught EMTs the use of advanced CCT medical equipment. Recognized multiple times for outstanding job performance and patient care, including:

- Royal Award - "Recognition for the positive difference you made in the lives of others"
- Documented Praises - "Very courteous, kind, polite, and extremely helpful", "Caring and compassionate", "Hard worker", "Never Tardy".

Program Planner, Evaluator and Health Promotor -**Internship position**

1/2017 - Present

Hours worked per week: 4

Monthly Salary: \$0.00

May we contact this employer?

Vallejo Unified School District

665 Walnut Ave

Vallejo, California 94592

Duties

Evaluated, planned, and provided health education for the Nutrition Education and Obesity Prevention Program. Worked closely with the program coordinator to complete a process evaluation for in-class activities for 4th and 5th graders. Health promotion activities involved education outreach to parents and community members regarding sugary beverages during community events. Health promotion materials were developed and distributed as well.

Assistant Operations Manager

3/2013 - 10/2015

Hours worked per week: 20

Monthly Salary: \$0.00

May we contact this employer?

Falcon Motorsports

Santa Clara, California

Duties

Created and managed employee work schedules and hours. Managed fleet information through analytics and helped plan create fleet relocation areas for economical and optimal usage. Insured vehicle inspections and maintenance were conducted regularly, along with the updating and managing of the key-less entry systems of vehicles. Overlooked treasurer and made adjustments to operational costs.

Certificates and Licenses

Type: CPR/AED

Number:

Issued by: American Heart Association

Date Issued: 1 /2014 Date Expires: 1 /2018

Type: Santa Clara County Emergency Medical Technician Certification

Number:

Issued by:

Date Issued: 12 /2016 Date Expires: 12 /2018

Type: Medical Examiner

Number:

Issued by: Department of Motor Vehicles

Date Issued: 1 /2016 Date Expires: 1 /2018

Skills

Office Skills

Typing:

Data Entry:

Languages

Pakistani Urdu - Speak

English - Speak, Read, Write

Hindi - Speak
 Other - Speak
 Arabic - Read, Write

Additional Information

Professional Associations

Leadership positions:

Vice President of Societal Affairs, Touro University Governing Body
 President of Public Health Organization, Touro University
 Election Inspector, Santa Clara County Registrar of Voters Office
 Election Officer, Santa Clara County Registrar of Voters Office
 Vice President of Membership, Toastmasters International
 Academic Liaison, Master's of Public Health c/o 2017
 Senate Chair of Committees and Shared Governance, San Jose City College
 Student Success Committee, San Jose City College
 Legislative Affairs Committee, San Jose City College

Volunteer Experience

Volunteer EMT, RockMed -- November 2016 to present
 Charity Volunteer, Hidaya Foundation -- 2007 to present
 Auxiliary Volunteer, Stanford Hospital -- June 2011 to January 2014
 Election Inspector and Officer, Santa Clara County Registrar of Voters -- November 2013 to present

References

Resume

Text Resume

City of Morgan Hill has chosen not to collect this information for this job posting.

Attachments

Attachment	File Name	File Type	Created By
Required Attachment.docx	Required Attachment.docx	Cover Letter	Job Seeker
Required Attachment.docx	Required Attachment.docx	Resume	Job Seeker

Agency-Wide Questions

- Q: Were you ever discharged from employment or forced to resign?
A: No
- Q: Are you now or have you ever been employed by the City of Morgan Hill?
A: No
- Q: Do you have a relative who is an official or employee of the City of Morgan Hill?
A: No

Supplemental Questions

- Q: Which commission are you interested in serving?
A: Planning Commission
- Q: Please attach a resume or briefly describe your background listing the qualifications and skills which you can contribute to the Commission.
A: Attached.
- Q: Have you served on any other citizen advisory commissions or committees? If so, please

list and briefly explain the purpose of each committee.

A: None.

4. Q: What do you believe to be the role of the commission you are interested in serving on and why would you like to serve on this commission?

A: The role of this commission is to assess and gather all the necessary information regarding planned proposals or planning issues and to make recommendations to the City Council. This commission serves as a liaison for the community and makes decisions that are in sync with the City's General Plan and are in the best interest for the community and City. I would like to serve this commission not only to serve the community, but to also represent the voices of a generation that may not consistently be involved in important planning decisions.

5. Q: What skills and/or experience do you believe would be important to your role as a commissioner?

A: By conducting, for example, program evaluation plans and health promotion activities I have accumulated extensive experience in researching issues through published journals, online databases, libraries and people. All decisions I make are based on not only what I am told, but also on what I find on my own. I think this will be a important skill to the commission. Additionally, I have learned that being in the medical field means you have to be able to be a great listener to make appropriate decisions and I feel like listening is one of the most important qualities of being a commissioner.

6. Q: How would you know if the commission is successful in supporting the City Council's Goals, Priorities, and Strategies?

A: Work plans are approved by the City Council which lists goals and desired outcomes. The City Council aims to achieve goals and Commissions can advise the Council in ways that will allow their goals to be accomplished. If the Commission's purpose and the Council's goals are accomplished, then the Commission may be successful.

7. Q: What would you like to accomplish as a member of the commission?

A: I would like to ensure the decisions that are made are consistent with the "small town" feel of Morgan Hill while allowing growth development. I would also like to see the continued development of downtown and the housing near it, while ensuring we follow the growth plan. I would also like to utilize my evaluation experience to develop tools, like surveys, which can be used to receive feedback regarding planned development from community members who may not be able to voice their concerns.

8. Q: What are the greatest opportunities facing the community in regards to this commission?

A: An opportunity facing the community is responsible zoning of available open spaces to ensure development is consistent with the environment and vibe of Morgan Hill and to ensure the growth reflects both affordable housing and infrastructure development - especially as we see High-Speed Rail coming through our City. Also, ensuring some development decisions take into account what the project can do for those who visit or pass by Morgan Hill.

9. Q: If you are an incumbent seeking reappointment, check all that apply:

A: You are assigned to a special project

10. Q: If you are assigned to a special project, please identify the project:

A: None.



CITY OF MORGAN HILL APPLICATION FOR APPOINTMENT TO COMMISSION OR COMMITTEE

(In order to be considered for appointment, this application form must be fully executed and all questions answered by applicant, including those who are Incumbents. If you prefer to type your answers on the form, an electronic version will be e-mailed to you upon request.)

Name: Brigitte A Crawford *E-mail Address: [REDACTED]

*Home address: [REDACTED] *City: Morgan Hill

*Telephone: (Work) () (Home) () (Cell) ()

Occupation: retired Employer:

Number of Years lived within City Limits: 3.00 Are you a registered voter? Yes ☒ No ☐

If not a MH resident, years worked in City Limits: -or-

Years lived within the MH School District boundary:

Do you have any relatives currently employed by the City of Morgan Hill? Yes ☐ No ☒

Properties owned in Morgan Hill/Address(es):
N/A

*I consent to the release to the public of the above contact information marked with an *: Yes ☒ No ☐

QUESTIONNAIRE

(Please attach additional sheets, as necessary, to provide complete answers)

1. Please attach a resumé, or briefly describe your background, listing the qualifications and skills, which you can contribute to the Commission.

See attached

2. Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

Starting when I was a youth I served on an Inter-generational committee to unite seniors and students in rural Nevada County, since then I have served on various committees for the Pleasant Ridge School District.

3. What do you believe to be the role of the Commission, and why you would like to serve on this Commission?

I believe it begins with community involvement. Giving back to your neighborhood. Getting an opportunity to speak on behalf of your fellow residents in items such as ample books and programs for the public library up to looking and ultimately deciding on the cultural and artistic flavor of Morgan Hill. Always taking in to consideration the needs and wants of the community, not my own personal agenda.

4. What skills and experience do you believe would be important to your role as a Commissioner?

Effective communication skills (both verbal and written), dependability (commitment to attending meetings), preparedness, respect for others at all times, prior experience in group/team environments and an open mind and open heart to consider both the new as well as the familiar

5. How would you know if the Commission is successful in supporting the City Council's Goals?

The Council's affirmation and ease of decision making based on the Commission's due-diligence as well as effective communication skills (listening, raising questions for clarification) to ensure that the Commission is providing the best of intentions in support of the City Council.

6. What would you like to accomplish as a member of the Commission?

I would like to know that at the end of my time on the Commission, I did my best to fairly and accurately represent the community at large. I feel that it is important, and with every opportunity, to give back and support one's community. Easy ways are through commerce and support of local business, but also by giving back in a more civic manner and be a voice for your community.

7. What are the greatest opportunities facing the community in regards to this Commission?

Paper books and print media are unfortunately waning, but with new technology comes new opportunity. Sustaining a public library offers a new opportunity to meet the needs of card holders and their current requirements. As Morgan Hill continues its slow and steady growth pattern, Art and Culture will be an integral part in preserving the past and celebrating the future. A well thought out and articulated plan for residents, business owners and business developers is key to supporting City Council and other aspects of Morgan Hill (public safety, recreation, leisure).

8. If you are an incumbent seeking reappointment:

- | | | |
|--|------------------------------|--|
| • Are you currently serving on a Committee? | Yes ☐ | No ☒ |
| • Are you next in line to serve as Chair or Vice-Chair? | Yes ☐ | No ☒ |
| • Are you assigned to a special project? | Yes ☐ | No ☒ |
| • If assigned to a special project, please identify the project: | | |

Name of commission

9. I am interested in serving on the following Commission or Committee? Please indicate:

☒ **LIBRARY, CULTURAL AND ARTS COMMISSION**

The Library, Culture and Arts Commission provides the City Council with advice and recommendations regarding the adequacy of library facilities; seeks opportunities for city sponsored artistic and performance opportunities; encourages community involvement in the arts; and reviews and recommends works of art to be acquired by the City or installed on public property. This seven member Committee meets on the second Tuesday of odd numbered months at 7:00 p.m. at the Morgan Hill Library.

☐ **PARKS & RECREATION COMMISSION**

The Parks and Recreation Commission provides the City Council with advice and recommendations on recreation programs, activities and resources. The Commission also plans for the future growth and development of parks facilities and recreation programming. This seven member Commission meets on the third Tuesday of odd numbered months at 7:00 p.m.

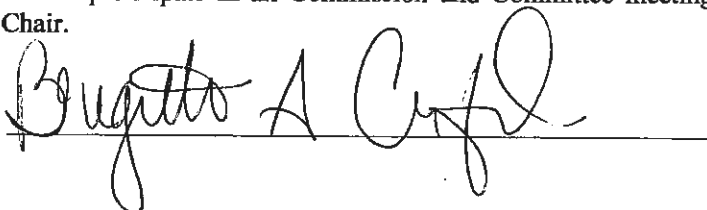
☐ **PLANNING COMMISSION**

The Planning Commission performs duties and exercises power and authority with regard to planning, subdivisions, zoning, zoning administration, residential development control, and other land use regulatory controls as prescribed by ordinance and state law. The Commission serves as an advisory body to the City Council on Zoning and General Plan related matters. The Commission is a seven member body, and each commissioner serves a term of four years and meets on the second and fourth Tuesday each month.

By my signature below, I acknowledge that I will be subject to the City's Conflict of Interest Code; the City Council's requirement of a two hour "Fair Political Practices Commission AB1234 Ethics" training session, and the requirement to file Statements of Economic Interest forms with the City of Morgan Hill when I assume office, annually thereafter, and when leaving office.

By my signature below, I consent to comply with all government regulations, should I be appointed to serve on a City of Morgan Hill Commission or Committee, and confirm that I have read the attached Ethics Policy; that I do subscribe to this Policy; that I will apply it to the specific responsibilities which I may be assigned; and that I will practice the core values set forth in this Policy in my public service for the City of Morgan Hill. Additionally, I commit to attend and participate in all Commission and Committee meetings to which I am appointed, unless excused by the Chair.

SIGNATURE:



Date:

3/30/17

Attachment: Brigitte Crawford LCAC Application package 2017_Redacted (1173 : Interviews to Fill LCAC and PC vacancies)

BRIGITTE A CRAWFORD

[REDACTED], Morgan Hill, CA 95037 | [REDACTED]

Summary

Art Docent Program District Liaison for more than 13 years, provided leadership, training and guidance to more than 60 docent volunteers each year for the Pleasant Ridge Union School District.

Highlights

- Training & Development
- Recruiting
- Classroom Liaison
- Gallery Visit Program Creation
- District Liaison
- Studio Lesson Coordinator

Accomplishments

Earned 2 schools the National Blue Ribbon Award for Specialty Programs

Experience

The Art Docent Program (ADP) is a nationally acclaimed program that brings museums to the students. Through portfolios of famous art from around the world, students are exposed to art and have a chance to be an artist and develop skills for seeing art in their every day life. I Worked with K-6 students, teachers and parent volunteers in a four campus school district. Created an annual rotation schedule of Gallery Visits and Studio Lessons for entire school district. Recruited, trained and supported art docents (60+ per year) through the Art Docent Program. Created an Art Cart full of hard-to-find and unique art supplies for gallery lessons at each campus. Created supplemental Gallery Lessons for alternative options. In my work-world, I was a Department Manager for Bel Air Markets (part of the Nob Hill Chain). I was an HR Recruiter for Coherent as well as Tektronix and Grass Valley Group. Lastly I have owned two small businesses: the Handmade Candle co. and up until recent, Pu'ali Fitness.

Education

A.A. Degree in Communications, Sierra College
English major with a minor in History, CSU Sacramento
AMFPT Certified Personal Trainer and Nutritionist

Affiliations

BNI - Nevada County Business Builders Chapter , President (2014), VP (2015) and Sec/Treas (2013)
Community Solutions Advocate Volunteer (Sexual Assault/Domestic Violence) 2016-Present
Morgan Hill Community Police Academy Graduate November 2016
Leadership Morgan Hill Class of 2017
National Organization of Professional Women (2011 - present)

10 - Commission Member

Contact Information -- Person ID: 31957790

Name: KATIE M. KHERA Address: [REDACTED]
Morgan Hill, California 95037
US

Home Phone: [REDACTED] Alternate Phone:
Email: [REDACTED] Former Last
Name:
Month and Day of Birth: [REDACTED]

Personal Information

Driver's License: Yes, California , D2176881 , Class C

Can you, after employment, submit proof of your legal right to work in the United States? Yes

What is your highest level of education? Bachelor's Degree

Preferences

Preferred Salary:
Types of positions you will accept:
Types of work you will accept:
Types of shifts you will accept:

Objective

I wish to give back to my community by utilizing my background in the arts, community organizing and project management to serve on the Library, Culture, and Arts Commission.

Education

College Did you graduate: Yes
MILLIKIN UNIVERSITY College Major/Minor: MUSIC
8/1987 - 6/1991 Degree Received: Bachelor's
Decatur, Illinois

Work Experience

Senior Project Manager Hours worked per week: 40
6/2013 - 1/2017 Monthly Salary: \$0.00
Name of Supervisor: Larry Bassnett - Sr.
Verizon Enterprise Services Manager Security Assurance
SAN JOSE, California May we contact this employer? Yes

Duties

Facilitates a diverse range of projects including data center builds and migrations, software deployment and upgrades, equipment deployment, as well as large scale application and networking projects. Tracks project deliverables from business requirements, planning and design documentation through schedules and weekly status reporting. Maintains daily project status including management of action items, risks, issues, budget and scope. Assists with scoping for statements of work and change orders. Expert in various Project Management tools and methodologies.

Key Achievements

Consistently completes assigned projects on-time and on-budget by effectively managing resources and mitigating issues
Key in improving customer satisfaction through effective communication and reporting
Assigned additional responsibility as program manager to serve as liaison between Professional Services, customer and customer PMO
Mentors team project managers, communicates with technical leads and key resources to ensure successful program delivery

Reason for Leaving

Company wide reorganization

Practice Director, Project Director, Sr. Project Manager

2/2000 - 7/2011

SUMTOTAL SYSTEMS
Mountain View, California

Hours worked per week: 40

Monthly Salary: \$0.00

Name of Supervisor: Gary Gollighugh - Vice President, Professional Services

May we contact this employer? Yes

Duties

Practice Director:

Overarching responsibility for Western Region Professional Services implementations including oversight of Fortune 100 customer enterprise engagements. Managed P&L, budget and planning, scheduling of resources. Led team of 15 Project Managers and Consultants.

Key Achievements

Consistently exceeded revenue targets of 1M+ per quarter and achieved profit margin requirements

Instrumental in raising customer satisfaction marks on engagements in region

Maintained minimum employee turnover while promoting 3 on my team to management

Successfully developed implementation paradigm and partnership with leading HROs.

Project Director:

Responsible for all pre-sales support of Professional Services for the Western US region.

Partnered with Account Executives to assist with RFPs, pitch, discover, estimate and ultimately close Professional Services deals with clients.

Key Achievements

Consistently exceeded variable bookings targets each quarter

Awarded MVP by sales team for outstanding work in closing deals

Reduced implementation challenges with thorough discovery in sales cycle

Recognized for finding upgrade and add-on opportunities in installed base

Sr. Project Manager:

Responsible for Project Management of full-cycle software development implementations for Fortune 500 customer base in US and Latin America. Managed all aspects of implementation, led discovery sessions, authored business requirements and functional specifications, managed QA and delivery of customized solutions. Expert in various project management and SDLC tools.

Key Achievements

Maintained > 90% on-time and on-budget implementations

Achieved > 90% customer satisfaction marks for implementations

Recognized for creativity in designing custom solutions to meet business needs

Recognized as PM expert, assigned teams to grow the department by building out the PMO and piloting PSA tools

Reason for Leaving

Company relocated to FL

System Administration Trainer and Project Manager, Senior Field Operations Specialist

3/1998 - 2/2000

NEW HORIZONS COMPUTER LEARNING CENTERS
Anaheim, California

Hours worked per week: 40

Monthly Salary: \$0.00

Name of Supervisor: Brian Cornellison - FOS Manager

May we contact this employer? Yes

Duties

NHMS System Administrator:

Trained system administrators at national franchise sites on conversion, implementation and system administration of ERP in beta stage. Managed implementation of software at key beta sites and managed relationship with development vendor.

Key Achievements:

Designed, developed and delivered training courses for both system administrators and end-users. Developed systems for and directed all beta testing for both regression and new feature testing. Managed bug tracker.

Wrote business requirements and functional specifications for new development
Managed help desk, authored FAQ and knowledge base articles.

Field Operations Specialist:

Served as corporate consultant to 213 franchises worldwide in all aspects of business operations. Position included discovery, evaluation, recommendation, execution and follow-up in all departments such as sales, operations, training, accounting and facilities.

Filled managerial positions as needed including general manager. Conducted hiring and training for all roles.

Reason for Leaving

Accepted new position

**Training Manager/Corporate Trainer,
Applications Trainer**
3/1996 - 2/1998

Hours worked per week: 40
Monthly Salary: \$0.00
Name of Supervisor: John - Myhre
May we contact this employer?

NEW HORIZONS COMPUTER LEARNING CENTER
RICHFIELD, Minnesota

Duties

Training Manager:

Directed the overall operation of the Training Department. Responsible for hiring and training of 15 instructors, cross-training, resource scheduling and curriculum development. Responsible for hiring of account executives and training them in the New Horizons specific sales methodology.

Applications Trainer:

Instructed groups of 5-20 clients. Revised and authored curriculum in conjunction with company courseware. Consistently earn evaluation scores > 9.5/10. Responsible for ongoing training and development of 8 instructors. Led team meetings, assisted training manager with hiring and sales department with customer inquiries.

Reason for Leaving

Recruited to position in corporate office

Associate Director of Development
1/1994 - 12/1995

Hours worked per week: 40
Monthly Salary: \$0.00
Name of Supervisor: Michelle Meyer -
Director of Development
May we contact this employer? Yes

BOULDER PHILHARMONIC ORCHESTRA
BOULDER, Colorado

Duties

Responsible for acquisition of donations for all special projects. Solicited corporate donations and sponsorships, performed market analysis and prospect generation and sold advertising. Assisted in development and maintenance of fundraising database. Coordinated group sales for all performances.

Reason for Leaving

Moved to new position

Fundraising Manager
6/1993 - 12/1994

Hours worked per week: 40
Monthly Salary: \$0.00

CENTRAL CITY OPERA & BOULDER ARTS CENTER
DENVER, Colorado

Name of Supervisor: Jacqueline Flinker
May we contact this employer? Yes

Duties

Responsible for recruiting, training, motivating and maintaining a team of 15 for various fundraising campaigns. Achieved sales goals as well as projecting and monitoring budgets for the project. Met or exceeded all sales projections.

Reason for Leaving

Moved to new position

Campaign Manager

1/1991 - 6/1993

ARTSMARKETING SERVICES, INC
TORONTO, International

Hours worked per week: 40

Monthly Salary: \$0.00

Name of Supervisor: David - Downing

May we contact this employer? Yes

Duties

Responsible for recruiting, training, motivating and maintaining a team of 15 to promote each arts organization, sell tickets and/or solicit donations. Accountable for achieving sales goals as well as projecting and monitoring budgets for the project. Other tasks included payroll, prospect generation and ad writing. Met or exceeded all sales projections.

Reason for Leaving

Moved to new position

Certificates and Licenses

Skills

Office Skills

Typing:

Data Entry:

Additional Information

References

Professional

Meister, Cinda

Owner, Booksmart

Morgan Hill, California

1 408-778-6467

cinda.lou.meister@gmail.com

Resume

Text Resume

City of Morgan Hill has chosen not to collect this information for this job posting.

Attachments

Attachment	File Name	File Type	Created By
KK_resume.docx	KK_resume.docx	Resume	Job Seeker
ArtsCommissionCoverLetter.docx	ArtsCommissionCoverLetter.docx	Cover Letter	Job Seeker

Agency-Wide Questions

1. Q: Were you ever discharged from employment or forced to resign?

A: No

2. Q: Are you now or have you ever been employed by the City of Morgan Hill?

A: No

3. Q: Do you have a relative who is an official or employee of the City of Morgan Hill?

A: No

Supplemental Questions

1. Q: Which commission are you interested in serving?

A: Library, Culture, and Arts Commission

2. Q: Please attach a resume or briefly describe your background listing the qualifications and skills which you can contribute to the Commission.

A: My resume is uploaded as part of the application. The most relevant arts related positions held are at the bottom of my resume. My project and personnel management skills are useful to this position as well. I am a lifelong musician, arts patron and literacy advocate.

3. Q: Have you served on any other citizen advisory commissions or committees? If so, please list and briefly explain the purpose of each committee.

A: This will be my first opportunity to serve the City of Morgan Hill in any capacity.

4. Q: What do you believe to be the role of the commission you are interested in serving on and why would you like to serve on this commission?

A: I believe a Library, Culture and Arts Commission member will be instrumental in reviewing, recommending, advising and executing various projects related to the Library and facilities, public art projects and performing arts opportunities. As a long-time member of Morgan Hill, I am passionate about our community, and the intersection of literacy, culture, and the arts. I am very interested in serving our community in an official capacity and feel this role is the best use of my skills and interests.

5. Q: What skills and/or experience do you believe would be important to your role as a commissioner?

A: I believe both my experience and expertise in the arts, as well as my project management, consulting and communication skills gained in the corporate world provide a strong combination as pertains to this role. I am comfortable communicating and problem solving at all levels.

6. Q: How would you know if the commission is successful in supporting the City Council's Goals, Priorities, and Strategies?

A: I am assuming the committee members workshop commission goals against the Council's overall directives and long-term strategies. I am an advocate of direct communication and asking for feedback to ensure strategies are aligned. They city does a good job of soliciting public feedback which will also be helpful to ensure we are on the right track.

7. Q: What would you like to accomplish as a member of the commission?

A: I am hoping to bring a greater awareness and appreciation for the value of all forms of art in our community. I truly believe arts put the "civil" in civilization, yet there is an under-appreciation for the value they provide in our society. I believe our city has done a good job of prioritizing things like public art and I would like to continue to build on that legacy.

8. Q: What are the greatest opportunities facing the community in regards to this commission?

A: Along with the obvious budget considerations, I believe that one of the biggest opportunities here is educating citizens on the value of the arts. Of course budget for "non-essentials" is always a consideration when prioritizing projects, so fighting for the value provided will be a key criteria in this position.

9. Q: If you are an incumbent seeking reappointment, check all that apply:

A: You are assigned to a special project

10. Q: If you are assigned to a special project, please identify the project:

A: I'm not assigned to a special project, nor am I an incumbent, however I was unable to proceed without selecting a checkbox in question 9.

To City Council, Commissioner Selection Committee:

Attached please find my application for the open position on the Library, Culture and Arts Commission. I believe I possess the requisite experience, skills and passion for this position and it would be my honor to serve the City of Morgan Hill in this capacity. Thank you for your consideration.

Katie Khera

KATHERINE M. KHERA



SENIOR PRACTICE DIRECTOR

Results driven, execution oriented, client focused Director of Professional Services with 15 years of increasing responsibility in the Learning, Talent and Human Capital Management sectors. Recognized leader managing globally distributed and highly diversified direct report staff, project teams and Fortune 500 customers. Consistently exceeds quarterly revenue targets, maximizes staff efficiency and achieves high customer satisfaction marks. Core competencies include: impactful communicator, highly analytical, creative problem solver, solutions based conflict resolution.

AREAS OF EXPERTISE:

- Practice Management
- Engagement Management
- P&L Responsibility, Budget & Planning
- Revenue Growth and Profit
- Team Management and Development
- Client Relationship Management
- Partner Management
- Project Management

PROFESSIONAL EXPERIENCE

Verizon Enterprise Services, SAN JOSE, CALIFORNIA

2013 - Current

Senior Project Manager

Facilitates a diverse range of projects including data center builds and migrations, software deployment and upgrades, equipment deployment, as well as large scale application and networking projects. Tracks project deliverables from business requirements, planning and design documentation through schedules and weekly status reporting. Maintains daily project status including management of action items, risks, issues, budget and scope. Assists with scoping for statements of work and change orders. Expert in various Project Management tools and methodologies.

Key Achievements

- Consistently completes assigned projects on-time and on-budget by effectively managing resources and mitigating issues
- Key in improving customer satisfaction through effective communication and reporting
- Assigned additional responsibility as program manager to serve as liaison between Professional Services, customer and customer PMO
- Mentors team project managers, communicates with technical leads and key resources to ensure successful program delivery

SUMTOTAL SYSTEMS, GAINESVILLE, FLORIDA

2000 - 2011

Practice Director, West and Partners, 2005 - 2011

Overarching responsibility for Western Region Professional Services implementations including oversight of Fortune 100 customer enterprise engagements. Managed P&L, budget and planning, scheduling of resources. Led team of 15 Project Managers and Consultants.

Key Achievements

- Consistently exceeded revenue targets of 1M+ per quarter and achieved profit margin requirements
- Instrumental in raising customer satisfaction marks on engagements in region
- Maintained minimum employee turnover while promoting 3 on my team to

KATHERINE M. KHERA

management

- Successfully developed implementation paradigm and partnership with leading HROs.

Project Director, 2004 – 2005

Responsible for all pre-sales support of Professional Services for the Western US region. Partnered with Account Executives to assist with RFPs, pitch, discover, estimate and ultimately close Professional Services deals with clients.

Key Achievements

- Consistently exceeded variable bookings targets each quarter
- Awarded MVP by sales team for outstanding work in closing deals
- Reduced implementation challenges with thorough discovery in sales cycle
- Recognized for finding upgrade and add-on opportunities in installed base

Project Manager, 2000 - 2004

Responsible for Project Management of full-cycle software development implementations for Fortune 500 customer base in US and Latin America. Managed all aspects of implementation, led discovery sessions, authored business requirements and functional specifications, managed QA and delivery of customized solutions. Expert in various project management and SDLC tools.

Key Achievements

- Maintained > 90% on-time and on-budget implementations
- Achieved > 90% customer satisfaction marks for implementations
- Recognized for creativity in designing custom solutions to meet business needs
- Recognized as PM expert, assigned teams to grow the department by building out the PMO and piloting PSA tools

NEW HORIZONS COMPUTER LEARNING CENTERS, ANAHEIM, CALIFORNIA 1998 - 2000

NHMS System Administration Trainer and Project Manager, 1999 - 2000

Trained system administrators at national franchise sites on conversion, implementation and system administration of ERP in beta stage. Managed implementation of software at key beta sites and managed relationship with development vendor.

Key Achievements:

- Designed, developed and delivered training courses for both system administrators and end-users.
- Developed systems for and directed all beta testing for both regression and new feature testing. Managed bug tracker.
- Wrote business requirements and functional specifications for new development
- Managed help desk, authored FAQ and knowledge base articles.

Senior Field Operations Specialist, 1998 - 1999

Served as corporate consultant to 213 franchises worldwide in all aspects of business operations. Position included discovery, evaluation, recommendation, execution and follow-up in all departments such as sales, operations, training, accounting and facilities. Filled managerial positions as needed including general manager. Conducted hiring and training for all roles.

NEW HORIZONS COMPUTER LEARNING CENTER, RICHFIELD, MINNESOTA 1996 - 1998

Training Manager/Corporate Trainer, 1997 - 1998

KATHERINE M. KHERA

Directed the overall operation of the Training Department. Responsible for hiring and training of 15 instructors, cross-training, resource scheduling and curriculum development. Responsible for hiring of account executives and training them in the New Horizons specific sales methodology.

Applications Trainer and Training Supervisor, 1996 - 1997

Instructed groups of 5-20 clients. Revised and authored curriculum in conjunction with company courseware. Consistently earn evaluation scores > 9.5/10. Responsible for ongoing training and development of 8 instructors. Led team meetings, assisted training manager with hiring and sales department with customer inquiries.

BOULDER PHILHARMONIC ORCHESTRA, BOULDER, COLORADO 1994 - 1995

Associate Director of Development

Responsible for acquisition of donations for all special projects. Solicited corporate donations and sponsorships, performed market analysis and prospect generation and sold advertising. Assisted in development and maintenance of fundraising database. Coordinated group sales for all performances.

CENTRAL CITY OPERA, DENVER, COLORADO 1994

BOULDER ARTS CENTER, BOULDER, COLORADO 1993

ARTSMARKETING SERVICES, INC, TORONTO, ONTARIO, CANADA 1991 - 1993

Campaign Manager

Responsible for recruiting, training, motivating and maintaining a team of 15 to promote each arts organization, sell tickets and/or solicit donations. Accountable for achieving sales goals as well as projecting and monitoring budgets for the project. Other tasks included payroll, prospect generation and ad writing. Met or exceeded all sales projections.

EDUCATION

BACHELOR OF ARTS IN MUSIC (CUM LAUDE)

MILLIKIN UNIVERSITY, Decatur, Illinois



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Hilary Holeman, Administrative Analyst
APPROVED BY: City Manager

ADOPT RESOLUTION REAFFIRMING THE CITY'S COMMITMENT TO A DIVERSE, SUPPORTIVE, INCLUSIVE COMMUNITY AND TO PROTECTING THE CONSTITUTIONAL RIGHTS OF ITS RESIDENTS

RECOMMENDATION(S)

Adopt resolution reaffirming the City's commitment to a diverse, supportive, inclusive community and to protecting the constitutional rights of its residents.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Supporting Our Youth
Seniors
and Entire Community
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness
Regional Initiatives

REPORT NARRATIVE:

Recent national events have triggered fear and uncertainty in our community regarding the federal government's new policies on immigration and enforcement. On December 14, 2016, the City Council affirmed a Statement of Support and Assurance to the community assuring hate crimes will not be tolerated in Morgan Hill, our Police will not be used for federal immigration enforcement, and our community's Constitutional rights will be protected.

At the City Council's annual goal setting workshop in January, Council strengthened its community support by adopting "Sustainable Morgan Hill" as its guiding principle with the vision of being "a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all." Sustainable Morgan Hill commits the Council and entire organization to simultaneously look through these lenses when designing projects, delivering services, and creating policies.

Council also adopted "Inclusiveness" as a 2017 Strategic Priority committing the City to embrace all community members as partners to advance our vision of being a socially responsible community.

Recently, the Cities Association of Santa Clara County chose Equitable Communities as a 2017 Board Priority and requested member agencies adopt resolutions to further advance our commitment to safety and equity across the region. The attached

resolution continues to weave into our community's fabric, the City's commitment to a diverse, supportive, and inclusive community.

COMMUNITY ENGAGEMENT: Collaborate

The City's commitment to a diverse, supportive and inclusive community is most effective when the entire community, all partners, and stakeholders engage and participate in sharing the same commitment to the Sustainable Morgan Hill vision.

ALTERNATIVE ACTIONS:

City Council may decide to not adopt the resolution.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 14, 2016, the City Council affirmed a Statement of Support and Assurance to the community. On February 15, 2017, the Council adopted "Sustainable Morgan Hill" as its guiding principle and "Inclusiveness" as a strategic priority for the year.

FISCAL AND RESOURCE IMPACT:

No fiscal impact.

CEQA (California Environmental Quality Act):

Not a Project. Organizational or administrative activities that will not result in direct or indirect physical changes to the environment are not project subject to environmental review under CEQA.

LINKS/ATTACHMENTS:

1. Equitable Communities Resolution

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REAFFIRMING THE CITY'S COMMITMENT TO A DIVERSE, SUPPORTIVE, INCLUSIVE COMMUNITY AND TO PROTECTING THE CONSTITUTIONAL RIGHTS OF ITS RESIDENTS

WHEREAS, On December 14, 2016 the Morgan Hill City Council affirmed a Statement of Support and Assurance to the community assuring that hate crimes will not be tolerated in Morgan Hill, our Police will not be used for federal immigration enforcement, and our Constitutional rights will be protected; and

WHEREAS, The Morgan Hill City Council adopted “Sustainable Morgan Hill” as the Council’s and organization’s guiding principle; and

WHEREAS, The vision of Sustainable Morgan Hill is to be “a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all”; and

WHEREAS, The Morgan Hill City Council adopted Inclusiveness as a 2017 Strategic Priority committing the City to embrace all community members as partners to advance our vision of being a socially responsible community; and

WHEREAS, The City of Morgan Hill values a community characterized by diversity, multiculturalism, and unity and acknowledges that the dignity, health, rights and privacy of all our residents must be respected; and

WHEREAS, each person is naturally and legally entitled to live a life without harassment, discrimination, persecution or assault, whether perpetrated by individuals, groups, businesses, or governments; and

WHEREAS, there exists significant and growing concern among our residents based upon recent national and regional incidents of hate crimes, intolerance of religious beliefs, discrimination, sexual harassment and assault, and the fear of a trend toward more of these crimes in the future; and

WHEREAS, there also exists considerable concern in our city about the potential risks for discrimination, harassment, persecution, assault, and deportation; and

WHEREAS, the city and its residents continually reject bigotry and affirm their commitment to a diverse, supportive, inclusive community; and

WHEREAS, all members of the city are valued regardless of religion, immigration status, ethnicity, disability, gender, sexual orientation, or gender identity.

NOW, THEREFORE, BE IT RESOLVED that the City Council reaffirms its commitment to a diverse, supportive and inclusive community and resolves as follows:

The City of Morgan Hill rejects bigotry in all its forms, including, but not limited to, Islamophobia, anti-Semitism, racism, nativism, misogyny, and homophobia; and

The City of Morgan Hill does not tolerate discrimination based on race, national origin, ethnicity, religion, age, gender, sexual orientation, color, or disability; and

The City of Morgan Hill does not tolerate Hate crimes, harassment, or assault; and

The City of Morgan Hill will oppose any attempts to undermine the safety, security, and rights of members of our community and will work proactively to ensure the rights and privileges of everyone in the city, regardless of religion, country of birth, immigration status, disability, gender, sexual orientation, or gender identity; and

The City of Morgan Hill will promote safety, a sense of security, and equal protection of constitutional and human rights, leading by example through equitable treatment of all by City officials and departments.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd day of May, 2017 by the following vote:

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

STEVE TATE, Mayor

DATE: _____

ATTEST:

IRMA TORREZ, City Clerk

DATE: _____

∞ CERTIFICATION ∞

I, **Irma Torrez, City Clerk of the City of Morgan Hill, California**, do hereby certify that the foregoing is a true and correct copy of Resolution No.XX-XXX, adopted by the City Council at the meeting held on May 3, 2017.

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

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Charlie Ha, Associate Engineer

APPROVED BY: None

FINAL MAP APPROVAL OF DUNNE MURPHY - TRACT NO. 10387

RECOMMENDATION(S)

Adopt resolution:

1. Approving the Final Map;
2. Authorizing the City Manager to execute the Subdivision Improvement Agreement with Live Oak Investments LLC;
3. Authorizing the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorizing the recordation of the Final Map and the Subdivision Improvement Agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

On the consent calendar of the April 19, 2017 City Council meeting, item #6 recommended the approval of the Final Map for the Dunne Murphy – Tract No. 10387 project. As a condition of approval of the Tentative Map, the Final Map approval requires Site Review be completed and approved by Planning Commission. Staff had anticipated that Site Review approval would be completed prior to the scheduled Final Map approval; however, this was not the case. The developer had not complied with the Tentative Map and Site Review requirement to preserve the existing significant trees within the project. The City Attorney determined that the Council could not meet the findings for approval of the Final Map. City Council continued the Final Map approval to a date certain of May 3, to allow the developer time to address the Site Review requirements to save the required trees and meet the conditions of approval for the Tentative Map.

On April 25, 2017, the developer met with the Planning team with a change to the site plan, which would save as many original trees on the site as possible in accordance with project conditions and environmental review findings. Based on this, Site Review will move forward for approval. On the same date, the Planning Commission approved a 4-month extension of the project commencement date to October 30, 2017.

Therefore, this staff report for Final Map Approval of Dunne Murphy – Tract No. 10387 is resubmitted. Because the outstanding Site Review issues have been resolved, and the conditions of approval for the Tentative Map have been met, staff now recommends approval of the Final Map.

Dunne Murphy – Tract No. 10387 is a 14-lot subdivision located on the southeast corner of East Dunne Avenue and Murphy Avenue (see attached site map). The developer, Live Oak Investments LLC, has completed all the conditions specified by the Planning Commission in the approval of the Tentative Map on February 9, 2016.

The City Council is required to approve the map if it conforms to all the requirements of the Subdivision Map Act, and any conditions of approval for the Tentative Map.

The developer has furnished the City with the necessary documents to complete the processing of the Final Map and has made provisions with a title company to provide the City with the required fees, security, and insurance prior to recordation of the Final Map. The Final Map conforms to the requirements of the Subdivision Map Act, and conditions of approval have been met. Staff recommends that City Council authorize the City Manager to sign a Subdivision Improvement Agreement on behalf of the City and sign a Stormwater BMP Operation and Maintenance Agreement pending review and approval by the City Attorney.

COMMUNITY ENGAGEMENT: Involve

On February 9, 2016, the Planning Commission approved the Tentative Map. Residents within a 300 feet radius were informed of the Planning Commission's intent to approve the Tentative Map for the project, in which a public hearing was held to allow the public to be involved and voice their concerns over Tentative Map requirements.

ALTERNATIVE ACTIONS:

There is no feasible alternative action as the developer has met the requirements of the Tentative Map conditions approved by the Planning Commission to file for a final map approval.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 14, 2016, the City Council approved the Development Agreement.

FISCAL AND RESOURCE IMPACT:

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

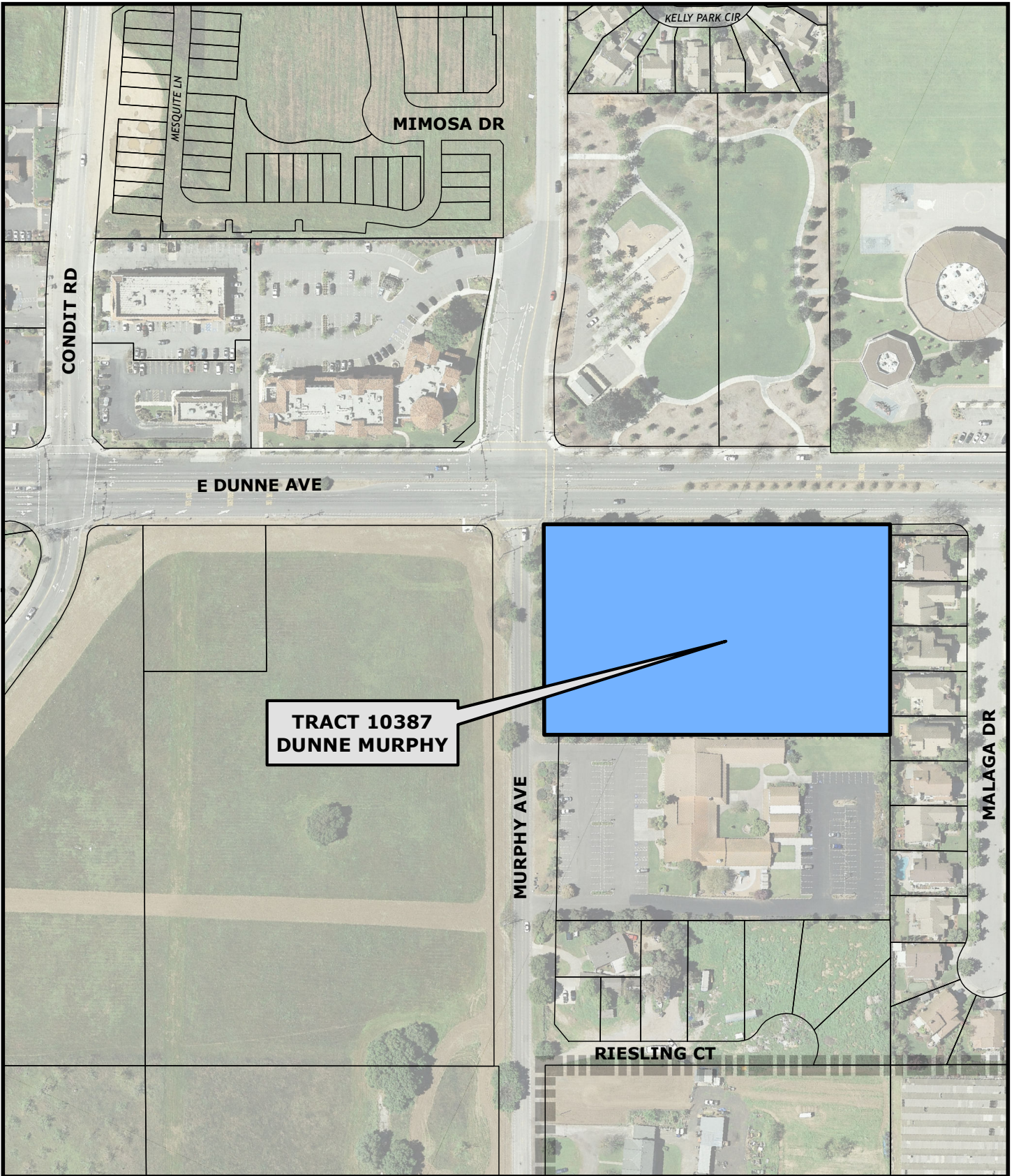
CEQA (California Environmental Quality Act):

A Mitigated Negative Declaration was adopted on February 9, 2016.

LINKS/ATTACHMENTS:

1. Site Map Tract 10387
2. Resolution Approval Final Map Tract 10387
3. Resolution Exhibit A Map Tract 10387

4. Resolution Exhibit B Subdivision Improvements Agreement Tract 10387 with Cash DP
5. Resolution Exhibit C Stormwater BMP Operation and Maintenance Agreement Form Tract 10387



Attachment: Site Map Tract 10387 (1159 : Final Map Approval of Dunne Murphy - Tract No. 10387)



CITY OF MORGAN HILL
Department of Public Works
Engineering and Utilities Division

G:\R-14\Proj\GIS\John\Charlie_DunneMurphy_FinalMap.mxd

SITE PLAN
TRACT 10387
DUNNE MURPHY



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE FINAL MAP OF DUNNE MURPHY – TRACT NO. 10387, AUTHORIZING THE CITY MANAGER TO EXECUTE THE SUBDIVISION IMPROVEMENTS AGREEMENT WITH LIVE OAK INVESTMENTS LLC, AUTHORIZING THE CITY MANAGER TO EXECUTE STORMWATER BEST-MANAGEMENT-PRACTICES (BMP) OPERATION AND MAINTENANCE AGREEMENT PENDING THE REVIEW AND APPROVAL OF THE CITY ATTORNEY, AND AUTHORIZE THE RECORDATION OF THE FINAL MAP AND THE SUBDIVISION IMPROVEMENTS AGREEMENT

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

WHEREAS, the reasons supporting the approval of the final map entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled “Final Map Approval of Dunne Murphy – Tract No. 10387” submitted for City Council consideration at its meeting of May 3, 2017, submitted to the City Council by the City Manager (the “Staff Report”), the contents of which Staff Report are incorporated herein by this reference; and

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

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

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

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

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

- a. That the Final Map of Dunne Murphy – Tract No. 10387 attached hereto as Exhibit A and incorporated herein by this reference (the “Map”) is hereby approved.
- b. That the Subdivision Improvements Agreement with Live Oak Investments LLC for Dunne Murphy – Tract No. 10387 substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the “Agreement”) is hereby approved.
- c. That the City Manager is hereby delegated authority to and is authorized and directed to execute the Agreement substantially in the form attached hereto as Exhibit B.
- d. That the City Manager is hereby delegated authority to and is authorized and directed to execute a Stormwater BMP Operation and Maintenance Agreement pending review and approval by the City Attorney substantially in the form attached hereto as Exhibit C.
- e. Authorize the recordation of the Map and Agreement.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 3rd day of May, 2017 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

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

DATE: _____

Steve Tate, MAYOR

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at the meeting held on May 3, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THE HEREIN MAP, THAT WE ARE THE ONLY PERSONS WHOSE CONSENTS ARE NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; THAT WE HEREBY CONSENT TO THE PREPARATION AND FILING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINE.

WE HEREBY DEDICATE TO PUBLIC USE AND OFFER TO DEDICATE TO THE CITY OF MORGAN HILL, AS EASEMENTS ONLY, ALL STREETS AND PORTIONS OF STREETS NOT HERETOFORE EXISTING AND DESIGNATED AS BRIX LANE AS SHOWN UPON THIS MAP. SAID DEDICATIONS AND OFFERS OF DEDICATION ARE FOR ANY AND ALL PUBLIC USES UNDER, UPON, AND OVER SAID STREETS AND PORTIONS THEREOF.

WE HEREBY DEDICATE TO PUBLIC USE AND OFFER TO DEDICATE TO THE CITY OF MORGAN HILL EASEMENTS FOR ANY AND ALL PUBLIC SERVICE FACILITIES INCLUDING, BUT NOT LIMITED TO, SIDEWALKS, POLES, WIRES AND CONDUITS FOR ELECTRICAL, TELEPHONE, TELEVISION, GAS, STORM, SANITARY AND WATER SERVICES, AND ALL APPURTENANCES THERETO UNDER, UPON, OR OVER THE LAND DESIGNATED AS PUBLIC SERVICE EASEMENT (P.S.E.) ON THE WITHIN MAP.

WE HEREBY RESERVE FOR THE BENEFIT OF LOTS 1 THROUGH 14, OPEN SPACES 1, 2, 3 AND 4 (O.S.1, O.S.2, O.S.3 & O.S.4) FOR THE PURPOSE OF LANDSCAPING/RECREATIONAL AMENITIES, STORM DRAIN FACILITIES AND ALL OTHER APPURTENANCES THERETO. NO FURTHER SUBDIVISION AND/OR RESIDENTIAL DEVELOPMENT OF SAID PARCELS SHALL BE ALLOWED. SAID OPEN SPACE PARCELS SHALL BE CONVEYED TO BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.

WE HEREBY RESERVE FOR THE HOMEOWNER'S ASSOCIATION, FOR THE BENEFIT OF ALL RESIDENTIAL OWNERS, THOSE PARCELS OF LAND DELINEATED AND DESIGNATED AS VIN COURT, (PRIVATE STREET), AND SHERRY COURT (PRIVATE STREET), FOR THE PURPOSE OF PRIVATE PEDESTRIAN & VEHICULAR TRAVEL/PARKING AND ALL APPURTENANCES THERETO. NO FURTHER SUBDIVISION AND/OR RESIDENTIAL DEVELOPMENT OF SAID PARCELS OF LAND SHALL BE ALLOWED. SAID PARCELS OF LAND SHALL BE CONVEYED TO AND BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.

WE HEREBY RESERVE FOR THE EXCLUSIVE USE OF THE OWNERS OF IMMEDIATELY ADJACENT LOTS, PRIVATE STORM DRAINAGE EASEMENTS IN, UNDER, UPON AND ACROSS THOSE STRIPS OF LAND DELINEATED AND DESIGNATED AS PRIVATE STORM DRAINAGE EASEMENT (P.S.D.E.) ON THE WITHIN MAP. SAID P.S.D.E. SHALL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.

WE HEREBY DEDICATE TO PUBLIC USE THOSE STRIPS OF LAND DELINEATED AND DESIGNATED AS EMERGENCY VEHICLE ACCESS EASEMENT (E.V.A.E.), FOR EMERGENCY ACCESS PURPOSES ONLY.

ALL OF THE HEREIN DESCRIBED STREETS AND EASEMENTS SHALL BE KEPT FREE OF BUILDINGS, EXCEPT LAWFUL UNSUPPORTED ROOF OVERHANGS, AND OBSTRUCTIONS THAT DO NOT IMPAIR THE USE OF, OR ARE CONSISTENT WITH THE PURPOSES OF THE STREET OR EASEMENT.

THE HEREIN DESCRIBED OFFERS OF DEDICATION TO THE CITY OF MORGAN HILL ARE TO BE ACCEPTED ONLY WHEN THE CITY COUNCIL OF THE CITY OF MORGAN HILL OR ITS SUCCESSOR AGENCY ADOPTS AND RECORDS IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY A RESOLUTION ACCEPTING SAID STREETS AND EASEMENTS. UNTIL SAID RESOLUTION(S) ARE RECORDED, ALL STREETS AND EASEMENTS ENCOMPASSED WITHIN SUCH OFFERS OF DEDICATION SHALL BE MAINTAINED BY THE DEVELOPER DURING ANY REQUIRED WARRANTY PERIOD AND THEREAFTER BY THE OWNER(S) OF THE LOTS OR PARCELS IN THE SUBDIVISION. THE CITY OF MORGAN HILL SHALL NOT BE RESPONSIBLE FOR MAINTENANCE AND SHALL INCUR NO LIABILITY WITH RESPECT TO SUCH OFFERED STREETS AND EASEMENTS OR ANY IMPROVEMENT THEREON. ALL DEDICATED RIGHTS-OF-WAY AND EASEMENTS NOT ACCEPTED FOR MAINTENANCE BY THE CITY OR OTHER PUBLIC AGENCY SHALL BE MAINTAINED BY THE OWNER(S) OF THE LOTS OR PARCELS IN THE SUBDIVISION.

AS OWNERS:

THE BETTY G. BUSK REVOCABLE
FAMILY TRUST

LIVE OAK INVESTMENT CORPORATION,
A CALIFORNIA CORPORATION

BY:

BETTY G. BUSK, TRUSTEE

BY:

ITS:

AS TRUSTEE:

BDS CAPITAL, INC., A CALIFORNIA CORPORATION

BY:

ITS:

AS BENEFICIARIES:

RANDALL A. WOLF, TRUSTEE, OF THE
RANDALL A. WOLF TRUST

MDMH PARTNERS, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY

BY:

ITS:

BY:

ITS:

TRACT No. 10387

BEING ALL OF PARCEL ONE, PARCEL TWO, AND ALL OF PARCEL
'A' AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR
RECORD IN BOOK 893 OF MAPS, AT PAGES 03 THROUGH 05,
SANTA CLARA COUNTY RECORDS.

LYING WITHIN THE
CITY OF MORGAN HILL COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

APRIL 2017

NOTES

- 1.) THE DISTINCTIVE BOUNDARY LINE INDICATES THE BOUNDARIES OF THE LAND SUBDIVIDED BY THIS FINAL MAP.
- 2.) THE AREA WITHIN THE DISTINCTIVE BOUNDARY IS 3.300 ACRES.
- 3.) ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- 4.) A GEOTECHNICAL REPORT WAS PREPARED BY EARTH SYSTEMS ON DECEMBER 17, 2015 AND RECORDED BY SAID COMPANY AS FILE NO. SH-12876-SA.
- 5.) THE PROPERTY OWNER IS PROVIDING CONSTRUCTIVE NOTICE HEREON THAT EACH LOT IS SUBJECT TO REQUIREMENTS OF A DEVELOPMENT AGREEMENT, AND THAT COMMITMENTS UNDER THE AGREEMENT, WHICH THE CITY HAS PERMITTED THE PROPERTY OWNER TO DELAY, MUST BE FULFILLED BY THE SUBSEQUENT PROPERTY OWNERS/OWNER.

ABANDONMENT OF PUBLIC EASEMENT:

PER SECTIONS 66434(g) AND 66499.20% OF THE SUBDIVISION MAP ACT, THE FOLLOWING PUBLIC EASEMENT SHALL CONSTITUTE ABANDONMENT; AS CERTIFIED IN THE CITY CLERK'S STATEMENT:

A 20.00 FEET AND 25.00 FEET WIDE P.S.E. PREVIOUSLY DEDICATED PER THAT PARCEL MAP, FILED FOR RECORD IN BOOK 893 OF MAPS AT PAGES 3 THROUGH 5, SANTA CLARA COUNTY RECORDS.

TERMINATION OF TEMPORARY EASEMENT:

THE AUTOMATIC TERMINATION SHALL TAKE PLACE OF A 17.00 FEET WIDE AND 25.00 FEET WIDE TEMPORARY INGRESS AND EGRESS EASEMENT LYING UPON AND OVER THOSE STRIPS OF LAND DESIGNATED AS INGRESS AND EGRESS EASEMENT (I.E.E.), AS SHOWN UPON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 893 OF MAPS AT PAGES 3 THROUGH 5, SANTA CLARA COUNTY RECORDS.

PLANNING COMMISSION STATEMENT

I HEREBY STATE THAT THE TENTATIVE MAP FOR THE FINAL MAP SHOWN HEREON WAS CONDITIONALLY APPROVED ON _____, 20____ BY THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL, CALIFORNIA, BY RESOLUTION NUMBER _____, APPLICATION NUMBER SD-____.

ANDREW CRABTREE
SECRETARY OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL, CALIFORNIA

DATE

CITY CLERK'S STATEMENT

I HEREBY STATE THAT THE CITY COUNCIL OF THE CITY OF MORGAN HILL AT ITS REGULAR MEETING HELD ON _____, DULY APPROVED THE FINAL MAP SHOWN HEREON, AUTHORIZED ITS RECORDATION, AND ACCEPTS ON BEHALF OF THE PUBLIC, SUBJECT TO THEIR IMPROVEMENT IN ACCORDANCE WITH CITY STANDARDS, THE EASEMENTS OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION. ALSO, I CERTIFY THAT SAID CITY COUNCIL AUTHORIZED THE ABANDONMENT OF THAT PUBLIC SERVICE EASEMENT NOTED ON SHEET 1 AND DELINEATED ON SHEET 3 OF THIS MAP.

IRMA TORREZ
CITY CLERK OF THE CITY OF MORGAN HILL

DATE

ENGINEER'S STATEMENT

I HEREBY STATE THAT THIS FINAL MAP AND THE FIELD SURVEY, UPON WHICH THE MAP IS BASED, WERE MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE, AT THE REQUEST OF BETTY G. BUSK, ON MARCH 24, 2016; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR WILL BE SET IN SUCH POSITIONS ON OR BEFORE MAY 30, 2018 AND THAT SUCH MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

WILLIAM J. MCCLINTOCK, R.C.E. 24893

DATE

CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP, THE SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, IF REQUIRED, AND ANY APPROVED ALTERATIONS THEREOF. ALL PROVISIONS OF THE SUBDIVISION MAP ACT, AS AMENDED, AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

KARL D. BJARKE — CITY ENGINEER
CITY OF MORGAN HILL, CALIFORNIA
R.C.E. NO. 39416

DATE

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND THAT I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

JOHN K. KING — ACTING CITY SURVEYOR
P.L.S. NO. 8809

DATE

COUNTY RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 20____

AT _____ M. IN BOOK _____ OF MAPS, AT PAGES _____ AT THE REQUEST OF
M.H. ENGINEERING CO.

FILE NO. _____

FEE \$ _____

REGINA ALCOMENDRAS, COUNTY RECORDER OF SANTA CLARA COUNTY

BY:

DEPUTY

SHEET 1 OF 4



MH engineering Co.

18075 Vineyard Boulevard
Morgan Hill, CA 95037

24126.2

ACKNOWLEDGMENT

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

State Of California

County Of _____

On _____, _____, before me, _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Principal County Of Business: _____

Commission Expires: _____

Commission # Of Notary: _____

ACKNOWLEDGMENT

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

State Of California

County Of _____

On _____, _____, before me, _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Principal County Of Business: _____

Commission Expires: _____

Commission # Of Notary: _____

TRACT No. 10387

BEING ALL OF PARCEL ONE, PARCEL TWO, AND ALL OF PARCEL 'A' AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN BOOK 893 OF MAPS, AT PAGES 03 THROUGH 05, SANTA CLARA COUNTY RECORDS.

LYING WITHIN THE
CITY OF MORGAN HILL COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

APRIL 2017

ACKNOWLEDGMENT

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

State Of California

County Of _____

On _____, _____, before me, _____

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

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Signature _____ (Seal)

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Commission # Of Notary: _____

ACKNOWLEDGMENT

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State Of California

County Of _____

On _____, _____, before me, _____

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Principal County Of Business: _____

Commission Expires: _____

Commission # Of Notary: _____

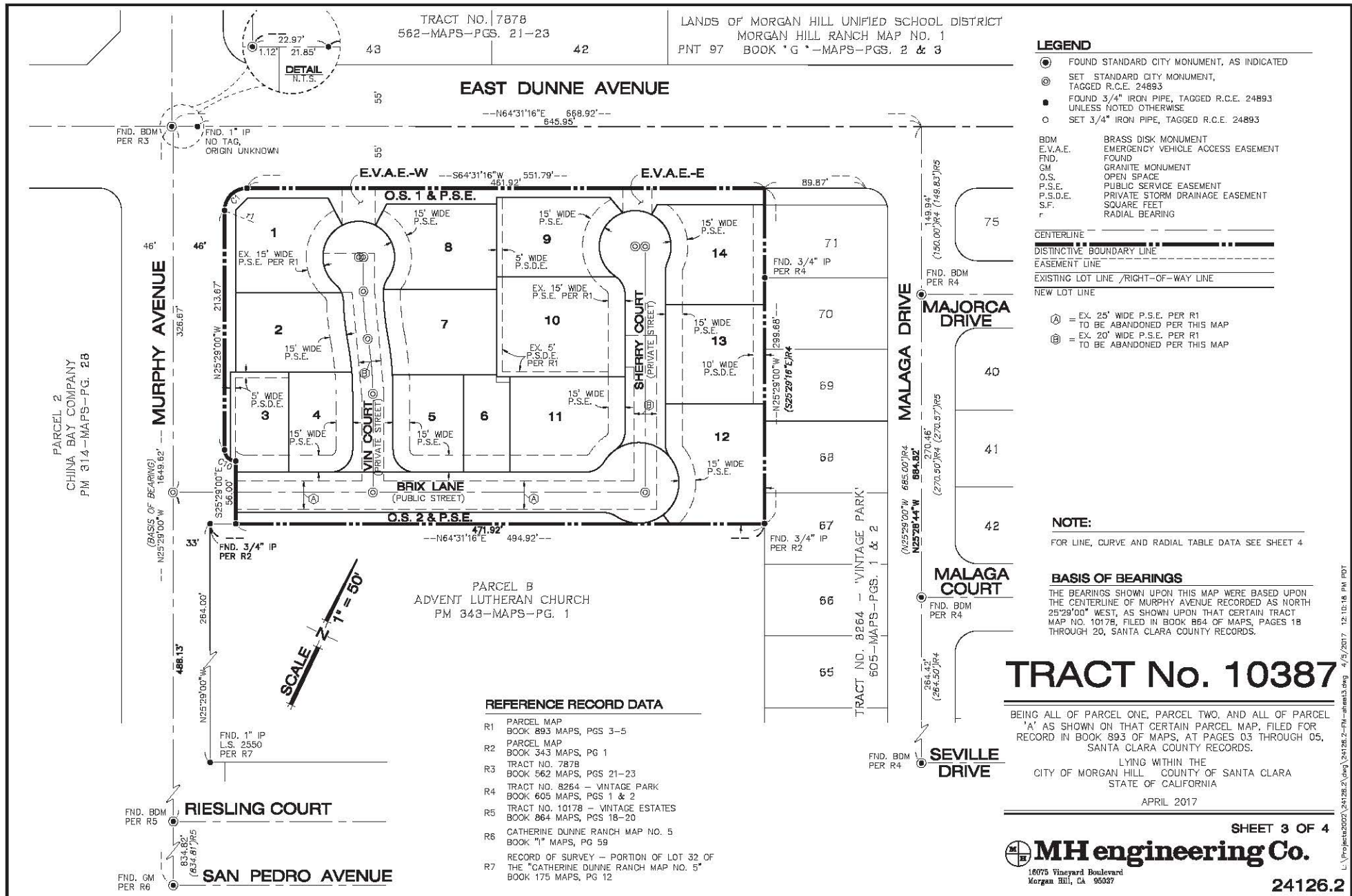
SHEET 2 OF 4



MH engineering Co.

18075 Vineyard Boulevard
Morgan Hill, CA 95037

24126.2



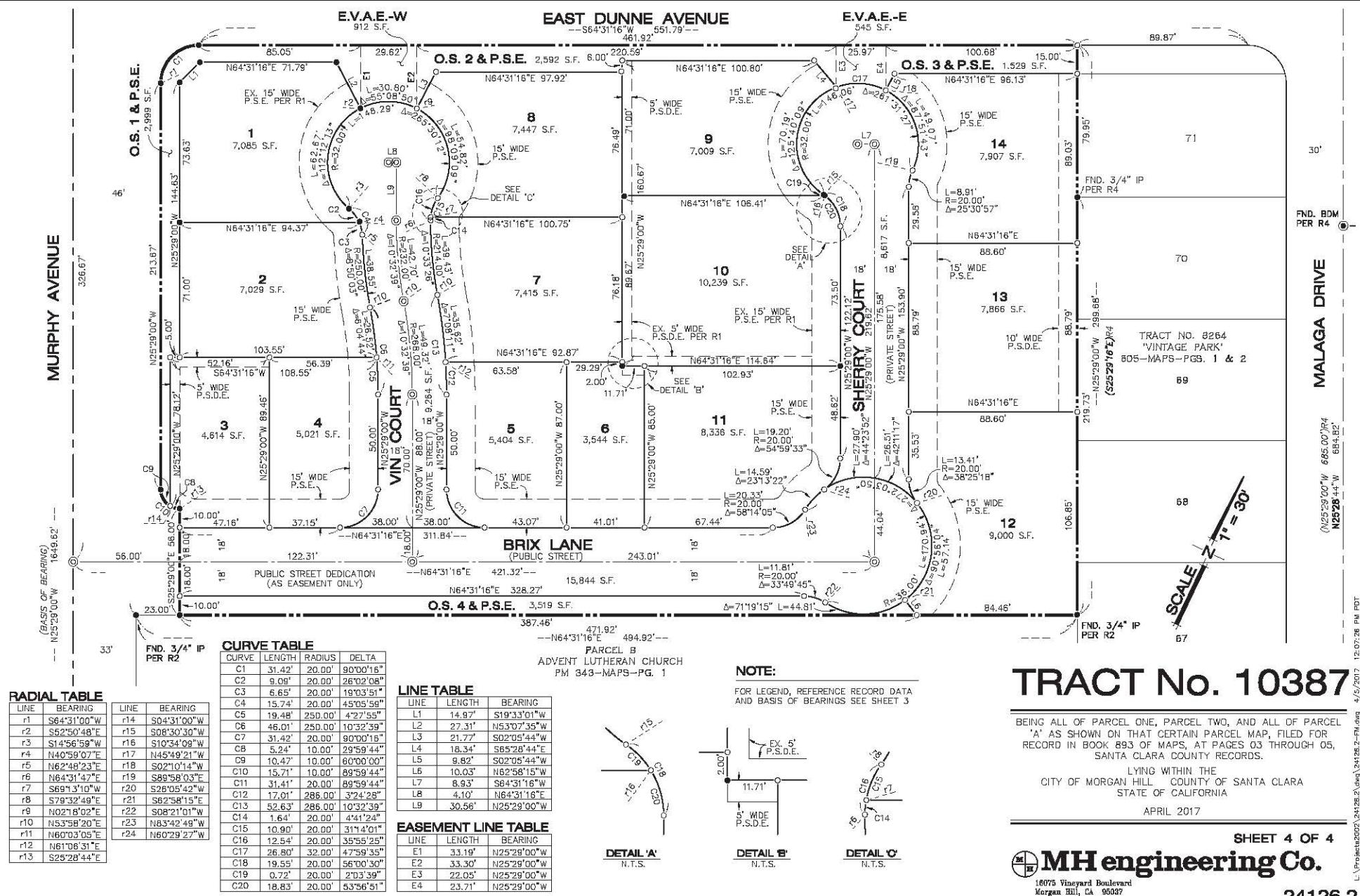


EXHIBIT B

RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

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

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

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBDIVISION IMPROVEMENTS AGREEMENT

LIVE OAK INVESTMENTS LLC DUNNE MURPHY – TRACT NO. 10387

This Subdivision Improvements Agreement ("Agreement") between the City of Morgan Hill, a municipal corporation ("City"), and **Live Oak Investments LLC**, a limited liability company ("Subdivider"), is entered into this ____ day of _____, 2017. City and Subdivider hereby acknowledge the following:

1. Subdivider has filed a Tentative Subdivision Map and supporting documents for **Tract No. 10387**, the subdivision known as **Dunne Murphy** ("Map").
2. City desires, as part of the conditions of approval ("Conditions") of the Final Tract Map or Parcel Map ("Final Map"), that certain improvements be installed by Subdivider ("Improvements") as shown on the City Engineer approved and signed Subdivision Improvement Plans entitled "**Improvement Plans for Dunne Murphy, Tract No. 10387**" ("Plans").
3. Subdivider has been unable to complete, prior to filing of the Final Map, all of the improvements required by City to the satisfaction of the City Engineer.
4. Subdivider is required by the terms of the Morgan Hill Municipal Code ("Municipal Code"), to improve all streets, highways, or public areas which are part of the development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer and to post certain securities to secure the completion of the Improvements.
5. To assure City that Subdivider will construct, install and complete all Improvements required for the Subdivision, the parties have entered into this Agreement.

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

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

Section 1. Incorporation by Reference

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

Section 2. Construction of Improvements

(a) Subdivider shall construct to the approval of City, and as provided for in the Conditions, the Improvements as shown fully executed in the Plans entitled "**Improvement Plans for Dunne Murphy, Tract No. 10387**".

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

(c) Survey Monumentation:

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

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

Section 3. Modification of Plans

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

Section 4. Security

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

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

Improvements and the City Engineer’s Estimated Costs of Improvements as of **March 2017** are attached hereto as Exhibit “A”.

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

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

(c) Subdivider shall, upon acceptance of the Improvements by the City Council, furnish a surety bond in an amount equal to fifty percent (50%) of the estimated construction cost of the Improvements (as listed in Section 4(a) above) to secure the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor performed, or defective materials furnished by Subdivider.

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

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

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

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

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

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

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

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

(h) In lieu of providing the Performance Bond and the Labor and Material Bond required under subsection 4(a) and 4(b) hereinabove, Subdivider may provide City, at City's sole option, with a cash deposit in an amount required pursuant to Morgan Hill Municipal Code section 17.32.190.B which cash deposit obligation of Subdivider shall be made, memorialized and agreed to by Subdivider through execution of a Cash Deposit Agreement Guaranteeing Improvements in substantially the form attached hereto as Exhibit "D".

Section 5. Inspections

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

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

Section 6. Timing of Performance

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

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

Section 7. Work Performance and Warranty

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

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

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

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

(e) Subdivider warrants that: (1) it has investigated the work to be performed under this agreement, (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should Subdivider discover any conditions materially differing from those inherent in the Improvements or work or as represented by City, it shall immediately inform City and shall not proceed, except at Subdivider's risk, until written instructions are received from City.

(f) Subdivider guarantees and warrants the work required by this Agreement and agrees to remedy any defects in the Improvements or work arising from faulty or defective materials or construction occurring within twelve (12) months after its acceptance. Following notice, Subdivider shall, without delay or cost to City, repair, replace, or construct any defective or unsatisfactory portion of the Improvements. City may, at its sole option, perform the repair or replacement itself if Subdivider or its surety has failed to commence repair within twenty (20) days after City has mailed written notice to Subdivider. In such event, Subdivider or its surety agrees to pay the cost of repair and replacement to City, plus fifteen percent (15%); and City may recover such costs as a lien against the Subdivision. City may proceed immediately to make repairs should an emergency arises.

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

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

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

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

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

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

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

Section 9. Indemnity

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

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

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

It is expressly understood and agreed that this Subsection (a) will survive termination of this Agreement.

Section 10. Insurance

No later than ten days following issuance of the notice of award, Subdivider is required to procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of Subdivider and its Subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. If Subdivider fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement, City may, at its sole discretion, purchase such coverage at Subdivider's expense and deduct the cost from payments due to Subdivider, or terminate the Agreement for default. Subdivider further understands that City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Subdivider, at any time as deemed necessary to protect the interests of City.

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

- (1) Commercial General Liability Insurance ("CGL"): Subdivider shall maintain CGL and shall include coverage for liability arising from Subdivider's or its

Subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least five million dollars (\$5,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to Subdivider under Subdivider's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

b. CGL policy must include contractor's protected coverage, blanket contractual, and completed operations.

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

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

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

(b) Required Endorsements. Subdivider shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

(1) ALL Policies:

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

(2) General Liability:

- a. “Additionally Insured” - City, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds;
- b. “Primary and Non-Contributing” - Insurance shall be primary non-contributing;
- c. “Separation of Insureds” - The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

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

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

(e) Certificates. Subdivider shall furnish City with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. No policy subject to Subdivider’s agreement with City shall be reduced, canceled, allowed to expire, or materially changed except after thirty (30) days' notice by the insurer to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

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

Section 11. Permits and Requisite Fees

(a) Subdivider shall pay all current fee obligations in the total amount of **\$485,010** due under City Resolution No. 5592, as amended, in accordance with the Department of Public Work fee schedule, as follows:

(1) **\$223,074** payable at the time of recording of the Final Map, and

(2) **\$261,936** payable on a pro-rata basis for each individual lot in the Subdivision prior to final inspection of each and every residence.

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

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

(c) Subdivider shall obtain a City Business License.

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

Section 12. On-Site Supervision

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

Section 13. Waiver

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

Section 14. Notices. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

- a. Address of Subdivider is as follows:
LIVE OAK INVESTMENTS LLC
 175 E. Main Ave. Ste. # 130

Morgan Hill, CA 95037

b.	Address of City is as follows:	With a copy to:
	Public Works Director City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037	City Clerk City of Morgan Hill 17575 Peak Avenue Morgan Hill, CA 95037

Section 15. Noncompliance

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

Section 16. Notice of Breach and/or Default

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

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

Section 17. Performance by Surety or City

- (a) In the event of a material breach and/or default by Subdivider, Subdivider's surety shall have the duty to take over and complete the Improvements.
- (b) If the surety, within a reasonable time after receiving notice of Subdivider's default does not provide City written notice to take over the performance of this Agreement or if the surety does not commence performance thereof within the time specified in such notice to City, City may take over the construction of the Improvements and prosecute the same to completion, by contract or by any method City may deem advisable, on behalf and at the expense of Subdivider, and Subdivider's surety shall be

liable to City for any excess cost or damages incurred by City thereby. In such event, City, without liability for so doing, may take possession of and utilize to complete the Improvements such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefore.

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

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

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

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

Section 18. Successors in Interest

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

Section 19. Effective Date

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

Section 20. Amendment of Agreement

This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby. Copies of any such amendments shall be sent to surety(ies).

Section 21. Execution

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

Section 22. Non-Liability of Officials and Employees of City.

No official or employee of City shall be personally liable for any default or liability under this Agreement.

Section 23. Law to Govern: Venue

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

Section 24. Limitations Upon Subcontracting and Assignment.

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

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Section 25. Miscellaneous

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

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

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

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

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

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

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

[TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS: (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; **AND** (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.]

CITY OF MORGAN HILL

By:

Steve Rymer, City Manager

Date: _____

ATTEST:

By:

Michelle Wilson, Deputy City Clerk

Date: _____

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

Date: _____

"Subdivider"

LIVE OAK INVESTMENTS LLC

By:

Print Name

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

Date: _____

By:

Print Name

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

Date: _____

EXHIBIT "A"
IMPROVEMENTS AND
ESTIMATED COSTS OF IMPROVEMENTS
AS OF MARCH 2017

	Description	Quantity	Unit	Unit Price	Total
Schedule I - Public Tract Streets					
4	Street finish grading	14400	LS	\$0.50	\$7,200.00
7	AC pavement (4"AC/13AB)	14400	LS	\$5.50	\$79,200.00
8	City std. curb and gutter	700	LF	\$25.00	\$17,500.00
14	City std. electroliers	5	EA	\$3,000.00	\$15,000.00
Schedule II - Water Improvements					
1	8" DIP water main	993	LF	\$50.00	\$49,650.00
2	City std. fire hydrant	3	EA	\$4,000.00	\$12,000.00
3	1" water services	14	EA	\$1,500.00	\$21,000.00
4	1-1/2" irrigation w/RPBP	1	EA	\$2,000.00	\$2,000.00
5	Existing fire hydrant relocation	1	EA	\$1,000.00	\$1,000.00
Schedule III - Sanitary Sewer					
1	8" PVC sanitary main (SDR26)	350	EA	\$4.00	\$1,400.00
2	City std. manholes	3	EA	\$3,500.00	\$10,500.00
Schedule IV - Storm Drainage					
1	24" RCP SD	77	LF	\$68.00	\$5,236.00
2	15" RCP SD	100	LF	\$55.00	\$5,500.00
4	City std. curb inlets	3	EA	\$3,000.00	\$9,000.00
Schedule V - Dunne & Murphy					
1	Street Grading	19528	SF	\$1.00	\$19,528.00
2	AC pavement (5"AC/14.5AB)	11478	LS	\$6.00	\$68,868.00
3	City std. curb and gutter	755	LF	\$25.00	\$18,875.00
4	City std. sidewalk	3977	SF	\$6.00	\$23,862.00
5	Min. 2" AC grind and overlay	19570	LS	\$2.00	\$39,140.00
6	Signing & striping	1	LS	\$10,000.00	\$10,000.00
7	City std. fire hydrant	1	EA	\$4,000.00	\$4,000.00
8	8" sewer PVC (SDR 26)	294	LF	\$60.00	\$17,640.00
9	Sanitary sewer manholes	1	EA	\$3,500.00	\$3,500.00
11	City std. electroliers	5	EA	\$3,500.00	\$17,500.00
11	24" RCP storm drain	424	LF	\$90.00	\$38,160.00
12	City std. manholes	1	EA	\$3,500.00	\$3,500.00
Sub Total					\$500,759.00
10% Contingency					\$50,075.90
Total					\$550,834.90

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

Bond No.: _____

Premium: _____

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

LIVE OAK INVESTMENTS LLC
DUNNE MURPHY – TRACT NO. 10387

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2017, and identified as project **Dunne Murphy – Tract No. 10387**, is hereby referred to and made a part hereof; and

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

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the City of Morgan Hill hereinafter called ("City"), in the penal sum of **four hundred eighty nine thousand two hundred forty seven dollars (\$489,247)**, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The Surety's office is located at _____,

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

License No.: _____

Address: _____

Telephone No.: _____ .

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

Name of non-resident agent: _____

Performance Bond
Page 1 of 4
Version: October 2016

Non-resident agent's office address: _____

Telephone No.: _____

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

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

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

Executed this _____ day of _____ 2017.

 Principal

 Principal

By: _____
 Surety

By: _____

Attorney-in Fact

By:

California Resident Agent

By:

Non-resident Agent - Attorney-in-Fact

APPROVED:

Karl Bjarke, Public Works Director

Date:

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

Date:

(Acknowledgment on following page.)

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

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

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

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

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

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

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

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

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

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

Performance Bond
Page 4 of 4
Version: October 2016

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

Bond No.:

Premium: _____

Whereas, the City Council of the City of Morgan Hill, State of California, **LIVE OAK INVESTMENTS LLC** (hereinafter designated as "the principal") have entered into a Subdivision Improvement Agreement:

LIVE OAK INVESTMENTS LLC
DUNNE MURPHY – TRACT NO. 10387

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 2017, and identified as project **Dunne Murphy – Tract No. 10387**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill, hereinafter "City," to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto City and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code in the sum of **four hundred eighty nine thousand two hundred forty seven dollars (\$489,247)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

Labor and Material Bond

Page 1 of 4

Version: October 2016

The Surety's office is located at _____,

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

License No.:

Address: _____

Telephone No.: _____ .

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

Name of non-resident agent: _____ ,

Non-resident agent's office address: _____

Telephone No.: _____ .

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

Executed this _____ day of _____ 2017.

Principal

Principal

By:

Surety

By:

Labor and Material Bond

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Version: October 2016

Attorney-in Fact

By:

California Resident Agent

By:

Non-resident Agent - Attorney-in-Fact

APPROVED:

Karl Bjarke, Public Works Director

Date:

APPROVED AS TO FORM:

By:

Donald A. Larkin, City Attorney

Date:

(Acknowledgment on following page.)

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

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

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

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

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

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

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

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

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

WITNESS my hand and official seal.

SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

Labor and Material Bond
Page 4 of 4
Version: October 2016

EXHIBIT "D"
CASH DEPOSIT AGREEMENT GUARANTEEING IMPROVEMENTS
LIVE OAK INVESTMENTS LLC
DUNNE MURPHY – TRACT NO. 10387

THIS AGREEMENT is made this ____ day of _____, 2017, by the City of Morgan Hill, a municipal corporation, ("City"), and **LIVE OAK INVESTMENTS LLC**, a limited liability ("Subdivider").

RECITALS

The following Recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Sections 17.32.180 and 17.32.190 of the City of Morgan Hill's Municipal Code.
2. City has entered into a Subdivision Improvement Agreement, with Subdivider pertaining to the development on **Tract 10378** and commonly known as **Dunne Murphy**, and the Subdivision Improvement Agreement shall be referenced for further particulars of the subdivision. This Cash Deposit Agreement "Agreement" is intended to fulfill the requirements for Performance/Labor & Material Bonds as set forth in the Subdivision Improvement Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Deposit.** That Subdivider has deposited the cash sum (cash, certified check, or cashier's check) of **nine hundred thirty six thousand four hundred nineteen dollars (\$936,419)** in lawful money of the United States of America herein called "Deposit Sum", with City, which funds shall be used for installing and guaranteeing the public improvements required by the Subdivision Improvement Agreement between City and Subdivider. The Subdivision Improvement Agreement is attached hereto and incorporated herein as Exhibit "A", and Subdivider certifies and warrants that they have reviewed the Subdivision Improvement Agreement and agree to be bound by relevant provisions of such Agreement.
2. **Additional Deposits.** In the event the Deposit Sum is insufficient to complete and/or repair the public improvements, Subdivider will deposit with City such additional sum in lawful money of the United States of America as an additional deposit in such amount that will be

CASH DEPOSIT AGREEMENT
 GUARANTEEING IMPROVEMENTS

Page 1 of 4
 Version: October 2016

required to complete the public improvements; said additional deposit to be subject to the terms of this Agreement.

3. **Disbursement.** The parties agree that City shall disburse, via two party checks, to the Subdivider, the contractor or the subcontractor in order to pay contractors, subcontractors, laborers and material suppliers performing work pursuant to the Subdivision Improvement Agreement, upon certification by the City Engineer of Morgan Hill that sufficient work has been completed to justify the progress payment request of Subdivider. It is further agreed that City will not disburse aggregated payments in excess of **three hundred eighty five thousand five hundred eighty four dollars (\$385,584)** or until City has accepted the subdivision improvements in their entirety. Upon both City acceptance of the subdivision improvements and Subdivider submittal of Warranty Bond, City can disburse up to **nine hundred thirty six thousand four hundred nineteen dollars (\$936,419)** in the aggregate of the funds. One (1) year after City acceptance of the subdivision improvements, upon written approval of City's Engineer, remaining funds can be disbursed by City.

4. **City Substitution for Subdivider.** In the event Subdivider fails to properly perform under the Subdivision Improvement Agreement, and City exercises its right to perform the contract itself or to subcontract work to a third party pursuant to the Subdivision Improvement Agreement, then Subdivider agrees that all funds then remaining shall remain deposited with City for disbursement to parties actually performing the work.

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

6. **Independent Contractor.** It is agreed that Subdivider and Subdivider's contractors, subcontractors, agents, or employees shall act and be independent contractors and not agents or employees of City.

7. **Subdivision Agreement.** This Agreement shall include the Subdivision Agreement which is incorporated herein. In the event of any inconsistency between the terms of the Subdivision Agreement and this Agreement, the Subdivision Agreement shall govern.

8. **Indemnity.** All indemnity provisions of the Subdivision Improvement Agreement shall apply with full force to this Agreement. City shall not be liable to Subdivider, Subdivider's contractors, subcontractors, agents, or employees for any payment under this agreement; liability for full repayment under the Subdivision Improvement Agreement shall be the sole responsibility of Subdivider.

CASH DEPOSIT AGREEMENT
GUARANTEEING IMPROVEMENTS

Page 2 of 4
Version: October 2016

9. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement nor any portion shall be assigned by Subdivider without prior written consent of City.

10. **Authority to Execute.** The persons executing this Agreement on behalf of entities represent and warrant that they are 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.

11. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by subsequent mutual written agreement executed by City and Subdivider.

12. **California Law.** 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.

13. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by both parties, and no rule of construction or interpretation shall apply against any particular Party bases on a contention that the Agreement was drafted by one of 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.

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CASH DEPOSIT AGREEMENT
GUARANTEEING IMPROVEMENTS

Page 3 of 4
Version: October 2016

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

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

[TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS: (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; **AND** (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.]

ATTEST:

CITY OF MORGAN HILL

By: _____

Michelle Wilson, Deputy City Clerk

Date: _____

By: _____

Steve Rymer, City Manager

Date: _____

APPROVED:

"SUBDIVIDER"

LIVE OAK INVESTMENTS LLC

By: _____

Karl Bjarke, Public Works Director

Date: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____

Donald A. Larkin, City Attorney

Date: _____

"SUBDIVIDER"

LIVE OAK INVESTMENTS LLC

By: _____

Title: _____

Date: _____

CASH DEPOSIT AGREEMENT
GUARANTEEING IMPROVEMENTS

Page 4 of 4
Version: October 2016

RECORDING REQUESTED BY:

CITY OF MORGAN HILL

WHEN RECORDED MAIL DOCUMENT TO:

CITY CLERK
CITY OF MORGAN HILL
17575 PEAK AVENUE
MORGAN HILL, CA 95037

RECORD AT NO FEE PER GOVERNMENT
CODE SECTIONS 6103 & 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**STORMWATER BEST MANAGEMENT PRACTICES,
OPERATION, AND MAINTENANCE AGREEMENT**

THIS STORMWATER BEST MANAGEMENT PRACTICES OPERATION, AND MAINTENANCE AGREEMENT ("AGREEMENT") is made and entered into this ____ day of _____, **2017**, by **DUNNE MURPHY HOA**, (hereinafter referred to as "COVENANTOR") and the City of Morgan Hill ("CITY"). CITY and COVENANTOR may be referred to individually as a "Party" or collectively as the "Parties" throughout this AGREEMENT.

RECITALS:

This AGREEMENT is made and entered into with reference to the following facts:

- A. CITY is authorized and required to regulate and control the disposition of storm and surface waters as set forth in CITY's National Pollutant Discharge Elimination System permit.
- B. COVENANTOR is the owner of a certain tract or parcel of land more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "PROPERTY").
- C. COVENANTOR desires to construct certain improvements of the kind or nature described in Morgan Hill Municipal Code Chapter 18.71 (the "ORDINANCE") on the PROPERTY that may alter existing stormwater conditions on both the PROPERTY and adjacent lands.
- D. To minimize adverse impacts due to these anticipated changes in existing storm and surface water flow conditions, COVENANTOR is required by CITY to implement Best Management Practices ("BMPs") and to build and maintain, at COVENANTOR's expense, stormwater management facilities ("FACILITIES"), more particularly described and shown in the **STORMWATER RUNOFF MANAGEMENT PLAN FOR TRACT NO. 10387** prepared by **MH ENGINEERING** and dated **MARCH 2017**, which plans and any amendments thereto, are on file with CITY's Public Works Department, and are hereby incorporated by this reference.
- E. CITY has reviewed and approved the Stormwater Runoff Management Plan (the "PLAN") subject to the execution of this AGREEMENT.

NOW, THEREFORE, in consideration of the benefit received and to be received by COVENANTOR, its successors, and assigns, as a result of CITY's approval of the Stormwater Runoff Management Plan, COVENANTOR, hereby covenants and agrees with CITY as follows:

1. Covenants Running With the Land; Property Subject to Agreement: All of the real property described in Exhibit "A" shall be subject to this AGREEMENT. It is intended and determined that the provisions of this AGREEMENT shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the real PROPERTY or any portion thereof and shall be for the benefit of each owner of any of said parcels or any portion of said PROPERTY and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof. Each and all of the limitations, easements, obligations, covenants, conditions, and restrictions contained herein shall be deemed to be, and shall be construed as, equitable servitudes, enforceable by any of the owners of any of the PROPERTY subject to this AGREEMENT against any other owner, tenant or occupant of the said PROPERTY, or any portion thereof.

2. Responsibility for Installation, Operation, and Maintenance: At its sole expense, COVENANTOR, its successors, and assigns, shall construct, operate, and perpetually maintain the FACILITIES in strict accordance with the PLAN and any amendments thereto that have been approved by CITY or required by the ORDINANCE.
3. Facility Modifications: At its sole expense, COVENANTOR, its successors, and assigns, shall make such changes or modifications to the FACILITIES as may be determined as reasonably necessary by CITY to ensure that the FACILITIES are properly maintained and continue to operate as originally designed and approved. COVENANTOR agrees that it shall not modify the BMPs and shall not allow BMP maintenance activities to alter the designed function of the FACILITIES from its original design unless approved by CITY prior to the commencement of the proposed modification or maintenance activity.
4. Facility Inspections by CITY: At reasonable times and in a reasonable manner as provided in the ORDINANCE, CITY, its agents, employees, and contractors shall have the right of ingress and egress to the FACILITIES and the right to inspect the FACILITIES in order to ensure that the FACILITIES are being properly maintained, are continuing to perform in an adequate manner, and are in compliance with the ORDINANCE, the PLAN and any amendments thereto approved by CITY.
5. Failure to Perform Required Facility Repairs or Modifications: Should either COVENANTOR or its successors and assigns fail to implement the BMPs, maintain the facilities, or correct any defects in the FACILITIES in accordance with the approved design standards and/or the PLAN, and in accordance with the law and applicable regulations of the ORDINANCE, after thirty (30) days from the date of the written notice from CITY, CITY shall have the right to enter the PROPERTY to perform remedial work, for which CITY will collect reimbursement for such work from COVENANTOR. Additionally, conditions from failure to implement the BMPs or to maintain or correct the FACILITIES shall be deemed a nuisance subject to abatement of such conditions as provided in Chapter 1.18 of the Morgan Hill Municipal Code. In addition, CITY may pursue other such remedies as provided by law, including, but not limited to, such civil and criminal remedies set forth in the ORDINANCE.
6. Indemnity: COVENANTOR, its successors, and assigns, shall defend, indemnify, and hold CITY harmless of and from any and all claims, liabilities, actions, causes of action, and damages for personal injury and property damage, including, without limitation, reasonable attorneys' fees, arbitration fees, or costs and court costs, arising out of or related to COVENANTOR's, its successors', and/or assigns' construction, operation, or maintenance of the FACILITIES except claims, liabilities, actions, causes of action, and damages that arise out of CITY's sole negligence or willful misconduct or the sole negligence or willful misconduct of any of CITY'S employees, agents, representatives, contractors, vendors, or consultants.
7. Obligations and Responsibilities of COVENANTOR: Initially, COVENANTOR is solely responsible for the performance of the obligations required hereunder and, to the extent permitted under applicable law, the payment of any and all fees, fines, and penalties associated with such performance or failure to perform under this AGREEMENT. Notwithstanding any provisions of this AGREEMENT to the contrary, upon the recordation of a deed or other instrument of sale, transfer or other conveyance of fee simple title to the PROPERTY or any portion thereof (a "Transfer") to a third party (the "Transferee"), COVENANTOR shall be released of all of its obligations and responsibilities under this AGREEMENT accruing after the date of such Transfer to the extent such obligations and responsibilities are applicable to that portion of the PROPERTY included in such Transfer, but such release shall be expressly conditioned upon the Transferee assuming such obligations and responsibilities by recorded written agreement for the benefit of CITY. Such written agreement may be included in the Transfer deed or instrument, provided that the Transferee joins in the execution of such deed or instrument. A certified copy of such deed, instrument, or agreement shall be provided to CITY. The provisions of the preceding three sentences shall be applicable to the original COVENANTOR and any successor Transferee who has assumed the obligations and responsibilities of COVENANTOR under this AGREEMENT as provided above.
8. Property Transfer: Nothing herein shall be construed to prohibit a transfer by COVENANTOR to subsequent owners and assigns.

9. Attorneys' Fees: In the event that any Party institutes legal action or arbitration against the other to interpret or enforce this AGREEMENT, or to obtain damages for any alleged breach hereof, the prevailing party in such action or arbitration shall be entitled to reasonable attorneys' or arbitrators' fees in addition to all other recoverable costs, expenses, and damages.
10. Further Documents: The Parties covenant and agree that they shall execute such further documents and instructions as shall be necessary to fully effectuate the terms and provisions of this AGREEMENT.
11. Entire Agreement: This AGREEMENT constitutes the entire agreement of the Parties with respect to the subject matter contained herein and supersedes all prior agreements, whether written or oral. There are no representations, agreements, arrangements, or undertakings, oral or written, that are not fully expressed herein.
12. Severability: In the event any part or provision of this AGREEMENT shall be determined to be invalid or unenforceable under the laws of the State of California, the remaining portions of this AGREEMENT that can be separated from the invalid, unenforceable provisions shall, nevertheless, continue in full force and effect.
13. No Waiver: The waiver of any covenant contained herein shall not be deemed to be a continuing waiver of the same or any other covenant contained herein.
14. Amendment: This AGREEMENT may be amended in whole or in part only by mutual written agreement. Any such amendment shall be recorded in Santa Clara County, California. In the event any conflict arises between the provisions of any such amendment and any of the provisions of any earlier document or documents, the most recently duly executed and recorded amendment shall be controlling.
15. In the event that CITY shall determine, at its sole discretion, at any future time, that the FACILITIES are no longer required, then at the written request of COVENANTOR, its successors, and/or assigns, CITY shall execute a release of this AGREEMENT which COVENANTOR, its successors, and/or assigns, shall record in the Recorder's Office, at its expense.

Executed the day and year first above written.

COVENANTOR:

By: _____

Name: _____

Title: _____

CITY OF MORGAN HILL:

By: _____

Name: **STEVE RYMER**

Title: **CITY MANAGER, CITY OF MORGAN HILL**

APPROVED AS TO FORM:

By: _____

Name: **DONALD A. LARKIN**

Title: **CITY ATTORNEY, CITY OF MORGAN HILL**



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Charlie Ha, Associate Engineer
APPROVED BY: City Manager

APPROVE AMENDED CASH DEPOSIT GUARANTEEING IMPROVEMENTS FOR GIOVANNI DEVELOPMENT - TRACT NO. 9971

RECOMMENDATION(S)

Adopt resolution:

1. Amending Cash Deposit Agreement Guaranteeing Improvements for Giovanni Development – Tract No. 9971 with Giovanni Development Company, LLC; and
2. Authorizing the City Manager to execute the agreement pending review and approval by the City Attorney.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

Currently under construction, the Giovanni Development – Tract No. 9971, is a 6-lot subdivision located on the east side of Del Monte Avenue and approximately 200 feet north of Christine Lynn Drive (see attached site map). With approval of a project's Final Map, it is standard practice for developers to provide surety at 100% of the estimated cost of construction for the project's public improvements in the form of a Labor and Material Bond and a Performance Bond, or the developer has the option to provide surety at 170% of the estimated cost of construction for public improvements with a single cash deposit, as allowed by the Municipal Code.

Giovanni Development Company, LLC elected to provide a cash deposit for surety in place of bonds for the public improvements in the amount of \$585,708, 170% of the cost of the public improvements. Approximately 90% of the project's public improvements have been installed and confirmed by the Public Works inspector; therefore, the developer has requested a portion of the cash deposit be released (see attached letter).

Staff finds this release request acceptable and recommends an amendment to the Cash Deposit Agreement Guaranteeing Improvements, which will allow disbursement of the cash deposit to be released to the developer up to \$241,174, leaving a surety balance of \$344,534, which is equivalent to 100% of the estimated total cost of the public improvements required of the project.

COMMUNITY ENGAGEMENT: Not Applicable

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Final Map Approval – November 18, 2015

FISCAL AND RESOURCE IMPACT:

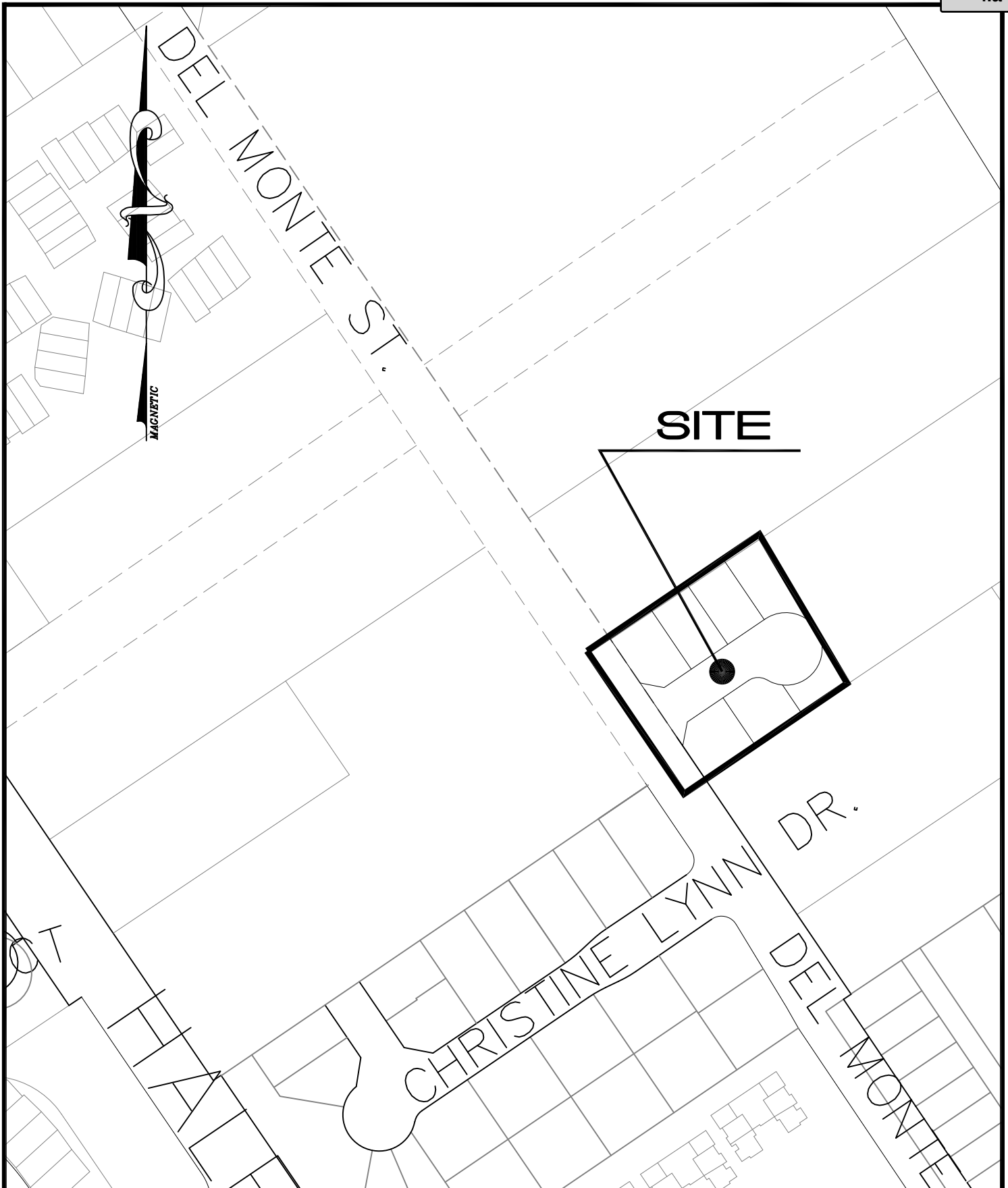
Development review costs for this project are paid from development processing fees.

CEQA (California Environmental Quality Act):

Mitigated Negative Declaration for the development project was adopted on January 17, 2007

LINKS/ATTACHMENTS:

1. Site Map
2. Letter to City Council for Partial Release of Funds
3. Resolution - Amended Cash Deposit
4. Resolution - Exhibit A - Amended Cash Deposit



City of Morgan Hill

Public Works Department



N: \PROJECTS\DEVELOP\PRO734\Staff Report

SITE MAP

TR. 9971 - GIOVANNI DEVELOPMENT

Date: 11/05/15

Drwn by: CMH

Cl Packet Pg. 90

April 14, 2017

Reference: Partial Release for Giovanni Development- Del Monte

Attn: City Engineer Karl Bjarke:

This letter is to formally request the partial release of the surety cash deposit for Giovanni Development in the amount of \$241,174 of the \$585,708 cash deposit, as 90% or more of the improvements are completed. We would appreciate council approval on May 3, 2017.

If you have any questions, please feel free to contact me at 408-461-0262

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Gluhaich', written over a horizontal line.

Dan Gluhaich

RESOLUTION NO. _____
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
TO APPROVE AMENDING A CASH DEPOSIT AGREEMENT GUARANTEEING
IMPROVEMENTS FOR GIOVANNI DEVELOPMENT – TRACT NO. 9971 WITH
GIOVANNI DEVELOPMENT COMPANY, LLC. AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT PENDING REVIEW AND APPROVAL
BY THE CITY ATTORNEY

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

WHEREAS, the reasons supporting the approval of the Improvement Agreement entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled “Approve Amended Cash Deposit Guaranteeing Improvements for Giovanni Development - Tract No. 9971” submitted for City Council consideration at its meeting of May 3, 2017, submitted to the City Council by the City Manager (the “Staff Report”), the contents of which Staff Report are incorporated herein by this reference; and

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

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

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

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

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

- a. That the Amended Cash Deposit Agreement Guaranteeing Improvements substantially in the form attached hereto as Exhibit A and incorporated herein by this reference (the “Agreement”) is hereby approved.

- b. That the City Manager is hereby delegated authority to and is authorized and directed to execute the Agreement, pending review and approval by the City Attorney substantially in the form attached hereto as Exhibit A.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 3rd day of May 2017 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

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

DATE: _____

Steve Tate, Mayor

∞ **CERTIFICATION** ∞

I, **Irma Torrez, City Clerk of the City of Morgan Hill, California**, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, adopted by the City Council at the meeting held on May 3, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

EXHIBIT A

EXHIBIT "D"

AMENDED CASH DEPOSIT AGREEMENT GUARANTEEING IMPROVEMENTS

GIOVANNI DEVELOPMENT COMPANY, LLC GIOVANNI DEVELOPMENT – TRACT NO. 9971

THIS AGREEMENT is made this ____ day of _____, 2017, by the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and **GIOVANNI DEVELOPMENT COMPANY, LLC**, Limited Liability Company ("SUBDIVIDER").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Sections 17.32.180 and 17.32.190 of the City of Morgan Hill's Municipal Code.
2. CITY has entered into a Subdivision Improvement Agreement, with SUBDIVIDER pertaining to the development on **Tract No. 9971** and commonly known as **GIOVANNI DEVELOPMENT – TRACT NO. 9971**, and the Subdivision Improvement Agreement shall be referenced for further particulars of the subdivision. This Cash Deposit Agreement "Agreement" is intended to fulfill the requirements for Performance/Labor & Material Bonds as set forth in the Subdivision Improvement Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Deposit.** That SUBDIVIDER has deposited the cash sum (cash, certified check, or cashier's check) of **five hundred eighty five thousand seven hundred eight Dollars (\$585,708)** in lawful money of the United States of America herein called "Deposit Sum", with the CITY, which funds shall be used for installing and guaranteeing the public improvements required by the Subdivision Improvement Agreement between the CITY and SUBDIVIDER. The Subdivision Improvement Agreement is attached hereto and incorporated herein as Exhibit "A", and SUBDIVIDER certifies and warrants that they have reviewed the Subdivision Improvement Agreement and agree to be bound by relevant provisions of such Agreement.
2. **Additional Deposits.** In the event the Deposit Sum is insufficient to complete and/or repair the public improvements, SUBDIVIDER will deposit with the CITY such additional sum in lawful money of the United States of America as an additional deposit in such amount that will be required to complete the public improvements; said additional deposit to be subject to the terms of this Agreement.

3. **Disbursement.** The parties agree that CITY shall disburse, via two party checks, to the SUBDIVIDER, the contractor or the subcontractor in order to pay contractors, subcontractors, laborers and material suppliers performing work pursuant to the Subdivision Improvement Agreement, upon certification by the City Engineer of Morgan Hill that sufficient work has been completed to justify the progress payment request of Subdivider. It is further agreed that CITY will not disburse aggregated payments in excess of **two hundred forty one thousand one hundred seventy four dollars (\$241,174)** or until the CITY has accepted the subdivision improvements in their entirety. Upon both CITY acceptance of the subdivision improvements and SUBDIVIDER submittal of Warranty Bond, the CITY can disburse up to **five hundred eighty five thousand seven hundred eight Dollars (\$585,708)** in the aggregate of the funds. One (1) year after CITY acceptance of the subdivision improvements, upon written approval of CITY Engineer, remaining funds can be disbursed by CITY.
4. **City Substitution for SUBDIVIDER.** In the event SUBDIVIDER fails to properly perform under the Subdivision Improvement Agreement, and CITY exercises its right to perform the contract itself or to subcontract work to a third party pursuant to the Subdivision Improvement Agreement, then SUBDIVIDER agrees that all funds then remaining shall remain deposited with the CITY for disbursement to parties actually performing the work.
5. **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.
6. **Independent Contractor.** It is agreed to that SUBDIVIDER and SUBDIVIDER'S contractors, subcontractors, agents, or employees shall act and be independent contractors and not agents or employees of CITY.
7. **Subdivision Agreement.** This Agreement shall include the Subdivision Agreement which is incorporated herein. In the event of any inconsistency between the terms of the Subdivision Agreement and this Agreement, the Subdivision Agreement shall govern.
8. **Indemnity.** All indemnity provisions of the Subdivision Improvement Agreement shall apply with full force to this Agreement. CITY shall not be liable to SUBDIVIDER, SUBDIVIDER'S contractors, subcontractors, agents, or employees for any payment under this agreement; liability for full repayment under the Subdivision Improvement Agreement shall be the sole responsibility of SUBDIVIDER.
9. **Limitations Upon Subcontracting and Assignment.** Neither this Agreement nor any portion shall be assigned by SUBDIVIDER without prior written consent of CITY.

10. **Authority to Execute.** The persons executing this Agreement on behalf of entities represent and warrant that they are 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.

11. **Modification.** This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by subsequent mutual written agreement executed by CITY and SUBDIVIDER.

12. **California Law.** 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.

13. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by both parties, and no rule of construction or interpretation shall apply against any particular Party bases on a contention that the Agreement was drafted by one of 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.

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

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

[TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS: (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; **AND** (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.]

Attest

CITY OF MORGAN HILL

By: _____
Michelle Wilson, Deputy City Clerk
Date: _____

By: _____
Steve Rymer, City Manager
Date: _____

APPROVED AS TO FORM

"SUBDIVIDER"

By: _____
Renee Gurza, City Attorney
Date: _____

By: _____
Title: _____
Date: _____

"SUBDIVIDER"

By: _____
Title: _____
Date: _____

RECORDING REQUESTED BY
WHEN RECORDED RETURN TO

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

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

DOCUMENT: 23199728



Pages: 28

Fees 5.00
Taxes
Copies
AMT PAID 5.00

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
City

RDE # 007
1/19/2016
2:48 PM

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

SUBDIVISION IMPROVEMENTS AGREEMENT

GIOVANNI DEVELOPMENT LLC

168-04-08-04

GIOVANNI DEVELOPMENT – TRACT NO.9971

This Subdivision Improvements Agreement ("Agreement") between the City of Morgan Hill, a municipal corporation ("City"), and **GIOVANNI DEVELOPMENT COMPANY, LLC**, a Limited Liability Company ("Subdivider"), is entered into this 12 day of October, 2015. City and Subdivider hereby acknowledge the following:

1. Subdivider has filed a Tentative Subdivision Map and supporting documents for **Tract No. 9971**, the subdivision known as **Giovanni Development** ("Map").
2. City desires, as part of the conditions of approval ("Conditions") of the Final Tract Map or Parcel Map ("Final Map"), that certain improvements be installed by Subdivider ("Improvements") as shown on the City Engineer approved and signed Subdivision Improvement Plans entitled "**Improvement Plans for Giovanni Development, Tract No. 9971**" ("Plans").
3. Subdivider has been unable to complete, prior to filing of the Final Map, all of the improvements required by City to the satisfaction of the City Engineer.
4. Subdivider is required by the terms of the Morgan Hill Municipal Code ("Municipal Code"), to improve all streets, highways, or public areas which are part of the development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer and to post certain securities to secure the completion of the Improvements.
5. To assure City that Subdivider will construct, install and complete all Improvements required for the Subdivision, the parties have entered into this Agreement.

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

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

Section 1. Incorporation by Reference

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

Section 2. Construction of Improvements

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

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

(c) Survey Monumentation:

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

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

Section 3. Modification of Plans

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

Section 4. Security

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

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

Improvements and the City Engineer's Estimated Costs of Improvements as of April 2015 are attached hereto as Exhibit "A".

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

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

(c) Subdivider shall, upon acceptance of the Improvements by the City Council of the City, furnish a surety bond in an amount equal to fifty percent (50%) of the estimated construction cost of the Improvements (as listed in Section 4(a) above) to secure the guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor performed, or defective materials furnished by the Subdivider.

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

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

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

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

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

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

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

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

(h) In lieu of providing the Performance Bond and the Labor and Material Bond required under subsection 4(a) and 4(b) hereinabove, Subdivider may provide City, at City's sole option, with a cash deposit in an amount required pursuant to Morgan Hill Municipal Code section 17.32.190.B which cash deposit obligation of Subdivider shall be made, memorialized and agreed to by Subdivider through execution of a Cash Deposit Agreement Guaranteeing Improvements in substantially the form attached hereto as Exhibit "D".

Section 5. Inspections

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

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

Section 6. Timing of Performance

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

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

Section 7. Work Performance and Warranty

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

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

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

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

(e) Subdivider warrants that: (1) it has investigated the work to be performed under this agreement, (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should Subdivider discover any conditions materially differing from those inherent in the Improvements or work or as represented by the City, it shall immediately inform City and shall not proceed, except at Subdivider's risk, until written instructions are received from City.

(f) Subdivider guarantees and warrants the work required by this Agreement and agrees to remedy any defects in the Improvements or work arising from faulty or defective materials or construction occurring within twelve (12) months after its acceptance. Following notice, Subdivider shall, without delay or cost to City, repair, replace, or construct any defective or unsatisfactory portion of the Improvements. City may, at its sole option, perform the repair or replacement itself if Subdivider or its surety has failed to commence repair within twenty (20) days after City has mailed written notice to Subdivider. In such event, Subdivider or its surety agrees to pay the cost of repair and replacement to the City, plus fifteen percent; and the City may recover such costs as a lien against the Subdivision. City may proceed immediately to make repairs should an emergency arises.

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

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

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

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

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

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

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

Section 9. Indemnity

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

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

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

It is expressly understood and agreed that this Subsection (a) will survive termination of this Agreement.

Section 10. Insurance

No later than ten days following issuance of the notice of award, Subdivider is required to procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of Subdivider and its Subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by the City. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or "umbrella" policies, provided each such policy complies with the requirements set forth herein. If Subdivider fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement, City may, at its sole discretion, purchase such coverage at Subdivider's expense and deduct the cost from payments due to Subdivider, or terminate the Agreement for default. Subdivider further understands that the City reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to Subdivider, at any time as deemed necessary to protect the interests of the City.

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

(1) Commercial General Liability Insurance ("CGL"): Subdivider shall maintain CGL and shall include coverage for liability arising from Subdivider's or its Subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars (\$5,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least five million dollars (\$5,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to Subdivider under Subdivider's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

b. CGL policy must include contractor's protected coverage, blanket contractual, and completed operations.

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

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

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

Subdivider under Subdivider's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(b) Required Endorsements. Subdivider shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

(1) ALL Policies:

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

(2) General Liability:

- a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds;
- b. "Primary and Non-Contributing" - Insurance shall be primary non-contributing;
- c. "Separation of Insureds" - The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

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

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

(e) Certificates. Subdivider shall furnish City with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. No policy subject to the Subdivider's agreement with the City shall be reduced, canceled, allowed to expire, or materially changed except after thirty (30) days' notice by the insurer to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management

17575 Peak Avenue
Morgan Hill, CA 95037

Section 11. Permits and Requisite Fees

(a) Subdivider shall pay all current fee obligations in the total amount of **\$378,011** due under City Resolution No. 6326, as amended, in accordance with the Department of Public Work fee schedule, as follows:

(1) **\$211,973** payable at the time of recording of the Final Map, and

(2) **\$166,038** payable on a pro-rata basis for each individual lot in the Subdivision prior to final inspection of each and every residence.

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

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

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

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

Section 12. On-Site Supervision

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

Section 13. Waiver

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

Section 14. Notices. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

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liable to City for any excess cost or damages incurred by City thereby. In such event, City, without liability for so doing, may take possession of and utilize to complete the Improvements such materials, appliances, and other property belonging to Subdivider as may be on the work site(s) and necessary therefore.

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

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

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

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

Section 18. Successors in Interest

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

Section 19. Effective Date

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

Section 20. Amendment of Agreement

This Agreement may only be amended by mutual consent of the original parties or their successors in interest, provided that any such amendment is executed in writing by the parties to be bound thereby. Copies of any such amendments shall be sent to surety(ies).

Section 21. Execution

By signing this Agreement, the person signing states that he or she is authorized to enter into contracts on behalf of Subdivider. The undersigned, on behalf of Subdivider, binds Subdivider, its partners,

successors, executors, administrators, and assigns with respect to the terms and conditions of this Agreement.

Section 22. Non-Liability of Officials and Employees of the City.

No official or employee of City shall be personally liable for any default or liability under this Agreement.

Section 23. Law to Govern: Venue

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

Section 24. Limitations Upon Subcontracting and Assignment.

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

Section 25. Miscellaneous

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

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

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

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

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

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

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

[TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS: (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; **AND** (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.]

CITY OF MORGAN HILL

"Subdivider"

GIOVANNI DEVELOPMENT COMPANY, LLC

By:


 Steve Rymer, City Manager

Date:


 12/17/15

By:


 Print Name: Daniel Glushko
 Manager

Date:

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

By:

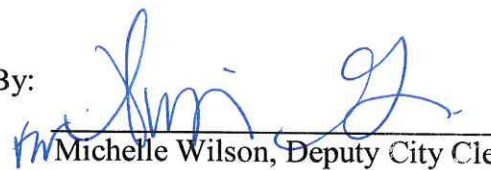
Print Name:

Date:

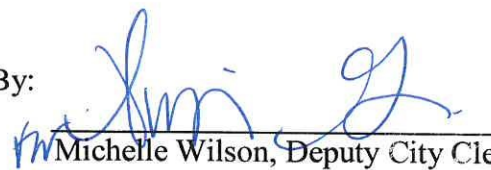
 (If a Corporation must be) Secretary,
 Assistant Secretary, Chief Financial Officer
 or Assistant Treasurer

ATTEST:

By:


 Michelle Wilson, Deputy City Clerk

Date:


 12/18/15

APPROVED AS TO FORM:

By:


 Renee Glushko, City Attorney
 Gary Baum Interim

Date:


 12/15/15

Council Approval: 11/18/15

ACKNOWLEDGMENT

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

State of California

County of Santa Clara

On 10/12/2015 before me, Lucinda Reineccius, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Lucinda Reineccius (Seal)



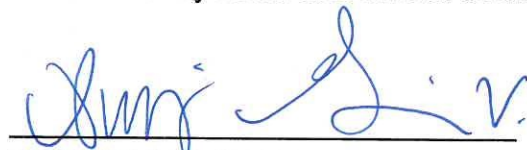
A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara

On December 17, 2015, before me, Angelica Garcia Vargas, a Notary Public in and for said County and State, personally appeared Steve Rymer, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

EXHIBIT "A"
IMPROVEMENTS AND
ESTIMATED COSTS OF IMPROVEMENTS
AS OF APRIL 2015

Item Description	Qty	Unit	Unit Price	Total
Schedule I - Streets and Earthwork				
1 Clearing and grubbing of construction site. (excludes any orchard tree removal)	1	LS	\$ 5,000.00	\$ 5,000.00
2 1' Sawcut	233	LF	\$ 1.50	\$ 349.50
3 Existing sewer lateral removal	1	LS	\$ 1,000.00	\$ 1,000.00
4 Import of materials for grading	3,264	CY	\$ 10.00	\$ 32,640.00
5 Lot grading	6	EA	\$ 1,400.00	\$ 8,400.00
6 RW grading	14,950	SF	\$ 0.70	\$ 10,465.00
7 Onsite street pavement 4" AC on 12" CL II AB	8,871	SF	\$ 5.50	\$ 48,790.50
8 Del Monte Avenue pavement 4.5" AC on 14" CL II AB	1,650	SF	\$ 6.00	\$ 9,900.00
9 City std. sidewalk on agg base (inc. handicap ramps & 6" CL B concrete dvy aprons)	3,253	SF	\$ 6.00	\$ 19,518.00
10 City std. curb & gutter on agg. base	609	LF	\$ 25.00	\$ 15,225.00
11 Electroliers incl. conduit & pullboxes	2	EA	\$ 2,700.00	\$ 5,400.00
12 Pressure treated douglas fir bulkhead retaining wall (max 36" high)	329	LF	\$ 58.00	\$ 19,082.00
13 Concrete block wall	133	LF	\$ 100.00	\$ 13,300.00
14 City std. monument	3	EA	\$ 325.00	\$ 975.00
15 Stop sign & street sign post & legend	1	EA	\$ 1,000.00	\$ 1,000.00
16 Erosion control	1	LS	\$ 5,000.00	\$ 5,000.00
			Total Sch I	\$ 196,045.00
Schedule II - Water				
1 City std. fire hydrant assembly w/ companion valve	1	EA	\$ 4,000.00	\$ 4,000.00
2 1" single copper city std. water services	6	EA	\$ 2,200.00	\$ 13,200.00
3 1 1/2" single city std. water landscape service w/ reduced pressure backflow preventor	1	EA	\$ 3,500.00	\$ 3,500.00
4 Raise or lower gate valves at finish grade and install cover & install (2)GV's on ex. If not installed	1	LS	\$ 1,500.00	\$ 1,500.00
			Total Sch II	\$ 22,200.00
Schedule III - Sanitary Sewer				
1 8" PVC (C 900) w/ concrete cap	206	LF	\$ 55.00	\$ 11,330.00
2 City std. Manholes	2	EA	\$ 3,500.00	\$ 7,000.00
3 4" PVC (SDR-26) sewer laterals	6	EA	\$ 1,500.00	\$ 9,000.00
4 Raise or Lower SSMH to finish grade	1	EA	\$ 500.00	\$ 500.00
			Total Sch III	\$ 27,830.00
Schedule IV - Storm Drainage				
1 18" RCP	146	LF	\$ 62.00	\$ 9,052.00
2 15" RCP	71	LF	\$ 58.00	\$ 4,118.00
3 12" PVC	247	LF	\$ 35.00	\$ 8,645.00
4 6" PVC	151	LF	\$ 24.00	\$ 3,624.00
5 City std. "SD-5" curb inlets	3	EA	\$ 3,000.00	\$ 9,000.00
6 City std. storm manholes	3	EA	\$ 3,500.00	\$ 10,500.00
7 1' x 1' DI	11	EA	\$ 1,200.00	\$ 13,200.00
8 2' x 2' DI/ junction boxes	5	EA	\$ 1,800.00	\$ 9,000.00
			Total Sch IV	\$ 67,139.00
10% CONTINGENTY				\$31,321
TOTAL				\$344,534

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

Bond No.: _____

Premium: _____

Whereas, The City Council of the City of Morgan Hill, State of California, and _____ (hereinafter designated as "principal") have entered into a Subdivision Improvement Agreement:

GIOVANNI DEVELOPMENT COMPANY, LLC
GIOVANNI DEVELOPMENT – TRACT NO. 9971

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2015, and identified as project **GIOVANNI DEVELOPMENT**, is hereby referred to and made a part hereof; and

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

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the City of Morgan Hill hereinafter called ("City"), in the penal sum of **three hundred forty four thousand five hundred thirty four dollars (\$344,534)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The Surety's office is located at _____,

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

License No.: _____

Address: _____

Telephone No.: _____

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

Name of non-resident agent: _____

Non-resident agent's office address: _____

Telephone No.: _____

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

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

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

Executed this _____ day of _____, 20____.

Principal

Principal

By:

Surety

By:

Attorney-in Fact

By:

California Resident Agent

By:

Non-resident Agent - Attorney-in-Fact

APPROVED AS TO BONDING COMPANY:

Karl Bjarke, Public Works Director

Date:

APPROVED AS TO FORM:

By:

Renee Gurza, City Attorney

Date:

(Acknowledgment on following page.)

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

Bond No.:

Premium: _____

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

GIOVANNI DEVELOPMENT COMPANY, LLC
GIOVANNI DEVELOPMENT – TRACT NO. 9971

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 2015, and identified as project **GIOVANNI DEVELOPMENT**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto the City of Morgan Hill and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code in the sum of **three hundred forty four thousand five hundred thirty four dollars (\$344,534)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Morgan Hill in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

The Surety's office is located at _____,

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

License No.:

Address: _____

Telephone No.: _____

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

Name of non-resident agent: _____,

Non-resident agent's office address: _____

Telephone No.: _____

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

Executed this _____ day of _____ 20____.

Principal

Principal

By:

Surety

By:

Attorney-in Fact

By:

California Resident Agent

By:

Non-resident Agent - Attorney-in-Fact

APPROVED AS TO BONDING COMPANY:

Karl Bjarke, Public Works Director

Date:

APPROVED AS TO FORM:

By:

Renee Gurza, City Attorney

Date:

(Acknowledgment on following page.)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Scott Creer, Deputy Director of Engineering
APPROVED BY: City Manager

AWARD CONTRACT FOR THE MONTEREY ROAD PRESERVATION PROJECT

RECOMMENDATION(S)

Adopt resolution to:

1. Amend the Fiscal Year 2016-17 budget and appropriate an additional \$899,526 from the Street CIP Fund (308) for the Monterey Road Preservation Project (CIP Project No. 519Z15);
2. Approve project plans and specifications;
3. Award a contract to Granite Construction Company for the Monterey Road Preservation Project in the amount of \$2,465,933;
4. Authorize expenditure of construction contingency funds not to exceed \$246,593; and
5. Authorize the City Manager to execute and administer the construction contract with Granite Construction Company.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The Monterey Road Preservation Project involves the resurfacing of Monterey Road from East Dunne Avenue to East Middle Avenue. The scope of work will include full depth asphalt concrete repair, crack sealing, 2-inch asphalt concrete overlay and restriping of the roadway. The restriping work will include minor enhancements to the existing bicycle facilities within the project boundaries. The City is receiving \$1,379,000 in grant funding from One Bay Area Grants (OBAG).

The bid opening was held on April 20, 2017 and the bids received are listed below. The lowest bidder has years of experience doing this type of work and has performed similar work in the City during the last 4 years. Staff recommends award of the contract to Granite Construction Company. The project is scheduled to begin in June 2017 and be completed by August 2017. Granite Construction Company's bid was less than 1% higher than the engineer's estimate of \$2,442,084.

Granite Construction Company	\$2,465,933
O'Grady Paving, Inc. Inc.	\$2,689,551
Granite Rock Company	\$2,756,079

COMMUNITY ENGAGEMENT: Inform

Affected businesses and/or property owners will be notified of work in their area.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On September 25, 2013, the City Council adopted a Resolution of Local Support for MTC Discretionary Funding Programs. On June 15, 2016, the City Council approved the FY 2016-17 through 2021-22 Capital Improvement Program.

FISCAL AND RESOURCE IMPACT:

The total authorization for the construction of this project is \$2,712,526 which includes a 10% contingency of \$246,593. The Pavement Rehabilitation Program project is in the approved FY 2016-2017 Capital Improvement Program budget under CIP Project #519000 (subproject #519Z15) with a total budgeted amount of \$1,995,000 from the Street CIP Fund (308). Of this amount, \$1,873,000 is budgeted for the construction account. The project cost will exceed budget due to the increased scope from the accelerated roadway deterioration because of the recent heavy rainfall and the increase in the cost of materials. To award the contract and provide \$60,000 in funding for inspection services, staff recommends amending the CIP budget to appropriate an additional \$899,526 (\$2,712,526 for contract, \$60,000 for inspection, and less budget of \$1,873,000). See attached budget score card).

The City is receiving \$1,379,000 in grant funding from One Bay Area Grants (OBAG). The grant is paid on a reimbursement basis, in which the work is completed first, then a reimbursement request is submitted to the granting agency, and in approximately 60-90 days a reimbursement check is received.

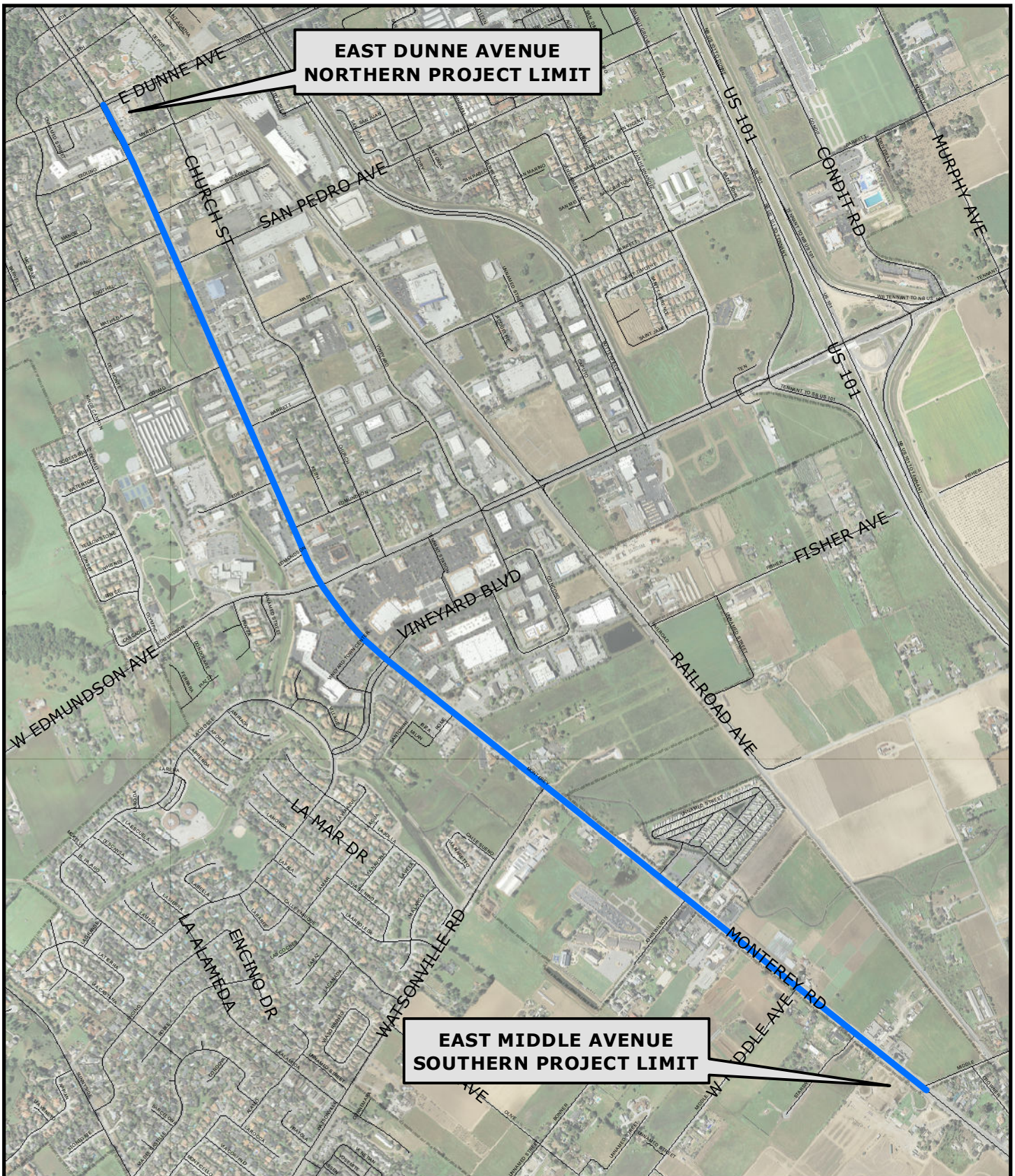
CEQA (California Environmental Quality Act):

Categorical Exemption

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

LINKS/ATTACHMENTS:

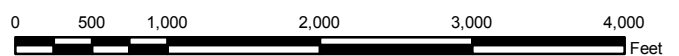
1. Monterey Road Preservation Location Map
2. Project Plans (see weblink)
3. Project Specifications (see weblink)
4. Resolution for Award of Monterey Road Preservation Project
5. Project Budget Score Card



CITY OF MORGAN HILL

**Department of Public Works
Engineering and Utilities Division**

SITE PLAN MONTEREY ROAD PRESERVATION PROJECT



G:\R-14\Proj\GIS\John\Scott_MontereyRdPrsrtvtnProj.mxd



RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING CERTAIN PLANS AND SPECIFICATIONS, AWARDING A CONTRACT TO GRANITE CONSTRUCTION COMPANY FOR THE MONTEREY ROAD PRESERVATION PROJECT IN THE AMOUNT OF \$2,465,933, AUTHORIZING EXPENDITURE OF CONSTRUCTION CONTINGENCY FUNDS NOT TO EXCEED \$246,593, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND ADMINISTER THAT CERTAIN CONSTRUCTION AGREEMENT WITH GRANITE CONSTRUCTION COMPANY, AND APPROVING AMENDMENTS TO THE CITY'S FISCAL YEAR 2016-2017 BUDGET BY APPROPRIATING AN ADDITIONAL \$899,526 FROM THE STREET CIP FUND (FUND 308).

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

WHEREAS, those certain plans and specifications for the Monterey Road Preservation Project (the "Project") were prepared for the City of Morgan Hill (the "Plans and Specifications"); and

WHEREAS, pursuant to all applicable laws of the State of California, the Project was advertised for bids, and on April 20, 2017 City staff publicly opened said bids; and

WHEREAS, three (3) bid proposals were received for the Project ranging in price from \$2,465,933 to \$2,756,079; and

WHEREAS, City staff reviewed all bid proposals submitted for responsiveness; and

WHEREAS, City staff determined that Granite Construction Company submitted the lowest cost bid and is the lowest responsive and responsible bidder; and

WHEREAS, no valid bid protest was filed with the City in connection with the bid proposals opening for this Project; and

WHEREAS, further reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "AWARD OF CONTRACT FOR THE MONTEREY ROAD PRESERVATION PROJECT" submitted for City Council consideration at its meeting of May 3, 2017, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the activities allowed under this Resolution are exempt under the provisions of the California Environmental Quality Act of 1970, together with guidelines promulgated thereunder, and more specifically pursuant to Section 15301 of the CEQA Guidelines setting forth a categorical exemption for maintenance of existing facilities; and

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

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

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

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

Section 2. Plans and Specifications. The City Council does hereby approve the Plans and Specifications.

Section 3. Approval and Authorization. The City Council does further find, resolve, order and/or direct as follows, based upon the entirety of the record and proceedings before it:

- a. That the Project is categorically exempt from CEQA in accordance with the CEQA Guidelines section described in this Resolution; and
- b. That the bid proposal of \$2,465,933 received from Granite Construction Company is the lowest, responsive bid, that any irregularities in such bid are hereby waived in accordance with applicable law, and that the contract for the Project is hereby awarded to Granite Construction Company, and
- c. That the City's previously adopted Fiscal Year 2016-2017 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- d. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2016-2017 Budget of the City.

- e. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution; and

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a Regular Meeting held on the 3rd day of May 2017 by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

ATTEST:

STEVE TATE, Mayor

IRMA TORREZ, City Clerk

⌘ CERTIFICATION ⌘

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. XXXX, adopted by the City Council at the meeting held on May 3, 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

AGENDA BUDGET SCORECARD**FISCAL YEAR 2016-17****ADJUSTMENT #**

077

FUND:**DEPARTMENT:****OBJECT:**

308	Street CIP	
8050	Street CIP	
86360	CONSTRUCTION	519Z15

AGENDA DATE:

05/03/17

AGENDA ITEM TITLE:

Award Contract for Monterey Road Preservation Project (519z15)

	07/01/16 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	APPROPRI- ATIONS	06/30/17 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	955,386	2,731,146	2,710,690	975,842
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION	-	-	899,526	(899,526)
RESULT OF RECOMMENDED ACTION	<u>955,386</u>	<u>2,731,146</u>	<u>3,610,216</u>	<u>76,316</u>

Attachment: Project Budget Score Card (1156 : Award Contract for the Monterey Road Preservation Project)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: David Gittleson, Associate Engineer
APPROVED BY: City Manager

AWARD BOYS RANCH WELL #2A AND JACKSON WELL #3 PROJECT

RECOMMENDATION(S)

1. Approve Boys Ranch Well #2 and Jackson Well #3 Project plans and specifications;
2. Award a contract to Conco-West, Inc. for the Boys Ranch Well #2 and Jackson Well #3 Project in the amount of \$1,281,230;
3. Authorize expenditure of construction contingency funds not to exceed \$128,123; and
4. Authorize the City Manager to execute and administer the construction contract with Conco-West, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The Adopted Fiscal Year 2016-17 Capital Improvement Program includes the rehabilitation of the Boys Ranch Well #2 and the Jackson Well #3. Both wells have experienced significant losses in production over the past few years and therefore have been identified for replacement by the utilities team. Due to the lack of production, both wells have thus been shut down and will remain inoperable until this project is complete.

A design contract was awarded to Luhdorff and Scalmanini on October 15, 2014 for the new Boys Ranch Well #2, and on May 6, 2015, the contract was amended to include the design for the Jackson Well #3. A well drilling project was put out to bid and awarded to Maggiora Bros. Drilling on April 15, 2015 to drill two replacement wells (Boys Ranch and Jackson) and two new wells (Main and Walnut Grove). The well drilling project was completed and accepted by City Council. The subject of this report is to award a contract to connect the newly drilled replacement wells (Boys Ranch and Jackson) to the City's water distribution system and to abandon old wells at those two sites.

The scope of work includes mobilization, well equipment removal, new well pumps, connection piping and valves, electrical connections, paving, fencing, well disinfection and testing, and all appurtenances to bring the two replacement wells online. The scope also includes the destruction of three old wells; one each for the two replacement wells and an additional old well no longer in use at the Boys Ranch site that needs to be

properly abandoned. The plans and specifications are available for review on the City's web page under the Government tab and Community Projects site found here: <http://www.morgan-hill.ca.gov/1436/Project-Plans-and-Specifications>

The bid opening was held on April 20, 2017 and the bids received are listed below.

Conco-West, Inc.	\$1,281,230
Eaton Pumps	\$1,533,607
Northern Underground Construction	\$1,811,898

The low bidder, Conco-West, Inc. is an experienced contractor and has many years of experience doing this type of work. Staff recommends award of the contract to Conco-West Inc. for \$1,281,230, consistent with the engineer's estimate of \$1.3 million. The CIP includes budgeted funds of \$580,000 for this project, which is significantly less than the recommended project cost due to the increase in the complexity and scope of the project as determined after the completion of the project design. This includes the cost to abandon the wells. The project is scheduled to begin construction in late May 2017 and be completed by December 2017.

COMMUNITY ENGAGEMENT: Inform

Staff met with the Jackson Oaks and Holiday Lake Estates neighborhood residents in August 2015 to inform them of the multiple water improvement projects, including these well projects. A follow up meeting occurred in March 2016 to update residents on the status of the projects. The Boys Ranch Well #2 site is at a remote location with the closest residence at more than 600 feet away. The Jackson Well #2 site is close to residences and will require special notification by the contractor prior to construction activities. Staff will also send out information weekly through Nextdoor and provide updates on the City's website.

ALTERNATIVE ACTIONS:

The award of this contract will facilitate the operational status of these two wells as identified in the approved Capital Improvement Program. No alternative actions are presented at this time.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- On October 15, 2014, City Council awarded a design services agreement with Luhdorff and Scalmanini for \$94,700 to design the Boys Ranch #2 Water Well.
- On April 15, 2015, City Council awarded a construction contract to Maggiora Bros. Drilling for \$1,607,570 to drill four new municipal water wells, Main Avenue well, Boys Ranch #2 Well, Jackson Well, and Walnut Grove Well.
- On May 6, 2015, City Council awarded a first amendment to Luhdorff and Scalmanini for \$131,300 to design the Jackson Well pump station.
- On December 7, 2016, City Council accepted the Drilling of Four Water Wells Project for \$1,598,487.

FISCAL AND RESOURCE IMPACT:

If approved, the total authorization for this project would be \$1,409,353, which includes

a 10% contingency of \$128,123. The FY 2016-17 CIP No. 608000 for Rehabilitate Water Wells appropriated a total of \$580,000 in Water Operations CIP funds (653) for this project. Thus, there is a shortfall of \$829,353 to fund the construction of this project. Staff recommends utilizing Water Operations CIP funds (653) approved for the CIP Project No.602000, New Water Reservoirs, to fund the shortfall.

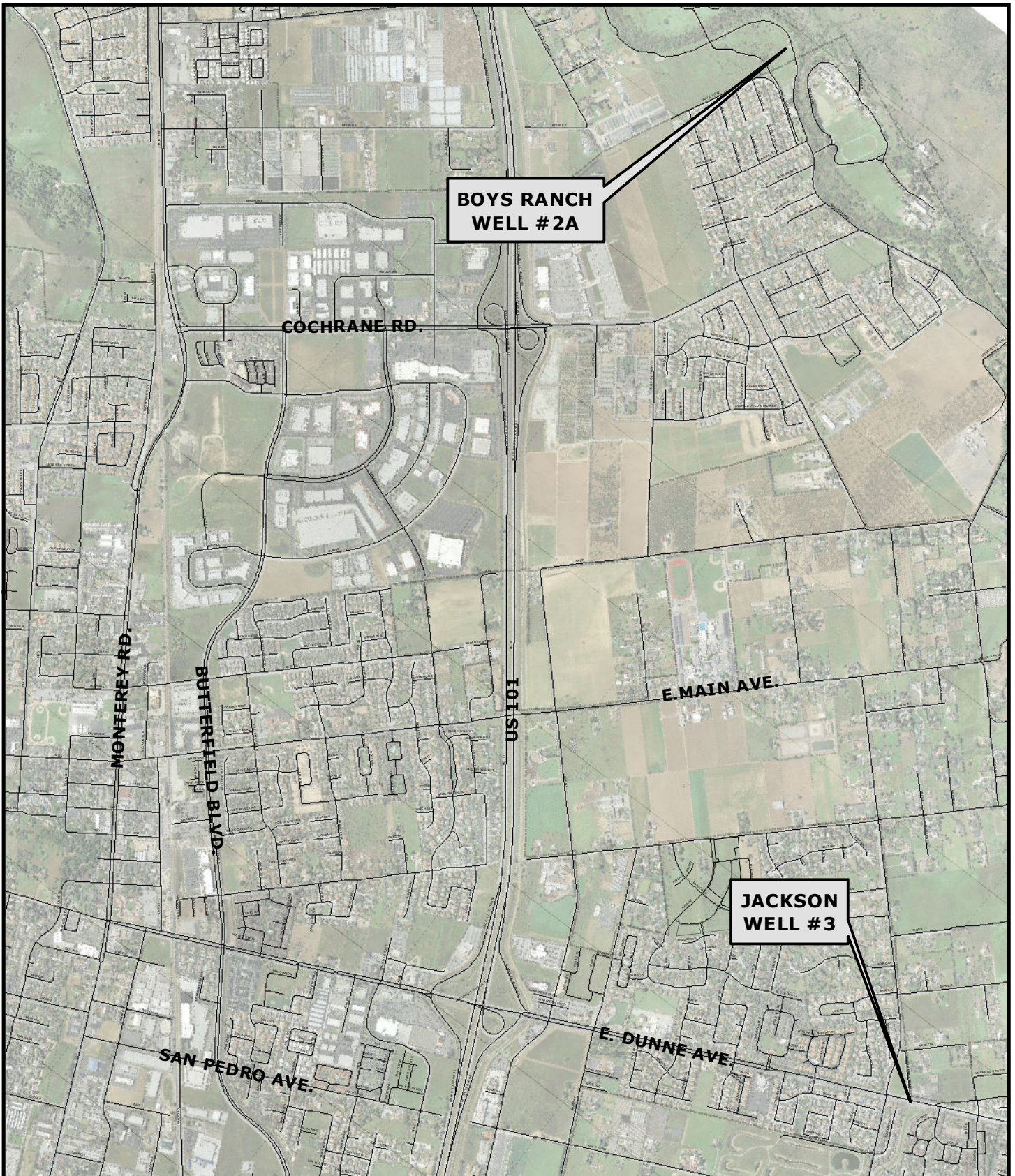
The East Dunne Reservoir project is in the approved CIP under Project No. 602000. The total funding set aside for Project No. 602000 for FY 2016/17 is \$2,720,000. Staff has determined that this amount is insufficient to complete the East Dunne Reservoir project and is recommending deferring that project. The East Dunne Reservoir project is now estimated to cost more than budgeted due to the increase in construction costs and project scope. Staff will return to the City Council after completion of the Water and Sewer Master Plans with a recommendation for funding and completing the East Dunne Reservoir project.

CEQA (California Environmental Quality Act):
Categorical Exemption

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

LINKS/ATTACHMENTS:

1. Project Location Map
2. Plans and Specifications (see weblink)



Attachment: Project Location Map (1149 : Award Water Wells Project)



CITY OF MORGAN HILL
Engineering Division
Public Works Department

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**AWARD
 BOYS RANCH WELL
 AND JACKSON WELL PROJECT**

0 800 1,600 3,200 4,800 6,400
 Feet





CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Jeff Rosenberger, Information Services Manager
APPROVED BY: City Manager

APPROVAL OF MICROSOFT ENTERPRISE AGREEMENT

RECOMMENDATION(S)

1. Approve the purchase of Microsoft Office 365 Government Enterprise 3, Exchange Plan 2 and Software Assurance and Device Client Access Licenses from Insight Public Sector, Inc. for a not-to-exceed amount of \$75,000; and
2. Authorize the City Manager to execute a Microsoft Enterprise Agreement for the licensing of City of Morgan Hill Microsoft products and services, pending review and approval by the City Attorney.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

To provide support for unlimited mailbox sizes, access anywhere to all emails, and for centralized electronic discovery and retention, the City started its move to Microsoft's cloud based services. The City has moved to user-based licensing using Microsoft's Office 365 Government Suite. By approving this Microsoft Enterprise Agreement (Agreement), we would consolidate all our Microsoft services under one contract and leverage cost savings associated with utilizing the State purchasing contract.

Current Office 365 and Exchange licenses require annual renewal and the current license period ends on May 31, 2017. After review of available licensing options and providers, staff recommends entering into an Enterprise License Agreement with Microsoft for the purchase and support of Microsoft software and services.

After polling other local municipalities who had recently completed this same process, pricing and vendor selection was acquired using Cooperative Purchasing (Section 3.04.180 of the Morgan Hill Municipal Code). This leverages prices and vendors qualified for resale of the California State Microsoft contract otherwise known as "The Riverside Contract." After evaluating six vendors authorized to service the State of California purchasing contract, we have selected Insight Public Sector, Inc. for providing the best pricing and service delivery timeline. See Attachment for evaluation results. Insight Public Sector, Inc. is familiar with the licensing process and will work with us on meeting our timeline through the firm's experience with Microsoft, State contract administration, and working with many other local agencies.

COMMUNITY ENGAGEMENT: Not Applicable

This report serves to inform the community of the recommended action of approving a Microsoft Enterprise Agreement.

ALTERNATIVE ACTIONS:

Should the Council decide to not approve the agreement with Insight Public Sector, Inc., the existing Office 365 and Exchange licenses would be renewed under our existing licensing agreement. Licensing for the Windows Operating System support would be purchased under the current Microsoft agreement.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

No prior City Council actions on this item.

FISCAL AND RESOURCE IMPACT:

The recommended Agreement with a not-to-exceed amount of \$75,000 is more than the \$46,000 budgeted in FY 2016-17, as it includes licenses for additional users and the licensing of the Office 365 earlier than scheduled. Sufficient budget is available in the Information Systems Fund (Fund 730) in FY 2016-17 with savings from other projects.

The administration of the Agreement is included in the workplan for the Information Services Team.

LINKS/ATTACHMENTS:

1. MS Enterprise Bid Results

Attachment 1

Microsoft Enterprise Agreement License Costs

Vendor	Agreement No.	Quote	MS O365 E3 310	Exchange Plan 2 30	Windows E3 SA 250	O365 Core CAL Bridge 310	Total Number
Insight Public Sector, Inc.	SCA-16-70-0008B	RIVCO-20800-008-12/19	\$ 182.36	\$ 63.58	\$ 44.65	\$ 16.14	\$ 74,604.90
PCMG	SCA-16-70-0002S	SCA Pricelist	\$ 184.80	\$ 64.56	\$ 52.65	\$ 17.16	\$ 77,706.90
SoftwareOne, Inc.	SCA-16-70-0169R	SCA Pricelist	\$ 186.72	\$ 65.40	\$ 53.17	\$ 17.40	\$ 78,531.70
SHI International Corp.	SCA-16-70-0003Q	13289102	\$ 198.87	\$ 69.59	\$ 56.64	\$ -	\$ 77,897.40
CDW Government LLC	SCA-17-70-0025H	HVVM845	\$ 203.44	\$ 81.38	\$ 159.04	\$ -	\$ 105,267.80
Disqualified - Does not offer Windows E3 Software Assurance by Device:							
Crayon Software Experts, LLC	SCA-17-70-0204A	SCA Pricelist	\$ 183.00	\$ 64.08		\$ 17.04	



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Nick Calubaquib, Recreation Manager
APPROVED BY: City Manager

ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

RECOMMENDATION(S)

Accept the Annual Report on Centennial Recreation Center Membership.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture

REPORT NARRATIVE:

Centennial Recreation Center Operations

On May 3, 2006, the City Council approved an agreement with the YMCA of Santa Clara Valley to cooperatively operate the City's new Centennial Recreation Center (CRC). The CRC was built to promote multi-generational interaction and advance the physical well-being of our community.

As partners, the City and YMCA provide high quality health and fitness, youth, teen, family, and senior programs for Morgan Hill residents and the surrounding community to enjoy. The 54,000-square foot facility includes a community center, which houses the Senior Center and Teen Center, and a recreation center, which serves as a membership-based health and wellness facility. This report focuses on the latter. The partnership agreement between the City and YMCA requires that an annual report be presented to the City Council, which is also a key purpose of this report.

The CRC offers a wide variety of fitness and recreational options for the whole family. The CRC offers several membership types for individuals and families. Membership includes:

- Unlimited access to the Fitness Center
- 100+ weekly group exercise classes for the entire family
- Free personalized wellness coaching sessions
- Drop-in sports in the gymnasium, including basketball, volleyball, badminton, and pickleball

- Lap swim, aqua fitness classes, and recreational swim at both the CRC and Aquatics Center
- Free access to summer recreational swim at the Aquatics Center
- Kids' Club while at the CRC
- Free access for children (through age 21)
- Member pricing on swim lessons and specialty classes
- Easy access to the Teen Center, Senior Center, Skate/BMX Park, Dog Park, Tennis Courts, softball fields, and Community Park
- Access to all YMCAs in northern California
- Access to some YMCA facilities around the country while traveling

The CRC currently serves over 4,850 membership units comprising of over 15,300 individual members. Of these members, 80% are Morgan Hill residents and 53% are under the age of 24. An average of 800 individuals visit the CRC each day.

Member Satisfaction

As part of the City's Partnership Agreement with the YMCA of Silicon Valley, the CRC participates in the YMCA's annual SEER Analytics Member Satisfaction Study. The purpose of the study is to retain and recruit new members by assessing member satisfaction and identifying areas for improvement. The results of the SEER study provide information for the City and YMCA to make well-informed, member-focused decisions about future service delivery.

The results of the 2017 survey revealed that the CRC is ranked the highest in Overall Satisfaction among all 10 facility-based branches in the YMCA of Silicon Valley Association. This ranking demonstrates that the unique characteristics of the Partnership continue to be successful and that the CRC team is working as one, high performing team. The survey also revealed significant (a change of four or more percentage points) positive increases in the top response scores across many factors this year, including Overall Cleanliness, Value for the Money, Member Feel Welcome, and that the CRC has a Real Positive Impact on both individuals and the Community. The CRC Team's continued focus on maintaining a state of the art facility and equipment and delivering high levels of intentional member engagement may be attributed to these increases.

Results from the multiple-choice questions of the SEER study are attached to this report. Selected findings for the positive rating categories in each area (e.g. Excellent/Good, Strongly Agree/Agree, Very Loyal/Loyal) include:

<i>Area</i>	<i>2017</i>	<i>2016</i>
<i>Overall Satisfaction</i>	96%	94%
<i>Member Loyalty</i>	94%	94%
<i>Recommend CRC to Friends</i>	70%	65%

The continued success of the CRC hinges on understanding how service can be improved and then striving to enhance operations. The SEER study also provides an opportunity for respondents to provide "free form recommendations" to improve the facility. The most frequent enhancement recommendations include the need for

additional space for classes, a larger fitness center, and additional parking. The CRC continues to support a large number of facility members. The CRC Team has made adjustments over the years to schedules and expanded programming at the Aquatics Center and Community and Cultural Center to lessen the impact of the restraints of time and space, however, there continues to be a need for additional space to accommodate member demand. Staff is working to address these recommendations long term through the Recreation Center Impact Fee and the Capital Improvement Program (CIP). A facility expansion is planned for Fiscal Year 2018-19.

Financial Performance

CRC Membership generates the largest percentage of revenue for Recreation and Community Services. This market driven revenue source is dependent on attracting and retaining members and daily customers.

Prior to opening the CRC, a market study was performed to assist in better understanding the expected results. The study's objectives were to identify key service areas that should be provided to meet the needs and desires of the community; the community's willingness to pay; and to identify other issues that may positively or negatively impact CRC membership levels. At the conclusion of the study, it was communicated that the partnership should expect to sell approximately 2,250 membership units at the approved membership rates. CRC membership has increased year over year every single year since opening and the CRC currently has over 4,850 membership units and just over 15,300 members.

Membership grew significantly each year since the facility was opened through FY 2012-13. The growth rate began to plateau in FY 2013-14 as the facility reached its load limit and an unprecedented community penetration rate (percentage of the population that is members – currently 25%) stabilized. The continued focus for FY 2016-17 and 2017-18 is on retaining the existing customer base through member engagement initiatives, while promoting services to realize new customer growth and providing well maintained facilities and equipment.

A key element of the partnership agreement is the fact that both the City and YMCA agreed to share in the financial risk/reward. Since FY 2006-07, the two organizations have collaboratively developed the partnership portion of the CRC's operating budget. It is expected that the membership revenues will greatly support the recovery of a significant portion of both YMCA and City expenses for personnel, utilities, supplies, and maintenance responsibilities.

At the conclusion of each fiscal year, the partnership budget is reconciled. In the event that the partnership's net revenue is greater than budgeted, the City receives 60 percent of the difference and the YMCA receives 40 percent. Conversely, if the partnership budget does not meet its net revenue budget, then the City is responsible for 60 percent and the YMCA is responsible for 40 percent. For each fiscal year, the partnership's actual net revenue has been greater than budgeted.

The City and YMCA continue to promote the scholarship program for CRC membership and recreation programs, providing over \$157,000 annually to individuals and families, with the YMCA providing an additional \$37,000 for non-residents.

Staff continues to seek out ways to improve organizational effectiveness by enhancing the partnership model.

COMMUNITY ENGAGEMENT: Consult

The SEER survey is emailed annually to the primary member for each CRC membership account. This year 4,064 surveys were emailed. During the months of February and March 2017, 626 were completed, equating to a 15% response rate. The CRC also receives and responds to close to 1,000 customer comment cards per year. CRC Teammates also continually receive and report feedback directly received from members.

ALTERNATIVE ACTIONS:

This report is not recommending any formal Council action. The Council could direct staff to provide additional detail on specific areas of this report.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has accepted reports on CRC Membership.

- August 11, 2011
- June 19, 2013
- June 4, 2014
- May 20, 2015
- May 4, 2016

FISCAL AND RESOURCE IMPACT:

Expenses and revenue associated with the operation of the CRC are included in the City's operating budget.

CEQA (California Environmental Quality Act):

Not a Project

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

LINKS/ATTACHMENTS:

1. Centennial Recreation Center Member Experience Survey
2. Survey Responses

Attachment 2: Centennial Recreation Center Member Experience Survey

Please completely fill-in circle. Note: check marks, "X"s, or circles not completely blackened, WILL NOT be counted.

1.	Overall, how would you rate the CRC?	☐ Excellent	☐ Good	☐ Fair	☐ Poor	1	
	If you could change anything about your CRC, what would it be? Please list the change you would make.						
2.						2	
3.	How would you rate the CRC on each of the following?	Excellent	Good	Fair	Poor	Not Applicable or Don't Know	
	Efficiency of front desk procedures	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	3
	Staff can answer questions	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	4
	Staff friendliness	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	5
	Staff competence	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	6
	Enough staff to help you	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	7
	Staff know your name	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	8
	Staff take the initiative to talk to members	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	9
	Staff are good listeners	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	10
	Staff check on your progress & discuss it with you	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	11
	Overall cleanliness of facility	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	12
	Security and safety of facility	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	13
	The building is attractive	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	14
	Maintenance of equipment	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	15
	Has enough equipment	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	16
	Convenience of class/program schedules	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	17
	Value for the money	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	18
	Quality of classes/programs	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	19
	You feel welcome at the CRC	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	20
	Communications from the CRC keep me well informed	☐ 1	☐ 2	☐ 3	☐ 4	☐ 5	21
4.	As far as you know:						
	The CRC provides financial assistance for members who cannot afford to pay	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			22
	The CRC is a community leader in promoting healthy habits	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			23
	The CRC builds strong relationships with its members	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			24
5.	As a member have you ...						
	Met socially with other CRC members outside of the CRC	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			25
	Developed friendships with CRC members	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			26
	Participated in a CRC event	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			27
6.	Personally...						
	I try to make every day healthy choices and live well, but I struggle to do so	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			28
	I believe in exercising regularly, but I have difficulty doing so on my own	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			29
	Participation in formal or informal CRC groups helps me improve my well-being	☐ 1 Yes	☐ 2 No	☐ 3 Don't Know			30
7.	Compared to other organizations in your community or companies you deal with, please rate your loyalty to the CRC.						31
	☐ 1 Very loyal ☐ 2 Somewhat loyal ☐ 3 Not very loyal ☐ 4 Not loyal at all						
8.	All things considered, do you think you will belong to the CRC a year from now?						32
	☐ 1 Definitely will ☐ 2 Probably will ☐ 3 Might or might not ☐ 4 Probably not ☐ 5 Definitely not						
9.	Community Impact: To what extent do you believe the CRC is making a real positive impact in your neighborhood and community?						33
	☐ 10 ☐ 9 ☐ 8 ☐ 7 ☐ 6 ☐ 5 ☐ 4 ☐ 3 ☐ 2 ☐ 1 ☐ 0						
	Definitely is making a real positive impact					Definitely does not	
9a	If you answered 9 or 10 to Q8, please explain why you believe the CRC is making a real positive impact in your community:						34
9b	If you answered 0-6 to Q8, please explain why you are less than sure the CRC is making a real positive impact in your community:						35

10. **Personal Impact: To what extent do you believe being a member of the CRC is making a real positive impact in your life?**

10○ 9○ 8○ 7○ 6○ 5○ 4○ 3○ 2○ 1○ 0○
Definitely is making a real positive impact Definitely does not

10a If you answered 9 or 10 to Q9, please explain why you believe the CRC is making a real positive impact in your life:

37

10b If you answered 0-6 to Q9, please explain why you are less than sure the CRC is making a real positive impact in your life:

38

11. **When you come to the CRC, do you mainly engage in group activities or in individual exercise activities?**

1○ Primarily group activities 2○ Primarily individual exercise 3○ About half group/half individual exercise

39

12. **How much has this CRC helped you meet your health and well-being goals?**

1○ Very much 2○ Somewhat 3○ Not very much 4○ Not at all

40

13. **In the past 12 months have you: (indicate all that apply)**

1○ Volunteered at the CRC 2○ Made a charitable, financial contribution to the CRC
3○ Volunteered at other organizations 4○ Made financial contributions to other organizations

41

14. **If asked, how likely would you be to volunteer at this CRC?**

1○ Definitely would 2○ Probably would 3○ Might or might not 4○ Probably not 5○ Definitely not

42

15. **If asked, how likely would you be to give a contribution to this CRC?**

1○ Definitely would 2○ Probably would 3○ Might or might not 4○ Probably not 5○ Definitely not

43

16. **If asked, would you recommend the CRC to your friends?**

10○ 9○ 8○ 7○ 6○ 5○ 4○ 3○ 2○ 1○ 0○
Definitely would Definitely would not

44

17. **How strongly do you agree with each of the following**

Strongly agree **Somewhat agree** **Somewhat disagree** **Strongly disagree**

The CRC is an important community resource for nurturing the potential of every child

1○ 2○ 3○ 4○

45

The CRC is an important resource for improving the health and well-being of the community

1○ 2○ 3○ 4○

46

The CRC provides people an opportunity to give back and support their neighbors

1○ 2○ 3○ 4○

47

The CRC helps strengthen the community

1○ 2○ 3○ 4○

48

The CRC gives me the opportunity to be a positive role model

1○ 2○ 3○ 4○

49

The CRC fosters positive character development

1○ 2○ 3○ 4○

50

I feel a sense of belonging at the CRC

1○ 2○ 3○ 4○

51

18. **Since joining the CRC:**

I have become more physically active

1○ 2○ 3○ 4○

52

I eat healthier

1○ 2○ 3○ 4○

53

I have developed new supportive relationships

1○ 2○ 3○ 4○

54

I have gained new knowledge, skills and abilities

1○ 2○ 3○ 4○

55

I have met different types of people

1○ 2○ 3○ 4○

56

I feel more connected to my community

1○ 2○ 3○ 4○

57

I have found opportunities to help others

1○ 2○ 3○ 4○

58

I have a more positive outlook

1○ 2○ 3○ 4○

59

I have become more self-disciplined

1○ 2○ 3○ 4○

60

I am more hopeful

1○ 2○ 3○ 4○

61

I feel better

1○ 2○ 3○ 4○

62

I have become more diligent

1○ 2○ 3○ 4○

63

19. **What do you like most about your CRC? Please list your comment below.**

64

20. **Please check your membership type (one only):** 1○ Family w/kids 2○ More than one adult 3○ Single adult 4○ Senior

65

21. Please indicate your age:

66

- ☐ Less than 25
☐ 25 - 34
☐ 35 - 44
☐ 45 - 54
☐ 55 - 64
☐ 65+

22. Are you:

67

- ☐ Male
☐ Female

23. How long have you been a member or participant of this CRC?

68

- ☐ Less than 1 year
☐ 1 year
☐ 2 years
☐ 6-10 years
☐ 3-5 years
☐ Longer than 10 years

24. On the average, about how frequently do you come to the CRC?

69

- ☐ 6-7 times a week ☐ 4-5 times a week ☐ 2-3 times a week ☐ Once a week
☐ 2-3 times a month ☐ Once a month ☐ Less than once a month

25. What time of day do you most frequently visit the CRC? (Please fill-in one circle only)

70

- ☐ Early morning ☐ Mid-morning ☐ Lunch
☐ Mid-day ☐ Evening

Thank you for your cooperation and participation in our study.
Please return this questionnaire in the enclosed, postage paid envelope to:

© 2013
SeerAnalytics, LLC
Tampa, FL 33602

YE-1

ATTACHMENT 1

Centennial	
Member Experience - All Responses	
Survey Date	Feb-17
Total Surveys Sent	4064
Total Surveys Received	626
Total Response Rate	15%

Category	Question	Response	Top Box 2017	National	Change from 2016
Operations : 61					
Facility : 64					
	Overall cleanliness	Excellent	46%	42%	4%
		Good	41%	42%	-3%
		Fair	11%	13%	0%
		Poor	2%	3%	0%
	Safety & security	Excellent	53%	47%	6%
		Good	39%	42%	-4%
		Fair	8%	9%	0%
		Poor	1%	2%	0%
	The building is attractive	Excellent	57%	44%	1%
		Good	36%	39%	-1%
		Fair	6%	14%	0%
		Poor	0%	3%	0%

Maintenance of equipment	Excellent	46%	38%	8%
	Good	42%	45%	-6%
	Fair	11%	14%	-1%
	Poor	1%	3%	-1%

Has enough equipment	Excellent	33%	37%	5%
	Good	41%	43%	-1%
	Fair	20%	16%	-2%
	Poor	6%	5%	-2%

Overall Satisfaction	Excellent	56%	50%	4%
	Good	40%	44%	-2%
	Fair	4%	5%	-1%
	Poor	0%	1%	-1%

Value : 54

Enough staff to help you	Excellent	58%	54%	6%
	Good	34%	37%	-8%
	Fair	7%	7%	1%
	Poor	1%	2%	0%

Convenience of schedule	Excellent	28%	29%	2%
	Good	41%	44%	-2%
	Fair	25%	22%	2%
	Poor	6%	6%	-2%

Value for the money	Excellent	42%	42%	7%
	Good	35%	38%	-6%
	Fair	18%	17%	1%
	Poor	4%	4%	-2%

Quality of classes/programs	Excellent	45%	44%	3%
	Good	41%	44%	-2%
	Fair	13%	10%	0%
	Poor	1%	2%	-1%

The YMCA offers a variety of fun family activities that allows us to spend time together	Strongly Agree	34%	35%	-1%
	Somewhat Agree	55%	52%	1%
	Somewhat Disagree	10%	11%	0%
	Strongly Disagree	1%	2%	-1%

Net Promoter Score	Net Promoter Score	61%	57%	7%
	NPS Promoters	70%	66%	5%
	NPS Passives	21%	24%	-2%
	NPS Detractors	9%	10%	-2%

Service : 64

Efficiency of front desk procedures	Excellent	57%	59%	3%
	Good	37%	35%	-3%
	Fair	4%	5%	-2%
	Poor	1%	1%	0%

Staff can answer questions	Excellent	53%	51%	4%
	Good	37%	40%	-6%
	Fair	9%	7%	2%
	Poor	0%	1%	-1%

Staff friendliness	Excellent	71%	68%	4%
	Good	24%	27%	-4%
	Fair	4%	5%	-1%
	Poor	0%	1%	-1%

Staff competence	Excellent	57%	55%	3%
	Good	37%	38%	-2%
	Fair	5%	6%	-1%
	Poor	1%	1%	0%

Communications from my Y keep me well informed	Excellent	55%	47%	7%
	Good	33%	38%	-4%
	Fair	10%	11%	-3%
	Poor	2%	3%	-1%

Engagement : 55

Staff Engagement : 67

Know your name	Excellent	33%	30%	4%
	Good	27%	30%	-3%
	Fair	25%	24%	0%
	Poor	15%	16%	-1%

Staff take the initiative to talk to members	Excellent	37%	37%	1%
	Good	35%	36%	-1%
	Fair	20%	20%	-1%
	Poor	7%	7%	0%

Staff are good listeners	Excellent	46%	43%	2%
	Good	38%	40%	-2%
	Fair	13%	13%	0%
	Poor	3%	3%	-1%

Staff checks progress	Excellent	34%	27%	6%
	Good	29%	30%	-2%
	Fair	21%	25%	-4%
	Poor	16%	18%	0%

Feel welcome	Excellent	63%	58%	5%
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Good	30%	33%	-4%
Fair	6%	7%	0%
Poor	1%	1%	-1%

Member Engagement : 42

Met socially with other YMCA members outside of the Y	Yes	36%	37%	-4%
	No	61%	62%	4%
	Don't Know	3%	2%	0%

Engage in group activities	Engage in group activities	50%	48%	0%
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Participated in a YMCA event	Yes	34%	38%	0%
	No	62%	60%	0%
	Don't Know	4%	2%	0%

Met different types of people	Strongly Agree	36%	39%	2%
	Somewhat Agree	40%	41%	-4%
	Somewhat Disagree	19%	16%	1%
	Strongly Disagree	5%	4%	0%

The Y builds strong relationships with its members	Yes	63%	66%	4%
	No	6%	8%	-2%
	Don't Know	30%	24%	-2%

Impact : 46

Achievement & Health : 51

Gained new knowledge, skills and abilities	Strongly Agree	32%	32%	0%
	Somewhat Agree	43%	43%	1%
	Somewhat Disagree	20%	20%	-1%
	Strongly Disagree	4%	5%	-1%

More physically active	Strongly Agree	47%	48%	2%
	Somewhat Agree	43%	42%	0%
	Somewhat Disagree	8%	8%	-2%
	Strongly Disagree	2%	2%	0%

Eat healthier	Strongly Agree	31%	29%	1%
	Somewhat Agree	50%	52%	0%
	Somewhat Disagree	16%	16%	0%
	Strongly Disagree	3%	3%	0%

I feel better	Strongly Agree	47%	46%	2%
	Somewhat Agree	43%	44%	-2%

Somewhat Disagree	8%	7%	0%
Strongly Disagree	2%	2%	0%

Meet fitness goals	Very much	44%	46%	2%
	Somewhat	47%	46%	-2%
	Not very much	7%	6%	0%
	Not at all	2%	2%	-1%

Health Seekers Meeting Goals	Health Seekers Meeting Goals	32%	36%	4%
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Non-Health Seekers Meeting Goals	Non-Health Seekers Meeting Goals	53%	53%	2%
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Real Positive Impact Individual	RPI Individual Score	29%	27%	7%
	RPI Individual Promoters	49%	43%	6%
	RPI Individual Passives	32%	42%	-3%
	RPI Individual Detractors	20%	16%	-2%

Relationships and Belonging : 56

Developed friendships with Y members	Yes	51%	56%	-4%
	No	47%	43%	6%
	Don't Know	2%	2%	-1%

Sense of belonging	Strongly Agree	44%	43%	2%
	Somewhat Agree	42%	43%	1%
	Somewhat Disagree	12%	11%	-1%
	Strongly Disagree	3%	3%	-1%

Developed new, supportive relationships	Strongly Agree	24%	25%	-2%
	Somewhat Agree	39%	40%	2%
	Somewhat Disagree	30%	28%	1%
	Strongly Disagree	7%	7%	0%

More connected to community	Strongly Agree	33%	23%	5%
	Somewhat Agree	42%	45%	-3%
	Somewhat Disagree	20%	26%	-1%
	Strongly Disagree	5%	6%	0%

Participation in Groups improves my well-being	Yes	52%	54%	2%
	No	25%	26%	0%
	Don't Know	23%	20%	-2%

Loyalty	Very loyal	60%	58%	4%
	Somewhat loyal	34%	37%	-3%
	Not very loyal	5%	5%	0%
	Not loyal at all	1%	1%	0%

Intent to renew	Definitely will	54%	53%	3%
	Probably will	32%	33%	-2%
	Might or might not	10%	10%	1%
	Probably not	3%	3%	-1%
	Definitely not	1%	1%	0%

Character and Giving : 33

Donor other organizations	Donor other organizations	54%	53%	3%
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Volunteer other organizations	Volunteer other organizations	35%	41%	-2%
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Opportunity to be positive role model	Strongly Agree	37%	40%	-1%
	Somewhat Agree	46%	46%	3%
	Somewhat Disagree	15%	12%	-1%
	Strongly Disagree	2%	2%	-1%

I have a more positive outlook	Strongly Agree	30%	30%	-1%
	Somewhat Agree	49%	51%	2%
	Somewhat Disagree	18%	16%	0%
	Strongly Disagree	3%	4%	-1%

I have become more self-disciplined	Strongly Agree	27%	30%	-2%
	Somewhat Agree	51%	49%	3%
	Somewhat Disagree	19%	17%	1%
	Strongly Disagree	3%	4%	-2%

Opportunities to help others	Strongly Agree	16%	16%	1%
	Somewhat Agree	35%	39%	-1%
	Somewhat Disagree	40%	37%	0%
	Strongly Disagree	9%	8%	0%

Donor last 12 months	Donor last 12 months	11%	19%	-1%
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Volunteer last 12 months	Volunteered last 12 months	3%	6%	0%
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Likelihood to donate	Likelihood to donate	27%	30%	1%
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Likelihood to volunteer	Likelihood to volunteer	25%	29%	1%
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Community : 53

Strengthening Community : 68

The Y helps strengthen the community	Strongly Agree	58%	54%	8%
	Somewhat Agree	34%	38%	-5%

Somewhat Disagree	4%	4%	-1%
Strongly Disagree	1%	1%	1%

The Y is more than just a place	Strongly Agree	47%	46%	6%
	Somewhat Agree	37%	39%	-2%
	Somewhat Disagree	11%	9%	0%
	Strongly Disagree	2%	2%	-1%

Real Positive Impact Community	RPI Community Score	43%	23%	12%
	RPI Community Promoters	56%	39%	6%
	RPI Community Passives	31%	45%	-1%
	RPI Community Detractors	13%	16%	-5%

Youth Development : 31

The Y is a resource for nurturing the potential of children	Strongly Agree	50%	54%	5%
	Somewhat Agree	41%	40%	-2%
	Somewhat Disagree	4%	3%	-2%
	Strongly Disagree	1%	1%	0%

Fosters character development	Strongly Agree	41%	46%	3%
	Somewhat Agree	44%	44%	-1%

Somewhat Disagree	10%	6%	1%
Strongly Disagree	1%	1%	-1%

Healthy Living : 77

The Y is a community resource for improving health & well-being	Strongly Agree	70%	65%	6%
	Somewhat Agree	26%	31%	-4%
	Somewhat Disagree	1%	2%	-1%
	Strongly Disagree	0%	0%	0%

Leader in promoting healthy habits	Yes	75%	82%	2%
	No	2%	2%	0%
	Don't Know	22%	14%	-2%

Social Responsibility : 32

The Y provides people an opportunity to give back and support their neighbors	Strongly Agree	42%	46%	6%
	Somewhat Agree	41%	44%	-4%
	Somewhat Disagree	12%	6%	-1%
	Strongly Disagree	1%	1%	0%

Y provides financial assistance	Yes	34%	64%	3%
---------------------------------	-----	-----	-----	----

No	3%	2%	0%
Don't Know	63%	33%	-2%



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Anthony Eulo, Program Administrator
APPROVED BY: City Manager

SILICON VALLEY ENERGY WATCH GRANT FOR ENERGY CONTROL IMPROVEMENTS

RECOMMENDATION(S)

1. Accept \$90,000 grant from the City of San Jose for Silicon Valley Energy Watch funding and authorize the City Manager to execute a grant agreement subject to the review and approval of the City Attorney; and
2. Direct staff to include the grant revenue and expenditures in the Fiscal Year 2017-18 budget, including an additional appropriation of \$27,790 for City matching funds from the Building Maintenance Fund.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

Over the past several years, City staff has worked with two different energy efficiency companies in evaluating potential projects at City buildings. One of these companies, Carbon Lighthouse, completed a very successful energy-saving project at the Community and Cultural Center in 2015. This project used data gathering and modeling to compose a package of minor hardware improvements and energy system fine adjustments that is saving over 130,000 kilowatt hours of electricity annually at the facility. The second vendor, "I'm in Control," has proposed installing a virtual energy management system at the Police Department and Council Chamber that will enable the City to better control energy usage and costs at both facilities.

Staff recently successfully applied for a grant from Silicon Valley Energy Watch, which is administered by the City of San Jose, to support these activities. As described in the attached application, Energy Watch's funding will be used to both complete the projects and to inform local businesses and neighboring jurisdictions about the projects' results. With this outreach component, it is intended that the City's actions may have a much greater energy-conserving impact in the region.

Staff recommends that the Council approve the acceptance of this grant and to authorize the City Manager to execute the attached grant agreement.

COMMUNITY ENGAGEMENT: Consult, Involve, and Inform

In the first two phases of the project, the building's occupants will be consulted and involved with the design and placement of energy control features and improvements. The third phase of the project is dedicated to informing other building owners, local businesses, and neighboring jurisdictions about the results of the projects and their potential applicability to other buildings.

ALTERNATIVE ACTIONS:

The Council could choose to not approve the agreement and to not make the related energy improvements at City facilities.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council has a long history of supporting energy efficiency improvements at City buildings including a number of equipment retrofit projects. As stated above, the Council supported a similar previous project at the Community Center that was completed in 2015.

FISCAL AND RESOURCE IMPACT:

The total project costs are \$131,160. The Energy Watch grant will provide \$89,370 (up to \$90,000) in funding to support the planned activities. \$41,790 in City matching funds has been proposed which includes \$14,000 of in-kind City oversight labor plus \$27,790 in funds recommended for appropriation from the Building Maintenance budgets of the affected buildings. The respective operating departments (primarily general fund, water/wastewater, and community development funds) will have increased contributions to the Building Maintenance Fund in FY 2017-18. \$6,000 of the grant proceeds will be recorded in the general fund for workshops and sponsorship activities. The grant revenue and project costs, other than the \$6,000, will be recorded in the Building Maintenance Fund. If approved by the City Council, these amounts will be included in the amended Fiscal Year 2017-18 budget.

It is anticipated that the energy savings from these projects will offset the planned matching expenses within two years.

Supporting energy efficiency projects is an activity included in the work program of the Community Services Department.

CEQA (California Environmental Quality Act):

Categorical Exemption

All activities resulting from this grant will be minor alterations of existing facilities and are categorically exempt from CEQA per Section 15301 (Existing Facilities) of the CEQA Guidelines.

LINKS/ATTACHMENTS:

1. City of Morgan Hill Grant Application April 2017
2. Grant Agreement

Grant Narrative

Getting Energy Use Under Control

City of Morgan Hill

Problem Statement

The use of energy controls or building management systems is a well-recognized approach and best practice in controlling the energy consumption of a building. Unfortunately, many older large buildings were constructed without these systems and retrofitting a building with them can be a costly proposition that easily exceeds \$50,000. Due to their cost, many smaller and mid-sized buildings are constructed today without energy management systems.

The City of Morgan Hill currently has energy management systems built into its largest facilities. However, there are two mid-sized facilities, the City Council Chambers and Police Department Building, that lack energy management systems and have identified high levels of energy use and waste. City resources have not been identified to fund the installation of an energy management system at these facilities.

It's worth noting that the vast majority of small and mid-sized businesses do not currently occupy buildings with modern energy controls or energy management systems. Identifying a cost-effective energy management system for these types of facilities could go a long way toward reducing the consumption of both electricity and gas at these facilities.

A second problem proposed to be addressed by this project is the lack of building commissioning when a new building is constructed or significantly rehabilitated. The Morgan Hill City Hall specifically suffers from a lack of coordination between its heating and cooling systems. While this building does have an energy management system, the building itself was not commissioned prior to its current occupancy and the result is a poor performing building with high energy bills, uncomfortable employees, and many space heaters and fans that add to the building's plug load.

Proposed Project

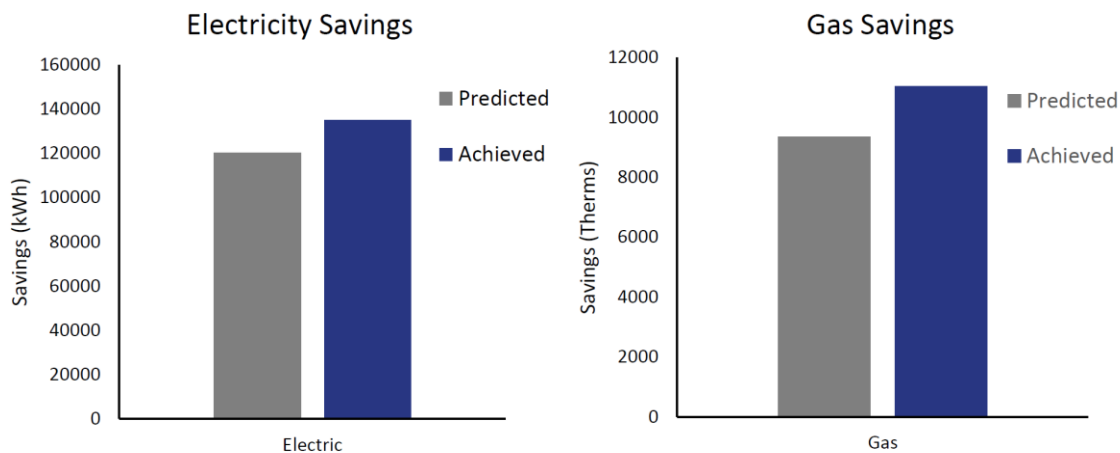
The City is proposing a three phase project to address this problem.

Phase 1: Virtual Controls

In the first phase, the two identified buildings that do not have energy management systems would receive a “virtual” building management system that relies on wireless controls and a software platform that is expected to optimize energy use without the installation of an expensive traditional energy management system. These two buildings would serve as the case study for the third phase of the project. Attachment A is a full description of the proposed technology.

Phase 2: Commissioning

In the second phase, the Morgan Hill City Hall would be commissioned using a three step approach that has proven to be successful in other facilities. In the first step, a vendor would install data sensors to collect information from mechanical rooms, common spaces, rooftops, building management systems, and facility personnel. In step two, the vendor would run simulations and models to quantify energy-saving opportunities throughout the building including heating and air conditioning system reprogramming, hardware improvements, lighting upgrades, and scheduling. These simulations would result in a list of potential projects to be considered for implementation. The third and final step is actually making and installing the selected improvements. The City has completed a similar project at the Morgan Hill Community and Cultural Center and found that the actual realized energy savings of 22% exceeded the savings projected by the vendor.



Attachment B is the follow-up measurement and verification report completed a year after the Community Center project was completed.

Phase 3: Outreach

In the third phase, the City would work with PG&E, vendors, and the local Chamber of Commerce to inform local businesses and commercial/industrial property owners about the opportunity to reduce their energy use significantly through the installation of a virtual control

system or the commissioning of their buildings. This outreach would include convening a local workshop specifically on this topic; conducting direct outreach via phone, e-mail, and personal visits; and leveraging other gatherings of local businesses that provide opportunities to share information about the project. These presentations would explicitly be “technology-agnostic” and would promote the general technology as opposed to a specific provider of the technology. In addition, City staff will share information about the projects (both the technology itself and the business outreach) with sustainability staff working for other jurisdictions in the SVEW area.

Specific Ways the Project Addresses “Grant Requirements”

- Energy Focus – the project is specifically designed to reduce energy consumption (both gas and electric) by strategically controlling the use of HVAC and Lighting.
- SVEW Service Area – the project is in the City of Morgan Hill exclusively.
- SVEW Customers – the project targets the energy use of the municipal government as a primary objective and local small and medium-sized businesses as a secondary objective.
- Clear Target Audience – since the City owns the buildings involved and is the grant applicant, the audience for the initial aspect of the project is secured. The City’s existing relationship with the business community will be leveraged to ensure that the outcomes are shared appropriately with local businesses during the second phase of the project.
- Innovative Approach – the use of the proposed technology is not common and is innovative at its core.
- Measurable – the baseline energy use of the three facilities is known and the actual use after the innovative technologies have been installed will be tracked in order to provide exact measurable results associated with the project. During the outreach phase of the project, measurable objectives, like the number of businesses and other communities contacted, will be employed.
- Scalable/Transferable – the technology should be broadly transferable to other municipal facilities that are similarly-sized.
- Relevant – the project is directly relevant to the following goal from the City’s Adopted Environmental Agenda: ***Municipal Government: Continue to improve the environmental performance of all City buildings, operations and procurements in order to lead by example on all of the goals listed in the City’s Environmental Agenda.*** In addition, the reduction in energy consumption associated with the project is wholly consistent with the State’s climate change goals to reduce greenhouse gases.

Project Eligibility

The *Getting Energy Use Under Control* project is an emerging technology for the City’s municipal facilities. It is the specific intent of this project to provide a local successful case study

for this emerging technology that will stimulate additional energy savings in additional municipal and community buildings.

Barriers, Opportunities, and Strategies to Overcome Barriers

With the assistance of Ecology Action consultants provided by Silicon Valley Energy Watch, the City has already gathered energy use data via data loggers and project staff have already evaluated the City facilities to determine the viability of the proposed solution for the two facilities involved in Phase 1. Given this, the City is not anticipating that there will be technological barriers to the project's implementation. Instead, the City believes that the two primary barriers to the project's success will focus on the human side of the project.

Barrier 1: Training Facility Staff in Operating the Virtual System

Given the fact that all three facilities do not have facility management staff located onsite, the project will rely on key building occupants to control the local system. This will require getting their full attention for a training session and ensuring that they remain engaged and active in the system. Two training sessions will be convened to overcome this barrier and project management staff will monitor ongoing project implementation to ensure that they remain engaged.

Barrier 2: Garnering the Interest and Attention of Local Businesses

Based on prior experiences, the City knows that getting the interest and attention of local business owners, property managers and building owners could be a challenge. To overcome this challenge, the City will be working closely with the Chamber of Commerce, City Economic Development Staff and local vendors in conducting outreach. In addition, the City's plans to engage the business community in several ways will assist in overcoming this barrier.

Project Metrics

The City plans to gather the following metrics to evaluate the project:

- energy consumption – the number of kWh and therms consumed in the buildings both before and after the installation of the technology will be chronicled. The evaluation period is timed to cover both the hot summer months and the cool winter months;
- project value (value of energy saved/cost of project);
- payback period – project costs will be compared with related cost savings to determine an expected payback period for the technology. This is a key statistic for many businesses that do not own their buildings and typically only invest in energy improvements with short payback periods;

- number of businesses engaged – the actual number of businesses reached during the City’s outreach efforts in phase three of the project will be reported;
- number of workshops/events attended – the number of in-person events will be reported.

Background

As a full service City, City staff successfully administer countless grants and projects annually. These include complex Community Development Block Grants from the County as well as grants that are simpler to administer like those from the Santa Clara Valley Water District. The activities of the City’s Finance Department are annually audited and the Department is recognized for their thoroughness and accuracy. The lead project staff member for this project, Anthony Eulo, has worked for the City for 21 years and has successfully managed many projects during this time. The most applicable projects include the retrocommissioning of the City’s Community Center, the retrofitting of the City’s streetlights to LED technology, and the construction and installation of nearly 1 megawatt of solar generation at other facilities.

Project Timeline including Major Tasks and Payment Amounts

Task	Timeline	Payment
Begin Project	5/1/17	\$0
Introduce Project to Staff at City Facilities Receiving Virtual Control Technology	5/1/17	\$0
Finalize Contract for Installation of Virtual Control Technology at Case Study Buildings	5/1/17 – 5/31/17	\$0
Installation Period for Virtual Control Project	6/1/17 – 8/31/17	\$0
Staff Training at Subject Facilities	9/1/17 – 9/30/17	\$26,370
Finalize Contract for Commissioning Project	5/1/17 – 5/31/17	\$0
Data Analysis Phase of Commissioning Project	6/1/17 – 9/30/17	\$7,500
Installation Period for Commissioning Project	10/1/17 – 11/30/17	\$0
Staff Training at City Hall Facility	12/1/17 – 12/15/17	\$49,500
Measurement and Development of Case Studies Documenting Energy Savings and Cost Reductions	9/1/17 – 4/30/18	\$0
Outreach to Local Businesses and Other Local Government Staff	3/1/18 – 6/30/18	\$0
Develop Final Report Documenting Technology Performance and the Results of Project Outreach to Local Businesses and Other Agencies	7/1/18 – 7/31/18	\$0
Payment 4 – Project Completion	7/31/18	\$6,000

Total Project Budget

Line Item	Total Project	SVEW Grant	City Match
Financial Administrative Labor	\$0	\$0	\$0
Implementation Oversight and Reporting Labor	\$14,000	\$0	\$14,000
Contract for Virtual Control Technology Installation	\$35,160	\$26,370	\$8,790
Analysis Initial Payment for Commissioning	\$10,000	\$7,500	\$2,500
Commissioning Implementation Cost Estimate*	\$66,000	\$49,500	\$16,500
Workshop/Outreach Supplies	\$4,000	\$4,000	\$0
Sponsorship Costs for Events	\$2,000	\$2,000	\$0
Total	\$131,160	\$89,370	\$41,790

* TBD based on results of data analysis

Project Key Deliverables

- Case study report documenting the results at the two City buildings with the virtual control system and the commissioning at City Hall
- Outreach materials
- Final report

Post Project Activities

As part of the City's efforts to reduce energy consumption throughout the community, the City anticipates continuing to share the results of the project with local businesses and schools after the project has been completed. In addition, there is one other building that the City owns that doesn't currently have an energy management system that may also benefit from the installation of a similar virtual control system. Other agencies in the County may also share this information with their local businesses or install similar technology in their own buildings after the project has been completed.

Attachment A **Description of Virtual Control Technology Project**

Attachment B **Project Results from Prior Commissioning Project**



Monitoring and Control for Energy Savings Morgan Hill

Preliminary Project Overview

www.imincontrol.com

Overview of this document

The purpose of this document is to describe the proposed project for an initial evaluation by Silicon Valley Energy Watch and PG&E. A formal submission will then be made for the Energy Innovation Grant.

Overview of the project

This project consists of two sites which exhibit very different usage patterns and savings opportunities. They were selected from a preliminary site visit to provide the greatest savings and return on investment for the city of Morgan Hill.

Morgan Hill and SVEW wish to use the results of this project to inspire local businesses to install similar energy-related equipment and upgrades. The City Council has expressed a desire both to reduce expenses and to improve the city's sustainability position. Management of the facilities department wishes to reduce cost, reduce reliance on expensive contractors, and have remote access and control of the buildings.

NOTE: This project for the City is more comprehensive than that which local businesses will install.

- This project is designed to produce detailed information to measure and verify (M&V) savings as an example by the City.
- The system installed by local businesses will provide the same intelligent savings, but with an emphasis on quick installation and easy-to-use interfaces and automated learning.

Existing facilities, equipment and conditions

An I'm in Control project manager has gathered base data on HVAC, electrical panels, lighting and high-level operational concerns.

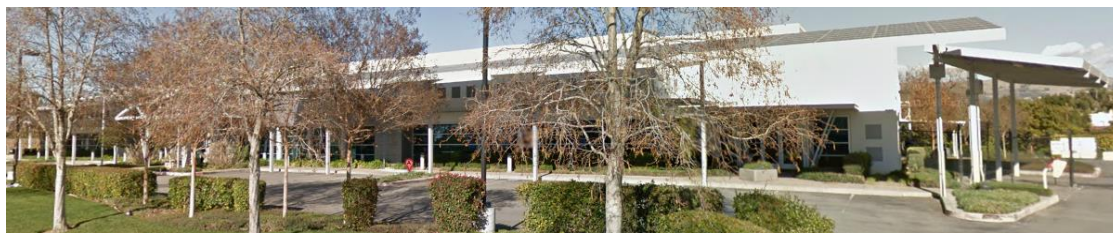
Council chambers and Villas



The larger permanent structure holds the auditorium where the city council meets along with meeting rooms and other spaces. The modular buildings (in the upper left corner of the photo) house offices and are called the Villas. They total 19,500 square feet. The 10 HVAC units include RTUs and typical modular BARD-type units.

The permanent building, with its irregular occupancy, exhibits significant excess consumption for both HVAC and lighting. I'm in Control's data on similar modulars to the Villas shows consistent and significant waste.

Police department



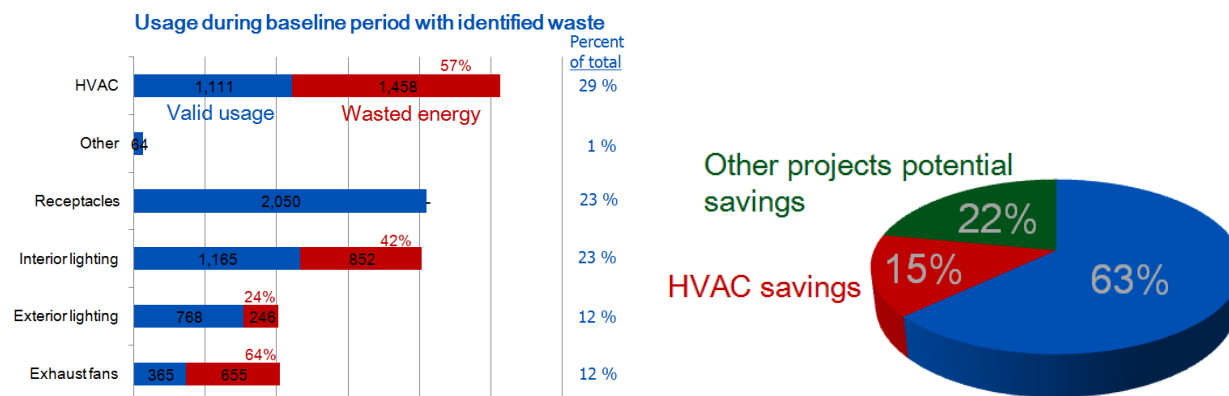
This single building houses the police department and related services. It is at 16200 Vineyard Blvd.

The public lobby and offices are open on a regular schedule, as are most aspects of internal services. Savings are expected to be consistent with commercial office space. Usage of internal areas by the 39 officers are irregular though with predictable peaks. See the discussion below for identifying savings in this case.

The building is 32,000 square feet with 14 RTUs. There is significant solar generation on site, some of which is visible in the photo.

Projected business case

A case study is attached as example of achieved savings. An applicable extract from it:



Note that additional savings are expected for the customer which do not apply to energy efficiency cost reductions, such as reduced truck rolls and equipment cost.

Another savings opportunity is the additional savings identified by the detailed electric monitoring after the system is installed. This is discussed in subsequent sections. There is no reliable projection possible before installation despite the fact that unexpected usage is always discovered. We find generally that those savings would be persistent.

System to install and measures to implement

The installed system is a low-cost BMS designed specifically for mid-sized buildings. The local controller does all active management of the building, short term data storage, and some user interaction. Additional processing is done in the cloud. The controller communicates wirelessly with all related devices in the building, which are non-proprietary and available on the open

market. There are three operational components: Electric monitoring to provide instantaneous and retrospective analysis; Automated and remote control with monitoring of HVAC; and Control and monitoring of selected lighting. A baseline period of several weeks is run initially to record and learn from current building operation .

HVAC functionality

Wireless thermostats replace current thermostats. Control supports optimizations such as dynamically calculated ramp-up, ramp-down, and pre-cooling. Control is resistant to tampering with the thermostats as installed and verifies correct operation every minute. Each HVAC zone supports unlimited schedule periods each day of the week and multi-day holiday periods, taking into account seasonality, weather, overlaps of schedules, and external triggers. Manual override and after-hours operation is allowed locally at the thermostat and via any standard browser with configurable limits, allowed time periods and authorizations for each zone.

The council chambers and villas utilize 10 HVAC zones including RTUs and typical modular BARD-type units. The police department has 14 RTUs.

This feature set enables aggressive scheduling for unoccupied periods, occasional “on” time during unoccupied periods, multi-stage ramp-up including OA fan-only periods and multiple occupied levels, and efficient conference room management. These capabilities are closely integrated with the detailed electric monitoring described below.

Electric monitoring functionality

The electric usage of monitored circuits is measured at intervals of thirty seconds or less. Data is stored permanently and is immediately available graphically and digitally for analysis and troubleshooting. Aggregates of circuits such as type of usage, location in the building, and equipment are similarly available. The installation includes individual monitoring of all service panel circuits fed directly from the main distribution panel for each building and will separately monitor each HVAC unit and individually each type of usage, major equipment and individual circuits which may contribute to energy reduction.

At the council chambers and villas, 260 circuits will be separately monitored. At the police department, 170 circuits will be monitored.

This data, along with HVAC zone data from the thermostats, comprises nearly one million data points a day. It is used for:

- Learning the response characteristics of each zone and regularly updating that knowledge
- Automated control including “just in time” up and down ramps
- Detecting operational anomalies in real time to trigger alerts to facilities personnel
- Extensive interactive graphs and drill-down for human-assisted identification of additional and building-specific “idiosyncratic” savings opportunities
- Long-term multi-year M&V including trend analysis
- Export of selected data subsets is available for external analysis in well-known analytic programs such as Excel and R.

Lighting control functionality

The installation includes central control for a few large lighting loads. Those controlled lighting zones will respond automatically and independently to appropriate occupancy and lack of occupancy. Local control will be enabled. Parameters for all centrally-controlled zones will be independently settable by area via a simple interface in the central system for such variables as the shut-off interval on vacancy and response to local/central overrides. Timed schedules and overrides are at least as flexible as those for HVAC. Dimmable switches will be used for lighting which is currently continuously dimmable. The system will control those areas which currently have alternate luminaires or bulbs wired to dual switches as two-step dimmable.

The installation includes central control for a few large lighting loads in the council chambers which were identified as likely to exhibit waste. No lighting control is currently targeted in the police department due to security issues.

Training

The annual subscription includes the following. Installation includes the first year's subscription.

- Training which is specific to facilities personnel and to site management personnel. Particular emphasis is provided on responding to alerts, understanding new excess usage, and the impact of configuration changes on energy savings.
- Remote access for all authorized personnel, with varied levels of control and status visibility enforced by role. This provides facilities personnel the ability to investigate alerts or occupant calls immediately and in detail.
- Unlimited phone and, when required, on-site support. Support is provided both for problem resolution and analysis of opportunities for additional savings.
- Quarterly meetings to review savings, status and required action. These meetings reinforce the customer's attention on the persistence of energy savings.

Persistence and reliability of savings

Persistence and even increased savings are ensured by:

- The central control of the entire building as a whole guarantees operation according to the configuration installed and approved by facilities management.
- Changes to settings by occupants are limited to those allowed by the central configuration. Examples are to allow +V1 and -V2 degrees change to heat setpoint, and +V3 and -V4 degrees change to cool setpoint, as well as out of hours and occupied conference room "on" periods. Those limited changes allow more aggressive scheduling to be defined and thus increased savings.
- Schedules can be defined relative to extensive parameters not available on programmable thermostats such as season, holiday, external triggers and events, and current status. They can overlap, override each other, and are unlimited in number.
- "Just in time" automated and calculated startup (morning or any point during the day) eliminates inconsistent savings across seasons and years.
- Continuous re-learning of each zone's operation under changing weather conditions maximizes the "just in time" startup efficiency.
- Alerts of anomalies are sent to facilities personnel immediately, usually before the occupants even realize something is wrong.

- Access to the system for all activities from viewing status and consumption to changing settings is protected by login which is defined by roles which have varied privileges.
- Regular reports and later dashboards with weather-corrected comparisons force visibility into unexpected degradation.



carbonlighthouse

better building, better planet, better bottom line



Morgan Hill Community Center

One Year Measurement and Verification Results

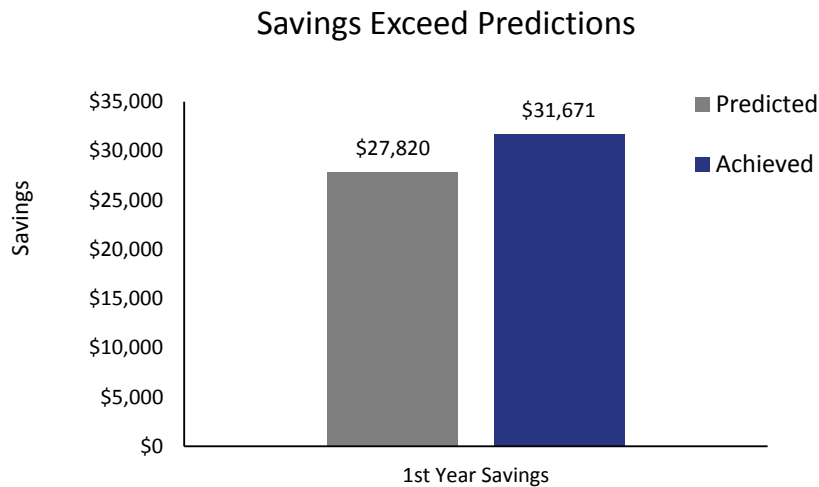
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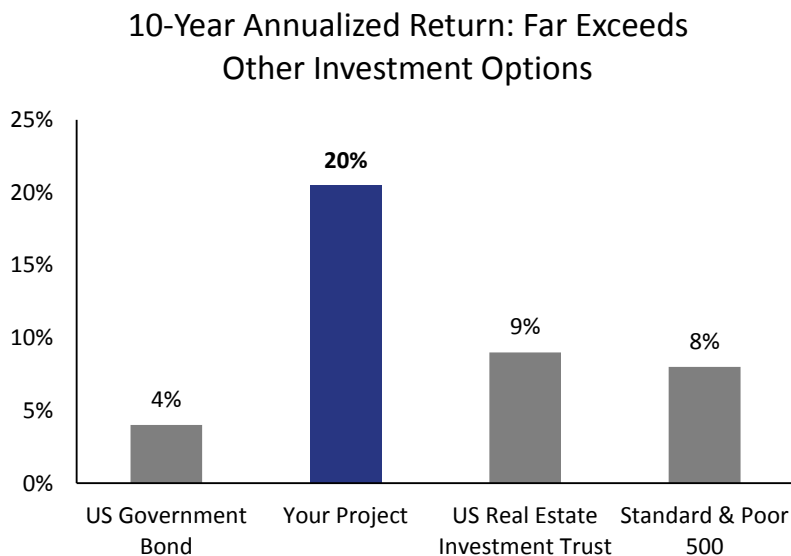
Green Buildings, Cost Savings - Delivered

To ensure Carbon Lighthouse achieved our goal of delivering profitable, environmentally beneficial energy projects, we conducted Measurement and Verification at Morgan Hill Community Center. We are delighted to report that over the past year Carbon Lighthouse saved the building \$31,671. Morgan Hill Community Center is also carbon neutral - Carbon Lighthouse purchased carbon allowances to offset the remaining carbon footprint.

Highlights – Substantially Reduced Operating Costs

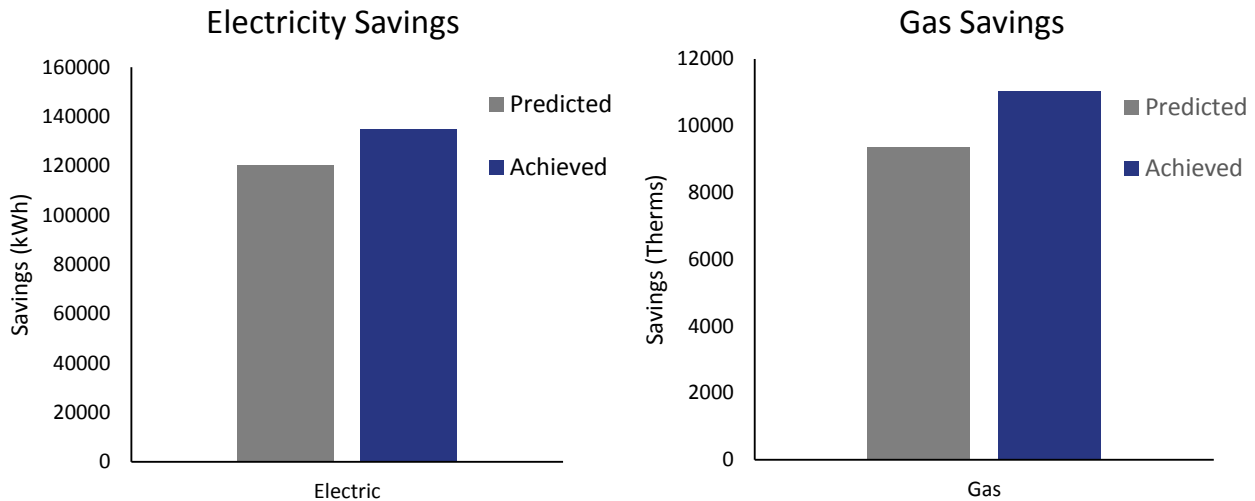


The project lifetime carbon savings are equivalent to avoiding 4,174,000 miles being driven by a typical passenger car



Prediction vs. Actual Outcome

As part of Carbon Lighthouse’s verification services, actual savings are compared to predicted savings to ensure savings are as promised. The figure below shows the actual energy savings over the past year compared to Carbon Lighthouse's predictions. As can be seen, Carbon Lighthouse met and exceeded savings predictions for both natural gas and electricity usage



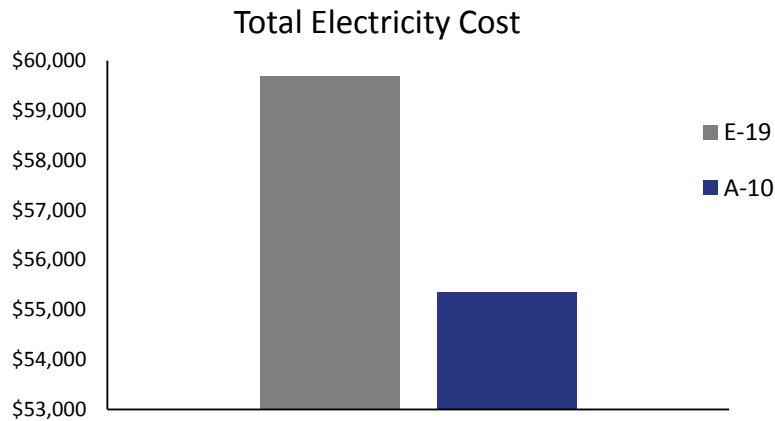
Measurement & Verification Methods

Carbon Lighthouse used a combination of information from the community center's building management system (BMS) and statistical analysis of 15-minute interval data, monthly bills, and local weather data to determine that the measures installed are still functional and quantify the weather-adjusted energy savings.

The statistical analysis confirmed that the community center's energy performance is exceeding predicted performance in both electricity and natural gas consumption. Additional analysis of the BMS confirmed that the control strategies implemented as part of the project have persisted, and data trends collected by the BMS show that energy efficiency measures are operating as intended.

Rate Switch Analysis

Carbon Lighthouse analyzed the most recent 12 months of utility consumption in order to determine whether the building is on the most appropriate rate schedule. Using 15-minute interval meter data, Carbon Lighthouse compared the time-of-use consumption over the past year with the E-19 rate schedule (the building's current rate) and the A-10 rate schedule. The analysis revealed that the previous year's utilities cost approximately \$4,300 more on the E-19 rate schedule than they would have on the A-10 schedule. **Morgan Hill Community Center should switch to the A-10 rate schedule to reap these benefits in the years to come.**



Overview of Project and Outcomes

Carbon Lighthouse adopted a holistic approach to identify energy savings. Analytics uncovered savings in lighting, ventilation, heating and cooling. The project achieved substantive energy reductions through retrofits and new control strategies, without having to replace functioning systems with new, capital-intensive equipment.

The demand control ventilation strategy implemented at the community center epitomizes Carbon Lighthouse's approach to analytics and implementation. By collecting an abundance of data and understanding the community center's unique demands, we were able to install a system that only expends energy on ventilation, heating, and cooling when it is needed. This provided the flexibility to save energy and preserve tenant comfort, even with the irregular occupancy schedules the Morgan Hill Community Center sees.

Carbon Lighthouse worked with the onsite facilities staff to commission the system and address any issues that came up with the new systems during the year after installation. Through this process, we have been able to maintain occupant comfort while exceeding predicted energy savings.

Measurement & Verification - Selected Analysis

The demand control ventilation control strategy is a great example of a project measure behaving optimally. The behavior of the HVAC system serving the Poppy Jasper Room (VAV 1.6) is demonstrated below. This mode of operation has maintained occupant comfort while reducing the amount that unoccupied spaces are conditioned, one of the reasons the energy savings achieved has surpassed those predicted.

Figure 1: Occupancy periods for the space are highlighted by the yellow windows. This data is provided to the BMS via occupancy sensors that were installed as part of the project.

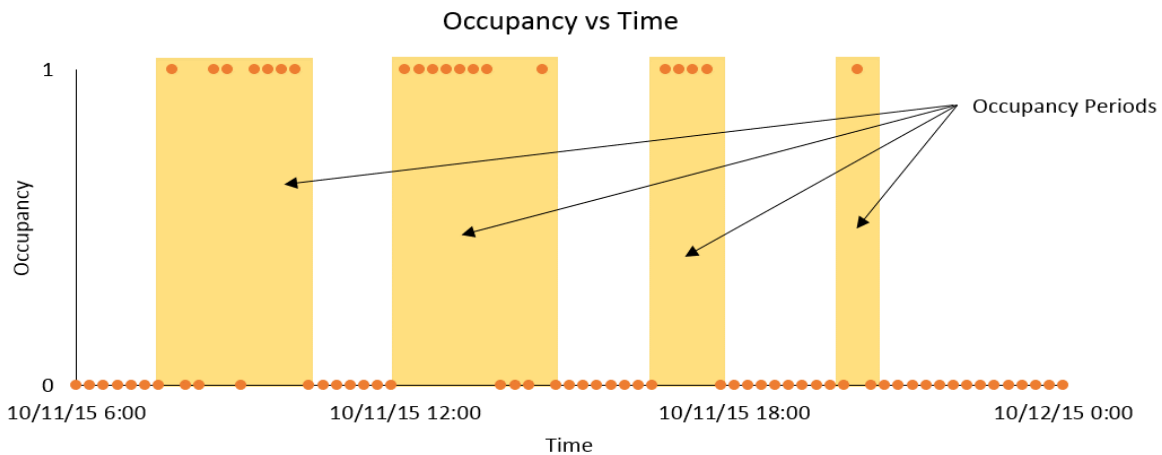


Figure 2: Zone air temperature data collected in the same space over the same period of time. Note the occupied heating and cooling setpoints. When the zone air temperature (shown in gray) is outside of the upper and lower setpoints, the space needs to be conditioned when it's occupied.

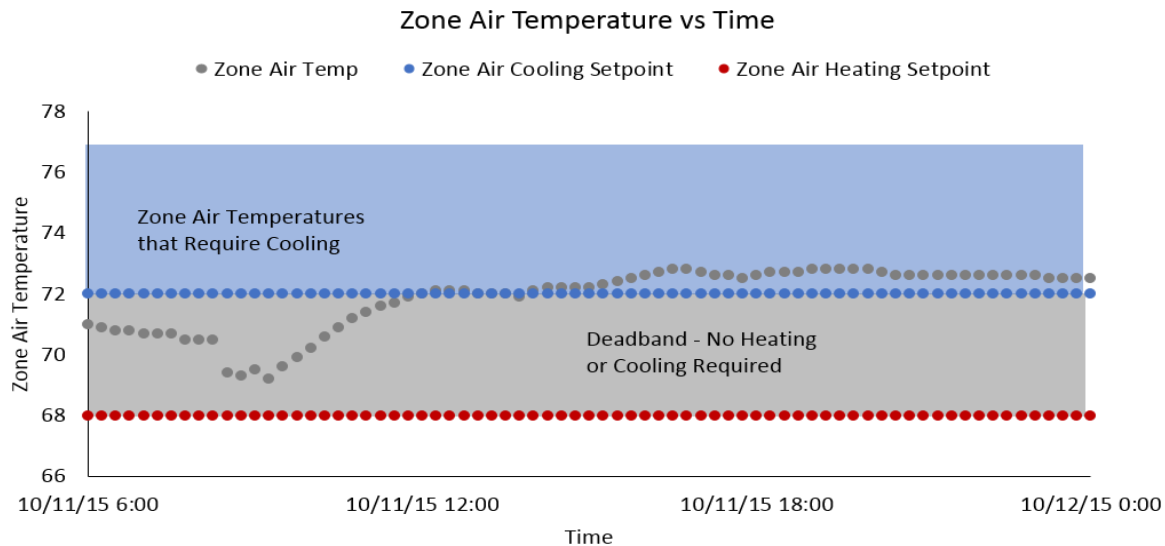


Figure 3: Superimposing the occupied periods over Zone Air Temperature (ZAT), we can see that that ZAT is only outside of the deadband three out of the four instances the zone is occupied this day. When the ZAT is within the deadband, there is still no reason for the HVAC system to start conditioning the space.

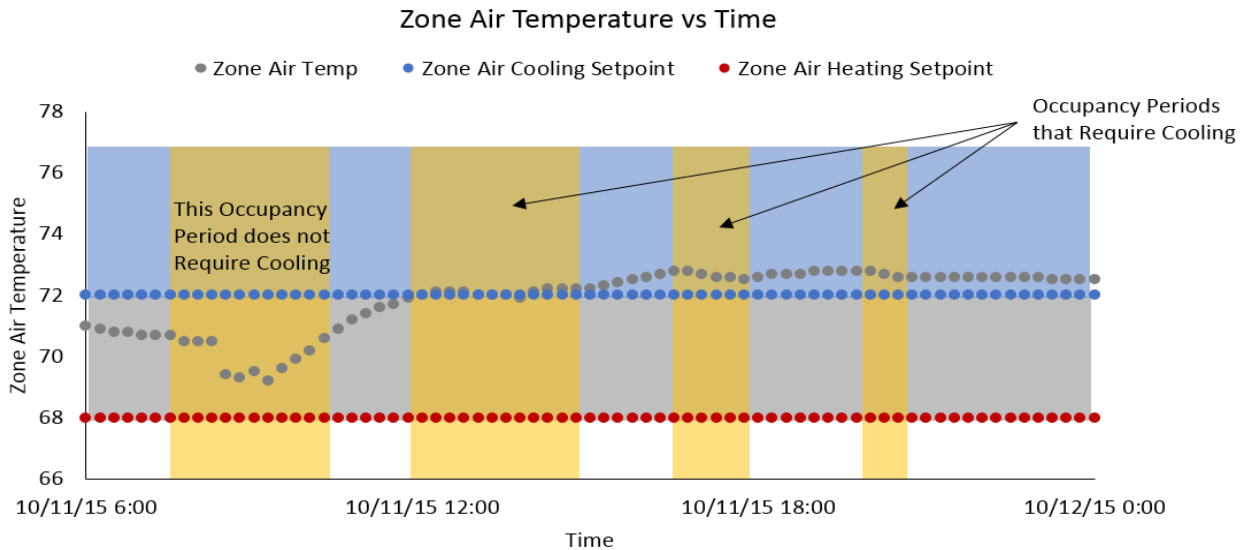
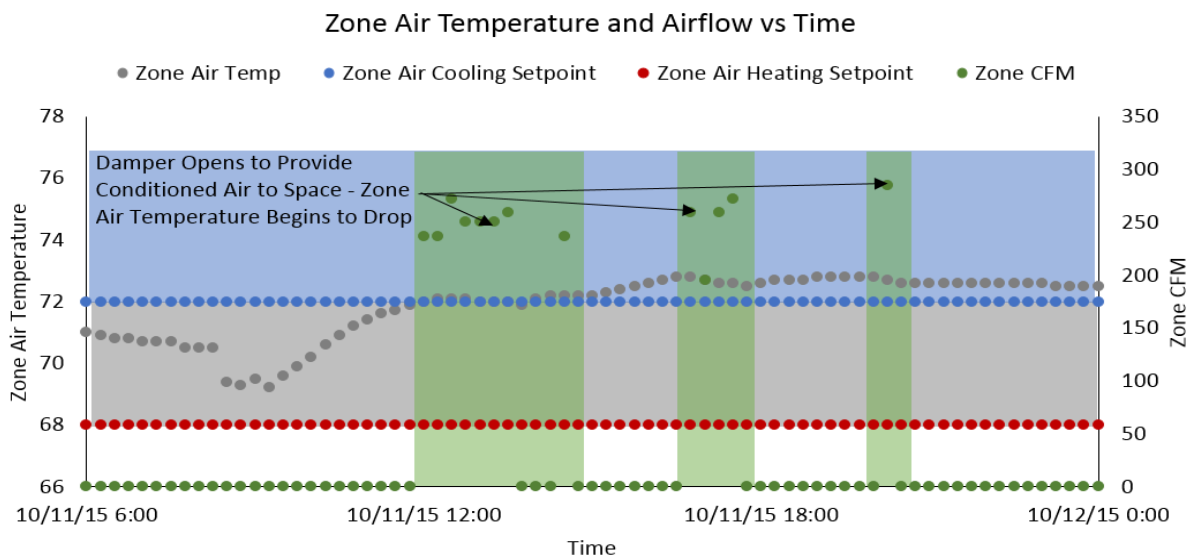


Figure 4: In the instances where the zone is occupied and the ZAT is above the cooling setpoint, we can see the VAV box damper has opened up, allowing conditioned air to enter the space. In the second, longest period of occupancy, it's clear the system is maintaining the 72 degree cooling setpoint. In the last two instances, the HVAC system is working to lower ZAT to the setpoint, which can be seen by the downward slope of the ZAT after the Airflow has turned on. Had the space remained occupied, one would see the ZAT continue to drop until reaching the setpoint at 72 and then remain constant.



CITY OF SAN JOSE AGREEMENT

SUMMARY PAGE

This GRANT AGREEMENT is entered into this XX day of April 2017, by the **CITY OF SAN JOSE** ("City"), a municipal corporation, and **CITY OF MORGAN HILL** ("GRANTEE").

Department: Environmental Services Department
 Dept. Contract No.: _____ CAO Document No.: _____
 WebGrants ID: 29920

Agency:	City of Morgan Hill
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Project:	Getting Energy Use Under Control
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Description:	Installation of energy management systems into two mid-sized city facilities (City Council Chambers and Police Department)
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Funding Source: Silicon Valley Energy Watch

Contract Amount Not to Exceed: \$90,000.00

Payment Terms: See Exhibit C

Agreement Term:	Start Date:	April XX, 2017	End Date:	June 30, 2018
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Attachment: Grant Agreement (1160 : Energy Watch Grant)

PARTIES TO AGREEMENT:

	GRANTEE	CITY OF SAN JOSE
Agency Name:	City of Morgan Hill	City of San Jose
Address for Legal Notice:	17575 Peak Avenue	200 E Santa Clara St., 10 th floor
City/State/Zip Code:	Morgan Hill, CA 95037	San Jose, CA 95113-1905
Attention:	Anthony Eulo Program Manager	Courtney Riddle
E-mail Address:	Anthony.Eulo@morganhill.ca.gov	courtney.riddle@sanjoseca.gov
Telephone No.:	408-310-4179	408-535-8555
Taxpayer ID		
City Business License/ Tax No.:		
Type of Entity:		
State of Incorporation or Residency:		

CONTACT INFORMATION

GRANTEE Contact Person:	Anthony Eulo
Title:	Program Manager
Telephone No:	408-310-4179
Email:	Anthony.Eulo@morganhill.ca.gov

CITY Contact Person:	Courtney Riddle
Title:	Supervising Environmental Services Specialist
Telephone No:	408-535-8555
Email:	courtney.riddle@sanjoseca.gov

EXHIBIT LIST

YES	N/A	
☒	☐	Exhibit A: Scope of Services
☒	☐	Exhibit B: Budget Summary
☒	☐	Exhibit C: Payments to GRANTEE and Reporting Schedule
☒	☐	Exhibit D: Monitoring, Evaluation, and Reporting Requirements

Fund Program
Agency/Project
CAO #

- ☐ ☐ Exhibit E: General Service Requirements (Special Grant Conditions)
To the extent applicable, the following grant provisions are required for this AGREEMENT. (Check all provisions that apply.)

YES	N/A	
☐	☐	Program funding sources
☐	☐	City of San José Funding
☐	☐	Federal
☐	☐	State
☐	☐	County
☐	☐	Other Public Agency
☐	☐	Private Funding Agency

☒ ☐ Exhibit F: Employee/Volunteer Clearance Verification and Compliance with the Child Abuse and Neglect Reporting Act

☒ ☐ Exhibit G: Insurance Requirements

☒ ☐ Exhibit H: Compliance with Pacific, Gas and Electric Company Requirements

I certify that I have read and hereby consent to all the terms and provisions contained in the attached AGREEMENT, including without limitation, all exhibits.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.

CITY OF MORGAN HILL

GRANTEE Signature: _____

Date: _____

Print Name: _____

Title: _____

City of San Jose, a municipal corporation

Julie Edmonds-Mares

Deputy City Manager

Date: _____

FORM OF AGREEMENT
APPROVED BY THE OFFICE
OF THE CITY ATTORNEY



Fund Program
Agency/Project
CAO #

CITY OF SAN JOSE GRANT AGREEMENT

This AGREEMENT is made by and between the CITY OF SAN JOSE, a municipal corporation of the State of California ("CITY"), and the person or entity identified as GRANTEE on Page 1 of the Summary Pages at the beginning of this AGREEMENT ("GRANTEE").

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1: RECITALS

WHEREAS, CITY desires to grant funds to assist GRANTEE to undertake a project(s) to encourage the adoption of energy efficiency practices among targeted communities and sectors served by Silicon Valley Energy Watch; and

WHEREAS, GRANTEE has the necessary professional expertise and skill to perform such services;

NOW, THEREFORE, the purpose of this AGREEMENT is to assist GRANTEE in accomplishing the project(s) specified in **EXHIBIT A** of this AGREEMENT.

SECTION 2: PROGRAM COORDINATION

- A. **CITY:** The Director of the Department identified on the Summary Pages under City of San José (hereinafter "DIRECTOR"), or his or her designee, is the CITY official responsible for the program and supervise the progress and performance of this AGREEMENT on behalf of the CITY. All services agreed to be performed by CITY will be under the overall direction of the DIRECTOR.
- B. **GRANTEE:** GRANTEE must identify a single project director who will have overall responsibility for the progress and execution of this AGREEMENT (GRANTEE Project Director). Additionally, GRANTEE must immediately notify CITY in writing should circumstances or conditions subsequent to the execution of this AGREEMENT require a substitute GRANTEE Project Director. GRANTEE's Project Director and GRANTEE's staff will fully cooperate with the DIRECTOR relating to the work or services provided hereunder.

SECTION 3: TERM OF AGREEMENT AND GRANT AWARD

- A. This AGREEMENT will commence on the Start Date as set forth in the Summary Pages and will expire on the End Date as set forth in the Summary Pages unless extended or sooner terminated in accordance with the terms of this AGREEMENT. Regardless of the date of execution of this AGREEMENT, this AGREEMENT is effective as of the Start Date.
- B. If GRANTEE wishes to extend this AGREEMENT, a request to extend this AGREEMENT along with a Revised Scope of Services (**EXHIBIT A**), if necessary, must be submitted by GRANTEE to the CITY no less than forty-five (45) days prior to the end date. An extension must be set forth in a written amendment to this AGREEMENT, signed by authorized representatives of CITY and GRANTEE. Nothing herein commits the CITY to extend this AGREEMENT. Any

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extension will be at the sole discretion of CITY, and if additional funds are required, will be subject to appropriation of funds by City Council.

SECTION 4: GRANT SERVICES

GRANTEE must perform those services as specified in detail on **EXHIBIT A** entitled "Scope of Services," ("Grant Services") in compliance with the terms and conditions of this AGREEMENT.

SECTION 5: PAYMENTS

- A. CITY agrees to reimburse GRANTEE an amount not to exceed the amount set forth on the Summary Pages ("Grant Award"), for the services described in **EXHIBIT A** entitled "Scope of Services", and which payment is subject to the terms and conditions set forth in **EXHIBITS B** and **C** entitled "Budget Summary" and "Payments to GRANTEE and Reporting Schedule." Any costs incurred by GRANTEE above the Grant Award shall be at GRANTEE's sole cost and expense.
- B. GRANTEE must provide CITY with invoices on agency letterhead, or on another format approved by the CITY, that identifies the name of payee and signed by the Executive Director or other authorized agency representative with authority to confirm the accuracy of reported expenditures. The invoice must include a detailed summary of activities undertaken during the course of the invoice period. Provided that performance is satisfactory and accepted by CITY, compensation will be made on a cost reimbursement basis.
- C. CITY will review invoices for adherence to AGREEMENT requirements and services, and authorize and release payment to GRANTEE based upon claims submitted, provided that GRANTEE is not in default under any provisions of this AGREEMENT. Payments will be made in accordance with the payment schedule in Exhibit C.
- D. CITY will not pay for unauthorized services rendered by GRANTEE or for claimed services which GRANTEE has not provided as required by this AGREEMENT.
- E. Director or designee may, without prior notice to GRANTEE, at any time in his or her absolute discretion, elect to suspend or terminate payment to GRANTEE, in whole or in part, terminate work or expenditures by GRANTEE, under this AGREEMENT, or not to make any particular payment under this AGREEMENT or take any other action available in the event of any of the following occurrences
 - 1. If GRANTEE (with or without knowledge) has makes any material misrepresentation of any nature with respect to any information or statements furnished to CITY in connection with this AGREEMENT;
 - 2. If there is pending litigation with respect to the performance by GRANTEE of any of its duties or obligations under this AGREEMENT that materially jeopardizes or adversely affects the undertaking of or the carrying out of the Grant Services;
 - 3. If GRANTEE, without having obtained CITY approval, has taken any action pertaining to the Grant Services that requires CITY approval;
 - 4. If GRANTEE makes improper use of the Grant Award;

5. If GRANTEE fails to comply with any of the terms and conditions of this AGREEMENT including without limitation, GRANTEE's failure to carry out the Grant Services or other obligations as described in any Exhibit to this AGREEMENT.
 6. If GRANTEE submits to CITY any report that is incorrect or incomplete in any material respect, or is untimely.
- F. GRANTEE will not submit invoices for payment or otherwise seek reimbursement from the City for any costs, expenses, or materials for which GRANTEE has another source of funds. In no event will GRANTEE seek reimbursement of the same costs, expenses or materials from the City and from another entity or individual. Collecting payment of the same costs from the City and another person or entity will constitute a default of this AGREEMENT.

SECTION 6: DEFAULT AND TERMINATION OF AGREEMENT

- A. CITY may, through CITY's Director, terminate this AGREEMENT without cause by giving GRANTEE thirty (30) days' written notice.
- B. Each of GRANTEE's obligations under this AGREEMENT are material. If GRANTEE fails to perform any of its obligations under this AGREEMENT, or any other AGREEMENT with the CITY, CITY may terminate this AGREEMENT upon ten (10) days advance notice ("Notice Period") to GRANTEE, specifying GRANTEE's breach and providing GRANTEE with the opportunity to cure the specified breach within the Notice Period or in those instances where the specified breach cannot reasonably be cured within the Notice Period, the opportunity to commence to cure the specified breach. In the event GRANTEE fails to cure or to commence to cure the specified breach within the Notice Period, this AGREEMENT will terminate. Without limiting the generality of the foregoing, the occurrence of any one of the following events constitutes a default of this AGREEMENT for which CITY may exercise its right of termination:
 1. GRANTEE's breach of any of the representations or warranties contained in this AGREEMENT;
 2. The occurrence of any of the events set forth in SECTION 5 for suspension or termination of CITY's payment of the Grant Award.
- C. In the event of termination of the AGREEMENT, GRANTEE must comply with the following obligations:
 1. No later than thirty (30) days following the date of termination, GRANTEE must provide CITY with a written report detailing the expenditures, if any, from the Grant Award, including an accounting of its administrative expenses to the date of termination. Nothing in this AGREEMENT will be deemed to be a waiver of CITY's right to recover from GRANTEE any portion of the Grant Award that has not been spent in accordance with this AGREEMENT. Upon receipt, GRANTEE will be paid for services performed and reimbursable expenses incurred in compliance with the terms of this AGREEMENT to date of termination, unless other payment terms are explicitly provided in **EXHIBIT C**.
 2. Upon termination, GRANTEE must immediately deliver to CITY any and all copies of materials used or developed for this grant including, but not limited to, all data collection forms, reports, studies and other work performed, whether or not completed by GRANTEE or GRANTEE's subgrantee, if any, under this

AGREEMENT. GRANTEE will not place any copyright, trademark, or other restrictions on use of the materials developed, prepared or used with grant funds pursuant to this AGREEMENT.

- D. Nothing in this AGREEMENT may be construed so as to deprive CITY of its rights and remedies at law or in equity against GRANTEE.
- E. CITY's Director is authorized to terminate this AGREEMENT on CITY's behalf.
- F. CITY may, at its sole option, pursue a course correction process with GRANTEE to address issues with GRANTEE's performance under this AGREEMENT. However, CITY is under no obligation to pursue a course correction prior to exercising its rights to suspend payment to GRANTEE or to terminate this AGREEMENT.

SECTION 7: SUBJECT TO FUNDING

If the term of this AGREEMENT is more than one year, the funding in any year after the first year may be contingent upon past and pending performance as well as future appropriation by the City Council of the City of San José, in its sole discretion. If the funding required to pay for Grant Services for the next fiscal year has not been appropriated by June 30 of any year, this AGREEMENT will automatically terminate, effective June 30.

SECTION 8: ACCOUNTING AND FINANCIAL RECORDS.

GRANTEE must establish and maintain at all times, on a current basis in connection with the performance of the Scope of Services, an adequate accounting system in accordance with generally accepted accounting principles and standards and acceptable to DIRECTOR covering all revenues, costs, and expenditures with respect to GRANTEE's performance under this AGREEMENT.

SECTION 9: REPORTING REQUIREMENTS.

GRANTEE must submit reports of all financial transactions related to GRANTEE's performance under this AGREEMENT ("Financial Reports") prepared in accordance with **EXHIBIT D** and, to the extent applicable, on the schedule specified in **EXHIBIT C**. The format of the Financial Reports must be as provided in this AGREEMENT unless otherwise directed by the DIRECTOR. GRANTEE will deliver a final report to CITY prior to expiration of this AGREEMENT, as may be further described in **EXHIBIT D**. In lieu of generating a consolidated quarterly report, the GRANTEE may instead submit, in strict accordance with the above schedule, a report covering each of the months in the reporting period, which includes a Standard Balance Sheet and Standard Income and Expense Statement for each of the months in the reporting period. The Financial Reports must be prepared in accordance with generally accepted accounting principles.

SECTION 10: RIGHT OF EXAMINATION AND AUDIT AND PRESERVATION OF RECORDS.

GRANTEE agrees that the CITY's Manager, Auditor, Attorney or the Director, or any of their duly authorized representatives, will be granted access to and the right to examine all facilities and activities of GRANTEE related to GRANTEE's performance of this AGREEMENT, including

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the right to audit, conduct further financial review, examine and make excerpts or transcripts of all contracts, subcontracts, invoices, payroll records, personnel records, and all other data or financial records relating to matters covered by this AGREEMENT at any time during the term of this AGREEMENT. GRANTEE agrees to cooperate with the CITY in such audit, examination, further review and will provide CITY with access to GRANTEE's staff and to all relevant records, documents, and data, including but not limited to, management letters, board minutes, and payroll.

EXHIBIT D, "MONITORING, EVALUATION AND REPORTING REQUIREMENTS" sets forth standards regarding the CITY's right to audit, and GRANTEE's obligation to deliver to the CITY reports which may include audited financial reports. GRANTEE further agrees that GRANTEE will preserve all records related to the performance of this AGREEMENT and that CITY may examine or audit the GRANTEE's records, facilities or activities for four (4) years following the expiration or termination of this AGREEMENT unless a longer period for CITY's audit or GRANTEE's record retention is specified in **EXHIBIT D** or is required by applicable law.

SECTION 11: CITY ACKNOWLEDGMENT

GRANTEE must acknowledge the support of Silicon Valley Energy Watch (SVEW), in written documents and informational materials regarding the Grant Program.

SECTION 12: INSURANCE

GRANTEE agrees to have the policies set forth in the attached **EXHIBIT G**, entitled "INSURANCE REQUIREMENTS" no later than the date of execution of this AGREEMENT and to maintain such policies throughout the term of this AGREEMENT. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the City of San José as to form and content. These requirements may not be amended or waived unless approved in writing by the Risk Manager. GRANTEE agrees to provide CITY with a copy of all policies, certificates and/or endorsements upon execution of this AGREEMENT.

SECTION 13: INDEMNIFICATION, HOLD HARMLESS AND RELEASE

- A. GRANTEE agrees to defend, indemnify and hold harmless the CITY from and against any and all claims, demands, causes of action, or liabilities incurred by CITY arising from, in whole or in part, directly or indirectly, GRANTEE's acts or omissions under this AGREEMENT, except as may arise from the gross negligence or willful misconduct of CITY. In any action or claim against CITY in which GRANTEE is defending CITY, CITY will have the right to approve legal counsel providing CITY's defense providing such approval will not be unreasonably withheld. GRANTEE further agrees to release CITY from any and all claims for any damages, including property damage, injury or death occurring or arising out of use of CITY's property, except as may be caused by the CITY's gross negligence or willful misconduct.
- B. The GRANTEE's obligations under this indemnification provision will survive the expiration or termination of this AGREEMENT.

SECTION 14: NOTICES

- A. Any communication or notice which either party is required to send to the other party must be in writing and may be sent via personally delivered or mailed in the United States mail, postage

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prepaid, or by facsimile, or electronic mail, to the respective parties addressed as referenced on the Summary Page of this AGREEMENT.

- B. Either party may change its address by sending written notice of the new address to the other party pursuant to this SECTION.

SECTION 15: AMENDMENTS OR MODIFICATIONS

Unless otherwise authorized by this AGREEMENT, amendments or modifications to this AGREEMENT must be made in writing and duly executed by the authorized representatives of the parties.

SECTION 16: COMPLIANCE WITH LAWS/NONDISCRIMINATION

- A. GRANTEE must comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments and with applicable CITY policies.
- B. GRANTEE must not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, actual or perceived gender identity, sexual orientation, disability, ethnicity or national origin in connection with or related to the performance of this AGREEMENT.
- C. GRANTEE will also obtain and maintain all licenses and permits appropriate to its proper and effective performance of this AGREEMENT prior to the date of commencement, if applicable, with the CITY's Finance Department to operate in the CITY. GRANTEE is responsible for contacting the appropriate offices and filing the necessary documents to comply with these requirements.

SECTION 17: RELATIONSHIP OF PARTIES

- A. It is understood and agreed by and between the parties that GRANTEE in the performance of this AGREEMENT, will not act nor is it at any time authorized to act, as the agent or representative of CITY in any matter. GRANTEE further agrees that it will not in any manner hold itself out as the agent or representative of CITY or act in such a fashion as would give the impression to a reasonable person that GRANTEE is acting in such a capacity.
- B. The parties agree that GRANTEE and GRANTEE's employees will be at all times independent contractors and not agents or employees of the CITY, and that GRANTEE and GRANTEE's employees will not be entitled to any salary, fringe benefits, pension, Workers' Compensation, sick leave, insurance or any other benefit or right connected with employment by the City of San José, or any compensation other than as prescribed herein, and GRANTEE and GRANTEE's employees expressly waive any claim it/they may have to any such rights.
- C. Under no circumstances may this AGREEMENT be construed as one of partnership, joint venture, or employment between GRANTEE and CITY. Each party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other party in any way.

SECTION 18: WAIVER

- A. In no event will any payment by CITY or any acceptance of payment by GRANTEE under this Agreement constitute or be construed to be a waiver by CITY or GRANTEE of any breach of covenants or conditions of this AGREEMENT or any default which may then exist on the part of CITY or GRANTEE, and the making of any such payment or the acceptance of any such payment while any such breach or default exists, will in no way impair or prejudice any right or remedy available to CITY or GRANTEE with respect to such breach or default.
- B. The waiver by any party to this AGREEMENT of a breach of any provision of this AGREEMENT may not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this AGREEMENT.

SECTION 19: CORPORATE AUTHORITY/AUTHORIZED REPRESENTATIVES

GRANTEE represents and warrants that it has the authority to enter into this AGREEMENT. GRANTEE further represents and warrants that its signatory to this AGREEMENT is authorized to execute this AGREEMENT on GRANTEE's behalf.

SECTION 20: INTEGRATED DOCUMENT

This AGREEMENT, including the Summary Pages, recitals and any Exhibits and appendices, are incorporated into this AGREEMENT and embody the entire AGREEMENT between CITY and GRANTEE. No oral agreements or conversations with any officer, agent or employee of CITY will affect or modify any of the terms or obligations contained in any documents comprising this AGREEMENT. Any such oral agreement will simply be considered as unofficial information and in no way binding upon CITY.

SECTION 21: SEVERABILITY OF PROVISIONS

If any part of this AGREEMENT is for any reason found to be unenforceable by a court of competent jurisdiction, all other parts nevertheless remain enforceable. CITY and GRANTEE agree that to the extent that the exclusion of any unenforceable provisions from this AGREEMENT affect the purpose of this AGREEMENT, then the parties will negotiate an adjustment to this AGREEMENT in order to give full effect to the purpose of this AGREEMENT or either party may terminate this AGREEMENT. In the event of termination, the provisions of SECTION 6 as related to repayment of the Grant Award will apply.

SECTION 22: VENUE

The parties agree that this AGREEMENT will be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue will be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 23: CONFLICT OF INTEREST

GRANTEE must comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified in California Government Code Section

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87000, *et seq.*), with the conflict of interest provisions of Government Code Section 1090 *et seq.* and with the CITY's Code of Ethics, set forth in City Council Policy 0-15. GRANTEE must promptly advise CITY of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

SECTION 24: RELIGIOUS/POLITICAL ACTIVITIES

- A. GRANTEE must not expend any portion of the funds provided under this AGREEMENT ("Grant Award") to inhibit or promote religion and the Grant Services funded by the Grant Award must not be used to convey a religious message. Any portion of the Grant Award used in contradiction to the provisions of this SECTION, will be deemed a disallowed cost.
- B. GRANTEE must not expend any portion of the Grant Award for political advocacy efforts, whether for or against a political candidate, ballot measure or bill.

SECTION 25: SUBCONTRACTS

GRANTEE warrants that:

- A. No subcontract will alter in any way any legal responsibility of GRANTEE to provide services under this AGREEMENT.
- B. GRANTEE will monitor the subcontractor to ensure compliance with the terms and conditions of this AGREEMENT and provide records of their compliance as requested.
- C. GRANTEE assures that the subcontractor(s) maintain(s) current licensure and indemnity insurance appropriate for obligations undertaken by subcontractor(s) and provides copies of such to CITY.
- D. GRANTEE will provide CITY with records of reimbursement to subcontractor(s) for obligations incurred under subcontract.
- E. CITY has the right to refuse reimbursement for obligations incurred under any subcontract that do not comply with the terms of this AGREEMENT.

SECTION 26: ASSIGNABILITY

The parties agree that the expertise and experience of GRANTEE are material considerations for this AGREEMENT. Unless specifically authorized by this AGREEMENT, GRANTEE may not assign the performance of any obligation or interest under this AGREEMENT, including subcontracting, without the prior written consent of CITY. Any attempt by GRANTEE to assign this AGREEMENT, in violation of this SECTION, will be voidable at CITY's sole option.

SECTION 27: EMPLOYEES/VOLUNTEERS

- A. Any and all personnel employed or volunteers retained by GRANTEE in conducting the operations of GRANTEE's program must be qualified to perform the duties assigned to them by GRANTEE.
- B. GRANTEE will not hire employees or volunteers who will have supervisory or disciplinary authority over minors who have been convicted of any offense identified in California Public Resources Code Section 5164. GRANTEE agrees to fully indemnify, defend, and hold harmless

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CITY for any such hiring. GRANTEE shall notify CITY in writing of any violation of this provision as soon as is reasonably practicable.

- C. GRANTEE will not employ any person who is permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code.
- D. To give effect to California Public Resources Code Sections 5163 and 5164, GRANTEE agrees to follow the procedures contained in **EXHIBIT F** attached hereto. In the event GRANTEE chooses a different national criminal database for complying with the FBI requirement for background checks, then such alternative database will be subject to the CITY's prior written approval.

SECTION 28: GRANTEE'S FINANCIALS.

- A. Organizations receiving an aggregate amount of \$25,000 or more in funds from the CITY during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and submit via the City's WebGrants grant management system, ("WebGrants"), a completed Financial Dashboard. City's project director will provide a Financial Dashboard template upon request. The Financial Dashboard must be submitted via WebGrants within six months from the end of GRANTEE's Fiscal Year. This includes the previous Fiscal Year, if that year ended within six months of the commencement of this AGREEMENT.

SECTION 29: ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

- A. GRANTEE agrees that, in the performance of this AGREEMENT, GRANTEE will perform its obligations under the agreement in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the policy can be found on the City's website at the following link:
<http://www.sanjoseca.gov/index.aspx?nid=1774>
- B. Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:
 1. Use of recycled and/or recyclable products in daily operations.(i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
 2. Use of Energy Star Compliant equipment.
 3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)
 4. Internal waste reduction and reuse protocol(s).
 5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 30: GIFTS

- A. GRANTEE warrants that it is familiar with CITY's prohibition against the acceptance of any gift by a City Officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.
- B. GRANTEE agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 will constitute a material breach of this AGREEMENT by GRANTEE. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 6 of this AGREEMENT.

SECTION 31: MISCELLANEOUS

- A. The headings of the sections and subsections of this AGREEMENT are inserted for convenience only.
- B. Where this AGREEMENT refers to CITY and no officer of the CITY is named, CITY's Manager shall have the authority to act on CITY's behalf.
- C. Time is of the essence in performing under this AGREEMENT.

EXHIBIT A

SCOPE OF SERVICES

GRANTEE will provide the services as described in this EXHIBIT.

In the event GRANTEE desires to modify the Scope of Services, GRANTEE shall apply to CITY in writing setting forth the requested modifications. CITY shall have the authority to approve the following categories of modifications, by letter signed by the CITY, without the necessity of a formal written amendment to this AGREEMENT.

1. Modifications to the times and dates for performance of the Scope of Services, providing GRANTEE completes all tasks during the term of the AGREEMENT.
2. Modifications to the location of the services provided so long as the proposed location will serve the same target population and is consistent with the Grant Allocation Plan, if applicable; or

A. Period of Service.

Project period runs between April XX, 2017 and June 30, 2018. All grant activities must be conducted during this specified period.

B. Description of Services

The Getting Energy Use Under Control project will utilize emerging technology in designated municipal facilities. It is the specific intent of this project to provide a local successful case study for this emerging technology that will stimulate energy savings in additional municipal and community buildings. As well as

C. Project Overview

The City of Morgan Hill will install, test, and evaluate energy management solutions in three City buildings. The City Council Chambers and Police Department Buildings will receive virtual control systems and City Hall will have its energy management system commissioned and improved. These three buildings will serve as case study for the project providing data to quantify energy-saving opportunities throughout the buildings including heating and air conditioning system reprogramming, hardware improvements, lighting upgrades, and scheduling. The data will inform City leaders of potential projects to be considered for implementation in the future. The case study will also inform local businesses and commercial/industrial property owners about the opportunity to reduce their energy use significantly through the installation of a virtual control system or the commissioning of their buildings

D. Project Scope

The City of Morgan Hill will install virtual energy management systems in two mid-sized facilities, the City Council Chambers and Police Department Buildings. Data on energy use before and after the installation of the systems will be collected and evaluated and used to educate the community on the energy conservation benefits of the system. At a third building, City Hall, a network of data loggers will be installed to inform the commissioning of the building. Data will be collected to quantify energy-saving opportunities throughout the buildings including heating and air conditioning system reprogramming, hardware improvements, lighting upgrades,

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and scheduling. This modeling data will result in a list of potential projects to be considered for implementation.

E. Project implementation

Phase 1: Virtual Controls

In the first phase, the two identified buildings that do not have energy management systems would receive a “virtual” building management system that relies on wireless controls and a software platform that is expected to optimize energy use without the installation of an expensive traditional energy management system. These two buildings would serve as the case study for the third phase of the project.

Phase 2: Commissioning

In the second phase, the Morgan Hill City Hall would be commissioned using a three step approach that has proven to be successful in other facilities. In the first step, a vendor would install data sensors to collect information from mechanical rooms, common spaces, rooftops, building management systems, and facility personnel. In step two, the vendor would run simulations and models to quantify energy-saving opportunities throughout the building including heating and air conditioning system reprogramming, hardware improvements, lighting upgrades, and scheduling. These simulations would result in a list of potential projects to be considered for implementation. At the end of this step, the City will be presented with a list of potential improvements along with their associated costs and benefits. The third and final step is actually making and installing the selected improvements that will maximize the energy savings at the facility.. The City has completed a similar project at the Morgan Hill Community and Cultural Center and found that the actual realized energy savings of 22% exceeded the savings projected by the vendor.

F. Outreach

Phase 3: Outreach

In the third and final phase, the City would work with PG&E, vendors, and the local Chamber of Commerce to inform local businesses and commercial/industrial property owners about the opportunity to reduce their energy use significantly through the installation of a virtual control system or the commissioning of their buildings. This outreach would include convening a local workshop specifically on this topic; conducting direct outreach via phone, e-mail, and personal visits; and leveraging other gatherings of local businesses that provide opportunities to share information about the project. These presentations would explicitly be “technology-agnostic” and would promote the general technology as opposed to a specific provider of the technology. In addition, City staff will share information about the projects (both the technology itself and the business outreach) with sustainability staff working for other jurisdictions in the SVEW area.

G. Assessment

The City will gather the following metrics to evaluate the project:

- Energy consumption – the number of kWh and therms consumed in the buildings both before and after the installation of the technology will be chronicled. The evaluation period is timed to cover both the hot summer months and the cool winter months;
- Project value (value of energy saved/cost of project);

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- Payback period – project costs will be compared with related cost savings to determine an expected payback period for the technology. This is a key statistic for many businesses that do not own their buildings and typically only invest in energy improvements with short payback periods;
- Number of businesses engaged – the actual number of businesses reached during the City's outreach efforts in phase three of the project will be reported;
- Number of workshops/events attended – the number of in-person events will be reported.

EXHIBIT B
BUDGET SUMMARY

BUDGET NARRATIVE

Total Project Budget Line Item	Total Project	SVEW Grant	City Match
Financial Administrative Labor	\$0	\$0	\$0
Implementation Oversight and Reporting Labor	\$14,000	\$0	\$14,000
Contract for Virtual Control Technology Installation	\$35,160	\$26,370	\$8,790
Analysis Initial Payment for Commissioning	\$10,000	\$7,500	\$2,500
Commissioning Implementation Cost Estimate*	\$66,000	\$49,500	\$16,500
Workshop/Outreac Supplies	\$4,000	\$4,000	\$0
Sponsorship Costs for Events	\$2,000	\$2,000	\$0
Total	\$131,160	\$89,370	\$41,790

SOURCE OF FUNDS STATEMENT

PROJECT SOURCE OF FUNDS			
List ALL funding sources for project			
Funding Source: Program/Agency	Code Number**	Use of Funds	Amount (\$)
<i>City of San José Funding</i>			
			\$90,000.00
<i>Total</i>			
<i>All Other Grant Funds (Minimum 0%)</i>			
City of Morgan Hill Funds			\$41,790
<i>Total</i>			
Combined Total			\$131,790

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AGENCY SOURCE OF FUNDS			
List ALL sources of funding for your AGENCY			
Funding Source: Program/Agency	Code Number**	Use of Funds	Amount (\$)
<i>City of San José Funding*</i>			
<i>Total</i>			
<i>All Other Funding including other cities*</i>			
<i>Total</i>			
Combined Total			
* Do not include funding sources listed in "Project Source of Funds"			
**Key Codes: 1. Firm Commitment: Grant funding was received. 2. Anticipated Renewal of Existing Grant: Continuation of a grant that was received in the current year and is expected to be continued. 3. Anticipated Revenue: A realistic projection of fees or donations including in-kind donation for space and equipment based on current level. 4. Application Pending: Applications submitted and expected to be received. Include application date. 5. In-kind: Do not assign a monetary value.			

EXHIBIT C
PAYMENTS TO GRANTEE AND REPORTING SCHEDULE

Payment Schedule

A payment schedule will be proposed by the GRANTEE but no more than three payments will be made over the period of the Grant. Payments must be tied to the completion of tasks and milestones. The last payment will be made based on the successful completion of the scope of services and the acceptance of the final report which is due not later than July 20, 2018.

Payment shall be submitted as stated in the following agreed upon schedule during the grant period based on the satisfactory performance of work done by the GRANTEE as part of this AGREEMENT.

Task	Deliverable(s)	Payment Amount	Due date for submission for Payment
Task 1.0 Introduce Project to Staff at City Facilities Receiving Virtual Control Technology	Meeting Agenda	\$0	
Task 2.0 Finalize Contract for Installation of Virtual Control Technology at Case Study Buildings	Executed Agreement	\$0	
Task 3.0 Install Virtual Control Project	Completion Report	\$0	
Task 4.0 Train Staff at Subject Facilities on Virtual Control Systems	Training Resources	\$26,370	10/1/17
Task 5.0 Finalize Contract for Commissioning Project	Executed Agreement	\$0	
Task 6.0 Collect and Analyze Data at City Hall	Data Analysis and Modeling Report	\$0	
Task 7.0 Install Selected Commissioning Improvements	Completion Report	\$0	

Task 8.0 Train Staff at City Hall Facility	Training Resources	\$49,500	1/15/18
Task 9.0 Develop Case Studies Documenting Energy Savings and Cost Reductions	Case Study Documents	\$0	
Task 10.0 Conduct Outreach to Local Businesses and Other Local Government Staff	Outreach Materials and Report	\$0	
Task 11.0 Develop Final Report Documenting Technology Performance and the Results of Project Outreach to Local Businesses and Other Agencies	Final Report	\$13,500	7/20/18

Reporting Schedule

Quarterly progress reports will be due in a form approved by the CITY on the following dates: 7/15/17, 10/15/17, 1/15/18, 4/1/18, and final report due 7/20/18.

EXHIBIT D
MONITORING, EVALUATION AND REPORTING REQUIREMENTS

A. Fiscal Responsibilities of GRANTEE:

GRANTEE must:

1. Appoint and submit to CITY the name of a fiscal contact who shall be responsible for the financial and accounting activities of the GRANTEE, including the receipt and disbursement of GRANTEE funds.
2. Establish and maintain a system of accounts that conform to generally accepted principles of accounting for budgeted funds. Such system of accounts will be subject to review and approval of CITY.
3. Document all costs by maintaining complete and accurate records of all financial transactions, including but not limited to, contracts, invoices, time cards, cash receipts, vouchers, canceled checks, bank statements and/or other official documentation, evidencing in proper detail the nature and propriety of all charges.
4. Submit quarterly financial reports at the end of each quarter as outlined in **EXHIBIT C** in such form acceptable to the Director.
5. Certify insurability subject to CITY approval as outlined in **EXHIBIT G**.
6. Submit to CITY at such times and in such forms as CITY may require, such statements, records, reports, data, and information pertaining to matters covered by this AGREEMENT.

B. Records, Reports and Audits of GRANTEE:

1. Establishment and Maintenance of Records. GRANTEE must maintain records, including but not limited to, books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly:
 - a. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this AGREEMENT; and
 - b. All other matters covered by this AGREEMENT. Such records must be maintained in accordance with requirements now or hereafter prescribed by the CITY.
2. Preservation of Records. GRANTEE must preserve and make available its records:
 - a. for the period of four (4) years from the date of final payment to GRANTEE under this AGREEMENT; or
 - b. for such longer period, if any, as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of four (4) years from the date of any resulting final settlement.

3. Examination of Records and Facilities. At any time during normal business hours, upon advance written notice and as often as may be deemed necessary, GRANTEE agrees that CITY, or any of its respective authorized representatives will have access to and the right to examine any of its plants, offices or facilities engaged in performance of this AGREEMENT and all its records with respect to all matters covered by this AGREEMENT. GRANTEE also agrees that the CITY, or any of its authorized representatives shall have the right to audit, examine, and make excerpts or transcripts of and from such records, and to make audits of all contracts and subcontracts, invoices, payrolls, records of personnel, conditions of employment, materials, and all other data relating to matters covered by this AGREEMENT. CITY may examine records or facilities pursuant to this Section throughout the term of this AGREEMENT and
 - a. for a period of four (4) years after final payment under this AGREEMENT; or,
 - b. for such longer period as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of four (4) years from the date of any resulting settlement.
4. Audits.
 - a. Independent Audits.
 - (1) If required by CITY's Grant Manager, GRANTEE agrees to submit an audit that conforms to generally accepted auditing standards and that includes the following components:
 - A. Balance Sheet or Statement of Financial Position;
 - B. Statement of Support, Revenue and Expenses and Changes in Fund Balances or Statement of Activities;
 - C. Statement of Functional Expenses;
 - D. Independent Auditor's Report. If the audit includes a Management Letter, this must also be submitted to the CITY.
 - E. Schedule of Government Financial Assistance which identifies the gross amounts of grants obtained from the CITY and other governmental sources and shows the amount received and disbursed under each grant during the audited fiscal year; and
 - F. Report on Compliance and on Internal Control over Financial Reporting based on an Audit of Financial Statements performed in Accordance with Government Auditing Standards indicating that a review of internal controls was performed and identifying material weaknesses or reportable conditions, if any.

Funds may be set aside in GRANTEE's budget in an amount equal to CITY's fair share of the GRANTEE's cost of the audit, if required.

(2) If GRANTEE expends \$500,000 or more in a year in Federal awards, GRANTEE must submit an audit report that conforms to the requirements of OMB Circular A-133 for Non-Profit Institutions. Funds may be set aside in GRANTEE's budget in an amount equal to CITY's fair share of the GRANTEE's cost of an A-133 independent audit, if required.

(3) The GRANTEE's contract with its independent auditor requires that the audit ascertains and determines that no services provided by the GRANTEE under this AGREEMENT are duplicative of services provided to another entity or agency from which GRANTEE receives funding and are not being reimbursed from funding received from another agency or entity.

(4) GRANTEE shall also submit a written agency management response to the findings of the Internal Control Report, if required.

(5) GRANTEE must obtain three (3) bids for an outside auditor to conduct the agency audit. The AGREEMENT with an outside auditor can span a term of multiple years but it is highly recommended that the GRANTEE rotate independent auditors every three years.

(6) GRANTEE agrees to enter into an AGREEMENT with an outside auditor no later than sixty (60) days before the end of each Fiscal Year calling for a financial and compliance audit of GRANTEE's Fiscal Years that are covered by this AGREEMENT. The written AGREEMENT may be in the form of an engagement letter prepared by the auditor and approved by GRANTEE.

(7) An audit report must be completed and posted in PDF format on WebGrants within six months of the end of each of the GRANTEE's Fiscal Years covered by this AGREEMENT. If this AGREEMENT expires or is terminated on a date that occurs after the period covered by the foregoing audit, GRANTEE must deliver an audit report within two hundred and fifty (250) days after the expiration or termination of this AGREEMENT auditing the period not covered by the prior audit.

(8) Should GRANTEE not enter into an AGREEMENT with an outside auditor or should an audit not be done on a timely basis, the CITY, at its discretion, may enter into an AGREEMENT with an independent auditor to do the audit at GRANTEE's expense.

(9) The GRANTEE must submit to the CITY copies of management letters the auditor prepares for the GRANTEE as part of the audit engagement.

(10) All audits must be performed by Certified Public Accountants currently certified and licensed to practice in the State of California. GRANTEE must have Auditor's proof of current licensing on file in GRANTEE's office. GRANTEE must submit to the Director a copy of Auditor's certification to practice in California with the audit.

- b. CITY Audits. The CITY may perform an independent audit. Such audits may cover programmatic as well as fiscal matters. GRANTEE will be afforded an opportunity to respond to any audit findings, and have the responses included in the final audit report. Costs of such audits will be borne by the CITY.
- c. Disallowed Costs. GRANTEE is liable for repayment of disallowed costs as determined by CITY. Disallowed costs may be identified through audits, monitoring or other sources. GRANTEE will be afforded the opportunity to respond to any adverse findings that may lead to disallowed costs. CITY retains the right to make the final determination of disallowed costs.
- d. GRANTEE may not adjust any line item expenditures in the Budget Summary (**EXHIBIT B**) by more than ten percent (10%) without the prior approval of the CITY. GRANTEE will make such requests for the line item adjustments in writing to the CITY. Failure to do so, may at CITY's option, result in disallowed costs.

C. Monitoring and Evaluation

- 1. GRANTEE agrees to cooperate with CITY on the implementation, monitoring and evaluation of this Program and to comply with any and all reporting, data collection, and evaluation requirements established by CITY, including but not limited to; submission of reports as outlined in this AGREEMENT.
- 2. **Site Visits:** GRANTEE agrees to cooperate with visits from the CITY or its Evaluation Consultants, for the purpose of verifying the implementation of funded projects, interviewing staff, and/or verifying supporting documentation.
- 3. **Data Collection:** GRANTEE agrees to perform ongoing data collection and sharing in accordance with CITY process to ensure effective service delivery in compliance with this AGREEMENT.

D. Reporting

- 1. **Quarterly Performance and Fiscal Reports:** GRANTEE must submit quarterly reports or other specific fiscal or reporting requirements regarding GRANTEE's performance of the Grant Services in accordance with the schedule set forth in **EXHIBIT C**. The quarterly reports must be on a form approved by CITY.
- 2. **Annual Year-End Report:** GRANTEE shall submit a narrative Year-End Report thirty (30) calendar days after the last day of the term of this AGREEMENT. The report must describe how the Program services provided met the objectives contained in **EXHIBIT A**.

EXHIBIT E
GENERAL SERVICE REQUIREMENTS

GRANTEE must deliver and maintain energy efficiency marketing messages consistent with City of San José and PG&E energy efficiency messages.

GRANTEE must submit all additional progress and fiscal reports required in EXHIBIT B on time and according to templates provided by the CITY.

GRANTEE must meet in-person with CITY representative(s) at least twice during the grant period, at the project site and/or at a location of CITY's choosing, to review and demonstrate progress.

GRANTEE must ensure that any co-branded marketing materials are consistent with CITY, SVEW, and PG&E marketing guidelines (EXHIBIT H), and shall submit to CITY for review prior to release.

Attachment: Grant Agreement (1160 : Energy Watch Grant)

EXHIBIT F

**EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH THE
CHILD ABUSE AND NEGLECT REPORTING ACT**

If GRANTEE provides services involving minors, and as a CITY-approved method of complying with the provisions contained in this AGREEMENT, GRANTEE shall conduct a criminal background check through the database of the California Department of Justice **and** an FBI criminal database or equivalent national database as approved in writing by GRANTEE's liability insurance provider, on each of its employees and volunteers who have supervisory or disciplinary authority over minors.

GRANTEE shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section [11164](#) *et. seq.* Additionally, GRANTEE certifies the following:

1. Any and all personnel employed or retained by GRANTEE in conducting the operations of GRANTEE's program shall be qualified to perform the duties assigned to them by GRANTEE. GRANTEE agrees that GRANTEE shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code Section 5164. (Copy attached.)

CITY and GRANTEE understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If GRANTEE intends to have employees or volunteers under the age of 18 providing services under this AGREEMENT, GRANTEE shall maintain and make available to CITY, if requested, guidelines, procedures or policies, that safeguard and ensure that no employees or volunteers under the age of 18 will be providing services under this AGREEMENT unsupervised and further GRANTEE shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code Section 5164.

2. GRANTEE shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by GRANTEE, shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this AGREEMENT, and the person meets the standards set forth above. If requested by CITY, and to the extent allowed by law, GRANTEE shall promptly provide documentation listing each person that has provided or is providing services hereunder involving supervision or disciplinary authority over minors, and certifying that the GRANTEE has conducted the proper background check on such person or persons, and each of the named persons is legally permitted to perform the services described in this AGREEMENT. Regardless of whether such documentation is requested or delivered by GRANTEE, GRANTEE shall be solely responsible for compliance with the provisions of this Section.
3. That no person paid or unpaid by GRANTEE shall be permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code (copy

attached), verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current employee) of the date of execution of this AGREEMENT and every four (4) years thereafter, if the term of this AGREEMENT exceeds four (4) years.

For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. GRANTEE shall keep on file each "Certificate" of clearance for the persons described above, and shall also make available a copy of each Certificate to CITY, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

4. GRANTEE understands that if services are rendered on a school site, there may be additional requirements that may apply including without limitation, requirements under the California Education Code. GRANTEE, acknowledges that it is GRANTEE's sole responsibility to comply with all applicable laws, regulations and licensing requirements in GRANTEE's provision of services hereunder.

I, the GRANTEE by signing below verify that I have read and agree to the above:

Signature/Title

Date

Attachment: Grant Agreement (1160 : Energy Watch Grant)

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

§ 5164. Persons convicted of certain offenses not to be hired for employment or as volunteer in positions with supervisory authority over minors; Criminal background screening; Fees

(a) (1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

(2) (A) A violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) A felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) A felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or an offense specified in subdivision (c) of Section 667.5 of the Penal Code, provided that a record of a misdemeanor conviction shall not be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b) (1) To give effect to this section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5163

§ 5163. Certificate showing freedom from communicable tuberculosis as condition of employment

(a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the city or county a certificate showing that within the last two years the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within 30 days of the examination to the local health officer to determine the need for follow-up care.

"Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

§ 5163.1. Tuberculosis examination

The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

Nothing in Sections 5163 to 5163.2, inclusive, shall prevent the governing body of any city or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by Section 5163 and this section.

§ 5163.2. Technician taking X-ray film; Interpretation of X-ray

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a licensed physician and surgeon.

§ 5163.3. Files kept of certificates

The city or county shall maintain a file containing an up-to-date certificate for each person covered by Section 5163.

§ 5163.4. Requiring more extensive or more frequent examinations

Nothing in Sections 5163 to 5163.3, inclusive, shall prevent the city or county from requiring more extensive or more frequent examinations.

EXHIBIT G
INSURANCE REQUIREMENTS

STANDARD & OTHER INSURANCE REQUIREMENTS

GRANTEE, at GRANTEE'S sole cost and expense, shall procure and maintain for the duration of this AGREEMENT, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by the GRANTEE, its agents, representatives, employees or subcontractors or suppliers. The cost of such insurance shall be included in the GRANTEE'S grant proposal.

I. Minimum Scope and Limit of Insurance

There shall be no endorsements reducing the scope of coverage required below unless approved by the City's Risk Manager.

Type of Insurance	Minimum Limit
1. Commercial General Liability The coverage provided by Insurance Services Office "occurrence" form CG 0001, including coverages for contractual liability, personal injury, broadform property damage, independent contractors, products and completed operations, and fire legal liability (\$100,000 minimum sublimit if applicable per scope of contract).	\$1,000,000 per occurrence for bodily injury, personal injury and property damage or \$1,000,000 annual aggregate.
2. Automobile Liability The coverage provided by Insurance Services Office form number CA 0001. Coverage shall be included for all owned, non-owned and hired automobiles.	\$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employer Liability As required by the Labor Code of the State of California.	\$1,000,000 combined single limit per accident for bodily injury and property damage.

4. Other

	Type of Insurance	Minimum Limit
☒	4. Professional Liability/Errors and Omissions If applicable through scope of contract, including coverages for negligent acts, errors or omissions arising from professional services provided under this contract, with any deductible not to exceed \$25,000 each claim	Not less than \$1,000,000 each claim and annual aggregate

II. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the City's Risk Manager. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and contractors; or GRANTEE shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

III. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The City, its officials, employees, and agents are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the GRANTEE; products and completed operations of the GRANTEE; premises owned, leased or used by the GRANTEE; or automobiles owned, leased, hired or borrowed by the GRANTEE. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and agents.
- b. The GRANTEE's insurance coverage shall be primary insurance as respects the City, its officials, employees, and agents. Any insurance or self-insurance maintained by the City, its officials, employees, and agents shall be excess of the GRANTEE's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, or agents.
- d. Coverage shall state that the GRANTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- e. Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, and agents.

2. Workers' Compensation and Employers Liability

Coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officials, and agents.

3. All coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City; except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

IV. Acceptability of Insurance

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

V. Verification of Coverage

GRANTEE shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Copies of all the required ENDORSEMENTS shall be attached to the CERTIFICATE OF INSURANCE which shall be provided by the GRANTEE's insurance company as evidence of the stipulated coverages.

Proof of insurance shall indicate the GRANT awarded and be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

City of San Jose – Finance Department
Risk & Insurance
200 East Santa Clara St., 14th Floor
San Jose, CA 95113-1905

VI. Subcontractors

GRANTEE shall include all subgrantees or subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subgrantee or subcontractor.

EXHIBIT H

COMPLIANCE WITH PACIFIC GAS AND ELECTRIC COMPANY REQUIREMENTS

This Agreement is part of the Energy Innovation Grant (EIG) Program, funded by Pacific Gas and Electric Company (PG&E) and administered by the City of San José as part of the Silicon Valley Energy Watch program (SVEW), under the auspices of the California Public Utilities Commission (CPUC). Accordingly, GRANTEE must comply with certain obligations pertaining to CITY's contract with PG&E.

1. PROGRAM OVERVIEW

- 1.1. GRANTEE understands that the purpose of the EIG is to:
 - 1.1.1. Increase awareness of the importance of energy efficiency, as well as energy efficiency resources and technologies, among target communities;
 - 1.1.2. Accelerate adoption of energy efficiency technologies and behaviors among target communities;
 - 1.1.3. Provide robust evidence, for the efficacy of behavioral initiatives in promoting energy efficiency;
 - 1.1.4. Build the capacity of local agencies, organizations, and institutions to be effective and reliable providers of energy efficiency resources and information in targeted communities;
- 1.2. Provide robust, actionable, and replicable data on innovative energy efficiency education and outreach approaches for publication and statewide distribution.
- 1.3. GRANTEE understands that CITY has certain monitoring and assessment obligations for the EIGP.
 - 1.3.1. GRANTEE shall permit to host periodic site visits to each GRANTEE's offices to monitor the Grantee's progress in meeting its goals;
 - 1.3.2. GRANTEE shall attend three initial training sessions to be provided by CITY as CITY deems beneficial to ensure progress by the Grantees and to inform the Grantees of new services technologies and findings from the CPUC Marketing, Education and Outreach Task Force.
 - 1.3.3. GRANTEE shall provide to CITY all required reports indicated in this AGREEMENT, according to the reporting schedule specified. All reports may be shared with PG&E and/or the CPUC in their entirety and/or in summary.

2. CPUC AUTHORITY TO MODIFY/REGULATORY REVIEW

- 2.1 This Agreement may be subject to change or be modified due to CPUC directive relating to funding or otherwise in the EIG or SVEW programs administered by PG&E. Upon the occurrence of such event, PG&E must comply with the CPUC decisions and direction which is likely to impact this Agreement.

3. EVALUATION, MEASUREMENT, AND VERIFICATION (EM&V)

- 3.1. If required by the CPUC to support EM&V activities, GRANTEE shall cooperate fully with the CPUC and any EM&V contractor or subcontractors and provide all requested EM&V information, if any, to assure the timely completion of all EIGP tasks requiring GRANTEE involvement or cooperation. No additional payment will be made to GRANTEE for any costs associated with any CPUC EM&V activities.
- 3.2. GRANTEE shall cooperate with any PG&E administered process for evaluation or review. No additional payment will be made to GRANTEE for any costs associated with any CPUC EM&V activities.
- 3.3. GRANTEE shall conduct a thorough evaluation of the supported project(s) using Experimental Design or Quasi-Experimental Design in accordance with direction provided by CITY in the first month of implementation.

4. APPROVAL OF MARKETING MATERIALS AND MEDIA

- 4.1. GRANTEE acknowledges and agrees that PG&E's name and all of its tangible and intangible Intellectual Property are owned by PG&E (or third parties), and that the unauthorized disclosure or use (or threatened disclosure or use) of PG&E's name and/or Intellectual Property Rights in violation of this Section 4 (Approval of Marketing Materials and Media), or any other breach of the PG&E brand guidelines in Section 5 (Guidelines for Trademark/Trade Name/Logo Use in Co-Marketing Activities) and this Agreement, will likely cause irreparable harm and significant injury to PG&E (or such third parties), to such a degree that it would then be difficult or impossible to ascertain its money damages sufficient to reasonably and adequately compensate PG&E (or such third parties). Accordingly, and in addition to PG&E's right to seek damages and any other available remedies at law or in equity in accordance with this Agreement, the parties agree that PG&E will have the right to obtain, from any competent civil court, immediate temporary or preliminary injunctive relief enjoining any breach or threatened breach of this Agreement, involving the alleged unauthorized disclosure or use of PG&E's name or Intellectual Property Rights. The parties hereby waive any and all objections to the right of such court to grant such relief, including, but not limited to, objections of improper jurisdiction or forum non conveniens.
- 4.1.1. GRANTEE shall abide by this section.
- 4.1.2. GRANTEE shall submit any cobranded marketing and educational materials to CITY for PG&E approval prior to publication or distribution of said materials.

5. CLAIMS SUBSTANTIATION

- 5.1. GRANTEE shall submit to CITY for substantiation all claims it will make as part of the Work under this Agreement in accordance with all applicable requirements of the laws of the State of California, federal common law, statute or regulation, and any local ordinances, if applicable. GRANTEE shall substantiate any marketing and/or technological claims made in all Program marketing materials. Claims include, but are not limited to, statements about the energy efficiency, safety, reliability, or performance of a piece of equipment or category of Energy Efficiency Measures.
- 5.2. GRANTEE shall indemnify and hold harmless PG&E, its parent company and any and all affiliated subsidiaries from and against any and all forms of civil liability and all costs of suit and damages arising from or related to any claim made by GRANTEE as part of this Agreement that are found not to be true, or to have been improperly marketed or inadequately substantiated. GRANTEE further shall also be responsible for, and indemnify and hold PG&E harmless, any judgment entered against PG&E in any civil court in any jurisdiction, or as to any reasonable settlement of any such actual or potential liability, resulting from any suit or upon any demand, and to pay any reasonable attorney's fees incurred by PG&E in defense of such a suit.

6. Guidelines for Trademark/Trade Name/Logo Use in Co-Marketing Activities

The PG&E name, logo(s) or trademarks (the "Marks") in stylized form are valuable assets and may be used publicly with permission only from PG&E. In order to protect the value of these assets, PG&E must maintain control over the manner in which the Marks are used. PG&E has established the following set of guidelines for properly using the Marks. If these guidelines are not followed, PG&E may terminate your right to use the Marks.

- 6.1. General Rules Regarding PG&E Name
- 6.1.1. Any GRANTEE document, Web site, etc. shall refer to PG&E by its full name, i.e., "Pacific Gas and Electric Company."

- 6.1.2. GRANTEE may refer to PG&E as “PG&E” as long as “PG&E” is defined elsewhere in the document as an abbreviation for “Pacific Gas and Electric Company.”
- 6.2. Uses That Are Permitted Without Further Authorization
Except as otherwise provided by GRANTEE’s Contract, GRANTEE may make factual statements regarding GRANTEE’s relationship with Pacific Gas and Electric Company or CITY, subject to the terms and conditions of the Contract, the limitations stated in No. 1, above, and the following additional limitation.
- 6.2.1. Statement may not indicate that PG&E endorses the GRANTEE’s products, services, etc. “Endorsement” means a statement that could be construed as PG&E recommending an GRANTEE product or service, e.g., “Pacific Gas and Electric Company selected xyz vendor because the vendor offers the best meters available.”

Example of allowable use:

GRANTEE brochure or Web site with the following statement: “Pacific Gas and Electric Company purchased 10 widgets from us.”

Example of allowable use in a link: “For more information on rebates available for this product, please visit Pacific Gas and Electric Company’s Web site at www.pge.com”

- 6.3. Uses That Are Permitted Following Consultation With Law Department
GRANTEE may make factual statements regarding their relationship with Pacific Gas and Electric Company, and use the company logo as part of that communication, subject to the limitations in No. 1, above, and with the following additional limitations:
- 6.3.1. Statement(s) may not endorse the GRANTEE’s products, services, etc.
- 6.3.2. The PG&E Law Department should review the proposed use and assess the potential exposure to PG&E, and may require that the GRANTEE sign a use agreement regarding their use of the PG&E logo. GRANTEE shall coordinate with the PG&E Law Department review through the PG&E Program Manager.
- 6.3.3. The logo must conform to Corporate Identity Guidelines at PG&E’s sole and absolute discretion. CITY shall provide the Corporate Identity Guidelines to the GRANTEE within one month of execution of this Agreement.

Example of uses that require Law Department review:

“XYZ provides widgets to Pacific Gas and Electric Company.”



“XYZ is an HVAC contractor for Pacific Gas and Electric Company.”



- 6.4. Uses That Are Permitted Following Consultation With The Law Department And Corporate Communications
GRANTEE may make factual statements regarding their relationships with Pacific Gas and Electric Company, and use the “PG&E” spotlight logo (without the words “Pacific Gas and Electric Company”) (The PG&E spotlight logo, the Pacific Gas and Electric Company logo, and other logo formats will be provided by the PG&E Program Manager during Task 1, Set Up Program) as part of that communication, but only following consultation with the PG&E Law Department and PG&E Corporate Communications Department, subject to the limitations in No. 6.1, above, and with the following additional limitations:
- 6.4.1. Statement may not endorse the GRANTEE’s products, services, etc.
- 6.4.2. The PG&E Law Department must review the proposed use and assess the potential exposure to PG&E, and may require that the GRANTEE sign a use

agreement regarding their use of the PG&E logo. GRANTEE shall coordinate the PG&E Law Department review through CITY.

The PG&E Corporate Communications Department must review and approve use of the “PG&E” spotlight logo in lieu of the Pacific Gas and Electric Company logo (including approval of logo size, color, placement, etc.). GRANTEE shall coordinate the PG&E Corporate Communications Department review through CITY.

Example of uses that require Law Department and Corporate Communications review:

“Brought to you by GRANTEE in Corporate Citizens Supporting Energy Efficiency”



“GRANTEE
LOGO”

6.5. Uses That Will Require PG&E Management Review And Discussion (i.e., potentially longer lead time)

6.5.1. Use of the Pacific Gas and Electric Company logo or PG&E spotlight logo on or with any GRANTEE product or service.

6.5.2. Use of the Pacific Gas and Electric Company logo or PG&E spotlight logo on a product or to brand a service, in connection with an GRANTEE logo (e.g., co-branding), except as allowed in No. 6.4 above.

6.5.3. Endorsements

Examples of uses that will require management review and discussion:

“Pacific Gas and Electric Company believes that XYZ makes the highest quality widget. You should use XYZ widgets too!”

A product or service truck bearing the following logos:



&

“GRANTEE
LOGO”



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Chris Ghione, Community Services Director
APPROVED BY: City Manager

PARK PLACE AFTER SCHOOL PROGRAM CONTINUATION

RECOMMENDATION(S)

Direct staff to include \$13,000 in funding from the General Fund for consideration in the mid-cycle budget review for FY 2017-18 to fund the afterschool program at Park Place with the expiration of CALGRIP grant funding.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Supporting Our Youth
Seniors
and Entire Community
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness

POLICY CONSIDERATIONS:

With the loss of continued grant funding for the afterschool program at Park Place, should the City Council consider funding the program solely from the City's General Fund?

REPORT NARRATIVE:

Since early 2015, the City has partnered with Discovery Counseling Center to run an afterschool program at the Park Place apartment complex (formerly Village Avante). The City provides the primary staffing of the program with afterschool leaders and Discovery Counseling Center coordinates volunteers who provide additional tutoring and homework assistance in the program.

The program was initially funded as a three day per week program from the CALGRIP Grant funds as part of the City's involvement with the South County Youth Task Force. The need for the program was identified based on the large number of youth that returned home to the complex immediately after school, many without parental supervision or any afterschool support program. In Fiscal Year 2015-16, the City began contributing funding to make the program five days per week.

Over the course of the last two years, City teammates have seen an improvement in the social behavior of many of the participants. The program provides participants with positive role models they can trust. Additionally, the program is exposing the participants and their families to resources and programs they might not otherwise be

exposed to. Parents have begun to show confidence in the program and have been communicating their needs and desires with City teammates. Having the program on-site at the location where the participants and parents live has helped connect the City with families and build stronger relationships. There are about 40 youth participating in the program with an average of 25-30 attending each day.

The CALGRIP funding is scheduled to expire in December 2017 and it is not anticipated that the grant will be extended. While there is the possibility of future grant funds being obtained for this program, there are currently no known grants available to replace this funding.

COMMUNITY ENGAGEMENT: Inform

City teammates are providing updates on the status of the program to the staff at Park Place as well as the parents who have children in the program.

ALTERNATIVE ACTIONS:

The City Council could direct staff to not include the afterschool program at Park Place for consideration in the mid-year budget review. The Council could also further provide direction on funding for programming in future years.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved funding for two additional days per week of the afterschool program (above the grant funded three days) during the Fiscal Year 2015-16 and Fiscal Year 2016-17 Budgets.

FISCAL AND RESOURCE IMPACT:

The estimated cost to finish the program for the second half of Fiscal Year 2017-18 is approximately \$13,000. This expense has been appropriated into the Fiscal Year 2017-18 budget. However, the loss of grant revenue would require funding from the City's General Fund to continue the program.

The future annual cost (Fiscal Year 2018-19) of running a program without grant funding would be approximately \$43,000 for a five day per week program during the school year and \$31,000 for a three day per week program. Additionally, running the program through the summer would be an additional \$12,000 expense.

CEQA (California Environmental Quality Act):

Not a Project

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

LINKS/ATTACHMENTS:



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Hilary Holeman, Administrative Analyst

APPROVED BY: City Manager

CITY POSITION ON PENDING LEGISLATION SB 649 AND AB 1250

RECOMMENDATION(S)

Receive legislative correspondence in opposition of SB 649 (Hueso) Wireless Telecommunications Facilities and AB 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal Services.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

Preserving and Cultivating Public Trust

2017 Strategic Priorities

Regional Initiatives

Telecommunications

POLICY CONSIDERATIONS:

Per Resolution No. 6851, the City Council recognizes occasional situations arise where communication indicating support or opposition on pending State legislation is timely and may occur prior to the next scheduled City Council meeting. Under these circumstances, the Mayor or City Manager is delegated the authority to prepare, execute and transmit written or verbal communications indicating a City's position on pending legislation as long as the following criteria are met: a) the League of California Cities has requested the City to comment or take a position, b) the timing to express a position occurs prior to the next scheduled Council meeting, and c) the pending State legislation clearly supports or clearly hinders the implementation or fulfillment of an adopted City Council Priority, Goal, or Strategy. When this occurs, a written report to the City Council for comment and acceptance is required at the next possible meeting.

REPORT NARRATIVE:

The League of California Cities (League) called attention to SB 649 (attachment 1) and AB 1250 (attachment 2) the third week of April as they were scheduled for hearing in late April. Given the potential repercussions both these bills could have on the City of Morgan Hill, staff decided it was necessary to take action sooner than the next Council meeting on May 3, 2017. Staff obtained written permission from the Mayor and City Manager to oppose SB 649 and AB 1250 for the following reasons:

SB 649 (Hueso) Wireless Telecommunications Facilities:

This proposal unnecessarily and unconstitutionally strips local authority over public property and shuts out public input and local discretion by eliminating consideration of the aesthetic and environmental impacts of "small cells." This proposal would prohibit

local discretionary review of “small cell” wireless antennas, including equipment collocated on existing structures or located on new “poles, structures, or non-pole structures,” including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that “small cells” be allowed in all zones as a use by-right.

The City recognizes the vital need to strengthen our telecommunications infrastructure and has formally recognized that small cell wireless technologies could play a significant role in improving access throughout our community. We cannot, however, agree that eliminating the ability of local agencies to regulate the siting of these technologies is wise public policy.

AB 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal Services:

Existing law authorizes the board of supervisors of a county to contract for special services on behalf of various public entities with persons who are specially trained, experienced, expert, and competent to perform the special services, as prescribed. These services include financial, economic, accounting, engineering, legal, and other specified services. Existing law also authorizes legislative bodies of cities to contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters. This bill would establish specific standards for the use of personal services contracts by counties and cities. Beginning January 1, 2018, the bill would allow a county or county agency, or a city or city agency, to contract for personal services currently or customarily performed by county employees, as applicable, when specified conditions are met. Among other things, the bill would require the county or city to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county or city and to show that the contract does not cause the displacement of county or city workers. The bill would require a contract entered into under these provisions to specify that it may be terminated upon material breach, if notice is provided, as specified. Additionally, the bill would require the county or city to provide an orientation to employees of the contractor who would perform services pursuant to the contract, and would establish liability provisions for employment law violations and torts committed in the course of providing services under contract, among other conditions. The bill would impose additional disclosure requirements for contracts exceeding \$100,000 annually, would exempt certain types of contracts from its provisions, and would require each county or city to maintain on its Internet Web site a searchable database of all of its contracts exceeding \$100,000. By placing new duties on local government agencies, the bill would impose a state-mandated local program.

Local governments have a long history of addressing service delivery challenges with creativity, self-reliance, and innovation. Unique local challenges and limited budgets continue to fuel innovative efforts to obtain expertise and provide high quality services. Local elected officials are held accountable for these carefully thought out financial decisions. The City of Morgan Hill is no exception. The City of Morgan Hill has been successful in contracting specific services and relies heavily on these partners to deliver

high levels of service in an economical way. Services such as fire and emergency medical services, landscaping, and recreational facility operations are executed by industry experts in Morgan Hill. These partners have proved to compliment the City by providing highly regarded and prioritized services efficiently.

In order to express the City's position in a timely manner, letters in opposition of SB 649 and AB 1250 (attachments 3 and 4) were submitted electronically via the League's online Action Center, mail, and fax to the appropriate representatives from the Mayor and City Manager on April 25, 2017.

COMMUNITY ENGAGEMENT: Inform

ALTERNATIVE ACTIONS:

Council could rescind position taken.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None

FISCAL AND RESOURCE IMPACT:

No fiscal impact at this time. Tracking legislation is a responsibility of the Administrative Analyst in the City Manager's Office.

CEQA (California Environmental Quality Act):

Not a Project - Proposals for legislation to be enacted by the State Legislature

LINKS/ATTACHMENTS:

1. SB 649 Wireless Telecommunications Facilities Bill Text
2. AB 1250 Contracts for Personal Services Bill Text
3. SB 649 Letter of Opposition
4. AB 1250 Letter of Opposition

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL

No. 649

Introduced by Senator Hueso

(Principal coauthor: Assembly Member Quirk)

(Coauthor: Senator Dodd)

February 17, 2017

An act to amend ~~Sections 65850.6 and Section 65964 of~~ *of*, and to add Section 65964.2 to, the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 649, as amended, Hueso. Wireless telecommunications facilities.

Under existing law, a wireless telecommunications collocation facility, as specified, is subject to a city or county discretionary permit and is required to comply with specified criteria, but a collocation facility, which is the placement or installation of wireless facilities, including antennas and related equipment, on or immediately adjacent to that wireless telecommunications collocation facility, is a permitted use not subject to a city or county discretionary permit. ~~Existing law defines various terms for these purposes.~~

This bill would provide that a small cell is a permitted use, not subject to a city or county discretionary permit, if the small cell meets specified requirements. By imposing new duties on local agencies, this bill would impose a state-mandated local program. The bill would authorize a city or county to require an administrative permit for small cell, as specified. The bill would define the term "small cell" as a particular type of telecommunications facility for these purposes.

Under existing law, a city or county, as a condition of approval of an application for a permit for construction or reconstruction of a

development project for a wireless telecommunications facility, may not require an escrow deposit for removal of a wireless telecommunications facility or any component thereof, unreasonably limit the duration of any permit for a wireless telecommunications facility, or require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county, as specified.

~~This bill would apply these prohibitions to the approval of small cell facilities as defined by this bill.~~ *require permits for these facilities to be renewed for equivalent durations, as specified.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that, to ensure
- 2 that communities across the state have access to the most advanced
- 3 wireless communications technologies and the transformative
- 4 solutions that robust wireless connectivity enables, such as Smart
- 5 Communities and the Internet of Things, California should work
- 6 in coordination with federal, state, and local officials to create a
- 7 statewide framework for the deployment of advanced wireless
- 8 communications infrastructure in California that does all of the
- 9 following:
- 10 (a) Reaffirms local governments' historic role and authority
- 11 with respect to wireless communications infrastructure siting and
- 12 construction generally.
- 13 (b) Reaffirms that deployment of telecommunications facilities
- 14 in the rights-of-way is a matter of statewide concern, subject to a
- 15 statewide franchise, and that expeditious deployment of
- 16 telecommunications networks generally is a matter of both
- 17 statewide and national concern.
- 18 (c) Recognizes that the impact on local interests from individual
- 19 small wireless facilities will be sufficiently minor and that such

1 deployments should be a permitted use statewide and should not
2 be subject to discretionary zoning review.

3 (d) Requires expiring permits for these facilities to be renewed
4 so long as the site maintains compliance with use conditions
5 adopted at the time the site was originally approved.

6 (e) Requires providers to obtain all applicable building or
7 encroachment permits and comply with all related health, safety,
8 and objective aesthetic requirements for small wireless facility
9 deployments on a ministerial basis.

10 (f) Grants providers fair, reasonable, nondiscriminatory, and
11 nonexclusive access to locally owned utility poles, street lights,
12 and other suitable host infrastructure located within the public
13 right-of-way and in other local public places such as stadiums,
14 parks, campuses, hospitals, transit stations, and public buildings
15 consistent with all applicable health and safety requirements,
16 including Public Utilities Commission General Order 95.

17 (g) Provides for full recovery by local governments of the costs
18 of attaching small wireless facilities to utility poles, street lights,
19 and other suitable host infrastructure in a manner that is consistent
20 with existing federal and state laws governing utility pole
21 attachments generally.

22 (h) Permits local governments to charge wireless permit fees
23 that are fair, reasonable, nondiscriminatory, and cost based.

24 (i) Advances technological and competitive neutrality while not
25 adding new requirements on competing providers that do not exist
26 today.

27 ~~SEC. 2. Section 65850.6 of the Government Code is amended~~
28 ~~to read:~~

29 ~~65850.6. (a) A collocation facility shall be a permitted use not~~
30 ~~subject to a city or county discretionary permit if it satisfies the~~
31 ~~following requirements:~~

32 ~~(1) The collocation facility is consistent with requirements for~~
33 ~~the wireless telecommunications collocation facility pursuant to~~
34 ~~subdivision (b) on which the collocation facility is proposed.~~

35 ~~(2) The wireless telecommunications collocation facility on~~
36 ~~which the collocation facility is proposed was subject to a~~
37 ~~discretionary permit by the city or county and an environmental~~
38 ~~impact report was certified, or a negative declaration or mitigated~~
39 ~~negative declaration was adopted for the wireless~~
40 ~~telecommunications collocation facility in compliance with the~~

1 California Environmental Quality Act (Division 13 (commencing
2 with Section 21000) of the Public Resources Code), the
3 requirements of Section 21166 do not apply, and the collocation
4 facility incorporates required mitigation measures specified in that
5 environmental impact report, negative declaration, or mitigated
6 negative declaration.

7 (b) A wireless telecommunications collocation facility, where
8 a subsequent collocation facility is a permitted use not subject to
9 a city or county discretionary permit pursuant to subdivision (a),
10 shall be subject to a city or county discretionary permit issued on
11 or after January 1, 2007, and shall comply with all of the following:

12 (1) City or county requirements for a wireless
13 telecommunications collocation facility that specifies types of
14 wireless telecommunications facilities that are allowed to include
15 a collocation facility, or types of wireless telecommunications
16 facilities that are allowed to include certain types of collocation
17 facilities; height, location, bulk, and size of the wireless
18 telecommunications collocation facility; percentage of the wireless
19 telecommunications collocation facility that may be occupied by
20 collocation facilities; and aesthetic or design requirements for the
21 wireless telecommunications collocation facility.

22 (2) City or county requirements for a proposed collocation
23 facility, including any types of collocation facilities that may be
24 allowed on a wireless telecommunications collocation facility;
25 height, location, bulk, and size of allowed collocation facilities;
26 and aesthetic or design requirements for a collocation facility.

27 (3) State and local requirements, including the general plan, any
28 applicable community plan or specific plan, and zoning ordinance.

29 (4) The California Environmental Quality Act (Division 13
30 (commencing with Section 21000) of the Public Resources Code)
31 through certification of an environmental impact report, or adoption
32 of a negative declaration or mitigated negative declaration.

33 (c) The city or county shall hold at least one public hearing on
34 the discretionary permit required pursuant to subdivision (b) and
35 notice shall be given pursuant to Section 65091, unless otherwise
36 required by this division.

37 (d) For purposes of this section, the following definitions apply:

38 (1) "Collocation facility" means the placement or installation
39 of wireless facilities, including antennas, and related equipment,

1 on, or immediately adjacent to, a wireless telecommunications
2 collocation facility.

3 (2) “Small cell” means a wireless telecommunications facility
4 within the volume limits established by the Federal
5 Communications Commission for small wireless antennas and
6 associated equipment in the First Amendment to Nationwide
7 Programmatic Agreement for the Collocation of Wireless Antennas
8 (47 C.F.R. Part 1 Appendix B).

9 (3) “Wireless telecommunications facility” means equipment
10 and network components such as towers, utility poles, transmitters,
11 base stations, and emergency power systems that are integral to
12 providing wireless telecommunications services.

13 (4) “Wireless telecommunications collocation facility” means
14 a wireless telecommunications facility that includes collocation
15 facilities.

16 (e) The Legislature finds and declares that both small cell and
17 collocation facilities, as defined in this section, have a significant
18 economic impact in California and are not a municipal affair as
19 that term is used in Section 5 of Article XI of the California
20 Constitution, but are a matter of statewide concern.

21 (f) With respect to the consideration of the environmental effects
22 of radio frequency emissions, the review by the city or county shall
23 be limited to that authorized by Section 332(c)(7) of Title 47 of
24 the United States Code, or as that section may be hereafter
25 amended.

26 SEC. 3.

27 SEC. 2. Section 65964 of the Government Code is amended
28 to read:

29 65964. As a condition of approval of an application for a permit
30 for construction or reconstruction for a development project for a
31 wireless telecommunications facility or small cell, facility, as
32 defined in Section 65850.6, a city or county shall not do any of
33 the following:

34 (a) Require an escrow deposit for removal of a wireless
35 telecommunications facility or any component thereof. However,
36 a performance bond or other surety or another form of security
37 may be required, so long as the amount of the bond security is
38 rationally related to the cost of removal. In establishing the amount
39 of the security, the city or county shall take into consideration

1 information provided by the permit applicant regarding the cost
2 of removal.

3 (b) Unreasonably limit the duration of any permit for a wireless
4 telecommunications facility. Limits of less than 10 years are
5 presumed to be unreasonable absent public safety reasons or
6 substantial land use reasons. However, cities and counties may
7 establish a build-out period for a site. *A permit shall be renewed*
8 *for an equivalent duration unless the city or county makes a finding*
9 *that the wireless telecommunications facility does not comply with*
10 *the codes and permit conditions applicable at the time the permit*
11 *was initially approved.*

12 (c) Require that all wireless telecommunications facilities be
13 limited to sites owned by particular parties within the jurisdiction
14 of the city or county.

15 SEC. 3. Section 65964.2 is added to the Government Code, to
16 read:

17 65964.2. (a) A small cell shall be a permitted use not subject
18 to a city or county discretionary permit if it satisfies the following
19 requirements:

20 (1) The small cell is located in the public right-of-way in any
21 zone or in any zone that includes a commercial or industrial use.

22 (2) The small cell complies with all applicable state and local
23 health and safety regulations.

24 (3) The small cell is not located on a fire department facility.

25 (b) (1) A city or county may require that the small cell be
26 approved pursuant to a single administrative permit provided that
27 the permit is issued within the time frames required by state and
28 federal law.

29 (2) An administrative permit may be subject to the following:

30 (A) The same administrative permit requirements as similar
31 construction projects applied in a nondiscriminatory manner.

32 (B) The submission of additional information showing that the
33 small cell complies the Federal Communications Commission's
34 regulations concerning radio frequency emissions referenced in
35 Section 332(c)(7)(B)(iv) of Title 47 of the United States Code.

36 (3) The administrative permit shall not be subject to:

37 (A) Requirements to provide additional services, directly or
38 indirectly, including, but not limited to, in-kind contributions such
39 as reserving fiber, conduit, or pole space.

1 (B) The submission of any additional information other than
2 that required of similar construction projects, except as specifically
3 provided in this section.

4 (C) Limitations on routine maintenance or the replacement of
5 small cells with small cells that are substantially similar, the same
6 size or smaller.

7 (D) The regulation of any antennas mounted on cable strands.

8 (c) A city or county shall not preclude the leasing or licensing
9 of its vertical infrastructure located in public right-of-way or public
10 utility easements under the terms set forth in this paragraph.
11 Vertical infrastructure shall be made available under fair and
12 reasonable fees, terms, and conditions and offered on a
13 nondiscriminatory basis for small cells. Fees shall be cost-based,
14 and shall not exceed the lesser of either of the following:

15 (1) The costs of ownership of the percentage of the volume of
16 the capacity of the vertical infrastructure rendered unusable by a
17 small cell.

18 (2) The rate produced by applying the formula adopted by the
19 Federal Communications Commission for telecommunications
20 pole attachments in Section 1.1409(e)(2) of Part 47 of the Code
21 of Federal Regulations.

22 (d) A city or county shall not unreasonably discriminate in the
23 leasing or licensing of property not located in the public
24 right-of-way owned or operated by the city or county for
25 installation of a small cell. A city or county shall authorize the
26 installation of a small cell on property owned or controlled by the
27 city or county not located within the public right-of-way to the
28 same extent the city or county permits access to that property for
29 commercial projects or uses. These installations shall be subject
30 to reasonable and nondiscriminatory rates, terms, and conditions.

31 (e) For purposes of this section, the following terms have the
32 following meanings:

33 (1) (A) "Small cell" means a wireless telecommunications
34 facility, as defined in Section 65850.6, using licensed or unlicensed
35 spectrum that meets the following qualifications:

36 (i) Any individual antenna, excluding the associated equipment,
37 is individually no more than three cubic feet in volume, and all
38 antennas on the structure total no more than six cubic feet in
39 volume, whether in a single array or separate.

(ii) (I) The associated equipment on pole structures does not exceed 21 cubic feet for poles that can support fewer than three providers or 28 cubic feet for pole collocations that can support at least three providers, or the associated equipment on nonpole structures does not exceed 28 cubic feet for collocations that can support fewer than three providers or 35 cubic feet for collocations that can support at least three providers.

(II) The following types of associated ancillary equipment are not included in the calculation of equipment volume:

- (ia) Electric meters and any required pedestal.
- (ib) Concealment elements.
- (ic) Any telecommunications demarcation box.
- (id) Grounding equipment.
- (ie) Power transfer switch.
- (if) Cut-off switch.
- (ig) Vertical cable runs for the connection of power and other services.

(B) “Small cell” does not include communications infrastructure extending beyond the telecommunications demarcation box.

(2) “Vertical infrastructure” means all poles or similar facilities owned or controlled by a city or county that are in the public right-of-way or public utility easements and meant for, or used in whole or in part for, communications service, electric service, lighting, traffic control, signage, or similar functions.

(f) The Legislature finds and declares that small cells, as defined in this section, have a significant economic impact in California and are not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution, but are a matter of statewide concern.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY APRIL 4, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1250

Introduced by Assembly Member Jones-Sawyer

February 17, 2017

An act to add Sections 31000.10, 31000.11, 37103.1, and 37103.2 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as amended, Jones-Sawyer. Counties and cities: contracts for personal services.

Existing law authorizes the board of supervisors of a county to contract for special services on behalf of various public entities with persons who are specially trained, experienced, expert, and competent to perform the special services, as prescribed. These services include financial, economic, accounting, engineering, legal, and other specified services. Existing law also authorizes legislative bodies of cities to contract with any specially trained and experienced person, firm, or corporation for special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.

This bill would establish specific standards for the use of personal services contracts by counties and cities. Beginning January 1, 2018, the bill would allow a county or county agency, or ~~a city~~, *city or city agency*, to contract for personal services currently or customarily performed by county employees, as applicable, when specified conditions are met. Among other things, the bill would require the county or city to clearly demonstrate that the proposed contract will

result in actual overall costs savings to the county or city and also to show that the contract does not cause the displacement of county or city workers. The bill would require a contract entered into under these provisions to specify that it may be terminated upon material breach, if notice is provided, as specified. Additionally, the bill would require the county or city to provide an orientation to employees of the contractor who would perform services pursuant to the contract, and would establish liability provisions for employment law violations and torts committed in the course of providing services under contract, among other conditions. The bill would impose additional disclosure requirements for contracts exceeding \$100,000 annually, would exempt certain types of contracts from its provisions, and would require each county or city to maintain on its Internet Web site a searchable database of all of its contracts exceeding \$100,000. By placing new duties on local government agencies, the bill would impose a state-mandated local program.

The bill also would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 31000.10 is added to the Government
- 2 Code, to read:
- 3 31000.10. The purpose of this section and Section 31000.11
- 4 is to establish standards for the use of personal services contracts
- 5 by counties.
- 6 (a) If otherwise permitted by law, a county or county agency
- 7 may contract for personal services currently or customarily
- 8 performed by county employees when all the following conditions
- 9 are met:
- 10 (1) The board of supervisors or county agency clearly
- 11 demonstrates that the proposed contract will result in actual overall

1 cost savings to the county for the duration of the entire contract
2 as compared with the county's actual costs of providing the same
3 services, provided that:

4 (A) In comparing costs, there shall be included the county's
5 additional cost of providing the same service as proposed by a
6 contractor. These additional costs shall include the salaries and
7 benefits of additional staff that would be needed and the cost of
8 additional space, equipment, and materials needed to perform the
9 function.

10 (B) In comparing costs, there shall not be included the county's
11 indirect overhead costs unless these costs can be attributed solely
12 to the function in question and would not exist if that function was
13 not performed in county service. Indirect overhead costs shall
14 mean the pro rata share of existing administrative salaries and
15 benefits, rent, equipment costs, utilities, and materials.

16 (C) In comparing costs, there shall be included in the cost of a
17 contractor providing a service any continuing county costs that
18 would be directly associated with the contracted function. These
19 continuing county costs shall include, but not be limited to, those
20 for inspection, supervision, and monitoring.

21 (2) Proposals to contract out work shall not be approved solely
22 on the basis that savings will result from lower contractor pay rates
23 or benefits. Proposals to contract out work shall be eligible for
24 approval if the contractor's wages are at the industry's level and
25 do not significantly undercut county pay rates.

26 (3) The contract does not cause the displacement of county
27 employees. "Displacement" includes layoff, demotion, involuntary
28 transfer to a new class, involuntary transfer to a new location
29 requiring a change of residence, and time base reductions.
30 "Displacement" does not include changes in shifts or days off or
31 reassignment to other positions within the same class and general
32 location.

33 (4) The contract does not cause vacant positions in county
34 employment to remain unfilled.

35 (5) The contract does not adversely affect the county's
36 affirmative action efforts.

37 (6) The savings shall be large enough to ensure that they will
38 not be eliminated by private sector and county cost fluctuations
39 that could normally be expected during the contracting period.

1 (7) The amount of savings clearly justifies the size and duration
2 of the contracting agreement.

3 (8) The contract is awarded through a publicized, competitive
4 bidding process. The county shall reserve the right to reject any
5 and all bids or proposals.

6 (9) The contract includes specific provisions pertaining to the
7 qualifications of the staff that will perform the work under the
8 contract, as well as assurance that the contractor's hiring practices
9 meet applicable nondiscrimination, affirmative action standards.

10 (10) The potential for future economic risk to the county from
11 potential contractor rate increases is minimal.

12 (11) The contract is with a firm. "Firm" means a corporation,
13 partnership, nonprofit organization, or sole proprietorship.

14 (12) The potential economic advantage of contracting is not
15 outweighed by the public's interest in having a particular function
16 performed directly by county government. Before executing a
17 contract for personal services under this section, the county shall
18 demonstrate that outsourcing the particular functions at issue is in
19 the public interest, addressing the cost of the contract, the cost of
20 administering the contract, the effect on the quality of services
21 provided to the public, and any other relevant circumstances.

22 (13) The contract shall provide that it may be terminated at any
23 time by the county without penalty if there is a material breach of
24 the contract and notice is provided at least 30 days before
25 termination.

26 (14) The county shall provide an orientation to employees of
27 the contractor who will perform services pursuant to the contract.
28 The orientation shall include, but is not limited to, all of the
29 following:

30 (A) A description of the services to be provided pursuant to the
31 contract.

32 (B) A description of the function and goals of the public agency
33 responsible for providing the services in the absence of the contract.

34 (C) Any applicable rules governing provision of the services
35 and how the employee may report violations of applicable rules
36 or contractual requirements.

37 (15) The county shall be jointly and severally liable with the
38 contractor and any of its subcontractors for:

1 (A) Employment law violations arising from performance of
2 the contract, unless otherwise provided by a bona fide collective
3 bargaining agreement covering the affected employees.

4 (B) Torts committed by the contractor or its subcontractors in
5 the course of providing services under the contract.

6 (16) If the contract is for personal services in excess of one
7 hundred thousand dollars (\$100,000) annually, all of the following
8 shall occur:

9 (A) The county shall require the contractor to disclose all of the
10 following information as part of its bid, application, or answer to
11 a request for proposal:

12 (i) A description of all charges, claims, or complaints filed
13 against the contractor with any federal, state, or local administrative
14 agency during the prior 10 years.

15 (ii) A description of all civil complaints filed against the
16 contractor in any state or federal court during the prior 10 years.

17 (iii) A description of all state or federal criminal complaints or
18 indictments filed against the contractor, or any of its officers,
19 directors, or managers, at any time.

20 (iv) A description of any debarments of the contractor by any
21 public agency or licensing body at any time.

22 (v) The total compensation, including salaries and benefits, the
23 contractor provides to workers performing work similar to that to
24 be provided under the contract.

25 (vi) The total compensation, including salaries, benefits, options,
26 and any other form of compensation, provided to the five highest
27 compensated officers, directors, executives, or employees of the
28 contractor.

29 (vii) Any other information the county deems necessary to
30 ensure compliance with this section.

31 (B) Prior to entering into the contract, the county shall conduct,
32 and make public, a study of the potential impact of outsourcing
33 the work covered by the contract, including, but not limited to:

34 (i) The potential loss of employment opportunities within the
35 county and resultant loss of income to workers.

36 (ii) The economic impact on local businesses if consumer
37 spending power is reduced as a result of reduced wages under the
38 contract.

1 (iii) The impact on the county's ability to provide social services
2 and the effect of any reduction in social services on county
3 residents.

4 (iv) Any environmental impact caused by contracting for the
5 services at issue.

6 (C) The contract shall provide that the county is entitled to
7 receive a copy of any records related to the contractor's or any
8 subcontractor's performance of the contract, and that any of those
9 records shall be subject to the California Public Records Act
10 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
11 Title 1). In furtherance of this subdivision, contractors and any
12 subcontractors shall maintain records related to performance of
13 the contract that ordinarily would be maintained by the county in
14 performing the same functions.

15 (D) The county shall include in the contract specific, measurable
16 performance standards and provisions for a performance audit by
17 the county, or an independent auditor approved by the county, to
18 determine whether the performance standards are being met and
19 whether the contractor is in compliance with applicable laws and
20 regulations. The county shall not renew or extend the contract prior
21 to receiving and considering the audit report.

22 (E) The contract shall include provisions for an audit by the
23 county, or an independent auditor approved by the county, to
24 determine whether and to what extent the anticipated cost savings
25 have actually been realized. The county shall not renew or extend
26 the contract before receiving and considering the audit report.

27 (b) This section does not preclude a county from adopting more
28 restrictive rules regarding the contracting of public services.

29 (c) When otherwise permitted by law, the absence of any
30 requirement of subdivision (a) shall not prevent personal services
31 contracting when any of the following conditions are met:

32 (1) The contract is for a new county function and the Legislature
33 has specifically mandated or authorized the performance of the
34 work by independent contractors.

35 (2) The services contracted cannot be performed satisfactorily
36 by county employees, or are of such a highly specialized or
37 technical nature that the necessary expert knowledge, experience,
38 and ability are not available among county employees.

39 (3) The services are incidental to a contract for the purchase or
40 lease of real or personal property. Contracts under this criterion,

1 known as “service agreements,” shall include, but not be limited
2 to, agreements to service or maintain office equipment or
3 computers that are leased or rented.

4 (4) The legislative, administrative, or legal goals and purposes
5 cannot be accomplished through the utilization of county
6 employees. Contracts are permissible under this criterion to protect
7 against a conflict of interest or to ensure independent and unbiased
8 findings in cases where there is a clear need for a different, outside
9 perspective. These contracts shall include, but not be limited to,
10 obtaining expert witnesses in litigation.

11 (5) The nature of the work is such that the standards of this part
12 for emergency appointments apply. These contracts shall conform
13 with Section 31000.4.

14 (6) Public entities or officials need private counsel because a
15 conflict of interest on the part of the county counsel’s office
16 prevents it from representing the public entity or official without
17 compromising its position. These contracts shall require the written
18 consent of the county counsel.

19 (7) The contractor will provide equipment, materials, facilities,
20 or support services that could not feasibly be provided by the
21 county in the location where the services are to be performed.

22 (8) The contractor will conduct training courses for which
23 appropriately qualified county employee instructors are not
24 available, provided that permanent instructor positions in academies
25 or similar settings shall be filled by county employees.

26 (9) The services are of such an urgent, temporary, or occasional
27 nature that the delay incumbent in their implementation by county
28 employees would frustrate their very purpose.

29 (d) All persons who provide services to a county under
30 conditions constituting an employment relationship shall ~~by~~ be
31 employed directly by the county.

32 (e) (1) Except as provided in paragraph (2), this section shall
33 apply to all counties, including counties that have adopted a merit
34 or civil service system.

35 (2) This section does not apply to a charter county formed
36 pursuant to Section 3 of Article XI of the California Constitution.

37 (f) (1) This section does not apply to any contract for services
38 described in Section 4525 or 4529.10.

(2) This section does not apply to any contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(3) This section does not apply to a contract for public transit services, including paratransit services, if the county's transit services are fully funded by Federal Transit Administration assistance and the county is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.

(g) This section shall apply to personal services contracts entered into, renewed, or extended on or after January 1, 2018.

SEC. 2. Section 31000.11 is added to the Government Code, to read:

31000.11. (a) Each county shall maintain on its Internet Web site a searchable database of all contracts of an annual value in excess of one hundred thousand dollars (\$100,000) entered into pursuant to Section 31000.10. The database shall include, but is not limited to, the following:

(1) A description of the services provided under the contract.

(2) The name of the agency, department, or division responsible for providing the service in the absence of the contract.

(3) The name of the contractor and any subcontractors providing services under the contract.

(4) The effective and expiration dates of the contract.

(5) The annual amount paid pursuant to the contract to the contractor in the past three fiscal years and the current fiscal year, including the funding source for all amounts paid.

(6) The annual amount expected to be paid pursuant to the contract to the contractor in the next three fiscal years.

(7) The total projected cost of the contract for all fiscal years and the funding source for all amounts to be paid.

(8) The names of the employees of the contractor and any subcontractors providing services pursuant to the contract and their hourly pay rates, and the total number of full-time equivalent positions involved in performing the services under the contract.

(9) The names of any workers providing services pursuant to the contract as independent contractors and the compensation rates for such workers.

(b) The information identified in subdivision (a) shall be compiled in an annual service contractor expenditure budget

1 accompanying the county budget, reflecting all spending on
2 personal services contracts by the county.

3 SEC. 3. Section 37103.1 is added to the Government Code, to
4 read:

5 37103.1. The purpose of this section and Section 37103.2 is
6 to establish standards for the use of personal services contracts by
7 cities.

8 (a) If otherwise permitted by law, a city or city agency may
9 contract for personal services currently or customarily performed
10 by city employees when all the following conditions are met:

11 (1) The city council or city agency clearly demonstrates that
12 the proposed contract will result in actual overall cost savings to
13 the city for the duration of the entire contract as compared with
14 the city's actual costs of providing the same services, provided
15 that:

16 (A) In comparing costs, there shall be included the city's
17 additional cost of providing the same service as proposed by a
18 contractor. These additional costs shall include the salaries and
19 benefits of additional staff that would be needed and the cost of
20 additional space, equipment, and materials needed to perform the
21 function.

22 (B) In comparing costs, there shall not be included the city's
23 indirect overhead costs unless these costs can be attributed solely
24 to the function in question and would not exist if that function was
25 not performed in city service. Indirect overhead costs shall mean
26 the pro rata share of existing administrative salaries and benefits,
27 rent, equipment costs, utilities, and materials.

28 (C) In comparing costs, there shall be included in the cost of a
29 contractor providing a service any continuing city costs that would
30 be directly associated with the contracted function. These
31 continuing city costs shall include, but not be limited to, those for
32 inspection, supervision, and monitoring.

33 (2) Proposals to contract out work shall not be approved solely
34 on the basis that savings will result from lower contractor pay rates
35 or benefits. Proposals to contract out work shall be eligible for
36 approval if the contractor's wages are at the industry's level and
37 do not significantly undercut city pay rates.

38 (3) The contract does not cause the displacement of city
39 employees. "Displacement" includes layoff, demotion, involuntary
40 transfer to a new class, involuntary transfer to a new location

1 requiring a change of residence, and time base reductions.
2 “Displacement” does not include changes in shifts or days off or
3 reassignment to other positions within the same class and general
4 location.

5 (4) The contract does not cause vacant positions in city
6 employment to remain unfilled.

7 (5) The contract does not adversely affect the city’s affirmative
8 action efforts.

9 (6) The savings shall be large enough to ensure that they will
10 not be eliminated by private sector and city cost fluctuations that
11 could normally be expected during the contracting period.

12 (7) The amount of savings clearly justifies the size and duration
13 of the contracting agreement.

14 (8) The contract is awarded through a publicized, competitive
15 bidding process. The city shall reserve the right to reject any and
16 all bids or proposals.

17 (9) The contract includes specific provisions pertaining to the
18 qualifications of the staff that will perform the work under the
19 contract, as well as assurance that the contractor’s hiring practices
20 meet applicable nondiscrimination, affirmative action standards.

21 (10) The potential for future economic risk to the city from
22 potential contractor rate increases is minimal.

23 (11) The contract is with a firm. “Firm” means a corporation,
24 partnership, nonprofit organization, or sole proprietorship.

25 (12) The potential economic advantage of contracting is not
26 outweighed by the public’s interest in having a particular function
27 performed directly by city government. Before executing a contract
28 for personal services under this section, the city shall demonstrate
29 that outsourcing the particular functions at issue is in the public
30 interest, addressing the cost of the contract, the cost of
31 administering the contract, the effect on the quality of services
32 provided to the public, and any other relevant circumstances.

33 (13) The contract shall provide that it may be terminated at any
34 time by the city without penalty if there is a material breach of the
35 contract and notice is provided at least 30 days before termination.

36 (14) The city shall provide an orientation to employees of the
37 contractor who will perform services pursuant to the contract. The
38 orientation shall include, but is not limited to, all of the following:

39 (A) A description of the services to be provided pursuant to the
40 contract.

1 (B) A description of the function and goals of the public agency
2 responsible for providing the services in the absence of the contract.

3 (C) Any applicable rules governing provision of the services
4 and how the employee may report violations of applicable rules
5 or contractual requirements.

6 (15) The city shall be jointly and severally liable with the
7 contractor and any of its subcontractors for:

8 (A) Employment law violations arising from performance of
9 the contract, unless otherwise provided by a bona fide collective
10 bargaining agreement covering the affected employees.

11 (B) Torts committed by the contractor or any of its
12 subcontractors in the course of providing services under the
13 contract.

14 (16) If the contract is for personal services in excess of one
15 hundred thousand dollars (\$100,000) annually, all of the following
16 shall occur:

17 (A) The city shall require the contractor to disclose all of the
18 following information as part of its bid, application, or answer to
19 a request for proposal:

20 (i) A description of all charges, claims, or complaints filed
21 against the contractor with any federal, state, or local administrative
22 agency during the prior 10 years.

23 (ii) A description of all civil complaints filed against the
24 contractor in any state or federal court during the prior 10 years.

25 (iii) A description of all state or federal criminal complaints or
26 indictments filed against the contractor, or any of its officers,
27 directors, or managers, at any time.

28 (iv) A description of any debarments of the contractor by any
29 public agency or licensing body at any time.

30 (v) The total compensation, including salaries and benefits, the
31 contractor provides to workers performing work similar to that to
32 be provided under the contract.

33 (vi) The total compensation, including salaries, benefits, options,
34 and any other form of compensation, provided to five highest
35 compensated officers, directors, executives, or employees of the
36 contractor.

37 (vii) Any other information the city deems necessary to ensure
38 compliance with this section.

1 (B) Prior to entering into the contract, the city shall conduct,
2 and make public, a study of the potential impact of outsourcing
3 the work covered by the contract, including, but not limited to:

4 (i) The potential loss of employment opportunities within the
5 city and resultant loss of income to workers.

6 (ii) The economic impact on local businesses if consumer
7 spending power is reduced as a result of reduced wages under the
8 contract.

9 (iii) The impact on the city's ability to provide social services
10 and the effect of any reduction in social services on city residents.

11 (iv) Any environmental impact caused by contracting for the
12 services at issue.

13 (C) The contract shall provide that the city is entitled to receive
14 a copy of any records related to the contractor's or any
15 subcontractor's performance of the contract, and that any such
16 records shall be subject to the California Public Records Act
17 (Chapter 5 (commencing with Section 6250) of Division 7 of Title
18 1). In furtherance of this subdivision, contractors and any
19 subcontractors shall maintain records related to performance of
20 the contract that ordinarily would be maintained by the city in
21 performing the same functions.

22 (D) The city shall include in the contract specific, measurable
23 performance standards and provisions for a performance audit by
24 the city, or an independent auditor approved by the city, to
25 determine whether the performance standards are being met and
26 whether the contractor is in compliance with applicable laws and
27 regulations. The legislative body shall not renew or extend the
28 contract prior to receiving and considering the audit report.

29 (E) The contract shall include provisions for an audit by the
30 city, or an independent auditor approved by the city, to determine
31 whether and to what extent the anticipated cost savings have
32 actually been realized. The city shall not renew or extend the
33 contract before receiving and considering the audit report.

34 (b) This section does not preclude a city from adopting more
35 restrictive rules regarding the contracting of public services.

36 (c) When otherwise permitted by law, the absence of any
37 requirement of subdivision (a) shall not prevent personal services
38 contracting when any of the following conditions are met:

1 (1) The contract is for a new city function and the Legislature
2 has specifically mandated or authorized the performance of the
3 work by independent contractors.

4 (2) The services contracted cannot be performed satisfactorily
5 by city employees, or are of such a highly specialized or technical
6 nature that the necessary expert knowledge, experience, and ability
7 are not available among city employees.

8 (3) The services are incidental to a contract for the purchase or
9 lease of real or personal property. Contracts under this criterion,
10 known as “service agreements,” shall include, but not be limited
11 to, agreements to service or maintain office equipment or
12 computers that are leased or rented.

13 (4) The legislative, administrative, or legal goals and purposes
14 cannot be accomplished through the utilization of city employees.
15 Contracts are permissible under this criterion to protect against a
16 conflict of interest or to ensure independent and unbiased findings
17 in cases where there is a clear need for a different, outside
18 perspective. These contracts shall include, but not be limited to,
19 obtaining expert witnesses in litigation.

20 (5) The nature of the work is such that the standards of this title
21 for emergency appointments apply. These contracts shall conform
22 with Section 45080.

23 (6) Public entities or officials need private counsel because a
24 conflict of interest on the part of the city attorney’s office prevents
25 it from representing the public entity or official without
26 compromising its position. These contracts shall require the written
27 consent of the city attorney.

28 (7) The contractor will provide equipment, materials, facilities,
29 or support services that could not feasibly be provided by the city
30 in the location where the services are to be performed.

31 (8) The contractor will conduct training courses for which
32 appropriately qualified city employee instructors are not available,
33 provided that permanent instructor positions in academies or similar
34 settings shall be filled by city employees.

35 (9) The services are of such an urgent, temporary, or occasional
36 nature that the delay incumbent in their implementation by city
37 employees would frustrate their very purpose.

38 (d) All persons who provide services to a city under conditions
39 constituting an employment relationship shall ~~by~~ be employed
40 directly by the city.

(e) (1) Except as provided in paragraph (2), this section shall apply to all cities, including cities that have adopted a merit or civil service system.

(2) This section does not apply to a charter city formed pursuant to Section 3 of Article XI of the California Constitution.

(f) (1) This section does not apply to any contract for services described in Section 4525 or 4529.10.

(2) This section does not apply to any contract that is subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(3) This section does not apply to a contract for public transit services, including paratransit services, if the county's transit services are fully funded by Federal Transit Administration assistance and the county is thereby subject to the guidelines established in FTA Circular 4220.1F or any subsequent guidelines or revisions issued by the Federal Transit Administration.

(g) This section shall apply to personal services contracts entered into, renewed, or extended on or after January 1, 2018.

SEC. 4. Section 37103.2 is added to the Government Code, to read:

37103.2. (a) Each city shall maintain on its Internet Web site a searchable database of all contracts of an annual value in excess of one hundred thousand dollars (\$100,000) entered into pursuant to Section 37103.1. The database shall include, but is not limited to, the following:

(1) A description of the services provided under the contract.

(2) The name of the agency, department, or division responsible for providing the service in the absence of the contract.

(3) The name of the contractor and any subcontractors providing services under the contract.

(4) The effective and expiration dates of the contract.

(5) The annual amount paid pursuant to the contract to the contractor in the past three fiscal years and the current fiscal year, including the funding source for all amounts paid.

(6) The annual amount expected to be paid pursuant to the contract to the contractor in the next three fiscal years.

(7) The total projected cost of the contract for all fiscal years and the funding source for all amounts to be paid.

(8) The names of the employees of the contractor and any subcontractors providing services pursuant to the contract and their

1 hourly pay rates, and the total number of full-time equivalent
2 positions involved in performing the services under the contract.

3 (9) The names of any workers providing services pursuant to
4 the contract as independent contractors and the compensation rates
5 for such workers.

6 (b) The information identified in subdivision (a) shall be
7 compiled in an annual service contractor expenditure budget
8 accompanying the county budget, reflecting all spending on
9 personal services contracts by the county.

10 SEC. 5. The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

14 SEC. 6. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

O



17575 Peak Avenue
Morgan Hill, CA 95037-4128
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April 19, 2017

The Honorable Ben Hueso
California State Senate, District 40
State Capitol Building, Room 4035
Sacramento, CA 95814
VIA FAX: 916-651-4940

RE: SB 649 (Hueso). Wireless and Small Cell Telecommunications Facilities.
Notice of Opposition (As Amended March 28, 2017)

Dear Senator Hueso:

The City of Morgan Hill respectfully opposes your SB 649 related to the permitting of wireless and small cell telecommunications facilities. This proposal unnecessarily and unconstitutionally strips local authority over public property and shuts out public input and local discretion by eliminating consideration of the aesthetic and environmental impacts of "small cells."

This proposal would prohibit local discretionary review of "small cell" wireless antennas, including equipment collocated on existing structures or located on new "poles, structures, or non-pole structures," including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that "small cells" be allowed in all zones as a use **by-right**.

The City recognizes the vital need to strengthen our telecommunications infrastructure and has formally recognized that small cell wireless technologies could play a significant role in improving access throughout our community. We cannot, however, agree that eliminating the ability of local agencies to regulate the siting of these technologies is wise public policy. The City has invested millions of taxpayer dollars in improving the appearance of our streetscape and looks forward to working with small cell developers on designing installations that advance technology while best preserving the appearance and access of our public spaces.

For these reasons, the City of Morgan Hill **opposes** Senate Bill 649.

Sincerely,

Steve Tate
Mayor

Steve Rymer
City Manager

cc: Assembly member Anna Caballero [fax: 916-319-2130]
Senator Bill Monning [fax: 916-651-4917]
Nidia Bautista, Consultant, Senate Energy, Utilities and Commerce Committee, Nidia.Bautista@sen.ca.gov
Kerry Yoshida, Principal Consultant, Senate Republican Caucus, Kerry.yoshida@sen.ca.gov
Seth Miller, Regional Public Affairs Manager, League of CA Cities, smiller@cacities.org
Meg Desmond, League of California Cities, mdesmond@cacities.org

Attachment: SB 649 Letter of Opposition (1172 : City Position on Pending Legislation SB 649 and AB 1250)



17575 Peak Avenue
Morgan Hill, CA 95037-4128
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April 19, 2017

The Honorable Reginald Jones-Sawyer, Sr.
California State Assembly
State Capitol Building, Room 2117
Sacramento, CA 95814
VIA FAX: 916-319-2159

RE: AB 1250 (Jones-Sawyer). Counties and Cities: Contracts for Personal Services.
Notice of Opposition *(as amended 04/17/17)*

Dear Assembly Member Jones-Sawyer, Sr.:

The City of Morgan Hill must respectfully oppose your Assembly Bill (AB) 1250, which effectively eliminates almost all contracting services for cities and counties.

Local governments have a long history of addressing service delivery challenges with creativity, self-reliance, and innovation. Unique local challenges and limited budgets continue to fuel innovative efforts to obtain expertise and provide high quality services. Local elected officials are held accountable for these carefully thought out financial decisions. The City of Morgan Hill is no exception. The City of Morgan Hill has been successful in contracting specific services and relies heavily on these partners to deliver high levels of service in an economical way. Services such as fire and emergency medical services, landscaping, and recreational facility operations are executed by industry experts in Morgan Hill. These partners have proved to compliment the City by providing highly regarded and prioritized services efficiently.

Cities continue to face difficult budget conditions, which have been compounded by expanding pension and retiree health care obligations and recent state takeaways including the loss of redevelopment. This measure compounds existing constitutional limitations on local agencies to raise additional revenue. Thus, local agencies are in no position to have their flexibility further curtailed.

As amended, AB 1250 places substantial burdens on local agencies by adding onerous, over prescriptive, and unnecessary requirements that impede local control and have significant impacts on local governance. For these reasons, the City of Morgan Hill **Opposes** Assembly Bill 1250.

Sincerely,

Steve Tate
Mayor

Steve Rymer
City Manager

cc: Assembly Member Anna Caballero [fax: 916-319-2130]
Senator Bill Monning [fax: 916-651-4917]
Michael Bolden, Chief Consultant, Assembly Committee Public Employees, Retirement, and Social Security, michael.bolden@asm.ca.gov
Joshua White, Consultant, Assembly Republican Caucus, joshua.white@asm.ca.gov
Camille Wagner, Legislative Secretary, Office of Governor Edmund G. Brown Jr., camille.wagner@gov.ca.gov
Seth Miller, Regional Public Affairs Manager, League of CA Cities, smiller@cacities.org
Meg Desmond, League of California Cities, mdesmond@cacities.org

Attachment: AB 1250 Letter of Opposition (1172 : City Position on Pending Legislation SB 649 and AB 1250)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Angie Gonzalez, Council Services Assistant

APPROVED BY: City Manager

ADOPT ORDINANCE 2234, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR A NINE LOT DEVELOPMENT PROJECT AAE2017-0010: WALNUT GROVE-NEWLAND LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE (APN 726-07-089,726- 07-023, -024)

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2234, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

On April 19, 2017, the City Council Introduced Ordinance No. 2234 New Series, by the Following Roll Call Vote: AYES: Carr, Constantine, Spring, Robinett Jachimowicz, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

This Development Agreement Amendment will memorialize commitments made during the 2016 Residential Control System (RDCS) processes. The Development Agreement provides for the subdivision of 2.1 acres of a larger parcel (4.7 acres) into 9 lots. The site is located on the east side of Walnut Grove Drive, south of Diana Avenue.

The City Council approved a Development Agreement for five RDCS building allotments on December 14, 2016. An additional four RDCS building allotments were awarded in the 2016 RDCS competition for Fiscal Year 2018-19 (Application No. RDCS2016-0012 Walnut Grove-Newland Homes). The Development Agreement Amendment incorporates the newly awarded allotments.

COMMUNITY ENGAGEMENT: Inform

The Morgan Hill Community was informed about the project through public notification, including site signage, newspaper notice, and direct mail to property owners within 300 feet.

ALTERNATIVE ACTIONS:

In addition to denial of the Development Agreement Amendment, the City Council could direct staff to make changes to the Development Agreement.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

A General Plan Amendment (GPA-97-11 Walnut Grove-La Mere) was approved in October 1998 amending the land use designation of the project site from Office Industrial to Single Family Medium (3-5 dwelling units per acre). Concurrently, the site was rezoned from Office Industrial (MO) to R-1-9,000/RPD (ZA-97-20 Walnut Grove-La Mere). A Precise Plan was not submitted within the required timeframe specified by Chapter 18.18.140 of the Municipal Code, therefore, the zoning reverted to the MO zone district.

In August 2016, the City Council approved a Zoning Amendment (ZA2016-0005) amending the zoning on the site from Office Industrial MO to the R-1 9,000 zone district to conform to the Single Family Medium General Plan land use designation.

The Development Agreement was reviewed by the Planning Commission at its November 22, 2016 meeting at which the Commission held a public hearing. The Planning Commission recommended approval of the Development Agreement to the City Council. The Planning Commission also approved a vesting Tentative Subdivision Map at its November 22, 2016 meeting, allowing the development of five single-family residences on a 2.1-acre portion of a 4.7-acre vacant site.

The City Council approved the Development Agreement on December 14, 2016. A provision was added to the project Development Agreement requiring that the Developer provide written disclosure to potential purchasers of property within the subdivision that the property is within, or adjacent to an area being considered as a route for the construction of the California High Speed Rail project.

The subject Development Agreement amendment was reviewed by the Planning Commission at its March 28, 2017 meeting, at which the Commission held a public hearing (see attached Staff Report). The Planning Commission recommended approval of the Development Agreement Amendment. The Planning Commission also approved a vesting Tentative Subdivision Map Amendment at its March 28, 2017 meeting, allowing the development of nine single-family residences.

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):

Project

A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

LINKS/ATTACHMENTS:

1. Ordinance 2234

ORDINANCE NO. 2234, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
APPROVING AN AMENDED DEVELOPMENT
AGREEMENT FOR A NINE LOT DEVELOPMENT
PROJECT AAE2017-0010: WALNUT GROVE-NEWLAND
LOCATED ON THE EAST SIDE OF WALNUT GROVE
DRIVE, SOUTH OF DIANA AVENUE (APN 726-07-089,726-
07-023, -024)**

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

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3: The Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code and Resolution No. 16-02, has an awarded allotment to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MMC-15-10: Walnut Grove-Newland	5, FY 2017-2018 allotments
RDCS2016-0012 Walnut Grove-Newland	4, FY 2018-2019 allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the Developer set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

- SECTION 7.** 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 8.** Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.
- SECTION 9.** Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
- SECTION 10.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit "A" by this reference incorporated herein.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 19TH DAY OF APRIL 2017, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 3RD DAY OF MAY 2017, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

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

APPROVED:

DATE:

STEVE TATE, Mayor

ATTEST:

DATE:

IRMA TORREZ, City Clerk

Effective Date: June 2, 2017

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2234, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 3rd day of April 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

Exhibit A

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Morgan Hill
Community Development Agency
17575 Peak Avenue
Morgan Hill, CA 95037

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND
NEWLAND HOMES
REGARDING
THE WALNUT GROVE DRIVE
SINGLE FAMILY RESIDENTIAL DEVELOPMENT PROJECT

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

RESIDENTIAL DEVELOPMENT AGREEMENT
 BY AND BETWEEN
 THE CITY OF MORGAN HILL
 AND
 NEWLAND HOMES
 REGARDING THE
 SINGLE FAMILY RESIDENTIAL DEVELOPMENT PROJECT

This Development Agreement ("**Agreement**") is entered into on the below-stated "**Effective Date**" by and between the City of Morgan Hill, a California municipal corporation, (hereinafter "**City**"), and Newland Homes, and their successor and assigns (hereinafter, collectively, "**Developer**"), pursuant to section 65864 *et seq.* of the Government Code of the State of California and City's police powers. City and Developer are, from time to time, also hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code sections 65864 *et seq.* ("**Development Agreement Statute**"), which regulates development agreements with any person having a legal or equitable interest in real property providing for the development of that property and establishes certain development rights in the property. In accordance with the Development Agreement Statute, and by virtue of its police powers, City has the authority to enter into development agreements, and has reflected that authority in its Morgan Hill Municipal Code (Chapter 18.80 *et seq.*) ("**Enabling Ordinance**"). This Agreement has been drafted and processed pursuant to the Development Agreement Statute and the Enabling Ordinance.

B. Developer currently has a legal and/or equitable interest in the Property.

C. Developer proposes to plan, develop, construct, operate and maintain the Project on the Property (as such terms are defined herein).

D. As of the Effective Date, various land use regulations, allotments, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively "**Existing Approvals**"), including without limitation, all of the following:

1. Five building allotments (Fiscal Year 2017-18) pursuant to the RDCS, and conditions attached to the award of such allotments; and
2. Four building allotments (Fiscal Year 2018-19) pursuant to the RDCS, and conditions attached to the award of such allotments

The existing approvals are more particularly described in the resolutions adopting the Existing Approvals.

E. For the reasons recited herein, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in planning, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

F. On January 13, 2016 and January 10, 2017, the Morgan Hill Planning Commission approved allotments for the Project as set forth in the Developer's application for a development allotment pursuant to Chapter 18.78 of the Morgan Hill Municipal Code ("**Residential Development Control System**", or "**RDCS**"). This Agreement serves to secure in a permanent and enforceable manner the public benefits included in the Developer's application as required under Section 18.78.060A of Chapter 18.78 of the Code.

G. On November 22, 2016 and March 28, 2017, following a duly noticed and conducted public hearings, the Planning Commission of the City ("**Planning Commission**"), the hearing body for purposes of the Development Agreement Statute and the Enabling Ordinance, adopted Resolutions that affirmed CEQA compliance for this Agreement, adopted findings that this Agreement is consistent with the City's General Plan and the Existing Approvals and recommended that this Agreement be approved by the City Council.

ARTICLE 1

ADMINISTRATION

1.01 Effective Date. On April 19, 2017, following a duly noticed and conducted public hearing, the Morgan Hill City Council ("City Council") introduced Ordinance No. 2234, an ordinance that affirms CEQA compliance, that adopts findings that this Agreement is consistent with the City's General Plan and the Existing Approvals, that approves this Agreement, and that directs this Agreement's execution by City ("Approving Ordinance"). The City adopted the Approving Ordinance on May 3, 2017, the Approving Ordinance became effective thirty (30) days later, and the Parties signed the Agreement. The "Effective Date" in this Agreement shall be the date that the Approving Ordinance became effective.

1.02 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "**Applicable Law**" shall have that meaning set forth in Section 2.01(a) of this Agreement.

(2) "**Existing Approvals**" shall have that meaning set forth in Recital paragraph D of this Agreement.

(3) **"Existing City Laws"** shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, RDCS, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.

(4) **"Impact Fees"** shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 et seq.

(5) **"Legal Effect"** shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(6) **"New City Laws"** shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes **"Legal Effect"** after the Effective Date of this Agreement, and that applies City wide.

(7) **"Project"** mean the development containing a residential use, as more particularly described in the Residential Development Control System Application MMC-15-10: Walnut Grove-Newland . Any reference in this Agreement to the "Project" shall mean and include the "Property".

(8) **"Project Approvals"** mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.

(9) **"Property"** shall mean that certain real property consisting of approximately 2.1 acres located within the City, as more particularly described and shown on **Exhibit A** to this Agreement.

(10) **"RDCS"** means the Residential Development Control System set forth in Chapter 18.78 of the Morgan Hill Municipal Code.

(11) **"Second Notice"** shall have that meaning set forth in Section 4.07(c) of this Agreement.

(12) **"Subdivision Document"** means, pursuant to Government Code section 66452.6(a) and this Agreement, the term of any tentative map, vesting tentative map, parcel map, vesting parcel map, final map or vesting final maps, or any such new map or any amendment to any such map, or any resubdivision.

(13) **"Subsequent Approvals" and "Subsequent Approval"** mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of

the Project, that are sought by Developer, and that are granted by City after the City Council adopts the Approving Ordinance (defined below), including without limitation, a City Resolution of Application for Annexation and subdivision maps and any Subdivision Document.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

1.03 Term/Subdivision Documents.

(a) The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated, modified or extended as provided in this Agreement) until the earliest of (1) the loss of all development allocation for the Project under the RDCS, if applicable, (2) the issuance of a certification of occupancy for all units in the Project or (3) ten (10) years plus one day after the Effective Date; provided however that Developer's obligations under Sections 2.03 and 2.04 shall survive the termination of this Agreement until such obligations are fully performed and completed in accordance with this Agreement.

(b) Any Subdivision Document relating to the Project shall automatically be extended to and until the end of the Term of this Agreement. The termination of this Agreement shall have no effect on the remaining term of a Subdivision Document that has not yet expired. Any improvement agreement entered into pursuant to the Subdivision Map Act (Gov. Code §§ 66410 *et seq.*) or other State or local regulation shall have that term determined by City. If this Agreement terminates for any reason prior to the expiration of vested rights otherwise given under the Subdivision Map Act to any vesting tentative map, vesting parcel map, vesting final map or any other type of vesting map on the Property (or any portion of the Property) (collectively, "**Vesting Map**"), such Vesting Map approved during the Term of this Agreement shall NOT extend the Applicable Law beyond the stated Term of this Agreement and the City rules, regulations and official policies applicable to that portion of the Property covered by such Vesting Map shall become those City rules, regulations and official policies in effect as of the date of the termination of this Agreement; provided, however, that City and Developer may agree to an extension of the Term of this Agreement with respect to the area covered by any such Vesting Map.

(c) If any "**Third Party Challenge**" (as that term is defined in Section 4.06(a) of this Agreement) is filed, then the Term of this Agreement shall be tolled for the period or periods of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or entry of a final judgment ("**Litigation Tolling**"). Notwithstanding the foregoing, regardless of the number of Third Party Challenges that may be filed during the Term of this Agreement, the sum total of such Litigation Tolling shall not exceed five (5) years. The filing of any Third Party Challenge shall not delay or stop the development, processing or construction of the Project, or the approval or issuance of any Project Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

ARTICLE 2

APPLICABLE LAW

2.01 Applicable Law—Generally.

(a) As used in this Agreement, "**Applicable Law**" shall mean all of the items listed below in this Section 2.01, subject only to the conditions set forth in Section 2.02(c) of this Agreement. The order of their importance is the order in which they are listed (with highest importance listed first, second most important listed second, etc.); in the event of a conflict between them, their order shall determine which one controls (the one listed higher controlling over the one listed lower):

(1) All the provisions, terms and conditions of this Agreement.

(2) The Existing Approvals. Developer hereby waives any legal or equitable right to challenge administratively or judicially any Existing Approvals including conditions of those Existing Approvals. Such waiver includes any requirements for notice, acts of protest and/or right to litigation pursuant to the Mitigation Fee Act and/or any other applicable law.

(3) The Subsequent Approvals, provided such Subsequent Approvals are:

- (i) In compliance with all controlling California law;
- (ii) Mutually agreed to by the Parties; and
- (iii) Duly enacted by City.

(4) The "Existing City Laws" that are not in conflict with this Agreement and the Project Approvals.

(5) Any "New City Laws" Developer is subject to under this Agreement; for example, as provided in, but not limited to, Section 2.09. Additionally, any New City Laws to which Developer elects to be subject pursuant to Section 2.09(e).

(b) The Parties acknowledge that the Subsequent Approvals may be processed in stages and therefore one or more Subsequent Approvals may be adopted and approved before other Subsequent Approvals needed for development of the Project are adopted and approved by City.

(c) The Parties shall cooperatively assemble all of the necessary documents to memorialize, to the best of their abilities, the Project Approvals, Existing City Laws, and the terms and conditions contained in this Agreement to assist Developer to maintain the documents assembled and to provide a continuing reference source for the approvals granted and the ordinances, policies and regulations in effect on the Effective Date of this Agreement.

(d) Nothing contained herein will give Developer a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(e) Nothing contained herein will give Developer a vested right to develop the described Project absent valid and unexpired development allocations under the RDCS.

2.02 Vested Right to Applicable Law.

(a) During the Term of this Agreement, Developer shall have the vested right to develop the Project subject only to, and in accordance with, the Applicable Law, and during the Term of this Agreement City shall have the right to regulate the development and use of the Project subject only to, and in accordance with, the Applicable Law. Nothing contained herein will give Developer a vested right to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(b) Under this Agreement, the Applicable Law will be an expanding body of law, such as, for example, when Subsequent Approvals are granted by City, and/or when Developer becomes subject to a New City Law pursuant to this Agreement.

(c) If the RDCS is applicable to the Project or any portion thereof, the vested rights to develop the Project according with Applicable Law and this Agreement shall be vested only to those residential units having a RDCS allotment. If the Project defined in this Agreement includes units that have not been awarded RDCS allotments ("Pending Units"), the RDCS allotments for the Pending Units shall be a necessary Subsequent Approval and this Agreement shall be amended to reflect the application and conditions attaching to the RDCS allotments for the Pending Units.

(d) Developer agrees that the terms and conditions of this Agreement and conditions of approval issued pursuant to this Agreement shall govern and dictate the vesting of the Developer's right to develop in lieu of any other instrument of vesting, including any vesting tentative map or any other agreement, instrument or document purporting to vest any right of development. Developer agrees to waive any vesting rights by operation of any otherwise applicable city, state or federal law.

2.03 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Project (and the Developer who is the owner of same). Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing

mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts, Homeowners Associations, and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04 and as part of the Project's sole and exclusive obligation (and the Developer's as the owner of same) to cover Project Mitigation, Developer shall pay all Impact Fees and in the amounts in legal effect at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code.

(c) Processing Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04, the Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, environmental studies required under CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Project (including Developer as owner of same). Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.04 RDCS and Other Specific Project-Specific Requirements.

(a) The following specific requirements set forth in Exhibit D are voluntarily assumed by Developer in return for benefits derived from the City's RDCS building allotment approval program. These requirements are not Project Mitigation within the meaning of Section 2.03 of this Agreement or otherwise imposed to mitigate impacts of the Project. Developer hereby agrees that these requirements are not subject to credit, refund or reimbursement or prohibition under otherwise applicable city, state or federal law and waives any such right to credit, refund, reimbursement or prohibition. Instead, these requirements are voluntarily assumed by Developer in return for benefits derived from the RDCS. For example, under the RDCS, awarding of

residential allotments to new development is a competitive process based on a point system. Additional points can be awarded to a development proposal that is willing to pay fees in addition to those already required to mitigate its impacts. The payment of these additional fees results in additional points being awarded to the development proposal under the RDCS, thereby allowing the development proposal to secure a higher score under the RDCS, which in turn may provide a high enough score for the development proposal to secure allotments. The obligation that results (to pay such additional fees and to otherwise abide by the requirements derived from that RDCS process in return for additional points under the RDCS) are enforced through this Agreement.

(b) The Developer's RDCS application - MMC-15-10: Walnut Grove-Newland approved January 13, 2016 and RDCS2016-0012 Walnut Grove-Newland approved January 10, 2017 and approval actions (as reflected in the official records, including agendas and minutes of the City Planning Commission and City Council) shall be incorporated into this Agreement; provided however, the Project under this Agreement may constitute only part of the development or Property to which said RDCS application and approvals apply and cover only part of the allotments awarded to the Property or development. Attachment A identifies the portion of the Property, the phase of the development and the number of allotments that the Project and this Agreement covers. If this Agreement covers multiple phases of a development on the Property, then Attachment C also identifies the phase during which each of the specific requirements shall apply.

2.05 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.06 Timing of Development.

(a) Securing Building Permits and Beginning Construction. Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes and the RDCS, if applicable, as these exist on the Effective Date. In the event Developer fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the RDCS, the RDCS allotment shall expire pursuant to Section 18.78.125 of Chapter 18.78 of the Morgan Hill Municipal Code.

(b) Progress Reports Until Construction of Project is Complete. Developer shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of

determining the amount of any bond to secure performance under said contracts, Developer agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units in the Project, the City shall provide Developers with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units of the Project, this Development Agreement shall be deemed terminated as to the entire Project.

2.07 Improvements.

In any instance where Developer is required to install improvements (including those set forth in Exhibit D), Developer shall obtain City approval of the plans and specifications and the timing and manner of the installation of improvements, and provided Developer has supplied all information required by City, City shall review and act on the application for such approval with good faith and in a reasonable manner. Where the actual cost of any improvement exceed Developer's estimated cost or commitment, Developer shall be solely responsible for all improvements costs in excess of those approved by City unless otherwise provided for in a reimbursement agreement.

2.08 Overcapacity, Oversizing.

(a) City may require Developer to construct on-site and off-site improvements in a manner that provides for oversizing or overcapacity so that the constructed improvement will serve other development or residents or facilities and services outside of the Project ("**Oversizing**"). Such Oversizing shall be reasonable in scope. The Parties recognize that the City shall not require any Oversizing from Developer except in connection with the Project Approvals and in accordance with provisions of the Subdivision Map Act and Applicable Law.

(b) Unless no credit or reimbursement is owed to Developer pursuant to Section 2.04 of this Agreement, Developer's right to receive credits and reimbursements for Oversizing or excessive payment or performance shall be determined and processed pursuant to the City's Municipal Code and controlling practices (relative to credits and reimbursements) on the Effective Date.

2.09 New City Laws.

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals and the Subsequent Approvals (as and when they are issued);

(5) Limit the processing of Subsequent Approvals.

(c) If City determines that it has the right under this Agreement to impose/apply a New City Law on the Property/Project, it shall send written notice to Developer of that City determination ("**Notice of New City Law**"). Upon receipt of the Notice of New City Law, if Developer believes that such New City Law is in conflict with this Agreement, Developer may send written notice to the City of the alleged conflict within thirty (30) days of receipt of City's Notice of New Law ("**Objection to New City Law**"). Developer's Objection to New City Law shall set forth the factual and legal reasons why Developer believes City cannot apply the New City Law to the Property/Project. City shall respond to Developer's Objection to New City Law ("**City Response**") within thirty (30) days of receipt of said Developer Objection to New City Law. The City Response shall set forth the factual and legal reasons why City believes it can apply the New City Law to the Project. Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Developer's receipt of the City Response (the "**Meet and Confer Period**") with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Developer of that City determination. If City determines to "impose/apply" the New City Law to the Project, then Developer shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Developer's right to judicial review of the New City Law shall commence upon Developer's receipt of City's determination following the conclusion of the Meet and Confer Period. If upon

conclusion of judicial review of the New City Law (at the highest judicial level sought and granted), the reviewing court determines that Developer is not subject to the New City Law, such New City Law shall cease to be a part of the Applicable Law, and City shall return Developer to the position Developer was in prior to City's application of such New City Law (*e.g.*, City return fees, return dedications, etc.). The above-described procedure shall not be construed to interfere with City's right to adopt or apply the New City Law with regard to all other areas of City (excluding the Project).

(d) Developer in its sole and absolute discretion may elect to have applied to the Project a New City Law that is not otherwise a part of the Applicable Law, subject to the limitations set forth in this subdivision (d). In the event Developer so elects to be subject to a New City Law that is not otherwise a part of the Applicable Law, Developer shall provide notice to City of that election and thereafter such New City Law shall be part of the Applicable Law. In no event shall any New City Law become part of the Applicable Law if it would relieve Developer from, or impede Developer's compliance with, Developer's obligations under this Agreement, including without limitation Developer's obligations of full "Project Mitigation" under Section 2.03 or the "RDCS and Other Project Specific Requirement" under Section 2.04. Further, for the purposes of this Agreement, the "New City Laws" Developer may elect to be subject to pursuant to this Section shall not mean nor include any or all individual development agreements with other developers (including without limitation such development agreements' term and conditions, exhibits, etc.) executed before or after the Effective Date of this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level) ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute concerning property located in a flood hazard zone (Gov. Code § 65865.5), or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(f) In the event that an administrative challenge and/or legal challenge (as appropriate) to a Mandated New City Laws preventing compliance with this Agreement is brought and is successful in having the Mandated New City Law determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, this Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later included into this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and

CEQA compliance), have secured approval of the Parties, and are adopted/approved by City, which shall retain all lawful discretion in this regard. That public review process is ongoing, and following the City's adoption of this Agreement, that public review process shall continue. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law.

(b) Upon submission by Developer of any and all necessary and required applications for Subsequent Approvals and payment of any and all appropriate processing and other fees as provided in this Agreement, City shall use its best efforts to promptly commence and diligently complete all steps necessary to acting on the requested Subsequent Approvals, including, but not limited to, (i) the holding of any and all required public hearings and notice for such public hearings, and (ii) the granting of the requested approval to the extent that it is consistent with Applicable Law.

3.02 Significant Actions by Third Parties Necessary to Implement the Approvals.

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

(b) City shall cooperate with Developer in its endeavors to obtain any Other Permits and shall, from time to time, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency.

(c) In the event that any such Other Permit is not obtained from an Other Entity within the time permitted by law for such other entity to act and such circumstance materially deprives Developer of the ability to proceed with development of the Project or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of either party, Developer and City shall meet and confer with the objective of attempting to mutually agree on solutions that may include alternatives, Subsequent Approvals, or an amendment(s) to this Agreement to allow the development of the Project to proceed with each Party substantially realizing its bargained-for benefit therefrom.

3.03 Administrative Amendments.

(a) Upon the written request of Developer for an amendment or modification of this Agreement or a Project Approval, the City Manager or his designee shall determine: (1) whether the requested amendment or modification is minor; and (2) whether the requested amendment or modification is consistent with this Agreement and the Applicable Law. If the City Manager or his designee finds that the proposed amendment or modification is both minor and consistent with this Agreement and the Applicable Law, and provided further that the Project and the Developer are otherwise in compliance with all agreements and approvals related to the project,

the City Manager or his designee may approve the proposed amendment or modification without notice and public hearing. Such minor amendments or modifications approved pursuant to this Section shall not constitute subsequent discretionary approvals triggering further CEQA review. Any minor amendment must be made in writing signed by the City Manager (and approved by the City Attorney) of the City and by the Developer. After approval and signatures from the City Manager and the Developer, the amendment shall be recorded with the Santa Clara County Clerk Recorder.

(b) For the purpose of this Agreement, a minor amendment shall include any of the following:

(1) Any extension, postponement or amendment of the time for commencement of construction of the Project that is concurrent and to the same extent as the time extension granted pursuant to an “exception to the loss of allotment” granted by the City Council pursuant to Section 18.78.125 of Chapter 18.78 of the Morgan Hill Municipal Code, or

(2) The addition of subsequent allocations granted as part of an "Ongoing Project" providing all of the following criteria and conditions are met:

(A) Those subsequent allocations are and shall be obligated to meet all of the Project Requirements and Commitments (including without limitation RDCS set forth in Exhibit D); and

(B) Such subsequent allocations are and shall be added to Exhibit B and Exhibit C, with time provisions as may be adjusted pursuant to the year in which such subsequent allocations are awarded to the Project as an "Ongoing Project" and with reference to such additional Project Phase.

(c) A “minor amendment” shall not include any of the following:

(i) Any material amendment or modification, or elimination of provisions required pursuant to the Morgan Hill Municipal Code and California Government Code Section 65865.2, or its successor legislation, including provisions relating to: (1) the duration or term of this Agreement, (2) the permitted uses of the subject property, (3) the density or intensity of uses, (4) the maximum height and size of proposed buildings, (5) provisions for reservation or dedication of land for public purposes, (6) general location of the uses or proposed buildings or (7) the relation of the project to adjacent properties; or

(ii) Any material amendment or modification, or eliminations of provisions set forth in Article 2 of this Agreement or Exhibits to this Agreement or any reduction in fees or Project Mitigations hereunder.

3.04 Amendments.

Any request by Developer for an amendment or modification to this Agreement or a Project Approval that is determined to be not minor by the City Manager or his designee shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification request is approved.

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Defaults.

(a) Any failure by City or Developer to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days (or 150 days for a Mortgagee (as that term is defined in Section 4.10(a)) following written notice of such failure from the other Party (unless such period is extended by written mutual consent) ("**Notice of Default**"), shall constitute a default under this Agreement ("**Default**"). Any Notice of Default shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period (or 150 days for a Mortgagee), then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period (or 150 days for a Mortgagee). If the alleged failure is cured, then no Default shall exist and the noticing Party shall take no further action. If the alleged failure is not cured, then a Default shall exist under this Agreement and the non-defaulting Party may exercise any of the remedies available under this Article.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of written notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

4.02 Actions During Cure Period.

(a) During any cure period and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.

(b) City will continue to process in good faith development applications during any cure period, but need not approve any such application if it relates to an alleged default of Developer hereunder.

4.03 Resolution of Disputes.

(a) In the event either Party is in default under the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

(c) The Parties agree to meet and confer regarding any dispute, in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.04 Periodic Review.

(a) The City shall review this Agreement at least four times per year and on a schedule to assure compliance with the RDCS, at which time the Developer is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded under the RDCS.

4.05 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon

the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.06 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review under CEQA ("**Third Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.07 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate**." A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.07(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.08 Assignment/Covenants Run with the Land.

(a) Right to Assign. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation acquiring an interest in the Project or Property (or portion thereof associated with the Project) at any time during the term of this Agreement ("**Assignee**"). Developer shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action, which notice shall include specific portions of the Project or Property to be assigned and the proposed form of assignment. Any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned. City's approval of a proposed assignment or transfer shall be based upon the proposed assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion. The written assignment, assumption or release of rights or obligations with respect to a portion of the Project or of the Property shall specify the portion of the Project or Property and the rights assigned and obligations assumed, and shall be approved by the City Attorney. The express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred shall relieve Developer of such obligations so assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form as may be approved by the City Attorney.

(b) Release Upon Assignment. Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Developer's rights and interests under this Agreement, Developer shall be released from its obligations with respect to the

Property/Project (or any portion thereof), and any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the effective date of such assignment. A default by any Assignee shall only affect that portion of the Property/Project owned by such Assignee and shall not cancel or diminish in any way Developer's rights or obligations hereunder with respect to the assigned portion of the Property/Project not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property/Project owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property/Project owned by such Assignee.

(c) Covenants Run with the Land. This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Project and/or Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Civil Code section 1468. This Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee, or any other successor of Developer acquiring a completed residential unit comprising all or part of the Project ("**Consumer**") unless such Consumer is specifically bound by a provision of this Agreement or by a separate instrument or Agreement.

4.09 Encumbrances on the Property.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole and absolute discretion, from encumbering the Property, or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use or operation of the Project. Mortgagee may require certain modifications to this Agreement, and City shall negotiate in good faith any such request for modification or subordination.

4.10 Obligations and Rights of Mortgage Lenders.

(a) The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof ("**Mortgagee**"), shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement that pertain to the Property or such portion thereof in which it holds an interest.

(b) Each Mortgagee shall be entitled to receive written notice from City of results of the annual review to be done pursuant to Section 4.04 and any default by Developer under this Agreement, provided such Mortgagee has informed City of its address for notices. Each Mortgagee shall have a further right, but not an obligation, to cure such default in accordance with the default and default cure provisions in Sections 4.01, 4.02, and 4.03 of this Agreement. In the event Developer (or any permitted Assignee) becomes subject to an order for relief under any chapter of Title 11 of the United States Code (the "**Bankruptcy Code**"), the cure periods provided

for a Mortgagee in Section 4.01(a) of this Agreement shall be tolled for so long as the automatic stay of section 362 of the Bankruptcy Code remains in effect as to Developer (or any permitted Assignee); provided, however, if City obtains relief from the automatic stay under Bankruptcy Code section 362 to declare any default by or exercise any remedies against Developer (or any permitted Assignee), the tolling of any Mortgagee's cure period shall automatically terminate on the earlier of: (i) the date that is sixty days after entry of the order granting City relief from the automatic stay, or (ii) the date of the entry of an order granting Mortgagee relief from the automatic stay. Each Mortgagee shall be entitled to receive written notice from City of the filing of any motion by City in which City seeks relief from the automatic stay of section 362 of the Bankruptcy Code to declare any default by or exercise any remedies against Developer (or any permitted Assignee).

(c) Any Mortgagee who comes into possession of the Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Property, or such portion thereof, that have accrued prior to the time such holder comes into possession. In addition, any Mortgagee who comes into possession of the Property or any portion thereof, pursuant to a foreclosure of mortgage or deed of trust, or deed in lieu of such foreclosure, shall, subject to Section 4.10(a) above, be a permitted Assignee and, as such, shall succeed to all the rights, benefits and obligations of Developer under this Agreement.

(d) Nothing in this Agreement shall be deemed to be construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereof, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

4.11 Compliance with Government Code Section 65867.5.

In accordance with the requirements of Government Code section 65867.5, City and Developer agree that any tentative subdivision map(s) for the Project is hereby made subject to a condition that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be secured in accordance with the provisions of Government Code section 66473.7.

4.12 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.03(a), or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first. Upon termination of this Agreement, the City shall record a notice of such termination, in a form satisfactory to the City Attorney that the Agreement has been terminated.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has

prepared, supplied or approved of, plans and/or specifications for the subdivision. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City. Developer shall, during the life of this Agreement take out and maintain insurance coverage with an insurance carrier authorized to transact business in the State of California as will protect the Developer or any Contractor or any Subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, from claims for damages because of bodily injury, sickness, disease, or death of their employees or any person other than their employees, or for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The minimum limits of liability for such insurance coverage which shall include comprehensive general and automobile liability, including contractual liability assumed under this agreement, shall be as follows:

Limit of Liability for Injury or Accidental Death:

Per Occurrence \$1,000,000

Limit of Liability for Property Damage:

Aggregate Liability for Loss \$1,000,000

Such liability insurance policies shall name the City as an additional insured, by separate endorsement, and shall agree to defend and indemnify the City against loss arising from operations performed under this agreement and before permitting any Contractor or Subcontractors to perform work under this agreement, the Subdivider shall require Contractor or Subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained similar to that provided by the Subdivider as it may be applied to the Contractor's or Subcontractor's work.

(f) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(g) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City:

City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To: City Attorney
 17575 Peak Avenue
 Morgan Hill, CA 95037
 Tel: (408) 779-7271
 Fax: (408) 779-1592

If to Developer: Newland Homes
 3121 Michelson Dr Suite 110
 Irvine, CA 92612

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(h) Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Santa Clara County. Developer shall be responsible for all recordation fees, if any.

(i) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(j) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(k) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(l) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(m) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(n) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lot on Which Project is to be Located.

Exhibit B Description of Project.

Exhibit C Development Schedule**Exhibit D Project Requirements and Commitment (including RDCS)**

5.02 Limitations on Time to Challenge Validity of this Agreement. Developer shall have ninety (90) days from the date that the City Council approved this Agreement to commence and effect service of summons of any action or proceeding to attack, review, set aside, void or annul this Agreement or any part of this Agreement. Thereafter, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the decision of the proceedings, acts or determinations, including any provision of this Agreement or the enforcement hereof.

5.03 Notice of 90-day Right to Protest. Developer is hereby notified that Developer shall have ninety (90) days from the date of the imposition of any fees, dedications, reservations, or other exactions, to file a protest of the imposition of any such fees, dedications, reservations or other exactions; provided however that any challenge to the validity of any provisions of this Agreement, including Project Mitigations, or any RDCS or Project Specific Requirements, shall be subject to Section 5.02 and that this notice of the right to protest shall not supplant, extend or start anew any protest period already commenced pursuant to previous notices.

5.04 Disclosure Requirements: Developer shall provide written disclosure to potential purchasers of property if the site is within, or adjacent to an area being considered by the California High Speed Rail for the construction of the California High Speed Rail project.

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MORGAN HILL:**DEVELOPER:**

s/ _____
Steve Rymer, City Manager

s/ _____
Brian Avila, Property Owner

Date: _____

Date: _____

Attest:

s/ _____
Michelle Wilson, Deputy City Clerk

Approved as to Form:

s/ _____
Donald A. Larkin, City Attorney

Date: _____

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as Follows:

All that certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California, bound on the east by the South Valley Freeway – U.S. 101, bound on the south by the northerly line of Parcel 3 as shown on that Parcel Map filed in Book 303 of Maps, at Page 54, on the west by Walnut Grove Drive and bound on the north by Diana Avenue including the following Parcels:

- Parcel 1, as said parcel is shown upon that certain Parcel Map filed for record on June 29, 1972 in Book 303 of Maps, at Page 54, excepting Parcel One as granted to the City of Morgan Hill, recorded August 10, 2006, as Document Number 19056635.
- Lot 23, as said lot is shown upon that certain Tract Map No. 8494 titled “Diana Estates – Phase 2”, filed for record on December 24, 1991 in Book 633 of Maps, at Pages 12 through 14
- That Parcel described as Parcel 23 in Exhibit “A” in that certain Stipulated Judgment filed for record on November 12, 2009, in Document Number 20504866
- That portion of Diana Avenue described in the Quitclaim Deed from the City of Morgan Hill to The Light of the World Apostolic Church of San Jose, recorded October 5, 2006 as Document Number 19132844

APN: 726-07-023, -024, and -089

EXHIBIT B**DESCRIPTION OF PROJECT****DEVELOPMENT AGREEMENT, DA-16-01/: WALNUT GROVE - NEWLAND:**

Development Agreement for five residential building allotments for Fiscal Year 2017-2018 and four residential building allotments for Fiscal Year 2018-2019 on a 2.1-acre site. The proposed development would be a nine-unit single-family residential project. The properties, identified by Assessor Parcel Number(s) 726-07-089, 726-07-023 and 726-07-024, are located at the east side of Walnut Grove Drive, south of Diana Avenue

MMC-15-10: Walnut Grove-Newland

FY 2017-2018, Five building allotments

AAE2017-0010: Walnut Grove – Newland

FY 2018-2019, Four building allotments

EXHIBIT C
DEVELOPMENT SCHEDULE

MMC-15-10: Walnut Grove-Newland
FY 2017-2018, 5 allotments
RDCS 2016-0012
FY2018-2019, 4 allotments

I. SUBDIVISION APPLICATION	
Application Submitted:	4-1-16
II. SITE REVIEW APPLICATION	
Application submitted:	06-20-16
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	
FY 2017-17, five units	09-30-17
FY 2018-19, four units	09-30-18
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 2017-18, five units	01-05-18
FY 2018-19, four units	01-05-19
V. BUILDING PERMITS	
Obtain Building Permits:	
FY 2017-18, five units	03-31-18
FY 2018-19, four units	03-31-19
VI. COMMENCE CONSTRUCTION:	
FY 2017-18, five units	06-30-18
FY 2018-19, four units	06-30-19

Failure to obtain a building permit by the date listed above shall result in the loss of the building allotment. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being

charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allotments. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least one dwelling unit and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT D SPECIFIC RESTRICTIONS AND REQUIREMENTS

The following chart describes the applicable reference in the Morgan Hill Municipal Code to the requirement, a description of the commitments specific to the Project, the requirement timing of the implementation and the total estimated costs of improvement or applicable fee commitment. These commitments are IN ADDITION to any mitigation requirements under CEQA, impact fee, in-lieu fees or other requirements under federal or state laws, or the Morgan Hill Municipal Code (See Section 2.03 of the Agreement)

*Estimated cost are estimates and may require augmentation for the completion of improvements. Impact fees are subject to the provisions of Section 2.03 (b) of this Agreement.

Municipal Code Reference	Description of Requirement	<u>Time of Implementation</u> (specify date or phase #)	<u>Estimated Cost or Fee Amount*</u>
18.78.210	Schools		
B 1. Developer fees	Pay district adopted developer fees as provided by the Leroy F. Green School Facilities Act of 1988.	Prior to issuance of each building permit.	Fee at time of perr issuance.
B 4. Off-site pedestrian safety improvements	Provide off-site pedestrian safety improvements or traffic safety improvements to an elementary school located within 3/4 miles of the project site or to a middle school or high school up to \$4,950 per unit.	Prior to the issuance of a Certificate of Occupancy	\$4,950 per unit
18.78.220	Open Space		
4. Transfer Development Credit (TDC)	Pay double the amount for Transfer of Development Credit	Prior to the issuance of a Certificate of Occupancy	Fee at time of perr issuance.
18.78.240	Public Facilities		

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

2.f Provides public improvements	Provides public facility, off-site storm drainage improvements or pedestrian improvements from a City-approved list or improvements on or adjacent to the project in excess of standard requirements, e.g. sewer, traffic control to be determined by Public Works. The project commits to provide up to \$4,400 per unit.	Prior to the issuance of a Certificate of Occupancy	\$4,400 per unit
2.g Contribution to RDCS Capital Improvements fund	The project will contribute \$1,100 per unit to the RDCS Capital Improvement Program Fund.	Prior to the issuance of a Certificate of Occupancy	\$1,100 per unit
18.78.250	Parks and Paths		
1. ≤50 units: Fees in lieu of park land dedications (State amount calculated pursuant to Muni Code Chapter 17.28)	The project shall pay an in-lieu fee consistent with the requirements contained in Chapter 17.28 of the Municipal Code.	Prior to the issuance of a Certificate of Occupancy	NA
3. Bike Lanes	Project shall provide at least .225 miles of Class II bike lanes. Prior to installation, the Project shall coordinate with City of Morgan Hill to determine the location for the Class II bike lane improvements to be installed.	Prior to improvement plan approval	NA
7. ≤50 units. Triple standard park impact fees (State Amount)	In addition to standard park fees, project shall pay the lesser of either eighteen times the in-lieu park fees or \$6,600 per unit.	Prior to the issuance of a Certificate of Occupancy	\$6,600 per unit
18.78.260	Housing Needs		
1. Secondary Units	The project will include two secondary units.	Prior to issuance of Architectural and Site Plan Review.	NA
2a. Housing mitigation fee (State Amount)	The project will pay the standard housing fee computed at eight percent (8%) of the total project.	Prior to the issuance of a Certificate of Occupancy	NA

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

2b. Payment of double standard housing in-lieu fee	In addition to the payment of the standard housing fee stated in 2a above, the project will pay double the standard housing fee computed at 8% of the total project (including replacement units).	Prior to the issuance of a Certificate of Occupancy	NA
18.78.270	Housing Types		
4. Visibility Accessible Units	The project will include 3 units as visitability accessible units.	Prior to issuance of Architectural and Site Plan Review.	NA
18.78.280	Quality of Construction		
B1. Over and above commitments made in the Natural and Environmental category, the proposed development will install the following:	a. Installation of OSB/Plywood wrap b. Foundations: 20% reduction of cement in the concrete mix design by use of fly ash, slag, silica fume or rice hull ash c. Installation of light weight wallboard for all walls excluding code requirement for fire walls d. Installation of one dedicated ¾ inch electrical raceway for a future circuit to accommodate two 220 Volt electric car charging stations inside the garage f. Installation of 90% high efficiency fan forced heating g. Zoned heating and air conditioning for all one and two-story homes. For multi-family projects with multi-story units, air returns are installed on two floors to improve temperature distribution. h. The proposed development will provide all the following: 1. Listed sound attenuated materials in walls that adjoin a bathroom and/or bedroom walls; 2. Installation of high efficiency energy star water heater with energy factor of 0.70; 3. Installation of ultra high efficiency or dual flush toilet; and 4. Installation of rain sensor monitor on irrigation system.	Prior to issuance of a building permit.	NA
18.78.300	Circulation Efficiency		

B4. General Community Benefit	The applicant agrees to spend \$2,200/unit toward the construction of roadway improvements near or adjacent to the proposed development.	Prior to improvement plan approval.	NA
18.78.310	Safety and Security		
B1. Enhances safety and security	The project shall install the following features to enhance safety and security: a. Install a fire proof safe that is bolted to the floor or in another suitable location. b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. d. Lighting on all buildings shall meet Police Department specifications, California Electrical Code and MHMC. f. Illuminated address numbers for each unit and painted reflective curb numbers will be provided. g. Dead bolts will be provided on all swinging exterior doors. k. All pedestrian walkways to the front doors will be illuminated with a minimum of one (1) foot candle to ensure safe nighttime conditions.	Prior to the issuance of a Certificate of Occupancy	NA
B2. Crime Prevention through Environmental Design (CPTED)	The listed principles of Crime Prevention through Environmental Design (CPTED) will be incorporated in the development design.	Prior to Design Permit approval	NA
B3. Lockable Hardware	Lockable hardware will be installed on all side yard and patio gates.	Prior to the issuance of a Certificate of Occupancy	NA
B4. Alarm Systems	Project will install an intrusion, fire alarm and heat detector system, monitored by a central station. Project will include a one-year monitoring contract with each home purchase.	Prior to the issuance of first Certificate of Occupancy	NA

Attachment: Ordinance 2234 (1174 : Ordinance 2234 Walnut Grove-Newland)

B5. Emergency Preparedness	Project will establish a Neighborhood Preparedness Program to be administered by the HOA. Project developer will direct HOA to contact the Office of Emergency Services to schedule a resident meeting within 180 days of the first homeowners taking occupancy.	Prior to the issuance of first Certificate of Occupancy	NA
18.78.335	Livable Communities		
6. Architectural variation and differentiation	The project architecture shall include the following features to provide variation and differentiation: a. Porches, balconies, for any area viewed from the public right-of-way on at least 25% of units to promote a neighborhood feel b. Use of at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. c. Use of architecture, profiles and massing that are compatible and work with the existing surrounding neighborhoods. d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two-story rear and/or side-yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than 15% (project size permitting) of the project.	Prior to Design Permit approval	NA

DRAFT



Meeting Minutes City Council

Steve Tate - Mayor
Larry Carr - Mayor Pro Tem
Rich Constantine - Council Member
Caitlin Jachimowicz - Council Member
Rene Spring - Council Member

Wednesday, April 5, 2017 6:30 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)

A Special Meeting of the City Council was called at 6:30 p.m. for the purpose of conducting a closed session.

SPECIAL MEETING

6:30 P.M.

CALL TO ORDER

Mayor Tate called the special meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Larry Carr	Mayor Pro Tem	Present	
Rich Constantine	Council Member	Present	
Caitlin Jachimowicz	Council Member	Present	

Minutes Acceptance: Minutes of Apr 5, 2017 6:30 PM (CONSENT CALENDAR)

Rene Spring	Council Member	Absent	
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DECLARATION OF POSTING AGENDA

Deputy City Clerk Wilson declared the posting of the agenda.

CLOSED SESSION

City Attorney Donald Larkin read the closed session into the record.

OPPORTUNITY FOR PUBLIC COMMENT

The public comment was opened at 6:30 p.m.

Hearing no requests to speak, the public comment was closed.

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 6:30 p.m.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: One (1)

RECONVENE

The regular meeting was convened at 7:02 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Donald Larkin announced that there was no reportable action.

REGULAR MEETING

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Jachimowicz spoke regarding her outside assignments. She sorted them into the groups of the City's Sustainable Morgan Hill Vision.

Under Environmental Consciousness, she shared that she attended her first South County Regional Wastewater Authority (SCRWA) meeting this morning on behalf of Council Member Spring. They voted to move forward with a 100% renewable energy choice for their operations.

Under Social Responsibility she shared that she has met with and had incredible conversations with

many community members in the last month regarding the City's focus on inclusiveness and immigration issues. She thanked the members of the community that have met with her and voiced their support for the letter the Police Chief authored and the actions the Council has taken. She has met with students at Sobrato High School's career day, met with parents at Voices Charter school, participated in an immigration forum presenting information on behalf of the City and some local non-profits, and attended a South County Interfaith Council event.

She spoke regarding the amazing Girl Scouts from Troop 61296. They met with City teammates and were assigned the project of designing their ideal Morgan Hill. They did an outstanding job. They decided that we need to work on tourism in Morgan Hill; we need to develop our downtown with businesses; schools and residences so that people can walk to cut down the need for cars and keep our outside spaces open and beautiful; we need diversity in housing so that people from all income levels would have a place to live; and they talked about shopping in Morgan Hill to ensure our tax dollars stay here. She thanked the troop for their outstanding work and efforts.

CITY MANAGER'S REPORT

City Manager Steve Rymer recognized Michael Keegan, Ryan Cats, and George Marshall from truck 57 with our partner CalFire for living our core value of customer service through their work assisting a man with Alzheimer's. An individual sent a thank you email commenting on how wonderful, kind, and efficient the team was.

He announced that April is Distracted Driving Awareness Month. When driving please be sure to put your phones away and to focus on driving, not only in the month of April, but throughout the year.

He talked about the City's efforts in water conservation and moving towards sustained water conservation throughout the community. Compared to where we were in 2013, as a community we have saved about a billion gallons of water. There will be a community workshop on Thursday, April 6th at 7:00 p.m. in the Council Chamber. He invited the community to take a survey at www.mhvalueswater.com <http://www.mhvalueswater.com>.

He discussed the City's evacuation plan should Anderson Dam fail. He shared that Morgan Hill as an agency and an organization is prepared and has a plan which includes our Police and Fire Departments and our Office of Emergency Services. All departments spend a significant amount of time ensuring that we are prepared for many different events. We are asking the community to be prepared and to be flexible. He reviewed the evacuation maps for the community should the dam fail and explained that this would be a regional effort with the Highway Patrol, Santa Clara Valley Water District and other agencies to the north, south, and west as necessary.

He concluded by speaking to the evening's supplements and presentations.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin had no report.

OTHER REPORTS

Mayor Tate shared that there is still a vacant seat on the Library, Culture, and Arts Commission (LCAC) and that commissioner Tim Hennessey would be happy to serve on the commission until either a replacement is found or until he moves.

He shared that the Chamber of Commerce will hold its monthly breakfast tomorrow morning at 7:30 and he will be providing an updated State of the City report. He announced that on Saturday, April 22, 2017 at Booksmart from 9:30 to 11:00 a.m. he will hold a Coffee with the Mayor and will be joined by Council Member Rene Spring.

He concluded by announcing that the annual League of California Cities, Peninsula Division Bocce Ball tournament will take place on April 20, 2017. He would love to put a team together and participate.

PUBLIC COMMENT

Mayor Tate opened the public comment.

Hearing no requests to speak, the public comment was closed.

RECOGNITIONS

Mayor Tate recognized outgoing Library Culture & Arts Commissioners:

Bonnie Williams

Cassie Castleberry

Cecilia Clark

ADOPTION OF AGENDA

MOTION

Motion to adopt the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz
ABSENT:	Spring

CONSENT CALENDAR

MOTION

Motion to approve consent calendar items 1 through 10, 12 and 13.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Rich Constantine, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz
ABSENT:	Spring

1. ACCEPTANCE OF EAST DUNNE AVENUE WATER MAIN

Recommendation:

1. Accept as complete the East Dunne Avenue Water Main Project in the final amount of \$1,558,248;
2. Authorize the Public Works Director to sign the attached Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

2. ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS FOR VENTURA - TRACT NO. 10274

Recommendation:

Approve a resolution:

1. Accepting the subdivision public improvements for Ventura – Tract No. 10274;
2. Authorizing the Public Works Director to sign a Notice of Completion; and
3. Directing the City Clerk to file the Notice of Completion with the Recorder of Santa Clara County.

3. ACCEPTANCE OF MONTEREY UNDERGROUNDING UTILITIES PROJECT

Recommendation:

1. Accept as complete the Monterey Undergrounding Utilities Project in the final amount of \$1,111,901;
2. Authorize the Public Works Director to sign the attached Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

4. AWARD CONSULTANT AGREEMENT TO CSG CONSULTANTS FOR UTILITY INFRASTRUCTURE PROGRAM MANAGEMENT SERVICES

Recommendation:

1. Award Consultant Agreement to CSG Consultants to provide Utility Infrastructure Program Management Services for a not to exceed amount of \$729,600, and
2. Authorize the City Manager to execute and administer a Consultant Agreement with CSG consultants for Utility Infrastructure Program Management.

5. APPROVE SECOND AMENDMENT TO BURR PLUMBING AND PUMPING, INC. AGREEMENT

Recommendation:

Approve the Second Amendment to the Maintenance Services Agreement with Burr Plumbing and Pumping, Inc.

6. APPROVE STATE OF CALIFORNIA, OFFICE OF EMERGENCY SERVICES' UNIVERSAL RESOLUTION OF DESIGNATING APPLICANT'S AGENT FOR DISASTER ASSISTANCE

Recommendation:

1. Designate City Manager, Finance Director, or Accounting Manager to submit for Disaster Assistance to the State of California, Office of Emergency Services, for the purpose of obtaining certain federal financial assistance; and
2. Direct the City Clerk to certify the Designation of Applicant's Agency Resolution to the State of California, Office of Emergency Services.

7. ADOPT RESOLUTION AUTHORIZING A CAL FIRE URBAN AND COMMUNITY FORESTRY GRANT PROGRAM CALIFORNIA CLIMATE INVESTMENTS GRANT PROGRAM PROJECT APPLICATION

Recommendation:

Adopt resolution authorizing staff to prepare and submit a CAL FIRE Urban and Community Forestry California Climate Investments (CCI) Grant Application to CAL FIRE for the development of an urban forest management plan and associated tree planting along Butterfield Boulevard, Dunne Avenue, and the Outdoor Sports Center, and authorize the City Manager to negotiate and execute the CAL FIRE grant agreement.

8. APPROVE CITY SPONSORSHIP OF 2017 MORGAN HILL COMMUNITY FOUNDATION'S PHILANTHROPY DAY EVENT AT THE COMMUNITY AND CULTURAL CENTER

Recommendation:

Authorize the City Manager to waive the rental fee for the use of the Community and Cultural Center for the Morgan Hill Community Foundation's Philanthropy Day Event on November 17, 2017.

9. TERMINATE CONSTRUCTION CONTRACT FOR THE MONTEREY ROAD SEWER VAULT COATING PROJECT

Recommendation:

1. Terminate construction contract for the Monterey Road Sewer Vault Coating Project; and
2. Authorize the City Manager to administer the termination of the contract with Ellison Environmental, Inc. for the Monterey Road Sewer Vault Coating Project.

10. COLLABORATION BETWEEN CITY COUNCIL AND MORGAN HILL YOUTH ACTION COUNCIL

Recommendation:

Receive follow-up report on November 2, 2016 City Council and Youth Action Council workshop.

11. ITEM WAS PULLED FROM THE CONSENT CALENDAR FOR DISCUSSION.

12. CONTRACT AMENDMENT TO PERFORM ENVIRONMENTAL REVIEW FOR BIKEWAYS, TRAILS, PARKS AND RECREATION MASTER PLAN UPDATE

Recommendation:

Authorize the City Manager to execute an amendment to the consultant agreement with Moore Iacofano Goltsman, Inc (MIG, Inc.), increasing the scope of services to include preparation of an environmental document for the Bikeways, Trails, Parks and Recreation Master Plan Update.

13. CITY COUNCIL - SPECIAL - REGULAR MEETING - MAR 15, 2017 6:30 PM

Recommendation:

Approve the meeting minutes.

ITEMS PULLED FOR DISCUSSION

11. 1103 : LCAC PUBLIC ART MASTER PLAN RECOMMENDATION

Recommendation:

City Staff recommends that a potential Public Art Master Plan be considered during the Fiscal Year 2018-2019 and 2019-2020 budget cycle.

The public comment was opened at 7:25 p.m.
Cecilia Clark was called to speak.
Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to consider a potential Public Art Master Plan during the Fiscal Year 2018-2019 and 2019-2020 budget cycle and include it in the 2017 mid-year budget review.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz
ABSENT:	Spring

OTHER BUSINESS

14. CONCEPTUAL DESIGN FOR THE LIBRARY EXPANSION PROJECT

Recommendation:

Receive presentation on the Library Expansion Project conceptual design and provide input as necessary.

Senior Project Engineer Yat Cho provided the report. Lesley Miles with Weston Miles Architects presented the conceptual design of the Library Expansion Project.

The public comment was opened at 7:52 p.m.
Hearing no requests to speak, the public comment was closed.

RESULT:	NO ACTION TAKEN
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15. DIRECTION ON GALVAN PARK HANDBALL COURT DESIGN

Recommendation:

Direct staff to proceed in value engineering the Galvan Park Handball Court Project to two adjacent handball courts.

Mayor Tate called a recess at 7:54 p.m.
The meeting was reconvened at 8:01 p.m.

Senior Project Engineer Yat Cho provided the report.

The public comment was opened at 8:18 p.m.
Ernesto Cruz was called to speak.
Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to direct staff to move forward with two handball courts and to look for other ways to engage the community to help with the third court with a maximum bid of \$525,000.

RESULT: DIRECTED [UNANIMOUS]
MOVER: Rich Constantine, Council Member
SECONDER: Larry Carr, Mayor Pro Tem
AYES: Tate, Carr, Constantine, Jachimowicz
ABSENT: Spring

16. RAPID REHOUSING, HOMELESS PREVENTION, AND OUTREACH SERVICES IN PARTNERSHIP WITH THE COUNTY OF SANTA CLARA

Recommendation:

Authorize the City Manager to enter into an agreement with the County of Santa Clara Office of Supportive Housing for Homeless Services.

Housing Manager Rebecca Garcia provided the report.

The public comment was opened at 8:35 p.m.
Hearing no requests to speak, the public comment was closed.

MOTION

Motion to approve staff recommended action.

RESULT: AUTHORIZED [UNANIMOUS]
MOVER: Larry Carr, Mayor Pro Tem
SECONDER: Steve Tate, Mayor
AYES: Tate, Carr, Constantine, Jachimowicz
ABSENT: Spring

PUBLIC HEARING

17. EXTENSION OF TIME, AAE2017-0001: DUNNE - LEUNG: DEVELOPMENT AGREEMENT AMENDMENT EXTENSION FOR A SIX LOT SUBDIVISION. THE PROPERTY IS LOCATED ON THE NORTHEASTERLY CORNER OF EAST DUNNE AVENUE AND HILL ROAD (APN 728-11-026)

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Development Agreement Amendment Ordinance;
3. Introduce Development Agreement Amendment Ordinance; and
4. Direct staff to return at the April 19, 2017 meeting with a report on allocation extension process.

Community Development Director Jennifer Carman provided the report.

The public hearing was opened at 8:41 p.m.
Scott Murray was called to speak.
Hearing no further requests to speak, the public hearing was closed.

MOTION

Motion to waive the first and second reading of the ordinance.

RESULT: WAIVED [UNANIMOUS]
MOVER: Rich Constantine, Council Member
SECONDER: Steve Tate, Mayor
AYES: Tate, Carr, Constantine, Jachimowicz
ABSENT: Spring

MOTION

Motion to Introduce the ordinance and to direct staff to return at the April 19, 2017 City Council meeting with a report on the allocation extension process.

RESULT: INTRODUCE [UNANIMOUS]
MOVER: Rich Constantine, Council Member
SECONDER: Steve Tate, Mayor
AYES: Tate, Carr, Constantine, Jachimowicz
ABSENT: Spring

18. ADOPT RESOLUTION APPROVING A SOLID WASTE RATE ADJUSTMENT FOR 2017

Recommendation:

Adopt resolution approving an adjustment in the maximum allowable solid waste charges effective July 1, 2017.

Program Administrator Tony Eulo with Phil Couchee, General Manager of Recology South Valley, provided the report.

The public hearing was opened at 8:57 p.m.
Hearing no requests to speak, the public hearing was closed.

MOTION

Motion to approve staff recommended action.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Larry Carr, Mayor Pro Tem
SECONDER: Caitlin Jachimowicz, Council Member
AYES: Tate, Carr, Constantine, Jachimowicz
ABSENT: Spring

FUTURE COUNCIL INITIATED AGENDA ITEMS

Mayor Tate asked for a discussion with his fellow council members regarding potential involvement with the Congress of Mayors.

Council Member Jachimowicz asked for a resolution for the Holocaust Remembrance event in Santa Clara which takes place at the end of April.

ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

Minutes Prepared by:

Michelle Wilson, Deputy City Clerk

Minutes Acceptance: Minutes of Apr 5, 2017 6:30 PM (CONSENT CALENDAR)



Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture ·
Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.



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The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.



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The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.

DRAFT



Meeting Minutes City Council

Steve Tate - Mayor
Larry Carr - Mayor Pro Tem
Rich Constantine - Council Member
Caitlin Jachimowicz - Council Member
Rene Spring - Council Member

Wednesday, April 19, 2017 5:00 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

(5:00 P.M. Workshop/ 7:00 P.M. Regular Meeting)

SPECIAL MEETING

5:00 P.M.

CALL TO ORDER

Mayor Tate called the meeting to order at 5:01 p.m.

ROLL CALL ATTENDANCE

Minutes Clerk Angie Gonzalez called the role.

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Larry Carr	Mayor Pro Tem	Present	
Rich Constantine	Council Member	Present	
Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

Minutes Acceptance: Minutes of Apr 19, 2017 5:00 PM (CONSENT CALENDAR)

DECLARATION OF POSTING AGENDA

Minutes Clerk Angie Gonzalez declared the posting of the agenda.

WORKSHOPS

1. **THE PURPOSE OF THE BELOW MARKET RATE (BMR) HOUSING PERCENTAGES WORKSHOP IS TO DISCUSS HOW THE CITY CREATES AFFORDABLE HOUSING THROUGH THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM, AND EXPLORE IF THE CITY COUNCIL WOULD LIKE TO MODIFY THE 8% ON-SITE BMR AFFORDABLE PROVISION IN THE RDCS PROCESS. ADDITIONALLY, DURING THE WORKSHOP THE HOUSING TEAM WILL REVIEW THE EXISTING INVENTORY AND BELOW MARKET RATE UNITS AGING OUT OF THE BMR PROGRAM**

Housing Manager Rebecca Garcia gave a presentation and answered questions along with Assistant City Manager for Community Development Leslie Little.

2. **THE PURPOSE OF THE ECONOMIC BLUEPRINT WORKSHOP IS TO REVIEW THE PROPOSED ECONOMIC BLUEPRINT. THE ECONOMIC BLUEPRINT OFFERS A FRAMEWORK THAT WILL INFORM THE CITY'S LAND USE, POLICY AND INVESTMENT DECISIONS AND GUIDE ECONOMIC DEVELOPMENT EFFORTS WITH A PRIMARY GOAL TO ATTRACT JOBS AND INVESTMENT INTO OUR COMMUNITY AND ENSURE LONG TERM ECONOMIC PROSPERITY- PLEASE SEE ITEM 17 FOR MORE INFORMATION**

Economic Development Coordinator John Lang and Economic Development Manager Edith Ramirez gave a presentation and answered questions.

REGULAR MEETING

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Mayor Tate announced that Council Member Spring will join him at Booksmart from 9:30-11 a.m. Saturday morning for Coffee with the Mayor. He spoke about the Legislative Action Committee. Their purpose is to track legislation that is going through at the state level and find bills that they want to take a position on. They want to oppose bills that would take powers away from local government or support bills that give local governments more kinds of capabilities. There are so many bills being introduced into legislature this year and we need to pay attention to a little bit more. He proposed a future agenda item to discuss appointing one of the Council Members to be the representative to the Legislative action committee to the Cities Association. Traditionally the League goes to Sacramento to do lobbying on a Wednesday in April and it conflicts with our Council meeting, he suggested re-scheduling that Council meeting next year so that we can take part in the lobbying exercise. The City's Association is pushing what they call Equitable Communities, they are pushing that all communities pass a similar type of resolution. What we did in December was a memo to our community, we might want to follow-up and adopt a resolution as well. He concluded by stating that Silicon Valley clean energy is up and running.

CITY MANAGER'S REPORT

City Manager Steve Rymer recognized our newly hired and promoted teammates.

Minutes Acceptance: Minutes of Apr 19, 2017 5:00 PM (CONSENT CALENDAR)

New Hires

Leo Rocha- Utility Worker I
 Jennifer Carman- Community Development Director
 Shawn Lopez- Building Inspector I
 Maria Angeles- Sr. Engineer for Land Development
 Kenna Wright- Public Safety Dispatcher
 Kyle Tolentino- Multiple Services Officer (start date of April 9, 2017)

Promotions

Charlie Ha- Supervising Civil Engineer

He concluded by speaking to the evening's supplements and presentations.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin announced that our new Assistant City Attorney, Cynthia Hasson, will start on Monday. She will be primarily assigned to land use & planning and will be assigned to advise the Planning Commission. He addressed a communication received from a member of the public expressing some concern on an action taken last January on a feasibility study for quiet crossings. He reiterated his conclusion that there is no conflict. Train noise would have a material impact on the entire Council and any time there is an impact that would affect more than 20% of the population of the community it qualifies for the Public Generally Exception.

OTHER REPORTS

No other reports.

PRESENTATIONS**YAC PRESENTATION - ASSET #9 - SERVICE TO OTHERS****PUBLIC COMMENT**

Mayor Tate opened public comment at 7:28 p.m.

Brian Faircloth was called to speak.

Diana Wood was called to speak.

Steven Shonk was called to speak.

Hearing no further requests to speak, the public comment was closed.

ADOPTION OF AGENDA**MOTION**

Adopt the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

CONSENT CALENDAR

MOTION

Approving consent calendar items 5 and 7 through 16.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

3. ITEM PULLED FOR DISCUSSION

4. ITEM PULLED FOR DISCUSSION

5. RESOLUTION AUTHORIZING A CALIFORNIA NATURAL RESOURCES AGENCY URBAN GREENING GRANT PROGRAM APPLICATION

Recommendation:

Adopt resolution approving the following actions:

1. Authorizing staff to prepare and submit an Urban Greening Program Grant Application to the California Natural Resources Agency for the development of a biking and walking path along Butterfield Boulevard from San Pedro Avenue to Railroad Avenue, and
2. Authorizing the City Manager to negotiate and execute the Urban Greening Program grant agreement.

6. ITEM MOVED TO THE 5/3/17 MEETING

7. APPROVAL OF AQUATICS CENTER CONCESSIONAIRE LICENSE AGREEMENT

Recommendation:

Authorize the City Manager to execute, administer and further negotiate as necessary a Concessionaire License Agreement with Sycamore Concessions Corporation for the provision of food and beverage concessions at the Morgan Hill Aquatics Center.

8. POLICE DEPARTMENT VEHICLE FLEET SERVICE AGREEMENT

Recommendation:

1. Award Police Vehicle Service Agreement to Frank's Auto; and
2. Authorize City Manager to execute the agreement.

9. RECOMMENDATIONS TO PREVENT FUTURE SEWER SPILLS, ACCELERATE NEW SEWER TRUNK LINE, AND AWARD FIRST AMENDMENT FOR DESIGN SERVICES CONTRACT WITH HYDROSCIENCE ENGINEERS FOR THE NEW SEWER TRUNK LINE PROJECT

Recommendation:

1. Direct staff to implement projects to repair leaking sewer manholes and sewer pipes, and maximize flow in the existing sewer trunk line in Highland Avenue;
2. Award First Amendment to professional services agreement with HydroScience Engineers, Inc. to provide sewer trunk line design from Cohansey Avenue to Renz Lane for an additional \$521,900; and
3. Approve and authorize the City Manager to execute and administer the professional services agreement.

10. FIRST AMENDMENT TO MAINTENANCE SERVICE AGREEMENT WITH PETERSON POWER SYSTEMS, INC.

Recommendation:

1. Approve First Amendment to maintenance service agreement with Peterson Power Systems, Inc. to increase the not-to-exceed fee amount to \$211,095 for the routine and variable-costs maintenance services for the City's fleet of twenty-four standby generators; and
2. Authorize City Manager to execute First Amendment.

11. LEADERSHIP MORGAN HILL 2017 ANIMAL IMPOUND FACILITY IMPROVEMENT PROJECT

Recommendation:

Approve the concept for the Leadership Morgan Hill 2017 class project located at the Animal Impound Facility.

12. FEBRUARY 2017 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

13. CLASSIFICATION AND COMPENSATION STUDY

Recommendation:

1. Authorize Koff & Associates to conduct a limited classification and citywide compensation study;
2. Authorize the City Manager to execute and administer a services contract with Koff & Associates for an amount not-to-exceed \$72,125; and
3. Direct staff to include a review of the City's adopted Long-Term Labor Policy, Principles, and Strategies as part of the May 17, 2017 City Council agenda.

14. RECLASSIFICATION OF MUNICIPAL SERVICES ASSISTANT AND SUPPORT SERVICES SUPERVISOR AND HOUSING MANAGER SALARY INCREASE

Recommendation:

1. Approve the recommended increase in the salary range for Housing Manager;
2. Approve the reclassification of the Municipal Services Assistant position in the Housing Division to a Housing Coordinator classification; and
3. Approve the reclassification of the Support Services Supervisor position in the Development Services Department to a Management Analyst classification.

15. APPROVE CONSULTING SERVICES AGREEMENT FOR INTERSECTION CAPACITY ANALYSIS STUDY WITH MOTT MACDONALD

Recommendation:

1. Adopt resolution amending the Fiscal Year 2016-17 budget and appropriating an additional \$45,000 from the Traffic Impact Fund (309) for the Intersection Capacity Analysis study (CIP Project No. 575015); and
2. Award Consultant Services Agreement for the Intersection Capacity Analysis Study to Mott MacDonald.

16. ADOPT ORDINANCE 2233, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE DUNNE HILL MEADOW SIX LOT RESIDENTIAL DEVELOPMENT LOCATED ON THE NORTHEASTERLY CORNER OF EAST DUNNE AVENUE AND HILL ROAD (ASSESSOR'S PARCEL NUMBER 728-11-026)

Recommendation:

Waive the reading, adopt Ordinance No. 2233, 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.

ITEMS PULLED FROM CONSENT

3. ADOPT RESOLUTION COMMEMORATING THE VICTIMS OF THE HOLOCAUST

Recommendation:

Adopt resolution commemorating the victims of the Holocaust during the Days of Remembrance April 23, 2017 to April 30, 2017.

Council Member Caitlin Robinett Jachimowicz presented the staff report.

MOTION

Motion to approve staff recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Jachimowicz, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

4. ADOPT RESOLUTION ENCOURAGING THE CELEBRATION OF THE MONTH OF JUNE AS LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER/QUESTIONING PRIDE MONTH

Recommendation:

1. Adopt resolution encouraging the celebration of the month of June as Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning Pride Month; and
2. Authorize the display of the Pride flag at City Hall during the month of June to commemorate Pride Month.

Council Member Rene Spring presented the staff report.

Mayor Tate opened public comment at 7:40 p.m.
 Brian Faircloth was called to speak.
 Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to approve staff recommended action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Rich Constantine, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

6. FINAL MAP APPROVAL OF DUNNE MURPHY - TRACT NO. 10387

Recommendation:

Adopt resolution approving the following actions:

1. Approve Final Map;
2. Authorize the City Manager to execute the Subdivision Improvement Agreement with Live Oak Investments LLC;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Final Map and the Subdivision Improvement Agreement.

Mayor Tate opened public comment at 7:46 p.m.
 Scott Murray was called to speak.
 Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to table the item to the May 3, 2017 Meeting.

RESULT:	TABLED [UNANIMOUS]	Next: 5/3/2017 5:00 PM
MOVER:	Larry Carr, Mayor Pro Tem	
SECONDER:	Steve Tate, Mayor	
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring	

OTHER BUSINESS

17. ADOPTION OF ECONOMIC BLUEPRINT

Recommendation:

1. Hold Economic Blueprint workshop;
2. Adopt Economic Blueprint; and
3. Direct staff to develop a budget recommendation to implement the Economic Blueprint for City Council consideration on May 3, 2017.

Economic Development Manager Edith Ramirez presented the staff report.

Mayor Tate opened public comment at 8:30 p.m.
 Kathy Sullivan was called to speak.
 John Horner was called to speak.
 Liam Downey was called to speak.
 Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to approve staff recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Rich Constantine, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

18. ANNEXATION EIR/LAFCO SETTLEMENT AND URBAN SERVICE AREA (USA) EXPANSION AND ANNEXATION REQUESTS

Recommendation:

1. Accept Report;
2. Provide direction regarding the preparation of an Annexation EIR; and
3. Provide direction regarding the timing and acceptance of Urban Service Area expansion and Annexation requests.
4. If necessary, direct staff to return at a subsequent City Council meeting to discuss the existing policies governing the filing, frequency, and timing of USA expansion and annexation requests.

Assistant City Manager for Community Development Leslie Little presented the staff report.

Mayor Tate opened public comment at 8:54 p.m.

Andy Pashby was called to speak.

Doug Muirhead was called to speak.

Hearing no further request to speak, the public comment was closed.

RESULT:	NO ACTION TAKEN
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19. LONG-TERM WATER CONSERVATION POLICY DISCUSSION

Recommendation:

Direct staff to prepare an updated Water Conservation Ordinance that institutes additional long-term water conservation measures and return to the City Council with the updated ordinance at the May 17th Council Meeting.

Program Administrator Anthony Eulo presented the staff report.

Mayor Tate opened public comment at 9:25 p.m.

Doug Muirhead was called to speak.

Hearing no further requests to speak, the public comment was closed.

MOTION

Motion to approve staff recommended action.

RESULT:	DIRECTED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Rich Constantine, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

PUBLIC HEARING

20. RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) AVAILABLE ALLOTMENTS FOR 2017 COMPETITION YEAR

Recommendation:

1. Adopt resolution establishing 215 Fiscal Year 2019/20 allotments for the 2017 RDCS competition; and
2. Direct staff to schedule a study session to comprehensively review RDCS outstanding processing and procedural questions including but not limited to multi-year project administration, adding allotments to agreements administratively, and the practice of swapping allotments.

Principal Planner John Baty presented the staff report.

Mayor Tate opened the public hearing at 10:12 p.m.

John Telfer was called to speak.

Hearing no further requests to speak, the public hearing was closed.

MOTION

Motion to adopt resolution establishing 200 Fiscal Year 19/20 allotments for the 2017 RDCS Competition using the resolution provided that has the Planning Commission justifications in it.

RESULT:	DEFEATED [2 TO 3]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Steve Tate, Mayor
AYES:	Tate, Carr
NAYS:	Constantine, Jachimowicz, Spring

MOTION

Council Member Constantine motioned to adopt resolution establishing the 215. Motion dies for the lack of a seconder.

RESULT:	LACK OF SECONDER
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MOTION

Motion to adopt resolution establishing 195 allotments.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Rene Spring, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Jachimowicz, Spring
NAYS:	Constantine

MOTION

Motion to extend the meeting to 11:30 p.m.

RESULT:	EXTEND [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

21. SITE REVIEW, SR2017-0004: DEPOT – SUNSWEET MORGAN HILL LLC: REQUEST FOR A SITE, ARCHITECTURE AND LANDSCAPE PLAN APPROVAL FOR A MIXED-USE PROJECT CONSISTING OF 83 RESIDENTIAL UNITS AND 8,051 SQUARE FEET OF COMMERCIAL SPACE LOCATED ON THE WEST SIDE OF DEPOT STREET BETWEEN EAST THIRD STREET AND EAST FOURTH STREET.

Recommendation:

Recommend City Council approve the Site Review application request pursuant to the attached resolution.

Interim Planning Manager Terry Linder presented the staff report.

Mayor Tate opened the public hearing.

Rocke Garcia was called to speak.

Reyad Katwan was called to speak.

Hearing no further requests to speak, the public hearing was closed.

MOTION

Motion to approve staff recommended action.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz
NAYS:	Spring

22. DEVELOPMENT AGREEMENT AMENDMENT APPLICATION AAE2016-0010: WALNUT GROVE-NEWLAND: REQUEST FOR A DEVELOPMENT AGREEMENT AMENDMENT TO ADD FOUR FISCAL YEAR 2018-2019 BUILDING ALLOTMENTS FOR A NINE LOT SUBDIVISION. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 726-07-089, 726-07-023 AND 726-07-024 ARE LOCATED ON THE EAST SIDE OF WALNUT GROVE, SOUTH OF DIANA AVENUE

Recommendation:

Recommendations

1. Open and close public hearing;
2. Waive first and second reading of Development Agreement Amendment Ordinance; and
3. Introduce Development Agreement Amendment Ordinance.

Interim Planning Manager Terry Linder.

Mayor Tate opened the public hearing.

Hearing no requests to speak, the public hearing was closed.

MOTION

Motion to waive the first and second reading for the development agreement amendment ordinance.

RESULT:	WAIVED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

MOTION

Motion to introduce the development agreement amendment ordinance.

RESULT:	INTRODUCE [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

CLOSED SESSION

City Attorney Donald Larkin read the closed session in to the record.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Tate opened public comment at 11:13 p.m.

Hearing no requests to speak, the public comment was closed.

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 11:14 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Manager

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: One (1)

CLOSED SESSION ANNOUNCEMENT

City Attorney Donald Larkin announced that there was no reportable action.

FUTURE COUNCIL INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Mayor Tate adjourned the meeting at 11:43 p.m.

MINUTES PREPARED BY:

Angie Gonzalez, Minutes Clerk



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CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Steve Tate, Mayor

APPROVED BY: Steve Tate, Mayor

CITY MANAGER AMENDED AND RESTATED EMPLOYMENT AGREEMENT

RECOMMENDATION(S)

Approve the City Manager's Amended and Restated Employment Agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust
Preserving Our Cultural Heritage

2017 Strategic Priorities

High Speed Rail
Inclusiveness
Infrastructure
Regional Initiatives
Telecommunications

REPORT NARRATIVE:

Steve Rymer assumed the role as Morgan Hill's City Manager on February 4, 2013. Annually, the City Council is required to evaluate the City Manager's performance. The primary purpose of the evaluation is to facilitate open and frank discussion, define roles and expectations, identify performance strengths and weaknesses, and provide an opportunity for the City Manager to take affirmative action to address weaknesses and areas needing improvement. As part of this process, the City Council and City Manager review the existing City Manager Employment Agreement and agree upon any amendments to compensation or any other terms.

As a result of Mr. Rymer's continued successful performance this past year as Morgan Hill's City Manager, I am recommending that the City Manager's Employment Agreement be amended and restated. Revisions include:

- Annual salary increase from \$233,700 to \$248,000 retroactive to the pay period beginning on February 12, 2017
- Six percent (6%) salary increase effective the pay period beginning February 11, 2018
- The term of agreement to expire on June 30, 2019

COMMUNITY ENGAGEMENT: Inform**ALTERNATIVE ACTIONS:**

Direct Council's negotiations team to continue discussions with Rymer and return with different terms.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Manager performance evaluation takes place annually at the beginning of the year during noticed closed sessions.

FISCAL AND RESOURCE IMPACT:

The 2017 merit increase equals \$14,300 and would bring Rymer's annual salary to \$248,000. In February 2018, Rymer's base salary would increase by 6%.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. Rymer Empl Agreement 4th amended 2017

AMENDED AND RESTATED EMPLOYMENT AGREEMENT
BETWEEN CITY OF MORGAN HILL
AND
STEPHEN RYMER

This Amended and Restated Employment Agreement between the City of Morgan Hill ("CITY") and Stephen Rymer ("RYMER") is hereby executed by and between the parties this 3rd day of May, 2017, with an effective date of February 4, 2017 (the "Effective Date").

RECITALS

- A. RYMER has been employed by CITY since April 17, 2006;
- B. RYMER has been appointed by CITY to serve as City Manager of Morgan Hill effective on February 4, 2013;
- C. RYMER will also serve as the Executive Director of the Successor Agency to the Morgan Hill Redevelopment Agency effective February 4, 2013; and
- D. At a duly noticed public meeting, the City Council approved that certain original Employment Agreement with RYMER on January 16, 2013; and
- E. At a duly noticed public meeting, the City Council approved this Amended and Restated Employment Agreement on May 21, 2014; and
- F. At a duly noticed public meeting on July 2, 2014, the City Council revised Section 10 of this Amended and Restated Employment Agreement regarding the housing loan.
- G. At a duly noticed public meeting, the City Council approved this Amended and Restated Employment Agreement on March 18, 2015.
- H. At a duly noticed public meeting, the City Council approved this Amended and Restated Employment Agreement on March 2, 2016.
- I. At a duly noticed public meeting, the City Council approved this Amended and Restated Employment Agreement on May 3, 2017.

AGREEMENT

In consideration of the mutual promises set forth herein and for good and valuable consideration hereby acknowledged, the parties agree as follows:

- 1. Parties: The parties to this agreement ("Agreement") are CITY and RYMER (hereinafter collectively ("the Parties")).
- 2. Purpose: The purpose of this Agreement is to provide the terms for the employment of RYMER as City Manager of CITY, as currently provided by Title 2, Chapter 2.08 of the Municipal Code of CITY.
- 3. Duties: CITY hereby agrees to employ RYMER to perform the functions and duties of City Manager for the CITY and as Executive Director of the Successor Agency to the Redevelopment Agency of CITY as specified in the Municipal Code of CITY, the Job Description (a copy of which is attached hereto and which is included herein by this reference), applicable state statutes pertaining to Successor Agencies, any and all other

applicable CITY ordinances, resolutions or policies, and to perform such other legally permissible and proper duties and functions as the CITY shall from time to time assign. RYMER agrees that, to the best of his ability and experience, he will at all times loyally and conscientiously perform all of the duties and obligations required of him either expressly or impliedly by the terms of this Agreement.

4. Agreement Provisions:

4.1 **Term:** This Agreement shall commence on the Effective Date and terminate on June 30, 2019 (the "Termination Date") unless either: (1) the term is modified hereafter by written agreement of the Parties, or (2) the Agreement renews automatically in accordance with the provisions of Section 4.3 herein. RYMER agrees to remain in the exclusive employ of the CITY during the term of the Agreement and neither to accept other employment nor become employed by another employer until the Termination Date, unless the term is modified as provided herein.

4.2 **Exclusivity:** The term "exclusive employ of the CITY" as used in section 4.1 above shall not be construed to preclude occasional teaching, writing, or military service performed by RYMER as long as it does not conflict with his primary responsibilities as City Manager and Executive Director as described in this Agreement. Also, CITY and RYMER recognize the value of participation in the City Manager's Department and other League of California Cities activities, and that speaking requests and teaching are valuable resources to the CITY. CITY may permit conflicting services to other entities upon prior approval of the City Council.

4.3 **Automatic Renewal:** At the conclusion of the term of this Agreement, it shall automatically renew each year, effective every July 1, unless terminated by the delivery of an Election of Non-Renewal by either party by no later than December 30 of the current term. Notice of an Election of Non-Renewal shall be conveyed by written notice to the other party.

5. Separation from Employment:

5.1 **Employment At-Will:** The City Council may, subject to provisions set out below, terminate the services of RYMER at any time, it being expressly understood and agreed between the parties that RYMER serves as an at-will employee of the City Council. CITY must provide RYMER with thirty (30) days written notice prior to separation from employment. For any period following an election of the Mayor or a member of the City Council, CITY may not give notice of separation from employment to RYMER until sixty (60) days after such election. The intent of the time period is to allow the new City Council to have adequate time to review the City Manager's performance.

5.2 **Severance Payment:**

5.2.1 In the event of RYMER's separation from employment in accordance with Section 5.1 while RYMER is still willing and able to perform the duties of CITY Manager, where such termination is without cause, RYMER shall be entitled to receive compensation, consisting of a lump-sum payment of six (6) months of base salary and benefits ("Severance Payment");

- 5.2.2 The Severance Payment shall include all benefits payable to or on behalf of RYMER with the exception of vacation not yet accrued as of the date of separation. Both salary and benefits shall be computed at the rates in effect as of the date of separation from employment;
- 5.2.3 RYMER's acceptance of the Severance Payment shall release CITY from any further obligation under this Agreement, and also from any actual or alleged liability to RYMER that may be asserted in any claim of any nature by RYMER against CITY based upon or arising from his employment or termination thereof. Contemporaneously with the delivery of the Severance Payment and in consideration therefore, RYMER agrees to execute and deliver to CITY a release releasing CITY of all claims that RYMER may have against CITY. In return for such Severance Payment, RYMER further agrees to be available for consultation and assistance to the incoming acting, interim or permanent City Manager for a period of at least sixty (60) days.
- 5.2.4 RYMER shall **not** be entitled to the Severance Payment in the following events:
 - 5.2.4.1 The Agreement expires and CITY elects not to renew this Agreement pursuant to Section 4.3, above;
 - 5.2.4.2 RYMER is terminated because of his conviction of a felony or misdemeanor involving moral turpitude, or is convicted of any illegal act involving personal gain to himself; or
 - 5.2.4.3 RYMER becomes incapable of discharging his responsibilities as described in this Agreement due to a permanent disability pursuant to Section 7 herein.
- 5.3 **Termination By RYMER:** RYMER may resign at any time from his position with CITY provided that he gives CITY sixty (60) days advance written notice. Should RYMER not provide CITY with sixty (60) days written notice, he shall not be entitled to cashout of any benefit other than as required by law.
- 6. **Abuse of Office:** If RYMER is convicted of a crime involving an abuse of his office or position, he shall fully reimburse the CITY for the following items of costs to the CITY:
 - 6.1 Leave salary paid to RYMER by CITY pending an investigation of the crime of which he is convicted;
 - 6.2 Any funds paid by CITY for the legal criminal defense of RYMER;
 - 6.3 Any cash settlement paid to RYMER by CITY related to the termination of this Agreement;
 - 6.4 Any payments by CITY to RYMER that were not agreed upon in this Agreement; and
 - 6.5 For the purpose of this section the term "abuse of his office or position" means either:
 - a. an abuse of public authority including but not limited to waste, fraud, and violation of law under color of authority, or
 - b. a crime against public justice including but not limited to a crime described in Title 7 of Part 1 of the California Penal Code.

7. Disability: If, during the course of this Agreement, RYMER becomes permanently disabled or is otherwise unable to perform the full range of the essential functions of his position because of sickness, accident, injury, mental incapacity, or other health reason for a period of four (4) successive weeks beyond exhaustion of all accrued sick leave, CITY shall have the option to terminate this Agreement pursuant to Section 5.1.
8. Compensation:
- 8.1 Effective the pay period beginning February 12, 2017, CITY agrees to pay RYMER, for his services rendered pursuant hereto, an annual salary of Two Hundred Forty-Eight Thousand dollars (\$248,000) ("Base Salary") payable at the same time and in the same manner as other employees of the CITY are paid. Beginning July 1, 2017, and annually thereafter and except as otherwise provided in this Agreement, Rymer shall receive an annual cost of living adjustment ("COLA") in his base salary equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers, as calculated by the California Department of Industrial Relations for the 12month period ending on the immediately preceding June 30. Effective the pay period beginning February 11, 2018, RYMER shall receive a six percent (6%) adjustment to his base salary for his services rendered payable at the same time and in the same manner as other employees of the CITY are paid. The City Council, in its sole discretion and at a duly noticed public meeting, may grant additional merit increases to RYMER during the term of this Agreement;
 - 8.2 CITY agrees to provide RYMER a Five Hundred dollar (\$500) per month vehicle allowance;
 - 8.3 RYMER shall be entitled to the same benefits provided to CITY employees in the range of the "A" group of the CITY's Management Salary Resolution, as it is amended from time to time by City Council action; and
 - 8.4 RYMER shall make periodic payments to CalPERS in an amount commensurate with CITY employees in the range of the "A" group of the CITY's Management Salary Resolution.
 - 8.5 Beginning with CalPERS rates effective on July 1, 2014, RYMER agrees to pay fifty percent (50%) of future rate increases charged by CalPERS to CITY as an employer.
9. Performance Evaluation:
- 9.1 Annually, the City Council, in consultation with RYMER, shall define goals and performance objectives for the City Manager which they determine to be necessary for the proper operation of CITY; and
 - 9.2 The City Council shall review and evaluate the performance of RYMER at least annually and shall meet with RYMER to discuss the evaluation between February and March of each year. Said review shall be in accordance with a process developed jointly by CITY and RYMER, which may be modified by mutual agreement. This evaluation shall be private and confidential, and the results shall be summarized and discussed in closed session, to the extent permitted by law, or through some other mutually acceptable format. The parties agree that the primary purpose of the evaluation is to facilitate open and frank discussion, define roles and

expectations, identify performance strengths and weaknesses, and provide an opportunity for RYMER to take affirmative action to address weaknesses and areas needing improvement. RYMER shall be provided with a summary written statement of the findings of City Council, and he shall be provided with an opportunity to discuss his performance evaluation with City Council.

10. Housing Loan [section included for historical purposes]:

- 10.1 CITY agrees to loan RYMER a maximum of Nine Hundred Thousand Dollars (\$900,000) to purchase a residence and property ("Property") in Morgan Hill. Said loan proceeds shall be used to purchase Property within City limits which will be RYMER'S primary residence. Said loan shall be evidenced by a Promissory Note made by RYMER payable to the CITY and secured by a First Deed of Trust on the Property. The principal amount of the loan shall bear interest at the 10 Year Treasury Rate plus one quarter percent (.25%) rounded to the nearest one-eighth percent (1/8%), amortized over a thirty (30) year period, and recalculated according to the same formula on the 10th and 20th anniversary dates of the loan. RYMER shall pay principal and interest for fifty percent (50%) of the loan amount and interest only for the remaining fifty percent (50%) of the loan amount. Principal and interest shall be amortized and payable in equal bi-weekly installments through an automatic payroll deduction with the entire balance due in 30 years. Payments on the loan shall be deferred until RYMER closes escrow on his current home or December 31, 2014, whichever is earlier. The rate may be prepaid earlier without penalty. Payoff of the Promissory Note shall occur within 12 months of voluntary or involuntary separation from employment with the CITY. RYMER agrees to a recourse loan. Rymer shall be responsible to pay all applicable taxes, insurance, and homeowner fees and shall be responsible at his expense to maintain the property in good and habitable conditions at all times.
- 10.2 CITY agrees to loan RYMER One Hundred Ten Thousand Dollars (\$110,000) home improvement loan for his residence and property ("Property") in Morgan Hill. Said loan shall be evidenced by a Promissory Note made by RYMER payable to the CITY and secured by a Second Deed of Trust on the Property. The principal amount of the loan shall bear interest at five percent (5%). Principal and interest shall be amortized and payable in equal bi-weekly installments through an automatic payroll deduction with the entire balance due in five (5) years. Payments on the loan shall commence on April 17, 2015. The loan may be prepaid earlier without penalty. Payoff of the Promissory Note shall occur within 12 months of voluntary or involuntary separation from employment with the CITY. RYMER agrees to a recourse loan.

11. Hours of Work, Administrative Leave:

- 11.1 It is recognized that RYMER must devote a great deal of time outside of normal working hours to the business of CITY. To that end, RYMER is granted total annual administrative leave of one hundred twenty (120) hours per fiscal year, with a maximum aggregate accrual of five hundred forty (540) hours, above which maximum amount RYMER shall not earn or accrue additional administrative leave.
- 11.2 Administrative leave may be taken by RYMER at his discretion.

- 11.3 Effective January 1, 2015 and in combination with RYMER's annual vacation leave, RYMER may elect to cash out up to one hundred sixty (160) hours of the hours of administrative leave and vacation leave that will accrue to RYMER in the following calendar year only so long as RYMER irrevocably elects such cash out option prior to December 1 of each year for the following calendar year.
- 11.4 Upon RYMER's separation of employment from the CITY, RYMER shall be paid for all accrued, unused hours of administrative leave and vacation leave.
12. Deferred Compensation: Effective the pay period beginning February 2, 2014, RYMER shall be entitled to receive deferred compensation equal to the maximum annual contribution permitted under Section 457 of the Internal Revenue Code, such amounts to be credited to his account as deferred compensation.
13. Professional Development: The CITY agrees to budget for and to pay membership fees/dues, conference/meeting registrations, and the travel and subsistence expenses of RYMER for professional development and official travel, meetings and occasions adequate to continue his professional development and to adequately pursue necessary official and other functions of CITY, including but not limited to the annual Conference of the League of California Cities ("LCC"), the LCC Spring City Manager's Department meeting, and annual ICMA Conference. Travel and conference expenses shall be reimbursed for reasonable expenses only and in accordance with the CITY's policies governing travel and conference expense reimbursement. The CITY further agrees to reimburse RYMER for tuition, fees, books, software and related educational expenses for professional development.
14. Non-Liability of Officials and Employees: No official or employee of CITY shall be personally liable for any default or liability under this Agreement.
15. Bonding: CITY shall bear the full cost of any fidelity or other bonds required of RYMER under any law or ordinance.
16. Other Terms and Conditions of Employment:
- 16.1 The City Council, in conjunction with RYMER, shall fix any other terms and conditions of employment, as it may determine from time to time, relating to the performance of RYMER, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement or applicable laws; and
- 16.2 All provisions of the CITY's Municipal Code, and regulations and rules of the CITY relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they may now exist or hereafter may be amended, shall also apply to RYMER as they now do to other CITY employees in addition to said benefits enumerated specifically for the benefit of RYMER, except as herein provided.
17. No Reduction in Benefits: CITY shall not at any time during the term of this Agreement reduce the salary, compensation or financial benefits to RYMER.
18. Notice: Notices pursuant to this Agreement shall be given by deposit in the custody of the U.S. Postal Service. Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial proceedings. Notices

shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the U.S. Postal Service to the addresses set forth below or as subsequently communicated by one party to the other in writing.

18.1 Notice to RYMER shall be sent to: 3455 Oakwood Court, Morgan Hill, CA 95037; and

18.2 Notice to CITY shall be sent to: Mayor, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037.

19. General Provisions:

19.1 The text herein shall constitute the entire Agreement;

19.2 The Agreement shall be binding and inure to the benefit of the heirs at law and executors of RYMER;

19.3 This Agreement is effective as of the Effective Date

19.4 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or enforceable, the remainder shall be deemed severable, shall not be deemed ineffective, and shall remain in full force and effect;

19.5 The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement;

19.6 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 subsequent mutual written agreement executed by CITY and RYMER;

19.7 This Agreement shall be interpreted under the laws of the State of California; and

19.8 This Agreement shall be interpreted as though prepared by both parties.

IN WITNESS WHEREOF the Parties hereby agree to the foregoing by executing below:

CITY OF MORGAN HILL

STEPHEN RYMER

Date: _____

Date: _____

By: _____
Steve Tate, Mayor

By: _____
Stephen Rymer

Attest: _____
Michelle Wilson, Deputy City Clerk

Date: _____

APPROVED AS TO FORM

By: _____
Donald A. Larkin, City Attorney

Date: _____

Council Approval: _____



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: John Lang, Economic Development Coordinator
APPROVED BY: City Manager

MASTER SERVICES AGREEMENT WITH OPEN COUNTER ENTERPRISES, INC. FOR A WEB BASED TOOL FOR ZONING AND PERMITTING.

RECOMMENDATION(S)

Authorize the City Manager to execute a Master Services Agreement with Open Counter Enterprises, Inc. for a not-to-exceed fee of \$79,000 for the configuration and use of the Open Counter Economic Development software service suite for three years.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

Small businesses play a key role in the health of the City's local economy. Today's entrepreneurs want to take advantage of a wide array of consumer technologies to get their businesses off the ground. Currently, the City's Economic Development team fields dozens of calls on a weekly basis from people looking to open a business and explore zoning regulations, city permit fees and processes. These calls often require the attention of several City Hall teammates from Planning, Engineering, Business License and Economic Development.

Open Counter Enterprises, Inc. (OpenCounter) of San Francisco, CA, has created a software platform to improve the interface between the public and the City to support small business. OpenCounter has been designed for those individuals starting a business who need to learn basic city regulations (zoning), potential permitting requirements (building permit, use permit, business license), fees, and other departmental and agency requirements. OpenCounter is a user friendly and web based hosted platform that is customized to each City's entitlement process. With OpenCounter, applicants can navigate the permit process using one unified application portal at any time.

The first version of the OpenCounter platform was launched in January 2013 in partnership with the City of Santa Cruz. The program was created and piloted in collaboration with Joint Venture Silicon Valley. Today, Open Counter is being used in more than three dozen municipalities including Scotts Valley, Salinas, Pacific Grove, Fremont, Long Beach, Los Gatos, and Truckee.

With the addition of OpenCounter in Morgan Hill, interested parties would be able to address many of the questions frequently asked during the early stages of business development. Having a platform that answers zoning questions, fees and processes would help provide more succinct information at a much faster rate, helping city hall be much more business friendly. At the same time, this service would enhance teammates' availability to focus on projects that are more complex and in the pipeline. This innovative platform is a step forward in implementing the Council's recently adopted Economic Blueprint. It is also consistent with "smart city" government, utilizing technology available to better service our business community. An added benefit of OpenCounter is that the platform is translated into Spanish to service our Spanish-speaking customers and is available 24 hours a day, seven days a week and can be accessed from the comfort of home.

The benefit of the OpenCounter platform extends beyond the public portal. The site collects information that will assist the City in creating economic development strategies. Data collection includes: permitting activity, new business start-ups (and job generation numbers), and the average cost and time frame of specific entitlement processes.

To move the OpenCounter program forward, staff recommends entering into a Master Services Agreement with Open Counter to develop and create the OpenCounter Economic Development suite for the City of Morgan Hill. The OpenCounter initial contract would be for three (3) years and would include the following:

Task	Description	Cost
1	Configuration and Professional Services- One Time	\$8,500
2	Language Translation (Spanish)- One Time	\$3,000
3	Year 1 Subscription	\$22,500
4	Year 2 Subscription	\$22,500
5	Year 3 Subscription	\$22,500
Total		\$79,000

An Economic Development teammate will be the designated project manager for Open Counter installation and ongoing care. Economic Development staff will provide Open Counter all entitlement and process information to develop and launch the Open Counter web portal. OpenCounter will electronically scan and machine read the City of Morgan Hill's zoning code. The City does expect to update its Zoning Code in the coming months; OpenCounter will start building the platform once a draft of that code update is available. Upon installation, OpenCounter will read the draft code and assist with the identification of ambiguities, missing definitions, and contradictions, which will assist with the clean-up and preparation of the Final Zoning Code. Once the City officially adopts a new Zoning Code, OpenCounter will update the platform to reflect the new code.

OpenCounter will provide public relations support for the City launch, including assistance with a press release and brochure and one (1) in-person visit for launch activities to demonstrate the software to the public. The public launch of OpenCounter is expected in July/August 2017.

COMMUNITY ENGAGEMENT: Empower

The City of Morgan Hill provided a demonstration of the OpenCounter software to the Morgan Hill Chamber of Commerce. There will also be a public demonstration of the OpenCounter software following the website launch.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

As part of the adoption of the Fiscal Year 2016-17 and 2017-18 budget, Council approved initial funding for the deployment of OpenCounter.

The implementation of OpenCounter aligns with the Economic Blueprint Strategy and Action “Foster an Environment that Supports Business Growth.” Item number nine is to deploy the OpenCounter Online Business Ombudsman platform.

FISCAL AND RESOURCE IMPACT:

The total not-to-exceed cost for this Master Services Agreement with OpenCounter is \$79,000. The adopted budgets for FY 2016-17 and 2017-18 have sufficient funding in the economic development budget for Tasks 1, 2, and 3 of the Master Service Agreement. Payment for Tasks 4 and 5 would be budgeted in subsequent years.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. OpenCounterEnterprisesMasterAgreement



OPENCOUNTER ENTERPRISES, INC.

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement" or "Contract") is entered into as of May _____, 2017 (the "Effective Date") by and between Open Counter Enterprises, Inc., a Delaware corporation, with principal offices at 25 Taylor Street, San Francisco CA, 94102 ("OpenCounter" or "Consultant") and the City of Morgan Hill, California with its principal offices at 17575 Peak Avenue, Morgan Hill, CA 95037 ("City").

Recitals

Whereas, City is a municipal corporation organized and existing under the laws of the State of California and wishes to be supplied by OpenCounter with development of and access to certain software-based services provided by OpenCounter and accessed via the Internet (as further described in the attached Statement of Work (Exhibit A), the "Hosted Service") and related professional services for its own use and that of the general public in the process of applying for or potentially applying for one or more permits the issuance of which is within the jurisdiction of City ("Permit Applicant(s)") or related outside agencies, or for checking zoning for a particular parcel of land; and

Whereas, OpenCounter is willing and able to provide to City Hosted Services and related professional services pursuant to and in a form substantially similar to that set forth in Exhibit A hereto ("Statement of Work"), and subject to the terms and subject to the conditions of this Agreement.

Now, Therefore, in consideration of the foregoing and the mutual promises made herein, the parties hereto, intending to be legally bound, agree as follows:

1. Hosted Service Implementation and Use

- i. Implementation. OpenCounter shall use its commercially reasonable efforts to perform the Implementation by the Implementation Target Date; provided, however, that City shall cooperate with OpenCounter to carry out all tasks reasonably necessary for Implementation of the Hosted Service, including without limitation providing to OpenCounter all City Content required for the Implementation. OpenCounter shall consult with City and provide assistance as reasonably necessary for City to carry out such tasks. OpenCounter shall notify City in writing when the Hosted Service is available for access and use by City and Permit Applicants
- ii. Right to Use the Hosted Service. Upon completion of the Implementation, and in consideration of all obligations of City hereunder, including, without limitation, the payment by City of any applicable fees, OpenCounter hereby grants to City, during the Term of this Agreement, a non-exclusive, non-transferable (except as otherwise provided for herein), right and license to access and use the Hosted Service, and copy and use the Documentation in connection with such use of the Hosted Service.
- iii. Restrictions on Resale. The foregoing license does not permit City to, and City hereby agrees not to, resell, relicense, re-syndicate or otherwise sublicense the Hosted Service to any third-party, except as may be expressly set forth herein.
- iv. Use of Hosted Service by Permit Applicants. OpenCounter hereby agrees to allow Permit Applicants to use the Hosted Service, solely to the extent necessary to provide information to City regarding zoning or applications or potential applications for permits, the issuance of which are with City's jurisdiction or related outside agencies, provided that Permit Applicants shall be required to consent to OpenCounter's Terms of Service presented to Permit Applicants when using the Hosted Service ("Terms of Service"). City understands and agrees that if any Permit Applicant declines to agree to the Terms of Service, OpenCounter has no obligation to permit such Permit Applicant to access or use the Hosted Service.

Attachment: OpenCounterEnterprisesMasterAgreement (1055 : Open Counter Master Services Agreement)



- v. Use Restrictions. City shall not: (i) access and/or use the Hosted Service in order to design, create or build a service or product that is competitive with the Hosted Service, or which uses ideas, features or functions that are similar to the Hosted Service; (ii) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Hosted Service, except as expressly permitted herein; (iii) modify or make derivative works based upon the Hosted Service or any part thereof, or directly or indirectly disassemble, decompile, or otherwise reverse engineer the Hosted Service or any portion thereof.
- vi. Suspension of Access to Hosted Service. OpenCounter may suspend City's access to the Hosted Service at any time in order to: (i) prevent damages to, or degradation of, OpenCounter's network integrity; (ii) comply with any law, regulation, court order, or other governmental request or order which requires immediate action; or (iii) otherwise protect OpenCounter from potential legal liability; provided, however, OpenCounter will use commercially reasonable efforts to provide City with a minimum of seven (7) calendar days' prior written notice of any such suspension. In addition, if City fails to pay, within fourteen (14) calendar days of receiving written notice, when due any amounts owed hereunder, OpenCounter may suspend City's access to the Hosted Service. If suspended, OpenCounter will promptly restore use of the Hosted Service to the City after the event giving rise to the suspension has been resolved to OpenCounter's reasonable satisfaction.
- vii. Proprietary Rights. The Hosted Service, including all Intellectual Property Rights therein and thereto, and any modification thereof, are and shall remain the exclusive property of OpenCounter. City shall not take any action that jeopardizes the proprietary rights of OpenCounter or its licensors or acquire any right in the Hosted Service or OpenCounter Confidential Information, except the limited rights expressly granted in this Agreement.
- viii. Internet and Telecommunications Connections. City shall be responsible for obtaining any and all Internet and/or telecommunication connections used by City to access the Hosted Service. OpenCounter shall have no responsibility or liability for any interruption or delay in accessing or using the Hosted Service arising out of such Internet or telecommunications connections.
- ix. Licenses to OpenCounter:
 - a) City Content. City hereby grants to OpenCounter a limited right and license, without the right to grant or authorize sub-licenses, during the Term of this Agreement to use and reproduce City Content, solely for the purpose of facilitating the performance of OpenCounter's obligations under this Agreement.
 - b) Data Captured by the Hosted Service. City agrees that, subject to OpenCounter's confidentiality obligations below, OpenCounter may aggregate data captured by the Hosted Service in connection with the use of the Hosted Service by City and Permit Applicants ("Captured Data") with data captured by the Hosted Service from its use by other parties (collectively, "Aggregated Data").
 - c) City agrees that solely as part of the Aggregated Data, OpenCounter may use, reproduce, distribute, prepare derivative works from the Captured Data, provided that under no circumstances will OpenCounter use the Captured Data in a way that identifies City or individual Permit Applicants as the source of the data. The license granted in this Section 1.ix. (c) Shall survive any termination or expiration of this Agreement.
- x. City Data. In the event this Agreement expires or is terminated, OpenCounter will make available to the City all applicant data and all city-supplied configured content, in a format mutually agreed upon by the parties, within sixty (60) calendar days of such termination or expiration if the City so requests at the time of termination or expiration. Upon termination for cause, OpenCounter shall have no obligation to maintain or to forward to City any City Content after sixty (60) calendar days of the effective date of such termination.
- xi. Updates and Analytics. OpenCounter will provide City with periodic updates to its Hosted Services whenever OpenCounter updates its underlying technology and features or its public facing functionality and features.

2. Fees, Payments and Taxes

- i. Fees. Fees for use of the Hosted Service and the provision of Professional Services are set forth in Exhibit B, and unless otherwise set forth therein are due and payable within thirty (30) calendar days of receipt of an invoice by City.



- ii. Suspension of Services for Nonpayment. After notification by OpenCounter to City, accounts more than sixty (60) calendar days past due will be subject to suspension of Support Services until payment is received.
- iii. Taxes. No taxes apply.

3. Term and Termination

- i. Term. Unless earlier terminated by either party as hereinafter provided, this Agreement shall commence upon the Effective Date and remain in effect for a minimum period of three (3) years, or such longer period as may be set forth in the applicable Service Order. This Agreement may, upon mutual written agreement, renew for consecutive one (1) year increments following the original Term.
- ii. Termination for Cause. Either party may terminate this Agreement for a breach by the other party of any of its material terms, provided the non-breaching party provides to the breaching party thirty (30) calendar days written notice describing such breach and offering the breaching party an opportunity to cure. Failure to cure a material breach within the notice period shall result in automatic termination of this Agreement. In the event of termination by the City pursuant to this section, OpenCounter shall refund to the City an amount representing the proportion of services paid for, but not yet delivered.
- iii. Termination for Non-Appropriation. This Agreement will terminate without any penalty at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year.

4. Indemnification and Insurance

- i. Indemnity. Consultant agrees to: (a) indemnify, defend, and hold harmless the City, its officers, agents, and employees from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from Consultant's negligence, recklessness, or willful misconduct, each as they pertain to the performance of this Agreement, and (b) at its expense, defend, or at its option, with the City's consent, which shall not be unreasonably withheld, settle, any claim brought against City by an unaffiliated third party alleging that City's authorized use of the Hosted Service during the Term infringed such party's patent registered as of the Effective Date in the United States or any copyright or trademark of such party, or made intentional, unlawful use of such party's trade secret (each, an "Infringement Claim"); and pay any settlement of such Infringement Claim consented to by Consultant or any damages finally awarded by a court of competent jurisdiction to such third party as relief or remedy in such Infringement Claim.
- ii. Exclusions. Consultant will have no obligation to City to the extent any Infringement Claim or resulting award is based upon or results from: (a) the combination, operation, or use of the Hosted Service with any other products, services or equipment not provided by Consultant, which combination results in the Infringement Claim; (b) access and use of the Hosted Service other than in accordance with the terms and conditions of this Agreement; (c) damages attributable to the value of the use of any non-Consultant product or service; or (d) any third party software.
- iii. Certain Remedies. If the Hosted Service is, or in Consultant's reasonable opinion are likely to become, the subject of an Infringement Claim and/or an injunction as the result of an Infringement Claim, Consultant may, at its expense and option: (i) obtain the right for City to continue to access and use the Hosted Service; (ii) modify the Hosted Service to make it non-infringing, but substantially functionally equivalent; or (iii) in the event that neither (i) or (ii) are, in Consultant's reasonable judgment, commercially reasonable options, terminate City's right to use the Hosted Service and refund to City, on a pro-rated basis, any unused pre-paid fees paid by City for the Hosted Service.
- iv. Conditions. The obligations of Consultant in this Article 4 are conditioned upon City (a) notifying Consultant promptly in writing of any threatened or pending Infringement Claim, provided that failure to provide such notice will only relieve Consultant of its obligations under this Article 4 to the extent its ability to defend or settle an applicable Infringement Claim is materially prejudiced by such failure to provide notice, (b) giving Consultant, at Consultant's expense, reasonable assistance and information requested by Consultant in connection with the defense and/or settlement of the Infringement Claim and (c) tendering to Consultant sole control over the defense and settlement of the Infringement Claim. City's counsel will have the right to participate in the defense of the Infringement Claim, at City's own expense. City will not, without the prior written consent of Consultant, make any admission or prejudicial statement, settle, compromise or consent to the entry of any judgment with respect to any pending or threatened Infringement Claim.



- v. Exclusive Remedy. THE FOREGOING PROVISIONS OF THIS ARTICLE 4 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF CONSULTANT, AND THE EXCLUSIVE REMEDY OF CITY, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE HOSTED SERVICE.
- vi. Insurance. Prior to commencement of any work under this Agreement, Consultant shall provide and maintain in effect during the term of this Agreement evidence of insurance coverage as set forth in Exhibit D.

5. Confidential Information

- i. Restrictions on Use and Disclosure of Confidential Information. To the extent permitted by law, the parties agree to maintain the confidentiality of each other's Confidential Information and not use such information except in furtherance of this Agreement during the term of the Agreement and for a period of three (3) years after the termination of this Agreement.
- ii. Exceptions. The parties agree that, unless required by law, they will not make each other's Confidential Information available in any form to any third party, or use each other's Confidential Information for any purpose other than the performance of this Agreement.

6. Representations, Warranties and Service Level Agreement

- i. Mutual Warranties. Each party represents and warrants the following to the other party: (i) such party has the full corporate right, power, and authority to enter into this Agreement, to perform the acts required of it hereunder; (ii) the execution of this Agreement by such party, and the performance by such party of its obligations and duties hereunder, do not and will not violate any agreement to which such party is a party or by which it is otherwise bound; and (iii) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms. Each party warrants that it will comply with all laws and regulations applicable to its provision, or use, of the Hosted Service.
- ii. Warranties. OpenCounter shall provide the Hosted Service with the degree of care and skill ordinarily exercised by members of the same business, industry, trade or profession providing similar services. The Hosted Service shall materially conform to the specifications set forth in the applicable documentation as agreed by the parties. All goods, articles, materials, and/or work provided hereunder shall be of good quality and free from all material defects, shall be merchantable and fit for the purpose for which it was provided, and shall be at all times subject to the City's reasonable inspection, provided, however, that the City's inspection or failure to inspect shall not relieve the provider of any obligation hereunder. If, in the City's reasonable discretion, any goods, articles, materials, and/or work provided fail to materially conform to the City's specification or are otherwise defective, at the City's discretion, OpenCounter shall either refund any payment by the City or replace same at OpenCounter's sole expense. Payment by City shall not constitute a waiver of the foregoing. Nothing herein shall exclude, limit, or impair any manufacturer warranty or any other express warranties. OpenCounter warrants that the information and documentation provided to it by City necessary to develop and configure the Hosted Service will be input accurately and free of errors. City warrants that it will provide accurate information and documentation to Consultant for its use in developing and configuring the Hosted Service. Should a portion or portions of the Hosted Service fail to function properly as a result of the City having provided inaccurate information (for example an outdated fee schedule, or an incorrect section of municipal code), Consultant shall not be liable for functionality of that portion of the Hosted Service impacted by the inaccurate information provided by City, but shall upon notice by City and after being provided updated accurate information, promptly correct the functionality of the Hosted Service. Consultant shall not be liable for functionality or accuracy of the Hosted Service as a result of information inputted into the Hosted Service by a Permit Applicant. Consultant shall include in the Terms of Service for Permit Applicant use of the Hosted Service, a clear statement that all information and work product provided to Permit Applicant via the Hosted Service is for informational purposes only, is not guaranteed to be accurate, and that City is not liable to Permit Applicant for the information's accuracy.
- iii. Service Level Standards. The Hosted Services are subject to the Service Level Standards contained in this section. OpenCounter will provide 24 hour a day, 7 days per week, technical support for the duration of this Agreement utilizing the following Service Level Standards for remediation of errors / bugs and inconsistencies:



- a. Critical: The defect affects critical functionality or critical data. It does not have a workaround. Example: Unsuccessful installation, complete failure of a feature. A plan for full resolution will be provided within twelve (12) hours of the notification.
- b. Major: The defect affects major functionality or major data. It has a workaround but is not obvious and is difficult. A plan for full resolution will be provided within two (2) calendar days of the report.
- c. Minor: The defect affects minor functionality or non-critical data. A plan for full resolution will be provided within five (5) calendar days of the first report.
- d. Trivial: The defect does not affect functionality or data. It does not even need a workaround. It does not impact productivity or efficiency. It is merely an inconvenience. Example: Petty layout discrepancies, spelling/grammatical errors. Full resolution will be provided within five (5) calendar days of the first report.

- iv. Limitation of Warranties. THE WARRANTIES AND LIMITATIONS SET FORTH IN THIS AGREEMENT STATE OPENCOUNTER'S EXCLUSIVE WARRANTIES TO CITY CONCERNING THE HOSTED SERVICE AND SET FORTH OPENCOUNTER'S ONLY OBLIGATIONS FOR BREACH OF ANY SUCH WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, OPENCOUNTER MAKES NO, AND HEREBY EXPRESSLY DISCLAIMS (TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW) ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTE, AS TO THE HOSTED SERVICE, THE PROFESSIONAL SERVICES OR ANY MATTER WHATSOEVER. IN PARTICULAR, AND EXCEPT AS SET FORTH IN THIS AGREEMENT, ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXPRESSLY EXCLUDED. CITY ASSUMES ALL RISK OF DELAYS OR INTERRUPTIONS IN ACCESS TO OR USE OF THE HOSTED SERVICE RESULTING FROM USE OF THE INTERNET AND/OR TELECOMMUNICATIONS TO ACCESS THE HOSTED SERVICE, AND OPENCOUNTER SHALL HAVE NO LIABILITY FOR ANY SUCH DELAYS OR INTERRUPTION.

7. Limited Liability

- i. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, OR FOR ANY COST OF COVER OR FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT. SUCH LIMITATION ON DAMAGES INCLUDES, BUT IS NOT LIMITED TO, LOST GOODWILL, LOST PROFITS, LOSS OF DATA OR SOFTWARE OR WORK STOPPAGE, REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BROUGHT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR IF SUCH DAMAGE COULD HAVE BEEN REASONABLY FORESEEN, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED IN THIS AGREEMENT. OPENCOUNTER'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY PRODUCT OR SERVICE, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES CITY HAS PAID TO OPENCOUNTER UNDER THIS AGREEMENT IN THE PREVIOUS SIX (6) MONTHS, AND IF SUCH DAMAGES RESULT FROM OR RELATE TO CITY'S USE OR INABILITY TO USE THE HOSTED SERVICE, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID BY CITY FOR THE COMPONENT OF THE HOSTED SERVICE GIVING RISE TO THE CLAIM IN THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION OF LIABILITY IS INDEPENDENT OF, AND SHALL NOT BE DEEMED TO MODIFY OPENCOUNTER'S OBLIGATION UNDER, ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THIS AGREEMENT.

8. Miscellaneous

- i. Entire Agreement. This Agreement, together with any Exhibits completely and exclusively state the entire agreement of the parties regarding its subject matter, and supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter.
- ii. Assignment. Neither this Agreement nor any rights or obligations of City hereunder may be assigned by City in whole or in part without the prior written consent of OpenCounter. Any assignment in violation of this Section will be null and void. OpenCounter may assign this Agreement in its entirety to a successor in interest in connection with a merger,



acquisition or sale of all or substantially all of its assets with the prior written consent of the City, which shall not be unreasonably withheld.

- iii. Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause that is beyond the reasonable control of such party.
- iv. Governing Law; Jurisdiction and Venue. This Agreement and all matters arising under or related to its formation or performance whether sounding in contract, tort, or otherwise shall be governed in all respects by the laws of the State of California, without reference to conflict of laws principles and under the federal laws of the United States, as such may apply. If Federal jurisdiction exists, the parties hereby consent to exclusive venue and jurisdiction in the United States District Court, Eastern District of California, Sacramento Division. If no Federal jurisdiction exists, the parties consent to exclusive venue and jurisdiction in the State Courts of Sacramento County, California.
- v. Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.
- vi. Precedence of Terms. In the event of any conflict between the terms of this Agreement and the terms of any purchase order or acknowledgement, the terms of this Agreement shall control. Acceptance by OpenCounter of any purchase order placed by City is conditioned on City's assent to the terms set forth herein. OpenCounter's fulfillment of any purchase order shall not imply OpenCounter's acceptance of any pre-printed terms on such purchase order. Any such conflicting terms shall be of no force or effect.
- vii. No Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties
- viii. Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or seven (7) calendar days after deposit in the mail. Notices shall be sent to the parties at the addresses set forth above or such other address as either party may designate for itself in writing.
- ix. Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such un-enforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions
- x. Waiver and Modification. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. This Agreement shall not be modified except by a subsequently dated written amendment signed on behalf of OpenCounter and City by their duly authorized representatives
- xi. Waiver of Rule of Construction. Each of the parties and their counsel have carefully reviewed this Agreement, and, accordingly, the normal rule of construction to the effect that any ambiguities in this Agreement are to be construed against the drafting party shall not apply in the interpretation of this Agreement.
- xii. City Terms & Conditions.

9. Definitions

- i. "Confidential Information" means any information disclosed by one party to the other, which, if in written, graphic, machine-readable or other tangible form is marked as "Confidential" or "Proprietary", if disclosed orally or by



demonstration, is identified at the time of initial disclosure as confidential and reduced to a writing marked "Confidential" and delivered to the receiving party within thirty (30) calendar days of such disclosure, or which because of its nature should have reasonably been understood by the receiving party to be confidential even in the absence of actual notification of such status. Confidential Information shall include, without limitation, information regarding party's business plans, finances, pricing, products or services, investors, research and development and City information. Confidential Information may also include information disclosed to a disclosing party by third parties. The Hosted Service and all features and functions therein shall be the Confidential Information of OpenCounter. "Confidential Information" shall not include any information subject to disclosure under the California Public Records Act, whether such information is designated as Confidential or not.

- ii. "City Content" means any information or data related to City, whether supplied by City or a Permit Applicant, that is input into the Hosted Service by City or a Permit Applicant, provided by City or a Permit Applicant to OpenCounter in connection with use of the Hosted Service by City and/or Permit Applicants.
- iii. "Documentation" means the information made generally available by OpenCounter to its customers that describes the form, features and/or operation of the Hosted Service, whether contained in a tangible medium, such as written format, tape, magnetic or other media, or made available in an electronic format. Documentation shall include any updates of Documentation that OpenCounter may make available to City pursuant to this Agreement.
- iv. "Hosted Service" means those components of the OpenCounter hosted service offering described in Exhibit A.
- v. "Implementation" means the implementation process and tasks described in Exhibit A.
- vi. "Implementation Target Date" means the date for which Implementation is targeted to be complete, as set forth in Exhibit A.
- vii. "Intellectual Property Rights" means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including, but not limited to, all exclusive exploitation rights, copyrights, neighboring rights, moral rights and mask-works, (ii) trademark, trade dress, and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force throughout the universe.
- viii. "Permit Applicant" means a third party individual or entity seeking to obtain information from the Hosted Service.
- ix. "Professional Services" means the professional services described in Exhibit A, to be performed for City by OpenCounter.



In Witness Whereof, the parties have executed this Agreement by their duly authorized representatives.

For	OpenCounter Enterprises, Inc.	City of Morgan Hill
By		
Name	Peter Koht	Steve Rymer
Title	Chief Operating Officer	City Manager
Address	25 Taylor Street, San Francisco, CA 94102	17575 Peak Avenue, Morgan Hill, CA 95037
Approved as to Form		
	City Attorney	

Attachment: OpenCounterEnterprisesMasterAgreement (1055 : Open Counter Master Services Agreement)



Schedule A

Term: The Term commences on the Effective Date and shall continue for a period of three (3) year(s) after the Launch Date, and thereafter, the Term shall continue for successive one (1) year renewal terms, unless either party provides notice of non-renewal to the other party at least sixty (60) days prior to the end of then-current Term.

Hosted Service Features:

OpenCounter Zoning Portal

The Open Counter Zoning Portal renders complex land use regulations in the browser and makes regulations responsive to citizen inquiries.

Specifically, OpenCounter: Zoning helps applicants to navigate the site selection process by answering the seemingly simple question: "Where is my project permitted?" It does so analyzing and importing the logical structure of the municipal code, factoring in the kind of project citizen end users want to pursue and secondary issues that may have huge implications for like use, such as whether a restaurant will serve alcohol, or have live entertainment.

Powered by a patent-pending geospatial rules engine, the OpenCounter: Zoning Portal brings a new level of service to applicants, freeing them from parsing through dense code publishing sites and normalizing the process to an intuitive mapping interface while putting applicants in touch with City Subject Matter Experts to facilitate formal zoning and land use applications.

OpenCounter Business Portal

The OpenCounter Business Portal helps entrepreneurs understand the costs and complexity of establishing or growing a business. The OpenCounter Business Portal guides applicants through an intuitive permit discovery process, and estimates the time and cost associated with the specifics of their project. Once applicants are ready to proceed, it also allows them to submit their data.

Number of City's Designated Support Contacts: _____

Target Launch Date (Business Portal): June 2017



Schedule B
Project Schedule

1. Implementation and Development

OpenCounter will develop and configure an instance of the OpenCounter Economic Development suite (the “**Instance**”) for the City as described in this Project Schedule in accordance with the implementation plan described in Tables 1-5 below (“**Implementation Plan**”).

Phase 1: Data Collection and Project Management

The first phase of OpenCounter project is focused on collecting data and setting project expectations around the scope of work. This includes identifying the permits and licenses to be included in the project, as well as securing credentials and API keys for integrated systems as well as determining the points of integration within those systems and the depth of integration requested by the City.

Table 1

Date	Milestone	Line Item	Description	Responsible Party
February 17	Project Management	Send Configuration Schedule / Steps	Send configuration documents outlining project scope and steps to be taken. Set up bi-weekly project management update conference calls with key project staff.	OpenCounter
		Create Basecamp.com account	Deploy Project Management software and invite City staff. Configure admin access to in-app help resources and configuration ticket management.	OpenCounter
	Kickoff Meeting & Permitting Onboard Document		Set up kickoff meeting with relevant staff, provide permitting onboarding and data request documents to project sponsor.	OpenCounter
	Data Collection	City data collection	City Seal Vector Graphic, application forms (if not already online), fee schedules, internal documents showing permit routing, milestones and processes (for background).	City



Phase 2: OpenCounter | Zoning

One of the first steps in the business registration process is determining the proper land use for the project, and understanding where this land use is permitting. OpenCounter utilizes a custom Zoning API to serve this information. An interactive zoning map is displayed in OpenCounter as part of the business registration process. The tool is also available as a stand-alone zoning viewer to help applicants understand the zoning implications of their projects—even before they begin filing for permits.

Phase 2 focuses on the collection and configuration of the OpenCounter Zoning Viewer and verification of land use regulations prior to the OpenCounter launch. This includes the collection of the City's land use codes, cartographic zoning data (in the form of shapefile or geojson files), and any use-specific rules (like whether a restaurant serves alcohol) that can impact zoning clearances.

This Phase includes a two-week testing stage to enable staff to validate and sign off on the zoning content.

Table 2

Date	Milestone	Line Item	Description	Responsible Party
March 2017	Zoning API Setup	Collect GIS data	Collect shape files for zoning districts and zoning overlays.	OpenCounter
		Collect use code data	Import Use Tables from Zoning Ordinance or create use table based on reading of the code. Surface areas not covered by the base zoning districts, find documents relating to those shapes. Read and import that data into master document.	OpenCounter
		Set up conditional zoning logic	For uses that require additional information other than use and location for zoning clearances, (i.e. restaurants that serve alcohol) set conditional logic questions to serve the proper clearance in zoning.io. Assign common icons to uses, assign "keywords" to uses, gain City approval of these keywords.	OpenCounter
	Deploy OpenCounter Zoning Portal	Configure and deploy OpenCounter Zoning	Create instance of OpenCounter Zoning for staff review and testing.	OpenCounter
2 weeks min.	OpenCounter: Zoning Portal Acceptance Testing	Validation of returns in the OpenCounter Zoning	Validation of zoning returns inside the OpenCounter Zoning by City staff.	City Staff



Phase 3: OpenCounter | Permit Catalog

The next phase of this project is the creation of a “permit catalog” for the City.

This is a repository of all the permits / licenses that have been identified in Phase 1 along with their associated requirements.

These requirements may be based on project parameters (i.e. construction), location (i.e. zoning process), or persona (i.e. restricted to lessened / bonded contractors). In this phase, OpenCounter staff will work to identify the proper “triggers” for each permit, the data required for an initial application, the fees associated with said permit and the personas that are allowed to submit for the permit.

This phase also includes “field matching,” OpenCounter questions to the associated fields in any required integration (i.e. land management software) as well as setting up a “stylized PDF” for the extract of data on a per permit basis for non-integrated permits or internal use.

Table 3

Date	Milestone	Line Item	Description	Responsible Party
May 2017	Permit Catalog Setup v.1	Create Permit Catalog	Scan and analyze provided forms to create data standard for city. Set data model for the City, provide as .csv for staff verification, create help text to explain technical questions / remove jargon / acronyms.	OpenCounter
		Create Permit Triggers	Based on forms collected, create permit triggers for each permit as well as their associated fields, fees and visibility rules. Match permits to internal land management software, if applicable.	OpenCounter
		Create Fees Models	Create fees model based on unified fee schedule	OpenCounter
	Training	Schedule weekly training seminars (pre-launch)	Setup staff training on CMS, dashboard and application handling for City staff and Economic Development allies (if necessary) while finalizing the permit catalog to facilitate testing of fees inside the applications.	OpenCounter



	Content Refinements	Incorporate SME feedback	Based on City feedback refine inputs and fee / permit content	OpenCounter
2 wks. minimum	Acceptance Testing	Verify proper content triggers	Work with City staff to confirm accuracy of imported and configured information of the permit catalog, concurrent with the creation of front end content (Phase 3).	OpenCounter



Phase 4: OpenCounter | Business Portal

The next phase of this project is the creation of public facing content for the Business Portal.

This is a data driven exercise that leverages the materials in the OpenCounter Zoning and Permit Catalog database.

Front-end content will be structured in a way that asks the most common permit and license “triggering” questions first to avoid duplicative data entry and help applicants arrive at an estimation of the totality of their project permitting estimation as quickly as possible.

This phase is deeply informed by staff expertise and will conclude with an acceptance testing period.

Table 4

Date	Milestone	Line Item	Description	Responsible Party
June 2017	Public Content v1	Create Public Page Content	Based on the collected data imported into the site during the permit catalog and zoning setups process as well as interviews with permitting staff, create content to guide applicants through the permitting process, as identified in Phase 1, including educational content to guide the applicant through the process of the proposed project.	OpenCounter
	Training	Schedule weekly training seminars (pre-launch)	Setup staff training on CMS, dashboard and application handling for City staff and Economic Development allies (if necessary)	OpenCounter
2 wks. Min.	Acceptance Testing	Testing	Confirm public facing content is accurate and meets staff’s expectations	OpenCounter + City
	Pre-launch PR	Pre-briefings	Work with City staff to give previews of site to a group of alpha and beta testers (brokers, chamber, SBDC staff) Facilitate User Group testing in conjunction with the City to ensure that the tool is usable and addressing the concerns of the local business community.	OpenCounter and City
	Marketing	Website Integration Planning	Provide banners and logos for integration into Chamber and City website(s). Identify key landing pages for prospective business owners	OpenCounter



	Translation	Begin Database Content Translation	Once given sign off on public content send to translation service and upload on localized version(s) of site.	OpenCounter
June 2017	Launch	Public Launch Activities	Press Conference, Presentation to business groups and town council,	OpenCounter and City



2. Acceptance Testing

When an implementation milestone is ready for use and testing, OpenCounter will notify City and City will commence acceptance testing of the implementation milestone, with such reasonable assistance and support as necessary from OpenCounter personnel. The acceptance test ("**Acceptance Test**") will be conducted solely for the purpose of demonstrating that the deliverable or functionality ("**Milestone**") performs in accordance with its specifications set forth in the applicable documentation ("**Acceptance Criteria**"). The Acceptance Test will be in a form mutually agreed upon between the parties, and will be completed within five (5) business days of the date upon which OpenCounter informs City that the Milestone is ready for testing ("**Acceptance Period**").

If the Milestone passes the Acceptance Test, City will promptly so notify OpenCounter in writing ("**Notice of Acceptance**"). If the Milestone does not pass the Acceptance Test, City will notify OpenCounter, in writing, prior to the expiration of the Acceptance Period, specifying in reasonable detail in what respects the Milestone has failed to meet the Acceptance Criteria ("**Notice of Rejection**").

OpenCounter will promptly correct any deficiencies set forth in the Notice of Rejection, and City will have an additional Acceptance Period to repeat the Acceptance Test for the corrected Milestone. A Milestone will be deemed accepted by City upon the earlier of (i) the issuance by City of a Notice of Acceptance, (ii) the use by City of the Milestone on a production basis, or (iii) the expiration of the applicable Acceptance Period prior to the receipt by OpenCounter of a Notice of Rejection.

3. City Responsibilities and Level of Effort

Commercial Development is a complex project involving multiple departments across the City.

It is critical to the project schedule that City staff are engaged throughout the project in order to ensure successful outcomes. It is also important that stakeholder roles are defined so that decisions can be made effectively and efficiently during the execution of the project.

Economic Development will serve as the project sponsor ("**Project Sponsor**"). The Project Sponsor will appoint a project owner ("**Project Owner**") as the key executive for the project, and a project manager ("**Project Manager**") to facilitate ongoing project administration.

The Project Owner will be responsible testing and accepting Milestones in accordance with the applicable Acceptance Criteria defined above as well as providing strategic oversight for the development of the Instance.

The Project Manager will provide access to required data and resources, facilitate calls and meetings with City staff, and provide assistance and support during on-site visits and training sessions. OpenCounter will provide bi-weekly updates during the timeframe outlined in the Implementation Plan set forth in Table 1.

The Project Manager will also facilitate calls and meetings with City subject matter experts ("**Subject Matter Experts**") in specific permitting verticals and provide assistance and support with communications with Subject Matter Experts.

Subject Matter Experts time commitments will be limited to project status calls on an as-needed basis and during the verification of City Content during defined Acceptance Testing periods defined in the Implementation Plan.



4. Training

The goal of the project is to build a site that will be easy for citizens to use, and for City staff to administer. To that end, OpenCounter will offer training sessions to educate Department staff on the tools, technologies, and best practices of the various components of the Hosted Services.

Three (3) training sessions (each 60 minutes) are included within the fees detailed in 6.1 below. Additional training may be provided, upon request by City, at OpenCounter's standard fees for such training. All training will be paid provided remotely via online video conference and such dates and times mutually agreed by the parties.

The schedule for the training sessions will be determined by OpenCounter and City project staff and defined during the Project Management Phase of the Implementation Plan outlined above.

OpenCounter maintains online documentation to explain the functionality of the Hosted Services. Documentation will be updated to reflect new features. The documentation will be accessible through the following links:

- <https://help.opencounter.com>
- <https://opencounter.com/docs>
- <http://zoning.io/>

5. Publicity and Post-Launch Promotion

OpenCounter will link to the Instance on OpenCounter's website at www.opencounter.com. OpenCounter will also tweet new customer announcements on its Twitter account @opencounter. The City will link to the Instance from its homepage, departmental landing pages and in its outbound marketing and promotional materials in order to ensure that the service is easily accessible to small business owners and entrepreneurs.

OpenCounter and the City will collaborate on a launch press release as well as a mid-year press release featuring case studies of end users who utilize the tool. These case studies may be leveraged for existing City marketing / program materials.



6. Fees and Invoice Schedule. City will pay the fees described below within thirty (30) days after the date of the applicable invoice therefor. Invoices will be addressed to City to the attention of the Project Sponsor.

6.1 Fees by Category

Line Item	Amount
Professional Services:	
Configuration of OpenCounter Hosted Services (Zoning & Business Portals)	\$8,500
Localization Line Item – Per Language (Optional)	\$3,000
Year 1 Subscription (commencing on the Launch Date)	\$22,500

6.2 Invoice Schedule

Invoices	Date	Amount
Configuration / Translation Costs	*May 2017	\$ 8,500
Year 1 Subscription – Invoiced on or prior on the Launch Date	June 2017	\$22,500
Year 2 Subscription – Anniversary of Launch Date	June 2018	\$22,500
Year 3 Subscription – Second anniversary of Launch Date	June 2019	\$22,500

Exhibit D Insurance

Insurance Types and Amounts.

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) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, 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.
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) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, 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.
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.
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 contractor's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

Professional Liability.

5. 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.

6. 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, 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. 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) 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.
8. Endorsements. CONSULTANT shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

General Liability.

9. The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds;
10. the 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; and,
11. insurance shall be primary non-contributing.

Workers Compensation.

12. The 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.
13. 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 an financial size rating of "VII" or better.
14. Certificates. CONSULTANT shall furnish CITY of Morgan Hill with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. 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. 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



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Edith Ramirez, Economic Development Director
APPROVED BY: City Manager

ECONOMIC BLUEPRINT BUDGET REQUEST

RECOMMENDATION(S)

1. Discuss the proposed budget for initial Economic Blueprint implementation; and
2. Direct staff to include funding the implementation of the Economic Blueprint as part of the budget mid-cycle workshop on May 19, 2017.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture

2017 Strategic Priorities

Infrastructure
Telecommunications

POLICY CONSIDERATIONS:

The Council may want to consider the following policy consideration related to the implementation of the Economic Blueprint:

What additional financial resources should the Council dedicate to economic development on a one-time and ongoing basis?

PROJECT SUMMARY:

The City Council adopted the Economic Blueprint at its meeting on April 19, 2017 which establishes specific strategies and actions related to four key industries identified to drive economic prosperity, create a fiscally sustainable future, and guide the City's Economic Development activities in the coming years. The four industries are:

1. **Innovation and Advanced Manufacturing:** *Grow existing companies, attract new industry, and significantly grow professional jobs.*
2. **Retail:** *Grow retail offerings and strengthen commercial nodes.*
3. **Tourism:** *Grow leisure, agriculture, wine country & recreational tourism.*
4. **Healthcare:** *Grow and foster the medical service and diagnostics industry by attracting services and facilities.*

The Economic Blueprint identifies 13 strategies and 35 specific actions that the City can champion to achieve economic prosperity and further the community's quality of life by attracting investment, development, and jobs. The adoption of the Economic Blueprint provides a platform for the community to establish action steps to generate investment and attract and grow four key industries. This philosophy communicates and adds value to developers, companies, and investors that may be interested in investing in Morgan Hill. The City's key role is establishing land use regulations and directing policy. The clarity of intention, purpose, and community support for the Economic Blueprint will yield dividends to the City.

Economic development resides within the umbrella of Development Services. The City's economic development team consists of two people solely dedicated to Economic Development, an Economic Development Director and an Economic Development Coordinator. The Economic Development Department has a non-personnel budget of approximately \$100,000 dedicated to marketing, promotions, consultant work, and partnerships. The budget funds a partnership contract with Joint Venture Silicon Valley, which also supports the regional Economic Development Alliance, memberships and conference participations with the International Council of Shopping Centers (ICSC), California Association of Local Economic Development (CALED), Urban Land Institute (ULI), and funds business data from HdL Consulting, CoStar real estate data management, and the Employment Development Department (EDD).

While much of the work contained within the Economic Blueprint is envisioned to be incorporated into the existing work program of City teammates (mostly Planning, Economic Development, and Community Services), the Council should consider investing additional resources to advance the goals of the Economic Blueprint, which will in return increase the City's ability to grow property, sales, and transient occupancy tax revenues, increase the number of jobs, and offer secondary economic, environmental, and community benefits. The focus on the Downtown efforts through the Downtown Placemaking Investment Strategy serve as an example of how the City's \$30 million public investment was the catalyst for \$80 million in private investment.

Over half of the strategies and actions in the Economic Blueprint are associated with revisions to the General Plan 2035 and/or the Zoning Code Update. The Development Services team is already positioned to work on many of these revisions. The Economic Blueprint will provide very specific guidance to the Zoning Code Update.

The following are the budget recommendations for the Council's consideration. For the purposes of the May 3rd Council meeting, staff recommends discussing the staff proposal and then formally consider allocating funds as part of the May 19th mid-cycle budget workshop.

Economic Development Budget Proposal

	FY 18	FY 19	FY 20
<i>Current</i>			
Non-Personnel Economic Development Budget	\$102,000	\$104,000	\$106,000
<i>Additional Funding Considerations</i>			
Focused, Industry Specific Job Attraction Campaign	\$50,000	\$50,000	\$50,000
New Dedicated Economic Development website	\$50,000	\$10,000	\$10,000
Telecommunications Consultant/Advisory Work	\$50,000	\$25,000	
Environmental Review of Zoning Revisions	\$30,000		
Implement Tourism Business Improvement District (TBID)*	\$20,000		
Implement a Downtown Business Improvement District (BID)		\$20,000	
OpenCounter Agreement		\$8,500	\$6,500
Sub Total	\$200,000	\$113,500	\$66,500
Total	\$302,000	\$217,500	\$172,500

*City's Potential Contribution to Hotel TBID

There are specific items contained in the Blueprint that will require policy work and consultant support to implement. This will be especially true as the City designs a job attraction campaign for targeted industries. Staff is proposing funds for two specific items. The first is annual funding for a focused job attraction (and retention) campaign and the second is an improved economic development website that would complement focused efforts by serving as a professional resource for potential investors and those interested in expanding existing businesses.

In addition, consultant work will be needed to advance the City Council's 2017 Strategic Priority for telecommunications. These funds would be used for the development of a master plan and policy related items that will assist the City taking the necessary steps forward to improve the community's telecommunications infrastructure. Additionally, funds are needed to provide environmental clearance for some actions, such as creating a use-specific overlay for certain sites (like the Auto Incentive Policy).

The proposed investment for OpenCounter will help the City be more business friendly and allow prospective businesses to maneuver the City's entitlement process from the comfort of their computer 24 hours a day, seven days a week. This platform will translate the zoning code and allow people to know if their business is allowed in a certain location. As they further navigate the process, the business can also understand the City's fees. OpenCounter was included in the City's approved budget for FY 2017-18 and will be presented in more detail in a separate report at this Council meeting. The necessary funds for future years are included in the proposed budget.

Finally, it is recommended to assist local organizations create self-supporting financing mechanisms, such as business improvement districts (BID) to generate on-going revenue sources to pay for capital improvements as well as professional marketing and promotions of the Downtown and the Sports/Recreation facilities; creating viable partners in the economic development network.

The Downtown Area formerly had a Property Based Improvement District (PBID) that was terminated due to administrative setbacks. Currently, the City has approximately \$90,000 in the former PBID account that could be used to help re-establish the Downtown PBID. This PBID would establish an assessment to Downtown property owners (including the City) to help pay for capital improvements such as tree lighting and crosswalk enhancements. The City could also explore the opportunity to combine this PBID with a secondary business improvement district for the businesses to help pay for ongoing promotions and marketing of the Downtown area.

Like the Downtown, a Tourism Business Improvement District (TBID) could help finance capital improvements and tourism-related marketing efforts. Local hotels have been exploring establishing a TIBD and have secured support from many of the City's larger hotels. However, the startup costs are significant and it may be difficult for the hotels to obtain the necessary financial commitment to get the TBID started this year. To help expedite the process, the City may want to help cost-share the initial costs of the TBID and recover these funds from future transient occupancy tax collections generated by the TBID. Alternatively, the City may also want to consider raising the Transient Occupancy Tax (TOT) and dedicate the new TOT revenue to improve the City's sports/recreation facilities and enhance marketing and promotions. This would require voter approval.

Regardless of the financial resources dedicated to the Economic Blueprint work program, as stated before, the adoption of the Economic Blueprint already offers value as it signals to the private sector that the City of Morgan Hill is open for business and very serious in attracting and supporting the industries of innovation and advanced manufacturing, retail, tourism, and healthcare. Many goals will be accomplished through our General Plan 2035 and upcoming Zoning Code Update and the team will continue to strive to deliver the most business friendly services.

COMMUNITY ENGAGEMENT: Collaborate

The Economic Blueprint engaged the community in a year-long process that included focus groups and one-on-one meetings with various resident, business, and organizational stakeholders to ascertain the opportunities that exist for investment in Morgan Hill. The City's economic development team has solicited and received feedback from over 400 individuals, including the Downtown Association, Planning Commission, Kiwanis, Rotary, Chamber of Commerce, City teammates, and Morgan Hill residents. In addition, there have been several one-on-one meetings with small and large companies doing business in Morgan Hill.

ALTERNATIVE ACTIONS:

The Council may choose to add, delete, or change any of the budget recommendations.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved the Economic Blueprint on April 19, 2017. The Planning Commission reviewed the Economic Blueprint at its April 11, 2017 meeting.

FISCAL AND RESOURCE IMPACT:

The proposed budget request for advancing the Economic Blueprint would require an additional investment of \$200,000 for FY 2017/18, \$113,500 for FY 18/19, and \$66,500 for FY 19/20. Staff recommends the Council decide on the amount of additional economic development funding during the upcoming mid-cycle budget workshop on May 19, 2017.

CEQA (California Environmental Quality Act):

The Economic Blueprint is a policy document that identifies mechanisms for implementing the City's 2035 General Plan. The 2035 General Plan EIR was certified by the City Council on July 27, 2016.

LINKS/ATTACHMENTS:

1. Economic Blueprint document (see weblink)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Chris Ghione, Community Services Director
APPROVED BY: City Manager

HISTORICAL SOCIETY PARTNERSHIP FRAMEWORK

RECOMMENDATION(S)

1. Direct staff to develop an agreement with the Morgan Hill Historical Society for the operation of Villa Mira Monte as a public facility, based on framework outlined in this report; and
2. Direct staff to include operating and maintenance financial support for the Historical Society in the budget mid-cycle discussion.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Preserving Our Cultural Heritage

POLICY CONSIDERATIONS:

Through the update of the Bikeways, Trails, Parks and Recreation Master Plan (Master Plan), the Council indicated it was interested in supporting the Historical Society's Villa Mira Monte operational and capital needs. The Council also recently adopted "Preserving Our Cultural Heritage" as one of its ongoing priorities. With this background, the Council may want to take following policy considerations into consideration during review of the Historical Society partnership agreement framework.

In conjunction with other City priorities:

- At what level, should the City financially support the Historical Society in operating and maintaining Villa Mira Monte?
- At what level, should the City utilize capital funds to support the improvement and expansion of Villa Mira Monte in the future?

Staff recommends that the Council make its final decision on funding levels for both operations and capital improvements at later dates. For operations, it is recommended to make the decision during the budget mid-cycle workshop. For capital funding, it is recommended to make the decision when the Master Plan is considered for adoption.

REPORT NARRATIVE:

Background

In June 2015, the Morgan Hill Historical Society reached out to the City to request support for ongoing operations and development of the Villa Mira Monte historical site.

At that time, the City had just undertaken updating its Bikeways, Trails, Parks and Recreation Master Plan. The request for City support was rolled into the Master Plan Update. This allowed for the prospect of the City formally supporting this request to be reviewed as part of the community engagement process and discussed alongside the other priorities desired by the community.

On February 22, 2017, the City Council reviewed the draft Master Plan and provided final direction to staff. The updated Master Plan is undergoing environmental review based on the Council's direction. The plan includes the following actions as it relates to Villa Mira Monte:

Actions

F1-1. Develop a partnership with the Morgan Hill Historical Society to make Villa Mira Monte viable and sustainable as a community resource.

F1-2. Ensure future site development includes:

- Culturally, historically, and context appropriate design approaches to improvements and additions.*
- Expanded recreation uses.*
- Property improvements designed to integrate into the Downtown parks system and facilitate attracting more visitors to Downtown businesses.*
- Design improvements to maximize revenue and limit ongoing maintenance costs.*
- Improved technology at the site.*
- Opportunities for urban agriculture and agriculture education with a demonstration garden/orchard or a community garden.*

F1-3. Continue to collaborate with the Historical Society to support organization and site management and operations.

- The Morgan Hill Historical Society should continue to manage the Villa Mira Monte Site.*
- Consider providing operational financial support to the Historical Society to hire limited-term staff for site management with the intent to identify and secure revenue for long-term fiscal sustainability.*
- Ensure future programming includes establishing and expanding revenue generating uses such as event rentals as well as programming to attract new visitors to the site. The City shall utilize existing Community Services Department resources to coordinate marketing and promotion of the site to increase access and revenue generation.*
- Consider formally assigning the Library, Culture, and Arts Commission to make recommendations relating to historic resources.*

Additionally, the Master Plan includes future improvements for Villa Mira Monte as it was determined a high priority for the City.

Partnership Framework

During the Master Plan process, teammates from the Community Services Department met with the Historical Society volunteers to discuss the opportunities for partnering.

This review included discussions with other cities as it relates to city involvement in managing historical resources. The proposed actions in the Master Plan were a direct result of this planning work.

Using this past work, a partnership framework (Attachment 1) has been developed by City staff in coordination with the Historical Society. The framework explains the responsibilities of each organization and provides financial support to the Historical Society, while taking into consideration the limited General Fund and capital resources available to the City. The key areas of City support in the framework include:

- Support from existing City resources for marketing and communications, among others
- Provide \$20,000 per year in operational support from the City's General Fund
- Support for large and small scale improvements from capital improvement funds

The Historical Society's initial request is included as Attachment 2. Most notably, they requested \$80,000 annually in general fund support to hire an employee. At this time, staff plans to recommend \$20,000 annually to assist the Historical Society. Staff recommends that the Council's decision on the level of funding be determined at the budget mid-cycle workshop on May 19th in conjunction with the other requests (Animal Services Officer, etc.). It is anticipated that the initial funding from the City along with capital support may enable the Historical Society to leverage resources to hire a part-time employee or other support services. In the future, the Council would be able to evaluate this support level should resources become available to increase support.

Next Steps

It is anticipated a partnership agreement with the Historical Society would be prepared to be implemented July 1, 2017. The following steps would occur in preparation of this partnership:

1. Council provides direction to staff on partnership framework (May)
2. Council determines level of financial support and allocates operational funding through mid-cycle budget process (May-June)
3. Final partnership agreement developed for Council consideration (June)
4. Council determines level of capital funding as part of the Master Plan adoption based upon revenue assumptions at that time (June)

COMMUNITY ENGAGEMENT: Involve

Through the outreach performed in relation to the Bikeways, Trails, Parks and Recreation Master Plan Update process, significant input on community priorities was achieved in relation to supporting the operations of Villa Mira Monte as a historical park for the community.

ALTERNATIVE ACTIONS:

The purpose of this report is to provide the Council with an opportunity to provide additional direction on the proposed future partnership framework with the Historical Society.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

1993 – The City transfers the Villa Mira Monte Property to the Historical Society.

1997 – The former redevelopment agency provides funding to the Historical Society for restoration of Villa Mira Monte.

2005 – The City conveys the current museum building to the Historical Society and the Redevelopment Agency provides funding to relocate and rehabilitate the building on the Villa Mira Monte site.

February 2017 – The City Council provided direction on including support for the Historical Society's management of Villa Mira Monte within the City's Bikeways, Trails, Parks and Recreation Master Plan Update.

February 2017 – The City Council added "Preserving our Cultural Heritage" as an ongoing Council Goal.

FISCAL AND RESOURCE IMPACT:

Should the Council eventually move forward with the partnership as outlined in this report, operating support would be funded from the General Fund (010). Funding for capital improvements through Phase 1 of the Villa Mira Monte improvements could exceed \$2,000,000 over the next five years with funding coming from Recreation Center Impact Funds (360) or Park Impact Funds (301). Finalizing the amount of operational support would occur during the upcoming mid-cycle budget process. Capital improvement support would be finalized with the adoption of the Master Plan.

CEQA (California Environmental Quality Act):

Not a Project

Since the resulting activity is an administrative program that will not result in a change to the physical environment, this action is not a project under the California Environmental Quality Act. Environmental review for future capital projects will occur as necessary to meet CEQA requirements.

LINKS/ATTACHMENTS:

1. Villa Mira Monte Partnership - 1 Page Outline
2. MHHS 2016-2017 Budget Requests 1.1.16

Attachment 1: Villa Mira Monte Partnership Framework

Whereas...

The City Council has made Preserving Our Cultural Heritage an ongoing City Council Priority.

The City and the Historical Society support the ongoing preservation, improvement, and use of Villa Mira Monte as a cultural resource for the entire community.

The City and Historical Society recognize that should the Historical Society become insolvent that ownership of the Villa Mira Monte site reverts to the City of Morgan Hill.

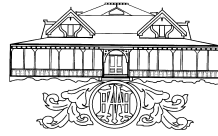
The City and the Historical Society desire to support the ongoing operations at Villa Mira Monte in a collaborative partnership that provides for the most efficient use of limited public funds.

City Commitments

1. Shall commit to support the Historical Society in operating Villa Mira Monte as a public facility for the benefit of the Morgan Hill Community.
 - a. Shall market, promote, and advertise the Villa Mira Monte site and Historical Society Programs as a component of the City's Community Services system, including use of email blasts, the City's Recreation Activity Guide, and other communication means.
 - b. The City shall assign a staff liaison to support the coordination of Historical Society programs into the marketing and promotions plan for the Community Services Department. Staff Liaison will regularly attend Historical Society meetings.
 - c. Formally assign the Library, Culture and Arts Commission to support the Historical Society on operation of Villa Mira Monte.
2. City shall coordinate with the Historical Society to support protection of the site through public safety staff and after-hours maintenance support.
3. Provide funding for capital improvements to the site as prioritized by City Council within its Capital Improvement Plan
4. Support the Historical Society by providing a minimum \$20,000 annually to support operation of the Villa Mira Monte site.

Historical Society Commitments

1. Shall operate and maintain Villa Mira Monte as a community resource.
2. Shall consult with the City on establishment of open public hours for the facility. Prior to changing public hours the Historical Society shall consult with the City. The Historical Society shall commit to providing a minimum of 6 hours of open time per week at Villa Mira Monte, where the site is open free of charge.
3. Shall apply for grants and support the City in grant applications for the maintenance, improvements and preservation of the Villa Mira Monte site.
4. Identify and support the development of new funding sources to support maintenance, improvements and preservation at Villa Mira Monte.
5. Historical society shall provide an annual budget to clarify use of City funds provided for operations and a year-end reporting of expenses and revenues.
6. Historical Society shall recognize the City as a partner in all communications and onsite materials.



Morgan Hill Historical Society

To preserve and share the history of Morgan Hill, and its environs, to inspire a sense of community.

February 29, 2016

Chris Ghione, Director Community Services
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Re: Villa Mira Monte Funding Request for 2016 – 2017 Budget Year

Dear Chris:

For the first year of our partnership with the City, the Morgan Hill Historical Society is requesting funding for the following Villa Mira Monte (VMM) priority projects in the 2016-2017 budget.

Please let me know if you need additional information.

PROJECT I - Back of Site Development: Phase1 Cost with Landscape, Walks, Arbor, Fence:

This project will allow Villa Mira Monte to:

- develop site to provide maximum rental income
- showcase visual impact for train passengers and visitors (marketing)
- maximize onsite parking & safety
- provide for handicap parking – does not currently exist
- minimize dust on the site which increases cleaning costs and is detrimental to the historic buildings

Cost Estimate:

- Every effort will be made to minimize costs through in-kind services.
- We were able to reduce the previous estimate if \$1.6 million by \$368,000.

Description:	Total
Surface Improvements (driveway, parking & curbing)	238,853
Storm Drainage	124,308
Water	50,700
Sanitary Sewer	20,360
Rear Retaining Wall	12,800
Site Lighting	78,600
Electric Service upgrading	50,000
Landscape & Irrigation	56,600
Walks, Arbor, Walls, Platform	97,375
Wrought Iron Fence	52,600
Stak'g, Soil Test'g, Demo	49,750

Trash Encl.	15,000
subtotal	846,946
10% Contingency	84,695
subtotal	931,641
15% Project Manang't/Design	139,746
subtotal	1,071,387
City Fees est. 15%	160,708
Grand Total	1,232,095

Project II - Lawn Irrigation System

Need: Because of the site status as a national Landmark and the need to rent it for events, the lawn and gardens must be maintained in pristine condition. The current drip irrigation systems are a constant source of problems and waste of water. Water pooling on the concrete deteriorates it and causes a slipping hazard.

Solution: Replace existing front lawn irrigation with KISSS (sub-surface textile irrigation)
Area: approximately 6,000 square feet. Retail cost about \$7 per square foot. Total approximately \$42,000.
I have this general information from Erin Gill at the Grass Farm and understand that Tony Eulo is discussing City projects with him.

Project III - Paid Employee

Need: Consistent, reliable and accountable management for the site, oversee business functions and manage day-to-day operations & rentals. This will take a considerable load off the Board of Directors to enable them to focus more on Governance and Fundraising.

Solution: Villa Mira Monte Site Coordinator (comparable to City of Morgan Hill Community Services Coordinator)
40 hours per week, annual salary of \$63,528 – 81,072 with benefits.
We are refining the job description over the next few weeks.

Best regards,

Kathy Sullivan, President



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Shane Palsgrove, Police Captain
APPROVED BY: City Manager

ACCEPTANCE OF STATE HOMELAND SECURITY GRANTS AND APPROVAL OF THE PURCHASE OF A PUBLIC SAFETY COMMAND VEHICLE

RECOMMENDATION(S)

1. Accept the 2016 and 2017 State Homeland Security Grant Program grants in the amount of \$690,132;
2. Approve sole source purchasing process through LDV; and
3. Direct staff to return at a future meeting with a recommendation to confirm the purchase of a Public Safety Command Vehicle.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2017 Strategic Priorities

Regional Initiatives
Telecommunications

POLICY CONSIDERATIONS:

Should Council accept the Federal Homeland Security Grant to purchase a mobile Command Vehicle for South County?

REPORT NARRATIVE:

In February 2016 and 2017, Morgan Hill Police Department applied for and received two grants from Cal OES Governor's Office of Emergency Services Homeland Security Grant Program (SHSGP):

1. FY16 grant award in the amount of \$480,132; and
2. FY17 grant award in the amount of \$210,000.

The award total for the Morgan Hill Police Department was \$690,132 to purchase and equip a Public Safety Command Vehicle (PSCV). To receive funding, the City Council must:

1. accept the grant award;
2. approve the purchase of the vehicle;
3. pay for the vehicle; and
4. submit for reimbursement.

Staff is also requesting approval for a sole source vendor, LDV, for the PSCV per Municode 3.04.180 (1)— "buy directly from a vendor at a price established by a

competitive bid by another jurisdiction...”. LDV competed in and was awarded the public contract through 2021 per Federal contract GS-30F-0009L.

The requested action before Council in this report is to accept or deny the grant and approve the sole source vendor. No recommended action commits the City to the purchase of the vehicle. Grant acceptance and sole source approval allows staff to obtain other necessary approvals prior to seeking a contract from LDV for construction.

Vehicle Purchase and Maintenance

Staff is recommending that the Council first accept the grant and approve the sole source process, then direct us to return at a later date to consider the actual purchase. This two step-process is being recommended due to the current discussion about federal grant funds. Under an Executive Order, the federal government could withhold grant funds to any agency that it determines to be a “sanctuary jurisdiction.” The term sanctuary is not defined in the order, and Morgan Hill is not a sanctuary jurisdiction. However, under the order, the Attorney General has discretion to withhold federal grants from agencies (including the state) that he determines to be impeding federal immigration enforcement. While it is very unlikely that Morgan Hill would be targeted under the order, federal funding funneled through the Governor’s Office of Emergency Service could be withheld.

On April 25, 2017, a federal judge granted Santa Clara County’s request for a nationwide injunction, blocking implementation of the Executive Order withholding federal funds from agencies that are determined to be sanctuary jurisdictions. Based on the court ruling, we are confident that the grant funds will be available. However, staff will continue to evaluate the situation prior to making a recommendation to purchase.

Ongoing maintenance for the PSCV is estimated to be \$8,715 per year. The ongoing maintenance includes: monthly subscriptions (data, cellular, and satellite services) and vehicle and equipment maintenance. The City of Gilroy and Morgan Hill have agreed to share the costs of the ongoing maintenance. The Police Department will absorb these costs, estimated to be \$4,358, as part of its operating budget.

To extend the life of the vehicle, staff recommends constructing a metal shelter/storage location with a concrete pad at the Police Department at a cost of approximately \$20,000. This cost would be shared with the City of Gilroy, therefore the potential General Fund impact for FY 17-18 is \$10,000.

The performance period of the FY 2016 SHSGP grant is September 1, 2016 – May 31, 2019. Upon Council approval, the Federal Procurement Process and sole source request can take anywhere from 1 to 3 months for approval; therefore, the contract will be provided after the procurement process has met the approval requirements for the County, State, and Federal partners.

The PSCV project was identified as a top priority by the Santa Clara County Police Chiefs Association in 2015 to ensure a safe and strategic response to a police and/or fire event or other large scale incident. The PSCV will be part of the Morgan Hill Police

Department's fleet and stored on site at the police facility. However, to enhance the safety of the region, the PSCV will be made available as a South Santa Clara County (SSCC) regional asset for both police and fire. This regional asset will serve a population of approximately 100,000 residents located in Morgan Hill, Gilroy, and unincorporated Santa Clara County.

The police and fire agencies in this region include the Morgan Hill Police and Fire Departments, Gilroy Police and Fire Departments, the Santa Clara County Sheriff's Department, and the South Santa Clara County Fire District. These agencies routinely work in partnership in SSCC and together will benefit in the use of a multi-discipline PSCV at incident scenes. Specifically, the PSCV will be used for crime scene management, on-scene security and protection, operational communications, operational coordination, and environmental responses/health and safety.

The PSCV will improve and enhance the capacity of the three operational jurisdictions for operational coordination through a centrally located unified command that will facilitate regional interoperability. Although the PSCV will be stationed in SSCC, it will also be available county-wide for deployment as needed. The PSCV supplements existing vehicles already in place in Sunnyvale and Palo Alto.

Significant Events

Since 2009, the SSCC region has experienced multiple severe and deliberate attacks on communications infrastructure. Two fiber optic cable cuts, one in 2009 and another in 2013, resulted in total loss of communications by all public safety agencies in the region. In 2014, a terrorist assault action on the local PG&E Distribution Facility resulted in the loss of power to much of SSCC. In 2017, we experienced a natural disaster, the spillover from Lake Anderson Dam during a series of storms that resulted in local flooding and the closure of northbound US Highway 101. This is precisely the type of incident where a PSCV could have been deployed to key locations for a multi-disciplined management of several emergency scenes.

During our multi-jurisdictional response to the events described above, public safety agencies in SSCC identified several "gaps" that a PSCV would close. These gaps include: 1) lack of operational communications that resulted in the assistance of Cisco's mobile communication van to establish limited emergency communication; 2) absence of a centrally located unified command due to no mobile command vehicles available in SSCC; and 3) lack of operational coordination due to three different geographical locations.

In addition to the destruction to government infrastructure, the SSCC area is susceptible to environmental attacks. The region includes multiple local reservoirs, levees, and major transportation routes (freight/pass rail and US101). Our area is also vulnerable to health and safety attacks against private corporations due to several high-risk locations in our region to include an irradiation facility and chemical processing facility. Furthermore, the region hosts several annual major events and festivals, such as the Gilroy Garlic Festival and the Morgan Hill Mushroom Mardi Gras. Thousands of people

attend these events within confined areas, making festival goers susceptible to a mass casualty incident that could require extended crime-scene management.

SSCC contains wild land/urban interface areas as well. Emergency events, such as wild land/urban interface fires, earthquakes, floods, and other large scale events require a multi-agency response that can include mutual-aid fire companies; law enforcement; and local, state and federal emergency response. The PSCV will provide the incident commander with the tools needed for communication, coordination, and control. Furthermore, the PSCV will maintain the ability to communicate with agencies throughout the State of California during a deployment with our law enforcement mobile field force. Additionally, the PSCV will serve a "dual use" by leveraging the mobility of this vehicle and its equipment to teach and practice effective incident management skills across multiple spectrums for police, fire, medical, and emergency/disaster management.

The project will also enable the police/fire/medical first responders to interoperate and provide required information to the Emergency Operations Center during any type of crisis. This will also bridge any communication gaps to communicate with other PSCVs in the Bay Area such as those in Sunnyvale, Mountain View, and Palo Alto. The project will provide a mobile facility for the Command Staff to stage, plan, and implement specific actions to resolve the incidents.

The PSCV's initial specifications are provided as Attachment 1. These initial specifications are subject to change during the design and build-out process.

ALTERNATIVE ACTIONS:

- Council can accept the grant and require alternative funding for storage shelter.
- Council can deny the acceptance of the SHSGP grants.
- Council can deny LDV as the sole source vendor and require the Police Department to solicit bids through the RFP process.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Not Applicable

FISCAL AND RESOURCE IMPACT:

The purchase price of the Public Safety Command Vehicle is estimated to be \$510,633. plus, furniture, fixtures, and equipment for a total of \$690,132. The Police Department requests approval of LDV as a sole source vendor, which has an active General Services Administration (GSA) Schedule Contract for command vehicles with the federal government – Contract GS-30F-0009L.

The City is required to make the initial purchase of the PSCV prior to reimbursement from the SHSGP grant which is anticipated to take no less than 45 days from purchase. Payment to LDV must be made within 30 days of delivery/acceptance of the command vehicle. This means that the City will need to extend \$690,132 from the General Fund for a minimum of 15 days prior to being reimbursed. With the grant, the full cost of the PSCV would be covered. If approved by the City Council, the grant revenue and all

future expenditures would be appropriated in the FY 17-18 budget at the time of approval.

CEQA (California Environmental Quality Act):

Not a Project: The purchase of a Mobile Command Vehicle will not result in a change to the physical environment.

LINKS/ATTACHMENTS:

1. Command Vehicle Specifications
2. Command Vehicle Blueprint



LDV, Inc.
180 Industrial Drive
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800.558.5986
Fax 262.763.0156
www.ldvusa.com

**PRELIMINARY
SPECIFICATIONS FOR:**

Morgan Hill PD (CA)
MOBILE COMMAND CENTER

LDV PROJECT #S36MCC-10

November 23, 2016

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)

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GSA PRICING PAGE:

Total commercial price as specified, FOB origin	\$	542,495.00
GSA 1 unit discounted price as specified with IFF	\$	507,233.00
Delivery to Morgan Hill (CA)	\$	3,400.00
Total	\$	510,633.00

Delivery terms: Ask your Sales Representative

GSA pricing is not in effect until models are approved for the LDV schedule. Please consult a Sales Specialist before submitting an order to purchase.

Payment Terms: Net 30

Quote is firm for 30 days from specification date

Quoted price does not include any applicable FET, federal, state or local tax unless specified

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



PROPOSAL
Morgan Hill PD (CA)

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Item	Qty	
1.00		<u>CHASSIS/BODY DIMENSIONS:</u>
1.01		• Wheelbase of chassis: 250" • Overall length of apparatus, including rear step: 425" • Overall apparatus width, rub rail to rub rail: 96" • Rear step height from ground (loaded): 24"* • Overall height of apparatus (loaded): 144"* • Interior walkway height raw body: 83" • Interior walkway height finished: 81.5" • Interior walkway length: 312" • Interior raw body width: 93" • Interior finished body width: 85.5" * Estimated measurement dependent on chassis components, axles, tires, frame, suspension, and roof-mounted equipment.
2.00		<u>CHASSIS:</u>
2.01	1	• Freightliner MT-55 forward control chassis. 26,000-lb. GVWR with air ride rear suspension and hydraulic brakes. <u>ENGINE:</u> • Cummins ISB 6.7-260 260 HP@2300 RPM <u>ENGINE EQUIPMENT:</u> • 2008 Carb emission certification - clean idle • 12V 200 AMP 28-SI Quadramount pad alternator • (2) model 1131, group 31, 12 volt maintenance free 1900 CCA threaded stud batteries • 18.7 CFM air compressor with internal safety valve • GVG, Fire and emergency service vehicles engine warning • Exhaust brake integral with variable geometry turbo with ON/OFF dash switch • Engine aftertreatment device, automatic over the road active regeneration and dash mounted single regeneration request/inhibit switch • 10 Gallon DEF tank RH frame MTD • LH horizontal tailpipe, exit forward of rear tires • Antifreeze to -34f, ethylene glycol pre-mixed 50/50 coolant • Gates blue stripe coolant hoses or equivalent • 1000 watt/115 volt block heater
		<u>TRANSMISSION:</u> • Allison 2200 EVS automatic transmission with park pawl with PTO provision <u>FRONT AXLE AND EQUIPMENT:</u> • 10,000# Drop single front axle • Front oil seals • Synthetic 75w-90 front axle lube • TRW TAS-65 power steering <u>FRONT SUSPENSION:</u> • 10,000# taperleaf front suspension • Front stabilizer bar • Front shock absorbers

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
		<u>REAR AXLE AND EQUIPMENT:</u> • 17,500# Single rear axle • Rear oil seals • 5.13 Rear axle ratio • Synthetic 75w-90 rear axle lube <u>REAR SUSPENSION:</u> • 18,000# Airliner rear suspension • Manual dump valve for air suspension with indicator light, without gauge • Dual instant response rear suspension leveling valves • Rear swaybar • Rear shock absorbers <u>BRAKE SYSTEM:</u> • Bosch hydraulic brake package • Wabco hydraulic 4S/4M without traction control
		<u>FRAME:</u> • 5/16"X2.81"X9-1/8" steel frame CHASSIS EQUIPMENT: • Three-piece 14" chromed steel bumper with collapsible ends <u>FUEL TANKS:</u> • 60 gal / 227 liter rectangular steel fuel tank - between rails • <i>Length of auxiliary pickup tubes (generators, furnaces etc.) shall prevent these devices from using more than 75% of vehicle's fuel tank capacity</i> <u>TIRES:</u> • Michelin XZE 255/70R22.5 16 PLY Radial front tires • Michelin XDE XD2 255/70R22.5 16 PLY Radial rear tires <u>WHEELS:</u> • Accuride 50487 ACCU-LITE 22.5x8.25 10-hub pilot 5-hand steel disc front wheels • Accuride 50487 ACCU-LITE 22.5x8.25 10-hub pilot 5-hand steel disc rear wheels <u>CAB EXTERIOR:</u> • Hood mounted chromed plastic grille • Dual electric horns

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
		<u>CAB INTERIOR:</u> • Compact air conditioner compressor • Auto self-reset circuit breakers and fuses • TRW tilt/3.00" telescopic steering column with foot actuated pedal <u>INSTRUMENTS & CONTROLS:</u> • Green gauge backlighting • Driver message center W/LCD Display, 24 warning lamps, data linked, AMI • Electronic MPH Speedometer with secondary kph scale, without odometer • Electronic 3500 RPM Tachometer • Single air pressure gauge for hydraulic brakes with air provision • Electric engine oil pressure gauge w/warning lamp and alarm • Electric engine coolant Temp gauge w/warning lamp and alarm • Digital voltage display integral with driver display • Elec fuel gauge & low fuel IND lamp • Automatic transmission oil temp gauge w/warning lamp • Engine hour meter, integral to message center LCD • Intake mounted air restriction indicator with graduations • 97 Db Backup alarm • Cruise control switches • Programmable RPM Ctrl w/low voltage auto high idle & RPM Ctrl switches • Wagner 7212 turn signal flasher <i>Note: Chassis specifications are from Freightliner Custom Chassis and are subject to change without notice.</i>
2.02		<u>CHASSIS WARRANTY:</u> • Three (3)-year/50,000 mile <i>Freightliner</i> MT-55 chassis warranty. • Two (2)-year/unlimited miles <i>Cummins</i> engine warranty. • Five (5)-year/unlimited miles <i>Allison EVS</i> transmission warranty.
2.03	1	DOT triangle reflector kit with three (3) triangles.
2.04	1	Stainless steel wheel liners with braided stainless steel valve stem extenders.
2.05	1	Route horizontal exhaust to street side.
3.00		<u>BODY:</u>
3.01	1	• Load space area shall be 83" high x 93" wide x 26' long all aluminum step van body.
		• Driver sedan door with slider window, door skin shall be chemically bonded to door frame structure reducing the amount of rivets required. Door shall have continuous stainless steel piano hinge and two (2) nylon straps. • Passenger sedan door with slider window, door skin shall be chemically bonded to door frame structure reducing the amount of rivets required. Door shall have continuous stainless steel piano hinge and two (2) nylon straps. • Sedan doors shall have a 0.125" aluminum tread plate step well for 18" skirt depth. • Sedan doors shall have black non-skid tape on all door entry sills. • Sedan doors shall have polished aluminum Tri-mark flush mounted locking hardware with self-aligning rotary latch and matching key locks. Outside door handles not to exceed 50" from ground.

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
		- Aluminum alloy double H wall beam, 6005-T5 alloy, 3" x 3" wide at the base, 1.5" wide at the top, 0.125 wall thickness. Studs feature machined wire pass-throughs, and raised adhesive control features on base. - I-beams shall be chemically bonded to sidewalls eliminating the need for additional rivets. Buck-rivets will be used to fasten the top, bottom and rub rail. Use of two-sided tape is not acceptable. - Body shall have 0.125" strain-hardened aluminum alloy 5052-H36 side panels. The upper panels shall be free of rivets allowing for smooth graphics application. - Skirt supports, 1.5 x 1.5 x 0.125 angle to reinforce skirt edge and hold bottom edge in a straight line. 0.188 x 1.00" flat braces placed at 4' intervals and riveted to lower wall angle and floor to maintain sidewall skirt rigidity. - Fender flares, 1.38" x 2.25" x 0.090" roll formed and radiused 5052-H32 aluminum sheet, mechanically fastened to wheel opening. Edges sealed against moisture.
		- NFPA 1901 embossed 0.125" aluminum tread plate roof attached to 3" x 1 1/2" x 0.125" extruded aluminum roof bows on 16" centers. Bows are 2" skip welded every 12" Tread plate seams to be continuous welded. Perimeter of roof shall be chemically sealed. - Lift-up molded fiberglass hood with chrome grill insert. Hood shall have integrated headlamps and turn signal indicators and dual assist gas charged lift shocks. The use of mechanical assist springs is not acceptable. - Extruded aluminum floor with interlocking planks, 1.88" high x various widths, 0.125" top surface. 6005-T5 alloy and temper. Heavy-duty thick-wall extruded planks fore and aft of all floor cutouts and every 5th plank in all other areas. Planks made of 6005-t5 alloy and temper, 0.250" thick top surface. - Bright polished front bumper.
		- Tinted safety plate glass windshield with driver and passenger sun visors. - Full width 12" deep heavy-duty aluminum rear bumper with center step, painted to match the body. - Integral cab air conditioning and heating system with dash controls. - Velvac heated remote control rear view mirrors with dash controls. Upper mirror has 62-sq.in. of flat surface and lower mirror has 30-sq.in. of convex surface. Mirror has a fold-away arm. - Driver seat shall be <i>Seats Inc.</i> Magnum 200 mechanical suspension seat on fixed pedestal. Seat shall be covered in black cloth and have arm rests, lumbar support, tilt back and 3-point seat belt. - Passenger seat shall be black jump seat with 2-point seat belt. - Intermittent windshield wiper/washer with single heavy-duty windshield wiper motor.

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Item	Qty	
		• Custom front wheel cutouts for tires. • Rear frame-mounted tow eyes extending past body. • Aluminum engine box cover with acoustical and thermal insulation. Black molded ABS composite engine box over-lay. • Acoustical and thermal insulation with heat shield on exterior fire-wall. • Full length skirting. Skirt shall extend 18" down from the bottom of floor extrusions. • Dash shall be vacuum formed ABS composite with integrated control pod located left of dash. • All clearance and side marker lights to be LED. • Standard structural warranty of 5 years or 50,000 miles and standard component warranty of 12 months or 12,000 miles. • The vehicle shall be fully sanded on all exterior surfaces with no more than 150 grit to assure removal of imperfections in metal surface. All aluminum shall be chemically etched and primed prior to painting. Base body color shall be oven baked and painted to commercial truck standards. <i>Note:</i> Specifications are from body manufacturer and are subject to change without notice.
3.02	1	32" wide x 82" high 0.125" aluminum sedan door with 21.5" wide x 25.5" high fixed window and mini-blind. Door shall have continuous stainless steel piano hinge, two (2) nylon door straps and an aluminum drip rail. Located as shown on drawing.
3.03	3	Heavy-duty fluted aluminum grab handle with rubber inserts and chrome plated stanchions installed at exterior entry door location.
3.04	1	Heavy-duty fluted aluminum grab handle with rubber inserts and chrome plated stanchions installed inside entry door.
3.05	3	Automatic LED courtesy light at side entry door.
3.06	1	Courtesy light defeat switch on dash.
3.07	2	<i>Kwikkee Series 39 (or current model) automatic electric steel entry step with NFPA 1901 approved embossed aluminum tread plate step cover. Product features:</i> • 23.75" wide tread • Door switch extends step when door is opened, retracts step when door is closed • Power switch locks step in extended position • Ignition override retracts step when ignition is turned on • "Last out" feature extends step when the door is opened
3.08	1	Entire underside of the apparatus shall be undercoated. Includes chassis, floor extrusions, step wells and aluminum compartments.
3.09	1	Rear mud flaps with anti-sail brackets.
4.00		LDV SLIDE-OUT:
4.01	1	Flat floor slide-out room extension 132" fabricated with a structurally rigid welded aluminum tube design with a fully bonded aluminum shell. During deployment an electronic control system automatically expands the room extension and lowers the floor to flush position. Features: • Electric over hydraulic control system programmed to lower the slide out to floor height after full extension of 26". • Awning that automatically extends and retracts over the top of the room to protect from weather and debris. • Full perimeter double rubber bulb seal with an additional seal in the fully extended and fully retracted positions. • No track or hardware shall be attached to the ceiling of the body.

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
4.02	1	Flat floor slide-out room extension 72" fabricated with a structurally rigid welded aluminum tube design with a fully bonded aluminum shell. During deployment an electronic control system automatically expands the room extension and lowers the floor to flush position. Features: • Electric over hydraulic control system programmed to lower the slide out to floor height after full extension of 26". • Awning that automatically extends and retracts over the top of the room to protect from weather and debris. • Full perimeter double rubber bulb seal with an additional seal in the fully extended and fully retracted positions. • No track or hardware shall be attached to the ceiling of the body.
4.03		Ignition Interlock to prevent vehicle from starting when any of the external extension devices are deployed.
5.00		PAINT AND GRAPHICS:
5.01		Body base color shall be White.
5.02	1	4-inch wide reflective stripe on the exterior back and sides of the vehicle, placed up to 48" above ground level (color ~ to be determined).
5.03	1	Custom computer-generated non-reflective vinyl graphics per customer specifications. Includes up to seventy 8"-10" letters and up to forty-five 3"-6" letters. All lettering shall be shaded or outlined (colors/style ~ to be determined). <i>Note:</i> Graphics package does not include production of custom shields and/or seals.
6.00		INDEPENDENCE ONYX INTERIOR: • Wall Covering: #66 Silver Smooth FRP • Ceiling Fabric: A97 Silver Haze • Floor Covering: #150 Onyx PVC Flooring • Office Chairs: Black • Vinyl Coverings: Whisper gray with Whisper black • Cabinets: #EBT-2-2002 Black Powder Coated Aluminum available in other colors (refer to Cabinet Section for material detail) • Counters and Tables: Carbon EV Laminate (refer to Cabinet Section for material detail) <i>Note:</i> Manufacturer reserves the right to substitute equivalent materials.
7.00		DRIVER/PASSENGER CAB AREA:
7.01		• Cover cab doors with aluminum powder coated black panels. • 10" high 0.100" bright aluminum tread plate kick plate at bottom of doors. • Heavy-duty rubber grab handle on each door. • Panels covered with vinyl or fabric above driver and passenger doors. • Vehicle height sign on dash. • Insulated black rubber mat in driver and passenger toe plate area. Insulate walls in toe plate area and install carpeted panels. • Vehicle shall have a Final Stage Vehicle Certification and Altered Vehicle Certification as required by Federal Motor Vehicle Safety Standards (FMVSS) 49 CFR Part 567.5 and 567.7 • Payload sticker in cab area with vehicle axle load ratings and available axle payload as built.
7.02	1	Work area on passenger side to be constructed of 5/8" plywood, exposure 1-APA, 6 ply, covered to match rear counter-tops and trimmed with vinyl T-molding.
7.03	1	Control panels for 120Vac and 12Vdc systems shall be located in the overhead console. The entire console shall be constructed of 3/4" plywood. The face shall be finished with black laminate and the bottom shall be covered with vinyl.
7.04	1	Red LED/Clear incandescent dome light with 3-position switch, red/off/white.

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Item	Qty	
7.05	1	JVC Arsenal KD-R875BTS (or current model) MOSFET 22-watt RMS/50 peak x 4 channels, CD/MP3, AAC, WMA, WAV, and FLAC Receiver with 13-band graphic equalizer with 8 EQ presets, built-in Bluetooth for hands-free calling and audio streaming. • one (1) pair of Pioneer TS-A6971R (or current model) 6" x 9" three-way speakers.
7.06	2	ABS cup holder in front shelf.
7.07	1	Zone Defense color three (3) camera system with 7" LCD flat panel monitor. System includes left, right, and rear vision day-night cameras
7.08	1	Blackout curtains for all cab area windows. Curtain specs: • Black woven fabric made of pigmented and acrylic top coated 45% polyester / 55% cotton fabric • Tensile Strength: 283 lbs. x 214 lbs. • Manufacturer's 5-year limited warranty • Seams shall be double stitch/single fold with 1" sewn-in hook-and-loop or nickel plated fasteners • Meets California State Fire Marshall requirements for flame retardancy - Title 19, CPAI-84 (Section 6), and FMVSS-302
8.00		<u>WALLS, CEILING AND FLOOR:</u>
8.01		Insulate walls with a minimum of 2-1/2" of fiberglass with an R-11 rating. Cover interior body side posts with 1/2" plywood sub wall, structural plywood sub wall, Exposure 1-APA, 5 ply, face veneer plugged and sanded. Meets California Air Resources Board (CARB) phase 2 requirements.
8.02		Cover sub wall with smooth finish <i>Kemlite</i> 0.075" fiberglass reinforced plastic (FRP) lining. Wall covering shall be a continuous piece front to back, no seams acceptable.
8.03		Insulate ceiling with a minimum of 2-1/2" of fiberglass with an R-11 rating. Cover interior roof beams with three (3) piece modular panel ceiling. Panels to be made with 1/2" structural plywood, Exposure 1-APA, 5 ply, face veneer plugged and sanded. Meets California Air Resources Board (CARB) phase 2 requirements. Modular ceiling panels to be covered with Silver Haze Fabric.
8.04		Floor underlayment to be 5/8" exterior grade tongue and groove structural plywood, Exposure 1-APA, 6 ply, face veneer plugged and sanded. Meets California Air Resources Board (CARB) phase 2 requirements.
8.05		<i>Lonseal</i> Loncoin II Flecks 150 Onyx non-skid commercial grade PVC flooring. The flooring shall be continuous, one piece full length, full width, no seams..
8.06		2-1/2" vinyl cove molding as required (mop board).
8.07	2	30" FRP covered pocket door installed on heavy-duty aluminum track with two (2) four-wheel roller trucks. Pocket door shall have recessed handles and a key lock.
8.08		All bulkheads shall be covered with <i>Kemlite</i> 0.075" FRP.
8.09	1	Cover load space door with black powder coated aluminum panel, install 10" high 0.100" bright aluminum tread plate kick plate at bottom of door and heavy-duty rubber grab handle.
8.10	1	36" wide x 24" high flush mount deep-tint egress window, located as shown on drawing. Window features: • Black baked aluminum frame construction • Unique Flush Mount frame offers automotive style frameless appearance • Hidden water drainage system • Windows have 2.5" radius comers (3.25" on Egress models) • Glass is tempered with 31% light transmission • All glazing materials are DOT approved • 2-piece clamp ring installation allows for easy replacement in the event of breakage
	⇒	MFG Note: Located on rear wall

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Item	Qty	
8.11	2	12" X 22" Flush mount deep-tint fixed window installed on side walls in front slide out room with day/night shades.
8.12	4	Day/Night pleated shade.
9.00		<u>GALLEY AND LAVATORY:</u>
9.01	1	Hand pump galley water system. Includes: • Stainless steel sink, 10" x 14" x 5" deep. • Self priming hand pump faucet. • Five-gallon fresh water tank installed in cabinet below sink. • Five-gallon gray water tank installed in cabinet below sink
9.02	1	Magic Chef 1.1 Cu. Ft microwave. • Black • 1000 watts
9.03	1	Keurig Coffee maker K45 B40 (or current model). Located in the galley.
9.04	1	Norcold model NR751 Black 12/24 VDC/120VAC refrigerator with the following features: • 2.7 cu. ft. capacity. • Freezer shelf for ice cube tray. • Two door bins; lower bin holds 2-liter containers. • Integrated door latch.
9.05	1	Wastebasket w/hold-down bracket.
9.06	1	Bobrick B-262 (or current model) satin-finish stainless steel paper towel holder.
10.00		<u>SEATING:</u>
10.01	7	Space Air Grid office chair 5560 black (or current model) with armrests, five caster spider base, and adjustable height. Install strap under counter or wall bracket, to secure chair for travel.
10.02		Fabricate and install fixed bench seating with removable cushions as shown on drawing. Bench seat cushions shall be covered in heavy-duty vinyl.
10.03		Fabricate and install flip-down bench seating as shown on drawing. Bench seat cushions shall be covered in heavy-duty vinyl. Bottom seat cushion will be installed on Zico Quic-Seat® fold down spring loaded seat brackets.
10.04		<u>BENCH SEAT REQUIREMENTS:</u> • Foam for seat backs and bottoms shall be firm density • All bench seating material must meet Federal Motor Vehicle Safety Standards part 571.302 Flammability of Interior Materials. • Material corners shall be squared or angled to fit precise cut of foam. • Foam shall be bonded to plywood backer with industrial grade adhesive. • Stapling of fabric/vinyl to backer with industrial grade upholstery staples.
11.00		<u>CABINETS:</u>

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Item	Qty	
11.01		Custom fabricated aluminum cabinets located as shown on drawing. Cabinet specifications: • Base cabinets constructed of 0.080" powder coated aluminum with anodized aluminum frames. • Base cabinet doors are double shell, formed from a single sheet of 0.080" aluminum, with a 0.040" aluminum door back attached. • Overhead cabinets constructed of 0.064" powder coated aluminum with anodized aluminum frames. • Overhead cabinet doors are double shell, formed from a single sheet of 0.064" aluminum, with a 0.040" aluminum door back attached. • Overhead cabinet doors swing up on a full-length aluminum hinge, and are held open with a locking door stay. • Overhead cabinets to have one adjustable shelf per door (24" high and taller cabinets only) - locked in place to the selected height. Shelves are formed from a single sheet of 0.064" mill finish aluminum, with 1 1/8" hemmed edges.
11.02	3	Dry erase writing surface on overhead cabinet door.
11.03	3	Gas shock lift supports on overhead cabinet door.
11.04	3	LED strip light under overhead cabinet, #16070056 (or current model) installed with rocker switch LDV 15130175 (or current model).
11.05		Countertops shall be covered in 0.040" <i>Wilsonart</i> laminate. All exposed edges shall be covered with heavy duty flexible PVC T-molding.
11.06		Conference table covered in 0.040" <i>Wilsonart</i> laminate. All exposed edges shall be covered with heavy duty flexible PVC T-molding.
11.07		Powder coated 0.125" aluminum conference table base with radius end caps.
11.08		Closet shelves shall be infinitely adjustable using mini B-line track and hardware.
11.09	3	Aluminum box pan shelf with 2" lip, located as shown on drawing.
11.10		Magnetic white dry erase board framed in aluminum with pin board top strip.
11.11	6	Computer cable pass-thru grommet in counter or conference table.
12.00		HVAC SYSTEM:
12.01	1	<i>Fan-tastic Vent</i> model 1250 (or current model) 3-speed reversible 12" power roof ventilator.
12.02	1	<i>Fan-tastic</i> Ultrabreeze vent cover, Color ~ White.
12.03	3	Ducted Coleman Polar Mach 8 series low profile air conditioner with thermostat. Includes: • High Capacity Air Duct manufactured from polystyrene foam laminated with 99% pure polished aluminum inside and out, internally mounted in ceiling • 9223-C876 13,500 nominal BTU air conditioner with condensate pump. • 8330C635 Chill Grille Assembly with 5,600 BTU heat strip • 22120010 Louvered Ceiling Vents, as required
12.04	2	<i>Broan</i> model 174 wall mount 5,120 Btu/hr electric heaters. Located as shown on drawing.
13.00		120/240VAC ELECTRICAL SYSTEM:
13.01	1	<i>Wrico</i> Platinum 25-kW 120/240Vac Low Boy liquid-cooled diesel generator installed in a custom fabricated compartment. Generator features: • Kubota T4i water cooled diesel engine • Radiator cooled, remote mounted for lower compartment height • 4 pole rotating field alternator with 300% short circuit capability
13.02	1	Generator exhaust routed to roof.
13.03	1	ACData AC2060 Whole House Surge Suppressors protection for entire AC power system, # 17120018 (or current model). Product features: • UL US listed: UL1449 3rd Edition • NEMA 4 plastic enclosure: 5.14"(H) x 4.00"(W) x 2.45"(D) • LED Visual verification of status

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



PROPOSAL

Morgan Hill PD (CA)

LDV, Inc.
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Fax 262.763.0156
www.ldvusa.com

Item	Qty	
13.04	1	A multiplex controlled power and data electronics system must be incorporated into a common touch screen with the ability to distribute and control strategic on board systems. It also simultaneously allows distribution of the information to multiple onboard control/monitoring stations. This system is required as it simplifies start up procedures, contains fewer operating components, reduces operational start-up time, reduces the total amount of wiring in the vehicle and has error detection protocols and troubleshooting features
		Multiplex system features: • Two (2), 10" LCD touch screens with custom graphics for control and monitoring at separate control stations • Touch pads with custom graphics for local control • AC power distribution control and monitoring for the generator with power management • DC power distribution control and monitoring • Manual or automatic generator control • HVAC and temperature control. • Lighting control Day/Night mode • Automatic power transfer switches • Automated startup and shutdown procedures • Seamless control of generators, lighting, awnings and additional devices • Mast control • Safety interlocks
13.05	1	<i>Kussmaul</i> Auto Eject 20, 20A-120Vac shore power inlet with 25-ft. 20A-120Vac shore power cord.
13.06	1	<i>Marinco</i> 100A-125/250Vac waterproof shore power inlet, 25-ft. 100A-125/250Vac shore power cord and 6-ft. 100A-125/250Vac pigtail.
13.07	5	Specification grade 20A-125VAC duplex outlet, with duplex USB charger 3.1a 124VAC receptacle. Receptacle is not dedicated to any installed equipment.
13.08	10	Specification grade 20A-125Vac duplex receptacle. Receptacle is not dedicated to any installed equipment.
13.09	1	Specification grade 20A-125Vac GFCI duplex receptacle. Receptacle is not dedicated to any installed equipment.
		Locations:
		• One (1) in Galley Area
13.10	4	Specification grade 20A-125Vac exterior GFCI duplex receptacle with weatherproof PVC cover. GFCI receptacles will be wired in pairs to 20A circuit breakers located in the 120Vac electrical load distribution center. Receptacle is not dedicated to any installed equipment.
13.11		Wire chase wire management raceway system located as shown on drawing. Product features: • Satin anodized finish. The finish resists rust, corrosion and fading. Material extruded from 6063-T5 aluminum alloy. • Removable dual cover. Makes wiring easy and accessible and provides maximum flexibility for adding or relocating outlets and circuits. The cover retention is 45 lbs. straight pull for one minute. • UL Listed multi-outlet assemblies. File E68073 Guide PVGT, Fittings: File E121188 Guide RJPR. Meets Article 380 of NEC and meets Section 12-3032 of CEC. • UL and cUL Listed component raceways. File E73943 Guide RJBT, Fittings: File E74343 Guide RJPR. Meets Article 386 of NEC and meets Section 12-600 of CEC. • UL5 and ADA compliant. Raceway and fittings meet UL5 specifications and can be installed in conformance with ADA requirements

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Item	Qty	
13.12		120/240VAC WIRING REQUIREMENTS: • All 120/240Vac main wiring shall be stranded THHN wire and run in non-metallic <i>Carlon</i> Carflex liquid tight conduit. • All electrical circuits and appliances shall conform to applicable national electrical codes.
14.00		12VDC ELECTRICAL SYSTEM:
14.01		• Four (4) 6Vdc Absorbed Glass Mat (AGM) batteries. Batteries shall be installed underbody in slide out weather resistant compartment. Two (2) batteries will be separated for auxiliary equipment and two (2) batteries will be for communications equipment if required.
		• Two (2) electronic converter/chargers, 80 amp minimum output each installed underbody in weather resistant climate controlled. Compartment to draw ambient air from interior of truck and will have thermostatically controlled exhaust fan to circulate warm air to exterior (no exceptions). Converter/charger features: • Charges three banks of batteries at the same time. • UL listed for safety. • Manual reset circuit breaker. • Reverse battery protection. • Electronic current limiting. • High voltage protection. • All DC electrical and metering switched and monitored through the multiplex system.
14.02	18	Ceiling lights shall be, Orion 6" LED, neutral white with polished bezel.
14.03	8	Light, Orion 6" LED, neutral white / red with polished bezel.
14.04	6	<i>Whelen</i> 600 Series 12 diode Opti-Scenelight 6SC0ENZR surface mount (or current model) Includes chrome plated flange.
14.05	6	<i>Whelen</i> Perimeter Enhancement Light, Super-LED, Steady White with chrome flange PELCC #16070117.
14.06	1	<i>Whelen</i> 295SLSA6 siren with 9 low current lighting control switches. <i>California Title 13 compliant</i>
14.07	1	<i>Federal Signal</i> TS100-N #71040011 (or current model) 100 watt speaker behind grill.
15.00		12VDC EMERGENCY LIGHTING:
15.01	1	<i>Whelen</i> TIR3 series Super-LED lighthouse with internal flasher, red LED's with clear outer lens, model RSR03ZCR (or current model). Includes chrome flange RFLANGCD (or current model). Located as shown on drawing.
15.02	1	<i>Whelen</i> TIR3 series Super-LED lighthouse with internal flasher, blue LED's with clear outer lens, model RSB03ZCR (or current model). Includes chrome flange RFLANGCD (or current model). Located as shown on drawing.
15.03	9	<i>Whelen</i> 600 series Linear Super-LED lighthouse with internal flasher, red LED's with clear outer lens, model 60R02FCR (or current model). Includes chrome flange 6EFLANGE (or current model). Located as shown on drawing.
15.04	9	<i>Whelen</i> 600 series Linear Super-LED lighthouse with internal flasher, blue LED's with clear outer lens, model 60B02FCR (or current model). Includes chrome flange 6EFLANGE (or current model). Located as shown on drawing.
15.05	1	Custom fabricated bracket to mount 600 series light above windshield, painted to match body.

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Item	Qty	
15.06		12VDC WIRING REQUIREMENTS: • 2-gauge minimum copper stranded battery cable shall be used for 12Vdc main supply lines. All cable runs shall be full length, no splices. All cable terminals shall be staked and soldered. All cable shall be enclosed in convoluted polyethylene tubing and the ends of the cable shall be sealed with color-coded shrink-wrap identifying the function of the cable. • All added electrical circuits shall be protected from over-current by resettable circuit breakers appropriately rated for the load. Only circuit breakers shall be used in the installation of added electrical wiring (plug type fuses are unacceptable). • Circuit breaker functions shall be identified by engraved or printed labels.
		• All added wiring for load runs of AWG 10, 12, 14, and 18, shall conform to MIL-W-16878/2 and/or UL1007/1569" • All added wiring for load runs of AWG 8, shall conform to MIL-W-16878/3 and/or UL1028 • Wire terminals for added circuits must conform to MIL-T-7928. Terminals shall be insulated, insulation grip, TYPE II, CLASS 2 and shall be crimped with tooling recommended by the terminal manufacturer. • All wiring shall be numbered or lettered on 6" centers minimum. • Wiring shall be protected from chafing and abrasion with convoluted polyethylene tubing (wire loom) as required. • Where wire passes through sheet metal, bulkheads and structural supports, plastic grommets shall be used to protect both wiring and wire looms. • All wire bundles shall be tied with trimmed nylon ties.
		• Extreme care shall be exercised to provide for easy serviceability of the system in future years. • Extreme care must be taken in the installation to avoid the engine manifold, engine exhaust, and muffler, which could expose the wiring to severe overheating during long periods of operation. Proper insulation and heat deflection panels must be installed in such areas. • A high-current 12Vdc system wiring schematic shall be provided. • These are the minimum acceptable 12Vdc wiring requirements.
16.00		AUDIO/VIDEO:
16.01	4	Samsung UN24H4500AFXZA - 24" LED TV (or current model) with wall mount bracket. Product features: • Resolution 1366 x 768 • Component , Composite • (2) HDMI, (2) USB • (2) speakers • DTV Tuner/ATSC / Clear QAM • Dimensions: 22.1"(W) x 13.7"(H) x 1.9"(D) Weight 8.6lbs
	⇒	MFG Note: Located at Work stations 3 & 4
16.02	2	Samsung UN32H5500AFXZA - 32" LED TV (or current model) with wall mount bracket. Product features: • Resolution 1920 x 1080 • Component , Composite • (3) HDMI, (2) USB • (2) Speakers • DTV Tuner/ATSC / Clear QAM • Dimensions: 28.4"(W) x 16.9"(H) x 2.6"(D) Weight 10.8lbs
	⇒	MFG Note: Located at Work stations 1 & 2

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
16.03	1	<i>Samsung UN40H5500AFXZA - 40" LED TV (or current model) with wall mount bracket. Product features:</i> • Resolution 1920 x 1080 • Component , Composite • (3) HDMI, (2) USB • (2) Speakers • DTV Tuner/ATSC / Clear QAM • Dimensions: 35.7"(W) x 21.0"(H) x 2.6"(D) Weight 17.0lbs
	⇒	MFG Note: Located at exterior work station
16.04	1	Weatherproof exterior work station and TV/monitor compartment. Constructed from 0.125" aluminum with all welded seams and hinged at the top. Includes: • Internal flip down work surface • LED strip light • Gas charged lift support and locking latch • Outlets as required
16.05	1	<i>Honeywell 1TB #19140151 (or current model) 4 Channel Digital Video Recorder. Product features:</i> • 4 looping video inputs • Long-term video storage using XtraStor Technology • Duplex recording mode with a capture rate up to 60 ips • Archive video clips directly to a USB 2.0 storage device • Remote access through PSTN, LAN/ WAN (internal NIC), DSL and ISDN (remote access software included) • Linux OS — OS embedded in flash • External extension SCSI HDD (RAID) Inputs: • Two (2) Mast cameras • One (1) Quad Video Processor (Exterior surveillance cameras)
16.06	1	<i>Winegard TRAV'LER DirecTV HD SWM 3 Slimline Automatic Satellite System.</i> DIRECTV Satellites: 99°, 101°, 103° Note: Service contract, activation and set up not included.
16.07	2	<i>DirectTV H25 HD Commercial Satellite Receiver.</i>
16.08	3	<i>Middle Atlantic rack mount kit (custom fitted for VCRs, DVD players, VCR/DVD combination units, and DSS receivers).</i>
16.09	1	<i>Axis P1224-E IP (4) Camera surveillance system 1280 x 720p.</i> • 1 - Quad View Multiplexer (Aimetis thin client) • 1 - Color camera, rear view • 1 - Color camera, front view • 1 - Color camera, left side view • 1 - Color camera, right side view
16.10	1	<i>Aimetis Thin Client 1080p Video Decoder. MFR # AIM-A10D</i> • Easily Display Video from IP Cameras • Supports 1080p Resolution @ 30 fps • Supports Multiple Frame Rates
16.11	1	<i>JACK® Digital HDTV Antenna + Mount with SureLock™ DTV Signal Meter.(19070301) No crank up, two TV outputs, built in Amplifier and 360deg rotation for improved reception.</i>

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



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Item	Qty	
16.12		Modulated audio/video system to enable any audio/video source (i.e. Camera, VCR, DVD player, DSS receiver) and up to four local off-air channels to be viewed on designated TV channels.
16.13	1	Drake EH244 HD Encoder host (6 card chassis).
16.14	5	HDE24 Encoders required. • Two (2) Mast Camera's • One (1) Surveillance cameras (Quad Video Processor) • Two (2) DSS
16.15	1	SDE24 Dual Encoder, Provides standard definition inputs into HD EH44 Encoder host. Inputs: • One (1) DVR
16.16	1	ENCODER BT HDE-CHV-QAM (to view Computer over A/V system)
16.17	2	Axis P7701 decoder #19320075 (or current model). Translates HD video through modulated system. (Mast cameras & DVD recorder). • Decodes H.264, MPEG-4 and Motion JPEG • Digital or analog video output • High-quality audio • Power over Ethernet
16.18	1	HE Series 12 position Passive Combiner (or current model).
16.19		All RF cable for DSS antenna systems (when specified) shall be Belden #9116 series 6 broadband coaxial cable. All other video cabling shall be Belden #1505A RG-6/U precision video cable.
17.00		<u>MAST AND MAST MOUNTED EQUIPMENT:</u>
17.01	1	Tempest 2200 series CH.3718N (or current model) heavy-duty non-locking telescoping pneumatic mast. Mast features: • 265 lb. max top load capacity • 26' 5" extended height • 6' 1" nested height Includes: • KEY-WAY breakaway nylon key prevents tower rotation. Easily replaceable. • Air safety valve for over pressure release and condensation drainage. • Water drainage holes to avoid freezing at low temperatures. • Interlock to prevent vehicle from being driven with mast raised. • Tower does not require routine lubrication. • Mast cap covers the top of all tower sections when the tower is in the retracted position keeping dirt and moisture out of the tower when stowed.
17.02	1	Thomas Ultra Air-Pac 1/2-hp compressor with 2 gallon air tank.
17.03		Custom fabricated bracket on mast to mount cameras.
17.04	1	Mast lookup light mounted on mast.
17.05	1	Weatherproof mast up/down control switch on exterior of vehicle. Location to be determined.
17.06	1	AXIS Q6115-E Dome network Camera system installed on mast. Outdoor-ready PTZ dome providing HDTV 1080p, 30x optical zoom, and fast and precise pan/tilt performance for wide area coverage and great detail when zooming in.

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Item	Qty	
17.07	1	AXIS Q6155-E PTZ Dome Network Camera with Lightfinder technology. • HDTV 1080p and 30x optical zoom • Axis Sharpdome technology with Speed Dry • Lightfinder technology performs in low lighting conditions, extremely sensitive to low light • Built-in laser that provides instant focus in challenging lighting conditions and in complete darkness • IP66-rated and NEMA 4X protection against dust, strong water jets and impact • High Power over Ethernet, max. 74 W
18.00		RADIOS:
18.01		Primary 12Vdc power leads for communications radios shall be minimum 2-gauge copper stranded wire with soldered crimp-on end connectors (gauge based on radio requirements). Cables shall be enclosed in convoluted tubing and function identified with colored shrink-wrap. Power to radios shall be controlled by a continuous-duty switch actuated by the auxiliary battery disconnect switch.
18.02	6	Prewire and make installation provisions for communications radio. Installation includes: • NMO-style base on the roof or antenna raceway, as applicable. • LMR195 antenna cable routed to radio transceiver location in <i>Carlton</i> Carflex ENT conduit. • 12Vdc power routed to radio transceiver location.
18.03		Install hinged panels under countertops to conceal radio transceivers where applicable.
18.04	1	Fabricate and install 3" x 3" square aluminum tubing antenna raceway on the roof of the vehicle. Antenna raceway will penetrate the roof on each side of the truck at radio box locations and in the overhead console location. Includes: • 3" high x 3" long aluminum access cover at each antenna base location on the side of the tubing for access to antenna base and coax cable. • Access covers with watertight gasket and attached with four (4) stainless steel machine screws. Raceway tube to have nut-serts installed for access cover attachment. • <i>Carlton</i> Carflex ENT conduit routed from antenna raceway penetration location to radio transceiver locations.
18.05	1	Radio antenna termination panel for up to twenty (20) radios. Includes: • TNC bulkhead jack in panel for each radio antenna on the raceway • Antenna leads from radio locations to panel routed through <i>Carlton</i> Carflex ENT conduit with 18" of extra cable at panel to allow customer to reconfigure panel as required
19.00		TELEPHONE SYSTEM:
19.01	7	CAT6 RJ-45 Telephone extension jack.
19.02	1	66-style punch-down block.
19.03	1	Cisco 7821 IP Phone (or current model) -Wall Mountable 2 x Total Line -VoIP - Caller ID - Speakerphone User Connect License - 2 xNetwork (RJ-45) - PoE Port with the following: • (7) Wall Mountable phones • (2) Year SmartNet Service
19.04	3	Fixed wireless terminal with Maxrad low profile antenna. <i>Note: Model to be determined based upon cellular standard of local service provider.</i>
19.05		All telephone lines and cellular antenna cable shall be installed in Carlton Flex-Plus ENT conduit or raceway (as applicable).
20.00		COMPUTER NETWORK AND EQUIPMENT:
20.01	5	RJ-45 CAT6 computer network jack with CAT6 cable routed through <i>Carlton</i> Flex-Plus ENT conduit or raceway (as applicable).

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Item	Qty	
20.02	1	<i>Allied Telesyn AT-GS900/16-10</i> (or current model) 16-port 10/100/1000T Unmanaged Gigabit Switch. Product features: • Wirespeed performance • Auto-negotiation Gigabit ports • Auto MDI/MDIX on TX ports • Transparent to VLAN packets • Full duplex flow control
20.03	5	Certified 18" CAT6 patch cord.
20.04	1	Certified 36" CAT6 patch cord.
20.05	1	Cable Certification Report confirming that network wiring complies with CAT6 specifications.
20.06	1	<i>Cisco 2911</i> (or current model) voice/security bundle router with the following: • (1) Cisco 2911 Voice Bundle w/PVDM3-16,FL-CME-SRST-25, UC License PAK - Integrated Services Router 3 Ports - 10 Slots - Rack-mountable, Wall Mountable • (1) Cisco Four port Voice FXO card • (1) Cisco 4G LTE EHWIC for Verizon • (1) Cisco 4G LTE EHWIC for ATT • (1) Cisco SG500X-48P Layer 3 Switch 48 Ports - Manageable - 48 x POE - 48 x RJ-45 - Stack Port - 4 x Expansion Slots - 10/100/1000Base-T - PoE Ports -Rack-mountable • (1) Cisco Aironet 1532I IEEE 802.11n 300 Mbps Wireless Access Point • (1) Cisco Aironet 702I IEEE 802.11n 300 Mbit/s Wireless Access Point • (1) Cisco 1520 series mesh access point power injector • (2) Year SmartNet Service on Router, Switch, and both Access Points <i>Note:</i> Activation and set up not included.
20.07	5	Install customer supplied computer.
20.08	1	<i>AVL VSAT Two-Way Broadband Satellite Communications Terminal</i> , 1 Meter Transportable Auto Deploy Antenna with iDirect NetModem: • AVL 1M Motorized Vehicular Antenna, with 1RU rack mount antenna controller w/24" Flex Waveguide BUC Mounting option • iDirect Evolution X5 series satellite router • iDirect 6 watt KU band BUC • NJR-2835S KU band LNB <i>Note:</i> Service contract, activation and set up not included.
21.00		MISCELLANEOUS ELECTRONICS:
21.01	1	<i>Middle Atlantic MRK-4026</i> (or current model) forty-space 19" wide x 26.5" depth (24" useable depth) open framed electronics equipment rack with caster base. Rack can easily slide out from its fixed position with quick release fasteners to allow side access to rack equipment.
21.02	1	<i>Middle Atlantic MW-4QFT-FC #32100117</i> top fan panel, with four (4) 50 cfm ventilation fans, QFAN.
21.03	1	<i>Middle Atlantic PFD-40</i> Plexiglas front door with key lock.
21.04	2	<i>Middle Atlantic PD-620C-NS</i> (or current model) 20 amp power strip with 6 outlets. • 9' CORD with NEMA 5-20P • A number of outlets are spaced to accommodate plug-in power supplies, 26.5" long
22.00		EXTERIOR STORAGE COMPARTMENTS:
22.01	1	Single door underbody storage compartment with approximate interior dimensions of 15" high x up to 60" wide x 25" deep constructed from 0.125" aluminum with all welded seams.

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Item	Qty	
22.02		Compartments will be constructed to the following specifications: • Sweep out type bottoms with 1/2" drain holes. • 2" box pan doors and door frames fabricated from 0.125" aluminum. • Door frames shall be riveted to the body and welded to the compartments. • Compartments shall have an LED dome light that illuminates when the door is opened. Compartment doors will be constructed to the following specifications: • Stainless steel hinges attached with stainless machine screws. • Slam latches and flush mounted handles. • 0.100" bright polished aluminum diamond plate on interior surfaces fastened with stainless hardware. • All horizontally hinged doors shall be held open in a 120° position with gas charged lift/support cylinders. • All doors shall be sealed with industrial grade neoprene gasket.
23.00		AWNING:
23.01	1	<i>Dometic</i> Weather Pro Awning 12' cadet grey acrylic fabric (other colors available on request) electric awning with the following features: • Solid-state sensor automatically closes awning after detecting sustained winds • Exclusive Knee-Action Design prevents damage from sudden wind gusts • Heavy duty motor is fully contained in the roller tube, self-locks awning in travel position • Unique spring-arm mechanism automatically dumps accumulating rain water
24.00		ROOF ACCESS:
24.01	1	<i>Zico</i> Quic-Ladder swing out and down vehicle ladder, RL-2-7 (or current model). Product features: • Cast aluminum rungs with flat, non-skid surface • Steps are 3" deep x 15-1/2" wide • Handrails are 1-1/4" heavy-walled aluminum tubing
25.00		LEVELING SYSTEM:
25.01	1	Automatic leveling system, <i>Quadra MFG. Inc.</i> Big Foot™ model QE-2 four point fully automatic one-touch leveling system. Includes: • 24" jack with 18" stroke (4 total) 17,000-lb. capacity • Air ride dump valve • Fully automatic control panel with manual feature • Safety interlock when jacks are deployed
25.02	1	High density polypropylene, injection molded yellow colored <i>Super Dolly Pads</i> for use with leveling system jacks. Pads measure 15" x 17" x 1" thick with a grab strap on one side (set of 4).
26.00		MISCELLANEOUS ITEMS:
26.01	2	5 pound dry chemical fire extinguishers.
26.02	3	<i>First Alert</i> 9-volt combination Carbon Monoxide and Smoke alarms.
27.00		MANUALS:

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)

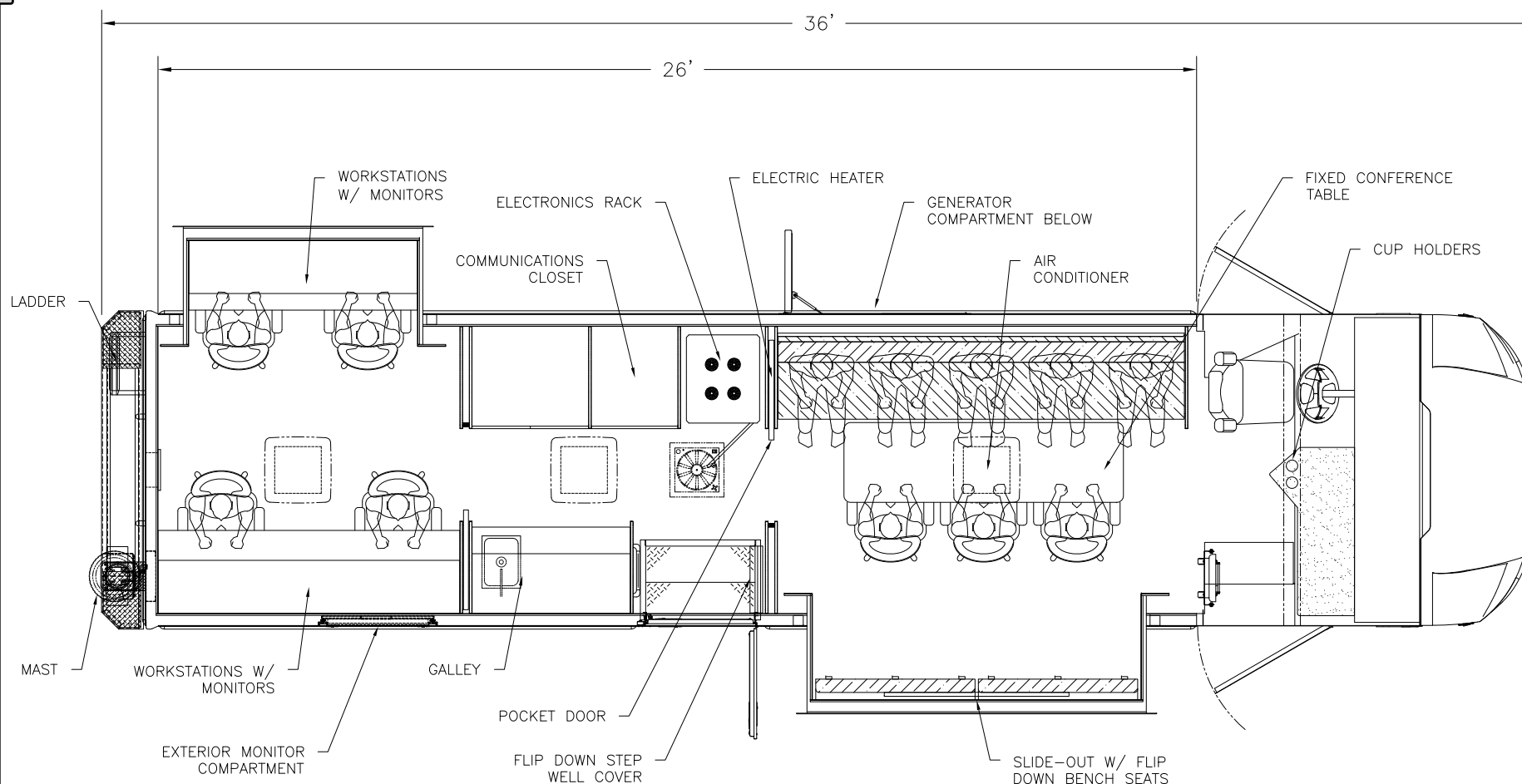


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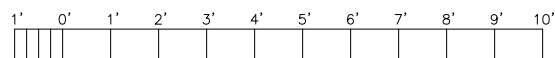
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Item	Qty	
27.01	1	Complete manual set, including the following: • As-built specifications with interior and exterior drawings as used for production of the vehicle. • Chassis and body owner's manuals. • 12Vdc and 120Vac legends showing wire gauge, color, number and function. • 12Vdc high current wiring diagram illustrating the battery system, isolators, power converters, alternator, disconnect switches and control panels. • Roof top antenna placement drawing and legend identifying antenna placements and termination points. • Audio/Video cabling diagram. • Telephone system punch block wiring diagrams. • Alarm system zones legend. • Warranty and Return Authorization procedures. • Chassis and generator maintenance and service logs. • Battery maintenance information. • All individual component manuals and warranty registration cards as provided by component manufacturers.
28.00		<u>MISCELLANEOUS:</u>
		LDV warranty, covering 1 year or 12,000 miles for manufacturer's defects in materials and workmanship. Refer to LDV warranty statement for details of warranty coverage.
28.01	2	Inspection/training trip to manufacturer facilities. Includes roundtrip airfare, 2 day car rental, 1 night lodging and \$70.00 meals allowance. <i>Note: Minimum fourteen (14) day advance notice of travel is required.</i>
		<i>Note: Project scope does not include certain tasks or costs that are the responsibility of the customer unless clearly specified as manufacturer supplied. These items include, but are not limited to:</i> • Radio and telephone system programming. • Activation and service fees for cellular telephones, satellite telephones, satellite TV, satellite internet access. • Loading and configuring computer software. In the event of a discrepancy between the drawing and specification, the specification will supersede. Manufacturer reserves the right to make substitutions of equal quality and specifications of those listed in this document.

Attachment: Command Vehicle Specifications (1044 : Public Safety Command Vehicle)



FLOOR PLAN



- 120 VAC
- 120 VAC WITH DUAL USB PORTS
- 120 VAC G.F.I.
- INVERTER
- 12 VDC
- SPARE PLATE
- RJ-45 NETWORK JACK
- RJ-11 TELEPHONE JACK

- HDMI PORT
- VGA PORT
- DB9 JACK
- DB15 JACK
- SPEAKER VOLUME
- TV ANTENNA
- SWITCH

- SURVEILLANCE CAMERA
- EXTERIOR 120 VAC G.F.I.
- CO/SMOKE DETECTOR
- SPEAKER



SOME ITEMS SHOWN MAY BE CUSTOMER SUPPLIED OR OPTIONAL. REFER TO SPECIFICATIONS FOR DETAILS.

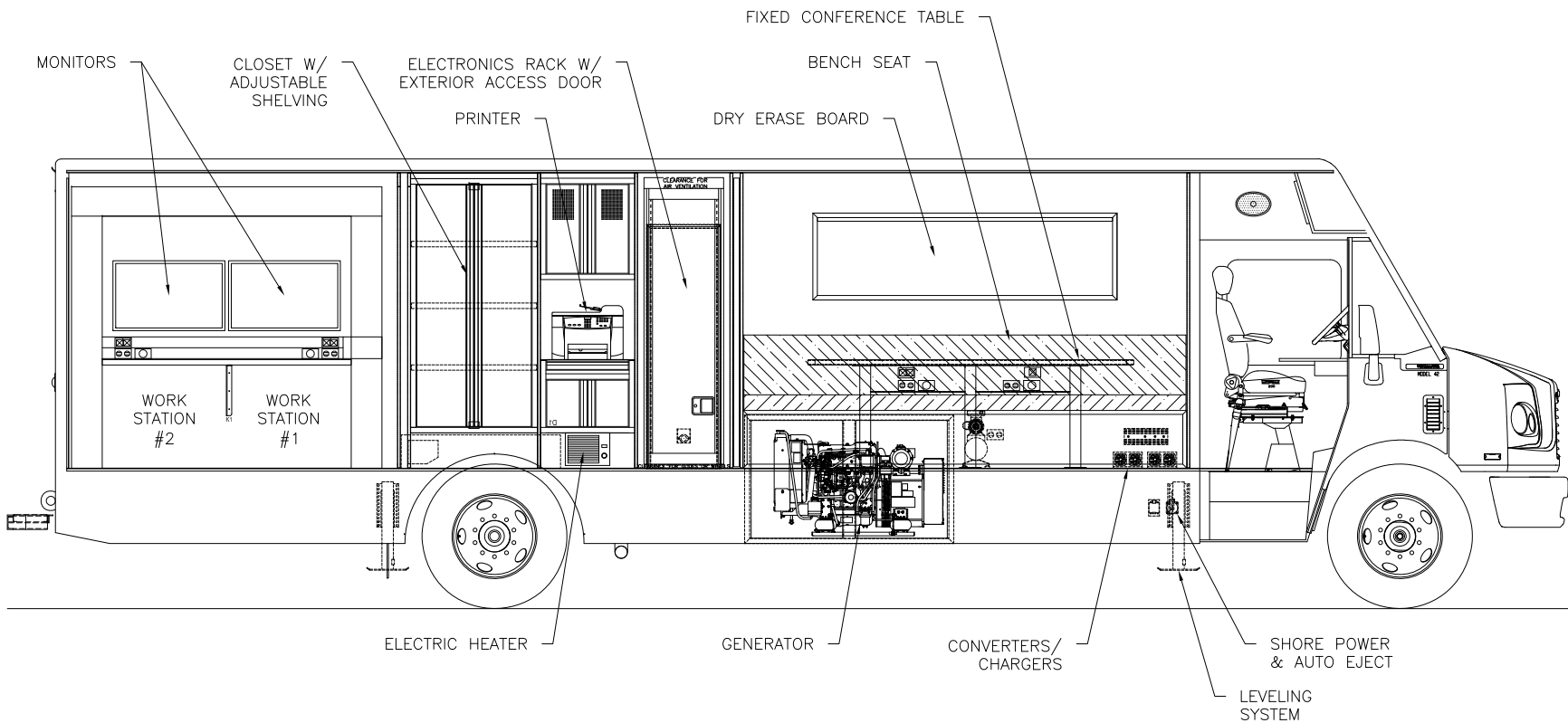
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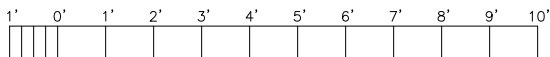


Morgan Hill PD (CA)
S36MCC-10

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PROJECT MGR.	DATE	DWG. TYPE: PROPOSAL
DRAWING REFERENCE SALES		



STREET SIDE



- 120 VAC
- 120 VAC WITH DUAL USB PORTS
- 120 VAC G.F.I.
- INVERTER
- 12 VDC
- SPARE PLATE
- RJ-45 NETWORK JACK
- RJ-11 TELEPHONE JACK

- HDMI PORT
- VGA PORT
- DB9 JACK
- DB15 JACK
- SPEAKER VOLUME
- TV ANTENNA
- SWITCH

- SURVEILLANCE CAMERA
- EXTERIOR 120 VAC G.F.I.
- CO/SMOKE DETECTOR
- SPEAKER

- POWER ROOF VENT

SOME ITEMS SHOWN MAY BE CUSTOMER SUPPLIED OR OPTIONAL. REFER TO SPECIFICATIONS FOR DETAILS.

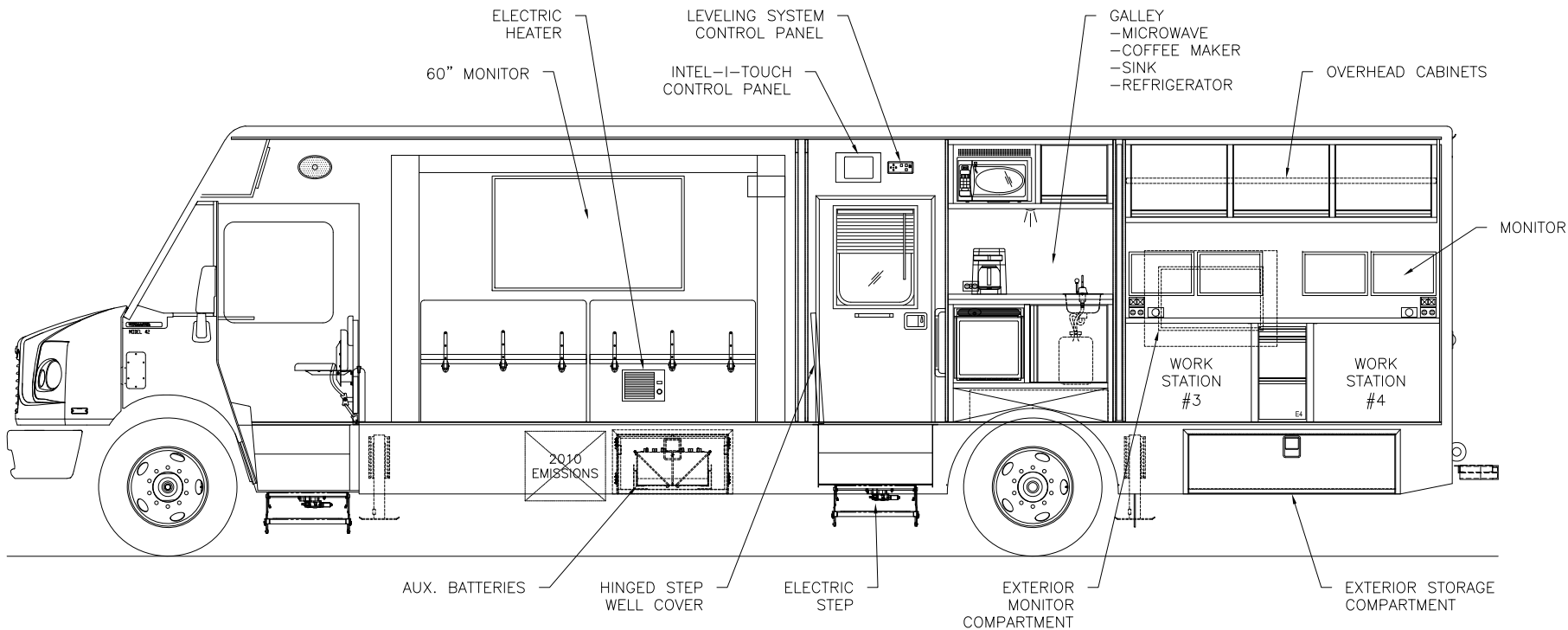
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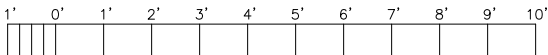


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- 120 VAC G.F.I.
- INVERTER
- 12 VDC
- SPARE PLATE
- RJ-45 NETWORK JACK
- RJ-11 TELEPHONE JACK

- HDMI PORT
- VGA PORT
- DB9 JACK
- DB15 DB15 JACK
- SPEAKER VOLUME
- TV ANTENNA
- SWITCH

- SURVEILLANCE CAMERA
- EXTERIOR 120 VAC G.F.I.
- CO/SMOKE DETECTOR
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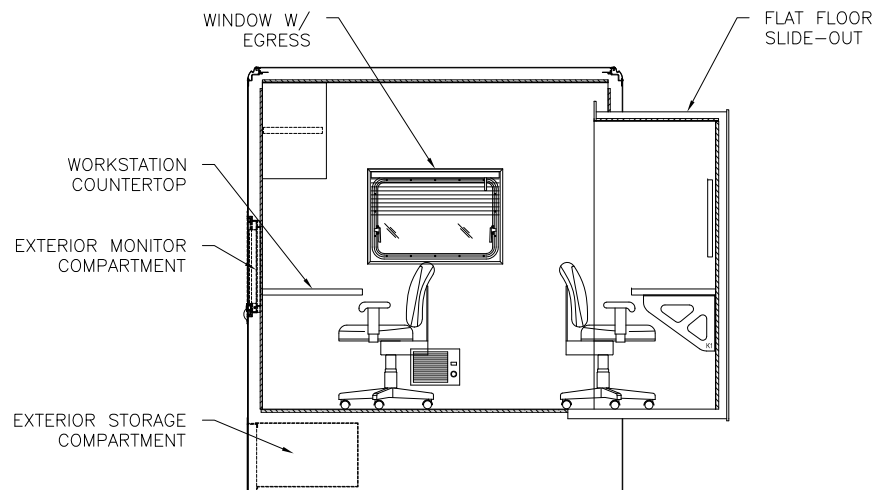
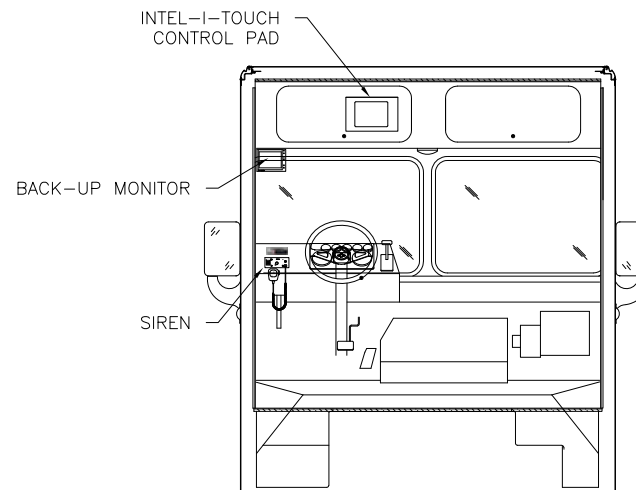
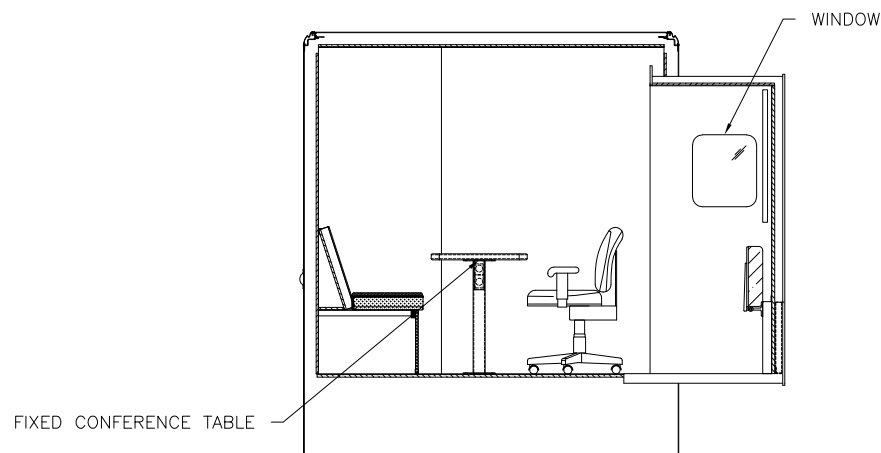
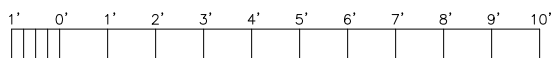
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		PROPOSAL
DRAWING REFERENCE	SALES	

REARFRONTCONFERENCE
LOOKING FORWARD

- 120 VAC
- 120 VAC WITH DUAL USB PORTS
- 120 VAC G.F.I.
- INVERTER
- 12 VDC
- SPARE PLATE
- RJ-45 NETWORK JACK
- RJ-11 TELEPHONE JACK

- HDMI PORT
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S36MCC-10

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PROJECT MGR.	DATE	DWG. TYPE: PROPOSAL
DRAWING REFERENCE SALES		



CITY COUNCIL STAFF REPORT

MEETING DATE: May 3, 2017

PREPARED BY: Carson Thomas, Sergeant
APPROVED BY: City Manager

TRIPLING OF FINES FOR MUNICIPAL CODE VIOLATIONS DURING SPECIFIED PERIODS

RECOMMENDATION(S)

1. Waive the first and second reading of the ordinance; and
2. Introduce Ordinance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility

POLICY CONSIDERATION:

Should Council enact a higher municipal code fine to deter unlawful and unsafe behaviors during designated times of the year?

REPORT NARRATIVE:

In January 2017, the Morgan Hill Police Department reached out to the community through multiple on-line methods to better understand the community's desired areas of focus for the Police Department. Approximately 548 individuals responded to the survey and provided their thoughts on issues of safety. One of the top areas of concern was the use of illegal fireworks. Historically, two events in Morgan Hill see a rise in the use of illegal fireworks on both July 4th and New Year's Eve.

Both celebrations experience an increase of people to Morgan Hill. Although most celebration activities are law abiding, some have included excessive alcohol consumption, fights, overcrowded parks, packed recreational centers, and the use of illegal fireworks. Despite efforts from local law enforcement to maintain public safety, the combination of alcohol, crowds, and illegal fireworks during these celebrations has resulted in increased calls for service for both police and fire. These increased calls for service include disturbances, illegal fireworks, and public intoxication.

Violations dramatically increase in many neighborhoods during the 4th of July period because of the influx of patrons to the city events compared to other large celebrations such as Memorial Day weekend. The increase in illegal and unsafe behavior coupled with the 4th of July celebration has created a potential for injury. Data taken from the Morgan Hill Police Department compared the calls for service during the three-day

period of July 4th and Memorial Day weekend. In comparing the two events, the city of Morgan Hill experiences an increased volume of patrons entering our city to celebrate and participate in the celebrations. Data has also been included to report calls for service for the New Year's holiday period between December 31st and January 1st.

July 3 rd – 5 th	Disturbance	Fire Related	Illegal Fireworks	Public Intoxication
2016	20	1	35	0
2015	20	1	20	5
2014	17	2	50	0

Memorial Day Weekend	Disturbance	Fire related	Illegal Fireworks	Public Intoxication
2016	21	0	0	4
2015	33	5	0	4
2014	25	5	0	0

New Years Dec 31 st – Jan 1 st	Disturbance	Morgan Hill Fire related	Illegal Fireworks	Public Intoxication
2014-2015	15	2	3	2
2015-2016	11	2	4	3
2016-2017	10	1	6	1

The proposed ordinance will provide local law enforcement with a tool to educate, deter, and mitigate the potential threat to safety by illegal fireworks during the specified periods.

Other Cities:

The police department researched other cities to see what best practices have found success in deterring people from committing violations during peak periods relating to major events. Three cities, near Morgan Hill, have been successful in educating, enforcing, and ensuring public safety by increasing fines during peak periods.

In 2014, the City of Santa Cruz adopted an ordinance to triple the fines of certain violations during the 48 hours surrounding the 4th of July. It was directed towards the beach areas where high volumes of violations were occurring. In 2014, the City of Santa Cruz responded to 500 calls for service and 103 were fireworks related calls in a 24-hour period. During that year, officers wrote 64 citations, of which 28 included triple fine violations. In 2015, the City of Santa Cruz responded to 591 calls for service and

officers wrote 59 triple fine citations. In 2016, the City of Santa Cruz responded to 572 calls for service and wrote 43 triple citation fines during the 24-hour period. Over the last three years Santa Cruz has seen a decrease in crowds and violations at the beaches attributed to the effectiveness of the enhanced fine. The Santa Cruz City Council expanded the triple fine ordinance to include the entire city. The data collected from Santa Cruz Police Department concerning the 4th of July is only over a three-year period and shows that the triple fine ordinance is working to ensure safety and protect the community.

The City of Oakland in 2016 increased their patrol officers during the period of 4th of July as well as increased the fines for possession and distribution of illegal fireworks between \$1,000 - \$10,000.

In April of 2016 San Jose City Council approved a new measure increasing fines for the sale, use, possession, or storage of fireworks. The fines for fireworks-related violations are \$500 for the first violation, \$700 for a second violation, and \$1,000 for a third violation. Unfortunately, staff was unable to obtain information on the impacts from Oakland or San Jose from their recently implemented programs.

RECOMMENDED SOLUTION:

Any violation of the three provisions identified in the proposed amendment to the Morgan Hill Municipal Code that occurs from July 1 - 7 and December 30 – January 2 shall be subject to an enhanced fine. The enhanced fine will be triple the amount of the fine currently assessed under the Morgan Hill Municipal Code. Fine increases shall be assessed for violations of the following sections of the Morgan Hill Municipal Codes:

1. 8.32.10 Sale or Possession of fireworks- Prohibited
2. 9.04.010 Discharge -Permit required
3. 9.08.010 Drinking in public-Permit required

The fines would be processed through an administrative citation. This would streamline the process by administering the citation through the City, instead of the South County Superior Court. The current municipal code fine amount is \$100. If approved, the fine would increase to \$300 for each of the specified offenses.

COMMUNITY ENGAGEMENT:

This staff report serves to inform the community of the ordinance designed to deter dangerous and illegal behaviors during the specified time frames.

The Police Department has developed a comprehensive outreach campaign to educate the community regarding unsafe behaviors including the use of illegal fireworks. Outreach activities will begin one month prior to the Fourth of July and New Year's Eve holidays. Significant efforts will be made to educate the public about the tripling of fines and why illegal fireworks are dangerous and banned.

The police and fire departments will distribute this information to the community through a variety of communications outlets, including the newspapers, press releases, social media including NextDoor Facebook, and Twitter; door to door flyers, e-flyers, neighborhood associations, community centers, and the public library.

ALTERNATIVE ACTIONS:

The City Council could approve a portion of the proposed ordinance, direct specific changes, or not enact the ordinance at all.

FISCAL IMPACT:

There would be no fiscal impact to the Morgan Hill Police Department during the two designated time periods because the police department has sufficient over-time budgeted for additional officers during 4th of July and New Year's Eve. The fiscal impact of additional revenue from these fines is unknown because the proposed solution is new to the city.

CEQA (California Environmental Quality Act):

Not a Project

Government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment, are not projects subject to environmental review.

LINKS/ATTACHMENTS:

1. Administrative Fine Ordinance

ORDINANCE NO. _____, NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL AMENDING SECTION 1.19.040 OF CHAPTER
1.19 OF TITLE 1, OF THE MORGAN HILL MUNICIPAL CODE
REGARDING THE AMOUNT OF FINES FOR ADMINISTRATIVE
PENALTIES**

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

SECTION 1: Section 1.19.040 of Chapter 1.19 of Title 1 of the Morgan Hill Municipal Code is amended to read as follows. Deletions from existing code have been ~~crossed out~~. New language is in *italics*.

1.19.040 Amount of fines.

- (a) Unless a different amount is specified in this code, the amount of the fine payable to the city for an administrative citation is ~~a fine not to exceed~~ one hundred dollars (\$100) for a first violation, ~~not to exceed~~ two hundred dollars (\$200) for a second violation of the same ordinance within one year and ~~not exceeding~~ five hundred dollars (\$500) for each additional violation of the same ordinance within one year.
- (b) *Between July 1 and July 7 and between December 30 and January 2 of each year the fine for a violation of the following sections will be three times the amount that would otherwise be assessed under subsection (a):*

Section 08.32.010: Sale or Possession of Fireworks—Prohibited

Section 09.04.010: Discharge—Permit Required

Section 09.08.010: Drinking in Public—Permit Requirement

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; Publication. This ordinance shall take effect thirty (30) days after the date of its passage and adoption. The City Clerk is hereby directed to publish in full or summary this ordinance pursuant to §36933 of the Government Code in a newspaper of general circulation in the City of Morgan Hill.

The foregoing ordinance was introduced and the title thereof read at a regular meeting of the City Council of the City of Morgan Hill held on the day of 2017, and was finally adopted at a regular meeting of said Council on the day of 2017, and said ordinance was duly passed and adopted in accordance with law.

Attachment: Administrative Fine Ordinance (1123 : Increase Specified Fines During Certain Periods)

City of Morgan Hill
 Ordinance No. _____, New Series
 Page 2 of 3

PASSED AND ADOPTED by the City Council of Morgan Hill at the regular meeting held on the __th day of _____, 2017 by the following vote:

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

APPROVED:

STEVE TATE, MAYOR

ATTEST:

DATE:

IRMA TORREZ, City Clerk

Effective:

Attachment: Administrative Fine Ordinance (1123 : Increase Specified Fines During Certain Periods)

∞ CERTIFICATE OF THE CITY CLERK ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at the meeting held on this _____ day of _____, 2017 and has been published pursuant to Government Code.

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

DATE: _____

Irma Torrez, City Clerk

Attachment: Administrative Fine Ordinance (1123 : Increase Specified Fines During Certain Periods)



Special - Regular Meeting Agenda
City Council

Steve Tate - Mayor
Larry Carr - Mayor Pro Tem
Rich Constantine - Council Member
Caitlin Jachimowicz - Council Member
Rene Spring - Council Member

Wednesday, May 3, 2017 5:00 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

**(5:00 P.M. SOFTWARE TRAINING/ 6:00 P.M. COMMISSION
INTERVIEWS/ 7:00 P.M. REGULAR MEETING)**

SPECIAL/REGULAR MEETING

A Special Meeting of the City Council has been called at 5:00 p.m. for the purpose of conducting a training and commission interviews.

SPECIAL MEETING

5:00 P.M.

CALL TO ORDER

Mayor Tate

ROLL CALL ATTENDANCE

Deputy City Clerk Wilson

DECLARATION OF POSTING AGENDA

Deputy City Clerk Wilson

TRAINING

Accela WeGovern app electronic agenda access and electronic voting training.

COMMISSION INTERVIEWS

1. INTERVIEWS TO FILL ONE (1) VACANCY ON THE LIBRARY, CULTURE, AND ARTS COMMISSION AND THREE (3) VACANCIES ON THE PLANNING COMMISSION

Recommendation:

1. Accept Library, Culture, and Arts commissioner Linda Vrabel's resignation;
2. Discuss the characteristics/traits that a successful applicant(s) would possess;
3. Conduct Interviews;
4. Council Members identify top applicant(s) and provide recommendation to the Mayor; and
5. Discuss and/or appoint applicant(s).

REGULAR MEETING

7:00 P.M.

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Spring

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming May 20, 2017 as Kids to Parks Day
Proclaiming May 15, 2017 as Peace Officers' Memorial Day and
the week of May 14-20, 2017 as National Police Week
Proclaiming the week of May 7-13, 2017 as Wildfire Awareness Week
Proclaiming the month of May as Aquatics Month
Proclaiming the month of May as Foster Care/Resource Parent Month

PUBLIC COMMENT

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

RESOLUTIONS OF SUPPORT

2. ADOPT RESOLUTION REAFFIRMING THE CITY'S COMMITMENT TO A DIVERSE, SUPPORTIVE, INCLUSIVE COMMUNITY AND TO PROTECTING THE CONSTITUTIONAL RIGHTS OF ITS RESIDENTS

Recommendation:

Adopt resolution reaffirming the City's commitment to a diverse, supportive, inclusive community and to protecting the constitutional rights of its residents.

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

3. FINAL MAP APPROVAL OF DUNNE MURPHY - TRACT NO. 10387

Recommendation:

Adopt resolution:

1. Approving the Final Map;
2. Authorizing the City Manager to execute the Subdivision Improvement Agreement with Live Oak Investments LLC;
3. Authorizing the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorizing the recordation of the Final Map and the Subdivision Improvement Agreement.

4. APPROVE AMENDED CASH DEPOSIT GUARANTEEING IMPROVEMENTS FOR GIOVANNI DEVELOPMENT - TRACT NO. 9971

Recommendation:

Adopt resolution:

1. Amending Cash Deposit Agreement Guaranteeing Improvements for Giovanni Development – Tract No. 9971 with Giovanni Development Company, LLC; and
2. Authorizing the City Manager to execute the agreement pending review and approval by the City Attorney.

5. AWARD CONTRACT FOR THE MONTEREY ROAD PRESERVATION PROJECT

Recommendation:

Adopt resolution to:

1. Amend the Fiscal Year 2016-17 budget and appropriate an additional \$899,526 from the Street CIP Fund (308) for the Monterey Road Preservation Project (CIP Project No. 519Z15);
2. Approve project plans and specifications;
3. Award a contract to Granite Construction Company for the Monterey Road Preservation Project in the amount of \$2,465,933;
4. Authorize expenditure of construction contingency funds not to exceed \$246,593; and
5. Authorize the City Manager to execute and administer the construction contract with Granite Construction Company.

6. AWARD BOYS RANCH WELL #2A AND JACKSON WELL #3 PROJECT

Recommendation:

1. Approve Boys Ranch Well #2 and Jackson Well #3 Project plans and specifications;
2. Award a contract to Conco-West, Inc. for the Boys Ranch Well #2 and Jackson Well #3 Project in the amount of \$1,281,230;
3. Authorize expenditure of construction contingency funds not to exceed \$128,123; and
4. Authorize the City Manager to execute and administer the construction contract with Conco-West, Inc.

7. APPROVAL OF MICROSOFT ENTERPRISE AGREEMENT

Recommendation:

1. Approve the purchase of Microsoft Office 365 Government Enterprise 3, Exchange Plan 2 and Software Assurance and Device Client Access Licenses from Insight Public Sector, Inc. for a not-to-exceed amount of \$75,000; and
2. Authorize the City Manager to execute a Microsoft Enterprise Agreement for the licensing of City of Morgan Hill Microsoft products and services, pending review and approval by the City Attorney.

8. ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

Recommendation:

Accept the Annual Report on Centennial Recreation Center Membership.

9. SILICON VALLEY ENERGY WATCH GRANT FOR ENERGY CONTROL IMPROVEMENTS

Recommendation:

1. Accept \$90,000 grant from the City of San Jose for Silicon Valley Energy Watch funding and authorize the City Manager to execute a grant agreement subject to the review and approval of the City Attorney; and
2. Direct staff to include the grant revenue and expenditures in the Fiscal Year 2017-18 budget, including an additional appropriation of \$27,790 for City matching funds from the Building Maintenance Fund.

10. PARK PLACE AFTER SCHOOL PROGRAM CONTINUATION

Recommendation:

Direct staff to include \$13,000 in funding from the General Fund for consideration in the mid-cycle budget review for FY 2017-18 to fund the afterschool program at Park Place with the expiration of CALGRIP grant funding.

11. CITY POSITION ON PENDING LEGISLATION SB 649 AND AB 1250

Recommendation:

Receive legislative correspondence in opposition of SB 649 (Hueso) Wireless Telecommunications Facilities and AB 1250 (Jones-Sawyer) Counties and Cities: Contracts for Personal Services.

12. ADOPT ORDINANCE 2234, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR A NINE LOT DEVELOPMENT PROJECT AAE2017-0010: WALNUT GROVE-NEWLAND LOCATED ON THE EAST SIDE OF WALNUT GROVE DRIVE, SOUTH OF DIANA AVENUE (APN 726-07-089,726- 07-023, -024)

Recommendation:

Waive the reading, adopt Ordinance No. 2234, 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.

13. MINUTES OF SPECIAL - REGULAR MEETING MEETING HELD APRIL 5, 2017

Recommendation:

Approve Minutes.

14. MINUTES OF SPECIAL - REGULAR MEETING MEETING HELD APRIL 19, 2017

Recommendation:

Approve Minutes.

OTHER BUSINESS

15. CITY MANAGER AMENDED AND RESTATED EMPLOYMENT AGREEMENT

Recommendation:

Approve the City Manager's Amended and Restated Employment Agreement.

Estimated Time: 5 Minutes

16. MASTER SERVICES AGREEMENT WITH OPEN COUNTER ENTERPRISES, INC. FOR A WEB BASED TOOL FOR ZONING AND PERMITTING.

Recommendation:

Authorize the City Manager to execute a Master Services Agreement with Open Counter Enterprises, Inc. for a not-to-exceed fee of \$79,000 for the configuration and use of the Open Counter Economic Development software service suite for three years.

Estimated Time: 20 minutes

17. ECONOMIC BLUEPRINT BUDGET REQUEST

Recommendation:

1. Discuss the proposed budget for initial Economic Blueprint implementation; and
2. Direct staff to include funding the implementation of the Economic Blueprint as part of the budget mid-cycle workshop on May 19, 2017.

Estimated Time: 30 Minutes

18. HISTORICAL SOCIETY PARTNERSHIP FRAMEWORK

Recommendation:

1. Direct staff to develop an agreement with the Morgan Hill Historical Society for the operation of Villa Mira Monte as a public facility, based on framework outlined in this report; and
2. Direct staff to include operating and maintenance financial support for the Historical Society in the budget mid-cycle discussion.

Estimated Time: 30 Minutes

19. ACCEPTANCE OF STATE HOMELAND SECURITY GRANTS AND APPROVAL OF THE PURCHASE OF A PUBLIC SAFETY COMMAND VEHICLE

Recommendation:

1. Accept the 2016 and 2017 State Homeland Security Grant Program grants in the amount of \$690,132;
2. Approve sole source purchasing process through LDV; and
3. Direct staff to return at a future meeting with a recommendation to confirm the purchase of a Public Safety Command Vehicle.

Estimated Time: 15 Minutes

20. TRIPLING OF FINES FOR MUNICIPAL CODE VIOLATIONS DURING SPECIFIED PERIODS

Recommendation:

1. Waive the first and second reading of the ordinance; and
2. Introduce Ordinance.

Estimated Time: 20 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

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

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

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

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

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

AMERICANS WITH DISABILITIES ACT (ADA)

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



Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture ·
Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.



Inclusiveness

We will celebrate the diversity, history, and culture of our community. Through City Council workshops, community meetings, and researching successes in other communities, the City will listen to and collaborate with the community to define how inclusiveness will be further woven into our community's fabric and to increase public participation. The City's communications, services, public spaces, and projects will embrace all community members as partners, advancing our vision of being a socially responsible community.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.



Telecommunications

The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.

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4/27/2017

ALL Council Members - Joe Thompson

Subject: PUBLIC COMMENT: NEXT MEETING, REGULAR, SPECIAL, STUDY SESSION, PUBLIC WORKSHOP, AND/OR PRIVATE RETREAT: ---Fw: [transport-policy] Calif.: BART takeover robbery: 40 to 60 teens swarm train, hold up riders

From: Joseph Patrick Thompson (translaw@pacbell.net)

To: mmoore@morganhilltimes.com; steve.tate@morganhill.ca.gov; john.lang@morganhill.ca.gov; edith.ramirez@morganhill.ca.gov; irma.torres@morganhill.ca.gov;

Date: Wednesday, April 26, 2017 6:58 PM

Dear Michael,

Can you publish this as a Guest Column? Editorial? Letter? I can revise it (again) if you need it. I sent a copy of it to the Chairman of the Railroad Subcommittee in Transportation & Infrastructure Committee in the House, who's our old State Senator.

Please advise.

Joe Thompson
(408) 607-7351 cell phone

Public Comment

AGENDA DATE: 05/03/17

SUPPLEMENTAL # 1

On Tuesday, April 25, 2017 5:20 PM, "Joseph Patrick Thompson translaw@pacbell.net [transport-policy]" <transport-policy@yahoo.com> wrote:

Dear Group,

In the current issue of **Gilroy Dispatch** on-Line version, I made the following comment about the "mixed" reaction in Gilroy to the planned arrival of the Bullet Train. For this Group, I've added some citations to my comment in the **Dispatch**--

Dear Friends,

When I debated Hon. Rod Diridon in Oct. 2008, at the joint Gilroy & Morgan Hill Chambers' pre-election debates at Gilroy Chamber's Conference Room, Rod said don't worry about UPRR's eminent domain power trumping CAHSRA's eminent domain power because they'd make Gilroy the South Bay Hub by running on BNSF tracks. We knew then that they were lying because the closest BNSF tracks to Gilroy are in Stockton.

Voters voted for self-sufficient HSR, not a Supermassive Black Hole bigger than Black Hole Caltrain and Black Hole Amtrak combined. Instead, the people who feast off taxpayers are planning a HSR with estimated annual losses of \$1B to \$4B based on independent experts' analyses. Their scandalous form of government transport will make the Robber Barons seem like altar boys. Sure transit advocates want taxpayers (motorists, truckers and motorcyclists) to dig deeper for more tax subsidies. Their boondoggles' losses (like TAMC, VTA, COG, SCCRTC, etc.) will seem modest in comparison to that of the CAHSRA, but they have us on the Road to Serfdom, like European Countries with their socialist transit. The only sound, sustainable transport is in the private sector. China has our money to build their HSR, and our children's, and our grandchildren's, etc.

Both the President's Blue Ribbon Commission on Transport Funding, and the California Transportation Commission, conclude that we should fund transport with "user fees." Motorists pay about 102% of our transport costs, including road construction and maintenance, while transit systems riders pay about 1% of their fully amortized costs.

They cover-up the full extent of their losses by using Legislature-condoned Enron style, Bernie Madoff style, off-book accounting, which excludes capital and fixed costs. **Calif. Pub.Util. C. Section 99268.12.**

During public comment in five cities (LA, SF, San Jose, Fresno and Bakersfield), I told meetings of the CAHSR Commission, which became the CAHSR "Authority" that if we put enough UPS, Fedex and Postal Service tonnage on the HSR, then we would not need to ask the taxpayers for a dime. Years later I repeated my opinion in testimony at the Capitol before the Assembly Transportation Committee in support of legislation to repeal the Bullet Train. (You can find this on You Tube.)

We ought to do what Florida voters did: repeal our Prop. 1A vote. America's roots in free enterprise transport has produced the world's strongest economy. Copying socialist transit models like those in Europe and Japan will propel us down the same route taken by the USSR. If voters could remove Authority directors (e.g., TAMC, VTA, COG, SCCRTC, Caltrain, CAHSRA, etc.) with the Constitutional recall remedy, then that is the action that we would take. But the appointed JPA "directors" are immune from Constitutional voter remedies like recall.

In Virginia their State's Supreme Court declared their JPAs unconstitutional, and their taxes, fees and bonds null and void. (See post on **Transport Policy** site, Feb. 29, 2008, "Va. Supreme Court Overturns N.Va. Transit Authority.")

Our State Constitution is like Virginia's, and so the same thing should happen here.

Citizens of Troy liked what they saw with the shiny Trojan Horse; little did they know what it contained. CAHSRA's Frankenstein Trojan Horse may look pretty in their glossies, but if we stick our children and grandchildren with this monstrosity, they will curse our memories.

Can we learn from history? When Gen. Granville Dodge told Lincoln in 1864 at the White House that we ought to have government ownership of the transcontinental railroads, Lincoln said no, it must be privately owned. (Dodge, UPRR's chief civil engineer, discoverer of the Sherman Pass over the Continental Divide, recounts his meeting with Lincoln in his **"How We Built the Transcontinental Railroad."**)

Thanks to his wisdom and foresight, we taxpayers made enormous profits in the quid-pro-quo with the Robber Barons, thanks to Section 22 rates in the original Interstate Commerce Act. By 1940 taxpayers profit on the land grant railroads was about \$500 million, measured in 1940 dollars. (You can find a cite to my source for this statement in my policy paper below.)

For background, see my paper "ISTEA Reauthorization and the National Transportation Policy: Overlooked Externalities and Forgotten Felt Necessities," 25 **Transportation Law Journal**, pp. 87-etseq. (1996). Republished in shortened version in **Transportation Lawyer**, Summer 1997.

Joseph P. Thompson, Esq., Past-Chair, Legislation Committee, Transportation Lawyers Assn., Member, Transportation Lawyers Assn.
Post-Doctoral student, transportation law & policy, Norman Y. Mineta International Institute for Surface Transportation Policy Studies, SJSU; Transportation Research Board, Georgetown U; and Library of Congress;
Charter Member, SBCCOG Citizens Rail Advisory Committee;
Charter Member, SBCCOG Citizens Transit Task Force;
(408) 848-5506;
e-Mail: TransLaw@PacBell.Net;
www.JosephThompson-Law.com;
Past-President (2x), Gilroy-Morgan Hill Bar Assn.

PS,
Tom, if you ever get down to Gilroy, give me a call and I'll buy you some garlic ice cream. Or, if you prefer, garlic fries.
Joe

On Tuesday, April 25, 2017 6:45 AM, "C. P. Zilliacus' CPZ@OS2BBS.COM [transport-policy]" <transport-policy@yahooogroups.com> wrote:

<http://www.sfchronicle.com/crime/article/BART-takeover-robbery-50-to-60-teens-swarm-11094745.php>

BART takeover robbery: 40 to 60 teens swarm train, hold up riders

By Demian Bulwa and Michael Cabanatuan

April 24, 2017 Updated: April 24, 2017 8:49pm

BART police are beefing up patrols at Oakland stations after dozens of juveniles terrorized riders Saturday night when they invaded the Coliseum

Station and commandeered at least one train car, forcing passengers to hand over bags and cell phones and leaving at least two with head injuries.

The incident occurred around 9:30 p.m. Saturday. Witnesses told police that 40 to 60 juveniles flooded the station, jumped the fare gates and rushed to the second-story train platform. Some of the robbers apparently held open the doors of a Dublin-bound train car while others streamed inside, confronting and robbing and in some cases beating riders.

"I've been there 24 years and this is the first time I've heard of anything like this happening," said Keith Garcia, a BART police officer and union president.

Alicia Trost, a BART spokeswoman, said Monday that seven people were robbed — with the victims losing a purse, a duffel bag and five phones. Six people were robbed inside the train car, with a seventh confronted on the platform, she said. Police received no reports of guns or other weapons being brandished.

A police summary prepared after the incident said that at least two victims suffered injuries to the face or head that required medical attention.

The attack was so quick, police reported, that the teenagers were able to retreat from the station and vanish into the surrounding East Oakland neighborhood before BART officers could respond. The train was held for about 15 minutes as authorities interviewed victims and witnesses and tended to the injured.

Trost said police arrived at the station in less than 5 minutes, but that the robberies took place in just seconds.

BART police had increased the number of officers patrolling Oakland stations Saturday night because of a recent rise in the number of police calls. A BART police sergeant and an officer were in the station's back parking lot on patrol when the station was stormed, Trost said. They were the first to arrive at the concourse after the crime was reported.

Rebecca Saltzman, president of the BART Board of Directors, said the board to examine ways to prevent a recurrence.

"This was obviously a terrible event and I'm sure very scary for the victims and the BART employees involved," she said. "We're looking at it very closely to see how we can respond to make sure it doesn't happen again."

Director Robert Raburn, whose district includes Coliseum Station, said he was "very disturbed that such an aggressive action would put BART passengers and employees at risk. It cannot occur with impunity."

Six of the nine cars on the train had working surveillance cameras, and BART police were viewing video from those cars as well as station cameras, Trost said. Since many victims and witnesses were unsure which car they were on, and didn't know if the swarm had entered other cars, BART police are reviewing video from all working cameras. All BART trains are scheduled to be equipped with working cameras by the end of June.

"We are in the process of pulling all surveillance video, and we will share with Oakland police, Oakland Unified School District and Oakland Housing Authority to see if they can help identify the minors," Trost said. "We have had success with sharing images of juveniles with this group and identifying and making arrests in the past."

The images cannot be shared publicly, she said, because the attackers appear to be minors.

Trost said Oakland police have told their BART counterparts that other incidents involving large groups of teens took place in the general area Saturday night. Oakland police officials declined to comment, and would offer no details Monday, referring questions to BART police.

Robberies committed by small groups of people who snatch valuables from riders when trains stop at stations then dash off just before the train departs have been known to happen on BART, Trost said. But this was the first time she was aware of a train being swarmed by a large group of teens.

"We're taking this seriously," Saltzman said. "Things like this have happened elsewhere but not at BART."

Last month, according to two television reports, a swarm of teenagers invaded a carnival near the Oakland Coliseum, beating workers and stealing prizes from the game booths. Robberies involving small groups invading stores and restaurants in the Bay Area are not unheard of. But incidents involving such large groups are rare.

The incident presents another challenge for BART, which hired a new police chief last week. The agency has struggled to contain fare evaders and is studying ways to make it harder to enter a station without paying.

Demian Bulwa and Michael Cabanatuan are San Francisco Chronicle staff writers. Email: dbulwa@sfchronicle.com, mcabanatuan@sfchronicle.com Twitter: @demianbulwa, @ctuan

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Posted by: Joseph Patrick Thompson <translaw@pacbell.net>

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Have you tried the highest rated email app?

With 4.5 stars in iTunes, the Yahoo Mail app is the highest rated email app on the market. What are you waiting for? Now you can access all your inboxes (Gmail, Outlook, AOL and more) in one place. Never delete an email again with 1000GB of free cloud storage.

THE TRANSPORT POLICY DISCUSSION GROUP

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□

**Please join the South County United
for Health Leadership Team**

Breakfast Summit for South County Leaders

Community Design for Economic, Environmental and Public Health
Presentation by Mark Fenton

Nationally recognized public health, planning and transportation consultant

Wednesday, May 24, 2017

7:30am - 9:30am

Morgan Hill Community and Cultural Center
17000 Monterey Road, Morgan Hill, CA

Light breakfast and coffee will be provided

Immediately follow the meeting. Mark will be leading an optional walk audit
of the local neighborhood to explore typical challenges and opportunities to
improve active transportation

RSVP: <https://southcountybreakfastsummit.eventbrite.com>

Contact: Thi Ngo
408-793-3196
thi.ngo@phd.sccgov.org

*Made possible with funding from the
Center for Disease Control and Prevention*

Co-hosts:
Mike Wasserman, Supervisor,
Santa Clara County Board of Supervisors

Rocio Luna, Director, Healthy Communities Branch,
Santa Clara County Public Health Department

Jaime Rosso
Board of Trustees, Gilroy Unified School District
Housing Advisory Commission, City of Gilroy
Local Business Owner

Hand out received
during public
comment.

LET'S ALL *go to* THE PARK!

Explore **5 Fabulous** South Santa Clara County Parks!

All activities are **FREE** and **OPEN TO ALL FITNESS LEVELS!**
Participate in all 5 park activities or choose the ones that fit your schedule!

Bring:



Family and friends



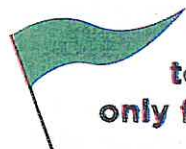
Comfortable walking shoes



Strollers and wheelchairs welcome

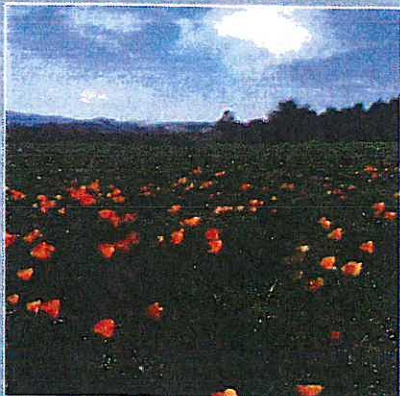
No registration required!

Exercising in your local parks reduces stress and helps prevent Type 2 Diabetes.



Look for the green flags to pick up prizes. Prizes only for the first 100 people!

Post park photos on Instagram, Twitter, or Facebook using the hashtag #park4health2017; or #firsttimehiker2017.



— Park Activities —

Meet and walk with Community Leaders & Local Celebrities!

- 1. Saturday, May 13, 10 a.m. - Noon**
Little Llagas Creek Trail in Morgan Hill
Centennial Recreation Center, 171 W. Edmundson Avenue, Morgan Hill
Walk, run, or bike up to 5 miles
Bike safety and helmet fitting provided
- 2. Thursday, June 29, 6 p.m. - 8 p.m.**
Galvan Park in Morgan Hill
17666 Crest Avenue, Morgan Hill
Annual "Summer Fun in the Park" and family fitness activities
- 3. Saturday, July 15, 9 a.m. - 10:30 a.m.**
Coyote Creek Parkway in Morgan Hill
Park Visitor Center, 19245 Malaguerra Avenue, Morgan Hill
Walk the trail and learn about Native American History and natural history from an experienced park guide
- 4. Friday, August 11, 6 p.m. - 8:30 p.m.**
San Ysidro Park in Gilroy
7700 Murray Avenue, Gilroy
Annual "Party in the Park" and family fitness activities
- 5. Saturday, September 9, 10 a.m. - Noon**
Gilroy Levee
Meet at Gilroy Sports Park, 5925 Monterey Frontage, Gilroy
Walk, run, or bike up to 10 miles
Bike safety and helmet fitting provided



¡VAMOS *todos* AL PARQUE!

Explore los **5 fabulosos** parques del **sur** del condado de Santa Clara

¡Todas las actividades son **GRATUITAS** y **ABIERTAS A TODOS LOS NIVELES DE ESTADO FÍSICO**! ¡Participe en las actividades de los 5 parques o elija las que se ajusten a su horario!

Traiga:



A su familia y amigos



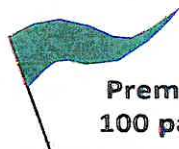
Zapatos cómodos para caminar



Todas las actividades pueden realizarse con carritos para bebés y sillas de ruedas.

¡No es necesario registrarse!

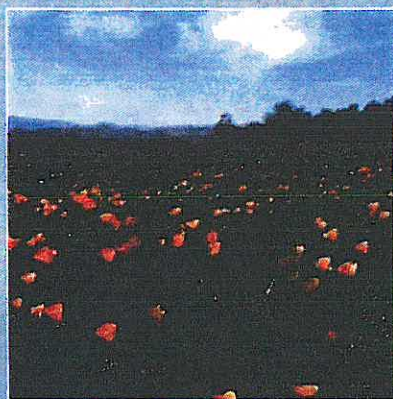
Hacer ejercicio en sus parques locales reduce el estrés y ayuda prevenir el Diabetes tipo 2.



¡Busque la bandera verde para obtener los premios.

Premios solo para los primeros 100 participantes!

Publique las fotografías del parque en Instagram, Twitter, o Facebook con el hashtag #park4health2017; o #firsttimehiker2017.



Actividades

¡Conoce y camina con los líderes de la comunidad y las celebridades locales!

- 1. Sábado 13 de mayo, 10 a.m. - 12 p.m.**
Little Llagas Creek Trail en Morgan Hill
Centennial Recreation Center, 171 W. Edmundson Ave, Morgan Hill, CA
Camina, corre, o anda en bicicleta hasta 5 millas
Se le proporcionará casco de protección para bicicleta y otra información de seguridad
- 2. Jueves 29 de junio, 6 p.m. - 8 p.m.**
Galvan Park en Morgan Hill
17666 Crest Avenue, Morgan Hill
Participe en las actividades anuales de "Summer Fun in the Park" (Diversión de verano en el parque), y divertidas actividades físicas para realizar en familia
- 3. Sábado 15 de julio, 9 a.m. - 10:30 a.m.**
Coyote Creek Parkway en Morgan Hill
El Centro para visitantes del parque, 19245 Malaguerra Ave, Morgan Hill
Camina con una guía del parque por el sender y aprende sobre la historia native Americana y la historia natural.
- 4. Viernes 11 de agosto, 6 p.m. - 8:30 p.m.**
San Ysidro Park en Gilroy
7700 Murray Avenue, Gilroy
Participe en las actividades anuales de "Party in the Park" (Fiesta en el parque) y divertidas actividades físicas.
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4/27/2017

ALL Council Members - Joe Thompson

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(408) 607-7351 cell phone

Public Comment

AGENDA DATE: 05/03/17

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Station and commandeered at least one train car, forcing passengers to hand over bags and cell phones and leaving at least two with head injuries.

The incident occurred around 9:30 p.m. Saturday. Witnesses told police that 40 to 60 juveniles flooded the station, jumped the fare gates and rushed to the second-story train platform. Some of the robbers apparently held open the doors of a Dublin-bound train car while others streamed inside, confronting and robbing and in some cases beating riders.

"I've been there 24 years and this is the first time I've heard of anything like this happening," said Keith Garcia, a BART police officer and union president.

Alicia Trost, a BART spokeswoman, said Monday that seven people were robbed — with the victims losing a purse, a duffel bag and five phones. Six people were robbed inside the train car, with a seventh confronted on the platform, she said. Police received no reports of guns or other weapons being brandished.

A police summary prepared after the incident said that at least two victims suffered injuries to the face or head that required medical attention.

The attack was so quick, police reported, that the teenagers were able to retreat from the station and vanish into the surrounding East Oakland neighborhood before BART officers could respond. The train was held for about 15 minutes as authorities interviewed victims and witnesses and tended to the injured.

Trost said police arrived at the station in less than 5 minutes, but that the robberies took place in just seconds.

BART police had increased the number of officers patrolling Oakland stations Saturday night because of a recent rise in the number of police calls. A BART police sergeant and an officer were in the station's back parking lot on patrol when the station was stormed, Trost said. They were the first to arrive at the concourse after the crime was reported.

Rebecca Saltzman, president of the BART Board of Directors, said the board to examine ways to prevent a recurrence.

"This was obviously a terrible event and I'm sure very scary for the victims and the BART employees involved," she said. "We're looking at it very closely to see how we can respond to make sure it doesn't happen again."

Director Robert Raburn, whose district includes Coliseum Station, said he was "very disturbed that such an aggressive action would put BART passengers and employees at risk. It cannot occur with impunity."

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Robberies committed by small groups of people who snatch valuables from riders when trains stop at stations then dash off just before the train departs have been known to happen on BART, Trost said. But this was the first time she was aware of a train being swarmed by a large group of teens.

"We're taking this seriously," Saltzman said. "Things like this have happened elsewhere but not at BART."

Last month, according to two television reports, a swarm of teenagers invaded a carnival near the Oakland Coliseum, beating workers and stealing prizes from the game booths. Robberies involving small groups invading stores and restaurants in the Bay Area are not unheard of. But incidents involving such large groups are rare.

The incident presents another challenge for BART, which hired a new police chief last week. The agency has struggled to contain fare evaders and is studying ways to make it harder to enter a station without paying.

Demian Bulwa and Michael Cabanatuan are San Francisco Chronicle staff writers. Email: dbulwa@sfchronicle.com, mcabanatuan@sfchronicle.com Twitter: @demianbulwa, @ctuan

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Posted by: Joseph Patrick Thompson <translaw@pacbell.net>

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□

**Please join the South County United
for Health Leadership Team**

Breakfast Summit for South County Leaders

Community Design for Economic, Environmental and Public Health
Presentation by Mark Fenton

Nationally recognized public health, planning and transportation consultant

Wednesday, May 24, 2017

7:30am - 9:30am

Morgan Hill Community and Cultural Center
17000 Monterey Road, Morgan Hill, CA

Light breakfast and coffee will be provided

Immediately follow the meeting. Mark will be leading an optional walk audit
of the local neighborhood to explore typical challenges and opportunities to
improve active transportation

RSVP: <https://southcountybreakfastsummit.eventbrite.com>

Contact: Thi Ngo
408-793-3196
thi.ngo@phd.sccgov.org

*Made possible with funding from the
Center for Disease Control and Prevention*

Co-hosts:
Mike Wasserman, Supervisor,
Santa Clara County Board of Supervisors

Rocio Luna, Director, Healthy Communities Branch,
Santa Clara County Public Health Department

Jaime Rosso
Board of Trustees, Gilroy Unified School District
Housing Advisory Commission, City of Gilroy
Local Business Owner

Hand out received
during public
comment.

LET'S ALL *go to* THE PARK!

Explore **5 Fabulous** South Santa Clara County Parks!

All activities are **FREE** and **OPEN TO ALL FITNESS LEVELS!**
Participate in all 5 park activities or choose the ones that fit your schedule!

Bring:



Family and friends



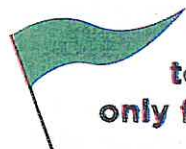
Comfortable walking shoes



Strollers and wheelchairs welcome

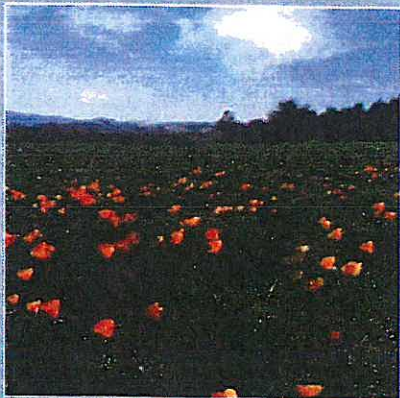
No registration required!

Exercising in your local parks reduces stress and helps prevent Type 2 Diabetes.



Look for the green flags to pick up prizes. Prizes only for the first 100 people!

Post park photos on Instagram, Twitter, or Facebook using the hashtag #park4health2017; or #firsttimehiker2017.



— Park Activities —

Meet and walk with Community Leaders & Local Celebrities!

- 1. Saturday, May 13, 10 a.m. - Noon**
Little Llagas Creek Trail in Morgan Hill
Centennial Recreation Center, 171 W. Edmundson Avenue, Morgan Hill
Walk, run, or bike up to 5 miles
Bike safety and helmet fitting provided
- 2. Thursday, June 29, 6 p.m. - 8 p.m.**
Galvan Park in Morgan Hill
17666 Crest Avenue, Morgan Hill
Annual "Summer Fun in the Park" and family fitness activities
- 3. Saturday, July 15, 9 a.m. - 10:30 a.m.**
Coyote Creek Parkway in Morgan Hill
Park Visitor Center, 19245 Malaguerra Avenue, Morgan Hill
Walk the trail and learn about Native American History and natural history from an experienced park guide
- 4. Friday, August 11, 6 p.m. - 8:30 p.m.**
San Ysidro Park in Gilroy
7700 Murray Avenue, Gilroy
Annual "Party in the Park" and family fitness activities
- 5. Saturday, September 9, 10 a.m. - Noon**
Gilroy Levee
Meet at Gilroy Sports Park, 5925 Monterey Frontage, Gilroy
Walk, run, or bike up to 10 miles
Bike safety and helmet fitting provided



¡VAMOS *todos* AL PARQUE!

Explore los **5 fabulosos** parques del **sur** del condado de Santa Clara

¡Todas las actividades son **GRATUITAS** y **ABIERTAS A TODOS LOS NIVELES DE ESTADO FÍSICO**! ¡Participe en las actividades de los 5 parques o elija las que se ajusten a su horario!

Traiga:



A su familia y amigos



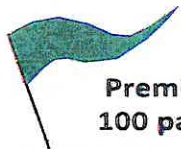
Zapatos cómodos para caminar



Todas las actividades pueden realizarse con carritos para bebés y sillas de ruedas.

¡No es necesario registrarse!

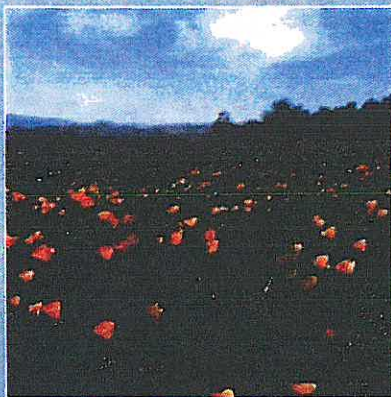
Hacer ejercicio en sus parques locales reduce el estrés y ayuda prevenir el Diabetes tipo 2.



¡Busque la bandera verde para obtener los premios.

Premios solo para los primeros 100 participantes!

Publique las fotografías del parque en Instagram, Twitter, o Facebook con el hashtag #park4health2017; o #firsttimehiker2017.



Actividades

¡Conoce y camina con los líderes de la comunidad y las celebridades locales!

- 1. Sábado 13 de mayo, 10 a.m. - 12 p.m.**
Little Llagas Creek Trail en Morgan Hill
Centennial Recreation Center, 171 W. Edmundson Ave, Morgan Hill, CA
Camina, corre, o anda en bicicleta hasta 5 millas
Se le proporcionará casco de protección para bicicleta y otra información de seguridad
- 2. Jueves 29 de junio, 6 p.m. - 8 p.m.**
Galvan Park en Morgan Hill
17666 Crest Avenue, Morgan Hill
Participe en las actividades anuales de "Summer Fun in the Park" (Diversión de verano en el parque), y divertidas actividades físicas para realizar en familia
- 3. Sábado 15 de julio, 9 a.m. - 10:30 a.m.**
Coyote Creek Parkway en Morgan Hill
El Centro para visitantes del parque, 19245 Malaguerra Ave, Morgan Hill
Camina con una guía del parque por el sender y aprende sobre la historia native Americana y la historia natural.
- 4. Viernes 11 de agosto, 6 p.m. - 8:30 p.m.**
San Ysidro Park en Gilroy
7700 Murray Avenue, Gilroy
Participe en las actividades anuales de "Party in the Park" (Fiesta en el parque) y divertidas actividades físicas.
- 5. Sábado 9 de septiembre, 10 a.m. - 12 p.m.**
Gilroy Levee
Gilroy Sports Park, 5925 Monterey Frontage, Gilroy
Camina, corre, o anda en bicicleta hasta 10 millas
Se le proporcionará casco de protección para bicicleta y otra información de seguridad

