



CITY OF MORGAN HILL

**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, July 26, 2017 5:30 PM

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

SPECIAL/REGULAR MEETING

(5:30 P.M. Workshop/ 7:00 P.M. Regular Meeting)

SPECIAL MEETING

5:30 P.M.

CALL TO ORDER

(Mayor Tate)

ROLL CALL ATTENDANCE

Per Government Code Section 54954.2
(Deputy City Clerk Wilson)

DECLARATION OF POSTING AGENDA

(Deputy City Clerk Wilson)

WORKSHOP

Transition to District Elections Workshop

The purpose of this Community Workshop is to

Host a public forum for discussion of the district election process and map-drawing criteria;
Present the initial draft maps;
Gather feedback from the community; and
Review and discussion by City Council and community of initial draft maps.

Following this Community Workshop, the third public hearing will be held on the same evening (July 26, 2017), to formalize direction to staff and NDC for the development of the final maps and the election sequencing

The initial draft maps are not necessarily the final maps; draft maps can be submitted until August 14, 2017. At the August 23, 2017 City Council meeting, the City Council will review any maps submitted through August 14th and introduce an ordinance selecting the district maps and setting the election sequencing.

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 Jachimowicz

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

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

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. APPROVE HEALTHY PLAY GRANT APPLICATION AND CONSIDER BUDGET AMENDMENT FOR MATCHING FUNDS UPON SCOPE COMPLETION

Recommendation:

1. Authorize City Staff to apply for a Healthy Play Grant for new play equipment; and
2. Direct staff to return to the Council with a budget amendment authorizing a matching appropriation from the Park Impact, Park Maintenance, and/or General Fund Budget once the exact final project cost and scope are complete.

2. LETTER OF SUPPORT FOR FUNDING PACHECO RESERVOIR EXPANSION

Recommendation:

Direct staff to prepare and submit a letter supporting the funding for the expansion of Pacheco Reservoir.

3. AWARD FIVE-YEAR AGREEMENT WITH POTABLE DIVERS, INC FOR RESERVOIR CLEANING AND INSPECTION

Recommendation:

1. Approve the execution of a five-year maintenance service agreement with Potable Divers, Inc. in the amount of \$20,600 for reservoir cleaning and inspection; and
2. Authorize the City Manager to execute the five-year maintenance service agreement with Potable Divers, Inc.

4. PURCHASE OF A NEW COMPACT EXCAVATOR AND UTILITY TILT BED TRAILER

Recommendation:

1. Approve purchase of a new compact excavator and utility tilt bed trailer from Pape Machinery, Inc., in the amount of \$71,277.66; and
2. Authorize City Manager to approve purchase order in the amount of \$71,277.66 with Pape Machinery, Inc.

5. AWARD EAST MAIN AVENUE WELL PROJECT

Recommendation:

1. Approve the East Main Avenue Well Project plans and specifications;
2. Award contract to Conco West, Inc. for the East Main Avenue Well Project in the amount of \$1,603,500;
3. Authorize expenditure of construction contingency funds not to exceed \$160,350; and
4. Authorize the City Manager to execute and administer the construction contract with Conco West, Inc.

6. EIGHTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS

Recommendation:

Receive Report.

7. ORDERING THE MAKING OF AMENDED REASSESSMENTS FOR REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK) AMENDING REASSESSMENT NO.7

Recommendation:

Adopt the following:

1. Resolution Ordering the Making of the Amended Reassessments Pursuant to Part 10 of The Streets and Highway Code and Directing Actions with Respect Thereto Reassessment District No. 2015-2; and
2. Resolution Ordering Preliminarily Approving Amended Reassessment, Ordering the Public Hearing, and Directing Actions with Respect Thereto Reassessment District No. 2015-2.

8. ADOPT ORDINANCE 2257, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE TITLE OF CHAPTER 9.16 (MEDICAL MARIJUANA) AND SECTIONS 9.16.010 (INTENT), 9.16.020 (DEFINITIONS), AND 9.16.030 (PROHIBITED ACTIVITIES) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MORGAN HILL MUNICIPAL CODE PROHIBITING MARIJUANA CULTIVATION, MARIJUANA DELIVERY SERVICES, AND MARIJUANA DISPENSARIES

Recommendation:

Waive the reading, adopt Ordinance No. 2257, 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.

PUBLIC HEARING

9. CITY COUNCIL TRANSITION TO BY-DISTRICT ELECTIONS

Recommendation:

1. Open/close the public hearing;
2. Discuss initial draft maps; and
3. Provide direction on next steps for draft maps and election sequencing.

Estimated Time: 45 Minutes

10. RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION CATEGORIES AND ALLOTMENT DISTRIBUTION

Recommendation:

Adopt resolution establishing Competition Categories and Distribution of Allotments for the 2017 Residential Development Control System (RDCS) Competition.

Estimated Time: 30 Minutes

OTHER BUSINESS

11. UPDATE ON TELECOMMUNICATIONS PLANNING PROCESS

Recommendation:

1. Receive update report; and
2. Direct staff to schedule a City Council workshop on public/private business models with telecommunications providers and local businesses as the next step to advance the City Council's 2017 Telecommunications Strategic Priority.

Estimated Time: 20 Minutes

12. RESPONSE TO GRAND JURY REGARDING LAFCO DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE

Recommendation:

Approve the response letter to the Santa Clara County Civil Grand Jury.

Estimated Time: 15 Minutes

13. ADOPTION OF WAGE THEFT PREVENTION POLICY

Recommendation:

1. Adopt wage theft policy; and
2. Direct staff to return to City Council in September 2017 with an ordinance implementing additional wage theft prevention measures.

Estimated Time: 15 Minutes

14. AIRCRAFT NOISE MITIGATION ENTITY DISCUSSION

Recommendation:

1. Discuss the City's involvement in the south bay aircraft noise mitigation entity; and
2. Consider appointing one member and one alternate from the Council to serve on the committee, once established.

Estimated Time: 5 Minutes

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

LIABILITY CLAIMS

Authority:	Pursuant to Government Code Section 54956.95
Claimant:	Goldstein, Borgen, Dardarian & Ho
Agency claimed against:	City of Morgan Hill

RECONVENE

CLOSED SESSION ANNOUNCEMENT

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: July 26, 2017

PREPARED BY: Jennie Tucker, Community Services Supervisor
APPROVED BY: City Manager

APPROVE HEALTHY PLAY GRANT APPLICATION AND CONSIDER BUDGET AMENDMENT FOR MATCHING FUNDS UPON SCOPE COMPLETION

RECOMMENDATION(S)

1. Authorize City Staff to apply for a Healthy Play Grant for new play equipment; and
2. Direct staff to return to the Council with a budget amendment authorizing a matching appropriation from the Park Impact, Park Maintenance, and/or General Fund Budget once the exact final project cost and scope are complete.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2017 Strategic Priorities

Inclusiveness
Infrastructure

REPORT NARRATIVE:

PlayCore's Center for Professional Development, in partnership with its GameTime brand, is providing statewide professional development services and up to two million dollars in matching funding to parks throughout the State to install a pre-approved play and recreation project that promotes best practices. The application deadline is August 15, 2017, with an aggressive timeline of purchasing the approved project by November 2017 and installing it by March 2018. Given this timeline, this grant opportunity cannot be used for the inclusive playground.

These projects will serve as National Demonstration Sites (NDS) by aligning research-based best practices to create high-quality play and recreation environments. These projects will assist in data collection and outcomes sharing that will result in a publication of a white paper to be launched at the 2018 California Park and Recreation Society Conference.

City staff have been working with GameTime to develop a proposal that will add to and improve the play environment at a Morgan Hill park. In consistency with the City's Parks, Recreation, Trails and Bikeways Master Plan, the improvements desired include a net increase in play opportunities, a broadening in the inclusiveness of the play environment at the selected park, and the creation of an adult fitness opportunity. City

staff are still working to identify the park location that would be most appropriate for the improvements and most competitive in the grant process. If the Council authorizes the submission of a grant application, City staff will finalize the planned improvements in cooperation with GameTime staff in time for the August 15th application deadline.

If the City's application is authorized and awarded, staff will proceed with an expedited project implementation schedule that includes:

- Seeking community input;
- Completing final design and construction documents;
- Soliciting construction bids; and
- Awarding the project and making final budget appropriations

Staff recommends authorization of this grant application as it represents an excellent opportunity to improve the quality of play in a Morgan Hill park.

COMMUNITY ENGAGEMENT: Consult

If a project is selected to move forward, City staff will convene a community meeting to introduce the potential planned improvements and get input on the final design. Plans would be consistent with those outlined in the recently adopted Bikeways, Trails, Parks and Recreation Master Plan.

ALTERNATIVE ACTIONS:

1. The Council could elect to not approve the request.
2. The Council could elect to approve the request for an alternative budget amount.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

It is anticipated that \$40,000 - \$50,000 in matching funds will be required to proceed with the project if the application is successful. Depending on the final design, these funds could be appropriated from the Park Maintenance, Park Impact Fee, or General Fund Budget. The final appropriation request would be presented to the Council for consideration as a component of the staff report awarding the construction of the project. Supporting park improvements is an activity included in the work program of the Community Services Department.

CEQA (California Environmental Quality Act):

Categorical Exemption

This project is categorically exempt from CEQA per section 15301 (Existing Facilities) as a minor modification to an existing facility.

LINKS/ATTACHMENTS:



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Anthony Eulo, Program Administrator
APPROVED BY: City Manager

LETTER OF SUPPORT FOR FUNDING PACHECO RESERVOIR EXPANSION

RECOMMENDATION(S)

Direct staff to prepare and submit a letter supporting the funding for the expansion of Pacheco Reservoir.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment

2017 Strategic Priorities

Infrastructure
Regional Initiatives

REPORT NARRATIVE:

The City relies on groundwater for 100% of its water supply. The groundwater aquifers in the community are both recharged by the Santa Clara Valley Water District (District) with water imported into the community from the Central Valley. Without the imported water, local groundwater levels would unsustainably decline and the community and local farmers would need to significantly curtail water consumption.

While it already has a diverse portfolio of water supplies, the District is continually searching for new sources of water to further diversify and solidify its portfolio in order to develop a more resilient system that is less susceptible to drought, climate change, pumping restrictions, and earthquakes.

During this search, the concept of expanding a local small reservoir, Pacheco Reservoir, has emerged as a project that could maximize both the capture of local storm runoff as well as adding to the District's ability to receive and store water from the Central Valley when it is available. As indicated in the attached project description, water from this reservoir would be available to recharge the aquifers serving the community. This existing reservoir is in hills east of Gilroy and just north of Highway 152.

The District is applying for State Bond Act funding for this project and has asked the City to formally support the project. Staff recommends that the Council direct the City Manager to submit the attached letter.

COMMUNITY ENGAGEMENT: Inform

If the project is funded and ultimately constructed, the City will inform the community about the project and its impacts to the community.

ALTERNATIVE ACTIONS:

The Council could take no action and decline to support the project.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

There have been no prior actions on this item as it is a fairly new concept.

FISCAL AND RESOURCE IMPACT:

There are no direct fiscal impacts from writing a letter of support. If the project is ultimately constructed, it will change the District's operational costs and may ultimately impact the cost of water. Given the early stage of this project, it is impossible to determine what the ultimate cost impacts will be and even if they will be positive or negative.

CEQA (California Environmental Quality Act):

Not a Project

This is an administrative action that will not result in physical changes to the environment by the City of Morgan Hill. Naturally, the District will be conducting a full CEQA evaluation as a component of the project if it proceeds.

LINKS/ATTACHMENTS:

1. Pacheco Reservoir Expansion Project - Information Sheet
2. Morgan Hill Letter of Support for Pacheco Reservoir

June 2017

Pacheco Reservoir Expansion Project

Proposition 1 WSIP Funding Application Submittal

Introduction

California's Water Quality, Supply, and Infrastructure Improvement Act of 2014 provides for issuance of \$7.5 billion in general obligation bonds, including \$2.7 billion for investments in surface and groundwater storage projects. The water storage projects will be funded under the act's Water Storage Investment Program (WSIP) through the efforts of the California Water Commission, which is responsible for allocating these funds using a competitive selection process.

To further optimize and expand local control of its water supply portfolio, the Santa Clara Valley Water District's Board of Directors authorized staff in February 2017 to evaluate whether expansion of Pacheco Reservoir in southeast Santa Clara County will meet WSIP eligibility requirements and compete against other water storage projects in the state vying for WSIP funds. WSIP funds can be allocated to cover up to 50 percent of a project's cost, but only that portion dedicated to providing public benefits, including environmental benefits, beyond water supply. Santa Clara Valley Water District staff – in collaboration with the Pacheco Pass Water District and San Benito County Water District – have made good progress in their evaluation and expect to show that increasing the storage capacity of Pacheco Reservoir can help establish a permanent South-Central California Coast steelhead population in Pacheco Creek, plus provide both water supply and other significant public benefits.

The Project

Owned by Pacheco Pass Water District, the existing Pacheco Reservoir has an operational capacity of 5,500 acre-feet. Water released from the reservoir flows down Pacheco Creek and seeps through the creek bed and into the underlying groundwater aquifer as it winds towards its confluence with the Pajaro River. The released flow is measured to fully infiltrate into a groundwater aquifer that begins at the northern tip in Santa Clara County and extends southwards into San Benito County. Agricultural users in Pacheco Pass Water District and San Benito County Water District pump water from the aquifer.



Existing Pacheco Reservoir.

The project includes construction of a new earthen dam a short distance upstream from the existing dam and a pipeline to connect the dam to the existing Pacheco Conduit, a federal Central Valley Project pipeline that delivers water into Santa Clara and San Benito counties from San Luis Reservoir. The Pacheco Reservoir Expansion Project would expand the reservoir to 140,000 acre-feet and deliver water supply, water quality, and ecosystem benefits to the region and, through specific operations, the Sacramento-San Joaquin Delta. The reservoir, when filled, would inundate lands on private properties, but would not extend into Henry Coe State Park.

The enlarged reservoir would be operated to enhance the continuity of flows in Pacheco Creek, not only for groundwater recharge but also to establish a high quality steelhead habitat that reaches far inland from Monterey Bay into Pacheco Creek. It would also expand the storage of Central Valley Project water available to the Santa Clara Valley and San Benito County water districts and provide more flexibility for use of this water at optimal times. The expanded reservoir would be filled by a combination of Central Valley Project supplies and local inflows. Potentially, the reservoir could also provide downstream flood protection benefits; however flood control benefits have not yet been evaluated.

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Benefits

- Fisheries and habitat establishment along Pacheco Creek and downstream Pajaro River.
- Increased emergency water supplies and improved groundwater conditions.
- Improved water quality through avoidance of San Luis Reservoir low point issues.
- Expanded storage of wet year supplies for utilization during dry and critical years.
- Increased operational flexibility and greater local control of water supplies.
- Potentially, reduced flood risk along Pacheco Creek and downstream Pajaro River, offering some relief to the disadvantaged communities of Watsonville and Pajaro.
- Potentially, increased water supplies to Central Valley wildlife refuges.

Cost

The project capital cost is provisionally estimated at \$800 million.

Schedule

WSIP funding applications are due by Aug. 14, 2017. The California Water Commission is planning to release project rankings in April 2018 and early funding decisions in June 2018.

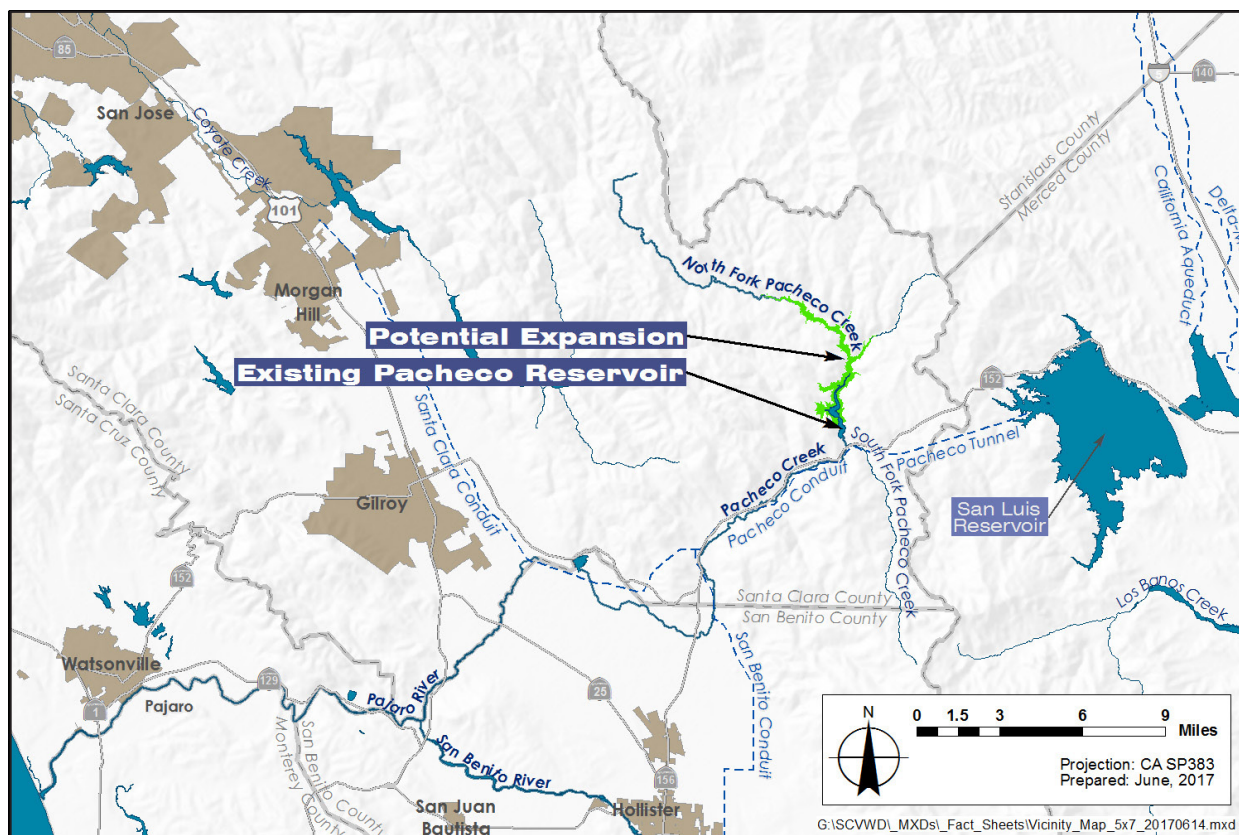


Figure 1: Study area map of the Pacheco Reservoir Expansion Project. Map subject to revision.



**PACHECO PASS
WATER DISTRICT**

CONTACT US

Melih Ozbilgin, project manager at **(408) 630-2725** or by email at **mozbilgin@valleywater.org**. Or use our **Access Valley Water** customer request and information system at **valleywater.org** to find out the latest information on district projects or to submit questions, complaints or compliments directly to a district staff person.



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

July 28, 2017

California Water Commission
P.O. Box 942836
Sacramento, California 94236-0001
Email: CWC@water.ca.gov

RE: Pacheco Reservoir Expansion Project Letter of Support

Dear Commissioners,

On behalf of the City of Morgan Hill, I write in support of the Santa Clara Valley Water District's application to receive Water Storage Investment Program funding for the Pacheco Reservoir Expansion Project. The City Council considered this project at its July 26th meeting and authorized this letter of support.

The 2014 voter approval of Proposition 1: Water Quality, Supply and Infrastructure Act provided Californians a vision of improved water security and environmental stewardship through strategic investment in projects and programs that deliver regional benefits. The Pacheco Reservoir Expansion Project fulfills that vision and deserves full backing by the California Water Commission.

As a community that relies on groundwater for 100% of its water, we depend on the Water District's ability to use both local and imported water to replenish our aquifers. This project will directly enhance both the amount of local water made available for groundwater recharge as well as the District's ability to import and store water from the Central Valley and strategically deliver it for groundwater recharge. This project will directly support the District's efforts to sustainably manage our groundwater basins in compliance with State law.

We encourage the Commission to select and provide its full financial support to the Santa Clara Valley Water District and its agency partners – the Pacheco Pass Water District and San Benito County Water District – for a project that delivers critical environmental and water supply benefits to Santa Clara, San Benito, Monterey and Santa Cruz counties.

Attachment: Morgan Hill Letter of Support for Pacheco Reservoir (1338 : Pacheco Reservoir)

Thank you for your time and consideration. If you desire additional information about the City's support, please contact Anthony Eulo at 408-310-4179.

Sincerely,

Steve Rymer
City Manager

Cc:

John L. Varela, SCVWD Board Chair – District 1 (board@valleywater.org)

Norma Camacho, SCVWD Interim Chief Executive Officer (ncamacho@valleywater.org)

Melih Ozbilgin, SCVWD Project Manager (MOzbilgin@valleywater.org)



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Sydney Oam, Financial and Policy Analyst
APPROVED BY: City Manager

AWARD FIVE-YEAR AGREEMENT WITH POTABLE DIVERS, INC FOR RESERVOIR CLEANING AND INSPECTION

RECOMMENDATION(S)

1. Approve the execution of a five-year maintenance service agreement with Potable Divers, Inc. in the amount of \$20,600 for reservoir cleaning and inspection; and
2. Authorize the City Manager to execute the five-year maintenance service agreement with Potable Divers, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The City of Morgan Hill has twelve water reservoirs that require cleaning and inspection services on a regular basis. The inspection of each tank includes the evaluation of the interior and exterior to determine the condition of the coating and the structural materials. The principle areas of consideration are the roof, the exterior wall and appurtenances, the interior underside of the roof and supporting columns, and the non-immersed areas of the interior wall and appurtenances. The selected vendor will provide video documentation of the condition of the tanks prior to cleaning.

The inspection and cleaning of the twelve reservoirs will be scheduled over the five-year performance period of the contract. Two to three reservoirs will be addressed each year.

The City sent out Request for Proposals (RFP) for the reservoir cleaning and inspection to qualified contractors. The proposal opening was held on June 23, 2017 and the proposals received are listed below.

Aqua-Tech Company	\$41,750
Inland Potable Services, Inc.	\$34,266
Potable Divers, Inc.	\$20,600

After reviewing the proposals received and determining that the proposals meet the minimum requirements and contain comparable tasks and scope, staff recommends awarding the five-year contract to the low bidder Potable Divers, Inc.

The Water Utility has used this contractor to do our annual cleaning for at least the past 10 years. Staff has had good service from them including excellent video and written inspection reports. Their pricing structure (i.e. less expensive) is a function of being efficient in completing the work and maintaining a very mobile operation. Because they have done work for us before, their pricing reflects an understanding of what's needed to complete our cleaning and inspection work.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the recommendation to award a five-year contract to Potable Divers, Inc. for the cleaning and inspection of the City's water reservoirs.

ALTERNATIVE ACTIONS:

The Council could choose to not approve the recommended agreement with Potable Divers, Inc. and direct staff to send out a new RFP.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

The total expense for the five-year maintenance service agreement is \$20,600. The initial year funding is included in the adopted FY 2017-18 budget in the Water Operations Fund (Fund 650). Funding for years two through five will be included in future budgets.

CEQA (California Environmental Quality Act):

This action is categorically exempt under CEQA guidelines, Class 1: Section 15301 Existing Facilities. Operation, repair, maintenance, or minor alteration of facilities and mechanical equipment is considered exempt as there is no expansion of use.

LINKS/ATTACHMENTS:

1. City Maintenance Service Agreement_Potable Divers Signed

MAINTENANCE SERVICE AGREEMENT POTABLE DIVERS, INC.

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and POTABLE DIVERS, INC. a California corporation ("SERVICE PROVIDER") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2022 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be reservoir cleaning and inspection services as further described in **Exhibit A.**
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$20,600.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed twenty thousand six hundred dollars and shall be billed based on the rate and basis set forth in **Exhibit B.** If the City Manager extends the term of this Agreement for up to one year pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to SERVICE PROVIDER during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to SERVICE PROVIDER during the initial term of this Agreement.
 - 4.2. **Billing.** SERVICE PROVIDER shall provide CITY with a monthly invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or SERVICE PROVIDER shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product

or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager is authorized to terminate this AGREEMENT on behalf of CITY.

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

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, if SERVICE PROVIDER needs to use any material or chemical considered to be a hazardous material under any federal, state or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

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

8.1. **Insurance Types and Amounts.**

8.1.1. **Commercial General Liability (CGL).** SERVICE PROVIDER shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) 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 SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.2. **Automobile Liability.** SERVICE PROVIDER shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if SERVICE PROVIDER does not own

automobiles, then SERVICE PROVIDER shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) 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 SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

8.1.4. Pollution (Environmental) Liability. If the performance of SERVICE PROVIDER's work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, SERVICE PROVIDER shall procure and maintain Pollution Liability covering the 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 SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5. Professional Liability.

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

8.1.5.2. If the performance of SERVICE PROVIDER's work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers, hardware engineers, or other systems consultants), SERVICE PROVIDER shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data

Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5.3. If the performance of SERVICE PROVIDER's work or service under this Agreement involves contact with minors, SERVICE PROVIDER shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- 8.2. **Endorsements.** SERVICE PROVIDER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

8.2.1. **General Liability.**

8.2.1.1. The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds;

8.2.1.2. the insurer waives the right of subrogation against the City of Morgan Hill and CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and,

8.2.1.3. insurance shall be primary non-contributing.

8.2.2. **Workers Compensation.**

The insurer waives the right of subrogation against the City of Morgan Hill and CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

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

- 8.4. **Certificates.** SERVICE PROVIDER shall furnish CITY with copies of all policies or certificates as outlined herein, whether new or modified, promptly upon receipt. No policy subject to SERVICE PROVIDER's agreement with CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue

Morgan Hill, CA 95037

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

10. **Compliance with Law.**

10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

10.2. Without limiting the provisions of Section 10.1 above, each worker performing work under this Agreement shall be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. SERVICE PROVIDER shall post a copy of the applicable prevailing rates at the Worksite. Pursuant to Labor Code Section 1775, SERVICE PROVIDER and any Subcontractor shall forfeit to CITY as a penalty up to two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. SERVICE PROVIDER shall also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

10.3. DIR Registration. CITY will not accept a Bid Proposal from or enter into a contract with a SERVICE PROVIDER, without first receiving proof to the satisfaction of CITY that SERVICE PROVIDER and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. Under Labor Code section 1771.4, this Agreement is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.

12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.

13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.

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

Address of SERVICE PROVIDER is as follows:

Potable Divers, Inc.
PO Box 474

Attachment: City Maintenance Service Agreement_Potable Divers Signed (1337 : Reservoir Cleaning and Inspection)

Vernal, Utah 84078

Address of CITY is as follows:

Engineering and Utilities Dept,	with a copy to:
Director	City Clerk
City of Morgan Hill	City of Morgan Hill
17575 Peak Avenue	17575 Peak Avenue
Morgan Hill, CA 95037	Morgan Hill, CA 95037

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

16. **Maintenance of Records.**

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

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

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

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

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

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

Attachment: City Maintenance Service Agreement_Potable Divers Signed (1337 : Reservoir Cleaning and Inspection)

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

21. **Defense and Indemnification.**

21.1. **Defense and Indemnification.** SERVICE PROVIDER shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

21.2. **Exceptions.** SERVICE PROVIDER is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of CITY.

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

21.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER's failure to pay CITY promptly any indemnification arising under this Section (20) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER's failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

21.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of SERVICE PROVIDER to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

22. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and SERVICE PROVIDER. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

23. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

24. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to,

California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

25. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

26. **Binding Agreement.** Notwithstanding the provisions of Section 18 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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Attachment: City Maintenance Service Agreement_Potable Divers Signed (1337 : Reservoir Cleaning and Inspection)

27. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

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

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

 City Clerk/Deputy City Clerk

 City Manager

 Michelle Wilson
 Print Name

 Steve Rymer
 Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

POTABLE DIVERS, INC.

 City Attorney

By: _____

 Donald A. Larkin
 Print Name

Title: _____

President / secretary

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: _____

Date: July 202017

By: _____

Title: _____

Print Name and Title of Signer.

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

Date: _____

 Contractor's License Number(s) (if applicable)

 Expiration Date(s)

Seal:

EXHIBIT A SCOPE OF SERVICES

The inspection of each tank shall systematically inspect the interior and exterior to determine the condition coating and structural materials for each reservoir listed in item #2 above. The principle areas of consideration are the roof, the exterior wall and appurtenances, the interior underside of the roof and supporting columns and the non-immersed areas of the interior wall and appurtenances. The contractor shall preform a complete inspection of the floor, including removing all sediment accumulation from the tank. The contractor shall video document the floor wall prior to cleaning, to show the amount of silt and sediment present. Interior inspection, both over and underwater, will be conducted to determine coating condition of the tanks' interior walls, roof beams, columns, ladder, interior coating, depth monitoring equipment, cathodic protection equipment, etc. The contractor shall dechlorinate, remove all silt and sediment from cleaning process before water is discharged into a drain, channel, open space, etc.

During the time of inspection, City of Morgan hill utility personnel shall raise and maintain water level to near overflow. This allows the divers headroom, yet enables easy access to document the interior roof, columns, etc.

Contractor must comply with all confined space entry requirements and permit(s) will be completed prior to diver entry to the tank. Diver(s) shall be decontaminated per ANSI/AWWA C652-02 prior to entry.

Contractor shall provide color still-photographs and hi-resolution color video. Accordingly, information will be documented using a separate color MP4 format on a USB flash drive. However, CD, or DVD format may be an option at the discretion of the City of Morgan Hill.

The contractor's reports shall document the contractor's findings, including, referencing video inspection data to location diagrams and an inspection overview. The report documents will include the condition of the interior and exterior of each reservoir and provide recommendations for repairs, if necessary and an evaluation of ongoing maintenance needs. The contractor shall provide the City with two hardcopies of the report as well as a PDF file of the report.

Attachment: City Maintenance Service Agreement_Potable Divers Signed (1337 : Reservoir Cleaning and Inspection)



QUOTE INSTRUCTION

1. All information provided to us is correct. Reservoirs are accessible by truck pulling a 16 foot trailer. Entry hatches are a minimum of 22" in diameter or width.
2. During cleaning and inspections reservoirs are to be kept at or near full capacity.
3. Removed water and materials will be the responsibility of the district unless otherwise specified in quote.
4. Cleaning service includes removal of accumulated bottom sediments. Materials other than normal sediments (wood, metal, concrete, etc.) are removed at \$280 per hour, with the first hour at no charge.
5. Quotes for cleaning assume that the sediment is no more than indicated above in any of the tanks. If there is more sediment the price is adjusted by a factor of \$30 per cubic yard in excess over the original estimate, unless otherwise quoted.
6. Surfaces out of the water will not be cleaned. All submerged horizontal surfaces and berms will be cleaned. Other surfaces must be specified by the district (such as walls) at the time of quote or estimated by on site personnel at time of service.
7. If incorrect information inhibits our ability to accomplish the specified work, we will notify you of the problem and reserve the right to add to the quote for time lost and or additional time it takes to complete the job. This applies only to problems of your responsibility and not to our own equipment or ability to complete the job.
8. Laboratory analysis of water, coating, or debris samples is the responsibility of the district unless specified earlier.
9. Filtration or dechlorination are additional charges (if needed or wanted by clients) for cost of materials. Filtration is charged at \$150 for each 30 foot (L) by 5 foot (D) filter bag. Dechlorination is a flat rate of \$30 per tank.

All disinfection, cleaning and training procedures are in accordance with AWWA and OSHA standards.

PDI is licensed bonded and insured.

EXHIBIT C
SCHEDULE OF PERFORMANCE

		Year					
	Reservoir Name	2017	2018	2019	2020	2021	Cost
1	Boys Ranch #2	X					\$1000
2	Boys Ranch #3	X					\$1500
3	Edmundson				X		\$3200
4	El Toro			X			\$1500
5	Encino	X					\$1500
6	Glen Ayre			X			\$1000
7	Holiday #1					X	\$1600
8	Holiday #2					X	\$1600
9	Jackson		X				\$1500
10	Llagas			X			\$1500
11	Nob Hill				X		\$3200
12	Woodland		X				\$1500
Tax:							
Total:							\$20600



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Sydney Oam, Financial and Policy Analyst
APPROVED BY: City Manager

PURCHASE OF A NEW COMPACT EXCAVATOR AND UTILITY TILT BED TRAILER

RECOMMENDATION(S)

1. Approve purchase of a new compact excavator and utility tilt bed trailer from Pape Machinery, Inc., in the amount of \$71,277.66; and
2. Authorize City Manager to approve purchase order in the amount of \$71,277.66 with Pape Machinery, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The Equipment Replacement Fund (Fund 790) provides for a mechanism for the City to budget and fund future replacement of vehicles and equipment. The Engineering & Utilities Department requests the purchase of the compact excavator and utility tilt bed trailer to replace the 1994 Bobcat Excavator.

Staff proposes to purchase the excavator under a cooperative purchasing arrangement. Section 3.04.180 of the Morgan Hill Municipal Code allows the purchasing officer the authority to join with other public jurisdictions in cooperative purchasing plans or programs, including, but not limited to California Communities Purchasing Program (CCPP), the California Department of General Services (CADGS), the California Multiple Award Schedule (CMAS), the National Association of Counties (NACo), or similar arrangements or plans, as determined by the purchasing officer to be in the City's best interest. The purchasing officer may either: 1) buy directly from a vendor at a price established by a competitive bid by another jurisdiction even if the city had not joined with the public agency in a cooperative purchase; or 2) compare bids among cooperative purchasing plans or programs and choose the bid that best matches the needs of the city.

CMAS offers a wide variety of commodities products at prices which have been assessed to be fair, reasonable, and competitive. Staff prepared detailed specifications for the excavator and utility tilt bed trailer based on the City's needs. The excavator specifications include 74 performance items. The trailer specifications included 26

performance items. The two together make up the excavator and trailer package. The request for proposals was sent to six qualified construction equipment vendors who have been approved under the CMAS program. The City received proposals from two companies.

- 1) Pape Machinery, Inc.
- 2) Mission Valley Tractor & Equipment

Staff reviewed the two proposals and found that the excavator and trailer package proposal from Pape Machinery met 100% of the performance items in the specifications. The excavator and trailer package from Mission Valley Tractor & Equipment only met approximately 65% of the performance items in the specifications. Some of the key performance factors important to the City include the following:

- Engine must be certified to EPA Final Tier 4/EU Stage IV emissions; Yanmar 3TNV88 (1.64 l)
- The excavator shall have two power modes, one for general digging and one for lighter digging and improved fuel
- Engine shall be capable of auto-shutdown with adjustable delay periods to conserve fuel
- The swing speed shall be at least 9.0 rpm
- The backfill blade height shall be at least 14.7 in (373 mm)
- The digging depth with long arm shall be no less than 11 ft. 4 in (3.46 m)
- Digging reach with long arm shall be no less than 18 ft. 1 in (5.21 m)
- The maximum dumping height shall be no less than 11 ft. 1 in (3.39 m)
- Trailer Tilting Platform - Height – 23" loaded
- Trailer Tilting Platform - Headboard – Four-inch (4") safety headboard shall be installed across full width of load deck
- Trailer Tilting Platform - Decking – One and one-half inch (1-1/2") net oak deck material laid lengthwise. Decking is to be attached to every other crossmember with torx screws. Screws are to be countersunk into decking at a minimum of 1/8".

Staff concludes the excavator and trailer package proposal submitted by Pape Machinery complies with the specifications and performance requirements of the City. Consequently, staff is recommending that City Council accept the proposal and authorize the purchase of the Pape Machinery excavator and trailer package.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the recommendation to purchase the equipment for the Engineering & Utilities Department.

ALTERNATIVE ACTIONS:

The Council could choose to not approve the recommended purchase and direct staff to solicit quotes/bids through a formal bidding process.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

The equipment purchase is included in the City Council adopted FY 2016-17 and FY 2017-18 budget under the Equipment Replacement Program (Fund 790). The proposed purchase price of \$71,277.66 is less than the \$90,000 budgeted for the equipment replacement (1994 Bobcat Excavator).

CEQA (California Environmental Quality Act):

Not a Project.

Continuing administrative or maintenance activities, including the replacement of equipment, is not a project subject to environmental review.

LINKS/ATTACHMENTS:

1. Equipment Specifications and Bid Form



CORPORATION YARD
UTILITIES AND MAINTENANCE
100 EDES COURT
MORGAN HILL, CA 95037-5301
408-776-7333
FAX: 408-779-6282
WWW.MORGAN-HILL.CA.GOV

June 2017

REQUEST FOR QUOTE

COMPACT EXCAVATOR AND UTILITY TILT BED TRAILER COMBINATION

The City of Morgan Hill, Engineering and Utilities Department has a requirement for a compact excavator and utility tilt bed trailer combination. The successful bidder will be responsible to supply and deliver a complete equipment combination ready for service. The equipment shall be new and manufacturer's standard model in current production; shall comply with all performance specifications; include all standard functions, features and accessories as advertised or otherwise represented by the Bidder and/or manufacturer. The equipment shall meet or exceed the minimum specifications and requirements listed herein.

Quotes are due no later than June 30, 2017.

1) Bid Specifications for Compact Excavator

Bid specifications for Compact Excavator			
Item	Description	Compliance	
	ENGINE		
1	Engine must be certified to EPA Final Tier 4/EU Stage IV emissions; Yanmar 3TNV88 (1.64 l)	Yes <u>X</u>	No <u> </u>
2	The excavator engine power will be rated at no less than 23.3 hp (17.4 kw)	Yes <u>X</u>	No <u> </u>
3	Engine displacement shall be no less than 100.2 cu in (1.642 L)	Yes <u>X</u>	No <u> </u>
4	Service interval for the engine oil, oil and fuel filters shall be at 500 hours to reduce operating and maintenance costs	Yes <u>X</u>	No <u> </u>
5	The fuel and hydraulic filters shall be vertically mounted to help prevent spills	Yes <u>X</u>	No <u> </u>
6	The operator will be able to choose an engine rpm for operating conditions, using an electronic rotary dial system or equivalent	Yes <u>X</u>	No <u> </u>
7	The excavator shall have two power modes, one for general digging and one for lighter digging and improved fuel economy	Yes <u>X</u>	No <u> </u>
8	When the control levers are in neutral, the engine speed shall automatically change to idle (after a delay) to save fuel and reduce emissions and noise	Yes <u>X</u>	No <u> </u>
9	The fuel filter will have a water separator	Yes <u>X</u>	No <u> </u>

10	The engine shall be equipped with glow plug start aids	Yes <u>X</u>	No <u> </u>
11	Engine shall be capable of auto-shutdown with adjustable delay periods to conserve fuel	Yes <u>x</u>	No <u> </u>
	COOLING	Yes <u>x</u>	No <u> </u>
12	A coolant recovery tank will be standard with visible coolant level	Yes <u>x</u>	No <u> </u>
13	Unit shall have a fan-guard	Yes <u>x</u>	No <u> </u>
	POWER TRAIN	Yes <u>x</u>	No <u> </u>
14	Two speed propel will be standard with auto-shifting when travel motors encounter heavier load. A switch will be provided to lock the machine into low speed propel	Yes <u>x</u>	No <u> </u>
15	In high speed, the machine shall reach 2.7 mph (4.3 km/h) to improve job site maneuverability	Yes <u>x</u>	No <u> </u>
16	The swing speed shall be at least 9.0 rpm	Yes <u>x</u>	No <u> </u>
17	The swing brake shall be automatic, spring applied, hydraulically released and maintenance free.	Yes <u>x</u>	No <u> </u>
18	The propel brake shall be automatic, spring applied, hydraulically released and maintenance free.	Yes <u>x</u>	No <u> </u>
	HYDRAULIC SYSTEM	Yes <u>x</u>	No <u> </u>
19	The hydraulic system will be open center load sensing with two variable displacement pumps	Yes <u>x</u>	No <u> </u>
20	The pump flow rate shall be at least 20.2 gpm (76.8 L/m)	Yes <u>x</u>	No <u> </u>
21	The auxiliary pump flow shall be at least 16.2 gpm (61.2 L/m)	Yes <u>x</u>	No <u> </u>
22	The controls shall be hydraulic, pilot operated for boom, arm, bucket, swing, boom-swing, blade, travel and auxiliary functions.	Yes <u>x</u>	No <u> </u>
23	The hydraulic oil tank will have an oil level sight gauge for fast and easy monitoring	Yes <u>x</u>	No <u> </u>
24	Hydraulic oil change will have a service interval of at least 2000 hours	Yes <u>x</u>	No <u> </u>
25	A control pattern changer valve will be provided (excavator to backhoe control)	Yes <u>x</u>	No <u> </u>
26	Auxiliary hydraulics with convenient flat face quick couplers.	Yes <u>x</u>	No <u> </u>
	ELECTRICAL	Yes <u>x</u>	No <u> </u>
27	The alternator shall be rated at 55 amps, 12 volts	Yes <u>x</u>	No <u> </u>
	UNDERCARRIAGE	Yes <u>x</u>	No <u> </u>
28	The steel core will have curved ends to protect the rubber shoe edge from damage even when riding on curbs	Yes <u>x</u>	No <u> </u>
39	The width of the rubber track shall be at least 12 in (300 mm)	Yes <u>x</u>	No <u> </u>
30	Ground pressure with Standard Arm, Canopy, rubber track and Standard Counterweight shall be no more than 4.6 psi (32.0 kPa)	Yes <u>x</u>	No <u> </u>
31	Overall length of undercarriage with rubber track shall be no less than 6 ft 11 in (2.11 m)	Yes <u>x</u>	No <u> </u>

32	Track tension will be maintained without special tools, using common tools like grease gun and wrench.	Yes <u>x</u>	No <u> </u>
	UPPER STRUCTURE	Yes <u>x</u>	No <u> </u>
33	The upper structure will be capable of a 360 degree rotation	Yes <u>x</u>	No <u> </u>
34	The swing boom to the left shall be no less than 62 degrees	Yes <u>x</u>	No <u> </u>
35	The swing boom to the right shall be no less than 62 degrees	Yes <u>x</u>	No <u> </u>
36	With the operator station rotated 90 degrees to the tracks, the rear overhang over the side shall not exceed the width of the track when the excavator is equipped with a standard arm and counterweight.	Yes <u>x</u>	No <u> </u>
37	The boom cylinder shall be protected with a guard to reduce the likelihood of cylinder damage	Yes <u>x</u>	No <u> </u>
38	The swing post will have a single pin to improve the stiffness in the boom and arm.	Yes <u>x</u>	No <u> </u>
	FRONT ATTACHMENTS	Yes <u>x</u>	No <u> </u>
39	The long arm boom shall be no less than 8 ft. 1 in.	Yes <u>x</u>	No <u> </u>
40	The long arm shall be no less than 5 ft 8 in	Yes <u>x</u>	No <u> </u>
41	The bushings will be oil-impregnated to enhance durability and extend grease intervals to 500 hours for the arm-and-boom joint, and 100 hours for the bucket.	Yes <u>x</u>	No <u> </u>
42	The backfill blade will be as wide as the tracks	Yes <u>x</u>	No <u> </u>
43	The backfill blade will be able to hydraulically angle, 25 degrees right and left with a touch of a button.	Yes <u>x</u>	No <u> </u>
44	The backfill blade digging depth shall be no less than 15.7 in (400 mm) drop below ground.	Yes <u>x</u>	No <u> </u>
45	The backfill blade lift shall be no less than 14.2 in (360 mm) above ground	Yes <u>x</u>	No <u> </u>
46	The backfill blade height shall be at least 14.7 in (373 mm)	Yes <u>x</u>	No <u> </u>
47	Mechanical wedge style bucket coupler shall be provided to make bucket changing easier	Yes <u>x</u>	No <u> </u>
48	The front arm will include a hydraulic clamp/thumb with hydraulic quick couplers	Yes <u>x</u>	No <u> </u>
	OPERATOR'S STATION	Yes <u>x</u>	No <u> </u>
50	The operator structure shall meet ROPS/TOPS/FOPS standards	Yes <u>x</u>	No <u> </u>
51	The Full Cab include a Heater and Air Conditioner and is Radio Ready with Speakers, Antenna, wiring and Mounting. Cab shall have single hinge door.	Yes <u>x</u>	No <u> </u>
51	When not in use, the foot pedals shall be foldable to provide additional foot room	Yes <u>x</u>	No <u> </u>
52	3 in Retractable seat belt shall be provided	Yes <u>x</u>	No <u> </u>
53	The monitor shall have gauges to display the coolant temperature and fuel level.	Yes <u>x</u>	No <u> </u>
54	The monitor will have the following indicators: engine oil pressure; engine coolant temperature; engine preheat; low fuel; alternator voltage.	Yes <u>x</u>	No <u> </u>
55	An hour meter shall be on the monitor in the operator's station.	Yes <u>x</u>	No <u> </u>

56	The monitor shall include two trip meters that can be set independently of each other for service or job related hours	Yes <u>x</u>	No <u> </u>
57	Adjustable arm rests will be standard	Yes <u>x</u>	No <u> </u>
58	A cup holder will be provided	Yes <u>x</u>	No <u> </u>
59	A storage compartment in the operator's station shall be provided for the operator's manual	Yes <u>x</u>	No <u> </u>
60	A 12 -volt auxiliary power port shall be standard	Yes <u>x</u>	No <u> </u>
61	The seat will be adjustable forward and back.	Yes <u>x</u>	No <u> </u>
62	A horn will be standard	Yes <u>x</u>	No <u> </u>
63	A motion alarm with cancel switch will be standard.	Yes <u>x</u>	No <u> </u>
	GENERAL SPECIFICATIONS	Yes <u>x</u>	No <u> </u>
64	The operating weight with long, cab, and extra counterweight shall be approximately 8,715 lbs (3953 kg)	Yes <u>x</u>	No <u> </u>
65	The digging depth with long arm shall be no less than 11 ft 4 in (3.46 m)	Yes <u>x</u>	No <u> </u>
66	Digging reach with long arm shall be no less than 18 ft 1 in (5.21 m)	Yes <u>x</u>	No <u> </u>
67	The maximum dumping height shall be no less than 11 ft 1 in (3.39 m)	Yes <u>x</u>	No <u> </u>
68	The maximum transport length shall be 15 ft 7 in (4.75 m) and the transport width shall be no more than 5 ft 9 in (1.74 m)	Yes <u>x</u>	No <u> </u>
69	The bucket breakout force shall be no less than 6085 lbs (27.1 kN)	Yes <u>x</u>	No <u> </u>
70	The arm breakout force with standard arm shall be no less than 3,792 lb (16.9 kN)	Yes <u>x</u>	No <u> </u>
71	The ground clearance under the excavator shall be at least 11 in (280 mm)	Yes <u>x</u>	No <u> </u>
72	The undercarriage X-beams and track frames shall be sloped to shed material buildup for easier clean-out.	Yes <u>x</u>	No <u> </u>
73	All service checks shall be easily accessible without using tools to open covers.	Yes <u>x</u>	No <u> </u>
74	The floor can be tilted for easy, quick servicing without disconnecting hoses or draining fluid.	Yes <u>x</u>	No <u> </u>

2) Bid Specifications for 16' Tilt Bed with 4' Stationary Deck Utility Trailer

Bid Specifications for 16' Tilt Bed with 4' Stationary Deck Utility Trailer			
Item	Description	Compliance	
	CAPACITY		
1	12,000 lb. payload at 65 mph with adequate hitch load.	Yes <u>x</u>	No <u> </u>
	TILTING PLATFORM		
2	LENGTH – 16'-0". Plus 4' stationary deck.	Yes <u>x</u>	No <u> </u>
3	WIDTH – 82" (between enclosed fenders).	Yes <u>x</u>	No <u> </u>
4	HEIGHT – 23" loaded.	Yes <u>x</u>	No <u> </u>
5	CONSTRUCTION – Crossmembers 3" x 3.75#; I-beams of 80,000 psi yield steel, 1.210 in ³ section modulus	Yes <u>x</u>	No <u> </u>

6	DECKING – One and one-half inch (1-1/2") net oak deck material laid lengthwise. Decking is to be attached to every other crossmember with torx screws. Screws are to be countersunk into decking at a minimum of 1/8".	Yes <u>x</u>	No <u> </u>
7	FENDERS – Bolt on Heavy duty fenders min 14 gauge.	Yes <u>x</u>	No <u> </u>
8	HEADBOARD – Four inch (4") safety headboard shall be installed across full width of load deck.	Yes <u>x</u>	No <u> </u>
9	LASHING RINGS – (12) 1" H.D. drop forged D-rings shall be located (4) on sides of Tilt deck, and 2 each on stationary deck.	Yes <u>x</u>	No <u> </u>
10	Tilt platform Cushion Cylinder 2.5" x 10" to facilitate controlled tilt motion when loading and unloading empty or loaded.	Yes <u>x</u>	No <u> </u>
11	Locking mechanism for Tilt Deck: to be positive lock with single lever and dual lock points	Yes <u>x</u>	No <u> </u>
12	Stationary deck 4' (non-tilting deck) / 16' tilting	Yes <u>x</u>	No <u> </u>
	CHASSIS		
13	STYLE – Straight through tongue. Suspension system shall be attached directly to the main frame.	Yes <u>x</u>	No <u> </u>
14	MAIN FRAME – Outside Main frame 8" channel 13 ¾ LB/ Tilt outside frame is 4 5/16" formed channel.	Yes <u>x</u>	No <u> </u>
	SUSPENSION		
15	TYPE – Torflex.	Yes <u>x</u>	No <u> </u>
16	AXLES – (2) 7,000 lb.	Yes <u>x</u>	No <u> </u>
17	TIRES – 235/8R x 16 – Radial Tires (4)	Yes <u>x</u>	No <u> </u>
18	WHEELS – 6.00 x 16 – 8 bolt disc.	Yes <u>x</u>	No <u> </u>
19	Brakes – 12-Volt all wheel electric brakes. Brake size is to be 12" x 2" on each axle. A 12-volt break away safety switch with necessary electrical wiring shall be included at front of tongue. Battery included.	Yes <u>x</u>	No <u> </u>
	ELECTRICAL SYSTEM		
20	All wiring is to be sealed system type and mounted in rubber grommets. Wiring positioned above lowest crossmember height to protect electrical system from ground obstacles. All wiring 10, 12 and 14 gauge to provide adequate voltage to lights. All electrical per DOT/ICC standards. Sealed LED lighting system.	Yes <u>x</u>	No <u> </u>
	HITCH AND TONGUE		
21	HITCH – To be 2 5/16" ball hitch/Or 3" Pintle and must be adjustable.	Yes <u>x</u>	No <u> </u>
22	SAFETY CHAINS – Two (2) 5/16" gr. 70 hi-strength plated chains 40" long. Chains are to have ample strength to hold entire GVW. Chains may not be welded to tongue; pin through chain connection to trailer is to be equal to or greater than chain strength, Hooks of equal strength to match DOT requirements.	Yes <u>x</u>	No <u> </u>
23	TONGUE STAND – Tongue jack is to be 12,000 lb. capacity capable of supporting fully loaded trailer.	Yes <u>x</u>	No <u> </u>
	OVERALL DIMENSIONS		
24	LENGTH – 26' approximately	Yes <u>x</u>	No <u> </u>
25	WEIGHT – 4,100 lbs. +/-3%.	Yes <u>x</u>	No <u> </u>
26	WIDTH – 102" outside/outside tire approximately.	Yes <u>x</u>	No <u> </u>
	PAINT		

27	Trailer is to have all mill scale and weld slag removed, then washed with a metal etching solution and completely blow dried. The trailer will be primed with a polyurethane primer and finish coated with polyurethane paint electrostatically applied. Painted MFG Standard Color White.	Yes <u>x</u>	No <u> </u>
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3) Price Proposal

	Price	Sales Tax	Total
Compact Excavator	\$ 53,750.00	\$ 4,837.50	\$ 58,587.50
Utility Tilt Bed Trailer	\$ 11,642.35	\$ 1,179.81	\$ 12,822.16
Total	\$ 65,392.35	\$ 6,017.31	\$ 71,409.66

Proposal from - Pape Machinery, 415 E. 9th Street, Gilroy, CA 95020

Contact - Tony Hunhoff, Territory Manager, 408-595-4090

thunhoff@papemachinery.com



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: David Gittleson, Associate Engineer

APPROVED BY: City Manager

AWARD EAST MAIN AVENUE WELL PROJECT

RECOMMENDATION(S)

1. Approve the East Main Avenue Well Project plans and specifications;
2. Award contract to Conco West, Inc. for the East Main Avenue Well Project in the amount of \$1,603,500;
3. Authorize expenditure of construction contingency funds not to exceed \$160,350; 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 and 2017-18 Capital Improvement Program includes the construction of the new East Main Avenue Well. New wells are identified in the 2002 Water Master Plan so that the City can provide for additional water capacity as the community develops.

A design contract was awarded to Luhdorff and Scalmanini on June 17, 2015 to prepare bid ready plans for new wells at two potential locations; one on East Main Avenue and the other on Walnut Grove Drive. In order to fully evaluate the production capacity of these two wells sites, test wells were drilled under a separate contract. Only the East Main Avenue well proved to have the capacity to make it viable for the City's well inventory. Therefore, staff recommends moving forward with the final stage to construct the East Main Avenue well, and awarding the construction contract.

The scope of work for constructing a new small well facility includes: mobilization, clearing and grubbing, earthwork, paving, well head, well pumps, piping and valves, motor control system, electrical, fencing, well disinfection and testing, and all appurtenances to bring the new well in service.

The bid opening was held on July 13, 2017 and the bids received are listed below.

Conco West, Inc.	\$1,603,500
Specialty Construction, Inc.	\$1,674,580

The low bidder, Conco West, Inc. is an experienced contractor with this type of work. Conco West, Inc. completed the Boys Ranch #3A rehabilitation well project in 2015 and is currently building the Boys Ranch #2A well and the Jackson #3 Well. Conco West's bid amount of \$1,603,500 was 19% greater than the engineers estimate. High bid prices can be attributed to a robust construction industry with multiple agencies competing for well drilling resources. Staff recommends moving forward with this project to meet the future water needs of the community. Therefore, staff recommends award of the contract to Conco West Inc. for \$1,603,500. Staff anticipates construction to commence in late August 2017 and be completed in March 2018.

COMMUNITY ENGAGEMENT: Inform

The East Main Avenue Well site is located adjacent to residences and staff will provide door notifications prior to construction activities. Staff will also provide updated construction information weekly through Nextdoor and on the City's website.

ALTERNATIVE ACTIONS:

The award of this contract will facilitate the operational status of the new East Main Well as identified in the approved Capital Improvement Program. No alternative actions are presented at this time.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- 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, including Main Avenue Well, Boys Ranch #2 Well, Jackson Well, and Walnut Grove Well.
- On June 17, 2015, City Council awarded a design services agreement with Luhdorff and Scalmanini for \$229,840 to design the East Main Avenue Well and the Walnut Grove Well.
- 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 \$1,763,850, which includes a 10% contingency of \$160,350. CIP project 601000 for New Well property/construction appropriated a total of \$1,963,000 in Water Impact funds (Fund 651) for this project. Thus, there is sufficient funding to construct the project. The Water Impact Fund is being funded through Water Bond Proceeds.

CEQA (California Environmental Quality Act):

Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15303(d) of the CEQA Guidelines (New construction or conversion of small structures), as the subject work involves the construction of a small municipal water facility and related equipment to connect to the City's water distribution system.

LINKS/ATTACHMENTS:

1. Project Location Map
2. Project Plans & Specifications (web link)



Attachment: Project Location Map (1331 : Award East Main Avenue Well Project)



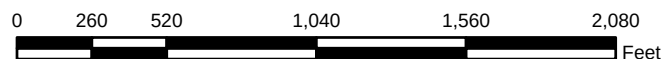
CITY OF MORGAN HILL

Engineering Division

Public Works Department

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Project Location Map EAST MAIN AVENUE WELL PROJECT





CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Harjot Sangha, Accounting Manager
APPROVED BY: City Manager

EIGHTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS

RECOMMENDATION(S)

Receive Report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

At its regular meeting on April 17, 2013, the City Council adopted procedures for Finance staff to follow in administering tax-exempt bonds in accordance with the Internal Revenue Service. This report, Post-Issuance Compliance Report, is called for by Section 2C of those procedures. Post-Issuance compliance procedures include monitoring of tax-exempt bonds to ensure:

- Proceeds are used for qualified purposes
- Proceeds are spent in a timely manner, as allowed by the IRS
- Proceeds are invested within the allowable yield restrictions
- There is appropriate record keeping of the expenditures and;
- All required disclosures and qualified significant events are reported on the Electronic Municipal Market Access (EMMA) website, ultimately available to the investors.

During the past six months, City staff has executed the post-issuance compliance procedures, notably as such:

- Continued to emphasize, throughout the City organization, the importance of having a plan based on reasonable expectations at the time of issuance (and then actually following through post-issuance) to spend tax-advantaged bond proceeds in the time frame as required by the internal revenue code.
- Received the completed final arbitrage rebate calculations for the refunded Lease Revenue Bonds (Public Library, series 2006, and Police Facility, series 2004). As expected by Finance staff, the report confirmed the City owes no arbitrage rebate payment to the Internal Revenue Service on either one of these bond issues as both issues had a negative arbitrage.
- Ensured Total Pledged Tax Revenues for the annual debt service of the Refunding Revenue Bonds for the Former Redevelopment Agency, Series

2013A and 2013B were remitted by the County Auditor-Controller, to the trustee, on January 3, 2017.

- Successfully engaged consultant to conduct the annually required rebate analysis on the two refinanced Assessment Districts (Morgan Hill Ranch and Madrone Business Park A – Taxable), series 2015. The results of the rebate analysis will be shared in the next semi-annual report.

The City Manager and the Engineering & Utilities staff continue to ensure the City has a plan with a reasonable expectation to spend the 85% of the tax-advantaged bond proceeds within 3 years of issuance, and 100% within 5 years. These spending plans are illustrated in the approved Capital Improvement Program Budget.

COMMUNITY ENGAGEMENT: Inform

This is an informational report, which confirms the City staff has executed the post-issuance compliance procedures in the past six months. Staff expects the next semi-annual report to be issued in December 2017.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On April 17, 2013, the City Council adopted procedures for Finance staff to follow in administering tax-exempt bonds in accordance with the internal revenue code.

The City Council previously received such reports, in order, at the following meetings:

1st report: October 16, 2013
 2nd report: April 16, 2014
 3rd report: October 1, 2014
 4th report: July 08, 2015
 5th report: December 16, 2015
 6th report: June 15, 2016
 7th report: December 14, 2016

FISCAL AND RESOURCE IMPACT:

None for this report; carrying out post-issuance compliance procedures is part of the Finance work program each fiscal year.

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:



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Charlie Ha, Supervising Civil Engineer
APPROVED BY: City Manager

ORDERING THE MAKING OF AMENDED REASSESSMENTS FOR REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK) AMENDING REASSESSMENT NO.7

RECOMMENDATION(S)

Adopt the following:

1. Resolution Ordering the Making of the Amended Reassessments Pursuant to Part 10 of The Streets and Highway Code and Directing Actions with Respect Thereto Reassessment District No. 2015-2; and
2. Resolution Ordering Preliminarily Approving Amended Reassessment, Ordering the Public Hearing, and Directing Actions with Respect Thereto Reassessment District No. 2015-2.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

In November 2015, within Reassessment District No. 2015-2 (District), a 5.14-acre parcel of land (formerly APN 726-35-007) located at the southeast corner of Butterfield Boulevard and Madrone Parkway (see attached site map) was subdivided into two (2) parcels (APN 726-35-029 and APN 726-35-030).

Through the County of Santa Clara, City of Morgan Hill collects reassessment fees to pay for bonds issued by the City of Morgan Hill for construction and/or acquisition of certain public improvements in the Reassessment District known and designated as "Reassessment District No. 2015-2 (Madrone Business Park)." Said bonds were issued pursuant to the terms and provisions of the Improvement Bond Act of 1915, commencing with Division 10 of the Streets and Highways Code of the State of California.

Whenever a property subdivides in a 1915 Act Assessment District, the reassessment lien needs to be subdivided to each of the newly created parcels and this process is called an "Apportionment."

The apportionment process consists of filing an Amended Reassessment Diagram, a Notice of Amended Reassessment, and reconfiguring the original reassessment fees to the newly created parcels based upon benefit received. The City has retained NBS, an

assessment engineering firm, to assist staff with the apportionment process as well as other administrative tasks related to Madrone Business Park. NBS charges fees to perform the apportionment process and the City needs to collect these fees from the property owners.

NBS records show parcels listed in the attached Reassessment Apportionment Report that have **not** undergone the apportionment process in accordance with the 1915 Act. The subdivider, TBI Construction, was contacted and notified of the need to complete the apportionment process for the subject parcels.

The apportionment process requires the City to conduct a public hearing to authorize NBS to perform the apportionment and to place additional levy on these properties to pay for NBS fees for doing the apportionment and other administrative costs related to the public hearing. The additional levy will appear on the FY 2017-18 tax roll for these specific parcels.

COMMUNITY ENGAGEMENT: Involve

A public hearing on the Amended Reassessment shall be set for the August 23, 2017 City Council meeting. To inform the public of the public hearing, the City Clerk will place two (2) public notices in the Morgan Hill Times on August 4th and August 11th regarding the Amended Reassessment hearing.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On October 21, 2015, the City Council adopted a resolution approving the refunding of the District's outstanding bonds.

FISCAL AND RESOURCE IMPACT:

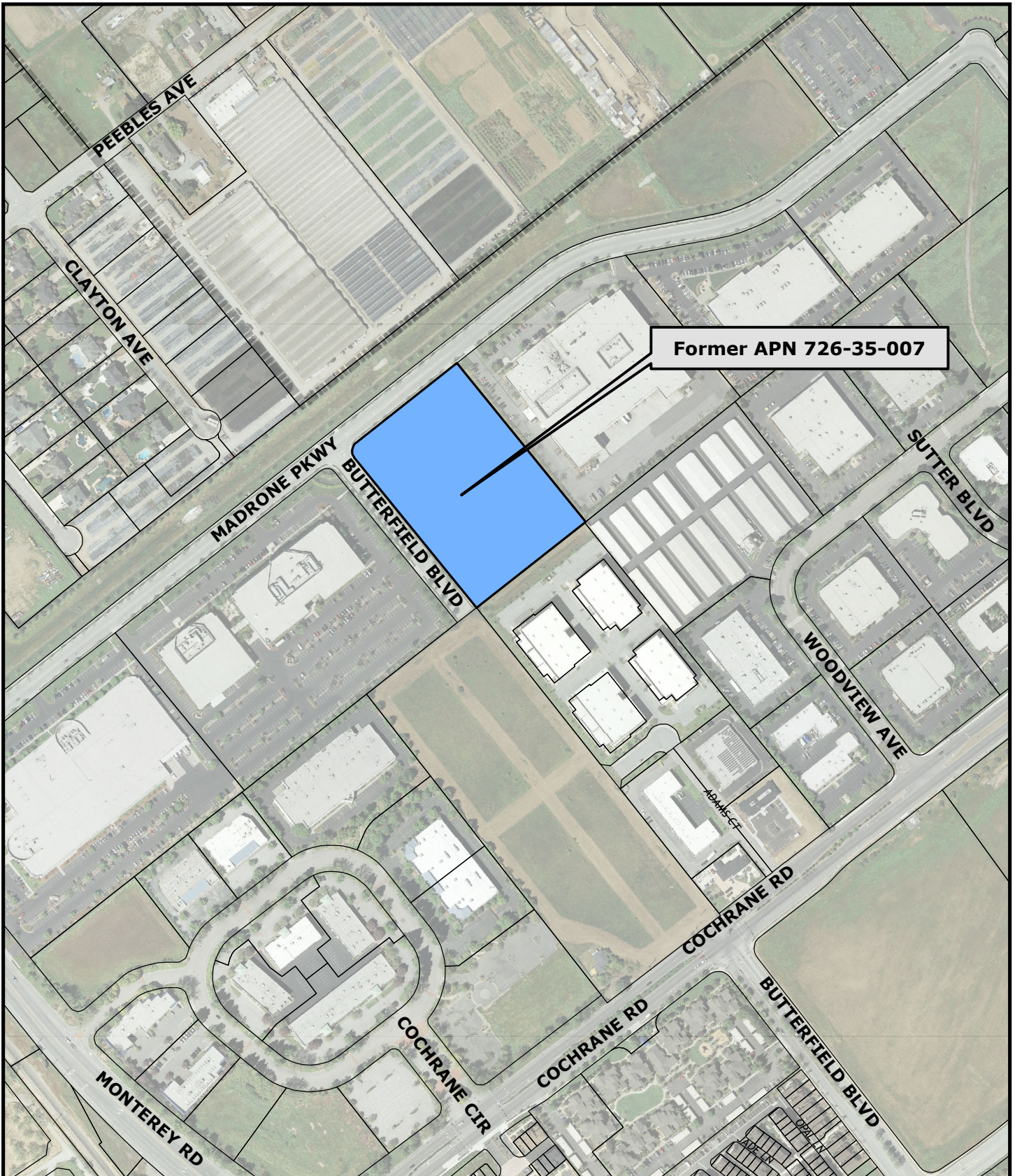
Assessment apportionment fees to pay for staff and NBS time shall be included in the apportionment of the parcels noted in the attached report.

CEQA (California Environmental Quality Act):

Categorical Exemption under Section 15314 of Guidelines for CEQA and Section 21083 of the Public Resources Code as a minor land division.

LINKS/ATTACHMENTS:

1. SITE MAP
2. Reassessment Apportionment Report
3. 01 Resolution - Ordering the Making of Amended Reassessment
4. 02 Resolution - Preliminarily Approving Amended Reassessment



CITY OF MORGAN HILL

**Department of Public Works
Engineering and Utilities Division**

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SITE MAP - PORTION OF MADRONE BUSINESS PARK



0 125 250 500 750 1,000
Feet

Attachment: SITE MAP (1336 : Ordering the Making of Amended Reassessments for Reassessment District No. 2015-2)



DRAFT

CITY OF MORGAN HILL

Reassessment Apportionment Report Reassessment District No. 2015-2 (Madrone Business Park)

Amending Reassessment No. 7

July 2017

OFFICE LOCATIONS:

Temecula – Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592

San Francisco – Regional Office
870 Market Street, Suite 1223
San Francisco, CA 94102

California Satellite Offices
Atascadero, Davis
Huntington Beach,
Joshua Tree, Riverside
Sacramento, San Jose

Prepared by:



TABLE OF CONTENTS

1. Apportionment of Reassessment	1
2. Prior Parcel Map.....	2
3. Current Parcel Map.....	3
4. Notice to Bondholder	4
5. Amended Reassessment Diagram	5
6. Notice of Amended Reassessment	6

1. APPORTIONMENT OF REASSESSMENT

DRAFT



City of Morgan Hill
Reassessment District No. 2015-2 (Madrone Business Park)
Amending Reassessment No. 7

SERIES A

Prior APN	Reassessment Number	Acreage	Original Assessment	New APN	Assessment Number	Acreage	Original Assessment	Hearing Method Apportionment Fees
726-35-007	7	5.18	\$267,478.57	726-35-029	7A	2.44	\$125,993.77	\$1,062.25
				726-35-030	7B	2.74	\$141,484.80	\$1,062.25
TOTAL		5.18	\$267,478.57	TOTAL		5.18	\$267,478.57	\$2,124.50

SERIES B

Prior APN	Reassessment Number	Acreage	Original Assessment	New APN	Assessment Number	Acreage	Original Assessment	Hearing Method Apportionment Fees
726-35-007	7	5.18	\$32,118.80	726-35-029	7A	2.44	\$15,129.32	\$1,062.25
				726-35-030	7B	2.74	\$16,989.48	\$1,062.25
TOTAL		5.18	\$32,118.80			5.18	\$32,118.80	\$2,124.50

Owner of Record: Cochrane Road Self-Storage

2. PRIOR PARCEL MAP

DRAFT



PCL. B
0.13 AC.

25
PCL. A
10.44 AC.

23
LOT 2
9.99 AC.

7
PCL. E
5.18 AC.

17
LOT 3
7.24 AC.

18
LOT 4
3.99 AC.

19
LOT 5
2.77 AC.

20
LOT 6
2.43 AC.

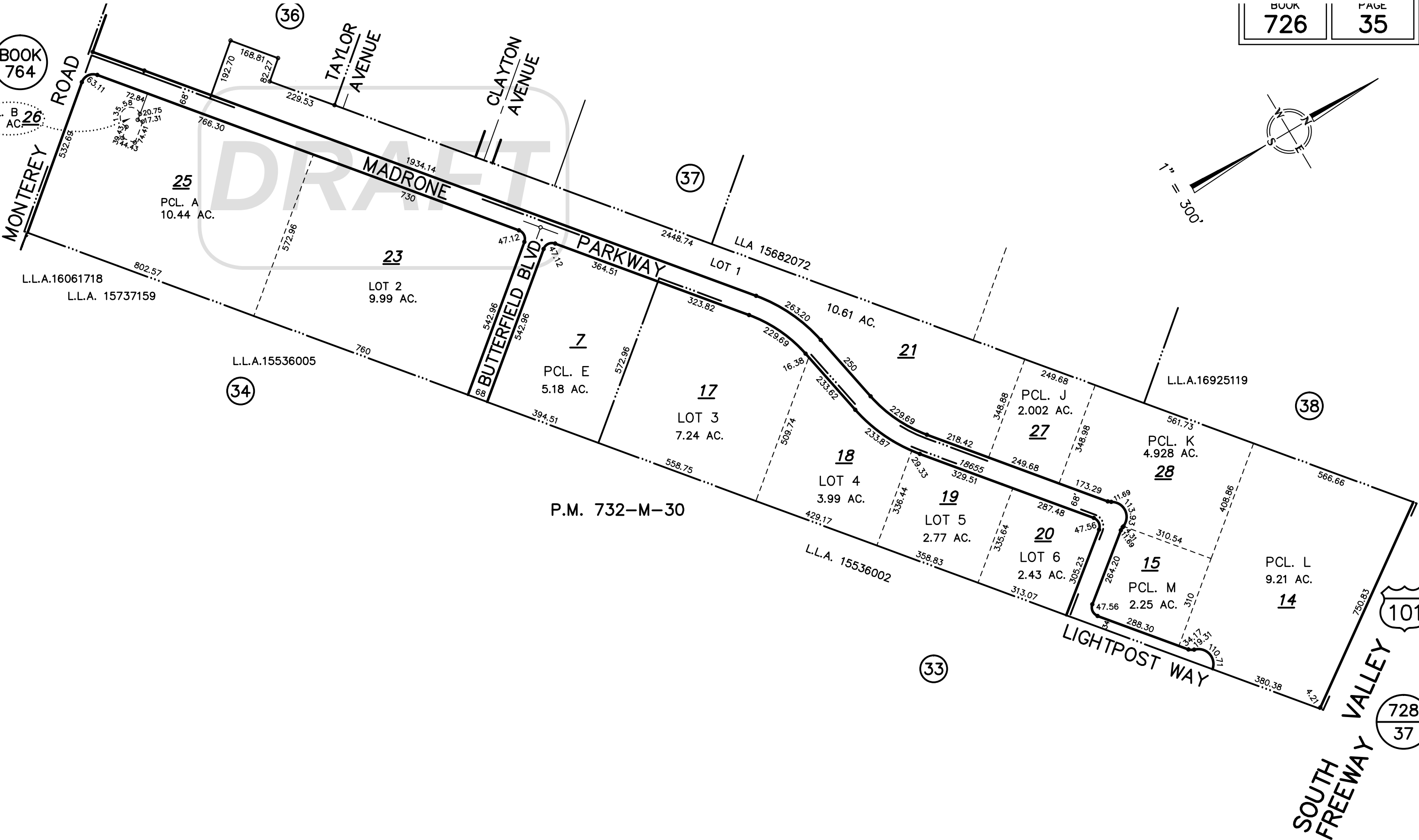
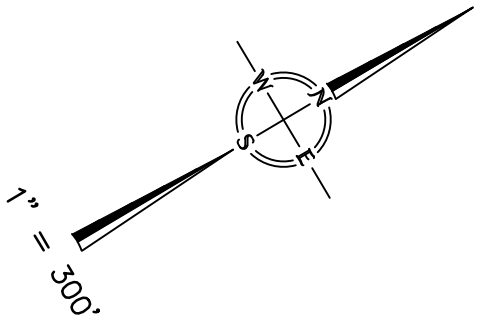
15
PCL. M
2.25 AC.

27
PCL. J
2.002 AC.

28
PCL. K
4.928 AC.

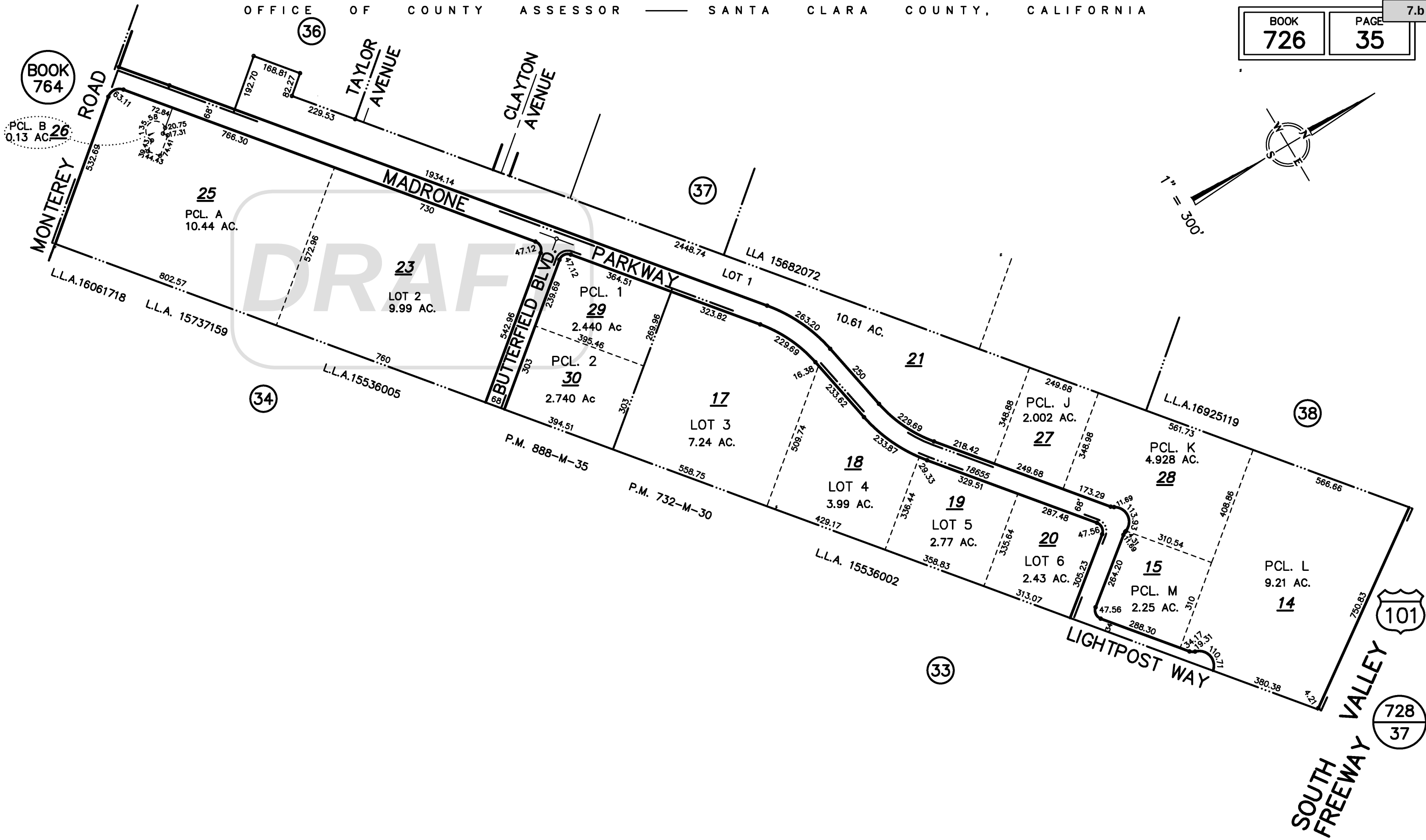
14
PCL. L
9.21 AC.

Attachment: Reassessment Apportionment Report (1336 : Ordering the Making of Amended Reassessments for Reassessments for Reassessment District No. 2015-2)



3. CURRENT PARCEL MAP

DRAFT



TRA DET. MAP 251, 252

LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 727
Effective Roll Year

Packet Pg. 57

Attachment: Reassessment Apportionment Report (1336 : Ordering the Making of Amended Reassessments for Reassessment District No.

4. NOTICE TO BONDHOLDER

DRAFT





32605 Temecula Parkway, Suite 100
Temecula, CA 92592

Toll free: 800.676.7516 (P) 951.296.1997
(F) 951.296.1998

nbsgov.com

Umpqua Bank
2998 Douglas Blvd, Ste 100
Roseville, CA 95661

VIA CERTIFIED MAIL

**NOTICE TO BONDHOLDER
DIVISION OF LAND AND ASSESSMENT
June 14, 2017**

NOTICE IS HEREBY GIVEN to you as the original purchaser of the bonds issued by the City of Morgan Hill to represent the unpaid assessments relating to the construction and/or acquisition of certain public improvements in the Reassessment District known and designated as "Reassessment District No. 2015-2 (Madrone Business Park)". Said bonds were issued pursuant to the terms and provisions of the Improvement Bond Act of 1915, commencing with Division 10 of the Streets and Highways Code of the State of California.

NOTICE IS HEREBY GIVEN that an apportionment has been made, as requested by a property owner within the district, relating to the assessments and parcels as indicated by the attached exhibit.

NOTICE IS HEREBY GIVEN that unless a request for a public hearing is received within fourteen (14) days from the date of this Notice, the above-apportioned assessments shall be recorded in the manner and form as required by law. If you have any questions, please contact the undersigned at (800) 676-7516, or the following person at the City of Morgan Hill:

City of Morgan Hill
Attn: Dat Nguyen
17575 Peak Avenue
Morgan Hill, CA 95037

This procedure is required pursuant to the provisions of Part 10.5 of Division 10 of the Streets and Highways Code of the State of California and is being performed on behalf of the County of Santa Clara.

Respectfully,

Kristin Harvey
Senior Consultant

EXHIBIT "A"

**CITY OF MORGAN HILL
REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK)
AMENDING REASSESSMENT NO. 7**

Old APN	Reassessment Number	New APN	Reassessment Number
726-35-007	7	726-35-029	7A
		726-35-030	7B

Owner of Record: COCHRANE ROAD SELF-STORAGE

DRAFT

5. AMENDED REASSESSMENT DIAGRAM

DRAFT

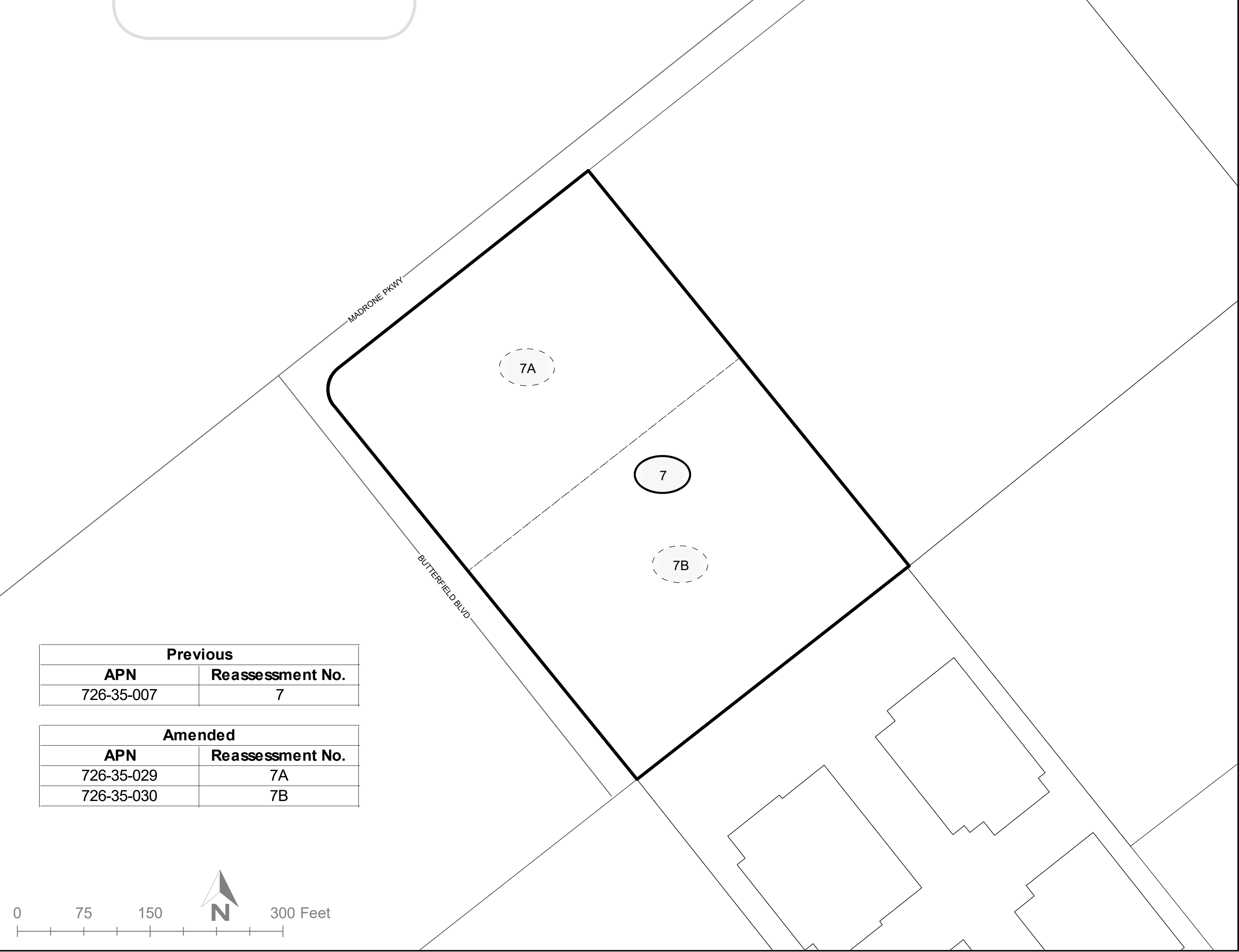


AMENDED REASSESSMENT DIAGRAM
CITY OF MORGAN HILL
REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK)

CITY OF MORGAN HILL
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

AMENDING REASSESSMENT NO. 7

DRAFT



Previous	
APN	Reassessment No.
726-35-007	7

Amended	
APN	Reassessment No.
726-35-029	7A
726-35-030	7B

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORGAN HILL THIS _____ DAY OF _____, 200__.

CITY CLERK
CITY OF MORGAN HILL,
SANTA CLARA COUNTY, CALIFORNIA

FILED IN THE OFFICE OF THE SUPERINTENDENT OF STREETS THIS _____ DAY OF _____, 200__.

DIRECTOR OF PUBLIC WORKS AND EX-OFFICIO
SUPERINTENDENT OF STREETS
CITY OF MORGAN HILL,
SANTA CLARA COUNTY, CALIFORNIA

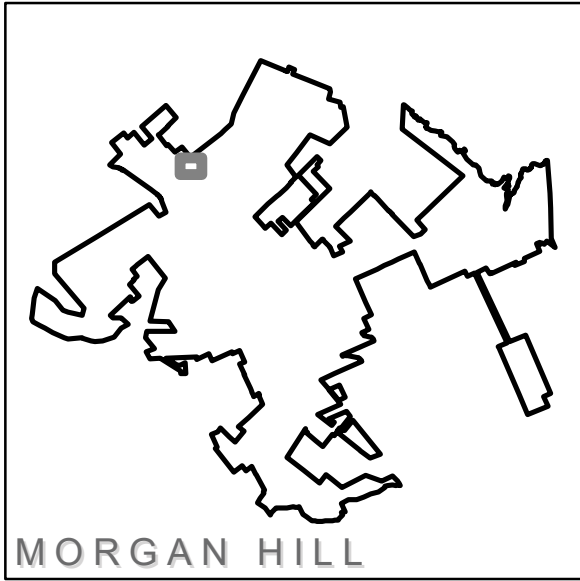
THIS AMENDED REASSESSMENT DIAGRAM AMENDS THE REASSESSMENT DIAGRAM OF CITY OF MORGAN HILL, REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK), CITY OF MORGAN HILL, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WHICH WAS PRIOR RECORDED THE 20TH DAY OF NOVEMBER, 2015, IN BOOK 51 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGES 36 THROUGH 37 IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

CITY CLERK
CITY OF MORGAN HILL,
COUNTY OF SANTA CLARA, CALIFORNIA

FILED THIS _____ DAY OF _____, 200__, AT THE HOUR OF ____ O'CLOCK ____ M., IN BOOK _____, OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

DEPUTY
COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

FOR PARTICULARS OF THE LINES AND DIMENSIONS OF ASSESSOR PARCELS, REFERENCE IS MADE TO THE MAPS OF THE ASSESSOR OR THE COUNTY OF SANTA CLARA.



Previous Parcel Line

Previous Reassessment No.

Amended Parcel Line

Amended Reassessment No.

Data Source
Santa Clara County GIS
Projection
NAD 1983 StatePlane California III FIPS 0403 Feet
Geographic Coordinate System
GCS North American 1983



6. NOTICE OF AMENDED REASSESSMENT

DRAFT



**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

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

DRAFT

NOTICE OF AMENDED REASSESSMENT

**CITY OF MORGAN HILL
REASSESSMENT DISTRICT NO. 2015-2
(MADRONE BUSINESS PARK)
AMENDING REASSESSMENT NO. 7**

Pursuant to the requirements of Section 3114 of the Streets and Highways Code of California, the undersigned CITY CLERK of the CITY OF MORGAN HILL, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, HEREBY GIVES NOTICE that an Amended Reassessment Diagram and Reassessment Roll were recorded in the office of the Superintendent of Streets of the City, as provided for in said Section, and relating to the real property more particularly described on the Amended Assessment Diagram filed in accordance with said Section on the _____ day of _____, 20__ in Book _____, Page(s) _____, Document No. _____ of Book of Maps of Assessment and Community Facilities Districts in the office of the County Recorder of the County of Santa Clara.

Said Amended Reassessment Diagram amends the Reassessment Diagram for Reassessment District No. 2015-2 (Madrone Business Park), City of Morgan Hill, County of Santa Clara, State of California filed for record in the office of said County Recorder of the County of Santa Clara on the 20th day of November, 2015, in Book 51 of Maps of Assessment and Community Facilities Districts, at Pages 36 through 37 thereof.

NOTICE IS FURTHER GIVEN that upon the recording of this Notice in the office of said County Recorder, the several Reassessments assessed on the lots, pieces and parcels as shown on said filed Amended Reassessment Diagram shall become a lien upon the lots or portions of lots assessed, respectively.

Reference is made to the Amended Reassessment Diagram and Reassessment Roll recorded in the office of said Superintendent of Streets of the City for the amount of each of the amended Assessments.

Exhibit "A" hereto attached, and by this reference incorporated herein, shows the parcels subject to the amended Reassessments.

Irma Torrez, City Clerk
City of Morgan Hill, County of Santa Clara

Date

Attachment: Reassessment Apportionment Report (1336 : Ordering the Making of Amended Reassessments for Reassessment District No.

EXHIBIT "A"

**CITY OF MORGAN HILL
REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK)
AMENDING REASSESSMENT NO. 7**

Old APN	Reassessment Number	New APN	Reassessment Number
726-35-007	7	726-35-029	7A
		726-35-030	7B

Owner of Record: COCHRANE ROAD SELF-STORAGE

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, ORDERING THE MAKING OF AMENDED REASSESSMENT PURSUANT TO PART 10 OF DIVISION 10 OF THE STREETS AND HIGHWAYS CODE AND DIRECTING ACTIONS WITH RESPECT THERETO REASSESSMENT DISTRICT NO. 2015-2

WHEREAS, the City Council (the “Council”) of the City of Morgan Hill, a municipal corporation and general law city organized and existing under and pursuant to the Constitution and laws of the State of California (the “City”); and

WHEREAS, pursuant to the Improvement Bond Act of 1915 and Resolution No. 15-251 entitled “**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING ISSUANCE OF NOT TO EXCEED \$5,033,000 PRINCIPAL AMOUNT SERIES 2015A AND \$612,000 PRINCIPAL AMOUNT OF SERIES 2015B OF THE CITY OF MORGAN HILL REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK) REASSESSMENT REFUNDING BONDS (THE "2015 REFUNDING BONDS")**”; **APPROVING THE FORM AND SUBSTANCE OF, THE MAKING OF MODIFICATIONS TO AND THE EXECUTION AND DELIVERY OF A FISCAL AGENT AGREEMENT, TWO REFUNDING ESCROW AGREEMENTS AND TWO BOND PURCHASE COMMITMENTS AND AWARING SALE OF THE 2015 REFUNDING BONDS ON THE TERMS AND CONDITIONS SET FORTH IN THE BOND PURCHASE COMMITMENTS; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED 2015 MADRONE BUSINESS PARK REFUNDING PROGRAM**” adopted by the City Council on October 21, 2015, special reassessments were confirmed to pay the costs of the acquisitions and improvements as more particularly described in said Resolution. Said Reassessments are set forth on a Reassessment Diagram and Reassessment Roll, heretofore confirmed by this Council and filed and recorded with the City Clerk of the City of Morgan Hill and the County of Santa Clara; and

WHEREAS, a certain parcel of land designated as Reassessment Number 7 upon which there are unpaid Reassessments where bonds have been issued under the Improvement Bond Act of 1915, commencing with Section 8500 of the Street and Highways Code of California, has been divided so that it no longer conforms to the original parcel boundaries as shown on said Reassessment Diagram;

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

The Superintendent of Streets of the City of Morgan Hill shall cause to be filed with the City Clerk the Reassessment Apportionment Report, an Amended Reassessment Diagram and Amended Reassessment Roll of Reassessment Number 7, which was previously recorded on the 20th day of November, 2015 in Book 51 of Maps of Assessment and Community Facilities Districts, at Pages 36 through 37 thereof, Document No. 23152597 segregating and apportioning

the unpaid installments of the original Reassessment in accordance with the benefits to the several parts of the original parcel.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 26th day of July, 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 July 26, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

RESOLUTION NO. ____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, PRELIMINARILY APPROVING AMENDED REASSESSMENT, ORDERING THE PUBLIC HEARING, AND DIRECTING ACTIONS WITH RESPECT THERETO REASSESSMENT DISTRICT NO. 2015-2**

WHEREAS, the City Council (the “Council”) of the City of Morgan Hill, a municipal corporation and general law city organized and existing under and pursuant to the Constitution and laws of the State of California (the “City”); and

WHEREAS, this Council heretofore adopted Resolution No. _____, entitled “Resolution Ordering the Making of Amended Reassessment Pursuant to Part 10 of Division 10 of the Streets and Highways Code and Directing Actions With Respect Thereto”, in which the Council ordered the Superintendent of Streets to prepare and file with the City Clerk a Reassessment Apportionment Report (the “Report”), an Amended Reassessment Diagram and Amended Reassessment Roll of Reassessment Number 7, which was previously recorded on the 20th day of November, 2015 in Book 51 of Maps of Assessment and Community Facilities Districts, at Pages 36 through 37 thereof, Document No. 23152597, segregating and apportioning the unpaid installments of the original Reassessment in accordance with the benefits to the several parts of the original parcel.

WHEREAS, said Report, has been made and filed and duly considered by this Council;

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

1. Said Report as a whole and each part thereof, to wit:
 - (a) the Amended Reassessment Diagram showing the Amended Reassessment and dimensions of the respective amended subdivisions of land with respect to said Amended Reassessment;
 - (b) the apportionment of the total amount of the costs and expenses of the proposed Amended Reassessment upon the two amended subdivisions of land in proportion to the estimated benefits to be received by said amended subdivisions, respectively, and of the expenses incidental thereto; are sufficient and are preliminarily approved.
2. Said Report shall stand as the Report for the purpose of all subsequent proceedings herein.
3. August 23, 2017, at the hour of 7 o’clock (p.m.), in the regular meeting place of this Council, is hereby appointed and fixed as the time and place when and where this Council will hear any objections or protests to said Amended Reassessment

for the Reassessment Number 7, which was previously recorded on the 20th day of November, 2015 in Book 51 of Maps of Assessment and Community Facilities Districts, at Pages 36 through 37 thereof, Document No. 23152597, and will consider and finally determine whether the public interest, convenience and necessity require said Amended Reassessment, and when and where it will consider and finally act upon said Report.

4. The City Clerk of the City of Morgan Hill shall cause notice of said hearing to be given by publication once a week for two (2) weeks in a local newspaper published and circulated in the City of Morgan Hill. The first publication of said notice shall be completed at least fifteen (15) days before the date herein set for said hearing. Said notice shall be headed "Notice of Hearing on Amended Reassessment" and shall state: the filing of said Report; the date, time and place set for and purpose of the hearing on said Report and of protests; a brief description of the proposed Amended Reassessment; that any person interested in the original Reassessment or in the lands affected thereby or in the bonds secured thereby may appear and protest as provided in Part 10 of Division 10 of the Streets and Highways Code of California; and that reference is made to said Report for further particulars.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 26th day of July, 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 July 26, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: 02 Resolution - Preliminarily Approving Amended Reassessment (1336 : Ordering the Making of Amended Reassessments for



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Angie Gonzalez, Council Services Assistant
APPROVED BY: City Manager

ADOPT ORDINANCE 2257, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE TITLE OF CHAPTER 9.16 (MEDICAL MARIJUANA) AND SECTIONS 9.16.010 (INTENT), 9.16.020 (DEFINITIONS), AND 9.16.030 (PROHIBITED ACTIVITIES) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MORGAN HILL MUNICIPAL CODE PROHIBITING MARIJUANA CULTIVATION, MARIJUANA DELIVERY SERVICES, AND MARIJUANA DISPENSARIES

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2257, 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

Enhancing Public Safety
Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

REPORT NARRATIVE:

On July 19, 2017, the City Council introduced Ordinance No. 2257 New Series, by the Following Roll Call Vote: AYES: Carr, Constantine, Robinett Jachimowicz, Tate; NOES: Spring; ABSTAIN: None; ABSENT: None.

The proposed changes to the municipal code entail removing any reference to “medical marijuana”, to clarify that the existing marijuana restrictions apply to both medical and recreational marijuana sales, cultivation and distribution. The proposed revised ordinance also reflects the change in state law to allow indoor cultivation of up to six marijuana plants for personal use.

COMMUNITY ENGAGEMENT: Involve

The future workshop will involve the community and staff will encourage participation in the conversation surrounding recreational marijuana.

ALTERNATIVE ACTIONS:

None.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On February 1, 2017, Council held a workshop on recreational marijuana to discuss Proposition 64 and related policies. The workshop was for information and discussion only. On May 25, 2011 Council approved an ordinance which prohibited medical marijuana distribution facilities within Morgan Hill. On July 20, 2011 Council approved a resolution in support of the Cities Association of Santa Clara County's request for consistent federal and state regulation of medicinal marijuana.

FISCAL AND RESOURCE IMPACT:

The recommended actions have no fiscal impact. The time to prepare this staff report and updated ordinance are part of existing staffing resources.

CEQA (California Environmental Quality Act):

Not a Project

The proposed ordinance is not a project for CEQA purposes because it maintains the status quo, and it is not reasonably foreseeable that the proposed changes to the City's marijuana ordinance will have a direct or indirect impact on the environment.

LINKS/ATTACHMENTS:

1. Ordinance 2257

ORDINANCE NO. 2257, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE TITLE OF CHAPTER 9.16 (MEDICAL MARIJUANA) AND SECTIONS 9.16.010 (INTENT), 9.16.020 (DEFINITIONS), AND 9.16.030 (PROHIBITED ACTIVITIES) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MORGAN HILL MUNICIPAL CODE PROHIBITING MARIJUANA CULTIVATION, MARIJUANA DELIVERY SERVICES, AND MARIJUANA DISPENSARIES

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

Section 1. The title of Chapter 9.16 (Medical Marijuana) and sections 9.16.010 (Intent), 9.16.020 (Definitions), and 9.16.030 (Prohibited Activities) of Title 9 (Public Peace, Morals and Welfare) of the Morgan Hill Municipal Code are hereby amended as follows:

“Chapter 9.16 MARIJUANA

9.16.010 - Intent.

The city council intends that this chapter: (1) is meant to prohibit all activities related to the cultivation, delivery, and dispensing of marijuana for which a state license is required under the Medical Marijuana Regulation and Safety Act (Bills AB 243, AB 246, and SB 643) which were signed into law on October 9, 2015, as the same may be amended from time to time; (2) expresses its intent to prohibit the cultivation of marijuana in the city except as authorized pursuant to California Health and Safety Code Section 11362.1(3); (3) exercises its local authority to enact and enforce local regulations and ordinances, including those regarding the permitting, licensing, or other entitlement of the activities prohibited by this chapter; (4) exercises its police power to enact and enforce regulations for the public benefit, safety, and welfare of the city and its community; and (5) expressly prohibits the delivery of marijuana and marijuana distribution facilities in the city.

9.16.020 - Definitions.

(a) "Marijuana" means any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the Office of the

Attorney General for the State of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

(b) "Marijuana cultivation" means growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana, except as authorized under Health and Safety Code Section § 11362.1(3).

(c) "Marijuana distribution facility" means any facility or location, whether fixed or mobile, where a primary caregiver, a person with identification cards, a qualified patient, or other person makes available, dispenses, distributes, exchanges, sells, transmits, gives, delivers, or otherwise provides marijuana to any person for any reason, including two or more primary caregivers, persons with identification cards or qualified patients, as defined in California Health and Safety Code Section 11362.5 et seq., or any facility where qualified patients, persons with identification cards and primary caregivers meet or congregate collectively and cooperatively to cultivate or distribute marijuana for medical purposes under the purported authority of California Health and Safety Code Section 11362.5 et seq., including dispensaries.

"Marijuana distribution facility" shall not include the following uses, so long as such uses comply with this Code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
- (2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
- (3) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
- (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
- (5) A hospice or a home health agency, licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.
- (6) A hospice or a home health agency, licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

9.16.030 - Prohibited activities.

Marijuana cultivation, marijuana delivery, and marijuana distribution facilities, as defined in this chapter, are declared to be unlawful and prohibited uses in all zoning districts in the city of Morgan Hill. The city shall not issue or approve any permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, for the activities of marijuana cultivation or marijuana delivery, or the establishment or operation of a marijuana distribution facility in the city, and no person shall otherwise establish or conduct such activities in the city.

9.16.040 - Violation—Penalty.

- (a) Any person found to be in violation of any provision of this chapter shall be subject to the enforcement remedies set forth in Title 1, at the discretion of the city.
- (b) Each violation of this chapter and each day of violation of this chapter shall be considered as separate and distinct violations thereof.

9.16.050 - Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the city pursuant to the procedures set forth in Chapter 1.18.

Section 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 3. Effective Date; Posting. This ordinance shall take effect on August 25, 2017. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

Section 4. Exempt from CEQA. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 19TH DAY OF JULY 2017, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 26TH DAY OF JULY 2017, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES:	COUNCIL MEMBERS:	Larry Carr, Rich Constantine, Rene Spring, Caitlin Robinett Jachimowicz, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

DATE:

STEVE TATE, Mayor

ATTEST:

DATE:

IRMA TORREZ, City Clerk

Effective Date: August 25, 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. 2257, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 26th day of July 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

Attachment: Ordinance 2257 (1343 : Adopt Ordinance 2257)



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

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

CITY COUNCIL TRANSITION TO BY-DISTRICT ELECTIONS

RECOMMENDATION(S)

1. Open/close the public hearing;
2. Discuss initial draft maps; and
3. Provide direction on next steps for draft maps and election sequencing.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

On May 5, 2017, the City of Morgan Hill received a letter from Goldstein, Borgen, Dardarian & Ho demanding that the City change its election process from at-large elections to district-based elections. On June 7, 2017, the City Council adopted a resolution of intent to transition to district-based elections. The City will host a series of public meetings to engage the community during this transition.

On July 26, 2017, prior to the District Elections public hearing during the City Council meeting, the City will hold its second Community Workshop to:

1. Host a public forum for discussion of the district election process and map-drawing criteria;
2. Present the initial draft maps;
3. Gather feedback from the community; and
4. Review and discussion by City Council and community of initial draft maps

Following this Community Workshop, the third public hearing will be held on the same evening (July 26, 2017), to formalize direction to staff and NDC for the development of the final maps and the election sequencing.

The initial draft maps are not necessarily the final maps; draft maps can be submitted until August 14, 2017. At the August 23, 2017 City Council meeting, the City Council

will review any maps submitted through August 14th and introduce an ordinance selecting the district maps and setting the election sequencing.

Staff has recommended that the City Council create four electoral voting districts in which each Council Member must live within the district they wish to represent and voters may only vote for candidates within their voting district. Any changes to the procedures for electing the Mayor would need to be approved by the voters. Staff is not recommending placing a measure on the ballot at this time. Under staff's recommendation, the Mayor would continue to be directly elected through an at-large election allowing all residents in the City to vote for Mayor.

COMMUNITY ENGAGEMENT: Involve

In addition to the engagement efforts called out in the engagement plan, teammates attended the Friday Music Series on Friday, July 7th to share information with the community about the process. The team also held a community workshop on Monday, July 10th to share information on the process and how to use the various mapping tools.

As the City Council directed, we have had a focused effort on outreaching to our Spanish speaking community. All information has and will continue to be provided in both English and Spanish. Translators and translation equipment will be available at all public meetings.

We are working with NDC to support and provide expertise. They have provided and managed the www.drawmh.org website that is the repository for all information related to the transition to district elections including an interactive tool that allows for online creation of district maps. Additionally, every version of the maps submitted have been uploaded and are available for viewing on this site. The site is directly linked to our website for ease of access.

We are utilizing all of our communication channels and providing all information in both English and Spanish: Website newsflashes, Eblasts, Nextdoor, Facebook, Twitter, and print. Additionally, we have reached out to several individuals and churches that have connections to our Spanish speaking community to have them share our communications both electronically and in print.

ALTERNATIVE ACTIONS:

The City Council could take no action to change the City Council election system and direct staff to defend against any CVRA lawsuits that may be filed; this option could be very expensive to defend and would likely expose the City to costly attorneys' fees.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 17, 2017 City Council directed the team to bring this matter back to the City Council for consideration in open session
- June 7, 2107 City Council adopted a resolution of intent to transition to by-district elections
- June 21, 2017 City Council public hearing to receive input from the community
- June 28, 2017 City Council public hearing to receive input from the community

FISCAL AND RESOURCE IMPACT:

There will be significant resource impacts to teammates throughout the organization due to the amount of time needed to ensure thorough community engagement and to meet the legal requirements of transitioning to by-district elections. Additionally, the City executed a contract with NDC in the amount of \$43,000 to provide demographic and mapping expertise.

CEQA (California Environmental Quality Act):

Not a project.

The forming of electoral districts is not a project as defined in Section 15378 of the State CEQA guidelines.

LINKS/ATTACHMENTS:

1. District Based Election Timeline
2. June 28th, 21st, and 7th City Council Staff Reports
3. Community Engagement Strategy
4. Initial draft maps



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

City of Morgan Hill 2017 Transition to City Council District Elections Tentative Public Meeting Schedule

Calendario de reuniones en español están en la mesa por la entrada

Date	Public Meeting	Description
June 21, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #1	Initial Council discussion of process and outreach. First public hearing to gather public input regarding the design of potential draft maps.
June 28, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #2	Additional discussion of process and outreach. Second public hearing to gather public input regarding the design of potential draft maps
July 10, 2017 7:00PM City Council Chamber 17555 Peak Avenue	Community Workshop	Public forum discussion of process and map-drawing criteria. Demonstration of, and Q&A regarding, map-drawing tools.
July 26, 2017 5:30 p.m. City Council Chamber 17555 Peak Avenue	Community Workshop	Public forum discussion of process and map-drawing criteria. Demonstration of, and Q&A regarding, map-drawing tools.
July 26, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #3	Presentation of Draft Maps. Public hearing to gather public input regarding the draft maps and election sequencing.
August 23, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #4	Public hearing and Council vote to introduce ordinance (including selection of a map and election sequence).
September 6, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting	Second reading of and final adoption of ordinance.

Attachment: District Based Election Timeline (1341 : District Elections - Public Hearing No. 3)



CITY COUNCIL STAFF REPORT

MEETING DATE: June 28, 2017

PREPARED BY: Michelle Wilson, Deputy City Clerk

APPROVED BY: City Manager

CITY COUNCIL TRANSITION TO BY-DISTRICT ELECTIONS

RECOMMENDATION(S)

1. Receive report from National Demographics Corporation;
2. Open/close the public hearing; and
3. Direct staff to work with consultants and the community to identify and define four Council districts in compliance with the California Voting Rights Act and Elections Code section 10010.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

On May 5, 2017, the City of Morgan Hill received a letter from Goldstein, Borgen, Dardarian & Ho demanding that the City change its election process from at-large elections to district-based elections. On June 7, 2017, The City Council adopted a resolution of intent to transition to district-based elections.

The purpose of this public hearing is to receive a report from National Demographic Corporation (NDC) and to receive input on the process from the community. The report from NDC will provide the following information:

- Brief introduction to the California Voting Rights Act
- Project Timeline
- Discussion of traditional line-drawing criteria, with discussion on what is a "community of interest"
- Demonstration of the public input tools, including the interactive review map and the online mapping tools.

Staff recommends that the City Council create four electoral voting districts in which each Council Member must live within the district they wish to represent and voters may only vote for candidates within their voting district. Any changes to the procedures for electing the Mayor would need to be approved by the voters. Staff is not recommending placing a measure on the ballot at this time. Under staff's recommendation, the Mayor

would continue to be directly elected. through an at-large election allowing all residents in the City to vote for Mayor.

COMMUNITY ENGAGEMENT: Involve

We are planning for an extensive engagement effort with a goal of both informing the community about this process and involving the community in the mapping of the new districts. As the City Council directed, we will have a focused effort on outreaching to our Spanish speaking community. All information will be provided in both English and Spanish. Translators and translation equipment will be available at all public meetings.

As previously indicated, we will be working with NDC to support and provide expertise. They will provide and manage a website that will be the repository for all information related to the transition to district elections including an interactive tool that allows for online creation of district maps. Additionally, every version of a map submitted from community members will be uploaded and available for viewing on this site. The site will be directly linked to our website for ease of access

We will utilize all our communication channels providing all information in both English and Spanish: Website newsflashes, Eblasts, Nextdoor, Facebook, Twitter, and print. Additionally, we have reached out to several individuals and churches that have connections to our Spanish speaking community to have them share our communications both electronically and in print.

A detailed community engagement plan is attached.

ALTERNATIVE ACTIONS:

The City Council could take no action to change the City Council election system and direct staff to defend against any CVRA lawsuits that may be filed; this option could be very expensive to defend and would likely expose the City to costly attorneys' fees.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 17, 2017 City Council directed the team to bring this matter back to the City Council for consideration in open session
- June 7, 2107 City Council adopted a resolution of intent to transition to by-district elections
- June 21, 2017 City Council public hearing to receive input from the community

FISCAL AND RESOURCE IMPACT:

There will be significant resource impacts to teammates throughout the organization due to the amount of time needed to ensure thorough community engagement and to meet the legal requirements of transitioning to by-district elections. Additionally, the City is processing a contract with NDC in the amount of \$43,000 to provide demographic and mapping expertise.

CEQA (California Environmental Quality Act):

Not a project.

The forming of electoral districts is not a project as defined in Section 15378 of the State CEQA guidelines.

LINKS/ATTACHMENTS:

1. District Based Election Timeline
2. NDC Districting Proposal for Morgan Hill 20170614
3. June 21st and June 7th City Council Staff Report



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Attachment: June 28th, 21st, and 7th City Council Staff Reports (1341 : District Elections - Public Hearing No. 3)



A Proposal to the City of Morgan Hill for Demographic Services

By National Demographics Corporation
Douglas Johnson, President

June 14, 2017



National Demographics Corporation

June 14, 2017

Ms. Michelle Williams
Manager/Deputy City Clerk
City of Morgan Hill
17575 Peak Ave.
Morgan Hill, CA 95037

Dear Ms. Williams,

Thank you for the opportunity to provide this proposal to the City of Morgan Hill. NDC has 38 years of experience districting and redistricting local jurisdictions, together with unmatched experience working with jurisdictions facing California Voting Rights Act (CVRA) concerns. Based in Glendale, NDC has worked on CVRA analysis and districting efforts for over 50 cities, 250 school districts, and a variety of other local California jurisdictions. We know the Morgan Hill area well, as we have twice redistricting the Santa Clara Valley Water District and we did the districting work for Morgan Hill Unified School District. We welcome the opportunity to bring the firm's expertise and skills to assist the City.

For each project, there are certain required basic elements, and there are several options that the City can include or leave out at its option. NDC carefully tailors each project to the needs and goals of the individual client partner. NDC welcomes the opportunity to work with the City to encourage public participation in the districting process, and NDC offers a number of tools developed specifically for public engagement in this effort. And we offer templates and samples for every step of the project: analysis and staff reports; outreach materials; web pages and even resolution and ordinance templates.

The attached proposal consists of a brief introduction; specific proposed project elements and options; timeline and cost information; conclusion; and signature section. An appendix provides additional information on NDC, including company history; methodology; technical approach; and references.

NDC looks forward to working with you on this effort. Please call or email if you have any questions, concerns, or requests regarding this proposal.

Sincerely,

Douglas Johnson
President



National Demographics Corporation

Table of Contents

Executive Summary of Proposal.....	3
About National Demographics Corporation:	4
Brief Company History.....	4
NDC and the California Voting Rights Act	4
NDC's Districting Process.....	5
Technical Expertise	5
Public Involvement	5
Minority Group Outreach/Partnerships.....	5
Openness.....	5
Media Outreach.....	6
Local Leadership	6
Impeccable References	6
Proposed Scope of Work	7
Timeline	8
Other Potential Project-Related Expenses:	8
Additional Analysis.....	8
Requested Payment terms:	8
Conclusion	9

Appendix

Client List.....	10
Resume of President Douglas Johnson	12
Resume of Vice President Justin Levitt	14



National Demographics Corporation

Executive Summary of Proposal

Includes all of the services listed below:\$43,000

- Project Setup and coordination:
 - Development of redistricting database including Census and California Statewide Database data;
 - Incorporation of any Geographic Information System (GIS) data that the City wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial discussion with key staff and/or Council members about demographics, communities of interest, schedule and criteria;
 - Any phone- or web-conference calls to discussion the project's progress or answer any Council, staff or media questions that may arise;
 - An NDC-designed and managed project website;
- Plan Development:
 - Creation of and user help for “public participation kits” with Microsoft Excel and interactive online supplements;
 - Creation of and user help for an online map-drawing tool that allows members of the public to draw and submit redistricting proposals online;
 - Creating of 2 to 4 initial draft maps for Council and public consideration;
 - Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions for online posting;
 - Online posting of all maps to an interactive website for detailed Council and public review;
 - Any requested additional maps and/or map revisions requested;
- Plan Presentation:
 - Up to four in-person presentations at Council meetings and/or public forums (additional in-person meetings add \$2,000 per meeting; no cost for NDC participation in meetings by phone- or web-conference);
- Work with the County Registrar of Voters to implement the final adopted plan.

National Demographics Corporation

About National Demographics Corporation:

Brief Company History

NDC has served hundreds of local governments over the past 36 years. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, and the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise. In the Central Valley, NDC has worked with clients in and around Hanford, Dinuba, Tulare, Kings County, Coalinga, Corcoran, Reedley, Lemoore, and Fresno, among others.

The company is especially well known for its work in local and state government. Since 2002, NDC has established a reputation as the state's leading demographic expert on the California Voting Rights Act (CVRA), having performed demographic assessments of potential CVRA liability for over 250 jurisdictions.

No company has been responsible for addressing the electoral demographic needs of more local governments, as NDC has districted and/or redistricted well over 150 local school districts, cities, water districts, county boards, and other local districts. Nationally recognized as a pioneer in good government districting and redistricting, NDC is especially experienced in working with local jurisdictions in California, Arizona and Nevada.

This background gives us unmatched expertise in the issues, questions, and decisions jurisdictions face in any discussion regarding the California and Federal Voting Rights Act and related election system choices.

NDC and the California Voting Rights Act

NDC has performed analysis of potential demographic liability under the California Voting Rights Act (CVRA) for over 250 jurisdictions in California. For those jurisdictions sued under CVRA (none of which were NDC clients prior to the filing of the lawsuit), NDC has assisted in evaluating their demographics, voting history, legal situation, and options for, among others, Madera Unified, Modesto, the City of Madera, Visalia, Compton, the City of Escondido, Palmdale, Santa Clarita Community College District, Glendale Community College District, ABC Unified, and Anaheim.

No other firm even comes close to NDC's experience with this still-new law, and many of the jurisdictions listed above came to NDC after discovering the demographers they initially hired either did not sufficiently understand California and Federal Voting Rights law and the related demographics to help, or the demographers so badly handled the project that their own demographers' work directly resulted in the jurisdiction being sued.

NDC's expertise in both Voting Rights demographics and in the drawing of election districts is widely recognized. NDC's personnel are responsible for numerous books and articles on the subject, and President Douglas Johnson has been a speaker on the CVRA at conferences of the California School Board Association, the California Latino School Board Member Association, the California League of Cities, and other state and national conferences.

NDC's Districting Process

The following information is provided for information and for use if a jurisdiction decides to move to by-district elections. If the client decides not to move to by-district elections, the work would end with the demographic analysis described above.

Technical Expertise

NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

The technical demands of a districting effort are high, and NDC is the undisputed leader in this area. But far more important than technical expertise are the interpersonal understanding and experience working with all parties in the process, including the public.

Public Involvement

NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. The company invented the "public participation kit" for public participation in districting efforts, which many of the firm's competitors now attempt to duplicate. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

Minority Group Outreach/Partnerships

U.S. Supreme Court decisions are constantly changing the rules regarding districting, "race-based districting," and the establishment of districts focused on the electoral power of "protected classes." It is crucial that the consultant work with the racial, ethnic, and other community groups at the beginning of the process to welcome their ideas and develop the appropriate expectations regarding minority representation prospects. No NDC local districting or redistricting plans has ever been challenged in Court or by the Department of Justice.

Openness

Any change in election systems can have momentous implications for the distribution of political power in a jurisdiction and for access by groups and individuals to the governance process. Not surprisingly, such changes often attract much public attention, sometimes generate intense controversy, and may draw charges of manipulation and abuse of power. Indeed, disputes over the form and substance of the process may often result in stalemate or legal challenge. It is crucial, therefore, that the jurisdiction establish, at the beginning, a process that is not only fair, but that is seen to be fair, to all contending groups and individuals.

National Demographics Corporation

Media Outreach

The firm's work has been widely praised in the media, and NDC has worked extensively on background, off the record, and on the record with all types of press including radio, television, newspaper, and new media.

Local Leadership

NDC views its role as an advisor and technical resource. The firm advises its clients, but every project remains the client's project. NDC offers guidance based on its experience and expertise, but ultimately the decisions are made by the jurisdiction itself. NDC welcomes the chance to assist this project under the guidance and direction of the jurisdiction's elected leadership, key staff members, and the entire community.

Impeccable References

All of NDC's former clients – without exception – can be contacted for references. The firm has no embarrassing projects. All NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy.

Mr. Rick Haydon, City Manager, City of Santa Maria, 110 E. Cook Street, Santa Maria, CA 93454-5190. Phone: (805) 925-0951 ext. 2200. Email: rhaydon@cityofsantamaria.org

Ms. Pam Abel, Superintendent, Modesto City Schools, 426 Locust Street, Modesto, CA 95351-2631. Phone: (209) 574-1616. Email: able.p@mcs4kids.com

Mr. Darrell Talbert, City Manager, City of Corona, 400 S Vicentia Avenue, Corona, CA 92882-2187. Phone: 951.279.3670. Email: Darrell.Talbert@ci.corona.ca.us

Mr. Steve Carrigan, City Manager, City of Merced, 678 West 18th Street, Merced, CA 95340. Phone: 209- 385-6834 Email: citymanager@cityofmerced.org

Mr. Devin Reif, Strategic Planning, City of Oakland, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. Phone: 510-238-3550 Email: DReiff@oaklandnet.com

Mr. David Silberman, Deputy County Counsel, San Mateo County, 400 County Center, 6th Floor, Redwood City, CA 94063. Phone: 650-363-4749 Email: dsilberman@smcgov.org

Judge Hugh Rose (retired), Chairman, City of Modesto Districting Commission. 508 King Richard Lane, Modesto, CA 95350. Phone (209) 522-0719. Email: hhrose@hotmail.com.

Ms. Lucinda Aja. City Clerk, City of Buckeye, Arizona. 100 N Apache Rd, Suite A, Buckeye, AZ 85326. Phone (623) 349-6007. Fax (623) 349-6098. Email: laja@buckeyeaz.gov.

Mr. Michael E. Smith, Partner, Lozano Smith, 7404 North Spalding Ave., Fresno, CA 93720, (559)431-5600, MSmith@lozanosmith.com.

Ms. Marguerite Leoni, Partner, Nielsen, Merksamer, Parrinello, Gross & Leoni, 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415)634-6840, mleoni@nmgovlaw.com (or ask for Mr. Chris Skinnell)

Proposed Scope of Work

Each level of work is a discrete and separate part of this proposal. As each level is complete, NDC will consult with the client on the decision whether to proceed with the next level, skip to a later stage or review, or to decide the review is complete. NDC will only proceed from one level to the next on direction from the client. The client can end the project after any level is complete, or the client can choose to skip levels as it wishes.

To provide the flexibility to meet the needs of the client if it decides to move to by-district elections, NDC offers a full menu of districting options:

Includes all of the services listed below:.....\$43,000

- Project Setup and coordination:
 - Development of redistricting database including Census and California Statewide Database data;
 - Incorporation of any Geographic Information System (GIS) data that the City wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial discussion with key staff and/or Council members about demographics, communities of interest, schedule and criteria;
 - Any phone- or web-conference calls to discussion the project's progress or answer any Council, staff or media questions that may arise;
 - An NDC-designed and managed project website;
- Plan Development:
 - Creation of and user help for “public participation kits” with Microsoft Excel and interactive online supplements;
 - Creation of and user help for an online map-drawing tool that allows members of the public to draw and submit redistricting proposals online;
 - Creating of 2 to 4 initial draft maps for Council and public consideration;
 - Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions for online posting;
 - Online posting of all maps to an interactive website for detailed Council and public review;
 - Any requested additional maps and/or map revisions requested;
- Plan Presentation:
 - Up to four in-person presentations at Council meetings and/or public forums (additional in-person meetings add \$2,000 per meeting; no cost for NDC participation in meetings by phone- or web-conference);
- Work with the County Registrar of Voters to implement the final adopted plan.

Stated prices include all travel, printing (except public participation kits and any large-plot maps), and other anticipated expenses.



National Demographics Corporation

Timeline

A detailed project timeline will be established in consultation with the client and depends heavily on the client's specific needs and goals.

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

Additional Analysis

NDC is happy to assist with any additional analysis that the client requests at our standard hourly rates:

Principal (Dr. Douglas Johnson)	\$200 per hour
Vice President (Justin Levitt).....	\$125 per hour
Senior Analyst.....	\$75 per hour
Analyst / Clerical.....	\$50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at \$250 per hour.

Requested Payment terms:

NDC requests that one-half payment be made at project start and one-half at the conclusion.

Conclusion

Since its founding NDC has been the preeminent company in the nation devoted to local election systems. To summarize:

- NDC, founded in 1979, has a demonstrated record of financial solvency.
- NDC's hardware and software resources were specially designed and acquired for districting and redistricting purposes.
- NDC's highly respected personnel have impeccable credentials in each aspect of the districting and redistricting processes.
- NDC's suggested approach has been tested in many jurisdictions.
- Any NDC client can be contacted for testimonials and reference.
- NDC has more experience in the field of municipal political election systems than any other company of which NDC is aware.
- NDC has demonstrated experience over many years in working with the press and media on local election system issues.
- NDC possesses fully up-to-date and highly effective geographic retrieval systems with applications specifically designed for districting and redistricting.
- Neither the Justice Department nor any Court has ever rejected any local government districting or redistricting plan submitted by NDC.

It should be clear that NDC has all of the resources of experience, technical expertise, and legal/political know-how to assist the City in its current effort. NDC looks forward to the opportunity to work with the City on this project.

National Demographics Corporation

Clients moved or moving from at-large to by-district elections

Counties

San Mateo

Cities

Apple Valley

Anaheim

Banning

Bellflower

Buckeye

Buena Park

Ceres

Chino

Compton

Corona

Eastvale

El Cajon

Escondido

Firebaugh

Fowler

Fullerton

Glendale (AZ)

Hemet

Hesperia

Highland

King City

Los Banos

Madera

Menifee

Merced

Mesa (AZ)

Modesto

Moreno Valley

Palmdale

Parlier

Pasadena

Peoria (AZ)

Rancho Cucamonga

Redlands

Reedley

Riverbank

San Marcos

Sanger

Santa Barbara

Surprise

Tulare

Turlock

Victorville

Visalia

Whittier

Wildomar

Yucaipa

Community College Districts

Antelope Valley

Cuesta

Glendale

Grossmont-Cuyamaca

MiraCosta

Rancho Santiago

San Diego

Santa Clarita

Sierra

Southwestern

Water, Irrigation & Conservation Districts

Fresno Irrigation

Imperial Irrigation District

Mojave Water Agency

Palmdale Water

Rowland Water

Alta Irrigation

San Bernardino Water

Santa Clara Valley Water

Upper San Gabriel Valley

Western Municipal Water

Winton Water

Other Special Districts

Jurupa Community Service District

Kings River Conservation District

Tulare Health Care District

Westside Community Health Care District

School Districts

Alpine Union

Alpine Union Elementary

Alta Vista

Bakersfield City Schools

Bonsall Union

Elementary

Borrego Springs Unified

Buena Park Elementary

Burton Elementary

Cajon Valley Union

Cajon Valley Union

Elementary

Calistoga Joint Unified

Capistrano Unified

Capistrano Unified

School District

Cardiff Elementary

Carlsbad Unified

Caruthers

Cayucas

Centinela Valley

Central Unified

Centralia Elementary

Chula Vista Elementary

National Demographics Corporation

Clients moved or moving from at-large to by-district elections

Clay Elementary
 Clovis Unified
 Coalinga-Huron
 Coronado Unified
 Dehesa Elementary
 Del Mar Union
 Elementary
 Dinuba Unified
 Eastern Sierra Unified
 Eastside Union
 Elementary
 Encinitas Union
 Elementary
 Escalon Unified
 Escondido Union
 Elementary
 Escondido Union High
 Exeter Elementary
 Exeter High
 Exeter Unified
 Fallbrook Union
 Elementary
 Fallbrook Union High
 Firebaugh-Las Deltas
 Unified
 Fresno Unified
 Fullerton Union High
 Glendale Unified
 Greenfield
 Grossmont Union High
 Hughson Unified
 Jamul-Dulzura Union
 Elementary
 Julian Union Elementary
 Julian Union High
 Kerman Unified
 Kern High
 Keyes Union
 Kings Canyon Unified
 School District

Kings River
 Kingsburg Elementary
 Kingsburg High
 La Mesa-Spring Valley
 Lake Elsinore
 Lakeside Union
 Elementary
 Lakeside Union School
 Lancaster Elementary
 Lawndale Elementary
 Lemon Grove
 Elementary
 Lindsay Unified
 Lucia Mar
 Madera Unified
 Magnolia Elementary
 Merced Union High
 School District
 Modesto City Schools
 Modoc Unified
 Monson Soltana
 Morgan Hill Unified
 Mountain Empire
 Unified
 Napa Valley Unified
 National Elementary
 Newhall Elementary
 Newman Crows Landing
 Oak Grove Elementary
 School District
 Oceanside Unified
 Pacific Union
 Panama Buena Vista
 Pasadena Unified
 Pixley Union
 Pleasant View
 Pomona Unified
 Porterville
 Poway Unified
 Ramona Unified

Rancho Santa Fe
 Elementary
 Richland School District
 Riverbank
 Riverdale Unified
 Salida Union
 San Dieguito Union High
 San Marcos Unified
 San Pasqual Union
 Elementary
 San Ysidro Elementary
 Santee Elementary
 Selma Unified
 Solana Beach Elementary
 South Bay Union
 Spencer Valley
 Elementary
 Strathmore Elementary
 Sundale Union
 Elementary
 Sweetwater Union High
 Tulare City Elementary
 Tulare City High
 Tulelake
 Turlock Unified
 Twin Rivers Unified
 Vallecitos Elementary
 Valley Center Pauma
 Unified
 Visalia Unified
 Vista Unified
 Walnut Valley Water
 Warner Unified
 Washington Union
 Waterford Union
 Whittier Union High
 Woodlake Union

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Employment

President, National Demographics Corporation, 2006 – present.
Senior Analyst, National Demographics Corporation, 2001 – 2006.
Fellow, Rose Institute of State and Local Government, 2001 – present.
Project Manager and Senior Manager at three internet startup companies, 1999 - 2001.
U.S. Representative Stephen Horn, Legislative Director and System Manager. 1993 – 1997.
Coro Foundation, Fellowship in Public Affairs. 1992 – 1993.
Rose Institute for State and Local Government, Student Manager. 1989 – 1992.

Education

Claremont Graduate University, Ph.D. in Political Science, 2015. Dissertation: “Independent Redistricting Commissions: Hopes and Lessons Learned.”
UCLA Anderson Graduate School of Management, MBA, 1999.
Claremont McKenna College, BA in Government (Political Science), 1992.

Academic Honors

Graduated Cum Laude from Claremont McKenna College.
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

Publications and Articles

Christian Science Monitor “Let the public help draw voting districts,” October 25, 2013.
New York Times, “The Case for Open Primaries,” February 19, 2009.
Los Angeles Times Opinion Articles:
 “A neighbor’s help on redistricting” June 24, 2007.
 “A Trojan horse primary for the GOP” February 25, 2007.
 “Where a porn palace stood” (article on redevelopment), July 30, 2006.
Fresno Bee Opinion Article: “The Poison Handshake” June 15, 2004.
Redistricting in America. Rose Institute of State and Local Government, 2010.
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
“Competitive Districts in California” Rose Institute of State and Local Government, 2005.
Latinos and Redistricting: “Californios For Fair Representation” and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.

Speaker or Panelist

California School Board Association Annual Education Conference panelist: “The California Voting Rights Act: What Board Members Must Know.” December 4, 2015.
Associated Cities of California – Orange County, Keynote Speaker, Newly Elected Officials’ Reception and Dinner, “The California Voting Rights Act,” January 29, 2015.
California League of Cities, City Manager Department, 2015 Department Meeting: “Opportunity to Engage Residents: The California Voting Rights Act.” January 29, 2015.
California League of Cities, City Clerk Department, 2014 Annual Meeting: “Whose Line Is It Anyway: Making the transition from at-large to by-district elections.” September 3, 2014.
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, “The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting.”
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, “Communities of Interest In Redistricting: A Practical Guide.”

Douglas Mark Johnson

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."

Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.

Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.

Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.

Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010

California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009

Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.

California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.

Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government

Texas Tech University, "A Symposium on Redistricting," May, 2006

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007

Classroom speaker at Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College

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Employment

Vice-President, National Demographics Corporation, 2012 – present.
Senior Analyst, National Demographics Corporation, 2003 – 2011.
Instructor in Political Science, University of California, San Diego, 2012 – present.
Graduate Research Fellow, Center for US-Mexico Studies, 2010 – present.
Graduate Research Fellow, University of California, San Diego, 2008 – 2010 and 2013 – 2014.
Jesse M. Unruh California Assembly Fellow. 2006 – 2007.
Rose Institute for State and Local Government, Student Manager. 2005 – 2006.

Education

University of California, San Diego, Ph.D. Political Science, 2016. Dissertation title: “The Impact of Geographic Patterns on Tradeoffs in Redistricting.”
Claremont McKenna College, BA in Philosophy, Politics and Economics (PPE), 2006.

Academic Honors

California Studies Fellow, University of California, San Diego, 2007 – 2009
Graduated Cum Laude from Claremont McKenna College.

Publications and Conference Presentations

Settle, Jamie, Robert Bond, and Justin Levitt. 2011. “The Social Origins of Adult Political Behavior.” *American Politics Research*. 39 (2). 239-263

Miller, Kenneth and Justin Levitt. 2007. “The San Joaquin Valley.” In The New Political Geography of California. Eds. Frederick Douzet, Thad Kousser, and Kenneth Miller. Berkeley: Institute of Government Studies.

“The Political Geography of Tradeoffs in Redistricting” Paper presented at the State Politics and Policy Conference, Iowa City, IA, 2013

Getting What You Want: A Bargaining Approach to Fair Division in Redistricting. Paper presented at the “Challenging Urban Borders : the geopolitics of immigration and segregation” workshop, Berkeley, CA, 2013 and the State Politics and Policy Conference, Houston, TX, 2012

“An Atlas of Public Health in Mexico” (with Alberto Diaz Cayeros). Paper presented at the Hewlett Foundation Conference on Public Health, Mexico City, DF. 2012

“Remoteness and the Territoriality of Public Health” (with Alberto Diaz Cayeros). Paper presented at the American Political Science Association conference, Seattle, WA. 2011

“Initiatives as revealed preferences” Paper presented at the American Political Science Association conference, Seattle, WA. 2011

“No Se Puede: Latino Political Incorporation in Phoenix.”. Paper Presented at the New Political Geography of California conference, Berkeley, CA., 2009

Justin Mark Levitt

“Political Change in the Central Valley”. Paper Presented at the Western Political Science Association conference, Las Vegas, NV.,2007

Working Papers

Hill, Seth, Thad Kousser, Alex Hughes, and Justin Levitt. ND. *“How Competitiveness Shapes Infrequent Primary Voters Response to Receiving a GOTV Mailer.”*

Diaz-Cayeros, Alberto and Justin Levitt. ND. *“Remoteness and the Territoriality of Public Health.”*

Levitt, Justin. ND. *“Getting What You Want: A Bargaining Approach to Fair Division in Commission-led Redistricting.”*

Teaching Experience

California State University, Long Beach, Department of Political Science

Adjunct Professor—POSC 327 (Urban Politics)	Spring 2016-Present
Adjunct Professor—POSC 229 (Cases in Policy Analysis)	Present
Adjunct Professor—POSC 412 (Law and Social Change)	Spring 2016-Present
Adjunct Professor—POSC 399 (California Politics Short Course)	Present

University of California, San Diego, Department of Political Science

Co-Instructor—UPS 170 (Regional Governance Reconsidered)	Spring 2015
Instructor—Poli 100A (The Presidency)	Fall 2014
Instructor—Poli 160AA (Introduction to Public Policy Analysis)	Fall 2013
Instructor—Poli 10 (Introduction to American Politics)	Summer 2013



CITY COUNCIL STAFF REPORT

MEETING DATE: June 21, 2017

PREPARED BY: Michelle Wilson, Deputy City Clerk

APPROVED BY: City Manager

CITY COUNCIL TRANSITION TO BY-DISTRICT ELECTIONS

RECOMMENDATION(S)

Open/close the public hearing.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

At the June 7, 2107 City Council meeting, the City Council adopted a resolution of intent to move to district-based elections after receiving a Demand for Compliance with the California Voting Rights Act (CVRA) letter alleging that the City's at-large election system violates the CVRA and demanding that the City move to by-district elections. The Resolution was adopted in accordance with Elections Code section 10100, which limits the City's liability for costs and fees for voluntarily making the change to district elections.

Staff recommends that the City Council create four electoral voting districts in which each Council Member must live within the district they wish to represent and voters may only vote for candidates within their voting district. Any changes to the procedures for electing the Mayor would need to be approved by the voters. Staff is not recommending placing measure on the ballot at this time. Under staff's recommendation, the Mayor will continue to be directly elected. through an at-large election allowing all residents with the City to vote for Mayor.

The City is processing a contract with National Demographics Corporation (NDC), whose proposal is attached, to provide the resources of; experience, technical expertise, and legal/political know-how to assist the City with a successful and inclusive transition to by-district elections. Along with NDC, the City will hold community outreach meetings to involve the community in the electoral district map drawing process.

COMMUNITY ENGAGEMENT: Involve

We are planning for an extensive engagement effort with a goal of both informing the community about this process and involving the community in the mapping of the new

districts. As the City Council directed, we will have a focused effort on outreaching to our Spanish speaking community. All information will be provided in both English and Spanish. Translators and translation equipment will be available at all public meetings.

As previously indicated, we will be working with NDC to support and provide expertise. They will provide and manage a website that will be the repository for all information related to the transition to district elections including an interactive tool that allows for online creation of district maps. Additionally, every version of a map submitted from community members will be uploaded and available for viewing on this site. The site will be directly linked to our website for ease of access

We will utilize all our communication channels providing all information in both English and Spanish: Website newsflashes, Eblasts, Nextdoor, Facebook, Twitter, and print. Additionally, we have reached out to several individuals and churches that have connections to our Spanish speaking community to have them share our communications both electronically and in print.

A detailed community engagement plan is attached.

ALTERNATIVE ACTIONS:

The City Council could take no action to change the City Council election system and direct staff to defend against any CVRA lawsuits that may be filed; this option could be very expensive to defend and would likely expose the City to costly attorneys' fees.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 17, 2017 City Council directed the team to bring this matter back to the City Council for consideration in open session
- June 7, 2107 City council adopted a resolution of intent to transition to by-district elections

FISCAL AND RESOURCE IMPACT:

There will be significant resource impacts to teammates throughout the organization due to the amount of time needed to ensure thorough community engagement and to meet the legal requirements of transitioning to by-district elections. Additionally, the City is processing a contract with NDC in the amount of \$43,000 to provide demographic and mapping expertise.

CEQA (California Environmental Quality Act):

Not a project.

The forming of electoral districts is not a project as defined in Section 15378 of the State CEQA guidelines.

LINKS/ATTACHMENTS:

1. June 7, 2017 City Council Staff Report
2. District Based Election Timeline
3. NDC Districting Proposal for Morgan Hill 20170614



CITY COUNCIL STAFF REPORT

MEETING DATE: June 7, 2017

PREPARED BY: Michelle Wilson, Deputy City Clerk

APPROVED BY: City Manager

CITY COUNCIL CONSIDERATION TO MOVE TO DISTRICT ELECTIONS

RECOMMENDATION(S)

1. Adopt resolution:
 - a. Authorizing staff to commence the transition process of moving to by-district elections;
 - b. Establishing a process for determining the district boundaries; and
 - c. Hiring a demographic consultant.
2. Provide direction on creating an advisory committee on electoral districts to assist the City in the transition process.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

Staff recommends that the City Council take steps towards district-based elections to replace the current at-large election system for City Council elections which has been in place since the City's incorporation in 1906. In a district-based election system, a candidate must live within the district they wish to represent and voters may only vote for candidates within their voting district.

Staff's recommendation is due to the receipt of a Demand for Compliance with the California Voting Rights Act (CVRA) letter received on May 5, 2017 containing unsubstantiated allegations that the City's at-large election system violates the CVRA. The letter was written by Oakland-based law firm Goldstein, Borgen, Dardarian, & Ho (GBDH) on behalf of unidentified clients. The letter alleges that there is evidence of "polarized voting" in the City of Morgan Hill electorate. The CVRA creates a strong preference for district elections for local offices. Under the CVRA, any evidence of racially polarized voting is sufficient to require a court to order a change from at-large voting to district-based voting, even without actual evidence of an electoral injury such as the inability of a protected class to elect a candidate of its choice. Racially polarized voting occurs when there is a difference between the choice of candidates preferred by voters in a protected class and the choice of candidates preferred by voters in the rest of the electorate.

Elections Code section 10010 (effective on January 1, 2017) provides a “safe harbor” from CVRA litigation for cities. If a city receives a demand letter, such as in this case, the city is given 45 days of protection from litigation to determine its options. If within that 45 days, a city adopts a resolution declaring the Council’s intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing a CVRA action for an additional 90-day period. This provides time for the city to voluntarily transition to a district-based election system without having to litigate the district election system. The legislation sets forth a number of steps a city must take in the effort to assess and transition to a district-based election system, including five (5) public hearings. Under section 10010, a city’s liability is capped at \$30,000 if it follows this process after receiving a threat. The \$30,000 in liability is not automatic. A prospective plaintiff must prove that the alleged costs were actually incurred.

Staff recommends that the City Council adopt the proposed resolution authorizing the staff to commence the process of transitioning the Council election process to by-district elections, including the establishment of a process for determining the district boundaries, and hiring a demographic consultant to assist the City in the transition process.

Additionally, staff is recommending the City Council provide direction on creating an advisory committee on electoral districts to assist in the development of district maps and to receive public input on the mapping process. The committee along with the demographic consultant would make a recommendation to the City Council, the body which would make the final decision regarding the district maps.

The team believes the public interest is best served by avoiding a costly lawsuit and spending significant amounts of tax payer dollars, which would likely result if the Council did not adopt the resolution. Such a lawsuit would be very costly, whether the City could successfully defend against it or not. Even cities that have settled (without conceding the merits) lawsuits brought under the CVRA have incurred significant expenses, not only to pay their own attorneys’ fees, but to pay the attorneys’ fees for the plaintiffs. For example, in February 2015, the City of Santa Barbara reportedly paid \$80,000 in attorneys’ fees and expert costs to settle its CVRA lawsuit. However, the costs are much higher for those cities that have litigated cases to judgment. For example, the City of Palmdale incurred expenses in excess of \$4.5 million in its unsuccessful attempt to defend against a lawsuit brought under the CVRA. Moreover, according to the League of California Cities, no city has successfully defended an “at-large” system of election under a claim filed by any individual or group under the CVRA.

COMMUNITY ENGAGEMENT: Involve

It is recommended that the City Council consider creating an advisory committee on electoral districts which would be comprised of members of the community. Residents are encouraged to attend and participate in the process by attending community meetings and providing valuable input. Residents will have the opportunity to present

their ideas to the committee and demographic consultant, including submitting maps with suggestions for district boundaries. We welcome our community members in taking part in shaping Morgan Hill's future.

ALTERNATIVE ACTIONS:

The City Council could take no action to change the City Council election system and direct staff to defend against any CVRA lawsuits that may be filed; this option could be very expensive to defend and would likely expose the City to costly attorneys' fees.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council, City Manager, and City Attorney discussed the demand letter in closed session at the May 17, 2017 City Council meeting and the City Council directed the team to bring this matter back to the City Council for consideration in open session.

FISCAL AND RESOURCE IMPACT:

There will be significant resource impacts to teammates throughout the organization due to the amount of time needed to ensure thorough community engagement and to meet the legal requirements of transitioning to district-based elections. Additionally, the City will need to hire a demographics consultant. The team is in the process of requesting quotes. Based on information from other cities, the estimated cost for the consultant will be between \$25,000 and \$60,000. A portion of this cost would be covered by approximately \$20,000 remaining in the FY 2016-17 elections budget. The team will provide recommendations as to where the remaining funds should come from at a later date. The City may also be required to reimburse the plaintiff for its attorneys' fees and costs up to \$30,000.

CEQA (California Environmental Quality Act):

Not a Project

The forming of electoral districts is not a project as defined in Section 15378 of the State CEQA guidelines.

LINKS/ATTACHMENTS:

1. Demand Letter 5-5-17
2. District Election Resolution
3. Draft District Based Election Timeline

Shareholders
Linda M. Dardarian
Laura L. Ho



Goldstein, Borgen,
Dardarian & Ho

Received
City of Morgan Hill

Of Counsel
Barry Goldstein
David Borgen
Morris J. Baller

MAY - 5 2017

May 2, 2017

City Clerk

Steve Rymer
City Manager
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Via Registered Mail

Re: Demand for Compliance with California Voting Rights Act

Dear Mr. Rymer:

We have received complaints from, and now represent, Latino citizens and voters of the City of Morgan Hill, as well as other members of your community, who believe that the use of an at-large election system for the election of candidates to the City Council results in vote dilution and prevents Latino voters from electing candidates of their choice or influencing the results of elections. Upon those complaints, we have investigated demographic and electoral information for your jurisdiction with particular attention to the prohibitions of the California Voting Rights Act of 2001 ("CVRA"). Based on that investigation, we believe that Morgan Hill's at-large election system violates the CVRA and must be changed to a district election system. This letter is sent pursuant to section 10010(e)(1) of the California Elections Code, as amended by AB 350 (enacted September 28, 2016).

The CVRA, which is a part of the California Elections Code, states in relevant part:

§ 14027. [A]n at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or abridgement of the rights and privileges of members of a protected class.

Latino residents of Morgan Hill are of course such a "protected class," and we believe that the at-large election system does result in dilution of their voting rights. Our analysis of population data from census figures shows that approximately 34% of the total population of the city is Latino. Of the citizen voting age population, those eligible to vote, approximately 26% is Latino. (Both figures are based on the 2011-2015 American Community Survey 5-Year Estimates.) Based on our review of election returns and demographic information, as well as on information provided by our clients and other local residents, it is clear that disproportionately few Latinos, and other candidates favored by Latino voters but not by non-Latino voters, have been successful in winning election to the Morgan Hill City Council. For instance, none of the five current members of the City Council (including the Mayor) is a Latino. Our review of

Attachment: June 28th, 21st, and 7th City Council Staff Reports (1341 : District Elections - Public Hearing No. 3)

election results since the year 2000 reveals that not a single Latino has been elected since at least that date although there have been several Latinos who ran for City Council over that period.

We believe that the lack of success of Latinos in gaining election and of Latino voters in selecting candidates of their choice results from racially polarized voting by the Morgan Hill electorate. The CVRA defines racially polarized voting as “voting in which there is a difference ... in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.” Elections Code § 14026(e). The CVRA further specifies that racially polarized voting is determined by examining the results of elections in which “one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of a protected class.” *Id.* § 14208(a)-(b). Demonstration of minority vote dilution due to racially polarized voting under an at-large election system is sufficient to prove a violation of the CVRA.

We have studied voting patterns both in Morgan Hill City Council elections, and other elections for County and State offices in which we analyzed the votes of residents of precincts within the boundaries of the City of Morgan Hill. In most elections the candidate(s) of choice of Latino voters have not been the candidate(s) chosen by most non-Latino voters. For example, in the 2010 election for two council positions, the two Latino candidates, Moreno and Castelan, were the top two choices of Latino voters, but they both lost, while non-Latino voters supported the two successful candidates, Constantine and Siebert, at 1.5 to four times the rate they gained support from Latino voters. In the race for mayor that same year, non-Latino voters supported the winning candidate, Tate, by a 58% majority, while Latinos supported the runner-up, College, by a 55% majority; but due to non-Latino voters not supporting that Latino-choice runner-up candidate, he lost the election by a wide margin. In the 2014 city council election, two non-Latinos won, and one Spanish-surnamed candidate finished a distant last among the four candidates. In 2016, the two Latino candidates finished last among the five candidates for the two seats, and the Spanish-surnamed candidate for mayor finished last among the three candidates for that position.

Pronounced patterns of racially polarized voting are also evident in elections other than those for City Council, when voting results in Morgan Hill precincts are analyzed. For example, in the 2014 Water District election, the Latino candidate, Cruz, lost although he received 78% of the Latino vote because the winning non-Latino candidate, Kennedy, received 67% of the non-Latino vote. In the 2014 election for Morgan Hill Unified School District, the Latino candidate, Benavides, was the top vote-getter among Latino voters but received the smallest percentage of votes from non-Latino voters, and therefore lost by a wide margin. Voting in City of Morgan Hill precincts for statewide offices in the 2010 statewide elections was highly polarized. The Latino-favored candidate for Insurance Commissioner, De la Torre, had the support of 77% of Latino voters but only 30% of non-Latino voters, and lost overall in those precincts. For Superintendent of Schools, Latino voters favored the Latino-choice and Latina candidate, Gutierrez, by a 59% majority, while non-Latino voters cast only 21% of their ballots for her; in contrast, the winning non-Latino candidate, Torlakson, outpolled Gutierrez among non-Latino voters by over a 2-to-1 ratio. For Controller, the Latino and Latino-choice candidate, Perez

received only 12% of the Anglo vote, while the first-choice candidate of non-Latino voters received 28% support; but Perez was able to win in the Morgan Hill precincts because he had a huge 6-1 margin among Latino voters (72% of their votes). We are confident that close analysis of last year's statewide elections in Morgan Hill precincts, which we have not yet conducted, would yield similar results.

In light of the facts summarized above, we are confident that a violation of the CVRA can be shown. The constitutionality of the CVRA has been upheld by the California Court of Appeal, and both the California Supreme Court and the United States Supreme refused to disturb that decision. *Sanchez v. City of Modesto*, 145 Cal. App. 4th 660 (2006), *review denied*, 2007 Cal. LEXIS 2772 (Cal. March 21, 2007) (No. S149500), *cert. denied* 552 U.S. 974 (2007). A number of jurisdictions, including the Cities of Modesto, Bellflower, Tulare, Compton, Escondido, San Juan Capistrano, and Whittier, have converted their election systems from at-large to by-district systems after being sued by their minority citizens under the CVRA. In the most prominent lawsuits, the City of Palmdale has been ordered by a court to change its election system from at-large to by-district and the City of Anaheim settled by agreeing to put a charter amendment measure for conversion of its election system to the voters, who passed it by an overwhelming margin in November 2014. In all of those cases, in which lawsuits were necessary to obtain compliance with the CVRA, the cities wound up paying substantial attorneys' fees to the plaintiffs' attorneys, as well as their own attorneys – in the Modesto, Anaheim and Palmdale cases, in amounts of several million dollars for both sides' attorneys, and in the Palmdale case the court awarded several million dollars to plaintiffs' attorneys alone. A large number of other cities, including Los Banos and, just this past year, Corona and Eastvale, have recently abandoned at-large systems and adopted district election plans when they were required to review their election systems in light of demands similar to this one. Within Santa Clara County, the undersigned attorneys filed a CVRA action against the City of Santa Clara just this month after that City chose to ignore a similar demand letter, and the Morgan Hill Unified School District changed its system of electing trustees from at-large to by-district in 2015, after it received a demand letter from one of the undersigned attorneys. Many of those jurisdictions also were required to spend substantial amounts of attorneys' fees before they came brought into compliance with the CVRA even without the need for litigation.

In light of the lack of Latino representation and the inability of Latino voters to select candidates of their choice and to influence the outcome of elections, in violation of the California Voting Rights Act, and in the context of racially polarized voting as occurs in Corona elections, we demand that the City of Morgan Hill change its election system from at-large to district elections. In the absence of a satisfactory response, we and our clients will be forced to consider seeking judicial relief in the form of an action to obtain an order changing the election system from at-large to district elections, together with other relief provided for in the CVRA, including awards of litigation and expert witness costs.

Steve Rymer

-4-

May 2, 2017

We would be pleased to discuss the subject of this letter with you should you believe such discussion would be productive toward the goal of bringing your city's election system into compliance with the CVRA.

Sincerely yours,

Goldstein, Borgen, Dardarian & Ho



By: Morris J. Baller
Of Counsel

Law Office of Robert Rubin



By: Robert Rubin

MJB/ct

cc:

(by US Mail)

Steve Tate, Mayor
Rich Constantine, Council Member
Larry Carr, Member, City Council
Rene Spring, Member, City Council
Caitlin Robinett Jachimowicz, Member, City Council

Attachment: June 28th, 21st, and 7th City Council Staff Reports (1341 : District Elections - Public Hearing No. 3)

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL DECLARING ITS INTENT TO
TRANSITION FROM AT-LARGE TO DISTRICT-BASED
ELECTIONS FOR CITY COUNCIL ELECTIONS**

WHEREAS, the City of Morgan Hill, is 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"); and

WHEREAS, members of the City Council of the City of Morgan Hill ("City") are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886 authorizes the legislative body of a city to adopt an ordinance to change its method of election from an "at-large" system to a "district-based" system in which each council member is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received a certified letter on May 5, 2017, from Morris J. Baller of the law firm of Goldstein, Borgen, Dardarian & Ho, asserting that the City's at-large council member electoral system violates the California Voting Rights Act ("CVRA").

WHEREAS, a violation of the CVRA is established if it can be proven that racially polarized voting occurs in elections (Elections Code Section 14028(a)). "Racially polarized voting" means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (Elections Code Section 14026(e)); and

WHEREAS, although the letter was not accompanied by any credible evidence to support the claim of a CVRA violation, the City Council has directed staff to initiate the process to establish by-district elections to avoid costs and attorneys' fees associated with defending a lawsuit based on the CVRA, even if that lawsuit settles; and

WHEREAS, Elections Code Section 10010 provides a process for expeditiously changing to a by-district election system, which provides a "safe harbor" to avoid the high cost of litigation under the CVRA; and

WHEREAS, the public interest would be better served by Council consideration of a proposal to transition to a district-based electoral system because of: 1) the extraordinary cost to defend against a CVRA lawsuit, 2) the risk of losing such a lawsuit which would require the City to pay the prevailing plaintiffs' attorneys' fees, and 3) the City's liability would be capped at a maximum of \$30,000 by following the procedures set forth in Elections Code Section 10010; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the adoption of a district-based elections system will not affect the current terms of any sitting Council Member.

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

Section 1. The City Council hereby resolves to consider adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Council Members beginning in November 2018.

Section 2. The City Council directs staff to engage a demographer and any other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

Section 3 The City Council authorizes the Mayor to appoint an Advisory Board of not more than seven Morgan Hill electors. Appointments will be made based on the recommendations of the City Council. The Commission will be charged with taking public input on the proposed districts and making recommendations to the City Council regarding the proposed districts.

Section 4. The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

Section 5. The timeline contained in Exhibit A may be adjusted by the City Manager, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010.

Section 6. 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 7th day of June, 2017.

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

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. ____, adopted by the City Council at a regular meeting held on June 7, 2017.

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

DATE: _____

 IRMA TORREZ, City Clerk

EXHIBIT A
DRAFT
TIMELINE / CHECKLIST

Letter Received by City Clerk's Office: May 5, 2017
 45-Day Deadline [AB 350(e)(3)(A)]: June 19, 2017
 90-Day Deadline [AB 350(e)(3)(B)]: September 17, 2017

No.	Task	Date / Timeline	Notes
1	Closed Session	May 17 th	
2	Council Meeting – Initial Consideration of Topic – Item to Introduce Topic, Seek Council Direction on How to Proceed, Subcommittee Assignment/Adopt Resolution	June 7 th	
3	Council Meeting/Public Hearing #1	June 21 st	Before Map(s) Drawn – E.C. 10010(a)(1)
4	Council Meeting/Public Hearing #2	June 28th (4 th Wednesday of the month)	Before Map(s) Drawn – E.C. 10010(a)(1), within 30 days of Public Hearing #1
5	Draft Map(s) Drawn (Subcommittee Review)	June 29 th – July 7 th	
6	Publish Draft Map(s) and Sequencing	July 14 th	E.C. 10010(a)(2), Published Once at Least 7 Days Prior to Public Hearing #3
7	Council Meeting / Public Hearing #3	July 26th (4 th Wednesday of the month)	After Map(s) and Sequencing Published E.C. 10010(a)(2), More than 7 Days After Draft Map(s) and Sequencing Publication
8	Council Meeting / Public Hearing #4 – Introduction / First Reading of Ordinance	August 23rd (4 th Wednesday of the month)	After Map(s) and Sequencing Published E.C. 10010(a)(2), within 45 days of Public Hearing #3
9	Council Meeting – Second Reading of Ordinance	September 6 th	Publish Entire Adopted Ordinance
10	Ordinance Effective 30 Days After Adoption (If Required)	October 7 th	Government Code 36937 (Election Ordinance Effective Immediately) Unless Charter Requires Otherwise
11	Council Members Transition to Representing Their Respective Districts via Ordinance	November 2018 November 2020	

Attachment: June 28th, 21st, and 7th City Council Staff Reports (1341 : District Elections - Public Hearing No. 3)



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

City of Morgan Hill 2017 Transition to City Council District Elections Tentative Public Meeting Schedule

(Translation equipment and a Spanish language interpreter will be present at all meetings)

Date	Public Meeting	Description
June 21, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #1	Initial Council discussion of process and outreach. First public hearing to gather public input regarding the design of potential draft maps.
June 28, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #2	Additional discussion of process and outreach. Second public hearing to gather public input regarding the design of potential draft maps
July 10, 2017 7:00PM City Council Chamber 17555 Peak Avenue	Community Workshop	Public forum discussion of process and map-drawing criteria. Demonstration of, and Q&A regarding, map-drawing tools.
July 26, 2017 5:30 p.m. City Council Chamber 17555 Peak Avenue	Community Workshop	Public forum discussion of process and map-drawing criteria. Demonstration of, and Q&A regarding, map-drawing tools.
July 26, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #3	Presentation of Draft Maps. Public hearing to gather public input regarding the draft maps and election sequencing.
August 23, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting/ Public Hearing #4	Public hearing and Council vote to introduce ordinance (including selection of a map and election sequence).
September 6, 2017 7:00PM City Council Chamber 17555 Peak Avenue	City Council Meeting	Second reading of and final adoption of ordinance.

Attachment: June 28th, 21st, and 7th City Council Staff Reports (1341 : District Elections - Public Hearing No. 3)



A Proposal to the City of Morgan Hill for Demographic Services

By National Demographics Corporation
Douglas Johnson, President

June 14, 2017



National Demographics Corporation

June 14, 2017

Ms. Michelle Williams
Manager/Deputy City Clerk
City of Morgan Hill
17575 Peak Ave.
Morgan Hill, CA 95037

Dear Ms. Williams,

Thank you for the opportunity to provide this proposal to the City of Morgan Hill. NDC has 38 years of experience districting and redistricting local jurisdictions, together with unmatched experience working with jurisdictions facing California Voting Rights Act (CVRA) concerns. Based in Glendale, NDC has worked on CVRA analysis and districting efforts for over 50 cities, 250 school districts, and a variety of other local California jurisdictions. We know the Morgan Hill area well, as we have twice redistricting the Santa Clara Valley Water District and we did the districting work for Morgan Hill Unified School District. We welcome the opportunity to bring the firm's expertise and skills to assist the City.

For each project, there are certain required basic elements, and there are several options that the City can include or leave out at its option. NDC carefully tailors each project to the needs and goals of the individual client partner. NDC welcomes the opportunity to work with the City to encourage public participation in the districting process, and NDC offers a number of tools developed specifically for public engagement in this effort. And we offer templates and samples for every step of the project: analysis and staff reports; outreach materials; web pages and even resolution and ordinance templates.

The attached proposal consists of a brief introduction; specific proposed project elements and options; timeline and cost information; conclusion; and signature section. An appendix provides additional information on NDC, including company history; methodology; technical approach; and references.

NDC looks forward to working with you on this effort. Please call or email if you have any questions, concerns, or requests regarding this proposal.

Sincerely,

Douglas Johnson
President



National Demographics Corporation

Table of Contents

Executive Summary of Proposal.....	3
About National Demographics Corporation:	4
Brief Company History.....	4
NDC and the California Voting Rights Act	4
NDC's Districting Process.....	5
Technical Expertise	5
Public Involvement	5
Minority Group Outreach/Partnerships.....	5
Openness.....	5
Media Outreach.....	6
Local Leadership	6
Impeccable References	6
Proposed Scope of Work	7
Timeline	8
Other Potential Project-Related Expenses:	8
Additional Analysis.....	8
Requested Payment terms:	8
Conclusion	9

Appendix

Client List.....	10
Resume of President Douglas Johnson	12
Resume of Vice President Justin Levitt	14



National Demographics Corporation

Executive Summary of Proposal

Includes all of the services listed below:\$43,000

- Project Setup and coordination:
 - Development of redistricting database including Census and California Statewide Database data;
 - Incorporation of any Geographic Information System (GIS) data that the City wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial discussion with key staff and/or Council members about demographics, communities of interest, schedule and criteria;
 - Any phone- or web-conference calls to discussion the project's progress or answer any Council, staff or media questions that may arise;
 - An NDC-designed and managed project website;
- Plan Development:
 - Creation of and user help for “public participation kits” with Microsoft Excel and interactive online supplements;
 - Creation of and user help for an online map-drawing tool that allows members of the public to draw and submit redistricting proposals online;
 - Creating of 2 to 4 initial draft maps for Council and public consideration;
 - Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions for online posting;
 - Online posting of all maps to an interactive website for detailed Council and public review;
 - Any requested additional maps and/or map revisions requested;
- Plan Presentation:
 - Up to four in-person presentations at Council meetings and/or public forums (additional in-person meetings add \$2,000 per meeting; no cost for NDC participation in meetings by phone- or web-conference);
- Work with the County Registrar of Voters to implement the final adopted plan.

National Demographics Corporation

About National Demographics Corporation:

Brief Company History

NDC has served hundreds of local governments over the past 36 years. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, and the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise. In the Central Valley, NDC has worked with clients in and around Hanford, Dinuba, Tulare, Kings County, Coalinga, Corcoran, Reedley, Lemoore, and Fresno, among others.

The company is especially well known for its work in local and state government. Since 2002, NDC has established a reputation as the state's leading demographic expert on the California Voting Rights Act (CVRA), having performed demographic assessments of potential CVRA liability for over 250 jurisdictions.

No company has been responsible for addressing the electoral demographic needs of more local governments, as NDC has districted and/or redistricted well over 150 local school districts, cities, water districts, county boards, and other local districts. Nationally recognized as a pioneer in good government districting and redistricting, NDC is especially experienced in working with local jurisdictions in California, Arizona and Nevada.

This background gives us unmatched expertise in the issues, questions, and decisions jurisdictions face in any discussion regarding the California and Federal Voting Rights Act and related election system choices.

NDC and the California Voting Rights Act

NDC has performed analysis of potential demographic liability under the California Voting Rights Act (CVRA) for over 250 jurisdictions in California. For those jurisdictions sued under CVRA (none of which were NDC clients prior to the filing of the lawsuit), NDC has assisted in evaluating their demographics, voting history, legal situation, and options for, among others, Madera Unified, Modesto, the City of Madera, Visalia, Compton, the City of Escondido, Palmdale, Santa Clarita Community College District, Glendale Community College District, ABC Unified, and Anaheim.

No other firm even comes close to NDC's experience with this still-new law, and many of the jurisdictions listed above came to NDC after discovering the demographers they initially hired either did not sufficiently understand California and Federal Voting Rights law and the related demographics to help, or the demographers so badly handled the project that their own demographers' work directly resulted in the jurisdiction being sued.

NDC's expertise in both Voting Rights demographics and in the drawing of election districts is widely recognized. NDC's personnel are responsible for numerous books and articles on the subject, and President Douglas Johnson has been a speaker on the CVRA at conferences of the California School Board Association, the California Latino School Board Member Association, the California League of Cities, and other state and national conferences.

National Demographics Corporation

NDC's Districting Process

The following information is provided for information and for use if a jurisdiction decides to move to by-district elections. If the client decides not to move to by-district elections, the work would end with the demographic analysis described above.

Technical Expertise

NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

The technical demands of a districting effort are high, and NDC is the undisputed leader in this area. But far more important than technical expertise are the interpersonal understanding and experience working with all parties in the process, including the public.

Public Involvement

NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. The company invented the "public participation kit" for public participation in districting efforts, which many of the firm's competitors now attempt to duplicate. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

Minority Group Outreach/Partnerships

U.S. Supreme Court decisions are constantly changing the rules regarding districting, "race-based districting," and the establishment of districts focused on the electoral power of "protected classes." It is crucial that the consultant work with the racial, ethnic, and other community groups at the beginning of the process to welcome their ideas and develop the appropriate expectations regarding minority representation prospects. No NDC local districting or redistricting plans has ever been challenged in Court or by the Department of Justice.

Openness

Any change in election systems can have momentous implications for the distribution of political power in a jurisdiction and for access by groups and individuals to the governance process. Not surprisingly, such changes often attract much public attention, sometimes generate intense controversy, and may draw charges of manipulation and abuse of power. Indeed, disputes over the form and substance of the process may often result in stalemate or legal challenge. It is crucial, therefore, that the jurisdiction establish, at the beginning, a process that is not only fair, but that is seen to be fair, to all contending groups and individuals.

National Demographics Corporation

Media Outreach

The firm's work has been widely praised in the media, and NDC has worked extensively on background, off the record, and on the record with all types of press including radio, television, newspaper, and new media.

Local Leadership

NDC views its role as an advisor and technical resource. The firm advises its clients, but every project remains the client's project. NDC offers guidance based on its experience and expertise, but ultimately the decisions are made by the jurisdiction itself. NDC welcomes the chance to assist this project under the guidance and direction of the jurisdiction's elected leadership, key staff members, and the entire community.

Impeccable References

All of NDC's former clients – without exception – can be contacted for references. The firm has no embarrassing projects. All NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy.

Mr. Rick Haydon, City Manager, City of Santa Maria, 110 E. Cook Street, Santa Maria, CA 93454-5190. Phone: (805) 925-0951 ext. 2200. Email: rhaydon@cityofsantamaria.org

Ms. Pam Abel, Superintendent, Modesto City Schools, 426 Locust Street, Modesto, CA 95351-2631. Phone: (209) 574-1616. Email: able.p@mcs4kids.com

Mr. Darrell Talbert, City Manager, City of Corona, 400 S Vicentia Avenue, Corona, CA 92882-2187. Phone: 951.279.3670. Email: Darrell.Talbert@ci.corona.ca.us

Mr. Steve Carrigan, City Manager, City of Merced, 678 West 18th Street, Merced, CA 95340. Phone: 209- 385-6834 Email: citymanager@cityofmerced.org

Mr. Devin Reif, Strategic Planning, City of Oakland, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. Phone: 510-238-3550 Email: DReiff@oaklandnet.com

Mr. David Silberman, Deputy County Counsel, San Mateo County, 400 County Center, 6th Floor, Redwood City, CA 94063. Phone: 650-363-4749 Email: dsilberman@smcgov.org

Judge Hugh Rose (retired), Chairman, City of Modesto Districting Commission. 508 King Richard Lane, Modesto, CA 95350. Phone (209) 522-0719. Email: hhrose@hotmail.com.

Ms. Lucinda Aja. City Clerk, City of Buckeye, Arizona. 100 N Apache Rd, Suite A, Buckeye, AZ 85326. Phone (623) 349-6007. Fax (623) 349-6098. Email: laja@buckeyeaz.gov.

Mr. Michael E. Smith, Partner, Lozano Smith, 7404 North Spalding Ave., Fresno, CA 93720, (559)431-5600, MSmith@lozanosmith.com.

Ms. Marguerite Leoni, Partner, Nielsen, Merksamer, Parrinello, Gross & Leoni, 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415)634-6840, mleoni@nmgovlaw.com (or ask for Mr. Chris Skinnell)

Proposed Scope of Work

Each level of work is a discrete and separate part of this proposal. As each level is complete, NDC will consult with the client on the decision whether to proceed with the next level, skip to a later stage o review, or to decide the review is complete. NDC will only proceed from one level to the next on direction from the client. The client can end the project after any level is complete, or the client can choose to skip levels as it wishes.

To provide the flexibility to meet the needs of the client if it decides to move to by-district elections, NDC offers a full menu of districting options:

Includes all of the services listed below:.....\$43,000

- Project Setup and coordination:
 - Development of redistricting database including Census and California Statewide Database data;
 - Incorporation of any Geographic Information System (GIS) data that the City wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial discussion with key staff and/or Council members about demographics, communities of interest, schedule and criteria;
 - Any phone- or web-conference calls to discussion the project's progress or answer any Council, staff or media questions that may arise;
 - An NDC-designed and managed project website;
- Plan Development:
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 - Creation of and user help for an online map-drawing tool that allows members of the public to draw and submit redistricting proposals online;
 - Creating of 2 to 4 initial draft maps for Council and public consideration;
 - Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions for online posting;
 - Online posting of all maps to an interactive website for detailed Council and public review;
 - Any requested additional maps and/or map revisions requested;
- Plan Presentation:
 - Up to four in-person presentations at Council meetings and/or public forums (additional in-person meetings add \$2,000 per meeting; no cost for NDC participation in meetings by phone- or web-conference);
- Work with the County Registrar of Voters to implement the final adopted plan.

Stated prices include all travel, printing (except public participation kits and any large-plot maps), and other anticipated expenses.



National Demographics Corporation

Timeline

A detailed project timeline will be established in consultation with the client and depends heavily on the client's specific needs and goals.

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

Additional Analysis

NDC is happy to assist with any additional analysis that the client requests at our standard hourly rates:

Principal (Dr. Douglas Johnson)	\$200 per hour
Vice President (Justin Levitt).....	\$125 per hour
Senior Analyst.....	\$75 per hour
Analyst / Clerical.....	\$50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at \$250 per hour.

Requested Payment terms:

NDC requests that one-half payment be made at project start and one-half at the conclusion.

Conclusion

Since its founding NDC has been the preeminent company in the nation devoted to local election systems. To summarize:

- NDC, founded in 1979, has a demonstrated record of financial solvency.
- NDC's hardware and software resources were specially designed and acquired for districting and redistricting purposes.
- NDC's highly respected personnel have impeccable credentials in each aspect of the districting and redistricting processes.
- NDC's suggested approach has been tested in many jurisdictions.
- Any NDC client can be contacted for testimonials and reference.
- NDC has more experience in the field of municipal political election systems than any other company of which NDC is aware.
- NDC has demonstrated experience over many years in working with the press and media on local election system issues.
- NDC possesses fully up-to-date and highly effective geographic retrieval systems with applications specifically designed for districting and redistricting.
- Neither the Justice Department nor any Court has ever rejected any local government districting or redistricting plan submitted by NDC.

It should be clear that NDC has all of the resources of experience, technical expertise, and legal/political know-how to assist the City in its current effort. NDC looks forward to the opportunity to work with the City on this project.

National Demographics Corporation

Clients moved or moving from at-large to by-district elections

Counties

San Mateo

Cities

Apple Valley
Anaheim
Banning
Bellflower
Buckeye
Buena Park
Ceres
Chino
Compton
Corona
Eastvale
El Cajon
Escondido
Firebaugh
Fowler
Fullerton

Glendale (AZ)
Hemet
Hesperia
Highland
King City
Los Banos
Madera
Menifee
Merced
Mesa (AZ)
Modesto
Moreno Valley
Palmdale
Parlier
Pasadena
Peoria (AZ)

Rancho Cucamonga
Redlands
Reedley
Riverbank
San Marcos
Sanger
Santa Barbara
Surprise
Tulare
Turlock
Victorville
Visalia
Whittier
Wildomar
Yucaipa

Community College Districts

Antelope Valley
Cuesta
Glendale
Grossmont-Cuyamaca
MiraCosta

Rancho Santiago
San Diego
Santa Clarita
Sierra
Southwestern

Water, Irrigation & Conservation Districts

Fresno Irrigation
Imperial Irrigation District
Mojave Water Agency
Palmdale Water
Rowland Water

Alta Irrigation
San Bernardino Water
Santa Clara Valley Water
Upper San Gabriel Valley
Western Municipal Water
Winton Water

Other Special Districts

Jurupa Community Service District
Kings River Conservation District

Tulare Health Care District
Westside Community Health Care District

School Districts

Alpine Union
Alpine Union Elementary
Alta Vista
Bakersfield City Schools
Bonsall Union
Elementary
Borrego Springs Unified
Buena Park Elementary

Burton Elementary
Cajon Valley Union
Cajon Valley Union
Elementary
Calistoga Joint Unified
Capistrano Unified
Capistrano Unified
School District

Cardiff Elementary
Carlsbad Unified
Caruthers
Cayucas
Centinela Valley
Central Unified
Centralia Elementary
Chula Vista Elementary

National Demographics Corporation

Clients moved or moving from at-large to by-district elections

Clay Elementary
 Clovis Unified
 Coalinga-Huron
 Coronado Unified
 Dehesa Elementary
 Del Mar Union
 Elementary
 Dinuba Unified
 Eastern Sierra Unified
 Eastside Union
 Elementary
 Encinitas Union
 Elementary
 Escalon Unified
 Escondido Union
 Elementary
 Escondido Union High
 Exeter Elementary
 Exeter High
 Exeter Unified
 Fallbrook Union
 Elementary
 Fallbrook Union High
 Firebaugh-Las Deltas
 Unified
 Fresno Unified
 Fullerton Union High
 Glendale Unified
 Greenfield
 Grossmont Union High
 Hughson Unified
 Jamul-Dulzura Union
 Elementary
 Julian Union Elementary
 Julian Union High
 Kerman Unified
 Kern High
 Keyes Union
 Kings Canyon Unified
 School District

Kings River
 Kingsburg Elementary
 Kingsburg High
 La Mesa-Spring Valley
 Lake Elsinore
 Lakeside Union
 Elementary
 Lakeside Union School
 Lancaster Elementary
 Lawndale Elementary
 Lemon Grove
 Elementary
 Lindsay Unified
 Lucia Mar
 Madera Unified
 Magnolia Elementary
 Merced Union High
 School District
 Modesto City Schools
 Modoc Unified
 Monson Soltana
 Morgan Hill Unified
 Mountain Empire
 Unified
 Napa Valley Unified
 National Elementary
 Newhall Elementary
 Newman Crows Landing
 Oak Grove Elementary
 School District
 Oceanside Unified
 Pacific Union
 Panama Buena Vista
 Pasadena Unified
 Pixley Union
 Pleasant View
 Pomona Unified
 Porterville
 Poway Unified
 Ramona Unified

Rancho Santa Fe
 Elementary
 Richland School District
 Riverbank
 Riverdale Unified
 Salida Union
 San Dieguito Union High
 San Marcos Unified
 San Pasqual Union
 Elementary
 San Ysidro Elementary
 Santee Elementary
 Selma Unified
 Solana Beach Elementary
 South Bay Union
 Spencer Valley
 Elementary
 Strathmore Elementary
 Sundale Union
 Elementary
 Sweetwater Union High
 Tulare City Elementary
 Tulare City High
 Tulelake
 Turlock Unified
 Twin Rivers Unified
 Vallecitos Elementary
 Valley Center Pauma
 Unified
 Visalia Unified
 Vista Unified
 Walnut Valley Water
 Warner Unified
 Washington Union
 Waterford Union
 Whittier Union High
 Woodlake Union

Douglas Mark Johnson

P.O. Box 5271
Glendale, CA 91221
djohnson@NDCresearch.com

mobile: (310) 200-2058
office: (909) 624-1442
fax: (818) 254-1221

Employment

President, National Demographics Corporation, 2006 – present.
Senior Analyst, National Demographics Corporation, 2001 – 2006.
Fellow, Rose Institute of State and Local Government, 2001 – present.
Project Manager and Senior Manager at three internet startup companies, 1999 - 2001.
U.S. Representative Stephen Horn, Legislative Director and System Manager. 1993 – 1997.
Coro Foundation, Fellowship in Public Affairs. 1992 – 1993.
Rose Institute for State and Local Government, Student Manager. 1989 – 1992.

Education

Claremont Graduate University, Ph.D. in Political Science, 2015. Dissertation: “Independent Redistricting Commissions: Hopes and Lessons Learned.”
UCLA Anderson Graduate School of Management, MBA, 1999.
Claremont McKenna College, BA in Government (Political Science), 1992.

Academic Honors

Graduated Cum Laude from Claremont McKenna College.
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

Publications and Articles

Christian Science Monitor “Let the public help draw voting districts,” October 25, 2013.
New York Times, “The Case for Open Primaries,” February 19, 2009.
Los Angeles Times Opinion Articles:
“A neighbor’s help on redistricting” June 24, 2007.
“A Trojan horse primary for the GOP” February 25, 2007.
“Where a porn palace stood” (article on redevelopment), July 30, 2006.
Fresno Bee Opinion Article: “The Poison Handshake” June 15, 2004.
Redistricting in America. Rose Institute of State and Local Government, 2010.
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
“Competitive Districts in California” Rose Institute of State and Local Government, 2005.
Latinos and Redistricting: “Californios For Fair Representation” and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.

Speaker or Panelist

California School Board Association Annual Education Conference panelist: “The California Voting Rights Act: What Board Members Must Know.” December 4, 2015.
Associated Cities of California – Orange County, Keynote Speaker, Newly Elected Officials’ Reception and Dinner, “The California Voting Rights Act,” January 29, 2015.
California League of Cities, City Manager Department, 2015 Department Meeting: “Opportunity to Engage Residents: The California Voting Rights Act.” January 29, 2015.
California League of Cities, City Clerk Department, 2014 Annual Meeting: “Whose Line Is It Anyway: Making the transition from at-large to by-district elections.” September 3, 2014.
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, “The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting.”
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, “Communities of Interest In Redistricting: A Practical Guide.”

Douglas Mark Johnson

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."

Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.

Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.

Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.

Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010

California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009

Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.

California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.

Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government

Texas Tech University, "A Symposium on Redistricting," May, 2006

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007

Classroom speaker at Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College

Justin Mark Levitt

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Employment

Vice-President, National Demographics Corporation, 2012 – present.
Senior Analyst, National Demographics Corporation, 2003 – 2011.
Instructor in Political Science, University of California, San Diego, 2012 – present.
Graduate Research Fellow, Center for US-Mexico Studies, 2010 – present.
Graduate Research Fellow, University of California, San Diego, 2008 – 2010 and 2013 – 2014.
Jesse M. Unruh California Assembly Fellow. 2006 – 2007.
Rose Institute for State and Local Government, Student Manager. 2005 – 2006.

Education

University of California, San Diego, Ph.D. Political Science, 2016. Dissertation title: “The Impact of Geographic Patterns on Tradeoffs in Redistricting.”
Claremont McKenna College, BA in Philosophy, Politics and Economics (PPE), 2006.

Academic Honors

California Studies Fellow, University of California, San Diego, 2007 – 2009
Graduated Cum Laude from Claremont McKenna College.

Publications and Conference Presentations

Settle, Jamie, Robert Bond, and Justin Levitt. 2011. “The Social Origins of Adult Political Behavior.” *American Politics Research*. 39 (2). 239-263

Miller, Kenneth and Justin Levitt. 2007. “The San Joaquin Valley.” In The New Political Geography of California. Eds. Frederick Douzet, Thad Kousser, and Kenneth Miller. Berkeley: Institute of Government Studies.

“The Political Geography of Tradeoffs in Redistricting” Paper presented at the State Politics and Policy Conference, Iowa City, IA, 2013

Getting What You Want: A Bargaining Approach to Fair Division in Redistricting. Paper presented at the “Challenging Urban Borders : the geopolitics of immigration and segregation” workshop, Berkeley, CA, 2013 and the State Politics and Policy Conference, Houston, TX, 2012

“An Atlas of Public Health in Mexico” (with Alberto Diaz Cayeros). Paper presented at the Hewlett Foundation Conference on Public Health, Mexico City, DF. 2012

“Remoteness and the Territoriality of Public Health” (with Alberto Diaz Cayeros). Paper presented at the American Political Science Association conference, Seattle, WA. 2011

“Initiatives as revealed preferences” Paper presented at the American Political Science Association conference, Seattle, WA. 2011

“No Se Puede: Latino Political Incorporation in Phoenix.”. Paper Presented at the New Political Geography of California conference, Berkeley, CA., 2009

Justin Mark Levitt

“Political Change in the Central Valley”. Paper Presented at the Western Political Science Association conference, Las Vegas, NV.,2007

Working Papers

Hill, Seth, Thad Kousser, Alex Hughes, and Justin Levitt. ND. *“How Competitiveness Shapes Infrequent Primary Voters Response to Receiving a GOTV Mailer.”*

Diaz-Cayeros, Alberto and Justin Levitt. ND. *“Remoteness and the Territoriality of Public Health.”*

Levitt, Justin. ND. *“Getting What You Want: A Bargaining Approach to Fair Division in Commission-led Redistricting.”*

Teaching Experience

California State University, Long Beach, Department of Political Science

Adjunct Professor—POSC 327 (Urban Politics)	Spring 2016-Present
Adjunct Professor—POSC 229 (Cases in Policy Analysis)	Present
Adjunct Professor—POSC 412 (Law and Social Change)	Spring 2016-Present
Adjunct Professor—POSC 399 (California Politics Short Course)	Present

University of California, San Diego, Department of Political Science

Co-Instructor—UPS 170 (Regional Governance Reconsidered)	Spring 2015
Instructor—Poli 100A (The Presidency)	Fall 2014
Instructor—Poli 160AA (Introduction to Public Policy Analysis)	Fall 2013
Instructor—Poli 10 (Introduction to American Politics)	Summer 2013

City of Morgan Hill Community Engagement Strategy



Project Name: Transition to City Council District Elections

CONTACT INFORMATION

Project Managers: Maureen Tobin maureen.tobin@morganhill.ca.gov 408.310.4706 /Michelle Wilson michelle.wilson@morganhill.ca.gov 408.310.4678

Contractor: National Demographics Corporation, Doug Johnson, djohnson@NDCresearch.com, 909.624.1442

Community Contacts: Cecelia Ponzini (Cecelia's Closet), Pastor Kyle Windsor (Community Christian), Fr. Jeronimo Gutierrez (St. Catherine Church), Irma Torrez (City of Morgan Hill) irma.torrez@morganhill.ca.gov, Chiquy Mejia (City of Morgan Hill) Chiquy.mejia@morganhill.ca.gov; Andrea Nicolette (Mt. Madonna YMCA) anicolette@ymcasv.org, Heather Geddes (Morgan Hill Library) HGeddes@sccl.org,

Project Team Members: Steve Rymer, Don Larkin, Christina Turner, Michelle Wilson, Maureen Tobin

TIME FRAMES

Project Start Date: June 7, 2017

Project Finish Date: September 17, 2017

PROJECT INFORMATION

1.) Background Information:

On, June 7, 2017, the Morgan Hill City Council voted to voluntarily move to district elections.

This was prompted by the City receiving a letter from the law firm of Goldstein, Borgen, Dardarian & Ho, dated May 5, 2017, claiming that the City is violating the California Voting Rights Act because City Council members are elected at-large rather than by districts. Dozens of local government agencies in California have faced similar challenges in recent years including the Morgan Hill Unified School District.

By voluntarily moving to district elections the City of Morgan Hill will take advantage of legal protection that enables cities to have a say in district boundaries and avoid costly litigation. This protection applies only to cities that pass a resolution within 45 days of receiving a demand letter alleging a violation of the California Voting Rights Act. The resolution must indicate the City's intent to move to district elections and the plan to make the change.

2.) Purpose of Project: Establish City Council districts in Morgan Hill in accordance with the requirements of the Federal Voting Rights Act and the California Voting Rights Act guided by expert demographer and input from the community.

ENGAGEMENT STRATEGY

1.) Communication/ Engagement Objectives: Have an open, transparent, and inclusive process that informs all residents of the transition process to by-district elections. Alert all residents of the need for their input and participation in establishing City Council districts in Morgan Hill.

2.) Level of Engagement:

Inform	Consult	Involve	Collaborate	Empower
		X		

3. Action Plan

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
First Communication to Community by eblast (English/Spanish) • Nextdoor • Facebook • Twitter Website Newsflash	Monday, 6/12/17	Maureen Tobin	Inform of process and first Public Hearing	Morgan Hill Community

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Spanish eblast forwarded to key stakeholders/organizations with connections to Spanish speaking community with the ask to help with distribution	Monday, 6/13/17	Maureen Tobin	Inform of process and first Public Hearing	Spanish speaking community members
Printed information available (English/Spanish)	Tuesday, 6/13/17	Maureen Tobin	Inform of process and first Public Hearing	Spanish speaking community members
Distribution of printed material to key stakeholders and Spanish speaking community	Tuesday, 6/13 – 6/18/17	Maureen Tobin and key stakeholders	Inform of process and first Public Hearing	Spanish speaking community members
Project Website Live (Google Translate enabled)	Wednesday, 6/14/17	NDC	Inform	Morgan Hill Community
Public Meeting Schedule Available on project website	Wednesday, 6/14/17	NDC	Inform	Morgan Hill Community
Printed Public Meeting Schedule available (English/Spanish)	6/15/17	Maureen Tobin	Inform	Morgan Hill Community
Update printed information (English/Spanish)	6/16/17	Maureen Tobin	Inform	Morgan Hill Community
Communication to Community by eblast (English/Spanish) • Nextdoor • Facebook • Twitter	6/17/17	Maureen Tobin	Inform of process, first and second Public Hearing, schedule of all public meetings and project website drawmh.org	Morgan Hill Community

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Distribute printed information at St. Catherine Church after Spanish Mass	6/18/17	Maureen Tobin	Inform of process, first and second Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community
Distribute printed information after Free Zumba Class at Library	6/19/17	Maureen Tobin	Inform of process, first and second Public Hearing, schedule of all public meetings and project website drawmh.org	Morgan Hill Community with focus on Spanish speaking community members
1 st Public Hearing with Spanish Language Interpreter and translation equipment	June 21, 2017	City Council, NDC, City Team	Involve community in providing input on the development of new districts	Morgan Hill Community
Distribute printed information (English/Spanish) at Community Christian Church – Free Supper	June 22, 2017	Maureen Tobin/Community Christian Church	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
Communication to Community by eblast (English/Spanish) reminding of 2 nd Public Hearing and project website • Nextdoor • Facebook • Twitter	June 23, 2017	Maureen Tobin, Dan Thompson	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Morgan Hill Community

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Distribution of printed material (Spanish/English) to key stakeholders and Spanish speaking community.	Week of June 25 th , 2017	Maureen Tobin and key stakeholders	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
Distribution of printed material (Spanish/English) after bilingual story time at Morgan Hill Library	June 24, 2017	Maureen Tobin	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
Distribution of printed material (Spanish/English) after Spanish mass at St. Catherine Church	June 25, 2017	Maureen Tobin	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
Distribute printed material (Spanish/English) at Learning and Loving Center's Special Summer Food Giveaway	June 28, 2017	Maureen Tobin	Inform of process 2nd Public Hearing, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
2 nd Public Hearing with Spanish Language Interpreter and translation equipment	June 28, 2017	City Council, NDC, City Team	Involve community in providing input on the development of new districts	Morgan Hill community

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Distribute printed material (Spanish/English) at Summer Fun in the Park	June 29, 2017	Maureen Tobin	Inform of process, 1 st Community Meeting, schedule of all public meetings and project website drawmh.org	Morgan Hill community with focus on Spanish speaking members
Distribution of updated printed material (Spanish/English) to key stakeholders and Spanish speaking community	Week of July 2, 2017	Maureen Tobin and key stakeholders	Inform of process, 1 st Community Meeting, schedule of all public meetings and project website drawmh.org	Spanish speaking community members
Online map-drawing tool that allows the community to draw and submit redistricting proposals available on project website drawmh.org	July 7, 2017	NDC	Involve community in providing input on the development of new districts	Morgan Hill community
Communication to Community by eblast making community aware of online map-drawing tool (English/Spanish) and reminder of Community Workshop • Nextdoor • Facebook • Twitter	July 7, 2017	Maureen Tobin	Inform of process, Community Workshop, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Morgan Hill Community
Community Workshop	July 10, 2017		Involve community in providing input on the development of new districts	Morgan Hill Community

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Communication to Community by eblast reminding community of online map-drawing tool (English/Spanish) and reminder of 2 nd Community Workshop & 3 rd Public Hearing • Nextdoor • Facebook • Twitter	July 21, 2017	Maureen Tobin/Dan Thompson	Inform of process, 2 nd Community Workshop, 3 rd Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Morgan Hill Community
Distribution of update printed material (Spanish/English) to key stakeholders and Spanish speaking community	Week of July 23, 2017	Maureen Tobin and key stakeholders	Inform of process, 2 nd Community Workshop, 3 rd Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Spanish speaking community members

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Distribute printed material (Spanish/English) at Learning and Loving Center's Special Summer Food Giveaway	July 26, 2017	Maureen Tobin	Inform of process, 2 nd Community Workshop, 3 rd Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Spanish speaking community members
Community Workshop	July 26, 2017	NDC, City Team	Involve community in providing input on the development of new districts	Morgan Hill community
3 rd Public Hearing	July 26, 2017	City Council, NDC, City Team	Involve community in providing input on the development of new districts	Morgan Hill community
Distribute printed material (Spanish/English) at Summer Fun in the Park	July 27, 2017	Maureen Tobin	Inform of process, 4th Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Morgan Hill community with focus on Spanish speaking members

Activity	Timing	Responsibility	Level of Engagement/Purpose	Target Group/Stakeholders
Communication to Community by eblast reminding community of online map-drawing tool (English/Spanish) and reminder of 2 nd Community Workshop & 3 rd Public Hearing • Nextdoor • Facebook • Twitter	August 18, 2017	Maureen Tobin/Dan Thompson	Inform of process, 4th Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Morgan Hill Community
Distribution of update printed material (Spanish/English) to key stakeholders and Spanish speaking community	Week of August 20, 2017	Maureen Tobin and key stakeholders	Inform of process, 4th Public Hearing, schedule of all public meetings, project website drawmh.org and online map-drawing tool. Involve community in providing input on the development of new districts	Spanish speaking community members
4 th Public Hearing	August 23, 2017	City Council, NDC, City Team	Involve	Morgan Hill Community
Adoption of Ordinance	September 6, 2017	City Council, NDC, City Team	Involve	Morgan Hill Community

6.) **Evaluation:** (To be completed at end of project)

Citywide Contiguous and Population-Balanced Maps

Plan Name	Type	Submitter Comments
Aragon 1b	Citywide map	Aragon 1 adjusted by NDC to avoid point contiguity and to make smallest possible changes to reach population balance.
Benevento 1	Citywide map	The population of each district is within specified parameters and each council member is in a separate district, unlike Mr. Muirhead (Carr/Constantine together). I am a bit concerned regarding the southern section, particularly Pop. Unit #s 35, 36 and 43 and contiguous nature of those population units in sections C & D.
Benevento 2b	Citywide map	Benevento 2 adjusted by NDC. District A is now contiguous, District B shifts west, and District C is still 51% Latino by total population.
Green	Citywide map	NDC-drawn map drawing heavily from Benevento 2.
Lee 1b	Citywide map	Lee 1 adjusted by NDC to make it contiguous with minimal changes to retain population balance. (Population units 33 and 34 traded between A and B.)
Mueller 1	Citywide map	One incumbent in each of four districts. I tried to provide one district with a majority Hispanic population. District C is 46.7% Hispanic.
Mueller 2	Citywide map	A slight revision to Map Joem17-01 which raises the Hispanic population in District C.
Muirhead 1	Citywide map	This plan creates a South City District and divides the rest of the City into West, North and East districts. Since all 4 incumbents live north of Dunne, this forces them into 3 Districts.
Orange	Citywide map	NDC-drawn map. Keeps D entirely east of Hwy 101; B entirely between 101 and Monterey Rd.; C entirely west of Monterey Rd.
Yellow	Citywide map	NDC-drawn map. Compact.

Single-District Maps

Plan Name	Type	Submitter Comments	NDC Notes
Muirhead 2	Single-district map	This plan, which is not population balanced, focuses on Monterey corridor as an extended PDA transit high-density housing and jobs. It does support incumbent protection. Creating compact and contiguous districts when neither the City boundaries nor the census blocks have well-behaved shapes is seriously annoying and I leave that to you professionals to make right. The concept of a PDA core is important."	Not population balanced.
Muirhead 3	Single-district map	This plan attempts to implement the Monterey Corridor as defined in the MH General Plan 2035. With a population of 7000 it is too small to be an actual district. The corridor has a higher percentage of the Hispanic population than other parts of the City this plan population is 60% Hispanic. Other considerations for the corridor are MTC ABAG Plan Bay Area 2040 and Priority Development Areas transit jobs dense housing . It does include one Council Member residence."	Not population balanced.

Maps that are Not Contiguous or Not Population-Balanced

Plan Name	Type	Submitter Comments	NDC Notes
Aragon 1	Citywide map	This is based on voter neighborhoods, where voting would naturally affect them individually, properly. A = North; B = East of Hwy 101; C = Downtown corridor; D = Southern	Not population balanced. Only point contiguity (and contiguous across county islands).
Lee 1	Citywide map	It attempts to keep neighborhoods of similar interests/concerns together in a district. It is not ideal due to population requirements - there is at least one neighborhood that is in a different district than what I think it should be. But after spending time working on various maps, this is the one that I think works the best based on the requirements.	Population balanced but not contiguous.
Benevento 2	Citywide map	It again has all four council seats in separate districts. However District C now has a Hispanic majority [total] population and a Hispanic majority VAP. I am concerned regarding the physical nature of District A however. Also District A is below the ideal population parameters.	Population balanced but not contiguous.

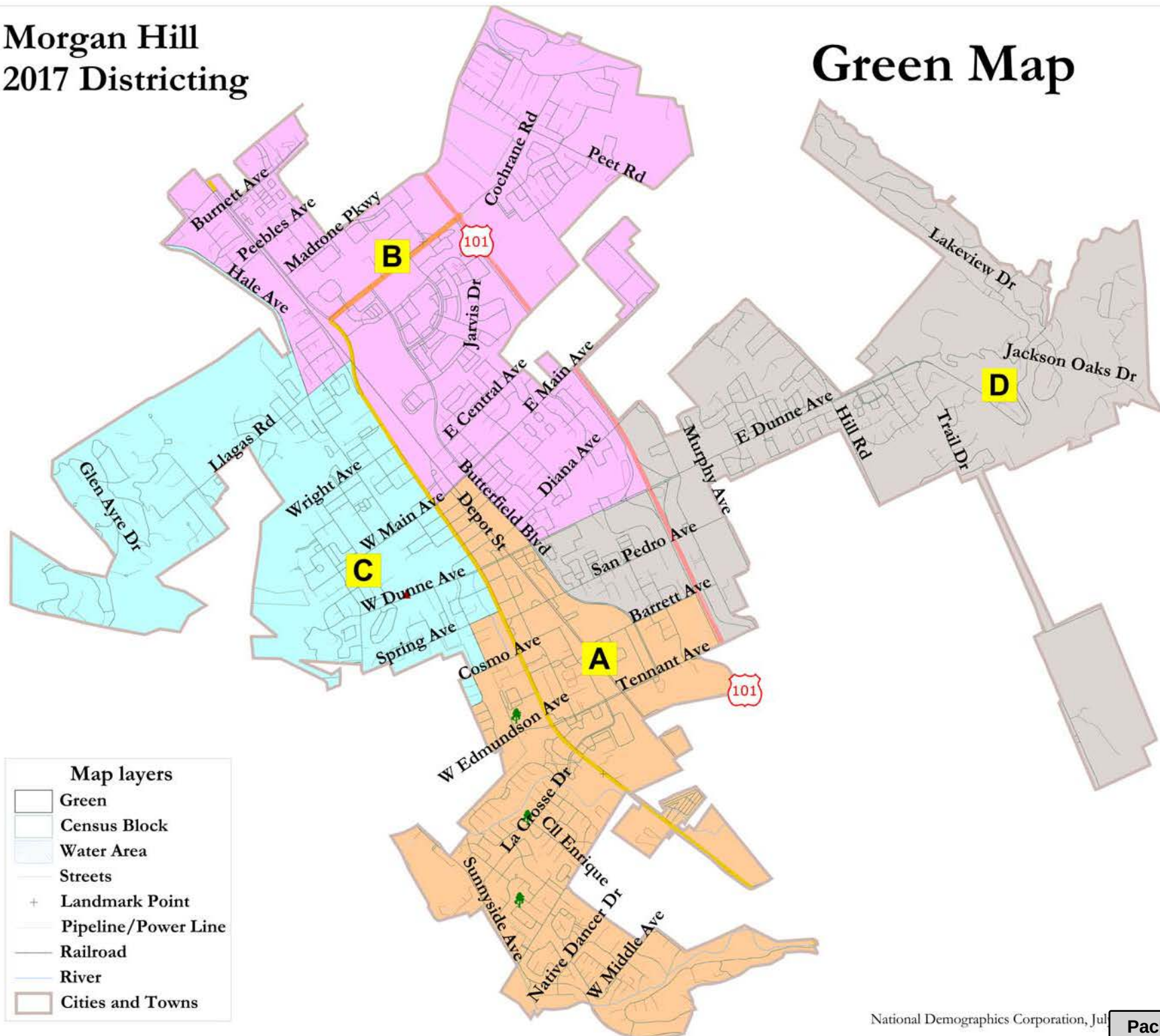
NDC**Morgan Hill Election Year Sequence Options by Plan**

(Only contiguous, population-balanced plans are eligible for adoption and thus listed here)

Plan Name	District A	District B	District C	District D
Aragon 1b	2020	2018	Option 1: 2018 Option 2: 2020	Option 1: 2020 Option 2: 2018
Benevento 1	2020	2018	2020	2018
Benevento 2b	2020	2018	2020	2018
Green	2020	2018	2020	2018
Lee 1b	Option 1: 2020 Option 2: 2018	Option 1: 2018 Option 2: 2020	2020	2018
Mueller 1	2018	2018	2020	2020
Mueller 2	2018	2018	2020	2020
Muirhead 1	Option 1: 2020 Option 2: 2018	2020	Option 1: 2018 Option 2: 2020	2018
Orange	2020	2018	2020	2018
Yellow	2020	2018	2020	2018

Morgan Hill 2017 Districting

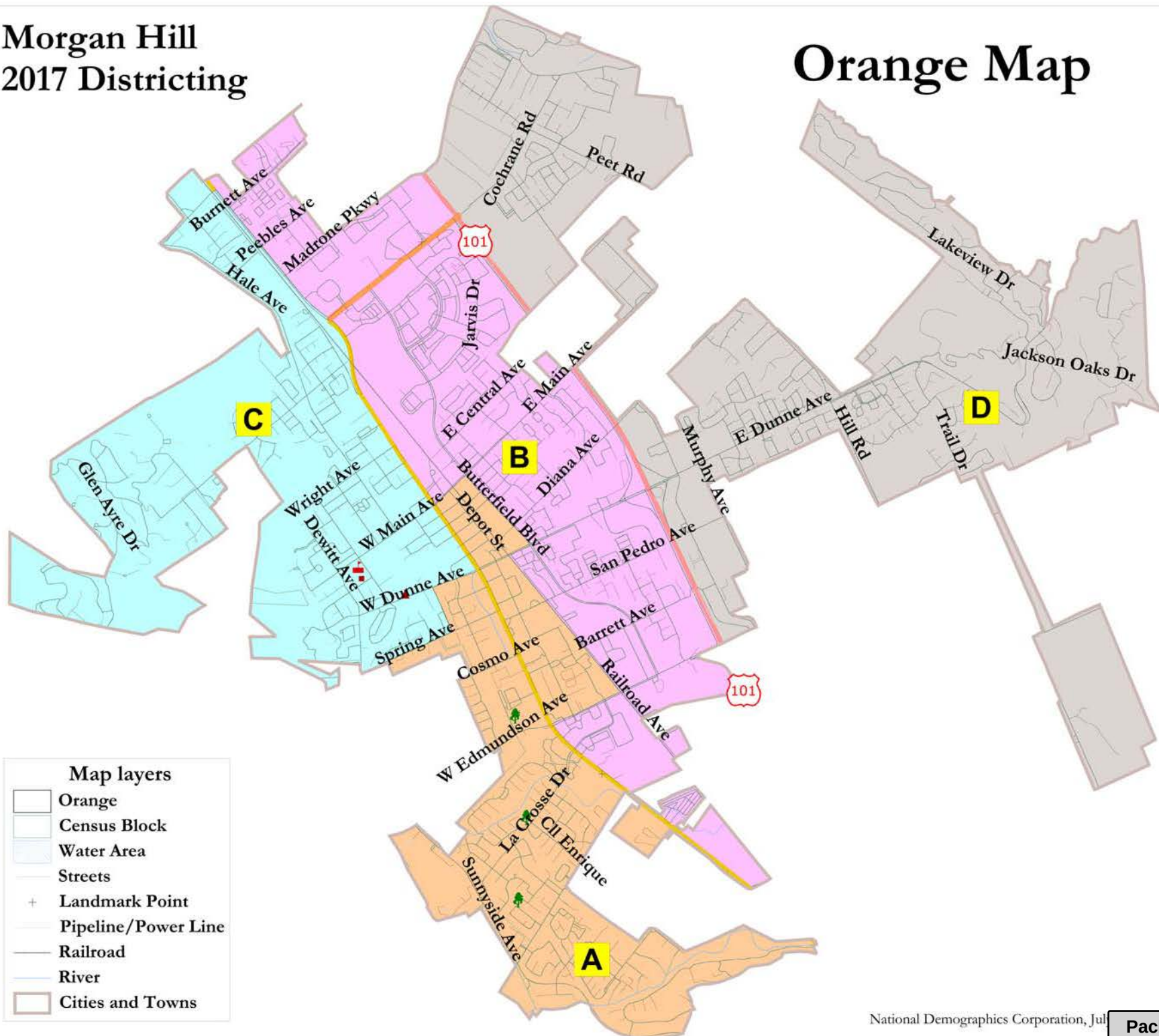
Green Map



Morgan Hill - Green map						
District		A	B	C	D	Total
Ideal	Total Pop	9,501	9,573	9,060	9,748	37,882
7,576	Deviation from ideal	30	102	-411	277	688
	% Deviation	0.32%	1.08%	-4.34%	2.92%	7.26%
Total Pop	% Hisp	36%	32%	43%	25%	34%
	% NH White	52%	47%	45%	58%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	8%	17%	8%	13%	11%
Voting Age Pop	Total	6,689	6,602	6,668	7,085	27,044
	% Hisp	32%	29%	38%	23%	30%
	% NH White	56%	50%	50%	61%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	7%	16%	8%	13%	11%
Citizen Voting Age Pop	Total	6,016	7,147	6,551	6,934	26,648
	% Hisp	26%	27%	30%	21%	26%
	% NH White	58%	55%	60%	64%	59%
	% NH Black	2%	6%	3%	3%	4%
	% Asian/Pac.Isl.	12%	11%	6%	11%	10%
Voter Registration (Nov 2014)	Total	4,696	4,909	4,285	5,916	19,806
	% Latino est.	21%	22%	25%	17%	21%
	% Asian-Surnamed	4%	8%	5%	7%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	19%	20%	23%	16%	19%
	% NH White est.	68%	58%	62%	73%	66%
	% NH Black	2%	6%	4%	2%	3%
Voter Turnout (Nov 2014)	Total	2,402	2,177	1,987	3,022	9,588
	% Latino	16%	17%	18%	13%	16%
	% Asian-Surnamed	4%	7%	5%	6%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	15%	15%	16%	11%	14%
	% NH White est.	74%	63%	69%	78%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	6%	5%	2%	3%
	Total	3,816	3,813	3,540	4,799	15,968
	% Latino	19%	21%	24%	16%	20%
	% Asian-Surnamed	4%	7%	5%	6%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	17%	19%	22%	14%	18%
	% NH White est.	69%	60%	64%	75%	68%
ACS Pop. Est.	% NH Black est.	2%	6%	4%	2%	3%
	Total	9,965	10,076	9,471	10,583	40,095
Age	age0-19	30%	28%	25%	31%	29%
	age20-60	51%	54%	58%	51%	53%
	age60plus	19%	18%	17%	18%	18%
Immigration	immigrants	17%	18%	23%	19%	19%
	naturalized	48%	64%	48%	58%	54%
Language spoken at home	english	71%	72%	61%	73%	69%
	spanish	20%	15%	31%	18%	21%
	asian-lang	5%	6%	4%	5%	5%
	other lang	3%	7%	4%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	8%	15%	9%	11%
Education (among those age 25+)	hs-grad	53%	51%	50%	50%	51%
	bachelor	24%	25%	19%	23%	23%
	graduatedegree	13%	15%	13%	17%	14%
Child in Household	child-under18	34%	35%	36%	40%	37%
Work (percent of pop age 16+)	employed	60%	65%	62%	62%	62%
	Commute on Public Transit	3%	3%	4%	1%	3%
Household Income	income 0-25k	17%	11%	18%	13%	15%
	income 25-50k	14%	9%	19%	14%	14%
	income 50-75k	14%	14%	11%	11%	12%
	income 75-200k	41%	43%	39%	43%	42%
	income 200k-plus	14%	23%	13%	19%	17%
Housing Stats	single family	79%	93%	70%	86%	82%
	multi-family	21%	7%	30%	14%	18%
	vacant	3%	4%	1%	2%	2%
	occupied	97%	96%	99%	98%	98%
	rented	31%	18%	41%	28%	30%
	owned	69%	82%	59%	72%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

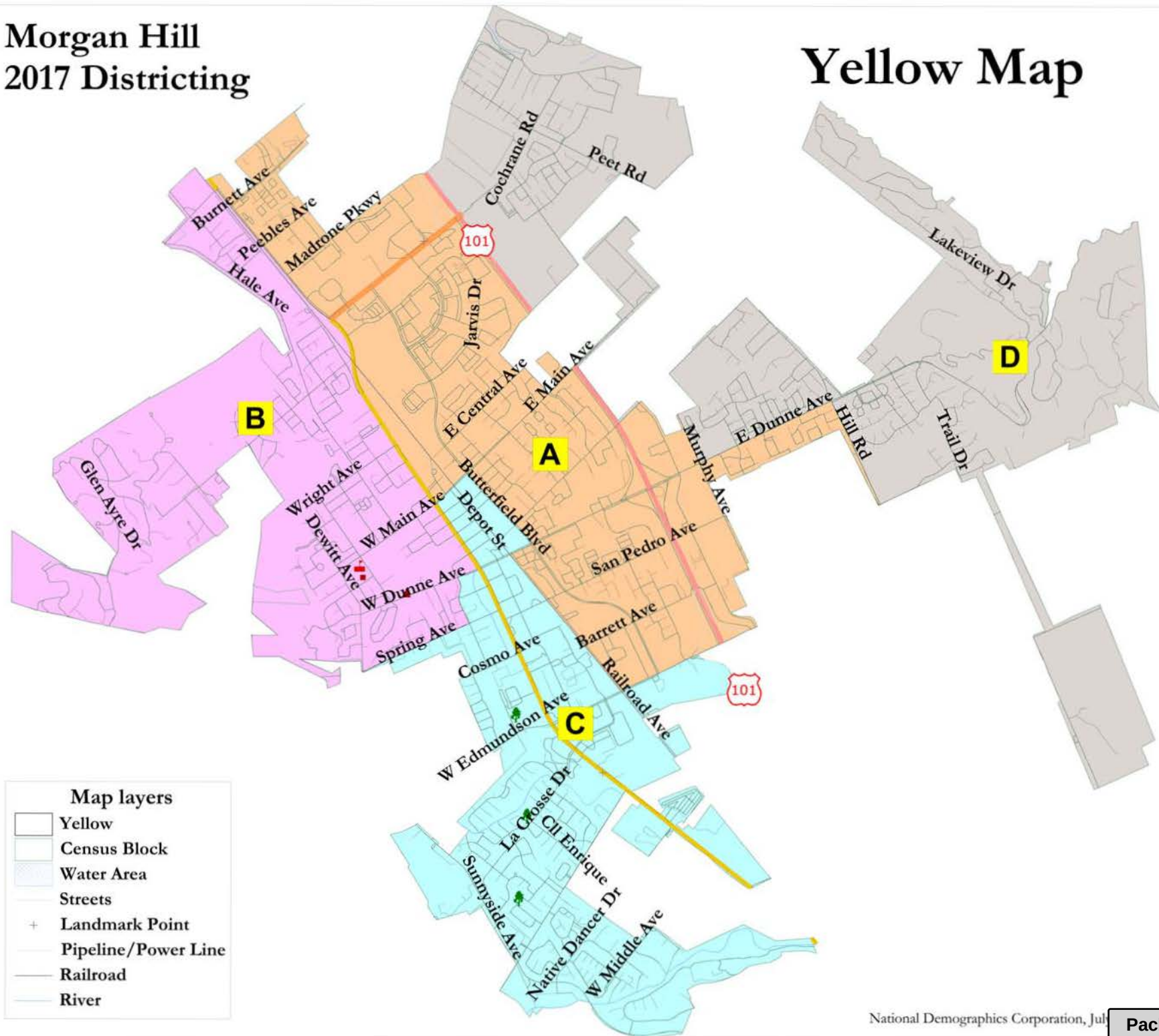
Orange Map



Morgan Hill - Orange map						
District		A	B	C	D	Total
Ideal	Total Pop	9,548	9,348	9,149	9,837	37,882
7,576	Deviation from ideal	77	-123	-322	366	688
	% Deviation	0.81%	-1.30%	-3.40%	3.86%	7.26%
Total Pop	% Hisp	36%	37%	41%	22%	34%
	% NH White	52%	46%	44%	59%	50%
	% NH Black	2%	3%	2%	2%	2%
	% Asian-American	7%	12%	11%	15%	11%
Voting Age Pop	Total	6,815	6,545	6,698	6,986	27,044
	% Hisp	32%	34%	36%	19%	30%
	% NH White	56%	50%	49%	62%	55%
	% NH Black	2%	3%	2%	2%	2%
	% Asian-American	7%	12%	11%	14%	11%
Citizen Voting Age Pop	Total	6,190	6,547	6,567	7,343	26,648
	% Hisp	26%	30%	27%	21%	26%
	% NH White	59%	52%	59%	65%	59%
	% NH Black	2%	5%	4%	3%	4%
	% Asian/Pac.Isl.	11%	12%	10%	8%	10%
Voter Registration (Nov 2014)	Total	4,925	4,459	4,392	6,030	19,806
	% Latino est.	21%	25%	25%	15%	21%
	% Asian-Surnamed	4%	7%	6%	8%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	19%	22%	22%	14%	19%
	% NH White est.	68%	55%	62%	74%	66%
	% NH Black	2%	5%	5%	2%	3%
Voter Turnout (Nov 2014)	Total	2,515	1,937	2,031	3,106	9,588
	% Latino	16%	18%	18%	12%	16%
	% Asian-Surnamed	3%	6%	5%	7%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	15%	17%	16%	10%	14%
	% NH White est.	74%	61%	69%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	5%	5%	2%	3%
	Total	4,070	3,270	3,617	5,011	15,968
	% Latino	19%	24%	24%	14%	20%
	% Asian-Surnamed	4%	6%	5%	7%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	18%	21%	21%	13%	18%
	% NH White est.	69%	58%	63%	76%	68%
ACS Pop. Est.	% NH Black est.	2%	5%	5%	2%	3%
	Total	9,995	9,879	9,533	10,688	40,095
Age	age0-19	30%	32%	24%	29%	29%
	age20-60	51%	55%	57%	51%	53%
	age60plus	19%	14%	19%	20%	18%
Immigration	immigrants	16%	21%	22%	17%	19%
	naturalized	42%	57%	55%	62%	54%
Language spoken at home	english	71%	68%	63%	76%	69%
	spanish	22%	20%	28%	14%	21%
	asian-lang	5%	6%	4%	5%	5%
	other lang	3%	6%	5%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	11%	14%	7%	11%
Education (among those age 25+)	hs-grad	51%	56%	51%	46%	51%
	bachelor	24%	22%	20%	25%	23%
	graduatedegree	14%	10%	14%	20%	14%
Child in Household	child-under18	35%	38%	33%	40%	37%
Work (percent of pop age 16+)	employed	61%	64%	61%	62%	62%
	Commute on Public Transit	4%	3%	4%	1%	3%
Household Income	income 0-25k	16%	17%	17%	10%	15%
	income 25-50k	13%	14%	19%	11%	14%
	income 50-75k	14%	14%	11%	10%	12%
	income 75-200k	42%	40%	39%	45%	42%
	income 200k-plus	16%	15%	14%	24%	17%
Housing Stats	single family	78%	81%	76%	93%	82%
	multi-family	22%	19%	24%	7%	18%
	vacant	3%	4%	0%	2%	2%
	occupied	97%	96%	100%	98%	98%
	rented	30%	34%	36%	18%	30%
	owned	70%	66%	64%	82%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

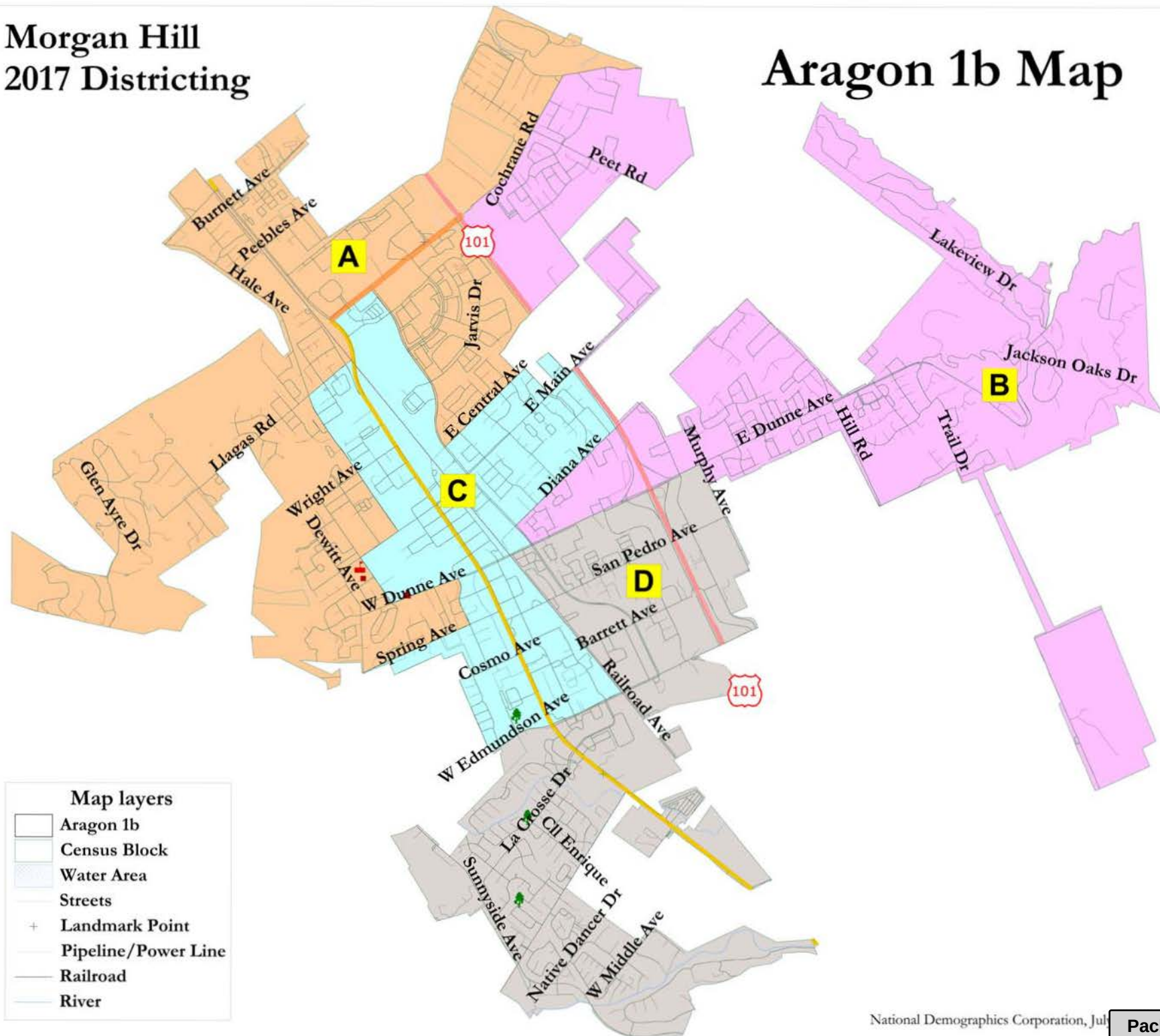
Yellow Map



Morgan Hill - Yellow map						
District		A	B	C	D	Total
Ideal	Total Pop	9,600	9,680	9,413	9,189	37,882
7,576	Deviation from ideal	129	209	-58	-282	491
	% Deviation	1.36%	2.21%	-0.61%	-2.98%	5.18%
Total Pop	% Hisp	35%	41%	37%	22%	34%
	% NH White	47%	44%	52%	59%	50%
	% NH Black	3%	2%	2%	2%	2%
	% Asian-American	13%	11%	7%	15%	11%
Voting Age Pop	Total	6,716	7,112	6,679	6,537	27,044
	% Hisp	32%	36%	32%	20%	30%
	% NH White	51%	49%	57%	62%	55%
	% NH Black	3%	2%	2%	2%	2%
	% Asian-American	13%	11%	7%	14%	11%
Citizen Voting Age Pop	Total	6,749	7,023	5,966	6,910	26,648
	% Hisp	29%	28%	26%	21%	26%
	% NH White	52%	59%	60%	66%	59%
	% NH Black	6%	4%	2%	3%	4%
	% Asian/Pac.Isl.	12%	9%	11%	8%	10%
Voter Registration (Nov 2014)	Total	4,667	4,552	4,856	5,731	19,806
	% Latino est.	23%	25%	21%	15%	21%
	% Asian-Surnamed	7%	6%	4%	8%	6%
	% Filipino-Surnamed	2%	1%	1%	1%	1%
	% Spanish-Surnamed	21%	23%	19%	14%	19%
	% NH White est.	57%	62%	67%	74%	66%
	% NH Black	5%	5%	2%	2%	3%
Voter Turnout (Nov 2014)	Total	2,065	2,100	2,478	2,945	9,588
	% Latino	17%	18%	17%	12%	16%
	% Asian-Surnamed	7%	5%	3%	7%	6%
	% Filipino-Surnamed	2%	1%	1%	1%	1%
	% Spanish-Surnamed	16%	16%	15%	10%	14%
	% NH White est.	64%	69%	73%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	5%	5%	2%	2%	3%
	Total	3,571	3,784	3,955	4,658	15,968
	% Latino	22%	24%	19%	14%	20%
	% Asian-Surnamed	7%	5%	4%	6%	6%
	% Filipino-Surnamed	2%	1%	1%	1%	1%
	% Spanish-Surnamed	20%	21%	17%	13%	18%
	% NH White est.	60%	63%	69%	76%	68%
ACS Pop. Est.	% NH Black est.	5%	5%	2%	2%	3%
	Total	10,129	10,107	9,857	10,003	40,095
Age	age0-19	31%	24%	30%	29%	29%
	age20-60	55%	57%	51%	50%	53%
	age60plus	14%	19%	19%	20%	18%
Immigration	immigrants	20%	22%	16%	17%	19%
	naturalized	57%	53%	45%	63%	54%
Language spoken at home	english	68%	63%	71%	76%	69%
	spanish	20%	28%	21%	14%	21%
	asian-lang	6%	4%	5%	5%	5%
	other lang	6%	5%	3%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	10%	14%	11%	7%	11%
Education (among those age 25+)	hs-grad	55%	51%	52%	46%	51%
	bachelor	22%	20%	24%	25%	23%
	graduatedegree	11%	14%	13%	20%	14%
Child in Household	child-under18	37%	34%	34%	41%	37%
Work (percent of pop age 16+)	employed	64%	62%	61%	62%	62%
	Commute on Public Transit	3%	4%	3%	1%	3%
Household Income	income 0-25k	15%	17%	16%	10%	15%
	income 25-50k	13%	19%	14%	11%	14%
	income 50-75k	14%	11%	14%	10%	12%
	income 75-200k	41%	39%	41%	44%	42%
	income 200k-plus	16%	14%	15%	25%	17%
Housing Stats	single family	83%	74%	79%	94%	82%
	multi-family	17%	26%	21%	6%	18%
	vacant	4%	1%	3%	2%	2%
	occupied	96%	99%	97%	98%	98%
	rented	31%	38%	30%	18%	30%
	owned	69%	62%	70%	82%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

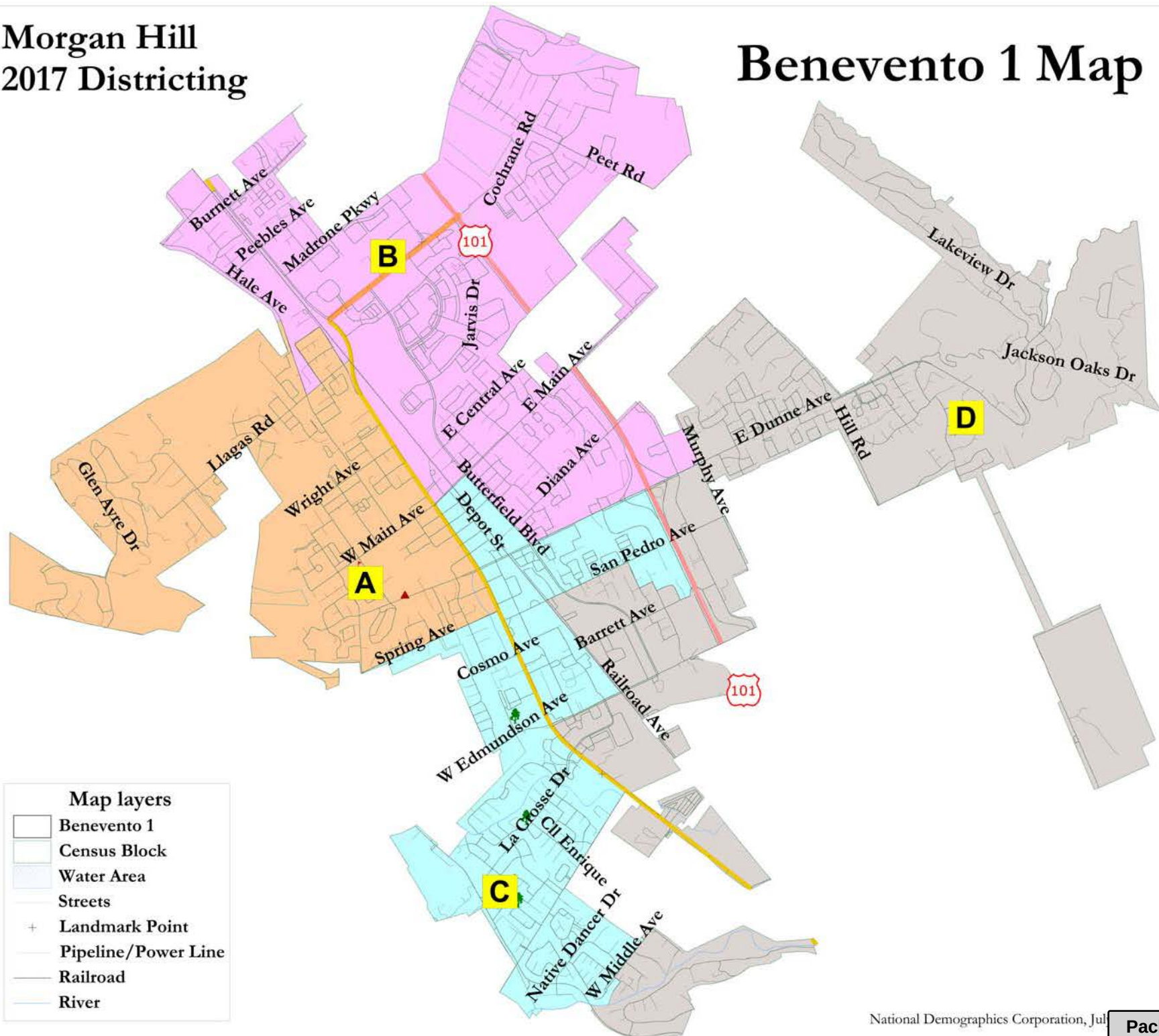
Aragon 1b Map



Morgan Hill - Aragon 1b map						
District		A	B	C	D	Total
Ideal	Total Pop	9,615	9,828	9,065	9,374	37,882
7,576	Deviation from ideal	144	357	-406	-97	763
	% Deviation	1.52%	3.77%	-4.29%	-1.02%	8.06%
Total Pop	% Hisp	32%	22%	53%	29%	34%
	% NH White	50%	60%	35%	55%	50%
	% NH Black	2%	2%	3%	2%	2%
	% Asian-American	13%	14%	7%	11%	11%
Voting Age Pop	Total	7,030	7,075	6,198	6,741	27,044
	% Hisp	28%	20%	48%	26%	30%
	% NH White	55%	63%	39%	59%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	13%	13%	8%	10%	11%
Citizen Voting Age Pop	Total	7,040	7,214	5,742	6,652	26,648
	% Hisp	23%	20%	35%	27%	26%
	% NH White	61%	66%	51%	56%	59%
	% NH Black	4%	4%	6%	2%	4%
	% Asian/Pac.Isl.	10%	9%	7%	14%	10%
Voter Registration (Nov 2014)	Total	4,722	6,013	4,025	5,046	19,806
	% Latino est.	22%	16%	29%	19%	21%
	% Asian-Surnamed	6%	7%	6%	6%	6%
	% Filipino-Surnamed	2%	1%	2%	1%	1%
	% Spanish-Surnamed	20%	14%	26%	17%	19%
	% NH White est.	61%	74%	52%	71%	66%
	% NH Black	5%	2%	5%	2%	3%
Voter Turnout (Nov 2014)	Total	2,245	3,086	1,680	2,577	9,588
	% Latino	17%	12%	21%	15%	16%
	% Asian-Surnamed	6%	6%	5%	5%	6%
	% Filipino-Surnamed	2%	1%	2%	1%	1%
	% Spanish-Surnamed	15%	11%	19%	14%	14%
	% NH White est.	66%	79%	60%	76%	72%
Voter Turnout (Nov 2012)	% NH Black est.	5%	2%	5%	2%	3%
	Total	3,946	4,999	3,003	4,020	15,968
	% Latino	21%	15%	27%	18%	20%
	% Asian-Surnamed	6%	6%	5%	5%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
	% Spanish-Surnamed	19%	13%	25%	16%	18%
	% NH White est.	62%	76%	56%	71%	68%
ACS Pop. Est.	% NH Black est.	5%	2%	5%	2%	3%
	Total	10,050	10,658	9,513	9,874	40,095
Age	age0-19	26%	29%	28%	32%	29%
	age20-60	55%	52%	58%	49%	53%
	age60plus	19%	19%	14%	19%	18%
Immigration	immigrants	21%	17%	21%	17%	19%
	naturalized	56%	61%	47%	55%	54%
Language spoken at home	english	65%	76%	64%	72%	69%
	spanish	24%	14%	27%	18%	21%
	asian-lang	6%	4%	4%	6%	5%
	other lang	5%	5%	4%	4%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	12%	7%	13%	11%	11%
Education (among those age 25+)	hs-grad	50%	48%	51%	56%	51%
	bachelor	22%	25%	21%	23%	23%
	graduatedegree	15%	19%	12%	12%	14%
Child in Household	child-under18	34%	40%	38%	34%	37%
Work (percent of pop age 16+)	employed	63%	62%	65%	58%	62%
	Commute on Public Transit	4%	2%	4%	3%	3%
Household Income	income 0-25k	15%	9%	16%	19%	15%
	income 25-50k	15%	11%	16%	16%	14%
	income 50-75k	12%	11%	12%	14%	12%
	income 75-200k	41%	45%	40%	39%	42%
	income 200k-plus	18%	24%	15%	12%	17%
Housing Stats	single family	81%	93%	74%	80%	82%
	multi-family	19%	7%	26%	20%	18%
	vacant	2%	2%	3%	3%	2%
	occupied	98%	98%	97%	97%	98%
	rented	30%	19%	38%	33%	30%
	owned	70%	81%	62%	67%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

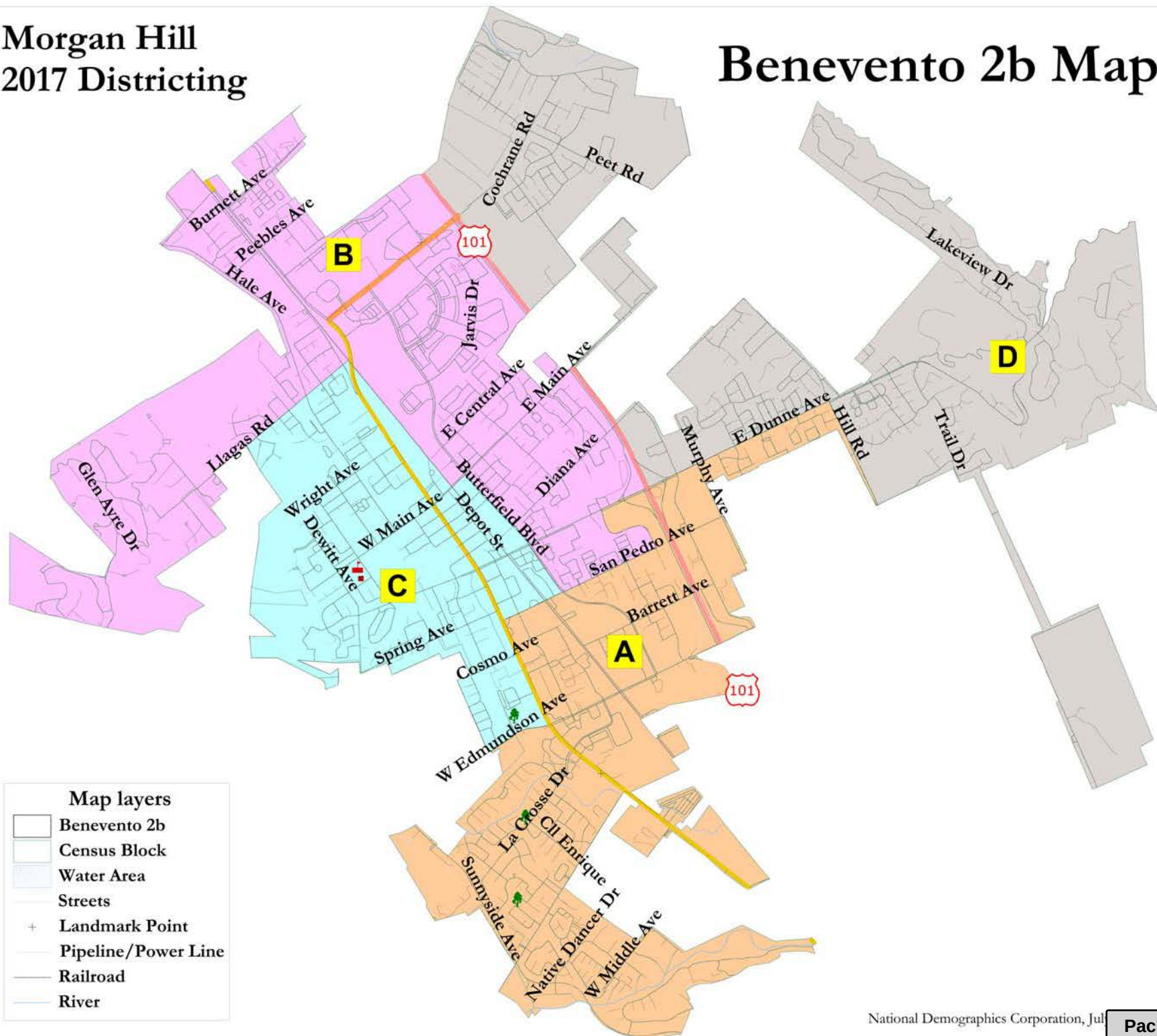
Benevento 1 Map



Morgan Hill - Benevento 1 map						
District		A	B	C	D	Total
Ideal	Total Pop	9,125	9,218	9,873	9,666	37,882
7,576	Deviation from ideal	-346	-253	402	195	748
	% Deviation	-3.65%	-2.67%	4.24%	2.06%	7.90%
Total Pop	% Hisp	43%	32%	38%	23%	34%
	% NH White	45%	47%	48%	61%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	8%	17%	9%	11%	11%
Voting Age Pop	Total	6,740	6,336	6,963	7,005	27,044
	% Hisp	38%	29%	34%	21%	30%
	% NH White	50%	50%	53%	65%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	8%	17%	9%	11%	11%
Citizen Voting Age Pop	Total	6,675	6,868	6,414	6,692	26,648
	% Hisp	30%	28%	28%	18%	26%
	% NH White	59%	54%	55%	67%	59%
	% NH Black	3%	6%	3%	3%	4%
	% Asian/Pac.Isl.	7%	11%	13%	11%	10%
Voter Registration (Nov 2014)	Total	4,363	4,721	4,986	5,736	19,806
	% Latino est.	25%	22%	22%	16%	21%
	% Asian-Surnamed	5%	8%	5%	6%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	23%	19%	20%	15%	19%
	% NH White est.	62%	58%	67%	74%	66%
	% NH Black	4%	5%	1%	2%	3%
Voter Turnout (Nov 2014)	Total	2,017	2,095	2,468	3,007	9,588
	% Latino	18%	16%	17%	12%	16%
	% Asian-Surnamed	5%	7%	4%	6%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	16%	15%	15%	11%	14%
	% NH White est.	69%	63%	73%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	5%	6%	2%	2%	3%
	Total	3,600	3,665	3,981	4,723	15,968
	% Latino	24%	20%	21%	15%	20%
	% Asian-Surnamed	5%	7%	5%	5%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	21%	18%	19%	13%	18%
	% NH White est.	64%	61%	68%	76%	68%
ACS Pop. Est.	% NH Black est.	4%	6%	1%	2%	3%
	Total	9,531	9,703	10,417	10,444	40,095
Age	age0-19	25%	28%	31%	30%	29%
	age20-60	58%	54%	51%	51%	53%
	age60plus	17%	17%	18%	19%	18%
Immigration	immigrants	23%	18%	18%	18%	19%
	naturalized	50%	64%	47%	59%	54%
Language spoken at home	english	62%	72%	69%	74%	69%
	spanish	30%	14%	22%	17%	21%
	asian-lang	4%	6%	5%	5%	5%
	other lang	4%	7%	3%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	15%	8%	12%	9%	11%
Education (among those age 25+)	hs-grad	50%	51%	54%	49%	51%
	bachelor	19%	26%	23%	24%	23%
	graduatedegree	13%	15%	12%	17%	14%
Child in Household	child-under18	35%	36%	35%	39%	37%
Work (percent of pop age 16+)	employed	62%	65%	61%	61%	62%
	Commute on Public Transit	4%	3%	3%	1%	3%
Household Income	income 0-25k	17%	11%	18%	12%	15%
	income 25-50k	19%	8%	15%	13%	14%
	income 50-75k	11%	14%	14%	11%	12%
	income 75-200k	39%	43%	40%	44%	42%
	income 200k-plus	14%	23%	13%	20%	17%
Housing Stats	single family	72%	93%	77%	88%	82%
	multi-family	28%	7%	23%	12%	18%
	vacant	1%	4%	2%	2%	2%
	occupied	99%	96%	98%	98%	98%
	rented	40%	18%	35%	24%	30%
	owned	60%	82%	65%	76%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

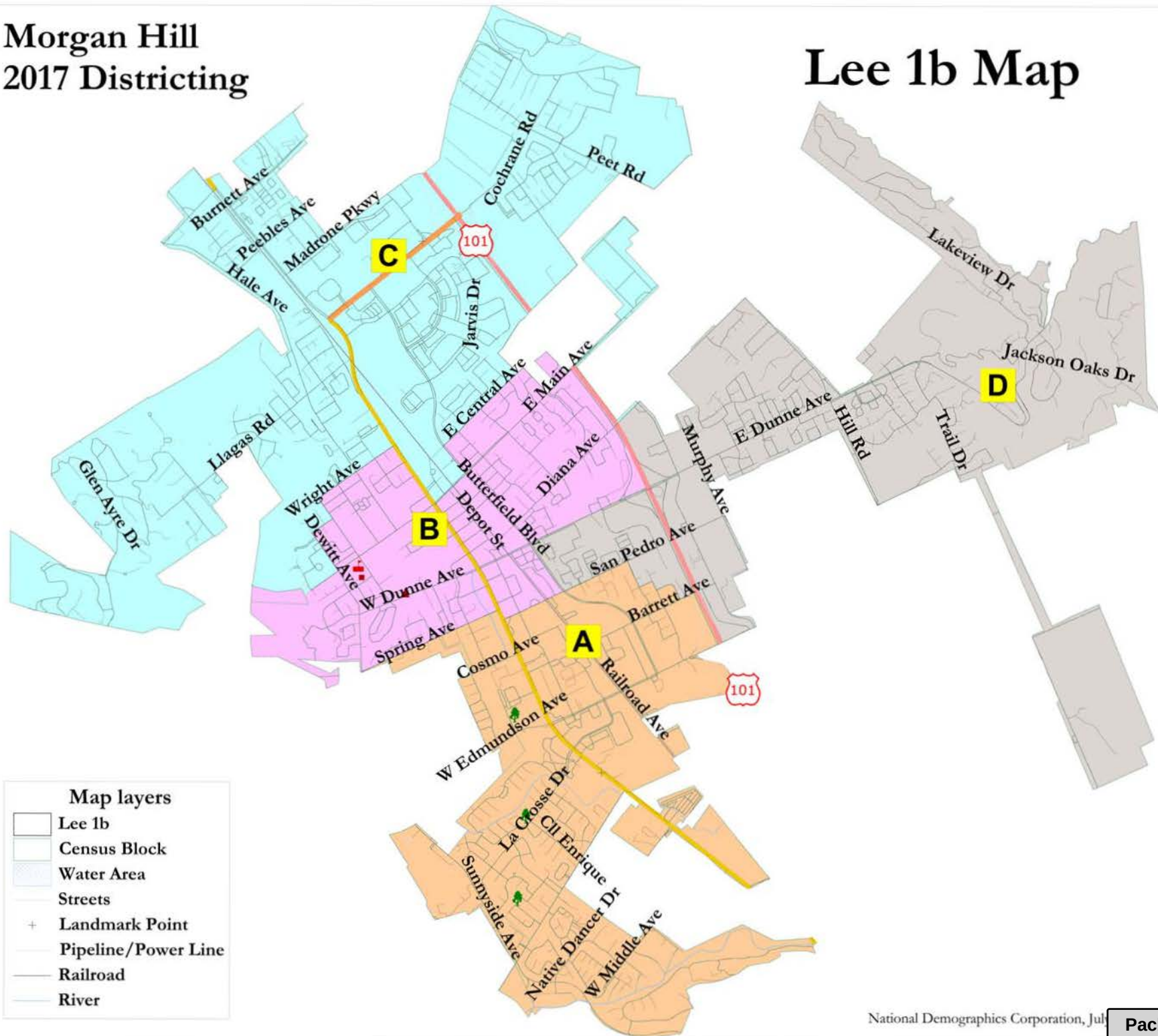
Benevento 2b Map



Morgan Hill - Benevento 2b map						
District		A	B	C	D	Total
Ideal	Total Pop	9,189	9,915	9,582	9,196	37,882
7,576	Deviation from ideal	-282	444	111	-275	726
	% Deviation	-2.98%	4.69%	1.17%	-2.90%	7.67%
Total Pop	% Hisp	29%	33%	51%	22%	34%
	% NH White	56%	49%	38%	59%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	10%	13%	7%	15%	11%
Voting Age Pop	Total	6,573	7,099	6,828	6,544	27,044
	% Hisp	26%	29%	45%	20%	30%
	% NH White	60%	54%	43%	62%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	10%	13%	8%	14%	11%
Citizen Voting Age Pop	Total	6,176	7,224	6,331	6,917	26,648
	% Hisp	24%	24%	36%	21%	26%
	% NH White	59%	57%	54%	66%	59%
	% NH Black	2%	6%	4%	3%	4%
	% Asian/Pac.Isl.	14%	13%	6%	9%	10%
Voter Registration (Nov 2014)	Total	5,063	5,041	3,971	5,731	19,806
	% Latino est.	19%	23%	29%	15%	21%
	% Asian-Surnamed	5%	6%	5%	8%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	17%	20%	26%	14%	19%
	% NH White est.	71%	59%	56%	74%	66%
	% NH Black	2%	6%	3%	2%	3%
Voter Turnout (Nov 2014)	Total	2,589	2,294	1,760	2,945	9,588
	% Latino	15%	17%	20%	12%	16%
	% Asian-Surnamed	4%	6%	5%	7%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	14%	15%	18%	10%	14%
	% NH White est.	76%	64%	64%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	6%	4%	2%	3%
	Total	4,170	3,904	3,235	4,658	15,968
	% Latino	18%	22%	27%	14%	20%
	% Asian-Surnamed	5%	6%	4%	6%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
	% Spanish-Surnamed	16%	20%	24%	13%	18%
	% NH White est.	71%	61%	59%	76%	68%
ACS Pop. Est.	% NH Black est.	2%	6%	4%	2%	3%
	Total	9,633	10,394	10,057	10,010	40,095
Age	age0-19	31%	28%	27%	29%	29%
	age20-60	50%	55%	58%	50%	53%
	age60plus	20%	17%	15%	20%	18%
Immigration	immigrants	16%	19%	23%	17%	19%
	naturalized	53%	63%	42%	63%	54%
Language spoken at home	english	73%	69%	60%	76%	69%
	spanish	18%	17%	34%	14%	21%
	asian-lang	5%	6%	3%	5%	5%
	other lang	4%	7%	3%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	10%	9%	16%	7%	11%
Education (among those age 25+)	hs-grad	54%	55%	49%	46%	51%
	bachelor	24%	23%	19%	25%	23%
	graduatedegree	13%	13%	11%	20%	14%
Child in Household	child-under18	33%	33%	39%	41%	37%
Work (percent of pop age 16+)	employed	59%	64%	64%	62%	62%
	Commute on Public Transit	3%	4%	4%	1%	3%
Household Income	income 0-25k	16%	12%	20%	10%	15%
	income 25-50k	14%	11%	21%	11%	14%
	income 50-75k	14%	14%	11%	10%	12%
	income 75-200k	41%	43%	37%	44%	42%
	income 200k-plus	14%	20%	11%	25%	17%
Housing Stats	single family	82%	89%	64%	94%	82%
	multi-family	18%	11%	36%	6%	18%
	vacant	3%	4%	1%	2%	2%
	occupied	97%	96%	99%	98%	98%
	rented	28%	24%	47%	18%	30%
	owned	72%	76%	53%	82%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

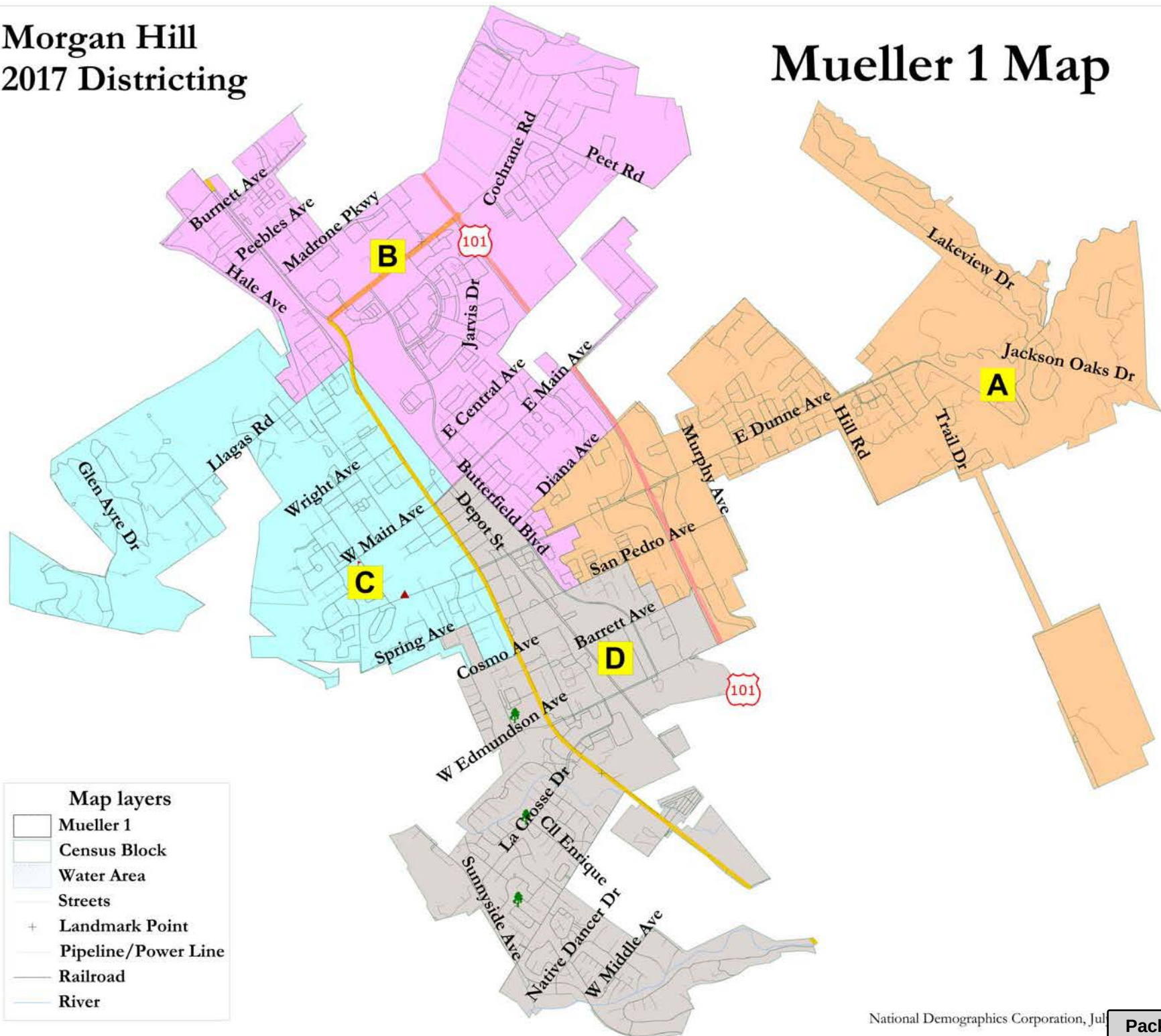
Lee 1b Map



Morgan Hill - Lee 1b map						
District		A	B	C	D	Total
Ideal	Total Pop	9,582	9,486	9,649	9,165	37,882
7,576	Deviation from ideal	111	15	178	-306	484
	% Deviation	1.17%	0.16%	1.88%	-3.23%	5.11%
Total Pop	% Hisp	34%	44%	33%	25%	34%
	% NH White	53%	45%	45%	59%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	9%	8%	17%	12%	11%
Voting Age Pop	Total	6,752	6,801	6,806	6,685	27,044
	% Hisp	30%	39%	30%	22%	30%
	% NH White	57%	49%	50%	62%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	9%	8%	16%	12%	11%
Citizen Voting Age Pop	Total	6,029	6,874	7,219	6,525	26,648
	% Hisp	24%	33%	27%	20%	26%
	% NH White	59%	56%	57%	65%	59%
	% NH Black	2%	5%	4%	3%	4%
	% Asian/Pac.Isl.	14%	6%	11%	11%	10%
Voter Registration (Nov 2014)	Total	4,779	4,223	5,138	5,666	19,806
	% Latino est.	20%	27%	22%	17%	21%
	% Asian-Surnamed	4%	5%	8%	7%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	18%	24%	19%	15%	19%
	% NH White est.	71%	58%	58%	73%	66%
	% NH Black	2%	5%	5%	2%	3%
Voter Turnout (Nov 2014)	Total	2,453	1,867	2,349	2,919	9,588
	% Latino	16%	19%	17%	13%	16%
	% Asian-Surnamed	4%	5%	7%	6%	6%
	% Filipino-Surnamed	1%	1%	2%	1%	1%
	% Spanish-Surnamed	14%	17%	15%	11%	14%
	% NH White est.	76%	66%	64%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	5%	5%	2%	3%
	Total	3,892	3,409	4,059	4,608	15,968
	% Latino	19%	25%	20%	15%	20%
	% Asian-Surnamed	4%	4%	8%	6%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
	% Spanish-Surnamed	17%	22%	18%	14%	18%
	% NH White est.	71%	61%	61%	76%	68%
ACS Pop. Est.	% NH Black est.	2%	5%	5%	2%	3%
	Total	10,069	9,989	10,095	9,942	40,095
Age	age0-19	31%	28%	26%	30%	29%
	age20-60	50%	58%	53%	51%	53%
	age60plus	19%	14%	21%	19%	18%
Immigration	immigrants	17%	21%	20%	18%	19%
	naturalized	47%	48%	64%	59%	54%
Language spoken at home	english	71%	66%	68%	73%	69%
	spanish	20%	26%	19%	17%	21%
	asian-lang	6%	4%	6%	5%	5%
	other lang	3%	5%	6%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	13%	10%	9%	11%
Education (among those age 25+)	hs-grad	53%	52%	50%	49%	51%
	bachelor	24%	21%	24%	23%	23%
	graduatedegree	13%	11%	16%	17%	14%
Child in Household	child-under18	34%	39%	33%	40%	37%
Work (percent of pop age 16+)	employed	60%	65%	62%	62%	62%
	Commute on Public Transit	3%	4%	3%	1%	3%
Household Income	income 0-25k	17%	16%	14%	12%	15%
	income 25-50k	14%	16%	13%	14%	14%
	income 50-75k	14%	12%	12%	11%	12%
	income 75-200k	41%	41%	40%	44%	42%
	income 200k-plus	14%	15%	20%	20%	17%
Housing Stats	single family	79%	74%	89%	87%	82%
	multi-family	21%	26%	11%	13%	18%
	vacant	3%	2%	2%	2%	2%
	occupied	97%	98%	98%	98%	98%
	rented	31%	39%	23%	26%	30%
	owned	69%	61%	77%	74%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

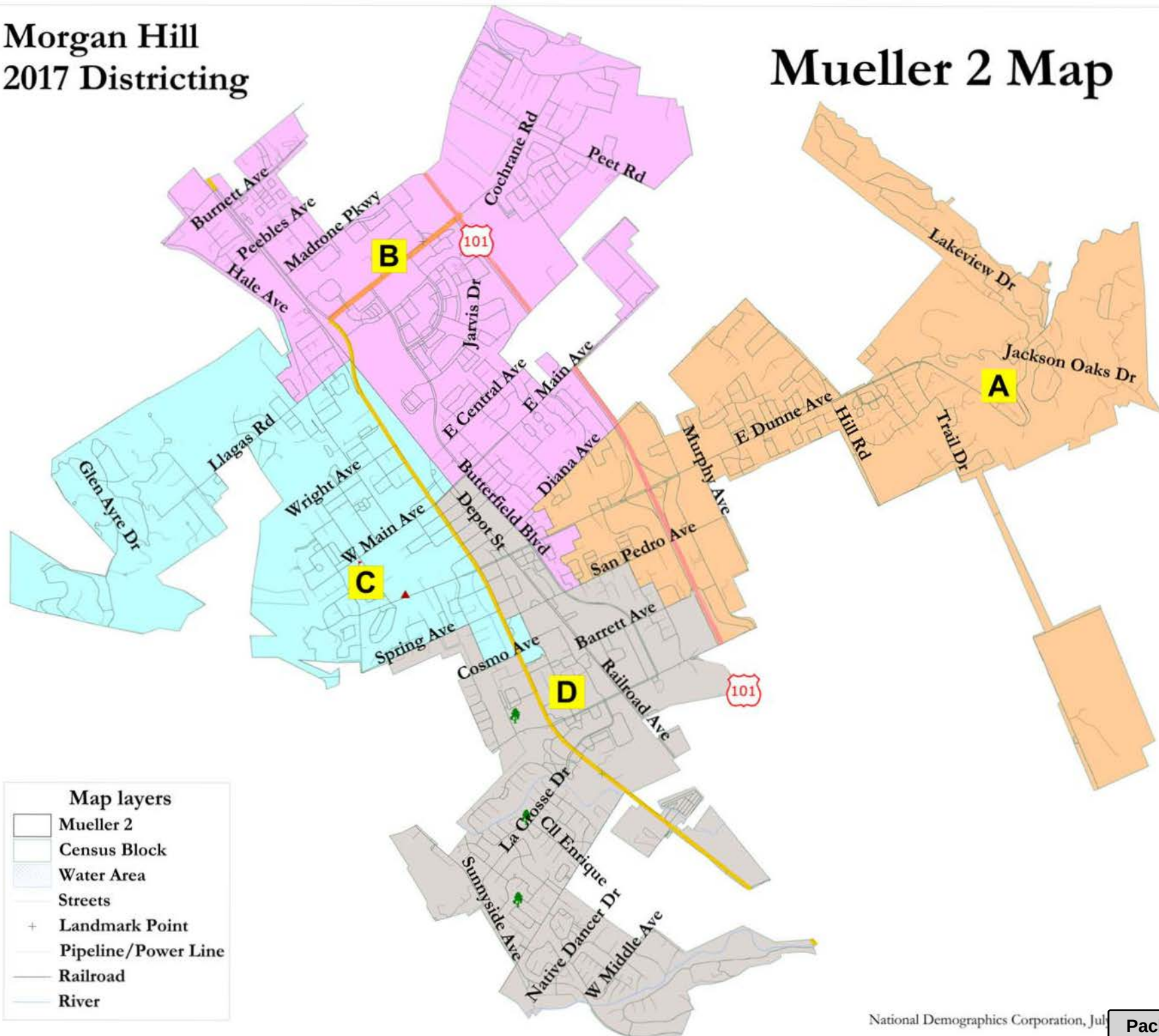
Mueller 1 Map



Morgan Hill - Mueller 1 map						
District		A	B	C	D	Total
Ideal	Total Pop	9,176	9,530	9,655	9,521	37,882
7,576	Deviation from ideal	-295	59	184	50	479
	% Deviation	-3.11%	0.62%	1.94%	0.53%	5.06%
Total Pop	% Hisp	23%	33%	47%	32%	34%
	% NH White	61%	45%	42%	54%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	12%	18%	7%	9%	11%
Voting Age Pop	Total	6,743	6,527	7,004	6,770	27,044
	% Hisp	21%	30%	41%	29%	30%
	% NH White	64%	49%	47%	58%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	11%	17%	8%	9%	11%
Citizen Voting Age Pop	Total	6,580	7,073	6,639	6,356	26,648
	% Hisp	18%	28%	31%	26%	26%
	% NH White	68%	53%	59%	58%	59%
	% NH Black	3%	6%	3%	2%	4%
	% Asian/Pac.Isl.	10%	12%	6%	13%	10%
Voter Registration (Nov 2014)	Total	5,798	4,696	4,352	4,960	19,806
	% Latino est.	17%	22%	26%	21%	21%
	% Asian-Surnamed	7%	9%	5%	5%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	15%	20%	23%	19%	19%
	% NH White est.	74%	57%	61%	68%	66%
	% NH Black	2%	6%	4%	2%	3%
Voter Turnout (Nov 2014)	Total	2,973	2,099	2,004	2,513	9,588
	% Latino	13%	17%	18%	16%	16%
	% Asian-Surnamed	6%	7%	5%	4%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	11%	15%	16%	15%	14%
	% NH White est.	79%	63%	68%	74%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	6%	5%	2%	3%
	Total	4,729	3,634	3,591	4,013	15,968
	% Latino	16%	20%	25%	19%	20%
	% Asian-Surnamed	6%	8%	5%	4%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	14%	18%	22%	17%	18%
	% NH White est.	76%	60%	62%	69%	68%
ACS Pop. Est.	% NH Black est.	2%	6%	4%	2%	3%
	Total	9,936	10,053	10,108	9,998	40,095
Age	age0-19	30%	28%	26%	31%	29%
	age20-60	52%	54%	58%	50%	53%
	age60plus	19%	18%	16%	19%	18%
Immigration	immigrants	18%	18%	23%	17%	19%
	naturalized	59%	64%	46%	50%	54%
Language spoken at home	english	74%	71%	61%	71%	69%
	spanish	16%	15%	32%	20%	21%
	asian-lang	4%	7%	4%	6%	5%
	other lang	5%	7%	4%	4%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	8%	8%	15%	11%	11%
Education (among those age 25+)	hs-grad	49%	52%	50%	54%	51%
	bachelor	23%	25%	19%	24%	23%
	graduatedegree	18%	15%	13%	13%	14%
Child in Household	child-under18	40%	35%	37%	34%	37%
Work (percent of pop age 16+)	employed	62%	64%	63%	60%	62%
	Commute on Public Transit	2%	3%	4%	3%	3%
Household Income	income 0-25k	11%	12%	18%	17%	15%
	income 25-50k	13%	9%	20%	15%	14%
	income 50-75k	11%	14%	11%	14%	12%
	income 75-200k	45%	43%	39%	40%	42%
	income 200k-plus	21%	23%	13%	13%	17%
Housing Stats	single family	89%	93%	69%	79%	82%
	multi-family	11%	7%	31%	21%	18%
	vacant	2%	4%	1%	3%	2%
	occupied	98%	96%	99%	97%	98%
	rented	24%	20%	42%	32%	30%
	owned	76%	80%	58%	68%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

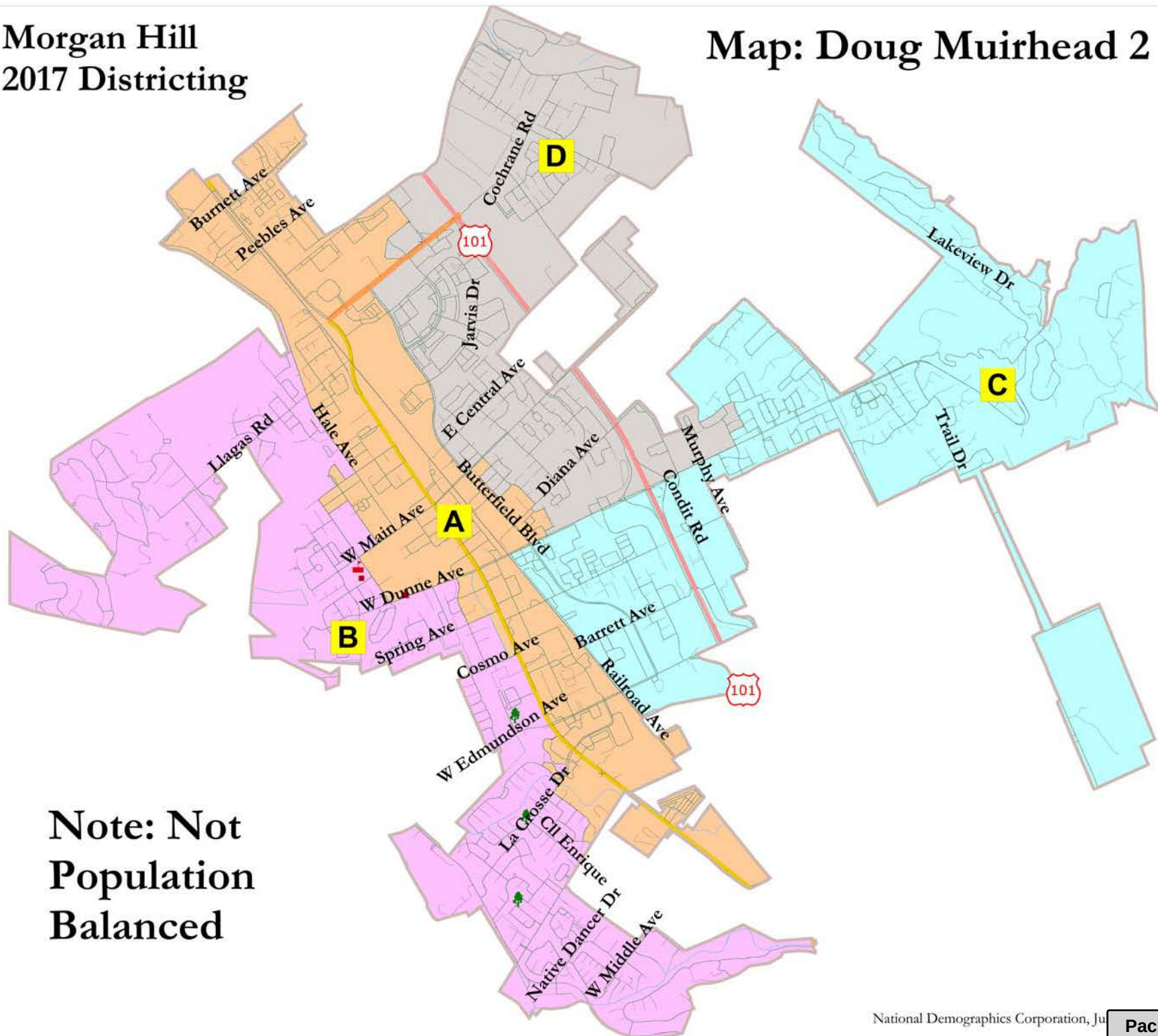
Mueller 2 Map



Morgan Hill - Mueller 2 map						
District		A	B	C	D	Total
Ideal	Total Pop	9,176	9,530	9,835	9,341	37,882
7,576	Deviation from ideal	-295	59	364	-130	659
	% Deviation	-3.11%	0.62%	3.84%	-1.37%	6.96%
Total Pop	% Hisp	23%	33%	48%	31%	34%
	% NH White	61%	45%	41%	55%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	12%	18%	7%	9%	11%
Voting Age Pop	Total	6,743	6,527	7,108	6,666	27,044
	% Hisp	21%	30%	42%	28%	30%
	% NH White	64%	49%	46%	59%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	11%	17%	8%	9%	11%
Citizen Voting Age Pop	Total	6,580	7,073	6,650	6,345	26,648
	% Hisp	18%	28%	32%	25%	26%
	% NH White	68%	53%	58%	58%	59%
	% NH Black	3%	6%	4%	2%	4%
	% Asian/Pac.Isl.	10%	12%	6%	13%	10%
Voter Registration (Nov 2014)	Total	5,798	4,696	4,340	4,972	19,806
	% Latino est.	17%	22%	26%	21%	21%
	% Asian-Surnamed	7%	9%	5%	5%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	15%	20%	23%	19%	19%
	% NH White est.	74%	57%	61%	68%	66%
	% NH Black	2%	6%	4%	2%	3%
Voter Turnout (Nov 2014)	Total	2,973	2,099	1,999	2,519	9,588
	% Latino	13%	17%	18%	16%	16%
	% Asian-Surnamed	6%	7%	5%	4%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	11%	15%	16%	15%	14%
	% NH White est.	79%	63%	68%	74%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	6%	5%	2%	3%
	Total	4,729	3,634	3,580	4,024	15,968
	% Latino	16%	20%	25%	19%	20%
	% Asian-Surnamed	6%	8%	5%	4%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	14%	18%	22%	17%	18%
ACS Pop. Est.	% NH White est.	76%	60%	62%	69%	68%
	% NH Black est.	2%	6%	4%	2%	3%
	Total	9,936	10,053	10,302	9,803	40,095
	age0-19	30%	28%	26%	31%	29%
	age20-60	52%	54%	58%	50%	53%
Age	age60plus	19%	18%	16%	19%	18%
	immigrants	18%	18%	23%	17%	19%
Immigration	naturalized	59%	64%	46%	51%	54%
	english	74%	71%	61%	72%	69%
Language spoken at home	spanish	16%	15%	32%	19%	21%
	asian-lang	4%	7%	4%	6%	5%
	other lang	5%	7%	4%	4%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	8%	8%	15%	11%	11%
Education (among those age 25+)	hs-grad	49%	52%	50%	54%	51%
	bachelor	23%	25%	19%	24%	23%
	graduatedegree	18%	15%	13%	13%	14%
Child in Household	child-under18	40%	35%	37%	34%	37%
Work (percent of pop age 16+)	employed	62%	64%	63%	59%	62%
	Commute on Public Transit	2%	3%	4%	3%	3%
Household Income	income 0-25k	11%	12%	18%	17%	15%
	income 25-50k	13%	9%	20%	15%	14%
	income 50-75k	11%	14%	11%	14%	12%
	income 75-200k	45%	43%	39%	40%	42%
	income 200k-plus	21%	23%	13%	13%	17%
Housing Stats	single family	89%	93%	69%	80%	82%
	multi-family	11%	7%	31%	20%	18%
	vacant	2%	4%	1%	3%	2%
	occupied	98%	96%	99%	97%	98%
	rented	24%	20%	42%	31%	30%
	owned	76%	80%	58%	69%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

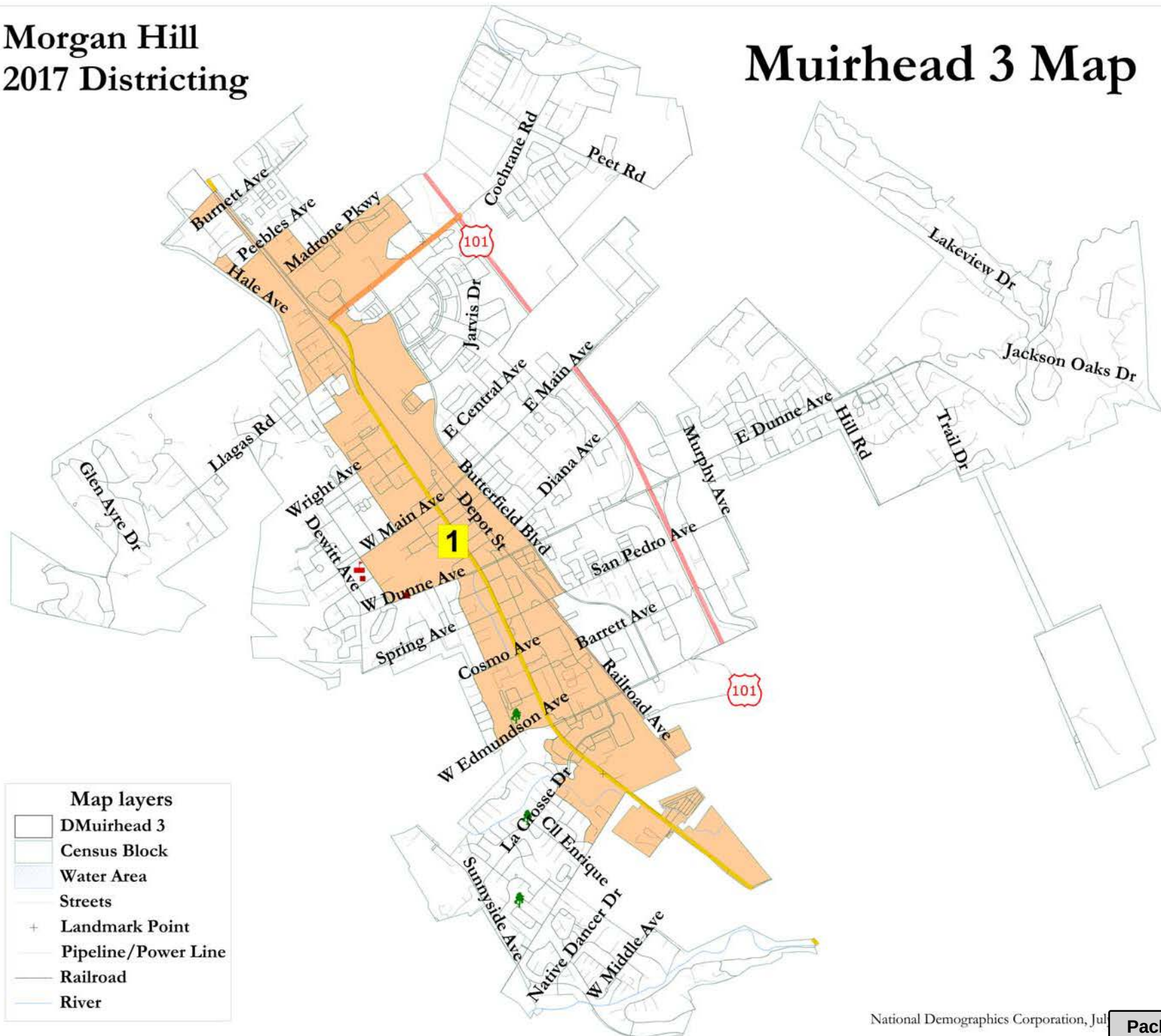
Map: Doug Muirhead 2



**Note: Not
Population
Balanced**

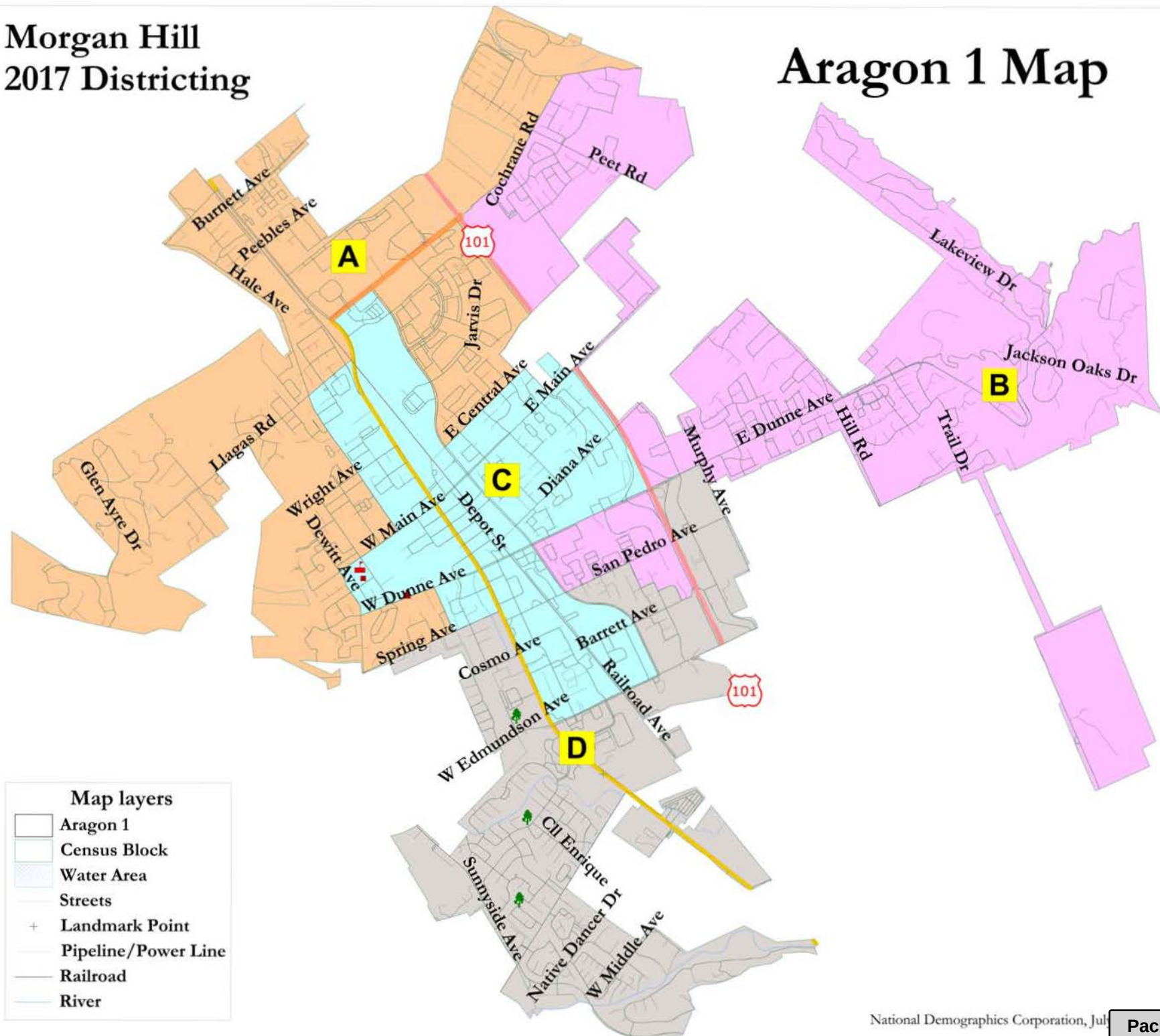
Morgan Hill 2017 Districting

Muirhead 3 Map



Morgan Hill 2017 Districting

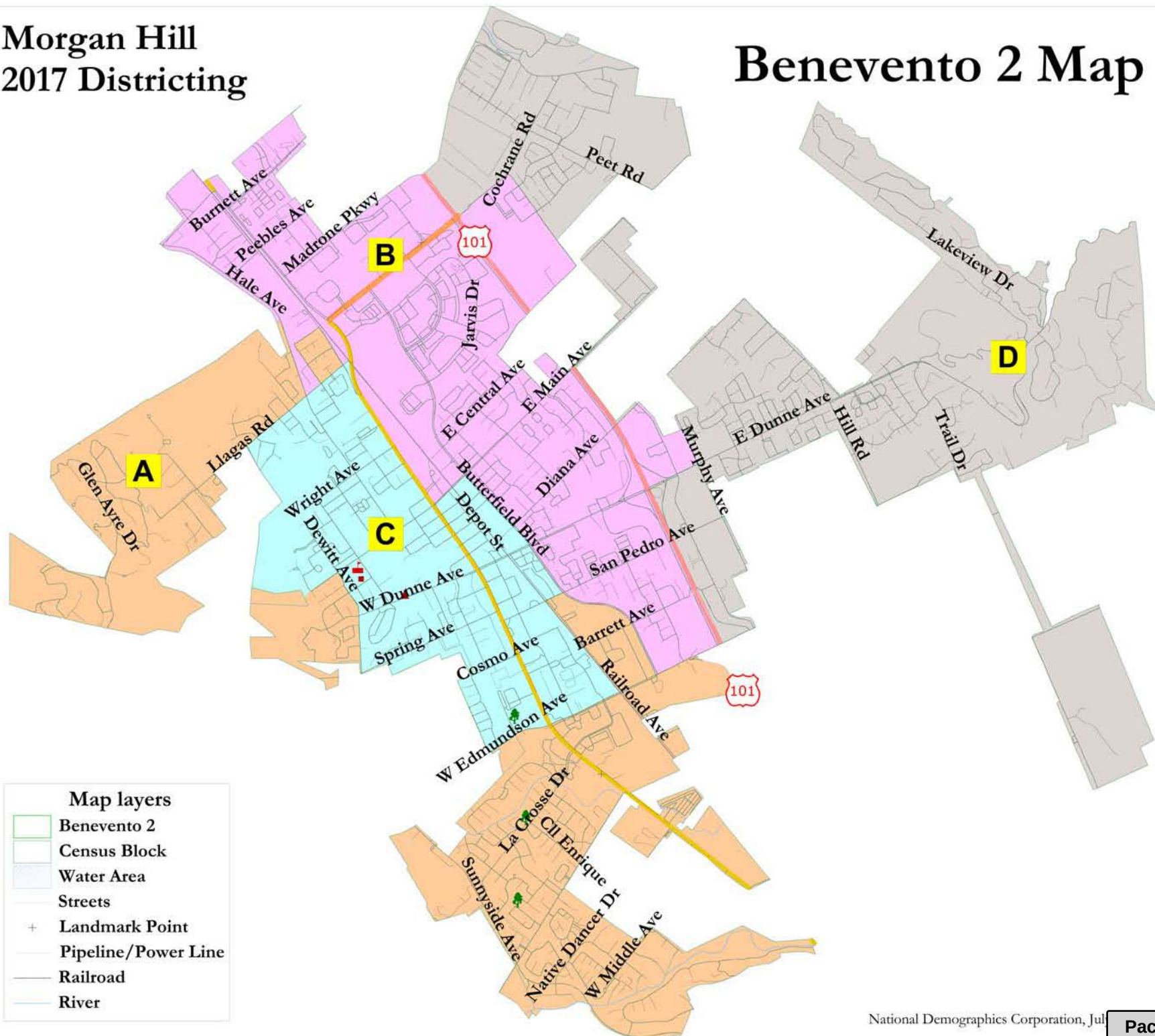
Aragon 1 Map



Morgan Hill - Aragon 1 map						
District		A	B	C	D	Total
Ideal	Total Pop	8,855	10,377	9,917	8,733	37,882
7,576	Deviation from ideal	-616	906	446	-738	1,644
	% Deviation	-6.50%	9.57%	4.71%	-7.79%	17.36%
Total Pop	% Hisp	31%	24%	50%	30%	34%
	% NH White	51%	57%	38%	56%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	14%	15%	8%	9%	11%
Voting Age Pop	Total	6,450	7,479	6,921	6,194	27,044
	% Hisp	27%	22%	45%	26%	30%
	% NH White	56%	60%	42%	60%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	13%	14%	8%	9%	11%
Citizen Voting Age Pop	Total	6,462	7,604	6,867	5,716	26,648
	% Hisp	22%	23%	36%	23%	26%
	% NH White	62%	63%	51%	60%	59%
	% NH Black	4%	3%	6%	2%	4%
	% Asian/Pac.Isl.	11%	10%	7%	14%	10%
Voter Registration (Nov 2014)	Total	4,440	6,378	4,488	4,500	19,806
	% Latino est.	22%	17%	28%	18%	21%
	% Asian-Surnamed	7%	8%	6%	4%	6%
	% Filipino-Surnamed	2%	1%	2%	1%	1%
	% Spanish-Surnamed	20%	15%	26%	16%	19%
	% NH White est.	61%	72%	53%	73%	66%
	% NH Black	5%	2%	5%	2%	3%
Voter Turnout (Nov 2014)	Total	2,117	3,247	1,868	2,357	9,588
	% Latino	16%	13%	20%	15%	16%
	% Asian-Surnamed	6%	7%	5%	4%	6%
	% Filipino-Surnamed	2%	1%	1%	1%	1%
	% Spanish-Surnamed	15%	11%	18%	13%	14%
	% NH White est.	66%	78%	61%	77%	72%
Voter Turnout (Nov 2012)	% NH Black est.	5%	2%	6%	2%	3%
	Total	3,673	5,182	3,386	3,726	15,968
	% Latino	21%	15%	26%	18%	20%
	% Asian-Surnamed	7%	6%	4%	4%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
	% Spanish-Surnamed	19%	14%	23%	16%	18%
	% NH White est.	62%	75%	58%	72%	68%
ACS Pop. Est.	% NH Black est.	5%	2%	6%	2%	3%
	Total	9,241	11,291	10,418	9,145	40,095
Age	age0-19	26%	30%	28%	30%	29%
	age20-60	55%	51%	58%	50%	53%
	age60plus	20%	19%	14%	19%	18%
Immigration	immigrants	21%	18%	21%	16%	19%
	naturalized	58%	60%	50%	49%	54%
Language spoken at home	english	66%	74%	66%	72%	69%
	spanish	22%	16%	25%	19%	21%
	asian-lang	6%	5%	4%	6%	5%
	other lang	6%	5%	5%	3%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	12%	9%	12%	10%	11%
Education (among those age 25+)	hs-grad	51%	49%	52%	53%	51%
	bachelor	22%	23%	21%	25%	23%
	graduatedegree	15%	18%	11%	13%	14%
Child in Household	child-under18	33%	40%	38%	33%	37%
Work (percent of pop age 16+)	employed	62%	62%	65%	59%	62%
	Commute on Public Transit	4%	1%	4%	3%	3%
Household Income	income 0-25k	14%	12%	16%	17%	15%
	income 25-50k	14%	13%	16%	14%	14%
	income 50-75k	12%	11%	13%	14%	12%
	income 75-200k	41%	43%	41%	41%	42%
	income 200k-plus	19%	21%	15%	14%	17%
Housing Stats	single family	84%	88%	75%	81%	82%
	multi-family	16%	12%	25%	19%	18%
	vacant	2%	2%	3%	3%	2%
	occupied	98%	98%	97%	97%	98%
	rented	28%	25%	37%	29%	30%
	owned	72%	75%	63%	71%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

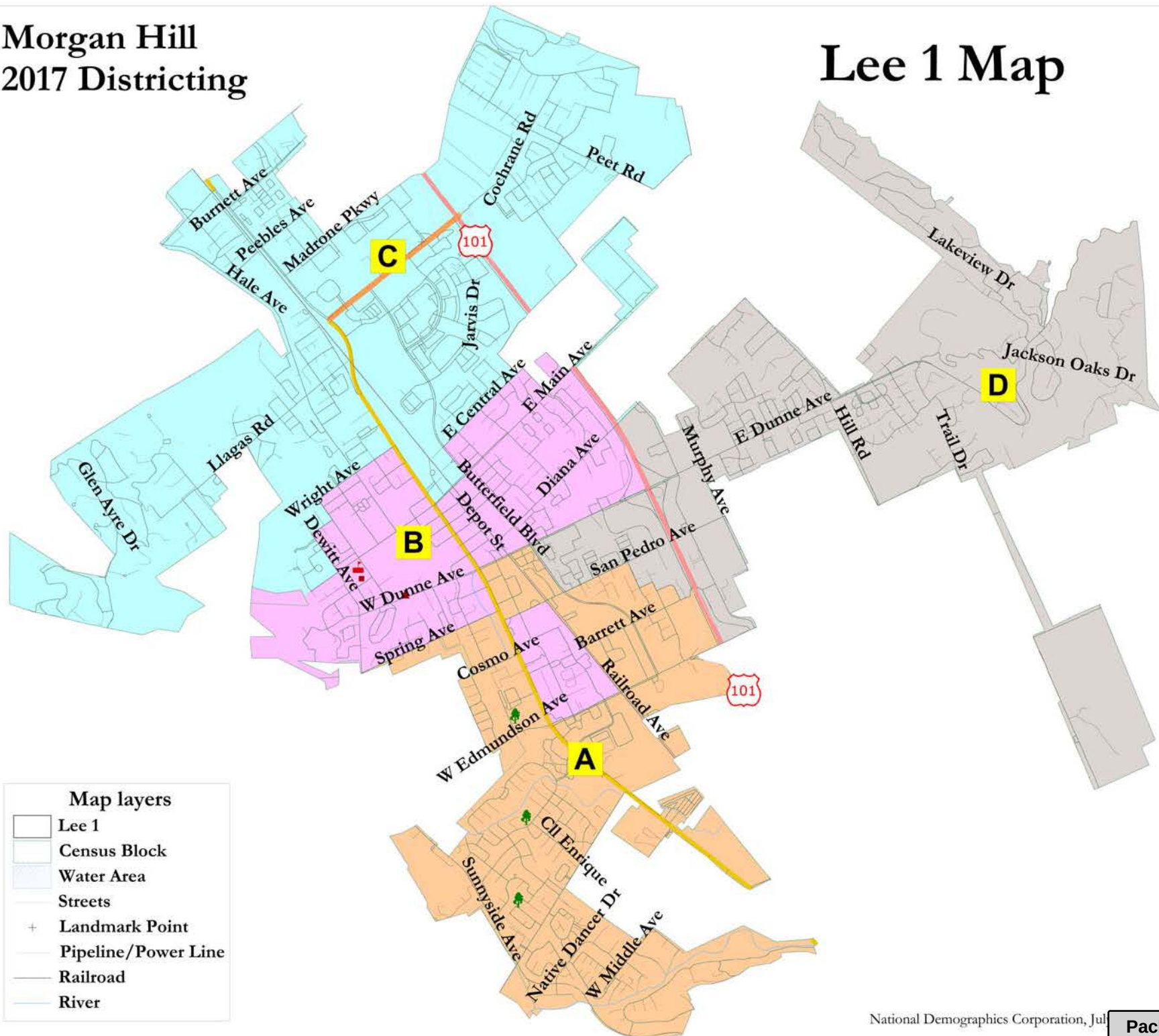
Benevento 2 Map



Morgan Hill - Benevento 2 map						
District		A	B	C	D	Total
Ideal	Total Pop	8,917	9,441	9,708	9,816	37,882
7,576	Deviation from ideal	-554	-30	237	345	899
	% Deviation	-5.85%	-0.32%	2.50%	3.64%	9.49%
Total Pop	% Hisp	23%	35%	55%	22%	34%
	% NH White	64%	46%	34%	59%	50%
	% NH Black	2%	3%	2%	2%	2%
	% Asian-American	9%	15%	6%	15%	11%
Voting Age Pop	Total	6,623	6,625	6,828	6,968	27,044
	% Hisp	20%	32%	49%	19%	30%
	% NH White	67%	49%	40%	62%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	9%	15%	7%	14%	11%
Citizen Voting Age Pop	Total	6,538	6,655	6,135	7,320	26,648
	% Hisp	19%	27%	38%	21%	26%
	% NH White	66%	52%	52%	65%	59%
	% NH Black	2%	6%	4%	3%	4%
	% Asian/Pac.Isl.	12%	15%	5%	8%	10%
Voter Registration (Nov 2014)	Total	5,347	4,690	3,795	5,974	19,806
	% Latino est.	17%	24%	32%	15%	21%
	% Asian-Surnamed	4%	7%	5%	8%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	15%	22%	28%	14%	19%
	% NH White est.	73%	56%	53%	74%	66%
	% NH Black	3%	5%	3%	2%	3%
Voter Turnout (Nov 2014)	Total	2,842	2,048	1,618	3,080	9,588
	% Latino	14%	18%	23%	12%	16%
	% Asian-Surnamed	4%	7%	5%	7%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	12%	16%	20%	10%	14%
	% NH White est.	77%	62%	61%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	3%	6%	4%	2%	3%
	Total	4,477	3,509	3,013	4,969	15,968
	% Latino	17%	23%	28%	14%	20%
	% Asian-Surnamed	4%	7%	4%	7%	6%
	% Filipino-Surnamed	1%	2%	1%	1%	1%
	% Spanish-Surnamed	15%	21%	25%	13%	18%
	% NH White est.	72%	58%	59%	76%	68%
ACS Pop. Est.	% NH Black est.	3%	5%	4%	2%	3%
	Total	9,253	9,941	10,237	10,664	40,095
Age	age0-19	27%	30%	28%	29%	29%
	age20-60	50%	55%	58%	51%	53%
	age60plus	23%	15%	14%	20%	18%
Immigration	immigrants	15%	20%	24%	17%	19%
	naturalized	61%	59%	41%	62%	54%
Language spoken at home	english	74%	68%	59%	76%	69%
	spanish	15%	19%	34%	14%	21%
	asian-lang	6%	6%	4%	5%	5%
	other lang	5%	7%	3%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	9%	10%	16%	7%	11%
Education (among those age 25+)	hs-grad	53%	55%	49%	46%	51%
	bachelor	25%	23%	18%	25%	23%
	graduatedegree	15%	11%	11%	20%	14%
Child in Household	child-under18	30%	36%	40%	40%	37%
Work (percent of pop age 16+)	employed	58%	64%	64%	62%	62%
	Commute on Public Transit	3%	4%	4%	1%	3%
Household Income	income 0-25k	15%	15%	20%	10%	15%
	income 25-50k	13%	12%	20%	11%	14%
	income 50-75k	14%	14%	11%	10%	12%
	income 75-200k	42%	42%	38%	45%	42%
	income 200k-plus	16%	17%	11%	24%	17%
Housing Stats	single family	87%	85%	63%	93%	82%
	multi-family	13%	15%	37%	7%	18%
	vacant	2%	4%	1%	2%	2%
	occupied	98%	96%	99%	98%	98%
	rented	23%	30%	49%	18%	30%
	owned	77%	70%	51%	82%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						

Morgan Hill 2017 Districting

Lee 1 Map



Morgan Hill - Lee 1 map						
District		A	B	C	D	Total
Ideal	Total Pop	9,276	9,792	9,649	9,165	37,882
7,576	Deviation from ideal	-195	321	178	-306	627
	% Deviation	-2.06%	3.39%	1.88%	-3.23%	6.62%
Total Pop	% Hisp	32%	45%	33%	25%	34%
	% NH White	54%	43%	45%	59%	50%
	% NH Black	3%	2%	2%	2%	2%
	% Asian-American	9%	8%	17%	12%	11%
Voting Age Pop	Total	6,548	7,005	6,806	6,685	27,044
	% Hisp	28%	40%	30%	22%	30%
	% NH White	59%	48%	50%	62%	55%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	9%	8%	16%	12%	11%
Citizen Voting Age Pop	Total	6,097	6,806	7,219	6,525	26,648
	% Hisp	25%	32%	27%	20%	26%
	% NH White	58%	56%	57%	65%	59%
	% NH Black	2%	5%	4%	3%	4%
	% Asian/Pac.Isl.	13%	6%	11%	11%	10%
Voter Registration (Nov 2014)	Total	4,740	4,262	5,138	5,666	19,806
	% Latino est.	19%	27%	22%	17%	21%
	% Asian-Surnamed	5%	5%	8%	7%	6%
	% Filipino-Surnamed	1%	2%	2%	1%	1%
	% Spanish-Surnamed	17%	25%	19%	15%	19%
	% NH White est.	70%	59%	58%	73%	66%
	% NH Black	2%	5%	5%	2%	3%
Voter Turnout (Nov 2014)	Total	2,452	1,868	2,349	2,919	9,588
	% Latino	15%	19%	17%	13%	16%
	% Asian-Surnamed	4%	5%	7%	6%	6%
	% Filipino-Surnamed	1%	1%	2%	1%	1%
	% Spanish-Surnamed	14%	17%	15%	11%	14%
	% NH White est.	75%	67%	64%	79%	72%
Voter Turnout (Nov 2012)	% NH Black est.	2%	5%	5%	2%	3%
	Total	3,863	3,437	4,059	4,608	15,968
	% Latino	19%	25%	20%	15%	20%
	% Asian-Surnamed	4%	4%	8%	6%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
	% Spanish-Surnamed	17%	23%	18%	14%	18%
	% NH White est.	70%	62%	61%	76%	68%
ACS Pop. Est.	% NH Black est.	2%	5%	5%	2%	3%
	Total	9,740	10,318	10,095	9,942	40,095
Age	age0-19	31%	28%	26%	30%	29%
	age20-60	50%	58%	53%	51%	53%
	age60plus	19%	14%	21%	19%	18%
Immigration	immigrants	17%	21%	20%	18%	19%
	naturalized	49%	47%	64%	59%	54%
Language spoken at home	english	71%	65%	68%	73%	69%
	spanish	20%	27%	19%	17%	21%
	asian-lang	6%	4%	6%	5%	5%
	other lang	3%	4%	6%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	11%	13%	10%	9%	11%
Education (among those age 25+)	hs-grad	54%	52%	50%	49%	51%
	bachelor	24%	21%	24%	23%	23%
	graduatedegree	13%	11%	16%	17%	14%
Child in Household	child-under18	34%	39%	33%	40%	37%
Work (percent of pop age 16+)	employed	60%	65%	62%	62%	62%
	Commute on Public Transit	3%	4%	3%	1%	3%
Household Income	income 0-25k	17%	16%	14%	12%	15%
	income 25-50k	14%	16%	13%	14%	14%
	income 50-75k	14%	12%	12%	11%	12%
	income 75-200k	41%	41%	40%	44%	42%
	income 200k-plus	14%	15%	20%	20%	17%
Housing Stats	single family	80%	73%	89%	87%	82%
	multi-family	20%	27%	11%	13%	18%
	vacant	3%	2%	2%	2%	2%
	occupied	97%	98%	98%	98%	98%
	rented	31%	39%	23%	26%	30%
	owned	69%	61%	77%	74%	70%
Total and Voting Age population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.						



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: John Baty, Principal Planner/Development Services

APPROVED BY: City Manager

RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) COMPETITION CATEGORIES AND ALLOTMENT DISTRIBUTION

RECOMMENDATION(S)

Adopt resolution establishing Competition Categories and Distribution of Allotments for the 2017 Residential Development Control System (RDSCS) Competition.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
 Maintaining Fiscal Responsibility
 Supporting Our Youth
 Seniors
 and Entire Community
 Preserving and Cultivating Public Trust

REPORT NARRATIVE:

A comprehensive update of the City of Morgan Hill's Residential Development Control System (RDSCS) was approved by voters on November 8, 2016 and became effective on March 1, 2017. The RDSCS Ordinance is codified in Chapter 18.78 of Title 18 (Zoning) of the Morgan Hill Municipal Code (see weblink).

Section 18.78.090 of the RDSCS Ordinance provides the following guidance regarding Competition Categories:

- A. **General.** Each year the City Council may establish competition categories for certain types of projects. Projects within a competition category will compete for allotments only with other projects in the same competition category. For each competition category, the City Council shall identify the number of allotments available for projects competing within the competition category.
- B. **Example Competition Categories.** Example of competition categories may include, but are not limited to, projects within the Monterey Road corridor, small projects (less than 15 units), senior housing, vertical mixed use, and multi-family rental.
- C. **Affordable Housing.** When establishing competition categories, the City Council shall ensure that an adequate number of allotments are available for affordable

housing projects consistent with the City's Regional Housing Needs Allocation (RHNA) and adopted Housing Element.

On April 19, 2017, the City Council, pursuant to Section 18.78.110 of the RDCS, set the total number of available Fiscal Year 2019/20 allotments for the 2017 RDCS Competition at 195.

On May 24, 2017, the City Council supported Planning Commission's April 25, 2017 recommendation to set-aside 59 allotments for On-going projects distributed among three Measure C transitional projects: Laurel-TRI Pointe, San Pedro-Presidio Evergreen, and Toll Brothers (formerly Borello).

With 20 percent of total allotments set-aside for affordable housing projects (39 allotments), 97 allotments are available for other types of projects. If no affordable project applications are filed or the number of affordable units is less than the number of available affordable allotments, any unused allotments may be distributed to projects in other competition categories.

At its June 27, 2017 hearing (see "Prior Commission Actions" section below for additional detail), the Planning Commission recommended on a 4-3 vote that the 97 allotments remain "unassigned" allowing the Planning Commission to distribute allotments to projects at the time allotments are awarded.

Planning Commission Recommendation

<u>Competition Category</u>	<u>Number of Allotments</u>	
Affordable Housing	39	
<i>Micro</i>	0	
<i>Small</i>	0	
<i>Multi-family Rental</i>	0	(97 allotments unassigned)
<i>Open/Market</i>	0	
<i>Senior Housing</i>	0	
<i>Monterey Corridor</i>	0	
<i>Custom Lots</i>	0	
On-going Projects	59	
Total	195	

COMMUNITY ENGAGEMENT: Collaborate

Planning Commission workshops and public hearings on the RDCS were open to the public and the workshops included opportunities for community members to participate in discussions by asking questions and providing input on the development of the RDCS Competition Manual and implementation of the RDCS.

ALTERNATIVE ACTIONS:

Rather than leave the 97 available allotments as “unassigned”, the City Council may choose to distribute some or all of the allotments to any or all of the identified Competition Categories.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 13, 2017, the Planning Commission opened a public hearing and on June 27, 2017 voted 4-3 (McKay, Martinez-Beltran, Habib, and Mueller voting in the affirmative; Tanda, Downey, and Orosco voting against) to recommend that 97 of the 195 total available allotments be “Unassigned” for the 2017 RDCS Competition. As previously determined by the City Council, 98 residential building allotments are set-aside for three On-going projects (59) and within the Affordable Housing category (39).

To allow greater flexibility in the distribution of the remaining 97 Fiscal Year 2019/20 residential building allotments and encourage a greater level of competition, the Planning team recommended that a new Competition Category called “Other” be designated, allowing the Planning Commission to distribute allotments from this category at the time allotments are awarded. There was significant discussion regarding this proposal with some Commissioners very concerned about establishing a new category and not distributing allotments amongst the available categories of “Micro, Small, Multi-family Rental, Open/Market, Senior Housing, Monterey Corridor, and Custom Lots.” The intent of “Other” was not to establish another category, but rather keep available allotments undistributed.

The Planning team communicated a concern to the Commission that with the small number of available allotments (97) this year, pre-distribution in categories could stifle competition rather than encourage it due to the process changes provided for in Measure S, specifically the requirement that projects within a competition category will compete for allotments only with other projects in the same competition category. The Planning team also discussed the creation of the RDCS manual and how extra scoring measures were included within the manual for project types that have traditionally had a difficult time competing with other projects. These extra scoring measures will apply regardless of the competition categories.

Several Commissioners disagreed with this perspective and felt it was imperative that category distribution continue as it has in other years. Concerns related to increased allotment appeals, possible legal challenges, and increased subjectivity/discretion by the Commission were all listed as reasons for keeping allotments unassigned.

Several motions were made but all failed until the final motion which was a minor change to the staff recommendation – the recommended competition category “Other” was removed and the 97 allotments were left “Unassigned.” The traditional table showing the distribution amongst the various competition categories was retained with all of the amounts shown as zeroes (i.e., none of the 97 allotments were assigned to competition categories).

Commissioner Tanda subsequently submitted a memo entitled “Minority Opinion -

Allocation by Competition Categories” that explains his opinion and vote in greater detail. This memo is attached.

FISCAL AND RESOURCE IMPACT:

Determining the Competition Categories and Distribution of Allotments for the 2017 RDCS Competition is within the work plan and budget for the Morgan Hill 2035 Project.

CEQA (California Environmental Quality Act):

An Environmental Impact Report (EIR) for the Morgan Hill 2035 Project, which included the RDCS Update, was prepared in accordance with the California Environmental Quality Act (CEQA) and certified by the Morgan Hill City Council on July 27, 2016. (SCH #2015022074).

LINKS/ATTACHMENTS:

1. Chapter 18.78 - Residential Development Control System (web link)
2. RDCS Competition Categories Resolution
3. Minority Opinion - Allocation by Competition Categories - Commissioner Tanda
4. RDCS Competition Manual (web link)
5. June 13, 2017 Planning Commission Staff Report (web link)
6. June 27, 2017 Planning Commission Staff Report (web link)

RESOLUTION NO. 17-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING COMPETITION CATEGORIES FOR THE 2017 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) COMPETITION

WHEREAS, on April 19, 2017, per Section 18.78.110 of the RDSCS Ordinance, the City Council approved 195 Fiscal Year 2019/20 residential allotments for the 2017 RDSCS Competition; and

WHEREAS, Section 18.78.090 of the RDSCS Ordinance provides guidance regarding the establishment of RDSCS Competition Categories and identification of the number of available allotments within each Category, including ensuring that an adequate number of allotments are available for affordable housing projects; and

WHEREAS, on May 24, 2017, the City Council supported Planning Commission's April 25, 2017 recommendation to set-aside 59 allotments for On-going Measure C transitional projects and supported a 20 percent set-aside (39 allotments) for affordable housing projects; and

WHEREAS, 97 allotments remain available for other types of residential projects and competition will be encouraged by leaving these allocations unassigned; and

WHEREAS, Measure S (Morgan Hill Municipal Code section 18.78.090) provides that projects within a competition category will compete for allotments only with other projects in the same competition category; and

WHEREAS, the City Council has reviewed recommendations contained in the June 13 and 27, 2017 Staff Reports and the recommendations of the Planning Commission, all as submitted to the City Council for consideration in connection with the adoption of this Resolution, together with any and all testimony and other evidence submitted to the City Council through the public hearing conducted by the Council on July 26, 2017 for this item, and has determined that the recommended distribution of building allotments contained herein is consistent with the General Plan and the City's Municipal Code requirements under Chapter 18.78 of the Morgan Hill Municipal Code; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL THAT:

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

SECTION 2. Pursuant to Section 18.78.090 of the Municipal Code, the City Council hereby approves:

A. A portion of the residential allotments shall be reserved for affordable, unassigned, and on-going competition categories as outlined in Exhibit "A" attached hereto and incorporated herein by this reference.

B. The Planning Commission shall award allotments based on scoring of projects using the criteria established in the RDCS Competition Manual and as deemed necessary to respond to changes in the housing market such as changes in the build-out rate for existing projects, lack of applications in competition categories, and increased demand for particular housing types, etc.

C. The RDCS Competition Manual, Section IV.E. Competition Categories and Ongoing Projects, shall be modified to reflect the competition categories and distribution of building allotments as set forth in Exhibit "A".

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 26th day of July, 2017 by the following vote:

AYES: **COUNCIL MEMBERS:**

NOES: **COUNCIL MEMBERS:**

ABSTAIN: **COUNCIL MEMBERS:** **None**

ABSENT: **COUNCIL MEMBERS:** **None**

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.17-XXX, adopted by the City Council at the meeting held on July 26, 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A
Fiscal Year 2019/20

<u>Competition Category</u>	<u>Allotments</u>
Affordable Housing	39
Micro	0
Small	0
Multi-family Rental	0
Open/Market	0
Senior Housing	0
Monterey Corridor	0
Custom Lots	0
On-going Projects	59
Unassigned	97
Total	195

MEMO

TO: Jennifer Carmen
 FROM: Wayne Tanda
 SUBJECT: Minority Opinion - Allocation by Competition Categories
 DATE: June 28, 2017

This memo is unusual, but I found the discussion of Agenda Item #2 at last night's PC meeting difficult to follow. Per my request that staff include in its report to the City Council the reasons for the opposition to the PC resolution, I am providing the following:

It would have helped - A copy (with option for a hard copy) of the 2017 RDCS Manual should have been provided to all Commissioners indicating what has been approved by the City Council and what is still pending. It would have facilitated the discussion if all commissioner, both seasoned and in particular new, could refer to the applicable sections of the Manual, both approved and pending.

Changes to the Manual - My understanding is that changes may occur once a year (refer to municipal code (MC) section 18.78.100(c)) and that the consideration of changes includes the deliberation by the Planning Commission and the City Council. In other words the Planning Commission cannot act to change the provisions of the Manual and then immediately apply those changes assuming the approval by the City Council. It is the reason that I opposed the creation and application of a new category of projects called "others." It was a struggle but the majority of the commissioners agreed.

Six or a Half-Dozen - MC section 18.78.090 enables the City Council the option to establish competition categories. The PC has the options to recommend to the CC either to establish competition categories or not. The action approved by the a majority of the PC members was more complicated than needed. It would have been straight-forward for the PC to recommend to not establish competition categories for 2017, except as otherwise provided for in the MC (20% affordable housing) and previous actions of the CC (3 on-going projects).

Minority Opinion - (1) Without an allocation by categories, projects that have historically been at a disadvantage earning high scores have no assurance that they will receive any allocations; and (2) without criteria or guidelines the PC has too much discretion, in light of MC 18.78.120(H) that states that, "The Planning Commission may award fewer than the total number of allotments requested for a project and may award allotments to lower-scoring projects if doing so would create a more balanced and equitable distribution of allotments and help to achieve the goals of the General Plan." In terms of transparency, fairness, and the avoidance of potential litigation, the City should establish criteria or guidelines to interpret the above policy.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: John Lang, Economic Development Coordinator
APPROVED BY: City Manager

UPDATE ON TELECOMMUNICATIONS PLANNING PROCESS

RECOMMENDATION(S)

1. Receive update report; and
2. Direct staff to schedule a City Council workshop on public/private business models with telecommunications providers and local businesses as the next step to advance the City Council's 2017 Telecommunications Strategic Priority.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness
Infrastructure
Telecommunications

POLICY CONSIDERATION:

Should the City further evaluate the opportunities and possibilities of a public/private partnership to expand broadband offerings in Morgan Hill?

REPORT NARRATIVE:

Background

As part of the General Plan update process conducted last year, the City contracted with Tellus Venture Associates to assess telecommunications infrastructure in Morgan Hill to inform the infrastructure element within the General Plan. In November 2016, the City Council received the Telecommunications Infrastructure report (attached) which provided an evaluation of the market in Morgan Hill and policies the City could adopt to help improve its infrastructure. Using a rating methodology developed by regional broadband groups, the overall assessment for the City of Morgan Hill resulted in a letter grade D. A grade of D means that there is only one telecommunications provider meeting the California Public Utilities Commission (CPUC) standard for providing broadband services that meet at least 6.5 mbps download and 1.5 mbps upload speeds.

In January 2017, the City Council as part of its Goal Setting Advance, formally adopted five Council Strategic Priorities for the year. Telecommunications is one of the five priority areas and signals to the community a desire to improve speeds and reliability in Morgan Hill. The Strategic Priority states:

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.

Recent Steps

Since the presentation to Council in November 2016, staff has been evaluating a range of initiatives, policies, and partnerships identified in the Telecommunications Infrastructure Report. After much local jurisdiction peer review, it is fair to say that many communities across the country are looking at a range of options to improve broadband in their communities. Whether the driver for improved telecommunications infrastructure is for economic development competitiveness, inclusiveness, redundancy, or preparing for smart cities, telecommunications is an important infrastructure priority for many communities. There are many examples of policies and partnerships that have worked in other communities who have successfully developed broadband. Similarly, there are numerous lessons learned from communities who have not been as successful in their approach to broadband development.

The issues a city faces around telecommunications strategies are complex and depending on the approach, can include additional liability and cost. Two telecommunications models that have had demonstrated success at the local level include public/private partnerships and the city providing limited broadband service as a municipal utility. The public/private model has been successfully implemented by the cities of San Leandro and Westminster, Maryland. The City of Westminster partnered with Ting to deploy a wired solution for the city. Westminster financed the installation of fiber and Ting operates the service delivery. The City of San Leandro partnered with a non-profit organization to use city owned conduit to provide broadband to its business district. The City of Palo Alto and Silicon Valley Power (Santa Clara) have incorporated broadband services through their power utility. Combining the assets and infrastructure associated with the power utility allows the City to more easily offer broadband services to businesses.

At this point, staff is recommending that we focus our efforts on evaluating the opportunities and possibilities of various public/private models. The City has also had discussions with the Chamber of Commerce on partnership opportunities and business engagement strategies to help inform policy proposals.

The Morgan Hill telecommunications marketplace is served by a variety of businesses and business models. The Incumbent Local Exchange Carriers (ILEC) are Frontier (formerly Verizon/GTE) and Charter Communications. An ILEC is a telephone company that was providing local service when the Telecommunications Act of 1996 was enacted. Other service providers are called Competitive Local Exchange Carriers (CLEC), such as South Valley Internet. A CLEC carrier is a telephone company that competes with an incumbent local exchange carrier. Other broadband service providers

include AT&T Wireless, Verizon Wireless, Razzolink, Bullet Wireless, Etheric Networks and Wave Broadband.

The telecommunications solutions offered by companies range from traditional wired service to wireless solutions, which vary in speed from slow to fast and in cost from inexpensive to expensive. The providers have different financial models (number of subscribers needed, access to infrastructure, cost to deploy solutions) which dictate the amount of infrastructure they will invest into the community.

Implementation of Broadband Deployment Initiatives

In addition to evaluating policies and public/private partnership opportunities, staff has been working on implementing other measures and processes to support broadband deployment. The Infrastructure Report outlined several best practice considerations. Below is a list of the broadband deployment efforts underway:

- Evaluating the effectiveness and feasibility of a Dig Once policy to improve telecommunications
- Developing conduit standards as part of a Dig Once policy
- Included scoring criteria within the RDCS competition manual related to connected homes
- Created an inventory of all existing monopoles and cell sites within Morgan Hill
- Developed a map of City owned conduit in Downtown for possible public/private partnership
- Reviewing planning applications for appropriate sighting of telecommunications receivers for future collaboration opportunities with wireless providers
- Collaborating with the Silicon Valley Joint Venture's Smart City Initiative to implement best practices
- Evaluating light pole conduit for telecommunications use
- Identified issues surrounding air rights and line of site; working on developing design standards

Next Step

Staff proposes holding a City Council workshop on public/private business models with telecommunications providers and local businesses to gain a better understanding of the opportunities and possibilities that exist for improving the community's telecommunications.

COMMUNITY ENGAGEMENT: Inform

On November 20, 2015, the General Plan project team conducted a stakeholder interview on telecommunications. TVA, Placeworks, and the City of Morgan Hill received feedback from local business leaders to better understand the current and future telecommunications needs for incorporation into the General Plan 2035.

City staff also conducted one-on-one meetings with Frontier Communications, Spectrum Business (Charter), South Valley Internet, Bullet Wireless, and Wave Broadband regarding their infrastructure and services in Morgan Hill.

ALTERNATIVE ACTIONS:

City Council could decide to provide staff alternative direction related to a telecommunications implementation strategy.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- On December 5, 2012, City Council approved an agreement with Placeworks calling out a telecommunications report as part of the infrastructure analysis associated with the General Plan update.
- On February 17, 2016, City Council adopted its Priorities, Goals, and Strategies which included creating a Telecommunications Masterplan.
- On November 2, 2016, City Council discussed and accepted the Telecommunications Infrastructure report by Tellus Ventures Associates.
- On January 31, 2017, City Council adopted Sustainable Morgan Hill, identifying Telecommunications as a Strategic Priority for 2017.
- On April 19, 2017, City Council adopted the Economic Blueprint, including the priority to Create a Telecommunications Master Plan to Improve Access to Fiber.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact with this update. Any future policy or procedure recommendations brought forward related to telecommunications infrastructure will include fiscal impacts. Improving telecommunications is included in the Economic Blueprint and resources have been allocated through the Mid Year Budget Review to advance this initiative. In FY 2017-18, \$50K has been budgeted for the City to take the necessary steps forward to improve the community's telecommunications infrastructure.

CEQA (California Environmental Quality Act):

Statutory Exemption: Feasibility or planning studies for possible future actions that the agency has not approved, adopted or funded.

LINKS/ATTACHMENTS:

1. City Council Staff Report Telecommunications November 2 2016
2. Morgan Hill Telecommunications Infrastructure Report 2016



City of Morgan Hill

File #: 16-547, Agenda Date: 11/2/2016, Version: 1

CITY COUNCIL STAFF REPORT **MEETING DATE: NOVEMBER 2, 2016**

PREPARED BY: John Lang, Economic Development Coordinator/Community Development
APPROVED BY: City Manager

UPDATE ON A TELECOMMUNICATIONS INFRASTRUCTURE REPORT FOR MORGAN HILL

RECOMMENDATION(S)

1. Accept report on the state of telecommunications infrastructure in Morgan Hill; and
2. Direct staff to develop a telecommunications work program.

COUNCIL PRIORITIES, GOALS & STRATEGIES:

Ongoing Priorities

Maintaining fiscal responsibility

2016 Focus Areas

Planning Our Community
Developing Our Community
Participate in Regional Initiatives

REPORT NARRATIVE:

Telecommunication Providers in Morgan Hill

Within the City of Morgan Hill there are two primary institutional providers of telecommunications services, Frontier Communications (formerly Verizon/GTE) and Charter Communications. Frontier provides its service via an extensive copper wireline infrastructure. The copper lines provide traditional telephone service as well as Digital Subscriber (DSL) Lines. Charter Communications provides data services over cable. Charter's deployment is primarily provided through coaxial cable to residential customers and fiber to businesses. State regulations restrict cable franchising to only a single cable franchise per jurisdiction. Other providers of telecommunication services in Morgan Hill include a very limited AT&T presence which provides digital subscriber line service, similar to Frontier and Wave Broadband, providing fiber service to cellular towers and businesses.

Project Background

As part of the initial scoping for the General Plan effort, Morgan Hill 2035, issues with telecommunications infrastructure were highlighted as potential challenges to Morgan Hill's long term growth and success. Placeworks, the City's prime consultant for the General Plan, subcontracted

with Tellus Ventures Associates (TVA) to develop an assessment of telecommunications infrastructure for the City of Morgan Hill in order to inform the infrastructure section of the General Plan.

Tellus Ventures Associates (TVA) is a leading advisory firm on the telecommunications industry. TVA's past work experience includes developing telecommunication infrastructure and masterplans for the cities of San Leandro, Benicia, Berkeley, Santa Cruz, and counties of Humboldt and Monterey.

Work on the Telecommunication Infrastructure report started in November 2015. The early work included a stakeholder meeting in which the business community provided initial feedback to the consultant team on the state of telecommunications in Morgan Hill. The workshop participants identified the following concerns with current broadband service:

- System throughput and latency
- System reliability
- Limited system footprint
- Current pricing models

In early 2016, the City in partnership with TVA, deployed two survey instruments to understand resident and business community perceptions on telecommunications.

Findings from the Business Survey were:

- 35% of services are obtained through separate providers
- 31% of respondents use DSL as the primary internet connection
- 26% use cable model and fixed wireless services
- 93% of respondents state reliability of connection is the most important

Findings from the Resident Survey were:

- 99% of residents have internet access at their homes
- 67% of respondents currently use cable as their primary internet connection
- 93% of respondents state reliability of connection is most important

Two important events occurred impacting the industry during the research phase of the project, Frontier Communications acquired Verizon's wireline services and Charter Communications was acquired by Time Warner. Given the uncertainty of the acquisitions at the time, coupled with the complexity of the mergers, the timetable for delivery of the infrastructure report was delayed. However, staff was still able to incorporate specific language regarding telecommunications into the adopted General Plan 2035.

Analysis of Infrastructure Report

TVA developed the attached infrastructure report (Attachment A) for Morgan Hill using industry knowledge, interviews with services providers, public information from both the California Public Utilities Commission (CPUC) and the Federal Communications Commission (FCC), and Morgan Hill survey respondent data. The report is broken down into three areas:

1. An assessment of current providers and service levels
2. Identification of best practices and funding approaches for broadband deployment

3. Suggested approaches and policy implementation supporting greater wired and wireless broadband deployment

1. An overall assessment of Morgan Hill infrastructure

Using a methodology developed by the East Bay Broadband Consortium and subsequently adopted by other regional groups, on a scale of A to F, Morgan Hill's broadband infrastructure is considered a "D". A grade of "D" means that at least one provider is advertising speeds that meet the CPUC minimum standards of 6 megabits per second (mbps) download and 1.5 mbps upload speeds. (Definitions for the complete grading system can be found in the Appendix B of attachment A). The report further finds that:

- Only 69% of Frontier's (based upon Verizon CPUC data) Morgan Hill coverage area meets or exceeds CPUC download standards, while none of the coverage area meets minimum CPUC upload standards
- Charter's Morgan Hill coverage area offers up to 100 mbps download and 5 mbps upload. By contrast Comcast offers up to 150 mbps download and 20 mbps upload.

2. Identification of best practices and funding approaches in telecommunications

There are several cities throughout the United States that have implemented successful and unsuccessful broadband programs. Broadband programs range from cities acting as a utility and providing broadband services to the community versus cities partnering with service providers to offer services to residents and businesses in their respective communities.

The report makes clear that given Morgan Hill's existing development pattern, access to financial resources, absences of infrastructure, asset ownership and other factors require a multi-faceted approach to implementing a broadband plan. There are several models for deploying a municipal broadband program including public-private partnerships, non-profit models, public utility model and hybrids. Additional work needs to be undertaken to identify the optimal approach for Morgan Hill.

At the Federal and State levels there are several funding mechanisms to support broadband deployment. However, given Morgan Hill's population and demographic makeup, many are not available to Morgan Hill or require a financial City match.

Funding programs to support broadband deployment

Program	Level	Viable/ Not Viable	Reason
Federal Communication Commission Connect America Fund Phase 2 (CAF-2)	Federal	Not viable	Do not meet eligible criteria
Rural Utility Services	Federal	Not viable	Do not meet eligible criteria
Economic Development Administration	Federal	Viable	Timing and project specific, requires match
California Advanced Services Fund (CASF)	State	Not Viable	Do not meet eligible criteria
Infrastructure Financing District	State	Not Viable	No jurisdiction has done a broadband project

File #: 16-547, Agenda Date: 11/2/2016, Version: 1

California Teleconnect Fund	State	Not Viable	Available to non-profits, education and hospitals
California Infrastructure and Economic Development Bank (iBank)	State	Viable	Timing and project specific, requires match or income stream to support loan
Bond Financing	Local	Viable	Timing and project specific, requires match of income stream to bond against

3. Approaches for Morgan Hill Broadband

There is a buffet of best practices for broadband adoption and deployment. The City of Morgan Hill can take a lead on partnerships, procedures, and policies that support the future implementation of broadband deployment in Morgan Hill.

Areas for Consideration:

Planning

- Develop specific objectives for high speed network expansion throughout Morgan Hill
- Work with Frontier, Charter, and other providers to identify opportunities and weaknesses
- Develop a masterplan for implementation

Dig Once

- Develop a noticing program for all open joint trench projects in Morgan Hill
- Adopt standard specifications for placement and construction of conduit for all joint trenches
- Require all private development to install conduit
- Require all City Public Improvement projects to install conduit in the joint trenches when available
- Create minimum moratoriums on excavation in the right of way for future conduit after a project has been appropriately noticed

Asset Management

- Develop an inventory of all City owned assets for fiber, conduit and rights of way
- Develop standard terms for master leases of city assets for telecommunications
- Require electronic submittal of GIS files related to new conduit being installed in city
- Develop a database showing deployment of broadband infrastructure

Permitting

- Develop permit streamlining for broadband public right of way projects
- Develop single review of encroachment permits for broadband infrastructure
- Create transparent and consistent procedures for mitigating environmental impacts
- Establish preference for co-locating new telecommunications facilities at existing telecommunication sites

Smart Cities

- Develop building and wiring standards
- Develop smart building requirements (all new homes to have broadband capabilities)

Regulatory

- Monitor the reliability and quality of broadband connectivity in Morgan Hill. Communicate on behalf of community to the CPUC and FCC where appropriate
- Monitor and audit compliance with state franchising requirements

Conclusion

Telecommunication infrastructure is a vital part of Morgan Hill's long term success. Current conditions need to be improved in order to adequately service businesses and residents. The infrastructure report provides a good basis for the City to work collaboratively with existing service providers and new service providers on improving broadband deployment for the community of Morgan Hill. The report identifies several areas, in which the city can learn from the telecommunication and cable industry to create effective policies and procedures resulting in mutually beneficial outcomes. In addition, the City of Morgan Hill is a broadband customer and uses telecommunication infrastructure to deliver services to the community. The Telecommunications Infrastructure report highlights some examples in which the City can be a leader in broadband implementation and adoption. As such, City teammates have been discussing how the City's need for telecommunications infrastructure could be expanded to help better serve the community through wired parks, trails, and other public areas.

Staff has already identified easy policy adoptions which are underway:

- Incorporating connected homes in RDCS scoring - consistent with smart cities
- City's approach to broadband infrastructure for City services/facilities
- Developing an inventory of city owned assets for fiber - aligns with asset management
- Working on joint trench opportunities for new development- consistent with dig once policy

Staff will be working to identify additional best strategies and policies to bring forward for Council consideration in early Spring 2017.

COMMUNITY ENGAGEMENT: Collaborate

The General Plan project team on Friday, November 20, 2015, conducted a stakeholder interview on telecommunications in the City Council Chambers. TVA, Placeworks, and the City of Morgan Hill received feedback from local business leaders to better understand the current and future telecommunications needs for incorporation into the production of the General Plan 2035.

City staff also conducted one-on-one meetings with Frontier Communications, Spectrum Business (Charter), South Valley Internet, and Wave Broadband regarding their infrastructure and services in Morgan Hill. In addition, staff has had interviews with Etheric Networks, Comcast, and AT&T about services in Morgan Hill.

TVA conducted two surveys seeking feedback from residents and businesses. The City distributed a citywide email seeking resident views of telecommunications in Morgan Hill. The City, in partnership with the Morgan Hill Chamber of Commerce and the Downtown Association, distributed a business survey to understand broadband deployment and use by their membership. Information for the surveys was incorporated into the report.

As part of the survey engagement, City staff met with various community members on the topic of

File #: 16-547, Agenda Date: 11/2/2016, Version: 1

telecommunications and shared additional feedback with TVA.

City staff shared early versions of the attached report with Frontier Communications, Spectrum Business, South Valley Internet, and Wave Broadband to ensure accuracy of the report. Attachments B and C are specific comments received from Charter Communications regarding an early draft of the report. TVA incorporated and modified a few areas of the report to correct the inaccuracies.

ALTERNATIVE ACTIONS:

City Council could decide not to accept the report and provide staff alternative direction related to a telecommunication implementation strategy.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

City Council approved an agreement with Placeworks calling out a telecommunication report as part of the infrastructure analysis associated with the General Plan update on December 5, 2012. On February 17, 2016, City Council adopted its Priorities, Goals, and Strategies which included creating a Telecommunications Masterplan.

FISCAL AND RESOURCE IMPACT:

There is no associated fiscal impact associated with accepting the Telecommunication Infrastructure report. Any future policy or procedure recommendations brought forward related to telecommunications infrastructure will include fiscal impacts.

CEQA (California Environmental Quality Act):

Not a Project

LINKS/ATTACHMENTS:

1. Morgan Hill Telecommunications Infrastructure Report
2. Charter Communication Letter to City staff regarding draft Report
3. Charter Communication matrix of concerns/issues regarding draft Report

Attachment: City Council Staff Report Telecommunications November 2 2016 (1024 : Update on Telecommunications Planning)

City of Morgan Hill 2035 General Plan Telecommunications Infrastructure



Final Report

12 September 2016



Stephen A Blum
Tellus Venture Associates

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Table of Contents

1. Executive Summary	1
1.1. Current infrastructure	1
1.2. Broadband planning and policy	2
1.3. Conclusions and recommendations	3
2. Broadband Infrastructure and Service	5
2.1. Primary broadband infrastructure	5
2.2. Frontier and Charter transactions	12
2.3. Secondary service providers	14
2.4. Commercial and industrial broadband infrastructure	15
2.5. Wireless broadband service	18
2.6. Broadband adoption rate	19
2.7. Business and consumer perceptions	20
Workshop	20
Business survey	21
Consumer survey	23
2.8. Conclusions	24
3. Broadband infrastructure planning	27
3.1. Types of infrastructure	27
3.2. Land use considerations	29
Implications for Future Development	29
Single-Family Housing	29
Multi-Family Housing	30
Commercial	30
Industrial	30
3.3. Municipal resources	30
Pole routes	30
Conduit	30
Real estate	31
Agency IT budgets	31
4. Broadband planning framework	33
4.1. Overview	33
4.2. Initiative options	34
4.3. Requests for proposals	35
5. Policy options	38
5.1. Planning	38
5.2. Dig Once	39
5.3. Asset management	43
5.4. Permitting	44
5.5. Smart Cities	46
5.6. Regulatory	47
5.7. Government operations	50

6. Wireless	53
6.1. Constraints on local agency discretion	53
6.2. Determining which shot clock applies	53
6.3. Preserving City control of wireless permitting	57
6.4. Considerations for applications involving the public right of way	59
6.5. Pre-approval of standard solutions	60
6.6. Summary	61
7. Recommendations	62
7.1. Strategic vision	62
7.2. Core broadband planning and management	63
7.3. Baseline broadband development policy	64
7.4. Second phase broadband development policy	65
7.5. Broadband development options	66
7.6. Wireless facilities management	67
Appendix A - Maps	69
1. Infrastructure grading maps	69
2. Frontier (formerly Verizon) DSL service	72
3. Charter cable modem service	75
4. AT&T DSL service	77
5. Secondary providers	78
6. Wireless broadband availability	83
Appendix B - Infrastructure grades	89
Appendix C – Municipal enterprises	91
1. Dark fiber	91
2. Fiber to the home	91
3. Business Models	92
4. Municipal broadband case studies	95
Appendix D – Funding options	98
1. Bond funding	98
2. Infrastructure financing districts	99
3. Economic Development Administration	99
4. Transportation funding	99
5. Educational broadband programs	100
6. Telemedicine programs	100
7. California Advanced Services Fund	100
8. Connect America Fund	101
9. Rural Utilities Service	102
10. ARRA programs	102
11. Other funding sources	102
Appendix E - Glossary	103

1. Executive Summary

1.1. Current infrastructure

Primary broadband infrastructure in Morgan Hill rates a “D” grade (1.0 out of 4.0 possible) using a “report card” scale initially developed in the East Bay Area and subsequently adopted by cities, regional organizations and other agencies throughout California.

The relatively low grade in Morgan Hill is due to a lack of consistent upgrades by Verizon to the legacy telephone system it formerly operated (Frontier Communications took over ownership earlier this year) and the below industry average cable infrastructure maintained by Charter Communications.

By comparison, most cities to the north in Santa Clara and Alameda counties get at least a “C-” grade, with ratings between 1.7 and 2.0, on a 4-point scale. The two major cities to the south, Gilroy and Hollister, are more or less on a par with Morgan Hill. Both also receive “D” grades, at 1.0 and 1.1 out of 4.0 respectively.

The service available in Morgan Hill does not meet the expectations of the vast majority of residents. The minimum upload speed considered acceptable by 84% of residential customers who participated in an online survey is 6 Mbps or greater. The best commercially available consumer class service, from Charter, is reported at a maximum speed upload speed of 5 Mbps, according to the most recent information published by the California Public Utilities Commission.

Overall, only 30% of residents said that their current broadband service meets their needs.

There is also a disparity between the level of broadband service available to business and residential customers. On the whole, Frontier’s system delivers faster speeds in residential areas than in commercial/industrial zones. Although Charter claims a consistent level of service throughout Morgan Hill, businesses report difficulty obtaining adequate service or, in some cases, any service at all.

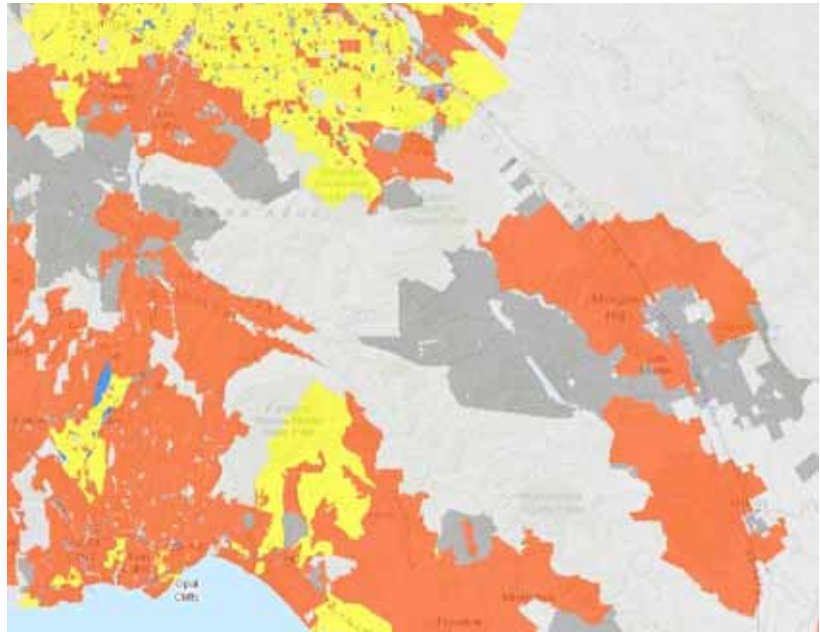


Figure 1.1 – Morgan Hill and regional broadband infrastructure grades, by census block. Red areas are “D” grades, grey are “F”, yellow are “C”. Larger maps are in Appendix A.

When businesses were surveyed, 93% of respondents stated that the reliability is the most important aspect of their Internet service. Only 20% of those businesses are very satisfied with the current level of reliability, whereas 40% are not satisfied. Responses regarding broadband speeds were similar.

Table 1.1 - Primary broadband service providers - Morgan Hill

Telephone companies, DSL-based service by census block

Download speed	1 Mbps	1.5 Mbps	3 Mbps	5 Mbps	7 Mbps	6 Mbps	10 Mbps	12 Mbps	15 Mbps
Frontier	10	36	43	25	94		40		120
AT&T			1		3				

Upload speed **384 Kbps** **512 Kbps** **768 Kbps** **1 Mbps**

Frontier	46		162	160
AT&T		1	3	

Charter - cable modem (DOCSIS 3.0) speeds claimed throughout service area

Download	100 Mbps
Upload	5 Mbps

Secondary broadband service providers – Level 3 and TW Telecom – have moved in to fill some of the gaps left by the primary providers by offering more specialized services, including direct fiber optic connections to end users. Major fiber network operators also provide connectivity in Morgan Hill on a wholesale basis.

1.2. Broadband planning and policy

Local governments in California have virtually no direct authority over broadband providers, and few options for compelling them to upgrade infrastructure or improve service. On the other hand, advanced infrastructure must be developed if Morgan Hill is to keep pace with high tech development in Silicon Valley, attract and retain jobs and meet the expectations of residents.

Broadband development and planning options are available, however. Recommendations include:

1. Set higher standards for broadband infrastructure in new residential and commercial developments.
2. Work cooperatively with Frontier, Charter and mobile carriers to identify policy barriers that could be removed or incentives that might be offered to encourage greater investment in their systems in Morgan Hill.
3. Evaluate options for creating a third, citywide broadband system, either as a municipal enterprise or through cooperation or partnership with a private, competitive provider.
4. Pursue targeted broadband projects, with or without private sector partners, that address specific last mile infrastructure and/or service deficits in commercial and industrial zones, and that improve local availability of existing middle mile resources.

5. Establish programs to 1. identify, construct and document broadband assets for future use and 2. create an ongoing role for the City as a coordinating body that aggregates information and complaints and provides such to state and federal regulators.

Planning options range from setting out a long term road map for broadband development, to working cooperatively with incumbents providers, to establishing a detailed master plan that might include new service providers or even a direct role by the City itself.

Specific policies can be adopted that encourage greater investment in broadband infrastructure by service providers, create market opportunities for new entrants and establish baseline standards for new development and ongoing upgrades. These include “dig once” requirements that encourage, or even mandate, cooperation among utilities and the City when work is done in the public right of way. Other options include management and development of broadband-related City assets, changes in permit and leasing procedures, proactive measures regarding regulatory proceedings, and policies that stimulate demand for broadband services.

1.3. Conclusions and recommendations

This report recommends that the City articulate its role in broadband infrastructure planning and development, establish goals and adopt a phased approach to reaching those goals.

The first recommended step is to determine the level of the City’s involvement and identify the roles and responsibilities that are appropriate to it, in order to set broadband infrastructure development goals and establish policies designed to reach those goals.

The City should first develop a roadmap based on the infrastructure “report card” grading criteria described more fully in Section 2.1 and Appendix B. Morgan Hill receives a “D” grade, in comparison to the “C” grades given to cities immediately to the north. Keeping in mind that those cities are also actively engaged in improving their broadband infrastructure, the City should lay out a road map that brings its broadband infrastructure up to the statewide average in the near term, and keeps pace with and/or exceeds it over the long term.

The initial phase should focus on creation of a roadmap for development, organization and consolidation of the City’s broadband-related assets and establishment of a proactive working relationship with primary broadband providers.

Once this initial work is done, the City can move to the second phase and implement ten recommended policies in the near term that set specific broadband development goals, ideally in cooperation with existing providers but independently when necessary. The primary market research conducted for this report indicates that residential and business broadband use and expectations differ in Morgan Hill, but in either case there is a significant amount of dissatisfaction with the choices available.

The City has the greatest amount of influence over greenfield and new or major remodelled infill development, and over work performed in the public right of way. By establishing clear broadband-

related requirements for these kinds of projects, the City can encourage the construction of facilities that will support upgraded infrastructure. Municipal assets can be offered on open terms to any qualified broadband provider, and information about all broadband infrastructure can likewise be made available, so as to reduce barriers to entry for new competitors and promote the more efficient use of existing resources by incumbents.

The third and subsequent phases represent a greater level of direct City involvement in broadband development. For example, prospective installation of city-owned conduit, either in conjunction with routine undergrounding programs or third party utility projects, puts the City in the position of being an active developer of broadband assets, rather than simply making use of resources obtained in the normal course of business. Putting teeth into “dig once” policies by imposing moratoria on street excavations following an open trench notification process puts similar pressure on utility companies to do the same.

Other measures include:

- Setting building standards that range from requirements for broadband infrastructure in new or redeveloped City right of way to specifications for wiring and access in new construction.
- Reviewing construction plans to maximize use of existing facilities.
- Mapping broadband assets and availability.
- Driving demand through open data, telecommuting and online services.
- Adapting the City’s wireless permitting practices to maintain control of the process in light of recent changes in state law and federal regulations.

These recommendations will allow the City to take both immediate and long term steps, to the degree desired, to encourage private sector investment, extend the benefits of modern telecommunications services to residents and businesses, attract new jobs and leverage existing City resources to promote the development of broadband infrastructure in ways that further the City’s goals.

2. Broadband Infrastructure and Service

2.1. Primary broadband infrastructure

The primary broadband infrastructure in Morgan Hill is owned and operated by Frontier Communications, which recently took over ownership and operation of Verizon's wireline telephone systems in California, and Charter Communications, which are the incumbent telephone and cable companies. When compared to the primary broadband infrastructure available to the average home or business in California, Morgan Hill is significantly below average, with a grade of "D" (1.0 on a 4 point scale), using criteria originally developed for the East Bay and Central Coast Broadband Consortia.

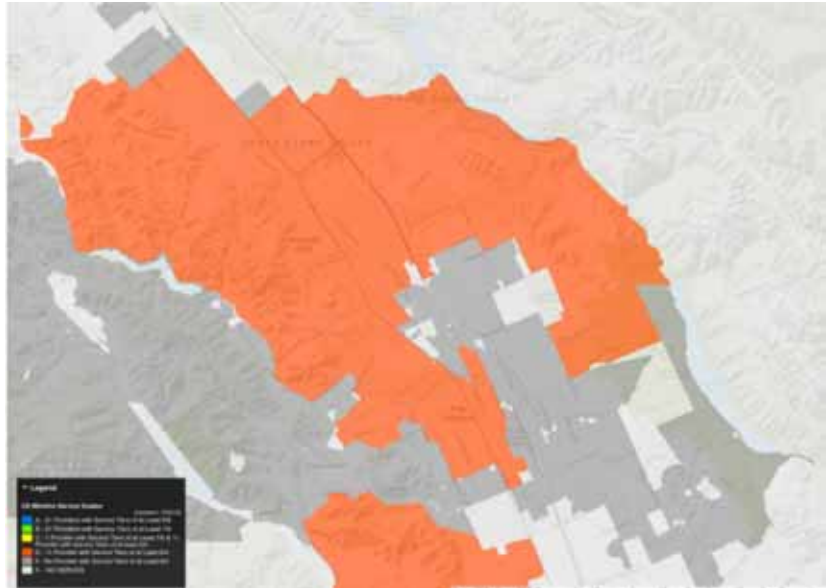


Figure 2.1 – Morgan Hill broadband infrastructure grades, by census block. Red areas are "D" grades, grey are "F". Larger maps are in Appendix A.

When compared to the primary broadband infrastructure elsewhere in the region, Morgan Hill's grade fits into a clear pattern: San Jose and communities to its north and east generally match the Californian average, with most grades falling within two-tenths of a point of "C" (2.0), while communities to the south are largely within one-tenth of a point of "D" (1.0). San Martin, which is largely unserved by Charter and has poor service from AT&T, is an outlier with an F+ (0.3).

Verizon, Charter and AT&T, along with two secondary service providers in Morgan Hill, filed availability, technology and service level reports with the Federal Communications Commission as of 31 December 2014. The data was then given to the California Public Utilities Commission, which further refined it. The analysis in this report is based on the data sets published by the CPUC and supplemented with standard census data, unless otherwise indicated. Another update to this data set, using information submitted as of the end of 2015 is expected later this year. The information and analysis contained in this report is based on the 31 December 2014 reports filed by the service providers with the FCC and CPUC.

Frontier has not yet filed data regarding its new service territories, so the evaluation of its service and infrastructure in this study is based solely on the data provided by Verizon.

AT&T's service reports indicate that it provides service in four census blocks on the southern edge of Morgan Hill, south of Llagas Creek and between Santa Theresa Blvd. and Monterey Highway. A total of 139 housing units are in these four census blocks, and it is not entirely clear that all are located within the city limits of Morgan Hill. This slight overlap is not significant in terms of evaluating city-wide infrastructure, although the data is included in the overall analysis below.

The sharp dividing line between Morgan Hill and San Jose is the result of having two different sets of primary infrastructure providers.

The original telephone company in Morgan Hill was the Western California Telephone Company, which also owned a system in Los Gatos and which was acquired by GTE in the 1970s. GTE merged with Bell Atlantic in 2000, and became Verizon. The company's capital investment strategy focused initially on converting copper-wire telephone systems to fully fiber optic systems¹ and on expanding its mobile telephone and broadband infrastructure. The return on the fiber conversion investments proved disappointing and Verizon discontinued the program and re-focused on its wireless business.

As a result, wireline service areas that weren't upgraded suffered from a lack of investment, initially because fiber conversion was the preferred upgrade path and later because consumer-focused wireline infrastructure of any kind – copper or fiber – became a much lower priority for the company. Last year, Verizon reached an agreement with Frontier Communications to sell its wireline systems in California, Texas and Florida. That transaction closed on 1 April 2016.

The incumbent telephone company in San Jose is AT&T. The systems there were developed and operated by Pacific Telephone and Telegraph Company within the old Bell System, and have retained a consistent Bell-centric line of ownership through Pacific Bell, SBC and, now, AT&T.

¹ Fiber optic systems use bundles of thin strands of glass or plastic – i.e., fibers – to carry information via light waves, as opposed to the electric signals carried by copper wires. Fiber optic technology allows for much greater data speeds and volumes than copper, usually by orders of magnitude.

Table 2.1 - Broadband infrastructure grades

	Grade	GPA
Campbell	C	2.0
Milpitas	C-	1.9
Los Altos	C-	1.9
Cupertino	C-	1.9
San Jose	C-	1.8
Mountain View	C-	1.8
Saratoga	C-	1.8
Santa Clara	C-	1.7
Los Altos Hills	C-	1.7
Hollister	D	1.1
Los Gatos	D	1.0
San Juan Bautista	D	1.0
Gilroy	D	1.0
Morgan Hill	D	1.0
Monte Sereno	D-	0.8
Lexington Hills	D-	0.7
San Martin	F+	0.3

AT&T has had a track record of favoring copper-wire infrastructure over fiber for final connections to customers, and has been more consistent in investing in ongoing upgrades and maintenance.

As a result, the copper wireline systems acquired by Frontier from Verizon in California, including the one serving Morgan Hill, tend to be less capable than systems in comparable communities operated by AT&T.

When upload and download speeds reported by the two companies to the Federal Communications Commission are compared, the difference between the services offered by the two companies, and consequently the condition and capability of the supporting infrastructure, become evident. Taking Union City as a typical example – it received a “C-” (1.9) grade – the difference in supported speeds and underlying architecture becomes clear. Speeds in Union City skew higher on both the download and upload side than in Morgan Hill. The distribution of those speeds indicates that Frontier’s service in Morgan Hill is based on Verizon’s legacy DSL² and interim ADSL2 technology to a greater degree than in Union City, where AT&T has made substantial investments in more advanced VDSL technology (and upgrades to ADSL2 technology).

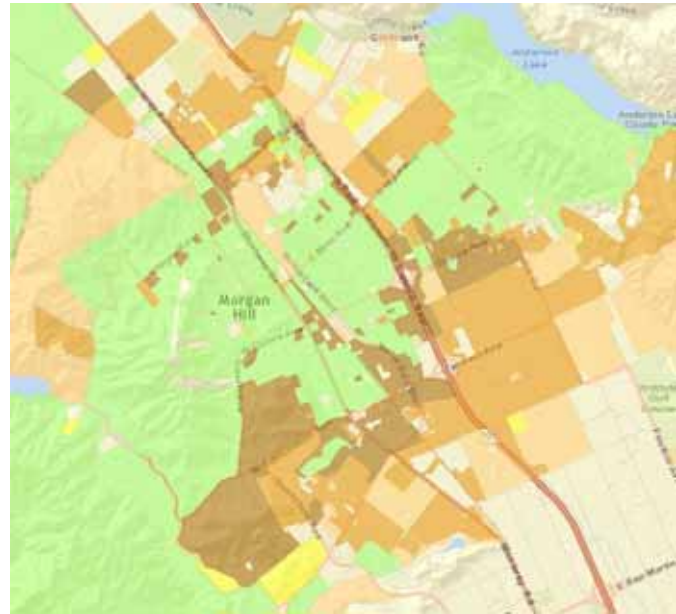


Figure 2.2 – Verizon DSL coverage in Morgan Hill. Note slower speeds further from the center. A larger version is in Appendix A.

From a consumer standpoint, the difference between the three technologies is readily apparent. If the service being received is branded as Uverse and television service is (or at least was, until recently) available, then it is VDSL-based. If it carries the Uverse brand and television service isn’t available, it’s ADSL2. If it doesn’t carry the Uverse brand, it is legacy DSL service. AT&T has made a concerted effort over the past several years to transition customers from legacy service, which is subject to regulation by the California Public Utilities Commission, to unregulated Uverse branded service where it is available. Verizon’s strategy, on the other hand, has been to sell off its regulated, wireline telephone systems, as it has just done in California.

The pattern of reported service levels in Morgan Hill also indicates a lack of infrastructure upgrades over the years. In communities where AT&T has invested in newer generations of DSL technology, it has also modified the architecture of the physical network that supports it. To a much greater degree

² “DSL” stands for digital subscriber line, and is a term that refers to technology developed by telephone companies to transmit data over the legacy copper telephone network. ADSL, ADSL-2 and VDSL are progressively more advanced versions of the technology. Older DSL technology is, for example, generally limited to 3 to 6 Mbps download speeds, ADSL-2 usually tops out in the 20 Mbps (or lower) download range and VDSL can support download speeds in excess of 40 Mbps.

than Verizon, AT&T has installed high capacity fiber optic cables deeper into neighborhoods, where it connects to shorter and more localized copper wires that, in turn, connect to customers. Since DSL service speeds are, to a great degree, a function of the distance traveled over copper wires, a typical pattern seen in AT&T markets is a checkerboard of fast speed reports around a number of neighborhood fiber “nodes³”, surrounded by relatively small and compact areas of declining speeds.

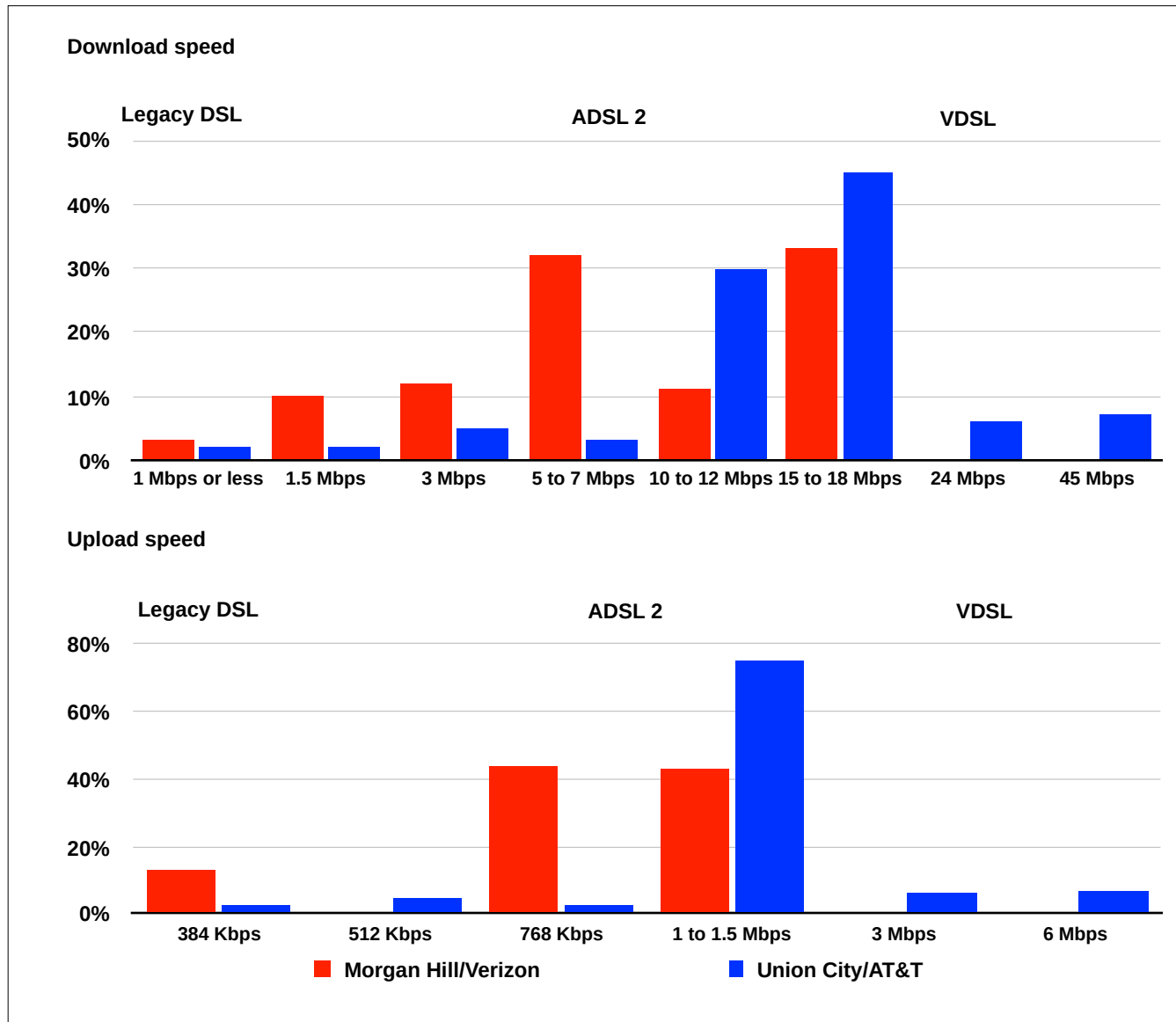


Figure 2.3 – Morgan Hill/Verizon versus Union City/AT&T broadband speeds, by census block.

By contrast, the overall pattern of service speeds reported on the system previously owned by Verizon in Morgan Hill indicates that this sort of fiber upgrade is not commonly present. DSL service is generally at its best in the center of the city, and drops off as the distance from the center increases.

³ Although the term “node” can refer to many things, in this report it refers to a central box or vault in a neighborhood where high capacity fiber optic trunk lines connect to copper distribution lines that serve customers’ homes or businesses.

There are exceptions, particularly in the western and eastern areas of Morgan Hill, but the overall pattern indicates that Verizon’s former network relies on copper wired-based distribution and legacy architecture to a much higher extent than AT&T’s networks to the north.

Charter Communications is the cable company serving Morgan Hill. Charter reports that it is using DOCSIS⁴ 3.0 technology exclusively and, consistent with common practice in the cable industry, claims to deliver up to 100 Mbps download and 5 Mbps upload speeds everywhere in its broadband service area. The key phrase is “up to”. It is a term of art in the broadband industry that means, in effect, that the technology that’s been deployed in an area is theoretically capable of supporting the indicated service level, but consumers should not expect to experience that maximum service level consistently, if at all. Charter’s ability to actually deliver promised speeds depends on the level of investment it has made in a particular neighborhood and the usage patterns of residents – the more people accessing the Internet in a given area, the lower the speeds each will receive. Charter also has a practice of not fully building out its cable systems to marginal residential areas, or to commercial and industrial zones.

Charter’s reported service speeds are below average for the California cable industry overall. By contrast, Comcast, which serves San Jose and most of the remainder of the Bay Area, offers service at 150 Mbps download and 20 Mbps upload speeds, which is typical of cable companies in California.

Table 2.2 - Primary broadband availability in Morgan Hill

	Census blocks	Housing units	Population
AT&T	4	139	433
Charter	682	12,623	37,425
Frontier	368	11,201	33,377
Combined availability (all 3 carriers)	687	12,628	37,433
Union City total (including unserved)	729	12,857	37,882
AT&T	1%	1%	1%
Charter	94%	98%	99%
Frontier	50%	87%	88%
Combined availability (all 3 carriers)	94%	98%	99%

In other words, Morgan Hill is served by telephone and cable companies that offer significantly slower speeds than their peers elsewhere in California. Frontier’s current service does not meet the California Public Utilities Commission’s minimum standard of 6 Mbps download and 1.5 Mbps upload speeds anywhere in Morgan Hill – consistently on the upload side and frequently on the download side – and

⁴ DOCSIS stands for “data over cable service interface specification”, and is the set of standards used by cable companies in the U.S. to provide two-way Internet service over coaxial cable networks that were originally designed to deliver one-way television service.

Charter's speeds in Morgan Hill are lower than Comcast, Cox and, in large measure, Time Warner⁵, its three peer companies in California.

Overall though, broadband availability at one level or another is nearly ubiquitous. Table 2.2 shows that 98% of homes in Morgan Hill – 12,628 out of 12,857 – have broadband service available at some speed from at least one company. The remaining unserved homes are scattered throughout Morgan Hill, but generally on the periphery (see Appendix D, sub-section 7).

“Broadband” refers generally to any telecommunications service capable of supporting digital data transmission at high speeds. These services can include and/or support Internet, television, telephone, private data networks and various specialized uses. Broadband service can be delivered in a variety of ways, including telephone lines (e.g., DSL), coaxial cable (e.g., cable modem), fiber optic cable, wireless cellular/mobile service (e.g., cell phones, tablets, wireless modems), WiFi, point-to-point and point-to-multipoint fixed wireless service and hybrid networks. There are technical distinctions between the terms “broadband” and “Internet”, but when discussing retail services offered to consumers and small businesses, the two can be used interchangeably.

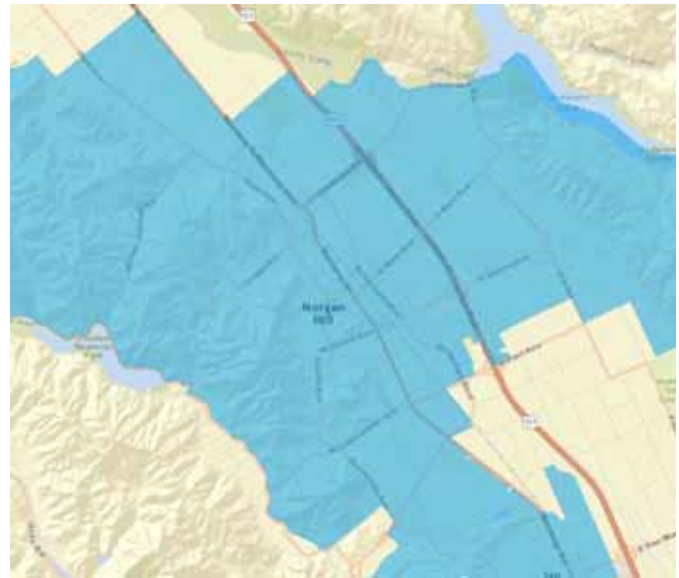


Figure 2.4 – Charter's claimed cable modem service availability. A larger version is in Appendix A.

The infrastructure grade of a census block is determined by the generally available level of service it supports. A “C” grade means a census block has the most common wireline service choices found in California, typical of the standard packages offered by, for example, AT&T and Comcast: a minimum of two providers, one just meeting the minimum standard of broadband service set by the CPUC (6 Mbps download and 1.5 Mbps upload) and the other exceeding it. A “D” grade – below the Californian average – is given when wireline service meets but does not exceed this standard or where consumers only have access to one qualifying service provider. If no qualifying service is available, a failing grade – “F” – is given. “A” and “B” grades are given where superior service is offered. Details regarding the grading method are in Appendix B.

Service levels reported by telephone and cable companies are listed separately because of the differences in the quality of the reports and the methods used to generate the data.

⁵ On 18 May 2016, Charter Communications completed its purchase of Time Warner and Bright House cable systems in California. Since the transaction is so recent and no operational changes have been implemented, Charter and Time Warner systems are compared separately for the purposes of this report.

Table 2.3 - Primary broadband service providers - Morgan Hill**Telephone companies, DSL-based service by census block**

Download speed	1 Mbps	1.5 Mbps	3 Mbps	5 Mbps	7 Mbps	6 Mbps	10 Mbps	12 Mbps	15 Mbps
Frontier	10	36	43	25	94		40		120
AT&T			1		3				
Upload speed	384 Kbps	512 Kbps	768 Kbps	1 Mbps					
Frontier	46		162	160					
AT&T		1	3						

Charter - cable modem (DOCSIS 3.0) speeds claimed throughout service area

Download	100 Mbps
Upload	5 Mbps

Primary broadband infrastructure is designed to provide retail level service, and often supports telephone and television service as well. It is the type of service that consumers buy for consumer-class home use, and small to medium-sized business use for routine, commercial-class Internet access. The two primary broadband companies in Morgan Hill, Frontier and Charter, have hybrid networks that use copper wires to connect directly to homes and businesses, and fiber optic lines that connect these local distribution networks to the Internet. In some cases, Frontier and Charter might use fiber optic lines to connect directly to a major customer, but neither report doing so in Morgan Hill.

Table 2.4 - Major California cable company maximum upload speed, as a percentage of census blocks

	5 Mbps	20 Mbps
Charter Communications	100%	
Comcast		100%
Cox Communications		100%
Time Warner Cable	14%	86%

Table 2.5 - Major California cable company maximum download speed, as a percentage of census blocks

	30 Mbps	50 Mbps	100 Mbps	105 Mbps	150 Mbps	300 Mbps
Charter Communications	3%		97%			
Comcast				3%	97%	
Cox Communications					100%	
Time Warner Cable	1%	14%				86%

Both Charter and Frontier offer significantly slower upload speeds than their peers. As a general rule, disproportionately slow upload speeds are an additional indicator of poor infrastructure. The geographic gap between service speeds offered by the respective providers is the reason cities in

AT&T's and Comcast's territories in the Bay Area receive broadband infrastructure grades in the "C" range and Morgan Hill receives a "D".

The primary broadband service providers in Morgan Hill report reaching most residential customers. Altogether, the primary providers (in this case, including AT&T) offer broadband service to 98% of housing units and 99% of the population in Morgan Hill, according to their own reports. These numbers are likely overstated, since the providers report partial coverage of a census block as full coverage. When looked at in detail, Frontier's coverage appears significantly poorer than Charter's, with gaps in the northern and southern edges of Morgan Hill, as well as some predominantly commercial/industrial areas.

2.2. Frontier and Charter transactions

On 1 April 2016, Frontier Communications assumed ownership of local wireline (copper and fiber) telephone systems owned by Verizon in California, including the one serving Morgan Hill. Frontier took operational control of its 2 million new customers in California by performing a "flash cutover", which was an attempt to transfer all former Verizon customers into its systems at once. The flash cutover did not go as expected.

Three systematic problems caused service disruptions to what appears to be several thousand customers. Most of the customers affected were in southern California, but not all. Media reports indicated that some customers in Verizon's Bay Area systems also experienced service disruptions, primarily related to Internet access but also possibly to telephone service as well.

The three problems that affected the vast majority of customers reporting problems were:

- Corrupt data in the customer records imported from Verizon's system.
- Records that said some customers' equipment had one serial number when in fact it had another.
- The need to train ex-Verizon employees on Frontier's systems.

The first two problems – corrupt data and mismatched serial numbers – resulted in the transmission of incorrect authorization messages and other operational data to some customers. The number of customers affected is believed to be less than 1% of Frontier's new customer base, but even that relatively low percentage of errors resulted in probably 10,000 to 20,000 service disruptions. Many of the service disruptions appear to be related to television service on fiber-to-the-home systems that Frontier acquired from Verizon in southern California, but telephone and Internet service was also affected statewide.

There were also service disruptions reported that were caused by incidental problems of the sort that's common for utility companies. These problems included, for example, a squirrel chewing through a cable and a vehicle hitting a utility pole. As a point of reference, Frontier expects to process an average of 50,000 trouble tickets a month in California in its normal course of business.

The third problem compounded the issues caused by the corrupt data, mismatched serial numbers and normal operational factors. Frontier’s staffing plan for the cutover involved bringing in current Frontier employees from other regions to handle what they expected would be a higher than usual number of customer service calls, while using Verizon’s existing call center in the Philippines as a back up resource. In the meantime, the former Verizon employees in California were to be trained on Frontier’s systems in an orderly process that was intended to result in a 100% U.S.-based customer service staff following the transition period.

The flood of phone calls triggered by the faulty data Frontier received from Verizon overwhelmed the existing Frontier staff and more calls with more complex problems were transferred to the back-up call center than expected. Personnel at the back up call center were not equipped and/or trained to handle the level or volume of problems they faced, and the result was a high degree of customer anger and dissatisfaction.

According to information given to state regulators by Frontier, all of their California systems were back to “business as usual” status by June 2016.

On 18 May 2016, Charter Communications completed a purchase of cable systems belonging to Time Warner Cable and Bright House Networks, nationwide. Many of those systems are in southern California and the San Joaquin Valley. Charter has stated that there is no expectation of similar problems, because its plan is to transfer operational control and integrate system gradually over time, rather than do a flash cutover, as Frontier attempted.

However, this transaction will affect the existing Charter cable system that serves Morgan Hill. In addition to the financial considerations of the purchase itself and the cost of integrating millions of new customers over time, Charter will also have to bear the cost of fulfilling the conditions that were attached to the approval of the transaction by regulators, particularly the Federal Communications Commission (FCC) and the CPUC, but also by regulatory agencies in other states. These conditions include extending service and/or upgrading analog service to digital to up to 2 million new locations nationwide.

The Morgan Hill system is at the northernmost end of a chain of existing Charter systems that generally extends south into Santa Barbara County, and an estimated 20,000 to 30,000 of the digital conversions and line extensions required will be in this region. The combination of required upgrades, transaction financing considerations and system integration costs will very likely result in capital constraints that will put a lower priority on investment in current Charter systems, such as the one in Morgan Hill, that are performing adequately from a management and regulatory point of view.

Both Frontier and Charter are required by the terms attached to regulatory approval of their respective purchases to provide other public benefits, including free WiFi service, free connections to a limited number of government agencies, discounted service packages for low income households and other programs intended to increase Internet adoption in disadvantaged communities. The companies were given a year or more to comply with these requirements and to date neither have provided any details regarding plans to do so.

2.3. Secondary service providers

In addition to the primary, retail level of service provided by Frontier and Charter, two other secondary companies provide commercial and industrial class service in Morgan Hill, via infrastructure or facilities they own themselves and/or leased facilities. Typically, these companies lease lines from the incumbent telephone company, but it is also possible that they are buying wholesale access from Charter.

The secondary broadband infrastructure in Morgan Hill is limited and generally falls into two categories: fiber optic networks and electronic enhancements to traditional copper wireline networks, likely leased from Frontier.

Two companies – Level 3 Communications and TW Telecom – report providing business-oriented services via leased lines (Level 3 acquired TW Telecom in 2014, but the companies still report service levels to the FCC separately). In accordance with state and federal rules, these companies are able to install equipment in Frontier’s central offices and use it to provide a higher level of service than would ordinarily be available. Both focus primarily on industrial and commercial areas of Morgan Hill. Full coverage area maps are in Appendix A.

TW Telecom claims to offer wireline service at 45 Mbps upload and download speeds in 11 census blocks and Level 3 reports the same in one census block. The type of technology reported – “other copper” – and the symmetrical speeds⁶ are consistent with DS-3 service, which is an older type of high capacity data transport connection that typically uses copper wires leased from an incumbent telephone company, which in this case is Frontier.



Figure 2.5 – Census blocks with fiber-to-the-premise service from Level 3. Larger map is in Appendix A.

Level 3 also reports providing 100 Gbps symmetrical service directly to end users via fiber optic lines in two census blocks.

Two long haul fiber corridors pass through Morgan Hill. The companies that have installed fiber optic cables along these corridors generally use it to connect large customers, Internet service providers and mobile telecommunications companies directly to major Internet exchanges and data centers in the Bay Area and Los Angeles, but some also use it for inter-city connections between customer sites and, in

⁶ Broadband service is considered symmetrical when upload and download speeds are the same.

limited circumstances, for intra-city connections.

The larger corridor of the two runs along the Union Pacific right of way, going north and south through Morgan Hill. AT&T, Verizon, CenturyLink, Level 3 and Zayo are among the companies present. A supplemental corridor runs north and south along Monterey Rd. through Morgan Hill. Optic Access (now owned by Integra) and AT&T are present on this route.



Figure 2.6 – Fiber routes in Morgan Hill. A larger version is in Appendix A.

At least four telecommunications companies are accessing fiber in Morgan Hill along this corridor: Frontier, Charter, Level 3 and Wave Broadband, which filed permit applications with the City of Morgan Hill requesting permission to build a fiber distribution network that is consistent with a network design intended to provide connections to cellular sites used by mobile telecommunications companies. It is likely that other companies are also accessing this trunk fiber, since it is standard practice in the mobile telecommunications business to provision cellular sites with direct fiber connections.

2.4. Commercial and industrial broadband infrastructure

It is much easier for primary broadband service providers to generate an acceptable return on investment in residential areas than in commercial or industrial ones, particularly densely populated urban and suburban neighborhoods. Standardized equipment can be used to provide a managed level of service, and each home can be offered a wide range of products including Internet access, television programming and telephone service. It is a predictable business, and capital investments can be made with a reasonable degree of certainty.

Industrial and commercial customers are more diverse and less predictable than residential subscribers. One business might need gigabit speeds at the highest quality-of-service levels, while the one next door is content with a standard, relatively slow DSL connection. As a result, incumbent carriers tend to approach commercial and industrial customers on a case by case basis. They do not prospectively build high speed infrastructure. Businesses seeking higher grade service are frequently presented with installation estimates in the thousands and tens of thousands of dollars range. Specialized, secondary companies offer a more diverse range of services to this market.

“Commercial class” service is defined as being similar to residential service in that the provider takes effectively all responsibility for installing, maintaining and supporting the service. Speeds are similar (6 to 150 Mbps), but service levels, reliability, consistency and pricing are higher.

“Industrial class” service refers to situations where the customer plays a much greater role in building and supporting the service, including buying different elements from different vendors and managing installation and support. Speeds would be higher – perhaps as high as 100 gigabits per second or more – and quality of service levels could be as high as found in top tier Internet exchanges. DS-3 circuits or dark fiber strands are examples of industrial class service. Large industrial customers frequently buy services directly from middle mile providers.

At this level of service, the distinction between “broadband” and “Internet” facilities becomes important. “Internet” service involves a connection, at whatever speed, to the vast, publicly accessible network of interconnected information technology (IT) resources that’s called the Internet. Internet service is usually obtained from a company that provides a connection between the end user and a major Internet exchange facility where data is handed back and forth between various networks: either a dedicated exchange facility or a data center where many companies install servers and other IT equipment. There are several such facilities in the Bay Area, including Fremont and San Jose, but none have been identified in Morgan Hill.

“Broadband” is a more generic term. It simply refers to a high speed data connection. That connection might be between an end user and an Internet exchange point, or it could be only for internal connections within a company.

The reports regarding Frontier’s service in Morgan Hill (filed by Verizon) show a pattern of not prioritizing broadband service in commercial and industrial areas. This data is reported by census block, and not by street address or zone designation, so inferences must be made based on the number of housing units in a given census block, as reported by the U.S. Census Bureau (2010 census). Frontier provides no broadband service in 361 of 726 census blocks total in Morgan Hill, of which 275, or 76%, have zero housing units. Frontier offers broadband service in the remaining 368 census blocks, of which 97, or 26%, have zero housing units.

A census block with zero housing units is usually either vacant residential land or used for commercial, industrial or institutional purposes. However, comparison of the map of Frontier’s reported service with a City of Morgan Hill zoning map indicates that these unserved census blocks are predominantly in areas zoned for commercial, industrial and institutional use.



Figure 2.7 – Census blocks with enhanced copper service. Note correlation to commercial and industrial zones. A larger version is in Appendix A.

In the census blocks with zero housing where Frontier does offer service, the reported download speeds are significantly slower than in census blocks containing residences. Since service would not be reported for vacant land, effectively all of these census blocks can be assumed to be commercial, industrial or institutional in nature.

In just over half (51%) of census blocks with residences, Frontier offers broadband at its two highest download speeds, 10 Mbps and 15 Mbps. In census blocks without residences, just under a quarter (24%) have that level of service. The lowest download speed service tiers – 3 Mbps and less – are offered in 35% of census blocks without residences, while only 20% of census blocks with residences have such service.

Census blocks with residences are inferred to be residential in character, while census blocks without residences are inferred to be commercial or industrial in nature.

Charter Communications reports serving a greater number of presumably commercial, industrial and/or institutional census blocks. Of the 352 census blocks in Morgan Hill with zero housing units, Charter reports that it offers broadband to 340, or 97%. It also reports offering a uniform download speed of 100 Mbps in every census block it serves.

Table 2.6 - Frontier download speeds by land use

	3 Mbps or less	5 to 7 Mbps	10 to 15 Mbps
Commercial/industrial	35%	41%	24%
Residential	20%	29%	51%

Although there appears to be a significant disparity in commercial and industrial area service between Charter and Frontier, it should not be assumed that the difference is as great as it appears. It is common practice in the cable industry to advertize service to business customers without having the facilities in place to immediately provide that service, and with the intention of requiring those customers to pay for the cost of installing the necessary facilities.

The poor state of commercial-class Internet infrastructure in Morgan Hill was also brought out in the workshop and online surveys discussed below.

The two secondary providers – TW Telecom and Level 3 – specialize in providing service to business customers. The 14 census blocks served by the companies are all commercial, industrial or institutional in nature. Ten of these census blocks are in commercial planned unit developments or light industrial zoned areas on or near Cochrane Rd., Jarvis Dr., Tennant Ave. and Vineyard Blvd. Two are in or near the central business district on Monterey Rd., and one is south of there on Monterey Rd. The remaining census block appears to contain a Santa Clara County facility, north of Malaguerra Ave. on the north side of Morgan Hill. Frontier reports offering broadband service in 10 and Charter in 11 of these census blocks.

2.5. Wireless broadband service

Four mobile broadband companies – AT&T, Sprint, T-Mobile and Verizon – serve Morgan Hill. According to testing conducted by the California Public Utilities Commission, AT&T's expected mobile download speeds in Morgan Hill are in the 3 Mbps to 10 Mbps range, with speeds decreasing as users move from north to south in the city. Verizon has a similar pattern, but with lower expected download speeds, ranging from 768 Kbps to 6 Mbps.

Sprint is largely unable to provide reliable service in Morgan Hill. The CPUC's testing shows its effective coverage ending just north of the city limits. T-Mobile's download speeds are in the 1.5 Mbps to 3 Mbps range in the northern end of Morgan Hill, decreasing to the 768 Kbps to 1.5 Mbps range in the middle of the city, and effective coverage lacking in the southern end.

Fixed wireless Internet service is offered by at least two companies in Morgan Hill. Etheric reports offering spotty coverage in the city, in the 25 Mbps to 50 Mbps range. The data Etheric submitted to the CPUC indicates that it can provide service in the eastern half of the city, but not on the western side. Examination of the mapping data provided by Etheric indicates that its coverage estimates are based on unsophisticated modeling of relatively few access points and cannot be taken at face value. Prospective customers are best advised to contact the companies to confirm availability and actual service levels.

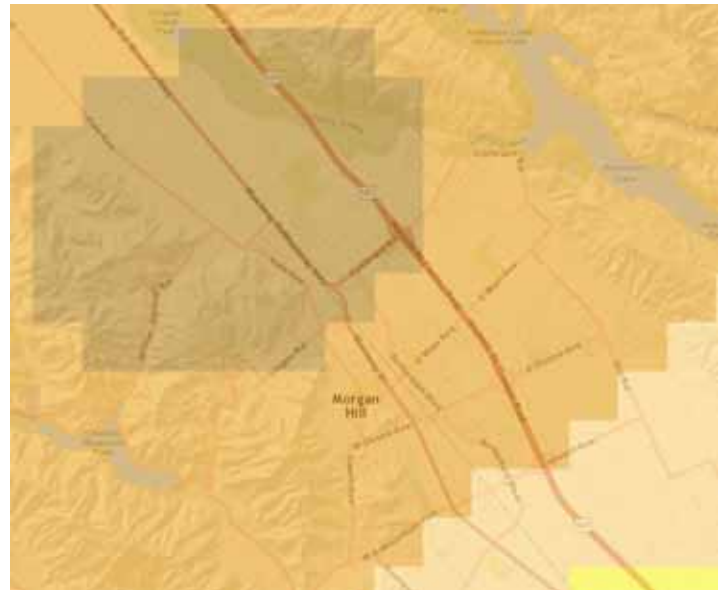


Figure 2.8 – AT&T's mobile broadband coverage in Morgan Hill, per CPUC testing. Dark brown indicates 6 Mbps to 10 Mbps download speeds, light brown and yellow are progressively slower. More and bigger maps are in Appendix A.

South Valley Internet does not report its coverage and service levels to the CPUC, and does not provide coverage data on its website. The company advises prospective customers to contact it to find out pricing, service level and availability details.

Both Etheric and SVI use unlicensed radio frequencies, which are subject to inference and may be preempted by other users. Any and all users have the same legal right to transmit on unlicensed frequencies, and must accept whatever interference or degradation results.

Other fixed wireless Internet service providers are active in the Bay Area and in northern San Benito County, and might offer service in the Morgan Hill area from time to time. The same caveats apply.

2.6. Broadband adoption rate

The most recent data collected and published by the California Public Utilities Commission (circa June 2012) indicates that broadband adoption and penetration in Morgan Hill is consistent with the statewide average in California.

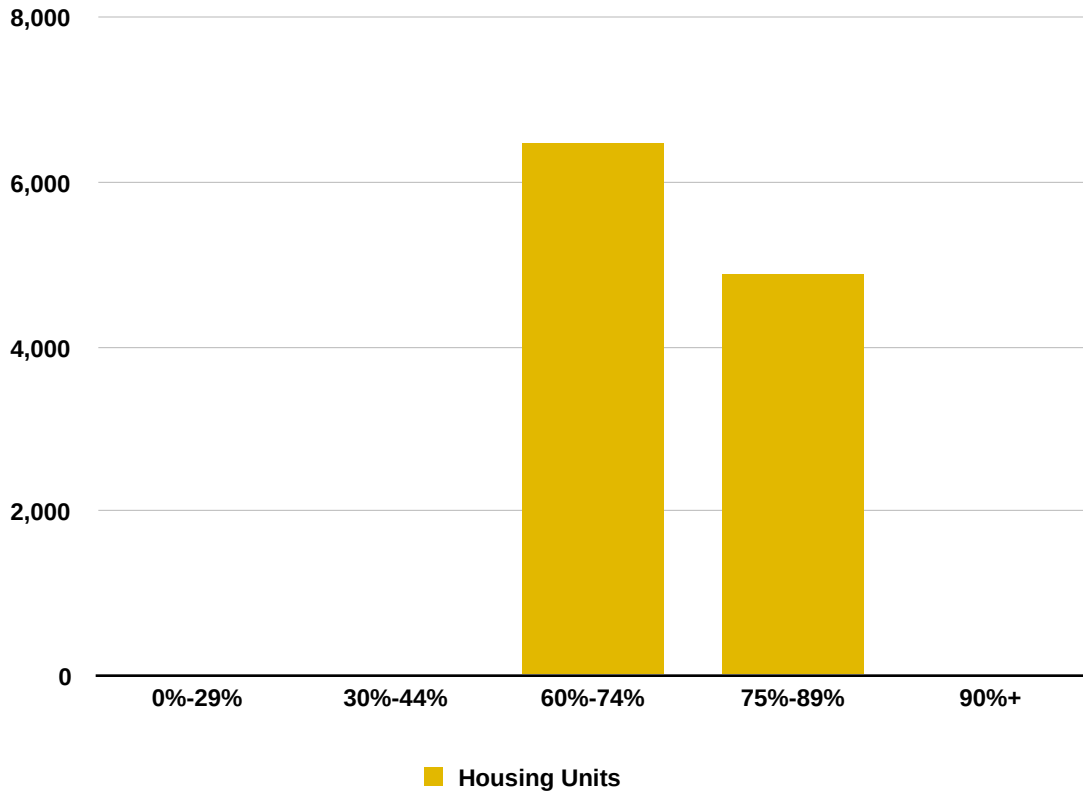


Figure 2.9 – Morgan Hill household broadband adoption rate by census tract.

The two metrics differ in that the adoption rate factors in broadband availability, while the penetration rate simply expresses broadband use as a percentage of overall population. Because broadband service of one kind or another is available to virtually every household in Morgan Hill, the two metrics are identical and this report will use the adoption figures for comparison.

Service providers consider this kind of customer data to be proprietary, and as a result the FCC and CPUC treat it confidentially. Exact figures for cities, or census tracts or blocks are not released. Other than state and county-level summaries, the only data published is an indication of which of six broad percentage ranges the adoption rate in any given census tract falls into. Even this scant information is suppressed when there are fewer than three service providers reporting customer data in a census tract, in order to preserve confidentiality.

The CPUC provided adoption data for eight census tracts that include a significant number of homes within the Morgan Hill city limits, and suppressed data for one. One census tract with an insignificant

number of homes in Morgan Hill (4 homes) was disregarded, as were two census tracts with zero homes within Morgan Hill.

There are 11,360 homes within the Morgan Hill city limits and within the eight census tracts for which data was provided. Of those, 57% (6,470 homes) are reported to have household broadband adoption rates within a range of 60% to 74%, and 43% (4,890 homes) fall within a 75% to 89% range. None of the significant census tracts in Morgan Hill for which data was provided have adoption rates of 59% or less, or 90% or higher.

By comparison, the California statewide adoption rate is 74%, Santa Clara County's is 81% and San Benito County's is 65%. In other words, the statewide rate is roughly at the center of the range and distribution of adoption rates within Morgan Hill, while approximately two-fifths of homes fall are in the same range as Santa Clara County overall and three-fifth of homes are in the same range as San Benito County overall.

2.7. Business and consumer perceptions

Tellus Venture Associates conducted primary market research to find out what residents and business people think about the broadband service and infrastructure that is available in Morgan Hill. A workshop was held for local businesses on 20 November 2015, and online surveys were conducted: one for local businesses in February 2016 and one for residents in March 2016.

Workshop

Ten people from Morgan Hill businesses and local government attended, representing:

- Anristu Americas
- Robinson Technologies
- Smith Commercial Management
- Leal Vineyards
- Morgan Hill City Government

Two representatives from Charter Communications were also present but, consistent with sound market research methodology and as required by Tellus Venture Associates, observed anonymously and did not participate.

All companies represented have contracts with at least two broadband providers, including:

- Charter
- Exceed
- Verizon
- South Valley Internet
- AT&T Uverse
- Level 3

- BCN Networks
- NTT Etheric

Each company stated multiple times that they needed the redundancy because of a long history of re-occurring system reliability issues. They also expressed frustration regarding inadequate throughput and latency, and that none of the available broadband systems meet their current needs at an affordable price. Several participants detailed problems they had with their respective service providers regarding outages.

Each company has experienced significant growth over the past three years and they all expect this trend to continue in the foreseeable future. Each company stated that a major obstacle to realizing and sustaining that growth is the ability of the current broadband systems to meet data system needs at an affordable rate. Currently they are paying anywhere from \$1,200 to \$10,000 per month for services they do not find satisfactory, with the exception of one participant.

When asked to rate the level of satisfaction for their current broadband services in terms of: 1. overall reliability and 2. quality of service (i.e. throughput and latency) on a scale of 1 to 5 with 5 being excellent and 1 being very poor, each company gave a rating of 1 for each metric for their respective service provider, with the exception of one company which gave a 4 rating.

Major issues with current broadband service and providers include:

- System throughput and latency.
- System reliability.
- Extremely poor customer service, especially technical support.
- Length of time required to upgrade current service/system.
- Current pricing models, which are not a sustainable business model that facilitates growth and long term partnership.
- Limited system footprint, which does not support employees working remotely.

Business survey

There were 53 survey respondents, representing an 8.5% sample size, which is a statistically sound sample. Generally, any sample greater than 5% of total population is statistically relevant in analysis projections. However, because this survey was conducted online and the respondents were self-selected, the statistical validity of the results is open to question, and the data gathered should be considered qualitatively, rather than strictly quantitatively.

- 81% of respondents currently purchase Internet service for their business.
- 96% of the responding businesses have Internet access.
- 62% of the businesses responding allow telecommuting,
- Roughly one half purchase cellular (54%) and/or fixed line phone service (47%).

There does not appear to be a dominant trend among the respondents with regard to how these services are purchased, about one-third each purchase these services as a bundled package, separately or some combination:

- 27% - All my services are bundled
- 35% - All services are obtained through separate providers
- 33% - Some services are bundled, some are sold separately

Nearly one half of the respondents (47%) currently contract with Verizon for their broadband services, followed by Charter (40%). AT&T Uverse and South Valley Internet are currently used by 10% of the respondents as their primary broadband carrier.

- 31% of the respondents use DSL as their primary Internet connection.
- 18% use T-1 lines or similar (1960s vintage digital transmission technology using telephone lines).
- 13% use cable modem service.
- 13% use fixed wireless service.

When asked how important Internet access is:

- 88% of respondents said it is very or somewhat important in their ability to achieve strategic goals (68% very important).
- 80% said it was very or somewhat important in their ability to stay competitive (66% very important).
- 62% stated that it is very or somewhat important when deciding where to locate existing or future facilities (44% very important).

Nearly one-half (48%) do not have a backup or secondary connection, and of those who do have a secondary service, 14% use wireless and 7% rely on cable.

- 93% of respondents stated that the reliability of connection is the most important aspect of their businesses Internet service. Only 20% of those businesses are very satisfied with the current level of reliability, whereas 40% are somewhat/not at all satisfied with the current reliability of their Internet service.
- 80% responded that the speed of connection was very important while only 24% responded that they are very satisfied with current internet speed versus 42% stating that they are not at all or only somewhat satisfied with current internet speed.
- Technical support was identified as the 3rd most important service attribute (71%). Only 17% were very satisfied with their current level of tech support.

Each of these key metrics indicate a need for the current providers to substantially improve current systems and services.

In terms of value, 60% stated that the price of services was either very or somewhat important, only 11% are currently very satisfied with the price of services, 28% are neither satisfied or unsatisfied with current prices of services. This result is noteworthy. In our experience if only 10% to 15% of a customer base feels that they are getting good value for services it is a key indicator that most would likely switch providers if any were available.

Type of businesses responding:

- 15% of the respondents represented the Professional, Scientific & Technical Industries.
- 12% from the Finance, Insurance and Real Estate Community
- 11% from the Retail Sector
- 38% of the responding businesses have had a presents in Morgan Hill for more the 20 years.
- 31% between 1-5 years, and of that 31%, 17% have been in Morgan Hill less than 2 years.
- 51% have 5 or fewer employees
- 21% have between 6 and 20 employees

Consumer survey

There were 510 survey respondents, representing a 4.2% sample size. Because this survey was conducted online and the respondents were self-selected, the statistical validity of the results is open to question, and the data gathered should be considered qualitatively, rather than strictly quantitatively.

- 99% of respondents have internet access at their home.
- 98% of respondents currently purchase Internet for their home.
- 93% of respondents purchase cellular/mobile telephone service.
- 85% of the responding households purchase either cable or satellite television.

There does not appear to be a dominant trend among the respondents with regard to how these services are purchased:

- 5% - All my services are bundled
- 42% - All services are obtained through separate providers
- 48% - Some services are bundled, some are sold separately

More than half of the respondents (67%) currently use cable as their primary Internet connection, followed by DSL (14%) and Wireless (10%).

Only 30% of respondents reported that their current Internet speed was fast enough for their needs. Given that 65% of respondents say their employers allow telecommuting, it was surprising that only 24% considered the availability of Internet services prior to purchasing or renting a home.

Reliability of connection was very important to 93%, yet only 15% reported being very satisfied with current reliability. It is alarming that 38% reported being either not at all satisfied or only somewhat satisfied.

86% said that speed of connection (including latency and throughput) was very important to 86% of respondents but, again, only 15% reported being very satisfied with the speed of their current Internet service, whereas 38% reported being either not at all satisfied or only somewhat satisfied. Similarly, 64% of the respondents said that the cost of services was very important and only 24% reported being very satisfied or somewhat satisfied with the price they were paying.

The minimum acceptable upload speed for Internet service was 6 Mbps or higher or higher for 84% of respondents:

Table 2.7 - Minimum acceptable upload speed for Internet service

1.5 Mbps or less	2%
3 Mbps	14%
6 Mbps	25%
10 Mbps	31%
25 Mbps or greater	28%

The minimum acceptable download speed for Internet was 10 Mbps or greater for 81% of respondents.

Table 2.8 - Minimum acceptable download speed for Internet service

1.5 Mbps or less	1%
3 Mbps	6%
6 Mbps	12%
10 Mbps	25%
25 Mbps or greater	56%

Our overall conclusion is that residential and business Internet customers in Morgan Hill are not satisfied with their current service and are not receiving a perceived good value.

2.8. Conclusions

The broadband availability data reported by Verizon (for the system now owned by Frontier Communications), Charter Communications, AT&T, Level 3 and TW Telecom and the results from primary market research conducted for this analysis paints a clear and consistent picture: broadband infrastructure and service in Morgan Hill is significantly poorer than the Californian and Bay Area average. The broadband adoption rate is generally lower than for Santa Clara County residents overall, however it is in line with the statewide average.

Frontier's system in Morgan Hill has not been maintained at the level and upgraded to the extent that AT&T's wireline systems have been in the Bay Area. It relies on older generations of technology and a legacy copper line network that has not been supplemented with high capacity distribution fiber or reconfigured to provide even levels of availability throughout the city, to the same degree as networks in comparable cities to the north.

The predominance of commercial and industrial areas in the census blocks where Frontier offers no broadband service, and the generally lower level of service offered in the commercial and industrial areas it does serve indicates that the previous owner, Verizon, gave scant consideration to providing the commercial and industrial classes of broadband services that businesses rely on now, much less an ever increasing demand for bandwidth in the future.

Charter Communications does a better job of providing high speed broadband connectivity to residents and businesses, but it also falls short of meeting common industry standards. Although its advertised service levels in Morgan Hill are the same as it offers in most of the other California cities it serves, those service levels are significantly below that of its peers in the cable industry. Particularly, its advertised 5 Mbps upload speed is only a quarter of that offered in California by Comcast, Cox and, for the most part, Time Warner, which indicates that it is severely constrained by the condition of its network, the degree to which it has deployed upgraded technology and/or the resources – such as wholesale Internet bandwidth – it provides to its network. This upload speed also falls below a level considered to be adequate by 84% of Morgan Hill consumer respondents to the online survey described above.

Secondary companies – Level 3 and TW Telecom – have moved in to fill some of the gaps left by the primary providers with more specialized services, including via direct fiber optic network connections to end users. Major fiber network operators also provide connectivity in Morgan Hill on a wholesale basis.

Mobile broadband coverage is generally poorer in Morgan Hill than in areas to the north, but the level of service experienced by users will vary depending on the carrier, location and the number of users accessing service at the same time. Internet service is also offered in some locations from fixed wireless system operators, but little reliable information is available regarding actual coverage, availability and true service levels.

There is a sharp divide between the broadband service and infrastructure in residential areas, and that found in commercial and industrial areas. Although Frontier's service levels fail to meet the CPUC's minimum standard of 1.5 Mbps upload speeds anywhere in Morgan Hill, it meets or exceeds the minimum download standard of 6 Mbps in 72% of residential census blocks it serves. By comparison, it only meets the CPUC's download minimum in 61% of non-residential census blocks. Its highest tier of service – 15 Mbps download speeds – is available in 39% of residential census blocks, but only 13% of non-residential ones.

Charter's service reports indicate a more even distribution of broadband availability across residential and non-residential areas, meeting both the CPUC's 6 Mbps download/1.5 Mbps upload standard and

the Federal Communication Commission’s higher standard of 25 Mbps download and 3 Mbps upload speeds for “advanced services”. However, that claim does not match the experience of Morgan Hill business people participating in the workshop and online survey described above. Participants reported unavailability of service from Charter, delays in installing service, and unreliable levels of service.

Although one company (Level 3, reporting as two separate service providers, Level 3 and TW Telecom) offers faster connections to a limited number of business customers, the responses from the survey and workshop indicates that this service is very expensive. The reported speed levels and technology employed for 12 of the 14 census blocks where Level 3 offers service indicates it is based on older and limited facilities.

The low level of residential broadband service in Morgan Hill, relative to other Bay Area and Silicon Valley communities, creates a competitive economic disadvantage for both the real estate market and for individuals who operate home-based businesses or have the option, but not the ability, to telecommute to jobs elsewhere. The inability of Morgan Hill residents to enjoy the same level of social, entertainment and recreational benefits as people living in the greater Bay Area results in a lower quality of life as well. The even lower level of commercial and industrial broadband service and infrastructure is a barrier to companies that might wish to locate or expand in Morgan Hill, and is a motivating factor for existing businesses that might consider moving elsewhere.

However, Morgan Hill is not isolated. The inter-city (middle mile) fiber routes that run along the railroad right of way and on city streets provide the essential connectivity that would make it possible for incumbent carriers to upgrade their networks or for new service providers to locate in Morgan Hill. This middle mile connectivity is a necessary resource. Many communities do not have access to this sort of resource, but Morgan Hill does and should make the most of it.

Morgan Hill’s future economic growth and living standards will be constrained or even degraded by its legacy broadband infrastructure and the substandard levels of broadband service it supports. The planning and policy analysis sections that follow offer both near term and long recommendations for addressing this problem. Solutions will necessarily involve the current incumbents, Frontier and Charter, but the capital and operational constraints both companies face, as a result of recent transactions and otherwise, will require the involvement of other service providers as well.

3. Broadband infrastructure planning

Morgan Hill, like other California cities, has no direct role in regulating Internet service providers. However, the City can implement policies that help or hinder broadband infrastructure development and competition. Options include managing the use of city-owned facilities by Internet service providers, setting policy for shared use of public right of ways, becoming directly involved in developing broadband infrastructure and directly providing services, with or without private sector partners. Policy initiatives that encourage broadband infrastructure development can have a significant impact on the availability of service and facilities. Cities have attracted private, competitive broadband service providers by lowering barriers to entry and leveraging existing city infrastructure and budgets.

3.1. Types of infrastructure

Broadband infrastructure generally breaks down into two categories – middle and last mile – and supports four different types of service: consumer, commercial and industrial classes, and mobile.

Last mile infrastructure is used to deliver broadband service directly to customers from a central office or other distribution point operated by telephone, cable, mobile and other telecommunications companies. It is the type of infrastructure most commonly seen in Morgan Hill and, as described above, variations in its quality and capacity result in different service levels in different areas of the city. In Morgan Hill, these last mile facilities primarily consist of older generation telephone lines (Frontier), coaxial cables (Charter Communications) and cellular wireless sites, plus some very limited access via fiber optic cables.

Middle mile infrastructure connects the central offices and distribution points to major data centers and Internet exchanges, and provides the high capacity, wholesale bandwidth that is distributed on a retail basis via last mile infrastructure. As with other types of utilities, middle and last mile infrastructure is also sometimes referred to as transmission and distribution facilities, respectively. The terms can be used interchangeably.

In most of Morgan Hill, consumer, commercial and industrial class service is delivered via wireline networks, although service is also available via fixed wireless technology on a more limited basis.

As discussed above, consumer-class Internet access is typically a shared resource, with many subscribers contending for the same bandwidth, and is subject to speed and volume limits as determined by the provider. This type of service often meets the needs of small and medium businesses, but not always. And it is generally inadequate for larger companies, which need commercial and industrial class broadband facilities.

It is much easier for broadband service providers to generate an acceptable return on investment in residential areas than in commercial or industrial ones, particularly densely populated urban and suburban neighborhoods. Standardized equipment can be used to provide a managed level of residential-class service, and each home can be offered a wide range of products including Internet

access, television programming and telephone service. It is a predictable business, and capital investments can be made with a reasonable degree of certainty.

“Commercial class” service is defined as being similar to residential service in that the provider takes effectively all responsibility for installing, maintaining and supporting the service. Speeds are similar (6 to 150 Mbps), but service levels, reliability, consistency and pricing are higher.

“Industrial class” service refers to situations where the customer plays a much greater role in building and supporting the service, including buying different elements from different vendors and managing installation and support. Speeds would be higher – perhaps as high as a gigabit per second or more – and quality of service levels could be as high as found in top tier Internet exchanges. Large industrial customers frequently buy services directly from middle mile providers. DS-3⁷ circuits or dark fiber strands are examples of industrial class services that are available in Morgan Hill, although it is the older, copper wire-based services, such as DS-3 circuits, which predominate.

Industrial and commercial customers are more diverse and less predictable than residential subscribers. One business might need gigabit speeds at the highest quality-of-service levels, while the one next door is content with a standard, relatively slow DSL connection. As a result, incumbent carriers tend to approach commercial and industrial customers on a case by case basis or be extremely selective in choosing which neighborhoods and business districts to upgrade. They do not prospectively build high speed infrastructure. Businesses seeking higher grade service are frequently presented with installation estimates in the thousands and tens of thousands of dollars range.

The experience of other cities, particularly those in the Bay Area, shows that relatively small-scale efforts can result in significant improvements in commercial and industrial class broadband infrastructure by reducing the risk for private telecommunications companies. These steps have included streamlining permitting procedures, directing redevelopment funds towards broadband projects and other measures.

Mobile broadband infrastructure supports yet another type of service. It is differentiated from fixed services and infrastructure – consumer, commercial or industrial – in that it is accessible over a wide area, rather than in a specific place. Because it relies on limited radio frequency spectrum, mobile service has less overall capacity than service based on modern wireline technology and is more expensive to purchase, on a cost per megabyte basis. Although carriers will often make claims to the contrary, mobile service is not a generally acceptable substitute for wireline service, either in terms of service levels or cost. However, it is regarded as equally essential. The Federal Communications Commission’s *2016 Broadband Progress Report*⁸ defined this distinction:

⁷ “DS-3” is one of several standard types of data connections, originally developed for use by telephone companies. It refers to a copper wire-based circuit that can support speeds of approximately 45 Mbps.

⁸ *Broadband Progress Report 2016*, Federal Communications Commission 28 January 2016, In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act.

Consumers have advanced telecommunications capability only to the extent that they have access to both fixed and mobile broadband service. As they currently exist, fixed and mobile broadband services are not functional substitutes for one another, as some commenters suggest. Rather, as many commenters recognize, in today's society, fixed and mobile broadband are both critically important services that provide different and complementary capabilities, and are tailored to serve different consumer needs...

It is true that, at a high level of generality, both services provide consumers with broadband Internet access service. As we have explained, however, significant differences in service capability and pricing prevent fixed and mobile broadband from being adequate substitutes for one another. Although fixed and mobile broadband sometimes provide overlapping functionality, this does not compel the conclusion that the two services are interchangeable for purposes of our Inquiry. Indeed, Americans with access to only one type of service are often unable to take advantage of the full range of functionality offered by advanced telecommunications capability.

Cellular wireless sites are last mile facilities and rely on the same middle mile fiber optic networks as wireline systems.

3.2. Land use considerations

Implications for Future Development

The Morgan Hill land use alternatives evaluated in 2014 include four primary types of land use – single-family housing, multi-family housing, commercial and industrial – each of which have particular implications for broadband policy. All four, however, share the same need for core infrastructure.

Single-Family Housing

If a residential project is in the thousands of homes range, it might be practical for a developer or home owners' association to bring in a competitive telecommunications company as a primary Internet (or cable or telephone) service provider. In a gated community, the threshold might drop to hundreds, or even dozens, of homes because rules for providing television service are different when the public right of way is not involved. If residents agree to buy services in bulk – i.e., all residents subscribe to a base level of service, which might or might not include Internet service – then a broadband provider will be able to amortize construction costs over fewer homes.

Smaller last mile projects in residential developments will almost always rely on incumbents, which in Morgan Hill are Frontier and Charter. It is becoming common practice for new homes to include pre-wired data networks, but there is no single, industry standard for doing so, or for providing open access to existing or potential competitive networks. The City can play a role in setting these standards for new construction (and for major remodeling projects). The greater the degree of standardization and open access, the easier it is for prospective last mile competitors to enter the market and offer residents additional choices.

Multi-Family Housing

The same considerations apply as with single-family housing, with one major difference. Landlords and homeowner associations play a gatekeeper role and, up to a point, can control which broadband service providers can gain access to a property. In some cases, this control poses a barrier – e.g., landlords can prevent or refuse to pay for upgrades – but in other cases it can be an opportunity. Even a small multi-tenant property could be attractive to a competitive provider, due to the low cost per customer to build and maintain facilities, and the potential for bulk purchases of service, by landlords or homeowner/tenant groups. Google Fiber is following this model in San Francisco.

Commercial

Office and retail properties—particularly those with a large number of tenants—are attractive to incumbent and competitive service providers alike, particularly when some or all of the construction costs for broadband facilities are borne by property owners. However, without access to core infrastructure, competitive providers operate at a severe disadvantage. Municipal conduit and dark fiber facilities, along with policies that require lateral connections to new construction, can level the playing field.

Industrial

Companies and institutions will often prefer to work directly with the raw materials of broadband: dark fiber, electronic equipment, and direct connections to major Internet exchanges. Although organizations with large-scale bandwidth needs are often willing to invest in on-site upgrades, site selectors will bypass locations that lack access to this core infrastructure.

3.3. Municipal resources

City facilities that can support broadband development fall into two general categories: conduit and pole routes, and real estate.

Pole routes

Most California cities, including the City of Morgan Hill, do not own pole routes. The exceptions are cities that also operate municipal electric utilities, such as Alameda, Santa Clara and Palo Alto. Not coincidentally, these three cities were the first in the San Francisco Bay Area to embark on large scale, municipal broadband projects.

Conduit

According to the Public Works department, the City of Morgan Hill does not own a significant amount of broadband-capable conduit. Some conduit has been installed for traffic signal management purposes, but it is not designed to support interconnection of facilities over a significant footprint. The City also

apparently owns, by default, some abandoned conduit in various, scattered locations. This abandoned conduit has not been mapped or evaluated for re-use potential, and at this point appears to be irrelevant for broadband planning purposes.

Most cities in California similarly lack municipal conduit assets that are relevant to broadband planning. However, many do own significant conduit routes, particularly interconnect conduit used to manage traffic signal networks. Because traffic signals tend to be installed on busy streets in commercial areas, the conduit routes that serve them are usually well suited to support business-oriented broadband service and middle mile facilities. The City of San Leandro was the first in the Bay Area to make large scale use of traffic signal conduit for this purpose.

Other types of municipal conduit include empty conduit installed on a prospective basis – the Cities of Brentwood and Watsonville are examples – as well as conduit specifically designed to support internal city data networks and street light systems. Conduit installed for IT network purposes can be useful, but is usually more limited in scope than traffic signal systems. Electrical conduit installed for street light purposes is usually not well suited for broadband systems because of differences in the way electrical distribution networks are designed and maintained. The conduit used to deliver electricity to Morgan Hill's streetlights follow this pattern and appear to be designed to support relatively short connections to PG&E's distribution network. Using other city utility systems, such as sanitary and storm sewers, is likewise problematic.

Real estate

According to staff, the City of Morgan Hill is currently leasing space on city-owned water tanks to mobile broadband infrastructure companies, including Crown Castle, which owns and manages cellular wireless sites on behalf of mobile carriers. No other city-owned real estate assets were identified as being currently used by third-party broadband providers.

City-owned real estate – either vacant land or space inside buildings – can be used to house network electronics and data centers for fiber and other wireline projects. City buildings, street lights and other facilities can support public WiFi access points. Towers, tall structures and vacant land can be used for cellular sites and support facilities for wireline networks.

As discussed below, cities can use these resources to build municipally owned broadband infrastructure. Many different kinds of business arrangements can also be made with major incumbent providers and competitive independent companies, including swaps of service for access to facilities, partnerships and normal purchase agreements.

Agency IT budgets

Public agencies are usually among the biggest users of broadband service at the local level. Although there are restrictions on the use of services and facilities purchased with public funds, particularly those earmarked for educational purposes, public agencies can serve as anchor customers of new broadband

projects. Within limits, municipal information technology and telecommunications budgets can be directed in ways that support broadband development goals.

Although money allocated for educational networks cannot be used to subsidize municipal or public broadband service, it can be used to purchase service from competitive private or municipal service providers. For example, pre-purchase commitments made on behalf of U.C. Santa Cruz provided the critical initial revenue stream which made it possible for a private company, Sunesys LLC, to build a fiber line from Silicon Valley to Santa Cruz, and to successfully apply for state grant funds to build a second line from Santa Cruz to Soledad.

4. Broadband planning framework

4.1. Overview

The evaluation in Section 2 above reached several conclusions about the state of broadband infrastructure in Morgan Hill:

- Overall, primary last mile wireline infrastructure is generally below average in Morgan Hill, receiving a “D” grade, as opposed to the “C” and “C-” grades typically found to the north, in the greater Bay Area.
- The existing telephone network (now owned by Frontier Communications) was not upgraded to contemporary standards by Verizon.
- Charter Communications’ cable system supports higher broadband speeds but is less capable than systems operated by other major cable companies in California.
- Mobile broadband availability varies by carrier and location, and is often poorer than the service that is available in the greater Bay Area.
- There is a significant last mile infrastructure deficit in commercial and industrial areas, across all primary and secondary service providers.
- Competitive middle mile connectivity to major Internet exchanges is available and appears to be sufficient to support significant last mile upgrades.

There are a number of alternatives for addressing these deficiencies. As discussed in the policy section below, the City of Morgan Hill has no direct regulatory influence over telecommunications service and, where broadband service is concerned, few, if any, regulatory avenues to pursue at the state or federal level. Instead, the tools available are limited to persuasion, coordination, direct or indirect broadband initiatives, and policy that promotes or impedes broadband infrastructure development.

The City has several options for encouraging the development of core broadband infrastructure. It can do nothing and allow the incumbent service providers, working with property developers, to install telecommunications facilities that can only be accessed on their terms, as is generally the case in Morgan Hill today. The City might also establish requirements for installing fiber and conduit in new developments and, up to a point, mandate some level of access by competitive carriers. Or the City can take a more proactive role, ranging from installing its own conduit any time trenches are dug, to building out a dark fiber network, possibly extending to developed properties as well. This core infrastructure would also include connections to regional fiber networks, for greater utility and lower cost.

In general, the choices can be summed up as:

1. Set higher standards for broadband infrastructure in new residential and commercial developments.
2. Work cooperatively with Frontier, Charter and mobile carriers to identify policy barriers that could be removed or incentives that might be offered to encourage greater investment in their systems in Morgan Hill.
3. Evaluate options for creating a third, citywide broadband system, either as a municipal enterprise or through cooperation or partnership with a private, competitive provider.
4. Pursue targeted broadband projects, with or without private sector partners, that address specific last mile infrastructure and/or service deficits in commercial and industrial zones, and that improve local availability of existing middle mile resources.
5. Establish programs to 1. identify, construct and document broadband assets for future use and 2. create an ongoing role for the City as a coordinating body that aggregates information and complaints and provides it to state and federal regulators.

Broadband infrastructure initiatives (items 3 and 4 above) and related considerations follow; policy-based options (item 1, 2 and 5) are discussed in Section 5 below.

4.2. Initiative options

Similar to planning roads and water supplies, assessing alternatives for broadband infrastructure initiatives includes consideration of the immediate needs of existing companies as well as long term growth requirements for future commercial and industrial development, new businesses that might be relocated or started in Morgan Hill and new residential construction.

Even though existing broadband infrastructure is below average, the City of Morgan Hill is in a position to make targeted improvements and meet the increasing demand for low cost, high capacity, reliable broadband infrastructure and service from consumers as well as new and existing businesses.

These options include:

Survey, map and systematically track broadband assets. As far as is known, the City of Morgan Hill does not own any conduit that might be capable of supporting broadband initiatives. However, the City does not systematically track conduit or other broadband assets and there is some degree of uncertainty. Conducting an engineering survey of known or suspected conduit locations and routinely entering information about conduit and other assets into a GIS database will give the City the ability to pursue opportunities or plan initiatives using accurate and immediately available data. The City can also evaluate city owned real estate and related facilities to determine if it might be available or appropriate to a broadband development project.

Build the City's inventory of municipal broadband assets. Over time, the City can improve its negotiating position with incumbent service providers and increase its independent options through coordinated planning of 1. internal information technology needs, 2. public works and transportation

infrastructure construction and 3. conduit (and other broadband asset) development, via targeted projects or general policy implementation.

Develop a phased build out plan. Once the City has a systematic process for tracking current assets and coordinated plans for building its overall inventory, the next step is to prioritize areas with the greatest need and/or the least attention from incumbents – older business parks, for example – and identify specific projects that those assets could support, or alternatively projects that fill gaps in those assets.

Seek private sector partners. Many cities have issued general requests for proposals, seeking private sector partners who are willing to finance and implement projects that achieve municipal objectives. Generally, the more assets – money or broadband infrastructure – that are put on the table, the more likely an RFP will produce a useful result. Alternatively, cities have used other procedures, such as exclusive negotiating rights agreements or non-exclusive leases of public assets, to recruit willing private companies.

Assess the potential for using existing City funds. This option is likely to be limited in scope, but, for example, the City could be an anchor tenant on new infrastructure built by a private carrier. Even a small amount of guaranteed revenue at the beginning of a capital-intensive project can make a big difference in the attractiveness of the business model to investors.

Investigate mutual use agreements with VTA, Caltrain and other agencies. Transit and regional and state transportation agencies often include conduit and fiber optic facilities in new construction or major upgrades. Often, these projects are coordinated with cities, at least at a public works/transportation planning level. This coordination can and should include consideration of broadband development policies and priorities.

Establish a municipal dark fiber enterprise. See Appendix C for municipal broadband enterprise descriptions and examples. Table 4.1 summarizes significant examples.

Conduct a fiber-to-the-home feasibility study. The cost of building a full, fiber to the home system that serves every Morgan Hill home and business would be in the tens of millions of dollars range⁹, perhaps approaching the \$100 million point. A feasibility study can be used to assess such a project, from the point of view of operating it as a municipal enterprise as well as an opportunity to present to potential private sector partners (see Appendix C below). Table 4.1 summarizes significant examples.

4.3. Requests for proposals

California cities have used a number of different strategies to solicit interest in infrastructure partnerships, conduit leases and other broadband initiatives. Some examples are:

Benicia - The city targeted a specific industrial area, put \$750,000 on the table and asked companies to bid to build a system that would provide service to the area. Several proposals were received and the

⁹ *Financial analysis of user-financed residential broadband service in Palo Alto*, Tellus Venture Associates, June 2012.

city is in the final stages of negotiating a contract with one of the proposers. The advantage is that the city gets the economic development boost it wants at a defined cost and no additional risk or operational involvement.

Los Angeles - The city put some assets – mostly existing middle mile fiber – on the table, offered good will efforts to obtain other assets, such as pole routes that the city also owns, and asked for what amounts to a full fiber to the home system. Advantage is that it focuses attention on the city's goal of improving broadband access for all residents. Downside, so far, is that there's been no tangible result.

Salinas - The city put its conduit on the table (but no money) and asked companies for proposals to build out a broadband network in two targeted areas: downtown and a mostly greenfield area that's designated as an agricultural technology corridor. The RFP is still in process. The intended advantage is that the city will encourage economic development in two depressed areas and improve the city's overall infrastructure, and perhaps gain the benefit of better a better internal IT network, without incurring significant costs.

Watsonville - The city stitched 3 miles of existing conduit and fiber together with a mile of new conduit. It built, owns and operates the system. It was done as a standard public works build-to-spec bid (not a formal RFP), and the city went with the low bidder. The system was built with the intention of using it as a replacement for the INET formerly provided by Charter Communications. It serves that purpose now and the city is in the process of developing a standard rate card for leasing out surplus capacity to ISPs. Advantage is that the city has complete control over the network with guaranteed completion, and a much lower cost of operation for its IT infrastructure. Disadvantage is that the city pays the full construction cost (~\$300,000) and ongoing operating expense (and responsibility).

Inyo County - The county asked for someone to both build a fiber to the home network and find the money to do it. Nothing substantial was on the table. Only two responses came back. One was from a construction company that basically said "if you give us enough money we'll build it for you". The other was from a reputable fiber company that offered to look for grant funding. Nothing has come of it yet, and it doesn't appear anything will. Advantage is zero risk. Disadvantage, to date, is zero gain.

Seattle - An RFP to lease out a short section (~200 feet) of city-owned conduit was issued. Advantage is the city gains revenue, and some economic development benefit. Disadvantage is that it's limited.

San Leandro - An exclusive negotiating rights agreement (ENRA) was entered into with a major local company, OSI Soft, to build a fiber enterprise called Lit San Leandro. No public RFP was published; the ENRA was in response to an offer made by a local company for use of city-owned conduit. A similar process was used in the City of Brentwood and the City of Santa Cruz. The advantage is that the city can quickly take advantage of a firm offer made by an interested party, and have greater control over the negotiating process. The disadvantage is that it requires an interested party at the beginning.

San Luis Obispo - An RFP to lease out two miles of city-owned conduit was issued. Similar to Seattle, but for a longer distance.

City of Morgan Hill 2035 General Plan – Telecommunications Infrastructure

Table 4.1 Municipal broadband enterprises

City	Business model	Markets Served					Financial notes
		Business	Industrial	Public uses	Amenity WiFi	Homes	
Alameda	Formerly public, now private.	•		•		•	Funded by revenue bonds, bondholders lost when system was sold at 50% of value.
Austin, TX	Google Fiber, private.	•	?	•		•	No direct city investment, provided concessions regarding access to city assets, permits.
Benicia	Private with public funding.	•	•				Under development, funded by transportation grant
Brentwood	Conduit is developer funded; private operator.	•	?	•		•	Conduit deeded to city required in new construction. City leases conduit to 3rd party provider.
Kansas City	Google Fiber, private.	•	?	•		•	No direct city investment, provided concessions regarding access to city assets, permits.
Loma Linda	Conduit is developer-funded; city owns & operates system.	•	•	•		•	Conduit required in new & major remodel construction. Service is optional & fee-based.
Lompoc	City owned & operated, WiFi only.			•	•	•	WiFi-only system, funded by 10 year lease-back and subsidized by utility department.
Pacific Grove	Private, city funding undefined.	•		•		•	Either city or private provider will have to pay fee to company that funds/builds.
Palo Alto	City owned & operated, funded via electric utility. Dark fiber only.	•	•	•	•		\$2+ million surplus/year, initially funded as electric infrastructure, now self supporting.
Provo, Utah	Built via city utility revenue bonds; sold to Google for \$2.	•	?	•		•	Ratepayers still paying off electric revenue bond obligations incurred to build network.
San Francisco	CCSF owned; operated as an ad hoc service; built via IT budget		•	•			City conduit and fiber originally installed for public purposes; funded out of agency budgets.
San Leandro	City traffic signal conduit leased to local company.	•	•	•	•		Extension funded by EDA grant. City will receive revenue in future years.
Santa Clara	City owned & operated, funded via electric utility. Dark fiber only.	•	•	•	•		\$500K surplus/year, initially funded as electric infrastructure, now self supporting.
Santa Cruz	City funded, leased by private operator	•	?	•		•	City responsible for any lease payment shortfall or default.
Santa Monica	City owned & operated "lit service": system built with IT budget funds.	•	•	•	•		Revenue appears to be at or above break even level.
Seattle	City conduit lease via RFP.		•				Limited conduit revenue only, no larger network built.
Watsonville	City owned fiber; run as ad hoc service; built via IT, public works budget.		•	•			Saved the City \$150,000/year in telecoms costs, now generating revenue.

5. Policy options

Federal and State laws have largely preempted the ability of local government to regulate or manage telecommunications service providers. Cities may, however, adopt policies that encourage competition and put more choices in the hands of residents and businesses.

There are already many sections within the City's municipal code that have an impact on telecommunications facilities planning, policy and deployment. Provisions concerning encroachments, excavations, underground utility districts, towers, and zoning criteria are directly relevant to the construction and maintenance of new telecommunications facilities.

Appropriately, most of these provisions relate generally to utilities and are not specific to telecommunications planning. In some cases the language is restrictive (e.g., Chapter 15.08.070) and could exclude telecommunications facilities that are not built or owned by organizations that are regulated by the CPUC or FCC. In other cases (e.g., Chapter 12.12.010.E) definitions are broader, allowing for a greater variety of solutions. While useful, these provisions do not deal comprehensively with the issues, opportunities, and constraints involved in planning and deploying telecommunications facilities. Proactive measures, such as open trench notification requirements, are also generally lacking in Morgan Hill.

The code does contain language regarding municipal cable television franchises as well as provisions relating to newer statewide franchises. This language should be evaluated to ensure that, on the one hand, it does not inhibit the development of new infrastructure and, on the other, does not prevent the City from exercising appropriate oversight or proactively pursuing development of telecommunications projects.

As Morgan Hill 2035 General Plan moves forward, the City of Morgan Hill may choose to investigate the possibility of adopting a range of new policies that directly target broadband infrastructure development and broadband service availability.

5.1. Planning

- 5.1.1. **Develop a long term broadband infrastructure roadmap.** *Taking into account existing resources, City networking needs, economic and social development objectives and private sector investment plans, draft specific objectives for high speed network expansion into commercial and residential areas.*
- 5.1.2. **Solicit implementable ideas for upgrading Morgan Hill's broadband infrastructure.** *Hold informal staff discussions with local Internet service providers and provide notice to all interested parties of the City's goal of supporting equitable fiber optic network expansion.*
- 5.1.3. **Broadband Master Plan.** *Develop and maintain a Broadband Master Plan for prioritizing connectivity needs in future years, with an emphasis on delivering high bandwidth services to Morgan Hill's industrial and commercial land use districts and*

community anchor organizations (education, public services, public safety, and health care).

The benefits to a community of modern, high-speed broadband infrastructure generally break out into three categories: sustainable economic development, improved quality of life and greater social equity.

Technology forms the backbone of the local and regional economy, and will continue to do so in the future. As technology spreads through more aspects of everyday lives, tremendous opportunities arise to creatively and carefully use technology to shape the community. Technological innovation can help the City in many ways. It can facilitate citizen interaction with each other and government; company services to customers; and City services to visitors; and it can provide ways to showcase Morgan Hill’s commitment to a sustainable environment.

Electronic services in particular (cable television, telephone, satellite, computer networking technologies, internet, radio, and other such services) create greater accessibility to and exchange of information, impact the ways people communicate, and create job opportunities. Enhancing and improving access to these resources will have a profound effect on the quality of daily life and work. Toward improving both, the City can examine and respond to the possibilities and challenges offered by—and the implications of—technological advances and opportunities.

5.2. Dig Once

Cities retain the ability to establish reasonable conditions and procedures for utility companies, including telecommunications carriers, to do construction work in the public right of way. There are many different approaches, but in general most street cut management – also known as “dig once” – policies intended to promote broadband fall into three categories: “open trench”, “shadow conduit” and construction standards.

- 5.2.1. **Open Trench.** *Require and provide a process for notification and information about all major infrastructure and construction projects, including transportation projects and new residential subdivisions, to a shared data base so that broadband and other utility providers have the opportunity to coordinate infrastructure deployment with projects.*

Open trench policies require some degree of advance notice of any digging that’s done in streets, sidewalks or other public places. This notice goes to other utilities that might be interested in installing facilities in that location or local agencies or both. If another utility wants to take advantage of the opportunity presented by the work, cost sharing arrangements can be negotiated or specified by policy. San Francisco, Santa Cruz and Berkeley have such policies.

Santa Cruz routinely sends out notifications of encroachment permit applications to utilities and other interested providers. Berkeley mandates participation in “city-sponsored utility coordination meetings” involving other utility companies, and requires companies to submit “general information regarding any Facilities that the Company plans to apply for permits to install within the [public right of way] in the next six (6) months, regardless of whether a permit is currently sought for those Facilities”.

The City can also be a participant in the open trench process, either an installer of last resort (5.2.7 below) or as part of planned process for meeting internal networking needs (5.2.5 below).

- 5.2.2. **Conduit Specifications.** *Adopt standard specifications for placement and construction of conduit, applicable to both planned work in the public right of way and prospective installation of spare (or “shadow” conduit).*

Although the City generally does not have the authority to review proposed telecommunications projects on the basis of capacity or network design, it can create a preference for a minimum set of specifications. It can also establish standard specifications for conduit it installs, either for specific projects or on a prospective basis, and for conduit installed pursuant to building standards imposed on new development or major remodelling projects.

The City and County of San Francisco has developed standard conduit specifications for its own installations, and a similar effort is underway in San Benito, Santa Cruz and Monterey counties. Likewise, Caltrans may adopt standard conduit specifications if a pending bill (AB 1549) receives final approval from the governor.

- 5.2.3. **Conduit Standards.** *Require spare, city-owned broadband conduit within joint utility trenches in new developments or major remodelling projects.*
- 5.2.4. **Lateral Connection Standards.** *Require spare, lateral broadband conduit to all structures within new developments or major remodelling projects.*

Requirements for installation of empty, fiber-ready conduit can be imposed on new construction and major remodelling projects. This conduit should, as a minimum, comply with the specifications developed in 5.2.2 above. Ownership of the conduit can be passed to the city, as in Brentwood, or remain with the property owner with the requirement it be connected to a municipal network, as in Loma Linda.

- 5.2.5. **Shadow Conduit - Public Works.** *Require installation of city-owned broadband conduit as a part of any suitable city public works project, including public buildings and all transportation projects.*
- 5.2.6. **Shadow Conduit - Undergrounding.** *Incorporate routine placement of spare, city-owned broadband conduit into utility undergrounding programs.*

- 5.2.7. **Shadow Conduit - Excavations.** *Include evaluation of need to install city-owned broadband conduit in review of any work or permit involving excavation in the public right of way and establishes process for requiring such installation.*

Shadow conduit policies build on the opportunity presented by open trench notifications. Cities can make it a routine practice to install empty conduit prospectively any time a suitable trench is available. Typical cost estimates are in the one dollar per foot range. Shadow conduit placement can be done according to a predetermined broadband infrastructure construction plan, or routinely in any suitable location. The risk is that the conduit would never be used; the benefit is that if even a small fraction of the installed conduit is eventually used, the cost savings and/or revenue it would generate would offset the additional installation cost.

Watsonville, Salinas and Santa Cruz have all adopted shadow conduit policies. Watsonville built a cross-city fiber network which included previously installed conduit and Salinas is currently pursuing a downtown fiber network using its shadow conduit.

- 5.2.8. **Excavation Moratorium.** *Establish a 5 year or more moratorium on excavations in the public right of way after completion of work conducted subsequent to an "open trench" notification process.*

Some jurisdictions require a moratorium – five years is common – on any other utility work being done in the public right of way following major street work after potentially interested parties have been given an opportunity to participate. This policy achieves two objectives. First, it minimizes wear and tear on streets – any time a cut is made in a street, its remaining useful life is reduced by 10% to 40%, depending on the circumstances. Second, it provides an incentive for telecommunications companies and other utilities to upgrade or build infrastructure sooner rather than later by setting a deadline for doing so and by offering an opportunity to share costs.

San Francisco has such a policy, as does Berkeley, which states that “a Company may not excavate any Street that has been reconstructed or resurfaced by the [Public Works] Department or at its direction in the preceding five-year period and shall participate in City efforts to coordinate excavation activities”¹⁰.

- 5.2.9. **Excess Capacity Utilization.** *Facilitate the use of existing conduit and other pathways by requiring encroachment permit applicants to demonstrate that alternatives do not exist, supported by City collection and coordination of information.*

To a certain extent, California law requires telecommunications carriers and other utilities to provide access to conduit and pole routes to other carriers. Cities can encourage and, to some degree, require this kind of cooperation.

¹⁰ Berkeley Municipal Code 16.10.080 C 4

Berkeley requires anyone who applies for a permit to install new conduit in the ground to first show that there is no existing conduit (or pathway) that can be used instead, including conduit owned by other companies or the city, “whenever sufficient Excess Capacity is available on commercially reasonable terms and conditions”. Berkeley’s ordinance also gives the city broad scope to inspect work¹¹ and related documents¹², and to consider the availability of existing conduit capacity in approving or denying a permit application¹³.

This requirement can also be used to encourage use of publicly-owned conduit and other resources. In order to be effective, however, sufficient information must be available to both the City and applicants. The asset management policies below are integral to this process.

- 5.2.10. **Establish a dedicated revenue account.** *This account would be funded through leases or rents of City property, including publicly owned conduit, for the purpose of communications infrastructure, and to be made available for construction and maintenance of public owned conduit.*
- 5.2.11. **Future Proofing.** *Encourage broadband providers to size underground and overhead facilities to accommodate future expansion, changes in technology, and where possible the facilities of other telecommunications and utility providers.*

Similar to shadow conduit policies, future proofing involves the installation of surplus conduits, ducts and pole space in anticipation of potential future need. Standard specifications can be included in building codes for new and major remodelled construction. For work done in the public of right of way, minimum sizes may be suggested, and encouraged by encroachment permit policies. For example, West Sacramento reduced encroachment permit fees for a conduit project in exchange for the inclusion of a spare, city-owned inner-duct within that conduit. The city subsequently leased out its inner-duct, recovered the initial cost and continued generating revenue.

Wireless facilities and supporting infrastructure, such as fiber optic networks, should also be planned with future needs in mind. The current trend is toward smaller cell areas and facility sizes, and this trend will accelerate as 5G standards are finalized and network upgrades begin.

¹¹ BMC 16.10.060 F

¹² BMC 16.10.080 G

¹³ BMC 16.10.060 B 4

5.3. Asset management

- 5.3.1. **Asset Inventory.** *Identify city-owned assets, including fiber, conduit, rights of way and towers, that can support broadband infrastructure deployment.*
- 5.3.2. **Open Access.** *Make public assets available to all providers on an open and non-exclusive basis, commensurate with adopted policies regarding public benefits.*
- 5.3.3. **Master Leases.** *Establish standard terms and conditions for the lease of City assets such as buildings, towers and land by telecommunications companies.*

Performing an initial inventory and systematically following up – e.g., routinely logging newly constructed or identified assets – and then publishing the information or making it available to telecommunications companies upon request maximizes the opportunities to put broadband-related assets to work. Setting standard lease terms and access policies reduces the time and effort necessary for telecommunications companies to take advantage of those assets, which in turn makes the city a more attractive location for infrastructure upgrades or expansion and reduces barriers to competition.

- 5.3.4. **Telecom Operations and Maintenance Matrix.** *Establish detailed delineation of responsibilities for operating and maintaining city-owned conduit, fiber and other assets, and any attachments or equipment/facilities placement by third parties.*

When a mix of public and private assets are involved in a broadband project, responsibilities and roles for operation, maintenance and ongoing capital investment must be clearly stated. San Leandro uses an operations and maintenance matrix to assign roles and define demarcation points for responsibilities.

- 5.3.5. **GIS Logging.** *Require routine entry of conduit and other broadband asset data into geographic information systems.*

An important adjunct to both open trench and shadow conduit policies is a requirement that all conduit installed by public agencies and, ideally, private utilities, be logged into the city's GIS database. Watsonville was able to build its own city-wide data network because it had taken care over the years to keep its records up to date. On the other hand, cities that have failed to do so often lose track of where municipal conduit has been installed.

Collecting detailed information about telecommunications infrastructure, making it available in a convenient and useful way, and requiring, to the extent possible, that telecommunications companies cooperate with each other levels the playing field for smaller companies that might want to build new facilities or offer upgraded service. It also gives the City a means of participating in the telecommunications marketplace.

- 5.3.6. **Digital Plans.** *Establish a requirement that plans and other information be submitted by utilities, developers, contractors and others in an appropriate GIS format.*

Traditional, paper-based permit applications do not provide adequate access to information about telecommunications infrastructure installed in the public right of way or in conjunction other municipally regulated work. One solution, adopted by Santa Cruz County, the City of Santa Cruz and Berkeley, is to require permit applicants to submit maps in “electronic and/or other form required by the City, and include information describing the proposed facilities”¹⁴. This map data would also include “information regarding any Excess Capacity that will exist in such Facilities after the installation of the Company’s Facilities” if requested by the City.

- 5.3.7. **Broadband infrastructure database.** *Build a database showing the types and location of broadband infrastructure in Morgan Hill.*

The City can improve the telecommunications market in Morgan Hill by compiling a geo-database of available infrastructure (and/or services). Information can be requested from service providers, collected from publicly available source and gathered from ground surveys. For example, the Central Coast Broadband Consortium has published a regional online, interactive map showing local and inter-city fiber routes and other infrastructure. Most of the data was the result of a professional survey, which was supplemented by information provided by local companies and other sources.

5.4. Permitting

- 5.4.1. **Transparent Process.** *Delineate the process for ensuring fairness, including transparency, public notice and timetables and deadlines for timely review of any required local permits.*
- 5.4.2. **Permit Streamlining.** *Establish procedures to streamline the approval of broadband-related public right of way encroachment permits consistent with principles of fairness and competition for all providers.*
- 5.4.3. **Master Permits.** *Establish a process for issuing a master encroachment permit for large scale telecommunications projects, subject to standard conditions for specific circumstances.*
- 5.4.4. **Single Review.** *Limit permit requirements to encroachment permits for broadband infrastructure work in the public right of way.*

Complicated and/or opaque permitting processes can serve as barriers to entry for broadband companies that want to bring competitive service into a city. Permit processes for broadband projects that meet certain criteria – construction completely contained in the public right of way, for example – can be standardized through the use of checklists, reference designs and administrative reviews. As a first step, streamlining existing

¹⁴ BMC 16.10.040

processes does not necessarily involve eliminating or consolidating review requirements. Rather, it recognizes that many broadband project reviews confront largely identical issues, which can be addressed in standard way.

Streamlining is important because it can reduce time and costs, and increase predictability for service providers, making Morgan Hill a more attractive target for capital investment. As described in Section 6 below, permit streamlining is now unavoidable for most permits involving wireless facilities, due to continuing changes in state and federal law.

Although care must be taken to protect the public's interests and ensure community values are maintained, some jurisdictions, such as the City of Santa Cruz, are moving permitting for broadband facility construction out of planning departments and completely into the hands of public works departments, which can use a relatively streamlined encroachment permit process to achieve the same ends in a single review. Costs to applicants are expected to drop from the tens of thousands of dollars to the hundreds of dollars.

One approach, advocated by Google Fiber, is to establish a master permit process for large scale projects. Standard conditions can be established for defined circumstances, with provisions for specific conditions when unique circumstances occur.

- 5.4.5. **Evergreen Permits.** *Authorize longer-term “evergreen” permits that provide a right to providers to enter specified easements to upgrade their infrastructure for an indefinite or significant period of time (such as 20 years) to upgrade the broadband service consistent with the adopted policies.*

An extension of the master permit concept, evergreen permits go one step further and allow upgrade and expansion work to take place within defined parameters over a longer period of time.

- 5.4.6. **Environmental and Aesthetic Mitigation.** *Set forth transparent and consistent procedures and process for preventing and/or mitigating environmental impacts and protecting and/or preserving visual integrity of jurisdiction.*

The California Environmental Quality Act allows for expedited review of many types of broadband projects, particularly when those projects occur within or on existing structures, including utility poles, or paved ground. Establishing clear guidelines for when the City will and won't allow broadband projects to proceed on the basis of a negative declaration will add predictability to the environmental review process and aid in defending any subsequent challenges.

As discussed in Section 6 below, state and federal law requires rapid CEQA review of permit applications for wireless projects, and only provides a limited window of time and discretion for addressing aesthetic issues. A simple and well defined process, with standard solutions where appropriate, will help avoid permit approval by default.

- 5.4.7. **Permitted Telecommunications Sites.** *Establish a preference for colocating new telecommunications facilities at existing telecommunications sites.*

As noted in Section 6 below, federal and state regulations provide for favorable treatment of wireless facility permit applications when a site is already used for such purposes. By establishing policies that take existing telecommunications into account when reviewing permit applications and provide for more rapid decision-making, the City can encourage greater use of existing sites.

5.5. Smart Cities

- 5.5.1. **Broadband Building Standards.** *Require projects to provide broadband connectivity and include the infrastructure components necessary to support broadband, similar to requirements for other essential utilities.*
- 5.5.2. **Broadband Wiring Standards.** *Establish standards for broadband wiring in residential and commercial buildings, similar to standards for other utilities.*
- 5.5.3. **Smart Building Requirements.** *Specify “smart building” requirements for land use and construction permits for all projects (public, commercial, residential, industrial).*

Building standards can be used to increase broadband availability and access, and promote the use of broadband dependent applications that promote energy efficiency, safety and other public policy goals. The simplest approach is to require all new construction and major remodelling work to include broadband facilities and provisions for connecting those facilities to the necessary outside infrastructure. San Leandro has taken this approach.

The next level of involvement is to specify the types and extent of indoor wiring, connection panels and other “plumbing” required for new and remodelled construction, as Loma Linda has done, or establish specifications and requirements for broadband infrastructure in the public right of way and lateral connections from homes, as Brentwood has done.

The final stage is to include requirements for specific “smart building” features and applications, such as predictive climate control or health and security monitoring. These types of requirements bring intrinsic benefits, but also help drive demand for high quality broadband service.

- 5.5.4. **Public Facilities.** *Promote the provision of broadband facilities in all public buildings, major transportation and other infrastructure projects.*

It is commonplace to include basic information technology networking capabilities and Internet connectivity in plans for public buildings, transportation facilities and other public projects. These plans can be expanded to include provisions for supporting commercial broadband service on a partnership basis, for example by including spare conduit and

inner-ducts or increasing the size of fiber optic cables. This spare capacity can be leased to private users or could form the basis of an economic development initiative, as AC Transit and Oakland are doing with a bus rapid transit project.

Public facilities can also serve as anchor tenants for new broadband infrastructure built by private companies, and provide a baseline of revenue that will justify the construction of facilities that can serve much larger areas of the city. The University of California, for example, offered sufficient revenue to Sunesys LLC to first build a fiber optic line from Silicon Valley to Santa Cruz, and then extend it to the Salinas Valley. These lines are available to any user along the route, and have been credited with spurring economic development, particularly within the City of Santa Cruz.

- 5.5.5. **Telecommuting - City.** *Establish a telecommuting program for city employees.*
- 5.5.6. **Telecommuting - General.** *Encourage local businesses to develop telecommuting programs.*

Factoring telecommuting incentives and requirements into reviews of planned commercial developments, and establishing policies to encourage telecommuting by city employees when appropriate, can have the double benefit of reducing automobile traffic and increasing the demand for advanced broadband services. Mono County, for example, promotes telecommuting “as a viable method allowing visitors to stay in the region longer and work remotely, and attract new permanent residents”.

5.6. Regulatory

- 5.6.1. **Regulatory Position.** *Articulate the interest of the jurisdiction in monitoring the reliability and quality of broadband connectivity in the local jurisdiction and ensuring appropriate speed availability.*

The California Public Utilities Commission (CPUC) regulates “telephone corporations” and, to a lesser extent, “cable television corporations” and “video service providers”. These categories include Frontier Communications and, to a restricted extent, Charter Communications, which are the two primary retail broadband service providers in Morgan Hill. Intercity carriers are also regulated as telephone corporations.

Responsibility for regulating telephone corporations is shared between the CPUC and the Federal Communications Commission (FCC). Municipalities are allowed no authority in that regard.

Nevertheless, cities can be very effective advocates on behalf of residents and businesses. The City of Gonzales intervened in the CPUC’s review of Charter’s purchase of Time Warner and Bright House cable systems in California, and obtained an agreement to significantly upgrade the city’s broadband service and infrastructure. Similar concessions were obtained by others during the review of Frontier’s purchase of Verizon’s telephone

systems. Establishing a clear mission statement regarding the City's role as an advocate for better broadband infrastructure and service allows consistent routine communications with service providers regarding expectations and makes it possible to move quickly when windows of opportunity, such as regulatory proceedings at the CPUC or FCC, appear.

5.6.2. Franchise Compliance. *Monitor and audit compliance with state video franchising requirements.*

Originally, regulation of cable television corporations was the responsibility of local governments in California. Many were actively involved in regulating franchisees to the extent allowed by federal and state law until the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) was approved by the California legislature.

DIVCA established statewide franchises for video service providers, which now includes telephone companies such as AT&T. DIVCA severely limits the role cities and other local government entities may play in regulating or otherwise influencing video service providers. Cities still receive a 5% franchise fee from video franchise holders, and have a limited opportunity to inspect their books to ensure compliance. Requirements for public access channels, consumer protection rules and obligations to build out infrastructure are also subject to municipal review, but enforcement authority is severely limited.

Nevertheless, some jurisdictions are taking an aggressive approach to franchise compliance monitoring. Palo Alto, on behalf of itself and neighboring cities, recently completed an audit of Comcast's compliance with franchise fee and public access channel requirements. Such an audit may form the basis for formal court proceedings, or informal negotiations with franchise holders.

5.6.3. Specific Conditions Compliance. *Monitor and audit Frontier and Charter compliance with CPUC and FCC mandates.*

Recently concluded proceedings at the CPUC and FCC resulted in approval of Frontier's purchase of Verizon's telephone system in Morgan Hill (along with others in California) and Charter's purchase of Time Warner and Bright House cable systems in the state. These approvals came with conditions regarding upgrades and line extensions, and other public benefits such as equipment for schools, digital literacy programs and connections for community anchor institutions.

The City can play a role in ensuring compliance with these conditions by identifying specific requirements that apply to Morgan Hill as well as general requirements that include it. The City can directly engage with the companies, and/or seek relief from the CPUC and FCC if compliance or cooperation is lacking.

5.6.4. **Enforcement Liaison.** *Establish a program for systematically collecting and aggregating public complaints and concerns regarding telecommunications services, and submitting information to appropriate state and federal regulatory agencies.*

The FCC’s recent decision¹⁵ to bring “broadband Internet access service” under common carrier regulation (often referred to as the “network neutrality” decision) tries to draw a clear line between the kind of regulation that does and does not apply to providers of those services. In particular, the FCC has ruled out regulation, by itself or states, of Internet service offerings, rates, or access to infrastructure by third parties, except to say that it will review complaints on an after-the-fact basis using a “just and reasonable” standard.

The decision specifically allows “any body politic, or municipal organization”, as well as individuals and state utility commissions, to file complaints. It establishes formal and informal procedures for doing so, and creates an ombudsman’s position to facilitate the process.

The CPUC’s role is narrower and generally restricted to “telephone corporations”, which can include traditional wireline carriers, such as Frontier, as well as broadband companies that use the public right of way. Its oversight responsibilities include enforcement of safety requirements, such as those related to utility poles, minimum telephone service standards, particularly relating to 911 access, and general compliance with applicable consumer laws and regulations. The commission has shown a willingness to couple this relatively narrow but well established jurisdiction with general but largely undefined responsibilities granted by federal law to extend its influence over broadband providers and other non-traditional telecommunications companies.

The FCC and CPUC have established procedures for the public to use in submitting and pursuing complaints against regulated companies. However, knowledge of these procedures is not widespread and making use of them involves a learning curve which can be an obstacle for many people. The City may reduce these barriers by acting as a middleman between residents and these two regulators.

The City can establish an enquiry and complaint process for businesses and/or residents that are seeking broadband services or are having problems with current providers. Although the City has limited authority in this regard, collecting this information and making it public is an effective first step toward providing incentives for telecommunications companies to voluntarily cooperate, expanding public knowledge of existing resources and constraints, and building a record for submission to the appropriate regulatory bodies.

¹⁵ *In The Matter of Protecting and Promoting the Open Internet*; Report and Order on Remand, Declaratory Ruling, and Order; Federal Communications Commission; adopted February 26, 2015 and released March 12, 2015.

- 5.6.5. **Performance Test Participation.** *Encourage public participation in CPUC and FCC broadband speed and performance test programs.*

The CPUC and FCC have separate but complementary programs that allow the public to conduct speed tests of wireless and wireline Internet service. This data is factored into assessments of needs and eligibility for various programs. The more data points that are submitted from a given area, the better the understanding of local conditions will be on the part of the public, local officials and state and federal regulators. The City can play a role in promoting participation in these testing programs.

5.7. Government operations

- 5.7.1. **Broadband Role.** *Establish an ongoing role for the City to play in identifying broadband needs and working proactively with businesses and service providers to meet those needs.*
- 5.7.2. **Evaluate long term City networking needs.** *Review existing City broadband facilities and budgets with due consideration to expected future traffic loads and expectations of available resources, and identify infrastructure development projects which are potentially of mutual interest to the City and private sector providers.*
- 5.7.3. **Anchor Tenant Positioning.** *Leverage City budget to stimulate demand for broadband facilities.*
- 5.7.4. **Interagency Coordination.** *Participate in regional and statewide planning and standards organizations.*

The City is a major purchaser of broadband services. By actively engaging with service providers as a customer, the City can influence the location and extent of infrastructure upgrades by incumbents, and provide opportunities for competitive carriers to enter the market. Coordinating these efforts, when possible, with large businesses and other agencies with similar needs, such as Santa Clara County or VTA, multiplies this influence.

The City can identify opportunities for investment by evaluating funding available for economic development initiatives, applying that funding to broadband construction plans – both public and private sector – and determine if those funds can be directed to support those projects, either through direct investment or indirectly through administrative means.

One alternative for the City to consider is transitioning from leased facilities to lines that it owns or controls on a long term basis, perhaps via a public/private partnership that allows the City to concentrate on its own operations while a private (usually for-profit) company focuses on the utility aspects of the business. Over time, money currently budgeted for leased lines could be increasingly invested in new facilities that would support economic development, or saved for other uses.

One example of this kind of public/private partnership is Lit San Leandro. The City of San Leandro has worked with a local company to build a 20-mile fiber optic ring through the

industrial and commercial areas of the city, for use by local businesses. The City contributed the use of traffic signal conduit and in return received 30 fiber strands for its own use. The remaining capacity on the network is sold to local businesses by the private, for-profit partner, Lit San Leandro LLC.

Without new investment in local fiber optic infrastructure, the City – like other agencies, institutions and companies – will face increasing operating costs over time, for the use of ageing assets. Putting additional emphasis on long term infrastructure planning and investment, in cooperation with private sector carriers, is a potential solution to this problem.

- 5.7.5. **Validate broadband infrastructure mapping.** *Review information collected by state, federal and regional organizations, incorporate it into the City's GIS system and make it publicly available.*

Publishing reliable information regarding the availability of infrastructure and services is one of the most powerful policy tools available to the City to promote broadband development. The California Public Utilities Commission, the National Telecommunications and Information Administration and other agencies collect and publish a wide variety of information about broadband availability, access and adoption. Consolidating this information, as it relates to Morgan Hill, will lead to better planning and project development, by the City, telecommunications companies and others.

The City can develop a detailed geodatabase of existing fiber optic networks, including lateral connections, access points, splice points and information regarding ownership, and make it available for economic development purposes. Included in this database development can be an ongoing assessment of the condition of private utility poles and conduit. Over time, deficiencies can be documented and presented to either the owners or regulatory bodies to address.

- 5.7.6. **Upgrade broadband availability in publicly subsidized housing.** *Identify private and public sources of investment in broadband facilities and service in public housing and develop implementable initiatives.*

Publicly subsidized housing operators in Morgan Hill are eligible to apply for grants to upgrade broadband facilities in their properties and support programs designed to increase broadband adoption among public housing residents. The California Advanced Services Fund is one such source, and federal agencies, such as HUD, have similar programs.

- 5.7.7. **Online Access.** *Direct how government operations and services are to be provided online.*
 5.7.8. **Online Permits.** *Streamline and provide online access to business and development permit processes.*
 5.7.9. **Open Data.** *Establish an "open data" policy.*

The City also is, or can be, a major producer of online content and services. Maximizing the accessibility of information and public services via the Internet provides an incentive for people to adopt and increase their use of broadband services. Offering services, such as permits, to businesses via online platforms, such as the Open Counter system originally developed by the City of Santa Cruz, will also stimulate broadband demand, and attract new, high tech businesses by engaging with them on their own terms.

The City has a wealth of stored data – information collected from its programs on topics ranging from municipal finance to scientific and sociological data. Much of this data is already publicly available though not, in most cases, in machine readable formats that programmers can easily use. The trend across local governments to make this kind of machine readable municipal data publicly accessible; this movement has been termed “Open Data”.

6. Wireless

The Morgan Hill municipal code does not include a written policy regarding construction of wireless facilities. Planning Commission minutes and staff reports indicate that the City has procedures in place that appear to be generally consistent with the scope of its authority. However, recent changes in California law and federal decisions have shortened the timeframe available for exercising that authority in many, if not most, cases.

6.1. Constraints on local agency discretion

As of 1 January 2016, permit applications for wireless facilities within California have to be approved or denied by local governments within specific time frames, commonly referred to as "shot clocks". If the clock runs out, the application is "deemed approved". The new rules are the combined result of a new California state law – Assembly Bill 57 – which just took effect, two FCC decisions (and subsequent affirming decisions from federal appeals courts), existing California public utilities law and a California Public Utilities Commission rulemaking.

Depending on the type of facility and location involved, the applicable shot clock could be 60, 90 or 150 days. The clock begins running when the application is submitted. The City has 30 days to review the application and request additional information. In that case, the clock is tolled – stops – but starts again when the applicant responds. Additional requests for information are allowed under stricter limits and will toll the clock, but a response by the applicant starts it running again.

The only other ways to toll the clock is by mutual consent, or by approving or denying the application. It will not stop due to CEQA review, public hearing requirements, council meeting schedules or any other local agency process requirement. If the City has not approved or denied the application when the clock runs out, it is "deemed approved". The applicant must notify the City that it is proceeding with construction on that basis and the City has 30 days to file a lawsuit seeking to block it.

There are three primary methods the City can use to maintain control of the process:

- Front load the application process by requiring a comprehensive submission (backed up by a standard checklist), covering all contingencies from the very beginning.
- Structure the review process so that a legitimate administrative denial can be quickly issued if appropriate.
- Adopt a short form application and review process for pre-approved, standard solutions for wireless facilities, to encourage applicants to voluntarily choose appropriate designs and locations.

6.2. Determining which shot clock applies

The wireless permit "shot clock" rules that went into effect on New Year's Day result in three different shot clock limits (60, 90 and 150 days), and California law (including a California Public Utilities Commission rulemaking, 14-05-001) creates two different classes of wireless facilities: construction by a mobile carrier in the public right of way and everything else.

City of Morgan Hill 2035 General Plan – Telecommunications Infrastructure

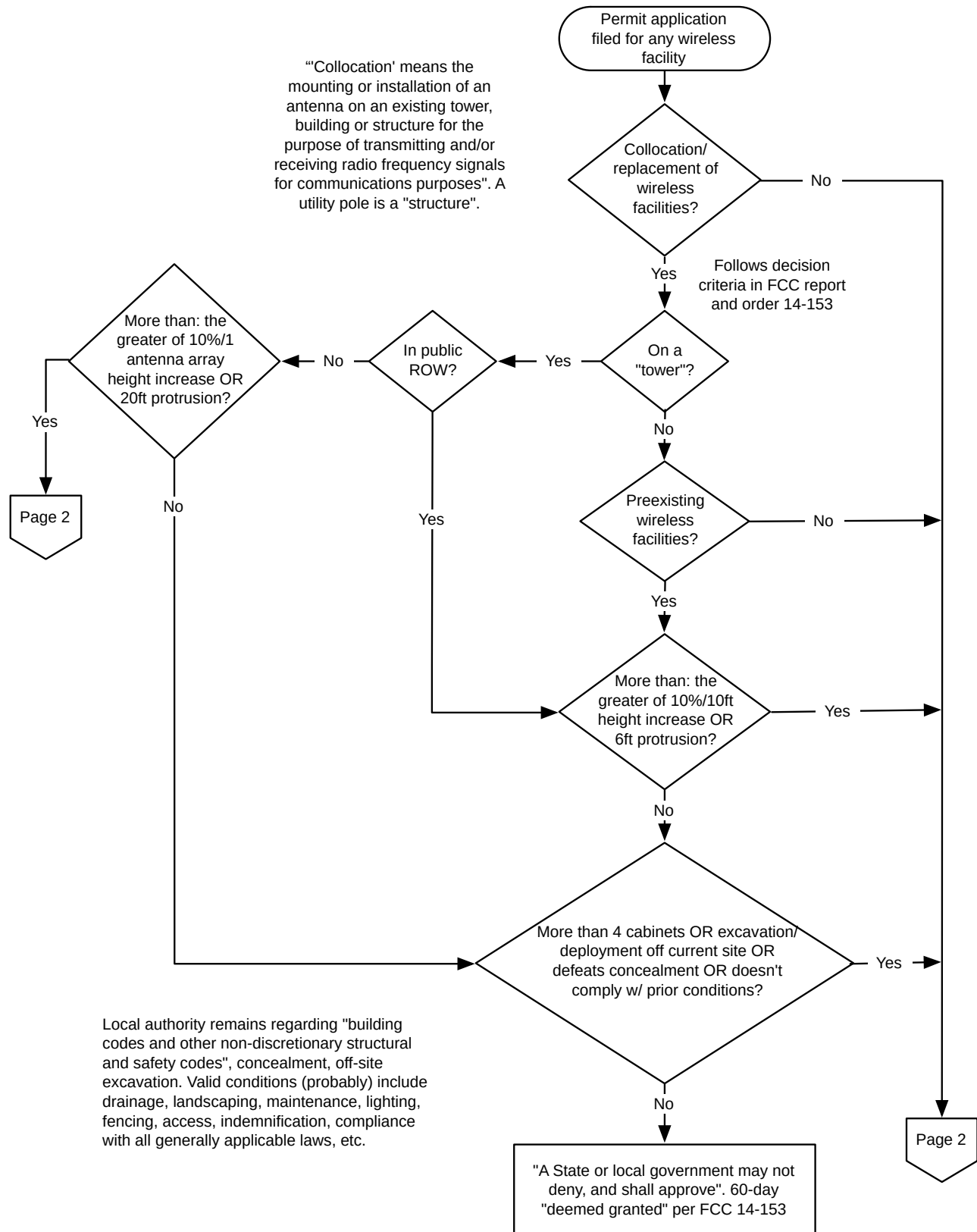


Figure 6.1 – Wireless permit “shot clock” flowchart, page 1.

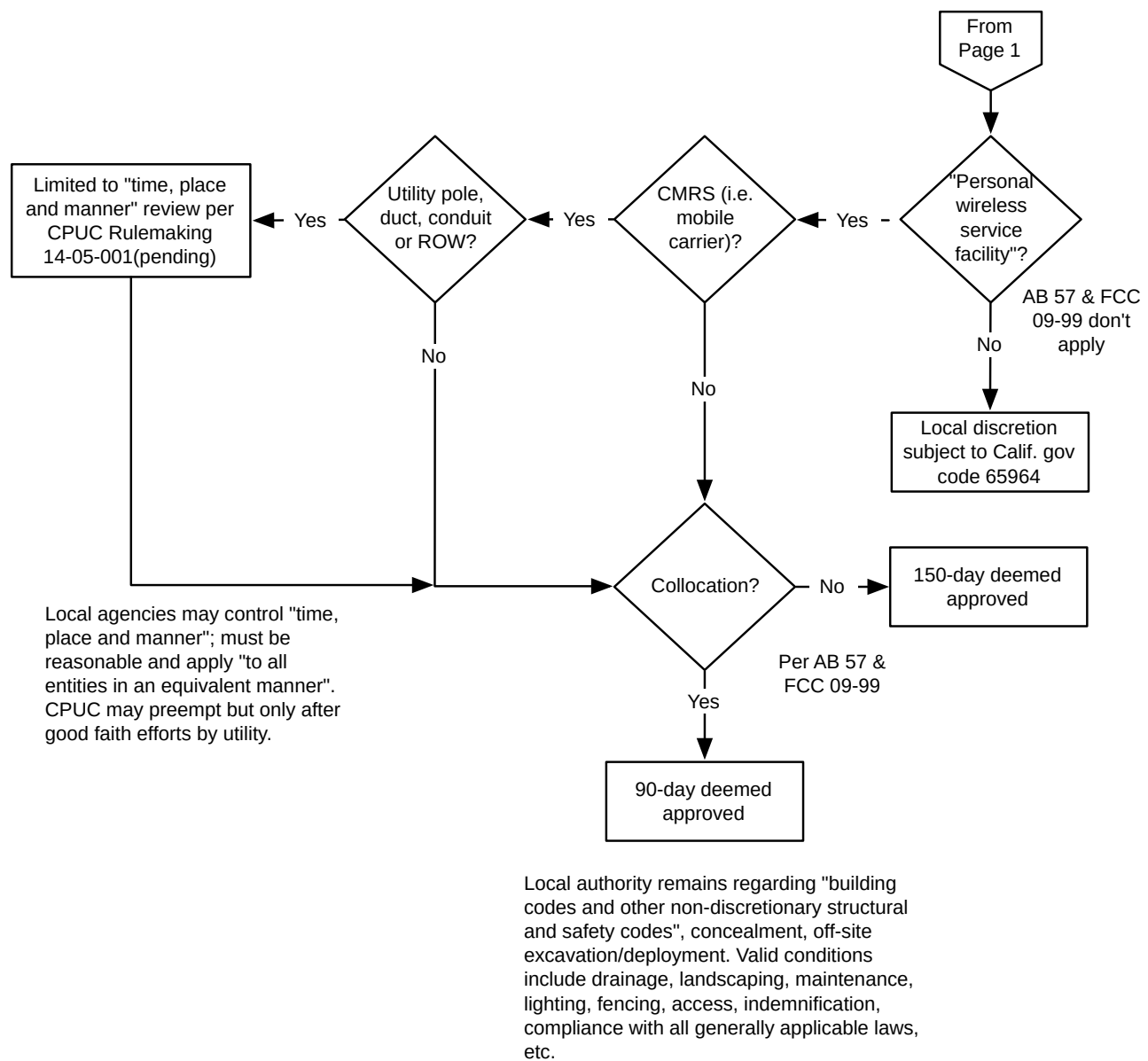


Figure 6.2 – Wireless permit “shot clock” flowchart, page 2.

Figures 6.1 and 6.2 contain a flowchart that gives an overview of how the different rules relate to each other. The result is three basic scenarios:

- Minor collocation of transmission equipment on an existing structure (or replacement of existing transmission equipment): 60 days with significant limits on criteria the City may consider when reviewing the application. This shot clock results from a 2014 FCC order (14-153), which was recently upheld by the federal fourth circuit court of appeals.

- Major collocation: 90 days. This shot clock is the result of the combination of Assembly Bill 57 and a 2009 FCC ruling (09-99), which AB 57 references (Referred to as the “AB 57 rule”, for the sake of brevity).
- New facilities (i.e., anything else): 150 days, per AB 57.

The 60-day shot clock applies to wireless facilities built for nearly any purpose; the 90 and 150-day clocks only apply to "personal wireless service", which are defined as "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services". In other words, wireless telephone or broadband facilities. It wouldn't include, for example, satellite services or public safety facilities.

Another potential difference could be in the definition of "collocation". The FCC 60-day order is based on Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, and is often referred to as the "6409 rules". The order makes it clear that in order to be eligible, a collocation has to be on an existing wireless facility, while the 2009 shot clock ruling could be interpreted as applying to any preexisting structure. That's one of many details that are likely to be worked out in court or by the FCC.

Section 6409 says in part that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station". The order says...

A modification “substantially changes” the physical dimensions of a tower or base station, as measured from the dimensions of the tower or base station inclusive of any modifications approved prior to the passage of the Spectrum Act, if it meets any of the following criteria:

- For towers outside of public rights-of-way, it increases the height by more than 20 feet or 10%, whichever is greater; for those towers in the rights-of-way and for all base stations, it increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater;
- For towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all base stations, it protrudes from the edge of the structure more than six feet;
- It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- It entails any excavation or deployment outside the current site of the tower or base station;
- It would defeat the existing concealment elements of the tower or base station; or
- It does not comply with conditions associated with the prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

The order also allows local governments to "continue to enforce and condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying

objective standards reasonably related to health and safety". However, local governments "may only require applicants to provide documentation that is reasonably related to determining whether the eligible facilities request meets the requirements of Section 6409(a)".

Similarly, existing CPUC policy limits the scope of local authority over utility pole use in the public right of way by licensed mobile carriers to the same kind of "time, place and manner" restrictions that might apply to other telephone companies (and, as a practical matter, to cable and electric companies).

Under the AB 57 criteria, the definition of a major collocation is fairly narrow. Generally, it's any attachment of new equipment to an existing structure that falls within the same dimension limits as the 6409 rules (except the tighter restrictions on facilities in the public right of way don't apply) but entails more construction work, or modifications to existing conditions. There is room to debate whether an apparent collocation actually falls under the 150-day instead of the 90-day clock, but the clock will run while the debate continues.

Although AB 57 doesn't directly apply to the 60-day shot clock – it specifically excludes facilities that are eligible under the 6409 rules – the procedural requirements are, for the most part, identical. As a practical matter, the only question is whether the applicable shot clock is 60, 90 or 150 days. Expect wireless carriers to be more aggressive about claiming "deemed granted" or "deemed approved" status now that any application for wireless facilities falls under one shot clock or another.

Once a shot clock expires, or an applicant believes it has, then the applicant has to notify the City that it is proceeding on that basis and the City then has 30 days to challenge the "deemed approved" assumption in court. There's no guidance in AB 57 as to what happens if the City doesn't go to court – alternatives range from an applicant being able to simply start work on the basis of the notice, to the City being required to automatically issue the permits, to an applicant being required to obtain a court order confirming the deemed approved status. The City should consider the position it will initially take in those circumstances, but be prepared to adjust as practice and the courts clarify the procedure.

However it happens, though, carriers are likely to prevail eventually in at least some cases, and the City needs to consider what it will do in that event. One option is to create conditions of approval that would automatically apply if a deemed granted action occurs. Rather than trying to craft a default policy from scratch, however, the City might instead rely on existing design requirements or precedent. The carrier could be served notice that even though the applicable permits have been automatically granted, it is still responsible for adhering to the standards, conditions and precedent that apply to such permits and the City will enforce those terms as it would with any other permit. In other words, there's nothing special or exempt about a permit that's been deemed granted. The same rules apply, the only difference is in the method of approval.

6.3. Preserving City control of wireless permitting

The City of Morgan Hill has only a couple of sticks and one carrot left when it comes to administering permits for wireless facilities.

The biggest stick is the application requirements. An incomplete application is the only specific grounds for "tolling" (i.e., stopping) the clock, other than mutual agreement. The City has 30 days to ask for additional information, and 10 days for subsequent (albeit limited) requests if it falls under 6409 rules. The time it takes to review the application and request additional information counts against the shot clock, but the clock will be tolled (stopped) while the applicant is responding. Once an application is complete, either by default or formal acceptance by the City, the clock will run while any discussions or questions or negotiations continue.

The only way to maintain control of the clock is to explicitly require all potentially relevant information be included in the initial application. Specific, predetermined information should be routinely required in an initial application and itemized in a detailed checklist provided to the applicant.

A checklist allows the City to quickly review an application and, where necessary, write a comprehensive request for additional information. The less time required to determine that an application is incomplete, the more quickly the clock is stopped. But more importantly, it helps ensure that all deficiencies will be caught in the first review. Under 6409 rules, the City can make subsequent requests for additional information within 10 days but only in regard to items identified in the initial request. The primary FCC ruling referenced in AB 57 is less specific about limitations on additional requests for information, but until the question has been fully litigated the safest course is to assume that the same limits apply.

A further step is requiring wireless carriers to hold their own community meeting, prior to either considering an application complete or allowing a carrier to submit a new facility or colocation permit application. Such a meeting would make any subsequent public hearing less contentious by reducing the sense of surprise for community members and allow more potentially unforeseen land use challenges (e.g., noise concerns from specific equipment cabinet or generator placement) to be resolved earlier on during the review process. Furthermore the community meetings may allow for more substantive engagement by wireless carriers with neighborhood groups, so that less-intrusive sites are initially proposed. Any challenges that do occur will happen while the clock is running and could, perversely, result in an application being deemed granted because the process required for denial was not completed.

The City should take what steps it can to guard against "Trojan Horse" applications, where a seemingly innocuous facility is approved and built under the more rigorous review allowed by AB 57, but then significantly modified later under the more lax standards of the 6409 rules.

The City should also require the inclusion evidence of approval by all other necessary public agencies, such as Caltrans, as a mandatory item on the application checklist.

A community meeting requirement or Caltrans approval are examples of requirements that might apply to a new facility but not a minor collocation, for example. It's an important consideration because 6409 limits application requirements to items necessary for determining whether a proposed collocation qualifies for the expedited 60-day review. The application should establish that all applications are considered to be subject to the 150-day shot clock rule unless the applicant submits specific

information that demonstrates otherwise. If the information is omitted or insufficient, the application could be tolled or denied on that basis.

The only other stick is the threat of denial. The value of that threat is greatest when the information included in the application creates a sufficient record to support denial because subsequent inquiries could end up providing the applicant an opportunity to run out the clock. If possible, denials should be done on an administrative basis. Noticing and other requirements for City Council and Planning Commission agenda items could likewise result in a deemed granted outcome.

It can be argued that the shot clock requirements make it less likely that a denial will be appealed. Refiling the application would reset the clock and could provide the applicant with greater predictability and a faster outcome than a court challenge would offer. At that point, however, an even better alternative for the applicant might be to agree to toll the clock. The credible threat of denial creates an incentive for mutual cooperation, and does it in a way that gives the applicant a clearer idea of how to balance the costs.

The one carrot to offer is the establishment of standard, pre-approved plans and thereby create the opportunity for the applicant to avoid lengthy and detailed application requirements up front and the possibility of denial down the road. The 6409 rules allow cities to give preferential treatment to proposals for facilities that would be located on municipal property, and presumably the same would apply under the AB 57 rules.

6.4. Considerations for applications involving the public right of way

Other than the more restrictive qualification criteria for the 60-day shot clock and a categorical exclusion for NEPA (but not section 106 NHPA) review in the 6409 rules, the FCC's rules do not differentiate between applications for facilities in the public right of way and on private property. The 6409 order does, however, "conclude that Section 6409(a) applies only to State and local governments acting in their role as land use regulators and does not apply to such entities acting in their proprietary capacities", and it specifically refuses to draw a clear line between those two roles except to say "like private property owners, local governments enter into lease and license agreements to allow parties to place antennas and other wireless service facilities on local-government property, and we find no basis for applying Section 6409(a) in those circumstances".

The arguments laid out in the order and in subsequent court cases indicate that at least some cities consider ROWs to be municipal property, so that question is likely to be litigated at some point. California law, though, effectively makes ROWs state property and limits municipal authority over telephone company work (wired or wireless) in the public right of way to "reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed". However, local ordinances that regulate the location and appearance of wireless facilities in the ROW are allowed so long as a local government 1. "does not abuse its discretion or arbitrarily or unfairly deny requests for access", 2. establishes reasonable rules, 3. applies the rules "to all entities in an equivalent manner" and 4. the rules do not effectively prohibit wireless facilities.

Consequently, the City can enforce aesthetic and other standards for installation of wireless facilities, particularly small/micro cell sites often referred to as distributed antenna systems (DAS), on existing utility poles and on new poles placed in the ROW. The process is subject to federal shot clock limits and it may be reviewed by the California Public Utilities Commission. Location may also be regulated, but not in a way that particularly singles out wireless carriers.

6.5. Pre-approval of standard solutions

As noted above, the City can offer the carrot of a short form application and/or expedited processing for projects that involve standard, pre-approved cell site installations. Over time, detailed specifications for what is and isn't acceptable could be developed either by the City or others, but in the short term the City could establish a process for approving reference designs submitted by either carriers or equipment manufacturers. It's possible that an interagency group, for example under the auspices of the California League of Cities or a professional organization, could assume that responsibility, but for now it's up to the City.

As a general and quickly implementable policy, the City can encourage the organization of applications such that generic, non-proprietary information – manufacturer's specs or a particular landscaping scheme, for example – is presented separately in a standardized format. Once the application has been approved, the generic elements can be published on the City's website as an example of an acceptable solution. Those elements could either be downloaded and included "as is" in subsequent applications by anyone – allowing virtually instant review by the City – or modified to the minimum extent necessary for faster review. This process could speed up review of multiple applications by a single carrier, and in the long run it could simplify the process for everyone. But any acceleration of the City's overall processing ability would happen gradually over time.

Other fast track considerations could include locating facilities in the ROW on busier or wider streets in commercial and industrial areas, rather than in residential neighborhoods, or when set back a certain distance from residential properties.

Rather than try to establish a comprehensive reference design review process, the City could consider immediately pursuing some degree of standardization for two specific cases: replacement/upgrade of streetlights and installation of new or upgraded utility poles.

There are a couple of different ways to approach light standards. From an administrative perspective, the simplest solution is to establish specifications for new light standards intended to support wireless facilities (existing City light standard specifications might suffice) and design parameters for the attachments. Initially those parameters can be stated generally, in terms of height and width/circumference and placement on the pole (e.g., on the pole top), but as experience is accumulated, the general requirements could be replaced by specific reference designs. The carrier would either rent space on an existing City light standard, or replace a deficient City-owned light standard with a conforming one, with the City maintaining ownership of the new pole. Rent can be deferred for a period of time sufficient for the carrier to recoup the construction cost. Since it's a city-owned asset, an

encroachment permit and, possibly, a use permit wouldn't be necessary. A design permit could be issued, if necessary, on the basis of the standardized, pre-approved specifications.

Maintaining ownership of the supporting pole also gives the City more flexibility under FCC rules, since it will be acting in its capacity as a landlord, rather than a regulator. For example, it could limit or prohibit attachment of additional equipment, as would otherwise be allowed under the 6409 rules.

Another alternative is for the carrier to own the light standard and operate it under terms that are similar to those that apply to electric utilities. The carrier might be persuaded to absorb some or all of the operating cost of the light, but the City's negotiating power in that regard is limited: past a certain point, it would make more sense economically for the carrier to apply for permits under standard procedures. There's also the question of how much of the standard permitting procedure may be waived, although presumably any precedents set by the City in regard to other public utilities would apply.

It would be more difficult for the City to create significantly different standards for installation of new utility poles by wireless carriers in the ROW – in general, rules that apply to one utility must apply to all – but creating a fast track process based on the City's future needs could be defensible. It would also be reasonable to create a fast track permit process for a metal pole – either completely new or as a replacement for an overloaded wooden one – that would be available to any utility. As with light standards, the City could also establish specifications and/or reference designs for the wireless equipment that would be attached. Although opponents could still invoke the appeals process, the worst case is that the shot clock would simply expire (and the City might, in that case, be able to agree that a 90-day shot clock applies). The City could choose not to challenge the "deemed approved" status, but still be confident that the resulting installation would comply with all applicable regulations.

6.6. Summary

AB 57 has created a situation where rigorous review of applications for wireless facilities, including opportunities for public comment and decisions by elected officials, works against the original purpose of safeguarding the public interest. In order to work within the limits set by State and federal rules, the City of Morgan Hill should adapt its current wireless facilities review process to allow for rapid decisions via comprehensive application information, rapid administrative decisions and incentives for applicants to propose conforming designs from the very beginning. Existing city code should be reviewed and modifications considered to ensure its provisions do not work against the original intent, now that the game has changed. Recommendations for doing so can be found in Section 7.6 below.

7. Recommendations

The overall recommendation of this report is for the City to articulate its role in broadband infrastructure planning and development, establish goals and adopt a phased approach to reaching those goals.

The trend at the state and federal level is toward less regulation of telecommunications companies. Local governments in California no longer manage franchises for video service and state regulation is minimal. Legislation proposed in Sacramento would transition landline telephone service away from its current regulatory regime, which is based on assumptions regarding legacy analog technology, and toward a less restrictive environment that might or might not be in keeping with current digital technology trends. Broadband and Internet service is not directly regulated at the state level at all, and federal agencies have adopted a “light touch” approach, where they have considered intervention at all.

Morgan Hill, like other California communities, should consider its policy and program choices not just in terms of municipal authority, which is limited, but also in terms of opportunities to become a partner and an active participant in broadband infrastructure development initiatives. The specific recommendations below identify a path that begins with a strategic vision and moves through several steps, each representing greater involvement by the City in broadband development and an increasingly engaged role.

Recommendations for wireless facilities planning and management are treated separately. Development of wireless facilities, particularly those designed to support mobile broadband services, is necessary to meet increasing consumer demand and because construction of mobile infrastructure also requires additional investment in the fiber optic networks that support it. On the other hand, the City has a stewardship responsibility regarding environmental regulations, other community standards, and the use of the public right of way. Recent changes in state law and federal regulations has made exercising this responsibility problematic, and require adjustments to City policy and procedures in the near term.

In order to develop a sustainable economy by fostering new technology-based enterprises and expanding the City’s technology infrastructure, as called for by the Morgan Hill 2035 General Plan, the following steps are recommended:

7.1. Strategic vision

5.1.1. Long term broadband infrastructure roadmap

5.6.1. Regulatory position

5.7.1. Broadband role

The first step in setting broadband infrastructure development goals and establishing policies designed to reach those goals is to determine the level of the City’s involvement and identify the roles and responsibilities that are appropriate to it.

It is recommended that the City first develop a roadmap based on the infrastructure “report card” grading criteria in Section 2. Morgan Hill receives a “D”/1.0 grade on that four point scale, in comparison to the “C”/2.0 or thereabouts grades currently given to cities immediately to the north. Keeping in mind that those cities are also actively engaged in improving their broadband infrastructure, the City should lay out a road map that brings its primary broadband infrastructure up to the statewide average in the near term, and keeps pace with and/or exceeds it over the long term. Similar goals should be set for commercial and industrial class infrastructure.

The City should also determine the extent of its involvement in the telecommunications regulatory process – nearly all of which is outside its direct control – and whether it will be an active participant and advocate in the broadband development process, a passive observer, or something in between. These recommendations assume that the City wishes to actively work to develop and improve local broadband infrastructure.

7.2. Core broadband planning and management

- 5.1.2. **Solicit ideas for infrastructure upgrades**
- 5.3.1. **Asset inventory**
- 5.3.5. **GIS logging**
- 5.3.6. **Digital plans**
- 5.4.1. **Transparent process**
- 5.5.4. **Public facilities**
- 5.6.3. **Specific conditions compliance**
- 5.7.2. **Long term City networking needs**

Before setting specific policy or launching broadband development initiatives, the City should establish ongoing working relationships with telecommunications providers and organize its internal resources and standard processes to support the achievement of the goals in its long term road map.

Incumbent providers, particularly Charter Communications and Frontier Communications, are in the best position to embark on infrastructure upgrade projects. They are also in a position to inhibit or even block competing initiatives by smaller companies or new market entrants. Engaging in an ongoing conversation that focuses on the City’s road map will allow the City to ascertain the degree to which incumbents’ goals coincide with its own and identify the gaps that need to be addressed.

The City can work with Frontier and Charter to develop and implement plans to address those problems, and provide ongoing information regarding service conditions to existing and prospective businesses. If Frontier and/or Charter are not willing to meaningfully engage, then the City will have to find remedies on its own, including pursuing regulatory options and creating opportunities for competitors to enter the market.

As a result of regulatory approval conditions placed on their recently approved transactions, Charter and Frontier have specific obligations they must fulfil in their California service areas. The City should immediately establish clear expectations as to what that fulfilment entails in Morgan Hill, and monitor

progress on a quarterly basis. These regulatory conditions represent a unique and immediate opportunity for the City, one which is unlikely to reoccur in the foreseeable future.

The City is also a participant in the development process. It owns and controls assets that are essential to broadband infrastructure development. Identifying and routinely tracking those assets, along with improvements made by third parties pursuant to encroachment or other permits, will allow the City to manage and employ its resources to the greatest effect. Creating a transparent process for managing and developing those resources, and making them available to interested parties will maximize their value, both as capital assets and as day to day tools.

The City can also design and build future public works projects and other facilities with broadband development goals in mind, and plan its internal IT network development along those same lines.

7.3. Baseline broadband development policy

- 5.1.3. Broadband master plan**
- 5.2.1. Open trench**
- 5.2.2. Conduit specifications**
- 5.2.3. Conduit standards**
- 5.2.4. Lateral connection standards**
- 5.2.5. Shadow conduit - public works**
- 5.3.2. Open access**
- 5.3.7. Infrastructure database**
- 5.4.2. Permit streamlining**
- 5.7.3. Anchor tenant positioning**

Ten policies are recommended for near term adoption and implementation. The first step is to develop the City's long term roadmap into a specific master plan that sets goals for the type and extent of broadband infrastructure in residential, commercial, industrial and other land use categories. The primary market research conducted for this report indicates that residential and business broadband use and expectations differ in Morgan Hill, but in either case there is a significant amount of dissatisfaction with the choices available.

The City has the greatest amount of influence over greenfield and new or major remodelled infill development, and over work performed in the public right of way. By establishing clear broadband-related requirements for these kinds of projects, the City can encourage the construction of facilities that will support upgraded infrastructure. Establishing an "open trench" notification process any time excavation work is done in the public right of way offers all interested parties, including the City, potential cost savings or unique opportunities to pursue upgrade or new utility construction projects. Setting minimal technical specifications for broadband conduit, where appropriate, and requirements for main conduit and lateral connections in new or major remodelled construction, or in public works projects ensures, over time, the development of a consistent and adequate level of basic infrastructure.

The City's own assets can be offered on open terms to any qualified broadband provider, and information about all broadband infrastructure can likewise be made available, so as to reduce barriers to entry for new competitors and promote the more efficient use of existing resources by incumbents. The City can further reduce barriers by streamlining permit processes and create incentives for infrastructure development that meets City goals by using its information technology budget to position itself as the anchor tenant for particularly critical projects.

These baseline policies primarily serve to standardize and focus existing policy and practices on well articulated broadband development goals, without requiring major new initiatives or changes.

7.4. Second phase broadband development policy

- 5.2.6. **Shadow conduit - undergrounding**
- 5.2.7. **Shadow conduit - excavations**
- 5.2.8. **Excavation moratorium**
- 5.3.3. **Master leases**
- 5.4.3. **Master permits**
- 5.4.4. **Single review**
- 5.4.6. **Environmental and aesthetic mitigation**
- 5.5.1. **Broadband building standards**
- 5.5.2. **Broadband wiring standards**
- 5.6.2. **Franchise compliance**

A baseline broadband development program can be supplemented with more proactive measures that position the City as an active participant in broadband development initiatives. These steps can be taken either at the same time as adoption of baseline policies or later, after the effectiveness of the baseline program is assessed.

Each of the above policies represent a greater level of direct City involvement in broadband development. Prospective installation of city-owned conduit, either in conjunction with routine undergrounding programs or third party utility projects, puts the City in the position of being an active developer of broadband assets as such, rather than simply making use of resources obtained in the normal course of business. Putting teeth into “dig once” policies by imposing moratoria on street excavations following an open trench notification process puts similar pressure on utility companies to do the same.

Adopting a master lease template for third party use of City assets allows for more aggressive marketing, with either the goal of increasing revenue or incentivizing development, or both. A master permit process for large scale projects can be likewise used to attract the attention of companies, including incumbents, that might be interested in pursuing major upgrades, and position Morgan Hill as a better destination for investment. The same is true of a single review process for smaller projects and standard, predictable environmental and aesthetic mitigation requirements.

Adding broadband requirements to construction standards will build the City’s inventory of high-tech enabled real estate over the long term and provide a competitive incentive for owners of older property to retrofit. The more properties that are “gigabit ready”, the more cost effective it is to upgrade and add infrastructure and facilities upstream, and the more demand there will be for that level of service.

A consistent, proactive approach to enforcement of video franchise requirements, even to the limited extent allowed under California law, also puts the City in the role of an active participant in the broadband industry, albeit as a regulator who sits on the other of the table from the companies involved. Doing so can improve the City’s negotiating position with some broadband providers and build, and possibly fund, in-house expertise that can be used to pursue further measures.

All of these policies are recommended for the City’s adoption over the long term, and the City should consider including some in its initial baseline program if more rapid progress is desired in specific policy areas.

7.5. Broadband development options

- 5.2.9. **Excess capacity utilization**
- 5.2.10. **Dedicated revenue account**
- 5.2.11. **Future proofing**
- 5.3.4. **Telecom O&M matrix**
- 5.4.5. **Evergreen permits**
- 5.4.7 **Permitted Telecommunications Sites**
- 5.5.3. **Smart building requirements**
- 5.5.5. **Telecommuting - City**
- 5.5.6. **Telecommuting - general**
- 5.6.4. **Enforcement liaison**
- 5.6.5. **Performance test participation**
- 5.7.4. **Interagency coordination**
- 5.7.5. **Validate infrastructure mapping**
- 5.7.6. **Broadband in public housing**
- 5.7.7. **Online access**
- 5.7.8. **Online permits**
- 5.7.9. **Open data**

The broadband development options listed above can be divided into two groups: incremental enhancements to proactive second phase policies – for example, combining City-owned asset development initiatives into an ongoing enterprise fund – and policies that serve to increase demand for high speed broadband service and promote its adoption by residents. The recommended approach to these options is to defer action on them until a baseline program is established and the extent of City involvement and the degree to which it will be an active in developing broadband infrastructure has been determined.

7.6. Wireless facilities management

The changes in California and federal law regarding municipal authority over wireless facilities, as described in Section 6 above, make it advisable to quickly respond by changing City procedures, specific policies and, where necessary, the Municipal Code to ensure continued control of the process and avoid permit issuance by default. A dozen specific steps are recommended:

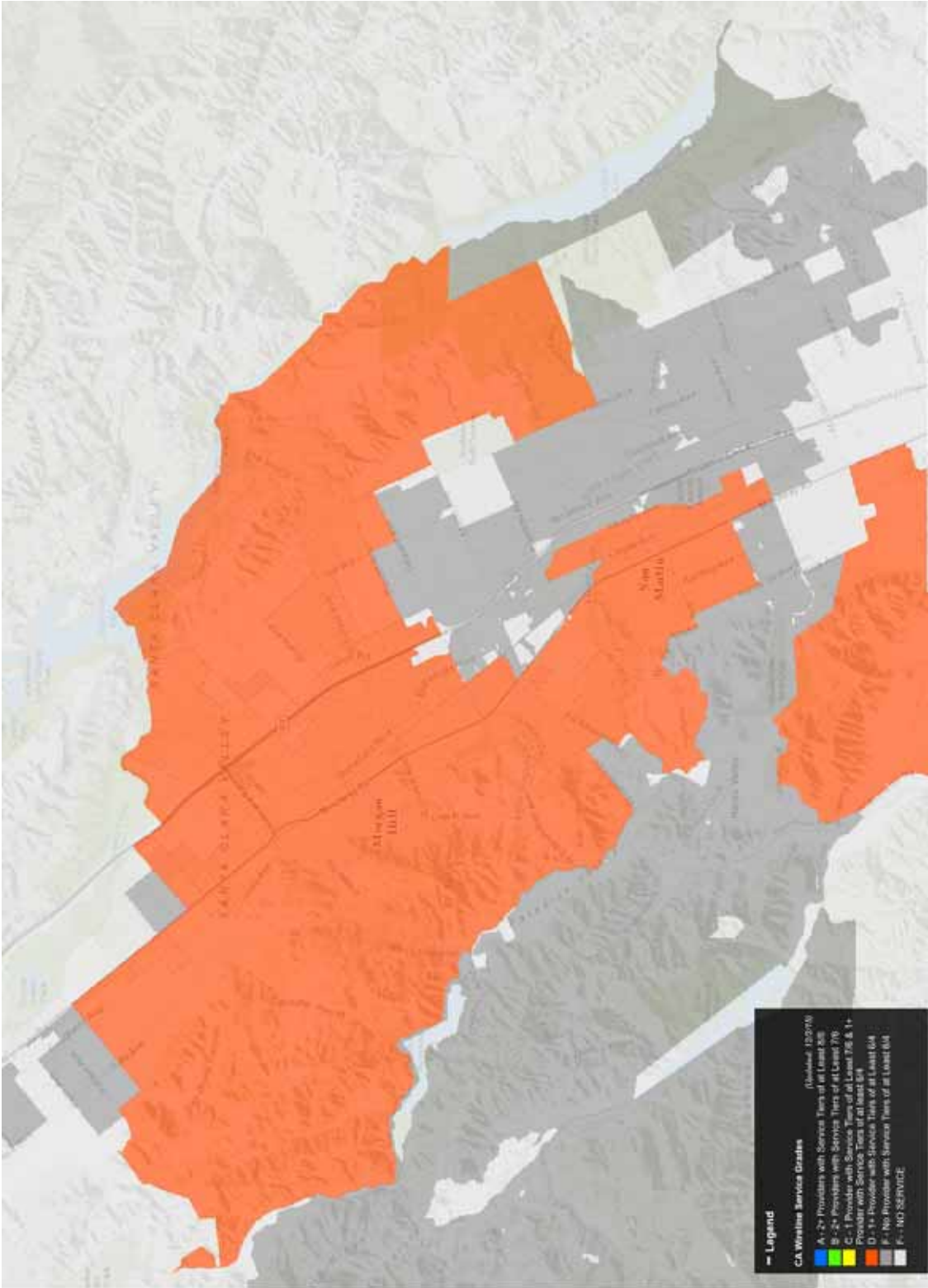
1. Create a comprehensive checklist of items that must be included in a wireless facilities application.
2. In the application, establish the presumption that the 150-day clock applies unless the applicant 1. states otherwise and 2. provides specific information that demonstrates eligibility for the 60 or 90 day clocks. Any application for a location that doesn't already support wireless facilities would automatically be subject to the 150-day clock. Failure to provide the necessary information would be grounds for either denial or immediate tolling.
3. Include all possible questions, documentation, other city departments/outside agency approvals , etc., as a standard requirement of an initial design permit application. In particular, the application should include all information required for use and encroachment permits or other approvals by other City departments to demonstrate that it complies "with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety".
4. Descriptions of the facilities, including photo simulations, should include 1. the facilities as currently designed. 2. as potentially modified according to the federal rules described in Section 6.2 above (e.g. 20 feet higher and 20 feet wider in all directions).
5. Require evidence, including blueprints and photo simulations, that shows that proposed modifications to existing facilities will not "defeat concealment" and that new facilities will be able to support concealment even if later modified under federal rules.
6. Require full documentation regarding all previous permits for existing facilities, in order to determine that a collocation/modification complies "with conditions associated with the prior approval".
7. Require all CEQA-related studies, including seasonal-dependent biological assessments, to be completed and included in the application.
8. Structure the application and the process so that denials can be issued administratively during the design permit review, even for reasons pertinent to use and encroachment permit reviews.
9. Decide what position the City will take if and when presented with the initial "deemed approved" notices from carriers. Will the City routinely challenge the presumption in court? Will it demand that the applicant obtain a court order confirming the presumption (and use its enforcement powers if the applicant refuses)? Will it concede the point but still require the applicant to follow City policies and conditions? If so, what are those policies and conditions?

10. Establish preferred specifications for streetlight mounted wireless facilities, including the light standard itself, and for equipment mounted on utility poles.
11. Create a short form application/checklist for proposed wireless facilities that are mounted on light standards or utility poles and conform to the preferred specifications.
12. Review the Municipal Code to determine if procedural changes can be made to safeguard the City's ability to reach decisions within the allowable time frames.

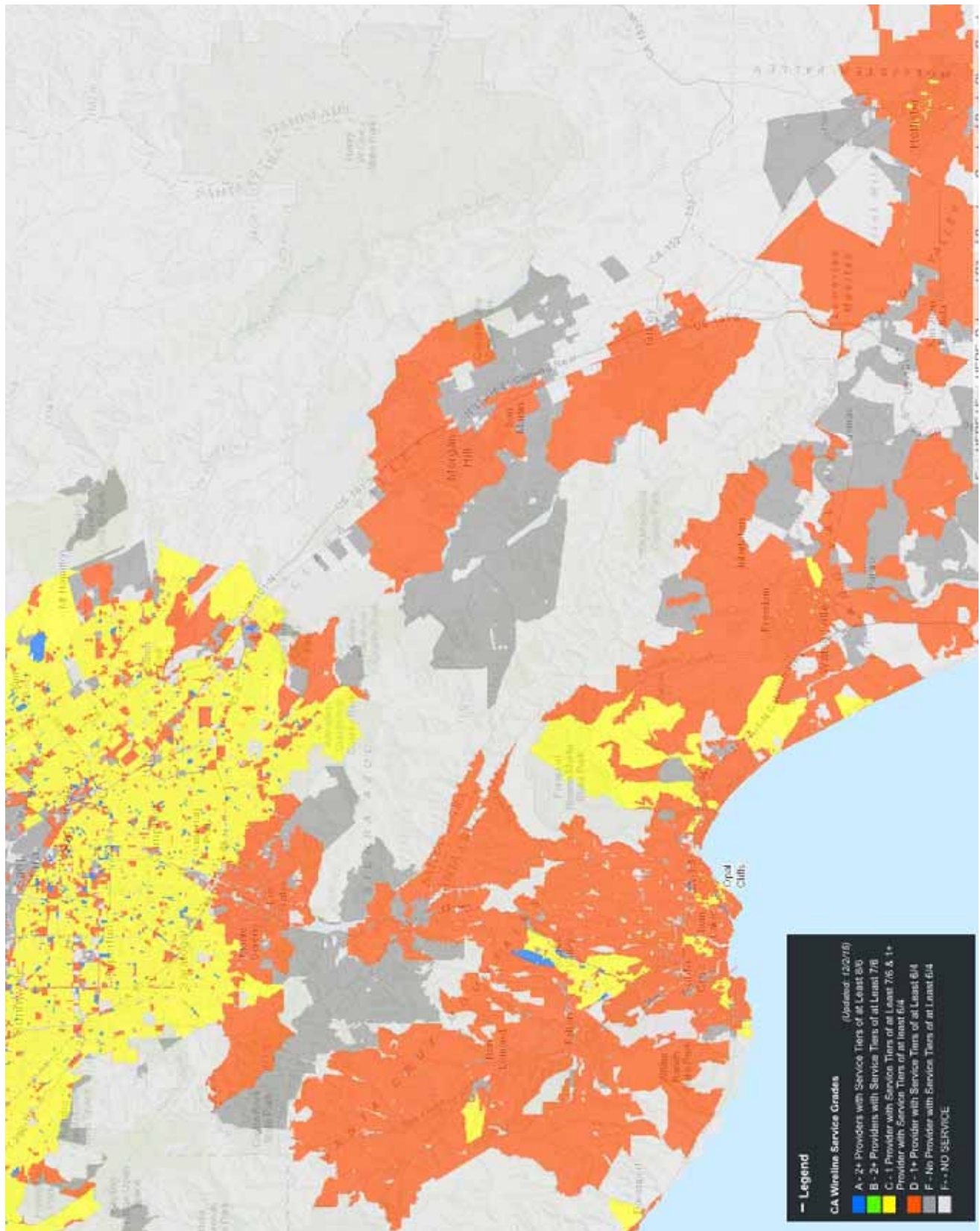
Appendix A - Maps

1. Infrastructure grading maps

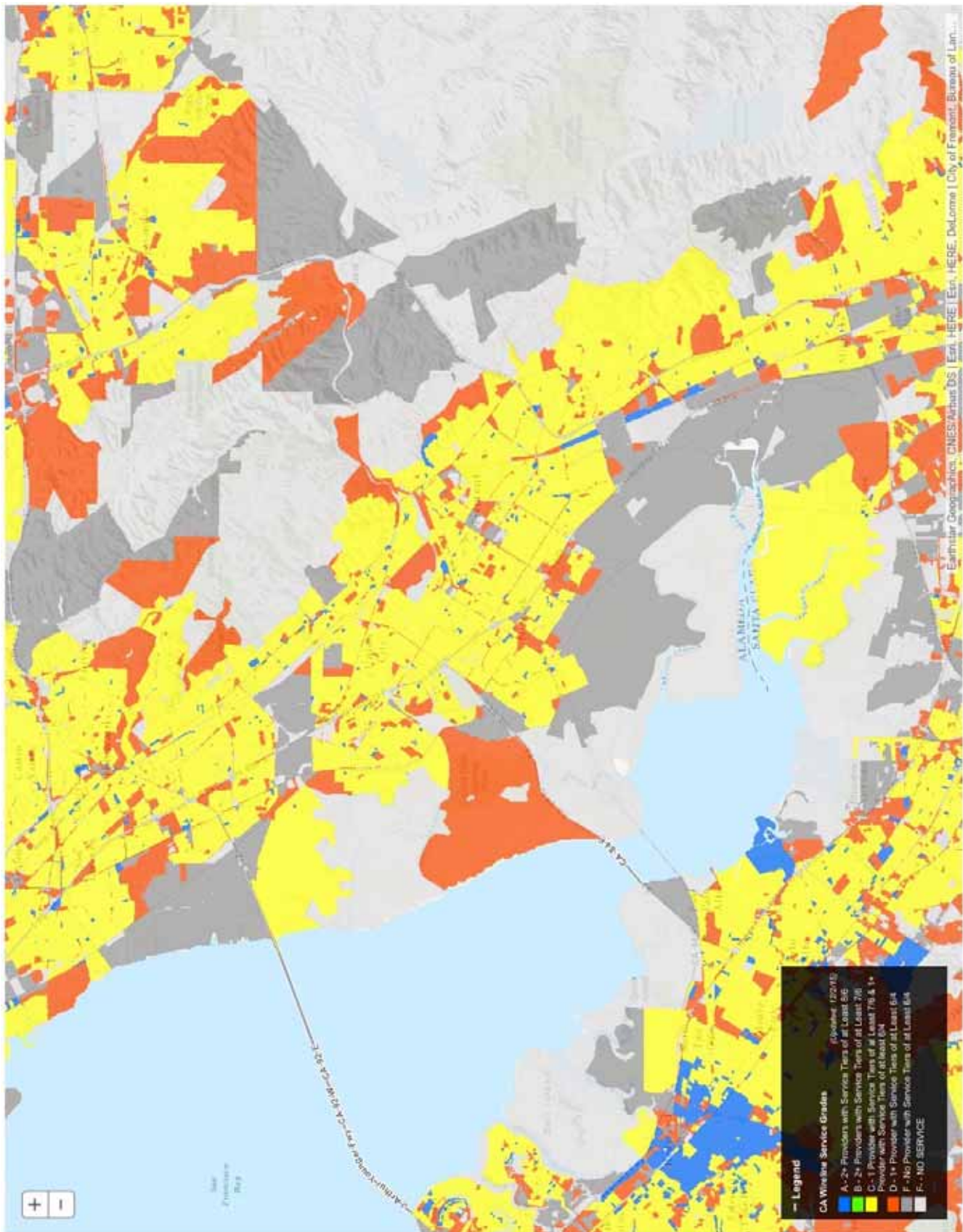
Morgan Hill



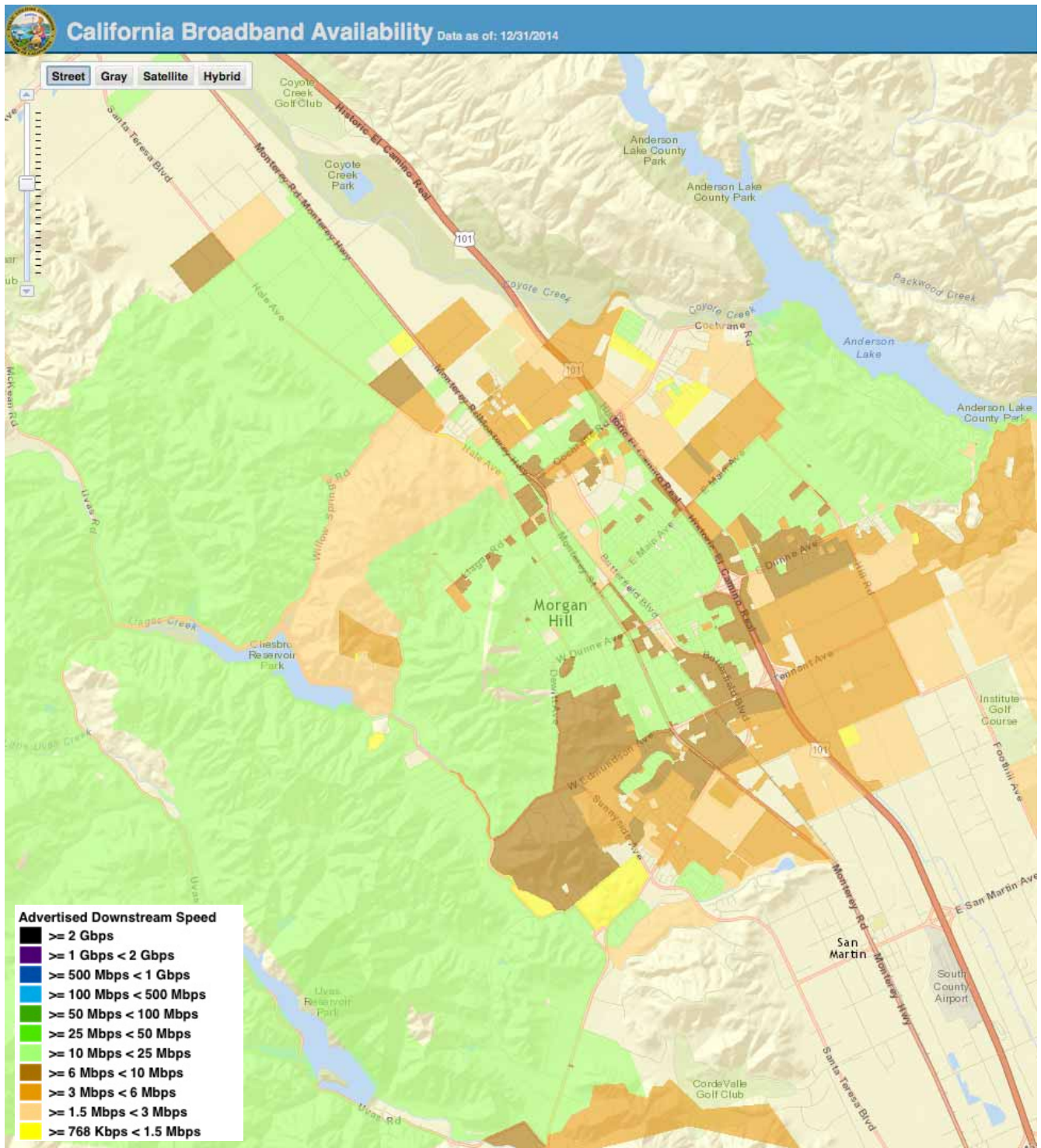
South Bay Area

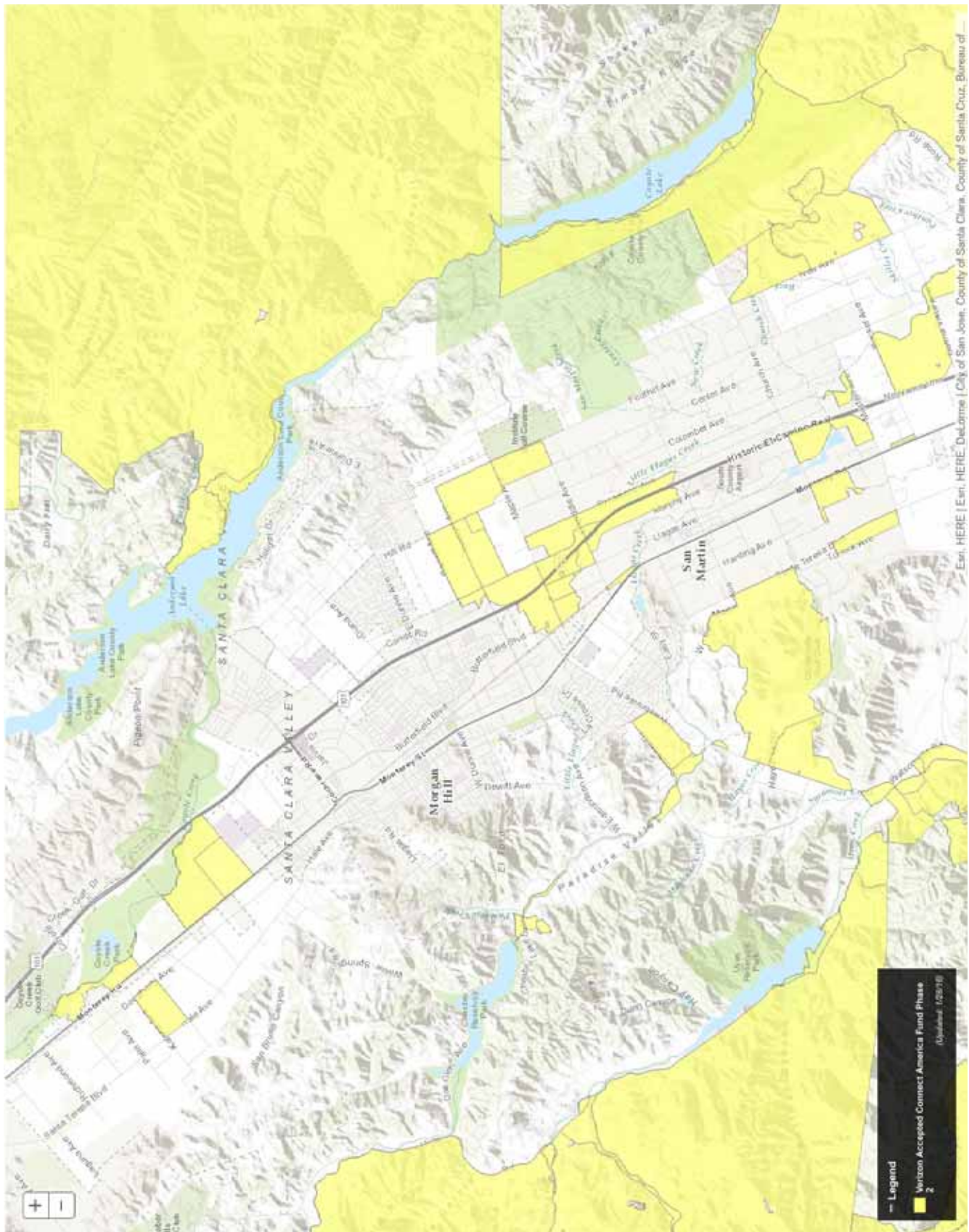


East Bay Area

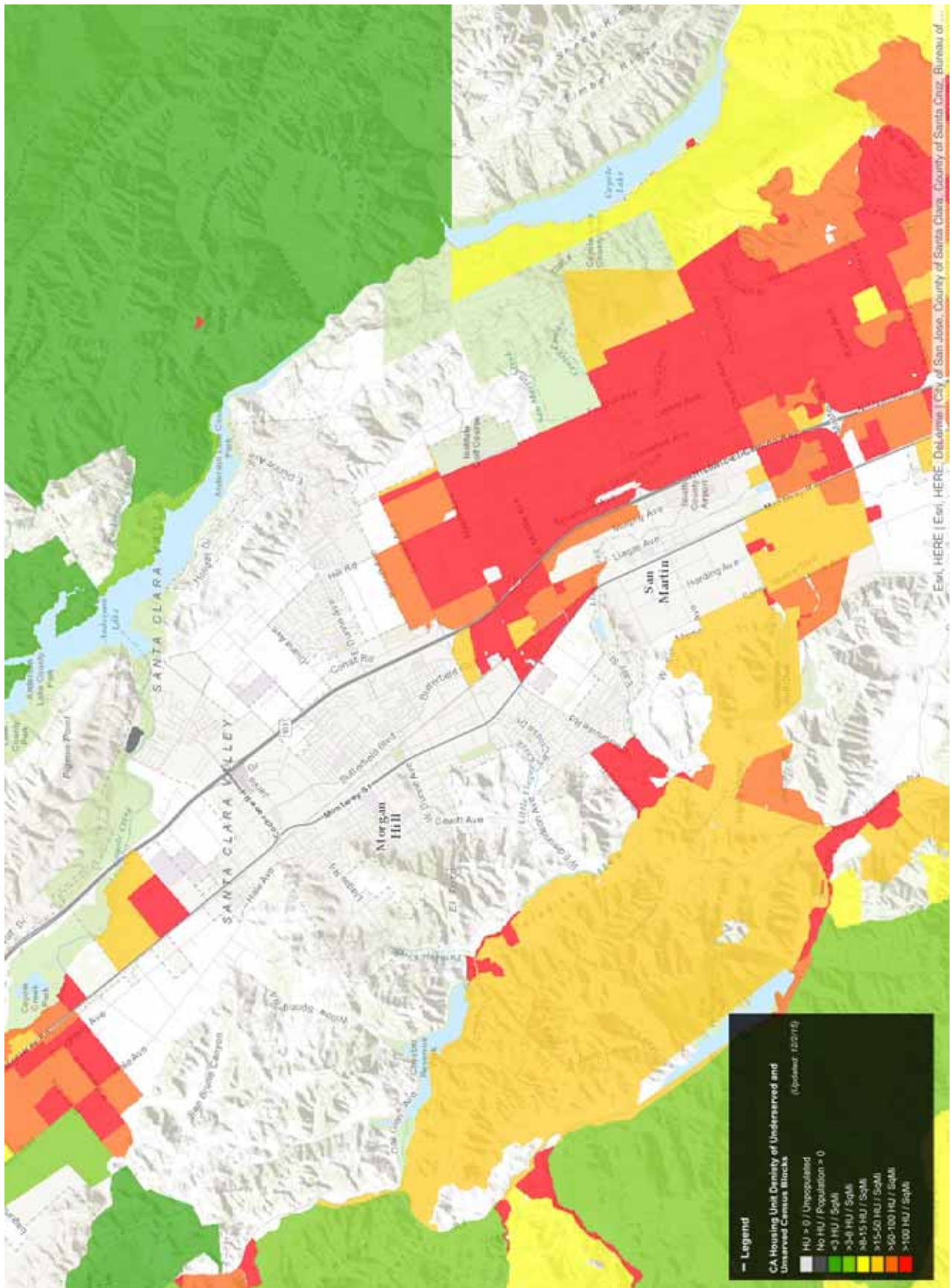


2. Frontier (formerly Verizon) DSL service

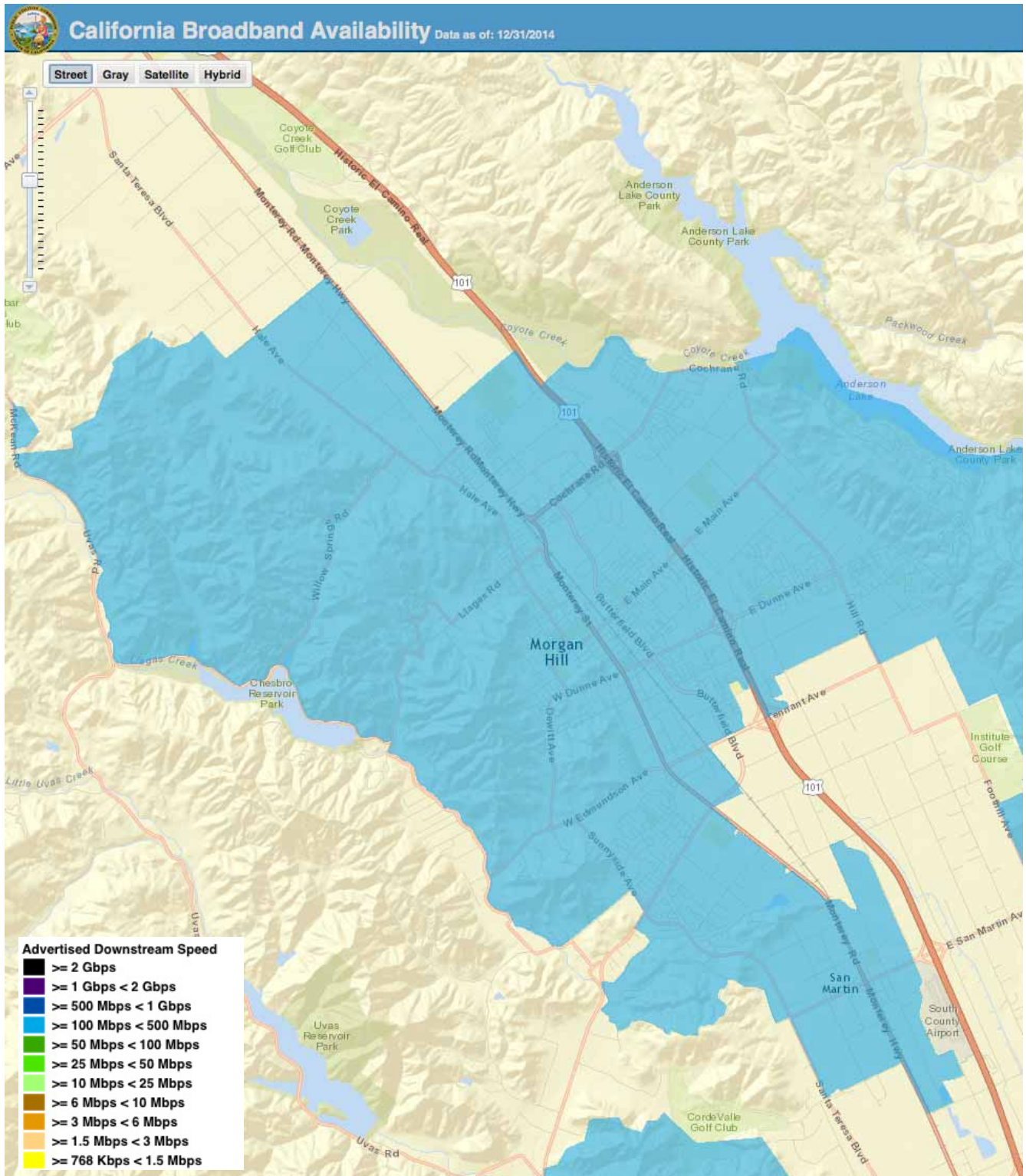


Frontier - census blocks qualified for federal upgrade subsidies (CAF-2 program)

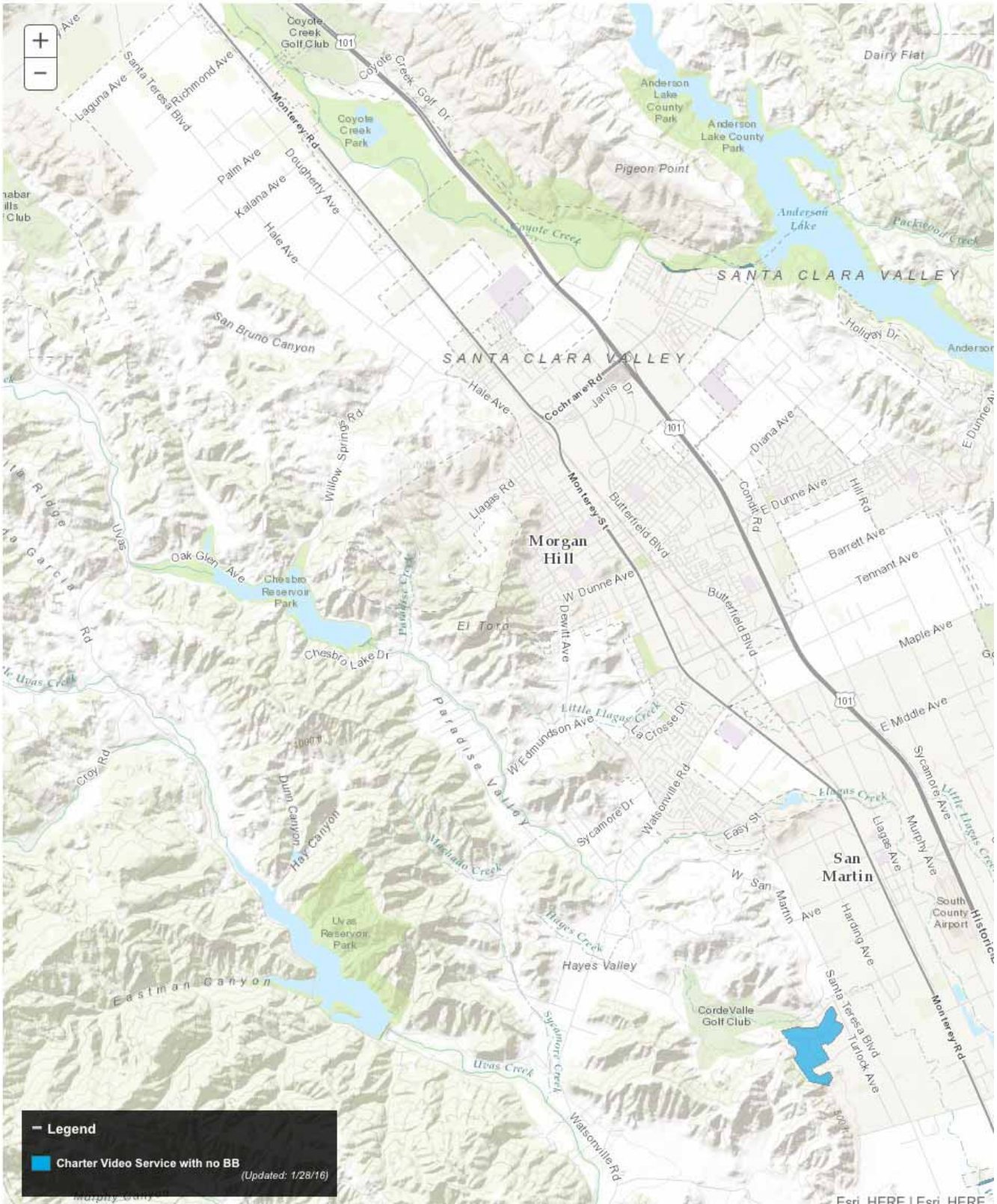
Census blocks provisionally eligible for California Advanced Service Fund subsidies



3. Charter cable modem service

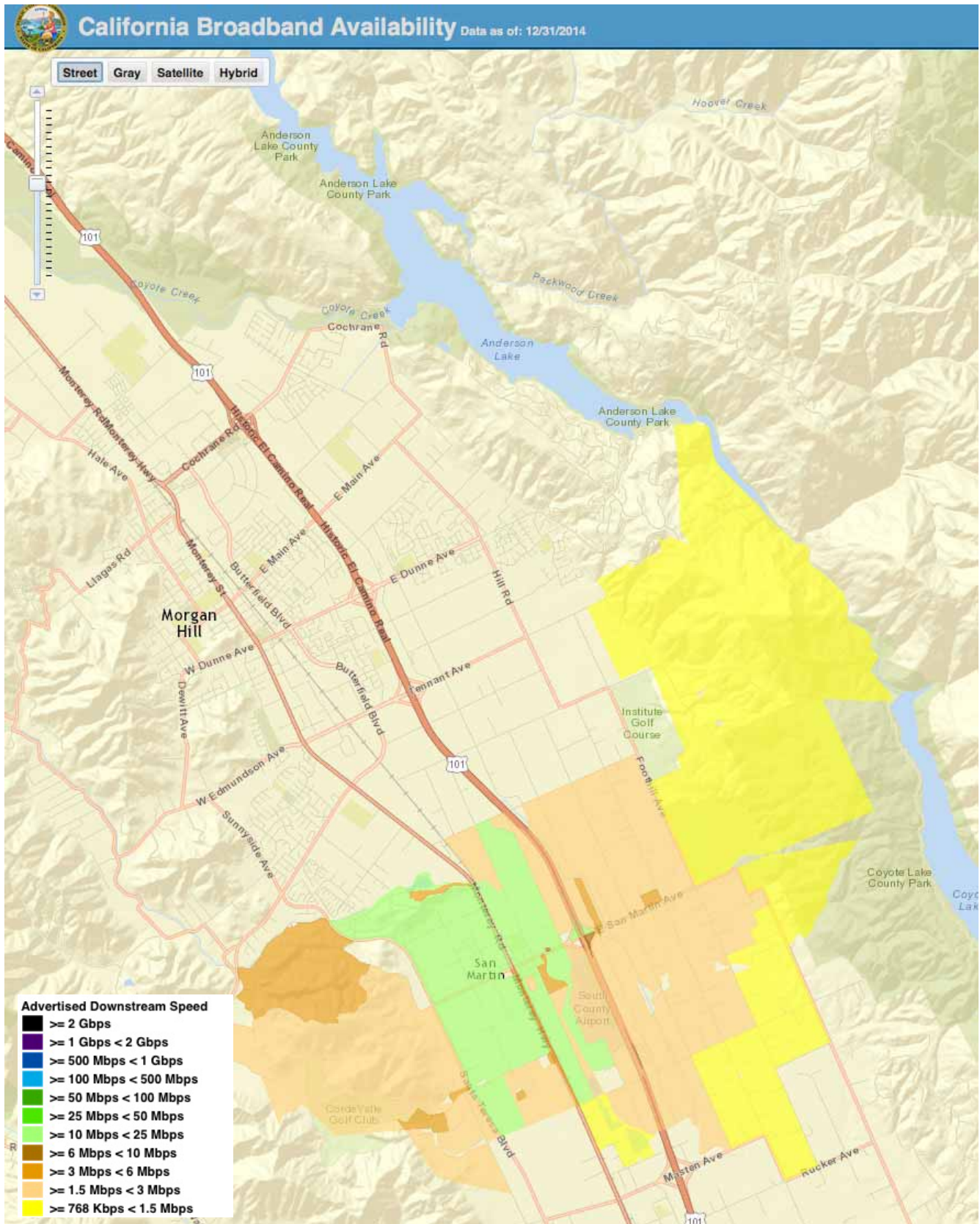


Charter coverage gaps (versus assigned franchise area)



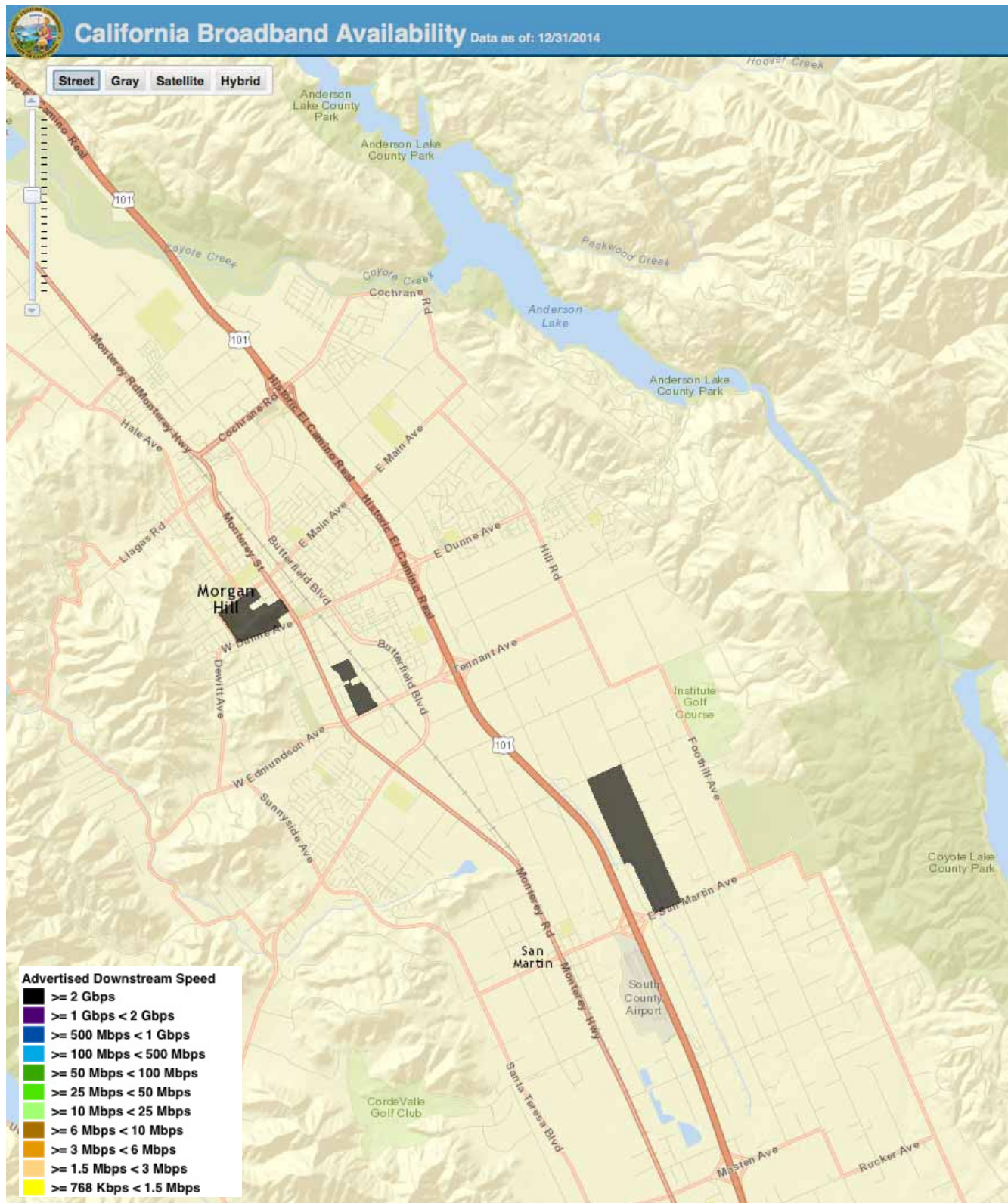
Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

4. AT&T DSL service



5. Secondary providers

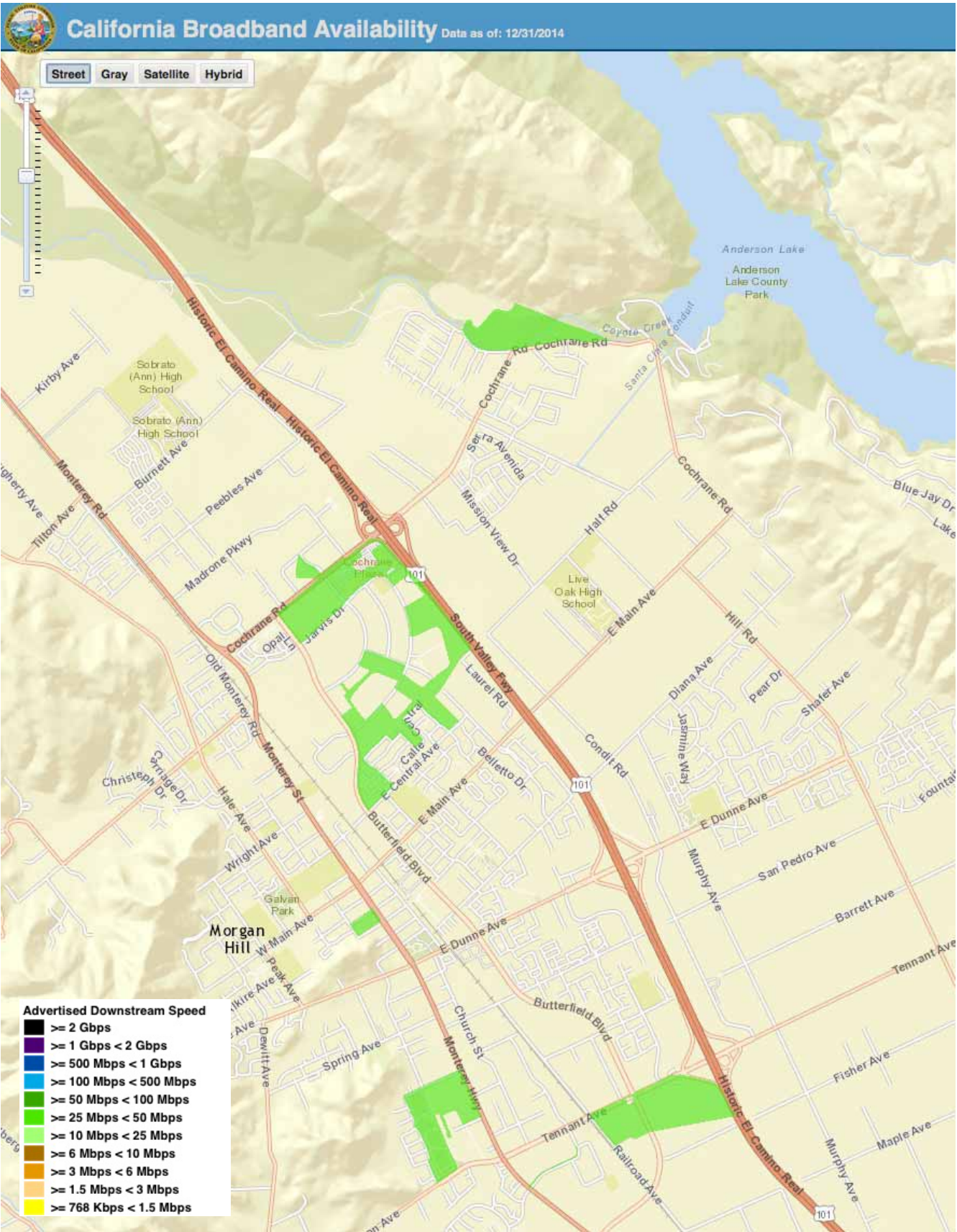
Level 3 fiber locations



Level 3 enhanced copper locations

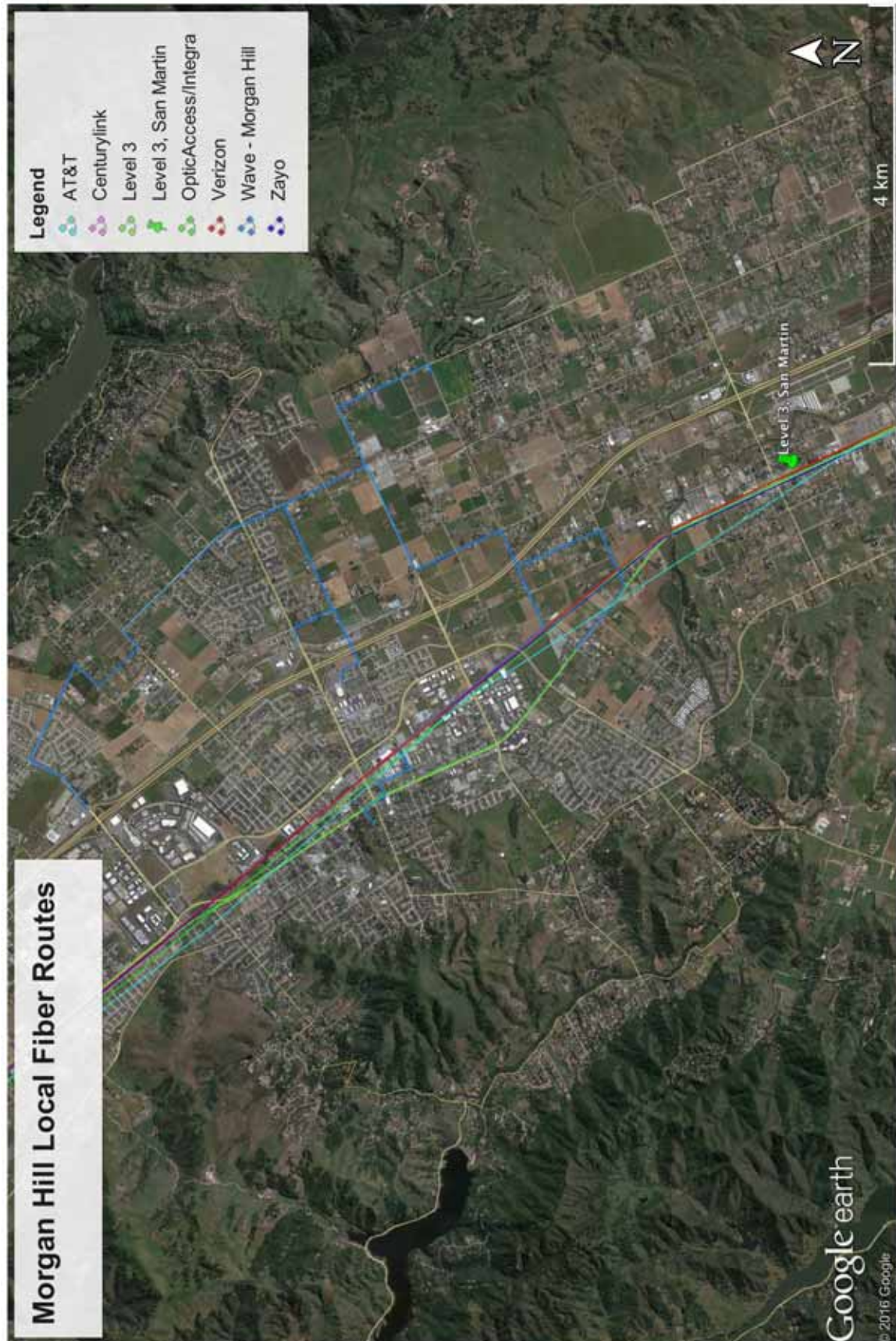


TW Telecom enhanced copper locations



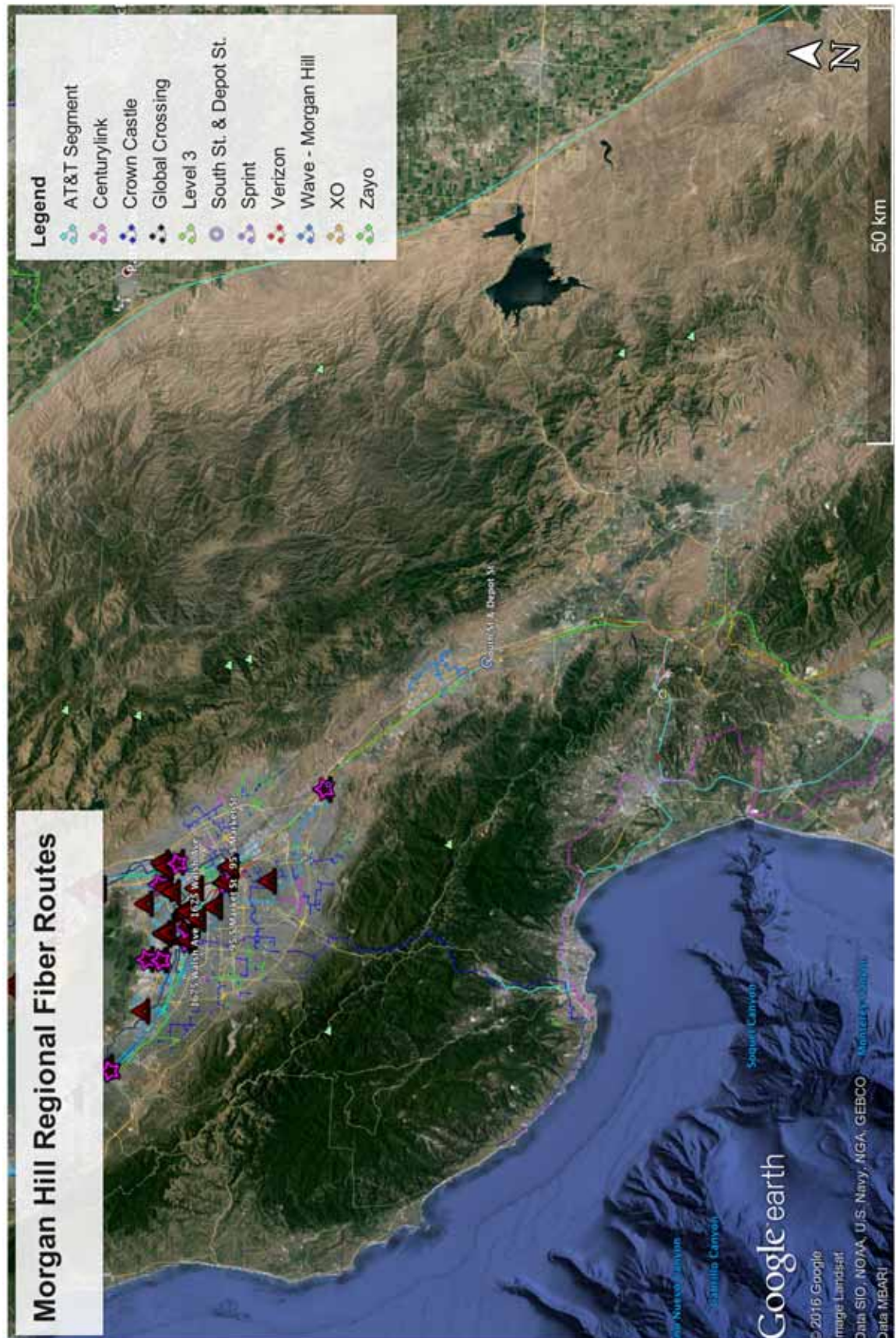
Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

Local fiber optic network routes



Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

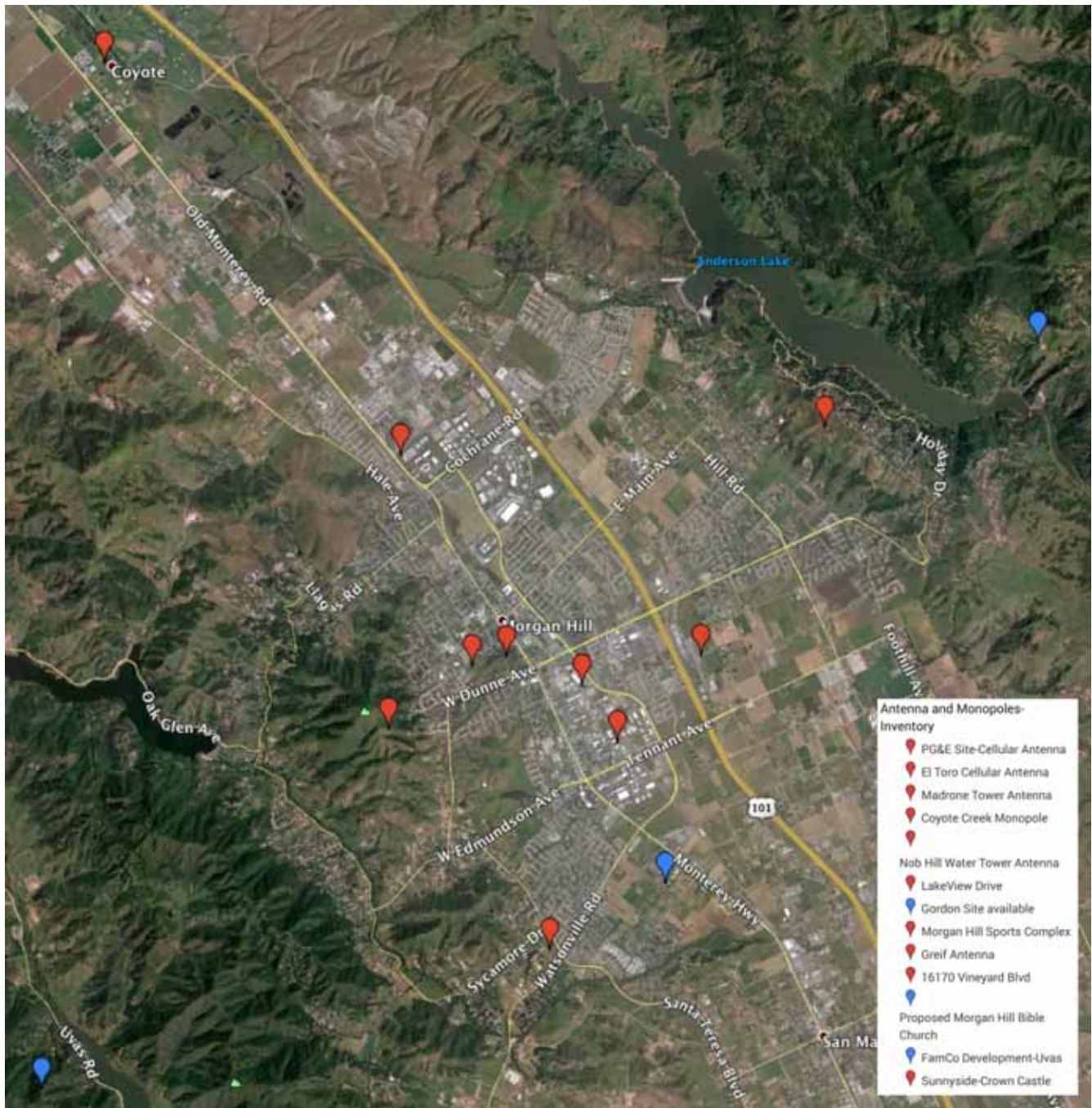
Regional fiber optic network routes



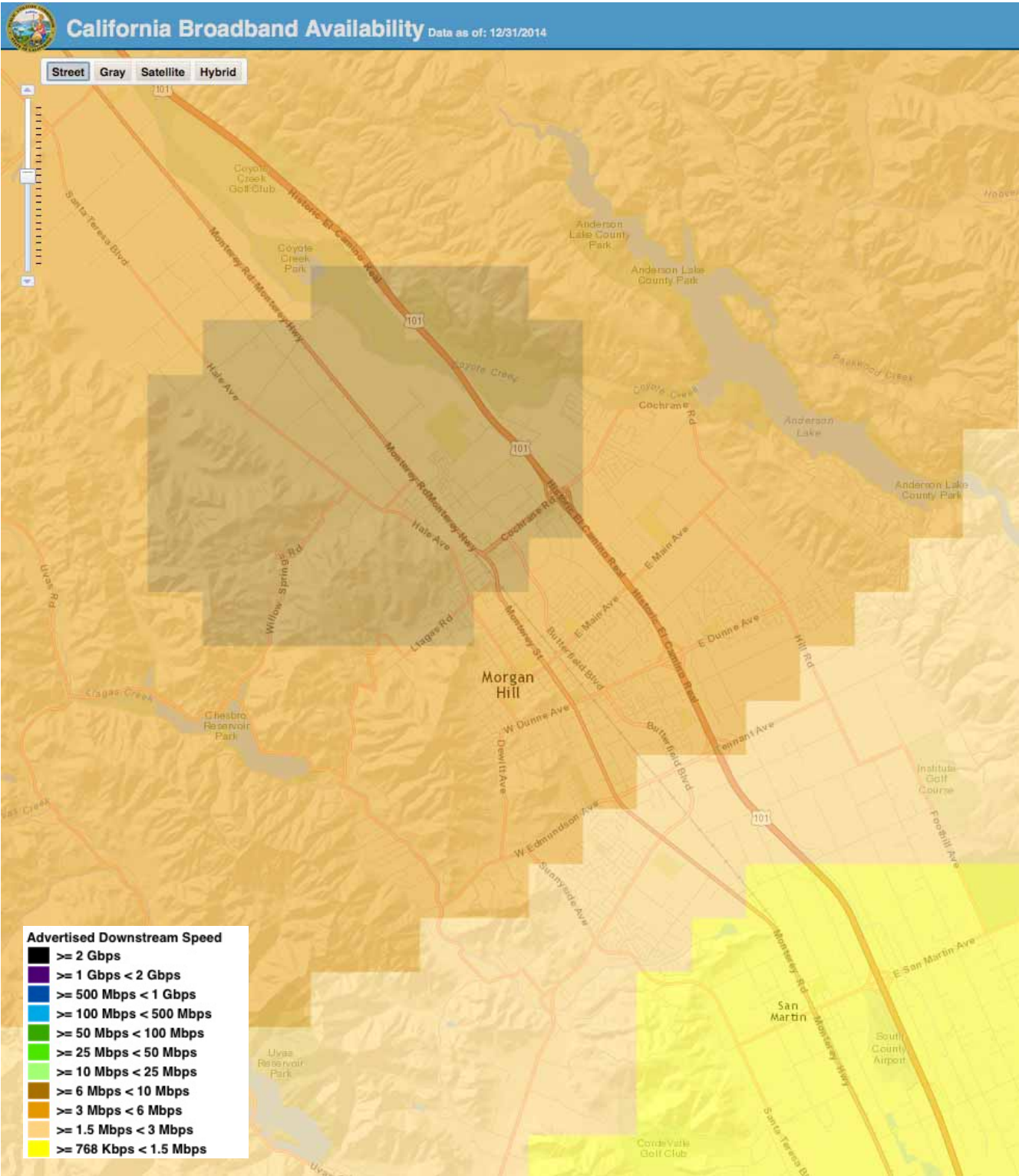
Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

6. Wireless broadband availability

Antenna and monopoles - Morgan Hill

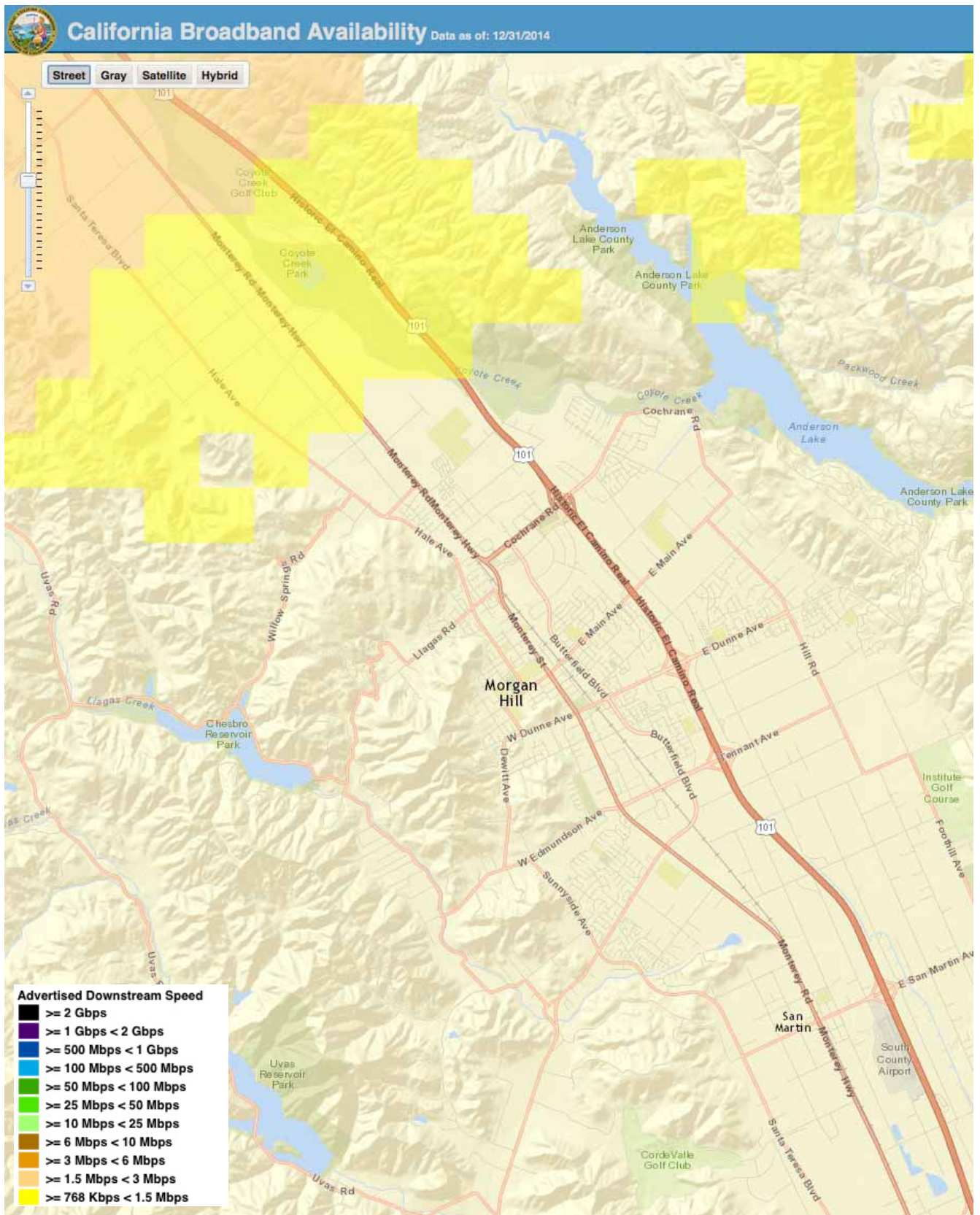


AT&T mobile broadband service

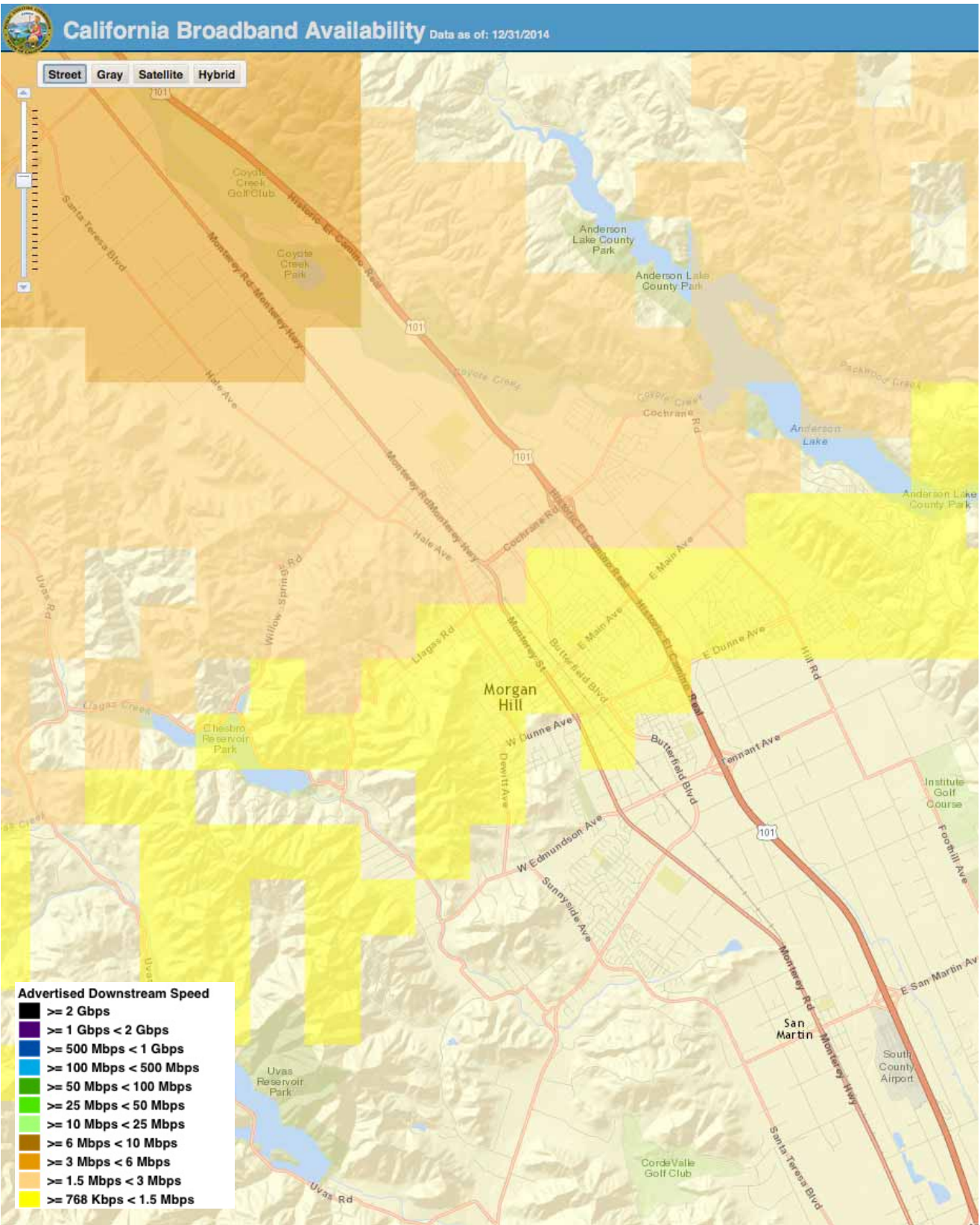


Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

Sprint mobile broadband service

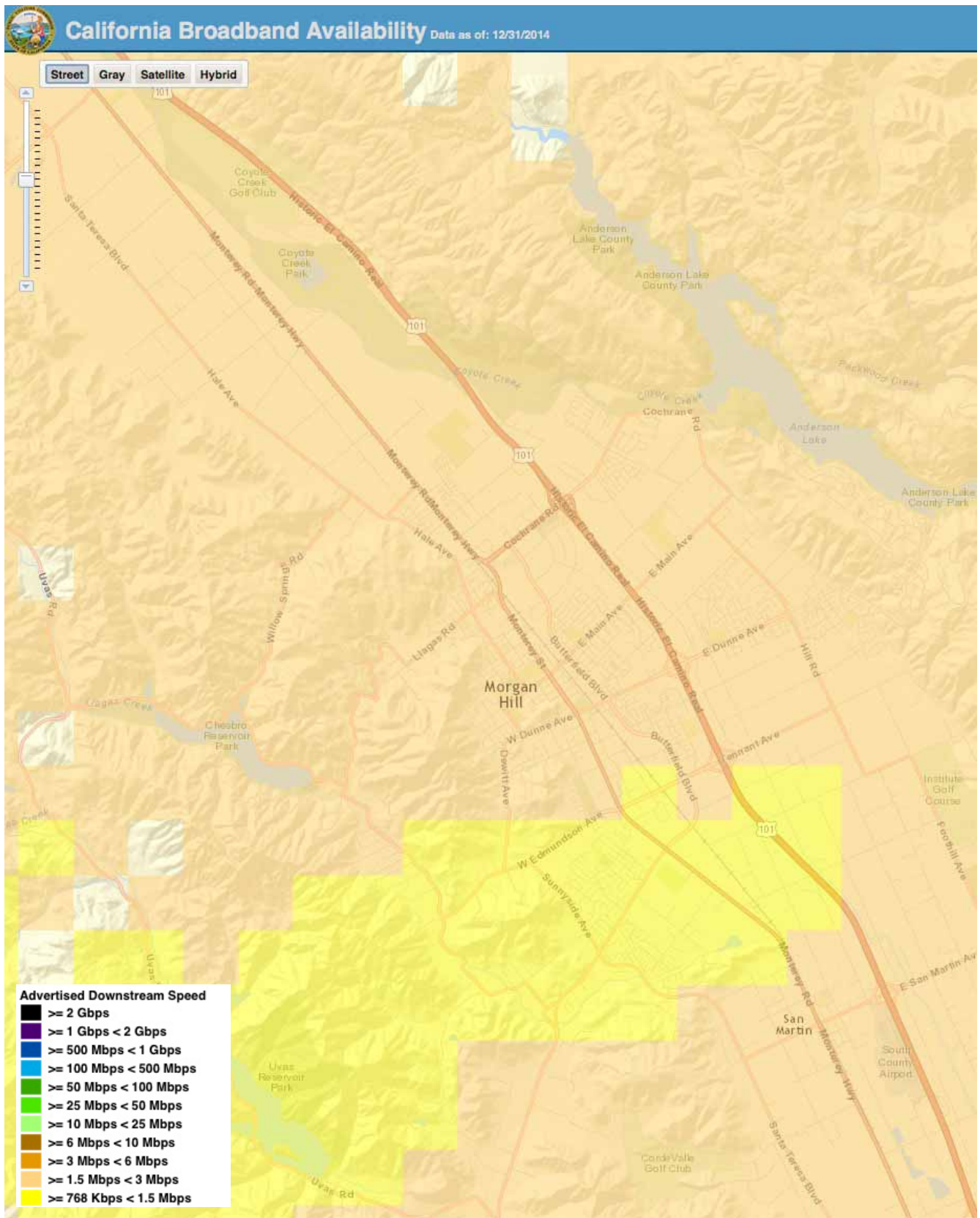


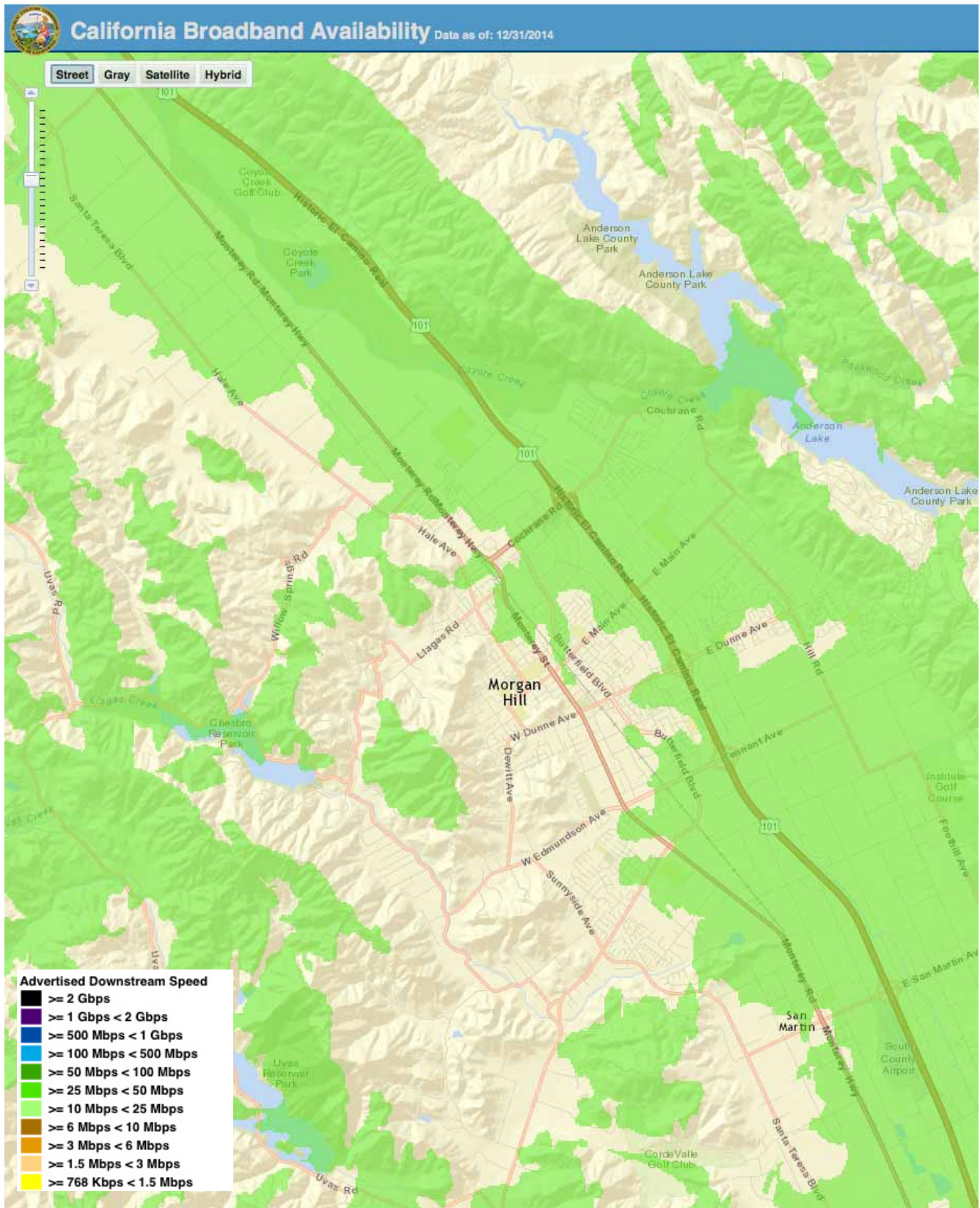
T-Mobile mobile broadband service



Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

Verizon mobile broadband service



Etheric fixed wireless service area (unlicensed)

Attachment: Morgan Hill Telecommunications Infrastructure Report 2016 (1024 : Update on Telecommunications Planning)

Appendix B - Infrastructure grades

Methodology

In a study conducted for the East Bay Broadband Consortium (EBBC) in 2013¹⁶, in cooperation with the Central Coast Broadband Consortium, core broadband infrastructure was evaluated in Alameda, Contra Costa and Solano Counties using data submitted to the California Public Utilities Commission by Internet service providers. A comparative report card was developed, with the average grade – “C” – set at the most prevalent infrastructure, and corresponding service levels, in the state: a combination of relatively high speed cable modem and mid-range telephone company DSL facilities.

This methodology was subsequently used by the Central Coast Broadband Consortium to evaluate California broadband infrastructure and service on a statewide basis, on behalf of the California Emerging Technology Fund. It was later adopted by the Tahoe Broadband Consortium, the Broadband Consortium of the Pacific Coast and the California Center for Rural Policy.

The primary data for assessing the quantity and quality of broadband infrastructure comes from the California Public Utilities Commission, which collects service level reports from providers throughout the state. This data can be broken down to the census block level, and shows what level of service Internet companies claim to provide, but not necessarily what they deliver. The accuracy of this data and the definition of service levels varies from company to company, although it is generally consistent within any given company. In other words, if Company Z exaggerates the speeds and availability of home Internet service, it tends to do so to more or less the same extent everywhere. By using a comparative system for ranking, rather than using the absolute values provided, the variation in the accuracy of the data can be smoothed out and an apples-to-apples comparison can be achieved.

The data collected by CPUC was divided into three categories: core wireline service, commercial broadband service providers and mobile carriers.

Consumer-class service throughout California was assessed, and used as one of the two primary grading benchmarks, the other being the CPUC's standard for minimum acceptable service of 6 Mbps download/1.5 Mbps upload speed. Upload speed was given equal weight to download speed, even though it's generally less critical for consumers, because upload speed gives a good indication of the capacity of the underlying infrastructure. When a service provider skimps on upload speeds, as frequently happens, it is usually because its cables and other core equipment have a limited capacity.

Grades were then assigned as follows:

A - Two competing providers, both advertizing maximum download speeds of at least 25 Mbps and maximum uploads speeds of 6 Mbps, or 3 or more competing providers offering that standard of service in combination.

¹⁶ *East Bay Broadband Report Card*, Tellus Venture Associates, 28 January 2014.

B - Competing providers, both advertizing maximum download speeds of at least 10 Mbps and maximum uploads speeds of 6 Mbps.

C - Competing providers, one advertizing max down/up speeds of at least 10/6 Mbps and the remainder meeting CPUC's minimum 6 down/1.5 up standard.

D - At least one provider advertizing speeds that meet the CPUC's minimum standards of 6 Mbps down and 1.5 Mbps up.

F - At least one provider offers service, but no service is available that meets the CPUC's minimum standard of 6 Mbps down and 1.5 Mbps up (meets CPUC's definition of underserved).

F- - No broadband service available (meets CPUC's definition of unserved).

A "C" grade indicates that the consumer class broadband services, and consequently the underlying core infrastructure, in a given area meets the statewide average. A "D" grade means it meets the minimum passing service standard set by the CPUC. "F" grades indicate full or partial failure, which also means the area is eligible for infrastructure construction subsidies from the Commission. "A" and "B" grades show that service in an area is superior to the California average.

The first step in grading was to give a letter grade to each census block in the three counties. Then, the grade points were tallied, weighted by population and averaged for the census blocks within cities, counties and unincorporated areas, to produce a numerical grade on a four point scale, which was rounded to the nearest tenth.

The numerical grade point average for an area was then converted to a letter grade on the following scale:

A	4.0
A-	3.7-3.9
B+	3.3-3.6
B	3.0-3.2
B-	2.7-2.9
C+	2.3-2.6
C	2.0-2.2
C-	1.7-1.9
D+	1.3-1.6
D	1.0-1.2
D-	0.7-0.9
F+	0.3-0.6
F	0.0-0.2
F-	No service available

Appendix C – Municipal enterprises

Several cities, including San Leandro, Benicia, Palo Alto and Santa Clara in the Bay Area, either own and operate commercial and industrial class fiber optic networks, or partner with private companies to make sure those resources are available to the community.

1. Dark fiber

Palo Alto and Santa Clara operate dark fiber networks which have proved very profitable. Once installed these systems require little upkeep other than fixing accidental breaks, and customer service is mostly limited to making the initial connections – for a fee – and sending periodic bills.

San Leandro has given a local company non-exclusive access to its traffic signal network (a near-loop of approximately 11.5 miles in length) and to 7.5 miles of new conduit it built using a federal grant. In return, the city received ownership of approximately 10% of the fiber installed by the company and eventually will receive cash payments, as the business becomes profitable. Similarly, the City and County of San Francisco is leasing surplus capacity in its own fiber optic network to Google Fiber, as part of a targeted effort to improve broadband service to multiple dwelling units.

2. Fiber to the home

Direct municipal involvement in providing consumer-class service via fiber-to-the-home (FTTH) systems has a less successful track record, particularly in communities such as Morgan Hill which are served by two large, consumer-oriented broadband providers. Frontier and Charter, between them, offer a range of residential Internet service in Morgan Hill and most residents subscribe to it, with Charter appearing to have about two-thirds of broadband customers. Both companies offer telephone service, and Charter has an extensive television line-up. Although both companies are the target of complaints about service and prices, it is evident from the research conducted for this study that their service offerings fall within the range desired by most residents. Both companies have a national presence and millions of customers. They enjoy substantial operating economies of scale, including the ability to negotiate favorable terms with television programming providers, and can pick and choose which neighborhoods to upgrade on the basis of expected return on investment.

City-run systems do not have those economies of scale and cannot discriminate amongst residents on the basis of their economic potential. Consequently, it is usually impossible to compete with entrenched incumbents on the basis of lower prices offered, due to national-scale purchasing power and operating efficiencies, or lower costs incurred as a result of limiting the provision of advanced services to high potential customers.

Although a municipal FTTH system could theoretically offer more television programming options and greater broadband speeds at the same price as copper-based incumbent service providers, this competitive strategy usually results in lower net revenue and ongoing operating losses, particularly when employed against major incumbents such as Charter or Frontier.

The only successful example of a municipally operated FTTH system in California is Loma Linda, which only provides Internet service – and not television service – to newly constructed or remodeled homes where the developer or property owner has installed empty conduit for the city’s use. The City of Loma Linda – which is 4 square miles in size and suburban in character – has invested in a fiber backbone network to support this service, but much of the cost of building and operating it is borne by the several colleges and hospitals in town which act as anchor customers.

It is possible for cities in competitive urban markets to build and operate FTTH systems, but it is not reasonable to expect that operating costs and capital pay-back requirements – bond payments, for example – will be met by customer revenue in the near to mid term. Instead, a municipal FTTH operator must expect to subsidize operations for the foreseeable future, via the general fund, grant money, tax increment financing or assessments on property owners or utility ratepayers.

3. Business Models

California cities have a wide range of choices when considering how to pursue broadband projects. They can work with, or even own, for profit corporations, participate in cooperatives and non profit corporations or they can own and operate a broadband network, either fully or in partnership with a private sector company.

Generally, California cities (and some special districts) can provide telecommunications services within their boundaries with few restrictions. Even if a city provides a service that falls under the CPUC's jurisdiction, it is exempt from CPUC oversight. On the other hand, it is subject to all the controls, restrictions and obligations that pertain to any other municipal function, such as public oversight, open access and Brown Act requirements.

Full City Ownership

A common way of organizing a municipal telecommunications utility is to run it via a separate enterprise fund. Examples include the cities of Palo Alto, Santa Clara, Lompoc, Alameda and Chattanooga, which all have municipal electric utilities, and Santa Monica, which operates a business-oriented lit fiber service via its information technology department.

Advantages: City controls operating policy and benefits from any profits generated, most regulatory requirements do not apply.

Disadvantages: City would have to support any financial deficits, could require additional costs such as staff time.

Partial City Ownership

When a city contributes resources to a broadband network project, it can take ownership of specific parts of that network, rather than owning and operating the entire system.

Examples include the cities of San Leandro and Brentwood, which are leasing conduit to a competitive service provider. Another example is the City of Monterey. When Comcast installed an institutional network as part of its former franchise agreement, the city paid for extra fiber strands to be installed. Those strands are the property of the city, and are now being used to provide effectively free connectivity between city locations even though local franchise agreements have been preempted at the state level.

Advantages: City gains access to telecommunications resources for its own use and can exercise a degree of control over the operation of a system that it helped to fund.

Disadvantages: Control is only partial. Continued access to the resource may depend on the viability or cooperation of a private sector partner. Care must be taken to avoid exposure to liability or unreasonable ongoing costs.

Corporation/LLC

Limited liability companies and for-profit corporations of various types can do business with few restrictions. Telecommunications companies are potentially an exception. For example, if it is deemed to be a telephone company (CLEC/competitive local exchange carrier) a private company would fall under the California Public Utilities Commission's jurisdiction.

Corporations are owned by shareholders, and different classes of stock can have different voting rights. The assets of a corporation can be sold or assigned to shareholders or others with few restrictions. To a great degree, ongoing governance and control of a corporation can be predetermined by the founders, who can also put requirements and restrictions on how it can do business and structure it to achieve goals they set (and benefit from), within limits.

For-profit organizations make money, pay taxes and distribute dividends to shareholders. Individual shareholders can usually sell their stock, although there are ways to limit the ability of new stock owners to control the company. The City can be a shareholder of such a corporation, even the sole shareholder.

Examples run from national organizations (AT&T and Comcast) to intrastate networks (Sunesys, now a subsidiary of Crown Castle) to local companies (Cruzio Internet). Several public-private partnerships were formed to apply for ARRA grants in 2009 and 2010. Examples include the City of Oakland and the City of Watsonville, which did not receive funds.

Advantages: freedom of action, ability to maintain control, able to operate company for the direct benefit of shareholders, able to borrow money and take private investment.

Disadvantages: could bear a regulatory burden, would likely require arms-length dealings with the City, no guarantee that it will always put the public interest foremost.

Non-Profit

A non-profit corporation can do nearly everything a for-profit corporation can do. The major differences are that a non-profit must offer some kind of public benefit, has limits on the amount of cash surplus it can generate from its operations and its governance structure is less controllable by the founders.

Non-profits aren't owned by anyone. The corporation is governed by a board that can be chosen by voting members, named by organizations designated in the bylaws or picked by the board itself. There are restrictions on the degree to which board members can act on items in which they have a financial interest.

With self-perpetuating boards or boards chosen by voting members, there is a chance that the organization will take a direction that was not intended by the founders. A board with directors appointed by other people or organizations, for example the founders, is less likely to take an unintended direction but there are limits on the extent to which appointed directors can act in the interest of their parent organization.

A mutual benefit corporation is another type of non-profit, and is similar in concept to a cooperative.

In California, CENIC (Corporation for Education Network Initiatives in California) is a non-profit that runs a statewide broadband network supporting K-12 and higher education institutions. It is a membership based non-profit, controlled primarily by major public and private universities, which in turn are its major customers. Because it is a non-profit serving primarily government entities (as well as a few private non-profit schools) it can more directly serve the needs of its members than it could if its members were for-profit companies.

The Nevada Hospital Association (technically a not-for-profit professional association) received a \$20 million ARRA grant to build a public access fiber network throughout Nevada. OneCommunity received a similar grant to build a fiber network in Ohio, as did the University Corporation for Advanced Internet Development, which is working on a national network primarily for higher education use.

Advantage: some freedom of action, less potential for conflict of interest with the City.

Disadvantage: can be difficult to maintain control over the long term, financial and managerial options are restricted.

Cooperative

Cooperatives are not-for-profit corporations that are usually set up to provide some kind of benefit to members. Commonly, cooperatives are set up to pool buying power. Although there can be different classes of membership with different rights, generally governance is on the basis of one vote per

member, regardless of the amount of business a member does with the cooperative. Operating surpluses, on the other hand, are usually distributed to members according to how much business they do with the co-op.

The board of directors is chosen by a vote of eligible members. Although there are ways that founders can maintain a large degree of influence, it is possible that other members, representing a majority of votes, can gain control.

Examples:

California Broadband Cooperative. This ARRA grant recipient built and is now operating a 500 mile fiber optic network from Reno, down the eastern side of the Sierra generally along U.S. 395 in California to Barstow.

Plumas-Sierra Rural Electrical Co-op. A rare Californian example of a traditional rural utilities cooperative. These sorts of organization are common in the midwest and south, and provide telecommunications services as well as electricity.

Mid-Atlantic Broadband Cooperative. Located in rural Virginia, operates a fiber optic network of several hundred miles. Built with tobacco settlement money and ARRA funds.

Advantages: can be run strictly for the benefit of members, has freedom of action and can do business as a private company would.

Disadvantage: can be run strictly for the benefit of members (rather than focusing on public policy objectives), difficult for the founders to maintain control.

4. Municipal broadband case studies

Some cities, such as Palo Alto, San Leandro, Benicia and Santa Monica, are involved to one degree or another in developing broadband facilities and services for commercial and industrial areas. Other cities, for example Alameda, Loma Linda, Lompoc and Provo, Utah, have pursued broadband projects that are focused on providing consumer-class Internet service to homes. Still others, such as Santa Cruz, Brentwood, Kansas City and Austin, Texas, have used policy initiatives to attract private fiber-to-the-home projects.

Each city has its own particular set of circumstances, constraints and needs, but all have determined that broadband is an essential twenty-first century utility – as necessary for economic development and social equity as water or electricity – and that there is a public interest in encouraging its development.

Municipal broadband business models include city or county owned and operated networks, partnerships with private companies, and facilitation of the development of completely private systems.

Examples (in California unless otherwise indicated) include:

City of Palo Alto – the municipal electric utility has installed more than 40 miles of fiber optic cables, which it makes available to business and industrial customers, and is supplementing this coverage with publicly available, amenity grade WiFi access (i.e., intended to meet occasional, on-the-spot needs of tourists and shoppers, for example, rather than daily household, business or educational needs). No residential service is offered. The system generates more than \$2 million in surplus revenue a year.

City of Santa Clara - similar to Palo Alto, the city's electric utility provides access to fiber optic lines to businesses, and also uses the smart meter infrastructure it has installed to support amenity grade WiFi service. This system also generates an annual surplus.

City of San Leandro - as noted above, the city entered into an agreement with a local company, Lit San Leandro, to provide access to city-owned conduit. This private company installed fiber optic lines in the city's conduit, to support commercial and industrial customers as well as public uses. In the second phase of this project, the city applied for and received a grant from the federal Economic Development Administration to install additional conduit in order to extend the fiber network. In exchange, the city receives access to the network for its own use and, eventually, will receive conduit lease revenue. The city incurs costs to support the project and currently generates no direct revenue, but has had significant success in attracting new, high technology businesses.

City of Lompoc - the city's electric utility department built and continues to operate a municipal WiFi utility which was originally intended to provide ubiquitous Internet access to homes and businesses. Although using WiFi to provide primary Internet access to homes proved problematic, the system provides a valuable, albeit low speed, lifeline option for residents and access for visitors. The revenue generated by this service is not sufficient to meet costs, and it is currently subsidized by other city funds.

City and County of San Francisco - over the years, San Francisco has developed an extensive, municipally owned fiber system to meet internal networking needs. Surplus capacity in the system is leased to private companies, most notably Google Fiber, which may use it to connect to multiple dwelling units. Going forward, this municipal network will be expanded as opportunities are presented. A policy is in place that requires inclusion of broadband conduit in public projects and to provide an option for placement of publicly-owned conduit in private projects which involve cutting into streets and other right of ways.

City of Watsonville - since the end of local cable television franchising in California, cable companies have begun charging cities for the use of institutional networks – INETs – originally provided at little or no cost. Charter Communications initially wanted to charge the City of Watsonville \$150,000 a year for the use of its INET, which connected critical city facilities. Because the city had a policy of routinely keeping an inventory of conduit and other network assets that had been installed on a prospective basis as well as for specific projects over the year, it was able to use conduit routes it already owned to duplicate all but a few segments, totalling a mile, of the INET system. The remaining

gaps were connected via conduit installed by the city for about the cost of two years of service from Charter.

City of Brentwood - for the past 17 years, the city has required new home construction to include empty conduits which are deeded over to the city. An agreement has been reached with an independent Internet service provider, Sonic.net, to use the city-owned conduit to install fiber lines and provide fiber-to-the-home service to homes already served by conduit, and extend the system over time throughout the city.

City of Pacific Grove - a contract was approved with SiFi Networks, a U.K.-based company, which provides the company with access to city streets, right of ways and sewers in order to build a fiber-to-the-home network. Originally, the project would have been funded by SiFi Networks, using capital raised overseas and repaid with guaranteed leases from incumbent operators. This financing mechanism is commonly used in Europe and elsewhere in the world, however incumbent business models in the U.S. do not support it. Consequently, SiFi Networks proposed that the City take over responsibility for lease payment at an annual cost of approximately \$1 million per year, which might or might not be offset by operating surplus. So far, this plan has met with skepticism.

Kansas City, Kansas and Missouri and Austin, Texas – local governments have worked with Google Fiber to facilitate construction of privately-owned, competitive fiber-to-the-home systems. This facilitation includes access to government owned facilities, such as right of ways and pole access for fiber installation and real estate leases for equipment huts, as well as a high degree of cooperation in granting permits and carrying out inspections.

Appendix D - Funding options

Some California cities are in a position to use economic development resources, including federal and state grants and other financing vehicles to expand existing broadband facilities, either on behalf of private companies or as part of a municipal enterprise. Examples of potential funding sources include the Economic Development Administration, U.S. Department of Agriculture and the Federal Communications Commission's Connect America Fund phase 2 (CAF-2) on the federal level, and the California Teleconnect Fund, the California Advanced Services Fund (CASF) and the California Infrastructure and Economic Development Bank at the state level.

All these programs have different eligibility and matching fund requirements, service levels, application processes, design and due diligence standards and schedules. To a degree, these programs are complementary, but in many respects there are conflicting requirements or standards. Another, larger problem is that each program – including local telecommunications budgets that receive state and federal subsidies – is independently administered and, with the occasional exception of CASF, is managed without regard for the others.

To an extent, this variety is useful. For example, homes that are not eligible for CAF subsidies might be eligible for funding from CASF. The challenge is to comprehensively analyse eligibility on a census block by census block and project by project basis, and coordinate grant and loan applications and service contracts accordingly.

The challenge in Morgan Hill is to identify which funding sources are realistically available, given the City's economic and demographic characteristics and existing service levels.

1. Bond funding

The City of Santa Cruz is in the process of negotiating an agreement with a local Internet service provider – Cruzio – to operate a fiber-to-the-premise system that would be built with money raised via revenue lease bonds. Cruzio would be responsible for making bond payments, although the City remains the ultimate guarantor.

Other municipal broadband projects have been built via other types of bonds or lease-back financing.

The City of Alameda funded construction of a cable television and Internet system by its municipal electric utility with revenue bonds secured only by revenue from the project. It could not generate sufficient revenue to meet its bond obligations and the system was sold at a loss to the local private cable operator, Comcast. Because the bonds were only backed by revenue from the cable system, and not the electric utility or the city's general fund, bondholders lost approximately 50% of their investment. The city was able to successfully defend the subsequent lawsuits. Since then, no California city has funded a broadband project using pure revenue bonds.

The City of Provo, Utah began building a fiber to the home system with bond repayment guaranteed by revenue, first from the project and then from its municipal electric utility. However, the revenue was insufficient to meet bond obligations and a mandatory \$5.25 monthly fee was added to residential and commercial electric bills. The system was subsequently sold to Google for a nominal amount, although the bond obligations remain with the city and local electric ratepayers.

2. Infrastructure financing districts

Although it can be difficult to gain approval for traditional bond measures, new legislation enacted in 2014 (Senate Bill 628) gave local agencies the ability to form enhanced infrastructure financing districts and issue tax increment financed bonds with 55% voter approval. These districts can also use incremental property tax gains to pay back other kinds of financing, including private loans. Additionally, Assembly Bill 2292, passed the same year, added broadband infrastructure to list of allowable projects that may be pursued by traditional infrastructure financing districts.

To date, no California jurisdiction has formed such a district for broadband project purposes.

3. Economic Development Administration

Jurisdictions that are eligible for grants from the federal Economic Development Administration (EDA) may apply for grants to build certain types of broadband infrastructure and perform various broadband related planning tasks, including feasibility studies and engineering work. Broadband infrastructure projects can be eligible for grants under the EDA's public works program, which typically funds 50% of project costs up to \$3 million. Planning grants also typically require a 50% match, and will provide up to \$1,250,000 in funding.

The first such grant in California was received by the City of San Leandro to build underground telecommunications conduit, which it then made available to a private telecommunications company. The EDA has recently put a higher priority on broadband infrastructure, and is accepting proposals for such grants within its regular application cycle.

4. Transportation funding

Broadband projects as such are not eligible for funding under the various state and federal transportation infrastructure programs, but broadband facilities installed as elements of transportation projects are usually eligible for funding. Typically, broadband facilities must either enhance the operations of the transportation project or improve public safety. Examples include spare capacity included in traffic signal interconnect conduit and conduit installed in bike paths to support public safety agencies.

A proposed bill (AB 1549) is pending approval by the governor and, if approved, would encourage Caltrans to include broadband facilities, such as conduit, in its future construction projects.

5. Educational broadband programs

The federal E-rate program provides subsidies to schools and libraries, including funds to upgrade supporting infrastructure under certain circumstances. The Corporation for Education Network Initiatives in California (CENIC) funds, builds and manages educational broadband networks in California, including high capacity networks for higher education. Generally, the specific resources funded through these sorts of programs are restricted to use only by qualified schools, libraries and research institutions, but in many cases those specific resources can be purchased from or be made part of a larger project. If, for example, municipal conduit projects were to be planned in Morgan Hill, consideration should be given to opportunities to link to eligible schools and libraries that might be able to contribute such funds.

It is also advisable to maintain an ongoing conversation with school districts that serve Morgan Hill. Educational organizations are not required to consult with other local agencies when using federal and state funds to build broadband infrastructure.

6. Telemedicine programs

As with educational broadband programs, federal and state agencies provide funding for broadband resources that support telemedicine programs. For example, the California Telehealth Network, based at U.C. Davis, receives federal funding to provide network services to, primarily, rural health care facilities. Typically, telemedicine programs buy services from existing providers rather than constructing facilities, and can potentially be anchor tenants of new broadband projects.

7. California Advanced Services Fund

The State of California has established the California Advanced Services Fund (CASF) to pay for broadband infrastructure in areas where service that meets the CPUC's minimum standard of 6 Mbps download and 1.5 Mbps upload speeds is not available. Typically, CASF will subsidize 60% of construction costs in areas where substandard service is available and 70% in areas where broadband service is not available at all. An additional 20% of constructions costs, up to a total of \$500,000, can be covered via loans from CASF.

An analysis of census data and broadband availability reports submitted by service providers to the CPUC indicates that only a negligible number of homes in Morgan Hill are in census blocks that are arguably eligible for CASF funding, based on an analysis of wireline service availability. However, when deciding whether or not to approve CASF grants, the CPUC also takes mobile and fixed wireless service availability into account. As mentioned above, most of the mobile broadband service that is available in Morgan Hill does not meet the CPUC's minimum standard, and is not likely to be an obstacle. Fixed wireless Internet service is spotty, but there are locations – particularly in areas not well served by wireline providers – where challenges from fixed wireless operators might also be problematic.

Out of a total of 12,857 housing units in Morgan Hill (2010 census), all but 235 are automatically excluded from CASF eligibility on the basis of wireline service. Most, if not all, of the 235 would probably be considered ineligible on the basis of fixed or mobile wireless service, although more testing would be required.

Adding to the problem is the fact that these arguably eligible homes are in scattered locations around the edge of the city (see map in Appendix A). There is an insufficient concentration of eligible homes to support independent service providers' business models, given the fixed costs involved, including the cost of developing and defending a CASF infrastructure grant or loan application. Given those costs and the probability that few or none of the homes would ultimately be verified as eligible, even Frontier Communications, which routinely applies for CASF grants in more rural areas, would not likely be interested in pursuing such funding in Morgan Hill.

Separate CASF accounts provide funding to public housing entities for broadband facilities in eligible properties and for programs that promote broadband adoption by residents of public housing. First Community Housing received a \$34,838 grant for broadband facilities in 100 living units at its Murphy Ranch property on East Dunne Avenue in Morgan Hill. Eden Housing received two grants, \$28,029 and \$19,028, for, respectively, its Jasmine Square and Royal Court properties on Monterey Rd. A grant application for \$34,020 was for the Butterfield Retirement property on Butterfield Blvd. Two grants are pending for EAH Housing, \$40,620 and 40,085 for Cochrane Village on Butterfield Blvd. and Village Avante on Del Monte Ave., respectively. No CASF public housing broadband adoption grants have been awarded in Morgan Hill.

8. Connect America Fund

The Federal Communications Commission gives operating subsidies to telephone companies that provide broadband service in rural and/or remote areas, as a part of its universal service mandate. In the current round – Phase 2 – of the Connect America Fund (CAF-2) program, the FCC offered large telephone companies a right of first refusal to accept these funds or not, on a state by state basis. Frontier accepted CAF-2 subsidies in California for its existing systems as well as those acquired from Verizon, including approximately \$3 million for locations in Santa Clara County. AT&T accepted CAF-2 subsidies as well, including approximately \$260,000 for Santa Clara County locations.

As the map in Appendix A shows, there are census blocks in the area surrounding Morgan Hill that are eligible for CAF-2 funding, in service territories that belong to both Frontier and AT&T. However, only three such census blocks served by Frontier and one served by AT&T are within the city limits of Morgan Hill. Of those four census blocks, three are unpopulated and one contains only a single housing unit. As a practical matter, Morgan Hill is not currently eligible for CAF-2 funding.

The FCC closed the application window in 2014 for its rural broadband experiments program, also funded through CAF. Initially, three projects in California – two in Monterey County and one in the San Joaquin Valley – were provisionally funded, but all three failed to meet program requirements and were dropped from consideration. In at least two cases, the applicants were unable to obtain the particular kind of technical and financial expertise required by the FCC and other federal agencies. In

all three cases, the areas involved had much smaller populations and were either more remote and/or had economies that were more dependent on agriculture than Morgan Hill's.

9. Rural Utilities Service

The U.S. Department of Agriculture runs several broadband-related grant and loan programs via the Rural Utilities Service (RUS). These programs include Community Connect Grants, loans and loan guarantees and a series of gigabit community pilot projects. The loan programs are available on a year-round basis, while application windows are periodically announced for the grant programs.

In the past, service providers in California have had difficulty qualifying for and/or winning RUS funding. The programs have been designed with midwestern and southern business models and demographics in mind, which are markedly different from conditions in California. These programs typically define eligibility in terms of population, to distinguish between rural areas, which are fundable, and urban areas, which are not. Under any of the USDA definitions used, Morgan Hill's population is well in excess of the established limits and would be considered an ineligible urban area.

10. ARRA programs

American Recovery and Reinvestment Act of 2009 (ARRA) included the Broadband Technology Opportunities Program (BTOP) run by the National Telecommunications and Information Administration and the Broadband Initiatives Program (BIP) run by the Rural Utilities Service. Several billion dollars in grants and loans were awarded, and the programs are no longer funded or active, except to the extent that the responsible agencies are managing implementation and compliance. In the past, though, some cities received stimulus grants for the purpose of building publicly available telecommunications networks. Chattanooga, Tennessee is the best known example. It received approximately \$100 million in grants through ARRA and, via its municipal electric utility, used it to build a fiber-to-the-home system.

11. Other funding sources

Both the State of California and the federal government operate programs that provide funding to various types of agencies – for example police and fire departments, sheriffs' offices and other first responders – for the purpose of purchasing broadband and other telecommunications services and facilities. Typically, this money is not directly available for construction of commercially available broadband infrastructure but can be used to support business plans on an ongoing basis.

Appendix E - Glossary

ADSL	Asymmetric Digital Subscriber Line: DSL service with a larger portion of the capacity devoted to downstream communications, less to upstream. Typically thought of as a residential service. ADSL2 is the second generation of ADSL technology and provides higher service levels.
ATM	Asynchronous Transfer Mode: A data service offering by ASI, that can be used for interconnection of customer's LAN. ATM provides service from 1 Mbps to 145 Mbps utilizing Cell Relay Packets.
Backhaul	Connecting Internet access to a location over long or short distances. Traditionally, wired networks have been necessary for backhaul, but with 802.16, also known as WiMAX, backhaul via wireless will become even more common than it is with WiFi.
Bandwidth	The amount of data transmitted in a given amount of time; usually measured in bits per second, kilobits per second, and megabits per second.
Bit	A single unit of data, either a one or a zero. In the world of broadband, bits are used to refer to the amount of transmitted data. A kilobit (Kb) is approximately 1,000 bits. A megabit (Mb) is approximately 1,000,000 bits.
Broadband	"Broadband" refers generally to any telecommunications service capable of supporting digital data transmission at high speeds. These services can include and/or support Internet, television, telephone, private data networks and various specialized uses. Broadband service can be delivered in a variety of ways, including telephone lines (e.g. DSL), coaxial cable (e.g. cable modem), fiber optic cable (e.g. Lit San Leandro), wireless cellular/mobile service (e.g. cell phones, tablets, wireless modems), WiFi, point-to-point and point-to-multipoint wireless service (e.g. TelePacific, Etheric) and hybrid networks (XO Communications). Although different organizations use different criteria, the California Public Utilities Commission considers 6 Mbps download and 1.5 Mbps upload speed to be a standard for adequate broadband service availability. Unless otherwise stated, this report uses the CPUC definition.
Byte	The amount of memory space needed to store one character, which is normally 8 bits.
Cable modem	A device that hooks to your cable TV line to allow your computer to receive data at about 1.5 Mbps. The theoretical maximum for downstream transactions is 27 Mbps and 2.5 Mbps upstream, but the connection is usually much slower because the provider may be hooked to the Internet via a T-1 line.
CDMA	The type of digital cellular phone network used throughout most of the United States, but rare elsewhere in the world. CDMA stands for Code Division Multiple Access, and CDMA2000 1x is the third-generation, or 3G, extension to which CDMA cellular operators are upgrading their networks. It is a digital

cellular technology that uses spread-spectrum techniques. Unlike competing systems, such as GSM, that use TDMA, CDMA does not assign a specific frequency to each user. Instead, every channel uses the full available spectrum. Individual conversations are encoded with a pseudo-random digital sequence. CDMA consistently provides better capacity for voice and data communications than other commercial mobile technologies, allowing more subscribers to connect at any given time, and it is the common platform on which 3G technologies are built.

Cell	The geographic area covered by a cellular telephone transmitter. A connected group of cells form a cell system, which is what you gain access to when you sign up for cellular telephone service.
Cellular	A mobile communications system that uses a combination of radio transmission and conventional telephone switching to permit telephone communications to and from mobile users within a specified area.
CLEC	Competitive Local Exchange Carrier: Wireline service provider that is authorized under state and Federal rules to compete with ILECs to provide local telephone service. CLECs provide telephone services in one of three ways or a combination thereof: a) by building or rebuilding telecommunications facilities of their own, b) by leasing capacity from another local telephone company (typically an ILEC) and reselling it, and c) by leasing discreet parts of the ILEC network referred to as UNEs.
Coaxial cable	A type of cable that can carry large amounts of bandwidth over long distances. Cable TV and cable modem service both utilize this technology.
Commercial class	Broadband service similar to residential service in that the provider takes effectively all responsibility for installing, maintaining and supporting the service. Speeds are similar (6 to 100 Mbps), but service levels, reliability, consistency and pricing are higher.
Copper	Most telephone and cable lines are built using copper wires, which is a telecommunications technology that has been in use since the 19th century. The term is to distinguish lower capacity copper wires (and cables) from higher capacity fiber optic strands (and cables) that are made from glass or plastic.
CPCN	Certificate of Public Convenience and Necessity: Authorization given by the CPUC to telecommunications carriers in order to provide service in the state of California.
Dark fiber	Fiber optic cables are composed of many, very thin fiber optic strands made of glass. A laser is used to send a beam of light through a fiber optic strand, and this beam carries data from one end to the other. If no electronic equipment (i.e., the laser) is connected to a strand, it is literally dark, and cannot carry data. Dark fiber is sought after and used by telecommunications carriers and large companies that prefer to install and operate their own electronic equipment at either end.

Dial-Up	A technology that provides customers with access to the Internet over an existing telephone line.
DS3	A dedicated phone connection supporting data rates of about 43Mbps (megabits per second). Also called a T-3, the line actually consists of 672 individual channels, each of which supports 64Kbps. DS3 lines are used mainly by Internet Service Providers (ISPs) connecting to the Internet backbone. Large businesses also use DS3 lines when they have large sites to interconnect.
DSL	A common form of broadband Internet connection. DSL stands for Digital Subscriber Line.
E-Rate	A Federal program that provides subsidy for voice and data lines to qualified schools, hospitals, CBOs, and other qualified institutions. The subsidy is based on a percentage designated by the FCC. CTF benefits are calculated net of the E-rate subsidy.
E911	Enhanced 911, an emergency service that automatically sends phone number and location information to the operator. E911 comes in handy, say, when you need to get emergency help and are unable to speak or don't know your location.
Ethernet	The most common networking standard in the world, formally known as IEEE 802.3.
Fixed wireless	Broadband systems based on fixed wireless technology provide Internet service using outdoor antennas installed on homes and businesses. It is most commonly found in rural areas, but it is also sometimes used by businesses to compensate for poor wireline service in urban areas. Fixed wireless systems can provide services between two specific locations – i.e., point to point – or from a central access point to many locations in the surrounding areas – i.e., point to multipoint.
FTTN	Fiber To The Neighborhood: A hybrid network architecture involving optical fiber from the carrier network, terminating in a neighborhood cabinet with converts the signal from optical to electrical.
FTTP	Fiber To The Premise.
Gigahertz	A measure of electromagnetic wave frequency equal to one thousand million (1,000,000,000) hertz, often abbreviated as GHz and used to specify the radio frequency used by wireless devices. 802.11a networks operate at 5 GHz. 802.11b and g networks use 2.4 GHz, which is susceptible to interference from nearby cordless phones and microwave ovens that use the same frequency.
GPON	Gigabyte-Capable Passive Optical Network: GPON uses a different, faster approach (up to 2.5 Gbit/s in current products) than BPON.

GSM	Global System for Mobile Communications: This is the current radio/telephone standard in Europe and many other countries except Japan and the United States.
Hub	A common connection point for devices, such as computers and printers, in a network.
ILEC	Incumbent Local Exchange Carrier. An ILEC is a telephone company that was providing local service when the Telecommunications Act of 1996 was enacted. Compare with CLEC, a company that competes with the already established local telephone business.
Industrial class	Broadband service where the customer plays a much greater role in provisioning and supporting the service, including buying different elements from different vendors and managing installation and support. Speeds would be higher – perhaps as high as a Gigabit per second or more – and quality of service levels could be as high as Tier 1. Comcast’s Business Class service or AT&T’s business DSL service are examples of commercial class service. A DS-3 or dark fiber strands are examples of industrial class service.
I-Net	Institutional Network. Provides a high-speed connection between government, educational and community entities. It is often negotiated with a cable franchise, in exchange for using right-of-way in a jurisdiction.
ISP	Internet Service Provider: A company providing Internet access to consumers and businesses, acting as a bridge between customer (end-user) and infrastructure owners for dial-up, cable modem and DSL services.
LAN	Local Area Network: A geographically localized network consisting of both hardware and software. The network can link workstations within a building or multiple computers with a single wireless Internet connection.
Last mile	Infrastructure (e.g., fiber optic lines, distribution boxes, equipment vaults, poles, conduit) that provides broadband service to end users or end-user devices (including households, and businesses).
Lit fiber	Fiber optic cables are composed of many, very thin fiber optic strands made of glass. A laser is used to send a beam of light through a fiber optic strand, and this beam carries data from one end to the other. When this kind of electronic equipment (i.e., the laser) is installed and operating, then the fiber strand is literally “lit” and ready to transmit data, either for the company that operates it or for third-party customers.
Local Loop	A generic term for the connection between the customer’s premises (home, office, etc.) and the provider’s serving central office. Historically, this has been a wire connection; however, wireless options are increasingly available for local loop capacity.

MAN	Metropolitan Area Network: A high-speed data intra-city network that links multiple locations with a campus, city or LATA. A MAN typically extends as far as 50 kilometers.
Managed services	The type of service provided by dominant incumbent providers, such as AT&T and Comcast. Rather than providing a simple connection between points – via lit or dark fiber – these companies provide full Internet bandwidth services, at a speed and quality of service level they specify, and sometimes with quantity limits, i.e., data caps. It is analogous to water service: these companies sell “water” and don’t rent out access to their “pipes”.
Mbps	Megabits per second: 1,000,000 bits per second. A measure of how fast data can be transmitted.
Middle mile	Broadband infrastructure that does not predominantly provide broadband service to end users or to end-user devices, and may include interoffice transport, backhaul, Internet connectivity, or special access. Middle mile facilities are the link between last mile facilities and major interconnection points, such as those that form the core of the Internet.
Modem	Short for modulator/demodulator. A modem modulates outgoing digital data into analog signals so they can be sent over copper phone lines, and demodulates incoming analog signals into digital.
Overbuilders	Building excess capacity. In this context, it involves investment in additional infrastructure project to provide competition.
PON	Passive Optical Network: A Passive Optical Network consists of an optical line terminator located at the Central Office and a set of associated optical network terminals located at the customer’s premise. Between them lies the optical distribution network composed of fibers and passive splitters or couplers. In a PON network, a single piece of fiber can be run from the serving exchange out to a subdivision or office park, and then individual fiber strands to each building or serving equipment can be split from the main fiber using passive splitters / couplers. This allows for an expensive piece of fiber cable from the exchange to the customer to be shared amongst many customers thereby dramatically lowering the overall costs of deployment for fiber to the business (FTTB) or fiber to the home (FTTH) applications.
Rights-of-Way	Legal rights of passage over land owned by another. Carriers and service providers must obtain rights-of-way to dig trenches or plant poles for cable systems, and to place wireless antennae.
Router	An intelligent network device that goes one step beyond bridging by converting address-based protocols that describe how packets move from one place to another. In practice, this generally comes down to translating between IP addresses and MAC addresses for data flowing between your local network and the Internet. Many people use the term interchangeably with "gateway." You

	must enter the IP address of your router when configuring network settings manually.
Subscribership	Subscribership is how many customers have subscribed for a particular telecommunications service.
Switched Network	A domestic telecommunications network usually accessed by telephones, key telephone systems, private branch exchange trunks, and data arrangements.
T-1	The T-1 standard was introduced in 1961 in order to support a bi-directional speed of 1.5 Mbps at a high quality-of-service level, using the copper wires of the time. Because it is a dedicated and managed circuit, its performance is usually substantially better than shared services such as DSL or cable modem, even in cases where the claimed top speed of those shared services is many times higher. A T-1 circuit is generally considered to be the lowest level of service that can be described as industrial or carrier class.
Telco	An abbreviation for Telephone Company.
Telecommunications	Refers to all types of data transmission, from voice to video.
Throughput	The amount of data that can be transmitted in a given amount of time. Throughput is commonly measured in bits per second. (Although throughput is not really a measurement of speed, most people, including us, use the word "speed" when talking about a high-throughput network.)
Universal Service	The idea of providing every home in the United States with basic telephone service.
VDSL	Very-high-bit-rate digital subscriber line (VDSL or VHDSL)[1] is a digital subscriber line (DSL) technology providing data transmission faster than asymmetric digital subscriber line (ADSL) over a single flat untwisted or twisted pair of copper wires (up to 52 Mbit/s downstream and 16 Mbit/s upstream),[2] and on coaxial cable (up to 85 Mbit/s down- and upstream)[3] using the frequency band from 25 kHz to 12 MHz.[4] These rates mean that VDSL is capable of supporting applications such as high-definition television, as well as telephone services (voice over IP) and general Internet access, over a single connection. VDSL is deployed over existing wiring used for analog telephone service and lower-speed DSL connections. This standard was approved by ITU in November 2001.
Videoconferencing	Conducting a conference between two or more participants at different sites by using computer networks to transmit audio and video data.
VLAN	Virtual Local Area Network. A network of computers that behave as if they are connected to the same wire even though they may actually be physically located on different segments of a LAN.
VoIP	Voice Over Internet Protocol: A new technology that employs a data network (such as a broadband connection) to transmit voice conversations.

VPN	A method of creating an encrypted tunnel through which all traffic passes, preventing anyone from snooping through transmitted and received data. VPN stands for virtual private network.
WAN	Wide Area Network, A collection of local area networks connected by a variety of physical means. The Internet is the largest and most well-known wide area network. Wide area network is generally abbreviated to WAN.
WiFi	Short for wireless fidelity and is meant to be used generically when referring of any type of 802.11 network, whether 802.11b, 802.11a, dual-band, etc. The term is promulgated by the WiFi Alliance. Any products tested and approved as "WiFi Certified" (a registered trademark) by the WiFi Alliance are certified as interoperable with each other, even if they are from different manufacturers. A user with a "WiFi Certified" product can use any brand of access point with any other brand of client hardware that also is certified. Typically, however, any WiFi product using the same radio frequency (for example, 2.4 GHz for 802.11b or 11g, 5 GHz for 802.11a) will work with any other, even if not "WiFi Certified." Formerly, the term "WiFi" was used only in place of the 2.4 GHz 802.11b standard, in the same way that "Ethernet" is used in place of IEEE 802.3. The Alliance expanded the generic use of the term in an attempt to stop confusion about wireless LAN interoperability.
WiMAX	Another name for the 802.16 wireless networking specification used for long-haul and backhaul connections.
Wireless ISP	A company that provides wireless Internet access. The term is often abbreviated to WISP.
WLAN	Wireless Local Access Network, a LAN that can be connected to via a wireless connection.

Sources: Tellus Venture Associates, California Public Utilities Commission, Neratech, Wikipedia.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

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

RESPONSE TO GRAND JURY REGARDING LAFCO DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE

RECOMMENDATION(S)

Approve the response letter to the Santa Clara County Civil Grand Jury.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Regional Initiatives

REPORT NARRATIVE:

The City Manager received a letter dated June 5, 2017 (Attachment 1) requiring the City of Morgan Hill respond to the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled "LAFCO Denials: A High School Caught in the Middle" (Attachment 2). The letter indicated the SCCCJ would like to know whether the City of Morgan Hill agrees or disagrees with applicable recommendations (per Penal Code § 933.05 (a)) and which of four possible actions the City will take on each recommendation (per Penal Code § 933.05(b)). The City's response (Attachment 3) is due back to the SCCCJ by September 5, 2017.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the City's response to the SCCCJ Final Report, "LAFCO Denials: A High School Caught in the Middle."

ALTERNATIVE ACTIONS:

The Council could direct staff to revise the letter.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

N/A

FISCAL AND RESOURCE IMPACT:

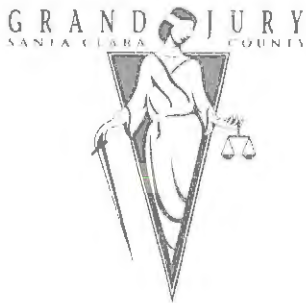
None for responding to the Grand Jury.

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. SCCCJ 90 day letter June 5 2017
2. LAFCO Denials A High School Caught in the Middle Final Report
3. Morgan Hill Response to SCCCJ LAFCO Denials Final Report 7.26.2017



June 5, 2017

City of Morgan Hill
 Mr. Steve Rymer, City Manager
 17575 Peak Avenue
 Morgan Hill, California 95037

Dear Mr. Rymer:

The 2016-2017 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **LAFCO Denials: A High School Caught in the Middle.**

California Penal Code § 933(c) requires that a governing body of the particular public agency or department which has been the subject of a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code § 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is attached to this letter.

Please note:

1. As stated in Penal Code § 933.05(a), attached, you are required to "Agree" or "Disagree" with each *applicable* Finding(s) 4, 7, and 10. If you disagree, in whole or part, you must include an explanation of the reasons you disagree.
2. As stated in Penal Code § 933.05(b), attached, you are required to respond to each *applicable* Recommendation(s) 4, 7, and 10, with one of four possible actions.

Your comments are due to the office of the Honorable Patricia Lucas, Presiding Judge, Santa Clara County Superior Court, 191 North First Street, San Jose, CA 95113, no later than **Tuesday, September 5, 2017**.

Copies of all responses shall be placed on file with the Clerk of the Court.

Sincerely,



Wayne Tanda

Foreperson

2016-2017 Civil Grand Jury

Encl.: **LAFCO Denials: A High School Caught in the Middle**

CC: Steve Tate, Mayor, City of Morgan Hill

Attachment: SCCCCGJ 90 day letter June 5 2017 (1313 : Response to Grand Jury Regarding LAFCO Denials: A High School Caught in the



2016-2017 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

LAFCO DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE

Summary

Plans for a Catholic high school near Morgan Hill were blocked in 2016 by Santa Clara County's Local Agency Formation Commission (LAFCO). LAFCO also rejected the City of Morgan Hill's application to add the Southeast Quadrant, an area that includes the proposed school site, to its Urban Service Area (USA).

LAFCO regulates the growth boundaries of cities and special districts to preserve agricultural lands and open space, curb urban sprawl, and encourage the efficient delivery of services.

A complaint received by the Santa Clara County Civil Grand Jury (Grand Jury) charged that the high school proposal was not evaluated fairly. The Grand Jury also looked at whether Morgan Hill has received fair and reasonable treatment from LAFCO.

This investigation found that LAFCO administrative staff interpreted Commission policies in ways that appropriated the authority of the LAFCO commissioners. Overlapping lines of authority complicates correcting administrative overreach: LAFCO's executive officer reports both to the appointed commissioners and to the County Executive.

LAFCO staff made erroneous statements about the Catholic Diocese of San Jose (Catholic Diocese) in a report on the high school plan and did not correct the errors after they were pointed out, creating the appearance of bias.

On its part, Morgan Hill created the appearance of pro-growth favoritism. The city excluded the Southeast Quadrant from the normal General Plan update process.

Background

The California State Legislature established a Local Agency Formation Commission in each county to promote sustainable growth and good governance. In Santa Clara County (County), LAFCO is governed by seven members appointed to four-year terms:

- Two County Supervisors appointed by the Board of Supervisors
- One Council Member from the City of San Jose appointed by the City Council

- One Council Member from any of the other cities appointed by the Cities Selection Committee
- Two Board Members from independent special districts:
 - One appointed by the Santa Clara Valley Water District
 - One appointed by the Independent Special District Selection Committee
- One Public Member appointed by the other members of the Commission

Commissioners set policy, which is carried out by LAFCO staff. The staff consists of four full-time positions, including an executive officer.

LAFCO is an independent agency. However, a Memorandum of Understanding (MOU) enables staff to be treated as County employees and allows LAFCO to receive administrative support from the County.

LAFCO can approve or deny changes in a city's urban service boundary, known as a USA amendment. State law gives the cities in Santa Clara County the authority to annex land within the city's USA boundaries if the proposal is initiated by city resolution.

LAFCO says “no”

Early in 2016, LAFCO considered a proposal by the city of Morgan Hill to add 229 acres of the approximately 1200 acres within the Southeast Quadrant to its USA. (See Appendix A.) The city proposal included a 38-acre site for a proposed South County Catholic High School.

LAFCO staff evaluated the Southeast Quadrant proposal, concluded it violated Commission policies, and recommended denial. At a public hearing on March 11, 2016, commissioners rejected the request on a vote of 5 to 2.

LAFCO also considered approving the USA amendment for the South County Catholic High School only. The staff report recommended denial, concluding the proposal was inconsistent with LAFCO policies. One issue was the Environmental Impact Report (EIR). It dealt with the 38-acre high school site but not with an adjacent 22-acre area needed to connect the high school to Morgan Hill's existing USA boundary. Without the connection, the high school would be an urban island in the midst of unincorporated land, contrary to LAFCO policy. The Morgan Hill General Plan has designated the 22 acres for sports, recreational and leisure activities. A commissioner's motion to approve the USA amendment for the high school failed with 3 “yes” votes and 4 voting “no.”

The Catholic Diocese asked LAFCO to reconsider the high school proposal. The chair of the LAFCO commission hoped to schedule a special meeting before the

same commissioners who had heard the original application: Two were leaving their seats on May 30, 2016. Staff said it was not possible. Therefore, at the regularly scheduled meeting of LAFCO, on June 1, 2016, a public hearing was held to reconsider the denial of the South County Catholic High School. The commission voted 6 to 1 to not reconsider the denial.

No place for a high school

When it denied a site for the South County Catholic High School, LAFCO advised the Catholic Diocese to find a location within the boundaries of Morgan Hill. However, city planners identified only one possible parcel large enough for the high school. Morgan Hill is reserving that site for a major industrial user, which would fulfill a high priority in the city's General Plan.

For nearly two decades the Catholic Diocese has been trying to build a Catholic high school in Morgan Hill to serve students who are commuting long distances to private high schools.

More recently, the Morgan Hill Unified School District has been seeking a site for a possible third public high school. Building a Catholic high school might lessen the demand for a new public high school.

A County official described the Catholic high school as an opportunity for a win for the students, for the community, and for the environment.

Discussion

Urban Service Area Policies

LAFCO commissioners adopted a set of policies on USAs in 2002. Since then, LAFCO staff has interpreted key portions of the policies in ways that redefine their meaning. These questionable interpretations were cited as reasons for the denial of the Southeast Quadrant and high school proposals.

For example, LAFCO policy states, "When a city with a substantial supply of vacant land within its urban service area applies for an urban service area expansion, LAFCO will require an explanation of why the expansion is necessary." LAFCO staff interprets "vacant land" to be all land that is currently undeveloped, regardless of whether it's available for use. This interpretation led to the staff's conclusion that there is a 100-year supply of commercial and industrial vacant land within Morgan Hill's existing USA. According to Morgan Hill officials, this land includes properties that are restricted by land-use entitlements and environmental constraints, as well as land set aside for industrial and commercial use.

A second issue is the determination of what constitutes the premature conversion of agricultural lands. It is LAFCO policy to consider factors such as, "whether the

conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth." The LAFCO staff's interpretation is that conversion of agricultural land for an urban use is premature if there is vacant land within the city's USA boundary. No adjustments are made for land that is not available for development due to entitlements, environmental constraints, or the property owner's decision.

Third, LAFCO staff has created criteria to determine if a city can provide urban services to a growth area without detracting from current levels of service. In Morgan Hill's case, LAFCO staff in 2016 concluded that the City has not adequately demonstrated the ability to provide and fund services for fire protection, police service, water supply, recreational, wastewater service and storm water drainage in the Southeast Quadrant. The criteria to make this determination are not specified in LAFCO policies. However, with the exception of storm water drainage, the 2015 LAFCO Final Report on City Service Review concluded that public facilities are adequate to handle Morgan Hill's growth:

- Morgan Hill's General Plan calls for the continuation of non-urban uses beyond the City's USA boundary.
- The need for a full range of public facilities and services is expected to grow modestly in the future.
- The present capacity of public facilities appears adequate, with the possible exception of storm water infrastructure and maintenance systems.

Island Annexation Policies

In LAFCO parlance, an "island" is a pocket of unincorporated land that is "completely" or "substantially" surrounded by incorporated land. Commissioners amended the Island Annexation Policies in 2009 to state that, "In the interest of orderly growth and development, cities *should* (emphasis added) annex urban unincorporated islands existing within their current USAs before seeking to add new lands to the USAs."

LAFCO staff has interpreted this to mean that island annexations are *required* prior to an expansion of the USA without concern for special circumstances or the commission's discretionary power.

Morgan Hill has not annexed two unincorporated islands (see Appendix B) due to special circumstances. The 120-acre Holiday Lake Estates requires an assessment district to finance needed municipal infrastructure improvements; homeowners oppose the increase in property taxes. A 20-acre island south of Llagas Road cannot be annexed because some properties are located outside Morgan Hill's USA. While the LAFCO staff report prepared for the March 11, 2016 meeting stated the reasons why Morgan Hill has not annexed these islands, it also listed the failure to do so as a reason to deny approval of the Southeast Quadrant and high school proposals.

Agricultural Mitigation Policies

Agricultural mitigation refers to efforts to protect farmland from the conversion to other uses and to minimize the impact of urban land uses on agricultural operations. The stated purpose of the LAFCO Agricultural Mitigation Policies adopted in 2007 is to provide guidance to cities: It is meant to be advisory only. The City of Morgan Hill is the only city to have developed an agricultural mitigation program. Appendix C compares the City's program to the LAFCO advisory policy and model programs elsewhere.

LAFCO staff created a detailed set of criteria that was used to judge the adequacy of the Morgan Hill Agricultural Preservation program. The application of staff's criteria is one of the reasons for the rejection of the Southeast Quadrant and high school proposals.

A County official described Morgan Hill's program as fundamentally sound, but inadequately funded. The program relies on fees imposed on new developments to pay for easements that ensure land will remain in agricultural use in perpetuity. LAFCO officials also expressed concern about a lack of adequate funding. Both County and LAFCO officials expressed the need to coordinate the Morgan Hill program with the results of a Countywide study, currently in progress, that will identify other sources of funding for agricultural easements. A recent example of the type of cooperation possible is the collaborative effort by the County, Morgan Hill, and the Santa Clara Valley Open Space Authority to pursue a grant from the State High Speed Rail Authority for the acquisition of a large agricultural conservation easement in the Southeast Quadrant.

Misreporting

The LAFCO staff report regarding the Morgan Hill USA amendment was released to the public in February 2016 and considered at the commission's public hearing on March 11, 2016. The report erroneously described the attempt by the Catholic Diocese to build a high school 13 years earlier. It stated that:

"In 2003, the City (Morgan Hill) requested and obtained LAFCO approval for an USA expansion on behalf of the Catholic Diocese of San Jose - which *owned unincorporated property* (emphasis added) at the northwestern edge of city, in order to develop a private high school. The City's rationale for that USA expansion was that it lacked parcels of the size required for a high school along a major arterial within the city limits. However, the high school was never developed and the site has since been rezoned to allow for residential development and is currently being developed with new single-family homes. Given that State law allows a city to change the zoning designation two years following annexation, there is no guarantee that the

proposed private high school site in the SEQ will not be rezoned to allow more residential development or another type of land use in the future."

The information from the LAFCO report was repeated in an editorial in the *San Jose Mercury News* that ran before the public hearing on March 11, 2016. The editorial included the following statement:

"In 2003 Morgan Hill persuaded LAFCO to annex rural land on its northeast edge that the Diocese of San Jose had already purchased to build a school. LAFCO said, oh well, for a school, OK. The diocese then sold that land. Homes are being built there. Now the diocese has bought land for a campus in the Southeast Quadrant, and Morgan Hill again is using it as an argument to annex. LAFCO would be crazy to do it a second time."

At the public hearing on March 11, 2016, a representative of the South County Catholic High School testified that the 2003 annexation had been misreported: The Catholic Diocese had not purchased the site. A LAFCO commissioner, however, cited the information in the administration's report as one reason for voting to deny the South County Catholic High School USA amendment.

Following the meeting, representatives of the South County Catholic High School and the Catholic Diocese sent two letters to LAFCO to correct points that had been made at the public hearing.

- In 2002, a site in north Morgan Hill was identified as a *potential* location for a Catholic high school and the Catholic Diocese entered into an option to purchase the land.
- During its due diligence of the site, it was determined that a future roadway would bisect the land and that a flyover to cross the adjacent railroad tracks was required.
- These requirements made the land too small and undesirable for a high school.
- The option to purchase was terminated.
- The Catholic Diocese was not involved in the landowners' subsequent sale of the property and did not receive any financial benefit from the sale.

The *San Jose Mercury News* printed a retraction immediately after the March 11, 2016 meeting: "An earlier version of an editorial on a proposal to annex land to Morgan Hill misstated the Diocese of San Jose's dealings with another parcel of land north east of the city in 2003. The diocese had an option to buy that land and later decided to not exercise the option."

The Bishop of San Jose responded to the suggestion that the Catholic Diocese may have plans for the 38-acre site other than a high school: "The Diocese of San Jose has no plan for the land in question (Murphy/Tennant) other than to be the site of a Catholic high school."

In the June 1, 2016 LAFCO meeting on the reconsideration of the South County Catholic High School proposal, the LAFCO staff report did not mention any of the above corrections. Instead, it repeated the erroneous statement: "This summary also notes that LAFCO approved an urban service area expansion of a Catholic High School in 2003 which was later developed with single-family homes," and referred the reader to its earlier report from the public hearing on March 11, 2016. Prior to his vote to deny reconsideration of the high school proposal, a LAFCO commissioner stated that the situation that had occurred in 2003 showed that Morgan Hill does not follow its own plans.

Miscommunications

Eleven cities in the County have proposed 41 amendments to their USAs between 2000 and 2016, as shown in Appendix D. LAFCO staff has recommended the denial of city proposals nine times: eight involved Morgan Hill.

Through its interviews, the Grand Jury learned that the City of Morgan Hill and LAFCO staffers do not appear to communicate effectively, and City staff fears retribution from LAFCO if they complain openly about LAFCO.

City of Morgan Hill Lacks Representation

The Grand Jury also heard complaints that Morgan Hill is excluded unfairly from representation on LAFCO. The one seat for a city, other than San Jose, may rotate at the end of every four-year term. Morgan Hill City Council has been ineligible to fill this seat for 20 years because the commissioner who represents the general public, who has served for five four-year terms, is a Morgan Hill resident. By state law, a city may not fill a seat on the commission if the commissioner representing the general public lives in that city. The commissioner who represents the general public is not an elected official, is not accountable to the residents of Morgan Hill and does not represent the Morgan Hill City Council's policies.

Only three cities in the County are directly affected by LAFCO's agricultural mitigation policy: Morgan Hill, Gilroy, and San Jose. Currently, only two commissioners out of seven represent the affected cities.

Special-Interest Suspicions in Morgan Hill

A General Plan, the blueprint for the growth of a city, is updated about every 15 years. In Morgan Hill, hundreds of residents participated in creating the most recent update for the city, with the exception of the land use plan for the Southeast Quadrant. Ten years earlier Morgan Hill had initiated a planning process for the Southeast Quadrant with inputs from a handful of major property owners working with other interested parties. The two separate processes culminated in 2016 with the Morgan Hill City Council's adoption of the 2016 General Plan.

When LAFCO held public hearings on Morgan Hill's proposal for the Southeast Quadrant and the proposed high school, several Morgan Hill residents testified against it, saying that the city's plan favored growth in that area and that the planning process did not allow for the participation of all city residents.

Conclusions

LAFCO's denials of the proposals to expand Morgan Hill's USA and to allow a new high school are complicated issues. Adding to the complexity is the strained relationship between LAFCO and Morgan Hill.

While there is strong support for building a Catholic high school in Morgan Hill, LAFCO insists it be built within the city's USA. Morgan Hill says that's impossible: No site is large enough, except for one parcel reserved for industrial use.

LAFCO commissioners adopt policies in the public forum, not behind closed doors; stakeholders and members of the public participate in the process. However, the administrative staff, acting outside the public eye, interprets these policies in ways that blur the lines between setting policy and executing policy.

LAFCO staff provided incorrect information about the 2003 attempt to build a Catholic high school that misled commissioners when they voted in 2016.

The City of Morgan Hill utilized a bifurcated General Plan update process that created concerns about the objectivity of the plan for the Southeast Quadrant, including the South County Catholic High School.

Findings and Recommendations

Finding 1

The Local Agency Formation Commission staff developed criteria to evaluate the Morgan Hill 2016 Urban Service Area amendment, including the South County Catholic High School, that were not specified in the agency's adopted Urban Service Area Policies. These staff-written criteria include the definition of "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services."

Recommendation 1a

The Local Agency Formation Commission should amend its Urban Service Area Policies to define "vacant land," "premature conversion of agricultural lands," and "adequacy of urban services." The amendment process should provide the opportunity for all affected stakeholders to participate.

Recommendation 1b

The Local Agency Formation Commission should consider a project's specific requirements, such as the size of the parcel needed and proximity to incompatible uses, in determining whether parcels in the Urban Service Area are "vacant land."

Finding 2

The Local Agency Formation Commission staff interpreted the Commission's Island Annexation Policies to be mandatory rather than advisory in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School.

Recommendation 2

The Local Agency Formation Commission should amend its Island Annexation Policies to clarify whether the annexation of all unincorporated urban islands is a prerequisite for Urban Service Area amendments. The amendment process should provide the opportunity for all affected stakeholders to participate.

Finding 3

The Local Agency Formation Commission staff deviated from the Commission's Agricultural Mitigation Policies in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High

School. The staff interpreted the policies to be mandatory rather than advisory and established its own criteria for a satisfactory agriculture mitigation program.

Recommendation 3a

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory. The amendment process should provide the opportunity for all affected stakeholders to participate.

Recommendation 3b

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program. The amendment process should provide the opportunity for all affected stakeholders to participate.

Recommendation 3c

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to describe the relationship of a city's agricultural mitigation program to Santa Clara County's agricultural mitigation programs. The amendment process should provide the opportunity for all affected stakeholders to participate.

Finding 4

The Morgan Hill Agricultural Preservation Program requires more funding for the purchase of agricultural easements than is generated from the mitigation fees collected through new development.

Recommendation 4

The County of Santa Clara, the City of Morgan Hill, and the Local Agency Formation Commission should work together to develop a funding mechanism to cover the acquisition and on-going cost of agricultural easements in the Morgan Hill area.

Finding 5

Erroneous information provided through reports and comments by the Local Agency Formation Commission staff cast the Catholic Diocese of San Jose as untrustworthy. Although the erroneous information was corrected through media and other sources, the report to the commissioners was not changed, resulting in the appearance of bias.

Recommendation 5

The Local Agency Formation Commission should investigate and take appropriate action to address the potential of bias by LAFCO staff.

Finding 6

Individuals are concerned about retribution by Local Agency Commission staff if they complain about the treatment they receive.

Recommendation 6

The Local Agency Formation Commission should develop procedures to investigate complaints confidentially and ensure complainants do not face retaliation.

Finding 7

The relationship between the staff of the Local Agency Formation Commission and the staff of the City of Morgan Hill appears to be strained.

Recommendation 7

The Local Agency Formation Commission and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.

Finding 8

The same individual has held a seat on the Local Agency Formation Commission for 20 consecutive years.

Recommendation 8

The Local Agency Formation Commission should establish by policy that a commissioner can serve in a specified position for a set number of years.

Finding 9

The Local Agency Formation Commission's goal of protecting agricultural land directly impacts only three cities – Gilroy, San Jose and Morgan Hill – which have all of the agricultural land in the urban areas of Santa Clara County. Currently only two LAFCO commissioners, the representative for San Jose and the County Supervisor for District 1, out of seven commission positions represent these cities.

Recommendation 9

The Local Agency Formation Commission should ensure that cities with agricultural land are represented fairly on the commission.

Finding 10

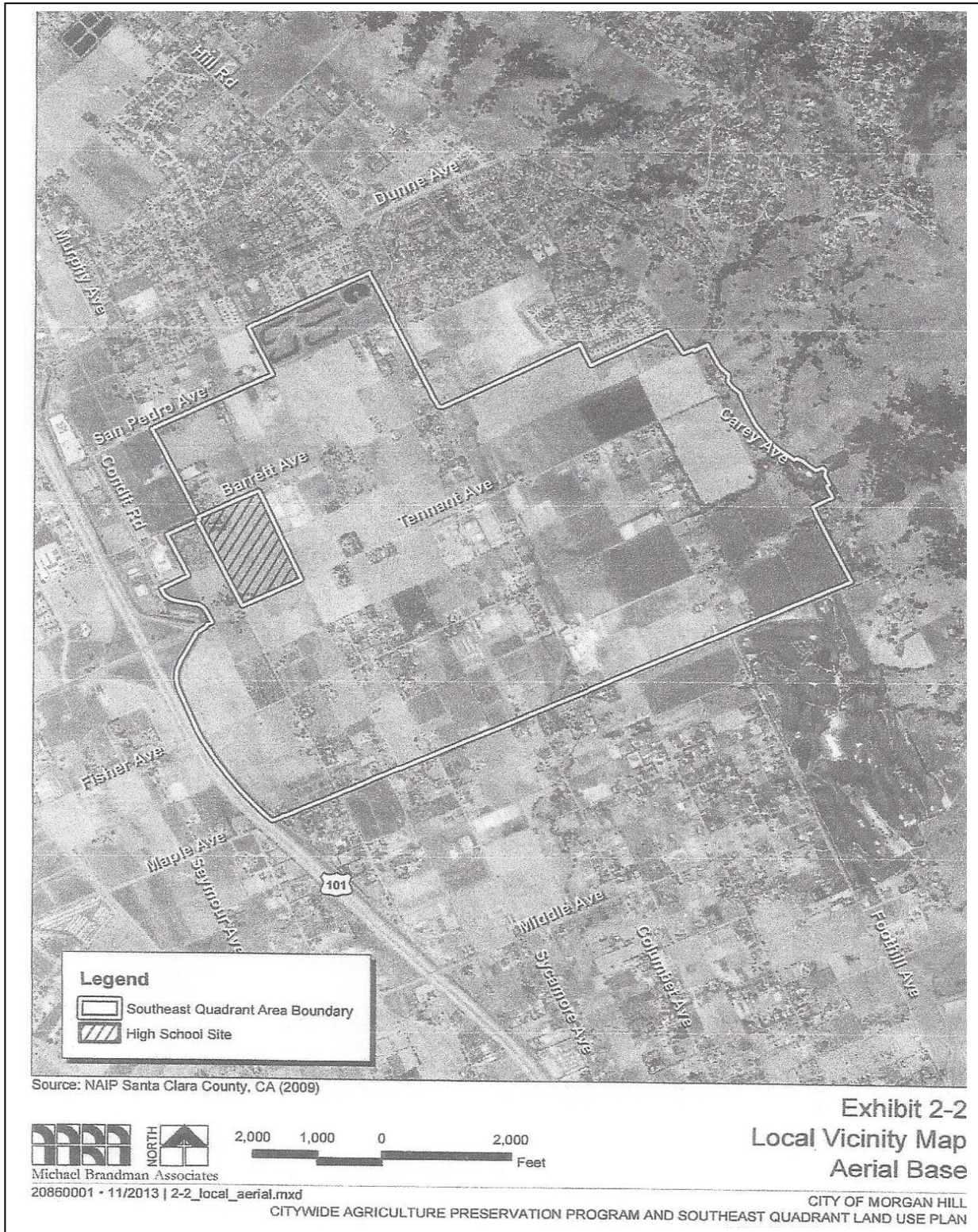
The City of Morgan Hill's update of the 2016 General Plan, which dealt separately with the Southeast Quadrant, gave the appearance of special consideration for the property owners.

Recommendation 10

The City of Morgan Hill should adopt a single, open, transparent process in future updates of its General Plan.

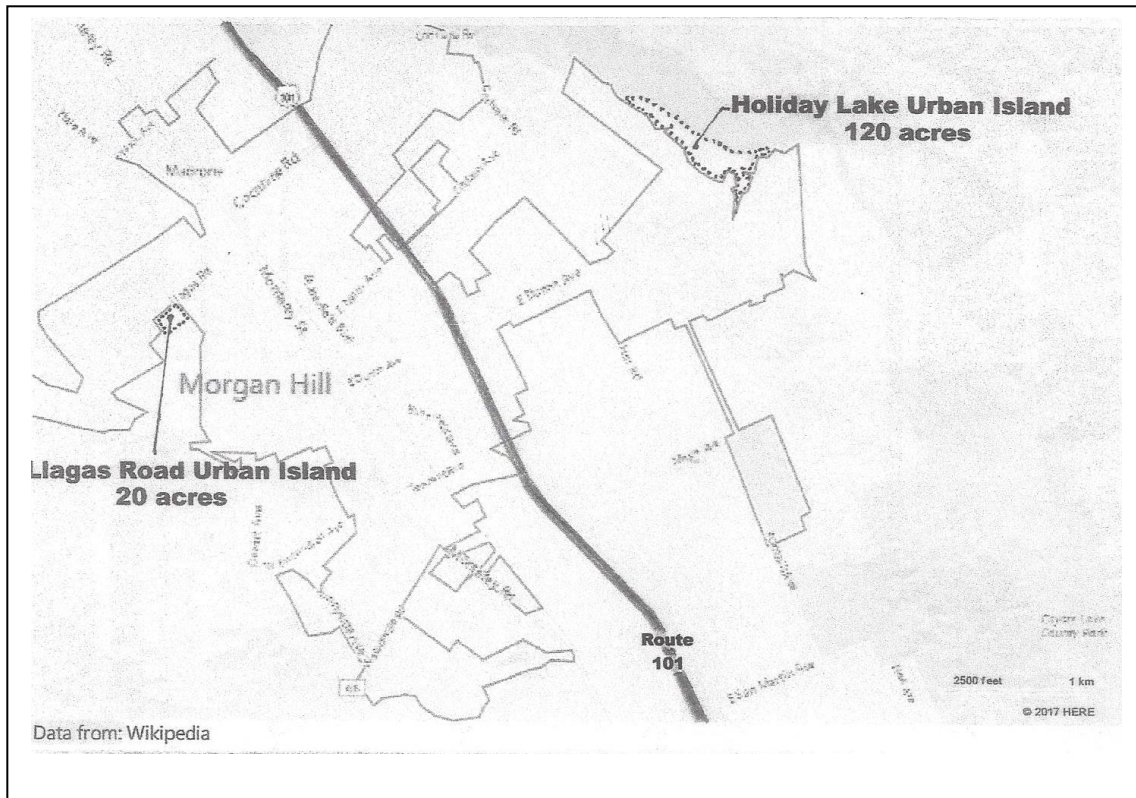
Appendix A

Map: South County Catholic High School and the Southeast Quadrant



Appendix B

Map: Unincorporated Urban Islands



Appendix C Comparison of Agricultural Mitigation Programs

Policies	CA Council of Land Trusts Model Ordinance	Yolo County*	LAFCO Advisory Policy	Morgan Hill
Minimum Mitigation Ratio 1:1	✓	✓	✓	✓
Conservation Easements w/i SOI	✓	✓	✓	✓
Stay Ahead Provision	✓	✓	✓	✓
In-Lieu fees	✓	✓	✓	✓
Third Party Administrator	✓	✓	✓	✓
Right to Farm Ordinance		✓	✓	✓
Public Uses Subject to Mitigation			✓	✓
Cortese Knox Farmland			✓	
DOC/DOA Farmland Map	✓	✓		✓
Transfer of Development Rights				✓
Mitigation Land Bank		✓		✓
Local Funding (RDCS)				✓
Administrative Costs Paid	✓	✓	✓	✓
Priority Conservation Area		✓		✓

*Requires up to 3:1 in locations outside its Priority Conservation Area

Appendix D

Disposition of LAFCO Urban Service Area Proposals: 2000-2016

Year	# Amendment Proposals			Commission Actions					
	Morgan Hill	Other Cities	Total	Morgan Hill			Other Cities		
				Commissioners		Admin.	Commissioners		Admin.
				Approved	Denied	Deny	Approved	Denied	Deny
2000	6	1	7	6	0	2	1	0	0
2001	0	2	2	0	0	0	2	0	0
2002	4	4	8	3	1	1	4	0	0
2003	3	0	3	3	0	0	0	0	0
2004	0	1	1	0	0	0	1	0	0
2005	2	1	3	2	0	0	1	0	0
2006	0	2	2	0	0	0	2	0	0
2007	1	0	1	1	0	1	0	0	0
2008	0	1	1	0	0	0	1	0	0
2009	0	1	1	0	0	0	1	0	0
2010	0	0	0	0	0	0	0	0	0
2011	0	1	1	0	0	0	1	0	0
2012	0	2	2	0	0	0	2	0	0
2013	3	3	6	1	2	2	3	0	0
2014	0	1	1	0	0	0	1	0	1
2015	0	0	0	0	0	0	0	0	0
2016	2	0	2	0	2	2	0	0	0
Total	21	20	41	16	5	8	20	0	1

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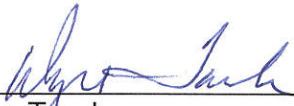
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Interviews

The Grand Jury conducted seven interviews between February 22 and March 29, 2017. Four interviewees work in public agencies and three were members of the general public.

This report was **ADOPTED** by the 2016-2017 Santa Clara County Civil Grand Jury on this 31st day of May, 2017.



Wayne Tanda
Foreperson



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July 26, 2017

Santa Clara County Civil Grand Jury
Santa Clara County Superior Court
Attention: Honorable Patricia Lucas
191 North First Street
San Jose, CA 95113

Dear Ms. Lucas:

Thank you for your letter dated June 5, 2017, transmitting the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled "LAFCO Denials: A High School Caught in the Middle." The following are Morgan Hill's responses to the 2016-2017 SCCCJ Final Report for findings and recommendations 4, 7, and 10 as required in the letter. The City has additionally provided comment to finding and recommendation #3 as it is also of importance to the City of Morgan Hill.

As required by California Penal Code § 933.05 (a) the City of Morgan Hill has responded to each **finding** by indicating one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Morgan Hill has responded to each **recommendation** with one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

SCCCGJ Finding 4:

The Morgan Hill Agricultural Preservation Program requires more funding for the purchase of agricultural easements than is generated from the mitigation fees collected through new development.

City of Morgan Hill Response Penal Code § 933.05 (a)(1): Agree.

Since the agricultural land adjacent to Morgan Hill is in an urban/rural interface, the cost per acre of land is much greater than other areas in the County and other regions of the State. However, to ensure the City complies with state law, the City's agricultural mitigation fees are set according to a nexus study that calculates the fees the City can legally collect at a much lower level due to the availability of much lower priced land in other areas (see attached excerpt from nexus study). To address this fact and ensure the City's commitment to agricultural preservation can be achieved, the City is committed to working with the County of Santa Clara, the Santa Clara Valley Open Space Authority, the State of California, Land Conservation non-profits, and local land owners. More specifically, the City partnered with the Santa Clara Valley Open Space Authority, Santa Clara County, and a private land owner to submit a grant application for State funds that would assist in preserving approximately 70 acres.

In addition to utilizing a combination of tools, techniques, mechanisms, and internal funding sources for agricultural preservation, the City will continue to leverage external resources – local funds, local stewardship contribution, state funds (Sustainable Agricultural Lands Conservation Program and High Speed Rail), federal funds, and private funds (corporate, foundations, and landowner donations) to realize the forward thinking goals of the City's agricultural land preservation program.

SCCCGJ Recommendation 4:

The County of Santa Clara, the City of Morgan Hill, and the Local Agency Formation Commission should work together to develop a funding mechanism to cover the acquisition and on-going cost of agricultural easements in the Morgan Hill area.

City of Morgan Hill Action Penal Code § 933.05 (b)(1): The recommendation has been implemented, with a summary regarding the implemented action.

As described above, the City of Morgan Hill is currently and will continue to collaborate with a variety of partners (County of Santa Clara, Open Space Authority, and others) who share, and can help support, the City's agricultural preservation goals. The City welcomes further support from LAFCO.

SCCCGJ Finding 7:

The relationship between the staff of the Local Agency Formation Commission and the staff of the City of Morgan Hill appears to be strained.

City of Morgan Hill Response Penal Code § 933.05 (a)(1): Agree.

Morgan Hill staff are eager to work collaboratively and proactively with LAFCO for the benefit of our region and community.

SCCCGJ Recommendation 7:

The Local Agency Formation Commission and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.

City of Morgan Hill Action Penal Code § 933.05 (b)(2): The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

The City of Morgan Hill team prides itself on developing and maintaining excellent working relationships with all partner agencies and their staff. The City Council and staff are eager to take immediate steps to improve our working relationship with LAFCO Commissioners and staff.

SCCCGJ Finding 10:

The City of Morgan Hill's update of the 2016 General Plan, which dealt separately with the Southeast Quadrant, gave the appearance of special consideration for the property owners.

City of Morgan Hill Response Penal Code § 933.05 (a)(1): Agree

The City agrees the Southeast Quadrant (SEQ) was dealt with separately from the Morgan Hill 2035 General Plan (GP) Update. Because the "appearance of special consideration" is the Grand Jury's opinion, the City cannot dispute this statement and agrees.

To further explain our response, the City of Morgan Hill's previous General Plan, which was adopted in 2001, established the framework for the extensive public outreach and discussions that occurred over the course of nearly 14 years regarding the various components of Morgan Hill's Citywide Agricultural Lands Preservation Program and SEQ Land Use Plan project. The City did not give special consideration to SEQ property owners. The City had an obligation to process the five (5) General Plan Amendments, four (4) Urban Service Area Amendments, and three (3) Zoning Amendment applications that were privately initiated in 2008. Those applications and the preparation of the Draft Environmental Impact Report for the Agricultural Preservation/SEQ project in 2010, began well before the GP Update was initiated in December 2012.

Moving forward, it is the City's intent that its next GP Update will comprehensively consider and include all lands within the City's Sphere of Influence.

SCCCGJ Recommendation 10:

The City of Morgan Hill should adopt a single, open, transparent process in future updates of its General Plan.

City of Morgan Hill Action Penal Code § 933.05 (b)(2): The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

The next comprehensive update of the City's General Plan will likely begin 10+ years from adoption of the Morgan Hill 2035 General Plan. It is the City's intent that future General Plan updates will be open and transparent.

Thank you for also considering our additional comments for #3.

SCCCGJ Finding 3:

The Local Agency Formation Commission staff deviated from the Commission's Agricultural Mitigation Policies in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School. The staff interpreted the policies to be mandatory rather than advisory and established its own criteria for a satisfactory agriculture mitigation program.

City of Morgan Hill Response: Agree.

SCCCGJ Recommendation 3a:

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory. The amendment process should provide the opportunity for all affected stakeholders to participate.

City of Morgan Hill Response: The City agrees that LAFCO should clarify that its Agricultural Mitigation Policies were adopted in 2007 as advisory and not mandating specific requirements. Should LAFCO initiate a process to amend its Agricultural Mitigation Policies, the City of Morgan Hill would be a willing and active participant to ensure a collaborative and inclusive process is achieved. As such, the City views this as an early opportunity to develop collaborative relationships between the City and LAFCO as discussed in finding and recommendation 7.

SCCCGJ Recommendation 3b:

The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program. The amendment process should provide the opportunity for all affected stakeholders to participate.

City of Morgan Hill Response: When LAFCO adopted its Agricultural Mitigation Policies in 2007, cities were encouraged to adopt their own mitigation policies based on LAFCO's framework. It should be noted that the City of Morgan Hill developed and adopted its own Agricultural Preservation Program (first in the County) based on the LAFCO framework. Morgan Hill's Agricultural Preservation Program should be cited as a satisfactory agricultural mitigation program as pointed out in Appendix C of the Grand Jury Report. Should LAFCO initiate a process to amend its Agricultural Mitigation Policies, the City of Morgan Hill would be a willing and active participant to ensure a collaborative and inclusive process is achieved.

Please feel free to contact me or Morgan Hill City Manager, Steve Rymer, if you seek additional information or have any questions regarding this follow-up response to the SCCCJ June 5, 2017 letter.

Sincerely,



Steve Tate, Mayor

Cc: Members of the City Council
Steve Rymer, City Manager
Donald Larkin, City Attorney

The Economics of Land Use



TECHNICAL MEMORANDUM

To: Leslie Little, City of Morgan Hill

From: Teifion Rice-Evans and Rebecca Benassini,
Economic & Planning Systems, Inc (EPS)

Gregory House and Henry House,
House Agricultural Consultants

Subject: Draft Morgan Hill Agricultural Mitigation Fee Nexus Study;
EPS# 12116

Date: December 2, 2013

This memorandum provides the technical documentation to support the establishment of a City of Morgan Hill Agricultural Mitigation Fee. The memorandum includes the policy context for fee adoption, the fee program parameters identified by City staff, the assumptions and analysis used to determine the mitigation fee level, and the nexus findings to support fee adoption. This technical memorandum was developed under the direction of and with input from City staff, including legal counsel. This technical memorandum is intended to support agricultural mitigation fee adoption through the City's Agricultural Mitigation Fee Ordinance and Resolution.

This memorandum is divided into five sections: (1) summary of findings; (2) background; (3) nexus findings; (4) fee program parameters; (5) mitigation cost estimates; and (6) fee calculation and updating.

Appendix A provides the detailed assumptions and analysis used to develop the planning level estimates of agricultural easement acquisition costs.

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- **Easement Value.** The agricultural easement acquisition component of the mitigation fee is based on a current estimate of the average value of agricultural easements at the time of the fee study. The actual sales price of agricultural easements will be based on individual negotiations between the implementing entity and the landowner and on appraisals of value at that time. All easement acquisitions will be on a voluntary basis and purchased from willing sellers only.
- **Mitigation Ratio.** The mitigation ratio will be set at 1:1. In other words, for every acre of important farmland converted, the mitigation program, and associated mitigation fees, will need to result in the permanent preservation of an acre of agricultural land through an agricultural easement along with a proportionate contribution to the resources required to monitor the easement and administer the program. This mitigation ratio is consistent with the Santa Clara County LAFCO Agricultural Mitigation guidelines and is the most common mitigation ratios used by other California City/County agricultural mitigation programs.

The City of Morgan Hill initially explored the possibility of purchasing mitigation in both the Morgan Hill and Gilroy areas at different land ratios. For example, if the mitigation occurred in Morgan Hill, the ratio would have been 0.5 acre conserved to 1.0 acre converted. If proposed in Gilroy, the mitigation ratio would have been 2 acres conserved to 1 acre converted. This formula was intended to create a framework for the encouragement of agricultural conservation near Morgan Hill, where Morgan Hill residents would most benefit. In response to comments from the community at large, there was an expressed desire that the conservation/mitigation program be established at a ratio of 1:1. While this ratio responds to public policy from LAFCO and commenting interests, it recognizes that mitigation may not take place in the Morgan Hill target area where the cost of property per acre is several times more expensive.

- **Agricultural Land Preservation.** Mitigation fee revenues for agricultural easements will be used to acquire easements on farmland in Santa Clara County. The agricultural mitigation land will have equal or better soil quality and equal or better access to water and sufficiency of water relative to the converted agricultural land.³

Mitigation Cost Estimates

Along with the fee program parameters, the cost assumptions are the other critical component that determines the level of the fee. This section summarizes the cost assumptions and estimated mitigation costs. Mitigation costs include the costs of securing the agricultural easements (where set-asides are not provided) and the costs to cover easement monitoring/outreach in perpetuity as well as the administrative costs of covering the fee program.

Easement Acquisition Costs

Appendix A provides the detailed analysis and development of the planning-level value estimate of the average cost of acquiring an agricultural conservation easement in Santa Clara County. As described in **Appendix A**, agricultural easement values will vary for different locations in the

³ Equal or better soil quality defined by the Code of Federal Regulations Title 7, Part 657 (see <http://soils.usda.gov/technical/handbook/contents/part622.html>, Exhibit 622-1) and as interpreted by the USDA-NRCS.

County with easements on agricultural land surrounding Morgan Hill substantially more costly than easements in the Gilroy area. For the purposes of fee setting, because the fee program parameters allow for the use of fee revenues to acquire easements on farmland throughout Santa Clara County, the estimated easement acquisition costs in the farmland around Gilroy are used as the basis of the fee. As described in **Appendix A**, the agricultural easement cost is the difference between the fee title value of the land and the value of the land once it is encumbered with an agricultural easement.

Table 2 Per-Acre Easement Acquisition Costs

	Formula	Average Per Acre Value
Fee Title Value	A	\$25,500
Encumbered Value @50%	$b = a * 50\%$	\$12,750
Easement Value	$c = a - b$	\$12,750
Acquisition Cost (1)	$d = c * 1.02$	\$13,005

(1) Includes 2 percent transaction cost.

As shown in **Table 2**, House Agricultural Consultants estimated an average planning-level value of \$25,500 per acre for fee title acquisitions of farmland in the Gilroy area. Their research on typical easement costs as a percent of fee title value revealed a typical range from 15 percent to 75 percent, with 50 percent considered an appropriate estimate for southern Santa Clara County. As a result, the easement cost of agricultural conservation easements in the Gilroy area was estimated at \$12,250 and the encumbered land value (value of land once easement is in-place) was also estimated at \$12,250.

In addition to the expected, average easement cost of \$12,250 per acre, an additional transaction cost will be incurred. The transaction cost will include costs associated with due diligence on potential sales, obtaining an appraisal, and drawing up the easement documents among others and typically represents about 2.0 percent or more of the easement acquisition cost. As a result, transaction costs are estimated at an average of \$255 per acre for a total acquisition cost of \$13,005 per acre.

Other Costs

The other costs associated with an agricultural conservation easement program are associated with the stewardship of the agricultural mitigation program and the management of the fee program. Stewardship costs typically include administrative costs, monitoring costs, landowner interaction costs, and contingencies. For the purposes of this fee study, these additional costs associated with the mitigation program are divided into stewardship costs and fee program administrative costs.

Stewardship Costs

Per-acre stewardship (monitoring/outreach) costs vary substantially by program and depend both on the types of activities required of the implementing entity, the levels of interaction with and outreach to landowners owning encumbered land, and the scale of the mitigation program and the associated economies of scale. Stewardship costs associated with different types of mitigation and preservation programs show a broad range of annual stewardship costs from as

low as \$20 per acre to as high as \$1,000 per acre.⁴ In the case of the City of Morgan Hill agricultural mitigation program, the agricultural nature of its mitigation program will push its per acre figure towards the lower end, while the relatively modest scale of the program will push the per acre costs up. At this point in time, an average annual monitoring/outreach cost of about \$50 per acre is likely a modest and appropriate level of funding.

The establishment of an interest-bearing, non-depleting endowment will ensure that these costs can be met on an annual basis. Consideration of the assumptions being used by other mitigation and conservation programs in California concerning the long-term, average net real interest rate suggests that an of 3 percent might be obtained from the establishment and investment of an endowment. Using this interest rate to capitalize the annual monitoring/outreach costs results in a total monitoring/outreach cost of about \$1,665 per acre.

Fee Program Administration Costs

Mitigation fee program administration requires fee collection and disbursement, annual reporting, and periodic updates. These fee administration costs can be covered in the mitigation fee. California jurisdictions often add between 1 percent and 3 percent for fee program administration. Consistent with this range, the City of Morgan Hill will add a 2 percent to the base fee for administration. As a result, for those paying the land portion of the fee, there will be an additional \$255 per acre fee (administration charge is not applied to the transaction cost portion of the fee), while for all conversions of agricultural land, there will be an additional \$35 per acre fee associated with.

Fee Calculation and Updating

Based on the per acre cost estimates and the fee program parameters described above (including the 1:1 mitigation ratio), the per acre mitigation fee is the same as the per acre mitigation cost. The agricultural mitigation fee schedule is shown below. All conversions of agricultural land will be required to pay the \$1,700 per acre stewardship fee, with the option of then setting aside land at a 1:1 mitigation ratio on-site or paying the additional mitigation fee of \$13,260 associated with funding an agricultural conservation easement purchase.

Table 3 Agricultural Mitigation Fee per Developed /Converted Acre

Fee Component	Fee Level (1:1 mitigation ratio)
Easement Acquisition	\$12,750
Transaction Costs ¹	\$255
City Fee Program Admin. ²	\$255
Subtotal – Land Fee	\$13,260
Stewardship ³	\$1,665

⁴ E.g. the 2004 report prepared by the Center for Natural Lands Management surveyed 28 preserves in the western United States to evaluate stewardship costs. The report found that the average annual management cost ranged from \$25 per acre to \$1,000 per acre, with an average of about \$51 per acre.

City Fee Program Admin. ²	\$35
Subtotal – Stewardship Fee	\$1,700

Total Mitigation Fee	\$14,960
-----------------------------	-----------------

- (1) Easement transactions costs assumed at average of 2.0 percent per transaction.
- (2) Cost to City administering fee program, including collection, reporting, and updating costs estimated at additional 2.0 percent of base cost for each fee program element (i.e. easement acquisition; monitoring/outreach).
- (3) Represents sufficient funding to generate an average of about \$50 per acre per annum in perpetuity in interest payments.

Fee Update Procedure

The agricultural mitigation fee estimates developed in this technical study provide estimates of the per acre cost of meeting the mitigation requirements 2013 dollar terms based on information available. Over time, inflation and market cycles will affect mitigation costs. In addition, program-specific evidence will be obtained concerning the costs of stewardship, fee program administration, and agricultural easement acquisitions. For these reasons, a fee updating process is important. Consistent with many other mitigation programs, a two-component updating process is suggested. This includes annual adjustment to the agricultural mitigation fee based on a measure of inflation, the Consumer Price Index (CPI) (the CPI is published monthly by the Bureau of Labor Statistics and is a measure of the average change over time in the prices paid by urban consumers for goods and services.) The CPI for the western region will be used to update both components of the agricultural mitigation fee every six months.⁵ Every three years, rather than automatically updating the agricultural mitigation fee based on the CPI, a more detailed review of the fee program will be conducted. The fee review will consider the actual costs incurred by the implementing entity and compare them to the current fee levels. If there is sufficient program data available, the mitigation fee will be updated based on the actual experience. If the information is limited or insufficient to draw broad conclusions the CPI will continue to be used until the next more detailed periodic fee update.

⁵ Consumer Price Index – All Urban Consumers, West Region, <www.bls.gov>.

APPENDIX A:
Agricultural Conservation Easement
Cost Estimates and Assumptions

Appendix A
 Morgan Hill Nexus Study
 Estimated Cost to Acquire an Agricultural Conservation Easement
 in Southern Santa Clara County
 by
 House Agricultural Consultants
 December 20, 2012
 revised December 2, 2013

Revision note: This report was originally prepared on December 20, 2012 based on information researched at that time. No new data has been developed for this revision; the purpose of this revision is to reinterpret the 2012 data in light of Morgan Hill's decision to seek a 1:1 mitigation strategy for agricultural land conversion as described below. This revision remains in conformance with the assumptions noted in the October 28, 2012 memorandum from House Agricultural Consultants to the City of Morgan Hill and Economic Planning Systems regarding real property and conservation easement characteristics for mitigation of agricultural land in Morgan Hill. This memorandum is appended to this study document.

Summary

Our research indicates that the cost to acquire an agricultural conservation easement in the Morgan Hill area would cost approximately \$47,500 per acre, and in the Gilroy and Hollister area approximately \$12,750 per acre. These estimates are based on our finding that conservation easements in the Morgan Hill and Gilroy area are likely to trade at approximately one-half of the fee simple value of the real estate, as discussed in this report.

The City of Morgan Hill has expressed its desire to explore the possibility of purchasing mitigation in both the Morgan Hill and Gilroy areas at a 1:1 ratio (that is, one acre conserved via an agricultural conservation easement for each one acre of agricultural land converted to urban use). Therefore the values noted in the preceding paragraph are appropriate in planning for the proposed mitigation program.

Land Values in the Morgan Hill Area

Our research indicates values for raw land *unencumbered* by a conservation easement (also referred to as the “fee simple” value) to range from approximately \$50,000 per acre to \$140,000 per acre in the Morgan Hill area. Table 1 lists 9 recent sales in the Morgan Hill area (see Map # 1) which have been selected from a compilation of over 50 transactions between 2010 and now. A simple mathematical average of the two range parameters is \$95,000 per acre.

Land Values in the Gilroy Area

Our research indicates values for fee simple, raw land unencumbered by a conservation easement to range from approximately \$15,000 per acre to \$36,000 per acre in the *agricultural area* of Gilroy. We have excluded sales overly influenced by urban development as being inappropriate for this study, as the point is to find and conserve land that can viably remain in agriculture. Table 2 lists 8 recent sales in the Gilroy area which have been selected from a compilation of over 25 transactions between 2010 and now. A simple mathematical average of the two range parameters is \$25,500 per acre.

Land Values in the Hollister/San Juan Bautista Area

The Hollister and San Juan Bautista area of San Benito County is the closest agricultural area to Morgan Hill, excluding Gilroy; this area continues to have intensive agricultural production and is therefore useful as a second look at local agricultural land values. We therefore examined sales transactions in this area as a check on the agricultural land values found in the Gilroy area.

Our research indicates values for raw land unencumbered by a conservation easement to range from approximately \$17,000 per acre to \$32,000 per acre in the *agricultural area* of Hollister and San Juan Bautista. Table 3 lists 6 recent sales in the Hollister/San Juan Bautista area between 2008 and now. A simple mathematical average of the two range parameters is \$24,500 per acre. This finding is therefore supportive of the finding of \$25,500 per acre average for Gilroy of current agricultural land value.

Cost of Agricultural Conservation Easements

To estimate the cost of acquiring an agricultural conservation easement in either the Morgan Hill or Gilroy area, we conducted several lines of investigation. Our first line of inquiry was to search for agricultural conservation easement purchases in the southern Santa Clara County area. This being very limited (we found one), in our second line of inquiry we broadened the search to other counties, eventually examining conservation easement purchases in 7 northern and central California counties. Table 4 lists 23 agricultural conservation easements in these 7 counties occurring over a 12 year period. All of the properties conserved are classed as prime farmland by United States Department of Agriculture (USDA) criteria. Their size varies from 49 to 928 acres. For the most part the properties were being used for row crop farming, similar to the land uses in the Gilroy and Hollister areas (Morgan Hill has somewhat more tree crops but is generally similar as well).

The threat to agricultural continuity by urban development is estimated in Table 4 for the 23 easements listed as either “Medium” or “High”. We place Morgan Hill in the “High” range, and therefore place more emphasis for this study on those easements characterized as having a “High” threat.

Easement Cost Calculated by a Percentage Method

In the absence of sufficient agricultural conservation easement transactions in southern Santa Clara County, in Table 4 we have calculated the ratio of the easement cost to the land value before the easement encumbrance as an indicator of what is likely to prevail for the local southern Santa Clara County area. The 23 transactions in seven counties indicate a range of 15.6 percent to 73.3 percent for the ratio of conservation easement cost to raw, unencumbered land value. In applying this to southern Santa Clara County, we tend toward the higher end, as southern Santa Clara County is experiencing a very strong threat to the continuance of agriculture. We find that 50 percent is the likely average to be encountered by the City of Morgan Hill as the easement acquisitions get underway.

Applying this 50 percent diminution in value to the Morgan Hill land average of \$95,000 per acre yields an estimated agricultural conservation easement cost of \$47,500 per acre in Morgan Hill; applying the 50% diminution in value to the Gilroy land average of \$25,500 per acre yields an estimated agricultural conservation easement cost of \$12,750 per acre in Gilroy.

Easement Cost Estimated by an Income Approach

A third line of inquiry to estimate the cost of agricultural conservation easements in southern Santa Clara County is a more traditional Income Approach appraisal method. We have examined a set of eight properties on which conservation easements have been placed, their agricultural income (as rent) is known, and their conservation easement encumbered land value is known (the land was sold shortly after the placement of the conservation easement). From these eight properties actively being used for agriculture after the imposition of the easement, we derived a capitalization rate range of 2.3 percent to 5.6 percent; and from this range selected 5.0 percent as the most appropriate for the study at hand.

We conducted another survey to estimate current agricultural rents and landlord expenses in southern Santa Clara County. The results indicate a rent range of \$450 to \$1,200 per acre for prime farmland in the Gilroy and Hollister/San Juan Bautista areas. Through calculation and comparison of these local farm properties we estimate \$650 per acre as the current typical net rent figure (net of taxes and other landlord expenses). The capitalization rate of 5.0 percent is then divided into the net rent of \$650 per acre, yielding a value indication of \$13,000 per acre for the agricultural conservation easement encumbered land. This is reasonably close to the \$12,750 per acre land value indicated by the percentage method calculated above for Gilroy, and supportive of that finding.

Conclusion

We have established that the fee value of land in the Morgan Hill area suitable for purchase of agricultural conservation easements is approximately \$95,000 per acre and in the Gilroy area is approximately \$25,500 per acre.

As discussed in this report, applying the estimated ratio that agricultural conservation easements in this area will cost approximately 50 percent of the fee value, we conclude that budgeting \$47,500 per acre for purchase of agricultural conservation easements in the Morgan Hill area, and \$12,750 per acre in the Gilroy area are reasonable figures as of December, 2012. These values can be expected to fluctuate in the future depending on both agricultural and non-agricultural factors that influence real estate values.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Donald Larkin, City Attorney
APPROVED BY: City Manager

ADOPTION OF WAGE THEFT PREVENTION POLICY

RECOMMENDATION(S)

1. Adopt wage theft policy; and
2. Direct staff to return to City Council in September 2017 with an ordinance implementing additional wage theft prevention measures.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Inclusiveness
Regional Initiatives

POLICY CONSIDERATIONS:

Should the City Council consider an ordinance allowing the City to deny or revoke permits issued to individuals or businesses that engage in wage theft?

Should the City Council consider requiring project applicants to certify that no wage theft occurred on a project prior to issuing a certificate of occupancy?

REPORT NARRATIVE:

On June 28, 2017, Council directed staff to return with a Wage Theft Prevention Policy for Council consideration. A link to the June 28, 2017 staff report is below.

Wage theft occurs when a worker receives less than minimum wage, is not paid earned overtime, or is required to perform work for which he or she is not compensated. Wage theft is a significant problem throughout Santa Clara County.

Based on the recommendations of the Santa Clara County Wage Theft Coalition, staff prepared the attached Wage Theft Prevention Policy, which is modeled after policies adopted by Santa Clara County and the City of San Jose.

Following the June 28, 2017 Council meeting, staff sent copies of the draft policy to our current contractors for feedback. Based on comments, we included language allowing

a general contractor to substitute a subcontractor that would otherwise be disqualified based on a wage theft claim. Another contractor asked that the City increase the time to disclose a judgment or order from fifteen days to thirty days, because a contractor may be away when a judgment is received. Staff does not recommend making this change because we think the policy allows enough flexibility to take the contractor's individual circumstances into consideration.

Most of the general comments were positive, but some contractors expressed concerns that the policy is redundant because state law already requires prevailing wage. We believe that the policy is beneficial as it is a deterrent to wage theft as it prohibits the City from contracting with vendors that engage in wage theft on outside projects that do not require prevailing wage, or on public projects that are not subject to prevailing wage requirements.

COMMUNITY ENGAGEMENT: Consult

Copies of the draft policy were sent out to current city contractors for feedback. Staff received extensive comments, some of which were incorporated into the proposed policy.

If Council adopts the proposed policy, staff will work with vendors to respond to questions about how the policy will be implemented.

ALTERNATIVE ACTIONS:

Council could decide not to adopt the proposed policy, to modify the policy as proposed, or direct staff to conduct further outreach.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 28, 2017, the Council heard a report from the City Attorney on wage theft, and discussed potential actions that the City could take to prevent wage theft in Morgan Hill, including adoption of the proposed policy.

FISCAL AND RESOURCE IMPACT:

The proposed policy is not likely to have any fiscal impact to the City. Because the policy requires self-certification, it is likely to require only minimal staff time to implement.

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 for purposes of CEQA.

LINKS/ATTACHMENTS:

1. June 28, 2017 Staff Report (weblink)
2. Wage Theft 2017

CITY OF MORGAN HILL

COUNCIL POLICIES AND PROCEDURES

CP-17-01

SUBJECT: WAGE THEFT PREVENTION

EFFECTIVE DATE _____, 2017

ORIGINATING DEPARTMENT: CITY ATTORNEY'S OFFICE

BACKGROUND

Wage theft occurs when an employer fails to pay its workers the wages to which they are legally entitled. It is the crime of stealing earned wages from workers. There are numerous forms of wage theft involving violations of employment laws but all resulting in workers receiving less income than they are entitled to earn. Local and national studies on wage theft report that wage theft is a pervasive and chronic problem.

PURPOSE

To establish a Council Policy and Procedure to prevent wage theft on City contracts.

POLICY

It is the policy of the City of Morgan Hill that all parties contracting with the City must comply with all applicable federal, state and local wage and hour laws including but not limited to the Federal Fair Labor Standards Act ("FLSA") and the California Labor Code.

Bid or Proposal Disqualification Circumstances

A potential contractor that has submitted a formal or informal bid or proposal to provide supplies, materials, goods, and/or services to the City may be disqualified if the potential contractor has been found, by a court or by final administrative action of an investigatory government agency, to have violated applicable wage and hour laws on more than one (1) occasion or has one (1) unpaid wage judgment in the past five (5) years prior to the date of submission of a bid or proposal to provide supplies, materials, goods, and/or services.

Grounds for Contract Termination

A current contractor found by a court or by final administrative action of an investigatory government agency to have violated applicable wage and hour laws, in the five (5) years prior to or during the term of the contract with the City, may be in material breach of its contract with the City if the violation is not fully disclosed and/or satisfied per City contract requirements. Such breach may serve as a basis for contract termination and/or any other remedies available under law, including a stipulated remediation plan.

PROCEDURE

Mandatory Disclosure

As a part of any City solicitation for supplies, materials, goods, and/or services, a potential contractor shall fully complete a “Bid Certification” (“Certification”) that requires each potential contractor to disclose whether the contractor has been found by a court or final administrative action of an investigatory government agency to have violated federal, state, or local wage and hour laws within the past five (5) years from the date of the submitted bid or proposal. For each disclosed violation, the potential contractor shall provide a copy of (i) the court order and judgment and/or final administrative decision; and (ii) documents demonstrating either that the order/judgment has been satisfied, or if the order/judgment has not been fully satisfied, a written and signed description of potential contractor’s efforts to date to satisfy the order/judgment. The completed Certification shall be submitted by the potential contractor to the City as a part of its bid or proposal.

Disqualification

The City may disqualify a potential contractor based on the disclosed violation if the potential contractor has been found by a court or by final administrative action of an investigatory government agency to have violated applicable wage and hour laws on more than one (1) occasion or has one (1) unpaid wage judgment.

In evaluating whether to disqualify a potential contractor, the City should evaluate (i) the amount of the judgment or final administrative decision; (ii) the number of employees impacted by the prior violations; (iii) the size of the company and history of compliance with wage and hour laws; (iv) the impact to the City; and (v) other factors that may be appropriate.

Inaccurate or incomplete disclosures constitute a violation of the City’s Wage Theft Prevention Policy and may result in immediate disqualification from the City solicitation and contracting process or immediate termination of any contract with the City.

CONTRACT LANGUAGE AFTER SUCCESSFUL BID OR PROPOSAL

All City contracts subject to this Policy shall include the following provisions:

“Wage Theft Prevention

Compliance with Wage and Hour Laws: Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

or division tasked with the investigation and enforcement of wage and hour laws.

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

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision, or order finding that Contractor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed, Contractor shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision, or order becomes final or of learning of the final judgment, decision, or order. Contractor and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision, or order within five (5) days of satisfying the final judgment, decision, or order. The City reserves the right to require Contractor to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where Contractor or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision, or order of a court or government agency, the City reserves the right to withhold payment to Contractor until such judgment, decision, or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.”

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In the event the contractor or subcontractor is in violation of the contract provisions above, the City should weigh the same factors set forth in the “Disqualification” section of this Policy to determine whether the City should terminate the contract or pursue some other remedy. If the violation is based on an order or judgment against a subcontractor, the City may allow the substitution of subcontractors in lieu of disqualification.

This Policy shall remain in effect until modified by the City Council.

APPROVED:

STEVE TATE, MAYOR



CITY COUNCIL STAFF REPORT

MEETING DATE: July 26, 2017

PREPARED BY: Hilary Holeman, Administrative Analyst

APPROVED BY: City Manager

AIRCRAFT NOISE MITIGATION ENTITY DISCUSSION

RECOMMENDATION(S)

1. Discuss the City's involvement in the south bay aircraft noise mitigation entity; and
2. Consider appointing one member and one alternate from the Council to serve on the committee, once established.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment

Preserving and Cultivating Public Trust

2017 Strategic Priorities

Regional Initiatives

REPORT NARRATIVE:

On June 28, 2017, Members of Congress, Anna G. Eshoo, Jimmy Panetta, and Ro Khanna, addressed a letter (attached) to the Cities Association of Santa Clara County requesting their assistance with developing an intergovernmental partnership between the cities in Santa Clara and Santa Cruz Counties, Norman Y. Mineta San José International Airport, and the San Francisco International Airport that will serve as a permanent aircraft noise mitigation entity representing all affected communities in the South Bay and Santa Cruz County.

Between May and November 2016, the Select Committee on South Bay Arrivals, a temporary committee of local officials, convened meetings to receive public input and develop regional consensus on recommendations to reduce aircraft noise caused by flights and airspace, and procedural changes related to the Federal Aviation Administration's Next Generation Air Transportation System. One of the most significant recommendations was the need for a permanent body to represent currently disenfranchised communities in addressing aircraft noise concerns, hence the proposed aircraft noise mitigation entity.

The City is committed to preserving and enhancing the quality of neighborhoods by maintaining or reducing the levels of noise generated by airports, as such, staff is recommending: 1) the Council discuss the City's involvement in the south bay aircraft noise mitigation entity and 2) consider appointing one member and one alternate from the Council to serve on the committee, once established.

COMMUNITY ENGAGEMENT: Inform

ALTERNATIVE ACTIONS:

N/A

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

There are no fiscal impacts at this time.

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. Air Noise Congress Letter July 2017

Congress of the United States
Washington, DC 20515

Received
 City of Morgan Hill

JUL - 5 2017

City Clerk

June 28, 2017

Ms. Joanne Benjamin, Interim Executive Director
 Cities Association of Santa Clara County
 Post Office Box 1079
 Los Gatos, California 95031

Dear Ms. Benjamin,

We write to request your assistance with the establishment of a long term forum for aircraft noise concerns in the South Bay. There is a critical need in Santa Clara and Santa Cruz Counties for a permanent venue to address aircraft noise concerns and we think it is essential that this body include all currently unrepresented cities in our Congressional Districts. Because you represent each of the 15 cities within Santa Clara County, we respectfully request your assistance with developing an intergovernmental partnership between the cities in Santa Clara and Santa Cruz Counties, Norman Y. Mineta San José International Airport (SJC), and San Francisco International Airport (SFO) that will serve as a permanent aircraft noise mitigation entity representing all affected communities in the South Bay and Santa Cruz County.

Between May and November, 2016, the Select Committee on South Bay Arrivals, a temporary committee of 12 local elected officials appointed by Congresswoman Anna G. Eshoo, Congressman Sam Farr, and Congresswoman Jackie Speier, convened meetings to receive public input and develop regional consensus on recommendations to reduce aircraft noise caused by SFO flights and airspace, and procedural changes related to the Federal Aviation Administration's Next Generation Air Transportation System. Among the many recommendations that received unanimous approval by the former Committee was the need for a permanent venue to represent currently disenfranchised communities in addressing aircraft noise concerns including, but not limited to SFO. This recommendation stems from the fact that our mutual constituents in Santa Clara and Santa Cruz Counties, do not currently belong to a permanent aircraft noise mitigation entity such as the SFO Airport/Community Roundtable.

Recently, the SJC Airport Commission voted unanimously to recommend that the San José City Council approve the establishment of a roundtable forum at SJC to address the noise impacts of the Airport's South Flow operations. While we agree with the Commission that there is a significant demand for an aircraft noise mitigation entity to represent constituents in the South Bay, it is imperative that any potential body not be confined to SJC or SFO related issues and also include representation of all affected and currently unrepresented communities in Santa Clara and Santa Cruz Counties. Although the participation by elected officials in each affected city is essential, it is critical that the establishment of such a body should not be unilaterally implemented by one city, but instead be led collectively by the entire affected region.

We've enclosed a copy of the SFO Airport/Community Roundtable's Purpose and Bylaws which can serve as a model in the South Bay. We would like the Cities Association to collect input from your membership, provide suggestions from each of the cities within your jurisdiction, and to work with the County of Santa Cruz and the Directors of SJC and SFO to develop an intergovernmental partnership modeled after the SFO Airport/Community Roundtable and referred to as the South Bay Airport Roundtable. This body should serve as the permanent

PRINTED ON RECYCLED PAPER

Attachment: Air Noise Congress Letter July 2017 (1340 : Aircraft Noise Mitigation Entity Discussion)

aircraft noise mitigation entity representing each city within each county, and with jurisdiction spanning aircraft noise issues including but not limited to those related to either SJC or SFO. We recommend that the FAA agree to provide technical assistance as needed, and that like the SFO Airport/Community Roundtable, SJC would be responsible for hosting and staffing meetings. To ensure equitable regional representation, each city and county should have the opportunity to appoint one Member and one Alternate who are local elected officials to serve on the body, elect their own leadership, and participate in helping to fund the effort just as the SFO Airport/Community Roundtable does. Once it is conceived, the newly formed South Bay Airport Roundtable could also work with the SFO Airport/Community Roundtable to establish a joint subcommittee to address complex overlapping issues related to the Midpeninsula.

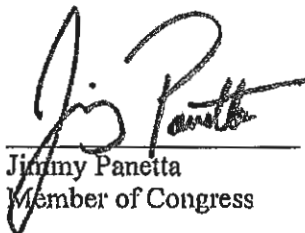
We understand that developing solutions to aircraft noise issues is a complicated and sensitive endeavor that requires extensive engagement with constituents living in affected communities facing sometimes separate but ultimately interrelated issues. Because of this, any proposed changes to our complex airspace should not be the burden of one single city and can only be achieved fairly and effectively with a foundation of regional consensus. The establishment of a permanent South Bay entity is the fundamental prerequisite to ensuring that there is a platform to develop regional consensus upon and thereby ensure any current and future aircraft noise concerns of our mutual constituents can be adequately addressed.

We hope you will accept our request to adopt a leadership role in helping to meet this important regional need. Thank you in advance for your attention to our request and we look forward to your timely response and assistance.

Sincerely, *and gratefully,*



Anna G. Eshoo
Member of Congress



Jimmy Panetta
Member of Congress



Ro Khanna
Member of Congress

cc: Members, Santa Clara County Board of Supervisors
Members, Santa Cruz County Board of Supervisors
The Honorable Liz Gibbons, Mayor, City of Campbell
The Honorable Savita Vaidhyanathan, Mayor, City of Cupertino
The Honorable Roland Velasco, Mayor, City of Gilroy
The Honorable Mary Prochnow, Mayor, City of Los Altos
The Honorable Gary Waldeck, Mayor, Town of Los Altos Hills
The Honorable Marico Sayoc, Mayor, Town of Los Gatos
The Honorable Rich Tran, Mayor, City of Milpitas
The Honorable Marshall Anstandig, Mayor, City of Monte Sereno
The Honorable Steve Tate, Mayor, City of Morgan Hill
The Honorable Ken Rosenberg, Mayor, City of Mountain View
The Honorable Gregory Scharff, Mayor, City of Palo Alto
The Honorable Sam Liccardo, Mayor, City of San José
The Honorable Lisa Gillmor, Mayor, City of Santa Clara
The Honorable Emily Lo, Mayor, City of Saratoga
The Honorable Glenn Hendricks, Mayor, City of Sunnyvale
The Honorable Stephanie Harlan, Mayor, City of Capitola
The Honorable Cynthia Chase, Mayor, City of Santa Cruz

The Honorable Randy Johnson, Mayor, City of Scotts Valley
The Honorable Oscar Rios, Mayor, City of Watsonville
The Honorable Elizabeth Lewis, Chair, San Francisco International Airport/Community
Roundtable
Mr. John Aitken, Interim Director of Aviation, Norman Y. Mineta San José International
Airport
Ms. Julie Riera Matsushima, Chair, Norman Y. Mineta San José International Airport
Commission
Mr. Ivar C. Satero, Director, San Francisco International Airport
Mr. Dennis Roberts, Western Pacific Regional Administrator, Federal Aviation
Administration
Members and Alternates, Former Select Committee on South Bay Arrivals
The Honorable Jackie Speier, Member of Congress
The Honorable Zoe Lofgren, Member of Congress

Enclosure

SAN FRANCISCO INTERNATIONAL AIRPORT/COMMUNITY ROUNDTABLE PURPOSE AND BYLAWS

Adopted on June 5, 2005 (Ver. 1)

Amended on December 2, 2009 (Ver. 2)

Amended on December 1, 2010 (Ver. 3)

Amended on April 3, 2013 (Ver. 4)

Amended on February 4, 2015 (Ver. 5)

A. PURPOSE

B. BYLAWS

Page

Article I.	Organization Name	3
Article II.	Current Roundtable Memorandum of Understanding (MOU). 3	
Article III.	Membership/Representation	4
Article IV.	Officers/Elections	5
Article V.	Staff Support	6
Article VI.	Meetings	6
Article VII.	Subcommittees	7
Article VIII.	Funding/Budget	8
Article IX.	Conduct of Business/Voting	9
Article X.	Amendments/Effective Date	10

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SAN FRANCISCO INTERNATIONAL AIRPORT/COMMUNITY ROUNDTABLE PURPOSE AND BYLAWS

A. PURPOSE

The San Francisco International Airport/Community Roundtable was established in 1981 to address community concerns related to noise from aircraft operating to and from San Francisco International Airport (SFO). This voluntary committee of local elected and appointed officials provides a forum for public officials, airport management, FAA staff, and airline representatives to address issues regarding aircraft noise, with public input. The Roundtable monitors a performance-based aircraft noise mitigation program, as implemented by airport staff, considers community concerns regarding relevant aircraft noise issues, and attempts to achieve additional noise mitigation through a cooperative sharing of authority brought forth by the airline industry, the FAA, airport management, and local elected officials.

B. BYLAWS

Article I. Organization Name

The name of the independent public body established by a 1981 Memorandum of Understanding (MOU), as amended, to carry out the purpose stated above, is the "San Francisco International Airport/Community Roundtable" and may be commonly referred to as the "Roundtable."

Article II. Current Roundtable Memorandum of Understanding (MOU)

The purpose and objectives of the Roundtable are stated in an adopted document entitled, "Memorandum of Understanding (MOU) Providing for the Continuing Operation of the San Francisco International Airport/Community Roundtable," as amended. The MOU is the Roundtable creation document and provides the foundation for its focus and activities.

Article III. Membership/Representation

1. As of the adoption date of this version of the Bylaws, the following agencies/bodies are Roundtable Regular Members:

City and County of San Francisco Board of Supervisors
 City and County of San Francisco Mayor's Office
 City and County of San Francisco Airport Commission
 County of San Mateo Board of Supervisors
 C/CAG* Airport Land Use Committee (ALUC)
 Town of Atherton
 City of Belmont
 City of Brisbane
 City of Burlingame
 City of Daly City
 City of Foster City
 City of Half Moon Bay
 Town of Hillsborough
 City of Menlo Park
 City of Millbrae
 City of Pacifica
 Town of Portola Valley
 City of Redwood City
 City of San Bruno
 City of San Carlos
 City of San Mateo
 City of South San Francisco
 Town of Woodside

2. Roundtable Representatives and their Alternates are voting members who serve on the Roundtable and are designated by each of the members listed in Article III. Section 1 above.
3. All Representatives and their Alternates shall be elected officials from the agencies/bodies they represent, except those from the following:

City and County of San Francisco Mayor's Office
 City and County of San Francisco Airport Commission
 City/County Association of Governments of San Mateo County (C/CAG) Airport Land Use Committee (ALUC)

*City/County Association of Governments of San Mateo County

4. Roundtable Advisory Members are non-voting members that provide technical expertise and information to the Roundtable and may consist of representatives from the following:

Chief pilots of airlines operating at San Francisco International Airport
Federal Aviation Administration (FAA) Staff
5. All Representatives and Alternates who serve on the Roundtable shall serve at the pleasure of their parent bodies.
6. All appointed and elected officials who serve on the Roundtable can be removed/ replaced from the Roundtable at any time by their parent bodies. However, the Roundtable encourages and recommends at least two years of service for Representatives and Alternates who serve on the Roundtable.
7. The Alternates of all Roundtable member agency/bodies shall represent their parent body at all Roundtable meetings when the designated Representative is absent.
8. If both the Representative and his/her Alternate will be absent for a Roundtable meeting, the Chair/Mayor of the member agency/body may designate a voting representative of that agency/body as a substitute for that meeting only and shall notify the Roundtable, preferably in writing, at least two days before the meeting, of that designation.
9. Any city or town in San Mateo County that is not a member of the Roundtable may request membership on the Roundtable in accordance with the membership procedure contained in the most current version of the MOU.
10. Any member may withdraw from the Roundtable by filing a written notice of *Intent to Withdraw from the Roundtable* with the Roundtable Chairperson at least thirty (30) days in advance of the effective date of the withdrawal.
11. No Representative or Alternate shall receive compensation or reimbursement from the Roundtable for expenses incurred for attending any Roundtable meeting or other Roundtable functions.
12. A former member that has withdrawn its Roundtable membership must follow the same process that a new city or town in San Mateo County must follow to request membership in the Roundtable as described in Article III. Section 9 above.

Article IV. Officers/Elections

1. The officers of the Roundtable shall consist of a Chairperson and a Vice-Chairperson.
2. The Chairperson and Vice-Chairperson shall be elected by a majority of the members present at the February Meeting or the first Regular Meeting held thereafter. The term of the Chairperson and Vice-Chairperson shall not exceed twelve (12) months from the date of the election.
3. Nominations for officers of the Roundtable shall be made from the floor.
4. The Chairperson shall preside at all Regular and Special Roundtable Meetings and may call Special Meetings when necessary.
5. The Vice-Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.
6. A special election shall be called if the Chairperson and/or Vice-Chairperson are unable to serve a full term of office.
7. The Chairperson or Vice-Chairperson may be removed from office at any time by a majority vote of the members present at the meeting that such action is to be taken.

Article V. Staff Support

1. Roundtable staff support shall be provided by the County of San Mateo and by the San Francisco Airport Commission. Staff support provided by the County of San Mateo may include County staff and consultants.
2. The duties of the Roundtable Staff and consultants provided by the County of San Mateo shall be specified and approved as part of the Roundtable's annual budget process.

Article VI. Meetings

1. The Roundtable membership shall establish, by adopted resolution, the date, time and place for Regular Roundtable Meetings. Such resolution shall be adopted at the February Regular Meeting or at the first Regular Meeting held thereafter.
2. A majority of the voting members of the Roundtable must be present to constitute a quorum for holding a Regular or Special Roundtable Meeting. Regular or Special Meetings cannot be held if a quorum is not present.

3. If a quorum is not present at a Regular or Special Roundtable Meeting as determined by the roll call, the Chairperson may decide to:
 - a. terminate the proceedings by declaring a quorum has not been achieved and therefore an official meeting cannot be convened,
 - or
 - b. delay the start of the official meeting as a means to achieve a quorum, if possible,
 - and
 - c. if the Chairperson chooses to delay the meeting the Chair may ask for a consensus from the Representatives/Alternates present to hear the informational items only as noted on the meeting agenda.
4. All agendas and meeting notices for each Regular Meeting, Special Meeting, and certain Subcommittee Meetings, as defined in Article VII, shall be posted, as prescribed by law (Brown Act, California Government Code Section 5490 et seq.).
5. Each Roundtable Meeting Agenda packet shall be posted on the Roundtable Web site as soon as possible before a meeting.
6. A paper copy of the Meeting Agenda packet shall be provided at no charge to anyone who requests a copy.

Article VII. Subcommittees

1. Subcommittees shall either be a Standing Subcommittee or an Ad Hoc Subcommittee. The number of members appointed to a subcommittee of the Roundtable shall consist of less than a quorum of its total membership (see Article VI. Section 2, re: quorum).
 - a. Standing Subcommittees shall include, but not be limited to the following:
 1. Work Program Subcommittee
 2. Operations and Efficiency Subcommittee
 3. Legislative Subcommittee
 4. Departures Technical Working Group
 5. Arrivals Technical Working Group
 - b. Ad Hoc Subcommittee(s) may be created, as needed, to address specific issues.
2. Creation of a Standing Subcommittee or an Ad Hoc Subcommittee may be created by a majority vote of the Representative/Alternates present at a Regular Meeting. The Chairperson shall have the discretion to propose the formation of a subcommittee.

3. Standing Subcommittee or Ad Hoc Subcommittee membership and number of meetings shall be based on the following:
 - a. The Chairperson, at his or her discretion, may appoint any Roundtable Representative or Alternate to serve on a Standing Subcommittee or on an Ad Hoc Subcommittee.
 - b. The Roundtable Chairperson and Vice-Chairperson may serve on a Sub-committee or appoint a current member of the Roundtable to serve as the Subcommittee Chairperson. The Roundtable Chairperson shall serve or appoint a Chair of the Subcommittee, and the Subcommittee shall elect the Vice-Chair. When the Chair of the Subcommittee cannot attend a Subcommittee meeting, the Subcommittee Vice-Chair may serve as the Chair for that meeting.
 - c. Each Subcommittee shall meet as many times as necessary to study the issues identified by the Roundtable as a whole and develop and submit final recommendations regarding such issues to the full Roundtable for review/action.
 - d. After the date on which the Roundtable has heard and taken action on an Ad Hoc Subcommittee's final recommendation(s), the Ad Hoc Subcommittee shall cease to exist, unless the Roundtable determines that the Subcommittee must reconvene for the purposes described in this paragraph. In its action on the Ad Hoc Subcommittee recommendation(s), the Roundtable may direct the Subcommittee to reconvene, as necessary to review, refine, and/or revise all or a portion of its recommendation(s). If such action occurs, the Ad Hoc Subcommittee shall be charged with preparing and submitting a subsequent recommendation(s) to the full Roundtable for review/action. After the date on which the Roundtable has received the subsequent Ad Hoc Subcommittee recommendation(s), the Subcommittee shall cease to exist.
4. The duties of a chairperson of a Roundtable Subcommittee may include, but are not limited to, presiding over Subcommittee meetings and submitting recommendations to the full Roundtable, regarding the topics/issues addressed by the Subcommittee.

Article VIII. Funding/Budget

1. The Roundtable shall be funded by its voting member agencies. The County of San Mateo shall establish a Roundtable Trust Fund that contains the funds from the member agencies and shall be the keeper of the Trust Fund. All Roundtable expenses shall be paid from the Roundtable Trust Fund.
2. The amount of the annual funding contribution for the various categories of membership may be revised by the Roundtable at a Regular or Special Meeting by a majority vote of those members present at that meeting.

3. The Roundtable fiscal year shall be from July 1st to June 30th.
4. Roundtable Staff, in consultation with the Roundtable Chairperson, will recommend an annual funding amount for each Roundtable member at least 60 days prior to the anticipated date of adoption of the annual Roundtable Budget.
5. The Roundtable shall adopt an annual budget at a Regular Meeting or at a Special Meeting held between May 31 and October 31 of each calendar year. The budget must be approved by a majority of the Representatives/Alternates who are present at that meeting.
6. The adopted Roundtable Budget may be amended at any time during the fiscal year, as needed. Such action shall occur at a Regular Roundtable Meeting and be approved by a majority of the Roundtable Representatives present at that meeting.
7. The City and County of San Francisco shall provide an annual funding contribution for representation on the Roundtable by the representatives from the San Francisco Board of Supervisors, the San Francisco Mayor's Office, and the San Francisco Airport Commission. The Airport Commission, being a department of the City and County of San Francisco, shall provide one funding source for all three of these representatives. The amount of the annual contribution may be determined at the discretion of the Airport Director, with approval by the Airport Commission and shall be the subject of an agreement between the City and County of San Francisco and the County of San Mateo.
8. If a member withdraws from the Roundtable, per the provisions of Article III. Section 9, the remainder of that member's annual Roundtable funding contribution shall be forfeited, since the annual Roundtable Budget and Work Program are based on revenue provided by all Roundtable members.

Article IX. Conduct of Business/Voting

1. All Roundtable Regular Meetings and Special Meetings shall be conducted per the relevant provisions in the Brown Act, California Government Code Section 54950 et seq.
2. All Roundtable Standing Subcommittees, as identified in Article VII., are considered legislative bodies, per Government Code Section 54952 (b) (Brown Act) and therefore, the conduct of Standing Subcommittee meetings shall be guided by the relevant provisions of the Brown Act, Government Code Section 54950 et seq.
3. All Ad Hoc Subcommittees are not legislative bodies, as defined by law, and therefore the conduct of those Subcommittee meetings are not subject to the relevant provisions of the Brown Act, Government Code Section 54950 et seq.

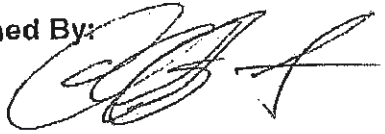
4. All action items listed on the Meeting Agenda shall be acted on by a motion and a second, followed by discussion/comments from Roundtable Representatives and the public, in accordance with *Robert's Rules of Order*. Approval of an action item shall require a majority of the membership present.
5. Except as described in Section 6 below, each agency/body represented on the Roundtable shall have one vote on all voting matters that come before the Roundtable.
6. The City and County of San Francisco has three (3) representatives on the Roundtable (Board of Supervisor's Representative, Mayor's Office Representative; and Airport Commission Representative). In the event all three are present at a Roundtable Regular or Special Meeting, only two of the three may vote on any action item on the meeting agenda.
7. To ensure efficient communications and the appropriate use of Roundtable Staff and Airport Noise Abatement Office Staff resources outside of noticed Roundtable meetings, other than those requests deemed to be minor by the Chairperson, Roundtable Members shall submit all requests for assistance/information/analysis to the Chairperson. The Chairperson will determine the appropriate course of action to respond to the request and shall, if necessary, forward the request to Roundtable and/or Airport staff for action. The Chairperson shall inform the Roundtable Member of the disposition of the request in a timely manner. For requests that are outside of the Roundtable's purview or approved Work Program, the Chairperson shall notify the Member that the request cannot be fulfilled at that time. The Vice Chairperson shall have similar authority in the Chairperson's absence.

Article X. Amendments/Effective Date

1. The Bylaws shall be adopted at a Regular or Special Roundtable Meeting by a majority of the Roundtable Representatives/Alternates present at that meeting.
2. The adopted Bylaws may be amended at any Roundtable Regular or Special Meeting by a majority of the Roundtable Representatives/Alternates present at that meeting.
3. The effective date of these Bylaws and any future amended Bylaws shall be the first day after the Roundtable action to (1) adopt these Bylaws and (2) adopt all subsequent amendments to the Bylaws.

* * * * *

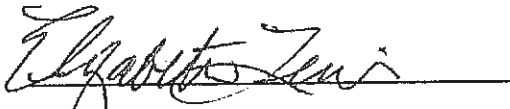
Signed By:



Date:

4/1/15

Cliff Lentz
Roundtable Chairperson
Councilmember
City of Brisbane



Date:

4/1/15

Elizabeth Lewis
Roundtable Vice-Chairperson
Councilmember
Town of Atherton

COUNCIL MEMBER NOTICE

ATTENTION

PLEASE BE ADVISED THAT STAFF HAS NOTED THAT YOU OWN PROPERTY LOCATED WITHIN 500' OF AGENDA ITEM(S) LISTED BELOW:

COUNCIL MEMBER(S): Constantine

MEETING DATE: 7/26/17

AGENDA ITEM(S): 5

TITLE(S): AWARD EAST MAIN AVENUE WELL PROJECT

CC: Mayor
City Manager
City Attorney
Council Services & Records Coordinator

Summary of plan-related public comments as of 7/24/17

Sent: Wednesday, July 19, 2017 6:11 PM

Name

Bev Vessa

Email

baustin52@yahoo.com

Subject

Draft map

Message

I prefer the orange map because it seems to include neighborhoods I consider similar and adjacent to mine. I think it is representative of residents who face similar concerns based on their location in regards to the freeway, for example, as well as other geographic concerns.

=====

Sent: Thursday, July 20, 2017 9:08 PM

To: morganhill@ndcresearch.com

Name

Kristyn Greenwood

Email

kristyngreenwood@gmail.com

Subject

Map Feedback

Thanks for sharing the interactive maps. Lee1B has my support as the districts appear to be the most consolidated. I do not support any maps in which districts contain tiny peninsulas into neighboring districts.

=====

From: Marby Lee <marbles@garlic.com>

Sent: Thursday, July 20, 2017 3:06 PM

To: MorganHill@NDCresearch.com

Subject: Lee Map on Draft Maps site

Doug –

I writing in regards to the map I submitted (Lee1) – unfortunately I neglected to update some tracts when typing in districts onto the spread sheets and why district A and B ended up with the non-contiguous layout. The corrected map (Lee1b) is a good representation of what I was trying to achieve, and would like that map to be considered, and, if possible, remove map Lee1 from consideration. Please let me know if you have any questions. Thank you!

Best,

Marby Lee

Summary of plan-related public comments as of 7/24/2017

=====
From: D. Muirhead
<doug.muirhead@stanfordalumni.org>
Sent: Thursday, June 29, 2017 10:23 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin; Michelle Wilson
Subject: Morgan Hill district maps muirhead
comment #1

Two comments to get started.

1) I see a placeholder for Single-District Maps in Draft Maps.
I did not hear you mention this in your Council presentation, but it is listed as a legal option in the FAQ.

2) I intend to first draw a map which has a new council district in the south end of the City. Since no current member resides there, that means the 4 incumbent members will be in 3 districts. This runs counter to your 6th instruction in the redistricting criteria for continuity in office (which I would call incumbent protection). To feel better about violating your rule, I want to use speculative information. Our Mayor has said he will not run again. If I think a current council member will run for Mayor, then putting that person in a district with another incumbent yields only one incumbent in the district at voting time. Since I am suggesting a consideration not based on fact, I don't see a way to make this a question for you. But we are drawing maps for an election in 2018.

I was impressed with the presentation and Council questions on June 28.
Regards, Doug Muirhead, Morgan Hill

=====
From: D. Muirhead
<doug.muirhead@stanfordalumni.org>
Sent: Friday, June 30, 2017 12:09 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin; Minutes Clerk Michelle Wilson
Subject: Morgan Hill district maps muirhead
comment #2

I have a different view of the question by Mr. Carr and the response by Mr. Johnson at the June 28 Council meeting about what happens after the election by districts.

But first I want to be sure that I am not abusing your hospitality regarding "if you have any questions, contact us". Feel free to tell me if I have gone beyond your intended scope of involvement.

Will questions directed to you, the City, or at the community forums be collected and included in the legislative file when you present the maps to Council?

Summary of plan-related public comments as of 7/24/2017

So back to my different view.

1) The claim that "elected at-large" implies "representation" of all of the City equates "representation" with "understanding".

Until quite recently, all Council members owned single-family homes.

One now owns a townhome.

Until this year, the Council focused on youth. Now the Council says its priority is youth, seniors, and all residents.

Your map shows that Council members live in the north half of the City.

Major economic investment has gone into Downtown in the north half of the City.

While I understand the "thumb on the scale" impression, it would be quite instructive to see how Council members view community interests by having them draw their maps.

Any time I hear an elected official claim to represent all constituents, I want to administer a Johari Window test.

2) A vote of 4-1 may not pass legislation. But with our two newest members and their fresh eyes and fresh ideas, we are having discussions on issues where before there was no need since the vote would be 5-0.

Regards, Doug Muirhead, Morgan Hill

=====

From: D. Muirhead

<doug.muirhead@stanfordalumni.org>

Sent: Sunday, July 23, 2017 12:04 PM

To: MorganHill@ndcresearch.com

Cc: Maureen Tobin; Minutes Clerk Wilson

Subject: comments on Morgan Hill District maps
for July 26 workshop

NDC and City Teams,

It appears to me that most submitters focused on "communities of interest" from the list of six criteria. Given that they are long-term residents (I am a "newcomer" at 12 years), I accept that they have a good feel for how "similar interests" cluster. But I do not know which if any of the identified demographic classes are included for a given map.

Other than the Monterey Corridor (business/mixed-use extended south to Tennant and beyond), my "communities" are more a subjective sense from jogging and biking throughout most of the City, excluding Llagas west of Hale and Dunne east of Hill. I have a fondness for older neighborhoods with modest homes.

Several people who have not (yet) submitted maps prefer each district to have a little bit of everything. If you imagine the City as divided into four horizontal "rows", then "columns" might be various special

Summary of plan-related public comments as of 7/24/2017

interests. And resources available to different groups to promote their causes are not equal. While this is a cynical view, I do not support "a little bit of everything" for each district.

We have the six criteria that Mr. Johnson said were defined by the City Council. I chose to "color outside the lines" in rejecting incumbent protection. Others chose to ignore continuity, especially as regards the two eastern tips of the amoeba. I happen to agree that those areas have similar interests even though there is a County-land separator.

When will the Council define how they will weight the six criteria in evaluating maps? Or are they going to define a different process?

My first choice is my Points-of-the-Compass (Muirhead 1) map.

As I have said before to the NDC/City Team, the unfortunate shapes and sizes of the Census Blocks, combined with the unordered shape of the City limits, are artificial constraints on drawing just four districts.

That said, my second choice is Mueller 2:

% Hisp 23% 33% 48% 31% 34%

% NH White 61% 45% 41% 55% 50%

which just edges out Benevento 2:

% Hisp 29% 33% 51% 22% 34%

% NH White 56% 49% 38% 59% 50%

I like mixed-use and multi-family residences to have an advocate, so the shape of Mueller D is slightly better than Benevento A.

I do prefer Benevento D combining East Cochrane and East Dunne over Mueller separation of B and A. In either case, some residential area gets stuck with the industrial parks.

The more I look at the maps side-by-side, the less I feel I know the City.

I hope the July 26 workshop will have more residents come and talk about their views of our "communities of interest" and the other criteria.

Regards, Doug Muirhead, Morgan Hill

=====

Sent: Thursday, July 20, 2017 12:45 PM

Name

Tina Shakour

Email

tinashakour@gmail.com

Subject

District Map

Message

The plan labeled "Yellow" makes the most sense and seems less complicated. In addition, it allows areas most likely to be impacted by changes at Anderson Dam to be in one district.

=====

Summary of plan-related public comments as of 7/24/2017

Sent: Wednesday, July 19, 2017 7:06 PM

Name

Carl McCaw

Email

CarlMcCaw@Charter.Net

Subject

Redistricting, plus Presentation Map CONFUSION

Message

"By District" is an undemocratic concept. E.G. In the water rate issue it pitted the Flatlanders against the Hill People. It falsely pits council members against council members. We become limited to a council member we may not even agree with. This presentation is misleading. It needs proper labeling! 1. The first revealed map looks like a street map. What is it? A: Some sort of Population lines. Huh? 2. As You proceed down the layer options their maps appear on top of one-another. That should never be allowed. Moving thru the list is DISJOINT! 3. The districts are shown by color and by ABCD letters. When the layers pile up that is just a mess. 4. BALANCED can mean EQUAL SIZE. That is not made clear! 5. As You proceed the Forward and Backward arrows stop working because they are not implemented. THIS TOOL YOU USE DOES NOT ALLOW ME TO PRINT MY SUGGESTIONS. THAT NEEDS TO BE FIXED!!!! I GO TO ALL THIS WORK AND THEN YOU DELETE IT ON ME! CHOOSE A BETTER TOOL!

=====

Sent: Wednesday, July 3, 2017 10:40 PM

Name

Ethan Hanlon

Email

ehanlon19@gmail.com

Subject

Need a blank map of MH

Message

Hello. I am interested in helping with the redistricting process, however I need just one more version of the map. Specifically, I require something similar in appearance to the paper-only maps available, however with no roads, and with all solid lines instead of dotted ones. If you could do this, that would be great. Thank you very much, --Ethan Hanlon

=====

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]

Sent: Thursday, July 13, 2017 12:10 PM

To: Douglas Johnson <djohnson@ndcresearch.com>

Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>

Subject: Re: District interactive viewer add General Plan Land Use

Thank you for the detailed update.

I did really mean it when I said "If it is not a lot of work".

Regards, DougM

=====

Summary of plan-related public comments as of 7/24/2017

Good morning,

If it is not a lot of work, would you support my request to add the 2035 General Plan Land Use map to the layers in the interactive viewer?

One of my "communities of interest" is MTC/ABAG Plan Bay Area 2040 and Priority Development Areas.

Map from GP is attached.

Regards, DougM

=====

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Friday, July 7, 2017 11:51 AM
To: Douglas Johnson <djohnson@ndcresearch.com>
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>; Justin Levitt - NDC <jlevitt@ndcresearch.com>
Subject: Re: what is status of submitted maps

OK. I'll save my nit-picking on balance versus concept for Monday.

I hope to learn how to carve up the north end of the City given the odd shapes and blocking function of certain census blocks. Which is why my second map (Monterey corridor) is population unbalanced; the Mayor has expressed interest in seeing it.

Since you have a class of Draft Maps labeled Full City Maps that are not Population Balanced, are you willing to at least mention their existence at the forum and council meetings?

Thanks again, DougM

=====

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Friday, July 7, 2017 10:40 AM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>
Subject: what is status of submitted maps

Greetings,
Perhaps the 72-hour counter for processing submitted maps counted Monday as part of a 4-day weekend with the Tuesday holiday. If so, I am 12 hours early with my inquiry.

I have not heard back about my two maps, and the Draft Maps at DrawMH.org is still empty.
I really would like those maps available at the workshop next Monday.

Summary of plan-related public comments as of 7/24/2017

Map 1 South City new district

created and submitted with errors (unassigned, non-contiguous) Sun Jul 2 @ 1PM

Map 2 Monterey Corridor PDA + donut

created and submitted with population unbalanced Mon Jul 3 @ noon

Thanks, DougM

=====
From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Monday, July 3, 2017 1:20 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Minutes Clerk Michelle Wilson
<Michelle.Wilson@morganhill.ca.gov>
Subject: Morgan Hill district maps muirhead comment #3

I have submitted a second map whose key principle is to define an extended Priority Development Area (transit, high-density housing, and jobs) along the Monterey Corridor.

It is not population balanced, and I am not going to spend more time trying to have districts which are "compact" and "connected" when the City itself does not have orderly boundaries and some Census Blocks have "frying pan" shapes and may block connections.

Those using Population Units do not know what criteria were used to cluster Census Blocks.

I might want the eastern arms of the City amoeba to be seen as a community of interest even though there is County land in between them.

For the historical record, Mr. Carr has described the boundaries of our City as what you get if you throw an egg against a wall.

Mr. Constantine prefers the image of a crime scene dead body outline.

I thought about creating a third map which would reflect the east-west ribbons with "a little bit of everything" suggested by Gavilan Trustee, but I'll leave that concept up to the City team and NDC.

Unless I see a map from another which triggers a new concept, I am done until I see you all on July 10.

Regards, Doug Muirhead, Morgan Hill

=====
From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Sunday, July 2, 2017 1:04 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Michelle Wilson

Summary of plan-related public comments as of 7/24/2017

<Michelle.Wilson@morganhill.ca.gov>

Subject: Morgan Hill district maps muirhead help #4

I just submitted my first map built with the on-line tool.

I hope that with the map, you can understand and resolve the problems described below.

Re: Plan Integrity

Running Plan Integrity gives me

a list of Unassigned Areas:

example Unassigned Area #1 (0.03 sq mi) a list of Non-contiguous Areas:

example A, Area 1 (2.5 sq mi)

but when I zoom to selected area I don't see an indicator of the problem area.

Re: Toolbox Move and Update

Wanting to save my work, I selected a number of Census Blocks and created the new district. I then selected more blocks to increase the population, but when I moved them into the district just created, they show up with their own boundary and not joined with the intended district.

In the submitted map, these are the two at the top of and surrounded by District A. The location info "i" button does say they are in A.

Thank you,

Doug Muirhead, Morgan Hill

=====

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]

Sent: Sunday, July 2, 2017 9:45 AM

To: Douglas Johnson <djohnson@ndcresearch.com>

Cc: MorganHill@ndcresearch.com; Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Minutes Clerk

Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>

Subject: Re: Morgan Hill district maps muirhead help #2

The Excel data you provided is fine. I can read Microsoft formats, just not write them.

Allowing me to submit in CSV format is adequate.

DougM

On 7/2/17, Douglas Johnson <djohnson@ndcresearch.com> wrote:

> I can provide the data in another format, but none of the formulas or

> auto-calculations will work. Do you want the data?

>

> You can submit your proposed plan in csv format.

>

> - Douglas Johnson

> 310-200-2058

> djohnson@NDCresearch.com

Summary of plan-related public comments as of 7/24/2017

> Douglas.johnson@cmc.edu
> Doug@talksoftly.com
> Sent from my iPhone
>
>> On Jul 1, 2017, at 9:34 PM, D. Muirhead
>> <doug.muirhead@stanfordalumni.org>
>> wrote:
>>
>> Re: Microsoft Excel Supplement
>>
>> Since I run open source software (Calligra Sheets on Linux), I can
>> read but not write .xlsx files.
>> Do you support any other file format (e.g., CSV files)?
>>
>> Thank you,
>> Doug Muirhead, Morgan Hill
>

=====
From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Saturday, July 1, 2017 10:13 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Minutes Clerk Michelle Wilson
<Michelle.Wilson@morganhill.ca.gov>
Subject: Morgan Hill district maps muirhead help #3

Re: Population Unit ID Numbers versus Census Blocks

I think I have a fundamental misunderstanding.
I thought Population Unit ID was equivalent to Census Block.
Using your popunit-id-bw.pdf file as the reference, bottom right area #36.
When I set the Toolbox Selection to Census Block and go to pointer mode, when I click in that area I get a small piece of it.

Since I cannot get fine-grain control using rectangles, I wanted to pick particular Census Blocks.
But even though I have Census Block turned on in Map Legend Layers, I do not get the small pieces to show labels or boundaries if not selected.

Thank you,
Doug Muirhead, Morgan Hill

=====
From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Saturday, July 1, 2017 9:10 PM
To: MorganHill@ndcresearch.com

Summary of plan-related public comments as of 7/24/2017

Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Minutes Clerk Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>
Subject: Morgan Hill district maps muirhead help #1

Re: Map of Census Blocks and PopUnits where Council Members live.

What is the Block ID for Mr. Constantine?
He seems to be on the boundary between 22 and 23.

My guesses for the others are:
Ms. Jachimowicz 28
Mr. Carr 25
Mr. Spring 14

Thank you,
Doug Muirhead, Morgan Hill

=====
From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Friday, June 30, 2017 12:09 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Minutes Clerk Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>
Subject: Morgan Hill district maps muirhead comment #2

I have a different view of the question by Mr. Carr and the response by Mr. Johnson at the June 28 Council meeting about what happens after the election by districts.

But first I want to be sure that I am not abusing your hospitality regarding "if you have any questions, contact us". Feel free to tell me if I have gone beyond your intended scope of involvement.

Will questions directed to you, the City, or at the community forums be collected and included in the legislative file when you present the maps to Council?

So back to my different view.

1) The claim that "elected at-large" implies "representation" of all of the City equates "representation" with "understanding".

Until quite recently, all Council members owned single-family homes.

One now owns a townhome.

Until this year, the Council focused on youth. Now the Council says its priority is youth, seniors, and all residents.

Your map shows that Council members live in the north half of the City.

Major economic investment has gone into Downtown in the north half of the City.

While I understand the "thumb on the scale" impression, it would be quite instructive to see how Council members view community interests by having them draw their maps.

Summary of plan-related public comments as of 7/24/2017

Any time I hear an elected official claim to represent all constituents, I want to administer a Johari Window test.

2) A vote of 4-1 may not pass legislation. But with our two newest members and their fresh eyes and fresh ideas, we are having discussions on issues where before there was no need since the vote would be 5-0.

Regards, Doug Muirhead, Morgan Hill

=====

From: D. Muirhead [mailto:doug.muirhead@stanfordalumni.org]
Sent: Thursday, June 29, 2017 10:23 PM
To: MorganHill@ndcresearch.com
Cc: Maureen Tobin <maureen.tobin@morganhill.ca.gov>; Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>
Subject: Morgan Hill distrct maps muirhead comment #1

Two comments to get started.

1) I see a placeholder for Single-District Maps in Draft Maps.
I did not hear you mention this in your Council presentation, but it is listed as a legal option in the FAQ.

2) I intend to first draw a map which has a new council district in the south end of the City. Since no current member resides there, that means the 4 incumbent members will be in 3 districts. This runs counter to your 6th instruction in the redistricting criteria for continuity in office (which I would call incumbent protection). To feel better about violating your rule, I want to use speculative information. Our Mayor has said he will not run again. If I think a current council member will run for Mayor, then putting that person in a district with another incumbent yields only one incumbent in the district at voting time. Since I am suggesting a consideration not based on fact, I don't see a way to make this a question for you. But we are drawing maps for an election in 2018.

I was impressed with the presentation and Council questions on June 28.
Regards, Doug Muirhead, Morgan Hill

From: D. Muirhead
To: MorganHill@ndcresearch.com
Cc: [Maureen Tobin](#); [Michelle Wilson](#)
Subject: comments on Morgan Hill District maps for July 26 workshop
Date: Sunday, July 23, 2017 12:03:45 PM

NDC and City Teams,

It appears to me that most submitters focused on "communities of interest" from the list of six criteria.

Given that they are long-term residents (I am a "newcomer" at 12 years), I accept that they have a good feel for how "similar interests" cluster. But I do not know which if any of the identified demographic classes are included for a given map.

Other than the Monterey Corridor (business/mixed-use extended south to Tennant and beyond), my "communities" are more a subjective sense from jogging and biking throughout most of the City, excluding Llagas west of Hale and Dunne east of Hill. I have a fondness for older neighborhoods with modest homes.

Several people who have not (yet) submitted maps prefer each district to have a little bit of everything. If you imagine the City as divided into four horizontal "rows", then "columns" might be various special interests. And resources available to different groups to promote their causes are not equal. While this is a cynical view, I do not support "a little bit of everything" for each district.

We have the six criteria that Mr. Johnson said were defined by the City Council. I chose to "color outside the lines" in rejecting incumbent protection. Others chose to ignore continuity, especially as regards the two eastern tips of the amoeba. I happen to agree that those areas have similar interests even though there is a County-land separator.

When will the Council define how they will weight the six criteria in evaluating maps? Or are they going to define a different process?

My first choice is my Points-of-the-Compass (Muirhead 1) map.

As I have said before to the NDC/City Team, the unfortunate shapes and sizes of the Census Blocks, combined with the unorderly shape of the City limits, are artificial constraints on drawing just four districts.

That said, my second choice is Mueller 2:

% Hisp 23% 33% 48% 31% 34%

% NH White 61% 45% 41% 55% 50%

which just edges out Benevento 2:

% Hisp 29% 33% 51% 22% 34%

% NH White 56% 49% 38% 59% 50%

I like mixed-use and multi-family residences to have an advocate, so the shape of Mueller D is slightly better than Benevento A.

I do prefer Benevento D combining East Cochrane and East Dunne over Mueller separation of B and A.

In either case, some residential area gets stuck with the industrial parks.

The more I look at the maps side-by-side, the less I feel I know the City.
I hope the July 26 workshop will have more residents come and talk about
their views of our "communities of interest" and the other criteria.

Regards, Doug Muirhead, Morgan Hill

From: [Michelle Wilson](#)
To: [Michelle Wilson](#)
Subject: FW: Why are You destroying the "AT Large" Council Member process to fix an Unproven Problem and not asking the Voters to Agree?
Date: Tuesday, July 25, 2017 9:47:24 AM

From: Carl McCaw <carlmccaw@charter.net>

Date: July 20, 2017 at 4:17:22 PM PDT

To: 'Steve Tate' <steve.tate@morganhill.ca.gov>, <rich.constantine@morganhill.ca.gov>, <larrycarr@morganhill.ca.gov>, Rene Spring <rene.spring@morganhill.ca.gov>, Caitlin Jachimowicz <caitlin.jachimowicz@morganhill.ca.gov>

Subject: Why are You destroying the "AT Large" Council Member process to fix an Unproven Problem and not asking the Voters to Agree?

Dear Honored City Council Members,

Why are You destroying the "AT Large" Council Member process to fix an Unproven Problem and first not asking the Voters to Agree that this is preferable?

MORGAN HILL evolved to the AT LARGE Council Members organization for very wise reasons.

Now a BY DISTRICT scheme is being implemented behind a ruse of asking voters to provide proposed district maps. The reason was never explained and it is false!

Who says the voters agreed to this election change?
Did You ask them?

Did You explain the threat of a lawsuit that falsely caused You to jump to this conclusion on your own?

Election by district does NOT solve the problem of racial discrimination. If a racial group wants representation the solution is to get a member of their group to run for election and then elect them! They have a better chance of being successful in an AT Large system than in a By District one.

The maps proposed do not provide racial districts. They are providing Balanced Population. That does not solve a racial problem!

The flaw in the By District scheme is that if your elected council person does not agree with You, You do not have an elected official over which You have any clout.

Segmenting the population by address simply creates identifiable enemies

and thus friction.

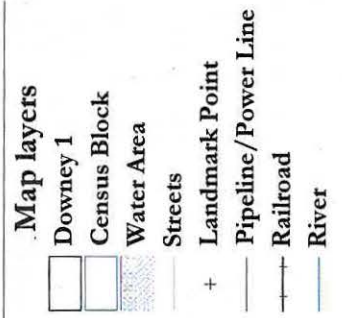
Trying to appease the Bullies behind the lawsuit does not work. You have to refute their logic. Segmented districts cannot solve racial problems in a fairly even distributed population. The racial group has the best hope with an AT Large election. They get FOUR possibilities and they can run their candidate for ANY of four seats.

This mapping solution is a foolish sham and needs to be STOPPED NOW!

Thank You,

Carl McCaw
3300 Quail Lane
Morgan Hill
CA 95037
(408) 779-4566
CarlMcCaw@Charter.Net

Downey 1 Map



Morgan Hill - Downey 1 map

District		A	B	C	D	Total
Ideal	Total Pop	9,408	9,387	9,593	9,494	37,882
7,576	Deviation from ideal	-63	-84	122	23	206
	% Deviation	-0.67%	-0.89%	1.29%	0.24%	2.18%
Total Pop	% Hisp	33%	23%	34%	46%	34%
	% NH White	53%	62%	45%	42%	50%
	% NH Black	2%	2%	2%	2%	2%
	% Asian-American	10%	11%	17%	8%	11%
Voting Age Pop	Total	6,639	6,815	6,749	6,841	27,044
	% Hisp	29%	20%	30%	41%	30%
	% NH White	57%	65%	49%	47%	55%
	% NH Black	2%	2%	2%	2%	2%
Citizen Voting Age Pop	% Asian-American	9%	11%	16%	8%	11%
	Total	5,958	6,602	7,174	6,914	26,648
	% Hisp	24%	17%	27%	36%	26%
	% NH White	59%	69%	56%	53%	59%
Voter Registration (Nov 2014)	% NH Black	2%	3%	4%	5%	4%
	% Asian/Pac.Isl.	14%	10%	11%	6%	10%
	Total	5,096	5,494	5,035	4,181	19,806
	% Latino est.	20%	16%	21%	28%	21%
Voter Turnout (Nov 2014)	% Asian-Surnamed	5%	6%	9%	5%	6%
	% Filipino-Surnamed	1%	1%	2%	2%	1%
	% Spanish-Surnamed	18%	15%	19%	25%	19%
	% NH White est.	70%	74%	59%	56%	66%
Voter Turnout (Nov 2012)	% NH Black	2%	2%	5%	5%	3%
	Total	2,584	2,865	2,302	1,838	9,588
	% Latino	16%	12%	16%	20%	16%
	% Asian-Surnamed	4%	6%	7%	5%	6%
ACS Pop. Est.	% Filipino-Surnamed	1%	1%	2%	1%	1%
	% Spanish-Surnamed	14%	11%	15%	18%	14%
	% NH White est.	76%	79%	64%	64%	72%
	% NH Black	2%	2%	6%	5%	3%
Age	Total	4,076	4,587	3,990	3,314	15,968
	% Latino	19%	15%	20%	26%	20%
	% Asian-Surnamed	4%	5%	8%	5%	6%
	% Filipino-Surnamed	1%	1%	1%	1%	1%
Immigration	% Spanish-Surnamed	17%	13%	18%	23%	18%
	% NH White est.	70%	76%	62%	60%	68%
	% NH Black est.	2%	2%	5%	5%	3%
	Total	9,878	10,126	10,034	10,058	40,095
Language spoken at home	age0-19	31%	29%	26%	29%	29%
	age20-60	50%	52%	53%	57%	53%
	age60plus	19%	19%	21%	14%	18%
	immigrants	17%	17%	20%	22%	19%
Language Fluency	naturalized	47%	60%	64%	47%	54%
	english	71%	75%	68%	63%	69%
	spanish	20%	15%	19%	28%	21%
	asian-lang	5%	4%	7%	4%	5%
Education (among those age 25+)	other lang	3%	5%	6%	4%	5%
	Speaks Eng. "Less than Very Well"	11%	8%	10%	14%	11%
	hs-grad	53%	49%	50%	53%	51%
	bachelor	24%	24%	24%	19%	23%
Child in Household	graduatedegree	13%	18%	16%	10%	14%
	child-under18	34%	39%	33%	40%	37%
	employed	60%	63%	62%	64%	62%
	Commute on Public Transit	3%	2%	3%	4%	3%
Household Income	income 0-25k	16%	10%	14%	18%	15%
	income 25-50k	14%	12%	13%	18%	14%
	income 50-75k	14%	11%	12%	12%	12%
	income 75-200k	41%	45%	40%	39%	42%
Housing Stats	income 200k-plus	15%	22%	21%	13%	17%
	single family	80%	90%	90%	70%	82%
	multi-family	20%	10%	10%	30%	18%
	vacant	3%	2%	3%	2%	2%
Total and Voting Age population data from the 2010 Decennial Census.	occupied	97%	98%	97%	98%	98%
	rented	29%	22%	22%	44%	30%
	owned	71%	78%	78%	56%	70%

Total and Voting Age population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.

SUBMIT

Item 9
handout received
7/26/17

Carl McCaw

From: Carl McCaw <carlmccaw@charter.net>
Sent: Wednesday, July 26, 2017 3:14 PM
To: Carl R. McCaw (carlmccaw@charter.net)
Subject: Latino Lawsuit

Morgan Hill City Council Members,

The problem with the proposed solution to the lawsuit raised by three local Latinos is that it does not get more Latinos elected but, rather, racially discriminates against ALL voters.

The San Jose Mercury News today has a useful front-page article on this subject and it shifted my views. It reveals that it is well recognized that new Districts will not be effective but it is the tool in vogue to fix the Latino election losses.

I believe the current MH CITY Council is a useful group but the requirement in the future is that a council member must live in the district they come from. So some of the current members may be knocked out because of the duplication. That list needs to be revealed to us now.

How are the rights of voters damaged? Presently if You have a problem You can approach any or all of the five Council members, request help, and claim that You voted for them!

In the District scheme You only have your own district Council member, and possibly also the Mayor. (A debate is still raging as to that latter option of the Mayor.) So You went from 5 to 1 or 2 for allies. They have no business in destroying your Rights!

The lawyers for the Lawsuit list ten instances beginning in 2010 where Latino candidates, popular with Latinos, did not get elected. That does not prove discrimination. I do not remember any of those candidates. Getting elected requires well-establishing your identity and your good qualifications.

I recommend that those Latinos contact Rene Spring and also Steve Tate for tips on how they each were successful. Steve worked his way through volunteer jobs in the management of Holiday Lake Estates and became President, before he ran for the Council. It is pure happenstance that neither of them are Latinos.

There is no evidence that Districts will solve the election problem. But what if they did? One solution would be to have a temporary trial, which, if Districts fail, we revert to At Large. A sad lesson!

The present Council has failed to come up with a good rebuttal to this District proposal so they think they will lose and choose to avoid any legal expenses.

They are shooting themselves in the foot. They and We will suffer the consequences.

The Council needs better ideas. They need to educate the whole population to mine for a solution.

Instead the whole process has been hidden by misdirection with an offer to have You submit a By District map, when You haven't even bought into it. The tool that was sent out to review the present maps is full of bugs and reflects badly on the quality and intentions of this staff effort.

I do not support discrimination against anyone!

Stop this discrimination against Morgan Hill Voters!

MORGAN HILL 2035



**Residential Development Control System (RDCS)
Competition Categories and Allotment Distribution**
City Council Hearing

July 26, 2017

Recommendation

Adopt Resolution Establishing
Competition Categories and
Distribution of Allotments for the
2017 RDCS Competition

Background

18.78.090 RDCS Competition Categories

A. General. Each year the City Council *may* establish competition categories for certain types of projects...For each competition category, the City Council shall identify the number of allotments available...

B. Example Competition Categories.

C. Affordable Housing.

2017 Competition for FY 19/20

Planning Commission Recommendation:

<u>Competition Category</u>	<u>Number of Allotments</u>	
Affordable Housing	39	
<i>Micro</i>	0	
<i>Small</i>	0	
<i>Multi-family Rental</i>	0	(97 Allotments Unassigned)
<i>Open/Market</i>	0	
<i>Senior</i>	0	
<i>Monterey Corridor</i>	0	
<i>Custom Lot</i>	0	
On-going Projects	59	
Total	195	

2017 Competition for FY 19/20

18.78.120 RDCS Procedures

H. Planning Commission Hearings - Award of Allotments.

- PC holds public hearing
- May award fewer than requested allotments to lower-scoring projects for more balanced and equitable distribution of allotments and help to achieve General Plan goals

2017 Competition for FY 19/20

Measure C:

- Projects within a Competition Category competed against each other
- Allotments awarded to Highest Scorer in Competition Category up to approved max in category
- PC could award fewer than total allotments requested to next highest scoring project(s) if doing so would create more balanced distribution

2017 Competition for FY 19/20

Measure S:

- Projects that achieve a minimum score of at least 160 points are eligible to receive allotments
- No “winner take all” provision; PC may award allotments to lower-scoring projects if more balanced and equitable distribution
- Project’s score is just one factor that could guide the PC’s decision on allotments and PC is not obligated to award all or most of allotments to highest scoring project(s)

Recommendation

Adopt Resolution Establishing
Competition Categories and
Distribution of Allotments for the
2017 RDCS Competition

MORGAN HILL 2035



Example 1

40 Available Allotments

Project A (25 Units)

Score: 170 Points

Aff. Hsg. In-Lieu Fee

20 Allotments

15 Allotments

Project B (25 Units)

Score: 170 Points

Construct Aff. Hsg. Units

20 Allotments

25 Allotments

or

Example 1a

40 Available Allotments

Project A (25 Units)

Score: 170 Points

Aff. Hsg. In-Lieu Fee

25 Allotments

or

20 Allotments

or

15 Allotments

Project B (25 Units)

Score: 169 Points

Construct Aff. Hsg. Units

15 Allotments

20 Allotments

25 Allotments

Telecommunications

**CITY OF MORGAN HILL
JULY 2017**

Purpose

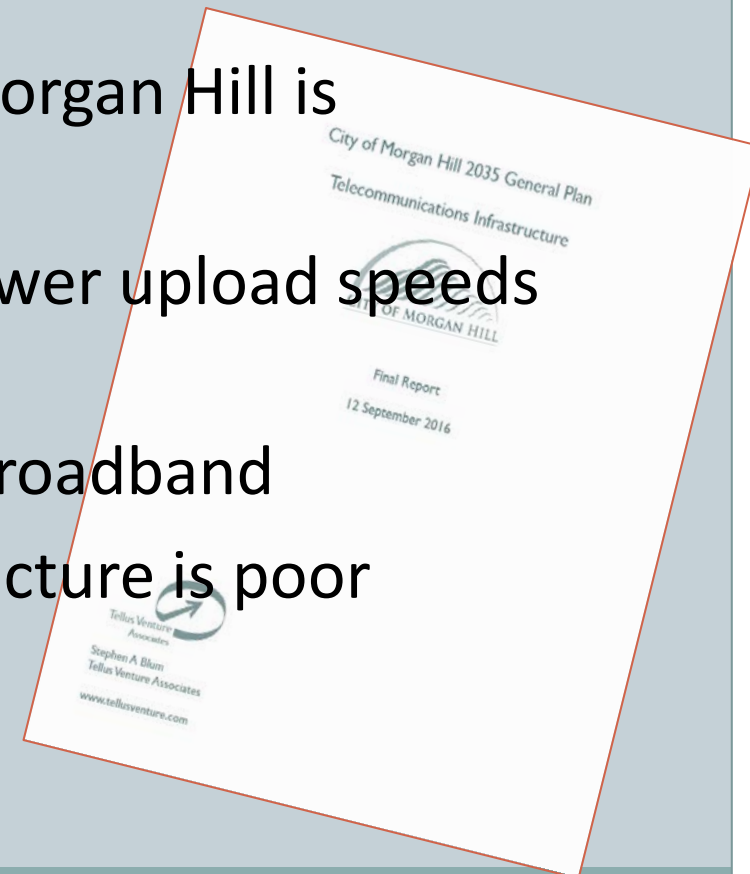
- 2017 Priority Assessment
- Economic Blueprint



Assessment of Telecommunications

November 2016 Telecommunications Infrastructure Report Conclusions:

- Broadband infrastructure within Morgan Hill is considered a “D”
- Both Charter and Frontier offer slower upload speeds than their peers in California
- 94% of Morgan Hill has access to broadband
- Commercial class internet infrastructure is poor



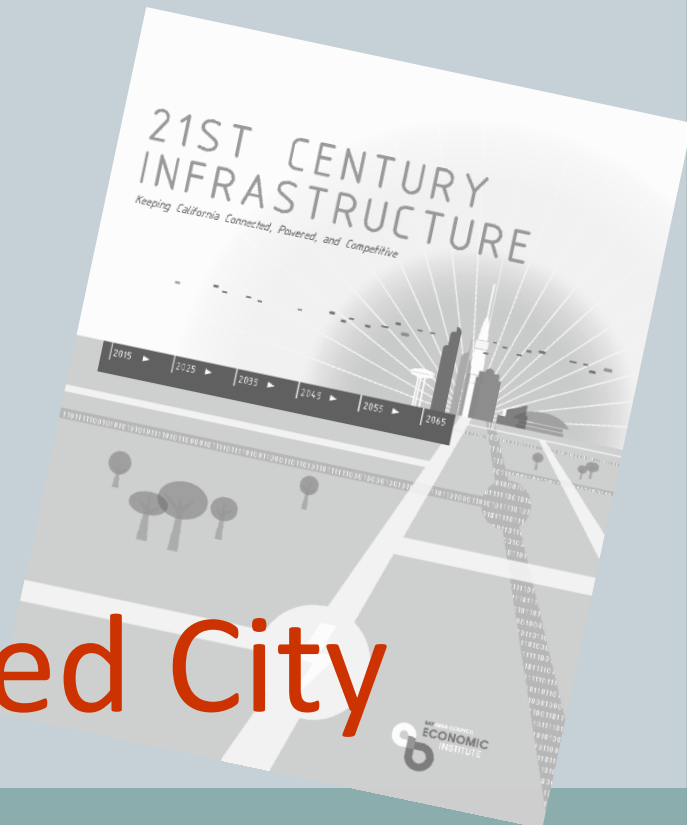
What's New

- ↑ Frontier has upgraded equipment locally
- ↑ South Valley Internet expanding service
- ↑ Charter has been growing fiber/coaxial deployment
- ↑ Bullet Wireless is a new market entrant
- ↓ Broadband data shows no improved results for Morgan Hill
- ↓ SB-649 Bill moving forward-League of California Cities and City of Morgan Hill oppose

A Strategic Vision for Morgan Hill Telecommunications

- Improve speeds
- Support Economic Development/Job Growth
- Improve connectivity/access
- Create redundancy/resiliency

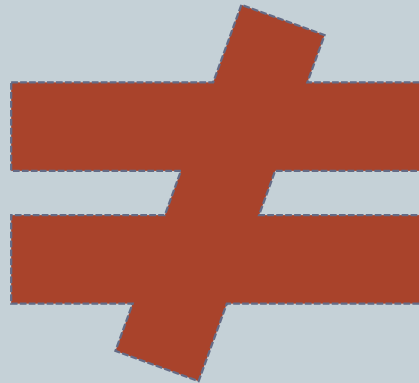
Have a connected City



Financial Models and Community Goals Not Always Aligned

Telecommunications/Broadband Deployment

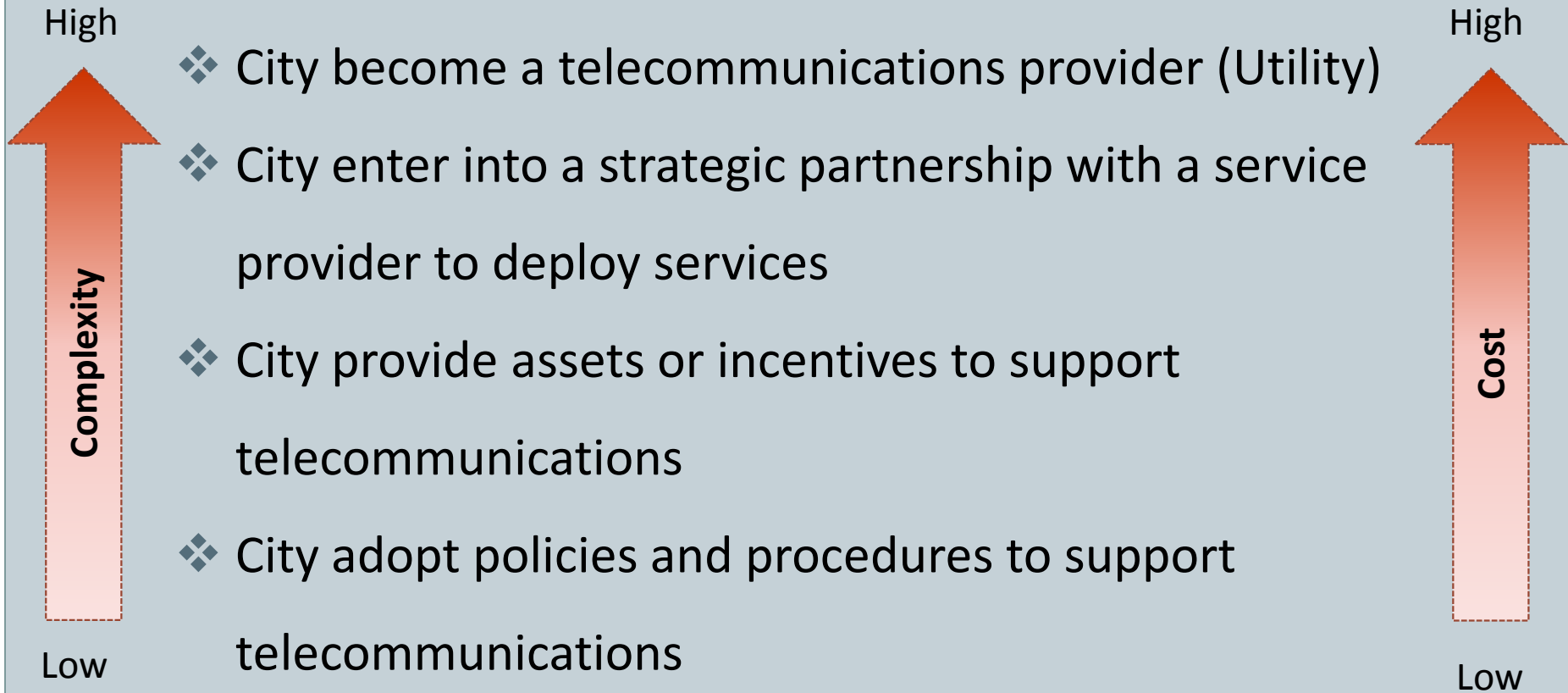
Provider
Business Models



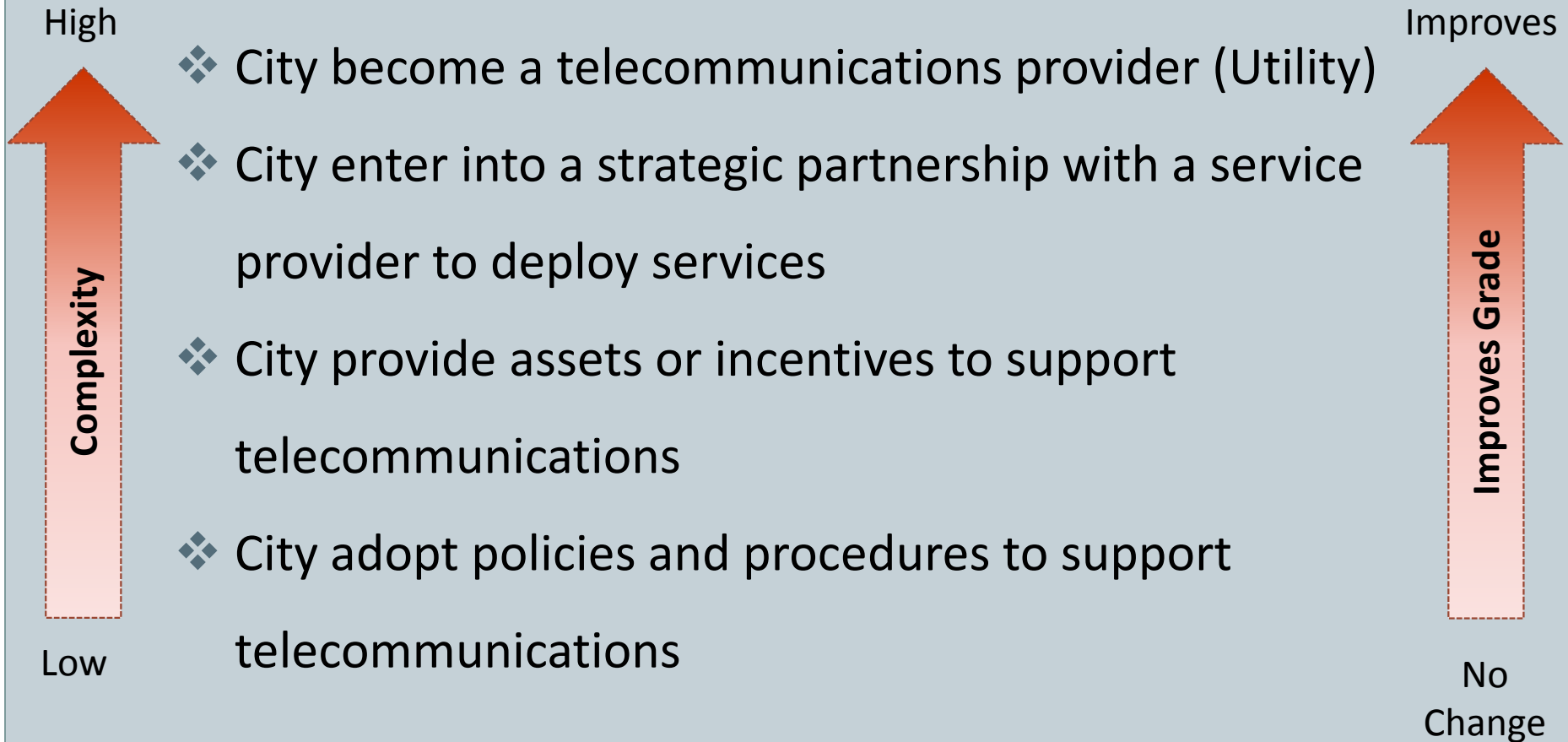
Community Needs/
Wants

Access to Internet
Private Good vs. Public Good

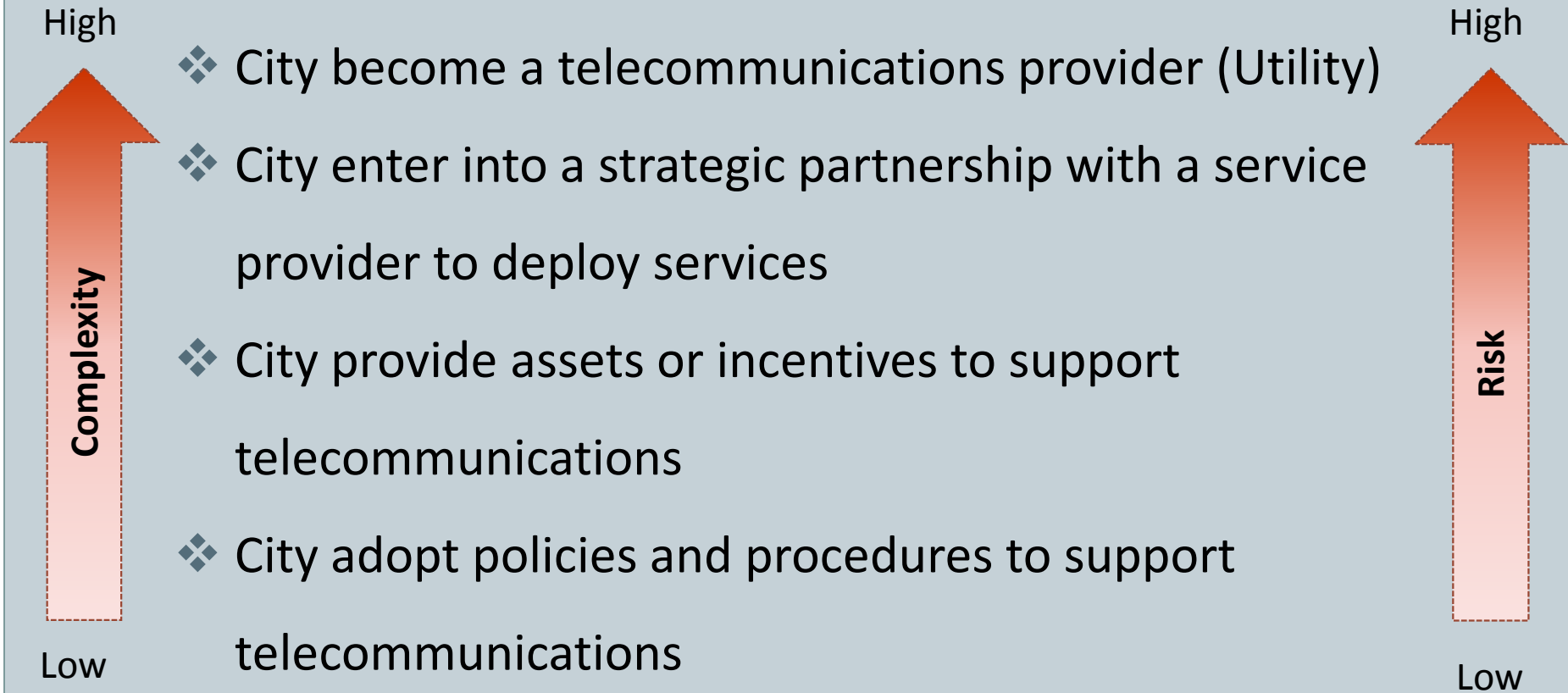
Many Factors Impact Role Local Government Plays in Broadband Deployment- COST



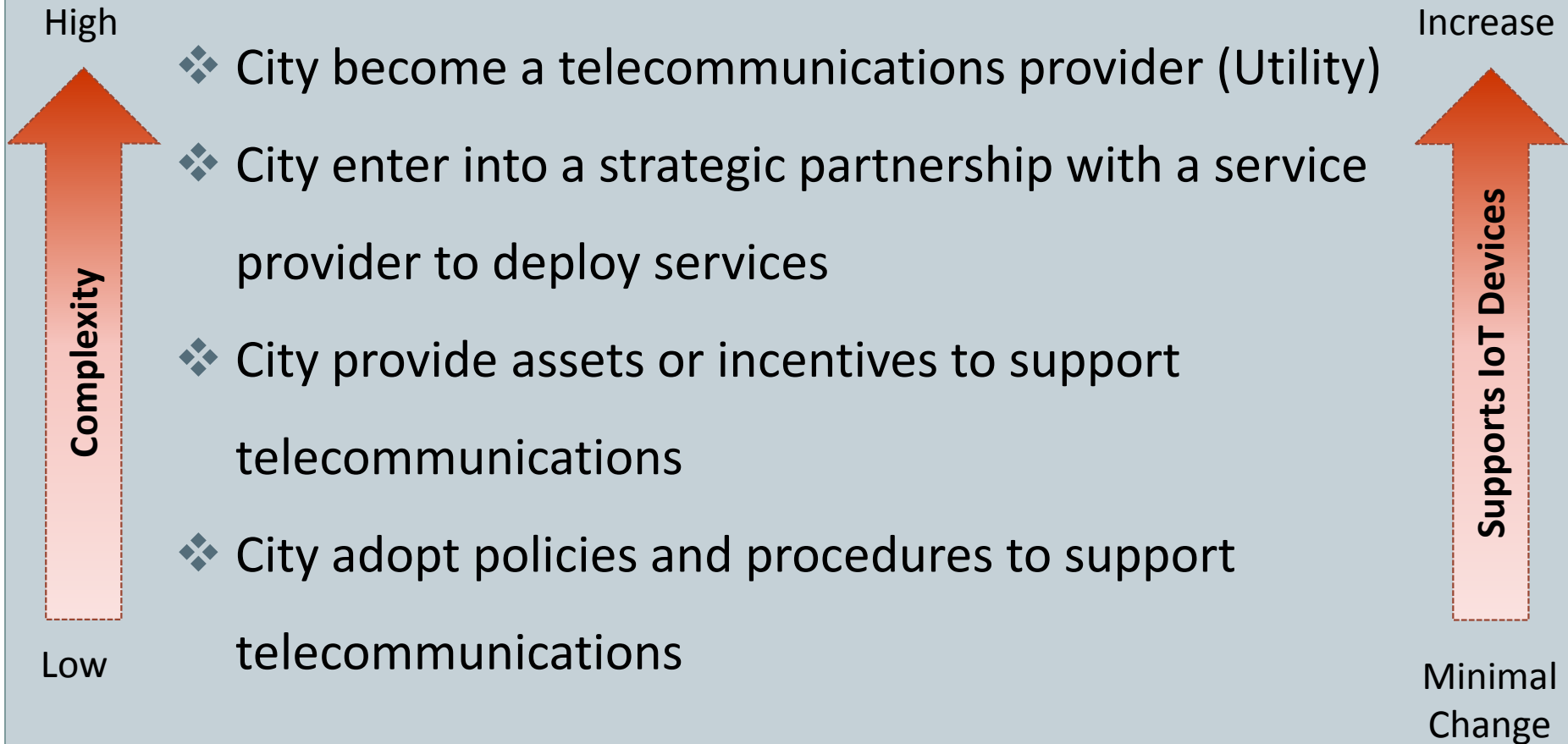
Many Factors Impact Role Local Government Plays in Broadband Deployment- IMPROVES GRADE



Many Factors Impact Role Local Government Plays in Broadband Deployment- RISK



Many Factors Impact Role Local Government Plays in Broadband Deployment- SUPPORT INTERNET OF THINGS



Telecommunications Models

Public/Private Models

- Westminster, Maryland
- City of San Leandro



City as a Service Provider/Utility

- Palo Alto
- Silicon Valley Power (Santa Clara)



Various Considerations Around Dig Once Policy

- Understanding Effectiveness
- Finding right policy balance
 - Voluntary or mandatory?
 - Development standards?
 - Coordination requirements?
 - Prioritization of key arterials?



Source: Santa Cruz Sentinel

Next Steps

- Study session on public/private partnerships
- Develop staff recommendations

From: [D. Muirhead](#)
To: [Angie Gonzalez](#); [Michelle Wilson](#)
Subject: Morgan Hill City Council Meeting July 26, 2017 Item #12: Response to Civil Grand Jury
Date: Monday, July 24, 2017 10:41:56 AM

Comments for the Public Record submitted by
Doug Muirhead, a resident of Morgan Hill, for:
Morgan Hill City Council
Meeting July 26, 2017
Item #12: Response to Grand Jury Regarding LAFCO Denials

The City of Morgan Hill's response to the 2016-2017
Santa Clara County Civil Grand Jury Report contains
these key responses:

- 1) Adopt a single, open, transparent process in future updates
of its General Plan
- 2) Collaborate with a variety of partners (County of Santa Clara,
Open Space Authority, and others)
- 3) Staff are eager to work collaboratively and proactively with
LAFCO for the benefit of our region and community
- 4) Update of the 2016 General Plan dealt separately with the Southeast
Quadrant (SEQ); this gave the appearance of special consideration
for the property owners.

My rebuttal: I find the City's responses self-serving and misleading.

I attended many of the General Plan Advisory Committee (GPAC)
meetings, as well as City Council (CC) and Planning Commission (PC)
meetings when Agricultural Preservation and/or the SEQ were discussed.
I also attended Open Space Authority (OSA) Board meetings and LAFCO
Commission meetings to get their points of view.

- 1) While the City promises a single, open, transparent process in
future updates of its General Plan, that depends entirely on the
direction from the Mayor and Council at that time. This Mayor declared
SEQ off-limits for this GPAC and would not change his position in spite
of requests from community members to include it. GPAC meetings were
not recorded, so the larger community was ignorant of what was and was
not discussed.
- 2) The City claims that it works collaboratively with a variety of
partners. Community Development Director Crabtree and City Manager
Rymer presented that view to the City Council and Planning Commission.
In contrast, the City was not considered a serious partner in
collaboration efforts by OSA (what the OSA General Manager said
publicly to the Board) nor by LAFCO (what the LAFCO Executive Director
said verbally and in writing to the Commission).
- 2a) As documented in Agenda Item #11 of the LAFCO meeting on
February 4, 2015 [Failed Collaboration Efforts (Summer 2014)]:
In June 2014, LAFCO staff began working with staff from the County
of Santa Clara, the Santa Clara County Open Space Authority (OSA)
and the City of Morgan Hill on an alternative plan / program for
the Southeast Quadrant (SEQ). The group discussed various alternatives

and agreed that a more detailed analysis was required and accepted OSA's offer to retain a consultant to assist in the preparation of a scope of work for developing an alternative plan for the SEQ. The group met several times and discussed various alternative approaches, and reviewed case studies and a draft scope of work prepared by the consultant. While these collaboration efforts were underway, the City began to move forward on various SEQ actions in August. Expressing concern, the group requested that the City hold off on decision making and allow the group to complete its dialogue to identify an alternative approach. At a meeting in late September, the City informed the group of its intention to complete City Council actions on the SEQ by December 2014, following which, the group's/consultant's work to develop an alternative plan was discontinued.

2b) At an Open Space Authority Board meeting in late 2015, the General Manager told me why the SEQ was not in the final version of their plan for the next round of Priority Conservation Area nominations. The original plan included a PCA for the SEQ. Even though the designation would not have affected land use planning, but only allowed grant funding opportunities, the City said that, unless the SEQ was removed, the City would officially oppose all PCAs in Morgan Hill's Sphere of Influence. And so OSA removed that PCA. Later, Mr. Crabtree confirmed that the City had objected to SEQ inclusion as a PCA.

3) The City claims that staff are eager to work collaboratively and proactively with LAFCO for the benefit of our region and community. Yet over the last several years, in meetings where I was present, City elected officials, city managers, and developers have repeatedly disparaged LAFCO as an organization that exists solely to keep Morgan Hill from growing housing and jobs. Absent from their characterization is that the rural nature of our area and the lands they want to develop would not exist had San Jose growth in the 1970s not been restrained by the formation of LAFCO.

4) The City accepts that, with the SEQ not included in the General Plan update, some would see special consideration for the property owners. You can draw your own conclusions from these two examples:

4a) At the Council Mid-Year Goal Workshop in August 2016, Item #4 was to "Discuss City's relationship with LAFCO". The Mayor had not been opening the floor to public comment. But when this item opened, surprise!, in walked Gordon Jacoby, representing SEQ property owners. He was invited to the table to speak. After an exchange, the Mayor decided that further conversations on how to handle LAFCO would occur with Mr. Jacoby later.

4b) "A Message From Mayor Steve Tate" was sent out by the City in December 2015. In it, he stated:

"Morgan Hill's plans do not add any housing to these areas. None." Yet the Council had directed staff to work with Mr. Jacoby and the Chialas in preparing a housing development plan that was to be introduced once the SEQ had been annexed. It was public knowledge, being presented to the CC in February 2015 and GPAC in October 2015.

In closing, our elected leaders say they want to work with LAFCO. Mr. Carr said this at the May 24 2017 Council Workshop on Annexation and Urban Service Area Policies. A stated goal of the workshop was

"preservation of agricultural land" but the Policy Considerations were

4. Should it be clarified that consolidated environmental review,
per the City/LAFCo Settlement = preparation of the Annexation EIR?
5. Should the City proactively begin preparation of the Annexation EIR
to facilitate USA Amendment requests.

The Mayor endorsed working with LAFCO at the end of the MH Times
July 21 article. Perhaps they have had a change of heart

from their earlier and lengthy view of LAFCO as the enemy.

Former Council members Marilyn Librers and Gordon Siebert, who
supported annexation, are gone, as is former Community Development
Director Andrew Crabtree.

Perhaps this is the beginning of a new era. But as I said at the

start of this rebuttal, I find the City's responses to the Civil

Grand Jury report to be self-serving and misleading.

I am not hopeful.

Doug Muirhead, Morgan Hill

From: Crisci, Emma

Sent: Tuesday, July 25, 2017 6:41 PM

To: Crisci, Emma

Subject: ESHOO, SPEIER, PANETTA RELEASE FAA INITIATIVE RESPONSE TO ADDRESS AIRCRAFT NOISE CONCERNS OF THE CONSTITUENTS OF CONGRESSIONAL DISTRICTS 14, 18 AND 20

OFFICE OF REPRESENTATIVE ANNA G. ESHOO (CA-18)

For Immediate Release

July 25, 2017

<http://eshoo.house.gov>

Contact: Emma Crisci

(202) 225-8104

emma.crisci@mail.house.gov

**ESHOO, SPEIER, PANETTA RELEASE FAA INITIATIVE
RESPONSE TO ADDRESS AIRCRAFT NOISE CONCERNS OF
THE CONSTITUENTS OF CONGRESSIONAL DISTRICTS 14,
18 AND 20**

WASHINGTON, D.C.—Today, Reps. Anna G. Eshoo (CA-18), Jackie Speier (CA-14), and Jimmy Panetta (CA-20) released the Federal Aviation Administration's (FAA) response to recommendations made by the San Francisco Airport/Community Roundtable and the Select Committee on South Bay Arrivals. The FAA's Initiative response includes recommendations determined to be feasible as well as not feasible from an operational and safety perspective. Among the many recommendations included in the document being released today are some that are still under technical evaluation by the FAA; an updated version of this report will later be released which will further categorize those under evaluation and will also include Appendices that will outline the FAA's decision-making process.

"We are grateful to all of our constituents and community leaders for their hard work, including countless hours of public hearings, technical briefings and document review. This was a public, thorough and deliberative process. We salute FAA Administrator Michael P. Huerta, Regional Administrator Dennis Roberts and the staff at Air Traffic Operations and Mission Support for their ongoing diligent work to address the complex issues that challenge our region. While the Select Committee concluded its work at the end of last year, the SFO Airport/Community Roundtable will continue its work for aircraft noise mitigation on behalf of the residents of San Francisco and San Mateo Counties," said the Members.

Rep. Eshoo and Rep. Panetta, who both represent parts of Santa Clara and Santa Cruz Counties have followed up on the Select Committee's recommendation for a permanent venue in the South Bay to address aircraft noise concerns for the currently unrepresented cities in their Congressional Districts. A copy of the Members' letter co-authored with Rep. Ro Khanna (CA-17) is attached.

"As Members of Congress who are also Members of the Congressional Quiet Skies Caucus, we will continue to support legislative efforts in Congress to hold airlines and airports accountable to reduce aircraft noise which has impacted so many of our constituents and encourage the

airline industry to adopt new technologies that will reduce noise,” said Rep. Speier, Rep. Eshoo and Rep. Panetta.

The FAA Initiative to Address Noise Concerns of Santa Cruz/Santa Clara/San Mateo/San Francisco Counties Phase Two is attached.

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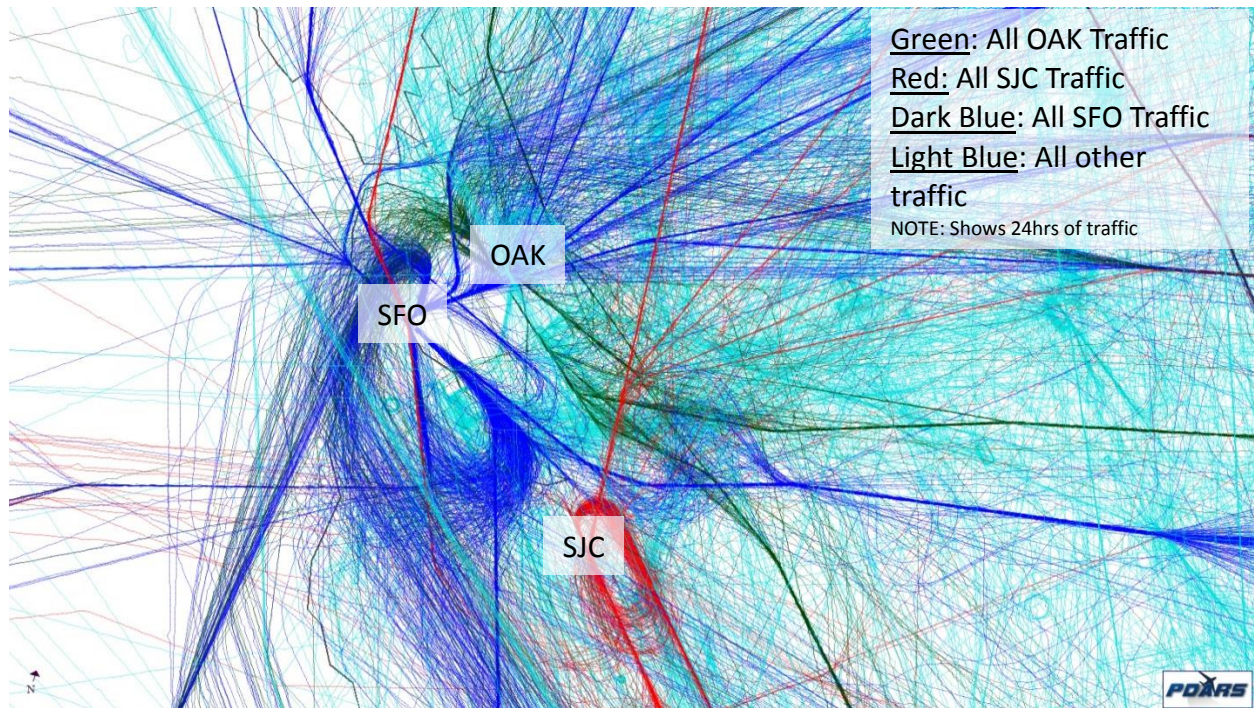
**Federal Aviation
Administration**

FAA Initiative to Address Noise Concerns of Santa Cruz/Santa Clara/San Mateo/San Francisco Counties

PHASE TWO

Compiled at the Requests
of Representatives Farr (Panetta),
Eshoo and Speier

July 2017



CONTENTS

Executive Summary.....	Page 3
Background.....	Page 6
Status of the Initiative.....	Page 6
National Environmental Policy Act.....	Page 7
Introduction.....	Page 8
Timelines.....	Page 8
Organization of the Response Tables.....	Page 11
Response Tables.....	Page 13
1. Addressed Concern.....	Page 13
2. Feasible and could be implemented in the Short Term.....	Page 19
3. Feasible and could be implemented in the Long Term.....	Page 23
4. Under Evaluation	Page 25
5. Recommendations which are not endorsed by the Select Committee.....	Page 44
6. Recommendations which are not endorsed by the FAA.....	Page 46
7. Recommendations which are not an FAA action.....	Page 49

EXECUTIVE SUMMARY

This report updates the work that the Federal Aviation Administration (FAA) has undertaken to address the noise concerns of Santa Cruz, Santa Clara, San Mateo and San Francisco counties.

In November 2015, the FAA released the “FAA Initiative to Address Noise Concerns in Santa Cruz/Santa Clara/San Mateo/San Francisco Counties” report, which was compiled at the requests of U.S. Representatives Eshoo, Speier and Farr. The purpose of the three-phased initiative was to summarize and establish a framework for responding to dozens of specific recommendations submitted by the three members’ constituencies. The recommendations pertained to longstanding aircraft noise concerns, as well as to concerns related to the FAA’s implementation of new optimized routes beginning in November 2014 and concluding in April 2015.

During the first phase of the Initiative, the FAA conducted its detailed analysis and preliminary feasibility study of all the recommendations summarized and included in the November 2015 Initiative. The FAA released its Phase One Report in May 2016.

During the spring of 2016 and to facilitate community involvement within their respective districts, the Congressional delegation designated a total of 12 representatives—locally-elected officials from Santa Cruz, Santa Clara and San Mateo counties – to serve on the Select Committee. The Select Committee’s role was to review the FAA’s Phase One Report, gather public input within their represented areas about measures to address noise concerns, and make recommendations that reflect public input. The Select Committee diligently worked to identify which of the initially feasible recommendations, including amendments and/or new procedures, could be included within the second phase of the Initiative. The San Francisco Airport Community Roundtable provided guidance and assistance to the Select Committee’s efforts as well.

The Select Committee held a total of 10 public meetings, and the SFO Roundtable concurrently discussed the Initiative during its own regularly scheduled meetings. In November 2016, the Congressional delegation provided the FAA with 104 recommendations from these two bodies.

The FAA’s Phase 2 report groups the 104 recommendations into seven categories:

- Addressed Concerns
- Feasible and could be implemented in the Short Term
- Feasible and could be implemented in the Long Term
- Under evaluation
- Not endorsed by the Select Committee
- Not endorsed by the FAA
- Not an FAA action

In evaluating the recommendations, the FAA remains committed to addressing community concerns.

As of the date of this report, 13 percent of the recommendations have already been addressed. Fourteen percent have been found potentially feasible; the agency will undertake the requisite environmental, safety and community outreach processes for these. The FAA continues to evaluate an additional 52 percent of the recommendations. Finally, 11 percent were either not endorsed by the Select Committee or were identified as not endorsed by the agency, and the remaining 10 percent do not fall under the FAA's purview.

Communities affected by the SERFR arrival route overwhelmingly supported a return to the former Big Sur (BSR) flight track. By contrast, communities under the former BSR flight track strongly opposed a return to the former route. Following months of community input, discussion and deliberation, the Select Committee voted 8-4 to create a new arrival route over the Big Sur ground track. The Committee's recommendation was to develop a new route as an Optimized Profile Descent (OPD), which would enable aircraft to descend in a quieter, idle-power setting.

The FAA has begun the five-phase air traffic procedure development process associated with this specific recommendation. The first phase – developing a conceptual route – is complete. The next phase will involve creating a working group to design the route, including an environmental and safety review before reaching its final decision. The FAA anticipates the entire process will take 18-24 months, from notional design to publication of a final design.

The current SFO Class B airspace does not fully contain the entire SERFR route. As a result, aircraft on the SERFR must level off to stay within the protected airspace. Leveling off requires pilots to use speed brakes and increase thrust, which reduces the SERFR's noise-reducing, idle-power descent benefits. A proposed modification of Class B airspace, if approved, should allow more SERFR arrivals to fly quieter idle-power descents. We also are evaluating proposals to raise altitudes of aircraft on the SERFR as well as aircraft that are vectored off the route.

While the SERFR was the most high-profile item in the members' Initiative, there are many others of great importance to other communities. The FAA has already addressed many of these concerns. Examples of these include keeping SFO arrivals out over the water as much as possible; keeping SFO arrivals and departures away from noise-sensitive areas at night; and assigning SFO departures unrestricted climbs so they are as high as possible when they turn over land.

Some recommendations are dependent on others being completed first. For example, we cannot evaluate a proposal to raise the altitude on the BR1XX arrival route into San Jose International Airport until we complete the design of the BSR overlay because of interaction between the two routes.

The FAA appreciates the opportunity to work collaboratively with communities and local members of Congress to address a wide range of noise concerns. This report does not represent the end of our work. As we move into Phase 3, the FAA is committed to providing communities with updates on our progress.

BACKGROUND

Status of the Initiative

In November 2015, the “FAA Initiative to Address Noise Concerns in Santa Cruz/Santa Clara/San Mateo/San Francisco Counties” was released. The Initiative includes multiple recommendations to the published procedures serving the Northern California (NorCal) Airspace, as well as detailing the phases in which these recommendations will be considered by the FAA. These recommendations came from multiple meetings and correspondence with congressional offices and local community representatives of Santa Cruz, Santa Clara, San Mateo and San Francisco Counties.

The “FAA Initiative to Address Noise Concerns in Santa Cruz/Santa Clara/San Mateo/San Francisco Counties” outlined a three phase approach to review and respond to the community proposals. These three phases are collectively known as the NorCal Initiative:

- Phase One: The FAA will conduct a detailed analysis and a preliminary feasibility study focusing on flight procedures criteria and overall fly-ability of the new Performance Based Navigation (PBN) procedures and potential procedural modifications. This phase includes coordination with the local stakeholders.
- Phase Two: The FAA will consider any amendments and/or new procedures that are determined to be initially feasible, flyable, and operationally acceptable from a safety point of view. As part of this effort, FAA will conduct the formal environmental and safety reviews, coordinate and seek feedback from existing and/or new community roundtables, members of affected industry, and the National Air Traffic Controllers Association (NATCA) before moving forward with the formal amendment process.
- Phase Three: The FAA will implement procedures; conduct any required airspace changes and additional negotiated actions, as needed

In April 2016, in advance of the release of the Phase One detailed analysis and a preliminary feasibility study report, U.S. Representatives Anna G. Eshoo (CA-18), Sam Farr (CA-20) and Jackie Speier (CA-14) formed a Select Committee on South Bay Arrivals (“Select Committee”). The Select Committee comprised of 12 local elected officials representing Santa Cruz, Santa Clara, and San Mateo Counties. Together with the San Francisco (SFO) Airport/Community Roundtable (“SFO Roundtable”), the role of the Select Committee and SFO Roundtable was to lead the public coordination aspect of Phase One. Specifically, the Select Committee was tasked with accepting public input and reviewing FAA proposals with a focus on arrival issues that primarily impact the South Bay Region while the SFO Roundtable was tasked with accepting public input and reviewing FAA proposals with a focus on SFO departures as well as arrivals that primarily impact the SFO Roundtable geographical area.

In May 2016, the FAA released the NorCal Initiative Phase One report. Following the release of this report, the Select Committee started a series of public meetings; the first three had the sole purpose of collecting public comment. The remaining seven meetings, spanning May – November 2016, provided a venue in which the Select Committee could ask specific questions of

the FAA in order to facilitate the formation of their recommendations. Throughout this same time period, the SFO Roundtable had their regular meetings, which included discussion on the NorCal Initiative.

In November 2016, the SFO Roundtable and the Select Committee respectively released reports, detailing their recommendations on the NorCal initiative. These recommendations included items in the NorCal Initiative Phase One report, as well as items not included in the report.

This NorCal Initiative Phase Two report provides information on the feasibility and status on each of the recommendations put forward by the SFO Roundtable and Select Committee. The intent of this document is to categorize each recommendation as “Addressed Concern”, “Feasible and could be implemented in the short term”, “Feasible and could be implemented in the long term” or “Not endorsed”. This report is a living document, such that it will be updated as recommendations which start out in a particular category are moved into a different category, as appropriate.

National Environmental Policy Act

In addition to its mandate to ensure the safe and efficient use of the NAS, the FAA complies with the requirements of the National Environmental Policy Act (“NEPA”). Although not specifically detailed within the NorCal Initiative, the FAA’s processes and standards for evaluating noise impacts associated with potential amendments to currently published procedures—consistent with FAA Order 1050.1F (effective July 16, 2015)—will be followed before implementing any airspace or procedural changes. Finally, this document does not constitute either a final decision of the FAA or a re-opening of the FAA’s August 6, 2014 final decision for the NorCal Optimization of Airspace and Procedures in the Metroplex (OAPM).

INTRODUCTION

Timelines

This report includes implementation timelines for the recommendations presented in the SFO Roundtable and the Select Committee Reports. These timelines incorporate a number of established Federal processes and sub-processes. To best understand why the FAA determined the presented implementation timelines, some background to these processes is necessary. This section intends to provide that background.

1. Rule Making:

Federal Agencies may issue regulations within their authority through the rule-making process. This process is generally made up of the Agency taking some preliminary steps before issuing a proposed rule. This proposed rule must be published in the Federal Register to notify the public and give them an opportunity to submit comments. The Agency may also hold public hearings where people can make statements and submit comments. The Agency takes all comments into consideration prior to issuing the final rule.

- a) Class B Modifications: All Class B boundaries, including SFO Class B, are provided in FAA Order 7400.11A. FAA Order 7400.11A is included by reference in 14 Code of Federal Regulations (CFR) §71.41, and as such making amendments to Class B airspace is a rule making action.

The steps in the Class B rule making process is as follows:

- An Air Traffic facility study (“Staff Study”) provides the details of Class B modification proposal as well as the justification of the need for the Class B amendments.
- The Staff Study is sent to FAA headquarters (HQ) for review and authorization for the formation of a committee (“Ad-Hoc committee”) for review and to provide recommendations. This Ad-Hoc committee represents a cross section of airspace users and aviation organization that would be affected by the proposed airspace change. The FAA participation on the committee is limited to the role of technical advisor or subject matter expert only. The FAA is not a voting member of the group.
- The Ad-Hoc committee reviews the proposal and provides comments.
Timeline: 180 days
- The FAA reviews the comments provided by the Ad-Hoc committee and makes adjustments, as necessary.
Timeline: 60 days.
- The FAA conducts informal airspace meetings to present the proposed modifications and to facilitate public comment.
Timeline: 245 days.

- The FAA reviews comments and makes adjustments to the proposed Class B modifications, as necessary.
Timeline: 120 days.
- The Draft Class B modification is prepared as a Notice of Proposed Rulemaking (NPRM) for publication in the Federal Register
Timeline: 30 days
- The NPRM is published in the Federal Register for public comment
Timeline: 60 days
- The FAA reviews comments and makes adjustments to the proposed Class B modifications, as necessary.
Timeline: 120 days.
- The final rule is published in the Federal Register with an effective date based on the VFR sectional Charting Cycle.
Timeline: 302 days.

Total time, not including the development of the Staff Study: ~3 years.

2. **Non-Rule Making:**

Non-rule making processes do not result in the amendment to any CFR or amend any other document which is included by reference in a CFR.

- a. **Air Traffic Facility Actions:** These actions provide specific directions for the local air traffic control facility. These actions could be a change to a facility's Standard Operating Procedures (SOP), to Letter of Agreements (LOA) between facilities or part of regular Air Traffic Controllers training to increase awareness of certain issues

The steps as follows:

- Initial proposal: The Air Traffic Facility proposes an amendment to their SOP, to an LOA with another Air Traffic Facility or training requirements. This initial proposal is vetted within the Air Traffic Facility.
Timelines: few weeks for training proposal
1 – 8 months for an SOP change
1 – 18 months for an LOA change.
- The LOA is sent for review and approval
Timelines: few weeks

Total time: a few weeks – more than 1 year.

- b. Creation/Amendment of an instrument flight rule procedure: Amending or creating a new instrument flight rule procedure is an example of a non-rule making process. Given the variables involved with each of the following steps, the timelines provided are only intended on capturing the average time taken for each step.

The steps in the instrument flight rule procedure process is as follows:

- Initial Feasibility/Analysis of the procedure. The proponent of the procedure does initial research into the details and justifications for the new/amended procedure. This stage is completed once the proponent places the request and the associated justification into the IFP Information Gateway.
Timeline: 45 days
- FAA Order 7100.41A: Performance Based Navigation (PBN) processing: This is the required process for all new and amended PBN procedures and/or routes, Area Navigation (RNAV)/Required Navigation Performance (RNP) Standard Instrument Departures (SIDs), RNAV Standard Terminal Arrivals (STARs) and RNAV routes. The FAA Order 7100.41A breaks down the design and implementation process into 5 stages:
 - Preliminary Activities: This includes the conduction of baseline analysis to identify expected benefits and develop conceptual procedures and/or routes for the proposed project.
 - Design Activities: This includes the creation of a working group in order to design a procedures/route that meets the project goals and objectives. An environmental review is included in this stage.
 - Development and Operational Preparation: The intent of this stage is to complete all pre-operational items necessary to implement the procedures and/or routes. This phase includes training, issuing notifications, automation, updating radar video maps, and processing documents. This phase ends when procedures and/or routes are submitted for publication.
 - Implementation: The purpose of the implementation phase is to implement the procedures and/or routes as designed. This phase starts with confirmation by the FWG that all required pre-implementation activities have been completed and ends when the procedures and/or routes are published and implemented.
 - Post-Implementation Monitoring and Evaluation: The purpose of the post-implementation monitoring and evaluation phase is to ensure that the new or amended procedures and/or routes perform as expected and meet the mission statement finalized during the design activities phase. Post implementation activities include collecting and analyzing data to ensure that safe and beneficial procedures and/or routes have been developed.Timeline: > 1 year.
- Regional Airspace and Procedure Team (RAPT) review: If approved, the RAPT assigns a priority for the project and a proposed chart date. Due to charting backlog, proposed charting dates are scheduled into 2019.
Timeline: 30 days.

- Development of proposed chart: This is the actual preparation of the proposed chart/s.
Timeline: 45 days
- Quality Control Review:
Timeline: Variable
- Project is coded for Flight Management Systems:
Timeline: 10 days
- Flight Inspection:
Timeline: 50 days
- Flight Standards Review: this is only required for some procedural development projects.
Timeline: 21 days.
- Proposed Procedure/s are sent for publication and distribution:
Timeline: 38 to 60 days.

Total time: >1.5 years.

Organization of the Response Tables

The response tables provide the current status and associated timeline for implementation, if applicable, to all of the recommendations presented in the SFO Roundtable and Select Committee reports. For each recommendation, the process governing the implementation timeline is provided as well as references to where the recommendations may be found within the Roundtable and Select Committee reports. Details on the implementation processes are found within the Introduction section of this document.

In addition to the previously noted categories (“Addressed Concern,” “Feasible and could be implemented in the Short Term,” and “Feasible and could be implemented in the Long Term”), three more categories exist in the Phase Two report to capture all of the recommendations.

There are:

- i. Under evaluation: Given that the feasibility of some of these recommendations have not yet been determined, a category was added to captures those recommendations that are under further evaluation in order to determine their feasibility and timelines for implementation, as appropriate.
- ii. Not endorsed by the Select Committee: At this point in time, the only non-feasible recommendations were those which were not endorsed by the Select Committee. These were placed in their own category.

- iii. Not under the FAA's jurisdiction: This category was added to capture those recommendations which are outside of the FAA's jurisdiction and so whose feasibility cannot be determined.

Within each group, the recommendations are then sub-grouped into areas of concern.

RESPONSE TABLES

1. Addressed Concern:

a. BDEGA

Recommendation		i. Study the impact of increasing in-trail spacing on the BDEGA arrival.
Process		Addressed Concern
Status		The FAA is continuously working to improve aircraft set up and sequencing between facilities.
Reference to the Recommendation Report	Roundtable	B 6
	Select Committee	

b. Departures

Recommendation		i. When RWY 01R/L is being used for departures, use 050° rather than STTIK for south-bound departures. (This is not a request to increase the use of RWYs 01 L/R).
Process		Addressed Concern
Status		In use per SOP. NCT will continue to reinforce the use of this procedure to personnel through training and briefings. Reduction in airport arrivals / departures may increase usage.
Reference to the Recommendation Report	Roundtable	B 18; 24 C Niite ST 4 C 050 ST 1; LT 1 C Night ST 1 D 2.e.ii
	Select Committee	

c. Miscellaneous

Recommendation		i. Work with SFO Noise Abatement Office and FAA to outreach to pilots and controllers to keep aircraft over water while on approach.
Process		Addressed Concern
Status		Currently in use per NCT SOP. NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	D 1.b.iii; 1.b.iv; 1.b.v. D 1.f.iv.
	Select Committee	

Recommendation		ii. Work with NCT controllers to increase controller awareness to keep TRUKN departures east of highway 101.
Process		Air Traffic Facility Action and SFO Airport
Status		In use per TRUKN procedure. NCT will continue to reinforce the use of this procedure to personnel through training and briefings. Reduction in airport arrivals / departures may increase usage.
Reference to the Recommendation Report	Roundtable	D 2.e.iv
	Select Committee	

Recommendation		iii. Work with San Francisco Roundtable on future changes.
Process		Addressed Concern
Status		NCT will continue to be an active participant in Roundtable meetings, providing leadership in seeking solutions.
Reference to the Recommendation Report	Roundtable	D 3.b.ii
	Select Committee	

Recommendation		iv. Overnight Flights - generally reduce noise at night.
Process		Addressed Concern
Status		Ongoing discussion with SFO Airport to update Fly Quiet program.
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.4 R1

Recommendation		v. Assurance from FAA that aircraft will not be turned prior to nine miles DME from SFO.
Process		Addressed Concern
Status		In use per SOP. NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	D 1.b.iii
	Select Committee	

Recommendation		vi. NIGHTTIME: SFO RT will work with airlines to encourage them to file for SFO arrivals that avoid noise sensitive areas at night. If they choose to file BDEGA, only assign them to East Downwind.
Process		Addressed Concern
Status		NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	C Wo CO 2 C Night LT 6 D 2.a.i.
	Select Committee	

d. NIITE/HUSSH

Recommendation		i. Keep aircraft on NIITE procedure, as charted, as much as possible to reduce vectoring.
Process		Air Traffic Facility Action
Status		Current SOP states that aircraft must remain on NIITE / HUSSH until the NIITE waypoint as much as operationally feasible. NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	B 18 C Niite ST 2 D 2.a.ii.(a)
	Select Committee	1.3

Recommendation		ii. NIGHTTIME: Use NIITE/HUSSH 100% of the time.
Process		Addressed Concern
Status		In use per NIITE/HUSSH procedures. NCT will continue to reinforce the use of this procedure to personnel through training and briefings. Reduction in airport arrivals / departures may increase usage.
Reference to the Recommendation Report	Roundtable	B 18 D 2.a.ii.(a)
	Select Committee	

e. SFO RWY 28 Arrivals

Recommendation		i. Any time traffic permits, all aircraft single stream to RWY 28R on FMS Bridge Visual/RNAV 28R/Quiet Bridge Visual. NCT to encourage the use of RNAV (RNP) Y RWY 28R and FMS Visual RWY 28R.
Process		Addressed Concern
Status		In use per published procedures during both daytime and nighttime operations and is used as much as operationally feasible. NCT will continue to reinforce the use of this procedure to personnel through training and briefings. Reduction in airport arrivals / departures may increase usage.
Reference to the Recommendation Report	Roundtable	B 12; 13; 14 C Vis ST 2; 3 C Night ST 6; 8 D 1.f.iv.
	Select Committee	2.4 R2

Recommendation		ii. Runway Usage - RWY 28R as a priority.
Process		Addressed Concern
Status		In use per SOP.
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.10

f. SFO/OAK south bound departures

Recommendation		i. Don't turn departures until passing SSTIK/SEPDY waypoints. After the designated waypoint or intersection, continue flight up the Bay. When a left turn is to be made, a relatively wide dispersal of flight paths to the ocean is preferred.
Process		Addressed Concern
Status		In accordance with the Phase One document (see the FAA's Phase One Report 2.a.ii), 99% of aircraft flying the STTIK departures in October 2016 are within 1NM of the SSTIK waypoint, as per the procedure. Without ATC intervention, pilots are flying the SSTIK procedure as designed. NCT will continue to reinforce not intervening with aircraft until after the SSTIK waypoint to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	B 37 C Sstik ST 1 D 1.a.ii; 1.b.ii.
	Select Committee	

Recommendation		ii. Flights should be directed to fly as high as possible over SEPDY, allowing them to be higher before turning over land, with a steady altitude increase as they make their way to the ocean.
Process		Addressed Concern.
Status		Flights are allowed to climb unrestricted when there are no conflicts. NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	B 36; B38 C Sstik ST 1; 2 D 1.a.ii.; 1.b.ii.
	Select Committee	

2. Feasible and could be implemented in the Short Term (less than 2 years):

a. BDEGA

Recommendation		i. NIGHTTIME: BDEGA and other arrivals from the north only be assigned BDEGA East Downwind to RWY 28R. NCT Update its SOP to reflect using "Down the Bay" procedure as preferred.
Process		Air Traffic Facility Action
Status		Facility to update SOP to accommodate this request from the beginning of Noise Abatement Procedure hours until 6 am.
Reference to the Recommendation Report	Roundtable	B7; 11 C Wo ST 3 C Wo CO 4 C Night ST 7 D 2.a.i.
	Select Committee	2.2 R2

Recommendation		ii. FAA Research reasons for the continued use of the BDEGA West leg from 2010-Present
Process		Operational Research
Status		Research has been completed and can be presented at suitable forum.
Reference to the Recommendation Report	Roundtable	C Wo Re 3
	Select Committee	

b. Class B

Recommendation		i. Class B
Process		Rule making
Status		Just finished informal public meetings.
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.1

c. Departures

Recommendation		i. NIGHTTIME: RWY 28R straight-out departures - determine if 3,000 ft. altitude restriction can be eliminated on the GNNRR and WESLA departures.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation The GAP SEVEN departure is only for non-RNAV equipped aircraft and is already used as much as possible. This evaluation will include determining if the VFR flyway is the cause for 3,000 altitude restriction on the RWY 28 straight-out departures.
Reference to the Recommendation Report	Roundtable	B 25; 28 C Night ST 5 C ODO LT 1 C ODO ST 4 D 2.a.ii.(a) 2.a.ii.(b) D 2.f.iv
	Select Committee	

d. Miscellaneous

Recommendation		i. Work with San Francisco Roundtable to determine where aircraft can be vectored with the least noise impact.
Process		Air Traffic Facility Action
Status		NCT will continue to be an active participant in Roundtable meetings, providing leadership in seeking solutions.
Reference to the Recommendation Report	Roundtable	D 1.f.ii. D 2.a.ii.(b).
	Select Committee	2.9 R1

Recommendation		ii. SFO Airport and FAA coordinate to maintain nighttime preferential runway use program.
Process		Air Traffic Facility Action and SFO Airport
Status		NCT will continue to be an active participant in Roundtable meetings, providing leadership in seeking solutions. Ongoing discussion with SFO Airport to update Fly Quiet program.
Reference to the Recommendation Report	Roundtable	C ODO ST 2 D 2.e.iii.
	Select Committee	

e. NIITE/HUSSH

Recommendation		i. NIGHTTIME: Design and implement NIITE southbound transition that flies up the Bay, over the Golden Gate Bridge, then South. Keep away from shore as much as possible.
Process		Air Traffic Facility Action
Status		The NIITE – GOBBS transition currently exists. Increased usage is under evaluation.
Reference to the Recommendation Report	Roundtable	B 19, 20, 22; 23; 33 C Niite ST 1, 3; LT 1 C Night ST 1; LT 1
	Select Committee	1.4

Recommendation		ii. The south transition on the NIITE SID should also be made available to HUSSH departures from OAK.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	B 19
	Select Committee	

Recommendation		iii. SFO RT requests timeline from the FAA for implementation of NIITE Southbound transition procedure, factoring in requirements to run the procedure through FAA Order JO 7100.41A process.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	D 1.f.iii.
	Select Committee	

f. SFO South Arrivals

Recommendation		i. Develop a new procedure to transition SERFR traffic to the BSR track
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Entered into the IFP Gateway.
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.2 R1

Recommendation		ii. Criteria for new OPD procedure that follows the BSR track
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Entered into the IFP Gateway.
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.2 R2

3. Feasible and could be implemented in the Long Term (more than 2 years):

a. BDEGA

Recommendation		i. Work with SFO Roundtable to route BDEGA East Leg arrivals over compatible land use.
Process		Air Traffic Facility Action
Status		The use of the east downwind could be increased during certain times of the day. Update SOP and Controller briefings. Reduction in airport arrivals / departures may increase usage.
Reference to the Recommendation Report	Roundtable	C Wo LT 2
	Select Committee	

b. Down the bay night time departures

Recommendation		i. Create RWY 10L/R RNAV departure that mirrors the decommissioned DUMBARTON EIGHT - keeping aircraft over the bay to gain altitude before turning. This would include an adjustment to SAHEY to keep aircraft over the bay before they turn towards their destination.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	B 27 C ODO LT 3; CO 3 D 2.e.i
	Select Committee	

c. Sequencing

Recommendation		i. Improve aircraft set up and sequencing between facilities.
Process		Air Traffic Facility Action
Status		The FAA is continuously working to improve aircraft set up and sequencing between facilities.
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.6

Recommendation		ii. Increase In-Trail separation on SERFR, DYAMD and possibly BDEGA to reduce vectoring.
Process		Air Traffic Facility Action
Status		The FAA is continuously working to improve aircraft set up and sequencing between facilities. Reduction in airport arrivals / departures may decrease the need for vectoring.
Reference to the Recommendation Report	Roundtable	B 6; 8; 11 C Wo ST 2; LT 2
	Select Committee	

4. Under Evaluation:

a. BDEGA

Recommendation		i. Golden Gate 140° Heading vs BDEGA 140° Track
Process		Air Traffic Facility Action
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	B 4
	Select Committee	

Recommendation		ii. Increase BDEGA/DYAMD in-trail spacing to allow additional opportunities for BDEGA East Downwind.
Process		Air Traffic Facility Action
Status		The FAA is continuously working to improve aircraft set up and sequencing between facilities.
Reference to the Recommendation Report	Roundtable	B 8; 11 C Wo ST 2; LT 2
	Select Committee	

Recommendation		iii. Northern Arrivals (BDEGA) into SFO - increase East Leg percentage - ideally to pre-May 2010 levels.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 1 C Wo ST 1; 3 C Night ST 7 D 2.a.i.
	Select Committee	2.2 R1

Recommendation		iv. Determine if BDEGA west downwind aircraft can be flown at higher altitudes or over compatible land use areas.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 5
	Select Committee	

Recommendation		v. Reinstate FINSH transition/Create RNP procedure from BDEGA East Downwind to 28R Final.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 2; 3 C Wo ST 3; LT 1 C Night LT 3
	Select Committee	

Recommendation		vi. SFO RT will work with airlines and FAA to bring oceanic arrivals to the East downwind, down the bay rather than over OSI. It was also suggested that this only be a nighttime procedure.
Process		Procedural Design/Amendments and IFP Gateway Entry
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 7; 10; 11 C Wo ST 3 C Wo COL 2 C Night LT 4
	Select Committee	

b. Departures

Recommendation		i. Fly the FOGGG / SAHEY procedures as published.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 26 C ODO ST 2 D 2.a.ii.(a). D 2.e.i.
	Select Committee	

Recommendation		ii. Assign southeast bound aircraft the TRUKN departure with a transition at TIPRE or SYRAH.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	C Sstik ST 7
	Select Committee	

c. Down the bay night time departures

Recommendation		i. NIGHTTIME: Determine if RWY 10 departures can be authorized to use NIITE. If not, create one.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 21; 23 C Niite LT 2 C Night LT 2
	Select Committee	

Recommendation		ii. NIGHTTIME: Create an OAK RWY 30 heading down the Bay at night, which is comparable to the SFO RWY 01 050° heading. .
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 24; 33 C 050 ST 2 C Night ST 4 D 2.e.ii.
	Select Committee	

d. MENLO

Recommendation		i. MENLO Waypoint - vectored traffic in vicinity of MENLO above 5K. This includes vectored SERFR and BDEGA west downwind aircraft.
Process		Air Traffic Facility Action
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	B 8;16 D 1.a.i.(a); D 1.f.iv.
	Select Committee	2.5 R3

Recommendation		ii. VMC - aircraft should cross MENLO/vicinity of MENLO at 5,000 ft.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 16 D 1.a.i.(a)
	Select Committee	2.5 R3

Recommendation		iii. NIGHTTIME: During nighttime hours only, determine if arrivals from the south (such as on the SERFR/BSR) could instead file a route which would terminate to the east of the Bay for an approach to Runway 28R.
Process / Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 9, 10 C Night LT 5
	Select Committee	

Recommendation		iv. Assess the feasibility of establishing different points of entry, over compatible land use and at high altitudes, to the final approach into SFO on the SERFR arrival (or any replacement), such as a different waypoint east or north of MENLO, or using FAITH, ROKME or DUMBA. May involve modifying SJC Class C airspace.
Process / Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.5 R5

Recommendation		v. Create a Visual Approach for RWY 28L / RNAV mirror of TIPP TOE with 5,000 ft. crossing restriction at MENLO.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation.
Reference to the Recommendation Report	Roundtable	B 17
	Select Committee	

Recommendation		vi. MENLO Waypoint - design new procedure for south arrivals or assess feasibility of using a different waypoint
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Not feasible - see Phase One report (1.a.i) Procedural development criteria and safety standards require that the altitude at MENLO cannot be published to be greater than 4,000 feet MSL. That some aircraft can fly a stabilized approach at an altitude higher than 4,000 feet MSL does not justify raising the altitude requirement for all aircraft.
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.5 R2

e. Miscellaneous

Recommendation		i. The FAA to determine altitudes to turn aircraft for vector purposes that minimizes noise.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	D 2.a.i.
	Select Committee	

Recommendation		ii. Increase All Altitudes
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.8

Recommendation		iii. Use the Bay, Ocean and compatible land use as much as possible.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 29; 34 C Wo LT 2 C Sstik ST 4; 5 D 1.b.i, 1.b.ii. D 2.a.ii.(b).
	Select Committee	

Recommendation		iv. Determine if the minimum required altitude before a left turn can be raised.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 38 C Sstik LT 1
	Select Committee	

Recommendation		v. Restricted/Special Use Airspace review
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	3.2

Recommendation		vi. NIGHTTIME: Aircraft from the South and West be kept higher and vectored farther out to join the final (RWY 28R).
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 5; 10 C Night ST 8
	Select Committee	

Recommendation		vii. Aircraft Vectoring - raise all vectoring altitudes over Mid-Peninsula.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.9 R2

Recommendation		viii. Determine feasibility to Increase the Profile of Descents into SFO.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.7

Recommendation		ix. After implementation of procedure overlaying the legacy BSR ground track, the FAA will meet with subcommittee to review new procedure post implementation
Process		Air Traffic Facility Action
Status		Awaiting Design and Publication of BSR RNAV Overlay
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.2 R3

Recommendation		x. FAA, SFO and industry continue their efforts to establish new additional overnight noise abatement procedures within the next six months.
Process / Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.4 R3

Recommendation		xi. Noise Measurement - adopt supplemental metrics
Process		Rule making
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	3.3

Recommendation		xii. Determine if upgraded radar equipment or map notations would be helpful to controllers to increase the use of less impactful areas when vectoring.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 41
	Select Committee	

Recommendation		xiii. Determine if any aircraft were assigned or re-assigned - via preferential runway or otherwise - from one departure or arrival procedure to a different departure or arrival.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 39
	Select Committee	

f. NIITE/HUSSH

Recommendation		i. Utilize HUSSH during daytime hours to avoid conflicts with SSTIK.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 31 C Cndel LT 3 D. 1.b.ii.
	Select Committee	

Recommendation		ii. NIGHTTIME: Determine if RWY 10 departures can be authorized to use NIITE. If not, create procedure for RWY 10 with left turn to NIITE waypoint. Meanwhile, vector aircraft to mirror NIITE DP. While awaiting authorization to use NIITE departure from RWY 10, vector aircraft to mirror the NIITE DP. Review the safety concerns which resulted in the first NIITE RWY 10 transition to be removed and see if there is another departure routing that could be created, ensuring safety.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 21; 23 C ODO ST 1; CO 2 C Niite LT 2 C Night ST 1; 2 C Night LT 2 D 2.e.iii.
	Select Committee	

Recommendation		iii. NIGHTTIME: South Transition: While formal process of creating NIITE/HUSSH transition from GOBBS to an offshore southbound course is underway, determine if aircraft can file QUIET or SILENT, and/or NCT utilize vectors, to approximate its path. One possibility: vector southbound aircraft via 330° and up the bay, then out to the ocean and south; or off SFO - 050° and down the Bay.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 18; 19; 20; 22; 23; 24; 33 C Cndel ST 3 C Niite ST 1; 3; C Niite LT 1 C 050 LT 1 C Night ST 3
	Select Committee	

g. SFO RWY 28 Arrivals

Recommendation		i. NIGHTTIME: During VMC - use higher altitudes and vector to single stream for 28R. Aircraft from the South and West be kept higher and vectored farther out to join the final (RWY 28R).
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	C Night ST 8
	Select Committee	

Recommendation		ii. Raise the procedural altitudes on SERFR
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 8 C Wo ST 2
	Select Committee	2.6 R1

Recommendation		iii. Raise the altitudes of vectored aircraft on the SERFR.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 5;8;16 C Wo ST 2 D 1.a.i.(a)., 1.f.iv.
	Select Committee	2.6 R1

Recommendation		iv. Raise the procedural altitudes on SERFR - ensure speed reductions occur over the Monterey Bay.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.6 R2

Recommendation		v. Develop a procedure to replace the SERFR with ground tracks that minimize total people affected.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	1.2 R4

h. SFO/OAK south bound departures

Recommendation		i. Fly over SSTIK / CNDEL to PORTE as published; avoid vectoring down the peninsula direct to waypoints beyond PORTE.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 30; 37 C Cndel ST 5 C Sstik ST 3 D 1.b.i.; 1.b.ii. D 2.a.ii.(b).
	Select Committee	

Recommendation		ii. Depict SEPDY on controller's scope in an effort for aircraft to stay over the bay as long as possible.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	C Sstik ST 8
	Select Committee	

Recommendation		iii. SSTIK: Determine if a reduced climb airspeed can be assigned until reaching 3,000 ft. MSL or other higher altitude; a slower airspeed will allow the aircraft to climb to a higher altitude in a shorter distance before overflying noise-sensitive land use areas. Determine if the minimum required altitude before a left turn can be raised.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	C Sstik LT 1
	Select Committee	

Recommendation		iv. Assign the OFFSHORE departure to flights which historically were assigned the OFFSHORE departure, which guides the aircraft to the ocean and WAMMY waypoint. Wide dispersal of flight paths is preferred.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 36 C Sstik ST 6
	Select Committee	

Recommendation		v. In the existing SSTIK procedure, use the Bay and ocean as well as use existing areas of compatible land use for overflights as much as possible.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 34 C Sstik ST 4; 5 D 1.b.ii.
	Select Committee	

Recommendation		vi. Define the airspace limitations over the Bay, Golden Gate and the Ocean to the west for placement of a waypoint to replace or augment PORTE and or SSTIK waypoint. Present these limitations to the Roundtable in graphic and memo format.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	D 2.a.ii.(b).
	Select Committee	

Recommendation		vii. Determine if a different southbound transition would provide more room for SSTIK departures without shifting noise to other communities. Suggestions: Create procedure from CNDEL to GOBBS, WAMMY, then PORTE or south; 'contain' CNDEL aircraft west of the eastern shore of the Bay. The intent being that the aircraft gain altitude before crossing back over residential areas.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 31; 32 C Cndel ST 1; 2
	Select Committee	

Recommendation		viii. Fly the CNDEL procedure as published - don't vector aircraft early. Determine if flight tracks after CNDEL waypoint could be 'contained' to a more limited area such as west of the eastern shore of the Bay that would decrease potential conflicts with SSTIK. From CNDEL, direct aircraft to a waypoint in the Pacific Ocean - potentially GOBBS, then WAMMY before flying to PORTE.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 30; 31; 32 C Cndel ST 1; 4 C Cndel LT 1; 2; 3 D 1.a.ii.; 1.b.i.; 1.b.ii.
	Select Committee	1.5

Recommendation		ix. Use FAA Initiative Phase 1, Appendix B as baseline to compare improvements in decreasing vector traffic regarding CNDEL departures.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	D. 2.a.ii.(b).
	Select Committee	

Recommendation		x. Move SSTIK north and east as much as feasible (use SEPDY as a guide) to allow for maximum altitude gain. Remain over Pacific Ocean until attaining a high altitude.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 34; 38 C Sstik LT 2; COL 1 D 1.b.i; 1.b.ii. D 2.a.ii.(b).
	Select Committee	

Recommendation		xi. Create an OFFSHORE RNAV overlay that would allow for an RNAV procedure that keeps aircraft over the water.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 35 C Sstik LT 3 D 1.a.ii.
	Select Committee	

Recommendation		xii. Similar to NIITE proposal, create a SSTIK transition to GOBBS, then WAMMY, then PORTE or south
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	B 34 C Night LT 1 C Sstik LT 4 D 1.b.i.; 1.b.ii.
	Select Committee	

Recommendation		xiii. Remain over the Bay / Pacific Ocean until attaining a high altitude.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	C SSTIK ST 4
	Select Committee	

i. SJC Arrivals

Recommendation		i. Modify BRIXX Procedure into San Jose International Airport. The amended BRIXX should obtain the highest possible altitude where the BRIXX intersects the new arrival route from the south.
Process		Air Traffic Facility Action
Status		Awaiting Design of BSR RNAV Overlay
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.11

j. Woodside VOR

Recommendation		i. Woodside VOR
Process		Addressed Concern to the Extent Feasible
Status		In use per SOP for Non-OTA arrivals. NCT will continue to reinforce the use of this procedure to personnel through training and briefings.
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.3 R1, 2

Recommendation		ii. Woodside VOR - prohibit overnight crossing below 8,000 ft.
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.3 R3

Recommendation		iii. Woodside VOR - modify OTA to cross VOR at 8K
Process		Air Traffic Facility Action
Status		Currently under evaluation
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.3 R2

5. Recommendations which were not endorsed by the Select Committee:

a. Miscellaneous

Recommendation		i. Return to Pre-NextGen Procedures, Altitudes, and Concentration.
Process		
Status		Not Endorsed by the Select Committee
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.17

b. SFO South Arrivals

Recommendation		i. Modify NRRLI Waypoint on the First Leg of SERFR.
Process		
Status		Not Endorsed by the Select Committee
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.12

Recommendation		ii. Redirect Southern Arrivals (SERFR) to an Eastern Approach into SFO.
Process		
Status		Not Endorsed by the Select Committee, since this reduces the opportunity to shift aircraft from the BDEGA west leg transition. The FAA does not have the expertise to resolve a regional noise concern through the creation/amendment of procedures. The FAA respectfully requests that the Round Table and Select Committee coordinate their response, so that the FAA may respond to a request which benefits all community stakeholders.
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.14

Recommendation		iii. Herringbone Approach to SFO Arrivals.
Process		
Status		Not Endorsed by the Select Committee
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.16

c. SJC Arrivals

Recommendation		i. San Jose International Airport Reverse Flow: Aircraft Arrivals. Reverse flow conditions at SJC have arrival aircraft at lower altitudes to the west of SJC. Can these arrivals be shifted to the east of SJC? Not endorsed since this shift of arrivals equates to a shifting of noise to another community.
Process		
Status		Not Endorsed by the Select Committee
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.13

d. Woodside VOR

Recommendation		i. Fan-in Overseas Arrivals (OCEANIC) into SFO.
Process		
Status		Not Endorsed by the Select Committee
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.15

6. Recommendations which were not endorsed by the FAA:

a. SFO RWY 28 Arrivals

Recommendation		i. Research feasibility of dual offset RNAV to both RWY 28L and RWY 28R.
Process		Air Traffic Facility Action
Status		Not feasible - see Phase One report (1.b.iii) The preferential arrival runway is RWY 28R when in single stream. If the operational level necessitate simultaneous arrivals, then an offset arrival to RWY 28L would conflict with both the straight in and offset RWY 28R approaches, making both untenable.
Reference to the Recommendation Report	Roundtable	B 15 C Vis LT 1 D 1.b.iii.
	Select Committee	

b. Down the bay night time departure

Recommendation		i. NIGHTTIME: Use SFO's longstanding preferred departure runways: RWY 10 R/L, then RWY 28 R/L (TRUKN or NIITE), then RWY 01 R/L.
Process		Air Traffic Facility Action
Status		Increasing the use of RWY 10 was stated not to be feasible in the Phase One report (2.e.i). However, NCT will continue to be an active participant in Round Table meetings, providing leadership in seeking solutions. Ongoing discussion with SFO Airport to update Fly Quiet program.
Reference to the Recommendation Report	Roundtable	B 26 D 2.e.iii.; 3.a.i.
	Select Committee	

Recommendation		ii. Create a RWY 10L/R departure procedure with an immediate left turn to deconflict with opposite direction aircraft.
Process		Air Traffic Facility Action
Status		Not feasible - In August 2013, the requirements associated with Opposite Direction Operations (ODO) changed increasing the complexity of implementing ODO procedures. The creation of a RWY 10 departure procedure with an immediate left turn would not absolve the requirement to utilize the updated ODO procedures.
Reference to the Recommendation Report	Roundtable	C ODO LT 2
	Select Committee	

c. MENLO

Recommendation		vii. MENLO Waypoint - review increasing RWY 28L glide slope. Increase SFO RWY 28 Glide Slope - The recommendations are to review and determine feasibility which could be done in the near term.
Process		Air Traffic Facility Action
Status		Not feasible - see Phase One report (1.a.i)
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.5 R4

Recommendation		viii. MENLO Waypoint - altitude at MENLO above 5,000 ft.
Process		Procedural Design / Amendments and IFP Gateway Entry
Status		Not feasible - see Phase One report (1.a.i)
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.5 R1

7. Recommendations which were not the FAA's action:

a. Down the bay night time departures

Recommendation		i. SFO Airport and RT educate dispatchers and pilots of the importance / impact of 10L/R ODO procedures on impacted communities.
Process		SFO Airport and SFO Roundtable
Status		
Reference to the Recommendation Report	Roundtable	C ODO ST 3
	Select Committee	

b. Miscellaneous

Recommendation		i. Allocate funds to commission an updated Technical Study of back blast noise from takeoffs at SFO.
Process		SFO Airport
Status		
Reference to the Recommendation Report	Roundtable	B 40
	Select Committee	

Recommendation		ii. Who Makes Recommendations to Whom
Process		
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	4.1

Recommendation		iii. Ensuring Compliance
Process		
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	4.3

Recommendation		iv. Airbus A320 Aircraft Family Wake Vortex Generators Retrofit
Process		Directed to Industry
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	2.1

Recommendation		v. Need for an Ongoing Venue to Address Aircraft Noise Mitigation - permanent committee.
Process		Directed to a follow-up committee
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	3.1 R1, R2

Recommendation		vi. Capacity Limitations
Process		
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	3.4

Recommendation		vii. Aircraft Speed
Process		
Status		
Reference to the Recommendation Report	Roundtable	
	Select Committee	3.5

Recommendation		viii. Need for Before/After Noise Monitoring - monitor noise before and after implementation
Process		
Status		
Reference to the Recommendation Report	Roundtable	C Sstik CO 2
	Select Committee	4.2 R1

Recommendation		ix. Need for Before/After Noise Monitoring - implement regional noise monitoring stations
Process		
Status		
Reference to the Recommendation Report	Roundtable	C Sstik CO 2
	Select Committee	4.2 R2

Congress of the United States
Washington, DC 20515

June 28, 2017

Ms. Joanne Benjamin, Interim Executive Director
Cities Association of Santa Clara County
Post Office Box 1079
Los Gatos, California 95031

Dear Ms. Benjamin,

We write to request your assistance with the establishment of a long term forum for aircraft noise concerns in the South Bay. There is a critical need in Santa Clara and Santa Cruz Counties for a permanent venue to address aircraft noise concerns and we think it is essential that this body include all currently unrepresented cities in our Congressional Districts. Because you represent each of the 15 cities within Santa Clara County, we respectfully request your assistance with developing an intergovernmental partnership between the cities in Santa Clara and Santa Cruz Counties, Norman Y. Mineta San José International Airport (SJC), and San Francisco International Airport (SFO) that will serve as a permanent aircraft noise mitigation entity representing all affected communities in the South Bay and Santa Cruz County.

Between May and November, 2016, the Select Committee on South Bay Arrivals, a temporary committee of 12 local elected officials appointed by Congresswoman Anna G. Eshoo, Congressman Sam Farr, and Congresswoman Jackie Speier, convened meetings to receive public input and develop regional consensus on recommendations to reduce aircraft noise caused by SFO flights and airspace, and procedural changes related to the Federal Aviation Administration's Next Generation Air Transportation System. Among the many recommendations that received unanimous approval by the former Committee was the need for a permanent venue to represent currently disenfranchised communities in addressing aircraft noise concerns including, but not limited to SFO. This recommendation stems from the fact that our mutual constituents in Santa Clara and Santa Cruz Counties, do not currently belong to a permanent aircraft noise mitigation entity such as the SFO Airport/Community Roundtable.

Recently, the SJC Airport Commission voted unanimously to recommend that the San José City Council approve the establishment of a roundtable forum at SJC to address the noise impacts of the Airport's South Flow operations. While we agree with the Commission that there is a significant demand for an aircraft noise mitigation entity to represent constituents in the South Bay, it is imperative that any potential body not be confined to SJC or SFO related issues and also include representation of all affected and currently unrepresented communities in Santa Clara and Santa Cruz Counties. Although the participation by elected officials in each affected city is essential, it is critical that the establishment of such a body should not be unilaterally implemented by one city, but instead be led collectively by the entire affected region.

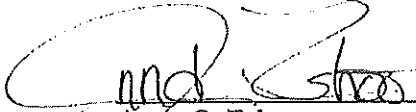
We've enclosed a copy of the SFO Airport/Community Roundtable's Purpose and Bylaws which can serve as a model in the South Bay. We would like the Cities Association to collect input from your membership, provide suggestions from each of the cities within your jurisdiction, and to work with the County of Santa Cruz and the Directors of SJC and SFO to develop an intergovernmental partnership modeled after the SFO Airport/Community Roundtable and referred to as the South Bay Airport Roundtable. This body should serve as the permanent

aircraft noise mitigation entity representing each city within each county, and with jurisdiction spanning aircraft noise issues including but not limited to those related to either SJC or SFO. We recommend that the FAA agree to provide technical assistance as needed, and that like the SFO Airport/Community Roundtable, SJC would be responsible for hosting and staffing meetings. To ensure equitable regional representation, each city and county should have the opportunity to appoint one Member and one Alternate who are local elected officials to serve on the body, elect their own leadership, and participate in helping to fund the effort just as the SFO Airport/Community Roundtable does. Once it is conceived, the newly formed South Bay Airport Roundtable could also work with the SFO Airport/Community Roundtable to establish a joint subcommittee to address complex overlapping issues related to the Midpeninsula.

We understand that developing solutions to aircraft noise issues is a complicated and sensitive endeavor that requires extensive engagement with constituents living in affected communities facing sometimes separate but ultimately interrelated issues. Because of this, any proposed changes to our complex airspace should not be the burden of one single city and can only be achieved fairly and effectively with a foundation of regional consensus. The establishment of a permanent South Bay entity is the fundamental prerequisite to ensuring that there is a platform to develop regional consensus upon and thereby ensure any current and future aircraft noise concerns of our mutual constituents can be adequately addressed.

We hope you will accept our request to adopt a leadership role in helping to meet this important regional need. Thank you in advance for your attention to our request and we look forward to your timely response and assistance.

Sincerely, *and gratefully,*



Anna G. Eshoo
Member of Congress



Jimmy Panetta
Member of Congress



Ro Khanna
Member of Congress

cc: Members, Santa Clara County Board of Supervisors
Members, Santa Cruz County Board of Supervisors
The Honorable Liz Gibbons, Mayor, City of Campbell
The Honorable Savita Vaidhyanathan, Mayor, City of Cupertino
The Honorable Roland Velasco, Mayor, City of Gilroy
The Honorable Mary Prochnow, Mayor, City of Los Altos
The Honorable Gary Waldeck, Mayor, Town of Los Altos Hills
The Honorable Marico Sayoc, Mayor, Town of Los Gatos
The Honorable Rich Tran, Mayor, City of Milpitas
The Honorable Marshall Anstandig, Mayor, City of Monte Sereno
The Honorable Steve Tate, Mayor, City of Morgan Hill
The Honorable Ken Rosenberg, Mayor, City of Mountain View
The Honorable Gregory Scharff, Mayor, City of Palo Alto
The Honorable Sam Liccardo, Mayor, City of San José
The Honorable Lisa Gillmor, Mayor, City of Santa Clara
The Honorable Emily Lo, Mayor, City of Saratoga
The Honorable Glenn Hendricks, Mayor, City of Sunnyvale
The Honorable Stephanie Harlan, Mayor, City of Capitola
The Honorable Cynthia Chase, Mayor, City of Santa Cruz

The Honorable Randy Johnson, Mayor, City of Scotts Valley
The Honorable Oscar Rios, Mayor, City of Watsonville
The Honorable Elizabeth Lewis, Chair, San Francisco International Airport/Community
Roundtable
Mr. John Aitken, Interim Director of Aviation, Norman Y. Mineta San José International
Airport
Ms. Julie Riera Matsushima, Chair, Norman Y. Mineta San José International Airport
Commission
Mr. Ivar C. Satero, Director, San Francisco International Airport
Mr. Dennis Roberts, Western Pacific Regional Administrator, Federal Aviation
Administration
Members and Alternates, Former Select Committee on South Bay Arrivals
The Honorable Jackie Speier, Member of Congress
The Honorable Zoe Lofgren, Member of Congress

Enclosure

SAN FRANCISCO INTERNATIONAL AIRPORT/COMMUNITY ROUNDTABLE PURPOSE AND BYLAWS

Adopted on June 5, 2005 (Ver. 1)

Amended on December 2, 2009 (Ver. 2)

Amended on December 1, 2010 (Ver. 3)

Amended on April 3, 2013 (Ver. 4)

Amended on February 4, 2015 (Ver. 5)

A. PURPOSE

B. BYLAWS

Page

Article I.	Organization Name	3
Article II.	Current Roundtable Memorandum of Understanding (MOU). 3	
Article III.	Membership/Representation	4
Article IV.	Officers/Elections	5
Article V.	Staff Support	6
Article VI.	Meetings	6
Article VII.	Subcommittees	7
Article VIII.	Funding/Budget	8
Article IX.	Conduct of Business/Voting	9
Article X.	Amendments/Effective Date	10

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SAN FRANCISCO INTERNATIONAL AIRPORT/COMMUNITY ROUNDTABLE PURPOSE AND BYLAWS

A. PURPOSE

The San Francisco International Airport/Community Roundtable was established in 1981 to address community concerns related to noise from aircraft operating to and from San Francisco International Airport (SFO). This voluntary committee of local elected and appointed officials provides a forum for public officials, airport management, FAA staff, and airline representatives to address issues regarding aircraft noise, with public input. The Roundtable monitors a performance-based aircraft noise mitigation program, as implemented by airport staff, considers community concerns regarding relevant aircraft noise issues, and attempts to achieve additional noise mitigation through a cooperative sharing of authority brought forth by the airline industry, the FAA, airport management, and local elected officials.

B. BYLAWS

Article I. Organization Name

The name of the independent public body established by a 1981 Memorandum of Understanding (MOU), as amended, to carry out the purpose stated above, is the "San Francisco International Airport/Community Roundtable" and may be commonly referred to as the "Roundtable."

Article II. Current Roundtable Memorandum of Understanding (MOU)

The purpose and objectives of the Roundtable are stated in an adopted document entitled, "Memorandum of Understanding (MOU) Providing for the Continuing Operation of the San Francisco International Airport/Community Roundtable," as amended. The MOU is the Roundtable creation document and provides the foundation for its focus and activities.

Article III. Membership/Representation

1. As of the adoption date of this version of the Bylaws, the following agencies/bodies are Roundtable Regular Members:

City and County of San Francisco Board of Supervisors
City and County of San Francisco Mayor's Office
City and County of San Francisco Airport Commission
County of San Mateo Board of Supervisors
C/CAG* Airport Land Use Committee (ALUC)
Town of Atherton
City of Belmont
City of Brisbane
City of Burlingame
City of Daly City
City of Foster City
City of Half Moon Bay
Town of Hillsborough
City of Menlo Park
City of Millbrae
City of Pacifica
Town of Portola Valley
City of Redwood City
City of San Bruno
City of San Carlos
City of San Mateo
City of South San Francisco
Town of Woodside

2. Roundtable Representatives and their Alternates are voting members who serve on the Roundtable and are designated by each of the members listed in Article III. Section 1 above.
3. All Representatives and their Alternates shall be elected officials from the agencies/bodies they represent, except those from the following:

City and County of San Francisco Mayor's Office
City and County of San Francisco Airport Commission
City/County Association of Governments of San Mateo County (C/CAG) Airport Land Use Committee (ALUC)

*City/County Association of Governments of San Mateo County

4. Roundtable Advisory Members are non-voting members that provide technical expertise and information to the Roundtable and may consist of representatives from the following:

Chief pilots of airlines operating at San Francisco International Airport
Federal Aviation Administration (FAA) Staff
5. All Representatives and Alternates who serve on the Roundtable shall serve at the pleasure of their parent bodies.
6. All appointed and elected officials who serve on the Roundtable can be removed/ replaced from the Roundtable at any time by their parent bodies. However, the Roundtable encourages and recommends at least two years of service for Representatives and Alternates who serve on the Roundtable.
7. The Alternates of all Roundtable member agency/bodies shall represent their parent body at all Roundtable meetings when the designated Representative is absent.
8. If both the Representative and his/her Alternate will be absent for a Roundtable meeting, the Chair/Mayor of the member agency/body may designate a voting representative of that agency/body as a substitute for that meeting only and shall notify the Roundtable, preferably in writing, at least two days before the meeting, of that designation.
9. Any city or town in San Mateo County that is not a member of the Roundtable may request membership on the Roundtable in accordance with the membership procedure contained in the most current version of the MOU.
10. Any member may withdraw from the Roundtable by filing a written notice of *Intent to Withdraw from the Roundtable* with the Roundtable Chairperson at least thirty (30) days in advance of the effective date of the withdrawal.
11. No Representative or Alternate shall receive compensation or reimbursement from the Roundtable for expenses incurred for attending any Roundtable meeting or other Roundtable functions.
12. A former member that has withdrawn its Roundtable membership must follow the same process that a new city or town in San Mateo County must follow to request membership in the Roundtable as described in Article III, Section 9 above.

Article IV. Officers/Elections

1. The officers of the Roundtable shall consist of a Chairperson and a Vice-Chairperson.
2. The Chairperson and Vice-Chairperson shall be elected by a majority of the members present at the February Meeting or the first Regular Meeting held thereafter. The term of the Chairperson and Vice-Chairperson shall not exceed twelve (12) months from the date of the election.
3. Nominations for officers of the Roundtable shall be made from the floor.
4. The Chairperson shall preside at all Regular and Special Roundtable Meetings and may call Special Meetings when necessary.
5. The Vice-Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.
6. A special election shall be called if the Chairperson and/or Vice-Chairperson are unable to serve a full term of office.
7. The Chairperson or Vice-Chairperson may be removed from office at any time by a majority vote of the members present at the meeting that such action is to be taken.

Article V. Staff Support

1. Roundtable staff support shall be provided by the County of San Mateo and by the San Francisco Airport Commission. Staff support provided by the County of San Mateo may include County staff and consultants.
2. The duties of the Roundtable Staff and consultants provided by the County of San Mateo shall be specified and approved as part of the Roundtable's annual budget process.

Article VI. Meetings

1. The Roundtable membership shall establish, by adopted resolution, the date, time and place for Regular Roundtable Meetings. Such resolution shall be adopted at the February Regular Meeting or at the first Regular Meeting held thereafter.
2. A majority of the voting members of the Roundtable must be present to constitute a quorum for holding a Regular or Special Roundtable Meeting. Regular or Special Meetings cannot be held if a quorum is not present.

3. If a quorum is not present at a Regular or Special Roundtable Meeting as determined by the roll call, the Chairperson may decide to:
 - a. terminate the proceedings by declaring a quorum has not been achieved and therefore an official meeting cannot be convened,
 - or
 - b. delay the start of the official meeting as a means to achieve a quorum, if possible, and
 - c. if the Chairperson chooses to delay the meeting the Chair may ask for a consensus from the Representatives/Alternates present to hear the informational items only as noted on the meeting agenda.
4. All agendas and meeting notices for each Regular Meeting, Special Meeting, and certain Subcommittee Meetings, as defined in Article VII, shall be posted, as prescribed by law (Brown Act, California Government Code Section 5490 et seq.).
5. Each Roundtable Meeting Agenda packet shall be posted on the Roundtable Web site as soon as possible before a meeting.
6. A paper copy of the Meeting Agenda packet shall be provided at no charge to anyone who requests a copy.

Article VII. Subcommittees

1. Subcommittees shall either be a Standing Subcommittee or an Ad Hoc Subcommittee. The number of members appointed to a subcommittee of the Roundtable shall consist of less than a quorum of its total membership (see Article VI, Section 2, re: quorum).
 - a. Standing Subcommittees shall include, but not be limited to the following:
 1. Work Program Subcommittee
 2. Operations and Efficiency Subcommittee
 3. Legislative Subcommittee
 4. Departures Technical Working Group
 5. Arrivals Technical Working Group
 - b. Ad Hoc Subcommittee(s) may be created, as needed, to address specific issues.
2. Creation of a Standing Subcommittee or an Ad Hoc Subcommittee may be created by a majority vote of the Representative/Alternates present at a Regular Meeting. The Chairperson shall have the discretion to propose the formation of a subcommittee.

3. Standing Subcommittee or Ad Hoc Subcommittee membership and number of meetings shall be based on the following:
 - a. The Chairperson, at his or her discretion, may appoint any Roundtable Representative or Alternate to serve on a Standing Subcommittee or on an Ad Hoc Subcommittee.
 - b. The Roundtable Chairperson and Vice-Chairperson may serve on a Sub-committee or appoint a current member of the Roundtable to serve as the Subcommittee Chairperson. The Roundtable Chairperson shall serve or appoint a Chair of the Subcommittee, and the Subcommittee shall elect the Vice-Chair. When the Chair of the Subcommittee cannot attend a Subcommittee meeting, the Subcommittee Vice-Chair may serve as the Chair for that meeting.
 - c. Each Subcommittee shall meet as many times as necessary to study the issues identified by the Roundtable as a whole and develop and submit final recommendations regarding such issues to the full Roundtable for review/action.
 - d. After the date on which the Roundtable has heard and taken action on an Ad Hoc Subcommittee's final recommendation(s), the Ad Hoc Subcommittee shall cease to exist, unless the Roundtable determines that the Subcommittee must reconvene for the purposes described in this paragraph. In its action on the Ad Hoc Subcommittee recommendation(s), the Roundtable may direct the Subcommittee to reconvene, as necessary to review, refine, and/or revise all or a portion of its recommendation(s). If such action occurs, the Ad Hoc Subcommittee shall be charged with preparing and submitting a subsequent recommendation(s) to the full Roundtable for review/action. After the date on which the Roundtable has received the subsequent Ad Hoc Subcommittee recommendation(s), the Subcommittee shall cease to exist.
4. The duties of a chairperson of a Roundtable Subcommittee may include, but are not limited to, presiding over Subcommittee meetings and submitting recommendations to the full Roundtable, regarding the topics/issues addressed by the Subcommittee.

Article VIII. Funding/Budget

1. The Roundtable shall be funded by its voting member agencies. The County of San Mateo shall establish a Roundtable Trust Fund that contains the funds from the member agencies and shall be the keeper of the Trust Fund. All Roundtable expenses shall be paid from the Roundtable Trust Fund.
2. The amount of the annual funding contribution for the various categories of membership may be revised by the Roundtable at a Regular or Special Meeting by a majority vote of those members present at that meeting.

3. The Roundtable fiscal year shall be from July 1st to June 30th.
4. Roundtable Staff, in consultation with the Roundtable Chairperson, will recommend an annual funding amount for each Roundtable member at least 60 days prior to the anticipated date of adoption of the annual Roundtable Budget.
5. The Roundtable shall adopt an annual budget at a Regular Meeting or at a Special Meeting held between May 31 and October 31 of each calendar year. The budget must be approved by a majority of the Representatives/Alternates who are present at that meeting.
6. The adopted Roundtable Budget may be amended at any time during the fiscal year, as needed. Such action shall occur at a Regular Roundtable Meeting and be approved by a majority of the Roundtable Representatives present at that meeting.
7. The City and County of San Francisco shall provide an annual funding contribution for representation on the Roundtable by the representatives from the San Francisco Board of Supervisors, the San Francisco Mayor's Office, and the San Francisco Airport Commission. The Airport Commission, being a department of the City and County of San Francisco, shall provide one funding source for all three of these representatives. The amount of the annual contribution may be determined at the discretion of the Airport Director, with approval by the Airport Commission and shall be the subject of an agreement between the City and County of San Francisco and the County of San Mateo.
8. If a member withdraws from the Roundtable, per the provisions of Article III. Section 9, the remainder of that member's annual Roundtable funding contribution shall be forfeited, since the annual Roundtable Budget and Work Program are based on revenue provided by all Roundtable members.

Article IX. Conduct of Business/Voting

1. All Roundtable Regular Meetings and Special Meetings shall be conducted per the relevant provisions in the Brown Act, California Government Code Section 54950 et seq.
2. All Roundtable Standing Subcommittees, as identified in Article VII., are considered legislative bodies, per Government Code Section 54952 (b) (Brown Act) and therefore, the conduct of Standing Subcommittee meetings shall be guided by the relevant provisions of the Brown Act, Government Code Section 54950 et seq.
3. All Ad Hoc Subcommittees are not legislative bodies, as defined by law, and therefore the conduct of those Subcommittee meetings are not subject to the relevant provisions of the Brown Act, Government Code Section 54950 et seq.

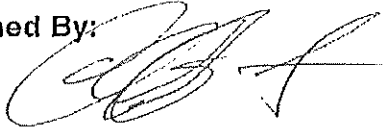
4. All action items listed on the Meeting Agenda shall be acted on by a motion and a second, followed by discussion/comments from Roundtable Representatives and the public, in accordance with *Robert's Rules of Order*. Approval of an action item shall require a majority of the membership present.
5. Except as described in Section 6 below, each agency/body represented on the Roundtable shall have one vote on all voting matters that come before the Roundtable.
6. The City and County of San Francisco has three (3) representatives on the Roundtable (Board of Supervisor's Representative, Mayor's Office Representative, and Airport Commission Representative). In the event all three are present at a Roundtable Regular or Special Meeting, only two of the three may vote on any action item on the meeting agenda.
7. To ensure efficient communications and the appropriate use of Roundtable Staff and Airport Noise Abatement Office Staff resources outside of noticed Roundtable meetings, other than those requests deemed to be minor by the Chairperson, Roundtable Members shall submit all requests for assistance/information/analysis to the Chairperson. The Chairperson will determine the appropriate course of action to respond to the request and shall, if necessary, forward the request to Roundtable and/or Airport staff for action. The Chairperson shall inform the Roundtable Member of the disposition of the request in a timely manner. For requests that are outside of the Roundtable's purview or approved Work Program, the Chairperson shall notify the Member that the request cannot be fulfilled at that time. The Vice Chairperson shall have similar authority in the Chairperson's absence.

Article X. Amendments/Effective Date

1. The Bylaws shall be adopted at a Regular or Special Roundtable Meeting by a majority of the Roundtable Representatives/Alternates present at that meeting.
2. The adopted Bylaws may be amended at any Roundtable Regular or Special Meeting by a majority of the Roundtable Representatives/Alternates present at that meeting.
3. The effective date of these Bylaws and any future amended Bylaws shall be the first day after the Roundtable action to (1) adopt these Bylaws and (2) adopt all subsequent amendments to the Bylaws.

* * * * *

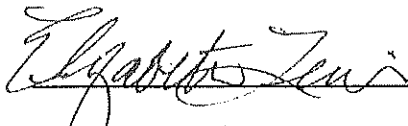
Signed By:



Date:

4/1/15

Cliff Lentz
Roundtable Chairperson
Councilmember
City of Brisbane



Date:

4/1/15

Elizabeth Lewis
Roundtable Vice-Chairperson
Councilmember
Town of Atherton



CITY OF MORGAN HILL

**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, July 26, 2017 5:30 PM

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

SPECIAL/REGULAR MEETING

(5:30 P.M. Workshop/ 7:00 P.M. Regular Meeting)

SPECIAL MEETING

5:30 P.M.

CALL TO ORDER

(Mayor Tate)

ROLL CALL ATTENDANCE

Per Government Code Section 54954.2
(Deputy City Clerk Wilson)

DECLARATION OF POSTING AGENDA

(Deputy City Clerk Wilson)

WORKSHOP

Transition to District Elections Workshop

The purpose of this Community Workshop is to

Host a public forum for discussion of the district election process and map-drawing criteria;
Present the initial draft maps;
Gather feedback from the community; and
Review and discussion by City Council and community of initial draft maps.

Following this Community Workshop, the third public hearing will be held on the same evening (July 26, 2017), to formalize direction to staff and NDC for the development of the final maps and the election sequencing

The initial draft maps are not necessarily the final maps; draft maps can be submitted until August 14, 2017. At the August 23, 2017 City Council meeting, the City Council will review any maps submitted through August 14th and introduce an ordinance selecting the district maps and setting the election sequencing.

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 Jachimowicz

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

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

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. APPROVE HEALTHY PLAY GRANT APPLICATION AND CONSIDER BUDGET AMENDMENT FOR MATCHING FUNDS UPON SCOPE COMPLETION

Recommendation:

1. Authorize City Staff to apply for a Healthy Play Grant for new play equipment; and
2. Direct staff to return to the Council with a budget amendment authorizing a matching appropriation from the Park Impact, Park Maintenance, and/or General Fund Budget once the exact final project cost and scope are complete.

2. LETTER OF SUPPORT FOR FUNDING PACHECO RESERVOIR EXPANSION

Recommendation:

Direct staff to prepare and submit a letter supporting the funding for the expansion of Pacheco Reservoir.

3. AWARD FIVE-YEAR AGREEMENT WITH POTABLE DIVERS, INC FOR RESERVOIR CLEANING AND INSPECTION

Recommendation:

1. Approve the execution of a five-year maintenance service agreement with Potable Divers, Inc. in the amount of \$20,600 for reservoir cleaning and inspection; and
2. Authorize the City Manager to execute the five-year maintenance service agreement with Potable Divers, Inc.

4. PURCHASE OF A NEW COMPACT EXCAVATOR AND UTILITY TILT BED TRAILER

Recommendation:

1. Approve purchase of a new compact excavator and utility tilt bed trailer from Pape Machinery, Inc., in the amount of \$71,277.66; and
2. Authorize City Manager to approve purchase order in the amount of \$71,277.66 with Pape Machinery, Inc.

5. AWARD EAST MAIN AVENUE WELL PROJECT

Recommendation:

1. Approve the East Main Avenue Well Project plans and specifications;
2. Award contract to Conco West, Inc. for the East Main Avenue Well Project in the amount of \$1,603,500;
3. Authorize expenditure of construction contingency funds not to exceed \$160,350; and
4. Authorize the City Manager to execute and administer the construction contract with Conco West, Inc.

6. EIGHTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS

Recommendation:

Receive Report.

7. ORDERING THE MAKING OF AMENDED REASSESSMENTS FOR REASSESSMENT DISTRICT NO. 2015-2 (MADRONE BUSINESS PARK) AMENDING REASSESSMENT NO.7

Recommendation:

Adopt the following:

1. Resolution Ordering the Making of the Amended Reassessments Pursuant to Part 10 of The Streets and Highway Code and Directing Actions with Respect Thereto Reassessment District No. 2015-2; and
2. Resolution Ordering Preliminarily Approving Amended Reassessment, Ordering the Public Hearing, and Directing Actions with Respect Thereto Reassessment District No. 2015-2.

8. ADOPT ORDINANCE 2257, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE TITLE OF CHAPTER 9.16 (MEDICAL MARIJUANA) AND SECTIONS 9.16.010 (INTENT), 9.16.020 (DEFINITIONS), AND 9.16.030 (PROHIBITED ACTIVITIES) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE MORGAN HILL MUNICIPAL CODE PROHIBITING MARIJUANA CULTIVATION, MARIJUANA DELIVERY SERVICES, AND MARIJUANA DISPENSARIES

Recommendation:

Waive the reading, adopt Ordinance No. 2257, 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.

PUBLIC HEARING

9. CITY COUNCIL TRANSITION TO BY-DISTRICT ELECTIONS

Recommendation:

1. Open/close the public hearing;
2. Discuss initial draft maps; and
3. Provide direction on next steps for draft maps and election sequencing.

Estimated Time: 45 Minutes

10. RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION CATEGORIES AND ALLOTMENT DISTRIBUTION

Recommendation:

Adopt resolution establishing Competition Categories and Distribution of Allotments for the 2017 Residential Development Control System (RDCS) Competition.

Estimated Time: 30 Minutes

OTHER BUSINESS

11. UPDATE ON TELECOMMUNICATIONS PLANNING PROCESS

Recommendation:

1. Receive update report; and
2. Direct staff to schedule a City Council workshop on public/private business models with telecommunications providers and local businesses as the next step to advance the City Council's 2017 Telecommunications Strategic Priority.

Estimated Time: 20 Minutes

12. RESPONSE TO GRAND JURY REGARDING LAFCO DENIALS: A HIGH SCHOOL CAUGHT IN THE MIDDLE

Recommendation:

Approve the response letter to the Santa Clara County Civil Grand Jury.

Estimated Time: 15 Minutes

13. ADOPTION OF WAGE THEFT PREVENTION POLICY

Recommendation:

1. Adopt wage theft policy; and
2. Direct staff to return to City Council in September 2017 with an ordinance implementing additional wage theft prevention measures.

Estimated Time: 15 Minutes

14. AIRCRAFT NOISE MITIGATION ENTITY DISCUSSION

Recommendation:

1. Discuss the City's involvement in the south bay aircraft noise mitigation entity; and
2. Consider appointing one member and one alternate from the Council to serve on the committee, once established.

Estimated Time: 5 Minutes

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

LIABILITY CLAIMS

Authority:	Pursuant to Government Code Section 54956.95
Claimant:	Goldstein, Borgen, Dardarian & Ho
Agency claimed against:	City of Morgan Hill

RECONVENE

CLOSED SESSION ANNOUNCEMENT

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

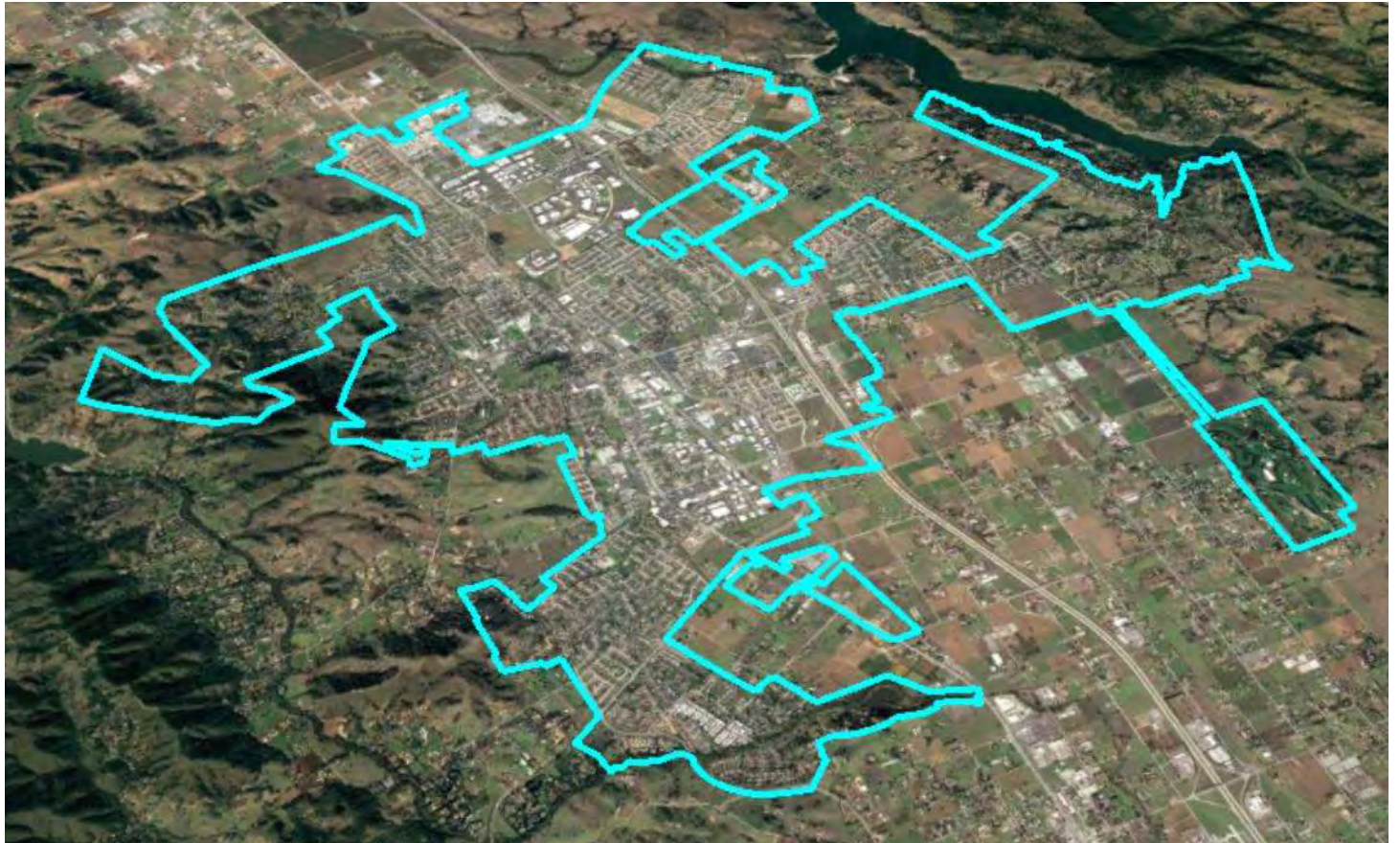
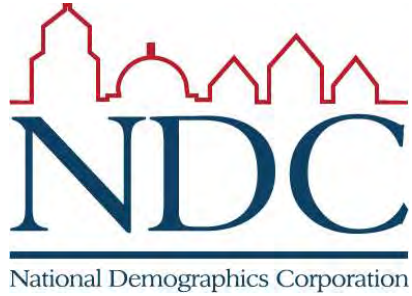
City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa 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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Morgan Hill City Council Districting 2017

Initial Draft Maps Hearing

July 26, 2017

Justin Levitt, Vice-President
Douglas Johnson, President
National Demographics Corporation (NDC)

Proposed Timeline

2

Date	Event
June 21	Public Hearing to take testimony on the composition of potential districts
June 28	Public Hearing to take testimony on the composition of potential districts
July 10 (Monday)	Public Forum
<i>July 17</i>	<i>(no meeting)</i> Deadline for initial public map submissions
<i>July 19</i>	<i>(no meeting)</i> Draft maps (including public submissions) published.
July 26	Public Hearing regarding the content of the draft maps and the proposed sequence of elections
<i>August 16</i>	<i>(no meeting)</i> Deadline to post map(s) for action Aug. 23
August 23	Public Hearing regarding the content of the draft maps and the proposed sequence of elections Possible Introduction of Ordinance
September 6	Introduction (if needed) or 2 nd reading of Ordinance
November 2018	First two Council districts hold elections
November 2020	Remaining two Council Districts hold elections

Districting Criteria

3

Federal Laws

- ☐ Equal Population
- ☐ Federal Voting Rights Act
- ☐ No Racial
Gerrymandering

Each of the four Council
districts will have about
9,500 residents.

Traditional Criteria

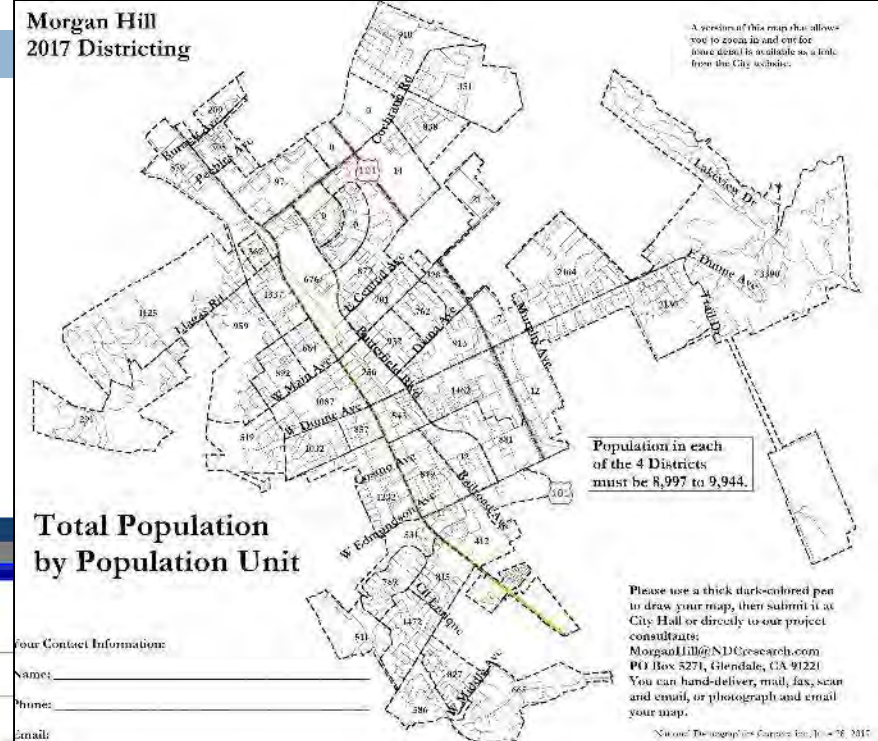
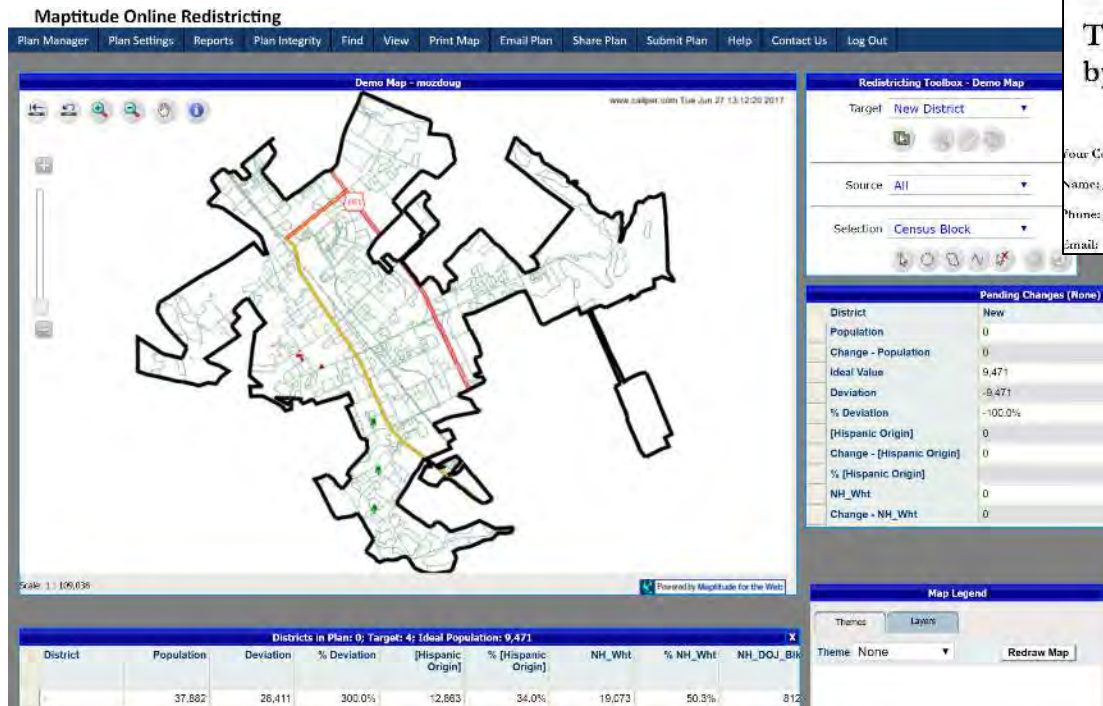
- ☐ Communities of interest
- ☐ Compact
- ☐ Contiguous
- ☐ Visible (Natural & man-made)
boundaries
- ☐ Respect for voters' wishes and
continuity in office
- ☐ Planned future growth

Map-Drawing Tools

Tools are available at
www.DrawMH.org

4

- Use the paper map, the online tool, or any other map
- Draw your neighborhood; draw the district you want for your area; or draw an entire citywide map



Submitted So Far:

12 maps by the public
 (including 7 population-balanced,
 contiguous, citywide maps)

3 maps drawn by NDC

5

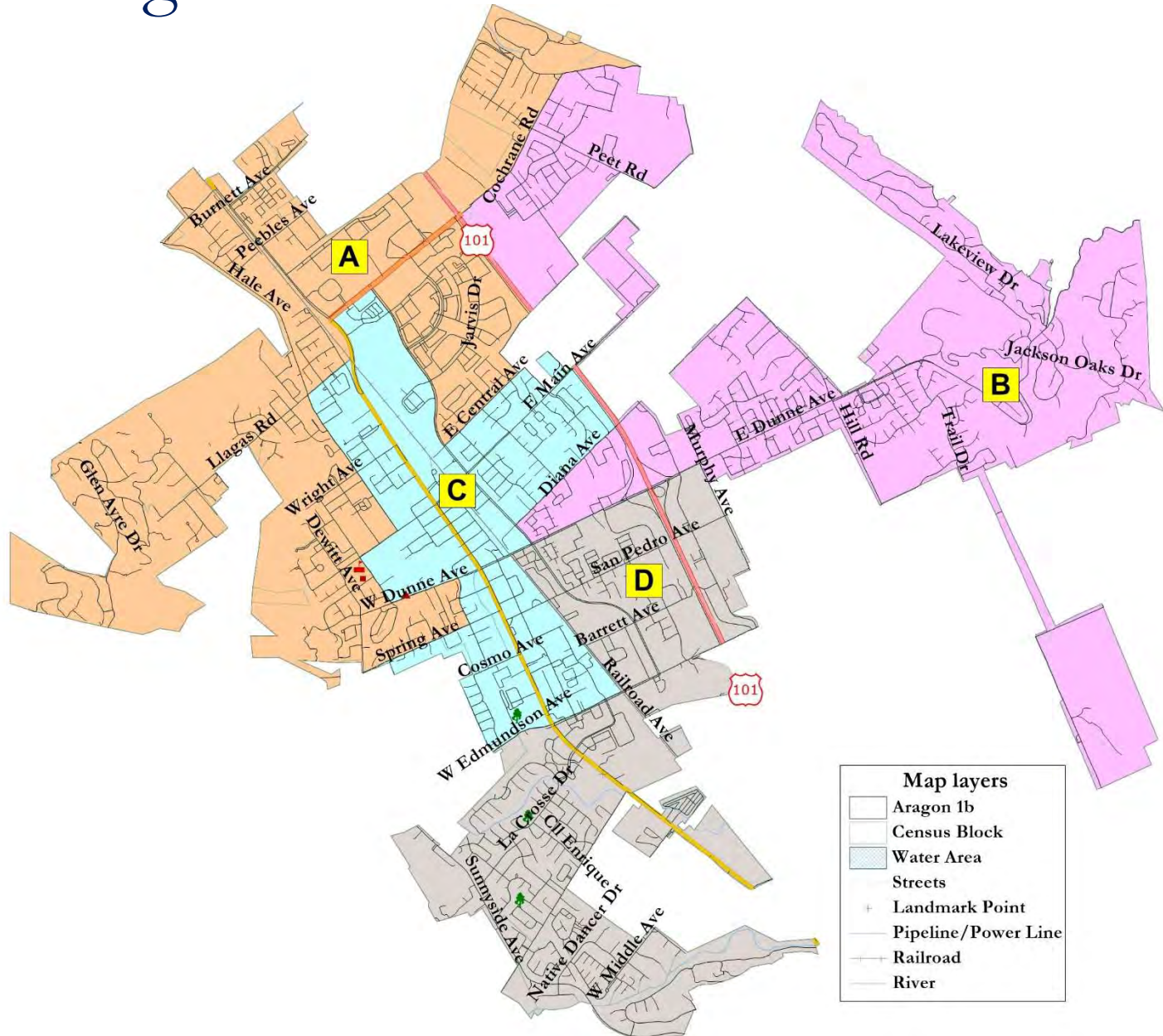
Draft Maps

All of these maps are population balanced, contiguous, and have one district where Latinos are 29 to 37 percent of eligible voters (measured by Citizen Voting Age Population).

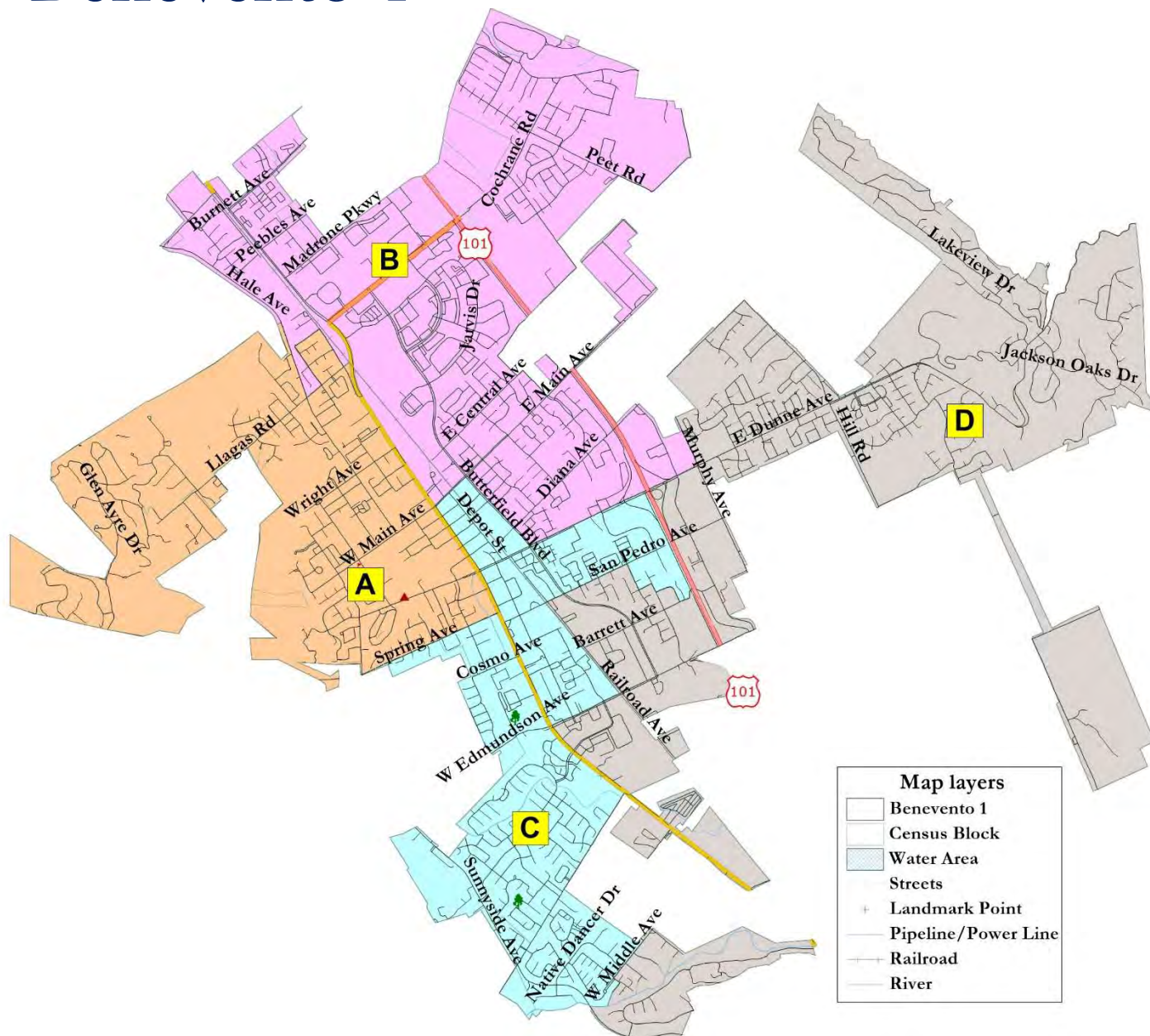
These maps can be reviewed in much more detail using the interactive map viewer, available [online at this link](#).

As always, visit www.DrawMH.org for more information and additional tools.

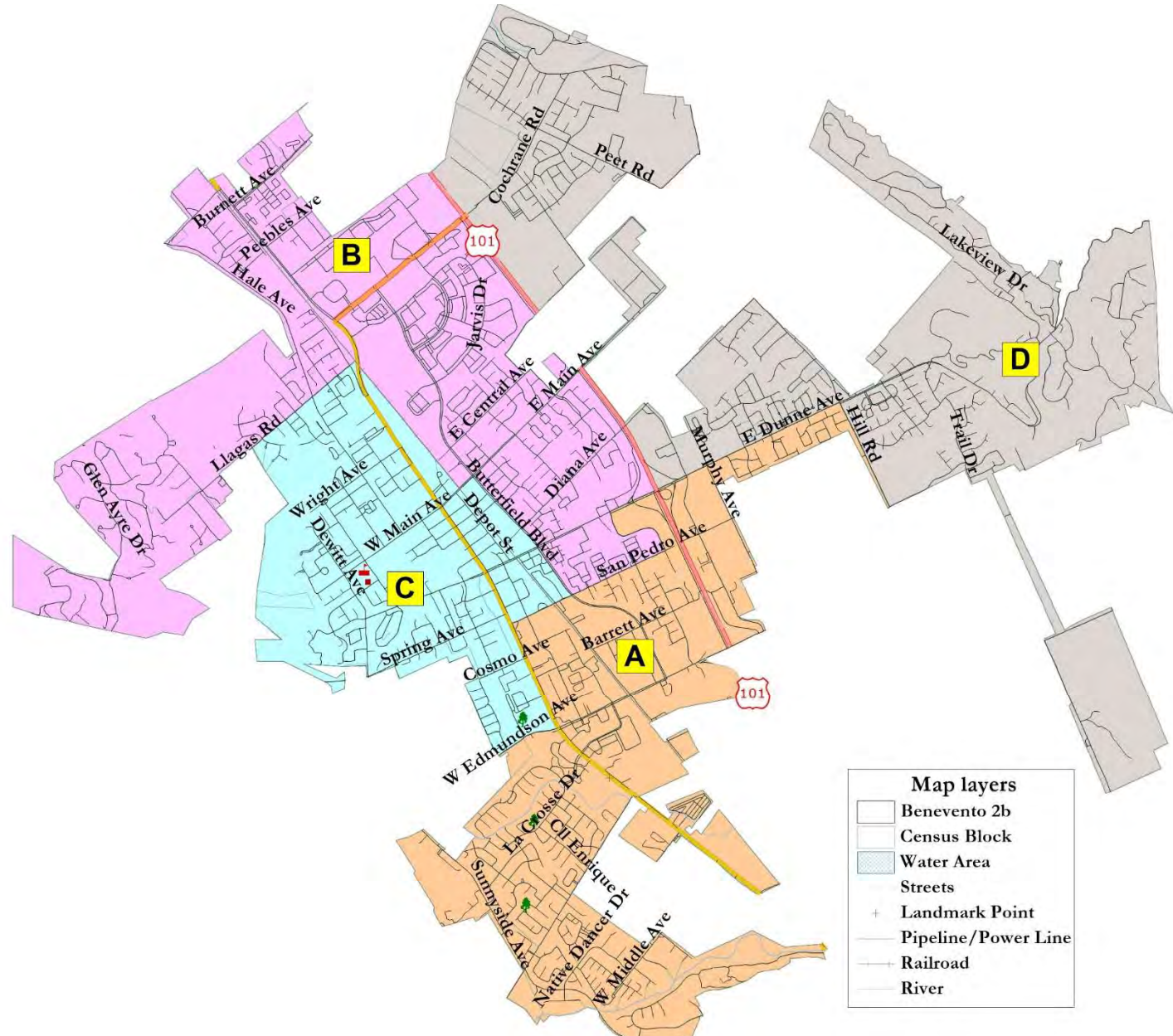
Aragon 1b



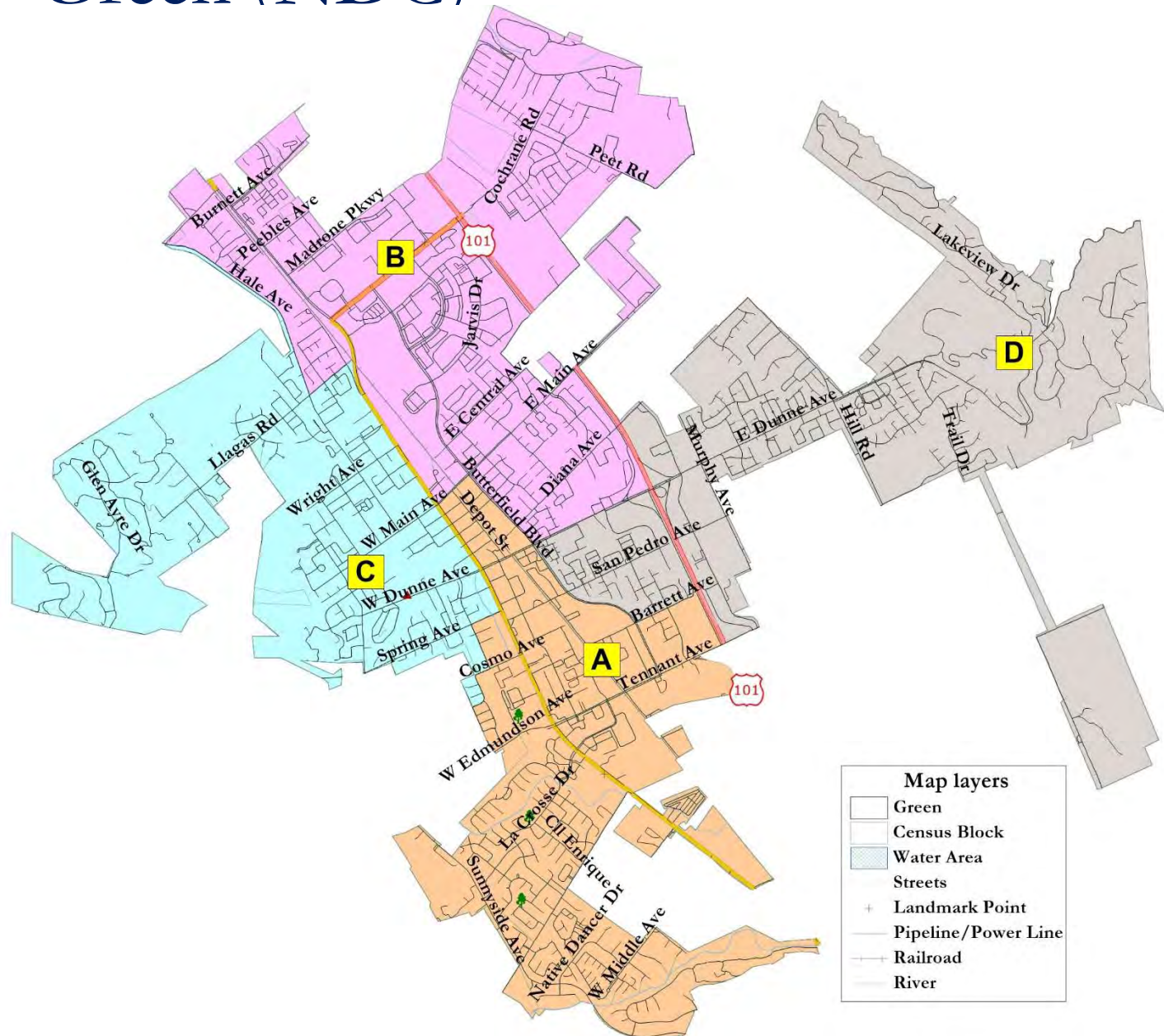
Benevento 1



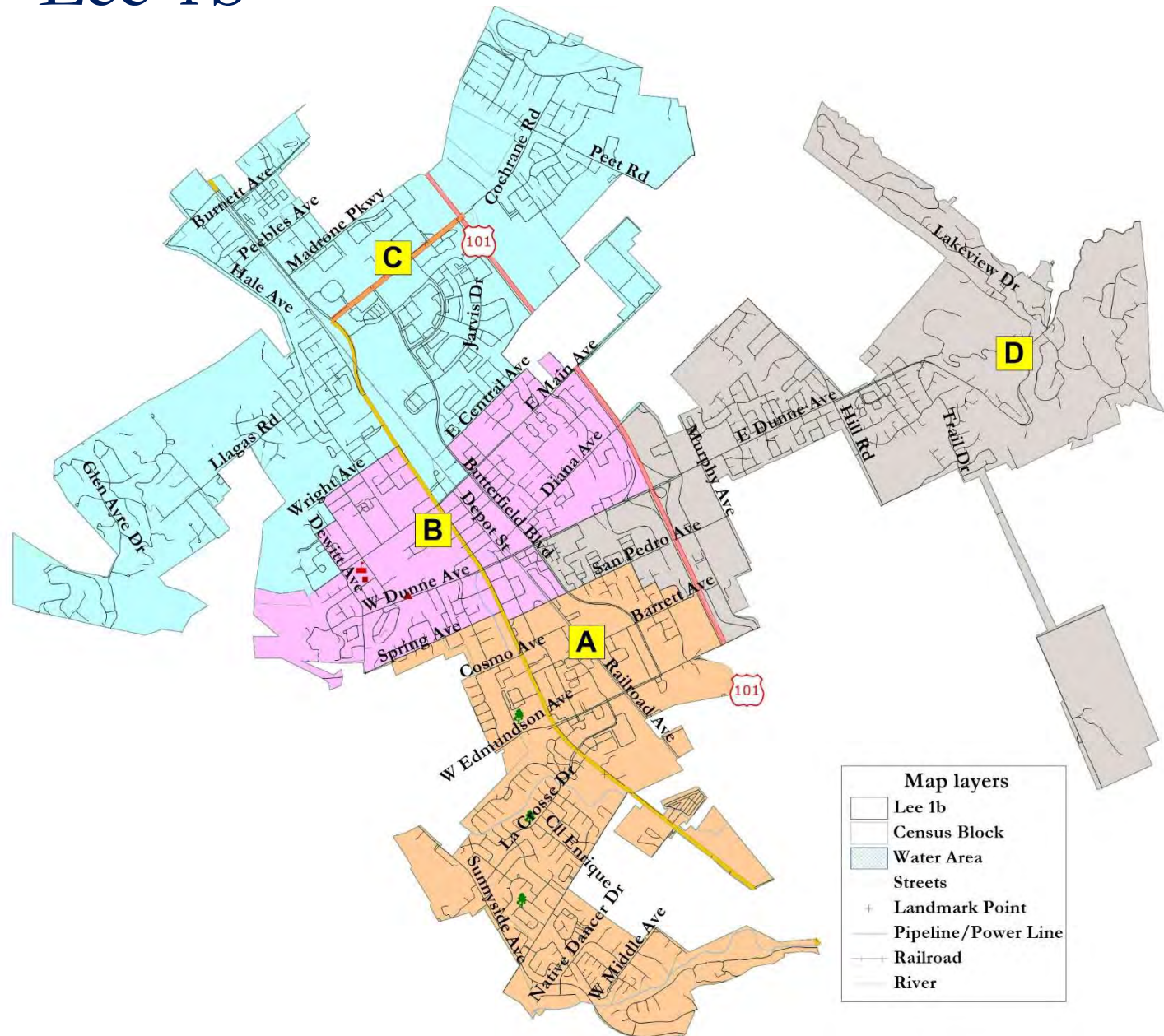
Benevento 2b



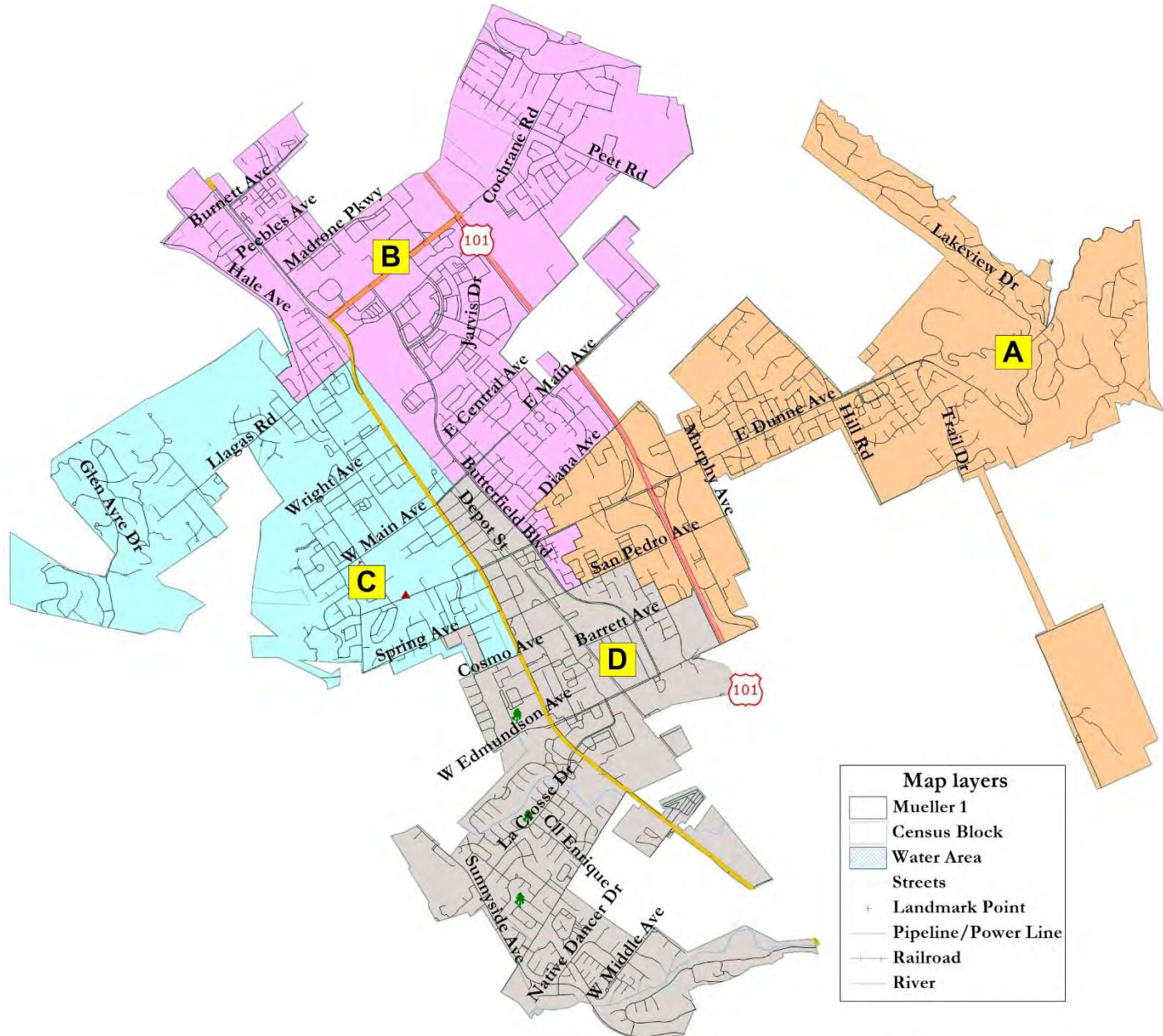
Green (NDC)



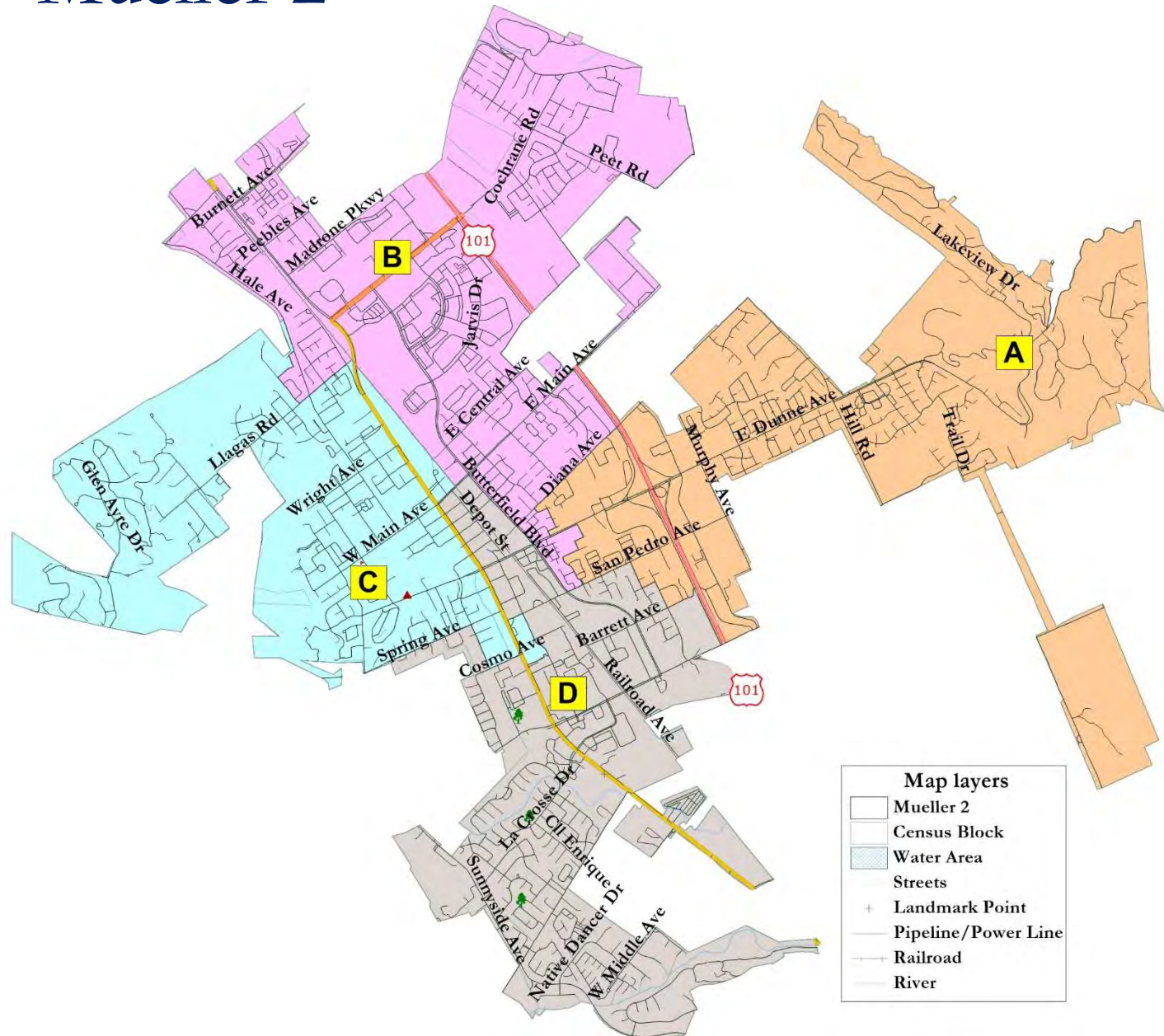
Lee 1b



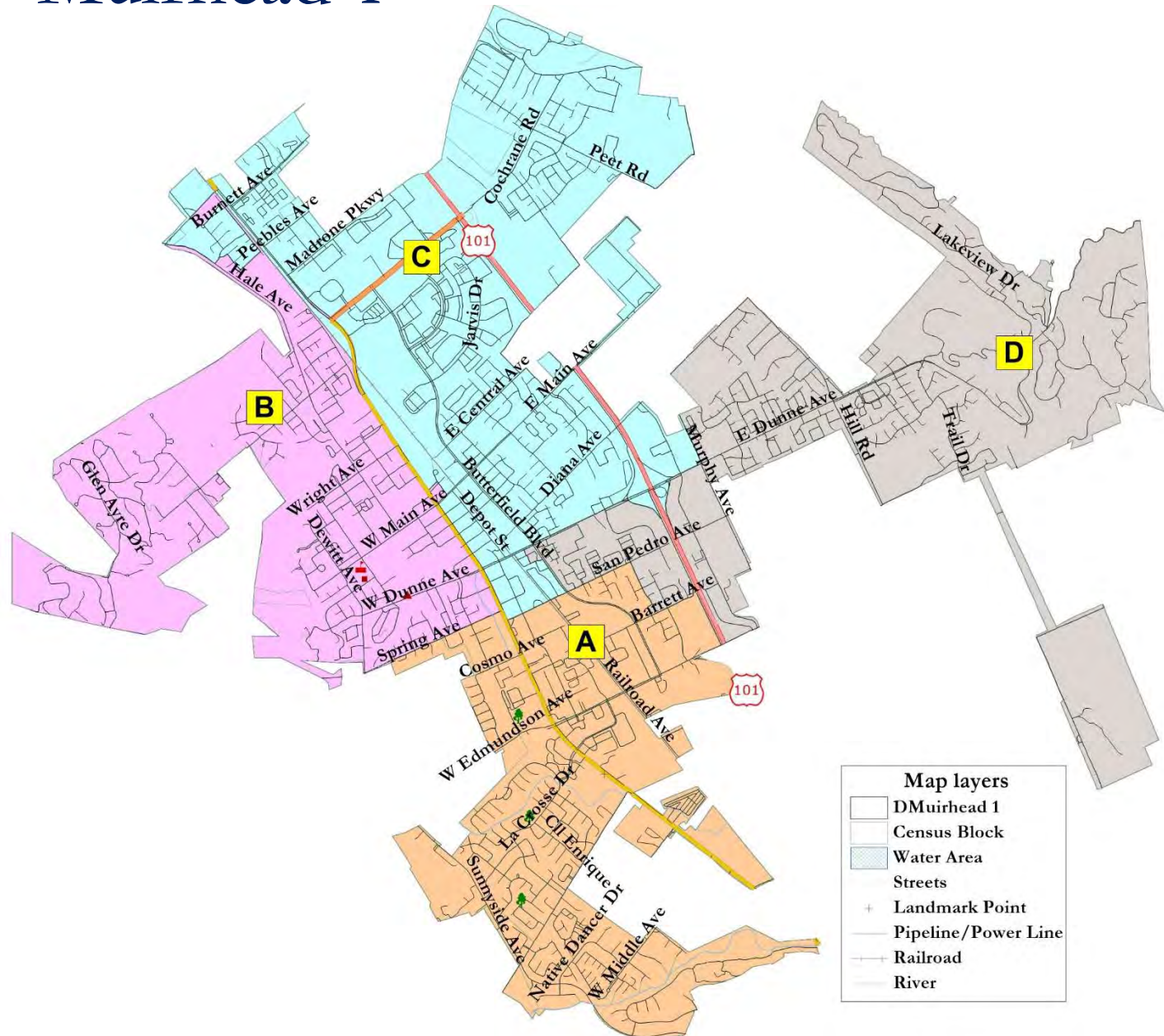
Mueller 1



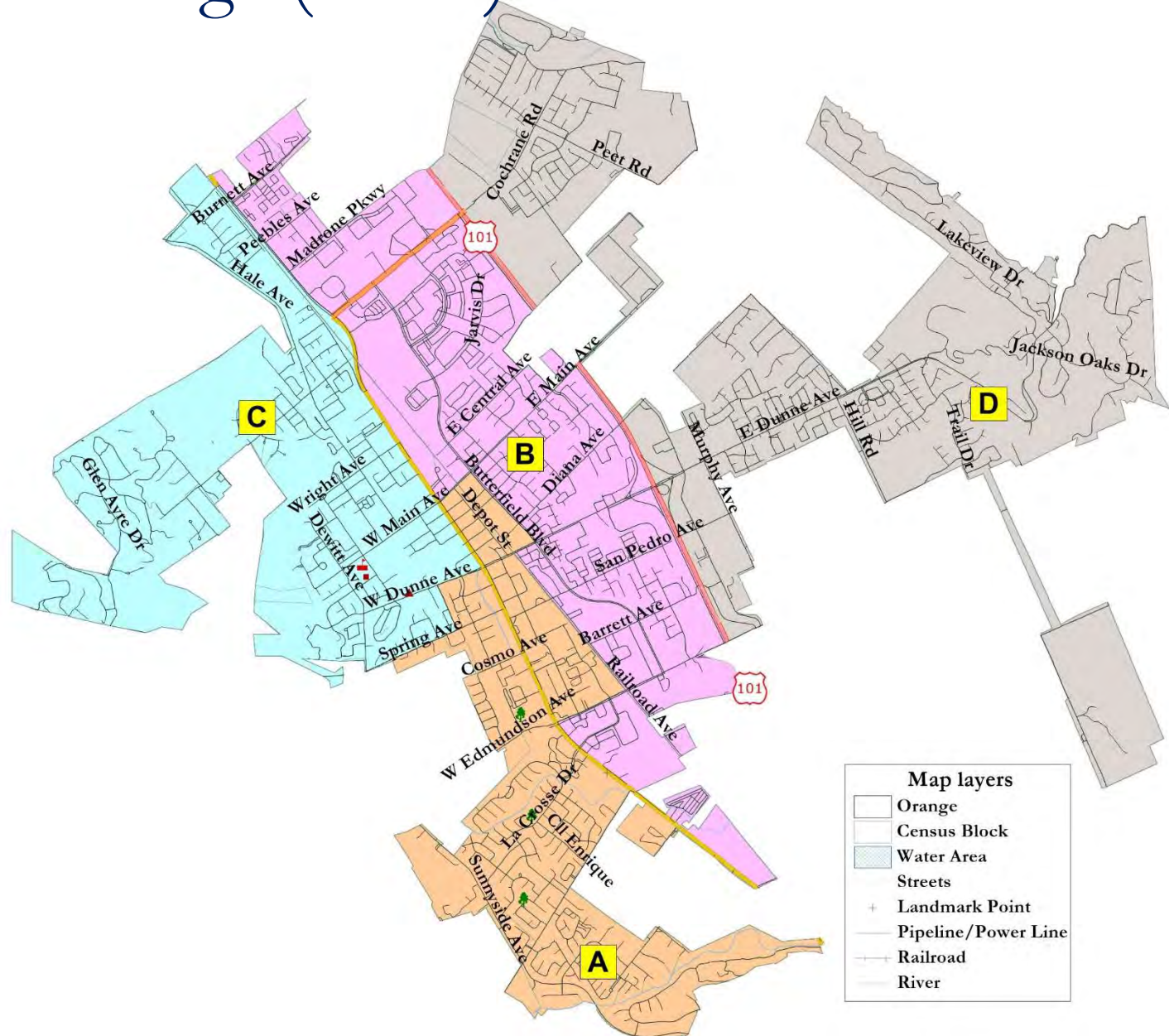
Mueller 2



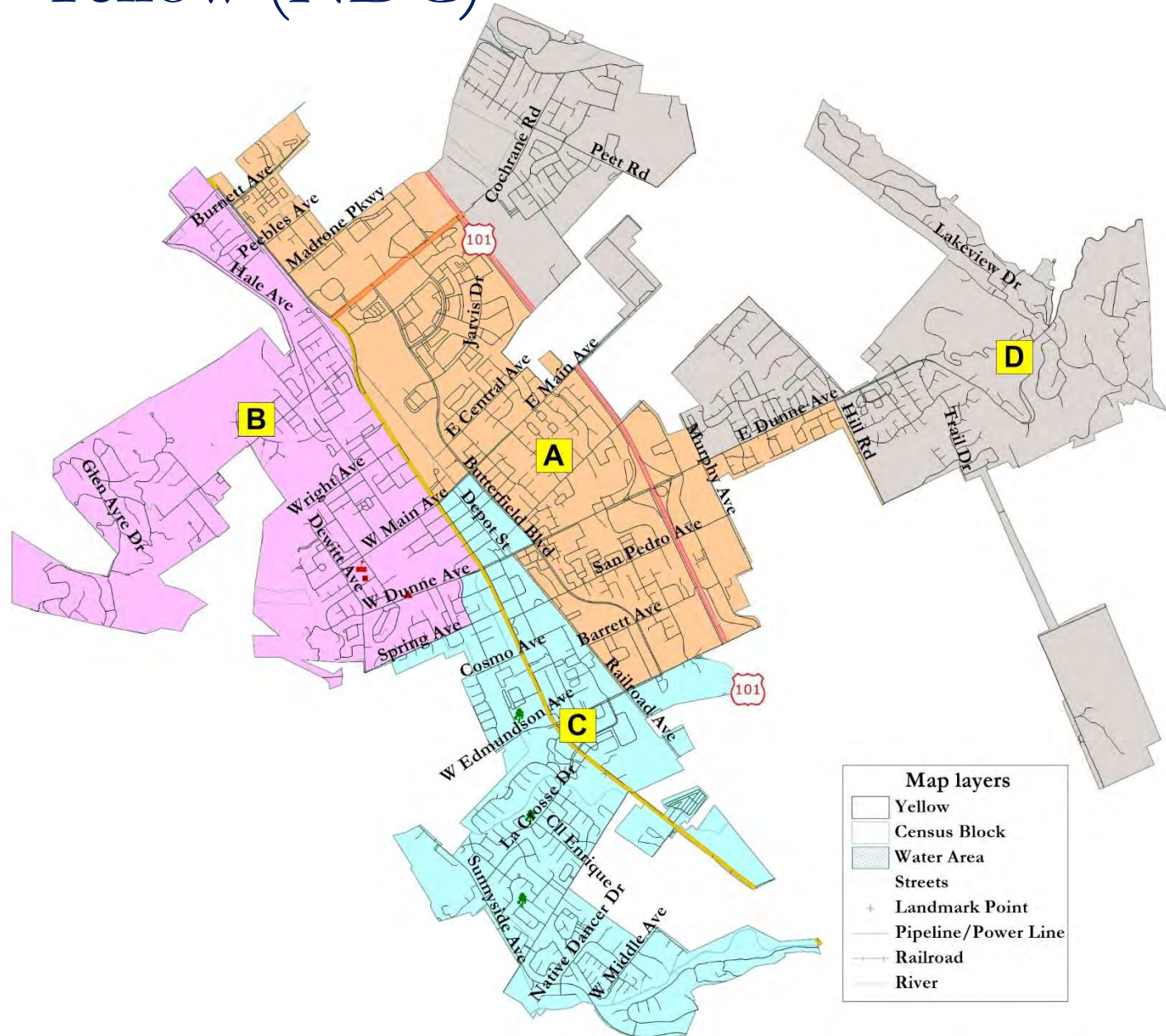
Muirhead 1



Orange (NDC)



Yellow (NDC)



Election Year Sequencing

16

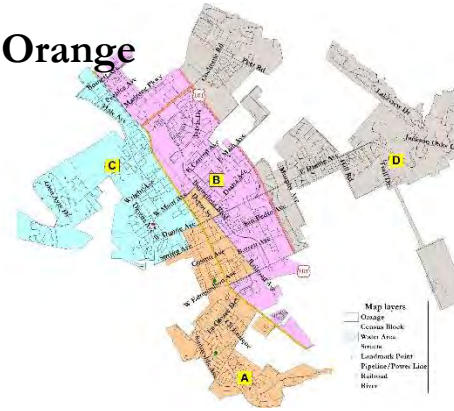
Plan Name	District A	District B	District C	District D
Aragon 1b	2020	2018	Option 1: 2018 Option 2: 2020	Option 1: 2020 Option 2: 2018
Benevento 1	2020	2018	2020	2018
Benevento 2b	2020	2018	2020	2018
Green	2020	2018	2020	2018
Lee 1b	Option 1: 2020 Option 2: 2018	Option 1: 2018 Option 2: 2020	2020	2018
Mueller 1	2018	2018	2020	2020
Mueller 2	2018	2018	2020	2020
Muirhead 1	Option 1: 2020 Option 2: 2018	2020	Option 1: 2018 Option 2: 2020	2018
Orange	2020	2018	2020	2018
Yellow	2020	2018	2020	2018

District election years are matched to the term of the resident Councilmember(s). Options are shown for plans where Councilmembers with different terms are in the same district.

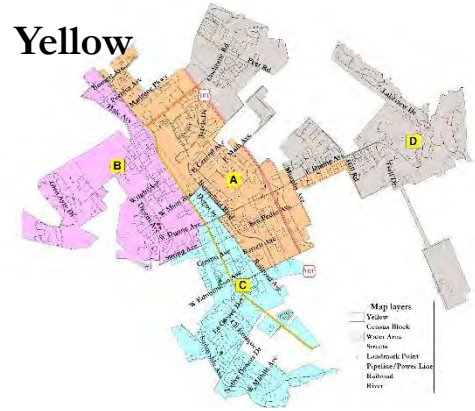
Green



Orange



Yellow



Aragon 1b



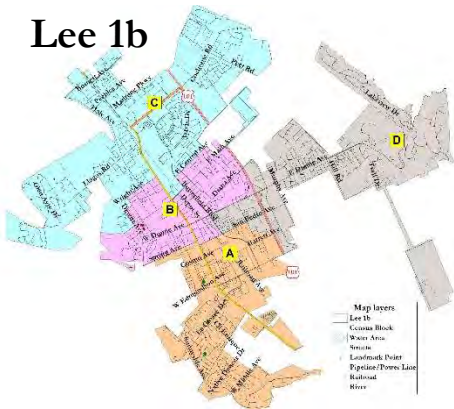
Benevento 1



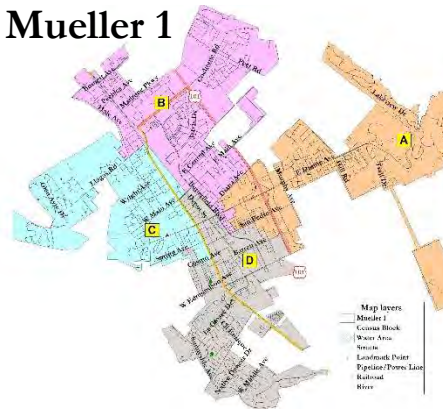
Benevento 2b



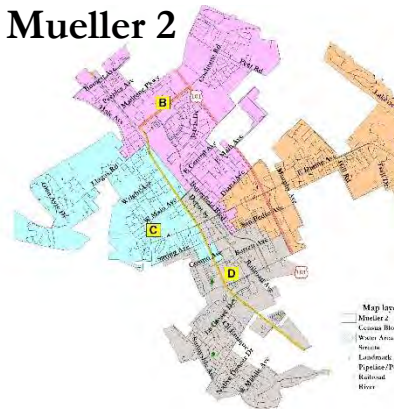
Lee 1b



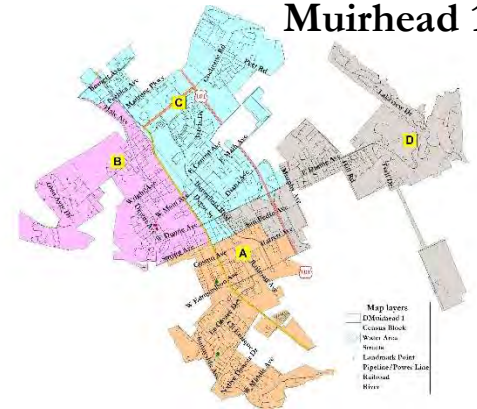
Mueller 1



Mueller 2



Muirhead 1





18

Discussion

What do you like or dislike about each map?

What map is best for your “community of interest” or neighborhood?

Any suggested map changes?

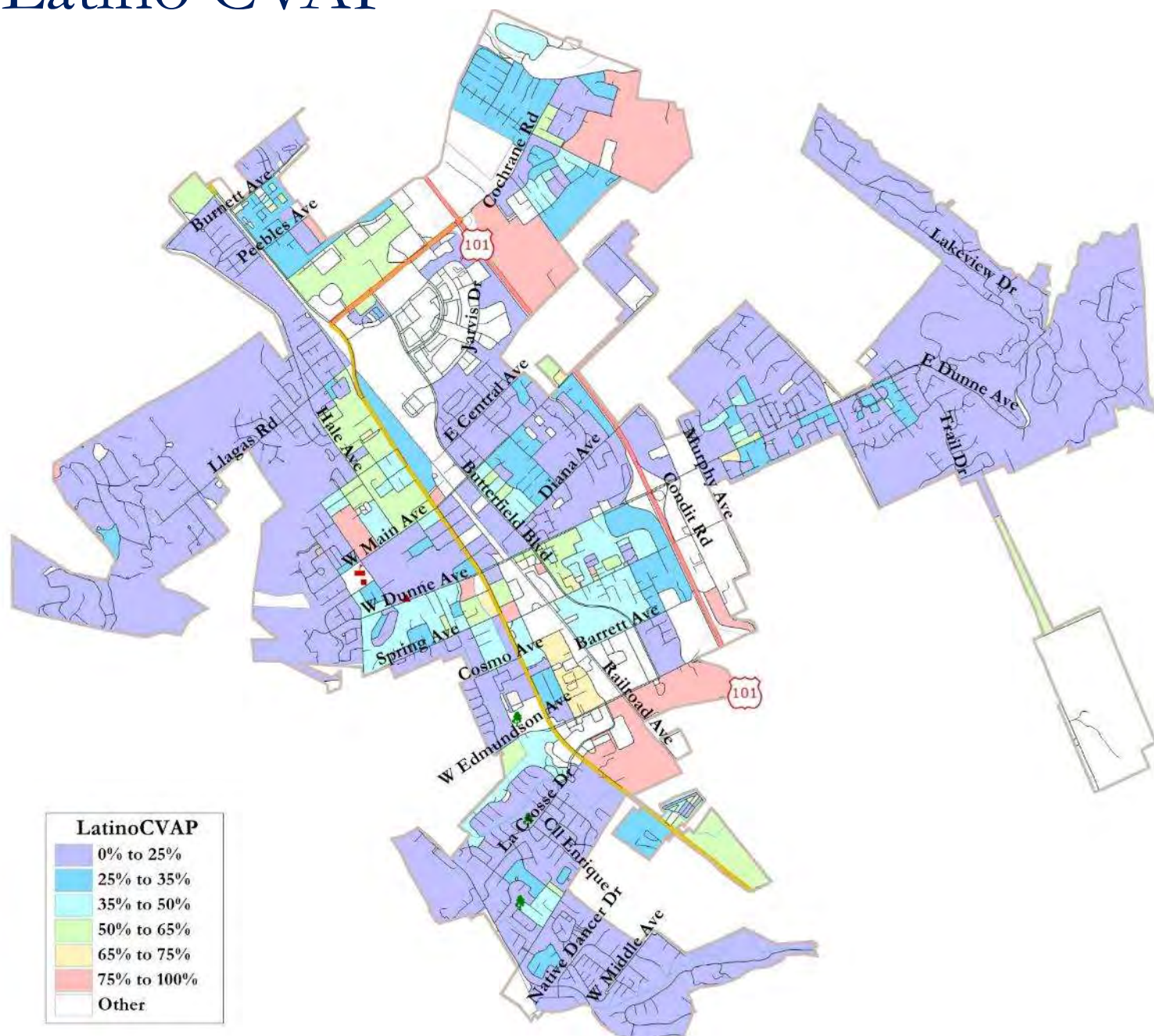
Backup Information Slides



National Demographics Corporation

20

Latino CVAP



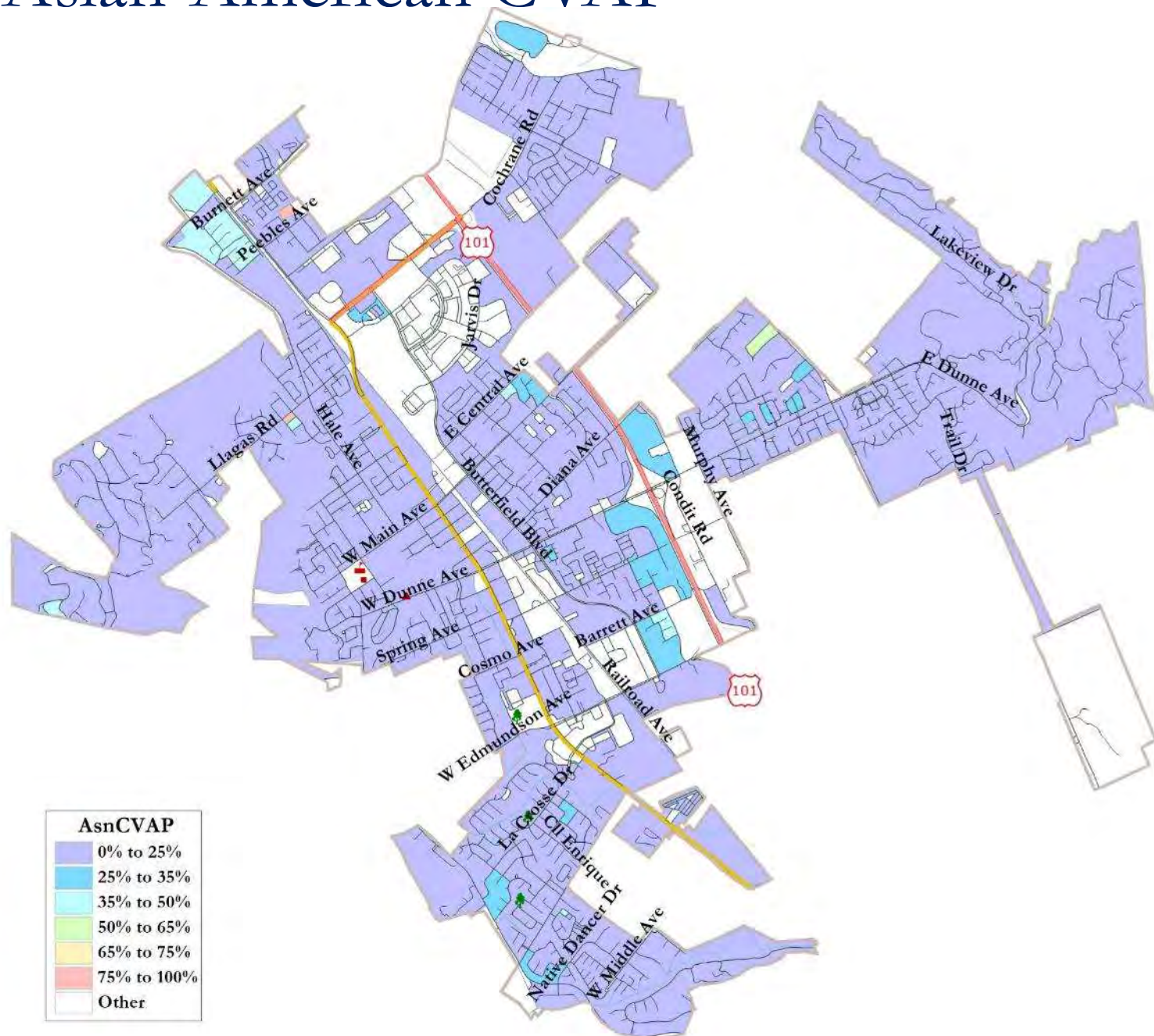
July 26, 2017



National Demographics Corporation

21

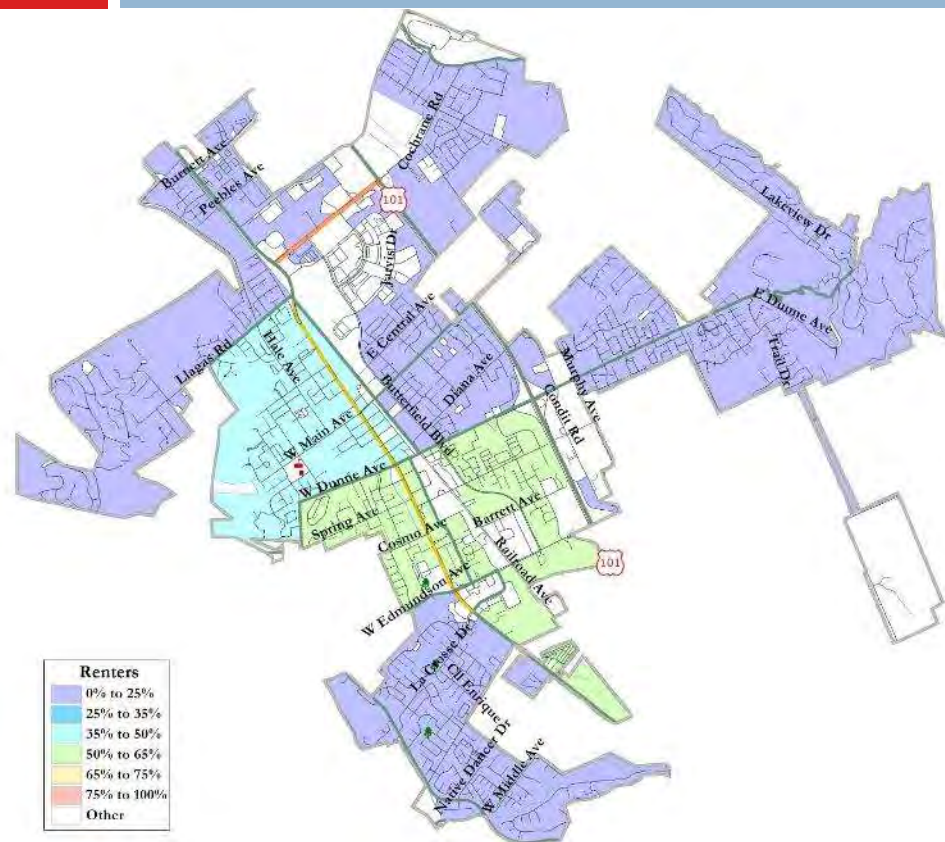
Asian-American CVAP



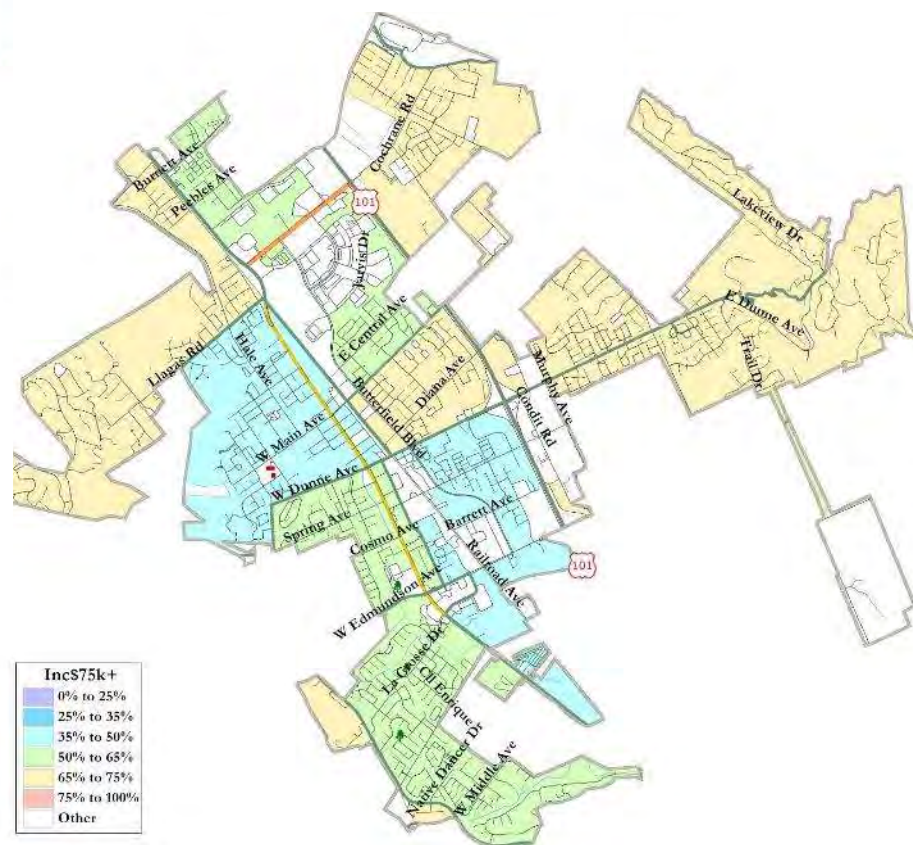
July 26, 2017

Renters & Income Levels

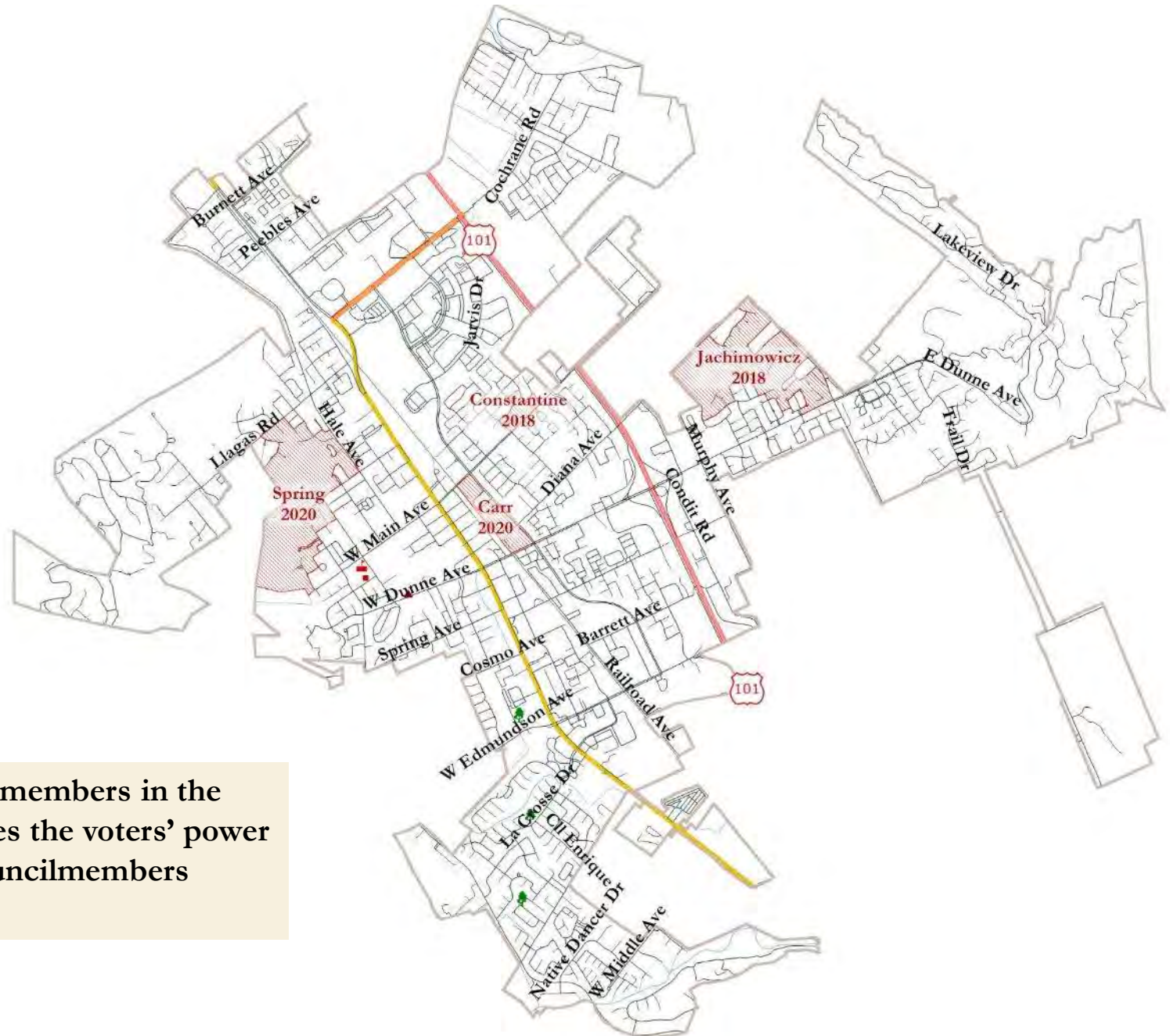
22



ACS data available at the larger 'census tract' level only (shown with green borders).



Council-resident Census Blocks



Placing two Councilmembers in the same district removes the voters' power to decide which Councilmembers deserve re-election.



City of Morgan Hill 2017 Transition to City Council District Elections Tentative Public Meeting Schedule

**Calendario de reuniones en español están en la mesa por la
entrada**

Date	Public Meeting	Purpose
June 21, 2017 7:00PM City Council Chamber	City Council Meeting/ Public Hearing #1	Initial Council discussion of process and outreach. First public hearing to gather public input regarding the design of potential draft maps.
June 28, 2017 7:00PM City Council Chamber	City Council Meeting/ Public Hearing #2	Public hearing to gather input regarding the design of potential draft maps and map drawing criteria. Demonstration of and Q&A regarding, map-drawing tools.
July 10, 2017 7:00PM City Council Chamber	Community Workshop	Public forum discussion of process and map-drawing criteria. Demonstration of, and Q&A regarding, map-drawing tools.
July 17, 2017	No meeting	Deadline to submit draft maps

Date	Public Meeting	Purpose
July 26, 2017 5:30 p.m. City Council Chamber	Council Workshop	Council review of draft maps and district options. Public forum discussion of draft maps.
July 26, 2017 7:00PM City Council Chamber	City Council Meeting/ Public Hearing #3	Presentation of draft maps. Public hearing to gather public input regarding the draft maps and election sequencing.
August 23, 2017 7:00PM City Council Chamber	City Council Meeting/ Public Hearing #4	Public hearing and Council vote to introduce ordinance (including selection of a map and election sequence).
September 6, 2017 7:00PM City Council Chamber	City Council Meeting	Second reading of and final adoption of ordinance.