



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, October 4, 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

Deputy City Clerk Michelle Wilson

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Michelle Wilson

WORKSHOP

The purpose of the Environmental Workshop is to provide an update on environmental program activities and obtain policy direction from the City Council on future programs.

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8
Property: APN 728-06-019, Hendry Drive
Agency Negotiators: Christina Turner and Anthony Eulo
Negotiating Parties: Thomas George Preston, Jr., Trustee, et al.
Under Negotiation: Price and Terms of Payment

RECONVENE

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 Constantine

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming the Week of October 8 - 14, 2017 as Fire Prevention Week

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. HAZARD MITIGATION PLAN UPDATE

Recommendation:

Adopt resolution accepting the City of Morgan Hill and Santa Clara County Operational Area Hazard Mitigation Plan update.

2. GRANT APPLICATION TO THE SANTA CLARA VALLEY WATER DISTRICT FOR THE WEST LITTLE LLAGAS CREEK INTERPRETIVE WILDLIFE TRAIL PROJECT

Recommendation:

Adopt resolution approving the submission of a grant application to the Santa Clara Valley Water District, authorizing the City Manager to execute grant documents if the grant application is successful, and finding the proposed project categorically exempt from the California Environmental Quality Act.

3. ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS FOR MISSION RANCH PHASE 14 - TRACT NO. 10272

Recommendation:

1. Accept the subdivision public improvements for Mission Ranch Phase 14 – Tract No. 10272;
2. Authorize the Public Works Director to sign a Notice of Completion; and
3. Direct the City Clerk to file the Notice of Completion with the Recorder of Santa Clara County.

4. COUNTY INCLUSIVE PLAYGROUND GRANT AUTHORIZATION

Recommendation:

Adopt resolution authorizing the City Manager to prepare and submit an application for the County of Santa Clara's All-Inclusive Playground Grant.

5. HISTORICAL SOCIETY VILLA MIRA MONTE IMPROVEMENT AND REPAIR FUNDING AGREEMENT

Recommendation:

Authorize the City Manager to execute and subsequently administer a funding agreement with the Morgan Hill Historical Society for repairs and improvements at Villa Mira Monte.

6. PLAYHOUSE SEATING PROJECT

Recommendation:

Adopt resolution with the following actions related to the Playhouse Seating Project:

1. Rejecting all bids received;
2. Declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market; and
3. Authorizing the City Manager to execute a purchase agreement in an amount not to exceed \$80,000 for the purchase of playhouse seating.

7. APPROVE SERVICE MAINTENANCE AGREEMENT WITH CD & POWER FOR GENERATOR MAINTENANCE AND REPAIR

Recommendation:

Approve and authorize the City Manager to execute a three-year agreement with CD & Power in the amount of \$119,475 for routine and emergency maintenance and repair to the City's 26 standby generators.

8. APPROVE APPLICATION FOR EMERGENCY MANAGEMENT PERFORMANCE GRANT 2017 MOU

Recommendation:

1. Adopt resolution authorizing the City Manager to execute the Memorandum of Understanding (MOU) with County of Santa Clara for the 2017 Emergency Management Performance Grant (EMPG); and
2. Recognize grant revenue in an amount not to exceed \$37,150 to implement an Emergency Volunteer Center (EVC) exercise, purchase Emergency Operations Center (EOC) Computers, and for registration and associated costs for the OES Coordinator to attend the California Emergency Services Association (CESA) and International Association of Emergency Managers (IAEM) training and conferences.

9. APPROVE THE SEPTEMBER 6, 2017 MEETING MINUTES

Recommendation:

Approve Minutes.

10. APPROVE THE SEPTEMBER 27, 2017 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

11. DOWNTOWN SPECIAL EVENTS AND STREET CLOSURES

Recommendation:

Approve the proposed revised Downtown Special Events Street Closure Policy.

Estimated Time: 30 Minutes

12. APPROVE OUTDOOR SPORTS CENTER CONCESSIONAIRE AGREEMENT AMENDMENT

Recommendation:

Authorize the City Manager to execute and subsequently administer a Fourth Amendment to the Concessionaire Agreement with the Morgan Hill Youth Sports Alliance for the operations of the Outdoor Sports Center.

Estimated Time: 15 Minutes

13. BOYS & GIRLS CLUB TRANSITION TO THE FRIENDLY INN

Recommendation:

1. Direct staff to move forward in developing and updating agreements for the Boys & Girls Club of Silicon Valley to move to the Friendly Inn by August 2018; and
2. Direct staff to further investigate construction of a new permanent non-profit center.

Estimated Time: 30 Minutes

PUBLIC HEARING

14. ZONING AMENDMENT, ZA2017-0001: NINA – BOTROS: REQUEST FOR ZONING AMENDMENT TO CHANGE THE ZONING MAP DESIGNATION FOR THREE PROPERTIES FROM R-1 12,000/RPD TO R-1 7,000. CEQA: PROJECT COMPLIES WITH SECTION 15183 (CONSISTENT WITH COMMUNITY PLAN, GENERAL PLAN OR ZONING)

Recommendation:

1. Open/close public hearing;
2. Waive the First and Second Reading of Ordinance approving zoning amendment; and
3. Introduce Ordinance.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

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

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

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

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

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

AMERICANS WITH DISABILITIES ACT (ADA)

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



Sustainable Morgan Hill Vision

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

CITY COUNCIL ONGOING PRIORITIES

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

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

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



Inclusiveness

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



Infrastructure

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



Regional Initiatives

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



Telecommunications

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



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Jennifer Ponce, OES Coordinator
APPROVED BY: City Manager

HAZARD MITIGATION PLAN UPDATE

RECOMMENDATION(S)

Adopt resolution accepting the City of Morgan Hill and Santa Clara County Operational Area Hazard Mitigation Plan update.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Infrastructure
Regional Initiatives

REPORT NARRATIVE:

In July 2016, a coalition of Santa Clara County cities and special districts embarked on a planning process to prepare for and lessen the impacts of specified natural hazards by updating the Santa Clara County Operational Area Hazard Mitigation Plan (Plan). Responding to federal mandates in the Disaster Mitigation Act of 2000, the partnership was formed to pool resources and create a uniform hazard mitigation strategy that can be consistently applied to the Santa Clara County Operational Area and used to ensure eligibility for specified grant funding.

This effort represents the third comprehensive update to the initial hazard mitigation plan, approved by the Federal Emergency Management Agency (FEMA) in November 2005 and developed in partnership with the Association of Bay Area Governments (ABAG), as well as a return to a truly regional effort following the 2010 planning process. The 16 member coalition of partners involved in this program includes unincorporated Santa Clara County, 14 city and town governments and the Santa Clara County Fire District. The result of the organizational effort is a FEMA and California Office of Emergency Services approved multi-jurisdictional, multi-hazard mitigation plan.

Mitigation is defined in this context as any sustained action taken to reduce or eliminate long-term risk to life and property from a hazard event. Mitigation planning is the systematic process of learning about the hazards that can affect the community, setting clear goals, identifying appropriate actions and following through with an effective mitigation strategy. Mitigation encourages long-term reduction of hazard vulnerability and can reduce the enormous cost of disasters to property owners and all levels of government. Mitigation can also protect critical community facilities, reduce exposure to liability, and minimize post-disaster community disruption.

The hazard identification and profiling in the hazard mitigation plan addresses the following hazards of concern within the planning area: dam failure, drought, earthquake, flood, landslide, severe weather, tsunami, wildfire, and climate change as an anticipated future impact.

Once the plan is adopted by all the jurisdictional partners, the coalition will collectively and individually become eligible to apply for hazard mitigation project funding from both the Pre-Disaster Mitigation Grant Program and the Hazard Mitigation Grant Program.

COMMUNITY ENGAGEMENT: Inform, Involve

A Steering Committee composed of representative stakeholders, including Morgan Hill Office of Emergency Services (OES), was formed early in the planning process to guide the development of the Plan. In addition, residents were asked to contribute by sharing local knowledge of their individual area's vulnerability to natural hazards based on past occurrences. Public involvement has been solicited via a comprehensive public outreach campaign that included two rounds of public meetings, web-based information, a questionnaire, and multiple social media updates.

ALTERNATIVE ACTIONS:

If action is not taken, the City of Morgan Hill will not be eligible for the Pre-Disaster Grant Mitigation Program and the Hazard Mitigation Grant Program. The City will also not have a current Hazard Mitigation Plan.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Local Hazard Mitigation Plan was previously reviewed and approved by Council in 2005.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact in accepting the City of Morgan Hill and Santa Clara County Operational Area Hazard Mitigation Plan update. Morgan Hill's OES will continue to stay up to date on hazard mitigation project opportunities and seek mitigation grant funding as appropriate.

CEQA (California Environmental Quality Act):

The proposed Plan is exempt from CEQA because the plan will not result in a direct or reasonably foreseeable indirect change in the environment (Section 15060(c)(2) of the CEQA Guidelines)

LINKS/ATTACHMENTS:

1. Resolution LHMP Update 2017
2. Santa Clara Operational Area Hazard Mitigation Plan - Volume 1 (weblink - large document)
3. Santa Clara Operational Area Hazard Mitigation Plan - Volume 2 (weblink - large document)

RESOLUTION NO.

ADOPT RESOLUTION ACCEPTING THE SANTA CLARA COUNTY OPERATIONAL AREA HAZARD MITIGATION PLAN UPDATE VOLUME 1, INCLUDING THE CITY OF MORGAN HILL'S PORTION OF VOLUME 2.

WHEREAS, the Bay Area is subject to various hazards of concern including; severe weather, drought, earthquake, flood, landslide, wildfire, dam failure, tsunami and those we cannot predict; and

WHEREAS, the City of Morgan Hill seeks to maintain and enhance both a disaster-resistant City and region by reducing the potential for loss of life, property damage, environmental degradation, and economic loss; and

WHEREAS, the City of Morgan Hill is committed to increasing the disaster resistance of the infrastructure, health, housing, economy, government services, education, environment, and land use systems in the City, as well as in the Bay Area as a whole; and

WHEREAS, the federal Disaster Mitigation Act of 2000 requires all cities, counties, and special districts to have adopted a Local Hazard Mitigation Plan to receive disaster mitigation funding from FEMA; and

WHEREAS, the California Office of Emergency Services and Federal Emergency Management Agency have approved the County of Santa Clara's Multi-Jurisdictional Local Hazard Mitigation Plan; and

WHEREAS, once the hazard mitigation plan is adopted by all the jurisdictional partners, the partnership will collectively and individually become eligible to apply for hazard mitigation project funding from both the Pre-Disaster Mitigation Grant Program and the Hazard Mitigation Grant Program.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City of Morgan Hill commits to continuing to take actions and initiating further actions, as appropriate, as identified in the Santa Clara County Operational Area Hazard Mitigation Plan Update.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 4th day of October 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.XXXX , adopted by the City Council at the meeting held on October 4, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

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

GRANT APPLICATION TO THE SANTA CLARA VALLEY WATER DISTRICT FOR THE WEST LITTLE LLAGAS CREEK INTERPRETIVE WILDLIFE TRAIL PROJECT

RECOMMENDATION(S)

Adopt resolution approving the submission of a grant application to the Santa Clara Valley Water District, authorizing the City Manager to execute grant documents if the grant application is successful, and finding the proposed project categorically exempt from the California Environmental Quality Act.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Maintaining Fiscal Responsibility

REPORT NARRATIVE:

The purpose of this staff report is to request the City Council's authorization to submit a grant application to the Santa Clara Valley Water District (District) for the construction of the West Little Llagas Creek Trail and related features.

The District will soon begin construction of the Upper Llagas Creek Flood Protection Project (Flood Protection Project) which will realign West Little Llagas Creek in a new channel that will flow under Watsonville Road and continue to the south, past Lake Silveira, to Monterey Road. As mitigation for environmental impacts from the Flood Protection Project, Phase 1 of the project includes restoration of Lake Silveira to a wetland area. Phase 1 of the Flood Protection Project will begin in Spring 2018 and is expected to take two years. The Flood Protection Project includes the construction of a maintenance road that would begin at Watsonville Road and travel southward to Lake Silveira. The Flood Protection Project does not include funding for making the maintenance road, which aligns with the current end of the City's Wildlife Trail, open to the public – nor funding to install recreational or interpretive features that would allow the community to enjoy and learn about the newly restored Lake Silveira.

The District is currently accepting grant applications for trails that provide new access to open space. If adopted, the attached resolution will authorize the City to submit a grant application to the program to garner partial funding for the project.

COMMUNITY ENGAGEMENT: Inform

The 2017 Master Bikeways, Trails, Parks, and Recreation Master Plan (Master Plan) supports bicycle/pedestrian access at Lake Silveira and along West Little Llagas Creek. The Master Plan was prepared with extensive input from the Morgan Hill community. The City will inform the neighborhood about project details at an upcoming community meeting.

ALTERNATIVE ACTIONS:

The Council could choose to not authorize the submission of the application and forego the opportunity for the grant or direct staff to apply for a different grant amount.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council approved inclusion of West Little Llagas Creek Trail as a project in the City's approved Capital Improvement Program. The Council has previously authorized submission for a West Little Llagas Creek Trail grant through the Transportation Fund for Clean Air (TFCA), which awarded the City \$135,000. Extension of West Little Llagas Creek Trail to the south and around Lake Silveira is a project that has been supported by City Council through approval of the following City of Morgan Hill formally adopted Master Plans:

- ☐ 2017 Master Bikeways, Trails, Parks, and Recreation Master Plan as described above;
- ☐ Previously adopted Parks, Facilities, and Recreational Facilities Master Plan which called for the installation of bike and pedestrian trails along all creeks and channels including trails at Lake Silveira; and
- ☐ Previously adopted Trails Master Plan which called for a paved trail along West Little Llagas Creek.

FISCAL AND RESOURCE IMPACT:

Staff estimates that the entire trail project from the installation of a safe pedestrian crossing at Watsonville Road all the way around Lake Silveira will cost approximately \$998,800. This project amount is \$234,000 greater than the amount cited in last week's report requesting authorization for a State grant for this project because the scope of the project has been increased to include the northern portion of the project including the safe street crossings. For the total project, \$229,500 is being sought from a State grant and the City's application to the District is recommended at \$200,000. Remaining project funds would be provided by park impact funds and/or Measure B funds and would be incorporated into the Capital Improvement Program. A budget amendment would be presented to the City Council upon grant award.

CEQA (California Environmental Quality Act):

Categorical Exemption

The installation of the West Little Llagas Creek Interpretive Wildlife Trail is categorically exempt from CEQA under Section 15304, Minor Alterations to Land, which covers minor public or private alterations to the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees for forestry or agricultural purposes, including the creation of bicycle lanes on existing rights-of-way.

LINKS/ATTACHMENTS:

1. SCVWD Grant Resolution

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
APPROVING THE APPLICATION FOR GRANT FUNDS UNDER THE SAFE, CLEAN
WATER AND NATURAL FLOOD PROTECTION PROGRAM OF 2012**

WHEREAS, the Santa Clara Valley Water District has enacted the 2018 Safe Clean Water Priority D3 Grant Program, which provides funds for activities such as developing Stream Corridor Priority Plans; creating or enhancing wetland, riparian and tidal marsh habitat; protecting special status species; removing fish migration barriers; installing fish ladders; removing non-native, invasive plant species; and planting native species; and

WHEREAS, the Santa Clara Valley Water District's Civic Engagement Unit has been delegated the responsibility for the administration of the grant program, setting up necessary procedures; and

WHEREAS, said procedures established by the Santa Clara Valley Water District require Grantee's Governing Body to certify by resolution the approval of Grantee to apply for and accept grant program funds; and

WHEREAS, Applicant will enter into a Grant Agreement with the Santa Clara Valley Water District;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby:

1. Approves the submission of an Application for grant funds from Priority D3 of the Safe, Clean Water and Natural Flood Protection Program;
2. Approves the acceptance of grant funds from Priority D3 of the Safe, Clean Water and Natural Flood Protection Program, upon approval of grant funding for the Project by appropriate authorities;
3. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project(s);
4. Certifies that the Applicant will review and agree to the Special Provisions, General Provisions, Financial Provisions and Insurance Requirements contained in the Agreement;
5. Delegates the authority to the City Manager to conduct all negotiations, execute, and submit all documents, including, but not limited to applications, agreements, amendments, payment requests, and so on, which may be necessary for the completion of the project; and
6. Finds based upon the facts and information in the record for this Resolution that the West Little Llagas Creek Trail Project and Improvements at Lake Silveira are categorically exempt from environmental review under the California Environmental Quality Act

pursuant to California Code of Regulations, Title 21, Section 15304 (Minor Alterations to Land.)

Approved and Adopted the 4th day of October, 2017.

I, the undersigned, hereby certify that the foregoing resolution number_____was duly adopted by the City Council following a roll call vote:

AYES:

COUNCIL MEMBERS:

NOES:

COUNCIL MEMBERS:

ABSTAIN:

COUNCIL MEMBERS:

ABSENT:

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.XXXX , adopted by the City Council at the meeting held on October 4, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: SCVWD Grant Resolution (1424 : SCVWD Trail Grant)



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

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

ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS FOR MISSION RANCH PHASE 14 - TRACT NO. 10272

RECOMMENDATION(S)

1. Accept the subdivision public improvements for Mission Ranch Phase 14 – Tract No. 10272;
2. Authorize the Public Works Director to sign a Notice of Completion; and
3. Direct the City Clerk to file the Notice of Completion with the Recorder of Santa Clara County.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

Mission Ranch Phase 14 - Tract 10272 is a 17-lot subdivision located at the northeast corner of Mission View Drive and Avenida De Los Padres (see attached site map). The subdivision improvements have been completed in accordance with the requirements of the Subdivision Improvements Agreement between the City of Morgan Hill and Mission Ranch, LP dated April 15, 2015 and as specifically set forth in the plans and specifications approved by the City.

The total length of streets previously accepted by the City is 127.16 miles.

The streets and street lengths to be accepted as part of the development are as follows:

Street	Street Lengths
Solano Place	0.06 mi
Tolusa Place	0.05 mi
Total	0.11 mi

The value of the public improvements being accepted is \$651,049.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the project acceptance.

ALTERNATIVE ACTIONS: Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved the Final Maps and Subdivision Improvements Agreement for Mission Ranch 14 – Tract No. 10272 on April 15, 2015.

FISCAL AND RESOURCE IMPACT:

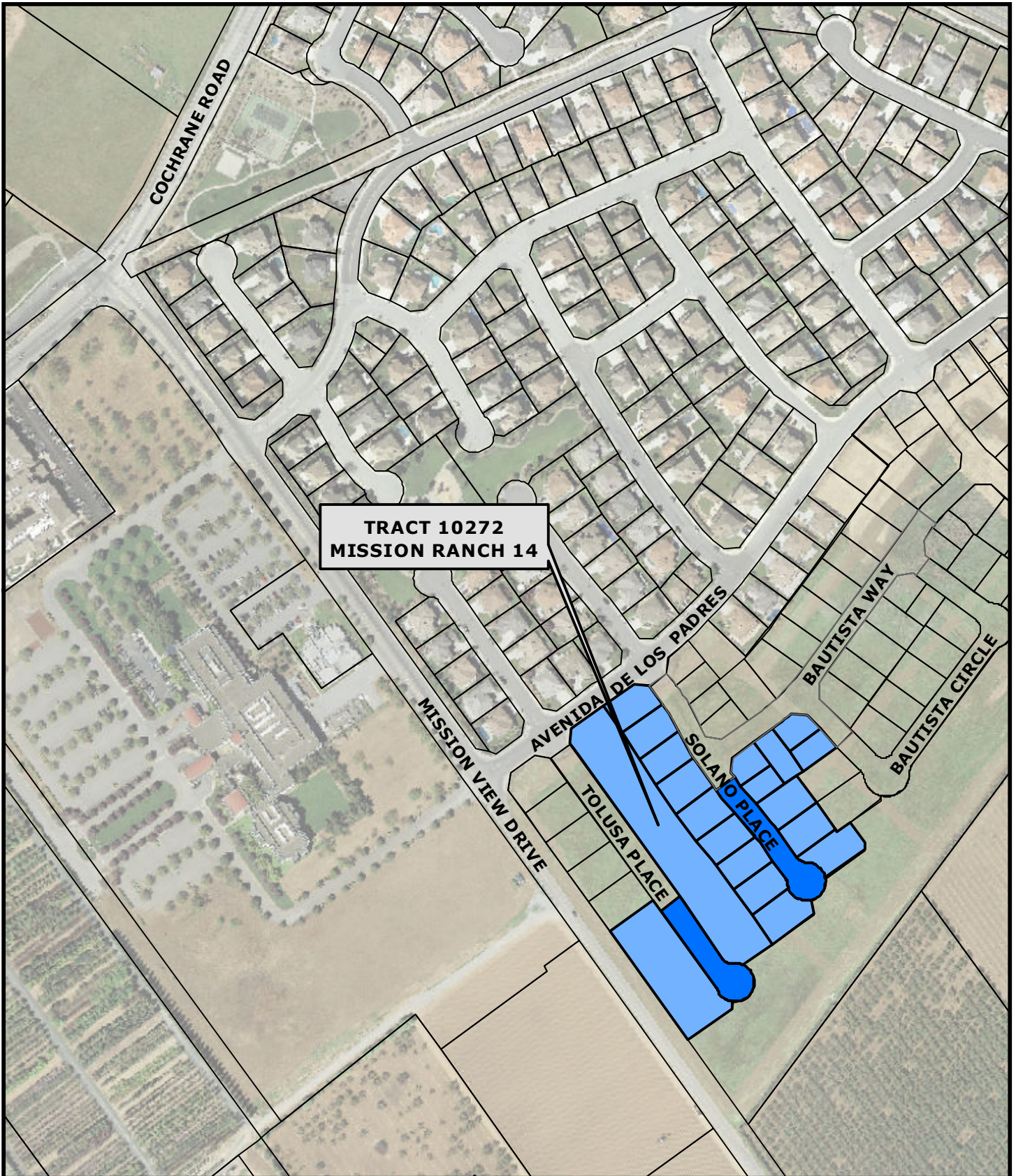
Staff time for this project was paid by the developer's land development fees.

CEQA (California Environmental Quality Act):

Mitigated Negative Declaration was adopted on October 23, 2001.

LINKS/ATTACHMENTS:

1. Site Map
2. Notice of Completion



CITY OF MORGAN HILL
Engineering Division
Public Works Department

G:\R-14\Proj\GIS\Joh n\MissionRanch 14 .mxd

SITE MAP TRACT 10272 MISSION RANCH 14



0 125 250 500 750 1,000
Feet

Attachment: Site Map (1425 : ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS FOR MISSION RANCH PHASE 14 - TRACT NO. 10272)

Record at the Request of
and When Recorded Mail to:

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

Record at No Fee Pursuant to
Government Code Section 27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN, pursuant to Civil Code Section 3093, that:

- 1) On **April 15, 2015**, the City of Morgan Hill, a Municipal Corporation, entered into a subdivision improvements agreement with **MISSION RANCH, LP** for the **MISSION RANCH PHASE 14 – TRACT NO. 10272** subdivision project located on the northeast corner of Mission View Drive and Avenida De Los Padres.
- 2) The owner of the subdivision public improvements is the City of Morgan Hill, a Municipal Corporation, located at 17575 Peak Avenue, Morgan Hill, CA 95037
- 3) The contractor is **MISSION RANCH, LP**, 385 Woodview Avenue, Morgan Hill, CA 95037.
- 4) The surety is **Developers Surety and Indemnity Company**.
- 5) The project was completed on **September 15, 2017** and accepted by the City Council of the City of Morgan Hill on **October 4, 2017**.

CITY OF MORGAN HILL, a Municipal Corporation

By _____

Karl Bjarke

Public Works Director

I, the undersigned, declare that I am the Public Works Director for the City of Morgan Hill. I have read the forgoing Notice of Completion and know and understand the contents thereof and that the facts stated therein are true and correct. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, at Morgan Hill, California.

Karl Bjarke

Public Works Director



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Chris Ghione, Community Services Director

APPROVED BY: City Manager

COUNTY INCLUSIVE PLAYGROUND GRANT AUTHORIZATION

RECOMMENDATION(S)

Adopt resolution authorizing the City Manager to prepare and submit an application for the County of Santa Clara's All-Inclusive Playground Grant.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2017 Strategic Priorities

Inclusiveness

REPORT NARRATIVE:

On June 20, 2017, the County of Santa Clara Board of Supervisors established a grant program to fund the construction of inclusive playgrounds throughout the County. The program provides up to \$2 million per Supervisorial District for cities or non-profit organizations to fund the construction of inclusive playgrounds. This funding is a key opportunity for the development of Morgan Hill's inclusive playground.

Recently the City Council, approved an agreement with the Magical Bridge Foundation to support fundraising, grant writing, and design support for Morgan Hill's playground. The Foundation is supporting the City in preparing the grant to be submitted prior to the deadline.

The purpose of this report is to provide the City Manager with authority to submit all grant application materials. The application deadline for the grant is October 18, 2017. The County is anticipated to provide notice of awards in February 2018 with the Board of Supervisors issuing final grant approval in April 2018.

COMMUNITY ENGAGEMENT: Collaborate

This project was brought forward by community members and is being driven by community members. The design process was developed and coordinated by the Morgan Hill Inclusive Playground Committee volunteers.

ALTERNATIVE ACTIONS:

The Council could direct staff to not submit a grant application and provide other direction relating to Morgan Hill's future inclusive playground.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

June 21, 2017 – Council approved updates for the Capital Improvement Plan, including funding in FY 2017-18 for the Inclusive Playground Project.

July 19, 2017 – Council approved an agreement with the Magical Bridge Foundation for support in fundraising, grant writing, and design for the Morgan Hill Inclusive Playground.

FISCAL AND RESOURCE IMPACT:

The City grant application will be for \$2 million, which is the maximum eligible grant funding amount for Morgan Hill. The total funding goal for the project is \$5,230,000 and the anticipated funding breakdown is outlined below:

	Amount
<i>Current Funding:</i>	
State Grants	\$220,000
County Parks Grant	\$150,000
Community Foundation	\$70,000
Park Impact Funds	<u>\$1,560,000</u>
<i>Total Current Funding</i>	\$2,000,000
<i>Future Funding</i>	
County Grant	\$2,000,000
Magical Bridge Fundraising Commitment	<u>\$1,230,000</u>
<i>Total Future Funding</i>	\$3,230,000
Project Total	\$5,230,000

CEQA (California Environmental Quality Act):

Categorically Exempt

Replacement or reconstruction of existing structures or facilities on the same site having substantially the same purpose and capacity (CEQA Guideline 15302).

LINKS/ATTACHMENTS:

1. Resolution for Inclusive Playground Grant

RESOLUTION NO.:17-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPLICATION FOR FUNDING FROM THE COUNTY OF SANTA CLARA ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM

WHEREAS, the County of Santa Clara has established an All-Inclusive Playground Grant Program, which will provide funds for the construction of inclusive playgrounds within the County;

WHEREAS, the County Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the County, setting up necessary procedures governing application by local agencies and non-profit organizations under the program, and

WHEREAS, said procedures established require the authorized representative of the applicant sign and submit said application and related materials on or before October 18, 2017;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill authorizes the City Manager, as agent of the City of Morgan Hill, to execute and submit all documents including, but not limited to the grant application and grant agreements, which may be necessary for the completion of the application.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 4th day of October 2017.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

ATTEST:

STEVE TATE, Mayor

IRMA TORREZ, City Clerk

Attachment: Resolution for Inclusive Playground Grant (1426 : County Inclusive Playground Grant Authorization)

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 October 4, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Chris Ghione, Community Services Director

APPROVED BY: City Manager

HISTORICAL SOCIETY VILLA MIRA MONTE IMPROVEMENT AND REPAIR FUNDING AGREEMENT

RECOMMENDATION(S)

Authorize the City Manager to execute and subsequently administer a funding agreement with the Morgan Hill Historical Society for repairs and improvements at Villa Mira Monte.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Preserving Our Cultural Heritage

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

On June 21, 2017, the City Council approved a Memorandum of Understanding (MOU) with the Morgan Hill Historical Society to support the ongoing operations of Villa Mira Monte. This MOU was a culmination of development of a partnership framework that was reviewed and prioritized as part of the City's recently adopted Bikeways, Trails, Parks and Recreation Master Plan. While the MOU provided for ongoing operational support, it did not address the major immediate repair and improvement needs at Villa Mira Monte.

Understanding the backlog of maintenance work needed at Villa Mira Monte, the City Council updated the Parks and Recreation portion of the City's Capital Improvement Plan to include funding to support improvements and repairs to the Villa Mira Monte Historical site. The proposed agreement provides the means for the City to transfer the approved \$206,000 for maintenance and improvements to the site. This agreement is intended to provide easy transfer of funds with protections to ensure the funding is used appropriately and properly accounted for.

The improvements outlined in the agreement include the following repairs and improvements:

- Driveway Parking Base Rock
- Irrigation System and Lawn Replacement
- Plantings
- Paint Hiram Museum
- Museum - Repair Front Porch
- Museum - Repair Back Porch

Museum - Repair Door Thresholds
 Museum - Repair Gutters
 Paint Hiram House
 Hiram House - Repair Back Porches
 Hiram House - Repair Veranda Doors
 Hiram House - Repair Window Leaks
 Hiram House - Replace Doug Fir Flooring
 Replace Furnaces

Park Maintenance Fund \$ 142,000

Install Decorative Fencing
 Install Camera System

Recreation Impact Fund \$ 64,000

COMMUNITY ENGAGEMENT: Involve

Through the outreach performed in relation to the Bikeways, Trails, Parks and Recreation Master Plan Update process, significant input on community priorities was achieved in relation to supporting the operations of Villa Mira Monte as a historical park for the community.

ALTERNATIVE ACTIONS:

The Council could choose not to approve the funding agreement or direct staff to make changes.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

1993 – The City transfers the Villa Mira Monte Property to the Historical Society.

1997 – The former redevelopment agency provides funding to the Historical Society for restoration of Villa Mira Monte.

2005 – The City conveys the current museum building to the Historical Society and the Redevelopment Agency provides funding to relocate and rehabilitate the building on the Villa Mira Monte site.

February 2017 – The City Council provided direction on including support for the Historical Society's management of Villa Mira Monte within the City's Bikeways, Trails, Parks and Recreation Master Plan Update.

February 2017 – The City Council added "Preserving our Cultural Heritage" as an ongoing Council Goal.

May 3, 2017 – The City Council reviewed the partnership framework that resulted in the attached Memorandum of Understanding.

June 7, 2017 – The City Council appropriated \$20,000 for Fiscal Year 2017-18 to support ongoing operations at Villa Mira Monte.

June 21, 2017 – The City Council approves a MOU for operational support to the Historical Society and approves an update to the Parks and Recreation portion of the Capital Improvement Program, which includes funding for improvements and repairs at Villa Mira Monte.

FISCAL AND RESOURCE IMPACT:

This funding agreement will provide one-time funding to the Historical Society, including \$142,000 from the Park Maintenance Fund (302) and \$64,000 from the Recreation Center Impact Fund (355). This funding is included in the Fiscal Year 2017-18 adopted budget.

CEQA (California Environmental Quality Act):

Categorical Exemption

The funding provided through this agreement will support the Historical Society in making repairs and minor improvements to Villa Mira Monte. Operation and maintenance of an existing facility is categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject work involves the repair, maintenance or minor alteration of existing City facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. Villa Mira Monte Improvements Funding Agreement

**AGREEMENT
BETWEEN THE CITY OF MORGAN HILL AND
MORGAN HILL HISTORICAL SOCIETY FOR REPAIRS
AND IMPROVEMENTS TO THE VILLA MIRA MONTE SITE**

THIS AGREEMENT ("**Agreement**") dated _____, 2017, is made and entered into by and between the CITY OF MORGAN HILL, a municipal corporation of the State of California ("**CITY**"), and Morgan Hill Historical Society, a California non-profit corporation ("**HISTORICAL SOCIETY**"). Hereinafter, CITY and HISTORICAL SOCIETY may be individually referred to as "**Party**" or collectively referred to as "**Parties**".

RECITALS

The following recitals are a substantive portion of this Agreement:

- A. CITY and HISTORICAL SOCIETY each recognize the need for repairs and improvements to the Villa Mira Monte site ("**Villa Mira Monte**").
- B. CITY desires to fund the repairs and improvements through the use of impact fees and other CITY funds.
- C. The Parties wish to memorialize their respective obligations in regard to the repairs and improvements to Villa Mira Monte.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENT

- 1. Scope of Repairs and Improvements. The agreed upon scope of repairs and improvements ("**Project**") and costs for each are listed on Exhibit "1", attached hereto and incorporated herein.
- 2. HISTORICAL SOCIETY's Role in the Project. HISTORICAL SOCIETY is solely responsible for the management and completion of the Project and is the sponsor and supervisor of the Project. During the term of the Project, HISTORICAL SOCIETY shall provide appropriate management, oversight, and coordination of the entire Project.
- 3. Permits. Any permits required for the Project funded by this Agreement shall be the sole responsibility of HISTORICAL SOCIETY. All work performed hereunder shall be completed by licensed contractors.
- 4. CITY's Financial Contribution for Project. CITY shall contribute funds toward the costs of the Project in an amount not to exceed \$142,000.00 for maintenance and repairs and in an amount not to exceed \$64,000.00 for

improvements. CITY's total contribution under this Agreement shall not exceed \$206,000.00 ("**CITY's Contribution**").

5. Submission of Invoices. HISTORICAL SOCIETY shall submit invoices to CITY on a monthly basis for payment or reimbursement. CITY shall pay or reimburse HISTORICAL SOCIETY or its designee the amount of the invoices upon HISTORICAL SOCIETY's submission of appropriate documentation for each expenditure.

6. Use of CITY's Contribution. HISTORICAL SOCIETY shall use the CITY's Contribution for allowable costs and expenses for the sole purpose of completing the Project, as set forth in this Agreement.

7. CITY's Contribution shall not be used for HISTORICAL SOCIETY's administrative and managerial costs associated with the Project. HISTORICAL SOCIETY shall pay its own administrative and managerial costs incurred in connection with the Project.

8. Project Cost Monitoring. HISTORICAL SOCIETY shall actively monitor actual expenditures for the Project to ensure that CITY's Contribution is used to pay for allowable Project expenditures only.

9. CITY shall have the right to inspect the Project and the Villa Mira Monte site at any time.

10. Compliance with Governmental Requirements. HISTORICAL SOCIETY shall comply with all laws and regulations pertaining to the Project.

11. Term of Agreement. This Agreement shall become effective upon full execution of the Agreement and shall remain in effect through December 31, 2027.

12. Written Termination. In addition to termination pursuant to the terms of the preceding section, this Agreement may be terminated upon written agreement of the Parties.

13. Refund of CITY's Contribution. One hundred percent of the CITY's Contribution shall be refunded if HISTORICAL SOCIETY shall do any of the following:

- a. Cease offering a reasonable quantity of hours open to the public.
- b. Sell or transfer Villa Mira Monte.
- c. Fail to preserve and reasonably maintain any portion of the Project.

The available refund amount shall decline by 10% on the anniversary of the

agreement each year. For example should the HISTORICAL SOCIETY eliminate public visiting hours in the second year of the agreement, the HISTORICAL SOCIETY shall be responsible for refunding 90% of the CITY's Contribution to the CITY at the time of elimination of public access hours.

In the event that the HISTORICAL SOCIETY eliminates public access hours and refunds money to CITY pursuant to this paragraph, CITY shall not be obligated to make any further Contributions to the Project. No refunded money shall be repaid to HISTORICAL SOCIETY.

14. Prevailing Wage. HISTORICAL SOCIETY shall require all work performed hereunder and all contractors retained, to pay prevailing wage as required by State law.

15. Audit and Record Retention. CITY may audit the HISTORICAL SOCIETY's use of the CITY Contribution and the expenses incurred by the HISTORICAL SOCIETY during the Project. HISTORICAL SOCIETY shall retain all records related to the Project for three (3) years after the completion of Project. During this period, HISTORICAL SOCIETY shall make these records available within a reasonable time, following request, to the CITY for inspection.

16. Parties' Representatives. The General Manager of HISTORICAL SOCIETY or the General Manager's designee is hereby made the representative of HISTORICAL SOCIETY for all purposes under this Agreement. The Community Services Director of the CITY or the Director's designee is hereby made the representative of CITY for all purposes under this Agreement.

17. Indemnification. HISTORICAL SOCIETY shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the CITY, and its respective elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers 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 this Project.

18. No Waiver. The failure of either Party to insist upon the strict performance of any of the terms of this Agreement shall not be deemed a waiver of any right or remedy that either Party may have, and shall not be deemed a waiver of their right to require strict performance of all of the terms thereafter.

19. Notice. Any notice required to be given by either Party, or which either Party may wish to give, shall be in writing and served either by personal delivery or sent by first class, postage prepaid, addressed as follows:

To HISTORICAL SOCIETY:

Morgan Hill Historical Society
 17860 Monterey Road
 PO Box 1258
 Morgan Hill, CA 95038

To CITY:

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

With a copy to:

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

Notice shall be deemed effective on the date personally delivered or, if mailed, five (5) days after deposit in the United States mail.

20. **Dispute Resolution.** If a question arises regarding interpretation of this Agreement or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation shall give written notice thereof to the other Party. The Parties shall promptly meet in an effort to resolve the issues raised. If the Parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or arbitration, may be pursued by mutual agreement.

21. **HISTORICAL SOCIETY** shall provide CITY with proof that it maintains Commercial General Liability Insurance in amount of not less than \$2,000,000 with the City listed as an additional insured.

22. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations, and understandings of the Parties.

23. **Amendments.** Any amendments to this Agreement shall require a written agreement of the Parties.

24. **Warranty of Authority to Execute Agreement.** Each Party to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of that Party.

25. Severability. If any term, covenant, condition, or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, and provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

“CITY”

City of Morgan Hill
a municipal corporation

By:

x _____
City Manager

Date:

APPROVED AS TO FORM:

By:

Donald A. Larkin
City Attorney

“HISTORICAL SOCIETY”

Morgan Hill Historical Society, a
California non-profit corporation

By:

x _____
Name and Title of Signer

Date:

APPROVED AS TO FORM:

By:

Exhibit 1: List of Maintenance, Improvements and Repairs

Driveway Parking Base Rock		
Irrigation System and Lawn Replacement		
Plantings		
Paint Hiram Museum		
Museum - Repair Front Porch		
Museum - Repair Back porch		
Museum - Repair Door Thresholds		
Museum - Repair Gutters		
Paint Hiram House		
Hiram House - Repair back porches		
Hiram House - Repair Veranda Doors		
Hiram House - Repair Window leaks		
Hiram House - Replace Doug Fir Flooring		
Replace Furnaces		
Park Maintenance Fund	\$	142,000.00
Install Decorative Fencing		
Install Camera System		
Rec Impact Fund	\$	64,000.00



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

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

PLAYHOUSE SEATING PROJECT

RECOMMENDATION(S)

Adopt resolution with the following actions related to the Playhouse Seating Project:

1. Rejecting all bids received;
2. Declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market; and
3. Authorizing the City Manager to execute a purchase agreement in an amount not to exceed \$80,000 for the purchase of playhouse seating.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

The seating in the Morgan Hill Playhouse is scheduled to be removed and replaced this fiscal year as the seats originally installed have outlived their useful life. Given the large scope of the project, the time required to complete the work, and the need to coordinate the replacement of Playhouse carpeting at the same time, City staff has long planned for this work to occur in January 2018 and has purposefully not scheduled any events in the Playhouse for the entire month.

Bids were solicited for the seating replacement in August 2017 and the City received the following three bids in response:

Irwin Seating	\$90,556
STB Stone	\$83,500
Seating Concepts	\$82,490

Unfortunately, all three of the bids were determined to be nonresponsive for the following reasons:

Irwin Seating	No subcontractor listed, cannot self-perform installation work
STB Stone	No subcontractor listed, cannot self-perform the 50% minimum of work
Seating Concepts	Invalid bid bond

Given the lack of responsive bids and the desire for the work to be performed as scheduled in January, staff is recommending that the Council reject all the bids received; declare that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market; and authorize the City Manager to execute a purchase agreement in an amount not to exceed \$80,000 for the purchase of playhouse seating. It is staff's intention to bid out just the installation of the seats purchased by the City to complete the work in January and not disrupt Playhouse scheduling.

COMMUNITY ENGAGEMENT: Consult

The Playhouse's major tenant, South Valley Civic Theater, was consulted on the design of the new seating and is fully involved in the seating transition.

ALTERNATIVE ACTIONS:

The Council could choose to postpone the project and direct staff to solicit bids again.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Funds for this project were included in the Fiscal Year 2017-18 Budget adopted by the City Council. The Council authorized award of the project to Seating Concepts on September 6, 2017, before staff determined that their bid was nonresponsive.

FISCAL AND RESOURCE IMPACT:

\$90,000 in funding for this project was included in the 740-2115 Budget (Community and Cultural Center Building Maintenance) in the Fiscal Year 2017-18 Adopted Budget. The final project cost will be determined once staff completes the informal bidding for the installation of the seats.

CEQA (California Environmental Quality Act):

Categorical Exemption

This project is a minor alteration of an existing facility and is categorically exempt from CEQA per Section 15301 (Existing Facilities) of the CEQA Guidelines.

LINKS/ATTACHMENTS:

1. Resolution rejecting all bids

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REJECTING ALL BIDS RECEIVED FOR THE MORGAN HILL PLAYHOUSE SEATING REPLACEMENT PROJECT AND DECLARING THAT THE PROJECT CAN BE PERFORMED MORE ECONOMICALLY BY DAY LABOR OR THE MATERIALS OR SUPPLIES FURNISHED AT A LOWER PRICE IN THE OPEN MARKET, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$80,000 FOR THE PURCHASE OF PLAYHOUSE SEATING**

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, the reasons supporting the adoption of this Resolution are set forth in detail in that certain City Council Staff Report entitled "Rejection of Playhouse Seating Bids" submitted for City Council consideration at its meeting of October 4, 2017 and submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the City solicited bids for the replacement of the seating at the Morgan Hill Playhouse and received three responses before the deadline of August 24, 2017; and

WHEREAS, after review and analysis, all of the three bids were determined to be nonresponsive; and

WHEREAS, delaying the project will necessitate postponing event bookings at the Playhouse resulting in a loss of rental income and unnecessary delay; and

WHEREAS, the City has determined that it can purchase the playhouse seats at a lower price in the open market, and solicit informal bids for installation of the playhouse seats; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been placed upon the City Council meeting agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council considered the adoption of this Resolution at which time, the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

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

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

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

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

a. That all bids received for the Playhouse Seating Replacement Project are rejected; and

b. That the City Council declares that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market.

c. Authorize the City Manager to execute a purchase agreement in an amount not to exceed \$80,000 for the purchase of playhouse seating.

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

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 4th day of October, 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 Regular City Council Meeting of October 4, 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

Attachment: Resolution rejecting all bids (1436 : Playhouse Seating Bids)



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Inga Alonzo, Management Analyst
APPROVED BY: City Manager

APPROVE SERVICE MAINTENANCE AGREEMENT WITH CD & POWER FOR GENERATOR MAINTENANCE AND REPAIR

RECOMMENDATION(S)

Approve and authorize the City Manager to execute a three-year agreement with CD & Power in the amount of \$119,475 for routine and emergency maintenance and repair to the City's 26 standby generators.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2017 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

Staff recommends City Council's approval of a three-year agreement for Generator Maintenance Services with CD & Power for the City's fleet of 26 generators.

The City's fleet of generators provides electrical power backup for well sites, booster stations, water storage tanks, sewer lift stations, and other City facilities. Maintaining the constant readiness of these generators requires annual servicing, ongoing repair, parts (as needed), preventive maintenance, rentals for equipment downtime, and a three-year rotational servicing schedule.

A Request for Proposals (RFP) was distributed in August 2017 to select a service provider for maintenance, repair, and emergency servicing for the City's 26 standby generators. The service provider is responsible for furnishing all the labor, machine shop work, field work, shop and field welding, miscellaneous repair, travel time, and expenses necessary to provide generator routine annual service, preventive maintenance, and rentals for generator downtime. The RFP was advertised in both the Morgan Hill Times and the San Jose Mercury News. Additionally, it was posted to the City's website, Public Purchase, and the Santa Clara and San Francisco builders exchange. All potential bidders were required to attend a mandatory meeting/tour of the City's generator locations so they could get a full understanding of the scope of services and confirm their ability to provide the required response time to all locations.

The City received the following responsive proposals for Generator Maintenance Services:

Company

City

Cost

CD & Power	Martinez	\$119,475.00
Peterson Power Systems	San Leandro	\$173,936.00

Current State of California Department of Industrial Relations (DIR) registration was confirmed before submittals were reviewed. Staff then closely reviewed the proposals. In addition to the above, the City received another proposal that was non-responsive as the company is unable to fulfill the City's scope of work for generator rental and 24-hour emergency servicing in the event of a downed generator. These services are crucial to keep the City's utilities running smoothly. Both CD & Power and Peterson Power Systems can supply these needed services. Reference checks with several other agencies were made for CD & Power, the lowest cost responsive bidder.

COMMUNITY ENGAGEMENT:

This report serves to inform the public of the recommended agreement for generator maintenance services.

ALTERNATIVE ACTIONS:

City Council could decide to not approve the agreement and direct staff to re-bid the maintenance.

Generators are required to provide back-up power to water and wastewater facilities as well as city facilities in the event of a power outage and are necessary for the provision of essential services to the community. Ongoing maintenance and repair is crucial in assuring the generators are functioning properly at all times.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On July 16, 2014, Council approved an agreement with Peterson Power Systems for generator maintenance services in the amount of \$181,905 and on April 19, 2017, approved an amendment to that agreement to increase the not to exceed amount to \$211,905.

FISCAL/RESOURCE IMPACT: Funds for this agreement are budgeted for the specific areas the generators service: Water Operations (61%, Fund 650), Sewer Operations (25%, Fund 640), and Building Maintenance (14%, Fund 740); no further appropriation of funds is necessary.

CEQA (California Environmental Quality Act)

Continuing administrative or maintenance activities are not considered projects for environmental review under CEQA.

LINKS/ATTACHMENTS:

1. Agreement

MAINTENANCE SERVICE AGREEMENT CD & POWER

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and DBA CD & POWER 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, 2020 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 Generator Maintenance Services as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$119,475.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed One-Hundred Nineteen Thousand Four-Hundred Seventy-Five dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement 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

Attachment: Agreement (1396 : Generator Agreement)

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:

Attachment: Agreement (1396 : Generator Agreement)

CD & Power
150 Nardi Lane
Martinez, CA 94553

Address of CITY is as follows:

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

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

16. **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.

Attachment: Agreement (1396 : Generator 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.

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: Agreement (1396 : Generator Agreement)

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:

CD & Power

City Attorney

By:

Donald A. Larkin
 Print Name

Title:

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

Date: _____

Date: 9-19-17

By:

Title:

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

Date: 9-19-17

757162
 Contractor's License Number(s) (if applicable)

Expiration Date(s) 12-31-18

Seal:

EXHIBIT A SCOPE OF SERVICES

Service Provider will conduct annual service, rotational preventive maintenance, and emergency repairs to the City's 26 generators. The Service Provider will be responsible for furnishing any and all labor, machine shop work, field work, shop and field welding, miscellaneous repair, travel time, expenses, and equipment necessary to do the work required.

ANNUAL SERVICE includes a full inspection, changing oil, oil filters, fuel filters, testing the coolant for conditioner and antifreeze levels, disposal of fluids/filters, performing a full resistive load test and completing the City's inspection sheet. The Preventive Maintenance Service is a 3 year rotational program.

The Preventive Maintenance three year rotational service includes:

- A) Replacement of Fan and Alternator Drive Belts
- B) Replacement of Engine Cooling System Hoses
- C) Block Heater hoses replaced with high temperature Silicon Hose
- D) Replacement of Standard Ethylene Glycol Coolant

Emergency Services include:

1. Provide directory and updates of all emergency phone numbers.
2. Provide 24 hour emergency repair coverage.
3. Provide an emergency generator in the event repairs cannot be made at the site.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

See Attached

Attachment: Agreement (1396 : Generator Agreement)

EXHIBIT B**Schedule of Compensation Rates**

Service Provider shall furnish any and all necessary parts, materials, labor, travel and mileage and other items required to complete the proposed work.

ANNUAL SERVICE includes a full inspection, changing oil, oil filters, fuel filters, testing the coolant for conditioner and antifreeze levels, disposal of fluids/filters, performing a full resistive load test and completing the City's inspection sheet.

GEN #	LOCATION	ADDRESS	MODEL	SERIAL #	YEAR	KW	AMOUNT
B85001	SCHOOL DIST/ CORP YARD	105 EDES CT.	DMT 250 G CUMMINS	860280	1985	250	\$ 1750
B01002	EL TORO	1305 W. DUNNE AVE.	GENERAC 1854-3	8Z1335	1987	10	\$ 900
B89004	CITY HALL	17555 PEAK AVE.	CATERPILLAR 3408	78Z03200	1989	400	\$ 2325
B99013	POLICE STATION	16200 VINEYARD BLVD.	OLYMPIAN D125 P1	E1848A/001	1999	125	\$ 1305
S03006	C LIFT STATION	3272 QUAIL LN.	KOHLER 80RE0ZJB	0768962	2003	80	\$ 1305
S03018	B LIFT STATION	17558 HOLIDAY DR.	KOHLER 40RE0ZJB	0761654	2003	40	\$ 900
S04019	I LIFT STATION	19160 SAFFRON DR.	SYNERGY 30JDA	00-210323-01	2004	30	\$ 900
S06021	G LIFT STATION	18615 MONTEREY RD.	OLYMPIAN DP40P2	OLY00000KNPF3 580	2006	40	\$ 900
S14009	PORTABLE	105 EDES CT. BUS YARD*	GENERAC MMG75D	1409119	1992	40	\$ 900
S15010	PORTABLE TRAILER	105 EDES CT. BUS YARD*	MAGNUM 4045HFG92	PE4045R089480	1992	40	\$ 900
W01016	PORTABLE TRAILER	1100 DIANA AVE. DIANA #3 WELL*	MAGNETEK QD150	RG6081T125462	2001	150	\$ 1500
W02017	PORTABLE TRAILER	1420 DIANA AVE DIANA #2 WELL*	OLYMPIAN D150P4	VNNS00568	2002	150	\$ 1500
W06022	JACKSON BOOSTER	3482 WHITE OAK CT.	KATOLIGHT D200FRJ 4T2	106704-0405	2006	200	\$ 1500
W16005	JACKSON TANK	16360 OAK CANYON DR.	KOHLER 125ROZJ71	257785	1989	125	\$ 1305
W13007	PORTABLE TRAILER	1240 SAN PEDRO AVE SAN PEDRO WELL*	DOOSAN G190	451800UCXE57	2013	150	\$ 1500
W92008	E. DUNNE BOOSTER	2375 E. DUNNE AVE.	CATERPILLAR 3412	81Z11841	1992	500	\$ 2325
W14011	PORTABLE TRAILER	100 E. DUNNE AVE. DUNNE WELL*	DOOSAN G190	451800UCXE57	2014	150	\$ 1500
W15012	PORTABLE TRAILER	200 DIANA AVE. DIANA #1 WELL*	MAGNUM 6068HFG95A	PE6068R054060	2015	150	\$ 1500
W99014	PORTABLE TRAILER	470 E. MAIN AVE MAIN WELL*	MAGNETEK QD150	RG6081A084763	1999	150	\$ 1500

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W16013	PORTABLE TRAILER	17002 MURPHY AVE NORDSTROM WELL	BLUE STAR VD150-02FT4	L-10981	2016	150	\$ 1500
W05020	HOLIDAY RESERVOIR	3100 LAKEVIEW CT.	KOHLER 10R0Z	2037908	2005	10	\$ 900
W09023	PORTABLE TRAILER	490 LLAGAS RD LLAGAS BOOSTER*	KOHLER	2259122	2009	150	\$ 1500
Gen #813	DUNN HILL FIRE STATION	2100 EAST DUNNE AVE	OLYMPIAN #95a02228-S	2020473	1995	17.5	\$ 900
Gen #822	EL TORO FIRE STATION	18300 OLD MONTEREY RD	OLYMPIAN #95a04133-S	2022956	1995	50	\$ 1075
	NEW GENERATOR						\$
	NEW GENERATOR						\$
ANNUAL TOTAL							32,090
3 YEAR AGREEMENT							x3
TOTAL							96,270

* Locations change on portable units.

Attachment: Agreement (1396 : Generator Agreement)

Schedule of Compensation Rates

The Preventive Maintenance Service is a 3-year rotational program (PM-3).

The PM-3 Service includes:

- A) Replacement of Fan and Alternator Drive Belts
- B) Replacement of Engine Cooling System Hoses
- C) Block Heater hoses replaced with high temperature Silicon Hose
- D) Replacement of Standard Ethylene Glycol Coolant

	FY 17/18	FY 18/19	FY 19/20
1	B01002	B85001	B89004
2	S03006	S03018	S04019
3	W01016	W05020	S06021
4	W92008	W06022	S15010
5	S14009	W09023	S98003
6	W13007	W16005	W02017
7	W14011	B98012	W16013
8	W15012	B99013	W99014
9	Gen #813		
10	Gen #822		

Annual Total for Fiscal Year 17/18	\$ 9,325 ⁰⁰
Annual Total for Fiscal Year 18/19	\$ 6,975 ⁰⁰
Annual Total for Fiscal Year 19/20	\$ 6,905 ⁰⁰
TOTAL	\$ 23,205⁰⁰

Schedule of Compensation Rates

FOR GENERATOR MAINTENANCE SERVICES COMPRISING TOTALS FROM ANNUAL SERVICE AND PM ROTATIONAL SERVICE INCLUDING ALL WORK SPECIFIED, COMPLETE:

Total	Annual	\$ 96,270 ⁰⁰
Total	PM-3	\$ 23,205 ⁰⁰
	TOTAL	\$ 119,475 ⁰⁰

**Schedule of Compensation Rates
EMERGENCY SERVICING**

1. Contractor will provide directory and updates of all emergency phone numbers.
2. Contractor will provide 24-hour emergency repair coverage.
3. Contractor will provide an emergency generator in the event repairs cannot be made at the site.

GENERATOR	WEEKLY RATES THROUGH 2020
20 KW	\$ 383.33
36 KW	\$ 444.67
50 KW	\$ 521.33
60 KW	\$ 536.67
70 KW	\$ 552.00
80 KW	\$ 567.33
100 KW	\$ 601.07
150 KW	\$ 742.13
200 KW	\$ 895.47
250 KW	\$ 1,085.60
300 KW	\$ 1,422.93
350 KW	\$ 1,594.67
400 KW	\$ 2,208.00
EMERGENCY RESPONSE TIME TO THE CITY =	2 hours

Cabling and Labor for roll-out/roll-up is
NOT included.

Schedule of Compensation Rates

GENERATOR REPAIR

The following is labor and equipment costs associated with generator repair.

FIELD SERVICE	RATE
SUPERVISOR	\$ 139 ⁰⁰ / HOUR
SERVICEMAN AND TRUCK	\$ 139 ⁰⁰ / HOUR
SERVICEMAN/HELPER/TRUCK	\$ 139 ⁰⁰ / HOUR
TRAVEL TIME	\$ 139 ⁰⁰ / HOUR
SHOP WORK	
SHOP LABOR	\$ 133 ⁰⁰ / HOUR
OVERTIME	
OVERTIME/MONDAY-FRIDAY	\$ 186 ⁰⁰ / HOUR
SATURDAY	\$ 186 ⁰⁰ / HOUR
SUNDAY	\$ 240 ⁰⁰ / HOUR
HOLIDAY	\$ 240 ⁰⁰ / HOUR
TRAVEL TIME	\$ 186 ⁰⁰ / HOUR

EMERGENCY RESPONSE TIME TO MORGAN HILL:

2 HOURS

AVAILABLE 24 HOURS: YES / NO

Attachment: Agreement (1396 : Generator Agreement)

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

The work will be of a non-emergency, scheduled nature between normal business hours of 7:00 AM to 3:30 PM. The work will consist of routine, on-call support to Utilities Division crews in the repair and maintenance of the City's generators. Routine maintenance services shall be performed on normal work days defined as non-holiday Mondays through Fridays, 7:00 AM through 3:30 PM during the months of October, November, and December.

Service Provider will be available on an on-call basis for emergency response as required in order to ensure uninterrupted service to the City's customers.

Attachment: Agreement (1396 : Generator Agreement)



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Jennifer Ponce, OES Coordinator
APPROVED BY: City Manager

APPROVE APPLICATION FOR EMERGENCY MANAGEMENT PERFORMANCE GRANT 2017 MOU

RECOMMENDATION(S)

1. Adopt resolution authorizing the City Manager to execute the Memorandum of Understanding (MOU) with County of Santa Clara for the 2017 Emergency Management Performance Grant (EMPG); and
2. Recognize grant revenue in an amount not to exceed \$37,150 to implement an Emergency Volunteer Center (EVC) exercise, purchase Emergency Operations Center (EOC) Computers, and for registration and associated costs for the OES Coordinator to attend the California Emergency Services Association (CESA) and International Association of Emergency Managers (IAEM) training and conferences.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Preserving and Cultivating Public Trust

2017 Strategic Priorities

Infrastructure
Regional Initiatives

REPORT NARRATIVE:

The County Civil Protection and Emergency Services Ordinance establishes the Operation Area Council (OAC) and endows the OAC with governing body authority to enhance planning and preparedness for large-scale emergencies in the Santa Clara Operational Area. This includes making funding allocation decisions for EMPG funding awarded by the United States Department of Homeland Security to the California Office of Emergency Services ("Cal OES"), and subsequently sub-awarded to the County.

Cal OES is expected to award the County 2017 EMPG funding in the amount of \$518,921 for sustaining and improving comprehensive emergency management programs.

Per the Memorandum of Understanding (MOU) with the County, Morgan Hill will receive up to \$37,150 in grant funds to implement an Emergency Volunteer Center (EVC) exercise, purchase Emergency Operation Center (EOC) Computers, and expenses for the OES Coordinator to attend the CESA and IAEM Annual training and conferences. Aligned with the Council goals of regional partnerships, the City of Morgan Hill will host the EVC exercise. A portion of the grant proceeds will pay for the consultant who has coordinated the County-wide EVC program for the past 10 years.

The EVC seminar and full-scale exercise will be held at two locations within Santa Clara County, Morgan Hill and Palo Alto, and will be open to city staff and volunteers. The laptops, which will be purchased with EMPG funding, will be for use by the City's EOC team during training exercises and activations.

COMMUNITY ENGAGEMENT: Inform

This grant is administered by the County of Santa Clara with funds that originate with FEMA. The City is eligible to receive the grant funding as part of the EMPG program. This staff report serves to inform the community of the City's grant award and subsequent expenditures and activities associated with the grant funds.

ALTERNATIVE ACTIONS:

One alternative action by the Council could be to decline the funds to coordinate two EVC regional seminar and exercise opportunities, the purchase of EOC laptops, and fees associated with the OES Coordinator attending both CESA and IAEM conferences. Without approval, there will not be EVC exercises held in Santa Clara County in the coming year. Current EOC laptops are nearing ten years of age and need upgrading to newer models.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

No previous actions have been taken on this item.

FISCAL AND RESOURCE IMPACT:

The City of Morgan Hill will pay for two EVC seminar and exercises, the purchase of EOC laptops, and the opportunity for the OES Coordinator to participate in both CESA and IAEM conferences this year. The County will reimburse the City following submittal of invoices.

CEQA (California Environmental Quality Act):

The proposed projects to be paid from grant funds are exempt from CEQA because they will not result in a direct or reasonably foreseeable indirect change in the environment (Section 15060(c)(2) of the CEQA Guidelines)

LINKS/ATTACHMENTS:

1. EMPG 2017 Resolution
2. Exhibit A - Budget Scorecard
3. Exhibit B - EMPG MOU FOR 2017

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND ADMINISTER, THAT CERTAIN GRANT AGREEMENT WITH COUNTY OF SANTA CLARA FOR THE 2017 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2017-18 BUDGET IN THE GENERAL FUND (FUND NO. 010) TO APPROPRIATE \$37,150 THEREFORE

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

WHEREAS, the reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Memorandum of Understanding for Emergency Management Performance Grant" submitted for City Council consideration at its meeting of October 4, 2017, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Budget for Fiscal Year 2017-18, as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

WHEREAS, the activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970; and

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

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

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

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

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

- a. That the Memorandum of Understanding Agreement with County of Santa Clara for the Emergency Management Performance Grant substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the “Agreement”) is hereby approved; and
- b. That the City Manager is hereby delegated authority to and is authorized and directed to execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit B; provided, specifically, that the total amounts to be received in grant funds by City under the Agreement shall in no event exceed Thirty Seven Thousand One Hundred Fifty Dollars (\$37,150); and
- c. That the City’s previously adopted Fiscal Year 2017-18 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- d. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City’s Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2017-18 Budget of City.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 4th day of October 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.XXXX , adopted by the City Council at the meeting held on October 4, 2017.

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

DATE: _____

Irma Torrez, CITY CLERK

EXHIBIT A

AGENDA BUDGET SCORECARD

FISCAL YEAR 2017-18

ADJUSTMENT #

013

FUND:

DEPARTMENT:

OBJECT:

010	General Fund
3230	Police-Emergency Services
42231	CONTRACT SERVICES

AGENDA DATE:

AGENDA ITEM TITLE:

10/04/17
EMPG Grant

	07/01/17 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/18 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	15,178,811	37,137,688	39,033,006	13,283,493
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	26,595	26,595	-
RECOMMENDED ACTION	-	37,150	37,150	-
RESULT OF RECOMMENDED ACTION	<u>15,178,811</u>	<u>37,201,433</u>	<u>39,096,751</u>	<u>13,283,493</u>

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
THE CITY OF MORGAN HILL GRANTING PROGRAM FUNDS FOR THE
2017 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG)**

THIS AGREEMENT is made effective July 1, 2017, by and between the County of Santa Clara (“County”) and the City of Morgan Hill (“City”) for the allocation and distribution of 2017 Emergency Management Performance Grant (“EMPG”) funds.

RECITALS

WHEREAS, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale, the Towns of Los Gatos, Los Altos Hills, and the County of Santa Clara, are parties to the 1994 Operational Area Interim Agreement; and

WHEREAS, the Santa Clara County Emergency Operational Area Council (“OAC”) is the advisory body of the Santa Clara Operational Area in matters affecting disaster preparedness throughout the Operational Area. OAC membership includes 5 city council members representing cities in the Operational Area as well as Santa Clara Valley Water District, County Executive, County Board of Supervisors, City Managers’ Association, Police Chiefs’ Association, Fire Chiefs’ Association, County Public Health Department, Valley Transportation Authority and emergency management representatives; and

WHEREAS, the County Civil Protection and Emergency Services Ordinance establishes the OAC and endows the OAC with governing body authority to enhance planning and preparedness for large-scale emergencies in the Santa Clara Operational Area, including by making funding allocation decisions for EMPG funding awarded by the United States Department of Homeland Security to the California Office of Emergency Services (“Cal OES”), and subsequently sub-awarded to County; and

WHEREAS, Cal OES is expected to award County 2017 EMPG funding in the amount of \$518,921 by November 1, 2017 for the purpose of sustaining and improving comprehensive emergency management programs;

NOW, THEREFORE, this AGREEMENT is to allocate the sum of **\$37,150** from County to City, so that City may implement the “EVC Exercise”, “EOC Computers”, “CESA Annual Training and Conference”, and the “IAEM Annual Training and Conference” projects as provided under this Agreement and specified in the EMPG Grant Certifications and Assurances, Exhibit B. The performance period for County for this grant expires on June, 30, 2018. The performance period for City for the subgrant expires on March 31, 2018.

County and City agree as follows:

THE AGREEMENT

Article I. Definitions

1. Specific Terms

- (a) **“Burdened Labor Rate”** shall mean the labor rate including benefits, taxes and other deductions from an employee’s paycheck. This rate does not include vacation benefits. The

hourly burdened labor rate is used to calculate City's match obligation.

- (b) **"City"** shall mean the City of [Morgan Hill], its officers, board members, employees, and agents.
- (c) **"County"** shall mean the County of Santa Clara, its officers, board members, employees, and agents.
- (d) **"EMPG funds"** or **"EMPG funding"** shall mean the funding City receives under this Agreement.
- (e) **"Federal Program Guidance"** shall mean guidance documents issued by the Federal Emergency Management Agency, including the EMPG Program Funding Opportunity Announcement, for Fiscal Year 2017.
- (f) **"Grant Certifications and Assurances"** shall mean the FY17 EMPG Agreement Articles, Assurances, Certifications, Terms, and Conditions
- (g) **"Highly Compensated Individual"** shall mean an individual whose income is \$300,000 or more per year.
- (h) **"Prime Recipient"** shall refer to County.
- (i) **"Project Manager"** shall refer to the City employee identified as "Requestor" on an EMPG Project Proposal form.
- (j) **"Spend Plan"** shall mean a written document that explains the project on which City intends to spend 2017 EMPG funding, including project deliverables and milestone dates by which any funds allocated to City must be spent.
- (k) **"State Guidance"** shall mean the California Supplement to the Federal Program Funding Opportunity Announcement, issued by Cal OES for Fiscal Year 2017.
- (l) **"Subgrant"** shall mean funds awarded to the City under this Agreement.
- (m) **"Sub-Recipient"** shall refer to City.

2. References to This Agreement

Any reference to this Agreement shall include: (a) the Agreement; (b) all exhibits, appendices, schedules, and attachments to this Agreement; (c) all statutes, ordinances, regulations, rules, or other documents incorporated by reference into this Agreement; (d) all amendments, modifications, or supplements to this Agreement.

Article II. Allocation and Spend Plans

1. Allocation.

The 2017 EMPG funds shall be disbursed pursuant to the County's FY 2017 EMPG Grant application for each City. County shall reimburse to City funds that City expends under the 2017 EMPG program

for eligible expenditures. The amount for City shall not exceed **\$37,150**, unless additional funds become available under the 2017 EMPG program following the execution of this Agreement. If additional funds are allocated, an amendment to this Agreement shall follow.

City acknowledges and agrees that County shall have no obligation to disburse EMPG funds to City until County and City have fully and finally executed this Agreement.

City acknowledges and agrees that County shall have no obligation to disburse EMPG funds to City unless and until the State of California has awarded County \$518,921 in FY 2017 EMPG funding.

2. Spend Plans

Upon execution of this agreement, City shall provide County with Spend Plans for review by County's Office of Emergency Services ("OES") Director or designee. All Spend Plans must be approved by County's OES Director or designee based on projects County has submitted to the State for the 2017 EMPG program. If County's OES Director does not approve City's Spend Plan, County OES shall notify City, and City shall have 10 days from the date of the notice to submit a revised Spend Plan to County OES for approval or risk reallocation of funds. City's Spend Plans are a required part of this MOU.

Article III. Requests for Reimbursement and Reimbursements

1. Required Documentation for Reimbursement

The EMPG is a reimbursement grant under which Cal OES disburses reimbursement funds to County, and County disburses reimbursement funds to City. No cash advances are permitted under the EMPG program.

The EMPG is a matching funds grant that requires City to provide a dollar-for-dollar match for any EMPG funds it receives. All invoices/ requests for reimbursement from City must include appropriate documentation such as receipts or payment records as well as other documentation required under Federal or State grant program requirements (see Article III).

(a) Requests for Equipment

City is solely responsible for procuring any equipment under this Agreement in accordance with Federal requirements for procuring grant funded equipment; and, if more restrictive, applicable City procurement policies and requirements.

Prior to purchasing any equipment under this Agreement, when required, City must submit an Environmental and Historic Preservation (EHP) Screening form and receive written approval from FEMA.

The following documentation must be provided along with any reimbursement requests for equipment:

- Quote or solicitation documents
- Summary of pricing and chosen vendor
- Documentation that vendor is not on the excluded parties list (<https://www.epls.gov/>) (a print-out of the search result page will suffice)

- Purchase order and/or contract
- Receiving documentation/packing slip
- Invoice
- Proof of payment

All equipment must be indicated in the Spend Plan City submits to County, and must be authorized per the web-based Authorized Equipment List published by FEMA and available via: <https://www.fema.gov/authorized-equipment-list>.

(b) Subcontracts

Subcontracts totaling \$25,000 or more require preapproval from the County. If City is allowed to award subcontracts totaling \$25,000 or more, it must report on any such subcontracts and on Highly Compensated Individuals on the Financial Disclosure Form, Exhibit E, within 30 days of the award. The following information must be included in City's report on any sub-award exceeding \$25,000:

- Name of entity receiving award;
- Amount of award;
- Funding agency;
- Catalog of Federal Domestic Assistance program number;
- Award title (descriptive of the purpose of the funding action);
- Location of the receiving entity and primary location of performance including city, state, and federal Congressional district;
- Dun & Bradstreet (D&B) DUNS Number of the receiving entity, and of its parent if applicable; and
- Total compensation and names of receiving entity's five most highly compensated executives if:
 - o In the preceding fiscal year, the subcontractor received 80 percent or more, and \$25,000,000 or more, of its gross annual revenue from federal procurement contracts or subcontracts or from federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.230; and
 - o The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), 78o(d), or under section 6104 of the Internal Revenue Code of 1986.
 - o City must report subcontractor executive compensation by the end of the month following the month in which it makes the subaward. For example, if the subaward is obligated in any date in April 2017, City must report any required compensation information by May 31, 2017.

Classified information that, in the interest of national security, requires protection against unauthorized disclosure (i.e., information deemed Top Secret, Secret, or Confidential under Executive Order 12958) is exempt from the Prime and Sub-Recipient reporting requirements, as are contracts with individuals.

(c) Sole Source Contracts

Sole source contracts of \$150,000 or more are not allowable under the EMPG program unless

first approved by Cal OES. City must obtain sole source request documentation and submit it to the Grants Manager of County's OES. Upon City's completion and submission of the required sole source documentation, County's Grants Manager shall forward all sole source documents to the appropriate Cal OES contact for review and approval. Only after Cal OES approval is given can a sole source procurement be completed and expenditures reimbursed using EMPG allocated funds. All sole source procurements must follow Federal procurement requirements for grants and, if more restrictive, the City's own procurement policies.

(d) Grant Funded Personnel

EMPG grant-funded personnel are any personnel paid at any percentage with EMPG funding. This includes M&A staff funded by EMPG Program funds. All EMPG Program funded personnel shall complete the training requirements in Article IV, Section 2 (c) by December 31, 2017.

Recorded proof of completion, such as all certificates of completion, must be submitted by the City to County (OES) before any reimbursements to the City will be made. In any case, proof of completion must be provided by December 31, 2017.

Documentation of participation in exercises is also required by the grant and progress towards meeting this requirement must be reported to the grant manager at least quarterly.

Time reporting requirements: To receive payments for personnel costs, City must submit time and payroll documentation that meets Federal Grant, State Grant (CalOES) and County reporting requirements.

(e) Other Requests

The following documentation is required for all reimbursement requests for contractors:

- Quote or solicitation documents
- Executive summary of how contractor was chosen
- Documentation that vendor is not on the excluded parties list (<https://www.sam.gov/>) (a print-out of the search result page will suffice)
- Purchase order and/or contract
- Invoice showing deliverables and milestones completed
- Proof of payment
- Financial Disclosure Form (Exhibit E) if awarded contract exceeds \$25,000

2. Submission of Requests for Reimbursement

(a) City shall submit reimbursement requests to County's OES (see Article V.1 below) on at least a quarterly basis, as detailed in the chart below. Unless pre-approved by County's OES Director or designee, all reimbursement requests shall be due fifteen calendar days after the end of the quarter, with the exception of the final expenditure and/or invoice, as indicated below. Any expenditure during the final period identified in the chart below shall be made by March 15, 2018, and any related invoice shall be submitted by March 31, 2018, unless otherwise pre-approved by County's OES Director or designee, in order to meet 2017 EMPG deadlines. Reimbursement requests shall be due for expenditures during specified periods

as follows:

For Expenditures During the Period:	Due Dates for Reimbursement Requests:
July 1, 2017 through December 31, 2017	February 28, 2018
January 1, 2018 through March 15, 2018	March 31, 2018

- (b) During the term of this Agreement, County is not obligated to honor any request for reimbursement that is submitted after the due dates for reimbursement requests for expenditures within a given quarter as specified above in Article II, Section 2(a).
- (c) All grant funds not claimed by City via a proper reimbursement request, which includes all required documentation, by March 31, 2018 will be forfeited. County may then determine how to spend those funds in accordance with grant requirements.

Article IV. Use of Funds

1. Master Grant Obligations

- (a) City shall comply with the EMPG Federal Program Guidance, the State Guidance, and the Grant Certifications and Assurances, attached as Exhibit B. City shall require any subgrantee, contractor, or other entity receiving EMPG funds through or from City to execute a copy of the Grant Certifications and Assurances, and shall be responsible for ensuring that subgrantee, contractor, or other entity complies with the Grant Certifications and Assurances.
- (b) City shall ensure its Project Manager attends a grant kickoff meeting with County OES staff. Additionally, City shall ensure its Project Manager is available to meet with County OES staff upon request during the period of this agreement to report on progress on each project funded under this Agreement.
- (c) City shall comply with all other applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement, provided that if any provisions of this Agreement conflict with any State requirements, the State requirements will control. City shall ensure that any subgrantee, contractor, or other entity receiving EMPG funds through or from City complies with all applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement.
- (d) By executing this Agreement, City certifies that it is not debarred, suspended, or otherwise ineligible to receive EMPG funds. In addition, City shall ensure and independently verify that any subgrantee, contractor, or other entity receiving EMPG funds through or from City is not debarred, suspended, or otherwise excluded from participation in the EMPG program. City shall maintain documentary proof of this verification in its files.

2. Scope of Services

- (a) City shall use the funds granted under this Agreement only for the purpose of implementing

applicable initiatives under the 2017 EMPG program, as indicated in Exhibit C, Program Narrative. City shall not use the funds granted under this Agreement for any other purpose. County shall not be required to disburse funds to or otherwise pay City for services, materials, equipment, or supplies provided by City that are beyond the scope of the services, materials, equipment, or supplies agreed upon in this Agreement or a lawfully executed written amendment.

Indirect costs are allowable under the FY17 EMPG grant. Allowability of Indirect costs does not increase the total amount of the State, Operational Area or other sub-recipient (i.e. jurisdictions) grant awards. Claims for indirect costs therefore necessarily decrease the federal funds available to pay for direct project costs. Subawards are based on the direct cost of approved projects. Sub-recipients wishing to claim indirect costs must use an indirect cost rate in compliance with applicable Federal guidance and regulations including 2 C.F.R. § 200.68 and Subpart E.

- (b) All EMPG grant-funded personnel (e.g. an Emergency Preparedness Planner employed by the City under this grant) shall participate in no less than three exercises in a 12-month period. EMPG grant-funded personnel are any personnel paid at any percentage with EMPG funding. This includes contracted personnel, as well as M&A staff funded by EMPG grant funds. There is no specific requirement for level of “participation” in the exercises – i.e., observation and attendance satisfies the objective. The exercises can be of any type (e.g., Drills, Tabletop Exercises, or Functional) within the performance period (see <https://hseep.dhs.gov>). Participation in exercises by grant funded staff must be reported quarterly to ensure adequate progress is being made toward meeting this requirement.
- (c) To ensure the development of a professional emergency management workforce, all EMPG grant-funded personnel shall complete the following 11 training requirements and shall record proof of completion:
 - National Incident Management System (NIMS) Training:
 - i. IS 100 Introduction to Incident Command System
 - ii. IS 200 ICS for Single Resources and Initial Action Incident
 - iii. IS 700 National Incident Management System, An Introduction
 - iv. IS 800 National Response Framework, An Introduction
 - FEMA Professional Development Series:
 - v. IS 120 Introduction to Exercises
 - vi. IS 230 Fundamentals of Emergency Management
 - vii. IS 235 Emergency Planning
 - viii. IS 240 Leadership and Influence
 - ix. IS 241 Decision Making and Problem Solving
 - x. IS 242 Effective Communication
 - xi. IS 244 Developing and Managing Volunteers

The aforementioned courses are all available for free on-line at the following links:
<http://training.fema.gov/IS/NIMS.aspx> & <http://training.fema.gov/emiweb/PDS/>

Note: The “G” course series and classroom-based equivalents can be used as an alternate to satisfy these training requirements. Past completion of the above courses (or qualifying equivalent) is considered acceptable in meeting this requirement.

Article V. Term and Termination

1. Term of Agreement

This Agreement is effective from July 1, 2017 through June 30, 2018—the FY 2017 EMPG performance period established by the State for the County.

2. Availability of Funds

- (a) The parties acknowledge and agree that this Agreement is dependent upon the availability of County, regional, State and/or federal funding.
- (b) Budgetary Contingency: This Agreement is contingent upon the appropriation of sufficient funding by County for the products and services covered by this Agreement. If funding is reduced or eliminated by County for the products or services covered by this Agreement, County has the option to either terminate this Agreement with no liability occurring to County or to offer an amendment to this Agreement indicating the reduced amount.
- (c) The obligations of County to make payments in accordance with the provisions of this Agreement may be delayed, reduced or terminated as a result of any delay, reduction, or change in allocation or allotment in funding to County from federal, State or other regional funding sources.

3. Termination

- (a) Termination for Convenience. County shall have the option, in its sole discretion, to terminate this Agreement at any time without cause upon written notice to City. The written notice shall specify the date on which termination shall become effective, which shall be no less than seven (7) days from the date of the notice.
- (b) Termination for Cause. Either party may terminate this Agreement for cause upon written notice to the other party. The written notice shall specify the date on which termination shall become effective, which shall be no less than thirty (30) days from the date of the notice. Termination for cause includes, but is not limited to, a material breach of this Agreement, a violation of any applicable laws, or failure to comply with applicable EMPG guidelines.
- (c) Opportunity to Cure. In the event of termination for material breach of this Agreement, the non-breaching party shall give written notice of the breach to the breaching party, specifying the breach/cause. The breaching party shall not be deemed in default and the non-breaching party shall not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within thirty (30) days after the breaching party's receipt of the notice of breach, or within such longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced its cure, correction or remedy within the thirty (30) day period and diligently and continuously pursues that cure, correction or remedy.
- (d) If this Agreement is terminated, City shall return EMPG funding in accordance with EMPG

program guidelines.

Article VI. Indemnification and Liabilities

1. Indemnification by City

In lieu of and notwithstanding the pro rata risk allocation that might otherwise be imposed between the parties under Government Code section 895.6, County and City agree instead that under Government Code section 895.4, City shall fully indemnify and hold County, its officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of City, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to City under this Agreement. This indemnity shall include, without limitation, reasonable attorneys' fees, consultants and experts and related costs, and County's cost of investigating any claim.

2. Duty to Defend

City acknowledges and agrees that its obligation to defend County under Article V.1: (a) is an immediate obligation, independent of its other obligations under this Agreement; and (b) applies to any claim, expense, cost, damage, or liability falling within the scope of Article V.1, regardless of whether the allegations made in connection with that claim, expense, cost, damage, or liability may be groundless, false, or fraudulent. County shall provide City with prompt notice of any claim, expense, cost, damage, or liability under Article V.1 and City shall have the right to defend, settle, or compromise that claim, expense, cost, damage, or liability, provided, however, that County shall have the right to retain its own counsel at City's expense if representation of County by counsel retained by City would result in a conflict of interest, and that City shall obtain County's prior written consent to settle or compromise if City contends that County shares in any liability. County's failure to notify City promptly of any claim, expense, cost, damage, or liability shall not relieve City of liability to County under Article V.1 unless that failure materially impairs City's ability to defend against the claim, expense, cost, damage, or liability.

3. Limitation on Liability

County, its officers, board members, employees, and agents shall not be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of City, its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to City under this Agreement.

County's obligations under this Agreement shall be limited to the aggregate amount of EMPG funds actually disbursed. Notwithstanding any other provision in this Agreement or any other document or communication between County and City relating to this Agreement, in no event shall County be liable for any damages arising out of or in connection with this Agreement, the EMPG funds, City's Spend Plan, or any activities performed in connection with this Agreement.

Article VII. Miscellaneous

1. Notice

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

To City:

Jennifer Ponce, Emergency Services Coordinator
Morgan Hill Police Department
16200 Vineyard Blvd
Morgan Hill, CA 95037

To County:

Ivan Williams
EMPG Grant Manager
County of Santa Clara Office of Emergency Services
55 W. Younger Ave., Suite 450
San Jose, CA 95110

2. Compliance and Nondiscrimination

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

3. County No-Smoking Policy

City and its employees, agents and subcontractors shall comply with County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where County is the sole occupant, and (3) in all County vehicles.

4. Food and Beverage Standards

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by City with County funds for County-sponsored

meetings or events.

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low-fat and low-calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, City shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high-calorie desserts; (3) attempt to accommodate special dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the City should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are: (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, for which sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored nonfat or 1% low-fat dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8-ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8-ounce serving. Sugar-sweetened beverages shall not be provided.

5. Governing Law

This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California.

6. Assignment

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

7. Entire Agreement

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

8. Amendments

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

9. Counterparts

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

10. Contract Execution

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

11. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

12. Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

13. Conflict of Interest

In accepting this Agreement, City covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of services under this Agreement. City is responsible for assuring compliance of its subcontractors, if any, with the requirements of this provision.

14. Wage Theft Prevention

(1) Compliance with Wage and Hour Laws: City, and any contractor or subcontractor it employs to complete work under this Agreement, must 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, the California Labor Code, and any local Minimum Wage Ordinance or Living Wage Ordinance. (2) 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. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, a local enforcement agency, or any other government entity tasked with the investigation and enforcement of wage and hour laws. (3) Prior Judgments against City, Contractor and/or its Subcontractors: BY SIGNING THIS AGREEMENT, CITY AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS, OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING—IN THE FIVE YEARS PRIOR TO EXECUTING THIS AGREEMENT—THAT CITY, ITS CONTRACTOR(S) OR SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CITY FURTHER AFFIRMS THAT IT, ITS CONTRACTOR(S), OR SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH—OR HAS REACHED AGREEMENT WITH THE COUNTY REGARDING THE MANNER IN WHICH IT WILL SATISFY—ANY SUCH JUDGMENTS, DECISIONS, OR ORDERS. (4) Judgments 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 City, a contractor or any subcontractor City employs to perform work under this Agreement has violated any

applicable wage and hour law, or City learns of such a judgment, decision, or order that was not previously disclosed, City must inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM), no more than 15 days after the judgment, decision, or order becomes final or of learning of the final judgment, decision, or order. City and its contractor(s) and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the Office of the County Executive-OCCM with documentary evidence of compliance with the final judgment, decision, or order within 5 days of satisfying the final judgment, decision, or order. The County reserves the right to require City to enter into an agreement with the County regarding the manner in which any such final judgment, decision, or order will be satisfied. (5) County's Right to Withhold Payment: Where City or any contractor or subcontractor City 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 County reserves the right to withhold payment to City until such judgment, decision, or order has been satisfied in full. (6) 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 termination of this Agreement and/or any other remedies available under this Agreement and/or law. (7) Notice to County Related to Wage Theft Prevention: Notice provided to the Office of the County Executive as required under this Section shall be addressed to: Office of the County Executive—OCCM; 70 West Hedding Street; East Wing, 11th Floor; San José, CA 95110. 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.

15. Certified Resolution of Signature Authority

Upon request of County, City shall deliver to County a copy of the resolution(s) authorizing execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of City.

Signed:

COUNTY OF SANTA CLARA

CITY OF MORGAN HILL

By _____
Garry Herceg
Deputy County Executive

Date

By _____

City Manager or designee

Date

Approved as to Form and Legality:

Approved as to Form and Legality:

Kavita Narayan
Lead Deputy County Counsel

Date

City Attorney

Date

Enclosures

- | | |
|-----------|---|
| Exhibit A | Santa Clara County EMPG Notification of Application Approval (once received from the State) |
| Exhibit B | Grant Certifications and Assurances |

Exhibit C	Project Narratives
Exhibit D	Functional Timesheet Template
Exhibit E	Financial Disclosure Form

Exhibit B



Standard Assurances For All Cal OES Federal Grant Programs

As the duly authorized representative of the Applicant, I hereby certify that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application, within prescribed timelines.

I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements within the:

- (a) Applicable Federal Regulations (see below);
- (b) Federal Program Notice of Funding Opportunity (NOFO);
- (c) California Supplement to the NOFO; and
- (d) Federal and State Grant Program Guidelines.

Federal Regulations

Government cost principles, uniform administrative requirements, and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:

1. Proof of Authority

The Applicant will obtain written authorization from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- (a) To provide all matching funds required for the grant project and that any cash match will be appropriated as required;
- (b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- (c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board, or authorized body, and
- (d) The official executing this agreement is, in fact, authorized to do so.

This Proof of Authority must be maintained on file and readily available upon request.

2. Period of Performance

The Applicant will initiate work after approval of the award and complete all work within the period of performance specified in the grant.

3. Lobbying and Political Activities

As required by Section 1352, Title 31 of the United States Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Applicant will also comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and §§ 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.212 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, subgrantees, recipients or subrecipients:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

5. Non-Discrimination and Equal Employment Opportunity

The Applicant will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs (42 U.S.C. §§ 12101-12213);
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units

- (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
 - (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
 - (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
 - (k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
 - (l) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
 - (m) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in (a) through (m), the Applicant will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§12940, 12945, 12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions.

6. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

7. Environmental Standards

The Applicant will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000-21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000-15387);

- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
- (e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- (f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- (g) Executive Order 11514 which sets forth national environmental standards;
- (h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- (i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- (j) The Endangered Species Act of 1973, (P.L. 93-205);
- (k) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
- (l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- (m) Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

8. Audits

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

9. Access to Records

In accordance with 2 C.F.R. § 200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.

The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

10. Conflict of Interest

The Applicant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

11. Financial Management

False Claims for Payment

The Applicant will comply with 31 U.S.C §§ 3729-3733 which sets forth that no subgrantee, recipient, or subrecipient shall submit a false claim for payment, reimbursement or advance.

12. Reporting - Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

13. Whistleblower Protections

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

14. Human Trafficking

The Applicant will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

15. Labor Standards

The Applicant will comply with the following federal labor standards:

- (a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- (b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
- (c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.); and
- (d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

- (a) Not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- (b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- (c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

19. Use of Cellular Device While Driving is Prohibited

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to

write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

20. California Public Records Act and Freedom of Information Act

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM - PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS

21. Reporting Accusations and Findings of Discrimination

If during the past three years the recipient has been accused of discrimination on any basis the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS Financial Assistance Office and the DHS Office for Civil Rights and Civil Liberties (CRCL) by e-mail at CRCL@hq.dhs.gov or by mail at U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Building 410, Mail Stop #0190, Washington, D.C. 20528.

In the courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or the recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Financial Assistance Office and the CRCL by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

22. Acknowledgment of Federal Funding from DHS

All recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

23. Activities Conducted Abroad

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

24. Best Practices for Collection and Use of Personally Identifiable Information (PII)

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

25. Buy American and Hire American

All recipients are required to comply with any applicable provisions of the Buy American Act (41 U.S.C. §§ 8301 – 8305), and any other applicable statutes, regulations, or rules that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States.

26. Copyright

All recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

27. Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

28. Energy Policy and Conservation Act

All recipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

29. Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

30. Fly America Act of 1974

All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

31. Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

32. Non-supplanting Requirement

All recipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

33. Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

34. SAFECOM

All recipients who receive federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

35. Terrorist Financing

All recipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

36. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

37. USA Patriot Act of 2001

All recipients must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

38. Use of DHS Seal, Logo, and Flags

All recipients must obtain permission from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

IMPORTANT

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of the language contained within this document must be included in the award documents for all subawards at all tiers. All recipients are bound by the Department of Homeland Security Standard Terms and Conditions 2017, Version 7.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____

EXHIBIT C

2017 EMPG

Project Proposal Request

Timeline and Template



I. Background Information

I	A.	Requestor Contact Information
	Agency	City of Morgan Hill
	Name	Jennifer Ponce
	Position/Title	Emergency Services Coordinator
	Phone	(408) 776-7310
	Mobile Number	(408) 461-0744
	Agency Address	16200 Vineyard Blvd, Morgan Hill, CA 95037
	Email	Jennifer.ponce@morganhill.ca.gov

I	B.	Project Name
		EVC Exercise

TOTAL PROJECT COST (Insert the total from Funding section)		\$30,000.00
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I	C.	Project Type Use the checkbox to indicate corresponding project
	☐	This project is a new Project.
	☐	This project is part of an ongoing Project.
	☒	This project is for sustainment of a previously funded Project.

I	D.	Mission Areas (Solution Area) - Use the checkbox to indicate the corresponding mission area for your project
	☐ Planning	☐ Organization
	☐ Equipment	☐ Training
	☒ Exercises	

Choose ONLY <u>one</u> Sub Area (Sub Category) for Mission Areas above				
☐ Community Outreach	☐ Staffing	☐ Information Technology	☐ Staff Expenses	☒ Design/Develop
☐ Conference	☐ Day to Day Activities/ /operations that support emergency management	☐ Cyber Security Enhancement Equipment	☐ Course Development	☒ Conduct / Attend / Evaluate
☐ Develop and Enhance Plans, Protocols and Systems		☐ Interoperable Communications Equipment	☐ Course Delivery and Evaluation	☒ Supplies / Materials / Production Costs
		☐ Other Authorized Equipment	☐ Staff Expenses	
			☐ Certification / Recertification of instructors	

I	E.	Project Description
		Briefly describe exactly what the project entails, what purchases and/or personnel will be necessary for the project
		This project would exercise the Operational Area's current Emergency Volunteer Center (EVC) plans, training and equipment by setting up and beginning operations of at least 2 EVCs. The exercise would include operational coordination and communication with at least 1 Emergency Operations Center (EOC) and an After Action Report for each exercise conducted.

I	F.	Does this project require a sole source?
		☐ Yes If "Yes", please explain ☒ No N/A

I	G.	Installation
		Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
		☐ Yes, If "Yes", please: ☒ No
		- Provide an explanation AND - Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

II	A.	Goals and Objectives - Use the checkbox to indicate which Core Capability will be developed or sustained.
1	☐	Planning. Conduct a systematic process engaging the whole community as appropriate in the development of executable strategic, operational, and/or tactical-level approaches to meet defined objectives.
2	☐	Public Information and Warning. Deliver coordinated, prompt, reliable, and actionable information to the whole community through the use of clear, consistent, accessible, and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard and, as appropriate, the actions being taken and the assistance being made available.
3	☒	Operational Coordination. Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.
4	☐	Mitigation. Core Capabilities: Community Resilience; Long-term Vulnerability Reduction; Risk and Disaster Resilience Assessment; and Threats and Hazards Identification
5	☒	Response. Core Capabilities: Infrastructure Systems; Critical Transportation; Environmental Response/Health and Safety; Fatality Management Services; Fire Management and Suppression; Logistics and Supply Chain Management; Mass Care Services; Mass Search and Rescue Operations; On-scene Security, Protection and Law Enforcement; Operational Communications; Public Health, Healthcare, and Emergency Medical Services; and Situational Assessment
6	☒	Recovery. Core Capabilities: Infrastructure Systems; Economic Recovery; Health and Social Services; Housing; Natural and Cultural Resources

III. FUNDING

III	A.	Proposed funding amount - Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). - Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
ELEMENT		PROPOSED FUNDING
☐	Planning	\$
☐	Equipment	\$
☐	Management & Administration	\$
☐	Training	\$
☒	Exercise	\$30,000
TOTAL PROJECT COSTS		\$

Description of Expenditures That Will Be Used for Project Grant Match

Operational Area Emergency Manager's time spent planning, preparing for, participating in, observing or evaluating the EVC Exercise or other emergency management exercises.

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566
☐	Information Technology
☐	Cyber Security Enhancement Equipment
☐	Interoperable Communications Equipment
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment
☐	Power Equipment
☐	CBRNE Logistical Support Equipment
☐	Other Authorized Equipment: Contact grants manager prior to selected this sub-category

III	B.	Other Source(s) of funding												
		- List other source(s) of funding that is being requested or utilized for this project (<i>check the appropriate box(es) on the left side</i>)												
		<table border="1"> <thead> <tr> <th>ELEMENT</th> <th>PROPOSED FUNDING</th> </tr> </thead> <tbody> <tr> <td>☐ UASI</td> <td>\$</td> </tr> <tr> <td>☐ SHSGP</td> <td>\$</td> </tr> <tr> <td>☐ General Funds</td> <td>\$</td> </tr> <tr> <td>☐ Other Grant Funds</td> <td>\$</td> </tr> <tr> <td>TOTAL OTHER FUNDING</td> <td>\$</td> </tr> </tbody> </table>	ELEMENT	PROPOSED FUNDING	☐ UASI	\$	☐ SHSGP	\$	☐ General Funds	\$	☐ Other Grant Funds	\$	TOTAL OTHER FUNDING	\$
ELEMENT	PROPOSED FUNDING													
☐ UASI	\$													
☐ SHSGP	\$													
☐ General Funds	\$													
☐ Other Grant Funds	\$													
TOTAL OTHER FUNDING	\$													

Other Funds:
- Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.

IV. PROJECT MANAGEMENT AND IMPLEMENTATION

IV	A.	Milestones - Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2017 EMPG. - No start date should begin before July 1, 2017 and no end date should end after June 30, 2018. - These dates are subject to change based on notification of application approval. - No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. - If unsure of exact dates, use Quarter timeframes	
MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	MOU between City/Town and County in Place	As early as July 1, 2017	December 31, 2017
2	Functional Timesheet Collection and Submission to Grant Manager for Project Grant Match	July 1, 2017	June 30, 2018
3	Environmental Historic Preservation (EHP) FEMA Review Completed (If applicable)	As early as August 1, 2017	January 31, 2018
4	City/ Town Performance Period	As early as July 1, 2017	No later than March 31, 2018
5	City/Town Service Agreement for Contracted Services	As early as July 1, 2017	No later than March 31, 2018
6	City/Town Procurement of Project Equipment (once grant award is made and MOU is signed)	As early as October 1, 2017	No later than March 31, 2018
7			
8			
9			
10			

IV	B.	Project Outcomes - Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should demonstrate improvement towards building capabilities. - Operational EVC capabilities are evaluated via a Functional Exercise(s), Hotwash(es), and written After Action Report(s). - Coordination and Communication between EVC(s) and EOC(s) are tested.	
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IV	C.	Project Deliverables - Describe the specific deliverables that will be produced as a result of this project. - Functional exercise(s) of at least 2 EVCs. - Hotwash(es)/ Written After Action Reports on EVC exercise(s).	
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V. Project Timeline

YEAR	DATE & MEETINGS	OWNERS & TASKS
2016	November 22 2016 OAS Meeting	EMPG Grant Manager o Initiates Op. Area EMPG FY17 Project Proposals
	November 22, 2016 to January 3, 2017	Op. Area Signatories o Submit their Projects Proposals to EMPG Grant Manager
	December 27 OAS Meeting	Op. Area Signatories o Discuss proposed projects o Brainstorm additional project proposals o Discussion of Op. Area needs may generate new ideas and opportunities for additional proposals that meet all of the EMPG funding criteria o Identify all projects that will be submitted by January 3 rd , 2017
2017	January 3, 2017	Op. Area Signatories o All proposals and/or updated proposals due to EMPG Grant Manager
	January 24, 2017 OAS Meeting	o Identify which proposals should be submitted for EMPG funding o Identify which proposals are below the line, if/when additional funds become available in the future. This should include some short timeframe projects that don't require an RFP, MOU or EHP. ➔ Voting members may make modifications to proposals during the meeting with the agreement of the original project proposers as long as these modifications are consistent with the original goals and objectives of the project ➔ Cast votes
	February 23, 2017 OAC Quarterly Meeting	Emergency Operational Area Council o Receive Op. Area project and "contingency project" proposals for EMPG FY 2017 with OAS recommendations o Ask questions of the project requestors (Project requestors need to attend the meeting and be ready answer questions about their project) o Propose their own projects (if applicable) o Review content for May 26 vote
	May 25, 2017 OAC Quarterly Meeting	Operational Area Council o Approve specific project allocation amounts o Cast their votes on both primary projects and below the line projects for EMPG FY 2017.
	July-August 2017	CalOES Announces EMPG FY17 Funding Opportunity o EMPG FY17 Grant Application Opens
	July-September 2017	EMPG Grant Manager o Submits EMPG FY17 Grant Application with approved Projects

Attachment: Exhibit B - EMPG MOU FOR 2017 (1431 : Emergency Management Performance Grant 2017 - MOU)

2017 EMPG

Project Proposal Request

Timeline and Template



I. Background Information

I	A.	Requestor Contact Information
	Agency	Santa Clara County Operational Area
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Services 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	ivan.williams@oes.sccgov.org

I	B.	Project Name
		EOC Computers

TOTAL PROJECT COST (Insert the total from Funding section)		\$50,000
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I	C.	Project Type Use the checkbox to indicate corresponding project
	☐	This project is a new Project.
	☒	This project is part of an ongoing Project.
	☐	This project is for sustainment of a previously funded Project.

I	D.	Mission Areas (Solution Area) - Use the checkbox to indicate the corresponding mission area for your project			
	☐ Planning	☐ Organization	☒ Equipment	☐ Training	☐ Exercises

Choose ONLY <u>one</u> Sub Area (Sub Category) for Mission Areas above				
☐ Community Outreach	☐ Staffing	☒ Information Technology	☐ Staff Expenses	☐ Design/Develop
☐ Conference	☐ Day to Day Activities/operations that support emergency management	☐ Cyber Security Enhancement Equipment	☐ Course Development	☐ Conduct / Attend / Evaluate
☐ Develop and Enhance Plans, Protocols and Systems		☐ Interoperable Communications Equipment	☐ Course Delivery and Evaluation	☐ Supplies / Materials / Production Costs
		☐ Other Authorized Equipment	☐ Staff Expenses	
			☐ Certification / Recertification of instructors	

I E. Project Description

- Briefly describe exactly what the project entails, what purchases and/or personnel will be necessary for the project

This project will enable Operational Area emergency managers to fully leverage data communication capabilities and sharing of critical information in their EOCs. Computers support response and mitigation during emergencies and disasters via common operating picture and resource management web based programs such as Web EOC, HSIN, COPLink, Mutualink, etc. as well as by supporting situational awareness.

Eligibility of Operational Area jurisdictions for this funding is based on the following criteria:

Equipment criteria

- Funding is primarily for laptops, not for tablets, iPads or other devices.
- Written justification must be provided if funding is requested for tablets, iPads, or any other computing devices. This written justification must identify the computing devices currently used in the City/Town EOC as well as why a non-Laptop device is required. These requests will be evaluated and approved on an individual basis.
- Funding is primarily for replacement of existing EOC laptops that are at least 4 years old.
- Written justification must be provided if funding is requested for additional laptop capacity (i.e. non-replacement laptops) in the City/Town EOC. This written justification must identify the specific EOC needs the additional laptop(s) would provide for as well as specifically how the laptop will be used in the EOC during an activation. These requests will be evaluated and approved on an individual basis.
- Funding is limited to a maximum of \$1,600 per computing device (including all peripherals, tax and shipping).
- Grant funds cannot be used to purchase warranties, maintenance/service agreements, or software that aren't bundled/included with the laptop.
- Any computing device purchased under this project must be capable of running WebEOC—e.g. able to connect to the city/town network and run the necessary browser or other software to access WebEOC.

City/Town Criteria

- The City/Town must email their intent to use EMPG funding for computing devices—along with the number and type (e.g.

laptop) of devices and any required justifications—by October 1, 2017.

- Each City/Town must enter into an MOU with the County for the computers by December 31, 2017.
- Each City/Town must procure any approved computers under an existing competitive contract OR obtain bids in accordance with local (City/Town) and Federal procurement rules (whichever is more restrictive).

Each City/Town must procure any approved computers and submit all invoices to the County Office of Emergency Services by February 15, 2018.

I	F.	Does this project require a sole source?		
		☐ Yes	If "Yes", please explain	☒ No N/A

I	G.	Installation		
		- Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?		
		☐ Yes, If "Yes", please:	☒ No	
		1. Provide an explanation AND 2. Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195		

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

II	A.	Goals and Objectives - Use the checkbox to indicate which Core Capability will be developed or sustained.
1	☒	Planning. Conduct a systematic process engaging the whole community as appropriate in the development of executable strategic, operational, and/or tactical-level approaches to meet defined objectives.
2	☒	Public Information and Warning. Deliver coordinated, prompt, reliable, and actionable information to the whole community through the use of clear, consistent, accessible, and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard and, as appropriate, the actions being taken and the assistance being made available.
3	☒	Operational Coordination. Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.
4	☐	Mitigation. Core Capabilities: Community Resilience; Long-term Vulnerability Reduction; Risk and Disaster Resilience Assessment; and Threats and Hazards Identification
5	☒	Response. Core Capabilities: Infrastructure Systems; Critical Transportation; Environmental Response/Health and Safety; Fatality Management Services; Fire Management and Suppression; Logistics and Supply Chain Management; Mass Care Services; Mass Search and Rescue Operations; On-scene Security, Protection and Law Enforcement; Operational Communications; Public Health, Healthcare, and Emergency Medical Services; and Situational Assessment
6	☒	Recovery. Core Capabilities: Infrastructure Systems; Economic Recovery; Health and Social Services; Housing; Natural and Cultural Resources

III. FUNDING

III	A.	Proposed funding amount - Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). - Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
ELEMENT		PROPOSED FUNDING
☐	Planning	\$
☒	Equipment	\$50,000
☐	Management & Administration	\$
☐	Training	\$
☐	Exercise	\$
TOTAL PROJECT COSTS		\$50,000

Description of Expenditures That Will Be Used for Project Grant Match
Hours/ labor of non-grant funded direct personnel costs spent on obtaining, configuring, managing, and testing EOC laptops and other EOC equipment throughout the Operational Area. Additionally, the cost of internet service and other eligible equipment for EOCs may be included in the match. The County General Fund and other local jurisdiction general funds are the source of this Cash Match.

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566

AEI #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566

☒	04HW-01-INHW	Information Technology
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☐	Cyber Security Enhancement Equipment
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04HW-01-INHW

☐	Interoperable Communications Equipment
--------------------------	--

☐	Detection Equipment
--------------------------	---------------------

Interoperable Communications Equipment

Detection Equipment

CBRNE Reference Materials

CBRNE Incident Response Vehicle

Physical Security Enhancement Equipment

Power Equipment

CBRNE Logistical Support Equipment

Other Authorized Equipment:

0	0	1	0	0
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III	B.	Other Source(s) of funding
		- List other source(s) of funding that is being requested or utilized for this project (check the appropriate box(es) on the left side)

ELEMENT	PROPOSED FUNDING
---------	------------------

PROPOSED FUNDING

UASI

\$

SHSGP

\$

General Funds

\$

Other Grant Funds

⊕

TOTAL OTHER FUNDING

\$

Other Funds: - Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.

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IV. PROJECT MANAGEMENT AND IMPLEMENTATION

IV	A.	Milestones - Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2017 EMPG. - No start date should begin before July 1, 2017 and no end date should end after June 30, 2018. - These dates are subject to change based on notification of application approval. - No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. - If unsure of exact dates, use Quarter timeframes	
MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	MOU between City/Town and County in Place	As early as July 1, 2017	December 31, 2017
2	Functional Timesheet Collection and Submission to Grant Manager for Project Grant Match	July 1, 2017	June 30, 2018
3	Environmental Historic Preservation (EHP) FEMA Review Completed (If applicable)	As early as August 1, 2017	January 31, 2018
4	City/ Town Performance Period	As early as July 1, 2017	No later than March 31, 2018
5	City/Town Service Agreement for Contracted Services	As early as July 1, 2017	No later than March 31, 2018
6	City/Town Procurement of EOC Laptops (once grant award is made and MOU is signed)	As early as October 1, 2017	No later than March 31, 2018
7			
8			
9			
10			

IV	B.	Project Outcomes - Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should demonstrate improvement towards building capabilities.	
		EOC laptops will increase the ability for first responders and emergency managers to effectively collect and provide information and data throughout the operational area and region. In addition they enhance local emergency managers' abilities to respond to and mitigate the emergency or disaster.	

IV	C.	Project Deliverables - Describe the specific deliverables that will be produced as a result of this project.	
		EOC laptops for jurisdictions within the Operational Area capable of supporting WebEOC, HSIN, COPLink, and WebLink as well as the other work of an Emergency Operations Center during a disaster.	

V. Project Timeline

YEAR	DATE & MEETINGS	OWNERS & TASKS
2016	November 22 2016 OAS Meeting	EMPG Grant Manager o Initiates Op. Area EMPG FY17 Project Proposals
	November 22, 2016 to January 3, 2017	Op. Area Signatories o Submit their Projects Proposals to EMPG Grant Manager
	December 27 OAS Meeting	Op. Area Signatories - o Discuss proposed projects - o Brainstorm additional project proposals - o Discussion of Op. Area needs may generate new ideas and opportunities for additional proposals to meet all of the EMPG funding criteria - o Identify all projects that will be submitted by January 3rd, 2017
2017	January 3, 2017	Op. Area Signatories o All proposals and/or updated proposals due to EMPG Grant Manager
	January 24, 2017 OAS Meeting	- o Identify which proposals should be submitted for EMPG funding - o Identify which proposals are below the line, if/when additional funds become available in the future. This should include some short timeframe projects that don't require an RFP, MOU or EHP. ➔ Voting members may make modifications to proposals during the meeting with the agreement of the original project proposers as long as these modifications are consistent with the original goals and objectives of the project ➔ Cast votes
	February 23, 2017 OAC Quarterly Meeting	Emergency Operational Area Council - o Receive Op. Area project and "contingency project" proposals for EMPG FY 2017 with OAS recommendations - o Ask questions of the project requestors (Project requestors need to attend the meeting and be ready to answer questions about their project) - o Propose their own projects (if applicable) - o Review content for May 26 vote
	May 25, 2017 OAC Quarterly Meeting	Operational Area Council - o Approve specific project allocation amounts - o Cast their votes on both primary projects and below the line projects for EMPG FY 2017.
	July-August 2017	CalOES Announces EMPG FY17 Funding Opportunity o EMPG FY17 Grant Application Opens
	July-September 2017	EMPG Grant Manager o Submits EMPG FY17 Grant Application with approved Projects

Attachment: Exhibit B - EMPG MOU FOR 2017 (1431 : Emergency Management Performance Grant 2017 - MOU)

2017 EMPG

Project Proposal Request

Timeline and Template



I. Background Information

I	A.	Requestor Contact Information
	Agency	Santa Clara County Operational Area
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Services 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	ivan.williams@oes.sccgov.org

I	B.	Project Name
		2017 CESA Annual Training & Conference

TOTAL PROJECT COST (Insert the total from Funding section)		\$12,000
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I	C.	Project Type Use the checkbox to indicate corresponding project
	☐	This project is a new Project.
	☒	This project is part of an ongoing Project.
	☐	This project is for sustainment of a previously funded Project.

I	D.	Mission Areas (Solution Area) - Use the checkbox to indicate the corresponding mission area for your project
	☐ Planning	☐ Organization
	☐ Equipment	☒ Training
	☐ Exercises	

Choose ONLY <u>one</u> Sub Area (Sub Category) for Mission Areas above				
☐ Community Outreach	☐ Staffing	☐ Information Technology	☐ Staff Expenses	☐ Design/Develop
☐ Conference	☐ Day to Day Activities/operations that support emergency management	☐ Cyber Security Enhancement Equipment	☐ Course Development	☐ Conduct / Attend / Evaluate
☐ Develop and Enhance Plans, Protocols and Systems		☐ Interoperable Communications Equipment	☐ Course Delivery and Evaluation	☐ Supplies / Materials / Production Costs
		☐ Other Authorized Equipment	☒ Staff Expenses	
			☐ Certification / Recertification of instructors	

I	E.	Project Description - Briefly describe exactly what the project entails, what purchases and/or personnel will be necessary for the project
		2016 CESA Annual Training and Conference--This project allows up to 9 Emergency Managers from across the Operational Area to attend the California Emergency Services Association (CESA) 2017 Annual Training Conference. Specific topics from past conferences include public information, plan writing, terrorism, California's Emergency Management Mutual Aid (EMMA) process, whole community planning, how C-PODs work, situational awareness and so on.

I	F.	Does this project require a sole source? ☐ Yes If "Yes", please explain ☒ No N/A

I	G.	Installation - Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
		☐ Yes, If "Yes", please: ☒ No
		1. Provide an explanation AND 2. Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

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3	☒	Operational Coordination. Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.
4	☒	Mitigation. Core Capabilities: Community Resilience; Long-term Vulnerability Reduction; Risk and Disaster Resilience Assessment; and Threats and Hazards Identification
5	☒	Response. Core Capabilities: Infrastructure Systems; Critical Transportation; Environmental Response/Health and Safety; Fatality Management Services; Fire Management and Suppression; Logistics and Supply Chain Management; Mass Care Services; Mass Search and Rescue Operations; On-scene Security, Protection and Law Enforcement; Operational Communications; Public Health, Healthcare, and Emergency Medical Services; and Situational Assessment
6	☒	Recovery. Core Capabilities: Infrastructure Systems; Economic Recovery; Health and Social Services; Housing; Natural and Cultural Resources

III. FUNDING

III	A.	Proposed funding amount - Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). - Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
ELEMENT		PROPOSED FUNDING
☐	Planning	\$
☐	Equipment	\$
☐	Management & Administration	\$
☒	Training	\$12,000
☐	Exercise	\$
TOTAL PROJECT COSTS		\$12,000

Description of Expenditures That Will Be Used for Project Grant Match

Emergency Managers time spent on Emergency Management planning, developing training, conducting exercises, or on emergency management logistics activities.

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566
☐	Information Technology
☐	Cyber Security Enhancement Equipment
☐	Interoperable Communications Equipment
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment
☐	Power Equipment
☐	CBRNE Logistical Support Equipment
☐	Other Authorized Equipment: Contact grants manager prior to selected this sub-category

III	B.	Other Source(s) of funding												
		- List other source(s) of funding that is being requested or utilized for this project (check the appropriate box(es) on the left side)												
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☐ UASI	\$													
☐ SHSGP	\$													
☐ General Funds	\$													
☐ Other Grant Funds	\$													
TOTAL OTHER FUNDING	\$													

Other Funds:
- Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.

IV. PROJECT MANAGEMENT AND IMPLEMENTATION

IV	A.	Milestones - Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2017 EMPG. - No start date should begin before July 1, 2017 and no end date should end after June 30, 2018. - These dates are subject to change based on notification of application approval. - No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. - If unsure of exact dates, use Quarter timeframes	
MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	MOU between City/Town and County in Place	As early as July 1, 2017	December 31, 2017
2	Functional Timesheet Collection and Submission to Grant Manager for Project Grant Match	July 1, 2017	June 30, 2018
3	Environmental Historic Preservation (EHP) FEMA Review Completed (If applicable)	As early as August 1, 2017	January 31, 2018
4	City/ Town Performance Period	As early as July 1, 2017	No later than March 31, 2018
5	City/Town Service Agreement for Contracted Services	As early as July 1, 2017	No later than March 31, 2018
6	City/Town Submission of Invoices and supporting documentation for reimbursement.	As early as October 2017	No later than March 31, 2018
7			
8			
9			
10			

IV	B.	Project Outcomes - Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should demonstrate improvement towards building capabilities.	
		Emergency Management training, best practices, networking, directed to all levels of California Emergency Managers so that they may more effectively plan for, respond to and recover from disasters.	

IV	C.	Project Deliverables - Describe the specific deliverables that will be produced as a result of this project.	
		At least 5 Emergency Managers from the Operational Area attend the Annual CESA Conference.	

V. Project Timeline

YEAR	DATE & MEETINGS	OWNERS & TASKS
2016	November 22 2016 OAS Meeting	EMPG Grant Manager o Initiates Op. Area EMPG FY17 Project Proposals
	November 22, 2016 to January 3, 2017	Op. Area Signatories o Submit their Projects Proposals to EMPG Grant Manager
	December 27 OAS Meeting	Op. Area Signatories - o Discuss proposed projects - o Brainstorm additional project proposals - o Discussion of Op. Area needs may generate new ideas and opportunities for additional proposals to meet all of the EMPG funding criteria - o Identify all projects that will be submitted by January 3rd, 2017
2017	January 3, 2017	Op. Area Signatories o All proposals and/or updated proposals due to EMPG Grant Manager
	January 24, 2017 OAS Meeting	- o Identify which proposals should be submitted for EMPG funding - o Identify which proposals are below the line, if/when additional funds become available in the future. This should include some short timeframe projects that don't require an RFP, MOU or EHP. ➔ Voting members may make modifications to proposals during the meeting with the agreement of the original project proposers as long as these modifications are consistent with the original goals and objectives of the project ➔ Cast votes
	February 23, 2017 OAC Quarterly Meeting	Emergency Operational Area Council - o Receive Op. Area project and "contingency project" proposals for EMPG FY 2017 with OAS recommendations - o Ask questions of the project requestors (Project requestors need to attend the meeting and be ready to answer questions about their project) - o Propose their own projects (if applicable) - o Review content for May 26 vote
	May 25, 2017 OAC Quarterly Meeting	Operational Area Council - o Approve specific project allocation amounts - o Cast their votes on both primary projects and below the line projects for EMPG FY 2017.
	July-August 2017	CalOES Announces EMPG FY17 Funding Opportunity o EMPG FY17 Grant Application Opens
	July-September 2017	EMPG Grant Manager o Submits EMPG FY17 Grant Application with approved Projects

Attachment: Exhibit B - EMPG MOU FOR 2017 (1431 : Emergency Management Performance Grant 2017 - MOU)

2017 EMPG

Project Proposal Request & Timeline



I. Background Information

I	A.	Requestor Contact Information
	Agency	Santa Clara County OES on behalf of the Santa Clara County Operational Area
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Services 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	ivan.williams@oes.sccgov.org

I	B.	Project Name
		2017 IAEM Annual Training & Conference

TOTAL PROJECT COST	(Insert the total from Funding section)
	\$12,800

I	C.	Project Type
		Use the checkbox to indicate corresponding project
	☒	This project is a new Project.
	☐	This project is part of an ongoing Project.
	☐	This project is for sustainment of a previously funded Project.

I	D.	Mission Areas (Solution Area)
		- Use the checkbox to indicate the corresponding mission area for your project
	☐ Planning	☐ Organization
	☐ Equipment	☒ Training
	☐ Exercises	

Choose ONLY <u>one</u> Sub Area (Sub Category) for Mission Areas above				
☐ Community Outreach	☐ Staffing	☐ Information Technology	☐ Staff Expenses	☐ Design/Develop
☐ Conference	☐ Day to Day Activities/operations that support emergency management	☐ Cyber Security Enhancement Equipment	☐ Course Development	☐ Conduct / Attend / Evaluate
☐ Develop and Enhance Plans, Protocols and Systems		☐ Interoperable Communications Equipment	☐ Course Delivery and Evaluation	☐ Supplies / Materials / Production Costs
		☐ Other Authorized Equipment	☒ Staff Expenses	
			☐ Certification / Recertification of instructors	

I	E.	Project Description Briefly describe exactly what the project entails, what purchases and/or personnel will be necessary for the project
		2017 IAEM Annual Training and Conference--This project allows up to 8 Emergency Managers from across the Operational Area to attend the International Association of Emergency Managers (IAEM) 2017 Annual Training Conference & EMEX, November 10-15, 2017 (as well as pre- and post- conference training) in Long Beach, CA. This project will fund up to \$1,600 per Emergency Manager for conference/training registration, airfare and accommodations. Per diem expenses as well as any expenses over \$1,600 per Emergency Manager are the responsibility of the sending jurisdiction or individual Emergency Manager. The Operational Area will benefit from having multiple Emergency Managers attend and receive the training, knowledge transfer, and professional development this conference provides. More specifically, this training/conference allows Emergency Managers to learn best practices from across the Emergency Management field, hear lessons learned from actual disasters, and earn certificates of attendance for EMI training courses and conference session. At prior IAEMs the Pre/Post-Conference Training Courses were provided by IAEM's Emergency Management Institute (EMI), the Naval Postgraduate School's Center for Homeland Defense and Security (CHDS), the Emergency Management Accreditation Program (EMAP), and the National Disaster Preparedness Training Center (NDPTC). The Operational Area and individual Emergency Managers will also benefit from the opportunity to receive training towards CEM certification and Emergency Manager professional growth and development.
I	F.	Does this project require a sole source?
		☐ Yes If "Yes", please explain ☒ No N/A
I	G.	Installation
		Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
		☐ Yes, If "Yes", please: ☒ No
		- Provide an explanation AND - Attach a completed <u>Environmental and Historic Preservation</u> screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195

II. ALIGNMENT WITH NATIONAL PREPAREDNESS GOALS by Core Capability and Mission Area

II	A.	Goals and Objectives - Use the checkbox to indicate which Core Capability will be developed or sustained.
1	☒	Planning. Conduct a systematic process engaging the whole community as appropriate in the development of executable strategic, operational, and/or tactical-level approaches to meet defined objectives.
2	☒	Public Information and Warning. Deliver coordinated, prompt, reliable, and actionable information to the whole community through the use of clear, consistent, accessible, and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard and, as appropriate, the actions being taken and the assistance being made available.
3	☒	Operational Coordination. Establish and maintain a unified and coordinated operational structure and process that appropriately integrates all critical stakeholders and supports the execution of core capabilities.
4	☒	Mitigation. Core Capabilities: Community Resilience; Long-term Vulnerability Reduction; Risk and Disaster Resilience Assessment; and Threats and Hazards Identification
5	☒	Response. Core Capabilities: Infrastructure Systems; Critical Transportation; Environmental Response/Health and Safety; Fatality Management Services; Fire Management and Suppression; Logistics and Supply Chain Management; Mass Care Services; Mass Search and Rescue Operations; On-scene Security, Protection and Law Enforcement; Operational Communications; Public Health, Healthcare, and Emergency Medical Services; and Situational Assessment
6	☒	Recovery. Core Capabilities: Infrastructure Systems; Economic Recovery; Health and Social Services; Housing; Natural and Cultural Resources

III. FUNDING

III	A.	Proposed funding amount - Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). - Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
ELEMENT		PROPOSED FUNDING
☐	Planning	\$
☐	Equipment	\$
☐	Management & Administration	\$
☒	Training	\$12,800
☐	Exercise	\$
TOTAL PROJECT COSTS		\$12,800

Description of Expenditures That Will Be Used for Project Grant Match

Emergency Managers time spent on Emergency Management planning, developing training, conducting exercises, or on emergency management logistics activities.

AEL #	Equipment
	- Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566
☐	Information Technology
☐	Cyber Security Enhancement Equipment
☐	Interoperable Communications Equipment
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment
☐	Power Equipment
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III	B.	Other Source(s) of funding												
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TOTAL OTHER FUNDING	\$Unknown													

Other Funds:
- Explain how any other funds, such as general funds, UASI, etc., will be used to assist in implementation of this project.
To cover the cost of per diem as well as any other costs >\$1,600 per individual.

IV. PROJECT MANAGEMENT AND IMPLEMENTATION

IV	A.	Milestones - Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2017 EMPG. - No start date should begin before July 1, 2017 and no end date should end after June 30, 2018. - These dates are subject to change based on notification of application approval. - No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. - If unsure of exact dates, use Quarter timeframes	
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4	Conference/Training Attendance (including Pre- & Post-Conference Sessions	November 2017	November 2017
5	City/Town Submission of Invoices and supporting documentation for reimbursement.	As early as November 2017	No later than December 31, 2017
6			
7			
8			
9			
10			

IV	B.	Project Outcomes - Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should demonstrate improvement towards building capabilities.	
		Emergency Management training, best practices, and networking based on presentations from and interactions with individuals from around the world. The conference and training is relevant to all levels of Emergency Managers so that they may more effectively plan for, respond to and recover from disasters.	

IV	C.	Project Deliverables - Describe the specific deliverables that will be produced as a result of this project.	
		At least 5 Emergency Managers from across the Operational Area attend the 2017 Annual IAEM Conference.	

V. Project Timeline

YEAR	DATE & MEETINGS	OWNERS & TASKS
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LABOR DISTRIBUTION TIME SHEET	Week Ending		First and Last Name								City/County Participating					
	7/16/17		EXAMPLE								Sample City					
	WBS #								107-G107EM17							
PROJECTS	HOURS WORKED BY DAY															TOTAL HOURS
	M	T	W	TH	F	S	S	M	T	W	TH	F	S	S		
	7/6/15	7/7/15	7/8/15	7/9/15	7/10/15	7/11/15	7/12/15	7/13/15	7/14/15	7/15/15	7/16/15	7/17/15	7/18/15	7/19/15		
A - EMPG Grant Administration	5.0	5.0	4.0	4.0	1.0			2.0	3.0	0.0	1.0	1.0			26.0	
B - OAC Liaison																
C - CSTI Training Project																
D - CESA Annual Training																
E - EOC Computers																
F - CERT Trailer(s)																
G - Emergency Manager Prof Dev																
H - EVC Exercise																
I - IAEM Annual Training																
J - Disaster Cost Recovery Workshop																
K - CADRE																
L - Shelter Trailer/ Cache																
—																
—																
Other Emergency Management Hours (Excluding Time Spent Receiving Training)																
Local Hazard Mitigation Planning (LHMP)																
Weather Event Recovery																
Other Federal Grant Hours	4.0	4.0	0.0	4.0	4.0			4.0	4.0	4.0	4.0	4.0			36.0	
Total Work Hours (Max = 8 a day)	8.0	8.0	8.0	8.0	8.0			8.0	8.0	8.0	8.0	8.0			80.0	
Employee Signature _____ Supervisor's Signature _____																

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES (Cal OES)

Federal Funding Accountability and Transparency Act (FFATA) Financial Disclosure

CFDA#:

DRAFT



Meeting Minutes City Council

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

Wednesday, September 6, 2017 9:45 AM

Community & Cultural Center - Machado Room
17000 Monterey Road, Morgan Hill, CA 95037

SPECIAL MEETING

A Special Meeting of the City Council was called at 9:45 a.m. for the purpose of conducting a closed session.

CALL TO ORDER

Mayor Tate called the meeting to order at 9:48 a.m.

ROLL CALL

Deputy City Clerk Michelle Wilson called the roll.

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Larry Carr	Mayor Pro Tem	Present	
Rich Constantine	Council Member	Present	
Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Wilson declared the posting of the agenda.

Minutes Acceptance: Minutes of Sep 6, 2017 9:45 AM (CONSENT CALENDAR)

CLOSED SESSION

City Attorney Donald Larkin read the closed session into the record.

OPPORTUNITY FOR PUBLIC COMMENT

The public comment was opened.

There being no requests to speak, the public comment was closed.

ADJOURN TO CLOSED SESSION

PUBLIC EMPLOYEE APPOINTMENT

Authority: Government Code 54957

Title: City Manager

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Pursuant to Government Code Section 54956.9(d)(1)

Case Name: Morgan Hill Hotel Coalition, et al. v. City of Morgan Hill

Case Number: Santa Clara County Superior Court Case No: 16-CV-292595

Court of Appeal, Sixth Appellate District Case No: H043426

Supreme Court Case No: S243042

RECONVENE

CLOSED SESSION ANNOUNCEMENT

City Attorney Donald Larkin announced that there was no reportable action.

ADJOURNMENT

The meeting adjourned at 5:15 p.m.

MINUTES PREPARED BY:

Michelle Wilson, Deputy City Clerk



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.

DRAFT



Meeting Minutes City Council

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

Wednesday, September 27, 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.

A Special meeting was called for the purpose of conducting a workshop.

CALL TO ORDER

Mayor Tate called the special meeting to order at 5:34 p.m.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Wilson called the roll.

Attendee Name	Title	Status	Arrived
Steve Tate	Mayor	Present	
Larry Carr	Mayor Pro Tem	Present	
Rich Constantine	Council Member	Present	

Minutes Acceptance: Minutes of Sep 27, 2017 5:30 PM (CONSENT CALENDAR)

Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

DECLARATION OF POSTING AGENDA

Deputy City Clerk Michelle Wilson declared the posting of the agenda.

WORKSHOP

The purpose of the workshop was to discuss cannabis related policies.

City Manager Steve Rymer introduced the workshop.

Police Chief David Swing introduced David McPherson with HdI Companies who provided a presentation.

The public comment was opened at 6:46 p.m. The following people were called to speak:

Sean Kali-Rai

Doug Muirhead

Brian Faircloth

Ryan Treffers

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

The meeting went into recess at 6:56 p.m.

REGULAR MEETING

7:00 P.M.

The regular meeting was convened at 7:05 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Spring thanked the Chamber of Commerce and the many volunteers that organized the Taste of Morgan Hill, it was a beautiful event. He shared that last night he attended a panel discussion organized by American Association of University Women (AAUW) regarding homelessness and what we can do as individuals to help. He thanked the AAUW as well as the panel members that attended and provided insight. This is a topic that is near and dear to his heart. It is not just the mentally ill or those who have never had anything that are struggling with homelessness, it is also our middle class that are losing their homes. We have more and more of those people in our city and we need to find a solution for them. We don't have the answers yet, but with this Council, we can address more of those topics.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin has no report.

OTHER REPORTS

None.

PRESENTATIONS

Donation for Downtown Parks from Rotary Club of Morgan Hill

Donation for the Community Park tennis courts from the Morgan Hill Tennis Club

YAC Presentation Asset #6 - Parent Involvement in Schooling

PROCLAMATIONS

Proclaiming Sunday, October 22, 2017 as the Bicentennial Birthday of Bahá'u'lláh

CITY MANAGER'S REPORT

City Manager Steve Rymer thanked everyone for attending. He announced the evening's supplement and presentations. He provided an update on the South Monterey Road pavement project from Dunne Avenue to Middle Avenue. The project should be completed within the next few weeks. He then shared that by the end of this week, we will have six additional accessible parking spaces available Downtown.

He thanked the City Council and former Council Members Librers and Siebert for their support and confidence. He then recognized the community for their outstanding engagement, for coming together to serve the community, and for all their support. He thanked City Attorney Donald Larkin for being a great teammate and for all his support. He thanked all his city teammates for being true teammates, for their dedication to serve, and for all their exceptional work. He congratulated Christina Turner on her appointment as City Manager and thanked all the folks that showed up to support her.

Mayor Tate commented that Steve Rymer said it all when he said, "make Morgan Hill even better". He continued by stating that he feels that the statement applies to all the City Council and every employee of the City of Morgan Hill and that Steve has brought that to life over the last four and a half years.

Council Member Constantine shared that it has been a pleasure having Steve serve as City Manager.

Council Member Jachimowicz commented that so much about Morgan Hill that is great, is going to be Steve's legacy.

Council Member Spring shared his gratitude for all the amazing contributions Steve has brought to the community.

Council Member Carr mentioned how the Council was thrilled about the enthusiasm Steve brought to the organization. The City Manager at that time saw something in him and he was immediately given some difficult tasks to complete and he brought them to the success that they are today. Council Member Carr continued that he was excited to have the opportunity to interview and appoint Steve as City Manager. He was absolutely the right choice. He thanked Steve and his wife Helene for their commitment and dedication to the City and community.

PUBLIC COMMENT

The public comment was opened at 7:44 p.m.

Brian Faircloth was called to speak.

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

OTHER BUSINESS

1. APPOINTMENT OF CITY MANAGER

Recommendation:

1. Appoint Christina Turner as City Manager for the City of Morgan Hill;
2. Approve the Employment Agreement; and
3. Authorize the Mayor to execute the agreement on behalf of the City.

Mayor Tate provided the report.

The public comment was opened at 7:48 p.m.

There being no requests to speak, the public comment was closed.

MOTION:

Approving the recommended action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

OATH OF OFFICE

City Clerk Irma Torrez administered the Oath of Office to incoming City Manager Christina Turner.

Christina Turner thanked everyone in attendance for their support and shared how blessed she is to serve this city. She thanked her husband, son and daughter, mother and father, and brothers and their children for being here to support her. She also thanked her friends and former teammates from the City of Gilroy. She declared that the Council has her full support and dedication to the City and community. She thanked Steve Rymer for his guidance and leadership.

ADJOURN TO RECEPTION

The meeting adjourned to the reception at 7:58 p.m.

RECONVENE

The meeting was reconvened at 8:13 p.m.

CONSENT CALENDAR

MOTION:

Approving consent calendar items 2 through 13.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Larry Carr, Mayor Pro Tem
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

2. ROTARY DONATION FOR DOWNTOWN PARKS

Recommendation:

1. Accept donation of \$100,000 from the Rotary Club of Morgan Hill in support of elements of the Downtown Parks Project; and
2. Authorize the City Manager to execute and administer a donation agreement with the Rotary Club of Morgan Hill.

3. ACCEPT DONATION FROM THE MORGAN HILL TENNIS CLUB AND MAKE RELATED ADJUSTMENTS TO THE FISCAL YEAR 2017-18 BUDGET

Recommendation:

Adopt resolution accepting a \$11,000 donation from the Morgan Hill Tennis Club for court lighting improvements and amending the City's Adopted Fiscal Year 2017-18 Budget to reflect the increased revenues and expenses associated with the project.

4. APPROVE PROPOSAL FOR RAILROAD PARK SOUND WALL MURAL

Recommendation:

Approve art proposal for Railroad Park sound wall mural by Pamela Mossing.

5. CITY POSITION ON PENDING LEGISLATION AB 726 AND AB 813

Recommendation:

Receive legislative correspondence in opposition of AB 726 (Holden) Energy and AB 813 (Holden) Electricity: Independent System Operator: California Renewable Portfolio Standard Program: procurement.

6. AMEND AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.

Recommendation:

Approve the First Amendment to Consultant Agreement with Asset Protection Group Private Security Inc., increasing the contract amount from \$44,500 to \$65,500.

7. GRANT APPLICATION FOR IMPROVEMENTS AT LAKE SILVEIRA AND INSTALLATION OF THE SOUTHERN SEGMENT OF THE WEST LITTLE LLAGAS CREEK INTERPRETIVE WILDLIFE TRAIL PROJECT

Recommendation:

Adopt resolution authorizing the submission of a grant application to the State of California Habitat Conservation Fund (HCF) Program and the execution of grant documents if the grant application is successful.

8. SERVICES AGREEMENT WITH WATERSMART SOFTWARE FOR CUSTOMER ENGAGEMENT SERVICES

Recommendation:

Authorize the City Manager to execute an agreement for \$228,062 with WaterSmart Software for customer engagement services for a 57-month program.

9. CONSULTANT AGREEMENT WITH WILLDAN FINANCIAL SERVICES FOR DEVELOPMENT IMPACT FEE STUDY

Recommendation:

Approve consultant agreement with Willdan Financial Services to provide professional consulting services for a Development Impact Fee Study for \$74,320.

10. FINAL MAP APPROVAL OF DUNNE HILL MEADOWS - TRACT NO. 10378

Recommendation:

1. Approve the Final Map;
2. Authorize the City Manager to execute the Subdivision Improvements Agreement with Hanalei Land Co. LLC;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Final Map, Subdivision Improvements Agreement, and the Stormwater BMP Operation and Maintenance Agreement.

11. ADOPT ORDINANCE 2260, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL RENAMING CHAPTER 12.20 (CITY PARKS AND RECREATION BUILDINGS) AND SECTION 12.20.020 (PARK USE – GENERAL PROVISIONS) AND AMENDING SECTIONS 12.20.010 (DEFINITIONS) AND 12.20.060 (CONDUCT IN PARKS – GENERALLY) AND 12.20.80 (ACTIVITIES OR ACTIONS REQUIRING PRIOR APPROVAL FROM THE CITY) AND ADDING SECTIONS 12.20.062 (CONDUCT IN PUBLIC BUILDINGS AND FACILITIES), 12.20.064 (CONDUCT IN CITY PUBLIC PARKING LOTS AND FACILITIES), AND 12.20.067 (CONDUCT ON PUBLIC STREETS AND SIDEWALKS)

Recommendation:

Waive the reading, adopt Ordinance No. 2260, 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.

12. ADOPT ORDINANCE 2261, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL REPEALING ORDINANCE NO. 1398 ENTITLED “FLOOD DAMAGE PREVENTION ORDINANCE” IN ITS ENTIRETY AND CREATING A NEW CHAPTER 15.80 UNDER TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE MORGAN HILL MUNICIPAL CODE ENTITLED “FLOOD DAMAGE PREVENTION”

Recommendation:

Waive the reading, adopt Ordinance No. 2261, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

13. APPROVE THE SEPTEMBER 6, 2017 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

14. ADOPT FLAG RAISING POLICY

Recommendation:

Adopt City Council policy establishing criteria and procedures for raising flags at City facilities.

City Attorney Donald Larkin provided the report.

The public comment was opened at 8:18 p.m.

Brian Faircloth was called to speak.

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

MOTION:

Approving the recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Caitlin Jachimowicz, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

15. COMPLETE STREETS POLICY TO MAINTAIN THE CITY'S ELIGIBILITY FOR REGIONAL TRANSPORTATION FUNDING

Recommendation:

Adopt resolution approving a Complete Streets Policy.

Community Development Director Jennifer Carman provided the report.

The public comment was opened at 8:27 p.m.

Doug Muirhead was called to speak.

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

MOTION:

Approving the recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

16. JUNE 2017 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

Finance Director Dat Nguyen provided the report.

The public comment was opened at 8:40 p.m.

There being no requests to speak, the public comment was closed.

MOTION:

Approving the recommended action.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Rich Constantine, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

PUBLIC HEARING

17. APPROVE AMENDMENT TO FY 2017-18 CAPITAL IMPROVEMENT PROGRAM

Recommendation:

Adopt resolution amending the City's FY 2017-2018 Capital Improvement Program Budget to include the Rehabilitation of Sutter Boulevard (from Cochrane Road to Serene Drive).

Deputy Director for Engineering Scott Creer provided the report.

The public hearing was opened at 8:48 p.m.

There being no requests to speak, the public hearing was closed.

Motion:

Approving the recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

18. CONSIDERATION OF REVISED DEVELOPMENT SERVICES FEE SCHEDULE- TO BE CONTINUED TO OCTOBER 18, 2017

Recommendation:

Minutes Acceptance: Minutes of Sep 27, 2017 5:30 PM (CONSENT CALENDAR)

Open the public hearing to consider adoption of a resolution establishing revised development services user fees and continue the item to a date certain of October 18, 2017.

Community Development Director Jennifer Carman provided a brief report.

The public hearing was opened at 8:50 p.m.
There being no requests to speak, the public hearing was closed.

MOTION:

Continuing the public hearing to a future date.

RESULT:	CONTINUED TO A FUTURE MEETING [UNANIMOUS]
MOVER:	Larry Carr, Mayor Pro Tem
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Carr, Constantine, Jachimowicz, Spring

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Spring stated that homeless people in our town need access to restrooms, there are not many in our town. He would like the Council to review the open hours for the public restrooms and to look into the possibility of providing a place for the homeless to shower.

ADJOURNMENT

The meeting was adjourned at 8:56 p.m.

MINUTES PREPARED BY:

Michelle Wilson, Deputy City Clerk



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: October 4, 2017

PREPARED BY: Nichole Martin, Community Services Coordinator

APPROVED BY: City Manager

DOWNTOWN SPECIAL EVENTS AND STREET CLOSURES

RECOMMENDATION(S)

Approve the proposed revised Downtown Special Events Street Closure Policy.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2017 Strategic Priorities

Inclusiveness

POLICY CONSIDERATIONS:

The City regularly closes streets within the Downtown area for special events. This practice has been in place for many years for both large scale festivals and smaller one-day events. With the recent Downtown investment made by the City, requests for event closures in Downtown and on Third Street, continue to increase. Closing streets for these events supports the City's Economic Blueprint, but can be inconvenient to Downtown residents living within event areas. Historically, the City and event organizers have worked with local residents and businesses to minimize the impact of events. More recently, residents on Third Street have communicated their continued concern with events limiting their vehicular access.

Due to the increased demand for Downtown events, it is now appropriate for the Council to consider establishing a policy that will provide the framework for staff, Downtown residents and businesses, and event organizers. The Council may want to discuss the following policy considerations during its review of the proposed Downtown Special Event Street Closure Policy (Attachment 1).

- ☐ Should there be specific criteria, such as attendance levels, established for street closures?
- Should parking needs for businesses and residents be taken into consideration?
- ☐ Should Third Street continue to be identified as a primary location for mid-size events downtown?

REPORT NARRATIVE:

The City has long facilitated special events by allowing the closure of City streets to be used as event space. The vast majority of the special events requiring street closures are located in Downtown Morgan Hill. Many long-standing events such as the Taste of Morgan Hill, Fourth of July Parade, and Mushroom Mardi Gras attract tens of thousands of visitors, while some more recently started events have been attended by thousands.

Chapter 12.16 of the Morgan Hill Municipal Code, Events on Public Property, provides the framework for the use of public property for event purposes. The issuance of special event permits is coordinated by the City's Community Services Department and approval of major events (including those with street closures) is made by the City Manager. The purpose of this item is to further obtain clarification from the City Council relating to street closures for special events in the Downtown area.

The recent City downtown placemaking investment has increased the viability of the Downtown as a desirable event venue. When Third Street was first renovated, it was designed to be an area where special events could be accommodated. The recent addition of the parking structure and adjacent plaza area have furthered this concept. Specific details of Third Street make it very conducive for special events, including: sidewalks even with the street, numerous power supply locations, and a standard traffic control/street closure plan that is easy to implement. Furthermore, the approved, future private development has been designed to allow for continued special event use on Third Street.

Third Street is home to five houses, several businesses, and in the near future, condos/townhomes. Business owners, property owners, and residents have expressed their concerns regarding the closures of Third Street that prevent them from accessing their homes via vehicle during the events. These concerns include convenience of access, safety, and health considerations. Accommodations have been made by event organizers (most notably, nearby resident parking) and the City's Fire Department has assured the residents of response in an emergency during events. However, residents expressed their desire to eliminate regular closures of Third Street.

In follow-up to the recent discussion with residents and businesses, City staff is recommending the Council approve the proposed Downtown Special Event Street Closure Policy. The policy would be designed to allow events to continue in the Downtown and specifically on Third Street, but also provide criteria for those events to meet before a special event permit is considered. The proposed policy criteria include:

Attendance Levels

1. Regularly occurring special events established prior to the development of this policy shall be allowed to continue in their currently used locations regardless of attendance levels provided they continue to meet requirements outlined in the Municipal Code and all health and safety requirements outlined in the special

event permit process.

2. Proposed closures of Monterey Road through the Downtown will only be considered for events with anticipated attendance of over 1,000 and of major community significance as determined by the City Manager.
3. Proposed full street closures for other streets in Downtown shall only be considered for events with anticipated attendance of 500 or greater. First time events with anticipated attendance under 500, but with future growth planned over the next 5 years may also be permitted at the discretion of the City Manager.
4. Partial closures of Third Street shall be permitted for uses with anticipated attendance less than 500 and of community significance as determined by the City Manager.

Street Closure Traffic Considerations

1. Event permits shall not be issued for events that request full closure of Monterey Road during peak traffic hours, as determined by the City Engineer.
2. Event permits may be issued for events that request a closure of one side of Monterey Road during peak traffic hours, if it is the side of road that is reverse traffic, as determined by the City Engineer.
3. Staff will work with event organizers to develop event plans that take into consideration parking needs of residents and space needs of event organizers.

Third Street

Full Third Street closure permits may only be issued for events that need the entire street area for event space, as determined by the City Manager. For events that do not need the entire area, a partial closure may be permitted for a portion of the space, allowing for resident only access via vehicle.

The components of the policy are designed to continue to support events in the Downtown area, while allowing for street closures only for events that bring larger numbers of people. The special event permit review process involving street closures is time intensive for City staff and has greater impact on Downtown businesses and residences. In recognizing this, the minimum attendance numbers in the policy were developed. In response to the previous direction from the City Council, staff have attempted to develop more flexibility in the criteria for full closures for smaller events and those only closing a portion of Third Street.

COMMUNITY ENGAGEMENT: Collaborate

City staff hosted a Community Meeting on August 16th, sent out emails to the Downtown area, and specifically to Third Street residents and event organizers. City staff also mailed letters to residents and businesses in the Downtown area. During the public engagement, several suggestions relating to special events in general were provided by

residents and businesses. These general suggestions for process improvements were taken into consideration by staff and many will be utilized to improve the current process (Attachment 2).

Development of the Third Street area and adjacent plaza was discussed at length with the community prior to and during the recent construction downtown.

ALTERNATIVE ACTIONS:

The City Council may elect to make changes to the proposed policy or provide staff with additional direction.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council asked that the initial proposed policy presented on June 21, 2017 be revised. Prior to this, the City Council previously updated Chapter 12.16 of the municipal code, relating to special events, on June 16, 1999.

FISCAL AND RESOURCE IMPACT:

There is no direct fiscal impact associated with the proposed policy. Special events support the inclusiveness, tourism, and economic development goals of the City.

CEQA (California Environmental Quality Act):

Categorical Exemption

The policy for Downtown Street Closure is categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject policy involves the operation and permitting of existing City facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. Revision Draft Council Policy DT Events
2. Proposed SEP process enhancements

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-17-XX

SUBJECT: DOWNTOWN STREET CLOSURES

EFFECTIVE DATE: October 4, 2017

ORIGINATING DEPARTMENT: *COMMUNITY SERVICES DEPARTMENT*

PURPOSE

Chapter 12.16 of the Morgan Hill Municipal Code, Events on Public Property, outlines requirements for special events and the associated permit process. The primary purpose of this policy is to provide guidance to staff in the issuance of special event permits that close streets in Downtown Morgan Hill.

POLICY

In recognition of the economic and community benefits of facilitating events in the Downtown area, while taking into consideration the residents whom which these events impact, the City Council establishes the following guidelines for use in the issuance of special event permits.

Attendance Levels

1. Regularly occurring special events established prior to the development of this policy shall be allowed to continue in their currently used locations regardless of attendance levels provided they continue to meet requirements outlined in the Municipal Code and all health and safety requirements outlined in the special event permit process.
2. Proposed closures of Monterey Road through the Downtown will only be considered for events with anticipated attendance of over 1,000 and of major community significance as determined by the City Manager.
3. Proposed full street closures for other streets in Downtown shall only be considered for events with anticipated attendance of 500 or greater. First time events with anticipated attendance under 500, but with future growth planned over the next 5 years may also be permitted.
4. Partial closures of Third Street shall be permitted for uses with anticipated attendance less than 500 and of community significance as determined by the City Manager.

Street Closure Traffic Considerations

1. Event permits shall not be issued for events that request full closure of Monterey Road during peak traffic hours, as determined by the City Engineer.
2. Event permits may be issued for events that request a closure of one side of Monterey Road during peak traffic hours, if it is the side of road that is reverse traffic, as determined by the City Engineer.
3. Staff will work with event organizers to develop event plans that take into consideration parking needs of residents and space needs of event organizers.

Third Street

Full Third Street closure permits may only be issued for events that need the entire street area for event space, as determined by the City Manager. For events that do not need the entire area, a partial closure may be permitted for a portion of the space, allowing for resident only access via vehicle.

This policy shall remain in effect until modified or revoked by the City Council.

APPROVED:

STEVE TATE, MAYOR

Proposed Special Event Permit Process Enhancements

As a result of the feedback received from community members, residents, business owners, and event organizers, we have identified several items to enhance our current special events permitting process. Although many of these items are being done, they are not a formal part of the process. We anticipate all items to be implemented by July 2018.

Maintenance

- Formalize the maintenance and cleanup plan. Include locations and plan for trash/recycling, a contact for cleanup/follow up, and a map of area with garbage locations. This plan will not allow for City trash cans to be covered, unless the event trash can is placed next to the covered trash can. The event organizer will be responsible for the trash and recycling bins and litter within their event footprint and the surrounding area.
- Continue to schedule maintenance walk throughs the morning of the first business day following the event. Maintenance personnel will complete a check of the area and provide photos as needed for areas that do not meet cleanliness standards.
- Implement a maintenance deposit for all events in the downtown area or with major road closures. This fee will be in the amount of \$1,500. This would be refundable if the area is cleaned and maintained to the expectations of the City maintenance team. This deposit will be used to meet the expectations if the event organizer has not met those expectations after the event.
- Areas within the surrounding area of the event footprint that will require cleanup by the event organizer will be identified in the permit document.

Porta Potties

- Formalize the requirement for a Portable Restroom Plan. This would be required as a part of the permit document for any event taking place on a City street. This plan will include the locations of the portable restrooms and any ADA requirements.

Downtown Parks

- Downtown Parks are to remain open during events for public use.
- Park restrooms are to remain open to the public during the regular hours. These restrooms may not be relied on for use as an event restroom location.
- If the park falls within the event footprint area or the designated surrounding area, the event organizer is responsible for cleaning up the space, as is the case with the roadway, or other City facilities used for the event.

Parking Structure

- If the downtown parking structure falls within the event footprint area, the event organizer is responsible for cleaning up the space, as is the case with the roadway, or other City facilities used for the event.

- If parking spaces are requested to be reserved for the use of volunteers of the event, the event organizer will be required to provide security for this area. It is the event organizer's responsibility to ensure that the security personnel understand the procedures.
- No ADA spaces are to be blocked off at any time. They must remain open to the public.

Security

- Formalize the requirement for a Security Plan. This plan will be required as a part of the permit document for any event taking place on a City street. This plan will include the locations of the personnel as well as a contact person.

Conditional Approval and Notice to Impacted Area

- Event applications are required a minimum of 90 days prior to the event date. A late fee of \$200 will be applied to applications received after the 90 day deadline.
- For applications that are received 90 days or more before the event date, a conditional approval will be given once the rental contract is signed, SEP and rental fees are paid in full, and insurance has been approved by 60 days prior to the event.
- A letter of conditional approval will be sent to the event organizer. Once conditional approval has been provided, the event organizer must start working on the notification to the impacted area, with notification being provided a minimum of 30 days in advance of the event date.
- If the event organizer fails to provide the items necessary for the conditional approval within the designated time period the event may be cancelled, as determined by the City.

First-time Events

- Implement growth plan for first time events that intend to become annual events. This document will be included in the permit. This document will cover the anticipated attendance for the first year and a plan for growth over the next five years. This plan will also include the community benefit of the new event.



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Chris Ghione, Community Services Director

APPROVED BY: City Manager

APPROVE OUTDOOR SPORTS CENTER CONCESSIONAIRE AGREEMENT AMENDMENT

RECOMMENDATION(S)

Authorize the City Manager to execute and subsequently administer a Fourth Amendment to the Concessionaire Agreement with the Morgan Hill Youth Sports Alliance for the operations of the Outdoor Sports Center.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2017 Strategic Priorities

Infrastructure

POLICY CONSIDERATIONS:

The purpose of this report is to 1) propose an amendment to the agreement with the Morgan Hill Youth Sports Alliance (MHYSA) and 2) provide an update on the RFP process and next steps in operations at the Outdoor Sports Center (OSC). A primary consideration the Council may wish to review is the reduction of the concessionaire payment obligations for the MHYSA over the next two fiscal years. While considering this reduction, the Council may want to take into account the future transition to a new operator, ongoing maintenance and use of the facility, and alternative options for managing the site.

REPORT NARRATIVE:

On May 17, 2017, City staff provided a report to the City Council outlining the status of operations at the OSC. In that report City staff noted that the current concessionaire was delinquent in its scheduled payments to the City and was facing financial hardships. The purpose of this report is to follow-up on the situation and address a request from the MHYSA to amend the current concessionaire agreement.

Current Concessionaire Status and Agreement Amendment

The MHYSA continues to operate the OSC without any direct cost to the City. However, reduced event bookings through Fiscal Year 2016-17 resulted in the MHYSA suffering a loss for the Fiscal Year. The year-end report provided by the MHYSA is included as Attachment 2. This report is unaudited as the audit for Fiscal Year 2016-17 will not commence for another month.

The MHYSA is currently delinquent in making its quarterly payments for April and July, owing the City \$22,500. The team at the MHYSA has been in communication with the City on the funding it owes to the City. The MHYSA has noted they have been prioritizing their dollars on ongoing operations contracts and maintaining the facility. These late payments place the MHYSA in default of the agreement, which provides the City the option to terminate the concessionaire agreement.

The MHYSA has assessed its financial situation and provided a letter to the City (Attachment 3), which outlines the situation and makes a request for an amendment to the concessionaire agreement. The MHYSA team indicate that they will be able to make the back payments for Fiscal Year 2016-17 in the very near future, but are requesting reduced payments for the next two fiscal years. These requests include a payment reduction from \$60,000 to \$45,000 in Fiscal Year 2017-18 and from \$70,000 to \$45,000 in Fiscal Year 2018-19. The MHYSA further requests that they be allowed to make the last two years of payments on a semi-annual basis instead of a quarterly basis.

City staff recommends the proposed amendment (Attachment 1) to the agreement be approved by the City Council. Although this will reduce anticipated revenues by \$40,000 over the next two years, staff believes that even with this reduction in payments, this will be an aggressive financial goal for the MHYSA. Staff also believes the reduced payment amounts will support the transition to a future operator by July 2019. With this amendment, it is believed the MHYSA will be able to continue to support use by local groups and regional users and still continue to maintain the facility.

Request for Proposals and Future Operations Update

On July 19, 2017, the City Council authorized the City to move forward with an RFP process designed to find a new operator for the OSC. The RFP process developed incorporates this goal and additionally provides an opportunity for future public-private development at the OSC or adjacent sites. On September 8, the RFP was issued and the process started. The RFP Process is one that occurs in two parts. Those interested in ultimately submitting a proposal shall submit a Letter of Interest (LOI) to participate in the proposal process. Subsequently, the City will request detailed proposals from selected organizations. The RFP is now available on the City website and the following schedule has been developed.

September 8, 2017	Request for Letters of Interest Opens
October 2017	Tours and Informational Meetings
November 17, 2017	Letters of Interest Due
Early December 2017	Interviews with LOI Submitters
January 17, 2018	Review of LOI by City Council
January 18, 2018	Invitation for Proposals Released
February 16, 2018	Proposals Due
Late February 2018	Interviews on Proposals
March 20, 2018	Recommendations to Parks & Recreation Commission
April 4, 2018	Review by City Council
April- May 2018	Agreement(s) negotiated by City Staff

June 2018

Agreement(s) to City Council for Approval

In addition to moving the RFP process forward, City staff has had ongoing meetings with the Morgan Hill Hotel Group and Chamber of Commerce on the future development of a Destination Management Organization that supports sports tourism. These discussions have moved forward positively with all involved agreeing to move forward in evaluating a Tourism Based Improvement District to support this purpose. This evaluation is underway and anticipated to be completed by early next calendar year.

COMMUNITY ENGAGEMENT: Consult

City teammates reached out to local stakeholders, including youth sports organizations, hotels, and other interested groups to take input in the development of the RFP. Staff worked directly with the MHYSA on the agreement amendment and no engagement with other organizations was performed in relation to the requested amendment to the operating agreement.

ALTERNATIVE ACTIONS:

The Council may alternatively not approve the amendment and provide staff with further direction on negotiations with the MHYSA. City staff do not believe MHYSA will be able to adequately maintain the facility and make the full payments to the City through the contract term. This should be taken into consideration in any future negotiations.

The MHYSA is currently in default, therefore, the City Council could direct staff to terminate the agreement. Should the Council move forward with this action, a significant amount of work conducted by the Community Services Department would need to be eliminated or delayed to take on the task of immediately managing the facility. This would also immediately create new expenses associated with operating the OSC. For these reasons, staff is not recommending this option.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 19, 2010 - Selected the MHYSA as the operator of the OSC
- June 16, 2010 - Approved the Concessionaire Agreement with the MHYSA
- June 19, 2013 - Approved First Amendment to Concessionaire Agreement with the MHYSA
- September 24, 2014 - Audits of MHYSA operations of OSC presented
- October 1, 2014 - Council received OSC operations update and directed staff to offer the MHYSA a one year extension to the Concessionaire Agreement
- December 3, 2014 – Council approved Second Amendment to the Concessionaire Agreement with the MHYSA extending it for one year through June 2016
- February 17, 2015 – The Parks and Recreation Commission reviewed operations and made a recommendation to Council on future OSC operations
- March 4, 2015 – Council directed staff to negotiate an agreement extension with the MHYSA
- May 18, 2016 – City approved Third Amendment to the Concessionaire Agreement with the MHYSA extending it for an additional three years and updating various provisions.

- May 17, 2017 – City staff presented an update on OSC operations and made recommendations on future operations.
- July 19, 2017 – Council directed staff to issue an RFP for future operators of the OSC and authorized the replacement of the two artificial turf fields.

FISCAL AND RESOURCE IMPACT:

If approved, the amendment will reduce the required payment by the MHYSA to the City for the final two years of agreement. This reduction would result in an anticipated revenue reduction to the General Fund (010) of \$40,000 (\$15,000 in Fiscal Year 2017-18 and \$25,000 in Fiscal Year 2018-19).

CEQA (California Environmental Quality Act):

Categorical Exemption

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

LINKS/ATTACHMENTS:

1. Attachment 1 - MHYSA Fourth Amendment
2. Attachment 2 - Q42016-17 Status Report
3. Attachment 3 - Financial Consideration Letter

**FOURTH AMENDMENT TO
AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF
THE OUTDOOR SPORTS CENTER CONCESSION
BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL YOUTH SPORTS ALLIANCE**

This FOURTH AMENDMENT TO AGREEMENT ("FOURTH AMENDMENT") is made and entered into as of this ____ day of _____, 2017 (the "EFFECTIVE DATE"), by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY") and the MORGAN HILL YOUTH SPORTS ALLIANCE ("CONCESSIONAIRE"), a California non-profit corporation.

RECITALS

The Parties intend that the following recitals are a substantive part of this FOURTH AMENDMENT:

1. This FOURTH AMENDMENT is entered into based upon City of Morgan Hill City Council action taken on October 4, 2017.
2. A Third Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on May 18, 2016 ("THIRD AMENDMENT").
2. A Second Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on December 3, 2014 ("SECOND AMENDMENT").
3. A First Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on October 2, 2012 ("FIRST AMENDMENT").
4. CITY and CONCESSIONAIRE entered an Agreement for the Operation and Maintenance of the Outdoor Sports Center Concession made as of July 1, 2010, to provide a well-maintained and operated sports field and related facilities, services and advertising opportunities ("AGREEMENT"). The AGREEMENT, FIRST AMENDMENT, SECOND AMENDMENT and THIRD AMENDMENT are collectively attached as Exhibit "A" to this FOURTH AMENDMENT and incorporated herein by this reference.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY THE PARTIES HERETO, THE PARTIES FURTHER MUTUALLY AGREE AS FOLLOWS:

SECTION 1. Amendments: Pursuant to the provisions of Section 31 of the AGREEMENT, the Parties agree that all of the terms and conditions of the AGREEMENT, as amended by the FIRST AMENDMENT, SECOND AMENDMENT, and THIRD AMENDMENT attached collectively hereto as Exhibit "A", shall remain in full force and effect except that the parties hereto agree that the following further amendments shall be made and incorporated into the AGREEMENT, as amended to date, as follows:

A. SECTION 5 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 5. CONCESSION FEE AND PAYMENT

A. Quarterly Concession Fee:

As part of the consideration for CITY'S granting the concession rights set forth in this AGREEMENT, CONCESSIONAIRE shall pay the CITY quarterly concession fee as follows:

1. \$10,000 due on October 10, 2010 for the quarter ending September 30, 2010.
2. \$20,000 due on January 10, 2011 for the quarter ending December 31, 2010.
3. \$20,000 due on April 10, 2011 for the quarter ending March 31, 2011.
4. \$15,000 due on July 10, 2011 for the quarter ending June 30, 2011.
5. For the FISCAL YEAR 2011-2012, equal quarterly payments totaling \$65,000.
6. For the FISCAL YEAR 2012-2013, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
7. For the FISCAL YEAR 2013-2014, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
8. For the FISCAL YEAR 2014-2015, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
9. For the FISCAL YEAR 2015-2016, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.

10. For the FISCAL YEAR 2016-2017, equal quarterly payments totaling \$45,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter.
11. For the FISCAL YEAR 2017-2018, equal semi-annual payments totaling \$45,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter. Semi-annual payments shall be due January 10, 2018 and July 10, 2018.
12. For the FISCAL YEAR 2018-2019, equal semi-annual payments totaling \$45,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter. Semi-annual payments shall be due January 10, 2019 and July 10, 2019.

Sections B through D are unchanged and incorporated herein by this reference.

F. SECTION 35 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 35 CONFLICTING PROVISIONS

Except as expressly set forth in this FOURTH AMENDMENT, the AGREEMENT, as amended by the prior THIRD AMENDMENT, SECOND AMENDMENT and FIRST AMENDMENT, shall remain unchanged and continue in full force and effect in accordance with its terms. If there is conflict between the terms and conditions of this FOURTH AMENDMENT and the terms and conditions of the AGREEMENT, as amended by the prior FIRST AMENDMENT, SECOND AMENDMENT AND THIRD AMENDMENT, the terms and conditions of this FOURTH AMENDMENT will control, govern, and prevail.

IN WITNESS WHEREOF, the parties to this FOURTH AMENDMENT have executed this AMENDMENT to be effective as of the EFFECTIVE DATE first set forth hereinabove.

ATTEST:

Michelle Wilson, Deputy City Clerk
Date: _____

APPROVED AS TO FORM:

Donald A. Larkin, City Attorney
Date: _____

CITY OF MORGAN HILL:

Christina Turner, City Manager
Date: _____

MORGAN HILL YOUTH SPORTS
ALLIANCE:

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

Date: _____

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

Date: _____

**THIRD AMENDMENT TO
AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF
THE OUTDOOR SPORTS CENTER CONCESSION
BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL YOUTH SPORTS ALLIANCE**

This THIRD AMENDMENT TO AGREEMENT ("THIRD AMENDMENT") is made and entered into as of this 13th day of June, 2016 (the "EFFECTIVE DATE"), by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY") and the MORGAN HILL YOUTH SPORTS ALLIANCE ("CONCESSIONAIRE"), a California non-profit corporation.

RECITALS

The Parties intend that the following recitals are a substantive part of this THIRD AMENDMENT:

1. This THIRD AMENDMENT is entered into based upon City of Morgan Hill City Council action taken on May 18, 2016.
2. A Second Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on December 3, 2014 ("SECOND AMENDMENT").
3. A First Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on October 2, 2012 ("FIRST AMENDMENT").
4. CITY and CONCESSIONAIRE entered an Agreement for the Operation and Maintenance of the Outdoor Sports Center Concession made as of July 1, 2010, to provide a well-maintained and operated sports field and related facilities, services and advertising opportunities ("AGREEMENT"). The AGREEMENT, FIRST AMENDMENT, AND SECOND AMENDMENT are collectively attached as Exhibit "A" to this THIRD AMENDMENT and incorporated herein by this reference.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY THE PARTIES HERETO, THE PARTIES FURTHER MUTUALLY AGREE AS FOLLOWS:

SECTION 1. Amendments: Pursuant to the provisions of Section 31 of the AGREEMENT, the Parties agree that all of the terms and conditions of the AGREEMENT, as amended by the FIRST AMENDMENT AND SECOND AMENDMENT attached collectively hereto as Exhibit "A", shall remain in full force and effect except that the parties hereto agree that the following further amendments shall be made and incorporated into the AGREEMENT, as amended to date, as follows:

A. SECTION 4 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 4. TERM OF AGREEMENT

A. The term of the Concession AGREEMENT shall be nine (9) years subject to early termination as set forth below.

Sections B through D are unchanged and incorporated herein by this reference.

B. SECTION 5 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 5. CONCESSION FEE AND PAYMENT

A. Quarterly Concession Fee:

As part of the consideration for CITY'S granting the concession rights set forth in this AGREEMENT, CONCESSIONAIRE shall pay the CITY quarterly concession fee as follows:

1. \$10,000 due on October 10, 2010 for the quarter ending September 30, 2010.
2. \$20,000 due on January 10, 2011 for the quarter ending December 31, 2010.
3. \$20,000 due on April 10, 2011 for the quarter ending March 31, 2011.
4. \$15,000 due on July 10, 2011 for the quarter ending June 30, 2011.
5. For the FISCAL YEAR 2011-2012, equal quarterly payments totaling \$65,000.
6. For the FISCAL YEAR 2012-2013, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
7. For the FISCAL YEAR 2013-2014, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.

8. For the FISCAL YEAR 2014-2015, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
9. For the FISCAL YEAR 2015-2016, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
10. For the FISCAL YEAR 2016-2017, equal quarterly payments totaling \$45,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter.
11. For the FISCAL YEAR 2017-2018, equal quarterly payments totaling \$60,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter.
12. For the FISCAL YEAR 2018-2019, equal quarterly payments totaling \$70,000 and an amount equal to 25% of total revenue generated through advertisement programs each quarter.

Sections B through D are unchanged and incorporated herein by this reference.

C. SECTION 6 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 6. ADDITIONAL PAYMENT OBLIGATIONS

For the purposes of this Section 6 and this AGREEMENT, the term "gross revenue" shall mean the total amount charged for the use of the PREMISES or OSC, or sale of any goods, services (whether or not such services are performed as a part of or in connection with the sale of goods) or advertising provided in connection with this AGREEMENT. "Net income" shall mean the gross revenue less operation and interest expenses.

A. Capital Improvement Fund: CONCESSIONAIRE shall deposit the following into an OSC Capital Improvement Fund to be established and held by the CITY:

1. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2011-2012, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to that amount of CONCESSIONAIRE'S "net income" that exceeds one hundred thousand dollars (\$100,000) of net income during the first two FISCAL YEARS of the term of this AGREEMENT.
2. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of the net income of that FISCAL YEAR, **through FISCAL YEAR 2015-16.**

3. No later than the ninetieth (90th) day after the end of FISCAL YEAR 2016-17, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of that amount of CONCESSIONAIRE'S "net income" that exceeds one hundred thousand dollars (\$100,000) of net income during FISCAL YEAR 2016-17.

4. No later than the ninetieth (90th) day after the end of FISCAL YEAR 2017-18, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of that amount of CONCESSIONAIRE'S "net income" that exceeds seventy thousand dollars (\$70,000) of net income during FISCAL YEAR 2017-18.

5. No later than the ninetieth (90th) day after the end of FISCAL YEAR 2018-19, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of that amount of CONCESSIONAIRE'S "net income" that exceeds fifty thousand dollars (\$50,000) of net income during FISCAL YEAR 2018-19.

6. CITY shall use amounts deposited in the Capital Improvement Fund only for the purpose of constructing or improving IMPROVEMENTS according to the Capital Improvement Program referenced in Section 10.

B. Net Income Share: Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY the amount equal to ten percent (10%) of the net income of that FISCAL YEAR, **through FISCAL YEAR 2015-16.**

Sections C through E are unchanged and incorporated herein by this reference.

D. SECTION 9 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 9. OPERATING RESPONSIBILITIES

Sections A through D are unchanged and incorporated herein by this reference.

E. Marketing and Promotion CONCESSIONAIRE shall use its best efforts to market and promote the usage of the OSC and Premises for purposes permitted under this AGREEMENT. The CITY reserves the right to concurrently market and promote the use of the OSC. Status on marketing efforts shall be included in quarterly status report provided as outlined in Section 5D. The CITY shall commit to dedicate staff resources and funding to support regional sports tourism promotion on, including promotion of use of, the Outdoor Sports Center.

Sections F through L are unchanged and incorporated herein by this reference.

M. Special Event Permits: CONCESSIONAIRE shall submit a City special event application for any uses occurring outside the PREMISES, including, but not limited to, the closure of adjacent streets. All required traffic control responsibilities will be documented in the permit. The CITY will issue permits at no charge as long as permit applications are submitted 30 days in advance.

N. Parking Plans: CONCESSIONAIRE shall be required to submit a written parking plan to the CITY for all events that are anticipated to exceed 2,500 people in attendance.

O. Joint Advertising: CONCESSIONAIRE and the CITY shall develop a joint advertising plan for the PREMISES and the adjacent Morgan Hill Aquatics Center. The CONCESSIONAIRE shall have the ability to sell joint advertising.

E. SECTION 10 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 10. MAINTENANCE AND REPAIR

Sections A through J are unchanged and incorporated herein by this reference.

K. The CITY shall make good faith effort to include provisions within requests for proposals and contracts for citywide maintenance services that provide for City pricing to be extended to the CONCESSIONAIRE for work performed at the PREMISES.

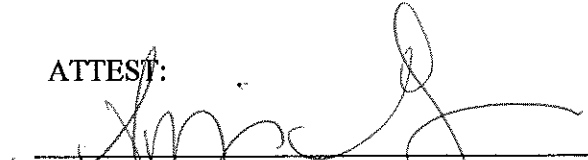
F. SECTION 35 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 35 CONFLICTING PROVISIONS

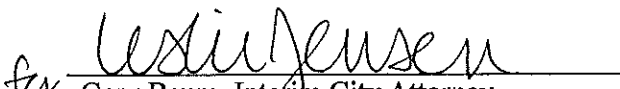
Except as expressly set forth in this THIRD AMENDMENT, the AGREEMENT, as amended by the prior SECOND AMENDMENT and FIRST AMENDMENT, shall remain unchanged and continue in full force and effect in accordance with its terms. If there is conflict between the terms and conditions of this THIRD AMENDMENT and the terms and conditions of the AGREEMENT, as amended by the prior FIRST AMENDMENT AND SECOND AMENDMENT, the terms and conditions of this THIRD AMENDMENT will control, govern, and prevail.

IN WITNESS WHEREOF, the parties to this THIRD AMENDMENT have executed this AMENDMENT to be effective as of the EFFECTIVE DATE first set forth hereinabove.

ATTEST:


 Michelle Wilson, Deputy City Clerk
 Date: 6/11/16

APPROVED AS TO FORM:

for 
 Gary Baum, Interim City Attorney
 Date: 06/01/16
 Resolution NO. 16-079

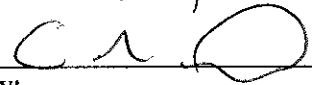
CITY OF MORGAN HILL:


 Steve Rymer, City Manager
 Date: 6/1/16

MORGAN HILL YOUTH SPORTS ALLIANCE:


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

Date: 5/11/16


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

Date: 5/11/2016

126-04-10-039

SECOND AMENDMENT TO
AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF
THE OUTDOOR SPORTS CENTER CONCESSION
BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL YOUTH SPORTS ALLIANCE

This SECOND AMENDMENT TO AGREEMENT ("AMENDMENT") is made and entered into as of this third day of December, 2014 (the "EFFECTIVE DATE"), by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY") and the MORGAN HILL YOUTH SPORTS ALLIANCE ("CONCESSIONAIRE"), a California non-profit corporation.

RECITALS

The parties intend that the following recitals are a substantive part of this AMENDMENT:

1. This AMENDMENT is entered into based upon City of Morgan Hill City Council action taken on December 3, 2014.
2. A First Amendment to the AGREEMENT described below was entered into based upon City of Morgan Hill City Council action taken on October 2, 2012 and is attached hereto as Exhibit "B" and incorporated herein by this reference.
2. CITY and CONCESSIONAIRE entered an Agreement for the Operation and Maintenance of the Outdoor Sports Center Concession made as of July 1, 2010, to provide a well-maintained and operated sports field and related facilities, services and advertising opportunities ("AGREEMENT"). The AGREEMENT is attached as Exhibit "A" to this AMENDMENT and incorporated herein by this reference.

AGREEMENT

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY THE PARTIES HERETO, THE PARTIES FURTHER MUTUALLY AGREE AS FOLLOWS:

SECTION 1. Amendments: Pursuant to the provisions of Section 31 of the AGREEMENT, the parties agree that all of the terms and conditions of the AGREEMENT as attached as Exhibit "A" and as amended by the First Amendment to the AGREEMENT attached as Exhibit "B" shall remain in full force and effect except that the parties hereto agree that the following further amendments shall be made and incorporated into the AGREEMENT, as amended to date, as follows:

A. SECTION 4 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 4. TERM OF AGREEMENT

- A. The term of the Concession AGREEMENT shall be six (6) years subject to early termination as set forth below.
- B. The CITY may terminate this Agreement upon an event of default and notice as set forth in Section 20.
- C. The CITY may terminate this Agreement pursuant to Section 14C.
- D. The CITY or CONCESSIONAIRE may terminate this Agreement without cause 180 days after the delivery of notice to the other party of its intent to terminate this Agreement.

B. SECTION 5 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

SECTION 5. CONCESSION FEE AND PAYMENT

A. Quarterly Concession Fee:

As part of the consideration for CITY'S granting the concession rights set forth in this AGREEMENT, CONCESSIONAIRE shall pay the CITY quarterly concession fee as follows:

1. \$10,000 due on October 10, 2010 for the quarter ending September 30, 2010.
2. \$20,000 due on January 10, 2011 for the quarter ending December 31, 2010.
3. \$20,000 due on April 10, 2011 for the quarter ending March 31, 2011.
4. \$15,000 due on July 10, 2011 for the quarter ending June 30, 2011.
5. For the FISCAL YEAR 2011-2012, equal quarterly payments totaling \$65,000.
6. For the FISCAL YEAR 2012-2013, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.

7. For the FISCAL YEAR 2013-2014, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
8. For the FISCAL YEAR 2014-2015, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
9. For the FISCAL YEAR 2015-2016, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.

B. Payment Due Date

Payments of quarterly concession fees every FISCAL YEAR to the City shall be made for each quarter ending March 31, June 30, September 30 and December 31 of each FISCAL YEAR and shall be due and payable by the tenth day after the quarters ending March 31, September 30 and December 31 (April 10, October 10 and January 10 respectively) and the thirtieth day after the quarter ending June 30 (July 30) ("Payment Due Dates") during the term of the AGREEMENT.

C. Method of Payment

The quarterly concession payments shall be addressed to:

Community Services Department
ATTN: Director of Community Services
Outdoor Sports Center Concession Agreement
17575 Peak Avenue
Morgan Hill, CA 95037

D. Quarterly Concession Reports:

CONCESSIONAIRE shall transmit with each quarterly concession fee payment a quarterly Status Report, which includes quarterly statistical information on the following: ongoing programs, field reservations, participant levels, use by sports type, community and regional use levels, hours of use, marketing and sponsorship revenue, gross revenue and net receipts, expenses and revenues.

C. SECTION 35 of the AGREEMENT, as amended to date, shall be further amended to read in its entirety as follows:

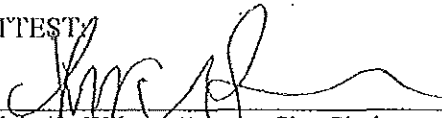
SECTION 35 CONFLICTING PROVISIONS

Except as expressly set forth in this AMENDMENT, the AGREEMENT, as amended by

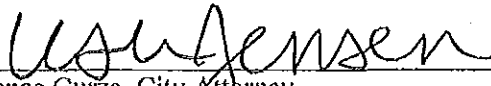
the prior First Amendment, shall remain unchanged and continue in full force and effect in accordance with its terms. If there is conflict between the terms and conditions of this AMENDMENT and the terms and conditions of the AGREEMENT, as amended by the prior First Amendment, the terms and conditions of this AMENDMENT will control, govern, and prevail.

IN WITNESS WHEREOF, the parties to this AMENDMENT have executed this AMENDMENT to be effective as of the EFFECTIVE DATE first set forth hereinabove.

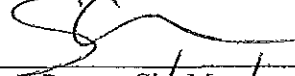
ATTEST:


 Michelle Wilson, Deputy City Clerk
 Date: 2/25/15

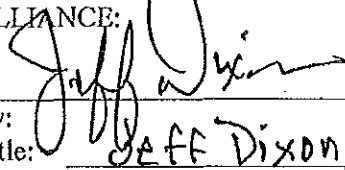
APPROVED AS TO FORM:


 Renee Gurza, City Attorney
 Date: 02/18/15

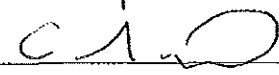
CITY OF MORGAN HILL:


 Steve Rymer, City Manager
 Date: 2/20/15

MORGAN HILL YOUTH SPORTS
 ALLIANCE:


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

Date: 11/25/14


 By: Christopher Gernity, Treasurer
 Title: Christopher Gernity, Treasurer
 Print Name and Title of Signer.
 If Corporate: Secretary, Assistant
 Secretary, Chief Financial Officer or
 Assistant Treasurer

Date: 11/25/2014

126-04-10-039

FIRST AMENDMENT TO
AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF
THE OUTDOOR SPORTS CENTER CONCESSION
BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL YOUTH SPORTS ALLIANCE

This FIRST AMENDMENT TO AGREEMENT is made and entered into this 8/14/13 day of June, 2013, by the CITY OF MORGAN HILL, a municipal corporation ("CITY") and MORGAN HILL YOUTH SPORTS ALLIANCE ("CONCESSIONAIRE"), a California non-profit corporation.

RECITALS

The following recitals are a substantive part of this Agreement:

1. This First Amendment to Agreement is entered into based upon City of Morgan Hill City Council action taken on October 2, 2012.
2. The CITY and CONCESSIONAIRE entered an Agreement for the Operation and Maintenance of the Outdoor Sports Center Concession made as of July 1, 2010, to provide a well-maintained and operated sports field and related facilities, services and advertising opportunities ("AGREEMENT"). The AGREEMENT is attached as Exhibit "A" to this First Amendment to Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

Amendments: Pursuant to the provisions of Section 31, all terms and conditions of the AGREEMENT as attached as Exhibit "A" shall remain in full force and effect; except that the following amendments shall be made as follows:

SECTION 1. DEFINITIONS

AGENCY: The City of Morgan Hill

All other Definitions included in this Section 1 are unchanged and incorporated herein by this reference.

SECTION 5. CONCESSION FEE AND PAYMENT

A. Quarterly Concession Fee:

As part of the consideration for CITY'S granting the concession rights set forth in this AGREEMENT, CONCESSIONAIRE shall pay the CITY quarterly concession fee as follows:

1. \$10,000 due on October 10, 2010 for the quarter ending September 30, 2010.
2. \$20,000 due on January 10, 2011 for the quarter ending December 31, 2010.
3. \$20,000 due on April 10, 2011 for the quarter ending March 31, 2011.
4. \$15,000 due on July 10, 2011 for the quarter ending June 30, 2011.
5. For the FISCAL YEAR 2011-2012, equal quarterly payments totaling \$65,000.
6. For the FISCAL YEAR 2012-2013, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
7. For the FISCAL YEAR 2013-2014, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.
8. For the FISCAL YEAR 2014-2015, equal quarterly payments totaling \$65,000 and an amount equal to 15% of total revenue generated through advertisement programs each quarter.

B. Payment Due Date

Payments of quarterly concession fees every FISCAL YEAR to the City shall be made for each quarter ending March 31, June 30, September 30 and December 31 of each FISCAL YEAR and shall be due and payable by the tenth day after the quarters ending March 31, September 30 and December 31 (April 10, October 10 and January 10 respectively) and the thirtieth day after the quarter ending June 30 (July 30) ("Payment Due Dates") during the term of the AGREEMENT.

C. Method of Payment

The quarterly concession payments shall be addressed to:

Community Services Department
ATTN: Director of Community Services
Outdoor Sports Center Concession Agreement
17575 Peak Avenue
Morgan Hill, CA 95037

D. Quarterly Concession Reports:

CONCESSIONAIRE shall transmit with each quarterly concession fee payment a quarterly Status Report, which includes quarterly statistical information on the following: ongoing programs, field reservations, participant levels, use by sports type, community and regional use levels, hours of use, marketing and sponsorship revenue, gross revenue and net receipts, expenses and revenues.

SECTION 6. ADDITIONAL PAYMENT OBLIGATIONS

For the purposes of this Section 6 and this AGREEMENT, the term "gross revenue" shall mean the total amount charged for the use of the PREMISES or OSC, or sale of any goods, services (whether or not such services are performed as a part of or in connection with the sale of goods) or advertising provided in connection with this AGREEMENT. "Net income" shall mean the gross revenue less operation and interest expenses.

A. Capital Improvement Fund: CONCESSIONAIRE shall deposit the following into an OSC Capital Improvement Fund to be established and held by the CITY:

1. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2011-2012, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to that amount of CONCESSIONAIRE'S "net income" that exceeds one hundred thousand dollars (\$100,000) of net income during the first two FISCAL YEARS of the term of this AGREEMENT.

2. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of the net income of that FISCAL YEAR.

3. CITY shall use amounts deposited in the Capital Improvement Fund only for the purpose of constructing or improving IMPROVEMENTS according to the Capital Improvement Program referenced in Section 10.

B. Net Income Share: Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY the amount equal to ten percent (10%) of the net income of that FISCAL YEAR.

Sections C through E are unchanged and incorporated herein by this reference.

SECTION 8. OSC USAGE

F. Advertising. CONCESSIONAIRE shall have the right to pursue advertising and sponsorship agreements and offer space and locations at the OSC for advertising that are consistent with the City's approved policy (restricts pornography, religious and political organizations, firearms, tobacco, alcohol). CONCESSIONAIRE may be allowed to have temporary advertising for alcohol products for exclusively adult only tournaments occurring at the OSC upon approval by the GENERAL MANAGER. As a part of Morgan Hill tourism efforts CONCESSIONAIRE may be allowed to have advertising for local wineries and winery events upon approval by the GENERAL MANAGER. 15% of revenues derived from such advertising and sponsorship agreements shall be paid to the City quarterly as described in Section 5. A.2 & 5B.

Sections A through E and G through J are unchanged and incorporated herein by this reference.

SECTION 9. OPERATING RESPONSIBILITIES

B. Marketing and Promotion. CONCESSIONAIRE shall use its best efforts to market and promote the usage of the OSC and Premises for purposes permitted under this AGREEMENT. The CITY reserves the right to concurrently market and promote the use of the OSC. Status on marketing efforts shall be included in quarterly status report provided as outlined in Section 5.D.

Sections A through D and F through L are unchanged and incorporated herein by this reference.

SECTION 11. CAPITAL IMPROVEMENT PROGRAM

The CITY and CONCESSIONAIRE shall negotiate in good faith to develop and agree by December 31, 2013 upon a 10-year capital improvement program for the PREMISES and

OSC. Such program shall set forth the needed capital IMPROVEMENTS to be made within the 10 year program and the respective responsibilities of the CITY and CONCESSIONAIRE to fund and complete such program. The respective share of responsibility of the program shall reasonable reflect the following factors: the term of this AGREEMENT and possible future extension of the AGREEMENT, the expected life of IMPROVEMENTS, the degree to which the activities of each party contributes to the wear and tear on the IMPROVEMENTS or the need for the Improvements, and the expertise of each respective party to make any such IMPROVEMENTS.

SECTION 14. PERFORMANCE DEPOSIT AND ASSURANCES

B. Annual Progress Report. CONCESSIONAIRE shall submit no later than sixty (60) days after the end of each FISCAL YEAR a progress report of an annual compilation of information contained in the quarterly reports required in Section 5.D., as well as gross revenue and net receipts for each FISCAL YEAR (as defined in Section 6). CONCESSIONAIRE will include a profit and loss statement and balance sheet with each annual report.

Sections A and C are unchanged and incorporated herein by this reference.

SECTION 29. NOTICES

A. To CITY:

Unless otherwise stated in the AGREEMENT, written notices to CITY hereunder shall be addressed to Community Services Department, Attn: Director of Community Services, Outdoor Sports Center Concession Agreement, 17575 Peak Avenue, Morgan Hill, CA 95037.

All such notices may either be delivered personally or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

CITY shall provide CONCESSIONAIRE with written notice of any address change within thirty (30) days of the occurrence of said address change.

B. To CONCESSIONAIRE:

All such notices may either be delivered personally to the CONCESSIONAIRE or to any officer or responsible employee of CONCESSIONAIRE or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for

delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

Written notices to CONCESSIONAIRE shall be addressed to CONCESSIONAIRE as follows:

Morgan Hill Youth Sports Alliance
16755 Jackson Oaks Drive
Morgan Hill, CA 95037

CONCESSIONAIRE shall provide CITY with written notice of any address change within thirty (30) days of the occurrence of said address change.

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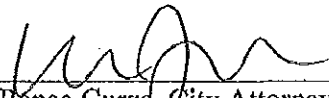
SECTION 34 CONFLICTING PROVISIONS

Except as expressly set forth in this First Amendment, the AGREEMENT shall remain unchanged and continue in full force and effect in accordance with its terms. If there is conflict between this First Amendment and the AGREEMENT, the terms of this First Amendment will control and prevail.

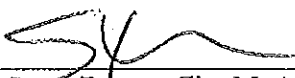
ATTEST:


Michelle Wilson, Deputy City Clerk
Date: 8/15/13

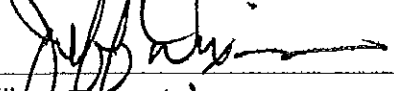
APPROVED AS TO FORM:

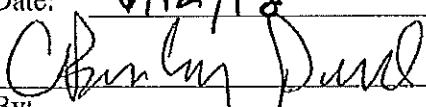
for 
Renee Gurza, City Attorney
Date: 08/14/13
Council Approval:
06/19/13

CITY OF MORGAN HILL


Steve Rymer, City Manager
Date: 8/14/13

MORGAN HILL YOUTH SPORTS
ALLIANCE


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

Date: 6/12/13

By: C BRADLEY DANIEL
Title: Secretary

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

Date: 6/12/13

**AGREEMENT FOR THE OPERATION AND MAINTENANCE
OF
THE OUTDOOR SPORTS CENTER CONCESSION**
Between
THE CITY OF MORGAN HILL
And
MORGAN HILL YOUTH SPORTS ALLIANCE

Dated: July 1, 2010

AGREEMENT FOR THE OPERATION AND MAINTENANCE OF THE
OUTDOOR SPORTS CENTER CONCESSION

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AGREEMENT FOR THE OPERATION AND MAINTENANCE

OF

THE OUTDOOR SPORTS CENTER CONCESSION

Between

THE CITY OF MORGAN HILL

And

MORGAN HILL YOUTH SPORTS ALLIANCE

THIS AGREEMENT is made and entered into on this day of July 1, 2010 ("EFFECTIVE DATE"), by and between the CITY OF MORGAN HILL, a municipal corporation ("CITY"), and MORGAN HILL YOUTH SPORTS ALLIANCE ("CONCESSIONAIRE"), a California non-profit corporation.

WHEREAS, CITY advertised for proposals for the operation and maintenance of the fields and related improvements known as the Outdoor Sports Center ("OSC") and related concessions; and

WHEREAS, the City Council determined, pursuant to Section 3.04.150 of the Morgan Hill Municipal Code, that the use of competitive bidding upon notice would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expense or delay under the circumstances because, unlike the purchase of a specified product, there is no single criterion, such as price comparison, that will determine which proposer can best provide the services required by the City for the improvement, operation and maintenance of the OSC or the Concessions. To select the best proposer for this Concession, the City Council found it is necessary to utilize a request for proposals process and to evaluate proposals received based upon the criteria included in the Request for Proposals ("RFP"); and

WHEREAS, the CITY'S Parks and Recreation Commission and Recreation and Community Services Department ("DEPARTMENT"), received and analyzed the proposals which were received on March 19, 2010; and

WHEREAS, the City Council determined that CONCESSIONAIRE was responsive to the RFP and was the best responsible proposer, and selected said proposer to operate the CONCESSION in accordance with the terms and conditions of this Concession Agreement (hereinafter "AGREEMENT"); and

WHEREAS, CONCESSIONAIRE desires to secure and enter into an agreement in accordance with the foregoing and undertakes to provide services of the type and character required therein by CITY to meet the needs of the public at the OSC; and

WHEREAS, the principal purpose of CITY entering into this AGREEMENT is to serve the public by providing a well-maintained and operated sports field and related facilities, services, and advertising opportunities (hereinafter "CONCESSIONS");

NOW THEREFORE, in consideration of the premises and of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties, it is agreed as follows:

SECTION 1. DEFINITIONS

For the purpose of this AGREEMENT, the following capitalized words and phrases not defined elsewhere in this AGREEMENT are defined and shall be construed as hereinafter set forth:

AGENCY: The Morgan Hill Redevelopment Agency.

AGREEMENT: This "AGREEMENT FOR THE OPERATION AND MAINTENANCE OF THE OUTDOOR SPORTS CENTER CONCESSION" and exhibits (A-E) attached hereto.

CODE: The Morgan Hill Municipal Code.

FISCAL YEAR: The period from July 1 to June 30 of the next calendar year.

GENERAL MANAGER: The Director of the DEPARTMENT.

IMPROVEMENTS: All buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY owned facilities (such as buildings, turf, fences, posts, signs, electrical hook-ups, irrigation systems, plumbing, tracks, tanks, etc.).

PREMISES: The geographical area, as defined in Exhibit A, which is the subject of this AGREEMENT and in which the CONCESSION may be operated.

SECTION 2. PERMISSION GRANTED

A. For and in consideration of the payment of the fees and charges as hereinafter provided, and subject to all of the terms, covenants, and conditions of this AGREEMENT, CITY hereby grants the CONCESSIONAIRE, subject to all of the terms and conditions of this AGREEMENT, the exclusive right and obligation within the PREMISES to: offer the use of the OSC and CONCESSIONS approved by the GENERAL MANAGER; to operate and maintain the OSC and CONCESSIONS for the purpose of hosting, organizing or scheduling of the OSC for sporting events appropriate for the OSC, including, but not limited to football, soccer, lacrosse, field hockey, rugby and cheerleading; and not for any other purpose without the prior written

consent of GENERAL MANAGER. The CONCESSION rights herein granted shall be carried on solely within the limits and confines of said areas designated as PREMISES (Exhibit A).

B. CONCESSIONAIRE, by accepting the AGREEMENT, agrees for itself, and its successors and assigns, that it will not make use of the PREMISES in any manner which might interfere with the recreational uses of the OSC.

C. CITY reserves the right to further develop or improve the PREMISES as it sees fit, without interference or hindrance, however the CITY shall consider the desire and views of CONCESSIONAIRE. No other activity, service or amenity shall be provided by CONCESSIONAIRE unless related to CONCESSION and without the express written approval of DEPARTMENT.

SECTION 3. PREMISES

A. The PREMISES (Exhibit A) subject to this AGREEMENT is located at:

16500 Condit Road

Morgan Hill, CA 95037

B. The OSC includes, but is not limited to, two (2) synthetic turf fields, nine (9) grass soccer fields, bleachers, field lights, an improved parking lot, overflow parking lot, concession/restroom building, corporation yard, well with booster pump, exterior fencing, public address system, and scoreboards.

C. CONCESSIONAIRE shall not use or allow the OSC or the PREMISES to be used, in whole or in part, during the term of the AGREEMENT, for any use in violation of any present or future laws, ordinances, rules, and regulations at any time applicable thereto of any public or governmental authority or agencies, departments or officers thereof, including CITY. These ordinances, rules, and regulations include those which relate to sanitation, public health, and safety.

D. At any time during the term of this AGREEMENT, CITY may, by resolution of the City Council fully setting forth the reasons therefor, require the CONCESSIONAIRE to surrender any portion of the PREMISES for a public necessity. Should CITY impose such a requirement on CONCESSIONAIRE, DEPARTMENT shall attempt to provide CONCESSIONAIRE with equivalent, substitute space.

SECTION 4. TERM OF AGREEMENT

A. The term of the Concession AGREEMENT shall be five (5) years subject to early termination as set forth below.

B. The CITY may terminate this Agreement upon an event of default and notice as set forth in Section 20.

C. The CITY may terminate this Agreement pursuant to Section 14D.

D. Either the CITY or CONCESSIONAIRE may terminate this Agreement without cause 180 days after the delivery of notice to the other party of its intent to terminate this Agreement.

SECTION 5. CONCESSION FEE AND PAYMENT

A. Quarterly Concession Fee:

As part of the consideration for CITY'S granting the concession rights set forth in this AGREEMENT, CONCESSIONAIRE shall pay the CITY a quarterly concession fee as follows:

1. \$10,000 due on October 10, 2010 for the quarter ending September 30, 2010.
2. \$20,000 due on January 10, 2011 for the quarter ending December 31, 2010.
3. \$20,000 due on April 10, 2011 for the quarter ending March 31, 2011.
4. \$15,000 due on July 10, 2011 for the quarter ending June 30, 2011.
5. For the FISCAL YEAR 2011-2012: equal quarterly payments totaling \$65,000.
6. For the FISCAL YEAR 2012-13: equal quarterly payments totaling the greater of (a) \$130,000 or (b) fifteen percent (15%) of the gross receipts.
7. For the FISCAL YEAR 2013-2014: equal quarterly payments equal to the greater of (a) \$130,000 or (b) fifteen percent (15%) of the gross receipts.
8. For the FISCAL YEAR 2014-2015: equal quarterly payments equal to the greater of (a) \$130,000 or (b) fifteen percent (15%) of the gross receipts.

B. Payment Due Date.

Payments of quarterly concession fees every FISCAL YEAR to the City shall be made for each quarter ending March 31, June 30, September 30 and December 31 of each FISCAL YEAR and shall be due and payable by the tenth day after the quarters ending March 31, September 30 and December 31 (April 10, October 10 and January 10 respectively) and the thirtieth day after the quarter ending June 30 (July 30) ("Payment Due Dates") during the term of the AGREEMENT.

C. Method of Payment.

The quarterly concession payments shall be addressed to:

Recreation and Community Services Department
ATTENTION: Director of Recreation and Community Services
Outdoor Sports Center Concession Agreement
17555 Peak Avenue
Morgan Hill, CA 95037

D. Gross Receipts Defined:

For the purposes of this Section 5 and this AGREEMENT, the term "gross receipts" shall mean the total amount charged for the use of the PREMISES or OSC, or sale of any goods, services

(whether or not such services are performed as a part of or in connection with the sale of goods) or advertising provided in connection with this AGREEMENT. Gross receipts shall not include:

1. Any sales taxes, use taxes, or excise taxes required by law to be included in or added to the purchase price and collected from the consumer or purchaser and paid by CONCESSIONAIRE;
2. California Redemption Value (CRV);
3. The value of any merchandise, supplies, or equipment exchanged or transferred from or to other business locations of CONCESSIONAIRE where such exchanges or transfers are not made for the purpose of avoiding a sale by CONCESSIONAIRE which would otherwise be made from or at the PREMISES;
4. Refunds from, or the value of, merchandise, supplies, or equipment returned to shippers, suppliers, or manufacturers;
5. Receipts from the sale at cost of uniforms, clothing, or supplies to CONCESSIONAIRE'S employees where such uniforms, clothing, or supplies are required to be worn or used by said employees;
6. Receipts from any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser to and accepted by CONCESSIONAIRE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit;
7. Fair market trade-in allowance, in the event merchandise is taken in trade;
8. The amount of any cash or quantity discounts received from sellers, suppliers, or manufacturers.

CONCESSIONAIRE shall not reduce or increase the amount of gross receipts, as herein defined, as a result of any of the following:

1. Any discount or reduced-price programs (such as the "Home Field Program") so that the full price that would have been charged absent any such discount or reduced-price program shall constitute the amount of gross receipts. (For example, if a regularly established rate is \$100, but the customer only pays \$75 through a discount or reduced-price program, the \$100 market rate will be used to calculate gross revenue.). Free usage by the CITY pursuant to Section 8D shall not be a discount or reduced-price program and shall not be counted as gross receipts;
2. Any error in cash handling by CONCESSIONAIRE or CONCESSIONAIRE'S employees or agents;
3. Any losses resulting from bad checks received from the consumers or dishonored payment to CONCESSIONAIRE by customer or purchaser; or
4. Any arrangement for a rebate, kickback, or hidden credit given or allowed to customer.

E. Quarterly Concession Reports:

1. CONCESSIONAIRE shall transmit with each concession fee payment a Quarterly Gross Receipts, also referred to as a Quarterly Remittance Advice Form, for the quarter for which concession fee is submitted.

2. Additionally, CONCESSIONAIRE shall maintain and submit to the CITY quarterly statistical information and reports on the following: ongoing programs, field reservations, participant levels, use by sports type, community and regional use levels, hours of use, gross receipts and net receipts, expenses and revenues.

SECTION 6. ADDITIONAL PAYMENT OBLIGATIONS

For the purposes of this Section 6 and this AGREEMENT, "net receipts" shall mean the gross receipts (as defined in Section 5) less operation and interest expenses.

A. Capital Improvement Fund: CONCESSIONAIRE shall deposit the following into an OSC Capital Improvement Fund to be established and held by the CITY:

1. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2011-2012, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to that amount of CONCESSIONAIRE'S net receipts that exceeds one hundred thousand dollars (\$100,000) of net receipts during the first two FISCAL YEARS of the term of this AGREEMENT.
2. Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY for deposit in the Capital Improvement Fund an amount equal to fifty percent (50%) of the net receipts of that FISCAL YEAR.
3. City shall use amounts deposited in the Capital Improvement Fund only for the purpose of constructing or improving IMPROVEMENTS according to the Capital Improvement Program referenced in Section 10.

B. Net Receipts Share: Not later than the thirtieth (30th) day after the end of FISCAL YEAR 2012-2013 and of each FISCAL YEAR thereafter, CONCESSIONAIRE shall pay to the CITY the amount equal to ten percent (10%) of the net receipts of that FISCAL YEAR.

C. Reimbursements: If CITY pays any sum or incurs any obligations or expense which CONCESSIONAIRE has agreed to pay or reimburse CITY for, or if CITY is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect, or refusal of CONCESSIONAIRE to perform or fulfill any one or more of the conditions, covenants, or agreements contained in the AGREEMENT, or as a result of an act or omission of CONCESSIONAIRE contrary to said conditions, covenants, and agreements, CONCESSIONAIRE agrees to pay to CITY the sum so paid or the expense so incurred, including all interest, costs (including CITY'S 15% administrative overhead cost), damages, and penalties. For all purposes under this Section, and in any suit, action, or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by CITY for any work done or material furnished shall be prima facie evidence that the amount of such payment was necessary and reasonable. Should CITY elect to use its own personnel in making any repairs, replacements, and/or alterations, and to charge CONCESSIONAIRE with the cost of same,

receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by CONCESSIONAIRE.

D. Impermissible Use. Use of the PREMISES for purposes not expressly permitted herein may result in additional charges; however, any such use without the prior written approval of the GENERAL MANAGER shall also constitute a material breach of this AGREEMENT and is prohibited.

E. Additional Concession Fees: Any amount due in subsection B, C and D shall be added to the concession fee payment thereafter due hereunder, and each and every part of the same shall be and become additional concession fee payment, recoverable by CITY in the same manner and with like remedies as if it were originally a part of the basic concession fee payment set forth in Section 6 hereof.

SECTION 7. LATE PAYMENT

A. Failure of CONCESSIONAIRE to pay any of the concession fee payments pursuant to Section 5 on Payment Due Date or any payments, charges, or fees required pursuant to Section 6 when due is a breach of the AGREEMENT for which CITY may terminate same pursuant to Section 20 or take such other legal action as it deems necessary.

B. Without waiving any rights available at law, in equity or under the AGREEMENT, in the event of late or delinquent payments, CONCESSIONAIRE recognizes that CITY will incur certain expenses as a result thereof, the amount of which is difficult to ascertain. Therefore, in addition to monies owing, CONCESSIONAIRE agrees to pay the CITY a late fee set forth below to compensate CITY for all expenses and or damages and loss resulting from said late or delinquent payments.

C. The charges for late or delinquent payments shall be \$50.00 for each month late plus interest calculated at the rate of eighteen percent (18%) per annum or one and one-half percent (1.5%) each month, assessed daily, on the balance of the unpaid amount. Payments shall be considered past due if postmarked after the tenth (10th) day of the month in which payment is due.

SECTION 8. OSC USAGE

Subject to the conditions set forth below, CITY agrees that CONCESSIONAIRE, upon payment of the concession fees, and all other charges and payments to be paid by CONCESSIONAIRE under the terms of this AGREEMENT, and upon observing and keeping the required terms, conditions and covenants of this AGREEMENT, and provided that CONCESSIONAIRE is not in breach or default of this AGREEMENT, shall lawfully and quietly hold, use and enjoy the concession PREMISES during the term of and for purposes specified in this AGREEMENT. In the case of disputes, during the life of the AGREEMENT, over any conditions which may impede upon the CONCESSIONAIRE'S quiet enjoyment of the concession PREMISES, the GENERAL MANAGER shall have final determination of any solution to such dispute; the GENERAL MANAGER'S final determination shall be binding upon all parties in such dispute.

A. Charges and Pricing. CONCESSIONAIRE shall have the right to charge and establish prices for the usage of the OSC, parking, advertising, and any other usage of the PREMISES permitted under this AGREEMENT; subject, however, to disapproval by GENERAL MANAGER if he or she determines that any of said prices are discriminatory or excessively high or low. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. CONCESSIONAIRE shall provide the GENERAL MANAGER with a list of prices for all services and goods offered pursuant to this AGREEMENT. This list shall be updated whenever prices are changed.

B. Scheduling. CONCESSIONAIRE shall establish and implement a field reservation system and shall schedule OSC field usage for Community Use and other regional uses.

C. Morgan Hill Community Use and Sports Mix. CONCESSIONAIRE shall make available the turf fields and grass fields in a manner that maximizes use of the OSC while maintaining the OSC at standards specified in this AGREEMENT. CONCESSIONAIRE shall use reasonable efforts to assure that (1) approximately sixty percent (60%) of the field usage shall be usage by Morgan Hill residents and community groups ("Community Use") and (2) field usage comprises a variety of permitted sports.

D. City Use. CITY shall have the right to four hundred (400) field hours of scheduled use at the OSC at no charge to the CITY. CONCESSIONAIRE shall use reasonable efforts to schedule the CITY's request. Charges forgone for the CITY's scheduled use shall not be counted as a gross receipt for the purpose of Section 5D.

E. Parking Use. The improved and overflow parking lots are part of the Premises under this AGREEMENT. However, CITY shall have the right to utilize fifty (50%) the overflow parking lot during the Aquatics Center's ("AC") summer recreation swim season and during days when regional swim meets or other large events are held at the AC. The City shall provide sufficient notice to CONCESSIONAIRE when the lot is needed. CONCESSIONAIRE and the City shall provide each other with monthly calendars in advance to ensure clear communication when events are occurring at each location. During shared use, a parking fee can only be charged for the portion of the lot for OSC customers, unless prior approval is provided by the City. AC customers will be required to enter from the south gate and OSC customers will be required to enter from the paved parking lot gate. In the event that the City requires the use of both the improved parking lot and overflow parking lot for large community events and events at the AC, the City and CONCESSIONAIRE will work in a good faith effort to accommodate the City's request unless the parking is already needed for events occurring at the OSC. When the City utilizes any parking lot, parking fees shall not be allowed unless the parties mutually agree.

F. Advertising. CONCESSIONAIRE shall have the right to pursue advertising and sponsorship agreements and offer space and locations at the OSC for advertising that are consistent with the City's approved policy (restricts pornography, religious and political organizations, firearms, tobacco, alcohol, and gambling). CONCESSIONAIRE may be allowed to have temporary advertising for alcohol products for exclusively adult only tournaments occurring at the OSC

upon approval by the GENERAL MANAGER. Revenues derived from such advertising and sponsorship agreements shall be part of gross receipts.

G. Naming Rights: CONCESSIONAIRE shall have the right to pursue and have the authority to enter into agreements for advertising naming rights for the fields, scoreboards, and other OSC amenities, provided that the term of any such agreement shall not continue beyond the term of this AGREEMENT. CONCESSIONAIRE may also pursue naming rights agreements for the entire OSC; subject to approval by the City Council by resolution. CONCESSIONAIRE and the City shall work in good faith to negotiate the terms of any agreement.

H. Food and Beverage Concession Stand: CONCESSIONAIRE shall have the right to establish or permit food and beverage sales at the concession stand; provided that no such concession shall sell any alcohol or tobacco products without prior written consent from GENERAL MANAGER. Revenues derived from any sales from such concession shall be part of gross receipts.

I. Vending Machines: CONCESSIONAIRE shall not install, or allow to be installed, any vending machines, electronic games, or other coin-operated machines without prior written approval of the GENERAL MANAGER. The GENERAL MANAGER shall have the right to order the immediate removal of any unauthorized machines.

J. Signage. CONCESSIONAIRE may design and construct a sign on the PREMISES to advertise the location and events at the OSC subject to the approval of the GENERAL MANAGER. CONCESSIONAIRE shall provide an advertising sign plan to the GENERAL MANAGER for approval.

SECTION 9. OPERATING RESPONSIBILITIES

CONCESSIONAIRE shall, at all times during the term of the AGREEMENT, comply with the following conditions:

A. Conduct: CONCESSIONAIRE shall at all times conduct its business in a professional, quiet, and orderly manner to the satisfaction of the GENERAL MANAGER. CONCESSIONAIRE shall use its best efforts to permit no intoxicated person(s), profane or indecent language, or boisterous or loud conduct in or about the PREMISES and shall not knowingly allow the use or possession of illegal drugs, narcotics, or controlled substances on the PREMISES. CONCESSIONAIRE will call upon peace officers to assist in maintaining peaceful conditions.

B. Non-Discrimination: CONCESSIONAIRE, in its CONCESSION operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation shall be excluded from the PREMISES or OSC or activities thereon, denied the benefits of or be otherwise subjected to unjust discrimination in access to or in the use of the facilities covered by this AGREEMENT; (2) that in the construction of any improvements on, over or under the PREMISES authorized to be utilized herein and the furnishing of services thereon, no person on

the grounds of race, color, national origin, religion, ancestry, sex, age, physical disability, or sexual orientation shall be excluded from participation in, denied the benefits of or otherwise be subjected to unjust discrimination. In addition, CONCESSIONAIRE, during the term of the AGREEMENT, agrees not to unjustly discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical disability, or sexual orientation. All subcontracts entered into by CONCESSIONAIRE shall contain a like provision.

C. Qualified Personnel: CONCESSIONAIRE will, in the operation of the CONCESSION, employ or permit the employment of only such personnel as will assure a high standard of service to the public and cooperation with the CITY. All such personnel, while on or about the PREMISES, shall be neat in appearance and courteous at all times and shall be appropriately attired, with badges or other suitable means of identification. No person employed by CONCESSIONAIRE, while on or about the PREMISES, shall be under the influence of illegal drugs, narcotics, other controlled substances or alcohol, or use inappropriate language, or engage in otherwise inappropriate conduct for a work environment. In the event an employee is not satisfactory, the CONCESSIONAIRE shall remove that person from the PREMISES.

D. Concession Manager: CONCESSIONAIRE shall appoint a Concession Manager of CONCESSIONAIRE'S operations at the FACILITY. If CONCESSIONAIRE elects to subcontract the management of any or all of the CONCESSION operations to a managing entity or entities, the provisions of this section shall also apply to any such entity.

E. Marketing and Promotion. CONCESSIONAIRE shall use its best efforts to market and promote the usage of the OSC and Premises for purposes permitted under this AGREEMENT. No later than thirty (30) days after the first day of each FISCAL YEAR, CONCESSIONAIRE shall provide the CITY with an annual marketing plan, which plan shall include goals to support local economic development activities. The CITY reserves the right to concurrently market and promote the use of the OSC.

F. Utilities: CONCESSIONAIRE shall be responsible for utility charges. Charges may include, but are not limited to, deposits, installation costs, meter deposits, and all service charges for gas, electricity, water, heat, air-conditioning, and other utility services to PREMISES, and shall be paid by CONCESSIONAIRE regardless of whether such utility services are furnished by CITY or by other utility service providers.

The DEPARTMENT will incur the cost of all refuse collection from the main dumpster during the term of this AGREEMENT; provided however, the CONCESSIONAIRE shall agree to pay the costs of such refuse collection if and when the CITY's agreement with its current refuse hauler terminates.

CONCESSIONAIRE hereby expressly waives all claims for compensation, or for any diminution or abatement of the concession fee payment provided for herein, for any and all loss or damage sustained by reason of any defect, deficiency, or impairment of the water, heating, or air conditioning systems, electrical apparatus, or wires furnished to the PREMISES which may occur from time to time and from any cause or from any loss resulting from water, earthquake,

wind, civil commotion, or riot; and CONCESSIONAIRE hereby expressly releases and discharges CITY and its officers, employees, and agents from any and all demands, claims, actions, and causes of action arising from any of the aforesaid causes.

In all instances where damage to any utility service line is caused by CONCESSIONAIRE, its employees, contractors, sub-contractors, suppliers, agents, or invitees, CONCESSIONAIRE shall be responsible for the cost of repairs and any and all damages occasioned thereby.

G. Safety: CONCESSIONAIRE shall correct safety deficiencies, and violations of safety practices, immediately after the condition becomes known or GENERAL MANAGER notifies CONCESSIONAIRE of said condition. CONCESSIONAIRE shall cooperate fully with CITY in the investigation of accidents occurring on the PREMISES. In the event of injury to a patron or customer, CONCESSIONAIRE shall reasonably ensure that the injured person receives prompt and qualified medical attention, and as soon as possible thereafter, CONCESSIONAIRE shall notify the CITY in writing describing the person(s) injured, and the time, place and nature of the injury. If CONCESSIONAIRE fails to correct hazardous conditions specified by the GENERAL MANAGER in a written notice, which have led, or in the opinion of CITY could lead, to injury, the GENERAL MANAGER may, in addition to all other remedies which may be available to CITY, repair, replace, rebuild, redecorate, or paint any such PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

H. Security. CONCESSIONAIRE shall be responsible for the security of the PREMISES. CONCESSIONAIRE may install equipment approved by the CITY, which will assist in protecting the PREMISES from theft, burglary, or vandalism. Any such equipment must be purchased, installed, and maintained by CONCESSIONAIRE.

I. Environmental Sensitivity: The CONCESSIONAIRE must operate the CONCESSION in an environmentally sensitive manner and all operations must comply with CITY policies and ordinances regarding protection of the environment. CONCESSIONAIRE shall not use or allow the use on the PREMISES of environmentally unsafe products.

J. Fund Raising Activities: CONCESSIONAIRE will be expected to cooperate with CITY personnel on all matters relative to the conduct of fund-raising and/or special events.

K. Community Outreach: CONCESSIONAIRE shall coordinate and cooperate with DEPARTMENT to develop strategies to outreach to all members of the community, particularly those living in low-to-moderate income areas, fixed-income households, youth, the disabled, etc., to provide its services to these members of the community who may not otherwise have the opportunity to partake in the services provided by CONCESSIONAIRE.

L. Resources Supplied by Concessionaire: CONCESSIONAIRE shall supply resource items that are specifically listed in this section in order to ensure business operations are run effectively and efficiently.

SECTION 10. MAINTENANCE AND REPAIR

A. "As Is": CONCESSIONAIRE acknowledges that it is agreeing to a concession of the Premises on an "as is" basis.

B. Maintenance and Operating Standards: During all periods that the PREMISES are used or are under the control of the CONCESSIONAIRE for the uses, purposes, and occupancy set forth in this AGREEMENT, CONCESSIONAIRE shall maintain and operate the PREMISES and the OSC at its own expense, in compliance with law and, unless otherwise more specifically set forth, to a standard equal to or better than standards in place as of the EFFECTIVE DATE of AGREEMENT.

C. General Maintenance and Repair: CONCESSIONAIRE shall be responsible for all necessary janitorial duties and damage and maintenance repairs, to the satisfaction of the GENERAL MANAGER. The cause of said cleaning and repairs may result from normal wear and tear, as well as vandalism.

D. Fields: CONCESSIONAIRE shall, at its own expense, keep and maintain the turf fields and the grass fields to a standard equal or greater than the City's established Park Maintenance Numeric Standard's Rating Guideline 4 (good condition, no increased maintenance required). CONCESSIONAIRE shall maintain and operate all improvements, fixtures, irrigation system and utility systems which may now or hereafter exist on said fields, whether installed by CITY or CONCESSIONAIRE.

E. Improvements: CONCESSIONAIRE shall, at its own expense, keep and maintain IMPROVEMENTS. CONCESSIONAIRE'S maintenance duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning, and interior and exterior painting that may be required to properly maintain the premises in a safe, clean, operable, and attractive condition. CONCESSIONAIRE shall provide for such repairs, replacements, rebuilding, and restoration as may be required by or given prior written approval by the GENERAL MANAGER to comply with the requirements hereof. Those duties shall also include electrical, mechanical, and plumbing maintenance in the interior of the premises, such as light fixtures, toilets, and faucets.

F. Correction of Conditions Leading to Damage: If CONCESSIONAIRE fails, after written notice, to correct such conditions which have led or, in the opinion of CITY, could lead to significant waste or damage to CITY property, the GENERAL MANAGER may at its option, and in addition to all other remedies which may be available to it, repair, replace, rebuild, redecorate or paint any such PREMISES included in said notice, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

G. Property Damage and Theft Reporting: CONCESSIONAIRE shall report to the CITY in writing in the event that the PREMISES and/or CITY-owned property is damaged or destroyed, in whole or in part, from any cause whatsoever, and in the event of theft, burglary, or other crime committed on the PREMISES.

H. Damage or Destruction to Premises:

1. **Partial Damage.** If all or a portion of the PREMISES are partially damaged by fire, explosion, flooding inundation, floods, the elements, public enemy, or other casualty, but not rendered uninhabitable, the same will be repaired with due diligence by CITY at its own cost and expense, subject to the limitations as hereinafter provided; if said damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expense incurred in making such repairs.

If the damages as described above in "Partial Damage" are so extensive as to render the PREMISES or a portion thereof uninhabitable, but are capable of being repaired within a reasonable time not to exceed sixty (60) days, the same shall be repaired with due diligence by CITY at its own cost and expense and a negotiated portion of the fees and charges payable hereunder shall abate from the time of such damage until such time as the PREMISES are fully restored and certified by GENERAL MANAGER as again ready for use; provided, however, that if such damage is caused by the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges will not abate and CONCESSIONAIRE shall be responsible for the cost and expenses incurred in making such repairs.

2. **Complete Destruction:** In the event all or a substantial portion of the PREMISES are completely destroyed by fire, explosion, the elements, public enemy, or other casualty, or are so damaged that they are uninhabitable and cannot be replaced except after more than sixty (60) days, CITY shall be under no obligation to repair, replace or reconstruct said PREMISES, and an appropriate portion of the fees and charges payable hereunder shall abate as of the time of such damage or destruction and shall henceforth cease until such time as the said PREMISES are fully restored. If within four (4) months after the time of such damage or destruction said PREMISES have not been repaired or reconstructed, CONCESSIONAIRE may terminate this AGREEMENT in its entirety as of the date of such damage or destruction. Notwithstanding the foregoing, if the said PREMISES, or a substantial portion thereof, are completely destroyed as a result of the negligent acts or omissions of CONCESSIONAIRE, its agents, officers, or employees, said fees and charges shall not abate and CITY may, in its discretion, require CONCESSIONAIRE to repair and reconstruct the same within twelve (12) months of such destruction and CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expenses incurred in making such repairs. CONCESSIONAIRE shall continue paying CITY quarterly concession fees as determined above during the rebuilding of the facility.

3. **Limits of CITY'S Obligation Defined:** In the application of the foregoing provisions, CITY may, but shall not be obligated to, repair or reconstruct the PREMISES. If CITY chooses to do so, CITY'S obligation shall also be limited to repair or reconstruction of the PREMISES to the same extent and of equal quality as obtained by CONCESSIONAIRE at the commencement of its operations hereunder.

4. **Use of Capital Improvement Fund.** CITY may use the funds in the Capital Improvement Fund for the purposes set forth in this Section.

I. Redecoration and replacement of furniture, equipment and supplies shall be the responsibility of CONCESSIONAIRE and any such redecoration and refurnishing, equipping shall be equivalent in quality to that originally installed.

J. Pest Control: Unless otherwise specified in the AGREEMENT, CONCESSIONAIRE shall be responsible for pest control in and around the PREMISES, including but not limited to, abatement of insects (including roaches, bees, etc.), spiders, rodents, vermin, and other nuisance pests, if the pests are found in or on structures or areas used and maintained by CONCESSIONAIRE.

SECTION 11. CAPITAL IMPROVEMENT PROGRAM

The CITY and CONCESSIONAIRE shall negotiate in good faith to develop and agree by December 31, 2010 upon a 10-year capital improvement program for the PREMISES and OSC. Such program shall set forth the needed capital IMPROVEMENTS to be made within the 10 year program and the respective responsibilities of the CITY and CONCESSIONAIRE to fund and complete such program. The respective share of responsibility of the program shall reasonable reflect the following factors: the term of this AGREEMENT and possible future extension of the AGREEMENT, the expected life of IMPROVEMENTS, the degree to which the activities of each party contribute to the wear and tear on the IMPROVEMENTS or the need for the Improvements, and the expertise of each respective party to make any such IMPROVEMENTS.

SECTION 12. LIABILITY

A. Indemnification:

1. Except for the active negligence or willful misconduct of CITY OR AGENCY, CONCESSIONAIRE undertakes and agrees to defend, indemnify and hold harmless CITY, AGENCY and any and all of their officers, agents, and employees from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONCESSIONAIRE'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this AGREEMENT on the part of CONCESSIONAIRE, its officers, agents, employees, or sub-contractor of any tier.

2. The CONCESSIONAIRE or licensee, in consideration of the granting of this concession or license, agrees to hold the CITY and the AGENCY harmless for any and all claims or rights of action for damages which may or might arise or accrue to said CONCESSIONAIRE or licensee, his officers, agents, servants, employees, or others who may be on the licensed premises at his invitation or the invitation of any one of them, by reason of injury to the property, or the persons of any of them resulting from the entry upon or the use of the licensed premises, by the CITY or AGENCY at any time, for any purpose necessary or convenient in connection with public works.

B. Insurance Required. CONCESSIONAIRE shall, at its own cost and expense, purchase and maintain throughout the term of this Agreement the following insurance:

1. Automobile and Liability. CONCESSIONAIRE shall maintain business automobile liability insurance (any auto, including owned autos, non-autos and hired autos), comprehensive general liability insurance, and employer liability insurance protecting CONCESSIONAIRE, the CITY and AGENCY and their members (including, without limitation, members of the City Council), officers, agents and employees, all of whom shall be named as additional insureds, from and against any and all liabilities arising out of or relating to CONCESSIONAIRE's use or occupancy of the PREMISES or the conduct of its operations under this AGREEMENT, in such form and with such companies as the CITY may reasonably approve, with a combined single limit (or its equivalent) per occurrence of not less than the amount set forth below, with a deductible reasonably acceptable to the CITY, with a waiver of any right of subrogation that the insurer may have against CITY or AGENCY; with contractual liability coverage for CONCESSIONAIRE's covenants to and indemnification of the CITY and AGENCY under this AGREEMENT. This insurance shall provide that it is primary insurance as respects any other valid and collectible insurance CITY or AGENCY may possess, including any self-insured retention or deductible CITY or AGENCY may have, and that CITY and AGENCY shall not be obligated to contribute to cover any loss, damage or liability. This insurance shall also provide that it shall act for each insured and each additional insured as though a separate policy has been written for each; provided, however, that this provision shall not operate to increase the policy limits of the insurance.

Business Automobile Liability	\$1,000,000
Comprehensive General Liability	\$2,000,000
Employer Liability	\$1,000,000

2. Workers' Compensation. CONCESSIONAIRE shall maintain workers compensation insurance as required by the laws of California; provided, however, that CONCESSIONAIRE may self-insure its workers compensation liability, subject to all applicable requirements of California law, together with employer liability insurance in the coverage amount of not less than \$1,000,000.

3. Insurance Certificates. At least three (3) business days prior to the commencement of the term of this AGREEMENT and at least thirty (30) days prior to the expiration of any policy or policies theretofore provided hereunder by CONCESSIONAIRE, CONCESSIONAIRE shall cause a certificate or certificates of insurance to be furnished to the CITY evidencing all such coverage, and such certificate shall provide that the policy or policies will not be cancelled nor the limits thereunder materially changed without first providing at least thirty (30) days' written notice thereof to CITY. At the CITY's request, copies of all required insurance policies will be provided to CITY.

SECTION 13. PROHIBITED ACTS

CONCESSIONAIRE shall not:

- A. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the prior written approval of the GENERAL MANAGER;
- B. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any insurance policy required under the AGREEMENT, or carried by CITY, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of GENERAL MANAGER, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under the AGREEMENT, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;
- C. Use, create, store or allow any hazardous materials as defined in California Health and Safety Code 25117, or those which meet the criteria of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
- D. Use the PREMISES in any manner that will constitute waste.

SECTION 14. PERFORMANCE DEPOSIT AND ASSURANCES

- A. Financial Assurances: CONCESSIONAIRE represents to the CITY that it has sufficient capital, credit and investment available to it for the purposes of meeting its obligations set forth in this AGREEMENT. In order to demonstrate the CONCESSIONAIRE's financial capacity to perform under this AGREEMENT, CONCESSIONAIRE shall provide to the CITY evidence of its source of capital and operational funding upon the CITY's request, including:
 - 1. Written representation from a bona fide financial institution (bank, lending institution, etc.) evidencing the amount of loan or credit offered or extended to the CONCESSIONAIRE for the purposes set forth in this AGREEMENT.
 - 2. Written representation from investors stating the amount of investment capital invested in, loaned to or offered to CONCESSIONAIRE for the purposes set forth in this AGREEMENT.

B. Annual Progress Report. CONCESSIONAIRE shall submit no later than sixty (60) days after the end of each FISCAL YEAR a progress report of an annual compilation of information contained in the monthly reports required under Section 5C, as well as gross receipts (as defined in Section 5D) and net receipts for each FISCAL YEAR (as defined in Section 6F).

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C. Termination for Failure to Meet Performance Goals. Based on the annual progress reports submitted pursuant to Section 14C, CONCESSIONAIRE shall demonstrate that it has met the following performance goals by the end of FISCAL YEAR 2011-2012: (a) that the CONCESSIONAIRE has achieved net receipts of at least fifty thousand dollars (\$50,000) in FISCAL YEAR 2011-2012, (b) CONCESSIONAIRE has made all payments pursuant to Sections 5 and 6 of this Agreement when due and (c) CONCESSIONAIRE has reasonably complied with covenant and condition set forth in Section 8C. The City Council may determine by resolution within ninety (90) days of the CITY'S receipt of the FISCAL YEAR 2011-2012 annual progress report, that, based on the annual progress reports, CONCESSIONAIRE has not met the performance goals set forth in this paragraph. Upon such determination by the City Council, the CONCESSIONAIRE shall be deemed in default of this AGREEMENT and the CITY may terminate this AGREEMENT upon a 30-day notice (as provided for in Section 20A) to the CONCESSIONAIRE of the termination of this AGREEMENT.

SECTION 15. INDEPENDENT CONTRACTORS / CONSULTANTS

The CONCESSIONAIRE is acting hereunder as an independent contractor and not as an agent or employee of the CITY. The CONCESSIONAIRE shall not represent or otherwise hold itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY or AGENCY.

SECTION 16. TAXES, PERMITS, AND LICENSES

A. CONCESSIONAIRE shall obtain and maintain at its sole expense any and all approvals, permits, or licenses that may be required in connection with the operation of the CONCESSION including, but not limited to, tax permits, business licenses, health permits, building permits, police and fire permits, etc.

B. CONCESSIONAIRE shall pay all taxes of whatever character that may be levied or charged upon the rights of CONCESSIONAIRE to use the PREMISES, or upon CONCESSIONAIRE'S improvements, fixtures, equipment, or other property thereon or upon CONCESSIONAIRE'S operations hereunder. In addition, by executing the AGREEMENT and accepting the benefits thereof, a property interest may be created known as "Possessory Interest" and such property interest will be subject to property taxation. CONCESSIONAIRE, as the party to whom the Possessory Interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.

C. During the entire term of the AGREEMENT, the CONCESSIONAIRE must hold a current Morgan Hill business license as required by the CODE Section 5.04.110 and pay applicable fees and taxes pursuant to Chapter 5.04 of the CODE.

SECTION 17. ASSIGNMENT, SUBLEASE, BANKRUPTCY

A. CONCESSIONAIRE shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign the AGREEMENT nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the prior written consent of CITY. Neither the AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the CONCESSION rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to the AGREEMENT or right of use of the whole or any portion of the PREMISES upon any such purported assignee, mortgagee, encumbrancer, pledgee or other lien holder, successor or purchaser.

B. CONCESSIONAIRE may not, without prior written permission of the CITY:

1. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
2. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

SECTION 18. BUSINESS RECORDS

A. Record Retention. CONCESSIONAIRE shall maintain during the term of the AGREEMENT and for three (3) years thereafter, all of its books, ledgers, journals, and accounts wherein are kept all entries reflecting the gross receipts received or billed by it from the business transacted pursuant to the AGREEMENT. Such books, ledgers, journals, accounts, and records shall be available for inspection and examination by GENERAL MANAGER, or a duly authorized representative of the CITY, during ordinary business hours at any time during the term of this agreement and for at least three (3) years thereafter.

B. Employee Fidelity Bonds. At the GENERAL MANAGER'S discretion, adequate employee fidelity bonds may be required to be maintained by CONCESSIONAIRE covering all its employees who handle money.

C. Cash and Record Handling Requirements. If requested by GENERAL MANAGER, CONCESSIONAIRE shall prepare a description of its cash handling and sales recording systems and equipment to be used for operation of the CONCESSION which shall be submitted to GENERAL MANAGER for approval. CONCESSIONAIRE shall be required to maintain a method of accounting of the CONCESSION which shall correctly and accurately reflect the gross receipts and disbursements received or made by CONCESSIONAIRE from the operation of the CONCESSION. The method of accounting, including bank accounts, established for the CONCESSION shall be separate from the accounting systems used for any other business operated by CONCESSIONAIRE or for recording CONCESSIONAIRE'S personal financial affairs.

D. Annual Statement of Gross Receipts and Expenses:

CONCESSIONAIRE shall transmit a Statement of Gross Receipts and Expenses (Profit and Loss Statement) for the CONCESSION operations specified in this AGREEMENT in a form acceptable to the GENERAL MANAGER, on or before April 30th of each calendar year during the term of the AGREEMENT. Such Statement must be prepared by a Certified Public Accountant (CPA) and shall not include statements of omission or non-disclosure. In addition, CITY may from time to time conduct an audit and re-audit of the books and businesses conducted by CONCESSIONAIRE and observe the operation of the business so that accuracy of the above records can be confirmed. If the report of gross receipts made by CONCESSIONAIRE to CITY shall be found to be less than the amount of gross receipts disclosed by such audit and observation, CONCESSIONAIRE shall pay CITY within 30 days after billing any additional concession fees disclosed by such audit. If discrepancy exceeds 2% and no reasonable explanation is given for such discrepancy, CONCESSIONAIRE shall also pay the cost of the audit.

SECTION 19. REGULATIONS, INSPECTION, AND DIRECTIVES

A. The operations conducted by CONCESSIONAIRE pursuant to the AGREEMENT shall be subject to:

1. Any and all applicable rules, regulations, orders, and restrictions which are now in force or which may be hereafter adopted by CITY with respect to the operation of the CONCESSION;
2. Any and all orders, directions or conditions issued, given, or imposed by GENERAL MANAGER with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas, or public areas adjacent to the PREMISES;
3. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the CODE, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the CONCESSIONAIRE'S operations; and,
4. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons, including the Americans with Disabilities Act.

B. Permissions:

Any permission required by the AGREEMENT shall be secured in writing by CONCESSIONAIRE from CITY or the GENERAL MANAGER and any errors or omissions therefrom shall not relieve CONCESSIONAIRE of its obligations to faithfully perform the conditions therein. CONCESSIONAIRE shall immediately comply with any written request or order submitted to it by CITY or the GENERAL MANAGER.

C. Right of Inspection:

CITY and the GENERAL MANAGER, their authorized representatives, agents and employees shall have the right to enter upon the PREMISES at any and all reasonable times for the purpose of inspection, evaluation, and observation of CONCESSIONAIRE'S operation.

D. Access to Premises:

CITY shall have absolute and full access to the PREMISES and all its appurtenances during the term of the AGREEMENT and may make such changes and alterations therein, and in the grounds surrounding same, as may be determined by said CITY. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE.

SECTION 20. TERMINATION

A. Termination by CITY:

CITY may, by 30-day written notice, terminate the AGREEMENT in its entirety and all rights ensuing therefrom as provided by applicable law if any one or more of the following events of default occur:

1. CONCESSIONAIRE fails to pay concession fee pursuant to Section 5, or any other payment obligation pursuant to Sections 6 and 7 and CONCESSION fails to pay within five (5) days after date of a written notice of default for failure to pay from the CITY.
2. CONCESSIONAIRE fails to keep, perform and observe any promise, covenant and condition set forth in the AGREEMENT on its part to be kept, performed or observed and CONCESSIONAIRE fails to perform within ten (10) days after the receipt of written notice from the CITY, or, where fulfillment of CONCESSIONAIRE'S obligation requires activity over a period of time, CONCESSIONAIRE fails to commence to perform whatever may be required within ten (10) days after receipt of such notice and to continue such performance diligently and without interruption except for causes beyond its control;
3. CONCESSIONAIRE fails to meet performance goals pursuant to that procedure and process set forth in Section 14; *GD MCD*
4. The interest of CONCESSIONAIRE under the AGREEMENT is assigned, transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the written consent of GENERAL MANAGER;
5. CONCESSIONAIRE becomes, without the prior, written approval of GENERAL MANAGER a successor or merged corporation in a merger, a constituent corporation in a consolidation or a corporation in dissolution;
6. The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed or set

aside within a period of ten (10) days and which does, or as a direct consequence of such process will, interfere with CONCESSIONAIRE'S use of the PREMISES or with its operations under the AGREEMENT;

7. CONCESSIONAIRE becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or of any state law, or consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property or its property located within the CONCESSION areas;

8. By order or decree of court, CONCESSIONAIRE is adjudged bankrupt, or an order is made approving a petition filed by any of the creditors or stockholders of CONCESSIONAIRE seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any law or statute of the United States, or any state thereof;

9. A petition under any part of the federal bankruptcy laws, or an action under any present or future solvency law or statute is filed against CONCESSIONAIRE which materially and adversely affects the operation or service required to be performed by CONCESSIONAIRE under the AGREEMENT;

10. By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of CONCESSIONAIRE;

11. Cessation or deterioration of service for any period which, in the opinion of GENERAL MANAGER, materially and adversely affects the operation or service required to be performed by CONCESSIONAIRE under the AGREEMENT;

12. Any lien is filed against the PREMISES because of any act or omission of CONCESSIONAIRE and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within ten (10) days; or

13. CONCESSIONAIRE voluntarily abandons, deserts, vacates or discontinues its operation of the business herein authorized.

No acceptance by CITY of the concession fee payment or other payments specified herein, in whole or in part, and for any period, after a default of any of the terms, covenants and conditions to be performed, kept or observed by CONCESSIONAIRE, other than the default in the payment thereof, shall be deemed a waiver of any right on the part of CITY including the right to terminate the AGREEMENT on account of such default.

B. CITY'S Right of Reentry:

CITY shall, as an additional remedy, upon an event of default as above provided, have the right to reenter the PREMISES and every part thereof on the effective date of termination without further notice of any kind, remove any and all persons therefrom and may regain and resume possession either with or without the institution of summary or legal proceedings or otherwise. Such reentry, however, shall not in any manner affect, alter or diminish any of the obligations of CONCESSIONAIRE under the AGREEMENT.

C. Additional Rights of CITY:

CITY, upon termination of the AGREEMENT, or upon reentry, regaining, or resumption of possession of the PREMISES, may occupy said PREMISES and shall have the right to permit any person, firm or corporation to enter upon the PREMISES and use the same. Such occupation by others may be of only a part of the PREMISES, or the whole thereof or a part thereof together with other space, and for a period of time the same as or different from the balance of the term remaining hereunder, and on terms and conditions the same as or different from those set forth in the AGREEMENT.

D. Survival of CONCESSIONAIRE'S Obligations:

In the event the AGREEMENT is terminated by CITY, or in the event CITY reenters, regains, or resumes possession of the PREMISES, CONCESSIONAIRE shall be responsible to pay the CITY the concession fee due up to and including the date of termination. In addition, CONCESSIONAIRE shall be responsible to pay CITY all deferred revenue, including but not limited to deposits, advances, cash, or checks received for services scheduled to be provided by CONCESSIONAIRE after the date of termination. CITY may maintain an action to recover any monies due.

E. Waiver of Redemption and Damages:

CONCESSIONAIRE hereby waives any and all rights of redemption granted by or under any present or future law or statute in the event it is dispossessed for any cause, or in the event CITY obtains or retains possession of the PREMISES in any lawful manner.

F. Termination by CONCESSIONAIRE:

The AGREEMENT may be terminated by CONCESSIONAIRE, via 30-day written notice, upon the happening of one or more of the following event of default:

1. The complete destruction of all or a substantial portion of the PREMISES from a cause other than the negligence or omission to act of CONCESSIONAIRE, its agents, officers, or employees, and the failure of CITY to repair or reconstruct said PREMISES;
2. Any exercise of authority under the AGREEMENT which so interferes with CONCESSIONAIRE'S use and enjoyment of the PREMISES as to constitute a termination, in

whole or in part, of the AGREEMENT by operation of law in accordance with the laws of the State of California; or

3. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of thirty (30) days after receipt from CONCESSIONAIRE of written notice to do so.

SECTION 21. SURRENDER OF POSSESSION

CONCESSIONAIRE agrees to yield and deliver possession of the PREMISES to CITY on the date of the expiration or earlier termination of the AGREEMENT promptly, peaceably, quietly, and in as good order and condition as the same now are or may be hereafter improved by CONCESSIONAIRE or CITY, normal use and wear and tear thereof excepted. No agreement of surrender or to accept a surrender shall be valid unless and until the same is in writing and signed by the duly authorized representatives of CITY and CONCESSIONAIRE. Neither the doing nor omission of any act or thing by any of the officers, agents or employees of CITY shall be deemed an acceptance of a surrender of the PREMISES utilized by CONCESSIONAIRE under the AGREEMENT.

CONCESSIONAIRE shall have the right to remove its equipment, supplies, furnishings, inventories, removable fixtures and personal property from the PREMISES within thirty (30) days of the expiration or earlier termination of the AGREEMENT. If CONCESSIONAIRE fails to remove said property within that thirty (30) days, said property shall be considered abandoned and CITY may dispose of same as it sees fit.

SECTION 22. WAIVER

A waiver of a default of any part, term, or provision of the AGREEMENT shall not be construed as a waiver of any succeeding default or as a waiver of the part, term, or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

SECTION 23. FORCE MAJEURE

Neither party hereto shall be liable to the other for any failure, delay, or interruption in the performance of any of the terms, covenants or conditions of the AGREEMENT due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, landslides, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, or any other circumstance for which such party is not responsible and which is not in its power to control.

SECTION 24. REMEDIES ARE NON-EXCLUSIVE

No right, power, remedy, or privilege of CITY shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of said rights, powers, remedies, or privileges shall be deemed cumulative and additional and not in lieu or exclusive of each other or of any other remedy available to CITY at law or in equity.

SECTION 25. AGREEMENT BINDING UPON SUCCESSORS

The AGREEMENT shall be binding upon and shall inure to the benefit of the successors, heirs, executors, administrators, and assigns of the parties hereto. The term "CONCESSIONAIRE" shall include any assignee of CONCESSIONAIRE under any assignment permitted and approved by GENERAL MANAGER.

SECTION 26. LAW OF CALIFORNIA APPLIES

The AGREEMENT shall be enforced and interpreted under the laws of the State of California.

SECTION 27. AGENT FOR SERVICE OF PROCESS

It is expressly agreed and understood that if CONCESSIONAIRE is not a resident of the State of California, or is a partnership or joint venture without a partner or member resident in said State, or is a foreign corporation, then in any such event CONCESSIONAIRE does designate the Secretary of State, State of California, its agent for the purpose of service of process in any court action between it and CITY arising out of or based upon the AGREEMENT, and the service shall be made as provided by the laws of the State of California for service upon a non-resident. It is further expressly agreed, covenanted and stipulated that if, for any reason, service of such process is not possible, as an alternative method of service of process, CONCESSIONAIRE may be personally served with such process out of this state by mailing, by registered or certified mail, the complaint and process to CONCESSIONAIRE at the address set out hereafter in the AGREEMENT, and that such service shall constitute valid service upon CONCESSIONAIRE as of the date of mailing, and CONCESSIONAIRE shall have thirty (30) days from the date of mailing to respond thereto. It is further expressly agreed that CONCESSIONAIRE is amenable, and hereby agrees, to the process so served, submits to the jurisdiction and waives any and all objection and protest thereto, any laws to the contrary notwithstanding.

SECTION 28. VENUE

Venue of any action brought under the AGREEMENT shall lie in Santa Clara County.

SECTION 29. NOTICES

A. To CITY:

Unless otherwise stated in the AGREEMENT, written notices to CITY hereunder shall be addressed to the Department of Recreation and Community Services, Attn: Department Director, 17555 Peak Avenue Morgan Hill, California, 95037.

All such notices may either be delivered personally or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

CITY shall provide CONCESSIONAIRE with written notice of any address change within thirty (30) days of the occurrence of said address change.

B. To CONCESSIONAIRE:

All such notices may either be delivered personally to the CONCESSIONAIRE or to any officer or responsible employee of CONCESSIONAIRE or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

Written notices to CONCESSIONAIRE shall be addressed to CONCESSIONAIRE as follows:

Morgan Hill Youth Sports Alliance
17485 Monterey Road, Suite 200
Morgan Hill, CA, 95037

CONCESSIONAIRE shall provide CITY with written notice of any address change within thirty (30) days of the occurrence of said address change.

SECTION 30. INTERPRETATION

CONCESSIONAIRE and CITY agree that the AGREEMENT shall be deemed to have been jointly drafted and shall be construed according to its fair meaning and not strictly for or against either CITY or CONCESSIONAIRE. The section headings appearing herein are for the convenience of CITY and CONCESSIONAIRE, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of the AGREEMENT. If any provision of the AGREEMENT is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of the AGREEMENT, and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of the AGREEMENT is capable of two constructions, one of which render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid. The use of any

gender herein shall include all genders and the use of any number shall be construed as the singular or the plural, all as the context may require.

SECTION 31. AGREEMENT CONTAINS ENTIRE AGREEMENT

The provisions of the AGREEMENT contain the entire Agreement between the parties hereto and said AGREEMENT may not be changed or modified in any manner except by formal, written amendment fully executed by both CITY and CONCESSIONAIRE.

SECTION 32. TIME OF THE ESSENCE

Time is of the essence for all provisions of the AGREEMENT

SECTION 33. INCORPORATION OF DOCUMENTS

This AGREEMENT and incorporated documents represent the entire integrated agreement of the parties and supersedes all prior written or oral representations, discussions, and agreements. The following exhibits are to be attached to and made part of this AGREEMENT by reference:

EXHIBIT B – City Issued Request for Proposals

EXHIBIT C – Morgan Hill Youth Sports Alliance OSC Proposal

EXHIBIT D – Morgan Hill Youth Sports Alliance Parks and Recreation Commission
Supplemental Questions Responses

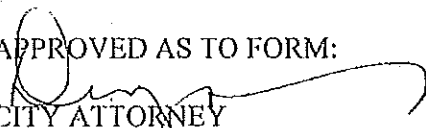
EXHIBIT E – Morgan Hill Youth Sports Alliance City Council Questions Responses

IN WITNESS WHEREOF, THE CITY OF MORGAN HILL has caused this AGREEMENT to be executed on its behalf by its duly authorized representative and CONCESSIONAIRE has executed the same as of the day and year herein below written.

THE CITY OF MORGAN HILL, a municipal corporation

BY: 
CITY MANAGER

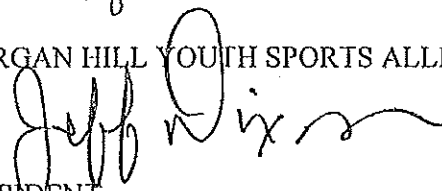
APPROVED AS TO FORM:


CITY ATTORNEY

7/7/10

Council
Approval: 6/16/10

MORGAN HILL YOUTH SPORTS ALLIANCE, a California non-profit corporation

BY: 
PRESIDENT

6/14/10

EXHIBIT A

PARCEL ONE:

All of lots 69 and 70, as shown on that certain Map entitled, "CATHERINE DUNNE RANCH MAP NO. 5", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on April 5, 1897 in Book "I" of Maps, at page(s) 59.

PARCEL TWO:

All of lots 10 and 11 as shown on that certain Map entitled, "CATHERINE DUNNE RANCH MAP NO. 7", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on March 5, 1906 in Book "L" of Maps, at page(s) 26.

Excepting from parcels 1 and 2, above described that certain Parcel of Land more particularly described as follows:

Commencing at the intersection of the Southwesterly line of Lot 11 and the Northwesterly line of Barrett Avenue as said Lot and Avenue are shown on that certain Map entitled, "CATHERINE DUNNE RANCH MAP NO. 7", filed March 5, 1906 in Book "L" of Maps, at page 26, in the office of the Recorder of Santa Clara County; thence along said Northwesterly line N. 65° 19' 50" E, 80.00 feet; thence from a tangent that bears S. 65° 15' 50" W., along a curve to the right with a radius of 20.00 feet through an angle of 90° 00' 00", an arc length of 31.42 feet; thence N. 24° 44' 10" W., 1590.06 feet; thence along a tangent curve to the right with a radius of 20.00 feet; through an angle of 90° 00' 00", an arc length of 31.42 feet to the Southwesterly line of San Pedro Avenue as said Avenue is shown upon that certain Map entitled, "CATHERINE DUNNE RANCH MAP NO. 5", filed on April 5, 1897, in Book "I" of Maps, at page 59, in the Office of the Recorder of Santa Clara County; thence along last said line and along the Southwesterly line of said lots 11 and 69, S. 65° 15' 50" W., 80.00 feet and S. 24° 44' 10" E., 1590.06 feet to the Point of Commencement.

May 23, 2001 9:55AM

No. 0235 P. 7/9

BOOK PAGE
817 13



Created & submitted for the City of Santa Clara by the County Assessor's Office for the 1997-98 fiscal year. The map was created by the County Assessor's Office for the 1997-98 fiscal year. The map was created by the County Assessor's Office for the 1997-98 fiscal year.

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY, CALIFORNIA

CATHERINE DUNNE RANCH CATHERINE DUNNE RANCH

17

7

MAP

18

5

MAP

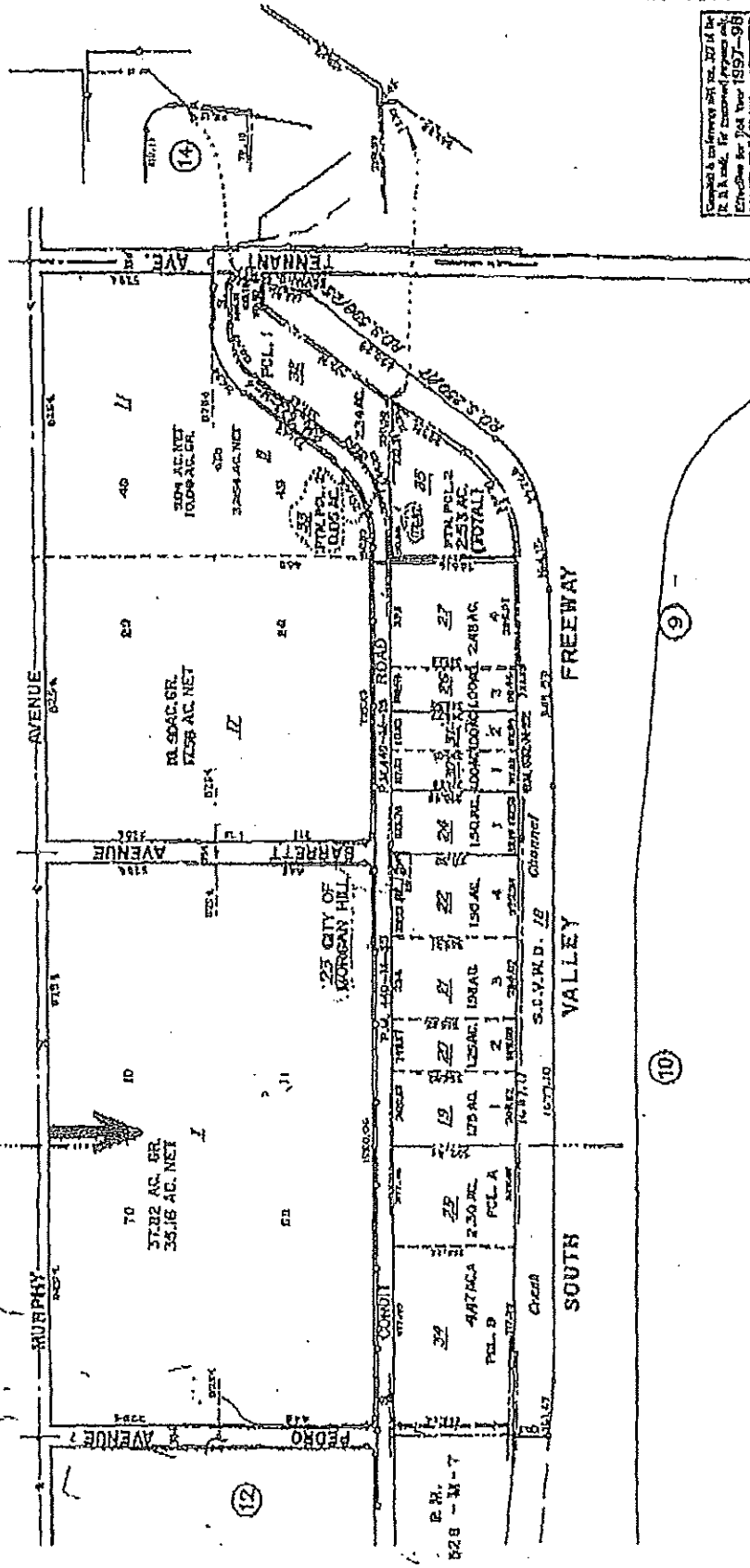




EXHIBIT B

REQUEST FOR PROPOSAL

Morgan Hill Outdoor Sports Center

The City of Morgan Hill is seeking proposals to operate the 38 acre Outdoor Sports Center (OSC). The facility is located at 16500 Condit Road and is easily accessible from Highway 101.

It is the City's objective to enter into a mutually beneficial agreement with an organization that demonstrates the ability to:

1. Operate the OSC without city subsidy.
2. Balance community access and regional use.
3. Ensure a diverse mix of field use by sport type.

Background

The City has invested approximately \$16 million in acquiring the property and constructing two synthetic turf fields with lights and bleachers, concession/restroom building, and improved parking for 325 vehicles. The OSC was developed to accommodate local youth non-profit athletic organizations (ie. soccer, football, lacrosse, field hockey, rugby), youth and adult regional tournaments, sports camps, high school games/practices, and other special events.

Presently, the city maintains and operates the two synthetic turf fields, concessions, parking lot and restrooms. The facility has "limited access" because paid reservations are required to use the facility. Through a lease with the City (currently month-to-month), the California Youth Soccer Association (CYSA) is responsible for scheduling and maintaining the nine grass fields. CYSA also has priority scheduling privileges for the synthetic turf fields on weekends, but the City is responsible for scheduling and maintaining these amenities. The 23 acres of grass fields do not have an in-ground irrigation system and are watered with large water cannons owned by CYSA.

To assist with your response, attached is an aerial photo of the facility with use statistics and current rates. The City recognizes that a wide array of revenue sources may be necessary to ensure financial viability and understands that on-site advertising, concessions, parking fees, among other strategies may be proposed.

Proposal Content and Submittal Requirements

Applicants submitting a proposal should provide one master and five (5) unbound copies of the following information no later than 4:00 p.m. on Friday, March 19, 2010 to:

City of Morgan Hill, Attention: Steve Rymer, 17555 Peak Avenue, Morgan Hill, CA 95037.

In order to ensure that the City has a thorough understanding of your proposal, please include the following information in addition to other information you believe is pertinent.

- 1) **General Information**
 - a. Cover letter including your name, your organization, and a description of your organizational or corporate structure.
 - b. Information regarding your organization's qualifications, experience, and capacity to operate the OSC.

RECREATION AND COMMUNITY SERVICES DEPARTMENT

408-779-7271

FAX: 408-779-3117

WWW.MORGANHILL.CA.GOV



CITY OF MORGAN HILL

2) **Business Plan**

- a. Provide a detailed narrative description of your proposed plan.
- b. Provide a business plan with the following information:
 - i. Management structure
 - ii. Community access and regional use philosophy
 - iii. Market strategy
 - iv. Risk management plan
 - v. Revenue sources and pricing system
 - vi. Itemized expenses
 - vii. 3 year revenue/expense pro-forma

Proposal Selection Schedule

Selected proposals may be invited to an interview by a City selection committee. The selection committee will make a recommendation to the City Council based on the interview and evaluation of the submitted materials.

The following is the tentative schedule:

Proposals Released:	February 19, 2010
Proposals Due:	March 19, 2010
Review/Interview Process:	March 20-31, 2010
City Council Selects Operator:	April/May 2010
Transition Period (if necessary):	June/July 2010

Other Information

- The City reserves the right to reject any and all submittals.
- The City is not responsible for any costs incurred by applicants in the preparation of a response to this RFP.
- Applicants should be aware that the City, as a public entity, cannot guarantee the confidentiality of information contained in the RFP submittal. While the City will attempt to maintain confidentiality of submitted materials, applicants may choose not to submit some information requested in the RFP. If such an instance occurs, the affected applicants should note for the reviewers the specific information purposely withheld and indicate that it will be provided to the City if granted an interview.

Thank you for considering this RFP. For further information, questions, or to arrange for a site visit, please contact:

Steve Rymer
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037
(408) 779-7271
Steve.rymer@morganhill.ca.gov

RECREATION AND COMMUNITY SERVICES DEPARTMENT

408-779-7271

FAX: 408-779-3117

WWW.MORGANHILL.CA.GOV



CITY OF MORGAN HILL

Outdoor Sports Center

RATES and USESynthetic Turf Fields Rates – City Responsibility

Customer	Rate
Resident, non-profit	\$10/hour
Resident	\$21/hour
Non-resident, non-profit	\$42/hour
Non-resident	\$42/hour
Commercial	\$84/hour
Field Lights	\$8/hour
Parking Lot	\$500/day

Synthetic Turf Fields 2009 Combined Use – City Responsibility

2009	Hours	Days (730 available)
TOTAL ALL CUSTOMERS	3760	608

Primary Customers	Type	Primary Days	Hours	Days
CYSA	Non-resident, non-profit	Weekends	1150	113
Orchard Valley Youth Soccer	Resident, non-profit	Weekdays	1550	332
Pop Warner Football	Resident, non-profit	Weekends	190	17
Charter School	Resident, non-profit	Weekdays	50	29
Morgan Hill Unified School District	Resident, non-profit	Weekdays	300	121
City of Morgan Hill	Owner	Weekdays	270	57

Grass Fields – CYSA Responsibility

Customer	Rate
CYSA Member	\$300/day/field

Note: Grass field schedules may be available at www.cysanorth.org

RECREATION AND COMMUNITY SERVICES DEPARTMENT

408-779-7271

FAX: 408-779-3117

WWW.MORGANHILL.CA.GOV



CITY OF MORGAN HILL

Grass Fields

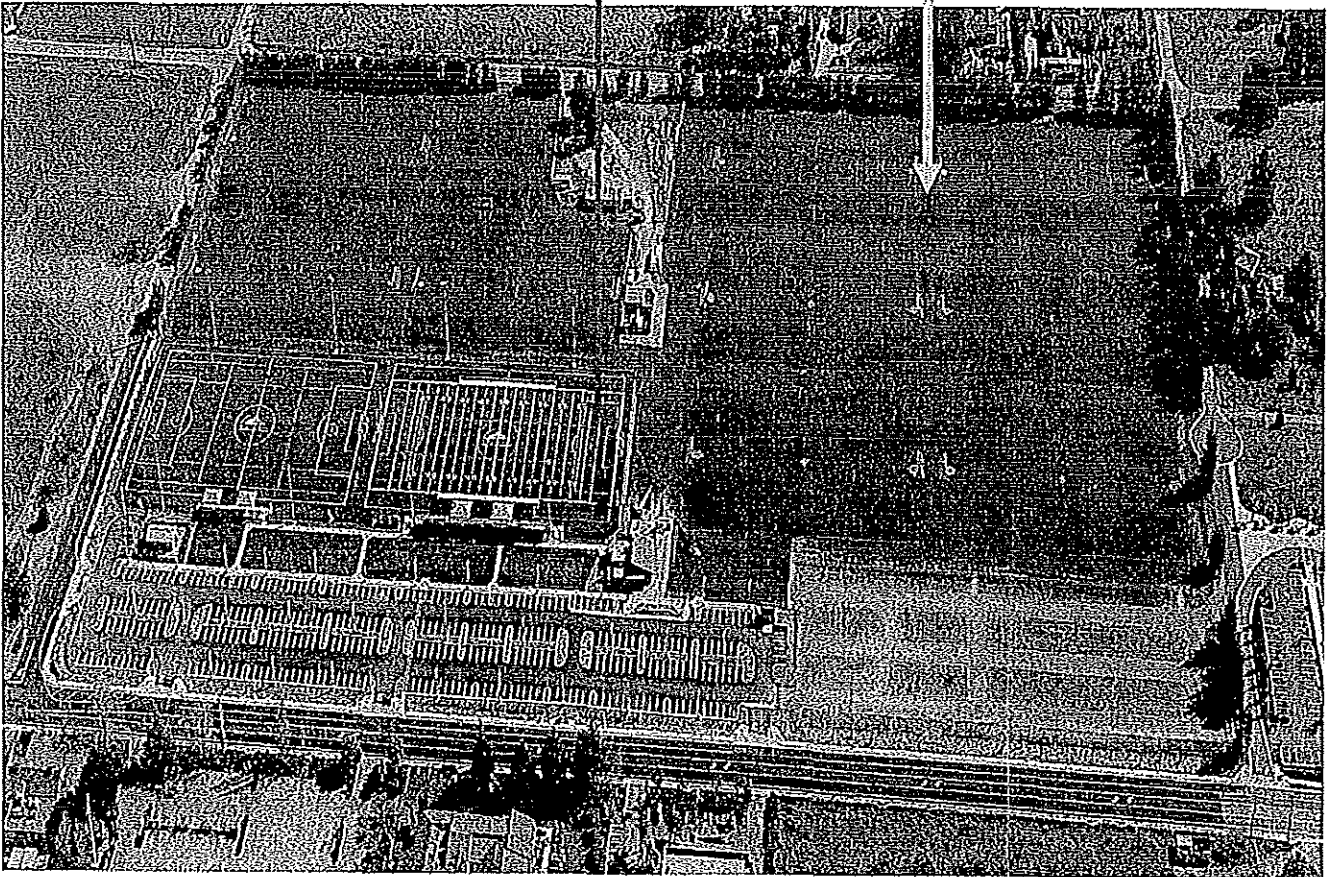
- 9 fields
- 23 +/- acres
- Watered by above ground water cannon system
- No field lights

Synthetic Turf Fields

- 2 fields
- Field lights
- Bleachers with seating for 600 and 200
- PA system
- Electronic scoreboards

Other

- Improved parking for 325 vehicles
- Unimproved parking for 200 +/-
- Restrooms
- Concession stand
- Tournament/meeting room



RECREATION AND COMMUNITY SERVICES DEPARTMENT

408-779-7271

FAX: 408-779-3117

WWW.MORGANHILL.CA.GOV



EXHIBIT C



Morgan Hill Youth Sports Alliance, Inc.

Proposal for

Operation of the Outdoor Sports Complex





Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

Executive Summary

The City of Morgan Hill has requested a proposal from the Morgan Hill Youth Sports Alliance, Inc. (MHYSA) to operate and manage the Morgan Hill Outdoor Sports Complex (Complex) at 16500 Condit Road in Morgan Hill. Their three priorities are:

- Operate at no cost to the city
- Demonstrate balance of local and regional usage
- Ensure diverse mix of use by sports type

Meeting these priorities is part of a larger plan that MHYSA has for the facility. Regarding the first priority, however, our plan is to not only operate the Complex at no cost to the city, but to transform it into a direct revenue source for the City of Morgan Hill, while bringing incremental revenue to merchants and businesses.

To balance local and regional use, we will meet local sports group needs, as well as develop a comprehensive regional marketing plan to bring out-of-town tournaments, events and games to the facility. We will create a community-based team to operate the Complex to ensure the success of this priority.

Ensuring a diverse use of the facility requires acknowledging which sports we are looking for. In its current format, the Complex only accommodates rectangular sports users. MHYSA plans to bring in a more diverse group of users, but initially will accommodate only those that play on a rectangular field.

The best method to achieve these goals is to build a sustainable revenue source from field rentals, along with a complete set of services that will provide everything that a tournament host or event company will want.

The Morgan Hill Youth Sports Alliance is a California 501c4 non-profit organization, committed to increasing the opportunity and experience of children in the Morgan Hill Area who participate or want to participate in sports. Sports facilities development and operation are one way we achieve this. To manage the Complex, MHYSA will move to 501c3 status and install additional board members.

MHYSA believes we are ideal to operate and manage the Complex. We can organize community resources to offer our city the full benefit of its investment. Direct revenue streams to the city, grass field access for community organizations, and an integrated community-based organization representing local interests are the first steps.

As a non-profit organization, we will ensure remaining funds go back into the community in the form of financial assistance, program development and community support. No other proponents can offer the full measure of benefit to the City of Morgan Hill.

The transition for the current operation to the MHYSA will require a property inspection, process and/or equipment handoffs from CYSA and city staff, as well as meeting with each of the existing permit holders as of July 1, 2010.



Morgan Hill Youth Sports Alliance

Page 1



Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

Operate at no Cost to the City

Our objective is to do more than operate without city subsidy. Our objective is to provide a growing revenue stream directly to the city from operating the Complex. The exact trend is outlined in our pro forma and extends over the first three years. A quick summary is as follows:

- \$50,000 revenue to the City of Morgan Hill in the first year paid in quarterly segments.
- Move to a percentage of gross revenue plan by Year 3
- Jointly develop a 5 year plan with city staff for capital equipment replacement and improvements for the Complex.

First year payments should come in a sliding scale to allow for the absorption of existing field rental permits over the first six months of operation. We assume all revenue received for the first six months of rentals would be paid to MHYSA—either by the city or registered field users. The quarterly payments to the city by MHYSA would be made on the 10th day of the month, following the quarter in the amounts of:

- \$5,000 first quarter
- \$5,000 second quarter
- \$15,000 third quarter
- \$25,000 fourth quarter

The second year would have a mixture of percentage of gross revenue with fixed minimum payments by quarter. Total payment for the year will be a minimum of \$60,000 with a potential of up to \$75,000. In the third year, we will move completely into a percentage of gross revenue that will be determined after the first full year of operations.

Per contract terms, MHYSA will immediately assume responsibility for all operational costs:

- Grass field maintenance and repair
- Corporation yard maintenance and operation
- Turf field maintenance and repair
- Parking lot shrubbery and grass maintenance
- Janitorial maintenance of concession building, front parking lot, turf and grass fields
- Equipment maintenance and repair
- Field scheduling and inquiries
- Security
- Insurance
- Utilities (Gas, Electricity, Water and Trash)



Page 2



Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

Demonstrate a balance of local and regional use

Past expectations for achieving a balance of local and regional use have been portrayed as 60% local and 40% field usage, but it is much more complex than this. Looking at the field usage needs for local and regional sports organizations shows us that regional groups have shown little or no interest in week-day use and both groups covet the quality game times that weekends provide. The true achievement in meeting goals will be offering all groups the best mix of use for their mutual needs. Adhering strictly to the 60/40 split means virtually all weekend hours will need to go to regional groups. This means that the benefit of the \$17 million capital investment made by the community is used by people who don't live here. Our approach will be to meet the overall 60/40 goal, while giving the community full benefit of their investment.

The cornerstones of our proposal to achieve this objective are:

- Create a Home Field Program for local sports leagues
- Change the scheduling to allow for simultaneous use of the facility by multiple organizations
- Develop aggressive marketing and sales programs directed to both local and regional users with the goal to increase both week-day and weekend use.

The approach to achieve this objective is to understand local needs first. MHYSA would reach agreement with local sports leagues, clubs and schools to give them primary access to the facility. Primary access does not, however, mean exclusive access. They will need to work with MHYSA to assure appropriate availability for regional users.

The Complex will be their home field. Home Field means that they store their equipment at the facility, as well as hold their meetings there. They will operate the snack bar and parking concessions during their events to help raise revenue for their program. They will pay the going rental rates, but their fees will be offset by in-kind labor support for operational needs of the facility such as:

- Field striping
- Concession stand shifts (Outside their league's operation of the Complex)
- Parking lot shifts (Outside their league's operation of the Complex)
- Field clean up
- Parking lot clean up
- In-kind trade from members in the landscaping, electrical and construction trades

The second part of our strategy is to move away from the current practice of using the entire Complex for a single organization or event. This will entail negotiating with Home Field groups, as well as CYSA as a priority customer to schedule games so that not every field is required for their rentals. This will allow for the use of the facility by multiple organizations at the same time and will help balance local and regional use. Our regional and local use target ratio is 60% local and 40% regional on a field—not facility basis. This practice will continue with future facility users as well.



Morgan Hill Youth Sports Alliance

Page 3



Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

Ensure diverse mix of use by sports type

To achieve this objective, MHYSA will reach out to local and regional sports organizations, including:

- Soccer (Youth and Adult)
- Tackle Football (Youth)
- Flag Football (Youth and Adult)
- Corporate leagues (Any sport/Adult)
- Field Hockey
- Lacrosse
- Rugby

Community groups, clubs and schools will be invited to participate in the Home Field program, thus giving them top priority. Conflict would be resolved using a priority season system that allows each league to designate a Primary Season. An example of how this would look is:

<u>Sport</u>	<u>Primary Season</u>
Football	Fall
Soccer	Spring
Flag Football	Winter

Leagues would be given top priority during their primary season and lower priority during other parts of the year. Another determining factor will be if the time requested is to be used for games, practices or fundraising events. Scheduling processes need to be capable of managing multiple considerations when achieving this objective.

Participating sports could be expanded in the future to include cricket and disc golf if facility development provides the space for the equipment needed to run these sports.

Development of additional facilities would be directed toward outdoor—not indoor sports. Creating and operating a recreational indoor sport facility would lead to competition with the Centennial Recreation Center and other privately operated businesses already in the community and would be counter-productive to the goals of the organization and community.

Outdoor sports development would need to be done in conjunction with city planning and business development. The city strategy is to build a separate facility for diamond sports instead of completing Phase 2 and 3 of the plan for the Complex. The plans for development of the Southeast Quadrant of Morgan Hill would need to be considered as part of any additional development at the Complex.

Working with the city and MHUSD to achieve this goal city-wide would be the most logical way to ensure use of all city sports facilities to support this objective. The Complex would be an integral part of this approach and MHYSA would participate in the planning.



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Morgan Hill Youth Sports Alliance

Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

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Morgan Hill Youth Sports Alliance

Page 5





Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

March 19, 2010

a. Provide a detailed narrative description of your proposed plan.

Our proposal is to transform the Complex from a simple field rental revenue source into a facility that the city of Morgan Hill realizes full value for. We plan to do this by:

1. Forming a professional community-based team, paid workers and volunteers to operate the facility
2. Integrating community sports organizations into operation of the Complex.
3. Increasing community pride and participation in the success of the Complex
4. Developing a sustainable revenue stream by attracting premier regional sports field users to complement increased local use.

In its current operation, both stakeholders—City of Morgan Hill and CYSA—run their operations in a “Status quo” mode; meaning as a simple field or plot of grass asset as opposed to the dynamic community asset it can be. The Complex should be the sports focal point in our city and our region.

Having a local company as opposed to one not residing in Morgan Hill operate the Complex will ensure that the revenue and income realized by the presence of the Complex will be retained in Morgan Hill, rather than going to organizations and businesses outside our community.

The plan calls for operating the Complex as an independent business unit using an annual revenue model versus one that is just rental revenue for field use, parking lot or snack bar concession services. Here are the four major elements to MHYSA’s plan to achieve these goals:

1. Form a professional community-based team comprised of local community, business and sports leaders. This will be accomplished by expanding the current MHYSA Board of Directors from its current level of three up to potentially seven to bring in Morgan Hill professionals with experience in:

- Sports Marketing and Sales
- Event Planning and Management
- Business Finance and Investment
- Facility Operations and Management

This board would provide direction to the management team of the Complex, with each having a different role:

- Facility Maintenance
- Facility Scheduling
- Facility Operations
- Promotion and Sales



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Facility Maintenance: We will manage the different local contractors providing facility maintenance, landscape, janitorial, repair and field maintenance services. These contractors will be all Morgan Hill businesses. Some portion of this labor will be offset by volunteers from local sports leagues provided through the Home Field Program.

Facility Scheduling: We would process all field applications and manage changes as they occur. MHYSA would like to have user access and an ID to the city's CLASS Field Reservation system so field rentals of the Complex can be seamlessly incorporated into the overall city field management process. With that capability, the Field Scheduler for the Complex would enter field and facility rental reservations in the same manner as done today, responding to inquiries and availability, as well as coordinating usage with operations.

Facility Operations: We would coordinate all activities from field usage to field maintenance, rotation and access. Snack Bar and Parking Lot concession would be another part of our responsibilities, as well as coordination of security and vendors providing retail services.

Promotion and Sales: We would have three major objectives:

- Maximize usage of available field hours by bringing in a diverse mix of sport leagues, camps, tournaments and events to complement expanded local use. Current field usage is roughly 40% of available hours. This number can be doubled by a comprehensive scheduling policy and program that matches available time slots with specific users. Allowing more than one organization to use the facility at a time is critical to achieving this goal. Gaining access to the grass fields will also enable local leagues to consolidate their practices and games into one facility. This will drive week-day use.
- Conduct an aggressive advertising, sponsorship and field naming campaign to fill the available signage space at the facility. The facility venue as an advertising tool is an untapped opportunity. Given the high rate of foot traffic through the Complex on an annual basis, this can be a valuable commodity for local, regional and national companies to get their messages out to the sporting community. Facility names rights for tournaments, even the facility itself, banners and signs on fences and at the fields, announcements made during games, and ads in event programs are all tools for driving advertising revenue.
- Work closely with community businesses to develop promotion packages for organizations holding events at the Complex. Despite all the tournaments currently held at the Complex, Morgan Hill businesses see only a limited benefit from them. The hotels and businesses along the 101 corridor realize some revenues, but remaining city businesses probably do not. Promotional packages can be developed with downtown merchants, businesses north and south along Monterey Road, as well as local wineries and restaurants. City facilities such as the Aquatic Center could be partners in weekend specials to bring in additional revenue to city programs. Programs, fliers and brochures can be



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distributed during events at the Complex, helping Morgan Hill businesses get their messages out.

The key point to our approach is that it will be a **community-based focus** that helps Morgan Hill residents realize full benefit from the city money invested in the Complex—not just from field rentals and a few hotel nights. Potentially keeping most, if not all of the money in town, also benefits the city in terms of tax revenue.

2. Integrate community sports organizations into operations of the Complex. This will make it more of a local asset than it is today. An important part of integrating community organizations into operations of the Complex will be to honor the pricing and reservation commitments made for the first half of the first year by city staff prior to MHYSA operation.

Besides the obvious move to open grass fields to local sports organizations during the week, the key benefit to integrating community sports organizations into operation of the Complex is community pride-of-ownership. Clearly, operations would need to be controlled by MYHSA with an eye on profitability. Making the Complex the “Home of the Morgan Hill Raiders”, “Home of Orchard Valley Youth Soccer League”, or “Home of the Morgan Hill Maverick Lacrosse Club” creates a sense of community pride that simple field rentals cannot do.

The basis for this approach will be our **Home Field Program**. Home Field Program organizations will be able to meet their field and operational needs, while working through a cooperative process that saves them time and money. We have developed a test case of this program with the Pop Warner Raiders. It includes a sample of Pop Warner’s needs and an outline of the services they will receive as part of the Home Field Program. The overview of their needs is shown in Attachment A. They have committed to paying \$11,000 per year as an annual charge. Their membership in the Home Field program will give them the ability to:

- Conduct all practices and home games at the Complex
- Hold board and coaches meetings and team parties, as well as weigh-ins and walk-in registrations at the Complex
- Store all their equipment at the Complex
- Operate a snack bar and parking concessions to raise revenue for their operations
- Use barter or in-kind system to lower actual dollar amount paid for usage of the Complex
- Participate in Advisory Council to MHYSA leadership

Though this amount is higher than their existing field costs, the ability to trade labor for dollars along with additional fundraising opportunities will save them program money on an annual basis. Using this process with each organization, our objectives will be to



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provide leagues with an increased value for their investment and also to reduce their annual costs while doing so.

The second part of our community integration will be through our Advisory Council. The MHYSA Advisory Council will be run by a President who will have one of the expanded seats on the proposed expanded MHYSA Board. That vote, as voted on by the Advisory Council, will enable the local sports organizations to have input into the development and implementation of MHYSA Board policies and processes.

The final element of community integration will be to reach out to local sports-oriented businesses through sponsorships to bring revenue to operations of the Complex and increased messaging to businesses. Train-For-Life, Little Gym, Champions Gymnastics Academy and sports medicine practitioners are just a sample of the organizations that will benefit by supporting the Complex. More about these relationships is detailed in our Business Plan.

3. Create community pride in the Complex and involve the community in its success. Doing so will develop a strong operating team. All employees and contractors will be from Morgan Hill. They will not only be professionals in their work, but will have a vested interest in how they perform the job since their friends, neighbors and possibly families use the facility. With a community-based organization operating the Complex, management will be familiar with local business needs, attend city council and commission meetings, participate in local initiatives, and probably even know many of the people going through the facility.

All of this will take the Complex to the next level. For example, in the current facility, we have two half stadiums and neither meets our community needs. Morgan Hill residents would welcome the plan to install grandstands on the east side of the two turf fields. That installation, together with reorganizing the soccer fields so that we still have ten fields, will enable us to hold the annual EL Toro Bowl football game between Sobrato and Live Oak High Schools at the Complex without any impact to soccer field availability.

Additional opportunities to bring capital improvements to the facility include:

- Adding irrigation to the grass field section
- Moving the corporate yard to a more central location with a smaller footprint
- Adding playgrounds, volleyball pits and larger picnic facilities
- Providing multiple access points through the fence to the sports fields
- Adding a media tower to the turf fields

As these capital improvements take place, the overall value of the Complex increases. With that, potential revenue potential and support to local organizations is improved. The city will gain in reputation not only as a regional destination, but as a desirable community to live in. Positioned appropriately, these two elements can be used to bring more business into the city, thus providing a positive effect on city revenues.



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The final component to community integration would be to understand and support the city's 2030 General Plan. In the near term, the Complex will support city revenue objectives by generating income to the city directly with lease revenues and indirectly through tax revenues. Managed properly, it could bring support for long-term city goals such as the development of the Southeast Quadrant. In this way, the operator of the Complex can contribute to the city's future not only in the short term, but in the long term as well. This makes the selection of an operator committed to local issues more critical.

4. Develop sustainable revenue sources. This objective will drive business strategy and operations. Our programs will require sustainable revenue to survive. Our first step is to ensure profitability in 2010. A challenge to this will be honoring commitments made by the city for field reservations starting July 1, 2010 and going through December 31, 2010. A new pricing structure will go in effect on July 1st, but previous committed rate and dates will be honored. MHYSA expects that it will receive payment for all field use during this period from the field users or the City of Morgan Hill.

Sustainable revenue must come from more than just field rentals. Our plan calls for an evolution from simple field use to a community-based operation running a "Destination" for sports enthusiasts around the region, state and country. We see the transition taking no more than three years. As the transition takes place, the contribution each revenue source makes evolves into a more sustainable whole. Here are our projections for revenue percentage by type over the first three years:

Revenue Type	2010/11	2011/12	2012/13
Field Rental Fees	39%	41%	26%
Parking Concession	29%	26%	15%
Snack Bar Concession	24%	22%	12%
Advertising	1%	2%	9%
Sponsorship	1%	3%	18%
Camps and Clinics	2%	3%	18%
Grants	4%	3%	2%

With Field Rental revenue playing such a large part in the first two years, we have studied the historical turf field usage data provided by the city to understand usage by revenue and sports type. This report shows that the primary users of the turf fields are CYSA, OVYSL, Pop Warner and local schools, along with a couple of other sports leagues and clubs. CYSA has the majority of the weekend hours and OVYSL has the majority of the week day hours. Together, they represent 72% of the current turf field usage. Current turf field usage by all groups was approximately 58% of available hours.

We plan to retain these users at these levels at a minimum so this revenue remains consistent from last year. This will be the first priority. With the financial jumpstart from the first six months of rentals, MHYSA will be able to begin building additional revenue



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sources during the first half of 2010/11. In the second half of 2010/11, we will begin soliciting advertising, sponsor and service revenue sources. This will begin to bring the operation to more profitable levels.

Another important component to field use revenue is opening up the grass fields to local use during the week. Our plan is to open the grass fields for weekly use effective July 1, 2010. Field rental rates will be established to support 2010/11 financial objectives.

Opening the grass fields during the week will not only increase revenue to the Complex, but will support the diverse mixed use objective and Home Field Program as well. The ten grass fields on site will allow local leagues to consolidate their team practices into a single facility. Additional customers such as adult soccer can be found to use the fields once the Home Field Program members' requirements are met. We are reaching out to MHUSD and other local organizations looking for week day field space.

A third major element to our field user revenue component is to implement a Market Pricing Policy. Current rates around the area and regional for facilities like the Complex are:

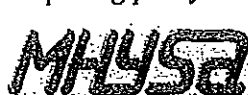
Field Type	MH Rate	Market Rate	% Increase	Source
Turf Field	\$10 or \$42/hr	\$60/hr	500/20%	CSJ Sports Field Study
Grass Field	\$5 or \$6/hr	\$25/hr	400/350%	CSJ Sports Field Study

Please note that a resident/non-resident rate structure will need to be maintained. For planning purposes, we will use a 50% discount rate for residents.

Bringing the field rental price in-line over the next three years will not only increase revenue, but profitability as well. It must be done gradually, however, to allow current customers to develop strategies to pay for the higher price. MHYSA will look for ways to help them.

Additional revenue sources will be developed over the first three years. A big first year component will be parking and snack bar concessions. Parking alone can provide almost \$250K in revenue. Some revenue will be offset by a parking pass system that we will implement for Home Field members. Years 2 and 3 involve bringing our advertising and sponsorship programs online, reaching full stride in Year 3 when those revenues reach \$600k. This is the year the payments to Morgan Hill become a percentage of gross revenue as opposed to flat rate or a mix of the two. Additional plans included running camps and clinics, selling advertising at games and tournaments and bringing in championship tournaments.

The final component is one that only a non-profit can bring—namely grants and donations. As a non-profit, MHYSA can apply for and receive grants from regional and national philanthropic organizations. MHYSA has identified 40 potential local, regional, national and corporate grant sources. A complete list is included in the revenue sources and pricing policy section of our business plan. Examples of each type include:



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- Local
 - Morgan Hill Community Foundation
- Regional
 - Bay Area Hall Of Fame – Youth Sports Grants
- National
 - National Alliance for Youth Sports
- Corporate
 - General Mills Foundation
 - Professional sports franchises
 - San Francisco 49ers Foundation

b. Provide a business plan with the following information

i. Management structure

Morgan Hill Youth Sports Alliance is currently run by a three member board of directors. This will be increased to create additional leadership for operation of the Complex. The roles of the new members will be defined and appropriate community leaders found to fulfill these roles.

The board of directors will manage and run the business with separate and distinct responsibilities. Their roles will reflect areas of responsibilities:

- President/Executive Director
- Vice-President/Secretary
- Director of Finance
- Director of Marketing and Fundraising
- Director of Business Development
- Advisory Council President

The Advisory Council consisting of members of various local sports organizations, city departments and MHUSD staff will provide input as to best practices and communicate community needs to the board. This council reviews policies and activities of the board, develops joint programs with MHYSA leadership, and provides feedback on programs and services.

MHYSA will have two distinct independent operations if awarded the contract for management and operation of the Complex. Both will report to the President/Executive Director. The first and primary operational group will be the Outdoor Sports Complex Operation and Management team. The second team will handle the continued operation of the South Valley Flag Football League and creation of the South Valley BMX/Skate Club. The board itself will continue running financial aid and cooperative programs for local sports leagues and will work together with the Advisory Council.



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Within the Management team of the Complex, responsibilities will be handled by a Site Director, Facilities Manager and Service Manager. General duties include, but are not limited to:

Site Director

- Business development of the Complex
- Operational Performance to Budget
- Manage all personnel
- Field User Contracts
- Home Field Program
- Long term rentals (CYSA)
- Site Development
- Interact with MHYSA Board of Directors
- Report to the MHYSA President/Executive Director

Facilities Manager

- Operations – Customer facility usage
- Locks and Security
- Janitorial Contractor Management
- Field Maintenance Contractor Management

Services Manager

- Manage field schedule
- Process Field reservations
- Run Concessions
- Reporting and administration

ii. Community access and regional use philosophy

Community access and regional use need not conflict. With ten grass fields and two turf fields, there is plenty of room for all groups. The scheduling approach will need to change. With the flexibility that lights provide, there are plenty of hours available to meet everyone's needs—straight-forward tasks for an organization with good resource utilization management skills.

Community use will primarily take place during the week. Depending on the number of daylight hours, grass fields can be used for practice, while turf fields are used for afternoon and evening games. Regional use will be more targeted towards weekends when families and teams can travel. Regional activities can be easily accommodated, while allowing local use during the same time. Putting together destination packages with local hotels, stores and restaurants will enhance the tournament event experience and help direct spending by out-of-town consumers, thus complementing and enabling partnerships that will develop a thriving community.



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The mixed use field marking strategy employed on the turf fields can be expanded to the grass fields. Tournament hosts will work with MHYSA staff to determine the optional number of fields needed for their events. With the extended day provided by field lights, organizations will have the flexibility of scheduling that allows them to use fewer fields during community use and to expand into the available space when local leagues finish.

Using the "simultaneous multiple user model" ensures a diverse sports mix, while maintaining a good balance between regional and local users. The new challenge becomes a field balancing process, instead of a facility balancing process. There is more flexibility toward meeting everyone's needs, while generating sustainable revenue growth.

With that in mind, a sample of what a typical week of field usage might look like is below:

Field	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	PW	PW	PW	PW	PREP	OVYSL	PW
2	PW	PW	PW	PW	PREP	OVYSL	CYSA
3	OVYSL	OVYSL	OVYSL	OVYSL	PREP	OVYSL	CYSA
4	OVYSL	OVYSL	OVYSL	OVYSL	PREP	OVYSL	CYSA
5	OVYSL	OVYSL	OVYSL	OVYSL	PREP	CYSA	CYSA
6	MHUSD	MHUSD	MHUSD	MHUSD	PREP	CYSA	CYSA
7	MHUSD	MHUSD	MHUSD	MHUSD	PREP	CYSA	CYSA
8	OVYSL	OVYSL	OVYSL	OVYSL	PREP	CYSA	CYSA
9	OVYSL	OVYSL	OVYSL	OVYSL	PREP	CYSA	CYSA
10	MHM	MHM	MHM	MHM	PREP	CYSA	CYSA
11 (TF)	MIXED	MIXED	CMH	CMH	LO/AS	CYSA	PW
12 (TS)	OVYSL	OVYSL	OVYSL	OVYSL	LO/AS	CYSA	CYSA

Legend: PW = Pop Warner Raiders, OVYSL = Orchard Valley Youth Soccer League, MHUSD = High school teams, Charter School of Morgan Hill, Oakwood, MHM = Morgan Hill Mavericks Lacrosse Club, CMH = City of Morgan Hill, MIXED = Corporate leagues, local groups, city programs, LO/AS = Live Oak and Ann Sobrato

Please note that this chart is for demonstration purposes and shows only one user per field when in fact all fields will probably have more than one user throughout the course of any given day. With lights, the (TF) Turf Football and (TS) Turf Soccer fields can be used for longer hours. Actual schedules will display time slots throughout the day and the number of hours for each group. There will be hours set aside each day for maintenance and repair as well.



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iii. Market Strategy

The Market Strategy is to utilize the facility and community resources to develop service offerings for a variety of sports organizations. The market consists of drastically different types of customers:

- Field and facility users
- Sports-related businesses
- Camps and clinics
- National championship events
- Corporate advertisers
- Sponsorship and naming

As such, separate strategies are needed for each customer type. Field and/or Facility Users are the primary market for the organization. Their use of the facility brings value to the other two target markets.

The key values of this primary target market are:

- Price/value
- Flexibility of service offerings
- Easy of use

This market can be broken into the following segments:

- Community Sports Leagues
- Local Schools
- Local Competitions and Tournaments
- Regional Leagues and Tournaments
- Special interest groups such as seniors and adult leagues, youth and travel teams
- National Tournament Tours
- Event Companies – Car Shows, Festivals

Each group has specific needs that can be addressed through service offerings with packages that include the base rental fee plus options such as:

- Field Equipment Storage
- Field Lights
- Parking
- Concession Stand
- Sport Specific Equipment Rental
- Referee/Director tents
- Photo/Video Services



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Another way to further refine our strategy is to put each of the groups in time slots that match customer needs with the capacity of the Complex:

Weekday opportunity:

- Before 11am
- 11am to 1pm
- 1pm to 3pm
- 3pm to 6pm
- 6pm-8pm
- 8pm-10pm

Weekend opportunity (In specific time and field slots to meet their needs):

- 8am to 6pm
- 6pm to 10pm

By matching program components such as time of use, services and sports type to target markets and developing specific plans for each one, a comprehensive marketing package can be created to sell our services both locally and regionally. Coupling service offerings with the facility/field rental opens the way to attracting non-traditional customers to the Complex. Examples of how this approach will reach potential customers are:

- Establish the Complex Turf Stadium as a premier "Big Game" field
- Promote facility for corporate sports league use at lunch and after 8pm
- Provide snack bar services to all tournaments and non-Home Field leagues
- Identify Senior leagues for pre-11am weekday use
- Promote packages that include hotel, restaurant, tourist services such as Aquatic Center discounts to national sports tours

All of this makes the Complex the "Destination" facility it was designed to be. During the year, local companies reserve it to hold corporate events, national tours for regional and national championship tournament and event companies to host charity events. As a destination, the Complex is packaged with other attractions around the area such as wineries, parks and lakes to bring more tourist business into the community.

The "Destination" marketing strategy necessitates a vigorous program to ensure community access. This is why the Home Field Program has a major strategic importance. By ensuring access protection for local sports leagues, it can also ensure their participation by allowing them to use labor and in-kind services to reduce their annual program costs. Our strategy is dependent on a willingness to share for the greater good. Organizations that do not participate fully will be assigned to the general access pool.



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With field use revenue flowing, other components of our market strategy can be brought to bear:

- Sponsorship
- Naming Rights
- Advertising
- Regional/National Events Schedule
- Rental of Facility for pro Training Camps

iv. Risk Management

Risk comes in four ways to the Complex operations:

- City
- Financial
- Customer
- Assets

City

In the relationship between the City of Morgan Hill and MHYSA as a General Contractor/Operator of the Complex, each party has to ensure their organization is protected. As a contractor to the City of Morgan Hill, MHYSA will need to meet City of Morgan Hill contractor guidelines and regulations, provide the city with general liability insurance, as well as demonstrate compliance with state laws and regulations with Workman's Compensation, Health and Environmental statutes. MHYSA will comply with all city requirements for background and tuberculosis testing.

MHYSA will need to ensure that all users of the facility are properly insured with the city and MHYSA named as an additional insured. Users will also have to comply with all city, state and national regulations and laws when using the Complex.

Both parties will have to ensure compliance to the terms and conditions of the contract. In terms of risk, the city is only at risk if MHYSA fails to successfully operate the Complex. Terms will need to be included in the contract to provide adequate audit and contract termination controls to minimize each party's risk.

Financial

This risk comes primarily in terms of revenue achievement and cost management. Upon award of the contract, MHYSA would move to obtain community financial support for the cost of the first year of operations. These funds, coupled with the pre-existing field reservation revenue, will provide start-up funding that will enable MHYSA to bring the second half of the first year revenue in as targeted.



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Using the initial investment as a starting point, the operation of the Complex should maintain a favorable revenue pipeline throughout its fiscal plan. Response measures if the revenue pipeline began to empty would include modifying field use policies and rates, participating in community fundraising, as well as applying for national and corporate grants.

Cost management will be supported primarily by good business practices on the part of the staff of the Complex. Setting an accurate budget and operating to plan help keep operational costs under control. Asset management and care represent the remaining majority of cost management. If there is a need to reduce costs, the service contract for janitorial and field maintenance may be reviewed. Staff level may need to be reduced and business processes analyzed. A final option, of course, would be to discuss renegotiating contract terms with the City of Morgan Hill.

Customer

Customer damage to property or personal injury risk is primarily handled through the use of liability insurance, damage waivers and rental deposits. Customer interaction with the major assets of the Complex can be monitored to insure that possible damages are avoided. Staffing will need to be adequate to ensure customer behavior is appropriate.

The intangible risk is one of customer satisfaction. Meeting or exceeding customer expectations is the best way to maintain satisfaction. Benchmarking other facilities, finding and adopting best-of-breed practices and position pricing competitively should be sufficient to ensure the Complex remains competitive in its market. The community involvement in operations of the Complex provides an excellent base to operate from.

Assets

The major assets of the Complex are its turf and grass fields, fixtures and buildings. Fixtures include goals and nets, lights, fencing, grandstands, scoreboard, security gates and tables. Buildings include the main concession/restrooms, equipment sheds and storage sheds.

After hours security will come in the form of an alarm company and inspection visits by MHYSA staff.

Capital reserves will need to be established between the city and MHYSA for the turf fields, fixtures and buildings. Grass fields generally stay in operating shape if usage is monitored and field quality levels are maintained. This typically involves good field care practices, field use rotation and a "rain out" policy. "Rain out" premiums can also be utilized in the case of customer cancellation clauses as might be the case in scheduling a national tournament or event. Insurance may need to be considered for disaster mitigation and recovery.



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v. Revenue Sources and Pricing System

Revenue Sources

Our revenue sources come from field use rentals, service offerings such as parking and snack bar concessions, advertising, sponsorship, national and regional events, professional training camps and grants. Given the short start-up cycle, the first two quarters of operation will be limited by field rentals committed to by the city of Morgan Hill prior to MHYSA operations and the first year to building up usage. Years 2 and 3 will see the introduction of the sponsorship, advertising and events revenue sources. Grants will take at least 18 months to bring online due to their long processing times.

- **Field Use Revenue (Including lights)**
- **Parking Concessions**
 - Resident Pass for all Home Field Program
 - \$5 tournament fees
 - Free access for practices and casual users
- **Snack Bar Concessions**
 - Revenue share with Home Field Programs – Home Field partner operates concession as a fundraiser with minor share to MHYSA to cover administrative expense.
 - Tournament hosting – Operate snack bar to sell food and drink to tournament participants and guests
 - Vendor machine contract for casual users
- **Sponsorship**
 - Title Sponsorship (Seasonal)
 - Field Sponsorship (Yearly)
 - Concessions Sponsor – Example: Gatorade
 - Per Event/Day Sponsorship
- **Naming Rights**
 - Scoreboard
 - Field
 - Parking Area
 - Stadium/Complex
 - Major Events
 - Seasonal Schedules





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- **Advertising**
 - Banner and Signage Packages
 - Radio Commercials
 - Game Day Commercials (Played during games)
 - Banners and Signage Packages
 - Title Sponsors per Event per day
- **Regional and National Events**
 - National/Regional Training Camps hosted in Our Sports Corridor
 - National/Regional competitions held in our venue
- **Rental of Facility to Professional Training Camps**
 - Professional Soccer
 - Professional Football (Multiple Divisions)
- **Grants**
MHYSA's initial grant research has identified the following existing grant opportunities which will be engaged upon award of the contract:
 - President's Council on Physical Fitness
 - US Department of Education – various programs
 - US Department of State "Sports United" Grants
 - California Department of Education Grants
 - California After School Network
 - National Association for Sport and Physical Education -Carol M. White Physical Education Program
 - National Alliance for Youth Sports – "Start Smart" Sports Development Programs
 - After School Alliance/MetLife
 - Gilroy Grant Foundation
 - Morgan Hill Community Foundation
 - Olympic Club Foundation – City Fields Program
 - Change Makers – Team up for Youth
 - Liberty Mutual
 - Earthquakes
 - Finish Line Youth Foundation
 - SF Giants Community Fund
 - Warriors Foundation
 - 49ers Foundations
 - NFL Players Foundation
 - BAYS Foundation – Bay Area Youth Lacrosse Grants
 - Bay Area Hall of Fame – Youth Sports Grants
 - Motorola Foundation
 - General Mills Foundation "Champions for Healthy Kids"



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- Annenberg Foundation Youth Organization Funding
- Albertson's In the Community
- Herbalife "Improving the Lives of Children Grant"
- Office Depot "Helping Kids and Schools Grants"
- Liberty Mutual responsible Sports Program
- Tony Hawk Foundation
- The Christopher and Dana Reeve Foundation "Quality of Life Grants" Program
- Bird's Eye Food "Health, Education and Youth grant"
- WAL*MART Corporate Donations & Sponsorships
- Sports Authority Corporate Donations & Sponsorships
- Target Community Grants
- Nike Product Donations
- United States Soccer Foundations
- US Youth Soccer Grants
- Soccer Across America
- Women Win Foundation
- Gatorade's "GoGirlGo! Ambassador Awards"

Pricing System

Field Rentals

Field rental rates will need to be increased, but in a gradual way to allow existing customers to adapt their operations to the increased price. The plan is to honor the rate and field use commitments made for July 1st to December 31st, 2010. Rates will increase July 1st for all new reservations. Agreements will be made with existing users to prepare their organizations for new rates in the 2011 calendar years. Rates will continue to be adjusted gradually until they are inline with market rates. Local organizations will be intimately involved in the development of rate pricing.

Proposed rental rate schedule:

Hourly Rates	6 Months			Base Year 1 & 2			Year 3 & 4		
User Type	Turf	Lights	Grass	Turf	Lights	Grass	Turf	Lights	Grass
Local NP	\$10	\$8	\$5	\$20	\$8	\$12	\$20	\$12	\$12
Resident	\$21	\$8	\$6	\$30	\$8	\$25	\$30	\$12	\$25
Visitor NP	\$42	\$8	\$5	\$42	\$8	\$30	\$50	\$12	\$30
Visitor	\$42	\$8	\$6	\$60	\$8	\$45	\$60	\$12	\$45
Corporate	\$84	\$8	\$30	\$84	\$8	\$60	\$92	\$12	\$60

This schedule brings the field rates of the Complex inline with marketing pricing by Year 3. Rates will change as market rates change. Annual studies will be conducted to ensure fair value.



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Sponsorship Levels

Levels will be set at local, regional, state and national levels. Naming rights will carry the higher amounts.

Advertising

Advertising rates will be set based on media, labor and frequency.

Regional and National Events

Regional and national events will be based at tournament or corporate field rental rates, but coupled with service offerings into packages designed to meet each event's needs.

Rental of Facility to Professional Training Camps

Rental rates will be developed based on market rates for similar facilities. Service packages will augment the field rental fees.

vi. Itemized Expenses

Operations Expenses	
Facility Lease	\$50,000
Facility Revenue Sharing	\$0
Utilities	\$41,174
Water and Sewer (CofM)	11,211.43
Pacific Gas and Electric	21,059.00
Janitorial	\$5,000
Communications (Verizon cell and internet access)	\$1,360
Bay Area Alarm	\$1,544
Repairs & Maintenance	\$173,463
Electrical	\$122
Plumbing and gas	\$122
Equipment repair (movable - eg (soccer goals and nets))	\$122
Infrastructure repair (immovable (eg fences))	\$122
Security and Locks (Fences and Gates)	\$200
Sign and Facility Directions	\$500
Turf Field Sanitation and Rubber Replacement	
Audio System and Scoreboard	\$100
Field Maintenance (mowing and watering)	\$172,000
Pest Control	\$175
Event preparations and clean up	\$244,201
Open/close, Client support	\$300
Signage	\$250
Parking Concession Operations	\$109,792
Snack Bar Concession Operations	\$133,659
City Liaison	
Inspections	\$270,000
Insurance	\$6,500
General Liability	\$5,000
Workman's Compensation	\$1,500
Staff	\$153,000
Exempt Salaries	\$100,000
Tax Burden	\$30,000
Benefits (33% burden rate)	\$33,000
TAXES	\$0
G&A	\$30,000
TOTAL EXPENSE	\$699,208





Morgan Hill Youth Sports Alliance

Proposal for Operation of the Outdoor Sports Complex

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vii. Three Year Pro Forma

OSC Three Year Pro Forma			
	Year 1 7/1/2010 to 6/30/2011	Year 2 7/1/2011 to 6/30/2012	Year 3 7/1/2012 to 6/30/2013
Revenue sources			
Field Rentals	\$327,112	\$399,734	\$424,070
Concessions (Snack Bar, Parking, etc.)	\$453,457	\$453,457	\$453,457
Camps, Clinics and Events	\$14,000	\$25,000	\$300,000
Advertising Program	\$8,000	\$18,000	\$150,000
Naming Rights (Complex, Each Field, etc)	\$0	\$0	\$0
Sponsorship	\$5,000	\$30,000	\$300,000
Grants and donations	\$38,000	\$27,000	\$27,000
Gross Revenue	\$843,569	\$951,190	\$1,654,526
Operations Expenses			
Facility Lease	\$50,000	\$60,000	\$0
Facility Revenue Sharing	\$0	\$0	\$82,726
Utilities	\$41,174	\$43,088	\$46,037
Repair & Maintenance	\$173,463	\$173,073	\$175,584
Event preparations and clean up	\$244,201	\$250,894	\$261,621
Reservation services (non payroll)	\$0	\$0	\$0
Member management (non payroll)	\$0	\$0	\$0
City Liaison	\$0	\$0	\$0
Inspections	\$270	\$270	\$270
Service Operation Expenses	\$6,500	\$6,575	\$6,654
Staff	\$153,000	\$160,660	\$168,683
TAXES	\$0	\$0	\$0
G&A	\$30,600	\$32,130	\$33,737
Net Expense	\$699,208	\$726,680	\$775,311
Capital Needs			
Replacement and Additions	\$26,680	\$30,608	\$83,608
CYSA Transition	\$41,000	\$4,000	\$0
Capital Needs	\$20,000	\$40,000	\$80,000
Improvements	\$0	\$0	\$65,000
TOTAL Capital	\$87,680	\$74,608	\$208,608
Operational Variance	\$146,681	\$149,902	\$670,607



Morgan Hill Youth Sports Alliance



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Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

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viii. Conclusion

The City of Morgan Hill needs the best partner possible to build the Complex into the facility that was envisioned years ago when it was developed. MHYSA is the best partner for the following reasons:

- We are a talented and committed Morgan Hill team of professionals dedicated to serving the city and residents of Morgan Hill
- We are supported by community leaders and organizations
- We will build a sustainable revenue flow for the City of Morgan Hill
- Our operations of the Complex will keep the revenue earned in the community serving local children
- We have a comprehensive plan for facility management and operation
- Our vision for the Complex fits best within the 2030 Morgan Hill General Plan

We have much to do to be operational by July 1, 2010. In the next 90 days, we will:

- Add four directors to our Board of Directors
- Prepare the necessary documents to move MHYSA to 501c3 non-profit status
- Qualify and select local landscape and janitorial contractors
- Gain commitment from local sports organizations to the Home Field Program
- Develop a 180-day plan to manage the rental transfer to MHYSA
- Develop a grass field renovation plan
- Secure long-term rental agreement with CYSA
- Develop a transition plan with the City of Morgan Hill and CYSA
- Develop a co-marketing plan with local hotels and retail merchants

Bringing the Complex back under community control is the best option for the City of Morgan Hill and its residents. The city needs an operator committed to our community who truly appreciates what a special place Morgan Hill is to live. Candidates from outside of our community do not understand the Community Value of the Complex. The financial and community effort put into the creation of the Complex deserves no less than our best. MHYSA is the optimal choice.

We thank the City of Morgan Hill staff and City Council for the opportunity to respond to this RFP. We understand this proposal to non-binding and understand that a contract will need to be negotiated and signed before operations can begin.

We look forward to working the City of Morgan Hill staff and City Council to bring the Outdoor Sports Complex back to community.



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ix. Attachments

Attachment A

Morgan Hill Youth Sports Alliance, Inc. Board of Directors

Jeff Dixon, President

Jeff is a lifetime entrepreneur and long-time community service contributor with 35 years of professional experience in sports, high-tech and telecommunications industries.

Jeff's professional experience includes 14 years as a league owner and operator of adult and youth flag football leagues. He has hosted tournaments along with many community events and fundraisers. He consulted to the NFL FLAG and USA Football on rule sets and training, coordinated all officials for the NFL FLAG Regional Tournament Tour and managed the officials at the NFL FLAG 2008 National Championship Tournament.

Jeff previously spent 17 years at Rolm Corporation/IBM/Siemens. As their Northern California Materials Manager, he created and managed a 5 site distribution network and managed \$10 million in inventory. As the Western Regional Materials Manager, he was responsible for all materials related operations west of the Rockies. He was the creator and national program manager of the Siemens MAC Challenge, a sales incentive program that generated over \$92 million in incremental installed base sales.

As a community contributor, Jeff has participated in many community organizations:

- San Jose Mayor's Advisory Council on the Metcalf Energy Center
- City of San Jose's Sports Field Study
- Morgan Hill's Outdoor Sports Complex Advisory Committee
- California Amateur Athletic Association, Inc. – Founding President
- Morgan Hill Independence Day, Inc. – Currently Vice President
- Morgan Hill Gymnastics Parents' Club - Founding president
- Morgan Hill Aquatics Center Foundation – Event Director
- Leadership Morgan Hill Class of 2009
- Volunteer Morgan Hill – Currently Director of Operations

Jeff, along with his wife and daughter, enjoy the close knit and friendly community of Morgan Hill.

Dave Payne, Vice President

Dave is a veteran of the high-tech industry, with over 25 years of experience leading teams in the creation, development and operation of advanced systems, networks, and high tech startups. He runs a technology consulting and corporate management practice from his offices in Morgan Hill, where he has lived the past decade with his wife and four children.



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Dave's customers range from the US Government (Defense, NASA, National Labs, Justice, and Homeland Security) to International clients (UN, Lockheed, and numerous Silicon Valley concerns). His practice focuses on high tech startups in consumer electronics, communications, security, RFID, as well as advanced space system design and integration. He has been a CEO/COO at multiple startups, and has been an executive director at such firms as Northrop Grumman, Lockheed Martin, Boeing, OPNET Technologies, and Bill Gates' Teledesic Corporation.

Dave is a graduate of UCLA with a Bachelor of Science in System Engineering and Economics. He and Christine have lived in Morgan Hill since the 90s raising their four children and enjoying the urban/rural/coastal mashup that is the South Valley. Dave enjoys home remodeling and jacuzzi maintenance, playing jazz piano, free lance web development, and coaching youth football, basketball, and soccer.

Rui Azevedo, Secretary/Treasurer

A recent arrival in Morgan Hill, Rui Azevedo was born and raised in Santa Clara, California. He attended Archbishop Mitty High School and then went on to graduate from Santa Clara University in 1994 with a Bachelor of Arts in Accounting.

He has worked in the accounting field in positions as the Vice President of Baytech Credit Union and Controller of Signals Wireless Communications. He has spent the past two years as the Director of Accounting for the Sisters of Mercy of the Americas in Burlingame. Rui has worked for other nonprofit credit unions and religious orders with a focus on mergers.

Rui has assisted amateur sports organizations providing guidance in the areas of financial management and accounting practices.

He is excited to move to Morgan Hill and contribute to his community. With his background in amateur sports and accounting expertise, Rui is looking forward to making a positive contribution to his new community.



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Morgan Hill Youth Sports Alliance Proposal for Operation of the Outdoor Sports Complex

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Attachment B

Morgan Hill Pop Warner Raiders Requirements

Example Home Field Program: MHPW

Morgan Hill Pop Warner Raiders

ACCESSIBILITY

Storage Facility Area - requires full access 24/7 365 calendar days

PRACTICE AREA - 4 Total fields duration of season July - Dec 1

JULY-AUGUST (5 Weekdays Monday-Friday) 45 calendar days

SEPTEMBER - DECEMBER (6 Weekdays Monday-Friday) 82 calendar days

6 Football Teams = Approx. 200 football players

(25 kids Tiny Mite 5-7 yrs old) (35 kids each MIA, JP, PW, JM, M, 7-15 yrs old)

3 Football Practice Fields ~ 50 sq yards per team

6 Cheer Teams = Approx. 100 cheerleaders

(10 girls Tiny Mite 5-7 yrs old) (20 girls per squad each MIA, JP, PW, JM, M, 7-15 yrs old)

~1 Football field sized Practice area (need not be a dedicated playing field but must be level no hazards)

Note: Duration of outdoor practice for Cheer approximately 1.5 months (August + 1/2 September, Cheer moves indoors)

PHYSICAL ASSETS - Reserved vehicle accessible space 50'X60' total footprint

(1) 40'X8' Tractor Trailer - Container with wooden steps

(2) 40'X8' Construction Container

(2) 20'X8' Construction Container

(1) 16'X6' 6 man blocking sled

(2) 2-man blocking sleds

(1) 26'X7' Trap Chute wheeled (large)

(1) small flatbed trailer (single axle)

(1) 24'X40' Equipment filling area (included in total above)

PARKING

Parking for 300 families/kids & 80-100 volunteers - mitigates after August 31st to drop off & pick up of football players with cheer moving indoors mid-September

CONCESSIONS

Agreement to allow MHPW to maintain a concession operation on the practice fields during the course of the season.

Possible rental of City Owned concession trailers as viable alternative to a hard structure.

Additional possible rental of Concession Building at front of complex for season.

TURF FIELDS

Access to lighted Turf Fields minimum one weekday per week July-August 6-9pm

Saturday or Sunday Day (one day only) use of both North & South late August 21st or 22nd

Jamboree Host - August 29th Sunday Day (one day only) use of both North & South turf fields + Concession Bldg

Weekdays Monday through Friday (Football Field only) October 18th-22nd, 25th-29th & November 1st-5th 6-9pm with lights

SCHEDULING

8 Saturdays (one day only) use of both North & South turf fields + Concession Bldg September-October

October 30 & 31st Round 1 Playoffs

Both Days use of both North & South turf fields + Concession Bldg



Morgan Hill Youth Sports Alliance

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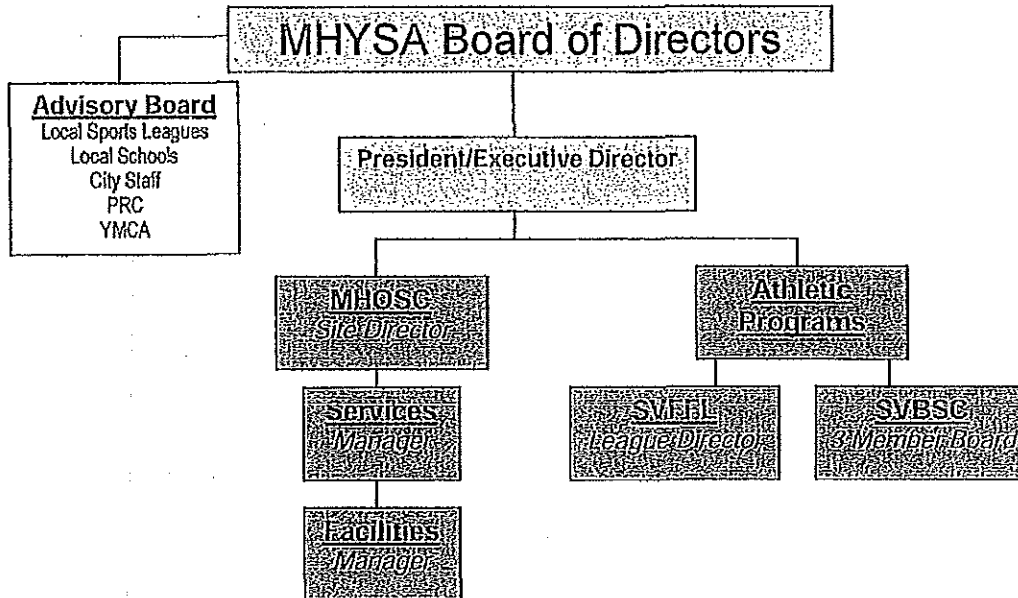
Morgan Hill Youth Sports Alliance

Proposal for Operation of the Outdoor Sports Complex

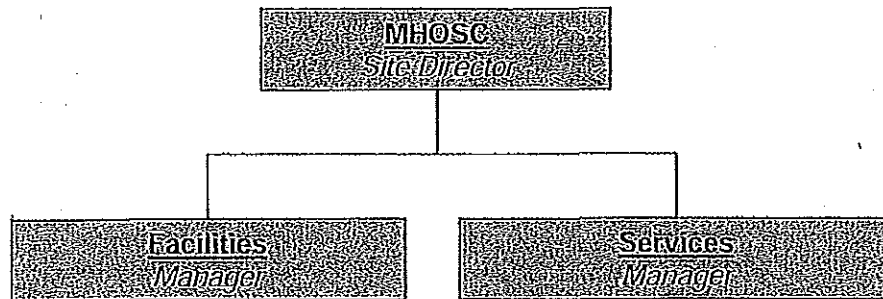
March 19, 2010

Attachment C

MHYSA Organization Chart



Outdoor Sports Complex Operational Team



- | | |
|----------------------|---------------------|
| • Operations | • Manages All Sales |
| • Locks and Security | • Runs Ad Program |
| • Janitorial | • Schedules Fields |
| • Field Maintenance | • Run Concessions |



Morgan Hill Youth Sports Alliance

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EXHIBIT D



1. Please explain your strategy to satisfy the City's OSC objectives to balance community access and regional use, as well as to ensure a diverse mix of field use.

Balancing community access and regional use first involves understanding the dynamics. Regional organizations have little or no interest in renting the fields during the week and critical interest on the weekends. Community groups would like to have weekday and weekend use is also a high priority. MHYSA's target balance is roughly 60% local and 40% regional.

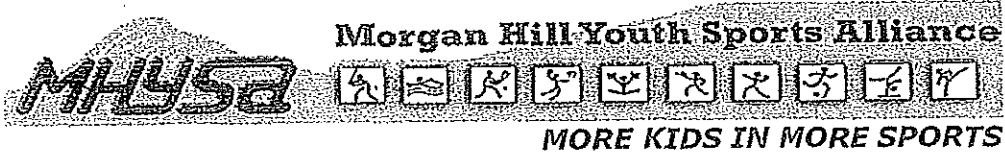
MHYSA will use several methodologies to balance local access and regional use. The first will be to open the grass fields to local organizations Monday through Friday. Local organizations include OVYSL, Pop Warner, MHUSD teams and adult leagues. Additional users could come in the form of the YMCA programs and seniors. These organizations would be able to rent the fields on an hourly basis.

The second element of our approach will be to work with regional organizations to develop scheduling strategies that allow regional events (Tournaments) to take place at the same time there are local games (Leagues) going on at the facility. All users will have an opportunity to request hours on the OSC fields. The key will be balancing the ability to meet customer needs with maximizing the use of available hours. Tournaments and leagues both require a certain amount of field hours. The OSC has a fixed number of fields. The solution lies in determining how fields must be allocated to fulfill the individual need. The existence of two lighted fields allows for greater flexibility as games can be played there in the evening.

This approach also will provide the ability to ensure a diverse mix of field use. The facility has 12 fields and can be scheduled as such. MHYSA plans to use portable soccer goals on all fields which allows for fields to be use for different sports, possibly within the same day. As with the City of Campbell, grass fields will be marked in different colors as the OSC turf fields are today to allow for varied sports groups to play on the grass fields. Another step will be to reach out to non-traditional sports such as cricket and emerging sports such as disc golf to understand their fields needs and develop strategies to bring them into the facility in currently vacated times.

It is important to note that only rectangular sports field users can be accommodated at this time. These sports are soccer, football, rugby, lacrosse, flag football and field hockey. An additional consideration is there are leagues for both youths and adults.

Despite this fact MHYSA plans to work with diamond sports leagues such as Pony Baseball, SPIRIT and PRIDE in the near term to enhance their field access. The OSC is just one sports facility in the Morgan Hill Area. Others exist in city parks and schools as well in South San Jose and Gilroy. By bringing OVYSL and the Raiders to the OSC for all practices and games, these fields open up to allow greater access to diamond sports organizations. In the long term MHYSA will collaborate with the City of Morgan Hill and the SCCHS committee in developing permanent solutions.



Flexible scheduling strategies are the key to achieving these goals. As an example, a three game minimum/single elimination tournament for 30 teams whose games are scheduled in 2 hour time slots requires a total of 118 field hours. Assuming that set up hours can be accommodated as part of the scheduling the choices, there several ways to fulfill the 118 hours requested. Two examples are:

Total Hours	Total Fields	Sat. Hrs	Hrs/Field	Sun. Hrs	Hrs/Field
118	10	60	6	58	5.8
118	6 (Sa)/12 (Su)	60	10	58	<5

Successfully combined, these elements create an environment that would allow for a Saturday scheduling with diverse users that balance local and regional use:

Time	Field 1-6	Field 7	Field 8	Field 9	Field 10	Field 11	Field 12
8:00am	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
9:00am	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
10:00am	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
11:00am	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
12:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
1:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
2:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
3:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
4:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
5:00pm	NorCal	OVYSL	OVYSL	OVYSL	OVYSL	Raiders	Raiders
6:00pm	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN
7:00pm	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN
8:00pm	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN	OPEN

2. How do you plan to implement your proposed rates?

Existing and traditional users will be brought into the new rates on a scheduled and pre-arranged basis. New users will pay the new rate immediately. There are two considerations driving this strategy. The first is the reservations already on record with the City of Morgan Hill for the first six months on the turf fields. Those reservations will be honored at the existing rates. In addition, those parties will be given the opportunity to pay the existing rates for the grass fields even though there currently are no reservations placed for their use. Finally, based on the organizations' needs for the second half of the year and first half usage, rates may remain fixed until fiscal 2011/12.



MORE KIDS IN MORE SPORTS

A second consideration is the Home Field Program. Home Field Program members will have an opportunity to negotiate fund raising opportunities and in-kind labor exchange to reduce the impact of the rate increase. Rate discussions will require total transparency in terms of needs and the impact of the rate increase so that a collaborative method can be used to ensure that all parties' needs are fairly met.

3. Please explain your priority use system and implementation plan.

The main considerations for setting priorities will be the local/regional balance strategies, providing preferred access to Home Field Program members and retaining or acquiring regional partners. Additional considerations are giving priority to youth organizations, supporting local non-profits and providing access for casual users

The historical use of a priority system has been intended to provide the fairest approach to meeting competing field needs. Its failing comes from its reactive as opposed to proactive approach in meeting customer needs. MHYSA has a plan to ensure customer satisfaction by:

- Setting annual usage needs for all use traditional and existing users
- Employing a flexible scheduling strategy
- Working in an open and collaborative way with all users
- Providing an online tools for field scheduling and reservations

4. Do you currently have agreements or memorandum of understanding conditioned on your receipt of the contract with the City with organizations interested in reserving the OSC fields? If so, for which fields, turf or grass, for how many hours, and at what hourly rates? Please provide copies.

The opportunity to have access to the Morgan Hill Outdoor Sports Center has produced a frenzy of interest that grows every day. MHYSA remains committed to retaining CYSA and bringing OVYSL into the alliance which affects our opportunities with other organizations. If they choose not to participate; MHYSA has received letters of interest from the following organizations that are interested in replacing their field usage and site management operations:

- Upper V. Management Group, Inc
- Nor Cal Soccer
- Mustang Soccer
- ZFootball National 4-on-4 Flag Football Tournament Tour
- MHUSD

All of these organizations have indicated sincere interested in operating one or more events at the OSC. Specific hours of usage have not been discussed. The rates will be at Year 1 and 2 levels. MHUSD will probably join forces with MHYSA as a Home Field Program member.

Upper V. Management Group has proposed a more comprehensive partnership where they support MHYSA in an advisory or consultancy capacity, provide technical expertise and help facilitate sponsorship.



In addition we have received a letter of interest from the Morgan Hill Sister City Committee for hosting an international tournament on the site.

Most importantly however is the opportunity for future growth beyond we already have. For example, despite the extensive use of the turf fields by CYSA and OVYSL, these two fields remain largely unused during week days and throughout the summer months. Working with MHUSD and other local schools provides an opportunity to increase week day usage between 3pm to 6pm as well as between the hours of 9am to 3pm for special events. Specific hours have not been discussed.

In addition to the organizations listed above we are currently in preliminary discussion with:

- NFL Players Associations (Camps and clinics)
- U.S. Club Soccer
- NFL FLAG Football Tournament Tours
- USA Football

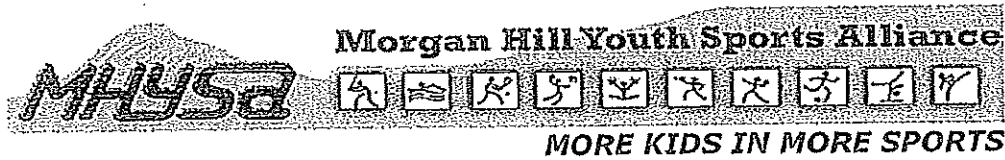
5. Do you have a contingency plan if your proposal assumptions do not materialize (for example, if CYSA or other existing customers elect not to reserve the OSC)?

Our contingency plans are two-fold. The first is if CYSA and OVYSL pulls out of their current 2010/11 reservations and the second is if they choose not to reserve the fields.

Current indications are that OVYSL and CYSA intend to vacate the OSC once a decision is made to move the OSC to another operator. This represents 371 hours for CYSA and 600 hours for OVYSL on the turf fields. MHYSA has not confirmed their plans, but will immediately begin booking alternative permits to ensure that the revenue stream remains uninterrupted in case these rumors are confirmed. We expect that we have all CYSA and OVYSL turf hours replaced and the grass fields booked for the first six months of FY2010/11 by the end of April. If CYSA and OVYSL choose to keep their tentative field reservations, but not renew in January 2011 then MHYSA will begin booking the second half of the year instead.

A second part of our contingency planning involves establishing a line of credit with community banks such as Pinnacle, Heritage and South Valley National Bank. We are in the process of working with all three banks to set our line of credit with one or possibly all of these banks. This line of credit will ensure that MHYSA can manage the ebb and flow of day-to-day financial management.

6. Please discuss your local economic development strategy and steps you have taken to move this forward.



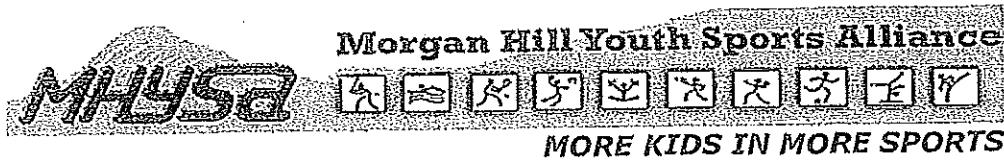
MORE KIDS IN MORE SPORTS

We have shared our proposal with Morgan Hill Downtown Association, the Morgan Hill Chamber of Commerce, local community leaders such as Roger Knopf of Leadership Morgan Hill and Morgan Hill Rotary Club, Jeff Roth of South Valley National Bank, former Morgan Hill Mayor Dennis Kennedy, Anthony Goulart owner of Associated Concrete and Steven Stratton of Steven M. Stratton Insurance and Financial Services. These community leaders have contributed to and support the MHYSA proposal.

In addition we have shared our plans with local hotel association leaders David Dworkin and Keith Gapol as well as local business owners Rich and Rosie Bergin (Rosy's At The Beach), Debra Creighton (Huntington Station formerly Glory Days) and Troy Carson (Morgan Hill Bowl). While public support for our proposal varies among these parties, all have indicated a willingness to work with and/or support MHYSA should MHYSA obtain the OSC management contract.

Our economic development strategy is three fold:

- Work with community business leaders and associations to develop a comprehensive plan leveraging the value of the Outdoor Sports Center to drive economic development. These plans will involve at a minimum:
 - Working with Community Development to produce an information packet describing the vibrancy of our residential and business community due to the local control of and access to the OSC and other recreational facilities, our cooperative and enjoyable sports environment and the multitude of entertainment options Morgan Hill enjoys. This message will help Community Development facilitate residential and commercial growth.
 - Developing a comprehensive strategy with the Morgan Hill Chamber of Commerce and the Morgan Hill Downtown Association to leverage the OSC when promoting Morgan Hill retailers to other communities, event planners, tournament organizers and national organizations.
- Develop co-marketing strategies with the aforementioned businesses along with other retail merchants, restaurants, wineries and recreational oriented businesses, associations and youth organizations that direct tournament and event attendees to the downtown, northeast and southern districts. These efforts will at a minimum include:
 - On site, web site and social media advertising
 - Information collateral on all local retailers
 - Promotions and special offers for tournament attendees
 - Hotel packages that combines hotel, retail, restaurant and winery offers that direct tournament attendees towards local businesses as PART of their planning and attendance of their event.
- Continue to work with MHYSA members to create and execute mutually beneficially fundraising efforts.

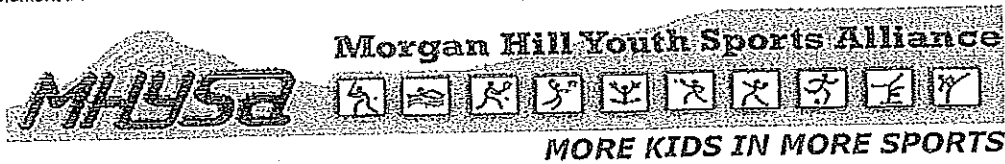


7. Do you plan to make any improvements to the grass fields? If so, what are they and how do you plan to fund the improvements as of the date you assume responsibility for the OSC?
- While the grass fields are functional now, they clearly have been allowed to deteriorate over the past few years. MHYSA will develop a renovation plan that will improve the conditions of the entire facility. The first step will be a facility evaluation prior to the beginning of MHYSA management. The next steps will be through a negotiated approach agreed to by the City of Morgan Hill and MHYSA which will encompass:
 - Bringing the fields back to a superior condition
 - Ensuring continued warranty support for the turf fields
 - Defining a capital replacement strategy
 - Defining a capital improvement plan
 - Developing a fund raising strategy to support the facility plans
 - Our plan to handle the immediate grass field renovations will primarily through donations and community support. George Chiala has indicated interest in donating compost, Aaron Gill of Grass Farms volunteered to act as a grass consultant and Volunteer Morgan Hill will serve as a conduit for attracting volunteers. Upper V. Management has offered logistical and possibly financial support. Incremental costs will be absorbed as renovations take place.
8. How do you propose to fund the start-up of your operation as of the date you assume responsibility for the OSC?

Start up funding is the primary challenge MHYSA faces. This means start up operations will need to be creatively and conservatively managed. MHYSA plans to negotiate their lease, vendor and employee contracts along with site improvements and capital equipment purchases in a manner that defers most payments to later in the fiscal year. The uncertainty of the status of CYSA and OVYSL means that the MHYSA will have to move quickly to obtain reservations from Nor Cal Soccer, U.S. Club and other organizations to reserve and pay for fields. This requires cancelling the early reservations from these two organizations, identifying the now available hours to prospective users then booking the new reservations and collecting the rental fees. The remaining users will then be contacted to understand their payment status and time frames.

The only non-negotiable payables that MHYSA will incur will be for the water, electricity and insurance. MHYSA has the financial resources to pay these services for the first six months without income

We are mainly encouraged by the breadth and depth of interest our proposal has generated. It would be inappropriate to discuss our competitive and partnership strategies at this time. It suffices to say that there are many, many organizations willing to partner with and support MHYSA in the operation of the OSC.



9. What start-up capital do you have in your bank account?
 We have immediately available financial resources of \$110,000 that is comprised of \$10,000 in an SVNB account and start up investment of up to \$100,000 from local investors. The investment funds will be moved once the amount needed is defined.

In addition, the following "pros/cons" matrix will be provided to the PRC for your organization. The PRC would also like to see a written response to these.

Organization	Pros	Cons	MHYSA Response
<u>MHYSA</u> (recommended)	- Well thought out, comprehensive business plan - Community based field use philosophy - Diverse facility use plan - Economic development goal - In-depth background research - Diverse revenue generation strategy	- No experience operating a public, recreation facility - Liberal three year pro-forma - Business start up based on volunteer leadership - Suggested increasing field rates	

Con: No experience operating a public, recreation facility

The addition of Upper V to our team mitigates this risk, and builds on the community approach. The coalition of MHYSA, NorCal Soccer, Earthquakes, Grass Farm to name a few members promises to be an exciting proposition.

Con: Liberal three year pro-forma

The math is solid, the assumptions conservative and our projections based on national industry standards

Con: Business start up based on volunteer leadership

MHYSA Directors were selected for 3 year terms based on professional qualifications, personal commitment and lack of encumbrance or potential conflict of interest through their leadership roles in similar or associated organizations.

Con: Suggested increasing field rates

Increasing rates are appropriate. We will offset impact to local organizations through the Home Field Program. Regional organizations will have the opportunity to pass cost on.

EXHIBIT E



May 6, 2010

City Council Questions
MHYSA Response

1. What are the City's risks associated with your proposal to operate and maintain the Outdoor Sports Center? What are your plans to manage the risk?

The risks for the city fall into two key categories: financial and facilities management. In terms of financial risk, the two main risks are:

- 1) CYSA decides to withdraw use of the facilities
- 2) MHYSA projections are overly optimistic

The MHYSA proposal and pro forma stands as submitted almost 60 days ago. In order to address both of these potential risks, we have provided an additional pro forma business plan, (See attached). While we are confident in our initial projections, along with the industry data and assumptions that underlie them, we have taken steps to mitigate any City concerns or risk by providing this highly conservative "worst case" scenario, which demonstrates that even under the worst circumstances, MHYSA is will be able to maintain a solid financial position.

In this scenario, CYSA abruptly ends any use of the facilities, reducing revenue dramatically and removing all their equipment. We have already demonstrated there is interest from many organizations to acquire CYSA's time and making up that lost revenue, however, it is inherently impossible for them to make that commitment (or us to accept it) until a contract is awarded. So for the purposes of this worst case scenario we have made the assumption that not only has CYSA ended use of the facilities, but also made the highly unlikely assumption that MHYSA is unable to replace any of it within the first year. As you can see in the pro forma, because many of the costs of operation are variable, not only does revenue decrease dramatically, but our expenses decrease as well. This would take our first year position from a positive variance of \$56,881 to just under break even amount of -\$24,998, but given the combination of our Bank LOC and private availability of funds, our financial position would remain sound and not put the City in risk whatsoever.

The second concern would be that our revenue projections are overly aggressive. It is worth noting here that both our expense and revenue projections are highly detailed and based on known industry standards and costs. The single area which is not as easily predictable is sponsorship, but even our initial projections did not reflect significant income from this area until year



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three. As you can see in the attached "worst case" pro forma, while our positive variance is significantly reduced, we run no risk of negative cash flow due to lack of sponsorship funds.

Thus -- the City can be assured that even if CYSA leaves and MHYSA significantly under-performs our sponsorship projections, we remain financially strong and sound.

Another area of risk to the City is that the fields and facilities are not maintained adequately. As we have identified and contacted alternative field user groups if CYSA pulls out, we have also made initial preparations with local landscapers, sports turf and grass maintenance professionals from Sports Turf Management Association (STMA) and the California Landscaping Contractors Association (CLCA). These consultants have offered their expertise pro bono to assist with the development of an annual maintenance program. Local landscape companies will receive a detail statement of work they can bid on. There currently three companies who have provided preliminary estimates. These estimates are reflected in our pro forma.

2. Please explain the economic impact your proposal will have on the Morgan Hill community from July 1, 2010 through June 30, 2011. Include number of weekend dates that regional events will be held and include estimated number of fields used, teams, and spectators.

Scenario 1: CYSA stays and no additional users are found – We expect the CYSA response to accurately define the impact and defer to their data. Not having access to their actual data, we have estimated their volume to at least be equivalent to the Nor Cal/Mustang even though declined comparatively declined 25% in recent years. Nor Cal/CYSA data available upon request.

- Total Weekend Dates - 30
- Number of Fields - 360
- Teams -- 1,427
- Spectators -- 45,795

In the event that CYSA stays, there are additional events identified which provide incremental revenue opportunities. These events are:

- Nor Cal Soccer Play Date on August 22nd
- Mustang Soccer MLS Academy September 3rd through 6th
- CVSL Magic Cup Tournaments on July 31st/August 1st and August 28th/29th (Currently identified as a CYSA event, they would stay.)



These events improve the local economic impact realized by MHYSA's operation by allowing non-CYSA organizations to use the OSC. The indicators are:

- Total Weekend Dates - 7
- Number of Fields - 84
- Teams - 256
- Spectators - 10,123

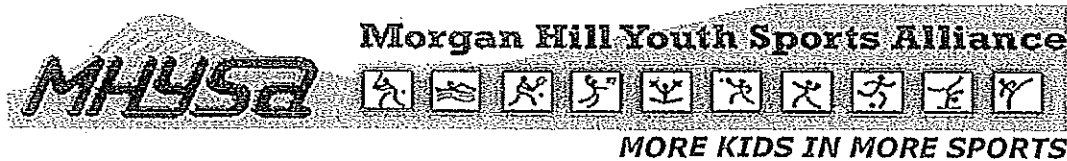
Scenario 2: CYSA pulls out leaving a gap in the first six months usage and requiring replacement users be found for the second six month of 2010/11. In addition to the non-CYSA events listed above, there are requests for Nor Cal State Cup events, MLS events and other national tours that can replace historical CYSA usage.

- Total Weekend Dates - 34
- Number of Fields - 408
- Teams - 1,567
- Spectators - 48,795

The final favorable economic impact comes from MHYSA's co-marketing and collaboration strategies. Co-marketing with local associations, businesses and hotels will have a net multiplier effect on revenue realized. Our collaboration strategy will allow business partners to reduce costs, build business-to-business networks and create synergies between community sports organization.

3. How does your proposal enhance community access to the entire complex? For the period July 1, 2010 through June 30, 2011, please differentiate between the number of hours Morgan Hill teams will have access to:

- a. **Synthetic turf fields on weekdays and proposed rate** (Local Rate=\$10/hr)
There will be no change to current policies or rates and minimal impact on Morgan Hill teams' usage. The process will utilize the collaborative approach recently adopted by the city parks and recreation staff. This will ensure an appropriate balance of access for all community groups. We expect an overall increase in facility access and utilization local teams.
- b. **Synthetic turf fields on weekends and proposed rate** (Local Rate=\$10/hr)
Use best scheduling practices to increase local leagues access to facility while meeting regional customers' requirements.



c. **Grass fields on weekdays and proposed rate** (Local Rate=\$12/hr)

As previously stated, we will open grass fields to meet local needs during the week. We do not expect the need to be great enough to use every field every day. Furthermore, daily use will be primarily during the 3pm to sunset hours. Still, these fields should adequate to meet local teams' needs.

d. **Grass fields on weekends and proposed rate** (Local Rate=\$12/hr)

The MHYSA proposed hourly rate will open field availability to local leagues. Regional operators will release fields earlier if not charged a daily rate. This approach will lead to a culture shift in the way these tournaments are scheduled. Additional opportunity can be introduced if local teams pursue a similar collaborative approach when scheduling the fields when regional users are not.

Costs concerns under the new rate will be mitigated though the Home Field Program. The initial arrangement with Pop Warner Raiders gives them significant savings in the first year over their current field rental expense. Orchard Valley Youth Soccer League (OVYSL) has indicated their costs are approximately \$60,000 annually. MHYSA will work with OVYSL to reduce their annual costs while moving them off the sub par fields they play on today.

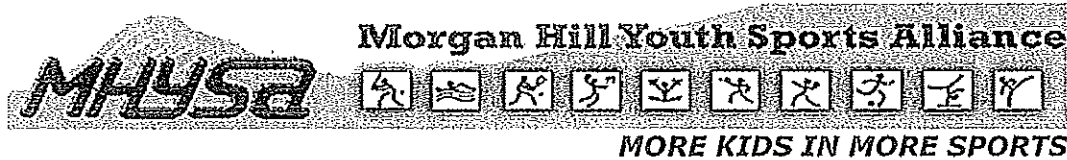
The Home Field Program also will allow alliance members to develop fundraising and cost reduction strategies providing further assistance to local teams.

4. **How do you respond to the Council's request that CYSA and MHYSA work together? Please summarize your interactions subsequent to the Council meeting of May 19, if you have a specific proposal, please provide the details below and forward to the other organization when you submit your responses to the City?**

Our verbal proposal to CYSA on April 26th is contained in the following outline. We will formally send CYSA this information in the next 24 hours.

Proposal for working relationship between CYSA and MHYSA

1. Looking for long term arrangement
2. CYSA North and affiliates retain priority status among regional users
3. Rates and permits honored for July 1st to December 31st, 2010
4. CYSA North and affiliates reserve OSC directly with MHYSA
5. MHYSA interested in rent back arrangement for on site equipment



Summary of communication (Email thread copies available upon request)

- March 8th Jeff asks Dave Mann if CYSA would work with winner of proposal if CYSA not chosen. Answer was affirmative.
- April 6th Dave Payne emails Jack Salvamini to open dialogue on CYSA/OVYSL/MHYSA partnership.
- April 15th Rodney Robinson contacts Jeff Dixon to discuss options for working together. Main topic was MHYSA proposal.
- April 22nd Dave Payne calls Dave Mann. No Response
Dave Payne and Rodney Robinson exchange emails regarding CYSA District 2 using OSC. Dave Mann provides final reply that CYSA District 2 will not commit until contract is signed with city and MHYSA. No further contact with Robinson
- April 23rd Kathi Killion and Jeff Dixon schedule Monday meeting between CYSA staff and MHYSA.
- April 26th CYSA (Dave, Kathi and Margaret) and MHYSA (Jeff, Rui) meeting in San Jose. Meeting results emailed to Steve R. Proposal topics shown below discussed. Dave Mann commits to provide field dates by the following week.
- May 3rd CYSA (Dave and Margaret) and MHYSA (Jeff) meet with Steve Rymer to find common ground. CYSA reiterates position of waiting on contract. MHYSA shares priorities.
- May 7th Proposal outline sent to Dave Mann by Jeff Dixon

5. Please clearly explain your Board of Directors' structure, including the number of directors, how directors are elected/appointed, and any local presence on the Board.

Our Board of Directors consists entirely of unpaid volunteers that meet our three key criteria:

- 1)
- 2) Morgan Hill citizens and community members with the best interests of our community at heart
- 3) Passionate supporters of youth sports
- 4) Specialized expertise in relevant fields (management, marketing, finance, etc)



Our Board has been expanded to seven members fulfilling three year terms in the following organizational positions. Each Board Candidate is voted on/approved by the existing Board of Directors:

1. President/Executive Director:
2. Vice President
3. Secretary/Treasurer
4. Marketing and Sales Director
5. Business Development Director
6. Community Advocacy Director
7. Advisory Council* President

*In addition to our governing Board of Directors, we have established an Advisory Council comprised of representatives of local youth sports organizations to ensure broad representation. The President of the Advisory Council is one of the seven voting members of our Board of Directors.

Board candidates must be endorsed by Advisory Council and will be selected by Board. Board members cannot have conflict of interest with OSC users or MHSYA members.



Attachment A Worst Case Scenario Pro Forma

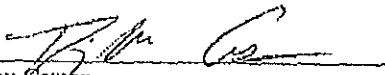
OSC Semi-annual Pro Forma		First 6 mos	Last 6 mos
		7/1/2010 to 12/31/2010	1/1/2011 to 6/30/2011
Revenue sources			
Field Rentals	\$109,595	\$167,851	
Concessions (Snack Bar, Parking, etc.)	\$56,791	\$273,211	
Camps, Clinics and Events	\$12,500	\$1,500	
Advertising Program	\$3,700	\$4,300	
Naming Rights (Complex, Each Field, etc)	\$0	\$0	
Sponsorship	\$0	\$5,000	
Grants and donations	\$0	\$0	
Gross Revenue	\$182,586	\$451,862	
Operations Expenses			
Facility Lease	\$10,000	\$40,000	
Facility Revenue Sharing	\$0	\$0	
Utilities	\$20,582	\$20,590	
Repair & Maintenance	\$86,988	\$86,475	
Event preparations and clean up	\$26,576	\$86,366	
Reservation services (non payroll)	\$0	\$0	
Member management (non payroll)	\$0	\$0	
City-Liaison	\$0	\$0	
Inspections	\$270	\$0	
Service Operation Expenses	\$5,625	\$750	
Staff	\$25,035	\$59,125	
TAXES	\$0	\$0	
G&A	\$5,007	\$11,825	
Net Expense	\$180,083	\$305,131	
Capital Needs			
Replacement and Additions	\$0	\$0	
CYSA Transition	\$27,500	\$0	
Capital Needs	\$0	\$0	
Improvements	\$0	\$0	
TOTAL Capital	\$27,500	\$0	
Operational Variance	-\$24,998	\$146,731	

Morgan Hill Youth Sports Alliance

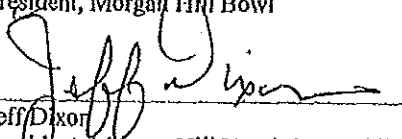
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LINE OF CREDIT AGREEMENT

This LINE OF CREDIT AGREEMENT is made as of the 23rd day of June, 2010 (The "Line Of Credit Agreement" by and among Morgan Hill Youth Sports Alliance, Inc., corporation (MHYSA) and Troy Carson, individual (CARSON). A LINE OF CREDIT is hereby established in the amount of one hundred thousand dollars (\$100,000) for the benefit of MHYSA for the purpose of managing Outdoor Sports Center (OSC) Cash Flow during start up operations through fiscal year 2010/11.

1. CARSON hereby agrees to establish \$100,000 line of credit for access by MHYSA available for 1 year from July 1, 2010 until June 30, 2011.
2. MHYSA agrees to pay an annual interest rate of 6% on the total amount withdrawn and provide a 68"x68" advertising space at the front grass field entrance at no charge for one year.
3. MHYSA will request the funds through a Letter of Request stating the dollar amount required.
4. CARSON will provide funds requested within 48 hours of receiving the Letter of Request in the form of check or money order.
5. Interest is applied to withdrawn amount upon delivery of funds upon issuance and delivery of the check or money order to an MHYSA representative.
6. Amounts can be withdrawn as follows:
 - First Draw \$10,000
 - Minimum Draw \$5,000
7. MHYSA agrees to pay back all borrowed funds with interest immediately if OSC contract is concluded before June 30, 2011.
8. MHYSA may pay CARSON part or all of funds loaned at any time during the contract period.
9. Interest shall be calculated for the period of time the monies were held.
10. Total payment is due on July 1, 2011 for all withdrawals and interest.
11. In the event MHYSA becomes unable to pay back CARSON, Jeff Dixon will assume the AGREEMENT becoming responsible all existing debt and interest.


 Troy Carson
 President, Morgan Hill Bowl

Date: 6/28/10


 Jeff Dixon
 President, Morgan Hill Youth Sports Alliance, Inc.

Date: 6/28/10



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Outdoor Sports Center – Q4/2016-17 Status Report (Preliminary)

Section One: Key Indicators

Actual Fields Use (Hours)	Fourth Quarter	Year To Date	Comments
<u>Regional by Sport (Total)</u>			
Youth Soccer	183	2538	
Adult Soccer	0	0	
Youth Football	0	0	
Other – Adult	544	702	Cricket, soccer, dog show, LAX
Other – Youth	80	517	LAX, Field Hockey, Frisbee, Flag
Total	807	3757	49.5% of Usage
<u>Community by Sport (Total)</u>			
Youth Soccer	1094	3421	
Adult Soccer	0	0	
Youth Football	0	283	
Youth Flag Football	0	28	
Youth Rugby	0	65	
Youth Field Hockey	0	0	
Other - Adult	0	0	
Other - Youth	3	30	Lacrosse
Total	1097	3827	51.5% of Usage

(Event hours not reflected in usage hours)

Category	Fourth Quarter	Year To Date	Comments
Financial Performance			
Advertising Revenue	\$350	\$3,950	
Commissions	\$75	\$2,415	
Concessions	\$5,978	\$60,780	
Event Sponsor	\$1,525	\$3,525	
Field Rentals	\$73,397	\$373,394	
Parking	\$8,769	\$112,452	
Services	\$2,550	\$28,313	
Tournament Team Fees	\$333	\$80,581	
Interest Income	\$1	\$4	
Total Revenue	\$92,978	\$665,414	
Total Expense	\$107,158	\$709,666	
Gross Income	(\$14,180)	(\$44,252)	



Section Two: This Quarter Accomplishments

Dave Payne passed on June 10, 2017 – Something to survive, not an accomplishment
Thanks for everything you did for us Dave! You are missed.

Operations

- Transferred operational control to Jeff Dixon
- Completed 2015-16 financial audit
- Followed up on San Jose Soccer Foundation acquisition plans
 - No-Go for now
- Continued negotiations for a multi-year Home Field Partnership with Silicon Valley Cricket Group
- Developed new events:
 - Halloween: OVYSL
 - Mid-November: SJ Earthquakes/Nor Cal Premier
- Negotiated renewed Circo Caballero contract
- Negotiated return of Flynn Creek Circus
- Processed Poppy Jasper Cup team fee returns
- Received delayed word that Spring D2 cups moved to Twin Creeks
 - Less than 45 days' notice
- Began competitive analysis of Twin Creeks facility
- Prepared for Freedom Fest Fireworks on the Green
- Moved to Teen force staffing model
- Met with local hotel sale directors:
 - Courtyard/Residence Inn by Marriott
 - La Quinta
- Completed payroll audit
- Attended grant writing workshop
- Signed new events:
 - American Flycasters' National Championship
 - COPA Bud Light

Facilities

- Completed monthly city staff inspections
- Continued to develop cricket pitches
 - Re-engineer South pitches
 - Install cricket table in north fields
- Explored new turf options and ways to extend life
 - Collaborated with city staff to conduct GMAX testing
- Continued to assist city with tree grant application
- Remediated skunk infestation
- Responded to inquiry regarding sale of temporary bleachers
- Repaired and bring online additional KIFCO unit



Field Use

- Tournaments and Camps
 - Memorial Day Foothill Classic: May 27-28
 - Western Winners Lacrosse Camp: June 13-15
 - SVCG matches: April-June
 - 49ers NFL Play 60: June 17
 - CRC Camps: June
- Morgan Hill leagues and schools
 - Orchard Valley Spring season practices and games
 - Coerver Academy soccer camps
 - South County Outlaws lacrosse
 - Morgan Hill Clovers lacrosse

Marketing Programs

- Continued working with Tourism Alliance formed with City of Morgan Hill, Chamber of Commerce, Morgan Hill Downtown Association and various community wine advocates
- Continued sports tourism meetings with City Staff
- Investigated US Quidditch opportunity
 - Not realistic
- Responded to 2016-17 field inquiries as needed:
 - United States Touch and Flag League
 - College Soccer Experience
 - Bay to Bay Volleyball
 - International Rugby 7s
 - SMART Dog Agility
 - SVCG Team Building Program
 - Gavilan College
 - Santa Clara Convention Center
 - Chinese Cultural Exchange



Section Three: Next Quarter Priorities

Operations

- Move to RecPro reservation systems for local users
- Find replacements for Dave Payne in the areas of:
 - IT
 - Web site and social media
 - Technical research
 - Tournament Director
 - Tournament support operations
 - Facility maintenance and repair
- Complete competitive analysis
 - Twin Creeks
 - Santa Rosa
 - Cherry Island
- Hold local user group meeting
- Conduct year to year revenue and expense analysis
- Complete projected usage through June 30, 2019
- Continue to develop new events:
 - Halloween: OVYSL
 - Mid-November: SJ Earthquakes/Nor Cal Premier
- Develop operational model for Lomanto property parking use
- Create internal team for creation of new business model in response to city RFP
 - Mark Waxman
 - Greg Sellers
 - Dana Ditmore
- Bring new advertising sales representative on board
- Bring in new vendors:
 - Apparel Republic
 - Delicias Colima
- Host Chamber of Commerce Networking Mixer
- Complete corrective action from OSC audit
- Complete after action analysis of 2016-17 Q4 events

Facilities

- Complete monthly city staff inspections
- Hire new facility repair contractor
- Remediate ground squirrels and gophers
- Work with city staff to replace turf fields
- Repair and bring online third KIFCO
- Bring access gate at Barrett online (widening, signage, entry ease, etc.)
- Create Dave Payne memorial



Field Use

- Tournaments and Camps
 - OVYSL soccer camps: July-August
 - CRC/YMCA camps: July
 - All West Lacrosse: July 15-16
 - Summer Splash Lacrosse: July 22-23
 - American Flycasters' National Championship: July 27-28
 - COPA Bud Light: July 30
 - CYSA Cal North National Coaches C Course: August 6-13
 - Magic Cup for Girls: August 19-20
 - Alianza de Futbol: August 26-27
 - COPA Univision: September 16
 - SVCG tournaments, league play and team building pilot: July- September
 - July 28 - Nutranix Team Building
 - August 12 - NCA National 17U youth tournament.
- Morgan Hill leagues and schools
 - City Morgan Hill Adult Soccer League
 - Orchard Valley Spring season practices and games
 - Morgan Hill Pop Warner Raiders
 - San Benito Athletic League
 - Coerver Academy soccer camps
- Events
 - Freedom Fest Fireworks on the Green
 - Circo Caballero
 - Flynn Creek Circus

Marketing Programs

- Continue working with Tourism Alliance formed with City of Morgan Hill, Chamber of Commerce, Morgan Hill Downtown Association and various community wine advocates
- Continue sports tourism meetings with City Staff
- Evolve strategic partnership with Dick's Sporting Goods
- Create tournament marketing package
- Finalize Hotel Partner Program Version 4
 - Comfort Inn
 - Holiday Inn Express
 - Hampton Inn
- Respond to 2017-18 field inquiries as needed:
 - USA Ultimate
 - Dynamic Sports Network
 - Live Oak CHEERPro camp



September 15, 2017

Chris Ghione
Community Services Director
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA. 95037

Good afternoon Chris,

I am writing you to ask for consideration in the matter of the quarterly payments Morgan Hill Youth Sports Alliance, Inc. (MHYSA) is obligated to make under the terms of our Outdoor Sports Center (OSC) contract.

As you know, MHYSA is currently two payments overdue for 2016-17 for a total of \$22,500. In addition, we are scheduled to pay \$60K and \$70K in the next two fiscal years respectively.

As we have discussed, this situation is entirely due to the loss of tournament revenue in the past two years with little or no notice from the clients. The causes for these losses are mainly the competitive pressure brought to bear when Twin Creeks Sports fields were converted to all weather, all sports fields in 2015-16, the conversion to smaller fields by USYS in 2016 and the discontinuation of six annual tournaments. The net negative revenue impact from losing these tournaments has been over \$180K. Through strenuous cost management we have managed to overcome these losses and are on the road to financial recovery, but it will take time.

With the RFP process the city is currently pursuing, it is possible that MHYSA will no longer be the OSC concessionaire after June 30, 2019. If MHYSA is still involved, it will be in collaboration with one or more partners. In either scenario, it is likely MHYSA will be carrying significant debt at the end of nine years of dedicated management of the OSC, debt that will be solely MHYSA's responsibility despite our contribution to the City of Morgan Hill's sports tourism financial success under our management of the OSC.

Since the beginning of our OSC contract MHYSA has made 24 payments of \$16,250 each quarter, every year, on time and in full for a total of \$390K. As MHYSA has been impacted by loss of revenue, we have continued payments with only two late payments until now. During this period, MHYSA hosted over 200 tournaments, concerts, festivals, carnivals and circuses while bringing the OSC, and Morgan Hill onto the national sports tourism scene at no cost to the City of Morgan Hill, in fact while eliminating the \$100K previous spent annually by the City of Morgan Hill.



We respectfully request the City Council to consider the following proposal:

- MHYSA pay the overdue 2016-17 quarterly payments by December 31st
- The OSC Concessionaire Agreement be amended in the following manner:
 - 2017-18 payments reduced from \$60K to \$45K
 - 2018-19 payments reduced from \$70K to \$45K
 - MHYSA quarterly payments moved to twice per year

We understand the City of Morgan Hill is under no obligation to assist MHYSA in its fiscal management. The proposed plan will enable MHYSA to move to or close to a breakeven financial position by the end of the contract period while continuing to focus on facility upkeep and improvements.

We thank city staff and officials for their time and consideration.

Sincerely,

Jeff Dixon
President



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Chris Ghione, Community Services Director

APPROVED BY: City Manager

BOYS & GIRLS CLUB TRANSITION TO THE FRIENDLY INN

RECOMMENDATION(S)

1. Direct staff to move forward in developing and updating agreements for the Boys & Girls Club of Silicon Valley to move to the Friendly Inn by August 2018; and
2. Direct staff to further investigate construction of a new permanent non-profit center.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2017 Strategic Priorities

Infrastructure

POLICY CONSIDERATIONS:

The recent update to the Bikeways, Trails, Parks and Recreation Master Plan has called for the ongoing use of the Friendly Inn to be managed by the Boys & Girls Club of Silicon Valley. This report outlines the many considerations to be taken into account during this transition and provides a recommended path forward. During review of this report the City Council may want to consider the following policy questions:

1. Is a non-profit center still a long-term goal and desire for the City Council or is the priority only to support the existing non-profit users of the Friendly Inn?
2. Is the City willing to prioritize creating a permanent non-profit center at an alternate location?
3. Is the City open to the idea of selling or leasing the current El Toro Youth Center Building for private or non-profit use to support construction of a permanent non-profit center?

REPORT NARRATIVE:

On July 19, 2017, the City Council adopted the Bikeways, Trails, Parks and Recreation Center Master Plan. The plan calls for future use of the Friendly Inn as a "Community Center" site to be managed by the Boys & Girls Club of Silicon Valley.

“Support the Boys & Girls Club of Silicon Valley’s future use of the Friendly Inn Community Center, including evaluating the feasibility of a facility exchange or relocation for the community service organizations currently utilizing the Friendly Inn.”

The Council provided staff further direction on the next steps for moving forward with this transition. These next steps include developing an alternative plan for the existing non-profits using the Friendly Inn and developing an agreement for the format of the partnership with the Boys & Girls Club for the use of the Friendly Inn.

Boys & Girls Club Partnership Agreement

Over the last two months the City has worked with the team at the Boys & Girls Club to develop a partnership framework for their potential use of the Friendly Inn. The framework is included as Attachment 1. The framework for the agreement provides for the Boys & Girls Club to take the lead on all aspects of managing the Friendly Inn and includes provisions to allow for community groups and City use of the facility. Through discussions it was also determined that the Red Cross would be able to retain space and use of the Friendly Inn with the Boys & Girls Club at the site. Additionally, the framework would allow for the City to meet similar cost recovery to what is currently occurring with the non-profit organizations at the Friendly Inn.

This framework will be incorporated into a use agreement with the Boys & Girls Club should the Council elect to move forward and set a date for the transition to the new facility.

Relocation Options for Existing and Future Non-profit Organizations

The Friendly Inn is currently being used by several non-profit organizations. These organizations are using the site for meeting space, office space, or both. Current tenants include: Advent Step Up, Alcoholics Anonymous, American Red Cross, Healthier Kids Foundation, Narcotics Anonymous, and the Institute on Aging.

City teammates have spent the last two months discussing current and future needs with the tenants of the Friendly Inn. Through these discussions it is understood that the current El Toro Youth Center Building will not fully meet the needs of most of the current tenants. While some are willing to use the facility, others are not or have mandated requirements for which the Youth Center, in its current condition, cannot meet. Additionally, the space does not have enough office rooms to accommodate all the tenants that would want private office space. The large room in the El Toro Youth Center will work for many of the groups that have group meetings at Friendly Inn.

The condition of the El Toro Youth Center is very poor. If some of the non-profits chose to use the office space in the short term, they will likely begin to look for improved space in other locations. This would be detrimental to the current model, where the tenants of a fully occupied full non-profit service center cover the shared costs of the maintenance at the facility. The City Council could elect to make improvements to the facility, however, even minor improvements would likely add up to \$250,000 or more. Funding options would be difficult as renovations to the facility would not be eligible for the use of impact funds.

There are a variety of alternative options for the City that could help accommodate the existing non-profits. These alternatives are outlined in Attachment 2. These range from assistance in finding alternate locations to developing a fully functional non-profit center at an alternate location. To move forward with any approach, it will be important for the Council to provide direction on importance of providing a non-profit center for the long term. The Bikeways, Trails, Parks and Recreation Master Plan calls for supporting non-profits to be a long-term goal for the City, including the following policies and actions:

Policy CS1. Continue to serve as a facilitator of community and social services to ensure there are family support services for all ages in Morgan Hill.

Actions CS1-1. Maintain and enhance partnerships with non-profit organizations to facilitate the delivery of services to Morgan Hill and south County residents.

Policy CS3. Continue to support Community Service activities that support community health.

Action CS3-1. Continue to actively recruit community-based community service organizations to locate at the City-owned Non-profit Center and/or alternate locations within the City.

In reviewing options for the development of a long-term location to serve as a non-profit center for the City, many other factors have been taken into consideration. One of the potential future locations noted as an alternative is locating the non-profit center at the Civic Center. Currently the City has aging temporary modular buildings on site that are utilized by a limited number of City teammates and leased to the Santa Clara Valley Habitat Agency. These buildings are in declining condition and are becoming more expensive to maintain. The City staff will likely be moving forward with recommendations to remove them in the coming years. The existing utilities for the building would provide an excellent location for a permanent building to be constructed.

Another consideration is the neighborhood character and needs of Crest Avenue. The Friendly Inn's location closely fronting the sidewalk near the intersection of Main Avenue is a key area at the entry of the neighborhood and one that can positively or negatively impact it. Having large groups of adults outside the El Toro building may not provide a positive entry for pedestrians. Additionally, the run-down state of the building is not a positive for the neighborhood. Lastly, a nearby property owner has expressed interest in purchasing or leasing the El Toro building and making improvements to it on an ongoing basis.

Recommendations and Next Steps

The Friendly Inn facility is currently at about 60% capacity and the large shared office space area is almost completely empty. Due to the current uncertainty about the future use of the Friendly Inn as a non-profit center it will not be possible for the City to add new tenants to the facility. In addition to Work2Future recently leaving the Friendly Inn, the City just received notice that Teen Force is also vacating the facility in the near

future. The costs of maintenance and utilities at the Friendly Inn are equally divided between all the non-profits at the facility. While there are some minor reductions in costs due to reduced use, most costs for the facility are fixed in nature. This has resulted in much higher expenses for the tenants, many of which have indicated the new costs are not sustainable. This situation has created an urgency in moving this transition forward.

The City is recommending a transition that moves forward to support the short-term needs, but provides an opportunity for the long-term development of a non-profit center. The following are the planned next steps recommended by staff:

- 1) **Boys & Girls Club to begin use of the Friendly Inn by August 2018.** City staff would develop a use agreement based on the framework outlined in Attachment 1.
- 2) **The Red Cross use of Friendly Inn.** The Red Cross will continue to be able to utilize the Friendly Inn site on an ongoing basis with the Boys and Girls Club.
- 3) **Advent Step Up Program interim continued use of the Friendly Inn.** Advent's program is one that takes considerable time to move and has detailed approvals required. They would remain at the Friendly Inn using the Southern section of the building for an additional period of time to support relocation to a new non-profit center or alternative site. The time period would run through July 2019 unless an alternate site could be found sooner.
- 4) **Narcotics Anonymous and Alcoholics Anonymous use of El Toro.** NA and AA would begin using the El Toro Youth building in the "as is" condition by August 2018. Participants would continue to park in the Friendly Inn Parking lot. The term of the use would not be defined and would support permanent use at the site, time for relocation to a new non-profit center or relocation to an alternate site.
- 5) **Healthier Kids Foundation, Teen Force, and the Institute on Aging relocation of Office Space.** The City will find alternate interim or permanent locations for these agencies at the El Toro building or other City facilities by August 2018.
- 6) **Develop a Plan for the Construction of the new Building at the Civic Center.** The purpose of the building would be to provide a permanent non-profit center, location for existing and future organizations, and a permanent location for the Santa Clara Valley Habitat Agency. This plan would call for potential funding from three areas:
 - a. **Sale or Long-Term Lease of the El Toro Building.** The property has an appraised value of just under \$800,000. The sale has a variety of complex issues associated with it, but City staff believe there is a path forward. The type of future use would be critical to the future development of the neighborhood. Discussion on this process would occur at a future Council meeting.
 - b. **Financial Support from the Santa Clara Valley Habitat Agency (Agency).** Through discussions with the staff at the Agency, there is expressed interest in supporting the development of permanent office space through a long-term lease agreement or direct funding for construction.

- c. **Recreation Center Impact Funds.** Development of a site for a permanent non-profit center would be eligible for the use of these funds, however, the project is not currently a priority. Use of these funds would be a third option behind the previous two.

This funding plan would be brought back to the Council in December.

COMMUNITY ENGAGEMENT: Involve

The proposed change in use of the Friendly Inn and identification of a non-profit center are present in the Bikeways, Trails, Parks and Recreation Master Plan (Plan). The Plan, adopted in July 2017, underwent over two years of community input during its development. Engagement for this specific report has been between City teammates and the organizations identified in the report.

ALTERNATIVE ACTIONS:

The Council could elect to delay the move in of the Boys & Girls Club to the Friendly Inn. The Council may also wish to provide City staff with direction on the further next steps for use of the Friendly Inn and El Toro Youth Center. The Council may also wish to provide staff with additional direction on funding and prioritization relating to the development of a permanent non-profit service center.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On July 19, 2017, the City Council adopted the Bikeways, Trails, Parks and Recreation Master Plan. As part of that plan the Council provided direction to City staff on moving forward with the Boys & Girls Club's future use of the Friendly Inn. At that meeting the Council provided further direction on the desire to support the existing non-profit organizations who are currently tenants at the Friendly Inn.

FISCAL AND RESOURCE IMPACT:

It is believed that the recommended actions will cause minimal short-term changes in expense and revenue for the City. The framework for the Boys & Girls Club's use of the Friendly Inn will result in a similar cost impact to that of the current Friendly Inn tenant use. The use of the El Toro Youth Center by non-profits will result in similar costs currently incurred by the Boys & Girls Club's use of that facility. It is anticipated that there may be costs associated with the tenant relocations and those would need to be negotiated with each group individually. It is not believed there will be extensive costs associated with the moves. The expenses and revenues would be outlined in the development of the Fiscal Year 2018-19 Budget.

There will be significant fiscal considerations relating to the proposed construction of a new facility at the Civic Center. These considerations will be brought back to the Council for review in December.

CEQA (California Environmental Quality Act):

Categorical Exemption

The planned maintenance and management of city facilities falls within the CEQA categorical exemption of Class 1, Existing Facilities (CEQA Guideline 15301).

Discussion regarding a potential new nonprofit center is exempt from CEQA under Public Resources Code § 21102, 21150 (Feasibility or planning studies for possible future actions that the agency has not approved, adopted, or funded).

LINKS/ATTACHMENTS:

1. Attachment 1 - Framework for BGC Use of the Friendly Inn
2. Attachment 2 – Future Options for Non-profit Center and Current Tenants

Attachment 1

Framework for Use Agreement with Boys & Girls Club for the Friendly Inn

Payment

- No annual payment by Boys & Girls Club (BGC) to the City
- City eliminates payment of \$15,000 annually
(Payment eliminated over 5-year time to allow for expansion and program growth at the FI).

Agreement Term

- 5 Years with options to renew for additional 5-year terms

Maintenance Responsibilities

- BGC responsible for all interior maintenance, except as specifically outlined as City responsibilities. (Includes: plumbing, electrical work, fire sprinklers, backflow testing, etc.)
- City responsible for all exterior maintenance.
- City responsible for repairs to HVAC system (does not include programming of HVAC controls).
- BGC responsible for all upgrades and improvements at the Friendly Inn. Improvements to be approved by the Community Services Director. All required permit fees (Building Permits) are responsibility of the BGC.
- BGC to provide City with planned maintenance/replacement schedule for major interior components (carpet, painting, floor surfacing).
- BGC responsible to leave the current El Toro Youth Center in working condition. Removal of all items is required.

Non-Boys and Girls Club Programming

- BGC shall accommodate Red Cross continued use at the site. BGC shall be allowed to charge Red Cross a percentage share of costs based on space use (similar to current rent with City).
- BGC shall accommodate Advent Step Up program in its existing location through July 2019. BGC shall be allowed to charge Advent Step Up a percentage share of costs based on space use (similar to current rent with City).
- BGC shall allow use by other community organizations in areas and locations identified by the BGC for meetings and programs during hours when the facility is not in use by BGC.
 - o BGC may charge rent for these uses, with rates approved by the City. City shall not deny any reasonable rent increases.
 - o BGC shall coordinate with the Community Services Department to integrate rental offerings into City rental program (possible shared calendars, booking contacts, etc.) to ensure coordinated service delivery to the community.
- City shall be entitled to 100 use hours per year for meetings and programs during times of use at the facility not in use by BGC. City may utilize additional hours at established fees.
- BGC shall not block use of park fields or amenities from public use without a rental permit issued by the City.

Reporting and Oversight

- City shall conduct quarterly maintenance inspections of interior of site.
- BGC shall provide an annual report on operations to the City. Report to include:
 - o Number of youth served
 - o Programs/activities offered
 - o Program costs for participation
 - o Financial assistance provided
 - o Demographic information including location of youth served (if possible)

Attachment 2 – Future Options for Non-profit Center and Current Tenants

Option	Challenges	Solutions
Move to El Toro Existing Condition	- Setup will not accommodate all organizations - Some organizations will not move due to poor condition of the facility, or due to the facility not meeting mandated requirements - Long term investment needed by the City - Maintenance and repair costs may not be affordable to non-profits under current model - Building setup not conducive to shared office space use.	- Some non-profits will utilize - Support other organizations in finding space (ED teammates)
Move to El Toro Conduct minor renovations	- High cost for even minor needed renovations, (\$250,000 or more) - Impact fees not available for renovation. - Setup will not accommodate all organizations	- Most non-profits would utilize - Support other organizations in finding space (ED teammates)
Move to El Toro Conduct major renovations	- Very High Costs, which may be cheaper to reconstruct the building	- No realistic available funding source for this reconstruction
Move to Civic Center Replace entire Villas Building	- High costs, up to \$1.5M - Longer wait time for move	- Sell El Toro to offset costs - Rec Impact Funds may be used - Habitat Agency may support financially through extended lease or construction - Temporary move for tenants to El Toro
Lease Alternate Location	- Ongoing costs	- Provide limited term support and eventually eliminate non-profit center from long term plan for the City -
Purchase Alternate Location	- Very High Costs	- Sell El Toro to offset costs - Rec Impact Fund may be used - Costs likely still too high
Provide Financial Assistance to Non-Profits to support their move to private locations	- Limited financial commitment by City	- Provide limited term support and eventually eliminate non-profit center from long term plan for the City
Lease El Toro to Third Party Third Party supports non-profit use	- Limited to zero financial commitment by the City	- Provide limited term support and eventually eliminate non-profit center from long term plan for the City - Not enough space for many of the current non-profits



CITY COUNCIL STAFF REPORT

MEETING DATE: October 4, 2017

PREPARED BY: Terry Linder, Interim Planning Manager
APPROVED BY: City Manager

ZONING AMENDMENT, ZA2017-0001: NINA – BOTROS: REQUEST FOR ZONING AMENDMENT TO CHANGE THE ZONING MAP DESIGNATION FOR THREE PROPERTIES FROM R-1 12,000/RPD TO R-1 7,000. CEQA: PROJECT COMPLIES WITH SECTION 15183 (CONSISTENT WITH COMMUNITY PLAN, GENERAL PLAN OR ZONING)

RECOMMENDATION(S)

1. Open/close public hearing;
2. Waive the First and Second Reading of Ordinance approving zoning amendment; and
3. Introduce Ordinance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment

REPORT NARRATIVE:

The 2035 General Plan Land Use Map amended the land use designation on three properties (APNs 817-60-019, -026 and -027) located on the southwest corner of the intersection of San Pedro Avenue and Nina Lane from Single-Family Low (1-3 dwelling units per acre) to Residential Detached Medium (up to 7 dwelling units per acre). The City's effort to update the Zoning Map to reflect the new 2035 General Plan land-use map is expected to conclude in March 2018.

The filing deadline for the Residential Development Control System (RDACS) competition is January 4, 2018. To compete in RDACS application process, a project must be found consistent with the General Plan and Zoning. The applicant (Mr. & Mrs. Botros) intends to compete in the 2017 RDACS competition and has filed a Zoning Amendment application to rezone his property from R-1 12,000/ RPD to R-1 7,000 which is a zoning designation that is consistent with the Residential Detached Medium General Plan land use designation. The R-1 9,000 option is also consistent with the Residential Detached Medium General Plan land use designation.

In addition to the applicant's 2.50-acre property, City staff expanded the rezoning request to include the two parcels to the north which also had their land use designation changed to Residential Detached Medium during the 2035 General Plan update. These

parcels are also recommended to be rezoned to R-1 7,000. Letters were sent to the property owners of the two adjacent parcels proposed to be included in the rezoning. Those property owners did not object to inclusion in the rezoning request.

COMMUNITY ENGAGEMENT: Involve

The proposed project was publicly noticed (mailing to property owners within 300 feet of the expanded project site and newspaper legal noticing) for the minimum 10-day period. Both property owners in the application expansion area were sent letters detailing the proposal and the reasoning for proposed rezone.

ALTERNATIVE ACTIONS:

Deny applicant's request and consider the rezoning of the three parcels as part of the comprehensive zoning map update in March 2018.

Approve only the rezoning of the applicant's 2.5-acre property and not expand the request to include the two adjacent properties to the north. The two parcels to the north would be rezoned as part of the comprehensive zoning map update in March 2018.

Approve a zoning designation of R-1 9,000 on all parcels, thus requiring larger lots sizes in the subject area.

Approve a mix of R-1 9,000 and R-1 7,000.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On September 12, the Planning Commission considered the application request to rezone three parcels totaling 5 acres from R-1 12,000/ RPD to R-1 7,000. The Planning Commission voted 6-1 to rezone the three parcels R-1 7,000, with Commissioner Mueller voting no. Commissioner Mueller believed the R-1 7,000 designation would allow lot sizes that are too small to provide an appropriate transition to one acre lots on Nina Lane.

FISCAL AND RESOURCE IMPACT:

Application fees were collected to cover the cost of processing the zoning amendment request.

CEQA (California Environmental Quality Act): The project was reviewed as part of Master Environmental Impact Report for the 2035 General Plan update and has been found consistent with the California Environmental Quality Act Section 21083 and Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning), there are no new environmental effects peculiar to the property or the project and no new information, and thus additional environmental review is not required; The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in this report.

LINKS/ATTACHMENTS:

1. Ordinance
2. September 12, 2017 Planning Commission Staff Report (weblink)

ORDINANCE NO. NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
APPROVING ZONING AMENDMENT ZA 2017-0001
CHANGING THE ZONING DESIGNATION ON A FIVE
ACRE SITE MADE UP OF THREE PARCELS, LOCATED
ON THE SOUTH WEST CORNER OF THE INTERSECTION
OF NINA LANE AND SAN PEDRO AVENUE (ASSESSOR
PARCEL NUMBERS 817-60-019; -026 & -027) FROM R-1
12,000/RPD TO R-1 7,000 SINGLE FAMILY MEDIUM
DENSITY RESIDENTIAL DISTRICT**

WHEREAS, an application for rezoning of the property located at 16675 Nina Lane, APN 817-60-019 was made by the owners of the property, Adel M. and Amal M. Botros (“Owners”), from R-1 12,000/Residential Planned Development to R-1 7,000 Residential Detached Medium to be consistent with the General Plan;

WHEREAS, the rezoning is necessary to achieve consistency with the General Plan to allow Owners to participate in the 2017 Residential Development Control System (RDSCS) process;

WHEREAS, the City initiated rezoning of the two adjacent parcels located at 820 San Pedro Avenue, APN 817-60-026, owned by Guy and Nicole Brault and 16685 Nina Lane, APN 817-60-027, owned by Lisa M. Varney;

WHEREAS, the General Plan designates the three above-referenced parcels as Residential Detached Medium;

WHEREAS, such application was considered by the City Council at its regular meeting of October 4, 2017 at which time the City Council approved application ZA2017-0001: Nina Lane-Botros; and

WHEREAS, the project site was reviewed as part of Master Environmental Impact Report for the 2035 General Plan update and has been found consistent with the requirements of the California Environmental Quality Act. No new environmental effects peculiar to the property or the project and no new information has been identified, and thus additional environmental review is not required pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183; and

WHEREAS, the Zoning Amendment complies with the General Plan as required by Government Code Section 65860; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

Attachment: Ordinance (1421 : Botros)

Ord. No.
Page 2

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

SECTION 1. The proposed zoning amendment is consistent with the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. Further development and any future building additions shall comply with the site development standards of the R-1 7,000 Single Family Medium Density Residential District.

SECTION 4. The City Council hereby approves amendment to the City zoning map changing the zoning designation from 12,000/RPD to the R-1 7,000 Single Family Medium Density Residential District to the site described attached hereto, as Exhibit "A", and by this reference incorporated herein.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 4th DAY OF OCTOBER 2017, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE DAY OF AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

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

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

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 Ordinance No. _____ New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the day of , 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

R:\PLANNING\WP51\Zoning Amendment\2017\ZA2017-0001 Nina-Botros\CC ord.docx

Attachment: Ordinance (1421 : Botros)

DEVELOPMENT
SERVICES

JUL 21 2017

CITY OF MORGAN HILL

EXHIBIT "A"**LEGAL DESCRIPTION**

All that certain real property in the City of Morgan Hill, County of Santa Clara, State of California, and being ALL of Parcels 1 and 2 as shown on that Parcel Map entitled "All of Lot 66 of the Catherine Dunne Ranch Mao No. 5", recorded in Book "I" of Maps, Page 53, recorded May 9, 1980 in Book 463 of Maps, at Page 13 at the Office of the Recorder of Santa Clara County, and being more particularly described as follows:

BEGINNING at the centerline intersection of Nina Lane (60' wide) and San Pedro Avenue (59.70' wide), as said lane and avenue are shown upon said Parcel Map, said intersection being the **POINT OF BEGINNING**; thence along the centerline of Nina Lane South 25°29'09" East, a distance of 412.58 feet; thence leaving said centerline and running along the southerly line of said Parcel 2, South 64°31'00" West, a distance of 527.90 feet to the southwesterly corner of said Parcel 2; thence along the westerly line of said parcel North 25°29'09" West, a distance of 412.58 feet to a point on the centerline of said San Pedro Avenue; thence along said centerline North 64°31'00" East, a distance of 527.90 feet to the **POINT OF BEGINNING** and containing 5.00 acres.

END OF DESCRIPTION.

See "Exhibit B" attached hereto and made a part hereof.

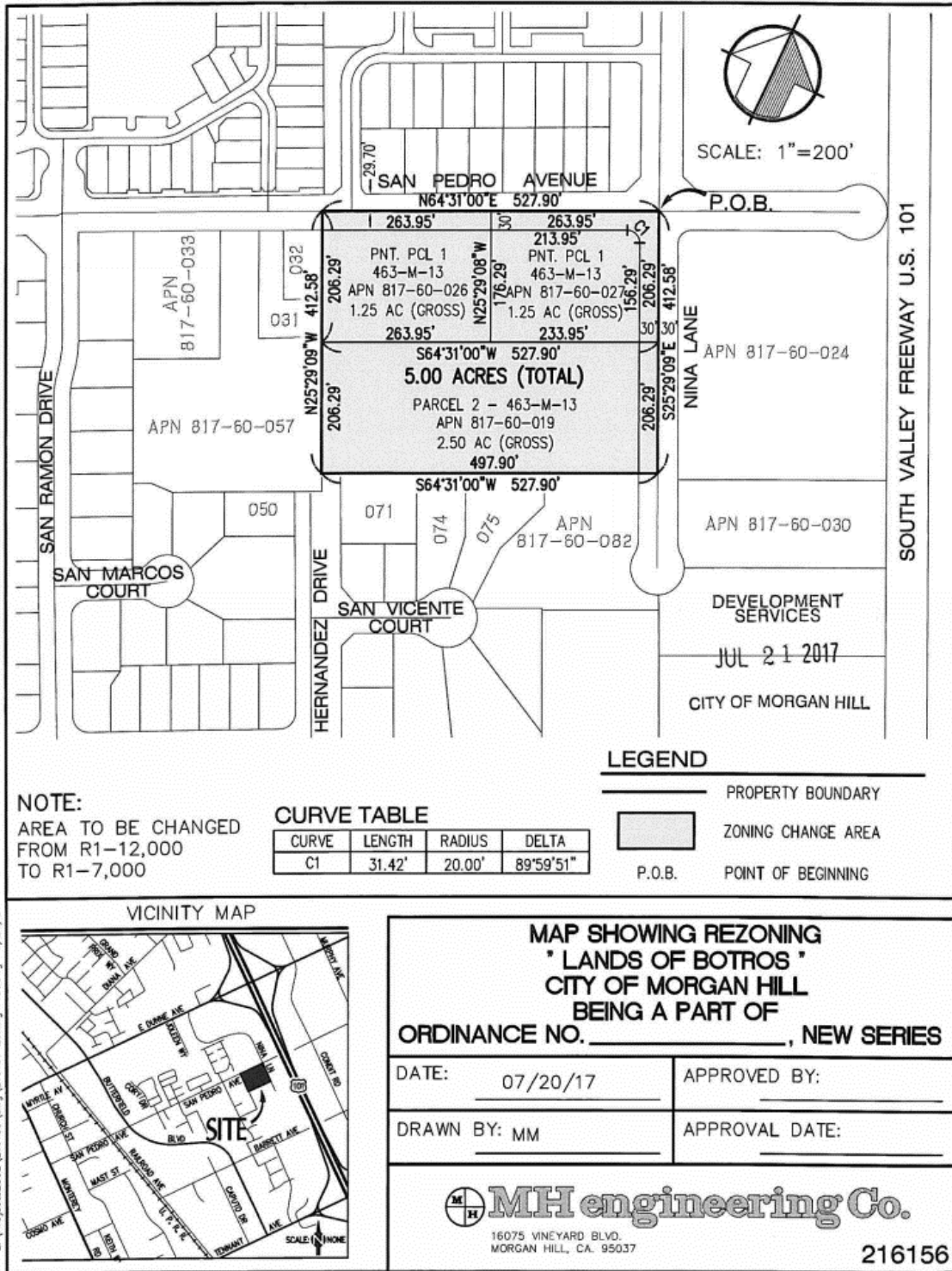
This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors' Act.


 William J. McClintock, RCE 24893
 Expires: 12/31/2017


 Date 7/21/17

Prepared by the firm of MH engineering Company, Morgan Hill, CA
 RCE 24893 and 24893 Registered Professional Engineer





216156 Rezoning.txt

LANDS OF BOTROS
Rezoning
DATE: July 20, 2017
MH JOB: 216156

DEVELOPMENT
SERVICES

JUL 21 2017

CITY OF MORGAN HILL

Parcel name: Rezoning

North: 1870754.5726 East : 6226516.4528
Line Course: S 25-29-09 E Length: 412.58
North: 1870382.1401 East : 6226693.9810
Line Course: S 64-31-00 W Length: 527.90
North: 1870155.0119 East : 6226217.4401
Line Course: N 25-29-09 W Length: 412.58
North: 1870527.4453 East : 6226039.9137
Line Course: N 64-31-00 E Length: 527.90
North: 1870754.5735 East : 6226516.4546

Perimeter: 1880.96 Area: 217,800. sq. ft. 5.00 acres

Mapcheck Closure - (Uses listed courses and chords)
Error Closure: 0.0020 Course: N 64-30-52 E
Error North: 0.00086 East : 0.00181
Precision 1: 940,480.00

Attachment: Ordinance (1421 : Botros)



Downtown Special Events and Street Closures

Agenda Item: 11

Policy Considerations

1. Should there be specific criteria, such as attendance levels, established for street closures?
2. Should parking needs for businesses and residents be taken into consideration?

Policy Considerations

3. Should Third Street be allowed to be established as a primary location for mid-size events in Downtown?

Downtown Special Event Policy Need

- Downtown currently hosts 8 annual events that include street closures on Monterey and/or Third Street.
- The recent City Downtown placemaking investment has increased the viability of the Downtown as a desirable event venue.
- Special events with street closures in Downtown impact businesses and residences.

Third Street is Conducive to Special Events

- Layout from Plaza to street includes sidewalks even to the roadway.
- Ample outlets for various electricity needs.
- Easy, standard traffic control plan for closures.
- Future private development has designed their space to accommodate the use of Third Street.

Proposed Policy

- **Attendance Levels**

1. All existing events will continue as is.
2. Closures of Monterey Road would need attendance of over 1,000 or of major community significance.
3. Closures of other Downtown Streets would need attendance of over 500 or of major community significance.

Proposed Policy

- **Attendance Levels – New Events**
 - First time events with anticipated attendance under 500, but with future growth planned over the next 5 years may also be permitted.

Proposed Policy

- **Street Closure – Traffic Considerations**
 1. Limit full closures of Monterey Road during peak traffic hours.
 2. Event permits may be issued for events that request a closure of one side of Monterey Road during peak traffic hours, if it's the side of road that is reverse traffic.

Proposed Policy

- **Street Closure – Traffic Considerations**
 3. Staff will work with event organizers to develop event plans that take into consideration parking needs of residents and businesses, as well as space needs of event organizers.

Proposed Policy

- **Third Street Specific Permits**

1. Full closures of Third Street only issued when event space is necessary for the event.
2. For events that do not need the entire area, a partial closure may be permitted for a portion of the space, allowing for resident only access via vehicle.

Community Engagement

- Public Meeting on August 16.
- Received a variety of comments on the proposed policy.
- Received other suggestions for general event process enhancements that staff is looking to implement.

Recommended Action

- Approve the proposed Downtown Special Events and Street Closure Policy

Item # 11

AGENDA DATE: 10/04/17

SUPPLEMENTAL # 1

From: D Dasovic [mailto:d_dasovic@yahoo.com]

Sent: Monday, October 02, 2017 6:47 AM

To: Michelle Wilson <Michelle.Wilson@morganhill.ca.gov>

Subject: October 4, 2017 City Council Meeting

Hello Ms. Wilson,

Regarding Item #11, Downtown Special Events and Street Closures-

I am currently out of the country and would like to address City Council in person on this item during the public comment period. Please let me know if it is possible to reschedule item for the end of November 2017, or a later date.

Thank you,
Diane Dasovic



Morgan Hill City Council Meeting – October 4, 2017

Outdoor Sports Center Concessionaire Agreement Amendment

Agenda Item: 12

Amendment Request

- Operator requesting reduction of City required payment for last two fiscal years of agreement term
- FY 2017/18

Existing Agreement	\$60,000
Requested Payment	\$45,000
- FY 2018/19

Existing Agreement	\$70,000
Requested Payment	\$45,000

Transition to New Operator

- Request for Letters of Interest Open
- Letters of Interest Due in November
- Interviews with LOI Submitters in December
- Review of LOI by City Council - January
- Invitation for Proposals Released - January
- Proposals Due - February
- Interviews on Proposals - February
- Recommendations to PRC - March
- Review by City Council - April
- Agreement(s) negotiated – April & May
- Final Agreement(s) to City Council - June

Staff Recommendation

Authorize the City Manager to execute and subsequently administer a Fourth Amendment to the Concessionaire Agreement with the Morgan Hill Youth Sports Alliance for the operations of the Outdoor Sports Center.



Morgan Hill City Council Meeting – October 4, 2017
Boys & Girls Club Transition to
the Friendly Inn
Agenda Item: 13

Policy Questions

1. Is a non-profit center still a long-term goal or is the priority only to support the existing non-profit users of the Friendly Inn?
2. Is the City willing to prioritize creating a permanent non-profit center at an alternate location?
3. Is the City open to the idea of selling or leasing the current El Toro Youth Center Building for private or non-profit use to support construction of a non-profit center?

Boys & Girls Club Agreement Framework

- Move in by August 2018
- Similar financial scenario to current Friendly Inn use to provide limited financial impact to the City
- Boys & Girls Club to take on all management of the facility
- Boys & Girls Club to take on all internal facility maintenance costs
- Allow for long term use by Red Cross
- Allow for use through July 2019 by Advent

Relocation of Current Tenants

- American Red Cross – Stay at FI
- Advent Step Up Program - Interim Stay at FI
- Narcotics Anonymous – Interim use of El Toro Youth Center
- Alcoholics Anonymous – Interim use of El Toro Youth Center
- Healthier Kids Foundation – Relocation to other City Facility
- Institute on Aging – Relocation to other City Facility
- Teen Force – Just provided notice they are moving to Gilroy

Future Non-Profit Center

- El Toro Youth Center building in poor condition
- Potential relocation to site at Civic Center
- Greater focus on recruiting regional organizations that can provide additional services in MH
- Greater focus as an incubator for start up community serving non-profits in MH
- Potential partnership in funding construction is being discussed with the Habitat Agency

Staff Recommendation

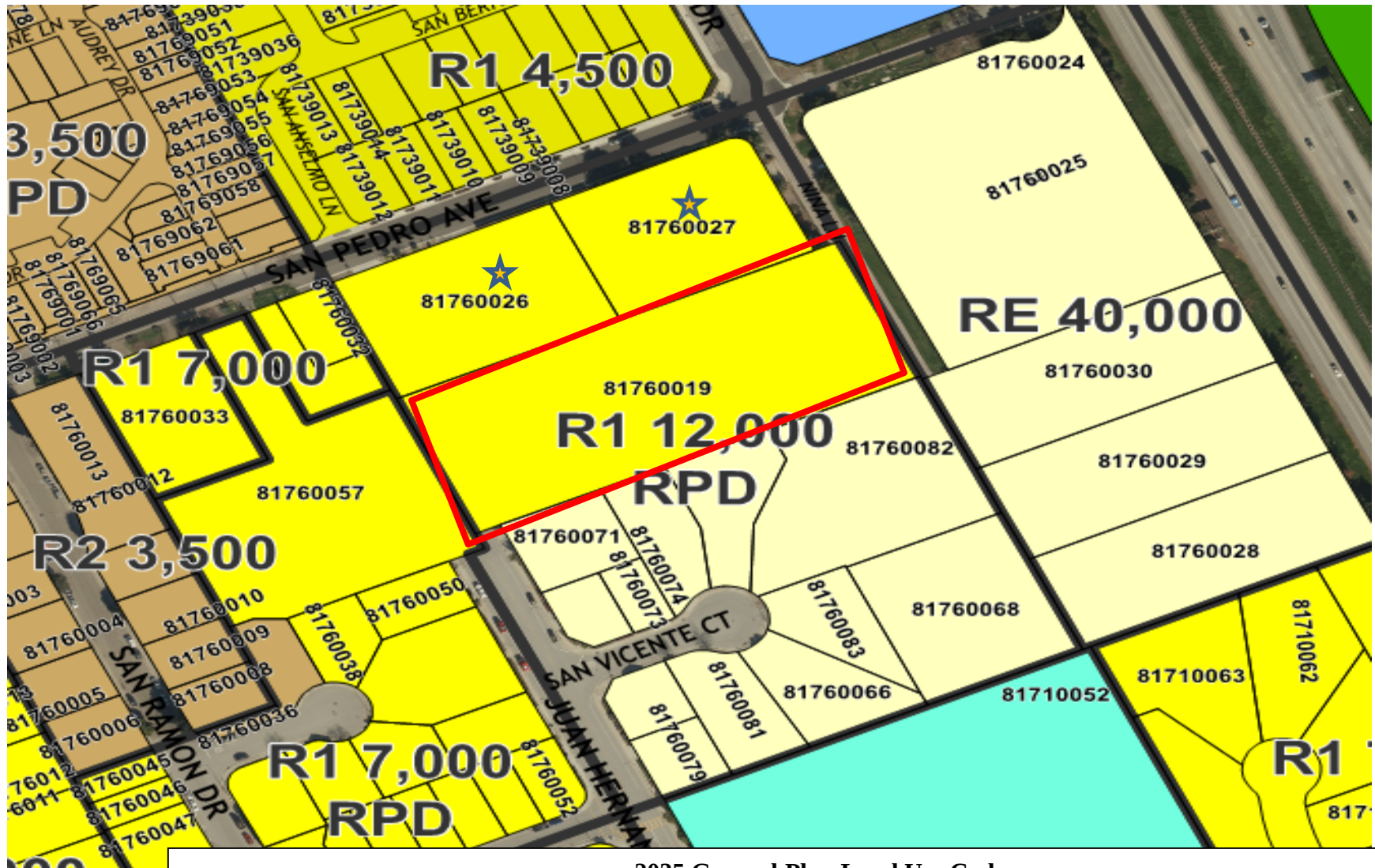
- Direct staff to move forward in developing and updating agreements for the Boys & Girls Club of Silicon Valley to move to the Friendly Inn by August 2018
- Direct staff to further investigate construction of a new permanent non-profit center

ZONING AMENDMENT, ZA2017-0001: NINA-BOTROS:

REQUEST: Amend the zoning designation on a 2.5 acre parcel from R-1 12,000/RPD to R-1 7,000



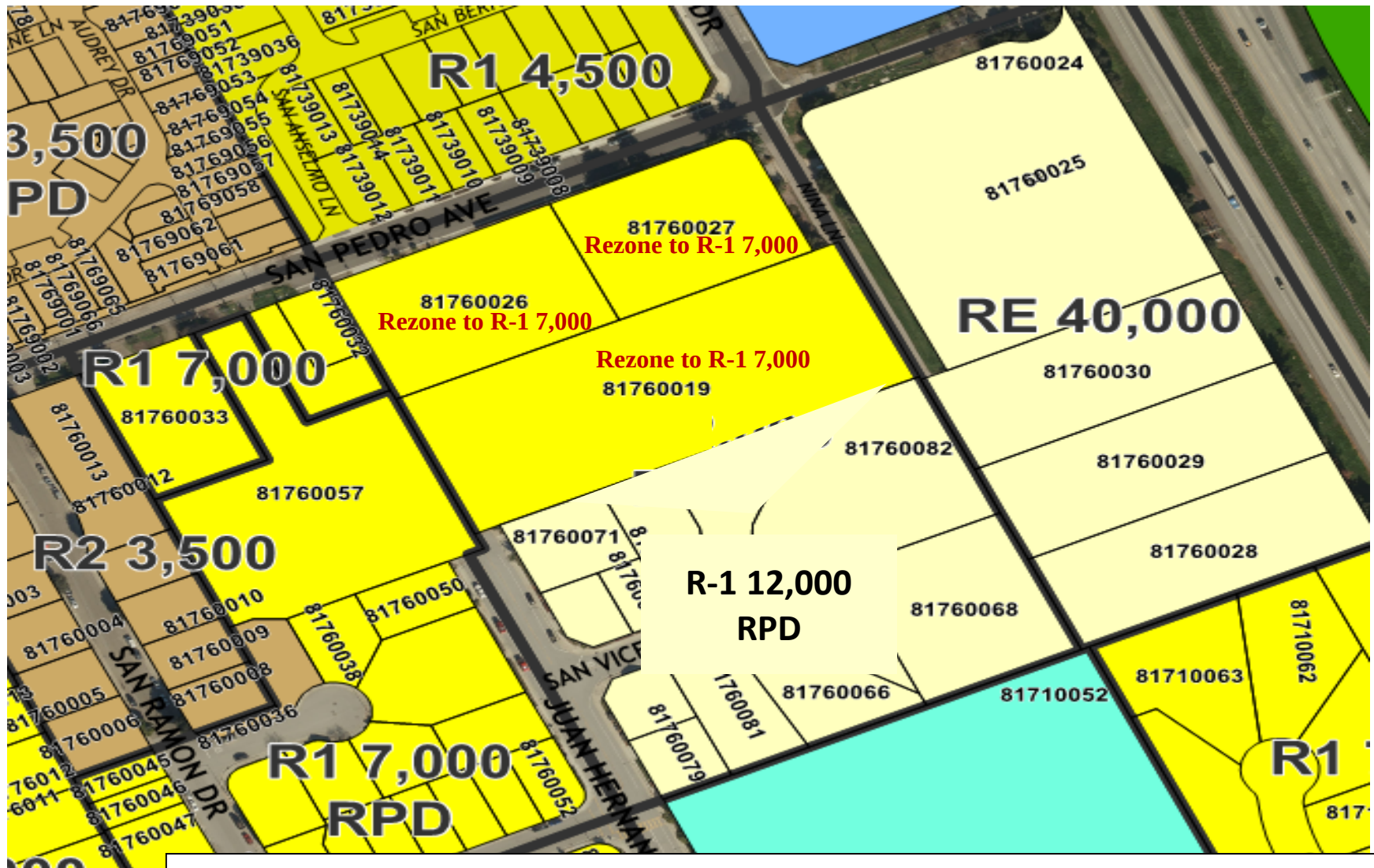
City Council October 4, 2017– Agenda Item: 14



2035 General Plan Land Use Codes

- | | |
|---|---|
|  Residential Detached Medium (up to 7 du/ac) |  Residential Attached Medium (16-24 du/ac) |
|  Residential Detached Low (up to 4 du/ac) |  Public Facilities |

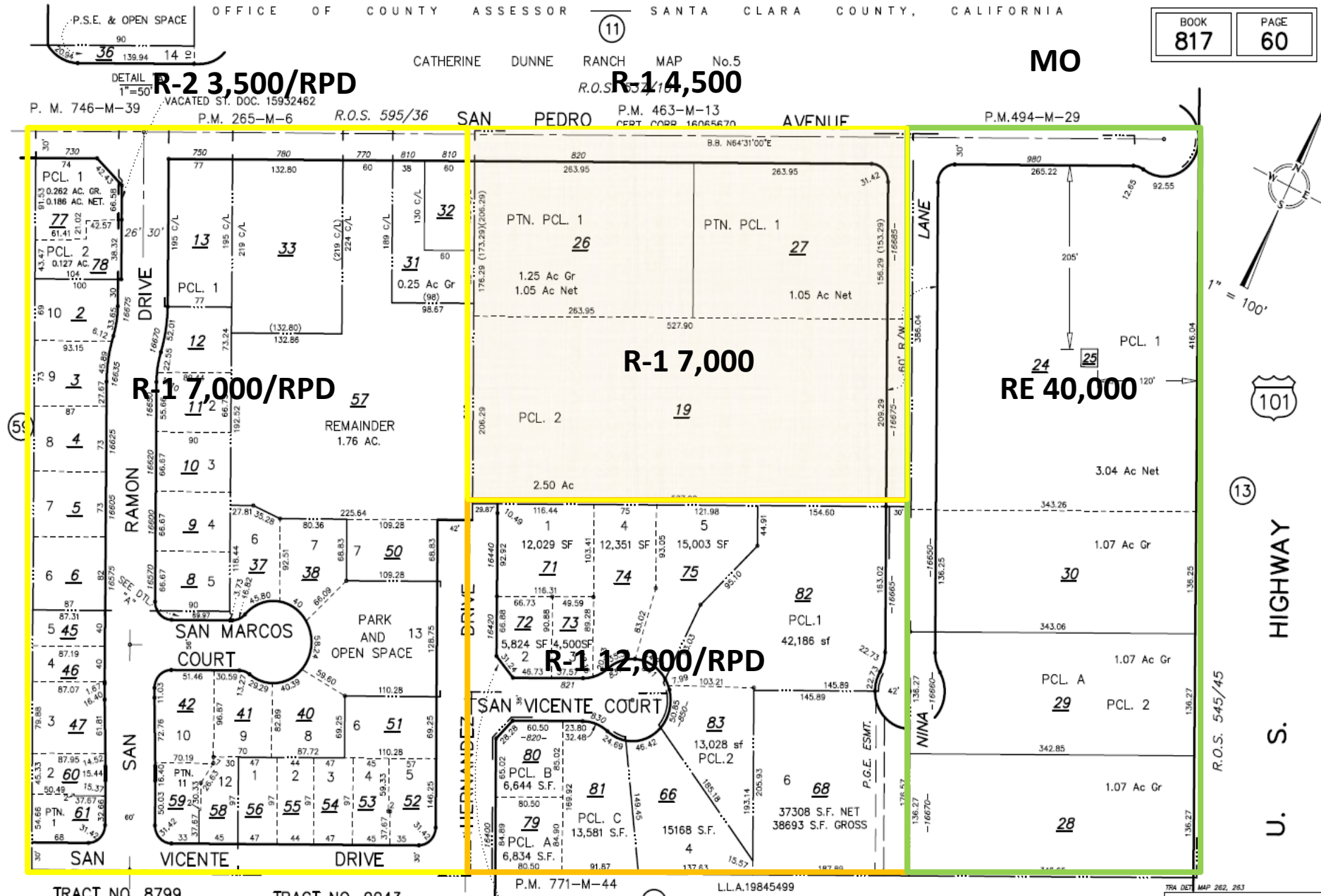
City Council October 4, 2017– Agenda Item: 14



2035 General Plan Land Use Codes

- | | |
|---|---|
|  Residential Detached Medium (up to 7 du/ac) |  Residential Attached Medium (16-24 du/ac) |
|  Residential Detached Low (up to 4 du/ac) |  Public Facilities |

City Council October 4, 2017– Agenda Item: 14



Staff Recommendation

Recommend City Council amend the zoning designation on three parcels (5 acres total) from R-1 12,000/RPD to R-1 7,000.

City Council October 4, 2017– Agenda Item: 14



Item # 14

AGENDA DATE: 10/04/17
SUPPLEMENTAL # 1

From: Cynthia Sandoval [<mailto:cynthiasandoval2@gmail.com>]
Sent: Friday, September 29, 2017 6:29 PM
To: Terry Linder <Terry.Linder@morganhill.ca.gov>
Subject: re:Nina Lane

Im writing to inform you about the zoning amendment, ZA2017-0001: NINA-BOTROS. The resider...
Nina Ln, want to keep Nina lane as single story homes and acre lots. We don't want to break up the
country style look of Nina Ln. We would like to keep the parcels at 9000 not the R-1 7000. We are
fighting with HSR taking up are backyard and now they want mess with the front yard.

Thank you,

Cynthia, Frank, Don & Linda Winland, Tim & Cecila Butterick



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, October 4, 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

Deputy City Clerk Michelle Wilson

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Michelle Wilson

WORKSHOP

The purpose of the Environmental Workshop is to provide an update on environmental program activities and obtain policy direction from the City Council on future programs.

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8
Property: APN 728-06-019, Hendry Drive
Agency Negotiators: Christina Turner and Anthony Eulo
Negotiating Parties: Thomas George Preston, Jr., Trustee, et al.
Under Negotiation: Price and Terms of Payment

RECONVENE

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 Constantine

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming the Week of October 8 - 14, 2017 as Fire Prevention Week

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. HAZARD MITIGATION PLAN UPDATE

Recommendation:

Adopt resolution accepting the City of Morgan Hill and Santa Clara County Operational Area Hazard Mitigation Plan update.

2. GRANT APPLICATION TO THE SANTA CLARA VALLEY WATER DISTRICT FOR THE WEST LITTLE LLAGAS CREEK INTERPRETIVE WILDLIFE TRAIL PROJECT

Recommendation:

Adopt resolution approving the submission of a grant application to the Santa Clara Valley Water District, authorizing the City Manager to execute grant documents if the grant application is successful, and finding the proposed project categorically exempt from the California Environmental Quality Act.

3. ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS FOR MISSION RANCH PHASE 14 - TRACT NO. 10272

Recommendation:

1. Accept the subdivision public improvements for Mission Ranch Phase 14 – Tract No. 10272;
2. Authorize the Public Works Director to sign a Notice of Completion; and
3. Direct the City Clerk to file the Notice of Completion with the Recorder of Santa Clara County.

4. COUNTY INCLUSIVE PLAYGROUND GRANT AUTHORIZATION

Recommendation:

Adopt resolution authorizing the City Manager to prepare and submit an application for the County of Santa Clara's All-Inclusive Playground Grant.

5. HISTORICAL SOCIETY VILLA MIRA MONTE IMPROVEMENT AND REPAIR FUNDING AGREEMENT

Recommendation:

Authorize the City Manager to execute and subsequently administer a funding agreement with the Morgan Hill Historical Society for repairs and improvements at Villa Mira Monte.

6. PLAYHOUSE SEATING PROJECT

Recommendation:

Adopt resolution with the following actions related to the Playhouse Seating Project:

1. Rejecting all bids received;
2. Declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market; and
3. Authorizing the City Manager to execute a purchase agreement in an amount not to exceed \$80,000 for the purchase of playhouse seating.

7. APPROVE SERVICE MAINTENANCE AGREEMENT WITH CD & POWER FOR GENERATOR MAINTENANCE AND REPAIR

Recommendation:

Approve and authorize the City Manager to execute a three-year agreement with CD & Power in the amount of \$119,475 for routine and emergency maintenance and repair to the City's 26 standby generators.

8. APPROVE APPLICATION FOR EMERGENCY MANAGEMENT PERFORMANCE GRANT 2017 MOU

Recommendation:

1. Adopt resolution authorizing the City Manager to execute the Memorandum of Understanding (MOU) with County of Santa Clara for the 2017 Emergency Management Performance Grant (EMPG); and
2. Recognize grant revenue in an amount not to exceed \$37,150 to implement an Emergency Volunteer Center (EVC) exercise, purchase Emergency Operations Center (EOC) Computers, and for registration and associated costs for the OES Coordinator to attend the California Emergency Services Association (CESA) and International Association of Emergency Managers (IAEM) training and conferences.

9. APPROVE THE SEPTEMBER 6, 2017 MEETING MINUTES

Recommendation:

Approve Minutes.

10. APPROVE THE SEPTEMBER 27, 2017 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

11. DOWNTOWN SPECIAL EVENTS AND STREET CLOSURES

Recommendation:

Approve the proposed revised Downtown Special Events Street Closure Policy.

Estimated Time: 30 Minutes

12. APPROVE OUTDOOR SPORTS CENTER CONCESSIONAIRE AGREEMENT AMENDMENT

Recommendation:

Authorize the City Manager to execute and subsequently administer a Fourth Amendment to the Concessionaire Agreement with the Morgan Hill Youth Sports Alliance for the operations of the Outdoor Sports Center.

Estimated Time: 15 Minutes

13. BOYS & GIRLS CLUB TRANSITION TO THE FRIENDLY INN

Recommendation:

1. Direct staff to move forward in developing and updating agreements for the Boys & Girls Club of Silicon Valley to move to the Friendly Inn by August 2018; and
2. Direct staff to further investigate construction of a new permanent non-profit center.

Estimated Time: 30 Minutes

PUBLIC HEARING

14. ZONING AMENDMENT, ZA2017-0001: NINA – BOTROS: REQUEST FOR ZONING AMENDMENT TO CHANGE THE ZONING MAP DESIGNATION FOR THREE PROPERTIES FROM R-1 12,000/RPD TO R-1 7,000. CEQA: PROJECT COMPLIES WITH SECTION 15183 (CONSISTENT WITH COMMUNITY PLAN, GENERAL PLAN OR ZONING)

Recommendation:

1. Open/close public hearing;
2. Waive the First and Second Reading of Ordinance approving zoning amendment; and
3. Introduce Ordinance.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

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

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

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

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

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

AMERICANS WITH DISABILITIES ACT (ADA)

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



Sustainable Morgan Hill Vision

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

CITY COUNCIL ONGOING PRIORITIES

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

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

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



Inclusiveness

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



Infrastructure

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



Regional Initiatives

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



Telecommunications

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

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*Morgan Hill City Council Environmental
Workshop – October 4, 2017*

Workshop Purpose

- Provide update on a number of environmental program areas to the City Council;
- Develop City Council knowledge and expertise on environmental issues; and
- Provide the City Council with an opportunity to provide policy direction on City environmental activities and prioritize staff activities.

Topics

- City Policy Background
- Energy
- Water
- Stormwater
- Waste
- IPM
- Agricultural Preservation
- HCP
- Policy Questions

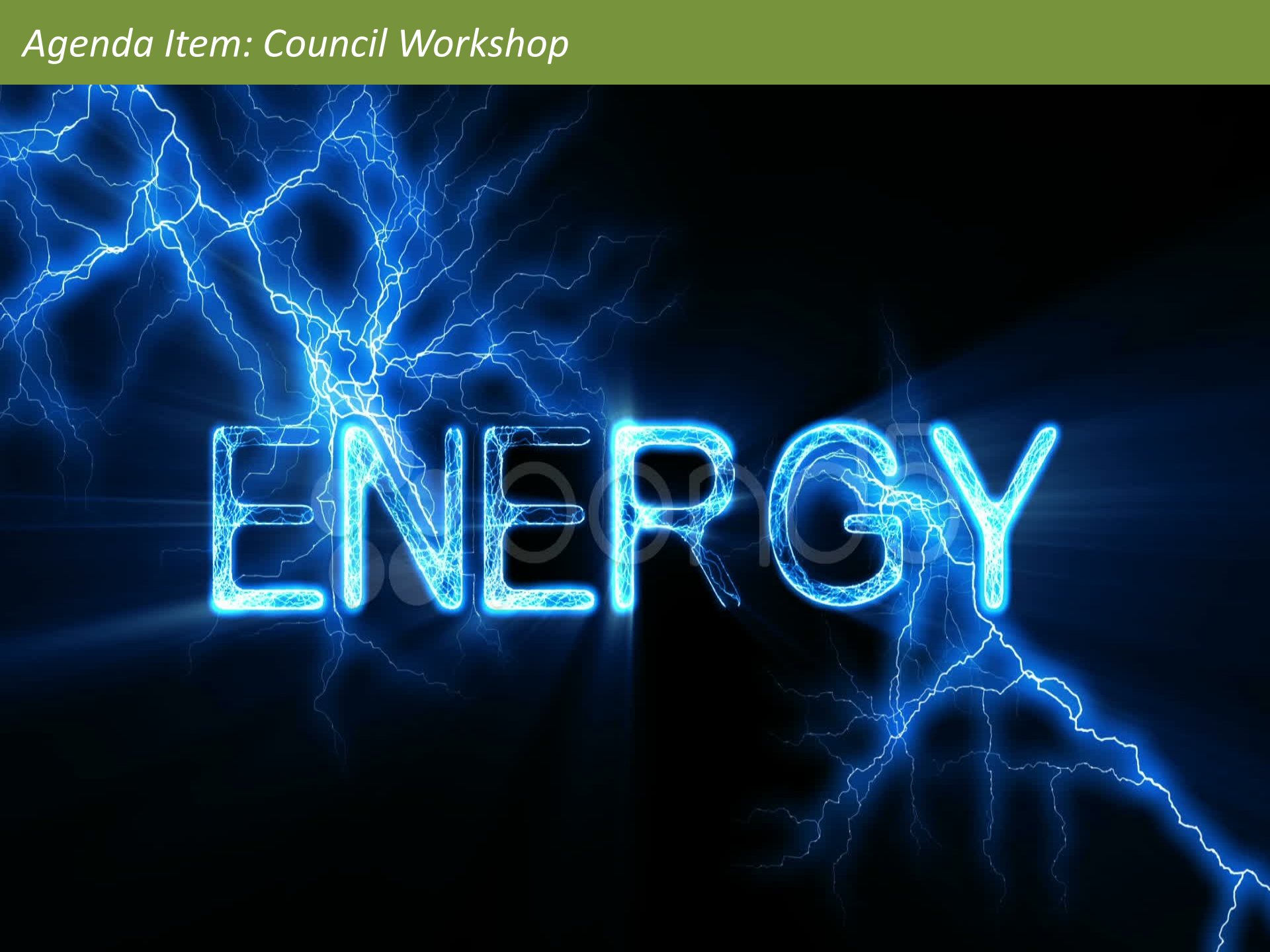
Morgan Hill's Environmental Agenda

- Adopted 2007
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ENERGY

Electrical Energy Use: Significant Element of Community's Carbon Footprint

- 25% or 50%?





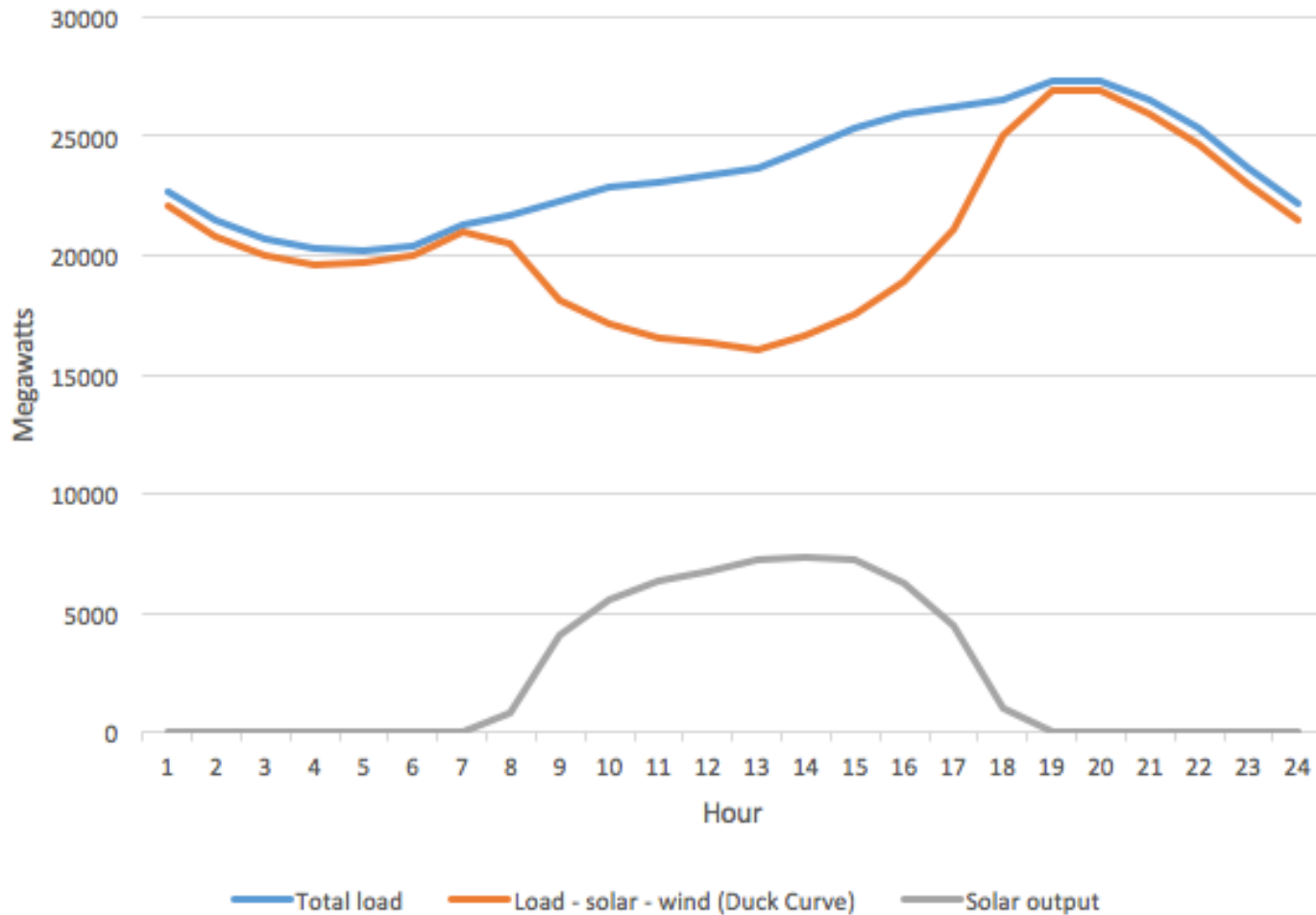
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Why Question Power Mix?

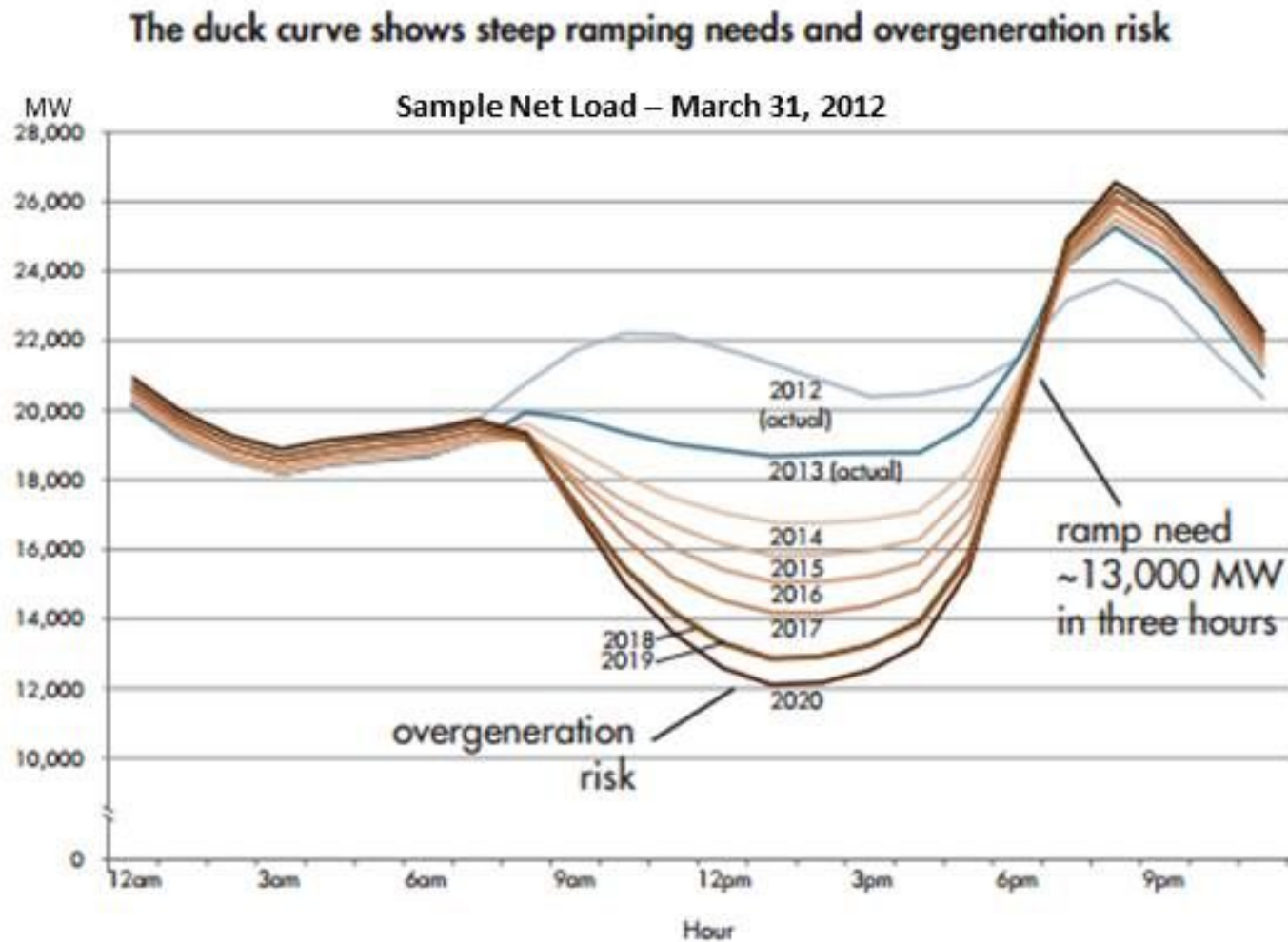
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Agenda Item: Council Workshop

California hourly electric load vs. load less solar and wind (Duck Curve) for October 22, 2016



Agenda Item: Council Workshop



(from the California Independent System Operator)

Agenda Item: Council Workshop



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Energy – What's Next

- Direct Access Customers
- SVCE Programs, Programs, Programs
- Natural Gas - now job 1
- Fuel Switching – not just for cars anymore
- Efficiency and Renewables Still Important
- Ordinance?

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- Two Billion Gallons Saved
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 - Regionally
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Five Elements of Stormwater Pollution Prevention

1. Public Education
2. Illicit Discharge Prevention and Elimination
3. Good Housekeeping at City Operations
4. Construction
5. Postconstruction

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- “Extra” Assignments
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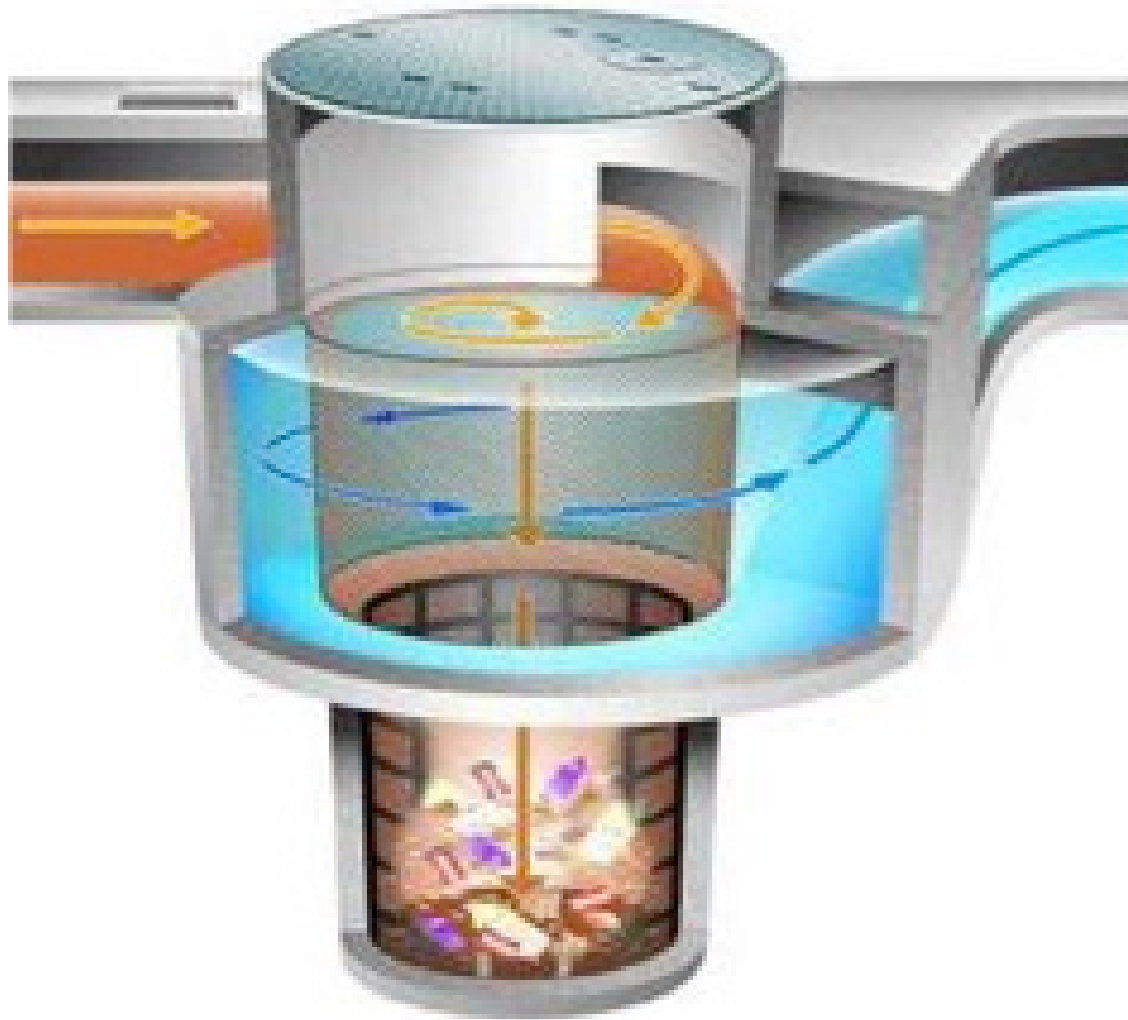
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Stormwater Funding

- Ever-Growing List of Expenses
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Solid Waste Management

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- Sliding Scale of Applicability
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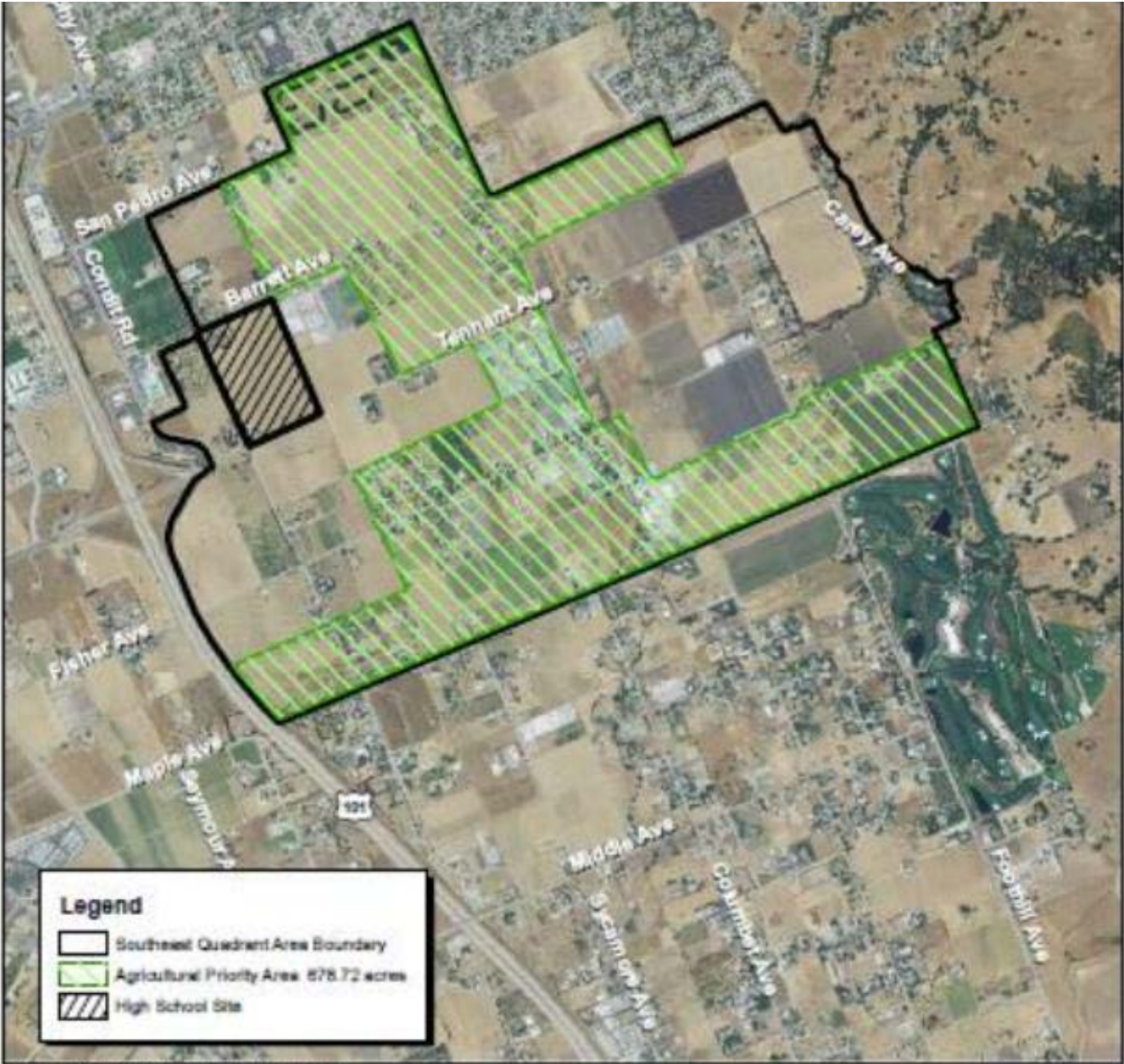
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- Systems-based approach that relies on common-sense approaches to pest problems that considers the life cycle of the pest, biological and physical control methods, “acceptable” levels of pest presence, and the least hazardous chemical control methods
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- Alternative weed control methods are less effective or more expensive
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Agricultural Preservation

- Had Comprehensive Workshop in May
- One Easement Secured – Toll Brothers
- Grant for Chiala Preservation Still Pending
- Additional Properties Being Contemplated
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The Santa Clara Valley Habitat Plan (Habitat Plan) is both a habitat conservation plan and natural community conservation plan, or HCP/NCCP.

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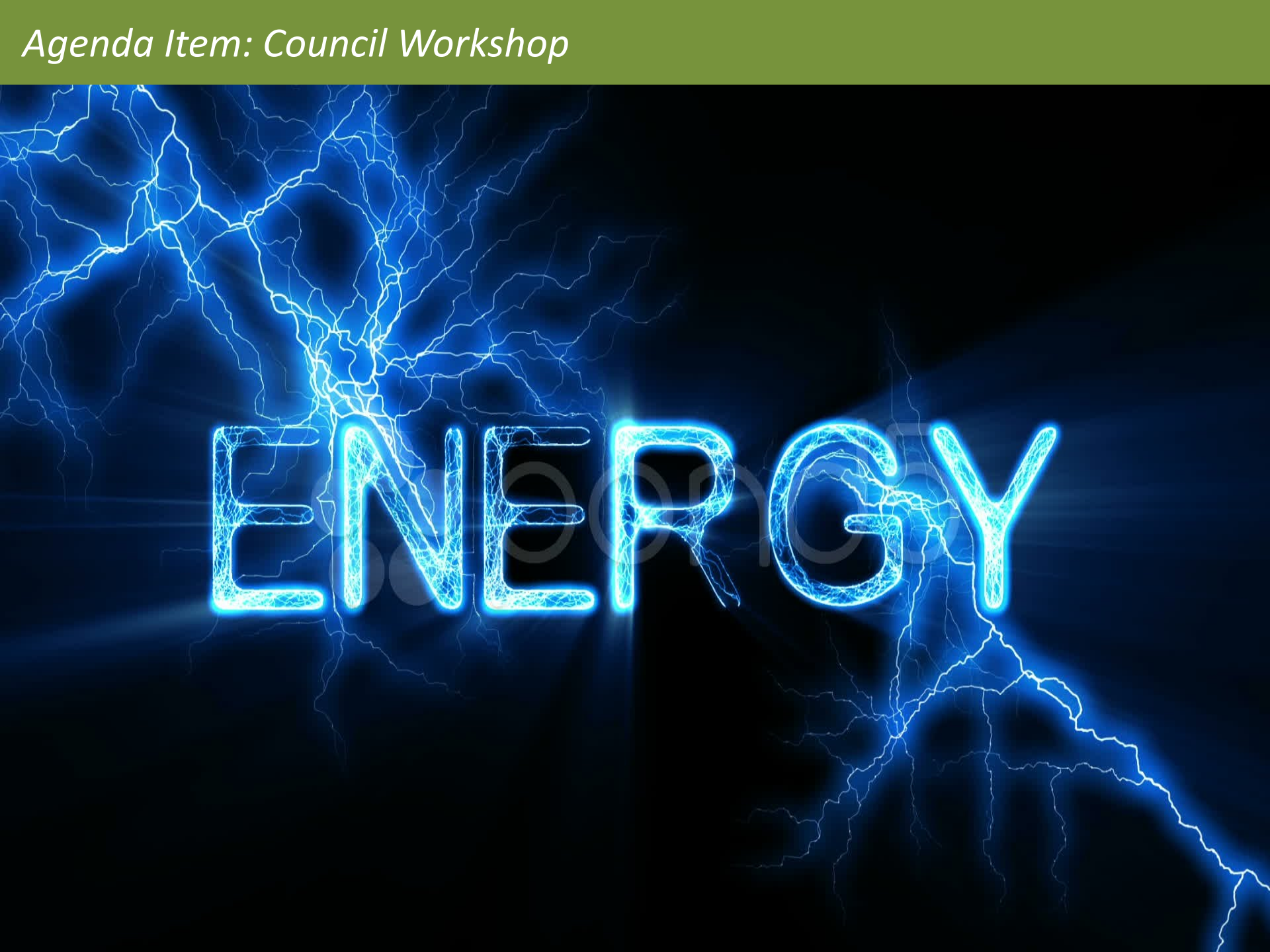
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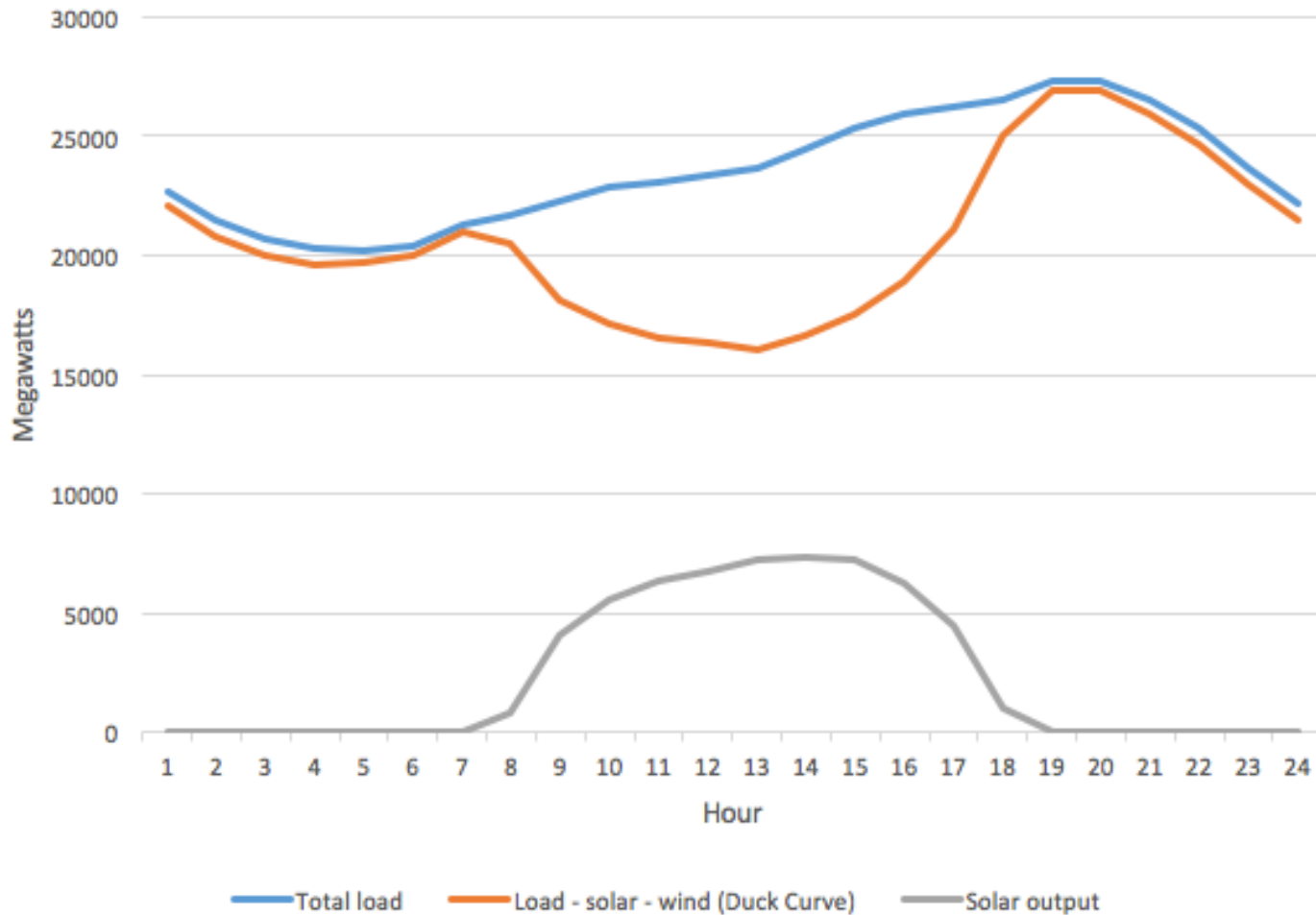
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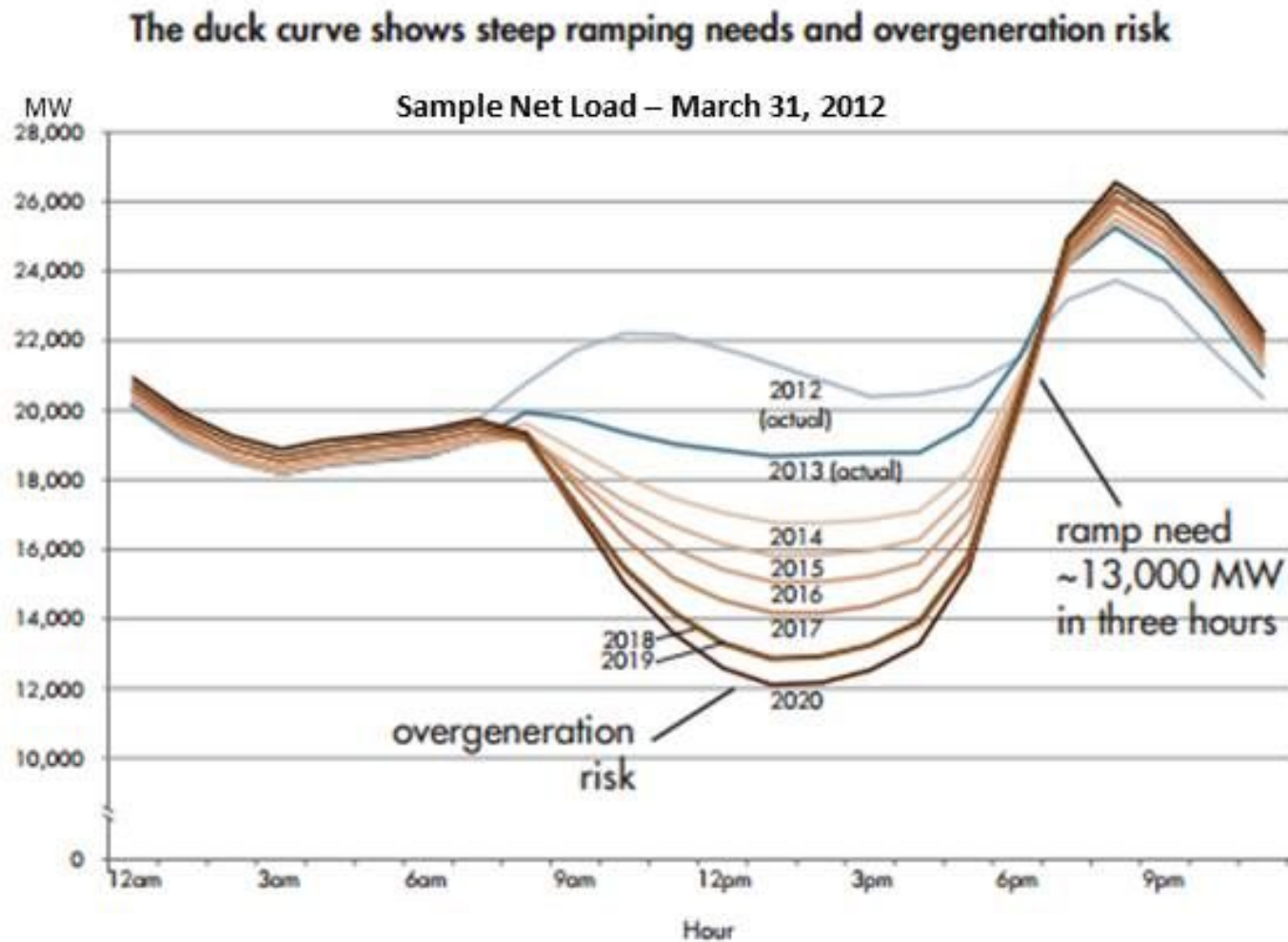
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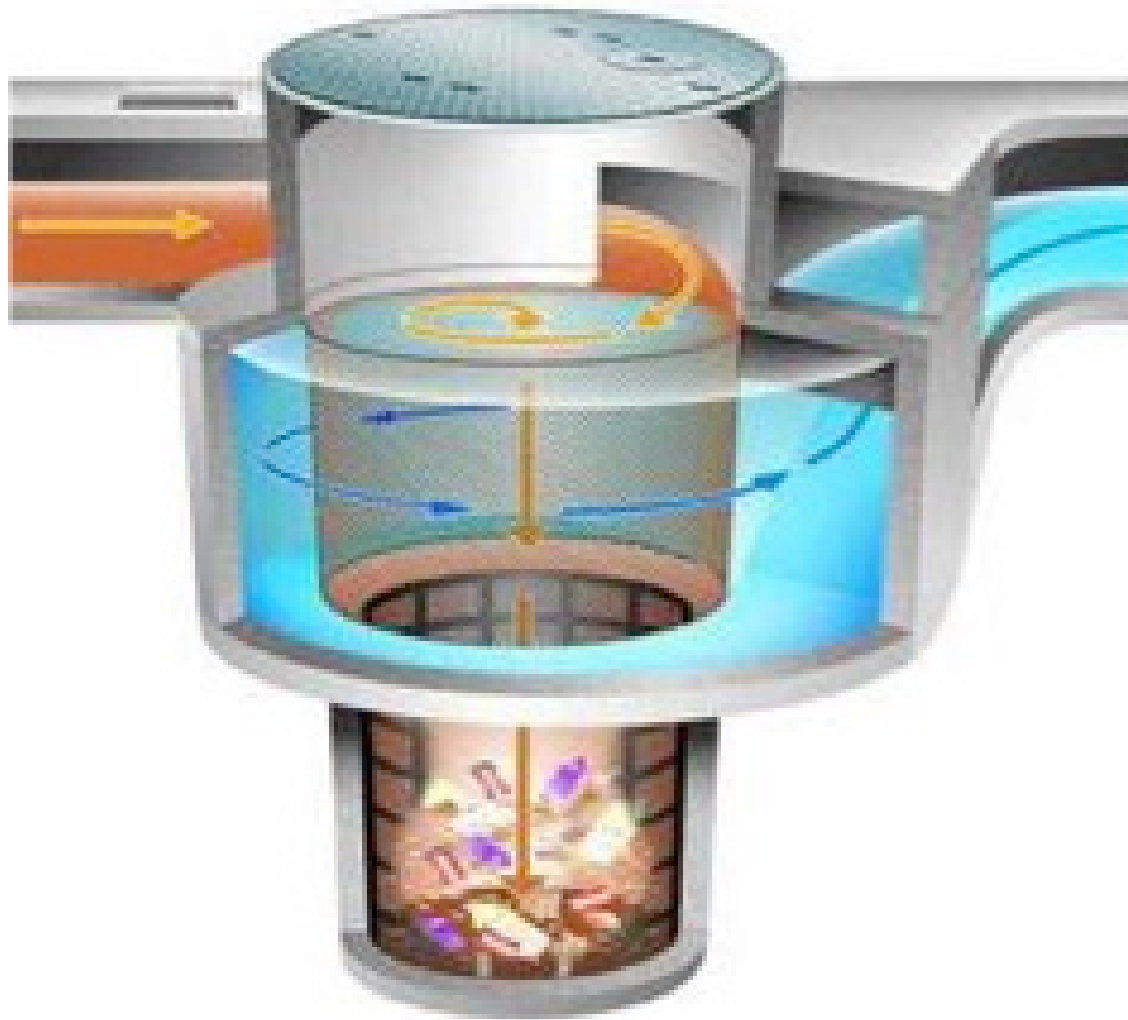
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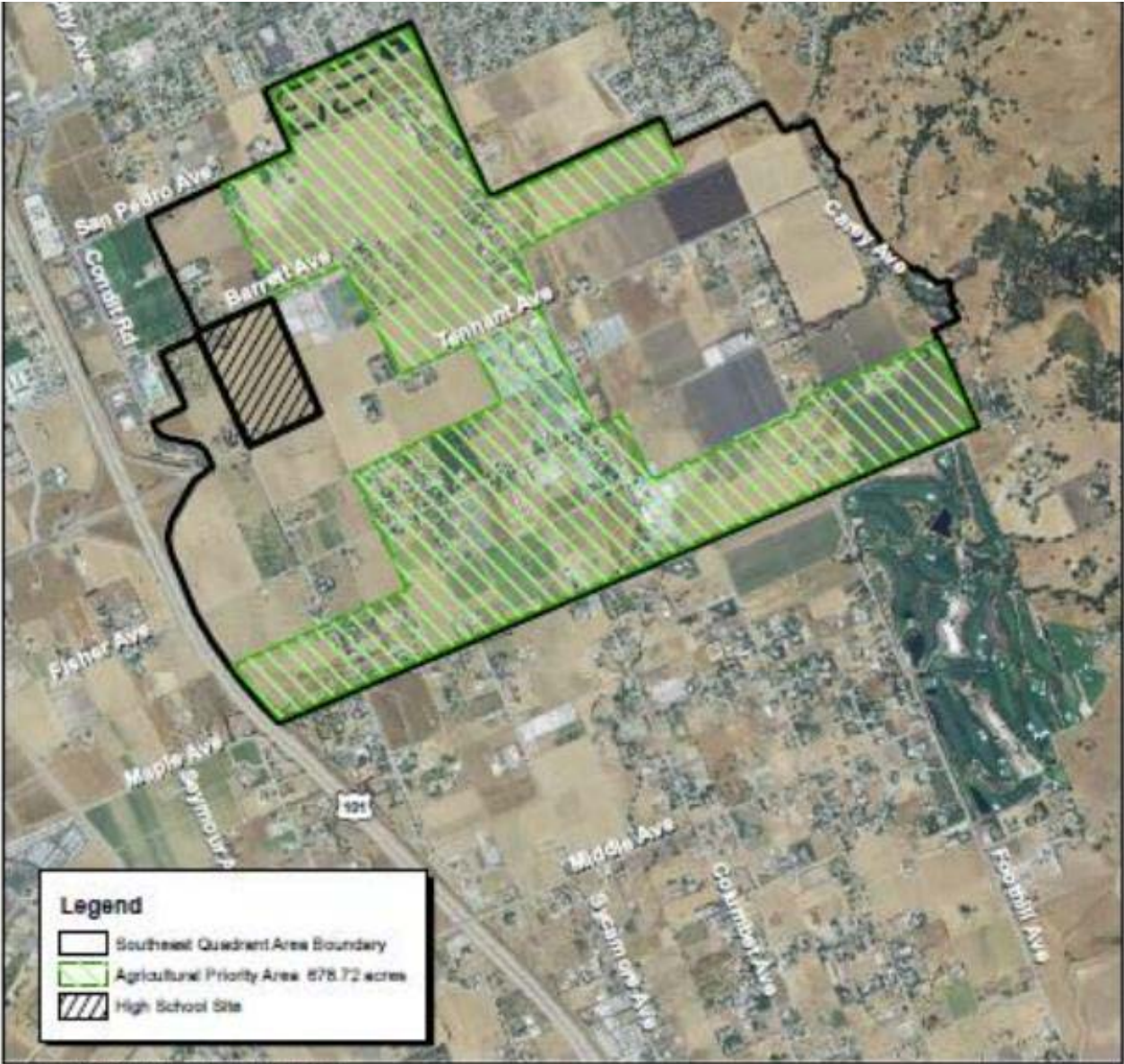
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MORGAN HILL ENVIRONMENTAL AGENDA

Adopted by the Morgan Hill City Council - September 19, 2007

Reviewed and Amended – April 6, 2011

Reviewed and Confirmed - October 3, 2014

Mission

The mission of this Environmental Agenda is to enhance the long-term sustainability of Morgan Hill by developing a framework for reducing environmental impacts, increasing community health, and protecting the community's environmental resources for future generations.

Morgan Hill Environmental Vision

The Environmental Agenda envisions an active, vibrant community growing in concert with its natural surroundings. Residents, local businesses, and community institutions will seek out opportunities to protect and preserve natural resources while improving the community's quality of life, health, and overall well-being. Native flora and fauna will flourish in both developed and undeveloped areas of the community.

Guiding Principles

- 1. The Concept of Sustainability Guides City Policy** - Morgan Hill is committed to meeting its existing needs without compromising the ability of future generations to meet their own needs. The long-term impacts of policy choices will be considered to ensure a sustainable legacy.
- 2. Those Sustainability Issues Most Important to the Community Will be Addressed First, and the Most Cost-Effective Programs and Policies Will be Selected** - The financial and human resources which are available to the City are limited. The City and the community will reevaluate its priorities and its programs and policies annually to ensure that the best possible investments in the future are being made. The evaluation of a program's cost-effectiveness will be based on a complete analysis of the associated costs and benefits, including environmental and social costs and benefits.
- 3. Protection, Preservation, and Restoration of the Natural Environment is a High Priority of the City** – Morgan Hill is committed to protecting, preserving and restoring the natural environment. City decision-making will be guided by a mandate to maximize environmental benefits and reduce or eliminate negative environmental impacts. The City will lead by example and encourage other community stakeholders to make a similar commitment to the environment.
- 4. Environmental Quality, Economic Health and Social Equity are Mutually Dependent** - Sustainability requires that our collective decisions as a city allow our economy and community members to continue to thrive without destroying the natural environment upon which we all depend. A healthy environment is integral to the city's long-term economic and societal interests. In achieving a healthy environment, we must

ensure that inequitable burdens are not placed on any one geographic or socioeconomic sector of the population and that the benefits of a sustainable community are accessible to all members of the community.

5. **All Decisions Have Implications to the Long-term Sustainability of Morgan Hill** - The City will ensure that each of its policy decisions and programs are interconnected through the common bond of sustainability as expressed in these guiding principles. The policy and decision-making processes of the City will reflect our sustainability objectives. The City will lead by example and encourage other community stakeholders to use sustainability principles to guide their decisions and actions.
6. **Community Awareness, Responsibility, Participation and Education are Key Elements of a Sustainable Community** - All community members, including individual citizens, community-based groups, businesses, schools and other institutions must be aware of their impacts on the environmental, economic and social health of Morgan Hill, must take responsibility for reducing or eliminating those impacts, and must take an active part in community efforts to address sustainability concerns. The City will therefore be a leader in the creation and sponsorship of education opportunities to support community awareness, responsibility and participation in cooperation with schools, colleges and other organizations in the community.
7. **Morgan Hill Recognizes Its Linkage with the Regional, National, and Global Community** - Local environmental, economic and social issues cannot be separated from their broader context. This relationship between local issues and regional, national and global issues will be recognized and acted upon in the City's programs and policies. The City's programs and policies should therefore be developed as models that can be emulated by other communities. The City will also act as a strong advocate for the development and implementation of model programs and innovative approaches by regional, state and federal government that embody the goals of sustainability.
8. **The City is Committed to Procurement Decisions which Minimize Negative Environmental and Social Impacts** - The procurement of products and services by the City and Morgan Hill residents, businesses and institutions results in environmental, social and economic impacts both in this country and in other areas of the world. The City will develop and abide by an environmentally and socially responsible procurement policy that emphasizes long-term values and will become a model for other public as well as private organizations. In recognizing that the transport of goods from long distances can have significant environmental impacts, locally-grown foods and locally-manufactured goods will be preferred. The City will advocate for and assist other local agencies, businesses and residents in adopting sustainable purchasing practices.
9. **Cross-sector Partnerships Are Necessary to Achieve Sustainable Goals** - Threats to the long-term sustainability of Morgan Hill are multi-sector in their causes and require multi-sector solutions. Partnerships among the City government, businesses, residents and all community stakeholders are necessary to achieve a sustainable community.
10. **The Precautionary Principle Provides a Complementary Framework to Help Guide City Decision-Makers in the Pursuit of Sustainability** - The Precautionary Principle requires a thorough exploration and careful analysis of a wide range of alternatives, and a full cost accounting beyond short-term and monetary transaction costs. Based on the best available science, the Precautionary Principle requires the selection of alternatives that present the least potential threat to human health and the City's natural systems. Where

threats of serious or irreversible damage to people or nature exist, lack of full scientific certainty about cause and effect shall not be viewed as sufficient reason for the City to not adopt mitigating measures to prevent the degradation of the environment or protect the health of its citizens. In recognizing that prevention is more effective than mitigation, the City will seek out preventive approaches. Public participation and an open and transparent decision making process are critical to finding and selecting alternatives.

Note: Guiding Principles adapted from the exemplary principles incorporated in the Santa Monica Sustainable City Plan

Primary Subject Goals

While it is recognized that nearly all environmental issues are highly interrelated, it is useful to develop Primary Subject Goals for each major policy area to further clarify and define the Environmental Agenda. It is the intention of the City Council to achieve the following Goals, presented in alphabetical order, for each primary area:

Air Quality: Improve Morgan Hill's ambient air quality and reduce pollutant exposure to local residents, plants, and animals.

Climate Protection: Identify, inventory, monitor, reduce, and mitigate local greenhouse gas emissions to reduce the community's carbon footprint in cooperation with the State's efforts to implement AB 32.

Community Health: Educate, encourage, and assist local residents, institutions, and businesses in improving the overall health and wellbeing of the community.

Energy: Develop a local energy system that maximizes opportunities for locally-developed clean energy generation and supports the use and development of cleaner energy generation sources nationwide.

Green Buildings: Use incentives, regulations, and laws to improve the environmental performance of new and existing buildings, roads, landscapes, and facilities in the community.

Habitat Conservation and Enhancement: Identify and preserve important wildlife habitat in the community and encourage the growth and wellbeing of native plant and animal species.

Land and Open Space Preservation: Continue to preserve hillsides, greenbelts, and open spaces and encourage new development in the City's core.

Local Resources and Products: Establish educational and assistance programs that identify and encourage the consumption of food and other products grown and produced locally. Support the development of local food production, distribution, and sales.

Municipal Government: Continue to improve the environmental performance of all City buildings, operations and procurements in order to lead by example on all of the goals listed in the City's Environmental Agenda.

Pollution Prevention: Reduce the generation of all waste products and the release of waste and pollution into the local environment.

Solid Waste Reduction and Resource Conservation: Develop a materials-based local economy that minimizes the use of natural resources through efficient design, waste reduction, materials reuse and recycling, and the incorporation of recycled materials into new products.

Transportation: Work with local, regional, and state agencies and developers to improve the City's multi-modal transportation network, minimize automobile dependency, facilitate electric vehicle recharging, and encourage walking and biking within the community.

Water Supply: Maximize the efficient use of water and the development of alternative water supplies.

Environmental Agenda Implementation, Maintenance, and Development

This Environmental Agenda is intended to be a dynamic document that shall be reviewed biennially by the City Council. City staff shall prepare an annual workplan, in conjunction with the City's annual budget preparation, designed to focus on accomplishing the highest priority Primary Subject Goals of the Agenda.

Environmental Strategy (Adopted December, 2014)

<i>Project/Program</i>	<i>Staffing</i>	<i>One Time or Ongoing</i>	<i>Additional Funding Required</i>	<i>Status as of Oct. 2017</i>
FY 2014/2015				
Initiate Recycled Water Study	Consultant	One Time	No	Completed
Introduce Property Assessed Clean Energy Programs to Community	Existing Staff	Ongoing	No	Completed
Participate in Regional Community Choice Aggregation Project	Existing Staff	Ongoing	No - Not envisioned during preliminary phase	Completed
Conduct Study to Evaluate Opportunities for Enhanced Waste Diversion	Consultant	One Time	Yes - \$10,000	No Action
Participate in Countywide Alternative Vehicle Fueling Project	Existing Staff	One Time	No	In Progress
Amend Water Waste Ordinance to Address Private Well Water	Existing Staff	One Time - though enforcement is ongoing	No	Completed
Begin Issuing Administrative Citations for Water Waste Violations	Existing Staff	Ongoing	No	No Action – City addressed drought without citations
Enhance Water Leak Detection Network and Begin Smart Meter Deployment	Existing Staff & Contractor	Ongoing	No	Completed
Continue Ongoing Efforts to Preserve Agricultural Lands per Council Direction on 11/5/14	Existing Staff	Ongoing	No	In Progress

Continue Development of Station Area Master Plan	Existing Staff	One Time	No	In Progress
<i>FY 2015/2016</i>				
Produce Local Energy Showcase	New Staff	One Time	Yes - portion of new staff expense and related expenses	No Action
Promote Utility Energy Efficiency Programs	New Staff	Ongoing	Yes - portion of new staff expense and related expenses	No Action
Apply to Tree City USA Program	New Staff	Ongoing	Yes - portion of new staff expense and related expenses	No Action
Coordinate Joint Bulk Purchases of Alternative Energy Products for Residents and Businesses	New Staff	One Time	Yes - portion of new staff expense and related expenses	No Action
Identify Future Green Fleet Opportunities	New Staff	One Time	Yes - portion of new staff expense and related expenses	No Action
Work with Local Businesses on Joint EV Charging Station Purchases	New Staff	One Time	Yes - portion of new staff expense and related expenses	No Action
Conduct In-Depth Energy Efficiency Analysis of Additional City Buildings	Existing Staff	One Time	Yes - Exact amount to be determined via bidding process	Grant received, project just starting
Increase Tree Planting Activities on Public Properties and Encourage Private Tree Planting	Existing Staff	Ongoing	Yes - \$5,000 annually	Grant received, project just starting
Enhance Water Waste Enforcement (Only If Drought Continues)	New Staff	Ongoing	Yes - \$20,000 in part-time inspection services	No Action

Complete Water Leak Detection Network & Smart Meter Deployment (ask how much money)	Existing Staff & Contractor	Ongoing	Yes - \$1.5 million of funding which could potentially be taken from water bond funds	In Progress
Begin Implementation of Station Area Master Plan	Existing Staff	Ongoing	No	Awaiting Completion Of Plan
Work with Chamber of Commerce on Business Support for Transit Use	New Staff	One Time	Yes - portion of new staff expense and related expenses	No Action
Update Street Design Standards for Further Accommodate Pedestrians and Bicyclists	Existing Staff	One Time	No	Ongoing Evaluation
Ensure that Existing General Plan Policies Supporting Complete Streets are Included in New General Plan	Existing Staff	One Time	No	Completed
Continue 2014/2015 and Ongoing Projects as Required	Existing Staff	Varies	No	Varies with item
<i>Future Years</i>				
Implement Results of Recycled Water, Alternative Vehicle Fueling, and Zero Waste Studies	Unknown	Varies	Unknown	No Action
Community Choice Aggregation Implementation	Contractor/JPA	Ongoing	Should be Self Funded Though Seed Funding May Be Required	In Progress
Expand Energy Outreach and Explore Opportunities to Expand Local Generation	New Staff	Ongoing	Unknown	No Action

Continue 2015/2016 and Ongoing Projects as Required	Varies	Varies	Unknown	Varies with item
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Deep Green Options

Increase Tree Planting Requirements in New Developments
Require Base Levels of Alternative Energy in New Developments
Convert Landscape Water Accounts to Budget-Based Billing
Institute Product Bans of Other Restrictions to Prevent Waste