



Special - Regular Meeting Agenda
City Council

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

Wednesday, May 16, 2018 6:30 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)

A special meeting of the City Council is called at 6:30 p.m. for the purpose of conducting a closed session.

Closed sessions are not open to the public. Students should attend the 7:00 pm Regular City Council meeting.

SPECIAL MEETING

6:30 P.M.

CALL TO ORDER

(Mayor Tate)

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
(Deputy City Clerk Bigelow)

CLOSED SESSION

CLOSED SESSION ANNOUNCEMENT

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

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: California Supreme Court Case No. S243042

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Pursuant to Government Code section 54956.9(b)
Number of Cases: 1
Potential Plaintiff: Morgan Hill Hotel Coalition

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 Carr

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming May 15, 2018 as National Peace Officers Memorial Day and the week of
May 13-19, 2018 as National Police Week

Proclaiming the week of May 20-26, 2018 as Public Works Week

May 16, 2018

Proclaiming the Month of May as Older Americans Month

Proclaiming the Month of May as Foster Care/Resource Parent Awareness Month

RECOGNITIONS

Recognizing Gladys Aichele for 20+ years of volunteering with the Senior Center

Recognizing the Library Culture and Arts Commission for the Art a la Carte Program

Recognizing Merrill Lynch Morgan Hill for Community Services

PRESENTATIONS

YAC Presentation- Asset #18- Youth Programs

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. RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER

Recommendation:

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

2. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

Recommendation:

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

3. APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY

Recommendation:

Review and Approve the City Council and Planning Commission Email Policy.

4. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018

Recommendation:

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

5. REBUILDING TOGETHER REHAB PROGRAM AGREEMENT

Recommendation:

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

6. ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND

Recommendation:

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

7. AIRBNB VOLUNTARY COLLECTION AGREEMENT

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

8. AMEND REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HIGH SPEED RAIL AUTHORITY TO EXTEND THE TIME DURATION OF THE CURRENT AGREEMENT

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

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

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

12. APPROVE THE MAY 2, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

Estimated Time: 15 Minutes

14. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

Estimated Time: 75 Minutes

PUBLIC HEARING

15. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Estimated Time: 10 Minutes

16. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Estimated Time: 60 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 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 safe, inclusive, socially responsible, environmentally conscious, and economically sound community.

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 ·
Enhancing Diversity and Inclusiveness

2018 STRATEGIC PRIORITIES

Community Engagement and Messaging

Economic Development and Telecommunications

Financial Stewardship

Infrastructure

Regional Initiatives

2018 STRATEGIC PRIORITIES:



Community Engagement and Messaging

The City of Morgan Hill will tell our story through outreach and by working closely with our community in presenting our vision, priorities, and financial needs, and by engaging citizens and business owners to find affordable and sustainable solutions. The City's communications, services, public spaces, and projects will embrace all community members as partners, encouraging public participation.



Economic Development and Telecommunications

The Economic Blueprint will continue to be implemented, with a primary goal of attracting jobs and investment into our community. 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 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 with private sector partnerships. The plan will be used to signal Morgan Hill's support for business expansion.



Financial Stewardship

We will be financial stewards of the City's assets to ensure long-term fiscal sustainability. New revenue sources, including a possible tax measure, will be considered to fund increasing costs to deliver services and complete infrastructure projects. The City will closely manage its expenditures to maintain its general fund reserve. The labor contracts will be negotiated using the City's adopted Employee Compensation Guiding Principles.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs 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 transportation projects and road maintenance. For High Speed Rail, we will strongly advocate for the route with the least impact on Morgan Hill.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. A regional approach will be employed to address many priorities, including but not limited to, homelessness, animal services, teen suicide, High Speed Rail, and land use (Catholic High School, Outdoor Sports Center, agricultural preservation, and city limits). This regional involvement will include partnering with the League of California Cities, Valley Transportation Authority, Caltrain, 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.



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

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

RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER

RECOMMENDATION(S)

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth

Seniors

and Entire Community

Fostering a Positive Organizational Culture

REPORT NARRATIVE:

On April 19, 2018, Maria Antunes submitted her resignation from the Library, Culture, and Arts Commission effective immediately due to personal reasons. The City Clerk's office has begun the recruitment efforts to fill the vacancy that has a term ending on April 1, 2019. Staff recommends that the Council accept Ms. Antunes resignation and direct the City Clerk's office to continue the recruitment efforts.

COMMUNITY ENGAGEMENT: Involve

Recruitment efforts are underway encouraging citizens to apply for City Council appointment consideration to the Library, Culture, and Arts Commission.

ALTERNATIVE ACTIONS:

Not applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Recruitment efforts are conducted each year to appoint or reappoint commissioners as their terms expire.

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):
Not a project.

The appointment of commissioners is not a project, as defined in Section 15378 of the State CEQA guidelines.



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Margarita Balagso, Police Analyst
APPROVED BY: City Manager

ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

RECOMMENDATION(S)

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2018 Strategic Priorities

Financial Stewardship

GUIDING DOCUMENTS

Public Safety Master Plan

REPORT NARRATIVE:

The Community Law Enforcement Foundation of Morgan Hill (CLEF) is a not-for-profit volunteer organization dedicated to supporting and promoting public safety through partnerships that provide resources to enhance the operation of the Police Department. CLEF Board of Directors and volunteers work to raise funds for the purchase of equipment and materials that are not within the Department's operating budget.

1. CLEF wishes to provide a cash donation in the amount of \$1,385 in order to reimburse the City of Morgan Hill for approximately 50% of the expenditures associated with the travel, lodging and transportation for several teammates who attended the installation dinner for the incoming Board of Directors of the California Police Chiefs Association including Chief David Swing who was sworn in as President on March 21, 2018 in Long Beach, California.
2. The CLEF Board of Directors approved the purchase of a MILO force option simulator for the Police Department. CLEF purchased the system with its own funds and has donated the system to the Police Department. The force option simulator provides officers with hands-on and interactive training using an array of scenarios. Officers are immersed in a decision-making situation designed to strengthen situational awareness and threat assessment skills. The MILO system was debuted at the Cops and Robbers Ball. Guests were able to participate in various scenarios guided by officers trained in the system. They were presented with a scenario and had to make "split second" decisions regarding safety and threat levels and make the appropriate use of force decision. The total cost of the

MILO force options simulator was \$36,024.

COMMUNITY ENGAGEMENT:

This staff report will serve as notification to the community of the donation from CLEF of equipment – the MILO force options simulator and the monetary donation of \$1,385 towards that reimbursement for travel and associated costs to the California Police Chief's Association Board of Directors Installation in Long Beach California.

ALTERNATIVE ACTIONS:

City Council could decide to not receive the funds and/or equipment.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has previously accepted donations from CLEF to enhance the Police Department's operations every year since 2010. CLEF's total donations to-date have exceeded \$225,000. The budget appropriations for those donations were approved and incorporated into the respective year's budget.

FISCAL IMPACT:

1. Recognize \$1,385 as revenue towards CLEF Donations (010.37516). Appropriate a maximum of \$1,385 in Field Patrol Conferences and Meetings (010.3210.42415) for the costs associated to attend the California Police Chiefs Association 2018 Board of Directors installation dinner. A Budget Scorecard is attached. There is no fiscal impact for the equipment donation of the simulator.

CEQA (California Environmental Quality Act):

Not a Project

Continuing administrative activities, such as purchases for supplies and equipment, is not a project subject to environmental review.

LINKS/ATTACHMENTS:

1. Clef Donation-Reso 05-16-18
2. Budget Scorecard

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 17-18 BUDGET ACCEPTING A DONATION OF \$1,385 FROM THE COMMUNITY LAW ENFORCEMENT FOUNDATION AND APPROPRIATING \$1,385 TO OFFSET A PORTION OF COSTS ASSOCIATED TO TRAVEL TO CALIFORNIA POLICE CHIEFS CONFERENCE THEREFOR

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 purchase described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Accept Donations from Community Law Enforcement Foundation" submitted for City Council consideration at its meeting of May 16, 2018 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 17-18, 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 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 meeting 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 activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970; 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 City is in support of the donation to offset approximately 50% of the expenditures associated with the travel, lodging and transportation costs for several teammates to attend the installation dinner for Chief David Swing as President of the California Police Chiefs Association at its annual conference in Long Beach California on March 21, 2018; and
- b. That the City's previously adopted Fiscal Year 17-18 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
- c. 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 17-18 Budget of the City; and
- d. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

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 16th day of May 2018 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 May 16, 2018.

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

DATE: _____

 Irma Torrez, CITY CLERK

AGENDA BUDGET SCORECARD

FISCAL YEAR 2017-18

ADJUSTMENT #

039

FUND:

DEPARTMENT:

OBJECT:

010	General Fund
3210	Police-Patrol
42415	CONFERENCE & MEETINGS

AGENDA DATE:

AGENDA ITEM TITLE:

05/16/18
CLEF Donation

	07/01/17			06/30/18 PROJECTED
	BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	ENDING FUND BALANCE
ORIGINAL BUDGET	16,830,617	37,137,688	39,033,006	14,935,299
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	767,181	2,138,181	(1,371,000)
RECOMMENDED ACTION	-	1,385	1,385	-
RESULT OF RECOMMENDED ACTION	<u>16,830,617</u>	<u>37,906,254</u>	<u>41,172,572</u>	<u>13,564,299</u>



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

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

APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY

RECOMMENDATION(S)

Review and Approve the City Council and Planning Commission Email Policy.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Community Engagement and Messaging

REPORT NARRATIVE:

In light of recent court decisions, specifically in the case of *City of San Jose v. Superior Court (Smith)*, regarding California Public Records Act (CPRA) requests for emails on personal devices or accounts, staff has updated the Administrative Email Policy and drafted a City Council Email Policy. In the *San Jose* decision, the Superior Court found that records in local agency employees' and elected officials' personal accounts or devices may be subject to the CPRA. In order to provide transparency and efficiency in providing responsive records to CPRA requests, staff recommends that the City Council review and approve the attached City Council Email Policy.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community.

ALTERNATIVE ACTIONS:

The City Council could take no action.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Not applicable.

FISCAL AND RESOURCE IMPACT:

There is no fiscal or resource impact associated with this report.

CEQA (California Environmental Quality Act):

Not a project.

The drafting and approval of a City Council Policy does not result in an impact to the environment.

LINKS/ATTACHMENTS:

1. CP-18-03 Council and Commission Email
2. Administrated Email Policy III022- 5/9/18

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-18-03

**SUBJECT: COUNCIL AND COMMISSIONER EMAIL USE AND
MANAGEMENT POLICY**

EFFECTIVE DATE: June 1, 2018

Procedures for Council and Commission Email:

City Council members and Planning Commissioners:

- A. Must use a City Email account for all City business.
- B. Must follow all policies and procedures outlined in the City's Administrative Email Policy III022

Steve Tate, Mayor

Date

Attachment: CP-18-03 Council and Commission Email (1766 : City Council Email Policy)

CITY OF MORGAN HILL

ADMINISTRATIVE POLICIES AND PROCEDURES

III022

SUBJECT: EMAIL POLICY

EFFECTIVE DATE: OCTOBER 1, 2016, REVIEWED AUGUST 2017,
REVISED May 1, 2018

ORIGINATING DEPARTMENT: ADMINISTRATIVE SERVICES

PURPOSE:

This Policy sets forth requirements regarding the management and deletion of email and the procedures for the production of email for the purposes of the Public Records Act, subpoenas, and for litigation purposes.

This Policy applies to all Users of City Electronic Resources.

1. DEFINITIONS:

For the purposes of this Policy, the following capitalized terms shall have the following, respective meanings:

- 1.1 Email:** Any electronic mail message and attachments of any kind that are created, sent, received, or forwarded during the course and scope of a User's employment.
- 1.2 Litigation Holds:** Notifications sent by the City Attorney's Office to notify Users of threatened or pending litigation and the subsequent responsibility to preserve documentation related to the parties and subject of the litigation.
- 1.3 Mailbox:** The collection of email, tasks, notes, calendar items, personal contacts, and other folders used to store and process electronic correspondence for a User.
- 1.4 Non-Record:** Material which is not retained in the regular course of business or is a temporary aid, not created for the purpose of preserving its own documentary or informational content for future reference. Examples include, but are not limited to, personal communications, identical copies of Records which are stored elsewhere, preliminary drafts, notes, intra-agency communications of advisory opinions, draft recommendations, or deliberations.
- 1.5 Post Office:** Central repository of all City mailboxes.
- 1.6 Process Folder:** A folder in a mailbox into which Emails are stored as part of the sending, receiving, and processing of emails by the Post Office. This includes the Inbox, Sent Items, Junk, and Clutter folders. Email in these folders over two (2) years of age (determined from the date of receipt) is automatically deleted.

- 1.7 **Project Folder:** A folder created and maintained by a User with an unlimited retention period for the purpose of storing and providing access to Records.
- 1.8 **Record:** Any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City, regardless of physical form or characteristics. Writing includes email and every other means of recording any form of communication or representation, regardless of the manner in which it is stored. Examples of Records include electronic recording of applications, permits, final reports or recommendations to the City Council or boards and commissions, legal documents, final contracts and agreements, official correspondence with outside agencies or parties relating to the business of the City, and final compilations of statistics or data, maps, or official information.
- 1.9 **Records Retention Schedule:** The list of all Records document types that is adopted by the City Council and controls how long Records must be retained and when Records may be destroyed and is updated periodically by the City Council.
- 1.10 **Shared Mailbox:** Mailbox used to send and receive emails from a common email address that is shared among a group of Users and accessed through their individual User mailboxes.
- 1.11 **User:** Any City employee, volunteer, intern, elected or appointed official, or other person that uses City Electronic Resources.

2. EMAIL MANAGEMENT AND DELETION

- 2.1 Individual email inboxes, shared mailboxes, personal archives, or individual electronic storage files are not appropriate places to retain Records. Emails and attached documents that are Records must be retained according to the City's Records Retention Schedule. Records shall be stored and saved in project or team folders in the User's or Departmental storage space or in a project folder located in the User's individual or shared mailbox.
- 2.2 When a User receives an email, he or she shall determine if it is a Record or Non-Record. If the email is a Record, the User shall follow the procedure in Section 2.1. Email that is not clearly a Non-Record or has current value shall be left either in its original folder or filed in a Project or Business folder. Users shall only keep current, useful correspondence and shall delete Non-Records after needs have been satisfied.
- 2.3 Email two (2) years old (determined from the date of receipt), will be automatically deleted from all Process Folders.

- 2.4 User deleted emails will be available for recovery in the Deleted Items folder for thirty (30) days after deletion. All deleted emails will be retained in City's Post Office for two (2) years only (from the date of receipt) for the purpose of recovering Records that are accidentally or inappropriately deleted. After two (2) years, deleted emails shall be permanently deleted from all City storage, servers, backups, and archives, and shall not be recoverable.
- 2.5 Each User is responsible for ensuring that deleted emails or communications are not Records subject to retention or subject to a Litigation Hold. Users should contact the City Clerk's Office if they have questions about whether a particular item is a Record and/or subject to the Records Retention Schedule. Users should contact the City Attorney's Office if they have questions about whether a particular item is subject to a Litigation Hold, as described in Section 3.
- 2.6 Shared mailboxes are the responsibility of the assigned group of Users to follow all Email Management and Deletion policies.

3. LITIGATION HOLD

- 3.1 Users shall preserve and shall not destroy any email, electronic communication, or Record or Non-Record that relates to any third party or to any subject matter relating to a Litigation Hold issued by the City Attorney's Office. A Litigation Hold applies to all emails, communications, documents, records, or materials, whether or not such emails, communications, documents, or materials are a Record or Non-Record.
- 3.2 As with physical documents, the City has a duty to preserve relevant evidence that may be subject to discovery in litigation. In such a case, the City Attorney's Office shall notify affected departments who may have responsive documents. Department Directors will be responsible for notifying affected Users that a "Litigation Hold" has been placed on all materials related to the litigation and that they may not destroy, delete, or otherwise make inaccessible related materials. Upon conclusion of litigation, the City Attorney's Office shall notify affected departments that the Litigation Hold has been lifted and that preserved materials may be destroyed or retained according to the Records Retention Schedule and this Policy.

4. PUBLIC RECORDS ACT REQUESTS AND DOCUMENT SUBPOENAS

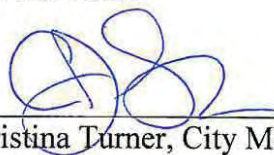
- 4.1 Emails may constitute electronic public records subject to inspection and copying under the Public Records Act or by other means of document production such as court subpoena.

- 4.2 Periodically, the City receives requests for inspection or production of documents pursuant to the Public Records Act, as well as demands by subpoena or court order for such documents. In the event such a request or demand is made for email, Users having control over such email, once they become aware of the request or demand, shall temporarily preserve any email that is in existence until it is determined whether such email is subject to preservation, public inspection, or disclosure. Responses to Public Record Act requests shall be processed in accordance with Administrative Policy I003.

5. **VIOLATIONS OF POLICY:**

It is the responsibility of every User to ensure that he or she is in compliance with this Policy. Any User found to have violated this Policy may be subject to disciplinary action.

APPROVED:


Christina Turner, City Manager

5/9/18
Date



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Nichole Martin, Community Services Coordinator
APPROVED BY: City Manager

APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018

RECOMMENDATION(S)

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth

Seniors

and Entire Community

Preserving and Cultivating Public Trust

Preserving Our Cultural Heritage

REPORT NARRATIVE:

Annually, the City Council considers funding requests from local non-profit organizations that host community wide events. The City Council funding is meant to offset the costs of City services required by the special event permit for the community event.

To be considered for this annual funding, the following criteria must be met:

- The organization requesting the funding is a nonprofit
- The event hosted by the requesting organization is a community wide event, open to all, with no associated admission fees
- The event is not a fundraising event
- The event requires a special event permit and City services

In recent years, the City Council has approved funding for the Independence Day Celebrations' (IDC) Fourth of July events known as Freedom Fest; the Morgan Hill Downtown Association's (MHDA) Safe Trick or Treat; and the Kiwanis' Holiday Lights Parade. Two years ago, the City Council also began approving funding to offset the cost the tree lighting that happens in conjunction with the Holiday Lights Parade.

On April 9, 2018, staff provided Community Promotion Funding Request Applications to the three organizations noted above, posted the application with a Newsflash on the City website, and sent a press release to the local newspapers. The City received a total of four (4) requests from IDC, Morgan Hill Kiwanis, and MHDA (two separate requests). All applications are attached for reference.

As occurred last year, the MHDA has requested funding to offset the cost of the tree for the Holiday Tree Lighting Event. Although it does not meet the above stated criteria because funding the tree is not a community event in itself, staff is once again recommending that the City Council fund the request. This recommendation is based on the tree being a key element in the Holiday Lights Parade and Tree Lighting Event, organized by a different organization. Additionally, the tree serves as a gateway icon for the community during the holiday season.

COMMUNITY ENGAGEMENT: Inform

The Community Promotion Funding Request Applications were sent via email to IDC, MHDA, and Morgan Hill Kiwanis informing those organizations of the deadline to submit their requests. Additionally, the application was posted to the website through a Newsflash notifying the community of the annual process and deadline to submit. A press release with the same information was sent to the local newspapers.

ALTERNATIVE ACTIONS:

1. The City Council could choose to provide less funding than was requested which could potentially hinder the ability of the requesting organization to put on the community event.
2. The City Council could choose to provide funding in an amount higher than has been budgeted potentially requiring a budget amendment.
3. The City Council could choose to provide no funding for the events, which in the case of the Holiday Lights Parade, Tree Lighting, and Safe Trick or Treat would likely mean the events would not occur. In the case of Freedom Fest, the Fourth of July Celebration would likely need to be scaled down.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Annually, the City Council makes decisions to provide funding to support non-profit community events that benefit the entire community.

FISCAL AND RESOURCE IMPACT:

It should be noted that funding in the amount of \$41,100 for Fiscal Year (FY) 2018-19 was allocated in the proposed draft budget submitted to Council on May 2, 2018. The amounts requested this year are actually \$700 over the currently proposed budget, with the Kiwanis requesting funding of \$5,100 for this year, instead of \$4,400 that was included in the proposed budget. The proposed increase of \$700 will be included in the Final FY 2018/19 Budget if this item is approved by the City Council.

Summary of Requests Received

Requesting Organization	Estimated Event Expenses	Estimated Event Revenue (not including City Funding)	Net Cost	Amount of Council Support Requested FY 18-19	FY 17-18 Council Funding

IDC	\$185,000	\$160,000	\$(25,000)	\$24,700	\$24,700
Kiwanis	\$5,400	\$300	\$(5,100)	\$5,100	\$4,600
MHDA (Safe Trick or Treat)	\$6,000	\$0	\$(6,000)	\$6,000	\$6,000
MHDA (Holiday Tree Lighting)	\$7,000	\$0	\$(7,000)	\$6,000	\$6,000
Total Council Support Requested				\$41,800	\$41,300

CEQA (California Environmental Quality Act):

Council funding ultimately supports events held on public property. The support and permitting of the City to allow these events is categorically exempt under Class 1 Existing facilities, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

LINKS/ATTACHMENTS:

1. Freedom Fest Application Rev52018
2. Kiwanis Application
3. MHDA Safe Trick or Treat Application
4. MHDA Tree Lighting Application



**COMMUNITY PROMOTIONS
CITY COUNCIL FUNDING APPLICATION**

Annually, the City Council considers funding requests from local non-profit organizations that host community wide events. The funding requested is meant to offset the cost of city services required by the special event permit for the community event.

To be considered for this annual funding the following criteria must be met:

- The organization requesting funding must be a non-profit
- The event hosted by the requesting organization must be a community-wide event, open to all, with no associated admission fees
- The event hosted by the requesting organization cannot be a fundraising event
- The event hosted by the requesting organization requires a special event permit and city services

The City Council will consider funding its Community Promotions budget as part of the FY 2018/19 budget review process.

To be considered for funding in FY 2018/19 please complete and return this form by Friday, April 20, 2018 to:

Nichole Martin
Community Services Coordinator
17575 Peak Avenue
Morgan Hill, CA 95037
nichole.martin@morganhill.ca.gov

Organizer Information:

EVENT ORGANIZER: Independence Day Celebration, Inc.

ORGANIZATION ADDRESS: P.O. Box 1776

CONTACT PERSON: Jeff Dixon

TELEPHONE and E-MAIL ADDRESS: 408-778-3900 president@mhfreedomfest.com

*Event Information:***NAME OF EVENT:** Freedom Fest**DATE OF EVENT:** July 3-4, 2018**LOCATION OF EVENT:** Various - CCC, Downtown, OSC**ANTICIPATED ATTENDANCE:** 80,000-100,000*Budget Information:***ESTIMATED EVENT EXPENSES:** \$ ~~100,000~~ 185,000 JD**ESTIMATED EVENT REVENUE** (Do not include amount of Council support requested): \$ 160,000**AMOUNT OF COUNCIL SUPPORT REQUESTED:** \$ 24,700*Council Support Request Explanation:***DESCRIPTION OF EVENT:**

July 3rd Patriotic Sing and Family Music Festival

July 4th Freedom Run, Car Cruise and Show, Historic Parade, Fireworks on the Green

PLEASE RESPOND TO THE FOLLOWING QUESTIONS:**1. WHY SHOULD THE CITY COUNCIL CONSIDER FUNDING THIS EVENT?**

Independence Day Celebration, Inc. is a 501c3 non-profit, all volunteer community service organization. The Morgan Hill freedom Fest brings approximately 100,000 people to Morgan Hill each year. Without the financial support of the City of Morgan Hill, we would not be able to continue operating the longest running July 4th celebration on northern California.

2. WHAT COUNCIL PRIORITY IS SUPPORTED BY YOUR EVENT?

Maintaining fiscal responsibility
Supporting youth
Preserving and cultivating public trust

APPLICANT CERTIFICATION FOR SPECIAL EVENTS

As part of your City Council funding request, the Applicant must agree to the following as part of its Special Event Permit that will need to be applied for through the City's Community Services Department.

The Applicant agrees to indemnify and hold harmless the City of Morgan Hill for any and all claims regarding the below named event. The Applicant agrees to protect, defend, and hold harmless the City of Morgan Hill, its elective or appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property. This applies to the Applicant, Applicant's agents, officers, or employees, subcontractors, or independent contractors hired by the Applicant.

This hold harmless agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Applicant.

The person signing this Certification declares that he/she has the authority to bind the Applicant, and that Applicant is bound by all terms of this Certification. The person signing this Certification agrees that they will provide a copy of this Certification to the governing board and director of the Applicant, and to the Applicant's insurers. In the event that the signatory lacks such duly granted authority, said undersigned signatory personally assumes all liability for fees, costs and damages.

The Applicant further agrees to repay the City for any and all incurred costs, damage and clean-up to parks, streets, facilities, buildings or other property owned by the City which result from the below named event.

The Applicant agrees to comply with the permit issuance conditions as stipulated in Section 12.16050 of the City of Morgan Hill Municipal Code, and any other requirements of the City of Morgan Hill.

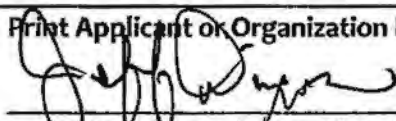
In submitting our request for City Council funding, we understand that the City Council will consider funding of its Community Promotions budget as part of the FY 2018/19 General Fund budget development process.

Morgan Hill Freedom Fest

Print Name of Event

Independence Day Celebration, Inc.

Print Applicant or Organization Name



Applicant/Organization Signature

April 20, 2018

Date



**COMMUNITY PROMOTIONS
CITY COUNCIL FUNDING APPLICATION**

Annually, the City Council considers funding requests from local non-profit organizations that host community wide events. The funding requested is meant to offset the cost of city services required by the special event permit for the community event.

To be considered for this annual funding the following criteria must be met:

- The organization requesting funding must be a non-profit
- The event hosted by the requesting organization must be a community-wide event, open to all, with no associated admission fees
- The event hosted by the requesting organization cannot be a fundraising event
- The event hosted by the requesting organization requires a special event permit and city services

The City Council will consider funding its Community Promotions budget as part of the FY 2017/18 budget review process.

To be considered for funding in FY 2017/18 please complete and return this form by Friday, May 5, 2017 to:

Maureen Tobin
Communications and Engagement Manager
17575 Peak Avenue
Morgan Hill, CA 95037
maureen.tobin@morganhill.ca.gov

Organizer Information:

EVENT ORGANIZER: Morgan Hill Kiwanis

ORGANIZATION ADDRESS: Box 751, Morgan Hill, CA 95038

CONTACT PERSON: Mary Lou Conragan

TELEPHONE and E-MAIL ADDRESS: 408 779 1473, mconragan@msn.com

Attachment: Kiwanis Application (1759 : Community Promotions)

*Event Information:***NAME OF EVENT:** Holiday Lights Parade**DATE OF EVENT:** Saturday December 1, 2018**LOCATION OF EVENT:** Monterey Road, Downtown Morgan Hill**ANTICIPATED ATTENDANCE:** 3000*Budget Information:***ESTIMATED EVENT EXPENSES:** \$ 5400**ESTIMATED EVENT REVENUE** (Do not include amount of Council support requested): \$ 300**AMOUNT OF COUNCIL SUPPORT REQUESTED:** \$ 5100*Council Support Request Explanation:***DESCRIPTION OF EVENT:** Winter holiday parade, with tree lighting and post parade entertainment**PLEASE RESPOND TO THE FOLLOWING QUESTIONS:****1. WHY SHOULD THE CITY COUNCIL CONSIDER FUNDING THIS EVENT?**

The Holiday Lights Parade is a classic “Hometown” event held annually. Over the last 4 years it has seen considerable growth in participants and parade viewers. The parade has become more inclusive with more schools and community organizations participating. This is one of Morgan Hill classic event. The Parade was started by the city. They asked Morgan Hill Kiwanis to take over the arrangements 20 years ago when management costs escalated. The cost are for what was “furnished by city” in our original agreement: Police, road closure, permits, sound systems, amphitheater rental, etc.

2. WHAT COUNCIL PRIORITY IS SUPPORTED BY YOUR EVENT?

The support for these events adds to the community spirit which is identified as the good life of Morgan Hill.

APPLICANT CERTIFICATION FOR SPECIAL EVENTS

As part of your City Council funding request, the Applicant must agree to the following as part of its Special Event Permit that will need to be applied for through the City's Community Services Department.

The Applicant agrees to indemnify and hold harmless the City of Morgan Hill for any and all claims regarding the below named event. The Applicant agrees to protect, defend, and hold harmless the City of Morgan Hill, its elective or appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property. This applies to the Applicant, Applicant's agents, officers, or employees, subcontractors, or independent contractors hired by the Applicant.

This hold harmless agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Applicant.

The person signing this Certification declares that he/she has the authority to bind the Applicant, and that Applicant is bound by all terms of this Certification. The person signing this Certification agrees that they will provide a copy of this Certification to the governing board and director of the Applicant, and to the Applicant's insurers. In the event that the signatory lacks such duly granted authority, said undersigned signatory personally assumes all liability for fees, costs and damages.

The Applicant further agrees to repay the City for any and all incurred costs, damage and clean-up to parks, streets, facilities, buildings or other property owned by the City which result from the below named event.

The Applicant agrees to comply with the permit issuance conditions as stipulated in Section 12.16050 of the City of Morgan Hill Municipal Code, and any other requirements of the City of Morgan Hill.

In submitting our request for City Council funding, we understand that the City Council will consider funding of its Community Promotions budget as part of the FY 2017/18 General Fund budget development process.

Holiday Lights Parade

Print Name of Event

Morgan Hill Kiwanis

Print Applicant or Organization Name

Mary Lou Conragan

Applicant\Organization Signature

March 23, 2018

Date



CITY OF MORGAN HILL

**COMMUNITY PROMOTIONS
CITY COUNCIL FUNDING APPLICATION**

Annually, the City Council considers funding requests from local non-profit organizations that host community wide events. The funding requested is meant to offset the cost of city services required by the special event permit for the community event.

To be considered for this annual funding the following criteria must be met:

- The organization requesting funding must be a non-profit
- The event hosted by the requesting organization must be a community-wide event, open to all, with no associated admission fees
- The event hosted by the requesting organization cannot be a fundraising event
- The event hosted by the requesting organization requires a special event permit and city services

The City Council will consider funding its Community Promotions budget as part of the FY 2018/19 budget review process.

To be considered for funding in FY 2018/19 please complete and return this form by Friday, April 20, 2018 to:

Nichole Martin
Community Services Coordinator
17575 Peak Avenue
Morgan Hill, CA 95037
nichole.martin@morganhill.ca.gov

Organizer Information:

EVENT ORGANIZER: Morgan Hill Downtown Association

ORGANIZATION ADDRESS: 90 W. Main Ave Suite 6 Morgan Hill CA 95037

CONTACT PERSON: Vicki Dieter

TELEPHONE and E-MAIL ADDRESS: 408-779-3190, mhda@morganhilldowntown.org

Event Information:

NAME OF EVENT: *Safe Trick or Treat*DATE OF EVENT: *October 31, 2017 2018*LOCATION OF EVENT: *Downtown Morgan Hill, Monterey Road between Dunne Avenue to Main Avenue*ANTICIPATED ATTENDANCE: *3,000 - 4,000*

Budget Information:

ESTIMATED EVENT EXPENSES: \$ *6,000.00*ESTIMATED EVENT REVENUE (Do not include amount of Council support requested): \$ *None*AMOUNT OF COUNCIL SUPPORT REQUESTED: \$ *6,000.00*Council Support Request Explanation: *Creates a safe centralized location for children*DESCRIPTION OF EVENT: *trick or treating in Morgan Hill not exclusive to downtown*

Safe Trick or Treat has been a Halloween tradition for 25 years in downtown Morgan Hill. Families bring their children of all ages to trick or treat in a safe environment. Held on Monterey Road between Dunne Avenue and Main St. the event brings businesses, places of worship, and non-profit organizations to provide an evening of arts & crafts, activities, and trick or treating. It has become a staple of the downtown and shows what a fun community Morgan Hill is.

PLEASE RESPOND TO THE FOLLOWING QUESTIONS:

1. WHY SHOULD THE CITY COUNCIL CONSIDER FUNDING THIS EVENT?

Safe Trick or Treat has become a Morgan Hill tradition of over 25 years of providing a fun and safe environment for children and their families to trick or treat

2. WHAT COUNCIL PRIORITY IS SUPPORTED BY YOUR EVENT?

Preserving a cultural heritage - providing a safe place to gather our youth and families for a traditional holiday activity

APPLICANT CERTIFICATION FOR SPECIAL EVENTS

As part of your City Council funding request, the Applicant must agree to the following as part of its Special Event Permit that will need to be applied for through the City's Community Services Department.

The Applicant agrees to indemnify and hold harmless the City of Morgan Hill for any and all claims regarding the below named event. The Applicant agrees to protect, defend, and hold harmless the City of Morgan Hill, its elective or appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property. This applies to the Applicant, Applicant's agents, officers, or employees, subcontractors, or independent contractors hired by the Applicant.

This hold harmless agreement shall apply to all liability, regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Applicant.

The person signing this Certification declares that he/she has the authority to bind the Applicant, and that Applicant is bound by all terms of this Certification. The person signing this Certification agrees that they will provide a copy of this Certification to the governing board and director of the Applicant, and to the Applicant's insurers. In the event that the signatory lacks such duly granted authority, said undersigned signatory personally assumes all liability for fees, costs and damages.

The Applicant further agrees to repay the City for any and all incurred costs, damage and clean-up to parks, streets, facilities, buildings or other property owned by the City which result from the below named event.

The Applicant agrees to comply with the permit issuance conditions as stipulated in Section 12.16050 of the City of Morgan Hill Municipal Code, and any other requirements of the City of Morgan Hill.

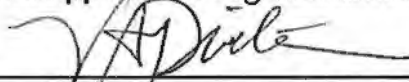
In submitting our request for City Council funding, we understand that the City Council will consider funding of its Community Promotions budget as part of the FY 2018/19 General Fund budget development process.

Safe Trick or Treat

Print Name of Event

Morgan Hill Downtown Association

Print Applicant or Organization Name



Applicant/Organization Signature

4/19/18

Date



**COMMUNITY PROMOTIONS
CITY COUNCIL FUNDING APPLICATION**

Annually, the City Council considers funding requests from local non-profit organizations that host community wide events. The funding requested is meant to offset the cost of city services required by the special event permit for the community event.

To be considered for this annual funding the following criteria must be met:

- The organization requesting funding must be a non-profit
- The event hosted by the requesting organization must be a community-wide event, open to all, with no associated admission fees
- The event hosted by the requesting organization cannot be a fundraising event
- The event hosted by the requesting organization requires a special event permit and city services

The City Council will consider funding its Community Promotions budget as part of the FY 2018/19 budget review process.

To be considered for funding in FY 2018/19 please complete and return this form by Friday, April 20, 2018 to:

Nichole Martin
Community Services Coordinator
17575 Peak Avenue
Morgan Hill, CA 95037
nichole.martin@morganhill.ca.gov

Organizer Information:

EVENT ORGANIZER: Morgan Hill Downtown Association

ORGANIZATION ADDRESS: 90 W. Main Ave Suite 6 Morgan Hill CA 95037

CONTACT PERSON: Vicki Dieter

TELEPHONE and E-MAIL ADDRESS: 408-779-3190, mhda@morganhilldowntown.org

Event Information:

NAME OF EVENT: Holiday Tree lighting

DATE OF EVENT: December 2nd or 8th 2017 2018

LOCATION OF EVENT: Community Center

ANTICIPATED ATTENDANCE: 3,000 - 4,000 - viewed by 20,000 plus during period it is in place

Budget Information:

ESTIMATED EVENT EXPENSES: \$ 7,000.00

ESTIMATED EVENT REVENUE (Do not include amount of Council support requested): \$ none

AMOUNT OF COUNCIL SUPPORT REQUESTED: \$ 6,000.00

Council Support Request Explanation: Holiday tree will provide holiday spirit to the entire community.

DESCRIPTION OF EVENT:

Terminus of the holiday parade in December is the Community and Cultural Center with a holiday tree. A lighting ceremony takes place where the tree lights are turned on and the tree will be left in place for the duration of the holiday season.

PLEASE RESPOND TO THE FOLLOWING QUESTIONS:

1. WHY SHOULD THE CITY COUNCIL CONSIDER FUNDING THIS EVENT?

The tree is the symbol for many throughout the community of the holiday season. The holiday tree will be enjoyed by thousands of people from our community and others and will show our holiday spirit.

2. WHAT COUNCIL PRIORITY IS SUPPORTED BY YOUR EVENT?

Preserving our cultural heritage: Morgan Hill has long had a holiday tree, holiday parade, and holiday tree lighting event which is known and appreciated by the region.

APPLICANT CERTIFICATION FOR SPECIAL EVENTS

As part of your City Council funding request, the Applicant must agree to the following as part of its Special Event Permit that will need to be applied for through the City's Community Services Department.

The Applicant agrees to indemnify and hold harmless the City of Morgan Hill for any and all claims regarding the below named event. The Applicant agrees to protect, defend, and hold harmless the City of Morgan Hill, its elective or appointed boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property. This applies to the Applicant, Applicant's agents, officers, or employees, subcontractors, or independent contractors hired by the Applicant.

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The Applicant agrees to comply with the permit issuance conditions as stipulated in Section 12.16050 of the City of Morgan Hill Municipal Code, and any other requirements of the City of Morgan Hill.

In submitting our request for City Council funding, we understand that the City Council will consider funding of its Community Promotions budget as part of the FY 2018/19 General Fund budget development process.

Holiday Tree Lighting

Print Name of Event

Morgan Hill Downtown Association

Print Applicant or Organization Name



Applicant/Organization Signature

4/19/18

Date



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Rebecca Garcia, Housing Manager
APPROVED BY: City Manager

REBUILDING TOGETHER REHAB PROGRAM AGREEMENT

RECOMMENDATION(S)

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community

2018 Strategic Priorities

Infrastructure
Regional Initiatives

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

The City entered into an agreement August 8, 2016 with Rebuilding Together Silicon Valley to provide a low-income Housing Rehabilitation Grant Program for Seniors. The term was from August 8, 2016 and remains in effect until June 30, 2018.

In partnership with the City of Morgan Hill, between the years of 2016 and 2017, Rebuilding Together Silicon Valley has been able to rehab a total of 53 low-income homes. Rebuilding Together helps low income seniors and residents to repair and pay for costly home improvements that are necessary to keep their homes safe and habitable. Without this program, many residents would be forced to live in homes which lack heating or cooling, homes with plumbing or roofing leaks, and many other deficiencies that if left unattended can create health and safety issues. Rebuilding Together also helps provide accessibility and energy efficiency upgrades to help residents "age in place" and to keep long term costs at their residence reasonable. The program scope was previously expanded to add a small-scale Blight Busters program to assist with necessary neighborhood clean-up projects, on an "as-needed" basis. On occasion, Code Compliance and Housing Teammates are challenged to identify a funding source to assist with cleaning-up a residential area or need, or help to bring a low-income home into compliance with health and safety rules. Although rare, the City does use Rebuilding Together to assist City Housing teammates, in collaboration with Morgan Hill's Building and Code Compliance with referrals.

Over the term of the existing contract, Rebuilding Together has expended \$70,470.77 of the allocated \$100,000 for the City's Senior grant program to benefit 28 mobile homes (70% of the \$100,000 allocated for repairs). The typical repairs are plumbing, heating, roofing, and sub-flooring. The Administrative reimbursement has been \$28,339 or 70% of the allocated administrative overhead, and proportionate to the program benefit expenditure.

Rebuilding Together assisted with the repair of a total of 42 additional Morgan Hill homes during the contract period utilizing \$161,438.09 from the County small cities CDBG fund. One home has been repaired from the Blight Buster Program for \$7,096.28

It is recommended that the City continue the partnership with the nonprofit provider, Rebuilding Together, which has been providing home repair service for twenty-five years. Total compensation for this agreement is recommended not to exceed \$200,000, including \$40,000 for "Administrative Services", \$100,000 for "Senior Rehabilitation Grants" (maximum \$7,500 each) and \$60,000 for "Blight Busters". The term of this agreement is July 1, 2018 to June 30, 2020.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the proposed agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services.

ALTERNATIVE ACTIONS:

As an alternative to the staff recommendation, the City Council may choose to not approve the Rebuilding Together agreement and or direct staff to identify alternative solutions.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On May 18, 2016, the City Council approved a two-year agreement with Rebuilding Together for a Rehab and Blight Busters Program for two years.

FISCAL AND RESOURCE IMPACT:

This is included in the FY 18-19 and 19-20 recommended budget.

CEQA (California Environmental Quality Act):

Projects undertaken through the Rebuilding Together Rehab and Blight Busters programs are exempt from CEQA review under CEQA Guideline 15301(d).

LINKS/ATTACHMENTS:

1. Rebuilding Together Agreement_ 18-19 and 19-20

CONSULTANT AGREEMENT REBUILDING TOGETHER SILICON VALLEY

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

1. **City Authority.** This Agreement is entered into pursuant to 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 CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be administrators for the Homeowner Rehabilitation Program as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$200,000.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed TWO HUNDRED THOUSAND dollars and shall be billed based on the rate and basis set forth in **Exhibit B.** If the City Manager extends the term of this Agreement 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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and

CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The CITY Manager of CITY is authorized to terminate this AGREEMENT on behalf of CITY.

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

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

7.1. **Insurance Types and Amounts.**

7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

7.1.3. **Workers' Compensation Insurance and Employer's Liability.** CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount

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

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

- 7.1.5. Professional Liability.

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

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

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

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

7.2.1. **General Liability.**

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

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

7.2.1.3. insurance shall be primary non-contributing.

7.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

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

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

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin,

mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

- 9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

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

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City’s Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575

Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

10. **Independent Contractor**. CONSULTANT is an independent contractor and not an agent or employee of CITY.
11. **Confidentiality**. All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.
12. **Conflict of Interest and Reporting**. CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
13. **Notices**. All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Beverly Jackson, Executive Director
 Rebuilding Together Silicon Valley
 1701 South 7th Street, Ste 10
 San Jose, CA 95112
 408-578-9519 x1002

Address of CITY is as follows:

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

14. **Licenses, Permits and Fees**. CONSULTANT shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.
15. **Maintenance of Records**.
 - 15.1. **Maintenance**. CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then CONSULTANT shall retain said records until such action is resolved.
 - 15.2. **Access to and Audit of Records**. The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors

related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

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

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

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

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

19. **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.

20. **Defense and Indemnification.**

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

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

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

20.4. **Right to Offset.** CITY shall have the right to offset against any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Section (20) and

any amount due CITY from CONSULTANT arising from CONSULTANT's failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

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

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

22. **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.

23. **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.

24. **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.

25. **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 CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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26. **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

 Christina J. Turner
 Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

Rebuilding Together Silicon Valley

 City Attorney

By: _____

 Donald A. Larkin
 Print Name

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

Date: _____

Date: _____

By: _____

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

Date: _____

**EXHIBIT A
SCOPE OF SERVICES**

- 1. Staffing - a. Program Development and Management, in-house capacity**
- 2. Outreach - a. Coordinate with the City and the Housing Manager**
- 3. Rehab/Blight Busters Coordination -**
 - a. Compile a list of qualified contractors and maintain current insurance and license information**
 - b. Rehab Specialists will meet with owners and prepare a scope of work and help facilitate bid collection and review**
 - c. Review work for progress/final payments**

EXHIBIT B SCHEDULE OF COMPENSATION RATES

Rebuilding Together Silicon Valley will submit monthly “Administration” invoices to the City of Morgan Hill, beginning at the commencement of the term of the agreement, in the amount of \$1,667 per month, for 23 months and \$1,659 for the 24th month, totaling forty thousand dollars (\$40,000.00). After the two-year agreement term, City of Morgan Hill will determine if the program should continue, and what the payment rate would be moving forward.

Rebuilding Together Silicon Valley will submit monthly “Senior Rehabilitation Grant” invoices as work is performed, up to no more than seven thousand five hundred dollars (\$7,500.00) per transaction, until one hundred thousand dollars (\$100,000.00) is exhausted. After the two-year agreement term, City of Morgan Hill will determine if the program should continue, and what the payment rate would be moving forward.

The Rehab Grant Program will provide services to income eligible Senior and/or disabled recipients whose gross annual income may not exceed 80% of Area Median Income (AMI); and the Rehab Grant Program includes but is not limited to the following repairs: Roof, gutter, electrical, heating and water heating systems, or plumbing repair or replacement, health, safety and structural problems, floor covering repair or replacement when it poses a health or safety hazard, disabled access, weatherization and energy efficiency upgrades, window, door and siding repair or replacement, seismic retrofit, swamp coolers, exterior/interior painting, skirting repair or replacement, repairs to carports, decks, and steps and other improvements as determined by the Housing Rehabilitation Program Administrator. the Rehab Grant Program includes but is not limited to the following Emergency Repairs: including roofing, plumbing, electrical, heating, water and sewer lines, health and safety problems not covered by a home owner's insurance and deemed emergencies due to climatic conditions or the existence of hazardous situations, such as loss of electricity, heating, or hot water, a recent disability, a serious water leak or a broken sewer line.

Rebuilding Together Silicon Valley will submit monthly “Blight Busters” invoices as work is performed, up to no more than seven thousand five hundred dollars (\$7,500.00) per transaction until sixty thousand dollars (\$60,000.00) is exhausted. After the two-year agreement term, City of Morgan Hill will determine if the program should continue, and what the payment rate would be moving forward.

The Blight Busters portion of the Program includes but is not limited to Code Violations, repairs which correct violations or deficiencies under applicable Building and Housing Codes and must be approved by Code Compliance and Housing Staff. For Owner-Occupied Single Family and Mobilehome Housing - an applicant is eligible for a repair grant when the applicant is a senior (age of 62 years of age or older) and/or disabled. Grant amount maximum will be \$7,500, although special hardship cases may be approved.

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

Contract begins July 1, 2018 and ends June 30, 2020
Service/Time Schedule

- 1. In-house staff capacity - Existing**
- 2. Compile list of qualified contractors - Existing**
- 3. Maintain list of qualified contracts, current insurance and license information - Ongoing**
- 4. Upon notification from the City, RTSV Staff to work with Code Enforcement staff to facilitate clean-up projects in determined blight homes/neighborhoods in Morgan Hill, meet with property owner and assist with code remediation - Ongoing, as needed**
- 5. RTSV Construction Manager will meet with owners and prepare scope of work - Ongoing, as needed**
- 6. RTSV Construction Manager to facilitate bid collection and assignment of work to Repair Technicians and/or sub-contractors - Ongoing**
- 7. Review work for progress/final payments - Ongoing**
- 8. Coordinate with City and the Housing Manager - Ongoing**
- 9. Provide City of Morgan Hill with quarterly reports - July 2018 - June 2020**



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Rebecca Garcia, Housing Manager
APPROVED BY: City Manager

ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND

RECOMMENDATION(S)

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Enhancing Diversity and Inclusiveness

2018 Strategic Priorities

Regional Initiatives

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

Staff requests authority to purchase a 3-bedroom, moderate-income Below Market Rate (BMR) affordable home that is currently in foreclosure. Should the City exercise its rights under the terms of the Restricted Covenants to purchase the home prior to foreclosure, it would be available for resale and to preserve in the BMR Program inventory for an additional 45 years, at 120% of Area Median Income (AMI). There are two City notes on the property, an RDA note for \$64,310, and a federal BEGIN note for \$39,106. There are also notes with the Silicon Valley Housing Trust, CalHFA, and back taxes and a lien for HOA fees of more than \$16,000. It is proposed, that the City market the home with the existing City RDA and BEGIN notes rolling over to the next eligible buyer to preserve the "affordable" opportunity and reduce the amount of the mortgage the individual buyer would need to enter property ownership. The notes would be secured by the next buyer and be due on sale. The new home buyer would have deferred interest down-payment assistance of \$103,416 and require a new commercial mortgage of approximately \$500,000. If the City loses this unit to foreclosure, all junior liens from various regional housing partners, as well as the City's BEGIN and RDA notes, would be lost and the home would disappear from the Program. The City Council is being requested to give direction on the following options.

Option 1 (The Housing Team's recommendation)

The City would purchase the property for \$506,421 (includes 4 out of the 6 liens), and authorize expenditures of \$94,879, for legal fees, HOA, rehabilitation and back taxes. These additional expenditures would be added to the eventual sale price of the home and would be necessary to retrieve the home from foreclosure and bankruptcy court. The home would be retained for affordability at 120% AMI with a new sales price of \$601,300. Note that the estimated fair market value (FMV) is between \$680,000 and \$700,000 while the 120% of AMI maximum sales price is \$653,779. The suggested sales price of \$601,300 results in a price less than fair market value by \$78,700 to \$98,700.

This option provides the new homeowner with down payment assistance valued at \$103,416 from the City (3% simple interest deferred due upon sale). The pros to this scenario are 1) it allows the new homebuyer a less expensive monthly mortgage payment by providing down-payment assistance in the amount of \$103,416, 2) the homebuyer will only need to obtain a first mortgage of \$497,884, instead of the total of \$601,300, 3) provides the stability of homeownership in a market which is normally outside what the household could afford. The lower monthly payment allows the family to save, provides tax write offs, and unlike affordable rentals, as the household income grows, the homeowner is not required to leave the unit. Once the home is owned, it is theirs until they choose to leave. A 45-year resale restriction permits the new homebuyer to earn a minimum amount of equity (based on the Consumer Price Index) as is the case for all new BMR homebuyers. Additionally, this homebuyer will be responsible for paying back the \$103,416 down-payment at the time of sale. This information will be clearly disclosed to the applicant.

Option 2

This option would allow the property to go into foreclosure on May 30, 2018, at which time it would be sold at an undetermined amount. If auctioned, the City's two junior notes valued at \$103,416 would likely be forfeited along with other housing partner loans, with the Housing Fund receiving "Residual Public Equity", if any, and the BMR would be lost from the Program.

The excess sales proceeds due to the City would be all amounts in excess of the first lien payoff (\$434,490) and taxes. In a foreclosure sale, the junior lienholders would only be paid if the sale proceeds are sufficient to cover those funds. We do not believe there is enough equity in the house to repay the City's junior notes. While we have a limited ability to pursue the current owner personally for collection, it is unlikely we would be able to recover the full amount.

Option 3

The Council may choose to purchase the property for \$506,421, subsequently pay off all loans and liens, including City RDA and BEGIN notes valued at \$103,416, and sell it at market rate for between \$680,000 and \$700,000, recouping the loan proceeds and expenses while gaining between approximately \$80,000 and \$100,000 for the Housing fund, but losing the workforce unit.

To avoid foreclosure and retain the unit in the Program, it is recommended that the City acquire and resell to a household up to 120% AMI (moderate).

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the recommended action.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In past housing workshops, the City Council has indicated preservation of the City's affordable housing assets as a high priority. This recommendation is consistent with those goals.

FISCAL AND RESOURCE IMPACT:

The Housing Team is recommending that the City Council authorize the use of Housing Funds 255 to acquire the property for \$506,421, and authorize an additional \$94,879 HOA and tax payoffs, rehabilitation work, title and escrow fees, for a total of \$601,300. This is a temporary or short-term expenditure of the Housing Fund requiring an amendment to the adopted budget (see attached budget scorecard). Once the house is resold, sale proceeds will replenish the Housing Fund.

CEQA (California Environmental Quality Act):

Categorical Exemption: This action is exempt under CEQA Guideline 15326, action to implement housing assistance through acquisition of housing units.

LINKS/ATTACHMENTS:

1. Resale Restriction Agreement Jade Lane
2. Resolution - budget amendment Jade Lane
3. Budget Scorecard

RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTION 27383

When Recorded Mail To:

Morgan Hill Redevelopment Agency
17555 Peak Avenue
Morgan Hill, CA 95037
Attn: Business Assistance and Housing Services

DOCUMENT: 20034801



Pages: 33

Fees... + No Fees
Taxes...
Copies...
AMT PAID

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
Chicago Title

RDE # 011
10/31/2008
1:30 PM

RESALE RESTRICTION AGREEMENT AND OPTION TO PURCHASE
MORGAN HILL MADRONE PLAZA

08423
MHRA

Owner: David E. Tolson aka David Edward Tolson

Home: 18428 Jade Lane, Morgan Hill, CA 95037

This Resale Restriction Agreement and Option to Purchase (the "Agreement") is entered into as of this 27 day of October, 2008, by and between the Morgan Hill Redevelopment Agency (the "Agency") and David E. Tolson (the "Owner"). aka David Edward Tolson

RECITALS

A. The Agency has determined that it would be desirable to make possible the purchase of homes by low and moderate income first-time homebuyers.

B. In order to further its plan to assist in the purchase of homes by low and moderate income households, the Agency is providing financing to the low and moderate income purchasers of the homes in the Madrone Plaza development to assist with downpayment. The Agency investment of Low and Moderate Income Housing Funds has allowed the Owner to purchase the Home at an affordable purchase price.

C. The Agency financing for the Madrone Plaza Development is from the Agency's Low and Moderate Income Housing Fund. This Agreement is intended to implement the requirements of Health and Safety Code Section 33334.2 and 33334.3, which govern the use of Agency Low and Moderate Income Housing Funds.

D. Owner intends to purchase the property and improvements thereon located at 18428 Jade Lane, Morgan Hill, CA 95037 in the City more particularly described in Exhibit A attached hereto and incorporated herein (the "Home"). As a condition of the Agency's loan to the Owner, the Owner is required by the Agency to execute this Agreement as a condition of

the Owner, the Owner is required by the Agency to execute this Agreement as a condition of purchasing the Home. The Owner has agreed to execute and comply with this Agreement in consideration for the downpayment assistance being provided by the Agency and the opportunity to purchase the Home at a reduced purchase price.

E. The purpose of this Agreement is to place resale controls on the Home. This Agreement provides the Agency an option to purchase the Home, given in consideration of the the Agency Loan and the economic benefits to the Owner resulting from purchase of the Home at an affordable level. This Agreement restricts the resale of the Home and specifies, among other requirements, that the Agency has the option to purchase the Home.

F. The Purchase Price of the Home is **Four Hundred Sixty One Thousand Eight Hundred Forty Six Dollars (\$461,846.00)** (the "Purchase Price"). The Agency is providing the Owner with a loan ("Agency Loan") in the amount of **Fifty Thousand (\$50,000.00)** which represents the Owner's downpayment for the Purchase Price. ("Down payment").

G. The Owner is receiving a first mortgage loan from **Wells Fargo Home Mortgage** in the amount of **Two Hundred and Seventy Eight Thousand, Five Hundred and Eighty Two Dollars (\$278,582.00)** for purchase of the Home (collectively, the "First Mortgage Loan"). The **Wells Fargo Home Mortgage** shall be referred to in this Agreement, collectively, as the "First Lender". The First Lender loans are secured by a deed of trust executed by the Owner and recorded in the County of Santa Clara concurrently herewith. The deeds of trust securing the above described **Wells Fargo Home Mortgage** loan shall be referred to in these documents, collectively, as the "First Lender Deed of Trust". The Agency Loan will be subordinate to the First Lender Deed of Trust.

H. This Agreement and the accompanying note ("Agency Note") is secured by a deed of trust recorded against the Home ("Agency Deed of Trust"). The Agreement and the Agency Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust.

NOW, THEREFORE, in consideration of the benefits received by the Owner and the Agency hereunder, the Owner and the Agency agree, as follows:

1. DEFINITIONS AND EXHIBITS

A. The following terms are specially defined for this Agreement and their definitions can be found in the sections indicated below:

- (1) "Agency" - First sentence of the Agreement on Page 1
- (2) "Agency Deed of Trust" - Recital H

- (3) "Agency Loan" – Recital F
- (4) "Agency Note" – Recital H
- (5) "Agency Option" - Section 11
- (6) "Agency Response Notice" - Section 9
- (7) "Agreement" - First sentence of the Agreement on Page 1
- (8) "Eligible Purchaser" - Section 7B
- (9) "Excess Sales Proceeds" – Section 14
- (10) "Fair Market Value" - Section 12
- (11) "First Lender" - Recital G
- (12) "First Lender Deed of Trust" - Recital G
- (13) "First Lender Loan" - Recital G
- (14) "Home" – Recital D
- (15) "HUD" – Section 7B
- (16) "Inheriting Owner" – Section 7B
- (17) "Maximum Sales Price" – Section 12
- (18) "Owner" - First sentence of the Agreement on Page 1
- (19) "Owner's Notice of Intent to Transfer" - Section 8
- (20) "Program Requirements" – Section 3
- (21) "Purchase Price" – Recital F
- (22) "Refinance" - Section 24
- (23) "Restricted Future Sales Price" – Section 12A
- (24) "Transfer" - Section 7

B. The following exhibits are attached to this Agreement:

- (1) Exhibit A: Legal Description of Home
- (2) Exhibit B: Form of Owner Occupancy Certification
- (3) Exhibit C: Form of Notice of Resale or Refinance Price
- (4) Exhibit D: Form of Owner's Notice of Intent to Transfer
- (5) Exhibit E: Form of Owner Acknowledgement of Agency Response Notice
- (6) Exhibit F.: Form of Request for Agency Approval of Improvements to this Property
- (7) Exhibit G: Form of Owner Request for Agency Subordination to Refinanced First Lender Loan
- (8) Exhibit H: Sample Calculation of Restricted Future Sales Price

2. TERM OF AGREEMENT

All the provisions of this Agreement, including the benefits and burdens, run with the Home and this Agreement shall bind, and the benefit hereof shall inure to, the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the Agency and its successors, until the earlier of (i) forty-five (45) years from the date of this Agreement, or (ii) the date of Transfer of the Home to the Agency or another purchaser in compliance with this Agreement.

3. OWNER CERTIFICATIONS; OWNER OCCUPANCY REQUIREMENT

The Owner certifies that (i) the financial and other information previously provided in order to qualify to purchase the Home is true and correct as of the date first written above, (ii) the Owner shall occupy the Home as the Owner's principal place of residence (iii) the Owner is a first time homebuyer as defined in accordance with Morgan Hill's affordable homeownership requirements (the "Program Requirements"); (iv) the Owner will fully cooperate with the Agency in promptly providing all information requested by the Agency to assist the Agency in monitoring Owner's compliance with this Agreement. The Agency reserves the right to request additional information from the Owner necessary in the Agency's judgment to verify the financial and other information provided by the Owner in order to qualify to purchase the Home including information regarding the Owner's residency prior to acquisition of the Home. The Owner shall provide any additional information requested by the Agency to the Agency within fifteen (15) days of any such request.

4. OCCUPANCY OF HOME

The Owner shall occupy the Home as the Owner's principal place of residence. The Owner shall be considered as occupying the Home if the Owner is living in the Home for at least

ten (10) months out of each calendar year. On or before February 1 of each calendar year, the Owner shall provide an annual written certification to the Agency, in the form shown in the attached Exhibit B, that the Owner is occupying the Home as his or her principal place of residence. The Agency reserves the right to request additional information from the Owner necessary in the Agency's judgment to verify that the Home is the Owner's principal place of residence. The Owner shall provide any additional information requested by the Agency to the Agency within fifteen (15) days of any such request.

5. LEASING OF HOME

The Owner shall not lease the Home to another party. Any lease of the Home in violation of this Agreement is prohibited, and shall constitute a Default under this Agreement.

6. MAINTENANCE AND INSURANCE REQUIREMENTS

A. The Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, Owner will not commit waste or permit deterioration of the Home, and shall make all repairs and replacements necessary to keep the Home in good condition and repair. Failure by the Owner to maintain the Home shall constitute a Default under this Agreement and the Agency may then exercise any of the remedies set forth in Section 15 below, including, without limitation, exercise of the Agency Option upon Default.

B. The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Home (adjusted every five (5) years by appraisal, if requested by the Agency), naming the Agency, the City and their employees, agents, officers, board members and/or council members as additional insureds. Additional insurance requirements are set forth in Section 6 of the Agency Deed of Trust.

7. RESTRICTIONS ON RESALE OR TRANSFER OF THE HOME

A. Transfer. Any Transfer of the Home will be subject to the provisions of this Agreement including, without limitation, the Agency Option described in Section 11 below. Transfer means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Home, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, an interest evidenced by a land contract by which possession of the Home is transferred and Owner retains title, or a deed of trust. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a Default under this Agreement and the Agency may then exercise any of the remedies set forth in Section 15 below, including, without limitation, exercise of the Agency Option upon Default. A Transfer shall not include a transfer: (i) to an existing spouse; (ii) by a Owner to a spouse where the spouse becomes the co-owner of the Home; (iii) between spouses as part of a marriage dissolution proceeding; (iv) to an existing spouse of Owner by devise or inheritance following the death of Owner; (v) by Owner into an inter vivos revocable trust in which Owner is the beneficiary; or (vi) refinance of the First

Lender Loan meeting the requirements of Section 24 of the Agreement; provided, however, that Owner shall provide written notice of all such transfers to Agency; and Owner shall continue to occupy the Home as his or her principal place of residence (except where the transfer occurs pursuant to subsection (iii) or (iv) above, in which event the transferee shall owner-occupy the Home and affirmatively assume Owner's obligations under this Agreement, the Agency Note, and the Agency Deed of Trust). Transfers which occur by devise or inheritance due to death of the Owner to anyone other than an existing spouse shall be governed by Section 7B. All other Transfers shall require written notice to the Agency pursuant to Section 8 below.

B. Inheritance. In the event a Transfer occurs by devise or inheritance due to death of the Owner, the administrator of the Owner's estate, the trustee of Owner's trust, or the person inheriting the Home shall provide written notice to the Agency of the Owner's death within thirty (30) days of the date of death and the following procedures shall apply:

(1) If the person inheriting the Home ("Inheriting Owner") is the child or parent of the Owner, the Inheriting Owner shall provide the Agency with income and other information, to be verified by the Agency, so that the Agency may determine if the Inheriting Owner qualifies as an Eligible Purchaser. If the Inheriting Owner fails to provide required documentation, he or she shall be deemed not to qualify as an Eligible Purchaser. If the Inheriting Owner qualifies as an Eligible Purchaser, he or she shall succeed to the Owner's interest and obligations under this Agreement, the Agency Note, and the Agency Deed of Trust, and shall specifically assume the obligations of the Owner pursuant to this Agreement, the Agency Note and the Agency Deed of Trust. If the Inheriting Owner fails to qualify as an Eligible Purchaser, he or she shall be required to Transfer the home to an Eligible Purchaser at a price not exceeding the Maximum Sales Price, pursuant to the procedures set forth in Section 8 through 14 below and the Agency shall have the right to exercise the Agency Option pursuant to Section 11; provided, however, that the Inheriting Owner may own and occupy the Home for up to twelve (12) months prior to providing an Owner's First Notice of Intent to Sell to the Agency pursuant to Section 8 below, and provided, further that the Inheriting Owner remains in compliance with the requirements of this Agreement and the Agency Deed of Trust. The Inheriting Owner shall not be required to occupy the Home during the twelve (12)- month period, but shall not rent the home.

(2) If the person inheriting the Home is not the spouse, child, or parent of the Owner ("Non-relative Inheriting Owner"), the Non-Relative Inheriting Owner shall provide the Agency with income and other information, to be verified by the Agency, so that the Agency may determine if the Non-Relative Inheriting Owner qualifies as an Eligible Purchaser. If the Non-Relative Inheriting Owner fails to provide required documentation, he or she shall be deemed not to qualify as an Eligible Purchaser. If the Non-Relative Inheriting Owner qualifies as an Eligible Purchaser, he or she shall succeed to the Owner's interest and obligations under this Agreement, the Agency Note, and the Agency Deed of Trust, new documents shall be executed between the Non-Relative Inheriting Owner and the Agency and recorded against the Home. The new resale restriction agreement and option to purchase between Non-Relative Inheriting Owner and Agency shall have a forty-five (45) year term that shall commence upon the recordation of such new agreement. If the Non-Relative Inheriting Owner fails to qualify as an Eligible Purchaser, he or she shall be required to Transfer the home to an Eligible Purchaser at a price not exceeding the Maximum Sales Price, pursuant to the procedures set forth in Section 8

through 14 below and the Agency shall have the right to exercise the Agency Option pursuant to Section 11; provided, however, that the Non-relative Inheriting Owner may own and occupy the Home for up to twelve (12) months prior to providing an Owner's First Notice of Intent to Sell to the Agency pursuant to Section 8 below, and provided, further that the Non-relative Inheriting Owner remains in compliance with the requirements of this Agreement and the Agency Deed of Trust. The Non-relative Inheriting Owner shall not be required to occupy the Home during the twelve (12)- month period, but shall not rent the home.

(3) Failure of an Inheriting Owner or a Non-relative Inheriting Owner to follow the procedures and file the notices described in this Section 7 shall constitute a Default under this Agreement and the Agency may then exercise any of the remedies set forth in Section 15 below, including, without limitation, exercise of the Agency Option upon Default.

(4) For the Purposes of this Agreement, an "Eligible Purchaser" shall mean a household that meets the following requirements:

i. Income Eligibility. The combined gross income for all household members of the household, as determined by the Agency pursuant to Section 8 of the United States Housing Act of 1937, **shall not exceed eighty percent (120%) of median yearly income, adjusted for a household size of four, in Santa Clara County, as published by the Department of Housing and Community Development ("HCD").**

ii. First Time Homebuyer. The household shall be a first time homebuyer as defined in the Program Requirements.

iii. Intent to Owner Occupy. The household shall certify that it will occupy the Home as his or her principal place of residence.

iv. Agreement to Sign Resale Restriction Agreement, Assume the Agency Loan and to Cooperate with Agency. The household shall agree to sign a resale restriction agreement restricting future resale of the Home, shall agree to assume the Agency Loan and execute a new Agency Note governing the Agency Loan and shall agree to cooperate fully with the Agency in promptly providing all information requested by the Agency to assist the Agency in monitoring the household's compliance with the resale restriction agreement.

8. NOTICE OF INTENDED TRANSFER; PREPARATION OF HOME FOR SALE

A. Prior to Transfer or Refinance of the Home, the Owner shall notify the Agency that Owner is considering Transferring or Refinancing the Home and request that the Agency provide the Owner with the Maximum Sales Price as determined by Section 12 below. The Agency shall, within thirty (30) days of receipt of a written request from the Owner provide the Owner with Notice of Resale or Refinance Price substantially in the form of Exhibit C attached hereto. As an alternative to responding to the Owner's request with the Notice of Resale or Refinance Price, the Agency may provide the Owner with the address of a web site that will provide the Owner with the information necessary to calculate the Maximum Sales Price.

B. In the event the Owner, after receipt of the Notice of Resale or Refinance Price intends to Transfer or vacate the Home, the Owner shall promptly give the Agency written notice of such intent (the "Owner's First Notice of Intent to Transfer"), in the form shown in Exhibit D attached to this Agreement. The Owner's First Notice of Intent to Transfer shall be sent to the Agency by certified mail, return receipt requested at the address provided in Section 31 of this Agreement. The Owner's First Notice of Intent to Transfer shall include the following information:

- (1) the address of the Home;
- (2) the date of purchase of the Home by the Owner;
- (3) the purchase price of the Home paid by the Owner at the time of his/her purchase;
- (4) a copy of the HUD-1 Settlement Statement or equivalent document from the close of escrow on the Owner's purchase of the Home;
- (5) the date on which Owner intends to vacate Home;
- (6) the date the Home will be placed on the market; and
- (7) the name and phone number of the person to contact to schedule inspection of the Home by the Agency.

C. The Owner may not wish to contract with a real estate broker to sell the Home until the Owner has received the Agency Second Response Notice pursuant to Section 9 below, as the services of a broker will not be required if the Agency refers an Eligible Purchaser or exercises the Agency Option to purchase the Home pursuant to Sections 9A and 11 below and in such event no brokerage commission will be paid to a third party.

D. Following delivery to the Agency of the Owner's First Notice of Intent to Transfer, the Owner shall prepare the Home for sale, as follows:

- (1) within thirty (30) days of delivery of the Owner's First Notice of Intent to Transfer, the Owner shall obtain and deliver to the Agency a current written report of inspection of the Home by a licensed structural pest control operator;
- (2) within the sooner of (a) sixty (60) days from the date of delivery of the Owner's First Notice of Intent to Transfer, or (b) prior to two (2) weeks before close of escrow on the Transfer, the Owner shall perform or cause to be performed Section 1 pest control work in order to repair all damage noted in the pest report including damage caused by infestation or infection by wood-destroying pests;

(3) within thirty (30) days of the date of the Owner's First Notice of Intent to Transfer, the Owner shall allow the Agency, or its designee, to inspect the Home to determine its physical condition, and, if requested by the Agency, following such inspection, the Owner shall obtain and deliver to the Agency a home inspection report prepared by a licensed home inspector.

(4) if the Home is vacant, the Owner shall maintain the home, including the exterior landscaping in a good condition and shall maintain utility connections until the close of escrow on the Transfer;

(5) in the event of Agency purchase of the Home, the Owner shall permit a final walk-through of the Home by the Agency, or the Agency's designee, in the final three (3) days prior to close of escrow on the Transfer.

9. AGENCY RESPONSE TO OWNER'S NOTICE OF INTENDED TRANSFER

A. Agency First Response Notice. The Agency shall respond in writing (the "Agency First Response Notice") to the Owner's First Notice of Intent to Transfer within thirty (30) days of Agency receipt of a complete Owner's First Notice of Intent to Transfer that includes all information required under Section 8, including Agency receipt of the pest control report and home inspection report (if any) required pursuant to Section 8C above. The Agency First Response Notice shall inform the Owner that the Agency has provided the Owner's contact information to an Eligible Purchaser on the Agency or City of Morgan Hill ("City") list of Eligible Purchasers for the Home. The Owner will be contacted by the first Eligible Purchaser named in the Agency First Response Notice on the Agency/City list and the Owner and the Eligible Purchaser shall endeavor to enter into a Purchase and Sale Agreement for a purchase price that does not exceed the Maximum Sale Price. If the Owner and the first Eligible Purchaser are not able to reach agreement on a Purchase and Sale Agreement, the Owner shall contact the Agency and the Agency shall provide the Owner's contact information to the second Eligible Purchaser on the Agency's or City's list of Eligible Purchasers. The Owner shall continue to diligently attempt to enter into a purchase and sale agreement with an Eligible Purchaser from the Agency or City list and shall notify the Agency of the need for subsequent referrals from the Agency or City list of Eligible Purchasers in a timely manner until the earlier of (a) the Owner and an Eligible Purchaser enter into a purchase and sale agreement or (b) ninety days after the Agency referred the first Eligible Purchaser to the Owner. If the Owner is able to enter into a purchase agreement with such Eligible Purchaser from the Agency/City wait list, the purchase price for the sale of the Home shall not exceed the Maximum Sales Price calculated pursuant to Section 12 below. If the Owner proceeds to Transfer the Home to an Eligible Purchaser identified by the Agency in accordance with this Section, the Owner and the Eligible Purchaser shall provide the Agency with the information and documents required pursuant to Section 13(C) below.

B. Agency Second Response Notice. If the Owner is not able to enter into a Purchase and Sale Agreement with an Eligible Purchaser in accordance with Section 9(A), within ninety (90) days of Owner's receipt of the Agency's First Response Notice, or if the Agency fails to provide the Owner with the names of any Eligible Purchaser within thirty (30) days of Agency receipt of the Owner First Notice of Intent of Transfer, or if the Owner reaches

agreement with an Eligible Purchaser in accordance with Section 9(A), but escrow on the Transfer of the Home does not close within ninety (90) days of execution of the Purchase and Sale Agreement, the Owner shall provide the Agency with a Second Notice of Intent of Transfer substantially in the form of Exhibit D but clearly marked to indicate that it is the Second Notice of Intent to Transfer indicating that Owner still intends to Transfer the Home. The Agency shall respond in writing (the "Agency Second Response Notice") to the Owner's Second Notice of Intent to Transfer within forty (40) days of Agency receipt of the Owner's Second Notice of Intent to Transfer. The Agency Second Response Notice shall inform the Owner of the Agency's election to proceed under one of the following two alternatives:

(1) Agency Exercise of Agency Option. The Agency Second Response Notice may notify the Owner that the Agency elects to exercise the Agency Option, or assign to another public agency or non-profit organization or Eligible Purchaser the Agency's right to purchase the Home, as granted in Section 11 below, and the transaction fee to be paid by the Owner pursuant to Section 11 below.

(2) Owner Sale to Eligible Purchaser for Restricted Sales Price. Alternatively, the Agency Second Response Notice may notify the Owner that the Agency will not at this time exercise the Agency Option to purchase the Home. Upon receipt of such notice, the Owner may proceed to sell the Home to an Eligible Purchaser at a price not to exceed the Maximum Sales Price, as set forth in Section 12 and pursuant to the procedure set forth in Section 13 below. In this event, the Agency Second Response Notice shall include the following information: (1) the maximum qualifying income for an Eligible Purchaser (which shall be approximately the same income level as the Owner at the time of the Owner's purchase); (2) the certifications required of an Eligible Purchaser; (3) the Maximum Sales Price the Owner may receive for the Home, calculated by the Agency pursuant to Section 12 below.

10. OWNER ACKNOWLEDGMENT OF AGENCY RESPONSE NOTICE

No later than seven (7) days following the date of the Agency First or Second Response Notice, the Owner shall acknowledge in writing to the Agency, in the form shown in Exhibit E attached to this Agreement, that he/she has received the Agency First or Second Response Notice, as applicable and still intends to Transfer the Home.

11. AGENCY OPTION

A. The Owner agrees that the Agency shall have the option to purchase the Home (the "Agency Option") for the Maximum Sales Price, as set forth in Section 12 of this Agreement. The Agency may, instead of purchasing the Home itself, assign its right to purchase the Home pursuant to the Agency Option to another public agency, a nonprofit corporation, or to an Eligible Purchaser. If the Agency assigns its purchase option, the assignee shall sign the Agency Second Response Notice and shall thereby be bound to purchase the Home pursuant to the terms of the Agency Option as set forth in this Agreement. The Owner may be required to pay the Agency a transaction fee equal to the Agency's reasonable costs associated with the exercise of the Option if the Agency (or its assignee) exercises the Agency Option and purchases the Home; provided, however that such transaction fee shall not exceed three percent (3%) of the sales price of the home. The Agency Option may be exercised by the Agency or its assignee in

the Agency Second Response Notice, as described in Section 9B above, to be sent by the Agency to the Owner within thirty (30) days of the Agency's receipt of a complete Owner's Second Notice of Intent to Transfer. If the Agency Second Response Notice notifies the Owner that the Agency or its assignee will exercise the Agency Option to purchase, the Agency or its assignee shall purchase the Home within ninety (90) days of the date of the Agency Second Response Notice and title shall be delivered by the Owner to the Agency by grant deed, free and clear of any mortgage or other liens, unless approved in writing by the Agency. In the event of exercise of the Agency Option and purchase of the Home by the Agency or its assignee, the Owner shall permit a final walk-through of the Home by the Agency or its assignee in the final three (3) days prior to close of escrow on the Transfer.

B. The Agency acknowledges and agrees that the Agency Option shall only be exercised by the Agency for the purpose of retaining the Home as an affordable housing unit and that the Home may only be resold by the Agency as an affordable housing unit in compliance with the Agency's and/or other City affordable housing programs or if for any reason the Agency does not sell the Home as an affordable housing unit, the Agency will use the proceeds of any such sale for other affordable housing activities.

12. DETERMINATION OF MAXIMUM RESTRICTED RESALE PRICE

The maximum sales price (the "Maximum Sales Price") that the Owner shall receive from the resale of the Home (from purchase of the Home by the Agency or Agency Designated Purchaser or from other sale or Transfer by the Owner) shall be the Restricted Future Sales Price or the Fair Market Value, whichever is less.

A. Restricted Future Sales Price.

(1) The Restricted Future Sales Price of the Home means the sales price of the Home at the time of purchase by the Owner, as set forth in Recital E to this Agreement, increased by the greater of (a) the percentage of increase in the Median Income from the date of the original purchase of the Home by the Owner to the date of receipt by the Agency of the Owner's First Notice of Intent to Transfer or (b) an amount equal to a ten percent (10%) annual noncompounded return on the Down payment made by the Owner at the time of purchase as determined from the date of purchase to the date of the Owner's First Notice of Intent to Transfer, provided however, such amount shall not exceed Five Thousand Dollars (\$5,000) per year and, where applicable, adjusted pursuant to subsection (2) below to reflect the value of capital improvements or the cost of deferred maintenance. An example of the calculation of the Restricted Future Sales Price is shown at Exhibit H. "Median Income" shall refer to the median yearly income, adjusted for a household size of four, in Santa Clara County, as published by the California Department of Housing and Community Development ("HCD"), or, in the event such income determination is no longer published by HCD, or has not been updated for a period of at least eighteen (18) months, the Agency may use or develop such other reasonable method as it may choose in order to determine the median yearly income in Santa Clara County. As of the date of Owner's purchase of the Property, the Median Income for a household of four persons is One Hundred and Five Thousand and Five Hundred (\$105,500).

(2) Where applicable, the Restricted Future Sales Price shall include an upward adjustment reflecting the value of any substantial structural or permanent fixed improvements which the Owner has made to the Home after purchase of the Home. No such adjustment shall be made except for improvements: (a) made or installed by the Owner which conform with applicable building codes; (b) approved in advance of installation by the Agency; (c) whose initial costs were One Thousand Dollars (\$1,000) or more. Capital improvements meeting the above requirements are referred to herein as "Eligible Capital Improvements." A form for use in requesting Agency approval of an Eligible Capital Improvement is attached hereto as Exhibit F. The adjustment to the Restricted Future Sales Price for Eligible Capital Improvements shall be limited to appraised increases in value to the Home as a result of the improvements (pursuant to an appraisal performed as described in Section 12B below) and not the cost of construction of the improvements to the Home, unless the Agency and the Owner agree on the value of the Eligible Capital Improvements without the benefit of an appraisal, in which case the adjustment shall be in accordance with the Agency and the Owner's agreed upon adjustment. Total Capital Improvements investment to the Home is limited to \$20,000.

(3) The Restricted Future Sales Price shall include a downward adjustment, where applicable, in an amount necessary to repair any violations of applicable building, plumbing, electric, fire or housing codes or any other provisions of the City of Morgan Hill Building Code, as well as any other repairs needed to put the Home into a "sellable condition". Items necessary to put a Home into sellable condition shall be determined by the Agency, and may include cleaning, painting and making needed structural, mechanical, electrical, plumbing and fixed appliance repairs and other deferred maintenance repairs, such as repair or replacement of flooring.

B. Fair Market Value. In certain circumstances it may be necessary to determine the fair market value of the Property without taking account of the resale restrictions imposed by this Agreement (the "Fair Market Value"). These circumstances include: (1) where the parties wish to determine if the Restricted Future Sales Price exceeds the Fair Market Value in order to determine the Maximum Sales Price pursuant to Section 12; and (2) where the parties wish to determine the value of Eligible Capital Improvements in order to calculate the Restricted Future Sales Price pursuant to Section 12A. If it is necessary to determine the Fair Market Value of the Property, it shall be determined by a certified MAI or other qualified real estate appraiser approved in advance by the Agency. If possible, the appraisal shall be based upon the sales prices of comparable properties sold in the market area during the preceding three (3)-month period. The cost of the appraisal shall be paid by the Owner, unless the appraisal is obtained from a new purchaser. In the event that the Owner has made capital improvements to the Property (which have been approved in advance by the Agency pursuant to Section 12A of this Agreement) which have increased the value of the Property or if damage or deferred maintenance has occurred while the Owner owned the Property which has decreased the value of the Property, the appraisal shall specifically ascribe a value to these adjustment factors and state what the fair market value of the Property would be without such adjustments by utilizing the procedures outlined in Section 12A above for calculating the Restricted Future Sales Price. Nothing in this section shall preclude the Owner and the Agency from establishing the Fair Market Value of the Property by mutual agreement in lieu of an appraisal pursuant to this section.

13. SALE BY OWNER IF AGENCY DOES NOT EXERCISE OPTION TO PURCHASE

In the event the Agency Second Response Notice notifies the Owner to proceed to sell the Home to an Eligible Purchaser at a price not exceeding the Maximum Sales Price, the Owner may proceed to sell the Home in compliance with the following requirements:

A. Marketing. The Owner shall use bona fide good faith efforts to sell the Home to an Eligible Purchaser in compliance with this Section 13, including listing the Home on the Multiple Listing Service, keeping the Home in an orderly condition, making the Home available to show to agents and prospective buyers, and providing buyers with Eligible Purchaser requirements, including income qualifications and the Agency's form of disclosure statement summarizing the terms of the buyer's occupancy and resale restriction agreement with option to purchase. A proposed purchaser ("Proposed Purchaser") who the Owner believes will qualify as an Eligible Purchaser shall be referred to the Agency for an eligibility determination.

B. Maximum Sales Price. The purchase price for the sale of the Home by the Owner to the Eligible Purchaser shall not exceed the Maximum Sales Price calculated by the Agency pursuant to Section 12 above, as set forth in the Agency Notice of Resale or Refinance Price or the Response Notice. The closing costs paid by the Eligible Purchaser shall not exceed reasonable customary buyer's closing costs in the County of Santa Clara.

C. Disclosure and Submittals. The Owner and the Proposed Purchaser shall provide the following information and documents to the Agency:

(1) The name, address and telephone number in writing of the Proposed Purchaser.

(2) A signed income eligibility form to be provided by the Agency with the Agency's First Response Notice completed by the Proposed Purchaser and including any supporting documentation requested by the Agency as part of the income eligibility form. The financial information shall be used by the Agency to determine the income eligibility of the Proposed Purchaser.

(3) The proposed sales contract and all other related documents which shall set forth all the terms of the sale of the Home. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the Proposed Purchaser for the Owner's personal property, if any, for the services of the Owner, if any, and any credits, allowances or other consideration, if any.

(4) A written certification, from the Owner and the Proposed Purchaser in a form acceptable to the Agency that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the Agency. The certification shall also provide that the Proposed Purchaser or any other party has not paid and will not pay to the Owner, and the Owner has not received and will not receive from the Proposed Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the Agency. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this

Agreement or false or misleading statements are made in any documents or certification submitted to the Agency, the Agency shall have the right to foreclose on the Home or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities or obligations incurred by the Owner and the Proposed Purchaser for the return of any moneys paid or received in violation of this Agreement or for any of the Owner's and/or the Proposed Purchaser's costs and legal expenses, shall be borne by the Owner and/or the Proposed Purchaser and they shall hold the Agency harmless and reimburse the Agency's expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement.

(5) An executed buyer's Resale Agreement, Note and Deed of Trust to the Agency from the Proposed Purchaser in forms provided by the Agency. The Agency's approval of the proposed sale shall be conditioned on the buyer assuming the Agency Loan and recordation of the new deed of trust and Resale Agreement upon closing.

(6) The name of the title company escrow holder for the sale of the Home, the escrow number, and name, address, and phone number of the escrow officer.

(7) The name of any first lender providing financing for the proposed purchase, including the name of the loan officer, the lender's address and phone number and e-mail address.

(8) Upon the close of the proposed sale, certified copies of the recorded Agency deed of trust, the Note and buyer's resale agreement, a copy of the final sales contract, settlement statement, escrow instructions, and any other documents which the Agency may reasonably request.

14. PAYMENT TO AGENCY OF EXCESS SALES PROCEEDS

If the Owner makes a Transfer in violation of this Agreement, the Owner shall pay the Excess Sales Proceeds to the Agency. For purposes of this Agreement, "Excess Sales Proceeds" shall mean the amount by which the gross sales proceeds received by the Owner from the new purchaser exceed the Maximum Sales Price for the Home (in the amount that was stated in the Agency Notice of Resale or Refinance Price). This amount shall be a debt of the Owner to the Agency, further evidenced by the Agency Note, and secured by the Agency Deed of Trust. The Owner acknowledges that the Agency shall have no obligation to cause reconveyance of this Agreement or of the Agency Deed of Trust until the Excess Sales Proceeds are paid to the Agency. The Owner and the Agency acknowledge that the formula for calculation of the amount of Excess Sales Proceeds due from the Owner to the Agency is intended to cause the Owner to receive the same net sales proceeds from sale of the Home at an unrestricted price to a market purchaser (in violation of this Agreement) as the Owner would receive from sale of the Home to the Agency, Agency Designated Purchaser or to an Eligible Purchaser at the Maximum Sales Price.

15. DEFAULTS

A. The following events shall constitute a Default by the Owner under this Agreement:

- (1) The Agency determines that the Owner has made a misrepresentation to obtain the benefits of purchase of the Home or in connection with its obligations under this Agreement;
 - (2) The Owner fails to owner occupy the Home, as required pursuant to Section 4 above;
 - (3) The Owner leases the Home to a third party, as prohibited by Section 5 above;
 - (4) The Owner makes a Transfer in violation of this Agreement;
 - (5) The Owner otherwise fails to comply with the requirements of this Agreement, the Agency Note, or the Agency Deed of Trust and such violation is not corrected to the satisfaction of the Agency within thirty (30) days after the date of written notice by the Agency to the Owner of such violation;
 - (6) A notice of default is issued under the First Lender Loan; and
 - (7) A lien is recorded against the Home other than the lien of a bona fide first mortgage loan.
 - (8) Owner places a mortgage on the Home in violation of Section 24 below.
- B. Upon a declaration of Default by the Agency under this Agreement, the Agency may:
- (1) Declare the Agency Loan immediately due and payable without further demand, declare a default under the Agency Note, and may invoke the power of sale under the Agency Deed of Trust;
 - (2) Apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate;
 - (3) Declare a Default under the Agency Note and Agency Deed of Trust and pursue all Agency remedies under the Agency Deed of Trust; and
 - (4) Exercise the Agency Option Upon Default as described in Section 18. below.
 - (5) Enter the Property in the event the Property is vacant in order to maintain the Property.

16. NOTICE OF DEFAULT AND FORECLOSURE

A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Home shall be recorded by the Agency in the Office of the Recorder of the County of Santa Clara for the benefit of the Agency. The Agency may declare a Default under this Agreement upon receipt of any notice given to the Agency pursuant to Civil Code Section 2924b, and may exercise its rights as provided in Sections 15 and 18.

In the event of default and foreclosure, the Agency shall have the same right as the Owner to cure defaults and redeem the Home prior to the foreclosure sale. Nothing herein shall be construed as creating any obligation of the Agency to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

If the Agency failed to file the request for notice of default, the Agency's right to purchase the Home shall commence from the date a notice of default is given by the Agency to the Owner.

17. NOTICE AND CURE

Upon Default or a violation of any of the provisions of this Agreement, the Agency may give written notice to the Owner specifying the nature of the violation. If the violation is not corrected to the satisfaction of Agency within a reasonable period of time, not longer than thirty (30) days after the date the notice is mailed, or within such further time as the Agency determines is necessary to correct the violation, or if the Owner is in default under any other mortgage loan on the Home, the Agency may declare a Default under this Agreement.

The Agency shall notify the First Lender at the address provided by the First Lender to the Agency in the manner set forth in Section 31 of this Agreement, if the Agency has declared a default under this Agreement or under the Agency Note or the Agency Deed of Trust.

18. PURCHASE OPTION UPON DEFAULT

Notwithstanding, and in addition to, the remedies provided the Agency in Section 15, and the Agency Option provided to the Agency in Section 11, the Owner hereby grants to the Agency (or its assignee) the option to purchase the Home upon the declaration of a Default by the Agency pursuant to Section 15. This option to purchase is given in consideration of the economic benefits received by the Owner resulting from purchase and ownership of the Home.

The Agency shall have thirty (30) days after a Default is declared to notify the Owner and the First Lender of its decision to exercise its option to purchase under this section. Not later than ninety (90) days after the notice is given by the Agency to the Owner of the Agency's intent to exercise its option under this section, the Agency shall purchase the Home for the Maximum Sales Price.

19. NONLIABILITY OF THE AGENCY

A. No Obligation to Exercise Option. The Agency shall have no obligation to exercise any option granted it under this Agreement. In no event shall the Agency become in

any way liable or obligated to the Owner or any successor-in-interest to the Owner by reason of its option to purchase under Sections 11 and 18 nor shall the Agency be in any way obligated or liable to the Owner or any successor-in-interest to the Owner for any failure to exercise its option to purchase.

B. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and the Agency is solely that of an owner and an administrator of a Agency affordable housing program, and that the Agency does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Home or any other matter. The Agency owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Home and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against the Agency for any loss, damage or other matter arising out of or resulting from any condition of the Home and will hold the Agency harmless from any liability, loss or damage for these things.

C. Indemnity. Owner agrees to defend, indemnify, and hold the Agency and the City, and their agents, employees, officers and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys fees that the Agency, City, or such persons may incur as a direct or indirect consequence of: (1) Owner's default, performance, or failure to perform any obligations as and when required by this Agreement or the Agency Deed of Trust; or (2) the failure at any time of any of Owner's representations to the Agency to be true and correct.

20. RESTRICTIONS ON FORECLOSURE PROCEEDS

If a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, or if the property is acquired by condemnation, the Owner shall not be entitled to the proceeds of sale to the extent that such proceeds are otherwise payable to the Agency pursuant to the Agency Note. The Owner shall instruct the holder of such proceeds to pay to the Agency any amounts due the Agency from the Owner pursuant to the Agency Note, in consideration of the benefits received by the Owner through purchase of the Home.

21. RESTRICTION ON INSURANCE PROCEEDS

If the Home is damaged or destroyed and the Owner does not to rebuild or repair the Home pursuant to Section 6 of the Deed of Trust, the Owner shall, subject to the rights of the First Lender, pay to the Agency any insurance proceeds in excess of the Maximum Sales Price the Owner would have been entitled to, had the Owner sold the home immediately prior to the damage or destruction. For purposes of the Agency Note, the insurance proceeds exceeding the Maximum Sales Price shall be considered Excess Sales Proceeds.

22. SUPERIORITY OF AGREEMENT

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof, and that, in any event,

this Agreement is controlling as to the rights and obligations between and among the Owner, the Agency and their respective successors.

23. SUBORDINATION

Notwithstanding any provision herein, this Agreement shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Home in compliance with Section 24 of this Agreement.

Notwithstanding any other provision hereof, the provisions of this Agreement and the Agency Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Agreement and the Agency Deed of Trust shall be forever terminated and shall have no further effect as to the Home or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Home pursuant to a deed or assignment in lieu of foreclosure, this Agreement and the Agency Deed of Trust shall automatically terminate upon such acquisition of title, only if either a notice of default was recorded under the applicable First Lender Deed of Trust or, if no notice of default was recorded, (i) the Agency has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period and (ii) the Agency or its designee shall not have cured the default within such sixty (60)-day period.

24. REFINANCE OF FIRST LENDER LOAN; JUNIOR LOAN

A. Refinancing. Refinancing may include the refinancing of the first mortgage on the Home and/or adding a second mortgage on the Home. Owner may refinance so long as the total outstanding balance of principal and any accrued interest on all loans secured by the Home including the Agency Loan do not exceed ninety-five percent (95%) of the Maximum Restricted Resale Price, calculated by the Agency pursuant to Section 12 of this Agreement as provided to the Owner in the Agency's Notice of Resale or Refinance Price. Prior to refinancing the First Mortgage or obtaining any second mortgage, the Owner shall provide the Agency with a notice of Owner's intent to refinance. The Agency shall respond to such notice of intent to refinance within thirty (30) days of receipt of such notice by providing the Owner with the Agency's Notice of Resale or Refinance Price, substantially in the form attached as Exhibit C. As an alternative to providing the Notice of Resale or Refinance Price, the Agency may provide the Owner with a website address that provide the Owner with the information necessary to calculate the Resale or Refinance Price.

The Agency and the Owner agree that the requirements of this Section 24A are necessary to ensure the continued affordability of the Home to Owner and to minimize the risk of loss of the Home by Owner through default and foreclosure of mortgage loans. Owner further acknowledges that violation of the provisions of this Section 24A shall constitute a Default under this Agreement. In no case shall the Agency Deed of Trust and this Agreement be in lower than

third lien position on the Home. Any subordination agreement to be executed by the Agency shall include notice and cure rights for the Agency regarding any defaults in the mortgage to which the Agency is subordinating. A form for use by the Owner in requesting Agency subordination to a refinanced first mortgage loan is attached as Exhibit G to this Agreement.

B. Cash Out. Owner may take "cash out" from the refinancing proceeds so long as the refinancing requirements set forth in subsection (A) above are met.

25. NONDISCRIMINATION

The Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Home, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Home. The foregoing covenant shall run with the land.

26. RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUSTS

This Agreement shall not diminish or affect the rights of the Agency under the Agency Deed of Trust.

Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not diminish or affect the rights of HUD, the California Housing Finance Agency ("CalHFA") or the Veterans Administration ("VA") under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Home in compliance with Section 24 above.

Notwithstanding any other provisions in this Agreement to the contrary, all of the provisions of this Agreement shall terminate and have no further force in the event title is acquired by HUD, CalHFA, or VA or another party upon foreclosure of a deed of trust securing a loan insured by HUD, held by CalHFA or guaranteed by VA.

27. HUD FORBEARANCE RELIEF

Notwithstanding other provisions of this Agreement, the Agency Option on Default pursuant to Section 18 above shall not be exercised by the Agency when a deed of trust insured by HUD is secured by the Home, and: (i) the owner is undergoing consideration by HUD for assignment forbearance relief; or (ii) the owner is undergoing consideration for relief under HUD's Temporary Mortgage Assistance Payment (TMAP) program.

28. INVALID PROVISIONS

If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this

Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

29. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of California. The venue for any legal action pertaining to this Agreement shall be Santa Clara County, California.

30. NO WAIVER

No delay or omission in the exercise of any right or remedy of Agency upon any default by Owner shall impair such right or remedy or be construed as a waiver. The Agency's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of the Agency's right thereafter to enforce the provisions of the Agreement. The Agency shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the Agency.

31. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To the Owner:

David E. Tolson aka David Edward Tolson
18428 Jade Lane, Morgan Hill, CA 95037

To the Agency:

Morgan Hill Redevelopment Agency
 17555 Peak Avenue
 Morgan Hill, CA 95037-4128
 Attn: Business Assistance and Housing Services Director

To the First Lender:

Wells Fargo Home Mortgage
 4420 Auburn Blvd, Suite #110
 Sacramento, CA 95841

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this section.

The terms of this Agreement shall be interpreted so as to avoid speculation on the Home and to insure to the extent possible that its sales price and mortgage payment remain affordable to Low Income Households.

33. EXHIBITS

Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

34. MONITORING AND INSPECTION BY AGENCY

A. The Agency (or its designee) may enter the Home for inspection following two (2) business days advance written notice.

B. The Owner shall retain all records related to compliance with obligations under this Agreement for a period of not less than five (5) years, and shall make such records available to the Agency or its designee for inspection and copying upon five (5) business days advance written notice.

C. The Agency shall monitor Owner's compliance with the requirements of this Agreement on an annual basis. Owner shall cooperate with Agency monitoring and provide required certifications and other information required by the Agency to determine compliance within ten (10) days of receipt of a written request by the Agency.

35. COVENANTS RUNNING WITH THE LAND

A. Owner hereby subjects the Home to the covenants and restrictions set forth in this Agreement.

B. The Owner and the Agency hereby declare their understanding and intent that: (i) the covenants and restrictions contained in this Agreement shall be construed as covenants running with the land pursuant to California Civil Code Section 1468 and not as conditions which might result in forfeiture of title by Owner; (ii) the burden of the covenants and restrictions set forth in this Agreement touch and concern the Home in that the Owner's legal interest in the Home may be rendered less valuable thereby; and (iii) the benefit of the covenants and restrictions set forth in this Agreement touch and concern the land by enhancing and increasing the enjoyment and use of the Home by Eligible Purchasers, the intended beneficiaries of such covenants and restrictions.

C. All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of the Agency and Eligible Purchasers and such covenants and restrictions shall run in favor of such parties for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the Agency is an owner of any land or interest therein to which such covenants and restrictions relate.

36. OWNER'S ACKNOWLEDGEMENT OF RESALE RESTRICTION

Owner hereby acknowledges and agrees that:

A. Owner hereby subjects the Home to certain restrictions, and limits the price for which Owner may sell the Home and the persons to whom Owner may sell the Home. The resale price limitation, and other provisions contained in this Agreement, restrict the full benefits of owning the Home. Owner may not enjoy the same economic or other benefits from owning the Home that Owner would enjoy if this Agreement did not exist.

B. Absent the provisions of this Agreement, and the Agency loan, the Home could not be made available to Eligible Purchasers at an affordable price, including Owner.

C. Owner understands all of the provisions of this Agreement. In recognition of the acknowledgments and agreements stated in this Section 36, Owner accepts and agrees to the provisions of this Agreement with the understanding that this Agreement will remain in full force and effect as to the Home following any Transfer of the Home throughout the term of this Agreement.


[initialed by Owner(s)]

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

AGENCY:

OWNER:

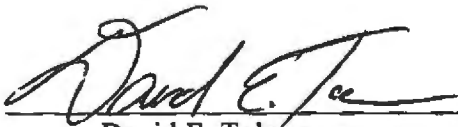
MORGAN HILL REDEVELOPMENT AGENCY

Approved ~~as to fact~~ 

By: 

Name: J. Edward Tewes

Title: Executive Director


David E. Tolson aka David Edward Tolson

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

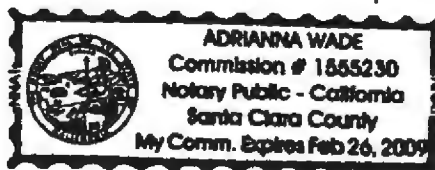
STATE of CALIFORNIA

County of SANTA CLARAOn 9/17/2008 before me, ADRIANNA WADE, Notary Public (Name and Title of Officer (e.g. "Jane Doe, Notary Public"))Personally appeared DAVID E. TOLSON aka David Edward Tolson
(Name of Signer(s))

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

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

Adrianna Wade
WITNESS my hand and official seal



STATE of CALIFORNIA

County of _____

On _____ before me, _____ (Name and Title of Officer (e.g. "Jane Doe, Notary Public"))

Personally appeared _____
(Name of Signer(s))

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

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

WITNESS my hand and official seal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of **California**
County of **Santa Clara** } ss.

On, Oct. 27, 2008 before me, Teresa Crue, a Notary Public in and for said County and State, personally appeared J. **EDWARD TEWES**, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Teresa Crue

SIGNATURE OF NOTARY PUBLIC



(ABOVE AREA FOR NOTARY SEAL)

THOUGH THE DATA BELOW IS NOT REQUIRED BY LAW, IT MAY PROVE VALUABLE TO PERSONS RELYING ON THE DOCUMENT AND COULD PREVENT FRAUDULENT RE-ATTACHMENT OF THIS FORM.

DESCRIPTION OF ATTACHED DOCUMENT:

Resale Agreement
TITLE OR TYPE OF DOCUMENT

DATE OF DOCUMENT:

Oct 27, 2008

NUMBER OF PAGES:

22

CAPACITY CLAIMED BY SIGNER: EXECUTIVE DIRECTOR

SIGNER IS REPRESENTING: MORGAN HILL REDEVELOPMENT AGENCY

SIGNER(S) OTHER THAN NAMED ABOVE:

David E. Tolson

EXHIBIT A

LEGAL DESCRIPTION OF THE HOME

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MORGAN HILL, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

All of Lot #31, as shown on the Map of Tract 9896 filed for record on September 13, 2007 in Book 818 of Maps at pages 8 through 18, Santa Clara County Records.

APN: 726-50-031

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

EXHIBIT B

FORM OF OWNER OCCUPANCY CERTIFICATION

To: Morgan Hill Redevelopment Agency ("Agency")

From: David E. Tolson ("Owner(s)") aka David Edward Tolson

Address of Home: 18428 Jade Lane, Morgan Hill, CA 95037 ("Home")

Date: _____

*aka David Edward Tolson

By signature below, I David E. Tolson hereby certify to the Morgan Hill Redevelopment Agency under penalty of perjury that I/we occupy the home located at 18428 Jade Lane, Morgan Hill, CA 95037 (the "Home") as my/our principal place of residence and that I/we have occupied the Home for _____ () [insert number] months of the calendar year _____ [insert previous calendar year]. Attached to this letter is a copy of _____ [insert utility bill or driver's license] showing my place of residence or other documentation as required by the Agency.

This Owner Occupancy Certification is signed on _____, 2008, under penalty of perjury.

By: _____
 Owner, **David E. Tolson** aka
 David Edward Tolson

Due Date: February 1 of each calendar year.

Attach copy of utility bill or driver's license showing address of Home.

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

EXHIBIT C

NOTICE OF RESALE/REFINANCE PRICE

Date: _____

To:

From: Morgan Hill Redevelopment Agency
 17555 Peak Avenue
 Morgan Hill, California 95037
 RE: Project Name: Restrictions and Option To Purchase Agreement
 ATTN: Housing Chief

NOTE: This notice must be sent by certified mail, return receipt requested or express delivery service with a delivery receipt and shall be deemed to be effective as of the date received,

Home located at: 18428 Jade LaneMorgan Hill, CA 95037_____
(Owner(s) Daytime Phone no.)_____
(Owner(s) Evening Phone no.)

In accordance with the terms and conditions of the Resale Restrictions and Option to Purchase Agreement (the "Agreement") recorded against your Home, referenced above, the Morgan Hill Redevelopment Agency ("Agency") determined the current Maximum Sales Price for your Home is

Dollars (\$).

The determination of the Resale/Refinance Price is only valid for 90 days from the date of this notice.

If you desire to refinance your Home, you must complete your application for refinancing and advise the lender to call the Agency for approval of the refinancing prior to recordation of any related instruments against the title to the Home. Failure to do so constitutes a Default of your Resale Restrictions and Option To Purchase Agreement. Please call the Redevelopment Agency at (phone #) if you have questions.

Sincerely,

Morgan Hill Redevelopment Agency

EXHIBIT D

FORM OF OWNER'S NOTICE OF INTENT TO TRANSFER

To: Morgan Hill Redevelopment Agency ("Agency")

From: **David E. Tolson** ("Owner(s)") aka David Edward Tolson

Address of Home: **18428 Jade Lane, Morgan Hill, CA 95037** ("Home")

Date: _____

Please be notified pursuant to Section 8 of the Resale Restriction Agreement and Option to Purchase between Owner and Agency dated _____, that the Owner intends to transfer the Home listed above.

A. The following information is provided to the Agency pursuant to Section 8 of the Resale Agreement:

1. Address of Home: **18428 Jade Lane, Morgan Hill, CA 95037**
2. Date Owner purchased Home: _____
3. Purchase Price paid by Owner when Home was purchased: _____
4. Date Owner intends to vacate Home: _____
5. Date Home will be placed on market: _____
6. Name and phone number of person for Agency to contact to schedule inspection:
 _____ and _____
 (name) (phone number)

B. As required by Section 8 of the Resale Agreement, the following documents are attached to this Notice:

1. Copy of HUD-1 Settlement Statement from Owner's purchase of the property.

C. I have not yet listed the Home for sale with a multiple listing service, or contacted a real estate broker or financial institution. I agree to prepare the Home for sale by:

1. obtaining a pest control report within thirty (30) days of the date of this notice,

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

2. repairing all damage noted in the pest report within the sooner of: (i) sixty (60) days from the date of this notice, or (ii) two (2) weeks prior to close of escrow or the transfer of the Home ,
3. allowing the Agency or its designee to inspect the Home within thirty (30) days of this notice,
4. if requested by the Agency following the Agency's inspection, I will obtain a home inspection report from a licensed home inspector,
5. maintaining utility connections until the Home is transferred,
6. permitting a walk through by the Agency prior to close of escrow or the transfer.

This Owner's Notice of Intent to Transfer is certified by Owner to be true and correct and is signed on _____ [insert date] under penalty of perjury.

By: _____
Owner, David E. Tolson
aka David Edward Tolson

EXHIBIT E

FORM OF OWNER ACKNOWLEDGEMENT OF AGENCY RESPONSE NOTICE

Name: David E. Tolson aka David Edward Tolson

Address of Home: 18428 Jade Lane, Morgan Hill, CA 95037

Date: _____

I, David Edward Tolson hereby acknowledge that I received the Agency Response Notice (as described in Section 9 of the Resale Agreement on _____ (insert date).

By: _____

David E. Tolson

aka David Edward Tolson

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

EXHIBIT F

FORM OF REQUEST FOR AGENCY APPROVAL OF
IMPROVEMENTS TO THE PROPERTY

To: Morgan Hill Redevelopment Agency ("Agency")

From: David E. Tolson ("Owner") aka David Edward Tolson

Property Address: 18428 Jade Lane, Morgan Hill, CA 95037 ("Property")

Date: _____

I hereby request Agency approval of the following capital improvements I intend to make to my Property:

Description of Improvements: _____

Estimated Cost: _____

Original Purchase Price: _____

A copy of the building permit (if required) is attached.

The Agency will respond in writing to this request.

NOTE: Owner should retain copies of contracts, invoices, and receipts for all completed capital improvements. These documents will be necessary to establish the resale restricted price of the Property upon subsequent transfer.

*Notice: Proposed Improvements must cost at least One Thousand Dollars (\$1,000) and must be approved by the City in writing prior to construction.

EXHIBIT G

FORM OF OWNER REQUEST FOR AGENCY SUBORDINATION
TO REFINANCED FIRST LENDER LOAN

To: Morgan Hill Redevelopment Agency ("Agency")

From: David E. Tolson ("Owner") aka David Edward Tolson

Property Address: 18428 Jade Lane, Morgan Hill, CA 95037 ("Property")

Date: _____

The Owner hereby requests the Agency to approve the Owner's refinance of the existing first mortgages on the Property. The Owner provides the following information which it certifies to be true and correct:

1. Original Purchase Price of Property: \$ _____
2. Original principal balance of existing First Lender Loan: \$ _____
[revise if more than one First Lender Loan]
3. Interest rate of existing First Lender Loan: \$ _____
[revise if more than one First Lender Loan]
4. Original principal balance of Agency Loan \$ 50,000.00
5. Principal amount of proposed new First Lender Loan: \$ _____
6. Interest rate of Proposed new First Lender Loan: \$ _____

The Owner hereby certifies the above information is true and correct and this Owner Request is executed under penalty of perjury on _____ [insert date].

By: _____
David E. Tolson, Owner
aka David Edward Tolson

Attachment: Resale Restriction Agreement Jade Lane (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)

EXHIBIT H

SAMPLE CALCULATION OF
RESTRICTED RESALE PRICE

ASSUMPTIONS:

Original Sales Price of Home - \$490,000

Downpayment - \$25,000

Median Income at time of purchase for family of 4 in Santa Clara county (2007 Median Income) \$105,500

Median Income at time of sale for family of 4 in Santa Clara county at (increase of 20%) time of sale (2012 Median Income) \$126,600

Owner sells after 5 years

A. Calculate Restricted Sales Price based on Median Income Increase

1. Determined percentage increase in Median income from time of purchase to date of Notice of Intent to Transfer.

2012 Median Income – 2007 Income = _____%

2007 Median Income

$\frac{126,600 - 105,500}{105,500} = 20\%$

2. Determine Sales Price

(Original Sale Price x % obtained in 1 above _____) + Original Sales Price

$(490,000 \times .20) + 490,000 = 588,000$ Maximum Restricted Sales Price

RESOLUTION NO.

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2017-2018 BUDGET IN THE HOUSING SUCCESSOR AGENCY FUND (FUND NO. 255) TO APPROPRIATE SIX HUNDRED AND ONE THOUSAND THREE HUNDRED DOLLARS (\$601,300) THEREFORE

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Budget for Fiscal Year 2017-2018 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 City's previously adopted Fiscal Year 2017-2018 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
- b. 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 2017-2018 Budget of City.

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 16th day of May 2018.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

ATTEST:

STEVE TATE, Mayor

IRMA TORREZ, City Clerk

∞ **CERTIFICATION** ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 18-XXX, adopted by the City Council at a regular meeting held on May 16, 2018.

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

DATE: _____

IRMA TORREZ, City Clerk

AGENDA BUDGET SCORECARD

FISCAL YEAR 2017-18

ADJUSTMENT #

040

FUND:

255 Housing Successor Agency

DEPARTMENT:

7220

OBJECT:

86100 ACQUISITION EXPENSE

AGENDA DATE:

05/16/18

AGENDA ITEM TITLE:

Purchase BMR Home - 18428 Jade Lane

	07/01/17			06/30/18 PROJECTED
	BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	ENDING FUND BALANCE
ORIGINAL BUDGET	5,369,994	1,285,374	1,945,760	4,709,608
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	564,043	(564,043)
RECOMMENDED ACTION	-	-	601,300	(601,300)
RESULT OF RECOMMENDED ACTION	<u>5,369,994</u>	<u>1,285,374</u>	<u>3,111,103</u>	<u>3,544,265</u>

Attachment: Budget Scorecard (1770 : Acquisition of the 18428 Jade Lane Below Market Rate (BMR) Home)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Edith Ramirez, Economic Development Director
APPROVED BY: City Manager

AIRBNB VOLUNTARY COLLECTION AGREEMENT

RECOMMENDATION(S)

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Economic Development and
Telecommunications
Regional Initiatives

GUIDING DOCUMENTS

Economic Blueprint

REPORT NARRATIVE:

Airbnb is the largest of several online internet-based applications which allows people to rent all or part of their homes to third parties in exchange for payment, also known as short-term rentals. Online platforms like Airbnb allow residents to advertise their homes on the internet. When a home is booked, the customers pay by credit card directly to the online platform. The online platform receives a fee, which is typically a percentage of the rental fee, and remits the remainder to the host. Typically, no Transient Occupancy Tax (TOT) is collected with these transactions.

To collect TOT, the online platform has requested that the City enter into a Voluntary Collection Agreement with Airbnb. Currently, the City does not have a mechanism to collect TOT from short term rentals in Morgan Hill. It is recommended that the City enter into a Voluntary Collection Agreement (attached) with Airbnb to act as a limited collection and remittance agent of the host of short term rentals using the Airbnb platform.

To facilitate collection from other non-Airbnb platforms or hosts, Finance and Economic Development staff have created a two-step self-reporting system. A user-friendly flyer created for this new effort is attached.

The use of short term rentals is a growing trend. Entering into an agreement with Airbnb to collect TOT will allow the City to capture revenue from this growing industry. Having a

clear reporting system will encourage residents who allow short-term rental of their property outside of the Airbnb platform to self-report. In addition to the financial benefits to the City, this effort will support the City's goals to grow the tourism industry in the City.

Tourism in general is a pillar of the General Plan 2035 priorities and is one of the four key industries identified in the Economic Blueprint. A key strategy for Tourism is to support lodging, specifically, action item #25 calls to "Ensure General Plan and Zoning Code, address Bed and Breakfast, Airbnb, and Hotel Development." Expanding, growing, and capturing new TOT revenue streams is essential to achieving the objectives laid out in both the Economic Blueprint and General Plan.

COMMUNITY ENGAGEMENT: Involve

The Council action supports the Economic Blueprint which had an extensive community and stakeholder outreach process.

ALTERNATIVE ACTIONS:

1. The Council may choose not to enter into a Voluntary Collection Agreement with Airbnb.
2. The Council may wish to provide additional direction on the short-term rental TOT collection efforts.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

The fiscal impact of entering into this Voluntary Collection Agreement is unknown. Currently, there are a couple of dozen short term rentals that are listed in Airbnb. Staff is not projecting significant revenue increases at this time, but as the industry grows the revenues will increase. If the City were to assume 50 hosts in Morgan Hill listing on Airbnb's site, and an average rent of \$80 per night, for 24 nights per year (only 2 nights per month), the projected revenue based on a 10% TOT, would be \$9,600 in TOT revenue on an annual basis.

CEQA (California Environmental Quality Act):

Not a Project.

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

LINKS/ATTACHMENTS:

1. Airbnb - Morgan Hill Draft VCA (4.5.18)
2. Short Term Rental Guide Flyer

**VOLUNTARY COLLECTION AGREEMENT
FOR
CITY OF MORGAN HILL, CALIFORNIA TRANSIENT OCCUPANCY TAX**

THIS VOLUNTARY COLLECTION AGREEMENT (the “**Agreement**”) is dated _____, 2018 and is between **AIRBNB, INC.**, a Delaware corporation (“**Airbnb**”) and the **CITY OF MORGAN HILL, CALIFORNIA** (the “**Taxing Jurisdiction**”). Each party may be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS:

WHEREAS, Airbnb represents that it provides an Internet-based platform (the “**Platform**”) through which third parties offering accommodations (“**Hosts**”) and third parties booking such accommodations (“**Guests**”) may communicate, negotiate and consummate a direct booking transaction for accommodations to which Airbnb is not a party (“**Booking Transaction**”); and

WHEREAS, the Taxing Jurisdiction and Airbnb enter into this Agreement voluntarily in order to facilitate the reporting, collection and remittance of applicable transient occupancy taxes (“**TOT**”) imposed under applicable City of Morgan Hill, California, law (the applicable “**Code**”), on behalf of Hosts for Booking Transactions completed by Hosts and Guests on the Platform for accommodations located in the City of Morgan Hill (the “**Taxable Booking Transactions**”).

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND AGREEMENTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

(A) Solely pursuant to the terms and conditions of this Agreement, including only for periods in which this Agreement is effective (defined below), and solely for Taxable Booking Transactions completed on the Platform, Airbnb agrees contractually to assume the duties of a TOT collector as described in the Code solely for the collection and remittance of TOT (hereinafter referred to as a “**Collector**”). The assumption of such duties shall not trigger any other registration requirements to which Airbnb is not otherwise subject.

(B) Starting on _____, 2018 (the “**Effective Date**”), Airbnb agrees to commence collecting and remitting TOT on behalf of Hosts, pursuant to the terms of this Agreement, at the applicable rate, on Taxable Booking Transactions. Except as set forth in Paragraph (L) below, Airbnb shall not assume any obligation or liability to collect TOT for any period or for any transaction prior to the Effective Date or termination of this Agreement.

REMITTANCE OF TOT

(C) Airbnb agrees reasonably to report aggregate information on the tax return form prescribed by the Taxing Jurisdiction, including an aggregate of gross receipts, exemptions and adjustments, and taxable receipts of all TOT that is subject to the provisions of this Agreement. Airbnb shall remit all TOT collected from Guests in accordance with this Agreement and Airbnb's Terms of Service (www.airbnb.com) (the "TOS") in the time and manner described in the Code or as otherwise agreed to in writing.

AIRBNB LIABILITY

(D) Pursuant to the terms of this Agreement, Airbnb agrees contractually to assume liability for any failure to report, collect and/or remit the correct amount of TOT, including, but not limited to, penalties and interest, lawfully and properly imposed in compliance with the Code. Nothing contained herein nor any action taken pursuant to this Agreement shall impair, restrict or prevent Airbnb from asserting that any TOT and/or penalties, interest, fines or other amounts assessed against it were not due, are the subject of a claim for refund under applicable law or otherwise bar it from enforcing any rights accorded by law.

(E) During any period for which Airbnb is not in breach of its obligations under this Agreement, the Taxing Jurisdiction agrees to audit Airbnb on the basis of TOT returns and supporting documentation, and agrees not to directly or indirectly audit any individual Guest or Host relating to Taxable Booking Transactions unless and until an audit of Airbnb by the Taxing Jurisdiction has been exhausted with the matter unresolved. The Taxing Jurisdiction reserves the right to audit any individual Airbnb Host for activity that has been brought to the attention of the Taxing Jurisdiction in the form of a complaint or other means independent of this Agreement or independent of data or information provided pursuant to this Agreement.

(F) The Taxing Jurisdiction agrees to audit Airbnb on an anonymized transaction basis for Taxable Booking Transactions. Except as otherwise agreed herein, Airbnb shall not be required to produce any personally identifiable information relating to any Host or Guest or relating to any Booking Transaction without binding legal process served only after completion of an audit by the Taxing Jurisdiction of Airbnb with respect to such users. The Taxing Jurisdiction agrees that it will not audit or issue an assessment against Airbnb more than once per

any consecutive forty-eight month period and that such audit or assessment will be limited to a consecutive twelve-month period within the forty-eight month period.

(G) Airbnb, Inc. agrees to register as a Collector for the sole purpose of reporting, collection and remittance of TOT under this Agreement and will be the registered Collector on behalf of any affiliate or subsidiary collecting TOT.

GUEST AND HOST LIABILITY

(H) During any period in which this Agreement is effective relating to Taxable Booking Transactions, provided Airbnb is in compliance with its obligations herein, Hosts shall be relieved of any obligation to collect and remit TOT on Taxable Booking Transactions, and shall be permitted but not required to register individually with the Taxing Jurisdiction to collect, remit and/or report TOT. Nothing in this Agreement shall relieve Guests or Hosts from any responsibilities with respect to TOT for transactions completed other than on the Platform, or restrict the Taxing Jurisdiction from investigating or enforcing any provision of applicable law against such users for such transactions.

WAIVER OF LOOK-BACK

(I) The Jurisdiction expressly releases, acquits, waives and forever discharges Airbnb, its current or past affiliated parent or subsidiary companies, directors, shareholders investors, employees and other agents, and/or Hosts or Guests from any and all actions, causes of action, indebtedness, suits, damages or claims arising out of or relating to payment of and/or collection of TOT or other tax indebtedness, including but not limited to penalties, fines, interest or other payments relating to TOT on any Taxable Booking Transactions prior to the Effective Date. Nothing contained in this Paragraph of this Agreement will constitute a release or waiver of any claim, cause of action or indebtedness that the Jurisdiction may have or claim to have against any Host or Guest unrelated to Taxable Booking Transactions under this Agreement.

NOTIFICATION TO GUESTS AND HOSTS

(J) Airbnb agrees, for the purposes of facilitating this Agreement, and as required by its TOS, that it will notify (i) Hosts that TOT will be collected and remitted to the Taxing Jurisdiction as of the Effective Date pursuant to the terms of this Agreement; and (ii) Guests and Hosts of the amount of TOT collected and remitted on each Taxable Booking Transaction.

LIMITATION OF APPLICATION

(K) This Agreement is solely for the purpose of facilitating the administration and collection of the TOT with respect to Taxable Booking Transactions and, except with respect to the rights and liabilities set forth herein, the execution of or actions taken under this Agreement shall not be considered an admission of law or fact or constitute evidence thereof under the Code or any other provisions of the laws of the United States of America, of any State or subdivision or municipality thereof. Neither Party waives, and expressly preserves, any and all arguments, contentions, claims, causes of action, defenses or assertions relating to the validity or interpretation or applicability of the Code, regulations or application of law.

DURATION/TERMINATION

(L) This Agreement may be terminated by Airbnb or the Taxing Jurisdiction for convenience on 30 day written notification to the other Party. Such termination will be effective on the first day of the calendar month following the 30 day written notification to the other Party. Any termination under this Paragraph shall not affect the duty of Airbnb to remit to the Taxing Jurisdiction any TOT collected from Guests up through and including the effective date of termination of this Agreement, even if not remitted by Airbnb to the Taxing Jurisdiction as of the date of termination.

MISCELLANEOUS

(M) CHOICE OF LAW. This Agreement, its construction and any and all disputes arising out of or relating to it, shall be interpreted in accordance with the substantive laws of the State of California without regard to its conflict of law principles.

(N) MODIFICATION. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both Parties.

(O) MERGER AND INTEGRATION. This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

(P) COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. The Agreement shall become effective when a counterpart has been signed by each Party and delivered to the other Party, in its original form or by electronic mail, facsimile or other electronic means. The Parties hereby consent to the use of electronic signatures in connection with the execution of this Agreement, and further agree that

electronic signatures to this Agreement shall be legally binding with the same force and effect as manually executed signatures.

(Q) RELATIONSHIP OF THE PARTIES. The Parties are entering into an arm's-length transaction and do not have any relationship, employment or otherwise. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, or employment relationship between the Parties. There are no third-party beneficiaries to this Agreement.

(R) WAIVER AND CUMULATIVE REMEDIES. No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right or any other right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.

(S) FORCE MAJEURE. Neither Party shall be liable for any failure or delay in performance under this Agreement for causes beyond that Party's reasonable control and occurring without that Party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Airbnb employees), computer attacks or malicious acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

(T) ASSIGNMENT. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, Airbnb may assign this Agreement in its entirety without consent of the other Party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

(U) MISCELLANEOUS. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

NOTICES

(V) All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after first class mailing postage

prepaid; or (iii) the second business day after sending by overnight mail or by facsimile with telephonic confirmation of receipt. Notices shall be addressed to the attention of the following persons, provided each Party may modify the authorized recipients by providing written notice to the other Party:

To Airbnb:

Airbnb, Inc.
Attn: General Counsel
888 Brannan Street, 4th Fl.
SF, CA 94103
legal@airbnb.com

Airbnb, Inc.
Attn: Global Head of Tax
888 Brannan Street, 4th Fl.
SF, CA 94103
tax@airbnb.com

To the Taxing Jurisdiction:

Fax: _____
E-mail: _____

(Signatures follow on next page)

IN WITNESS WHEREOF, Airbnb and the Taxing Jurisdiction have executed this Agreement effective on the date set forth in the introductory clause.

AIRBNB, INC., a Delaware corporation

By: _____
Signature of Authorized Representative

Beth Adair, Global Tax Director

Name and Title of Authorized Representative

CITY OF MORGAN HILL, CALIFORNIA

By: _____
Signature

Name and Title

How to Guide for Short-Term Rentals in Morgan Hill

This guide is to be used as a checklist, please speak with a City Staff Member if you have any additional questions.

Step 1: Fill out the Transient Occupancy Tax Registration Form, which can be found online here: bit.ly/TOTRegistration

Step 2: If applicable*, apply for a Business License with the City of Morgan Hill.
The Business License application can be found online here: bit.ly/BusinessLicenseMH
For more information about Business Licenses go online here: bit.ly/BusinessLicenseInfo

Done: Yes, it's that easy.

*Ask a City Staff Member if your short-term rental is subject to a Business License.



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Tiffany Brown, Associate Planner
APPROVED BY: City Manager

AMEND REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HIGH SPEED RAIL AUTHORITY TO EXTEND THE TIME DURATION OF THE CURRENT AGREEMENT

RECOMMENDATION(S)

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Maintaining Fiscal Responsibility
Fostering a Positive Organizational Culture

2018 Strategic Priorities

Community Engagement and Messaging
Regional Initiatives

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

The California High Speed Rail Authority (CHSRA) is the State Agency responsible for the planning, design, and construction of the California high speed rail system that will connect the San Francisco Bay Area to Los Angeles. The High Speed Rail project will include train stations in Gilroy and San Jose. The 2018 Draft Business Plan suggests a phased approach to the project beginning with an express line from Gilroy to San Francisco, which will be accomplished through an at-grade alignment on electrified track on the existing Union Pacific right-of-way through Morgan Hill.

In June 2016, the City entered into a Reimbursement Agreement with the California High Speed Rail Authority (CHSRA) for up to \$409,641.22. This Agreement was designed to help the City evaluate the High Speed Rail (HSR) project and provide adequate and timely feedback. Through this Reimbursement Agreement, staff has contracted with David J. Powers & Associates and Apex Strategies to support the review of the HSR project, and the law firm of Jarvis, Fay, Doporto and Gibson for contract assistance. In addition, the Council approved contracts with Kitchell CEM, Michael Baker International, and Urban Field Studios to evaluate and advance design solutions for the HSR project. The CHSRA later determined that those three contracts were not reimbursable. At the April 4, 2018 Council meeting, the Council approved \$323,000 from the Long Range Planning Fund 207 for two of the consultant contracts that were not eligible for reimbursement.

The existing Reimbursement Agreement expires on May 31, 2018. The proposed amendment extends the contract term by two years and one month, to June 30, 2020. The City has received approximately \$236,138 in reimbursement and is able to receive up to \$173,503.22 of additional reimbursement for future work as well as for limited work performed by Kitchell CEM.

COMMUNITY ENGAGEMENT: Inform

The City of Morgan Hill has an HSR web page that provides basic information about the project and links to HSR staff and website for additional information.

ALTERNATIVE ACTIONS:

The Council may choose to not approve the amendment to the Reimbursement Agreement and let it expire.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In June 2016, the Council approved a Reimbursement Agreement and contracts with Apex Strategies and David J. Powers to help evaluate and comment on the alternatives. On May 24, 2017, Council approved three consultant contracts to help evaluate and advance design solutions for the HSR project, including a contract with rail experts, Michael Baker International to evaluate the feasibility of a freeway-only alignment. On April 4, 2018, the Council approved \$323,000 from the Long Range Planning Fund 207 for consultant-related costs. On April 18, 2018, CHSRA staff provided an update on the 2018 Draft Business Plan.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with extending the term of the agreement. The CHSRA Reimbursement Agreement is for an amount not to exceed \$409,641.22. The City has been reimbursed \$236,138 and is able to receive an additional \$173,503.22. The City has currently budgeted \$323,000 from the Long Range Planning Fund 207 for consultant work not covered by the existing Reimbursement Agreement.

CEQA:

The reimbursement agreement is not a project subject to environmental review. The California High Speed Rail Authority is the lead agency responsible for environmental review of the High Speed Rail project through Morgan Hill. A project-level Environmental Impact Report will be prepared for the section of the project impacting Morgan Hill. According to the High Speed Rail Authority, a draft is expected to be released during this calendar year.

LINKS/ATTACHMENTS:

1. Agreements
2. 6-1-16 HSR Staff Report

STANDARD AGREEMENT AMENDMENT

STD. 213 A (Rev 6/03)

8.a☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 1 Pages

AGREEMENT NUMBER

HSR15-174

REGISTRATION NUMBER

AMENDMENT NUMBER

1

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

California High-Speed Rail Authority

CONTRACTOR'S NAME

City of Morgan Hill

2. The term of this

Agreement is: June 6, 2016 through June 30, 2020

3. The maximum amount of this
- \$409,641.22

Agreement after this amendment is: Four Hundred Nine Thousand, Six Hundred Forty-One Dollars and Twenty-Two Cents

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

1. STD 213, Section 2 is amended to extend the term and shall read as follows:

"The term of this Agreement is June 6, 2016 through June 30, 2020."

2. STD. 213A, is continued on the following page.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

City of Morgan Hill

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Christina Turner, City Manager

ADDRESS

17575 Peak Ave. Morgan Hill, CA 95037**STATE OF CALIFORNIA**

AGENCY NAME

California High-Speed Rail Authority

BY (Authorized Signature)



DATE SIGNED (Do not type)

5/10/18

PRINTED NAME AND TITLE OF PERSON SIGNING

Jeannie Jones, Chief Administrative Officer

ADDRESS

770 L Street, Suite 620 MS 7, Sacramento, CA 95814CALIFORNIA
Department of General Services
Use Only☒ Exempt per: Public Utilities Code Section
185036

Attachment: Agreements (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

2. Exhibit A, Section 2, Subsection B, is amended to replace the table in its entirety with the following:

	Task	Description	Deliverable	Schedule
1.	Technical/Engineering Review Support	Staff time to review technical/preliminary engineering documents.	Comments on technical/preliminary engineering documents.	Through expiration or termination of the Agreement
2.	Technical/Engineering Review Support	Staff time for identifying existing conflicts.	Report identifying any conflicts.	Through expiration or termination of the Agreement
3.	Technical/Engineering Review Support	Staff time for coordination with the Authority and its representatives.	Participation in coordination activities.	Through expiration or termination of the Agreement
4.	Agreement Development	Staff time for cooperative agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
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7.	Agreement Development	Staff time for grade separation agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
8.	Agreement Development	Staff time for ownership and maintenance agreement review.	Participation in meetings and review of draft contract and other documents.	Through expiration or termination of the Agreement
9.	Agreement Development	Attorney time for legal review.	Legal review of documents and meeting with Authority attorneys.	Through expiration or termination of the Agreement
10.	Agreement Development	Staff and attorney time for preparation of board of directors materials and reports.	Materials and reports for board of directors.	Through expiration or termination of the Agreement
11.	Right-of-way Support	Staff time for property rights research.	Reports detailing property rights.	Through expiration or termination of the Agreement
12.	Right-of-way Support	Staff and attorney time for abandonment, vacation, or legal transfer of right-of-way.	Abandonment, vacation, or legal transfer of right-of-way and supporting documentation.	Through expiration or termination of the Agreement
13.	Right-of-way Support	Staff and attorney time for preparation of board of directors materials and reports.	Presentations to board of directors, if any.	Through expiration or termination of the Agreement

Attachment: Agreements (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

Agreement Number
 HSR15-174
 Registration Number

1. This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
 California High-Speed Rail Authority
 CONTRACTOR'S NAME
 City of Morgan Hill
2. The term of this Agreement is: June 1, 2016 or upon approval by both parties, whichever is later through May 31, 2018
3. The maximum amount of this Agreement is: \$409,641.22
 Four Hundred Nine Thousand, Six Hundred Forty-One Dollars and Twenty-Two Cents
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	3 pages
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit C – General Terms and Conditions and Contractor Certifications	3 pages
Exhibit D – Special Terms and Conditions	3 pages
Exhibit E – Supplemental Terms And Conditions For Contracts Using Federal Funds	9 pages
Attachment 1 –Budget	1 page
Attachment 2 –Board Resolution	2 pages

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Morgan Hill		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 6/6/16	
PRINTED NAME AND TITLE OF PERSON SIGNING Steve Rymer, City Manager		
ADDRESS 17575 Peak Ave. Morgan Hill, CA 95037		
STATE OF CALIFORNIA		
AGENCY NAME California High-Speed Rail Authority		☒ Exempt per: Public Utilities Code Section 185036
BY (Authorized Signature) 	DATE SIGNED (Do not type) 6.3.16	
PRINTED NAME AND TITLE OF PERSON SIGNING Scott Jarvis, Chief Engineer		
ADDRESS 770 L Street, Suite 620 MS 2 Sacramento, CA 95814		

Attachment: Agreements (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

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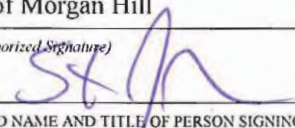
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City of Morgan Hill

BY (Authorized Signature)



DATE SIGNED (Do not type)

6/6/16

PRINTED NAME AND TITLE OF PERSON SIGNING

Steve Rymer, City Manager

ADDRESS

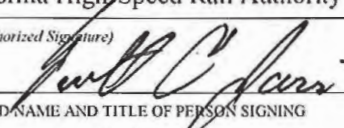
17575 Peak Ave.
 Morgan Hill, CA 95037

STATE OF CALIFORNIA

AGENCY NAME

California High-Speed Rail Authority

BY (Authorized Signature)



DATE SIGNED (Do not type)

6.3.16

PRINTED NAME AND TITLE OF PERSON SIGNING

Scott Jarvis, Chief Engineer

ADDRESS

770 L Street, Suite 620 MS 2
 Sacramento, CA 95814

California Department of General Services
 Use Only

☒ Exempt per: Public Utilities Code Section
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STD 213 (Rev 06/03)

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CONTRACTOR'S NAME

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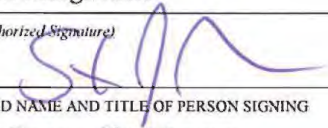
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City of Morgan Hill

BY (Authorized Signature)



DATE SIGNED (Do not type)

6/6/16

PRINTED NAME AND TITLE OF PERSON SIGNING

Steve Rymer, City Manager

ADDRESS

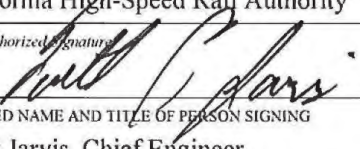
17575 Peak Ave.
 Morgan Hill, CA 95037

STATE OF CALIFORNIA

AGENCY NAME

California High-Speed Rail Authority

BY (Authorized Signature)



DATE SIGNED (Do not type)

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PRINTED NAME AND TITLE OF PERSON SIGNING

Scott Jarvis, Chief Engineer

ADDRESS

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 Sacramento, CA 95814

California Department of General Services
 Use Only

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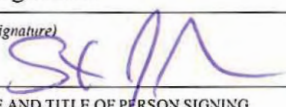
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City of Morgan Hill

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Steve Rymer, City Manager

ADDRESS

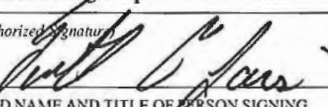
17575 Peak Ave.
 Morgan Hill, CA 95037

STATE OF CALIFORNIA

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Scott Jarvis, Chief Engineer

ADDRESS

770 L Street, Suite 620 MS 2
 Sacramento, CA 95814

California Department of General Services
 Use Only

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 185036

Attachment: Agreements (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

**EXHIBIT A
SCOPE OF WORK****1. BACKGROUND AND PURPOSE**

- A. The California High-Speed Rail Authority (Authority) is responsible for the planning, design, construction, and operation of the first high-speed rail system in the nation (Project). The California high-speed rail system will connect the mega-regions of the State, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. By 2029, high-speed rail will run from San Francisco to the Los Angeles basin in under three hours at speeds of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a statewide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the State's 21st century transportation needs.
- B. This Agreement (Agreement) is between the Authority, an agency of the State of California, and the City of Morgan Hill (Contractor), a California Municipal Corporation.
- C. To facilitate the construction of the high-speed rail system, the Authority requires Contractor to perform the work as described in Section 2 of this Exhibit (Work).
- D. All inquiries regarding this Agreement will be directed to the project representatives identified below:

AUTHORITY	CONTRACTOR
Contract Manager: Guy Preston	Project Manager: Edith Ramirez
Address: 100 Paseo de San Antonio, Suite 206 San Jose, CA 95113	Address: 17575 Peak Ave. Morgan Hill, CA 95037
Phone: 408-277-1091	Phone: 408-310-4633
Fax: n/a	Fax: 408-779-7236
Email: Guy.Preston@hsr.ca.gov	Email: Edith.Ramirez@morganhill.ca.gov

The Contract Managers may be changed without amendment with written notification.

2. SCOPE OF WORK, TASKS, DELIVERABLES, AND SCHEDULE

- A. The Authority shall provide the Contractor a Notice to Proceed for the Work under this Agreement from the Authority's Contract Manager, a proposed alignment, segment number(s) and any other information about the Project segment(s) to assist the Contractor in the investigation of its existing facilities for conflicts with the Project's proposed alignment. The Notice to Proceed may specify work based on Tasks as outlined below.
- B. Contractor will be reimbursed for performance of the following:

**EXHIBIT A
SCOPE OF WORK**

	Task	Description	Deliverable	Schedule
1.	Technical/Engineering Review Support	Staff time to review technical/preliminary engineering documents.	Comments on technical/preliminary engineering documents.	Through December 31, 2017
2.	Technical/Engineering Review Support	Staff time for identifying existing conflicts.	Report identifying any conflicts.	Through December 31, 2017
3.	Technical/Engineering Review Support	Staff time for coordination with the Authority and its representatives.	Participation in coordination activities.	Through December 31, 2017
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6.	Agreement Development	Staff time for right-of-way transfer agreement review.	Participation in meetings and review of draft contract and other documents.	Through June 30, 2018
7.	Agreement Development	Staff time for grade separation agreement review.	Participation in meetings and review of draft contract and other documents.	Through December 31, 2017
8.	Agreement Development	Staff time for ownership and maintenance agreement review.	Participation in meetings and review of draft contract and other documents.	Through June 30, 2018
9.	Agreement Development	Attorney time for legal review.	Legal review of documents and meeting with Authority attorneys.	Through June 30, 2018
10.	Agreement Development	Staff and attorney time for preparation of board of directors materials and reports.	Materials and reports for board of directors.	Through June 30, 2018
11.	Right-of-way Support	Staff time for property rights research.	Reports detailing property rights.	November 1, 2017 through expiration or termination of the Agreement
12.	Right-of-way Support	Staff and attorney time for abandonment, vacation, or legal transfer of right-of-way.	Abandonment, vacation, or legal transfer of right-of-way and supporting documentation.	November 1, 2017 through expiration or termination of the Agreement.
13.	Right-of-way Support	Staff and attorney time for preparation of board of directors materials and reports.	Presentations to board of directors, if any.	November 1, 2017 through expiration or termination of the Agreement.

**EXHIBIT A
SCOPE OF WORK**

Contractor staff and attorney time will be reimbursed at the hourly rates set forth in the Budget. Contractor acknowledges that "staff time" does not include time for subcontractors, vendors, and outside counsel. Subcontractor, vendors, and attorney time shall only be reimbursed if specifically included above and in the Budget.

- C. Additionally, Contractor will be reimbursed the actual costs incurred for (i) audited fringe if applicable, and overhead rates if applicable, and (ii) other direct costs limited to (a) travel; (b) approved subcontractors; and (c) vendors.
- D. Contractor acknowledges the following costs shall not be reimbursed: (i) reviewing and/or providing comments on environmental documents (including, but not limited to, environmental impact statements and environmental impact reports); (ii) attending meetings, unless at the request of the Authority; (iii) acquisition of real property, which shall be handled through the property acquisition process; (iv) coordination for design and construction activities, which shall be handled through task orders/utility agreements; (v) preliminary and/or final designs, which shall be handled through task orders/utility agreements; (vi) construction, materials, or inspection, which shall be handled through task orders/utility agreement; and (vii) maintenance, which shall be handled through the ownership and maintenance agreement or construction and maintenance agreement, as appropriate.

3. SCHEDULE OF SERVICES

Performance of the work described in Section 2 shall commence upon receipt of Notice to Proceed. Unless terminated as provided herein, the Work shall continue until earlier of (i) completion of the Work or (ii) expiration of the term.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. FUNDING REQUIREMENTS

- A. This Agreement shall be of no further force and effect if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the Work identified in Exhibit A. In this event, the Authority shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provision of this Agreement.
- B. After execution or commencement of this Agreement, if funding for any fiscal year is reduced or deleted by the Budget Act for purposes of the Work, the Authority shall have the option to either: 1) cancel this Agreement with no further liability occurring to the Authority; or 2) offer an Agreement amendment to the Contractor to reflect the reduced amount.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this Project. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

2. COMPENSATION, INVOICING, AND PAYMENT

- A. The maximum amount of this Agreement is an estimate, and the actual amount of work requested by the Authority may be less. No payment shall be made in advance of services rendered.
- B. Contractor shall not be entitled to payment for work performed prior to receipt of Notice to Proceed from the Authority's Contract Manager. No Work shall begin before that time.

Invoices shall include the Agreement Number, date prepared, and billing period, actual hours worked (by individual name and position), actual costs for salaries (by position), and fringe, overhead and other direct costs. Contractor shall not be paid for claimed costs or expenses not identified on the Attachment 1 –Budget.

- C. For services satisfactorily rendered and approved by the Contract Manager and upon receipt and approval of the invoices, the Authority shall reimburse the Contractor for actual costs incurred. Subcontractors shall be reimbursed with the same method of payment. The Contractor shall provide 1 original and 2 copies, as set forth below, of the invoice for payment. Invoices should be submitted no more than monthly in arrears and within 30 days of the services provided to:

(1 original and 1 copy)
 Financial Operations Section
 California High-Speed Rail Authority
 770 L Street, Suite 620 MS 3

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

Sacramento, CA 95814

AND

(1 copy)

Guy Preston

California High-Speed Rail Authority

100 Paseo de San Antonio, Suite 206

San Jose, CA 95113

- D. The following certification shall be included on each invoice and signed by the authorized official of the Contractor:
- “I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, included but not limited to a Government Entity contract, subcontract, or other procurement method.”
- E. The Authority will accept computer generated or electronically transmitted invoices. The date of “invoice receipt” shall be the date the Authority receives the paper copy.
- F. Payments shall be made to the Contractor for undisputed invoices. If the Authority disputes an invoice it shall notify the Contractor within 15 working days of receipt of the invoice and pay undisputed portions of the invoice in accordance with the Agreement. The invoice may be disputed if additional evidence is required to determine the invoice’s validity, deliverables for the billing period have not been received and approved, inaccuracies of the invoice, or does not otherwise comply with the terms of this Agreement.
- G. Positions listed in the Budget, included as Attachment 1, may be changed without an amendment to the Agreement. A request for change must be in writing, on Contractor’s letterhead, and identify the position and rate that is added or removed. There shall be no change in the positions without written approval by the Authority’s Contract Manager.
- H. There shall be no change in the rate of position without prior written approval by the Authority’s Contract Manager. A request for change must be in writing, on Contractor’s letterhead and identify the reason for rate change.

3. COST PRINCIPLES

Contractor’s performance shall be governed by and in compliance with the following administrative and cost principles:

- A. If Contractor is governmental entity, then Contractor shall comply with Title 49 Code of Federal Regulations, Part 18, Uniform Administrative Requirements for Grants and Cooperative

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

Agreements to State and Local Governments and OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, as amended.

- B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this clause.

The identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein.

If any costs for which payment has been made to the Contractor are determined by subsequent audit to be unallowable under the applicable administrative and cost principles referenced above, then the unallowable costs are subject to repayment by the Contractor to the Authority.

4. TRAVEL

- A. The Contractor shall be reimbursed for approved travel and per diem expenses using the same rates provided to non-represented state employees. The Contractor must pay for travel in excess of these rates. The Contractor may obtain current rates at the following website:
<http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
- B. Travel expenses are computed from the Contractor's approved office location. Travel to the Contractor's approved office from other locations is not reimbursed under this Agreement unless specifically authorized.
- C. The Contractor must retain documentation of travel expense in its financial records. The documentation must be listed by trip and include dates and times for departure and return.

5. CONTINGENT FEE

The Contractor certifies, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, with the exception of bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this certification, the Authority has the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

EXHIBIT C
GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS

1. GENERAL TERMS AND CONDITIONS

A. APPROVAL. This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

B. AMENDMENT. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

C. ASSIGNMENT. This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

D. AUDIT. Contractor agrees that the Authority, the Department of General Services, the State Auditor, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7.)

E. INDEMNIFICATION. Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

F. DISPUTES. Contractor shall continue with the responsibilities under this Agreement during any dispute.

G. TERMINATION FOR CAUSE. The Authority may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the Authority may proceed with the work in any manner deemed proper by the Authority. All costs to the Authority shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

H. INDEPENDENT CONTRACTOR. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

EXHIBIT C

GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS

I. NON-DISCRIMINATION CLAUSE. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

J. TIMELINESS. Time is of the essence in this Agreement.

K. GOVERNING LAW. This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

L. UNENFORCEABLE PROVISION. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

2. CONTRACTOR CERTIFICATIONS

A. STATEMENT OF COMPLIANCE. Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103.)

B. DRUG-FREE WORKPLACE REQUIREMENTS. Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- i. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- ii. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;

EXHIBIT C**GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS**

- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and
- 4) penalties that may be imposed upon employees for drug abuse violations.

iii. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

1. EARLY TERMINATION

- A. This Agreement may be terminated at any time by mutual agreement of the parties in writing.
- B. Termination for Convenience. The Authority reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to the Contractor if terminated for the convenience of the Authority.
- C. Notice of Termination for Subcontractors, Suppliers, and Service Providers. The Contractor shall notify any subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any subcontractor and service or supply vendor shall result in the Contractor being liable for the termination costs incurred by any subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to by the Authority in writing.
- D. Contractor Claims After Early Termination. The Contractor shall release the Authority from any and all further claims for services performed arising out of this Agreement or its early termination, upon acceptance by the Contractor of payment for costs actually incurred for work performed prior to receipt of the notice of termination and actual costs incurred as a result of termination.

2. PURCHASE OF EQUIPMENT

No equipment is approved for purchase.

3. SUBCONTRACTING

- A. Upon prior approval of the Authority, Contractor may subcontract a portion of the Work. Attachment 1 –Budget shall identify the rates for any approved subcontractor. Any substitution of a subcontractor shall be approved in writing by the Authority's Contract Manager prior to such substituted subcontractor performing work. Unless specifically noted otherwise, any subcontract in excess of \$25,000 shall contain all the applicable provisions stipulated in this Agreement.
- B. This Agreement shall not create a contractual relationship between the Authority and any approved subcontractor. A subcontract shall not relieve the Contractor of performance of its duties hereunder. Contractor shall be responsible for the any and all acts and omissions of its subcontractors and their employees.
- C. Contractor's obligation to pay its subcontractors is independent of the Authority's obligation to pay the Contractor.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

4. OWNERSHIP OF DATA

- A. Upon completion of all work under this Agreement, all intellectual property rights, ownership, and title to all reports, documents, plans, specifications, electronic documents, and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Contractor shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- B. All calculations, drawings and specifications, whether in hard copy, and electronic or machine readable form, are intended for one-time use in the construction of the Project.
- C. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with the modification or misuse by the Authority of any data provided by the Contractor under this Agreement. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this Project, or for the completion of this Project by others, except for such use as may be authorized, in writing, by the Contractor.
- D. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

5. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.
- B. The Authority and the Contractor agree to protect designated confidential or privileged information intended by the Authority and Contractor to remain so protected, while facilitating the sharing of information as part of both parties' efforts. Use of data files constitutes agreement on the part of the Contractor to maintain confidentiality if exempt under the California Public Records Act, subject to Government Code Section 6254.5(e). Confidential information shall not be shared with third parties without consultation and approval from the Authority.
- C. The Contractor shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Contractor's own personnel, including subcontractors, affiliates, and vendors, involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative Committee.
- D. The Contractor shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.

EXHIBIT D SPECIAL TERMS AND CONDITIONS

- E. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of the Confidentiality of Data clause.

6. PUBLIC RECORDS; CONFLICTS OF INTEREST

- A. This Agreement shall not limit nor infringe on either parties duty to comply with the California Public Records Act, Government Code Section 6250 *et seq.*
- B. The Contractor and its employees, and all its subcontractors and employees, shall comply with the Authority's Organizational Conflict of Interest Policy.
- C. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

7. STOP WORK

- A. The Authority's Contract Manager may, at any time, by written notice to the Contractor require the Contractor to stop all or any part of the work tasks in this Agreement.
- B. Upon receipt of such stop work order, the Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- C. The Contractor shall resume the stopped work only upon receipt of written instruction from the Authority's Contract Manager canceling the stop work order. An equitable adjustment shall be made by the Authority based upon a written request by the Contractor for an equitable adjustment. Such adjustment request must be made by the Contractor within 30 days from the date of receipt of the stop work notice.

8. SETTLEMENT OF DISPUTES

The parties agree to use their best efforts to resolve disputes concerning a question of fact arising under this Agreement in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

9. HEADINGS

The headings appearing in this contract have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

10. WAIVER

Failure to enforce any provision of this Agreement shall not operate as a waiver of that or any other provision or any subsequent breach of this Agreement.

EXHIBIT E

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

All terms in Exhibit E must be included in all subcontracts and lower-tier subcontracts regardless of amount expended, unless otherwise noted.

1. FEDERAL REQUIREMENTS

The Contractor understands that the Authority has received Federal funding from the Federal Rail Administration (FRA) for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Contractor acknowledges that federal laws, regulations, policies, and related administrative practices may change and that such changed requirements will apply to the Project. The Contractor shall ensure compliance by its subcontractors and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies and related administrative practices, whether or not specifically referenced herein.

Notwithstanding anything to the contrary contained in this Agreement, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of FRA requirements.

2. COMPLIANCE WITH FEDERAL REQUIREMENTS

The Contractor's failure to comply with Federal Requirements shall constitute a breach of this Agreement.

3. FEDERAL LOBBYING ACTIVITIES CERTIFICATION

The Contractor certifies, to the best of its knowledge and belief, that:

- A. No state or federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a member of the Legislature or Congress in connection with the awarding of any State or Federal agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal agreement, 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 federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. The Contractor shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

4. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 2 C.F.R. 1200. As such, the Contractor is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180.

To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Contractor must verify that each subcontractor is not excluded or disqualified in accordance with said regulations by reviewing the "Excluded Parties Listing System" at <http://www.sam.gov/portal/public/SAM/>. The Contractor shall obtain appropriate certifications from each such subcontractor and provide such certifications to the Authority.

The Contractor's signature affixed herein shall also constitute a certification under penalty of perjury under the laws of the State of California that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Have not had one or more public transactions (federal, state, and local) terminated within the preceding three years for cause or default;
3. Has not been convicted within the preceding three years of any of the offenses listed in Title 2 Code of Federal Regulations Section 180.800(a) or had a civil judgment rendered against it for one of those offenses within that time period; and

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

4. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses listed in Title 2 Code of Federal Regulations Section 180.800.

Should the Contractor or any subcontractor become excluded or disqualified as defined in this section during the life of the Agreement, the Contractor shall immediately inform the Authority of this exclusion or disqualification. The Contractor shall include a term or condition in the contract documents for each lower-tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each subcontractor will review the "Excluded Parties Listing System," will obtain certifications from lower-tier subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

5. SITE VISITS

The Contractor acknowledges that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Contractor or any of its subcontractors under this Agreement, the Contractor shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or subcontractor.

6. SAFETY OVERSIGHT

To the extent applicable, the Contractor shall comply with any Federal regulations, laws, or policies and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

7. ENVIRONMENTAL PROTECTION

The Contractor and any subcontractor under this Agreement shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

- A. **Clean Air.** The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor shall report each violation to the Authority, and acknowledges that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate Environmental Protection Agency Regional Office.
- B. **Clean Water.** The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor shall report each violation to the Authority, and acknowledges that the Authority

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.

- C. **Energy Conservation.** The Contractor will comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 *et seq.*)
- D. **Agreement Not To Use Violating Facilities.** The Contractor will not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The Contractor shall promptly notify the Authority if the Contractor or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.
- E. **Environmental Protection.** The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*
- F. **Incorporation of Provisions.** The Contractor shall include the above provisions (A) through (F) in every subcontract hereunder exceeding \$50,000 financed in whole or in part with federal assistance provided by the FRA.

8. CIVIL RIGHTS

The following requirements apply to this Agreement:

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of this Agreement. In addition, the Contractor will comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Agreement:
 - i. Race, Color, Religion, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor will comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," including 41 C.F.R 60 *et seq.* (which implements Executive Order No. 11246, "Equal

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor will comply with any implementing requirements FRA may issue.

- ii. Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor will refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor will comply with any implementing requirements FRA may issue.
- iii. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. Further, in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor will comply with the requirements of U.S. Department of Transportation, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 27, pertaining to persons with disabilities. In addition, the Contractor will comply with any implementing requirements FRA may issue.

The Contractor will not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor will comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Contractor also will include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

EXHIBIT E

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

9. ARRA FUNDED PROJECT

Funding for this Agreement has been provided through the America Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All Contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the Agreement if any Contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

10. ENFORCEABILITY

If the Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

11. PROHIBITION ON USE OF ARRA FUNDS

Contractor will in accordance with ARRA Section 1604 that none of the funds made available under this Agreement may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

12. ACCESS AND INSPECTION OF RECORDS

- A. In accordance with ARRA Sections 902, 1514, and 1515, the Contractor shall permit the State of California, the United States Comptroller General, the United States Department of Transportation Secretary, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:
 - i. Access and reproduce any books, documents, papers and records of the Contractor that directly pertain to, and involve transactions relating to, this Agreement for the purposes of making audits, examinations, excerpts and transcriptions; and
 - ii. Interview any officer or employee of the Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by ARRA.
- B. Pursuant to Title 49 Code of Federal Regulation Section 18.26(i)(11), Title 49 Code of Federal Regulations Section 19.26, or OMB Circular A-133 Compliance Supplement, (whichever applicable), the Contractor will maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the Contractor will maintain same until the Authority, the FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. The Contractor

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

shall notify the Authority not less than six months prior to disposal of any books, records, accounts and reports required under this Agreement.

- C. The Contractor will comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, Title 5 United States Code Section 552(a).

The Contractor shall include this provision in all lower-tier subcontracts.

13. WHISTLEBLOWER PROTECTION

Contractor its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal contractors, including the state, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- A. Gross mismanagement of a contract relating to ARRA funds;
- B. Gross waste of ARRA funds;
- C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- D. An abuse of authority related to implementation or use of ARRA funds; or
- E. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contractor) awarded or issued relating to ARRA funds.

Contractor and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

14. FRAUD AND FALSE CLAIMS ACT

Contractor shall promptly notify the Authority and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

The Contractor will include the above paragraphs in each subcontract financed in whole or in part with Federal assistance provided by the FRA. It is further agreed that the paragraphs shall not be modified, except to identify the subcontractor who will be subject to the provisions.

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS****15. REPORTING REQUIREMENTS**

Contractor will, if requested by the Authority in writing, to provide the Authority with the following information:

- A. The total amount of funds received by the Contractor during the time period defined in the Authority's request;
- B. The amount of funds actually expended or obligated during the time period requested;
- C. A detailed list of all projects or activities for which funds were expended or obligated, including:

The name of the project or activity;

 - i. A description of the project activity;
 - ii. An evaluation of the completion status of the project or activity; and
 - iii. An estimate of the number of jobs created and/or retained by the project or activity.
- D. For any contracts or subcontracts equal to or greater than \$25,000:
 - i. The name of the entity receiving the contract;
 - ii. The amount of the contract;
 - iii. The transaction type;
 - iv. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number, if known;
 - v. The location of the entity receiving the contract;
 - vi. The primary location of the contract, including city, state, congressional district, and county;
 - vii. The DUNS number, or name and zip code for the entity headquarters, if known;
 - viii. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - ix. The names and total compensation of the five most highly compensated officers of the company if received:
 - 80% or more of its annual gross revenues in Federal awards;
 - \$25,000,000 or more in annual gross revenue from Federal awards and;
 - If the public does not have access to information about the compensation of senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of Internal Revenue Code of 1986;
- E. Any other information reasonably requested by the State of California or required by state or federal law or regulation.

EXHIBIT E

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

Standard data elements and federal instruction for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalRegister.gov. The additional requirements will be added to this Agreement by amendment.

16. REPRINTS OF PUBLICATIONS

Whenever an employee of a Contractor-Related Entity writes an article regarding the Project or otherwise resulting from work under this Agreement that is published in a scientific, technical, or professional journal or publication, the Contractor shall ensure that the Authority is sent two reprints of the publication, clearly referenced with the appropriate identifying information.

An acknowledgment of FRA support and a disclaimer must appear in any publication, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

“This material is based upon work supported by the Federal Railroad Administration under a grant/cooperative agreement FR-HSR-0009-10-01-05, dated December 5, 2012. Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT.”

17. LABOR PROVISIONS

49 U.S.C. 24405(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided through this Agreement shall be considered a “rail carrier,” as defined by 49 U.S.C. 10102(5), for the purposes of Title 49, U.S.C., and any other statute that adopts that definition or in which that definition applies, including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*), the Railway Labor Act (43 U.S.C. 151 *et seq.*), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) To the extent required by 49 U.S.C. 24405(b) and other laws referenced above, the Contractor shall reflect these provisions in its agreements funded in whole or in part by this Agreement with entities operating rail services over such rail infrastructure.

18. LABOR PROTECTIVE ARRANGEMENTS

The Contractor will comply with the applicable protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), 45 U.S.C. 836, with respect to employees affected by actions taken in connection with the Project. The Contractor also will include the applicable protective arrangements established by the U.S. DOL under 45 U.S.C. 836 in its arrangements with entities operating rail services over rail infrastructure constructed as part of this Agreement.



City of Morgan Hill

File #: 16-387, Agenda Date: 6/1/2016, Version: 1

CITY COUNCIL STAFF REPORT MEETING DATE: JUNE 1, 2016

PREPARED BY: Edith Ramirez/Economic Development Manager/ Community Development
APPROVED BY: City Manager

CALIFORNIA HIGH SPEED RAIL AUTHORITY (CHSRA) REIMBURSEMENT AGREEMENT AND RELATED ACTIONS

RECOMMENDATION(S)

1. Receive presentation by High Speed Rail Staff regarding status of project;
2. Adopt resolution reaffirming the City of Morgan Hill's position that Highway 101 is the preferred alignment for High Speed Rail (HSR) through Morgan Hill;
3. Adopt resolution:
 - a. Approving a Consultant Agreement with David J. Powers and Associates for technical support services related to environmental review of High Speed Rail, including a budget amendment of \$64,810;
 - b. Directing the City Manager to negotiate and enter into a Reimbursement Agreement with the California High Speed Rail Authority in substantially the same form as the Agreement attached to the report for reimbursement of staff time and consultant work related to the City's review of the High Speed Rail project;
 - c. Directing the City Manager to negotiate and enter into a Consultant Agreement with Apex Strategies for policy and advocacy support with regional and state agencies regarding High Speed Rail project and other regional transportation initiatives, including a budget amendment of \$97,125; and
4. Direct Morgan Hill team to coordinate a group of cities and governmental entities to advocate for South County-related regional issues associated with High Speed Rail and other regional transportation initiatives.

COUNCIL PRIORITIES, GOALS & STRATEGIES:

Ongoing Priorities

Protecting the environment
Maintaining fiscal responsibility
Preserving and cultivating public trust

2016 Focus Areas

Planning Our Community
Developing Our Community

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

Participating in Regional Issues

REPORT NARRATIVE:

The California High Speed Rail Authority (CHSRA) is the State Agency responsible for the planning, design and construction of the California high speed rail system that will connect the San Francisco Bay Area to Los Angeles (eventually from Sacramento to San Diego) with a train system that will run at speeds of over 200 miles per hour. The envisioned San Francisco to Los Angeles High Speed Rail (HSR) connection will offer users an alternate transportation mode connecting northern and southern California via a three hour train ride. Additionally, the HSR will have train stations in Gilroy and San Jose, providing Bay Area residents with an additional local transportation option, further connecting the region, alleviating pressure on local freeways and roads and reducing greenhouse gas emissions.

The project level Environmental Impact Report and Environmental Impact Statement (EIR/EIS) evaluated two potential rail alignments through Morgan Hill including an alignment adjacent to the Union Pacific Railroad (UPRR) through the center of town and Downtown, and a second alternative along Highway 101. The first alignment from San Jose to north Morgan Hill is envisioned to be at-grade. The alignment south of Cochrane Avenue is envisioned to utilize an aerial structure that would have a minimum 17 foot clearance at the intersections of Main, Dunne, San Pedro and Tennant Avenues. The second alignment option along Highway 101 is envisioned as an aerial structure located on the east side of the freeway from the Coyote Creek Bridge to south of Dunne Avenue. This alignment is proposed to run diagonally across the outdoor sports fields, and east of the Aquatic Center, continuing southeasterly toward Murphy Avenue.

The City of Morgan Hill has expressed support for the High Speed Rail project and issued a joint resolution with the City of Gilroy in support of a preferred alignment along Highway 101 through Morgan Hill and Gilroy, with Gilroy as the preferred station location.

Construction for the HSR is already underway in Central Valley with a 32-mile stretch between Madera and Fresno Counties. Scoping meetings are underway for the San Francisco to San Jose project section and open house meetings recently took place in Gilroy and San Jose to discuss and get input on the San Jose to Merced Project Section.

The 2016 Business Plan for HSR sets forth a plan to connect the Central Valley and Silicon Valley by 2024. The Business Plan provides a path forward to complete the San Francisco to Central Valley segment of HSR. The CHSRA is offering the City of Morgan Hill and any other impacted communities an opportunity to enter into a reimbursement agreement to assist with the cost of evaluation of the project.

Attached for Council's consideration is an agreement between the CHSRA and the City of Morgan Hill that will reimburse the City for staff and consultant time associated with technical engineering review support for a total amount not to exceed \$409,641.22. The estimated amount is based on a scope of work framework provided by CHSRA and includes consultant services. The Agreement assumes the City will pay the costs upfront, and be provided monthly reimbursements.

In order to adequately provide feedback regarding project alternatives, it is recommended that the City of Morgan Hill retain the services of David J. Powers & Associates(DJP&A) to provide technical support associated with the analysis of the San Jose to Merced Project Section review that will

include the Draft Environmental Impact Report/Draft Environmental Impact Statement. DJP&A will help review the preliminary engineering documents and help assess potential impacts. Attached, for the Council's consideration is a contract in the amount of \$64,810 with DJP&A, which is anticipated to be reimbursed by HSR as part of the HSR Reimbursement Agreement.

In addition to DJP&A technical support, it is recommended that Council approve an agreement with Apex Strategies to assist with strategy and policy advocacy to ensure Morgan Hill is engaging in the regional conversations taking place regarding the HSR project. Apex Strategies will help monitor the project and help coordinate with regional stakeholders. Eileen Goodwin, President at Apex Strategies has thirty years of leadership experience in transportation projects. Attached, for the Council's consideration is a contract for \$97,125 for a total of 335 hours. The scope of work for Apex Strategies is fairly broad in nature, allowing for support services with HSR as well as other related regional transportation issues, including monitoring and identifying opportunities with MTC, ABAG One Bay Area, CTC, Caltrans and other relevant regional bodies. It is important to note that only HSR-related work can be reimbursed per the HSR Reimbursement Agreement. Any other work outside of HSR, would be financed by the City's Long Range Planning Fund (Fund 207).

Finally, it is recommended that the City approve the attached resolution, restating its position on the City of Morgan Hill preferred alignment along Highway 101 and Gilroy as a station location. Additionally, it is recommended that City Council directs the Morgan Hill team to work toward creating a group of cities and governmental entities to advocate concerning South County-related regional issues associated with High Speed Rail and similar projects of regional impact. This group should include key City representatives of Gilroy, Morgan Hill, County of Santa Clara and San Jose.

COMMUNITY ENGAGEMENT: Inform

HSR has held community open houses in Gilroy and San Jose to present the project and get input on the San Jose to Merced Project Section. The City of Morgan Hill has a HSR web page that provides basic information on the project and links to HSR staff and website for additional information.

ALTERNATIVE ACTIONS:

The Council may choose not to approve the reimbursement agreement and any of the consultant agreements for technical review and policy support on HSR.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

There have been no previous actions on a reimbursement agreement for HSR. On December 2, 2009, the City Council approved a Joint Resolution with the City of Gilroy stating that the Cities of Gilroy and Morgan Hill oppose the preferred corridor alignment adjacent to the Union Pacific Railroad right-of-way through Downtown Morgan Hill, suggesting that the CHSRA consider alternate alignments using the Highway 101 corridor and supporting a Gilroy station location. On April 26, 2010, the City issued a letter to CHSRA commenting on the Revised Draft Project Level EIR/EIS for the project section from San Jose to Merced. The letter stated concerns about the visual/aesthetic impact and potential displacement of commercial property and loss of heritage trees for the alignment along the UPRR corridor. The letter also asked for a more complete visual analysis of the impact of the aerial structure.

FISCAL AND RESOURCE IMPACT:

The Reimbursement Agreement with CHSRA provides a total of \$409,641.22, for work which is

File #: 16-387, Agenda Date: 6/1/2016, Version: 1

expected to be completed during a 24 to 36 month period of time. Staff time as well as consultant contracts with DJP&A (\$64,810) and Apex Strategies (\$97,125) will be reimbursed by HSR but monies will have to be paid up front by the General Fund. However, it is anticipated that about a third of the Apex Strategies contract, or approximately \$31,000, will be paid by Fund 207 and is not eligible for reimbursement by HSR.

CEQA (California Environmental Quality Act):

Not a Project

By the definition provided in the California Environmental Quality Act Guidelines Section 15378 this item does not qualify as a "project" and is therefore exempt from the California Environmental Quality Act requirements.

LINKS/ATTACHMENTS:

- a) Resolution reaffirming the City of Morgan Hill's position on HSR
- b) 2009 Joint Resolution on HSR
- c) Resolution for three contracts
- d) Apex Strategies Contract
- e) David J. Powers and Associates Contract
- f) CHSRA Reimbursement Agreement,
- g) City of Morgan Hill RA Budget
- h) Budget Scorecards

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REAFFIRMING THE CITY OF MORGAN HILL'S SUPPORT OF THE ALTERNATE ALIGNMENTS FOR HIGH SPEED TRAIN ("HST") SYSTEM WITH THE CITY OF GILROY AS THE PREFERRED STATION LOCATION AND US HIGHWAY 101 THROUGH MORGAN HILL AS THE PREFERRED HST SYSTEM ALIGNMENT IN THE SAN JOSE TO MERCED SECTION

WHEREAS, the California High-Speed Rail Authority (the "Authority") and the Federal Railroad Administration (the "FRA") completed a Final Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in July 2008 to identify preferred alignments for the Bay Area to Central Valley section of the High Speed Train ("HST") System; and

WHEREAS, the Bay Area to Central Valley section of HST System has been further broken down by the Authority and FRA into project specific areas, including the San Jose to Merced section, which includes the City of Morgan Hill (the "City"); and

WHEREAS, the San Jose to Merced Supplemental Alternatives Analysis Report, as prepared by the Authority in May 2011, identifies several alternatives from Morgan Hill to Gilroy, including:

- Union Pacific Railroad (the "UPRR") Right-of-Way (through Downtown Morgan Hill) to Downtown Gilroy Station
- UPRR Right-of-Way (through Downtown Morgan Hill) to East Gilroy Station
- US 101 to Downtown Gilroy Station
- US 101 to East Gilroy Station; and

WHEREAS, the Authority and FRA are currently preparing a project EIR/EIS that examines site-specific impacts of identified alternate alignments, station locations, and HST System operations in the San Jose to Merced section, including identifying specific mitigation measures, as necessary; and

WHEREAS, at its meeting of December 2, 2009, pursuant Resolution No. 6287, the City Council formally declared its opposition to the proposed HST System alignment east of the UPRR right-of-way through Downtown Morgan Hill; and

WHEREAS, the City desires to reaffirm its support for the alternate alignments which would utilize the Highway 101 corridor with Gilroy as the preferred station locations; and

WHEREAS, further reasons supporting the City's support these alternative alignments for the HST System described in, and that is the subject of, this Resolution are set forth in detail in

that certain City Council Staff Report entitled "California High Speed Rail Authority (CHSRA) Reimbursement Agreement and Related Actions," submitted for City Council consideration at its meeting of June 1, 2016, 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 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. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. The City Council does further resolve as follows:

- a. That the City of Morgan Hill (the "City") reaffirms its opposition to the High Speed Train ("HST") System corridor on or adjacent to the Union Pacific Railroad ("UPRR") right-of-way through Downtown Morgan Hill. The existing UPRR rail corridor is constrained in several areas by existing development and the elevated/graded separated HST System tracks and parallel security fencing will have an adverse effect by creating a barrier or divide between the communities of the City and the City of Gilroy. The Authority should consider alternate alignments using the Highway 101 corridor; and
- b. That the City reaffirms its support of the Gilroy station location alternatives as the preferred station location for the HST System. The Gilroy station alternatives provide better connectivity, travel times, closer access and lower costs to the Santa Cruz, Monterey/Carmel, and Salinas markets. While preferring the Gilroy Caltrain station, ultimately, the station location itself should not dictate the alignment through South County; and
- c. That the City reaffirms its finding that the Gilroy station is consistent with the above goals, but desires HST System design alternatives compatible with an ultimate Highway 101 corridor north of Gilroy regardless of whether the station is located in downtown Gilroy or at an alternative site in Gilroy; and
- d. That should the Gilroy station location prove infeasible due to right-of-way constraints or other insurmountable design constraints, then the City reaffirms its support for consideration of a Morgan Hill location for the HST System station.

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 1st day of June, 2016 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 June 1, 2016.

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

DATE: _____

 Irma Torrez, CITY CLERK

RESOLUTION NO. 6287

A JOINT RESOLUTION OF THE CITY COUNCILS OF THE CITIES OF GILROY AND MORGAN HILL IN SUPPORT OF AN ALTERNATE ALIGNMENT FOR HIGH SPEED TRAIN (HST) WITH GILROY AS THE PREFERRED STATION LOCATION AND US HIGHWAY 101 THROUGH MORGAN HILL AS THE PREFERRED HST ALIGNMENT IN SOUTH SANTA CLARA COUNTY

WHEREAS, the California High-Speed Rail Authority (Authority) and the Federal Railroad Administration (FRA) completed a Final Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in July 2008 to identify a preferred corridor for the Bay Area to Central Valley section of the HST System; and

WHEREAS, as part of the HST Alternatives selected for further analysis, the Authority and FRA defined a corridor between San Francisco and San Jose along the San Francisco Peninsula and between San Jose and the Central Valley through Pacheco Pass; and

WHEREAS, the Authority has identified a preferred corridor between San Jose and Gilroy on or adjacent to the Union Pacific Railroad right-of-way with Gilroy as a preferred station location; and

WHEREAS, the Cities of Gilroy and Morgan Hill jointly support an alternate alignment for HST using the Highway 101 corridor; and

WHEREAS, the Authority and FRA will prepare a project EIR/EIS that examines site-specific impacts of alignments, station locations and HST operations between San Jose and Merced, that identified specific mitigation measures, as necessary.

NOW, THEREFORE, THE CITY COUNCILS OF THE CITIES OF GILROY AND MORGAN HILL DO HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Cities of Gilroy and Morgan Hill oppose the preferred HST corridor on or adjacent to the Union Pacific Railroad (UPRR) right-of-way through Downtown Morgan Hill. The existing UPRR rail corridor is constrained in several areas by existing development and the elevated/graded separated HST tracks and parallel security fencing will have an adverse effect by creating a barrier or divide within our communities. The Authority should consider alternate alignments using the Highway 101 corridor

Resolution No 6287

Page 2 of 4

SECTION 2. The Cities of Gilroy and Morgan Hill support the Gilroy station location alternatives as the preferred station location for High Speed Train. The Gilroy station alternatives provide better connectivity, travel times, closer access and lower costs to the Santa Cruz, Monterey/Carmel, and Salinas markets. While preferring the Gilroy Caltrain station, ultimately, the station location itself should not dictate the alignment through South County.

SECTION 3. The Cities find the Gilroy station to be consistent with the above goals, but desire HST design alternatives compatible with an ultimate Highway 101 corridor north of Gilroy regardless of whether the station is located in downtown Gilroy or at an alternative site in Gilroy.

SECTION 4. Should the Gilroy station location prove infeasible due to right-of-way constraints or other insurmountable design constraints, then the two cities support consideration of a Morgan Hill location for the HST station.

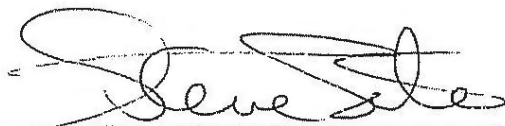
PASSED AND ADOPTED THIS 2ND DAY OF DECEMBER, 2009, AT A REGULAR MEETING OF THE MORGAN HILL CITY COUNCIL BY THE FOLLOWING VOTE:

CITY OF MORGAN HILL:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Carr, Lee, Librers, Sellers, Tate
None
None
None

DATE: 12/4/2009


Steve Tate, Mayor

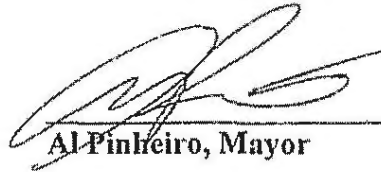
Resolution No. 6287
Page 3 of 4

PASSED AND ADOPTED THIS 7th DAY OF DECEMBER, 2009, AT A REGULAR MEETING OF THE GILROY CITY COUNCIL BY THE FOLLOWING VOTE:

CITY OF GILROY:

AYES: COUNCILMEMBERS: Arellano, Bracco, Dillon, Gartman, Tucker, Woodward, Pinheiro
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

DATE: 12-09-09


 Al Pinheiro, Mayor

Resolution No. 6287
Page 4 of 4

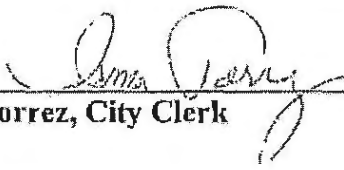
CERTIFICATION

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. 6287, adopted by the City Council at the meeting held on December 2, 2009.

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

DATE:

12/8/09


Irma Torrez, City Clerk

RESOLUTION NO. 2009-44

**A JOINT RESOLUTION OF THE CITY COUNCILS OF
THE CITIES OF GILROY AND MORGAN HILL IN
SUPPORT OF AN ALTERNATE ALIGNMENT FOR HIGH
SPEED TRAIN (HST) WITH GILROY AS THE
PREFERRED STATION LOCATION AND US HIGHWAY
101 THROUGH MORGAN HILL AS THE PREFERRED
HST ALIGNMENT IN SOUTH SANTA CLARA COUNTY**

WHEREAS, the California High-Speed Rail Authority (Authority) and the Federal Railroad Administration (FRA) completed a Final Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in July 2008 to identify a preferred corridor for the Bay Area to Central Valley section of the HST System; and

WHEREAS, as part of the HST Alternatives selected for further analysis, the Authority and FRA defined a corridor between San Francisco and San Jose along the San Francisco Peninsula and between San Jose and the Central Valley through Pacheco Pass; and

WHEREAS, the Authority has identified a preferred corridor between San Jose and Gilroy on or adjacent to the Union Pacific Railroad right-of-way with Gilroy as a preferred station location; and

WHEREAS, the Cities of Gilroy and Morgan Hill jointly support an alternate alignment for HST using the Highway 101 corridor; and

WHEREAS, the Authority and FRA will prepare a project EIR/EIS that examines site-specific impacts of alignments, station locations and HST operations between San Jose and Merced, that identified specific mitigation measures, as necessary.

NOW, THEREFORE, THE CITY COUNCILS OF THE CITIES OF GILROY AND MORGAN HILL DO HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Cities of Gilroy and Morgan Hill oppose the preferred HST corridor on or adjacent to the Union Pacific Railroad (UPRR) right-of-way through Downtown Morgan Hill. The existing UPRR rail corridor is constrained in several areas by existing development and the elevated/graded separated HST tracks and parallel security fencing will have an adverse effect by creating a barrier or divide within our communities. The Authority should consider alternate alignments using the Highway 101 corridor.

RESOLUTION NO. 2009-44

SECTION 2. The Cities of Gilroy and Morgan Hill support the Gilroy station location alternatives as the preferred station location for High Speed Train. The Gilroy station alternatives provide better connectivity, travel times, closer access and lower costs to the Santa Cruz, Monterey/Carmel, and Salinas markets. While preferring the Gilroy Caltrain station, ultimately, the station location itself should not dictate the alignment through South County.

SECTION 3. The Cities find the Gilroy station to be consistent with the above goals, but desire HST design alternatives compatible with an ultimate Highway 101 corridor north of Gilroy regardless of whether the station is located in downtown Gilroy or at an alternative site in Gilroy.

SECTION 4. Should the Gilroy station location prove infeasible due to right-of-way constraints or other insurmountable design constraints, then the two cities support consideration of a Morgan Hill location for the HST station.

PASSED AND ADOPTED THIS 2ND DAY OF DECEMBER, 2009, AT A REGULAR MEETING OF THE MORGAN HILL CITY COUNCIL BY THE FOLLOWING VOTE:

CITY OF MORGAN HILL

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

DATED:

APPROVED:

RESOLUTION NO. 2009-44

3

PASSED AND ADOPTED THIS 7th DAY OF DECEMBER, 2009, AT A REGULAR MEETING OF THE GILROY CITY COUNCIL BY THE FOLLOWING VOTE:

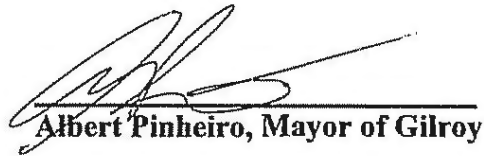
CITY OF GILROY

AYES: COUNCILMEMBERS: ARELLANO, BRACCO, DILLON, GARTMAN, TUCKER, WOODWARD and PINHEIRO

NOES: COUNCILMEMBERS: NONE

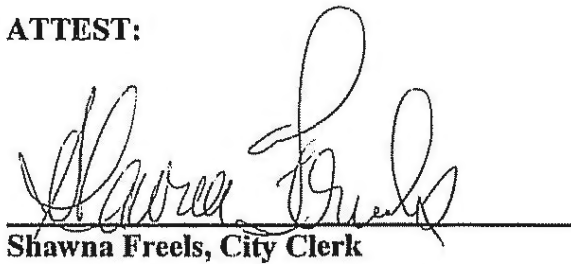
ABSENT: COUNCILMEMBERS: NONE

APPROVED:



Albert Pinheiro, Mayor of Gilroy

ATTEST:



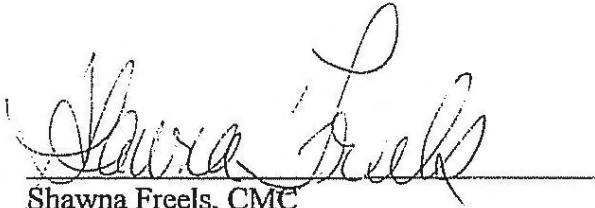
Shawna Freels, City Clerk

RESOLUTION NO. 2009-44

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

I, SHAWNA FREELS, City Clerk of the City of Gilroy, do hereby certify that the attached Resolution No. 2009-44 is an original resolution, or true and correct copy of a city resolution, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 7th day of December, 2009, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 10th day of December, 2009.



Shawna Freels, CMC
City Clerk of the City of Gilroy

(Seal)

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 CONSULTANT AGREEMENT WITH DAVID J. POWERS AND ASSOCIATES FOR TECHNICAL SUPPORT SERVICES RELATED TO ENVIRONMENTAL REVIEW OF HIGH SPEED RAIL (HSR) AND APPROVING, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE, EXECUTE AND ADMINISTER, THAT CERTAIN REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HSR AUTHORITY FOR REIMBURSEMENT OF STAFF TIME AND CONSULTANT WORK RELATED TO THE REVIEW OF HSR AND THAT CERTAIN CONSULTANT AGREEMENT WITH APEX STRATEGIES FOR POLICY AND ADVOCACY SUPPORT WITH REGIONAL AND STATE AGENCIES REGARDING THE HSR PROJECT AND OTHER REGIONAL TRANSPORTATION INITIATIVES

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 those certain agreements described in, and that are the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "California High Speed Rail Authority (CHSRA) Reimbursement Agreement and Related Actions," submitted for City Council consideration at its meeting of June 1, 2016, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the activities allowed under this Resolution 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 Consultant Agreement with David J. Powers for the technical support services related to environmental review of High Speed Rail, substantially in the form attached hereto as Exhibit A 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 A; provided, specifically, that the total amounts to be paid by City under the Agreement shall in no event exceed sixty four thousand eight hundred ten dollars (\$64,810.00); and
- c. That the Reimbursement Agreement with the California High Speed Rail Authority for the reimbursement of staff time and consultant work related to the review of High Speed Rail, substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the “Agreement”), is hereby approved.
- d. That the City Manager is hereby delegated authority to and is authorized and directed to further negotiate and execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit B; and
- e. That the Consultant Agreement with Apex Strategies for the policy and advocacy support with regional and state agencies regarding High Speed Rail project and other regional transportation initiatives, substantially in the form attached hereto as Exhibit C and incorporated herein by this reference (the “Agreement”), is hereby approved; and
- f. That the City Manager is hereby delegated authority to and is authorized and directed to further negotiate and execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit C; provided, specifically, that the total amounts to be paid by City under the Agreement shall in no event exceed ninety two thousand one hundred eighty five dollars (\$92,185.00); and

- g. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

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 1st day of June, 2016 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 June 1, 2016.

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

DATE: _____

Irma Torrez, CITY CLERK

CONSULTANT AGREEMENT APEX STRATEGIES

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

1. **City Authority.** This Agreement is entered into pursuant to 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 December 31, 2018 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be review of High-Speed Rail San Jose-Merced EIR/EIS Project Documents as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$97,125.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Ninety-seven Thousand One Hundred Twenty-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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.
 - 4.2. **Billing.** CONSULTANT 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 CONSULTANT. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to

CONSULTANT. The CITY Manager of CITY is authorized to terminate this AGREEMENT on behalf of CITY.

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

7. **Insurance Requirements.** CONSULTANT shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of CONSULTANT, including its subcontractors, 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. CONSULTANT further understands that the CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to CONSULTANT, at any time as deemed necessary to protect the interests of the CITY.

7.1. **Insurance Types and Amounts.**

7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

7.1.3. **Workers' Compensation Insurance and Employer's Liability.** CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum

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

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

7.1.5. Professional Liability.

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

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

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

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

7.2.1. **General Liability.**

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

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

7.2.1.3. insurance shall be primary non-contributing.

7.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

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

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

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

10. **Independent Contractor.** CONSULTANT is an independent contractor and not an agent or employee of CITY.

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

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

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

Address of CONSULTANT is as follows:

Apex Strategies
111 Nanna Court
Santa Cruz, CA 95060

Address of CITY is as follows:

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

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

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

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

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

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

17. Time of Essence. Time is of the essence in the performance of this Agreement.

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

19. 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.

20. Defense and Indemnification.

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

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

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

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

20.5. Interpretation. This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly

understood and agreed that the obligation of the CONSULTANT to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

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

22. **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.

23. **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.

24. **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.

25. **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 CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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26. **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

Steve Rymer

Print Name

Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

APEX STRATEGIES

Interim City Attorney

By:

Gary M. Baum

Title: _____

Print Name

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: _____

Date: _____

By:

Title: _____

Print Name and Title of Signer.

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

Date: _____

EXHIBIT A SCOPE OF SERVICES

SCOPE 1

Apex Strategies will provide the following services associated with the High Speed Rail project segment from San Jose to Merced:

1. Participate in the review and provide comments on the Technical/Preliminary Engineering Documents
2. Participate in the review and provide comments to the preliminary EIR/EIS sections
3. Attend and advocate for Morgan Hill at regional transportation meetings

SCOPE 2

1. Provide regional transportation policy and advocacy support with regional transportation agencies such as VTA, MTC, ABAG One Bay Area, Caltrain, CTC and Caltrans and other relevant regional bodies.

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

Apex Strategies hourly costs will be reimbursed at \$275 per hour

\$5,000 is identified for mileage and parking expenses.

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

It is expected that Apex Strategies will perform work as directed by City of Morgan Hill and provide feedback as requested.

CONSULTANT AGREEMENT DAVID J. POWERS & ASSOCIATES

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

1. **City Authority.** This Agreement is entered into pursuant to 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 December 31, 2018 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be review of High-Speed Rail San Jose-Merced EIR/EIS Project Documents as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$64,810.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Sixty Four Thousand Eight Hundred Ten 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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.
 - 4.2. **Billing.** CONSULTANT 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 CONSULTANT. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to

CONSULTANT. The CITY Manager of CITY is authorized to terminate this AGREEMENT on behalf of CITY.

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

7. **Insurance Requirements.** CONSULTANT shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of CONSULTANT, including its subcontractors, 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. CONSULTANT further understands that the CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to CONSULTANT, at any time as deemed necessary to protect the interests of the CITY.

7.1. **Insurance Types and Amounts.**

7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

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Address of CONSULTANT is as follows:

David J. Powers & Associates
1871 The Alameda, Suite 200
San Jose, CA 95126

Address of CITY is as follows:

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

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

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

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

20.5. Interpretation. This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly

understood and agreed that the obligation of the CONSULTANT to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

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

22. **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.

23. **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.

24. **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.

25. **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 CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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26. **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

Steve Rymer

Print Name

Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

DAVID J. POWERS & ASSOCIATES

Interim City Attorney

By:

Gary M. Baum

Title: _____

Print Name

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: _____

Date: _____

By:

Title: _____

Print Name and Title of Signer.

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

Date: _____

**EXHIBIT A
SCOPE OF SERVICES**

DJP&A will provide the following services associated with the High Speed Rail project segment from San Jose to Merced:

1. Review and provide comments on the Technical/Preliminary Engineering Documents
2. Review and provide comments to the preliminary EIR/EIS sections
3. Manage and review sub-consultant work

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

DJP&A Costs to Review Documents and Provide Comments

In-House Hours (120 hours) \$21,800

80 hours * \$205/hr, 40 hours * \$135/hr

Subconsultants*

Illingworth & Rodkin, Inc. (60 hours * \$185/hr) \$ 12,765

Hexagon (40 hours * \$265/hr) \$ 12,190

Holman and Associates (20 hours * \$150/hr) \$ 3,450

Cornerstone (12 hours * \$225/hr) \$ 3,105

WRA (24 hours * \$187.5/hr) \$ 5,175

Schaaf and Wheeler (24 hours * \$229/hr) \$ 6,325

Total Estimated Budget \$64,810

Note: * Subconsultants expenses are cost plus 15%.

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

It is expected that DJP&A will perform work as directed by City of Morgan Hill and provide feedback as requested pending the different technical documents as the complexity of the documents and corresponding review time is not known at this time.

AGENDA BUDGET SCORECARD

FISCAL YEAR 2015-16

ADJUSTMENT #

055

FUND:

DEPARTMENT:

OBJECT:

010	General Fund
2100	City Manager
42231	CONTRACT SERVICES

AGENDA DATE:

AGENDA ITEM TITLE:

06/01/16
California High Speed Rail Authority Reimbursement Agreement

	07/01/15 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	APPROPRI- ATIONS	06/30/16 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	15,016,060	33,733,525	34,606,402	14,143,183
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	177,100	742,809	(565,709)
RECOMMENDED ACTION	-	130,935	130,935	-
RESULT OF RECOMMENDED ACTION	<u>15,016,060</u>	<u>34,041,560</u>	<u>35,480,146</u>	<u>13,577,474</u>

AGENDA BUDGET SCORECARD

FISCAL YEAR 2015-16

ADJUSTMENT #

056

FUND:

DEPARTMENT:

OBJECT:

207 General Plan Update Fund

5170 General Plan Update

42231 CONTRACT SERVICES

AGENDA DATE:

AGENDA ITEM TITLE:

06/01/16

Consultant Agreement with Apex Strategies

	07/01/15 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	APPROPRI- ATIONS	06/30/16 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	902,950	902,088	901,073	903,965
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	143,189	(143,189)
RECOMMENDED ACTION	-	-	31,000	(31,000)
RESULT OF RECOMMENDED ACTION	<u>902,950</u>	<u>902,088</u>	<u>1,075,262</u>	<u>729,776</u>

STATE OF CALIFORNIA
STANDARD AGREEMENT

STD 213 (Rev 06/03)

Agreement Number
 HSR1_-xx
 Registration Number

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME	California High-Speed Rail Authority
CONTRACTOR'S NAME	City of Morgan Hill
2. The term of this Agreement is: June 1, 2016 through June 30, 2018
3. The maximum amount of this Agreement is: \$ \$409,641.22
 Four Hundred and Nine Thousand, Six Hundred and Forty-One Dollars and Twenty-Two Cents
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	3 pages
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit C – General Terms and Conditions	3 pages
Exhibit D – Special Terms and Conditions	3 pages
Exhibit E – Supplemental Terms And Conditions For Contracts Using Federal Funds	9 pages
Attachment 1 –Budget	1 page
Attachment 2 –Board Resolution	2 pages

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)		
City of Morgan Hill		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
Steve Rymer, City Manager		
ADDRESS		
17575 Peak Ave. Morgan Hill, CA 95037		
STATE OF CALIFORNIA		
AGENCY NAME		
California High-Speed Rail Authority		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
Scott Jarvis, Chief Engineer		
ADDRESS		
770 L Street, Suite 620 MS 2 Sacramento, CA 95814		

☒ Exempt per: Public Utilities Code Section 185036

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority - Reimbursement Agreement Amendment)

**EXHIBIT A
SCOPE OF WORK****1. BACKGROUND AND PURPOSE**

- A. The California High-Speed Rail Authority (Authority) is responsible for the planning, design, construction, and operation of the first high-speed rail system in the nation (Project). The California high-speed rail system will connect the mega-regions of the State, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. By 2029, high-speed rail will run from San Francisco to the Los Angeles basin in under three hours at speeds of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a statewide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the State's 21st century transportation needs.
- B. This Agreement (Agreement) is between the Authority, an agency of the State of California, and the City of Morgan Hill (Contractor), a California Municipal Corporation.
- C. To facilitate the construction of the high-speed rail system, the Authority requires Contractor to perform the work as described in Section 2 of this Exhibit (Work).
- D. All inquiries regarding this Agreement will be directed to the project representatives identified below:

AUTHORITY	CONTRACTOR
Contract Manager: Guy Preston	Project Manager: Edith Ramirez
Address: 100 Paseo de San Antonio, Suite 206 San Jose, CA 95113	Address: 17575 Peak Ave. Morgan Hill, CA 95037
Phone: 408-277-1091	Phone: 408-310-4633
Fax: n/a	Fax: 408-779-7236
Email: Guy.Preston@hsr.ca.gov	Email: Edith.Ramirez@morganhill.ca.gov

The Contract Managers may be changed without amendment with written notification.

2. SCOPE OF WORK, TASKS, DELIVERABLES, AND SCHEDULE

- A. The Authority shall provide the Contractor a Notice to Proceed for the Work under this Agreement from the Authority's Contract Manager, a proposed alignment, segment number(s) and any other information about the Project segment(s) to assist the Contractor in the investigation of its existing facilities for conflicts with the Project's proposed alignment. The Notice to Proceed may specify work based on Tasks as outlined below.
- B. Contractor will be reimbursed for its actual, direct, and necessary expenses in its performance of the following:

	Task	Description	Deliverable	Schedule
1.	Technical/Engineering	Staff time to review	Comments on	Through December

**EXHIBIT A
SCOPE OF WORK**

	Task	Description	Deliverable	Schedule
	Review Support	technical/preliminary engineering documents.	technical/preliminary engineering documents.	31, 2017
2.	Technical/Engineering Review Support	Staff time for identifying existing conflicts.	Report identifying any conflicts.	Through December 31, 2017
3.	Technical/Engineering Review Support	Staff time for coordination with the Authority and its representatives.	Participation in coordination activities.	Through December 31, 2017
4.	Agreement Development	Staff time for cooperative agreement review.	Participation in meetings and review of draft contract and other documents.	Through December 31, 2017
5.	Agreement Development	Staff time for task order/utility agreement template review.	Participation in meetings and review of draft contract and other documents.	Through December 31, 2017
6.	Agreement Development	Staff time for right-of-way transfer agreement review.	Participation in meetings and review of draft contract and other documents.	Through July 31, 2018
7.	Agreement Development	Staff time for grade separation agreement review.	Participation in meetings and review of draft contract and other documents.	Through December 31, 2017
8.	Agreement Development	Staff time for ownership and maintenance agreement review.	Participation in meetings and review of draft contract and other documents.	Through July 31, 2018
9.	Agreement Development	Attorneytime for legal review.	Legal review of documents and meeting with Authority attorneys.	Through July 31, 2018
10.	Agreement Development	Staff and attorney time for preparation of board of directors materials and reports.	Materials and reports for board of directors.	Through July 31, 2018
11.	Right-of-way Support	Staff time for property rights research.	Reports detailing property rights.	December 1, 2017 through expiration or termination of the Agreement
12.	Right-of-way Support	Staff and attorney time for abandonment, vacation, or legal transfer of right-of-way.	Abandonment, vacation, or legal transfer of right-of-way and supporting documentation.	July 1, 2018 through expiration or termination of the Agreement.
13.	Right-of-way Support	Staff and attorney time for preparation of board of directors materials and reports.	Presentations to board of directors, if any.	July 1, 2018 through expiration or termination of the Agreement.

**EXHIBIT A
SCOPE OF WORK**

Contractor staff and attorney time will be reimbursed at the hourly rates set forth in the Budget. Contractor acknowledges that “staff time” does not include time for subcontractors, vendors, and outside counsel. Subcontractor, vendors, and attorney time shall only be reimbursed if specifically included above and in the Budget.

- C. Additionally, Contractor will be reimbursed the actual costs incurred for (i) audited fringe and overhead rates, and (ii) other direct costs limited to (a) travel; (b) approved subcontractors; and (c) vendors.
- D. Contractor acknowledges the following costs shall not be reimbursed: (i) reviewing and/or providing comments on environmental documents (including, but not limited to, environmental impact statements and environmental impact reports); (ii) attending meetings, unless at the request of the Authority; (iii) acquisition of real property, which shall be handled through the property acquisition process; (iv) coordination for design and construction activities, which shall be handled through task orders/utility agreements; (v) preliminary and/or final designs, which shall be handled through task orders/utility agreements; (vi) construction, materials, or inspection, which shall be handled through task orders/utility agreement; and (vii) maintenance, which shall be handled through the ownership and maintenance agreement or construction and maintenance agreement, as appropriate.

3. SCHEDULE OF SERVICES

Performance of the work described in Section 2 shall commence upon receipt of Notice to Proceed. Unless terminated as provided herein, the Work shall continue until earlier of (i) completion of the Work or (ii) expiration of the term.

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. FUNDING REQUIREMENTS

- A. This Agreement shall be of no further force and effect if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the Work identified in Exhibit A. In this event, the Authority shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provision of this Agreement.
- B. After execution or commencement of this Agreement, if funding for any fiscal year is reduced or deleted by the Budget Act for purposes of the Work, the Authority shall have the option to either: 1) cancel this Agreement with no further liability occurring to the Authority; or 2) offer an Agreement amendment to the Contractor to reflect the reduced amount.
- C. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this Project. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

2. COMPENSATION, INVOICING, AND PAYMENT

- A. The maximum amount of this Agreement is an estimate, and the actual amount of work requested by the Authority may be less. No payment shall be made in advance of services rendered.
- B. Contractor shall not be entitled to payment for work performed prior to receipt of Notice to Proceed from the Authority's Contract Manager. No Work shall begin before that time.

Invoices shall include the Agreement Number, date prepared, and billing period, actual hours worked (by individual name and position), actual costs for salaries (by position), and fringe, overhead and other direct costs. Contractor shall not be paid for claimed costs or expenses not identified on the Attachment 1 –Budget.

- C. For services satisfactorily rendered and approved by the Contract Manager and upon receipt and approval of the invoices, the Authority shall reimburse the Contractor for actual costs incurred. Provide 1 original and 2 copies, as set forth below, of the invoice for payment. Invoices shall be submitted no more than monthly in arrears to:

(1 original and 1 copy)
Financial Operations Section
California High-Speed Rail Authority
770 L Street, Suite 620 MS 3
Sacramento, CA 95814

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

AND

(1 copy)

Guy Preston

California High-Speed Rail Authority

100 Paseo de San Antonio, Suite 206

San Jose, CA 95113

- D. The following certification shall be included on each invoice and signed by the authorized official of the Contractor:

“I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, included but not limited to a Government Entity contract, subcontract, or other procurement method.”

- E. The Authority will accept computer generated or electronically transmitted invoices. The date of “invoice receipt” shall be the date the Authority receives the paper copy.
- F. Payments shall be made to the Contractor for undisputed invoices. If the Authority disputes an invoice it shall notify the Contractor within 15 working days of receipt of the invoice and pay undisputed portions of the invoice in accordance with the Agreement. The invoice may be disputed if additional evidence is required to determine the invoice’s validity, deliverables for the billing period have not been received and approved, inaccuracies of the invoice, or does not otherwise comply with the terms of this Agreement.
- G. Positions listed in the Budget, included as Attachment 1, may be changed without an amendment to the Agreement. A request for change must be in writing, on Contractor’s letterhead, and identify the position and rate that is added or removed. There shall be no change in the positions without written approval by the Authority’s Contract Manager.
- H. There shall be no change in the rate of position without prior written approval by the Authority’s Contract Manager. A request for change must be in writing, on Contractor’s letterhead and identify the reason for rate change.

3. COST PRINCIPLES

Contractor’s performance shall be governed by and in compliance with the following administrative and cost principles:

- A. If Contractor is governmental entity, then Contractor shall comply with Title 49 Code of Federal Regulations, Part 18, Uniform Administrative Requirements for Grants and Cooperative

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

Agreements to State and Local Governments and OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.

- B. If Contractor is a for-profit organization, then Contractor shall comply with Title 49 Code of Federal Regulations, Part 19, Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations (49 C.F.R. Part 19) and Title 48 Code of Federal Regulations, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*
- C. If Contractor is a non-profit organization, then Contractor shall comply with 49 C.F.R. Part 19 and OMB Circular A-122, Cost Principles for Nonprofit Organizations.
- D. If Contractor is an educational institution, then Contractor shall comply with 49 C.F.R. Part 19 and OMB Circular A-21, Cost Principles for Education Institutions.
- E. Any subcontractin excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this clause.

The identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein.

If any costs for which payment has been made to the Contractor are determined by subsequent audit to be unallowable under the applicable administrative and cost principles referenced above, then the unallowable costs are subject to repayment by the Contractor to the Authority.

4. TRAVEL

- A. The Contractor shall be reimbursed for approved travel and per diem expenses using the same rates provided to non-represented state employees. The Contractor must pay for travel in excess of these rates. The Contractor may obtain current rates at the following website:
<http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
- B. Travel expenses are computed from the Contractor's approved office location. Travel to the Contractor's approved office from other locations is not reimbursed under this Agreement unless specifically authorized.
- C. The Contractor must retain documentation of travel expense in its financial records. The documentation must be listed by trip and include dates and times for departure and return.

5. CONTINGENT FEE

The Contractor certifies, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, with the exception of bona fide employees or bona

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this certification, the Authority has the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

EXHIBIT C
GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS

1. GENERAL TERMS AND CONDITIONS

A. APPROVAL. This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

B. AMENDMENT. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

C. ASSIGNMENT. This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

D. AUDIT. Contractor agrees that the Authority, the Department of General Services, the State Auditor, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7.)

E. INDEMNIFICATION. Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

F. DISPUTES. Contractor shall continue with the responsibilities under this Agreement during any dispute.

G. TERMINATION FOR CAUSE. The Authority may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the Authority may proceed with the work in any manner deemed proper by the Authority. All costs to the Authority shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

H. INDEPENDENT CONTRACTOR. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

EXHIBIT C

GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS

I. NON-DISCRIMINATION CLAUSE. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

J. TIMELINESS. Time is of the essence in this Agreement.

K. GOVERNING LAW. This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

L. UNENFORCEABLE PROVISION. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

2. CONTRACTOR CERTIFICATIONS

A. STATEMENT OF COMPLIANCE. Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103.)

B. DRUG-FREE WORKPLACE REQUIREMENTS. Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- i. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- ii. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;

EXHIBIT C
GENERAL TERMS AND CONDITIONS AND CONTRACTOR CERTIFICATIONS

- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and
- 4) penalties that may be imposed upon employees for drug abuse violations.

iii. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

EXHIBIT D SPECIAL TERMS AND CONDITIONS

1. EARLY TERMINATION

- A. This Agreement may be terminated at any time by mutual agreement of the parties in writing.
- B. Termination for Convenience. The Authority reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to the Contractor if terminated for the convenience of the Authority.
- C. Notice of Termination for Subcontractors, Suppliers, and Service Providers. The Contractor shall notify any subcontractor and service or supply vendor providing services under this Agreement of the early termination date of this Agreement. Failure to notify any subcontractor and service or supply vendor shall result in the Contractor being liable for the termination costs incurred by any subcontractor and service or supply vendor for work performed under this Agreement, except those specifically agreed to by the Authority in writing.
- D. Contractor Claims After Early Termination. The Contractor shall release the Authority from any and all further claims for services performed arising out of this Agreement or its early termination, upon acceptance by the Contractor of payment for costs actually incurred for work performed prior to receipt of the notice of termination and actual costs incurred as a result of termination.

2. PURCHASE OF EQUIPMENT

No equipment is approved for purchase.

3. SUBCONTRACTING

- A. Upon prior approval of the Authority, Contractor may subcontract a portion of the Work. Attachment 1 –Budget shall identify the rates for any approved subcontractor. Any substitution of a subcontractor shall be approved in writing by the Authority's Contract Manager prior to such substituted subcontractor performing work. Unless specifically noted otherwise, any subcontract in excess of \$25,000 shall contain all the applicable provisions stipulated in this Agreement.
- B. This Agreement shall not create a contractual relationship between the Authority and any approved subcontractor. A subcontract shall not relieve the Contractor of performance of its duties hereunder. Contractor shall be responsible for the any and all acts and omissions of its subcontractors and their employees.
- C. Contractor's obligation to pay its subcontractors is independent of the Authority's obligation to pay the Contractor.

EXHIBIT D SPECIAL TERMS AND CONDITIONS

4. OWNERSHIP OF DATA

- A. Upon completion of all work under this Agreement, all intellectual property rights, ownership, and title to all reports, documents, plans, specifications, electronic documents, and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Contractor shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- B. All calculations, drawings and specifications, whether in hard copy, and electronic or machine readable form, are intended for one-time use in the construction of the Project.
- C. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with the modification or misuse by the Authority of any data provided by the Contractor under this Agreement. The Contractor is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this Project, or for the completion of this Project by others, except for such use as may be authorized, in writing, by the Contractor.
- D. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

5. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Contractor in order to carry out this Agreement, shall be protected by the Contractor from unauthorized use and disclosure.
- B. The Authority and the Contractor agree to protect designated confidential or privileged information intended by the Authority and Contractor to remain so protected, while facilitating the sharing of information as part of both parties' efforts. Use of data files constitutes agreement on the part of the Contractor to maintain confidentiality if exempt under the California Public Records Act, subject to Government Code Section 6254.5(e). Confidential information shall not be shared with third parties without consultation and approval from the Authority.
- C. The Contractor shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Contractor's own personnel, including subcontractors, affiliates, and vendors, involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative Committee.
- D. The Contractor shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.

EXHIBIT D SPECIAL TERMS AND CONDITIONS

- E. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of the Confidentiality of Data clause.

6. PUBLIC RECORDS; CONFLICTS OF INTEREST

- A. This Agreement shall not limit nor infringe on either parties duty to comply with the California Public Records Act, Government Code Section 6250 *et seq.*
- B. The Contractor and its employees, and all its subcontractors and employees, shall comply with the Authority's Organizational Conflict of Interest Policy.
- C. Any subcontractin excess of \$25,000, entered into as a result of this Agreement, shall contain all of the provisions of this clause.

7. STOP WORK

- A. The Authority's Contract Manager may, at any time, by written notice to the Contractor require the Contractor to stop all or any part of the work tasks in this Agreement.
- B. Upon receipt of such stop work order, the Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- C. The Contractor shall resume the stopped work only upon receipt of written instruction from the Authority's Contract Managercanceling the stop work order. An equitable adjustment shall be made by the Authority based upon a written request by the Contractor for an equitable adjustment. Such adjustment request must be made by the Contractor within 30 days from the date of receipt of the stop work notice.

8. SETTLEMENT OF DISPUTES

The parties agree to use their best efforts to resolve disputes concerning a question of fact arising under this Agreement in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

9. HEADINGS

The headings appearing in this contract have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

10. WAIVER

Failure to enforce any provision of this Agreement shall not operate as a waiver of that or any other provision or any subsequent breach of this Agreement.

EXHIBIT E

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

All terms in Exhibit E must be included in all subcontracts and lower-tier subcontracts regardless of amount expended, unless otherwise noted.

1. FEDERAL REQUIREMENTS

The Contractor understands that the Authority has received Federal funding from the Federal Rail Administration (FRA) for the Project and acknowledges that it is required to comply with all applicable federal laws, regulations, policies and related administrative practices, whether or not they are specifically referenced herein. The Contractor acknowledges that federal laws, regulations, policies, and related administrative practices may change and that such changed requirements will apply to the Project. The Contractor shall ensure compliance by its subcontractors and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies and related administrative practices, whether or not specifically referenced herein.

Notwithstanding anything to the contrary contained in this Agreement, all FRA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of FRA requirements.

2. COMPLIANCE WITH FEDERAL REQUIREMENTS

The Contractor's failure to comply with Federal Requirements shall constitute a breach of this Agreement.

3. FEDERAL LOBBYING ACTIVITIES CERTIFICATION

The Contractor certifies, to the best of its knowledge and belief, that:

- A. No state or federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a member of the Legislature or Congress in connection with the awarding of any State or Federal agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal agreement, 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 federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. The Contractor shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

4. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 2 C.F.R. 1200. As such, the Contractor is required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180.

To the extent required by the aforementioned U.S. DOT regulations and U.S. OMB guidance, the Contractor must verify that each subcontractor is not excluded or disqualified in accordance with said regulations by reviewing the "Excluded Parties Listing System" at <http://www.sam.gov/portal/public/SAM/>. The Contractor shall obtain appropriate certifications from each such subcontractor and provide such certifications to the Authority.

The Contractor's signature affixed herein shall also constitute a certification under penalty of perjury under the laws of the State of California that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Have not had one or more public transactions (federal, state, and local) terminated within the preceding three years for cause or default;
3. Has not been convicted within the preceding three years of any of the offenses listed in Title 2 Code of Federal Regulations Section 180.800(a) or had a civil judgment rendered against it for one of those offenses within that time period; and

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

4. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses listed in Title 2 Code of Federal Regulations Section 180.800.

Should the Contractor or any subcontractor become excluded or disqualified as defined in this section during the life of the Agreement, the Contractor shall immediately inform the Authority of this exclusion or disqualification. The Contractor shall include a term or condition in the contract documents for each lower-tier covered transaction, assuring that, to the extent required by the U.S. DOT regulations and U.S. OMB guidance, each subcontractor will review the "Excluded Parties Listing System," will obtain certifications from lower-tier subcontractors, and will include a similar term or condition in each of its lower-tier covered transactions.

5. SITE VISITS

The Contractor acknowledges that FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and for other reasons. If any site visit is made by FRA on the premises of the Contractor or any of its subcontractors under this Agreement, the Contractor shall provide and shall require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Contractor or subcontractor.

6. SAFETY OVERSIGHT

To the extent applicable, the Contractor shall comply with any Federal regulations, laws, or policies and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

7. ENVIRONMENTAL PROTECTION

The Contractor and any subcontractor under this Agreement shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

- A. **Clean Air.** The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor shall report each violation to the Authority, and acknowledges that the Authority shall, in turn, report each violation as required to assure notification to the FRA and the appropriate Environmental Protection Agency Regional Office.
- B. **Clean Water.** The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor shall report each violation to the Authority, and acknowledges that the Authority

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

shall, in turn, report each violation as required to assure notification to the FRA and the appropriate EPA Regional Office.

- C. **Energy Conservation.** The Contractor will comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6421 *et seq.*)
- D. **Agreement Not To Use Violating Facilities.** The Contractor will not to use any facility to perform work hereunder that is listed on the List of Violating Facilities maintained by the EPA. The Contractor shall promptly notify the Authority if the Contractor or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware.
- E. **Environmental Protection.** The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*
- F. **Incorporation of Provisions.** The Contractor shall include the above provisions (A) through (F) in every subcontract hereunder exceeding \$50,000 financed in whole or in part with federal assistance provided by the FRA.

8. CIVIL RIGHTS

The following requirements apply to this Agreement:

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132; and 49 U.S.C. § 306, the Contractor will not discriminate against any individual because of race, color, religion, national origin, sex, age or disability in any activities leading up to or in performance of this Agreement. In addition, the Contractor will comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Agreement:
 - i. Race, Color, Religion, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor will comply with all applicable equal opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," including 41 C.F.R 60 *et seq.* (which implements Executive Order No. 11246, "Equal

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor will comply with any implementing requirements FRA may issue.

- ii. Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor will refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor will comply with any implementing requirements FRA may issue.
- iii. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R Part 1630, pertaining to employment of persons with disabilities. Further, in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor will comply with the requirements of U.S. Department of Transportation, “Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 27, pertaining to persons with disabilities. In addition, the Contractor will comply with any implementing requirements FRA may issue.

The Contractor will not to discriminate on the basis of drug abuse, in accordance with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, alcohol abuse, in accordance with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, and to comply with Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records. In addition, the Contractor will comply with applicable federal implementing regulations and other implementing requirements that FRA may issue.

The Contractor also will include these requirements in each subcontract financed in whole or in part with federal assistance provided by FRA, modified only if necessary to identify the affected parties.

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

9. ARRA FUNDED PROJECT

Funding for this Agreement has been provided through the America Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All Contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the Agreement if any Contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.

10. ENFORCEABILITY

If the Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds allowing an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

11. PROHIBITION ON USE OF ARRA FUNDS

Contractor will in accordance with ARRA Section 1604 that none of the funds made available under this Agreement may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

12. ACCESS AND INSPECTION OF RECORDS

- A. In accordance with ARRA Sections 902, 1514, and 1515, the Contractor shall permit the State of California, the United States Comptroller General, the United States Department of Transportation Secretary, or their representatives or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to:
 - i. Access and reproduce any books, documents, papers and records of the Contractor that directly pertain to, and involve transactions relating to, this Agreement for the purposes of making audits, examinations, excerpts and transcriptions; and
 - ii. Interview any officer or employee of the Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by ARRA.
- B. Pursuant to Title 49 Code of Federal Regulation Section 18.26(i)(11), Title 49 Code of Federal Regulations Section 19.26, or OMB Circular A-133 Compliance Supplement, (whichever applicable), the Contractor will maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case the Contractor will maintain same until the Authority, the FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. The Contractor

EXHIBIT E
SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS

shall notify the Authority not less than six months prior to disposal of any books, records, accounts and reports required under this Agreement.

- C. The Contractor will comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, Title 5 United States Code Section 552(a).

The Contractor shall include this provision in all lower-tier subcontracts.

13. WHISTLEBLOWER PROTECTION

Contractor its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal contractors, including the state, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- A. Gross mismanagement of a contract relating to ARRA funds;
- B. Gross waste of ARRA funds;
- C. A substantial and specific danger to the public health or safety related to the implementation or use of ARRA funds;
- D. An abuse of authority related to implementation or use of ARRA funds; or
- E. A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contractor) awarded or issued relating to ARRA funds.

Contractor and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

14. FRAUD AND FALSE CLAIMS ACT

Contractor shall promptly notify the Authority and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

The Contractor will include the above paragraphs in each subcontract financed in whole or in part with Federal assistance provided by the FRA. It is further agreed that the paragraphs shall not be modified, except to identify the subcontractor who will be subject to the provisions.

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS****15. REPORTING REQUIREMENTS**

Contractor will, if requested by the Authority in writing, to provide the Authority with the following information:

- A. The total amount of funds received by the Contractor during the time period defined in the Authority's request;
- B. The amount of funds actually expended or obligated during the time period requested;
- C. A detailed list of all projects or activities for which funds were expended or obligated, including:

The name of the project or activity;

- i. A description of the project activity;
- ii. An evaluation of the completion status of the project or activity; and
- iii. An estimate of the number of jobs created and/or retained by the project or activity.

- D. For any contracts or subcontracts equal to or greater than \$25,000:

- i. The name of the entity receiving the contract;
- ii. The amount of the contract;
- iii. The transaction type;
- iv. The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number, if known;
- v. The location of the entity receiving the contract;
- vi. The primary location of the contract, including city, state, congressional district, and county;
- vii. The DUNS number, or name and zip code for the entity headquarters, if known;
- viii. A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
- ix. The names and total compensation of the five most highly compensated officers of the company if received:
 - 80% or more of its annual gross revenues in Federal awards;
 - \$25,000,000 or more in annual gross revenue from Federal awards and;
 - If the public does not have access to information about the compensation of senior executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of Internal Revenue Code of 1986;

- E. Any other information reasonably requested by the State of California or required by state or federal law or regulation.

EXHIBIT E**SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL FUNDS**

Standard data elements and federal instruction for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalRegister.gov. The additional requirements will be added to this Agreement by amendment.

16. REPRINTS OF PUBLICATIONS

Whenever an employee of a Contractor-Related Entity writes an article regarding the Project or otherwise resulting from work under this Agreement that is published in a scientific, technical, or professional journal or publication, the Contractor shall ensure that the Authority is sent two reprints of the publication, clearly referenced with the appropriate identifying information.

An acknowledgment of FRA support and a disclaimer must appear in any publication, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

“This material is based upon work supported by the Federal Railroad Administration under a grant/cooperative agreement FR-HSR-0009-10-01-05, dated December 5, 2012. Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT.”

17. LABOR PROVISIONS

49 U.S.C. 24405(b) provides that persons conducting rail operations over rail infrastructure constructed or improved in whole or in part with funds provided through this Agreement shall be considered a “rail carrier,” as defined by 49 U.S.C. 10102(5), for the purposes of Title 49, U.S.C., and any other statute that adopts that definition or in which that definition applies, including the Railroad Retirement Act of 1974 (45 U.S.C. 231 *et seq.*), the Railway Labor Act (43 U.S.C. 151 *et seq.*), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*) To the extent required by 49 U.S.C. 24405(b) and other laws referenced above, the Contractor shall reflect these provisions in its agreements funded in whole or in part by this Agreement with entities operating rail services over such rail infrastructure.

18. LABOR PROTECTIVE ARRANGEMENTS

The Contractor will comply with the applicable protective arrangements established under Section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), 45 U.S.C. 836. with respect to employees affected by actions taken in connection with the Project. The Contractor also will include the applicable protective arrangements established by the U.S. DOL under 45 U.S.C. 836 in its arrangements with entities operating rail services over rail infrastructure constructed as part of this Agreement.

Attachment 1 - Budget

CITY OF MORGAN HILL BUDGET

Any invoice submitted by Contractor will identify line item costs and corresponding task number

Personal Services		Fringe Benefits	Overhead	Total Rate	Travel Expenses	Total
Position and Title	\$/Hr					
Apex Strategies (Consultant)	\$ 275.00			\$ 275.00	\$7,500	
Public Works Director	\$ 91.67	\$ 46.75	\$ 20.76	\$ 159.18		
Senior Civil Engineer	\$ 69.82	\$ 35.61	\$ 15.81	\$ 121.24		
Associate Engineer	\$ 61.27	\$ 31.25	\$ 13.88	\$ 106.39		
Associate Planner	\$ 51.12	\$ 26.07	\$ 11.58	\$ 88.76		
Environmental Programs Coordinator	\$ 47.49	\$ 24.22	\$ 10.76	\$ 82.46		
Planning Director	\$ 91.67	\$ 46.75	\$ 20.76	\$ 159.18		
Senior Planner	\$ 60.21	\$ 30.71	\$ 13.64	\$ 104.56		
DJP&A (Consultant Services)	\$ 205.00			\$ 205.00	\$5,000	
DJP&A (Consultant Services)	\$ 135.00			\$ 135.00	\$5,000	
Illingworth & Rodkin Inc. (Consultant Services)	\$ 185.00			\$ 185.00		
Hexagon (Consultant Services)	\$ 265.00			\$ 265.00	\$5,000	
Holman and Associates (Consultant Services)	\$ 150.00			\$ 150.00		
Cornerstone (Consultant Services)	\$ 225.00			\$ 225.00		
WRA (Consultant Services)	\$ 187.00			\$ 187.00		
Scaaf and Wheeler (Consultant Services)	\$ 229.00			\$ 229.00		
Engineering Aide II	\$ 40.98	\$ 20.90	\$ 9.28	\$ 71.16		
Deputy Director for Utilities Services	\$ 79.11	\$ 40.35	\$ 17.92	\$ 137.37		
City Manager	\$ 109.62	\$ 55.90	\$ 24.83	\$ 190.35		
Assistant City Manager	\$ 96.24	\$ 49.08	\$ 21.80	\$ 167.12		
Economic Development Director	\$ 91.67	\$ 46.75	\$ 20.76	\$ 159.18		
City Attorney	\$ 103.37	\$ 52.72	\$ 23.41	\$ 179.49		
Outside Counsel	\$ 275.00	\$ 140.25	\$ 62.29	\$ 477.54	\$2,500	
Council Services & Records Manager	\$ 52.96	\$ 27.01	\$ 11.99	\$ 91.96		
Deputy City Attorney	\$ 52.96	\$ 27.01	\$ 11.99	\$ 91.96		
Risk Manager	\$ 51.12	\$ 26.07	\$ 11.58	\$ 88.77		
Paralegal	\$ 48.00	\$ 24.48	\$ 10.87	\$ 83.36		
Communications and Engagement Manager	\$ 64.73	\$ 33.01	\$ 14.66	\$ 112.40		
Utilities System Manager	\$ 64.73	\$ 33.01	\$ 14.66	\$ 112.40		
Total Costs				\$384,641.22	\$25,000.00	
Budget Total						\$409,641.22



CONNECTING AND TRANSFORMING CALIFORNIA

Ben Tripousis, Northern California Regional Director

Morgan Hill City Council

Wednesday, June 1, 2016

Morgan Hill, California

CONNECTING CALIFORNIA

8.b



- Phase I:
 - » 520 Miles
 - » San Francisco to Los Angeles/Anaheim
- Phase II:
 - » Extends 300 Miles
 - » Connections to Sacramento and San Diego

CONSTRUCTION IS UNDERWAY

- Construction Package 1: 29 Miles
 - » DB: Tutor Perini/Zachry/Parsons
 - » PCM: Wong+Harris
- Construction Package 2-3: 65 Miles
 - » DB: Dragados/Flatiron
 - » PCM: Arcadis
- Construction Package 4: 22 Miles
 - » DB: California Rail Builders
 - » PCM: HNTB

8.b

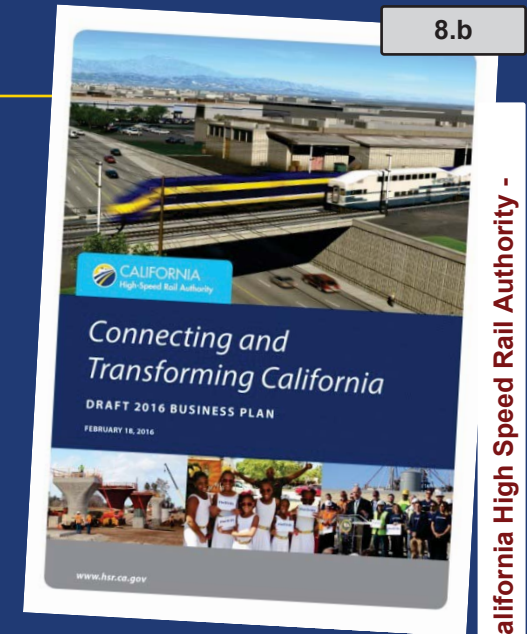


Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

Packet Pg. 200

DRAFT 2016 BUSINESS PLAN

- Required by PUC Section 185033
- Includes:
 - » Summary of Progress Over the Last Two Years
 - » Approach to Deliver the System Using Existing Funds
 - » Updated Ridership Forecasts and Cost Estimates
 - » Describes Next Major Milestones
- Three Main Objectives
 - » Initiate High-Speed Rail Service as Soon as Possible
 - » Make Strategic, Concurrent Investments that Connect State, Regional and Local Rail Systems
 - » Be Ready When Funding Becomes Available



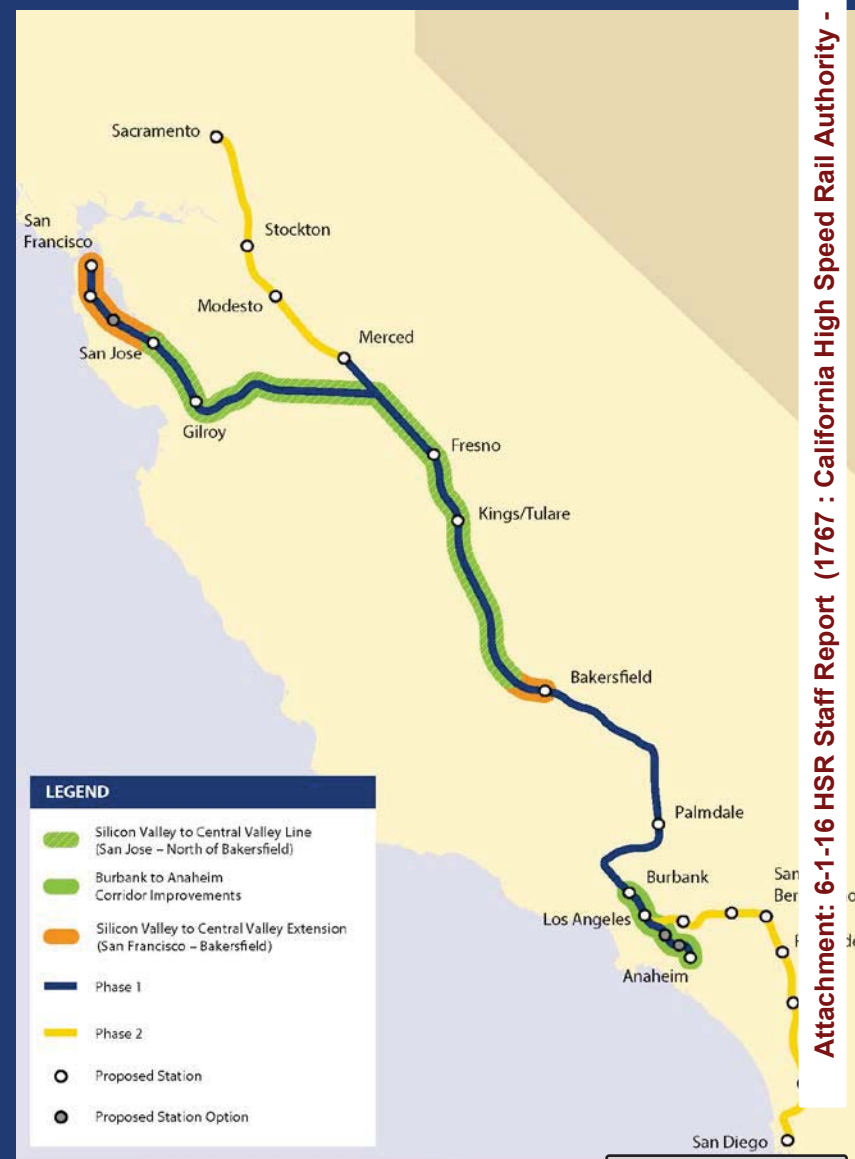
8.b

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

DRAFT 2016 BUSINESS PLAN: Key Highlights

8.b

- Capital Cost Reduction:
 - » \$67.6 Billion (2014) to \$64.2 Billion
- Phase 1 (San Francisco-LA/Anaheim)
 - » Operational by 2029
- Silicon Valley to Central Valley Line
 - » Operational by 2025
 - » San Jose-North of Bakersfield
 - » \$20.7 Billion – Fully Funded
- Burbank to Anaheim Corridor Improvements
 - » Together with our Partners
 - » Invest \$4 Billion
- Extension to San Francisco and Bakersfield
 - » Additional \$2.9 Billion
 - » Operational by 2025

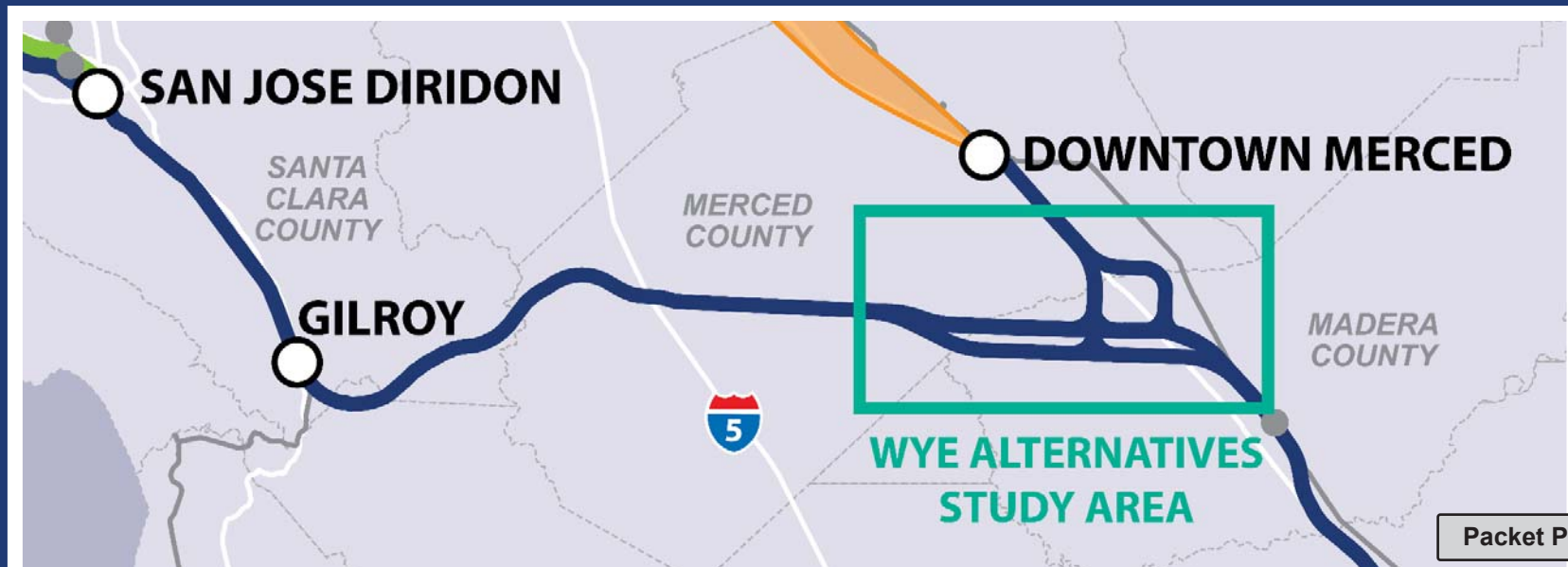


Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

SAN JOSE TO MERCED PROJECT SECTION

8.b

- 84-Mile Corridor
- Central Valley Wye Portion Being Studied Separately
- Primarily Follows Monterey Highway, Highway 101 and Highway 152 through the Pacheco Pass
- Stations Being Studied:
 - » San Jose (Diridon)
 - » Gilroy



Packet Pg. 203

SAN JOSE TO MERCED WYE UPDATE

8.b

- Summer 2011
 - » Presented Supplemental Alternatives Analysis Reports to Board
 - » Board directs that wye decision be made as part of San Jose-Merced section rather than Merced-Fresno section
 - » Directed to engage stakeholders to refine wye alignments
- Fall 2011 – Spring 2012
 - » Engaged public and agency stakeholders to evaluate options
 - » *Hybrid Alignment* selected for Merced to Fresno
 - » Bay Area to Central Valley Partially Revised Final Program EIR Certified
- Summer – Fall 2012
 - » Conduct public information meetings and gather feedback
 - » Prepare Supplemental Alternatives Analysis

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

WHERE WE ARE: PROJECT HISTORY

8.b

Alignments as of Supplemental Alternatives Analysis - July 2011



WHERE WE ARE

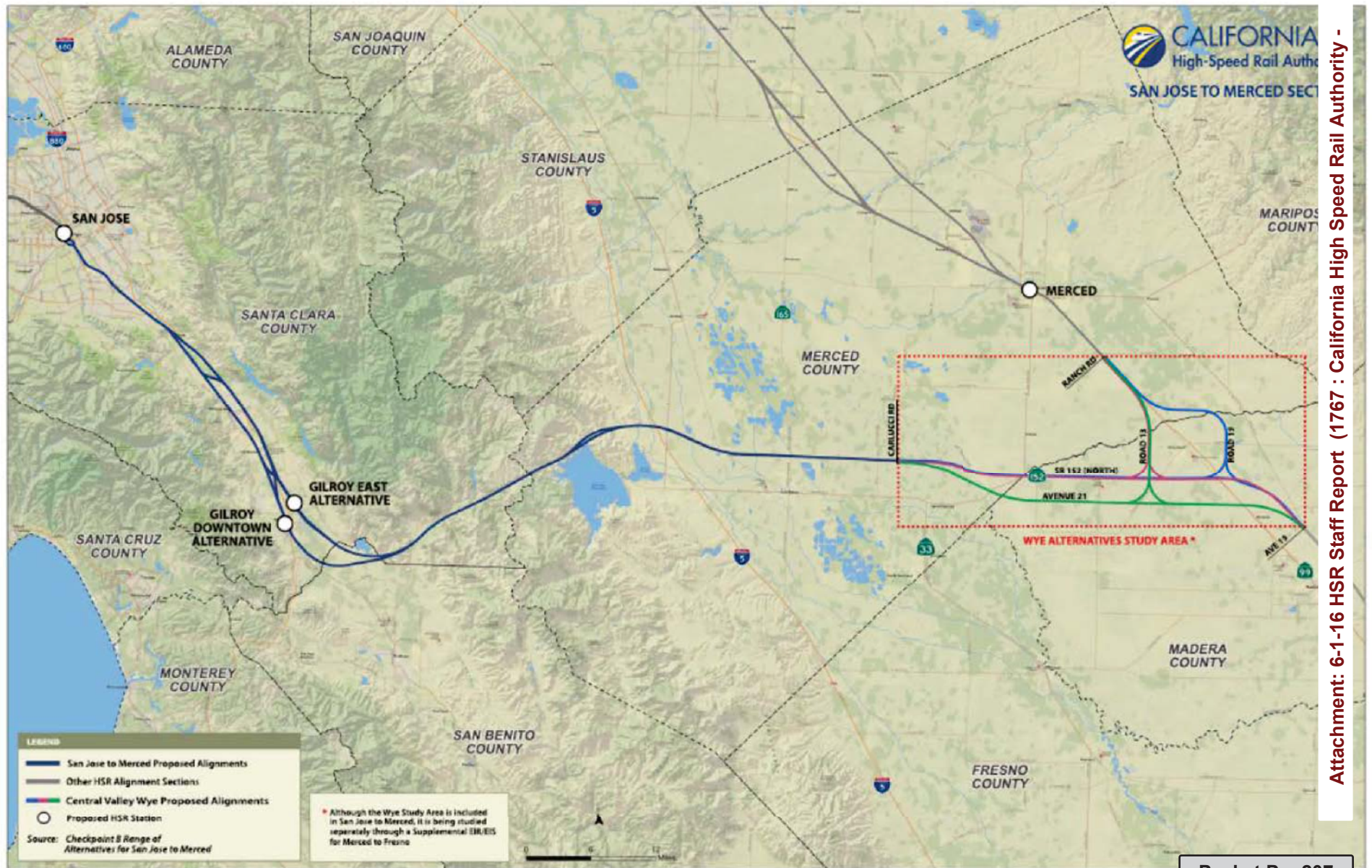
8.b

- Project History
 - » Past Project Alternatives
 - » Visual Design Guidelines
- Ongoing Analysis
 - » Central Valley Wye
 - » Corridor Alignment Refinements through San Jose, Morgan Hill and Gilroy
 - » Regulatory agency concurrence on the range of alternatives to be studied in the environmental document
 - » Station Area Design Work
- Completion of Environmental Review
 - » Initial operating system from Bakersfield to San Jose identified in the Draft 2016 Business Plan

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

SAN JOSE TO MERCED ALTERNATIVES

8.b



WHERE WE ARE: MORGAN HILL – GILROY SUBSECTION

8.b

- First Supplemental AA Report recommended carrying the East of UPRR and US 101 alignments forward in the Draft EIR/EIS
- City of Gilroy and its consulting team released a Draft Gilroy High-Speed Train Station Visioning Project Report - February 2012
- Gilroy City Council recommended a Downtown Gilroy HST Station and further study of the modified at grade and trench vertical alignment options - February 2012



Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

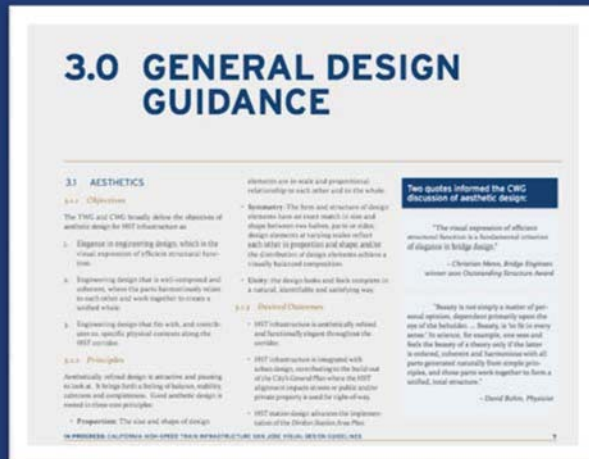
Packet Pg. 208

For discussion – subject to change

WHERE WE ARE: FINAL VISUAL DESIGN GUIDELINES

8.b

- Extensive review and input with the community
- Defines roles and responsibilities for implementation



WHAT WE WILL BE WORKING ON WITH YOU

8.b

- New Design Refinements
 - » Blended Service at Diridon Station
 - » Monterey Viaduct
 - » Pacheco Pass Tunnel Refinements
- Current Work
 - » Validating Previous Studies
 - » Refining Project Footprint
 - » Evaluating New Approaches

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

MILESTONE SCHEDULE*

8.b



Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

*Preliminary/Subject to Change

Packet Pg. 211

COLLABORATIVE APPROACH

8.b



Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

COMMUNITY ENGAGEMENT

8.b

- Resource Agency Coordination
- Station Area Planning
- Environmental Justice Outreach
- Community Working Groups
- Open Houses

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -

THANK YOU & STAY INVOLVED

8.b

Ben Tripousis, Northern California Regional Director
(408) 277-1085 *ben.tripousis@hsr.ca.gov*

Northern California Project Sections
(408) 277-1086 *northern.california@hsr.ca.gov*

Northern California Regional Office
California High-Speed Rail Authority
100 Paseo De San Antonio, Suite 206
San Jose, CA 95113
www.hsr.ca.gov



[instagram.com/cahsra](https://www.instagram.com/cahsra)



[facebook.com/CaliforniaHighSpeedRail](https://www.facebook.com/CaliforniaHighSpeedRail)



twitter.com/cahsra



[youtube.com/user/CAHighSpeedRail](https://www.youtube.com/user/CAHighSpeedRail)

Attachment: 6-1-16 HSR Staff Report (1767 : California High Speed Rail Authority -



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Cynthia Iwanaga, Management Analyst
APPROVED BY: City Manager

APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.

RECOMMENDATION(S)

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

REPORT NARRATIVE:

The City has contracted with Morgan Hill J.E.T. Electric, Inc. to provide on-call electrical services to City facilities since 2016. The current dollar amount of the agreement is \$45,000 for two years of service and ends on June 30, 2018.

This fiscal year there were an unusually large number of projects that utilized the J.E.T. Electric electrical services contract including lighting projects at the Community Playhouse and the installation of electricity for the Harmony Tree at the Civic Center Plaza. Electrical services were also needed for the installation of an ATM at the Community and Cultural Center and the rewiring of a Senior Center Office. The amount of the current two-year contract is almost fully drawn down.

If approved, this First Amendment will extend J.E.T. Electric's services for another year and add \$40,000 to the current contract amount in order to respond to on-call electrical service repair needs in the coming fiscal year. This will increase the total dollar amount of the agreement to \$85,000. Anticipated interior lighting needs include replacing defective ballasts, repairing light fixtures, and replacing damaged outlets. Anticipated exterior lighting needs include rewiring exterior lights and repairing marquee lighting. Approval of this First Amendment will ensure uninterrupted on-call electrical service repair to City facilities.

COMMUNITY ENGAGEMENT: Not Applicable

As electrical repair services are normally expected to be performed at City facilities, no community engagement was completed for this contract.

ALTERNATIVE ACTIONS:

The Council could reject this First Amendment and provide direction to staff on alternative approaches to fulfilling this service need.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

This contract has not previously come before the City Council. The City's current agreement with Morgan Hill J.E.T. Electric is for \$45,000 and did not require Council approval because it is under the dollar amount threshold requiring Council approval.

FISCAL AND RESOURCE IMPACT:

If approved, the First Amendment would increase the agreement amount by \$40,000, which is included in the recommended Fiscal Year 2018-2019 Budget (Fund 740-Building Maintenance Contract Services).

CEQA (California Environmental Quality Act):

Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject work involves the repair, maintenance or minor alteration of existing City facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. JET Electric First Amendment w original

**FIRST AMENDMENT TO AGREEMENT
MORGAN HILL J.E.T. ELECTRIC, INC.**

This FIRST AMENDMENT TO AGREEMENT is entered into and becomes effective on _____ (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and, MORGAN HILL J.E.T. ELECTRIC, INC., a California Corporation ("SERVICE PROVIDER").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This First Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. The CITY and SERVICE PROVIDER entered into that "Maintenance Service Agreement" made as of September 27, 2016, for services for a maximum compensation of FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$45,000.00) ("MAINTENANCE SERVICE AGREEMENT"). The MAINTENANCE SERVICE AGREEMENT is attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

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

"2. **Term of Agreement.** This Agreement shall be effective and cover services rendered from September 27, 2016, until June 30, 2019. 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."

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

"4.1. Amount. Total compensation to SERVICE PROVIDER under this Agreement during the term set forth in Section 2 above shall not exceed EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$85,000.00). Effective July 1, 2018, CITY shall be billed based on the rate and basis set forth in revised **Exhibit 2** Schedule of Compensation Rates dated April 26, 2018, attached hereto and incorporated herein by this reference. 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."

C. Paragraph 9 shall be amended and replaced in its entirety by the following:

"9. Compliance with Law.

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

9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

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

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the

City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section."

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

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

City Clerk

Date: _____

City Manager

Date: _____

APPROVED AS TO FORM:

MORGAN HILL J.E.T. ELECTRIC, INC.

City Attorney

Date: _____

By: _____

Title: PRESIDENT

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: 4/30/18

By: _____

Title: Karen L. Tarp Secretary

Print Name and Title of Signer.

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

Date: 4/30/18

JET Electric, Inc.
First Amendment to Agreement
Revised Exhibit "B" - Schedule of Compensation Rates

JET Electric
16230 Church St.
Morgan Hill, CA 95037
Lic. #342193
(408) 779-6695

April 26, 2018

City Of Morgan Hill
17575 Peak Ave.
Morgan Hill, Ca. 95037

Re: Exhibit B-New Schedule of Compensation Rates starting July 1, 2018

Normal Working Hours (8:00 a.m. to 4:30 p.m.) Monday through Friday: \$205.00 per hour. After Hours Charged at time and a half normal rates (1.5 times x \$205.00); \$307.50 per hour. Trip Charge (Truck Charges) are \$50.00 per invoice for normal working hours and after hours.

Jim Tarp
Owner
JET Electric

Attachment: JET Electric First Amendment w original (1762 : Approve First Amendment to JET Electric MSA)

128-04-16-027

EXHIBIT "1"

MAINTENANCE SERVICE AGREEMENT
Morgan Hill J E T Electric, Inc.

THIS AGREEMENT is entered into and becomes effective on 9/27/14 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Morgan Hill J E T Electric, Inc. a California corporation ("SERVICE PROVIDER") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2018 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 on-call electrical maintenance and repair services as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$45,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed forty-five thousand dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement 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 the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or SERVICE PROVIDER shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work

product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The CITY Manager of CITY is authorized to terminate this AGREEMENT 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 the SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. SERVICE PROVIDER shall perform all work and services under this Agreement in conformance with the time schedule set forth on Exhibit C, "Schedule of Performance," attached hereto and incorporated herein by this reference. CITY's City Manager is authorized on behalf of CITY to modify the timeframes set forth on the Schedule of Performance within the term of this Agreement. If SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER's equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of CITY's City Manager, or his 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 the 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 the 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 the CITY for at least five (5) years after the completion of work performed under this Agreement.
- 8.1.5.2. If the performance of SERVICE PROVIDER's work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers, hardware

engineers, or other systems consultants), SERVICE PROVIDER shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5.3. 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 the 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 the CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

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

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

Certificate Holder address:

City of Morgan Hill

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

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

10. **Compliance with Law.**

10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon 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 9.1 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. The City will not accept a Bid Proposal from or enter into a contract with a Contractor, without first receiving proof to the satisfaction of City that Contractor 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, the Contract for this Project 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:

Morgan Hill J E T Electric, Inc.
16230 Church Street, Ste. A
Morgan Hill, CA 95037

Address of CITY is as follows:

Director of Community Services	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.** The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the 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 the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

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

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

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

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

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 the CITY.

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

[Signature]
City Clerk/Deputy City Clerk

CITY OF MORGAN HILL

[Signature]
City Manager

for Michelle Wilson

Print Name

Date:

9/27/16

APPROVED AS TO FORM:

[Signature]
City Attorney

for Donald A. Larkin

Print Name

Date:

09/26/16

Steve Rymer

Print Name

Date:

9/27/16

Morgan Hill J E T Electric, Inc.

By:

Title: JAMES E. TARP - PRESIDENT

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date:

Karen L. Tarp

By:

Title: Karen L. Tarp - Secretary

Print Name and Title of Signer.

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

Date:

342193
Contractor's License Number(s) (if applicable)

Expiration Date(s)

Seal:

P:\Forms\Consultant Agreements\City Maintenance Service Agreement 10-5-15.Docx

EXHIBIT A SCOPE OF SERVICES

The State licensed Electrical Contractors will provide On-Call Electrical Maintenance and Repair Services at various City facilities. Contractor will provide full-service, on-call electrical maintenance and repair services and administer the duties and responsibilities, in compliance with all applicable laws, regulations, policies and procedures.

Services to be performed include the furnishing of all labor, materials, tools, equipment, supplies, services, tasks and incidental and customary work necessary to competently perform on-call electrical maintenance and repair work at various City facilities including, but not limited to those listed in Section 2-4 of this Exhibit A.

The work will include the provision of a total maintenance and repair program consisting of a variety of tasks including, but not limited to, laying out, installing, replacing, wiring and testing electrical service and electrical wire systems and components used to provide heat, light, power, air conditioning, and refrigeration in municipal buildings and facilities. Services may also include installing and repairing conduit and other materials; connecting electrical machinery, equipment and controls and transmission systems and servicing other electrical related issues as they arise and services necessary to insure safe, well maintained electrical systems for City employees and the public. The scope and number of projects and tasks are unknown at the time of contract execution.

The Contractor shall leave work areas free of all dirt, litter, lubricants, or other materials utilized to perform electrical maintenance.

The Contractor shall erect barricades, warning signs, and any other devices to prevent unauthorized access by the public or unauthorized City staff to work areas.

The Contractor shall respond to all requests for repairs or unscheduled emergency repairs as required, 24 hours per day, 365 days per year, including holidays. All costs for labor and materials for these calls shall be included in the proposal. Response time by the Contractor shall be within four (4) hours of all requests.

The Contractor will be responsible for providing labor, supervision, materials, equipment, transportation, service and the shop facilities necessary to perform high quality work. Contractor will also be responsible for discarding all used materials.

It is the intent of the City of Morgan Hill to identify and establish long term partnerships with highly qualified contractors. To achieve the best level of service, the City believes that the relationship must be based on mutual trust and respect. Teamwork, flexibility, and cooperation will be essential characteristics of the successful Contractor.

2-1 SCOPE OF SERVICE The Contractor shall provide full-service on-call electrical maintenance and repair services to City Facilities as outlined in this document. Contractor shall retain professional personnel who have successfully and competently provided municipal facility electrical maintenance and repair services on projects of similar scope and complexity. It shall be the Contractor's responsibility to effectively repair and maintain, to the satisfaction of the City representative, all aspects of electrical systems in City defined facilities with minimal downtime. All maintenance and repairs shall be provided in accordance with the highest standards of the industry,

skill, workmanship, applicable trade practices, shall meet warranties and be in conformance to all applicable laws, codes and regulations. The successful Contractor's electrical maintenance and repairs shall, at a minimum, include but not be limited to the specifications outlined herein.

2-2 SERVICES TO BE PROVIDED It is the Contractor's responsibility to provide an appropriate level of staffing and provide appropriate tools and vehicles necessary to support all facility electrical maintenance and repair functions during hours of operation and for response after normal working hours. Proposer shall maintain the appropriate license and will comply with all other license, insurance and permit requirements of the City, State and Federal governments, as well as all other requirements of the law.

2-3 TERM OF SERVICE The term of the contract will be from October 1, 2016 through June 30, 2018. The contract may be canceled or any portion thereof at any time during the term of service and such cancellations shall be effective upon giving sixty (60) days written notice. The City, at its option, may renew this contract for up to three, one year periods, beginning on July 1, 2018. This option will be exercised only if the contractor has demonstrated superior performance in provision of On-Call Electrical Maintenance and Repair Services to the City.

Pricing entries in the Bid Proposal apply to the period of October 1, 2016 to June 30, 2018. If the contract is renewed, a 3% cost escalation will automatically be applied for each subsequent year beginning on July 1, 2018.

2-4 WORK HOURS Scheduled maintenance and repairs shall typically occur during normal business hours. Facility business hours are:

- Aquatics Center is open weekdays from 5:00 a.m. to 8:00 p.m., Saturdays from 7:00 a.m. to 12:00 p.m. (summer season to 6:30 p.m.), and Sundays 11:30 a.m. to 6:30 p.m. (summer season only).
- Centennial Recreation Center is an active facility on Weekdays from 5:00 a.m. to 10:00 p.m., Saturdays from 6:30 a.m. to 8:00 p.m., and on Sundays from 8:00 a.m. to 6:00 p.m.
- City Hall is open Monday-Friday 8:00 a.m. – 5 p.m.
- Chambers Building is open Monday-Friday 8:00 a.m. – 5 p.m.
- The Community and Cultural Center is open Monday-Friday 8:00 a.m. – 5 p.m.
- El Toro Youth Center is open Monday-Friday 2:00 p.m. – 6:00 p.m.
- The Friendly Inn is open Monday-Saturday 8:00 a.m. to 10:00 p.m.
- The Outdoor Sports Complex – coordinate hours with Project Manager, Dale Dapp
- The Police Department is open Monday-Friday 8 a.m. – 5:30 p.m.
- The Public Works Corporation Yard is open Monday-Thursday 6:30 a.m. – 4:00 p.m. and Fridays from 6:30 a.m. -3:00 p.m.
- The Villas are open Monday-Friday 8:00 a.m. – 5 p.m.
- Community Park Restrooms are open seven days a week 6 a.m. to 10 p.m.
- Galvan Park Restroom are open seven days a week 6 a.m. to 10 p.m.

2-5 SERVICE AVAILABILITY The contractor shall have trouble-call service available on a twenty-four hours a day, seven days a week basis with a response time not to exceed the following:

EMERGENCIES.....two (2) hour response time
NON-EMERGENCIES..... four (4) hour response time

Time to respond shall start when the City calls the problem into Contractor's designated emergency phone number. Additionally, the contractor shall provide the ability to respond immediately to

situations involving the health and safety of employees and/or the public and the comfort and operational capability of any public meeting space. Routine repairs, service requests or other non-urgent tasks shall be completed by journey level staff within one (1) working day from the date of request by City Representative.

2-6 TROUBLE-CALL/REPAIR SERVICE Should the City request the contractor to make unscheduled, emergency electrical system repairs, the City shall be responsible for labor and travel costs associated therewith. These costs, as listed in the proposal, will be a critical part of the bid evaluation in determining the lowest responsive and responsible contractor. Rates shall be firm for the term of the contract. The City reserves the right to contract with others for trouble calls and repairs.

2-7 BILLABLE WORK The Contractor shall not bill for unnecessary repairs, for repairs that were not completed satisfactorily, for repairs that did not fix an identified problem, or for facility visits that are made by staff unqualified to complete needed repairs.

2-8 STAFFING, WORKMANSHIP AND QUALITY LEVEL The Contractor shall provide a staffing level to perform on-call electrical maintenance and repair services at designated City facilities in a thorough and professional manner, so that the City is provided with reliable and high quality electrical maintenance at all times. The Contractor shall possess and maintain a C-10 General Electrical license by the State of California Contractors Licensing Board through the term of the contract. All personnel performing work under this Contract shall possess and maintain a state journeyman certification and be directly employed and supervised by the Contractor. Any assigned apprentice shall work directly under the supervision of a qualified journeyman. The Contractor shall provide management and technical supervision through competent supervisors as required. The Contractor shall be responsible for the skills, methods and actions of all employees, subcontractors and for all work done.

2-9 MAINTENANCE AND REPAIR LOCATIONS: including, but not limited to locations described in Section 2-4 above.

2-10 TOOLS AND EQUIPMENT The Contractor shall furnish and maintain all equipment necessary for properly servicing and maintaining electrical systems in City buildings. The City of Morgan Hill reserves the right to inspect equipment to be used to perform services under this contract. Any equipment determined to be in poor condition must be replaced immediately, at the contractor's expense. Failure to provide suitable equipment for carrying out all requirements of this contract may be grounds for termination.

2-11 PARTS AND MATERIALS The Contractor shall furnish all parts and materials necessary for properly maintaining and repairing electrical systems in City buildings. Mark-up on parts and materials may not exceed 10% of Contractor's cost. Invoices must identify the work performed, cost of labor, parts/materials used, parts/materials cost, and parts/materials mark-up cost.

2-12 INSPECTIONS AND REMEDIES So as to ensure consistent quality of the work being performed, the City Representative will perform periodic inspections of electrical systems to ensure compliance with the contract specifications. Inspections may be made by the City at any time to confirm that work performed meets specifications. If corrective work is required, the City will provide a written list of items and the Contractor shall correct deficiencies as directed. If deficiencies are not corrected in a timely manner, the City may perform the work using others and deduct the cost from the Contractor's payment.

2-13 DAMAGES The Contractor will be responsible for all damages to the facility or contents caused by Contractor, their staff or subcontractors during the performance of their duties.

2-14 SAFETY & SECURITY The Contractor and staff shall follow all established safety procedures and shall take special care not to endanger the public in any way. The Contractor is responsible for the security of all doors at the conclusion of work in each room. All exterior doors should remain locked at all times. Interior doors that are found open or unlocked shall be left in the same position/condition in which they were found.

2-15 FINGERPRINTING (Live Scan State of California Criminal Records Check): All Contractor staff who will be working on City facilities must pass a State of California Department of Justice Criminal Records Check. Fingerprinting Appointments can be scheduled at the Morgan Hill Police Department (16200 Vineyard Boulevard, Morgan Hill) by calling 408-776-7300. Live Scan (Criminal Records Check Request) Forms are available at www.morganhill.ca.gov (Department Tab: Police Department Link) and the fingerprint fee is \$52.00 per person (payable at the time of the appointment). The Contractor is responsible for providing the City of Morgan Hill with updated records check information for their employees.

2-16 EMERGENCY SITUATIONS For medical or public safety emergencies occurring at the Facilities call 9-1-1. For all building maintenance emergencies (water leaks, etc.) contact the Maintenance Manager or designated staff to report the issue immediately (24-hours/day).

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

Normal Working Hours (8:00 a.m. to 4:30 p.m.) Monday through Friday: \$185.00 per hour

After Hours Charged at time and a half normal rates (1.5 times X \$185): \$277.50 per hour

Trip Charge (Truck Charges) are \$40.00 per invoice for normal working hours and after hours.

Attachment: JET Electric First Amendment w original (1762 : Approve First Amendment to JET Electric MSA)

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

To be scheduled with City of Morgan Hill Maintenance Manager or other appropriate city staff.

Attachment: JET Electric First Amendment w original (1762 : Approve First Amendment to JET Electric MSA)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

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

AMEND AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.

RECOMMENDATION(S)

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

REPORT NARRATIVE:

In July 2016, the City of Morgan Hill entered into an exclusive two-year consultant agreement with Asset Protection Private Group Security, Inc. to provide security at the Community and Cultural Center during events that include alcohol and dancing. Facility renters pay for this service, as needed, through their rental contract fees. The contract also allows for security services to be requested for additional one-time or ongoing events at other locations within the City as needed.

The City Council approved the first amendment to increase compensation due to increased rental activity at the Community Center and the need for other security services within the City at the September 27, 2017 Council Meeting.

City staff are now recommending a second amendment that proposes three changes to the original agreement:

1. The current agreement is valid until June 30, 2018, with an option to extend the term for an additional year with City Manager approval. Asset Protection has continued to be a reliable and efficient company and staff recommends extending the term for the additional year, extending the agreement through June 30, 2019.
2. Staff also recommends the compensation be increased to not exceed \$105,000 to cover the expenses of the additional year. Rentals at the Community and Cultural Center continue to increase and additional needs for other one-time

events continue to grow. The cost of security will continue to be billed to the individual renters.

3. Staff has received a request from the consultant to adjust the schedule of compensation as reflected in Exhibit B of the agreement. The compensation increase is directly related to increases in the consultant's operating costs. The schedule of compensation rates is still within the range of the fees submitted in the Request for Proposals conducted in 2016. Staff recommends approving the request.

COMMUNITY ENGAGEMENT: Inform

Before entering into an agreement with Asset Protection, the City conducted a formal Request for Proposals (RFP) to find the best possible security company to meet the needs of the City. The community was informed of this request for proposals on the City website and in the local newspaper.

ALTERNATIVE ACTIONS:

The Council could elect to not approve the amendment and provide additional direction to staff on use of security services.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

City Council adopted the FY 2016-17 and 2017-18 budget, which included the security services as an expense.

City Council approved the first amendment to the agreement at the September 27, 2017 Council Meeting.

FISCAL AND RESOURCE IMPACT:

Funds for security services at the CCC are budgeted in the Community Services Department operating budget.

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. Second Amendment, First Amendment and Original Agreement-Asset Protection
2. Compensation Increase Request Letter from Asset Protection

**SECOND AMENDMENT TO AGREEMENT
ASSET PROTECTION GROUP PRIVATE SECURITY, INC**

This SECOND AMENDMENT TO AGREEMENT is entered into and becomes effective on _____ (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and, ASSET PROTECTION GROUP PRIVATE SECURITY, INC., a California Corporation ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Second Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____.
2. The CITY and CONSULTANT entered into that "Consultant Agreement" made as of June 24, 2016, for consultant services for a maximum compensation of FORTY-FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$44,500.00) ("CONSULTANT AGREEMENT").
3. The CITY and CONSULTANT entered into a "First Amendment to Agreement" made as of November 27, 2017, under which the maximum compensation under the CONSULTANT AGREEMENT, as amended, was increased to SIXTY-FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$65,500.00). The CONSULTANT AGREEMENT and the First Amendment thereto are attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

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

"2. **Term of Agreement.** This Agreement shall be effective and cover services rendered from June 24, 2016, until June 30, 2019. 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."

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

"4.1. **Amount.** Total compensation to CONSULTANT under this Agreement during the term set forth in Section 2 above shall not exceed ONE HUNDRED FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$105,500.00) and shall be billed based on the rate and basis set forth in revised **Exhibit B** dated April 18, 2018, attached hereto and incorporated herein by this reference. 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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement

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

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

City Clerk

Date: _____

City Manager

Date: _____

APPROVED AS TO FORM:

ASSET PROTECTION GROUP PRIVATE
SECURITY, INC.

City Attorney

Date: _____

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: _____

APRIL 18, 2018
REVISED EXHIBIT B TO SECOND AMENDMENT TO AGREEMENT
SCHEDULE OF COMPENSATION RATES

Weekdays (Monday-Thursday) \$25 per hour

Weekends (Friday, Saturday, Sunday) \$25 per hour

Holidays \$30 per hour

176-04-16055

**FIRST AMENDMENT TO AGREEMENT
ASSET PROTECTION GROUP PRIVATE SECURITY, INC.,**

This FIRST AMENDMENT TO AGREEMENT is entered into and becomes effective on 11/27/17 (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and, Asset Protection Group Private Security Inc., a California Corporation ("CONSULTANT").

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 Approval on September 27, 2017.
2. The CITY and CONSULTANT entered into that "Consultant Agreement" made as of 6/24/2016, for consultant services for a maximum compensation of \$44,500 ("CONSULTANT AGREEMENT"). The CONSULTANT AGREEMENT is attached as Exhibit "A" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

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

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

- 1.1. "4.1. **Amount.** Compensation under this Agreement shall not exceed SIXTY FIVE THOUSAND AND FIVE HUNDRED DOLLARS (\$65,500) 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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.

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

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

ATTEST:

Deputy

City Clerk

Date:

12/4/17

APPROVED AS TO FORM:

Andrea Jasso

City Attorney, Assistant

Date:

11-17-17

CITY OF MORGAN HILL

City Manager

Date:

11-27-17

Asset Protection Group Private Security,
Inc.

By:

Title:

Print Name and Title of Signer.

If Corporate: Chairman, President or
Vice President

Date:

9-15-2017

By:

Title:

Print Name and Title of Signer.

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

Date:

9-15-2017

126-04-16-055

CONSULTANT AGREEMENT
Asset Protection Group Private Security, Inc.

THIS AGREEMENT is entered into and becomes effective on 6/29/16 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Asset Protection Private Group Security, Inc. a California corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2018 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be security services as further described in **Exhibit A**.
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$44,500. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed FORTY FOUR THOUSAND FIVE HUNDRED dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement for up to one year pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.
 - 4.2. **Billing.** CONSULTANT 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 CONSULTANT. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to

CONSULTANT. The CITY Manager of CITY is authorized to terminate this AGREEMENT on behalf of CITY.

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

7. **Insurance Requirements.** CONSULTANT shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of CONSULTANT, including its subcontractors, 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. CONSULTANT further understands that the CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to CONSULTANT, at any time as deemed necessary to protect the interests of the CITY.

7.1. **Insurance Types and Amounts.**

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

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

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

7.1.5. Professional Liability.

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

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

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

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

7.2.1. **General Liability.**

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

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

7.2.1.3. insurance shall be primary non-contributing.

7.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

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

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

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

10. **Independent Contractor.** CONSULTANT is an independent contractor and not an agent or employee of CITY.
11. **Confidentiality.** All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.
12. **Conflict of Interest and Reporting.** CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
13. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Asset Protection Group Private Security, Inc.
1430 Blossom Hill Road
San Jose, Ca 95118

Address of CITY is as follows:

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

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

14. **Licenses, Permits and Fees.** CONSULTANT shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.
15. **Maintenance of Records.**
- 15.1. **Maintenance.** CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3 year period, then CONSULTANT shall retain said records until such action is resolved.
- 15.2. **Access to and Audit of Records.** The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to

matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

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

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

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

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

19. **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.

20. **Defense and Indemnification.**

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

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

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

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

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

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

22. 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.

23. 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.

24. 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.

25. 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 CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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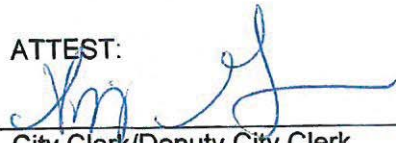
26. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

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 Clerk/Deputy City Clerk

 Michelle Wilson
 Print Name

Date: 4/27/16

APPROVED AS TO FORM:


 Interim City Attorney

 Gary M. Baum
 Print Name

Date: 06/21/16

CITY OF MORGAN HILL


 City Manager

Steve Rymer
 Print Name

Date: 6/24/16

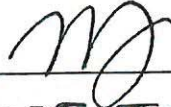
By: 

Title: LARRY A. JOHNSON
PRESIDENT

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: 5-23-2016

By: 

Title: CHIEF FINANCIAL OFFICER
NOLAN JOHNSON

Print Name and Title of Signer.

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

Date: 5-23-2016

**EXHIBIT A
SCOPE OF SERVICES**

Special Event and Banquet Security: Provide security services for the City at selected special events and banquets occurring at the Community and Cultural Center or other locations designated by the City. Responsibilities include:

1. Supply the Cities requested number of security officers for special events to provide customer service and a visible presence at the event.
2. Work under the direction of the City Building Coordinator or other staff designated by the City to maintain general order and ensure City policies and procedures are enforced.
3. Ensure that room capacities for events are not exceeded.
4. Verify attendees are over the age of 21 if alcohol is being served.
5. Periodically patrol the Community Center parking lot and grounds during events.
6. Contact the police department in the event of a disturbance, breach of the peace, or other emergency.
7. Ensure that the Community Center or other City facilities are secure and locked after special events have ended and escort the City employee to his or her car after the event.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

Weekdays (Monday-Thursday) \$20 per hour
Weekends (Friday, Saturday, Sunday) \$20 per hour
Holidays \$30 per hour

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

As arranged by Community Services Department



CE

APPROVED

By Shadia Hrichi at 1:55 pm, Jun 14, 2016

DATE (MM/DD/YYYY)

6/7/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER El Dorado Insurance Agency, Inc. El Dorado Security Services Insurance Agency PO Box 66571 Houston TX 77266		CONTACT NAME: Jennifer Leroy PHONE (A/C, No, Ext): (713) 521-9251 FAX (A/C, No): (713) 521-0125 E-MAIL ADDRESS: jleroy@eldoradoinsurance.com	
INSURED Asset Protection Group Private Security Inc. 1430 Blossom Hill Rd San Jose CA 95118		INSURER(S) AFFORDING COVERAGE INSURER A: Allied World Surplus Lines INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: Special Endorsement 5/16

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Errors & Omissions GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X	Y	5200-0704-02	7/20/2015	7/20/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			5200-0704-02	5/25/2016	7/20/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Subject to a signed and dated written contract or written agreement that includes an additional insured requirement, certificate holder is an additional insured (CG 20 10 07/04). The General Liability policy contains a special endorsement with "Primary and Noncontributory" wording. A waiver of subrogation endorsement is included on the General Liability policy in favor of the certificate holder. Certificate holder to include: The CITY of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

CERTIFICATE HOLDER

Shadia.Hrichi@morganhill.c

The City of Morgan Hill, it's
 elected or appointed officials, boards,
 agencies, officers, agents, employees
 and volunteers
 17555 Peak Ave
 Morgan Hill, CA 95037

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

R.L. Ring, Jr./JL03

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ACORD 25 (2014/01)

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INS025 (201401)

Asset Protection Private Security, Inc.

PPO#15765

1430 Blossom Hill Road

San Jose, Ca.95118

To: City of Morgan Hill

17575 Peak Ave. Morgan Hill, Ca. 95037

For the last several years, I have charged the same hourly rate, (\$20.) for my services in spite of rising office expenses, insurance premiums and salary increases. As much as I would like to maintain my rates for another year, I find that I must increase them to provide quality security services to my valued client, the city of Morgan Hill. Effective May 31, 2018, my new hourly rate will be \$25. All other rates, holiday and weekends will remain the same.

I value you as a client and want to continue serving you. If you have questions or concerns about this increase, please give me a call.

We hope to continue our excellent relationship with our client, and assure you our quality of service will reflect a similar increase.

Larry A. Johnson

Owner/Operator

PPO#15765



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Rebecca Garcia, Housing Manager
APPROVED BY: City Manager

CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION

RECOMMENDATION(S)

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Regional Initiatives

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

BMR Ownership and Rental Administration

Nyanda & Associates, LLC formed HouseKeys in 2015 and teamed up with the City of Morgan Hill in a public-private partnership called the Model City Initiative to incubate ideas and craft a solution to post redevelopment, long-term management and Below Market Rate (BMR) preservation. HouseKeys provides general BMR administration to the City, including the marketing and sale of BMR units, outreach and education, identification and income qualification of homebuyers, general asset management, monitoring and compliance, assisting the County Tax Assessor to provide BMR valuation updates as needed, as well as other activities required to maintain the integrity and sustainability of the BMR program. Additionally, HouseKeys continues to work with the City to identify solutions to the various complex transactional scenarios that arise as a result of administering a robust portfolio, with varying historical rules and requirements, layered down payment assistance, and various financing structures and sources of funds.

The BMR portfolio has a total of 509 owner occupied units, with 30 new construction units in the pipeline in 2018. The Program continues to require additional focus on asset management, education, monitoring, and compliance to maintain integrity and guarantee sustainability of the Program. With a 40-year program that has over 500 BMR properties spread out in over 76 subdivisions, Morgan Hill has one of the region's oldest, largest, and most active affordable ownership housing portfolios.

On February 7, 2018, Council received an update on the BMR Program and process, as well as the “BMR by the Numbers” Report, attached. One of the responsibilities of the BMR Program is to monitor the integrity of the affordable ownership supply previously administered by the Morgan Hill Redevelopment Agency (RDA). The City has an obligation to verify that the homes are being used in a manner consistent with their recorded Covenants and Restrictions. HouseKeys, with the approval of the City’s Housing Manager, mailed out 509 monitoring letters to BMR homeowners in August 2017 to request that they provide information and acknowledge that they are occupying the home.

This monitoring activity revealed several administrative issues that are requiring further in-depth analysis. The City would prefer to have a comprehensive response to program operation, however, through the 35+ years of program administration, rules and funding sources change, and a “one-size fits all” response to administration proves difficult. The Housing Team will return to Council during the summer of 2018 to discuss policy issues and decisions required to respond to questions homeowners expressed regarding “non-sale transferring of a BMR home,” “is it permitted?” and “Can a family member inherit the home and/or affordable opportunity?” Additionally, there are some significant challenges which have been created historically by the use of layered, often deferred interest down payment assistance (DPA) resources at Madrone Village and the structure of recaptured interest at San Pedro Gardens and how that has impacted the homeowners’ ability to sell and recoup any funds, and or the ability to make lump sum payments of deferred interest at the end of the housing contract tenure. All these issues must be carefully “unpacked” before any recommendations are brought forward and require significant review of individual contracts, interface with the DPA lenders and owners.

Loan Administration

Over the course of the years that the City and the RDA operated a housing program, many resources, including state, federal and local RDA dollars, were leveraged to meet many housing needs in Morgan Hill. The City assisted with rehabilitation of properties, down-payment assistance, and grants. The City has a portfolio of loans derived from these housing efforts. Management of these loans was transferred to HouseKeys in 2017 with compensation of \$25,000 annually. Given that HouseKeys has experience and familiarity with the way in which loans are layered on some of the BMR homes, in addition to providing servicing in other capacities, HouseKeys remains well suited to administer this portfolio because many of the loans are also tied to the City’s BMR portfolio, resulting from the layered financing that has historically occurred for down payment and closing cost loan assistance. The portfolio contains some commercial rehab and economic assistance loans, but the majority of the loans that HouseKeys manages are related to BMR homes.

The BMR expertise that HouseKeys has provided has created a valuable partnership, while continuing to fine tune the BMR program. Consistent with recommendations contained in the budget, it is recommended that Council approve a new \$1,050,000 contract, for \$525,000 in FY 18-19 and \$525,000 in FY19-20, for continued BMR

administration services for both ownership and rental units, and loan administration through June 30, 2020.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community on the proposed contract.

ALTERNATIVE ACTIONS:

The Council could choose not to approve the proposed contract. Should Council not approve the proposed contract, staff asks that Council provide further direction regarding the management of the BMR program and loan administration or, alternatively, direct staff to return to Council with alternative options for management.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Contract History: Upon the sudden dissolution of the City's previous BMR administrator, Neighborhood Housing Services of Silicon Valley (NHSSV), the Council, on July 15, 2015, adopted a transition plan to contract with Nyanda & Associates (HouseKeys) to provide the continued administration of the BMR program. On May 18, 2016, Council approved an agreement with HouseKeys for BMR administration services for FY 16-17 for \$500,000. On December 7, 2016 Council approved a contract amendment which extended HouseKeys' BMR administration contract through FY 17-18 for an additional \$500,000. Additionally, at that time, loan administration services were added to HouseKeys' scope of work for FY 16-17 and 17-18 for \$25,000 annually, or \$50,000 total. The existing contract for both BMR administration and loan administration services is valid through June 30, 2018 and has a maximum compensation amount of \$1,050,000.

FISCAL AND RESOURCE IMPACT:

The BMR Administration portion of the contract is funded in Housing Fund 255 and the Loan Administration, Housing Fund 236. The total cost of this contract is not to exceed \$1,050,000. For clarity, the specific appropriation amounts are designated in the chart below:

	BMR Administration (255)	Loan Administration (236)
FY 2018-19	\$500,000 (pending adoption of budget)	\$25,000
FY 2019-20	\$500,000 (pending adoption of budget)	\$25,000

CEQA (California Environmental Quality Act):

Not a Project: Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. BMR Program by the Numbers
2. HouseKeys Agreement 2018_2020



Toll Free: 1-877-460-KEYS (5397)

Office (By Appointment)

358 Digital Drive

Morgan Hill, CA 95037

Morgan Hill BMR Program by The Numbers

From January 2017 – December 2017 (calendar year):

- Sold 7 new BMR's (7 lotteries for new construction). Note: 30 BMRS are in the pipeline to be completed in 2018.
- Held 13 BMR Home Buyer Orientations (201 households or 310 total attendees)
- Processed 3 resales (3 lotteries for resales) and 2 BMR's sold out of program.
- 200 Preapplications, 89 Lottery Submissions – led to 10 new first-time homebuyers.
- Prepared 3 re-subordination agreements to accommodate re-financing.
- # of educational opportunities for lenders certification- 4 orientations and 29 participants
- # of loans paid off/refinanced-1 (18427 Jade lane 30k BEGIN and 40k RDA).
- # of cases taken to litigation- 3
- # of bankruptcy/foreclosure dealings-1
- # of loans paid off/refinanced -2

From July 2017 – December 2017 (fiscal year):

- Sold 3 new BMR's (3 lotteries for new construction).
- Held 6 BMR Home Buyer Orientations (76 households or 123 total attendees).
- Held 2 BMR Home Owner Workshops.
- Processed 2 resales.
- Answered 79 pre-application submissions, which in turn led to 29 lottery submissions (inquiries).
- Prepared 1 (Casitas Nuevas) re-subordination agreements to accommodate re-financing.

From the Mid-Year Report (through December 2017)

- Rehabilitated 5 re-sale BMR units prior to sale to new, qualified owners (2 BMR Acquisitions that sold out of program and 3 received carpet and paint).
- Held 13 BMR orientation workshops for 310 attendees.
- Held 2 BMR owner workshops for 8 attendees.
- Prepared 4 (one of them includes Casitas Nuevas) re-subordination agreements to accommodate re-financing.
- Held 12 lotteries for sale of BMR units.



Toll Free: 1-877-460-KEYS (5397)

Office (By Appointment)

358 Digital Drive

Morgan Hill, CA 95037

City of Morgan Hill Preference Criteria for Purchase of BMR Units-

The City of Morgan Hill established a preference for allocating BMR ownership units. Priority shall be given to income eligible employees or residents (currently and for at least 6 months from time of lottery) who live or work in the City of Morgan Hill. If an address is in question, HouseKeys will check with City staff to determine if the property is within the City's jurisdictional boundaries.

The preference system will be used to establish a ranking of applicants. An eligible household will be ranked according to whether they meet the live/work standard. While an applicant who lives or works within the city limits will have priority over an applicant who does not, residency/employment status is not a requirement for program eligibility. All individuals and households may apply for the program no matter where they live or work. There may be Opportunity Drawings where there are no applicants who meet the live/work standard, so all Households are encouraged to apply no matter they live or work.

City of Morgan Hill BMR Preference Criteria

Preference 1: Work or Live in Morgan Hill	Must work at a business located in Morgan Hill at least 20-hours per week for at least 6-months* Resident must have lived in Morgan Hill for at least 6-months*
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CONSULTANT AGREEMENT

Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys a California limited liability company ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to 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 CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be to administer Morgan Hill's Below Market Rate Ownership and Rental Housing Program and to manage the City of Morgan Hill's Loan Portfolio as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$1,050,000.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed ONE MILLION FIFTY THOUSAND dollars and shall be billed based on the rate and basis set forth in **Exhibit B.** If the City Manager extends the term of this Agreement 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 CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed during the extended term period exceed an additional five percent (5%) above the compensation allowed to be paid to CONSULTANT during the initial term of this Agreement.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and

CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to CONSULTANT. The CITY Manager of CITY is authorized to terminate this AGREEMENT on behalf of CITY.

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

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

7.1. **Insurance Types and Amounts.**

7.1.1. **Commercial General Liability (CGL).** CONSULTANT shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) for bodily injury or death to any one person for any one accident or occurrence and at least one million dollars (\$1,000,000.00) for property damage, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

7.1.3. **Workers' Compensation Insurance and Employer's Liability.** CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount

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

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

7.1.5. Professional Liability.

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

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

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

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

7.2.1. **General Liability.**

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

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

7.2.1.3. insurance shall be primary non-contributing.

7.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

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

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

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin,

mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

- 9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

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

Judgments or Decisions During Term of Contract: If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or an subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. The City reserves the right to require CONSULTANT to enter into an agreement with the City regarding the manner in which any such final judgment, decision, or order will be satisfied.

City’s Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, the City reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

Material Breach: Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575

Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

10. **Independent Contractor**. CONSULTANT is an independent contractor and not an agent or employee of CITY.
11. **Confidentiality**. All data, documents, or other information received by CONSULTANT from CITY or prepared in connection with CONSULTANT'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by CONSULTANT without prior written consent by CITY.
12. **Conflict of Interest and Reporting**. CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
13. **Notices**. All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of CONSULTANT is as follows:

Nyanda and Associates
358 Digital Dr.
Morgan Hill, CA 95037
ATTN: Julius Nyanda
408-684-8202 ext. 101

Address of CITY is as follows:

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

14. **Licenses, Permits and Fees**. CONSULTANT shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.
15. **Maintenance of Records**.
 - 15.1. **Maintenance**. CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then CONSULTANT shall retain said records until such action is resolved.
 - 15.2. **Access to and Audit of Records**. The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors

related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

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

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

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

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

19. **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.

20. **Defense and Indemnification.**

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

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

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

20.4. **Right to Offset.** CITY shall have the right to offset against any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Section (20) and

any amount due CITY from CONSULTANT arising from CONSULTANT's failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

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

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

22. **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.

23. **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.

24. **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.

25. **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 CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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26. **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

 Christina J. Turner
 Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

Nyanda & Associates, LLC, A CA Limited
 Liability Company d/b/a HouseKeys

 City Attorney

By: _____

 Donald A. Larkin
 Print Name

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

Date: _____

Date: _____

By: _____

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

Date: _____

EXHIBIT A SCOPE OF SERVICES

Nyanda and Associates, LLC, A California Limited Liability Company d/b/a HouseKeys

The Scope of Work details the roles and responsibilities of the City and Consultant. The Schedule starts from the date the contract is signed by both parties.

- A. Consultant will continue BMR (Below Market Rate Program) Ownership Program Administration, Loan Portfolio Management and begin Administration of the Below Market Rate Rental Program from July 1, 2018 through June 30, 2020.**
- B. Consultant will administer BMR ownership and rental program and assure BMR Deed restrictions are recorded and followed by all parties as applicable for each property.**
- C. Consultant will host BMR program at 356 Digital Dr., Morgan Hill, CA 95037**
- D. Consultant will regularly update BMR guidelines and program materials on the City's website and HouseKeys webiste, in conjunction with direction from the City Council, City Manager and Staff's direction to reflect policies and procedures approved by the City Council, the guidelines will include the Consultant's administrative process for BMR Administation including, but not limited to: applications, program pamphlets, resale calculations, buyer selection process, sale and resale of units, refinancing requests, collection of City fees and other applicable fees, and default monitoring/resolution process. Consultant's objective will be to work alongside City Staff to incorporate "learnings" from the City's 40 + year old BMR Program into a go-forward plan focused on best practices, cost recovery, and sustainability of the BMR Program.**
- E. Consultant will continue to maintain the City BMR program website presence that will link to the City of Morgan Hill website.**
- F. Consultant and the City will develop mutually acceptable response times to BMR inquiries and processing times required to obtain City signatures.**
- G. Consultant shall maintain the City's existing databases of which the City will have full access to, and files for program administration, and establish a file retention and management system for the program that is accessible at all times by City Staff. All electronic records, databases, and correspondence will be considered work products that are property of the City of Morgan Hill. The consultant will update the City's records monthly to ensure a coordinated seamless record keeping process.**
- H. Consultant will provide the applicant with the following services:**
 - 1. Conducting income qualifications including review of assets, income, Verification of Employment (VOE) and all other necessary approvals to ensure qualification for the City BMR Program.**
 - 2. Making necessary revisions to the City's existing program materials and legal documents, subject to City approval**
 - 3. Underwriting loan applications in accordance with program requirments.**
 - 4. Preparing all loan documents, overseeing proper execution thereof, and conducting final approval reviews.**
 - 5. Ensuring timely delivery of all necessary documents into escrow, and preparing escrow demands.**
 - 6. Overall management and implementation of specific program policies.**
 - 7. Preparation of BMR program materials, revised as needed on an ongoing basis.**
 - 8. Calculating all pay off demands and issuing any disclosures and tax forms as required by State and/or Federal Law.**
 - 9. Calculating the resale value of all BMR homes, and annually submitting accurate property BMR values on behalf of the City to the County via a detailed workbook of data (individual resale**

calculation formulas on each BMR property to ensure County of Santa Clara Tax Assessor is provided annual updated property values). This information shall be accessible to the City and simultaneously submitted to the City in an electronic report with the transparent calculation used to generate the BMR value.

10. Work with City Staff to ensure a seamless and coordinated development of documents as it relates to the BMR Program, including the RDSCS application process where BMR units are awarded, the Development Agreement, the Affordable Housing Agreement and any subsequent amendments to the Development.
- I. Consultant shall act as a transaction coordinator for all real estate transactions and will follow the current City BMR Fee Schedule approved by City Council. Consultant will charge BMR re-sale transaction fee in line with applicable recorded Deed Restrictions per the Fee Schedule. Consultant will charge the developer transaction coordination fees in accordance with the Affordable Housing Agreement pertaining to the subject development project per the fee schedule.
- J. Consultant will coordinate document transmittals between buyers, homeowners, developers, and City as needed. Consultant will be responsible for ensuring all documents submitted for City signatures are complete and accurate. Consultant will be responsible for making any necessary corrections to documents.
- K. Consultant will work with City staff to coordinate tracking of BMR units produced, BMR units waived as part of BMR Reduction Program, and housing in-lieu fees collected.
- L. Consultant shall work alongside Staff to conduct monitoring the evaluate BMR owners' compliance with the terms and conditions of BMR recorded deed restrictions including the following:
 1. Mailing monitoring letters to all the BMR units for self certification.
 2. Reviewing in conjunction with City Staff, City or County Assessor data to assist in the process (e.g., water utility bills, property records)
 3. Review City's preliminary monitoring list to identify follow up actions required.
 4. Meet with City staff to develop guidelines for acceptable default remedies (e.g., allowing rental of BMR units for hardship cases).
 5. Attempt to cure asset management issues with proactive measures as approved by City Council procedures, and/or the City Manager or his or her designee.
- M. Consultant shall work alongside Staff to investigate and identify cure for potential BMR defaults including:
 1. Conduct follow up of those BMR owners who do not submit their compliance documentation.
 2. Reviewing information from calls from BMR neighbors and interested parties.
 3. Conduct reasonable follow-up investigation to assess potential BMR defaults including unit site visits.
 4. Scheduled appointments with BMR owners.
 5. For confirmed defaults, provide owners with list of actions needed with a timeline to remedy the default and conduct follow-up to monitor compliance. Subsequently, provide the City with a letter documenting the efforts made by the administrator to cure the situation, include dates and times, response or lack thereof of the homeowner, and various ways in which the administrator tried to remedy the situation prior to escalation. This will be done on a case by case basis, coordinated with Staff, to ensure enforcement efforts are escalated as needed to preserve the affordability of the BMR home and assist families with guidance as needed.
 6. Maintain a log of actions taken to remedy the defaults.
 7. For those defaults in which the owners choose to not remedy the situation within a reasonable amount of time, Consultant will meet with City staff to determine the course of action to pursue.
 8. Provide City with a list of any current BMR defaults and actions taken to date.
- N. Consultant will provide the City with quarterly reports reflecting the following performance measures for BMR program administration. Additional measures may be developed in

conjunction with City staff. Performance measures will be included in quarterly BMR summary reports.

- * Qualified #_____ of buyers
- * Ongoing development of New Buyer Pipeline (#_____ applications) to assist developers with closing on time
- * Record #_____ Affordable Housing Agreements
- * Held #_____ Lotteries for potential new homeowners
- * Ongoing, BMR Website updates - www.HouseKeys.org to disseminate information and connect to the City of Morgan Hill Website
- * Assist #_____ Development Projects that needed onboarding to City process and sale of units
- * Record #_____ BMR Properties with Notice of Defaults (NOD)
- * Hold #_____ BMR Educational Orientations at City Hall with #_____ Registrants, conduct BMR orientations in the City off site on occasion to target audiences
- * #_____ of BMR Existing Homeowner Workshops held to provide current homeowners an opportunity to stay engaged and educated on the BMR Program
- * Assist #_____ BMR Home Sale Transactions
- * #_____ refinance transactions completed
- * #_____ resale transactions completed
- * #_____ new construction sales completed
- * #_____ Escrow/Closings
- * #_____ Identify and qualify New Lenders to facilitate Purchase Transactions and familiarize their legal teams with the Programs 45 year affordability restrictions
- * Annually respond to the County Tax Assessors request for a detailed description of each BMR Home in the City to ensure accurate property tax assessments
- * #_____ Rehab and sold
- * #_____ asset management cases cured
- * General Asset Management Activity
- * Model City Updates and progress
- * \$_____ Total Revenue Collected in relation to the City of Morgan Hill BMR Program with backup documentation

- O. Consultant shall provide the City with a list of "problem properties" that have been identified with a case study description of the issue, concern, efforts made thus far, recommendations and solutions, and next steps and results. This report is ongoing.
- P. Consultant will partner with the City to create City legal templates for documents required for signature by the BMR participants. Consultant shall supply documents that are typically used in Santa Clara County for residential real estate transactions (e.g., purchase and sale, disclosure acknowledgements, addendums, etc.)
- Q. Consultant will create and maintain a list of approved loan officers and lending operations eligible to provide mortgage lending for purchase and refinance transactions, on the website, as well as the transparent process/steps in which a lender can take to become an approved lender.
- R. Consultant will review individual BMR restrictions for terms and requirements as needed including sweat equity and equity share units, Madrone Plaza units, Royal Court, and Viale. Consultant will discuss its findings with City staff.
- S. Consultant will prepare City staff reports on a time and materials basis.
- T. Consultant enters into this contract with the City of Morgan Hill with the intention of continuing a Model City Project that incorporates Industry Best Practices, A BMR Database, and a Regional BMR Working Group. This Project will improve efficiencies and reduce program costs to the City.
- U. Consultant will provide training, analysis and suggested improvements to the BMR Program, including Down Payment Assistance Loans (e.g. Sweat Equity)
- V. Consultant will construct a work plan for a Regional BMR Working Group to explore strategies to

preserve affordable housing stock, seek legislative solutions and examine program cost and value.

- W. Consultant will design a Regional BMR Database that first focuses on the Morgan Hill Portfolio with the intention of introducing an Affordable Housing Technology Platform to facilitate all aspects of development, buyer orientation, buyer-property matchup, portfolio management and compliance, of which the City will have full access to. All electronic records, databases, and correspondence will be considered work products that are property of the City of Morgan Hill. The consultant will update the City's records monthly to ensure a coordinated seamless record keeping process.
- X. Consultant will construct a work plan for a Regional BMR Working Group to explore strategies to preserve affordable housing stock, seek legislative solutions and examine program cost and value.
- Y. Consultant will design a Regional BMR Database that first focuses on the Morgan Hill Portfolio with the intention of introducing an Affordable-Housing Technology Platform to facilitate all aspects of development, buyer orientation, buyer-property matchup, portfolio management and compliance.
- Z. Consultant shall not provide real estate broker, real estate agent services under this agreement.

LOAN PROGRAM SCOPE OF WORK

Client / Agency Service Support

- Portfolio Transfers
- Serve as Main Point of Contact
- Client Requests and Projects
- Reporting
- Billing and Pricing Updates
- Client Contact Updates
- Program Guidelines

Loan Processing / Underwriting

- Loan processing
- Document Preparation
- Underwriting Subordinations
- Wage Compliance

Customer / Borrower Services

- Customer Service
- New Loan Set Up
- Changes to Borrower's Accounts
- Borrower Affidavits
- Annual Notifications to Borrowers
- Payoff Demands
- Reconveyances / Satisfactions / Release of Liens
- Payment Coupons (Replacements)
- Generally Anything that has to do with a Borrower's Account
- Check by Phone Payments

Payment Processing and Monitoring

- Process Borrower Payments
- ACH NSF – Returned Checks
- Monitoring of Taxes and Insurance
- Escrow Accounts

- Annual Escrow Analysis Collections
- Payments
- Collections and Communications (Written, Phone, etc.)
- Loss Mitigation Agreements (e.g. Payment Plans)
- Default Events (Foreclosures, Bankruptcies, etc.)



EXHIBIT B

SCHEDULE OF COMPENSATION RATES & COSTS

Position	Department	Type	Annual Amount
Manager	Administration	PT	\$75,000
Processor	Administration	FT	\$90,000
Underwriter	Administration	FT	\$90,000
Asset Manager	Administration	FT	\$90,000
Real Estate Agent	Administration	FT	\$71,000
Real Estate Project Manager	Administration	Contract	\$39,000
Broker of Record	Administration	PT	\$25,000
Database Engineer	Technology	FT	\$136,000
Analytics Engineer	Technology	PT	\$57,000
Software Engineer	Technology	FT	\$123,000
Server Administrator	Technology	PT	\$81,000
Production and Copy Editing	Communications	Contract	\$93,000
Contracts & Correspondence	Legal	Retainer	\$56,000
Litigation	Legal	Retainer	\$56,000
Benefits			\$150,000
Total Personnel Costs			\$1,232,000
Insurance	Overhead		\$30,000
IT Services	Overhead		\$30,000
Morgan Hill Office	Overhead		\$84,000
Office Supplies	Overhead		\$20,000
Overhead Costs	Overhead		\$164,000
Total Administration Budget			\$1,396,000



PROGRAM FEE SCHEDULE

#	Transaction Type	Fee Amount or Percentage of Sales Price	Revenue Cap Per Transaction	Fees charged to (Who pays Fee):
1	New Construction Sale	3%	\$15,000	Initial Sale Price
2	Property Resale Transaction	6%	\$25,000	Excess Sale Proceeds
3	Acquisition, Rehab, Transaction	5%	\$25,000	Excess Sale Proceeds
4	Subordination Fee	\$1,086.00	\$886 (\$200 to City of Morgan Hill)	BMR Owner Occupant
5*	Opportunity Drawing Entry Fee	\$25.00	\$25.00	BMR Applicant
6*	Application Fee Paid After Opportunity Drawing and Upon File Request	\$75.00	\$75.00	BMR Applicant
7*	Resale Calculation (Value Request)	\$150.00	\$150.00	BMR Owner Occupant
8*	Ownership Transfers & Changes	\$500.00	\$500.00	BMR Owner Occupant
9*	Loan Processing Fee	\$900.00	\$900.00	Borrower
10	Special Projects Billing Rate	\$150/hour		Per Agreement

Fee Explanations:

5. The Opportunity Drawing Entry Fee is for Application I.D. holders who want to enter a Drawing. This is to compensate for the file handling required for all applicants who enter a Drawing. On average, for every single applicant who purchases or rents an affordable unit, at least seven (7) applicants must be reviewed and processed.

6. This fee is paid by Application I.D. holders who enter a Drawing and receive a File Request to begin processing their file and determine eligibility and qualification of the applicant. This process requires verification of tax returns, social security numbers and a credit report.

7. The Administrator issues Resale Calculations or Price Determinations to Participants in the program who use this information to determine whether they should sell or refinance their affordable unit. Over 60% of the resale calculations or price determinations issued, do not make it to a transaction.



8. Ownership Transfers & Changes can be requested by Participants to update the Resale Restriction Agreement and program records. This typically involves opening escrow, performing resale calculations and updating the program files.

9. The current loan processing fee is 1.5% of the loan amount and has ranged between \$900 and \$1,150 over the past 2 contract periods. #9 was added to the schedule in order to make the fee public.

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

Consultant will continue BMR (Below Market Rate Program) Ownership Program Administration, Loan Portfolio Management and begin Administration of the Below Market Rate Rental Program from July 1, 2018 through June 30, 2020.

Attachment: HouseKeys Agreement 2018_2020 (1768 : SECOND AMENDMENT TO CONSULTANT AGREEMENT WITH NYANDA AND

DRAFT



Meeting Minutes City Council

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

Wednesday, May 2, 2018 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

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.

CALL TO ORDER

Mayor Tate called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow called the roll.

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

DECLARATION OF POSTING AGENDA

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

Minutes Acceptance: Minutes of May 2, 2018 7:00 PM (CONSENT CALENDAR)

CITY COUNCIL REPORTS

Mayor Tate spoke about his work on the Silicon Valley Clean Energy Board. They are the supplier of the clean energy in Morgan Hill. He shared that the rates they offer Morgan Hill residents are about 5% less than the PG&E rates. He commented that he is the City Council representative for Morgan Hill on the Cities Association Board and encouraged his colleagues to attend the annual dinner coming up on May 10. The topics for the evening will be housing and transportation. He spoke about the recent City/School Liaison meeting, which is a group made up of City of Morgan Hill and School District teammates who work together to better Morgan Hill. He shared that he also took part in the Annual Legislative Summit where representatives from Congress Members to Council Members get to share what is going on in their communities and what the needs of the communities are.

He spoke about the National School Walkout that took place on Friday, April 20. He went to Central High School to talk with the students about gun violence and what they believe needs to happen to make a change. He shared that he and City Manager Christina Turner both attend the monthly Chamber of Commerce Board meetings to give updates on City business. He also mentioned that he has joined a new committee, the Local Policy Maker Group (LPMG) with Caltrain. It is a group made up of elected officials from San Francisco to South Santa Clara County that meet monthly to do advisory work for the Caltrain board. He shared that he has been a member of the Library Joint Powers Authority (JPA) since 1998. The JPA runs several branches of the library in different cities. At their most recent meeting, they reviewed their budget. As a part of that review, the JPA board gave direction to staff to have all library branches open 61 hours a week with open hours on Sundays. They are optimistic that library staff will be able to implement the direction given.

He mentioned that the South County Youth Task Force met earlier in the day. The task force has been in place for about five years and has done some great work. The task force was funded by a grant through CalGRIP. They no longer have that grant and did not qualify for a follow up grant. There is a team looking into other grant and funding opportunities. He reminded the community that he will be holding a Coffee with the Mayor this Saturday at GVA Coffee downtown from 10:00 to 11:30 a.m. Assistant City Manager Leslie Little will be his guest speaker. He concluded by sharing that he will be taking part in the Mother's Day bike ride and pancake breakfast.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY ATTORNEY'S REPORT

None.

OTHER REPORTS

None.

PROCLAMATIONS

Proclaiming the week of May 7-13, 2018 as Wildfire Awareness Week

Proclaiming the Month of May as Aquatics Month

PUBLIC COMMENT

Mayor Tate opened the public comment at 7:15 p.m.

Jorge Briones was called to speak.

Minutes Acceptance: Minutes of May 2, 2018 7:00 PM (CONSENT CALENDAR)

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

PRESENTATIONS

1. AMGEN TOUR OF CALIFORNIA UPDATE

Recommendation:

Receive update on Amgen Tour of California activities.

Economic Development Director Edith Ramirez provided the update.

Mayor Tate opened the public comment at 7:32 p.m.

John McKay was called to speak.

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

RESULT:	NO ACTION TAKEN
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ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

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

CONSENT CALENDAR

MOTION:

Approving Consent Calendar items 2 through 11.

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

2. APPROVE FIFTH AMENDMENT TO FIRATO SERVICE COMPANY, INC. MAINTENANCE SERVICE AGREEMENT

Recommendation:

Approve the fifth amendment to the maintenance service agreement with Firato Service Company for \$928,950 for four years of service.

3. APPROVE AMENDED SUBDIVISION IMPROVEMENTS AGREEMENT FOR LANDS OF AHMADI (APN 817-59-066,067,068)

Recommendation:

1. Approve the Amended Subdivision Improvements Agreement with Rahmatollah Ahmadi;
2. Authorize the City Manager to execute the Amended Subdivision Improvements Agreement; and
3. Authorize the recordation of the Amended Subdivision Improvements Agreement.

4. APPROVAL OF STORMWATER BEST MANAGEMENT PRACTICES (BMP) OPERATION AND MAINTENANCE AGREEMENT FOR MONTEREY AND THIRD DEVELOPMENT AT 17270 AND 17290 MONTEREY ROAD (APN: 726-13-056 & 057)

Recommendation:

1. Approve a Stormwater Best Management Practices (BMP) Operation and Maintenance Agreement for the Monterey & Third development at 17270 and 17290 at Monterey Road (APN: 726-13-056 & 057); and
2. Authorize the City Manager to execute the Stormwater BMP Operation and Maintenance Agreement pending review and approval by the City Attorney.

5. APPROVAL OF A CONSULTANT AGREEMENT WITH DAVID J. POWERS & ASSOCIATES, INC. (DJPA) FOR PREPARATION OF THE ANNEXATION ENVIRONMENTAL IMPACT REPORT (ANNEXATION EIR)

Recommendation:

Adopt resolution approving and authorizing the City Manager to execute and administer a Consultant Agreement with David J. Powers & Associates, Inc. (DJPA) for preparation of the Annexation Environmental Impact Report (Annexation EIR) and approving an amendment to the City's Fiscal Year 2017-2018 budget in the long range planning fund (Fund 207) to appropriate \$219,000.

6. APPROVAL OF COUNTYWIDE AB 939 AND HOUSEHOLD HAZARDOUS WASTE COLLECTION AGREEMENTS

Recommendation:

Authorize the City Manager to execute the Countywide AB 939 and Household Hazardous Waste Collection agreements.

7. AWARD MONTEREY ROAD SEWER VAULT COATING PROJECT

Recommendation:

1. Approve Monterey Road Sewer Vault Coating Project plans and specifications;
2. Award contract to SoCal Pacific Construction Corp d.b.a. National Coating and Lining Company for the Monterey Road Sewer Vault Coating Project in the amount of \$198,500;
3. Authorize expenditure of construction contingency funds not to exceed \$19,850; and
4. Authorize the City Manager to execute and administer the construction contract with SoCal Pacific Construction Corp d.b.a. National Coating and Lining Company.

8. ADOPT ORDINANCE APPROVING ZONING AMENDMENT ZA2017-0007 FOR A PLANNED DEVELOPMENT MASTER PLAN FOR A 32-UNIT RESIDENTIAL DEVELOPMENT TO BE LOCATED ON A 5.26- ACRE SITE LOCATED AT 505 E. DUNNE AVENUE (APN 726-02-014)

Recommendation:

Waive the reading, adopt Ordinance No. 2274, 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.

9. ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT DA2017-0003: E. DUNNE- KYONO FOR A 32-UNIT RESIDENTIAL DEVELOPMENT ON A 5.26-ACRE SITE LOCATED AT 505 E. DUNNE AVENUE (APN 726-02-014)

Recommendation:

Waive the reading, adopt Ordinance No. 2275, 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.

10. ADOPT ORDINANCE AMENDING CHAPTER 1.19 OF THE MORGAN HILL MUNICIPAL CODE TO ALLOW FOR ADMINISTRATIVE CITATIONS TO BE ISSUED FOR CONTINUING VIOLATIONS OF BUILDING, PLUMBING, ELECTRICAL, OR OTHER SIMILAR STRUCTURAL OR ZONING ISSUES; ADOPTING A SCHEDULE OF FINES FOR VIOLATIONS OF TITLE 15 (BUILDING AND CONSTRUCTION); AND CLARIFYING THE PROCESS FOR ADMINISTRATIVE CITATIONS; AMENDING CHAPTER 1.24 TO MAKE ALL OFFENSES OF THE MORGAN HILL MUNICIPAL CODE, EXCEPT FOR TRAFFIC VIOLATIONS IN TITLE 10, PROSECUTABLE AS MISDEMEANORS WHICH MAY BE MADE INFRACTIONS AT THE DISCRETION OF THE CITY ATTORNEY; AND AMENDING VARIOUS CODE PROVISIONS TO DELETE SPECIFIC MISDEMEANOR OR INFRACTION CLASSIFICATIONS

Recommendation:

Waive the reading, adopt Ordinance No. 2276, 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.

11. APPROVE THE APRIL 18, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

12. APPROVE CONCEPTUAL DESIGN FOR CENTENNIAL RECREATION CENTER EXPANSION PROJECT

Recommendation:

Approve Conceptual Design for the Centennial Recreation Center Expansion Project.

Senior Project Manager Yat Cho, along with Lesley Miles with Weston Miles Architects, provided the report.

Mayor Tate opened the public comment at 7:51 p.m.
There being no requests to speak, the public comment was closed.

MOTION:

Approving the recommended action.

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

13. MARCH 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

Items 13 and 14 were taken together.

City Manager Christina Turner introduced the item. Finance Director Dat Nguyen and Budget Manager Monica Delgado provided the report.

Mayor Tate called a recess at 8:03 p.m.

The meeting was reconvened at 8:09 p.m.

Mayor Tate opened the public comment at 8:34 p.m.

Peter Mandel was called to speak.

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

RESULT: NO ACTION TAKEN

14. INTRODUCE RECOMMENDED FISCAL YEAR 2018-19 AND 2019-20 OPERATING BUDGET AND FISCAL YEAR 2018-19 THROUGH 2023-24 CAPITAL IMPROVEMENT PROGRAM BUDGET

Recommendation:

Receive Budget Presentation.

RESULT: NO ACTION TAKEN

15. HOUSING – MEETING THE CALIFORNIA HOUSING ACCOUNTABILITY ACT REQUIREMENTS AND MORGAN HILL’S REGIONAL HOUSING NEED ALLOCATIONS (RHNA)

Recommendation:

1. Receive KMA Report, “Strategy for Increasing the Supply of Affordable Housing”;
2. Discuss menu of options and the implications of modifications to the Residential Development Control System (RDCS) Program; and
3. Direct staff to return with additional information or take steps to prepare recommended actions or preparation of policy documents related to affordable housing accountability and production.

Housing Manager Rebecca Garcia, along with Assistant City Manager Leslie Little and Debbie Kern with Keyser Marston and Associates, provided the report.

The public comment was opened at 9:18 p.m.

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

RESULT: NO ACTION TAKEN

CITY MANAGER'S REPORT

City Manager Christina Turner shared that the slide at Nob Hill Trail Park is now open thanks to the great work of our Community Services team working in conjunction with the Engineering team. She highlighted that last Saturday the City hosted the youth triathlon at the Aquatics Center and Outdoor Sports Center. The Art a la Carte event also took place on Saturday and was put on by the Library, Culture, and Arts Commission at the Community and Cultural Center. She concluded by mentioning that the Downtown Association's Annual Wine Stroll also took place last Saturday.

FUTURE COUNCIL INITIATED AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:36 p.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk

Minutes Acceptance: Minutes of May 2, 2018 7:00 PM (CONSENT CALENDAR)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Donald Larkin, City Attorney
APPROVED BY: City Manager

PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE

RECOMMENDATION(S)

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2018 Strategic Priorities

Community Engagement and Messaging

POLICY CONSIDERATIONS:

1. Should Morgan Hill residents be required to report the theft or loss of a firearm to the Morgan Hill Police Department?
2. Should the City adopt an ordinance requiring the safe storage of firearms when they are not in use?
3. Should the City prohibit the possession of large capacity magazines?
4. Should the City require a permit to conduct retail firearm and/or ammunition sales, and if so, what conditions should be required on the permit.

REPORT NARRATIVE:

This is the second in what will likely be a series of reports discussing proposals to prevent gun violence in Morgan Hill. At its March 7, 2018 meeting, the City Council adopted a resolution condemning gun violence, and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill. Now, staff is seeking direction on several potential measures in furtherance of the Council's goals.

In 2013, the City of Sunnyvale adopted a gun safety/violence prevention ordinance that included specific requirements, including requirements to report the theft or loss of a firearm, and to keep firearms locked when not in use. The Sunnyvale ordinance also

prohibited the possession of large capacity magazines and required documentation of all ammunition sales. The Sunnyvale ordinance has been upheld by the 9th Circuit Court of Appeal in the case of *Fyock v. Sunnyvale* ((9th Cir. 2015) 779 F.3d 991.) In light of the fact that Sunnyvale's ordinance has been in effect for nearly five years and has survived legal challenge, we are recommending the adoption of a similar ordinance (or ordinances) in Morgan Hill. Sunnyvale's firearms regulations can be found [here](#).

Duty to Report the Theft or Loss of a Firearm:

According to the Giffords Law Center, "laws that require firearm owners to notify law enforcement about the loss or theft of a firearm serve several public safety functions. These laws help deter gun trafficking and straw purchasing and help law enforcement recover and return lost or stolen guns to their rightful owners. They also help law enforcement disarm individuals who become ineligible to possess firearms."

The complete report from the Giffords Law Center is linked [here](#).

Staff recommends adoption of an ordinance that requires reporting within 48 hours of the time a person discovers that his or her firearm has been lost or stolen when the person is a resident of Morgan Hill and/or the theft or loss occurred in Morgan Hill.

Requiring the Safe Storage of Firearms When Not in Use:

According to statistics compiled by the Children's Hospital of Philadelphia's Center for Injury Research and Prevention, more than 1.7 million children live with unlocked, loaded firearms in their home. According to that report, in 2014, 2,549 children (under 20) died by gunshot and another 13,576 were injured. The same fact sheet states that 31 percent of accidental deaths caused by firearms might be prevented with the addition of a child-proof safety lock and a loading indicator. A link to Center for Injury Research and Prevention's fact-sheet can be found [here](#).

Staff is recommending the adoption of an ordinance requiring guns stored in residences in Morgan Hill to be in a locked container and/or disabled with a trigger lock to prevent easy access and accidental discharges by children.

Prohibiting the Possession of Large-Capacity Magazines:

Under California law it is illegal to buy, manufacture, import, sell, give, or lend a large-capacity magazine (able to accept more than 10 rounds of ammunition). However, if a person already owns a large-capacity magazine, its possession is not currently illegal under California law. A law that would prohibit possession of large-capacity magazines statewide is currently on hold pending court review. In the meantime, in upholding the Sunnyvale ordinance, the 9th Circuit Court of Appeals has held that cities have the right to regulate the possession of large capacity magazines.

According to the Giffords Law Center, "large capacity magazines, some of which can hold up to 100 rounds of ammunition, significantly increase a shooter's ability to injure

and kill large numbers of people quickly because they enable the individual to fire repeatedly without needing to reload. The time required to reload can be critical in enabling victims to escape and law enforcement or others to intervene.” The complete report from the Giffords Law Center is linked [here](#).

Because the statewide prohibition on large-capacity magazines has not yet taken effect, and courts have upheld the right of cities to regulate the possession of large-capacity magazines, staff recommends adoption of an ordinance prohibiting the possession of large-capacity magazines.

Requiring a Permit to Conduct Retail Firearms Sales:

The City does not currently regulate retail firearms sales. While several firearms retailers have City business licenses for firearms sales, which are required under California law, the City has no specific regulations for firearms retailers. To better track firearms and ammunition sales, prevent straw purchases, and limit sales to minors, we recommend adopting an ordinance requiring a separate City permit for the operation of retail firearms sales. As a condition of that permit, retailers would be required to:

1. Certify that staff members who engage in retail sales are trained to recognize and prevent straw purchases,
2. Maintain an ammunition sales log, which records all ammunition sales made by the retailer, and
3. Prohibit the sale of assault-style firearms to minors under the age of 21.

Next Steps:

If Council directs the City Attorney to prepare an ordinance or ordinances as recommended, the City Attorney will return with a proposed ordinance in June 2018. Staff will also be reporting back at a future meeting on proposals to restrict firearms on City property, a description of how firearms are sold in Morgan Hill, and potential zoning code amendments to regulate the locations where firearms may be sold.

COMMUNITY ENGAGEMENT: Inform.

The City Attorney gave a presentation of potential measures to prevent gun violence at the March 7, 2018 regular meeting of the City Council. This report serves to further report on specific potential measures recommended for Council action.

ALTERNATIVE ACTIONS:

Council could direct the City Attorney to implement only some of the recommendations or provide alternative recommendations.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On March 7, 2018, the City Council adopted an ordinance condemning gun violence and committing to the consideration of common-sense measures to prevent gun violence in Morgan Hill.

FISCAL AND RESOURCE IMPACT:**Fiscal:**

The proposed ordinance(s) would be regulatory.

If a permit is required, we would recommend the creation of a cost-recovery regulatory fee.

Resource:

While the creation of ordinances would require significant City Attorney time, these efforts should not impact other tasks.

CEQA (California Environmental Quality Act):

Not a Project

Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. March 7, 2018 Gun Violence Staff report (Weblink)
2. Gun Violence Resolution 18-22

RESOLUTION NO.18-022**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CALLING FOR ACTION TO PREVENT GUN VIOLENCE**

WHEREAS, the City of Morgan Hill is a safe, inclusive, socially responsible, environmentally conscious, and economically sound community; and

WHEREAS, public safety is the highest priority for the City of Morgan Hill; and

WHEREAS, the United States has the highest rate of firearms related deaths among industrialized nations; and

WHEREAS, on December 14, 2012, a 20 year old gunman killed 20 first-grade children and six adults at Sandy Hook Elementary school in Newtown, Connecticut; and

WHEREAS, on September 16, 2013, a gunman killed 12 people and injured 3 others inside the Washington Navy Yard in Washington D.C.; and

WHEREAS, on December 2, 2015, when a married couple shot and killed 14 people and injured 22 others at a training and holiday party for the San Bernardino Department of Public Health; and

WHEREAS, on June 12, 2016, a gunman killed 49 people and injured 58 others at a nightclub in Orlando, Florida; and

WHEREAS, on October 1, 2017, a gunman killed 58 people and injured 851 others during a music festival in Las Vegas, Nevada; and

WHEREAS, on February 14, 2018, a 19 year old gunman shot and killed 17 people (14 of them teenaged students) and injured 14 others at Marjory Stoneman Douglas High School in Parkland, Florida; and

WHEREAS, the above listed events are just a tiny fraction of the mass shootings and other gun violence incidents that have occurred over the past five years; and

WHEREAS, in just the first two months of 2018 there were 8,690 gun violence incidents in the United States, resulting in 2,336 deaths and 3,974 injuries, including death or injury to 536 children and teens; and

WHEREAS, gun violence incidents in 2018 include at least thirty mass shooting incidents in which four or more innocent victims were shot.

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

1. The City of Morgan Hill condemns all acts of gun violence, and calls on all levels of government to take strong action to prevent further senseless deaths from firearms.
2. The City Council will consider commonsense local measures to regulate gun and ammunition sales in the City of Morgan Hill, including business license requirements for training of employees and inventory monitoring.
3. The City Council will advocate for state and federal bans on both military style assault weapons and high-capacity ammunition magazines, stronger background checks for all gun and ammunition purchases, revoking the prohibition on federally funded research on gun-related deaths, and rescinding the gun industry's immunity.

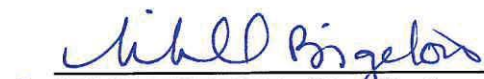
PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 7th day of March, 2018.

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

APPROVED:

ATTEST:


 RICH CONSTANTINE, Mayor Pro Tem


 IRMA TORREZ, City Clerk

∞ CERTIFICATION ∞

I, **Irma Torrez, City Clerk of the City of Morgan Hill, California**, do hereby certify that the foregoing is a true and correct copy of Resolution No. 18-022, adopted by the City Council at a regular meeting held on March 7, 2018.

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

DATE: 3/19/18

Irma Torrez
IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Christina Turner, City Manager
APPROVED BY: City Manager

POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT

RECOMMENDATION(S)

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2018 Strategic Priorities

Financial Stewardship
Infrastructure

GUIDING DOCUMENTS

Economic Blueprint

POLICY CONSIDERATIONS:

1. Does the City Council desire for cannabis to be medicinally available to those 18 years or older and/or recreationally available to those 21 years or older in Morgan Hill?
2. Should the City Council decide to allow cannabis sales and other related industries (recreational and/or medicinal), shall a cannabis tax measure be placed on the November 2018 ballot to fund city services?
3. Does City Council want to consider implementing cannabis regulations and fees in connection with cannabis-related activities prior to a potential November cannabis tax ballot measure?
4. Shall an increase of the Transient Occupancy Tax (TOT) measure be placed on the November 2018 ballot to fund city services?
5. Should the City continue to support the efforts to establish a Tourism Business Improvement District (TBID) to promote the area as a sports/recreation and wine tourism destination?

REPORT NARRATIVE:

Since voters approved Proposition 64 - The Adult Use of Marijuana Act (AUMA) - allowing for the adult use, possession, and sale of cannabis, the City of Morgan Hill has invested a significant amount of time researching and consulting with industry experts, to determine the effects that cannabis-related activities would have on the Morgan Hill community.

The City has several options for regulating cannabis cultivation, cannabis-related business activity, and fees and taxes charged in connection with cannabis-related activity. Due to limited data and the complexity and varying degrees of regulation, the City Council directed staff on February 7, 2018 to conduct a statistically valid survey to better understand the communities' receptiveness to cannabis related industries and the taxation thereof, as well as the rate at which residents support an increase to the Transient Occupancy Tax (TOT).

Cannabis and TOT Survey Results

During the months of March and April 2018, Godbe Research (Godbe) conducted a survey of Morgan Hill residents on the subject of cannabis and increasing the TOT. The survey of 711 registered voters was accomplished through a combination of telephone and online surveying. Godbe's presentation of the survey results on April 18, 2018, are provided as a weblink below. In summary, the survey revealed a preference of the sale of medicinal over recreational cannabis and a solid base of voter support for both a cannabis sales tax and an increase to the TOT.

- Support for Sale of Medical Marijuana – 61.3% support
- Support for Sale of Recreational Marijuana – 48.3% support
- Informed support for Gross Receipts Tax on Cannabis Sales (up to 15%) – 63.6% support
- Informed support for Increasing the Transient Occupancy Tax to 14% – 63.9% support
- Informed support for Increasing the Transient Occupancy Tax to 12% – 69.3% support

Prospective voters rated streets, police patrols, and officers in schools as the three highest priorities for additional funding and tourism development as the lowest priority.

Cannabis Permitting and Taxation

The survey found that residents are evenly divided on most aspects of recreational cannabis, though public opinion leans towards disallowing. Those who are strongly opposed to recreational cannabis exceed those who are strongly supportive by a margin of 37.8% to 26.7%. Council could choose to allow none, some, or all of the uses to include cultivation, production, testing, sale, and delivery.

Likely voter support was stronger for the taxation of cannabis than for its presence, with 63.6% supporting its taxation. Council could choose to place a tax measure of cannabis on the ballot in November and decide the policy issues related to use at a later date or decide on the policy issues prior to the election with a contingency on the passage of the tax measure.

The potential revenue from a tax measure is contingent on the tax rate, volume of sales, and number of, and allowable taxable uses. For example, HdL, local government revenue consultants, estimates that a tax rate of 6% with two of each use (cultivators, production, testing and sales) will yield \$1.2 million annually in revenue. However, if the tax rate were lower or fewer uses were allowed, the rate of revenue would drop accordingly. The survey polled using “up to 15% of gross receipts.”

Some communities in California have recently lowered their tax rate due to the impact of a high cumulative rate of taxation when considering sales tax and state excise taxes. HdL recommends that any tax rate not exceed a cumulative rate of 30% which allows for a maximum local rate of 6%. Currently, commercial activity for recreational and medicinal cannabis is prohibited in Santa Clara County cities, other than San Jose, which permits and taxes both. Some other cities are exploring permitting and taxing commercial activity.

TOT

The current TOT rate is 10% which is anticipated to generate approximately \$2.7 million in revenue in FY 2017-18. If the rate were increased by 2% or 4%, the increase in revenue is anticipated to be \$540K or \$1.1 million respectively. An increase to the TOT rate would require voter approval and the funds could be used for any purpose as either defined by the ballot language or generally, if passed as a non-specific measure to include infrastructure, police patrols, fire services, and other city services. A general tax increase requires only a majority vote. If the increase is for a specific purpose, it would require a 2/3 vote.

One concern from the hotel industry is that added customer costs from an increase in the TOT above 2% may result in a reduction in hotel stays. One way to mitigate this concern is for voters to pass a tax rate that is variable and allows for Council to raise or lower the rate in the 12-14% range depending on funding needs and assessment of the impact of the tax on business. Establishing a not to exceed amount is a strategy that has worked in other areas to allow for flexibility in the tax rate without having to return to voters for approval.

Tourism Based Improvement District (TBID)

A potential increase in the TOT should be evaluated while also considering the establishment of a TBID. The Economic Blueprint identifies Tourism as one of the four key industries. Action #28 calls to work with hotels to develop a TBID to help finance capital improvements to sports recreation facilities and promote and market the region. Meetings with hotel representatives have been taking place since late 2017 to advance a TBID. The hotels are supportive of the creation of a TBID/destination management organization that would raise revenue by assessing a fee for each room night stay. Funds raised through the TBID would be restricted to uses related to increasing hotel stays in Morgan Hill. A majority of the hoteliers (based on number of rooms) would have to support the TBID in order to move forward.

The hotel group supports a 1.5% TBID with a nine-person board of directors that has representation from the City and from the community, with five board members from the

hotels. The hotels have worked with the City to develop a Management District Plan for the creation of the TBID for an initial five-year operation period and dedicate 11% of the generated revenues to Sports Promotion, Facilities and Management as recommended by the Economic Blueprint (action #23 and #24). The hotels also support reimbursing the City for the upfront consultant costs associated with the creation of the TBID as well as contributing to the 2018 Amgen Tour of California event costs. The amount expected to be generated from a 1.5% tax is \$405K. The TBID management group (the nine-person board of directors indicated above) would ultimately control the way these funds are spent.

The hotels have expressed concerns about the potential TOT increase for two reasons; first they are concerned that the market has not matured enough to support a large (4%) tax (whether it's a TBID, TOT, or a combination of both), and secondly, they worry that a TOT effort will not ensure funds be dedicated to grow tourism efforts. They recommend establishing a TBID and potentially revisiting a TOT increase after a TBID leads to additional overnight hotel stays. Staff has placed the TBID efforts on hold until the Council provides further direction. The Management Plan is fairly complete and the next steps to complete the TBID would be to bring forward a ballot measure to the hotel representatives and hold the necessary public hearings, all which can be accomplished within approximately sixty days.

Survey of TOT and TBID Rates

Below is a survey of Santa Clara County cities with their current TOT/TBID rates and any near-term plans for increases.

City	TOT TBID	Rate +	Near Term Plan:
Morgan Hill	10%		Polled and considering increase in TOT and/or TBID
Campbell	12%		No plans to increase at this time
Gilroy	9% + 2% TBID		No plans to increase at this time
Los Altos	11%		Will go on November ballot to increase to 14%
Los Gatos	12%		Recently increased from 10% in November 2016
Milpitas	10%		Perform polling to increase to 12% or 14%.
Mountain View	10%		Currently discussing to place on November ballot to raise it
Palo Alto	14%		Evaluating options to increase by either 1% or 2% in Nov 2018
San Jose	10% + 4% CCFD		
Saratoga	10%		No plans to increase at this time
Sunnyvale	10%		Considering increase to 12.5% in Nov 2018

Downtown Property Based Improvement District (PBID)

The Council requested staff to return with a description of the PBID including a discussion of some of the issues to avoid with a potential TBID, as provided below:

Background

The Downtown PBID was initially established on July 26, 2006 and renewed in 2011 for an additional five years after receiving approval by the Downtown commercial property owners. The PBID assessments were used to fund 1) capital improvements, 2) economic development and marketing, 3) pedestrian security and safety and 4) public policy and advocacy. The PBID supported many efforts, including the installation of the Downtown speaker system, flower baskets, benches, flags, production of marketing materials, downtown events, and provided advocacy for improving lighting, streets, promoting outdoor dining and retail, street banners and new trash and recycle bins.

State law requires that the City contract with a non-profit organization for the management of the District, and in 2007, the City Council entered into an Agreement with the Morgan Hill Downtown Property Business Improvement District (MHDPBID), for the operation and administration of the District, including administration of the funds generated from the annual assessments to the Downtown properties. That Agreement was renewed annually with the Council's approval of the PBID's Annual Assessment Report, as required by State Law. The Annual Report must include the proposed budget, annual assessment, and work program for the next year. The MHPBID Board was made up of seven members, with only three positions listed as voting member positions. The other four positions included one representative from the City, one representative from the Downtown Association, and two honorary members – all non-voting members. The Council terminated the PBID management agreement in July 2013.

Issues

The Council terminated the contract with the MHDPBID because the organization lost its non-profit corporate status. The State of California requires that the City contract with a non-profit organization for the management of the District and therefore, the City could no longer be under contract with the MHDPBID for the management of the District. Additionally, the MHDPBID had significant liability on past-due taxes due to their lack of tax exempt status and lapse of corporation status.

There are several lessons learned from the demise of the PBID. First, while relying on volunteers can save money, it is important to invest in professional services, especially to manage finances and reporting requirements. Secondly, the makeup of the Board should be inclusive to ensure adequate oversight and engagement of all stakeholders. Third, there should be adequate checks and balances to ensure funds are adequately spent and accounted for properly.

Status

The MHDPBID solved the corporate standing issues. However, the PBID has lapsed and the Downtown property owners would need to vote on a new assessment to renew or create a new business improvement district. The City is currently holding approximately \$100,000 in unspent PBID funds. The City met with Downtown property owners in August 2016 to explore interest in renewing the business district. At that time there was no clear interest in the renewal of the district. Staff discussed various options, including returning the funds to property owners or spending the money on items for which the funds were collected as per the last Annual Report. The issue with returning

the funds to the owners is that many of the properties were owned by the Redevelopment Agency and a significant amount of the funds would go to owners that were not here during the time of the assessment and did not directly contribute to the funds. It is perhaps best to use the funds on Downtown improvements. Staff will return at a future date to seek City Council direction on the disposition of the funds.

Next Steps

Staff is seeking direction on the potential tax measures related to cannabis and TOT, as well as the establishment of a TBID.

If directed to proceed with a tax measure, staff will return by the first meeting in August with proposed ballot language for Council's approval to place on the November 2018 ballot. If Council wants to proceed with a TBID, staff will return with a management plan.

Also, if directed, staff will return with a proposed regulatory ordinance for the allowable uses of medicinal or recreational use of cannabis.

COMMUNITY ENGAGEMENT: Inform

This staff report serves to inform the community of the research done on the communities' receptiveness to cannabis related industries and potential additional revenue opportunities. Current information about the City's consideration of Cannabis related activities in Morgan Hill can be found on the City's webpage <http://www.morganhill.ca.gov/1700/Proposition-64-and-Cannabis-Regulations>.

ALTERNATIVE ACTIONS:

The City Council may decide to continue the moratorium on cannabis related businesses and revisit after the November election.

The Council could decide to not move forward with an increase in the TOT or establishment of a TBID.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has engaged on this topic on several occasions since the passage of Proposition 64. The Morgan Hill Municipal Code was changed on July 26, 2017 to ensure alignment with the requirements of the AUMA. City Council workshops were held on February 1 and September 27, 2017, and staff reports presented on February 15, 2017, July 19, 2017, January 17, 2018, February 7, 2018, and April 18, 2018. Links to the meetings are included in this report.

FISCAL AND RESOURCE IMPACT:

If the City Council wants to move forward with cannabis permitting and taxing, staff recommends engaging HdL to ensure proper and legal implementation of recreational and/or medicinal cannabis business regulations and taxation. Placement of a cannabis taxation ballot measure for the November 2018 election would be approximately \$52,300.

The costs to establish the TBID are included in the current budget.

An increase of the TOT would require the placement of a ballot measure, which would be approximately \$52,300 for the November 2018 election.

CEQA (California Environmental Quality Act):

Not a Project - Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. Prop 64 City Council Workshop - February 1, 2017 (web link)
2. Prop 64 Workshop Follow-Up - February 15, 2017 (web link)
3. Prop 64 Update - July 19, 2017 (web link)
4. Cannabis Policy Workshop - September 27, 2017 (web link)
5. Potential Changes to Marijuana Prohibition - January 17, 2018 (web link)
6. Cannabis Update and Community Survey - February 7, 2018 (web link)
7. Cannabis and Transient Occupancy Tax Community Survey Results April 18, 2018 (web link)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: Judy Viegas, Administrative Analyst
APPROVED BY: City Manager

INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

RECOMMENDATION(S)

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

Landscape Assessment District No. 1 (District) was created to pay for the maintenance of the parks and common area landscaping in new neighborhoods benefiting from the open space. Per Government Code Sections 22623 to 22631, an Engineer's Annual Report (Attachment 1) is required to set the annual assessments in the Landscaping Assessment District and establish a Public Hearing date. This Public Hearing date has been scheduled for the City Council meeting of June 6, 2018.

In May 2011, reserve targets for each subarea were recommended and approved by the Council. The recommended assessment rate for each subarea, which is reflected in the Annual Report, has been proposed at a level that will enable the City to maintain each subarea and make reasonable improvements during the fiscal year. On April 18, 2018, members in the Sandalwood Subarea of the District voted to increase the assessment cap to \$450 and it is proposed that the assessment move to that level for Fiscal Year 2018-19. In two subareas, Conte Gardens and Rose Haven, a decrease in the assessment is proposed due to high reserve levels. The Engineer's Annual Report (Attachment 1) details the proposed Fiscal Year 2018-19 assessments.

In the case of multiple subareas where the assessment cap does not increase annually, and funding is limited, maintenance services continue to be minimized. The Landscape Assessment District law requires property owners in these areas to vote to improve assessment increases. In some cases, property owners are not willing to increase their assessments. Staff will continue to look for alternatives to effectively manage the District

and plans to engage residents in many of the underfunded sub-areas over the next year to look for solutions.

COMMUNITY ENGAGEMENT:

Ongoing resident outreach is occurring in several of the subareas and City staff are striving to increase the resident outreach. Some areas have more active homeowners' groups that work with City staff in planning maintenance projects for their subareas, while residents of other subareas are less engaged. All residents residing in subareas where the assessment rate will be decreasing will be informed via direct mail. City staff have been working with the residents of the sub-areas with a proposed increase, Sandalwood and Llagas-Obata.

ALTERNATIVE ACTIONS:

There is no other practical alternative action. The City Council could choose to provide staff with further direction on management of the District.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In 1991, the City Council, under the Landscaping and Lighting Act of 1972, created the Fox Hollow/Murphy Springs Landscape Assessment District, and in 2010 chose to rename it to the City of Morgan Hill Landscape Assessment District No. 1. In May 2011, reserve targets for each subarea were established by the Council.

On June 7, 2017, City Council adopted the Fiscal Year 2017-18 Annual Assessments and Ordering Levy for Assessments for the District.

FISCAL AND RESOURCE IMPACT:

The cost for preparation of the Engineer's Annual Report will be paid for by the Assessment District. It is anticipated that the District will generate \$182,805.02 in revenues in Fiscal Year 2018-19. Expenses are budgeted at \$195,270.00 meaning that overall the District's reserves are projected to be reduced by \$12,464.98 in the coming year. Providing administrative oversight to the District is a core activity of the Community Services Department's work program.

CEQA (California Environmental Quality Act): Categorical Exemption

The planned maintenance and management of the subareas within the lighting and landscape assessment district fall within the CEQA categorical exemption of Class 1, Existing Facilities.

LINKS/ATTACHMENTS:

1. Engineer's Report 2018-19
2. Reso1_InitiateProceedings_18-19
3. Reso2_ApproveReport_18-19
4. Reso3_IntentPubHearing_18-19



CITY OF MORGAN HILL

Landscape Assessment District No. 1

Engineer's Report Fiscal Year 2018/19

May 2018

Attachment: Engineer's Report 2018-19 (1760 : LAD)

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Rich Constantine, Mayor Pro Tem

Larry Carr, Council Member

Rene Spring, Council Member

Caitlin Robinett Jachimowicz, Council Member

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Judy Viegas, Administrative Analyst

NBS

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Kristin Harvey, Senior Consultant

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1. ENGINEER'S LETTER

WHEREAS, the City Council of the City of Morgan Hill (the "City"), State of California, directed NBS to prepare and file a report, in accordance with Chapter 1, Article 4 of the Landscaping and Lighting Act of 1972 (the "Act"), presenting the plans and specifications describing the general nature, location and extent of the improvements to be maintained, an estimate of the costs of the maintenance, operations and servicing of the improvements for the City's Landscape Assessment District No. 1 (the "District") for Fiscal Year 2018/19. The report includes a diagram for the District, showing the area and properties proposed to be assessed, an assessment of the estimated costs of the maintenance, operations and servicing the improvements, and the net amount upon all assessable lots and/or parcels within the District in proportion to the special benefit received and;

WHEREAS, the assessment for each parcel is in compliance with the Proposition 218 Omnibus Implementation Act and Section 4 of Article XIII D of the California Constitution. The proposed assessments are not proposed to increase by more than the approved maximum allowable increases.

NOW THEREFORE, assessments have been levied in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

Zone	Units	2018/19 Maximum Assessment Rate	2018/19 Actual Assessment Rate	Total Assessment (1)
Belle Estates	36	\$502.22	\$320.00	\$11,520.00
Chang/Bertelone	8	1,215.00	550.00	4,400.00
Conte Gardens	11	477.82	365.00	4,015.00
Diana Estates	64	139.39	139.39	8,920.96
Fox Hollow (2)	75	207.21	173.53	13,014.75
Hamilton Square	38	425.54	325.00	12,350.00
Jackson Meadows #6	70	108.10	108.00	7,560.00
Jackson Meadows #7	10	314.58	100.00	1,000.00
La Grande Estates	32	88.00	88.00	2,816.00
Lacrosse/Gera	24	142.99	50.00	1,200.00
Llagas Creek (2)	71	279.02	233.67	16,590.57
Llagas/Obata	5	629.16	400.00	2,000.00
Mill Creek	84	186.82	186.82	15,692.88
Oak Creek I, II, III	119	453.82	350.00	41,650.00
Parsons Corner	10	568.32	250.00	2,500.00
Rose Haven	27	488.47	400.00	10,800.00
Sandalwood (3)	11	450.00	450.00	4,950.00
Sparhawk (2)	18	297.11	248.82	4,478.76
Stone Creek (2)	35	463.83	388.46	13,596.10
Sunnyside/Stonegate (2)	10	679.75	375.00	3,750.00
Totals	758			\$182,805.02

- (1) Actual amount placed on secured tax roll may be less due to Santa Clara County submittal requirements. Amounts placed on the tax roll must be rounded down to an even number.
- (2) Maximum Assessment Rate increases by 3% annually.
- (3) Includes increased rate approved by property owners in April 2018.

2. OVERVIEW

2.1 Introduction

In 1991, the City Council created the Fox Hollow/Murphy Springs Landscape Assessment District, under the Act, and in 2010 chose to rename it to the City of Morgan Hill Landscape Assessment District No. 1. The District was formed in order to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District. Following the initial formation, additional territory was annexed to the District as separate Zones. Currently, the District is comprised of 20 Zones.

The District provides for and ensures the continued maintenance, servicing, administration, and operation of various landscaping improvements and associated appurtenances located within the public right-of-way and dedicated easements within the boundaries of the District.

2.2 Description of Boundaries

Exhibits from the Engineer's Report at the formation of the District define the boundaries and maintenance areas of each Zone within the District. These exhibits are on file and available for review at the office of the City Engineer and, in conjunction with the County of Santa Clara (the "County") Assessor's maps of the areas annexed, comprise the assessment diagrams for the respective annexations. The Assessor's maps are on file in the office of the County Assessor and are, by reference, made a part of this Report.

2.3 Description of Improvements and Services

The improvements include the construction, operation, maintenance, and servicing of landscaping and appurtenant facilities; including, but not limited to, personnel, electrical energy, utilities such as water and gas, materials, contracting services, and other items necessary for the satisfactory operation of the following services:

"Landscape improvements provided within the District may include, but are not limited to: ground cover, shrubs, plants and trees, irrigation and drainage systems, graffiti removal, entry monuments, and associated appurtenant facilities. Services provided include all necessary service, operations, administration, and maintenance required to keep the above mentioned improvements in a healthy, vigorous, and satisfactory condition."

Reference is made to the Plans and Specifications for the improvements, which is on file with the City

3. ESTIMATE OF COSTS

3.1 Definitions of Budget Items

The following definitions describe some of the services and costs that may be included in the Zone Budgets:

Direct Expenses

Monthly Maintenance: Includes all regularly scheduled labor, material (i.e. pipe, fertilizer, insecticides, paint, etc.) and equipment required to properly maintain and ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.

Extra Contract Costs: Includes all labor, equipment, and material costs associated with unscheduled repairs and improvements needed to ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.

Water/Sewer: Includes the furnishing of water required for the operation and maintenance of the landscaping facilities.

Electricity Costs: Includes the furnishing of electricity required for irrigation systems for the operation and maintenance of the landscaping facilities.

Other Supplies: Includes costs that are generally unforeseen and not normally included in the yearly maintenance contract costs. This may include repair of damaged amenities due to vandalism, storms, heavy frost, etc. Also included may be planned upgrades that provide a direct benefit to the District. These upgrades could include replacing plant materials and/or renovation of irrigation systems.

Administrative Expenses

Salaries: Includes the cost to particular departments and staff of the City to provide the coordination of District services, operations, and maintenance of the improvements, response to public concerns and education, and procedures associated with the levy and collection of assessments.

Postage/Advertising: Includes the cost of providing any mailed notice to the property owners and publishing and posting the Resolution of Intention as required by the Act.

Internal Services: Includes overhead costs allocated to the District for various City staff services.

Administrative/Engineering Contract: Includes the costs associated with contracting with professionals to provide services specific to the administration of the levy.

Contingency/Capital Replacement Fund Balance (Reduction)/Reserve

Positive amounts are collected for various reasons that include, but are not limited to, any or all of the following:

- To maintain reserves which enable the City to pay for costs associated with the District during the first six months of the fiscal year,

Contingency/Capital Replacement Fund Balance (Reduction)/Reserve (continued)

- To reduce the current fund balance deficit (if any) that exists as of the beginning of the fiscal year, and
- To plan for the replacement of capital improvements in the future.

3.2 Zone Budgets

The estimated costs of servicing, maintaining, repairing, and replacing the actual improvements for each Zone for Fiscal Year 2018/19 are shown on the following pages.

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>Belle Estates</u>
DIRECT EXPENSES	
Monthly Maintenance	\$3,552.00
Extra Contract Costs	2,000.00
Water/Sewer	2,600.00
Electricity Costs	0.00
Other Supplies	525.00
Subtotal Direct Expenses	<u>\$8,677.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,695.10
Postage/Advertising	9.50
Internal Services	684.38
Administrative/Engineering Contract	320.58
Subtotal Administrative Expenses	<u>\$2,709.56</u>
SUBTOTAL ZONE COST	\$11,386.56
Fund Balance (Reduction)/Reserve	133.44
TOTAL BALANCE TO LEVY	<u>\$11,520.00</u>
Number of Assessable Units	36
Assessment Rate per Unit	\$320.00
Estimated Beginning Fund Balance July 1, 2018	\$10,851.83
Fund Balance Change	<u>133.44</u>
Estimated Ending Fund Balance June 30, 2019	<u>\$10,985.27</u>

Attachment: Engineer's Report 2018-19 (1760 : LAD)



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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	Chang / Bertelone
DIRECT EXPENSES	
Monthly Maintenance	\$2,040.00
Extra Contract Costs	0.00
Water/Sewer	1,000.00
Electricity Costs	0.00
Other Supplies	400.00
Subtotal Direct Expenses	\$3,440.00
ADMINISTRATIVE EXPENSES	
Salaries	\$376.69
Postage/Advertising	2.11
Internal Services	152.08
Administrative/Engineering Contract	71.24
Subtotal Administrative Expenses	\$602.12
SUBTOTAL ZONE COST	\$4,042.12
Fund Balance (Reduction)/Reserve	357.88
TOTAL BALANCE TO LEVY	\$4,400.00
Number of Assessable Units	8
Assessment Rate per Unit	\$550.00
Estimated Beginning Fund Balance July 1, 2018	\$8,317.93
Fund Balance Change	357.88
Estimated Ending Fund Balance June 30, 2019	\$8,675.81

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Conte Gardens</u>
DIRECT EXPENSES	
Monthly Maintenance	\$0.00
Extra Contract Costs	1,000.00
Water/Sewer	1,500.00
Electricity Costs	200.00
Other Supplies	500.00
Subtotal Direct Expenses	<u>\$3,200.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$517.94
Postage/Advertising	2.90
Internal Services	209.12
Administrative/Engineering Contract	97.96
Subtotal Administrative Expenses	<u>\$827.92</u>
SUBTOTAL ZONE COST	\$4,027.92
Fund Balance (Reduction)/Reserve	(12.92)
TOTAL BALANCE TO LEVY	<u>\$4,015.00</u>
Number of Assessable Units	11
Assessment Rate per Unit	\$365.00
Estimated Beginning Fund Balance July 1, 2018	\$12,170.77
Fund Balance Change	<u>(12.92)</u>
Estimated Ending Fund Balance June 30, 2019	\$12,157.85

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>Diana Estates</u>
DIRECT EXPENSES	
Monthly Maintenance	\$3,000.00
Extra Contract Costs	500.00
Water/Sewer	800.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$4,300.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$3,013.49
Postage/Advertising	16.89
Internal Services	1,216.68
Administrative/Engineering Contract	569.92
Subtotal Administrative Expenses	<u>\$4,816.97</u>
SUBTOTAL ZONE COST	\$9,116.97
Fund Balance (Reduction)/Reserve	(196.01)
TOTAL BALANCE TO LEVY	<u>\$8,920.96</u>
Number of Assessable Units	64
Assessment Rate per Unit	\$139.39
Estimated Beginning Fund Balance July 1, 2018	\$7,990.03
Fund Balance Change	<u>(196.01)</u>
Estimated Ending Fund Balance June 30, 2019	\$7,794.02

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	Fox Hollow
DIRECT EXPENSES	
Monthly Maintenance	\$2,040.00
Extra Contract Costs	3,000.00
Water/Sewer	2,150.00
Electricity Costs	
Other Supplies	500.00
Subtotal Direct Expenses	\$7,690.00
ADMINISTRATIVE EXPENSES	
Salaries	\$3,531.43
Postage/Advertising	19.79
Internal Services	1,425.79
Administrative/Engineering Contract	667.88
Subtotal Administrative Expenses	\$5,644.89
SUBTOTAL ZONE COST	\$13,334.89
Fund Balance (Reduction)/Reserve	(320.14)
TOTAL BALANCE TO LEVY	\$13,014.75
Number of Assessable Units	75
Assessment Rate per Unit	\$173.53
Estimated Beginning Fund Balance July 1, 2018	\$18,300.31
Fund Balance Change	(320.14)
Estimated Ending Fund Balance June 30, 2019	\$17,980.18

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Hamilton Square</u>
DIRECT EXPENSES	
Monthly Maintenance	\$4,693.80
Extra Contract Costs	2,000.00
Water/Sewer	4,150.00
Electricity Costs	265.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$11,108.80</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,789.26
Postage/Advertising	10.03
Internal Services	722.40
Administrative/Engineering Contract	338.39
Subtotal Administrative Expenses	<u>\$2,860.08</u>
SUBTOTAL ZONE COST	\$13,968.88
Fund Balance (Reduction)/Reserve	(1,618.88)
TOTAL BALANCE TO LEVY	<u>\$12,350.00</u>
Number of Assessable Units	38
Assessment Rate per Unit	\$325.00
Estimated Beginning Fund Balance July 1, 2018	\$27,354.47
Fund Balance Change	<u>(1,618.88)</u>
Estimated Ending Fund Balance June 30, 2019	\$25,735.60

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	Jackson Meadows #6
DIRECT EXPENSES	
Monthly Maintenance	\$1,725.00
Extra Contract Costs	0.00
Water/Sewer	400.00
Electricity Costs	380.00
Other Supplies	0.00
Subtotal Direct Expenses	\$2,505.00
ADMINISTRATIVE EXPENSES	
Salaries	\$3,296.00
Postage/Advertising	18.47
Internal Services	1,330.74
Administrative/Engineering Contract	623.35
Subtotal Administrative Expenses	\$5,268.56
SUBTOTAL ZONE COST	\$7,773.56
Fund Balance (Reduction)/Reserve	(213.56)
TOTAL BALANCE TO LEVY	\$7,560.00
Number of Assessable Units	70
Assessment Rate per Unit	\$108.00
Estimated Beginning Fund Balance July 1, 2018	\$210.36
Fund Balance Change	(213.56)
Estimated Ending Fund Balance June 30, 2019	(\$3.20)

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	Jackson Meadows #7
DIRECT EXPENSES	
Monthly Maintenance	\$0.00
Extra Contract Costs	500.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$500.00
ADMINISTRATIVE EXPENSES	
Salaries	\$470.86
Postage/Advertising	2.64
Internal Services	190.11
Administrative/Engineering Contract	89.05
Subtotal Administrative Expenses	\$752.65
SUBTOTAL ZONE COST	\$1,252.65
Fund Balance (Reduction)/Reserve	(252.65)
TOTAL BALANCE TO LEVY	\$1,000.00
Number of Assessable Units	10
Assessment Rate per Unit	\$100.00
Estimated Beginning Fund Balance July 1, 2018	\$5,439.79
Fund Balance Change	(252.65)
Estimated Ending Fund Balance June 30, 2019	\$5,187.14

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>La Grande Estates</u>
DIRECT EXPENSES	
Monthly Maintenance	\$0.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	200.00
Subtotal Direct Expenses	\$200.00
ADMINISTRATIVE EXPENSES	
Salaries	\$1,506.74
Postage/Advertising	8.44
Internal Services	608.34
Administrative/Engineering Contract	284.96
Subtotal Administrative Expenses	\$2,408.49
SUBTOTAL ZONE COST	\$2,608.49
Fund Balance (Reduction)/Reserve	207.51
TOTAL BALANCE TO LEVY	\$2,816.00
Number of Assessable Units	32
Assessment Rate per Unit	\$88.00
Estimated Beginning Fund Balance July 1, 2018	(\$10,676.13)
Fund Balance Change	207.51
Estimated Ending Fund Balance June 30, 2019	(\$10,468.61)

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Lacrosse/Gera</u>
DIRECT EXPENSES	
Monthly Maintenance	\$0.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$0.00
ADMINISTRATIVE EXPENSES	
Salaries	\$1,130.06
Postage/Advertising	6.33
Internal Services	456.25
Administrative/Engineering Contract	213.72
Subtotal Administrative Expenses	\$1,806.36
SUBTOTAL ZONE COST	\$1,806.36
Fund Balance (Reduction)/Reserve	(606.36)
TOTAL BALANCE TO LEVY	\$1,200.00
Number of Assessable Units	24
Assessment Rate per Unit	\$50.00
Estimated Beginning Fund Balance July 1, 2018	\$2,117.16
Fund Balance Change	(606.36)
Estimated Ending Fund Balance June 30, 2019	\$1,510.80

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>Llagas Creek</u>
DIRECT EXPENSES	
Monthly Maintenance	\$5,700.00
Extra Contract Costs	5,000.00
Water/Sewer	3,500.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$14,200.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$3,343.09
Postage/Advertising	18.73
Internal Services	1,349.75
Administrative/Engineering Contract	632.26
Subtotal Administrative Expenses	<u>\$5,343.83</u>
SUBTOTAL ZONE COST	\$19,543.83
Fund Balance (Reduction)/Reserve	(2,953.26)
TOTAL BALANCE TO LEVY	<u>\$16,590.57</u>
Number of Assessable Units	71
Assessment Rate per Unit	\$233.67
Estimated Beginning Fund Balance July 1, 2018	\$10,422.01
Fund Balance Change	<u>(2,953.26)</u>
Estimated Ending Fund Balance June 30, 2019	\$7,468.75

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>Llagas/Obata</u>
DIRECT EXPENSES	
Monthly Maintenance	\$1,200.00
Extra Contract Costs	0.00
Water/Sewer	300.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	\$1,500.00
ADMINISTRATIVE EXPENSES	
Salaries	\$235.43
Postage/Advertising	1.32
Internal Services	95.05
Administrative/Engineering Contract	44.53
Subtotal Administrative Expenses	\$376.33
SUBTOTAL ZONE COST	\$1,876.33
Fund Balance (Reduction)/Reserve	123.67
TOTAL BALANCE TO LEVY	\$2,000.00
Number of Assessable Units	5
Assessment Rate per Unit	\$400.00
Estimated Beginning Fund Balance July 1, 2018	(\$16.79)
Fund Balance Change	123.67
Estimated Ending Fund Balance June 30, 2019	\$106.89

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Mill Creek</u>
DIRECT EXPENSES	
Monthly Maintenance	\$4,573.80
Extra Contract Costs	1,700.00
Water/Sewer	4,000.00
Electricity Costs	200.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$10,473.80</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$3,955.20
Postage/Advertising	22.16
Internal Services	1,596.89
Administrative/Engineering Contract	748.02
Subtotal Administrative Expenses	<u>\$6,322.27</u>
SUBTOTAL ZONE COST	\$16,796.07
Fund Balance (Reduction)/Reserve	(1,103.19)
TOTAL BALANCE TO LEVY	<u>\$15,692.88</u>
Number of Assessable Units	84
Assessment Rate per Unit	\$186.82
Estimated Beginning Fund Balance July 1, 2018	\$1,670.93
Fund Balance Change	<u>(1,103.19)</u>
Estimated Ending Fund Balance June 30, 2019	\$567.74

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Oak Creek I, II, III</u>
DIRECT EXPENSES	
Monthly Maintenance	\$15,485.88
Extra Contract Costs	10,471.37
Water/Sewer	11,500.00
Electricity Costs	3,650.00
Other Supplies	500.00
Subtotal Direct Expenses	\$41,607.25
ADMINISTRATIVE EXPENSES	
Salaries	\$5,603.20
Postage/Advertising	31.40
Internal Services	2,262.26
Administrative/Engineering Contract	1,059.70
Subtotal Administrative Expenses	\$8,956.55
SUBTOTAL ZONE COST	\$50,563.80
Fund Balance (Reduction)/Reserve	(8,913.80)
TOTAL BALANCE TO LEVY	\$41,650.00
Number of Assessable Units	119
Assessment Rate per Unit	\$350.00
Estimated Beginning Fund Balance July 1, 2018	\$46,875.51
Fund Balance Change	(8,913.80)
Estimated Ending Fund Balance June 30, 2019	\$37,961.71

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Parsons Corner</u>
DIRECT EXPENSES	
Monthly Maintenance	\$883.83
Extra Contract Costs	0.00
Water/Sewer	850.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$1,733.83</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$470.86
Postage/Advertising	2.64
Internal Services	190.11
Administrative/Engineering Contract	89.05
Subtotal Administrative Expenses	<u>\$752.65</u>
SUBTOTAL ZONE COST	\$2,486.48
Fund Balance (Reduction)/Reserve	13.52
TOTAL BALANCE TO LEVY	<u>\$2,500.00</u>
Number of Assessable Units	10
Assessment Rate per Unit	\$250.00
Estimated Beginning Fund Balance July 1, 2018	(\$179.68)
Fund Balance Change	<u>13.52</u>
Estimated Ending Fund Balance June 30, 2019	(\$166.16)

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	Rose Haven
DIRECT EXPENSES	
Monthly Maintenance	\$3,535.32
Extra Contract Costs	3,000.00
Water/Sewer	1,000.00
Electricity Costs	215.00
Other Supplies	0.00
Subtotal Direct Expenses	\$7,750.32
ADMINISTRATIVE EXPENSES	
Salaries	\$1,271.31
Postage/Advertising	7.12
Internal Services	513.28
Administrative/Engineering Contract	240.44
Subtotal Administrative Expenses	\$2,032.16
SUBTOTAL ZONE COST	\$9,782.48
Fund Balance (Reduction)/Reserve	1,017.52
TOTAL BALANCE TO LEVY	\$10,800.00
Number of Assessable Units	27
Assessment Rate per Unit	\$400.00
Estimated Beginning Fund Balance July 1, 2018	\$16,151.79
Fund Balance Change	1,017.52
Estimated Ending Fund Balance June 30, 2019	\$17,169.31

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Sandalwood</u>
DIRECT EXPENSES	
Monthly Maintenance	\$1,000.00
Extra Contract Costs	0.00
Water/Sewer	0.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$1,000.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$517.94
Postage/Advertising	2.90
Internal Services	209.12
Administrative/Engineering Contract	97.96
Subtotal Administrative Expenses	<u>\$827.92</u>
SUBTOTAL ZONE COST	\$1,827.92
Fund Balance (Reduction)/Reserve	3,122.08
TOTAL BALANCE TO LEVY	<u>\$4,950.00</u>
Number of Assessable Units	11
Assessment Rate per Unit	\$450.00
Estimated Beginning Fund Balance July 1, 2018	(\$5,867.22)
Fund Balance Change	<u>3,122.08</u>
Estimated Ending Fund Balance June 30, 2019	(\$2,745.13)

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Sparhawk</u>
DIRECT EXPENSES	
Monthly Maintenance	\$2,040.00
Extra Contract Costs	100.00
Water/Sewer	1,750.00
Electricity Costs	0.00
Other Supplies	0.00
Subtotal Direct Expenses	<u>\$3,890.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$847.54
Postage/Advertising	4.75
Internal Services	342.19
Administrative/Engineering Contract	160.29
Subtotal Administrative Expenses	<u>\$1,354.77</u>
SUBTOTAL ZONE COST	\$5,244.77
Fund Balance (Reduction)/Reserve	(766.01)
TOTAL BALANCE TO LEVY	<u>\$4,478.76</u>
Number of Assessable Units	18
Assessment Rate per Unit	\$248.82
Estimated Beginning Fund Balance July 1, 2018	\$3,991.11
Fund Balance Change	<u>(766.01)</u>
Estimated Ending Fund Balance June 30, 2019	\$3,225.09

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone**

	<u>Stone Creek</u>
DIRECT EXPENSES	
Monthly Maintenance	\$7,380.00
Extra Contract Costs	0.00
Water/Sewer	4,700.00
Electricity Costs	
Other Supplies	75.00
Subtotal Direct Expenses	<u>\$12,155.00</u>
ADMINISTRATIVE EXPENSES	
Salaries	\$1,648.00
Postage/Advertising	9.23
Internal Services	665.37
Administrative/Engineering Contract	311.68
Subtotal Administrative Expenses	<u>\$2,634.28</u>
SUBTOTAL ZONE COST	\$14,789.28
Fund Balance (Reduction)/Reserve	(1,193.18)
TOTAL BALANCE TO LEVY	<u>\$13,596.10</u>
Number of Assessable Units	35
Assessment Rate per Unit	\$388.46
Estimated Beginning Fund Balance July 1, 2018	\$2,389.61
Fund Balance Change	<u>(1,193.18)</u>
Estimated Ending Fund Balance June 30, 2019	\$1,196.43

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	Sunnyside / Stone Gate
DIRECT EXPENSES	
Monthly Maintenance	\$888.00
Extra Contract Costs	650.00
Water/Sewer	500.00
Electricity Costs	250.00
Other Supplies	0.00
Subtotal Direct Expenses	\$2,288.00
ADMINISTRATIVE EXPENSES	
Salaries	\$470.86
Postage/Advertising	2.64
Internal Services	190.11
Administrative/Engineering Contract	89.05
Subtotal Administrative Expenses	\$752.65
SUBTOTAL ZONE COST	\$3,040.65
Fund Balance (Reduction)/Reserve	709.35
TOTAL BALANCE TO LEVY	\$3,750.00
Number of Assessable Units	10
Assessment Rate per Unit	\$375.00
Estimated Beginning Fund Balance July 1, 2018	\$9,942.27
Fund Balance Change	709.35
Estimated Ending Fund Balance June 30, 2019	\$10,651.62

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19 Budget by Zone

	<u>Total</u>
DIRECT EXPENSES	
Monthly Maintenance	\$59,737.63
Extra Contract Costs	29,921.37
Water/Sewer	40,700.00
Electricity Costs	5,160.00
Other Supplies	2,700.00
Subtotal Direct Expenses	\$138,219.00
ADMINISTRATIVE EXPENSES	
Salaries	\$35,691.00
Postage/Advertising	200.00
Internal Services	14,410.00
Administrative/Engineering Contract	6,750.00
Subtotal Administrative Expenses	\$57,051.00
SUBTOTAL ZONE COST	\$195,270.00
Fund Balance (Reduction)/Reserve	(12,464.98)
TOTAL BALANCE TO LEVY	\$182,805.02
Number of Assessable Units	758
Assessment Rate per Unit	N/A
Estimated Beginning Fund Balance July 1, 2018	\$167,456.07
Fund Balance Change	(12,464.98)
Estimated Ending Fund Balance June 30, 2019	\$154,991.09

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4. ASSESSMENTS

The amount of the actual assessment for the Fiscal Year 2018/19 apportioned to each parcel as shown on the latest equalized roll at the County Assessor's office is listed in Section 6 of this Report. The description of each lot or parcel is part of the records of the County Assessor and such records are, by reference, made part of this Report.

4.1 Method of Apportionment

The assessments are levied in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation.

Pursuant to the Act and Article XIII D of the Constitution of the State of California, all parcels that have special benefit conferred upon them as a result of the maintenance and operation of improvements shall be identified and the proportionate special benefit derived by each identified parcel shall be determined in relation to the entire cost of the maintenance and operation of the improvements. Only parcels that receive direct special benefit are assessed, and each parcel is assessed in proportion to the estimated benefit received.

Several Zones have been annexed into the District and it has been determined that by reason of variations in the nature, location, and extent of the improvements, those areas will receive differing degrees of benefit from the improvements.

Within the Zones, each parcel is allocated a number of units, where each such unit is deemed to receive the same proportional special benefit from the maintenance and operation of the improvements within that Zone. The typical parcel, with a single family residential use, will have one unit assigned. If the use or nature of a parcel confers special benefit in a greater or lesser degree than that typical use, that parcel may have greater than or less than one unit assigned

4.2 Belle Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$502.22 per unit. There is currently no inflator associated with the Belle Estates Zone assessments.

There are currently 36 parcels within this Zone, and the total Zone costs are spread to each of the 36 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$11,520.00
Total Units	36
Fiscal Year 2018/19 Actual Assessment Per Unit	\$320.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$502.22

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$320.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$320.00
Change in the Actual Assessment Rate	\$0.00

4.3 Chang/Bertelone Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$1,215.00 per unit. There is currently no inflator associated with the Chang/Bertelone Zone assessments.

There are currently eight parcels within this Zone, and the total Zone costs are spread to each of the eight units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$4,400.00
Total Units	8
Fiscal Year 2018/19 Actual Assessment Per Unit	\$550.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$1,215.00

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$550.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$550.00
Change in the Actual Assessment Rate	\$0.00

4.4 Conte Gardens Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$477.82 per unit. There is currently no inflator associated with the Conte Gardens Zone assessments.

There are currently 11 parcels within this Zone, and the total Zone costs are spread to each of the 11 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$4,015.00
Total Units	11
Fiscal Year 2018/19 Actual Assessment Per Unit	\$365.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$477.82

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$400.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$365.00
Change in the Actual Assessment Rate	(\$35.00)

4.5 Diana Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$139.39 per unit. There is currently no inflator associated with the Diana Estates Zone assessments.

There are currently 64 parcels within this Zone, and the total Zone costs are spread to each of the 64 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$8,920.96
Total Units	64
Fiscal Year 2018/19 Actual Assessment Per Unit (1)	\$139.39
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$139.39

(1) May be rounded down to even cents per parcel for County Tax Roll purposes.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$139.39
Fiscal Year 2018/19 Actual Assessment Per Unit	\$139.39
Change in the Actual Assessment Rate	\$0.00

4.6 Fox Hollow/Murphy Springs Zone

The assessment rate originally approved at the time of District formation was \$106.15 per unit. In July 2005 the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07.

There are currently 75 parcels within this Zone, and the total Zone costs are spread to each of the 75 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$13,014.75
Total Units	75
Fiscal Year 2018/19 Actual Assessment Per Unit (1)	\$173.53
Fiscal Year 2018/19 Maximum Assessment Per Unit (1)	\$207.21

(1) May be rounded down to even cents per parcel for County Tax Roll purposes.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$173.53
Fiscal Year 2018/19 Actual Assessment Per Unit	\$173.53
Change in the Actual Assessment Rate	\$0.00

4.7 Hamilton Square Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$425.54 per unit. There is currently no inflator associated with the Hamilton Square Zone assessments.

There are currently 38 parcels within this Zone, and the total Zone costs are spread to each of the 38 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$12,350.00
Total Units	38
Fiscal Year 2018/19 Actual Assessment Per Unit	\$325.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$425.54

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$425.54
Fiscal Year 2018/19 Actual Assessment Per Unit	\$325.00
Change in the Actual Assessment Rate	(\$100.54)

4.8 Jackson Meadows 6A/6B Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$108.10 per unit. There is currently no inflator associated with the Jackson Meadows 6A/6B Zone assessments.

There are currently 70 parcels within this Zone, and the total Zone costs are spread to each of the 70 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$7,560.00
Total Units	70
Fiscal Year 2018/19 Actual Assessment Per Unit	\$108.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$108.10

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$108.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$108.00
Change in the Actual Assessment Rate	\$0.00

4.9 Jackson Meadows Number 7 Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$314.58 per unit. There is currently no inflator associated with the Jackson Meadows Number 7 Zone assessments.

There are currently 10 parcels within this Zone, and the total Zone costs are spread to each of the 10 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$1,000.00
Total Units	10
Fiscal Year 2018/19 Actual Assessment Per Unit	\$100.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$314.58

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$100.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$100.00
Change in the Actual Assessment Rate	\$0.00

4.10 La Grande Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$88.00 per unit. There is currently no inflator associated with the La Grande Estates Zone assessments.

There are currently 32 parcels within this Zone, and the total Zone costs are spread to each of the 32 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$2,816.00
Total Units	32
Fiscal Year 2018/19 Actual Assessment Per Unit	\$88.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$88.00

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$88.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$88.00
Change in the Actual Assessment Rate	\$0.00

4.11 Lacrosse/Gera Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$142.99 per unit. There is currently no inflator associated with the Lacrosse/Gera Zone assessments.

There are currently 24 parcels within this Zone, and the total Zone costs are spread to each of the 24 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$1,200.00
Total Units	24
Fiscal Year 2018/19 Actual Assessment Per Unit	\$50.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$142.99

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$50.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$50.00
Change in the Actual Assessment Rate	\$0.00

4.12 Llagas Creek Estates Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$140.84 per unit. In July 2005 the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07.

There are currently 71 parcels within this Zone, and the total Zone costs are spread to each of the 71 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$16,590.57
Total Units	71
Fiscal Year 2018/19 Actual Assessment Per Unit	\$233.67
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$279.02

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$233.67
Fiscal Year 2018/19 Actual Assessment Per Unit	\$233.67
Change in the Actual Assessment Rate	\$0.00

4.13 Llagas/Obata Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$629.16 per unit. There is currently no inflator associated with the Llagas/Obata Zone assessments.

There are currently five parcels within this Zone, and the total Zone costs are spread to each of the five units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$2,000.00
Total Units	5
Fiscal Year 2018/19 Actual Assessment Per Unit	\$400.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$629.16

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$143.92
Fiscal Year 2018/19 Actual Assessment Per Unit	\$400.00
Change in the Actual Assessment Rate	\$256.08

4.14 Mill Creek Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$186.82 per unit. There is currently no inflator associated with the Mill Creek Zone assessments.

There are currently 84 parcels within this Zone, and the total Zone costs are spread to each of the 84 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$15,692.88
Total Units	84
Fiscal Year 2018/19 Actual Assessment Per Unit	\$186.82
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$186.82

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$186.82
Fiscal Year 2018/19 Actual Assessment Per Unit	\$186.82
Change in the Actual Assessment Rate	\$0.00

4.15 Oak Creek I, II, III

The assessment rate originally approved at the time of annexing this Zone into the District was \$453.82 per unit. There is currently no inflator associated with the Oak Creek I, II, III Zone assessments.

There are currently 119 parcels within this Zone, and the total Zone costs are spread to each of the 119 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$41,650.00
Total Units	119
Fiscal Year 2018/19 Actual Assessment Per Unit	\$350.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$453.82

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$350.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$350.00
Change in the Actual Assessment Rate	\$0.00

4.16 Parsons Corner Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$568.32 per unit. There is currently no inflator associated with the Parsons Corner Zone assessments.

There are currently 10 parcels within this Zone, and the total Zone costs are spread to each of the 10 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$2,500.00
Total Units	10
Fiscal Year 2018/19 Actual Assessment Per Unit	\$250.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$568.32

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$250.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$250.00
Change in the Actual Assessment Rate	\$0.00

4.17 Rose Haven Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$488.47 per unit. There is currently no inflator associated with the Rose Haven Zone assessments.

There are currently 24 parcels with a total of 27 units within this Zone, and the total Zone costs are spread to each of the 27 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$10,800.00
Total Units	27
Fiscal Year 2018/19 Actual Assessment Per Unit	\$400.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$488.47

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$488.00
Fiscal Year 2018/19 Actual Assessment Per Unit	\$400.00
Change in the Actual Assessment Rate	(\$88.00)

4.18 Sandalwood Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$192.39 per unit. In April 2018, property owners approved the assessment rate increase to \$450.00 per unit. There is currently no inflator associated with the Sandalwood Zone assessments.

There are currently 11 parcels within this Zone, and the total Zone costs are spread to each of the 11 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$4,950.00
Total Units	11
Fiscal Year 2018/19 Actual Assessment Per Unit	\$450.00
Fiscal Year 2018/19 Maximum Assessment Per Unit (1)	\$450.00

(1) Assessment Rate increase approved by property owners in April 2018.

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$192.36
Fiscal Year 2018/19 Actual Assessment Per Unit	\$450.00
Change in the Actual Assessment Rate	\$257.64

4.19 Sparhawk Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$174.77 per unit. In July 2005 the City conducted Proposition 218 proceedings to increase the maximum assessment rate and add an annual inflator of 3% for the Zone. Property owners approved the rate increase and the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The rate increase took effect in Fiscal Year 2005/06 and the 3% inflator took effect in Fiscal Year 2006/07.

There are currently 18 parcels within this Zone, and the total Zone costs are spread to each of the 18 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$4,478.76
Total Units	18
Fiscal Year 2018/19 Actual Assessment Per Unit	\$248.82
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$297.11

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$248.82
Fiscal Year 2018/19 Actual Assessment Per Unit	\$248.82
Change in the Actual Assessment Rate	\$0.00

4.20 Stone Creek Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$306.66 per unit. In July 2005 the City conducted Proposition 218 proceedings to add an annual inflator of 3% for the Zone. Property owners approved the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The inflator took effect in Fiscal Year 2005/06.

There are currently 35 parcels within this Zone, and the total Zone costs are spread to each of the 35 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$13,596.10
Total Units	35
Fiscal Year 2018/19 Actual Assessment Per Unit	\$388.46
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$463.83

Any change in the assessment rate from the previous fiscal year is identified below:

Fiscal Year 2017/18 Actual Assessment Per Unit	\$388.46
Fiscal Year 2018/19 Actual Assessment Per Unit	\$388.46
Change in the Actual Assessment Rate	\$0.00

4.21 Sunnyside/Stone Gate Zone

The assessment rate originally approved at the time of annexing this Zone into the District was \$449.40 per unit. In July 2005 the City conducted Proposition 218 proceedings to add an annual inflator of 3% for the Zone. Property owners approved the inflator. Each year the maximum assessment rate is increased by 3% over the previous year's maximum assessment rate. The inflator took effect in Fiscal Year 2005/06.

There are currently 10 parcels within this Zone, and the total Zone costs are spread to each of the 10 units as follows:

Estimated Fiscal Year 2018/19 Costs and Fund Adjustment	\$3,750.00
Total Units	10
Fiscal Year 2018/19 Actual Assessment Per Unit	\$375.00
Fiscal Year 2018/19 Maximum Assessment Per Unit	\$679.75

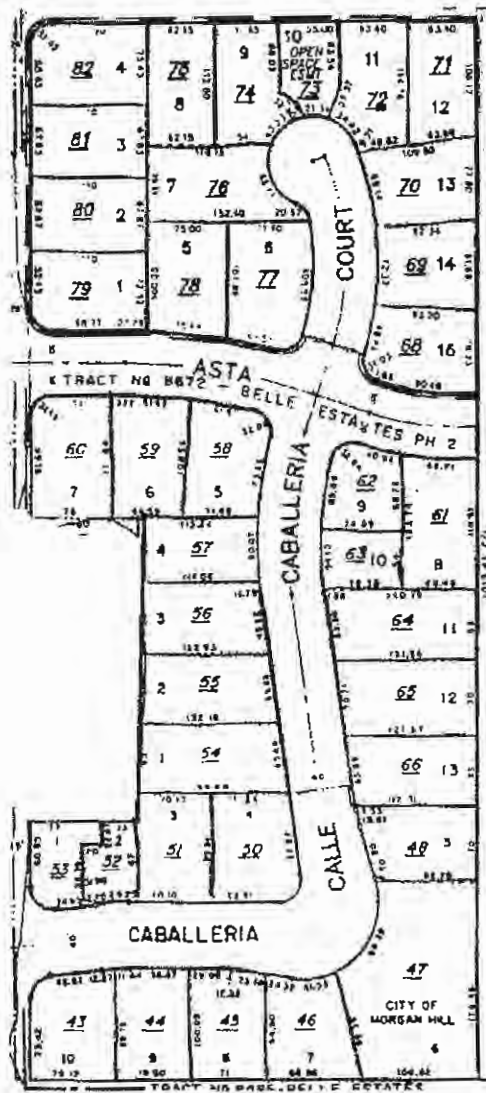
Any change in the assessment rate from the previous fiscal year is identified below:

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Fiscal Year 2018/19 Actual Assessment Per Unit	\$375.00
Change in the Actual Assessment Rate	\$0.00

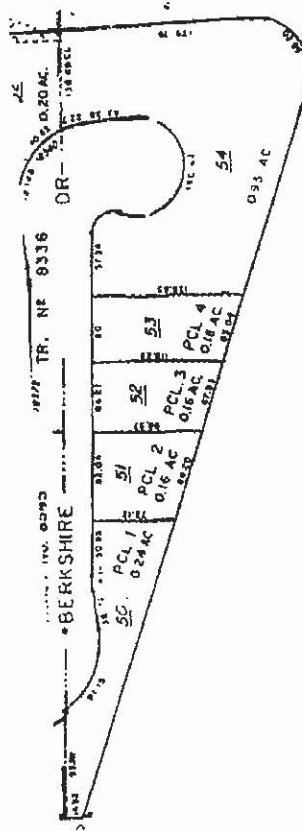
5. ASSESSMENT DIAGRAMS

The Assessment Diagrams for each Zone in the District have been submitted to the City Clerk in the format required under the provisions of the Act. Copies of the diagrams are included herein. The lines and dimensions shown on maps of the County Assessor for the current year are, by reference, made part of this Report as well.

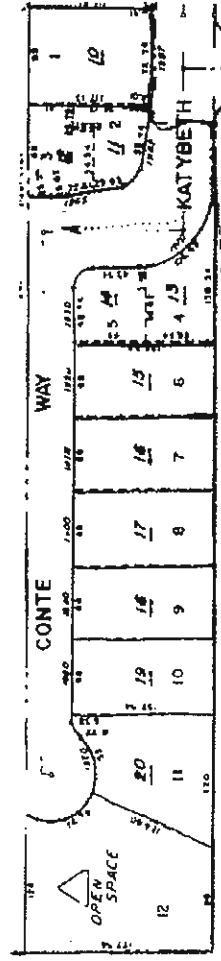
Attachment: Engineer's Report 2018-19 (1760 : LAD)



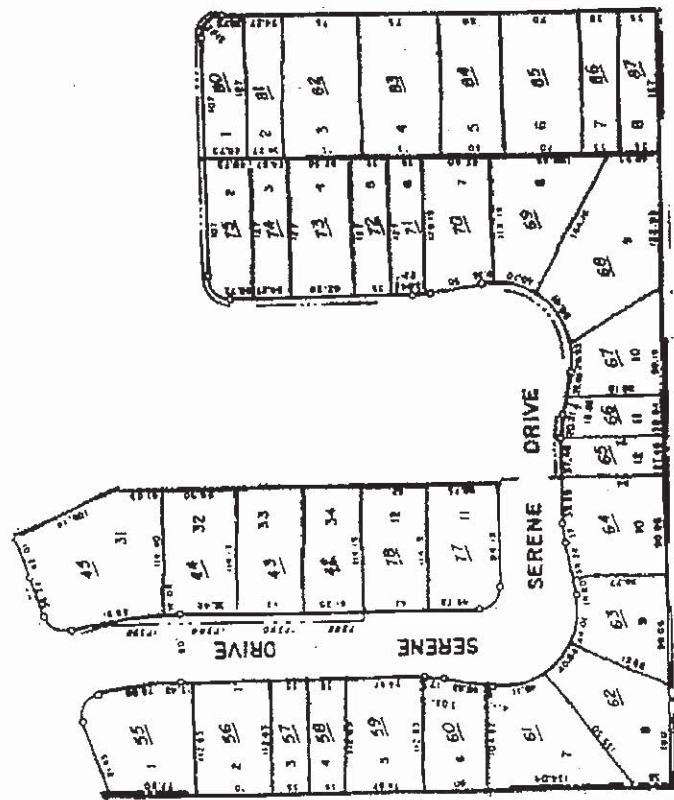
BELLE ESTATES ZONE



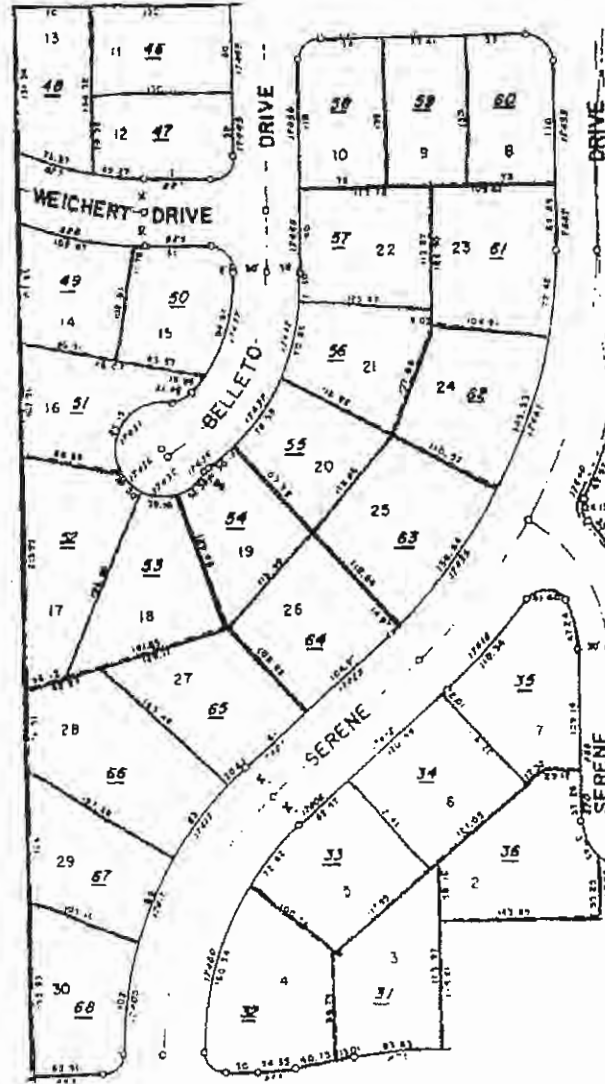
CHIANG/BERTELOONE ZONE



CONTE GARDENS ZONE

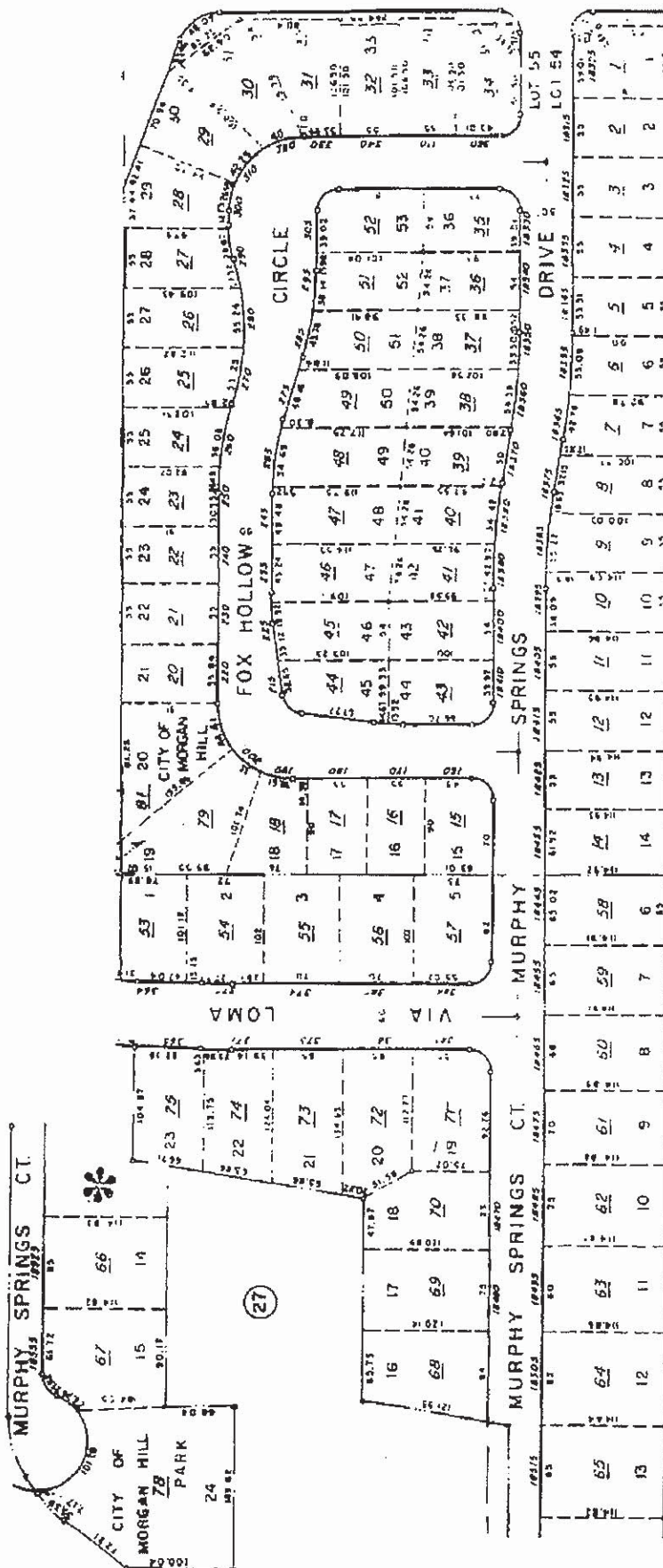


DIANA ESTATES ZONE SHEET 1

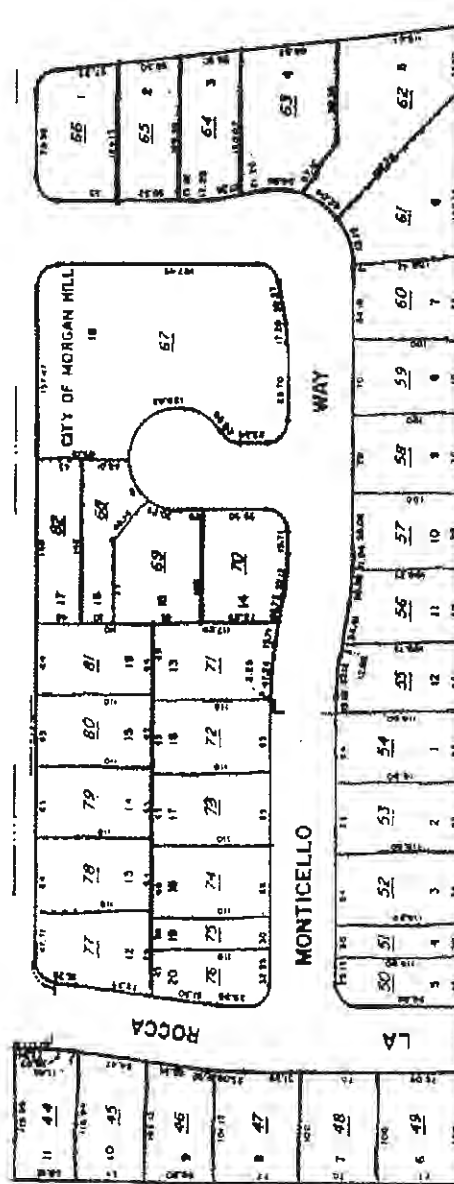


DIANA ESTATES ZONE SHEET 2

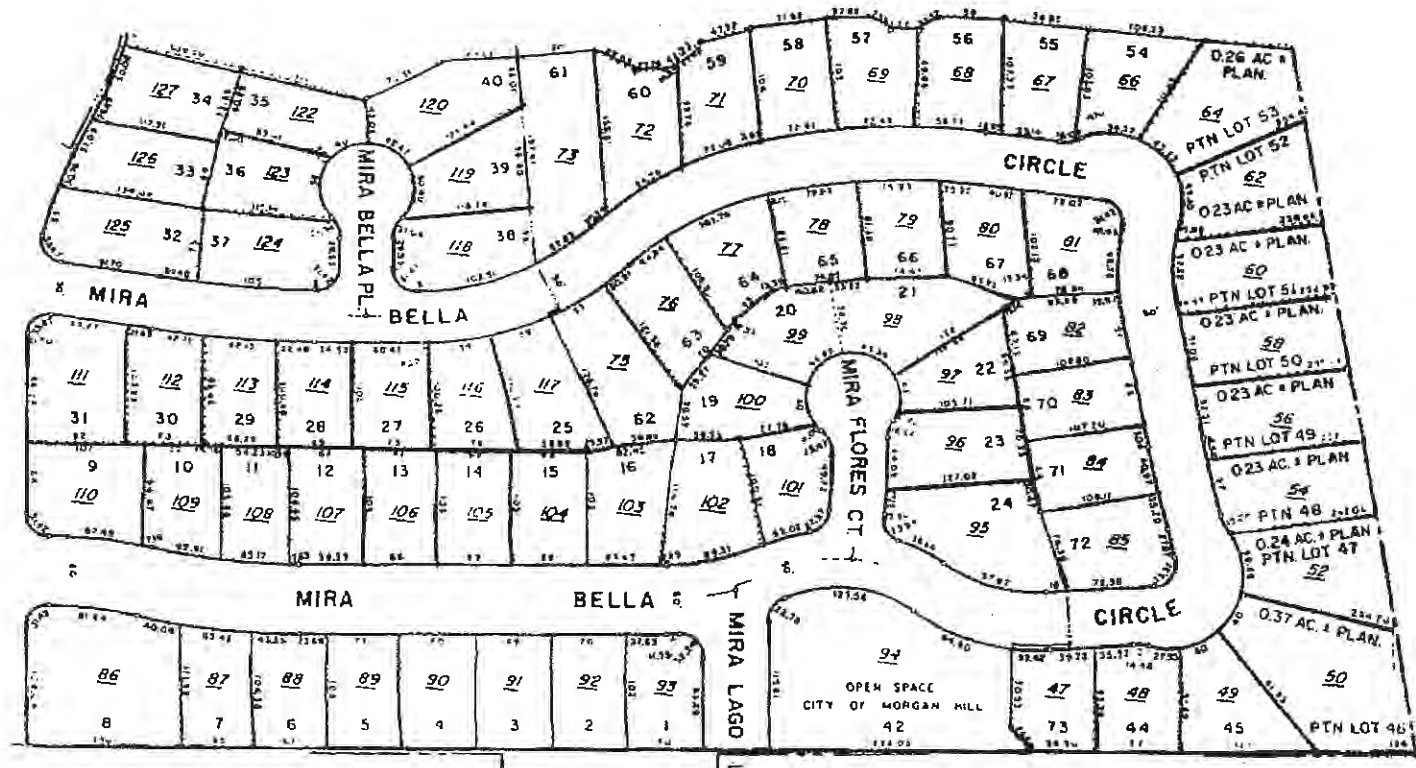
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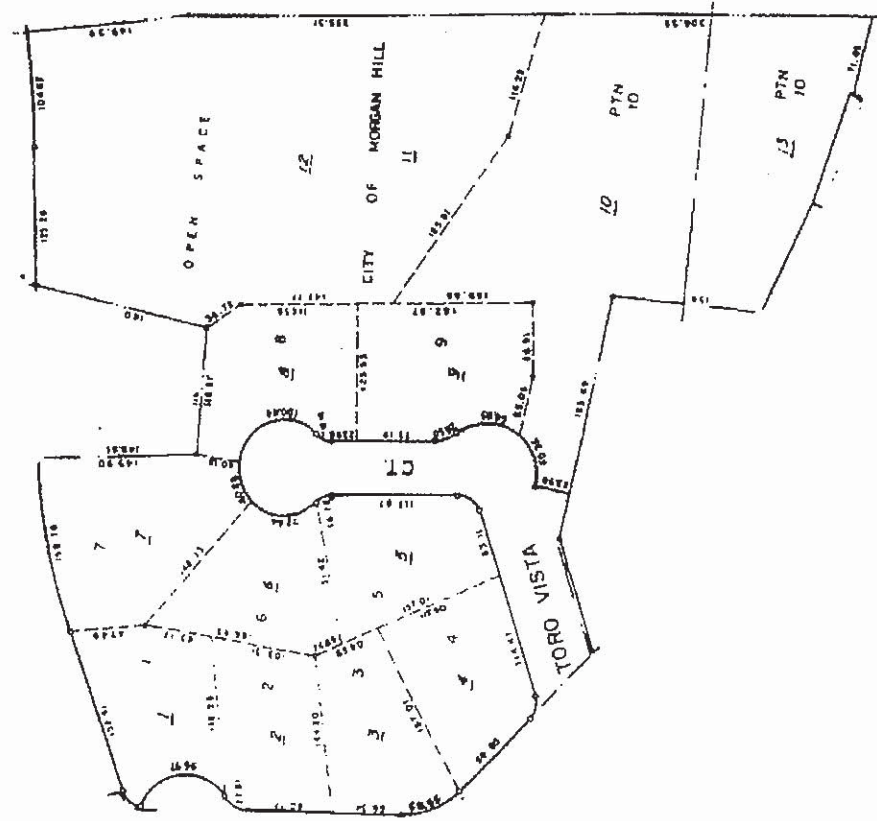
FOX HOLLOW/MURPHY SPRINGS ZONE



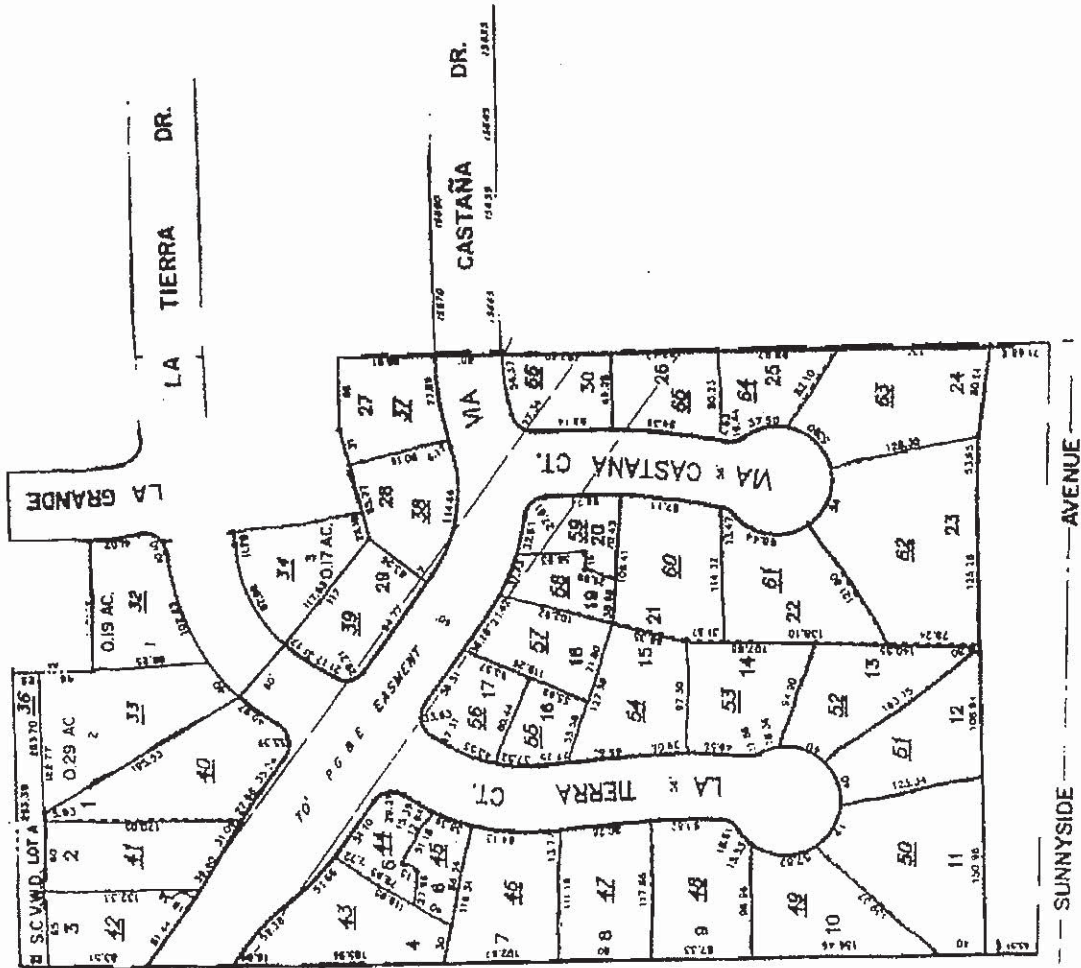
HAMILTON SQUARE ZONE



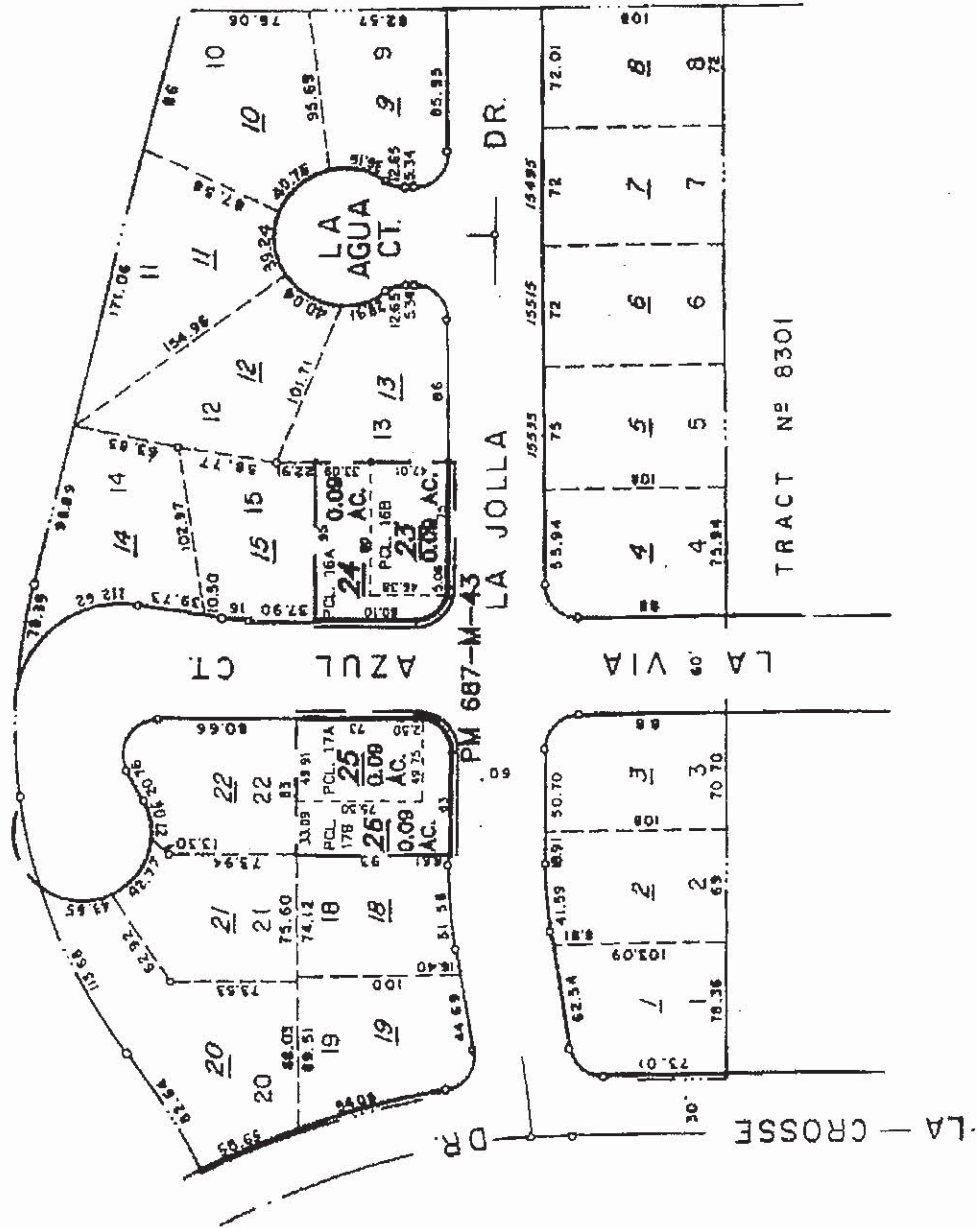
JACKSON MEADOWS #6 ZONE



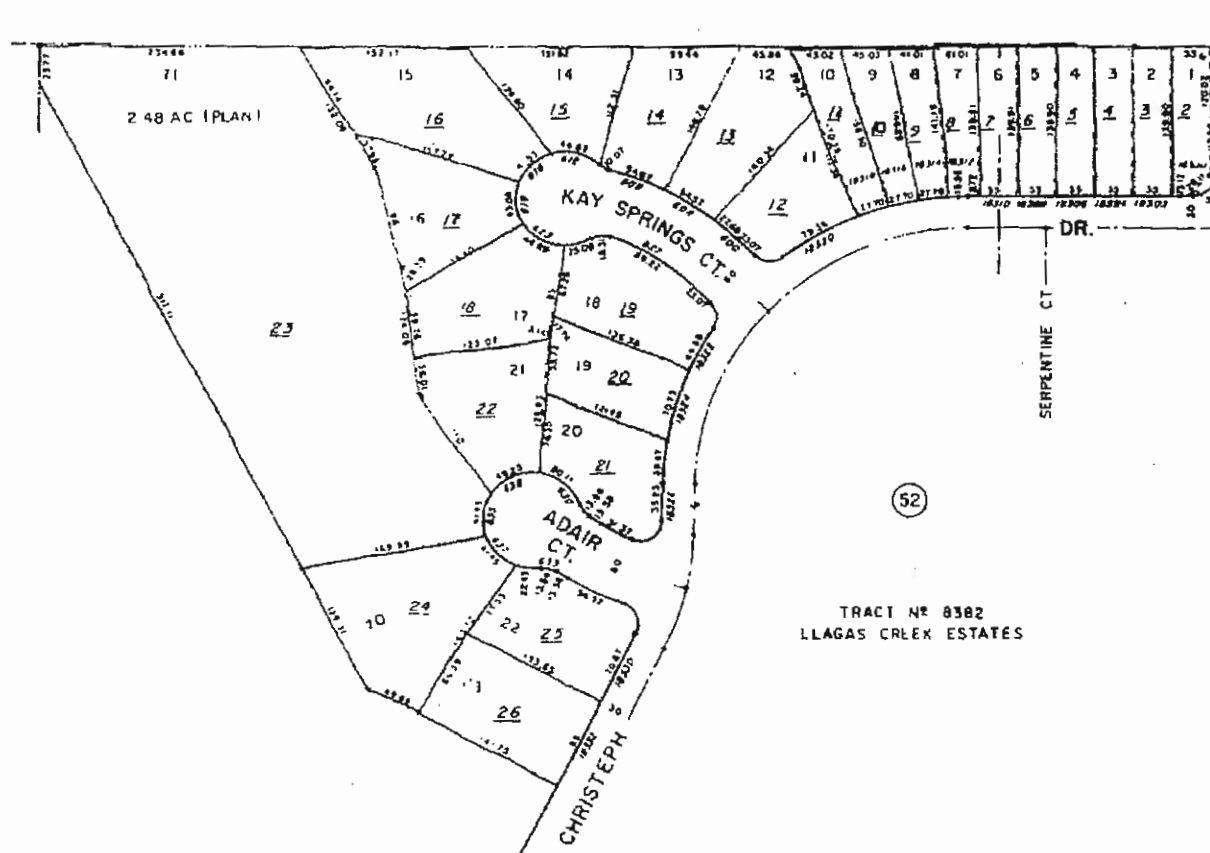
JACKSON MEADOWS #7 ZONE



LA GRANDE ESTATES ZONE

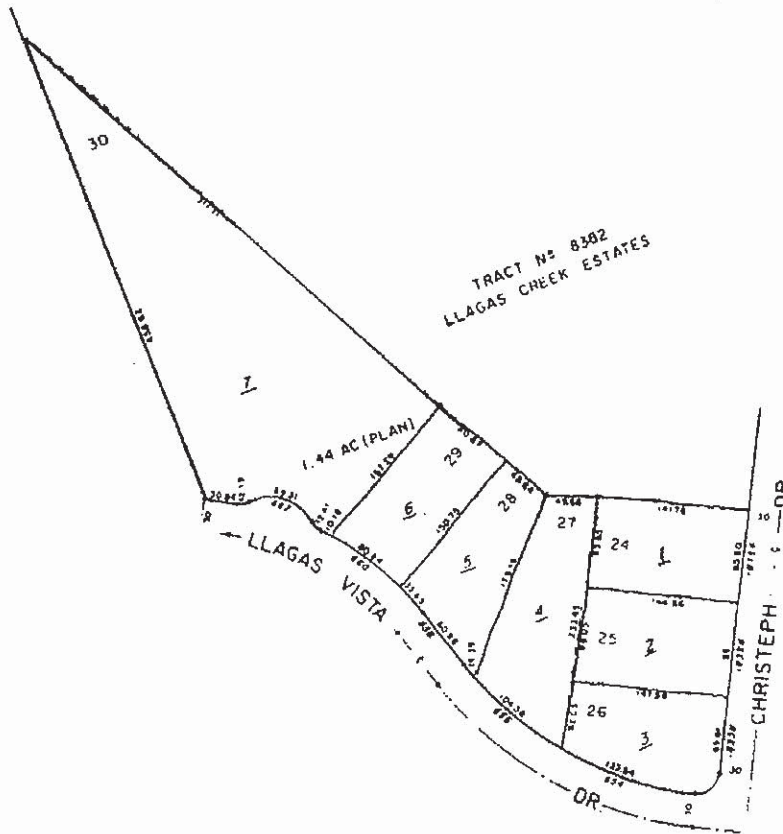


LACROSSE/GERA ZONE



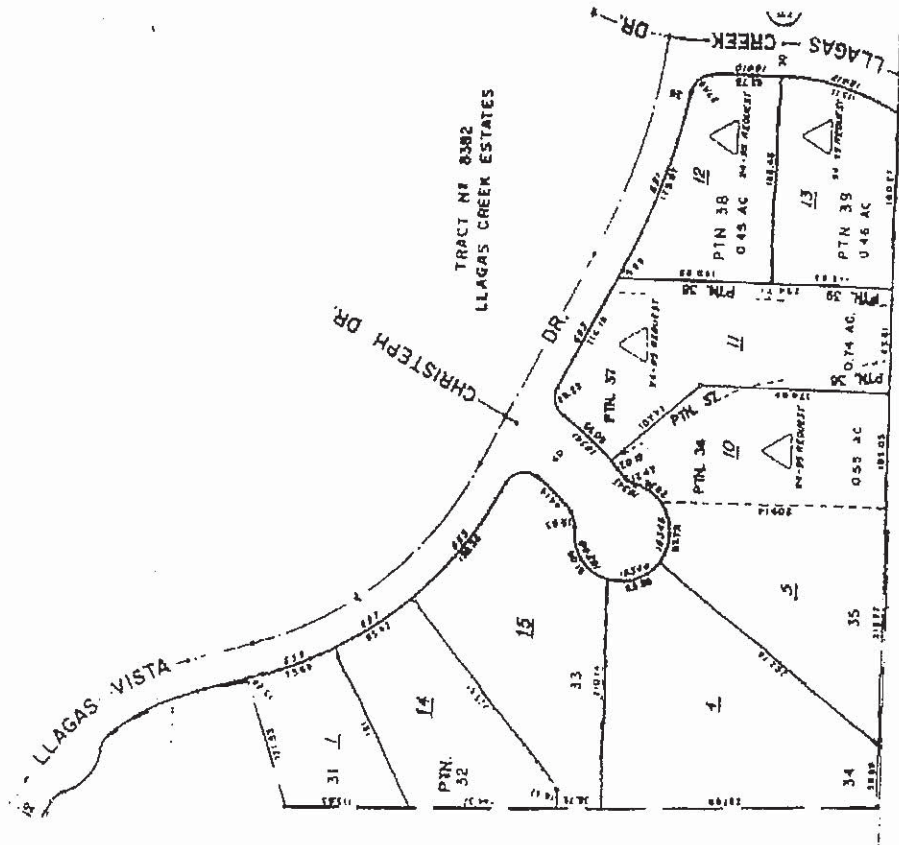
LLAGAS CREEK ESTATES ZONE

SHEET 1

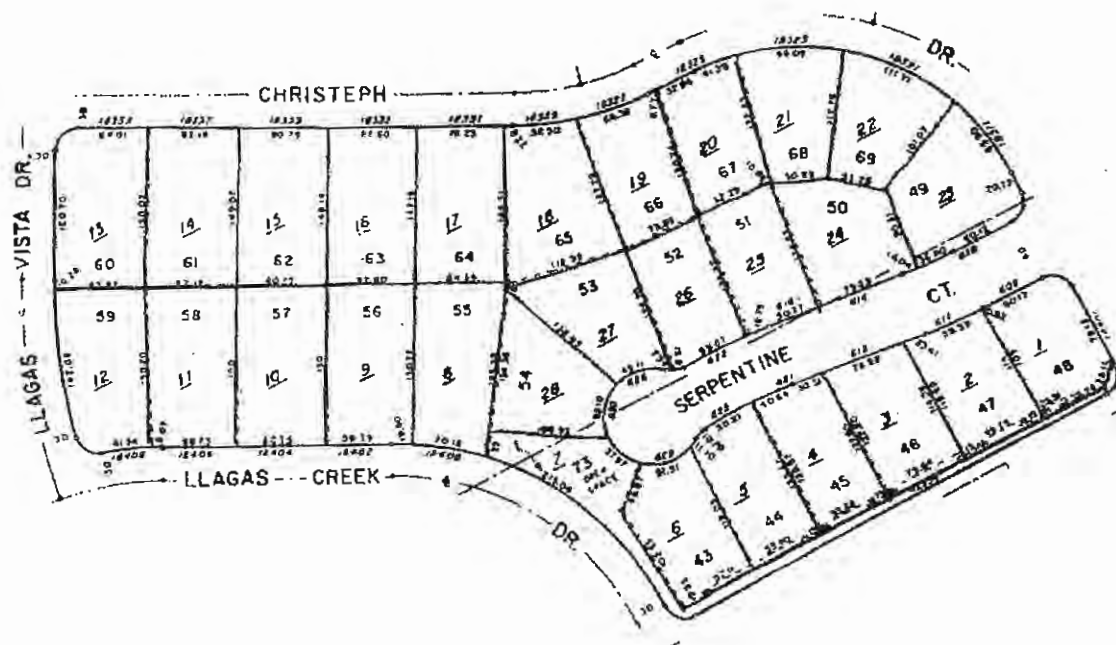


SHEET 2

LLAGAS CREEK ESTATES ZONE

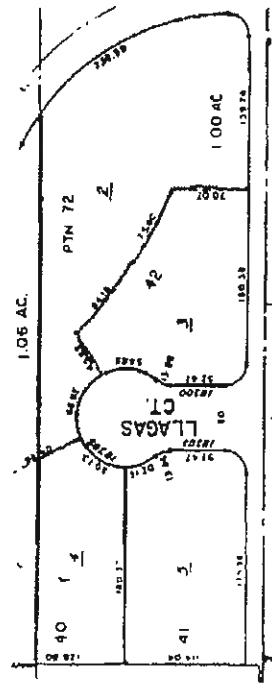


LLAGAS CREEK ESTATES ZONE SHEET 3



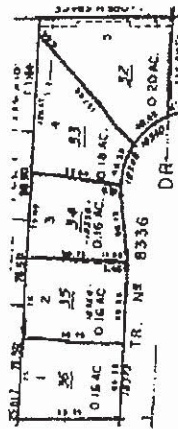
LLAGAS CREEK ESTATES ZONE

SHEET 4

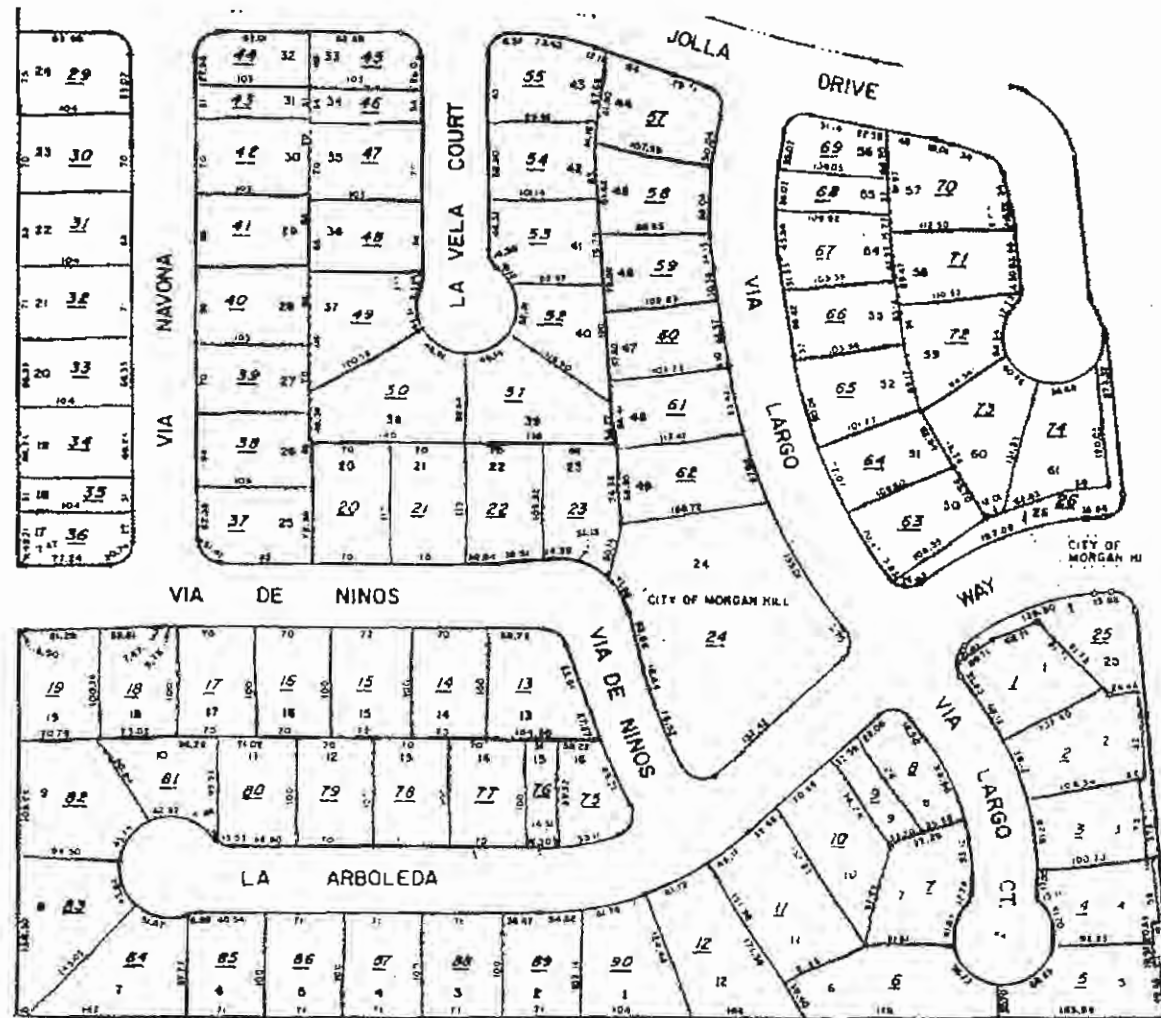


SHEET 5

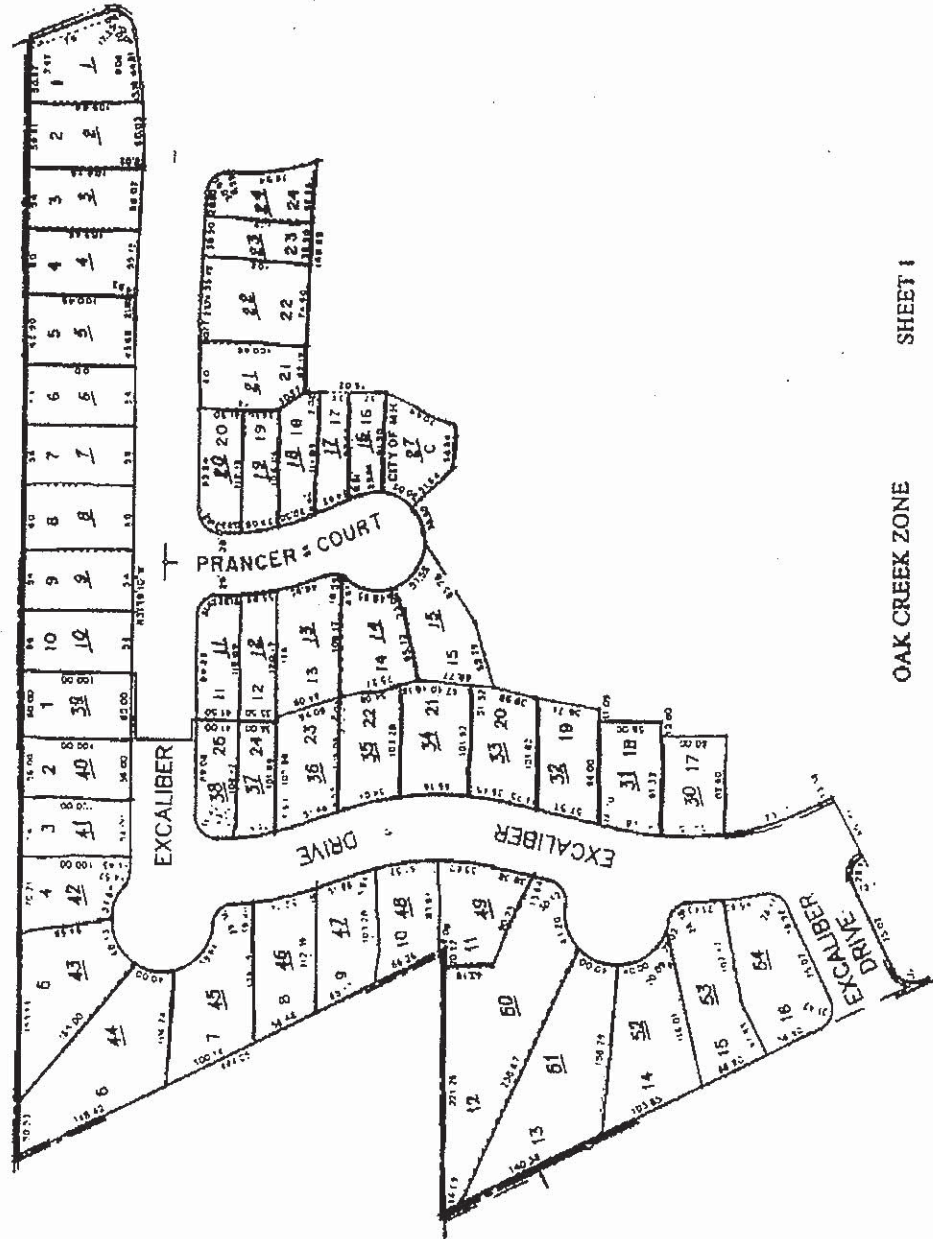
LLAGAS CREEK ESTATES ZONE

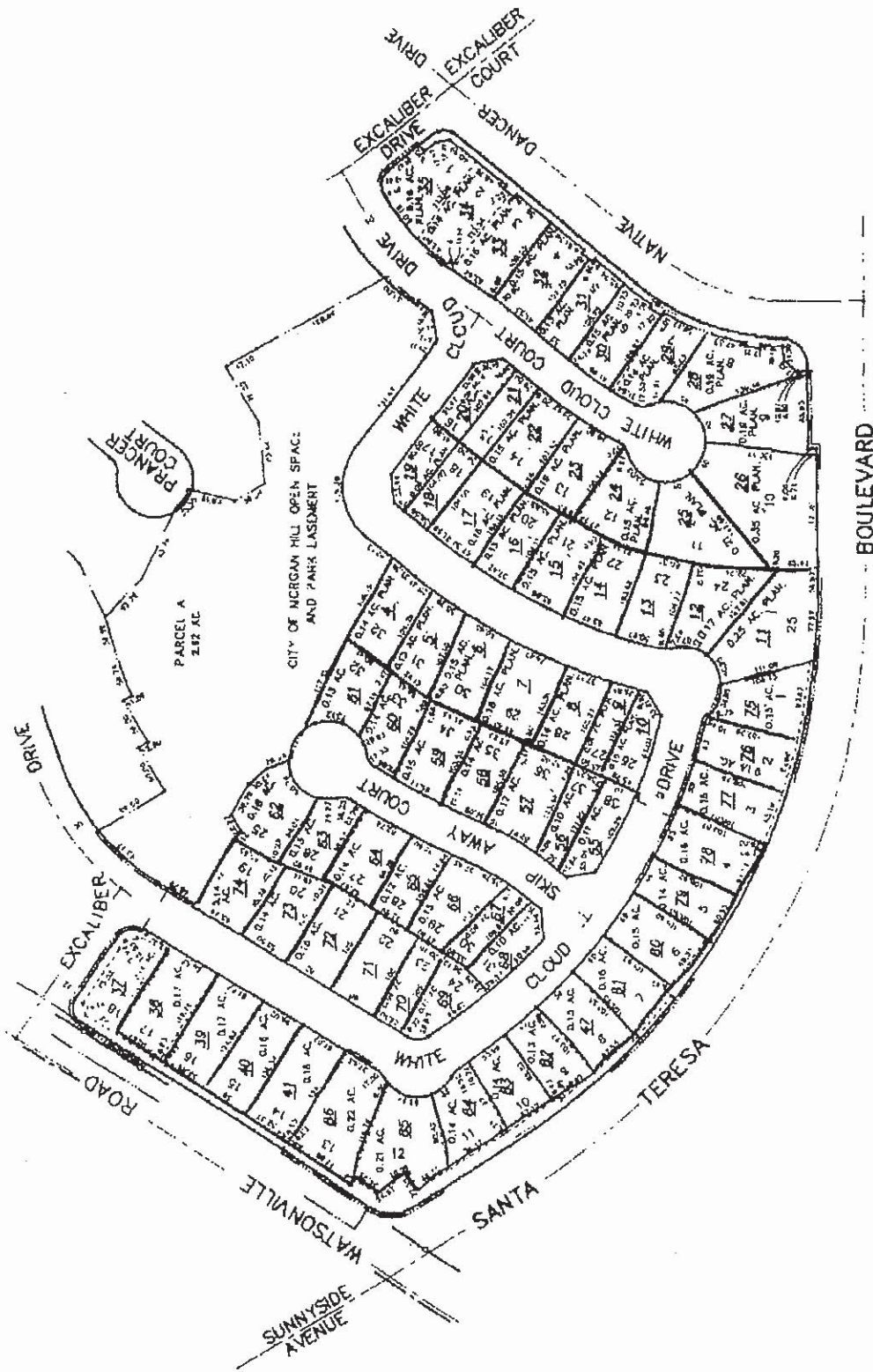


LLAGAS/OBATA ZONE



MILL CREEK ZONE

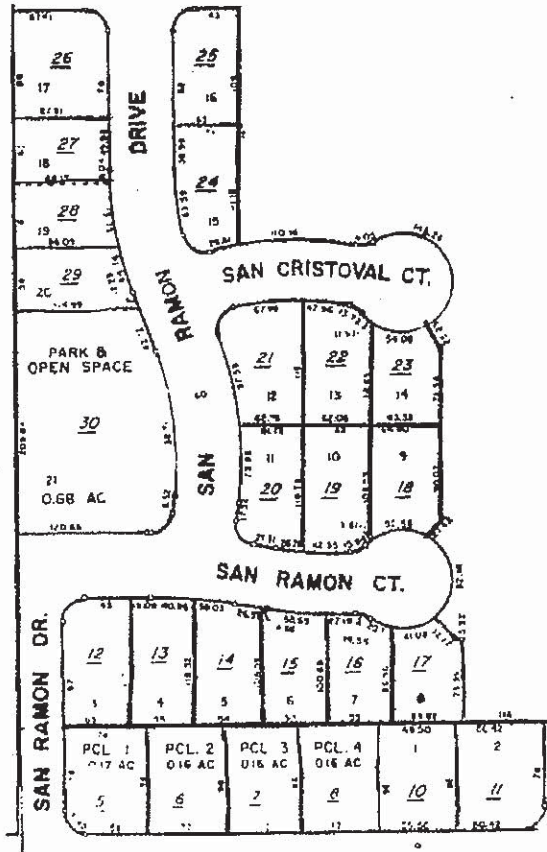




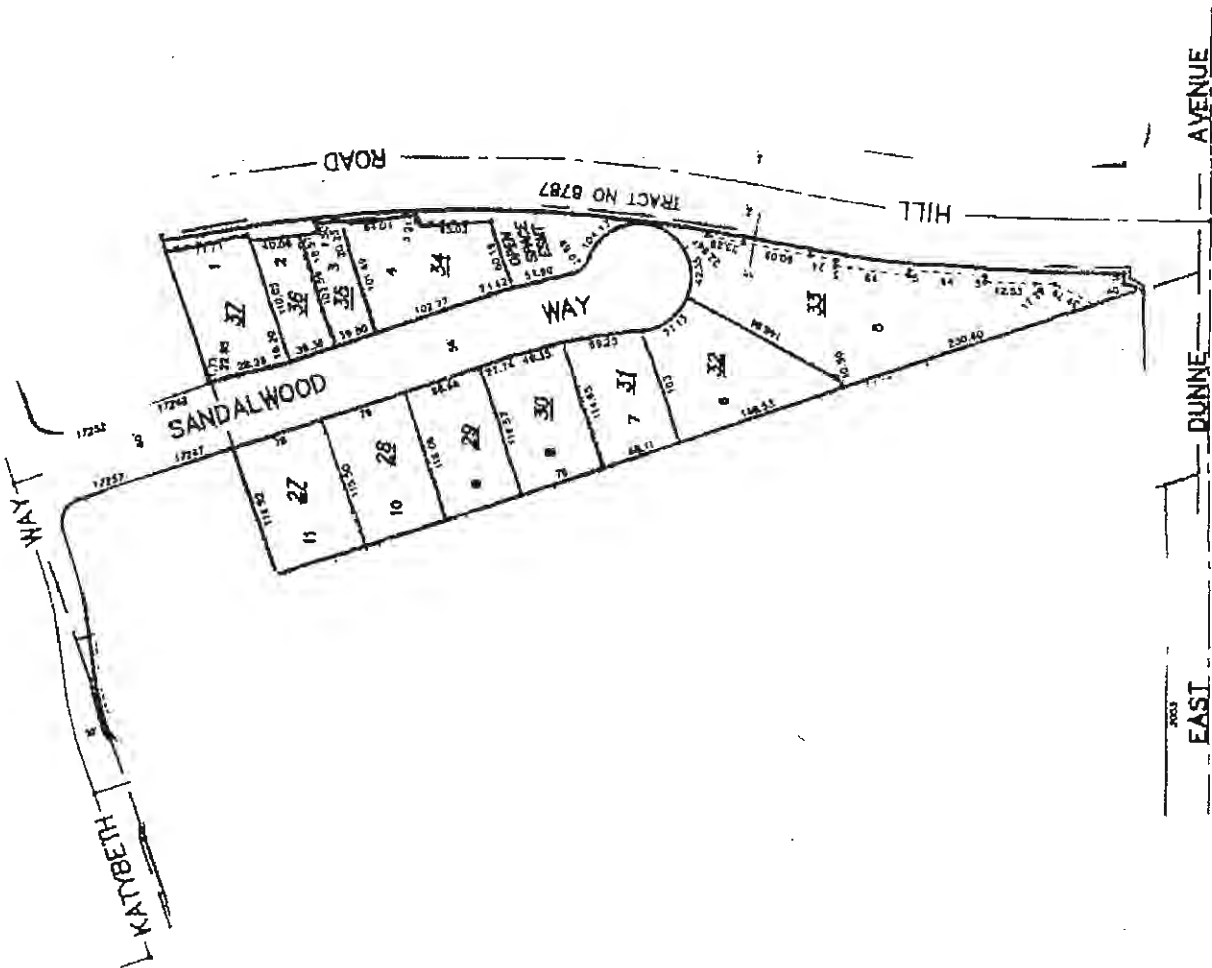
OAK CREEK ZONE SHEET 2

Attachment: Engineer's Report 2018-19 (1760 : LAD)



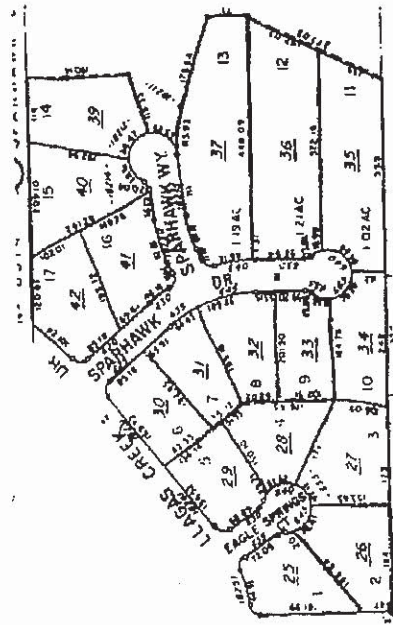


ROSEHAVEN ZONE

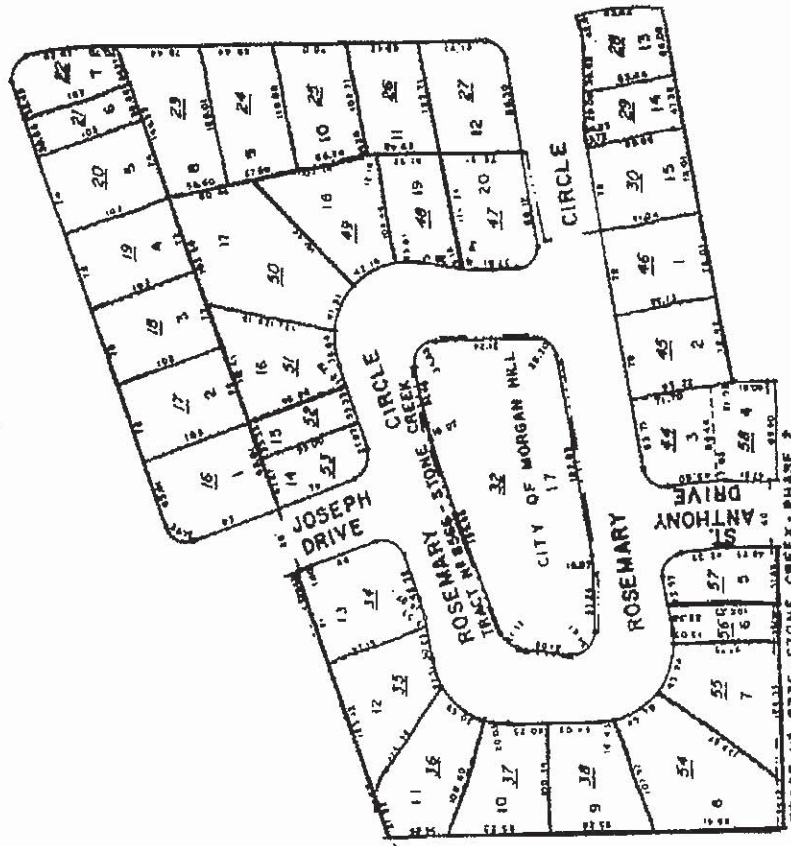


SANDALWOOD ZONE

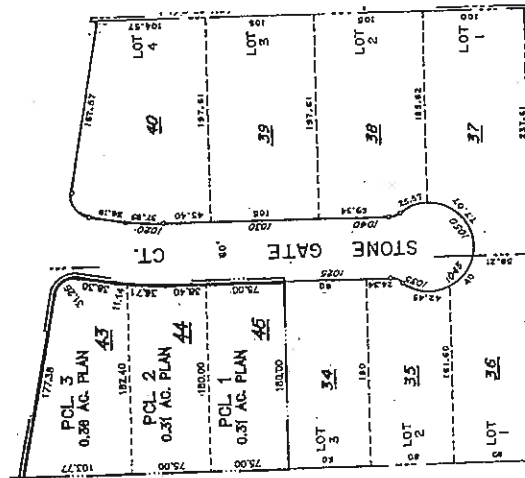
Attachment: Engineer's Report 2018-19 (1760 : LAD)



SPARHAWK ZONE



STONE CREEK ZONE



SUNNYSIDE/STONEGATE ZONE

6. ASSESSMENT ROLL

The listing of Fiscal Year 2018/19 assessments is provided per Zone on the following pages. The description of each lot or parcel as part of the records of the County Assessor are, by reference, made part of this Report as well.

Attachment: Engineer's Report 2018-19 (1760 : LAD)

**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19
Assessment Roll**

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Belle Estates	726-16-043	\$320.00	1.00	\$0.00	\$320.00
Belle Estates	726-16-044	320.00	1.00	0.00	320.00
Belle Estates	726-16-045	320.00	1.00	0.00	320.00
Belle Estates	726-16-046	320.00	1.00	0.00	320.00
Belle Estates	726-16-048	320.00	1.00	0.00	320.00
Belle Estates	726-16-050	320.00	1.00	0.00	320.00
Belle Estates	726-16-051	320.00	1.00	0.00	320.00
Belle Estates	726-16-052	320.00	1.00	0.00	320.00
Belle Estates	726-16-053	320.00	1.00	0.00	320.00
Belle Estates	726-16-054	320.00	1.00	0.00	320.00
Belle Estates	726-16-055	320.00	1.00	0.00	320.00
Belle Estates	726-16-056	320.00	1.00	0.00	320.00
Belle Estates	726-16-057	320.00	1.00	0.00	320.00
Belle Estates	726-16-058	320.00	1.00	0.00	320.00
Belle Estates	726-16-059	320.00	1.00	0.00	320.00
Belle Estates	726-16-060	320.00	1.00	0.00	320.00
Belle Estates	726-16-061	320.00	1.00	0.00	320.00
Belle Estates	726-16-062	320.00	1.00	0.00	320.00
Belle Estates	726-16-063	320.00	1.00	0.00	320.00
Belle Estates	726-16-064	320.00	1.00	0.00	320.00
Belle Estates	726-16-065	320.00	1.00	0.00	320.00
Belle Estates	726-16-066	320.00	1.00	0.00	320.00
Belle Estates	726-16-068	320.00	1.00	0.00	320.00
Belle Estates	726-16-069	320.00	1.00	0.00	320.00
Belle Estates	726-16-070	320.00	1.00	0.00	320.00
Belle Estates	726-16-071	320.00	1.00	0.00	320.00
Belle Estates	726-16-072	320.00	1.00	0.00	320.00
Belle Estates	726-16-074	320.00	1.00	0.00	320.00
Belle Estates	726-16-075	320.00	1.00	0.00	320.00
Belle Estates	726-16-076	320.00	1.00	0.00	320.00
Belle Estates	726-16-077	320.00	1.00	0.00	320.00
Belle Estates	726-16-078	320.00	1.00	0.00	320.00
Belle Estates	726-16-079	320.00	1.00	0.00	320.00
Belle Estates	726-16-080	320.00	1.00	0.00	320.00
Belle Estates	726-16-081	320.00	1.00	0.00	320.00
Belle Estates	726-16-082	320.00	1.00	0.00	320.00
Chang/Bertelone	764-23-050	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-051	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-052	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-053	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-057	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-058	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-059	550.00	1.00	0.00	550.00
Chang/Bertelone	764-23-060	550.00	1.00	0.00	550.00
Conte Gardens	728-10-010	365.00	1.00	0.00	365.00
Conte Gardens	728-10-011	365.00	1.00	0.00	365.00
Conte Gardens	728-10-012	365.00	1.00	0.00	365.00
Conte Gardens	728-10-013	365.00	1.00	0.00	365.00
Conte Gardens	728-10-014	365.00	1.00	0.00	365.00
Conte Gardens	728-10-015	365.00	1.00	0.00	365.00
Conte Gardens	728-10-016	365.00	1.00	0.00	365.00
Conte Gardens	728-10-017	365.00	1.00	0.00	365.00

Attachment: Engineer's Report 2018-19 (1760 : LAD)

**City of Morgan Hill
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Assessment Roll**

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Conte Gardens	728-10-018	365.00	1.00	0.00	365.00
Conte Gardens	728-10-019	365.00	1.00	0.00	365.00
Conte Gardens	728-10-020	365.00	1.00	0.00	365.00
Diana Estates	726-07-042	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-043	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-044	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-045	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-055	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-056	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-057	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-058	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-059	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-060	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-061	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-062	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-063	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-064	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-065	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-066	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-067	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-068	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-069	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-070	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-071	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-072	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-073	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-074	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-075	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-077	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-078	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-080	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-081	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-082	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-083	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-084	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-085	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-086	139.39	1.00	(0.01)	139.38
Diana Estates	726-07-087	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-031	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-032	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-033	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-034	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-035	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-036	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-046	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-047	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-048	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-049	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-050	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-051	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-052	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-053	139.39	1.00	(0.01)	139.38

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City of Morgan Hill
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Assessment Roll

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Diana Estates	726-08-054	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-055	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-056	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-057	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-058	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-059	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-060	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-061	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-062	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-063	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-064	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-065	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-066	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-067	139.39	1.00	(0.01)	139.38
Diana Estates	726-08-068	139.39	1.00	(0.01)	139.38
Fox Hollow/Murphy Sp	764-47-001	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-002	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-003	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-004	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-005	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-006	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-007	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-008	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-009	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-010	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-011	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-012	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-013	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-014	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-015	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-016	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-017	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-018	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-020	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-021	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-022	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-023	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-024	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-025	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-026	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-027	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-028	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-029	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-030	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-031	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-032	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-033	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-034	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-035	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-036	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-037	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-038	173.53	1.00	(0.01)	173.52

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City of Morgan Hill
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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Fox Hollow/Murphy Sp	764-47-039	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-040	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-041	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-042	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-043	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-044	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-045	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-046	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-047	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-048	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-049	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-050	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-051	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-052	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-053	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-054	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-055	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-056	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-057	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-058	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-059	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-060	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-061	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-062	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-063	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-064	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-065	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-066	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-067	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-068	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-069	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-070	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-071	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-072	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-073	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-074	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-075	173.53	1.00	(0.01)	173.52
Fox Hollow/Murphy Sp	764-47-079	173.53	1.00	(0.01)	173.52
Hamilton Square	767-36-044	325.00	1.00	0.00	325.00
Hamilton Square	767-36-045	325.00	1.00	0.00	325.00
Hamilton Square	767-36-046	325.00	1.00	0.00	325.00
Hamilton Square	767-36-047	325.00	1.00	0.00	325.00
Hamilton Square	767-36-048	325.00	1.00	0.00	325.00
Hamilton Square	767-36-049	325.00	1.00	0.00	325.00
Hamilton Square	767-36-050	325.00	1.00	0.00	325.00
Hamilton Square	767-36-051	325.00	1.00	0.00	325.00
Hamilton Square	767-36-052	325.00	1.00	0.00	325.00
Hamilton Square	767-36-053	325.00	1.00	0.00	325.00
Hamilton Square	767-36-054	325.00	1.00	0.00	325.00
Hamilton Square	767-36-055	325.00	1.00	0.00	325.00
Hamilton Square	767-36-056	325.00	1.00	0.00	325.00
Hamilton Square	767-36-057	325.00	1.00	0.00	325.00

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**City of Morgan Hill
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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Hamilton Square	767-36-058	325.00	1.00	0.00	325.00
Hamilton Square	767-36-059	325.00	1.00	0.00	325.00
Hamilton Square	767-36-060	325.00	1.00	0.00	325.00
Hamilton Square	767-36-061	325.00	1.00	0.00	325.00
Hamilton Square	767-36-062	325.00	1.00	0.00	325.00
Hamilton Square	767-36-063	325.00	1.00	0.00	325.00
Hamilton Square	767-36-064	325.00	1.00	0.00	325.00
Hamilton Square	767-36-065	325.00	1.00	0.00	325.00
Hamilton Square	767-36-066	325.00	1.00	0.00	325.00
Hamilton Square	767-36-068	325.00	1.00	0.00	325.00
Hamilton Square	767-36-069	325.00	1.00	0.00	325.00
Hamilton Square	767-36-070	325.00	1.00	0.00	325.00
Hamilton Square	767-36-071	325.00	1.00	0.00	325.00
Hamilton Square	767-36-072	325.00	1.00	0.00	325.00
Hamilton Square	767-36-073	325.00	1.00	0.00	325.00
Hamilton Square	767-36-074	325.00	1.00	0.00	325.00
Hamilton Square	767-36-075	325.00	1.00	0.00	325.00
Hamilton Square	767-36-076	325.00	1.00	0.00	325.00
Hamilton Square	767-36-077	325.00	1.00	0.00	325.00
Hamilton Square	767-36-078	325.00	1.00	0.00	325.00
Hamilton Square	767-36-079	325.00	1.00	0.00	325.00
Hamilton Square	767-36-080	325.00	1.00	0.00	325.00
Hamilton Square	767-36-081	325.00	1.00	0.00	325.00
Hamilton Square	767-36-082	325.00	1.00	0.00	325.00
Jackson Meadows #6	817-26-047	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-048	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-049	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-066	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-067	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-068	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-069	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-070	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-071	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-072	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-073	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-075	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-076	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-077	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-078	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-079	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-080	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-081	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-082	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-083	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-084	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-085	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-086	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-087	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-088	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-089	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-090	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-091	108.00	1.00	0.00	108.00

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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Jackson Meadows #6	817-26-092	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-093	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-095	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-096	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-097	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-098	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-099	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-100	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-101	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-102	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-103	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-104	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-105	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-106	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-107	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-108	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-109	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-110	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-111	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-112	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-113	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-114	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-115	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-116	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-117	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-118	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-119	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-120	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-122	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-123	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-124	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-125	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-126	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-127	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-129	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-130	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-131	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-132	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-133	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-134	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-135	108.00	1.00	0.00	108.00
Jackson Meadows #6	817-26-136	108.00	1.00	0.00	108.00
Jackson Meadows #7	817-70-001	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-002	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-003	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-004	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-005	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-006	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-007	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-008	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-009	100.00	1.00	0.00	100.00
Jackson Meadows #7	817-70-017	100.00	1.00	0.00	100.00

Attachment: Engineer's Report 2018-19 (1760 : LAD)

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19
Assessment Roll

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
La Grande Estates	767-45-032	88.00	1.00	0.00	88.00
La Grande Estates	767-45-033	88.00	1.00	0.00	88.00
La Grande Estates	767-45-034	88.00	1.00	0.00	88.00
La Grande Estates	767-45-037	88.00	1.00	0.00	88.00
La Grande Estates	767-45-038	88.00	1.00	0.00	88.00
La Grande Estates	767-45-039	88.00	1.00	0.00	88.00
La Grande Estates	767-45-040	88.00	1.00	0.00	88.00
La Grande Estates	767-45-041	88.00	1.00	0.00	88.00
La Grande Estates	767-45-042	88.00	1.00	0.00	88.00
La Grande Estates	767-45-043	88.00	1.00	0.00	88.00
La Grande Estates	767-45-044	88.00	1.00	0.00	88.00
La Grande Estates	767-45-045	88.00	1.00	0.00	88.00
La Grande Estates	767-45-046	88.00	1.00	0.00	88.00
La Grande Estates	767-45-047	88.00	1.00	0.00	88.00
La Grande Estates	767-45-048	88.00	1.00	0.00	88.00
La Grande Estates	767-45-049	88.00	1.00	0.00	88.00
La Grande Estates	767-45-050	88.00	1.00	0.00	88.00
La Grande Estates	767-45-051	88.00	1.00	0.00	88.00
La Grande Estates	767-45-052	88.00	1.00	0.00	88.00
La Grande Estates	767-45-053	88.00	1.00	0.00	88.00
La Grande Estates	767-45-054	88.00	1.00	0.00	88.00
La Grande Estates	767-45-055	88.00	1.00	0.00	88.00
La Grande Estates	767-45-056	88.00	1.00	0.00	88.00
La Grande Estates	767-45-057	88.00	1.00	0.00	88.00
La Grande Estates	767-45-058	88.00	1.00	0.00	88.00
La Grande Estates	767-45-059	88.00	1.00	0.00	88.00
La Grande Estates	767-45-060	88.00	1.00	0.00	88.00
La Grande Estates	767-45-061	88.00	1.00	0.00	88.00
La Grande Estates	767-45-062	88.00	1.00	0.00	88.00
La Grande Estates	767-45-063	88.00	1.00	0.00	88.00
La Grande Estates	767-45-064	88.00	1.00	0.00	88.00
La Grande Estates	767-45-065	88.00	1.00	0.00	88.00
Lacrosse/Gera	767-46-001	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-002	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-003	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-004	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-005	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-006	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-007	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-008	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-009	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-010	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-011	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-012	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-013	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-014	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-015	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-018	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-019	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-020	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-021	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-022	50.00	1.00	0.00	50.00

Attachment: Engineer's Report 2018-19 (1760 : LAD)

**City of Morgan Hill
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Assessment Roll**

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Lacrosse/Gera	767-46-023	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-024	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-025	50.00	1.00	0.00	50.00
Lacrosse/Gera	767-46-026	50.00	1.00	0.00	50.00
Llagas Creek	764-49-002	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-003	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-004	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-005	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-006	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-007	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-008	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-009	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-010	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-011	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-012	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-013	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-014	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-015	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-016	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-017	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-018	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-019	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-020	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-021	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-022	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-023	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-024	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-025	233.67	1.00	(0.01)	233.66
Llagas Creek	764-49-026	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-001	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-002	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-003	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-004	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-005	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-006	233.67	1.00	(0.01)	233.66
Llagas Creek	764-50-007	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-001	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-004	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-005	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-010	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-011	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-012	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-013	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-014	233.67	1.00	(0.01)	233.66
Llagas Creek	764-51-015	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-001	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-002	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-003	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-004	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-005	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-006	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-008	233.67	1.00	(0.01)	233.66

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City of Morgan Hill
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Assessment Roll

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Llagas Creek	764-52-009	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-010	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-011	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-012	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-013	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-014	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-015	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-016	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-017	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-018	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-019	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-020	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-021	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-022	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-023	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-024	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-025	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-026	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-027	233.67	1.00	(0.01)	233.66
Llagas Creek	764-52-028	233.67	1.00	(0.01)	233.66
Llagas Creek	764-53-003	233.67	1.00	(0.01)	233.66
Llagas Creek	764-53-004	233.67	1.00	(0.01)	233.66
Llagas Creek	764-53-005	233.67	1.00	(0.01)	233.66
Llagas/Obata	764-23-032	400.00	1.00	0.00	400.00
Llagas/Obata	764-23-033	400.00	1.00	0.00	400.00
Llagas/Obata	764-23-034	400.00	1.00	0.00	400.00
Llagas/Obata	764-23-035	400.00	1.00	0.00	400.00
Llagas/Obata	764-23-036	400.00	1.00	0.00	400.00
Mill Creek	767-47-001	186.82	1.00	0.00	186.82
Mill Creek	767-47-002	186.82	1.00	0.00	186.82
Mill Creek	767-47-003	186.82	1.00	0.00	186.82
Mill Creek	767-47-004	186.82	1.00	0.00	186.82
Mill Creek	767-47-005	186.82	1.00	0.00	186.82
Mill Creek	767-47-006	186.82	1.00	0.00	186.82
Mill Creek	767-47-007	186.82	1.00	0.00	186.82
Mill Creek	767-47-008	186.82	1.00	0.00	186.82
Mill Creek	767-47-009	186.82	1.00	0.00	186.82
Mill Creek	767-47-010	186.82	1.00	0.00	186.82
Mill Creek	767-47-011	186.82	1.00	0.00	186.82
Mill Creek	767-47-012	186.82	1.00	0.00	186.82
Mill Creek	767-47-013	186.82	1.00	0.00	186.82
Mill Creek	767-47-014	186.82	1.00	0.00	186.82
Mill Creek	767-47-015	186.82	1.00	0.00	186.82
Mill Creek	767-47-016	186.82	1.00	0.00	186.82
Mill Creek	767-47-017	186.82	1.00	0.00	186.82
Mill Creek	767-47-018	186.82	1.00	0.00	186.82
Mill Creek	767-47-019	186.82	1.00	0.00	186.82
Mill Creek	767-47-020	186.82	1.00	0.00	186.82
Mill Creek	767-47-021	186.82	1.00	0.00	186.82
Mill Creek	767-47-022	186.82	1.00	0.00	186.82
Mill Creek	767-47-023	186.82	1.00	0.00	186.82
Mill Creek	767-47-029	186.82	1.00	0.00	186.82

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City of Morgan Hill
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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Mill Creek	767-47-030	186.82	1.00	0.00	186.82
Mill Creek	767-47-031	186.82	1.00	0.00	186.82
Mill Creek	767-47-032	186.82	1.00	0.00	186.82
Mill Creek	767-47-033	186.82	1.00	0.00	186.82
Mill Creek	767-47-034	186.82	1.00	0.00	186.82
Mill Creek	767-47-035	186.82	1.00	0.00	186.82
Mill Creek	767-47-036	186.82	1.00	0.00	186.82
Mill Creek	767-47-037	186.82	1.00	0.00	186.82
Mill Creek	767-47-038	186.82	1.00	0.00	186.82
Mill Creek	767-47-039	186.82	1.00	0.00	186.82
Mill Creek	767-47-040	186.82	1.00	0.00	186.82
Mill Creek	767-47-041	186.82	1.00	0.00	186.82
Mill Creek	767-47-042	186.82	1.00	0.00	186.82
Mill Creek	767-47-043	186.82	1.00	0.00	186.82
Mill Creek	767-47-044	186.82	1.00	0.00	186.82
Mill Creek	767-47-045	186.82	1.00	0.00	186.82
Mill Creek	767-47-046	186.82	1.00	0.00	186.82
Mill Creek	767-47-047	186.82	1.00	0.00	186.82
Mill Creek	767-47-048	186.82	1.00	0.00	186.82
Mill Creek	767-47-049	186.82	1.00	0.00	186.82
Mill Creek	767-47-050	186.82	1.00	0.00	186.82
Mill Creek	767-47-051	186.82	1.00	0.00	186.82
Mill Creek	767-47-052	186.82	1.00	0.00	186.82
Mill Creek	767-47-053	186.82	1.00	0.00	186.82
Mill Creek	767-47-054	186.82	1.00	0.00	186.82
Mill Creek	767-47-055	186.82	1.00	0.00	186.82
Mill Creek	767-47-057	186.82	1.00	0.00	186.82
Mill Creek	767-47-058	186.82	1.00	0.00	186.82
Mill Creek	767-47-059	186.82	1.00	0.00	186.82
Mill Creek	767-47-060	186.82	1.00	0.00	186.82
Mill Creek	767-47-061	186.82	1.00	0.00	186.82
Mill Creek	767-47-062	186.82	1.00	0.00	186.82
Mill Creek	767-47-063	186.82	1.00	0.00	186.82
Mill Creek	767-47-064	186.82	1.00	0.00	186.82
Mill Creek	767-47-065	186.82	1.00	0.00	186.82
Mill Creek	767-47-066	186.82	1.00	0.00	186.82
Mill Creek	767-47-067	186.82	1.00	0.00	186.82
Mill Creek	767-47-068	186.82	1.00	0.00	186.82
Mill Creek	767-47-069	186.82	1.00	0.00	186.82
Mill Creek	767-47-070	186.82	1.00	0.00	186.82
Mill Creek	767-47-071	186.82	1.00	0.00	186.82
Mill Creek	767-47-072	186.82	1.00	0.00	186.82
Mill Creek	767-47-073	186.82	1.00	0.00	186.82
Mill Creek	767-47-074	186.82	1.00	0.00	186.82
Mill Creek	767-47-075	186.82	1.00	0.00	186.82
Mill Creek	767-47-076	186.82	1.00	0.00	186.82
Mill Creek	767-47-077	186.82	1.00	0.00	186.82
Mill Creek	767-47-078	186.82	1.00	0.00	186.82
Mill Creek	767-47-079	186.82	1.00	0.00	186.82
Mill Creek	767-47-080	186.82	1.00	0.00	186.82
Mill Creek	767-47-081	186.82	1.00	0.00	186.82
Mill Creek	767-47-082	186.82	1.00	0.00	186.82

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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Mill Creek	767-47-083	186.82	1.00	0.00	186.82
Mill Creek	767-47-084	186.82	1.00	0.00	186.82
Mill Creek	767-47-085	186.82	1.00	0.00	186.82
Mill Creek	767-47-086	186.82	1.00	0.00	186.82
Mill Creek	767-47-087	186.82	1.00	0.00	186.82
Mill Creek	767-47-088	186.82	1.00	0.00	186.82
Mill Creek	767-47-089	186.82	1.00	0.00	186.82
Mill Creek	767-47-090	186.82	1.00	0.00	186.82
Oak Creek I, II, III	779-51-001	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-002	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-003	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-004	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-005	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-006	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-007	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-008	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-009	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-010	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-011	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-012	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-013	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-014	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-015	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-016	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-017	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-018	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-019	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-020	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-021	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-022	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-023	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-024	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-030	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-031	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-032	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-033	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-034	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-035	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-036	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-037	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-038	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-039	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-040	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-041	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-042	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-043	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-044	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-045	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-046	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-047	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-048	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-049	350.00	1.00	0.00	350.00

Attachment: Engineer's Report 2018-19 (1760 : LAD)

City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19
Assessment Roll

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Oak Creek I, II, III	779-51-050	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-051	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-052	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-053	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-51-054	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-004	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-005	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-006	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-007	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-008	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-009	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-010	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-011	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-012	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-013	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-014	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-015	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-016	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-017	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-018	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-019	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-020	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-021	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-022	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-023	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-024	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-025	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-026	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-027	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-028	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-029	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-030	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-031	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-032	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-033	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-034	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-035	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-037	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-038	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-039	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-040	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-041	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-047	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-055	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-056	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-057	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-058	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-059	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-060	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-061	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-062	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-063	350.00	1.00	0.00	350.00

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**City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19
Assessment Roll**

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Oak Creek I, II, III	779-52-064	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-065	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-066	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-067	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-068	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-069	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-070	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-071	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-072	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-073	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-074	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-075	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-076	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-077	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-078	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-079	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-080	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-081	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-082	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-083	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-084	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-085	350.00	1.00	0.00	350.00
Oak Creek I, II, III	779-52-086	350.00	1.00	0.00	350.00
Parsons Corner	767-48-001	250.00	1.00	0.00	250.00
Parsons Corner	767-48-002	250.00	1.00	0.00	250.00
Parsons Corner	767-48-003	250.00	1.00	0.00	250.00
Parsons Corner	767-48-004	250.00	1.00	0.00	250.00
Parsons Corner	767-48-005	250.00	1.00	0.00	250.00
Parsons Corner	767-48-006	250.00	1.00	0.00	250.00
Parsons Corner	767-48-007	250.00	1.00	0.00	250.00
Parsons Corner	767-48-008	250.00	1.00	0.00	250.00
Parsons Corner	767-48-009	250.00	1.00	0.00	250.00
Parsons Corner	767-48-010	250.00	1.00	0.00	250.00
Rosehaven	817-10-005	400.00	1.00	0.00	400.00
Rosehaven	817-10-006	400.00	1.00	0.00	400.00
Rosehaven	817-10-007	400.00	1.00	0.00	400.00
Rosehaven	817-10-008	400.00	1.00	0.00	400.00
Rosehaven	817-10-010	400.00	1.00	0.00	400.00
Rosehaven	817-10-011	400.00	2.00	0.00	800.00
Rosehaven	817-10-012	400.00	1.00	0.00	400.00
Rosehaven	817-10-013	400.00	1.00	0.00	400.00
Rosehaven	817-10-014	400.00	1.00	0.00	400.00
Rosehaven	817-10-015	400.00	1.00	0.00	400.00
Rosehaven	817-10-016	400.00	1.00	0.00	400.00
Rosehaven	817-10-017	400.00	1.00	0.00	400.00
Rosehaven	817-10-018	400.00	1.00	0.00	400.00
Rosehaven	817-10-019	400.00	1.00	0.00	400.00
Rosehaven	817-10-020	400.00	1.00	0.00	400.00
Rosehaven	817-10-021	400.00	2.00	0.00	800.00
Rosehaven	817-10-022	400.00	1.00	0.00	400.00
Rosehaven	817-10-023	400.00	1.00	0.00	400.00
Rosehaven	817-10-024	400.00	1.00	0.00	400.00

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City of Morgan Hill
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Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Rosehaven	817-10-025	400.00	1.00	0.00	400.00
Rosehaven	817-10-026	400.00	2.00	0.00	800.00
Rosehaven	817-10-027	400.00	1.00	0.00	400.00
Rosehaven	817-10-028	400.00	1.00	0.00	400.00
Rosehaven	817-10-029	400.00	1.00	0.00	400.00
Sandalwood	728-11-027	450.00	1.00	0.00	450.00
Sandalwood	728-11-028	450.00	1.00	0.00	450.00
Sandalwood	728-11-029	450.00	1.00	0.00	450.00
Sandalwood	728-11-030	450.00	1.00	0.00	450.00
Sandalwood	728-11-031	450.00	1.00	0.00	450.00
Sandalwood	728-11-032	450.00	1.00	0.00	450.00
Sandalwood	728-11-033	450.00	1.00	0.00	450.00
Sandalwood	728-11-034	450.00	1.00	0.00	450.00
Sandalwood	728-11-035	450.00	1.00	0.00	450.00
Sandalwood	728-11-036	450.00	1.00	0.00	450.00
Sandalwood	728-11-037	450.00	1.00	0.00	450.00
Sparhawk	764-31-025	248.82	1.00	0.00	248.82
Sparhawk	764-31-026	248.82	1.00	0.00	248.82
Sparhawk	764-31-027	248.82	1.00	0.00	248.82
Sparhawk	764-31-028	248.82	1.00	0.00	248.82
Sparhawk	764-31-029	248.82	1.00	0.00	248.82
Sparhawk	764-31-030	248.82	1.00	0.00	248.82
Sparhawk	764-31-031	248.82	1.00	0.00	248.82
Sparhawk	764-31-032	248.82	1.00	0.00	248.82
Sparhawk	764-31-033	248.82	1.00	0.00	248.82
Sparhawk	764-31-034	248.82	1.00	0.00	248.82
Sparhawk	764-31-035	248.82	1.00	0.00	248.82
Sparhawk	764-31-036	248.82	1.00	0.00	248.82
Sparhawk	764-31-037	248.82	1.00	0.00	248.82
Sparhawk	764-31-038	248.82	1.00	0.00	248.82
Sparhawk	764-31-039	248.82	1.00	0.00	248.82
Sparhawk	764-31-040	248.82	1.00	0.00	248.82
Sparhawk	764-31-041	248.82	1.00	0.00	248.82
Sparhawk	764-31-042	248.82	1.00	0.00	248.82
Stone Creek	726-06-016	388.46	1.00	0.00	388.46
Stone Creek	726-06-017	388.46	1.00	0.00	388.46
Stone Creek	726-06-018	388.46	1.00	0.00	388.46
Stone Creek	726-06-019	388.46	1.00	0.00	388.46
Stone Creek	726-06-020	388.46	1.00	0.00	388.46
Stone Creek	726-06-021	388.46	1.00	0.00	388.46
Stone Creek	726-06-022	388.46	1.00	0.00	388.46
Stone Creek	726-06-023	388.46	1.00	0.00	388.46
Stone Creek	726-06-024	388.46	1.00	0.00	388.46
Stone Creek	726-06-025	388.46	1.00	0.00	388.46
Stone Creek	726-06-026	388.46	1.00	0.00	388.46
Stone Creek	726-06-027	388.46	1.00	0.00	388.46
Stone Creek	726-06-028	388.46	1.00	0.00	388.46
Stone Creek	726-06-029	388.46	1.00	0.00	388.46
Stone Creek	726-06-030	388.46	1.00	0.00	388.46
Stone Creek	726-06-034	388.46	1.00	0.00	388.46
Stone Creek	726-06-035	388.46	1.00	0.00	388.46
Stone Creek	726-06-036	388.46	1.00	0.00	388.46

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City of Morgan Hill
Landscape Assessment District No. 1
Fiscal Year 2018/19
Assessment Roll

Zone	APN	Rate Per Unit	Units	Rounding Adjustment	2018/19 Assessment (1)
Stone Creek	726-06-037	388.46	1.00	0.00	388.46
Stone Creek	726-06-038	388.46	1.00	0.00	388.46
Stone Creek	726-06-044	388.46	1.00	0.00	388.46
Stone Creek	726-06-045	388.46	1.00	0.00	388.46
Stone Creek	726-06-046	388.46	1.00	0.00	388.46
Stone Creek	726-06-047	388.46	1.00	0.00	388.46
Stone Creek	726-06-048	388.46	1.00	0.00	388.46
Stone Creek	726-06-049	388.46	1.00	0.00	388.46
Stone Creek	726-06-050	388.46	1.00	0.00	388.46
Stone Creek	726-06-051	388.46	1.00	0.00	388.46
Stone Creek	726-06-052	388.46	1.00	0.00	388.46
Stone Creek	726-06-053	388.46	1.00	0.00	388.46
Stone Creek	726-06-054	388.46	1.00	0.00	388.46
Stone Creek	726-06-055	388.46	1.00	0.00	388.46
Stone Creek	726-06-056	388.46	1.00	0.00	388.46
Stone Creek	726-06-057	388.46	1.00	0.00	388.46
Stone Creek	726-06-058	388.46	1.00	0.00	388.46
Sunnyside/Stonegate	773-31-034	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-035	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-036	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-037	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-038	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-039	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-040	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-043	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-044	375.00	1.00	0.00	375.00
Sunnyside/Stonegate	773-31-045	375.00	1.00	0.00	375.00
Totals:			758.00	(2.10)	\$182,802.92

(1) Amounts placed on the tax roll must be rounded down to an even number. The Assessment includes the rounding adjustment.

7. HISTORICAL ASSESSMENT RATES

The historical assessment rates per Zone are identified on the following pages.

City of Morgan Hill
Landscape Assessment District No. 1
Actual Historical Assessment Rates Per Zone

Zone	Belle Estates	Chang/Bertelone	Conte Gardens	Diana Estates	Fox Hollow / Murphy Sp.	Hamilton Square	Jackson Meadows #6	Jackson Meadows #7	La Grande Estates	Lacrosse/Gera
Annexation Number	93-03	93-05	92-10	94-01	Original	94-03	93-06	91-03	95-03	91-04
Original Rate	\$502.22	\$1,215.00	\$477.82	\$139.39	\$106.15	\$425.54	\$108.10	\$314.58	\$88.00	\$142.99
Unit Count	36	8	11	64	75	38	70	10	32	24
1991/92	-	-	-	\$139.39	-	-	-	\$314.58	-	\$142.99
1992/93	-	-	-	-	-	-	-	-	-	-
1993/94	-	-	-	69.80	-	-	-	77.35	-	8.93
1994/95	-	-	-	69.80	\$106.15	-	-	77.35	-	8.93
1995/96	\$502.00	\$1,215.00	\$285.98	54.14	79.92	\$425.54	\$108.10	88.66	-	8.93
1996/97	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1997/98	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1998/99	71.00	8.93	477.82	21.94	49.11	214.08	76.04	194.70	-	8.93
1999/00	147.81	8.93	477.82	81.03	49.11	399.71	108.10	314.50	\$88.00	8.93
2000/01	147.81	8.93	477.82	81.03	49.11	399.71	108.10	314.50	88.00	8.93
2001/02	147.80	8.92	477.82	54.80	49.10	399.70	86.38	314.50	88.00	8.92
2002/03	147.80	8.92	477.82	70.00	101.10	399.70	104.18	314.50	88.00	8.92
2003/04	175.00	8.92	477.82	80.00	101.10	399.70	104.18	314.50	88.00	8.92
2004/05	180.00	8.92	477.82	80.00	101.10	399.70	108.10	314.50	88.00	8.92
2005/06	180.00	94.92	477.82	105.00	141.10	399.70	108.10	314.50	88.00	8.92
2006/07	180.00	94.92	477.82	105.00	141.10	399.70	108.10	314.50	88.00	8.92
2007/08	194.00	94.92	477.82	135.00	141.10	399.70	108.10	314.50	88.00	8.92
2008/09	234.00	94.92	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2009/10	234.00	200.00	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2010/11	234.00	300.00	477.82	139.39	149.69	425.54	108.10	314.50	88.00	130.00
2011/12	282.00	400.00	477.82	139.39	168.48	425.54	108.10	314.50	88.00	50.00
2012/13	282.00	400.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2013/14	320.00	500.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2014/15	320.00	500.00	477.82	139.39	173.53	425.54	98.10	140.00	88.00	50.00
2015/16	320.00	550.00	400.00	139.39	173.53	425.54	108.00	140.00	88.00	50.00
2016/17	320.00	550.00	400.00	139.39	173.53	425.54	108.00	100.00	88.00	50.00
2017/18	320.00	550.00	400.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00
2018/19	320.00	550.00	365.00	139.39	173.53	325.00	108.00	100.00	88.00	50.00

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City of Morgan Hill
Landscape Assessment District No. 1
Actual Historical Assessment Rates Per Zone

Zone	Llajas Creek Estates	Llajas/Obata	Mill Creek	Oak Creek	Parsons Corner	Rose Haven	Sandalwood	Sparhawk	Stone Creek	Sunnyside / Stone Gate
Annexation Number	91-05	91-07	93-01	94-04	95-02	95-01	96-01	91-06	94-02	91-01
Original Rate	\$140.84	\$629.16	\$186.82	\$453.82	\$568.32	\$488.47	\$192.39	\$174.77	\$306.66	\$449.40
Unit Count	71	5	84	119	10	27	11	18	35	10
1991/92	\$140.85	\$629.16	-	-	-	-	-	\$174.77	-	\$449.40
1992/93	-	-	-	-	-	-	-	-	-	-
1993/94	19.13	335.37	-	-	-	-	-	93.03	-	15.05
1994/95	19.13	15.05	-	-	-	-	-	308.84	-	15.04
1995/96	76.60	15.05	\$186.82	\$453.82	-	-	-	226.46	\$306.66	15.04
1996/97	59.54	8.93	64.57	47.67	\$568.32	\$488.47	-	147.33	146.66	8.93
1997/98	59.54	8.93	64.57	47.67	457.40	189.73	-	147.33	146.66	8.93
1998/99	59.54	8.93	64.57	337.09	457.40	189.73	-	147.33	146.66	8.93
1999/00	140.85	8.93	95.83	320.52	457.40	189.73	\$192.36	147.33	275.00	8.93
2000/01	140.85	8.93	158.64	245.16	457.40	189.73	192.36	147.33	275.00	8.93
2001/02	105.86	8.92	158.64	150.00	457.40	189.72	192.36	147.32	275.00	8.92
2002/03	140.00	8.92	182.64	250.00	300.00	300.00	192.36	147.32	275.00	275.00
2003/04	140.00	8.92	120.00	300.00	300.00	300.00	192.36	147.32	275.00	192.50
2004/05	140.00	8.92	120.00	300.00	300.00	300.00	192.36	147.32	306.66	192.50
2005/06	190.00	53.92	138.00	300.00	430.00	300.00	192.36	202.32	306.66	332.50
2006/07	190.00	53.92	138.00	300.00	430.00	300.00	192.36	202.32	306.66	332.50
2007/08	190.00	53.92	168.00	300.00	460.00	330.00	192.36	208.38	306.66	332.50
2008/09	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2009/10	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2010/11	195.70	53.92	186.82	300.00	460.00	370.00	192.36	214.64	306.66	332.50
2011/12	195.70	53.92	186.82	350.00	250.00	450.00	192.36	241.58	306.66	332.50
2012/13	195.70	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	332.50
2013/14	233.67	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	412.50
2014/15	233.67	53.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	412.50
2015/16	233.67	143.92	186.82	350.00	250.00	450.00	192.36	248.82	388.46	375.00
2016/17	233.67	143.92	186.82	350.00	250.00	488.00	192.36	248.82	388.46	375.00
2017/18	233.67	143.92	186.82	350.00	250.00	488.00	192.36	248.82	388.46	375.00
2018/19	233.67	400.00	186.82	350.00	250.00	400.00	450.00	248.82	388.46	375.00

Attachment: Engineer's Report 2018-19 (1760 : LAD)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL, INITIATING PROCEEDINGS FOR
THE LEVY AND COLLECTION OF ASSESSMENTS FOR
THE CITY OF MORGAN HILL LANDSCAPE
ASSESSMENT DISTRICT NO. 1 FOR FISCAL YEAR
2018/19**

WHEREAS, the Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the City’s Fox Hollow/Murphy Springs Landscape Assessment District and has by previous resolution changed the name to the City of Morgan Hill Landscape Assessment District No. 1 (the “Assessment District”); and,

WHEREAS, the City has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file an Annual Report.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE COUNCIL, AS FOLLOWS:

- 1. Annual Report:** The Council hereby orders NBS to prepare and file with the City Clerk the Annual Report concerning the levy and collection of assessments within the Assessment District for the fiscal year commencing July 1, 2018 and ending June 30, 2019.
- 2. New Improvements or Changes to Existing Improvements:** There are no changes to existing improvements nor are there any items being added to the list of improvements previously approved at the formation of the Assessment District.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th day of May 2018 by the following vote:

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

ATTEST:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

Attachment: Reso1_InitiateProceedings_18-19 (1760 : LAD)

CERTIFICATION

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. ____, adopted by the City Council at the meeting held on May 16, 2018.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: Reso1_InitiateProceedings_18-19 (1760 : LAD)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL, APPROVING THE ANNUAL REPORT
AND THE PROPOSED ASSESSMENT LEVY FOR THE
CITY OF MORGAN HILL LANDSCAPE ASSESSMENT
DISTRICT NO. 1 FOR FISCAL YEAR 2018/19**

WHEREAS, the Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the City’s Fox Hollow/Murphy Springs Landscape Assessment District and has by previous resolution changed the name to the City of Morgan Hill Landscape Assessment District No. 1 (the “Assessment District”); and,

WHEREAS, the City has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file an Annual Report; and

WHEREAS, the Council has, by previous resolution, ordered NBS to prepare and file such Annual Report; and

WHEREAS, NBS has prepared and filed such Annual Report with the City Clerk.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE COUNCIL, AS FOLLOWS:

Approval of Report: The Council approves the Annual Report concerning the levy of assessments for the fiscal year commencing July 1, 2018 and ending June 30, 2019.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th day of May 2018 by the following vote:

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

ATTEST:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

Attachment: Reso2_ApproveReport_18-19 (1760 : LAD)

CERTIFICATION

I, **Irma Torrez, City Clerk of the City of Morgan Hill, California**, do hereby certify that the foregoing is a true and correct copy of Resolution No. ____, adopted by the City Council at the meeting held on May 16, 2018.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: Reso2_ApproveReport_18-19 (1760 : LAD)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL, DECLARING ITS INTENTION TO
LEVY AND COLLECT ASSESSMENTS FOR THE CITY OF
MORGAN HILL LANDSCAPE ASSESSMENT DISTRICT
NO. 1 FOR FISCAL YEAR 2018/19**

WHEREAS, the Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the City’s Fox Hollow/Murphy Springs Landscape Assessment District and has by previous resolution changed the name to the City of Morgan Hill Landscape Assessment District No. 1 (the “Assessment District”); and

WHEREAS, the City has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and to prepare and file an Annual Report.

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE COUNCIL, AS FOLLOWS:

- 1. Intention:** The Council hereby declares its intention to levy and collect assessments within the Assessment District to pay the costs of the Improvements for the fiscal year commencing July 1, 2018 and ending June 30, 2019. The Council finds that the public’s best interest requires such action.
- 2. Improvements:** The Improvements include, but are not limited to: ground cover, shrubs, plants and trees, irrigation and drainage systems, graffiti removal, entry monuments, and associated appurtenant facilities. Services provided include all necessary service, operations, administration and maintenance required to keep the above mentioned improvements in a healthy, vigorous and satisfactory condition.
- 3. Assessment District Boundaries:** The boundaries of the Assessment District are as shown by the assessment diagram filed in the offices of the City Clerk, which map is made a part hereof by reference.
- 4. Annual Report:** Reference is made to the Annual Report prepared by NBS, on file with the Clerk, for a full and detailed description of the improvements, the boundaries of the Assessment District and the zones therein, and the proposed assessments upon assessable lots and parcels of land within the Assessment District.
- 5. Notice of Public Hearing:** The Council hereby declares its intention to conduct a Public Hearing concerning the levy of assessments in accordance with Section 22629 of the Act. All objections to the assessment, if any, will be considered by the Council. The Public Hearing will be held on **Wednesday June 6, 2018 at 7:00 PM** or as soon thereafter as is feasible in the Council Chambers located at 17575 Peak Avenue, Morgan Hill, CA

95037. The Council further orders the City Clerk to publish notice of this resolution in accordance with Section 22626 of the Act.

- 6. Increase of Assessment:** The maximum assessment is not proposed to increase from the previous year above that previously approved by the property owners (as “increased assessment” is defined in Section 54954.6 of the Government Code).

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th day of May 2018 by the following vote:

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

ATTEST:

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 Resolution No. ____, adopted by the City Council at the meeting held on May 16, 2018.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: Reso3_IntentPubHearing_18-19 (1760 : LAD)



CITY COUNCIL STAFF REPORT

MEETING DATE: May 16, 2018

PREPARED BY: John Baty, Principal Planner/Development Services
APPROVED BY: City Manager

ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)

RECOMMENDATION(S)

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Economic Development and
Telecommunications
Regional Initiatives

GUIDING DOCUMENTS

Economic Blueprint
General Plan/Housing Element

REPORT NARRATIVE:

Planning Commission Recommendation

On March 27, 2018, a public hearing on the Zoning Code Update was opened allowing the Planning Commission to receive public testimony. The hearing was continued to April 10, 2018 where the Commission discussed and provided specific recommendations to address several comments received from the public. The hearing was continued to April 24, 2018 to allow additional time for staff and the Commission to discuss and consider additional comments received from the Morgan Hill Hotel Coalition and the owners of 900 Lightpost Way.

At the April 24, 2018 hearing, the Commission considered remaining comments and, on a 6-1 vote, adopted a resolution (attached) recommending the City Council consider the Addendum to the Morgan Hill 2035 EIR (weblink below) in accordance with CEQA and approval of the Zoning Code Update and Zoning Map Amendments (Commission Resolution Exhibits A and B) with additional text and map change recommendations described in Exhibit C of the Planning Commission Resolution.

Exhibits A, B, and C are included in the attached Draft City Council Ordinance.

Additional Staff Recommendations

In response to the attached email from J. Randall Toch (Morgan Hill Hotel Coalition) received on April 24, 2018, staff proposes additional changes described below and in Exhibit D to the Draft City Council Ordinance.

1. Add clarifying language to Section 18.26.010 in the Industrial Zoning Districts chapter that lodging uses (e.g., hotels) that support primary job generating uses within business park settings are permitted in the CI Commercial Industrial Zoning District.
2. In the CH Highway Commercial and CI Commercial Industrial Zoning Districts, modify the height maximum to read, “4-stories or 55-feet, whichever is less” and delete Sections 18.24.030.B. Hotel Height in the CH Zoning District and 18.26.030.B. Hotel Height in the CI Zoning District.

Background

Relationship to General Plan and Residential Development Control System (RDCS)

The Morgan Hill 2035 General Plan, which was adopted by City Council on July 27, 2016, is the City’s primary policy document governing local land use and development. The General Plan includes a Land Use Map and designations that identify uses and development intensities along with basic policies to guide development and conservation decisions in Morgan Hill over the next 20 years.

Morgan Hill’s Zoning Code, codified as Title 18 in the City of Morgan Hill Municipal Code, is one of the primary tools for implementing the General Plan with detailed land use and development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all property in the City. The Zoning Code identifies exactly which land uses are allowed in each zoning district and establishes the permitted building heights, minimum setbacks, and other development standards for each district.

In addition to development standards, the Zoning Code also establishes standards for signs, parking, landscaping, accessory dwelling units (ADUs), wireless communications, historic resources, and many other topics. Finally, the Zoning Code identifies permits required for different land uses and types of development, and the process by which the City reviews permit applications and administers the requirements of the Zoning Code.

A comprehensive update of the City’s long-standing residential growth control program, Residential Development Control System (RDCS), was approved by voters in November 2016. The RDCS is codified in Title 18, Chapter 18.78 of the Municipal Code.

Zoning Code Update Process

The Zoning Code Update portion of the Morgan Hill 2035 Project began with a series of stakeholder, staff, Planning Commission, and City Council meetings in late 2015 to assess the strengths and weaknesses of the City’s existing Zoning Code, and in 2016 and 2017 to discuss the general approach for the Update process.

The Planning Commission and City Council supported an efficient process with sufficient opportunity to provide input on important aspects of the Zoning Code while avoiding a line-by-line review. The Commission and Council also identified the following goals for the updated Zoning Code:

- A. Implement and achieve consistency with the Morgan Hill 2035 General Plan;*
- B. Create a user-friendly code for applicants, staff, and City officials;*
- C. Modernize terminology and requirements to reflect current practices; and,*
- D. Improve regulations to effectively address land use and development issues.*

The Zoning Code Update changes the existing Zoning Code only as needed to achieve these goals. The majority of regulations and procedures in the existing Zoning Code have been carried forward and clarified in the Zoning Code Update. The Zoning Code Update has been a deliberative process to enhance the overall usability of the document and to introduce substantive changes only where needed.

After the Public Review Draft Zoning Code was published on August 8, 2017, the Planning Commission held a series of four public workshops (August 29, September 19, October 3, and November 28, 2017) to provide, receive, and discuss comments and proposed edits to the Draft to better achieve the above stated goals.

On January 17, 2018, a Joint City Council/Planning Commission Study Session was held for the Planning Commission and staff to receive feedback/direction from the Council on several policy questions related to the Zoning Code Update and to discuss the next steps in the Zoning Code Update process.

The Planning Commission concluded, and the City Council agreed, that the policy questions discussed at the Joint Study Session, while important topics for future consideration, did not warrant extending the Zoning Code Update beyond the targeted March/April 2018 Commission and Council adoption hearings.

A Public Review Draft Final Zoning Code (attached as weblink) was published on March 7, 2018, addressing comments and incorporating edits received during the review of the initial draft Zoning Code. Edits to the previous draft are shown in red underline/strikethrough format. Substantive changes to the existing Zoning Code are identified throughout the Draft Zoning Code flagged with a red triangle and described with notes using italicized text.

► *Note: Substantive changes to the existing zoning code are noted using italicized text in this format.*

Analysis

Consistency with Zoning Code Update Goals

This section provides a summary of how the Public Review Draft Final Zoning Code and proposed Zoning Map amendments achieve each of the goals the Planning Commission and City Council identified for the Zoning Code Update.

A. Implement and achieve consistency with the Morgan Hill 2035 General Plan

In accordance with state law, the Zoning Districts described in the text of the Zoning Code and how those districts are applied to individual properties as shown on the Zoning Map, must be consistent with their corresponding General Plan Land Use designations.

1. Zoning Map Amendments – Although many of the existing Zoning District names are proposed to be changed to better reflect their intent and match the district's corresponding General Plan Land Use designation, less than 1% (approximately 100 sites) of the approximately 12,865 parcels within the existing City Limits are included in the proposed Zoning Map Amendment. This Map Amendment would change the zoning district for those approximately 100 sites to a zoning district that is consistent (or more consistent) with the site's Morgan Hill 2035 General Plan Land Use Map designation.

Several property owners have contacted the City and/or attended Planning Commission hearings to express their interest in either maintaining their existing zoning district or changing their zoning district to a different district than the one proposed.

The Planning Commission considered those property owner requests and provided their recommendations in Exhibit C of the attached Planning Commission resolution. This recommendation includes retaining the City's existing CO Administrative Office Zoning District, which was previously proposed to be eliminated. With the retention of the existing CO Zoning District, several properties that were proposed to be rezoned to another commercial zoning district, can remain zoned CO Administrative Office.

2. The allowed uses and development standards for each Zoning District were reviewed for consistency with the district's corresponding General Plan Land Use designation.
3. The CI Commercial Industrial Zoning District is a new district to implement the Commercial/Industrial General Plan Land Use designation, which was introduced during the Morgan Hill 2035 General Plan Update to promote job-generating

development of lands by allowing flexibility in the mix of compatible industrial, office, and commercial uses.

B. Create a user-friendly code for applicants, staff, and City officials

Morgan Hill's Zoning Code hasn't been comprehensively updated since the City's "modern" code was adopted in 1981. Since then, the City has amended the Zoning Code many times, with content added, removed, and revised. As a result, the current Zoning Code suffers from problems with organization, consistency, and flow making it difficult for readers to find what they are looking for and to understand what they find. Readers may also overlook important requirements because related content is not kept together or clearly cross referenced.

The Public Review Draft Final Zoning Code improves upon the user-friendliness of the Code by:

- reorganizing parts into a more logical order/grouping
- eliminating unnecessary repetition, duplicative, or contradictory information
- consolidating often used information
- improving navigation with lists of chapters at the start of each division, lists of sections at the start of each chapter, and consistent section numbering
- adding tables, including for all uses and development standards for each zoning district
- using graphics to illustrate development standards
- simplifying language
- using consistent and defined terminology, including rules of measurement
- eliminating duplicative and contradictory information
- including cross-references to related information

C. Modernize terminology and requirements to reflect current practices

Part 2 of the Zoning Code Update Ordinance contains tables that list allowed land uses in each zoning district. As part of the Zoning Ordinance Update, existing land use terms were modernized to reflect current practices, policy goals, and other considerations. The Zoning Ordinance Update revises existing land use terminology to:

- Match terminology in state law (e.g., accessory dwelling units (ADUs) instead of secondary dwelling units)
- Reflect common Morgan Hill usage (e.g. duets)
- Integrate better with other regulatory agencies (e.g., residential care facilities, long-term care)
- Identify land uses that are currently allowed but not specifically identified in the existing Zoning Ordinance (e.g., live/work)

- Explicitly identify common land uses not currently listed (e.g., medical offices)
- Identify land uses specifically called out in the General Plan (e.g., community gardens)
- Call out land uses encouraged by the City's Economic Development Blueprint (e.g., small-scale food and beverage production, tasting rooms, indoor recreation)
- Remove unnecessary distinctions between similar land uses that do not need to be regulated differently (e.g., grocery stores listed as separate allowed use from retail stores)
- Remove antiquated land use terms (upholstery shops)
- Remove land uses with special regulations that have been eliminated (e.g., extensive retail in the light industrial zone).

Definitions for land use terms have also been updated to reflect current usage and match state law. Other changes to the Zoning Ordinance to reflect best practices are described in Section D below.

D. Improve regulations to effectively address land use and development issues

Specific content in the existing Zoning Code does not address all of the important land use and development issues in Morgan Hill. Some regulations are outdated or inconsistent with current needs, practices, or recent changes in state law. The below list highlights some of the more substantive changes proposed in the Draft Zoning Code.

- Chapter 18.96 – Wireless Communications is a new chapter establishing standards for the installation, modification, and operation of wireless communications facilities. Currently the City does not have rules or procedures in place for wireless facilities.
- Chapter 18.84 – Accessory Dwelling Units is a revision of the City's existing Chapter 18.55 – Secondary Dwelling Units, which was last updated in 2010. The Accessory Dwelling Units chapter includes revisions to comply with changes in state law since 2010.
- Section 18.30.050 – Planned Development Combining District (PD) limits the use of new PDs to properties that are one acre or more, establishes new findings for use of PDs, and requires projects to provide a substantial public benefit (i.e., a feature not otherwise required by the Zoning Code that advances a General Plan Goal).

- Section 18.92.130 – Residential Transition Standards, which applies to all properties in a mixed-use, commercial, or industrial zoning district that abut a residential zoning district or use, establishes increased minimum setback, daylight plane, landscaping, and loading standards.
- Section 18.64.030 and 18.64.050 are new sections of the Landscaping chapter listing the required contents of landscape plans and general landscape requirements needed to ensure consistency with the City's Water Conservation in Landscaping ordinance.
- Section 18.88.120 – Temporary Signs changes existing temporary sign regulations to comply with the Reed v. Gilbert US Supreme Court decision. Regulations for different types of temporary signs are changed to be content neutral.
- To comply with state law which requires that emergency shelters be permitted by-right in at least one zoning district with sufficient capacity to accommodate the local need for emergency shelter, Section 18.92.050 – Emergency Shelters was added to the Draft Zoning Code and includes minimum performance standards for emergency shelters.
- To minimize the proliferation of mini-storage uses, Section 18.92.100.B has been added to the supplemental standards for mini-storage facilities, requiring a minimum 5,000-foot separation between a mini-storage facility established after the effective date of the Zoning Code Update and another mini-storage facility.
- As required by state law, Section 18.92.140 – Rooftop Solar Energy Systems was added to the Draft Zoning Code.
- The land use regulation tables in Chapter 18.22 – Mixed Use Zoning Districts, 18.24 – Commercial Zoning Districts, and 18.26 – Industrial Zoning Districts were modified to change the permitting requirements for certain uses that are identified in and support the implementation of the City's Economic Blueprint.

To facilitate the development of hotels on sites located adjacent to Highway 101, Section 18.24.030B – Hotel Height in the CH Zoning District and Section 18.26.030B – Hotel Height in the CI Zoning District have been added to the Draft Zoning Code granting the Planning Commission, with the issuance of a Design Permit, the ability to approve a hotel with a maximum height of up to 65 feet on parcels in the CH or CI Zoning Districts that are directly adjacent to Highway 101. To approve the Design Permit, the Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

At the April 24, 2018 hearing, the Planning Commission recommended clarifying that the additional height could only allow hotels up to 4-stories in height and that the Commission should consider potential impacts on adjacent development in their review of Design Permits for 4-story hotels. The Commission's proposed revisions to Sections 18.24.030B and 18.26.030B are shown in Exhibit C.

As noted above and in Exhibit D, staff proposes to allow heights up to 4-stories or 55-feet, whichever is less for all uses in the CH Highway Commercial and CI Commercial Industrial Zoning Districts, rather than establishing a specific height (and permitting) requirement for 4-story/65-foot tall hotels and a different height requirement for all other uses. All new buildings, including hotels, would continue to require a Design Permit reviewed and acted on by the Community Development Director. When considering Design Permits, the City must evaluate applications against the 16 criteria listed in Section 18.108.040.H. and the findings for approval in Section 18.108.040.J. The Community Development Director may refer Design Permit applications to the Planning Commission for review and final decision and the Community Development Director decisions on Design Permits are appealable to the Planning Commission.

COMMUNITY ENGAGEMENT: Collaborate

Planning Commission study sessions, workshops, and hearings and City Council meetings and hearings on the Zoning Code Update were open to the public and the study sessions and workshops included opportunities for community members to participate in discussions by asking questions and providing input on the Commission's review and proposed edits to the Public Review Draft Zoning Code and Public Review Final Draft Zoning Code.

In addition to publishing a general notice of the March 27, 2018 Planning Commission hearing in the Mercury News, individual notices were mailed on March 16, 2018 to property owners (approximately 100 sites) and on March 29, 2018 (9 additional sites) where the zoning district for their property was/is proposed to be modified to be consistent (or more consistent) with their property's existing General Plan Land Use designation. A map and list of the proposed change sites is included as Exhibit B to the Planning Commission recommendation (attached resolution) showing the existing General Plan designation, existing Zoning District, proposed Zoning District.

ALTERNATIVE ACTIONS:

If the City Council denies the proposed Zoning Code Update, the City will continue to use the current Title 18. Staff will bring forward separate Zoning Code amendments to address specific deficiencies in the current Code, including any inconsistencies with State law and with the City's Morgan Hill 2035 General Plan.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Planning Commission on October 13, 2015 and December 8, 2015 held study sessions, and the City Council on December 16, 2015 held a meeting to review an assessment of the existing Zoning Code and provide feedback on the Zoning Code Update process. The Zoning Code Update process was paused twice to focus on

completion of the Residential Development Control System (RDCS) Ordinance Update and RDCS Competition Manual.

On June 7, 2017, the City Council provided direction to staff and the Planning Commission on the remaining work plan for the Zoning Code Update.

The Planning Commission reviewed and provided comments on the Public Review Draft Zoning Code at four workshops (August 29, September 19, October 3, and November 28, 2017) and one regular meeting (October 24, 2017). On December 12, 2017 and January 9, 2018, the Planning Commission reviewed, discussed, and came to an agreement on a list of topics and related questions for discussing with the City Council at the January 17, 2018 Joint Study Session.

The Planning Commission opened a public hearing on the Zoning Code Update at the March 27, 2018 Planning Commission meeting to hear public testimony and continued the hearing to April 10, 2018 where several comments received from the public were discussed and considered. The Commission provided specific recommendations on those comments discussed at the April 10, 2018 hearing and continued the hearing to April 24, 2018. At the April 24, 2018 hearing, the Commission considered remaining comments and, on a 6-1 vote, recommended the City Council consider the Addendum to the Morgan Hill 2035 EIR in accordance with CEQA and approval of the Zoning Code Update and Zoning Map Amendments with additional recommendations described in Exhibit C of the attached Planning Commission resolution.

FISCAL AND RESOURCE IMPACT:

The Zoning Code Update process is within the work plan and budget for the Morgan Hill 2035 Project.

CEQA (California Environmental Quality Act):

An Addendum to the Environmental Impact Report (EIR) for the City of Morgan Hill's Morgan Hill 2035 Project (attached via weblink) certified on July 27, 2016 (State Clearinghouse No. 2015022074) was prepared for the Zoning Code Update project pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164.

The Addendum concludes that the proposed project will not result in any new impacts that were not already identified in the Morgan Hill 2035 EIR or any impacts of greater severity than were already addressed.

LINKS/ATTACHMENTS:

1. Draft Ordinance
2. Exhibit A - Public Review Draft Final Zoning Code (weblink)
3. Exhibit B - Zoning Map Changes
4. Exhibit C - Additional Planning Commission Recommendations
5. Exhibit D - Additional Staff Recommendations
6. Draft Zoning Map Update (weblink)
7. Addendum to Morgan Hill 2035 EIR

8. Correspondence - J. Randall Toch Email 04-24-16
9. Planning Commission Resolution
10. Burgos-NinaLane_Letter_5-10-2018
11. LTR - City Council - Rezone to Service Commercial
12. Cm_Mueller_Concerns_StaffResponses

ORDINANCE NO. XXXX, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING A COMPREHENSIVE UPDATE OF TITLE 18 – ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY’S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (FILE NO. ZA2016- 0006: ZONING CODE UPDATE)

WHEREAS, the City of Morgan Hill’s Zoning Code, Title 18 of the City’s Municipal Code, has not been comprehensively updated since it was adopted in 1981; and

WHEREAS, in 2013 the City began the Morgan Hill 2035 Project, which included a comprehensive update of the City’s General Plan, Residential Development Control System (RDCS), and Zoning Code; and

WHEREAS, in November 2016 Morgan Hill voters approved an update of the City’s long-standing residential growth control program. The RDCS is codified in Title 18, Chapter 18.78 of the Municipal Code; and

WHEREAS, on July 27, 2016 the City Council adopted the Morgan Hill 2035 General Plan, which is the City’s primary policy document governing local land use and development. The General Plan includes a Land Use Map and designations that identify uses and development intensities along with basic policies to guide development and conservation decisions in Morgan Hill through the year 2035; and

WHEREAS, the Zoning Code Update portion of the Morgan Hill 2035 Project began with a series of stakeholder, staff, Planning Commission, and City Council meetings in late 2015 to assess the strengths and weaknesses of the City’s existing Zoning Code, and in 2016 and 2017 to discuss the general approach for the Zoning Code Update process; and

WHEREAS, the Planning Commission and City Council identified four goals to guide the Zoning Code Update process: A. Implement and achieve consistency with the Morgan Hill 2035 General Plan; B. Create a user-friendly code for applicants, staff, and City officials; C. Modernize terminology and requirements to reflect current practices; and D. Improve regulations to effectively address land use and development issues; and

WHEREAS, after a Public Review Draft Zoning Code (Initial Draft) was published on August 8, 2017, the Planning Commission held a series of four public workshops on August 29, September 19, October 3, and November 28, 2017 to provide, receive, and discuss comments and proposed edits to the Initial Draft; and

WHEREAS, on January 17, 2018 a Joint City Council/Planning Commission Study Session was held for the Planning Commission and staff to receive feedback/direction from the City Council on several policy questions related to the Zoning Code Update. The Planning Commission concluded, and the City Council agreed, that the policy questions discussed at the Study Session, while important for future consideration, did not warrant extending the Zoning

Code Update process beyond the targeted spring 2018 adoption hearings; and

WHEREAS, a Public Review Draft Final Zoning Code (Final Draft) was published on March 7, 2018 addressing comments and incorporating edits received during the review of the Initial Draft; and

WHEREAS, although several existing zoning district names are proposed to be changed to better reflect their intent and match the district's corresponding General Plan Land Use designation, less than one-percent of the approximately 12,865 parcels within the existing City Limits are included in the proposed Zoning Map Amendment. The Zoning Map Amendment (Exhibit B) changes the zoning district for approximately 100 parcels to a zoning district that is consistent, or more consistent, with the site's Morgan Hill 2035 General Plan Land Use designation; and

WHEREAS, an Addendum to the Environmental Impact Report (EIR) for the City of Morgan Hill's Morgan Hill 2035 Project certified on July 27, 2016 (State Clearinghouse No. 2015022074) was prepared for the Zoning Code Update project pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164, and the Addendum concludes that the proposed project will not result in any new impacts that were not already identified in the Morgan Hill 2035 EIR or any impacts of greater severity than were already addressed; and

WHEREAS, the Zoning Code Update and associated Zoning Map Amendments complies with the City's Morgan Hill 2035 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; and

WHEREAS, the Zoning Code Update, including Zoning Map Amendments, was considered by the Planning Commission at their regular meeting of March 27, 2018, April 10, 2018, and April 24, 2018 at which time the Planning Commission recommended City Council consider the Addendum to the Morgan Hill 2035 EIR in accordance with the California Environmental Quality Act (CEQA) and approval of application ZA2016-0006: Zoning Code Update (Exhibit A and B) with additional specific text and map recommendations (Exhibit C); and

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

SECTION 1. The proposed Zoning Code Update and associated Zoning Map Amendment is consistent with the Morgan Hill 2035 General Plan.

SECTION 2. The Zoning Code Update and associated Zoning Map Amendment 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. The City Council has evaluated the Public Review Draft Final Zoning Code (Exhibit A) and associated Zoning Map Amendments (Exhibit B), and additional

recommendations from the Planning Commission (Exhibit C) to be consistent with the four goals identified for the Zoning Code Update.

SECTION 4. The City Council has considered the Addendum to the Morgan Hill 2035 Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) and approve ZA2016-0006: Zoning Code Update and Zoning Map Amendments with additional Planning Commission recommended changes and clarifications listed in Exhibit C.

SECTION 5. The City Council hereby amends Title 18 – Zoning of the City of Morgan Hill Municipal Code as shown in the attached Exhibit A, B, and C, incorporated herein by reference.

SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 7. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 16TH DAY OF MAY 2018, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 6TH DAY OF JUNE 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 _____, 2018.

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

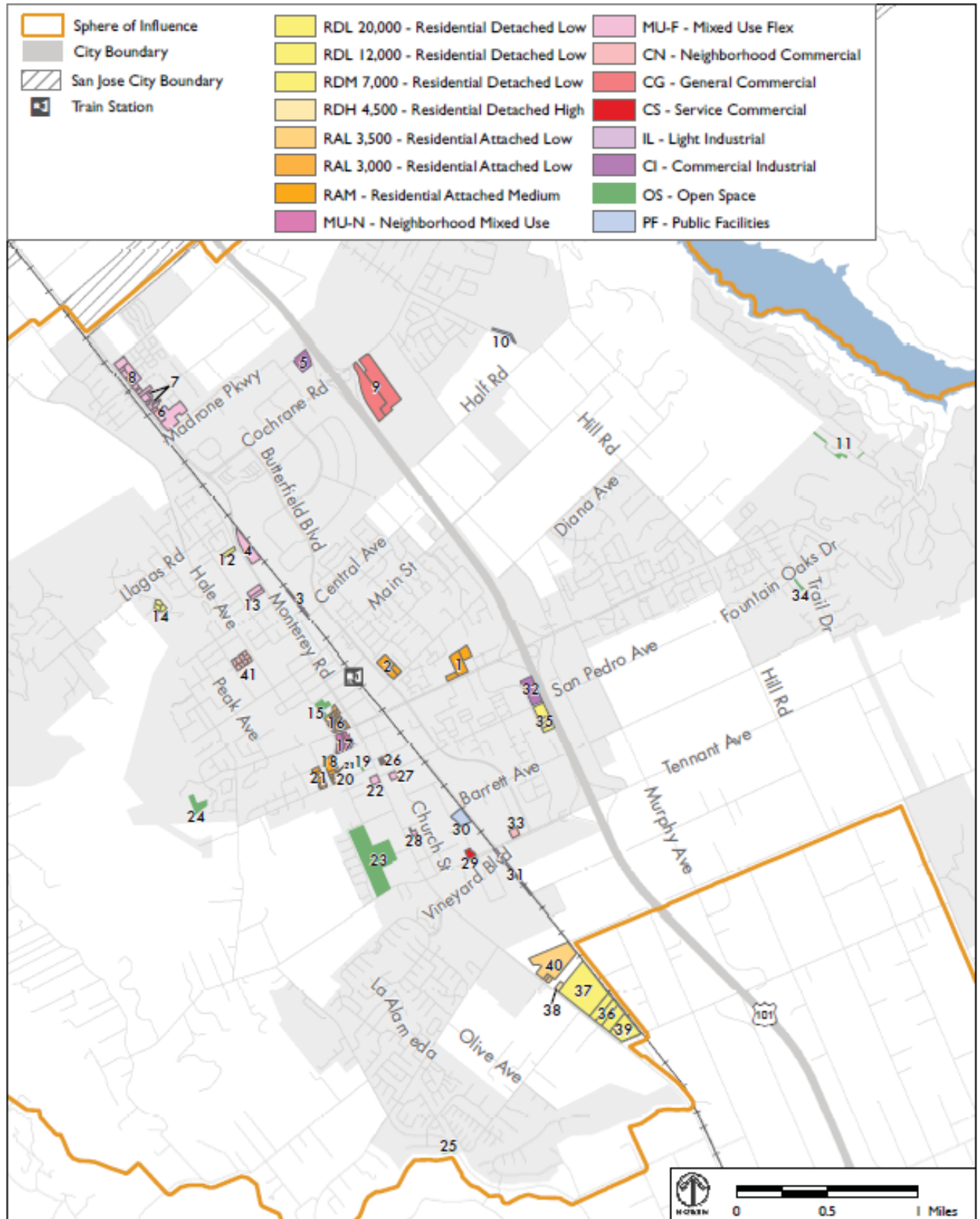
DATE: _____

IRMA TORREZ, City Clerk

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Attachment: Draft Ordinance (1763 : ZA2016-0006: Zoning Code Update)

Exhibit B – Zoning Map Amendment



PARCELS WITH A PROPOSED ZONING CHANGE

Map ID	APNs	Existing Zoning	Proposed Zoning
1	72602008, 72602012, 72602016	R2 3,000	RAM
2	72612001, 72612004	R2 3,500	RAM
3	72624001	R2 3,500	IL
4	72625006	ML	MU-F
5	72633027	ML	IL
6	72636002, 72636003, 72636004, 72636007, 72636008, 72636009, 72636059 ^A	CG	MU-F
7	72636010, 72641015	R1 7,000	MU-F
8	72641018, 72641020, 72641021, 72641042, 72641065, 72642001, 72642002, 72642003, 72642010, 72642012	CS	MU-F
9	72831014, 72831016 ^B	CO	CG
10	72834001	R1 20,000	PF
11	72905027, 72906030	R1 12,000	OS
12	76411002	R2 3,500	RDM 7,000
13	76412006, 76412007	CG	MU-F
14	76431040, 76431041, 76431042	RE 40,000	RDL 20,000
15	76708008, 76708009, 76708010, 76708011	RE 100,000	OS
16	76708013, 76708018, 76708019, 76708020, 76708021, 76708024, 76708025, 76708026, 76708027, 76708028, 76708029, 76708035, 76708036, 76708037, 76708038, 76708039, 76708040, 76708041, 76708042, 76708043, 76708047	D-R3	RAL 3,000
17	76709015, 76709016, 76709017, 76709018, 76709019	R3 (CU)	MU-N
18	76709027	R3 2,000	RAM
19	76710008	R1 7,000	OS
20	76711007, 76711010, 76711011, 76711012	R2 3,500	RAM
21	76711045, 76711046, 76711047, 76711048, 76711050, 76711052, 76711053, 76711056	R2 3,500	RAM
22	76717051	CG	MU-F
23	76718048	PF	OS
24	77307033	R1 20,000	OS
25	77902022	RE 40,000	OS
26	81701008, 81701009, 81701010	R2 3,500	MU-F
27	81702001	R2 3,500	MU-F
28	81703011	R2 3,500	MU-F
29	81705041	ML	CN
30	81705082	ML	PF
31	81706054	PF	IL

PARCELS WITH A PROPOSED ZONING CHANGE

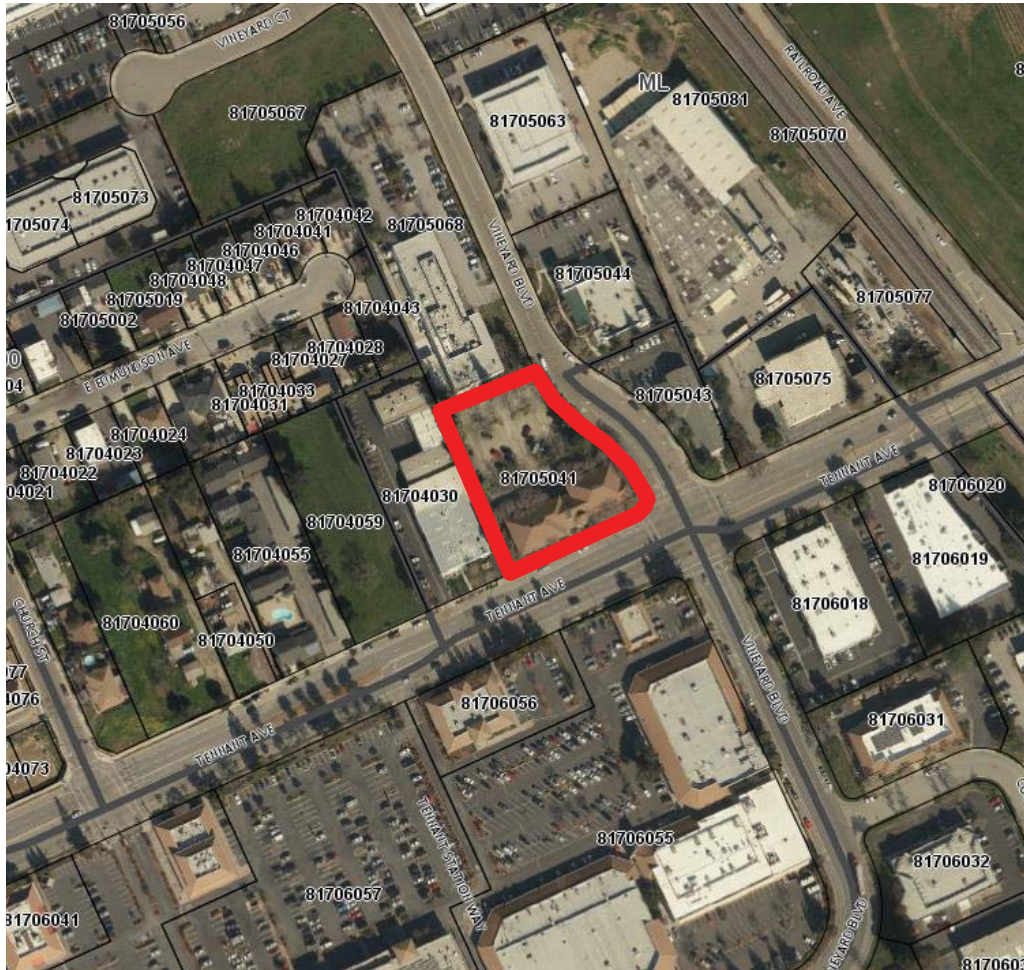
Map ID	APNs	Existing Zoning	Proposed Zoning
32	81711073	MO	CI
33	81729027	CO	CN
34	81750081	R1 7,000	OS
35	81760024, 81760025, 81760028, 81760029, 81760030	RE 40,000	RDL 20,000
36	82506012, 82506013, 82506014, 82506015	RE 100,000	RDL 12,000
37	82506016	RE 100,000	RDM 7,000
38	82506017	RE 100,000	RDH 4,500
39	82506023, 82506024, 82506025	RE 100,000	RDL 12,000
40	82506026	RE 100,000	RAL 3,500
41	76419016, 76419017, 76419018, 76419019, 76419020, 76419021, 76419022, 76419023, 76419024	CO	CN
Notes:			
A. Parcel 72636059 includes two different zoning changes. The portions along Monterey Road and Madrone Parkway will be changed from existing zoning CG and R1 7,000 to MU-F Mixed Use Flex. The interior of the site will be changed from existing zoning R1 7,000 to RAL 3,500.			
B. Zoning on Parcels 72831014 and 72831016 will only be changed on the southerly portion of the parcels. The portion along Cochrane Road that is currently zoned PUD will remain PUD. The southerly half with existing zoning CO will be changed to CG.			

Note: See Planning Commission Recommendations (Exhibit C)

Exhibit C – Additional Planning Commission Recommendations

Recommendations Based on Community Feedback

1. APN 817-05-041 (275 Tennant Avenue), which includes an existing multi-tenant professional office building, the Planning Commission recommends changing the Zoning District from the existing ML Light Industrial to the CG General Commercial Zoning District, consistent with the site's Commercial General Plan Land Use designation.



If the CO Administrative Office District is retained, as recommended by Planning Commission, the Commission recommends changing the Zoning District of this property from the existing ML Light Industrial to the CO Administrative Office Zoning District, consistent with the site's Commercial General Plan Land Use designation and existing building and uses.

- 2. Clarify Hotel Height.** The Planning Commission recommends clarifying that the maximum height for hotels of up to 65 feet on parcels in the CH Highway Commercial and CI Commercial Industrial Zoning Districts directly adjacent to Highway 101 may only allow hotels of up to 4 stories with the following changes (shown in red-underline) to the development standards in Section 18.24.030.B (Highway Commercial Zoning District) and 18.26.030.B. (Commercial Industrial Zoning District).

18.24.030 – Development Standards

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

18.26.030 – Development Standards

B. Hotel Height in the CI Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CI zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

Retain CO Administrative Office Zoning District. The Planning Commission recommends retaining the existing CO Administrative Office Zoning District with the following edits (shown in red-underline/strikethrough) to Chapter 18.24, including the clarification that hotels and motels are not permitted uses in the CO district.

Chapter 18.24 – COMMERCIAL ZONING DISTRICTS

Sections:

18.24.010 – Purpose of the Commercial Zoning Districts

18.24.020 – Land Use Regulations

18.24.030 – Development Standards

18.24.010– Purpose of the Commercial Zoning Districts

► *Note: The existing Theme Unit Development ~~and Administrative Office commercial~~ zoning districts have been eliminated. The name of the existing Highway Commercial (HC) zoning district is changed to Highway Commercial (CH).*

A. **General.** The purpose of the commercial zoning districts is to provide locations for a variety of commercial uses to meet the need of residents, visitors, and workers in Morgan Hill. Development within the commercial zoning districts is attractively designed to enhance Morgan Hill's unique character and economic prosperity. Commercial uses are clustered and concentrated to utilize land resources efficiently and support a balanced transportation system. Employment uses accommodate a diversity of jobs that contribute to a dynamic local economy.

B. Specific.

1. **Administrative Office (CO).** *The purpose of the CO zoning district is to provide an area wherein professional, general commercial offices, and limited personal services may develop in close relationship with each other outside of other commercial districts.*

2. **Neighborhood Commercial (CN).** The purpose of the CN zoning district is to provide a location for retail, office, and service uses to serve residents living in surrounding neighborhoods.

3. **General Commercial (CG).** The purpose of the CG zoning district is to provide a location for a broad range of commercial and employment uses to serve Morgan Hill residents, workers, and visitors.

4. **Highway Commercial (CH).** The purpose of the CH zoning district is to provide areas adjacent to the freeway that can accommodate highway and tourist oriented ~~uses, and uses and~~ uses which require the high visibility of thoroughfare locations.

5. **Service Commercial (CS).** The purpose of the CS zoning district is to provide an area for commercial services that may be inappropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.

18.24.020 – Land Use Regulations

► *Note: The following changes have been made to existing commercial zoning district land use regulations:*

CN zoning district: Allow small residential care facilities with CUP, allow cultural institutions with a CUP, allow schools with a CUP, allows social services with a CUP, allows banks and financial institutions by-right, allows business support services by-right, allows cinemas and theatres with a CUP, allows indoor commercial recreation with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows vehicle washing with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CG zoning district: Allow colleges and trade schools with CUP, allow community assembly with CUP, allow cultural institutions with a CUP, require AUP for day care centers, allow schools with a CUP, allows social services with a CUP, allows animal boarding and veterinarian clinics with a CUP, allows business support services by-right, allows cinemas and theatres with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows funeral parlors with a CUP, allows home improvement centers with a CUP, allows plant nurseries with a CUP, allows large commodity retail with CUP, allows vehicle washing with CUP, allows parking lots and structures as a primary use with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CH zoning district: Allow banks and financial institutions by-right, allows business support services by-right, allows vehicle rentals by-right, allows reverse vending machines with CUP.

CS zoning district: Allow social services with a CUP, allows business support services by-right, allows funeral parlors with a CUP, allows large commodity retail with CUP, allows towing and impound with a CUP, allows vehicle rentals by-right, allows vehicle washing with CUP, allows construction and material yards with a CUP. Allows research and development with a CUP, allows warehousing and distribution with a CUP, allows Freight/Truck Terminals and Warehouses with a CUP, allows reverse vending machines with CUP, allows recycling collection facilities with CUP.

A. **Permitted Land Uses.** Table 18.24-1 identifies land uses permitted in the commercial zoning districts.

TABLE 18.24-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District					Additional Regulations
	CQ	CN	CG	CH	CS	
P Permitted Use						
A Administrative Use Permit required						
C Conditional Use Permit required						
- Use not allowed						
Residential Uses						
Caretaker Quarters	-	-	C	-	C	
Nursing Homes and Long-Term Care	-	C	C	-	-	
Residential Care Facilities	-	C	-	-	-	

18.24.000

COMMERCIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District					Additional Regulations
	CO	CN	CG	CH	C2	
Public and Quasi-Public Uses						
Colleges and Trade Schools	-	C	C	-	-	
Community Assembly	C	C	C	-	-	
Cultural Institutions	C	C	C	-	C	
Day Care Centers	-	C	A	-	C	
Government Offices	-	P	P	-	C	
International Services	C	C	C	C	C	
Medical Offices and Clinics	C	P	P	C	C	
Schools, Public and Private	C	C	C	-	-	
Social Services	C	C	C	-	C	
Commercial Uses						
Animal-Related Uses						
Animal Boarding	-	C	C	-	C	
Veterinarian Clinics and Hospitals	-	C	C	C	P	
Banks and Financial Institutions	C	P	P	P	P	
Business Support Services	C	P	P	P	P	
Cinemas and Theatres	-	C	C	C	C	
Commercial Recreation, Indoor						
≤ 150,000 sq. ft.	C	P	P	P	P	
> 150,000 sq. ft.	-	C	C	C	C	
Drive-Through and Drive-In Facilities	C	C	C	C	C	18.92.040
Eating and Drinking Uses						
Bars and Nightclubs	-	C	C	-	-	
Restaurants, Fast Food	-	C	P	P	C	
Restaurants, Sit-Down	-	C	P	P	C	
Tasting Rooms	-	C	A	P	C	
Funeral Parlors and Mortuaries	-	-	C	-	C	
Lodging Facilities						
Hotels and Motels	-	C	C	P	C	
Mini-Storage	-	-	C	-	C	
Personal Services	P	P	P	-	C	
Plant Nurseries	-	-	C	-	P	
Professional Offices	C	P	P	C	C	
Retail Uses						
Convenience Markets	-	C	C	C	C	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District					Additional Regulations
	CO	CN	CG	CH	CS	
General Retail	-	P	P	P	C	
Home Improvement Centers	-	-	P	-	P	
Large Commodity Retail	-	-	C	-	C	
Vehicle-Related Uses						
Fuel and Service Stations	-	C	C	C	C	
Towing and Impound	-	-	-	-	C	
Vehicle Rentals	-	C [2]-	-C [2]	P	P	
Vehicle Repair and Maintenance, Minor	-	-	C	-	P	
Vehicle Sales and Leasing	-	C [1]	C [1]	P	P	
Vehicle Washing	-	C	C	C	C	
Wholesaling	-	-	C	-	P	
Industrial Uses						
Construction and Material Yards	-	-	-	-	C	
Food and Beverage Production						
< 5,000 sq. ft. [3]	-	A	A	A	A	
5,000 sq. ft. to 10,000 sq. ft. [3]	-	A	A	C	A	
> 10,000 sq. ft.	-	-	C	-	C	
Research and Development	-	-	-	-	C	
Warehousing and Distribution, Large and Small	-	-	-	-	C	
Transportation, Communication, and Utility Uses						
Freight Terminals and Transfer	-	-	-	C	-	
Light Fleet-Based Services	-	C	C	-	C	
Parking Lots and Structures	-	-	C	-	C	
Recycling Facilities						
Reverse Vending Machine	-	C	C	C	C	
Recycling Collection Facility	-	-	-	-	C	
Transportation Terminals		-	-	-	C	
Utilities, Major	-	-	C	-	C	
Wireless Communications Facilities		See Chapter 18.96				
Other Uses						
Accessory Uses		See Chapter 18.44				
Temporary Uses		See Section 18.92.440.150				

Notes:

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

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

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

- B. Additional Permits.** In addition to permits identified in Table 18.24-1, development projects in the commercial zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits).—Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).
- C. Outdoor Uses and Storage.** In the commercial zoning districts, all uses shall be conducted wholly within a completely enclosed building except as follows:
1. In the CS zoning district, outdoor storage associated with any permitted use is allowed with a Conditional Use Permit.
 2. In the CG zoning district, outdoor storage and display associated with a Home Improvement Center is allowed with a Conditional Use Permit.

18.24.030– Development Standards

-
- *Note: The following changes are made to existing development standards for the mixed use zoning districts:*
- All zoning districts: New residential transition standards, deletes minimum cul-de-sac lot width, increases street side setback to match front setback.*
- CN zoning district: Deletes minimum zoning district area, deletes limitation to one quadrant of an intersection.*
-

- A. General.** Table 18.24-2 identifies development standards that apply in the commercial zoning districts.

TABLE 18.24-2: DEVELOPMENT STANDARDS IN THE COMMERCIAL ZONING DISTRICTS

	CO	CN	CG	CH	CS	Additional Standards
Site Requirements						
Lot Area, Minimum	5,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Lot Width, Minimum	60 ft.	100 ft.	100 ft.	70 ft.	100 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	100 ft.	125 ft.	100 ft.	
Building Coverage, Maximum	50%	50%	50%	40%	50%	
Structure Requirements						
Setbacks, Minimum						18.56.030, 050.5-060
Front	20 ft.	25 ft.	25 ft.	40 ft.	25 ft.	
Rear	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	
Interior Side	10 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Street Side	15 ft.	15 ft.	15 ft.	150 ft.	150 ft.	
Height, Maximum	3 stories or 30 ft., whichever is less	2 1/4 stories or 30 ft., whichever is less	3 stories and or 35 ft., whichever is less	3 stories and or 35 ft., whichever is less	3 stories and or 35 ft., whichever is less	18.24.030.B-18.56.020

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

B-C. Residential Transition Standards. Where a property zoned in a commercial zoning district abuts a residential zoning district, projects shall comply with increased setbacks, upper story stepbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

3. **APN 767-08-025 (70 W. 5th Street)** is part of a larger area within the Downtown that had its General Plan Land Use designation changed as part of the Morgan Hill 2035 General Plan Update process from Residential Attached Medium to Residential Attached Low. The existing D-R3 Downtown Medium Density Zoning District that is applied to this property/area is not consistent with the Residential Attached Low General Plan designation. As such, the City is obligated to change the Zoning District to be consistent with the General Plan. In this case either the RAL 3,000 or RAL 3,500 Zoning District would be consistent. Staff and the Planning Commission recommend the existing D-R3 Zoning District be changed to the RAL 3,000 Zoning District.



4. **Section 18.108.070 Minor Exceptions.** Staff and the Planning Commission recommend adding minimum lot width to the list of permitted exceptions allowing up to a 10% reduction in required lot width for the purposes of facilitating the subdivision of an existing infill lot of record from one to two lots. Lot width would be removed from the list of excluded modifications.
5. **APN 726-33-027 (900 Lightpost Way).** The Planning Commission recommends retaining the existing Light Industrial Zoning District (IL) with the following changes to the permitting requirements for Food and Beverage Production greater than 10,000 square feet to remain consistent with the permitting requirements in the existing ML Light Industrial and MG General Industrial Zoning Districts where Food and Beverage Production is permitted by right when the use is 150 feet or more from a residential zoning district and when the type of food being produced will not emit a generally offensive odor, otherwise a Conditional Use Permit (CUP) is required. The Commission also recommends changing the maximum size of Tasting Rooms accessory to breweries, wineries, or other alcoholic beverage production facilities from, “3,000 square feet or 10 percent of the floor area of the primary use, whichever is less,” to “5,000 square feet or 10 percent of the gross floor area of the building, whichever is less.”

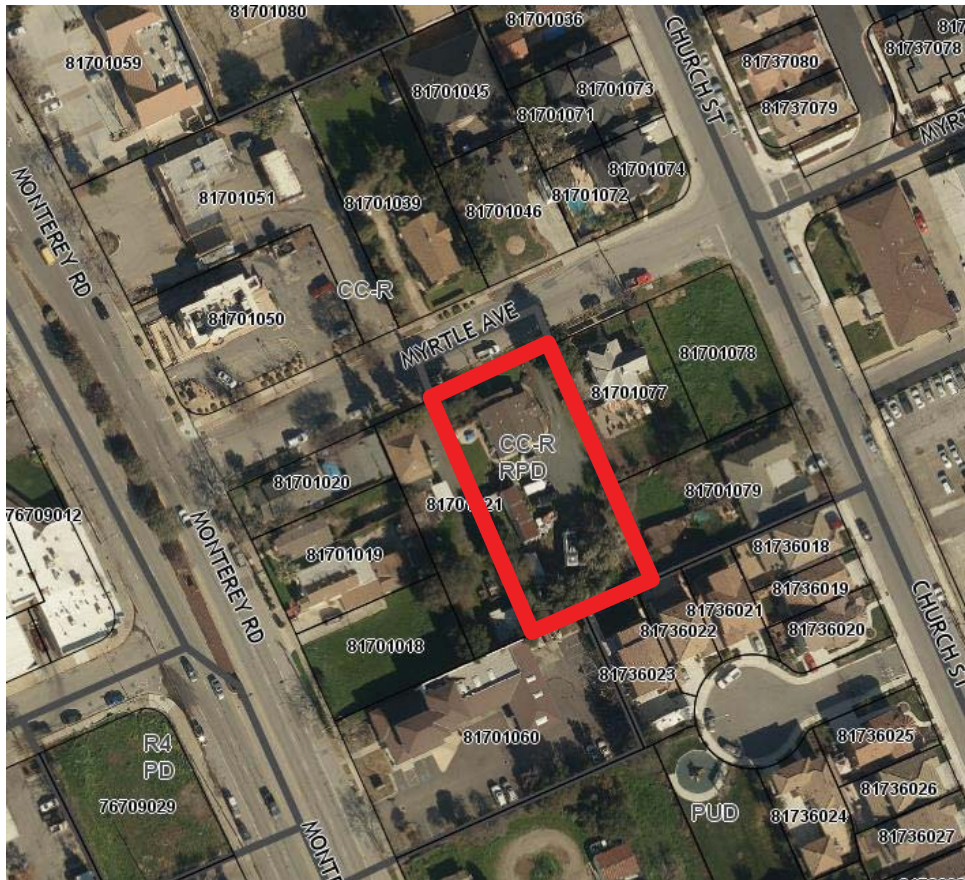
Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Proposed Zoning Districts				
	CI	IO	IC	IL	IG
Eating and Drinking Uses					
Tasting Rooms	P [6]	–	–	A [6]	A [6]
Food and Beverage Production					
< 5,000 sq. ft. [7]	A [2]	A [2]	A [2]	P [2]	P [2]
5,000 sq. ft. to 10,000 sq. ft. [7]	C [2]	C [2]	C [2]	P [2]	P [2]
> 10,000 sq. ft.	C	C	C	<u>P [2,8]</u>	<u>P [2,8]</u>

[2] Must be 150 feet or more from a residential zoning district, otherwise requires a CUP.

[6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed ~~3,000~~5,000 square feet or 10 percent of the gross floor area of the ~~primary use~~building, whichever is less.

[8] Conditional Use Permit required when the type of food being produced will emit a generally offensive odor. Examples include primary processing of seafood, coffee roasting, pickled foods, or processes involving primarily fats and oils.

6. **APN 817-01-022 (50 Myrtle Avenue).** Staff and Planning Commission support the removal of an existing Residential Planned Development (RPD) Overlay from the site leaving the underlying conventional MU-N Mixed Use Neighborhood Zoning District, which matches the MU-N Zoning District on the adjacent properties to the west (same property owner) and east (different property owners).



7. **Section 18.12.050 – Floor Area and Floor Area Ratio.** The Planning Commission supported not including front-facing covered porches that are 50-percent or less enclosed in the calculation of floor area to encourage front porches in residential developments.

8. **APN 817-60-024, -025, -028, -029, and -030 (East side of Nina Lane, south of San Pedro Avenue, west of Highway 101).** The Planning Commission supports rezoning this area from the existing RE 40,000 Zoning District to the RDL 20,000 Zoning District consistent with the site's Residential Detached Low (RDL) General Plan designation. The site could be rezoned to the RDL 12,000 Zoning District or remain zoned RE 1 (the equivalent of RE 40,000) and still be considered consistent with the RDL General Plan designation.



Other Recommendations

- A. If the CO Administrative Office Zoning District is retained, the Planning Commission recommends that properties currently zoned CO retain their existing CO Zoning District rather than be rezoned to a different commercial district as previously recommended when the CO district was proposed to be eliminated.

APNs: 728-31-014 and -016 (southerly portions); 764-19-016, -017, -018, -019, -020, -021, -022, -023, and -024; 817-29-027; 767-12-022; 767-24-018, -025, -026, and -027.

- B. Add definition for Traffic-Control Devices and reference to Chapter 10.16 of the City of Morgan Hill Municipal Code in Chapter 18.88 – Signs.

Exhibit D – Staff Recommendations

1.

18.26.010 – Purpose of the Industrial Zoning Districts

B. Specific.

1. **Commercial Industrial (CI).** The purpose of the CI zoning district is to promote job-generating development of lands by allowing flexibility in the mix of industrial, office, and commercial uses that are compatible with existing development. Lodging uses (e.g., hotels) that support primary job generating uses within business districts are allowed.

2.

Table 18.24-2: Development Standards in the Commercial Zoning Districts

Change Height, Maximum in the CH Highway Commercial District from, “3 stories or 35 ft., whichever is less” to, “4 stories or 55 ft., whichever is less”.

Delete Section 18.24.030.B. Hotel Height in the CH Zoning District.

Table 18.26-2: Industrial Zoning District Development Standards

Change Height, Maximum in the CI Commercial Industrial District from, “30 ft. / 50 ft. [2]” to “4 stories or 55 ft., whichever is less” and delete, “Note [2] A height of 50 feet is allowed for industrial uses. A height of 30 feet is allowed for non-industrial uses.”

Delete Section 18.26.030.B. Hotel Height in the CI Zoning District.

John Baty

From: J. Randall Toch <tochlawfirm@gmail.com>
Sent: Tuesday, April 24, 2018 6:39 PM
To: John Baty
Cc: Donald Larkin; Jennifer Carman; Christina Turner
Subject: Objection on behalf of Morgan Hill Hotel Coalition to Proposed Public Hotel/Motel Uses in New Commercial/Industrial zones
Attachments: image005.emz; image007.emz; J Randall (Randy) Toch.vcf
Importance: High

Mr. Baty:

It has recently come to my attention that the most recent draft of the proposed zoning scheme update would permit hotel/use of right within the newly proposed Commercial/Industrial zone. (See Table 18.26-1 in Proposed Code Section 18.26.020)

However, hotel/motel use that is open to the general public conflicts with the strict limitations upon lodging use described in the Commercial/Industrial Section of the Land Use Element of the General Plan. The General Plan allows only lodging uses, which: "support the primary job-generating uses within business park settings".

Please revise the proposed zoning code section to make it clear that any lodging facilities contemplated in CI districts may only be made available to persons employed within the business park where the lodging facility is physically located. Accordingly, the code should make clear that hotel/motel use which caters to tourists and business travelers unrelated to the specific employers within the particular business district are not permitted in CI districts.

We also note that it is unnecessary for any such facilities to be allowed to construct a 65 foot tall facility, and we ask that the height/floor exclusion be removed from the proposed code section as well.

Thank you for your attention to this matter and for making that clarification.

Randy Toch

J. Randall Toch,
 Attorney at Law and Real Estate Broker
 P.O. Box 66
 Morgan Hill, CA 95038-0066
 Tel. (408) 762-9712
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 CSB #124547 • Cal BRE #01987648



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From: Donald Larkin <Donald.Larkin@morganhill.ca.gov>
Sent: Tuesday, April 24, 2018 4:32 PM
To: J. Randall Toch <tochlawfirm@gmail.com>
Cc: Christina Turner <Christina.Turner@morganhill.ca.gov>
Subject: FW: 4 story language

Hi Randy,

Here is the language that has been changed for tonight. John also put together a slide that shows a comparison between the existing and proposed code. Last I checked the PowerPoint wasn't published yet, but it should be available before the meeting. Hopefully this addresses the Hotel Coalitions most immediate concerns.

Thanks,
 Don

Donald A. Larkin
 City Attorney
 City of Morgan Hill
 17575 Peak Avenue
 Morgan Hill, CA 95037

Tel: (408) 778-3490
 Email: donald.larkin@morganhill.ca.gov

This e-mail may contain confidential and/or attorney-client privileged material. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

From: John Baty
Sent: Tuesday, April 24, 2018 3:13 PM
To: Donald Larkin <Donald.Larkin@morganhill.ca.gov>
Cc: Cynthia Hasson <Cynthia.Hasson@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Subject: RE: 4 story language

Attachment: Correspondence - J. Randall Toch Email 04-24-16 (1763 : ZA2016-0006: Zoning Code Update)

18.24.030 – Development Standards (Commercial Zoning Districts)

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

18.26.030 – Development Standards (Industrial Zoning Districts)

B. Hotel Height in the CI Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CI zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

RESOLUTION NO. 18-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF A COMPREHENSIVE UPDATE OF TITLE 18 – ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE (FILE NO. ZA2016-0006: ZONING CODE UPDATE) INCLUDING AN AMENDMENT TO THE CITY’S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN, AND RECOMMENDING THAT THE CITY COUNCIL CONSIDER THE ADDENDUM TO THE MORGAN HILL 2035 ENVIRONMENTAL IMPACT REPORT (EIR) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, the City of Morgan Hill’s Zoning Code, Title 18 of the City’s Municipal Code, has not been comprehensively updated since it was adopted in 1981; and

WHEREAS, in 2013 the City began the Morgan Hill 2035 Project, which included a comprehensive update of the City’s General Plan, Residential Development Control System (RDSCS), and Zoning Code; and

WHEREAS, in November 2016 Morgan Hill voters approved an update of the City’s long-standing residential growth control program. The RDSCS is codified in Title 18, Chapter 18.78 of the Municipal Code; and

WHEREAS, on July 27, 2016 the City Council adopted the Morgan Hill 2035 General Plan, which is the City’s primary policy document governing local land use and development. The General Plan includes a Land Use Map and designations that identify uses and development intensities along with basic policies to guide development and conservation decisions in Morgan Hill through the year 2035; and

WHEREAS, Morgan Hill’s Zoning Code, codified as Title 18 in the City of Morgan Hill’s Municipal Code, is one of the primary tools for implementing the General Plan with detailed land use and development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all properties in the City. The Zoning Code identifies exactly which land uses are allowed in each zoning district and establishes the permitted building heights, minimum setbacks, and other development standards for each district. In addition to development standards, the Zoning Code identifies permitting requirements for different land uses and types of development, and the process by which the City reviews permit applications and administers the requirements of the Zoning Code; and

WHEREAS, the Zoning Code Update portion of the Morgan Hill 2035 Project began with a series of stakeholder, staff, Planning Commission, and City Council meetings in late 2015 to

assess the strengths and weaknesses of the City's existing Zoning Code, and in 2016 and 2017 to discuss the general approach for the Zoning Code Update process; and

WHEREAS, the Planning Commission and City Council identified four goals to guide the Zoning Code Update process: A. Implement and achieve consistency with the Morgan Hill 2035 General Plan; B. Create a user-friendly code for applicants, staff, and City officials; C. Modernize terminology and requirements to reflect current practices; and D. Improve regulations to effectively address land use and development issues; and

WHEREAS, after a Public Review Draft Zoning Code (Initial Draft) was published on August 8, 2017, the Planning Commission held a series of four public workshops on August 29, September 19, October 3, and November 28, 2017 to provide, receive, and discuss comments and proposed edits to the Initial Draft; and

WHEREAS, on January 17, 2018 a Joint City Council/Planning Commission Study Session was held for the Planning Commission and staff to receive feedback/direction from the City Council on several policy questions related to the Zoning Code Update. The Planning Commission concluded, and the City Council agreed, that the policy questions discussed at the Study Session, while important for future consideration, did not warrant extending the Zoning Code Update process beyond the targeted spring 2018 adoption hearings; and

WHEREAS, a Public Review Draft Final Zoning Code (Final Draft) was published on March 7, 2018 addressing comments and incorporating edits received during the review of the Initial Draft; and

WHEREAS, although several existing zoning district names are proposed to be changed to better reflect their intent and match the district's corresponding General Plan Land Use designation, less than one-percent of the approximately 12,865 parcels within the existing City Limits are included in the proposed Zoning Map Amendment. The Zoning Map Amendment (Exhibit B) changes the zoning district for 41 sites (approximately 100 parcels) to a zoning district that is consistent, or more consistent, with the site's Morgan Hill 2035 General Plan Land Use designation; and

WHEREAS, an Addendum to the Environmental Impact Report (EIR) for the City of Morgan Hill's Morgan Hill 2035 Project certified on July 27, 2016 (State Clearinghouse No. 2015022074) was prepared for the Zoning Code Update project pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164, and the Addendum concludes that the proposed project will not result in any new impacts that were not already identified in the Morgan Hill 2035 EIR or any impacts of greater severity than were already addressed; and

WHEREAS, the Zoning Code Update and associated Zoning Map Amendments complies with the City's Morgan Hill 2035 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; and

WHEREAS, the Zoning Code Update, including Zoning Map Amendments, was considered by the Planning Commission at their regular meeting of March 27, 2018, April 10, 2018, and April 24, 2018 at which time the Planning Commission recommended approval of application ZA2016-0006: Zoning Code Update; and

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed Zoning Code Update and associated Zoning Map Amendment is consistent with the Morgan Hill 2035 General Plan.

SECTION 2. The Zoning Code Update and associated Zoning Map Amendment 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. The Planning Commission has evaluated the Public Review Draft Final Zoning Code (Exhibit A) and associated Zoning Map Amendments (Exhibit B) to be consistent with the four goals identified for the Zoning Code Update.

SECTION 4. The Planning Commission recommends that the City Council consider the Addendum to the Morgan Hill 2035 Environmental Impact Report (EIR) in accordance with the California Environmental Quality Act (CEQA) and approve ZA2016-0006: Zoning Code Update and Zoning Map Amendments with additional Planning Commission recommended changes and clarifications listed in Exhibit C.

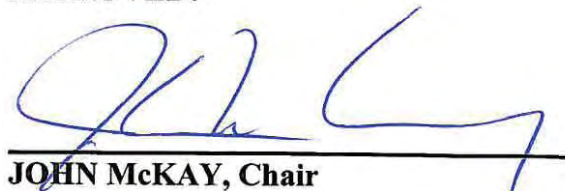
PASSED AND ADOPTED THIS 24th DAY OF APRIL 2018, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:	COMMISSIONERS:	MCKAY, DOWNEY, TANDA, MARTINEZ BELTRAN, HABIB, MUNOZ MORRIS
NOES:	COMMISSIONERS:	MUELLER
ABSTAIN:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

ATTEST:


JENNA LUNA, Deputy City Clerk

APPROVED:


JOHN MCKAY, Chair

Date: May 10, 2018

Attachment: Planning Commission Resolution (1763 : ZA2016-0006: Zoning Code Update)

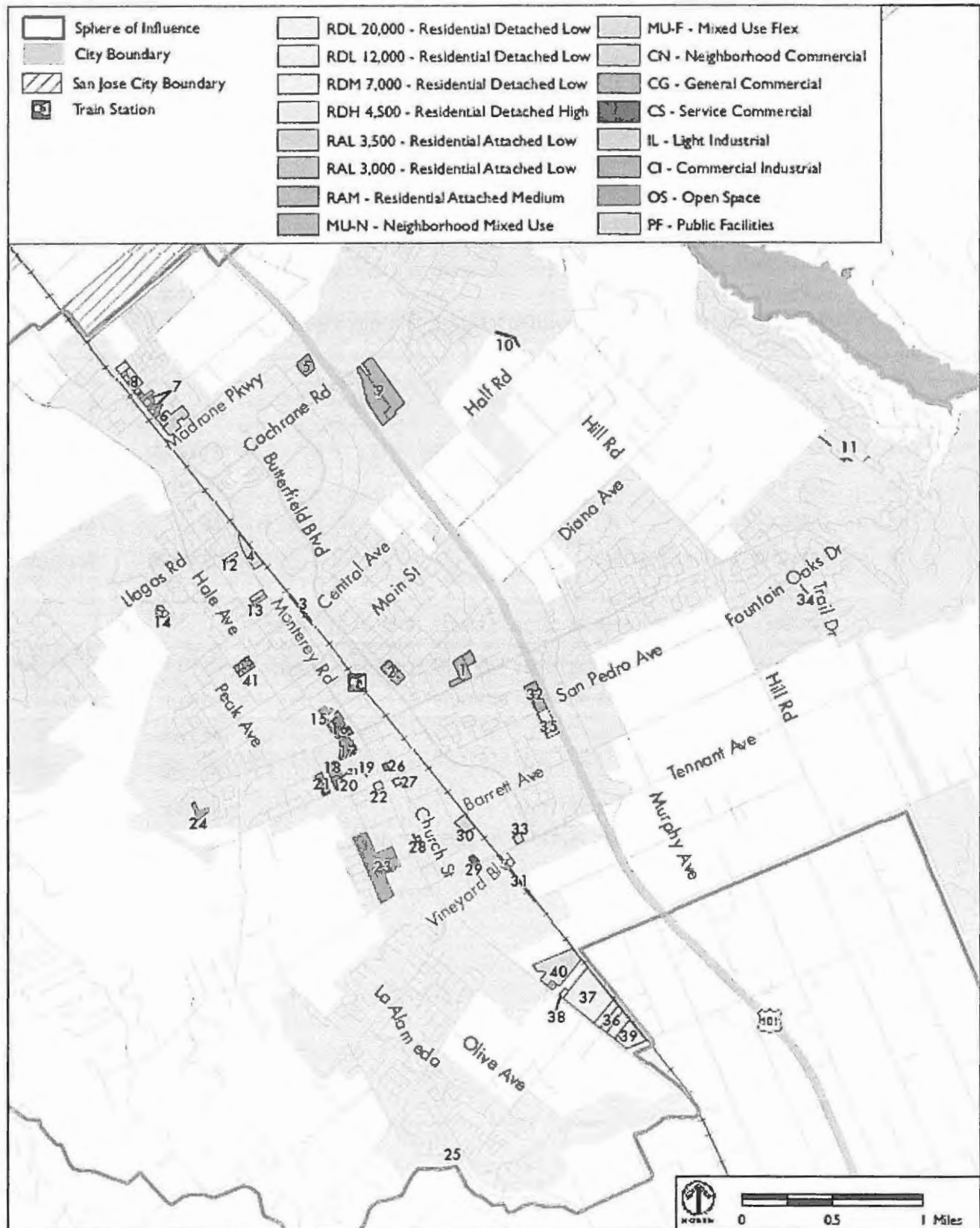
Resolution 18-10
Page 4

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Exhibit A – Public Review Draft Final Zoning Code
(www.morgan-hill.ca.gov/1649/Zoning-Code-Update)

Attachment: Planning Commission Resolution (1763 : ZA2016-0006: Zoning Code Update)

Exhibit B – Zoning Map Amendment



PARCELS WITH A PROPOSED ZONING CHANGE

Map ID	APNs	Existing Zoning	Proposed Zoning
1	72602008, 72602012, 72602016	R2 3,000	RAM
2	72612001, 72612004	R2 3,500	RAM
3	72624001	R2 3,500	IL
4	72625006	ML	MU-F
5	72633027	ML	IL
6	72636002, 72636003, 72636004, 72636007, 72636008, 72636009, 72636059 ^A	CG	MU-F
7	72636010, 72641015	R1 7,000	MU-F
8	72641018, 72641020, 72641021, 72641042, 72641065, 72642001, 72642002, 72642003, 72642010, 72642012	CS	MU-F
9	72831014, 72831016 ^B	CO	CG
10	72834001	R1 20,000	PF
11	72905027, 72906030	R1 12,000	OS
12	76411002	R2 3,500	RDM 7,000
13	76412006, 76412007	CG	MU-F
14	76431040, 76431041, 76431042	RE 40,000	RDL 20,000
15	76708008, 76708009, 76708010, 76708011	RE 100,000	OS
16	76708013, 76708018, 76708019, 76708020, 76708021, 76708024, 76708025, 76708026, 76708027, 76708028, 76708029, 76708035, 76708036, 76708037, 76708038, 76708039, 76708040, 76708041, 76708042, 76708043, 76708047	D-R3	RAL 3,000
17	76709015, 76709016, 76709017, 76709018, 76709019	R3 (CU)	MU-N
18	76709027	R3 2,000	RAM
19	76710008	R1 7,000	OS
20	76711007, 76711010, 76711011, 76711012	R2 3,500	RAM
21	76711045, 76711046, 76711047, 76711048, 76711050, 76711052, 76711053, 76711056	R2 3,500	RAM
22	76717051	CG	MU-F
23	76718048	PF	OS
24	77307033	R1 20,000	OS
25	77902022	RE 40,000	OS
26	81701008, 81701009, 81701010	R2 3,500	MU-F
27	81702001	R2 3,500	MU-F
28	81703011	R2 3,500	MU-F
29	81705041	ML	CN
30	81705082	ML	PF

Resolution 18-10

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PARCELS WITH A PROPOSED ZONING CHANGE

Map ID	APNs	Existing Zoning	Proposed Zoning
31	81706054	PF	IL
32	81711073	MO	CI
33	81729027	CO	CN
34	81750081	R1 7,000	OS
35	81760024, 81760025, 81760028, 81760029, 81760030	RE 40,000	RDL 20,000
36	82506012, 82506013, 82506014, 82506015	RE 100,000	RDL 12,000
37	82506016	RE 100,000	RDM 7,000
38	82506017	RE 100,000	RDH 4,500
39	82506023, 82506024, 82506025	RE 100,000	RDL 12,000
40	82506026	RE 100,000	RAL 3,500
41	76419016, 76419017, 76419018, 76419019, 76419020, 76419021, 76419022, 76419023, 76419024	CO	CN

Notes:

- A. Parcel 72636059 includes two different zoning changes. The portions along Monterey Road and Madrone Parkway will be changed from existing zoning CG and R1 7,000 to MU-F Mixed Use Flex. The interior of the site will be changed from existing zoning R1 7,000 to RAL 3,500.
- B. Zoning on Parcels 72831014 and 72831016 will only be changed on the southerly portion of the parcels. The portion along Cochrane Road that is currently zoned PUD will remain PUD. The southerly half with existing zoning CO will be changed to CG.

Exhibit C – Additional Planning Commission Recommendations

Recommendations Based on Community Feedback

1. APN 817-05-041 (275 Tennant Avenue), which includes an existing multi-tenant professional office building, the Planning Commission recommends changing the Zoning District from the existing ML Light Industrial to the CG General Commercial Zoning District, consistent with the site's Commercial General Plan Land Use designation.



If the CO Administrative Office District is retained, as recommended by Planning Commission, the Commission recommends changing the Zoning District of this property from the existing ML Light Industrial to the CO Administrative Office Zoning District, consistent with the site's Commercial General Plan Land Use designation and existing building and uses.

- 2. Clarify Hotel Height.** The Planning Commission recommends clarifying that the maximum height for hotels of up to 65 feet on parcels in the CH Highway Commercial and CI Commercial Industrial Zoning Districts directly adjacent to Highway 101 may only allow hotels of up to 4 stories with the following changes (shown in red-underline) to the development standards in Section 18.24.030.B (Highway Commercial Zoning District) and 18.26.030.B. (Commercial Industrial Zoning District).

18.24.030 – Development Standards

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

18.26.030 – Development Standards

B. Hotel Height in the CI Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel of up to 4-stories with a maximum height of up to 65 feet on parcels in the CI zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

Retain CO Administrative Office Zoning District. The Planning Commission recommends retaining the existing CO Administrative Office Zoning District with the following edits (shown in red-underline/strikethrough) to Chapter 18.24, including the clarification that hotels and motels are not permitted uses in the CO district.

Chapter 18.24 – COMMERCIAL ZONING DISTRICTS

Sections:

18.24.010 – Purpose of the Commercial Zoning Districts

18.24.020 – Land Use Regulations

18.24.030 – Development Standards

18.24.010– Purpose of the Commercial Zoning Districts

► *Note: The existing Theme Unit Development and Administrative Office commercial zoning districts have been eliminated. The name of the existing Highway Commercial (HC) zoning district is changed to Highway Commercial (CH).*

- A. **General.** The purpose of the commercial zoning districts is to provide locations for a variety of commercial uses to meet the need of residents, visitors, and workers in Morgan Hill. Development within the commercial zoning districts is attractively designed to enhance Morgan Hill's unique character and economic prosperity. Commercial uses are clustered and concentrated to utilize land resources efficiently and support a balanced transportation system. Employment uses accommodate a diversity of jobs that contribute to a dynamic local economy.
- B. **Specific.**
 1. Administrative Office (CO). The purpose of the CO zoning district is to provide an area wherein professional, general commercial offices, and limited personal services may develop in close relationship with each other outside of other commercial districts.
 - ~~4.2~~ Neighborhood Commercial (CN). The purpose of the CN zoning district is to provide a location for retail, office, and service uses to serve residents living in surrounding neighborhoods.
 - ~~2.5~~ General Commercial (CG). The purpose of the CG zoning district is to provide a location for a broad range of commercial and employment uses to serve Morgan Hill residents, workers, and visitors.
 - ~~3.4~~ Highway Commercial (CH). The purpose of the CH zoning district is to provide areas adjacent to the freeway that can accommodate highway and tourist oriented ~~uses, and uses and~~ uses which require the high visibility of thoroughfare locations.
 - ~~4.5~~ Service Commercial (CS). The purpose of the CS zoning district is to provide an area for commercial services that may be inappropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.

18.24.020 – Land Use Regulations

► *Note. The following changes have been made to existing commercial zoning district land use regulations:*

CN zoning district: Allow small residential care facilities with CUP, allow cultural institutions with a CUP, allow schools with a CUP, allows social services with a CUP, allows banks and financial institutions by-right, allows business support services by-right, allows cinemas and theatres with a CUP, allows indoor commercial recreation with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows vehicle washing with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CG zoning district: Allow colleges and trade schools with CUP, allow community assembly with CUP, allow cultural institutions with a CUP, require AUP for day care centers, allow schools with a CUP, allows social services with a CUP, allows animal boarding and veterinarian clinics with a CUP, allows business support services by-right, allows cinemas and theatres with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows funeral parlors with a CUP, allows home improvement centers with a CUP, allows plant nurseries with a CUP, allows large commodity retail with CUP, allows vehicle washing with CUP, allows parking lots and structures as a primary use with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CH zoning district: Allow banks and financial institutions by-right, allows business support services by-right, allows vehicle rentals by-right, allows reverse vending machines with CUP.

CS zoning district: Allow social services with a CUP, allows business support services by-right, allows funeral parlors with a CUP, allows large commodity retail with CUP, allows towing and impound with a CUP, allows vehicle rentals by-right, allows vehicle washing with CUP, allows construction and material yards with a CUP. Allows research and development with a CUP, allows warehousing and distribution with a CUP, allows Freight/ Truck Terminals and Warehouses with a CUP, allows reverse vending machines with CUP, allows recycling collection facilities with CUP.

A. **Permitted Land Uses.** Table 18.24-1 identifies land uses permitted in the commercial zoning districts.

TABLE 18.24-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District					Additional Regulations
	CO	CN	CG	CH	CS	
P Permitted Use						
A Administrative Use Permit required						
C Conditional Use Permit required						
- Use not allowed						
Residential Uses						
Caretaker Quarters	-	-	C	-	C	
Nursing Homes and Long-Term Care	C	C	C	-	-	
Residential Care Facilities	-	C	-	-	-	

18.24.000

COMMERCIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District					Additional Regulations
	CO	CN	CG	CH	C3	
Public and Quasi-Public Uses						
Colleges and Trade Schools	-	C	C	-	-	
Community Assembly	C	C	C	-	-	
Cultural Institutions	C	C	C	-	C-	
Day Care Centers		C	A	-	C	
Government Offices		P	P	-	C	
Instructional Services	P	A	A	A	A	
Medical Offices and Clinics	P	P	P	A-	C	
Schools, Public and Private	C	C	C	-	-	
Social Services	C	C	C	-	C	
Commercial Uses						
Animal-Related Uses						
Animal Boarding	-	C	C	-	C	
Veterinarian Clinics and Hospitals	-	A-	A-	A-	P	
Banks and Financial Institutions	P	P	P	P	P	
Business Support Services	P	P	P	P	P	
Cinemas and Theatres	-	A-	A-	A-	A-	
Commercial Recreation, Indoor						
≤ 150,000 sq. ft.	C	P	P	P	P	
> 150,000 sq. ft.	-	C	C	C	C	
Drive-Through and Drive-In Facilities	C	C	C	C	C	IS 92.040
Eating and Drinking Uses						
Bars and Nightclubs	-	C	C	-	-	
Restaurants, Fast Food	-	C	P	P	C	
Restaurants, Sit-Down	-	C	P	P	C	
Tasting Rooms	-	C	A	P	C-	
Funeral Parlors and Mortuaries	-	-	C	-	C	
Lodging Facilities						
Hotels and Motels	-	C-	A-	P	A-	
Mini-Storage	-	-	C	-	C	
Personal Services	P	P	P	-	C	
Plant Nurseries	-	-	C	-	P	
Professional Offices	P	P	P	P-	A-	
Retail Uses						
Convenience Markets	-	C	C	C	C	

COMMERCIAL ZONING DISTRICTS

18.24.020

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District					Additional Regulations
	CO	CN	CG	CH	CS	
General Retail	-	P	P	P	C	
Home Improvement Centers	-	-	P	-	P	
Large Commodity Retail	-	-	C	-	C	
Vehicle-Related Uses						
Fuel and Service Stations	-	C	C	C	C	
Towing and Impound	-	-	-	-	C	
Vehicle Rentals	-	C [2]	C [2]	P	P	
Vehicle Repair and Maintenance, Minor	-	-	C	-	P	
Vehicle Sales and Leasing	-	C [1]	C [1]	P	P	
Vehicle Washing	-	C	C	C	C	
Wholesaling	-	-	C	-	P	
Industrial Uses						
Construction and Material Yards	-	-	-	-	C	
Food and Beverage Production						
< 5,000 sq. ft. [3]	-	A	A	A	A	
5,000 sq. ft. to 10,000 sq. ft. [3]	-	A	A	C	A	
> 10,000 sq. ft.	-	-	C	-	C	
Research and Development	-	-	-	-	C	
Warehousing and Distribution, Large and Small	-	-	-	-	C	
Transportation, Communication, and Utility Uses						
Freight Terminals and Transfer	-	-	-	C	-	
Light Fleet-Based Service	-	C	C	-	C	
Parking Lots and Structures	-	-	C	-	C	
Recycling Facilities						
Reverse Vending Machine	-	C	C	C	C	
Recycling Collection Facility	-	-	-	-	C	
Transportation Terminals		-	-	-	C	
Utilities, Major	-	-	C	-	C	
Wireless Communications Facilities		See Chapter 18.95				
Other Uses						
Accessory Uses		See Chapter 18.44				
Temporary Uses		See Section 18.92.44(15)				

Notes:

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

[2] Vehicles stored and/or displayed must be fully enclosed from public view.

[3] Conditional use permit review required.

18.24.030

COMMERCIAL ZONING DISTRICTS

- B. Additional Permits.** In addition to permits identified in Table 18.24-1, development projects in the commercial zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits).—Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).
- C. Outdoor Uses and Storage.** In the commercial zoning districts, all uses shall be conducted wholly within a completely enclosed building except as follows:
1. In the CS zoning district, outdoor storage associated with any permitted use is allowed with a Conditional Use Permit.
 2. In the CG zoning district, outdoor storage and display associated with a Home Improvement Center is allowed with a Conditional Use Permit.

18.24.030– Development Standards

► *Note. The following changes are made to existing development standards for the mixed use zoning districts:*

All zoning districts: New residential transition standards, deletes minimum cul-de-sac lot width, increases street side setback to match front setback.

CN zoning district: Deletes minimum zoning district area, deletes limitation to one quadrant of an intersection.

- A. General.** Table 18.24-2 identifies development standards that apply in the commercial zoning districts.

TABLE 18.24-2: DEVELOPMENT STANDARDS IN THE COMMERCIAL ZONING DISTRICTS

	CO	CN	CG	CH	CS	Additional Standards
Site Requirements						
Lot Area, Minimum	6,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Lot Width, Minimum	60 ft.	100 ft.	100 ft.	70 ft.	100 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	100 ft.	125 ft.	100 ft.	
Building Coverage, Maximum	50%	50%	50%	40%	50%	
Structure Requirements						
Setbacks, Minimum						18.56.030, 18.56.040
Front	20 ft.	25 ft.	25 ft.	40 ft.	25 ft.	
Rear	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	
Interior Side	10 ft.	0 ft.	0 ft.	0 ft.	0 ft.	
Street Side	15 ft.	15 ft.	15 ft.	150 ft.	150 ft.	
Height, Maximum	3 stories or 30 ft., whichever is less	2 1/2 stories and or 30 ft., whichever is less	3 stories and or 35 ft., whichever is less	3 stories and or 35 ft., whichever is less	3 stories and or 35 ft., whichever is less	18.24.030.E, 18.56.020

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must, in addition to the Design Permit requirements, consider impacts on adjacent development and find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height. Potential impacts may include, but are not limited to, visibility impacts on adjacent hotels, view and viewshed impacts, and overconcentration of 3 and 4 story buildings within a single area.

B.C. Residential Transition Standards. Where a property zoned in a commercial zoning district abuts a residential zoning district, projects shall comply with increased setbacks, upper story stepbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

3. **APN 767-08-025 (70 W. 5th Street)** is part of a larger area within the Downtown that had its General Plan Land Use designation changed as part of the Morgan Hill 2035 General Plan Update process from Residential Attached Medium to Residential Attached Low. The existing D-R3 Downtown Medium Density Zoning District that is applied to this property/area is not consistent with the Residential Attached Low General Plan designation. As such, the City is obligated to change the Zoning District to be consistent with the General Plan. In this case either the RAL 3,000 or RAL 3,500 Zoning District would be consistent. Staff and the Planning Commission recommend the existing D-R3 Zoning District be changed to the RAL 3,000 Zoning District.



4. **Section 18.108.070 Minor Exceptions.** Staff and the Planning Commission recommend adding minimum lot width to the list of permitted exceptions allowing up to a 10% reduction in required lot width for the purposes of facilitating the subdivision of an existing infill lot of record from one to two lots. Lot width would be removed from the list of excluded modifications.
5. **APN 726-33-027 (900 Lightpost Way).** The Planning Commission recommends retaining the existing Light Industrial Zoning District (IL) with the following changes to the permitting requirements for Food and Beverage Production greater than 10,000 square feet to remain consistent with the permitting requirements in the existing ML Light Industrial and MG General Industrial Zoning Districts where Food and Beverage Production is permitted by right when the use is 150 feet or more from a residential zoning district and when the type of food being produced will not emit a generally offensive odor, otherwise a Conditional Use Permit (CUP) is required. The Commission also recommends changing the maximum size of Tasting Rooms accessory to breweries, wineries, or other alcoholic beverage production facilities from, "3,000 square feet or 10 percent of the floor area of the primary use, whichever is less," to "5,000 square feet or 10 percent of the gross floor area of the building, whichever is less."

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Proposed Zoning Districts				
	CI	IO	IC	IL	IG
Eating and Drinking Uses					
Tasting Rooms	P [6]	–	–	A [6]	A [6]
Food and Beverage Production					
< 5,000 sq. ft. [7]	A [2]	A [2]	A [2]	P [2]	P [2]
5,000 sq. ft. to 10,000 sq. ft. [7]	C [2]	C [2]	C [2]	P [2]	P [2]
> 10,000 sq. ft.	C	C	C	P [2,8]	P [2,8]

[2] Must be 150 feet or more from a residential zoning district, otherwise requires a CUP.

[6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed ~~3,000~~ 5,000 square feet or 10 percent of the gross floor area of the ~~primary use building~~, whichever is less.

[8] Conditional Use Permit required when the type of food being produced will emit a generally offensive odor. Examples include primary processing of seafood, coffee roasting, pickled foods, or processes involving primarily fats and oils.

6. **APN 817-01-022 (50 Myrtle Avenue).** Staff and Planning Commission support the removal of an existing Residential Planned Development (RPD) Overlay from the site leaving the underlying conventional MU-N Mixed Use Neighborhood Zoning District, which matches the MU-N Zoning District on the adjacent properties to the west (same property owner) and east (different property owners).



7. **Section 18.12.050 – Floor Area and Floor Area Ratio.** The Planning Commission supported not including front-facing covered porches that are 50 or less enclosed in the calculation of floor area to encourage front porches in residential developments.

8. **APN 817-60-024, -025, -028, -029, and -030 (East side of Nina Lane, south of San Pedro Avenue, west of Highway 101).** The Planning Commission supports rezoning this area from the existing RE 40,000 Zoning District to the RDL 20,000 Zoning District consistent with the site's Residential Detached Low (RDL) General Plan designation. The site could be rezoned to the RDL 12,000 Zoning District or remain zoned RE 1 (the equivalent of RE 40,000) and still be considered consistent with the RDL General Plan designation.



Other Recommendations

- A. If the CO Administrative Office Zoning District is retained, the Planning Commission recommends that properties currently zoned CO retain their existing CO Zoning District rather than be rezoned to a different commercial district as previously recommended when the CO district was proposed to be eliminated.

APNs: 728-31-014 and -016 (southerly portions); 764-19-016, -017, -018, -019, -020, -021, -022, -023, and -024; 817-29-027; 767-12-022; 767-24-018, -025, -026, and -027.

Resolution 18-10

Page 21

- B.** Add definition for Traffic-Control Devices and reference to Chapter 10.16 of the City of Morgan Hill Municipal Code in Chapter 18.88 – Signs.

MAY 10 2018

CITY OF MORGAN HILL

DEVELOPMENT PROCESS CONSULTANTS

May 10, 2018

Morgan Hill City Council
17575 Peak Avenue
Morgan Hill, CA. 95037

Re: Zoning Update to RDL 20,000

Dear Council Members,

I have been asked by my parents to forward this letter on their behalf to inform the City Council of their support of the Planning Commission's recommendation to amend the zoning of their property at 16660 Nina Lane to RDL 20,000.

Regretfully, they are unable to attend the May 16th meeting and appreciate being able to forward their support via this letter.

Thank you,
Vince Burgos
Development Process Consultants

CC: John Baty

Attachment: Burgos-NinaLane_Letter_5-10-2018 (1763 : ZA2016-0006: Zoning Code Update)

REUBEN, JUNIUS & ROSE, LLP

Matthew D. Visick
mvisick@reubenlaw.com

May 10, 2018

Delivered Via Email (John.Baty@MorganHill.ca.gov)

Honorable Mayor and City Council Members
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

**Re: Zoning Code Update
Request to Rezone APN 817-29-027 to Service Commercial**

Honorable Mayor and Members of the City Council:

Our office represents Paul Sagayaraj Amaldoss Henry, who is currently seeking a Conditional Use Permit to construct and operate a Zip Through Car Wash (the “**Project**”) at the property located on the southwest corner of Caputo Drive and Tenant Avenue, also known as APN 817-29-027 (the “**Property**”). The proposed automated car wash is a conditionally permitted use under the current Administrative Office zoning. However, Planning Department staff have informed Mr. Henry that an automated car wash use would not be allowed under the pending Zoning Code amendments.

We urge the Council to amend the applicable zoning at the Property from Administrative Office to Service Commercial as part of the pending Zoning Code update. The current Administrative Office designation is intended for “professional, general commercial offices, and limited personal services . . .” In contrast, the Service Commercial designation is intended for “commercial services that may be appropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.” The Service Commercial zoning designation would not only allow for the proposed Project, it would also be more appropriate to the industrial uses surrounding the Property, as discussed below.

The Property is located in Industrial Sub Area 4 under the General Plan. This is an Established Employment Area containing heavier industrial uses with future opportunities for a diverse range of industrial uses, including manufacturing, materials processing, and indoor storage. The detail below taken from the General Plan Land Use Map shows that the Property is surrounded by properties designated for industrial use (industrial uses are shown in medium gray on the map).

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
456 8th Street, 2nd Floor, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

Attachment: LTR - City Council - Rezone to Service Commercial (1763 : ZA2016-0006: Zoning Code Update)



**General Plan
Land Use Map**

**APN 817-29-027
(Red Square)**

Similarly, the detail from the Zoning Map below shows that all nearby properties are zoned Light Industrial under the proposed Zoning Code (Light Industrial areas are shown in light gray on the map). Light Industrial properties are intended for “research, administrative, lighter manufacturing, wholesale and heavy service commercial uses not suitable in commercial districts.”



Zoning Map

**APN 817-29-027
(Pink Square)**

It is worthwhile to note that the properties to the south, across Tennant Avenue, are zoned Service Commercial (the red color on the map above). Similarly, the properties at the intersection of Vineyard Boulevard and Tennant Avenue, to the west, are zoned Service Commercial. Thus, a rezone of the Property to Service Commercial would be consistent with the zoning of other commercial properties in the vicinity.

The Service Commercial zoning is a better fit for the Property, given that it is surrounded by industrial uses. As noted above, the Commercial Service zoning is intended for “commercial services that may be appropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.” Commercial services of this nature are a much better fit with the light industrial character of the area, as illustrated by the other nearby Service Commercial properties. Further, given that most of the allowed uses within the Commercial Service zone require a Conditional Use Permit, the rezoning to Commercial Service would preserve the City’s ability to evaluate the appropriateness of particular projects as they are proposed.

We appreciate your attention to this request. If you have questions or would like to discuss this request, please don’t hesitate to contact me.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Matthew D. Visick

cc: Paul Henry (via email)

Zoning Code Update

Commissioner Mueller Questions/Concerns (5/2/18, 5/10/18)

Staff Initial Responses (5/3/18), Revised Responses (5/10/18),
and (follow-up 5/11/18)

From: John Baty

Sent: Friday, May 11, 2018 9:04 AM

To: 'Joe Mueller' <JoeMueller@verizon.net>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

Good Morning Joe,

You are welcome. Thank you for the below follow-up.

For the Caputo site (nw/c Caputo Drive and Tennant Avenue), staff had proposed applying the CN Neighborhood Commercial Zoning District when the CO Administrative Office district was proposed to be eliminated. With the Planning Commission recommendation to retain the CO district, the site could retain its existing CO zoning (like other existing CO zoned sites). Or, since it has a Commercial General Plan designation, it could be rezoned to some other commercial district, perhaps one that makes more sense than either CO or CN. Given that it is surrounded by industrial uses and industrial designated properties, maybe the CS Service Commercial Zoning District would make sense.

If what you are saying is that the development standards (e.g., setbacks, etc.) in the current and proposed CN Neighborhood Commercial Zoning District could make it difficult (maybe very difficult) to successfully connect/integrate neighborhood scale/serving commercial uses in neighborhoods, I agree. If providing for the possibility of small scale commercial in neighborhoods is something the community is really interested in seeing happen, I think we need to take a look beyond just the CN district to the General Plan and perhaps other zoning districts to provide better guidance for where and how this could/should be allowable.

Thanks,

-John B.

From: Joe Mueller <JoeMueller@verizon.net>

Sent: Thursday, May 10, 2018 8:40 PM

To: John Baty <John.Baty@morganhill.ca.gov>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

John,

Good morning,

Thanks for the update and all the help working through all my concerns.

Questions 3 and 6 are resolved.

Attachment: Cm_Mueller_Concerns_StaffResponses (1763 : ZA2016-0006: Zoning Code Update)

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Initial Responses

On questions 1 and 2 are about Neighborhood Commercial Zoning and how it is used. The first question is about where the CN zoning is being used on the Proposed Zoning Map. I believe it should only be used in residential neighborhoods.

Your response address the use in places that under current zoning are AO. I went back and looked a the Proposed Zoning Map again. I believe the parcel on the corner of Caputo Dr. and Tennant which currently has a CUP application before the PC is proposed to be zoned CN. I believe that CN should not be used in an area that is zoned Industrial/Commercial Area. I believe the Parcel has a GP designation of Commercial.

Question 2 is about how CN parcel is connected to and integrated into the residential neighborhood in order to generate a sense of place on a scale appropriate for the surrounding neighborhood. The proposed Zoning

Code only talks about the increased setbacks. I will look up the related GP Policies.

I will respond to the rest of your answers but I will probably not get it sent until Saturday evening. Thanks for all the help.

Joe

From: John Baty <John.Baty@morganhill.ca.gov>

Sent: Thursday, May 10, 2018 5:08 PM

To: Joe Mueller (Verizon) <joemueller@verizon.net>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

Good Evening Joe,

I re-read question/comment #3 and understand now that you were inquiring about the MU-N Mixed Use Neighborhood designation; had initially thought you were commenting on the Mixed Use Flex district. Agree with deleting the part about "other activity centers".

Also, did some additional digging re: the Condit-Evergreen zoning. Thanks for that heads-up. The easterly half is R-2 (PD). We'll fix the map.

Attached is a PDF with my **initial responses** with **revisions**. Let me/us know if you have any follow-up questions/comments.

Thanks,
-John B.

From: Jennifer Carman

Sent: Thursday, May 03, 2018 5:32 PM

To: Joe Mueller (Verizon) <joemueller@verizon.net>

Cc: John Baty <John.Baty@morganhill.ca.gov>; Leslie Little <Leslie.Little@morganhill.ca.gov>

Subject: FW: Zoning Code Questions

Hi Joe:

Attachment: Cm_Mueller_Concerns_StaffResponses (1763 : ZA2016-0006: Zoning Code Update)

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Initial Responses

John prepared initial responses to your questions below.

Jennifer

From: Joe Mueller <JoeMueller@verizon.net>

Sent: Wednesday, May 2, 2018 11:19:39 AM

To: Jennifer Carman; Leslie Little

Subject: Zoning Code Questions

Jennifer, Leslie

Good morning,

Below are my concerns with the current Draft of the Zoning Code that I did not get a chance to raise during the 12th PC meeting:

1. Unfinished conversation: At the April 12 Meeting during the discussion of 275 Tennant, I raised the issue of how Neighborhood Commercial is being used. I believe a couple of other Commissioners expressed some concern about the same topic. The general conversation has not happened. GP 12 Goal and Policies indicate that NC should be in a residential area. Example, I believe that the northwestern corner of Caputo and Tennant is NC. The PC changed 275 Tennant from NC to AO.

If the CO Administrative Office Zoning District is retained as recently recommended by Planning Commission, properties that are currently zoned CO (under the existing Zoning Code) would no longer need to be rezoned to some other commercial zoning district such as CN Neighborhood Commercial or CG General Commercial, they could remain CO.

2. Unfinished conversation: I have raised a couple times about how the Zoning Code supports to connections between the NC and surrounding residential areas. The Zoning Code focuses on increasing the distance between the two uses. I have also raised the issue of project area for NC.

Is this a concern about setbacks required for projects in the CN Neighborhood Commercial Zoning District or 18.92.130 Residential Transition Standards, which may require increased setback, height, and landscaping standards for non-residential projects that are directly adjacent to residential? If the concern is that these standards are too restrictive, that's a conversation we can note and bring back.

3. Mixed Use Flex N, 18.22.010 B2: The words "and other activity centers" have been added to the purpose of the zoning district. The GP definition for Mixed Use Flex (page CNF-12)

Attachment: Cm_Mueller_Concerns_StaffResponses (1763 : ZA2016-0006: Zoning Code Update)

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Initial Responses

clearly indicates that the primary use for this designation is along Monterey and near downtown. The last sentence in the GP definition: “The MU-N zoning district provides a transition between the higher intensity uses in the Downtown Core to lower density residential neighborhoods.” This indicates that the MU-N is to be used around the Downtown Core. What is the definition of “other activity centers?”

Initially I read this as being a question regarding the Mixed Use Flex General Plan Designation and the corresponding MU-F Mixed Use Flex Zoning District, but after re-reading the comment/question, I understand this to be a comment/question about the MU-N Mixed Use Neighborhood Zoning District. With that understanding, I agree that the addition of “and other activity centers” is, at the very least, not necessary and imprecise (i.e., “other activity centers” is not defined), and could be misleading as to where the MU-N district could be applied. Since the Mixed Use General Plan designation is closely related to the Downtown and Downtown Specific Plan, the application of this designation to properties that are not in close proximity to the Downtown is highly unlikely. Staff supports the removal of, “and other activity centers” from Section 18.22.010.B.2.

4. Mixed Use Flex F, 18.22.010 B3: The word “typically” has been added. The first sentence in the GP definition for Mixed Use Flex (page CNF-12) says “The Mixed Use Flex designation, which is primarily applied to properties along Monterey Road Corridor north and south of downtown....” Typically is not a synonym for primary.

Typically implies that the zoning district could be applied in many locations. One of the main goals of the GP Update was to establish land use designations and zoning districts that are focused on Monterey Corridor to guide the redevelopment of the Corridor.

The Planning Commission recommended, and the City Council approved the General Plan Update in 2016 with the Mixed Use Flex General Plan Land Use designation and that designation was applied to properties located primarily along the Monterey Road Corridor, but also on properties on East Dunne Avenue at Walnut Grove Drive and on a portion of the Cochrane Commons Shopping Center. Ultimately the City Council decides how to apply the Mixed Use Flex General Plan designation and MU-F Mixed Use Flex Zoning District.

5. Residential Attached High, 18.18.010 B3: The word “typically” has been added. On page CNF-12 the GP defines Residential Downtown as “Small pockets of Residential Downtown, the highest density residential designation is centered around Downtown and the commuter rail station. Development within this area must be supportive of transit oriented design.” There are no qualifiers in this definition, therefore we should not add a word that implies the zoning district can be used in other areas of the City. Zoning Code 18.04.050 defines the relationship between the Zoning Code and the General Plan.

The RAH Residential Attached High Zoning District could only be applied to a property if consistent with the underlying General Plan Land Use Designation. In the case of the RAH Zoning District, it is only consistent with the Residential Downtown General Plan Land Use Designation, which is currently only applied to two sites, both of which are developed/under development. In the highly unlikely event that the City Council chose to change the General Plan Land Use designation of a

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Initial Responses

site that is located outside of, “around Downtown and the commuter rail station” to Residential Downtown, the RAH Zoning District would be the appropriate district to apply to that property.

6. Zoning Map, North side of San Pedro between Condit and Murphy: The two properties on the north side have two different zoning districts: RAM and RAL

Our records show that this site was rezoned from CG General Commercial to R-3 Medium Density Residential (Ordinance No. 2160, NS adopted September 2, 2015). Subsequently, the easterly half of the site was rezoned (Ordinance No. 2214, NS adopted September 7, 2016) from R-3 to R-2 (PD) Planned Development. The draft zoning map will be corrected to show the approved R-2 (PD) zoning (light brown with PD hatch pattern) on the easterly half of the site.

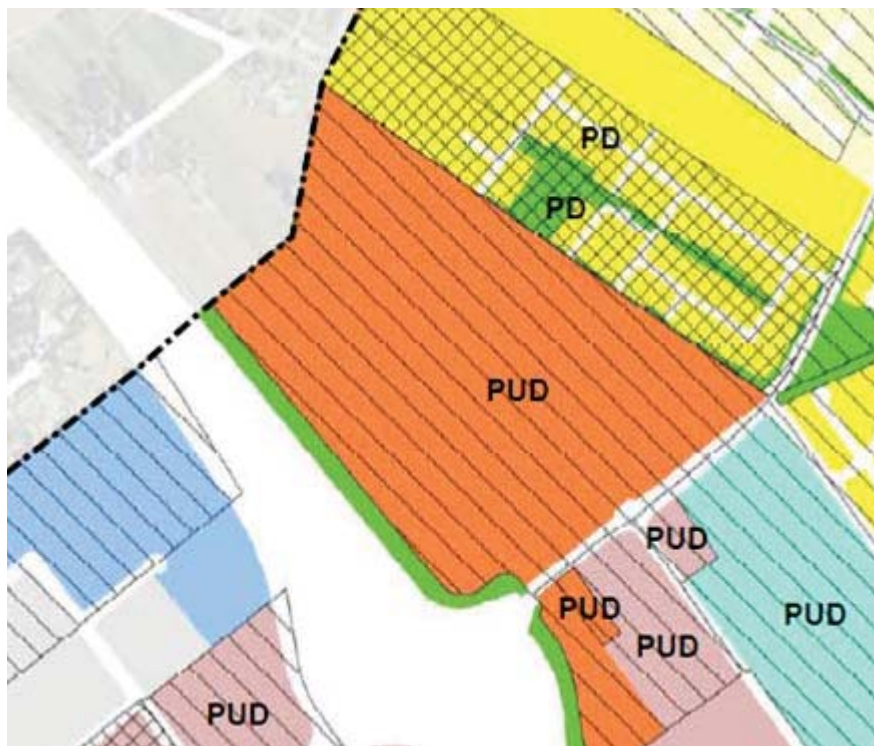


7. Zoning Map, Cochrane Commons: The GP Land Use Map shows part of the project Mixed Use Flex and the Zoning Map shows the whole project Highway Commercial. HC is not a zoning district associated with the Land Use Designation Mixed Use Flex.

The Cochrane Commons site is identified as a PUD as shown on the Zoning Map excerpt below (the underlying CH Highway Commercial color is just used for mapping/display purposes). The property owners will need to amend their PUD if they want to take advantage of the Mixed Use Flex General Plan designation that covers a portion of the undeveloped part of their site or they can maintain their existing entitlements.

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Initial Responses



8. Commercial Uses South of Watsonville Rd.: Both the GP and Zoning code have a consistency is with the land South of Watsonville along the West side of Monterey. GP Policy CNF-15.4 which says we should discourage commercial south of Watsonville.

We can re-visit the need to retain this policy during a future GP text clean-up process. The General Plan states that, "Policies that use the words "encourage," "promote," "discourage," "consider," or "should" are not mandatory; these policies provide guidance to the City, but the City is not required to follow them if they find that the policy is not appropriate for a particular situation or if there are other factors, such as budget limitations, that would make it difficult to follow the policy direction."

Please let me know if you have any questions.
Thanks for the help.

Joe

Mayan Popol Vuh "We did not put our ideas together. We put our purposes together. And we agreed. Then we decided."

Item # 02

AGENDA DATE: 05/16/18

SUPPLEMENT # 1

From: D. Muirhead
To: [Michelle Bigelow](#); [Angie Gonzalez](#)
Subject: comments Council May 16 #2, #4
Date: Monday, May 14, 2018 10:45:32 AM

Dear Morgan Hill City Council,
Comments for the Council Meeting on May 16, 2018:
Item #4: Council Community Promotions awards
Item #2: CLEF donation of MILO use-of-force simulator
Thank you for your consideration,
Doug Muirhead, Morgan Hill

Item #4: Council FY 2018-19 Community Promotions awards

You have an everything-on-the-table budget workshop on Friday.
Why are you short-circuiting the process by allocating Council special-preference funds two days before the workshop?
Please defer this item until after the workshop discussion.

Item #2: CLEF donation of MILO use-of-force simulator

The purchase by CLEF of equipment and materials that are not within the Department's operating budget avoids a budget discussion as to future costs for operation, maintenance, training, and eventual replacement. In previous years, CLEF gave MHPD funds to purchase the first two ALPRs and now this next budget wants General Fund monies to replace one due to its age. Accepting the MILO simulator will create a similar situation for one or more future budgets.

You have an everything-on-the-table budget workshop on Friday.
Please defer this item until after the workshop discussion.
Note that the proposed budget already includes receipt of this device under current year accomplishments.

For full disclosure, which Council members are also CLEF members, approving a gift that you made?

Since Police Chief Swing and City Manager Turner allowed this staff report on the agenda without even the product model of the simulator, I cannot get specific details from the vendor. So I based the following comments on product model MILO Range Pro.

I do not know if CLEF based its selection of vendor and model on highest capability, best reputation, or limited to a particular price range. And why did CLEF buy the equipment rather than donating the funds so that the Department could do its own evaluation and selection?

The staff report claim that

"There is no fiscal impact for the equipment donation of the simulator" is probably not correct. The vendor says that two years of warranty service is included and the customer can then purchase extended support.

The staff report mentions police officers trained in using the simulator.

Were these MHPD officers? What was the cost and time commitment to train an officer? In future years, how many other officers will have to be trained?

Although some canned scenarios are included, what does it cost to create an additional scenario and who does that work? The vendor states that they have scenario authoring software.

Will State POST requirements eventually apply to this type of training?

The base equipment is

- o MILO Range Laptop Computer System
- o Windows 10 x 64-Bit

so software and hardware support are required. When the warranty expires, does MH IT have to take responsibility?

Finally, I want to address yet again the claim that we have a Public Safety Master Plan. The person who decided to call a consultant laundry list of evaluations and recommendations a Master Plan has departed. The document calling itself a Public Safety Master Plan has no management response to each recommendation nor does it establish any priority for implementation.

The Police Service did present a response to the consultant recommendations at the November 15, 2017 Council meeting. It included the following:

Perishable skills and dynamic scenario training should be included in the two-year training calendar to ensure it is presented at appropriate intervals. Recommendation Continuous.

How to accomplish dynamic scenario training is not identified.

The Fire Service did present a report to the Council on April 18, 2018. It included both Immediate Service Enhancements and Future Service Enhancements. Neither linked directly to the consultant recommendations.

You can look at the home page for Police Services and for Fire Services and not see the PSMP. It is hidden on the Police Services page under the Welcome From The Chief menu, but is a frigging FlipBook and the Download PDF does not work!

The November 2017 Police response is not included.

The April 2018 Fire response is not included.

From: D. Muirhead
To: [Michelle Bigelow](#); [Angie Gonzalez](#)
Subject: comments Council May 16 #2, #4
Date: Monday, May 14, 2018 10:45:32 AM

Dear Morgan Hill City Council,
Comments for the Council Meeting on May 16, 2018:
Item #4: Council Community Promotions awards
Item #2: CLEF donation of MILO use-of-force simulator
Thank you for your consideration,
Doug Muirhead, Morgan Hill

Item #4: Council FY 2018-19 Community Promotions awards

You have an everything-on-the-table budget workshop on Friday.
Why are you short-circuiting the process by allocating Council special-preference funds two days before the workshop?
Please defer this item until after the workshop discussion.

Item #2: CLEF donation of MILO use-of-force simulator

The purchase by CLEF of equipment and materials that are not within the Department's operating budget avoids a budget discussion as to future costs for operation, maintenance, training, and eventual replacement. In previous years, CLEF gave MHPD funds to purchase the first two ALPRs and now this next budget wants General Fund monies to replace one due to its age. Accepting the MILO simulator will create a similar situation for one or more future budgets.

You have an everything-on-the-table budget workshop on Friday.
Please defer this item until after the workshop discussion.
Note that the proposed budget already includes receipt of this device under current year accomplishments.

For full disclosure, which Council members are also CLEF members, approving a gift that you made?

Since Police Chief Swing and City Manager Turner allowed this staff report on the agenda without even the product model of the simulator, I cannot get specific details from the vendor. So I based the following comments on product model MILO Range Pro.

I do not know if CLEF based its selection of vendor and model on highest capability, best reputation, or limited to a particular price range. And why did CLEF buy the equipment rather than donating the funds so that the Department could do its own evaluation and selection?

The staff report claim that

"There is no fiscal impact for the equipment donation of the simulator" is probably not correct. The vendor says that two years of warranty service is included and the customer can then purchase extended support.

The staff report mentions police officers trained in using the simulator.

Were these MHPD officers? What was the cost and time commitment to train an officer? In future years, how many other officers will have to be trained?

Although some canned scenarios are included, what does it cost to create an additional scenario and who does that work? The vendor states that they have scenario authoring software.

Will State POST requirements eventually apply to this type of training?

The base equipment is

- o MILO Range Laptop Computer System
- o Windows 10 x 64-Bit

so software and hardware support are required. When the warranty expires, does MH IT have to take responsibility?

Finally, I want to address yet again the claim that we have a Public Safety Master Plan. The person who decided to call a consultant laundry list of evaluations and recommendations a Master Plan has departed. The document calling itself a Public Safety Master Plan has no management response to each recommendation nor does it establish any priority for implementation.

The Police Service did present a response to the consultant recommendations at the November 15, 2017 Council meeting. It included the following:

Perishable skills and dynamic scenario training should be included in the two-year training calendar to ensure it is presented at appropriate intervals. Recommendation Continuous.

How to accomplish dynamic scenario training is not identified.

The Fire Service did present a report to the Council on April 18, 2018. It included both Immediate Service Enhancements and Future Service Enhancements. Neither linked directly to the consultant recommendations.

You can look at the home page for Police Services and for Fire Services and not see the PSMP. It is hidden on the Police Services page under the Welcome From The Chief menu, but is a frigging FlipBook and the Download PDF does not work!

The November 2017 Police response is not included.

The April 2018 Fire response is not included.

Item # 13

AGENDA DATE: 05/16/18

SUPPLEMENT # 1

From: "G. Mitchell Kirk"

Date: May 16, 2018 at 2:16:25 PM PDT

To: <rene.spring@morganhill.ca.gov>

Subject: Ordinances to Prevent Gun Violence

I am writing regarding the staff report that you will be discussing this evening regarding the ordinances to prevent gun violence.

None of these recommendations will achieve the Council's initial request for actions prevent future gun violence.

Criminals will not report stolen guns. This creates a burden only for law abiding citizens, and turns them into a criminal if they were not aware of it immediately. Effectively turning the victim into the criminal, not focusing on the real criminal who stole the firearm.

Requiring safe storage when not in use. Criminals will not do this. It only creates a burden for law abiding citizens who use a firearm for protection in their home. By stating when not in use, we would have to carry it on our person at all times when home rather than having it immediately accessible for when needed for an in-home intruder.

Prohibit large capacity magazines. Immediately turns many law abiding citizen into instant criminals. This is why the State of Calif. has postponed implementation of this.

Requiring a permit to conduct retail firearms sales. Will not affect any criminals behavior. Burdens law abiding retail dealers who already operate in one of the most regulated businesses with multiple permits and inspections by the State and Federal government. Just another revenue source for the City masked as a crime reduction measure.

I urge you to carefully question Attorney Larkin on his recommendations. Everything that is being recommended is already covered under existing Calif. Law except the permit and fees.

Also Larkin's only reference The Gifford Law Center is openly anti firearm ownership and a completely biased organization against the ownership of any firearms.

Ex Director Robyn Thomas, states openly in many Op EDs' in National Newspapers her ultimate goal as eliminating firearm ownership.

Managing Attorney Allison Anderman recently said on a KQED interview she hopes all firearms will be eliminated from society.

Staff Attorney Ari Frelich in interviews with CNN Jake Trapper and many newspapers including the Washing Post has stated he dreams of the day when no one has firearms other than military and law enforcement.

I urge you to dismiss this staff report and focus the Council efforts on effective and tangible measures that will have a real impact on crime reduction in our City.

Require all School Resource officers be armed. Require your Chief of Police to work with all available law enforcement agencies including ICE. We pay for this federal service but are denied its benefit. Adopt the School Shield Program developed by professionals and the National Rifle Association.

I look forward to speaking with you tonight.

G. Mitchell Kirk

Item 13: "PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE"

Direct the City Attorney to draft, for Council consideration, ordinances:

Item # 13
AGENDA DATE: 05/16/18
SUPPLEMENT # 2

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

The report by City Attorney should be revised. It's appears that staff failed to invite and incorporate subject matter expertise. I'm requesting that the measure be delayed for give city staff an opportunity to get the facts and ensure a fair and unbiased assessment. But mostly importantly, provide effective and proven proposals – not feckless ones.

Here are a few examples:

1. The report recommends trigger locks – not cable locks. Trigger locks must be correctly fitted to the firearm to work– and it's easy to use the incorrect type or fail to attach them correctly. Trigger locks don't prevent magazines from being inserted. As demonstrated in several Youtube videos, guns can be fired with a trigger lock attached.
2. The report fails to address self-defense response time. The FBI estimates that only a few seconds are need to kick-in a door or enter through a window. How can someone protect their lives and their loved ones without violating the proposed ordinance?

The proposal puts the disabled and seniors at additional peril as they often need additional time.

3. Why does the proposal apply only to homes and not elsewhere?
4. Will a homeowner be required to secure firearms unless on their person as San Francisco requires? Unless the dwelling is unoccupied – e.g., every time the porch is swept? Unless the property is unoccupied? In the garage? Other?

Note: San Jose PD Chief Garcia is opposed to San Francisco's ordinance. Too easy for law enforcement to shoot innocents should a homeowner respond with a gun on their person.

5. The report fails to quantify or provide any tangible benefits. How does confiscating standard or high capacity magazines (> 10 rounds) make Morgan Hill safer when a magazine can be swapped in less than 2" (commonly well under 1" with practice)? Who will pay for property confiscation?
6. Why is education omitted when research shows compliance levels more than doubled for safe storage?
7. Why doesn't Morgan Hill PD participate in the free Project ChildSafe program?

There are many more, but insufficient time to address them here. Please direct staff to include those of us with expertise to craft meaningful and effective recommendations.

Dave Truslow
E: dtruslow@sonic.net
M: 408-828-1520

From: Jerry Jeska <vijeska@aol.com>
Date: May 21, 2018 at 2:19:56 AM EDT
To: steve.tate@morganhill.ca.gov,
caitlin.jachimowicz@morganhill.ca.gov, rich.constantine@morganhill.ca.gov,
larry.carr@morganhill.ca.gov, rene.spring@morganhill.ca.gov, irma.torrez@morganhill.ca.gov
Cc: <irma.torrez@morganhill.ca.gov>
Subject: Morgan Hill PROPOSED ORDINANCES TO PREVENT GUN VIOLENCE

Dear Morgan Hill City Council Member:

RE. -- "PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE" Direct the City Attorney to draft, for Council consideration, ordinances: 1. Creating a duty to report the theft or loss of firearms 2. Requiring the safe storage of firearms when not in use 3. Prohibiting the possession of large capacity magazines 4. Requiring a permit to conduct retail firearms sales

Why must an owner be required to keep relic and antique replica firearms, such as those here pictured in the attachment, locked up?

While all except two are indeed functioning firearms (I've hunted with the two long guns.), these relics and replicas of antiques, I painstakingly made from kits, would not be burglarized for the purpose of commission of crimes. None fire modern ammunition, and few individuals would know how to load them. (The Civil War replica, item 5, is a cap and ball gun which does not handle cartridges any more than do the muzzleloaders.) Most would be used as display items, which many of your constituents possess, impossible to display locked in a safe. Trigger locks would ruin the display appearance. Moreover, the entire trigger guard of the items in pics 2-3 can be removed with a simple screwdriver. Anything not welded can be disassembled.

Incidentally, *trigger locks can be removed from any firearm* via use of an electric drill. #4 will not hold a trigger lock. It would simply slip off as it has no trigger guard.

Not only would this "safe storage" provision not deter theft of relics and antique replicas, it would not prevent suicides (by far the most common cause of firearm deaths). Few suicide-inclined family members would know how to load these items, and a suicidal owner would have any lock keys and safe combinations anyway.

Gun owners do not like being stolen from, particularly if the item is a family heirloom, and will commonly take reasonable precautions.

Why require a permit to sell relics and replicas? Theft of any legally owned firearms will be divulged in a police report, if only to secure insurance compensation.

Re. any long guns--they are used in only about 3% of gun crimes, even according to reports by former state Attorney General Kamala Harris.

<https://www.oag.ca.gov/sites/all/files/agweb/pdfs/publications/firearms-report-15.pdf>
<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/firearms-report-14.pdf>

I understand possession of high capacity magazines is already illegal in CA, which already enjoys jurisdiction over firearms matters, and appropriately so in order to ensure consistency of law throughout the state. Even that is hardly helpful as a magazine can be swapped out in as little as a second.

Should you have questions regarding any of the pictured items and their application to my points, please feel free to contact me. Ordinances should not be passed without consideration of unintended consequences/collateral damage.

Constitutional rights should not be compromised, especially when nothing will be thus achieved. Please reject these oppressive, useless ordinances.

Regards,
Jerry Jeska

1



2



4



3



5



MORGAN HILL 2035



**ZA2016-0006: Zoning Code Update
City Council Hearing**

**May 16, 2018
Item #15**

ZA2016-0006: Zoning Code Update



Recommendation

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Consider the Addendum to the Morgan Hill 2035 EIR in accordance with CEQA and Introduce Zoning Code Update Ordinance – approving a Comprehensive Update of Title 18 – Zoning of the City of Morgan Hill Municipal Code, including an Amendment to the City's Official Zoning Map.

Background



Relationship to Morgan Hill 2035 General Plan

- Adopted July 27, 2016
- Land Use Map and Designations – general distribution of basic land uses (housing, business, industry, open space, public facilities) and density (residential) and intensity (non-res.)
- Implemented by specific rules in Zoning Code
- The November 2016 voter-approved RDCS in Title 18

Background



Zoning Code Update Process

- Late 2015 – Existing Zoning Code Evaluation
- July 2016 – MH2035 General Plan Adopted
- Early 2017 – Update Approach /w PC and CC
- Aug. 2017 – Public Review Draft Zoning Code
- Aug./Nov. 2017 – 4 PC Workshops
- Jan. 2018 – Joint CC/PC Study Session
- Mar. 2018 – Final Draft Zoning Code
- Spring 2018 – Adoption Hearings (PC and CC)
- Summer 2018 – Zoning Code Effective

Background



Zoning Code Update Goals

- A. Implement and achieve consistency with the Morgan Hill 2035 General Plan;*
- B. Create a user-friendly code for applicants, staff, and City officials;*
- C. Modernize terminology and requirements to reflect current practices; and*
- D. Improve regulations to effectively address land use and development issues*

Analysis: Consistency w/ Zoning Code Update Goals



- A. *Implement and Achieve Consistency w/ Morgan Hill 2035 General Plan*
 - 1. Zoning Map Amendments
 - 2. Allowed Uses and Developments Standards
 - 3. Added new CI Commercial Industrial District

Analysis: Consistency w/ Zoning Code Update Goals

B. Create a User-Friendly Code for Applicants, staff, and City Officials

1. Reorganized parts
2. Eliminate unnecessary repetition, duplicative or contradictory information
3. Consolidate often used information
4. Improved navigation
5. Added tables and graphics
6. Simplify language
7. Consistent and defined terminology
8. Cross-references to related information

Analysis: Consistency w/ Zoning Code Update Goals



C. Modernize Terminology and Requirements to Reflect Current Practices

1. Match terminology in state law
2. Reflect common Morgan Hill usage
3. Integrate with other regulatory agencies
4. Identify uses commonly allowed, but not listed
5. Call-out uses encouraged by Economic Blueprint
6. Remove antiquated land use terms
7. Added definitions

Analysis: Consistency w/ Zoning Code Update Goals

D. Improve Regulations to Effectively Address Land Use and Development Issues

1. Wireless Communications
2. Accessory Dwelling Units (ADUs)
3. Planned Development (PD) Districts
4. Residential Transition Standards
5. Landscaping
6. Temporary Signs
7. Mini-storage
8. Rooftop Solar

ZA2016-0006: Zoning Code Update



Planning Commission Recommendation

1. Consider the Addendum to the Morgan Hill 2035 EIR in accordance with CEQA; and
2. Approve the Zoning Code Update:
 - a. Title 18 Text (Exhibit A)
 - b. Zoning Map Amendments (Exhibit B)
 - c. Additional recommendations from the Planning Commission (Exhibit C)

ZA2016-0006: Zoning Code Update

Exhibit A

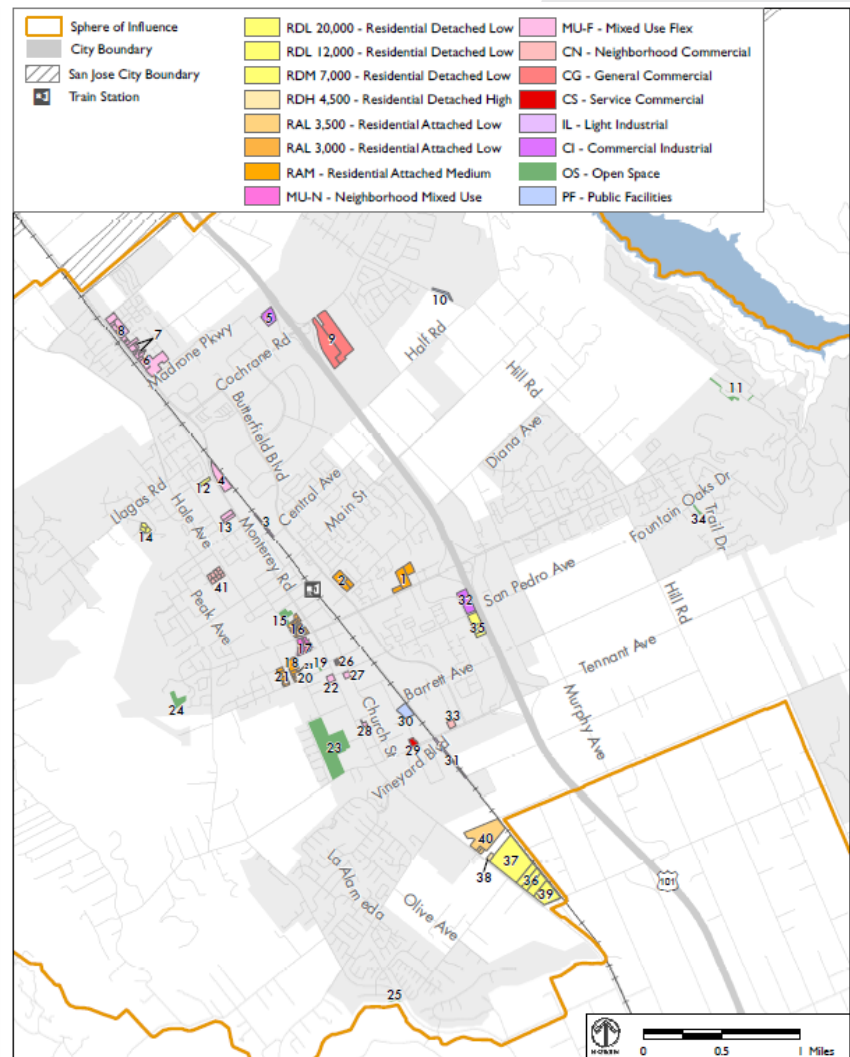


City of Morgan Hill Zoning Code

Municipal Code Title 18



Exhibit B



ZA2016-0006: Zoning Code Update

Exhibit C – Additional PC Recommendations

1. 275 Tennant Ave – Rezone from ML Light Industrial to CO Administrative Office
2. A. Clarify Hotel Height – maximum 4-stories/65-feet and consider impacts on adjacent development**
B. Retain existing CO Administrative Office Zoning
3. 70 W. 5th St – Support proposed rezoning to RAL 3,000
4. Minor Exception for Lot Width

** See Additional Staff Recommendations

ZA2016-0006: Zoning Code Update

Exhibit C – Additional PC Recommendations

- 5. 900 Lightpost Wy – Retain (e) Light Industrial Zoning
- 6. 50 Myrtle Ave – Remove (e) PD Overlay
- 7. Revise Floor Area Ratio Calculation – Exclude some front porches
- 8. Nina Ln – Rezone to RDL 20,000
 - A. Retain (e) CO zoned properties**
 - B. Add definition of Traffic Control Devices and ref. to Chapter 10.16

**** See Additional Staff Recommendations**

ZA2016-0006: Zoning Code Update

Additional Staff Recommendations



1. Exhibit D

- A. Add clarifying language to Section 18.26.010 – lodging uses that support primary job generating uses within business park settings are permitted in the CI Commercial Industrial district **(Change from PC Recommendation)**
- B. Modify height in CH Highway Commercial and CI Commercial Industrial districts to read, “4-stories or 55-feet, whichever is less” and delete Sections 18.24.030B and 18.26.030B Hotel Height in CH and CI Districts **(Change from PC Recommendation)**

2. Fix typos, formatting

3. Correspondence

- A. Caputo/Tennant - change from CO Administrative Office to CS Service Commercial Zoning District **(Change from PC Recommendation)**

ZA2016-0006: Zoning Code Update

Additional Staff Recommendations



3. Correspondence (cont.)

B. Commissioner Mueller

- 1) Existing CO zoned properties to remain CO, except Caputo/Tennant site should be CS
- 2) Revisit the CN Neighborhood Commercial district development standards after Zoning Code Update
- 3) **Delete “and other activity centers” from Section 18.22.010.B.2 (Change from PC Recommendation)**
- 4) Leave “typically” in Section 18.22.010.B.3 Mixed Use Flex
- 5) Leave “typically” in Section 18.18.010.B.3 Residential Attached High
- 6) **Correct zoning map to reflect 2016 zoning change from R3 to R2 (PD) (Change from PC Recommendation)**
- 7) No change to Cochrane Commons PUD
- 8) No change to existing commercial (PD) zoned properties on west side Monterey Road south of Watsonville Road

ZA2016-0006: Zoning Code Update Recommendation



1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Consider the Addendum to the Morgan Hill 2035 EIR in accordance with CEQA and Introduce Zoning Code Update Ordinance – approving a Comprehensive Update of Title 18 – Zoning of the City of Morgan Hill Municipal Code, including an Amendment to the City’s Official Zoning Map, with Additional Planning Commission and Staff Recommendations

Thank You



CITY OF MORGAN HILL



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o. 415.766.3526 f. 415.402.0058
PANWALALAW.COM

Item # 15
AGENDA DATE: 05/16/18
SUPPLEMENT # 1

May 14, 2018

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

Dear City Council:

Re: Hotels in Commercial-Industrial Zoning Pursuant to Zoning Code Update

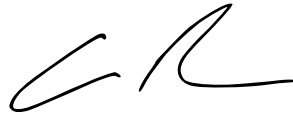
In reviewing the Zoning Code Update, it contemplates hotels as a permitted use in the “Commercial-Industrial” zoning district in a general plan land usage of “Commercial-Industrial.” *See* Zoning Code Update 26-3. Furthermore, the zoning code update states that a height of 65 feet may be permitted for a hotel in “commercial-industrial” zoning district. *See* Zoning Code Update 26-6. Thus, it is clear that the City believes hotels are permitted in “commercial industrial” zoning districts, a new zoning district created in the Zoning Code Update.

However, the general plan adopted in 2016, states that “The purpose of the Commercial/Industrial designation is to promote job-generating development of lands, generally located along Highway 101, by allowing greater flexibility in terms of allowing a varied mix of industrial, office, and commercial uses that are compatible with existing development. Specifically, this designation would allow office, research and development, light industrial uses, and similar uses, and would also allow amenities, such as retail services, restaurants, and *lodging to support the primary job generating uses within business park settings.*” *See* CNF at 14 (italics added).

I believe a clear reading of the general plan is that lodging that may be permitted in commercial industrial land usage *does not* include hotels as hotels are open to the general public. Hotels are geared towards tourists rather than providing lodgings to visitors to a business park. I understand that there may only a few parcels zoned “commercial-industrial,” but a zoning ordinance that is inconsistent with the general plan at the time of enactment is invalid. *See Leshner Communications v. City of Walnut Creek* (1990) 52 Cal.3d 531, 545-46. Government Code § 65860 requires consistency between the general plan and zoning, and thus any court would invalidate that section of the zoning code update.

Also, the zoning code update indicates that hotel use is permitted in commercial zoning district. However, the general plan update from 2016 notably does not permit hotel use. Thus, it appears that the hotel use cannot be permitted under the land use designation of commercial.

Sincerely Yours,

A handwritten signature in black ink, consisting of a stylized 'C' followed by a large 'R' and a horizontal line extending to the right.

Asit Panwala

Zoning Code Update

Commissioner Mueller Questions/Concerns (5/2,10,12,13/18)

Staff Initial Responses (5/3/18), Revised Responses (5/10/18),
and (follow-up 5/11/18, 5/16/18)

From: John Baty

Sent: Wednesday, May 16, 2018 10:54 AM

To: 'Joe Mueller' <JoeMueller@verizon.net>

Cc: Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>; Leslie Little (Leslie.Little@morganhill.ca.gov) <Leslie.Little@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

Good Morning Joe,

I'm combining your two recent emails (below) into this one response email. I'll consolidate these recent comments/responses with the previous email chain of comments/responses into one PDF.

Question 1. I agree that, for the Caputo/Tennant site, the change from the existing CO Administrative Office Zoning District to the CS Service Commercial Zoning District, makes more sense than the CN Neighborhood Commercial District that was previously proposed.

Question 2. The 2 Serene Drive parcels that had their General Plan designations changed from residential to commercial during the Morgan Hill 2035 General Plan Update are located outside of the existing City Limits and Urban Service Area (USA). It will probably be some time before this area is annexed and in that time we could work-out more details for how best to integrate small scale commercial within existing and new neighborhoods. The Jackson Oaks example is an interesting one. The site has a residential General Plan designation and zoning. One future possibility would be to allow (through General Plan policy and zoning) residential developments to include small neighborhood serving retail without having to change their GP/zoning.

Question 7. There is no mis-match between the Mixed-Use Flex General Plan designated portion of the Cochrane Commons shopping center and the existing Planned Unit Development (PUD) Zoning (i.e., the PUD zoning is consistent with the Mixed-Use Flex GP designation). The Mixed-Use Flex General Plan designation allows commercial development that is consistent with the Commercial General Plan designation. If the Cochrane Commons shopping center owners want to propose residential uses on the Mixed-Use Flex designated portion of their site, they may submit an application for an Amendment to their PUD, which is a zoning change that would be reviewed by the Planning Commission and approved or denied by the City Council.

Question 8. As you noted, the General Plan policy that discourages commercial south of Watsonville Road has been around for decades (at least it was in the 2001 General Plan and was retained in the Morgan Hill 2035 General Plan). In 2011 when the City Council approved the General Plan Amendments that changed portions of the area on the west side of Monterey Road, south of Watsonville Road from residential to commercial, I wouldn't say that this policy was ignored. The policy was highlighted as the reason why the Planning Commission in November 2011 recommended denial of the proposed land use change and the City Council had the benefit of the Commission's discussion and recommendation when they discussed and ultimately approved the land use change in December 2011. Subsequently, the General Plan Update process provided an opportunity to revisit the land use designations for this area. The commercial parts

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

that are in the Urban Service Area (USA) were designated Mixed-Use Flex and the parts outside of the USA are designated Commercial. The appropriateness of the Commercial designation and/or the General Plan policy that discourages commercial south of Watsonville Road can be revisited through a subsequent General Plan Amendment process.

Thanks,
-John B.

From: Joe Mueller <JoeMueller@verizon.net>

Sent: Sunday, May 13, 2018 6:35 PM

To: John Baty <John.Baty@morganhill.ca.gov>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

Importance: High

John,

Good morning,

I am going to response to your responses to my original question list that I have not addressed yet. We all understand the relationship between Goals and Policies in the GP and Zoning Code and the possibility of conflict between Goals or Policies when looking at a particular site.

My concern in Questions 4 and 5 is about the addition of the words in the purpose sections of the two Zoning Codes. As a reminder in the introduction of the 2035 GP, a Policy is defined as follows:

A **policy** is a specific statement that sets standards to guide decision-making as the City works to achieve a goal. Such policies, once adopted, represent statements of City regulation...

In Section 18.04.040 says

The purpose of the Zoning Code is to implement the General Plan and to protect the public health, safety, and welfare.

And Section 18.05.050 says

The Zoning Code implements the City of Morgan Hill General Plan by establishing detailed regulations for land uses, structures and activities in Morgan Hill. . All land uses, structures, and activities in Morgan Hill shall be consistent with the General Plan.

I believe that the Zoning Code purpose statements should be closer to the language of GP purpose statements. The word "typically" added to the purpose statements implies a level of flexibility that the GP purpose statements do not indicate. In addition for

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

MU-F, we probable need different performance standards depending on where the district is applied. For example, the size and scale of Monterey Corridor projects will be very different than a project on ¼ of the land in a large shopping center.

For Question 7, my concern is about the mismatch between the GP land Use Designation (MU) and the Underlying Highway Commercial Zoning. In the Proposed Zoning Code. In the Mixed Use Section, Highway Commercial does not appear. As I indicated above, the requirements for a large project should be different than smaller projects in order to achieve goals of this land use regulation. I believe it will take more than a PD change to address the conflict. The Proposed Zoning Code Update, Section 18.30.050.C.2 indicates that the uses cannot be expanded beyond the underlying zoning.

For Question 8, The impacts of placing a large area of Commercial land south of Watsonville Road will last for decades and is much broader than just adding revenue to the City. By removing all that land from land available for deed restricted affordable housing, work force housing (if deed restricted required) and more affordable market rate housing, more of this type of housing will need to be built along Monterey north of Tennant (especially the deep levels of affordability) which will put additional pressure on the land needed for commercial development in the area between Tennant and Dunne. In addition, it will mean all the major gateways to Morgan Hill will be dominated by commercial development. We are basically ignoring a GP Policy that has been in the GP for decades.

Please let me know if you have any questions.
Thanks for all the help.

Joe

From: Joe Mueller <JoeMueller@verizon.net>

Sent: Saturday, May 12, 2018 6:09 PM

To: John Baty <John.Baty@morganhill.ca.gov>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

John,

Good morning,

On your responses to Questions 1 and 2. For Q1, I did not realize that the existing zoning was CO. I am not sure the size of the remaining parcel. Assuming that the CUP for the Car Wash is approved and it gets built, then it would be good for the remaining portion of The site to have a building that would be a buffer between the Car Wash and the current industrial buildings. I will try to review the other commercial zones.

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

On Question 2, I am thinking exactly what you described that is why I have been so concerned about the size of the parcel and the development standards. The GP Policies I referred to earlier are CNF 12.1 to CNF 12.4. During the GP Update process someone asked for a commercial site on the extension of Serene Drive just south of the business park. The PC decided that a change to commercial would need to happen outside the GP Update to make sure the residents in the area had a lot of input. I thought that CN zoning was being set up to these neighborhood centers. There is a small commercial area on Jackson Oaks just off East Dunne at the top of the hill just before the entrance to Holiday Lake Estates. There is a small non-residential area on Watsonville Rd. and Calle Enrique. The Jackson Oaks site has been used for retail over the years sometimes successfully. The Watsonville site has an office building right on the corner. I believe there are other areas of the City that might welcome a small center close by. I believe these sites need 4 to 7K of space to be successful.

I believe Q1 is resolved with the proposed zoning changing from CN.
Do you have additional thoughts on Q2?

Thanks for all the help.

Joe

From: John Baty

Sent: Friday, May 11, 2018 9:04 AM

To: 'Joe Mueller' <JoeMueller@verizon.net>

Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Zoning Code Questions

Good Morning Joe,

You are welcome. Thank you for the below follow-up.

For the Caputo site (nw/c Caputo Drive and Tennant Avenue), staff had proposed applying the CN Neighborhood Commercial Zoning District when the CO Administrative Office district was proposed to be eliminated. With the Planning Commission recommendation to retain the CO district, the site could retain its existing CO zoning (like other existing CO zoned sites). Or, since it has a Commercial General Plan designation, it could be rezoned to some other commercial district, perhaps one that makes more sense than either CO or CN. Given that it is surrounded by industrial uses and industrial designated properties, maybe the CS Service Commercial Zoning District would make sense.

If what you are saying is that the development standards (e.g., setbacks, etc.) in the current and proposed CN Neighborhood Commercial Zoning District could make it difficult (maybe very difficult) to successfully connect/integrate neighborhood scale/serving commercial uses in neighborhoods, I agree. If providing for the possibility of small scale commercial in neighborhoods is something the community is really interested in seeing happen, I think we need to take a look beyond just the CN district to the General Plan and perhaps other zoning districts to provide better guidance for where and how this could/should be allowable.

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

Thanks,
-John B.

From: Joe Mueller <JoeMueller@verizon.net>
Sent: Thursday, May 10, 2018 8:40 PM
To: John Baty <John.Baty@morganhill.ca.gov>
Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Subject: RE: Zoning Code Questions

John,

Good morning,
Thanks for the update and all the help working through all my concerns.
Questions 3 and 6 are resolved.

On questions 1 and 2 are about Neighborhood Commercial Zoning and how it is used. The first question is about where the CN zoning is being used on the Proposed Zoning Map. I believe it should only be used in residential neighborhoods.

Your response address the use in places that under current zoning are AO. I went back and looked a the Proposed Zoning Map again. I believe the parcel on the corner of Caputo Dr. and Tennant which currently has a CUP application before the PC is proposed to be zoned CN. I believe that CN should not be used in an area that is zoned Industrial/Commercial Area. I believe the Parcel has a GP designation of Commercial.

Question 2 is about how CN parcel is connected to and integrated into the residential neighborhood in order to generate a sense of place on a scale appropriate for the surrounding neighborhood. The proposed Zoning

Code only talks about the increased setbacks. I will look up the related GP Policies.

I will respond to the rest of your answers but I will probably not get it sent until Saturday evening.
Thanks for all the help.

Joe

From: John Baty <John.Baty@morganhill.ca.gov>
Sent: Thursday, May 10, 2018 5:08 PM
To: Joe Mueller (Verizon) <joemueller@verizon.net>
Cc: Leslie Little <Leslie.Little@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Subject: RE: Zoning Code Questions

Good Evening Joe,
I re-read question/comment #3 and understand now that you were inquiring about the MU-N Mixed Use Neighborhood designation; had initially thought you were commenting on the Mixed Use Flex district.
Agree with deleting the part about "other activity centers".

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

Also, did some additional digging re: the Condit-Evergreen zoning. Thanks for that heads-up. The easterly half is R-2 (PD). We'll fix the map.

Attached is a PDF with my **initial responses** with **revisions**. Let me/us know if you have any follow-up questions/comments.

Thanks,
-John B.

From: Jennifer Carman
Sent: Thursday, May 03, 2018 5:32 PM
To: Joe Mueller (Verizon) <joemueller@verizon.net>
Cc: John Baty <John.Baty@morganhill.ca.gov>; Leslie Little <Leslie.Little@morganhill.ca.gov>
Subject: FW: Zoning Code Questions

Hi Joe:

John prepared initial responses to your questions below.

Jennifer

From: Joe Mueller <JoeMueller@verizon.net>
Sent: Wednesday, May 2, 2018 11:19:39 AM
To: Jennifer Carman; Leslie Little
Subject: Zoning Code Questions

Jennifer, Leslie

Good morning,

Below are my concerns with the current Draft of the Zoning Code that I did not get a chance to raise during the 12th PC meeting:

1. Unfinished conversation: At the April 12 Meeting during the discussion of 275 Tennant, I raised the issue of how Neighborhood Commercial is being used. I believe a couple of other Commissioners expressed some concern about the same topic. The general conversation has not happened. GP 12 Goal and Policies indicate that NC should be in a residential area. Example, I believe that the northwestern corner of Caputo and Tennant is NC. The PC changed 275 Tennant from NC to AO.

If the CO Administrative Office Zoning District is retained as recently recommended by Planning Commission, properties that are currently zoned CO (under the existing Zoning Code) would no longer need to be rezoned to some other commercial zoning district such as CN Neighborhood Commercial or CG General Commercial, they could remain CO.

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

2. Unfinished conversation: I have raised a couple times about how the Zoning Code supports to connections between the NC and surrounding residential areas. The Zoning Code focuses on increasing the distance between the two uses. I have also raised the issue of project area for NC.

Is this a concern about setbacks required for projects in the CN Neighborhood Commercial Zoning District or 18.92.130 Residential Transition Standards, which may require increased setback, height, and landscaping standards for non-residential projects that are directly adjacent to residential? If the concern is that these standards are too restrictive, that's a conversation we can note and bring back.

3. Mixed Use Flex N, 18.22.010 B2: The words "and other activity centers" have been added to the purpose of the zoning district. The GP definition for Mixed Use Flex (page CNF-12) clearly indicates that the primary use for this designation is along Monterey and near downtown. The last sentence in the GP definition: "The MU-N zoning district provides a transition between the higher intensity uses in the Downtown Core to lower density residential neighborhoods." This indicates that the MU-N is to be used around the Downtown Core. What is the definition of " other activity centers?"

Initially I read this as being a question regarding the Mixed Use Flex General Plan Designation and the corresponding MU-F Mixed Use Flex Zoning District, but after re-reading the comment/question, I understand this to be a comment/question about the MU-N Mixed Use Neighborhood Zoning District. With that understanding, I agree that the addition of "and other activity centers" is, at the very least, not necessary and imprecise (i.e., "other activity centers" is not defined), and could be misleading as to where the MU-N district could be applied. Since the Mixed Use General Plan designation is closely related to the Downtown and Downtown Specific Plan, the application of this designation to properties that are not in close proximity to the Downtown is highly unlikely. Staff supports the removal of, "and other activity centers" from Section 18.22.010.B.2.

4. Mixed Use Flex F, 18.22.010 B3: The word "typically" has been added. The first sentence in the GP definition for Mixed Use Flex (page CNF-12) says " The Mixed Use Flex designation, which is primarily applied to properties along Monterey Road Corridor north and south of downtown...." Typically is not a synonym for primary.

Typically implies that the zoning district could be applied in many locations. One of the main goals of the GP Update was to establish land use designations and zoning districts that are focused on Monterey Corridor to guide the redevelopment of the Corridor.

The Planning Commission recommended, and the City Council approved the General Plan Update in 2016 with the Mixed Use Flex General Plan Land Use designation and that designation was applied to properties located primarily along the Monterey Road Corridor, but also on properties on East Dunne Avenue at Walnut Grove Drive and on a portion of the Cochrane Commons

Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

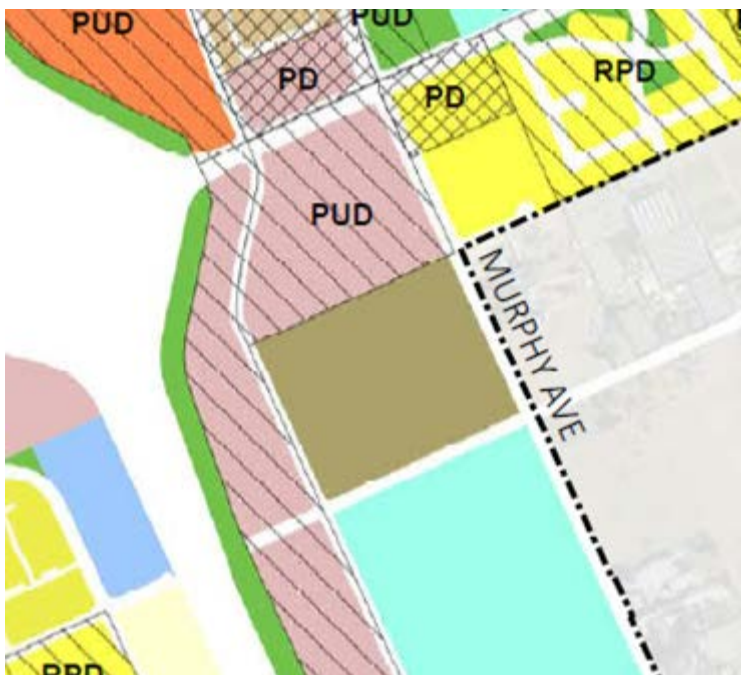
Shopping Center. Ultimately the City Council decides how to apply the Mixed Use Flex General Plan designation and MU-F Mixed Use Flex Zoning District.

5. Residential Attached High, 18.18.010 B3: The word “typically” has been added. On page CNF-12 the GP defines Residential Downtown as “Small pockets of Residential Downtown, the highest density residential designation is centered around Downtown and the commuter rail station. Development within this area must be supportive of transit oriented design.” There are no qualifiers in this definition, therefore we should not add a word that implies the zoning district can be used in other areas of the City. Zoning Code 18.04.050 defines the relationship between the Zoning Code and the General Plan.

The RAH Residential Attached High Zoning District could only be applied to a property if consistent with the underlying General Plan Land Use Designation. In the case of the RAH Zoning District, it is only consistent with the Residential Downtown General Plan Land Use Designation, which is currently only applied to two sites, both of which are developed/under development. In the highly unlikely event that the City Council chose to change the General Plan Land Use designation of a site that is located outside of, “around Downtown and the commuter rail station” to Residential Downtown, the RAH Zoning District would be the appropriate district to apply to that property.

6. Zoning Map, North side of San Pedro between Condit and Murphy: The two properties on the north side have two different zoning districts: RAM and RAL

Our records show that this site was rezoned from CG General Commercial to R-3 Medium Density Residential (Ordinance No. 2160, NS adopted September 2, 2015). Subsequently, the easterly half of the site was rezoned (Ordinance No. 2214, NS adopted September 7, 2016) from R-3 to R-2 (PD) Planned Development. The draft zoning map will be corrected to show the approved R-2 (PD) zoning (light brown with PD hatch pattern) on the easterly half of the site.

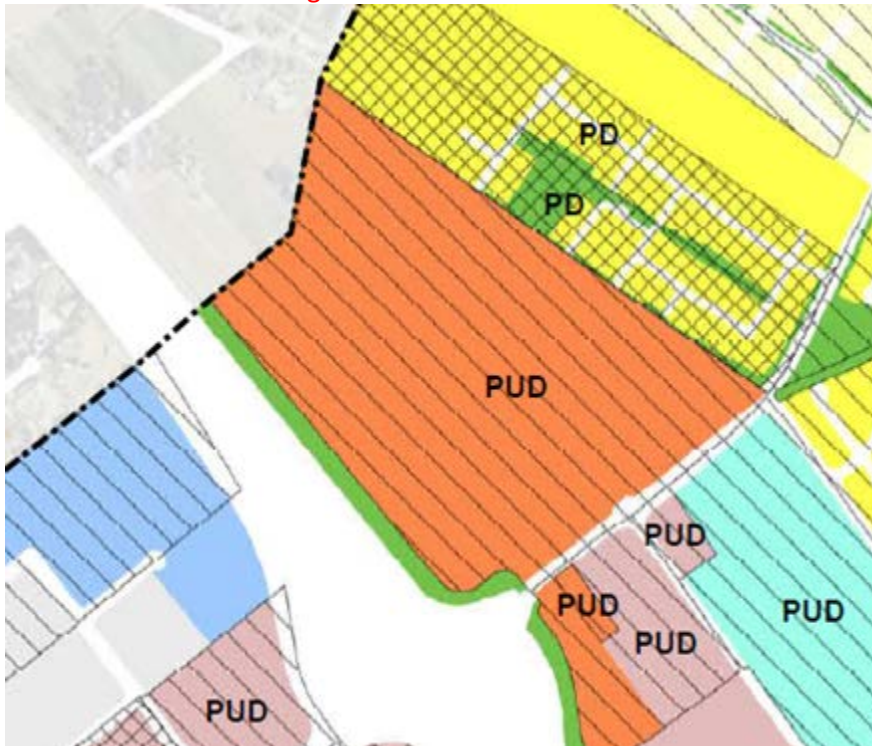


Zoning Code Update

Commissioner Mueller Questions/Concerns and Staff Responses

7. Zoning Map, Cochrane Commons: The GP Land Use Map shows part of the project Mixed Use Flex and the Zoning Map shows the whole project Highway Commercial. HC is not a zoning district associated with the Land Use Designation Mixed Use Flex.

The Cochrane Commons site is identified as a PUD as shown on the Zoning Map excerpt below (the underlying CH Highway Commercial color is just used for mapping/display purposes). The property owners will need to amend their PUD if they want to take advantage of the Mixed Use Flex General Plan designation that covers a portion of the undeveloped part of their site or they can maintain their existing entitlements.



8. Commercial Uses South of Watsonville Rd.: Both the GP and Zoning code have a consistency is with the land South of Watsonville along the West side of Monterey. GP Policy CNF-15.4 which says we should discourage commercial south of Watsonville.

We can re-visit the need to retain this policy during a future GP text clean-up process. The General Plan states that, "Policies that use the words "encourage," "promote," "discourage," "consider," or "should" are not mandatory; these policies provide guidance to the City, but the City is not required to follow them if they find that the policy is not appropriate for a particular situation or if there are other factors, such as budget limitations, that would make it difficult to follow the policy direction."

Please let me know if you have any questions.
Thanks for the help.

Joe

Mayan Popol Vuh "We did not put our ideas together. We put our purposes together. And we agreed. Then we decided."

Item # 15

AGENDA DATE: 05/16/18
SUPPLEMENT # 3





Cannabis Regulations and Taxation, Transient Occupancy Tax, and Tourism Business Improvement District



Policy Questions



1. Does the City Council desire for cannabis to be medicinally available to those 18 years or older and/or recreationally available to those 21 years or older in Morgan Hill?
2. Should the City Council decide to allow cannabis sales and other related industries (recreational and/or medicinal), shall a cannabis tax measure be placed on the November 2018 ballot to fund city services?

Policy Questions



3. Does City Council want to consider implementing cannabis regulations and fees in connection with cannabis-related activities prior to a potential November cannabis tax ballot measure?
4. Shall an increase of the Transient Occupancy Tax (TOT) measure be placed on the November 2018 ballot to fund city services?
5. Should the City continue to support the efforts to establish a Tourism Business Improvement District (TBID) to promote the area as a sports/recreation and wine tourism destination?

Survey Results



- Support for Sale of Medicinal Cannabis – 61.3%
- Support for Sale of Recreational Cannabis – 48.3%
- Informed support for Gross Receipts Tax on Cannabis Sales (up to 15%) – 63.6%
- Informed support for Increasing the Transient Occupancy Tax to 14% rate – 63.9%
- Informed support for Increasing the Transient Occupancy Tax to 12% rate – 69.3%

Cannabis Permitting & Taxation



- Those strongly opposed to recreational cannabis exceed those strongly supportive by margin of 37.8% to 26.7%
- HdL recommends that tax rate not exceed cumulative rate of 30% which allows a maximum local rate of 6%
- 6% tax rate on two of each use (cultivation, production, testing, and sales) yields \$1.2 million annually

Transient Occupancy Tax (TOT)



- TOT rate is 10% and paid by hotel guests
- \$2.7 million in FY 2017-18
- Increase requires voter approval and could be used for infrastructure, police patrols, fire services, and other City Services
- 2% or 4% increase = \$540K or \$1.1 million

Transient Occupancy Tax (TOT)



- Hotels expressed concern that TOT increase above 2% may result in reduction in hotel stays
- A variable tax rate that Council can raise or lower in the 12-14% range is one possible solution
- Establishing a not-to-exceed amount is a strategy that has worked in other areas to allow flexibility without having to return to voters
- Potential state ballot measure requiring 2/3 vote

Tourism Based Improvement District (TBID)



- Potential TOT increase should be evaluated while also considering establishment of TBID
- Tourism is defined in Economic Blueprint as one of four key industries
- Hotels are generally supportive
- Funds raised through TBID restricted to uses related to increasing hotel stays

Tourism Based Improvement District (TBID)



- To move forward with TBID, need support of majority of hoteliers
- Hotel group generally supports 1.5% TBID with seven or nine person BOD (5 hoteliers, City, and community representation)
- Funds would be managed by TBID BOD

TOT and TBID



- 1.5% = \$405K
- 2.0% = \$540K
- 4.0% = \$1.1 million
- TOT – revenue for infrastructure, public safety, and city services
- TBID – funds provided to non-profit to use for marketing and initiatives to increase overnight stays

Downtown Property Based Improvement District (PBID)



- Downtown PBID established in 2006 and renewed in 2011 for additional five years
- PBID assessments funded:
 - o Capital Improvements
 - o Economic Development and Marketing
 - o Pedestrian Security and Safety
 - o Public Policy and Advocacy

Downtown Property Based Improvement District (PBID)



Issues

- State law requires that City contract with non-profit organization for operation and administration; in 2007 City contracted Morgan Hill Downtown Property Based Improvement District (MHDPBID)
- City terminated PBID management agreement in 2013 as organization lost non-profit corporate status

Downtown Property Based Improvement District (PBID)

Issues cont.

- Lessons learned from demise of PBID:
 - o Important to invest in professional services to manage finances and reporting requirements
 - o Makeup of Board should be inclusive to ensure adequate oversight and engagement of all stakeholders
 - o Should be adequate checks and balances to ensure funds are spent and accounted for properly

Downtown Property Based Improvement District (PBID)



Status

- MHPBID solved corporate standing issues, however, PBID lapsed and Downtown property owners would need to vote on new assessment to renew or create new PBID
- City holding approximately \$100,000 in unspent PBID funds
- Staff met with Downtown property owners in 2016; no clear interest to renew District

Next Steps



- Seeking direction on potential cannabis and TOT measures, as well as establishment of TBID
- If directed to proceed with tax measure(s), will return in August with proposed ballot language for Nov. 2018 ballot
- If Council wants to proceed with TBID, will return with a management plan
- If directed, will return with proposed regulatory ordinance for allowable uses of medicinal and/or recreational cannabis

Questions?



17485 M

Morgan Hill, CA 95037

(408)779-9444, info@morganhill.org**2018 Board Executive Committee**Board Chair: **Rich Firato**, Firato Janitorial Morgan Hill LifeVice Chair: **Diana Wood**, Wood MotivationPast Chair: **Robert Airoidi**, Morgan Hill LifeBoard Secretary: **Fawn Myers**, Morgan Hill Unified School DistrictTreasurer: **Phil Couchee**, Recology South Valley**2018 Board Members****Matthew Bowen**, Real Estate Solutions**Bill Gardner**, Silicon Valley Relocation Services**Heather Geddes**, Santa Clara County Library**Ken Murray**, Associate Member**Dusty Perryman**, Associate Member**Ashis Roy**, Holiday Inn Express**John Varela**, Santa Clara Valley Water District**Mark Phillips**, Cochrane Road Self Storage**Sunday Minnich**, Minnich Productions

May 15, 2018

Dear Mayor Tate and Council Members Carr, Constantine, Jachimowicz, and Spring:

The Morgan Hill Chamber of Commerce has spent a great deal of time working with other local organizations on the challenge of establishing our community as a recognized tourist destination. We urge your support for the formation of a Morgan Hill Tourism Business Improvement District (TBID) to meet this need. Communities throughout California have demonstrated the viability and effectiveness of well-designed TBIDs.

Morgan Hill has long spoken about the desirability of building a tourism industry as a complement to our other economic sectors. Public and private entities have built significant tourist attracting assets such as the sports facilities, downtown food, beverage and entertainment venues and an underappreciated county park while our region has become a growing winery and cycling mecca. All of this means that we have something to sell. But, we haven't had the resources to do the selling part of the job.

Even with our attractive consumer assets, business users remain by far the predominant customers for local hotels. Establishing a TBID will enable those with the most to gain from growing overnight stays the ability to target opportunities which grow the business for the benefit of the hotels and other tourist serving businesses. This increased activity will then drive significant increase city revenues primarily through increased Transient Occupancy Tax (TOT) and sales tax revenue opportunities.

At this point in time the best thing we can all do is to increase the size of the pie of economic activity before considering ways for government to take a bigger slice of the pie through an increased TOT rate. Increasing the TOT rate without doing significant things to increase the underlying utilization rate of our hotel resources may well be counterproductive. The economic principle of price elasticity of demand tells us that if there was money to be made easily through increased final room costs, the hotels would already be charging higher prices. A TBID would result in a slight increase in room costs, but we and the hotel operators believe the associated business attraction efforts will drive additional demand which more than offsets those slightly increased net prices. Morgan Hill's private and public sectors stand to gain from establishing a TBID, and we ask for your support.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John T. Horner".

John T. Horner
President & CEO

From: [Christina Turner](#)
To: [Michelle Bigelow](#); [Angie Gonzalez](#)
Subject: FW: FW: Data On School Discipline Rates
Date: Tuesday, May 15, 2018 10:23:23 PM

From: Linda Row <rowl@mhusd.org>
Sent: Wednesday, May 9, 2018 4:40 PM
To: Christina Turner <Christina.Turner@morganhill.ca.gov>
Cc: Steve Betando <betandos@mhusd.org>; David Swing <David.Swing@morganhill.ca.gov>
Subject: Re: Data On School Discipline Rates

Hello,

We are seeing an increase in the number of discipline incidents related to the possession and use of controlled substances and paraphernalia on our school campuses or at school-sponsored activities. There are many variables in play -- the kind of intoxicant, whether a student was in possession or under the influence, whether or not they furnished or sold substances to others -- but the simple incident numbers are up.

Regards,
Linda Row

From: Linda Row <rowl@mhusd.org>
Sent: Wednesday, May 9, 2018 4:16 PM
To: Christina Turner <Christina.Turner@morganhill.ca.gov>
Cc: Steve Betando <betandos@mhusd.org>
Subject: Data On School Discipline Rates

Hello Ms. Turner,

Superintendent Betando asked that I compile some student discipline data that reflects the rates of controlled substance-related incidents on our secondary campuses over the last three years. I have attached link to a Google sheet that shows these incident rates both as a table and as individual school charts.

I hope this information is helpful; please let me know if I can answer any questions about the data.



[MHUSD 3 Year Discipline Data: Controlled Substance](#)

Sincerely,

--

Linda Row

Director of Student Services and Enrollment
Morgan Hill Unified School District
(408) 201-6068
RowL@mhusd.org

"Be excellent to each other." - Bill and Ted

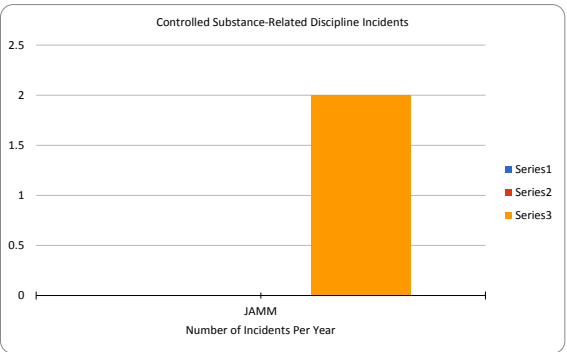
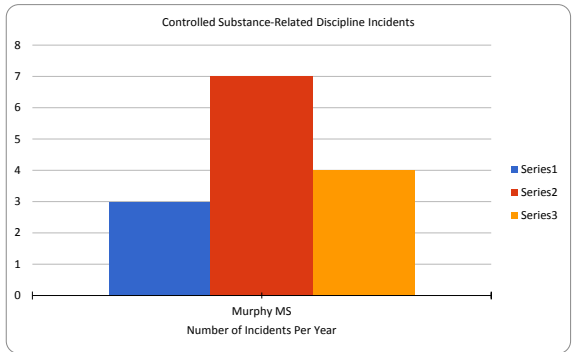
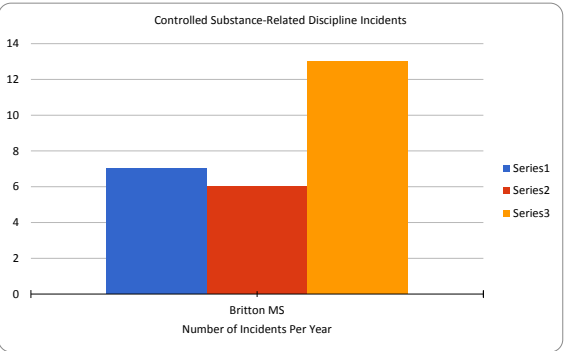
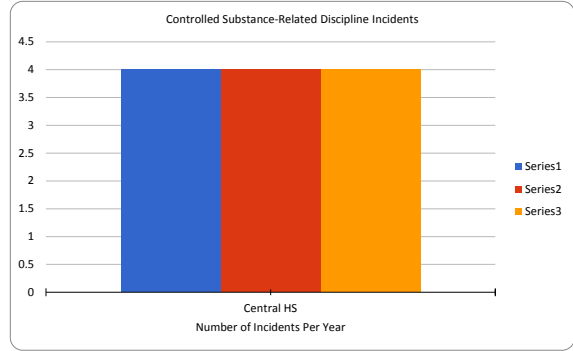
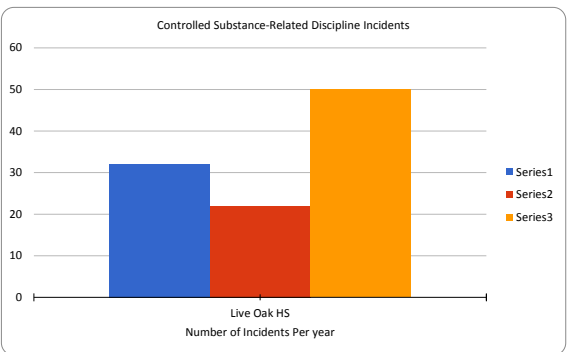
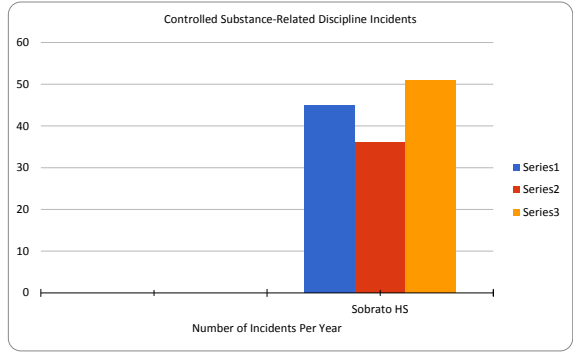
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	2015 - 2016	2016 - 2017	2017 - 2018 YTD
Sobrato HS	45	36	51
Live Oak HS	32	22	50
Central HS	4	4	4
Britton MS	7	6	13
Murphy MS	3	7	4
JAMM	0	0	2

Offenses include possession, use, furnishing or sale of controlled substance; possession of drug paraphanelia. The numbers represented are incidents, not students; one student might be suspended mutiple times for controlled substance issues. Incident numbers do not differentiate between types of controlled



Item # 16

**AGENDA DATE: 05/16/18
SUPPLEMENT # 3**

May 15, 2018

Mayor Steve Tate and City Council
Morgan Hill City Council
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Re: May 16, 2018 City Council Meeting Agenda item 16
Increase in TOT Increase and/or Creation of TBID

Mayor Tate and Councilmembers,

I am in support of investing in promoting tourism in Morgan Hill.

Tourism is recognized as one of the four key elements to our overall economic growth.

We decided and proclaimed as a community that we want to take advantage of all the natural beauty, rural charm, recreation opportunities, agri-business (including the local wine region), and our downtown and show it to the world so they will come and enjoy what we do every day.

Promoting our community, like so many others in California, as a destination will bring more people to our hotels. This would have the same effect as raising the TOT rate by filling our rooms more completely, especially on weekends which is when they are currently the least used.

Promoting our Outdoor Sports Center and booking more events will also bring in more tax revenues from attendee purchases as well as make the OSC more profitable which in turn would return additional revenues to City coffers.

Promoting our downtown and the local wine region will bring in more people to stay, shop and dine in our community.

Tourism makes a profit on nothing more than being a fun, special and interesting place to visit that we already are.

Morgan Hill spends virtually nothing on tourism compared to similar cities. The Morgan Hill Tourism Alliance was created as a grass roots effort to promote Morgan Hill but even that effort cannot continue without funding. The member organizations of the MHTA understand that a fully funded professional effort is necessary to move to the next level of promotion that we all know this community deserves.

Tourism can be an incredibly significant industry in Morgan Hill but it needs a properly funded tourism agency.

I won't go into all of the details of the TOT vs TBID discussion but I can tell you this. If the TBID is not allowed to proceed or there is not a percentage of a TOT clearly dedicated to tourism promotion by statute then the potential of real tourism growth in Morgan Hill will die. There is no other sufficient funding source available in this community that I know of.

I sincerely request that the City Council review and fully understand the ramifications of a TOT increase that will feed the general fund without provisions for supporting tourism.

I sincerely request that the City Council understand the opportunity of allowing the TBID to proceed for at least a two-year period (until the next elections) at the 1 ½ percent rate proposed.

I sincerely request that the City Council looks at the possibility of having a combination of a lower rate TOT and the low rate TBID.

I sincerely request that the City Council look at the long term benefit of a robust tourism industry and how it can provide some of the revenues this city needs for its long term growth and maintenance.

I understand the City's needs for additional revenues to support items like additional police staffing and road repairs but I hope that there is a long term vision that does not kill our potential tourism industry before it gets a full head of steam

We are about to see the impacts of the Amgen Tour of California. How would we fund another effort to host that world class event if we don't have a TBID or dedicated portion of the TOT for funding in the future?

Please fully understand the different facets and impacts of the decision that you are about to make because there are so many.

I support tourism and the overall health of our city and they don't have to be mutually exclusive.

Thank you.

John McKay

Morgan Hill Resident of Seventeen Years

Item # 16

AGENDA DATE: 05/16/18
SUPPLEMENT # 4

From: Malisha Kumar

Date: May 16, 2018 at 4:55:49 PM PDT

To: steve.tate@morganhill.ca.gov, caitlin.jachimowicz@morganhill.ca.gov, Rene Spring
<RENE.SPRING@morganhill.ca.gov>, larry.carr@morganhill.ca.gov, rich.constantine@morganhill.ca.gov

Subject: Next Steps for Cannabis

Good Evening

I apologize for not attending tonight's meeting considering the topic of cannabis is on the agenda. I have a previous commitment to speak on a cannabis business panel in Santa Cruz. Below is the statement I had prepared for tonight's meeting.

Good evening Mayor Tate, City Council Members and fellow Morgan Hill community members.

My name is Malisha Kumar. My best friend has breast cancer. We met at Notre Dame High School our freshman year. She's only 41. This past weekend I took her mom up to Sacramento to see her for Mother's Day. Her mom is elderly and suffers from a number of aches and pains. During our visit I suggested to my friend's mom that she try a CBD tea to help her sleep. My friend already understands the medical benefits of cannabis and CBD. It is helping her to manage her own pain. To our surprise, her mom tried the tea and that night she slept. She thanked me the next morning saying she's never felt such relief. She was so excited to finally have her body relax, her back pain subside, and her anxiety reduced. And she was thankful that someone took the time to listen.

This is why we need access to cannabis. It has medical benefits. It can provide relief for our elderly, our terminally ill, our veterans, our neighbors, our friends...Our family.

Together with the Morgan Hill Library and the Santa Clara County Library District I will be presenting, once again, an educational seminar on cannabis called "Let's Talk Cannabis" on June 12th and July 9th at 7pm in the Morgan Hill Library Program Room. Please consider attending.

Thank you for your time.

Malisha

From: Joy
To: [Michelle Bigelow](#)
Subject: Public Comment Item 16 Tonight's Council Meeting
Date: Wednesday, May 16, 2018 6:21:02 PM

The people of Morgan Hill have spoken on this issue, during the election. Prop 64 passed among Morgan Hill voters. The additional survey echoed the voter's will. The continued dragging of feet by the majority of this council demonstrates the lack of understanding and a lack of willingness to carry out the will of the voters in regards to access of medicinal cannabis by adults in Morgan Hill. Allowing access here is NOT a matter of reinventing the wheel, this is NOT rocket science. Look to other cities where this has been done successfully and GET MOVING ON THIS ISSUE. We patients NEED local access. We have educated ourselves on this issue, it is well past time for Council to educate themselves on this issue and do the right thing. Stalling even further shows your disregard for the patients in your constituency.

Respectfully,
Joy Joyner
Medicinal Cannabis Patient

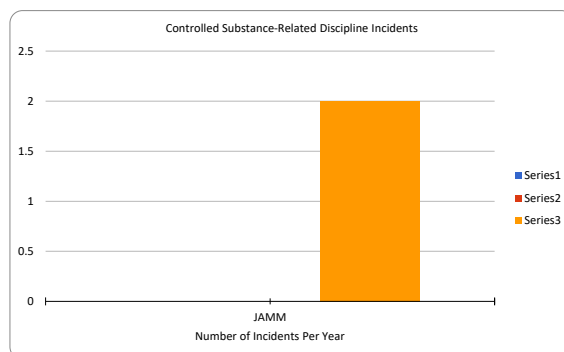
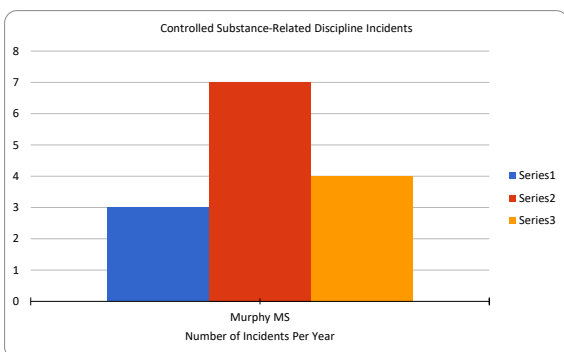
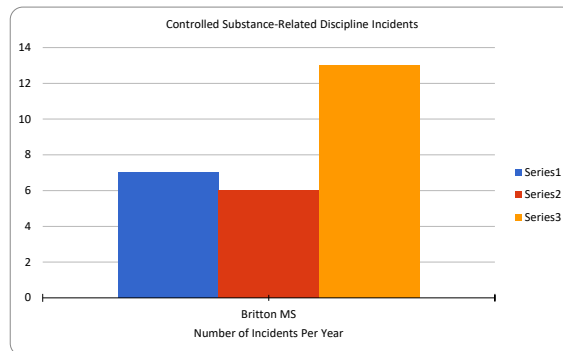
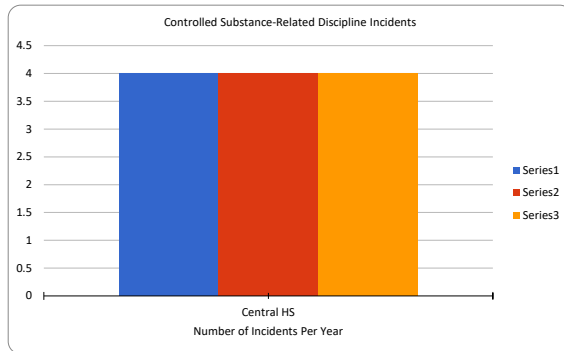
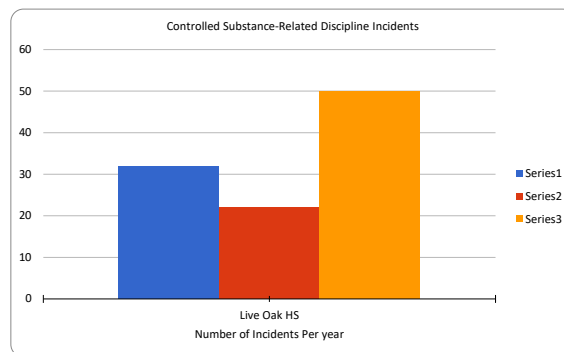
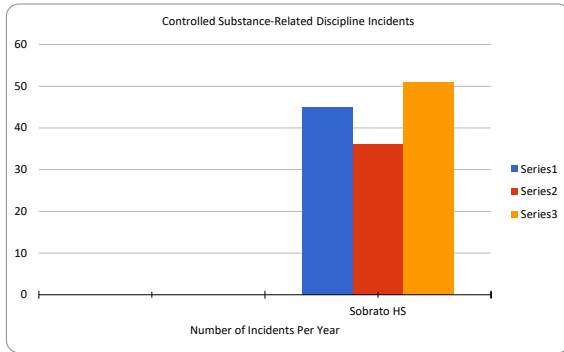
Item # 16

AGENDA DATE: 5/16/18

SUPPLEMENT # 6

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Offenses include possession, use, furnishing or sale of controlled substance; possession of drug paraphanelia. The numbers represented are incidents, not students; one student might be suspended mutiple times for controlled substance issues. Incident numbers do not differentiate between types of controlled



michaela Toscas
Inspire Positive LLC
916-740-0509
mtoscas@gmail.com

Item # 16

AGENDA DATE: 05/16/18
SUPPLEMENT # 7

weedmaps

Home MAPS OPENERS LEADS OPEN NOW MEDICAL RECREATIONAL

MARIJUANA DELIVERIES in Morgan Hill / Gilroy / H...

Business Type	Amenities	Business Name	Rating	Reviews	Status	Menu Items
CBDO		HOLLISTER - COMPASSION...	4.6	109	OPEN NOW	382 MENU ITEMS
		THREE BIRDS - MORGAN HILL	4.5	28	OPEN NOW	95 MENU ITEMS
		TOP SHELF EXPRESS	4.3	24	OPEN NOW	537 MENU ITEMS
kr		Kush Rush Delivery - Morgan...	5.0	6	OPEN NOW	405 MENU ITEMS
		GW Farms	4.9	168	OPEN NOW	174 MENU ITEMS
		Top Shelf Alternative Care - ...	4.1	130	OPEN NOW	109 MENU ITEMS
		Hollister's Pharmaceutical	4.9	481	OPEN NOW	84 MENU ITEMS
		Gilroy's Pharmaceutical	5.0	104	OPEN NOW	

live+love+léal

May 11, 2018

Frank Leal
300 Maranatha Drive
Hollister, CA 95023

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

Dear Morgan Hill City Council Members & Staff,

I am writing this letter to express my opposition to the proposed increase of the Transit Occupancy Tax.

As a wine grower, wine maker and the owner of several business located in Morgan Hill including the Granada Theatre, Sycamore Creek Vineyards, Willow Heights Mansion and the upcoming Granada Hotel, I believe the proposed increase in the TOT tax would significantly decrease and impair tourism in Morgan Hill. The Granada Hotel will be a boutique hotel with room rates in the \$200 - \$300 per night range. An increase in the TOT would excessively raise the overall cost of room rates to consumers and would diminish Morgan Hill's competitiveness in the lodging sector at a time when we are working as diligently as possible to build tourism in our region.

Rather than increasing the TOT, I strongly endorse the development of a Destination Marketing Organization followed by the implementation of a Tourism Business Improvement District assessment program. I believe the implementation of a TBID will allow the lodging establishments of Morgan Hill to finance and support projects aimed at tourism development, marketing, and advertising to benefit Morgan Hill. These programs could include the promotion of local agribusiness, wine trails, recreational, entertainment and other types of destination events, along with capital improvements, that will generate room nights for lodging properties in Morgan Hill. The funds generated by the TBID would be earmarked specifically for use by this DMO to collaborate as a group, with efforts to promote Morgan Hill as a premiere tourist destination leading to increased visitor spending and enhanced quality of life for the residents of Morgan Hill.

I strongly urge the City Council to veto any increase in the TOT and allow sufficient time for a TBID to be implemented and its success measured. Thank you for your consideration.

Sincerely,

Frank P. Leal
Owner/President

EL TORO GROUP LLC

17035 Condit Road • Morgan Hill, CA 95037 • Phone: (408) 776-7676 • Fax: (408) 228-0717
E-Mail: ashis@hiemorganhill.com Web: www.hiemorganhill.com



May 8th, 2018

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

Dear Members of the Morgan Hill City Council,

I am writing you to support the establishment of Morgan Hill's Tourism Business Improvement District (TBID) with a starting assessment of 1.5% to the hotels. After several years of discussion, most of the hoteliers are now finally in support of a TBID, which will assist in the City's goal of increasing tourism to our region. We are at a critical juncture right now, and a failure to create the TBID this time around will be loss to our community.

The Holiday Inn Express does not support raising the Transient Occupancy Tax (TOT) at this time, and doing so would erode support for the TBID from the hotels. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ashis Roy'.

Ashis Roy
Managing Member, El Toro Group LLC

5/11/18

City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attn: City Council, Mayor, City Manager and Economic Development
Re: T-Bid Letter of Support

Please know that One Stop Integration (OSI) as part of the hotel association is in favor of the proposed T-BID. This includes the reimbursement of startup fees to the city for Civitas and reimbursement of the Amgen promotional event.

Our hotel group and future board members look forward to working with the city to create new revenue streams for local tourism, thereby increasing hotel revenue and TOT tax. The timing is perfect and creates an exciting opportunity to create our brand identity starting with athletics, our south county wine region and local events.

The BID can support event promotions, seed money and tradeshow that relate to tourism; whether from the MHOSC, the tourism association or an event such as the Mushroom Mardi Gras.

OSI is also excited about creating additional revenue streams through this BID such as pay to play marketing, fundraising and advertising. It allows for giving back to the community with local sponsorships that relate to regional tourism; whether supporting events such as Spirit Softball, an art and wine festival or golf tournament.

Respectfully,

David Dworkin
One Stop Integration
305 Vineyard Town Center, #176
Morgan Hill, CA 95037

May 10, 2018

Dear Members of the Morgan Hill City Council:

The Residence Inn and Courtyard by Marriott are in full support to start a TBID for hotels of 1.5% of revenue. The monies for this TBID would be used to drive tourism to Morgan Hill, which in turn would help support the commerce of our community. The City of Morgan Hill has done a great job improving our downtown, it would be an awesome gesture from you to continue that support by approving the TBID. The ripple effect of increased occupancies in our hotels, drive new customers to our local restaurants and stores in our community, in turn bring you additional sales tax revenue. Additionally, with monies from the TBID, we can help improve city facilities that drive room nights to the hotels, such as the Morgan Hill Sports Complex.

An increase of TOT tax would have adverse effect on building tourism and in fact will result in loss of occupancy in Morgan Hill. Currently at least 40% of our revenue originates from travelers working in San Jose. With the supply of hotels in the South San Jose market, one of the competitive advantages the Morgan Hill hotels have is the savings by staying in Morgan Hill. By increasing the TOT we lose that competitive advance and this would result in loss of revenue to our hotels, which would be a loss of tax income for the city. Increasing the TOT tax would have a negative impact on our business and on the city.

Building tourism in Morgan Hill will help build our community. I appreciate your vote for yes to the TBID of 1.5%.

Thank you,

Karen C. Mendez
Director of Operations
Aimbridge Hospitality



May 14, 2018

Dear Members of the Morgan Hill City Council,

I am writing this letter in support of the proposed 1.5% TBID. Four years ago when I was presenting our hotel project to City Council, I said that a TBID would be critical to the growth and support for tourism in Morgan Hill. Now, with the City's investment in downtown and the huge opportunity to market the many tourism and leisure offerings of Morgan Hill, I believe this is a perfect time to launch this program.

This process has been difficult at times, as the hoteliers of the community are committed to making sure that this program fairly represents all stakeholders, and provides the greatest benefit to the community. However, the overwhelming response has been that this is a good thing for hospitality, and a good thing for the entire community.

My one hesitation is due to the discussion of increasing the TOT in Morgan Hill, which would make it very difficult to absorb both an increase in the TOT and a creation of a TBID. The large majority of the guests that stay in Morgan Hill are actually commuting the Bay Area for business, and therefore very price sensitive. Even a moderate increase in the net cost to our guests will be difficult to absorb, but any thought of a drastic change to the rate structure to which they have become accustomed may send travelers away.

The TBID implementation will demonstrate to every hotel, winery, restaurant, downtown community and every other business that relies on tourism that Morgan Hill supports them. A significant budget for marketing and promotion will be created immediately and will attract tourism and drive revenue. This program will have far better success in ultimately driving additional revenue to the City through helping businesses grow, rather than just increasing a tax.

Sincerely,

Andrew Firestone

La Quinta Inn and Suites, Morgan Hill

16210 Monterey Road
Morgan Hill, CA 95037

May 12, 2018

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

Dear City Council:

The Holiday Motel of Morgan Hill supports a tourism district at an assessment rate of 1.5%.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ramesh Mistry", with a long horizontal flourish extending to the right.

Ramesh Mistry



BY CHOICE HOTELS

May 12, 2018

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

Dear City Council:

The Comfort Inn of Morgan Hill supports a tourism district at an assessment rate of 1.5%.
We hope one will be created.

Sincerely yours,

San K. Panwala

BUDGET INN OF MORGAN HILL LLC

*19240 Monterey Road
Morgan Hill, CA 95037*

May 12, 2018

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

Dear City Council:

The Budget Inn of Morgan Hill supports a tourism district at an assessment rate of 1.5%.
We hope one will be created.

Sincerely yours,

San K. Panwala

San K. Panwala



Hampton Inn by Hilton Morgan Hill
16115 Condit Rd, Morgan Hill, California 95037

tel: **408.779.7666**
fax: 408.779.8757

Honorable Steve Tate, Mayor of Morgan Hill
Honorable City Council Members, City of Morgan Hill

Re: Hotel Created TBID and City TOT

Dear Mayor and City Council Members,

We fully support the effort in creating a TBID from the majority of lodging in Morgan Hill for the direct effort to improve tourism and sports/travel amenities for our community. Along with other hotels we are willing to join to form an immediate council of hotel members with the backing of a 1.5% allocation for this initiative and possible increases through demonstration of need and growth. In a long and lengthy process of discussions and research we know that our partners are ready to move forward to help contribute to exciting new improvements to local travel and tourism that can benefit every business and residential entity in our great city.

TBID Benefits

The funds allocated from the hotel and the repayment of Civitas for their guidance is the only reasonable and proven method for the on start of a large tourism drive in a community like our own. A budget of nearly \$500,000 dollars could be used to invest in and drive additional leisure, sports, youth, dining, and visitors to our area that multiple market segments could see substantial increases in revenue that would benefit our town and the taxpayers who rely on our city services. The answer is not arbitrary increases that have long term trickle down repercussions and little to no effect in growth.

TOT Increase

We are excited as previously stated to be part of a body that supports each other and creates a common body for the best interest of our industry and so many more here at home. However a TOT increase does not reflect a true to point revenue driver as does a focused initiative with one primary goal. TOT increases in areas like ours and even larger must be met with substantial infrastructure and planning to be driven into travel/tourism. That does not exist currently and there are many graveyards filled with failed TOT initiatives in California that has resulted only in increased costs to consumers, alienated markets, and a recession of spending as costs are passed along into compression or auxiliary markets. If a TOT increase was to be created we would not have the ability to further a TBID initiative and would need to prepare for a decrease in demand.



Hampton Inn by Hilton Morgan Hill
16115 Condit Rd, Morgan Hill, California 95037

tel: **408.779.7666**
fax: 408.779.8757

Action Now

We join with our other partners in agreeing to take action on this initiative immediately if the city council is willing to table the consideration of any TOT increase and allow our TBID the time to demonstrate the value and growth it can provide. We feel that with 4 other hoteliers and ourselves that we can contribute to a working board with common goals that will increase revenues into the local market drivers that will benefit all and give confidence to the residents of Morgan Hill in this city council body in improving their daily lives and allowing them to contribute more as well.

Summary

What can be done by a few can benefit everybody. Let us all make the right step to help our Downtown partners, our Sports Complexes, our Wineries, our small business leaders, and our growing hotel market so they are not simply in a shadow of a large urban center and can be greater the next day than they were before with a proven direction that gives substantial and reliable results we can count on.

A thought in travel Synergy:

"Our happiest moments as tourists always seem to come when we stumble upon one thing while in pursuit of something else." -Lawrence Block

Yours in creating inspirational travels,

Michael Meredith
General Manager
Hampton Inn Morgan Hill
Excel Hotel Group



**Special - Regular Meeting Agenda
City Council**

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

Wednesday, May 16, 2018 6:30 pm

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

AMENDED AGENDA

Please note that this agenda has been amended.

A third closed session item has been added.

Item 14, *Potential next steps on cannabis regulations and taxation, increase to transient occupancy tax, and establishment of Tourism Business Improvement District*, has been moved to the end of the agenda and is now item 16.

SPECIAL/REGULAR MEETING

(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)

A special meeting of the City Council is called at 6:30 p.m. for the purpose of conducting a closed session.

Closed sessions are not open to the public. Students should attend the 7:00 pm Regular City Council meeting.

SPECIAL MEETING

6:30 P.M.

CALL TO ORDER

(Mayor Tate)

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
(Deputy City Clerk Bigelow)

CLOSED SESSION

CLOSED SESSION ANNOUNCEMENT

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

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: California Supreme Court Case No. S243042

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Pursuant to Government Code section 54956.9(b)
Number of Cases: 1
Potential Plaintiff: Morgan Hill Hotel Coalition

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Pursuant to Government Code section 54956.9(d)(1)
Case Name: United States of America v. State of California
Case Number: U.S. District Court, Easter Dist., California No. 18-264

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.

May 16, 2018

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Carr

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PROCLAMATIONS

Proclaiming May 15, 2018 as National Peace Officers Memorial Day and the week of May 13-19, 2018 as National Police Week

Proclaiming the week of May 20-26, 2018 as Public Works Week

Proclaiming the Month of May as Older Americans Month

Proclaiming the Month of May as Foster Care/Resource Parent Awareness Month

RECOGNITIONS

Recognizing Gladys Aichele for 20+ years of volunteering with the Senior Center

Recognizing the Library Culture and Arts Commission for the Art a la Carte Program

Recognizing Merrill Lynch Morgan Hill for Community Services

PRESENTATIONS

YAC PRESENTATION - ASSET #18 YOUTH PROGRAMS

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. RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER

Recommendation:

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

2. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

Recommendation:

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

3. APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY

Recommendation:

Review and Approve the City Council and Planning Commission Email Policy.

4. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018

Recommendation:

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

5. REBUILDING TOGETHER REHAB PROGRAM AGREEMENT

Recommendation:

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

6. ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND

Recommendation:

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

7. AIRBNB VOLUNTARY COLLECTION AGREEMENT

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

8. AMEND REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HIGH SPEED RAIL AUTHORITY TO EXTEND THE TIME DURATION OF THE CURRENT AGREEMENT

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

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

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

12. APPROVE THE MAY 2, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

Estimated Time: 15 Minutes

PUBLIC HEARING

14. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Estimated Time: 10 Minutes

15. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Estimated Time: 60 Minutes

OTHER BUSINESS

16. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

Estimated Time: 75 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 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 safe, inclusive, socially responsible, environmentally conscious, and economically sound community.

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 ·
Enhancing Diversity and Inclusiveness

2018 STRATEGIC PRIORITIES

Community Engagement and Messaging

Economic Development and Telecommunications

Financial Stewardship

Infrastructure

Regional Initiatives

2018 STRATEGIC PRIORITIES:



Community Engagement and Messaging

The City of Morgan Hill will tell our story through outreach and by working closely with our community in presenting our vision, priorities, and financial needs, and by engaging citizens and business owners to find affordable and sustainable solutions. The City's communications, services, public spaces, and projects will embrace all community members as partners, encouraging public participation.



Economic Development and Telecommunications

The Economic Blueprint will continue to be implemented, with a primary goal of attracting jobs and investment into our community. 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 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 with private sector partnerships. The plan will be used to signal Morgan Hill's support for business expansion.



Financial Stewardship

We will be financial stewards of the City's assets to ensure long-term fiscal sustainability. New revenue sources, including a possible tax measure, will be considered to fund increasing costs to deliver services and complete infrastructure projects. The City will closely manage its expenditures to maintain its general fund reserve. The labor contracts will be negotiated using the City's adopted Employee Compensation Guiding Principles.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs 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 transportation projects and road maintenance. For High Speed Rail, we will strongly advocate for the route with the least impact on Morgan Hill.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. A regional approach will be employed to address many priorities, including but not limited to, homelessness, animal services, teen suicide, High Speed Rail, and land use (Catholic High School, Outdoor Sports Center, agricultural preservation, and city limits). This regional involvement will include partnering with the League of California Cities, Valley Transportation Authority, Caltrain, 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.



**Special - Regular Meeting Agenda
City Council**

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

Wednesday, May 16, 2018 6:30 pm

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

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(Mayor Tate)

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Per Government Code Section 54954.2
(Deputy City Clerk Bigelow)

CLOSED SESSION

CLOSED SESSION ANNOUNCEMENT

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

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Council Member Carr

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

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YAC Presentation- Asset #18- Youth Programs

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7. AIRBNB VOLUNTARY COLLECTION AGREEMENT

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

8. AMEND REIMBURSEMENT AGREEMENT WITH THE CALIFORNIA HIGH SPEED RAIL AUTHORITY TO EXTEND THE TIME DURATION OF THE CURRENT AGREEMENT

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

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

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

12. APPROVE THE MAY 2, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

Estimated Time: 15 Minutes

14. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

Estimated Time: 75 Minutes

PUBLIC HEARING

15. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Estimated Time: 10 Minutes

16. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Estimated Time: 60 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 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 safe, inclusive, socially responsible, environmentally conscious, and economically sound community.

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 ·
Enhancing Diversity and Inclusiveness

2018 STRATEGIC PRIORITIES

Community Engagement and Messaging

Economic Development and Telecommunications

Financial Stewardship

Infrastructure

Regional Initiatives

2018 STRATEGIC PRIORITIES:



Community Engagement and Messaging

The City of Morgan Hill will tell our story through outreach and by working closely with our community in presenting our vision, priorities, and financial needs, and by engaging citizens and business owners to find affordable and sustainable solutions. The City's communications, services, public spaces, and projects will embrace all community members as partners, encouraging public participation.



Economic Development and Telecommunications

The Economic Blueprint will continue to be implemented, with a primary goal of attracting jobs and investment into our community. 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 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 with private sector partnerships. The plan will be used to signal Morgan Hill's support for business expansion.



Financial Stewardship

We will be financial stewards of the City's assets to ensure long-term fiscal sustainability. New revenue sources, including a possible tax measure, will be considered to fund increasing costs to deliver services and complete infrastructure projects. The City will closely manage its expenditures to maintain its general fund reserve. The labor contracts will be negotiated using the City's adopted Employee Compensation Guiding Principles.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs 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 transportation projects and road maintenance. For High Speed Rail, we will strongly advocate for the route with the least impact on Morgan Hill.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. A regional approach will be employed to address many priorities, including but not limited to, homelessness, animal services, teen suicide, High Speed Rail, and land use (Catholic High School, Outdoor Sports Center, agricultural preservation, and city limits). This regional involvement will include partnering with the League of California Cities, Valley Transportation Authority, Caltrain, 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.



Merrill Lynch Volunteer Event Day

APRIL 25, 2018

CITY OF MORGAN HILL CIVIC CENTER BUILDING





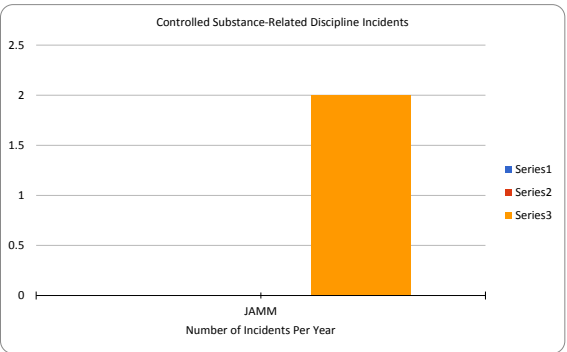
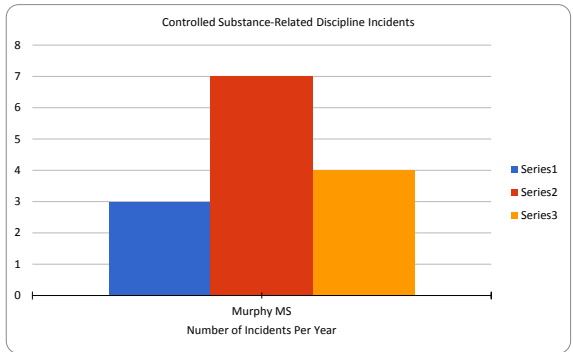
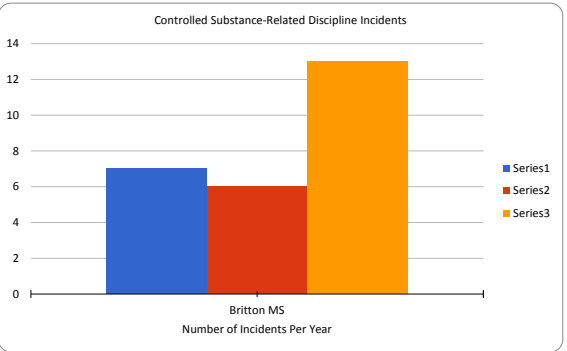
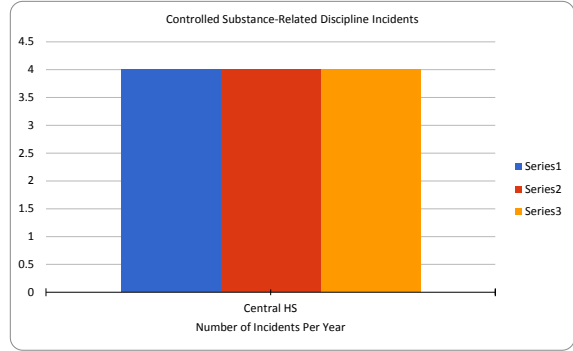
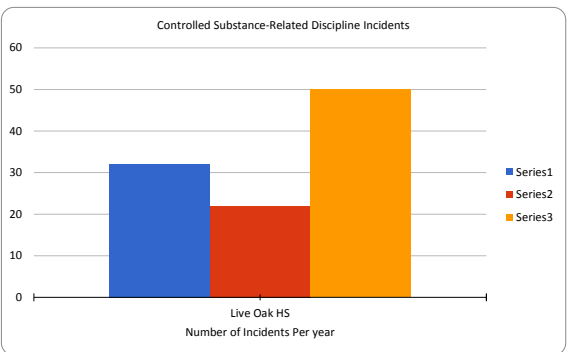
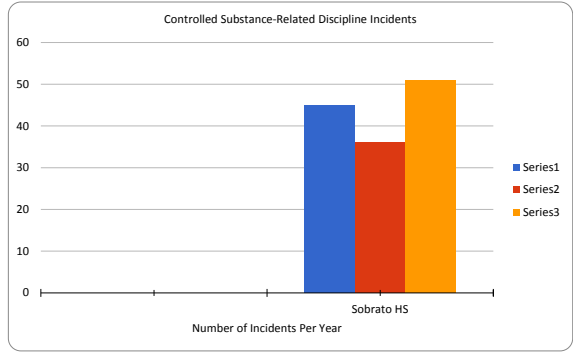


Happy Earth Day ! Thank you Merrill Edge - South San Jose Team for your hard work !



	2015 - 2016	2016 - 2017	2017 - 2018 YTD
Sobrato HS	45	36	51
Live Oak HS	32	22	50
Central HS	4	4	4
Britton MS	7	6	13
Murphy MS	3	7	4
JAMM	0	0	2

Offenses include possession, use, furnishing or sale of controlled substance; possession of drug paraphanelia. The numbers represented are incidents, not students; one student might be suspended mutiple times for controlled substance issues. Incident numbers do not differentiate between types of controlled



Non-Agendized Public Comment: Morgan Hill City Council Meeting of May 16th

Dave Truslow

M: 408-828-1520

E: dtruslow@sonic.net

I'll be subsequently speaking on specific points on Item 13 "Regarding Ordinances To Prevent Gun Violence", but want to address the public policy aspect at this time.

Mr. Larkin's memo about Item 13, he references Item 19 in the March 7th council agenda's Item 19. It recommends:

1. Adopt resolution condemning gun violence; and
2. Direct staff to return with specific actions to prevent future gun violence.

However in tonight's (May 16th) agenda packet on page 307, Mr. Larkin states the Council adopted a resolution "committing to the consideration of common-sense measures (my emphasis) to prevent gun violence."

This should cause all of us heartburn regardless of anyone's position on firearms because it's the epitome of 'bait and switch' and Orwellian New Speak.

The March 7th meeting announcement makes no mention of "common-sense" language. Anti-Second Amendment groups adopted the deceptive term "Common-Sense" when their public opinion research showed that it garnered more support than the honest term "gun-control".

Anti-Second Amendment groups are instructed not to use "gun control", but "common-sense" to advance their position. Such information is publicly available and included in their advocacy training.

Mr. Larkin's report makes extensive use of the anti-gun Gifford Law Center claims, but fails to include facts that debunk or challenge them.

The Brown Act prohibits action or discussion on any item not on the agenda. The agenda did not reference the prejudicial term "Common-Sense". I don't know if this rises to a bright-line violation, but it's close enough to warrant attention.

It's vital that government behave honestly, fairly, and forthrightly. Using deceptive, pejorative, or biased means to advance an agenda has no place in our democracy. Regardless of our views, all of us suffer when such behavior is tolerated.

###



May Developmental Asset

Asset #18

Youth Programs

Young person spends 3 or more hours per week in sports, clubs, or organizations at school and/or in the community.

Why Youth Programs are important

Youth Programs

- **Create lasting friendships**
- **Maintain active lifestyle**
- **Develop leadership skills**





May Complementary Asset

Asset #17

Creative Activities

Young person spends 3 or more hours per week in lessons or practice in music, theater, and other arts.

How this applies to the Youth Action Council



- Every year all members learn to do face painting and make animal balloons.

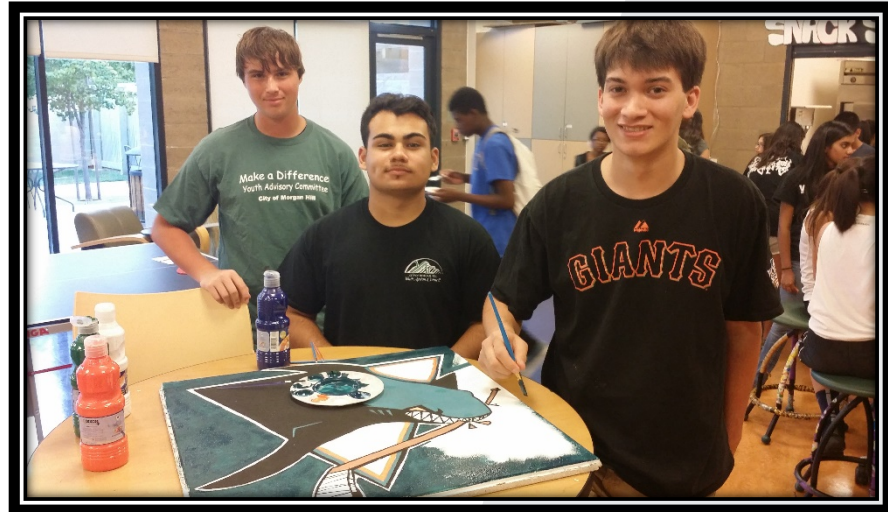
- Create decorations and ideas for the Senior Citizens Ball event every year



How this applies to Morgan Hill community?

Teens can participate in events at the CRC Teen Center such as:

- **Tile Art**
- **Cooking Activities**



High School clubs promote creativity such as:

- **Drama Club**
- **Art Club**
- **Band**



**What youth programs were you
involved in as a teenager?**

