



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

INTERVIEWS TO FILL ONE (1) VACANCY ON THE PARKS AND RECREATION COMMISSION

RECOMMENDATION(S)

1. Discuss the characteristics/traits that a successful applicant would possess;
2. Conduct Interviews;
3. Council Members identify top applicant and provide recommendation to the Mayor; and
4. Discuss and/or appoint applicant.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

REPORT NARRATIVE:

Effective September 7, 2018, LaRene Green resigned from the Parks and Recreation Commission (PRC). Recruitment efforts were conducted and resulted in four applications being submitted for PRC appointment consideration: Enrique Navarro-Donnellan, April Failing, David Jefferson and Neil Berman. The appointed applicant would fill the vacant seat with a term ending April 1, 2022.

All applicants have been invited and confirmed their availability to interview before the City Council on November 7, 2018. Their applications are attached for Council consideration.

COMMUNITY ENGAGEMENT: Involve

Recruitment efforts have been undertaken to encourage citizens to apply for City Council appointment consideration to the PRC via the Morgan Hill Times, City Website, Government Access Channel, and social media.

ALTERNATIVE ACTIONS:

The City Council may choose to make an appointment to fill the vacant seat. If the City Council desires to have a larger pool of applicants, it could decide to re-open the application process to solicit more applicants to fill the seat not appointed at the November 7, 2018 meeting.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Parks and Recreation Commissioners serve four-year terms, with possible reappointment consideration. Recruitment efforts are conducted as vacancies occur to maintain the seven (7) member Commission. The City Council accepted LaRene Green's resignation at the October 17, 2018 City Council meeting.

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):

Not a project.

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

LINKS/ATTACHMENTS:

1. FUNDAMENTAL PRINCIPLES FOR A
2. Chapter 2.22 Master Provisions for boards and commissions
3. Chapter 2.32 Parks and Recreation Commission
4. Enrique Navarro-Donnellan Application Packet_Redacted
5. April Failing Application Packet 1_Redacted
6. David Jefferson Application Packet_Redacted
7. Neil Berman Application Packet_Redacted

**FUNDAMENTAL PRINCIPLES FOR A
RECRUITMENT, INTERVIEW AND APPOINTMENT PROCESS
ADOPTED JULY 6, 2005
AMENDED APRIL 25, 2007**

1. Conduct active outreach for candidates
2. Council discussion of expectations of Board, Commission or Committee members
3. Application questionnaire to focus on Council expectations
4. Council to conduct interviews
5. Individual council members have the opportunity to suggest top candidates
6. Mayor may have at least one week to consider Council suggestions and other factors, including the need for continuity, match up candidates with needs, etc.
7. Mayor makes appointments subject to Council ratification, after further Council discussion.

The specific process is as follows:

- Council to identify the characteristics it is looking for in candidates to be appointed on boards, commissions and committees prior to conducting interviews.
- Council to identify specific questions to be included in the Board, Commission, or Committee applications relative to their charge
- Include a question for incumbents to inquire whether they are currently serving as chair/vice-chair, next in line to serve as chair/vice-chair to the board or commission, and/or are assigned to a special project
- Council to conduct interviews and ask clarifying questions.
- Council to discuss the characteristics of each candidate (e.g., new voice, experience, etc.)
- Each Councilmember would identify their top candidates to fill vacancies plus one. Councilmembers can vote for the number of candidates for vacancies available plus one.
- Mayor to consider Council members' top candidates; returning to the Council at a following meeting with a recommended appointment(s)
- Council to discuss recommended appointment(s)
- Council ratifies the Mayor's appointment

**STEVE TATE, MAYOR
APRIL 25, 2007**

Chapter 2.22

MASTER PROVISIONS FOR BOARDS AND COMMISSIONS*

Sections:

- 2.22.010 Establishment of boards and commissions.**
- 2.22.030 Clerk and secretary.**
- 2.22.040 Rules of procedure.**
- 2.22.050 Rules of attendance.**
- 2.22.060 Meetings.**
- 2.22.070 Compensation.**
- 2.22.080 Effect.**

* Prior ordinance history: Ords. 811 N.S., 890 N.S., 891 N.S., 1607 N.S. and 1719 N.S.

2.22.010 Establishment of boards and commissions.

A. There are established within the city the following boards and commissions:

1. Planning commission;
2. Parks and recreation commission;
3. Library, culture and arts commission; and
4. Disaster council.

B. Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents.

C. Members shall be appointed by the mayor subject to approval of a majority vote of the city council and may be removed without cause by vote of any three members of the city council.

D. The appointment terms of members may be extended, at the discretion of the city council, until such time as a successor member may be appointed and take office.

E. Vacancies in the commission occurring other than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

F. The members of the commission shall organize the commission and shall elect from its members a chair and vice-chair and such other officers as may be necessary in accordance with adopted city council policy. (Ord. 1778 N.S. § 2 (part), 2006)
(Ord. No 1930 N.S., § 2, 4-22-2009; Ord. No. 1935 N.S., § 1, 6-3-2009)

2.22.030 Clerk and secretary.

The city clerk or designate shall also act as clerk for each of the boards and commissions and shall have authority to sign any official notices and also to certify any resolution of the commissions or boards. The city council may appoint a person not a member of the commission or board to act as secretary of the commission or board. The secretary shall keep a record of all proceedings of said board or commission, its resolutions, its findings and actions, which records shall be a public record and kept with the city clerk in the City Hall building. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.040 Rules of procedure.

A. The chair shall preside at all meetings of the board or commission. The vice chair shall assume the duties of the chair in the absence of or in case of inability of the chair.

B. A majority of the members of the commission or board shall constitute a quorum for the transaction of business.

C. Unless otherwise specified herein, each board or commission may adopt its own rules and regulations for the transaction of its business. Such rules shall be subject to approval of the city council before becoming effective. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.050 Rules of attendance.

If any member is absent from three of any six consecutive regular board or commission meet-

ings, unless such absence is with the permission of the chair, or vice chair in absence of the chair, expressed in the official minutes, the member's seat shall be deemed vacated. The city manager shall so notify the city council and the council shall take action to fill the seat within a reasonable period of time. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.060 Meetings.

Unless otherwise specified, the commission shall hold regular meetings once every two months at a designated time and place which shall be fixed and determined by the commission and entered upon in its minutes. Special meetings of the commission may be called at any time by the chair or by a majority of the members of the board upon notice being given to all members of the board and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California. (Ord. 1778 N.S. § 2 (part), 2006)
(Ord. No. 1930 N.S., § 3, 4-22-2009)

2.22.070 Compensation.

Members of the boards and commissions shall serve without compensation but may receive reimbursement for actual and necessary expenditures made or incurred in the performance of their prescribed duties in accordance with state law and the Municipal Code and policies of the city of Morgan Hill. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.080 Effect.

Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this Municipal Code. Except as otherwise set forth in Chapter 2.36, the city council declares that the public interest and convenience require the appointment of the boards and commissions established pursuant to Section 2.22.010 to act purely in an advisory capacity to the city council. (Ord. 1778 N.S. § 2 (part), 2006)

Chapter 2.32

PARKS AND RECREATION COMMISSION*

Sections:

2.32.010 Created.

2.32.020 Membership—Terms of office.

2.32.030 Powers and duties.

* Prior ordinance history: Ord. 1368 N.S.

2.32.010 Created.

There is established a new commission which is entitled the "Morgan Hill parks and recreation commission" to serve in an advisory capacity to the city council. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.020 Membership—Terms of office.

The commission shall consist of seven members. Members shall not be officials or employees of the city nor be paid members of any organization receiving financial support from the city. Notwithstanding any language to the contrary, the mayor and city council may appoint a Morgan Hill Unified School District official as a member of the commission.

For the first seven members appointed, the terms of three of the members shall expire on May 1, 1999, and the terms of four of the members shall expire on May 1, 2000. All new full term appointments after April 1, 2006 shall be for a period of four years. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.030 Powers and duties.

The powers and functions of the commission shall be as follows, provided that nothing in this Chapter 2.32 shall be construed to give the commission power or duty to supervise or administer any public buildings, public parks, streets or other public property or programs:

A. To hold hearings on matters pertaining to planning and development of parks, trails, recreation programs for all segments of the population,

bicycle facilities, and capital expenditures related to parks, trails, recreational facilities, and bicycle facilities;

B. To facilitate coordination of the efficient and effective use of recreation facilities by other public, private, and non-profit groups and organizations to city residents;

C. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct the future growth and development of the parks facilities and recreation programming for the people of the city;

D. To make investigations and reports for future acquisition of park sites;

E. To review opportunities for joint use of recreation/parks, and storm retention/detention;

F. To act on behalf of the city and function as the City of Morgan Hill Bicycle and Trails Advisory Committee;

G. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

H. To report its decisions and recommendations relating to the above matters, in writing to the city council. (Ord. 1778 N.S. § 4 (part), 2006) (Ord. No. 1930 N.S., § 4, 4-22-2009)

Print

Commission Application - Submission #14594

Date Submitted: 11 / 1 / 2018

First Name

Enrique

Last Name

Navarro-Donnellan

Address1

Address2

City

Morgan Hill

State

CA

Zip

95037

Home Phone Number

N/A

Cell Phone Number

email address

Occupation

Research Assistant

Are you a registered voter?

yes

Please list any properties you own in Morgan Hill

N/A

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: Enrique Navarro-Donnellan Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Please upload a letter of interest or cover letter*

Cover Letter - Morgan Hill Parks Commission.pdf

Please upload a resume*

Commission Resume.pdf

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

DCAC (Deferred Compensation Advisory Committee) - A City of San Jose committee comprised of city department representatives that I sat on as the City Council liaison. On this committee, my job was to report on any developments on the city's retirement benefits and payout plans to my employing councilmember. DCAC would meet once a month to review the health of the municipal pension system and analyze impacts of any existing or pending ordinances on current and future benefits.

What skills and/or experience do you possess that would be important to your role as a commissioner?*

As a recent graduate from a Masters of Public Policy program, I know how to conduct extensive and targeted research to vet claims made by others and to make informed statements and decisions for myself. I also have a habit of learning-by-questioning wherein I place a personal premium on observing all angles, costs, and benefits of options surrounding an issue to insure complete information is obtained. From experience, I have participated in citizen initiative reviews, wherein I gained experience in collaborative learning on various political topics with fellow panelists. It also provided me with experience questioning topic experts and bridging differences with panelists to construct professional, non-partisan statements.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

As with any parks and recreation commission, I understand the role of this commission to be one that offers wise counsel to our elected city council on matters pertaining to city-owned lands designated for healthy and happy outdoors experiences. My interest, as a millennial, in serving on the commission rests with my passion for policy development and implementation that happens at my local government level (municipal, county, and special district). I understand that local public policy impacts me and my fellow residents on a daily basis in ways not always apparent nor visible, and I'd like to contribute to making the work of local government more visible and tangibly felt. I envision a Morgan Hill parks commission that continues on the great work that it has already accomplished by tapping into and promoting its residents' creative and artistic energies.

What would you like to accomplish as a commissioner?*

The city has already made great progress on facilities that serve a wide range of residents, particularly the skate park, dog park, and the Centennial recreation center. We need to continue the spirit that made these facilities a reality and expand on projects that enable youthful outlets for energy and creativity, as well as middle-age to elderly active lifestyles. To start, I would like to introduce outdoor/trail-side gyms, and sanctioned graffiti walls. The prior could be introduced along every city-owned trail and park (particularly paradise valley), and the latter could be introduced wherever graffiti vandalism is recurrent as a means to reduce spread instances of vandalism (as has been successfully achieved in other cities). Negotiating with private landowners around El Toro mountain for permanent (or at least more frequent) public access to the summit would also be a priority to truly make our city emblem and tangible experience for our residents.

What are the greatest opportunities facing the community in regards to this commission?*

I believe the greatest opportunities facing the parks commission are the ideas I mentioned above with respect to what I would like to accomplish. A lot of what the community would love, however, is beyond the reach of the commission and city council alone. Much of what residents would like, such as recreational use of local reservoirs for boating, fishing, and swimming demands that we work with state and special district representatives with jurisdiction over resources within the greater Morgan Hill area to enable greater access to local nature for Morgan Hill residents. I therefore see an opportunity for the commission to advocate for residents on not just the city facilities, but areas within the vicinity of the city as well that are frequented by Morgan Hill locals.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☐ No**Are you currently serving on a committee**☐ Yes☐ No**Are you assigned to a special project?**☐ Yes☐ No**If you are assigned to a special project, please describe the project.****Please review the City Council Ethics Policy**[City Council Ethics Policy](#)

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

Enrique Navarro-Donnellan

Date*

11/1/2018

12:45 PM

Attachment: Enrique Navarro-Donnellan Application Packet_Redacted (2035 : Commission Interviews)

Enrique Navarro-Donnellan

, Morgan Hill, CA, 95037 | Cell: |

October 30th, 2018

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

Dear Mayor & City Councilmembers,

My name is Enrique and I seek appointment to the Morgan Hill Parks & Recreation Commission to bring my young and creative mind to the table. I graduated with an MPP (Masters of Public Policy) from the Pepperdine University School of Public Policy where I was a high-performing student with a 3.8 GPA, member of the Pi Alpha Alpha honor society for students of public administration, contributor to the Pepperdine Policy Review, and Secretary for our chapter of ICMA (International City & County Managers Association).

In my previous experience, I worked in local government as a policy generalist for the City of San Jose in the city council offices. I am therefore familiar with what municipal governments can and cannot do, and have realistic expectations for the rate at which projects can proceed given the impact of state laws, regulations, and regulatory bodies (such as CEQA, the Bay Area Air Quality Management District, etc.). I therefore step forward with an appreciation for the role of municipal departments that implement your decisions and understand too the importance of the advisory input the parks commission offers into decisions you make that affect our residential, recreational, and environmental quality of life. This is a role I would fulfill with serious intent and a knowledgeable mind.

Key to the well-being and happiness of Morgan Hill are facilities and projects that serve residents of all ages. That means facilities that enable healthy living, such as outdoor gyms in city parks, and projects that tap into youthful energy and artistic expression, such as building-side wall murals. As a younger resident, I would offer my unique perspectives to you and the commission, even and especially if they differ from the prevailing priorities and visions. A healthy decision making process must be informed from all angles. To that end, I can contribute a skillset and viewpoint to the commission that would enrich the quality of advice offered to you on the city council.

Sincerely,



Enrique Navarro-Donnellan

Enrique Navarro-Donnellan
 , Morgan Hill, CA, 95037

PROFESSIONAL SUMMARY

Motivated, young, growing professional with two years' experience in government service. Managerial experience with interns and proven written ability with policy proposals. Possess a comprehensive knowledge of municipal & state bureaucracy derived from interdepartmental work responsibilities, in addition to international relations analysis from my education. Career supported by a Bachelor of Arts w/Honors in Political Science paired with a minor in Public Administration, and Masters of Public Policy.

EDUCATION

Master of Public Policy, Pepperdine University School of Public Policy, Malibu, CA – 2018

Bachelor of Arts, Political Science (w/Public Admin Minor), San Jose State University, San Jose, CA – 2015

PROFESSIONAL EXPERIENCE

Pepperdine University School of Public Policy – Malibu, CA **Student Services Assistant**

August 2017 - March 2018

- Researching and compiling employment leads and opportunities for fellow students
- Managing the School of Public Policy LinkedIn pages for alumni and current student networks
- Promoting Pepperdine's SPP brand via writing & publishing articles for social media and the Dean's report
- Generic office duties: answering phones, electronic and paper document filing, inter-office communication

International Institute for Counterterrorism – Herzliya, Israel **Research Assistant**

June - August 2017

- Constructing an academic paper for peer-reviewed journal publication
- Conducting Red-Team terrorism exercises involving contemplation of modus operandi of terror cells against notable and vulnerable locations for presentation distribution to international conferences
- Proofreading/Reviewing/Critiquing published papers and articles on terrorism topics
- Generating/Updating Excel data sets
- Research of terrorist organization activity as needed

City of San Jose, 10th City Council District – San Jose, CA **Council Assistant**

January 2015 - August 2016

- Managing Councilmember's public appearances, event attendance, and talking points
- Management of \$35,000 annual SAP grant fund (constituent outreach)
- City Ceremonial event planning
- Policy Research – Medical Marijuana, Civil Liberties, Immigration, Sister City Program, Wage Issues
- Internship Recruitment/Management

TECHNICAL /PROFESSIONAL SKILLS

SPSS

ArcGIS

Tableau

Adobe InDesign

Sales Optima & Insightly

Basic Conversational Spanish/Russian

Microsoft Office (Excel, Word, PowerPoint)

Attachment: Enrique Navarro-Donnellan Application Packet_Redacted (2035 : Commission Interviews)

Print

Commission Application - Submission #14502

Date Submitted: 10/9/2018

First Name	Last Name
April	Failing

Address1

Address2

City	State	Zip
MORGAN HILL	CA	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Higher Education	yes

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: April Failing Application Packet 1_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Library, Culture, and Arts Commission ▼

Please upload a letter of interest or cover letter*

Letter of Interest MH.docx

Please upload a resume*

April Daniels Resume MH 10.9.18.docx

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I am a trained volunteer and have worked on committees overseeing things such as grants awards and event budgets.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

I understand that the commission helps to advise the city on planning and developing community parks, cultural facilities (such as the Community Cultural Center), activities and public use spaces.

What would you like to accomplish as a commissioner?*

I would like to continue to support the development of the network of walking/biking trails, playgrounds, and parks.

What are the greatest opportunities facing the community in regards to this commission?*

Furthering the development of parks and recreation opportunities for all the residents of our community.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☐ No**Are you currently serving on a committee**☐ Yes☐ No**Are you assigned to a special project?**☐ Yes☐ No**If you are assigned to a special project, please describe the project.****Please review the City Council Ethics Policy**

[City Council Ethics Policy](#)

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

April Daniels

Date*

10/9/2018

11:15 AM

Attachment: April Failing Application Packet 1_Redacted (2035 : Commission Interviews)

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

October 9, 2018
April Failing

Morgan Hill, CA 95037

Parks & Recreation Commission

To Whom It May Concern,

I am writing to express my interest in the appointment to serve on the City of Morgan Hill Parks & Recreation Commission.

In the past I have served on the Morgan Hill Education Committee raising money to bring anti-bullying programs to local schools and volunteering at career fairs. I am a trained volunteer through the Junior League of San Jose and am versed in activities such as event coordination, grant review, and community event staffing. I would love to continue to serve my community as they work to develop public resources, parks and outdoor spaces.

My resume will provide further information on my background, qualifications, and achievements.

Thank you very much for your time and consideration.

Kind Regards,
April Daniels, MA

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

Skills

Accountability
Client & Community Relations
Creative Problem Solving
Emotional Intelligence
Events and Operations
Fast-paced Multi-Tasking
Improving Efficiency
Polished Professional Writing
Project Planning & Management

Education

MASTER'S DEGREE
Counseling Psychology
Lewis & Clark College
2003-2006

BACHELOR OF ARTS
Psychology
Humboldt State University
2000-2002

VOLUNTEERING

2011-2014
Junior League of San Jose
2011-2014
Morgan Hill Chamber of
Commerce Education Committee
2016
California State Parks
2017
Sacred Heart Holiday Volunteer

Professional Profile

As an experienced education professional, I bring a cheerful, solutions-oriented approach to addressing customer needs. I am able to quickly create lasting working relationships with students, administrators and executives, grasping their professional needs, and taking steps to provide the right product-fit. I also have excellent written and oral communication skills and seek to bring these skills to a forward-thinking, innovative company.

Experience

Sr. Student Services Advisor for Concordia University
HotChalk, Inc/October, 2014-Present

In my position at HotChalk, I guide a caseload of over 300 students through their educational journeys by supporting them, their program administrators, and the HotChalk Student Services Department in the following ways:

- Partnering with Ed.D. program faculty and directors to develop a program that ensures student satisfaction and success.
- Addressing over 100 student questions via email and phone each week, interfacing with a number of departments, and ensuring that the issue is resolved efficiently.
- Developing Team Skills and Talent in weekly Professional Development Meetings
- Developing and managing initiatives to increase student retention.
- Partnering with colleagues to plan employee events and activities, build team connections, and foster a positive working environment.
- Planned, booked travel for, and managed graduation travel, hotel, and dinner for 8 graduates and university faculty.
- Researched, compiled, and presented materials on success coaching, employee development, and leadership for bi-weekly Leadership Team meetings

Director/Assistant Director
Action Day Primary Plus/February, 2013-October 2014

As part of the administrative team, I filled the role of both the Director and Assistant director at two Action Day Preschool sites.

- Oversaw 25 teachers and substitutes
- Managed scheduling and time cards for employees
- Exceeded budgeting expectations through effective employee scheduling
- Exceeded enrollment objectives through successful marketing strategies
- Planned and executed school events including holiday activities, summer camps, ar open-houses
- Developed team talent and skills through monthly team meetings, scheduled development time, and distributed materials
- Utilized exceptional customer service skills to attract and retain students

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

Technical Skills

Banner

Blackboard

Google Suite

Microsoft Office Suite

Outlook Email & Calendar

Proficient Online Researcher

Salesforce

Social Media

Wordpress

Professional Development

CLASS

Intermediate Wordpress Websites

Gavilan College

CA

2016

SEMINAR

Effective Employee Coaching

Insperity for HotChalk

CA

2017

WORKSHOP

Designing Your Impact

HotChalk

CA

2017

WORKSHOP

Conflict Resolution for Peers

HotChalk

CA

2017

Experience continued

Classroom Teacher

Tower Academy/2012-2013

Originally hired to run the Summer Activities program, I quickly became a fixture at Tower Academy, earning a position as classroom teacher.

Fundraising Consultant

Leading Edge Fundraiser/2011-2013

- Developed relationships with school programs across the South Bay Area
- Partnered with Parent Teacher Associations and Sports teams to launch fundraisers in the K-12 educational bracket
- Developed territory leads, canvassed, and marketed products to K-12 organizations from Sunnyvale to Monterey.

Operations Lead

Extreme Learning/2009-2011

Provided support to Operations Manager, filing necessary paperwork, scheduling, student file information, and reports.

- Utilized Salesforce, Cayen, and Excel.
- Developed precise data entry skills.
- Collaborated with on-ground enrollment, human resources, and other department to complete company objectives according to strict timelines.

Lead Navigator

Alameda County Family Justice Center/2008-2009

Served as a central point of contact in case-management, therapeutic, and safety planning services for victims of domestic violence and interpersonal crimes.

- Designed and implemented a client-focused triage program in collaboration with law enforcement, the Alameda County District Attorney, and other non-profit agencies
- Helped to design and populate a client data tracking platform in order to quantify services rendered to victims of crime and their families.
- Gave presentations and staffed community events to provide public education on victims of crime services, domestic violence, and interpersonal violence.
- Helped to plan and staff annual gala fundraiser.
- Supported Executive Director in tours for outside groups and political figures.

Print

Commission Application - Submission #14507

Date Submitted: 10/11/2018

First Name	Last Name
David	Jefferson

Address1

Address2

City	State	Zip
Morgan Hill	ca	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Engineer	yes

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: David Jefferson Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Planning Commission ▼

Please upload a letter of interest or cover letter*

parks.pages

Please upload a resume*

resume_dj_2018_r1.pdf

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I have good listening skills. I have spent lots of time in the parks and recreation centers in Morgan Hill.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

This role involves planning parks, recreational facilities and advising the city council.

What would you like to accomplish as a commissioner?*

I would like to set aside more area for open space and parks. Also I would work to create more bike paths through the city. Also, I would like to establish green belts that are continuous .

What are the greatest opportunities facing the community in regards to this commission?*

Since Morgan Hill still has more open land than most cities there are still opportunities to create new parks and open spaces.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☒ No**Are you currently serving on a committee**☐ Yes☒ No**Are you assigned to a special project?**☐ Yes☒ No

If you are assigned to a special project, please describe the project.

Please review the City Council Ethics Policy

[City Council Ethics Policy](#)

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

David Jefferson

Date*

10/11/2018

12:15 AM

Hi City Council,

Please consider me for the parks and recreation position. I've been a resident of Morgan Hill for more than 18 years and have seen the city grow in that time. I've raised three children in Morgan Hill and spent many hours in the parks. I think I know what improvements could be made to the existing park system in Morgan Hill.

I like working with people and finding out what interests them. I'm very much a team player and an outgoing person. I'm a conscientious person and would like to help make Morgan Hill a better place.

Warm Regards,

Dave Jefferson

RESUME

DAVID E. JEFFERSON

E-mail:

Morgan Hill, Calif. 95037

FPGA Design/Sign Off Engineer/ Memory Design/ClockNetwork Design

Career Summary:

FPGA/ASIC Design Engineer with extensive professional experience in FPGA design management, Transistor level design, Transistor level Static Timing Analysis and customer support and training. Expertise in FinFet process characterization and certification.

Technical Skills:

Tools: HSPICE, NanoTime, FinSim, StarRC and PrimeTime, Verilog

Programming: Tcl

Education:

MSEE Santa Clara University

Awards:

40 US Patents

I have five years NanoTime customer support and training experience. I have supported 7nm process certification at TSMC and 28nm process certification STMicro. I have 12 years FPGA design management experience. I have 10 years experience in custom SRAM design experience.

Work Experience

October 2012 to Present: SYNOPSYS Corp. CAE for NanoTime

- Provided customer support for NanoTime transistor level static timing analysis tool.
- Debugged customer setup problems and supported customers in their design activities.
- Visited customers to determine the level of support needed and EDA tool requirements
- Performed characterization of customer designs on various process architectures.
- Trained customers on NanoTime usage and provided product overviews to customers.
- Worked on customer designs to generate liberty files (.lib)
- Performed signal integrity and POCV analysis of customer designs
- Completed Static Timing analysis on SRAMs
- Ran Static Timing analysis on DDR designs
- Completed OCV analysis on SRAMs and DDR circuitry

Jan. 1994 to September 2012: ALTERA Corp. Senior IC Design Manager/Senior MTS

- Led the development of the SRAM architecture on Stratix I, III & IV products.
- Architected and developed the 3 SRAM approach on the Stratix product line.
- Performed floor planning, yield and block size calculations for the ALTERA SRAM
- Designed Dual Port Memory cells for Stratix I, III and IV. Worked with TSMC foundry to deliver memory cells that yielded under Vccmin conditions.
- Designed timer circuits, decoders, sense amps and all SRAM IP sub blocks for Stratix I, III and IV.

Designed several memory test chips to validate various SRAM circuit blocks before they were used on production devices.

- Architected and designed the **Stratix V** and **Stratix I** full chip clock networks. Used Auto Clock Router techniques to minimize clock skew and layout area. Designed the clock network to have less sensitivity to jitter using customized buffer design. Integrated PLL and DDR3 clock sources into the clock network. Evaluated various metallization schemes to reduce the number of metal layers required for clocking resulting in a reduction of metal layers.
- Responsible for full Core floor planning and full Core schematic construction.
- Supervised the implementation and debug of new schematic construction methodology.
- Led the design and tape out of two Stratix V proliferation devices. Managed the project schedules. Addressed all issues impacting the tape out schedule. Monitored SVT and Layout teams progress toward project goals, made adjustments as necessary to keep the project on schedule.
- Led the design of the STRATIX IV DSP block.
- Integrated the DSP and Memory blocks efficiently into the full core FPGA. Supervised the implementation of DSP RTL. Prepared constraint files for P&R. Evaluated DSP timing after P&R implementation of the DSP block.
- Led a team of up to 9 engineers, 1 Design supervisor and 1 Test supervisor on Stratix projects.
- Led the design of the configuration micro-controller on the Stratix II family.
- Extensive experience working with Product Planning to define products based on customer feed back.
- Worked closely with Software and Test engineering to define new internal configuration features. Feature defined and implemented include **Data Encryption, Data Compression, Redundancy and ATPG operation**.
- My team and I used **Verilog, Place and Route (Astro)**, and **Prime time** to complete the design of the configuration engine.
- Familiar with **ASCI flows** and the requirements to complete timing closure on an ASIC block.
- Interfaced with all Stratix block owners to assure that the configuration micro-controller worked properly in their blocks.
- Designed the VCO, PFD and Charge Pump for the PLL on the ALTERA 10K product

May 1992 to Jan. 1994: IC Works Corp: Senior Design Engineer. I designed and supervised the development of a 1.8v low voltage 32K x 8 CMOS SRAM. I did circuit design, layout floor planning and layout of major block inside the SRAM. I Designed and drew out the SRAM Sense Amplifier and Column Decoders. I worked with technology to debug the process after first silicon arrived.

Additional Information: I have a good understanding of the issues involved with 28nm 20nm, 16nm and 10nm IC design.

Print

Commission Application - Submission #14562

Date Submitted: 10/26/2018

First Name	Last Name
Neil	Berman

Address1

Address2

City	State	Zip
Morgan Hill	CA	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Attorney	yes ▼

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No ▼

Attachment: Neil Berman Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Please upload a letter of interest or cover letter*

LOIMHPaR.doc

Please upload a resume*

NPBResume2018.doc

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No.

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I am a good multi-tasker. I have a large caseload at work and manage those cases and am responsible for a staff. I also work well in a collaborative environment.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

I understand that the commission advises the City Council on matters pertaining to planning and development of parks, programs and facilities. I have two small children and love this community.

What would you like to accomplish as a commissioner?*

To work with co-commissioners and the City Council to continue to make Morgan Hill a wonderful place to love for children and the entire community.

What are the greatest opportunities facing the community in regards to this commission?*

I would assume funding and prioritizing the needs of residents when there are a multitude of projects and opportunities to work on.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☐ No**Are you currently serving on a committee**☐ Yes☐ No**Are you assigned to a special project?**☐ Yes☐ No

If you are assigned to a special project, please describe the project.

Please review the City Council Ethics Policy

[City Council Ethics Policy](#)

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

Neil Berman

Date*

10/26/2018

10:30 AM

October 29, 2018

City of Morgan Hill

Re: Letter of Interest for Parks & Recreation Commission

Dear City Council:

I would like to fill the vacancy on the Parks & Recreation Commission. I love this community. I owned a home in Gilroy when my wife and I had our first son Lucas in 2012. We saw from Gilroy the wonderful family friendly sense of community in Morgan Hill. When my wife was pregnant with our second son Nathan in 2015, we decided we wanted to raise our family in Morgan Hill and bought our home on Sunnyside Avenue and moved in about a week after Nathan was born.

When we were looking for homes, David Clink showed us the various different areas of Morgan Hill. I could tell how much Dave loved Morgan Hill and now I know why. This City has been tremendous for my family. We live near and love the Centennial Recreation Center. My children are both active in youth sports put on by Coach Leo at the CRC and we use most of the parks throughout Morgan Hill including Paradise Park, Morgan Hill Community Park, Railroad Park, Diana Park and Galvan Park. We love and use the Aquatic Center. I have coached and volunteered with Morgan Hill Pony Baseball for the last few years.

There is so much that Morgan Hill has to offer with respect to parks and cultural facilities. I want to contribute to preserving and improving these locations for our current residents and for generations to come. I am a partner in the law firm of Rucka, O'Boyle, Lombardo & McKenna in Salinas. I have been there for over 11 years. I represent injured workers and help people deal with insurance companies and apply for Social Security. I use my skills daily to help people. I want to use those same skills to help our community.

I have been inspired by Matt Wendt's passion for this community and commission. I have been inspired by meeting with Cricket Rubino and experiencing her infectious passion for Morgan Hill. I am honored to have my firm sponsor the upcoming Morgan Hill Community Foundation Annual Philanthropy Foundation event on November 9 and my wife and I are looking forward to attending it. I want to get involved and start helping this wonderful City that I live in.

Very truly yours,

Neil P. Berman

Attachment: Neil Berman Application Packet_Redacted (2035 : Commission Interviews)

RESUME OF NEIL BERMAN

- Partner, Law Offices of Rucka, O'Boyle, Lombardo & McKenna from 2007-present. Managing partner of Civil Litigation Department. On hiring and advertising committees. Practice is primarily personal injury law, including products liability, automobile accidents, toxic torts, wrongful death, and premises liability matters. Admitted to practice in California and before the U.S. District Court for the Northern District of California. Also practices Social Security Disability law, Workers' Compensation and employment law.
- Outside of law practice, I am dedicated to helping members of the community who need legal assistance. Member of the Board of Governors of the Consumer Attorneys of California (CAOC), an organization dedicated to protecting the constitutional right to trial by jury for all consumers and championing the cause of those who deserve redress for injury to person or property and resisting efforts to curtail the rights of such injured persons.
- Professional Memberships: State Bar of California since 2006; Santa Clara County Bar Association; Santa Cruz County Bar Association; Monterey County Bar Association; Consumer Attorneys of California (Member, Board of Governors, 2014 Executive Committee and 2013 New Lawyers Division Chair); American Association for Justice
- Volunteer Work in Last Few Years: San Francisco Food Bank and Dorothy's Kitchen in Salinas.
- Education: J.D. 2006 from Santa Clara University School of Law. B.A. Political Science 2003 from University of Washington



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, November 7, 2018 5:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council is called at 5:00 p.m. for the purpose of conducting a closed session and commission interviews.

5:00 p.m. Closed Session

6:00 p.m. Commission Interviews

7:00 p.m. Regular Meeting

SPECIAL MEETING

5:00 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

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Pursuant to Government Code Section 54957.6

City Negotiators: Christina Turner City Manager; Cindy Murphy Assistant City Manager for Administrative Services; Michelle Katsuyoshi Human Resources Director; Edward Kreisberg, Meyers Nave; Jesse Lad, Meyers Nave

Employee Organization: Morgan Hill Police Officers Association
AFSCME Local 101
Morgan Hill Community Service Officers Association

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: Two (2)

RECONVENE

COMMISSION INTERVIEWS

INTERVIEWS TO FILL ONE (1) VACANCY ON THE PARKS AND RECREATION COMMISSION

Recommendation:

1. Discuss the characteristics/traits that a successful applicant would possess;
2. Conduct Interviews;
3. Council Members identify top applicant and provide recommendation to the Mayor; and
4. Discuss and/or appoint applicant.

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

Mayor Tate

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

Assistant City Attorney Cynthia Hasson

OTHER REPORTS

PRESENTATIONS

Silicon Valley Clean Energy
Girish Balachandran, Chief Executive Officer

PUBLIC COMMENT

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

ADOPTION OF AGENDA

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. APPROVE CITY SPONSORSHIP OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN'S "FUTURE WOMEN LEADERS CONFERENCE" AT THE COMMUNITY AND CULTURAL CENTER

Recommendation:

Authorize the City Manager to waive facility rental fees of \$1,890 for use of the Community and Cultural Center for the Morgan Hill Branch of the American Association of University Women's Future Women Leaders Conference on April 6, 2019.

2. FIRST AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH SALINAS PUMP COMPANY

Recommendation:

Approve and authorize the City Manager to execute an amendment for \$268,467 to increase the not to exceed amount to \$543,467, for the current service maintenance agreement with Salinas Pump for on-call routine and emergency repair, maintenance, and rehabilitation of the City's water wells and pump stations.

3. ADOPT BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A BELOW MARKET RATE PROGRAM APPLICATION GUIDE

Recommendation:

Adopt Below Market Rate Ownership Program Participation Guide and a Below Market Rate Program Application Guide.

4. ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

Recommendation:

Receive annual report on Centennial Recreation Center Membership and YMCA Partnership.

5. AUGUST 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

6. UPCOMING 2019 COMMISSION VACANCIES - PER MADDY ACT

Recommendation:

Accept report.

7. ADOPT ORDINANCE AMENDING TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE

Recommendation:

Waive the reading, adopt Ordinance No. 2290, 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.

8. APPROVE THE OCTOBER 17, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

9. APPROVE THE OCTOBER 24, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

10. AUTHORIZE CITY MANAGER TO NEGOTIATE AN AGREEMENT TO HOST THE AMGEN TOUR OF CALIFORNIA 2019

Recommendation:

1. Approve the City acting as a host of the Amgen Tour of California Stage 3 Finish on May 14, 2019, provided special event plan is approved by the City Manager;
2. Direct the City Manager to negotiate and execute an agreement with AEG Cycling, LLC, to provide services and support for the Tour in an amount not to exceed \$55,000 to be funded by the General Fund; and
3. Adopt resolution to amend the City's Fiscal Year 2018-19 adopted budget, to appropriate \$55,000 from the General Fund (010) for this event.

Estimated Time: 20 Minutes

11. APPROVE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT PLAN

Recommendation:

1. Approve the Morgan Hill Tourism Business Improvement District (MHTBID) Management Plan; and
2. Direct staff to begin a MHTBID petition drive and return with a Resolution of Intention at the November 28, 2018 City Council meeting.

Estimated Time: 30 Minutes

12. APPROVE AN IMPACT FEE FREEZE AGREEMENT WITH MORGAN HILL REAL ESTATE, LLC. FOR A NEW VEHICLE DEALERSHIP ON 6 ACRES LOCATED ON CONDIT ROAD IDENTIFIED BY ASSESSOR PARCEL NUMBER 728-17-034

Recommendation:

1. Approve an Impact Fee Freeze Agreement with Morgan Hill Real Estate, LLC. for the development of a 36,662 square foot new vehicle dealership located on Condit Road; and
2. Authorize the City Manager to execute the Impact Fee Freeze Agreement.

Estimated Time: 15 Minutes

13. ADOPT COUNCIL POLICY ON PERIODIC REPORTING OF CITY MANAGER CONTRACT AUTHORITY

Recommendation:

Adopt Council Policy requiring periodic reporting of City Manager contract authority.

Estimated Time: 5 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: November 7, 2018

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

INTERVIEWS TO FILL ONE (1) VACANCY ON THE PARKS AND RECREATION COMMISSION

RECOMMENDATION(S)

1. Discuss the characteristics/traits that a successful applicant would possess;
2. Conduct Interviews;
3. Council Members identify top applicant and provide recommendation to the Mayor; and
4. Discuss and/or appoint applicant.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

REPORT NARRATIVE:

Effective September 7, 2018, LaRene Green resigned from the Parks and Recreation Commission (PRC). Recruitment efforts were conducted and resulted in four applications being submitted for PRC appointment consideration: Enrique Navarro-Donnellan, April Failing, David Jefferson and Neil Berman. The appointed applicant would fill the vacant seat with a term ending April 1, 2022.

All applicants have been invited and confirmed their availability to interview before the City Council on November 7, 2018. Their applications are attached for Council consideration.

COMMUNITY ENGAGEMENT: Involve

Recruitment efforts have been undertaken to encourage citizens to apply for City Council appointment consideration to the PRC via the Morgan Hill Times, City Website, Government Access Channel, and social media.

ALTERNATIVE ACTIONS:

The City Council may choose to make an appointment to fill the vacant seat. If the City Council desires to have a larger pool of applicants, it could decide to re-open the application process to solicit more applicants to fill the seat not appointed at the November 7, 2018 meeting.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Parks and Recreation Commissioners serve four-year terms, with possible reappointment consideration. Recruitment efforts are conducted as vacancies occur to maintain the seven (7) member Commission. The City Council accepted LaRene Green's resignation at the October 17, 2018 City Council meeting.

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):

Not a project.

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

LINKS/ATTACHMENTS:

1. FUNDAMENTAL PRINCIPLES FOR A
2. Chapter 2.22 Master Provisions for boards and commissions
3. Chapter 2.32 Parks and Recreation Commission
4. Enrique Navarro-Donnellan Application Packet_Redacted
5. April Failing Application Packet 1_Redacted
6. David Jefferson Application Packet_Redacted
7. Neil Berman Application Packet_Redacted

**FUNDAMENTAL PRINCIPLES FOR A
RECRUITMENT, INTERVIEW AND APPOINTMENT PROCESS
ADOPTED JULY 6, 2005
AMENDED APRIL 25, 2007**

1. Conduct active outreach for candidates
2. Council discussion of expectations of Board, Commission or Committee members
3. Application questionnaire to focus on Council expectations
4. Council to conduct interviews
5. Individual council members have the opportunity to suggest top candidates
6. Mayor may have at least one week to consider Council suggestions and other factors, including the need for continuity, match up candidates with needs, etc.
7. Mayor makes appointments subject to Council ratification, after further Council discussion.

The specific process is as follows:

- Council to identify the characteristics it is looking for in candidates to be appointed on boards, commissions and committees prior to conducting interviews.
- Council to identify specific questions to be included in the Board, Commission, or Committee applications relative to their charge
- Include a question for incumbents to inquire whether they are currently serving as chair/vice-chair, next in line to serve as chair/vice-chair to the board or commission, and/or are assigned to a special project
- Council to conduct interviews and ask clarifying questions.
- Council to discuss the characteristics of each candidate (e.g., new voice, experience, etc.)
- Each Councilmember would identify their top candidates to fill vacancies plus one. Councilmembers can vote for the number of candidates for vacancies available plus one.
- Mayor to consider Council members' top candidates; returning to the Council at a following meeting with a recommended appointment(s)
- Council to discuss recommended appointment(s)
- Council ratifies the Mayor's appointment

**STEVE TATE, MAYOR
APRIL 25, 2007**

Chapter 2.22

MASTER PROVISIONS FOR BOARDS AND COMMISSIONS*

Sections:

- 2.22.010 Establishment of boards and commissions.**
- 2.22.030 Clerk and secretary.**
- 2.22.040 Rules of procedure.**
- 2.22.050 Rules of attendance.**
- 2.22.060 Meetings.**
- 2.22.070 Compensation.**
- 2.22.080 Effect.**

* Prior ordinance history: Ords. 811 N.S., 890 N.S., 891 N.S., 1607 N.S. and 1719 N.S.

2.22.010 Establishment of boards and commissions.

A. There are established within the city the following boards and commissions:

1. Planning commission;
2. Parks and recreation commission;
3. Library, culture and arts commission; and
4. Disaster council.

B. Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents.

C. Members shall be appointed by the mayor subject to approval of a majority vote of the city council and may be removed without cause by vote of any three members of the city council.

D. The appointment terms of members may be extended, at the discretion of the city council, until such time as a successor member may be appointed and take office.

E. Vacancies in the commission occurring other than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

F. The members of the commission shall organize the commission and shall elect from its members a chair and vice-chair and such other officers as may be necessary in accordance with adopted city council policy. (Ord. 1778 N.S. § 2 (part), 2006)
(Ord. No 1930 N.S., § 2, 4-22-2009; Ord. No. 1935 N.S., § 1, 6-3-2009)

2.22.030 Clerk and secretary.

The city clerk or designate shall also act as clerk for each of the boards and commissions and shall have authority to sign any official notices and also to certify any resolution of the commissions or boards. The city council may appoint a person not a member of the commission or board to act as secretary of the commission or board. The secretary shall keep a record of all proceedings of said board or commission, its resolutions, its findings and actions, which records shall be a public record and kept with the city clerk in the City Hall building. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.040 Rules of procedure.

A. The chair shall preside at all meetings of the board or commission. The vice chair shall assume the duties of the chair in the absence of or in case of inability of the chair.

B. A majority of the members of the commission or board shall constitute a quorum for the transaction of business.

C. Unless otherwise specified herein, each board or commission may adopt its own rules and regulations for the transaction of its business. Such rules shall be subject to approval of the city council before becoming effective. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.050 Rules of attendance.

If any member is absent from three of any six consecutive regular board or commission meet-

ings, unless such absence is with the permission of the chair, or vice chair in absence of the chair, expressed in the official minutes, the member's seat shall be deemed vacated. The city manager shall so notify the city council and the council shall take action to fill the seat within a reasonable period of time. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.060 Meetings.

Unless otherwise specified, the commission shall hold regular meetings once every two months at a designated time and place which shall be fixed and determined by the commission and entered upon in its minutes. Special meetings of the commission may be called at any time by the chair or by a majority of the members of the board upon notice being given to all members of the board and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California. (Ord. 1778 N.S. § 2 (part), 2006)
(Ord. No. 1930 N.S., § 3, 4-22-2009)

2.22.070 Compensation.

Members of the boards and commissions shall serve without compensation but may receive reimbursement for actual and necessary expenditures made or incurred in the performance of their prescribed duties in accordance with state law and the Municipal Code and policies of the city of Morgan Hill. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.080 Effect.

Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this Municipal Code. Except as otherwise set forth in Chapter 2.36, the city council declares that the public interest and convenience require the appointment of the boards and commissions established pursuant to Section 2.22.010 to act purely in an advisory capacity to the city council. (Ord. 1778 N.S. § 2 (part), 2006)

Chapter 2.32

PARKS AND RECREATION COMMISSION*

Sections:

2.32.010 Created.

2.32.020 Membership—Terms of office.

2.32.030 Powers and duties.

* Prior ordinance history: Ord. 1368 N.S.

2.32.010 Created.

There is established a new commission which is entitled the "Morgan Hill parks and recreation commission" to serve in an advisory capacity to the city council. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.020 Membership—Terms of office.

The commission shall consist of seven members. Members shall not be officials or employees of the city nor be paid members of any organization receiving financial support from the city. Notwithstanding any language to the contrary, the mayor and city council may appoint a Morgan Hill Unified School District official as a member of the commission.

For the first seven members appointed, the terms of three of the members shall expire on May 1, 1999, and the terms of four of the members shall expire on May 1, 2000. All new full term appointments after April 1, 2006 shall be for a period of four years. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.030 Powers and duties.

The powers and functions of the commission shall be as follows, provided that nothing in this Chapter 2.32 shall be construed to give the commission power or duty to supervise or administer any public buildings, public parks, streets or other public property or programs:

A. To hold hearings on matters pertaining to planning and development of parks, trails, recreation programs for all segments of the population,

bicycle facilities, and capital expenditures related to parks, trails, recreational facilities, and bicycle facilities;

B. To facilitate coordination of the efficient and effective use of recreation facilities by other public, private, and non-profit groups and organizations to city residents;

C. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct the future growth and development of the parks facilities and recreation programming for the people of the city;

D. To make investigations and reports for future acquisition of park sites;

E. To review opportunities for joint use of recreation/parks, and storm retention/detention;

F. To act on behalf of the city and function as the City of Morgan Hill Bicycle and Trails Advisory Committee;

G. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

H. To report its decisions and recommendations relating to the above matters, in writing to the city council. (Ord. 1778 N.S. § 4 (part), 2006) (Ord. No. 1930 N.S., § 4, 4-22-2009)

Print

Commission Application - Submission #14594

Date Submitted: 11 / 1 / 2018

First Name

Enrique

Last Name

Navarro-Donnellan

Address1

Address2

City

Morgan Hill

State

CA

Zip

95037

Home Phone Number

N/A

Cell Phone Number

email address

Occupation

Research Assistant

Are you a registered voter?

yes

Please list any properties you own in Morgan Hill

N/A

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: Enrique Navarro-Donnellan Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Please upload a letter of interest or cover letter*

Cover Letter - Morgan Hill Parks Commission.pdf

Please upload a resume*

Commission Resume.pdf

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

DCAC (Deferred Compensation Advisory Committee) - A City of San Jose committee comprised of city department representatives that I sat on as the City Council liaison. On this committee, my job was to report on any developments on the city's retirement benefits and payout plans to my employing councilmember. DCAC would meet once a month to review the health of the municipal pension system and analyze impacts of any existing or pending ordinances on current and future benefits.

What skills and/or experience do you possess that would be important to your role as a commissioner?*

As a recent graduate from a Masters of Public Policy program, I know how to conduct extensive and targeted research to vet claims made by others and to make informed statements and decisions for myself. I also have a habit of learning-by-questioning wherein I place a personal premium on observing all angles, costs, and benefits of options surrounding an issue to insure complete information is obtained. From experience, I have participated in citizen initiative reviews, wherein I gained experience in collaborative learning on various political topics with fellow panelists. It also provided me with experience questioning topic experts and bridging differences with panelists to construct professional, non-partisan statements.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

As with any parks and recreation commission, I understand the role of this commission to be one that offers wise counsel to our elected city council on matters pertaining to city-owned lands designated for healthy and happy outdoors experiences. My interest, as a millennial, in serving on the commission rests with my passion for policy development and implementation that happens at my local government level (municipal, county, and special district). I understand that local public policy impacts me and my fellow residents on a daily basis in ways not always apparent nor visible, and I'd like to contribute to making the work of local government more visible and tangibly felt. I envision a Morgan Hill parks commission that continues on the great work that it has already accomplished by tapping into and promoting its residents' creative and artistic energies.

What would you like to accomplish as a commissioner?*

The city has already made great progress on facilities that serve a wide range of residents, particularly the skate park, dog park, and the Centennial recreation center. We need to continue the spirit that made these facilities a reality and expand on projects that enable youthful outlets for energy and creativity, as well as middle-age to elderly active lifestyles. To start, I would like to introduce outdoor/trail-side gyms, and sanctioned graffiti walls. The prior could be introduced along every city-owned trail and park (particularly paradise valley), and the latter could be introduced wherever graffiti vandalism is recurrent as a means to reduce spread instances of vandalism (as has been successfully achieved in other cities). Negotiating with private landowners around El Toro mountain for permanent (or at least more frequent) public access to the summit would also be a priority to truly make our city emblem and tangible experience for our residents.

What are the greatest opportunities facing the community in regards to this commission?*

I believe the greatest opportunities facing the parks commission are the ideas I mentioned above with respect to what I would like to accomplish. A lot of what the community would love, however, is beyond the reach of the commission and city council alone. Much of what residents would like, such as recreational use of local reservoirs for boating, fishing, and swimming demands that we work with state and special district representatives with jurisdiction over resources within the greater Morgan Hill area to enable greater access to local nature for Morgan Hill residents. I therefore see an opportunity for the commission to advocate for residents on not just the city facilities, but areas within the vicinity of the city as well that are frequented by Morgan Hill locals.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☐ No**Are you currently serving on a committee**☐ Yes☐ No**Are you assigned to a special project?**☐ Yes☐ No**If you are assigned to a special project, please describe the project.****Please review the City Council Ethics Policy**[City Council Ethics Policy](#)

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

Enrique Navarro-Donnellan

Date*

11/1/2018

12:45 PM

Attachment: Enrique Navarro-Donnellan Application Packet_Redacted (2035 : Commission Interviews)

Enrique Navarro-Donnellan

, Morgan Hill, CA, 95037 | Cell: |

October 30th, 2018

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

Dear Mayor & City Councilmembers,

My name is Enrique and I seek appointment to the Morgan Hill Parks & Recreation Commission to bring my young and creative mind to the table. I graduated with an MPP (Masters of Public Policy) from the Pepperdine University School of Public Policy where I was a high-performing student with a 3.8 GPA, member of the Pi Alpha Alpha honor society for students of public administration, contributor to the Pepperdine Policy Review, and Secretary for our chapter of ICMA (International City & County Managers Association).

In my previous experience, I worked in local government as a policy generalist for the City of San Jose in the city council offices. I am therefore familiar with what municipal governments can and cannot do, and have realistic expectations for the rate at which projects can proceed given the impact of state laws, regulations, and regulatory bodies (such as CEQA, the Bay Area Air Quality Management District, etc.). I therefore step forward with an appreciation for the role of municipal departments that implement your decisions and understand too the importance of the advisory input the parks commission offers into decisions you make that affect our residential, recreational, and environmental quality of life. This is a role I would fulfill with serious intent and a knowledgeable mind.

Key to the well-being and happiness of Morgan Hill are facilities and projects that serve residents of all ages. That means facilities that enable healthy living, such as outdoor gyms in city parks, and projects that tap into youthful energy and artistic expression, such as building-side wall murals. As a younger resident, I would offer my unique perspectives to you and the commission, even and especially if they differ from the prevailing priorities and visions. A healthy decision making process must be informed from all angles. To that end, I can contribute a skillset and viewpoint to the commission that would enrich the quality of advice offered to you on the city council.

Sincerely,



Enrique Navarro-Donnellan

Enrique Navarro-Donnellan
 , Morgan Hill, CA, 95037

PROFESSIONAL SUMMARY

Motivated, young, growing professional with two years' experience in government service. Managerial experience with interns and proven written ability with policy proposals. Possess a comprehensive knowledge of municipal & state bureaucracy derived from interdepartmental work responsibilities, in addition to international relations analysis from my education. Career supported by a Bachelor of Arts w/Honors in Political Science paired with a minor in Public Administration, and Masters of Public Policy.

EDUCATION

Master of Public Policy, Pepperdine University School of Public Policy, Malibu, CA – 2018

Bachelor of Arts, Political Science (w/Public Admin Minor), San Jose State University, San Jose, CA – 2015

PROFESSIONAL EXPERIENCE

Pepperdine University School of Public Policy – Malibu, CA **Student Services Assistant**

August 2017 - March 2018

- Researching and compiling employment leads and opportunities for fellow students
- Managing the School of Public Policy LinkedIn pages for alumni and current student networks
- Promoting Pepperdine's SPP brand via writing & publishing articles for social media and the Dean's report
- Generic office duties: answering phones, electronic and paper document filing, inter-office communication

International Institute for Counterterrorism – Herzliya, Israel **Research Assistant**

June - August 2017

- Constructing an academic paper for peer-reviewed journal publication
- Conducting Red-Team terrorism exercises involving contemplation of modus operandi of terror cells against notable and vulnerable locations for presentation distribution to international conferences
- Proofreading/Reviewing/Critiquing published papers and articles on terrorism topics
- Generating/Updating Excel data sets
- Research of terrorist organization activity as needed

City of San Jose, 10th City Council District – San Jose, CA **Council Assistant**

January 2015 - August 2016

- Managing Councilmember's public appearances, event attendance, and talking points
- Management of \$35,000 annual SAP grant fund (constituent outreach)
- City Ceremonial event planning
- Policy Research – Medical Marijuana, Civil Liberties, Immigration, Sister City Program, Wage Issues
- Internship Recruitment/Management

TECHNICAL /PROFESSIONAL SKILLS

SPSS
 ArcGIS
 Tableau
 Adobe InDesign

Sales Optima & Insightly
 Basic Conversational Spanish/Russian
 Microsoft Office (Excel, Word, PowerPoint)

Print

Commission Application - Submission #14502

Date Submitted: 10/9/2018

First Name	Last Name
April	Failing

Address1

Address2

City	State	Zip
MORGAN HILL	CA	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Higher Education	yes

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: April Failing Application Packet 1_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Library, Culture, and Arts Commission ▼

Please upload a letter of interest or cover letter*

Letter of Interest MH.docx

Please upload a resume*

April Daniels Resume MH 10.9.18.docx

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I am a trained volunteer and have worked on committees overseeing things such as grants awards and event budgets.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

I understand that the commission helps to advise the city on planning and developing community parks, cultural facilities (such as the Community Cultural Center), activities and public use spaces.

What would you like to accomplish as a commissioner?*

I would like to continue to support the development of the network of walking/biking trails, playgrounds, and parks.

What are the greatest opportunities facing the community in regards to this commission?*

Furthering the development of parks and recreation opportunities for all the residents of our community.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☐ No**Are you currently serving on a committee**☐ Yes☐ No**Are you assigned to a special project?**☐ Yes☐ No**If you are assigned to a special project, please describe the project.****Please review the City Council Ethics Policy**

[City Council Ethics Policy](#)

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

April Daniels

Date*

10/9/2018

11:15 AM

Attachment: April Failing Application Packet 1_Redacted (2035 : Commission Interviews)

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

October 9, 2018
April Failing

Morgan Hill, CA 95037

Parks & Recreation Commission

To Whom It May Concern,

I am writing to express my interest in the appointment to serve on the City of Morgan Hill Parks & Recreation Commission.

In the past I have served on the Morgan Hill Education Committee raising money to bring anti-bullying programs to local schools and volunteering at career fairs. I am a trained volunteer through the Junior League of San Jose and am versed in activities such as event coordination, grant review, and community event staffing. I would love to continue to serve my community as they work to develop public resources, parks and outdoor spaces.

My resume will provide further information on my background, qualifications, and achievements.

Thank you very much for your time and consideration.

Kind Regards,
April Daniels, MA

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

Skills

Accountability
Client & Community Relations
Creative Problem Solving
Emotional Intelligence
Events and Operations
Fast-paced Multi-Tasking
Improving Efficiency
Polished Professional Writing
Project Planning & Management

Education

MASTER'S DEGREE
Counseling Psychology
Lewis & Clark College
2003-2006

BACHELOR OF ARTS
Psychology
Humboldt State University
2000-2002

VOLUNTEERING

2011-2014
Junior League of San Jose
2011-2014
Morgan Hill Chamber of
Commerce Education Committee
2016
California State Parks
2017
Sacred Heart Holiday Volunteer

Professional Profile

As an experienced education professional, I bring a cheerful, solutions-oriented approach to addressing customer needs. I am able to quickly create lasting working relationships with students, administrators and executives, grasping their professional needs, and taking steps to provide the right product-fit. I also have excellent written and oral communication skills and seek to bring these skills to a forward-thinking, innovative company.

Experience

Sr. Student Services Advisor for Concordia University
HotChalk, Inc/October, 2014-Present

In my position at HotChalk, I guide a caseload of over 300 students through their educational journeys by supporting them, their program administrators, and the HotChalk Student Services Department in the following ways:

- Partnering with Ed.D. program faculty and directors to develop a program that ensures student satisfaction and success.
- Addressing over 100 student questions via email and phone each week, interfacing with a number of departments, and ensuring that the issue is resolved efficiently.
- Developing Team Skills and Talent in weekly Professional Development Meetings
- Developing and managing initiatives to increase student retention.
- Partnering with colleagues to plan employee events and activities, build team connections, and foster a positive working environment.
- Planned, booked travel for, and managed graduation travel, hotel, and dinner for 8 graduates and university faculty.
- Researched, compiled, and presented materials on success coaching, employee development, and leadership for bi-weekly Leadership Team meetings

Director/Assistant Director
Action Day Primary Plus/February, 2013-October 2014

As part of the administrative team, I filled the role of both the Director and Assistant director at two Action Day Preschool sites.

- Oversaw 25 teachers and substitutes
- Managed scheduling and time cards for employees
- Exceeded budgeting expectations through effective employee scheduling
- Exceeded enrollment objectives through successful marketing strategies
- Planned and executed school events including holiday activities, summer camps, ar open-houses
- Developed team talent and skills through monthly team meetings, scheduled development time, and distributed materials
- Utilized exceptional customer service skills to attract and retain students

April Daniels



[Redacted]



[Redacted]



Morgan Hill, CA

Technical Skills

Banner

Blackboard

Google Suite

Microsoft Office Suite

Outlook Email & Calendar

Proficient Online Researcher

Salesforce

Social Media

Wordpress

Professional Development

CLASS

Intermediate Wordpress Websites

Gavilan College

CA

2016

SEMINAR

Effective Employee Coaching

Insperity for HotChalk

CA

2017

WORKSHOP

Designing Your Impact

HotChalk

CA

2017

WORKSHOP

Conflict Resolution for Peers

HotChalk

CA

2017

Experience continued

Classroom Teacher

Tower Academy/2012-2013

Originally hired to run the Summer Activities program, I quickly became a fixture at Tower Academy, earning a position as classroom teacher.

Fundraising Consultant

Leading Edge Fundraiser/2011-2013

- Developed relationships with school programs across the South Bay Area
- Partnered with Parent Teacher Associations and Sports teams to launch fundraisers in the K-12 educational bracket
- Developed territory leads, canvassed, and marketed products to K-12 organizations from Sunnyvale to Monterey.

Operations Lead

Extreme Learning/2009-2011

Provided support to Operations Manager, filing necessary paperwork, scheduling, student file information, and reports.

- Utilized Salesforce, Cayen, and Excel.
- Developed precise data entry skills.
- Collaborated with on-ground enrollment, human resources, and other department to complete company objectives according to strict timelines.

Lead Navigator

Alameda County Family Justice Center/2008-2009

Served as a central point of contact in case-management, therapeutic, and safety planning services for victims of domestic violence and interpersonal crimes.

- Designed and implemented a client-focused triage program in collaboration with law enforcement, the Alameda County District Attorney, and other non-profit agencies
- Helped to design and populate a client data tracking platform in order to quantify services rendered to victims of crime and their families.
- Gave presentations and staffed community events to provide public education on victims of crime services, domestic violence, and interpersonal violence.
- Helped to plan and staff annual gala fundraiser.
- Supported Executive Director in tours for outside groups and political figures.

Print

Commission Application - Submission #14507

Date Submitted: 10/11/2018

First Name	Last Name
David	Jefferson

Address1

Address2

City	State	Zip
Morgan Hill	ca	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Engineer	yes

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No

Attachment: David Jefferson Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Planning Commission ▼

Please upload a letter of interest or cover letter*

parks.pages

Please upload a resume*

resume_dj_2018_r1.pdf

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I have good listening skills. I have spent lots of time in the parks and recreation centers in Morgan Hill.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

This role involves planning parks, recreational facilities and advising the city council.

What would you like to accomplish as a commissioner?*

I would like to set aside more area for open space and parks. Also I would work to create more bike paths through the city. Also, I would like to establish green belts that are continuous .

What are the greatest opportunities facing the community in regards to this commission?*

Since Morgan Hill still has more open land than most cities there are still opportunities to create new parks and open spaces.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**☐ Yes☒ No**Are you currently serving on a committee**☐ Yes☒ No**Are you assigned to a special project?**☐ Yes☒ No

If you are assigned to a special project, please describe the project.

Please review the City Council Ethics Policy

[City Council Ethics Policy](#)

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

David Jefferson

Date*

10/11/2018

12:15 AM

Hi City Council,

Please consider me for the parks and recreation position. I've been a resident of Morgan Hill for more than 18 years and have seen the city grow in that time. I've raised three children in Morgan Hill and spent many hours in the parks. I think I know what improvements could be made to the existing park system in Morgan Hill.

I like working with people and finding out what interests them. I'm very much a team player and an outgoing person. I'm a conscientious person and would like to help make Morgan Hill a better place.

Warm Regards,

Dave Jefferson

RESUME

DAVID E. JEFFERSON

E-mail:

Morgan Hill, Calif. 95037

FPGA Design/Sign Off Engineer/ Memory Design/ClockNetwork Design

Career Summary:

FPGA/ASIC Design Engineer with extensive professional experience in FPGA design management, Transistor level design, Transistor level Static Timing Analysis and customer support and training. Expertise in FinFet process characterization and certification.

Technical Skills:

Tools: HSPICE, NanoTime, FinSim, StarRC and PrimeTime, Verilog

Programming: Tcl

Education:

MSEE Santa Clara University

Awards:

40 US Patents

I have five years NanoTime customer support and training experience. I have supported 7nm process certification at TSMC and 28nm process certification STMicro. I have 12 years FPGA design management experience. I have 10 years experience in custom SRAM design experience.

Work Experience

October 2012 to Present: SYNOPSYS Corp. CAE for NanoTime

- Provided customer support for NanoTime transistor level static timing analysis tool.
- Debugged customer setup problems and supported customers in their design activities.
- Visited customers to determine the level of support needed and EDA tool requirements
- Performed characterization of customer designs on various process architectures.
- Trained customers on NanoTime usage and provided product overviews to customers.
- Worked on customer designs to generate liberty files (.lib)
- Performed signal integrity and POCV analysis of customer designs
- Completed Static Timing analysis on SRAMs
- Ran Static Timing analysis on DDR designs
- Completed OCV analysis on SRAMs and DDR circuitry

Jan. 1994 to September 2012: ALTERA Corp. Senior IC Design Manager/Senior MTS

- Led the development of the SRAM architecture on Stratix I, III & IV products.
- Architected and developed the 3 SRAM approach on the Stratix product line.
- Performed floor planning, yield and block size calculations for the ALTERA SRAM
- Designed Dual Port Memory cells for Stratix I, III and IV. Worked with TSMC foundry to deliver memory cells that yielded under Vccmin conditions.
- Designed timer circuits, decoders, sense amps and all SRAM IP sub blocks for Stratix I, III and IV.

Designed several memory test chips to validate various SRAM circuit blocks before they were used on production devices.

- Architected and designed the **Stratix V** and **Stratix I** full chip clock networks. Used Auto Clock Router techniques to minimize clock skew and layout area. Designed the clock network to have less sensitivity to jitter using customized buffer design. Integrated PLL and DDR3 clock sources into the clock network. Evaluated various metallization schemes to reduce the number of metal layers required for clocking resulting in a reduction of metal layers.
- Responsible for full Core floor planning and full Core schematic construction.
- Supervised the implementation and debug of new schematic construction methodology.
- Led the design and tape out of two Stratix V proliferation devices. Managed the project schedules. Addressed all issues impacting the tape out schedule. Monitored SVT and Layout teams progress toward project goals, made adjustments as necessary to keep the project on schedule.
- Led the design of the STRATIX IV DSP block.
- Integrated the DSP and Memory blocks efficiently into the full core FPGA. Supervised the implementation of DSP RTL. Prepared constraint files for P&R. Evaluated DSP timing after P&R implementation of the DSP block.
- Led a team of up to 9 engineers, 1 Design supervisor and 1 Test supervisor on Stratix projects.
- Led the design of the configuration micro-controller on the Stratix II family.
- Extensive experience working with Product Planning to define products based on customer feed back.
- Worked closely with Software and Test engineering to define new internal configuration features. Feature defined and implemented include **Data Encryption, Data Compression, Redundancy and ATPG operation.**
- My team and I used **Verilog, Place and Route (Astro)**, and **Prime time** to complete the design of the configuration engine.
- Familiar with **ASCI flows** and the requirements to complete timing closure on an ASIC block.
- Interfaced with all Stratix block owners to assure that the configuration micro-controller worked properly in their blocks.
- Designed the VCO, PFD and Charge Pump for the PLL on the ALTERA 10K product

May 1992 to Jan. 1994: IC Works Corp: Senior Design Engineer. I designed and supervised the development of a 1.8v low voltage 32K x 8 CMOS SRAM. I did circuit design, layout floor planning and layout of major block inside the SRAM. I Designed and drew out the SRAM Sense Amplifier and Column Decoders. I worked with technology to debug the process after first silicon arrived.

Additional Information: I have a good understanding of the issues involved with 28nm 20nm, 16nm and 10nm IC design.

Print

Commission Application - Submission #14562

Date Submitted: 10/26/2018

First Name	Last Name
Neil	Berman

Address1

Address2

City	State	Zip
Morgan Hill	CA	95037

Home Phone Number	Cell Phone Number

email address

Occupation	Are you a registered voter?
Attorney	yes ▼

Please list any properties you own in Morgan Hill

Do you have any relatives currently employed by the City of Morgan Hill?

No ▼

Attachment: Neil Berman Application Packet_Redacted (2035 : Commission Interviews)

If yes, please provide name

Visit the link below for information on the Planning Commission

[Planning Commission](#)

Visit the link below for information on the Parks and Recreation Commission

[Parks and Recreation Commission](#)

Visit the link below for information on the Library, Culture, and Arts Commission

[Library, Culture, and Arts Commission](#)

Please select the commission you are interested in serving on

Parks and Recreation Commission ▼

Please select the commission that would be your second choice. If you do not have a second choice, please move on to the next question.

Please upload a letter of interest or cover letter*

LOIMHPaR.doc

Please upload a resume*

NPBResume2018.doc

Have you ever served on any other citizen advisory commission or committee? If yes, please list and briefly explain the purpose of each one.*

No.

What skills and/or experience do you possess that would be important to your role as a commissioner?*

I am a good multi-tasker. I have a large caseload at work and manage those cases and am responsible for a staff. I also work well in a collaborative environment.

What do you understand the role of the commission to be and why would you like to serve on this commission?*

I understand that the commission advises the City Council on matters pertaining to planning and development of parks, programs and facilities. I have two small children and love this community.

What would you like to accomplish as a commissioner?*

To work with co-commissioners and the City Council to continue to make Morgan Hill a wonderful place to love for children and the entire community.

What are the greatest opportunities facing the community in regards to this commission?*

I would assume funding and prioritizing the needs of residents when there are a multitude of projects and opportunities to work on.

If you are an incumbent seeking reappointment:**Are you next in line to serve as Chair or Vice-Chair?**
☐ Yes

☐ No
Are you currently serving on a committee
☐ Yes

☐ No
Are you assigned to a special project?
☐ Yes

☐ No

If you are assigned to a special project, please describe the project.

Please review the City Council Ethics Policy

[City Council Ethics Policy](#)

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

Neil Berman

Date*

10/26/2018

10:30 AM

October 29, 2018

City of Morgan Hill

Re: Letter of Interest for Parks & Recreation Commission

Dear City Council:

I would like to fill the vacancy on the Parks & Recreation Commission. I love this community. I owned a home in Gilroy when my wife and I had our first son Lucas in 2012. We saw from Gilroy the wonderful family friendly sense of community in Morgan Hill. When my wife was pregnant with our second son Nathan in 2015, we decided we wanted to raise our family in Morgan Hill and bought our home on Sunnyside Avenue and moved in about a week after Nathan was born.

When we were looking for homes, David Clink showed us the various different areas of Morgan Hill. I could tell how much Dave loved Morgan Hill and now I know why. This City has been tremendous for my family. We live near and love the Centennial Recreation Center. My children are both active in youth sports put on by Coach Leo at the CRC and we use most of the parks throughout Morgan Hill including Paradise Park, Morgan Hill Community Park, Railroad Park, Diana Park and Galvan Park. We love and use the Aquatic Center. I have coached and volunteered with Morgan Hill Pony Baseball for the last few years.

There is so much that Morgan Hill has to offer with respect to parks and cultural facilities. I want to contribute to preserving and improving these locations for our current residents and for generations to come. I am a partner in the law firm of Rucka, O'Boyle, Lombardo & McKenna in Salinas. I have been there for over 11 years. I represent injured workers and help people deal with insurance companies and apply for Social Security. I use my skills daily to help people. I want to use those same skills to help our community.

I have been inspired by Matt Wendt's passion for this community and commission. I have been inspired by meeting with Cricket Rubino and experiencing her infectious passion for Morgan Hill. I am honored to have my firm sponsor the upcoming Morgan Hill Community Foundation Annual Philanthropy Foundation event on November 9 and my wife and I are looking forward to attending it. I want to get involved and start helping this wonderful City that I live in.

Very truly yours,

Neil P. Berman

Attachment: Neil Berman Application Packet_Redacted (2035 : Commission Interviews)

RESUME OF NEIL BERMAN

- Partner, Law Offices of Rucka, O'Boyle, Lombardo & McKenna from 2007-present. Managing partner of Civil Litigation Department. On hiring and advertising committees. Practice is primarily personal injury law, including products liability, automobile accidents, toxic torts, wrongful death, and premises liability matters. Admitted to practice in California and before the U.S. District Court for the Northern District of California. Also practices Social Security Disability law, Workers' Compensation and employment law.
- Outside of law practice, I am dedicated to helping members of the community who need legal assistance. Member of the Board of Governors of the Consumer Attorneys of California (CAOC), an organization dedicated to protecting the constitutional right to trial by jury for all consumers and championing the cause of those who deserve redress for injury to person or property and resisting efforts to curtail the rights of such injured persons.
- Professional Memberships: State Bar of California since 2006; Santa Clara County Bar Association; Santa Cruz County Bar Association; Monterey County Bar Association; Consumer Attorneys of California (Member, Board of Governors, 2014 Executive Committee and 2013 New Lawyers Division Chair); American Association for Justice
- Volunteer Work in Last Few Years: San Francisco Food Bank and Dorothy's Kitchen in Salinas.
- Education: J.D. 2006 from Santa Clara University School of Law. B.A. Political Science 2003 from University of Washington



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

PREPARED BY: Mariah Dabel, Community Services Supervisor
APPROVED BY: City Manager

APPROVE CITY SPONSORSHIP OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN'S "FUTURE WOMEN LEADERS CONFERENCE" AT THE COMMUNITY AND CULTURAL CENTER

RECOMMENDATION(S)

Authorize the City Manager to waive facility rental fees of \$1,890 for use of the Community and Cultural Center for the Morgan Hill Branch of the American Association of University Women's Future Women Leaders Conference on April 6, 2019.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community

2018 Strategic Priorities

Community Engagement and Messaging

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan

REPORT NARRATIVE:

On April 6, 2019, the Morgan Hill Branch of the American Association of University Women (AAUW) is holding the annual "Future Women Leaders Conference" at the Community and Cultural Center. The conference will consist of six hours of presentations, workshops, and interactive activities focused on promoting community leadership skills for the local high school and junior college aged population.

The conference will be open and free of charge to all high school and junior college students. The conference organizing team is comprised of students and leaders from AAUW, Morgan Hill Youth Action Council (YAC), Women Advocacy Club at Sobrato High School and Live Oak High School, Girl Up from Oakwood School, and MissCeo at Gilroy Early Education Academy. There will also be representatives from Central High School.

AAUW is requesting a waiver of the Community and Cultural Center facility rental fees to ensure the event remains free for participants and allows the student organizers to focus on event content and logistics. The rental time is 8am-3pm on Saturday, April 6, 2019, which still leaves the rooms available for potential renters in the evening hours. If

the sponsorship is approved, the City of Morgan Hill will be recognized as a sponsor in all event materials, marketing, and advertisements.

AAUW is a leading voice in promoting equity and education for women and girls. It is a national, state, and local nonpartisan, nonprofit organization with over 170,000 members and supporters nationwide, 1,000 local branches, and 800 college/university institution partners. Founded in 1881, AAUW is open to all graduates who hold an associate or higher degree from a regionally accredited college or university. AAUW's mission is to advance equity for women and girls through advocacy, education, philanthropy, and research. AAUW's local Morgan Hill Branch was chartered in 1981 and has over 160 members.

COMMUNITY ENGAGEMENT: Collaborate

This request is an opportunity to collaborate with a local nonprofit branch that is committed to be a leading voice promoting equity and education for women and girls in the Morgan Hill area. The event itself is an activity that supports and promotes community and local partner involvement.

ALTERNATIVE ACTIONS:

1. The Council could elect to not approve the requested sponsorship.
2. The Council could elect to waive a portion of the rental fee for the requested sponsorship.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council approved the sponsorship of the 2018 Future Women Leaders Conference at the February 21, 2018 meeting.

FISCAL AND RESOURCE IMPACT:

The fiscal impact is the loss of potential facility rental revenues from this event. The value of this sponsorship is \$1,890.

CEQA (California Environmental Quality Act):

Categorical Exemption

Hosting events at the Community and Cultural Center is part of the planned management of city facilities and falls within the CEQA categorical exemption of Class 1, Existing Facilities.

LINKS/ATTACHMENTS:

1. Request for Waiver-CCC 2019



AAUW Morgan Hill PO Box 1528, Morgan Hill, CA 95038
www.aauwmh.org

October 8, 2018

Subject: Request for fee waiver for use of Morgan Hill's Community and Cultural Center

As coordinator of the "Future Women Leaders Conference" I am requesting that fees for use of the Diana Murphy, El Toro, Machado, and Mira Monte rooms at the Community and Cultural Center on April 6th, 2019, be waived. The facilities will be used for six-hour hours of presentations, workshops and interactive activities focused on promoting community leadership skills in our high school and junior high aged population. It will be open, free of charge, to all high school and junior high students. Although there will not be a charge to attendees, there will be expenses if we are to give the attendees the best possible experience, therefore, getting a waiver on the CCC will be critical.

Our organizing team is made up of students and leaders from AAUW, YAC, WAC (Women Advocacy Club at Sobrato and Live Oak), Girl Up (from Oakwood) and MissCEO (GECA). We will also have representation from Central high schools.

The roles of the students will include the general organization of the program including facilities, speakers, workshops, publicity, food and other issues that may come up. Waiving the fees for CCC will enable us to complete our mission without burdening these students with the additional task of fundraising.

We are looking forward to working with you in providing a quality event that will enhance, motivate and educate the future leaders of Morgan Hill and beyond.

Sincerely,

Margaret McCann

AAUW-Morgan Hill

Attachment: Request for Waiver-CCC 2019 (2028 : Fee waiver for Women's Conference)



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

FIRST AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH SALINAS PUMP COMPANY

RECOMMENDATION(S)

Approve and authorize the City Manager to execute an amendment for \$268,467 to increase the not to exceed amount to \$543,467, for the current service maintenance agreement with Salinas Pump for on-call routine and emergency repair, maintenance, and rehabilitation of the City's water wells and pump stations.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2018 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

Water System Master Plan

REPORT NARRATIVE:

The City of Morgan Hill operates 17 water wells and 10 booster stations to provide the City's municipal water needs. A Request for Proposal (RFP) was issued on September 21, 2017 to select a service provider for maintenance, repair, rehabilitation, and emergency servicing for the City's water wells and pump stations. The City received one responsive proposal for this RFP from Salinas Pump Company. Council approved a three-year agreement with a not to exceed amount of \$275,000 on November 17, 2017. At the time of the agreement, the not to exceed amount was estimated based on the then current Fiscal Year (FY) 2017-18 budget, as well as history of the last three-year agreement expenditures. The November 17, 2017 staff report referenced under the fiscal impact section that subsequent years of the agreement were subject to budget appropriations by City Council.

In the first year of the agreement, FY 2017-18, the scheduled routine maintenance included work on Dunne #2 Well, Main #2 Well and an impeller replacement at Glen Ayre pump station. In addition, during that first year, there were several unplanned repairs also needed. For example: Woodland and Encino pump stations required new impellers and Diana #3 well, which had a broken pump shaft, also needed the pump replaced and new pump piping. More recently, the Boy's Ranch #1 Well suffered a broken well casing which required emergency repairs exceeding \$100K, adding unanticipated costs to the second year of the agreement, FY 2018-19.

Due to these unforeseen circumstances, staff is requesting an amendment to increase the not to exceed amount on the agreement by \$268,467 to reflect the increased costs that have occurred, and enable the continuance of the maintenance, repair, rehabilitation, and emergency service to continue through the term of the agreement. The contract increase would provide \$103,667 for additional services in FY2018-19 and \$164,800 for services in FY2019-20. Funding for the increased agreement cost has been included in FY2018-19 & 2019-20, of the current Council adopted biennial budget, therefore, no additional appropriations are needed at this time. This increase will bring the total not to exceed amount on the three-year agreement to \$543,467. Salinas Pump has provided outstanding service, including fast and effective response to the major well emergency at Boy's Ranch #1.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the recommended amendment to the agreement for water wells and pump station maintenance services.

ALTERNATIVE ACTIONS:

The City Council could decide to authorize payment of current invoices, terminate the existing agreement, and direct staff to solicit new bids for the services needed.

The City Council could decide to authorize payment of current invoices, terminate the existing agreement, and direct staff to defer well and pump maintenance for a period of time acceptable to the Council. If this alternative is preferable to the Council, then staff would propose a revised well and pump maintenance schedule based on the length of deferral.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On October 1, 2014, Council approved an agreement with Salinas Pump Company for water well services in the amount of \$387,292. On November 15, 2017 Council approved an agreement with Salinas Pump Company for \$275,000.

FISCAL AND RESOURCE IMPACT:

Sufficient funds were budgeted in the current FY 2019-2020 biennial budget, in the Water Operations division (650.5710.42273). No additional appropriations are required at this time.

CEQA (California Environmental Quality Act):

Categorical Exemption

This project is Categorically Exempt pursuant to Section 15301 of CEQA Guidelines because the work to be performed is repair, maintenance and/or minor alteration of existing well and pump station facilities involving no expansion of existing use.

LINKS/ATTACHMENTS:

1. First Amendment - Salinas Pump

**FIRST AMENDMENT TO AGREEMENT
SALINAS PUMP COMPANY, 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, SALINAS PUMP COMPANY, 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 based upon approval of the City of Morgan Hill City Council on _____.
2. The CITY and SERVICE PROVIDER entered into that "Maintenance Service Agreement" made as of November 27, 2017, for services for a maximum compensation of TWO HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND NO/100 DOLLARS (\$275,000.00) ("MAINTENANCE SERVICE AGREEMENT"). The MAINTENANCE SERVICE AGREEMENT is attached hereto 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 amendment shall be made as set forth below:

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

"4.1 **Amount.** Total compensation under this Agreement shall not exceed FIVE HUNDRED FORTY-THREE THOUSAND, FOUR HUNDRED SIXTY-SEVEN DOLLARS AND NO/100 DOLLARS (\$543,467.00) and shall be billed based on the rate and basis set forth in Exhibit "B" Schedule of Compensation Rates attached to the Maintenance Service Agreement made as of November 27, 2017.

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 or any earlier amendment, 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/Deputy City Clerk

City Manager

Michelle Wilson
 Print Name

Christina J. Turner
 Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

SALINAS PUMP COMPANY

City Attorney

By: *Aaron Thornton*

Donald A. Larkin
 Print Name

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

Date: _____

Date: *10-17-18*

By: *Kristi Thornton*

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

Date: *10-17-18*

EXHIBIT 1

**MAINTENANCE SERVICE AGREEMENT
SALINAS PUMP COMPANY**

THIS AGREEMENT is entered into and becomes effective on 11/27/17 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Salinas Pump Company a California corporation ("SERVICE PROVIDER") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to action of the Morgan Hill City Council taken on November 15, 2017.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until December 31, 2020 at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be On-Call Water Well and Pump Station Repairs, Maintenance and Rehabilitation as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$275,000.00. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed Two-Hundred Seventy-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 an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER on a monthly basis unless otherwise specified in Exhibit B. 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 is authorized to terminate this AGREEMENT on behalf of CITY.

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

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

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

8.1. **Insurance Types and Amounts.**

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

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

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

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

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

8.1.5. Professional Liability.

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

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

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

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

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

8.2.1. **General Liability.**

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

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

8.2.1.3. insurance shall be primary non-contributing.

8.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue

Morgan Hill, CA 95037

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

10. **Compliance with Law.**

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

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

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

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

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

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

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

Address of SERVICE PROVIDER is as follows:

Salinas Pump Company
21935 Rosehart Way

Salinas, CA 93908

Address of CITY is as follows:

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

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

16. **Maintenance of Records.**

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

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

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

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

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

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

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

21. **Defense and Indemnification.**

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

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

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

21.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER's failure to pay CITY promptly any indemnification arising under this Section (21) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER's failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

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

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

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

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

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

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

26. **Binding Agreement.** Notwithstanding the provisions of Section 19 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.

//

//

//

//

//

//

//

Attachment: First Amendment - Salinas Pump (2026 : Amendment To Salinas Pump Service Maintenance Agreement)

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

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

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

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

ATTEST:

City Clerk/Deputy City Clerk

Michelle Wilson
Print Name

Date: 12/4/17

APPROVED AS TO FORM:

City Attorney

Donald A. Larkin
Print Name

Date: 11-20-17

CITY OF MORGAN HILL

City Manager

Christina J. Turner
Print Name

Date: 11-27-17

Salinas Pump Company

By: Aaron Thornton

Title:

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: 11-1-2017

By: Kristi Thornton

Title:

Print Name and Title of Signer.

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

Date: 11-1-17

515945

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

Task 1 Well Services

The City of Morgan Hill has 17 wells. The well equipment includes a combination of submersible and vertical turbine pumps; ranging in size from 40 to 150 horsepower. Pump depth range from 220 feet to 290 feet and pump columns range in size from 6 inches to 10 inches in diameter. The work includes well pump pulling and installations, water well rehabilitations, well casing removal, repairs and installations, water well video inspections, electric motor repairs, and repair services on various types of pumps and motors at various locations throughout the City. The Contractor shall provide all necessary heavy duty equipment, such as, but not limited to, drilling rig, pump rig, flatbed truck, boom truck, tractor trailer to complete the as requested including transportation to and from Contractor's facility to each City worksite.

Pump Removal/Installation and Servicing

The Contractor shall be qualified to perform water well pumps removal and installation. At the initial setup for pulling a well pump, the Contractor shall perform lockout/tagout of the electrical and hydraulic systems.

Well Video Survey Service

The Contractor shall perform water well video inspections using color video equipment with side scan and down-hole survey views. Videos shall be produced in electronic MP4 format in standard definition with a pixel resolution of 640 x 480 pixels or at higher resolutions. Ability to perform these surveys at higher resolutions will be given higher consideration.

The video survey unit shall simultaneously transpose the City's name, well name, footage and the date of inspection on the monitor screen and the video record. A footage counter/recorder shall read in feet and be accurate within 2 percent of the actual footage.

The video survey camera shall be capable of right angle or normal downhole viewing with a change in camera lens or mechanical movement of the camera. At the direction of the City, the Contractor must be able to provide right angle viewing to view any casing section in a direct elevation view.

Well Rehabilitation and Treatment Services

The Contractor shall be qualified to provide well rehabilitation and treatment services. Furnish all portable engine-driven pumps, necessary to perform well redevelopment and rehabilitation. Costs for temporary piping, sound proofing, and related equipment require approval by the Project Manager.

To perform these tasks, the Contractor shall have the capability to perform mineral analysis, chemical treatment, water quality testing, zone testing, well casing patches and similar casing repairs/improvements, and mechanical treatment on well casings. All chemicals used in treating wells shall be State approved for the purpose intended, must be National Sanitation Foundation (NSF) approved.

The Contractor's estimates shall include the typical type and concentration of chemicals (acids, inhibitors, polymers, neutralizers, etc.) to be used; the appropriate contact time for the chemicals; and the typical procedure for introducing, mixing, and neutralizing chemicals in the well. In addition, the name(s) and phone numbers of any company(ies) that will supply the treatment chemicals shall

be provided. Completed Material Safety Data Sheets (MSDS) for all chemicals used shall include the methods of mechanical treatment (dual swab, wire/nylon brush, sonar jetting, etc.).

Over the duration of this contract the City has scheduled to following well work items:

- FYE 18 – Dunne #2 and Main #2 Wells
- FYE 19 – Diana #3 and Nordstrom Wells
- FYE 20 – Diana #2 and Diana #4 Wells

Task 2 Pump Station Services

The City of Morgan Hill has 10 pump stations with approximately 32 pumps within the City limits maintained by City staff. There is a combination of pumps ranging in size from 3 hp to 150 hp. The pump stations are a combination of split case, close coupled and can turbine pumps. The City also utilizes Variable Frequency Drive motor systems at several of the stations. The City expects the following types of work will be performed under this task:

1. Repair and/or replacement of pumps and motor
2. Replacement of existing above ground and buried yard valves with new
3. manual and/or electric operated valves including all related piping and parts.
4. Repair/replacement of flow meters including all related piping and parts.
5. Replacement of pump and station control valves including all related piping
6. and parts.
7. Repair or replacement of auxiliary mechanical or electrical equipment. The City reserves the right to furnish replacement well or booster pump motors.
8. Electrical disconnect and hookup of repaired or replacement equipment.
9. Repairs or modifications of well heads as required.
10. Testing of parts, equipment, or material.
11. Measure, set, and recheck field pump impeller lateral settings and field
12. verification of pump and equipment operation.
13. Demolition or removal of existing structures

Over the duration of this contract the City has scheduled to following pump work items:

- FYE 18 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)
- FYE 19 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)
- FYE 20 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

This is a time and materials agreement. See Attached Fee Schedules.

Attachment: First Amendment - Salinas Pump (2026 : Amendment To Salinas Pump Service Maintenance Agreement)

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

FEE SCHEDULES

General Labor and Equipment Rates

Labor Fees

Classification	Prevailing Wage (PW) Hourly Rate	PW-Overtime Rate (OT)	PW Double Time (DT) Rate	Contractor Mark-Up In Percentage	Fully Burdened Rate	Fully Burdened OT Rate	Fully Burdened DT Rate
Laborers-On site							
General Foreman	12.70	19.05	25.40	246	88.00	132.00	176.00
Foreman	12.70	19.05	25.40	246	88.00	132.00	176.00
Crew Leader	12.70	19.05	25.40	246	88.00	132.00	176.00
Crew Member	10.50	15.75	21.00	319	88.00	132.00	176.00
Welder	23.19	34.78	46.38	89.7	88.00	132.00	176.00
Equipment Operator	12.70	19.05	25.40	246	88.00	132.00	176.00
Laborers-In Your Shop							
General Foreman							
Foreman	SAME AS ABOVE						
Crew Leader							
Crew Member							
Welder							

Equipment Fees

DESCRIPTION	MAKE/MODEL /YEAR	HOURLY RATE	OVERTIME RATE	LOCATION AFTER HOURS
Pump or Well Rig	FORD/F650/2019	50.00	75.00	Salinas
Crane (15-20 Ton Size)	Various	350.00	525.00	↓
Back Hoe	JCB	195.00	292.50	
Dump Truck (12 Yard Minimum)	FORD/F750/2015	175.00	262.50	
Pick-up Truck	FORD/F350/2016	30.00	45.00	

Parts Mark-up Fee

Percentage mark-up to supply parts as needed	% 38
--	------

Billing Rates for Various Tasks (prevailing wages apply)

General Pump Pulling and Installation	
Mobilization & Demobilization	\$2500 LS
Two (2) men, rig, and service truck	\$256 /hr
Each additional employee	\$ 88 /hr
Well Rehabilitation	
Mobilization & Demobilization	\$2850 LS
Aqua Clear PFD Method (Estimated Hours:)	
Two (2) men comb. Rig service truck/Chemical trailer	\$299 /hr
Bore Blast Method (Estimated Hours: <u>varies</u>)	
Two (2) men comb. Rig service truck/Bore blast trailer/Nitrogen gas	\$400 /hr
Well Repair	
Well Tear Down & Inspection	
Two (2) men comb. Rig service truck	\$291 /hr
Rebuild Bowl (Estimated Hours: <u>36</u>)	\$ 88 /hr
Well Cleanout Work	
Cable tool method (wire brush)	
Two (2) men comb. Rig service truck	\$291 /hr
Airlift Method	
Two (2) men, rig and service truck	\$291 /hr
Air compressor charge	\$185 /hr
Large Crane: 40-ton with two (2) men	\$450 /hr

Smaller Cranes

One (1) man and hydraulic crane - 5-ton	\$ <u>266</u> /hr
One (1) man and hydraulic crane - 8-ton	\$ <u>266</u> /hr
One (1) man and rotary crane - 10-ton	\$ <u>266</u> /hr

Field Service

One (1) man and delivery truck	\$ <u>118</u> /hr
One (1) man and service truck	\$ <u>118</u> /hr
Two (2) men and service truck	\$ <u>206</u> /hr
Two (2) men and welding truck	\$ <u>206</u> /hr
Electrician	\$ <u>98</u> /hr

Shop Labor

General shop labor	\$ <u>85</u> /hr
Premium shop labor	\$ <u>88</u> /hr
Machine shop labor	\$ <u>88</u> /hr
Metal spray labor	\$ <u>88</u> /hr
Welding shop labor	\$ <u>88</u> /hr

Closed Circuit Well Television with electronic MP4 copies \$1450 LS

Wire brush, Bail Well, or Swab rental \$291 /hr

NPDES Compliance
(Baker Tanks, Neutralizing Equip. Lab Fees, fabrication) \$9030 LS

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

All regular work is to be completed yearly on an on-call as needed basis.

24 hour Emergency service will be on an on-call basis.

Over the duration of this contract the City has scheduled to following well work items:

- FYE 18 – Dunne #2 and Main #2 Wells
- FYE 19 – Diana #3 and Nordstrom Wells
- FYE 20 – Diana #2 and Diana #4 Wells

Over the duration of this contract the City has scheduled to following pump work items:

- FYE 18 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)
- FYE 19 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)
- FYE 20 – Replace 1 vertical turbine pump and 1 horizontal pump (based on annual condition assessment)



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

ADOPT BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A BELOW MARKET RATE PROGRAM APPLICATION GUIDE

RECOMMENDATION(S)

Adopt Below Market Rate Ownership Program Participation Guide and a Below Market Rate Program Application Guide.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

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

2018 Strategic Priorities

Regional Initiatives

GUIDING DOCUMENTS

General Plan/Housing Element

POLICY CONSIDERATIONS:

Should the City Council:

1. Adopt a revised Below Market Rate (BMR) Ownership Program *Participation* Guide (also known as the BMR Program Manual) for existing BMR homeowners?
2. Adopt a BMR Ownership Program *Application* Guide for potential homebuyers?

REPORT NARRATIVE:

Since 1977, the City has established a robust BMR Program that provides much needed first-time homebuyer opportunities to low-income and moderate-income households. Building upon the significant housing discussions that took place at the City Council Housing workshop, held on September 26, 2018, and the City Council meeting held on October 17, 2018, the Housing Team is recommending that the City Council adopt a BMR Program Participation Guide and an Application Guide to clarify the Program's policies and procedures as discussed with the Council.

Housekeys staff and the Housing team have created a BMR Ownership Program Participation Guide (Attachment No. 1), formerly known as the BMR Program Manual (Attachment No. 2), and a Program Application Guide (Attachment No. 3). The purpose of the program Application Guide is to describe the BMR opportunity and the application process to interested first-time homebuyers.

The purpose of BMR Program Participation Guide is to further provide participation guidance and formalize the BMR Program, related to the following:

- Program participation guidelines
- Resale price determination
- Sale proceeds and owner's minimum return on down payment
- Agreement compliance at the point of sale or refinance
- Ownership and estate planning
- Compliance and annual certification
- Refinance and subordination requests
- Capital Improvements and Special Assessments
- Transfers
- Inheritance

At the October 17, 2018 City Council meeting, the Council supported the BMR guides as is, so as to not hold up the process for those who have been waiting to sell their BMR homes and voted in favor of adopting the Housing Ordinance that referenced both new guides. Staff also recommended the City allow the BMR homeowner to receive their initial out of pocket down payment plus a minimal annual return based on the number of years that they occupied the unit. The following is an example of the recommendation. If an Owner made a down payment contribution of \$20,000 to purchase a BMR home that they want to sell 7 years later, the City could use a 10% rate of return for every year that the Owner has occupied the unit. This means the owner would receive a \$14,000 ($\$2,000 \times 7 \text{ years}$) return on their initial down payment for a total of \$34,000 ($\$20,000 + \$14,000$). Allowing them to receive a minimum return is beneficial to the Program as it will encourage them to resell their units; thus, creating a new opportunity for another qualified family. A minimum return on their down payment will only be permitted if the market conditions allow for a return and the City determines enough sale proceeds are available, and the resulting resale price will not remove the housing asset from the Program.

Additionally, the following paragraph has been added to page 17 of the BMR Owner Participation Guide under the section "Maintenance and Insurance" to provide further clarification.

"The Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition and will not permit deterioration of the Home. Owner is required to maintain home free of hazards, code violations, nuisances, in compliance with the Agreement, Deed of Trust, Homeowners' Association covenants, if any, City Municipal Code, and other applicable health and safety codes and laws. Home may not be used for any non-residential use, or as a vacation home, vacation rental, or any use other than as Owner's primary residence. Home Owner may operate a home-based business in the home to the extent permissible according to the Municipal Code and any applicable Homeowner's Association covenants, if licensed and permitted by the City, and if ancillary to the primary use of the home as Home Owner's primary residence."

Staff is recommending the Council adopt the BMR guides at this time to keep the BMR processes moving. On October 17th, staff also received direction from the Council to further research and address the question of “how and why did the City historically arrive to a 10% return?” Staff will return to Council with an updated response in the coming months.

COMMUNITY ENGAGEMENT: Inform

The guides, once adopted, will be made available to the current and future BMR homeowners via the City’s website, and other communication channels.

ALTERNATIVE ACTIONS:

The City Council may choose to not adopt the Below Market Rate Ownership Program Participation Guide and/or the Below Market Rate Ownership Program Application Guide, and/or direct staff to return with alternatives.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The BMR Ordinance was adopted on June 15, 2016. On September 26, 2018, the City Council held a Housing workshop to discuss the Housing Ordinance and BMR guides, followed by an additional discussion of the BMR guides held on October 17, 2018.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with this report.

CEQA (California Environmental Quality Act): Not a Project

This report is to inform policy regarding the Below Market Rate Program. Under the CEQA guidelines, activities that qualify to be listed as “Not a Project” include general policy and procedure making.

LINKS/ATTACHMENTS:

1. BMR Ownership Participation Guide
2. BMR Manual 2014
3. BMR Program Application Guide



Program Participation Guide Below Market Rate (BMR) Ownership



City of Morgan Hill Below Market Rate (BMR) OWNERSHIP Program Participation Guide



Program Participation Guide

Below Market Rate (BMR) Ownership



TABLE OF CONTENTS

TABLE OF CONTENTS	Pg. 1
1. INTRODUCTION	Pg. 2
2. HOUSEKEYS HOUSEHOLD PROGRAM DASHBOARD	Pg. 3
3. ESTABLISHING AN ACCOUNT	Pg. 4
4. HOUSEHOLD INFORMATION PROFILES	Pg. 5
5. PROGRAM PARTICIPATION	Pg. 6
6. RESALE PRICE DETERMINATION, OWNER DUE PROCEEDS, & COMPLIANCE STATUS	Pg. 7
7. OWNERSHIP AND ESTATE PLANNING	Pg. 9
8. COMPLIANCE & ANNUAL CERTIFICATION	Pg. 10
9. REFINANCE & SUBORDINATION REQUESTS	Pg. 12
10. CAPITAL IMPROVEMENTS AND SPECIAL ASSESSMENTS	Pg. 16
11. OWNERSHIP CHANGES, RE-SALES, AND APPROVED VENDORS	Pg. 18



Program Participation Guide

Below Market Rate (BMR) Ownership



1.INTRODUCTION

Buying, owning, and selling an Affordable Below Market Rate (BMR) Ownership Unit differs in many ways from buying, owning, and selling a market rate. It is important that the buyers and sellers of BMR Ownership Units understand the rules and procedures of the Program fully.

HouseKeys is the City of Morgan Hill's Affordable Housing Program Administrator. This Program Guide includes the guidelines, policies, and procedures that comprise the affordable homeownership program for below market rate (BMR) homes.

The Program Guide and other relevant information (e.g., Ordinance procedures and income limits) will be amended and updated from time to time, so long as such rules, policies and procedures do not violate any affordable housing laws. All proposed changes are subject to approval by the City Council prior to implementation.

Updates to this Program Guide and other relevant information will be posted on the [HouseKeys Website](http://www.housekeys.org)

Please contact the City or HouseKeys regarding any conflicts between this Program Guide, the Developer's Affordable Housing Agreement, the owner's BMR Agreement, and/or the City's recorded documents.

Please contact HouseKeys with any questions or concerns regarding this document or any other question regarding the City's affordable housing program:

Online: <http://www.housekeys.org>

Email: programs@housekeys.org

Phone: 1-877-460-KEYS (5397)

Address: 17575 Peak Avenue, Morgan Hill, CA 95037



Program Participation Guide

Below Market Rate (BMR) Ownership



2.HOUSEKEYS HOUSEHOLD PROGRAM DASHBOARD

		
Information Profiles	Tools & Planning	Program Center
Information Profiles are used to gather important facts that determine your eligibility and qualification. These profiles will be used to complete your program applications and participate in program activities.	There are lots of calculations involved in an Affordable Homeownership Program. From calculating the income category of your household, to determining your maximum restricted resale price, it's important to understand the math behind these programs.	All Application, Opportunity, Opportunity Drawing, and Participation Activity is captured in your Program Center. As soon as you complete your initial registration, this is where you'll spend the most time participating in the programs.
		
Program File Cabinet	Program Marketplace	Community Center
As you start to apply for and participate in program activities, your file cabinet is where you'll track progress, exchange information, and communicate with program administrators.	The program marketplace is where you can shop for ownership, rental, and financing opportunities.	The online community center will have a classroom, a bulletin board, and chatroom so you can stay educated, informed and in touch with other program participants and stakeholders.



Program Participation Guide

Below Market Rate (BMR) Ownership



3. ESTABLISHING AN ACCOUNT IN THE HOUSEKEYS SYSTEM

The following four (4) actions are the initial steps needed to establish your household's affordable housing account.

REGISTRATION PROCESS	ACTION OR MILESTONE
1. Initial Signup	 Start out by completing our simple registration form. This step collects very basic information from you to establish a User Account, including your name, contact information, and your household size and income.
2. Complete the Registration Wizard	 The next step includes additional details about your address, household members, income profiles, and preference criteria. The preference criteria are described on Step 5 of the Registration Wizard. Completion of the Wizard will create a summary of your household and provide you with access to additional features of the Administrator Platform.
3. Browse the Marketplace	 The Participation I.D. allows the Program Provider (City of Morgan Hill) and the Administrator (HouseKeys) to confirm your identify and match you up with the Program File. It also will be used to track your Service Request Tickets.
4. Open a Service Request Ticket	 Whether you want to remodel your home, refinance your mortgage, or sell – it all starts with opening a Service Request Ticket so that the Administrator can gather the information needed to help you.



Program Participation Guide

Below Market Rate (BMR) Ownership



4. HOUSEHOLD INFORMATION PROFILES

When you establish an account in the MyHouseKeys system, **Household Information Profiles** are used to organize information about your household. This information is used to help you complete your annual certifications. While there are 10 total information profiles listed in the Program Application Guide, the list below includes the five (5) that involve your program participation and compliance.

#	Information Profile Name	Description	Purpose
1	Location Profile	Where you live and where you work	Most Restriction Agreements have an owner occupancy certification to confirm that you occupy the property the minimum 10 out of 12 months per year.
2	Member Profile	The people who live in your housing unit	The members of your household are asked to confirm that no renters are living in your household without city notice and approval
3	Expense Profile	Documenting monthly expense obligations	Every refinance request must be reviewed by the administrator to ensure that the payment-to-income ratio of any proposed financing is in line with the program guidelines.
4	Liability Profile	Your Debt	Keeping your mortgage paid on time is not only good for your credit report, but it is an important part of making sure that the home is not at risk of loss to the City's proposal. If a homeowner falls behind on their mortgage, the City reserves the option to step in and make a purchase to avoid foreclosure.
5	Public Record Profile	Collections, Liens, Bankruptcies and Foreclosures	Bankruptcies, foreclosures, and divorces are all part of the public record and notices are issued that include the property address. As the City and Administrator monitor these events, you may be contacted to ensure that the property is not at risk of being lost from the portfolio during the 45-year term.



Program Participation Guide

Below Market Rate (BMR) Ownership



5.PROGRAM PARTICIPATION

The purpose of the Below Market Rate (BMR) program is to provide long-term affordable homeownership opportunities for low and moderate-income households in the City of Morgan Hill. Households that purchase a BMR home will be required to sign affordable housing documents to ensure the home **remains affordable**, and the homeowner occupies the home, for the entire restricted term (generally 45 years). Homeowners can sell their home at a market rate price at the end of the restricted term (46th year).

Between the time the BMR home is purchased and the 46th year is reached, there may be a series of requests and communications between the homeowner, the City and Administrator. These requests and communications can involve compliance certifications, requests to refinance a mortgage, remodeling the home, or initiating a property sale. The rules governing these, and other issues of concern, are outlined in the Resale Restriction Agreements that contain definitions and covenants that determine compliance. Over the past 40 years, the City of Morgan Hill has amassed a Program Portfolio of over 80 development projects containing over 550 BMR Units, each with its own unique agreement.

Generally, when a request is made to review any refinance or sale request, there are three stages of review:

1. Preliminary Review of the Agreement and Program File to determine whether the participant Household is following the program rules and the Agreement language allows what has been requested.
2. Evaluation of the proposed financing package or sale transaction to ensure that it fits program guidelines and complies with Agreement language.
3. Coordinating and tracking the transaction to make sure that approved vendors are used and/or that the home is sold to an eligible purchaser from the program applicant list. BMR Transactions take longer than conventional financing and sale transactions because of the number of payoffs needed, the city authorization required, and the legal documents involved.

Each review stage can take 30 to 90 days to complete, dependent upon the details involved with each request.

It is important that any current or prospective BMR homeowner review their Agreement in its entirety to make sure that they understand the conditions and restrictions that they will be expected to adhere to during the Agreement term. They should seek their own legal counsel if further clarification is needed.



Program Participation Guide

Below Market Rate (BMR) Ownership



6. RESALE PRICE DETERMINATION, OWNER DUE PROCEEDS, AND COMPLIANCE STATUS

Each resale restriction agreement has a price determination method that outlines how the resale price is calculated if the City were to exercise its option to purchase the unit, assign its option to a designee or eligible buyer, or instruct the Administrator to facilitate a resale to an eligible purchaser. Each Owner must use the price determination method contained in their agreements unless otherwise instructed by the City. There are five primary ways that resale prices are determined

#	Price Determination Method	Description
1	Indexed Price Based on Consumer Price Index	Throughout the year, the U.S. Department of Labor's Bureau of Labor Statistics publishes a Consumer Price Index for metropolitan areas throughout the United States. This determination method allows for a resale price that is based on the increase in the Housing Component of the Consumer Price Index based on the month and year of purchase.
2	Indexed Price Based on Area Median Income	Each year, the State of California Department of Housing and Community Development publishes the statewide income limits . This determination method allows for a resale price that is based on an increase in the applicable Median Income based on the year of purchase.
3	Equity Share Agreement	Some Agreements have an Equity Share Provision that is based on the initial subsidy provided by the City or Agency when the BMR Unit was purchased.
4	Forgivable Loan	Agreements that have a promissory note with a forgivable amount of principal and interest in the final years of the agreement term that reduces by a certain percentage each year until there is no balance remaining. This enables the Owner to sell for full price if they remain in the home for the entire term
5	Shared Appreciation	Agreements that require a percentage of the Fair Market Value to be paid to the City as a Share Appreciation Payment. The remaining amount is paid to the Owner.

Continued next page



Program Participation Guide

Below Market Rate (BMR) Ownership



SALE PROCEEDS AND OWNER'S MINIMUM RETURN ON DOWN PAYMENT

Depending on the Price Determination Method used, the Fair Market Value of the home, and any liens and/or encumbrances recorded (including any interest or fees owed at time of sale), there will be a portion of the sale proceeds that are due to the Owner and a portion of the sale proceeds that are due to the City. The City's portion is considered Program Equity or Public Equity. Provided that the City determines that enough sale proceeds are available and due to the Program, the City can ensure that the Owner receives his or her initial down payment plus an annual return based on the number of years that they occupied the unit. The City can use any one of the price determination methods above or assign a fixed percentage to the minimum return calculation.

For example, if an Owner made a down payment contribution of \$20,000 to purchase a BMR home that they went to sell 7 years later, the City could use a 10% rate of return for every year that the Owner has occupied the unit. This would mean that the owner would receive a \$14,000 ($\$2,000 \times 7$ years) return on their initial down payment for a total of \$34,000. The City could also base the increase on any of the price determination methods above.

AGREEMENT COMPLIANCE STATUS AT THE POINT OF SALE OR REFINANCE

All BMR Homeowners must be in good standing with the program at the point that they would like to sell their home or refinance home. If there are outstanding compliance findings, the City reserves the right to reject a request to sell or refinance.



Program Participation Guide

Below Market Rate (BMR) Ownership



7. OWNERSHIP AND ESTATE PLANNING

A “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 (unless the lease is approved in advance by the City), or land contract. For the purposes of your Agreement, transfers by devise or inheritance to an existing spouse, Domestic Partner, child, surviving joint tenant, or a spouse as part of a dissolution proceeding in connection with marriage – are not considered Transfers. All Transfers must be approved by the City in advance and may be subject to the City’s Option to Purchase (See Section 5 to see description of “City’s Option to Purchase”).

In the event a Transfer occurs, or a person receives the Home by devise, inheritance, or operation of law due to death of the Owner, the person inheriting the Home (the “Inheriting Owner”) must have their income and eligibility reviewed and approved by the City or Administrator to determine if they are an Eligible Purchaser. If approved, new documents will need to be signed and a new 45-year term will be enforced.

New purchasers of BMR Units may not purchase the BMR Unit through a trust of any kind, including but not limited to living trusts. Existing BMR Owners may not transfer ownership of their BMR Units to trusts of any kind, including living trusts.

Owners of BMR Units should keep in mind that the Estate of the Owner is entitled to the Owner due proceeds upon any transfer that takes place during the Agreement term.

Note: An Exhibit has been added to the City’s Resale Restriction Agreement in response to the State of California’s 2016 update to the Probate Code that created the “Simple Revocable Transfer on Death (TOD) Deed ([California Probate Code Section 5642](#)).



Program Participation Guide

Below Market Rate (BMR) Ownership



8.COMPLIANCE, ANNUAL CERTIFICATION, & ENFORCEMENT

All BMR homeowners will be re-certified once a year for compliance with their signed and recorded deed restrictions on the property, including but not limited to occupancy, current title, and liens. Homeowners are to provide the program Administrator all pertaining documents listed on the program checklist for a full re-certification review and certificate of compliance.

ANNUAL COMPLIANCE CERTIFICATION

1. The Owner will receive an annual notification via US mail for the annual certification process. This notification will include a questionnaire and request for supporting documents (most current utility bill, mortgage statement, and insurance declaration page). The owner will have 30 days to comply.
2. If an owner does not comply with the requirements or documentation within 30 days of the annual certification notice being sent, a 2nd notice will be sent providing a final deadline.

CERTIFICATION PROCESS

Once all documents are received, the City or Administrator will:

1. Ensure that there are no inconsistencies between the application file and compliance file that indicate that misinformation or fraud was committed during the application process
2. Determine if the property is owner occupied and confirm that it isn't being rented
3. Review all liens against the property to ensure the property is not over encumbered
4. Review all transfers of title on the property reports
5. Review default notices or statements of any loans, taxes, or Homeowner Association dues
6. Determine if the property is adequately insured and if secondary liens (i.e. down payment assistance loans, city loans or state loans) are referenced on the Insurance Declaration page.

If any of the above review steps require additional information from the Owner, a document request will be made and the Owner will be provided with a deadline to return the requested documents to the Administrator.



Program Participation Guide

Below Market Rate (BMR) Ownership



Continued next page

CERTIFICATION OF COMPLIANCE

The BMR Owner will receive a certificate of compliance if the review is approved and in compliance with the requirements above

ENFORCEMENT ACTIONS AND TIMELINES

If the homeowner does not comply after the 2nd notice, the City or Administrator will file a Notice of Default with the County Recorder's Office and the homeowner will be notified. This Notice of Default becomes public record and may trigger additional action by any lenders who have an interest in the property.

If the homeowner is out of compliance on any of the above requirements, the homeowner will be provided with 60 days to comply and will be provided with action steps needed to cure any defaults (if there are possible actions to cure the default).

90 Days from the date that the Notice of Default is filed with the County Recorder's Office, the City or Administrator

If the owner fails to cure the violation, the City will exercise its Option to Purchase the BMR home from the homeowner at a restricted resale price.

The City reserves the option to apply to a court of competent jurisdiction if it deems legal action appropriate

The City/Administrator reserves the option to apply to a court of competent jurisdiction if it deems legal action appropriate



Program Participation Guide

Below Market Rate (BMR) Ownership



9. REFINANCE & SUBORDINATIONS REQUESTS

The information below and on the following page outlines the process for refinancing existing City loans and Agreements, or subordination of any loan or deed of trust associated with a BMR property. Subordination of loans not issued by the City is necessary to protect the City's interest in maintaining the affordability of the property for the duration of the restriction term (typically 45 years). In most cases, the City's interest will be subordinate to any mortgage loans on the home, as outlined in the deed of trust and/or the signed resale restriction documents.

SUBORDINATION REQUIREMENTS

BMR homebuyers may be allowed to refinance up to 95% of the Maximum Restricted Sale Price described in the signed deed restriction, or the remaining balance of the loan amount, whichever is less. The total payoff amounts for all recorded liens and encumbrance amounts are used to determine the maximum refinance percentage mentioned above (95%). This percentage is sometimes called the Maximum Combined Loan to Value (Max CLTV). Please note the following requirements:

1. Accrued interest on any subordinate financing will be considered in the Max CLTV.
2. HouseKeys will calculate the maximum restricted sale price according to the deed restrictions.
3. The refinance amount cannot exceed the maximum restricted sale price.
4. If the remaining balance of the original first loan is more than 95% of the maximum restricted sale price, the original loan will need to be paid down.
5. Cash out is allowed up to 80% of the restricted resale price
6. Payoff of purchase money mortgages are not considered cash out.
7. Payoff of equity lines or junior financing that are not purchase money loans are considered cash out.
8. Homeowners cannot add or change names to title without approval of the City/Administrator. Any request to change names on title shall be submitted to the City with supporting documents.
9. If the requested change is due to marriage, the person being added will need to be on the first mortgage and addendums will need to be signed by that person.
10. If the requested change is due to divorce, addendums to the subordinate financing and deed restrictions will need to be signed by that person.
11. A Performance Deed of Trust is required to protect the deed restrictions and will be recorded against the property.

Continued next page



Program Participation Guide

Below Market Rate (BMR) Ownership



MORTGAGE REQUIREMENTS

1. First mortgage loan terms of 30, 20, or 15-year fixed rate fully amortized
2. Equity lines, lines of credit (HELOCs), etc. or any junior loans are not allowed
3. Adjustable rate, interest only, negative amortization, or balloon payments loans are not allowed
4. Homeowner is required to use a loan officer on the program-approved lender list
5. Rate and term refinance up to \$1,500 maximum cash out
6. Recurring closing cost will not be allowed to be financed
7. Non-recurring closing cost will be allowed to be financed as long as the new loan amount does not exceed 95% of the restricted value
8. Escrow will be required to be opened with a Title company in Santa Clara County

Please Note: FHA/VA loans do not typically work with resale restricted properties due to federal requirements and/or lender requirements. Please check with your lender to ensure that they have reviewed the restrictions and whether the legal department has accepted the use of Government National Mortgage Association ("Ginnie Mae") financing with your resale restricted property.

REQUEST TO REFINANCE PROCESS

1. Complete the **BMR Homeowners Inquiry Form** on www.housekeys.org
2. HouseKeys will calculate the maximum restricted sale price within 14 days of receiving a complete application. However, if more information is needed, the process will be delayed until HouseKeys receives the requested information. Once all of the information is received and a price has been issued, it is valid for 6 months.
3. Homeowners shall then complete the refinance request forms and provide all of the supporting documentation to HouseKeys
4. HouseKeys will review the fully-packaged refinance request file and issue a final approval or denial of the request within 14 days of receipt of all required documents.

Continued next page



Program Participation Guide

Below Market Rate (BMR) Ownership



MINIMUM REQUIRED DOCUMENTS FROM THE HOMEOWNER

1. Signed BMR refinance application
2. Current mortgage statements with all balances
3. Current Federal Tax returns
4. 2 months consecutive paystubs
5. 2 months current bank statements
6. Copy of Driver's License and Social Security Card
7. Subordination fee

LENDER DOCUMENTS

1. Borrower's authorization
2. Credit report
3. 1008 (transmittal)
4. 1003 (application)
5. DU (desktop underwriting)
6. Preliminary Report
7. Appraisal
8. Approval letter

ESCROW COMPANY DOCUMENTS

1. Estimated Closing statement
2. Payoff demands

Continued next page



Program Participation Guide

Below Market Rate (BMR) Ownership



REFINANCE REQUEST APPROVAL

Once all documents are received, HouseKeys will:

1. Determine if the refinance follows the deed restrictions and does not exceed the maximum restricted price
2. Determine if the borrower is in a better financial situation with the new refinance terms.
3. Determine whether all requirements have been met.
4. Review any additional liens on the property.
5. Determine whether all existing loans, HOA dues and taxes are current. If not current, the application will be rejected.
6. Once approved, subordination documents and escrow instructions will be drawn and routed to the City for signatures.

Please note that City signatures can take up to 14 business days to obtain. It is highly suggested that you do not lock any interest rates on your proposed financing until you obtain city signatures.



Program Participation Guide

Below Market Rate (BMR) Ownership



10. CAPITAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

BMR Units may begin claiming capital improvements toward their Maximum Resale Price that are made no sooner than 1 year after the BMR Unit was first occupied. Exceptions are made for critical modifications made during the original purchase of a BMR Unit as approved by the City beforehand.

Once the BMR Unit becomes eligible for capital improvements credit, BMR Owners may begin submitting documentation of completed work. City or Administrator will review all capital improvement claims and categorize them into three distinct categories:

1. Eligible Capital Improvements	Major structural system upgrades, new additions to the BMR Unit and improvements related to increasing the health, safety and energy efficiency of the property. The Improvements must conform with applicable building code, be approved in writing in advance, initial cost must exceed one percent (1%) of the purchase price paid by the Owner. Improvements that meet these criteria will be given 100% credit.
2. Eligible Replacement and Repair	Eligible Replacement and Repair includes in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.
3. Ineligible Costs	Cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures. Homeowners may undertake these projects at their discretion, however they will not be given capital improvements credit.

Procedure for Submitting Capital Improvements

BMR Owners must submit capital improvements to Administrator for review within 6-months of the completion of the project. In order to document the improvements, each BMR Owner must submit the following documentation: (1) A list of the capital improvements with a description on a form provided by Administrator; (2) The receipt and invoice for each eligible improvement; (3) Proof of payment, such as a cancelled check, bank account statement or credit card bill; (4) A copy of site or building permits, if required; and (5) Contractor's license number for Projects exceeding \$500. Upon receipt of a complete capital improvements claim, Administrator staff may arrange a site visit to inspect the completed Project.

Continued on Next Page



Program Participation Guide

Below Market Rate (BMR) Ownership



Once the improvements have been verified, Administrator will send a written response to approve or deny the submitted capital improvements within 60 days of original receipt. This information will be placed in the property file at the City for use when the property is being sold.

Special Assessments Homeowner's Association initiated special assessments are considered capital improvements and will be added to the resale price of the home at the full amount of the special assessment paid by the BMR Owner. In order to receive credit for special assessments, homeowners must submit the following documentation within 6-months of payment: (1) An invoice for the special assessment; and (2) Proof of payment, such as a cancelled check, bank account statement or credit card bill.

Capital Improvements Cap

At the time of sale, City may cap all eligible capital improvements over 10% of the resale price. This is to preserve the affordability of the BMR unit.

Maintenance and Insurance Requirements

The Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition and will not permit deterioration of the Home. Owner is required to maintain home free of hazards, code violations, nuisances, in compliance with the Agreement, Deed of Trust, Homeowners' Association covenants, if any, City Municipal Code, and other applicable health and safety codes and laws. Home may not be used for any non-residential use, or as a vacation home, vacation rental, or any use other than as Owner's primary residence.

The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Home (adjusted every five years by appraisal, if requested by City, naming the City as an additional insured. Additional insurance requirements are set forth in the City Deed of Trust.

Home Owner may operate a home-based business in the home to the extent permissible according to the Municipal Code and any applicable Homeowner's Association covenants, if licensed and permitted by the City, and if ancillary to the primary use of the home as Home Owner's primary residence.



Program Participation Guide

Below Market Rate (BMR) Ownership



11. OWNERSHIP CHANGES, RE-SALES, AND APPROVED VENDORS

The table below, and on the following page, outlines the process for transferring or changing ownership of the BMR home.

OWNERSHIP CHANGES	• Homeowners must review their BMR deed restrictions in order to determine if title can be transferred. • Outside of divorce, marriage or name change, the new owner will need to be eligible and qualified for the BMR program. • Written approval from the City/Administrator is required. • Changes are not permitted if the homeowner has violated any of their Deed Restrictions. • Any request to remove, add, or otherwise change ownership of the BMR home shall be accompanied by the following documents: • Divorce: Copy of court order • Name change: Copy of legal documents • Marriage: Copy of Marriage Certificate • New ownership: All required documents per HouseKeys • Trusts are not allowed. • Inheritance is not permitted, unless otherwise allowed per the deed restrictions.
RE-SALES	• The homeowner shall complete a ticket (request) on the HouseKeys website to begin the process for potential resale. • Once all required documents have been received, HouseKeys will: • Review the deed restrictions along with any liens recorded on the property. • Assignment of Option is required if owners want to continue with sale • Complete an initial walk-through of the property, to determine the amount of work needed to sell the BMR home. • Schedule inspections of the property (contractors, appraiser, vendors, etc.) • Obtain a preliminary quote from vendors.



Program Participation Guide

Below Market Rate (BMR) Ownership



	• Review quotes and schedule a walk-through of the property with the City. • Adjust contractor/vendor bids, if needed, and obtain a final quote for property improvements. • Obtain approval of the quote from the City. • Calculate the <u>Maximum Restricted Sale Price</u> per the deed restrictions, accounting for all required and approved improvements to the property. • Create the listing agreement or purchase agreement if needed. • Prepare the property for resale through the Lottery/Opportunity Drawing process. • All real estate/transaction fees are the responsibility of the seller. • The owner shall sign the Property Pricing form and Opportunity documents.
--	--

APPROVED VENDORS

All vendors shall be approved by HouseKeys. The table below outlines the minimum requirements for any vendor associated with resale of the property:

CONTRACTORS	• Contractors shall have a valid California Contractor License.
LENDER/LOAN OFFICERS	• Loan Officers shall have previously attended HouseKeys loan officer orientation class. • The lender's legal department shall approve all BMR documents prior to resale. • All Loan Applications must be taken and completed by the Loan Officer listed on the Loan Application (including NMLS License) and must match the name on the Program Approved List
TITLE COMPANY	• The Title Company shall be based in Northern California and preferably in the County of Santa Clara.
APPRAISER	• Appraisers shall have a valid California State Certification or California State License that has not expired.



Below Market Rate Program Manual

The City of Morgan Hill

2014 - 2015

Introduction

About the Manual

This manual contains the guidelines that establish the process for the City of Morgan Hill's affordable housing program, also known as the Below Market Rate (BMR) housing program. The purpose of this manual is to outline:

1. Program eligibility criteria
2. Application processes for prospective purchasers
3. The processes and procedures for owners that currently own in the program.

All interested applicants are encouraged to review the BMR program manual **prior** to application, to learn more about the benefits as well as the process for purchasing a BMR home through the City of Morgan Hill; to learn more about what to expect when applying to the program and during homeownership.

All applicants will receive a copy of the BMR program manual and a sample deed restriction package to review prior to the execution of any sales agreement.

The program manual may be updated from time to time to increase the program's effectiveness. Modification may require City Council approval.

In the event there is a conflict between the BMR deed restrictions and the BMR program manual, the recorded BMR deed restrictions will always prevail.

BMR Program Administration

The [City of Morgan Hill's Housing Division](#) in cooperation with [Neighborhood Housing Services Silicon Valley](#) (NHSSV) operates the Below Market Rate (BMR) housing program to provide affordable homeownership opportunities in the City of Morgan Hill. The City of Morgan Hill has contracted with NHSSV to act as the BMR Program administrator. The following are the services provided by NHSSV on behalf of the City of Morgan Hill

- Homebuyer education
- Homebuyer application evaluation and selection processing
- Mortgage counseling and financial servicing
- Facilitation of homebuyer/developer interaction
- Compliance monitoring
- Annual certifications
- Customer service activities
- Real estate sales (real estate agent for listing and selling new development and re-sale BMR homes)

Fair Housing Policy

Program participants must comply fully with all Federal, State, and local non-discrimination laws. Specifically, program participants and program administrators will not be permitted to discriminate against any prospective applicant based on race, color, sex, religion, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, or deny any family or individual the opportunity to participate in the City of Morgan Hill BMR program.

Privacy Rights

All eligibility applications are held in strict confidence and are not considered public records (H&SC Section 34332). Requests received by the City to release information involving a homebuyer or homeowner must be accompanied by a written release request from the homebuyer or homeowner and/or court order, unless disclosure is authorized under Federal or State law.

H&SC Section 33334.3 requires redevelopment agencies to compile, maintain and make available to the public on the internet, a database of existing new and substantially rehabilitated homes that are subject to income and BMR deed restrictions. The online database can be annually updated. With the dissolution of redevelopment agencies in 2012, successor agencies of redevelopment agencies are required to compile information.

NHSSV

Brokerage: Neighborhood Housing Services Silicon Valley
BRE# 01324196 & NMLS# 259971

Broker: Robyn Van Ekelenburg
BRE# 01336834 & NMLS# 334668

City of Morgan Hill's BMR Program History

Authority for the administration of the City of Morgan Hill's BMR program is found in provisions contained in the Residential Development Control System (RDCS) in the Municipal Code (Chapter 18.78) and further upheld in the policies adopted in the Housing Element of the Morgan Hill General Plan.

The Residential Development Control System (RDCS) was enacted by the residents of Morgan Hill in 1977 to regulate the growth of the major residential developments of five or more homes. Today more than 450 BMR units, individually owned, have been made available to the Morgan Hill community. These homes continue to be made available through re-sale, at affordable values, for up to 45 years, generating an on-going affordable resource for the City. With each new housing development in Morgan Hill, new affordable ownership opportunities are created adding to the City's total supply.

BMR Program Contact Information

Online: www.NHSnow.org
Email: HOO@nhssv.org
Phone: 408.579.6550
Address: 31 North Second Street #300
San Jose, CA 95113

Table of Contents

Section 1: Introduction to the City of Morgan Hill's Below Market Rate (BMR) Program.....	7
Section 1.1: About NHSSV's Housing Department	
Section 1.2: NHSSV's BMR Process Cycle	
Section 1.3: How the BMR Program Works	
Section 1.4: BMR Homeownership versus Market Rate Homeownership	
Section 2: BMR Eligibility & Application Process.....	12
Section 2.1: BMR Program Eligibility Requirements	
Section 2.2: BMR Household Income versus Borrower's First Mortgage	
Section 2.3: BMR Application Process & Processing Priorities	
Section 2.4: Property Selection Process	
Section 2.5: BMR Program Affidavit	
Section 3: City of Morgan Hill BMR Financing Requirements.....	17
Section 4: BMR Policies & Procedures for Homeowners.....	18
Section 4.1: Homeowner Occupancy Requirements	
Section 4.2: Deed Restriction Defaults	
Section 4.3: Home Maintenance and Insurance Requirements	
Section 4.4: Military Leave & Vacated BMR Home Exemption	
Section 4.5: Refinance & Subordination Requests	
Section 4.6: Title Transfers - Including Through Inheritance	
Section 4.7: BMR Capital Improvements & Re-sale Prices	
Section 4.8: Reselling a BMR Home	

Table of Contents (Cont.)

Appendix A: BMR Program Eligibility Underwriting Guidelines.....	24
Appendix B – BMR Application Checklist.....	28
Appendix C: Frequently Asked Questions about Program Eligibility.....	29

Section 1: Introduction to the City of Morgan Hill's Below Market Rate Program

The purpose of the BMR program is to provide long-term affordable homeownership opportunities for low and moderate-income households in the City of Morgan Hill. BMR homes are sold for less than market value to low - moderate income and program eligible homebuyers. *See Section 2 for additional details on eligibility.*

Applicants that purchase a BMR home will be required to sign affordable housing documents (also known as resale agreements or BMR deed restrictions, as well as a deed of trust and a promissory note) to ensure homes remain affordable and homeowner occupied for the restricted term (generally 45 years). Homeowners can sell their home on the open market at the end of the restricted term.

The deed restrictions give the City of Morgan Hill (or its assigned program administrator NHSSV) the First Right of Refusal to purchase the BMR home for a restricted sales price if the homeowner should choose to sell during the term of the restriction. If the City of Morgan Hill opts to purchase the home, then they exercise what is known as the Option to Purchase. The City or administrator can also assign another program eligible buyer to purchase the BMR home.

The City is not obligated to exercise its Option to Purchase but the seller is obligated to give the City the option to do so.

Section 1.1: About NHSSV's Housing Department

NHSSV is a 501C3 nonprofit housing organization that serves as the BMR program administrator, as well as exclusive real estate brokerage for the City of Morgan Hill's affordable housing program.

NHSSV was incorporated in 1995 as a non-profit Community Development Organization by a group of local citizens with a mission "to promote community revitalization and economic stability by providing responsible homeownership and neighborhood services to low and moderate income families."

NHSSV is a member of the NeighborWorks America Network, a congressionally created and funded effort, and a national affiliation of 235 independent, community-based nonprofit organizations committed to community revitalization. NHSSV is a non-profit realty company and certified by the US Department of Treasury as a Community Development Financial Institution (CDFI). NHSSV is the only community-based non-profit organization in the Silicon Valley area that is approved as a direct seller and servicer by Fannie Mae.

NHSSV acts as the exclusive real estate agent for the City of Morgan Hill's BMR program. NHSSV's Housing Department contains a dedicated agent, who exclusively handles all BMR transactions. The brokerage will represent both the buyer and the seller as a dual agency in the BMR transaction and includes the following:

Contracts Administrator - supports internal staff and external partners to execute the sale and administration of BMR homes.

BMR Real Estate Coordinator - coordinates and communicates with multiple parties to close complex and multi-layered BMR transactions.

BMR Real Estate Agent – executes BMR sales including real estate, escrow and marketing activities associated with special projects and inventory. As needed, the BMR agent will hold open houses and events to market the property for sale.

BMR Processor - assists applicant BMR homebuyers and renters in the application and purchase process from orientation to move-in day and beyond.

BMR Underwriter - verifies BMR applicants meet each program and property's BMR qualifications and down payment assistance eligibility standards.

BMR Monitoring Specialist - monitors and reports on BMR homeowner deed restriction compliance.

Section 1.2: NHSSV's BMR Process Cycle

NHSSV administers the 9-step BMR Process Cycle assisting to place eligible homebuyers into homes. Each step is executed in sequential order to practice and fulfill BMR program guidelines:

Opportunity Created – NHSSV, the City and builders identify BMR homes for sale and confirm marketing responsibilities by signing a Developer Agreement and Affordable Housing Agreement; or when BMR program homeowners decide to sell, they must contact NHSSV and notify them of the intent to re-sell the home.

Structure – As in any purchase, the BMR seller must prepare the home for sale and NHSSV will determine the BMR financial program for the purchase. Staff will structure the income limits, program guidelines, deed restrictions, NHSSV approved BMR loan officers and down payment assistance.

Orientation – Applicants attend a Homebuyer Opportunities Orientation (HOO) to learn about program and mortgage qualifications and indicate interest in participation through the Self Evaluation Form.

Application – Applicants submit a BMR application with supporting documents and a mortgage pre-qualification from an NHSSV preferred lender.

Approval – NHSSV performs BMR program eligibility verification, household income certification and lender’s credit approval to issue BMR approval. Applicants attend HUD homebuyer education class.

Property Selection – Approved applicants will select homes including size and type based on unit availability and their approval from NHSSV, which will include a review based on the financing available for the purchase and the applicants’ loan pre-approval.

Contract – Approved applicants enter into a binding real estate sales contract. Deed restriction packages are prepared by NHSSV staff weeks prior to the anticipated closing. The documents will be executed by all parties and routed to the Title and Escrow Company by NHSSV staff.

Closing – This is a formal process whereby all the milestones of the purchase have been completed. These include: all loan documents are signed; funds to close are in escrow; resale restriction and deeds of trust are recorded; and the transfer of title from the seller to homebuyer occurs.

Ownership – Homebuyers become Homeowners!

Annual occupancy certification will be conducted by NHSSV staff. Homeowners are required to participate in this process, verifying that they continue to occupy the home.

Any homeowner who wishes to sell or refinance must contact NHSSV prior to doing so.

Properties are severely restricted from re-financing to access equity as resale values remain at affordable rates as a condition of purchase.

Section 1.3: How the BMR Program Works

The City of Morgan Hill’s BMR program is intended to provide affordable housing to residents who would otherwise have not qualify for purchasing a market-rate home in the City of Morgan Hill.

The BMR program is not intended to help applicants profit from property ownership. It is also not intended to allow homeowners to jeopardize (intentional or not) the City’s investment in affordable housing.

BMR homeowners purchase a home for a lower sales price with BMR deed restrictions which in return:

- Gives the City/NHSSV the First Right of Refusal and Option to Purchase;
- Requires homeowners to remain current on their mortgage payments;
- Mandates BMR homeowners must maintain their BMR home as their primary residence;
- Limits re-sale value or price;
- Limits total loans on title;
- Limits refinance amounts;
- Limits liens placed on title;
- Mandates insurance requirements;
- Requires homeowners to follow City code and ordinances; and
- Requires transfers of title to be made in accordance with applicable deed restrictions

BMR Affordable Sales Prices

The City of Morgan Hill's BMR Program requires that homes sell at an Affordable Sales Price and remain affordable for a term of 45 years. Affordable Sales Prices are assigned prior to marketing the home and are based upon California Department of Housing and Community Development (HCD) established values in Santa Clara County . Affordable Sales Prices will not be revised during a purchase transaction.

The Affordable Sales Price is determined by a formula based on Area Median Income (AMI) and the Housing Affordability Index. The Affordable Sales Price is not related to the fair market value of the home; however, the Affordable Sales Price can never exceed fair market value of the home.

Area Median Income is the median household/family income for Santa Clara County, adjusted for actual household size, as determined annually HCD. The California Association of Realtors (C.A.R.) uses the Housing Affordability Index to measure the percentage of households that can afford to purchase the median priced home in California and specific regions.

Section 1.4: BMR Homeownership versus Market Rate Homeownership

The BMR homeownership path does not mirror the market rate homeownership experience.

Experiences uniquely related to BMR homeownership are:

- Interested applicants must apply to the BMR program and demonstrate they meet defined income and first-time homebuyer eligibility requirements;
- Homebuyers must sign a BMR deed restriction, deed of trust, and promissory note in order to purchase a home at a below market price;
- The deed restrictions and deed of trust are recorded against the home at the time of purchase; and
- The homeowner must meet occupancy and resale requirements defined in the deed restrictions and deed of trust. In general, these requirements are:
 1. The homeowner must live in their BMR homes as their primary residence
 2. A homeowner may not use the home as a rental
 3. **The City of Morgan Hill retains First Right of Refusal** to purchase the property at time of resale from the owner or assign another qualified homebuyer. Failure to meet these requirements will result in default, potential loss of the home, and/or legal action.

Section 2: BMR Eligibility & Application Process

Section 2.1 BMR Program Eligibility Requirements

1. *First Time Homebuyer*

Applicants must be a First Time Homebuyer. A First Time Homebuyer is defined as those:

- Who have not owned a home (mobile homes excluded as defined by HCD) on title or mortgage loan in the last three years: or
- Have owned a home in the last three years, but no longer own the home and are a widow, widower, divorced, or displaced homemaker as defined by HCD.

2. *Household Size & Income Limits*

Low to moderate household income limits are adjusted by household size as determined by HCD. Visit www.hcd.ca.gov to view Santa Clara County income limits

3. *Homeownership Education*

Applicants must attend an NHSSV Homebuyer Opportunities Orientation (HOO) & received a NHSSV approved 8 hour US Housing and Urban Development (HUD) Homebuyer Education Certificate prior to closing (preferably prior to entering into a contract).

4. *Financing Requirements*

Applicants must be first mortgage approved by an NHSSV approved loan officer and meet homebuyer financing requirements as defined in Section 3.

Section 2.2: BMR Household Income versus Borrower's First Mortgage Income

Two types of income are used to determine applicant's ability to purchase a BMR home:

1. *BMR applicant projected household income* adjusted by family size is determined by NHSSV to establish program eligibility; and
2. *Borrower's first mortgage income* is determined by a loan officer to establish mortgage loan qualification.

BMR and first mortgage incomes are derived from using two separate methodologies:

BMR household income

- NHSSV projects household income for the next 12 months to calculate household BMR program eligibility

First mortgage borrower's income

- A loan officer averages the borrower's (person/people on the loan) income for loan qualification.

The BMR projected income versus the lender's averaged income can sometimes differ. This could potentially deem an applicant eligible for the BMR program, but ineligible for a first mortgage loan, or vice versa. In order to become approved for the program, applicants must meet the approval criteria for the BMR program and the loan.

Section 2.3: BMR Application Process & Processing Priorities

BMR homebuyers are offered an opportunity to purchase a BMR home upon program application and approval.

- ***BMR Application Submission***

In order to be eligible to purchase a BMR home, applicants must attend an orientation and submit a BMR application with supporting documentation to NHSSV's Housing Department (this is a different department than NHSSV's Lending Department). The application must include a mortgage pre-approval letter from an NHSSV preferred BMR loan officer.

NHSSV will review the application for completeness and will notify the applicant of any missing information and/or additionally required documents. Incomplete applications may not be considered for eligibility. See Appendix B to learn more about the types of documents that may be requested from the applicant household to submit a complete application. Failure to provide requested information and/or documents during the application process in a timely manner can constitute cause for denial of eligibility.

- ***BMR Application Processing Priorities***

Applications will be processed (reviewed for completeness and underwritten/verified for eligibility) in the following order:

1st Priority: BMR applications received for "First Come First Served" BMR properties. See Section 4.3 for additional details.

2nd Priority: BMR applications received for BMR properties with upcoming application deadlines

3rd Priority: BMR applications received for future available BMR properties

- *BMR Application Processing Milestones*

BMR program applicants participate in a sequential seven-step process to move their applications from submission to approval. The BMR approval process can take as little as 10 working days or as long as 4 – 5 weeks or more depending on the applicant's access to supporting documentation and responsiveness to requests for information.

Each of the seven milestones are:

1st Milestone - Applicant submits application to NHSSV's front desk (in-person or sent via tracking system - USPS certified mail, FedEx, UPS, etc.)

2nd Milestone - NHSSV screens application for processing priority and missing items

3rd Milestone - NHSSV delivers a "Needs List" with additional documents needed from applicant to complete the application

4th Milestone - Applicant submits requested deed restrictions to NHSSV

5th Milestone - Applicant receives a "Submission Notice" from NHSSV that confirms their application is complete and under the BMR Underwriter's review for verification of program eligibility

6th Milestone - BMR Underwriter reviews application and requests information as needed from the applicant

7th Milestone - BMR Underwriter issues BMR program approval, suspense, or denial

- *Application Denial Appeal Process*

The BMR Underwriter issues BMR denial letters with specific reasons for the denial.

Should an applicant receive a BMR program denial letter, the applicant has 3 business days to appeal the denial by sending a certified letter to the BMR Underwriter with third party documentation verifying the inaccuracy of the denial letter issued to the applicant by NHSSV.

For example: If the BMR Underwriter issues a denial to an applicant because a submitted child custody agreement doesn't allow the applicant to claim their dependent child as a BMR household member, and therefore the applicant exceeds the qualifying maximum household income adjusted by family size, then the applicant has 3 working days to submit a letter from the court/court order verifying the applicant meets required 50% physical custody of said child for program eligibility. See Appendix A for definition of BMR Household Member.

- **Co-Applicants**

Every person who is on title must live in the BMR home, must be eligible, must participate in each step of the application and purchase process and must agree to comply with the program requirements.

Section 2.4: Property Selection Process

Currently, the City Council of Morgan Hill has temporarily suspended jurisdictional BMR homebuyer selection preference categories; however, NHSSV employs an internal homebuyer selection process via property application deadlines. If no applicant applies for a property by the indicated deadline, then the home becomes available on a “First Come First Served” basis. All homes will be initially offered for purchase via property application deadline.

- *Homebuyer Approval Process*

Applicants can apply for homes by the indicated deadline that match their loan pre-approval amount from their bank with the home’s assigned income limits (see below).

- *Application Tiers for Property Deadlines*

There are 3 tiers of application rankings used to identify buyers who wish to select a property by the indicated application deadline.

Tier 1 – BMR pre-approved applicants

Tier 2 – BMR applicants in order of milestone that submitted their application but have yet received program approval.

Tier 3 – New BMR applicants who submit their application by the property’s application deadline.

If no Tier 1 applicants apply for the home by the application deadline, then Tier 2 applicants will be entered into a lottery. If no Tier 2 applicants apply by the application deadline, then Tier 3 applicants will be entered into a lottery. If no Tier 3 applicants apply, then the home will become available on a “First Come First Served” basis.

- *Property Points*

Tier 1 BMR pre-approved applicants are selected by total program accrual of BMR property points as explained below.

Applicants receive one BMR property point each time they submit a qualified BMR Property Interest Form (one entry per homebuyer per property per application deadline). Pre-approved applicants will receive information about how to complete a Property Interest Form upon program pre-approval (Milestone 7).

A drawing will be held if there are more than one homebuyer with the same amount of property points. If the selected homebuyer decides not to purchase the property, they lose their accrued "to date" property points.

- *Property Drawing Policy*

When it is necessary for NHSSV to conduct a drawing to select a homebuyer, it is done so privately. In order to protect the privacy of homebuyers and the program's integrity, several NHSSV staff members and occasionally a representative from the City of Morgan Hill is present at the drawing and signs a drawing affidavit to confirm homebuyer selection fairness and transparency.

Section 2.5: BMR Program Affidavit

Purchasers must sign a program affidavit and take a test to solidify their understanding of the BMR program and deed restrictions prior to closing escrow.

Section 3: City of Morgan Hill BMR Financing Requirements

BMR applicants must obtain conventional, fully amortizing, fixed interest rate mortgages with a term of no more than 30 years. No interest only loans, negative amortization loans, balloon payment loans or variable interest rate loans are permitted as they affect the homeowners long-term ownership stability.

- Homebuyers must commit at least 3% of their own funds (cannot be financed) towards the purchase transaction;
- Homebuyers must also pay applicable closing costs; and
- Mortgage loans cannot exceed 100% of the sales price + 5% for closing costs

For the purpose of ensuring that risks to homebuyers and the City are minimized, applicants' proposed mortgage financing terms are subject to approval by NHSSV.

- *Preferred BMR Lending Teams*

BMR applications will only be accepted with supporting documentation from a NHSSV preferred BMR loan officer with preferred operations teams.

NHSSV maintains a preferred lender list. To be eligible to finance a BMR home, the lender must have been included on the NHSSV preferred lender list for at least sixty (60) days prior to the closing of the sale of the BMR home.

BMR loan officers and their teams must have previously approved the BMR deed restrictions, recording requirements and all other City-required documents associated with the sale of BMR homes.

If an applicant chooses a lender not on the list, then they should email HOO@NHSSV.org to work with NHSSV to get that lender to approve the City-required documents associated with the sale of the BMR homes.

In order for a loan officer and their operations team (loan processor & loan underwriter/operations manager) to be approved for placement on the preferred lender list, they are required to attend a lender orientation and provide written verification that all resale restriction documentation has been reviewed and approved by their legal and underwriting departments of the funding lender.

Section 4: BMR Policies & Procedures for Homeowners

BMR deed restrictions dictate policies and procedures specific to individual properties.

Some of the policies and procedures outlined in the deed restrictions that are specific to each individual BMR purchase are:

- Homeowner Occupancy Requirements & Annual Homeowner Occupation Certifications
- City Consent for Refinance Process
- Title Transfers (Including through marriage, divorce & inheritance)
- Selling Process & Procedures

Current BMR homeowners can contact NHSSV at HOO@NHSSV.org for a personalized deed restriction counseling session to discuss any questions regarding their property covenants.

Section 4.1: Homeowner Occupancy Requirements

BMR homeowners are required to live in their home as their primary residence.

NHSSV will routinely monitor homes for owner occupancy. It is a requirement of the program that homeowners are required to cooperate with NHSSV and the City to promptly provide information requested by the City when monitoring homeowner occupancy requirements.

Section 4.2: Deed Restriction Defaults

If homeowners are thought to be in default of the occupancy requirement, or any other such violation of their restriction, including first mortgage loan default, NHSSV will work with the homeowner to give them the opportunity to cure the default or the City/NHSSV could choose to exercise its Option to Purchase.

- *Homeowner Occupancy Default Referrals*
NHSSV and the City will follow up on homeowner occupancy default referrals that are received by outside parties. Such follow up will be made providing that the referral contains at least one item of information that is independently verifiable.
- *Notices of Default/Foreclosure*
The BMR program is not intended to allow homeowners to jeopardize (intentional or not) the City's investment in affordable housing. BMR homeowners must remain current on all their mortgage payments.

If a Notice of Default is recorded by a lender against on a home in the BMR program, then the homeowner will be in default of the covenants established in the restriction with the City. NHSSV or the City shall inform the owner of the action that needs to be taken to cure the default, as well as a date to remedy said default and may assist the owner to understand their options. The owner's failure to cure the default may result in the City's enforcement of its right to declare a default and exercise its Option to Purchase.

Section 4.3: Home Maintenance and Insurance Requirements

Most deed restrictions require BMR homeowners to maintain the home in good repair.

Failure by the owner to maintain their home can constitute a default under their deed restrictions and the City may then exercise remedies including exercising the Option to Purchase.

Owners are required to maintain a standard all risk property insurance policy equal to the replacement value of the home (adjust every five (5) years by appraisal, if required by the City), naming the City, and their employees, agents, officers, board members as additional insured.

Section 4.4: Military Leave & Vacated BMR Home Exemption

BMR homeowners who currently serve in the U.S. Armed Forces and are deployed out of state and cannot occupy their BMR home for more than 90 days but less than (3) years will be allowed to rent their BMR home.

BMR homeowner(s) on Military Leave will need to:

- Provide the City with a copy of their deployment orders;
- Follow NHSSV's direction on how to identify and approve a prospective tenant ;
- Sign an amendment to the BMR deed restrictions for rental due to military service with an expiration date which the City will record against said BMR home;
- The income level (as defined by HCD) of the prospective tenant will correspond to the home's BMR income category (as defined by the deed restrictions);
- Contract with a property management company during deployment.
- Will be required to re-occupy the BMR home within 90 days from the end of deployment and provide the City with a copy of any lease/ rental agreement. The lease/ rental agreement may not be for a term in excess of the period of time owner(s) will be deployed out of the area.
- If there is an active lease/ rental agreement between the owner and the tenant, then the owner must wait till the end of the lease agreement to move back in.
- However, upon a mutual agreement between the owner and the tenant, the lease may be terminated at any time. Should there be disagreement between the owner and tenant, the City will refer both owner and tenant to a landlord/ tenant arbitrate, such as

Project Sentinel for further assistance.

Section 4.5: Refinance & Subordination Requests

*BMR homeowners may be allowed to refinance their home, provided it is done in accordance with the resale restriction guidelines. BMR refinance and subordination applicants must obtain conventional, fully amortizing, fixed interest rate mortgages with a term of no more than 30 years. No interest only loans, negative amortization loans, balloon payment loans or variable interest rate loans will be allowed. **No refinance may exceed the restricted re-sale value of the home.***

The City/NHSSV may agree to subordinate the deed restrictions and may require that affordability restrictions be re-recorded if the proposed financing complies with the requirements imposed by the City of Morgan Hill BMR program.

Requests to subordinate the City's BMR deed restrictions must be made to NHSSV (HOO@NHSSV.org) by homeowners. NHSSV will review and approve or deny refinance/subordination requests.

NHSSV approval of subordination requests are subject to the determination that the homeowner is in compliance with program requirements and that the mortgage conforms to the established requirements.

It is important to note that all non-traditional mortgage loan products will not be permitted as part of any refinance. This includes ARM's of any period of time and non-amortizing loans. Therefore, only fully amortized 15-30 year loans will be allowed as part of any refinance and/or subordination approval.

In accordance with a City Council resolution, a subordination request fee will be imposed. The fee must be paid upon subordination application submission to NHSSV.

- *BMR Mortgage Refinance Amount*

Homeowners must review their deed restrictions to understand their maximum refinance amount. BMR homes can be refinanced up to 95% of their resale value.

In most cases, the maximum refinance amount is valued at the percentage change in CPI Index between the date the BMR deed restrictions were recorded and the refinance date. In other cases, the refinance amount is valued with the percentage change in the Area Median Income (AMI) between the date the BMR deed restrictions were recorded and refinance date.

NHSSV will initially assess current BMR value at subordination application and the valuation is valid for six months. BMR valuation for refinance purposes will only be assessed once every six months.

BMR Mortgage Refinancing Requirements

A BMR home that is 100% financed and the owner requests a refinance to substantially reduce the housing payment will be permitted (\$200 per month or more).

- *Second Mortgages*

Second mortgages or lines of equity, except for the Housing Trust Silicon Valley's BMR Re-hab Loan Program, are not allowed under the BMR program.

For more information about the Housing Trust Silicon Valley's BMR Re-hab Loan Program, please visit their website at www.HTSV.org

- *BMR Homeowner Refinance Reminders*

- Call NHSSV for information and support before talking to a lender about refinancing
- Refinancing is only allowed with prior approval from NHSSV
- Don't lock your interest rate before receiving NHSSV's refinance approval
- Refinance with cash out require a hardship letter for City approval
- The refinance approval process can take up to 3 weeks or more to process
- DO NOT sign loan documents without receiving NHSSV's approval letter; and
- Homeowners may refinance up to 95% of the current BMR value (in accordance with the formula listed in the Resale Agreement)

Section 4.6: Title Transfers - Including Through Inheritance

Homeowners must review their BMR deed restrictions in order to determine if and how their homes' title can transfer.

Homeowners are not permitted to transfer title to anyone unless NHSSV has provided written approval to do so.

In most cases, title transfers can only occur between a husband and wife at marriage or divorce.

Deed restrictions dictate who can inherit the BMR home.

Homeowners with questions should contact NHSSV's Housing Department at HOO@NHSSV.org.

Section 4.7: BMR Capital Improvements & Resale Prices

The value of "capital" improvements on a depreciating scale may be added to the resale price of the home at the time of sale only.

Capital improvements are those that enhance the value of the property (verified by an appraisal) and cannot be removed at time of sale without damage to the premises.

BMR homeowners need to be aware that in order for capital improvements to be calculated into the resale value of the home they must:

- Show receipts for items to receive credit (must not be handwritten)
- Understand that capital improvements will not be equaled on a dollar to dollar expenditure
- Provide proof of all required building permits including final inspection
- Show City/NHSSV approval was obtained prior to improvement for which they want credit

Section 4.8: Reselling a BMR Home

BMR homeowners who wish to sell their home before the end of the term of the re-sale restriction are subject to the City's First Right of Refusal and must sell to another BMR program approved buyer.

BMR homes may only be placed on the open market if the deed restrictions have expired.

▪ *Re-Sale Process*

Each individual property's BMR deed restriction outlines the BMR resale process. Sellers must comply with all terms and conditions that determine resale process indicated in the home's recorded BMR deed restrictions.

The first action is usually to notify NHSSV or the City of the intent to sell the BMR home. The "Owner's Notice of Intent to Transfer" must be sent to NHSSV by certified mail with a return receipt requested. Notices are considered effective as of the date received.

Resale prices are assigned prior to marketing the home and are valid upon initial listing agreement through close of escrow. Re-sale prices will not be reassigned within a current transaction.

▪ *Real Estate/BMR Transaction Representation*

NHSSV acts as the exclusive real estate agent for the City of Morgan Hill BMR Program. NHSSV's BMR Real Estate Agent represents BMR buyers and sellers during the BMR transaction process.

▪ *Real Estate/BMR Transaction Fee*

Real Estate commission fees are the responsibility of the seller.

▪ *BMR Resale Price*

Homeowners must review their deed restrictions to understand their resale price.

In most cases, resale price is valued at the percentage change in CPI Index between the date the BMR Deed restrictions were recorded and the resale date. In other cases, resale

price is valued with the percentage change in the Area Median Income (AMI) between the date the BMR deed restrictions were recorded and resale date.

- *Seller's Responsibilities*

The seller must review their deed restrictions and follow the procedures indicated in the document to resell their home.

Seller must make home marketable as needed (This may include carpet cleaning and painting, etc.)

In accordance with California real estate laws, seller will disclose all aspects of the material facts that could affect a buyer's decision to purchase including but not limited to Homeowners Association (HOA) dues, Mello Roos Assessment District Fees, structural issues, etc.

- *Homeowners of Previously Owned (Resale) BMR Homes*

Homebuyers for BMR homes that are being resold back into the program will be chosen in the same manner the initial homebuyers were selected.

Appendix A: BMR Program Eligibility Underwriting Guidelines

Household Size

BMR income limits (determined by HCD) are adjusted by household size.

One of the first steps in determining program eligibility is determining the size of a household.

All household members who are not applicants or co-applicants, must be legal dependents and listed as a current dependent of the applicant or co-applicant on federal tax returns.

Household members are required to demonstrate one full year of current joint residency. Acceptable verification of joint residency may be in the form of the following: joint bank accounts or other shared financial history, leases or other evidence of cohabitation, or credit reports showing evidence of joint residency.

Unborn children, foster children, or children who are being pursued for legal custody or adoption cannot be used when determining household size.

- *Shared Custody*
Children living in the home under shared custody agreements must reside in the house at least 50% of the year to be counted.
- *Divorced Household Members*
Divorced or legally separated household members must provide a copy of the divorce decree or legal separation documents signed by a court officer and filed with the Court. Otherwise separated married household members must demonstrate at least one year of complete financial and residential separation at time of application for the couple to be considered separate for purposes of determining eligibility. If this cannot be demonstrated, the couple must submit the application as co-applicants.

BMR Household Income

The Morgan Hill BMR program requires that the combined gross income ("Gross income" means all income as defined in California Code of Regulations (CCR) Title 25, Section 6914.) for all household members (as determined by BMR household size) eighteen or older must be included in the determination of income.

- **Projecting Applicant Income**

BMR programs require that, for the purpose of determining eligibility, NHSSV must project annual income. NHSSV must assume that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. BMR annual income is the gross amount of income of all household members that is anticipated to be received during the upcoming 12 months..

At first glance, the income information may seem very basic. NHSSV assesses all the facts underlying the income information collected. We review the basics of how employees are paid - hourly, weekly, monthly, and with or without overtime or bonuses or if on commission. It is important to clarify whether overtime is sporadic or predictable component of an employee's income.

An annual salary is counted as annual income regardless of the payment schedule. For example, if a teacher's annual salary is \$30,000, this is the annual income regardless if the teacher is paid over a 9 or 12 month period.

- **Business Income**

Net income from a business owned in part or full by a BMR homebuyer will be considered when determining income eligibility.

Net income is defined as business receipts or sales less expenses plus depreciation that are essential to the operation of the business.

To estimate current net business income, NHSSV will require the three most recent Federal tax returns. At the discretion of the BMR Underwriter, one full year of business and personal checking, savings, and other investment account statements for all business owners/partners may be requested.

Applicants must also itemize business expenses that were applied to determine net business income. NHSSV will analyze all tax returns, year-to-date profit and loss statements, account statements, and income/expense forecasts when determining net business income.

NHSSV reserves the right to request an audited profit and loss statement certified by a licensed Certified Public Accountant at the expense of the applicant and/or co-applicant.

- *Asset Income*

We also examine all other types of income that come into the household, including asset income.

When an applicant household has net assets in excess of \$5,000, gross income shall include the greater of:

Actual amount of income, if any, derived from all the net household assets

Or

2.5% (passbook rate) of the value of all such assets.

Household assets are defined as liquid savings accounts, individual retirement, keogh, self-employed SEP accounts and stocks, bonds, and other forms of capital investments. Employer retirement accounts, furniture, or automobiles are excluded.

Applicants' assets shall only be considered in the transaction for the determination of income eligibility calculation. If assets are less than \$5,000, they are not counted in the income eligibility calculation. If assets are \$5,000 or above, the income derived from the assets is counted in the income eligibility calculation.

- *Supporting Documentation*

The BMR program requires that NHSSV determines income eligibility of BMR applicants by examining supporting documentation submitted with application.

NHSSV will always use third-party verification to provide independent verification of information.

Third-party employment verifications (Verification of Employment of "VOE") should state whether or not overtime and any other additional income (e.g. bonuses, commissions, cash tips) will continue.

Appendix B – BMR Application Checklist

The following materials may be requested from the applicant(s) and their household members by NHSSV during the application process to determine program eligibility and qualification.

Mortgage pre-approval letter from a NHSSV approved BMR Loan Officer stating the terms of the home loan for which you can qualify. Loan must be for a 30-year fixed loan and include the loan amount, homebuyer' name and address, purchase amount (if known), rate, and expiration date – include full loan amount on FHA & PMI amount	Determines homebuyer mortgage qualification
BMR Application Affidavit (signed by all household members 18 years old and older)	Confirms all adult household members understand the BMR application process & BMR program
Borrower Certification and Authorization (signed by all household members 18 years old and older)	Confirms all adult household members understand how the information in their application will be used to determine eligibility
Attendance at NHSSV BMR Orientation – Homebuyer Opportunities Orientation “HOO”	Verifies applicants completed the required Orientation
Verification of Employment for all adult household members	Third Party Income Verification
Borrower's (person on the loan) credit report	Confirms first time homebuyer status
Federal Tax Returns & W-2's	Analyzes First Time Homebuyer eligibility, household income confirmation, household size confirmation and reviews assets and confirms address
Paycheck Stubs	Assists in determining household earned income and frequency
Proof of Additional Income such as unemployment or other sources (For All Adult Household Members 18 Years Old & Older)	Assists in determining household income and frequency
Alimony or Child Support Documentation – if applicable	Assists in determining household income and frequency
Year-to-Date Profit & Loss Statement (self-employed borrowers)	Analyzes self-employment income
Bank Statements: Checking, Savings, Retirement, Investment, Etc. (For All Adult Household Members 18 Years Old & Older)	Assesses information about assets, deposits, transfers, and payments for BMR income qualification and lending requirements

CA IDs for Adult Household Members 18 Years Old & Older)(front and back) Copies of Social Security Cards (For All Household Members) , Birth certificates or copy of valid US passport (For All Household Members 17 years old and younger) Copies of H-1 Visa or Green card (front and back) (For All Adult Household Members 18 Years Old & Older)	Helps to establish household identity and current address
Divorce Decree or Separation Agreement	Verifies household income, assets and debts
Custody Orders	Verifies custody arrangement for household size
8 Hour Homebuyer Education Certificate - - Email David Kausek for registration info at: dkausek@nhssv.org	Confirms program eligibility
Other Requested Documentation	NHSSV may request additional documentation as necessary to confirm BMR program and first mortgage eligibility and qualification.

Appendix C: Frequently Asked Questions about Program Eligibility

Question: Are mobile homeowners eligible to apply?

Answer: Yes. Those who own mobile homes are not considered home owners under the BMR program and are eligible to participate if they meet eligibility criteria.

Question: Can non-U.S. citizens apply?

Answer: Although proof of U.S. citizenship is not required to apply for the BMR program, non-permanent residents will need to obtain information from their lender on requirements for non-permanent residents to obtain financing.

Question: How much of down payment do I need?

Answer: The BMR program requires a minimum down payment of 3%. The lender may determine an amount above the program's requirement of 3%.

Be aware: this 3% does not include nonrecurring closing costs.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



TABLE OF CONTENTS

TABLE OF CONTENTS	PAGE 1
1. INTRODUCTION	PAGE 2
2. ONLINE WEB PORTAL	PAGE 3
3. ESTABLISHING AN ACCOUNT	PAGE 4
4. HOUSEHOLD INFORMATION PROFILES	PAGE 5
5. APPLICATION PROCESS	PAGE 6
6. BELOW MARKET RATE (BMR) PRICING AND CITY'S OPTION TO PURCHASE	PAGE 12
7. APPLICATION FILE STRUCTURE AND CRITERIA	PAGE 13
8. FIRST-TIME HOMEBUYER, EDUCATION, AND TITLE REQUIREMENTS	PAGE 14
9. ELIGIBILITY AND PREFERENCE CRITERIA	PAGE 15
10. APPLICATION CRITERIA	PAGE 21
11. TRANSACTION & DOCUMENT HANDLING	PAGE 28
12. REASONABLE ACCOMMODATION	PAGE 30
13. APPROVED VENDORS	PAGE 31



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



1.INTRODUCTION

Buying, owning, and selling an Affordable Below Market Rate (BMR) Ownership Unit differs in many ways from buying, owning, and selling a market rate. It is important that the buyers and sellers of BMR Ownership Units understand the rules and procedures of the Program fully.

HouseKeys is the City of Morgan Hill's Affordable Housing Program Administrator. This Program Guide includes the guidelines, policies, and procedures that comprise the affordable homeownership program for below market rate (BMR) homes.

The Program Guide and other relevant information (e.g., Ordinance procedures and income limits) will be amended and updated from time to time, so long as such rules, policies and procedures do not violate any affordable housing laws. All proposed changes are subject to approval by the City Council prior to implementation.

Updates to this Program Guide and other relevant information will be posted on the HouseKeys Website

Please contact the City or HouseKeys regarding any conflicts between this Program Guide, the Developer's Affordable Housing Agreement, the owner's BMR Agreement, and/or the City's recorded documents.

Please contact HouseKeys with any questions or concerns regarding this document or any other question regarding the City's affordable housing program:

Online: <http://www.housekeys.org>

Online: <https://www.myhousekeys.com>

Email: programs@housekeys.org

Phone: 1-877-460-KEYS (5397)

Address: 17575 Peak Avenue, Morgan Hill, CA 95037



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



2. ONLINE WEB PORTAL DASHBOARD OVERVIEW

Information Profiles	Tools & Planning	Program Center
Information Profiles are used to gather important facts that determine your eligibility and qualification. These profiles will be used by the Program Administrator to complete your Program application and determine your eligibility to participate in Program activities.	There are many calculations involved in an Affordable Housing Program. From calculating the income category of your household, to determining your maximum restricted rent price and utility allowance, it's important to understand the math behind these Programs.	All Application, Opportunities, Opportunity Drawings, and Participation Activities are captured in your Program Center. As soon as you complete your initial registration, this is where you'll spend the most time participating in the Program.
Program File Cabinet	Program Marketplace	Community Center
As you start to apply for and participate in Program activities, your file cabinet is where you'll track progress, exchange information, and communicate with Program administrators.	The Program marketplace is where you can shop for ownership, rental, and financing opportunities.	The online community center will have a classroom, a bulletin board, and chatroom so you can stay educated, informed and in touch with other Program participants and stakeholders.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



3. ESTABLISHING AN ACCOUNT (HOUSEHOLD PROFILE) IN THE MYHOUSEKEYS (WWW.MYHOUSEKEYS.COM)

The following five (5) actions are the initial steps needed to establish your household's affordable housing account.

REGISTRATION PROCESS	ACTION OR MILESTONE
1. Initial Signup	 Start out by completing our simple registration form. This step collects very basic information from you to establish a User Account, including your name, contact information, and your household size and income.
2. Complete the Registration Wizard	 The next step includes additional details about your address, household members, income profiles, and preference criteria. The preference criteria are described on Step 5 of the Registration Wizard. Completion of the Wizard will create a summary of your household and provide you with access to additional features of the Administrator Platform.
3. Browse the Marketplace	 The Marketplace allows you to shop for Ownership, Rental and Finance Program opportunities that interest you. Make sure to read the Program Profile and get an understanding for how it works, the intent, the rules and the process.
4. Request an Application I.D.	 The Application I.D. allows the Program Provider and Administrator to identify your household as a prospective applicant household. It also puts you on the notification list to receive information and updates.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5. Find an Opportunity and Enter an Opportunity Drawing



Each Opportunity is placed into an Opportunity Drawing that allows HouseKeys to facilitate multiple applicant interest. Application I.D.s are prioritized through a Random Selection Process (Lottery) or by Time and Date Stamp (First-Come-First-Serve).

4. HOUSEHOLD INFORMATION PROFILES

HouseKeys holds orientation classes to introduce the Program and help applicant Households organize their application files and prepare for the application process. The application packet is broken down into 10 **Household Information Profiles**:

#	Information Profile Name	Description	Purpose
1	Location Profile	Where you live and where you work	The address where you live and work is an important factor in determining your eligibility. The county you presently live in, or may be moving to, is often used to determine how to categorize your household.
2	Member Profile	The people who live in your housing unit	The number of people in your household determines your household size and household size is used to determine income category.
3	Income Profile	Documenting the total income of all household members.	Income documentation is required by all household members who are 18 years of age or older
4	Expense Profile	Documenting monthly expense obligations	It's important to ensure that your total monthly expenses show that you can afford the monthly rent for the unit you are applying for
5	Asset Profile	Deposit Funds and other Assets	You need to document your rental deposit funds. Please note that Assets are included in income calculations using the income shown on statements or calculations used by the Program Underwriter. See Asset Limits below.
6	Liability Profile	Your Debt	Your debt adds to monthly expenses and the maximum monthly rent that you can afford is an important qualification factor
7	Credit Profile	Your Credit Score	All three credit bureaus (Equifax, Experian, and TransUnion) are evaluated to ensure you meet minimum credit requirements



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



8	Public Record Profile	Collections, Liens, Bankruptcies and Foreclosures	These are evaluated to determine whether or not there is any risk that the finalization of lease signing or meeting any of the property management requirements.
9	Demographics Profile	Applicant Characteristics	Demographic information is critical to ensure fair housing compliance and to track how Program Providers are meeting their housing goals.
10	Program Preference Profile	Program Factors that determine Applicant Priority	While all applicants may apply for a housing program, applicants that live and work where the program is located are prioritized in many jurisdictions.

5A. APPLICATION PROCESS (ORIENTATION, PRE-APPLICATION, AND PREFERENCES)

The application process is summarized below and on the following pages:

ORIENTATION

- All applicants, co-applicants, married couples, domestic partners, and any person that can or will be on title, must complete the Orientation before being eligible to participate in an Opportunity Drawing. Any exceptions to this rule will be posted in the Opportunity Drawing details. Applicants can sign up for an orientation class on the HouseKeys website.

PRE-APPLICATION AND APPLICATION ID ASSIGNMENT

- Request an Application ID in the Program Center
- Answer all of the Pre-Application Questions in the Request Wizard
- The applicant will either receive a pass or fail rating based on the information in the pre-application wizard
- If the applicant passes, an Application ID will be assigned immediately. If there is a system delay or malfunction, Application IDs can take up to 10 business days to be assigned.
- An Application ID does not mean you are eligible or approved for the Program. It provides the applicant Household with the ability to enter Opportunity Drawings.

PREFERENCES AND RANKING

In all instances, the live in Morgan Hill / work in Morgan Hill preference (described in Section 9) will be used and verified by HouseKeys during the application process. Applicant Households that meet the stated preference criteria will be assigned a higher ranking. Once



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



the preferred Household list is exhausted, HouseKeys will begin processing the files for the non-preference households.

Continued next page



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5B. APPLICATION PROCESS (OPPORTUNITY DRAWINGS)

Affordable Ownership Opportunities are marketed through an Opportunity Drawing (i.e., lottery). Applicant Households enter an Opportunity Drawing using their Application ID number.

OPPORTUNITY NOTIFICATION

- A notification email will be sent out to Application ID holders. When a new Opportunity Drawing is released it will be posted in the Program Center
- Follow the instructions and review the terms in each Drawing Notification. It is the applicant Household's responsibility to follow all instructions in each Opportunity Drawing, based on the method used. Each Opportunity Drawing announcement will include the selection method, file submission instructions, and one or more deadlines that the applicant Household must meet.

OPPORTUNITY DRAWING ENTRY

- Once the applicant reviews the Opportunity Drawing information and is certain that he/she can meet ALL listed requirements, the applicant can follow the instructions to Enter Drawing
- Applicant must complete Authorization Form for verification and sharing information with Lender
- Applicant must complete the Intent to Abide Form to confirm that the applicant understands the Program Requirements
- Applicant Households can only apply for one Opportunity Drawing at any one time. If an applicant Household has entered more than one drawing, the lowest ranked submission will be chosen. Applicant Households are allowed to opt out of any drawing as long as the "opt out form" is submitted before an applicant Household enters another drawing.
- If there is another Opportunity Drawing available at the same time, the applicant can opt out of one Opportunity Drawing to enter another, if it is done before the Opportunity Drawing submission deadline.
- If a household applies for two opportunities at the same time, and obtains two priority numbers, the applicant will be assigned the lower priority number.
- In some cases, the Opportunity Drawing will remain open until all applicable units are sold. Anyone who enters their Application ID into an Opportunity Drawing after the first deadline will be added to the end of the list using the time and date stamp of their Opportunity Drawing entry.
- Ranking and file request numbers are issued to set the processing order for each Opportunity Drawing. A new ranking and file request number will be issued every time an applicant Household participates in a new Opportunity Drawing. Ranking, file request, and Application ID numbers are not transferable.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5C. APPLICATION PROCESS (OPPORTUNITY DRAWING METHODS)

When an Opportunity becomes available, HouseKeys uses the methods outlined below to determine the order in which Application IDs and files will be ranked and organized for review.

METHOD 1: LOTTERY SELECTION AND ASSIGNMENT

All applicant Households that enter their Application ID numbers into an Opportunity Drawing by the deadline will receive an Application ID ranking. If a Lottery is held, Application IDs will be chosen at random and assigned an Unfiltered Ranking number based on the order in which they were drawn.

Each Application ID on the Unfiltered Ranking list will be re-ordered to account for the Live/Work Preference and a new ranking list Filtered by Live/Work Preference will be created. The Unfiltered Ranking number becomes the tie breaker between households with the same preference category.

Please note: Applicant Households who do not meet the Occupancy Standard will be assigned a lower priority number, regardless of lottery placement, or other eligibility criteria (e.g., First Time Home Buyer [FTHB]).

METHOD 2: FORM SUBMITTAL (DATE & TIME STAMP) TIE-BREAKER

All applicant Households that enter their Application ID numbers into an Opportunity Drawing by the deadline will receive an Application ID ranking. The Unfiltered Ranking in this method is based on the time and date stamp that their entry form was completed.

As with Method 1, the Unfiltered Ranking number list is re-ordered based on Live/Work Preference and the Unfiltered Ranking number is used as the tie breaker between households with the same preference category.

Please Note: Applicant Households that do not meet the Occupancy Standard will be ranked last.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5d. APPLICATION PROCESS (LOAN REQUIREMENTS, APPLICATION FILE REQUEST, AND APPLICATION COMPLETION)

MORTGAGE LOAN REQUIREMENTS

The applicant Household must obtain a loan pre-approval from an Administrator-approved Lender to enter an Opportunity Drawing. Applicant Household must have acceptable payment-to-income ratios and show enough liquid assets (e.g. cash) to successfully close on the proposed home purchase. Any down payment assistance or closing cost assistance that will be used will need to have a written pre-approval from the program provider as well.

- Applicants must obtain a mortgage pre-approval letter, on mortgage company letter, with loan officer information, including their National Multistate License System (NMLS) ID number and packet must include:
 - Uniform Residential Loan Application and Uniform Underwriting and Transmittal Summary
 - Verification of Employment and Verification of Assets
 - Credit Report and Automated Underwriting System Findings (e.g. Desktop Underwriter Findings)

APPLICATION RANKING AND FILE REQUESTS

- The Opportunity Drawing Terms and Notifications will indicate when, where and how the Program Application Package needs to be submitted
- Applicants must provide a complete Program Application Package, including exhibits and the supporting documents listed on the Document Checklist, to HouseKeys by the deadline stated in the Opportunity Drawing Notification.

PROGRAM APPLICATION PACKAGE COMPLETION

- Once written confirmation has established that an applicant has met all requirements after credit bank background check, the Administrator will request the full application package for Underwriter review.
- Applicants must provide and return all necessary documents to underwrite the file to the Administrator within 3 business days.
- Documentation needs to be dated within 30 days of submission.
- Applicants/Co-applicants, and or household members who submit inaccurate information, altered documentation, or false documentation or certifications, will be disqualified.
- Once all documents are received, the Applicant will be provided with a Submission ID which will be their file in line for Processing and Underwriting



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5e. APPLICATION PROCESS (APPLICATION REVIEW, AND UNDERWRITING)

APPLICATION REVIEW

- The application package will be reviewed, and if complete, will be submitted to the underwriter for review
- If the application is incomplete, applicants will be given written notice to respond with any file updates or missing items
- Applications that remain incomplete after notifications and applicable grace periods, will not be processed or forwarded to the Underwriter for final review

APPLICATION UNDERWRITING

- The Underwriter will complete the review and issue a Program Eligibility and Qualification Certification (AKA "Approval Letter").
- It is important to note that the Program Underwriter may request additional items from the applicant. If the applicant does not respond within the grace period, or a denial is issued, the Underwriter will move to the next Submission ID holder.
- If approved, the Administrator will notify the landlord of the outcome so that the applicant can move on with the leasing documentation and lease/contract signing as described in the next section.

Changing an Application after Submission

No Application changes shall be allowed after an application is submitted and after an application deadline has passed unless the change is (1) the removal of an applicant, (2) the addition of an applicant's Spouse or Domestic Partner or a new Household member in the case of an adoption or new guardianship; (3) an update of income qualification, such as a new job or a job that has ended; or (4) correction of technical errors, such as current phone number or other non-qualifying information.

An application for a BMR Unit must be reviewed and approved for income qualification within one hundred and twenty (120) days prior to the Close of Escrow of a BMR Unit



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



5e. APPLICATION PROCESS (APPEAL)

APPEAL

- If the applicant does not agree with the Processor or Underwriter decision, the applicant Household will have 3 business days to appeal. The applicant Household will need to submit clear and sufficient documentation, along with an appeal form that details why they feel the decision is inaccurate, within the timeframe given.
- Administrator Management will review the Appeal and all documentation.
- Administrator will contact the applicant regarding the status of the appeal approximately 7 business days from the date the complete Appeal Package was submitted. Administrator may require additional time as will be indicated during the status notification
- Administrator is unable to hold properties for households in the application or appeal process. Administrator will move on to the next Application ID holder after the initial appeal review



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



6. BELOW MARKET RATE OWNERSHIP PRICING AND CITY'S PURCHASE OPTION

The purpose of the Below Market Rate (BMR) program is to provide long-term affordable homeownership opportunities for low and moderate-income households. Households that purchase a BMR home will be required to sign affordable housing documents to ensure the home remains affordable, and the homeowner occupies the home, for the entire restricted term (generally 45 years). Homeowners can sell their home at a market rate price at the end of the restricted term (generally the 46th year).

How Properties are Priced for this Planning Period

Under the current housing planning period (as of August 2018 through 2023), developers earn points for building affordable units that can be sold to low and moderate-income households. New construction residential development units will be priced using a 30 to 35% affordability percentage and prices that range from 81% of Median Income to 110% of Median Income. These homes will be made available to Households whose incomes fall into one of two categories: Median Income (100% of AMI) and Moderate Income (120% of AMI).

	Price Category 1	Price Category 2
Price Level	81% of the Median Income	110% of the Median Income
Eligible Purchaser Household	Household earning up to 100% of the Median Income	Household earning up to 120% of the Median Income

As agreed to in the affordable housing documents, a homeowner may choose to sell the BMR home during the term of the restriction. The City (or Administrator) will either purchase the BMR home for the Maximum Restricted Resale Price or assign the BMR home to another eligible buyer for purchase at the Maximum Restricted Resale Price.

The City is not obligated to exercise its Option to Purchase but the seller is obligated to give the City the option to do so.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



7. THE APPLICATION FILE STRUCTURE & APPLICATION CRITERIA

Program Eligibility and Qualification Criteria

The primary role of a Program Administrator is to determine the eligibility and qualification of applicant Households. A Program Processor serves the role of gathering the documents needed to evaluate the application and a Program Underwriter reviews the application to determine if it meets program requirements.

It is important to understand that there is a lot of information needed to determine whether an application meets all the program requirements. The application criteria used to determine whether an applicant Household will be approved fall into one of two categories:

- **Program Eligibility Criteria:** These are standards that define the characteristics of the target households who are best served by the program and help the program provider meet its intended goals. These standards often follow legal definitions and published documentation requirements. Underwriters evaluate Program Eligibility Criteria to determine if households “check eligibility boxes” that include, but are not limited to, residence address, employment address, household size requirements, total household income requirements, and whether an applicant meets the legal standard to be defined as a first-time homebuyer. Program Underwriters need to consider program eligibility for up to three years before the application date and up to a year after the estimated close of escrow date¹.
- **Program Qualification Criteria:** Once it is determined that an applicant is eligible for the program, the Program Underwriter must also make sure that the home purchase is affordable for the applicant and that they are mortgage and home-purchase ready. In addition to requiring applicants to attend first-time homebuyer classes, an underwriter will evaluate the application to ensure successful and sustainable homeownership.

¹ “Up to three years” speaks to the First-Time Homebuyer Status that is typically verified using 3 years of tax returns. Since Total Household Income is projected forward, it’s important to understand that the Program Underwriter is considering income circumstances going forward one year.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



8. FIRST-TIME HOMEBUYER EDUCATION AND TITLE REQUIREMENTS

First-Time Homebuyer Education Workshop Requirement

All applicants who will take title to the property must attend and complete a first-time homebuyer in-person education workshop and receive a certificate of completion from a HUD and Administrator-approved First-Time Homebuyer Education Provider before going into contract on a BMR Unit. A copy of the certificate of completion is required and certificates will be accepted for up to two years after completion.

Title Requirements

All adult Household members must appear as an owner or co-owner on the BMR Unit title. They also must co-sign for any purchase loan (unless they are a non-borrowing spouse) and sign all affordable housing documents (as defined on page 2) for the BMR Unit with the following exceptions:

1. Legal dependents of titleholders as claimed on the most recent federal income tax return or legal minor children of titleholders. Spouses or Domestic Partners are not considered dependents;
2. Household members younger than age 24 who are the child of a titleholder who will reside in the BMR Unit as their primary residence, regardless of being named as a dependent on the federal tax form of a titleholder; and
3. Recent immigrants with insufficient credit history as defined as a person who has been in the United States for 2 years or less as supported by entrance documentation or a sworn statement and lender documentation of the reason for a loan denial, including a copy of applicant's credit report.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9. ELIGIBILITY AND PREFERENCE CRITERIA FOR OWNERSHIP OF BMR UNITS

The City has established a priority system for allocating the limited number of affordable ownership units. Priority shall be given to income eligible residents who live in Morgan Hill or employees of companies located within the City limits.

The preference system will be used to establish a ranking of applicants. An eligible household will be ranked according to where they live or work. 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 the Program, and all individuals and households may apply. Households comprised of applicants who do not reside or work in Morgan Hill may occupy a BMR unit if there are no eligible Morgan Hill residents or workers on the eligibility list for occupancy.

BMR PREFERENCE CRITERIA	
Priority: Live in City	Must currently live and must have lived in Morgan Hill for at least 6-months*
Priority: Work in City	Must currently work at a business located in Morgan Hill at least 20-hours per week, and held position for at least 6-months* *This category includes employees of the Morgan Hill School District even though their physical office or school building may be located in San Jose

*Eligibility will be evaluated at the time of opportunity drawing submission and verified again prior to occupancy



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9b. OCCUPANCY STANDARDS FOR BMR UNITS

Applicant/Co-Applicants must occupy the property as their principal residence. This means that the Applicant/Co-Applicants must use the property as their primary place of residence and the property must be owner-occupied upon purchase for the life of the deed restrictions. Use of the property for additional ownership purposes, including temporary leases, sub-leasing or room rentals are not allowed under the program and will trigger immediate action.

To ensure that the City's limited BMR homes are used efficiently, a household must be of a size equal to the number of bedrooms in the BMR unit. Pursuant to fair housing laws, the maximum occupancy allowed in a BMR unit is two people per bedroom, plus one additional person. The table below shows the minimum and maximum household size based on the number of bedrooms. In some cases, an exception to the minimum standard may be made where no other qualified buyers are remaining in the Opportunity Drawing or within 30-days from the time that the first file is requested from Opportunity Drawing entrants.

The City's BMR Administrator will verify household occupancy once per year for the life of the 45-year BMR Agreement between the City and the homeowner(s).

Note: Maximum Household size is subject to change per property management or Affordably Housing Agreement documents.

BMR OCCUPANCY STANDARDS		
Number of Bedrooms	Minimum Household Size	Maximum Household Size
One	1	3
Two	2	5
Three	3	7
Four	4	9
Five	5	11



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9c. INCOME ELIGIBILITY CRITERIA

Income Eligibility is based on household size (number of persons in the household) and whether a household's income is below income category limits published annually by the California Department of Housing and Community Development (HCD) on their [HCD website](#) as well as the Program Website. These resources should be used to determine the income percentage and income category that is applicable to your household. **Note: The following income categories may vary for a particular development.**

Morgan Hill presently defines the three income types most often used in their affordable homeownership program

- "Lower-Income Household" means a household whose household income does not exceed eighty percent (80%) of the area median income applicable to the County
- "Median-Income Household" means a household whose household income does not exceed one hundred percent (100%) of the area median income applicable to the County
- "Moderate-Income Household" means a household whose household income does not exceed one hundred twenty percent (120%) of the area median income applicable to the County

It is very important for the applicant Household to know BOTH:

- Applicant Household Income as a percentage of the published County Median Income (calculated by dividing Household Income by the published Median Income Amount) applicable to your household size
- Whether or not applicant Household Income is below the published income category limit applicable to your household size (e.g. Extremely Low, Very Low, Low, Median, or Moderate)

Income earned from assets, such as dividends, interest, rental income, business income, etc., is included in the household's annual income pursuant to the [Code of Federal Regulations](#), Title 24, Part 5 income inclusions (§ 5.609). Income calculation is also guided by [California Code of Regulations](#), Title 25, Chapter 6.5 Program Operations, Gross Income (§ 6914). To qualify for the City BMR Program, your household's combined gross annual income cannot exceed the maximum income limit for your household size, as established by the HCD. All household members ages 18 or older must have their income verified. Household members that do not work or will not have any income in the next 12 months must complete a zero-income affidavit.

Note: The income categories for a particular development may vary in accordance with the Affordable Housing Agreement.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9d. ASSET LIMITATION CRITERIA

In addition to meeting the income limit, there are restrictions on the amount of assets that a household may have to be eligible for the City BMR Program. For households applying to be an owner of a BMR unit, the limit is 50% of household AMI plus the down-payment up to 20% of the BMR price, post-closing (after the close of escrow). So for example, the asset limitation for a 4-person household purchasing a 3-bedroom moderate income home with a 20% down payment would be approximately \$185,000 where AMI is \$150,000 and the BMR price is \$550,000².

ASSET LIMITATION EXAMPLE		
Asset limit = 50% of household AMI plus the down-payment up to 20% of the BMR price		
Maximum Household Income	Example Purchase Price	Example Asset Limit
\$150,000	\$550,000	\$185,000
50% = \$75,000	20% = \$110,000	\$75,000 + \$110,000

The City will review household income and assets for all owner-occupants, temporary occupants, and other occupants, regardless of such household member's interest in purchasing or occupying a BMR home. To determine total household assets, HouseKeys will review the household's total assets according to monthly financial statements and/or other valuations. A six-month average will be calculated just prior to Program application to determine eligibility and avoid applicant "asset dumping" (asset liquidation or transfer to other parties). Assets held in IRS-recognized retirement accounts (401-k's, IRA's, etc.) are not included for the purpose of determining whether an Applicant meets the Program asset limits. However, retirement and insurance payments will be used to determine gross household income.

There is a minimum loan amount of 70% of the purchase price. So, for example, with a Sales Price of \$550,000 the first loan amount cannot be lower than \$385,000. All-cash purchase escrows will not be allowed.

² Numbers are rounded for simplicity. 20% of the 550,000 BMR Home Purchase Price = \$110,000; 50% of the \$150,000 Example for Median Income = \$75,000; \$110,000 + \$75,000 = \$185,000 in total liquid assets allowed as projected to be remaining after close of escrow.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9e. FIRST-TIME HOME BUYER CRITERIA

To be eligible for the City's BMR homeownership program, all household members on Title must be a first-time homebuyer, except as provided below. A first-time home buyer (FTHB) is an individual who has NOT had an ownership interest in a home in the three years immediately preceding their application date, except as follows:

- (1) A displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family; or
- (2) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
- (3) An existing BMR homeowner who no longer meets the occupancy standards in these guidelines and otherwise qualifies to purchase a larger or smaller BMR home at the time of re-application.

Notwithstanding the forgoing, the following interests shall not by themselves, disqualify an applicant from falling within the definition of first time home buyer:

- Applicants who own a mobile home are not considered home owners under the BMR program and are eligible to participate. However, if the mobile home unit is not sold and is retained by the homeowner, the property will be included in asset income calculations along with any rental income.
- Ownership in timeshares.
- Beneficiary of a trust for which the trustor/trustee is still living.
- Ownership of shares in a limited equity co-op.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



9e. FIRST-TIME HOME BUYER CRITERIA (CONTINUED)

To verify FTHB status, HouseKeys will review 3 years of federal tax returns to confirm that the applicant has not claimed any of the tax deductions associated with homeownership (e.g. deductions of mortgage interest or property tax payments). If not legally obligated to file, the applicant must complete a Jurat explaining the reason along with supporting documents. HouseKeys will also review a credit report for mortgage loans and perform title searches to confirm the applicant is not an owner of record on any existing properties for at least 3 years. The applicant must not be on title for any housing unit at all, whether they live in the unit or not. Other documentation may be requested to determine first time homebuyer status.

9f. FORMAL DEFINITION OF THE TERM “HOUSEHOLD” (PRIMARY APPLICANT)

The United States Census Bureau uses a series of terms to determine the definition of a household. The basic meaning of Household is an occupied housing unit. A Householder (Primary Applicant) is the person whose name the housing unit is rented to or owned by. Members of the household share familial ties, living space, expenses, debts and/or assets with the Householder.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



10. APPLICATION CRITERIA – ENTERING HOUSEHOLD INFORMATION INTO THE PROGRAM APPLICATION

10a. Household Size, Location & Member Identification

The Household Location and Member Profiles capture the basic information used by the Program Underwriter to determine who is part of the household and which members will become the title-holding homeowners.

Information Profile	Criteria	Criteria Description
Location Profile	Verification of Residence Location	- At least one member of the applicant Household, who will be taking title to the property, must provide the following proof of residency for the 6 months preceding their entry to an Opportunity Drawing: - One utility bill with a City address dated within 45 days preceding the application date for the BMR Unit. Utility bills can include gas, electric, garbage, or water; or - Current paystubs with City address; or - A current, formal lease with a City address
Location Profile	Verification of Employment Location	Administrator shall verify that a person works in the City by reviewing an applicant's paystubs. If an applicant's employer is not based in City, or if a person's paystubs do not reflect a City work address, the applicant must supply a letter from the employer stating that the person works primarily in City and demonstrates that at least 75% of their working hours are in City
Member Profile	IDENTIFICATION	All applicants will need to provide positive identification including a copy of valid driver's license and a copy of a valid social security card.
Member Profile	HOUSEHOLD SIZE	- Any household members not living in the same household at the time of application will need to be a co-applicant for the first mortgage loan and on title to form a household - Tax returns and current addresses will be used to determine household size - All applicants, co-applicants, married couples, partners, domestic partners etc. that are on title will have to occupy the property for 45 years per the signed deed restrictions



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



10b. Income Inclusion and Exclusion

The Federal and State government both have rules that determine how Gross Income is calculated and what income types are included and excluded from the Gross Income total.

Application Criteria Description

- The gross amount, before any payroll deduction, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services
- The net income from the operation of a business or profession (for this purpose, expenditure for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business). The adding back of certain deductions will be subject to underwriter approval (e.g. depreciation).
- Interest, dividends and other net income of any kind from real or personal property.
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as outlined in "exclusions" section)
- Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on a passbook savings rate, up to 10%. The current passbook savings rate used by the Administrator is 2.5%
- Periodic and determinable allowances such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

The following is an abbreviated list of items that are excluded from income:

- Casual, sporadic or irregular gifts
- Amounts which are specifically for or in reimbursement of the cost of medical expenses
- Lump-sum additions to family assets such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses
- Foster child care payments
- The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household
- **See full inclusion list on the Program Website**



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



Income Review Procedures

Income maximums are based on “gross” income derived from all sources as detailed in Internal Revenue Code (26 USC Section 61), whether or not exempt from federal income tax. Administrator projects future income based on the gross income on each applicant’s past income. In addition to other items deemed necessary to make this income determination, the Administrator may request up to 4 of the most recent year-to-date pay statements and the previous year’s final pay statement. Administrator must review income documentation for all Household members 18 years and older, regardless of dependency status. Applicants without income will need to sign a Zero-Income Affidavit provided by the Administrator. Unemployment benefits are considered income.

For employed applicants, annual income is generally derived by dividing the year-to-date gross income by the current pay period count and then by annualizing an estimated pay period amount by the total pay period count over one year (12 months). Please note that a Verbal and Written Verification of Employment may be required to be completed by the Employer issuing the pay statements.

#	How Often Paid	How to Determine Annual Income
1	Paid Annually	Annual Gross Pay
2	Paid Monthly	Use monthly gross payment x 12
3	Paid Twice Monthly	Twice monthly gross pay x 2 pay periods x 12
4	Paid Biweekly	Biweekly gross pay x 26 pay periods
5	Paid Weekly	Weekly gross pay x 52 pay periods
6	Paid Hourly	Hourly gross pay x average # of hours per week x 52 weeks
7	Government Employees with Annual Award Letters	Income may be derived by referring to the Annual Award Letter

Continued Next Page



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



Variable Income (Tips, Overtime, Bonuses, etc.)

Please Note: All Variable Income is subject to Underwriter Approval. Each circumstance is different and must be considered using the documentation in the file. The words below are meant to be used as a basic guide to help prospective applicant Household's understand how this income type is considered during the underwriting process.

Tips, Overtime, Bonus, and other "variable income amounts" (amounts that change with each pay period) will be annualized separately from the base income outlined on the chart above. All income will be annualized and totaled unless the applicant can provide documentation from the employer. The employer must be available to complete a verbal verification of employment with the Administrator. In cases, where the variable income item is a one-time occurrence, the amount will be removed from the annualized calculation of income and added in a one-time total to determine the annual income.

Example: An applicant earns \$60,000 per year based on base monthly pay statements of \$5,000 (\$5,000 x 12). In addition to the base income show, the applicant received a \$2,500 one-time bonus in the first quarter of the year. If annualized, the \$2,500 quarterly bonus would total \$10,000 and the total income would be **\$70,000** (\$60,000 base + \$10,000 annualized bonus income). If proper documentation shows that the \$2,500 is a one-time payment, and Administrator is able to verify and validate this information, the \$2,500 would be added to the \$60,000 base. The alternative total income would be **\$62,500** (\$60,000 base + \$2,500 one-time bonus).

Seasonal Workers: Administration will not annualize current income for seasonal workers who provide a Verification of Employment from their employer (s) verifying that the work does not occur year-round

Self-Employed Income: All self-employed applicants must submit a notarized Self-Employed Affidavit provided by Administrator. If self-employed for 2 or more years, Administrator will use verifiable (verified using Form 4506-T) federal income tax returns and review the net income for as many as 3 years of tax returns to determine the projected annual income. If self-employed less than 2 years, Administrator will review the submitted Profit & Loss Statement and use it to determine projected annual income. Additional documentation may be needed from the Self-Employed Household Member in order to determine projected annual income.

Calculating Income from Cash Income: In the case of an applicant who is paid cash for employment, Administrator will require a Verification of Employment from the applicant's employer to confirm annual income and IRS Tax Verification Form 4506-T to confirm that no taxes were paid.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



Variable Income (Continued)

Income from Commercial Property or Land Owned: The net income from any commercial property or land owned by any applicant shall be counted toward the annual Household income.

Unemployed Applicants: Unemployed applicants who are receiving no income at all should submit a Zero-Income Affidavit as provided by Administrator in place of income statements. Applicants receiving unemployment benefits do not need to complete the Zero-Income Affidavit as unemployment benefits are considered income.

Additional Notes on Income Calculation

If applicant has recently changed positions with employer, HouseKeys will determine the effect of the change on the applicant's eligibility and opportunity to receive bonus or overtime pay in the future

If applicant who has historically been employed on a part-time basis indicates that he or she will now be working full time (or vice versa), obtain written confirmation from borrower's employer

A verbal verification of employment (VOE) may be required for each employer

All material alterations, and/or omissions from the initial Registration, Application ID Questions, Opportunity Drawing Entry Form, Application Submission and Supporting Documents; including but not limited to household size, income and asset information, etc., are not permissible and will render all future re-submissions ineligible for review and approval for a period of one year. Exceptions for re-submissions are significant life events such as a job/career change, marriage, death, or the birth of a child and are at the discretion of the Administrator.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



10C. Determining Mortgage and Home Purchase Readiness

Affordable homeownership programming requires that applicant Households who meet the basic requirements for being considered eligible, must also prove that the home purchase fits within their household budget and that they are able to successfully obtain mortgage financing. The following table summarizes the information needed by the Underwriter to approve a household:

Income Profile & Expense Profile	HOUSING PAYMENT TO INCOME RATIO	- To qualify, an applicant's total housing payment, including principal & interest, taxes, insurance, and association dues cannot exceed 40% of the income for Below Market (BMR) home. For example, if your annual income is \$90,000 your maximum monthly house payment cannot exceed \$3,000 or \$36,000 per year (40% of \$90,000 = \$36,000 divided by 12 = \$3,000). - Additional debts will also be taken into consideration and cannot exceed 45% of income. - Non-borrowing applicant's debt will be added to ratios
Expense Profile	RENT HISTORY	- Applicants/co-applicants will need to show the last 6 months of rent history - HouseKeys will review the current rent vs. the new housing payment for affordability. Any circumstance where the new housing payment exceeds 150% of current rent will be considered a "Payment Shock" risk. For example, if your current rent is \$1,000 per month, then any housing payment exceeding \$1,500 per month would be considered a potential payment shock risk (\$1,000 x 150% = \$1,500). - If Payment Shock risk exists, the underwriter may make an exception if compensating factors are present in the file (e.g. post-close reserves)
Asset Profile	DOWN PAYMENT	- The minimum down payment for the BMR program is 3% of the purchase price with first mortgage loan amount equal to 97% of the purchase price. - The minimum 3% of the purchase price must come from the applicant's own funds, and be present in the applicant's account for at least 6 months - A gift can be used for any down payment amount more than 3% of the purchase price - Note: In some cases, mortgage financing programs may require 5% of the purchase price in order to be approved



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



10D. Public Record and Default Risk

In addition to determining home purchase readiness, the Program Underwriter must also determine the risk of the property being lost to foreclosure or the risk of a lien being attached to the property that can adversely affect the resale process or excess sale proceeds. The following table summarizes the information needed by the Underwriter to reduce risk and approve a household:

Liability Profile & Credit Profile	CREDIT REPORT AND CREDIT SCORES	- A credit report is required for all applicants and non-borrowing applicants - The credit report must include information from all three credit bureaus (Experian, TransUnion, Equifax) and use a mortgage-risk model (used by licensed mortgage lenders) - The lowest median (middle) score is used - The minimum credit score is 620 - An applicant or co-applicant with an unsatisfactory credit report will be denied. - We will be reviewing the Credit Report to identify all of the account balances and monthly payments - The monthly payments on your credit report will be used to determine the total debt ratio (total debt and household payments divided by monthly income) - As stated above, the total debt ratio cannot exceed 45% of monthly income
Public Record Profile	PUBLIC RECORD SEARCH (DETERMINED USING A STATEMENT OF IDENTITY FORM)	- An applicant or Co-applicant may apply for consideration under the following circumstances: - Chapter 13 bankruptcy – after 2 years from discharge or 4 years from dismissal. - Chapter 7 – after 4 years from discharge - Short Sale/Deed in Lieu - after 4 years - Foreclosure - after 7 years - All applicants, co-applicants, and non-borrowing spouse cannot have liens outstanding at the time of the home purchase - All liens, including IRS liens, or any past due money owed to the IRS, shall be required to be paid off prior to being issued a program approval.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



11. TRANSACTION AND DOCUMENT HANDLING

File Stacking (List of Documents Needed for Each Stage of the Transaction)

If application is approved, and the applicant Household is cleared to move forward with the purchase, the applicant's lender must supply the following documentation to the Administrator (**Financing File Stacking Order**):

1. Lender Checklist (listing all the loan documents)
2. Loan Application with final figures and lending terms (currently known as a 1003)
3. Uniform Underwriting and Transmittal Summary (currently known as 1008)
4. Mortgage Loan Commitment Letter
5. Loan Estimate

Routing documents to the City for signatures can take 10 to 14 business days. Before any transaction documentation can be sent to the City for signature, the following documents will need to be in the Administrator's file (**Pre-Close Stacking Order**):

1. Estimated Settlement Statement – Seller (Re-Sale and Acquisition Transactions Only)
2. Estimated Settlement Statement – Buyer
3. Estimated Settlement Statement – Master
4. Copy of 1st Lender Note & Deed of Trust
5. Copy of 1st Lender Escrow Instructions
6. 1st Lender Request for Notice of Default
7. Copy of any Subordinate Lender Notes and Deeds of Trust
8. Copy of any Subordinate Lender Escrow Instructions
9. Subordinate Lender Request for Notice of Default



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



After closing, the Title Company must provide the following to the Administrator (**Post-Close Stacking Order**)

1. Executed BMR Agreements Docs, Notes and Deeds of Trust
2. Recorded Agreement
3. Recorded Request for Notice of Default
4. Final Settlement Statement – Seller (Re-Sale and Acquisition Transactions Only)
5. Final Settlement Statement – Buyer
6. Final Settlement Statement – Master
7. Alta Policy

Length of Escrow and Fall-Out Risk

The typical escrow period for a BMR Unit sale is 90 days. This period can stretch out longer if the property is under construction and there are delays. Applicant Households must be prepared for a long escrow period and to continually keep their file updated to comply with the one hundred twenty-day (120-Day) application review period. Households must be eligible and qualified through to close of escrow. Unfortunately, a change in the application file during the escrow period can cause the applicant Household to become disqualified and lose out on the purchase opportunity.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



12. REASONABLE ACCOMMODATION AND EXCEPTION REQUESTS

Accommodations in Program rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities, or a household with a member with disabilities, equal opportunity to apply for a BMR home. The requested accommodation must be reasonably related to the particular disability of the household member, and must be necessary in order to provide the household with equal access to housing.

Households or individual applicants unable to produce any particular document required in the application form for legitimate reasons beyond their control (natural disaster, military service, refugee status, domestic violence, witness protection program, disability etc.) may request an exception for that particular document.

Upon such request, Administrator may request a reasonably equivalent alternative document, and/or any additional supporting documentation deemed necessary by the Program Processor and Program Underwriter to verify eligibility of the Applicant/Co-Applicant and/or their entire Household.

Exceptions related to disabilities (reasonable accommodations) may be requested according to this procedure, with a brief description of the exception(s) needed due to the Applicant's disability. The City and Administrator will consider the requested exception and will provide a written response within 14 calendar days, stating if the requested exception can be granted in full or part and the reason for such decision. The Administrator may approve or deny such request. If denied, Applicants may submit an appeal of such denial to the City.



City of Morgan Hill / HouseKeys Below Market Rate (BMR) Ownership Program Application Guide



13. APPROVED VENDORS

All vendors shall be approved by HouseKeys. The table below outlines the minimum requirements for any vendor associated with resale of the property:

CONTRACTORS	Contractors shall have a valid California Contractor License.
LENDER/LOAN OFFICERS	- Loan Officers shall have previously attended HouseKeys loan officer orientation class. - The lender's legal department shall approve all BMR documents prior to resale. All Loan Applications must be taken and completed by the Loan Officer listed on the Loan Application (including NMLS License) and must match the name on the Program Approved List
TITLE COMPANY	The Title Company shall be based in Northern California and preferably in the County of Santa Clara.
APPRAISER	Appraisers shall have a valid California State Certification or California State License that has not expired.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

PREPARED BY: Jennie Tucker, Recreation Manager
APPROVED BY: City Manager

ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

RECOMMENDATION(S)

Receive annual report on Centennial Recreation Center Membership and YMCA Partnership.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan

REPORT NARRATIVE:

On May 3, 2006, the City Council approved an agreement with the YMCA of Santa Clara Valley to cooperatively operate the City's new Centennial Recreation Center (CRC). The CRC was built to promote multi-generational interaction and advance the physical well-being of our community.

As partners, the City and YMCA provide high quality health and fitness, youth, teen, family, and senior programs for Morgan Hill residents and the surrounding community to enjoy. The 54,000-square foot facility includes a community center, which houses the Senior Center and Teen Center, and a recreation center, which serves as a membership-based health and wellness facility. This report focuses on the latter. The partnership agreement between the City and YMCA requires that an annual report be presented to the City Council, which is a key purpose of this report.

The CRC offers a wide variety of fitness and recreational options for the whole family. The CRC offers several membership types for individuals and families. Membership includes:

- Unlimited access to the Fitness Center

- 100+ weekly group exercise classes for the entire family
- Free personalized wellness coaching sessions
- Drop-in sports in the gymnasium, including basketball, volleyball, badminton, and Pickleball
- Lap swim, aqua fitness classes, masters swimming, and recreational swim at both the CRC and Aquatics Center
- Free access to summer recreational swim at the Aquatics Center
- Kids' Club while at the CRC
- Free access for children (through age 21)
- Member pricing on swim lessons and specialty classes
- Easy access to the Teen Center, Senior Center, Skate/BMX Park, Dog Park, Tennis Courts, softball fields, and Community Park
- Access to all participating YMCA's nationwide

The CRC currently serves over 4,900 membership units comprising of over 15,600 individual members. Of these members, 78% are Morgan Hill residents and 53% are under the age of 24. An average of 800 individuals visit the CRC each day.

Member Satisfaction

As part of the City's Partnership Agreement with the YMCA of Silicon Valley, the CRC participates in the YMCA's annual SEER Analytics Member Satisfaction Study. The purpose of the study is to retain and recruit new members by assessing member satisfaction and identifying areas for improvement. The results of the SEER study provide information for the City and YMCA to make well-informed, member-focused decisions about future service delivery.

The CRC, with over 4,900 membership units, has one of the largest membership bases when compared to the branches within the YMCA of Silicon Valley. The results of the 2018 survey revealed that the CRC ranked above average in comparison to all 10 facility-based branches in the YMCA of Silicon Valley Association, in most categories. However, the CRC saw decline in member satisfaction in almost all areas from the prior year.

Besides the annual SEER survey, the CRC utilizes a customer comment card system. Members can submit comments online or fill out a hand-written comment card onsite. The team at the CRC prides themselves on reading, responding, and following up on these comments. The comment cards are kept in an internal tracking system with the ability to filter by category and quantify related feedback and comments.

Results from the SEER study are attached to this report. While the CRC continues to do well in comparison to the other branches in the association and across the country, the decline in member satisfaction from the prior year indicates improvement is needed in several areas. The SEER results, compiled with the customer comment cards, assist the team in understanding how service can be improved, and then striving to enhance operations. This past year, the CRC extended operational hours for our membership base and Kids Club. These improvements were based on survey results from 2017. The other frequent enhancement recommendation is the need for additional space for

classes and parking. This information was used in the planning for the proposed CRC Expansion, which is currently in the design phase.

Over the next year, the team at the CRC will be working on improving member satisfaction and retention through extra emphasis on customer service, cleanliness, safety, security, and overall appearance. These focus areas were all highlighted in the SEER results from this past year. The CRC team will also continue to focus on maintaining the facility and equipment and delivering high levels of intentional member engagement throughout the year.

Financial

CRC Membership generates the largest percentage of revenue for Recreation and Community Services. This market driven revenue source is dependent on attracting and retaining members and daily customers.

Prior to opening the CRC, a market study was performed to assist in better understanding the expected results. The study's objectives were to identify key service areas that should be provided to meet the needs and desires of the community; the community's willingness to pay; and to identify other issues that may positively or negatively impact CRC membership levels. At the end of the study, it was communicated that the partnership should expect to sell approximately 2,250 membership units at the approved membership rates. CRC membership has increased year over year every single year since opening, and the CRC currently has over 4,900 membership units and just over 15,600 members.

Membership grew significantly each year since the facility was opened through Fiscal Year (FY) 2012-13. The growth rate began to plateau in FY 2013-14 as the facility reached its load limit and an unprecedented community penetration rate (percentage of the population that is members – currently 25%) stabilized. The continued focus for FY 2018-19 and 2019-20 is on retaining the existing customer base through member engagement initiatives, while promoting services to realize new customer growth, and providing well maintained facilities and equipment.

A key element of the partnership agreement is the fact that both the City and YMCA agreed to share in the financial risk/reward. Since FY 2006-07, the two organizations have collaboratively developed the partnership portion of the CRC's operating budget. It is expected that the membership revenues will greatly support the recovery of a significant portion of both YMCA and City expenses for personnel, utilities, supplies, and maintenance responsibilities.

At the conclusion of each fiscal year, the partnership budget is reconciled. In the event that the partnership's net revenue is greater than budgeted, the City receives 60 percent of the difference and the YMCA receives 40 percent. Conversely, if the partnership budget does not meet its net revenue budget, then the City is responsible for 60 percent and the YMCA is responsible for 40 percent. For each fiscal year, the partnership's actual net revenue has exceeded the budgeted. In FY 2017-18, the net revenue from the partnership exceeded the budget by approximately \$61,000.

Although FY 2017-18 has not formally been closed, the Recreation Division's required investment from the General Fund is estimated at \$430,000 (approximately \$340,000 ahead of budget). The City and YMCA continue to promote the scholarship program for CRC membership and recreation programs, providing over \$157,000 annually to individuals and families, with the YMCA providing an additional \$37,000 for non-residents.

Staff continues to seek out ways to improve organizational effectiveness by enhancing the partnership model.

COMMUNITY ENGAGEMENT: Consult

The SEER survey is emailed annually to the primary member for each CRC membership account. This year 3,869 surveys were emailed. During the months of May and June 2018, 557 were completed, equating to a 14% response rate. The CRC also receives and responds close to 1,000 customer comment cards per year. CRC Teammates also continually receive, and report feedback directly received from members.

ALTERNATIVE ACTIONS:

This report is not recommending any formal Council action. The Council could direct staff to provide additional details on specific areas of this report.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has accepted reports on CRC membership annually since the facility opened in 2006.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact related to receiving this report.

CEQA (California Environmental Quality Act):

Not a Project

Receiving this report is an administrative program that will not result in a change to the physical environment, this action is not a project under the California Environmental Quality Act.

LINKS/ATTACHMENTS:

1. Centennial Recreation Center Membership Survey Results 2018

Centennial Recreation Center Member Experience Survey

Survey Date: May 2018

Total Surveys Sent: 3869

Total Surveys Received: 557

Total Response Rate: 14%

Impact : 36		2018	Change from 2017
Achievement and Health : 36			
	Gained new knowledge, skills and abilities	33%	1%
	More physically active	43%	-4%
	Eat healthier	26%	-5%
	I feel better	43%	-4%
	Meet fitness goals	44%	0%
	Health Seekers Meeting Goals*	33%	1%
	Non-Health Seekers Meeting Goals*	52%	-1%
	Real Positive Impact Individual*	25%	-4%
Relationships and Belonging : 43			
	Developed friendships with Y members	48%	-3%
	Sense of belonging	41%	-3%
	Developed new, supportive relationships	25%	1%
	More connected to community	28%	-5%
	Participation in Groups improves my well-being	49%	-3%
	Loyalty*	60%	0%
	Intent to renew*	55%	1%
Character and Giving : 29			
	Volunteer other organizations	39%	4%
	Donor other organizations	51%	-3%
	Opportunity to be positive role model	36%	-1%
	I have a more positive outlook	27%	-3%
	I have become more self-disciplined	26%	-1%
	Opportunities to help others	16%	0%
	Donor last 12 months	8%	-3%
	Volunteer last 12 months	3%	0%
	Likelihood to donate*	23%	-4%
	Likelihood to volunteer*	25%	0%

		2018	Change from 2017
Engagement : 38			
Staff Engagement : 42			
	Know your name	29%	-4%
	Staff take the initiative to talk to members	33%	-4%
	Staff are good listeners	42%	-4%
	Staff checks progress	28%	-6%
	Feel welcome	58%	-5%
Member Engagement : 34			
	Met socially with other YMCA members outside of the Y	34%	-2%
	Engage in group activities	48%	-2%
	Participated in a YMCA event	36%	2%
	Met different types of people	34%	-2%
	The Y builds strong relationships with its members	56%	-7%

		2018	Change from 2017
Operations : 42			
Facility : 52			
	Overall cleanliness	44%	-2%
	Safety & security	49%	-4%
	The building is attractive	55%	-2%
	Maintenance of equipment	44%	-2%
	Has enough equipment	30%	-3%
	Overall Satisfaction*	52%	-4%
Value : 35			
	Enough staff to help you	54%	-4%
	Convenience of schedule	27%	-1%
	Value for the money	38%	-4%
	Quality of classes/programs	41%	-4%
	Variety of fun family activities	36%	2%
	Net Promoter Score*	58%	-3%
Service : 40			
	Efficiency of front desk procedures	53%	-4%
	Staff can answer questions	51%	-2%
	Staff friendliness	65%	-6%
	Staff competence	55%	-2%
	Communications from my Y keep me well informed	47%	-8%



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

PREPARED BY: Dat Nguyen, Finance Director
APPROVED BY: City Manager

AUGUST 2018 FINANCIAL AND INVESTMENT REPORT

RECOMMENDATION(S)

Accept and file report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Financial Stewardship

REPORT NARRATIVE:

As part of the City Council's expectation to maintain a high level of transparency and to be responsible stewards of public funds, attached are the Financial and Investment Reports for the month ended August 31, 2018. The Revenue and Expense Summary for the month of August is included on the first page. Overall, General Fund revenues total \$4.7 million or 12% of the budget. General Fund expenditures, including encumbrances, amounted to \$10.2 million. The encumbrances represent commitments or contractual obligations that the City has entered with vendors or suppliers such as Brightview Landscaping Services, Inc. for park mowing, street median maintenance, and Downtown landscape maintenance, and partnership agreement with the YMCA of Silicon Valley for the management and operation of the Community Recreation Center. The services from these vendors are expected to be utilized by the City and paid throughout the fiscal year.

COMMUNITY ENGAGEMENT: Inform

Finance staff prepares these monthly reports in an effort to keep City officials, the Council, the community, and various lenders and stakeholders informed on the financial health of the organization, which assists each one of the interested parties in making sound financial and investment decisions.

ALTERNATIVE ACTIONS:

No alternative action is recommended, as this is a monthly financial report on City transactions which have already occurred.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council receives and files the financial and investment report for each month. At the September 16, 2015 meeting, City Council recommended monthly financial and investment reports be agendaized under the Consent Agenda, and quarterly financial

and investment reports be presented to City Council as an “Other Business” item.

FISCAL AND RESOURCE IMPACT:

The preparation of the report is a part of the Finance workplan.

CEQA (California Environmental Quality Act):

Not a Project.

This report is not a project, as defined in Section 15378 of the State CEQA Guidelines. Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. August 2018 Financial Statement Analysis
2. August 2018 Financial and Investment Report

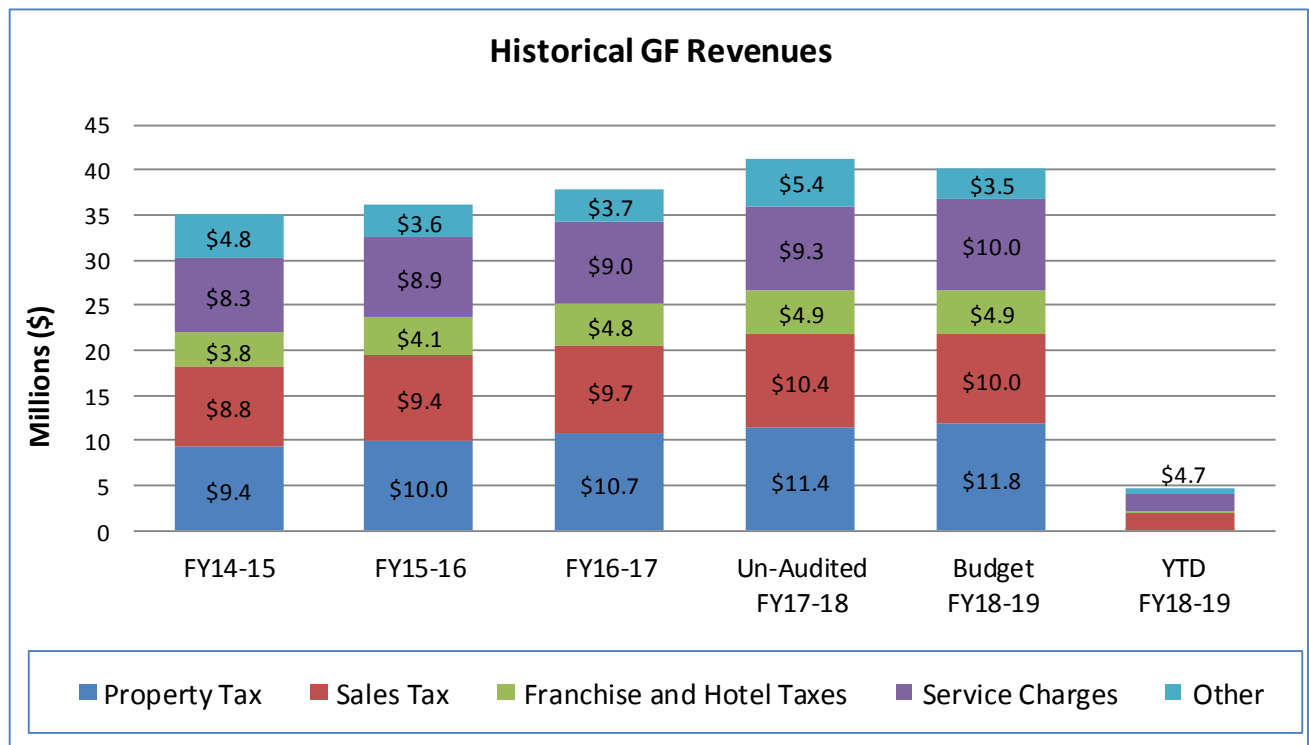


CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED AUGUST 2018 – 17% OF YEAR COMPLETE

- **General Fund** – Revenues through the month of August totaled \$4.7 million, or 12% of the budgeted revenues as some of the major revenue categories such as property tax are received later in the fiscal year. With respect to the property tax revenue forecast, the most recent County’s estimate projected Morgan Hill property tax revenue, excluding the property transfer tax, at \$12.5 million for the fiscal year 2018-19, which is approximately \$700,000 more than the adopted budget partially attributable to the higher excess Educational Revenue Augmentation Fund (ERAF) distribution of \$821,000 versus \$495,000 budgeted. Excess ERAF is the money that is returned to the cities, counties, and special districts after schools reach their state-mandated thresholds. Property tax is the largest source of Morgan Hill's General Fund revenue. However, it accounts for only 29% of the approximately \$40.2 million General Fund revenue. Although property tax tends to be a more predictable revenue source, other major revenue categories such as sales tax and transient occupancy tax, which account for a large portion of the City's General Fund revenue, are more volatile and tend to fluctuate more with swings in the economy.

The small category of business licenses was already at 86% of the budgeted amount as annual business license renewal payments are usually received in the first few months of the fiscal year.

The chart below shows historical General Fund revenues by major revenue category from FY14-15 through FY16-17 Actual, Un-audited FY17-18, FY18-19 Budget, and YTD as of August 31, 2018.

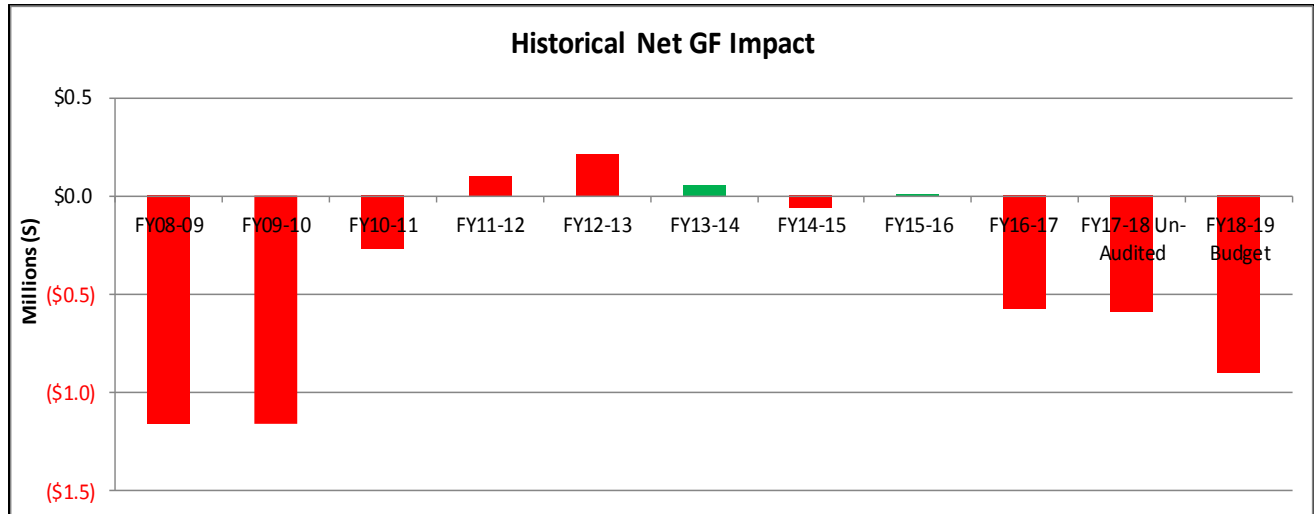


General Fund expenditures and encumbrances as of August 31, 2018 totaled \$10.2 million, of which approximately \$3.4 million is attributable to outstanding encumbrances.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED AUGUST 2018 – 17% OF YEAR COMPLETE

- **Community Services** - The Community Services Department's recreation operations, as reflected in the schedule presented on page 4 of the Monthly Financial and Investments Reports, shows a negative impact to the General Fund of approximately \$1.5 million through the month of August. Without the carry-over encumbrances, the year to date operations through the month of August resulted in a small net benefit to the general fund of approximately \$31,000. Any net impact from the recreation operations increases (decreases) reserves in the General Fund.



Due to longstanding governmental accounting and budgeting convention, the City's recreation operations are not charged for indirect costs (known in Morgan Hill as "General Fund Administration") from the central services departments of City Attorney, City Manager, and Administrative Services. The City's other governmental funds, such as Community Development, and the proprietary funds, such as Water and Wastewater, and the Information Services Fund, are assessed such charges through the City's indirect cost allocation plan, prepared in compliance with the Federal government's OMB Circular No. A-87, which mandates certain calculation and cost allocation practices that must be followed in order to qualify for Federal grant funding, but which also represent best practice for non-grant funded City operations like utilities and information services.

- **Development Services Fund** – Revenues through August totaled \$912,000, an increase of 19% or approximately \$147,000 more than a year ago at this time partially due to the fee increases that went into effect January 1st of this year. Expenditures, including encumbrances, totaled \$1.6 million. Without the outstanding encumbrances, however, expenditures through the month of August amounted to \$778,000. The fund is budgeted to end the fiscal year with an operating deficit of approximately \$1.4 million.
- **Debt Service Funds** – Expenditures through the month of August totaled \$2,200. The debt service for the first half of the year includes both interest and principal, while the second half of the year will include interest only. Debt service payments were all scheduled when the bonds were issued, and are budgeted for in the months delineated in the underlying bond documents. The General Fund's portion of the annual debt service payments is approximately \$200,000, less than one percent of the General Fund's budgeted revenues.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED AUGUST 2018 – 17% OF YEAR COMPLETE

- **Wastewater Operations** – Revenues from Sewer Operations through the month of August totaled \$1.8 million. Expenditures and outstanding encumbrances totaled \$1.2 million or just 11% of the budget primarily attributable to the timing of the quarterly billing for sewer plant maintenance and operations. The table below shows historical Sewer Operations revenues and expenditures from FY14-15 through FY16-17 Actual, Un-audited FY17-18, FY18-19 Budget, and YTD as of August 31, 2018.

(amount in millions)	FY14-15	FY15-16	FY16-17	Un-Audited FY17-18	Budget FY18-19	YTD FY18-19
Revenues	10.3	10.2	9.7	10.3	10.7	1.8
Expenditures	8.8	12.0	9.8	10.8	11.3	1.2
Operating Margin	1.5	(1.8)	(0.1)	(0.5)	(0.6)	0.6
Operating Margin without Encumbrances	1.5	(1.8)	(0.0)	(0.3)	(0.6)	0.9

- **Water Operations** – Water Operations includes Utility Billing, Water Conservation, and Water Operations. Revenues from Water Operations through the month of August totaled \$2.9 million, approximately 11% more than a year ago partially due to rate adjustment. Water Operations expenditures, including outstanding encumbrances, totaled \$2.9 million for the year. Without the encumbrances, however, the expenditures amounted to \$1.8 million. The table below shows Water Operations revenues and expenditures from FY14-15 through FY16-17 Actual, Un-audited FY17-18, FY18-19 Budget, and YTD as of August 31, 2018.

(amount in millions)	FY14-15	FY15-16	FY16-17	Un-Audited FY17-18	Budget FY18-19	YTD FY18-19
Revenues	8.8	8.5	10.9	13.0	13.8	2.9
Expenditures	9.3	9.7	11.2	12.1	13.5	2.9
Operating Margin	(0.5)	(1.2)	(0.3)	0.9	0.3	-
Operating Margin without Encumbrances	(0.5)	(1.2)	(0.1)	1.4	0.3	1.1

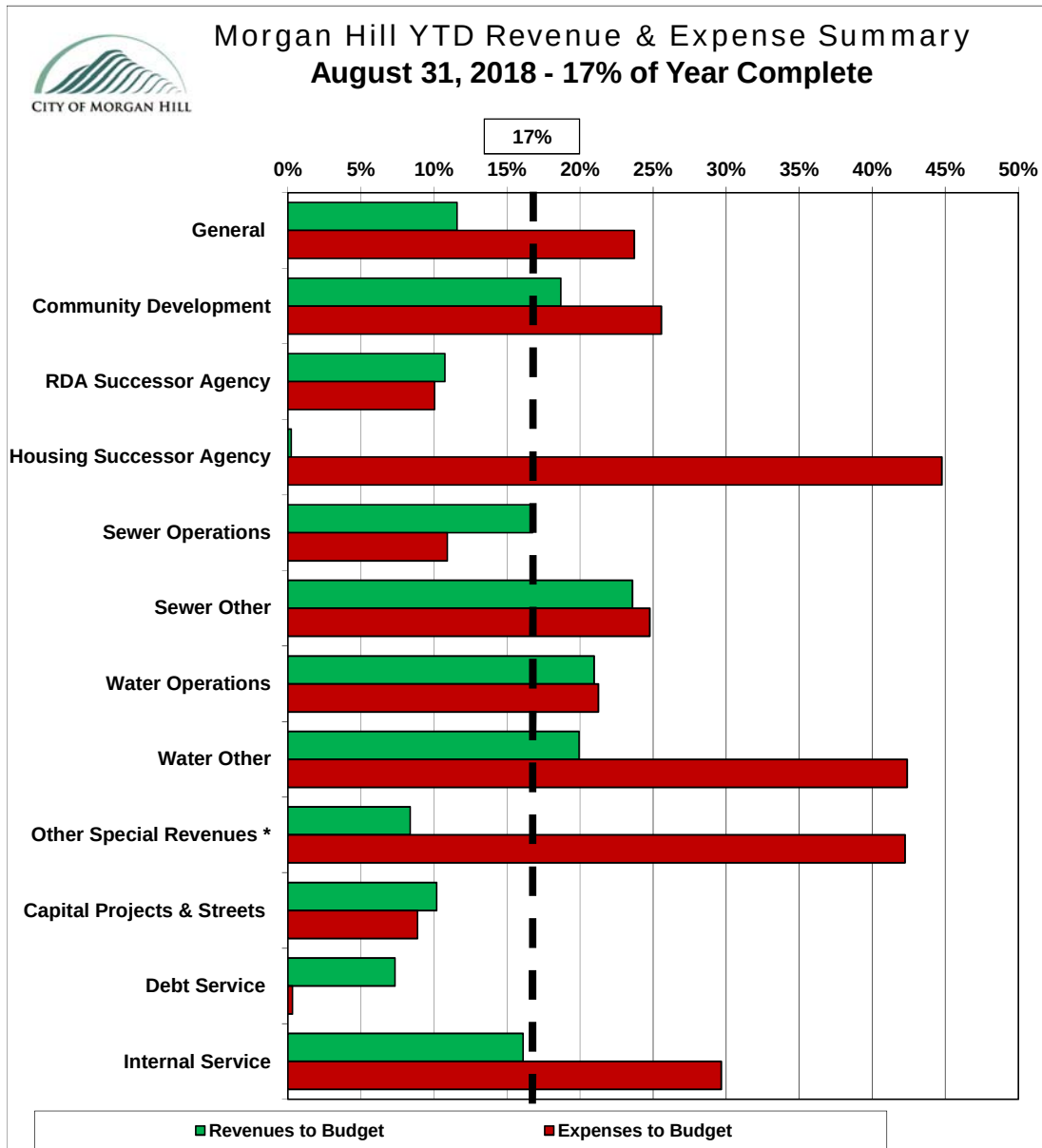
- **Investments** – No purchases were made during the month of August 2018. Total interest earnings received on investments were \$38,000 during the month.

CITY OF MORGAN HILL
Monthly Financial and Investment Reports
August 31, 2018 - 17% of Year Complete



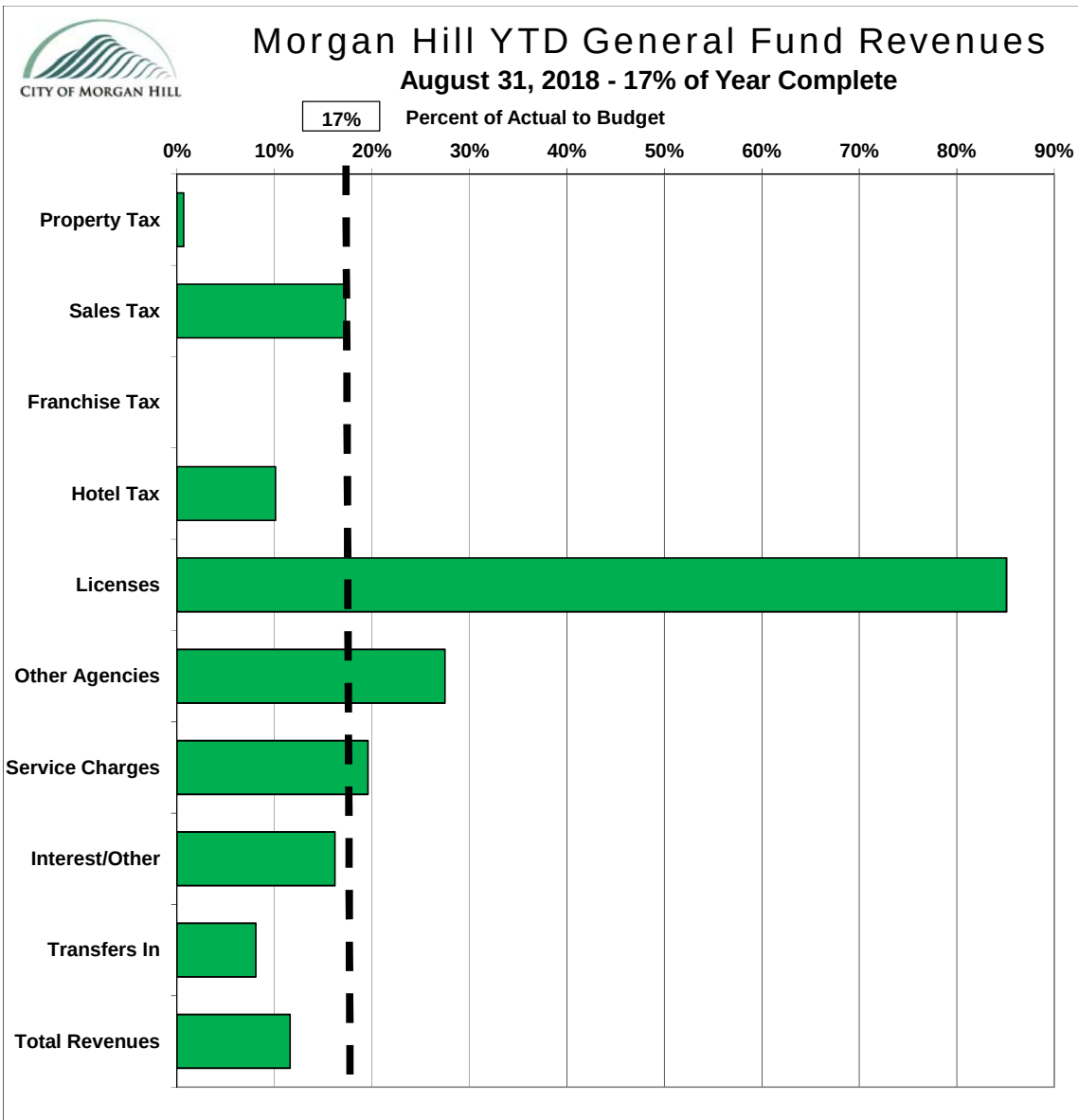
CITY OF MORGAN HILL

Prepared by:
FINANCE DEPARTMENT

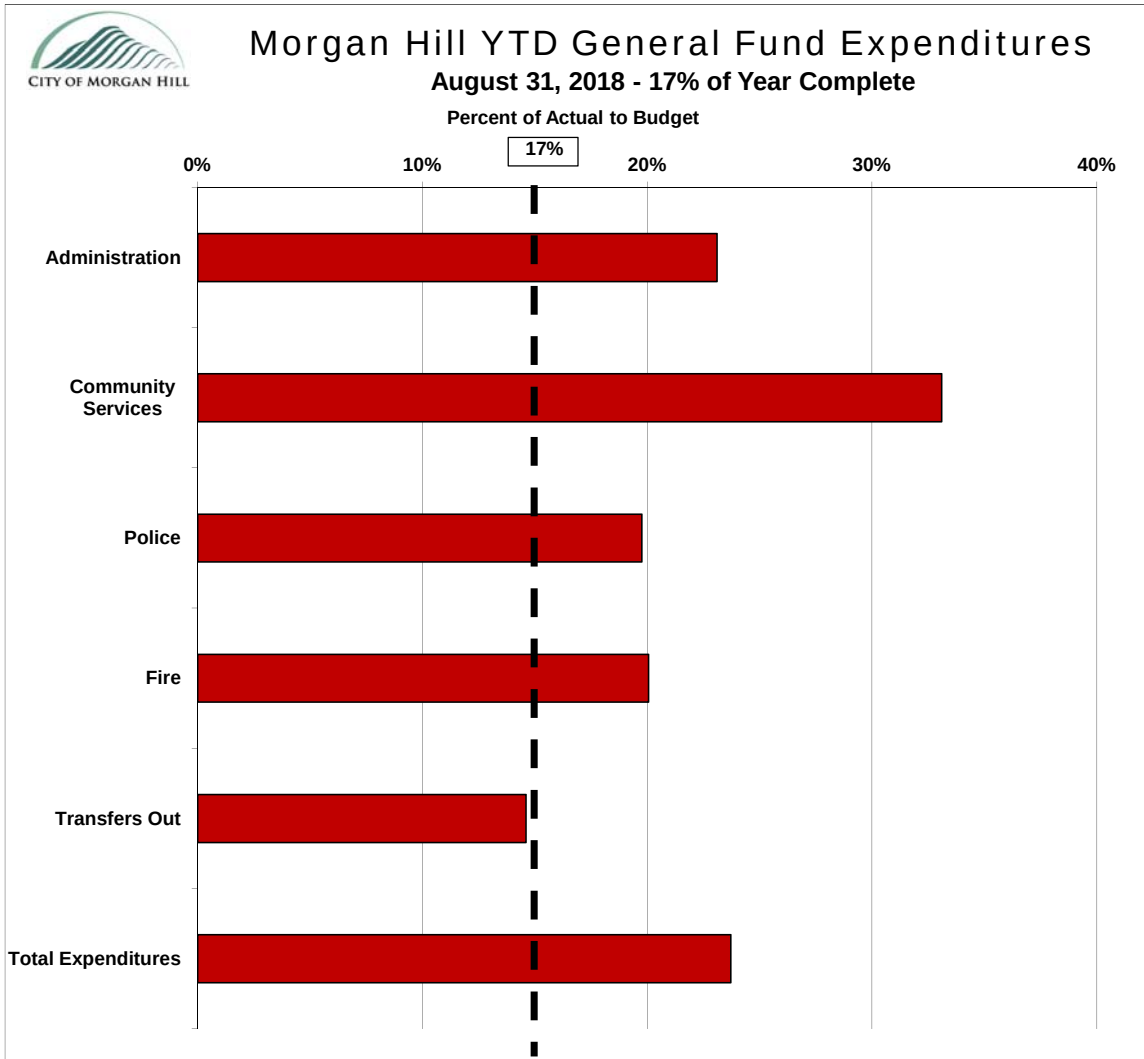


FUND NAME	REVENUES		EXPENSES	
	ACTUAL	% OF BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET
General	\$ 4,658,850	12%	\$ 10,239,150	24%
Community Development	911,581	19%	1,595,933	26%
RDA Successor Agency	854,454	11%	802,379	10%
Housing Successor Agency	5,631	0%	1,647,231	45%
Sewer Operations	1,799,953	17%	1,234,397	11%
Sewer Other	1,831,972	24%	3,154,806	25%
Water Operations	2,881,671	21%	2,858,911	21%
Water Other	751,107	20%	2,213,238	42%
Other Special Revenues *	345,649	8%	2,321,952	42%
Capital Projects & Streets	4,033,620	10%	4,259,862	9%
Debt Service	49,535	7%	2,208	0%
Internal Service	1,901,149	16%	3,392,543	30%
TOTAL FOR ALL FUNDS	\$ 20,025,172	14%	\$ 33,722,608	20%

* Includes all Special Revenue Funds except Community Development, Street Funds, and RDA and Housing Successor Agencies.



REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
Property Tax	\$11,813,532	\$ 87,815	1%	\$ 17,852	392%
Sales Tax	9,981,124	1,725,406	17%	1,509,684	14%
Franchise Tax	2,164,190	-		-	#DIV/0!
Hotel Tax	2,754,000	277,328	10%	271,525	2%
Licenses	200,800	170,786	85%	160,748	6%
Other Agencies	314,398	86,459	28%	66,388	30%
Service Charges	9,993,089	1,962,201	20%	1,819,120	8%
Interest/Other	1,330,787	215,730	16%	242,837	-11%
Transfers In	1,637,720	133,126	8%	132,342	1%
TOTAL REVENUES	\$40,189,640	\$ 4,658,850	12%	\$ 4,220,497	10%



EXPENDITURE CATEGORY	BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET	PRIOR YTD PLUS ENCUMBRANCES	% CHANGE FROM PRIOR YEAR
Administration	\$ 4,943,269	\$ 1,142,034	23%	\$ 1,663,150	-31%
Community Services	12,195,638	4,036,829	33%	3,585,173	13%
Police	17,301,708	3,419,254	20%	2,460,696	39%
Fire	6,666,707	1,337,528	20%	1,073,213	25%
Transfers Out	2,077,498	303,506	15%	457,476	-34%
TOTAL EXPENDITURES	\$ 43,184,819	\$ 10,239,150	24%	\$ 9,239,709	11%

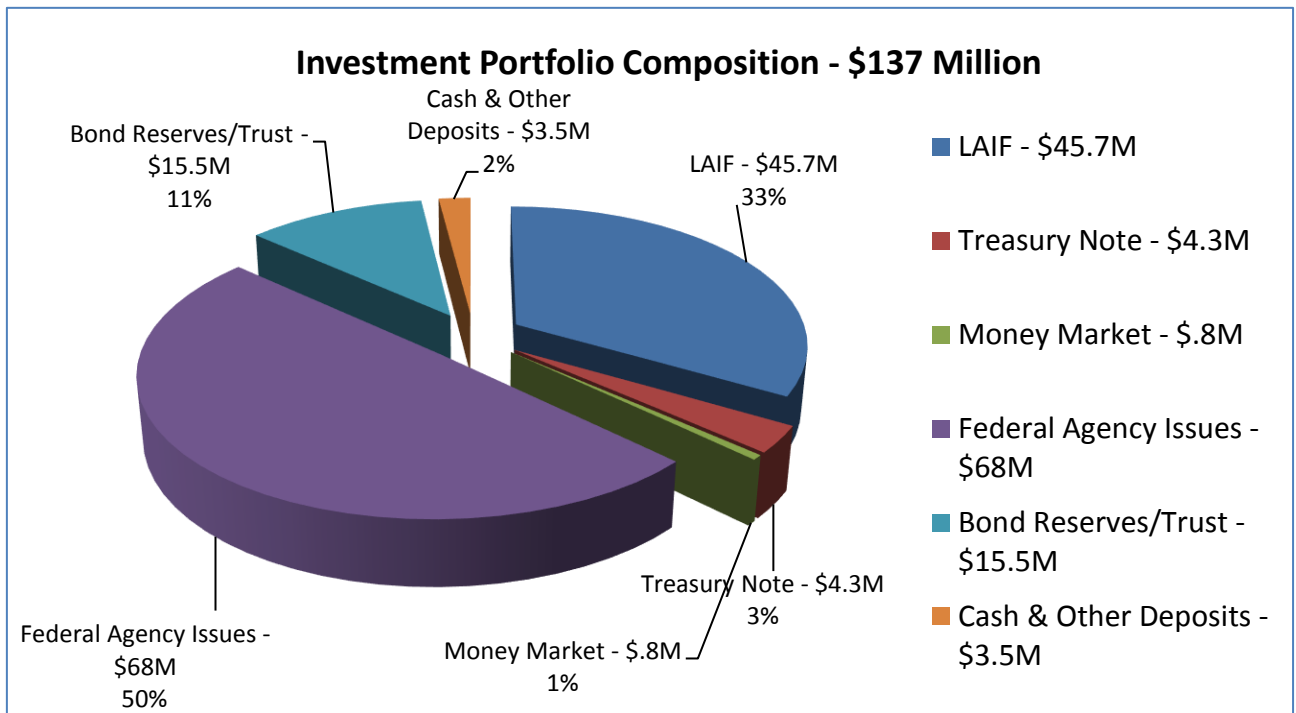


**City of Morgan Hill
Recreation Report - Fiscal Year 2018-19
For the Month and Two Months Ended August 31, 2018
17% of Year Complete**

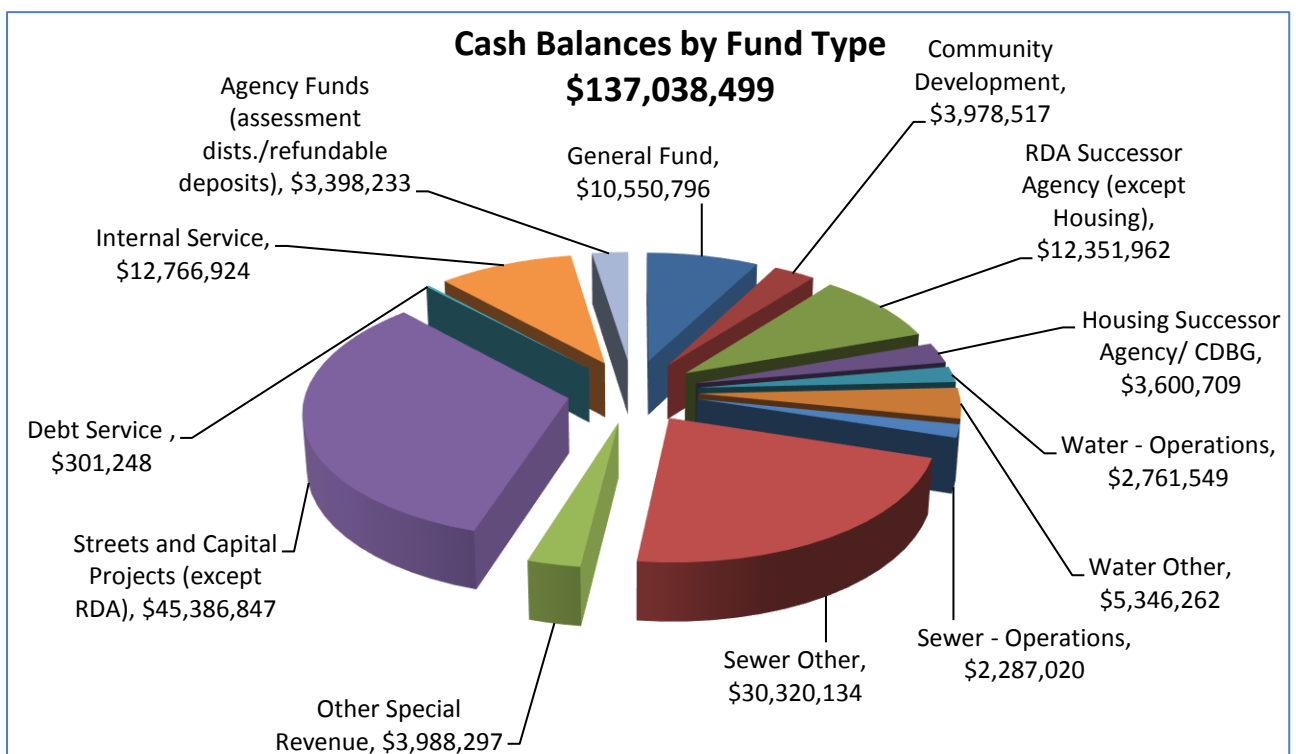
	<u>Budget</u>	<u>August 2018</u>	<u>YTD</u>	<u>% of Budget</u>
Revenues				
Membership Services & Rec Programs	\$ 6,241,196	\$ 563,547	\$ 1,385,862	
Facility Rentals	898,700	71,765	204,355	
Community Services	147,840	2,750	8,921	
Transfers in	75,000	6,250	12,500	
Total Revenues	<u>\$ 7,362,736</u>	<u>\$ 644,312</u>	<u>\$ 1,611,637</u>	22%
Less: Expenditures				
Membership & Program Services	\$ 6,255,009	\$ 935,037	\$ 1,260,227	
Facility Rentals	1,355,732	125,374	216,658	
Community Services	653,307	76,362	103,410	
Total Expenditures	<u>\$ 8,264,049</u>	<u>\$ 1,136,771</u>	<u>\$ 1,580,295</u>	19%
Net Impact without encumbrances	<u>\$ (901,313)</u>	<u>\$ (492,459)</u>	<u>\$ 31,342</u>	
Encumbrances	-	-	1,490,892	
Net Impact with encumbrances	<u>\$ (901,313)</u>	<u>\$ (492,459)</u>	<u>\$(1,459,550)</u>	

City of Morgan Hill Monthly Investment Report - August 31, 2018

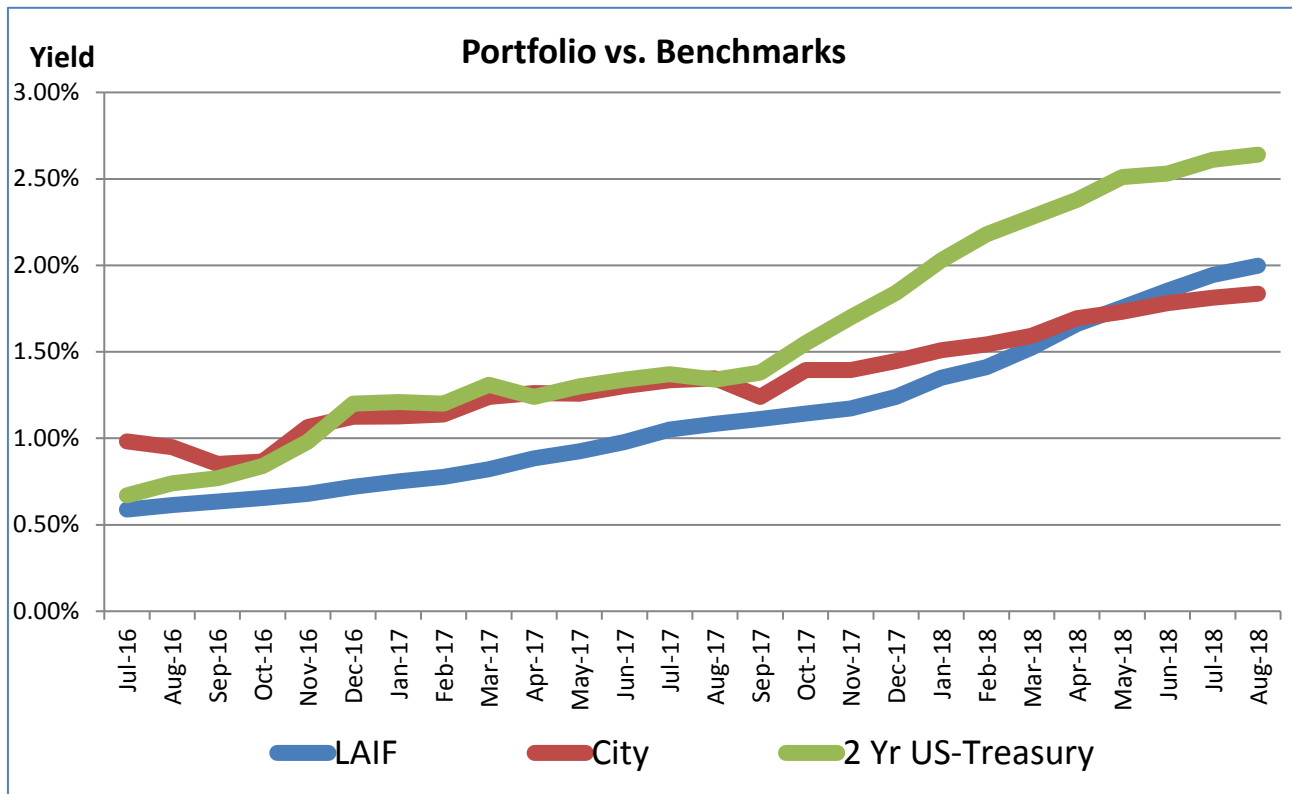
The following are the snapshots of City's investment portfolio as of August 31, 2018. The first chart shows the portfolio composition by investment type:



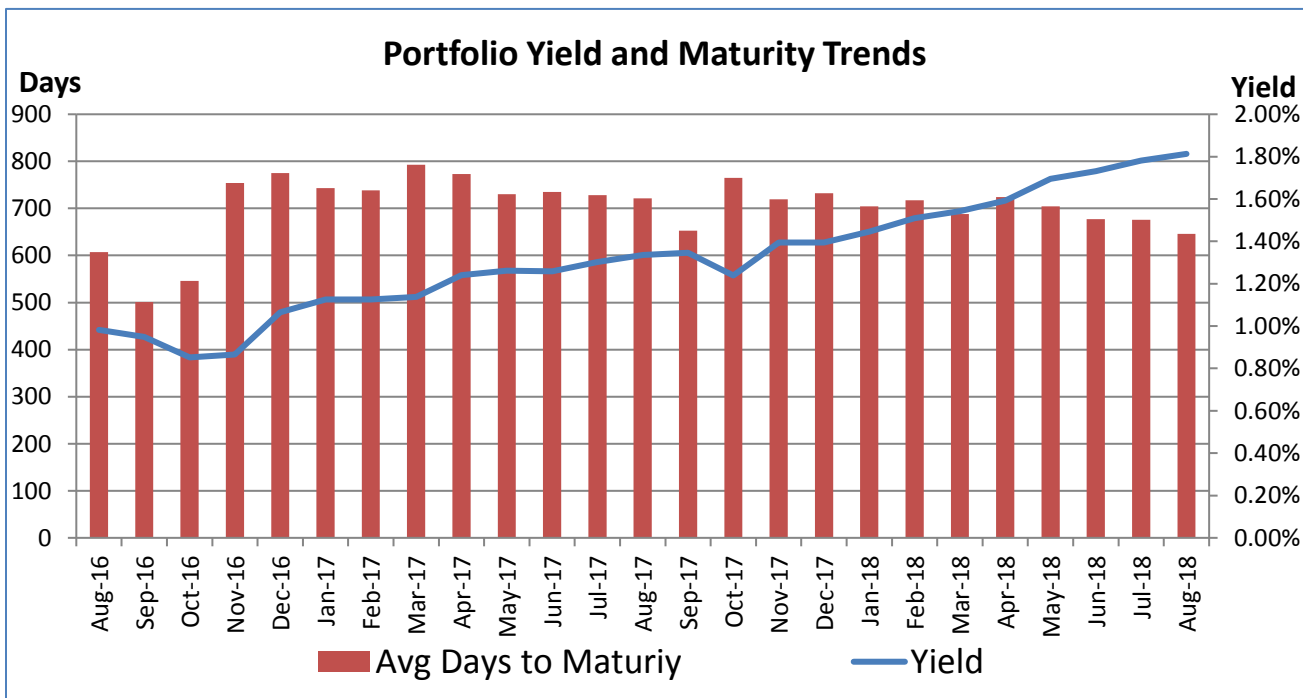
The chart below shows cash balances by fund type reconciled to City's financial system:



The following chart illustrates a yield comparison by month among the City's portfolio, LAIF and 2-Year US Treasury:



The chart below illustrates monthly average days to maturity of the City's portfolio along with the weighted average yield for the past two years:





City of Morgan Hill
Investment Portfolio Detail
As of August 31, 2018

Investment Type	Settlement Date	Book Value	% of Portfolio	Market Value	YTM at Cost	Next Call Date	Date of Maturity
L A I F		\$ 45,686,738	33.34%	\$ 45,601,161	2.00%		
City Managed							
Fed Home Loan Bank	10/19/2015	4,000,000	2.92%	3,910,840	1.70%	10/19/2018	10/19/2020
Fed Home Loan Bank	6/30/2016	4,000,000	2.92%	3,844,320	1.50%	6/30/2021	6/30/2021
Fed Natn'l Mortgage Assn	8/25/2016	4,000,000	2.92%	3,840,400	1.40%	8/25/2021	8/25/2021
Fed Home Loan Mortgage	9/29/2016	2,000,000	1.46%	1,937,020	1.65%	9/29/2018	9/29/2021
Fed Natn'l Mortgage Assn	9/29/2016	4,000,000	2.92%	3,835,080	1.60%	9/29/2018	9/29/2021
Fed Home Loan Mortgage	10/27/2016	4,000,000	2.92%	3,864,120	1.60%	10/27/2018	10/27/2021
Fed Natn'l Mortgage Assn	10/28/2016	4,000,000	2.92%	3,817,160	1.55%	10/28/2018	10/28/2021
Fed Home Loan Mortgage	10/28/2016	2,000,000	1.46%	1,934,860	1.65%	10/28/2018	10/28/2021
Fed Home Loan Bank	11/15/2016	4,000,000	2.92%	3,841,320	1.55%	11/15/2021	11/15/2021
Fed Home Loan Bank	11/23/2016	3,000,000	2.19%	2,885,160	1.65%	9/23/2018	11/23/2021
Fed Home Loan Bank	11/23/2016	4,000,000	2.92%	3,846,800	1.63%	9/23/2018	11/23/2021
Fed Home Loan Mortgage	11/30/2016	4,000,000	2.92%	3,864,960	1.88%	9/26/2018	11/26/2021
Fed Home Loan Mortgage	6/29/2017	1,300,000	0.95%	1,265,537	2.15%	9/29/2018	6/29/2022
Fed Home Loan Bank	10/19/2017	3,850,000	2.81%	3,740,814	2.15%	10/19/2018	10/19/2022
Fed Natn'l Mortgage Assn	10/26/2017	4,150,000	3.03%	4,029,401	2.20%	10/26/2018	10/26/2022
Fed Home Loan Mortgage	1/30/2018	3,000,000	2.19%	2,938,830	2.50%	1/30/2019	1/30/2023
Treasury Note	4/30/2018	4,264,210	3.11%	4,261,995	2.73%	3/31/2023	3/31/2023
Sub Total/Average		\$ 59,564,210	43.47%	\$ 57,658,617	1.82%		
Money Market		\$ 686,968	0.50%	\$ 686,968	1.85%		
Total City Managed/Average		\$ 105,937,916	77.31%	\$ 103,946,745	1.03%		
City Managed - HighMark							
Fed Natn'l Mortgage Assn	8/18/2016	\$ 749,818	0.55%	\$ 746,250	1.06%	1/25/2019	1/25/2019
Fed Natn'l Mortgage Assn	8/18/2016	749,811	0.55%	740,760	1.18%	1/26/2019	7/26/2019
Fed Natn'l Mortgage Assn	8/23/2016	749,976	0.55%	741,233	1.25%	11/23/2018	8/23/2019
Fed Home Loan Mortgage	8/31/2016	750,000	0.55%	741,098	1.25%	8/15/2019	8/15/2019
Fed Home Loan Mortgage	9/13/2016	750,000	0.55%	749,835	1.10%	9/3/2018	9/3/2018
Fed Home Loan Bank	9/21/2016	749,992	0.55%	749,618	1.12%	9/21/2018	9/21/2018
Fed Home Loan Mortgage	10/7/2016	749,881	0.55%	740,475	1.29%	9/12/2018	9/12/2019
Fed Natn'l Mortgage Assn	10/11/2016	749,917	0.55%	743,730	1.22%	11/23/2018	5/23/2019
Fed Home Loan Mortgage	10/24/2016	739,753	0.54%	736,137	1.03%	1/30/2019	1/30/2019
Fed Natn'l Mortgage Assn	10/24/2016	749,972	0.55%	740,033	1.25%	9/30/2018	9/30/2019
Federal Farm Credit Bank	11/1/2016	749,944	0.55%	748,418	1.02%	11/1/2018	11/1/2018
Fed Home Loan Mortgage	12/13/2016	1,002,952	0.73%	995,140	1.35%	5/30/2019	5/30/2019
Fed Home Loan Bank	12/13/2016	999,924	0.73%	996,330	1.27%	1/16/2019	1/16/2019
Fed Home Loan Mortgage	12/29/2016	748,887	0.55%	744,405	1.37%	4/15/2019	4/15/2019
Fed Natn'l Mortgage Assn	12/29/2016	742,098	0.54%	736,204	1.39%	6/20/2019	6/20/2019
Fed Home Loan Bank	6/19/2018	943,056	0.69%	943,008	1.38%	5/28/2019	5/28/2019
Money Market		76,214	0.06%	76,214	1.85%		
Sub Total/Average		\$ 12,752,195	9.31%	\$ 12,668,886	1.23%		
Bond Reserve Accounts - Held By Trustees		\$ 13,392,866	9.77%	\$ 13,391,293			
Cash/Deposits		\$ 2,768,118	2.02%	\$ 2,768,118			
PARS Trust		\$ 2,187,404	1.60%	\$ 2,459,076			
GRAND TOTAL/AVERAGE		\$ 137,038,499	100.00%	\$ 135,234,118			

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
FOR THE MONTH OF AUGUST 31, 2018
FOR THE FISCAL YEAR OF 2018-19

	Invested in Fund	Yield	Book Value End of Month	% of Total	Market Value
Investments					
State Treasurer LAIF - City	All Funds Pooled	2.00%	\$ 39,305,477	28.68%	\$ 39,231,853
2014 Water Rev Bonds - Water Impact	Water Fund	2.00%	526,900	0.38%	525,913
2014 Water Rev Bonds - Water CIP	Water Fund	2.00%	117,460	0.09%	117,240
2015 Wastewater Rev Bonds - CIP	Wastewater Fund	2.00%	5,736,901	4.19%	5,726,155
Federal Issues	All Funds Pooled	1.50%	67,975,981	49.60%	65,989,294
US Treasury Notes	All Funds Pooled	2.73%	4,264,210	3.11%	4,261,995
Dreyfus Treas Cash Management Acct	All Funds Pooled	1.85%	763,182	0.56%	763,182
	SUBTOTAL		\$ 118,690,111	86.61%	\$ 116,615,631
Bond Reserve Accounts - held by trustees					
BNY - 2015 Wastewater Bonds					
Cash Balance	Wastewater Fund	0.00%	-	0.00%	-
Zions Bank - Civic Center/Library Facility					
Blackrock Liq Fund	Debt Service	1.59%	55	0.00%	55
Zions Bank - MH Police Facility Lease Revenue Bonds					
Blackrock Liq Fund	Debt Service	1.59%	70	0.00%	70
BNY - RDA Bonds					
Dreyfus Cash Mgmt 521	Successor Fund	1.77%	5,386,781	3.93%	5,386,781
US Treasury Notes - Reserve Acct.	Successor Fund	1.08%	6,862,871	5.01%	6,861,298
Zions Bank - MH Ranch 2015					
Blackrock Liq Funds Fed Fund -DI -2015	Agency Fund	1.59%	574,163	0.42%	574,163
Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015					
Blackrock Liquidity Temp Fund-2015	Agency Fund	1.59%	568,927	0.42%	568,927
	SUBTOTAL		13,392,866	9.77%	13,391,293
Other Cash/Deposits					
General Checking	All Funds		2,731,006	1.99%	2,731,006
Workers' Comp Administrators	Workers' Comp		30,000	0.02%	30,000
Petty Cash & Emergency Cash	General Fund		7,112	0.01%	7,112
PARS - OPEB Trust			1,387,404	1.01%	1,579,943
PARS - PENSION Trust			800,000	0.58%	879,133
	SUBTOTAL		4,955,522	3.62%	5,227,194
Total Cash and Investments			\$ 137,038,499	100.00%	\$ 135,234,118

CASH ACTIVITY SUMMARY
FY 2018-19

Fund Type	Unaudited 07/01/18 Balance	Change in Cash Balance	8/31/2018 Balance
General Fund	\$ 14,905,287	\$ (4,354,491)	\$ 10,550,796
Community Development	3,444,772	533,746	3,978,517
RDA Successor Agency (except Housing)	12,278,895	73,067	12,351,962
Housing Successor Agency/ CDBG	4,152,743	(552,034)	3,600,709
Water - Operations	2,341,115	420,434	2,761,549
Water Other	4,954,819	391,442	5,346,262
Sewer - Operations	1,519,052	767,968	2,287,020
Sewer Other	29,212,177	1,107,956	30,320,134
Other Special Revenue	5,093,029	(1,104,732)	3,988,297
Streets and Capital Projects (except RDA)	42,155,177	3,231,670	45,386,847
Debt Service	253,645	47,604	301,248
Internal Service	13,022,186	(255,262)	12,766,924
Agency Funds (assessment dists./refundable deposits)	4,116,381	(718,148)	3,398,233
Total	\$ 137,449,278	\$ (410,779)	\$ 137,038,499

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.

I certify the information on the investment reports on pages has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by: Harjot Sangha, Accounting Manager

Approved by: _____

Reviewed by: Dat Nguyen, Finance Director

David Clink, Treasurer



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2018-19
For the Two Months Ended August 31, 2018
17% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
010 GENERAL FUND							
TAXES							
Property Tax - Secured/Unsecured	\$ 10,131,882	\$ 10,131,882	\$ -	0%	\$ -	\$ -	0%
Property Tax - RPTTF Residual Distribution	1,405,500	1,405,500	73,755	5%	-	73,755	n/a
Property Tax - Supplemental Roll	276,150	276,150	14,060	5%	17,852	(3,792)	-21%
Sales Tax	9,601,124	9,601,124	1,658,625	17%	1,475,563	183,062	12%
Public Safety Sales Tax	380,000	380,000	66,780	18%	34,121	32,660	96%
Transient Occupancy Taxes	2,754,000	2,754,000	277,328	10%	271,525	5,803	2%
Franchise (Refuse, Cable, PG&E)	2,164,190	2,164,190	-	0%	-	-	n/a
Property Transfer Tax	505,000	505,000	50,620	10%	36,035	14,585	40%
TOTAL TAXES	27,217,846	27,217,846	2,141,168	8%	1,835,096	306,072	17%
LICENSES/PERMITS							
Business License	196,000	196,000	167,759	86%	158,017	9,742	6%
Other Permits	4,800	4,800	3,027	63%	2,731	296	11%
TOTAL LICENSES/PERMITS	200,800	200,800	170,786	85%	160,748	10,038	6%
FINES AND PENALTIES							
Parking Enforcement	8,250	8,250	937	11%	597	340	57%
Bails & Fines	71,500	71,500	-	0%	-	-	n/a
Administrative Citations	9,500	9,500	1,743	18%	5,650	(3,907)	-69%
TOTAL FINES AND PENALTIES	89,250	89,250	2,680	3%	6,247	(3,567)	-57%
OTHER AGENCIES							
Motor Vehicle in-Lieu	23,934	23,934	-	0%	-	-	n/a
Other Revenue - Other Agencies	271,398	314,398	86,459	27%	66,388	20,070	30%
TOTAL OTHER AGENCIES	295,332	338,332	86,459	26%	66,388	20,070	30%
CHARGES CURRENT SERVICES							
Police False Alarm Charge	33,000	33,000	1,218	4%	1,176	42	4%
Business License Application Review	36,000	36,000	8,664	24%	6,880	1,784	26%
Membership Services & Rec Programs	6,241,196	6,241,196	1,385,862	22%	1,308,916	76,946	6%
Facility Rentals	898,700	898,700	204,355	23%	226,443	(22,088)	-10%
Community Services	147,840	147,840	8,921	6%	12,679	(3,759)	-30%
General Administration Overhead	1,709,712	1,709,712	284,352	17%	220,048	64,304	29%
Other Charges Current Services	926,641	926,641	68,830	7%	42,978	25,852	60%
TOTAL CURRENT SERVICES	9,993,089	9,993,089	1,962,201	20%	1,819,120	143,081	8%
OTHER REVENUE							
Use of money/property	458,589	458,589	47,912	10%	48,422	(509)	-1%
Other Revenues	254,014	254,014	114,518	45%	152,134	(37,615)	-25%
TOTAL OTHER REVENUE	712,603	712,603	162,431	23%	200,555	(38,125)	-19%
TRANSFERS IN							
One Time Transfer	-	-	-	0%	-	-	0%
Public Safety	100,000	100,000	-	0%	-	-	0%
Streets	738,968	738,968	-	0%	-	-	n/a
Police Impact	25,000	25,000	4,166	17%	4,166	-	0%
Sewer Operations	349,376	349,376	58,230	17%	57,838	392	1%
Water Operations	349,376	349,376	58,230	17%	57,838	392	1%
Park Development	75,000	75,000	12,500	17%	12,500	-	n/a
TOTAL TRANSFERS IN	1,637,720	1,637,720	133,126	8%	132,342	784	1%
TOTAL GENERAL FUND	40,146,640	40,189,640	4,658,850	12%	4,220,497	438,353	10%
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE							
Gas Tax 2105 - 2107.5	751,089	751,089	43,367	6%	123,930	(80,564)	-65%
Interest / Other Revenue/Other Charges	-	-	58,553	n/a	29	58,524	200218%
202 STREET MAINTENANCE	751,089	751,089	101,919	14%	123,960	(22,040)	-18%

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2018-19
For the Two Months Ended August 31, 2018
17% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
SPECIAL REVENUE FUNDS							
205 PUBLIC SAFETY TRUST							
Interest Income	202	202	19	9%	8	11	150%
Police Grant/SLEF/JAG	100,000	100,000	-	0%	-	-	n/a
205 PUBLIC SAFETY TRUST	100,202	100,202	19	0%	8	11	150%
206 COMMUNITY DEVELOPMENT							
Building Fees	2,996,450	2,996,450	411,733	14%	416,503	(4,769)	-1%
Planning Fees	1,396,529	1,396,529	135,189	10%	111,339	23,850	21%
Engineering Fees	462,524	462,524	188,120	41%	235,839	(47,719)	-20%
Other Revenue/Current Charges	24,265	24,265	176,538	728%	1,201	175,337	14594%
206 COMMUNITY DEVELOPMENT	4,879,768	4,879,768	911,581	19%	764,882	146,698	19%
207 LONG RANGE PLANNING	741,894	741,894	118,797	16%	122,170	(3,373)	-3%
215 and 216 HCD BLOCK GRANT							
Interest Income/Other Revenue	2,821	2,821	25	1%	813	(788)	-97%
215 and 216 HCD BLOCK GRANT	2,821	2,821	25	1%	813	(788)	-97%
225 ASSET SEIZURE	1,670	1,670	27,024	1618%	61	26,963	43885%
229 LIGHTING AND LANDSCAPE	188,591	188,591	57	0%	68	(11)	-16%
230 COMMUNITY FACILITIES DISTRICT	44,198	44,198	30	0%	26	4	15%
232 ENVIRONMENTAL PROGRAMS	394,158	394,158	89,081	23%	90,579	(1,498)	-2%
234 MOBILE HOME PARK RENT STAB.	661	661	16	2%	18	(2)	-12%
235 SENIOR HOUSING	3,347	3,347	85	3%	99	(15)	-15%
236 HOUSING MITIGATION	1,613,912	2,613,912	106,569	4%	14,416	92,153	639%
240 EMPLOYEE ASSISTANCE	28,949	28,949	3,892	13%	4,736	(844)	-18%
247 ENVIRONMENT REMEDIATION	2,118	2,118	54	3%	67	(14)	-20%
250 COMH-SUCCESSOR AGENCY-MHRDA	7,946,430	7,946,430	854,454	11%	30,140	824,314	2735%
255 HOUSING SUCCESSOR AGENCY	2,386,006	2,386,006	5,631	0%	105,711	(100,080)	-95%
TOTAL SPECIAL REVENUE FUNDS	19,085,815	20,085,815	2,219,235	11%	1,257,755	961,480	76%
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	7,959,013	7,959,013	455,636	6%	231,674	223,962	97%
302 PARK MAINTENANCE	1,320,332	1,320,332	201,899	15%	548,573	(346,674)	-63%
303 LOCAL DRAINAGE	1,394,482	1,394,482	310,922	22%	712,870	(401,949)	-56%
304 LOCAL DRAINAGE/NON AB1600	80,981	80,981	71,241	88%	51,105	20,136	39%
306 AGRICULTURE & OPEN SPACE PRESERVATION	2,652,538	2,652,538	842,715	32%	83,815	758,900	905%
308 STREET CIP	3,861,662	3,861,662	700,840	18%	209,394	491,446	235%
309 TRAFFIC IMPACT	17,251,157	17,251,157	516,375	3%	55,410	460,966	832%
311 POLICE IMPACT	277,713	277,713	74,128	27%	30,581	43,547	142%
313 FIRE IMPACT	349,306	349,306	54,489	16%	6,426	48,063	748%
346 PUBLIC FACILITIES NON-AB1600	590,499	590,499	93,931	16%	32,636	61,295	188%
347 PUBLIC FACILITIES IMPACT	198,932	198,932	49,649	25%	20,575	29,074	141%
348 LIBRARY	909,565	909,565	191,607	21%	79,670	111,937	141%
350 UNDERGROUNDING	45,800	45,800	133,596	292%	167,597	(34,001)	-20%
355 SCHOOL PEDESTRIAN/TRAFFIC SAFETY	684,678	684,678	3,906	1%	20,708	(16,802)	-81%
360 COMMUNITY/REC IMPACT FUND	1,275,010	1,275,010	230,767	18%	114,074	116,693	102%
TOTAL CAPITAL PROJECTS FUNDS	38,851,668	38,851,668	3,931,701	10%	2,365,109	1,566,592	66%
DEBT SERVICE FUNDS							
420 CIVIC CENTER DEBT	298,856	298,856	49,504	17%	49,040	464	1%
441 POLICE FACILITY BOND	375,764	375,764	31	0%	42	(11)	-26%
TOTAL DEBT SERVICE FUNDS	674,620	674,620	49,535	7%	49,082	453	1%

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2018-19
For the Two Months Ended August 31, 2018
17% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
ENTERPRISE FUNDS							
640 SEWER OPERATION							
Sewer Service Fees	10,391,000	10,391,000	1,710,933	16%	1,629,659	81,274	5%
Interest Income/Transfers	37,151	37,151	846	2%	1,102	(256)	-23%
Other Revenue/Current Charges	318,700	318,700	88,175	28%	107,969	(19,794)	-18%
640 SEWER OPERATION	10,746,851	10,746,851	1,799,953	17%	1,738,729	61,224	4%
641 SEWER EXPANSION							
Interest Income	215,856	215,856	7,408	3%	6,793	615	9%
Development Impact Fee	4,717,263	4,717,263	1,365,118	29%	569,715	795,403	140%
Transfers/Other	-	-	-	0%	-	-	0%
641 SEWER EXPANSION	4,933,119	4,933,119	1,372,526	28%	576,508	796,018	138%
642 SEWER RATE STABILIZATION	38,641	38,641	971	3%	1,144	(172)	-15%
643 SEWER-CAPITAL PROJECT	2,797,976	2,797,976	458,474	16%	400,580	57,895	14%
TOTAL SEWER FUNDS	18,516,587	18,516,587	3,631,925	20%	2,716,961	914,964	34%
650 WATER OPERATION							
Water Sales	12,435,000	12,435,000	2,499,825	20%	2,259,865	239,960	11%
Meter Install & Service	123,000	123,000	63,189	51%	72,648	(9,459)	-13%
Transfers-In / Interest Income	440,840	440,840	67,436	15%	69,965	(2,529)	-4%
Other Revenue/Current Charges	752,660	752,660	251,221	33%	202,604	48,617	24%
650 WATER OPERATION	13,751,500	13,751,500	2,881,671	21%	2,605,082	276,588	11%
651 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	47,561	47,561	1,054	2%	1,385	(331)	-24%
Development Impact Fee	1,311,698	1,311,698	349,529	27%	144,513	205,016	142%
651 WATER EXPANSION	1,359,259	1,359,259	350,583	26%	145,898	204,685	140%
652 Water Rate Stabilization	8,223	8,223	208	3%	83,596	(83,389)	-100%
653 Water Capital Project	2,400,895	2,400,895	400,316	17%	225,394	174,922	78%
TOTAL WATER FUNDS	17,519,877	17,519,877	3,632,778	21%	3,059,971	572,806	19%
TOTAL ENTERPRISE FUNDS	36,036,464	36,036,464	7,264,703	20%	5,776,932	1,487,770	26%
INTERNAL SERVICE FUNDS							
730 INFORMATION SYSTEMS	1,870,983	1,870,983	313,409	17%	267,984	45,425	17%
740 BUILDING MAINTENANCE	3,326,619	3,326,619	547,610	16%	510,809	36,801	7%
741 BUILDING REPLACEMENT	789,958	789,958	123,178	16%	79,722	43,456	55%
745 CIP ADMINISTRATION	1,780,750	1,780,750	220,074	12%	241,320	(21,246)	-9%
760 UNEMPLOYMENT INSURANCE	2,324	2,324	62	3%	74	(13)	-17%
770 WORKERS COMPENSATION	775,343	775,343	132,684	17%	119,022	13,662	11%
790 EQUIPMENT REPLACEMENT	1,064,433	1,064,433	169,791	16%	160,322	9,469	6%
791 EMPLOYEE BENEFITS	1,171,099	1,171,099	225,693	19%	101,969	123,723	121%
793 CORPORATION YARD COMMISSION	-	-	1,100	0%	-	1,100	n/a
795 GENERAL LIABILITY INSURANCE	1,020,581	1,020,581	167,550	16%	156,533	11,017	7%
TOTAL INTERNAL SERVICE FUNDS	11,802,090	11,802,090	1,901,149	16%	1,637,755	263,394	16%
TOTAL FOR ALL FUNDS	\$ 146,597,297	\$ 147,640,297	\$ 20,025,172	14%	\$ 15,307,130	\$ 4,718,042	31%

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2018-19
For the Month and Two Months Ended August 31, 2018
17% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
010 GENERAL FUND								
I. ADMINISTRATION								
	CITY COUNCIL	\$ 20,377	\$ 337,607	\$ 60,107	\$ 95,015	\$ 155,122	46%	\$ 4:
	CITY ATTORNEY	72,419	768,318	102,171	122,947	225,118	29%	11:
	CITY MANAGER	88,231	383,799	120,948	-	120,948	32%	15:
	HUMAN RESOURCES	70,727	796,813	115,277	53,740	169,017	21%	10:
	COUNCIL SVCS & RECORDS MGMT							
	Council Svcs & Records Mgmt	69,771	614,068	106,223	-	106,223	17%	8:
	Elections	2,279	322,533	3,365	-	3,365	1%	4:
	COUNCIL SVCS & RECORDS MGMT	72,050	936,601	109,589	-	109,589	12%	9:
	FINANCE	165,153	1,720,130	289,118	73,120	362,239	21%	24:
	TOTAL ADMINISTRATION	488,958	4,943,269	797,211	344,822	1,142,034	23%	75:
II. COMMUNITY SERVICES								
	Membership Services & Rec. Programs	935,037	6,255,009	1,260,227	1,373,442	2,633,669	42%	1,19:
	Recreation Facility Rentals	125,374	1,355,732	216,658	47,350	264,008	19%	21:
	Community Services	76,362	653,307	103,410	70,100	173,510	27%	13:
	Environmental Services	23,872	303,894	35,038	-	35,038	12%	2:
	Street Maintenance	184,941	2,362,851	300,147	222,718	522,864	22%	20:
	Downtown Maintenance	36,552	316,644	44,948	62,190	107,138	34%	3:
	Cable Television	2,279	21,581	3,445	-	3,445	16%	1:
	COMMUNITY SERVICES	1,384,417	11,269,018	1,963,872	1,775,800	3,739,672	33%	1,80:
	CODE COMPLIANCE	15,562	150,464	24,716	-	24,716	16%	1:
	CONGESTION MANAGEMENT	1,796	55,861	2,944	-	2,944	5%	1:
	ECONOMIC DEVELOPMENT PROGRAMS	62,199	720,295	87,718	181,779	269,497	37%	
	TOTAL COMMUNITY SERVICES	1,463,973	12,195,638	2,079,250	1,957,579	4,036,829	33%	1,83:
III. PUBLIC SAFETY								
	POLICE							
	PD Administration	160,458	1,222,942	213,588	56,765	270,353	22%	14:
	Field Operations	815,244	9,196,103	1,189,266	940,406	2,129,672	23%	1,16:
	Support Services	222,606	2,272,707	369,553	3,500	373,053	16%	32:
	Emergency Services/Haz Mat	19,015	187,057	28,088	-	28,088	15%	2:
	Special Operations	204,057	2,748,496	335,579	-	335,579	12%	41:
	Dispatch Services	186,335	1,674,402	272,006	10,503	282,509	17%	24:
	POLICE	1,607,715	17,301,708	2,408,080	1,011,174	3,419,254	20%	2,31:
	FIRE	816,560	6,666,707	1,290,920	46,608	1,337,528	20%	1,07:
	TOTAL PUBLIC SAFETY	2,424,275	23,968,415	3,699,000	1,057,781	4,756,781	20%	3,38:
IV. TRANSFERS								
	Other	151,753	2,077,498	303,506	-	303,506	15%	45:
	TOTAL TRANSFERS	151,753	2,077,498	303,506	-	303,506	15%	45:
	TOTAL GENERAL FUND	4,528,959	43,184,819	6,878,967	3,360,182	10,239,150	24%	6,42:

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2018-19
For the Month and Two Months Ended August 31, 2018
17% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
SPECIAL REVENUE FUNDS								
202	STREET MAINTENANCE	326	742,877	1,738	-	1,738	0%	
205	PUBLIC SAFETY/SUPP.LAW	545	106,536	1,090	-	1,090	1%	
206	COMMUNITY DEVELOPMENT FUND							
	Planning	213,389	2,597,349	314,191	239,061	553,252	21%	25%
	Building	163,995	1,976,108	250,114	16,267	266,381	13%	22%
	Engineering	141,653	1,668,062	213,722	562,577	776,300	47%	16%
206	COMMUNITY DEVELOPMENT FUND	519,037	6,241,519	778,026	817,906	1,595,933	26%	64%
207	LONG RANGE PLANNING	61,472	1,383,881	87,887	624,641	712,528	51%	8%
215/216	CDBG	413	4,961	826	-	826	17%	
225	ASSET SEIZURE	-	-	-	-	-	0%	
229	LIGHTING AND LANDSCAPE	15,374	195,274	18,678	37,962	56,640	29%	2%
230	COMMUNITY FACILITIES DISTRICT	1,683	46,262	3,275	-	3,275	7%	
232	ENVIRONMENT PROGRAMS	35,667	406,727	60,796	15,910	76,706	19%	5%
234	MOBILE HOME PARK	34	405	68	-	68	17%	
236	HOUSING MITIGATION	1,153,572	3,323,394	1,185,732	282,931	1,468,663	44%	7%
240	EMPLOYEE ASSISTANCE	78	28,430	2,156	-	2,156	8%	
250	COMH-SUCCESSOR AGENCY-MHRDA	773,240	7,983,635	778,489	23,890	802,379	10%	3%
255	HOUSING SUCCESSOR AGENCY	483,893	3,679,973	546,085	1,101,146	1,647,231	45%	14%
TOTAL SPECIAL REVENUE FUNDS		3,045,335	24,143,874	3,464,846	2,904,387	6,369,233	26%	1,06%
CAPITAL PROJECT FUNDS								
301	PARK DEVELOPMENT	27,336	8,665,258	51,211	520,839	572,050	7%	56%
302	PARK MAINTENANCE	110,319	1,244,024	164,373	238,525	402,898	32%	12%
303	LOCAL DRAINAGE	12,905	518,362	19,457	1,711	21,168	4%	
304	LOCAL DRAIN. NON-AB1600	338	338,627	555	-	555	0%	
306	AGRICULTURE & OPEN SPACE PRESERVATION	202,581	3,845,295	374,412	69,581	443,993	12%	
308	STREET CIP	29,374	4,012,576	34,950	2,010,882	2,045,832	51%	
309	TRAFFIC IMPACT	42,834	19,893,433	52,398	262,523	314,921	2%	8%
311	POLICE IMPACT	2,801	228,096	5,123	1,711	6,834	3%	
313	FIRE IMPACT	674	172,227	928	1,711	2,639	2%	
346	PUBLIC FAC.NON AB1600	16,326	420,850	16,911	49,748	66,659	16%	12%
347	PUBLIC FACILITIES IMPACT	631	84,479	806	1,711	2,517	3%	
348	LIBRARY IMPACT	47,166	3,849,962	92,408	99,548	191,957	5%	5%
350	UNDERGROUNDING	85	1,024	170	-	170	17%	
355	SCHOOL PEDESTRIAN & TRAFFIC SAFETY	7,957	1,830,740	8,461	16,578	25,040	1%	5%
360	COMM/REC CENTER IMPACT	15,818	2,184,177	17,537	143,355	160,892	0%	
TOTAL CAPITAL PROJECTS FUNDS		517,146	47,289,131	839,700	3,418,424	4,258,124	9%	1,02%
DEBT SERVICE FUNDS								
420	CIVIC CENTER DEBT	799	308,656	1,598	-	1,598	1%	
441	POLICE FACILITY BOND DEBT	305	380,313	610	-	610	0%	
TOTAL DEBT SERVICE FUNDS		1,104	688,969	2,208	-	2,208	0%	

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)



City of Morgan Hill
 Year to Date Expenses - Fiscal Year 2018-19
 For the Month and Two Months Ended August 31, 2018
 17% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIOR YTD
ENTERPRISE FUNDS								
SEWER								
640	SEWER OPERATIONS	548,307	11,311,787	975,984	258,413	1,234,397	11%	1,941
641	SEWER CAPITAL EXPANSION	62,901	2,051,871	87,473	484,930	572,403	28%	51
642	SEWER RATE STABILIZATION	86	1,027	172	-	172	17%	21
643	SEWER-CAPITAL PROJECTS	122,515	10,683,664	140,091	2,442,139	2,582,231	24%	21
TOTAL SEWER FUND(S)		733,810	24,048,349	1,203,720	3,185,482	4,389,203	18%	2,021
WATER								
	Water Operations	1,182,021	12,440,123	1,580,745	1,083,884	2,664,629	21%	1,071
	Utility Billing	76,055	809,160	134,140	40,454	174,594	22%	131
	Water Conservation	14,310	210,082	19,688	-	19,688	9%	11
650	WATER OPERATIONS	1,272,386	13,459,365	1,734,572	1,124,338	2,858,911	21%	1,211
651	WATER CAPITAL EXPANSION	119,088	2,726,977	178,917	1,798,958	1,977,876	73%	31
652	WATER RATE STABILIZATION	28	335	56	-	56	17%	21
653	WATER-CAPITAL PROJECTS	67,829	2,494,078	79,214	156,092	235,307	9%	91
TOTAL WATER FUND(S)		1,459,330	18,680,755	1,992,760	3,079,389	5,072,149	27%	1,341
TOTAL ENTERPRISE FUNDS		2,193,140	42,729,104	3,196,481	6,264,871	9,461,351	22%	3,371
INTERNAL SERVICE FUNDS								
730	INFORMATION SYSTEMS	174,697	2,013,703	259,141	18,479	277,620	14%	541
740	BUILDING MAINTENANCE	363,083	3,376,986	456,280	407,386	863,666	26%	361
741	BUILDING REPLACEMENT	31,514	405,806	31,761	131,196	162,956	40%	101
745	CIP ADMINISTRATION	140,183	1,813,012	220,074	906	220,980	12%	241
760	UNEMPLOYMENT	-	10,000	-	-	-	n/a	-
770	WORKERS COMPENSATION	22,377	947,795	390,533	-	390,533	41%	361
790	EQUIPMENT REPLACEMENT	-	1,261,025	-	601,107	601,107	48%	-
791	EMPLOYEE BENEFITS FUND	91,545	600,000	154,273	-	154,273	26%	61
793	CORP YARD COMMISSION	103	1,903	206	1,903	2,109	110%	11
795	GEN. LIABILITY INSURANCE	19,676	1,010,346	719,299	-	719,299	71%	11
TOTAL INTERNAL SERVICE FUNDS		843,179	11,440,575	2,231,566	1,160,977	3,392,543	30%	1,701
REPORT TOTAL		\$ 11,128,862	\$ 169,476,472	\$ 16,613,768	\$ 17,108,840	\$ 33,722,608	20%	\$ 13,601

Attachment: August 2018 Financial and Investment Report (2040 : August 2018 Financial and Investment Report)

City of Morgan Hill Fund Activity Summary - Fiscal Year 2018-19 For the Two Months Ended August 31, 2018 17% of Year Complete										
Fund No.	Fund	Preliminary Fund Balance 06-30-18	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved	
010	GENERAL FUND	\$ 17,755,405	\$ 4,658,850	12%	\$ 6,878,967	16%	\$ (2,220,117)	\$ 3,360,182	\$ 12,175,106	
TOTAL GENERAL FUND		\$ 17,755,405	\$ 4,658,850	12%	\$ 6,878,967	16%	\$ (2,220,117)	\$ 3,360,182	\$ 12,175,106	
202	STREET MAINTENANCE	58,588	\$ 101,919	14%	\$ 1,738	13%	\$ 100,181	\$ -	\$ 158,769	
205	PUBLIC SAFETY/SUPPL. LAW	50,367	19	0%	1,090	13%	(1,071)	-	49,296	
206	COMMUNITY DEVELOPMENT	1,914,195	911,581	19%	778,026	12%	133,554	817,906	1,229,843	
207	LONG RANGE PLANNING	1,188,449	118,797	16%	87,887	6%	30,910	624,641	594,718	
215 / 216	CDBG	87,556	25	1%	826	0%	(801)	-	86,755	
225	ASSET SEIZURE	138,184	27,024	1618%	-	0%	27,024	-	165,208	
229	LIGHTING AND LANDSCAPE	156,889	57	0%	18,678	10%	(18,621)	37,962	100,306	
230	COMMUNITY FACILITIES DISTRICT	81,882	30	0%	3,275	0%	(3,245)	-	78,637	
232	ENVIRONMENTAL PROGRAMS	235,909	89,081	23%	60,796	15%	28,285	15,910	248,284	
234	MOBILE HOME PK RENT STAB.	43,240	16	2%	68	17%	(52)	-	43,188	
235	SENIOR HOUSING	223,540	85	3%	-	0%	85	-	223,625	
236	HOUSING MITIGATION	2,697,655	106,569	4%	1,185,732	36%	(1,079,163)	282,931	1,335,561	
240	EMPLOYEE ASSISTANCE	38,845	3,892	13%	2,156	8%	1,736	-	40,581	
247	ENVIRONMENT REMEDIATION	141,519	54	3%	-	0%	54	-	141,573	
250	COMH-SUCCESSOR AGENCY-MHRDA	4,778,248	854,454	11%	778,489	10%	75,965	12,273,541	(7,419,328)	
255	HOUSING SUCCESSOR AGENCY	3,346,204	5,631	0%	546,085	15%	(540,453)	1,421,760	1,383,990	
TOTAL SPECIAL REVENUE FUNDS		\$ 15,181,270	\$ 2,219,235	11%	\$ 3,464,846	14%	\$ (1,245,611)	\$ 15,474,652	\$ (1,538,993)	
301	PARK DEV. IMPACT FUND	2,780,196	\$ 455,636	6%	\$ 51,211	1%	\$ 404,425	\$ 520,839	\$ 2,663,782	
302	PARK MAINTENANCE	4,247,778	201,899	15%	164,373	13%	37,526	238,525	4,046,779	
303	LOCAL DRAINAGE	10,380,973	310,922	22%	19,457	4%	291,465	1,711	10,670,727	
304	LOCAL DRAINAGE/NON-AB1600	1,406,096	71,241	88%	555	0%	70,686	-	1,476,782	
306	AGRICULTURE AND OPEN SPACE PRESERV	7,001,416	842,715	32%	374,412	10%	468,303	69,581	7,400,138	
308	STREET CIP	2,329,489	700,840	18%	34,950	1%	665,890	2,010,882	984,497	
309	TRAFFIC IMPACT FUND	3,262,550	516,375	3%	52,398	0%	463,978	262,523	3,464,005	
311	POLICE IMPACT FUND	(737,015)	74,128	27%	5,123	2%	69,005	1,711	(669,721)	
313	FIRE IMPACT FUND	3,903,828	54,489	16%	928	1%	53,561	1,711	3,955,678	
346	PUBLIC FACILITIES NON-AB1600	664,143	93,931	16%	16,911	4%	77,020	1,711	739,452	
347	PUBLIC FACILITIES IMPACT FUND	519,082	49,649	25%	806	1%	48,843	99,548	468,376	
348	LIBRARY IMPACT FUND	2,365,817	191,607	21%	92,408	2%	99,198	-	2,465,015	
350	UNDERGROUNDING	714,508	133,596	292%	170	17%	133,426	16,578	831,356	
355	SCHOOL PEDESTRIAN/TRAFFIC SFTY	1,498,835	3,906	1%	8,461	0%	(4,555)	143,355	1,350,925	
360	COMM/REC CTR IMPACT FUND	1,110,896	230,767	18%	17,537	0%	213,230	-	1,324,126	
TOTAL CAPITAL PROJECT FUNDS		\$ 41,448,592	\$ 3,931,701	10%	\$ 839,700	2%	\$ 3,092,001	\$ 3,368,676	\$ 41,171,917	
420	CIVIC CENTER DEBT	171,329	\$ 49,504	17%	\$ 1,598	1%	\$ 47,906	\$ 55	\$ 219,180	
441	POLICE FACILITY BOND DEBT	82,284	31	0%	610	0%	(579)	70	81,635	
TOTAL DEBT SERVICE FUNDS		\$ 253,613	\$ 49,535	7%	\$ 2,208	0%	\$ 47,327	\$ 125	\$ 300,816	

Fund No.	Fund	City of Morgan Hill Fund Activity Summary - Fiscal Year 2018-19 For the Two Months Ended August 31, 2018 17% of Year Complete							
		Preliminary Fund Balance 06-30-18	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved

640	SEWER OPERATIONS	\$ 2,626,647	\$ 1,799,953	17%	\$ 975,984	9%	\$ 823,970	258,413	3,192,204
641	SEWER IMPACT FUND*	15,848,324	1,372,526	28%	87,473	4%	1,285,053	484,930	16,648,447
642	SEWER RATE STABILIZATION	2,567,930	971	3%	-	17%	799	-	2,568,729
643	SEWER-CAPITAL PROJECTS	9,234,545	458,474	16%	140,091	1%	318,383	2,442,139	7,110,788
650	WATER OPERATIONS	2,691,489	2,881,671	21%	1,734,572	13%	1,147,098	1,124,338	2,714,249
651	WATER IMPACT FUND*	2,688,297	350,583	26%	178,917	7%	171,666	1,798,958	1,061,004
652	WATER RATE STABILIZATION	548,536	208	3%	56	17%	152	-	548,688
653	WATER -CAPITAL PROJECT	587,647	400,316	17%	79,214	3%	321,102	156,092	752,657
TOTAL ENTERPRISE FUNDS		\$ 36,793,415	\$ 7,264,703	20%	\$ 3,196,481	7%	\$ 4,068,222	\$ 6,264,871	\$ 34,596,766

730	INFORMATION SERVICES	\$ 535,283	\$ 313,409	17%	\$ 259,141	13%	\$ 54,268	18,479	\$ 571,072
740	BUILDING MAINTENANCE	62,368	547,610	16%	456,280	14%	91,329	407,386	(253,689)
741	BUILDING REPLACEMENT	2,076,341	123,178	16%	31,761	8%	91,417	131,196	2,036,563
745	CIP ENGINEERING	32,492	220,074	12%	220,074	12%	-	906	31,586
760	UNEMPLOYMENT	162,944	62	3%	-	-	62	-	163,006
770	WORKERS COMPENSATION	1,757,831	132,684	17%	390,533	41%	(257,849)	30,000	1,469,982
790	EQUIPMENT REPLACEMENT	4,430,908	169,791	16%	-	-	169,791	601,107	3,999,592
791	EMPLOYEE BENEFITS FUNDS	538,614	225,693	19%	154,273	26%	71,420	-	610,034
793	CORP YARD COMMISSION	(6,042)	1,100	0%	206	0%	894	1,903	(7,051)
795	GEN. LIABILITY INSURANCE	1,211,909	167,550	16%	719,299	71%	(551,750)	-	660,159
TOTAL INTERNAL SERVICE FUNDS		\$ 10,802,648	\$ 1,901,149	16%	\$ 2,231,566	20%	\$ (330,418)	\$ 1,190,977	\$ 9,281,253

SUMMARY BY FUND TYPE

GENERAL FUND GROUP	\$ 17,755,405	\$ 4,658,850	12%	\$ 6,878,967	16%	\$ (2,220,117)	\$ 3,360,182	\$ 12,175,106
SPECIAL REVENUE GROUP	15,181,270	2,219,235	11%	3,464,846	14%	(1,245,611)	15,474,652	(1,538,993)
DEBT SERVICE GROUP	253,613	49,535	7%	2,208	0%	47,327	125	300,816
CAPITAL PROJECTS GROUP	41,448,592	3,931,701	10%	839,700	2%	3,092,001	3,368,676	41,171,917
ENTERPRISE GROUP	36,793,415	7,264,703	20%	3,196,481	7%	4,068,222	6,264,871	34,596,766
INTERNAL SERVICE GROUP	10,802,648	1,901,149	16%	2,231,566	20%	(330,418)	1,190,977	9,281,253
TOTAL ALL GROUPS	\$ 122,234,943	\$ 20,025,172	14%	\$ 16,613,768	10%	\$ 3,411,404	\$ 29,659,482	\$ 95,986,865

For Enterprise Funds: Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

*Unreserved fund balance includes bond proceeds reserved for projects listed in bond documents.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

² Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

PREPARED BY: Irma Torrez, City Clerk
APPROVED BY: City Manager

UPCOMING 2019 COMMISSION VACANCIES - PER MADDY ACT

RECOMMENDATION(S)

Accept report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth

Seniors

and Entire Community

Preserving and Cultivating Public Trust

REPORT NARRATIVE:

Government Code Section 54972 (Maddy Act) requires that before December 31 of each year, the City Council cause to be prepared a list of appointments of all ongoing boards, commissions, and committees that are appointed by the City Council. The list includes which terms will expire during the next calendar year with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position (Attachment 1).

Chapter 2.22.010 - Master Provisions for Boards and Commissions of the Municipal Code established the following commissions: Planning Commission; Parks & Recreation Commission; and the Library, Culture & Arts Commission (Attachments 2 through 5). Chapter 2.22.010, Section B, states that: "Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions, and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents."

On September 7, 2018, Public Services Director Chris Ghione was notified by Parks & Recreation Commissioner LaRene Green that she would be stepping down from the Commission. Recruitment efforts are underway to fill Ms. Green's term on this Commission (term due to expire on April 1, 2022). This is the only unfilled vacancy on the Parks & Recreation Commission and interviews are tentatively scheduled before the City Council on Wednesday, November 7, 2018. Following appointment to fill the vacancy on the Parks & Recreation Commission, other term expirations for Parks &

Recreation Commissioners will occur in June 2020.

Library, Culture & Arts and Planning Commissioners with terms due to expire in 2019 are highlighted in the attached “Local Appointment List”.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the upcoming board, commission, and committee vacancies.

ALTERNATIVE ACTIONS:

Not applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Per Resolution No. 7082 (Attachment 6), adopted by the City Council on December 17, 2014, this report is being presented as an informational item. The City Clerk’s Office will post the “Local Appointment List” in accordance with Government Code Section 54972 prior to December 31, 2018 and every year before December 31, thereafter.

FISCAL AND RESOURCE IMPACT:

The efforts necessary to prepare this report is accommodated in the Administrative Services – Council Services & Records Coordinator’s annual workplan.

CEQA (California Environmental Quality Act):

Not a project. Administrative activities of governments that do not result in direct physical changes in the environment do not qualify as a project for purposes of CEQA.

LINKS/ATTACHMENTS:

1. Local Appt Term Posted 11-8-2018
2. Chapter 2.22 Master Provisions for boards and commissions
3. Chapter 2.36 Planning Commission
4. chapter 2.32 Parks and Recreation Commission
5. chapter 2.68 Library, Culture and Arts Commission
6. Resolution No. 7082 - Maddy Act



17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

general@morganhill.ca.gov

POSTED ON November 8, 2018 PER MADDY ACT

LOCAL APPOINTMENTS LIST

Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions, and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents

LIBRARY, CULTURE & ARTS COMMISSION

(Two Year Term)

Meets monthly to serve as a liaison with the County Library and provides advice, recommendations, and plans, as well as executes programs for a range of community initiatives.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
February 21, 2018	Bob Benich	April 1, 2020
February 23, 2017	Norma Bussing	April 1, 2019
June 6, 2018	Poonam Chabra	April 1, 2019
June 21, 2017	Brigitte Crawford	April 1, 2020
May 3, 2017	Katie Khera	April 1, 2019
April 16, 2014	Paul Lake	April 1, 2020
February 23, 2017	Daniel Redfield	April 1, 2019

PARKS & RECREATION COMMISSION

(Four Year Term)

Meets monthly to make recommendations regarding the planning and development of parks, cultural facilities, and recreation programs.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
N/A	Vacant	April 1, 2022
February 21, 2018	Maureen Grzan-Pieracci	April 1, 2022
October 2, 2013	Ronald Locicero	April 1, 2022
February 17, 2016	Richard Scott	April 1, 2020
April 16, 2014	Mary Seehafer	April 1, 2020
May 4, 1998	Craig C. van Keulen	April 1, 2022
February 17, 2016	Matthew Wendt	April 1, 2020
<i>School District Liaison</i>	<i>Vacant</i>	<i>Vacant</i>
<i>Ex-Officio Member:</i>		

PLANNING COMMISSION

(Four Year Term)

Meets twice monthly to advise on matters related to City growth and development.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
July 15, 2015	Liam Downey	June 1, 2019
May 3, 2017	Mohammad Habib	June 1, 2021
May 18, 2011	John Kim McKay	June 1, 2021
January 18, 2017	Yvonne Martinez-Beltran	June 1, 2021
January 28, 1989	Joseph Mueller	June 1, 2019
June 21, 2017	Juan Miguel Munoz-Morris	June 1, 2019
April 25, 2007	Wayne Tanda	June 1, 2019

***Note: Highlighted Commissioners have terms expiring in 2019**

Chapter 2.22

MASTER PROVISIONS FOR BOARDS AND COMMISSIONS*

Sections:

- 2.22.010 Establishment of boards and commissions.**
- 2.22.030 Clerk and secretary.**
- 2.22.040 Rules of procedure.**
- 2.22.050 Rules of attendance.**
- 2.22.060 Meetings.**
- 2.22.070 Compensation.**
- 2.22.080 Effect.**

* Prior ordinance history: Ords. 811 N.S., 890 N.S., 891 N.S., 1607 N.S. and 1719 N.S.

2.22.010 Establishment of boards and commissions.

A. There are established within the city the following boards and commissions:

1. Planning commission;
2. Parks and recreation commission;
3. Library, culture and arts commission; and
4. Disaster council.

B. Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents.

C. Members shall be appointed by the mayor subject to approval of a majority vote of the city council and may be removed without cause by vote of any three members of the city council.

D. The appointment terms of members may be extended, at the discretion of the city council, until such time as a successor member may be appointed and take office.

E. Vacancies in the commission occurring other than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.

F. The members of the commission shall organize the commission and shall elect from its members a chair and vice-chair and such other officers as may be necessary in accordance with adopted city council policy. (Ord. 1778 N.S. § 2 (part), 2006)
(Ord. No 1930 N.S., § 2, 4-22-2009; Ord. No. 1935 N.S., § 1, 6-3-2009)

2.22.030 Clerk and secretary.

The city clerk or designate shall also act as clerk for each of the boards and commissions and shall have authority to sign any official notices and also to certify any resolution of the commissions or boards. The city council may appoint a person not a member of the commission or board to act as secretary of the commission or board. The secretary shall keep a record of all proceedings of said board or commission, its resolutions, its findings and actions, which records shall be a public record and kept with the city clerk in the City Hall building. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.040 Rules of procedure.

A. The chair shall preside at all meetings of the board or commission. The vice chair shall assume the duties of the chair in the absence of or in case of inability of the chair.

B. A majority of the members of the commission or board shall constitute a quorum for the transaction of business.

C. Unless otherwise specified herein, each board or commission may adopt its own rules and regulations for the transaction of its business. Such rules shall be subject to approval of the city council before becoming effective. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.050 Rules of attendance.

If any member is absent from three of any six consecutive regular board or commission meet-

2.22.050

ings, unless such absence is with the permission of the chair, or vice chair in absence of the chair, expressed in the official minutes, the member's seat shall be deemed vacated. The city manager shall so notify the city council and the council shall take action to fill the seat within a reasonable period of time. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.060 Meetings.

Unless otherwise specified, the commission shall hold regular meetings once every two months at a designated time and place which shall be fixed and determined by the commission and entered upon in its minutes. Special meetings of the commission may be called at any time by the chair or by a majority of the members of the board upon notice being given to all members of the board and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California. (Ord. 1778 N.S. § 2 (part), 2006)

(Ord. No. 1930 N.S., § 3, 4-22-2009)

2.22.070 Compensation.

Members of the boards and commissions shall serve without compensation but may receive reimbursement for actual and necessary expenditures made or incurred in the performance of their prescribed duties in accordance with state law and the Municipal Code and policies of the city of Morgan Hill. (Ord. 1778 N.S. § 2 (part), 2006)

2.22.080 Effect.

Nothing in this chapter shall be construed as restricting or curtailing any of the powers of the city council or city officers as defined by the laws of the state of California or by this Municipal Code. Except as otherwise set forth in Chapter 2.36, the city council declares that the public interest and convenience require the appointment of the boards and commissions established pursuant to Section 2.22.010 to act purely in an advisory capacity to the city council. (Ord. 1778 N.S. § 2 (part), 2006)

Chapter 2.36 - PLANNING COMMISSION*

Sections:

2.36.010 - Created—Statutory authority.

The planning commission is established pursuant to the authority contained in Chapter 3 of Title VII of the California Government Code, entitled "Local Planning, " as existing or hereafter amended. Reference shall be made to said Chapter 3 for interpretation of this chapter.

(Ord. 811 N.S. § 1 (II-3-1), 1987)

2.36.020 - Membership—Terms of office—Vacancies.

- A. The city planning commission shall consist of seven members. Members of the planning commission shall serve the following terms:
1. In the year 1998, three members shall be appointed to serve terms ending June 1, 2001;
 2. The four members who were appointed in 1996 shall serve terms ending June 1, 1999;
 3. Thereafter, all terms shall be for four years and shall expire on June 1st.

(Ord. 1778 N.S. § 5, 2006; Ord. 1407 N.S. § 2, 1998; Ord. 1083 N.S. § 1, 1992; Ord. 811 N.S. § 1 (II-3-2), 1987)

2.36.030 - Meetings.

The commission shall hold regular meetings at least twice a month or as otherwise deemed necessary by the commission. All meetings of the commission shall be held in the city council chambers at City Hall or other location designated by minute order of the city council or at a location deemed necessary or appropriate by the planning commission.

(Ord. 1197 N.S. § 1 (part), 1994; Ord. 811 N.S. § 1 (II-3-3), 1987)

2.36.040 - Powers and duties.

The planning commission shall have the powers and shall perform all the duties conferred and imposed upon city planning commissions by the applicable provisions of Chapter 3 of Title VII of the Government Code of the state and, in addition, the planning commission shall:

- A. Perform all the functions assigned to the commission by the subdivision and zoning ordinances (Titles 17 and 18 of this code) of the city, and all general laws of the state of California;
- B. Serve as an advisory body to the city council on matters related to city growth and development and on such other matters as may be requested by the council;
- C. Promote public interest in and understanding of the subdivision and zoning ordinances of the city, and also of all master plans and other official plans and regulations pertaining to planning which have been approved officially by the city council;
- D. Review and advise the city council on all proposed amendments to Title 17, Subdivisions, and Title 18, Planning and Land Use Regulations;

- E. Approve or disapprove application for designation of cultural resources and historic districts pursuant to Chapter 18.75 of this code, or as amended;
- F. Approve or disapprove permits sought to remove or demolish a cultural resource, cultural resource site or historic district pursuant to Chapter 18.75 of this code, or as amended.

(Ord. 1111 N.S. §§ 2, 3, 1992; Ord. 899 N.S. § 18, 1989; Ord. 811 N.S. § 1 (II-3-4), 1987)

Chapter 2.32

PARKS AND RECREATION COMMISSION*

Sections:

2.32.010 Created.

2.32.020 Membership—Terms of office.

2.32.030 Powers and duties.

* Prior ordinance history: Ord. 1368 N.S.

2.32.010 Created.

There is established a new commission which is entitled the "Morgan Hill parks and recreation commission" to serve in an advisory capacity to the city council. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.020 Membership—Terms of office.

The commission shall consist of seven members. Members shall not be officials or employees of the city nor be paid members of any organization receiving financial support from the city. Notwithstanding any language to the contrary, the mayor and city council may appoint a Morgan Hill Unified School District official as a member of the commission.

For the first seven members appointed, the terms of three of the members shall expire on May 1, 1999, and the terms of four of the members shall expire on May 1, 2000. All new full term appointments after April 1, 2006 shall be for a period of four years. (Ord. 1778 N.S. § 4 (part), 2006)

2.32.030 Powers and duties.

The powers and functions of the commission shall be as follows, provided that nothing in this Chapter 2.32 shall be construed to give the commission power or duty to supervise or administer any public buildings, public parks, streets or other public property or programs:

A. To hold hearings on matters pertaining to planning and development of parks, trails, recreation programs for all segments of the population,

bicycle facilities, and capital expenditures related to parks, trails, recreational facilities, and bicycle facilities;

B. To facilitate coordination of the efficient and effective use of recreation facilities by other public, private, and non-profit groups and organizations to city residents;

C. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct the future growth and development of the parks facilities and recreation programming for the people of the city;

D. To make investigations and reports for future acquisition of park sites;

E. To review opportunities for joint use of recreation/parks, and storm retention/detention;

F. To act on behalf of the city and function as the City of Morgan Hill Bicycle and Trails Advisory Committee;

G. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

H. To report its decisions and recommendations relating to the above matters, in writing to the city council. (Ord. 1778 N.S. § 4 (part), 2006) (Ord. No. 1930 N.S., § 4, 4-22-2009)

Chapter 2.68**LIBRARY, CULTURE AND ARTS
COMMISSION****Sections:**

- 2.68.010 Created.**
2.68.020 Membership—Terms of office.
2.68.030 Powers and duties.

2.68.010 Created.

There is established a new commission which is entitled the “library, culture and arts commission” to serve in an advisory capacity to the city council. (Ord. 1778 N.S. § 9 (part), 2006: Ord. 1374 N.S. § 1 (part), 1998)

2.68.020 Membership—Terms of office.

The commission shall consist of seven members. Members shall not be officials or employees of the city, county library employees nor paid members of any organization receiving financial support from the city for library and art services. (Ord. 1778 N.S. § 9 (part), 2006: Ord. 1559 N.S. § 1, 2002: Ord. 1407 N.S. § 5, 1998; Ord. 1382 N.S. § 1, 1998; Ord. 1374 N.S. § 1 (part), 1998)

2.68.030 Powers and duties.

The powers and functions of the commission shall be as follows:

- A. To act in an advisory capacity to the city council in all matters pertaining to library, culture and arts in the community;
- B. To serve as a liaison between the city and the Santa Clara County library;
- C. To consult with private community groups supportive of library, culture and art programs and serve as a liaison between such groups and the city;
- D. To provide advice and recommendations regarding the adequacy of existing library facilities and operations;
- E. To look for opportunities for participation of artists and performers in city-sponsored activities, and ways to encourage community involvement in the arts;

F. To work cooperatively with city boards and commissions and other public and private organizations in creating and promoting art and cultural programs and activities within the city;

G. To coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations;

H. To make recommendations to the city council regarding the funding of community art projects, including the search for private and public grants, and regarding the disbursement of revenues consistent with the needs of the community;

I. To review and make recommendations to the city council upon all works of art to be acquired by the city, either by purchase, gift or otherwise, and exterior works of art installed in the city on public property;

J. To recommend to the city council the adoption of such ordinances or policies as it may deem necessary for the administration and preservation of the arts and cultural development of the city;

K. To perform such other tasks as may be expressly requested of it by the city council;

L. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and

M. To report its decisions and recommendations relating to the above matters, in writing to the city council. (Ord. 1778 N.S. § 9 (part), 2006: Ord. 1374 N.S. § 1 (part), 1998)

RESOLUTION NO. 7082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, ACCEPTING THE CITY CLERK'S REPORT ON UPCOMING 2015 COMMISSION VACANCIES, DIRECTING THE CITY CLERK TO PREPARE A "LOCAL APPOINTMENT LIST" OF ALL ONGOING BOARDS, COMMISSIONS AND COMMITTEES APPOINTED BY THE CITY COUNCIL, AND THAT THE LIST OF APPOINTMENTS TO BE POSTED ACCORDING TO LAW PRIOR TO DECEMBER 31, 2014 AND PRIOR TO EVERY DECEMBER 31, THEREAFTER

WHEREAS, the "Maddy Act" was enacted to maximize public awareness of local appointments made by the City Council; and

WHEREAS, the Maddy Act takes into consideration a vast and largely untapped reservoir of talent which exists among the citizenry that all too frequently are not aware of the opportunities for participation on local regulatory and advisory boards and commissions; and

WHEREAS, in accordance with Government Code Sections 54972, the City Council shall cause to be prepared a list of appointments (Local Appointment List) of all ongoing boards, commissions and committees that are appointed by the City Council; and

WHEREAS, the "Local Appointment List" is to include the terms due to expire during the next calendar year with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

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

SECTION 1. Pursuant to Government Code 54972, the City Council directs the City Clerk to prepare the "Local Appointment List" to include all the information required by law.

SECTION 2. That the City Clerk, or his/her designee, is directed to post the "Local Appointment List" according to law prior to December 31, 2014 and every December 31 thereafter.

SECTION 3. That the City Clerk shall forward to the City Council the "Local Appointment List," as an informational report.

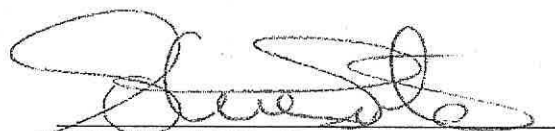
SECTION 4. That City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the of the City of Morgan Hill at a Regular Meeting held on the 17th day of December 2014 by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Rich Constantine, Marilyn Librers, Gordon Siebert, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

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. 7082, adopted by the City Council at the meeting held on December 17, 2014.

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

DATE: 1/15/2015


 IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

ADOPT ORDINANCE AMENDING TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2290, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

On October 24, 2018, the City Council introduced Ordinance No. 2290 New Series, by the following roll call vote: AYES: Carr, Constantine, Spring, Jachimowicz, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

The Ordinance approves a Zoning Text Amendment to Title 18, Division I Zoning Code, Part 2 Zoning Districts, Chapter 18.28 – Open Space, Public, and Recreation Zoning Districts to modify the uses allowed in the SRL-B Sports Recreation and Leisure Sub-zone B Zoning District.

COMMUNITY ENGAGEMENT: Inform

Notice of this hearing and the prior Planning Commission hearing was published in the newspaper and mailed notices were sent to potentially affected property owners.

ALTERNATIVE ACTIONS:

None.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The proposed Zoning Amendment was considered by the Planning Commission at their regular meeting held on October 9, 2018. The Planning Commission, on a 5-2 vote, did

not recommend City Council approval of the proposed Zoning Amendment with the following reasons:

- a. One Commissioner suggested that any kind of Zoning Amendment (text or map) that affects or involves unincorporated properties in the Southeast Quadrant (SEQ) should wait for Santa Clara County LAFCOs decision on the City's recent USA Amendment request and that any such Zoning Amendment include additional community outreach to discuss allowable uses.
- b. Several Commissioners noted that they could support a Zoning Map and Text Amendment that was specific to the three SRL-B pre-zoned parcels (APNs: 817-13-008, -011, and -037) that were included in the City's recent USA Amendment request. That Amendment would create a new zoning district (or a Planned Development (PD) Combining District) that would be applied only to the three parcels and would allow the uses currently allowed in the SRL-B Zoning District, but not allow hotels and certain other commercial uses. Commissioners generally supported allowing health and fitness clubs and indoor recreation centers oriented to local residents, and indoor swimming pools as well as restaurants that are ancillary to other allowed sports, recreation and leisure uses. A concern was raised that too many uses were proposed to be eliminated that enhance sports and leisure activities and doing so could have a negative impact on the City's economic development interests.
- c. The Commission also discussed the possibility of re-pre-zoning the three SRL-B pre-zoned parcels to the SRL-A Zoning District instead of creating a new zoning district or PD, noting that the SRL-A district could achieve City Council's objectives, in that this district supports lower intensity uses. However, Commissioners expressed concern with this option as it would eliminate several uses that the Commission believed would be appropriate for this area.

FISCAL AND RESOURCE IMPACT:

Not applicable.

CEQA (California Environmental Quality Act):

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 adopted on June 6, 2018 and serves as the environmental review for the proposed Zoning Code Text Amendment. The Addendum for the Zoning Code Update was prepared pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164.

LINKS/ATTACHMENTS:

1. Ordinance 2290- AMENDMENT TO TITLE 18-OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B

ORDINANCE NO. 2290, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE (FILE NO. ZA2018-0005: CITY OF MORGAN HILL)

WHEREAS, on November 5, 2014 the City Council adopted Resolution No. 7051 establishing the Sports Recreation and Leisure General Plan Land Use designation, which allows a wide range of private commercial, retail, and public/quasi-public sports-recreation leisure themed uses and supports local agriculture and sustainable economic development; and

WHEREAS, on August 5, 2015 the City Council adopted Ordinance No. 2153ns, which established the Sports Recreation and Leisure (SRL) Zoning District and at the same hearing adopted Ordinance Nos. 2155ns, 2157ns, and 2158ns that pre-zoned several parcels to the SRL Sub-zone B Zoning District (SRL-B); and

WHEREAS, these parcels remain pre-zoned SRL-B in anticipation of potential future annexation; and

WHEREAS, on September 5, 2018, during their review of an Urban Service Area (USA) expansion request for the South County Catholic High School (SCCHS) that includes three SRL-B pre-zoned parcels to the west of the proposed High School site, the City Council directed staff to return to the Council prior to November 7, 2018 with a new pre-zoning for Council consideration to replace the existing SRL-B pre-zoning on parcels (APNs: 817-13-008, -011, and -037) such that the new zoning would not allow housing, hotels, or commercial uses; and

WHEREAS, rather than create a new zoning district and apply that new zoning district to three specific existing SRL-B pre-zoned parcels, staff advised that the desired modifications to the uses allowed in the existing SRL-B Zoning District be applicable to all properties currently pre-zoned SRL-B, which all exist in the same general area as the three specific parcels; and

WHEREAS, with the proposed modifications to the SRL-B district as shown in Table 18.28-2 in Exhibit A – Chapter 18.28 – Open Space, Public, and Recreation Zoning Districts, the following commercial uses would no longer be allowable: drive-through establishments, gas and service stations, hotels and motels, restaurants, retail that is sports-themed or sports/recreation-serving, day spas, barbershops, hair salons, health and fitness clubs and indoor recreation centers oriented to local residents, and indoor swimming pools; and

WHEREAS, the SRL-B district will continue to not allow new residential land uses with the exception that one single-family detached dwelling on a legal lot of record established in the

County prior to August 1, 2014 remains a permitted use; 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 adopted on June 6, 2018 and serves as the environmental review for the proposed Zoning Code Text Amendment. The Addendum for the Zoning Code Update was prepared pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164; and

WHEREAS, the City may approve Zoning Amendments only after finding that the proposed amendment is consistent with the General Plan; will not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and, is internally consistent with other applicable provisions of the Zoning Code; and

WHEREAS, the Zoning Code Text Amendment complies with the City's Morgan Hill 2035 General Plan as required by Government Code Section 65860, in that the amended SRL-B Zoning District would continue to allow a range of sports, recreation, leisure, agriculture, and natural resource uses allowed within the SRL General Plan Land Use designation; and

WHEREAS, the proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, in that the uses that would no longer be allowable in the SRL-B Zoning District would continue to be allowable elsewhere in the City; and

WHEREAS, the Zoning Amendment, was considered by the Planning Commission at their regular meeting of October 9, 2018 at which time the Planning Commission on a 5-2 vote did not recommended City Council approval of application ZA2018-0005: City of Morgan Hill for the following reasons:

- a. One Commissioner suggested that any kind of Zoning Amendment (text or map) that affects or involves unincorporated properties in the Southeast Quadrant should wait for Santa Clara County LAFCOs decision on the City's recent USA Amendment request and that any such Zoning Amendment include additional community outreach to discuss allowable uses.
- b. Several Commissioners noted that they could support a Zoning Map and Text Amendment that was specific to the three SRL-B pre-zoned parcels (APNs: 817-13-008, -011, and -037) that were included in the City's recent USA Amendment request. That Amendment would create a new zoning district or a Planned Development (PD) Combining District that would be applied only to the three parcels and would allow the uses currently allowed in the SRL-B Zoning District, but not allow hotels and certain other commercial uses. Commissioners generally supported allowing health and fitness clubs and indoor recreation centers oriented to local residents, and indoor swimming pools as well as restaurants that are ancillary to other allowed sports, recreation and leisure uses. A concern was raised that too many uses were proposed to be eliminated that enhance sports and leisure activities and doing so could have a negative impact on the City's economic development interests.

- c. The Commission also discussed the possibility of re-pre-zoning the three SRL-B pre-zoned parcels to the SRL-A Zoning District instead of creating a new zoning district or PD, noting that the SRL-A district could achieve City Council's objectives, in that this district supports lower intensity uses. However, Commissioners expressed concern with this option as it would eliminate several uses that the Commission believed would be appropriate for this area.; 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

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

SECTION 1. The Zoning Amendment is consistent with the Morgan Hill 2035 General Plan.

SECTION 2. The Zoning Amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

SECTION 3 The Zoning Amendment will be internally consistent with other applicable provisions of the Zoning Code as provided in Section 18.114.060.

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).

SECTION 5. The City Council hereby amends Title 18 – Zoning, Division I Zoning Code, Part 2 Zoning Districts, Chapter 18.28 – Open Space, Public, and Recreation Zoning Districts to modify the uses allowed in the SRL-B – Sports Recreation and Leisure Sub-zone B Zoning District, of the Morgan Hill Municipal Code (File No. ZA2018-0005: City of Morgan Hill) as shown in the attached Exhibit A, 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 24th DAY OF OCTOBER 2018, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 7TH DAY OF NOVEMBER 2018, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH THE LAW BY THE FOLLOWING VOTE:

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

APPROVED:

STEVE TATE, Mayor

ATTEST:

IRMA TORREZ, City Clerk

DATE: _____

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2290, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the 7th day of November 2018.

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

DATE: _____

IRMA TORREZ, City Clerk

Chapter 18.28 – OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS

Sections:

18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts

18.28.020 – Land Use Regulations

18.28.030 – Development Standards

18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts

- A. Open Space.** The purpose of the Open Space (OS) zoning district is to preserve and enhance open space lands as a limited and valuable resource in Morgan Hill. The OS zoning district is intended to permit limited but reasonable use of open space lands while reducing exposure to geologic hazards, to preserve agricultural land, and to preserve the topographic features that contribute to Morgan Hill's unique identity.
- B. Public Facilities.** The purpose of the Public Facilities (PF) zoning district is to provide a location for schools, governmental offices, parks and recreational facilities, fire and police stations, utilities, and other public and quasi-public facilities to serve the community.
- C. Sports Recreation and Leisure (SRL).** The purpose of the SRL zoning district is to provide a location for a variety of private and public or quasi-public land sports, recreation, and leisure uses to serve the community. The SRL zoning district includes two sub-zones:
 - 1. The SRL-A sub-zone which supports lower intensity sports, recreation, and leisure uses that are compatible with nearby agricultural and open space activities; and
 - 2. The SRL-B sub-zone which supports lower and medium intensity sports, recreation, and leisure uses that are generally open in nature.

18.28.020 –Land Use Regulations

A. Open Space and Public Facility Zones.

- 1. **Permitted Land Uses – General.** Table 18.28-1 identifies land uses permitted in the Open Space (OS) and Public Facilities (PF) zoning districts.

TABLE 18.28-1: PERMITTED LAND USES IN THE OPEN SPACE AND PUBLIC FACILITIES ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District		Additional Regulations
	OS	PF	
Residential Uses			
Accessory Dwelling Units	P	-	Chapter 18.84
Agricultural Labor Accommodations	C	-	
Single-Family Detached Dwellings	P	-	
Public and Quasi-Public Uses		-	
Cemeteries	C	C	
Colleges and Trade Schools	-	C	
Community Assembly	-	C	
Cultural Institutions	-	P [1]	
Day Care Centers	-	C	
Emergency Shelters	-	P	
Government Offices	-	P	
Home Day Care, Small	P	-	
Hospitals	-	P	
Instructional Services	-	P [1]	
Parks and Recreational Facilities	P	P [1]	
Public Safety Facilities	C	P	
Schools, Public	-	P	
Schools, Private	-	C	
Commercial Uses			
Animal-Related Commercial Uses			
Animal Boarding	C	-	
Equestrian Centers	C	-	
Farmer's Markets	C	C	
Plant Nurseries	C [2]	-	
Transportation, Communication, and Utility Uses		-	
Parking Structures and Facilities	-	P [1]	
Utilities, Major	-	C	
Wireless Communications Facilities	See Chapter 18.96		
Agriculture and Natural Resource Uses			
Crop Cultivation	P	-	
Animal Raising and Production, Intensive	C	-	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District		Additional Regulations
	OS	PF	
Animal Raising and Production, Limited	P	-	
Wildlife Refuges	P	-	
Other Uses			
Accessory Uses	See Chapter 18.44		
Home Occupations	See Section 18.92.060		
Temporary Uses	See Section 18.92.150		

Notes:

[1] A Conditional Use Permit is required if not owned or operated by a governmental agency.

[2] Sales are limited to horticultural products grown on site.

B. Design Permit for Residential Uses in the OS Zone. In addition to projects requiring Design Permits pursuant to 18.108.040 (Design Permits), the construction of new residential uses requires a Design Permit to verify conformance with Section 18.28.030.B (Performance Standards in OS Zone) and all other applicable requirements.

C. Sports Recreation and Leisure Zones. Table 18.28-2 identifies land uses permitted in the SRL-A and SRL-B sub-zones.

TABLE 18.28-2: PERMITTED LAND USES IN THE SPORTS RECREATION LEISURE ZONING DISTRICT

Key P Permitted use C Conditional Use Permit required – Use not allowed	Zoning District		Additional Regulations
	SRL-A	SRL-B	
Residential Uses			
Single-family detached dwellings	P [1]	P [1]	
All other new residential land uses	-	-	
Commercial Uses			
Drive-through establishments	-	-	
Gas and service stations	-	-	
Hotel and motels	-	-	
Restaurants	-	-	
Retail that is sports-themed or sports/recreation-serving	-	-	
Sports, Recreation, and Leisure Uses			
Adventure sports facilities, indoor	P	-	
Adventure sports facilities, outdoor	P	P	
Arts and crafts studios	P	P	
Batting cages, indoor	P	-	

Key P Permitted use C Conditional Use Permit required – Use not allowed	Zoning District		Additional Regulations
	SRL-A	SRL-B	
Batting cages, outdoor	P	P	
Bowling alleys	-	-	
Campgrounds	-	-	
Casinos, card clubs, and gambling facilities	-	-	
Cinemas and movie theaters	-	-	
Day spas, barbershops, and hair salons	C [2]	-	
Equestrian centers	P	P	
Golf courses	P [3]	P [3]	
Health and fitness clubs and indoor recreation centers oriented to local residents	C [4]	-	
Indoor sports centers	P	-	
Outdoor sports centers	P	P	
Outdoor race tracks for cars, go-karts, or similar use;	-	-	
Pool and billiards halls	-	-	
Recreational vehicle parks	-	-	
Sports Fields	P	P	
Stadiums	-	-	
Swimming pools, indoor	P [5]	-	
Swimming pools, outdoor	P [5]	P	
Agriculture and Natural Resource Uses			
Crop cultivation	P	P	
Farmer’s market	P	P	
Sales of agricultural products grown on site	P	P	
Wineries	P	P	
Transportation, Communication, and Utility Uses			
Wireless communications facilities	See Chapter 18.96		
Other Uses			
Accessory Uses and Structures	See Chapter 18.44		
Home Occupations	See Section 18.92.060		
Temporary Uses	See Section 18.92.150		

Notes:

[1] Permitted only on a legal lot of record established in the unincorporated area prior to August 1, 2014.

[2] May be permitted with a Conditional Use Permit if ancillary to hotel or motel use.

[3] Golf courses in excess of three holes are prohibited.

[4] Fitness and exercise facilities ancillary to a primary destination-oriented sports/recreation/leisure use are allowed with a Conditional Use Permit.

[5] Permitted if ancillary to hotel or motel use.

- D. Additional Permits.** In addition to permits identified in Tables 18.28-1 and 18.28-2, development projects in the open space, public, and recreation 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).
- E. Hillside Combining District.** Development on site with an average slope of 10 percent or greater are subject to the requirements of Section 18.30.040 (Hillside Combining District).

18.28.030 Development Standards

- A. General.** Table 18.28-3 identifies development standards that apply in the public, open space, and recreation zoning districts.

TABLE 18.28-3: PUBLIC, OPEN SPACE, AND RECREATION DEVELOPMENT STANDARDS

	OS	PF	SRL-A	SRL-B	Additional Standards
Site Requirements					
Lot Area, Minimum	5 acres	None	1 acre	1 acre	
Lot Width, Minimum	100 feet		100 ft.	100 ft.	
Lot Depth, Minimum	None		150 ft.	150 ft.	
Impervious Coverage, Maximum	10% [1]	As required by review authority	None	None	
Building Coverage, Maximum	5% [2]		30%	50%	
Structure Requirements					
Setbacks, Minimum					18.56.030
Front	50 ft.	As required by review authority	30 ft.	20 ft.	
Rear	50 ft.		50 ft.	15 ft.	
Interior Side	50 ft.		20 ft.	15 ft.	
Street Side	25 ft.		30 ft.	20 ft.	
Height, Maximum	2 stories or 25 ft.		35 ft.	35 ft.	18.56.020

Notes:

[1] Planning Commission may allow greater impervious surface with a Conditional Use Permit.

[2] 30 percent for those existing lots less than 5 acres.

- B. Performance Standards in OS Zoning District.** The following standards apply to all development and land uses in the OS zoning district.
1. **Stormwater Runoff.** In addition to requirements in Chapter 18.140 (Post Construction Stormwater Pollution Prevention), development shall comply with the following standards:
 - a. Permanent vegetation and improvements capable of carrying stormwater runoff in a safe manner shall be installed to the extent possible before the vegetative cover is removed from the area.

- b. Sediment basins, including debris basins, desilting basins, and silt traps, shall be installed, and maintained to reserve sediment from runoff waters of land undergoing development.
- 2. **Public Services and Infrastructure.** Construction of dwellings for which Conditional Use Permits are required are permitted only if the proposed dwelling units are served by public sewers, public water, and ingress/egress that comply with minimum fire department standards. The City may grant exceptions to the public sewer and public water requirements for:
 - a. Areas that were annexed into the city outside the urban service area with approved private water and septic systems; and
 - b. Secondary dwellings where a private septic tank disposal system has been approved for the primary dwelling on the same parcel of land.
- C. **Outdoor Storage in the PF Zone.** Areas used for outdoor storage in the PF zoning district shall meet the minimum design standards applicable to off-street parking facilities as specified in Section 18.72.060 (Parking Design and Development Standards).

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, October 17, 2018 5:30 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

(5:30 P.M. Closed Session/ 6:00 P.M. Workshop/ 7:00 P.M. Regular Meeting)

A special meeting of the City Council was called at 5:30 p.m. for the purpose of conducting a closed session and a Joint City Council/Planning Commission Workshop.

SPECIAL MEETING

5:30 P.M.

CALL TO ORDER

Mayor Tate called the Special Meeting to order at 5:30 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	

Minutes Acceptance: Minutes of Oct 17, 2018 5:30 PM (CONSENT CALENDAR)

Larry Carr	Council Member	Late	5:36 PM
Caitlin Jachimowicz	Council Member	Present	
Rene Spring	Council Member	Present	

DECLARATION OF POSTING AGENDA

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

CLOSED SESSION

Mayor Tate announced the closed session item.

OPPORTUNITY FOR PUBLIC COMMENT

The public comment was opened at 5:31 p.m.

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

ADJOURN TO CLOSED SESSION

The special meeting adjourned to closed session at 5:31 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Manager

RECONVENE

The special meeting reconvened at 6:03 p.m.

Mayor Tate announced that there was no reportable action for the closed session item.

Deputy City Clerk Michelle Bigelow called the roll for the Planning Commission.

Present: Yvonne Martinez-Beltran, John McKay, Mohammad Habib, Joe Mueller, Liam Downey

Absent: Wayne Tanda, Juan Miguel Muñoz-Morris

WORKSHOP

MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN JOINT CITY COUNCIL/PLANNING COMMISSION WORKSHOP

Recommendation:

1. Receive a presentation from Lisa Wise Consulting (LWC) and Metrovation Brokerage on the Monterey Corridor Block-Level Master Plan,
2. Discuss and provide feedback on draft frontage standards for future development along the Monterey Corridor, and
3. Discuss and provide feedback on the results and recommendations of the block-level commercial analysis.

Interim Principal Planner John Baty and Development Services Director Jennifer Carman, along with Lisa Wise, Jennifer Daugherty, and Spencer Johnson with Lisa Wise Consulting, Inc and Christine Firstenberg with Metrovation provided the presentation.

The public comment was opened at 6:54 p.m. The following people were called to speak:

Doug Muirhead

Kathy Sullivan

Rogg Collins

Gary Hansen

Scott Bore

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

The special meeting adjourned at 7:07 p.m.

REGULAR MEETING

7:00 P.M.

The regular meeting convened at 7:16 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Mayor Pro Tem Constantine shared that Measure B is the County-wide transportation measure that was passed in 2016 which would provide funds for street repairs to cities throughout the County. It has been held up in the court system and as such, has been holding up approximately \$800,000 annually which Morgan Hill would be able to use for street repairs. Hopefully by January 2019 the lawsuit will come to its conclusion allowing the Valley Transportation Authority to disperse those funds to the cities that desperately need it for their street repairs.

CITY MANAGER'S REPORT

City Manager Christina Turner announced the evening's supplements and presentations. She requested that items 26 and 27 be moved to follow item 18. She shared that effective Sunday, December 9th, the Morgan Hill Library will be open on Sunday afternoons. She announced that tomorrow morning at the Community and Cultural Center at 7:30 a.m. the Economic Development team will be hosting a broker's breakfast that will provide information on real estate investment, as well as, development opportunities here in Morgan Hill. More information is available at www.choosemorganhill.com <<http://www.choosemorganhill.com>>. She shared that the gun control ordinance will be presented at the October 24th City Council meeting instead of tonight as previously published. She concluded by announcing that the Santa Clara Valley Water District will be providing an update on the Anderson Dam Seismic Retrofit Project on Wednesday, October 24th at 6:30 p.m. at the Community and Cultural Center.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin mentioned that at least a portion of the fire arms ordinance will come to Council on October 24th. He clarified that a lot of the discussion that has been taking place in regard to the updates to the City's gun violence ordinance are actually regarding a section of the ordinance that has been in place since 1970. The section specifically refers to the need for a permit to discharge a weapon within the city limits. There have been some interpretations of that language by the community, that indicate that it would apply to nerf guns or nail guns or other things that are not actually weapons. Our ordinance, which was adopted in 1970, is based on other ordinances that have been adopted all over the country and enacted in many jurisdictions over the last 200 years. Case law goes back over 120 years defining what the ordinance language means. The language applies to bullets and missiles that are fired

from an instrument. A missile, as used in this context, means a weapon that is capable of being shot at a distance to hit a specific target. While a nerf gun might be the kind of thing that can hit a specific target at a distance, it is not considered a weapon because it is not designed or intended to cause great bodily injury. Things like nerf guns or rubber band guns are not prohibited by our ordinance and they do not require a permit for discharge in the City of Morgan Hill or any of the other 14 cities in Santa Clara County that have similar ordinances.

OTHER REPORTS

Mayor Tate announced that his next coffee with the Mayor will be held on November 10th at Booksmart from 10:00 a.m. to 11:30 a.m. His guest will be the winner of the Mayor's race.

PROCLAMATIONS

Proclaiming October 20, 2018 as Arbor Day
Anthony Eulo, Program Administrator, Community Services Department

RECOGNITIONS

125th Birthday of the Morgan Hill United Methodist Church
Pastor Patrick Davis

PRESENTATIONS

Legislative Update
Assembly Member Anna Caballero

**ANDERSON DAM PRESENTATION-BOARD MEMBER JOHN VARELA, SANTA CLARA
VALLEY WATER DISTRICT**

**YAC PRESENTATION ASSET # 4 - CARING NEIGHBORHOOD, ASSET # 21 ACHIEVEMENT
MOTIVATION, AND ASSET # 31- HEALTHY LIFESTYLE**

The meeting went into recess at 8:24 p.m.

The meeting was reconvened at 8:31 p.m.

PUBLIC COMMENT

The public comment was opened at 8:31 p.m.

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda moving items 26 and 27 to follow item 18.

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

CONSENT CALENDAR

MOTION:

Approving consent calendar items 2 through 5, 7 through 11, and 13 through 17.

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

1. ITEM PULLED FOR SEPARATE VOTE

2. APPROVE IMPROVEMENT AGREEMENT WITH GUNTER LOFTS, LLC

Recommendation:

1. Approve an Improvement Agreement with Gunter Lofts, LLC;
2. Authorize the City Manager to execute the Improvement Agreement;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Improvement Agreement and the Stormwater BMP Operation and Maintenance Agreement.

3. APPROVE FIRST AMENDMENT TO BRIGHTVIEW LANDSCAPE SERVICES, INC. AGREEMENT FOR LANDSCAPE SERVICES

Recommendation:

Approve the first amendment to the maintenance service agreement with Brightview Landscape Services, Inc. for additional services totaling \$1,200, for total contract amount of \$262,752.

4. APPROVE THIRD AMENDMENT TO WEST COAST ARBORIST, INC. AGREEMENT FOR CITYWIDE TREE SERVICES

Recommendation:

Approve the third amendment to the maintenance service agreement with West Coast Arborist, Inc. for additional services totaling \$110,000, for total contract amount of \$865,000.

5. AUTHORIZE CITY MANAGER TO APPROVE CHANGE ORDER FOR 2018 INFLOW AND INFILTRATION PROJECT

Recommendation:

Authorize the City Manager to execute a change order of up to \$170,000 with Pacific Underground Construction, Inc. for the 2018 Inflow and Infiltration Project, for a total project cost of up to \$931,035.

6. ITEM PULLED FOR DISCUSSION

7. ADOPT RESOLUTION ADOPTING THE FINAL RELOCATION IMPACT STATEMENT AND LAST RESORT HOUSING PLAN FOR THE HALE AVENUE EXTENSION PROJECT

Recommendation:

Adopt resolution for the following actions:

1. Adopt the Final Relocation Impact Statement and Last Resort Housing Plan for the Hale Avenue Extension Project; and
2. Authorize expenditure of an amount not to exceed \$98,000 for relocation assistance, from the Traffic Impact Fund (309).

8. ADOPT REVISED RESOLUTION OF NECESSITY REPLACING RESOLUTION 18-071

Recommendation:

Adopt revised resolution of necessity determining that the public interest and necessity require the acquisition by eminent domain of real property from Pacific Gas and Electric Company for the Hale Avenue Extension Project, and rescinding resolution 18-071.

9. JULY 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

10. ACCEPT RESIGNATION OF PARKS AND RECREATION COMMISSIONER

Recommendation:

1. Accept LaRene Green's resignation from the Parks and Recreation Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2022, on the Parks and Recreation Commission.

11. AMEND CONFLICT OF INTEREST CODE REPORTING CATEGORIES

Recommendation:

Adopt resolution amending the list of positions subject to the City's Conflict of Interest Code.

12. ITEM PULLED FOR SEPARATE VOTE

13. ADOPT ORDINANCE AMENDING CHAPTER 5.32 (MASSAGE ESTABLISHMENTS) TO TITLE 5 (BUSINESS LICENSES GENERALLY) TO CLARIFY BUSINESS LICENSE REQUIREMENT AND REVOCATIONS FOR MASSAGE ESTABLISHMENTS AND SERVICES

Recommendation:

Waive the reading, adopt Ordinance No. 2283, 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.

14. ADOPT ORDINANCE AMENDING SECTION 2.08.040 ("POWERS AND DUTIES") OF CHAPTER 2.08 ("CITY MANAGER") OF TITLE 2 ("ADMINISTRATION AND PERSONNEL") OF THE MORGAN HILL MUNICIPAL CODE TO MODIFY THE POWERS AND DUTIES OF THE CITY MANAGER

Recommendation:

Waive the reading, adopt Ordinance No. 2284, 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.

15. ADOPT ORDINANCE AMENDING CHAPTER 3.04 (“PURCHASING”) OF TITLE 3 (“REVENUE AND FINANCE”) OF THE MORGAN HILL MUNICIPAL CODE TO MODIFY PROVISIONS GOVERNING THE PURCHASE OF GOODS AND SERVICES

Recommendation:

Waive the reading, adopt Ordinance No. 2285, 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.

16. APPROVE THE SEPTEMBER 26, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

17. APPROVE THE OCTOBER 3, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

ITEM PULLED FOR SEPARATE VOTE

1. ACCEPTANCE OF SUBDIVISION PUBLIC IMPROVEMENTS – LODEN PLACE - TRACT NO. 10197

Recommendation:

1. Accept the Subdivision Public Improvements for Loden Place – Tract No. 10197;
2. Authorize the City Engineer to sign a Notice of Completion; and
3. Direct the City Clerk to file the Notice of Completion with the County Recorder’s Office.

MOTION:

Approving the recommended actions.

RESULT:	ACCEPTED [3 TO 0]
MOVER:	Larry Carr, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Constantine, Carr, Jachimowicz
ABSTAIN:	Tate, Spring

12. ADOPT ORDINANCE APPROVING A ZONING AMENDMENT ZA2018-0004 TO AMEND THE ZONING ON HALF OF THE 0.29 ACRE PORTION OF DEPOT STREET LOCATED AT THE END OF DEPOT STREET AND EAST DUNNE AVENUE INTERSECTION, ADJACENT TO 17020 DEPOT STREET (APN 726-13-049)

Recommendation:

Waive the reading, adopt Ordinance No. 2282, 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.

MOTION:

Approving the recommended action.

RESULT: ADOPTED [3 TO 2]
MOVER: Larry Carr, Council Member
SECONDER: Caitlin Jachimowicz, Council Member
AYES: Tate, Constantine, Carr
NAYS: Jachimowicz, Spring

ITEMS PULLED FOR DISCUSSION

6. ADOPT 2018 STORM DRAINAGE SYSTEM MASTER PLAN

Recommendation:

Adopt the 2018 Storm Drainage System Master Plan.

The public comment was opened at 8:32 p.m.

Doug Muirhead was called to speak.

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

MOTION:

Approving the recommended action.

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

OTHER BUSINESS

18. ECONOMIC DEVELOPMENT WEBSITE AND MARKETING CAMPAIGN UPDATE

Recommendation:

Receive economic development website and marketing campaign update, and provide feedback.

Economic Development Director Edith Ramirez and Economic Development Manager John Lang provided the presentation.

The public comment was opened at 8:50 p.m.

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

RESULT: NO ACTION TAKEN

26. APPROVE AN IMPACT FEE FREEZE AGREEMENT WITH EVERGREEN DEVCO, INC. FOR 20.43 ACRES LOCATED ON THE EASTERLY SIDE OF BUTTERFIELD BOULEVARD BETWEEN COCHRANE ROAD AND JARVIS DRIVE IDENTIFIED BY ASSESSOR PARCEL NUMBERS 726-32-021 AND 726-25-035

Recommendation:

1. Approve an Impact Fee Freeze Agreement with Evergreen Devco, Inc. for the development of a 195,500 square foot retail center located at the corner of Butterfield Boulevard and Cochrane Road; and
2. Authorize the City Manager to execute the Impact Fee Freeze Agreement.

Economic Development Director Edith Ramirez and Economic Development Manager John Lang provided report.

The public comment was opened at 8:57 p.m.

John Horner was called to speak.

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

MOTION:

Approving the recommended actions.

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

27. APPROVE AN IMPACT FEE FREEZE AGREEMENT WITH BRIDGE GROUP INVESTMENTS FOR INDUSTRIAL DEVELOPMENT ON 7.9 ACRES LOCATED ON JARVIS DRIVE IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-30-013

Recommendation:

1. Approve an Impact Fee Freeze Agreement with Bridge Group Investments, LLC. for the development of a 503,000 square foot corporate office/warehouse facility located on Jarvis Drive; and
2. Authorize the City Manager to execute the Impact Fee Freeze Agreement.

Economic Development Manager John Lang provided report.

The public comment was opened at 9:04 p.m.

George Mersho was called to speak.

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

MOTION:

Approving the recommended actions.

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

PUBLIC HEARING

19. APPROVE DA2017-0008, EA2017-0016: LLAGAS - STROLATA - DEVELOPMENT AGREEMENT AND ENVIRONMENTAL ASSESSMENT FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 773-32-013 LOCATED AT THE NORTHEAST END OF SABINI COURT

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of the ordinance;
3. Introduce an ordinance approving the Development Agreement; and
4. Authorize the City Manager to execute and administer the Development Agreement.

Associate Planner Tiffany Brown and Community Development Director Jennifer Carman provided the report.

The public hearing was opened at 9:14 p.m.

Steve Bolaris was called to speak.

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

MOTION:

Waiving the first and second reading of the ordinance.

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

MOTION:

Introducing the ordinance.

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

MOTION:

Authorizing the City Manager to execute and administer the Development Agreement.

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

20. APPROVE DEVELOPMENT AGREEMENT FOR A 389 UNIT APARTMENT PROJECT ON APPROXIMATELY 19.5 ACRES AT JARVIS DRIVE AND MONTEREY ROAD

Recommendation:

1. Open/close the public hearing;
2. Waive first and second reading of Development Agreement Ordinance;
3. Introduce Development Agreement Ordinance; and
4. Authorize the City Manager to execute and administer the Development Agreement.

City Attorney Donald Larkin provided the report.

The public hearing was opened at 9:37 p.m.

Ryan McDaniel was called to speak.

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

Council Member Spring said that for the record, he would love to vote no on this item but due to the court order, we are supporting this. He thinks we could have worked this out in a different manner and he is disappointed at the path the applicant chose.

MOTION:

Waiving the first and second reading of the ordinance.

RESULT: WAIVED [UNANIMOUS]
MOVER: Larry Carr, Council Member
SECONDER: Steve Tate, Mayor
AYES: Tate, Constantine, Carr, Jachimowicz, Spring

MOTION:

Introducing the ordinance.

RESULT: INTRODUCED [UNANIMOUS]
MOVER: Larry Carr, Council Member
SECONDER: Steve Tate, Mayor
AYES: Tate, Constantine, Carr, Jachimowicz, Spring

MOTION:

Authorizing the City Manager to execute and administer the Development Agreement.

RESULT: AUTHORIZED [UNANIMOUS]
MOVER: Larry Carr, Council Member
SECONDER: Steve Tate, Mayor
AYES: Tate, Constantine, Carr, Jachimowicz, Spring

21. ADOPT HOUSING PROGRAM, ORDINANCE ADDING A NEW CHAPTER 14.08 “IN-LIEU HOUSING FEE” TO TITLE 14 (HOUSING) ESTABLISHING IN-LIEU FEES AND ADDING CHAPTER 14.12 “BELOW MARKET RATE PROGRAM” WHICH INCORPORATES A NEW BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A NEW BELOW MARKET RATE OWNERSHIP PROGRAM APPLICATION GUIDE, AND INCORPORATES BELOW MARKET RATE PROGRAM DEVELOPMENT STANDARDS, AND REPEALING CHAPTERS 15.22 “AFFORDABLE HOUSING FEE” AND 15.23 “BELOW MARKET RATE PROGRAM”

Recommendation:

1. Open/Close Public Hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce ordinance that:
 - A. Adds Chapter 14.08 to institute a Housing in-lieu fee of \$19.70 per square foot for residential development outside of Downtown where there is a 15% Inclusionary Housing Requirement, \$13.20 per square foot for ownership projects in the Downtown where there is a 10% Inclusionary Housing Requirement, \$29.00 per square foot for rental residential development outside of Downtown where there is a 15% Inclusionary Housing Requirement, and \$14.50 per square foot for rental projects in the Downtown where there is a 10% Inclusionary Housing Requirement;
 - B. Adds Chapter 14.12 Below Market Rate Program, incorporating a Below Market Rate Ownership Program Participation Guide and a Below Market Rate Program Application Guide;
 - C. Repeals Chapter 15.22 Affordable Housing Fee and Chapter 15.23 Below Market Rate Program from Title 15, placing both in Title 14; and
 - D. Adds Below Market Rate (BMR) Program Development Standards.

OR

4. Provide feedback on draft ordinance and direct staff to bring a revised ordinance to a future meeting.

Housing Manager Rebecca Garcia provided the report.

The public hearing was opened at 10:04 p.m.

Jeff Bernstein was called to speak.

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

MOTION:

Waiving the first and second reading of the ordinance.

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

MOTION:

Introducing the ordinance.

RESULT:	INTRODUCED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Steve Tate, Mayor
AYES:	Tate, Constantine, Carr, Jachimowicz, Spring

OTHER BUSINESS

22. UPDATE ON AGRICULTURAL PRESERVATION STRATEGY AND POTENTIAL RELATED LAND USE CONSIDERATIONS

Recommendation:

1. Accept report on the City's Conservation Strategy; and
2. Provide policy direction to staff.

Program Administrator Tony Eulo provided the report.

The public comment was opened at 10:27 p.m. The following people were called to speak:

Ann Forestieri Minton

Gordon Jacoby

Julie Hutcheson

Doug Muirhead

John McKay

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

RESULT:	ACCEPT REPORT
----------------	----------------------

MOTION:

Extending the meeting until 11:40 p.m.

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

23. AMEND AGREEMENT WITH MAGICAL BRIDGE FOUNDATION AND RECEIVE PROJECT UPDATE

Recommendation:

1. Receive update on Magical Bridge Morgan Hill Inclusive Playground Project;
2. Authorize the City Manager to execute and administer an amendment to the Consultant Services and Design Agreement with the Magical Bridge Foundation; and
3. Authorize the City Manager to execute and administer a Service Agreement for Design Professionals with the Magical Bridge Foundation.

Public Services Director Chris Ghione presented the report.

The public comment was opened at 11:05 p.m. The following people were called to speak:

Jill Asher

Ron Locicero

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

MOTION:

Approving the recommended actions.

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

24. APPROVE UPDATED CONCEPTUAL DESIGN FOR LIBRARY EXPANSION PROJECT

Recommendation:

Approve the updated Conceptual Design for the Library Expansion Project.

Senior Project Manager Yat Cho provided the presentation. Heather Geddes and Chris Brown with the Morgan Hill library continued the presentation.

The public comment was opened at 11:26 p.m.

Teresa Stephenson was called to speak.

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

MOTION:

Approving the recommended action.

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

25. APPROVE UPDATE TO THE CENTENNIAL RECREATION CENTER EXPANSION PROJECT

Recommendation:

Direct staff to proceed with the completion of the project documents and bidding of the project.

Senior Project Manager Yat Cho provided the presentation.

MOTION:

Extending the meeting until 11:50 p.m.

The public comment was opened at 11:48 p.m.

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

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

MOTION:

Approving the recommended action.

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

26. ITEM MOVED TO FOLLOW ITEM 18**27. ITEM MOVED TO FOLLOW ITEM 18****FUTURE COUNCIL INITIATED AGENDA ITEMS**

Council Member Spring asked for a status update on City projects.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:50 p.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk

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, October 24, 2018 5:30 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council was called at 5:30 p.m. for the purpose of conducting a Joint City Council/Planning Commission Workshop.

SPECIAL MEETING

5:30 P.M.

CALL TO ORDER

Mayor Tate called the meeting to order at 5:31 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	Present	

Minutes Acceptance: Minutes of Oct 24, 2018 5:30 PM (CONSENT CALENDAR)

The following Planning Commissioners were present:

Liam Downey
Yvonne Martinez-Beltran
John McKay
Juan Miguel Muñoz-Morris

The following Planning Commissioners were absent:

Joe Mueller
Wayne Tanda
Mohammad Habib

DECLARATION OF POSTING AGENDA

Deputy City Clerk Bigelow declared the posting of the agenda.

WORKSHOP

MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN JOINT CITY COUNCIL/PLANNING COMMISSION WORKSHOP

Recommendation:

1. Continue presentation on the Monterey Corridor Block-Level Master Plan;
2. Discuss and provide feedback on draft frontage standards for future development along the Monterey Corridor; and
3. Discuss and provide feedback on the results and recommendations of the block-level commercial analysis.

Interim Principal Planner John Baty, Development Services Director Jennifer Carman, and Economic Development Director Edith Ramirez, along with Christine Firstenberg with Metrovation provided the presentation.

The public comment was opened at 6:39 p.m.

Brian Sullivan was called to speak.

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

The special meeting adjourned at 6:52 p.m.

REGULAR MEETING

7:00 P.M.

The regular meeting was called to order at 7:00 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Jachimowicz shared that last week Assembly Member Anna Caballero mentioned funding identified in the state budget for homelessness, specifically for continuum of care. She shared that City Housing staff has a plan to look after some of this funding. One program that may benefit from

these funds would be the Safe Parking program which could potentially be expanded. We have a meeting scheduled for November 5th with the Gilroy team to discuss this specific funding and other housing topics to formalize a request for South County to obtain some of these dollars. She mentioned that while the City Council is not a political body, they sometimes will make recommendations of local interest. Along those lines she shared that she is appointed to the Association of Bay Area Governments (ABAG) and the League of California Cities (LOCC), both organizations along with the City Council have taken a firm stance against Proposition 6. That has been the focus of both bodies as we look towards the next election. For those who do not know, Proposition 6 will take away about \$200 million per year of tax revenue that would be used for road repairs. The City of Morgan Hill would lose between \$600,000 and \$700,000 annually if Proposition 6 were to pass.

She shared that ABAG is looking for nominations for their Bay Area Metro Awards. The nomination process is open to anyone, so if you know of a person, project, or city who is making a difference in the areas of housing, transportation, community and social equity, economic development, or environmental protection, nominations can be made at www.abag.ca.gov. She reported that under ABAG, the Metropolitan Transportation Commission is recruiting for a new Executive Director. She concluded by reminding everyone that the election is 13 days away and encouraged everyone to vote.

CITY MANAGER'S REPORT

City Manager Christina Turner spoke to the evening's supplements and presentations. She recognized our public safety, both Police and Fire teammates. Everyday these men and women serve to protect our community, positively impacting the lives of our residents and visitors. She is continually impressed by their dedication and professionalism. She highlighted a couple of examples of their outstanding service. She announced that Fire Chief Derek Witmer is retiring and that the new Fire Chief, Jake Hess, will be starting on October 31st. She shared that the broker's breakfast that took place last week was a huge success. She mentioned that the Tourism Business Improvement District is moving along, and the team will be meeting with the hotels next week on October 30th. The team will return to the Council on November 7th with a draft management plan. She concluded by announcing that the certification of election and seating of the new mayor and council will take place on Wednesday, December 12th at 7:00 p.m.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin shared that the 6th District Court of Appeal issued their opinion and upheld the voter initiative for Measure B, which is the funding for Valley Transportation Authority (VTA) projects including our own Hale Avenue Extension Project. It will however, be some time before the funds are released because there is a period of time in which the plaintiffs have to petition the Supreme Court; it would then get remanded back to the Superior Court to enter a final judgment. There is now hope that sometime in the relatively near future, those funds will be released, and we will get the funding for the Hale Avenue Extension Project.

OTHER REPORTS

Council Member Rene Spring shared Morgan Hill was recently in the news a couple times. He mentioned that a few weeks back he asked the City Council and staff to bring an item back to Council with alternatives to using rat poison in Morgan Hill. This week in the news, a resident had a beautiful owl die on her front porch from consuming rat poison. This incident demonstrates that the issue of rat poison is a very real and impactful issue in our community and that we need to move forward as soon as possible to get the poison out of the community.

He commented that next week is Halloween and he encouraged the residents to get out and enjoy the community. He concluded by announcing that last week he became a commissioner for the Veterans Commission of Santa Clara County, with the passionate intention to bring a voice for our veterans to Santa Clara County.

Mayor Tate announced that the next coffee with the Mayor will be on Saturday, November 10th at Booksmart from 10:00 a.m. to 11:30 a.m. His guest will be the new mayor.

PROCLAMATION

Proclaiming November 2018 as Morgan Hill Community Philanthropy Month
Peggy Martin

PRESENTATION

Morgan Hill Downtown Association Board Presentation of Contribution Check
for the Downtown Twinkle Lights

PUBLIC COMMENT

The public comment was opened at 7:16 p.m.

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

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

CONSENT CALENDAR

MOTION:

Approving consent calendar items 1 through 3.

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

- 1. ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT DA2017-0008: LLAGAS-STROLATA (SILVA) FOR A 3-UNIT RESIDENTIAL DEVELOPMENT WITH REMAINDER LOT ON A 4.48-ACRE SITE LOCATED AT 1110 LLAGAS AVENUE (APN 773-32-013)**

Recommendation:

Waive the reading, adopt Ordinance No. 2286, 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.

- 2. ADOPT ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR A 389 UNIT APARTMENT PROJECT ON APPROXIMATELY 19.5 ACRES AT JARVIS DR. AND MONTEREY ROAD**

Recommendation:

Waive the reading, adopt Ordinance No. 2287, 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.

3. ADOPT ORDINANCE ADDING NEW CHAPTER 14.08 “IN-LIEU HOUSING FEE” TO TITLE 14 (HOUSING) OF THE MORGAN HILL MUNICIPAL CODE, ESTABLISHING IN-LIEU FEES FOR NEW RESIDENTIAL DEVELOPMENT OWNERSHIP AND RENTAL PROJECTS WITHIN THE CITY AND ADDING CHAPTER 14.12 “BELOW MARKET RATE PROGRAM” WHICH INCORPORATES A NEW BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A NEW BELOW MARKET RATE OWNERSHIP PROGRAM APPLICATION GUIDE, AND REPEALING CHAPTERS 15.22 “AFFORDABLE HOUSING FEE” AND 15.23 “BELOW MARKET RATE PROGRAM”

Recommendation:

Waive the reading, adopt Ordinance No. 2288, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

PUBLIC HEARING

4. ADOPT AN ORDINANCE REQUIRING SAFE STORAGE OF FIREARMS, REPORTING THEFT OR LOSS OF FIREARMS, AND PROHIBITING POSSESSION OF LARGE CAPACITY MAGAZINES

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance amending Chapter 9.04 titled “Weapons,” to require the safe storage of firearms when not attended, to require the reporting of the theft or loss of firearms, and to prohibit the possession of large capacity magazines.

City Attorney Donald Larkin presented the report.

The meeting went into recess at 8:17 p.m.

The meeting was reconvened at 8:23 p.m.

The public hearing was opened at 9:09 p.m. The following people were called to speak:

Kirk Borovick
Amanda Santiago
Kirk Bertolet
Mr. Reed
Marby Lee
Paul Barton
Trevor Bacolini
Andy Francke
Kyle McElroy
Mark van Kuelen
Robert Alexander
Gary Inman
Brad Weightman
Anne Rosenweig
Steve Chappell
Mark Hinkle
Sean Adams

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

The meeting went into recess at 9:55 p.m.
The meeting was reconvened at 10:08 p.m.

MOTION:

Extending the meeting to 12:00 a.m.

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

MOTION:

Waiving the first and second reading of the ordinance

RESULT:	WAIVED [4 TO 1]
MOVER:	Larry Carr, Council Member
SECONDER:	Caitlin Jachimowicz, Council Member
AYES:	Tate, Constantine, Carr, Jachimowicz
NAYS:	Spring

MOTION:

Introducing the ordinance amending the section on magazine bans to include the suggested amended language provided in the presentation and including the definition of a locked container.

RESULT:	INTRODUCED [4 TO 1]
MOVER:	Larry Carr, Council Member
SECONDER:	Steve Tate, Mayor
AYES:	Tate, Constantine, Carr, Jachimowicz
NAYS:	Spring

5. ZA2018-0005: CITY OF MORGAN HILL - AN AMENDMENT TO TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance; and
3. Introduce Zoning Amendment ZA2018-0005: City of Morgan Hill Ordinance.

City Manager Christina Turner introduced the item. Interim Principal Planner John Baty and Development services Director Jennifer Carman presented the report.

The public hearing was opened at 11:26 p.m.
Trevor Bacolini was called to speak.
There being no further requests to speak, the public hearing was closed.

MOTION:

Waiving the first and second reading of the ordinance.

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

MOTION:

Introducing the ordinance including the cleanup language regarding building coverage.

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

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Spring requested that staff explore options for fire arms education for the community.

CLOSED SESSION

Mayor Tate announced the closed session.

OPPORTUNITY FOR PUBLIC COMMENT

The public comment was opened at 11:31 p.m.

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

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 11:31 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Manager

CLOSED SESSION SUPPLEMENT 1

CLOSED SESSION SUPPLEMENT 2

RECONVENE

The meeting reconvened at 11:54 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor Tate announced that there was no reportable action.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:55 p.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk

Minutes Acceptance: Minutes of Oct 24, 2018 5:30 PM (CONSENT CALENDAR)



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

AUTHORIZE CITY MANAGER TO NEGOTIATE AN AGREEMENT TO HOST THE AMGEN TOUR OF CALIFORNIA 2019

RECOMMENDATION(S)

1. Approve the City acting as a host of the Amgen Tour of California Stage 3 Finish on May 14, 2019, provided special event plan is approved by the City Manager;
2. Direct the City Manager to negotiate and execute an agreement with AEG Cycling, LLC, to provide services and support for the Tour in an amount not to exceed \$55,000 to be funded by the General Fund; and
3. Adopt resolution to amend the City's Fiscal Year 2018-19 adopted budget, to appropriate \$55,000 from the General Fund (010) for this event.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2018 Strategic Priorities

Economic Development and
Telecommunications
Financial Stewardship
Regional Initiatives

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan
Economic Blueprint

POLICY CONSIDERATIONS:

Should the City host the 2019 Amgen Tour of California Stage 3 Finish with the required investment of up to \$55,000 from the General Fund?

REPORT NARRATIVE:

The Amgen Tour of California (Amgen TOC) is the United States' largest and most prestigious annual cycling stage race, and one of the largest and most recognizable cycling races in the world. The Amgen TOC race attracts teams and athletes from over 30 countries around the world, thousands of fans that line the race course, and over 16 million viewers. The race is televised in over 200 countries and territories and has over 5.8 billion online, print and broadcast media impressions, plus extensive social media, and website traffic.

Morgan Hill co-hosted the 2018 Amgen Tour of California Time Trial race with San Jose on May 16, 2018. The event organizers, AEG Cycling, LLC, have invited the City of Morgan Hill to participate in the 2019 Amgen TOC race as the Stage 3 Finish on May 14, 2019. The actual route has not been announced, but we do know Stage 3 will take riders from the Central Valley to Morgan Hill. AEG is looking to announce host cities in mid-November.

Stage 3 Race and Route

Unlike the 2018 Time Trial race that required a long loop and had riders racing one at a time, a Stage 3 Race Finish would have all the riders (the peloton) riding at the same time. The peloton could be over 100 riders traveling in a 'pack' style to the finish line. This will reduce impacts to the community, in comparison to the 2018 event, due to a much shorter timeframe for street closures.

Stage 3 is envisioned to be 123 miles long, starting in the Central Valley at 10:45 AM and finishing in Morgan Hill at approximately 3:45 PM. The race is expected to enter the Morgan Hill City limits at around 3:30 PM.

The Stage 3 Finish for Morgan Hill will have riders accessing Monterey Road from San Jose, then travel east on Cochrane Road, head south on Butterfield Boulevard, then east on East Main Avenue, heading south on Condit Road to the Outdoor Sports Center (OSC). See Attachment 1 for a Route Map. The Finish Line and Lifestyle Festival would take place in front of the OSC parking lot (See Attachment 2 - Finish Map).

Stage 3 is anticipated to be one of the most challenging days of the 2019 Amgen Tour of California. Not only is it a long stage, the route from Central Valley will feature five categorized climbs. Mount Hamilton is the most notable climb. It is rated as an HC climb (the most difficult in climbing categories) and features a very long, steep, and technical descent down the front side of the mountain. Even though there is significant climbing on this stage, there is ample time and distance from the descent of Mount Hamilton for the race to come back together. Spectators can expect to see an epic mass sprint to the finish. The last rider should finish within 10-minutes of the leaders. Riders that will not make the time cut for the day will be pulled from the race long before they reach Morgan Hill.

Riders are expected to arrive in Morgan Hill around 3:30 PM and finish by approximately 3:45 PM. Road closures are rolling closures which has roads closed as the riders (peloton) are approaching and be immediately opened soon after they have passed. Roads are expected to be closed approximately 30 minutes for the majority of the route. The Finish and Lifestyle Festival will be located on Condit Road, between San Pedro Avenue and Barrett Avenue, and will require a street closure starting May 13th at 6 PM through May 14th at 10 PM for set up and break down.

Host City's Obligations

Similar to the 2018 race, the host City is responsible for street closures, traffic control, parking, facilities, community notifications and outreach, use of streets, use of OSC, Aquatics Center and associated parking facilities, and other support for event logistics.

While the street closure impacts will be significantly less than 2018, some of the street closure costs are fixed. Staff anticipates a fiscal impact of approximately \$55,000. Approximately \$30,000 would pay for traffic control, and services provided by Morgan Hill Police Department, Community Services and Statewide Traffic Safety and Signs. Approximately \$15,000 would be dedicated to community notifications, marketing, and promotions and \$10,000 to support the event operations.

Event Benefits:

The host city will benefit from publicity and marketing offered by the live TV and online coverage. The event will be broadcast to over 200 countries and territories worldwide with 2 hours of coverage by NBCSN and NBC Sports. The City will be able to share a 30 second commercial on national television on the Tour Tracker app. The host city will have a dedicated city page created on the official website as a hub for regional and global interest to the City. Last year, the City shared this page with San Jose. As the host city for Stage 3 Finish, Morgan Hill would be able to clearly market the City as a sports-recreation, wine tourism destination and will not be required to share the stage. The City will also be included in the print and merchandise collateral, social and paid media posts. Finally, the City will receive several benefits at the Lifestyle Festival, including booths, passes to the hospitality suite, VIP experiences and promotional auction items.

Analysis

This opportunity to host the 2019 Amgen Tour of California Stage 3 Finish race offers Morgan Hill significant national and international visibility, and recognition as a sports recreation tourism destination. This event aligns with the City's efforts to attract events and promote the area as a tourism destination. As seen by the 2018 Time Trial race, this renowned cycling event will allow us to showcase the community to the cycling industry, event organizers, cycling companies and promote the area for business and tourism.

The 2018 Amgen Tour of California Time Trial race and Lifestyle Festival brought over 800 individuals as part of the tour entourage, hundreds of volunteers and a few thousand spectators. The economic impact from the 2018 race is estimated to be over \$200,000. The race booked approximately 40 rooms and the hotel transient occupancy tax (TOT) increased by \$86,000 (or 4%) from the previous year. The sales tax data is hard to quantify since this data is collected on a quarterly basis (and has not yet been received by the City) and many factors go into the data. We assumed a conservative unique attendance of 2,000 visitors (these are non-Morgan Hill residents that came specifically for the Tour of California) and a spending of \$64 per person. Last year the event organizers spent an estimated \$11,000 with local businesses. For 2019, the City may receive a \$27,500 contribution towards Amgen expenses from the anticipated formation of the Morgan Hill Tourism Business Improvement District, should it be successful.

In addition to the financial benefits, the 2018 race brought the community together to celebrate cycling and a healthy lifestyle Morgan Hill is proud to promote. The Morgan Hill spirit was epitomized in the school outreach, community festivals, open houses, bike

rodeos, bike rides and bike parties. We did hear clearly that Specialized Bicycles has now moved their annual sales conference to Downtown Morgan Hill, in great part because of the Downtown improvements, and because they want to be more involved with the community. These events are difficult to quantify from a financial stand point, but their cumulative results support the City's Economic Blueprint goals to grow leisure, agriculture, wine country and recreational tourism, and specifically action #29 which calls to "Collaborate with Regional Partners to Enhance Branding, Marketing and Promotions of Regional Assets."

COMMUNITY ENGAGEMENT: Involve

Staff has reached out to the Hotels, Tourism Alliance, Chamber of Commerce, Downtown Association, Specialized, and event organizers. Staff is also reaching out to the Morgan Hill Unified School District and Gavilan College to plan for event impacts. Staff plans to have a massive community engagement campaign with several months of community outreach to those along the route and impacts on transit. Staff will build on the successful outreach utilized for the 2018 event, clearly outlining detours, school impacts, and providing an event day communications hotline. Staff will market and promote the event.

ALTERNATIVE ACTIONS:

Council could choose not to approve the event or contribute less than requested toward street closure and event logistics.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City approved and contributed \$55,000 towards the 2018 Amgen Tour of California Time Trial Race.

FISCAL AND RESOURCE IMPACT:

The fiscal impact is anticipated to be up to \$55,000. The projected direct spending and indirect financial benefit is expected to offset the City's financial contribution of \$55,000. Staff recommends funding from the General Fund (010) (Account#: 010.8010.42299).

A resolution authorizing the appropriation of this funding is attached (Attachment 3). It is important to note that staff anticipates an increase in TOT and sales tax from the event that will offset the investment from the General Fund.

As stated above, the City may receive a \$27,500 contribution towards Amgen expenses from the anticipated formation of the Morgan Hill Tourism Business Improvement District, should it be successful.

The event will also require significant staff (manpower) resources from the Police Department, CalFire, Community Services, Engineering, Economic Development, and Communications to help support the event planning, communications, marketing, and logistics. On event day, Police resources will be covered with the requested funds. Planning and coordination efforts of other departments will be included within existing work programs.

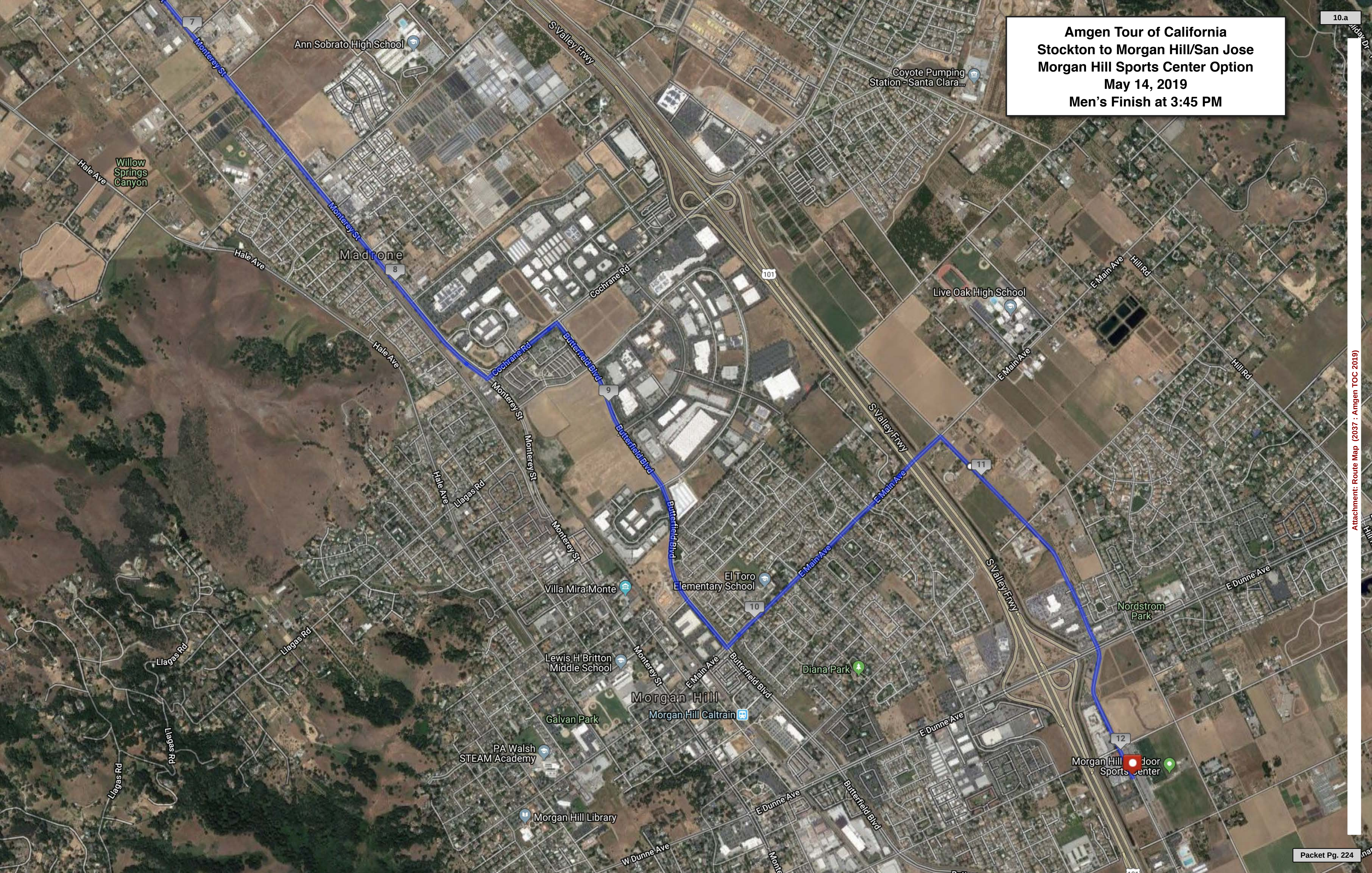
CEQA (California Environmental Quality Act): Categorical Exemption

The planned management of city facilities falls within the CEQA categorical exemption of Class 1, Existing Facilities. Additionally, use of public facilities for special events falls within the categorical exemption of Class 23, Normal Operations of Facilities for Public Gatherings.

LINKS/ATTACHMENTS:

1. Route Map
2. Finish Line
3. Resolution for Budget Amendment

Amgen Tour of California
Stockton to Morgan Hill/San Jose
Morgan Hill Sports Center Option
May 14, 2019
Men's Finish at 3:45 PM



Amgen Tour of California
Stockton to Morgan Hill/San Jose
Morgan Hill Sports Center Option
May 14, 2019
Men's Finish at 3:45 PM



RESOLUTION NO.

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2018-19 BUDGET IN THE GENERAL FUND (FUND NO. 010) TO APPROPRIATE FIFTY-FIVE THOUSAND DOLLARS (\$55,000) FOR SPECIAL EVENT SUPPORT FOR THE AMGEN TOUR OF CALIFORNIA STAGE 3 FINISH IN MORGAN HILL

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Budget for Fiscal Year 2018-19 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 are categorically exempt 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 2018-19 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 2018-19 Budget of City.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 7th day of November 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 November 7, 2018.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: Resolution for Budget Amendment [Revision 1] (2037 : Amgen TOC 2019)

Exhibit A

AGENDA BUDGET SCORECARD
FISCAL YEAR 2018-19
ADJUSTMENT #

014

FUND:
DEPARTMENT:
OBJECT:

010	General Fund
8010	Economic Development
42299	OTHER EXPENSE

AGENDA DATE:
AGENDA ITEM TITLE:

11/07/18 Amgen Tour of CA 2019

	07/01/18 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/19 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	17,687,052	41,264,549	41,658,489	17,293,112
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	204,764	290,340	(85,576)
RECOMMENDED ACTION	-	-	55,000	(55,000)
RESULT OF RECOMMENDED ACTION	<u>17,687,052</u>	<u>41,469,313</u>	<u>42,003,829</u>	<u>17,152,536</u>



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

APPROVE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT PLAN

RECOMMENDATION(S)

1. Approve the Morgan Hill Tourism Business Improvement District (MHTBID) Management Plan; and
2. Direct staff to begin a MHTBID petition drive and return with a Resolution of Intention at the November 28, 2018 City Council meeting.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Economic Development and
Telecommunications
Regional Initiatives

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan
Downtown Specific Plan
Economic Blueprint

POLICY CONSIDERATIONS:

1. Should the City Council approve formation of the proposed Morgan Hill Tourism Business Improvement District (MHTBID) for promoting and increasing Morgan Hill as a destination for sports/recreation and wine tourism?
2. Should City Council solicit community interest for the three (3) at-large board positions and make recommendations for the Visit Morgan Hill Board of Director seats for the first term of the MHTBID?

REPORT NARRATIVE:

On July 18, 2018, the City Council directed staff to proceed with the creation of a MHTBID and amend the District Management Plan to include more community representation on the Visit Morgan Hill Board of Directors (also referred to as "Owners Association") and include language that identifies hotel development (increase of lodging options) as a measure of success for the tourism efforts. The City Council also approved placing on the November 2018 ballot a 1% Transient Occupancy Tax (TOT) increase in recognition that the MHTBID would already increase the total charge on lodging businesses by 1.5%, a combined increase representing a 2.5% increase above

the current 10% total charge on lodging businesses.

Tourism Business Improvement District (TBID)

In California, Tourism Business Improvement Districts (TBIDs) for general law cities are formed under the provisions of both the Property and Business Improvement District Law of 1994 and, the Parking and Business Improvement Area Law of 1989. California BIDs are also subject to other laws designed to ensure approval by business owners paying the assessment and accountability by the managing body to those business owners.

TBIDs are formed by a majority of assessed businesses consenting and with local government's approval. Funds raised through TBIDs are returned to a non-profit corporation which is under contract with the local government to manage those funds. Several accountability mechanisms ensure funds are spent in accordance with a specifically defined Management District Plan that includes marketing and sales programs approved by the businesses paying into the MHTBID. Reasons for TBIDs' growing popularity among tourism-related businesses are:

- ☐ Funds cannot be spent on programs that do not benefit the businesses paying the assessment
- ☐ Funds cannot be diverted by local government for other programs
- ☐ The TBID's Owners Association (Visit Morgan Hill) Board of Directors approves the expenditure and use of the funds

Establishing the proposed MHTBID will help fund and attract sports/recreation events that are designed to increase overnight visitation and room night sales to assessed lodging businesses. Because MHTBID programs are designed to increase visitation to the City, there may be an increase in transient occupancy tax and sales tax collections. In preparation for the creation of a MHTBID, the City contracted with Civitas Advisors, Inc. (Civitas), one of the leading entities assisting with creation of Tourism Business Improvement Districts in California.

Management District Plan

A Management District Plan (Plan) identifies the proposed MHTBID's boundary, budget, services, and governance. Below is a summary of the parameters of the proposed MHTBID's Plan:

- ☐ **Boundary:** All lodging businesses located within the boundaries of the City of Morgan Hill.
- ☐ **Term:** Five (5)-year assessment beginning January 1, 2019 through December 31, 2023, with an annual 30-day period of protest for termination by assessed businesses.
- ☐ **Budget:** Annual assessment rate of 1.5% (on top of the existing 10% TOT) of gross short-term room rental revenue producing an annual budget of

approximately \$410,000.

- **Mission:** Marketing and sales promotions as well as sports facility improvements/programs designed to market the area as a tourism and event destination and increase room night sales at assessed lodging businesses.
- **Governance:** A new non-profit corporation, Visit Morgan Hill, is proposed to be formed to serve as the “Owner’s Association” charged with management of funds and implementation of the MHTBID Management District Plan. An annual report is required to be provided to the City Council within 90 days of the anniversary of the effective date of the MHTBID assessment (January 1).

The proposed MHTBID Management District Plan proposes most of the funds (70%) be allocated to Sales and Marketing, 15% to Administration and Operations, 11% to Sports Facility Management, 2% to City (as a service fee for administering and collecting the MHTBID assessment) and 2% for Contingency/Reserve.

The City Council has the right, pursuant to Streets and Highway Code §36651, to identify the body that shall implement the proposed program (Owner’s Association).

Owners’ Association Makeup (Visit Morgan Hill Board of Directors):

Per the City Council’s request at the July 18, 2018 meeting, the composition of the Owner’s Association has been modified to increase community participation. The proposed make-up of the Owner’s Association Board of Directors includes four (4) lodging representatives, two (2) City of Morgan Hill representatives and three (3) community representatives that represent areas associated with wineries, tourism and sports recreation as further described below:

- Four (4) Directors shall be owners or approved managers of lodging businesses paying the MHTBID assessment; and
- Two (2) Directors shall be City of Morgan Hill staff members representing Community Services and Economic Development, and shall be appointed by the Morgan Hill City Council; and
- One (1) Director shall represent a winery located in the Morgan Hill region, be in good standing with the Wineries Association of Santa Clara County; and
- One (1) Director shall be a representative of an entity associated with Sports Recreation Tourism actively involved in Morgan Hill; and
- One (1) Director shall be a representative of the community at large with an interest in tourism.

Owner Association Appointment:

Staff recommends that the two (2) representatives from the City of Morgan Hill consist of an individual from the Economic Development Division as well as an individual from the Community Services Department. This will allow better alignment and efficiency with the City’s marketing and promotion efforts as well as management of the sports recreation facilities. It is recommended that the City Council appoint the Public Services Director and the Economic Development Director.

The hotel group will work with their membership to identify their four (4) representatives.

The remaining directors will ultimately be appointed by the Visit Morgan Hill Board of Directors. The City can in collaboration with the hotel group solicit interests that represent the following three (3) categories:

Wine Tourism—This representative would be from an established or fulltime winery located within the Morgan Hill region. The winery should be a member in good standing with the Wineries Association of Santa Clara County.

Sports Recreation—This representative would be associated with an organization or a company that supports sporting events that attract people to Morgan Hill. Representatives could include people associated with the management of the Outdoor Sports Center, sporting events such as the Morgan Hill Marathon or companies like Specialized Bicycles.

Tourism –This representative would represent an organization or a business that supports tourism efforts in the area. This could be a representative from the Chamber of Commerce, the Downtown Association, the Restaurant Group (or a restaurant), or any other business or organization involved in the performance arts or hospitality industry that is in Morgan Hill or supports tourism-related efforts in Morgan Hill.

MHTBID steering committee will solicit interest from the community and review prospective candidates for the Visit Morgan Hill Board of Directors in late December. The Owner's Association would be a private entity, separate from the City of Morgan Hill. Elections to the Owner's Association Board of Directors (except the City of Morgan Hill representatives) will be conducted by the collective vote of the entire nine (9) - member Visit Morgan Hill Board of Directors. The City Council can make recommendations for these seats as they become available.

Oversight

The Owner's Association is required to present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650, within ninety (90) days of the MHTBID's anniversary (January 1). The annual report shall include:

- ☐ Any proposed changes to the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- ☐ The improvements and activities to be provided for that fiscal year.
- ☐ An estimate of the cost of providing the improvements and the activities for that fiscal year.
- ☐ The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- ☐ The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

If the City Council is agreeable to the proposed MHTBID's Plan and its make-up, a petition of support of the District to the Hotel Owners will be circulated immediately. It is expected that the Resolution of Intention to form the MHTBID would be brought forward on November 28, 2018 with a final public hearing in December 2018 or the first meeting in January 2019. Funds can be collected 30 days after the final public hearing date.

The MHTBID is expected to generate \$410,000 annually. City Council will need to enter into a contract with the Owner's Association and through this contract the City can stipulate the repayment of the commitments made by the lodging businesses, including repayment of the costs associated with the creation of the MHTBID (\$45,000) and 50% of the 2018 Amgen Tour of California expenses (\$27,500).

COMMUNITY ENGAGEMENT: Inform

Staff met on several occasions with hotel representatives, as well as, representatives from the Morgan Hill Chamber of Commerce related to the MHTBID.

ALTERNATIVE ACTIONS:

The City Council could decide to not move forward with the establishment of a MHTBID.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On February 7, 2018, received an update on the Economic Blueprint activities, which highlighted a general consensus between the lodging operators and Morgan Hill around the need and desire to create a TBID/Destination management organization. Staff contracted with Civitas, leading consulting firm for implementing TBID. Council directed staff to pursue a community survey on Revenue measures for November 2018 ballot.

On April 18, 2018, Council received community survey results from Godbe Research, regarding the revenue measures of Cannabis and TOT.

On July 18, 2018, City Council approved placing the transient occupancy tax increase of 1% on the November 2018 ballot, and directed staff to continue steps to establish a TBID. Since then, the City staff has worked with Civitas and hotel representatives to develop and fine tune the Management Plan being presented today.

FISCAL AND RESOURCE IMPACT:

The costs to establish the MHTBID are included in the FY 2018-19 General Fund budget.

If the City approves the creation of a MHTBID with a 1.5%, gross short-term room rental assessment rate, the MHTBID is estimated to generate \$410,000 annually. These funds could only be used for tourism promotions and be managed by the private non-profit corporation (Owner's Association). The City will retain a fee equal to two percent (2%) of the amount of assessment collected to cover its costs of collection and

administration.

In the first year, the City expects reimbursement of \$27,500 for the Amgen Tour of California related expenses, and \$45,000 for the costs associated with the creation of the MHTBID.

CEQA (California Environmental Quality Act):

Not a Project - Pursuant to CEQA, organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment and are therefore exempt activities.

LINKS/ATTACHMENTS:

1. TBID District Management Plan

2018-2023



MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

*Prepared pursuant to the Property and Business Improvement District Law of
1994, Streets and Highways Code section 36600 et seq.*

October 30, 2018

Packet Pg. 236

CONTENTS

I.	OVERVIEW	2
II.	BACKGROUND	3
III.	BOUNDARY	4
IV.	BUDGET AND SERVICES.....	5
A.	Annual Service Plan.....	5
B.	Annual Budget	7
C.	California Constitutional Compliance	7
D.	Assessment.....	8
E.	Penalties and Interest	9
F.	Time and Manner for Collecting Assessments	9
V.	GOVERNANCE.....	11
A.	Owners' Association	11
B.	Brown Act and California Public Records Act Compliance	11
C.	Annual Report.....	11
	APPENDIX 1 – LAW.....	13
	APPENDIX 2 – ASSESSED BUSINESSES	24

Prepared by
Civitas



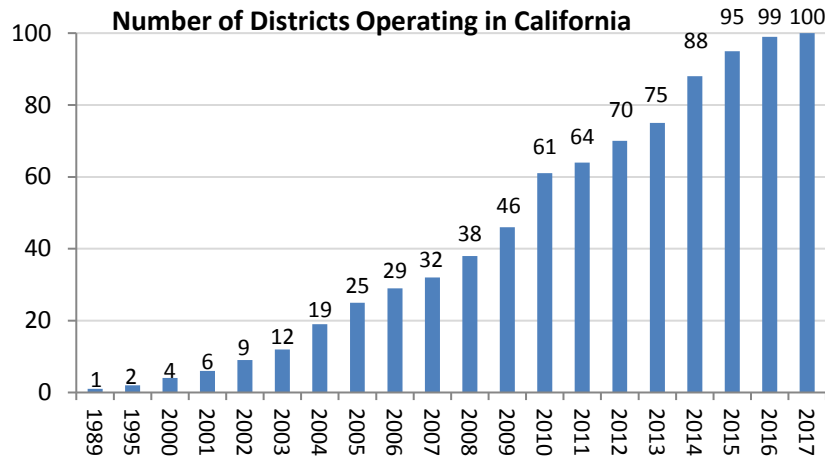
I. OVERVIEW

Developed by City of Morgan Hill (the City) and Morgan Hill lodging businesses, the Morgan Hill Tourism Business Improvement District (MHTBID) is an assessment district proposed to provide specific benefits to payors, by funding marketing and sales promotion and sports facility management programs for assessed businesses. This approach has been used successfully in other destination areas throughout the country to provide the benefit of additional room night sales directly to payors. The City and the Morgan Hill lodging businesses desire to enhance tourism activities in Morgan Hill. The vision of marketing and promoting the area is to be increasing and improving room night demand and demand generators that will collectively ‘grow the pie.’

- Location:** The proposed MHTBID includes all lodging businesses located within the boundaries of City of Morgan Hill, as shown on the map in Section III.
- Services:** The MHTBID is designed to provide specific benefits directly to payors by increasing room night sales. Marketing and sales promotions and sports facility management programs will increase overnight tourism and market payors as tourist, meeting and event destinations, thereby increasing room night sales.
- Budget:** The total MHTBID annual budget for the initial year of its five (5) year operation is anticipated to be approximately \$410,000.
- Cost:** The annual assessment rate is one and a one-half of one percent (1.5%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; and stays pursuant to contracts executed prior to December 31, 2018.
- Collection:** The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business located in the boundaries of the MHTBID. The City shall take all reasonable efforts to collect the assessments from each lodging business.
- Duration:** The proposed MHTBID will have a five (5) year life, beginning January 1, 2019 through December 31, 2023. Pursuant to Streets and Highways Code §36670, once per year, beginning on the anniversary of MHTBID formation, there is a thirty (30) day period in which owners paying fifty percent (50%) or more of the assessment may protest and initiate a City Council hearing on MHTBID termination.
- Management:** Visit Morgan Hill (VMH) will serve as the MHTBID’s Owners’ Association. The Owners’ Association is charged with managing funds and implementing programs in accordance with this Plan and must provide annual reports to the City Council within ninety (90) days of the MHTBID’s anniversary (January 1).

II. BACKGROUND

Tourism Business Improvement Districts (TBIDs) are an evolution of the traditional Business Improvement District (BID). The first TBID was formed in West Hollywood, California in 1989. Since then, over 100 California destinations have followed suit. In recent years, other states have begun adopting the California model – Montana, South Dakota, Washington, Colorado, Texas and Louisiana have adopted TBID laws. Several other states are in the process of adopting their own legislation. The cities of Wichita, Kansas and Newark, New Jersey used an existing business improvement district law to form a TBID. And, some cities, like Portland, Oregon and Memphis, Tennessee have utilized their home rule powers to create TBIDs without a state law.



California's TBIDs collectively raise over \$250 million annually for local destination marketing. With competitors raising their budgets, and increasing rivalry for visitor dollars, it is important that Morgan Hill lodging businesses invest in stable, lodging-specific marketing programs.

TBIDs utilize the efficiencies of private sector operation in the market-based promotion of tourism districts. TBIDs allow lodging business owners to organize their efforts to increase room night sales. Lodging business owners within the TBID pay an assessment and those funds are used to provide services that increase room night sales.

In California, TBIDs are formed pursuant to the Property and Business Improvement District Law of 1994. This law allows for the creation of a benefit assessment district to raise funds within a specific geographic area. *The key difference between TBIDs and other benefit assessment districts is that funds raised are returned to the private non-profit corporation governing the district.*

There are many benefits to TBIDs:

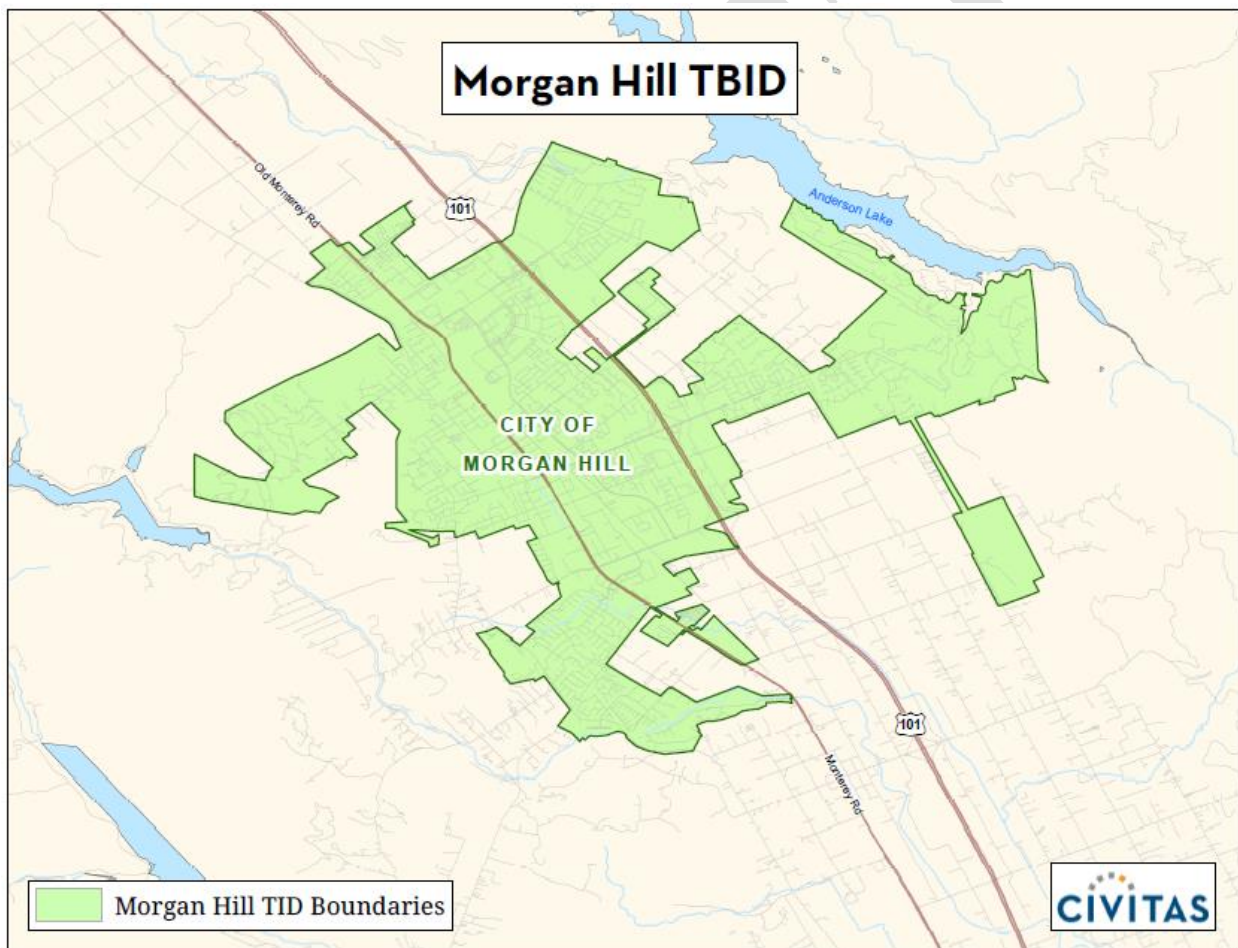
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, created and governed by those who will pay*** the assessment; and
- They provide a stable, long-term funding source for tourism promotion.

III. BOUNDARY

The MHTBID will include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of City of Morgan Hill.

Lodging business means: any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transient for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, dormitory, public or private club, recreational vehicle park, mobile home or house trailer at a fixed location located outside a mobile home park and not occupied by employees, operator or owner of said mobile home park, or other similar structure or portion thereof.

The boundary, as shown in the map below, currently includes eighteen (18) lodging businesses. A complete listing of lodging businesses within the proposed MHTBID can be found in Appendix 2.

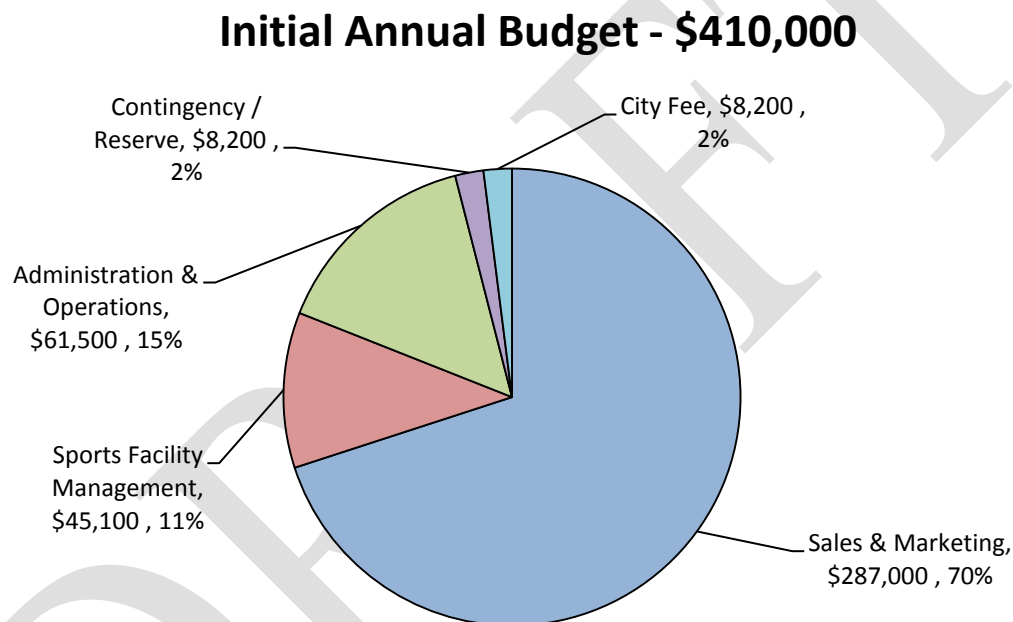


IV. BUDGET AND SERVICES

A. Annual Service Plan

Assessment funds will be spent to provide specific benefits conferred or privileges granted directly to the payors that are not provided to those not charged, and which do not exceed the reasonable cost to the City of conferring the benefits or granting the privileges. The privileges and services provided with the MHTBID funds are sales and marketing and sports facility management programs available only to assessed businesses.

A service plan budget has been developed to deliver services that benefit the assessed businesses. A detailed annual budget will be developed and approved by the Owner's Association, Visit Morgan Hill, Board (VMH). The table below illustrates the initial annual budget allocations. The total initial budget is \$410,000.



Although actual revenues will fluctuate due to market conditions, the proportional allocations of the budget shall remain the same. However, the City and the VMH Board shall have the authority to adjust budget allocations between the categories by no more than fifteen percent (15%) of the total budget per year. A description of the proposed improvements and activities for the initial year of operation is below. The same activities are proposed for subsequent years. In the event of a legal challenge against the MHTBID, any and all assessment funds may be used for the costs of defending the MHTBID. In the first year of operation, the costs of creating the MHTBID may be repaid by deducting repayment funds proportionally from budget categories.

Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the sales and marketing budget includes the cost of staff time dedicated to overseeing and implementing the sales and marketing program. Staff time dedicated purely to administrative tasks is allocated to the administrative portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the services below will be determined by the VMH Board on an as-needed basis.

Sales and Marketing

A sales and marketing program will promote assessed businesses as tourist, meeting, and event destinations. The sales and marketing program will have a central theme of promoting Morgan Hill as a desirable place for overnight visits. The program will have the goal of increasing overnight visitation and room night sales at assessed businesses, and may include the following activities:

- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation and room sales to assessed businesses;
- Print ads in magazines and newspapers, television ads, and radio ads targeted at potential visitors to drive overnight visitation and room sales to assessed businesses;
- Regional tourism promotion and marketing to benefit assessed businesses;
- Attendance of trade shows to promote assessed businesses;
- Sales blitzes for assessed businesses;
- Familiarization tours of assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, flyers and maps featuring assessed businesses;
- Owners' Association/Visit Morgan Hill staff attendance of professional industry conferences and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists and group events to assessed businesses;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses; and
- Development and maintenance of a website designed to promote assessed businesses.

Sports Promotion, Facilities and Management

The sports promotion, facilities and management portion of the budget shall be utilized for the promotion and improvement of sports facilities, related to the sales and marketing of hotels in the MHTBID to increase the desirability of the City as a place for overnight visits for sports opportunities in Morgan Hill, and may include the following activities:

- Sports marketing and promotion designed to increase overnight visitation and room night sales at assessed businesses;
- Financial incentives to maintain, and attract new sporting events that have a significant impact on lodging business room night generation;
- Improvements to existing sports facilities utilized by overnight visitors designed to create a visitor experience that will bring repeat visits to assessed businesses.

Sports promotion, facilities and management funds shall not be used for ongoing maintenance and operations costs of existing and new sports facilities.

Administration and Operations

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, and other general administrative costs such as insurance, legal, and accounting fees.

City Administration Fee

The City of Morgan Hill shall be paid a fee equal to two percent (2%) of the amount of assessment collected to cover its costs of collection and administration.

Contingency/Reserve

The budget includes a contingency line item to account for uncollected assessments, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program, administration or renewal costs at the discretion of the VMH Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the VMH Board. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the VMH Board. The reserve fund may be used for the costs of renewing the MHTBID.

B. Annual Budget

The total five (5) year improvement and service plan budget is projected at approximately \$410,000 annually, or \$2,050,000 through 2023. This amount may fluctuate as sales and revenue increase and decrease at assessed businesses, but is not expected to change significantly over the term.

C. California Constitutional Compliance

The MHTBID assessment is not a property-based assessment subject to the requirements of Proposition 218. Courts have found Proposition 218 limited the term ‘assessments’ to levies on real property.¹ Rather, the MHTBID assessment is a business-based assessment and is subject to Proposition 26. Pursuant to Proposition 26 all levies are a tax unless they fit one of seven exceptions. Two of these exceptions apply to the MHTBID, a “specific benefit” and a “specific government service.” Both require that the costs of benefits or services do not exceed the reasonable costs to the City of conferring the benefits or providing the services.

1. Specific Benefit

Proposition 26 requires that assessment funds be expended on, “a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”² The services in this Management District Plan (Plan) are designed to provide targeted benefits directly to assessed businesses, and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the MHTBID. The activities described in this Plan are specifically targeted to increase room night sales for assessed lodging businesses within the boundaries of the MHTBID, and are narrowly tailored. MHTBID funds will be used exclusively to provide the specific benefit of increased room night sales directly to the assesseees. Assessment funds shall not be used to feature non-assessed lodging businesses in MHTBID programs, or to directly generate sales for non-assessed businesses. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed businesses.

The assessment imposed by this MHTBID is for a specific benefit conferred directly to the payors that is not provided to those not charged. The specific benefit conferred directly to the payors is an increase in room night sales. The specific benefit of an increase in room night sales for assessed lodging businesses will be provided only to lodging businesses paying the district assessment, with marketing and sales and sports facility management programs promoting lodging businesses paying the MHTBID assessment. The marketing and sales and sports facility management programs will be designed to increase room night sales at each assessed lodging businesses. Because they are necessary to provide the marketing and sales and sports facility management programs that specifically benefit

¹ *Jarvis v. the City of San Diego* 72 Cal App. 4th 230

² Cal. Const. art XIII C § 1(e)(1)

the assessed lodging businesses, the administration and contingency services also provide the specific benefit of increased room night sales to the assessed lodging businesses.

Although the MHTBID, in providing specific benefits to payors, may produce incidental benefits to non-paying businesses, the incidental benefit does not preclude the services from being considered a specific benefit. The legislature has found that, “A specific benefit is not excluded from classification as a ‘specific benefit’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific benefit to the payor.”³

2. Specific Government Service

The assessment may also be utilized to provide, “a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.”⁴ The legislature has recognized that marketing and promotions services like those to be provided by the MHTBID are government services within the meaning of Proposition 26⁵. Further, the legislature has determined that “a specific government service is not excluded from classification as a ‘specific government service’ merely because an indirect benefit to a nonpayor occurs incidentally and without cost to the payor as a consequence of providing the specific government service to the payor.”⁶

3. Reasonable Cost

MHTBID services will be implemented carefully to ensure they do not exceed the reasonable cost of such services. The full amount assessed will be used to provide the services described herein. Funds will be managed by the VMH, and reports submitted on an annual basis to the City within ninety (90) days of the MHTBID’s anniversary (January 1). Only assessed lodging businesses will be featured in marketing materials, receive sales leads generated from MHTBID-funded activities, be featured in advertising campaigns, and benefit from other MHTBID-funded services. Non-assessed lodging businesses will not receive these, nor any other, MHTBID-funded services and benefits.

The MHTBID-funded programs are all targeted directly at and feature only assessed businesses. It is, however, possible that there will be a spill over benefit to non-assessed businesses. If non-assessed lodging businesses receive incremental room nights, that portion of the promotion or program generating those room nights shall be paid with non-MHTBID funds. MHTBID funds shall only be spent to benefit the assessed businesses and shall not be spent on that portion of any program which directly generates incidental room nights for non-assessed businesses.

D. Assessment

The annual assessment rate is one and a one-half of one percent (1.5%) of gross short-term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than thirty (30) consecutive days; stays by any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; and stays pursuant to contracts executed prior to December 31, 2018.

The term “gross room rental revenue” as used herein means: the consideration charged, whether or not received, for the occupancy of space in a lodging business valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits and property, and services of

³ Government Code § 53758(a)

⁴ Cal. Const. art XIII C § 1(e)(2)

⁵ Government Code § 53758(b)

⁶ Government Code § 53758(b)

any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. The assessment shall be disclosed as the “MHTBID Assessment.” The assessment is imposed solely upon and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purposes, including calculation of transient occupancy taxes.

Bonds shall not be issued.

E. Penalties and Interest

The MHTBID shall reimburse the City of Morgan Hill for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent MHTBID assessment are sought to be recovered in the same collection action by the City, the MHTBID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. *Original Delinquency:* Any lodging business that fails to remit any assessment imposed within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment.
2. *Continued Delinquency:* Any lodging business that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the amount of the assessment in addition to the amount of the assessment and the ten percent (10%) penalty first imposed.
3. *Fraud:* If the City determines that the nonpayment of any remittance due is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in paragraphs in 1 and 2 of this subsection E.
4. *Interest:* In addition to the penalties imposed, any lodging business who fails to remit any assessment imposed shall pay interest at the rate of one-half of one percent (0.5%) or fraction thereof on the amount the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

F. Audits

The City may audit those records kept by the lodging business at any time upon reasonable notice to the lodging business. If the audit reveals an underpayment of assessments in excess of ten percent (10%) of the total amount owed to the City for any consecutive three (3) month period during the audit period, the lodging business shall pay the City’s actual costs to perform the audit as well as the full amounts, plus penalties and interest of assessment, that the audit reveals should have been remitted to the City.

G. Time and Manner for Collecting Assessments

The MHTBID assessment will be implemented beginning January 1, 2019 and will continue for five (5) years through December 31, 2023. The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The

City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to the Owners' Association, Visit Morgan Hill.

H. Disestablishment

Pursuant to Streets and Highways Code §36670, the MHTBID may be disestablished by resolution of the Morgan Hill City Council if there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the MHTBID and either of the following two (2) circumstances exist.

1. *Misappropriation of Funds, Malfeasance, or Violation of Law*

If the Morgan Hill City Council finds that there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the MHTBID, it shall notice a hearing on disestablishment.

2. *Petition by Assessed Lodging Businesses*

During the operation of the MHTBID, there shall be a thirty (30) day period each year in which assessed lodging businesses may request disestablishment of the MHTBID. The first such period shall begin one (1) year after the date of establishment of the MHTBID (January 1, 2020) and shall continue for thirty (30) days. The next such thirty (30) days period shall begin two (2) years after the date of the establishment of the MHTBID (January 1, 2021) and shall continue for thirty (30) days. Each successive year of operation of the MHTBID shall have such a thirty (30) day period.

Upon the written petition of the owners or authorized representatives of assessed lodging businesses who pay fifty percent (50%) or more of the MHTBID assessments levied, the Morgan Hill City Council shall pass a resolution of intention to disestablish the MHTBID.

If either of the two (2) circumstances detailed above exist, pursuant to Streets and Highways Code §36670(b), the Morgan Hill City Council shall adopt a resolution of intention to disestablish the MHTBID prior to holding a public hearing on disestablishment. The resolution of intention shall state the reason for the disestablishment, the time and place of the public hearing, and a proposal to dispose of any assets acquired with the MHTBID assessment revenues. Notice of the public hearing on disestablishment of the MHTBID shall be given by mail to the owner of each assessed lodging business within the MHTBID. The Morgan Hill City Council shall conduct the public hearing not less than thirty (30) days after the notice is mailed. The public hearing shall be held not more than sixty (60) days after the adoption of the resolution of intention to disestablish the MHTBID.

V. GOVERNANCE

A. Owners' Association

The City Council, through adoption of this Management District Plan, has the right, pursuant to Streets and Highways Code §36651, to identify the body that shall implement the proposed program, which shall be the Owners' Association of the MHTBID as defined in Streets and Highways Code §36612. The City Council has determined that Visit Morgan Hill (VMH) will serve as the Owners' Association for the MHTBID.

The VMH Board shall be comprised of at least nine (9) directors. Among the minimum nine (9) directors:

- Four (4) directors shall be owners or approved managers of lodging businesses paying the MHTBID assessment; and
- Two (2) directors shall be City of Morgan Hill staff members representing Community Services and Economic Development and shall be appointed by the Morgan Hill City Council; and
- One (1) director shall represent a winery located in the Morgan Hill region, be in good standing with the Wineries Association of Santa Clara County; and
- One (1) director shall be a representative of an entity associated with sports recreation tourism involved in Morgan Hill; and
- One (1) director shall be a representative of the community at large with an interest in tourism.

B. Brown Act and California Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association acts as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the VMH Board and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association, Visit Morgan Hill, is also subject to the record keeping and disclosure requirements of the California Public Records Act. Accordingly, the Owners' Association, Visit Morgan Hill, shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

C. Annual Report

The VMH Board shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1) within ninety (90) days of the MHTBID's anniversary (January 1). The annual report shall include:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district.
- The improvements and activities to be provided for that fiscal year.
- An estimate of the cost of providing the improvements and the activities for that fiscal year.
- The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

DRAFT

APPENDIX 1 – LAW

*** THIS DOCUMENT IS CURRENT THROUGH THE 2018 SUPPLEMENT ***
(ALL 2017 LEGISLATION)

STREETS AND HIGHWAYS CODE DIVISION 18. PARKING PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

- (a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.
- (b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.
- (c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.
- (d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.
- (e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:
 - (1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.
 - (2) Job creation.
 - (3) Business attraction.
 - (4) Business retention.
 - (5) Economic growth.
 - (6) New investments.
- (f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.
- (g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.
- (h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.
 - (1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.
 - (2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed. Therefore, for special benefits to exist as a separate and distinct category from general benefits, the

incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. “Activities”

“Activities” means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. “Assessment”

“Assessment” means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

“Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law**36617. Alternate method of financing certain improvements and activities; Effect on other provisions**

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment**36620. Establishment of property and business improvement district**

A property and business improvement district may be established as provided in this chapter.

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board

of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
 - (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

- (e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.
- (f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.
- (g) The time and manner of collecting the assessments.
- (h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.
- (i) The proposed time for implementation and completion of the management district plan.
- (j) Any proposed rules and regulations to be applicable to the district.
- (k)
 - (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.
 - (2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.
- (l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.
- (m) In a property-based district, the total amount of general benefits, if any.
- (n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.
- (o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

- (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.
- (b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay

50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

(1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.

(2) The number, date of adoption, and title of the resolution of intention.

(3) The time and place where the public hearing was held concerning the establishment of the district.

(4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.

(5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.

(6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.

(7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36626. Resolution establishing district

If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36624, or has made changes that do not substantially change the proposed assessment, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in Section 36625.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments**36631. Time and manner of collection of assessments; Delinquent payments**

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

- (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may

classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Modification of plan by resolution after public hearing; Adoption of resolution of intention

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

- (1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.
- (2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500))

or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

- (a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.
- (b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.
- (c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

- (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:
 - (1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.
 - (2) During the operation of the district, there shall be a 30-day period each year in which assesseses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.
- (b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

- (a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.
- (b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 2 – ASSESSED BUSINESSES

Business Name	Business Address	City, State, ZIP
Budget Inn	19240 Monterey Rd.	Morgan Hill, CA 95037
Comfort Inn	16225 Condit Rd.	Morgan Hill, CA 95037
Courtyard	18610 Madrone Pkwy.	Morgan Hill, CA 95037
Economy Inn	15080 Monterey Rd.	Morgan Hill, CA 95037
Executive Inn	16505 Condit Rd.	Morgan Hill, CA 95037
Extended Stay America	605 Jarvis Rd.	Morgan Hill, CA 95037
Hampton Inn Morgan Hill	16115 Condit Rd.	Morgan Hill, CA 95037
Holiday Inn Express	17035 Condit Rd.	Morgan Hill, CA 95037
Holiday Motel	16210 Monterey Rd.	Morgan Hill, CA 95037
Granada Hotel*	17440 Monterey Rd.	Morgan Hill, CA 95037
La Quinta	17043 Condit Rd.	Morgan Hill, CA 95037
Maple Leaf RV Park	15200 Monterey Rd.	Morgan Hill, CA 95037
Microtel Inn and Suites	16245 Condit Rd.	Morgan Hill, CA 95037
Morgan Hill Inn	16250 Monterey Rd.	Morgan Hill, CA 95037
Paradise Motel	16310 Monterey Rd.	Morgan Hill, CA 95037
California Inn	16525 Condit Rd.	Morgan Hill, CA 95037
Rancho Motel	19040 Monterey Rd.	Morgan Hill, CA 95037
Residence Inn	18620 Madrone Pkwy.	Morgan Hill, CA 95037

*This business is not yet open.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

APPROVE AN IMPACT FEE FREEZE AGREEMENT WITH MORGAN HILL REAL ESTATE, LLC. FOR A NEW VEHICLE DEALERSHIP ON 6 ACRES LOCATED ON CONDIT ROAD IDENTIFIED BY ASSESSOR PARCEL NUMBER 728-17-034

RECOMMENDATION(S)

1. Approve an Impact Fee Freeze Agreement with Morgan Hill Real Estate, LLC. for the development of a 36,662 square foot new vehicle dealership located on Condit Road; and
2. Authorize the City Manager to execute the Impact Fee Freeze Agreement.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Economic Development and
Telecommunications
Financial Stewardship

GUIDING DOCUMENTS

Economic Blueprint

REPORT NARRATIVE:

In 2016, the City of Morgan Hill began conversations with Morgan Hill Real Estate LLC. about the possibility of a new Chrysler, Dodge, Jeep dealership in Morgan Hill. After conducting due diligence on the property adjacent to the Ford Store, Morgan Hill Real Estate LLC has received approval from Chrysler to move forward with a new dealership in Morgan Hill.

Morgan Hill Real Estate LLC. purchased six acres of land from South Valley Mushroom Farm (owned by Omura and Sons) to develop a Chrysler, Dodge and Jeep branded dealership. Morgan Hill Real Estate, LLC. has recently completed site and environmental review with the Planning Division and has submittal building plans to the City for the development of a 36,662 square foot dealership.

To create certainty for the operator/developer, staff is recommending the City Council approve a Fee Freeze Agreement to lock development impact fees for the construction of a new vehicle dealership on Condit Road. The Impact Fee Freeze Agreement will utilize the Fiscal Year (FY) 2016-17 development impact fee schedule through June 30, 2020. The developer will have until June 30, 2020 to apply for, and receive building permits, to benefit from the impact fee freeze. The estimated development impact fees

for the full development of the 6 acres, using the FY 2016-17 fee schedule, are \$804,200.

Impact Fee Freeze Program

A City commissioned study prepared by Strategic Economics compared development impact fees between the cities of San Jose, Morgan Hill and Gilroy using three sample prototype projects. The study analyzed a prototype for a hotel development, new automobile dealership and manufacturing/R&D development project. While impact fees are not directly comparable from city to city because each municipality is solving for different infrastructure needs, the results of the study found the City of Morgan Hill's development impacts fees were higher for both the advanced manufacturing/R&D development prototype and the automobile dealership project, making the City of Morgan Hill less competitive in two out of the three prototypes. The City of Morgan Hill's Auto Dealer Strategy, which provides a mechanism to offset impact fees through a sales tax rebate, does help make Morgan Hill more competitive than Gilroy and San Jose for automobile dealers.

To create consistency in the cost of development and to incentivize new commercial development, the City's Economic Blueprint adopted in 2017 recommended an Impact Fee Freeze Program to lock in fees to FY 2016-17 for a period of three years for new commercial/industrial development projects. On February 21, 2018, City Council amended the Development Impact Fee Freeze Program to require an Impact Fee Freeze Agreement instead of a Development Agreement, to lock impact fees.

Analysis

Once fully operational, it is estimated that the new dealership will generate approximately \$410,000 annually in direct on-going property tax (\$10,000), and sales tax (\$400,000) revenue to the City's General Fund. Additionally, staff estimates the City will receive a one-time construction benefit, in the form of sales tax, of \$18,000.

If the operator/developer applies for building permits before July 2019 (which is fully expected based upon current building application on file), the benefit received to the developer from the impact fee freeze is \$97,000. If the developer applies for building permits after July 2019, but before July 2020, the benefit of the impact freeze is estimated at \$134,000. The developer receives a greater benefit in reduced impact fees for each year the project is deferred, however it is very likely that the cost of construction will continue to escalate in the coming years and therefore continued delays on building permit issuance will likely cost the developer more than the savings received from impact fee freeze.

Impact Fee Benefit to Developer

Year		2018	2019*
Impact Fee Schedule	2016-17	2018-19	2019-20*
Impact Fee Estimate	\$804,000	\$901,000	\$938,000
Potential Savings to Development		(\$97,000)	(\$134,000)

*Estimated with an escalation of 4.1% per year

COMMUNITY ENGAGEMENT: Inform

Approving a Fee Freeze Agreement with Morgan Hill Real Estate, LLC is consistent with the Impact Fee Freeze Program and aligns with the Economic Blueprint Strategy #3 “Attract New Development”, Action #5, “Explore Incentive Programs to Attract Industry Specific Development.”

ALTERNATIVE ACTIONS:

The City of Morgan Hill could choose to not enter into a Fee Freeze Agreement with Morgan Hill Real Estate, LLC to freeze impact fees. This option allows the City to collect \$97,000 more in impact fees should the developer move forward with the development of the dealership.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 25, 2016, City Council approved an incentive agreement with Morgan Hill Real Estate, LLC consistent with the Auto Dealer Economic Development Strategy. The approved incentive agreement will rebate 50% of net sales tax received by the City to Morgan Hill Real Estate, LLC over an escalating benchmark for an amount not to exceed \$780,000 over 10 years, whichever occurs first.

On June 7, 2017 a Development Agreement with impact fee freeze was approved for DivcoWest to stimulate new commercial/industrial development for that specific property.

On June 21, 2017, City Council approved the Citywide Impact Fee Freeze Program establishing Fiscal Year 2016-17 Development Impact Fees as the basis for the three-year term for any new commercial/industrial development project that enters into a Development Agreement for an Impact Fee Freeze approved by City Council.

On February 21, 2018, City Council made a minor adjustment to the Impact Fee Freeze Program by changing the agreement structure to an Impact Fee Freeze Agreement from a Development Agreement.

FISCAL AND RESOURCE IMPACT:

The potential loss of impact fee revenue to the City from entering into this Impact Fee Freeze Agreement is expected to range between \$97,000 and \$134,000. On the opposite, the City expects to receive one-time construction benefit, in the form of sales tax of about \$18,000. Once fully built out and operational, the City will receive an ongoing benefit of approximately \$410,000 in direct property tax and sales tax to the City's General Fund (prior to the approved incentive agreement).

CEQA (California Environmental Quality Act):

An Environmental Impact Report (EIR) for the Morgan Hill 2035 Project, which included the General Plan Update, was prepared in accordance with the California

Environmental Quality Act (CEQA) and certified by the Morgan Hill City Council on July 27, 2016. Commercial and industrial development as discussed above is consistent with the general plan policies for which the EIR was certified. There is no substantial evidence that freezing impact fees will have a significant effect on the environment beyond that already analyzed in the certified EIR; therefore, no further environmental analysis is required.

Any project specific development that occurs in the future will undergo an independent analysis pursuant to the requirements of CEQA.

LINKS/ATTACHMENTS:

1. Impact Fee Freeze Agreement- Morgan Hill Real Estate LLC

IMPACT FEE FREEZE AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL REAL ESTATE, LLC

IMPACT FEE FREEZE AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND
MORGAN HILL REAL ESTATE, LLC

This Impact Fee Freeze Agreement (the "Agreement") is entered into as of _____, 2018, by and between Morgan Hill Real Estate LLC, a California limited liability Company (the "Developer") and the City of Morgan Hill, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), with reference to the following facts and purposes:

RECITALS

A. Pursuant to the authority of Morgan Hill Municipal Code Sections 3.56.095, 12.02.115, and Resolution Numbers 17-052 and 18-013, the City has established an Impact Fee Freeze Program (the "Program") to freeze Development Impact Fees to the Fiscal Year 2016-2017 Fee Schedule for new commercial/industrial construction.

B. Developer owns or leases certain real property in the City described in the attached Exhibit A (the "Subject Property") upon which improvements are to be made for a new or expanding industrial or commercial business (the "Project").

C. On _____, 2018, the City Council of the City granted a request of the Developer to be a Program participant with respect to locking in Development Impact Fees at the Fiscal Year 2016-2017 Impact Fee Schedule in the attached Exhibit B.

D. Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in annual changes to Development Impact Fees, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Impact Fee Program was adopted.

ARTICLE 1

ADMINISTRATION

1.01 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) **"Existing City Laws"** shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.

(2) **"Impact Fees"** shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 et seq.

(3) **"Legal Effect"** shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(4) **"New City Laws"** shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes **"Legal Effect"** after the Effective Date of this Agreement, and that applies City wide.

(5) **"Project Approvals"** mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.

(6) **"Property"** shall mean that certain real property consisting of approximately __ acres located within the City, as more particularly described and shown on *Exhibit A* to this Agreement.

(7) **"Subsequent Approvals" and "Subsequent Approval"** mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

1.02 **Term.**

The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated, modified or extended as provided in this Agreement) until the earliest of (1) the issuance of a certification of occupancy for the Project or (2) June 30, 2020.

ARTICLE 2

APPLICABLE LAW

2.01 Applicable Law—Generally.

(a) As used in this Agreement, "**Applicable Law**" shall mean all of the items listed below in this Section 2.01. The order of their importance is the order in which they are listed (with highest importance listed first, second most important listed second, etc.); in the event of a conflict between them, their order shall determine which one controls (the one listed higher controlling over the one listed lower):

(1) All the provisions, terms and conditions of this Agreement.

(2) The Existing Approvals. Developer hereby waives any legal or equitable right to challenge administratively or judicially any Existing Approvals including conditions of those Existing Approvals. Such waiver includes any requirements for notice, acts of protest and/or right to litigation pursuant to the Mitigation Fee Act and/or any other applicable law.

(3) The Subsequent Approvals, provided such Subsequent Approvals are:

- (i) In compliance with all controlling California law;
- (ii) Mutually agreed to by the Parties; and
- (iii) Duly enacted by City.

(4) The "Existing City Laws" that are not in conflict with this Agreement and the Project Approvals.

(5) Any "New City Laws" Developer is subject to under this Agreement; for example, as provided in, but not limited to, Section 2.05. Additionally, any New City Laws to which Developer elects to be subject pursuant to Section 2.05(d).

(b) The Parties acknowledge that the Subsequent Approvals may be processed in stages and therefore one or more Subsequent Approvals may be adopted and approved before other Subsequent Approvals needed for development of the Project are adopted and approved by City.

(c) The Parties shall cooperatively assemble all of the necessary documents to memorialize, to the best of their abilities, the Project Approvals, Existing City Laws, and the terms and conditions contained in this Agreement to assist Developer to maintain the documents assembled and to provide a continuing reference source for the approvals granted and the ordinances, policies and regulations in effect on the Effective Date of this Agreement.

2.02 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Project (and the Developer who is the owner of same). Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. As part of the Project's sole and exclusive obligation (and the Developer's as the owner of same) to cover Project Mitigation, Developer shall pay all Impact Fees as described in Exhibit B at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code.

(c) Processing Fees. The Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, environmental studies required under CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Project (including Developer as owner of same). Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus

ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.03 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.04 Timing of Development.

Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes, as these exist on the Effective Date. In the event Developer fails to comply with the above permit issuance and beginning construction by June 30, 2020 the Impact Fee Freeze Program under Resolution 17-052 shall expire.

2.05 New City Laws.

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals and the Subsequent Approvals (as and when they are issued);

(5) Limit the processing of Subsequent Approvals.

(c) If City determines that it has the right under this Agreement to impose/apply a New City Law on the Property/Project, it shall send written notice to Developer of that City determination ("**Notice of New City Law**"). Upon receipt of the Notice of New City Law, if Developer believes that such New City Law is in conflict with this Agreement, Developer may send written notice to the City of the alleged conflict within thirty (30) days of receipt of City's Notice of New Law ("**Objection to New City Law**"). Developer's Objection to New City Law shall set forth the factual and legal reasons why Developer believes City cannot apply the New City Law to the Property/Project. City shall respond to Developer's Objection to New City Law ("**City Response**") within thirty (30) days of receipt of said Developer Objection to New City Law. The City Response shall set forth the factual and legal reasons why City believes it can apply the New City Law to the Project. Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Developer's receipt of the City Response (the "**Meet and Confer Period**") with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Developer of that City determination. If City determines to "impose/apply" the New City Law to the Project, then Developer shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Developer's right to judicial review of the New City Law shall commence upon Developer's receipt of City's determination following the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law (at the highest judicial level sought and granted), the reviewing court determines that Developer is not subject to the New City Law, such New City Law shall cease to be a part of the Applicable Law, and City shall return Developer to the position Developer was in prior to City's application of such New City Law (e.g., City return fees, return dedications, etc.). The above-described procedure shall not be construed to interfere with City's right to adopt or apply the New City Law with regard to all other areas of City (excluding the Project).

(d) Developer in its sole and absolute discretion may elect to have applied to the Project a New City Law that is not otherwise a part of the Applicable Law, subject to the limitations set forth in this subdivision (d). In the event Developer so elects to be subject to a New City Law that is not otherwise a part of the Applicable Law, Developer shall provide notice to City of that election and thereafter such New City Law shall be part of the Applicable Law. In no event shall any New City Law become part of the Applicable Law if it would relieve

Developer from, or impede Developer's compliance with, Developer's obligations under this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level) ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute concerning property located in a flood hazard zone (Gov. Code § 65865.5), or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(f) In the event that an administrative challenge and/or legal challenge (as appropriate) to a Mandated New City Laws preventing compliance with this Agreement is brought and is successful in having the Mandated New City Law determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

ARTICLE 3

PROCESSING

3.01 Processing.

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, this Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later included into this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by City, which shall retain all lawful discretion in this regard. That public review process is ongoing, and following the City's adoption of this Agreement, that public review process shall continue. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law.

(b) Upon submission by Developer of any and all necessary and required applications for Subsequent Approvals and payment of any and all appropriate processing and other fees as provided in this Agreement, City shall use its best efforts to promptly commence and diligently complete all steps necessary to acting on the requested Subsequent Approvals, including, but not limited to, (i) the holding of any and all required public hearings and notice for such public hearings, and (ii) the granting of the requested approval to the extent that it is consistent with Applicable Law.

3.02 Significant Actions by Third Parties Necessary to Implement the Approvals.

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

(b) City shall cooperate with Developer in its endeavors to obtain any Other Permits and shall, from time to time, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency.

(c) In the event that any such Other Permit is not obtained from an Other Entity within the time permitted by law for such other entity to act and such circumstance materially deprives Developer of the ability to proceed with development of the Project or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of either party, Developer and City shall meet and confer with the objective of attempting to mutually agree on solutions that may include alternatives, Subsequent Approvals, or an amendment(s) to this Agreement to allow the development of the Project to proceed with each Party substantially realizing its bargained-for benefit therefrom.

3.03 Administrative Amendments.

(a) Upon the written request of Developer for an amendment or modification of this Agreement or a Project Approval, the City Manager or her designee shall determine: (1) whether the requested amendment or modification is minor; and (2) whether the requested amendment or modification is consistent with this Agreement and the Applicable Law. If the City Manager or her designee finds that the proposed amendment or modification is both minor and consistent with this Agreement and the Applicable Law, and provided further that the Project and the Developer are otherwise in compliance with all agreements and approvals related to the project, the City Manager or her designee may approve the proposed amendment or modification without notice. Such minor amendments or modifications approved pursuant to this Section shall not constitute subsequent discretionary approvals triggering further CEQA review. Any minor amendment must be made in writing signed by the City Manager (and approved by the City Attorney) of the City and by the Developer.

(b) For the purpose of this Agreement, a "minor amendment" shall not include any of the following:

- (i) Any material amendment or modification, or elimination of provisions required pursuant to the Morgan Hill Municipal Code or by California law, including provisions relating to: (1) the duration or term of this Agreement, (2) the permitted uses of the subject property, (3) the density or intensity of uses, (4) the maximum height and size of proposed buildings, (5) provisions for reservation or dedication of land for public purposes, (6) general

location of the uses or proposed buildings or (7) the relation of the project to adjacent properties; or

- (ii) Any material amendment or modification, or elimination of provisions set forth in Article 2 of this Agreement.

3.04 Amendments.

Any request by Developer for an amendment or modification to this Agreement or a Project Approval that is determined to be not minor by the City Manager or her designee shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification request is approved.

ARTICLE 4

DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

4.01 Resolution of Disputes.

(a) In the event either Party is in default under the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

(c) The Parties agree to meet and confer regarding any dispute, in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.02 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war,

insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.03 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review under CEQA ("**Third Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this

Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.04 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate.**" A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.04(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.06 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.02, or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first.

ARTICLE 5

GENERAL PROVISIONS

5.01 Miscellaneous.

(d) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(e) Requirements of Development Agreement Statute. The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project.

(f) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(g) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(h) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the Project. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City.

(i) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this

Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(j) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City: City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To: City Attorney
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

If to Developer: Morgan Hill Real Estate, LLC
6520 Centennial Center Blvd
Las Vegas, NV 89149

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(k) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

(l) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(m) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties.

(n) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute

this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(o) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(p) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lot on Which Project is to be Located.

Exhibit B 2016/2017 Impact Fee Schedule

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

CITY OF MORGAN HILL:

s/ _____

Christina J. Turner
City Manager

Date: _____

Attest:

s/ _____

Deputy City Clerk

Approved as to Form:

s/ _____

Donald A. Larkin
City Attorney
Date: _____

DEVELOPER:

Morgan Hill Real Estate, LLC

s/ _____

Joshua Towbin
Managing Member
*Corporate entities must provide a
second signature:*

s/ _____

Name/Title [print]

Date: _____

**LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED**

Real property in the City of Morgan Hill, County of Santa Clara, State of California, and is described as follows:

All that certain real property situated in the City of Morgan Hill, County of Santa Clara, State of California being Parcel A as said parcel is shown upon Certificate of Compliance for Lot Line Adjustment, recorded on June 22, 2018 as Document No. 23962623 at the Office of the Recorder of Santa Clara County.

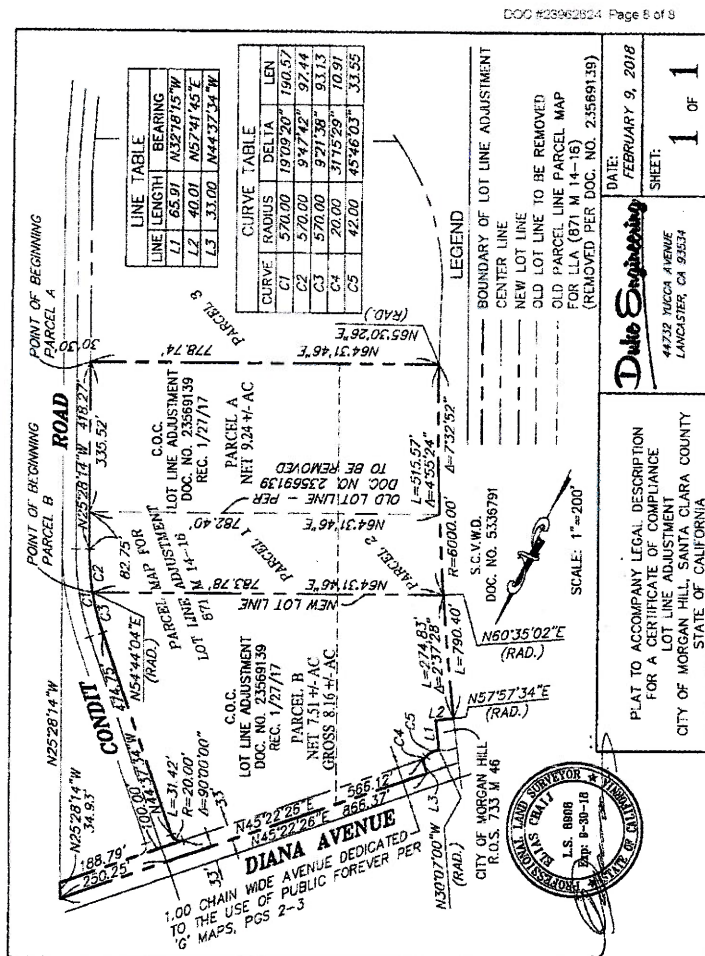
**APN 728-17-034**

EXHIBIT B

EXHIBIT B

2016-2017 Impact Fee Schedule

EXHIBIT B

-2-



CITY OF MORGAN HILL PUBLIC WORKS DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 - Office (408)778-6480 Fax (408)779-7236

FEE SCHEDULE: 07.01.2016		
DATE _____	PER RESOLUTION 5902, EFFECTIVE JULY 1, 2006 AND PER RESOLUTION 5592, INCREASED JANUARY 15, 2009 AND PER RESOLUTION 6082, EFFECTIVE FEBRUARY 5, 2007 **SEE BACK PAGE FOR ADDITIONAL FEE RESOLUTIONS	NAME _____
TRACT / APN _____		MAILING ADDRESS _____
ADDRESS / LOT _____		CITY, STATE, ZIP CODE _____
Auto Dealership		
PROJECT DESCRIPTION _____	FEE SCHEDULE EXPIRATION DATE _____	PHONE NUMBER _____

NOTES:

1. PRESSURE REGULATORS ARE REQUIRED ON ALL WATER SERVICES.
2. BACKFLOW PREVENTORS ARE REQUIRED ON ALL NON-RESIDENTIAL WATER SERVICES & FIRE SPRINKLER SERVICES. BACKFLOW INSPECTION FEE SHALL BE PAID PRIOR TO INSPECTION.
3. **MULTI-FAMILY** IS DEFINED AS ANY UNIT WITH TWO BEDROOMS OR LESS.
SINGLE FAMILY IS DEFINED AS ANY UNIT WITH 3 BEDROOMS OR MORE.

☐ **THIS FEE SCHEDULE IS ESTIMATE ONLY**

CALCULATED BY

CHECKED BY

BUILDING PERMIT #

DATE BLD PERMIT ISSUED

SEWER IMPACT FEES WITHIN RDA BOUNDARY

CHECK APPLICABLE SCENARIO BELOW

☐ **COMMERCIAL OR INDUSTRIAL WITHIN RDA BOUNDARY**

SEWER IMPACT FOR COMMERCIAL & INDUSTRIAL PROJECTS
 TEMPORARILY ADJUSTED TO \$0 EFFECTIVE 02/05/07 PER RES# 6082.

☐ **RESIDENTIAL PROJECTS WITHIN RDCA DOWNTOWN AREA**

SEWER IMPACT FOR SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL
 TEMPORARILY ADJUSTED TO \$0 EFFECTIVE 02/05/07.

☐ **NOT IN RDA AREA BOUNDARY**

** BOTH NORMAL FEES AND ADJUSTED FEES ARE SUBJECT
 TO ANNUAL CPI INCREASES.

☐ **COMMERCIAL OR INDUSTRIAL SHELL**

**RDA SEWER ALLOCATION
 COMPLETED BY:**
 (write Initials below)

version 07.01.16 Auto Dealership

WATER FEES:

1. METER DEPOSIT: 650-37672				
(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)				
1"	\$468	x	0	= \$0
1 1/2"	\$1,434	x	0	= \$0
2"	\$1,619	x	0	= \$0
3" or larger-Time & Material + Meter Cost				= \$0
METER CREDITS				
\$0 x		0		= \$0
SUBTOTAL =				\$0
2. BACKFLOW CONST. INSPECTION: 650-37859				
(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)				
\$62	x	0	Each	= \$0
3. WATER FRONTAGE CHARGE: 650-37663				
(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)				
1 Side	\$66	x	0 LF	= \$0
2 Sides	\$37	x	0 LF	= \$0
4. WATER IMPACT FEE: 651-37648				
(Auth: Res. #5592 approved 08.21.02, Increased 01.15.16)				
a) Residential				
\$3,624 /DU	x	0	DU	= \$0
(Single Family)				
\$3,269 /DU	x	0	DU	= \$0
(Multi Family)				
b) Auto Dealership				
(Includes Landscape Service)				
\$10,288 /AC	x	0	AC	= \$0
WATER CREDITS				
\$0 x		0		= \$0
SUBTOTAL =				\$0
WATER FEE TOTALS =				\$0
5. ENGINEERING & INSPECTION FEE: 206-38734				
(Minimum \$500.00):				
(Authority: Res. #5902 approved 05.04.05, Updated 07.01.09)				
ENGINEERING ESTIMATE:				\$0
DATE ENGINEERING EST. SUBMITTED:				
% APPLIES TO ENGINEER'S ESTIMATE				
13.3%	\$1	to	\$100,000	= \$0
11.8%	\$100,001	to	\$200,000	= \$0
10.3%	\$200,001	to	\$500,000	= \$0
8.8%	OVER		\$500,000	= \$0
ENGINEERING FEE				= \$0
DEPOSIT PAID				= \$0
ENGINEERING FEE TOTAL =				\$0
5A. LONG RANGE PLANNING FEE: 207-37912				
LONG RANGE PLANNING FEE (15% of E&I) =				\$0

SEWER FEES:

6. SEWER FRONTAGE CHARGE: 640-37663				
(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)				
1 Side	\$66	/LF x	0 LF	= \$0
2 Sides	\$37	/LF x	0 LF	= \$0
7. SEWER IMPACT FEE: 641-37648				
(Auth: Res. #6082 approved 02.05.07 & Res. #5592 approved 08.21.02, Increased 01.15.16)				
a) Residential				
\$14,183 /DU	x	0	DU	= \$0
(Single Family)				
\$12,004 /DU	x	0	DU	= \$0
(Multi Family)				
b) Auto Dealership				
\$48.56 /GPD	x	0	GPD	= \$0
\$48.56 /GPD	x	0	GPD	= \$0
SEWER CREDITS				
\$0 x		0		= \$0
RDA ASSUMED SEWER OBLIGATION				
\$14,183 /DU	x	0	DU	= \$0
(Single Family)				
\$12,004 /DU	x	0	DU	= \$0
(Multi Family)				
\$48.56 /GPD	x	0	GPD	= \$0
(Commercial & Industrial)				
SUBTOTAL =				\$0
SEWER FEE TOTALS =				\$0
STORM DRAIN FEES:				
8. STORM DRAIN FRONTAGE CHARGE: 304-37663				
(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)				
1 Side	\$108	/LF x	0 LF	= \$0
2 Sides	\$53	/LF x	0 LF	= \$0
9. STORM DRAIN IMPACT FEE: 303-37648				
(Auth: Res. #5592 approved 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.16)				
\$3,847 /DU	x	0	DU	= \$0
(Single Family)				
\$2,001 /DU	x	0	DU	= \$0
(Multi Family)				
\$52,373 /ACRE	x	0	AC	= \$0
(Auto Dealership)				
\$30,505 /ACRE	x	0	AC	= \$0
(Industrial)				
STORM CREDITS				
\$0 x		0		= \$0
SUBTOTAL =				\$0
STORM DRAIN FEE TOTALS =				\$0

10. UNDERGROUNDING UTILITIES: 350-37649

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1 Side	\$681	x	0	LF	=	\$0
2 Sides	\$343	x	0	LF	=	\$0

11a. PARK IMPACT FEE: 301-37648

(Auth: Res. #5592 appr'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$5,378 /DU	x	0	DU	=	\$0
(Single Family - Sub)					
\$3,910 /DU	x	0	DU	=	\$0
(Single Family - No Sub)					
\$5,181 /DU	x	0	DU	=	\$0
(Multi Family - Sub)					
\$3,771 /DU	x	0	DU	=	\$0
(Multi Family - No Sub)					

11b. PARK MAINTENANCE DEV. FEE: 302-37649

\$0	x	0	EAC	=	\$0
-----	---	---	-----	---	-----

PARK CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

PARK FEE TOTAL = \$0**12. TRAFFIC IMPACT FEE: 309-37648**

(Auth: Res. #15-152 approved 06.17.15 & Res. #5592 approved 08.21.02, Increased 01.15.16).

\$1,863 /DU	x	0	DU	=	\$0
(Single Family)					
\$1,155 /DU	x	0	DU	=	\$0
(Multi Family)					
\$1,863 /PHT	x	0	PHT	=	\$0
(Auto Dealership)					
\$1,863 /PHT	x	0	PHT	=	\$0
(Industrial)					

TRAFFIC CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

TRAFFIC FEE TOTAL = \$0**13. LIBRARY IMPACT FEE: 348-37648**

(Auth: Res. #5837 appr'd 09.01.04, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$1,974 /DU	x	0	DU	=	\$0
(Single Family)					
\$1,902 /DU	x	0	DU	=	\$0
(Multi Family)					

LIBRARY CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

LIBRARY FEE TOTAL = \$0**14. BURROWING OWL MITIGATION: 232-38145**

(Authority: Res. #5765 approved 01.21.04, Increased 07.01.16)

\$200 /DU		0	DU	=	\$0
(Residential)					
\$1,395 /IAC		0	AC	=	\$0
(Commercial/Industrial)					

15a. MAP CHECK FEE: 206-38716

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

PARCEL MAP:	\$3,805	=	\$0
TRACT MAP:	\$5,667	=	\$0

16. POLICE IMPACT FEE: 311-37648

(Auth: Res. #5686 appr'd 06.18.03, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$767 /DU	x	0	DU	=	\$0
(Single Family)					
\$741 /DU	x	0	DU	=	\$0
(Multi Family)					
\$664 /ACRE	x	0	AC	=	\$0
(Auto Dealership)					
\$2,333 /ACRE	x	0	AC	=	\$0
(Industrial)					

POLICE CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

POLICE FEE TOTAL = \$0**17. FIRE IMPACT FEE: 313-37648**

(Auth: Res. #6671 approved 07.17.13, Increased 01.15.16)

\$118 /DU	x	0	DU	=	\$0
(Single Family)					
\$112 /DU	x	0	DU	=	\$0
(Multi Family)					
\$507 /ACRE	x	0	AC	=	\$0
(Auto Dealership)					
\$1,550 /ACRE	x	0	AC	=	\$0
(Industrial)					

FIRE CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

FIRE FEE TOTAL = \$0**18. PUBLIC FACILITIES IMPACT FEE: 347-37648**

(Auth: Res. #5592 appr'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$512 /DU	x	0	DU	=	\$0
(Single Family)					
\$493 /DU	x	0	DU	=	\$0
(Multi Family)					
\$452 /ACRE	x	0	AC	=	\$0
(Auto Dealership)					
\$1,579 /ACRE	x	0	AC	=	\$0
(Industrial)					

PUBLIC FACILITIES CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

PUBLIC FACILITIES FEE TOTAL = \$0**20. COMMNTY/REC CTRS IMPACT FEE: 360-37648**

(Auth: Res. #15-152 appr'd 8.17.15, increased 01.15.16)

\$3,663 /DU	x	0	DU	=	\$0
(Single Family)					
\$3,213 /DU	x	0	DU	=	\$0
(Multi Family)					

PUBLIC FACILITIES CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

PUBLIC FACILITIES FEE TOTAL = \$0



CITY COUNCIL STAFF REPORT

MEETING DATE: November 7, 2018

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

ADOPT COUNCIL POLICY ON PERIODIC REPORTING OF CITY MANAGER CONTRACT AUTHORITY

RECOMMENDATION(S)

Adopt Council Policy requiring periodic reporting of City Manager contract authority.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Financial Stewardship

POLICY CONSIDERATION:

Should the City Council adopt a formal policy requiring City staff to provide a periodic report to the City Council summarizing the contracts entered into that do not require prior City Council approval in excess of \$25,000?

REPORT NARRATIVE:

At the October 3, 2018 meeting, City Council approved amendments to the Morgan Hill Municipal Code amending Section 2.08.040 of Chapter 2.08 (City Manager) of Title 2 and Chapter 3.04 of Title 3 related to the purchasing of goods and services, which were adopted at the October 17, 2018 meeting. With these amendments, the City Manager's contract authority was increased from \$45,000 to the amount authorized to be performed by the employees of a public agency for public projects per the State of California's Uniform Public Construction Cost Accounting Act (CUPCCAA). The Council also directed staff to come back with a policy requiring periodic reporting on the contracts approved under the CUPCCAA.

Staff has drafted for consideration a policy which would require City staff to provide a periodic report summarizing the agreements or contracts entered into that do not require prior City Council approval in excess of \$25,000, the previously established City Manager's contract authority from 2015

After review of the internal processes, staff has determined that no existing reporting mechanism exists which would easily provide the required information. If adopted, a new mechanism would be instated to track the information, and the reporting would be incorporated with the quarterly financial reports.

The report would include the following information:

- Date of execution
- Name of entity/person
- General description of agreement
- Dollar amount

COMMUNITY ENGAGEMENT: Inform

If adopted, a periodic report would be made available for the City Council and the community, summarizing the agreements or contracts entered into that did not require prior City Council approval in excess of \$25,000.

ALTERNATIVE ACTIONS:

1. Council could elect to amend the intervals of reporting from quarterly to monthly, semiannually, or annually;
2. Council could direct staff to report on contracts at an amount less, or more, than \$25,000; OR
3. Council could elect not to adopt the policy.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

While there is no direct dollar impact of this action, there is an impact to the staff resources required to instate and maintain such a report. This activity will be absorbed by the Council Services and Records Management Division and Finance Division, as part of their annual workplans.

CEQA (California Environmental Quality Act):

Not a Project. This item is an administrative activity, adopting a policy, which does not result in a change to the physical environment.

LINKS/ATTACHMENTS:

1. Council Policy on CM Authority Reporting

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-18-05

SUBJECT: REPORT ON DELEGATION OF AUTHORITY TO CITY MANAGER

EFFECTIVE DATE: NOVEMBER 24, 2018

ORIGINATING DEPARTMENT: ADMINISTRATIVE SERVICES

Background

The primary purpose of this policy is to establish periodic reporting to the City Council summarizing the agreements entered into by the City Manager, pursuant to Powers and Duties delegated under section 2.08.040. "Powers and Duties" of Title 2 "Administration and Personnel," of the Morgan Hill Municipal Code.

Policy

1. Applicability

The reporting provisions of this policy apply to the execution of written contracts, agreements, letters of intent or similar memoranda of understanding made or entered into by City where City Council has previously made sufficient appropriation thereof, and the total amount to be expended by City under such contract or other written instrument is greater than \$25,000 and up to the amount authorized to be performed by the employees of a public agency for public projects per the State of California's Uniform Public Construction Cost Accounting Act.

2. Reporting

The Administrative Services Department shall submit a quarterly report to the City Council summarizing the agreements or contracts entered into that do not require prior City Council approval in excess of \$25,000. The report, at the minimum, shall include the following information:

- Date of execution
- Name of entity/person
- General description of agreement
- Dollar amount

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

APPROVED:

STEVE TATE, MAYOR



Morgan Hill City Council Meeting

November 7, 2018

Item #10

Amgen TOC 2019 Presentation

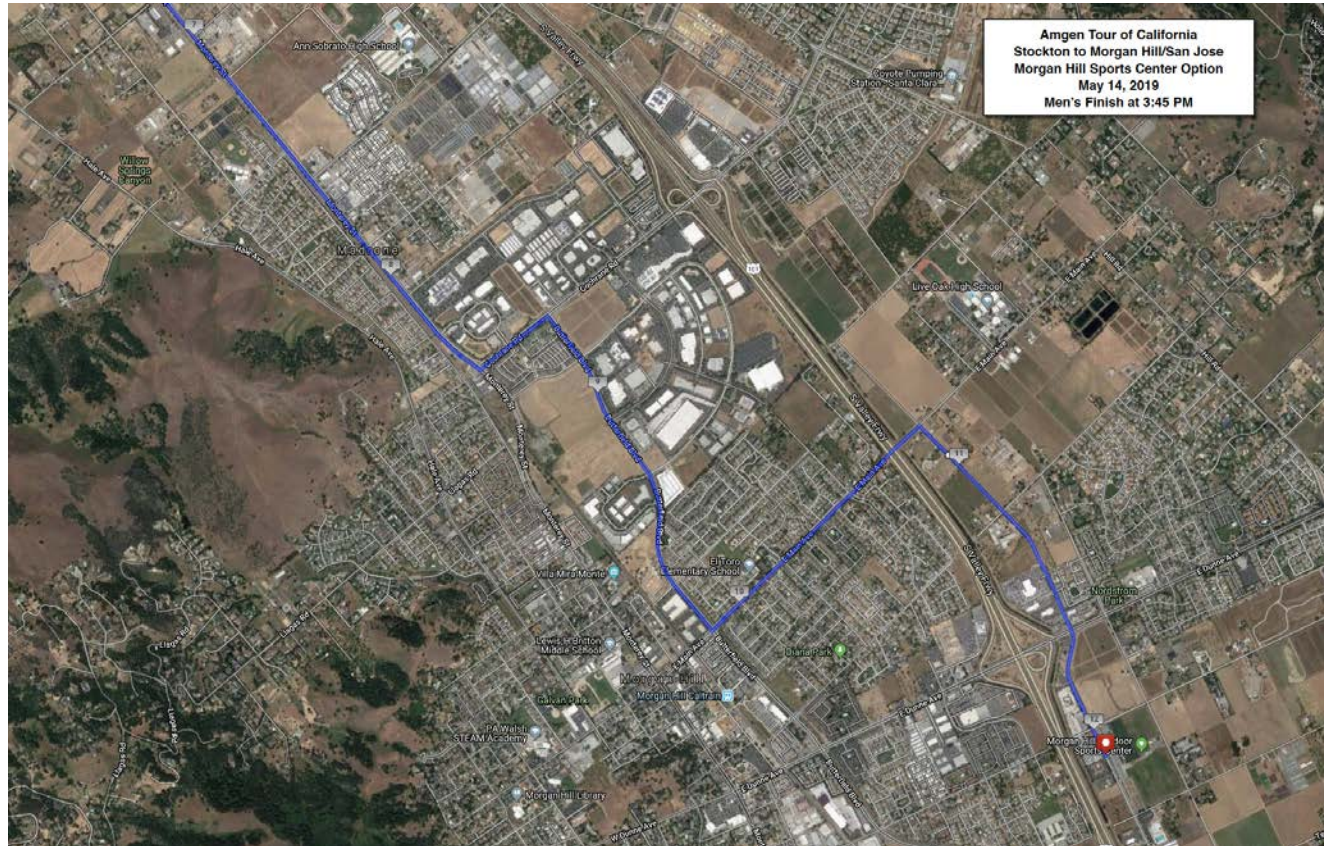
AMGEN TOC 2019

- May 14, 2019
- Stage 3 Finish
- Stockton to Morgan Hill
- Morgan Hill Only!
- Cost to City: \$55,000

AMGEN TOC 2018 ECONOMIC IMPACT

- Conservatively: \$128,000
- \$86,000 from TOT Increase
- Additional \$11,000 local vendor spending
- Limited Downtown Impact

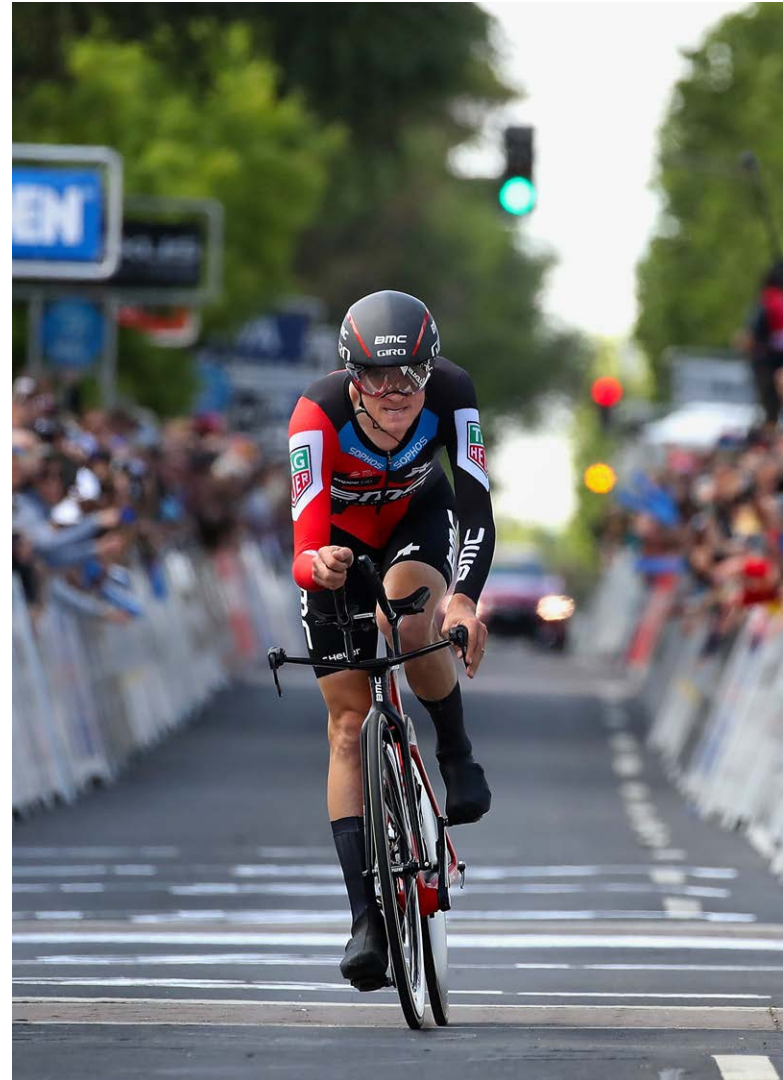
PROPOSED ROUTE



FINISH & LIFESTYLE FESTIVAL



QUESTIONS & COMMENTS



Item # 10

AGENDA DATE: 11/07/18
SUPPLEMENT # 1

From: Michael Sampognaro <michael@morganhillcellars.com>
Sent: Tuesday, November 6, 2018 2:30 PM
To: Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>
Subject: Re: Amgen TOC 2019!!! Join us Wednesday at 7 PM

Edith,

Sorry I can not attend the Council meeting.
Please use my comment as you see fit.

As a local winery owner, founding president of the Wineries of Santa Clara Valley and current Board of directors member, and member of the Morgan Hill Tourism Alliance.
I encourage the City Council of Morgan Hill to approve the 2019 Amgen TOC event.

mike

Michael Sampognaro
Morgan Hill Cellars / Pedrizzetti Winery
1645 San Pedro Avenue
Morgan Hill, Ca 95037



www.morganhillcellars.com



November 7, 2018

Morgan Hill City Council
17555 Peak Ave.
Morgan Hill, CA 95037

Item # 10
AGENDA DATE: 11/07/18
SUPPLEMENT # 2

Dear Morgan Hill City Council,

We are very excited that Morgan Hill is being considered for the finish of Stage 3 of the 2019 Amgen Tour of California and we encourage the Morgan Hill City Council to approve the necessary funding to make this happen.

The 2018 Amgen Tour of California, Stage 5, was an amazing opportunity to spotlight Morgan Hill as the vibrant, energetic city that it is. The stage was very well attended and brought a lot of new people to our little city. The event was exceedingly well run, and followed up by many positive comments throughout the community.

While our business is all about bicycles, it is also all about community. Last year's event inspired a month of healthy lifestyle-themed events and programs to Morgan Hill, and brought many groups together to make them happen. All the staff at Bike Therapy really enjoyed being part of this event last year and loved the opportunity to help create and promote "Morgan Hill Bike Week", a week-long celebration of cycling in Morgan Hill. Besides the Amgen Tour of California kick-off concert with Specialized Bicycles, the Mother's Day Bike Ride and Pancake Breakfast with Mayor Tate, we had new Bike Therapy T-shirts made especially for the event to further promote Morgan Hill. And Morgan Hill's first ever Morgan Hill Bike Party continued bi-monthly all summer into fall, and will start again in the spring!

We are lucky enough to be in one of the best cycling towns in California and hosting this amazing cycling event further cements Morgan Hill as a cycling destination. Not only will hosting the 2019 Amgen Tour of California have a direct positive economic impact for Morgan Hill businesses, as it did in 2018, but it will solidify Morgan Hill's place on the world cycling stage with possibly the best demographics of viewers imaginable.

We truly hope that you approve the necessary funding to allow Morgan Hill to host this event in 2019. There are not many better opportunities to promote our wonderful town.

Regards,

Doug and Jodi Hall
Owners, Bike Therapy



Item 11
Handout
from Public

Honorable Steve Tate, Mayor of Morgan Hill
Honorable City Council Members, City of Morgan Hill

Re: Hotel Created TBID

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.

Board Composition

We are willing to support along with the majority of hotels the board makeup as discussed in the formation meeting with our hotel partners, the planning commission and Civitas. Our hotel will support the following board composition and included member seat:

The VMH Board shall be comprised of at least nine (9) directors. Among the minimum nine (9) directors:

- Four (4) directors shall be owners or approved managers of lodging businesses paying the MHTBID assessment; and
- Two (2) directors shall be City of Morgan Hill staff members representing Community Services and Economic Development and shall be appointed by the Morgan Hill City Council; and
- One (1) director shall represent a winery located in the Morgan Hill region, be in good standing with the Wineries Association of Santa Clara County; and
- One (1) director shall be a representative of an entity associated with sports recreation tourism involved in Morgan Hill; and
- One (1) director shall be a representative of the community at large with an interest in tourism.

We will support the staff recommendations with the understanding as provided by Civitas that the board creation will be overseen through them and that the TBID board founding creation will be implemented for all remaining positions through our mutual agreement with the four largest contributing hotels and the two city representatives to include the three remaining positions as outlined above.

It has taken a long journey to get us all to a point to come together to help find solutions to improve the tourism foundations our community has been growing for some time and we believe now is the moment to act to complete this process and not further delay the successes and opportunities this will bring.

Yours in creating inspirational travels,

Michael Meredith
Hampton Inn Morgan Hill
Excel Hotel Group

A large, stylized handwritten signature in black ink, appearing to read "Michael Meredith", written over a horizontal line.



Morgan Hill City Council Meeting
November 18, 2018

Item #11

TBID Presentation

TBID

- 1.5% TBID
- Projected Revenue \$410,000
- 5 Years
- Updated DMP

Board Makeup:

- o 4 Hotel Seats
- o 2 City Seats
- o 3 Community Seats

Questions?





Item # 11

**AGENDA DATE: 11/07/18
SUPPLEMENT # 1**

November 6, 2018

Dear Mayor and Members of City Council,

I am writing to express my support for the formation of the Tourism Business Improvement District (TBID), and express my gratitude for the support of the City of Morgan Hill. This has been in the works for many months, and I am glad to know that we are finally able to move this forward.

As I have said previously in Council Chambers, I am confident that this program is going to benefit all of Morgan Hill tourism. There is tremendous opportunity to more effectively market the many features of this community that visitors can enjoy, and develop a comprehensive outreach and messaging effort which can allow all of Morgan Hill to participate.

Morgan Hill City staff, Civitas and representatives from hotels, Chamber of Commerce and other tourism facing industries have worked hard on the Management District Plan which will serve to outline how best to deploy the TBID efforts. I look forward to being an active participant in this program, and hope to have the support of the City Council.

Many Thanks,

Andrew Firestone
La Quinta Inn and Suites

November 3, 2018

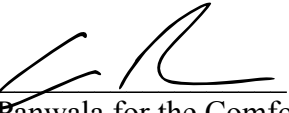
To: City Council of Morgan Hill

The hoteliers met with the City Staff this week to discuss board management plan for the Morgan Hill Tourism District. It is our collective concern that with only four hotel board members that smaller motels/hotels will have no representation on the board despite the fact that they are also paying the assessment. It has been discussed that the larger hotels (Marriot, La Quinta, Holiday Inn Express and Hampton Inn) will each have a representative on the board. Our primary concern is that our assessments should also benefit the smaller motels, especially those on old Monterey Road corridor. Of the hotels/motels with less than sixty rooms, we are the only ones who are willing to support the TBID, but our support is contingent upon having a seat at the table.

We ask you to approve a management plan that provides five seats to the hotels so that a representative of the one of the smaller hotels will have voting rights on the nine-member board.



Asit Panwala for the Budget Inn



Asit Panwala for the Comfort Inn

Hasmukh Panchal for Economy Inn



Samina Sharp for the Morgan Hill Inn

Ramesh Mistry for Holiday Motel

November 3, 2018

To: City Council of Morgan Hill

The hoteliers met with the City Staff this week to discuss board management plan for the Morgan Hill Tourism District. It is our collective concern that with only four hotel board members that smaller motels/hotels will have no representation on the board despite the fact that they are also paying the assessment. It has been discussed that the larger hotels (Marriot, La Quinta, Holiday Inn Express and Hampton Inn) will each have a representative on the board. Our primary concern is that our assessments should also benefit the smaller motels, especially those on old Monterey Road corridor. Of the hotels/motels with less than sixty rooms, we are the only ones who are willing to support the TBID, but our support is contingent upon having a seat at the table.

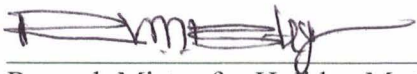
We ask you to approve a management plan that provides five seats to the hotels so that a representative of the one of the smaller hotels will have voting rights on the nine-member board.

Asit Panwala for the Budget Inn

Asit Panwala for the Comfort Inn

Hasmukh Panchal for Economy Inn

Samina Patel for the Morgan Hill Inn



Ramesh Mistry for Holiday Motel

November 3, 2018

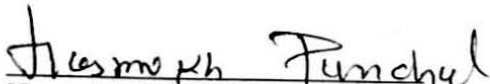
To: City Council of Morgan Hill

The hoteliers met with the City Staff this week to discuss board management plan for the Morgan Hill Tourism District. It is our collective concern that with only four hotel board members that smaller motels/hotels will have no representation on the board despite the fact that they are also paying the assessment. It has been discussed that the larger hotels (Marriot, La Quinta, Holiday Inn Express and Hampton Inn) will each have a representative on the board. Our primary concern is that our assessments should also benefit the smaller motels, especially those on old Monterey Road corridor. Of the hotels/motels with less than sixty rooms, we are the only ones who are willing to support the TBID, but our support is contingent upon having a seat at the table.

We ask you to approve a management plan that provides five seats to the hotels so that a representative of the one of the smaller hotels will have voting rights on the nine-member board.

Asit Panwala for the Budget Inn

Asit Panwala for the Comfort Inn


Hasmukh Panchal for Economy Inn

Samina Patel for the Morgan Hill Inn

Ramesh Mistry for Holiday Motel



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, November 7, 2018 5:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council is called at 5:00 p.m. for the purpose of conducting a closed session and commission interviews.

5:00 p.m. Closed Session

6:00 p.m. Commission Interviews

7:00 p.m. Regular Meeting

SPECIAL MEETING

5:00 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

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Pursuant to Government Code Section 54957.6

City Negotiators: Christina Turner City Manager; Cindy Murphy Assistant City Manager for Administrative Services; Michelle Katsuyoshi Human Resources Director; Edward Kreisberg, Meyers Nave; Jesse Lad, Meyers Nave

Employee Organization: Morgan Hill Police Officers Association
AFSCME Local 101
Morgan Hill Community Service Officers Association

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: Two (2)

RECONVENE

COMMISSION INTERVIEWS

INTERVIEWS TO FILL ONE (1) VACANCY ON THE PARKS AND RECREATION COMMISSION

Recommendation:

1. Discuss the characteristics/traits that a successful applicant would possess;
2. Conduct Interviews;
3. Council Members identify top applicant and provide recommendation to the Mayor; and
4. Discuss and/or appoint applicant.

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

Mayor Tate

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

Assistant City Attorney Cynthia Hasson

OTHER REPORTS

PRESENTATIONS

Silicon Valley Clean Energy
Girish Balachandran, Chief Executive Officer

PUBLIC COMMENT

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

ADOPTION OF AGENDA

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. APPROVE CITY SPONSORSHIP OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN'S "FUTURE WOMEN LEADERS CONFERENCE" AT THE COMMUNITY AND CULTURAL CENTER

Recommendation:

Authorize the City Manager to waive facility rental fees of \$1,890 for use of the Community and Cultural Center for the Morgan Hill Branch of the American Association of University Women's Future Women Leaders Conference on April 6, 2019.

2. FIRST AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH SALINAS PUMP COMPANY

Recommendation:

Approve and authorize the City Manager to execute an amendment for \$268,467 to increase the not to exceed amount to \$543,467, for the current service maintenance agreement with Salinas Pump for on-call routine and emergency repair, maintenance, and rehabilitation of the City's water wells and pump stations.

3. ADOPT BELOW MARKET RATE OWNERSHIP PROGRAM PARTICIPATION GUIDE AND A BELOW MARKET RATE PROGRAM APPLICATION GUIDE

Recommendation:

Adopt Below Market Rate Ownership Program Participation Guide and a Below Market Rate Program Application Guide.

4. ANNUAL REPORT ON CENTENNIAL RECREATION CENTER MEMBERSHIP

Recommendation:

Receive annual report on Centennial Recreation Center Membership and YMCA Partnership.

5. AUGUST 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

6. UPCOMING 2019 COMMISSION VACANCIES - PER MADDY ACT

Recommendation:

Accept report.

7. ADOPT ORDINANCE AMENDING TITLE 18, DIVISION I ZONING CODE, PART 2 ZONING DISTRICTS, CHAPTER 18.28 - OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS TO MODIFY THE USES ALLOWED IN THE SRL-B - SPORTS RECREATION AND LEISURE SUB-ZONE B ZONING DISTRICT, OF THE MORGAN HILL MUNICIPAL CODE

Recommendation:

Waive the reading, adopt Ordinance No. 2290, 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.

8. APPROVE THE OCTOBER 17, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

9. APPROVE THE OCTOBER 24, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

10. AUTHORIZE CITY MANAGER TO NEGOTIATE AN AGREEMENT TO HOST THE AMGEN TOUR OF CALIFORNIA 2019

Recommendation:

1. Approve the City acting as a host of the Amgen Tour of California Stage 3 Finish on May 14, 2019, provided special event plan is approved by the City Manager;
2. Direct the City Manager to negotiate and execute an agreement with AEG Cycling, LLC, to provide services and support for the Tour in an amount not to exceed \$55,000 to be funded by the General Fund; and
3. Adopt resolution to amend the City's Fiscal Year 2018-19 adopted budget, to appropriate \$55,000 from the General Fund (010) for this event.

Estimated Time: 20 Minutes

11. APPROVE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT PLAN

Recommendation:

1. Approve the Morgan Hill Tourism Business Improvement District (MHTBID) Management Plan; and
2. Direct staff to begin a MHTBID petition drive and return with a Resolution of Intention at the November 28, 2018 City Council meeting.

Estimated Time: 30 Minutes

12. APPROVE AN IMPACT FEE FREEZE AGREEMENT WITH MORGAN HILL REAL ESTATE, LLC. FOR A NEW VEHICLE DEALERSHIP ON 6 ACRES LOCATED ON CONDIT ROAD IDENTIFIED BY ASSESSOR PARCEL NUMBER 728-17-034

Recommendation:

1. Approve an Impact Fee Freeze Agreement with Morgan Hill Real Estate, LLC. for the development of a 36,662 square foot new vehicle dealership located on Condit Road; and
2. Authorize the City Manager to execute the Impact Fee Freeze Agreement.

Estimated Time: 15 Minutes

13. ADOPT COUNCIL POLICY ON PERIODIC REPORTING OF CITY MANAGER CONTRACT AUTHORITY

Recommendation:

Adopt Council Policy requiring periodic reporting of City Manager contract authority.

Estimated Time: 5 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.



Powering Morgan Hill with Carbon-Free Electricity

Girish Balachandran
CEO

November 7, 2018

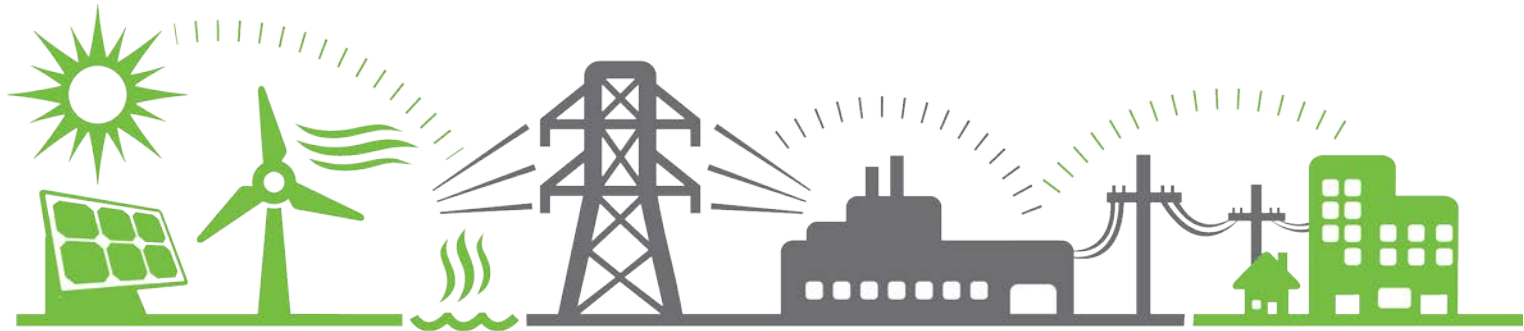


2017 – 2018 Achievements

- SVCE Overview
- Morgan Hill Customers
- GHG Savings
- Cost Savings
- SVCE Updates



How Does it Work?



SOURCE



SVCE

buying and
building energy
supplies

DELIVERY



PG&E

delivering energy,
repairing lines,
serving customers

CUSTOMER

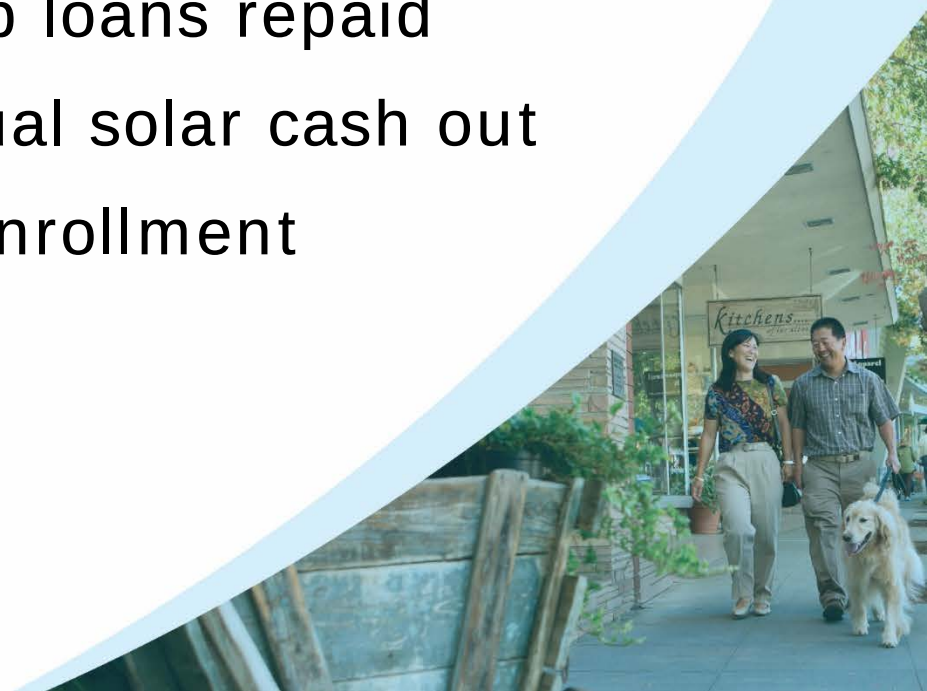


YOU

benefitting from
cleaner energy,
local control

Timeline

December 2015	Morgan Hill joins SVCE JPA
March 2016	JPA effective
April 2017	SVCE launch & Phase I enrollment
July 2017	Phase II enrollment
January 2018	All startup loans repaid
April 2018	First annual solar cash out
June 2018	Milpitas enrollment



Morgan Hill Customers

Customers

- **13,481** residential
- **2,027** commercial

Participation rate

- **97%** territory-wide



GHG Savings



Community-wide carbon emission reductions for Morgan Hill

- Oct. 2017 – Sept. 2018: **59.5 million pounds**

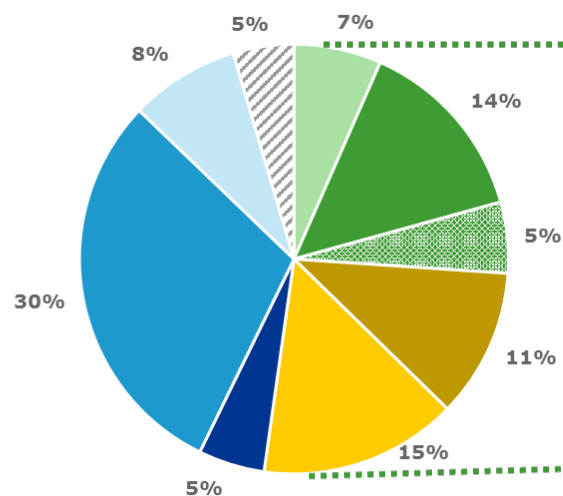


2018 SVCE territory-wide reductions for all 13 members

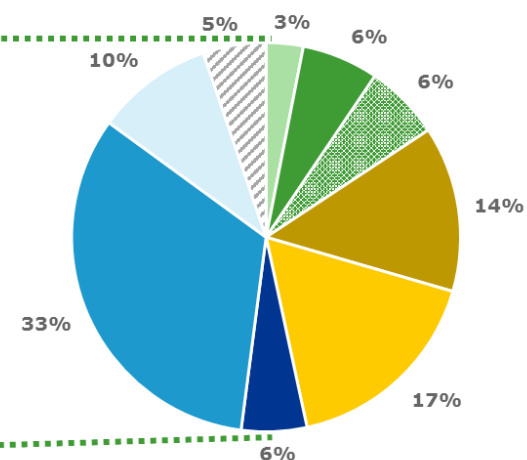
- 1.1 billion pounds

Total Emissions by Sector: 2015 vs. 2017

2015 Total Emissions by Subsector



2017 Total Emissions by Subsector



13% Overall Emissions Reduction

- Waste & Wastewater emissions not calculated. Estimated using typical per capita data for illustrative purposes.

Power Sources

- Annual Power Content Label for 2017 power mix mailed this fall
- SVCE procured 55% renewable, and carbon free for GreenStart
- Met our 100% renewable commitment for GreenPrime
- Supplies come from sources throughout the Western Grid.

2017 POWER CONTENT LABEL			
Silicon Valley Clean Energy			
ENERGY RESOURCES	GreenPrime	GreenStart	2017 CA Power Mix**
Eligible Renewable	100%	55%	29%
Biomass & biowaste	0%	6%	2%
Geothermal	0%	1%	4%
Eligible hydroelectric	0%	2%	3%
Solar	20%	10%	10%
Wind	80%	36%	10%
Coal	0%	0%	4%
Large Hydroelectric	0%	45%	15%
Natural Gas	0%	0%	34%
Nuclear	0%	0%	9%
Other	0%	0%	<1%
Unspecified sources of power*	0%	0%	9%
TOTAL	100%	100%	100%

* "Unspecified sources of power" means electricity from transactions that are not traceable to specific generation sources.

** Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the identified year.



Cost Savings

Sample Bill



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No: 1023456789-0
Statement Date: 03/07/2018
Due Date: 03/28/2018

Details of PG&E Electric Delivery Charges

01/30/2018 - 03/01/2018 (30 billing days)

Service For: 1234 MAIN STREET

Service Agreement ID: 5678910123

Rate Schedule: E1 X Residential Service

01/30/2018 - 03/01/2018

Your Tier Usage

1

2

Tier 1 Allowance	327.00000 kWh	(30 days x 10.9 kWh/day)	
Tier 1 Usage	327.00000 kWh	@ \$0.21169	\$69.22
Tier 2 Usage	187.00000 kWh	@ \$0.27993	\$52.35

Generation Credit	-55.41
-------------------	--------

Power Charge Indifference Adjustment	17.20
--------------------------------------	-------

Franchise Fee Surcharge	0.28
-------------------------	------

Sunnyvale Utility Users Tax (2.000%)	1.67
--------------------------------------	------

Total PG&E Electric Delivery Charges	\$85.31
---	----------------

2018 Vintaged Power Charge Indifference Adjustment

Service Information

Meter #	12345678910
Current Meter Reading	71,895
Prior Meter Reading	71,381
Total Usage	514.000000 kWh
Baseline Territory	X
Heat Source	Not Electric
Serial	G
Rotating Outage Block	50

Residential Rate Comparison

GreenStart	Opt Out	GreenPrime
50% RENEWABLE ENERGY	33% RENEWABLE ENERGY	100% RENEWABLE ENERGY
\$56.09 PG&E ELECTRIC DELIVERY	\$56.09 PG&E ELECTRIC DELIVERY	\$56.09 PG&E ELECTRIC DELIVERY
\$30.29 ELECTRIC GENERATION	\$48.51 ELECTRIC GENERATION	\$33.89 ELECTRIC GENERATION
\$15.30 PG&E ADDED FEES	\$0 PG&E ADDED FEES	\$15.30 PG&E ADDED FEES
\$101.68 AVERAGE TOTAL COST	\$104.60 AVERAGE TOTAL COST	\$105.28 AVERAGE TOTAL COST

Morgan Hill Savings



Customer on-bill savings

- Oct. 2017 – Sept. 2018: **\$895,000**



2018 SVCE territory-wide savings for all customers

- \$20 million



Solar cash out

- \$21,960 paid to 58 Morgan Hill solar customers





What's Next

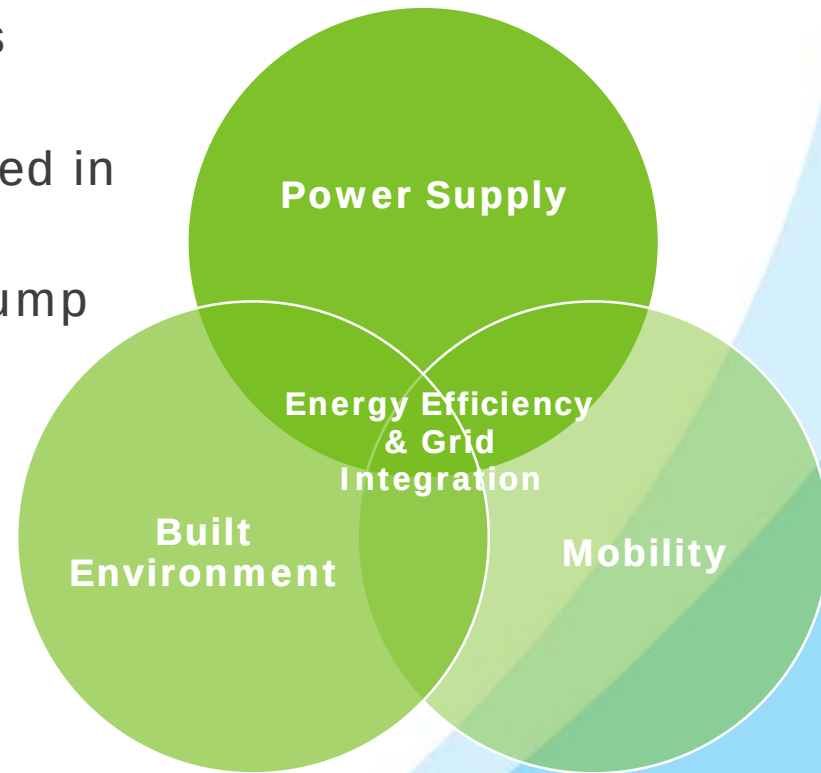
Recent News

- New Renewable Energy Projects:
 - 3 Long-term Power Purchase Agreements
 - o 153 MW of solar, combined with 47 MW of storage capacity in California
 - o 200 MW wind farm in New Mexico



Customer Programs

- Customer Programs
 - Year-long stakeholder input process near completion
 - Programs roadmap to be released in December
 - Awarded BAAQMD grant for Heat Pump Water Heater program
- Strategy
 - Procure & maintain a sustainable, affordable and carbon-free power supply
 - Electrify everything
 - Promote energy efficiency and ensure successful grid integration



Contact Us



SVCleanEnergy.org



844-474-SVCE (7823)



Billing & Customer Service:
customerservice@svcleanenergy.org



General Info:
info@svcleanenergy.org



@SVCleanEnergy



Thank you

