



CITY OF MORGAN HILL

Regular Meeting Agenda

City Council

Rich Constantine - Mayor
Rene Spring - Mayor Pro Tem
Yvonne Martinez Beltran - Council Member
Larry Carr - Council Member
John McKay - Council Member

Wednesday, January 23, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

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

CALL TO ORDER

(Mayor Constantine)

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
(Deputy City Clerk Bigelow)

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Carr

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PRESENTATIONS

YAC PRESENTATION ASSET #7 - COMMUNITY VALUES YOUTH

RECOGNITIONS

STEM Winners - Santa Clara Valley Science and Engineering Fair Association

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 PURCHASE OF POLICE VEHICLE

Recommendation:

1. Accept \$59,324 in insurance proceeds for the 2012 Police Chevy Tahoe (#142), from York Insurance;
2. Authorize the salvage of 2012 Chevy Tahoe Patrol #142 (vin# 9099);
3. Adopt resolution amending the City's Fiscal Year (FY) 2018-19 adopted budget to appropriate \$70,987 in the Equipment Replacement Fund (790) for the purchase of a 2019 Chevy Tahoe, including build-out; and
4. Authorize the City Manager to approve a purchase order for \$70,987 with Priority 1 Public Safety Equipment Installation Inc.

2. APPROVE PURCHASE OF A VACTOR HYDRO EXCAVATOR

Recommendation:

1. Approve purchase of a Vactor Hydro Excavator from Owen Equipment Company in the amount of \$451,541 through a Sourcewell cooperative bid contract; and
2. Authorize the City Manager to approve a purchase order for \$451,541 with Owen Equipment Company.

3. APPROVE PURCHASE OF A NEW BACKHOE

Recommendation:

1. Approve purchase of a new John Deere 410L backhoe loader from Pape Machinery in the amount of \$129,481 through a Sourcewell cooperative bid contract;
2. Authorize the City Manager to approve a purchase order for \$129,481 with Pape Machinery;
3. Declare the 2000 Backhoe to be surplus; and
4. Authorize the disposal of equipment in accordance with Section 3.04.400 of the City of Morgan Hill Municipal Code.

4. APPROVE AGREEMENT WITH JEFFCO PAINTING AND COATING, INC. FOR WELL SITES AND BOOSTER STATIONS PAINTING

Recommendation:

Approve and authorize the City Manager to execute and administer a three-year agreement with Jeffco Painting & Coating, Inc. in the amount of \$120,000, for annual painting of well sites and booster stations.

5. APPROVE IMPACT FEE FREEZE AGREEMENTS WITH TBI-MISSION WEST II, LLC FOR THE DEVELOPMENT OF TWO HOTELS AND A NEW CARPENTERS' TRAINING FACILITY BUILDING IN THE MADRONE BUSINESS PARK

Recommendation:

1. Approve an Impact Fee Freeze Agreement with the TBI-Mission West II, LLC (Toeniskoetter Development) for the development of a 55,000 s.f. training center building on 4.92 acres on Madrone Parkway identified by Assessor Parcel Number 726-35-028;
2. Approve an Impact Fee Freeze Agreement with TBI-Mission West II, LLC (Toeniskoetter Development) for the construction of Two Upper Mid-Scale Hotels on 4.41 acres on Cochrane Road identified by Assessor Parcel Number 726-33-029; and
3. Authorize the City Manager to execute and administer the Impact Fee Freeze Agreements.

6. AWARD CONTRACT TO AIR EXCHANGE INC. FOR THE INSTALLATION OF SOURCE CAPTURE EXHAUST SYSTEMS UNDER FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017

Recommendation:

Adopt resolution:

1. Awarding bid to Air Exchange Inc. for the installation of source capture exhaust systems and authorize the City Manager to execute all necessary agreements subject to City Attorney review; and
2. Amending the Fiscal Year (FY) 2018-19 adopted budget to appropriate \$51,812 from the General Fund (010) to fully fund the grant related expenditures.

7. ACCEPT MONTEREY ROAD PRESERVATION PROJECT

Recommendation:

1. Accept as complete, the Monterey Road Preservation Project, in the final amount of \$2,417,154;
2. Authorize the City Engineer to sign the attached Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

8. RESOLUTION AUTHORIZING SANTA CLARA VALLEY WATER DISTRICT SAFE, CLEAN WATER GRANT APPLICATION

Recommendation:

Adopt resolution approving the following actions:

1. Authorizing staff to prepare and submit a Safe, Clean Water and Natural Flood Protection Program Grant Application to the Santa Clara Valley Water District for the Madrone Channel Trail Project; and
2. Authorizing the City Manager to negotiate and execute the Safe, Clean Water grant agreement and other documents, reports, forms and agreements related to the performance of the identified projects.

9. APPROVE APPOINTMENT OF NEIL BERMAN TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY'S (VTA) BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE (BPAC)

Recommendation:

Direct the City Clerk's Office to send correspondence to the VTA requesting the appointment of Parks and Recreation Commissioner Neil Berman as the City of Morgan Hill's representative to the BPAC.

10. ACCEPT OCTOBER 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

11. ACCEPT ELEVENTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS

Recommendation:

Receive and accept report.

12. ACCEPT UPDATE ON IMPLEMENTATION OF DEVELOPMENT SERVICES REVIEW - ZUCKER SYSTEMS

Recommendation:

Accept Report.

13. ADOPT ORDINANCE 2294 APPROVING DEVELOPMENT AGREEMENT APPLICATION DA2018-0002: E. DUNNE-YOUNG FOR THE FIRST 20 UNITS OF A 46-UNIT, THREE STORY, MULTI-FAMILY RESIDENTIAL CONDOMINIUM PROJECT PROPOSED ON A 3.5 ACRE PARCEL LOCATED ON THE NORTH SIDE OF E. DUNNE AVENUE, ADJACENT TO THE NORTH SIDE OF THE MORGAN HILL KINDER CARE LEARNING CENTER AT 605 E. DUNNE AVENUE

Recommendation:

Waive the reading, adopt Ordinance No. 2294, 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. APPROVE THE DECEMBER 19, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

PUBLIC HEARING

15. INTRODUCE ORDINANCE AMENDING THE MADRONE VILLAGE SHOPPING CENTER PRECISE DEVELOPMENT MASTER PLAN TO ALLOW HOTEL DEVELOPMENT

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment Ordinance; and
3. Introduce Ordinance amending the PD zoning.

Estimated Time: 30 Minutes

16. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT (MHTBID)

Recommendation:

1. Open/close the public hearing;
2. Ratify the amendments to the Management District Plan;
3. Declare the results of majority protest proceedings; and
4. Adopt resolution establishing the Morgan Hill Tourism Business Improvement District (MHTBID).

Estimated Time: 30 Minutes

OTHER BUSINESS

17. INTRODUCE ORDINANCE ESTABLISHING PROCESS FOR CONTINUITY OF GOVERNMENT IN THE EVENT OF A DISASTER

Recommendation:

1. Accept the Morgan Hill City Council Emergency Procedures;
2. Open/Close public hearing;
3. Waive first and second reading of the ordinance; and
4. Introduce ordinance establishing a process to maintain continuity of government in the event of a disaster relating to the appointment and duties of an emergency standby council.

Estimated Time: 10 Minutes

18. PROVIDE DIRECTION REGARDING THE ADOPTION OF A LOBBYIST REGISTRATION ORDINANCE

Recommendation:

Direct the City Attorney to prepare an ordinance requiring registration of paid lobbyists.

Estimated Time: 5 Minutes

19. RECEIVE CAPITAL IMPROVEMENT PROJECT UPDATE

Recommendation:

Receive an update on City Capital Improvement Projects.

Estimated Time: 20 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4)

Number of Cases: One (1)

RECONVENE

CLOSED SESSION ANNOUNCEMENT

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.



January Developmental Asset #7 Community Values Youth

Young person perceives that adults in the
community value youth.

How does our community value youth?



Youth Roles:

- o YAC
- o Volunteering at public places
- o Youth groups at Church
- o School clubs

Opportunities to express talents:

- o Friday Night Music
- o Festivals
- o Teen Center



How YAC is Connected to Youth



Advertise events to youth

- o Older Adult Ball (formally known as Senior Ball)
- o YLMH
- o Make balloons and do face painting for community events
- o Teen Center events



January Complementary Asset number #8 Youth as Resources

Young people are given useful roles in the community.

What Roles Youth Have in the Community.

- o YAC
- o Future Women Leaders of America
- o Interact
- o Scouting
- o Miss CEO
- o Youth groups within the Church

How do you value the
youth in our community?





CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Mario Ramirez,
APPROVED BY: City Manager

APPROVE PURCHASE OF POLICE VEHICLE

RECOMMENDATION(S)

1. Accept \$59,324 in insurance proceeds for the 2012 Police Chevy Tahoe (#142), from York Insurance;
2. Authorize the salvage of 2012 Chevy Tahoe Patrol #142 (vin# 9099);
3. Adopt resolution amending the City's Fiscal Year (FY) 2018-19 adopted budget to appropriate \$70,987 in the Equipment Replacement Fund (790) for the purchase of a 2019 Chevy Tahoe, including build-out; and
4. Authorize the City Manager to approve a purchase order for \$70,987 with Priority 1 Public Safety Equipment Installation Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Fostering a Positive Organizational Culture

2018 Strategic Priorities

Financial Stewardship

GUIDING DOCUMENTS

Public Safety Master Plan

Narrative:

Fleet Background

There are currently thirty vehicles and five trailers in the Police Department's fleet. Seventeen patrol cars and two motorcycles are assigned to twenty-four patrol officers in the Field Operations Division. Eight unmarked police cars are assigned to eight detectives, all assigned to the Special Operations Division. Three unmarked police vehicles are assigned to the Administration Division. Vehicles are replaced approximately every six to ten years, depending on the type of vehicle and its assignment. The Police Department's Vehicle Replacement Plan allows the City to financially plan for scheduled vehicle purchases to maintain safe, operational police vehicles for patrol officers, detectives, and civilian members of the Department.

The 2012 Chevy Tahoe (Patrol # 142) was involved in a vehicle collision in September of 2018, which resulted in the vehicle sustaining significant damage. Due to the amount of damaged sustained, the vehicle was determined to be a total loss. Staff recommends purchasing a 2019 Police Package Chevy Tahoe to replace the totaled 2012 Chevy Tahoe police vehicle:

Totaled Vehicle	Mileage	Replacement Vehicle
2012 Chevy Tahoe – patrol car # 142	58,612	2019 Chevy Tahoe

The Police Department recommends purchasing the 2019 Chevy Tahoe through a third party dealer, Priority 1 Public Safety Equipment Installation Inc., who will purchase the vehicle from MY Chevrolet in Salinas, CA, pursuant to Morgan Hill Municipal Code ("MHMC") Sections 3.04.150(2) and 3.04.180. There are no local vendors that supply a Police Package Chevy Tahoe. Purchasing a base vehicle and making after-market changes to equip the vehicle with a Police Package is not cost effective.

COMMUNITY ENGAGEMENT: Inform

This staff report serves to inform the community about the recommended purchase of the new police vehicle.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS: None

FISCAL AND RESOURCE IMPACT:

This pricing is less than the state competitively bid contract (#1-18-23-20D with Winner Chevrolet Inc). The base vehicle price from MY Chevrolet is \$502 less than Winner Chevrolet Inc. (\$37,677 compared to \$38,179).

This competitive bid price does not include the vehicle build-out. The build-out cost includes special orders, tax, lights, siren, control modules, radio installation, computers, command system cargo box, and decals.

The full cost of the vehicle including purchase price and build-out is \$70,987. The City received \$59,324, in insurance proceeds. Therefore, the net cost to the Equipment Replacement Fund is \$11,663, and sufficient Police contributions are available to cover the net cost.

Build-out	Cost
Chevy Tahoe (replacing #142)	\$37,677
Emergency System Build-out	32,710
Decals	600
Total Cost	\$70,987
Insurance Payment	(59,324)
<u>Net Equipment Replacement Fund Cost</u>	<u>\$11,663</u>

Due to this unforeseen replacement of a damaged vehicle, staff recommends City Council adopt a resolution to amend the FY2018-19 adopted budget, to appropriate \$70,987, in the Equipment Replacement Fund (790.8500.43830), for the purchase of the replacement 2019 Chevy Tahoe.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

Not a project: The purchase of vehicles does not constitute a project as defined in Section 15378 of the State CEQA guidelines as the purchase is an administrative activity that will not result in physical environmental impacts.

LINKS/ATTACHMENTS:

1. Resolution
2. Police Vehicle Buildout Estimate

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2018-19 ADOPTED BUDGET TO ACCEPT \$59,324 IN INSURANCE PROCEEDS AND APPROPRIATING \$70,987 FROM THE EQUIPMENT REPLACEMENT FUND (790) TO PURCHASE A REPLACEMENT 2019 CHEVY TAHOE VEHICLE, THEREFORE

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

WHEREAS, the reasons supporting the purchase described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Accept an Insurance Payment" submitted for City Council consideration at its meeting of January 23, 2019 submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

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

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

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

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

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

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

- a. That the City is in support of the payment for the purchase of a new police Tahoe; and
- b. 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
- c. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2018-19 Budget of the City; and
- d. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 23rd day of January 2019 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

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

DATE: _____

Rich Constantine, 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 January 23, 2019.

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

DATE: _____

Irma Torrez, CITY CLERK

AGENDA BUDGET SCORECARD

FISCAL YEAR 2018-19

ADJUSTMENT #

031

FUND:

DEPARTMENT:

OBJECT:

790	Equipment Replacement Fund Equipment
8500	Replacement
43830	AUTO/TRUCKS (790.37738 - Insurance Proceeds)

AGENDA DATE:

AGENDA ITEM TITLE:

01/23/19
Purchase of Police Chevy Tahoe

	07/01/18 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/19 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	4,432,003	1,064,433	1,261,025	4,235,411
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION	-	59,324	70,987	(11,663)
RESULT OF RECOMMENDED ACTION	<u>4,432,003</u>	<u>1,123,757</u>	<u>1,332,012</u>	<u>4,223,748</u>

Attachment: Resolution (2124 : APPROVE PURCHASE OF POLICE VEHICLES)



Priority 1 Public Safety Equipment Installation Inc.

425 Harbor Blvd. #6
Belmont, CA 94002-4048
TEL: (650) 654-9900
FAX: (650) 654-9947

Estimate

Date	Estimate #
12/13/2018	2594

Name / Address
City of Morgan Hill 100 Edes Ct Morgan Hill, CA 95037

Attention
Sgt. Ramirez

Vehicle#	Terms	Rep
Tahoe	Net 30	Marc

Item	Description	Qty	Total
9C1	2019 Chevy Tahoe Patrol PPV with six additional keys, front row cloth seats, console delete, red/white dome light, grille lamps and siren speaker wiring, flasher system, rear window switches inop, rear door handles inop, dual spot lamps, DRL delete, adjustable pedals, rear ground studs and recovery hooks.	1	37,676.75T
PRI-KIT	Wire harness-Relays, diodes, connectors, hardware etc.	1	500.00T
PDU-8S	Power Management System	1	263.25T
BK2019TAH15	Setina pushbumper for 2015+ Chevy Tahoe with Whelen Ions.	1	889.65T
FK0400TAH15	Setina wrap around for 2015+ Tahoe for PB400 pushbumper.	1	386.50T
C3100U	Code 3 100w siren speaker with universal mounting bracket	1	181.65T
21TRPL51	Code 3 51" 2100 multi-color LED lightbar	1	2,100.00T
CC-F-TMC-711	Troy 18" console for 2015+ Tahoe. 7" sloped with 11" level	1	400.95T
AC-TH15-MNT	Troy floor plate for 2015+ Chevy Tahoe.	1	125.55T
AC-INTBH-G	Troy internal cup holders with rubber grommets.	1	46.80T
AC-SIDE-ARM-6	Troy Armrest	1	72.90T
Z3	Code 3 Z3 siren controller	1	862.50T
L3-API-SET	Troy 12V power outlet with black cap	1	10.20T
WK0040TAH15	3 piece rear window bars for 2015 Chevy Tahoe.	1	326.02T
MMSU1	Magnetic mic clip kit.	2	66.00T
14152532	Blue Sea dual USB socket with cover	1	33.00T
TM-5502-TH-15	Passenger side Hint computer mount for 2018 Tahoe	1	486.02T
ASFC-155-U2-821	Panorama flexi 152-821 meg antenna	1	65.00T
C23F-5F	CS23 16" radio cable	1	19.75T
DPX-210-270	Panorama VHF UHF diplexer	1	264.00T
Subtotal			
Sales Tax (9.0%)			
Total			

Attachment: Police Vehicle Buildout Estimate (2124 : APPROVE PURCHASE OF POLICE VEHICLES)



Priority 1 Public Safety Equipment Installation Inc.

425 Harbor Blvd. #6
Belmont, CA 94002-4048
TEL: (650) 654-9900
FAX: (650) 654-9947

Estimate

Date	Estimate #
12/13/2018	2594

Name / Address
City of Morgan Hill 100 Edes Ct Morgan Hill, CA 95037

Attention
Sgt. Ramirez

Vehicle#	Terms	Rep
Tahoe	Net 30	Marc

Item	Description	Qty	Total
C23F-1MP	Antenna	1	19.75T
C74-FP-6-SMAP	Sharkee GPS cable SMA male	1	19.05T
GPSB	Panorama 4 element antenna	1	203.75T
63362	Rigid R2-46 Combo Retrofit (hyperspot / drive)	2	640.00T
GK10301S1UHKSSC...	Setina Dual T-Rail Shotgun and Universal Hand Cuff Key Override	1	376.00T
GF1092ITU12WC	Setina free standing dual T-Rail mount no locks. For after market floor plate.	1	169.15T
VTX609R	Whelen Vertex Hide-a-way super L.E.D, Red	1	109.35T
VTX609B	Whelen Vertex Hide-a-way super L.E.D, Blue	1	109.35T
ENT2B3-J	Sound Off under mirror intersector light red/blue	2	283.14T
Misc	Sound Off mirror mount adapters	2	40.00T
Misc	Baton Holder	1	40.00T
Misc	Tremco Ignition Security System	1	145.00T
Decals	Morgan Hill PD Graphics	1	350.00T
MA10551	Data911 bracket, fan, blower	1	118.00T
Misc	Build rear driver side custom equipment compartment to hold tools	1	1,400.00T
934-0757A	D&R Rear command center with map and dry erase board drawe, radio head and pencil/pen drawer	1	2,065.00T
933-0111A	D&R subframe for 2019 Tahoe	1	232.50T
M8S211110	Data911 M8System, Core i7 Processor, 16GB RAM, WIFI, 12.1 Capactive Touchscreen Display, Keyboard, 3 ear warranty		6,267.00T
CA10031	Data911 Cable, 4 stereo Y-Adapter	1	34.00T
Subtotal			
Sales Tax (9.0%)			
Total			

Attachment: Police Vehicle Buildout Estimate (2124 : APPROVE PURCHASE OF POLICE VEHICLES)



Priority 1 Public Safety Equipment Installation Inc.

425 Harbor Blvd. #6
Belmont, CA 94002-4048
TEL: (650) 654-9900
FAX: (650) 654-9947

Estimate

Date	Estimate #
12/13/2018	2594

Name / Address
City of Morgan Hill 100 Edes Ct Morgan Hill, CA 95037

Attention
Sgt. Ramirez

Vehicle#	Terms	Rep
Tahoe	Net 30	Marc

Item	Description	Qty	Total
MA11684	Data911 M8 Audio Legacy Upgrade Kit	1	147.00T
MA11653	Data911 M8 GPS Upgrade Kit	1	240.00T
M7D12101	Data911 M7/M8 Display, 12.1 inch, 1600 NIT High-Bright touch screen	1	2,150.00T
KB11417	Data911 Keyboard KX1 TG3, USB w/Touchpad, Black for dual display	1	278.00T
CA10446	Data911 Cable DVI/Audio, Black, 2m	1	30.00T
CA10360	Data911 Cable, 12V Powered USBTo 2X4, Black 2m	1	49.00T
APWR1575	1500 watt power inverter	1	285.00T
Misc	Power strip surge unit	1	40.00T
APWROA20	Remote switch for power inverter.	1	75.00T
Labor	Install and wire emergency equipment, computer system and rear command center	1	3,500.00T
Labor	Install Morgan Hill PD Graphics	1	250.00
Freight	Freight	1	705.00T
Subtotal			\$65,146.53
Sales Tax (9.0%)			\$5,840.69
Total			\$70,987.22

Attachment: Police Vehicle Buildout Estimate (2124 : APPROVE PURCHASE OF POLICE VEHICLES)



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Inga Alonzo, Management Analyst

APPROVED BY: City Manager

APPROVE PURCHASE OF A VACTOR HYDRO EXCAVATOR

RECOMMENDATION(S)

1. Approve purchase of a Vactor Hydro Excavator from Owen Equipment Company in the amount of \$451,541 through a Sourcwell cooperative bid contract; and
2. Authorize the City Manager to approve a purchase order for \$451,541 with Owen Equipment Company.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment

2018 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

Water System Master Plan

REPORT NARRATIVE:

A hydro excavator is a specialized piece of equipment that is widely used by municipalities and utility companies to safely unearth underground utility lines, cables, and pipes. Hydro excavation is a process that utilizes pressurized water or air to break up the soil and vacuum it into a large debris tank on the truck for later disposal or backfilling. Using hydro excavation significantly improves safety for workers and the public by avoiding the possibility of broken gas pipelines, water mains, and underground electrical lines.

Staff formed a selection committee consisting of operators, Senior Utility Worker, Utility Supervisor, and Management Analyst. The committee reviewed hydro excavation equipment from three manufactures: Vac-con, Vactor, and Camel. The review included on-site demonstrations, reviewing equipment specifications, and discussing equipment performance and reliability with hydro excavator owners. The goals of the review were to determine the best equipment configuration(s) for work regularly performed by City staff and to learn experiences from other hydro excavator owners. The review revealed the following:

1. The Vactor 340-degree rotating boom provided more flexibility and reach.
2. The Vactor high pressure rotating nozzle and hot water option provided better cutting of multiple soil types.
3. The Vactor controls and tool access are located mid-truck on passenger side - a location that the operators found to be safer for the type of work they do.

4. The Vactor vacuum is stronger and has break feature that allows operators to turn off the vacuum without shutting down the vacuum pump. This very useful to avoid clogging.

The selection committee concluded that the Vactor hydro excavator provided a better combination of performance and features than the other two manufactures and therefore recommends purchasing the Vactor equipment.

In addition, staff recommends purchasing the hydro excavator from a cooperative purchasing arrangement. Section 3.04.180 of the Morgan Hill Municipal Code allows the purchasing officer the authority to join with other public jurisdictions in cooperative purchasing plans or programs, including, but not limited to California Communities Purchasing Program (CCPP), the California Department of General Services (CADGS), the California Multiple Award Schedule (CMAS), the National Association of Counties (NACo), National Joint Powers Alliance (NJPA), or similar arrangements or plans, as determined by the purchasing officer to be in the City's best interest.

A quote from Sourcewell (formerly NJPA) cooperative contract #022017-FSC, is attached. Sourcewell is a public agency cooperative with competitively bid contracts which enable government, education, and non-profit agencies throughout the United States to leverage their purchasing dollars with other member agencies. The quote was obtained for an HXX Vactor Hydro Excavator with a Kenworth Chassis through Owen Equipment Company that meets all of the City's specifications in the amount of \$451,541. There is a Kenworth Dealership within City limits which will provide maintenance services on the chassis.

ALTERNATIVE ACTIONS:

The Council could choose to not approve the recommended purchase and direct staff to solicit quotes/bids through a formal bidding process. It is not believed this alternative approach will result in cost savings due to the specialized nature of the equipment.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Council approved the purchase of a hydro excavator in the Fiscal Year (FY) 2018-19 budget.

FISCAL AND RESOURCE IMPACT:

Funding for the purchase of this equipment is budgeted in the Water Division's operating budget (650.5710.43830) in the amount of \$450,000, in FY 2018-19. The residual balance of \$1,541, will be absorbed by anticipated savings within the division's operating budget, therefore no additional appropriations are needed.

CEQA (California Environmental Quality Act):

Not a Project

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

LINKS/ATTACHMENTS:

1. Owen Equipment Co - Sourcewell Quote



Presents a Proposal Summary

of the



HXX

Single Engine Hydro Excavation Machine with Positive Displacement Vacuum System Mounted on a Kenworth T880 Heavy Duty Truck Chassis

for

City of Morgan Hill HXX

NJPA Contact #022017-FSC

www.njpacoop.org



PRODUCT DESCRIPTION

- Hydro-Excavator - Roots 824-18" Hg. Blower, 12 Yard Debris

STANDARD FEATURES

- DigRight Technology
- Cylindrical Designed Debris Body, 1/4" Ex-Ten Steel
- Flat Style, 3/4 Rear Door w/Replaceable Neoprene Seal
- Hydraulic Rear Door Locking System
- Hydraulic Rear Door Open/Close System
- 8" Inspection Port w/Ladder Access
- Rear Door Support for Operator Safety
- Double Acting Dump Hoist Cylinder
- Dual Air Ports w/Dual 10" Stainless Steel Float Balls
- 1200 Gallon Insulated Polypropylene Water Tank
- Water Tank Separate from Debris Tank
- Water Tank Fill w/25' Water Hose and Connectors
- Water Level Sight Gauge, Mark-V Electronic Low Water Warning System
- 5 Year Warranty Against Leaks
- Water System Rating is 10 GPM @ 2500 PSI
- Hydraulic Operated Tri-Plex Piston Water Pump
- Water Pump On/Off Located on Wireless Control and Control Box
- Variable Pressure and Flow Achieved by Electronic-Over-Hydraulic Controls @ Operators Station
- ISO 46 Hydraulic Oil
- Handgun Hose 3/8" x 75' w/Operating Pressure of 3500 PSI
- Ultra Quiet Inlet and Outlet Silencers Acoustically Matched to Blower
- Direct Drive Omsi Transfer Case w/Air Shift
- Single Cyclonic Separator w/14" Clean Out Door
- Microstrainer Final Filter w/3" Camloc Drain
- 8" Vacuum Relief Located in the Inlet of Debris Tank.
- Wireless Remote Control for boom w/Water Pump Control, Throttle, Vacuum Relief and E-Stop. - Hand-held
- Control Panel Located Inside an Aluminum Box for Protection
- 8" I.D Wire Reinforced Rubber Suction hose
- Electric-Over-Hydraulic Boom
- Hydraulically Powered Up/Down/Left/Right/Extend/Retract Boom
- Boom Control Located at Control Panel and Hand-Held Wireless Control
- All Boom Inlet Hose and Tubing will be 8" Inside Diameter
- 8" Vacuum Pipe Package with 8" Dig Tube
- Water System Digging Wand Package
- Alum. Hyd. Oil Tank W/Sight Gauge
- Entire Electrical System Moisture and Vapor Sealed
- Tow Hooks Front and Rear
- Mud Flaps
- Electronic Back-Up Alarm
- Fenders
- Manual hand pump for boom hydraulic override
- Grounding cable to tie debris body, sub frame, and chassis
- Wireless Wrist Strap Emergency Stop w/Dig Lance Tether
- Toolbox, Driver Side Chassis Frame, 48w x 20h x 30d.
- Factory Training and Start-Up
- Hydraulic Tank Shutoff Valves
- Rear Door Splash Shield
- Remote Corded Pendant
- (2) single jet digging nozzles w/carbide inserts and (1) 3 jet digging nozzles with stainless steel inserts and flow straightener to be supplied

- LED Lights, Clearance, Stop, Tail, Turn, Backup
- (1) 50" x 30" x 30" Aluminum Toolbox Located Behind Cab for Water Pump and/or Hose Reel.
- Toolbox, Passenger Side Subframe in lieu of Tool Tray, 104w x 24h x 22d
- Vactor Manual, Partial Manual and USB Version - 1 + Dealer

ADDITIONAL FEATURES

- 7' Telescopic Boom, 320 Deg. Rotation with Removable Turret Box
- Telescopic Boom Elbow, Hard Hat Style
- 8" Dig Tube Handle Assembly
- Camera System, Front, Rear and Both Sides
- 6" Rear Door Knife Valve w/Camloc, 3:00 position
- Debris Body Load Limit Alarm
- Folding Pipe Rack, Curbside
- Folding Pipe Rack, StreetSide
- Lube Manifold
- Plastic Lube Chart
- Debris Body Vibrator, Electric
- Water Heater, 400,000 BTU's
- Hydraulic Tool Package
- Waterproof, Rechargeable, Wireless, Handheld, LED Spot Light w/12V Charger and Plug
- Strobe Light, LED, Front, Federal Signal, Amber
- Worklight (2), Boom
- Front Beacon Limb Guard
- 6 Ea. ION Strobes 2 rear 2 side 2 Front
- Work Zone Lighting, (8) LED Lights
- (1) 110 Volt, 3000 Watt, GFCI Electrical Outlet Passenger Side
- Toolbox, Driver Side Chassis Frame, 58w x 48h x 30d, in lieu of STD. Frame Mount Pipe Storage
- Toolbox, Driver Side Subframe in lieu of Tool Tray, 104w x 24h x 22d
- Wheel Chock and Holders - 2 Chocks Stored Each Side
- Module Paint, Dupont Imron Elite - Sanded Primer Base
- Standard Logo's - Applied
- Boom work lights; 4 oriented down and 1 upward
- Whelen traffic advisor (rear); LED 16-light large Arrow Board
- Inverted Safety cone rack; located behind rear tire D/S and P/S
- 2020 Kenworth T880 370 HP (Specifications Attached)

NJPA Price	\$ 414,257.00
Tax @ 9. %	\$ 37,283.13
Total NJPA with Tax	\$ 451,540.13

THE PROPERTY HEREIN IS GUARANTEED BY MANUFACTURER'S WARRANTY ONLY AND SELLER MAKES NO WARRANTY EXPRESSED OR IMPLIED, OF MERCHANTABILITY OR OTHERWISE, OR OF FITNESS FOR ANY PARTICULAR PURPOSE, THAT EXTENDS BEYOND THE ABOVE DESCRIPTION OF THE EQUIPMENT.

NOTE: Price is good for 2-1-2019 60 Days. Cost increases due to the addition of Government mandated safety or environmental devices incurred after the date of this proposal, will be charged to you at our cost. Proof of such costs, if any, will be documented.

TAXES: SALES TAX applicable at time of delivery will be shown on our invoice. FEDERAL EXCISE TAXES, if applicable, will require payment unless a properly executed Exemption Certificate is submitted.

Attachment: Owen Equipment Co - Sourcewell Quote (2125 : Approve Purchase of a Vactor Hydro Excavator)

DELIVERY: 180-260 ARO Approximant **TERMS:** Net 10 or Approved Lease

If you have any questions please give me a call at (916) 947-0986.

Sincerely,

Michael Kennedy

Michael Kennedy
Sales Representative

Attachment: Owen Equipment Co - Sourcewell Quote (2125 : Approve Purchase of a Vactor Hydro Excavator)

KENWORTH

Central Illinois Trucks, Inc. C251
3030 May Rd.

VACTOR MANUFACTURING
1621 South Illinois Street

Peru, Illinois United States 61354
Phone:
Fax:
Email:

Streator, Illinois United States 61364
Phone: (815) 672-3171
Fax:
Contact Email:
Prepared for:

Vehicle Summary

Unit		Chassis	
Model:	T880 Series Conventional	Fr Axle Load (lbs):	20000
Type:	FULL TRUCK	Rr Axle Load (lbs)	46000
Description:	Morgan Hill HOKT370A.2020.0	G.C.W. (lbs):	66000
Application		Road Conditions:	
Intended Serv.:	Construction. Vehicles used in the construction	Class A (Highway)	85
Commodity:	Excavated earth	Class B (Hwy/Mtn)	10
		Class C (Off-Hwy)	05
		Class D (Off-Road)	00
Body		Maximum Grade:	6
Type:	Vacuum tank	Wheelbase (in):	279
Length (ft):	20.0	Overhang (in):	70
Height (ft):	13.5	Fr Axle to BOC (in):	68
Max Laden Weight (lbs):	4000	Cab to Axle (in):	211
		Cab to EOF (in):	281
Trailer		Overall Comb. Length (in):	398
No. of Trailer Axles:	0		
Type:		Special Req.	
Length (ft):	0.0	U.S. Domestic Registry, 50-State	
Height (ft):	0.0		
Kingpin Inset (in):	0		
Corner Radius (in):	0		
Restrictions			
Length (ft):	120		
Width (in):	102		
Height (ft):	13.5		

Approved by: _____ Date: _____

Note: All sales are F.O.B. designated plant of manufacture.

	Ask your dealer for a quote today, or visit our website @ www.paccarfinancial.com .
	PACCAR Financial offers innovative finance, lease and insurance programs customized to meet your needs.

Unpublished options may require review/approval.
Dimensional and performance data for unpublished options may vary from that displayed in PROSPECTOR.

Printed: 12/3/2018 5:39:33 PM
Effective Date: Jan 1, 2018
Prepared by: ID: GRANT MAGERKURTH

Complete

Model Number: T880 Series Conventional
Quote/DTPO/CO: Q83925185
Version Number: 41.20

KENWORTH

Central Illinois Trucks, Inc. C251
3030 May Rd.

VACTOR MANUFACTURING
1621 South Illinois Street

Peru, Illinois United States 61354
Phone:
Fax:
Email:

Streator, Illinois United States 61364
Phone: (815) 672-3171
Fax:
Contact Email:
Prepared for:

Data	Code	Description	Weight
Model			
0000810	O	T880 Series Conventional	15,073
0070060	O	T880	0
0072001	O	Chassis operation will include stationary application used in lower 48 states [US only]. Stationary operation is defined as running the engine under load while stationary at a substantial fraction of engine gross horsepower (60% or greater) for an extended period of time (longer than 5 - 10 minutes).	0
0080066	O	CARB Idle Emissions Reduction - MX	0
0090096	O	T880 with PX-9	0
0091220	O	Excavated earth	0
0093130	O	Construction. Vehicles used in the construction industry, other than those listed above. Use typically involves operating on the jobsite, to pick up or deliver construction materials, or to position the vehicle for its intended use at the construction site. Includes such activities as delivery of precast concrete, concrete pumpers, flatbeds or roll-offs for delivery of construction materials or equipment, etc. Typically includes some operation off of paved roads. Road usage: any combination, which includes some Class C.	0
0095165	O	Vacuum tank	0
0098025	O	U.S. Domestic Registry, 50-State	0

Engine & Equipment

0129569	O	PACCAR PX-9 370 2017 370@2000 365@2100 1250@1400	-985
		Includes turbo exhaust brake, no code is used. Diagnostic Plug for data link, Oil Cooler, Aluminum Flywheel Housing.	
		N09200 N205 68...Standard Maximum Speed Limit [LSL]	
		N09220 N207 0....Expiration Distance	
		N09260 P14 64...Maximum Accelerator Pedal Vehicle Speed	
		N09300 P19 64...Maximum Cruise Speed	
		N09360 N203 252...Reserve Speed Function Reset Distance	
		N09380 N202 0....Maximum Cycle Distance	
		N09400 N206 10...Maximum Active Distance	
		N09420 N201 0....Reserve Speed Limit Offset	
		N09440 P11 NO...Engine Protection Shutdown	
		N09460 P06 NO...Gear Down Protection	
		N09480 P26 1400.Max PTO Speed	
		N09500 P02 NO...Cruise Control Auto Resume	
		N09520 P04 NO...Auto Engine Brake in Cruise	
		N09540 N209 0....Expiration Distance	
		N09560 P520 YES..Enable Idle Shutdown Park Brake Set	
		N09580 P32 5....Timer Setting	
		N09600 P233 YES..Enable Impending Shutdown Warning	
		N09620 P234 60...Timer For Impending Shutdown Warning	
		N09640 P516 35...Engine Load Threshold	
		N09680 P33 NO...Idle Shutdown Manual Override	
		N09720 P230 YES..Enable Hot Ambient Automatic Override	
		N09740 P46 40...Low Ambient Temperature Threshold	
		N09760 P56 60...Intermediate Ambient Temperature Threshold	

Attachment: Owen Equipment Co - Sourcewell Quote (2125 : Approve Purchase of a Vactor Hydro Excavator)

N09780 P47 80...High Ambient Temperature Threshold

1000158	O	Prospector Version 43.0 Replaces 42.1	0
1000684	O	Effective VSL Setting NA	0
1000858	O	Engine Idle Shutdown Timer Disabled	0
1000859	O	Enable EIST Ambient Temp Ovrerrule	0
1000860	O	Enable EIST in PTO Mode Use only with MX and Cummins engines	0
1000891	O	Eff EIST NA Expiration Miles Use only with MX and Cummins engines	0
1002060	O	Air compressor: Cummins 18.7 CFM For Cummins And PACCAR PX engines.	0
1051200	S	Air Cleaner: composite firewall mounted PACCAR or Cummins engines	0
1105230	O	Fan Hub: Horton 2-Speed for ISL9, ISL-G, PX-8 or PX-9	0
1123555	S	Cooling module: 1330 square inches. Includes aluminum radiator core, aluminum charge air cooler, translucent surge tank and washer bottle, silicone hoses, and extended life coolant.	0
1247166	S	Exhaust: 2017 EPA RH Under DPF/SCR w/ RH side of cab vertical tailpipe w/ daycabs, extended daycabs, or modular sleepers.	0
1290136	O	Tailpipe: 5 in. single 36 in. 45 degree curved.	0
1321109	S	Fuel Filter:PACCAR Standard Service Interval Fuel/Water Separator. 2017 Emissions	0
1321200	O	Run Aid:None *For Fuel Filter	0
1321300	O	Start Aid:None *For Fuel Filter	0
1500029	O	Kenworth Fuel Cooler Required for Cummins engines with a single fuel tank. Required for PACCAR MX-13 engine with a single fuel tank and stationary use: High RPM, low vehicle speed, sustained for longer than 1 hour. Optional for all other applications.	6
1504002	O	Immersion block heater 120V 1000W w/plug under door on C500, T660, T800 & W900.	0
1509099	U	ACTUAL CODE: 1509029: SHUTOFF VALVES FO R TRAILER HEAT WITH HOSES ROUTED 3 FT. BOC	0
1816260	S	Alternator: PACCAR 160 amp, brush type	0
1821225	O	Batteries: 2 PACCAR GP31 threaded post (1000) 2000 CCA starting.	-59
1836100	S	Starter: PACCAR 12 volt electrical system. W/ centralized power distribution incorporating plug-in style relays. Circuit protection for serviceability, 12-volt light system w/circuit protection circuits number & color coded.	0
1840065	S	12V low voltage disconnect for starter battery protection.	0
1900082	O	Multi-function engine connector for body builder interface for Cummins.	0
1901018	O	Remote PTO/Throttle, 12-Pin, 250K, Back of Cab OR Back of Sleeper, J1939, Remote Control Provision	0

Transmission & Clutch

2011003	U	Allison 3000RDS Cooler Lines Run to Ports	0
2011205	O	Transmission: Allison 3000RDS 6-speed w/PTO drive gear. 5th Gen controls. Includes heat exchanger & oil level sensor. Rugged Duty Series for vocational applications. Transynd transmission fluid is standard on all Allison 1000, 2000, 3000 & 4000 series transmissions. Requires a push button shift control code. Oil temperature gauge is standard on class 8 models.	139
2406005	O	45 degree yokes on interaxle drivelines.	11

2406802	O	Driveline: 3 SPL170XL 2 centerbearing requires 3500057 interaxle driveline.	152
2410018	O	Torque converter included w/Allison Transmission.	0
2410099	U	ACTUAL CODE: 2410072: AUTO NEUTRAL NOT REQ'D THIS APPLICATION	0
2410151	O	Pushbutton control center console mounted. Class 8 with Allison Transmission.	0
2410204	O	Delete Allison Fuel Sense	0
2410430	U	Allison 5th Gen RDS PKG 150 for 3000,	0
2429358	O	Rear transmission support springs for transmission PTO applications are required to ensure that engine flywheel housings are not overloaded when transmission PTO's are installed.	0
2429379	O	Customer installed transmission PTO in the RH Mounted position (4 o'clock) for Allison 3000 transmissions.	0
2495023	O	Two steel centerbearing crossmembers installed with heavy-duty aluminum gussets replacing standard.	70

Front Axle & Equipment

2506181	O	Dana Spicer D2000 Front Axle rated 20K standard track.	120
2621078	O	Front Brakes: 22K Bendix ES S-cam 16.5x6 in.	-46
2690013	O	Front Brake Drum: 20,000 lbs. Meritor X30 light weight 16-1/2x6 in.	58
2702020	O	Front Hubs Iron hub pilot 20,000 lbs. 10 Bolt 16.5x6in. or 7in. or air disc brakes. 10 Bolt, 11-1/4 in. bolt circle. Consider Wheelguards (5850002) with aluminum wheels.	80
2741970	S	ConMet PreSet Plus Hub package; front axle.	0
2750001	S	Hubcap: front vented.	0
2765001	O	Front Auto Slack Adjuster.	0
2866020	O	Front Springs: Taperleaf 20K w/ shock absorbers w/ maintenance-free elastomer spring pin bushings. Standard with rubber pins except for C500 which has threaded pins. Not available on W900L. W900B use 2866021.	241
2893642	O	Dual power steering gear: 16-22K TRW THP60 Not for use on T3.	54
2899336	O	Power Steering Cooler:Radiator Mounted Air-to-Oil	11

Rear Axle & Equipment

3142171	O	Dual Meritor RT46-164PEH rear axle rated at 46K w/ heavy wall housing. Tandem rear axles.	641
3200538	O	Rear Axle Ratio - 5.38.	0
3334004	S	Dual Rear Brakes 16-1/2x7 in. to 46K; Bendix ES-extended service S-cam.	0
3392005	S	Dual Rear Brake Drums: cast.	0
3403460	O	Dual Rear Hubs: Iron hub pilot 11-1/4 in. BC.	104
3441972	S	ConMet PreSet Plus Hub package; dual rear axle.	0
3465002	S	Dual Rear axle automatic slack adjusters.	0
3485209	S	Spring Brake: 3030 high output dual.	0
3495226	O	Bendix 4S/4M anti-lock brake system.	0
3500057	O	Interaxle driveline 1 Dana SPL170XL	-4
3747460	O	Rear suspension: Tandem Hendrickson RT463 46K. 54 in. axle spacing. Steel beams & barpin bushing. 6 in. saddle height. Unladen Height: 11.1 in. Laden Height: 10 in.	573

Tires & Wheels

4077533	O	Front tires: Bridgestone M864 425/65R22.5 20PR All Position, On/Off Highway, Wide-base tire.	156
4277487	O	Rear tires: Bridgestone M799 11R22.5 16PR.	80

4900008	O	42 in. diameter, drive. 19.5 in. SLR. Code is priced per pair of tires.	0
5045216	O	Rear Tire Quantity: 8	0
		Front Wheel: Alcoa 82362 22.5x12.25 aluminum,	-10
		with Lvl One [TM] finish, hub-pilot mount. 11400lb. maximum rating. Super single. Standard track axles may be over 102 in. w/425 tires. Air disc brake compatible.	
5245251	O	Rear Wheel: Alcoa 88367/Acc 50344 heavy-duty	-36
		22.5x8.25, aluminum outside with Lvl One[TM] finish/steel Steel Armor [TM] powder coat inside, hub-pilot mount. 7400 lb. maximum rating. Includes wheel guards. Air disc brake compatible. Code is priced per pair of wheels.	
5853906	O	Powder coat white steel wheel. Use in conjunction	0
		with front, dual front, rear, spare or lift axle wheel code(s). All wheels on chassis must have same finish color.	
5859010	O	Single Front Axle: 2 wheels Dura-Bright Buffed.	0
		Dura-Bright outboard surface of aluminum wheels.	
5859012	O	Dual Rear Axle Wheels: 4 wheels Dura-Bright	0
		Buffed. Dura-Bright outboard surface of outer dual or single aluminum wheels.	
5900008	O	Rear Wheel/Rim Quantity: 8	0
Frame & Equipment			
6054600	O	Frame Rails: 10-5/8 x 3-1/2 x 5/16 in. Steel to	372
		337 in. to 416 in. Truck frame weight is 2.91 lb.-in. per pair of rails. Section modulus is 14.80, RBM is 1,776,000 in.-lbs per rail. Frame rail availability may be restricted based upon application, axle/suspension capacity, fifth wheel setting, or component/dimensional specifications. The results of the engineering review may result in a change to the requested frame rail. If a change is required Kenworth Application Engineering will advise the dealer of the appropriate material specification for a substitute rail.	
6141600	O	Full Steel Insert: for 10-5/8 in. or 10-3/4 in.	758
		Steel 337 in. to 416 in. or 2nd insert for 11-5/8 in. steel frame. Adds 1,149,000 in.-lb to main rail RBM. Truck insert weight is 2.05 lb.-in. per pair of rails. Full frame insert length is equal to wheelbase plus rear frame cutoff plus dimension forward of front axle by model: T660, T680, T800, T880 = 21.26 in.; C500B = bumper setting minus 0.79 in.; W900B = 5.27 in., W900L = 1.50 in., W900S = 3.27 in.; T440/T470 50 in. bumper setting = 21.26 in., T470 73 in. bumper setting = 72.3 in.	
6301610	O	Bumper: Stainless steel clad straight aluminum	-11
		channel. Requires bumper setting code.	
6319485	O	48.5 in. Bumper setting. Requires a bumper code.	0
6324025	O	Front tow hook: Center mounted, cast.	28
		Requires iron front drive brackets.	
6391201	O	Custom Frame Layout: one chassis	0
		CFL C/M:LOCATE SAME AS 163275 CFL A/D:USE DRYER BRKT G11-1740R DRYER CFL A/D:CLOSE AS POSS TO C/M FWD FWRD CFL A/D:OF DRIVE AXLE/DRYER FWRD CFL A/T:SAME AS 163275 CFL DEF:SAME AS 163275	
6400636	O	Battery box cantilever aluminum BOC with	8
		fiberglass cover. N64000 LOCATE AS CLOSE TO BBOX N64010 AS POSSIBLE	
6409901	O	Battery box location: LH Side.	0
6451090	O	T470,C5, T6, T8 non-polished DPF/SCR or CNG cover	0
		diamond plate w/ step. For use w/ 2010 or later exhaust systems. For T8, use extended length non-polished battery box on opposite rail to match the length of under cab components. End plates will be painted standard black frame color.	
6721102	S	Rear mudflap arms: Betts B-25 standard-duty,	0
		straight. Includes B1732 mounting brackets as standard.	
6722000	S	Rear mudflap shields: White plastic antisail w/	0
		Kenworth logo.	
6742009	S	Square end-of-frame w/o crossmember; non-towing.	0

Fuel Tanks & Equip

7510120	O	Fuel Tank: 120 US gallon 28.5in. aluminum under	72
		replace. Class 8 fuel tank includes an anti-siphon device on the filler neck.	
7722011	O	Small round DEF tank. 11 gallons of	0
		usable volume. The DEF tank will be located on the side you specified. If you have specific configuration or body builder concerns, please utilize the Custom Frame Layout option. Standard capacity is calculated by fuel capacity of the vehicle and will accommodate two diesel fill-ups for every DEF fill-up. For 1:1 DEF fuel fill ratio, add 7889204.	
7840015	O	Polish only one aluminum tank.	0
7840038	O	Polished cover for 1 DEF tank any size.	3
7881300	O	Welded-in fitting w/ gasket & cover plate for	0
		mounting customer-installed fuel tank heater.	
7881310	U	PLATE/GASKET MOVED TO REAR OF FUEL TANK	0
7889061	O	Polished stainless steel tank straps for 1 tank.	0
7889203	O	Standard DEF to fuel fill ratio: 2:1 or greater.	0
7889245	S	Anti-siphon device swaged in place.	0
		For any number of fuel tanks.	
7889603	O	DEF tank location is on the RH.	0
7920120	O	Location: 120 gal fuel tank LH under cab	0

Cab & Equipment

8025301	S	Cab: Stamped aluminum cab with panoramic curved	0
		glass windshield. Standard with stamped aluminum doors, heavy duty in-swinging hinges, and triple sealed doors. Manufactured using self-piercing rivets and structural adhesive. Includes LED exterior marker lights and turn signals.	
8090605	S	Hood:T880 Short Length MX-Optimized W/Mechan.	0
		Fastened Fenders. 116.7 inch BBC.	
8108011	S	Cab HVAC - Day Cab and 40in Sleeper	0
		System With Defrost, A/C, and 48,000 BTU/hr Heater. Includes automatic temperature control with one touch defrost operation and dash mounted cab temperature and solar intensity sensors. Pleated fresh air filter and cabin recirculation air filter standard. The Kenworth HVAC system is designed to provide optimal heating and cooling in all operating environments without need for additional insulation. Cab HVAC without sleeper heater AC is available with 40in sleeper.	
8201013	S	Steering wheel: 18 in. 4-spoke.	0
8201051	S	Column Mtd Retarder Control, RH Side	0
		Use with Manual & Allison Transmissions Only.	
8201200	O	Adjustable telescoping tilt steering column.	0
8205202	U	PTO WIRING W/O DASH SW	0
8282007	S	Kenworth Driver Performance Center:5in Full Color	0
		high resolution Thin Film Transistor (TFT) active matrix display with advanced driver information including fuel economy performance, outside air temp, clock, odometer and trip, engine hour meter, ignition timer, engine RPM, general truck information, diagnostics, and gear display. All Highline functionality is accessed via the Kenworth MCS providing intuitive control at the driver's fingertips. Also includes Dark Cabin functionality. When activated, the only interior light that will function when a door is opened is the door courtesy lamp.	
8282013	S	Kenworth instrumentation and control package with	0
		9 standard easy-read gauges: includes speedometer, tachometer, fuel gauge, engine coolant temp, engine oil pressure, voltmeter, dual air pressure, air application pressure and DEF gauge. All accessory controls utilize electronically activated solenoids that include advanced vehicle protection interlocks.	
8282107	O	Large flat panel on dash For customer-installed	0
		controls. Reduces gauge count by 6.	
8300008	S	Interior color: Slate Gray	0
8330102	S	Interior package: Vantage daycab	0

Includes durable headliner and vinyl sidewalls with geometric patterned trim and anodized aluminum accents throughout. Convenient overhead storage cubbies, full size glove box, two center console cupholders, and large door pad map pocket. Standard LH/RH power windows, electric door locks, interior LED lighting, nighttime-friendly red ambient lighting for dash and footwell, and door mounted courtesy light. Includes two standard 12V power outlets. Driver sunvisor includes strap.

8390634	S	Rubber floormat	0
8410272	O	Driver Seat: GT702 HB with Cloth material. The GT702 is standard with a single air bag, scissor linkage seat suspension that incorporates seat height memory, auto-leveling valves with exit air dump, and adjustable damper. It includes a dual chamber lumbar support, 10in Fore/Aft adjustment, 5in Up/Down adjustment with protection zones, 2.5in pan extension, 51 degree seat back recline, and 16 degree full seat tilt. Includes 3-point matching seat belts. DR seat standard w/ dual armrests.	10
8460272	O	Rider Seat: GT702 HB with Cloth material. The GT702 is standard with a single air bag, scissor linkage seat suspension that incorporates seat height memory, auto-leveling valves with exit air dump, and adjustable damper. It includes a dual chamber lumbar support, 10in Fore/Aft adjustment, 5in Up/Down adjustment with protection zones, 2.5in pan extension, 51 degree seat back recline, and 16 degree full seat tilt. Includes 3-point matching seat belts. Rider seat standard w/ LH armrest.	44
8490187	S	Seat color: Slate Gray with Gray stitching.	0
8601422	O	Kenworth Radio with AM/FM/WB/CD/USB and Bluetooth	4
8698974	O	Base Level Audio System - Daycab:High Performance Door Speakers.	2
8700168	S	Non-self cancelling turn signal: W/column-mounted headlight dimmer switch & intermittent wiper control.	0
8700283	O	LH and RH Trip Ledge Rain Deflectors	0
8800372	O	Grabhandle: LH, Exterior, Side of Cab - Ergonomic Grab Handle Mounted To The Left Hand Exterior Of The Cab For Entry and Exit.	3
8800402	S	Dual Cab Interior Grabhandles: A Pillar Mounted Dash Wrap and B Pillar Mounted Grabhandles	0
8832113	S	Kenworth Daylite Door with standard LH/RH electric door locks and LH/RH electric window controls.	0
8841411	S	Single air horn under cab.	0
8850139	S	Look-Down, Pass. Door, Black 11x6	0
8865002	S	Aero Mirror: Dual Kenworth Aerodynamic Motorized heated mirrors, 7in X 13in with cab color mirror shell and black mirror arms. Also includes LH/RH heated 6in X 7in convex mirrors. Mirror brackets set for 8-1/2 ft load width. Mirror controls located on driver side door pad.	0
8871446	S	Rear cab stationary window 19in x 36in	0
8890101	S	One-piece bonded-in windshield with curved glass. Standard.	0
8890135	O	Exterior stainless steel sunvisor.	19
8890300	O	Fender close-out: Below headlamp, behind bumper. *NOT available with 3-piece bumper.	0
8890348	O	Wheelwell Fender Extension: 4.5 inches	0
8890876	S	Kenworth Cab/Sleeper Air Suspension.	0

Lights & Instruments

9010553	S	Headlamps: SAE Dual Halogen Complex Reflector	0
9022137	S	Marker Lights: Five, rectangular, LED	0
9030016	S	Turn Signal Lights: Flush mounted LED mounted at top of fender wheel arc	0
9030052	S	LED Stop,Turn,Tail: With Two LED Backup Lights and With An LED License Plate.	0
9090000	O	Daytime Running Lamps.	0

9090039	S	Marker Lights: Interrupter Switch. Included in Turn Signal For All Models Except T3. The T3 Switch Is In The Dash.	0
9090115	O	Reflectors: Two Midframe	0
9090126	O	Electric Backup Alarm: Meets SAE J994 & OSHA requirements.	4
9090302	O	Junction Box: Mounted Behind Cab or Sleeper Not Mounted at End of Frame.	1
9090849	O	Polyswitches replacing fuses. Switch will automatically reset after removal of excess load.	0
Air Equipment			
9101215	S	Air Dryer Bendix AD-IS heated Puraguard	0
9108001	S	Moisture ejection valve w/ pull cable drain.	0
9140020	S	Nylon air tubing in frame & cab, excluding hoses subject to excessive heat or flexing.	0
Extended Warranty			
9200008	O	Base Warranty - PACCAR PX-9 Engine 24 months / 250,000 miles / 402,336 km / 6250 hours.	0
9200021	S	Base Warranty - Standard Service Heavy Duty 12 months / 100,000 miles / 160,000 km.	0
Miscellaneous			
9400073	O	Ship to Specific Address. N94010 CIT TRUCKS LLC N94020 3030 MAY RD. N94030 PERU, IL 61354 N94040 GRANT MAGERKURTH 815.224.4410	0
9409852	O	GHG Secondary Manufacturer: Does Not Apply	0
9491665	O	CECU/VECU Electronics Architecture	0
Paint			
9700000	O	Paint color number(s). N97020 A - L0006 WHITE N97200 FRAME N0001 BLACK	0
9943004	O	Bumper Unpainted	0
9943050	O	Day Cab Standard Paint	0
9944820	O	1 - Color Paint - Day Cab Color will be White if no other color is specified.	0
9965510	S	Base coat/clear coat. The Kenworth Color Selector contains additional instructions, as well as information on Kenworth paint guidelines and surface finish applications. Kenworth is standard with Dupont Imron Elite paint.	0

Total Adjusted Price (W/O Freight & Warranty & Surcharges)

Freight Charge

Options Not Subject to Discount

Surcharges Not subject to Discount

Total Weight 17746 lb

Prices and Specifications Subject to Change Without Notice.

Unpublished options may require review/approval.

Dimensional and performance data for unpublished options may vary from that displayed in PROSPECTOR.

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Complete

Model Number: T880 Series Conventional

Effective Date: Jan 1, 2018

Quote/DTPO/CO: Q83925185

Prepared by: ID: GRANT MAGERKURTH

Version Number: 41.20

Attachment: Owen Equipment Co - Sourcewell Quote (2125 : Approve Purchase of a Vactor Hydro Excavator)



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Inga Alonzo, Management Analyst

APPROVED BY: City Manager

APPROVE PURCHASE OF A NEW BACKHOE

RECOMMENDATION(S)

1. Approve purchase of a new John Deere 410L backhoe loader from Pape Machinery in the amount of \$129,481 through a Sourcewell cooperative bid contract;
2. Authorize the City Manager to approve a purchase order for \$129,481 with Pape Machinery;
3. Declare the 2000 Backhoe to be surplus; and
4. Authorize the disposal of equipment in accordance with Section 3.04.400 of the City of Morgan Hill Municipal Code.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment

2018 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

Water System Master Plan

REPORT NARRATIVE:

The Utilities Division regularly operates a backhoe loader to support water services and maintenance throughout the City. The Engineering and Utilities Department is proposing to purchase a 2019 410L John Deere Backhoe Loader from Pape Machinery to replace the aging 2000 John Deere Backhoe which has outlived its service life of 15 years per the City's Equipment Replacement Schedule. This equipment will also be utilized by the Street's Division of the Community Services Department.

Staff proposes to purchase the backhoe under a cooperative purchasing arrangement. Section 3.04.180 of the Morgan Hill Municipal Code allows the purchasing officer the authority to join with other public jurisdictions in cooperative purchasing plans or programs, including, but not limited to California Communities Purchasing Program (CCPP), the California Department of General Services (CADGS), the California Multiple Award Schedule (CMAS), the National Association of Counties (NACo), National Joint Powers Alliance (NJPA), or similar arrangements or plans, as determined by the purchasing officer to be in the City's best interest.

Staff prepared detailed specifications for the backhoe based on the City's needs and requested quotes from Sourcewell (formerly NJPA) cooperative contract #032515-JDC with Pape Machinery. Sourcewell is a public agency cooperative who is competitively

bid contracts enable government, education, and non-profit agencies throughout the United States to leverage their purchasing dollars with other member agencies. This new backhoe will be a more cost-effective solution in terms of maintenance costs and is more environmentally responsible as it complies fully with California Air Resources Board (CARB) regulations for off-road vehicle emissions reductions.

Lastly, Staff recommends declaring the 2000 John Deere Backhoe to be surplus, to be disposed via auction, to obtain the highest possible revenue from the sale.

ALTERNATIVE ACTIONS:

Alternative actions to purchasing the backhoe include:

1. Postpone the purchase of the new equipment and continue the use of the existing equipment. This option is not recommended as equipment ages it becomes more likely for mechanical issues that can result in work delays and lost productivity.
2. Utilize a formal process to obtain bids for award. It is not believed that this alternative will result in cost savings due to highly competitive pricing provided through cooperative purchasing arrangement.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

Funding for the purchase of this equipment is budgeted at \$90,000, in the Equipment Replacement Fund (790.8500.43825) in Fiscal Year 2018-19. Sufficient reserves (Streets Division) and budgetary appropriations are available within the Equipment Replacement Fund to cover the remaining balance of \$39,481, for the purchase of this equipment.

CEQA (California Environmental Quality Act):

Not a Project.

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

LINKS/ATTACHMENTS:

1. Pape Machinery-Sourcewell Quote

Quote Summary

Prepared For:

CITY OF MORGAN HILL PUBLIC WORKS
INGA ALONZO
100 Edes St
Morgan Hill, CA 95037
Business: 408-776-7333
inga.alonzo@morganhill.ca.gov

Prepared By:

TONY HUNHOFF
Pape Machinery, Inc.
415 E 9th Street
Gilroy, CA 95020
Phone: 408-848-4150
thunhoff@papemachinery.com

Sourcewell (formerly NJPA) Contract
Number: 032515 - JDC

Quote Id: 18402818R

Expiration Date: 28 February 2019

Equipment Summary	Selling Price	Qty	Extended
JOHN DEERE 410L BACKHOE LOADER 2019	\$ 118,783.16 X	1 =	\$ 118,783.16
Equipment Total			\$ 118,783.16

Quote Summary

Equipment Total	\$ 118,783.16
CA Tire Recycling Fee	\$ 7.00
Doc Fee	\$ 0.00
Federal Excise Tax	\$ 0.00
Licensing Fee	\$ 0.00
Rental Services Fee	\$ 0.00
SubTotal	\$ 118,790.16
Sales Tax - (9.00%)	\$ 10,690.48
Total	\$ 129,480.64
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 129,480.64

Salesperson : X *Tony Hunhoff*

Accepted By : X

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Confidential

Attachment: Pape Machinery-Sourcewell Quote (2140 : Purchase of a New Backhoe)

Selling Equipment

Quote Id: 18402818

Customer: CITY OF MORGAN HILL PUBLIC WORKS

JOHN DEERE 410L BACKHOE LOADER

Hours: TBD

Stock Number: TBD

Sourcewell Contract Number: 032515-JDC

List Price - \$192,286.00
Sourcewell Discount - 44%
Discount - \$84,605.84

Code	Description	Qty
0AB0T	410L BACKHOE LOADER	1
Standard Options - Per Unit		\$107,680.16
170C	JDLINK Ultimate Cellular - 5 Years	1
1065	John Deere PowerTech Plus 4.5L (276 Cu. In.) Engine Meets Final Tier 4 and Stage IV Emissions	1
2035	Cab	1
2401	English Decals with English Operator and Safety Manuals	1
3065	Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential	1
4466	Galaxy 21L 24 in. 12 PR Rear & 12.5/80-18 10PR Front	1
5285	Pilot Controls, Two Lever, with Pattern Selection	1
5410	DEERE Standard Quick Coupler	1
5626	18" (457 mm) Wide, Heavy-Duty, 5.1 Cu. Ft. (0.14 Cu. M.) Capacity Bucket	1
6020	Extendible Dipperstick	1
6230	Auxiliary Hydraulic with One & Two Way Flow (Hammer & Thumb/Swinger)	1
7080	Three-Function Loader Hydraulics, Single Lever	1
7685	Wide Multipurpose Bucket	1
8475	1000 Lb. (454 kg) Front Counterweight	1
8685	Dual Maintenance Free Batteries With Disconnect and Jump Post	1
9060	Front View Mirror	1
9110	Ride Control	1
9116	LED Light Package	1
9210	Left Side Console Storage with Cup Holders	1
9505	Full MFWD Driveshaft Guard	1
9905	Strobe Light with Magnetic Mount	1
9916	Radio, Bosch Premium Package	1
9919	Sun Visor	1
9975	Seat, Vinyl Air-Suspension	1

Attachment: Pape Machinery-Sourcewell Quote (2140 : Purchase of a New Backhoe)

Selling Equipment

Quote Id: 18402818

Customer: CITY OF MORGAN HILL PUBLIC WORKS

Other Charges		\$7,470.00
Freight	1	Other Charges include costs for -
Setup	1	Factory Freight and Local Delivery.
Followup	1	Owners Manual and Safety Manual.
Sourcewell 1%	1	Fuel and DEF. Bachoe Pre-Delivery
Delivery Charge	1	Inspection. On-site Backhoe Loader
	1	Operational Training and Orientation.



Attachment: Pape Machinery-Sourcewell Quote (2140 : Purchase of a New Backhoe)

TERMS AND CONDITIONS OF SALE

TERMS AND CONDITIONS OF SALE: Sales Orders are based on the terms and conditions stated herein. Unless otherwise provided on the face hereof, offers are good for acceptance for a period of 30 days from the date hereof. An order by the Buyer shall constitute an acceptance of the terms and conditions herein proposed. If, and only if, no offer of sale is issued by Seller, then the invoice shall be deemed: an acceptance of the Buyer's order; a written confirmation; and a final, complete, and exclusive written expression of the agreement between Seller and Buyer. Buyer is hereby notified that additional or different terms from those contained herein are objectionable.

1. Taxes. Buyer shall pay all local, state, and federal taxes arising from or related to any sale or lease to which this document relates, except for taxes upon or measured by net income of Seller.

2. Delivery. Stated or promised delivery dates are estimates only based upon Seller's best judgment and Seller shall not be responsible for deliveries later than promised regardless of the cause. Delivery periods are projected from the date of receipt of any order by Seller, but if equipment to be furnished by Seller is to be manufactured specifically to fill a particular order, delivery periods will be projected from the date of Seller's receipt of complete manufacturing information. If the furnishing of equipment on orders accepted by Seller is hindered or prevented by public authority or by the existence of war or other contingencies, including, but not limited to, shortage of materials, fires, labor difficulties, accidents, delays in manufacture or transportation, acts of God, embargoes, inability to ship, inability to insure against war risks or substantially increased prices or freight rates, or other causes beyond Seller's control, the obligation to fill or complete such orders shall be excused by Seller's option.

3. Transportation and Claims. Prices quoted are net F.O.B. point designated in writing by Seller. When no F.O.B. point is designated in writing by Seller, prices for new equipment shall be deemed to be net F.O.B. point of manufacture and prices for all other equipment shall be deemed to be F.O.B. Seller's place of business at which the order for the equipment is accepted. When transportation is allowed, the price charged will be adjusted to reflect the lowest transportation rates in effect at the time of shipment even though such rates may differ from those quoted by Seller. Seller's responsibility for the equipment shall cease and all risk of loss shall become the Buyer's upon delivery of the equipment to the first carrier for shipment to the Buyer or his consignee, even though such delivery shall be made prior to the arrival of the equipment at the F.O.B. point designated, and any and all claims for shortages, deliveries, damages or non-delivery must be made by the Buyer or his consignee to the carrier. Seller shall in no event be responsible for shortages in shipments unless notice of such shortage is given in writing to Seller within 15 days after receipt of shipment.

4. Payment and Security. Buyer agrees to pay in full for the equipment at time of delivery. Buyer agrees to pay the late charge on any past due balance at the rate of 18% per annum. The signator warrants that he/she has authority to execute this order on behalf of any party for whom he/she signs, and that such party has the power to enter into this agreement and perform its terms. As security for all of Buyer's obligations to Seller, Buyer grants to Seller a security interest in the equipment and authorizes Seller to file all documents necessary to perfect Seller's security interest. The security interest granted hereunder is in addition to any other rights available to Seller, and Seller shall have all of the rights and remedies available to a secured party under the Uniform Commercial Code, all of which are cumulative. Throughout the duration of Seller's security interest. Buyer shall keep the equipment fully insured against theft and loss or damage by fire and other casualty as Seller may from time to time require in accordance with such terms as Seller may require.

5. Buyer to Furnish. Performance by Seller is subject to the Buyer furnishing a satisfactory credit rating certificate, letter of credit, evidence of financing, or any other similar papers necessary for the satisfactory completion of such order.

6. Laws Governing. All orders will be governed by the laws of the State of Oregon.

7. Assignment. The right to any monies due or to become due hereunder may be assigned by Seller, and Buyer, upon receiving notice of such assignment, shall make payment as directed.

8. Limitations of Warranties. If "NEW" warranty is indicated on the reverse side or if new equipment is purchased hereunder, all warranties are strictly given only by the manufacturer. Copies of manufacturer's warranty can be obtained from Seller. If "USED" warranty is indicated on the reverse side. Seller hereby warrants to Buyer that the equipment or components thereof designated on the reverse side, shall be free under normal use and service from defects in material and workmanship for the period shown, commencing on the date of delivery. Buyer's exclusive remedy for breach of the limited warranty shall be the repair or replacement of the warranted equipment without charge to Buyer when returned at Buyer's expense to the Seller's facility where the equipment was purchased, with proof of purchase. Buyer must give notice of any warranty claim not later than 7 days after the expiration of the warranty period and must return the equipment to Seller for repair or replacement no later than 30 days after expiration of the warranty period. Any action against Seller for breach of the limited warranty must be commenced within one year after the date of delivery of the equipment. Seller's warranty does not extend to any defect, claim, or damage attributable to the failure to operate and/or maintain the equipment in accordance with the manufacturer's specifications, or due to the failure to operate or maintain the equipment in accordance with any recommendations of Seller. If "AS IS" is indicated on the reverse side, no warranty of any kind is being given and the equipment is being sold with all faults. THE WARRANTIES IN THIS PARAGRAPH AND ON THE REVERSE SIDE ARE THE EXCLUSIVE WARRANTIES GIVEN BY SELLER AND SUPERSEDE ANY PRIOR, CONTRARY, OR ADDITIONAL REPRESENTATIONS WHETHER ORAL OR WRITTEN. SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, INJURY, OR DAMAGE TO PERSONS OR PROPERTY RESULTING FROM THE FAILURE OR DEFECTIVE OPERATION OF THE EQUIPMENT; NOR WILL SELLER BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE. This exclusion applies regardless of whether such damages are sought for breach of warranty, breach of contract, negligence, or strict liability in tort or under any other legal theory.

9. Rental Purchase Option. If rental purchase option (RPO) is granted in any addendum, the purchase price shall be tendered to Seller coincidentally with the exercise of the purchase option provided that Buyer is not then in default in performing all of the terms and conditions of lease with Seller.

10. Notice. This paragraph shall serve as notice that The Papé Group, Inc. has assigned its rights to sell its rental equipment (as may be described in this sales order) and its rights to sales proceeds (including "trade-in assets" related thereto) to North Star Deferred Exchange as part of an IRC Sec. 1031 exchange.

11. Attorneys Fees. In the event suit or action is instituted against Buyer on account of or in connection with or based upon the terms hereof, the Buyer agrees to pay, in addition to the costs and disbursements provided by law, such sum as the court may adjudge reasonable attorney's fees in both the trial and appellate courts, or in connection with any bankruptcy proceeding.

12. Entire Agreement. The foregoing and any addendum shall constitute the complete and exclusive agreement between the parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, guarantees, or obligations whatsoever, either expressed or implied, other than as herein set forth or provided for shall be binding on either party. Each party may transmit its signature by facsimile to the other party and such facsimile signatures shall have the same force and effect as an original signature.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Inga Alonzo, Management Analyst

APPROVED BY: City Manager

APPROVE AGREEMENT WITH JEFFCO PAINTING AND COATING, INC. FOR WELL SITES AND BOOSTER STATIONS PAINTING

RECOMMENDATION(S)

Approve and authorize the City Manager to execute and administer a three-year agreement with Jeffco Painting & Coating, Inc. in the amount of \$120,000, for annual painting of well sites and booster stations.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2018 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

Water System Master Plan

REPORT NARRATIVE:

The City's 10 water booster stations and 17 water well sites require ongoing maintenance and upkeep, including painting. Prior to 2014, the painting of these facilities was contracted out site-by-site. Since then, the Utilities Division has established a defined maintenance painting schedule (every six years per site) which improves overall facility maintenance by extending the life of piping, flooring, and accessories. The scheduled facilities for this agreement are listed below:

FY2019-2021 Painting Schedule

	2018-19	2019-20	2020-21
Booster	Woodland	Encino	El Toro
Well	Butterfield	Dunne #2	Nordstrom
Well	Diana #3	Boys Ranch #1	Diana #4

A Request for Proposal (RFP) was issued in November 2018 to select a service provider for the maintenance painting of well sites and booster stations. The RFP was advertised in both the Morgan Hill Times and the San Jose Mercury News. Additionally, it was posted to the City's website and Public Purchase. The City received two proposals. Current State of California Department of Industrial Relations (DIR) registration was confirmed before the proposals were reviewed. One of the submittals was missing required proposal documents and had numerous mathematical errors in its bid schedule. For these reasons the submittal was deemed unresponsive. Staff found that the other submittal, submitted by Jeffco Painting & Coating, Inc., was responsive

and met all the necessary qualifications and requirements of the City. The per square foot pricing including all labor, paint, painting supplies, travel time, expenses, and equipment necessary to do the work required is below:

<u>Tasks/Item</u>	<u>Sq. Ft. Cost</u>
1. Exterior Walls	\$ 2.57
2. Exterior Trim & Doors	\$ 4.39
3. Interior Wall & Ceiling	\$ 2.47
4. Interior Trim	\$ 6.11
5. Interior Floors	\$16.40
6. Interior Piping & Appurtenances	\$13.46

Staff recommends the award of the three-year annual painting maintenance services contract to Jeffco Painting & Coating, Inc.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the recommended agreement for annual painting maintenance services. The RFP was posted on the City website, which provides an opportunity for local vendors to subscribe to and receive notifications for City bids, proposals, and quotes.

ALTERNATIVE ACTIONS:

City Council could decide to not approve the agreement and direct staff to postpone maintenance painting of these facilities.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On November 5, 2014, Council approved an agreement with Villa and Sons Enterprises for annual painting services in the amount of \$111,553.50.

FISCAL AND RESOURCE IMPACT:

Funds for this maintenance services agreement were budgeted at \$40,000 annually in the current biennial budget, within the Water Operations Division (650.5710.42510). Subsequent year (Fiscal Year 2020-21) is subject to budget appropriations by the City Council.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. Jeffco-City Maintenance Service Agreement

**MAINTENANCE SERVICE AGREEMENT
JEFFCO PAINTING & COATING, INC.**

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

1. **City Authority.** This Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until December 31, 2021 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 annual on-call painting as further described in **Exhibit A**.
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$120,000.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed One Hundred Twenty thousand dollars and shall be billed based on the rate and basis set forth in **Exhibit B**. If the City Manager extends the term of this Agreement for up to one year pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed 105% of the maximum compensation allowed to be paid to CONSULTANT for one year of service 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. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 14 Notices. 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, in whole or in part, 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/her 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.**

If the performance of CONSULTANT'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, CONSULTANT'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

- 8.3. **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a 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.
- 10.4. Compliance with Wage and Hour Laws: SERVICE PROVIDER, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

Prior Judgments against SERVICE PROVIDER and/or its Subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING – IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS

AGREEMENT – THAT SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

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

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

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

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

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:

Jeffco Painting & Coating, Inc
PO Box 1888
Vallejo, CA 94590

Address of CITY is as follows:

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

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

16. **CONSULTANT'S Proposal**. If applicable, this Agreement shall include CONSULTANT'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

17. **Maintenance of Records**.

17.1. **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.

17.2. **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.

17.3. **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.

18. **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.

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

20. **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.

21. **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.

22. **Defense and Indemnification.**

22.1. **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").

22.2. **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.

22.3. **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.

22.4. **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 (22) 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.

22.5. **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.

23. **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.

24. **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.

25. **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.

26. **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.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

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[Signatures on Next Page]

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

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

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

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

ATTEST:

CITY OF MORGAN HILL

City Clerk/Deputy City Clerk

City Manager

Michelle Bigelow

Christina J. Turner

Print Name

Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

Jeffco Painting & Coating, Inc.

City Attorney

By:

Donald A. Larkin

MATTEGGLEY, PRESIDENT

Print Name

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: _____

Date: 1/8/2019

By:

JEFF DORTCH, VICE PRESIDENT

Print Name and Title of Signer.

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

Date: 1/8/2019

364702

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

1000001665

Contractor's DIR Registration Number(s) (if applicable)

Expiration Date(s) 10-31-2020

Expiration Date(s) 6-30-2019

Seal:

U:\Legal Forms\Consultant Agreements\City Maintenance Service Agreement.Docx

EXHIBIT A SCOPE OF SERVICES

The scope of the work for this project includes the painting of water well sites and water booster stations operating by the City of Morgan Hill Utilities Division. There is a total of 27 facilities at this time: 17 water well sites and 10 water booster stations. Over the three-year term of the agreement, a total of nine facilities will require paint maintenance (three each year). The City will select one booster station and two water well sites each year for painting maintenance. The City reserves the right to make substitutions of like facilities to be painted in any given year.

1.00 Contractor's Responsibility

For each facility the work will consist of painting maintenance of the buildings and all exposed piping, valves, and metal appurtenances, including the necessary surface preparation work for iron and steel surfaces. The selected contractor will be responsible for furnishing any and all labor, paint and painting supplies, travel time, expenses, and equipment necessary to do the work required.

2.00 Schedule for Painting of Well Sites and Booster Stations

The well sites and booster stations are to be painted during the months of October through May in order to minimize any detrimental operational impact during the City's peak water pumping activities during the warm weather periods.

3.00 City-wide Listing of City-wide Water Well Sites and Water Booster Stations

Following is a city-wide listing of the water well sites and water booster stations currently in operation in the City of Morgan Hill:

Water Well Sites and Booster Stations

Booster Stations	Water Well Sites
E. Dunne Booster	Boys Ranch #1 Well
Easy St. Booster	Boys Ranch #2 Well
El Toro Booster	Boys Ranch #3 Well
Encino Booster	Butterfield Well
Glen Ayre Booster	Condit Well
Hydro-Pneumatic Booster	Diana #1 Well
Jackson Booster	Diana #2 Well
Llagas Booster	Diana #3 Well
Peak & Main Booster	Diana #4 Well
Woodland Booster	Dunne Well #1
Dunne Well #2	Jackson Well
Main Well #1	Main Well #2
Nordstrom Well	San Pedro Well
Tennant Well	

4.00 Grouping of Water Well Sites and Water Booster Stations into "Types"

The water booster stations and the water well sites vary in structure, layout, equipment, and accessories. These booster stations and well sites can be categorized generally as described below:

- **Booster Stations:** These consist of two different general types
- **Water Well Sites:** These consist of one general type

The table below shows the nine facilities (by facility type) that are to be painted over the three-year term of the agreement. Indicated are the equipment and accessories that are part of each facility. It shows the grouping of facilities into “Types” based on general similarities. The total facilities to be painted during this three-year period will be six wells and three booster stations.

Each year, the City will identify the facilities to be painted in the upcoming fiscal year. A tentative three year schedule is below but this schedule is subject to change:

FY2019-2021 Tentative Painting Schedule			
	2018-19	2019-20	2020-21
Booster	Woodland	Encino	El Toro
Well	Butterfield	Dunne #2	Nordstrom
Well	Diana #3	Boys Ranch #1	Diana #4

5.00 Painting Specifications

General

1.01 Scope

This section includes everything necessary for, or incidental to, the painting and coating of: all metal, above ground station piping, well pump motor and discharge head, concrete slabs, concrete masonry units, walls, ceilings, or other surfaces requiring painting.

All necessary ventilation, lighting equipment, and scaffolding shall be furnished and installed by the Contractor. Such scaffolding shall conform to regulations of the State Industrial Accident Commission and local ordinances.

1.02 Submittals

The Contractor shall submit the following items to the Utility Supervisor for review and color selection:

A. Color cards

Submit Color cards for all coatings proposed for use showing full range of standard colors.

B. Product Data

Submit product data including generic description, complete technical data, surface preparation and application instructions.

C. Coating System Data Sheets

Submit Coating System Data Sheets. A sample was included in the RFP specifications.

D. Manufacturer's Certification

Submit the manufacturer's certification that coatings comply with specified requirements and are suitable for intended application.

E. Warranty

Submit the manufacturer's standard warranty.

1.03 Surfaces Requiring Painting

The following items shall be painted on-site. All exposed pump components including the motor; discharge head and base plate; piping, including valves and fittings; electrical conduits; building walls; floors and ceilings, and associated interior and exterior appurtenances.

1.04 Work Not Included

Factory coated equipment such as the motor control center, telemetry, pneumatic components, roofing, and chlorination equipment is not included in this Section.

1.05 Quality Assurance

A. Single Source

All materials of a paint system, including primer and finish coats, shall be produced by the same paint manufacturer unless otherwise approved by the Project Manager. Thinners, cleaners, driers, and other additives shall be as recommended by the paint manufacturer of the particular coating.

B. Surface Preparation

Preparation of surfaces and application of coatings shall be in conformance with the applicable AWWA, SSPC, and ASTM specifications, this Specification, and the printed recommendations of the paint manufacturer.

C. Weather

Prepare surfaces and apply and cure coatings within air and surface temperature range in accordance with the manufacturer's instructions. The surface temperature shall be a minimum of 40-degrees F and 5-degrees above the dew point. Do not prepare surfaces or apply coatings in dust, smoke, rain, fog, or damp or humid weather or if the wind velocity is above the manufacturer's limit. Schedule coating work to avoid excessive dust and airborne contaminants.

D. Ventilation

Provide ventilation during coating evaporation stage in confined or enclosed areas.

E. Inspection

The Contractor shall give advance notice of the start of any surface preparation work or coating application work.

Inspection by the Utility Supervisor, or the waiver of inspection of any particular portion of the work, shall not be construed to relieve the Contractor of any responsibility to perform the work in accordance with these Specifications.

For all coatings subject to immersion, full cure must be obtained for the completed system prior to submersion. Consult the coatings manufacturers written instructions for these requirements. The coating shall not be immersed for any purpose until completion of the curing cycle.

Materials

2.01 General

All materials used, except as otherwise specified in carrying out the provisions of this contract, shall be manufactured by the following companies, or approved equals:

- Sherwin Williams
- ICI Devoe
- TNEMEC
- Rain Guard

2.02 Paint Materials

The following surface preparations and paint and coating materials shall apply to this project.

A. System Number 1 – Exterior Steel Tanks, Station Piping, Valves, Conduits, Fittings, Pump Discharge Heads, Pump Motors, and Pump Base Plates.

All exposed steel surfaces including station piping, valves, pump discharge heads, conduits and fittings

that are exposed to weather or are located above grade inside a pump station building shall be coated as follows:

1. Surface Preparation: Clean and Dry
2. Paint Material: Aliphatic Acrylic Polyurethane
 - i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
 - ii. Devoe Devthane 379 H @ 2 to 3 mils DFT

B. System Number 2 – Factory Primed Steel Doors and Frames

All exterior and interior steel doors, frames, and miscellaneous equipment that are exposed to weather or are located inside the pump station building shall be coated as follows:

1. Surface Preparation: Clean and Dry
2. Paint Material: High Solids Epoxy @ 4 to 5 mils DFT
 - i. TNEMEC Epoxoline-HS Series V69F or
 - ii. Devoe Bar-Rust 235 H
3. Paint Material-Exterior Applications: Aliphatic Acrylic Polyurethane
 - i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
 - ii. Devoe Devthane 379H @ 2 to 3 mils DFT

C. System Number 3 – Exterior Ductile and Cast Iron Pipe, Valves, and Fittings

Ductile iron and cast iron piping, valves, and fittings exposed to weather and ultraviolet light deterioration or underground conditions shall be coated as follows:

1. Surface Preparation: In accordance with manufacturer's instructions.
2. Paint Material - Exterior Applications: Aliphatic Acrylic Polyurethane
 - i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
 - ii. Devoe Devthane 379H @ 2 to 3 mils DFT

D. System Number 4 – Interior Ductile and Cast Iron Pipe Valves and Fittings

Ductile iron and cast iron piping, valves, and fittings located in the booster pump station building or exposed to other interior humid conditions shall be coated as follows:

1. **Surface Preparation:** In accordance with manufacturer's instructions
2. **Paint Material:** High Solids Epoxy @ 4 to 5 mils DFT
 - i. TNEMEC Epoxoline HS Series V69F or
 - ii. Devoe Bar-Rust 235 H

E. System Number 5 – Exterior Concrete Masonry Units and Concrete Walls (Clear Water Repellent Coating)

The exterior of concrete masonry unit block walls, split face block walls, or concrete walls that are to receive a clear water repellent that are exposed to weather, driving rain and mildew, but are not subject to graffiti shall be coated where called for on the Plans, as follows:

1. **Surface Preparation:** Level protrusions and mortar splatter.
2. **Paint Material:** Water Repellent Siloxane/Silane Blend or Polysilane
 - i. TNEMEC Prime-A-Pell H20 Series 633 or
 - ii. Rain Guard (Do not apply a second coat)

F. System Number 6 – Exterior Concrete Masonry Units and Concrete Walls (Clear Water Repellent and Anti-Graffiti Coating)

The exterior of concrete masonry unit block walls, split face block walls, or concrete walls that are in public areas that may be exposed to graffiti and that are exposed to weather, driving rain and mildew, shall be coated with a clear water repellent anti-graffiti coating where called for on the Plans, as follows:

1. **Surface Preparation:** Level protrusions and mortar splatter.
2. **Paint Material:** Co-polymer Graffiti Protectant
 - i. TNEMEC (None required) or
 - ii. Rain Guard VandI-Guard

G. System Number 7 – Exterior Concrete Masonry Units and Concrete Walls (Water Repellent and Colored Coating)

The exterior of concrete masonry unit block walls or concrete walls that are to receive a colored coating and are exposed to weather, driving rain and mildew, but are not subject to graffiti shall be coated where called for on the Plans as follows:

1. **Surface Preparation:** Level protrusions and mortar splatter.
2. **Paint Material:** Aliphatic Acrylic Urethane or Waterborne Acrylic Polyurethane @ 2 to 3 mils DFT
 - i. TNEMEC Endura-Shield W.B. Series 1080 or
 - ii. Devoe Devthane 379 H

H. System Number 8 - Interior Concrete Masonry Units and Concrete Walls

Concrete masonry unit walls and concrete walls in the interior of the pump station building or elsewhere shall be coated as follows:

1. **Surface Preparation:** Level protrusions and mortar splatter. Voids and openings in concrete block surfaces shall be pointed.
2. **Paint Material:** High Solids Epoxy @ 4 to 6 mils DFT
 - i. TNE MEC Epoxoline HS Series V69F or
 - ii. Devoe Bar-Rust 235 H

I. System Number 9 - Sheet Rock

The sheet rocked walls and ceilings in the interior of the station building shall be coated as follows:

1. **Surface Preparation:** All surfaces shall be clean, dry, and free of oil, grease and other contaminants.
2. **Paint Material:** High Solids Epoxy @ 4 to 6 mils DFT
 - i. TNE MEC Epoxoline HS Series V69F or
 - ii. Devoe Bar-Rust 235 H

J. System Number 10- Chemical Room Protective Coatings (High Chemical Concentrations)

The concrete masonry unit walls and sheet rocked walls, and moldings of the chemical treatment rooms that are exposed to high concentrations of chlorine, fluoride, or other chemicals that are to be painted grey in color shall be coated as follows. Chemical rooms with low concentrations of chemicals shall be coated per the applicable System 9 - Interior Concrete Masonry Units and Concrete Walls or System 10 – Sheet Rock.

1. **Surface Preparation:** Level protrusions and mortar splatter by sanding or other approved method.
2. **Paint Material:** Novolac Epoxy @ Manufacturer's Recommended DFT
 - i. TNE MEC Tneme-Glaze Series 282 or
 - ii. Devoe Devran 124 or Devmat 111

K. System Number 11 - Interior Concrete Floors

All concrete floors in the pump station building including the chemical room(s) shall have a non-skid protective coating suitable for moderate chemical exposure and heavy traffic and impact exposure. The Contractor shall be responsible for any preparatory work required by the coating manufacturer.

1. **Surface Preparation:** Verify dryness, followed by Shot Blast or Mechanically Abrade.
2. **Paint Material:** Novolac Epoxy
 - i. TNE MEC-Remove excess silica when dry to foot traffic and then coat with Tneme-Glaze Series 282 @ 6 to 8 mils DFT or

ii. Devoe-Remove excess silica when dry to foot traffic and then coat with Devran 124 @ 20 to 25 mils DFT.

L. System Number 12 – Exterior Aluminum (Gutters and Downspouts), Non-Ferrous Metals (Copper, Brass, or Bronze), and Galvanized Metal.

Exterior aluminum materials such as gutters and downspouts, non-ferrous metals such as copper, brass or bronze, and galvanized metal that is to be painted rather than repaired with zinc coating and that are exposed to weather shall be coated as follows:

1. **Surface Preparation:** Remove water-soluble dirt and chemicals with water and detergent and solvent-soluble contaminants with Solvent Clean (SP1). Allow to dry and then Hand Tool (SP2) or Power Tool (SP3) to remove oxides. Scarify to provide a minimum 1-mil profile to aid adhesion.

2. **Paint Material:** Aliphatic Acrylic Urethane or Waterborne Acrylic Polyurethane @ 2 to 3 mils DFT

- i. TNEMEC Endura-Shield W.B. Series 1080 or
- ii. Devoe Devthane 379 H

M. System Number 13 – Interior Aluminum, Non-Ferrous Metals (Copper, Brass, or Bronze), and Galvanized Metal.

Interior aluminum materials such as ducting, non-ferrous metals such as copper, brass or bronze, and galvanized metals such as conduits, pipe hangers, and pipe supports that are to be painted rather than repaired with zinc coating and that are exposed to highly humid atmospheres shall be coated as follows:

1. **Surface Preparation:** Remove water-soluble dirt and chemicals with water and detergent and solvent-soluble contaminants with Solvent Clean (SP1). Allow to dry and then Hand Tool (SP2) or Power Tool (SP3) to remove oxides. Scarify to provide a minimum 1-mil profile to aid adhesion.

2. **Paint Material:** High Solids Epoxy @ 6 to 8 mils DFT

- i. TNEMEC Epoxoline HS Series V69F or
- ii. Devoe Bar-Rust 235 H

N. System Number 14 - Galvanized Metal (Repair)

Defects in factory applied galvanized items such as galvanized fencing, ladders rain gutters, down spouts, metal doors, door hangers and pipe hangers, shall be coated with a Zinc-Rich coating with a minimum of 14-pounds of metallic zinc content per gallon. The coatings for potable and non-potable applications shall be as follows:

1. **Surface Preparation:** Solvent Clean (SP1), followed by Hand Tool (SP2), Power Tool (SP3) or Brush-off Blast (SP7). Provide a minimum 1-mil profile to aid adhesion.

2. **Paint Material:** Potable Water: NSF Zinc-Rich Urethane @ 2.5 to 3.5 mils DFT

- i. TNEMEC Hydro-Zinc 91-H20
- ii. Devoe Catha-Coat 316

3. **All Other Applications:** Inorganic Zinc-Rich Urethane

i. TNE MEC Tneme-Zinc Series 90-97 @ 2.5 to 3.5 mils DFT or

ii. Devoe Catha-Coat 302H @ 2 to 4 mils DFT

O. System Number 15 – Exterior Wood

Exterior wood such as tails, trim, soffits and all other wood that is exposed to weather or highly humid atmospheres shall be coated as follows:

1. **Surface Preparation:** Sand rough areas. Seal knots and pitch pockets and fill cracks and nail holes after primer has cured.

2. **Paint Material:** Acrylic Emulsion

i. TNE MEC Tneme-Crete 180 @ 4 to 10 mils DFT

ii. Devoe 2200 Dulux Professional 100% Acrylic Flat Finish@ 300 to 400 sq ft/gal

P. System Number 16 – Interior Wood

Interior wood such as trim, cabinets and all other wood shall be coated as follows:

1. **Surface Preparation:** Sand rough areas. Seal knots and pitch pockets and fill cracks and nail holes after primer has cured.

2. **Paint Material:** Acrylic Polymer or Waterborne Epoxy Polyamide

i. TNE MEC Series 28 @ 1.5 to 2.0 mils DFT

ii. Devoe Tru-Glaze 4406 WB Epoxy @ 2 to 4 mils DFT

Execution

3.01 General

No paint shall be reduced or applied in any way except as herein specifically called for, or as recommended by the manufacturer. Should conflict occur between specifications and manufacturer's recommendations and/or standard practice, the City shall be notified prior to bid submittal for clarification.

It is the responsibility of the Contractor to inspect and provide substrata surfaces that are prepared in accordance with these Specifications and the printed directions and recommendations of the paint manufacturer whose product is to be applied.

All doors, windows, trim, moldings, base boards, electrical boxes, light fixture boxes, penetrations through the ceilings, walls or floors, shall be caulked prior to coating.

3.02 Material Delivery and Storage

All materials shall be new and shall be delivered to the worksite in unopened containers that plainly show, at the time of use, the designated name, date of manufacturer, and name of manufacturer. Materials shall be stored in a suitable protected area that is heated or cooled as required to maintain temperatures within the range recommended by the manufacturer.

3.03 Air Quality

All coatings shall conform to the pertinent Volatile Organic Compound (VOC) requirements and any other air quality regulations applicable at the location of use. Coating materials, which cannot be guaranteed by the manufacturer to conform, whether or not specified by product designation, shall not be used.

3.04 Coating Compatibility

The Contractor shall be responsible for ensuring the compatibility of field coatings with each other or with the coatings on shop coated or previously coated surfaces. Coatings used in the first field coat over shop coated or previously coated surfaces shall cause no wrinkling, lifting, or other damage to underlying coats. Coatings used in successive field coats shall be produced by the same manufacturer.

3.05 Protection of Materials Not to be Painted

Remove, mask, or otherwise protect hardware, lighting fixtures, switch plates, aluminum surfaces, machined surfaces, couplings, shafts, bearings, nameplates on machinery and other surfaces not intended to be painted. Provide drop cloths to prevent paint materials from falling on or marring any adjacent surfaces. Protect working parts of all mechanical and electrical equipment from damage during surface preparation and painting process. All openings in motors shall be masked to prevent paint and all other materials from entering the motors.

3.06 Paint Mixing

Multiple-component coatings shall be prepared using all of the contents of the container for each component as packaged by the paint manufacturer. No partial batches will be permitted. Multiple-component coatings that have been mixed shall not be used beyond their pot life.

3.07 Scaffolding

All necessary scaffolding shall be furnished and installed by the Contractor. Such scaffolding shall conform to regulations of the State Industrial Accident Commission and local ordinances.

3.08 Safety

Painting shall be performed in strict accordance with the safety recommendations of the paint manufacturer; with the safety recommendations of the National Association of Corrosion Engineers contained in the publication, Manual for Painter Safety; Federal, state, and local agencies having jurisdiction.

All necessary precautions shall be taken to prevent fire. Rags and waste soiled with paint shall be removed from the premises at the end of each day's work or stored in metal containers with metal covers.

3.09 Surface Preparation

A. Metal Surface Preparation

All sharp edges and corners shall be ground smooth and all weld spatter, slag burrs, and other objectionable surface conditions must be removed prior to the surface preparation for coating.

No surface preparation blasting will be permitted prior to submission of samples. All workmanship for metal surface preparation as specified shall be in strict conformance with the current Steel Structures Painting Council (SSPC) Specifications as follows:

Solvent Cleaning	SP 1
Hand Tool Cleaning	SP 2
Power Tool Cleaning	SP 3
White Metal Blast Cleaning	SP 5
Commercial Blast Cleaning	SP 6
Brush-Off Blast Cleaning	SP 7
Pickling	SP 8
Near-White Blast Cleaning	SP 10

Coat abrasive blast-cleaned surfaces with primer before visible rust forms on surface. Do not leave blast-cleaned surface uncoated for more than 8-hours.

Where OSHA or EPA regulations preclude standard abrasive blast cleaning, wet or vacu-blast methods may be required. Coating manufacturers recommendations for wet blast additives and first coat application shall apply.

B. Other Surfaces

All other surfaces shall be prepared in accordance with these specifications and the manufacture's recommendations.

3.10 Application of Paint

A. General

Manufacturer's written instructions for applying each type of paint or protective coating shall be furnished to the Project Manager prior to

application. Cleaned surfaces and all coats shall be inspected prior to the succeeding coat. Schedule such inspection with the Project Manager in advance. Apply all coatings in strict accordance with the paint manufacturer's recommendations, as approved by the Project Manager. Succeeding coats shall be painted in a different color to facilitate inspection. Final color shall be as selected by the Owner. Sufficient time shall be allowed between coats to assure thorough drying of previously applied paint. Coating shall be applied in a neat manner that will produce an even film of uniform and proper thickness, with finished surfaces free of runs, sags, ridges, laps, and brush marks. Units to be bolted together shall be painted prior to assembly or installation, unless otherwise specified.

B. Shop Primed Surfaces

All shop primed items shall be inspected at the jobsite for compliance with these Specifications. Schedule such inspection with the Project Manager in advance. Areas of chipped, peeled, or abraded primer shall be hand or power sanded feathering the edges. The areas shall then be spot primed with the specified primer.

C. Manufacturer Applied Paint Systems

Abraded areas on factory finished items shall be repaired in strict accordance with the manufacturer's directions. Repaired areas shall be carefully blended into the original finish.

D. Film Thickness

Coverage is listed as either total dry film thickness in mils (DFT) or the spreading rate in square feet per gallon (SFPG). The number of coats is the minimum required irrespective of the coating thickness. Additional coats may be required to obtain the minimum required paint thickness, depending on method of application, differences in manufacturers' products, and

atmospheric conditions. Maximum film build per coat shall not exceed the coating manufacturer's recommendations.

E. Damaged Coatings

Damaged coatings, pinholes and holidays shall have the edges feathered and repaired in accordance with the recommendations of the paint manufacturer, as approved by the Project Manager. Recoat entire surface where touch-up result is visibly different, either in sheen, texture, or color.

F. Unsatisfactory Application

Work shall be free of runs, bridges, shiners, laps, delamination, peeled, blistered, cracked, chipped, abraded or other imperfections. Evidence of these conditions shall be cause for rejection. All visible areas of imperfections shall be hand or power sanded feathering the edges. The areas shall then be primed and finish coated in accordance with the Specifications. Depending on the extent of repair and its appearance, a finish sanding and topcoat may be required by the Project Manager.

If the item has insufficient film thickness, the surface shall be cleaned, and then prepared as required by the manufacturer taking into account the recoat window, and top coated with the specified paint material to obtain the specified appearance and coverage. Specific surface preparation requirements shall be determined by the coating manufacturer, as approved by the Project Manager.

All areas of overspray including floors, windows, and equipment shall be cleaned or repainted if unable to be cleaned, to the satisfaction of the Project Manager.

Leave all staging up until areas are inspected and approval is given by the Project Manager, for each surface or coating. Staging removed prior to inspection shall be replaced.

Any defects in the coating system shall be repaired by the Contractor per written recommendations of the coating manufacturer, at no additional cost to the Owner.

3.11 Shipping

In all cases where pre-coated items are to be shipped to the jobsite, all efforts shall be made to protect the coating from damage. Coated items shall be battened to prevent abrasion. Contractor shall use nonmetallic or padded slings and straps in handling. Items will be rejected for excessive damage.

3.12 Anniversary Inspection for Tanks

A. Failure

Any location where coating has delaminated, peeled, blistered, or cracked; and any location where rusting is evident will be considered a failure of the coating system.

B. Remedial Work

Repair all failures by removing the deteriorated coating, cleaning the surface, and recoating with the same system in accordance with this Section and the coating manufacturer. With the approval of the City, surface preparation of small failures (areas less than 1 sq./ft.) may be made by cleaning to bare metal in accordance with appropriate SSPC-SP standards.

C. Schedule of Remedial Work

The City shall establish a starting date and reasonable time of completion for the remedial work. The starting date shall be no more than thirty (30) calendar days after the submittal of the inspection report to the Contractor. Should the Contractor fail to start the remedial work within ten (10) calendar days after the starting date established by the City, the City may at its option perform the remedial work, and the Contractor shall pay to the City the actual cost of such work, plus 20 percent to cover added engineering and administrative cost.

D. Cost

Warranty inspections of the remedial work shall be at the expense of the Contractor.

6.00 Coordinating Work

1. The Contractor shall provide a work schedule approved by the Utility Supervisor prior to start of work.
2. The Contractor shall schedule his work, in advance, with the Utility Supervisor.
3. The Contractor shall coordinate his schedule with any other work that might interfere or be impacted.

7.00 Other On-call Work

During the term of the agreement, there may be other various painting maintenance or touch up projects throughout the City that surface on an as needed basis. If this occurs, a separate scope for the work will be developed and presented to the contractor for a quote. The City retains the right to accept or reject any quotes.

8.00 Term of Service

The term of the contract will be from January 1, 2019 through December 31, 2021. The contract may be canceled or any portion thereof at any time during the term of service and such cancellations shall be effective upon giving thirty (30) days written notice. The City, at its option, may renew this contract for up to one additional year beginning on December 31, 2021. This option will be exercised only if the contractor has demonstrated superior performance in provision of painting maintenance services to the City.

Pricing entries in Bid Schedule of Proposal Package applies to the period of January 1, 2019 to December 31, 2021. For services beginning on December 31, 2021, the Contractor may request a percentage adjustment to the pricing for all services equal to the Consumer Price Index (CPI) for the San Francisco Bay Area Counties. This request must be in writing ninety (90) days prior to the end of December 31, 2021.

9.00 Work Hours

The work hours for any, and all painting will be scheduled with City Maintenance Staff during regular business hours (7:00 a.m. to 3:00 p.m. Monday through Thursday).

Deviation from the above will not be permitted except by written permission of the City Maintenance Manager or designated representative from the facility. From time to time, the City may take on improvement projects or other construction. The Contractor shall cooperate with the City or its agents while said work is underway.

10.00 Workmanship and Quality level

All work shall be performed by staff directly employed and supervised by the Contractor. The Contractor shall provide management and technical supervision through competent supervisors as required to provide the painting. The Contractor shall be responsible for the skills, methods and actions of all employees, subcontractors and for all work done.

The Contractor shall cooperate with the representative authorized by the City to enable them to determine the Contractor's conformity with these specifications and the adequacy of the work being performed. The Contractor shall give personal supervision to the work and will meet with the Utility Supervisor or designated City representative as needed.

11.00 Safety

The Contractor and staff shall follow all established safety procedures and shall take special care not to endanger the public in any way.

**EXHIBIT B
SCHEDULE OF COMPENSATION RATES**

Task/Item	Cost per Sq. Ft.
1. Exterior Walls	\$2.57
2. Exterior Trim	\$4.39
3. Interior Wall and Ceiling	\$2.47
4. Interior Trimm	\$6.11
5. Interior Floors	\$16.40
6. Interior Piping & Appurtenances	\$13.46

The above rates include any and all labor, paint, painting supplies, travel time, expenses and equipment necessary to do the work required.

For any other on-call work and work not listed above- The City shall request a quote from the contractor before work is done. A notice to proceed shall be issued to the contractor if the City agrees on the pricing. The city reserves the right to contract with other contractors for other on-call work or work not listed above if the City feels it would be in the City's best interest.

EXHIBIT C SCHEDULE OF PERFORMANCE

This is a three-year agreement for annual painting. The well sites and booster stations are to be painted during the months of October through May in order to minimize any detrimental operational impact during the City's peak water pumping activities during the warm weather periods. Each year, the City will identify the facilities to be painted in the upcoming fiscal year. A tentative three year schedule is below but this schedule is subject to change:

FY2019-2021 Tentative Painting Schedule

	2018-19	2019-20	2020-21
Booster	Woodland	Encino	El Toro
Well	Butterfield	Dunne #2	Nordstrom
Well	Diana #3	Boys Ranch #1	Diana #4



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

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

APPROVE IMPACT FEE FREEZE AGREEMENTS WITH TBI-MISSION WEST II, LLC FOR THE DEVELOPMENT OF TWO HOTELS AND A NEW CARPENTERS' TRAINING FACILITY BUILDING IN THE MADRONE BUSINESS PARK

RECOMMENDATION(S)

1. Approve an Impact Fee Freeze Agreement with the TBI-Mission West II, LLC (Toeniskoetter Development) for the development of a 55,000 s.f. training center building on 4.92 acres on Madrone Parkway identified by Assessor Parcel Number 726-35-028;
2. Approve an Impact Fee Freeze Agreement with TBI-Mission West II, LLC (Toeniskoetter Development) for the construction of Two Upper Mid-Scale Hotels on 4.41 acres on Cochrane Road identified by Assessor Parcel Number 726-33-029; and
3. Authorize the City Manager to execute and administer the Impact Fee Freeze Agreements.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Financial Stewardship

GUIDING DOCUMENTS

Economic Blueprint

REPORT NARRATIVE:

TBI-Mission West II, LLC (Toeniskoetter Development) owns five (5) vacant industrial/commercial parcels within the Madrone Business Park and manages four (4) other developed properties within Morgan Hill. Toeniskoetter Development has submitted applications for two prospective development projects.

A. Carpenters' Training Center Building APN 726-35-028

Toeniskoetter Development is working with tenant, Carpenters' Training Committee of Northern California, to build a new 55,000-square foot training facility on a 4.92-acre lot located on Madrone Parkway, immediately adjacent to NXEdge. The Carpenters' Training Facility currently occupies 35,000 square feet of office on Woodview Avenue. The Carpenters' Training Committee (CTC) provides education and hands-on training at the facility and is looking to expand into a bigger space to accommodate increased

demand. A new building provides opportunity to relocate the existing operations while providing capacity for growth. The CTC has filed an application for a Conditional Use Permit to occupy this site which is scheduled to be heard by Planning Commission by Spring/Summer of 2019. The CTC is a long standing member of the Morgan Hill community. The CTC offers classes and training for people that are interested in pursuing a career in the carpenters' trade. The industry is growing and the equipment and lab space necessary to teach the classes require additional space. The CTC has been exploring expansion options in Morgan Hill and other cities in Santa Clara County. The CTC prefers to expand its facility in Morgan Hill and as a result has been working with the Economic Development and Planning teams for over a year to help find a suitable location in Morgan Hill.

B. Hotels at Madrone Plaza APN 726-33-029

Toeniskoetter Development also proposes to sell a parcel to a hotel operator for construction of two hotels on the 5-acre parcel located on Madrone Parkway and Woodview Avenue (2nd phase of Madrone Plaza). Toeniskoetter Development recently submitted a Zoning Amendment on behalf of the operator to modify the existing commercial Planned Unit Development (PUD) to allow the development of the two proposed hotels. On December 11, 2018, Planning Commission approved a resolution recommending the City Council approve an amendment to the PD for the Madrone Village Shopping Center.

Staff is recommending the City Council approve Impact Fee Freeze Agreements to lock development impact fees for the construction of the 55,000-square foot training center building and two mid-scale hotels to be located at Madrone Village Shopping Center.

The Fee Freeze Program approved by Council in 2017 envisioned a 3-year window to incentivize immediate development, freezing fees for three years if the developer: 1) secured an Impact Fee Freeze Agreement, 2) secured entitlements; and, 3) submitted for building permits within the three-year window. While it is anticipated that the proposed industrial and hotel projects will meet these criteria, including complete building permit submittals, it may not receive building permits until after July 1, 2020. For that reason, the proposed Fee Freeze Agreement extends the time to obtain building permits through Fiscal Year (FY) 2020-21 and is consistent with the envisioned 3-year window of the program.

The estimated development impact fees for the CTC 55,000 square foot training facility for FY 2016-17 are \$591,000. For the two hotels for FY 2016-17, the estimated development impact fees are \$1,320,000. The combined estimated development impact fees for the CTC and two hotels for FY 2016-17 are \$1,911,000.

Year		2019	2020
Impact Fee Schedule	2016-17	2018-19	2019-20
Estimated Impact Fee for CTC	591,000	642,000	668,000
Estimated Impact Fee 2 Hotels	\$1,320,000	\$1,569,000	\$1,634,000*

Total Impact Fees	\$1,911,000	\$2,211,000	\$2,302,000*
Potential Savings to Both Developments with Impact Fee Freeze Agreements		\$300,000	\$391,000

*Estimated

The Carpenters' Training Facility houses classrooms, shop space, a welding laboratory, and administrative offices. Due to the nature of the use, the City receives revenue through property tax and business license fees. The tax revenue generated from the facility will result in a longer payback horizon nearing 20 years to offset the \$51,000 to \$77,000 savings received by the CTC. The new construction will result in nearly \$26,000 in one-time funding of property tax and sales tax. It is estimated with the replacement of the facility's equipment; the City will receive nearly \$1,000 annually in property tax revenue. It is important to remember that the CTC provides very valuable jobs and job training services that support many in the community. Many of the classroom participants reside in the South County. In addition, upon completion of the building of the new CTC facility, the CTC will vacate a 35,000 square foot industrial office building that will allow new or existing firms to expand into or relocate to Morgan Hill. With a commercial vacancy rate of 3.8% in Morgan Hill, there are few opportunities for business expansion or relocation.

Once built and operational, the two hotels are estimated to generate a conservative \$841,000 annually in direct on-going property tax, sales tax, and transient occupancy tax revenue to the City's General Fund. Additionally, staff estimates the City will receive a one-time construction benefit, in the form of property (construction value) and sales tax, of about \$64,000. The first (1st) year's tax revenues to the City from operations of the two hotels will exceed the savings the developer receives from the impact fee freeze in any year of the fee freeze agreement.

COMMUNITY ENGAGEMENT: Inform

Approving a Fee Freeze Agreement with Toeniskoetter Development Inc. is consistent with the Impact Fee Freeze Program, aligns with the Economic Blueprint Strategy #3 "Attract New Development", Action #5, "Explore Incentive Programs to Attract Industry Specific Development."

ALTERNATIVE ACTIONS:

The City Council could choose to not approve one, or both, of the impact fee freeze agreements.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On June 21, 2017, City Council approved a Citywide Impact Fee Freeze Program establishing 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 a Fee Freeze Agreement from a Development Agreement.

FISCAL AND RESOURCE IMPACT:

The potential loss of impact fee revenue to the City from approving both Impact Fee Freeze Agreements is expected to range between \$300,000 and \$391,000. The City is expected to receive a one-time construction benefit, in the form of sales and property tax, of about \$90,000 from both developments. Once fully built out and operational, the City will receive an ongoing benefit of approximately \$842,000 in direct property tax, sales tax, and transient occupancy tax to the City's General Fund.

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. TBI_MissionWest_MadroneCarpentersUnion_FINAL
2. TBI_MissionWest_MadroneVillageShopping_FINAL2

IMPACT FEE FREEZE AGREEMENT**BY AND BETWEEN****THE CITY OF MORGAN HILL****AND****TBI-MISSION WEST II, LLC****Attachment: TBI_MissionWest_MadroneCarpentersUnion_FINAL (2118 : Agreements with TBI-Mission West II, LLC)**

IMPACT FEE FREEZE AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND

TBI-MISSION WEST II, LLC

This Impact Fee Freeze Agreement (the "Agreement") is entered into as of _____, 2019, by TBI-MISSION WEST II, LLC, a California Limited Liability Company and its successors and assigns (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, also known as Parcel K in the Madrone Business Park with the street address of 18640 Madrone Parkway, (the "Subject Property") upon which improvements are to be made for a new or expanding industrial or commercial business (the "Project").

C. On January 23, 2019, 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 4.928 acres located within the City, as more particularly described and shown on *Exhibit A* to this Agreement, and also defined as the Subject Property in the Recitals hereto.

(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, 2021.

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, 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; however, the payment, if any, of the Storm Drain Impact Fee and Storm Drain Frontage Charge shall be determined by separate agreement between the Parties.

(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, 2021 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.

4.05 Assignment.

Developer may assign its rights and obligations under this Agreement to third-parties who apply to purchase or construct a portion or all of the Project with no additional fees or costs to Developer or Assignee so long as the uses are allowed and/or proposal remains consistent with the uses currently allowed for the subject property or as otherwise allowed in the future.

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.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has

prepared, supplied or approved of, plans and/or specifications for the 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.

(f) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(g) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City:

City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To:

City Attorney
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

If to Developer:

TBI-Mission West II, LLC
c/o Toeniskoetter Development, Inc.
1960 the Alameda, Suite 20
San Jose, CA 95126
Attn: Brad W. Krouskup, President & CEO
Tel: (408) 260-3481

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(h) 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.

(i) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(j) 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; however, the payment, if any, of the Storm Drain Impact Fee and Storm Drain Frontage Charge shall be determined by separate agreement between the Parties

(k) 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.

(l) 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.

(m) 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:

TBI-MWP I, a California limited partnership

By: Toeniskoetter & Breeding, Inc.
Development, a California corporation,
General Partner

By: 

Brad Krouskup, President & CEO

Date: 11/28/18

Attachment: TBI_MissionWest_MadronCarpentersUnion_FINAL (2118 : Agreements with TBI-Mission West II, LLC)

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY ON WHICH

PROJECT IS BE LOCATED

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF MORGAN HILL, COUNTY OF SANTA CLARA AND STATE OF CALIFORNIA, BEING A PORTION OF PARCEL "J", AND ALL OF PARCEL "K", AS SHOWN ON THAT CERTAIN PARCEL MAP FILED ON OCTOBER 4, 2000 IN BOOK 732 OF MAPS, AT PAGES 30 THROUGH 33, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PARCEL "K";

THENCE SOUTH 50°54'16" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCELS "J" AND "K", A DISTANCE OF 561.72 FEET;

THENCE SOUTH 39°04'16" EAST A DISTANCE OF 348.98 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF SAID PARCEL "J";

THENCE NORTH 50°55'44" EAST ALONG THE SOUTHEASTERLY LINE OF SAID PARCELS "J" AND "K", A DISTANCE OF 173.29 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST;

THENCE NORTHWESTERLY ALONG THE ARCE OF SAID CURVE, TO THE LEFT, WITH RADIUS OF 30.00 FEET AND CENTRAL ANGLE 22°19'54", FOR AN ARCE DISTANCE OF 11.69 FEET TO A POINT OF REVERSE CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH;

THENCE EASTERLY ALONG THE ARCE OF SAID CURVE, TO THE RIGHT, WITH RADIUS OF 50.00 FEET AND CENTRAL ANGLE TO 130°33'15", FOR AN ARCE DISTANCE OF 113.93 FEET;

THEN NORTH 50°55'44" EAST ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL "K", A DISTANCE OF 310.54 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL "K";

THEN NORTH 39°04'16" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL "K", A DISTANCE OF 408.86 FEET TO THE POINT OF BEGINNING

EXHIBIT B**2016-2017 Impact Fee Schedule**



CITY OF MORGAN HILL

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

TRACT / APN

ADDRESS / LOT

PROJECT DESCRIPTION

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

FEE SCHEDULE EXPIRATION DATE

NAME

MAILING ADDRESS

CITY, STATE, ZIP CODE

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 RDCS 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 std

WATER FEES:**1. METER DEPOSIT:** 650-37672

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1"	\$468	x		=
1 1/2"	\$1,434	x		=
2"	\$1,619	x		=
3" or larger	Time & Material + Meter Cost			=

METER CREDITS

\$ x =

SUBTOTAL =**2. BACKFLOW CONST. INSPECTION:** 650-37659

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

\$ x Each =

3. WATER FRONTAGE CHARGE: 650-37653

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1 Side	\$66	x	LF	=
2 Sides	\$37	x	LF	=

4. WATER IMPACT FEE: 651-37648

(Auth: Res. #5592 approved 08.21.02, Increased 01.15.16)

a) Residential				
\$3,624 /DU	x	DU	=	
(Single Family)				
\$3,269 /DU	x	DU	=	
(Multi Family)				

b) Commercial & Industrial				
(Includes Landscape Service)				
\$10,288 /AC	x	AC	=	

WATER CREDITS

\$ x =

SUBTOTAL =**WATER FEE TOTALS =****5. ENGINEERING & INSPECTION FEE:** 206-38734

(Minimum \$500.00)

(Authority: Res. #5902 approved 05.04.05, Updated 07.01.09)

ENGINEERING ESTIMATE:**DATE ENGINEERING EST. SUBMITTED:****% APPLIES TO ENGINEER'S ESTIMATE**

13.3%	\$1	to	\$100,000	=
11.8%	\$100,001	to	\$200,000	=
10.3%	\$200,001	to	\$500,000	=
8.8%	OVER		\$500,000	=
ENGINEERING FEE				=
DEPOSIT PAID				=

ENGINEERING FEE TOTAL =**5A. LONG RANGE PLANNING FEE:** 207-37912**LONG RANGE PLANNING FEE (15% of E&I) =****SEWER FEES:****6. SEWER FRONTAGE CHARGE:** 840-37683

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1 Side	\$66	/LF	x	LF	=
2 Sides	\$37	/LF	x	LF	=

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	DU	=	
(Single Family)				
\$12,004 /DU	x	DU	=	
(Multi Family)				
b) Commercial & Industrial				
\$48.56 /GPD	x	GPD	=	
\$48.56 /GPD	x	GPD	=	

SEWER CREDITS

\$ x =

RDA ASSUMED SEWER OBLIGATION

\$14,183 /DU	x	DU	=	
(Single Family)				
\$12,004 /DU	x	DU	=	
(Multi Family)				
\$48.56 /GPD	x	GPD	=	
(Commercial & Industrial)				

SUBTOTAL =**SEWER FEE TOTALS =****STORM DRAIN FEES:****8. STORM DRAIN FRONTAGE CHARGE:** 304-37653

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1 Side	\$108	/LF	x	LF	=
2 Sides	\$53	/LF	x	LF	=

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	DU	=	
(Single Family)				
\$2,001 /DU	x	DU	=	
(Multi Family)				
\$41,897 /ACRE	x	AC	=	
(Commercial & Office)				
\$30,505 /ACRE	x	AC	=	
(Industrial)				

STORM CREDITS

\$ x =

SUBTOTAL =**STORM DRAIN FEE TOTALS =**

10. UNDERGROUNDING UTILITIES: 350-37649

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

1 Side \$681 x _____ LF = _____
 2 Sides \$343 x _____ LF = _____

11a. PARK IMPACT FEE: 301-37649

(Auth: Res. #5592 appr'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$5,378 /DU x _____ DU = _____
 (Single Family - Sub)
 \$3,910 /DU x _____ DU = _____
 (Single Family - No Sub)
 \$5,181 /DU x _____ DU = _____
 (Multi Family - Sub)
 \$3,771 /DU x _____ DU = _____
 (Multi Family - No Sub)

11b. PARK MAINTENANCE DEV. FEE: 302-37649

\$ _____ x _____ EACH = _____

PARK CREDITS

_____ x _____ = _____

PARK FEE TOTAL = _____**12. TRAFFIC IMPACT FEE: 309-37648**

(Auth: Res. #15-162 approved 06.17.15 & Res. #5592 approved 08.21.02, Increased 01.15.16)

\$1,863 /DU x _____ DU = _____
 (Single Family)
 \$1,155 /DU x _____ DU = _____
 (Multi Family)
 \$1,863 /PHT x _____ PHT = _____
 (Commercial)
 \$1,863 /PHT x _____ PHT = _____
 (Industrial)

TRAFFIC CREDITS

\$ _____ x _____ = _____

TRAFFIC FEE TOTAL = _____**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 _____ DU = _____
 (Single Family)
 \$1,902 /DU x _____ DU = _____
 (Multi Family)

LIBRARY CREDITS

\$ _____ x _____ = _____

LIBRARY FEE TOTAL = _____**14. BURROWING OWL MITIGATION: 232-36145**

(Authority: Res. #5765 approved 01.21.04, Increased 07.01.16)

\$200 /DU _____ DU = _____
 (Residential)
 \$1,395 /AC _____ AC = _____
 (Commercial/Industrial)

15a. MAP CHECK FEE: 206-38716

(Authority: Res. #5658 approved 03.19.03, Updated 07.01.16)

PARCEL MAP: \$3,805 = _____
 TRACT MAP: \$5,667 = _____

16. POLICE IMPACT FEE: 311-37649

(Auth: Res. #5686 appr'd 06.18.03, Amdd by Res. 6326 4.28.10, Increased 01.15.16)

\$767 /DU x _____ DU = _____
 (Single Family)
 \$741 /DU x _____ DU = _____
 (Multi Family)
 \$1,666 /ACRE x _____ AC = _____
 (Commercial)
 \$2,333 /ACRE x _____ AC = _____
 (Industrial)

POLICE CREDITS

\$ _____ x _____ = _____

POLICE FEE TOTAL = _____**17. FIRE IMPACT FEE: 343-37648**

(Auth: Res. #6671 approved 07.17.13, Increased 01.15.16)

\$118 /DU x _____ DU = _____
 (Single Family)
 \$112 /DU x _____ DU = _____
 (Multi Family)
 \$1,550 /ACRE x _____ AC = _____
 (Commercial)
 \$1,550 /ACRE x _____ AC = _____
 (Industrial)

FIRE CREDITS

\$ _____ x _____ = _____

FIRE FEE TOTAL = _____**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 _____ DU = _____
 (Single Family)
 \$493 /DU x _____ DU = _____
 (Multi Family)
 \$1,128 /ACRE x _____ AC = _____
 (Commercial)
 \$1,579 /ACRE x _____ AC = _____
 (Industrial)

PUBLIC FACILITIES CREDITS

\$ _____ x _____ = _____

PUBLIC FACILITIES FEE TOTAL = _____**20. COMMUNITY/REC CTRS IMPACT FEE: 360-37648**

(Auth: Res. #15-152 appr'd 8.17.15, increased 01.15.16)

\$3,663 /DU x _____ DU = _____
 (Single Family)
 \$3,213 /DU x _____ DU = _____
 (Multi Family)

PUBLIC FACILITIES CREDITS

\$ _____ x _____ = _____

PUBLIC FACILITIES FEE TOTAL = _____

IMPACT FEE FREEZE AGREEMENT

BY AND BETWEEN

THE CITY OF MORGAN HILL

AND

TBI-MISSION WEST II, LLC

IMPACT FEE FREEZE AGREEMENT
BY AND BETWEEN
THE CITY OF MORGAN HILL
AND

TBI-MISSION WEST II, LLC

This Impact Fee Freeze Agreement (the "Agreement") is entered into as of _____, 2019, by TBI-MISSION WEST II, LLC, a California Limited Liability Company and its successors and assigns (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, also known as Parcel 1 in the Madrone Business Park with the street address of 735 Cochrane Road, (the "Subject Property") upon which improvements are to be made for a new or expanding industrial or commercial business (the "Project").

C. On January 23, 2019, 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 4.403 acres located within the City, as more particularly described and shown on *Exhibit A* to this Agreement, and also defined as the Subject Property in the Recitals hereto.

(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, 2021.

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, 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; however, the payment, if any, of the Storm Drain Impact Fee and Storm Drain Frontage Charge shall be determined by separate agreement between the Parties.

(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, 2021 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.

4.05 Assignment.

Developer may assign its rights and obligations under this Agreement to third-parties who apply to purchase or construct a portion or all of the Project with no additional fees or costs to Developer or Assignee so long as the uses are allowed and/or proposal remains consistent with the uses currently allowed for the subject property or as otherwise allowed in the future

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.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law. As Subsequent Approvals are adopted and therefore become part of the Applicable Law, the Subsequent Approvals will refine the permitted uses, density and/or intensity of use, maximum height and size of buildings and other structures, provisions for reservation or dedication of land, and other terms and conditions applicable to the Project.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced under or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees'

operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the 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.

(f) Interpretation/Construction. This Agreement has been reviewed and revised by legal counsel for both Developer and City, and any rule or presumption that ambiguities shall be construed against the drafting Party shall not apply to the interpretation or enforcement of this Agreement. The standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of City. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neuter and vice versa.

(g) Notices.

(1) All notices, demands, or other communications that this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective Party as follows:

If to City:

City Clerk
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7259
Fax: (408) 779-3117

With a Copy To:

City Attorney
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

If to Developer:

TBI-Mission West II, LLC
c/o Toeniskoetter Development, Inc.
1960 the Alameda, Suite 20
San Jose, CA 95126

Attn: Brad W. Krouskup, President & CEO
Tel: (408) 260-3481

(2) Any Party may change the address stated herein by giving notice in writing to the other Parties, and thereafter notices shall be addressed and transmitted to the new address. Any notice given to the Developer as required by this Agreement shall also be given to any lender which requests that such notice be provided. Any lender requesting receipt of such notice shall furnish in writing its address to the Parties to this Agreement.

(h) 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.

(i) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California.

(j) 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; however, the payment, if any, of the Storm Drain Impact Fee and Storm Drain Frontage Charge shall be determined by separate agreement between the Parties

(k) 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.

(l) 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.

(m) 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/ _____

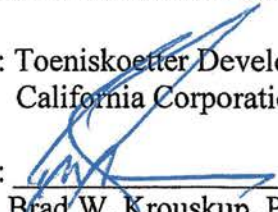
Donald A. Larkin
City Attorney

Date: _____

DEVELOPER:

Madrone Village Shopping Center, LLC,
a California Limited Liability company

By: Toeniskoetter Development, Inc. a
California Corporation, Manager

By: 
Brad W. Krouskup, President & CEO

Date: 11/28/18

EXHIBIT A
**LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED**

Real property in the City of Morgan Hill, County of Santa Clara, State of California, described as follows:

PARCEL ONE

PARCEL 1, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD ON JULY 10, 2006 AS BOOK 803 OF MAPS AT PAGES 24-25, AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED OCTOBER 16, 2006 DOCUMENT NO. 19143339, SANTA CLARA COUNTY RECORDS.

PARCEL ONE-A

A PRIVATE STORM DRAINAGE EASEMENT OVER PARCEL 3 OF SAID PARCEL MAP, BEING SHOWN THEREON AS "10.00' P.S.D.E. FOR THE BENEFIT OF PARCEL 1 AND PARCEL 2".

EXHIBIT B
2016-2017 Impact Fee Schedule



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 _____

NAME _____

TRACT / APN _____

MAILING ADDRESS _____

ADDRESS / LOT _____

CITY, STATE, ZIP CODE _____

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 RDCS 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 HOTEL

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) Commercial & Industrial						
(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) Commercial & Industrial						
\$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 08.21.02, 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)					
\$41,897 /ACRE	x	0	AC	=	\$0
(Commercial & Office)					
\$13,434 /ACRE	x	0	AC	=	\$0
(Hotel)					

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	CAL	=	\$0
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PARK CREDITS

\$0	x	0		=	\$0
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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
(Commercial)					
\$1,863 /PHT	x	0	PHT	=	\$0
(Industrial)					

TRAFFIC CREDITS

\$0	x	0		=	\$0
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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
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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 /AC		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)					
\$1,666 /ACRE	x	0	AC	=	\$0
(Commercial)					
\$202 /ACRE	x	0	AC	=	\$0
(Hotel)					

POLICE CREDITS

\$0	x	0		=	\$0
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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)					
\$1,550 /ACRE	x	0	AC	=	\$0
(Commercial)					
\$150 /ACRE	x	0	AC	=	\$0
(Hotel)					

FIRE CREDITS

\$0	x	0		=	\$0
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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)					
\$1,128 /ACRE	x	0	AC	=	\$0
(Commercial)					
\$138 /ACRE	x	0	AC	=	\$0
(Hotel)					

PUBLIC FACILITIES CREDITS

\$0	x	0		=	\$0
-----	---	---	--	---	-----

PUBLIC FACILITIES FEE TOTAL = \$0**20. COMMUNITY/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
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PUBLIC FACILITIES FEE TOTAL = \$0



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Dwight Good, Fire Marshal
APPROVED BY: City Manager

AWARD CONTRACT TO AIR EXCHANGE INC. FOR THE INSTALLATION OF SOURCE CAPTURE EXHAUST SYSTEMS UNDER FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017

RECOMMENDATION(S)

Adopt resolution:

1. Awarding bid to Air Exchange Inc. for the installation of source capture exhaust systems and authorize the City Manager to execute all necessary agreements subject to City Attorney review; and
2. Amending the Fiscal Year (FY) 2018-19 adopted budget to appropriate \$51,812 from the General Fund (010) to fully fund the grant related expenditures.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility
Fostering a Positive Organizational Culture

2018 Strategic Priorities

Financial Stewardship
Infrastructure
Regional Initiatives

NARRATIVE

On October 3, 2018, City Council accepted a grant award under the Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant (AFG) program, FEMA Grant Award # EMW-2017-FO-03259 in the amount of \$142,764 and appropriated \$157,040 in the General Fund (010) for the related Grant expenditures. The difference of \$14,276 reflects FEMA's 10% match requirement.

The grant was awarded to fund the installation of source capture exhaust systems at all fire stations within the city limits, and new fire alarm systems at fire stations 4 (Old Monterey Road) and 5 (Hill Road and E. Dunne Avenue). The source capture exhaust systems will remove vehicle exhaust from fire station apparatus bays, significantly reducing employee exposures within live/work areas.

Staff conducted a competitive bidding process for the installation of fire alarm systems, but no bids were received. Following the bid opening, staff contacted Bay Alarm, which is the City's current alarm-systems provider, and obtained a bid of \$46,020. Based on this bid, it is anticipated that a contract for fire alarm installation will be completed under the City Manager's authority.

Staff conducted formal bid solicitations for the design and installation of source capture exhaust systems. Staff conducted a pre-bid conference with two potential vendors, but only received one bid. There is very little competition in this highly specialized market and staff does not anticipate that a new bid solicitation would yield a different result.

The bid opening for source capture exhaust systems was held on November 14, 2018 and the following bid was received: Air Exchange Inc. \$182,736.88.

Due to the increasing costs of parts and material and our obligation to pay prevailing wage, actual project costs are roughly 46% higher than anticipated. Fire Department staff appealed to FEMA and were advised that no surplus funds are available under this grant cycle. The period of performance for this grant award expires July 13, 2019.

Staff recommends City Council determine that new bid solicitations would not be expected to yield a different result and accept a successful competitive bid from Air Exchange Inc. for the installation of source capture exhaust systems at all fire stations within the city limits in an amount not to exceed \$162,832 (\$182,737 - \$19,905 CalFire contribution of parts and materials). This purchase will be advantageous to the City for the following reasons:

1. This project improves workplace safety for firefighters by reducing their exposure to known carcinogens and noxious fumes.
2. Air Exchange Inc. is a reputable and qualified vendor.
3. CAL FIRE has purchased \$19,905 in parts and materials for the source capture exhaust systems at Fire Station 1. This amount will be deducted from subsequent invoices from Air Exchange Inc. related to this project.

Finally, Staff recommends that Council appropriate an additional \$51,812 in the General Fund (010) for the related Grant expenditures.

Item	Amount
<u>Expenditure</u>	
Air Exchange Inc. Bid (Exhaust Systems)	\$ 182,737.00
CalFire Contributions towards exhaust systems	(19,905.00)
<i>Air Exchange Inc. Revised</i>	<i>162,832.00</i>
Bay Alarm (Fire Alarm System)	46,020.00
Project Expenditure	208,852.00
FEMA Grant Award	(142,764.00)
Net Cost to City	66,088.00
<u>Appropriations</u>	
Project Expenditure	208,852.00
Previously Appropriated (October 3, 2018)	(157,040.00)
Additional Appropriations Needed	\$ 51,812.00

COMMUNITY ENGAGEMENT: Not Applicable

Since this grant provides funds to purchase equipment that improves workplace safety for firefighters, no community engagement has been conducted. This staff report will serve as the instrument to inform the community of the grant award to the Morgan Hill Fire Department and the corresponding equipment purchases.

ALTERNATIVE ACTIONS:

Council may elect to not award the bid to Air Exchange Inc.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council accepted a 2014 AFG award in November 2015 and a 2015 AFG award in September 2016.

FISCAL AND RESOURCE IMPACT:

Fire activities are a part of the General Fund, therefore the Grant revenue and related expenditures, including the City's required matching contribution, will be recorded in the General Fund. City Council previously appropriated \$157,040 for the related expenditure on October 3, 2018. Staff recommends adopting a resolution to amend the FY2018-19 adopted budget to appropriate the balance of \$51,812 needed to complete the project, from the General Fund (010.3510.43825).

CEQA (California Environmental Quality Act):

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities), as the subject work involves the repair, maintenance or minor alteration of existing City facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. Resolution
2. AIR EXCHANGE

RESOLUTION NO. 19-**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS WITH AIR EXCHANGE INC. AND AMENDING THE FISCAL YEAR 2018-19 ADOPTED BUDGET TO APPROPRIATE AN ADDITIONAL \$51,812 FROM THE GENERAL FUND (010) FOR THE GRANT RELATED EXPENDITURES**

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

WHEREAS, the reasons supporting the acceptance of grant funds described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Award Contract to Air Exchange Inc. for the Installation of Source Capture Exhaust Systems under FEMA Assistance to Firefighters Grant 2017" submitted for City Council consideration at its meeting of January 23, 2019, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Budget for Fiscal Year 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 do not constitute a project under the provisions of California Environmental Quality Act of 1970; and

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

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

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

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

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

- a. That the grant award from the Federal Emergency Management Agency entitled Assistance to Firefighters Grant Program for the purchase of source capture exhaust systems at all fire stations within the city limits and new fire alarm systems at fire stations 4 and 5 is hereby accepted; and
- b. 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
- c. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2018-19 Budget of the City; and
- d. That the City Manager is hereby delegated authority to and is authorized to take all other ministerial actions that may be necessary or appropriate to implement the provisions of this Resolution.

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

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 23rd day of January 2019 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

IRMA TORREZ, City Clerk

Attachment: Resolution (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

∞ 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. 19-XXX, adopted by the City Council at the meeting held on January 23, 2019.

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

DATE: _____

IRMA TORREZ, City Clerk

Attachment: Resolution (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

AGENDA BUDGET SCORECARD

FISCAL YEAR 2018-19

ADJUSTMENT #

032

FUND:

DEPARTMENT:

OBJECT:

010	General Fund
3510	Fire Administration
43825	MACHINERY/EQUIPMENT

AGENDA DATE:

AGENDA ITEM TITLE:

01/23/19
FEMA Grant Expenditure Appropriations Request #2

	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	-	366,029	713,850	(347,821)
RECOMMENDED ACTION	-	-	51,812	(51,812)
RESULT OF RECOMMENDED ACTION	<u>17,687,052</u>	<u>41,630,578</u>	<u>42,424,151</u>	<u>16,893,479</u>



495 Edison Court, Suite A, Fairfield, CA 94534
1494-B East Francis St., Ontario, CA 91761
Phone: 800-300-2945 Fax: 707-864-2705
E-Mail: info@airexchange.com

November 12, 2018

Enclosed are the required documents for:

BID PROPOSAL
Morgan Hill DSC
Fire Stations Vehicle Exhaust Removal System Project
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Bid Opening/RFP
Bid Date: November 14, 2018
Bid Time: 11:00am

Thank you,

Carol McArdle
Air Exchange, Inc.
Office Manager

Attachment: AIR EXCHANGE (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

BID PROPOSAL

Fire Stations Vehicle Exhaust Removal Systems Project

Air Exchange, Inc. ("Bidder") hereby submits this Bid Proposal to the City of Morgan Hill ("City") for the above-referenced project ("Project") in response to the Notice Inviting Informal Bids and in accordance with the Contract Documents referenced therein.

1. **Base Bid.** Bidder proposes to perform and fully complete the Work for the Project as specified in the Contract Documents, within the time required for full completion of the Work, for the following price ("Base Bid"):

\$ 182,736⁸³.

2. **Addenda.** Bidder acknowledges receipt of the following addenda:

Addendum:	Date Received:	Addendum:	Date Received:
#01	<u>N/A</u>	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

3. **Bidder's Warranties.** By signing and submitting this Bid Proposal, Bidder warrants the following:

3.1 **Examination of Contract Documents.** Bidder has thoroughly examined the Contract Documents, and represents that, to the best of Bidder's knowledge there are no errors, omissions, or discrepancies in the Contract Documents subject to the limitations of Public Contract Code Section 1104.

3.2 **Examination of Worksite.** Bidder has had the opportunity to examine the Worksite and local conditions at the Project location.

3.3 **Bidder is Qualified.** Bidder is fully qualified to perform the Work.

3.4 **Responsibility for Bid.** Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid.

4. **Award of Contract.** By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, that within ten (10) days following issuance of the notice of award to Bidder, Bidder will do all of the following:

- 4.1 Execute Contract.** Enter into the Contract with City in accordance with the terms of this Bid Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;
- 4.2 Submit Required Bonds.** Submit to City a payment bond and a performance bond, each for one hundred percent (100%) of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and
- 4.3 Insurance Requirements.** Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.
- 5. Wage Theft Prevention.** All Bidders are expected to have read and understand the "Wage Theft Prevention Policy" adopted by the City Council on July 26, 2017.
- The undersigned Bidder certifies that neither Bidder nor its principals have been found by a final court judgement or final administrative action of an investigatory agency to have violated federal, state or local wage and hour laws within the past five years from the date of the submitted bid. Bidder or its principals who are unable to so certify, must disclose wage and hour violations, and shall provide a copy of (i) the court order and judgment and/or final administrative decision; and (ii) documents demonstrating either that the order/judgment has been satisfied, or if the order/judgment has not been fully satisfied, a written and signed description of Bidder's efforts to date to satisfy the order/judgment. Signing this bid shall constitute signature of this Certification.
- The City, at its sole discretion, may disqualify a bidder based on one or more disclosed judgments consistent with the criteria set forth in the Policy.
- 6. Bid Security.** As a guarantee that if awarded the Contract, it will perform its obligations under Section 4, above, Bidder is enclosing bid security in the amount of ten percent (10%) of its maximum bid amount in the following form:

_____ A cashier's check or certified check payable to City of Morgan Hill and issued by _____ Bank in the amount of \$ _____.

X A bid bond, using the Bid Bond form included with the Contract Documents, payable to City of Morgan Hill and executed by a surety licensed to do business in the State of California.

This Bid Proposal is hereby submitted on November 12, 2018:

s/ CKoss

Chris Koss / Operations Vice-President
Name and Title [print]

Air Exchange, Inc.
Company Name

664135, C43 Sheetmetal
License # and Classification

1000011166
DIR Registration #

495 Edison Ct, Ste A
Address

800-300-2945
Phone

Fairfield, CA 94534
City, State, Zip

707-864-2705
Fax

END OF BID PROPOSAL

BID SCHEDULE I – GENERAL

This Bid Schedule must be completed in ink and must be included with the sealed Bid Proposal. The unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total" column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal Form. Quantities shown are required for bid purposes and may or may not be final pay quantities. Actual quantities, if different, must be substantiated during the Project by Contractor (either by field measurement, trucking tags, or other means acceptable to the Engineer).

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
1	Fire Station 1: Removal of Existing Vehicle Exhaust Removal System (Disposal to be completed by others)	3	\$ 145 ⁰⁰	\$ 435 ⁰⁰
2	Fire Station 1: All labor, materials and equipment necessary to Install a Vehicle Exhaust Removal System	Vehicle exhaust system complete		72,725 ⁵⁵
3	Fire Station 4: Removal of Existing Vehicle Exhaust Removal System (Disposal to be completed by others)	4	145 ⁰⁰	580 ⁰⁰
4	Fire Station 4: All labor, materials and equipment necessary to Install a Vehicle Exhaust Removal System	Vehicle exhaust system complete		59,488 ⁷⁵
5	Fire Station 5: Removal of Existing Vehicle Exhaust Removal System (Disposal to be completed by others)	4	145 ⁰⁰	580 ⁰⁰
6	Fire Station 5: All labor, materials and equipment necessary to Install a Vehicle Exhaust Removal System	Vehicle exhaust system complete		48,927 ⁵⁸
7				

Bid Schedule I Total	\$ 182,736 ⁸³
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END OF BID SCHEDULE

PROPOSAL		Page 1 of 2																		
AIR EXCHANGE, INC. The Clean Air Specialists																				
495-A Edison Ct Fairfield Ca., 94534	DIR# 1000011166 CA Contractor Lic. # 664135	Phone: 707 864-2700 Fax: 707 864-2705																		
Proposal submitted to: Morgan Hill FD	Phone: 408-310-4654	Date: 10/30/2018																		
Street: 15670 Monterey Rd	Application Engineer: Chris Koss																			
City, State and Zip Code: Morgan Hill, CA 95037	Job Location: Station #1, 15670 Monterey Rd, Morgan Hill																			
Customer Representative: BC Dwight Good	Title:	Dozer Bay																		
We hereby submit estimate for our AIR CLEANING SYSTEM in accordance with the following: Scope: Supply and Install Plymovent Diesel Exhaust Removal System. <table style="width: 100%;"> <tr> <td>One (1) Plymovent VSRA-70-D, Verical Stack Rail System, 67' Rail.</td> <td style="text-align: right;">\$ 13,935.00</td> </tr> <tr> <td>One (1) Plymovent TEV-359 Fan, 2HP, 208-230/460V, 3 Phase, TEFC motor.</td> <td style="text-align: right;">\$ 2,250.00</td> </tr> <tr> <td>One (1) Plymovent OS-3 Control Panel, UL listed w/Wireless Sensor System.</td> <td style="text-align: right;">\$ 1,284.00</td> </tr> <tr> <td>Lot Ductwork, supports and materials.</td> <td style="text-align: right;">\$ 980.00</td> </tr> </table> Complete turnkey job.			One (1) Plymovent VSRA-70-D, Verical Stack Rail System, 67' Rail.	\$ 13,935.00	One (1) Plymovent TEV-359 Fan, 2HP, 208-230/460V, 3 Phase, TEFC motor.	\$ 2,250.00	One (1) Plymovent OS-3 Control Panel, UL listed w/Wireless Sensor System.	\$ 1,284.00	Lot Ductwork, supports and materials.	\$ 980.00										
One (1) Plymovent VSRA-70-D, Verical Stack Rail System, 67' Rail.	\$ 13,935.00																			
One (1) Plymovent TEV-359 Fan, 2HP, 208-230/460V, 3 Phase, TEFC motor.	\$ 2,250.00																			
One (1) Plymovent OS-3 Control Panel, UL listed w/Wireless Sensor System.	\$ 1,284.00																			
Lot Ductwork, supports and materials.	\$ 980.00																			
Notes: Terms and conditions attached. Sales tax based on current rates. Actual rates in effect at billing. Freight will be pre-paid and freight bills will accompany invoice. Electrical cost based on breaker panel being sufficient.																				
<table style="width: 100%;"> <tr> <td style="text-align: right;">Material Subtotal:</td> <td style="text-align: right;">\$ 18,449.00</td> </tr> <tr> <td style="text-align: right;">9.000% Sales Tax:</td> <td style="text-align: right;">\$ 1,660.41</td> </tr> <tr> <td style="text-align: right;">(Est.) Freight:</td> <td style="text-align: right;">\$ 800.00</td> </tr> <tr> <td style="text-align: right;">Electrical Hookup:</td> <td style="text-align: right;">\$ 2,000.00</td> </tr> <tr> <td style="text-align: right;">Lifts:</td> <td style="text-align: right;">\$ 900.00</td> </tr> <tr> <td style="text-align: right;">(1) Tailpipe Modification:</td> <td style="text-align: right;">\$ 180.00</td> </tr> <tr> <td style="text-align: right;">Installation Labor:</td> <td style="text-align: right;">\$ 7,200.00</td> </tr> <tr> <td style="text-align: right;">Bonds:</td> <td style="text-align: right;">\$ 1,247.00</td> </tr> <tr> <td style="text-align: right;">TOTAL:</td> <td style="text-align: right;">\$ 32,436.41</td> </tr> </table>			Material Subtotal:	\$ 18,449.00	9.000% Sales Tax:	\$ 1,660.41	(Est.) Freight:	\$ 800.00	Electrical Hookup:	\$ 2,000.00	Lifts:	\$ 900.00	(1) Tailpipe Modification:	\$ 180.00	Installation Labor:	\$ 7,200.00	Bonds:	\$ 1,247.00	TOTAL:	\$ 32,436.41
Material Subtotal:	\$ 18,449.00																			
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Installation Labor:	\$ 7,200.00																			
Bonds:	\$ 1,247.00																			
TOTAL:	\$ 32,436.41																			
Delivery of system will be within <u>12</u> weeks of proposal acceptance.																				
Payment to be made as follows: <u>Equipment due on delivery, balance due net 30 days after completion.</u>																				
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's compensation Insurance.																				
Authorized Signature:  Chris Koss		Note: This proposal may be with-drawn by us if not accepted within <u>45</u> days.																		
ACCEPTANCE OF PROPOSAL and TERMS AND CONDITIONS. (Pages 1 and 2, inclusively.) The above prices, specifications and Terms and Conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. By signing where indicated, you, as agent for the organization proposed, hereby authorized Air Exchange, Inc. to perform the work as specified on Page 1 of 2 of this proposal and agree and accept the Terms and Conditions (Page 2 of 2) of this proposal. Payment will be made as outlined above.																				
SIGNATURE: _____		DATE OF ACCEPTANCE: _____																		

Attachment: AIR EXCHANGE (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

TERMS AND CONDITIONS

AIR EXCHANGE, INC.

495-A Edison Ct.
Fairfield, CA 94534

DIR# 1000011166
CA Contractor Lic.# 664135

Phone: 800-300-2945
Fax: 707-864-2705

Page 2 of 2

PROJECT PROPOSED:

Morgan Hill #1 - Plymovent System

EXCLUSIONS TO THE PROJECT PROPOSED:

1. Permits and fees of any kind are not included in this proposal; including but not limited to, any pertinent load calculations; technical drawings, submittals, shop drawings and permit drawings of any kind. Should any of these items be required, a separate quote will be required.
2. Outside services, not limited to but including, concrete work, exterior penetrations, fork or scissor lift rentals, etc. are not included, unless indicated on Page 1 of 2 of the proposal.
3. All work to be performed during normal business hours (M-F, 7:30 a.m. to 4:00 p.m.). Work done outside of normal business hours will be subject to additional charges (i.e., time and one-half, double
4. Payments terms are noted on the proposal. Should you require different terms than noted, an addendum to this contract will need to be fully executed before revised terms will be accepted.
5. Freight is not included, unless indicated on Page 1 of 2 of the proposal. Please provide preferred carrier. If you authorize, Air Exchange, Inc. will pay for freight charges and invoice you, but you must include this provision in your purchase order to Air Exchange, Inc.

PROPOSAL		Page 1 of 2
AIR EXCHANGE, INC. The Clean Air Specialists		
495-A Edison Ct Fairfield Ca., 94534	DIR# 1000011166 CA Contractor Lic. # 664135	Phone: 707 864-2700 Fax: 707 864-2705
Proposal submitted to: Morgan Hill FD	Phone 408-310-4654	Date 10/30/2018
Street 15670 Monterey Rd	Application Engineer Chris Koss	
City, State and Zip Code Morgan Hill, CA 95037	Job Location Station #1, 15670 Monterey Rd, Morgan Hill	
Customer Representative BC Dwight Good	Title	Apparatus Room
We hereby submit estimate for our AIR CLEANING SYSTEM in accordance with the following:		
Scope: Supply and Install Plymovent Diesel Exhaust Removal System.		
Four (4)	Plymovent SBTA-21, Sliding Balancer Track Magnetic System, 19' Track, 1 Hose.	\$ 13,664.00
One (1)	Plymovent TEV-559 Fan, 5HP, 208-230V, 1 Phase, TEFC motor.	\$ 2,965.00
One (1)	Plymovent OS-3 Control panel, UL listed w/Wireless Sensor system.	\$ 1,467.00
Lot	Ductwork, supports and materials.	\$ 2,150.00
Remove existing Systems as necessary.		
Complete turnkey job.		
Notes: Terms and conditions attached. Sales tax based on current rates. Actual rates in effect at billing. Freight will be pre-paid and freight bills will accompany invoice. Electrical cost based on breaker panel being sufficient.		
		Material Subtotal: \$ 20,246.00
		9.000% Sales Tax: \$ 1,822.14
		(Est.) Freight: \$ 1,050.00
		Electrical Hookup: \$ 2,000.00
		Lifts: \$ 1,320.00
(4) Tailpipe Modification:		\$ 720.00
Installation Labor:		\$ 12,000.00
Bonds:		\$ 1,566.00
TOTAL:		\$ 40,724.14
Delivery of system will be within <u>12</u> weeks of proposal acceptance.		
Payment to be made as follows: <u>Equipment due on delivery, balance due net 30 days completion.</u>		
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's compensation Insurance.		
Authorized Signature:  Chris Koss		Note: This proposal may be with-drawn by us if not accepted within <u>45</u> days.
ACCEPTANCE OF PROPOSAL and TERMS AND CONDITIONS. (Pages 1 and 2, inclusively.) The above prices, specifications and Terms and Conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. By signing where indicated, you, as agent for the organization proposed, hereby authorized Air Exchange, Inc. to perform the work as specified on Page 1 of 2 of this proposal and agree and accept the Terms and Conditions (Page 2 of 2) of this proposal. Payment will be made as outlined above.		
SIGNATURE: _____		DATE OF ACCEPTANCE: _____

Attachment: AIR EXCHANGE (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

TERMS AND CONDITIONS

AIR EXCHANGE, INC.

495-A Edison Ct.
Fairfield, CA 94534

DIR# 1000011166
CA Contractor Lic.# 664135

Phone: 800-300-2945
Fax: 707-864-2705

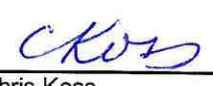
Page 2 of 2

PROJECT PROPOSED:

Morgan Hill #1 - Plymovent System

EXCLUSIONS TO THE PROJECT PROPOSED:

1. Permits and fees of any kind are not included in this proposal; including but not limited to, any pertinent load calculations; technical drawings, submittals, shop drawings and permit drawings of any kind. Should any of these items be required, a separate quote will be required.
2. Outside services, not limited to but including, concrete work, exterior penetrations, fork or scissor lift rentals, etc. are not included, unless indicated on Page 1 of 2 of the proposal.
3. All work to be performed during normal business hours (M-F, 7:30 a.m. to 4:00 p.m.). Work done outside of normal business hours will be subject to additional charges (i.e., time and one-half, double
4. Payments terms are noted on the proposal. Should you require different terms than noted, an addendum to this contract will need to be fully executed before revised terms will be accepted.
5. Freight is not included, unless indicated on Page 1 of 2 of the proposal. Please provide preferred carrier. If you authorize, Air Exchange, Inc. will pay for freight charges and invoice you, but you must include this provision in your purchase order to Air Exchange, Inc.

PROPOSAL		Page 1 of 2
AIR EXCHANGE, INC. The Clean Air Specialists		
495-A Edison Ct Fairfield Ca., 94534	DIR# 1000011166 CA Contractor Lic. # 664135	Phone: 707 864-2700 Fax: 707 864-2705
Proposal submitted to: Morgan Hill FD	Phone 408-310-4654	Date 10/30/2018
Street 15670 Monterey Rd	Application Engineer Chris Koss	
City, State and Zip Code Morgan Hill, CA 95037	Job Location Station #4, 18300 Old Monterey Rd.	
Customer Representative BC Dwight Good	Title	Apparatus Room
We hereby submit estimate for our AIR CLEANING SYSTEM in accordance with the following: Scope: Supply and Install Plymovent Diesel Exhaust Removal System.		
One (1) Plymovent SBTA-21, Sliding Balancer Magnetic Track System, 19' Track, 1 Hose.	\$	3,416.00
Two (2) Plymovent VSRX-65-1, VSRX Rail Magnetic System, 62' Rail, 1 Hose.	\$	23,694.00
One (1) Plymovent TEV-559 Fan, 5HP, 208-230V, 1 Phase, TEFC motor.	\$	2,965.00
One (1) Plymovent OS-3 Control panel, UL listed w/Wireless Sensor System.	\$	1,380.00
Lot Ductwork, supports and materials.	\$	1,920.00
Remove existing Systems.		
Complete turnkey job.		
Notes: Terms and conditions attached.	Material Subtotal:	\$ 33,375.00
Sales tax based on current rates. Actual rates in effect at billing.	9.000% Sales Tax:	\$ 3,003.75
Freight will be pre-paid and freight bills will accompany invoice.	(Est.) Freight:	\$ 900.00
Electrical cost based on breaker panel being sufficient.	Electrical Hookup:	\$ 2,000.00
	Lifts:	\$ 1,140.00
	(3) Tailpipe Modification:	\$ 540.00
	Installation Labor:	\$ 16,800.00
	Bonds:	\$ 2,310.00
	TOTAL:	\$ 60,068.75
Delivery of system will be within <u>12</u> weeks of proposal acceptance.		
Payment to be made as follows: <u>Equipment due on delivery, balance due net 30 days after completion.</u>		
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's compensation Insurance.	Authorized Signature:  Chris Koss	Note: This proposal may be with-drawn by us if not accepted within <u>45</u> days.
ACCEPTANCE OF PROPOSAL and TERMS AND CONDITIONS. (Pages 1 and 2, inclusively.) The above prices, specifications and Terms and Conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. By signing where indicated, you, as agent for the organization proposed, hereby authorized Air Exchange, Inc. to perform the work as specified on Page 1 of 2 of this proposal and agree and accept the Terms and Conditions (Page 2 of 2) of this proposal. Payment will be made as outlined above.		
SIGNATURE: _____		DATE OF ACCEPTANCE: _____

Attachment: AIR EXCHANGE (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

TERMS AND CONDITIONS

AIR EXCHANGE, INC.

495-A Edison Ct.
Fairfield, CA 94534

DIR# 1000011166
CA Contractor Lic.# 664135

Phone: 800-300-2945
Fax: 707-864-2705

Page 2 of 2

PROJECT PROPOSED:

Morgan Hill #4 - Plymovent System

EXCLUSIONS TO THE PROJECT PROPOSED:

1. Permits and fees of any kind are not included in this proposal; including but not limited to, any pertinent load calculations; technical drawings, submittals, shop drawings and permit drawings of any kind. Should any of these items be required, a separate quote will be required.
2. Outside services, not limited to but including, concrete work, exterior penetrations, fork or scissor lift rentals, etc. are not included, unless indicated on Page 1 of 2 of the proposal.
3. All work to be performed during normal business hours (M-F, 7:30 a.m. to 4:00 p.m.). Work done outside of normal business hours will be subject to additional charges (I.e., time and one-half, double
4. Payments terms are noted on the proposal. Should you require different terms than noted, an addendum to this contract will need to be fully executed before revised terms will be accepted.
5. Freight is not included, unless indicated on Page 1 of 2 of the proposal. Please provide preferred carrier. If you authorize, Air Exchange, Inc. will pay for freight charges and invoice you, but you must include this provision in your purchase order to Air Exchange, Inc.

PROPOSAL		Page 1 of 2
AIR EXCHANGE, INC. The Clean Air Specialists		
495-A Edison Ct Fairfield Ca., 94534	DIR# 1000011166 CA Contractor Lic. # 664135	Phone: 707 864-2700 Fax: 707 864-2705
Proposal submitted to: Morgan Hill FD	Phone 408-310-4654	Date 10/30/2018
Street 15670 Monterey Rd	Application Engineer Chris Koss	
City, State and Zip Code Morgan Hill, CA 95037	Job Location Station #5, 2100 E. Dunne Ave.	
Customer Representative BC Dwight Good	Title	Apparatus Room
We hereby submit estimate for our AIR CLEANING SYSTEM in accordance with the following:		
Scope: Supply and Install Plymovent Diesel Exhaust Removal System.		
Two (2)	Plymovent VSRX-45-1, VSRX Rail Magnetic System, 43' Rail, 1 Hose.	\$ 20,714.00
One (1)	Plymovent TEV-559 Fan, 5HP, 208-230V, 1 Phase, TEFC motor.	\$ 2,965.00
One (1)	Plymovent Control panel, UL listed w/ pressure sensors, motor starter.	\$ 1,293.00
Lot	Ductwork, supports and materials.	\$ 1,490.00
Remove existing Systems.		
Complete turnkey job.		
Notes: Terms and conditions attached.		
Sales tax based on current rates. Actual rates in effect at billing.		
Freight will be pre-paid and freight bills will accompany invoice.		
Electrical cost based on breaker panel being sufficient.		
Material Subtotal:		\$ 26,462.00
9.000% Sales Tax:		\$ 2,381.58
(Est.) Freight:		\$ 900.00
Electrical Hookup:		\$ 2,000.00
Lifts:		\$ 1,100.00
(2) Tailpipe Modification:		\$ 360.00
Installation Labor:		\$ 14,400.00
Bonds:		\$ 1,904.00
TOTAL:		\$ 49,507.58
Delivery of system will be within <u>12</u> weeks of proposal acceptance.		
Payment to be made as follows: <u>Equipment due on delivery, balance due net 30 days after completion.</u>		
All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's compensation Insurance. Authorized Signature:  Chris Koss		
Note: This proposal may be with-drawn by us if not accepted within <u>45</u> days.		
ACCEPTANCE OF PROPOSAL and TERMS AND CONDITIONS. (Pages 1 and 2, inclusively.) The above prices, specifications and Terms and Conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. By signing where indicated, you, as agent for the organization proposed, hereby authorized Air Exchange, Inc. to perform the work as specified on Page 1 of 2 of this proposal and agree and accept the Terms and Conditions (Page 2 of 2) of this proposal. Payment will be made as outlined above.		
SIGNATURE: _____ DATE OF ACCEPTANCE: _____		

Attachment: AIR EXCHANGE (2130 : FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017)

TERMS AND CONDITIONS

AIR EXCHANGE, INC.

495-A Edison Ct.
Fairfield, CA 94534

DIR# 1000011166
CA Contractor Lic.# 664135

Phone: 800-300-2945
Fax: 707-864-2705

Page 2 of 2

PROJECT PROPOSED:

Morgan Hill #5 - Plymovent System

EXCLUSIONS TO THE PROJECT PROPOSED:

1. Permits and fees of any kind are not included in this proposal; including but not limited to, any pertinent load calculations; technical drawings, submittals, shop drawings and permit drawings of any kind. Should any of these items be required, a separate quote will be required.
2. Outside services, not limited to but including, concrete work, exterior penetrations, fork or scissor lift rentals, etc. are not included, unless indicated on Page 1 of 2 of the proposal.
3. All work to be performed during normal business hours (M-F, 7:30 a.m. to 4:00 p.m.). Work done outside of normal business hours will be subject to additional charges (i.e., time and one-half, double
4. Payments terms are noted on the proposal. Should you require different terms than noted, an addendum to this contract will need to be fully executed before revised terms will be accepted.
5. Freight is not included, unless indicated on Page 1 of 2 of the proposal. Please provide preferred carrier. If you authorize, Air Exchange, Inc. will pay for freight charges and invoice you, but you must include this provision in your purchase order to Air Exchange, Inc.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Scott Creer, Deputy Director of Engineering
APPROVED BY: City Manager

ACCEPT MONTEREY ROAD PRESERVATION PROJECT

RECOMMENDATION(S)

1. Accept as complete, the Monterey Road Preservation Project, in the final amount of \$2,417,154;
2. Authorize the City Engineer to sign the attached Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2018 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

On May 3, 2017, City Council awarded a construction contract for the Monterey Road Preservation Project. The project scope included full depth asphalt concrete repair, crack sealing, two-inch thick asphalt concrete overlay, roadway restriping, utility adjustments, and traffic signal loops restoration along Monterey Road from East Dunne Avenue to East Middle Avenue. The restriping work included enhancements to the existing bicycle facilities. The City received \$1,379,000 in grant funding from One Bay Area Grants (OBAG) Cycle 1 for this project.

The project was awarded to Granite Construction for \$2,465,933 and the project was authorized a 10% contingency of \$246,593. The final project cost was \$2,417,154 and was completed in November 2017. Staff has worked with the Caltrans' Local Assistance representative since the completion of the construction to ensure Federal-Aid program compliance requirements have been met for the project. Upon project acceptance, staff will prepare and file the project completion package with Caltrans.

Staff recommends accepting the project as the work is complete and in accordance with the plans and specifications.

COMMUNITY ENGAGEMENT: Inform

Prior to commencement of work, the contractor notified residents and businesses adjacent to the construction work zone. Staff also provided notifications and weekly project updates through the City's website.

ALTERNATIVE ACTIONS:

Accepting the project in accordance with the contract documents is a required process and enables the City to release any retained funds owed to the contractor per the California Public Contract Code Section 7107.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- On September 25, 2013, City Council adopted a Resolution of Local Support for the Metropolitan Transportation Commission's (MTC) Discretionary Funding Programs.
- On May 3, 2017, City Council adopted Resolution No. 17-036 that awarded a construction contract to Granite Construction Company for \$2,465,933 and amended the City's Fiscal Year 2016-17 budget by appropriating an additional \$899,526 from the Street CIP Fund (Fund 308).

FISCAL AND RESOURCE IMPACT:

The final contract amount for the Monterey Road Preservation Project is \$2,417,154. The project was awarded to Granite Construction Company for \$2,465,933 and the project was authorized with a 10% contingency of \$246,593, totaling \$2,712,526 authorized for construction. Out of the original base contract, only \$2,419,154 was spent along with one change order, credit of \$2,000, for a final contract cost of \$2,417,154. The remaining unspent construction balance of \$295,372 will be allocated to the Pavement Rehabilitation Project #519000. The project was funded by the Street CIP fund (Fund 308) with \$1,379,000 grant reimbursements received and deposited into Fund 308.

CEQA (California Environmental Quality Act):

Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15301(c) of the CEQA (Existing Facilities), as the subject work involves the repair, maintenance or minor alteration of existing City roadway facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. Funding Closeout Statement Monterey Preservation 01-23-19
2. Notice of Completion Monterey Preservation 01-23-19
3. Monterey Road Preservation Location Map

CIP Contract Acceptance Funding Closeout Statement

Project:	Monterey Preservation		
Project No:	519Z15		
Date of Project Award:	3-May-17	Project Award Amount:	\$2,465,933
Funding Source:	f308	Contingency Authorized:	\$246,593
Date of Project Acceptance:	23-Jan-19	Total Authorized:	\$2,712,526
		Actual Base Contract Spent:	\$2,419,154

Change Orders			
	Description	Date	Council Approval Reqd? (Y/N)
C.O. #1:	Credit for materials testing	7-Jan-19	N
Total C.O.:			

Additional Appropriations		
Source	Amount	Date
None		

Construction Fund Balance:	\$295,372	Total Construction Amount (Base Contract plus CO's):	\$2,417,154
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Record at the Request of
and When Recorded Mail to:

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

Record at No Fee Pursuant to
Government Code Section 27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN, pursuant to Civil Code Section 9204, that:

- 1) On May 3, 2017, the City of Morgan Hill, a Municipal Corporation, entered to a contract with Granite Construction for the Monterey Road Preservation Project located along Monterey Road from East Dunne Avenue to East Middle Avenue in Morgan Hill, CA.
- 2) The owner of said property is the City of Morgan Hill, a Municipal Corporation, located at 17575 Peak Avenue, Morgan Hill, CA 95037, and is the owner of said property in fee simple.
- 3) The contractor is Granite Construction Company located at 580 West Beach Street, Watsonville, CA 95076.
- 4) The surety is "Travelers Casualty and Surety Company of America".
- 5) The project was completed on November 8, 2017 and accepted by the City Council of the City of Morgan Hill on January 23, 2019.

CITY OF MORGAN HILL, a Municipal Corporation

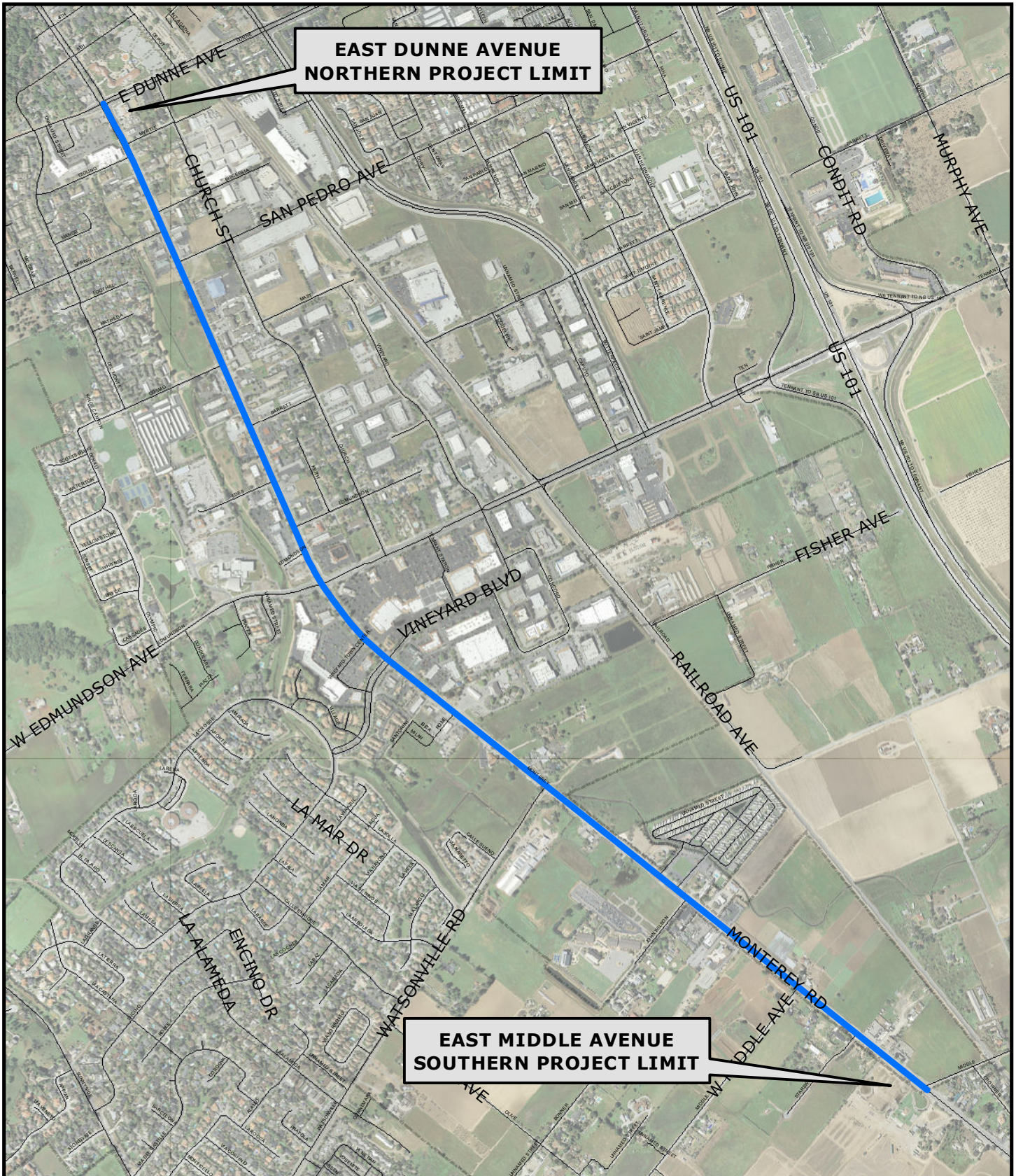
By _____
Scott Creer
City Engineer

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

Executed on _____, at Morgan Hill, California.

Scott Creer
City Engineer

Attachment: Notice of Completion Monterey Preservation 01-23-19 (2132 : Accept Monterey Road Preservation Project)



Attachment: Monterey Road Preservation Location Map (2132 : Accept Monterey Road Preservation Project)



CITY OF MORGAN HILL

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

SITE PLAN MONTEREY ROAD PRESERVATION PROJECT

0 500 1,000 2,000 3,000 4,000
Feet

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





CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Cynthia Iwanaga, Management Analyst
APPROVED BY: City Manager

RESOLUTION AUTHORIZING SANTA CLARA VALLEY WATER DISTRICT SAFE, CLEAN WATER GRANT APPLICATION

RECOMMENDATION(S)

Adopt resolution approving the following actions:

1. Authorizing staff to prepare and submit a Safe, Clean Water and Natural Flood Protection Program Grant Application to the Santa Clara Valley Water District for the Madrone Channel Trail Project; and
2. Authorizing the City Manager to negotiate and execute the Safe, Clean Water grant agreement and other documents, reports, forms and agreements related to the performance of the identified projects.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan

REPORT NARRATIVE:

The purpose of this report is to request the City Council's adoption of a resolution authorizing the submittal of a Safe, Clean Water grant application to the Santa Clara Valley Water District (SCVWD) for the enhancement of the Madrone Channel Trail through paving, signage, and trail improvements. The City of Morgan Hill is applying for a grant in the amount of \$200,000 and will be committed to providing matching funds of the same amount.

In November 2018, the SCVWD released Grant Guidelines for the Safe, Clean Water and Natural Flood Protection Grant Program with a total of \$571,000 available for fiscal year 2019. This grant program was created by the Safe, Clean Water ballot measure that was approved by Santa Clara County voters in November 2012. The purpose of this grant is to provide improved access to trails and open space. The countywide special parcel tax created by this ballot measure will sunset on June 30, 2028.

The Safe, Clean Water grant will fund the first of two phases to enhance the Madrone Channel Trail from Cochrane Road to Tennant Avenue. This first phase is

approximately 1 mile and runs from Cochrane Road to Main Avenue. Proposed improvements include paving the existing trail, planting approximately 50 trees, and installing interpretative signage.

COMMUNITY ENGAGEMENT: Involve

The Madrone Channel Trail Project is part of the City's Bikeways, Trails, Parks and Recreation Master Plan. The Bikeways, Trails, Parks and Recreation Master Plan planning process was a robust two-year community-based process from Fall 2015 through Winter 2017. The local Bicycle and Pedestrian Advocacy Group has been engaged on this project and lists it as one of their priorities. Staff will continue engaging in dialogue with the community during the planning and development phases of the enhancement of the Madrone Channel Trail.

ALTERNATIVE ACTIONS:

An alternative action is to not authorize the application for the Safe, Clean Water and Natural Flood Protection grant funds.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council has not taken previous action on constructing improvements on the Madrone Channel Trail. The Park and Recreation Commission recommended support for the grant funding at its January 15, 2019 meeting.

FISCAL AND RESOURCE IMPACT:

The City is applying for a grant not to exceed \$200,000 to fund the trail improvements. This amount is approximately 50% of the estimated total costs of the improvements and the City will need to provide approximately \$200,000 in matching funds to complete the project. Staff will pursue matching funds from additional sources including Measure B and grants from other agencies. If these efforts are unsuccessful, the City's Park Impact Fund can be the source for the match. No budget appropriations are required at this time. Pending grant application results, staff may return with an appropriation request and with a recommendation on source of matching funds.

CEQA (California Environmental Quality Act):

Categorical Exemption

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

LINKS/ATTACHMENTS:

1. CC Resolution_SCVWD Clean Safe Water Grant App

RESOLUTION NO: _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE APPLICATION FOR GRANT FUNDS UNDER THE SAFE, CLEAN WATER AND NATURAL FLOOD PROTECTION PROGRAM OF 2012 IN AN AMOUNT NOT TO EXCEED \$200,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS REQUIRED TO APPLY AND ACCEPT THE GRANT FOR THE CITY, IF AWARDED, AND DIRECTING CERTAIN ACTIONS IN CONNECTION THEREWITH

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

WHEREAS, the Santa Clara Valley Water District has enacted the 2019 Safe Clean Water Priority D3 Grant Program, which provides funds for cleanup, education, outreach and watershed stewardship activities; and

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

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

WHEREAS, the City desires to apply for the grant funds through the Santa Clara Valley Water District 2019 Safe Clean Water Priority D3 Grant Program; and

WHEREAS, if awarded, the City of Morgan Hill will enter into a Grant Agreement with the Santa Clara Valley Water District; and

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

NOW, THEREFORE, BE IT RESOLVED, 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. Approves the submission of an Application for grant funds from Priority D3 of the Safe Clean Water and Natural Flood Protection Program;
- b. Approves the acceptance of grant funds from Priority D3 of the Safe, Clean Water and Natural Flood Protection Program, upon approval of grant funding for the Project by appropriate authorities;
- c. Certifies that the City of Morgan Hill has or will have sufficient funds to operate and maintain the Project;
- d. Certifies that the City of Morgan Hill will review and agree to the Special Provisions, General Provisions, Financial Provisions and Insurance Requirements contained in the Agreement;
- e. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned Project; and
- f. Finds that the project is categorically exempt from CEQA under Section 15304, Minor Alterations to Land, which covers minor public or private alterations to the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees for forestry or agricultural purposes, including the creation of bicycle lanes on existing rights-of-way.

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 regular meeting held on this 23rd day of January 2019 by the following vote:

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

DATE: _____

Rich Constantine, MAYOR

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No._____, adopted by the City Council at the meeting held on January 23, 2019.

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

DATE: _____

Irma Torrez, CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

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

APPROVE APPOINTMENT OF NEIL BERMAN TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY'S (VTA) BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE (BPAC)

RECOMMENDATION(S)

Direct the City Clerk's Office to send correspondence to the VTA requesting the appointment of Parks and Recreation Commissioner Neil Berman as the City of Morgan Hill's representative to the BPAC.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community
Enhancing Diversity and Inclusiveness

2018 Strategic Priorities

Regional Initiatives

REPORT NARRATIVE:

The Santa Clara Valley Transportation Authority (VTA) has established a Bicycle and Pedestrian Advisory Committee (BPAC). The Mission of the BPAC is to provide expertise and guidance to the Board of Directors on promoting and enhancing non-motorized transportation opportunities throughout Santa Clara County and serves as a liaison between VTA and the Member Agency bicycle and pedestrian advisory committees. The Committee generally meets the third Wednesday of the month at 6:30 p.m. The duties of the BPAC include:

- Providing advice to the Board of Directors regarding funding priorities for bicycle and pedestrian projects in the County.
- Reviewing and providing comments to VTA staff regarding plans and designs for an effective countywide bikeway and pedestrian system, updates of the Countywide Bicycle Plan and Countywide Bicycle Map, bicycle and pedestrian element of the countywide transportation plan, and bicycle-related issues affecting the transit system.
- Making recommendations to the VTA Board of Directors and County Board of Supervisors through the Roads Commission regarding the Countywide annual priority list of bicycle and pedestrian projects for the TDA Article 3 program, and regarding the annual Expressway Sidewalk Program project selections.
- Coordinate with bicycle and pedestrian advisory committees of other agencies on multi-jurisdictional bicycle and pedestrian issues.

- Serve as the countywide bicycle and pedestrian advisory committee for the County of Santa Clara providing input and recommendations through the Roads Commission.

Recently appointed Parks & Recreation Commissioner Neil Berman has expressed interest in representing the City of Morgan Hill on this Committee. The position is currently vacant. The Parks & Recreation Commission is supporting the appointment of Commissioner Berman to the BPAC.

The team requests that the City Council direct the City Clerk's Office to send correspondence to the VTA Board of Directors requesting the appointment of Mr. Berman to the BPAC.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the recommended appointment of Parks and Recreation Commissioner Neil Berman to the VTA BPAC committee.

ALTERNATIVE ACTIONS:

Not applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On July 2, 2014 the City Council Appointed Parks and Recreation Commissioner Mary Seehafer to the BPAC.

FISCAL AND RESOURCE IMPACT:

There is no fiscal or resource impact as the process is accommodated in the Administrative Services operating budget and workplan.

CEQA (California Environmental Quality Act):

The appointment is not a project as an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment as defined in Section 15378 of the State CEQA guidelines.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Dat Nguyen, Finance Director

APPROVED BY: City Manager

ACCEPT OCTOBER 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 October 31, 2018. The Revenue and Expense Summary for the month of October is included on the first page. Overall, General Fund revenues through October totaled \$10.2 million or 25% of the budget. Expenditures, including encumbrances, amounted to \$16.3 million through October. The encumbrances represent commitments or contractual obligations that the City entered with vendors or suppliers such as Cal-West Lighting and Signal Maintenance for the maintenance of City's streetlights and traffic signals, 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 financial 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. October 2018 Financial Statement Analysis
2. October 2018 Financial and Investment Report

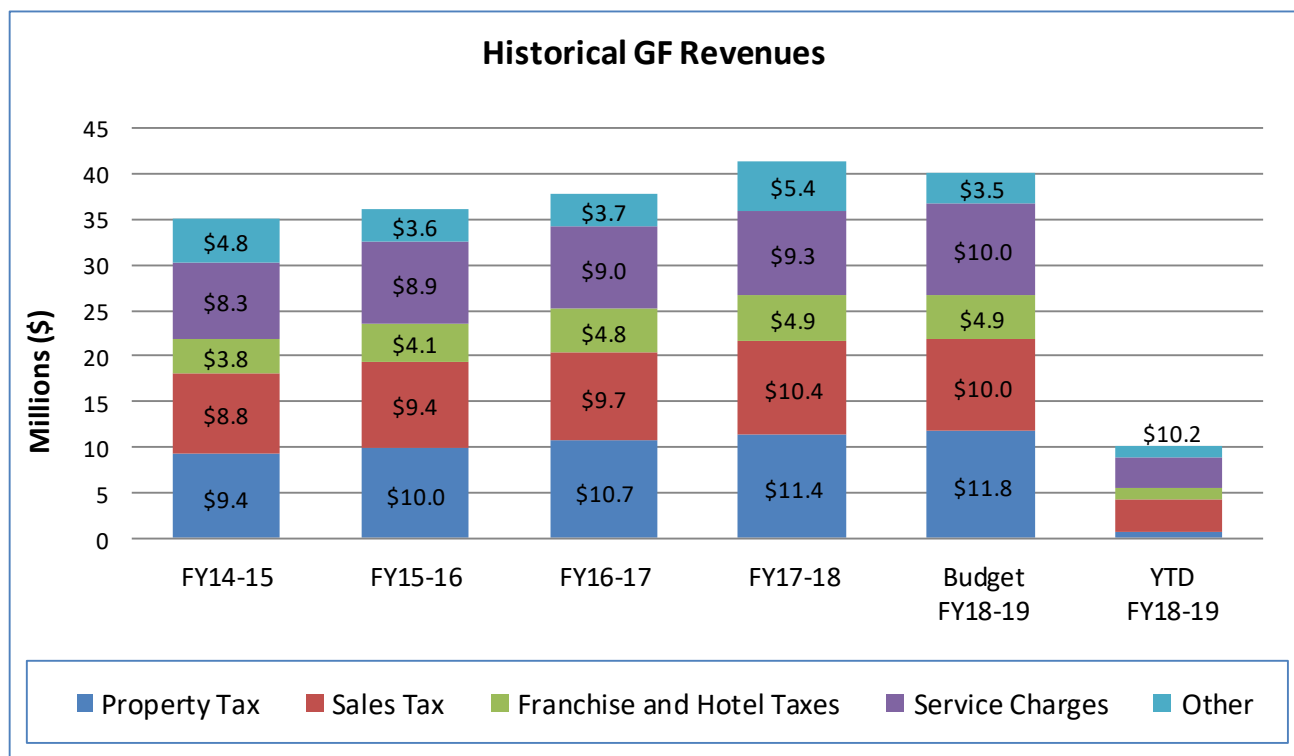


CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED OCTOBER 2018 – 33% OF YEAR COMPLETE

- **General Fund** – Revenues through the month of October totaled \$10.2 million, or 25% 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 92% 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 FY17-18 Actual, FY18-19 Budget, and YTD as of October 31, 2018.

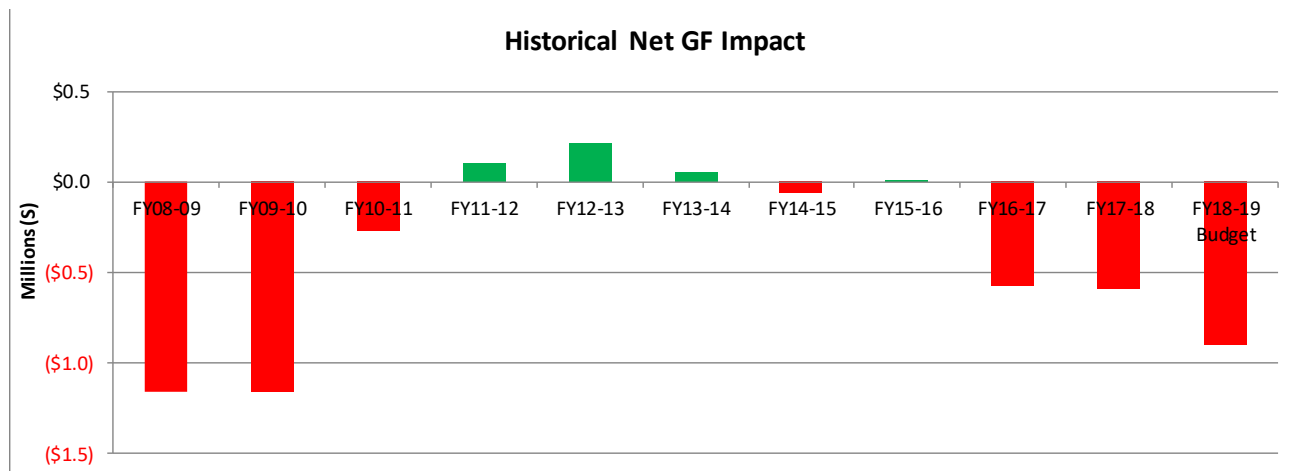


General Fund expenditures and encumbrances as of October 31, 2018 totaled \$16.3 million, of which approximately \$3.4 million is attributable to outstanding encumbrances.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED OCTOBER 2018 – 33% 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 \$1.3 million through the month of October. Without the carry-over encumbrances, the year to date operations through the month of October resulted in a small net benefit to the general fund of approximately \$130,000. 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 October totaled \$1.6 million, an increase of 22% or approximately \$289,000 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 \$2.8 million. Without the outstanding encumbrances, however, expenditures through the month of October amounted to \$1.7 million. The fund is budgeted to end the fiscal year with an operating deficit of approximately \$1.4 million. This is primarily due to the timing of fee increases, services or new projects unsupported by fees, such as front counter services, responding to public inquiries, tree removal permits, use permits for non-profits or special projects, and continued implementation of Measure S. In addition, fees are based on average time for processing, the more complicated the case, the more time is spent assisting the applicant in the application process. This extra time is not incorporated into the cost recovery model. There is available fund reserve to support the fund's operating deficits in the two-year window, however, a General Fund support may be required in future years due to the aforementioned reasons.
- **Debt Service Funds** – Expenditures through the month of October totaled \$514,000. 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



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2018-19
FOR THE MONTH ENDED OCTOBER 2018 – 33% OF YEAR COMPLETE

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.

- **Wastewater Operations** – Revenues from Sewer Operations through the month of October totaled \$3.6 million. Expenditures and outstanding encumbrances totaled \$3.8 million or 34% of the budget. The table below shows historical Sewer Operations revenues and expenditures from FY14-15 through FY17-18 Actual, FY18-19 Budget, and YTD as of October 31, 2018.

(amount in millions)	FY14-15	FY15-16	FY16-17	FY17-18	Budget FY18-19	YTD FY18-19
Revenues	10.3	10.2	9.7	10.3	10.7	3.6
Expenditures	8.8	12.0	9.8	10.8	11.3	3.8
Operating Margin	1.5	(1.8)	(0.1)	(0.5)	(0.6)	(0.2)
Operating Margin without Encumbrances	1.5	(1.8)	(0.0)	(0.3)	(0.6)	0.0

- **Water Operations** – Water Operations includes Utility Billing, Water Conservation, and Water Operations. Revenues from Water Operations through the month of October totaled \$5.6 million, approximately 13% more than a year ago partially due to rate adjustment. Water Operations expenditures, including outstanding encumbrances, totaled \$4.9 million for the year. Without the encumbrances, however, the expenditures amounted to \$3.9 million. The table below shows Water Operations revenues and expenditures from FY14-15 through FY17-18 Actual, FY18-19 Budget, and YTD as of October 31, 2018.

(amount in millions)	FY14-15	FY15-16	FY16-17	FY17-18	Budget FY18-19	YTD FY18-19
Revenues	8.8	8.5	10.9	13.0	13.8	5.6
Expenditures	9.3	9.7	11.2	12.1	13.5	4.9
Operating Margin	(0.5)	(1.2)	(0.3)	0.9	0.3	0.7
Operating Margin without Encumbrances	(0.5)	(1.2)	(0.1)	1.4	0.3	1.7

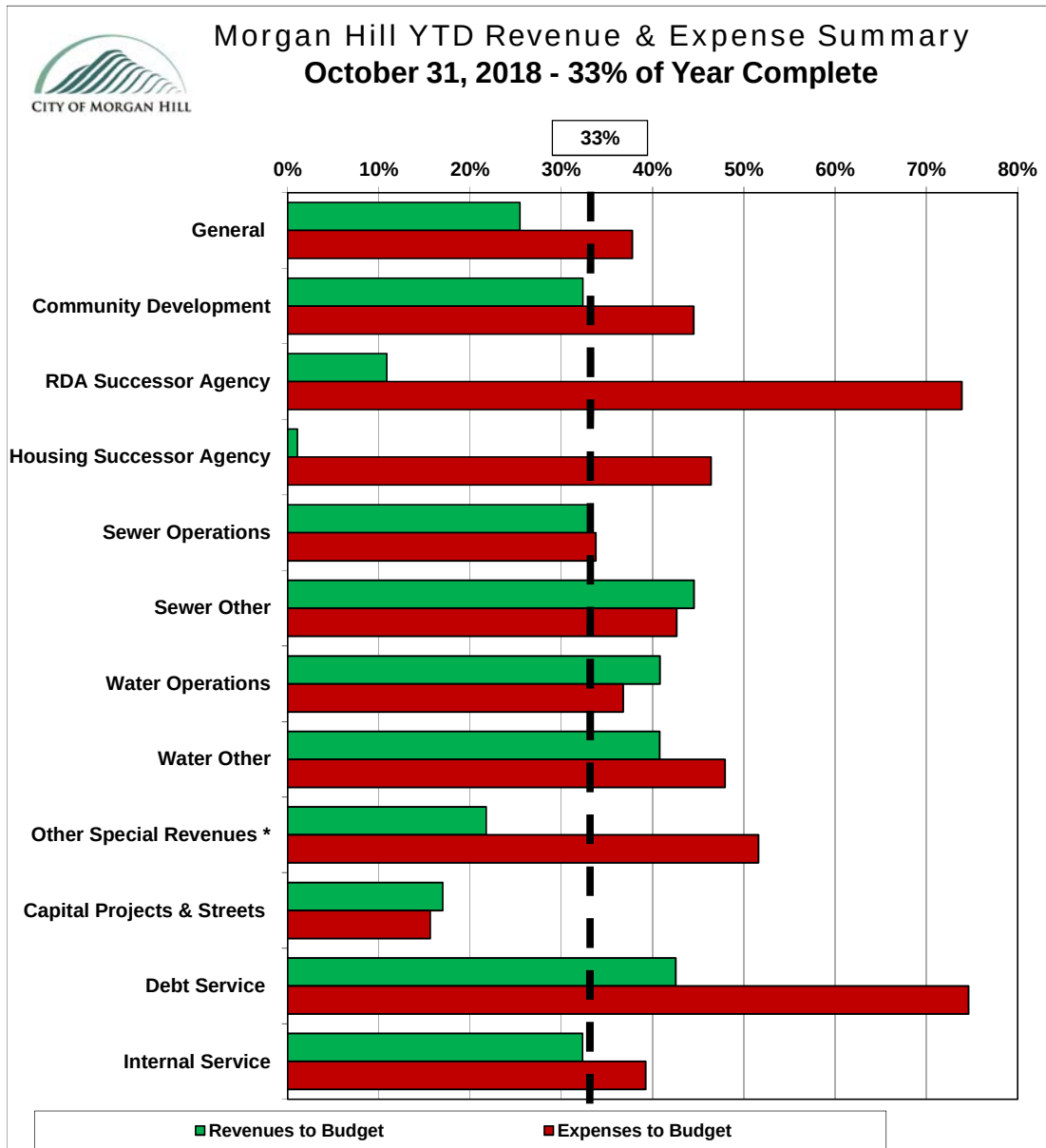
- **Investments** – Two purchases were made, and two securities were called during the month of October 2018. Total interest earnings received on investments were \$301,000 during the month.

CITY OF MORGAN HILL
Monthly Financial and Investment Reports
October 31, 2018 - 33% of Year Complete



CITY OF MORGAN HILL

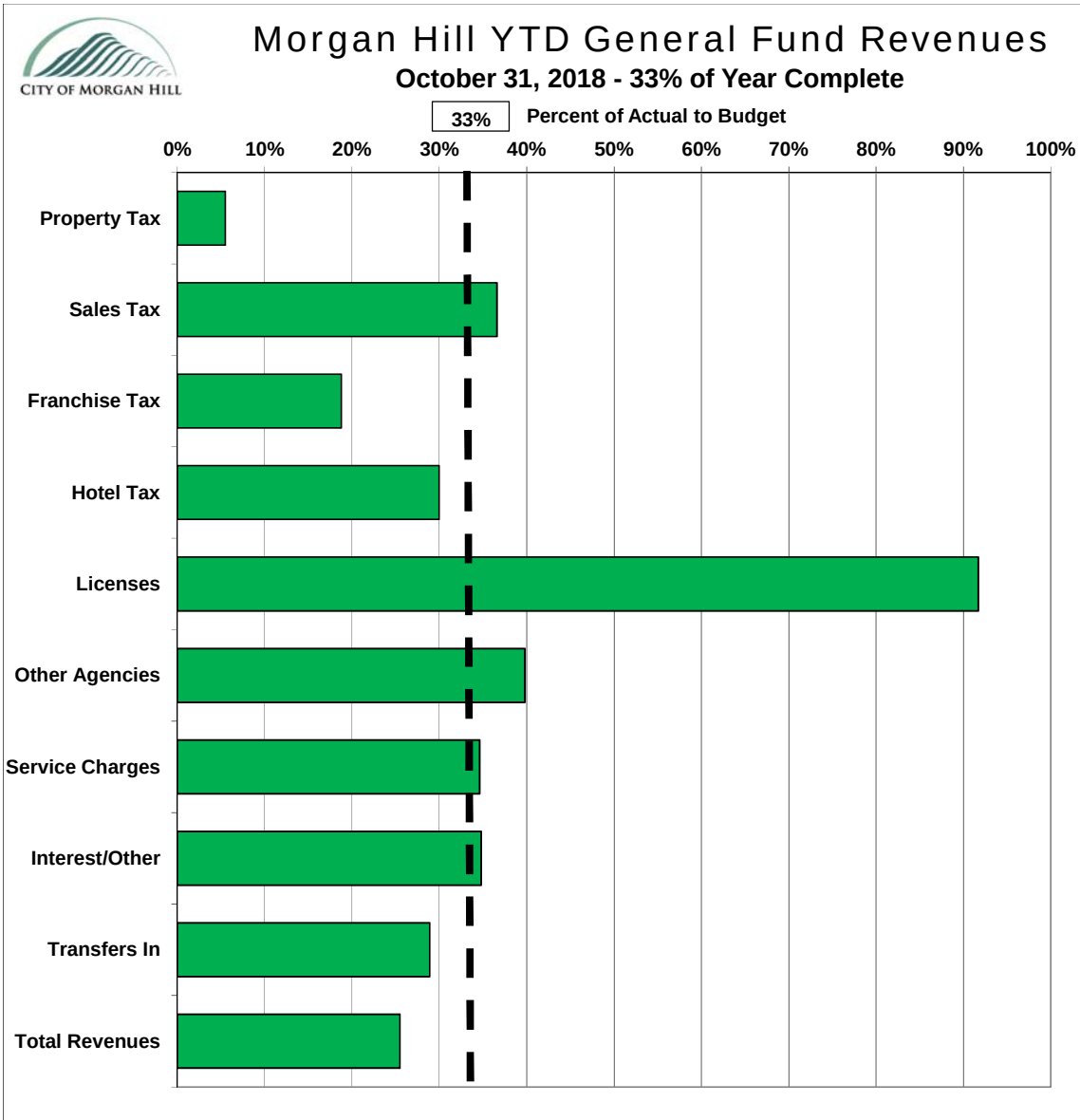
Prepared by:
FINANCE DEPARTMENT



FUND NAME	REVENUES		EXPENSES	
	ACTUAL	% OF BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET
General	\$ 10,241,433	25%	\$ 16,314,020	38%
Community Development	1,579,448	32%	2,776,907	44%
RDA Successor Agency	864,288	11%	5,898,711	74%
Housing Successor Agency	25,319	1%	1,706,748	46%
Sewer Operations	3,593,986	33%	3,819,455	34%
Sewer Other	3,460,569	45%	5,431,005	43%
Water Operations	5,612,007	41%	4,949,542	37%
Water Other	1,535,612	41%	2,501,972	48%
Other Special Revenues *	897,879	22%	2,836,745	52%
Capital Projects & Streets	6,735,322	17%	7,573,824	16%
Debt Service	286,920	43%	514,160	75%
Internal Service	3,816,026	32%	4,488,223	39%
TOTAL FOR ALL FUNDS	\$ 38,648,810	26%	\$ 58,811,312	35%

* Includes all Special Revenue Funds except Community Development, Street Funds, and RDA and Housing Successor Agencies.

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



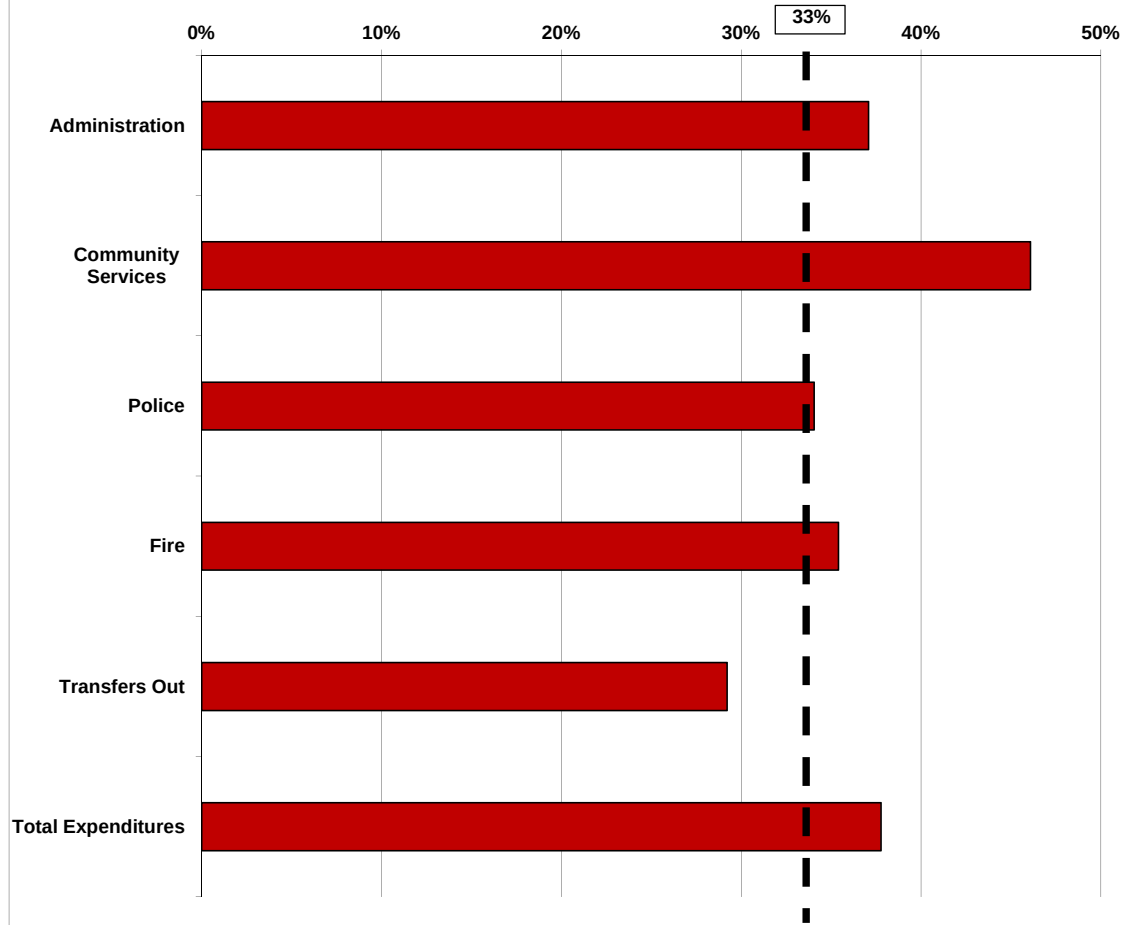
REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
Property Tax	\$11,813,532	\$ 649,479	6%	\$ 558,139	16%
Sales Tax	9,981,124	3,651,301	37%	3,315,203	10%
Franchise Tax	2,164,190	407,667	19%	368,861	11%
Hotel Tax	2,754,000	827,505	30%	716,525	15%
Licenses	200,800	184,224	92%	172,359	7%
Other Agencies	314,398	125,018	40%	121,508	3%
Service Charges	9,993,089	3,459,879	35%	3,147,042	10%
Interest/Other	1,330,787	462,838	35%	1,466,455	-68%
Transfers In	1,637,720	473,522	29%	403,684	17%
TOTAL REVENUES	\$40,189,640	\$10,241,433	25%	\$ 10,269,776	0%



Morgan Hill YTD General Fund Expenditures

October 31, 2018 - 33% of Year Complete

Percent of Actual to Budget



EXPENDITURE CATEGORY	BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET	PRIOR YTD PLUS ENCUMBRANCES	% CHANGE FROM PRIOR YEAR
Administration	\$ 4,943,269	\$ 1,833,472	37%	\$ 2,564,960	-29%
Community Services	12,195,638	5,619,895	46%	5,138,045	9%
Police	17,301,708	5,893,130	34%	5,342,174	10%
Fire	6,666,707	2,360,511	35%	2,067,031	14%
Transfers Out	2,077,498	607,012	29%	748,362	-19%
TOTAL EXPENDITURES	\$ 43,184,819	\$ 16,314,020	38%	\$ 15,860,572	3%

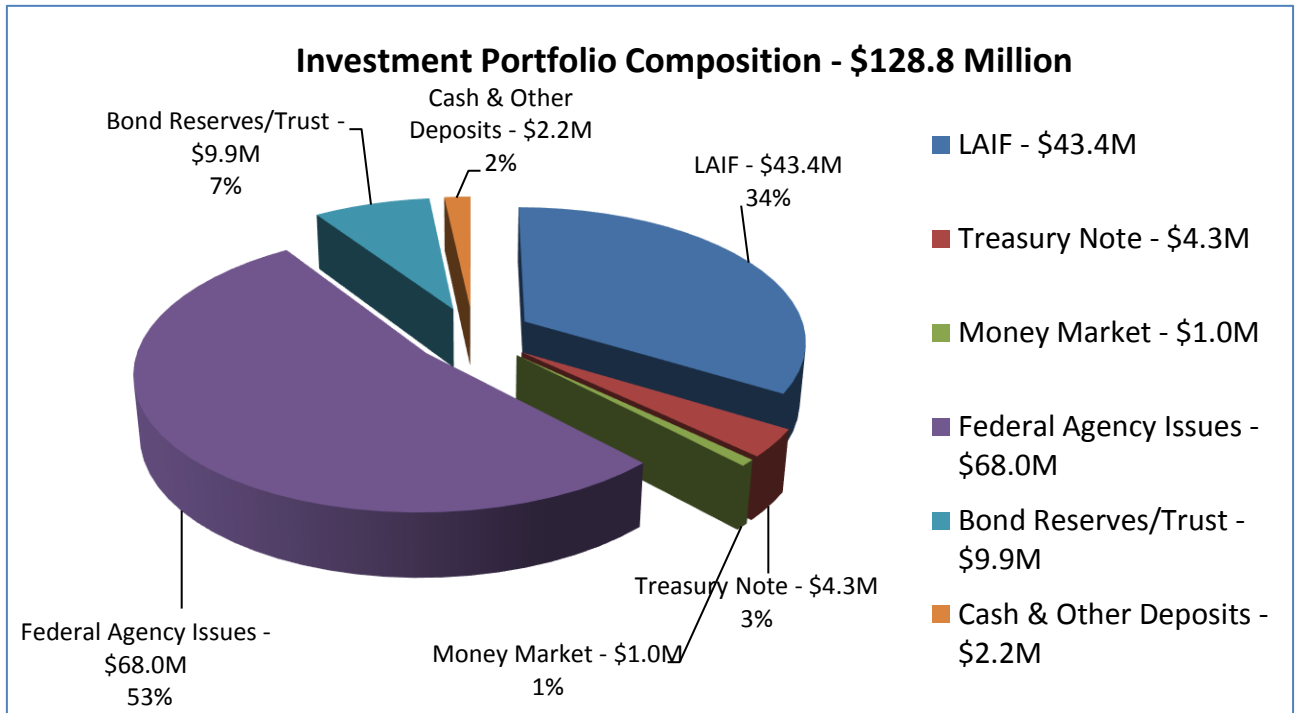


City of Morgan Hill
Recreation Report - Fiscal Year 2018-19
For the Month and Four Months Ended October 31, 2018
33% of Year Complete

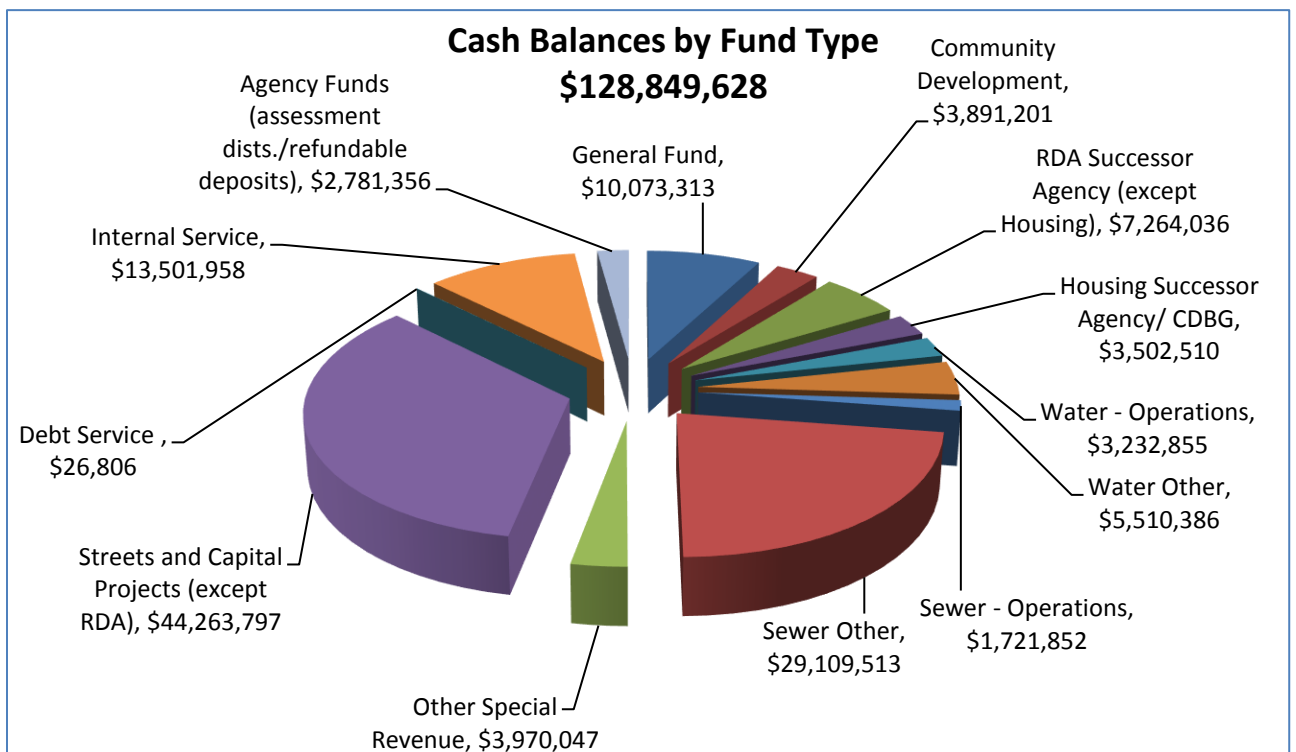
	<u>Budget</u>	<u>October 2018</u>	<u>YTD</u>	<u>% of Budget</u>
Revenues				
Membership Services & Rec Programs	\$ 6,241,196	\$ 460,360	\$ 2,309,614	
Facility Rentals	898,700	78,309	360,676	
Community Services	147,840	5,748	20,123	
Transfers in	75,000	6,250	25,000	
Total Revenues	<u>\$ 7,362,736</u>	<u>\$ 550,667</u>	<u>\$ 2,715,413</u>	37%
Less: Expenditures				
Membership & Program Services	\$ 6,255,009	\$ 358,254	\$ 1,975,401	
Facility Rentals	1,355,732	108,742	434,724	
Community Services	653,307	38,300	175,630	
Total Expenditures	<u>\$ 8,264,049</u>	<u>\$ 505,296</u>	<u>\$ 2,585,755</u>	31%
Net Impact without encumbrances	<u>\$ (901,313)</u>	<u>\$ 45,372</u>	<u>\$ 129,659</u>	
Encumbrances	-	-	1,464,289	
Net Impact with encumbrances	<u>\$ (901,313)</u>	<u>\$ 45,372</u>	<u>\$(1,334,631)</u>	

City of Morgan Hill Monthly Investment Report - October 31, 2018

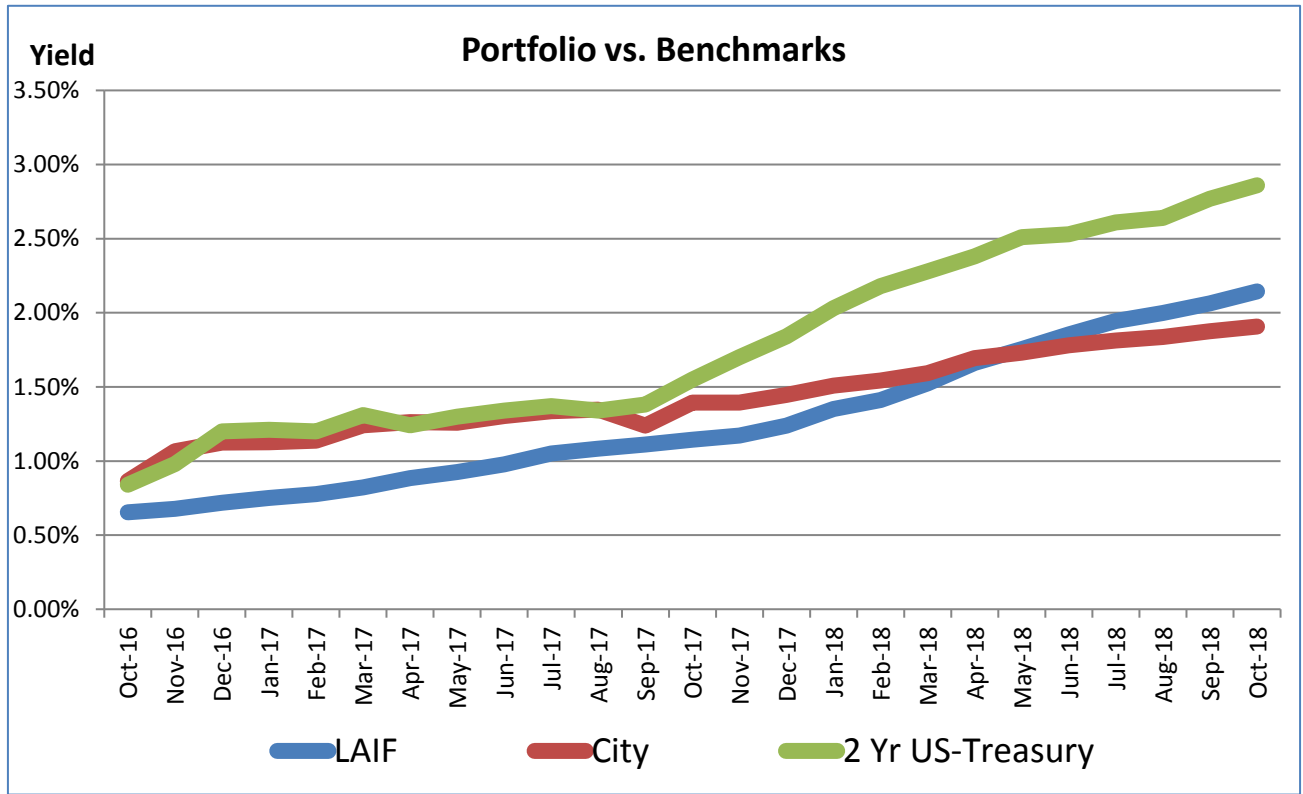
The following are the snapshots of City's investment portfolio as of October 31, 2018. The first chart shows the portfolio composition by investment type:



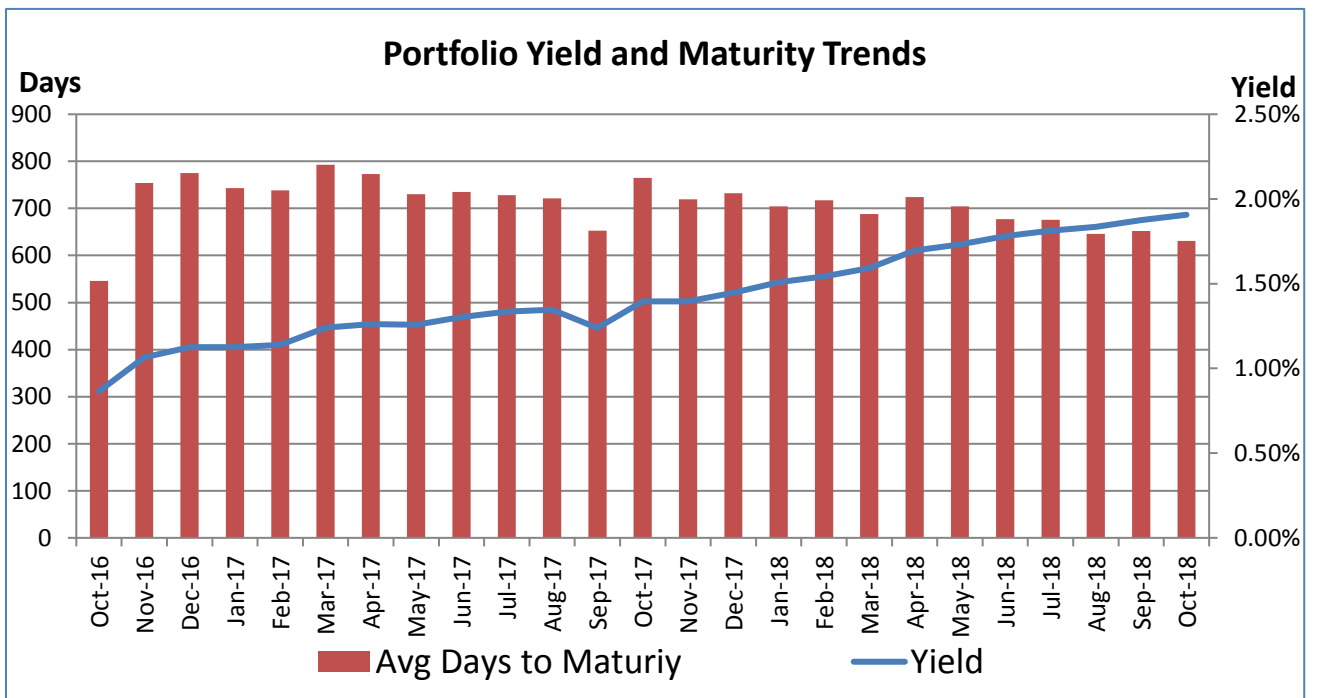
The chart below shows cash balances by fund type reconciled to City's financial system:



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 October 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		\$ 43,429,774	33.71%	\$ 43,335,636	2.14%		
City Managed							
Fed Home Loan Bank	10/19/2015	4,000,000	3.10%	3,905,520	1.70%	10/19/2018	10/19/2020
Fed Home Loan Bank	6/30/2016	4,000,000	3.10%	3,853,360	1.50%	6/30/2021	6/30/2021
Fed Natn'l Mortgage Assn	8/25/2016	4,000,000	3.10%	3,820,480	1.40%	8/25/2021	8/25/2021
Fed Home Loan Mortgage	9/29/2016	2,000,000	1.55%	1,918,560	1.65%	12/29/2018	9/29/2021
Fed Natn'l Mortgage Assn	9/29/2016	4,000,000	3.10%	3,823,840	1.60%	12/29/2018	9/29/2021
Fed Home Loan Mortgage	10/27/2016	4,000,000	3.10%	3,842,320	1.60%	10/27/2018	10/27/2021
Fed Natn'l Mortgage Assn	10/28/2016	4,000,000	3.10%	3,796,200	1.55%	10/28/2018	10/28/2021
Fed Home Loan Mortgage	10/28/2016	2,000,000	1.55%	1,924,000	1.65%	10/28/2018	10/28/2021
Fed Home Loan Bank	11/15/2016	4,000,000	3.10%	3,836,280	1.55%	11/15/2021	11/15/2021
Fed Home Loan Bank	11/23/2016	3,000,000	2.33%	2,884,980	1.65%	10/23/2018	11/23/2021
Fed Home Loan Bank	11/23/2016	4,000,000	3.10%	3,843,840	1.63%	10/23/2018	11/23/2021
Fed Home Loan Mortgage	11/30/2016	4,000,000	3.10%	3,845,680	1.88%	10/26/2018	11/26/2021
Fed Home Loan Mortgage	6/29/2017	1,300,000	1.01%	1,256,437	2.15%	3/29/2019	6/29/2022
Fed Home Loan Bank	10/19/2017	3,850,000	2.99%	3,711,477	2.15%	10/19/2018	10/19/2022
Fed Natn'l Mortgage Assn	10/26/2017	4,150,000	3.22%	3,997,861	2.20%	10/26/2018	10/26/2022
Fed Home Loan Mortgage	1/30/2018	3,000,000	2.33%	2,913,030	2.50%	1/30/2019	1/30/2023
Treasury Note	4/30/2018	4,272,808	3.32%	4,225,590	2.73%	3/31/2023	3/31/2023
Sub Total/Average		\$ 59,572,808	46.23%	\$ 57,399,455	1.82%		
Money Market		\$ 971,851	0.75%	\$ 971,851	2.09%		
Total City Managed/Average		\$ 103,974,433	80.69%	\$ 101,706,941	2.02%		
City Managed - HighMark							
Fed Natn'l Mortgage Assn	8/18/2016	\$ 749,894	0.58%	\$ 747,548	1.06%	1/25/2019	1/25/2019
Fed Natn'l Mortgage Assn	8/18/2016	749,846	0.58%	741,780	1.18%	1/26/2019	7/26/2019
Fed Natn'l Mortgage Assn	8/23/2016	749,980	0.58%	741,495	1.25%	11/23/2018	8/23/2019
Fed Home Loan Mortgage	8/31/2016	750,000	0.58%	741,713	1.25%	8/15/2019	8/15/2019
Fed Home Loan Mortgage	10/7/2016	749,901	0.58%	740,505	1.29%	9/12/2019	9/12/2019
Fed Natn'l Mortgage Assn	10/11/2016	749,936	0.58%	744,285	1.22%	11/23/2018	5/23/2019
Fed Home Loan Mortgage	10/24/2016	739,852	0.57%	737,551	1.03%	1/30/2019	1/30/2019
Fed Natn'l Mortgage Assn	10/24/2016	749,977	0.58%	739,613	1.25%	9/30/2019	9/30/2019
Federal Farm Credit Bank	11/1/2016	750,000	0.58%	750,000	1.02%	11/1/2018	11/1/2018
Fed Home Loan Mortgage	12/13/2016	1,002,293	0.78%	995,190	1.35%	5/30/2019	5/30/2019
Fed Home Loan Bank	12/13/2016	999,958	0.78%	997,640	1.27%	1/16/2019	1/16/2019
Fed Home Loan Mortgage	12/29/2016	749,185	0.58%	745,200	1.37%	4/15/2019	4/15/2019
Fed Natn'l Mortgage Assn	12/29/2016	741,662	0.58%	735,974	1.39%	6/20/2019	6/20/2019
Fed Home Loan Bank	6/19/2018	944,617	0.73%	943,597	2.38%	5/28/2019	5/28/2019
Fed Home Loan Mortgage	9/14/2018	817,032	0.63%	816,346	2.56%	8/1/2019	8/1/2019
Fed Home Loan Bank	9/26/2018	745,635	0.58%	745,298	2.80%	3/30/2020	3/30/2020
Money Market		36,527	0.03%	36,527	2.09%		
Sub Total/Average		\$ 12,776,295	9.92%	\$ 12,700,260	1.49%		
Bond Reserve Accounts - Held By Trustees		\$ 7,699,235	5.98%	\$ 7,775,346			
Cash/Deposits		\$ 2,212,261	1.72%	\$ 2,212,261			
PARS Trust		\$ 2,187,404	1.70%	\$ 2,365,301			
GRAND TOTAL/AVERAGE		\$ 128,849,628	100.00%	\$ 126,760,109			

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
FOR THE MONTH OF OCTOBER 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	2.14%	\$ 37,013,813	28.73%	\$ 36,933,582
2014 Water Rev Bonds - Water Impact	Water Fund	2.14%	529,765	0.41%	528,617
2014 Water Rev Bonds - Water CIP	Water Fund	2.14%	118,093	0.09%	117,837
2015 Wastewater Rev Bonds - CIP	Wastewater Fund	2.14%	5,768,104	4.48%	5,755,601
Federal Issues	All Funds Pooled	1.50%	68,039,768	52.81%	65,837,598
US Treasury Notes	All Funds Pooled	2.73%	4,272,808	3.32%	4,225,590
Dreyfus Treas Cash Management Acct	All Funds Pooled	2.09%	1,008,378	0.78%	1,008,378
	SUBTOTAL		\$ 116,750,729	90.61%	\$ 114,407,203
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	1.82%	55	0.00%	55
Zions Bank - MH Police Facility Lease Revenue Bonds					
Blackrock Liq Fund	Debt Service	1.82%	70	0.00%	70
BNY - RDA Bonds					
Dreyfus Cash Mgmt 521	Successor Fund	2.09%	314,717	0.24%	314,717
US Treasury Notes - Reserve Acct.	Successor Fund	1.33%	6,862,871	5.33%	6,938,981
Zions Bank - MH Ranch 2015					
Blackrock Liq Funds Fed Fund -DI -2015	Agency Fund	1.82%	257,127	0.20%	257,127
Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015					
Blackrock Liquidity Temp Fund-2015	Agency Fund	1.82%	264,396	0.21%	264,396
	SUBTOTAL		7,699,235	5.98%	7,775,346
Other Cash/Deposits					
General Checking	All Funds		2,175,149	1.69%	2,175,149
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	1.08%	1,511,902
PARS - PENSION Trust			800,000	0.62%	853,399
	SUBTOTAL		4,399,665	3.41%	4,577,562
Total Cash and Investments			\$ 128,849,629	100.00%	\$ 126,760,110

CASH ACTIVITY SUMMARY
FY 2018-19

Fund Type	Unaudited 07/01/18 Balance	Change in Cash Balance	10/31/2018 Balance
General Fund	\$ 14,905,287	\$ (4,831,974)	\$ 10,073,313
Community Development	3,444,772	446,429	3,891,201
RDA Successor Agency (except Housing)	12,278,895	(5,014,860)	7,264,036
Housing Successor Agency/ CDBG	4,152,743	(650,233)	3,502,510
Water - Operations	2,341,115	891,740	3,232,855
Water Other	4,954,819	555,567	5,510,386
Sewer - Operations	1,519,052	202,800	1,721,852
Sewer Other	29,212,177	(102,664)	29,109,513
Other Special Revenue	5,093,029	(1,122,982)	3,970,047
Streets and Capital Projects (except RDA)	42,155,177	2,108,620	44,263,797
Debt Service	253,645	(226,839)	26,806
Internal Service	13,022,186	479,772	13,501,958
Agency Funds (assessment dists./refundable deposits)	4,116,381	(1,335,025)	2,781,356
Total	\$ 137,449,278	\$ (8,599,649)	\$ 128,849,629

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 Four Months Ended October 31, 2018
33% 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	\$ 540,410	5%	\$ 523,960	\$ 16,451	3%
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	35,314	13%	34,179	1,134	3%
Sales Tax	9,601,124	9,601,124	3,556,119	37%	3,225,833	330,285	10%
Public Safety Sales Tax	380,000	380,000	95,183	25%	89,370	5,813	7%
Transient Occupancy Taxes	2,754,000	2,754,000	827,505	30%	716,525	110,981	15%
Franchise (Refuse, Cable, PG&E)	2,164,190	2,164,190	407,667	19%	368,861	38,806	11%
Property Transfer Tax	505,000	505,000	140,057	28%	130,953	9,104	7%
TOTAL TAXES	27,217,846	27,217,846	5,676,009	21%	5,089,680	586,329	12%
LICENSES/PERMITS							
Business License	196,000	196,000	180,828	92%	169,623	11,206	7%
Other Permits	4,800	4,800	3,396	71%	2,736	660	24%
TOTAL LICENSES/PERMITS	200,800	200,800	184,224	92%	172,359	11,866	7%
FINES AND PENALTIES							
Parking Enforcement	8,250	8,250	2,175	26%	1,697	479	28%
Bails & Fines	71,500	71,500	24,492	34%	10,942	13,551	124%
Administrative Citations	9,500	9,500	3,573	38%	6,150	(2,577)	-42%
TOTAL FINES AND PENALTIES	89,250	89,250	30,241	34%	18,788	11,453	61%
OTHER AGENCIES							
Motor Vehicle in-Lieu	23,934	23,934	-	0%	-	-	n/a
Other Revenue - Other Agencies	271,398	314,398	125,018	40%	121,508	3,510	3%
TOTAL OTHER AGENCIES	295,332	338,332	125,018	37%	121,508	3,510	3%
CHARGES CURRENT SERVICES							
Police False Alarm Charge	33,000	33,000	12,006	36%	12,610	(604)	-5%
Business License Application Review	36,000	36,000	17,880	50%	12,506	5,374	43%
Membership Services & Rec Programs	6,241,196	6,241,196	2,309,614	37%	2,165,035	144,579	7%
Facility Rentals	898,700	898,700	360,676	40%	358,096	2,579	1%
Community Services	147,840	147,840	20,123	14%	31,152	(11,029)	-35%
General Administration Overhead	1,709,712	1,709,712	568,704	33%	440,096	128,608	29%
Other Charges Current Services	926,641	926,641	170,875	18%	127,547	43,328	34%
TOTAL CURRENT SERVICES	9,993,089	9,993,089	3,459,879	35%	3,147,042	312,837	10%
OTHER REVENUE							
Use of money/property	458,589	458,589	142,425	31%	132,657	9,769	7%
Other Revenues	254,014	254,014	150,115	59%	1,184,058	(1,033,943)	-87%
TOTAL OTHER REVENUE	712,603	712,603	292,540	41%	1,316,714	(1,024,174)	-78%
TRANSFERS IN							
One Time Transfer	-	-	-	0%	-	-	0%
Public Safety	100,000	100,000	48,809	49%	16,000	32,809	205%
Streets	738,968	738,968	158,460	21%	123,000	35,460	29%
Police Impact	25,000	25,000	8,332	33%	8,332	-	n/a
Sewer Operations	349,376	349,376	116,460	33%	115,676	784	1%
Water Operations	349,376	349,376	116,460	33%	115,676	784	1%
Park Development	75,000	75,000	25,000	33%	25,000	-	n/a
TOTAL TRANSFERS IN	1,637,720	1,637,720	473,522	29%	403,684	69,838	17%
TOTAL GENERAL FUND	40,146,640	40,189,640	10,241,433	25%	10,269,776	(28,342)	0%
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE							
Gas Tax 2105 - 2107.5	751,089	751,089	169,298	23%	191,109	(21,812)	-11%
Interest / Other Revenue/Other Charges	-	-	858	n/a	322	536	166%
202 STREET MAINTENANCE	751,089	751,089	170,156	23%	191,432	(21,276)	-11%

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2018-19
For the Four Months Ended October 31, 2018
33% 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	344	170%	82	263	321%
Police Grant/SLEF/JAG	100,000	100,000	57,080	57%	47,750	9,330	20%
205 PUBLIC SAFETY TRUST	100,202	100,202	57,424	57%	47,832	9,593	20%
206 COMMUNITY DEVELOPMENT							
Building Fees	2,996,450	2,996,450	1,049,114	35%	783,255	265,859	34%
Planning Fees	1,396,529	1,396,529	317,897	23%	228,108	89,788	39%
Engineering Fees	462,524	462,524	193,040	42%	263,028	(69,988)	-27%
Other Revenue/Current Charges	24,265	24,265	19,398	80%	15,728	3,670	23%
206 COMMUNITY DEVELOPMENT	4,879,768	4,879,768	1,579,448	32%	1,290,119	289,329	22%
207 LONG RANGE PLANNING	741,894	741,894	247,942	33%	211,119	36,822	17%
215 and 216 HCD BLOCK GRANT							
Interest Income/Other Revenue	2,821	2,821	332	12%	1,443	(1,112)	-77%
215 and 216 HCD BLOCK GRANT	2,821	2,821	332	12%	1,443	(1,112)	-77%
225 ASSET SEIZURE	1,670	1,670	1,932	116%	540	1,392	258%
229 LIGHTING AND LANDSCAPE	188,591	188,591	639	0%	651	(12)	-2%
230 COMMUNITY FACILITIES DISTRICT	44,198	44,198	242	1%	204	38	19%
232 ENVIRONMENTAL PROGRAMS	394,158	394,158	155,435	39%	148,799	6,635	4%
234 MOBILE HOME PARK RENT STAB.	661	661	4,930	746%	162	4,768	2942%
235 SENIOR HOUSING	3,347	3,347	1,127	34%	874	253	29%
236 HOUSING MITIGATION	1,613,912	2,613,912	419,607	16%	252,495	167,111	66%
240 EMPLOYEE ASSISTANCE	28,949	28,949	7,580	26%	10,460	(2,880)	-28%
247 ENVIRONMENT REMEDIATION	2,118	2,118	691	33%	558	133	24%
250 COMH-SUCCESSOR AGENCY-MHRDA	7,946,430	7,946,430	864,288	11%	31,564	832,724	2638%
255 HOUSING SUCCESSOR AGENCY	2,386,006	2,386,006	25,319	1%	198,045	(172,725)	-87%
TOTAL SPECIAL REVENUE FUNDS	19,085,815	20,085,815	3,537,091	18%	2,386,297	1,150,793	48%
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	7,959,013	7,959,013	908,550	11%	1,113,330	(204,781)	-18%
302 PARK MAINTENANCE	1,320,332	1,320,332	300,886	23%	638,587	(337,701)	-53%
303 LOCAL DRAINAGE	1,394,482	1,394,482	362,366	26%	823,685	(461,320)	-56%
304 LOCAL DRAINAGE/NON AB1600	80,981	80,981	78,064	96%	69,601	8,462	12%
306 AGRICULTURE & OPEN SPACE PRESERVATION	2,652,538	2,652,538	1,557,896	59%	167,591	1,390,305	830%
308 STREET CIP	3,861,662	3,861,662	1,040,530	27%	405,540	634,990	157%
309 TRAFFIC IMPACT	17,251,157	17,251,157	999,439	6%	115,996	883,443	762%
311 POLICE IMPACT	277,713	277,713	131,941	48%	54,663	77,278	141%
313 FIRE IMPACT	349,306	349,306	122,853	35%	23,128	99,725	431%
346 PUBLIC FACILITIES NON-AB1600	590,499	590,499	130,715	22%	75,972	54,743	72%
347 PUBLIC FACILITIES IMPACT	198,932	198,932	90,501	45%	37,865	52,635	139%
348 LIBRARY	909,565	909,565	350,464	39%	148,867	201,597	135%
350 UNDERGROUNDING	45,800	45,800	137,348	300%	198,433	(61,085)	-31%
355 SCHOOL PEDESTRIAN/TRAFFIC SAFETY	684,678	684,678	14,255	2%	59,471	(45,217)	-76%
360 COMMUNITY/REC IMPACT FUND	1,275,010	1,275,010	339,362	27%	215,718	123,644	57%
TOTAL CAPITAL PROJECTS FUNDS	38,851,668	38,851,668	6,565,166	17%	4,148,447	2,416,719	58%
DEBT SERVICE FUNDS							
420 CIVIC CENTER DEBT	298,856	298,856	99,557	33%	98,574	983	1%
441 POLICE FACILITY BOND	375,764	375,764	187,363	50%	229,119	(41,756)	-18%
TOTAL DEBT SERVICE FUNDS	674,620	674,620	286,920	43%	327,693	(40,774)	-12%

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2018-19
For the Four Months Ended October 31, 2018
33% 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	3,456,411	33%	3,244,520	211,891	7%
Interest Income/Transfers	37,151	37,151	10,109	27%	8,729	1,380	16%
Other Revenue/Current Charges	318,700	318,700	127,466	40%	148,846	(21,380)	-14%
640 SEWER OPERATION	10,746,851	10,746,851	3,593,986	33%	3,402,094	191,892	6%
641 SEWER EXPANSION							
Interest Income	215,856	215,856	87,101	40%	57,433	29,668	52%
Development Impact Fee	4,717,263	4,717,263	2,395,789	51%	1,021,192	1,374,597	135%
Transfers/Other	-	-	-	0%	-	-	0%
641 SEWER EXPANSION	4,933,119	4,933,119	2,482,890	50%	1,078,625	1,404,265	130%
642 SEWER RATE STABILIZATION	38,641	38,641	12,954	34%	10,050	2,905	29%
643 SEWER-CAPITAL PROJECT	2,797,976	2,797,976	964,725	34%	827,557	137,167	17%
TOTAL SEWER FUNDS	18,516,587	18,516,587	7,054,555	38%	5,318,326	1,736,229	33%
650 WATER OPERATION							
Water Sales	12,435,000	12,435,000	4,978,240	40%	4,439,531	538,708	12%
Meter Install & Service	123,000	123,000	75,195	61%	83,578	(8,383)	-10%
Transfers-In / Interest Income	440,840	440,840	148,877	34%	145,201	3,676	3%
Other Revenue/Current Charges	752,660	752,660	409,695	54%	303,534	106,162	35%
650 WATER OPERATION	13,751,500	13,751,500	5,612,007	41%	4,971,844	640,163	13%
651 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	47,561	47,561	16,103	34%	13,931	2,172	16%
Development Impact Fee	1,311,698	1,311,698	615,429	47%	258,235	357,194	138%
651 WATER EXPANSION	1,359,259	1,359,259	631,532	46%	272,166	359,366	132%
652 Water Rate Stabilization	8,223	8,223	2,771	34%	169,140	(166,369)	-98%
653 Water Capital Project	2,400,895	2,400,895	901,309	38%	454,676	446,633	98%
TOTAL WATER FUNDS	17,519,877	17,519,877	7,147,619	41%	5,867,827	1,279,793	22%
TOTAL ENTERPRISE FUNDS	36,036,464	36,036,464	14,202,174	39%	11,186,152	3,016,022	27%
INTERNAL SERVICE FUNDS							
730 INFORMATION SYSTEMS	1,870,983	1,870,983	627,013	34%	536,261	90,752	17%
740 BUILDING MAINTENANCE	3,326,619	3,326,619	1,095,410	33%	1,027,931	67,479	7%
741 BUILDING REPLACEMENT	789,958	789,958	255,520	32%	165,663	89,857	54%
745 CIP ADMINISTRATION	1,780,750	1,780,750	429,372	24%	469,533	(40,162)	-9%
760 UNEMPLOYMENT INSURANCE	2,324	2,324	822	35%	652	170	26%
770 WORKERS COMPENSATION	775,343	775,343	252,439	33%	261,265	(8,826)	-3%
790 EQUIPMENT REPLACEMENT	1,064,433	1,064,433	361,336	34%	333,368	27,967	8%
791 EMPLOYEE BENEFITS	1,171,099	1,171,099	452,724	39%	204,895	247,829	121%
793 CORPORATION YARD COMMISSION	-	-	1,515	0%	340	1,175	346%
795 GENERAL LIABILITY INSURANCE	1,020,581	1,020,581	339,876	33%	316,975	22,901	7%
TOTAL INTERNAL SERVICE FUNDS	11,802,090	11,802,090	3,816,026	32%	3,316,883	499,143	15%
TOTAL FOR ALL FUNDS	\$ 146,597,297	\$ 147,640,297	\$ 38,648,810	26%	\$ 31,635,249	\$ 7,013,561	22%

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2018-19
For the Month and Four Months Ended October 31, 2018
33% 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		\$ 11,757	\$ 337,607	\$ 83,801	\$ 91,633	\$ 175,434	52%	\$ 101,633
CITY ATTORNEY		50,271	768,318	201,212	145,514	346,726	45%	251,212
CITY MANAGER		44,733	383,799	206,325	-	206,325	54%	351,325
HUMAN RESOURCES		62,650	796,813	231,702	42,974	274,676	34%	251,702
COUNCIL SVCS & RECORDS MGMT								
Council Svcs & Records Mgmt		54,625	614,068	204,612	4,800	209,412	34%	191,612
Elections		3,035	322,533	7,886	-	7,886	2%	7,886
COUNCIL SVCS & RECORDS MGMT		57,660	936,601	212,498	4,800	217,298	23%	201,498
FINANCE		138,086	1,720,130	552,124	60,888	613,013	36%	521,888
TOTAL ADMINISTRATION		365,156	4,943,269	1,487,663	345,809	1,833,472	37%	1,691,809
II. COMMUNITY SERVICES								
Membership Services & Rec. Programs		358,254	6,255,009	1,975,401	1,355,302	3,330,702	53%	1,901,302
Recreation Facility Rentals		108,742	1,355,732	434,724	39,408	474,132	35%	441,724
Community Services		38,300	653,307	175,630	69,580	245,210	38%	231,630
Environmental Services		16,912	303,894	69,536	-	69,536	23%	69,536
Street Maintenance		212,641	2,362,851	670,119	171,040	841,160	36%	571,040
Downtown Maintenance		64,008	316,644	128,132	49,672	177,804	56%	71,672
Cable Television		1,713	21,581	6,778	-	6,778	31%	6,778
COMMUNITY SERVICES		800,570	11,269,018	3,460,320	1,685,001	5,145,322	46%	3,311,001
CODE COMPLIANCE		11,845	150,464	48,077	-	48,077	32%	31,077
CONGESTION MANAGEMENT		28,955	55,861	33,166	-	33,166	59%	41,166
ECONOMIC DEVELOPMENT PROGRAMS		33,952	720,295	206,219	187,112	393,331		
TOTAL COMMUNITY SERVICES		875,323	12,195,638	3,747,782	1,872,113	5,619,895	46%	3,391,113
III. PUBLIC SAFETY								
POLICE								
PD Administration		168,525	1,222,942	462,318	65,351	527,669	43%	421,318
Field Operations		668,648	9,196,103	2,409,973	999,903	3,409,876	37%	2,581,973
Support Services		172,898	2,272,707	723,667	18,571	742,238	33%	661,667
Emergency Services/Haz Mat		12,803	187,057	53,523	-	53,523	29%	53,523
Special Operations		142,127	2,748,496	626,247	-	626,247	23%	921,247
Dispatch Services		128,520	1,674,402	523,073	10,503	533,576	32%	531,073
POLICE		1,293,521	17,301,708	4,798,801	1,094,329	5,893,130	34%	5,201,329
FIRE		511,954	6,666,707	2,302,429	58,083	2,360,511	35%	2,061,083
TOTAL PUBLIC SAFETY		1,805,475	23,968,415	7,101,230	1,152,411	8,253,641	34%	7,262,411
IV. TRANSFERS								
Other		151,753	2,077,498	607,012	-	607,012	29%	741,012
TOTAL TRANSFERS		151,753	2,077,498	607,012	-	607,012	29%	741,012
TOTAL GENERAL FUND		3,197,708	43,184,819	12,943,687	3,370,333	16,314,020	38%	13,101,333

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



City of Morgan Hill
 Year to Date Expenses - Fiscal Year 2018-19
 For the Month and Four Months Ended October 31, 2018
 33% 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	158,786	742,877	160,851	-	160,851	22%	12%
205	PUBLIC SAFETY/SUPP.LAW	49,354	106,536	50,989	-	50,989	48%	11%
206	COMMUNITY DEVELOPMENT FUND							
	Planning	201,972	2,597,350	718,844	377,689	1,096,534	42%	61%
	Building	138,366	1,976,108	526,587	319,423	846,010	43%	63%
	Engineering	101,766	1,668,062	420,048	414,315	834,363	50%	42%
206	COMMUNITY DEVELOPMENT FUND	442,104	6,241,520	1,665,479	1,111,428	2,776,907	44%	1,66%
207	LONG RANGE PLANNING	64,148	1,383,881	190,952	598,721	789,672	57%	22%
215/216	CDBG	413	4,961	1,652	-	1,652	33%	(
225	ASSET SEIZURE	-	-	-	-	-	0%	
229	LIGHTING AND LANDSCAPE	36,673	195,274	69,432	25,674	95,106	49%	6%
230	COMMUNITY FACILITIES DISTRICT	3,967	46,262	9,492	-	9,492	21%	(
232	ENVIRONMENT PROGRAMS	26,938	406,727	116,270	16,310	132,580	33%	10%
234	MOBILE HOME PARK	34	405	136	-	136	34%	
236	HOUSING MITIGATION	74,161	3,323,394	1,480,239	273,859	1,754,098	53%	19%
240	EMPLOYEE ASSISTANCE	78	28,430	2,312	-	2,312	8%	3
247	ENVIRONMENTAL REMEDIATION	708	-	708	-	708	0%	
250	COMH-SUCCESSOR AGENCY-MHRDA	9,632	7,983,635	5,874,821	23,890	5,898,711	74%	5,09%
255	HOUSING SUCCESSOR AGENCY	71,743	3,679,973	730,602	976,146	1,706,748	46%	1,10%
TOTAL SPECIAL REVENUE FUNDS		938,740	24,143,875	10,353,934	3,026,027	13,379,962	55%	8,60%
CAPITAL PROJECT FUNDS								
301	PARK DEVELOPMENT	34,588	8,665,258	109,457	566,744	676,201	8%	2,08%
302	PARK MAINTENANCE	146,995	1,244,024	385,733	186,792	572,525	46%	31%
303	LOCAL DRAINAGE	10,445	518,362	43,362	643	44,005	8%	4
304	LOCAL DRAIN. NON-AB1600	217	338,627	989	-	989	0%	9
306	AGRICULTURE & OPEN SPACE PRESERVATION	180,593	4,245,295	2,002,708	62,179	2,064,888	49%	1%
308	STREET CIP	230,598	4,012,576	275,236	1,803,099	2,078,335	52%	11%
309	TRAFFIC IMPACT	32,462	19,893,433	979,397	228,397	1,207,794	6%	21%
311	POLICE IMPACT	101,984	228,096	109,847	643	110,490	48%	13%
313	FIRE IMPACT	19,683	172,227	22,475	643	23,119	13%	
346	PUBLIC FAC.NON AB1600	76,918	420,850	99,414	32,748	132,162	31%	35%
347	PUBLIC FACILITIES IMPACT	957	84,479	2,333	643	2,976	4%	
348	LIBRARY IMPACT	44,471	3,849,962	181,733	96,568	278,302	7%	10%
350	UNDERGROUNDING	85	1,024	340	-	340	33%	
355	SCHOOL PEDESTRIAN & TRAFFIC SAFETY	3,114	1,830,740	12,079	29,578	41,657	2%	16%
360	COMM/REC CENTER IMPACT	21,064	2,184,177	41,750	137,441	179,192	0%	
TOTAL CAPITAL PROJECTS FUNDS		904,174	47,689,131	4,266,853	3,146,121	7,412,973	16%	3,42%
DEBT SERVICE FUNDS								
420	CIVIC CENTER DEBT	218,738	308,656	221,135	-	221,135	72%	20%
441	POLICE FACILITY BOND DEBT	292,110	380,313	293,025	-	293,025	77%	29%
TOTAL DEBT SERVICE FUNDS		510,848	688,969	514,160	-	514,160	75%	50%

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)



City of Morgan Hill
 Year to Date Expenses - Fiscal Year 2018-19
 For the Month and Four Months Ended October 31, 2018
 33% 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	1,128,633	11,311,787	3,572,381	247,074	3,819,455	34%	3,351
641	SEWER CAPITAL EXPANSION	503,821	2,051,871	622,664	467,598	1,090,262	53%	241
642	SEWER RATE STABILIZATION	86	1,027	344	-	344	33%	-
643	SEWER-CAPITAL PROJECTS	509,411	10,683,664	2,670,695	1,669,703	4,340,398	41%	1,701
TOTAL SEWER FUND(S)		2,141,951	24,048,349	6,866,085	2,384,375	9,250,460	38%	5,311
WATER								
	Water Operations	1,186,309	12,440,123	3,643,097	931,666	4,574,763	37%	2,841
	Utility Billing	62,728	809,160	256,793	35,984	292,776	36%	251
	Water Conservation	6,587	210,082	32,002	50,000	82,002	39%	21
650	WATER OPERATIONS	1,255,624	13,459,365	3,931,892	1,017,650	4,949,542	37%	3,131
651	WATER CAPITAL EXPANSION	461,875	2,726,977	785,270	1,315,662	2,100,932	77%	71
652	WATER RATE STABILIZATION	28	335	112	-	112	33%	-
653	WATER-CAPITAL PROJECTS	20,159	2,494,078	116,713	284,215	400,928	16%	171
TOTAL WATER FUND(S)		1,737,687	18,680,755	4,833,988	2,617,527	7,451,514	40%	3,371
TOTAL ENTERPRISE FUNDS		3,879,638	42,729,104	11,700,072	5,001,902	16,701,974	39%	8,691
INTERNAL SERVICE FUNDS								
730	INFORMATION SYSTEMS	124,415	2,013,703	503,541	17,161	520,702	26%	771
740	BUILDING MAINTENANCE	230,313	3,376,986	921,117	355,940	1,277,057	38%	941
741	BUILDING REPLACEMENT	59,432	405,806	142,442	94,161	236,603	58%	201
745	CIP ADMINISTRATION	104,039	1,813,012	430,568	11,250	441,818	24%	461
760	UNEMPLOYMENT	-	10,000	-	-	-	n/a	-
770	WORKERS COMPENSATION	5,798	947,795	399,664	-	399,664	42%	821
790	EQUIPMENT REPLACEMENT	-	1,261,025	-	601,107	601,107	48%	211
791	EMPLOYEE BENEFITS FUND	60,464	600,000	266,010	-	266,010	44%	181
793	CORP YARD COMMISSION	103	1,903	1,220	1,096	2,316	0%	-
795	GEN. LIABILITY INSURANCE	6,638	1,010,346	742,946	-	742,946	74%	541
TOTAL INTERNAL SERVICE FUNDS		591,201	11,440,575	3,407,507	1,080,715	4,488,223	39%	4,161
REPORT TOTAL		\$ 10,022,308	\$ 169,876,473	\$ 43,186,213	\$ 15,625,099	\$ 58,811,312	35%	\$ 38,501

Attachment: October 2018 Financial and Investment Report (2137 : October 2018 Financial and Investment Report)

City of Morgan Hill Fund Activity Summary - Fiscal Year 2018-19 For the Four Months Ended October 31, 2018 33% of Year Complete										
Fund No.	Fund	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	\$ 17,604,727	\$ 10,241,433	25%	\$ 12,943,687	30%	\$ (2,702,254)	\$ 3,370,333	\$ 11,532,140	
TOTAL GENERAL FUND		\$ 17,604,727	\$ 10,241,433	25%	\$ 12,943,687	30%	\$ (2,702,254)	\$ 3,370,333	\$ 11,532,140	
202	STREET MAINTENANCE	58,830	\$ 170,156	23%	\$ 160,851	27%	\$ 9,305	\$ -	\$ 68,135	
205	PUBLIC SAFETY/SUPPL. LAW	50,422	57,424	57%	50,989	25%	6,435	-	56,857	
206	COMMUNITY DEVELOPMENT	2,001,953	1,579,448	32%	1,665,479	27%	(86,031)	1,111,428	804,495	
207	LONG RANGE PLANNING	1,160,548	247,942	33%	190,952	14%	56,990	598,721	618,817	
215 / 216	CDBG	59,981	332	12%	1,652	0%	(1,320)	-	58,661	
225	ASSET SEIZURE	111,921	1,932	116%	-	0%	1,932	-	113,853	
229	LIGHTING AND LANDSCAPE	157,826	639	0%	69,432	36%	(68,793)	25,674	63,359	
230	COMMUNITY FACILITIES DISTRICT	82,203	242	1%	9,492	0%	(9,250)	-	72,953	
232	ENVIRONMENTAL PROGRAMS	243,732	155,435	39%	116,270	29%	39,165	16,310	266,587	
234	MOBILE HOME PK RENT STAB.	43,345	4,930	746%	136	34%	4,794	-	48,139	
235	SENIOR HOUSING	224,078	1,127	34%	-	0%	1,127	-	225,205	
236	HOUSING MITIGATION	2,714,194	419,607	16%	1,480,239	45%	(1,060,633)	273,859	1,379,702	
240	EMPLOYEE ASSISTANCE	38,932	7,580	26%	2,312	8%	5,268	-	44,200	
247	ENVIRONMENT REMEDIATION	135,819	691	33%	708	0%	(17)	-	135,802	
250	COMH-SUCCESSOR AGENCY-MHRDA	(877,559)	864,288	11%	5,874,821	74%	(5,010,534)	7,201,478	(13,089,570)	
255	HOUSING SUCCESSOR AGENCY	4,072,877	25,319	1%	730,602	20%	(705,282)	1,296,760	2,070,834	
260	PUBLIC ART	111	-	n/a	-	-	-	-	111	
TOTAL SPECIAL REVENUE FUNDS		\$ 10,279,213	\$ 3,537,091	18%	\$ 10,353,934	43%	\$ (6,816,844)	\$ 10,524,229	\$ (7,061,860)	
301	PARK DEV. IMPACT FUND	2,787,306	\$ 908,550	11%	\$ 109,457	1%	\$ 799,092	\$ 566,744	\$ 3,019,654	
302	PARK MAINTENANCE	4,265,806	300,886	23%	385,733	31%	(84,847)	186,792	3,994,167	
303	LOCAL DRAINAGE	10,405,902	362,366	26%	43,362	8%	319,004	643	10,724,263	
304	LOCAL DRAINAGE/NON-AB1600	1,409,474	78,064	96%	989	0%	77,075	-	1,486,549	
306	AGRICULTURE AND OPEN SPACE PRESERV	7,017,877	1,557,896	59%	2,002,708	47%	(444,812)	62,179	6,510,885	
308	STREET CIP	2,333,919	1,040,530	27%	275,236	7%	765,294	1,803,099	1,296,114	
309	TRAFFIC IMPACT FUND	3,437,980	999,439	6%	979,397	5%	20,042	228,397	3,229,626	
311	POLICE IMPACT FUND	(736,934)	131,941	48%	109,847	48%	22,094	643	(715,483)	
313	FIRE IMPACT FUND	3,906,952	122,853	35%	22,475	13%	100,377	643	4,006,686	
346	PUBLIC FACILITIES NON-AB1600	166,110	130,715	22%	99,414	24%	31,301	643	196,768	
347	PUBLIC FACILITIES IMPACT FUND	520,300	90,501	45%	2,333	3%	88,168	96,568	511,899	
348	LIBRARY IMPACT FUND	2,371,544	350,464	39%	181,733	5%	168,730	-	2,540,274	
350	UNDERGROUNDING	707,205	137,348	300%	340	33%	137,008	29,578	814,634	
355	SCHOOL PEDESTRIAN/TRAFFIC SFY	1,502,442	14,255	2%	12,079	1%	2,176	137,441	1,367,176	
360	COMM/REC CTR IMPACT FUND	1,113,663	339,362	27%	41,750	0%	297,611	-	1,411,274	
TOTAL CAPITAL PROJECT FUNDS		\$ 41,209,546	\$ 6,565,166	17%	\$ 4,266,853	9%	\$ 2,298,314	\$ 3,113,372	\$ 40,394,487	
420	CIVIC CENTER DEBT	171,658	\$ 99,557	33%	\$ 221,135	72%	\$ (121,578)	\$ 55	\$ 50,025	
441	POLICE FACILITY BOND DEBT	82,263	187,363	50%	293,025	77%	(105,662)	70	(23,469)	
TOTAL DEBT SERVICE FUNDS		\$ 253,921	\$ 286,920	43%	\$ 514,160	75%	\$ (227,240)	\$ 125	\$ 26,556	

City of Morgan Hill Fund Activity Summary - Fiscal Year 2018-19 For the Four Months Ended October 31, 2018 33% of Year Complete									
Fund No.	Fund	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	\$ 2,901,439	33%	\$ 3,593,986	33%	\$ 3,572,381	32%	\$ 21,604	247,074	2,675,970
641	SEWER IMPACT FUND*	15,556,702	50%	2,482,890	50%	622,664	30%	1,860,225	467,598	16,949,329
642	SEWER RATE STABILIZATION	2,574,831	34%	12,954	34%	344	33%	12,610	-	2,587,441
643	SEWER-CAPITAL PROJECTS	9,316,726	34%	964,725	34%	2,670,695	25%	(1,705,970)	1,669,703	5,941,052
650	WATER OPERATIONS	3,409,384	41%	5,612,007	41%	3,931,892	29%	1,680,115	1,017,650	4,071,849
651	WATER IMPACT FUND*	2,680,718	46%	631,532	46%	785,270	29%	(153,739)	1,315,662	1,211,318
652	WATER RATE STABILIZATION	514,170	34%	2,711	34%	112	33%	2,659	-	516,829
653	WATER -CAPITAL PROJECT	564,089	38%	901,309	38%	116,713	5%	784,596	284,215	1,064,469
TOTAL ENTERPRISE FUNDS		\$ 37,518,059	39%	\$ 14,202,174	39%	\$ 11,700,072	27%	\$ 2,502,102	\$ 5,001,902	\$ 35,018,259

730	INFORMATION SERVICES	\$ 591,635	34%	\$ 627,013	34%	\$ 503,541	25%	\$ 123,473	\$ 17,161	\$ 697,946
740	BUILDING MAINTENANCE	(4,788)	33%	1,095,410	33%	921,117	27%	174,292	355,940	(186,435)
741	BUILDING REPLACEMENT	2,081,486	32%	255,520	32%	142,442	35%	113,079	94,161	2,100,404
745	CIP ENGINEERING	62,962	24%	429,372	24%	430,568	24%	(1,196)	11,250	50,515
760	UNEMPLOYMENT	152,405	35%	822	35%	-	-	822	-	153,227
770	WORKERS COMPENSATION	1,763,179	33%	252,439	33%	399,664	42%	(147,225)	30,000	1,585,954
790	EQUIPMENT REPLACEMENT	4,432,003	34%	361,336	34%	-	-	361,336	601,107	4,192,231
791	EMPLOYEE BENEFITS FUNDS	(364,078)	39%	452,724	39%	266,010	44%	186,714	-	(177,364)
793	CORP YARD COMMISSION	-	0%	1,515	0%	1,230	0%	295	1,096	(801)
795	GEN. LIABILITY INSURANCE	1,341,056	33%	339,876	33%	742,946	74%	(403,070)	-	937,986
TOTAL INTERNAL SERVICE FUNDS		\$ 10,055,860	32%	\$ 3,816,026	32%	\$ 3,407,507	30%	\$ 408,519	\$ 1,110,715	\$ 9,353,663

SUMMARY BY FUND TYPE

GENERAL FUND GROUP	\$ 17,604,727	\$ 10,241,433	25%	\$ 12,943,687	30%	\$ (2,702,254)	\$ 3,370,333	\$ 11,532,140
SPECIAL REVENUE GROUP	10,279,213	3,537,091	18%	10,353,934	43%	(6,816,844)	10,524,229	(7,061,860)
DEBT SERVICE GROUP	253,921	286,920	43%	514,160	75%	(227,240)	125	26,556
CAPITAL PROJECTS GROUP	41,209,546	6,565,166	17%	4,266,853	9%	2,298,314	3,113,372	40,394,487
ENTERPRISE GROUP	37,518,059	14,202,174	39%	11,700,072	27%	2,502,102	5,001,902	35,018,259
INTERNAL SERVICE GROUP	10,055,860	3,816,026	32%	3,407,507	30%	408,519	1,110,715	9,353,663
TOTAL ALL GROUPS	\$ 116,921,326	\$ 38,648,810	26%	\$ 43,186,213	25%	\$ (4,537,403)	\$ 23,120,677	\$ 89,263,246

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: January 23, 2019

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

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

RECOMMENDATION(S)

Receive and accept report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Financial Stewardship

REPORT NARRATIVE:

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

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

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

- Successfully engaged consultant to prepare and file the annual continuing disclosure report for the two refinanced Assessment Districts (Morgan Hill Ranch and Madrone Business Park), series 2015. The report was disseminated on October 17, 2018.
- Successfully engaged consultant to prepare the annual continuing disclosure report for the Refunding Revenue Bonds for the Former Redevelopment Agency, series 2013A and 2013B. The City, as the disseminating agent, filed the annual report on EMMA, on November 1, 2018.
- Received the arbitrage rebate analysis for the Madrone Business Park A, Series 2015, for computation period November 5, 2015 through November 5, 2017. As expected by Finance staff, the report confirmed there is no arbitrage payment

due to the Internal Revenue Service on this bond issue, as it had a negative arbitrage.

- Successfully engaged consultant to prepare arbitrage rebate analysis for the Successor Agency to the Morgan Hill Redevelopment Agency Refunding Revenue Bonds, Series 2013A, for computation period December 4, 2013, the delivery date of the bonds, to December 4, 2018. As expected by staff, the report confirmed there is no arbitrage payment due to the Internal Revenue Service on this bond issue, as it had a negative arbitrage. This was the first arbitrage analysis prepared for this bond issue. It is recommended an analysis be prepared every five (5) years. Next analysis will be prepared in Fall of 2023.
- Fully spent the 2014 Water Bond Proceeds as of December 2018.

The City Manager and the Engineering & Utilities staff continue to ensure the City has a plan with a reasonable expectation to spend the 85% of the tax-advantaged bond proceeds within 3 years of issuance, and 100% within 5 years. These spending plans are illustrated in the adopted Capital Improvement Program Budget for the 2015 Sewer Bond Proceeds.

COMMUNITY ENGAGEMENT: Inform

This is an informational report, which assures the City staff has executed the post-issuance compliance procedures in the past six months. Staff expects the next semi-annual report to be issued in July 2019.

ALTERNATIVE ACTIONS:

There are no alternative actions recommended, as this is an information only report.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

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

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

- 1st report: October 16, 2013
- 2nd report: April 16, 2014
- 3rd report: October 1, 2014
- 4th report: July 08, 2015
- 5th report: December 16, 2015
- 6th report: June 15, 2016
- 7th report: December 14, 2016
- 8th report: July 26, 2017
- 9th report: December 6, 2017
- 10th report: June 20, 2018

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):

Not a Project as this is an administrative activity of government that will not result in direct or indirect physical changes in the environment.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Leslie Little, Assistant City Manager for Community Development
APPROVED BY: City Manager

ACCEPT UPDATE ON IMPLEMENTATION OF DEVELOPMENT SERVICES REVIEW - ZUCKER SYSTEMS

RECOMMENDATION(S)

Accept Report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Community Engagement and Messaging
Financial Stewardship
Regional Initiatives

REPORT NARRATIVE:

The City of Morgan Hill's Development Services function is responsible for managing the City's entitlement process, for economic development and residential projects consistent with mandated regulations and the City's General Plan. Development Services includes three divisions; planning, building, and engineering teams who coordinate and facilitate plan review, inspections, and permit needs for builders, developers, and property owners. Examples of these types of projects include projects from large developers (e.g. new housing developments and business expansion) to homeowner needs (e.g. home remodel). The City routinely reviews its service delivery models to ensure that they are efficient, meet our community and customer needs, and maximize the skills, abilities, and talent of our professional team.

In keeping with the City Council's goals of providing quality customer service and delivering service in a fiscally responsible manner, an operational review of the City's development services process and delivery system was conducted by Zucker Systems during late 2015 – early 2016. The analysis performed by Zucker Systems included internal and external interviews, team member survey and interviews, and the use of objective measures and industry best practices as guidance to suggest service and organizational changes intended to streamline and improve the development entitlement and review process. In August 2016, the findings of Development Services Review were reported with recommendations made to 1. improve service for commercial, industrial, and residential developers - a key component to the development and enhancement of long-term economic development prospects for the City and 2. provide sustainable services to the residents of Morgan Hill.

Since 2016, a number of changes have been made to improve service delivery and management. This report will focus upon the status of those changes as well as the challenges related to the implementation of some recommendations.

The basis for many changes were grounded in the recommendations contained in the attached (Attachment 1) "Development Services Review" study prepared by Zucker Systems in July 2016.

Background:

Like most jurisdictions in California, the City of Morgan Hill experienced tremendous changes during the Great Recession. The collapse in the residential construction market resulted in significantly less community development activity and the City undertook the painful process of eliminating jobs and shifting responsibilities for various tasks to the remaining staff. Once the economy improved and the development market returned, a backlog of approved, predominantly residential development projects quickly made their way through the development process straining City resources dedicated to development services. The Development Services review process took place during late 2015 - early 2016 when the City reviewed and executed a record number of entitlements, permits, and inspection requests. This provided a prime opportunity for the consulting team to understand what was working well and what areas could be improved. Development slowed and for the past couple years has remained steady, with good increases in the number of non-residential permits; a trend that bodes well for a more balanced development market. Since the height of 2016, some service levels have remained permanently changed from the study period. A good example is Building inspection requests that were completed within 3-5 days during the study period, have consistently performed at normal (and expected) next day service.

This staff report summarizes the findings of the Development Services Study, describes service level enhancements and next steps contemplated in 2016 to the implementation process, and presents an update to major functional strategies.

Development Services Review: by Zucker Systems:

The scope of the study included a review of the City's land development services (planning, building, and engineering) processes and service delivery methods. The consultants were asked to conduct a review of current conditions and an analysis of opportunities for organizational and process improvements that enhance customer service and achieve efficiencies. Zucker Systems assembled a team of organizational efficiency experts to conduct the study. The team requested and was provided a number of external documents (e.g. City budget, organizational charts, fee schedules, process flowcharts), internal documents (e.g. policies and procedures), and data (e.g. permit volumes). The team also conducted two employee surveys, individual and group meetings with development services employees, the City Council, the Planning Commission Chair, and City leadership teammates. To gain input from the development community, Zucker reached out to recent or regular development stakeholders to form two focus groups and administered and evaluated results from a customer survey.

Major Findings

The Development Services Review contains a total of 160 recommendations. Zucker Systems approach provided very detailed recommendations to provide clarity to implementation planning. The major findings and priority recommendations were explained in the Executive Summary and include:

1. Financial

During the recession the land development functions reduced staffing. With an improved economy, some of those functions have not rebuilt staffing and performance has suffered. Although the report made specific recommendations to rebuild the permanent staffing function, layoffs of 2011 and inconsistent cost recovery revenue planning precluded permanent staff increases. While some staff re-positioning took place to attempt to control micro-management, addition of services was made primarily through consulting and part-time help. With a total cost recovery paradigm, generally only work related to a permit should be performed. Without General Fund support for those non-permit related activities, staff up-sizing is impossible as revenues are precarious at best as indicated in the quarterly finance report of Fund 206, which performs at deficit between \$600,000 and \$1 million annually.

Zucker Systems recognized, the City has an excellent approach to funding development activities out of a special revenue fund (cost recovery Fund 206). However, Zucker did indicate that some support from the General Fund is appropriate to pay for functions not attributable to a development permit, reporting, special reports and research, legislative initiative changes, approval process changes, and Code Compliance.

2. Management

Zucker Systems identified the need for more proactive management and staff empowerment in all three key development functions; building, engineering, and planning. Several modifications were made, providing opportunities for increased training, skill onboarding, and succession planning. But constant workloads impeded much of the opportunity to build the kind of leadership in all functions.

3. Performance Standards

Best practice communities use performance standards to meet customer expectations and to assist staff in management. Zucker recommended updating and adopting performance standards in all three development functions; building, engineering, and planning. The report noted that the new TRAKiT permitting system will assist with setting and monitoring performance standards. While the departments have adopted review standards, many projects move beyond those time lines for a variety of reasons, not all within the control of the City. In general, we have seen improvements in leadership whereby staff move projects and proactively try to determine where a “pinch point” may occur, individual case management is often needed, and even so, workloads may not permit the movement of the project.

A significant recommendation of the Development Services Review was to hire an additional full time Plan Review Engineer in Land Development, and a dedicated Plan

Checker, for the Building Department which currently relies on the Building Official and Supervising Inspector. The organization does not have the revenues to sustain these positions, and therefore has not hired additional FTE's. Planning, Building and Engineering currently utilize a variety of contract services, including Building inspection, Storm Water Engineering, Soil, Survey and planning, and outside plan check services. As with many regulatory arenas, land development rules and regulations continue to complicate and extend the review activity.

4. Process

New requirements being added for subsequent reviews and suggested standard conditions that may not actually apply to a specific project were noted as the primary concern of customers. Zucker recommended the City see the development process as more of a partnership between the City and the applicants. As such, Zucker recommended that applicants be invited to the Development Review Team staff meetings to discuss identified issues with the goal of developing potential solutions to issues. As the development review was the first chance for the internal team to discuss the project and ask questions, more often than not, these are still internal and external agency staff meetings. More complex projects generally begin with a pre-review with the applicant or engineer/architect. Because of the requirements of the new Measure "S", pre-applications are required of all residential applications, with feedback given for each application. These projects follow a Residential Development Control System (RDCS) timeline, not a development review timeline.

As the City Council is aware, the past two years have seen the state regulatory landscape change significantly, with new rules for common permitting of housing, in response to the affordable housing crisis. Should new state regulations be promulgated to expedite permitting as introduced through the CASA compact and proposed State housing legislation, new emphasis will have to be made to complete 30- day reviews and deem projects complete and processed along a tight timeline to meet the intent of the law. This may challenge the RDCS system completely as well as the custom in the community to provide community engagement and multiple public hearings and outreach opportunities. These same initiatives may cap fees that can be recovered for processing and community impacts.

5. Staffing

The inability to meet acceptable performance standards is partially due to lack of staffing, particularly in the Building Division and in the Engineering Division. Zucker recommended hiring a Geographic Information Systems (GIS) Administrator in FY 2016-17 and suggested that the City adjust staffing levels to meet service demands more frequently than budget cycles. The GIS Administrator was hired. Staffing is still adjusted on budget cycle unless by contract service.

The report complimented the City on its use of consultants to supplement staffing needs but pointed out that the City has struggled to find qualified consultant services for inspection and some specialties during the economic recovery, as these services were

in high demand in the public and private sector. These issues remain. The Silicon Valley construction market has created a demand that is unrivaled, and smaller projects just do not command the attention and turn around as many of those being funded by the private sector. This is not only true for review services, but developers of all sizes, find competition for trade labor exhaustive.

6. TRAKiT

The report compliments the City on the selection of its permitting system, TRAKiT, although cautioned without proper staff resources, management, or staff buy in, the system could fail. Zucker recommended Morgan Hill expand its effort in this area. In particular, Zucker suggested that performance standards be incorporated into the TRAKiT permit system to allow Management to observe building, planning, and engineering's on-going ability to meet established performance standards and therefore create an environment to enable management to make timely decisions about the need to adjust staff resources. The TRAKiT system does generate information about the timeliness of review, which helps diagnose a bottleneck or "lost" project. However, a reporting system does not provide the solution for making the resources available to move a project forward, such as a new analysis, a soil issue, a flood plain issue, or bonding and insurance complexities.

TRAKiT has provided a platform where most parcel and case history and permitting is attached in one location. As a tool, it allows everyone to access and determine status, and related reports, plans, documents submitted. That in itself has created efficiencies and eliminated searching for answers. Nearly ¾ of the City's built records are now in the system, and all team members use TRAKiT at some point in their review. As a choice of software, the system provides ample additional opportunity for expansion, management, and process streamlining.

Each of the study's 160 recommendations were discussed by the City Manager and development services leadership team. Several strategy sessions reviewed processes and structure to identify opportunities for service level enhancements. The results included:

Service Level Enhancements

As part of the Fiscal Year (FY) 2016-17 and FY 2017-18 budgets, a series of recommendations were approved that advanced Zucker's recommendations. These included:

- Allocating an additional 1.4 FTE of land development engineering staff time to development services and away from overseeing capital projects
- Paying for the majority of Code Compliance in the General Fund budget
- Ensuring that resources were budgeted for TRAKiT implementation
- Adding a GIS Administrator position
- Adding a Senior Project Manager for CIP project implementation

With these changes in place, additional service level activities included:

1. Inviting applicants to attend Development Review Team meetings.
2. Maximizing the capabilities of the City's new TRAKiT software.
3. Evaluating and streamlining development services processes.
4. Implementing a customer satisfaction survey process.
5. Requiring that department leadership and all development services teammates routinely review and discuss customer comments.
6. Developing and implementing performance standards to measure if we are meeting customer expectations and our service delivery expectations.
7. Requiring that department leadership and all development services teammates routinely review actual performance results.
8. Ensuring that teammates have the necessary training, management support, and tools to provide high quality service.
9. Creating a new Development Services Department and a new Engineering and Utilities Department.
10. Recommending Council approval of two position upgrades as also explained below.

Restructuring Development Services and Engineering, and Proposed Position Reclassifications

The review proposed re-structuring were based on the findings and recommendations in the Zucker study and careful consideration of the current resources available to the City, including staff, work space, and equipment. The proposed re-organization was intended to provide more streamlined, efficient, and customer focused development services and engineering and utilities teams.

At the time of the review, development review was performed by the Community Development Department (planning and building) and the Public Works Department (engineering). The two departments were replaced with two new departments: a **Development Services Department** and an **Engineering and Utilities Department**, which has been ultimately folded into the Community Services Department umbrella, under direction of the Public Services Director.

The Development Services Department became the ultimate body responsible for land development services and review, and includes the planning, building, and the land development engineering team. Including the land development engineers in a focused development review team was one of the more significant changes and considered an important step in streamlining the process and ensuring internal and external accountability. This ensures there is a focus on the holistic development review process and accountability for results. In addition, Economic Development will be more involved in the entire development process to ensure a more comprehensive review process.

Note: The Development Services Department umbrella now includes Economic Development, Code Compliance, and Housing in addition to the development services (former Community Development) team.

The Engineering and Utilities Department was established to manage the delivery of the City's robust Capital Improvement Program (CIP) and the Water and Wastewater Divisions. At that time, the Senior Civil Engineer position was reclassified to a Deputy Director for Engineering position, responsible for managing the CIP implementation and providing leadership to the engineering team. Since the time of review, the position of Public Services Director was established to oversee both the Engineering and Utilities Department and the Community Services Department, effectively providing oversight to the City's operational functions that do not relate to public safety. The new organizational structure provides for greater opportunity to coordinate the transition of infrastructure constructed by private development to the City's operational teams (utilities, street maintenance, etc.).

While oversight of Land Development Engineering is managed within the Development Services Department, there is still great interaction and responsibility that is housed within the Engineering and Utilities Department, including the designated City Engineer (Deputy Director of Engineering), public works inspection, and encroachment permit management. Further streamlining of these areas relating to the transition of public infrastructure from development to operations is planned for the near future, including updates to roles and responsibilities in the key areas noted and a potential shifting of the organizational structure of the Engineering and Utilities Department.

COMMUNITY ENGAGEMENT: This report is intended to inform the community and the City Council.

ALTERNATIVE ACTIONS:

None.

FISCAL AND RESOURECE IMPACT:

Preparation of this update report was accommodated in the Development Services Department's budget and work plan.

CEQA (California Environmental Quality Act):

This report does not constitute a project under CEQA.

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LINKS/ATTACHMENTS:

1. Development Services Matrix
2. Zucker Development Services Review

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions	COMPLETED	UNDERWAY
1.	Agree on an implementation plan	City Manager and Assistant City Manager	16	1	X		Ü	
2.	Customer surveys for all counters	City Manager	17	2	X		Ü	
3.	Send surveys to customers after project completion	Assistant City Manager and Community Development Director, and City Engineer	17	2	X			Ü
4.	Make results of all customer surveys available to staff	All managers	17	2	X			Ü
5.	Create expedited review process that meets performance standards	Assistant City Manager	18	1	X		Ü	
6.	Monitor expedited review in TRAKiT	Assistant City Manager	18	1		X	Ü	
7.	General Fund to support common good activities in Fund 206	Assistant City Manager and Finance Director	20	1		X		Ü
8.	Fee study to reflect added staff to implement this report	Assistant City Manager	21	1	X		Ü	
9.	Expand size of Fund 206 reserve	Assistant City Manager and Finance Director	22	2		X		Ü
10.	Consider moving some staff out of Development Services Building	City Manager	22	2		X	Ü	
11.	Develop comprehensive records management program	City Manager	23	2			Ü	
12.	Use TRAKiT system for plan reviews	All plan reviewers	25	1	X		Ü	
13.	Review second cycle plan reviews to see that new items that should have been in first cycle are not added	Plan review supervisors	25	1	X		Ü	
14.	TRAKiT to include all items listed above	City Manager	26	1	X		Ü	
15.	All departments involved in development review to actively participate in TRAKiT	City Manager	27	1	X		Ü	
16.	TRAKiT team to continue until all modules are in place	City Manager	28	1		X	Ü	
17.	Retain part-time staff hired for TRAKiT until program is fully in place	City Manager	28	1	X		Ü	
18.	Hire additional staff and consultants as necessary to implement TRAKiT	City Manager	29	1	X		Ü	
19.	Hire GIS specialist	Assistant City Manager	29	2		X	Ü	
20.	Create information sheet for staff answering phones	Assistant City Manager	30	2		X	Ü	
21.	Create special phone number for field staff	Assistant City Manager	30	2		X	Ü	
22.	Modify message on main phone line	Assistant City Manager	31	2	X		Ü	
23.	Prepare report on the phone system	Assistant City Manager	31	3	X		Ü	
24.	All phone calls and emails to be returned the same day received	City Manager	31	2	X		Ü	
25.	Set 2% of the divisions personnel budget and 5% of employees' time for training	Building, Engineering, and Planning managers	31	2	X		Ü	
26.	Add features to website	Assistant City Manager	34	3		X	Ü	
27.	Delete out-of-date language in code cycle	Building Official	37	2		X	Ü	
28.	Adopt performance standards	Building Official	42	1	X		Ü	

29.	Meet performance standards at least 90% of the time	Building Official	43	1	X		Ü	
30.	Retain quality reviews in meeting performance standards	Building Official	44	1	X		Ü	
31.	Transfer annual performance evaluations to Building Inspector Supervisor	Building Official	44	2	X		Ü	
32.	Building Official to be a CBO with good leadership skills	City Manager	44	1		X	Ü	
33.	Building Inspector Supervisor to be ICC certified for plan review	Building Official	45	1		X	Ü	
34.	Use contract plan checkers and inspectors to meet performance standards	Building Official	46	1	X		Ü	
35.	Combination Inspectors to be ICC certified	Building Official	46	1		X	Ü	
36.	Adjust inspection schedules for complex projects	Building Official	47	2	X		Ü	
37.	Support training programs for ICC certification	Building Official	47	2		X	Ü	
38.	Chief Plans Examiner to be ICC certified and problem solver	Building Official	48	1	X		Ü	
39.	Adopt performance standards for code enforcement	Building Official	48	1	X		Ü	
40.	Integrate code enforcement into TRAKiT	Building Official	48	1	X		Ü	
41.	Post monthly code enforcement activity reports on website	Building Official	48	3		X		Ü
42.	Modify staff meetings	Building Official	49	2	X		Ü	
43.	Adopt new organization chart	Building Official	50	2	X		Ü	
44.	Review compensation and job title for Building Official	Assistant City Manager	51	2		X	Ü	
45.	Add 6 months to contract for fire plan review/inspector	Assistant City Manager	51	1	X		Ü	
46.	Fire plan reviewer to participate in Fire Prevention Association	Assistant City Manager	52	3	X			Ü
47.	Up-date job descriptions	Human Resources Department	52	3		X	Ü	
48.	Add revision date to all job descriptions	Human Resources Department	52	3		X	Ü	
49.	Show performance standards statistics on website monthly	Assistant City Manager	53	2		X		Ü
50.	Program TRAKiT reporting categories	Assistant City Manager	53	2		X	Ü	
51.	Scan plans upon plan approval	Building Official	54	3		X	Ü	
52.	Adjust staffing levels to meet service demands	Building Official	56	1	X		Ü	
53.	Meet next-day inspection at least 90% of the time	Building Official	57	1	X		Ü	
54.	Adjust staffing levels more frequently than budget cycles	Assistant City Manager	57	1	X		Ü	
55.	Use fee study to develop work units	Building Official	57	2	X		Ü	
56.	Monitor workload of Fire Plans Examiner position	Building Official	58	2	X		Ü	
57.	Support training classes for building staff	Building Official	58	2	X		Ü	
58.	Cover cost of ICC certification renewals	Building Official	58	2	X		Ü	
59.	Monitor staff training re CEUs maintenance	Building Official	59	3		X	Ü	
60.	Allocate at least 2% of personnel budget for training	Building Official	59	2		X	Ü	
61.	Weekly training for inspectors and permit technicians	Building Official	59	2	X		Ü	
62.	Create opportunities for staff to lead training	Building Official	60	2	X		Ü	

63.	Develop rules for addressing	Building Official	60	2		X	Ü	
64.	Reconcile conflicting addresses	Information Systems	60	2		X	Ü	
65.	Inspection activity reports to be part of TRAKiT	Building Official	61	2	X		Ü	
66.	Use anticipated inspection time rather than number of inspections for inspector assignments	Building Official	61	2	X		Ü	
67.	Post inspection schedules on website	Building Official	62	2	X			Ü
68.	Building inspectors to call 30 minutes prior to arrival	Building Official	62	2	X		Ü	
69.	Confirm equipment needs for economic development	Assistant City Manager	66	2	X		Ü	
70.	Update economic staff job descriptions	Human Resources Department	67	3		X	Ü	
71.	Create handout re how to start a business	Economic Development Manager	67	3		X	Ü	
72.	Economic development staff to attend Community Development meetings	Economic Development Manager	67	3	X		Ü	
73.	Provide Excel training for EDD staff	Assistant City Manager	68	2	X		Ü	
74.	Improve economic development web pages	Economic Development Manager	69	3		X	Ü	
75.	Conduct annual economic development workshops with the Planning Commission	Economic Development Manager	69	3		X	Ü	
76.	Develop plan for Senior Civil Engineer to delegate decision making authority	Public Works Director	75	1	X		Ü	
77.	Adopt same performance standards as planning and building divisions.	Public Works Director	76	1	X		Ü	
78.	Incorporate engineering standards into TRAKiT system	Public Works Director	76	1	X		Ü	
79.	Review TRAKiT reports to adjust staffing needs	Senior Civil Engineer	77	1	X		Ü	
80.	Add contract staff to meet staffing needs	Public Works Director	77	1	X		Ü	
81.	Monitor contracts to determine full-time staffing needs	Public Works Director	77	2		X	Ü	
82.	Set performance standards for contractors	Public Works Director	78	1	X		Ü	
83.	Create in-house engineer training program	Sr. Civil Engineer	78	2		X		Ü
84.	Create an interpretation manual	Sr. Civil Engineer	78	2		X	Ü	
85.	Cross train engineers	Sr. Civil Engineer	79	3		X		Ü
86.	Develop list of counter inquiries for Engineering Aides	Sr. Civil Engineer	79	3		X		Ü
87.	Expand training for Engineering Aides	Sr. Civil Engineer	79	3		X		Ü
88.	Remove engineer's workspace from direct line- of-sight of public	Sr. Civil Engineer	80	3		X		Ü
89.	Engineer of the Day to be available when the counter opens	Sr. Civil Engineer	80	2	X		Ü	
90.	Seek consistency in design specifications with other jurisdictions	Sr. Civil Engineer	81	3		X		Ü
91.	Include number and duration of staff reviews in TRAKiT	Community Development Director	92	1	X		Ü	
92.	Collect data on applicant response time in TRAKiT system	Community Development Director	92	1	X		Ü	
93.	Performance standards to be tracked in TRAKiT	Community Development Director	93	1	X		Ü	
94.	Update Residential and commercial status reports on-line	Community Development Director	93	2		X		Ü
95.	Generate monthly performance reports	Community Development Director	93	1	X			Ü

96.	Determine computer up-grade or replacement needs	Community Development Director	93	2	X		Ü	
97.	Show expedited fees on fee schedule	Community Development Director	94	2		X	Ü	
98.	Fee for preliminary plan review to include Planning Commission and Council reviews	Community Development Director	95	2	X		Ü	
99.	Expand email storage capacity	Community Development Director and IT	95	2	X		Ü	
100.	Scan old files for TRAKiT access	Community Development Director	96	2		X		Ü
101.	TRAKiT to accept all existing electronic files	Community Development Director	96	1	X		Ü	
102.	New files to be stored in TRAKiT	Community Development Director	96	1		X	Ü	
103.	Use out-card systems for files	Community Development Director	96	3	X		Ü	
104.	Update all handouts	Community Development Director	97	2	X			Ü
105.	Update Architectural and Site Plan Review handout	Community Development Director	98	2	X			Ü
106.	Create hyperlink to Architectural Review Handout	Community Development Director	98	3		X	Ü	
107.	Include flowcharts in filing requirements handouts	Community Development Director	98	3		X	Ü	
108.	Create fillable forms for submittals	Community Development Director and IT	98	1	X			Ü
109.	Correct all handouts re electronic submittals	Community Development Director	98	2		X		Ü
110.	Update job descriptions for Planning Division	Community Development Director & HR	99	3		X		Ü
111.	Include agenda items for Tuesday weekly meeting	Community Development Director	100	3	X		Ü	
112.	Regular meetings between planners and engineers	Community Development Director and Public Works Director	100	2	X		Ü	
113.	Clean and organize cubicles visible from public realm	Community Development Director	101	3	X		Ü	
114.	Ensure that counter computers are in good working order	Assistant City Manager	101	2	X		Ü	
115.	Consider changing title for the Community Development Director	City Manager	102	2	X		Ü	
116.	Empower the planners	Community Development Director	104	1	X		Ü	
117.	Create staffing model using fee study data	Community Development Director	112	2		X	Ü	
118.	Training for Central Reception function to filter calls	City Manager	113	2	X		Ü	
119.	Establish performance standards for expedited review	Community Development Director	115	1	X		Ü	
120.	Distribute PC packets 7 calendar days before the meeting	Community Development Director	117	2	X			Ü
121.	Planning Commission to work toward electronic materials	Community Development Director	117	2		X	Ü	
122.	Bi-annual joint study sessions between PC and City Council	Community Development Director	118	2	X			Ü
123.	Identify training needs for Planning Commission	Community Development Director and PC chair	118	2	X		Ü	
124.	Provide presentation training for planners	Community Development Director	119	3	X		Ü	
125.	Update policy and procedures manual	Community Development Director	120	2		X	Ü	
126.	Provide weekly updates to staff on Zoning Code update	Community Development Director	120	2	X		Ü	
127.	Document and communicate code interpretations	Community Development Director	121	2	X		Ü	
128.	Include Preliminary Plan Review process in TRAKiT	Community Development Director	126	1	X		Ü	
129.	Reject incomplete applications	Community Development Director	127	2	X		Ü	

130.	Develop performance standards for Conceptual and Preliminary Plan review	Community Development Director	127	1	X		Ü	
131.	Assign project assignments to Senior Planner	Community Development Director	127	2	X		Ü	
132.	Transmit DRC comments by email	Community Development Director	128	2	X		Ü	
133.	DRC comments to be documented and stored in TRAKiT	Community Development Director	128	1	X		Ü	
134.	DRC to only use standard conditions that actually apply to the project	Community Development Director and DRC members	128	1	X		Ü	
135.	Create worksheet for DRC comments	Community Development Director	129	2	X		Ü	
136.	Include Director Administrative Approval process in TRAKiT	Community Development Director	131	1	X		Ü	
137.	Develop performance standards for Administrative Approval process	Community Development Director	132	1	X		Ü	
138.	City to do label preparation and envelopes as part of TRAKiT process	Community Development Director	132	2	X		Ü	
139.	Don't send Administrative Approvals to DRC	Community Development Director	133	2	X		Ü	
140.	Project planner to attend DRC meeting	Community Development Director	134	2	X		Ü	
141.	All DRC members to attend meeting	City Manager	134	2	X		Ü	
142.	Schedule DRC two weeks after submittal	Community Development Director	135	2	X		Ü	
143.	Use structured agenda for DRC meetings	Community Development Director	135	2	X		Ü	
144.	Develop an annual DRC schedule	Community Development Director	135	2	X		Ü	
145.	Use TRAKiT system to route DRC materials	Community Development Director	135	2	X		Ü	
146.	Invite applicants to DRC meetings	Community Development Director	136	1	X		Ü	
147.	Establish 15-minute wait standard for front counter	Community Development Director	137	2	X		Ü	
148.	Planning Commission and City Council approval process to be in TRAKiT	Community Development Director	139	1	X		Ü	
149.	Establish performance standards for Planning Commission and City Council approval process	Community Development Director	140	1	X		Ü	
150.	TRAKiT to provide templates for staff review and standard correspondence	Community Development Director	140	2	X		Ü	
151.	Project planners to complete initial studies	Community Development Director	141	2	X			Ü
152.	Project planners to complete Negative Declarations for projects with no significant impacts	Community Development Director	141	2	X			Ü
153.	For projects where impacts can be mitigated, staff to determine if consulting assistance is needed	Community Development Director	141	2	X		Ü	
154.	Consultants to continue to prepare Environmental Impact Reports	Community Development Director	142	2	X		Ü	
155.	Edits to staff reports to be completed by planner who prepared the report	Community Development Director	143	2	X		Ü	
156.	Consultations to take place where Director and staff differ on recommendation	Community Development Director	143	2	X		Ü	
157.	RDCS process to be included in TRAKiT	Community Development Director	147	1	X		Ü	
158.	Business licensing process to be in TRAKiT	Community Development Director and Finance Department	149	1	X		Ü	

159.	Review if building inspectors can do planning inspections	Community Development Director and Building Official	150	2		X	ü	
160.	Set performance standards for planning applications as shown in the report	Community Development Director	153	1	X		ü	

Development Services Review

Morgan Hill, California

By

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I. EXECUTIVE SUMMARY

A. BACKGROUND

This study was initiated by the Morgan Hill City Manager with a contract dated June 24, 2015 and purchase order dated August 13, 2015 for an Operational Review of the Development Services Department.

B. KEY PRIORITY AREAS

This report includes 160 recommendations for improving Morgan Hill services. While all the recommendations are important, we believe there are six key areas or groupings that need the highest priority. These are shown alphabetically below in no particular order of priority.

1. FINANCIAL ISSUES

Findings

Morgan Hill, like many California cities has to keep a keen eye on budget and finance issues. During the recession the Community Development activities had to reduce staffing. Now that the economy is improving, some of the functions have not rebuilt staffing and performance has suffered. The city does have an excellent approach to funding development activities out of a special revenue Community Development Fund (Fund 206) and General Plan Update Fund (Fund 207). There is also a goal to have a 30% reserve account but the current fund balance does not meet this standard. Additionally, we believe a target of 30% may be too low. The City's approach to fees is full cost which is excellent and a new fee study is currently underway.

Recommendations

To correct financial issues, we suggest:

- The 206 Community Development Fund includes some “common goods” activities that should be included in the General Fund, Recommendation 7; and
- The fee study underway should include funds as needed to implement this report, meet performance standards and increase the size of the reserve account, Recommendations 8, and 9.

2. MANAGEMENT ISSUES

Findings

Contemporary organizations have discovered the productive power of empowering employees, which is also consistent with the technology age. We found management issues, as well as a need for more proactive management and staff empowerment in all three of the key development functions, building, engineering, and planning. All three divisions have a tendency for micro management.

Recommendations:

- Senior Engineer should delegate more decision making authority, Recommendation 76;
- Generate monthly performance reports in planning, Recommendation 95;
- Empower the planners, Recommendation 116;
- New building official to have good management and leadership skills, Recommendation 32; and
- There should be regular meetings between planners and engineers, Recommendation 112.

3. PERFORMANCE STANDARDS

Findings

Best practice communities use performance standards to meet customer expectations and to assist in staff management. Morgan Hill has only established performance standards for the building function, but they have generally not been met. The national standard for building inspections is that they are conducted no later than the next day requested. Morgan Hill has had a delay as long as two weeks.

Both engineering and planning have lacked performance standards. For the planning function, the city has had an approach to hire an outside consultant at the applicants' request to facilitate the process (e.g. expedited review). However, even for the expediting type process, there is no performance standard.

The new TRAKiT permitting system, will allow an easy way for the divisions to set and monitor performance standards.

Recommendations

This report includes a variety of recommendations addressing and setting performance standards. Key recommendations include:

- Adopt specific performance standards for building, Recommendation 28, 29, and 30;
- Meet next day inspections at least 90% of the time, Recommendation 28;
- Create and expedited review process that meets performance standards, Recommendations 5 and 119;
- Use consultants as necessary to meet performance standards, Recommendations 34;
- Adopt performance standards for engineering, Recommendation 77;
- Performance standards should be met at least 90% of the time, Recommendation 29,
- Set performance standards for contractors, Recommendation 82; and
- Adopt performance standards for planning, Recommendation 130, 137, 149, and 160.

4. PROCESS ISSUES

Findings

The customers to the city development process have a variety of complaints about the process. They see new requirements being added for subsequent reviews, and staff suggested standard conditions that may not actually apply to the specific project. Many best practice communities see the development process as a partnership between the city and the applicants. As such they invite the applicants to the staff review meeting, DRC, which is not the case in Morgan Hill.

Recommendations

- Do not add new requirements during each review, Recommendation 13;
- Create fillable computer forms for all submissions, Recommendation 108;
- DRC to use only standard conditions that actually apply to the project, Recommendation 134; and
- Invite applicants to DRC meeting, Recommendation 146;

5. STAFFING ISSUES

Findings

The city has not been meeting acceptable performance standards, at least partially due to lack of staffing, particularly in the Building Division and likely in the Engineering

Division. Since the development community is paying for the processing through the fee structure and the 206 Fund, it should be possible to provide adequate staff to meet performance needs. The city has had good experience with using consultants to supplement staff, and properly used, consultants can help the city avoid employee layoffs during the next down cycle of activity. Finally, there are a number of areas where staff has not met building certification industry standards.

Recommendations

- Add staff for the Geographic Information (GIS) function, Recommendation 19;
- Building Official to be a certified Building Official, Recommendation 32;
- Building Inspector Supervisor to be ICC certified, Recommendation 33;
- Combination Inspectors to be ICC certified, Recommendation 35;
- Chief Plans Examiner to be ICC certified, Recommendation 38;
- Add 6-month contract for fire plan review/inspector, Recommendation 45;
- Adjust staffing levels to meet service demands and adjust staffing levels more frequently than budget cycles, Recommendations 52, and 54;
- Use TRAKiT to review and adjust staffing needs, Recommendation 79; and
- Add contract staff as needed to meet staffing needs, Recommendation 80.

6. TRAKiT

Finding

The city has had a permitting system, Tidemark, but it has not been fully utilized and is out of date. A new TRAKiT system has been selected, and its installation is underway. We have had experience with this system and feel the city has made a good selection. The new system will allow for Internet plan applications, electronic plan check, electronic files, and the use and monitoring of performance standards. These systems take considerable effort to implement and we have seen many failures due to the lack of sufficient staff resources, management or staff buy in. Morgan Hill needs to expand its effort in this area.

Recommendations:

This report includes numerous recommendation related to the TRAKiT system. A few of the key recommendations include:

- Use TRAKiT to monitor performance standards, Recommendations 6;

- Use TRAKiT for plan reviews, Recommendations 12, 91, 92, 93, 128, 136, 148, 157, and 158;
- All departments involved in development review to be part of the TRAKiT system, Recommendation 15;
- Provide adequate staff or consultants to implement TRAKiT, Recommendations 16, 17, and 18;
- Integrate Code Enforcement into TRAKiT, Recommendation 40;
- Incorporate engineering standards into TRAKiT, Recommendation 78; and
- Scan old files to TRAKiT, accept all electronic files, and new files to be stored in TRAKiT Recommendation 100, 101, 102, and 133.

II. BACKGROUND AND PURPOSE

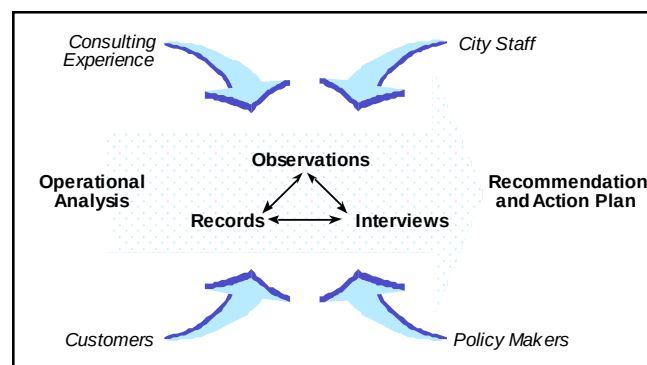
A. THE CONTRACT

This review was initiated by the City of Morgan Hill for a Development Services Review. The process started with an RFP with responses due by July 31, 2015. Zucker Systems was selected in September and a contract was signed October 15.

B. BACKGROUND

Zucker Systems used a proprietary well-tested, integrated methodology for this study, as shown in Figure 1. We brought our extensive experience to the study, worked closely with staff, and solicited input and observations from customers and policy makers. The methodology is built on interrelating records, observations, and interviews. Each is necessary for valid studies. National research has shown that each one of these three—if relied upon exclusively—can be subject to substantial error. For example, record systems are often found to be as high as 50% in error, or the wrong things are measured. We used observations and interviews to verify records. Records and interviews were used to verify observations. Records and observations were used to verify interviews. Each group of people, shown in Figure 1, was an important part of the process.

Figure 1
Methodology Overview



Specific activities conducted for this study included the following:

- Two customer focus groups of applicants;
- Interviews with Mayor and City Council members;
- Interview City Manager;
- Interview with 30 city staff;

- Review of two employee questionnaires;
- Review of email survey to customers; and
- Zucker Systems staff spent time in Morgan Hill November 16, 2015 and January 26, 27, and 28, 2016.

C. AREAS OF STRENGTH

We have highlighted various areas of city strengths in the detailed chapters of this report. A few overview specifics are outlined below:

- Morgan Hill is moving ahead with the new TRAKiT permit system, which is a good software selection for the city;
- Management created a productive blending of staff, supplemented with consultants;
- Development fees have been isolated in a special revenue fund, (e.g., fund);
- Collocation of building, engineering and planning staff;
- Building Official is a Certified Building Official (CBO) and ICC Building Inspector with 30 years' experience in Morgan Hill;
- Building Division utilizes combination inspectors to achieve greater efficiency;
- Building Inspector being trained to assume Fire Plans Examiner/Inspector responsibilities within the Building Division;
- The Code Enforcement program was recently audited by outside consultant;
- The City offers incentive pay to encourage employees to obtain additional job related certifications;
- Senior Civil Engineer has 26 years of experience with City of Morgan Hill;
- Staff strives to provide excellent customer service;
- The City is in the final stage of completing the Morgan Hill 2035 project, which encompasses a comprehensive update of the City's General Plan, Zoning Code and Residential Development Control System;
- A Station Area Planning Grant was awarded for planning work in the Downtown;
- Two of the regular full-time Senior Planners have considerable tenure (e.g., one 26 years and the other 10 years) and helped to preserve the Division's institutional knowledge;
- The Planning Permit Fee Schedule is currently being updated to reflect 100% full cost recovery, which is a best practice.

- Staff has prepared marketing materials identifying key development opportunities to facilitate acquisition and/or development of economically important areas in the City, which are available on the City's website; and
- Staff is drafting an Economic Blueprint, which is an Action Plan that will identify a vision and set clear strategies to develop jobs and facilitate place-making for the city of Morgan Hill over the next 5 to 10 years.

D. FINDINGS AND RECOMMENDATIONS

Opportunities for Improvement

Opportunities for improvement are described throughout this report.

Table 1 summarizes the 160 recommendations and opportunities for improvement. To assist the reader, each summarized recommendation is cross-referenced to the page on which the supporting text appears. Although all of these recommendations are important, each was given a priority number in order to help the City with implementation. There are 53 priority number one recommendations, 82 priority number two recommendations and 25 priority number three recommendations. We assume that existing staff will implement many of the recommendations and the cost, except for new staffing, generally should be absorbed through greater efficiency.

To further help the City and departments in implementation, we have also coded all the recommendations. "Phase One Actions" are recommendations, which we believe should be completed in the first nine months. "Phase Two Actions" we believe should be completed within 18 months.

There are 111 Phase One Action recommendations. Some of these are given priority 1, 2 or 3. However, that does not mean that only the priority 1 recommendations should be addressed. There are 49 Phase Two Action recommendations. The departments should develop a detailed implementation plan with time targets for these recommendations.

For each recommendation, we also indicate a responsible party for implementation.

Table 1
Table of Recommendations

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
1.	Agree on an implementation plan	City Manager and Assistant City Manager	16	1	X	

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
ISSUES FOR ALL FUNCTIONS						
2.	Customer surveys for all counters	City Manager	17	2	X	
3.	Send surveys to customers after project completion	Assistant City Manager and Community Development Director, and City Engineer	17	2	X	
4.	Make results of all customer surveys available to staff	All managers	17	2	X	
5.	Create expedited review process that meets performance standards	Assistant City Manager	18	1	X	
6.	Monitor expedited review in TRAKiT	Assistant City Manager	18	1		X
7.	General Fund to support common good activities in Fund 206	Assistant City Manager and Finance Director	20	1		X
8.	Fee study to reflect added staff to implement this report	Assistant City Manager	21	1	X	
9.	Expand size of Fund 206 reserve	Assistant City Manager and Finance Director	22	2		X
10.	Consider moving some staff out of Development Services Building	City Manager	22	2		X
11.	Develop comprehensive records management program	City Manager	23	2		
12.	Use TRAKiT system for plan reviews	All plan reviewers	25	1	X	
13.	Review second cycle plan reviews to see that new items that should have been in first cycle are not added	Plan review supervisors	25	1	X	
14.	TRAKiT to include all items listed above	City Manager	26	1	X	
15.	All departments involved in development review to actively participate in TRAKiT	City Manager	27	1	X	
16.	TRAKiT team to continue until all modules are in place	City Manager	28	1		X
17.	Retain part-time staff hired for TRAKiT until program is fully in place	City Manager	28	1	X	
18.	Hire additional staff and consultants as necessary to implement TRAKiT	City Manager	29	1	X	
19.	Hire GIS specialist	Assistant City Manager	29	2		X
20.	Create information sheet for staff answering phones	Assistant City Manager	30	2		X
21.	Create special phone number for field staff	Assistant City Manager	30	2		X
22.	Modify message on main phone line	Assistant City Manager	31	2	X	
23.	Prepare report on the phone system	Assistant City Manager	31	3	X	
24.	All phone calls and emails to be returned the same day received	City Manager	31	2	X	
25.	Set 2% of the divisions personnel budget and 5% of employees' time for training	Building, Engineering, and Planning managers	31	2	X	
26.	Add features to website	Assistant City Manager	34	3		X
BUILDING DIVISION						
27.	Delete out-of-date language in code cycle	Building Official	37	2		X

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
28.	Adopt performance standards	Building Official	42	1	X	
Organizational Issues						
29.	Meet performance standards at least 90% of the time	Building Official	43	1	X	
30.	Retain quality reviews in meeting performance standards	Building Official	44	1	X	
31.	Transfer annual performance evaluations to Building Inspector Supervisor	Building Official	44	2	X	
32.	Building Official to be a CBO with good leadership skills	City Manager	44	1		X
33.	Building Inspector Supervisor to be ICC certified for plan review	Building Official	45	1		X
34.	Use contract plan checkers and inspectors to meet performance standards	Building Official	46	1	X	
35.	Combination Inspectors to be ICC certified	Building Official	46	1		X
36.	Adjust inspection schedules for complex projects	Building Official	47	2	X	
37.	Support training programs for ICC certification	Building Official	47	2		X
38.	Chief Plans Examiner to be ICC certified and problem solver	Building Official	48	1	X	
39.	Adopt performance standards for code enforcement	Building Official	48	1	X	
40.	Integrate code enforcement into TRAKiT	Building Official	48	1	X	
41.	Post monthly code enforcement activity reports on website	Building Official	48	3		X
42.	Modify staff meetings	Building Official	49	2	X	
43.	Adopt new organization chart	Building Official	50	2	X	
44.	Review compensation and job title for Building Official	Assistant City Manager	51	2		X
45.	Add 6 months to contract for fire plan review/inspector	Assistant City Manager	51	1	X	
46.	Fire plan reviewer to participate in Fire Prevention Association	Assistant City Manager	52	3	X	
47.	Up-date job descriptions	Human Resources Department	52	3		X
48.	Add revision date to all job descriptions	Human Resources Department	52	3		X
49.	Show performance standards statistics on website monthly	Assistant City Manager	53	2		X
50.	Program TRAKiT reporting categories	Assistant City Manager	53	2		X
51.	Scan plans upon plan approval	Building Official	54	3		X
52.	Adjust staffing levels to meet service demands	Building Official	56	1	X	
53.	Meet next-day inspection at least 90% of the time	Building Official	57	1	X	
54.	Adjust staffing levels more frequently than budget cycles	Assistant City Manager	57	1	X	
55.	Use fee study to develop work units	Building Official	57	2	X	
56.	Monitor workload of Fire Plans Examiner position	Building Official	58	2	X	

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
57.	Support training classes for building staff	Building Official	58	2	X	
58.	Cover cost of ICC certification renewals	Building Official	58	2	X	
59.	Monitor staff training re CEUs maintenance	Building Official	59	3		X
60.	Allocate at least 2% of personnel budget for training	Building Official	59	2		X
61.	Weekly training for inspectors and permit technicians	Building Official	59	2	X	
62.	Create opportunities for staff to lead training	Building Official	60	2	X	
Processing Issues						
63.	Develop rules for addressing	Building Official	60	2		X
64.	Reconcile conflicting addresses	Information Systems	60	2		X
65.	Inspection activity reports to be part of TRAKiT	Building Official	61	2	X	
66.	Use anticipated inspection time rather than number of inspections for inspector assignments	Building Official	61	2	X	
67.	Post inspection schedules on website	Building Official	62	2	X	
68.	Building inspectors to call 30 minutes prior to arrival	Building Official	62	2	X	
ECONOMIC DEVELOPMENT DIVISION						
69.	Confirm equipment needs for economic development	Assistant City Manager	66	2	X	
70.	Update economic staff job descriptions	Human Resources Department	67	3		X
71.	Create handout re how to start a business	Economic Development Manager	67	3		X
72.	Economic development staff to attend Community Development meetings	Economic Development Manager	67	3	X	
73.	Provide Excel training for EDD staff	Assistant City Manager	68	2	X	
74.	Improve economic development web pages	Economic Development Manager	69	3		X
75.	Conduct annual economic development workshops with the Planning Commission	Economic Development Manager	69	3		X
ENGINEERIN DIVISION/PUBLIC WORKS DEPARTMENT						
Organizational Issues						
76.	Develop plan for Senior Civil Engineer to delegate decision making authority	Public Works Director	75	1	X	
77.	Adopt same performance standards as planning and building divisions.	Public Works Director	76	1	X	
78.	Incorporate engineering standards into TRAKiT system	Public Works Director	76	1	X	
79.	Review TRAKiT reports to adjust staffing needs	Senior Civil Engineer	77	1	X	
80.	Add contract staff to meet staffing needs	Public Works Director	77	1	X	
81.	Monitor contracts to determine full-time staffing needs	Public Works Director	77	2		X
82.	Set performance standards for contractors	Public Works Director	78	1	X	
83.	Create in-house engineer training program	Sr. Civil Engineer	78	2		X

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
84.	Create an interpretation manual	Sr. Civil Engineer	78	2		X
85.	Cross train engineers	Sr. Civil Engineer	79	3		X
Process Issues						
86.	Develop list of counter inquiries for Engineering Aides	Sr. Civil Engineer	79	3		X
87.	Expand training for Engineering Aides	Sr. Civil Engineer	79	3		X
88.	Remove engineer's workspace from direct line-of-sight of public	Sr. Civil Engineer	80	3		X
89.	Engineer of the Day to be available when the counter opens	Sr. Civil Engineer	80	2	X	
Policy Issues						
90.	Seek consistency in design specifications with other jurisdictions	Sr. Civil Engineer	81	3		X
PLANNING DIVISION						
Organization Issues						
91.	Include number and duration of staff reviews in TRAKiT	Community Development Director	92	1	X	
92.	Collect data on applicant response time in TRAKiT system	Community Development Director	92	1	X	
93.	Performance standards to be tracked in TRAKiT	Community Development Director	93	1	X	
94.	Update Residential and commercial status reports on-line	Community Development Director	93	2		X
95.	Generate monthly performance reports	Community Development Director	93	1	X	
96.	Determine computer up-grade or replacement needs	Community Development Director	93	2	X	
97.	Show expedited fees on fee schedule	Community Development Director	94	2		X
98.	Fee for preliminary plan review to include Planning Commission and Council reviews	Community Development Director	95	2	X	
99.	Expand email storage capacity	Community Development Director and IT	95	2	X	
100.	Scan old files for TRAKiT access	Community Development Director	96	2		X
101.	TRAKiT to accept all existing electronic files	Community Development Director	96	1	X	
102.	New files to be stored in TRAKiT	Community Development Director	96	1		X
103.	Use out-card systems for files	Community Development Director	96	3	X	
104.	Update all handouts	Community Development Director	97	2	X	
105.	Update Architectural and Site Plan Review handout	Community Development Director	98	2	X	
106.	Create hyperlink to Architectural Review Handout	Community Development Director	98	3		X
107.	Include flowcharts in filing requirements handouts	Community Development Director	98	3		X
108.	Create fillable forms for submittals	Community Development Director and IT	98	1	X	
109.	Correct all handouts re electronic submittals	Community Development Director	98	2		X
110.	Update job descriptions for Planning Division	Community Development Director	99	3		X

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
		and HR				
111.	Include agenda items for Tuesday weekly meeting	Community Development Director	100	3	X	
112.	Regular meetings between planners and engineers	Community Development Director and Public Works Director	100	2	X	
113.	Clean and organize cubicles visible from public realm	Community Development Director	101	3	X	
114.	Ensure that counter computers are in good working order	Assistant City Manager	101	2	X	
115.	Consider changing title for the Community Development Director	City Manager	102	2	X	
116.	Empower the planners	Community Development Director	104	1	X	
117.	Create staffing model using fee study data	Community Development Director	112	2		X
118.	Training for Central Reception function to filter calls	City Manager	113	2	X	
Policy Issues						
119.	Establish performance standards for expedited review	Community Development Director	115	1	X	
120.	Distribute PC packets 7 calendar days before the meeting	Community Development Director	117	2	X	
121.	Planning Commission to work toward electronic materials	Community Development Director	117	2		X
122.	Bi-annual joint study sessions between PC and City Council	Community Development Director	118	2	X	
123.	Identify training needs for Planning Commission	Community Development Director and PC chair	118	2	X	
124.	Provide presentation training for planners	Community Development Director	119	3	X	
125.	Update policy and procedures manual	Community Development Director	120	2		X
126.	Provide weekly updates to staff on Zoning Code update	Community Development Director	120	2	X	
127.	Document and communicate code interpretations	Community Development Director	121	2	X	
Process Issues						
128.	Include Preliminary Plan Review process in TRAKiT	Community Development Director	126	1	X	
129.	Reject incomplete applications	Community Development Director	127	2	X	
130.	Develop performance standards for Conceptual and Preliminary Plan review	Community Development Director	127	1	X	
131.	Assign project assignments to Senior Planner	Community Development Director	127	2	X	
132.	Transmit DRC comments by email	Community Development Director	128	2	X	
133.	DRC comments to be documented and stored in TRAKiT	Community Development Director	128	1	X	
134.	DRC to only use standard conditions that actually apply to the project	Community Development Director and DRC members	128	1	X	
135.	Create worksheet for DRC comments	Community Development Director	129	2	X	
136.	Include Director Administrative Approval process in TRAKiT	Community Development Director	131	1	X	
137.	Develop performance standards for	Community Development Director	132	1	X	

#	Recommendation	Responsibility	Page	Priority	Phase One Actions	Phase Two Actions
	Administrative Approval process					
138.	City to do label preparation and envelopes as part of TRAKiT process	Community Development Director	132	2	X	
139.	Don't send Administrative Approvals to DRC	Community Development Director	133	2	X	
140.	Project planner to attend DRC meeting	Community Development Director	134	2	X	
141.	All DRC members to attend meeting	City Manager	134	2	X	
142.	Schedule DRC two weeks after submittal	Community Development Director	135	2	X	
143.	Use structured agenda for DRC meetings	Community Development Director	135	2	X	
144.	Develop an annual DRC schedule	Community Development Director	135	2	X	
145.	Use TRAKiT system to route DRC materials	Community Development Director	135	2	X	
146.	Invite applicants to DRC meetings	Community Development Director	136	1	X	
147.	Establish 15-minute wait standard for front counter	Community Development Director	137	2	X	
148.	Planning Commission and City Council approval process to be in TRAKiT	Community Development Director	139	1	X	
149.	Establish performance standards for Planning Commission and City Council approval process	Community Development Director	140	1	X	
150.	TRAKiT to provide templates for staff review and standard correspondence	Community Development Director	140	2	X	
151.	Project planners to complete initial studies	Community Development Director	141	2	X	
152.	Project planners to complete Negative Declarations for projects with no significant impacts	Community Development Director	141	2	X	
153.	For projects where impacts can be mitigated, staff to determine if consulting assistance is needed	Community Development Director	141	2	X	
154.	Consultants to continue to prepare Environmental Impact Reports	Community Development Director	142	2	X	
155.	Edits to staff reports to be completed by planner who prepared the report	Community Development Director	143	2	X	
156.	Consultations to take place where Director and staff differ on recommendation	Community Development Director	143	2	X	
157.	RDCS process to be included in TRAKiT	Community Development Director	147	1	X	
158.	Business licensing process to be in TRAKiT	Community Development Director and Finance Department	149	1	X	
159.	Review if building inspectors can do planning inspections	Community Development Director and Building Official	150	2		X
160.	Set performance standards for planning applications as shown in the report	Community Development Director	153	1	X	

Before the City begins implementing this study, we suggest that it take the following action.

1. *Recommendation:* The City Manager and Community Development Department should have:

- An agreed-upon timetable and work program; and
- Costs estimates and method of funding.

The Community Development Department, and Public Works Department already have many important tasks they are undertaking and may find the 160 recommendations overwhelming. However, as improvements take place and staff becomes empowered to change, the City may be surprised at how fast implementation can occur.

III. ISSUES FOR ALL FUNCTIONS

A. CUSTOMER SERVICE SURVEYS

Customer surveys are routinely used by both public and private entities to solicit feedback from their customers on the quality of the services that are being provided. When properly designed, a survey can solicit important information that can be gathered in no other way. Frequently, it is the customer that identifies the need for the jurisdiction to offer a new service. Often this recommendation is provided because a customer has taken advantage of some service that was provided by another (competing) jurisdiction. The City of Morgan Hill does not currently have the basic type of customer service survey program that we are accustomed to seeing at nearly every development services department we have studied. Generally, we see comment cards available at multiple public counters and prominently displayed on the community's website. One of the best practices we have seen in some progressive communities is the jurisdiction's efforts to send customer service surveys to permit customers after their project has been completed. Some permit customers are reluctant to provide meaningful feedback while their projects are still being reviewed, asking for feedback after the project has been completed can provide insightful comments about not only interactions with staff but, also recommended changes to the process.

2. ***Recommendation:*** The City Manager should direct Departments to develop and implement a customer service survey to be available at every public counter and on the City's website.
3. ***Recommendation:*** The Assistant City Manager for Community Development, and the City Engineer should create a program to send customer service survey forms to permit holders after their project has been completed.

The use of customer service surveys generates both positive and negative results. We frequently see management focus considerable attention on addressing negative comments and virtually ignoring the opportunities that positive comments can have on an organization when those comments are shared in the proper setting. Stories of employees providing extraordinary customer service can prove inspirational to others who are asked to work in a challenging environment.

4. ***Recommendation:*** Managers should make both negative and positive feedback gathered from customer service surveys available to all levels of the organization.

B. EXPEDITED PLAN REVIEW

Our focus group meetings with industry representatives throughout the country have consistently expressed strong interest in having the ability to have their projects expedited through the plan review and approval process. They often recognize that this is an extraordinary service for which they expect to pay a premium. For many communities, the ability to offer expedited plan review is perceived to be a significant enticement to attract desirable commercial projects into their community. The City of Morgan Hill does not offer a comprehensive program that would include expedited review by staff in all of the participating departments.

We are aware that developers have been advised they can expect a more rapid review of their planning applications if they agreed to have the review work performed by an outside planning consultant for an additional fee. This process is discussed in more detail in the Planning section of this report; however, it is not being offered by staff from the Building Division or Public Works/Engineering. We recommend that the City establish an Expedited Review program that would apply to all Departments participating in the review process. Jurisdictions that successfully offer this type of service structure the program so that it does not impact the normal flow of applications by securing additional resources through staff overtime or the use of outside consultant staff. To be truly effective, it is essential that projects be closely tracked to help insure that the expedited performance standard is being achieved.

5. ***Recommendation:*** The Assistant City Manager should work with the City Engineer, Community Development Director, and Building Official to create an Expedited Review Program that guarantees reduced processing times in exchange for a fee premium.
6. ***Recommendation:*** Projects participating in the Expedited Review Program should be closely monitored in the TRAKiT system to confirm that expedited performance standards are being achieved.

C. FINANCE ISSUES

Overview

Development related activities are supported primarily from the Community Development Fund (206) and the General Plan Update Fund (207). These funds are described in the FY 15-16 budget as follows:

Community Development Fund (206)

The Community Development Fund is a special revenue fund used to account for the collection of planning, building, and engineering fees. The expenditures of these funds are restricted to the costs associated with processing building, engineering and planning applications.

General Plan Update Fund (207)

The General Plan Update Fund is a special revenue fund established to account for the costs of updating the General Plan. The update has been funded by a surcharge on all planning and building permit fees and by transfers from various funds: General, Park Development Impact, Community Development, Redevelopment, Housing, Sewer, and Water. The expenditures are restricted to costs incurred for the General Plan update.

We commend the City for the way in which the Annual Budget clearly sets forth the philosophy that development should be required to pay appropriate development fees to offset the cost of the service being provided.

The building, engineering, and planning functions are funded in a special 206 Fund. A percentage of permit fees is transferred to a General Plan 207 Fund. The intent is that these are full cost recovery services funded by fees, which is a best practice.

Community Development Fund 206

Since the fees should normally relate to actual development services, an argument could be made that certain division expenditures should be funded by the General Fund. This would include the code enforcement function which is part of building, the CIP function, public counter and flood plain management which are part of engineering, environmental programs which are part of building and engineering and the various Community Development department accounts related to CDBG, housing, and redevelopment. Table 2 shows the budgets and projected revenues related directly to development fee revenues and the 206 Fund. We have deducted Environmental Projects, Code Enforcement, CIP, and the General Plan Update from the budget to show what cost recovery would be if these items are covered by the General Fund rather than development fees.

Table 2
Appropriations and Projected Revenues Related to Development Activities, 206
Fund
FY 15-16

Function	Budget	Env. Proj	Code Enf.	CIP	GP Update	Net Expense	Revenue	% Recovery
Building	1,464,792	28,466	133,162	-	-	1,303,164	2,477,376	190%

			*					
Engineering	780,865	28,456	-	260,288 **	-	492,121	896,127	182%
Planning	2,500,756	-	-	-	130,923	2,369,833	1,292,307	55%
Total	4,746,413	56,922	133,162		130,923	4,165,118	4,665,810	112%

*Based on 1 of 11 staff positions. **Based on 3 of 9 positions.

As can be seen in Table 2. Both Building (190%) and Engineering (182%) exceed 100% full cost recovery and Planning is less than full cost at 55%. This distribution is not unusual and many developers actually tend to prefer this distribution. We believe that all three taken together at 112% meet the full cost recovery goal. Nevertheless, it appears that Planning fees should be increased. As pointed out in this report, there is need for some increased staffing, particularly in Engineering as well as needed revenue to build the reserve account.

The City's desire to recover all of the costs associated with development through fees is an admirable goal, but we question if it can, or should be, fully achieved. We believe there are instances when the General Fund should provide supplemental funding because the service being provided represents an activity that promotes the greater good of the community. An example of an appropriate General Fund subsidy would be Code Enforcement and long range planning. The engineering function is also in Fund 206 even though some of this staff work on CIP projects, public counter and floodplain management. This cost should be pro-rated back to each of the relevant CIP projects or the General Fund.

7. *Recommendation:* The budget for development related departments should include some portion of General Fund dollars to support common good activities for which a full cost recovery fee is inappropriate.

Fees

Our numerous studies throughout the country have revealed a consistent attitude expressed by developers that they are more interested in short timelines and clear, consistent processes than the cost of permits. The permit fees are a very small part of the project. This attitude, however, is not universally shared by developers when the subject changes to development impact fees. We will confine our comments to permit related fees.

The City is currently in the process of having a consultant (NBS) prepare an updated fee study to validate that the fees being collected for various development related activities are generating the revenue necessary to cover the cost of those services. We

strongly support the need for jurisdictions to periodically conduct fee studies to confirm the appropriateness of their fee schedule. Though we are working with limited information about the scope of the fee study, we are concerned that the effort may only be designed to justify the fees that are currently being charged based on the current staffing levels.

Throughout this report we have identified programs that are not meeting the performance standards that we believe represent best practices. Improving performance in many situations will require the addition of staff resources, either as full-time employees or contract staff. The fee study underway should include sufficient detail to allow the City to easily make adjustments to reflect the actual full cost of not only the current level of staffing but also the additional staffing that will be required to meet the desired performance standards.

- 8. *Recommendation:* The fee study currently underway should include sufficient detail to allow City staff to make adjustments as necessary to reflect the addition of the staffing resources that will be needed to meet appropriate performance standards.**

Reserves

The City shall make every effort to keep a minimum reserve level of 30% of the appropriated operating budget for the Community Development Fund, in order to provide for those temporary periods when less development activity occurs and less revenue is collected by the City.

We used to have a rule of thumb that the target for the reserve account should be three (3) months or 25% of the normal operating budget. However, as part of a contract with Calgary, Alberta, Zucker Systems did a detailed analysis for possible down cycles similar to those experienced in the United States. As a part of that analysis we concluded that a better rule of thumb would be a reserve equal to 12 months of the normal budget. Based on our recommendation Calgary increased its reserve account for development activities from \$30 million to \$60 million. We understand that the city policy has been to top out reserves at 30%.

The 206 Fund balance at the end of FY 14-15 is \$3,738,706 and the budget for FY15-16 at \$4,687,920. The net operating expenses, as shown in Table 2, total \$4,165,118. Assuming that 100% of the fund should be available for operating expenses, leaves a projected balance of \$500,692 or the equivalent of 12%.

The high level of permit activity the City is currently experiencing, coupled with the anticipated increase in fees from the revised fee study, represents an opportunity to gradually increase the size of the Community Development Fund 206. Building a reserve is best done during a time of high development activity, which is the current

case. Building the reserve should be part of the fee study and we suggest that a target be to build the reserve to 12 months over a 10-year time frame. This means that the fee study should include \$373,870 per year to be designated for the reserve fund.

- 9. *Recommendation:* The City should pursue developing a reserve of 100% of the normal operating budget for the Community Development Fund over the next ten years.**

D. OFFICE SPACE

The City's original plan called for the development services related departments to be collocated within the building currently designated as the Development Services Building. Through a number of decisions made in response to the severe economic downturn the City experienced starting in 2008, the Development Services Building became the location for virtually all City Hall offices. This allowed the City to save money by "mothballing" the main City Hall building. Since the City has been experiencing a general economic recovery and an explosive increase in residential construction, the space in the Development Services Building has become very crowded. Development Services personnel have frequently been forced to use the floor space in an exit aisle way as a workspace to prepare plans for permit issuance. In addition, the benefits to be gained by closing the original City Hall building have been minimized due to renovations and the relocation of housing staff from an off-site location into that building. We believe the City Manager should consider relocating those staff members that are unrelated to the development services mission back to the original City Hall Building.

- 10. *Recommendation:* The City Manager should consider moving staff unrelated to the development services mission back to the original City Hall Building.**

If the City Manager determines that this is not the appropriate time to relocate staff back to the City Hall Building, then steps should be taken to improve the physical environment in the Development Services Building. Our walking tour through the office space in the Development Services Building provided abundant evidence of a lack of organization in those spaces presumably intended to be used by multiple staff. Nearly every horizontal surface was cluttered with plans, documents or files with no evidence of organization. We also observed that the overfilled file cabinets are now beginning to be replaced by file boxes in exit aisle ways. This arrangement not only makes it difficult for employees to work, but also contributes to the frustration staff experiences when attempting to retrieve files. The City needs to aggressively implement a formal records management system that includes digitizing and indexing all pertinent documents. Currently the Building Division is engaged in a program of

scanning documents and plans in recognition of both the need to conserve valuable office space and to prepare for the day when these documents will be available to the public through the soon to be implemented TRAKiT permit system. Ironically, it is the Building Inspectors who have had to move their workstations into the exit aisle ways because all other space has been occupied by staff or file cabinets.

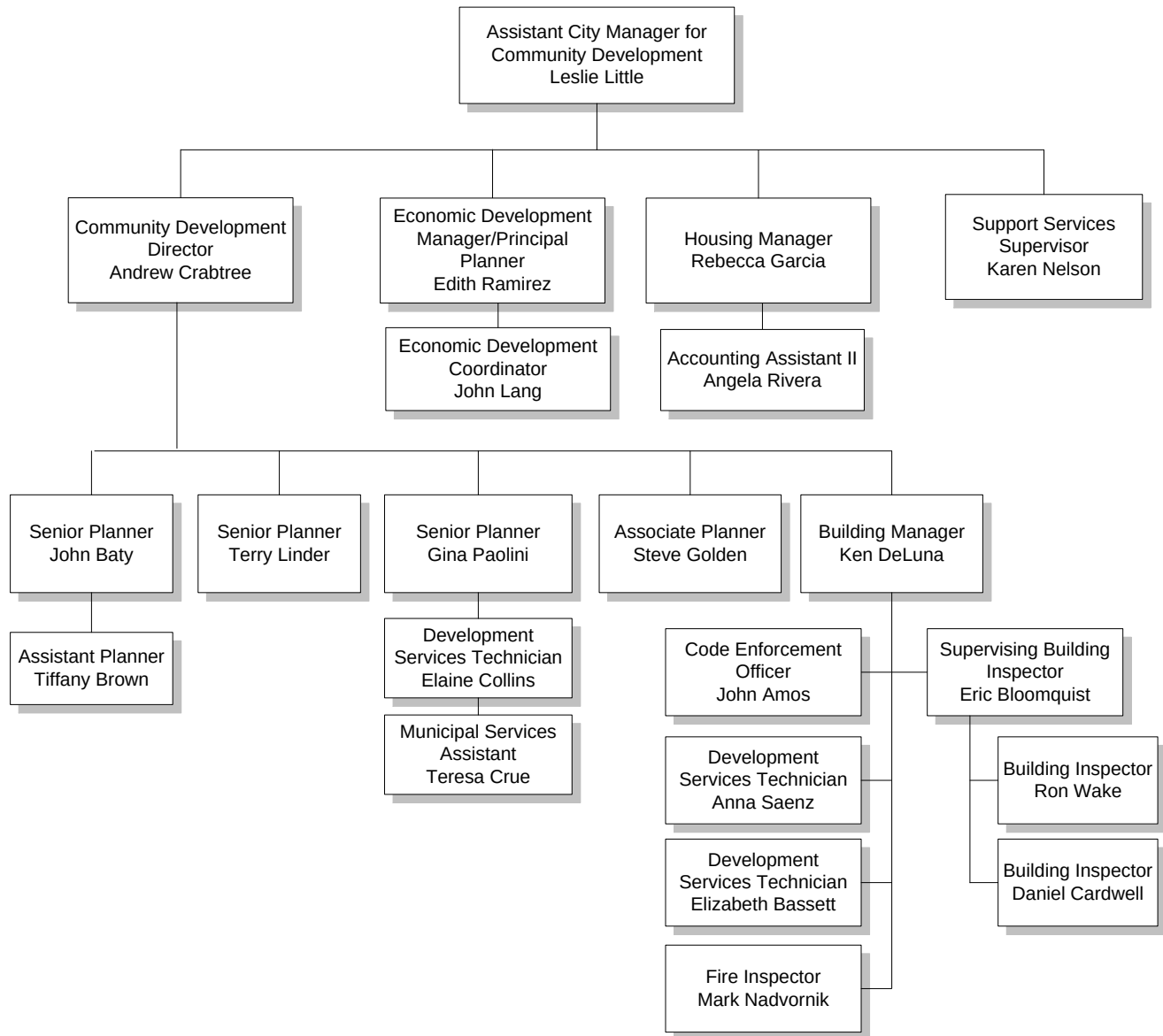
- 11. *Recommendation:* The City Manager should direct that a comprehensive records management program be implemented that includes the digitization and indexing of records.**

E. ORGANIZATION

The Community Development function is headed by an Assistant City Manager for Community Development. Reporting to the Assistant City Manager are a Community Development Director, Economic Development Manager, Housing Manager and Support Services Supervisor as shown in Figure 2.

The Community Development Department consists of 17 positions headed by a Community Development Director. The Building Division consists of 9 positions headed by a Building Manager. Others involved in Morgan Hill development consists of four positions in the Public Works Department, a Director of Public Works, Senior Engineer for Development, Associate Engineer, and Junior Engineer.

Figure 2
Community Development Organization



Plan Review Completeness

When we spoke with industry representatives their single most significant complaint was the lack of plan review quality that they were paying for. Those with a long history of working in the jurisdiction have come to expect that, regardless of what they do, they should anticipate that their plan submittals will be returned several times with minor corrections to be made, only to have the later submittals identify major corrections that were on the original plans but not detected until after numerous checks. While the developers were most vocal about this problem occurring with their interactions with Land Development Engineering staff, employee surveys suggest that this is a “culture” that has been accepted in many of the Departments. Land Development Engineering staff has indicated their efforts to obtain comments on the plans that they distribute to other Departments rarely come back with meaningful comments and in many cases are not returned at all. We are optimistic that in the future these requests for review will be tracked for both timely turnarounds and meaningful comments with the implementation of the TRAKiT system.

12. *Recommendation:* Departments that are charged with the responsibility to solicit comments from other Departments on plan submittals should utilize the TRAKiT system for electronic reviews and to foster accountability among the participants.

We believe it is the responsibility of all supervisors to confirm that all plan reviews are comprehensive based on the amount and quality of information submitted on the plans. We are aware that sometimes plan corrections will be necessary based on new information provided during subsequent resubmittals. What customers find unacceptable is to have new corrections identified during resubmittals based on information that was available during the initial submittal. Supervisors should routinely review correction lists that were generated from plan resubmittals to confirm that new corrections are not being added when those corrections should have been identified on the original submittal.

13. *Recommendation:* Plan Review supervisors should routinely review correction lists generated from plan resubmittals to confirm new corrections are not being added that should have been detected during the original review.

F. TECHNOLOGY

TRAKiT Permit System

The City of Morgan Hill has undertaken the challenging task of implementing a comprehensive permit tracking system to be utilized by all of the departments currently involved in the development review, permit issuance and inspection approval processes. Currently, the City is using a permit software system developed by Tidemark that was initially installed approximately 10 years ago. While this system provided an impressive level of features that were consistent with the level of technology available to cities at the time of initial implementation, the system has not been periodically upgraded and therefore the system is no longer capable of providing the features that we and the public have come to expect from a community that strives to represent the government's "best practices."

The City has purchased a new software permit system called TRAKiT and has contracted to have the system installed and maintained by Quartic Solutions. A review of the purchasing agreement indicated to us that the City has done a diligent job in evaluating their future needs and it appears that the software they have purchased has the capability of substantially increasing the scope and quality of the services they will be able to provide to their customers. The features of the TRAKiT system that we strongly endorse as representing best practices include the following:

- Program will integrate the permitting operations of Planning, Building, Fire and Public Works/Engineering;
- Afford public access to permit records;
- Allow customers to submit and track permit processing on-line;
- Allow staff to organize and access permit data to support the land entitlement process;
- Enhance staff ability to generate reports and/or respond to data requests for both internal and external customers;
- Program will be fully integrated with the City's existing website and GIS program;
- Afford inspectors access to permit information and plans while in the field through the use of tablet computers; and
- Allow the submittal and review of digital plans (electronic plan review).

14. Recommendation: The new TRAKiT systems should include all the items outlined above.

In our studies we have observed numerous jurisdictions that have undertaken the process of implementing significant upgrades to their existing permit software systems or installing a new system. Some jurisdictions have completed this challenging task and achieved their desired system-wide improvements while others have been disappointed with the outcome and are still struggling to utilize even the most basic features of their new system. Based on our interviews with staff and the vendor's representative, we have concerns that the City may ultimately be disappointed with the outcome of this implementation.

We are not suggesting that the vendor has not performed their responsibilities to date; in fact, we are impressed with the level of guidance that has been provided to staff in the form of both verbal and detailed written documentation and/or questionnaires. Our concern arises from the lack of follow-through by some staff in completing their assignments to provide information and to adequately test the software the vendor has customized to meet the City's previously identified goals. The City has an extraordinary opportunity to build a system that will not only improve the services provided to its customers but also a system that will be the cornerstone of interdepartmental communication.

Frequently we observe cities with departments that suffer significant communication breakdowns. We refer to these departments as "silos" because they behave as though they are more interested in preserving their turf than working with other departments to solve problems. In our studies we have seen how a fully integrated permit system can be the link that binds all of the participating groups together. By having the system routinely monitor compliance with established performance standards and by making the process more transparent to the customer, greater communication and accountability can be achieved.

When the current Tidemark permit system was implemented 10 years ago the only group that put forth the effort to learn and utilize the system was the Building Division. The system provided many useful tools to the Building Division, but its capabilities were never fully realized because other Departments failed to contribute through their nonparticipation in the use of the system. If the City wishes to avoid repeating that mistake it may be necessary for the City Manager to compel all of the designated Departments and Divisions to actively participate in the testing and implementation of the new program.

15. *Recommendation:* The City Manager should continue to reinforce the need for all Departments involved in the development review process to actively contribute to the implementation of the new TRAKiT System.

The City has purchased not only the basic software program but also several "modules" that will further increase the number of services that will be made available to the public. The current philosophy is to get the basic program fully

functional before aggressively implementing the additional “modules”. We concur that this is a reasonable approach to help ensure that the features currently available to customers are not lost during the transition process to the new system. However, we have seen many cities that use this approach falter in their efforts to implement the additional enhancement. For many staff members they feel as though this project has introduced a significant burden to the workload they are already being asked to carry.

With the implementation of the first “basic” phase of the new system, there will be a tremendous temptation for some staff to refocus their attention on other projects that have been previously sidelined rather than continue to diligently pursue implementation of the additional enhancements.

The team that has been created from individuals of each participating Department and Division should not be disbanded once the initial implementation phase has been completed. Staff that has been retained for the explicit purpose of providing relief so that these experts from each section could participate in the team efforts should not be immediately reassigned or relieved. Our experience has shown that there will still be a significant amount of fine-tuning, including creating reporting systems for performance standards, that will need to be completed. Prematurely disbanding this team will likely result in significant loss of the momentum necessary to achieve the ultimate goal of implementing all of the desired modules.

16. *Recommendation:* The internal TRAKiT Implementation Team should be retained to facilitate fine-tuning of the basic program and implementation of the numerous enhancement modules.

17. *Recommendation:* Full-time and part-time staff assigned to perform the day-to-day work of TRAKiT Team members should not be reassigned or dismissed until the additional software modules have been successfully implemented.

One of the most apparent issues we observed during our interviews was the difficulty the designated in-house project manager for the TRAKiT system, an Associate Planner, was experiencing in allocating sufficient time to focus attention exclusively on moving forward with the system’s implementation. This individual is apparently expected to handle a planning caseload, manage the Geographical Information System (GIS) and act as the project manager for implementing the TRAKiT system. We have participated in many cities installing new permit systems. One of the biggest issues we experience is the lack of appropriate high-level staff to lead and manage the effort. We believe Morgan Hill needs to reinforce the needs to provide either additional staff or consulting service to assist with TRAKiT implementation.

18. *Recommendation:* Additional staff or consultants should be available as part of implementing TRAKiT.

Geographical Information System (GIS)

In numerous studies that we have conducted, we have observed one of the greatest indicators of an organization's overall effectiveness is the degree to which the Geographical Information System has been fully integrated into each Department's operations. These progressive organizations have recognized the importance of using the GIS system to both record property related activities and as a tool to help guide future land development decisions. The GIS system currently in use in Morgan Hill has tremendous potential, however, its features are not being actively utilized by staff. The program is being supported primarily by an Associate Planner in the Planning Division, as time permits. This responsibility is in addition to the individual's assignment as the primary coordinator for the implementation of the TRAKiT permit system and the expectation that the employee will also carry a caseload of planning applications. Through our interviews with Department staff and confirmation from Information Systems support staff, the GIS database has not been updated for nearly five years. This lack of attention to the critical maintenance of a system that will be integral to the effective implementation of the new TRAKiT permit system represents a significant problem. It is apparent to us that insufficient resources are being dedicated to the maintenance and expansion of this program. The Assistant City Manager for Community Development has indicated that the City is considering adding a position that would be dedicated to supporting the expanded use of the GIS system. We support the need for such a position.

19. *Recommendation:* The Assistant City Manager should pursue adding a GIS specialist position to maintain and enhance the use of the existing GIS.

Electronic Plan Review

A feature included with the new TRAKiT permit system will be software that can be used to facilitate the review of plans submitted electronically. This software (Blue Beam) will allow each group participating in the review process to markup and comment on their designated layer of the electronic plan. This should assist the designer by having all comments readily visible and coordinated among the Departments/Divisions that reviewed the plans. As the City moves in the direction of creating a "paperless" office, it is important to recognize that some computer hardware upgrades will be required to better handle the anticipated influx of digital documents and plans. Each Department should determine if existing equipment, such as computer monitors, are adequate to support digital plan review. Some of our clients use 40 inch screens, others a two screen set-up with at least one being 30 inches.

Many jurisdictions that have successfully transitioned to digital plan reviews have found it necessary to upgrade computer monitors and several have located dual monitors in workspaces to improve efficiency. As noted in the “Planning” Chapter below, the City has budgeted for larger equipment monitors to facilitate plan review.

G. TELEPHONE COVERAGE

Interviews with staff and comments from customers expressed frustration about the frequent problem of having telephone calls transferred to a staff person that cannot answer their specific question. There appears to be such a strong emphasis placed on transferring the customer quickly that insufficient time is being devoted to confirm the call is being sent to the proper person. By asking appropriate questions and having sufficient knowledge of the various Department and Division’s operations the person charged with the responsibility to answer the phones should be able to transfer the caller to the appropriate staff person. Many jurisdictions have created a “cheat sheet” that summarizes the types of functions that are performed by the various Departments and Divisions. This information is provided to any staff person responsible to answer phones as an aide to help them insure they are transferring the customer to the proper location. Staff advises that such an information sheet existed at some time in the past but is no longer available. We recommend such an information sheet be developed and distributed to all staff charged with the responsibility to answer public phones.

20. *Recommendation:* The City Manager should create an informational sheet that summarizes the functions of each Department and Division as an aide to the Central Receptions function and staff answering customer phones to help insure calls are transferred to the proper staff.

There are some occasions when Inspection staff needs to contact specific office staff to obtain information critical to their assignment in the field. Inspection staff reported that frequently their efforts to contact the main office resulted in their calls going straight to voice mail. We recommend that a specific phone number be established for exclusive use by field staff to contact office personnel. Office staff responsible for answering calls should be alerted to treat such calls from the field as a priority and not simply allow them to go straight to voice mail.

21. *Recommendation:* Community Development should create a phone number to be used exclusively by field staff to contact the office and office staff should be directed to treat such calls as a priority.

Both customers and staff voiced complaints about staff’s inability to effectively manage the volume of telephone calls that come into the main line for Community Development. Many calls go directly to voice mail because a staff member is not

readily available to answer the phone. A further review of this problem revealed that many of these customers are calling and asking the same questions. Many jurisdictions have reduced the total number of these types of calls by modifying the Department's voice mail message to include a statement that encourages customers to access the Department's website page because it contains answers to many frequently asked questions.

22. *Recommendation:* The Assistant City Manager for Community Development should direct staff to modify the voice mail message on the Department's main line to encourage callers to check the Department's website site for answers to commonly asked questions.

Most contemporary phone systems provide for a comprehensive report with counting of hang-up, calls to voice mail, etc. The city should obtain this data for a review of the Community Development Division phone system.

23. *Recommendation:* Prepare and analyze a report on the Community Development phone system.

One of the key problems we hear from customers is the lack or return phone calls and emails on a timely basis. As part of the information age, we believe that all phone calls and emails should be returned the same day received

24. *Recommendation:* All phone calls and emails should be returned the same day received.

H. TRAINING

There is need for additional training in building, engineering and planning. This will be particularly important as this report is implemented and with the installation and use of TRAKiT.

25. *Recommendation:* Building, Engineering, and Planning should set a minimum of 2% of the Department's personnel budget allocated for staff training and that 5% of staff time be devoted to training.

I. WEBSITE

Today, more than ever before, customers access the website of local jurisdictions to gain knowledge about the operation of their local government. Frequently customers will inquire about the availability and process to follow to obtain a specific service.

Other customers want to stay informed about activities occurring within the City such as opportunities to participate in cultural or recreational activities. Still other customers want to actively participate in the process of providing their opinions to those elected and appointed individuals that are charged with the responsibility to make development related decisions. A well-constructed website can meet these customer expectations. The recommendations in this portion of the report generally apply to all of the Departments that participate in the development process. The table below list those features we believe should be included on the website and our understanding of the City's status in providing those features.

Table 3
Development Services Web Features

Typical Best Feature Features	Included	Partially Included Link Provided	Not Included
Announcements, News/Events	X		
Automated Email contact feature		X	
Comprehensive List or Link to all planning & development related fees		X	
Comprehensive Information page for Planning Commission, Hearing Schedules/Calendars Agendas, Minutes, Agenda Packets/Reports, including staff contact for project inquiries		X	
Comprehensive Staff Contact List with Automated email Contact Feature and pictures of staff			X
Credit Card Payment Options			X
E-government online application completion			X
Forms and Handouts		X	
Frequently Asked Questions Related to Planning, Building & Engineering Development		X	
Functional Statement, Mission Statement			X
Handouts/Applications for Land Use Mgt, Policy Planning		X	
How to Guides and flow charts		X	
Links to State & Regional Planning, Zoning and Building related agencies		X	
Links to Municipal Code, Zoning, Subdivision Ordinance, Comprehensive Plan, other related regulations, plans, policies	X		
Major Project List (i.e., recently approved, on-going projects) for both Land Use Mgmt. (Current) and Policy (Future) Planning			X
Office Location, Hours, Map/Directions to Offices		X	
Online Submittal of Land Use Management Plans/Permits, Applications			X
Organization Structure Chart			X
Performance Standards with compliance status			X
Permit Tracking			X
Public Notifications Displayed		X	
Work Program for Department Posted			X
Zoning Map/GIS		X	

The home page of the City's website, while attractive, is difficult to navigate to retrieve information about various development processes. The entire site seems to have been designed around the concept of separating the functions of individual departments and divisions rather than highlighting the services that customers are likely to need and providing a path for them to follow to receive those services. It appears that customers are expected to try and guess which department, based on a list

of Departments, might provide them the services they seek. A website page that briefly explains the development process for most projects would provide better customer guidance and present the public with an image that the various Departments and Divisions work together to meet the customers' needs.

We are aware that information in several of the categories in the table above will change based on the full implementation of the TRAKiT system. Access to these features through a website portal will greatly improve the services to Morgan Hill customers.

26. *Recommendation:* The website for Departments participating in the development review process should be enhanced to provide the features identified in the table above.

IV. BUILDING DIVISION

A. PROFILE

Overview

The Building Division is a portion of the Community Development Department (CDD) and temporarily reports directly to the Assistant City Manager for Community Development in order to provide additional leadership during a time of high project volume. The Building Division serves the City of Morgan Hill by providing permit; plan review and inspections service through the enforcement of local and State Mandated Codes. All jurisdictions in California must enforce the minimum construction standards adopted by the State but have the option of adopting additional local amendments that are at least as restrictive as the State Codes. Additionally, the Building Division is also responsible for investigating and resolving code enforcement related violations of the various City adopted Codes.

Like most jurisdictions in the country, the City of Morgan Hill experienced tremendous change since the collapse of the residential construction market after 2008. Though the City had established a program intended to pace the rate of residential development to no more than 250 units per year, actual development during the recovery period was substantially less than the anticipated 250 units per year. In response to this significant reduction in permit activity the City was forced to undertake the painful process of eliminating jobs. The most significant impact on the building division was the loss of the Plans Examiner position. At this time the duties of the former Plans Examiner are being performed by the Building Official and the Supervising Building Inspector.

During the years when construction activity was substantially below the anticipated level of 250 units per year, the developers of those previously approved projects successfully obtained extensions of their projects and additional new projects continued to be allocated. As the overall economy improved and construction activity increased the City was faced with the challenge of not only providing services to support the anticipated 250 residential units per year but also the backlog of units previously approved. Staff reports that their permit volume has increased dramatically to approximately 1,400 residential units per year and commercial/industrial activity has also increased to represent approximately 20% of total permit activity. This increase in demand for services has resulted in the City's inability to provide plan review and inspection services at the level consistent with best practices. For example, the national standard is to provide next-day building inspections; Morgan Hill has had periods during their heavy construction months when inspections have been delayed by as much as two weeks. Similar delays have been experienced in plan review

turnaround times. This report will include recommendations for establishing and meeting performance standards that are consistent with best practices.

Given the challenges that the Building Division has faced during this recovery period, staff should be commended for the manner in which they have worked together to maintain their quality standards and a good working relationship with their customers. The results of our Customer Survey indicate a generally favorable opinion of the work performed by the staff in the Building Division. Our staff interviews revealed that they are aware of many of their current performance shortcomings and are committed to address them in the future through the implementation of many of the recommendations that will be contained in this report. The volume of recommendations contained in this report should not be interpreted as reflective of a poorly run organization that has not been striving to meet their customer's expectations.

Authority

Title 15 of the Morgan Hill Municipal Code adopts the State mandated 2013 Edition of the California Building Standards Code and California Code of Regulations, Title 24 Parts 1,2,2.5,3,4,5,6,7,8, 10, 11 and 12. In addition the City has adopted certain amendments and appendices contained in these Codes. A summary of the adopted Codes is provided below:

- Part 1: 2013 California Administrative Code;
- Part 2: 2013 California Building Code (Based on the 2009 International Building Code - IBC);
- Part 2.5: 2013 California Residential Code (Based on the 2009 International Residential Code - IRC);
- Part 3: 2013 Electrical Code (Based on the 2011 National Electrical Code NEC);
- Part 4: 2013 California Mechanical Code (Based on the 2012 Uniform Mechanical Code UMC);
- Part 5: 2013 California Plumbing Code (Based on the 2012 Uniform Plumbing Code UPC);
- Part 6: 2013 California Energy Code;
- Part 7: 2013 California Elevator Safety Construction Code;
- Part 8: 2010 California Historical Building Code;
- Part 9: 2013 California Fire Code (Based on 2012 International Fire Code);

- Part 10: 2013 California Existing Building Code (Based on 2009 International Existing Building Code – IEBC);
- Part 11: 2013 California Green Building Standards Code; and
- Part 12: 2013 California Referenced Standards Code.

Morgan Hill works closely with the Building Officials in the Santa Clara County region to avoid adopting numerous amendments to the building codes. This effort results in more consistent code interpretations across jurisdictional boundaries, which in turn reduces confusion for contractors and designers working in the region.

During our review of the City’s Code adopting ordinances we did identify two (2) areas of the Municipal Code that should be changed to better reflect the Building Division’s actual operations. Specifically, the procedure utilized to establish permit fees still references the use of valuation tables; the City no longer uses this approach in favor of a process that estimates the actual amount of staff time required to provide permit processing, plan review and inspection services. In addition, the adopting ordinance includes extensive language on sustainable building requirements. These requirements have been superseded by minimum State requirements that the City has adopted by reference. The Building Official has been made aware of these needed changes and has indicated the City’s intent to make the necessary changes in conjunction with the next Code adoption cycle.

27. *Recommendation:* The Building Official should propose deletion of language that is no longer consistent with their current operations during the next Code adoption cycle.

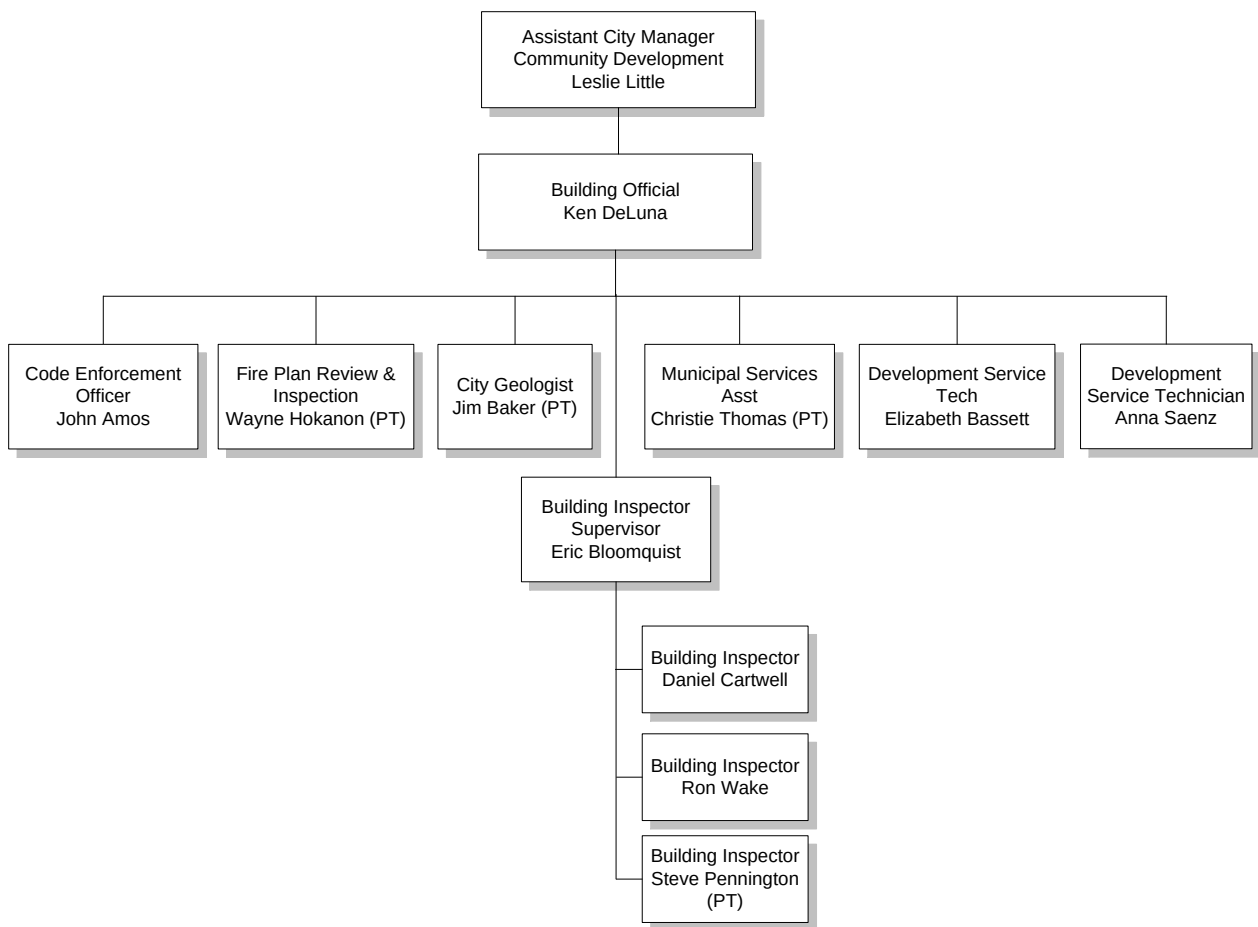
Basic Functions

The primary function of the Building Division is to support the overall development review and inspection process. Staff works daily with members of the commercial development community and homeowners to identify and resolve construction code related deficiencies. The process is designed to protect the public and property by ensuring that the minimum health and life safety standards are incorporated into all new construction. This is achieved by working in cooperation with other Divisions within Community Development and other Departments including Public Works-Engineering. Unlike many other jurisdictions in the country, the Building Division is also responsible for performing the plan review and field inspection responsibilities for confirming compliance with the Fire Code and investigating zoning and other related complaints. Also included within the Building Division is the work performed by the City Geologist.

The Building Division currently employs a total of ten (10) positions in a combination of full-time and part-time positions supporting the permit counter, plan review, field

inspection and code enforcement investigation activities. There are nine (9) full-time equivalent positions, one (1) part-time employee currently performing fire plan review and inspections and one (1) part-time employee providing back-up building inspections. In addition to these employees assigned to the Building Division, the Division also contracts for plan review services from the CSG Consultants, Inc. on a limited basis. The Assistant City Manager has indicated a desire to add a Plans Examiner position to the 2016-17 Budget. An Organization Chart depicting the current staffing levels is represented in Figure 3 below.

Figure 3
Building Division Organization



Organization

This Division reports to the Building Official who currently directly supervises the counter support staff while a Building Inspector Supervisor supervises the day-to-day activities of the inspection staff.

Table 4
Building Division Staffing

Classification	# of Positions (FTEs)	Responsibility
Building Manager/Building Official	1	Oversees the Building Division and serves as Chief Building Official. Reports to Assistant City Manager for Community Development.
Building Inspector Supervisor	1	Supervises all field inspection activity. Also performs minor plan reviews. Reports to Building Official.
Building Inspector	3.5	Performs inspections of building, plumbing, electrical, mechanical, energy and accessibility construction work. (Combination Inspections). Reports to Building Inspector Supervisor. One of these positions is being trained to assume Fire Code plan review and inspections.
Fire Plans Examiner (part-time)	.5	Performs fire plan reviews and field inspections. An experienced part-time employee is filling position currently. Responsibilities include mentoring Building Inspector to assume responsibility for the program. Position will be phased out when in-house Building Inspector is fully trained to assume these responsibilities. Reports to Building Inspector Supervisor.
Development Services Technician	2	Provides customer support at counter to intake permit applications and plans and respond to customer inquiries. Reports to Building Official.
Municipal Services Assistant	.5	Position provides clerical support to Division including records management (scanning), answering phones and counter backup. This position is currently providing critical backup to allow Development Service Technicians to actively participate in TRAKiT system implementation. Reports report to Building Official.
City Geologist	1	Provides expertise on evaluating the impact and mitigation of local geologic hazards as they relate to new construction.
Code Enforcement Officer	1	Investigates citizen complaints regarding zoning, dilapidated buildings, housing and other code enforcement related violations. This employee may also perform building inspections during peak levels of inspection requests. Reports to Building Official
Total FTE's	10.5	Current Staffing including part-time positions

B. POSITIVE POINTS/AREAS OF STRENGTH

- Building Division is actively pursuing replacement of outmoded Tidemark permit system with new TRAKiT software program with enhanced features;
- Building Official is a Certified Building Official (CBO) and ICC Building Inspector with 30 years' experience in Morgan Hill;
- Building Division utilizes combination inspectors to achieve greater efficiency;
- Few complaints from public stakeholders;
- Comprehensive list of public handouts;
- Building Inspector being trained to assume Fire Plans Examiner/Inspector responsibilities within the Building Division;
- Comprehensive Policies and Procedures Manual available to all staff;
- Building Official strives to minimize local code amendments and coordinates with neighboring jurisdictions for consistency;
- Division operates as a quasi-enterprise (206) fund with a conservative reserve;
- Division utilizes qualified former employees to work during peak periods;
- Code Enforcement program was recently audited by outside consultant;
- Building Permit Fees include fees to cover cost of long-range planning, technology enhancements and archiving of records;
- Building Official subjects applicants for building inspection positions to in-field testing prior to hiring decision;
- Building Division takes pride in insuring website information is current;
- Staff has some experience in performing plan reviews of electronic plan submittals; and
- The City offers incentive pay to encourage employees to obtain additional job related certifications.

C. ORGANIZATIONAL ISSUES

Building Division Performance Standards

Throughout this report we have referenced our belief in the importance of establishing and monitoring performance standards. In very simple terms, performance standards represent the agreement the City has struck with the community to provide a level of service in exchange for the fees that customers are required to pay. The City of Morgan Hill has not necessarily embraced the use of the term performance standards and has not invested significant effort in establishing and monitoring individual and

group performance. Interviews with upper management suggested that they were not averse to the idea of utilizing performance standards, but rather that previous attempts resulted in a system that focused on measuring activity levels rather than actual performance standards.

In other jurisdictions we have studied we have found a core number of performance standards that do a good job of representing the service levels that the community expects when they participate in the development process. In our studies around the country we typically recommend jurisdictions adopt performance standards similar to those in the table below. Note that for several categories we show optional numbers, which are shorter timelines. Given the issues of staffing and lack of a performance standard system, we believe the establishing more conservative standards is a good starting point and eventually it may be possible to switch to more aggressive standards. It should be noted that in 2010, the division set a standard of 5 days for medium plans and 10 days for major commercial plans. However, this turned out not to be operational standards and were generally not met.

Table 5
Recommended Performance Standards for Building Division

DESCRIPTION	PERFORMANCE STANDARD
Counter Initial Service	90% within 10 minutes of arrival
Answering Customer phone calls	90% within 3 rings
Returning phone calls from messages	90% returned same day
Employee Training Budget	2% of Annual Personnel budget
Customer Satisfaction Surveys	85% satisfied or better
Initial receipt and routing of plans	90% within 1 business day
Permit preparation for issuance after plan review approvals	90% within 2 business days
Plan Review - New Commercial Building - > \$1,000,000 valuation	90% within 20 business days (option 15)
Plan Review - New Commercial Building - < \$1,000,000	90% with 15 business days (option 10)
Plan Review - Commercial Tenant Improvements -	90% within 10 days (option 5)
Plan Review - Residential - Multifamily - > 20 units	90% within 15 business days

DESCRIPTION	PERFORMANCE STANDARD
Plan Review - Residential - Multifamily - < 20 units	90% within 10 business days
Plan Review - Residential - Single Family	90% within 10 business days
Plan Review -Residential - Single Family - Standard Plan	90% within 5 business days
Plan Review - Residential modifications	90% with 5 business days
Plan Review - Minor Permits (P/E/M/S)	90% Over the counter/online
Plan review rechecks	90% within 1/2 of previous turnaround time
Plan Review Quality Control	Monthly
Field Inspection Quality Control	Monthly for every Inspector
Field Inspection	90% next business day
Inspection Requests	Inspection requests can be received up to one hour before Inspector departs office
Inspector call to customer with Estimated Time of Arrival (ETA)	30 minutes prior to arrival

28. Recommendation: The Building Division should adopt the Performance Standards identified in the table above.

As referenced in the Technology section of this report, the City is in the fortunate position of being able to establish these performance standards in conjunction with the implementation of the TRAKiT permit system. The reporting capabilities of the system will grant management the ability to effectively track and report on the City's ongoing ability to meet these performance standards. The true value of establishing and monitoring performance standards lies in affording management the ability to balance resources against the constantly fluctuating demand for services. The performance standard should be visualized as a constant. Management's task is to adjust available resources in response to changing demands for service such that the performance standard can be maintained. The figure below helps illustrate this relationship.

Figure 4
Relationship Between Demand and Resources



In establishing performance standards, it is important to specify the degree to which the City is expected to attain the desired level of performance. Frequently we see jurisdiction initially establish a goal of achieving their performance standard on average (50% of the time). You will note in the table above that we are recommending performance measure targets be established based on the ability to achieve these results 90% of the time.

29. *Recommendation:* The Performance standards to be developed should be established to measure compliance based on achieving the result at least 90% of the time.

For all of the benefits we see in establishing performance standards, an inherent shortcoming is the potential for performance standards to be entirely focused on achieving quantitative goals. To be effective, a performance standard must include both quantitative and qualitative components. A common scenario we observe is that increases in service demands are initially met with the abandonment of qualitative measures. These steps typically take the following form:

- Elimination of both in-house and external staff training;
- Elimination of staff meetings;
- Elimination of quality control auditing programs;
- Assignment of supervisors and managers to perform staff work;
- Elimination or reduction in records management efforts;
- Information on public handouts and website becomes outdated; and
- Most phone calls go to voice mail and are not retrieved in a timely manner.

This is not an all-encompassing list, but rather examples of how the qualitative component of a performance standard can be eroded unless specific steps are taken to ensure that such components don't become sacrificed in the process of achieving "the numbers".

- 30. *Recommendation:* The process of establishing performance standards should include an affirmation that quality standards will not be sacrificed to meet quantitative goals.**

Building Inspector Supervisor Authority

Our individual interviews and the comments provided in the employee surveys strongly suggest that the Building Official is well respected for his technical knowledge and his approach to supervising staff. When we review the organizational structure of the Building Division, however, we find that the span of control of the Building Official includes virtually everyone in the Division. While the organization chart suggests that the Building Inspectors report through a Building Inspector Supervisor, many of the employee surveys indicated that the Building Inspectors believe they report directly to the Building Official. This perception is reinforced by the fact that the Building Official prepares each Building Inspectors Annual Performance Evaluation. The Building Official needs to clearly communicate to all of the staff that the Inspectors report to the Senior Building Supervisor and not directly to the Building Official. We are aware that the Building Inspector Supervisor has only about one year of experience in this new position and therefore may be reluctant to fully assert his authority. Given the ongoing challenges facing the Division and the anticipated new projects that our report will likely generate we strongly recommend that the Building Inspector Supervisor position assume all of the responsibilities commensurate with a supervisor position, including preparation of annual Performance Evaluations.

- 31. *Recommendation:* The Building Official should immediately transfer responsibility for preparing the annual Performance Evaluations of the Building Inspectors to the Building Inspector Supervisor.**

Building Official Succession Planning

It is entirely reasonable to assume that a newly hired Chief Plans Examiner would, given sufficient mentoring and management training, become a strong candidate for the position of Building Official when that position becomes vacant. When the Building Official position does become available the City should first and foremost be seeking an individual with both technical expertise and strong leadership ability. An approach to confirming the minimum level of technical expertise and an understanding of management practices that apply to the position of Building Official can be obtained by insuring candidates are recognized as a Certified Building Official (CBO) through a nationally recognized organization.

- 32. *Recommendation:* Future recruitment for the position of Building Official should include confirming recognition as a Certified Building Official (CBO) and evidence of strong leadership skills.**

Building Plan Review

Performing quality plan reviews is an essential first step in ensuring that a project is constructed in compliance with the City's adopted Codes. A failure to detect a significant code violation on the original plans can contribute to substantial delays and increased costs when that violation is discovered during the field inspection process. It is therefore appropriate that the staff performing the plan review function be qualified by knowledge and experience sufficient to provide expert plan reviews. Currently the City assigns plan review responsibilities to the Building Official and Building Inspector Supervisor for building plans and a part-time employee to perform Fire plan reviews. The City also has the ability to assign complex plan reviews to an outside consultant (CSG Consultants, Inc.), though few plans are sent out for review. With the implementation of the TRAKiT system, greater emphasis will be placed on the need to perform quality plan reviews within the established turnaround time standards. Having a variety of resources available to assign plan review tasks will significantly reduce the stress on existing resources.

Based on the Building Official's 30 years of experience and his possession of appropriate ICC Certifications, we have no reason to question the quality of the plan reviews that he is currently performing. Our focus is directed to the future. As discussed under the Organizational Issues section of this report, we strongly support the Assistant City Manager's decision to hire a qualified Chief Plan Examiner in the coming fiscal year. By confirming that the selected candidate is properly certified to perform plan reviews and is afforded the opportunity to participate in continuing education, we are confident that the Building Division will prosper from such an addition. If it continues to be the City's intent to utilize the services of the Building Inspector Supervisor to perform plan reviews, then suitable steps should be taken to encourage the employee to obtain certification as an ICC Certified Residential Plans Examiner. Language in the current job description for the Building Inspection Supervisor suggests that the position includes performing plan reviews but the Licenses and Certificates section of the job description does not state the need for a certification as a plans examiner.

33. *Recommendation:* Continued assignment of plan reviews to the Building Inspector Supervisor should be accompanied by a revision to the job description to reflect the need for ICC Certification as a Residential Plans Examiner.

Based on the Building Division's current inability to meet our recommended plan review turnaround times and next-day inspections, we recommend the Building Official take greater advantage of the availability of qualified outside consultant services (CSG) to perform plan reviews and inspections. Contracting for plan review services will afford the Building Official the much needed time to facilitate the implementation of the TRAKiT system and to implement the variety of

recommendations contained in this report. It is our belief that the cost of retaining these services has already been factored into the current permit fee schedule.

- 34. Recommendation:** The Building Official should utilize the services of a qualified outside plan review consultant to help insure plan review turnaround times are achieved, and contract inspectors to make next day inspections.

Building Staff Technical Qualifications

Critical to the effective enforcement of construction codes is staff's overall technical knowledge of plan review and inspection practices. The City of Morgan Hill utilizes the practice of employing inspection staff to perform combination inspections. The practice involves assigning inspectors to perform a variety of inspection types such as building, mechanical, plumbing, electrical, energy and accessibility inspections. In many larger jurisdictions inspectors perform these types of inspections with specialties in only one or two of these disciplines. This specialist approach is typically used in the inspection of commercial projects that tend to be more complex and deserving of a higher level of expertise. While these larger jurisdictions employ specialists for commercial work, many utilize a combination inspector approach for residential projects. We support the concept of using qualified combination inspectors for residential and minor commercial construction projects.

The City of Morgan Hill currently employs both full-time and part-time Inspectors to perform combination inspections on both commercial and residential projects. A review of the job description for the Building Inspector II position clearly states that employees in that classification shall possess ICC Certification as a Combination Inspector. During our on-site interviews it became apparent that not all of the Inspectors performing combination inspections have obtained such certification. We encourage the Building Official to establish and implement a plan that will bring all staff assigned to perform combination inspections into alignment with their job description. The Building Official should instruct the Building Inspector Supervisor to evaluate the need to adjust daily inspection assignments in order to ensure that complex projects are assigned to individuals who have demonstrated the ability to perform such work. In pursuing such a program, it is important that the City actively participate by continuing to authorize and reimburse staff for the costs of obtaining the appropriate training and periodic certification renewals (every three years).

- 35. Recommendation:** Inspection staff assigned to perform combination inspections should obtain ICC Certification as a Combination Inspector.

- 36. *Recommendation:*** The Building Inspector Supervisor should adjust daily inspection assignments to confirm that appropriately qualified Inspectors are performing the more complex inspections.
- 37. *Recommendation:*** The City should continue to authorize inspection staff to participate in the training necessary to achieve Certification as a Combination Inspector and pay for these training and periodic certification renewals.

Chief Plans Examiner

During our interviews we were also advised that the current Building Official was eligible for retirement and had taken recent actions to express a desire to do so. Based on feedback from the industry representatives we interviewed during our focus group meetings and through comments provided in the written customer surveys there is a high level of concern about how the Building Division may operate in the future under the guidance of a new Building Official. The current Building Official has over 30 years of experience with the City of Morgan Hill. This institutional knowledge will be very hard to replace. It is, however, incumbent upon the City to make appropriate plans to address this void when the current Building Official exercise his will to retire.

The Assistant City Manager has indicated a desire to recommend the Building Division hire a Chief Plans Examiner to both improve the plan review turnaround times and to potentially assume more managerial responsibilities that could prepare that individual for potentially assuming the Building Official position in the future. We support the need to have a Chief Plans Examiner to be available to closely monitor both the quantity and quality of plan review services being provided by in-house staff as well as those projects periodically reviewed by outside plan review consultants. We also support the idea of having a position available to be mentored on the full scope of responsibilities of the Building Official so that the current Building Official can be comfortable about taking his earned vacation leave (which is currently maxed out). In discussing this proposed position, the Assistant City Manager had proposed to require the position to be a Licensed Professional Engineer. We frequently see this type of minimum requirement for larger jurisdictions that have numerous licensed engineers and registered architects on their staff. Generally, these types of organizations also have the ability to pay considerable salaries to attract and retain the services of these professional engineers and architects.

Our experience with smaller organizations indicates that few jurisdictions require such a high level of qualifications. Some jurisdictions with such a requirement have discovered that they did not need someone with a professional license to be able to competently perform the responsibilities of a plans examiner. These jurisdictions instead confirmed the technical expertise of the Chief Plans Examiner by confirming the individual was an ICC Certified Plans Examiner in both residential and

commercial applications. It was realized that the need for professional engineering expertise was very rare and could be easily obtained on an as-needed basis through access to an outside consulting firm with in-house engineers. These jurisdictions also discovered that possession of a license as a professional engineer or registered architect did not automatically insure the individual possessed the managerial or communications skills necessary to effectively work with employees and customers. We would recommend the City focus their Chief Plans Examiner recruitment efforts on confirming the individual has minimum ICC Certifications and the type of personality that reflects a problem-solving attitude.

38. *Recommendation:* The Building Division should recruit a Chief Plans Examiner position based on appropriate ICC Certifications and a personality that reflects a problem-solving attitude.

Code Enforcement Activities

Morgan Hill employs one (1) full time Code Enforcement Officer under the direct supervision of the Building Official in the Building Division. We have seen many organizational arrangements for commercial and housing code enforcement programs. Being that the primary responsibilities of the program is to investigate and resolve code violations dealing with both zoning and building regulations, placing the program within the Building Division is an appropriate choice. This arrangement also allows the Building Official to assign the Code Enforcement Officer to perform building inspections during peak periods of inspection requests. The City recently contracted for a study of the Code Enforcement Program. At the time of our on-site interviews, this report was still in a draft form and not available for our review. Rather than potentially duplicate information that may be in that report we simply offer a few recommendations based on our limited review of the program

39. *Recommendation:* The Code Enforcement program should establish performance standards for responding to complaints and resolving complaints based on complexity.

40. *Recommendation:* The Code Enforcement program should be fully integrated into the new TRAKiT system to allow the sharing of information necessary to resolve construction related violations.

41. *Recommendation:* The Code Enforcement program should post monthly activity reports on the City website.

Communications

With highly reduced staffing levels it is common for organizations to make adjustments that are intended to provide efficiencies that help preserve those programs most visible to the public. Frequently this includes elimination of periodic group meetings with staff and other departments. The Building Official should be commended for his commitment to continue to conduct at least informal meetings with staff to confer on the status of on-going projects. However, while these types of stand-up meetings can be beneficial to avoid the trap of having overly long meetings where little productive work is accomplished, there are times when a more formal meeting setting is needed to insure important topics are addressed. We believe managers should meet in a more formal setting at least once a month to not only talk about the immediate pressing issues of the day but to also help reaffirm the overall direction of the organization. Periodically discussing progress on meeting the goals of the organization and emphasizing the mission will help staff align their daily activities with the direction that Council has provided through the City Manager. These meetings should include a pre-distributed agenda of topics to be discussed and should be managed to see that time is used efficiently and that all participants have an opportunity to contribute. Sharing information about the Division's progress in meeting performance standards can help all employees visualize how their efforts contribute to achieving the Division's goals and how those goals align with Council's direction. These types of meeting are particularly beneficial when supervisors and other employees can provide examples of work done by an individual within the group that truly exemplified the mission of the organization.

- 42. *Recommendations:* Monthly staff meetings should include pre-published agendas that provide opportunities to recognize staff accomplishments, share information from upper management and track progress in meeting established performance standards.**

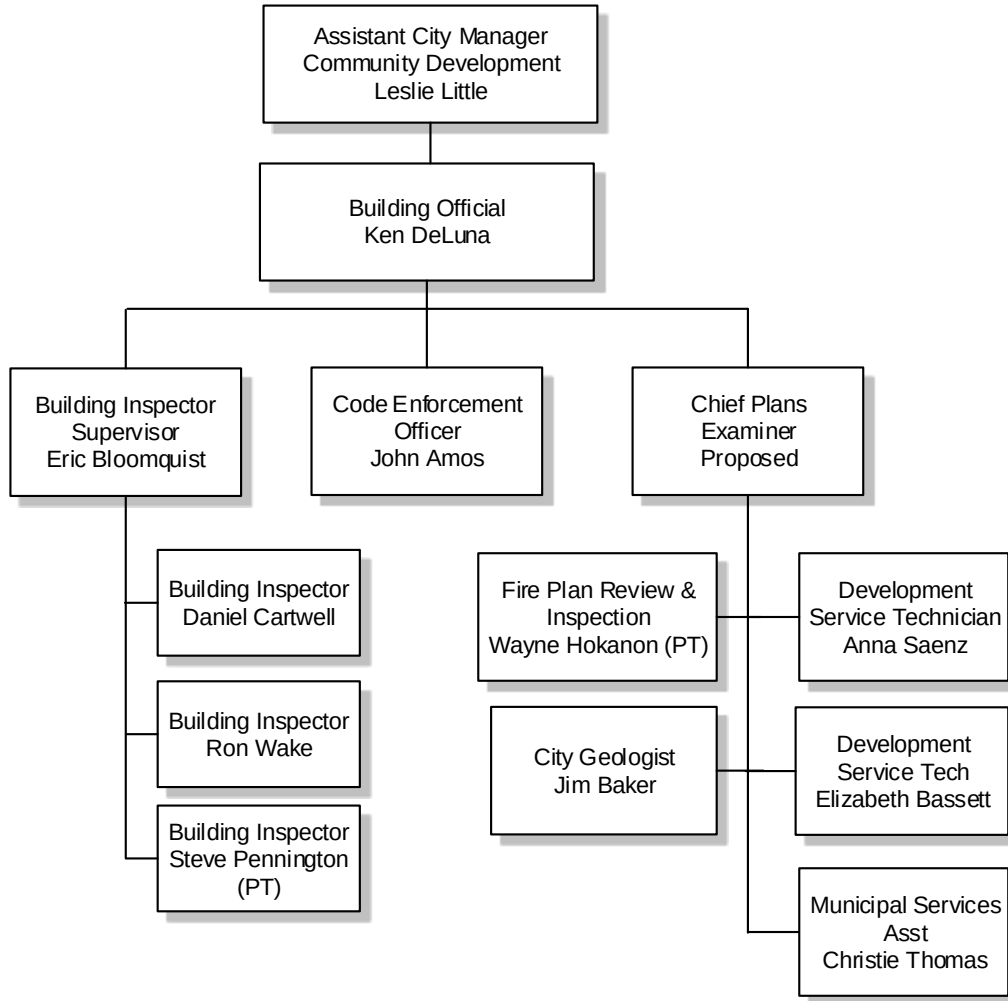
Division Reorganization

As stated previously, the current Building Official has a broad span of control that is inconsistent with best practices. The broad scope of responsibilities he has requires that his time be very limited to address the upcoming challenges that implementing the recommendations in this report will demand. Among the most significant challenges will be implementation of the new permit system and the many enhancement modules that will demand his attention as well as mentoring a new Chief Plans Examiner. We believe a more appropriate organizational structure can be found in the diagram below. The significant modifications to the existing structure is the reassignment of counter and clerical support staff to the newly created Chief Plans Examiner position along with the function of fire plan review and geologic reviews. This arrangement will allow the Building Inspector Supervisor to assume all of the supervisory responsibilities of that position and align the front counter operations with

the receipt and routing of plans under the direction of the Chief Plans Examiner. The code enforcement function would still report directly to the Building Official.

43. Recommendation: The Building Official should adopt the recommended organization chart identified below.

**Figure 5
Proposed Building Division Organization**



The original organizational chart that we were provided for the Community Development Department differs from the information we were advised to follow once we arrived onsite for interviews. The principal change to the organizational structure was temporarily realigning the organization to have the Building Official report directly to the Assistant City Manager for Community Development. Based on the issues we observed during our onsite interviews as well as physical observations of the various operations within the Community Development Department, we

support this change to the organizations reporting structure. To be generally consistent with the organizational structure of other departments within the City is it reasonable to assume that some other adjustments may be necessary relating to compensation and position titles. We are not in a position to make specific recommendations regarding those specific issues but feel comfortable in endorsing the change.

44. Recommendation: The recent organizational reporting change having the Building Official report directly to the Assistant City Manager should be accompanied by appropriate adjustments to compensation and job titles.

Fire Plan Review and Inspection

For many years the City of Morgan Hill contracted with the State Fire Marshal's Office for plan review and inspection services for new construction. Recently the City allowed that contract to expire in favor of having those services provided in-house by staff assigned to the Building Division. While this arrangement is not the norm in the industry, we have seen it successfully employed in several jurisdictions. When such a change in operations occurs there are legitimate concerns about the ability of the City to maintain the same level of quality and responsiveness that customers have come to expect. Based on our staff interviews and customer comments we believe the Building Division has implemented this change in an appropriate manner. By utilizing the part-time services of a highly experienced former employee of CalFire, they have initiated a program to fully train one of the existing Building Inspectors to assume these responsibilities in the future. The selected Building Inspector is not only benefitting from the mentoring provided by the part-time Fire Plans Examiner/Inspector but also has been enrolled in numerous off-site classes that have allowed him to gain the necessary expertise to become certified in the variety of specialties necessary to demonstrate competency performing both fire plan review and inspection activities. The Building Official has adopted a very rigorous schedule to have the Building Inspector assume all fire plan review and inspection responsibilities by July 1, 2016. This schedule might be too aggressive. We believe it would be appropriate to extend the current contract with the part-time fire plan review and inspection expert for an additional six (6) months in order to give the Building Inspector more time to benefit from the mentoring that still needs to occur.

45. Recommendation: The Building Official should extend the current contract an additional six (6) months with the part-time fire plan review/inspector expert to allow for additional mentoring for the Building Inspector assigned to assume these responsibilities.

Placing a single individual in charge of a new program, such as fire plan review and inspection, can be overwhelming unless that individual is afforded access to other professionals in the field that can be relied upon to provide expertise and advice.

Many individuals placed in such a position rely on relationships they have developed through participating in professional associations to help them gain needed perspective in dealing with new and unusual code enforcement challenges. We encourage City's to allow their staff to participate in professional associations and thereby gain additional insights in how other jurisdictions have exercised flexibility in solving difficult enforcement problems. Similar to International Code Council (ICC) local Chapters for Building Official, professional associations for Fire Prevention Officers exist in the region and should be considered as a resource for the Inspector assuming the fire plan review and inspection responsibilities for Morgan Hill.

- 46. *Recommendation:* The Building Inspector assigned to perform fire plan review and inspections should be encouraged to participate in the local chapter of the Fire Prevention Officers Association to gain perspective from other seasoned professionals.**

Job Descriptions

A review of the various job descriptions for employees in the Building Division indicates that the documents have not been updated to reflect current titles of organizations that provide skill related certifications. The current Job Descriptions do not readily identify the date when they were last updated, but in the case of the Development Services Technician Job Description, the reference to ICBO Certification has not been appropriate since the three major code development groups merged into the International Code Council (ICC) in 1990. Human Resources should work with the Building Official to update any current job descriptions that still reference outdated terminology or organizational references. Additionally, job descriptions should readily identify when the document was last updated so that staff can be assured they are working with the most current description.

- 47. *Recommendation:* The Building Official should work with Human Resources Department to update current job descriptions to reflect proper terminology and references to organizations that provide professional certifications.**
- 48. *Recommendation:* The Building Official should work with Human Resources to include a revision date on all job descriptions.**

Performance Reporting

We have stressed throughout this report the importance of establishing and tracking performance standards to confirm services are being delivered at the level the community expects. We recognize that Morgan Hill does not currently have a system in place that identifies and tracks compliance with these community expectations. We believe the incorporation of performance standards into the TRAKiT permit system

will afford the City the opportunity to monitor and report on Department and Division performance in a real time arena. Aside from the obvious benefit that such a system provides toward establishing individual and group performance accountability, reporting of this information both internally and on the City website will help foster the need for team work to successfully meet the community's expectations.

49. *Recommendation:* Implementation of the new TRAKiT system should include the reporting of compliance with performance standards to both internal staff and external customers via the website at a minimum of a monthly basis.

In our efforts to develop a table to track activity levels for the last five years we accessed the City website. Unfortunately, this process proved tedious and time consuming and did not yield the information in the level of detail we needed. We find that community members like to enquire about the level of construction activity that the City is experiencing and how that information compares with previous years. That type of information is not readily available through the City website. As a minimum, the current process of selecting permit activity for a given month should include a summary of all activity grouped by type at the end of the report. We are confident that implementation of the new TRAKiT permit system will be capable of generating reports that summarizes permit activity based on type of permit and will include a year-to-year comparison.

50. *Recommendation:* The Building Official should confirm that the TRAKiT permit system will provide activity reporting grouped by permit type and include a feature to allow year-to-year comparisons.

Records Management

The Building Division has actively pursued the digitization of permits and plans as a means of making such documents more readily available to staff and the public in the future. Their diligent efforts have also helped slow the tide of accumulating paper files that is suffocating the employee workspaces and walkways. Unfortunately, the Building Division is the only group actively engaged in this digitizing process. An urgent need for such a program exists for both the Planning Division and Engineering Division of Public Works. The implementation of the new TRAKiT system will be further encouraging customers to submit their applications and plans in a digital format. This will create a community expectation that the City will be ready and able to interact with their customers in a digital format. More detailed recommendations will be provided elsewhere in this report regarding the need for other Departments to embrace the need to digitize their work products. However, there is a recommendation the Building Division should consider as they look to the future.

Currently Building Division staff scans plans and permits only after the project has received all required inspections and has been completed. Ideally with the implementation of the TRAKiT system to help locate permit records and the full utilization of the recently upgraded I Pad tablet computers by field inspectors, the Building Official should consider having staff begin the scanning process as soon as the plans have been approved by plan check. This type of operational change will afford the Inspector in the field the ability to directly retrieve the approved plans on his field computer. Additionally, the space currently reserved to store plans and permits for active projects could be repurposed for more beneficial use. While we are aware that some plan revisions can take place while the project is under construction, we don't believe the quantity of these changes, nor the process needed to quickly update the plans, would seriously jeopardize the program. Once the electronic plan check and process is in place, it will not be necessary to scan plans except in isolated cases.

51. *Recommendation:* The Building Official should establish a program to scan plans immediately upon plan review approval in order to make the digital copies available to Inspectors in the field during construction. Scanning will not be necessary once electronic plan process is in place.

Staffing/Activity Levels

We believe that a variety of activities should be measured in order to evaluate appropriate staffing levels. For the Building Division one of the key indicators is staff's ability to consistently meet established performance standards for plan review turnaround times and inspections. While we are aware the Building Official has created some basic performance standards for plan review turnaround times, the existence of those standards is not well known and no method currently exists to routinely report on compliance with these performance standards. We believe one of the greatest benefits that will be achieved from the implementation of the new TRAKiT system will be the ability to track this type of information not only for the Building Division but also for the other Departments and Division that participate in the review process.

Regarding staffing for building inspection, we generally find that trained inspectors can complete between 12 and 15 inspections per day per Inspector. These numbers can fluctuate based on excessive travel times or the complexity of projects. The projects in Morgan Hill are confined to a small geographic area and frequently multiple inspections are requested at the same location. In addition, most commercial projects are not highly complex. Though not confirmed through reports generated by their inspection tracking system, staff advised that their daily inspection workload falls within our recommended range. Information included in the current budget transmittal indicates that the number of inspections per day per Inspector has increased from an average of 14.3 in FY 13-14 to 15.4 in FY 15-16. Considering these

factors, we believe the number of inspections performed per day per Inspector is within the range that allows adequate time to perform a quality inspection. It appears that measures have been taken through their automated inspection request process to insure the daily workload does not exceed the number of inspections that staff can effectively perform. A byproduct of this arrangement, however, is that frequently customers cannot receive the required inspection on the day they need it because all of the available inspections for that day have already been allocated. This has resulted in some inspections being delayed by as much as two weeks during the busy summer months. Clearly this is unacceptable performance as it creates significant disruptions in the flow of construction projects. An apparent solution would be to simply modify the inspection request program to allow for a larger number of inspection requests to be granted per day, but such an approach would ignore the importance of allocating sufficient time to allow the inspector to perform a quality inspection. The solution lies in a combination of augmenting staff and gaining additional efficiencies. Staffing options are discussed in this section while potential process changes are included in the Inspection section under Process improvements.

As discussed previously in the section on Performance Standards, the process of establishing appropriate staffing levels is based on the concept that the performance standard should remain constant while City Management adjusts the availability of resources to match the fluctuation in the demand for services. In an ideal environment, it would be possible to establish the actual amount of time that would be required to perform the variety of tasks necessary to meet a specific demand for service. Based on the quantity of service demands, it would then be possible to quantify the total volume of resources the City would need to have available to complete the assigned work. Where service demands exceed available resources, Management would be tasked to secure additional resources through authorizing overtime or employing additional staff either full-time, part-time or on a contract basis.

Table 6
Building Division Staff FY10/11 to FY14/15

Building Division	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16
Building Inspector	2	2	2	3	3.5	4.5
Code Enforcement	1	1	1	1	1	1
Fire Inspector	0	0	.5	.5	.5	.5
Plan Examiner	0	0	0	0	0	0
Development Services Tech	2	2	2	2	2	2
Building Official	1	1	1	1	1	1
Municipal Services Assistant	0	.5	.5	.5	.5	1
City Geologist	1	1	1	1	1	1
Total FTE's	7	7.5	8	9	9.5	11
% Change		0%	+7%	+13%	+6%	+16%

The process of quantifying the resources necessary to meet a specific service demand requires a level of personnel time tracking that does not currently exist in Morgan Hill. Management is left to make broad assumptions that staff is working at its capacity, while maintaining appropriate quality control, and faced with the result that the desired performance standards are not being met, must conclude that more staff is needed. Thus, an incremental approach is adopted that adds staff and subsequently measures the resultant impact on the desired performance standard. A review of the historical staffing levels for the Building Division (see Table 6) would support the idea that this approach is being utilized. It should be noted that the Building Official has taken a cautious approach, consistent with the City philosophy of avoiding the need for future layoffs, by augmenting staff resources through a combination of overtime and full-time, part-time and contract staff. However, the fact that customers have occasionally needed to wait as much as two weeks to receive an inspection suggests that these measures are being initiated too late in the process to meet customer needs. The process should continue to be utilized, but the threshold for initiating the measures needs to be much earlier, well before excessive delays are experienced. Integrating the inspection module with the new TRAKiT system, along with its real-time reporting capabilities, should give the Building Official and Building Inspector Supervisor earlier notification of the potential for delayed inspections.

52. Recommendation: The Building Official should continue to adjust staffing levels to meet service demands by employing a combination of overtime and full-time, part-time and contract staff. This should be completed as soon as possible to meet performance standards and customer expectations.

53. Recommendation: The Building Official should closely monitor inspection request delays and quickly intervene with additional inspection resources as necessary to achieve next-day inspections at least 90% of the time.

Unfortunately, given that most municipal budgets are only modified once per year, an inaccurate assessment of anticipated staffing needs could result in an extended period of time when the community cannot receive the level of service they expect. The fact that the Building Division is funded from the 206 Special Funds may provide Management with some level of flexibility not afforded to other Departments that rely on the General Fund for revenue. Under the current set of circumstances, the Building Division should be pursuing an approach to staffing that recognizes the need to make rapid adjustments to staffing levels when service demands rise. The increased demand for service, assuming the current permit fees accurately represent the cost of services, should result in an increase in revenue commensurate with the additional services to be provided. Approving an annual budget should include provisions that allow periodic adjustments based on fluctuating service level demands and the confirmation that fees for services will be sufficient to support the cost of additional staff resources.

54. Recommendation: The Building Official should work with the City to allow adjustments more frequently than the traditional budget cycle. This should be done soon to meet performance standards and customer expectations.

While the Building Division has not identified specific work units for the purpose of determining staffing needs, they have engaged in a process that might help them yield this type of information for use in the future. The City is in the process of conducting its third fee study in the last five years. In broad terms, the fee study strives to identify the amount that should be charge for a particular type of permit based on an assumption of the amount of time that will be required to perform the needed services by all of the employees contributing to the process. Consultants that provide this service utilize a large database of information collected from other jurisdictions to generally identify the amount of time needed to complete specified tasks. This information should be utilized to initiate the process of determining workload units.

55. Recommendation: The Building Official should take advantage of the data collected during the recent fee study to develop measurable work units than can be used to better determine appropriate staffing levels.

Appropriately staffing to meet the anticipated needs of the Fire Plan Review and Inspection program may prove to be challenging due to the limited experience the Building Official has in managing such a program. The current arrangement involves a highly experienced part-time expert providing these services. As the responsibilities transfer to the newly trained Building Inspector a general reduction in efficiency should be anticipated until the new Inspector gains experience and confidence.

Assuming that this inspector will be able to perform these duties and still manage a half-day workload performing building inspections may be overly optimistic. It should also be noted that the City is experiencing an increase in the volume of commercial and industrial permit activity. These types of projects generate a much greater demand for Fire Plan Review and Inspection services. The Building Official should closely monitor the workload of the new Fire Plans Examiner/Inspector to insure that adequate time is being allocated to perform the full scope of these new responsibilities. It is likely that a certain amount of building inspections anticipated to still be performed by this Fire Inspector would need to be reassigned to existing staff or new contract staff.

- 56. *Recommendation:* The Building Official should closely monitor the workload of the new Fire Plans Examiner/Inspector position to insure that any assigned building inspections do not inhibit the Inspector's ability to performing his primary Fire related duties.**

Training

Unlike many other municipal services, the building, fire and other related codes adopted by the State and local jurisdiction change frequently, which requires the Building Official to apply constant vigilance to ensure that the most current adopted code provisions are being properly enforced. One of the methods to obtain the needed training on these new codes is through attendance at outside training classes. Technical code classes are made available locally by such organizations as International Code Council (ICC), California Building Officials Association (CALBO), National Fire Protection Association (NFPA), and the International Association of Plumbing and Mechanical Officials (IAPMO). The City of Morgan Hill and the State of California have established minimum certification requirements for the Building Official, Building Inspectors, Fire Inspectors and Plans Examiners. These requirements have been incorporated into the Job Descriptions for these positions in the Building Division. Maintaining certifications generally requires obtaining a prescribed number of Continuing Education Units (CEUs) every few years. If budget is not available for travel, many of these classes are available on-line from these same organizations. It is appropriate that the City continue to pay for attendance at outside training classes and reimburse staff for the cost of processing their ICC Certification renewals.

- 57. *Recommendation:* The City should continue to financially support attendance at local and State code training classes for all members of the inspection, plans review and permit counter staff.**

- 58. *Recommendation:* The City should continue to cover the cost of ICC Certification renewals.**

The Building Official indicated that he works with one of the Development Services Technicians to track the amount and type of training that each member of the Building Division receives as a means of confirming that staff is obtaining the necessary CEUs to maintain their various certifications.

59. *Recommendation:* The Building Official should continue to actively monitor the status of the training that staff receives to confirm they are accumulating the necessary CEUs to maintain their certifications.

Frequently jurisdictions reduce training budgets either due to budget constraints or the need for staff to be fully engaged in their primary activities. We believe that on-going training is essential to establishing and maintaining a high level of customer service. This training should be available to all levels of the organization and should represent a minimum of 2% of the personnel budget. In addition, employees should continually receive in-house training and mentoring from supervisors and other designated trainers. We typically suggest that 5% of staff's time be devoted to training.

60. *Recommendation:* The budget for the Building Division should include a line item for on-going technical code and supervisory training for Department staff equivalent to a minimum of 2% of the Department's annual personnel budget, so that all staff can receive training appropriate for their positions.

The Building Division does not conduct weekly meetings specifically dedicated to provide technical training for their inspection or development services technician staff. These groups do meet periodically and have informal discussions, which may include some technical code discussions, but the process is not well documented for both the subject and who attended. We believe that conducting weekly training sessions typically provides an opportunity for staff to share their experiences gained while conducting field inspections, performing plan reviews or processing permits. This sharing process contributes to more consistent interpretations among the staff. Weekly training sessions are particularly important when a new set of codes is adopted every three years. Tracking these training sessions gives supervisors the opportunity to confirm that all appropriate subjects are being covered during training and helps ensure that all staff has had access to the training. In addition, a specific training program for new employees is essential to establish not only a basic understanding of the technical code requirements enforced by the City, but also as a means of determining if new employees are familiar with the policies and procedures unique to the jurisdiction.

61. *Recommendation:* The Building Official should ensure that all inspection, and permit technician staff participate in some form of a weekly training that is recorded for both subject matter and attendance.

- 62. *Recommendation:* Opportunities to lead training classes should be given to all staff as a means of encouraging the development of technical expertise and identifying staff for potential future promotional opportunities.**

D. PROCESSING ISSUES

Addressing

The process of establishing addresses is currently assigned to a Development Services Technician in the Building Division. Addressing appears to be a very staff intensive process and frequently results in conflicting information being stored in a variety of databases maintained by various Departments and Divisions. Addresses are currently used for Building Permits, Business Licenses, Engineering Permits and are included in the County Assessor files. Each of these databases has the potential to conflict with the others. For users of the new TRAKiT system to realize its full potential to be able to effectively track and report information, it is essential that the information be accurate. There is a clear need to have the contributing Departments and Agencies develop and implement a standardized set of rules to apply when creating addresses.

- 63. *Recommendation:* The Building Official should create a workgroup to establish a standard set of rules to follow when creating addresses.**

Once a standard set of rules for establishing addresses has been created there will be a need to review the various existing databases that house address information and make the appropriate modifications to reconcile inconsistencies. The City's Information Systems staff will need to be an important contributor to the process of identifying the conflicting information.

- 64. *Recommendation:* Staff from those Departments and Divisions that use address information should work with Information Systems staff to identify and reconcile conflicting address information.**

Inspection Requests

The most significant issue we detected during our review of the Building Division has been the Division's inability to consistently provide next-day inspections. This is a performance standard that we have found to be adopted throughout the country. On one hand we were told that inspections during the busy summertime have been delayed as much as two (2) weeks, while also being told that the Division provides next-day inspections approximately 85% of the time. This wildly inconsistent information could not be reconciled through any activity reports that we were provided. It is our expectation that the implementation of the new TRAKiT system

and its integration into an interactive voice response system (IVR) will make reporting of this type of information routine in the future.

65. *Recommendation:* The Building Official should insure the TRAKiT system will be fully integrated into any future IVR systems so that detailed inspection activity reports can be readily generated.

One issue that may be contributing to the number of inspections that are not being performed on the date requested is the way the IVR system is currently configured. While we are strong proponents of IVR systems, (along with the ability to request an inspection online), we believe your current IVR system is arbitrarily limiting the number of inspections that the system will allow to be scheduled per day. The system is designed to only accept the number of inspections that the Building Official believes can be reasonably performed based on the number of available Inspectors. We support this premise as a way to help insure that the daily inspection workload does not exceed that amount that can be done while still achieving appropriate quality standards. The difficulty that has arisen is that the system does not currently differentiate between those types of inspections that can be accomplished easily in a short amount of time and those other complex and therefore time-consuming inspections. Currently the Building Inspector Supervisor has the ability to increase the number of inspections that the IVR system can accept if he is aware that a large number of simple inspections will be requested. This is a cumbersome manual operation that provides limited relief. A more appropriate response would be to establish a basic unit of inspection time and then assign the appropriate number of units to each inspection based on its anticipated time to complete. A system configured in this manner would actually assign inspections based on the total Inspector time available rather than an arbitrary number of inspections. This approach will help insure the Inspectors time is being used efficiently and would also help confirm that assignments are being made equitably among the inspectors.

66. *Recommendation:* The Building Inspector Supervisor should utilize anticipated inspection time as the criteria in the IVR system rather than the total number of inspections that can be accepted for each day.

Inspector Estimated Time of Arrival (ETA) Inquiries

We find that in many situations permit customers must take extraordinary measures to be available on site when an Inspector is expected to come to perform an inspection. In fact, we observe that most of the telephone inquiries in the morning are about an estimated time of arrival (ETA) for the Inspector. We are sensitive to the fact that it can be difficult to provide a detailed ETA due to the unforeseen problems that can arise during an Inspector's typical day. However, providing customers a general range of times to expect the Inspector on site can provide a very useful guide for customers.

Several jurisdictions have witnessed a substantial reduction in the number of morning phone calls requesting an ETA by simply posting the Inspectors daily route on the website. Customers are advised during permit issuance to check the website on the day of their inspection to determine where their property falls on the route list. While not giving a specific time, this approach gives customer a general sense of when the inspection will be performed. In addition, many jurisdictions have now directed their Inspectors to call the customer approximately 30 minutes prior to anticipated arrival. Customers report that this type of program goes a long way in demonstrating the jurisdiction's respect for the customer's time.

- 67. *Recommendation:*** Once the Inspector's daily route has been established the Building Inspector Supervisor should see that it is posted on the Building Division's web page to provide customers with an ETA for the Inspector.
- 68. *Recommendation:*** Building Inspectors should make an effort to call customers approximately 30 minutes prior to their anticipated arrival on site.

V. ECONOMIC DEVELOPMENT DIVISION

A. PROFILE

Overview

The Economic Development Division is focused on attracting investment to the City through various strategies including marketing the City as an appealing business location, establishing business-friendly policies and processes, high-quality job retention and expansion, enhancing tourism, place making and the downtown area and growing retail and industrial uses to expand the City's tax base. In addition, Staff updates economic, demographic and development trend data and provides assistance to companies looking to start, expand, and/or relocate to the City of Morgan Hill and partners with the existing business community.

In addition, the Economic Development Division acts as staff to the Redevelopment Successor Agency, implementing the process for property planning, disposition and development of downtown opportunity sites, the Specific Plan and priority development area goals and downtown place-making and Infrastructure Investment Plan recommendations.

EDD Staff are funded in part by the General Fund and the Property Tax Increment Administrative Cost Allowance under the RDA Dissolution laws. EDD programs are funded by the General Fund as well as a portion of real property sale proceeds used for escrow and closing costs (one time funds) of the former RDA property that is sold for development.

Authority

The Economic Development Program of the Community Development Department generally derives authority from the City Code of Ordinances, such as Title 2, local policies and ordinance and federal and State Law.

Staffing

Staffing for the Division consists of 2 FTE position, including an Economic Development Manager/Principal Planner and an Economic Development Coordinator.

Table 7 below shows the 2 FTE staff positions in the Program and the corresponding job descriptions adopted for the positions.

Table 7
Economic Development Division Staffing

Position Title	Number of Positions	Responsibilities	Reports To
Economic Development Manager/Principal Planner	1	This is a working manager position responsible for providing leadership and oversight for economic development activities.	Assistant CM for Community Development
Economic Development Coordinator	1	Under general supervision of the Economic Development Manager, provides direction and project leadership for Economic Development activities and programs, develops marketing strategies designed to promote Morgan Hill as a business destination and serves as a City liaison with businesses, community organizations, and real estate brokers, developers and investors.	Econ. Dev. Mgr/Principal Planner
TOTAL	2		

Economic Development Division (EDD) activities in the City are focused on facilitating and influencing the direction of private sector investment toward opportunities that can lead sustained economic growth to provide sufficient incomes for the local labor force, profitable business opportunities for employers and tax revenues for maintaining an infrastructure support this continued growth. EDD Staff have been concentrating on activities that support and encourage investments where the community feels they are needed the most.

Table 8 below shows the EDD activities conducted over the last 5 years.

Table 8
Economic Development Activities

Activity Description	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16
Facade Grant Management	3	4	0	0	0	
Long Range Property Management Plan	8	2	0	2	3	
Traffic and Sewer Deferrals/Financing	1	1	0	0	0	1
Development Reimbursement Agreements	1	1	0	0	0	
Grow Morgan Hill Fund Marketing and Outreach activity	10	4	1	12	12	
Produced Business Resource and Broker Events	3	1	1	7	4	
Business Appreciation Visits	24	16	40	30	20	
Ombudsman Services	100	20	21	20	21	
Lease Agreements and Negotiations	3	2	4	2	3	
Property /PBID & Business Improvement District Oversight and Management	2	2	3	12	20	
Marketing Material/Newsletter/Brochure Development and Distribution	3	7	7	10	16	
Economic Incentive Small Business (Relocation)	0	0	0	0	2	6
Sales Tax Sharing Agreements	0	0	0	1	1	
Downtown Purchase and Sales Agreements	0	0	0	1	3	2
Downtown Property RFP/RFQ	0	0	0	0	1	
Studies and Reports Produced/Contracted	0	0	0	0	3	2
Policy Development	0	0	0	0	2	

B. POSITIVE FINDINGS

As the above Table reflects, the EDD has been engaged in numerous activities throughout the 5-year period shown. Below are some of the more noteworthy positive findings for the Division:

- Staff has prepared marketing materials identifying key development opportunities to facilitate acquisition and/or development of economically important areas in the City, which are available on the City's website;
- Construction of a 273 space public garage Downtown (near completion);

- The Sale of Downtown Opportunity Sites 2, 3, and 4;
- Staff is drafting an Economic Blueprint, which is an Action Plan that will identify a vision and set clear strategies to develop jobs and facilitate place-making for the city of Morgan Hill over the next 5 to 10 years;
- Staff is launching a Morgan Hill 100% Local Campaign to promote locally produced food-related items; and
- Creating a new brand identity for the City, including a new logo (e.g., It's Happening) to reinforce the notion that the City is an ideal location that offers residents and visitors a vibrant Downtown, year-round outdoor recreational activities.

C. ORGANIZATION ISSUES

Equipment

Staff stated that they generally have the equipment needed to perform their work, however, they did identify the need for one computer to be upgraded in the Division.

In addition, staff expressed the need for Open Counter software, which is online software that benefits both the City and small business by helping entrepreneurs navigate the business registration process and their site selection process by showing entrepreneurs where their business is permitted, without having to ask City staff for the information.

69. *Recommendation:* The Assistant City Manager for CDD should confirm equipment needs, budget for and purchase needed items.

Job Descriptions

We reviewed the job descriptions for the two positions in the EDD function and found that they need to be updated to correspond with the position titles designated on the City's organization chart. For example, the Job Description for the Economic Development Coordinator Position is listed as "Principal Planner/Economic Development Coordinator, while the City's Organizational Chart shows the Division manager as "Economic Development Manager/Principal Planner." In addition, the Economic Development web page shows staff titles as "Principal Planner and Economic Development Coordinator. The job descriptions for the two positions need to be reconciled with the Organization Chart and Division web page and updated to outline distinguishing roles and responsibilities for each position to eliminate confusion.

- 70. Recommendation:** The Economic Development Manager and Economic Development Coordinator position job descriptions should be updated.

Marketing Materials/Handouts

Staff noted that they are working on updating market demographics, as it is part of their regular work program, which is good. In addition, staff identified a need for a handout that explains how to start a business.

- 71. Recommendation:** The Economic Development Manager should create a handout that explains how to start a business and post it on the Division web page.

Meetings

Economic Development staff is colocated with other Community Development staff in the Development Services building. Meetings are held between the two staff members as needed to strategize on work efforts and solve problems. In addition, Economic Development Staff stated they sometimes attend Department-wide meetings to help facilitate communication and coordination across the Department. Staff also said that they attend DRC meetings on occasion and are often involved in developer meetings involving key economic development proposals with Community Development Management and other staff outside of the development review process.

- 72. Recommendation:** The Economic Development staff should regularly attend Department wide meetings to facilitate communication and coordination across Department functions.

Ombudsman Services

The staff interviewed said that they offer Ombudsman Services. The Economic Development web pages indicate Ombudsman Services are available for small business and other businesses in their interactions with City departments. The Ombudsman Service is generally described as a service where staff can act as mediators to help build consensus when development-processing disputes arise. In addition, as Ombudsmen, Economic Development Staff said that they can work with staff from other development-related city departments to ensure projects moves through the development process as smoothly as possible.

Staff noted that their Ombudsman services generally focus on non-residential projects, however, they have and will provide assistance for residential projects that

advance the City's economic development goals and vision (e.g., a high end for rent project).

In addition, as Ombudsman, staff is able to facilitate the expedited review of key economic development projects as needed. Staff said they feel they have been given sufficient appropriate authority to resolve review process disputes and free projects that are stuck in the review process by working collaboratively with development review teammates.

Staffing

Currently, resources for this function consist of one full-time Manager/Principal Planner and one full-time Economic Development Coordinator. The Manager is a working position and has responsibility for developing and implementing action strategies, supervising the Coordinator position and doing the work.

We did not receive feedback that this function was short staffed. The Economic Development Coordinator was recently hired and working on updating marketing materials and other higher priority projects and focus areas outlined in the Division work program.

Training

EDD staff indicated that training opportunity is limited due to budget constraints; however, they are able to attend important professional conferences, such as the International Council of Shopping Centers (ICSC). Staff did identify a need for outside training on Microsoft Excel, which is an important tool used in their work efforts.

73. Recommendation: Excel training needs for EDD staff should be further defined, budgeted for and provided.

Web pages

Staff noted that the web pages for the Division need to be improved to better highlight key program initiatives and accomplishments. We agree the Division should also highlight news events such as local, regional and state level programs and regulations that affect local economic development activities (e.g., AB 2 and SB 107). Staff noted that the recent addition of an Economic Development Coordinator position will allow the Division to more frequently add and update web page content, which is good.

- 74. Recommendation:** The Economic Development Manager should improve the Division webpages through continual updates and adding information as noted above.

Also see our other recommendations for the CDD web pages earlier in this report.

Work Program/ Workshops

Division staff develops a work program for FY 2015/16 that was presented to council in a workshop. The work program outlined their accomplishments and identified action items (e.g., next steps) and key focus areas and work efforts, such as the preparation and adoption of an Economic Blueprint to identify a vision and set clear strategies to develop jobs and facilitate place-making for the city of Morgan Hill over the next 5 to 10 years. Staff also presented data to Council to show how well the City is doing capturing potential sales tax.

In addition to the annual Council workshop, Division staff should also consider presenting Economic Development Program information annually to the Planning Commission to help educated members about key accomplishments and program initiatives.

- 75. Recommendation:** The Economic Development Manager should consider conducting annual workshops with Planning Commission.

D. POLICY ISSUES

Economic Development Strategy

Economic Development staff are currently working with stakeholder groups (e.g., Kiwanis, Tourism Alliance, Chamber, School District, Downtown Assoc., Wineries Assoc., large employers, local developers, residents and others) to develop an Economic Blueprint for the City, which is excellent.

The Economic Blueprint is a collaborative project that will identify a vision and set clear strategies to develop jobs and facilitate “place-making” for the city over the next 5-10 years. Advisory committees, an executive committee and a pathfinder committee have been assembled to create a vision and support strategies that evolve from stakeholder and focus group meetings.

We support staff’s efforts in developing this action plan for Economic Development activities, as it will provide a clear vision, purpose and implementation strategy for

the Program that supports Council's overarching goals for a fiscally healthy government.

E. PROCESS ISSUES

Expedited Reviews

The Economic Development staff identified Expedited Review as a key, short-term policy strategy to support economic development growth, which is a typical strategy we have seen in most of the communities we have studied.

The Economic Development staff helps to support and facilitate Expedited Reviews by acting as Ombudsman, when requested, which is good. We discuss the Planning Division's expedited review process in the Planning Division Section above and make several recommendations to help strengthen to service and ensure that it operates effectively.

VI. ENGINEERING DIVISION/PUBLIC WORKS DEPARTMENT

A. PROFILE

Overview

The Public Works Department is responsible for a wide variety of services that, in general terms, support the critical infrastructure of the City of Morgan Hill. For purposes of this report, our focus is on those operations within the Public Works Department that provide direct support to the private development review process. Under the direction of the Public Works Director/City Engineer, the Land Development Engineering section reviews and approves plans in conjunction with proposed improvements to private property.

During the economic recession the Department downsized by eliminating the Deputy Director position, an Engineering Aid position, and a Public Works Inspector position. The responsibilities for various projects and tasks were shifted to the remaining staff. Two examples of this are: 1) the loss/dilution of management oversight without the Deputy Director position, and 2) the Engineers that had been assigned exclusively to review development projects were also assigned to review and manage Capital Improvement Projects (CIP). With the recovery of the economy, which has produced a dramatic increase in new construction activity, the Land Development Engineering Team is no longer capable of performing both the increased new development reviews and the previously assigned CIP projects. We feel the Engineering section needs to augment their staffing resources by adding both full-time and contract staffing. The building and planning functions have been built back up after the recession but engineering has not.

The information we received from confidential customer surveys and comments provided during our on-site focus group meetings with local developers indicated there is a strong level of dissatisfaction with the level and type of services being provided by this group. The two most frequently cited complaints were the lack of timely reviews and the tendency of staff not to perform complete plan reviews early in the process, which ultimately lead to major corrections being required late in the process. Many customers believe these problems stem from the Senior Engineer's practice of reviewing all work produced by the two Engineers in the group before it can be released to the customer. Despite this high level of review, staff and customers report there are still frequent occurrences of significant problems not being identified until the work has begun in the field.

Interviews with staff suggest that some of the quality control problems they are experiencing can be attributed to the influx of new engineering firms now participating in the development process in Morgan Hill. For many years only local Engineers submitted plans for development review. Over time, those staff reviewing the plans and the Engineers submitting the projects developed a strong understanding of the level of information that should be included in the submittals. This arrangement resulted in a generally expedited process that rarely required numerous resubmittals. Unfortunately, the increase in volume of projects being submitted by Engineers unfamiliar with local requirements has led to a tendency of Engineers to submit plans with minimal information. This has resulted in the need for far more plan resubmittals than what was considered ordinary in previous years.

Information provided by employee and customer surveys also expressed a belief that this group has been reluctant to participate in programs intended to improve customer service such as embracing the implementation of the TRAKiT permit system as a means of enhancing accountability and improving the transparency of the review process. This was the only group that did not complete the requested confidential employee surveys prior to our on-site interviews.

While this report contains many recommendations intended to enhance customer service, we acknowledge that some of these improvements will require the acquisition of additional staff resources. We are also aware that much of the current dissatisfaction expressed by customers and staff is a direct consequent of what we believe is insufficient staffing of these programs.

Authority

Section 17.12.030 of the Morgan Hill Municipal code established the duties of the City Engineer to include the following:

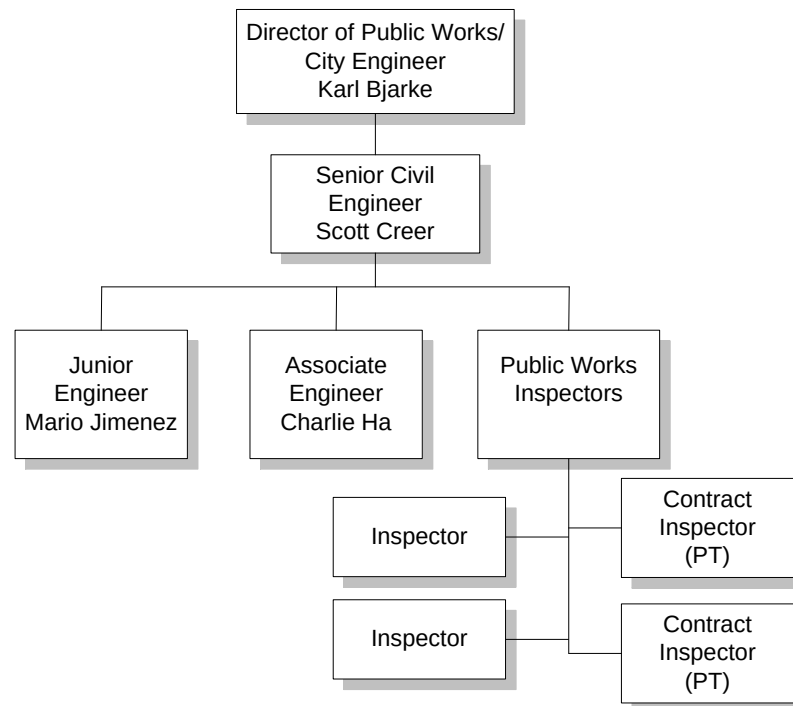
- *Establishing design and construction details, standards and specifications;*
- *Determining if proposed subdivision improvements comply with the provisions of this title and the Map Act and for reporting the findings together with any recommendations for approval, or conditional approval, of the tentative map to the community development director;*
- *The processing and certification of final maps, reversion to acreage maps, and amended maps; the processing and approval of subdivision improvement plans, lot line adjustments, mergers and certificates of compliance;*
- *The inspection and approval of subdivision improvements; and*
- *The acceptance of private improvements (improvements not to be maintained by the city.)*

Basic Functions

The basic functions of the Engineering Division of the Public Works Department is to provide design, plan review, construction and construction inspection of all infrastructure within the public right-of-way and on city-owned property. In addition, this group develops and implements the projects of the City's 5-year Capital Improvements Program (CIP). The group is also responsible for keeping all improvement plans prepared by consultants for Public Record. The two sections of the Engineering Division are Land Development Engineering and Capital Improvement Projects (CIP) Engineering. In addition, this group supports the Planning Division by reviewing and scoring Residential Development Control System (RDCS) applications. Our primary focus for this report is on the operations of the Land Development Engineering section as it pertains to the review and inspection of construction activities that pertain to the infrastructure constructed by developers within the City.

The Land Development Engineering section is managed by a Senior Engineer and employs two (2) full-time Engineers and a part-time contract Plan Checker, as well as two (2) full-time Inspectors and two (2) contract Inspectors.

Figure 6
Public Works Development Engineering Organization Chart



Organization

The Land Development Engineering section reports to a Senior Engineer that reports directly to the Director of Public Works/City Engineer

Table 9
Land Development Engineering Staffing

Classification	# of Positions (FTEs)	Responsibility
Public Works Director/City Engineer	1	Oversees the Public Works Department and serves as City Engineer. Reports to City Manager.
Senior Civil Engineer – Land Development	1	Supervises all Engineers and Inspectors in the Land Development section. Reports to Director of Public Works/City Engineer.
Associate Engineer	1	Assigned storm water regulations (NPDES), FEMA requirements, final map processing and some CIPs. Performs plan reviews for large commercial subdivisions. Reports to Sr. Engineer.
Assistant Engineer	1	Reviews 98% of building permit applications, Public Works conditions, sewer connections, off-site improvements and some water main CIP projects. Calculates impact fees. Deals with traffic complaints. Reports to Sr. Engineer.
Plan Checker (Contract part-time)	0.25	Checks subdivision improvement plans.. Reports to Sr. Engineer.
Public Works Senior Inspector (Full-time)	1	Perform field inspections on public works projects in city right-of-way and confirm developer installed features meet city design requirements. Reports to Supervising Public Works Inspector.
Public Works Inspector I/II (Contract Part-Time)	1	Perform field inspections on public works projects in city right-of-way and confirm developer installed features meet city design requirements
Supervising Public Works Inspector (full-time)	1	Oversees all inspection activities (Land Development and CIP). Performs field inspections on public works projects and confirms design requirements. Reports to Senior Engineer.
Total FTE's	7.25	Current Staffing including part-time positions

B. POSITIVE FINDINGS/AREAS OF STRENGTH

- Senior Civil Engineer has 26 years of experience with City of Morgan Hill;

- Engineering Staff has many years of experience (Asst. Engineer - 15 years; Assoc. Engineer - 10 years);
- The Division has previously used contract staff to address short-term increases in workload and is currently preparing RFPs to expand use; and
- An “Engineer of the Day” is assigned to be the primary technical expert to address customer and staff inquiries.

C. ORGANIZATIONAL ISSUES

Leadership and Supervision

Based on the comments provided by customers during the focus group meetings and written comments provided in customer and employee surveys there is a very high level of dissatisfaction with the service being provided by this Division. Customers complain of failure to meet turnaround time commitments, incomplete plan reviews and the perception that there is a “bottle-neck” in the process at the Senior Civil Engineer level in the organization. Internal staff complains they are the ones who must contact customers to alert them that their engineering project won’t be reviewed on time and that it is difficult to get timely and consistent direction from the supervisor. We believe there are a number of contributing factors that have led to this perception of poor service from this Division. However, ultimately it is the responsibility of the Manager and Supervisor to provide the leadership necessary to correct the problems.

The most apparent issue we observed is the lack of decision-making authority that has been given to the Professional Engineers on staff. It is understandable that a supervisor would exercise closer review of staff work when a new employee joins the section. However, in the case of the current staffing, these Professional Engineers have been with the City for 15 and 10 years and should no longer warrant micromanagement. If staff is continuing to make significant errors in completing their daily assignments, then a definitive course of action needs to be initiated. Generally, this begins by establishing clear performance expectations, providing training and direction as needed and gaining a commitment by all participants that the Division’s performance must improve in the future.

76. Recommendation: The Public Works Director and the Senior Civil Engineer should develop a comprehensive improvement plan for employee performance that will allow the Senior Civil Engineer to delegate appropriate decision making authority to his staff.

Performance Standards

A general discussion of performance standards is included in the section that discusses recommendations applicable to all participants in the development review process near the beginning of this report. The subject is included again in this section because of the need to emphasize their importance as it relates to the on-going efforts by the City to implement the TRAKiT permit software system. Comments provided during employee interviews and in employee surveys suggested that the Supervisor of Land Development Engineering has been strongly resistant to utilizing the features of the future TRAKiT system. The supervisor has directed staff to continue to utilize the current process of manually calculating impact fees even after the TRAKiT system has been implemented. The perception from other employees is that the Supervisor is reluctant to adopt any performance standards that will become an integral component of the new system. We believe that allowing any part of the organization that is critical to the timely review of plans and permit applications to “opt-out” of the TRAKiT system implementation would be a significant lost opportunity. We also believe that the performance standards for plan review turnaround times established for Land Development Engineering should be consistent with those adopted by Planning and Building for both standard projects and expedited projects.

Table 10
Recommended Plan Review Turnaround Times

DESCRIPTION	PERFORMANCE STANDARD
Plan Review - New Commercial Building - > \$1,000,000 valuation	90% within 20 business days
Plan Review - New Commercial Building - < \$1,000,000	90% within 15 business days
Plan Review - Commercial Tenant Improvements -	90% within 10 days
Plan Review - Residential - Multifamily - > 20 units	90% within 15 business days
Plan Review - Residential - Multifamily - < 20 units	90% within 10 business days
Plan Review - Residential - Single Family	90% within 10 business days
Plan Review - Residential - Single Family - Standard Plan	90% within 5 business days
Expedited Reviews	One Half (1/2) normal processing time

77. Recommendation: Land Development Engineering should adopt the same plan review turnaround time performance standards as those established by the Planning and Building Division.

The incorporation of performance standards into the TRAKiT permit system will allow Management to observe each Division’s ongoing ability to meet the established

performance standards and thereby enable Management to make timely decisions on the need to adjust staff resources.

- 78. *Recommendation:* Land Development Engineering should incorporate their performance standards into the new TRAKiT permit system.**
- 79. *Recommendation:* The Senior Civil Engineer should frequently review the reports generated by the TRAKiT system to determine the need to adjust staff resources.**

Staffing/Activity Levels

We generally rely on a large volume of detailed information to compare activity levels, percent of time performance standards are achieved and historical staffing levels to provide a recommendation regarding staffing. Often this information is made available through comprehensive reports from a permit tracking system that monitored the activities of all of the groups participating in the plan review and approval process. Unfortunately, when the current permit tracking system (Tidemark) was originally purchased and implemented many years ago the Building Division was the only group that participated. We are confident that, if all appropriate groups participate, a wealth of information will be available to Management in the future to help guide them on making sound decisions regarding the need to adjust staffing levels in response to fluctuations in development activity.

From what we can observe, it is apparent that the current staffing levels are inadequate to meet what we believe are performance standards appropriate for a community that seeks to follow the “best practices” of the government. Not only are turnaround times to complete plan reviews excessive, the product produced is subpar while staff and supervisors have been forced to abandon those activities such as training that are basic to maintaining quality control. We are aware that staff is preparing Requests for Proposals (RFPs) to secure additional resources to assist in mapping, plan review of building permits, work on the storm water program and the FEMA floodplain certification rating system. We support the use of contract staff to fill the immediate needs of these programs. By using contract staff to address these immediate needs it will give Management the opportunity to evaluate the impact of these additional resources on the overall operation of the Division so that a more informed decision can be made regarding the need to obtain full-time positions to perform these duties in the long-term.

- 80. *Recommendation:* Land Development Engineering should continue their efforts to secure additional staff resources through contract services to address immediate staffing needs.**

- 81. Recommendation:** Land Development Engineering should closely monitor the impact of additional contract resources on achieving the Division's mission to assist in determining when or, if, full-time staff should be hired.

With the hiring of additional contract staff comes the additional responsibility to monitor the quality of the work being performed. As discussed elsewhere in this section, the Senior Civil Engineer's ability to provide this level of oversight of contract staff is very limited given his desire to closely supervise existing staff. The process of hiring additional contract staff should be accompanied by the creation of a comprehensive list of performance expectations accompanied with the expectation that the Senior Civil Engineer will delegate sufficient work to staff to allow him to perform the critical task of monitoring these new contract staff.

- 82. Recommendation:** The Senior Civil Engineer should create a comprehensive list of performance expectations for future contract staff and be available to monitor their performance.

Training

Training is usually one of the first areas to be cut when an organization is faced with a significant increase in workload and the City of Morgan Hill has proven to be no exception to this rule. One of the positive aspects of providing an on-going in-house training program is the ability to achieve uniform and consistent interpretations of the codes and standards enforced by the jurisdiction. Generally, these training efforts also contribute to the compilation of a written manual of interpretations and procedures that can be referred to in the future. The Land Development Engineering Division does not have an on-gong training program.

- 83. Recommendation:** The Senior Civil Engineer should create an on-going in-house training program to familiarize staff on the technical code and standards interpretations that should be enforced to achieve uniform and consistent staff interpretations.

- 84. Recommendation:** The Senior Civil Engineer should create and maintain a written interpretation manual based on the training provided to staff.

In addition to in-house training programs, we believe it is beneficial to have staff periodically attend training offered by outside experts. We have seen examples of how attendance at such training events have provided not only additional technical expertise but also helped promote a more flexible approach to enforcing codes and regulations. As indicated in a recommendation for all functions, we recommend that the engineering budget set a minimum of 2% of their personnel budget for training and strive to allocate 5% of staff time to training and skill development.

In addition to considering training as an excellent tool to achieve uniform and consistent staff interpretations of regulations, we also consider training to be an opportunity for staff to expand their awareness of the organization and potentially identify paths to future promotional opportunities. In the case of Engineers in the Public Works Engineering Division, two (2) of the Engineers are currently only assigned to work on CIP projects while the other two (2) Engineers perform a variety of development related reviews as well as CIP projects. Having all of the Engineers trained to perform the full spectrum of assignments, including CIPs, would enhance their value to the organization by expanding the Senior Civil Engineer's ability to make flexible assignments and give the employees a broader understanding of the full scope of jobs within the Engineering Division.

- 85. *Recommendation:* The Senior Civil Engineer should structure the on-going in-house training program to allow for cross training of Engineers to expand the scope of the services they can provide.**

D. PROCESSING ISSUES

Public Counter Support

The Engineering Division has been the subject of many customer complaints regarding the quality and timeliness of their plan reviews. We believe one of the major contributing factors to these poor results is the number of interruptions the Engineers experience while they are engrossed in reviewing detailed engineering plans and documents. During our review we did note that the Senior Civil Engineer has established a schedule of rotating the responsibility of being the "Engineer of the Day" between himself and the other two Engineers. We endorse the concept of designating an individual to be on call to address technical engineering questions that arise at the public counter or from other staff. However, comments provided during interviews suggests that another staff person, such as an Engineering Aide, could likely have handled a significant number of requests for an Engineer's assistance. We believe counter staff may be too eager to call for an Engineer, when, by simply asking a few probing questions, they would be able to locate the information the customer is seeking. We support the philosophy that work should be performed whenever possible by staff at the lowest level of the organization. Interrupting Engineers to perform tasks that can be accomplished by suitably trained individuals at a lower level in the organization represents a responsible allocation of resources.

- 86. *Recommendation:* The Senior Civil Engineer should establish a list of public counter inquiries that Engineering Aides should be expected to resolve.**

87. *Recommendation:* The Senior Civil Engineer should provide training to Engineering Aides as necessary to insure that information provided to customers at the public counter is accurate and consistent.

We have often witnessed that many customers will automatically seek access to a high ranking individual in the organization when the nature of their inquiry could have been answered without the need to interrupt a highly compensated professional. The likelihood of this interruption occurring is increased when the configuration of the office space makes these professionals readily visible in the line of sight from customers at the public counter. The Senior Civil Engineer should evaluate the current office configuration to determine if modifications can be made to remove engineering staff from the direct line-of-sight of the public counter.

88. *Recommendation:* The Senior Engineer should identify a way to remove his Engineer's workspace from the direct line-of-sight of the public counter.

We endorsed the process of assigning an "Engineer of the Day" as a method of reducing interruptions to other staff, however, it appears that the designated person may not always be available on their designated day. Staff reports that the Public Counter hours start at 8:00 am but frequently the assigned Engineer does not report to work until 9:00 am. This practice requires that either the customer wait until the assigned Engineer arrives or the work of another Engineer must be interrupted to support the counter.

89. *Recommendation:* The Senior Engineer should insure that the designated "Engineer of the Day" is available to assist customers when the counter opens.

E. POLICY ISSUES

Design Specifications

The City of Morgan Hill has established a comprehensive list of design standards for developers to follow that are unique to the City. In some cases, these current standards need to be updated. We encourage staff to always have current design standards available to the public through the website. Using the same argument stated under the Building Division section, we encourage jurisdiction to strive for consistency among other jurisdictions in the region. In many parts of California communities adopt a standardized set of public works design specifications that are enforced throughout a county. One of the benefits to such an approach is that all designers in the area are using the same set of standards so they are very familiar with the requirements that

need to be included in the plan submittals. This familiarity leads to more complete plan submittals and a reduced number of required plan resubmittals. It is reasonable to assume that the problem of numerous plan resubmittals in Morgan Hill may be attributable to the unique set of design standards the City has adopted. We recommend that future revisions to outdated specifications be prepared in a manner that strives for consistency with other jurisdictions in the region. We expect that this approach will both reduce the need for numerous resubmittals and help eliminate a factor that could be perceived to reduce the City's competitiveness in attracting development.

- 90. *Recommendation:* When revising outdated design specifications, the Senior Civil Engineer should seek to attain consistency with standards utilized by other jurisdictions in the region.**

VII. PLANNING DIVISION

A. PROFILE

Overview

The Planning Division (PD) is one of four (4) divisions that make up the Community Development Department (CDD). The PD is comprised of two functions, including Current Planning and Long Range Planning Programs. The Division performs a variety of services intended to protect, maintain, and develop an attractive, safe, and healthy environment and provides direction and leadership in implementing the goals, objectives, and policies of the General Plan as adopted by the City Council. It is also responsible for the orderly development of the city and the administration of various land use regulations, including the zoning code, design review ordinances, sign code, and the cultural resources preservation ordinance, as well as providing technical assistance and staff support to the Planning Commission.

Generally, the Current Planning Program is responsible for managing and implementing the City's land use development regulatory permit system, including reviewing proposed plans for compliance with the zoning section of the Municipal Code, Specific Plans, the General Plan, state and federal development-related Regulations, such as the California Environmental Quality Act, administering the City's Residential Development Control System (RDACS), enabling community participation in the planning process, coordinating outside agency review and consultant work related to planning and environmental review and other activities.

The Long Range Planning Program is generally responsible for preparing, updating, monitoring and implementing the City's adopted General Plan, which provides the overall framework for land use decision-making in the city. This Program is responsible for the development of City policies and ordinances to guide the ongoing use of land within Morgan Hill, such as the City's Zoning Code, the Climate Action Plan and the establishment of environmental review thresholds. This function is also responsible for master planning and plays a key role in the City's Downtown Revitalization focus area.

The City has initiated an update of its General Plan (e.g., Morgan Hill 2035) and other major policy planning documents, such as the City's Residential Development Control System (RDACS), which is slated to take 3+ years to complete.

The Planning Division programs are administered by professional planning staff and although each teammate has regularly designated responsibilities, at any time

someone may be asked to take on a task outside of their regular work assignments (e.g., perform long-range or current planning task).

The Current Planning function is funded by the Community Development Fund, (e.g., Special Revenue Fund, 206) from development processing fees that pay for service. The City is currently updating its fee schedule to support its full cost recovery strategy. The Long Range Program activities are funded by a combination of General Fund, Park Funds, Community Development, Drainage Impact, Sewer, Water Funds, and the Long Range Planning fee.

The Planning Division is housed in City Hall, which is located at 17575 Peak Avenue. Figure 2 in the beginning of this report below shows the Planning Division Organization within the Community Development Department.

Authority

The Current and Long-Range Planning Programs of the Planning Division derive their authority from various local regulations contained in the City of Morgan Hill Municipal Code (e.g., Code of Ordinances), such as Title 17 (Zoning Code), Title 18 (Subdivisions), Title 2 Administration and Personnel) and other land use related codes. Authority is also taken from federal law, as well as a multitude of land use laws contained in the California Statutes, such as the California Environmental Quality Act (CEQA) (California Public Resources Code, Section 21000, et seq.), the State CEQA Guidelines (Section 15132), General Plan Laws (government code section 65300-65303.4), the Permit Streamlining Act (§65920 et. Seq.), the Subdivision Map Act (§66410 et. Seq.), etc.

Staffing

Staffing for the Division has fluctuated over the last five years in response to significant changes in market conditions. Currently, the Division is comprised of 9 regular fulltime staff including the Assistant City Manager for Community Development, the Community Development Director, 3 Senior Planners, 1 Associate Planner, 1 Assistant Planner, 1 Development Services Technician and 1 Municipal Services Assistant. In addition, the City just hired another Associate Planner, who will start sometime in February.

In addition to regular full-time staff, the Department currently uses 4 part-time planners, totaling 1.35 FTE.

Figure 7 below shows the existing Organizational Structure of the Division. As the figure depicts, the regular fulltime Senior Planners report directly to the Community

Development Director, as do three of the four Senior-level part-time planners. One of the part-time Senior-level planners reports to a fulltime Senior Planner. The Development Services Technician also reports to a Senior Planner and the Municipal Services Assistant (MSA) to a Senior Planner. The Development Service Technician trains and mentors the MSA.

Figure 7
Planning Division Organizational Structure

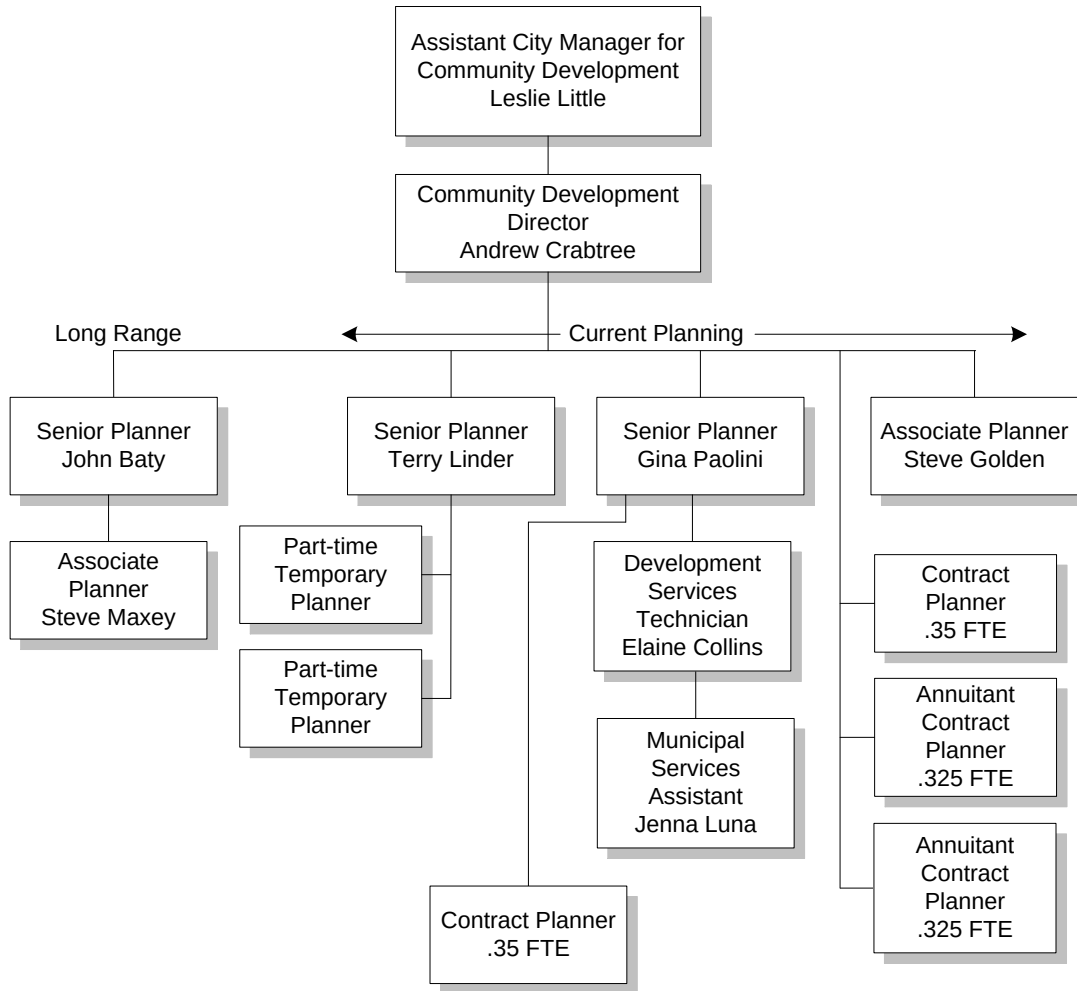


Table 11 below shows the 9 regular fulltime staff positions and 1.35 fulltime equivalent contract planning positions (e.g., 4 planners working the fractional time shown) approved along with the adopted job descriptions.

Table 11
Approved Planning Division Staffing

Position Title	No. of Staff/ FTE's	Responsibilities	Reports To
REGULAR STAFF			
Community Development Director (CDD)	1 FTE	Administers all phases of the community development program, including development of land use planning policies and regulations, issuance of development permits, building inspection and code enforcement.	Assistant City Manager for Community Development
Senior Planner	3 FTE	A management position that conducts day to day planning activities including conduct of land use entitlements, delivery of customer service, coordination with outside agencies and compliance with State and local regulations and that includes supervision of, mentoring or technical assistance to other planners and support staff.	CDD
Associate Planner	2 FTE (1 to be filled)	A journey-level professional planning position that performs a variety of planning studies and may include direction of a less experienced planner or an intern on a specific project.	CDD
Development Services Technician	1 FTE	Provides paraprofessional support services in the Department, such as accepting and reviewing zoning and building permit applications, calculating and collecting fees, maintaining databases and GIS, preparing reports of development activities, and providing procedural and policy information to the public.	Senior Planner
Municipal Services Assistant	1 FTE	Advanced journey level office support position that provides varied and responsible advanced office and technical support.	Development Services Tech
TOTAL REGULAR STAFF	8.0 FTE		
CONTRACT STAFF			
Part-time Annuitant Planners	.7 FTE – (.35x2)	2 part-time/temporary senior and principal level planner positions that conducts day to day planning activities including conduct of land use entitlements, delivery of customer service, coordination with outside agencies and compliance with State and local regulations.	CDD
Part-time PMC and M-Group Planners	.65 FTE – (.325 x2)	2 part-time/temporary senior level planner position that conducts day to day planning activities including conduct of land use entitlements, delivery of customer service, coordination with outside agencies and compliance with State and local regulations	CDD or Senior Planner
TOTAL CONTRACT PLANNERS	1.35 FTE		

Current Planning Program Activity

The Current Planning Application activity levels for the last five Fiscal Years (FY) are shown in Table 12.

Table 12
Current Planning Application Activities

Current Planning	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	5-yr Average
Planning Applications ²	116	125	124	180	152	139
Development Agreements	24	27	16	16	26	22
TOTAL	140	152	140	196	178	161
% Change	-	8.5%	-8%	40%	-9%	-

¹ Includes Administrative Subdivisions, Annexations, Appeals, Commercial Admin. Use Permits, Conceptual Plan Reviews, Cultural Resource Designations, Exception to Loss of Building Allocations, Env., Assessments, Extensions of Time, Measure C (RDCS), Micro Measure C, Minor Exceptions, Prelim. Measure C, Prelim Plan Review, Sign Permits, Site Review, Subdivisions, Temp. Use Permits, Tree Removal Permits, Uniform Sign Program, Urban Service Area, Use Permits, Variances, Williamson Act Cancellations, Zoning Amendments, Zoning Confirmations.

The five-year average for the Planning Applications (PA) processed was 139 and 22 for Development Agreement (DA) activity. Both PA and DA activity increased from FY 10/11 to FY 11/12, for an overall activity increase of 8.5%. From FY 11/12 to FY 12/13, PA activity dropped slightly, while DA activity significantly decreased by 40%.

From FY 12/13 to FY13/14 overall PA and DA activity rose sharply, by 40%. The following year, PA activity decreased by 16%, while DA activity rose sharply by almost 63%, which likely corresponds to changed market conditions resulting from national recession recovery.

Staff stated the applications most processed included, Architectural and Site Plan Review, Planned Development and Subdivision applications. In addition, Development Agreement activity is also significant.

According to staff there are currently 24 active current planning applications (PA's) and another 22 inactive cases are on file. PA's are processed by all planner positions; however, certain planners have a reduced current planning caseload so that they can focus on special projects. For example, the Planners managing the TRAKiT system, Morgan Hill 2035 and the RDCS only have limited capacity available to manage current planning projects (see "staffing" heading below for more detail). As such PA caseloads vary for the available planners.

Residential Development Control System

We did not show discrete data showing the Residential Development Control System (RDCS) annual housing unit allocations. However, a Growth Management White Paper generated for the City in 2013, detailing the City's RDCS Growth Control System stated that, "on average, the City has allocated 225 housing units through the

RDCS process between Fiscal Year (FY) 2002/2003 – FY 2012/2013.” Interestingly, in a separate Housing and Population White Paper, it was estimated that Morgan Hill only added approximately 170 units per year between 2000 and 2013, which is less than the 244 average housing allocations granted by the City.

The disparity is explained in The Growth Management White Paper, which points out that unit’s allocation from Fiscal Year (FY) 2002/2003 to FY 2012/2013 did not always result in building permit issuance, as some applicants were unable to secure project funding due to the national recession. For example, from 2006 through 20011, the number of allocations granted exceeded building permits. On the other hand, there were years during this ten-year period (e.g., 2002-2005), where the number of building permits issued outpaced housing unit allocations because some older allocations were finally being exercised and absorbed. The Paper also highlights the fact that building permit issuance for RDCS allocations increased dramatically from 2011 to 2012 (e.g., from 98 to 431 permits), as developers again began to exercise older allocations due to favorable market conditions.

Table 13 below, shows the allotments granted for FY 2013/14 through 2017/18.

Table 13
RDCS Allotment Activities

Planning Division Function	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18	5-yr Average
RDCS Allotments	197	270	270	242	242	244
% Change	-	37%	0	-10%	0	-

As the above table shows, the number of allotments granted each year can vary because they are determined, biennially, using the California Department of Finance's (CDF) most recently determined persons per household figures and population for the city of Morgan Hill. CDF’s population estimate is adjusted for any relevant housing backlog not included in its population estimate, the population of any existing county subdivision enumerated in subsection 18.78.030(A) that has been annexed, and any other quantifiable factor that improves the accuracy of the estimate.

The adjusted population is then subtracted from forty-eight thousand, the result divided by CDF’s most recently determined figure for persons per household in Morgan Hill, and then divided by the number of years remaining between that population estimate date and 2020. This gross annual allotment number is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.

The biennial allotment calculation applies to each fiscal year after the fiscal year in which it is computed. For example, the Spring 2004 computation was used to set the

number of allotments for the competition to be held for fiscal years 2006-07 and 2007-08, as well as to make any positive supplemental adjustments for the previously awarded fiscal years 2004-05 and 2005-06, for projects that competed for 2004-05 and 2005-06 allotments.

Allotment grantees can apply for an Extension of Time. The Council makes the final decision on Extension requests after they have been reviewed by the Planning Commission. Staff said that Extensions are typically granted, as long as the applicant can demonstrate that they have made adequate progress constructing their project. Staff said that the policies governing Extension requests are currently being discussed as part of the RDCS update process, which is good.

Preliminary Plan Reviews

Preliminary Plan Reviews are an optional process for applicants desiring to obtain preliminary feedback from staff, Planning Commission and/or Council review regarding their project (see “Process Issues” heading for additional discussion). Staff indicated that it is a process that is not heavily used by applicants, and a fee has been adopted for this service and is included in the Planning Division Fee Schedule as part of the City’s goal to cover 100% of service costs in the Division.

Table 14 below shows the Preliminary Plan Reviews that were conducted by staff for Measure C (RCDS) and Non-Measure C activities from 2010 through 2015.

Table 14
Preliminary Review Activities

Current Planning	2010	2011	2012	2013	2014	2015	6-yr Average
Preliminary Reviews - Measure C (PMC)	0	2	3	6	0	3	2
Preliminary Reviews- Non-measure C	0	0	0	2	2	2	2
Total	0	2	3	8	2	5	-

The six-year average for both types of preliminary meetings was 2. There was a significant increase in activity from 2012 to 2013, which likely corresponds to the improvement in market conditions in the area.

Building Permit and Business License Review

The Current Planning Building Permit and Business License Review activity levels for the last five Fiscal Years are also shown in the Tables 15 and 16, below.

Table 15
Building Permit and Business License Review Activities

Current Planning	2010	2011	2012	2013	2014	2015	5-yr Average
Business License Reviews ¹	315	267	228	243	270	273	266
% Change	-	-15%	-14.5%	6.5%	11%	1%	-

¹ Includes license reviews for home-based, fixed and professional classifications, as well applications for construction companies, apartment complexes, hotels and change of business address requests within Morgan Hill's city limits.

As the above Table shows, Business License Review activity decreased from 2010 to 2011 by 15% and by 14.5% the following year. From 2013 to 2015, activity increased, which likely corresponds to improving market conditions.

Table 16
5-Year Building Permit Review Activity

Current Planning	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY1 4/15	5-yr Average
Building Permit Reviews	234	344	616	677	684	511
% Change	-	47%	79%	10%	1%	-

As the above Table shows, Building Permit Review activity averaged 511 annually over the five-year period shown. Significant increases in activity occurred from FY 2010/11 to FY 2011/12 (e.g., 47%) and from FY 2012/13 to FY 13/14 (79%), which staff indicated was a result of unused residential allocations from previous years being exercised. From FY 12/13 to FY13/14 activity increased moderately, by 10% and then by only 1% the following fiscal year.

Long Range Planning Program Activity

The Long Range Planning activity levels from Fiscal Year 2010 to 2015 are shown in Table 17 below.

Table 17
Long Range Planning Activity

Activities	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
General Plan Elements	Circulation & Housing	-	-	-	Housing
General Plan Amendments	4	5	2	2	11
Zoning Code Text Amendments	2	2	1	2	3
Zone Map Changes	3	13	8	8	20
Dev. Agreement Amend.	-	5	2	8	-
Santa Clara Valley Habitat Plan	-	-	1	-	-
Morgan Hill 2035 Project (includes Gen. Plan Update, Zoning Code Update, Res. Dev. Control System Update, Dev. and Infrastructure Master Plans for Water, Sewer, Storm Drain and Telecommunications)	-	-	Initiated	On going	On going through 2016

As the above Table shows, the Division has completed a significant volume of General Plan Amendments and Zoning Map Changes. In addition, the Circulation and Housing Elements were updated. In FY 2012/13, the Division initiated the Morgan Hill 2035, which is multi-year project that includes multiple land use policy documents, as noted in the table.

In addition, the FY 2015/16 budget indicates that staff is also working on implementing Southeast Quadrant agricultural preservation and land use plans, which is another important priority project for council.

B. POSITIVE FINDINGS

We found many positive features in the Planning Division, some of which are highlighted below:

- Staff strives to provide excellent customer service;
- The Division has established a Planner on Duty system to ensure that planning staff are available to walk-in counter customers continuously.
- The Division is in the final stage of completing the Morgan Hill 2035 project, which encompasses a comprehensive update of the City's General Plan, Zoning Code and Residential Development Control System;
- A Station Area Planning Grant was awarded for planning work in the Downtown;
- Two of the regular full-time Senior Planners have considerable tenure (e.g., one 26 years and the other 10 years) and helped to preserve the Division's institutional knowledge;

- The Planning Permit fee schedule is currently being updated to reflect 100% full cost recovery, which is a best practice;
- Staff is managing the implementation of the new GIS-based, permit tracking and data management system (e.g., TRAKiT) which is intended to streamline and ease the administration of the City's entitlement and permit system, across multiple development-related divisions and departments, which is also a best practice.

C. ORGANIZATION ISSUES

Data Collection/Reporting

In conducting our review of the Planning Division, we were able to obtain the bulk of data we requested related to planning application processing, business license reviews and building permit reviews, however it was not readily available in some cases.

Generally, application processing that shows data corresponding to the length and number of staff reviews, applicant revision periods, and overall approval timeframes is not readily available. Nor is the data showing the number of review cycles and duration of reviews. This type of data is an important tool, which can help management better monitor, track and evaluate application-processing systems and respond to processing complaints. The new TRAKiT system should be programmed to provide all of this data.

See our recommendation under the "Performance Standard" heading of this section regarding establishing performance standards for staff reviews for up to three review cycles.

- 91. *Recommendation:*** The Planning Division should include data on the number and duration of staff reviews in the new TRAKiT system so that Reports can be easily generated and available for use in monitoring, tracking and evaluating staff review efforts.
- 92. *Recommendation:*** The Planning Division should collect data on applicant review/revision time frames to create an accurate record of overall processing time frames in the new TRAKiT system so that Division can respond to processing delay complaints more efficiently.

93. *Recommendation:* Performance Standards should be included in the TRAKiT system so that data can be collected, tracked, monitored and reported monthly.

Division staff generates and posts a RDCS Quarterly Status Report on the Division's web page that provides a summary of the residential projects that received building allocations through the Residential Development Control System, which is required by Measure C.

The Division also generates a Commercial and Industrial Project Status Reports and corresponding map showing project locations, and a Residential Project Status Report. Generating and posting status reports that contain summary information about current project in the City is a best practice, however, we noted that the Residential Report was dated February 2015 and the Commercial and Industrial Report was dated 2012. Status reports need to be up-to-date to provide value.

94. *Recommendation:* The Planning Division should update the Residential and Commercial/Industrial Status Reports posted on-line and keep them up to date.

95. *Recommendation:* Once the TRAKiT system is programmed to collect performance data, the Community Development Director should generate monthly reports on the performance data.

We were not told of any other report that is generated by the Division to help them monitor workflow and performance. Our interviews with staff indicated that the Division has not yet established performance measures for Planning Application processing (See our discussion under the "Performance Measures" heading).

Equipment/Supplies

Planning Division staff reported that they generally have adequate equipment to conduct assigned work. However, there is a need to continue to replace outdated computers. For example, staff reported that computers do not have adequate capacity to install collaborated tools, such as Drop Box, WebEx, GoTo Meeting, or Screen Sharing, which are excellent tools for collaborating with remote contract planning staff and consultants as well as developers who reside out of the area.

96. *Recommendation:* The Community Development Director should determine computer update/replacement needs and budget for or utilize computer hardware budget monies to replace outdated computers with sufficient storage capacity to accommodate needed software.

Once the City transitions to an electronic submittal process through the TRAKiT data management system, the Division will need larger computer monitors to facilitate electronic plan review. Management Staff affirmed that the City included money in their TRAKiT budget for larger monitors and also for tablets for the field users, which is excellent. Staff said that each user will be able to decide whether they want one large monitor or two monitors. Monitor size and needs will be determined on a case-by-case basis, as some staff are already equipped with adequate monitors.

We also confirmed through the TRAKiT vendor and staff that the City purchased Blue Beam software (electronic plan review software) as part of the TRAKiT implementation project, which they intend to phase in slowly around June of this year.

Fees

We reviewed the most recent planning fee schedule (FY 15/16), which staff indicated is undergoing an update to provide for full cost recovery. The fees are fairly easy to understand and staff reported that fees include surcharges for technology to maintain the permit tracking system, an archive fee to defray file archiving costs and general plan maintenance fee to support general plan maintenance in addition to indirect and direct costs. The City also charges a Habitat Conservation Plan fee (HCP) to facilitate habitat conservation projects.

We did receive considerable feedback through interviews that the fees are perceived to be too high and raised significantly, annually. In addition, the fees for the RDCS and expedited review processes are considered too high. With regard to expedited review, interviewees stated that fees charged include baseline application fees, plus the actual cost for contract planners, plus 15% overhead for City staff to manage consultants and that the fees are disproportionate to the value since the City can't demonstrate that expedited review service is quicker than the standard review service.

We were unable to locate an expedited fee on the adopted Planning Fee Schedule, however Staff corroborated the above reported costs for the service. Under the "Policy Issues" heading of this report, we discuss the expedited review process issues. In that discussion, we noted that expedited review services are provided by contract planners that are responsible for processing a project up to final decision by the Director, Planning Commission and/or Council. After a final decision is rendered, the project is handed off to a regular full-time planner for standard processing through the building and engineering permitting stages, when applicable. The Building Division indicated that expedited review is available at the Building Permit stage, upon applicant request and that the fee includes required works required by planning staff.

97. *Recommendation:* Expedited Review fees should be shown on the updated Planning Fee Schedule in the interest of transparency.

See our discussion under the “Expedited Review” heading in the Policy Issues section about recommendations to improve the process.

Given the City’s budget constraints, we agree with the City’s current practice of proactively updating fees to capture all costs for application services.

In addition, it is not clear whether the “Preliminary Plan Review” fee (e.g., Non-RDCS) captures labor costs associated with Council review, which we understand is an option in addition to the applicant receiving Planning Commission review.

- 98. Recommendation:** The fee schedule for Preliminary Plan Review Fee should capture council review fees and show separate fees for Planning Commission Preliminary Review and Council Preliminary Review.

Email System

Most of the Staff interviewed reported that the email system is ineffective due to insufficient storage capacity (e.g., 100mb). As a result, staff continual has to manage emails to create additional storage capacity for daily incoming emails. In addition, while emails can be received on smart phones, they can’t be managed by a smart phone, which creates capacity issues if staff is out of the office for extended periods. The capacity issue also makes it difficult to retain important emails related to processing and chronically prevents staff from successfully transmitting emails to the Director as the emails are returned due to the Director’s email being full.

- 99. Recommendation:** The Community Development Director should work with IT to identify email storage capacity issues and increase capacity if needed to resolve the issues identified.

Filing Systems/Records Management

We received a lot of adverse feedback from staff interviewees concerning the existing filing system in the Division. Generally, interviewees reported that the system is a mix of paper files stored on-site, electronic files in various locations and archived paper files stored off-site, which can frustrate research efforts and hinder processing. The following summarizes the responses we received:

- Files are in paper format predominantly and need to be scanned and archived;
- Paper files are stored onsite throughout the office and offsite in a separate building. Records archived offsite are retrieved via a records request that takes 2-4 days to retrieve;

- Multiple electronic file systems are in use including Legistar, Laser Fiche and several different drives. As a result, portions of the same planning file may be stored in multiple locations that may not be linked, so staff may have to go to several places to gather file information or conduct research;
- Planner case file management protocols appear to be inconsistent, which often hampers efficient case file management transitions from Contract Planners to regular fulltime staff planners;
- Staff is not sure whether any general file archiving protocols exist that tell staff when paper files should be scanned and removed to archive; and
- An out card system is not in use to help track and manage onsite paper files.

Staff interviewees stated that the Division does have scanning equipment so that paper files can be scanned; however, paper case files are not currently scanned for the purpose of electronic archiving. Scanning efforts are limited to scanning of individual file documents, such as Approval Certificates and Resolutions. In addition, some older over-the-counter case files, such as Sign and Tree Removal Permits have been scanned, on an inconsistent basis, to Laserfiche.

Paper files are stored on-site in filing cabinets until there is a decision to box and relocate them to an offsite facility. Staff noted that the Division stores as many files onsite as possible to avoid sending files to archive because archive retrieval takes 2-4 days and hinders research.

100. *Recommendation:* The Community Development Director should program and budget to scan all paper case files and plans at an appropriate quality so that they are readable and can be accessed by TRAKiT.

101. *Recommendation:* The Community Development Director should ensure that the TRAKiT system is configured to link with and accept file data from all of the electronic filing systems that are or were in use in the Division.

102. *Recommendation:* Once the TRAKiT system is implemented, all new files should be created, maintained and stored in the system; file data from other sources should be linked or imported into TRAKiT and archived paper files should be scanned and uploaded into TRAKiT.

103. *Recommendation:* The CDD should establish an out-card system to better manage and track paper files kept onsite.

Handouts, Planning Application Form

The Division posts available handouts on their web page, as well as project status report and the Planning Application Form. Interviewees reported that several of the planning division handouts posted online are out of date. We reviewed the handouts and found that the majority had been updated in 2015, which is good.

We did find a couple that appeared to need updating however, including the “Zoning Text Amendment” and “Urban Service Area” handouts, which were last updated in 2005 and 2007, respectively. In addition, we found that while the handouts did a good job of outlining the submittal requirements, none of them adequately explained the review process. The lack of a detail on the Preliminary Plan Review and Conceptual Plan Review process was particularly problematic because it did not explain the difference between the two, which is confusing for the unfamiliar user (see our discussion under the “Conceptual Plan Review, Non-Measure C Preliminary Plan Review” heading in this Section of the report).

A summary explanation of the review process would be particularly helpful in explaining the Design Review Committee (DRC) process, which replaced the Architectural and Site Plan Review (ASPR) Committee process.

104. *Recommendation:* The Community Development Director should update out-of-date handouts and include a thorough summary explanation of its purpose and the review and approval process.

In addition to some handouts being out of date, we found the Architectural and Site Plan Review handout confusing. The Zoning Code provisions that establish this application process is titled, “Design Review,” (Chapter 18.74), so it is not immediately evident to an unfamiliar user that these provisions govern the Architectural and Site Plan Review process, until the user reaches 18.74.010 (G), where the “Architectural and Site Review” term is used. Later in this report we recommend resolving unclear and inconsistent provisions like this one. (see our discussion under the “Zoning Code.”

To add to the confusion, the handout for the Architectural and Site Review process contains a hyperlink to “Architectural Review Handbook,” which is a document that sets minimum standards for architecture, site planning and landscaping. However, the hyperlink takes the user to the Division’s Zoning Web Page, rather than the actual document and the document is actually titled “the Design Review Handbook.” When the user clicks on the link, they are sent to a document titled as “Architectural Review

Handbook.” The link and title of the handbook should be reconciled to eliminate confusion and the link should take the user directly to the document.

105. *Recommendation:* The Community Development Director should update the Architectural and Site Plan Review handout to retitle it as “Architectural and Site Plan Review/Design Review and Permit,” so that it corresponds to the process name outlined in Chapter 18.74 of the Zoning Code, and change the name of the hyperlink from “Architectural Review Handbook” to Design Review Handbook.”

106. *Recommendation:* The Community Development Director should work with IT to create a direct hyperlink to the “Design Review Handbook.”

We also noted that the title of the “Tree Removal Permit,” handout does not correspond to the term used in the Zoning Code Chapter 12.32.040), which governs the process. The Code refers to the permit as a “tree cutting permit,” which makes it difficult for an unfamiliar user to locate the provisions in the Zoning Code.

In addition to including a summary of the review and approval process on their handouts, best practice communities may also include a flow chart showing the major milestones in the process in the interest of transparency and education.

107. *Recommendation:* The Community Development Director should include flowcharts in the “filing requirements” handouts that depict the various planning review and approval processes (e.g., administrative/Director, Planning Commission and Council approval processes), on handouts.

The Division utilizes a uniform Planning Application form, which is a common type of application form utilized by best practice communities. However, this form and others, such as the Environmental Assessment Form are not yet fillable, which will facilitate electronic submittal, once the City launches its new TRAKiT data and permit management system.

108. *Recommendation:* The Community Development Director should work with the IT Department to create fillable forms to facilitate electronic submittal.

109. *Recommendation:* Submittal requirements outlined in all filing requirement handouts need to be revised to reflect electronic submittal requirements, rather than paper submittal requirements, once TRAKiT is fully

operational and the Division has transitioned to a paperless system.

Job Descriptions

In reviewing the job descriptions for the Division, we found that many of them contained inaccurate supervisor title references.

110. *Recommendation:* The Community Development Director should work with the Human Resources Department to update job descriptions for the Division.

Meetings/Communication/Team Work/Morale

There are a number of reoccurring, regularly scheduled meetings in the Planning Division, which are intended to advance communication and coordination between the Division and related development-related functions in the Department, including the following:

- A regularly scheduled weekly meeting held on Tuesdays between the Assistant City Manager for Community Development, the Community Development Director and Planning Division Staff to discuss tentative agenda items, current planning issues and exchange information. Building Division staff attends when they have an item they want to discuss with planners;
- A regularly scheduled weekly one-on-one meeting held between the Community Development Director and his direct (planner) reports;
- A regularly scheduled weekly Leadership Team/Huddle Tuesday morning meeting held between the City Manager and Department heads, which are attended by the Assistant City Manager for Community Development and Community Development Director). The meetings are held to review the CC agenda, Council or City priorities and discuss management/leadership issues or other topics of interest;
- A regularly scheduled Monday afternoon meeting between the Assistant City Manager for Community Development and the Community Development Director to discuss department issues and items of information; and
- An as needed manager-level meeting between the Community Development Department and Department of Public Works manager (Staff indicated that this meeting has not been held in some time).

Due to time constraints, we were not able to observe any of these meetings to assess how well they function. However, we obtained a copy of an agenda for the regularly scheduled Tuesday Division staff meeting and a recent Leadership Team

Meeting/Huddle. The Tuesday Division Staff meeting agenda was a working document showing tentative project scheduling for hearings and administrative decision-making and did not contain itemized topics for discussion. In contrast, the Leadership Team Meeting agenda was structured and provided an itemized list of topics and corresponding speakers with allocated time frames for completing discussions. It also identified upcoming events and future agenda topics.

We received considerable feedback that more coordination is needed in current planning among case managers. The Tuesday weekly meeting should be expanded to include a time slot for project-level coordination meeting to discuss projects collaboratively, troubleshoot issues and providing training to ensure FT and contract planners process applications and maintain files consistently and have a common understanding of customer service expectations in the Department. In addition, the meeting should inform staff about items of Citywide and Department-wide significance and include exercises to improve morale and promote teambuilding. For example, the majority of the staff interviewed expressed that there was a morale problem and that they were unclear about the current philosophy and mission.

111. *Recommendation:* The CDD should expand the Tuesday weekly meeting to include agenda items described above to improve project communication, coordination and consistency and the morale.

We also received extensive comments regarding communication silos between Public Works and Planning, which points to the need for regular meetings between the two functions, rather than as needed meetings.

112. *Recommendation:* The Assistant City Manager for CDD should work the Director of Public Works to establish a regularly occurring meeting between development review management staff in Public Works Engineering and CDD staff to discuss, identify and resolve development review process issues.

Also see our recommendations under the Policies & Procedures heading in this section regarding the need to update the Policies & Procedures Manual.

Office Space

We received considerable feedback that the office space needs improvement. Comments received include:

- Cubicles lack privacy; so difficult applicant conversations are made more difficult;
- Cubicles need to be reconfigured to improve privacy and maximize workspace;
- Some cubicles that are visible to the public are disheveled, which reflects negatively on staff as a whole;
- The counter computers are often not working (e.g., software and hardware issues);
- Tables are used for storage instead of workspace;
- Filing cabinets for paper file storage consume too much workspace;
- The overall office space is cramped;
- The office space was intended to collocate development-related functions; however, other unrelated functions were moved in during City Hall renovations. Renovations are complete and unrelated functions, including utility billing, passport services and finance need to move back to City Hall.

We toured the office and observed operations during our visit and agree with the above feedback. We understand that the City is working on a redesign of the office, which will resolve cubicle configuration issues and improve the counter layout.

Also see our recommendation under the “filing” heading below, regarding immediately scanning and archiving paper files and removing file cabinets that are no longer needed in the Division.

113. Recommendation: The City Manager should require staff occupying cubicles that are visible from the public realm to clean and organize their workspace. Should clearly articulate the Division’s mission and city philosophy’s to staff and include allocate time during the regularly scheduled Tuesday meeting for team building to rebuild rapport and improve morale.

114. Recommendation: The Assistant City Manager for Community Development should ensure that the counter computer(s) are continually maintained in working order.

Organizational Structure

Figure 2, shown earlier in this study, shows the organizational structure for the Community Development Department and Figure 7 above shows the existing Planning Division structure in relation to the overall Department.

We received feedback from the Focus group participants and staff interviewees that the structure is confusing because there is an Assistant City Manager for Community Development (ACM) and a Community Development Director (CDD). The ACM is

over 4 separate Divisions, including Housing, Economic Development, Support Services and another function that includes the Planning and Building Divisions. The existing organization chart shows that the Planning and Building functions are headed by a Community Development Director - suggesting that there is a smaller Community Development Department, consisting of a Planning and Building Division, within a larger Community Development Department.

Staff said that the ACM is responsible for oversight of the four separate Divisions in the Department and the Community Development Director is responsible for and acts as the Planning Manager for day-to-day management of the Planning Division and the Building Official acts as the Division Manager for day-to-day management of the Building Division.

However, at times, the Community Development Director will provide oversight to one or all of the other Divisions within the Department when the ACM is unavailable or delegates' oversight responsibility in connection with a special project.

Adding to the confusion is that fact that the organizational management structure for the Planning and Building Divisions actually “works” differently in practice than shown in Figure 2. The Community Development Director no longer directs the activities of the Building Division; just the Planning Division as shown in Figure 7.

The existence of an ACM position over Community Development and a Community Development Director position that is only charged with managing the Planning-related functions is confusing. Moreover, maintaining a Community Development Director position that is currently only responsible for Planning-related functions and has occasional, temporary oversight of other functions or projects within other functions is unusual. If the Community Development Director's span of control has been reduced to Planning Division oversight, the title should be changed accordingly to reflect the actual responsibilities (also see our recommendations under the “Building” section above about the Building Division structure).

115. *Recommendation:* The CDD title should be changed to Planning Director or Current and Long-Range Planning Director.

Project Managers

Staff indicated that they act as the lead on current planning applications and feel that they have generally been given full authority to act as “true Planning Project Managers.” We have referred to “Planning Project Managers” in some of our other studies as a “Cradle-to-Grave,” system. With this System, the assigned current planner manages and works directly on the project from pre-application through building inspection.

We advocate this system because it promotes processing consistency and efficiency and facilitates coordination and communication throughout the permitting Process. Planners have also told us that they find this system more fulfilling because it elevates planning staff from processors and regulators to managers and problem-solvers.

In our interviews with staff and focus groups, we were told that the Planners are not empowered to make certain decisions and drive the review process with related functions, such as building, public works, fire, police and parks to ensure that reviews are timely and relevant. For example, it was widely reported that engineering reviews are often untimely and planners have little ability to ensure reviews are on time.

In addition, focus group participants indicated that planners do not invite applicants to Design Review Committee (DRC) meetings to participate in issue discussions and that preliminary and conceptual meetings are ineffective because feedback is inconsistent.

See our discussions under the “Design Review Committee” and the “Conceptual/Non-RDCS Preliminary Plan Review” headings below.

In addition, it was reported that staff recommendations can be changed by management during the staff report editing process, without any discussion or advance communication with the project planner or applicant, which creates significant frustration and has negatively impacted staff morale and developer perceptions (see our discussion under “Process Issues” regarding the CDD informing staff about report changes).

Further, although planners remain involved in a project through the implementation stage (e.g., building and engineering permits and mitigation monitoring), developers reported that they are left on their own at times to work out engineering-related improvement issues with the Public Works department.

Planning Project Management Systems are those where Planners perform all of the following functions.

- Arrange for and lead pre-application meeting discussions that provide formal written feedback to applicants from all development-related functions;
- Conduct qualitative reviews of new planning applications to determine whether they are complete prior to processing;
- Drive, coordinate and track plan routing and review to other reviewing agencies and groups to ensure timely and relevant reviews are conducted;
- Coordinate input from outside regional, state or federal agencies to ensure timely and relevant reviews and help resolve issues that are identified;

- Challenge other department conditions when they appear inappropriate;
- Act as a single point of contact for the applicant to resolve issues that arise during the multi-departmental review process;
- Analyze the project to ensure consistency with regulations, policies and long-range plans;
- Coordinate with key decision-makers;
- Write and sign staff reports that provide decision-makers with a professional recommendation with enforceable conditions of approval that mitigate issues;
- Present concise, formal PowerPoint presentations of the project at public meetings.
- Sign off on building plans prior to building permit issuance;
- Conduct site inspection to verify required improvements have been constructed prior to issuance of Certificates of Occupancy; and
- Conduct field reviews of the project six months to a year after Certificate of Occupancy is granted to determine if approvals were satisfactory or if unintended impacts have occurred, which requires code or process adjustments.

Currently, planning staff performs most of these functions, but as noted above some are not being performed.

116. *Recommendation:* The Community Development Director should empower the current planners to perform all of the functions described above through formal policy and intra and inter-departmental agreement (e.g., agree planners are the lead, and act as projects managers, etc., with other divisions and departments involved in the permitting process and that staff will be held accountable to perform as agreed).

Staffing

Overview

Table 18 below shows the full-time equivalent (FTE) staffing resource for the last 6 fiscal years.

Table 18
Planning Division FTE Staffing Resource Levels for Last Six Fiscal Years¹

Full Time, Regular Staff FTE	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16
Asst. CM for Community Development	0	1	1	1	1	1
Community Dev. Director	1	0	1	1	1	1
Planning Manager	1	0	0	0	0	0
Senior Planners	2	2	2	2	3	3
Associate Planner	1	1	1	1	1	2
Assistant Planner	0	0	0	1	1	0
Development Services Tech	1	0	2	1	1	1
Municipal Services Admin	2	1	1	1	1	1
Total FTE's	8	5	8	8	9	9
% Change	-	-37.5%	60%	0	12.5%	0
Part-Time, Contract Staff²						
Contract Planner FTE	0	.5	.5	.5	.5	1.35
Total Staff Resources	8	5.5	8.5	8.5	9.5	10.35

¹ This table shows total staff independent of the funding source.

² Contract Planners are not listed as FTE resources in the actual budget documents. They are shown as an expenditure line item under contract service costs.

As the above table indicates, staffing levels have fluctuated over the period shown. From FY 10/11 to FY 11/12, staffing resources were reduced by over 37% due to budgetary constraints, and the Planning Manager, Development Services Tech and a Municipal Services Admin. Positions were eliminated.

In FY 12/13 staffing resources increase by 60%, with the addition of a Community Development Director, two Development Services Technicians, and a Municipal Service Admin. Position. There was no change in staffing resources in FY 13/14, however, in FY 14/15, staffing resource numbers increased by just over 12%, with the addition of a Senior Planner. In FY 15/16, the Division increased its contract planner staffing resources and added an Associate Planner position.

Within the 5-year period shown, the Division began utilizing Contract Planners in FY 2011/12 to supplement full-time staffing resources in an effort to respond to an increase in development activity. Contract Planning staff resources remained level from FY 2011/12 to FY14/15, and then increased from FY 14/15 to FY 15/16 to respond to the increase in development activity and help bridge the staff resource gaps created by fulltime staff that were partially reallocated to manage the Morgan Hill 2035 and TRAKiT implementation projects.

Activity data provided by Division, shown earlier, indicates that Planning Application activity decreased by 16% from FY 13/14 to FY 14/15, while Development

Agreement processing increased by 63%. There was also a slight increase in Business License reviews and Building Permit Reviews. In addition, 270 housing unit allocations were granted through the RDCS system for Fiscal Years 2014/15 and 2015/16.

Administrative Support

Administrative support is largely provided by the Municipal Services Assistant (MSA) In addition, some administrative support is provided by the Development Services Technician (DST) through counter activities and processing of deposits for contract planners and by the Support Services Supervisor, who provides by helping to answer the phones and routing the calls to the appropriate departments within the building, as needed.

The MSA is responsible for providing office and technical support including, Planning Commission packet distribution, public notices, preparing and distributing Division meeting and PC meeting and agendas, filing and updating Tide Mark and project status reports.

We did not receive any feedback that additional administrative support is needed in the Division and no backlogs were reported. After reviewing activity levels and available administrative support resources it appears that administrative support staffing resources are adequate in the Planning Division at this time.

Advanced (Long-Range) Planning

Although the Planning Division consists of both Current Planning and Long-Range Planning Programs, the majority of the work effort dedicated to Long-Range Planning is accomplished through 1 FTE Senior Planner and supplemented by Professional Services provided by various specialized community planning and environmental consulting firms. Additional labor is also provided by the Community Development Director, who spends about 10% of his time leading the implementation of the Agricultural Land Use Preservation Program and Southeast Quadrant Area Plan, which is another key focus area of the Long-Range Program.

In addition, beginning in February, the newly hired Associate Planner will be programmed to provide 50% of their time on Long-Range Planning efforts, predominantly supporting the General Plan Update, map production, ordinance work and transportation planning.

A major priority project for the Long-Range Planning program is the Morgan Hill 2035 project, which is in the final stage of completion and includes comprehensive update of the City's General Plan, Zoning Code and Residential Development Control

System. The City hired PlaceWorks, Inc., consulting, to complete this work under the management of the Senior Planner. According to the adopted budget, the General Plan Update work effort will be funded by Long Range Planning Fee Fund 207 (e.g., Fund comprised of long-range planning maintenance fee), growth and inter-fund transfers, a one-time infusion of housing in-lieu funds, and approved transfers from Community Development Fund 206 (e.g., Special Revenue Fund).

In addition to managing key long-range projects, the Senior Planner for Long-Range will also supervise the new Associate Planner position and is also responsible for managing General Plan Amendment applications, the Habitat Conservation Plan Report and coordinating regional planning activities with Santa Clara Valley Transportation Authority and the Association of Bay Area Governments. When time is available, the Senior Planner may also manage 2-3 current planning projects.

We did not receive any feedback that the Long-Range Planning Program was understaffed and we were told that the Morgan Hill 2035 project is on schedule and there were no long-range planning work backlogs.

Current Planning

We received some feedback from focus group members and staff that the Current Planning Program may be understaffed, given the recent increase in development activity and staff's undertaking of Morgan Hill 2035 and the TRAKiT data management and permit processing software implementation project. For example, interviewees reported that there are project management inconsistencies, communication silos and project coordination issues between contract planners and full-time planners in Current Planning. They also reported that processing takes too long.

However, other staff stated that they believe that staffing levels are adequate, due to the utilization of contract staffing. The City also just hired another Associate Planner to supplement both Current and Long-Range Planning staff (e.g., position will be divided equally among the two programs). Management staff further stated that all planning positions process planning applications, although some staff process fewer than others.

Fulltime Regular Senior Planners

There are 3 fulltime regular planners. As noted above, the majority of one of the Senior Planners' available hours is allocated to Long-Range Planning activities, which leave only fractional time available to manage 2-3 Current Planning projects per year.

In addition, the majority of another Senior Planner's available time is largely allocated to managing the City's RDCS system (see our discussion under the "RDCS" heading for a description of activities), which is very labor intensive and requires continuous monitoring and reporting to ensure that all RDCS commitments are fulfilled, which can be tied to a Final Map or to a Building Final, depending upon the type of commitment. This position also supervises the DST and MSA positions and one of the contract planners and manages the front counter and Planner on Duty schedule. As such, only fractional time (e.g. about 15%) remains to process 3-4 other Current Planning projects annually.

The remaining fulltime regular Senior Planner is devoted fulltime to managing Current Planning Activities, including providing oversight to the Design Review Committee function. This planner is currently managing 6 cases, in addition a substantial amount of time is spent managing post-approval cases that are in various stages of permitting and construction.

Fulltime Regular Associate Planner

There is one existing, fulltime regular Associate Planner in the Division. Currently, 75% of this Planner's available time is devoted to implementing the TRAKiT project, which leaves minimal time to manage Current Planning projects. Nonetheless, this planner is currently managing 10 cases, which is an excessive caseload given the TRAKiT implementation challenges that we noted earlier.

See our discussion under the "TRAKiT" heading concerning making more time available to the TRAKiT implementation project.

In addition, the City just hired a new Associate Planner, whose time is slated to be divided evenly between Current Planning, including counter duties and Long-Range Planning activities.

Part-time Contract Planners

The Division supplements fulltime planner staffing resources with part-time staffing resources, which is a good strategy that we often recommend. Currently, four part-time contract planners, totaling 1.35 FTE are utilized to bridge staffing gaps created by increased development activity, the TRAKiT implementation project and the Morgan Hill 2035 project.

Two types of contract planners are used. The first type includes 2 annuitant (e.g., retired) planners (e.g., a Senior Planner and Principal Planner) that the Department contracts with directly. These 2 contract planners provide part-time assistance, averaging about 24 hrs. per week each, which equates to .65 FTE.

One of the annuitant contract planners is used to cover an Assistant/Associate Planner position vacancy, which is currently being filled. About 75% of the contract planner's time is devoted to counter coverage. After the new Associate Planner starts and is trained, 50% of the Associate Planner's time will be allocated to counter coverage. The contract planner will then be reallocated to case processing about 2 days per week so that the existing Associate Planner can continue to support the City's new TRAKiT data management system rollout.

The other annuitant contract planner is used to cover regular staff planner time that is being absorbed by the TRAKiT system project. This contract planner will be phased out once TRAKiT is launched. Both annuitant contract planners report to the Director. The cost for both of the annuitant contract planners was included in the TRAKiT project budget. Currently, each annuitant planner is managing 7 current planning projects.

The second type of Contract Planner includes planners provided by PMC and M-Group. These Contract Planners handle expedited review cases. Applicants desiring expedited review pay the cost of the actual Contract Planner, plus the application fee, plus 15% for City administration in exchange for expedited review.

See our discussion under "expedited review" regarding the expedited review process.

Contract planners provided by PMC and/or M-Group are utilized as needed, so their hours vary. The Director indicates that they currently utilize 2, experienced contract planners (e.g., Senior/Principal level) that equates to .7 FTE (e.g., .35 FTE each). One reports to the Director and one to a Senior Planner. Currently, these contract planners are managing a total of 5 cases (see Table below).

Development Services Technician

As noted earlier, the Development Services Technician (DST) handles over-the-counter planning permits, administrative use and Tree Removal Permits, processes deposits for contract planning services and trains the Municipal Services Assistant. The DST is currently managing 1 planning case.

Staffing Analysis

Table 19 below summarizes the above-described existing staffing resources available to process current planning cases and the number of cases currently being processed by position.

Table 19
FY 15/16 Current Planning Case Processing Resources
Applications Processed Per Planner Resource

Existing Staff Resources		Distribution of Time				
Positions	FTE	Current Planning (Standard case processing)	Counter/Building Permit Review & Business License Review	RDCS Applications	RDCS Upkeep	No. of Cases
Asst. CM for Community Development	1	.35	-	-	-	0
Community Dev. Director	1	.05	.05	-	.05	7
Full Time Senior Planner	1	.40	.60	-	-	6
Full Time Senior Planner-RDCS	1	.10	.05	0.35	0.40	3
Full Time Senior Planner – Long Range	1	.05	.10	-	-	1
Associate Planner - TRAKiT	1	.25	-	-	-	10
Development Services Tech	1	.10	.80	-	-	1
Municipal Services Assist.	1	0	-	-	0	0
Annuitant Contract Planner (counter)	.35	.35	.65	-	-	7
Annuitant Contract Planner	.35	.50	-	-	-	7
Contract Planner – Expedited Review Cases	.325	.325	-	-	-	3
Contract Planner – Expedited Review Cases	.325	.325	-	-	-	2
New Associated Planner	1	.15	.35	-	0	3
Totals	10.35	2.95	2.6	.35	.45	50

Planning Applications: Table 12 indicates there were 152 planning applications in 14/15 with a five-year average of 139 cases. There were 26 development agreements in 14/15 with a five-year average of 22 cases. Using this resulted in a total of 178 cases in FY14/15 with a five-year average of 161 cases. As can be seen in Table 19 above, there are 2.95 staff available to process these current planning cases. Using the higher number, this results in 60 cases per planner or 1.16 per week. A national study was conducted a few years ago that showed that the national caseloads per planner per

year range from 35 to 275. We believe the current Morgan Hill 2.95 planners should be sufficient for the workload.

Counter/Building Permit Review/Business License Review: Table 12 indicates there were 273 business licenses in FY14/15 with a five-year average of 266. There were 684 building permits for FY14/15 with a five-year average of 511. As can be seen in Table 19 above, there are 2.6 staff available for this function. Using the higher number results in 957 cases or 368 cases per planner per year. This results in 7.97 cases per week or 1.4 cases per day per planner which appears to be a workable number.

Table 20 below shows another way to look at the staff planner FTE resources, the number of applications submitted and number of applications per staff planner for the five-year period shown. Because the Table does not include Assistant CM, CDD resources, the number of applications per planner shown is higher than if these resources were included.

Table 20
FY 15/16 Current Planning Case Processing Resources
Applications Processed Per Planner Resource

Fiscal Year	Staff Planner FTE's ²	Staff Dev. Serv. Tech FTE's	Contract Planner FTE's	Total Planner FTE Resources (Staff Planners, Tech, Contract Planners)	Current Planning Applications ¹	Applications per Planner FTE Resources
10/11	4	1	0	5.0	140	28
11/12	3	0	.5	3.5	152	43
12/13	3	2	.5	5.5	140	25
13/14	4	1	.5	5.5	196	36
14/15	5	1	.5	6.5	178	27

¹Includes Development Agreements and all planning application types

²Excludes Assistant City Manager for CDD and CD Director Resources

As the above table shows, the number of applications per Planner was the highest in FY 11/12, since there were less planner resources that year. The number of applications per planner for the other years shown is below the average national average for every fiscal year, except FY 13/14.

Although we received considerable negative feedback about lengthy processing timeframes, it appears that some of the processing challenges are likely related to the

various organizational issues that we noted in this report, such as training, coordination, file management, communication and morale issues. We also noted a number of process issues (see “Process Issues” heading below), such as lags in project assignment, an unstructured DRC process, the lack of performance standards and readily available data. There were no work backlogs reported in the Division.

Although a detailed staffing analysis was not performed for the Current Planning Function because labor data was not available, it appears that staffing is adequate even considering our below recommendation to have Planner’s assume some CEQA processing responsibility. In addition, more processing capacity should become available once the new Associate Planner is fully trained and the TRAKiT system is fully utilized. The Division should continue to utilize outside consulting help to handle spikes in development activity until such time that it can be shown through a detailed staffing analysis that development activity can support the hiring of additional full-time staff.

117. *Recommendation:* The Division Manager should create a staffing model for Current Planning using labor hours derived from the Planning Division fee study that is in progress, as well as available CEQA consulting data, to conduct a staffing analysis to determine appropriate full time staffing levels for the Division.

Other Division Staffing

Our interviews with staff indicated that a GIS position is needed in the City to assist in enhancing, updating and maintaining the GIS system and provide a greater level of GIS integration with the new TRAKiT system. We understand that the Assistant City Manager for Community Development is requesting a new fulltime GIS Manager position that will be dedicated to bridge the GIS service gaps in the Community Development and Community Services Departments and the Police Department, which is excellent. Funding for the Position is anticipated to be spread through the Internal Service Fund.

See Recommendation #19 above, regarding our support for a new GIS position.

Telephone, Emails, Telephone System

An earlier recommendation in this report established that all phone calls and emails are to be returned by the end of the day. Staff indicated that there is a widespread problem in the Division of answering phones and returning calls and emails in a timely manner. Staff indicated that calls are often intentionally unanswered because

the centralized phone receptionist chronically routes calls erroneously, which frustrates and overburdens staff.

Additionally, calls are generally filtered through a central receptionist, which does not routinely perform adequate screening in order to route callers to the correct staff person.

118. Recommendation: The City Manager should ensure that the Central Receptionist function receives adequate training to filter incoming calls so that they are routed to the appropriate staff.

Also see our above recommendation to front provide reception staff with additional training to filter calls more effectively.

A formal return email and phone call policy should be included in the Division's Policy & Procedures Manual that requires all staff to return all phone calls and emails before the end of the day to further the City's overall goal of providing excellent customer service. This was included in an earlier recommendation.

Training/Cross Training

Staff indicated that some training has occurred outside of the office in recent years, however, staffing constraints have left staff with little time to attend outside training. In addition, some staff and focus group interviewees reported that additional supervisory training appears to be necessary for managers and supervisors, as well as development review processing training for some contract planners and newly hired planners.

For example, it was widely reported that some contract planners are not adequately supervised and are not properly trained on the City's development review process, code interpretation practices, policies, philosophies and file maintenance requirements. As a result, development review processing and file maintenance varies significantly among planners. These differences have created frustration for developers and regular full time planning staff. For example, regular full time staff must take over contract planners' projects at the implementation stage (e.g., building and engineering permit processes) because Contract Planners only process current planning projects through the decision-making stage (e.g., Director, Planning Commission and/or Council approval). Processing and file maintenance differences among contract planners and regular full time staff often prevents a seamless transition, which slows processing.

In addition, there is a perception by some that newer planners are not being appropriately integrated into the City's system and instead have been inserting their

former practices and philosophies, which is adversely changing the culture in some instances.

In an earlier part of this report we recommend that all functions set aside 2% of the personnel budget and 5% of employees' time for training.

A review of the Fiscal Year (FY) 2015/16 budget showed total personnel salaries at \$1,044,857 for the Division. The total training allocations, which include training, conferences, meetings, memberships, and subscriptions, totals \$25,567. Zucker's general rule of thumb is to set aside at least 2% of the Division's Personnel Budget for annual training of employees, which equates to \$20,897 (e.g., 2% of \$1,044,857). The training budget that has been allocated is likely sufficient to provide needed supervisory and training for staff.

However, it appears that more time needs to be allocated for internal and external training of professional staff. We typically suggest that about 5% of staff's time be devoted to annual training. The new TRAKiT system will also add to training needs. *See also our recommendations under "Policy & Procedures Manual" regarding creating/completing a Policy Manual to assist with training of new employees and cross training of existing employees.*

D. POLICY ISSUES

Expedited Review

The Division offers an expedited development review process for an additional fee that is open and available to any developer that elects to pay for the service, whether residential or non-residential or economically important or not that is intended to provide a quicker review service to customers, without compromising project quality and city policies and regulations.

We are advocates of these types of services as long as the fees charged for the service are transparent and the City is able to demonstrate added value to justify the added cost.

See our discussion and recommendation under the "Fees" heading of this section regarding using a labor based methodology to update fees and showing expedited fees on the updated fee schedule.

To demonstrate the value of the expedited review service, as well as justify the additional fees to customers, best practice communities establish Performance Standards for expedited review services that are tracked, monitored and compared

against standard review Performance Standards to determine whether Standards are being met and often. The data also allows them to ensure that enough staff are available to accommodate service demands, which is particularly important in communities, such as this, that offer the service to any project (e.g., as opposed to some communities that only offer the service to applicants with key economic development projects).

The City has not established performance standards for expedited review services or standard review services and data was not available to show that expedited reviews consistently occur more rapidly than standard reviews.

Staff indicated that the utilization of contract planners increases the processing capacity of the Division and ensures that expedited projects are processed and managed quicker than they could be by regular full time staff. While we agree that the utilization of contract planners does expand available staffing resources, we are not convinced that applicants paying for expedited services are consistently receiving more rapid development review processing, since data is not available to demonstrate such. For example, we heard from staff and focus groups that engineering reviews are chronically late.

119. *Recommendation:* The Community Development Director should establish Performance Standards for expedited review, which should be included in the TRAKiT system and tracked, monitored and reported, weekly.

See the “Performance Standards” heading for recommended Performance Standards.

GIS System

Staff reported that the GIS system needs to be further enhanced and updated so that it offers a reliable, accurate and robust tool for the Division and other City functions. Staff noted that a GIS operations plan has not been established so there has been inconsistent effort expended to update and manage data layers (e.g., addresses), so data is not reliable.

In an effort to make the system more robust and accessible to Planners and other internal users, one of the Planners voluntarily added data layers and created a web based mapping system, titled “MH Maps,” and we applaud the Planner’s efforts in this regard. However, maintaining this this voluntary work effort has proven to be challenging since it competes with more pressing work priorities. As such, the system has not been fully updated in nearly 5 years.

Maintaining the City's GIS system is particularly important now because the City has purchased TRAKiT, which is a geospatial-based (e.g., GIS) computer software and data management system to integrate planning, building, fire, public works (e.g., engineering) and business license system permitting systems.

We understand the Department has requested a new position for the upcoming budget that will be charged with enhancing and maintaining the City's GIS system, which is excellent.

See our recommendation under the "staffing heading above regarding adding a GIS position in the Department"

Planning Commission

Overview

The Planning Commission (PC) is authorized by Title 2, Chapter 2.36 of the City's Code of Ordinances. It is a seven-member Commission and each member serves a term of 4 years.

The PC has a fairly broad scope of responsibilities including acting as an advisory body to the city council on matters related to city growth and development, a recommendation body for legislative acts such as Zoning Code Amendments, an appeals body for Director-level decisions and a decision-making body on numerous types of planning applications (PA's) such as conditional use permits and parcel maps. It also serves as decision-making body for the designation of cultural resources and historic districts and permits sought to remove or demolish a cultural resource, cultural resource site or historic district. Appeals concerning cultural resource decision can be made to Council.

Meetings are held monthly on the second and fourth Tuesdays of each month at 7:00 p.m. in the City Hal Council Chambers, however, to accommodate lengthy agendas, meetings are advertised to begin as early at 5:30pm, when needed. Additional meetings are held when deemed necessary. Currently audio and video recordings (e.g., Granicus system webcasting) are made of each meeting and summary minutes are prepared by the Municipal Service Assistant. The Granicus system allowed us to review a recent meeting, which is excellent. We also reviewed the most recent set of minutes posted online, which was helpful. In addition, Cable subscribers can watch live meetings in their home on Channel 17. Staff has also included meeting protocol policies on the face of each agenda, which is a good practice.

In reviewing the PC Minutes that have been posted online, it appears that Minute preparation is fairly up-to-date and posted online and available to the public under the “Commission and Boards” tab on the City’s Website.

The PC meeting schedule appears to be adequate to meet the caseload, in that meetings are occasionally cancelled when caseloads wane and special meetings can be held when activity peaks or special projects need to be heard.

Agenda Packets

Interviews with Commission members and staff indicated that electronic agenda packets are downloaded into Drop Box, typically 4 calendar days prior to the Tuesday hearing, so that they are immediately accessible to members. However, some PC members feel that 4 days is insufficient time to review multiple packets for larger agendas, where several complex projects are scheduled to be heard. We agree. Best practice communities typically provide a minimum of 7 calendar days for review.

120. *Recommendation:* The Community Development Director should establish a formal policy and include it in a policy and procedures manual to require agenda packets to be distributed one week (7 calendar days) prior to the scheduled PC meeting/hearing.

According to interviewees, the PC members have been using I Pads for about 3 years to review agenda materials, which is good.

However, some PC members still receive paper plan copies as they prefer to review paper copies of plans because they are difficult to read electronically. We understand this perspective, however, the City prides itself in being sustainable and needs to move away from preparing and distributing paper copies in order to further its goal of becoming less paper dependent. It may also be useful to have commissioner training on reading electronic plans.

121. *Recommendation:* The Planning Commission should work towards receiving only electronic agenda materials and receive training to read electronic plans, if needed.

Joint Study Sessions with the City Council

Interviewees stated that the PC has been having on going Joint Study Session Meetings with the CC as part of the Morgan Hill 2035 project, which is good. However, some of our interviewees believe that Bi-annual Joint Meetings should also

be considered to discuss issues, receive mentoring, align the vision, goals and objectives and build trust and rapport, which is a typical best practice.

122. *Recommendation:* The Community Development Director should schedule bi-annual joint study session meetings between the PC and the City Council.

Meeting Efficiency

We did receive feedback from focus groups and others that Planning Commission meetings sometimes run very late, which can be challenging for all participants and attendees. A few interviewees expressed concern that the meetings are lengthy because PC members debate issues that are beyond their scope of review (i.e. Design review issues), and public testimony should be managed more effectively.

The members interviewed stated that they have begun to proactively manage agendas to ensure that simpler projects are moved to the beginning of the agenda, so that these applicants are not waiting around for hours for their project to be considered, which is a good practice. In addition, the Commission strives to complete meetings by 11:00 pm, when possible.

Orientation/Training for PC New Members

Interviewees stated that there are 3 new Members on the Commission, including 1 added in the last year and 2 added in the last six months. New members attended an orientation meeting and training was provided. In addition, Members attend League of California Cities Planning Commissioner training and are coached and mentored by tenured members.

We received some negative feedback from focus group members that some newer members may need additional training so that they gain a more comprehensive understanding of their scope of review and city policies and regulations, which impacts meeting efficiency. We were told that CDD staff has been scheduling subject matter workshops with the PC to help raise newer Member skill levels, including a recent Design Review workshop with the American Institute of Architects, which is good.

123. *Recommendation:* The Community Development Director should work with the Planning Commission Chair to identify additional training needs for the Commission and provide training as soon as practicable.

Staff Presentations/Management Attendance at PC

Staff members present their own cases to the PC via PowerPoint, which is a current best practice. Staff indicated that they strive to provide a comprehensive review of

development proposals in their staff reports so that they produce consistent analysis of projects to decision-makers and PC members generally agree that this occurs.

However, it was reported by some interviewees that presentations are somewhat inconsistent among staff members and there is a need to ensure that all presenters have a command on their projects and applicable regulatory scheme so that answers can be provided at the meeting.

Best practice communities typically increase presentation consistency by utilizing presentation templates, providing training/coaching on presentation skills presentation and discussing issues in advance of hearings to ensure potential questions are anticipated and can be answered.

124. *Recommendation:* The Community Development Director should consider establishing a PowerPoint template and include in the Policy and Procedure Manual, providing presentation training and instituting pre-hearing discussion with planners as described above.

Staff Support/Accessibility

Commission Interviewees reported that staff is generally cooperative, helpful and accessible.

Training/Roles and Responsibilities

PC interviewees indicated that new PC members receive orientation training and packets and that on-going internal and external training on ethics, ex parte communication, roles and responsibilities, industry trends and other matters though the League of California Cities, which is a best practice and that members attend annual Conferences on a rotating basis.

Policies & Procedures Manual (PPM)

The Development Services Technician (DST) created a PPM for Administrative Processes in December 2015 that outlines procedures related to the Municipal Services Assistant and DST duties (e.g., over-the-counter processes, etc.) in order to facilitate training of new employees and raise consistency and competency, which is excellent.

In addition, an outdated PPM Manual for the Department exists, that is titled, "Community Development Department - Policies and Procedures Manual," that consists of processing procedures relating to City Council, Planning Commission, the Architectural Review Board and other miscellaneous provisions.

Given that we received considerable negative feedback during our interviews about customer service and project management inconsistencies between tenured staff, newer staff and contract staff, we believe that the PPM should be updated to be used as a management tool to help train new staff and ensure that all staff have a clear and consistent understanding of work practices and performance expectations including work quality, accountability, professional demeanor, customer service and to facilitate more seamless project transitions between contract planners and regular fulltime planners. Topics should include:

- Preliminary and Conceptual Planning Review processing protocols;
- Planning Application processing procedures for all application types;
- Project management protocols;
- Design Review Committee (DRC) procedures and expected outcomes;
- Record keeping and file maintenance (paper and electronic) and close-out methods;
- Staff report and presentation formats and practices;
- Customer service standards and communication requirements, including return email and telephone policies;
- Field inspection protocols; electronic file and record keeping requirements; and
- Other policies that establish performance expectations.

125. *Recommendation:* The Community Development Director should update the Policy & Procedures Manual for Department as described above.

Zoning Code (Title 18)

The City is currently comprehensively updating its Zoning Code as part of the Morgan Hill 2035 project to improve cross referencing, eliminate jargon and legalese, resolve interpretation issues, update definitions and include more tables so that the document provides a more modern format that is easier to follow, which is excellent. The City selected a consulting team led by The Planning Center | DC&E for this effort.

However, some staff interviewed stated Planners are not receiving adequate updates on the progress of the project and tenured staff should be providing more input/feedback.

126. *Recommendation:* The Community Development Director should require the project manager for the Zoning Code update to provide regular progress updates to Division staff during weekly meetings and obtain input from tenured staff.

Interviews with staff indicated that zoning interpretations need to be consistently documented so they are not readily accessible to staff and applicants.

127. *Recommendation:* The Community Development Director should ensure that all code interpretations are documented, electronically accessible, and searchable. They should also be available on the website for customer access.

Staff also reported that there might be opportunity to further streamline the development review process for some applications. For example, the Architectural and Site Plan Review application process is an unnecessary extra step in the case of some bundled projects, as the application submittal requirements are largely the same. An Architectural and Site Plan Review application bundled with a Conditional Use Permit (CUP) requires largely the same submittal materials, but the Planning Commission approves the CUP, while the Director approves the Architectural and Site Plan Review application.

F. PROCESS ISSUES

Overview

Planning Division application processes vary depending on the type of application submitted, as shown in the following section, applications are reviewed and approved by several different entities, including, staff, the Board of Zoning Adjustments & Appeals, the Planning Commission and the City Council.

Decision Making Authority

Table 21 below shows the Decision Making Authority for planning applications.

Table 21
Decision Making Authority for Planning Division Applications

Planning Division Application Types	Staff	CDD Director	Planning Comm. (PC)	City Council (CC)
Annexations	R	N/A	RE	D
Architectural and Site Plan Review	R	D	A	A
Commercial Administrative Use Permit	R	D	A	A
Conceptual Plan Review	R	N/A	N/A	N/A
Conditional Use Permit	R	N/A	D	A
Conditional Use Permit, Wireless	R	N/A	D	A
Cultural Resource Alteration	R	D	D (w/CEQA)	A
Cultural Resource Demolition	R	N/A	D	A
Cultural Resource Designation	R	N/A	D	A
Development Agreement	R	N/A	RE	D
Development Agreement Amendment	R	N/A	RE	D
Downtown Administrative Use permit (DAUP)	R	D	A	A
Exception to loss of building Allocation	R	N/A	RE	D
Extension of Time	R	R	RE	D
Final Map	R	N/A	N/A	D
General Plan Amendments	R	N/A	RE	D
Interim Use Permit	R	N/A	RE	D
Lot Line Adjustments	D		A	A
Lot Mergers	R	N/A	N/A	D
Measure C (RDCS)	R	N/A	D	A
Micro Measure C	D	N/A	D (When Set aside is exceeded)	A
Minor Exceptions	R	D	N/A	A
Out of Agency Contract for Services	R	N/A	N/A	D
Parcel Map (tentative)	R	N/A	D	A
Preliminary Measure C	D	N/A	A	A
Preliminary Plan Review	R	N/A	RE	RE
Signage Permit	R	D	A/D (When CUP or Variance)	A
Specific Plan & Amendments	R	N/A	RE	D
Subdivision Exceptions	D	A	A	A
Temporary Banner Permit	D	A	A	A
Temporary Use Permits	R	D	A	A
Tentative Map (TM) /Vesting TM	R	N/A	D	A
Transfer Permitted Development Rights	R	N/A	RE	D
Tree Removal (Cutting) Permit	R	D	A	A
Urban Service Area Adjustment	R	N/A	RE	D (To apply)
Variances	R	N/A	D	A
Zoning Amendment	R	N/A	RE	D
Zoning Confirmation	D	N/A	A	A
Zoning Permit (Required for all bldgs. structures and before starting commercial or industrial activities)	D	N/A	A	A

R = Review RE = Recommendation D=Decision A=Appeal N/A= Not Applicable

As the above table shows, the City has created a Decision Making Authority structure for the Planning Division, where the staff or Director has administrative decision-making authority on fairly routine and applications, such as Conceptual Plan Reviews, Downtown Administrative Use Permits, Minor Exceptions, Lot Line Adjustments, Subdivision Exemptions, Sign Permits and others noted in the table above. In California best practice communities, we often see that the less complicated applications, which may be exempt from CEQA, are approved at the staff and/or Director level, often over-the-counter.

The Planning Commission (PC) has been given recommendation authority on legislative acts, such as Annexations, General Plan Amendments and others and decision-making authority on Use Permits, Cultural Resource applications, Measure C Residential Development Control System (RDCS), Parcel Maps, etc. In addition, the PC acts as an Appeals body on Director decisions, which is a typical decision authority structure.

The City Council has authority for legislative acts, such as General Plan and Zoning Amendments. The Council also makes decisions on Development Agreements that are largely associated with the Measure C RDCS, Lot Mergers, Extensions of Time, Interim Use Permits and others.

Best practice communities are increasingly delegating more decision making to the PC and Director/staff level, so that council is focused on legislative decision-making, appeals and other matters, which is generally the case in Morgan Hill, as such we do not recommend any changes to the decision-making authority structure.

Administrative Over-the-Counter Approval Processes

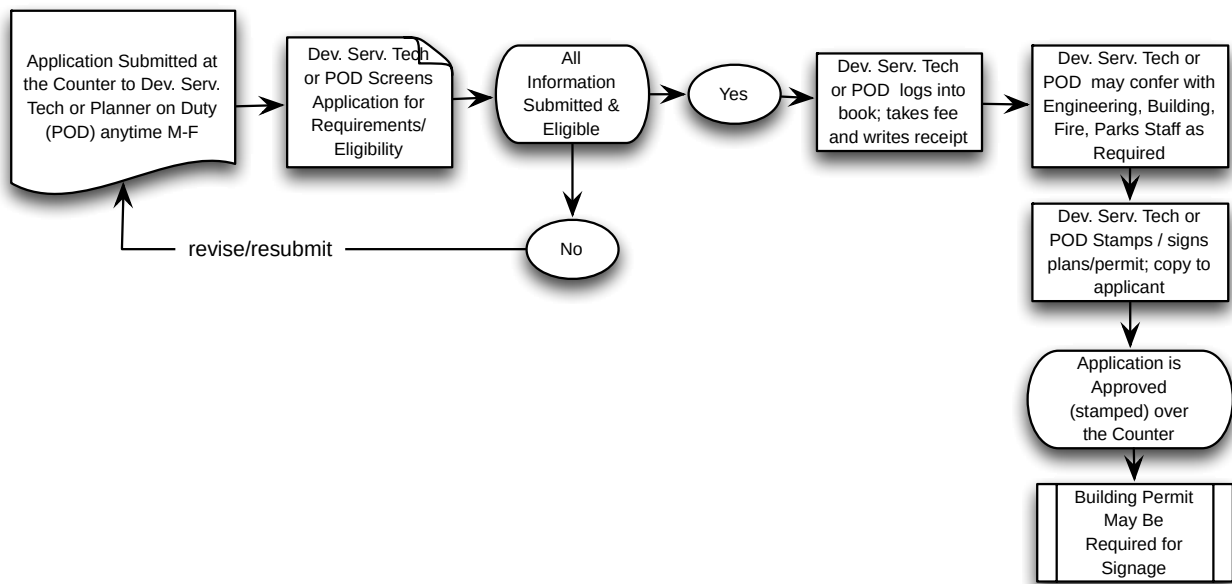
Best Practice communities have generally incorporated the philosophy of allowing administrative approvals for routine types of applications, such as sign permits, minor exceptions/deviations and minor amendments. To facilitate over-the-counter approvals, simplified submittal requirements and approval criteria are adopted for these processes. We are advocates of over-the-counter processes because they expedite approvals on routine applications and free up staff time to focus on more complex applications.

Staff stated the only planning application permits processed over-the-counter are Sign Permits and Temporary Banner Permits because they do not require public notice (e.g., adjacent property notice). The Development Services Technician and Planner on Duty (POD) are generally responsible for processing over-the-counter planning permits. Tree Removal Permits are not processed over-the-counter as we have seen in other communities, due to the public notice (e.g., posting) requirements, which is appropriate given that tree resources are controversial in the City.

In addition to processing the above planning application permits, the Development Services Tech and POD will also review and sign off on routine building permits, such as basic accessory structures that meet required setbacks and height limitations.

Figure 8 below, shows the general flow of a typical over-the-counter planning process for administrative approvals.

Figure 8
General Over-the-Counter Administrative Approval Process



The process typically takes less than 20 minutes, but processing time is not yet measured (see our below recommendation for establishing a performance measure for serving walk in customers). The process generally works as follows:

1. The applicant makes a submittal at the Development Services counter anytime during normal business hours, Monday through Friday to either the Development Services Technician (DST) or the Planner on Duty (POD), whoever is available;
2. The (DST) or (POD) reviews the submittal against a checklist to make sure it is complete, meets code requirements and is eligible for over-the-counter approval;
3. The Planner logs the project into the log book and the Tide Mark Permit Tracking, takes in the fee and provides a written receipt;
4. The (DST) or (POD) may collaborate with building, fire, engineering or others as needed to review before approving;

5. The (DST) or (POD) signs the plan/permit and provides a copy to the applicant.

Conceptual Plan Review/Preliminary Plan Review Process (non-Measure C)

Conceptual Plan Review (CPR) and Preliminary Plan Review (PPR) are two types of optional pre-application processes offered by the City that allows the applicant to obtain feedback on a proposed project prior to submitting a formal application.

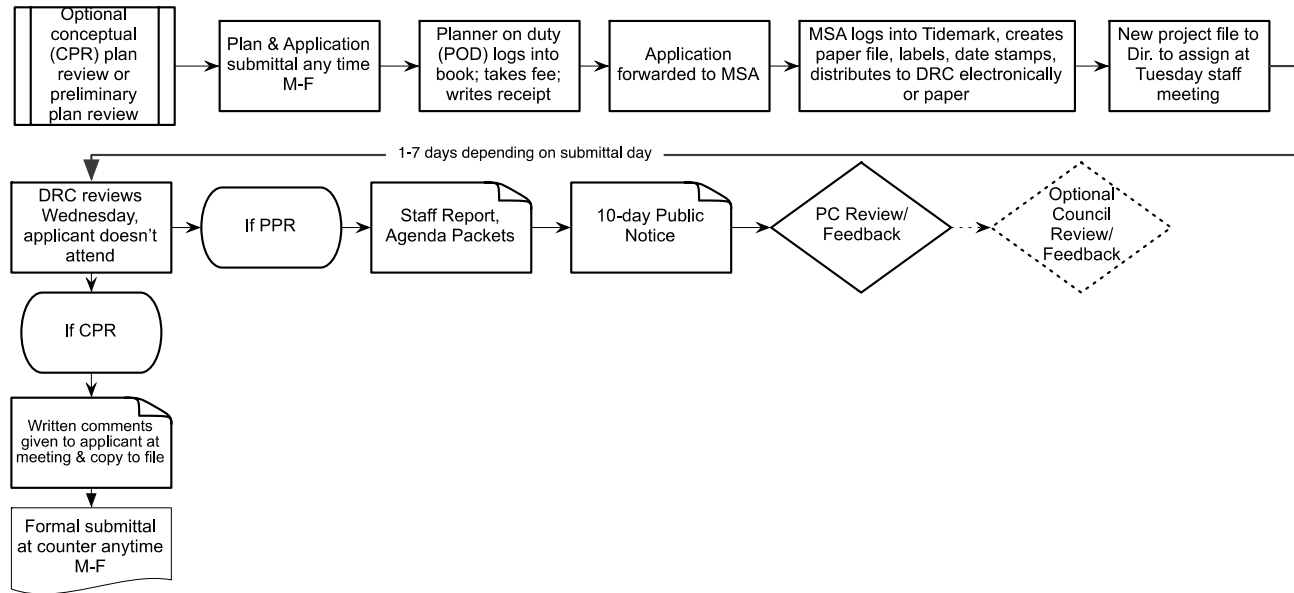
We discussed the Conceptual Plan Review (CPR) and Preliminary Plan Review (PPR-non-Measure C) Processes with staff and examined the handouts for each. We were told that the main difference between PPR and CPR is the PPR process is used for very large, complex and controversial projects and includes Planning Commission and/or Council review, while the CPR only includes staff review. Staff indicated that the PPR process is not used very often. In addition, there is a significant application fee difference between the CPR and PPR (e.g., \$2,731 and \$4,702, respectively). The PPR is more costly to account for the related staff report, agenda and PC meeting staffing.

The handouts for the PPR and CPR add confusion to these processes, as there is no mention of PC and/or Council review in the PPR handout. Additionally, the handout for the CPR states that the process is intended to allow for the initial review and feedback of plans by the Community Development Department staff, while the handout for the PPR states that the process is intended to allow for schematic review of plans for Architectural and Site Review by the Community Development Department and Development Review Committee. The submittal materials for these two processes appear to be the same.

See the “Handout” heading regarding our recommendation to update the CPR and PPR handouts to describe these processes to users more completely; and the “Fee” heading for our recommendation to further distinguish Preliminary Plan Review Fees from Conceptual Review Fees.

The major steps in the CPR and PPR process are shown in Figure 9 below. A more comprehensive summary of the process follows.

Figure 9
Conceptual Plan Review (CPR) and Preliminary Plan Review (PPR) Process



1. An application is submitted to the Development Services Technician (DST) or Planner on Duty (POD) at the Division Front Counter along with the required fee, and application materials, anytime Monday through Friday.

See our earlier recommendation under the “handout” heading regarding working with IT to create fillable online planning applications

Application materials for both the CPR and PPR are the same and include a completed application, an application fee, 5, full sets of plans, 3 reduced sets of plans and 1 CD of the plan set in .pdf format, a habitat plan and a letter with project questions.

We agree with the City’s practice of requiring a CD plan set, while the City works towards launching its new electronic data collection and permitting system.

128. Recommendation: The Conceptual and Preliminary Plan Review processes should be included in TRAKiT to allow for online electronic submittal and payment and electronic review.

2. The DST or POD reviews the application and submittal materials (e.g., screen check review) against a checklist to ensure that all required information has

been included in accordance with the Division's checklist and if so, logs the application into the paper log book, calculates and accepts fees and provides a written receipt to the applicant.

We received feedback from some staff that incomplete applications are accepted at times.

129. Recommendation: The CDD should issue a formal policy to reject incomplete applications and include it in the updated PPM.

3. The application materials are forwarded to the Municipal Services Assistant (MSA), who logs the project into the Tide Mark permitting software system, creates a paper file with a case number and date stamps and labels all materials. The MSA then distributes materials electronically or by paper copies, (e.g., depending on the reviewer) for a 14-calendar day review to city DRC members and external reviewers, which may include staff in the Police Department, Building, Public Works, Fire, Housing, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, Pacific Gas & Electric and Morgan Hill Unified School District.

Staff has created an application routing form that specifies which reviewers receive application materials by application type. Staff stated that plans are not uploaded into Tide Mark. Staff indicated that less complicated plans are routed electronically, while more detailed plans are routed in paper form.

See above recommendation regarding electronic submittal, which will eliminate the paper log and submittal practice.

The 14-day review period is not considered a formal Performance Standard by the CDD or reviewers and is often not met by some reviewers, particularly Engineering.

130. Recommendation: The CDD should establish a review Performance Standard for the Conceptual and Preliminary Plan processes.

See our recommendations under the "Performance Standards" heading for recommended standards for this process and the "Data/Reporting" heading about reporting on Performance Standards.

4. The project file is forwarded to the CDD who assigns the project to an available planner at the weekly Tuesday staff meeting. Depending on the submittal day, the project is assigned between 1 and 7 calendar days of submittal.

131. Recommendation: Responsibility for project assignment should be delegated to a Senior Planner if needed, to free up the Director's time to

ensure that projects are immediately assigned to an available planner, regardless of the submittal day until the TRAKiT System is launched, which should provide for new project notification to Director or Designee to facilitate immediate electronic assignment.

5. A copy of project file materials is then given to the Senior Planner that has been delegated Design Review Committee (DRC) meeting operation responsibility. The Senior Planner takes the file materials to the next regularly scheduled Wednesday DRC meeting and introduces the project as a new project to DRC members.
6. At the next regularly scheduled DRC meeting, seven days later, the project is fully discussed by the DRC participants. Applicants are not invited to the DRC. Instead, the assigned planner will meet separately with the applicant to discuss issues that were identified by the DRC, if needed.

See our recommendations under the “DRC” heading below, regarding recommendations for inviting the applicant and improving the DRC function.

7. DRC member comments are due within 14 calendar days by written memo or by email. Staff stated that DRC comments are not uploaded into Tide Mark.

132. Recommendation: DRC comments should be transmitted by email until the TRAKiT system is launched.

133. Recommendation: Once TRAKiT is launched, DRC comments should be documented and stored in TRAKiT.

8. Following the DRC meeting, the assigned Planner prepares written feedback and mails/emails a copy to the applicant. Staff indicated that a “Standard Conditions” checklist is utilized to communicate standard code requirements that are applicable to a project.

We received feedback that, at times, staff assigns standard conditions to a project, which do not apply, creating confusion.

134. Recommendation: DRC members should only assign standard conditions that actually apply to a project.

In our work studying best practice communities, we found that standardized worksheets (e.g., often in a checklist/note space for each discipline) are typically utilized in conceptual and preliminary review processes (e.g., pre-application review processes) to ensure that the key issues and topics are consistently discussed and communicated in each meeting, staff feedback is documented and provides detail that adds value to the applicant.

We believe a worksheet is an important tool that ensures meetings are valuable meeting for both staff and the applicant. The worksheet should confirm that the location of the project; the existing and/or proposed zoning; existing or proposed uses are appropriate; confirm that there are no outstanding compliance issues on the property; confirm the land status of the property to the extent possible; outline staff's initial determination as to whether the existing zoning is suitable for the intended uses; whether the proposal is consistent with the General Plan and other Policy documents, such as utility service policies and other Master Plans; a list of all development applications/processes required for the proposal; including the need for any variances/ use permits, subdivision process, etc.; special design review overlay or development standards that apply to the property or will be needed to mitigate known issues; an approximate time line to complete the required processes; an initial analysis of potential community issues, circulation, drainage, erosion control, lighting, landscaping, access, utility service, and storage issues; anticipated required improvements; and all fees required, including application fees and impact fees (if any).

The assigned case planner (Project Planner) should be responsible for ensuring that the worksheet is completed at the close of the meeting and that a copy is transmitted promptly to the applicant.

135. *Recommendation:* The Planning Division should create a worksheet in consultation with other designated City reviewers that includes the standard review items associated with review discipline's scope of review, as suggested above, and the assigned Project Planner should be responsible for ensuring that each discipline provides a copy of their completed worksheet at the close of each meeting, which is transmitted promptly to the applicant and filed.

9. If application is for a Preliminary Plan Review, the application is also reviewed by the Planning Commission and might also be reviewed by Council, if requested by the applicant.
10. For Planning Commission (PC) review, the project is placed on a PC agenda (e.g., typically tentatively scheduled for PC by the MSA upon submittal) and the assigned planner prepares a staff report, which is distributed electronically

via Dropbox software after being finalized by the Director to PC members about four calendar days prior to the meeting.

See our recommendations under the “Planning Commission” heading in the Policy Issues section regarding recommendations earlier distribution of PC agenda packets.

11. The PC will review the project and provide feedback. Staff will convey PC feedback in writing following the meeting.
12. If the applicant has requested Council review, which is rare, the project is placed on a Council agenda and the assigned planner prepares a staff report, which is distributed electronically by the City Clerk prior to the meeting. Staff will convey Council feedback in writing to the applicant following the meeting.

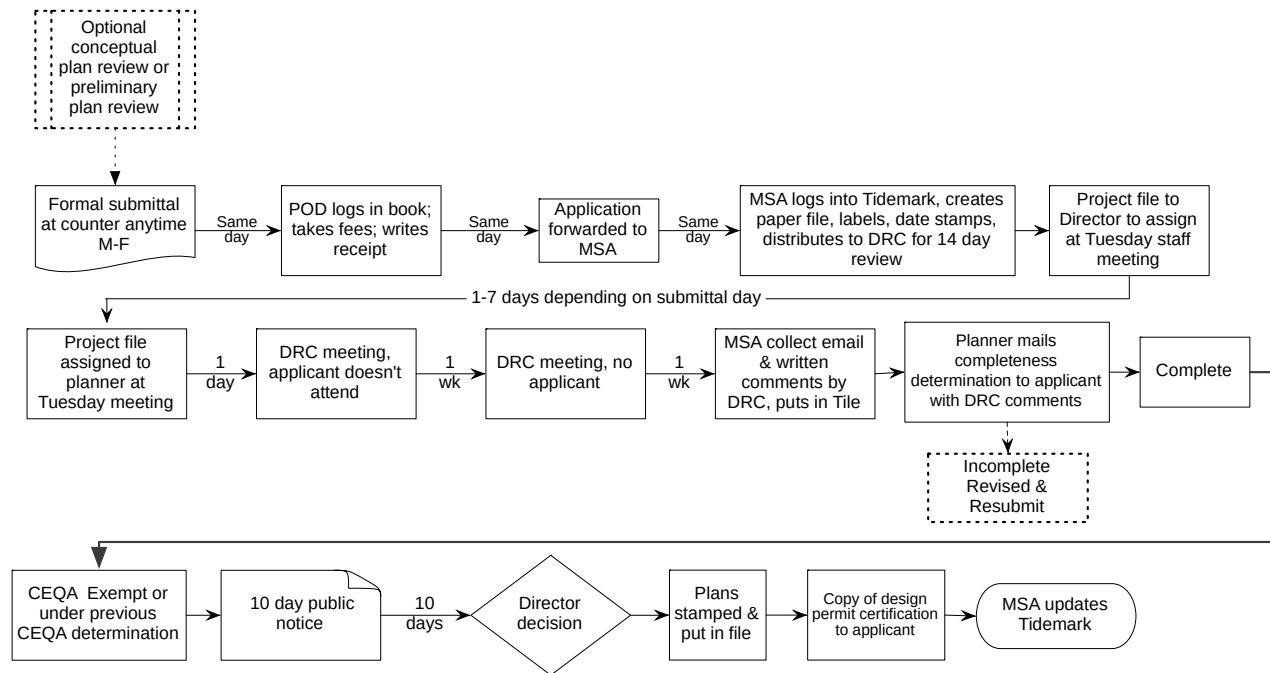
Director Administrative Approval Process

A number of planning applications are approved administratively (e.g., staff and director), but can't be processed over-the-counter (see Over-the-Counter Approval process above) because they require additional staff and/or environmental analysis (e.g. CEQA) and public notice before a final decision can be rendered.

Applicants have the option of applying for a Conceptual Plan Review (CPR) or Preliminary Plan Review (PPR) before submitting a formal application.

Figure 10 below shows the *general* steps in the Administrative Director Approval process. A summary of the steps follows in the text below.

Figure 10
Director Administrative Approval Process



An optional non-RDCS Preliminary Plan Review or Conceptual Plan review meeting is held following the submission of a completed application, fees and required application materials (see “Conceptual Plan Review” heading above for details).

2. An application is submitted to the Development Services Technician (DST) or Planner on Duty (POD) at the Front Counter along with the required fee, and application materials, anytime Monday through Friday.

See our above recommendations regarding the creation of a fillable application and rejecting incomplete applications.

Application submittal materials vary somewhat by application, but generally include a completed application, full sets of plans, reduced sets of plans, a CD of the plan set in .pdf format, contiguous or surrounding property list, affidavit and stamped addressed envelopes, title report, photos, justification letter and fees.

136. Recommendation: The Director Administrative Approval process should be included in the TRAKiT system to allow for online electronic submittal, payment, and review.

3. Steps 2 through 7 are generally the same as those outlined in the Conceptual Plan Review process outlined above, except that after the 2nd DRC meeting, where the project is discussed by the DRC team, the assigned Planner makes a determination as to whether the project is complete or incomplete.

Staff's completeness determination is outlined in a letter along with any conditions of approval or comments generated by the DRC and forwarded to the applicant via mail and/or email.

137. Recommendation: Performance Standards for the Director Administrative Approval applications should be established for up to 3 review cycles and included in the TRAKiT system.

See the "Performance Standards" heading for our recommended standard for this process.

See our below recommendation regarding excluding this process from DRC meetings, unless unusual circumstances exist.

Staff noted that projects that are categorized as Director Administrative Approval are less complex and more routine and typically either exempt from the California Environmental Quality Act (CEQA) or are covered under a previous CEQA project and determination, so a completeness determination can be provided at this time.

8. Following the completeness determination, a 10-day public notice is provided. The type of notice provided (e.g., contiguous property, property posting or surrounding property notice), depends on the application type.

The Division currently requires the applicant to obtain and submit property owner lists for public notices as well as stamped envelopes to shift the labor and cost for public notice to the applicant, which is not unusual. However, once the TRAKiT system is launched, property owner list production, envelop preparation and mailing should be transferred to the Division to facilitate electronic submittal. Costs for these activities can be passed along to the applicant. In addition, City generated lists and mailings may help to improve mailing accuracy.

138. Recommendation: The Division should assume the property owner list, label production, envelop stuffing and postage and mailing responsibilities as part of the TRAKiT launch to facilitate electronic submittal and recover these costs from the applicant.

9. The Director renders a final decision following the public notice, after collaborating with the assigned project planner.
10. The assigned project planner stamps the plans and a copy is placed in the file. A Design Permit Certification (e.g., required for all buildings, structures, improvements) is issued and forwarded to the applicant through mail and/or email
11. The MSA updates Tide Mark to show the status of the application.

The general flow of the Director Administrative Process is typical of those used by many of the communities we have studied, except that Director-level Administrative approval processes are typically excluded from the DRC process because they are routine and typically either exempt from CEQA or covered under another project determination. This practice is particularly common in communities that provide public notice as part of the process.

To streamline this process further, the Department should consider excluding it from discussion at a formal DRC meeting, except in unusual cases. Projects would still be reviewed by selected reviewers and comments/conditions provided to the assigned project planner in a prescribed timeframe.

139. *Recommendation:* Director Administrative Approval applications should not be scheduled for a formal DRC meeting process, except in unusual cases, to streamline the process as described above.

Design Review Committee (DRC)

Our focus group and staff interviews suggested that there is a need for the DRC meeting process to be streamlined so that projects are scheduled, introduced and discussed at a single meeting. In addition, interviewees indicated that meetings need to be more structured to ensure that assigned participants routinely attend and are prepared (e.g., plans are redlined, comments and issues outlined) so that meetings are effective and applicants receive decisive feedback, which can help eliminate the need for multiple reviews.

DRC meetings are managed by a Senior Planner, which is a typical arrangement we have seen in other communities. However, the assigned planner does not attend the meeting.

In this study, we discuss a “True Project Manager” system, where assigned planners are empowered to act as project managers throughout the life of the project (e.g., from “cradle to grave.”). A key activity of the “True Project Manager” is for the assigned

planner to lead the discussion of their assigned project at DRC so that issues can be highlighted and discussed and the planner can act to facilitate decision-making among the interdisciplinary DRC team when needed.

140. *Recommendation:* The DRC should continue to be chaired by the Senior Planner, but Planners should attend DRC meetings to lead the discussion of their project as a Project Manager, highlight issues and facilitate decision-making and challenge conditions of approval when needed, and ensure applicants are provided with decisive feedback to help eliminate the need for multiple review cycles.

The DRC is comprised of a cross-functional review team consisting the Fire Marshal, Building Division Technician, Associate Engineer, Police Analyst and Chemical Control Specialist. The Housing Division and Economic Development are invited participants, but do not attend regularly. In addition, it was reported that some members, such as Engineering are frequently not fully prepared, in that they have not yet completed their written comments and/or conditions, which are supposed to be sent directly to the assigned planner and MSA for filing.

141. *Recommendation:* The City Manager should direct all designated DRC participants to attend each meeting and arrive fully prepared with written comments and conditions that they are prepared to discuss.

DRC meetings are held weekly (e.g., Wednesdays), which is good. However, staff stated that agendas are not prepared for meetings and that projects are often scheduled for two consecutive DRC meetings.

Staff noted that some projects are scheduled for two DRC meetings due to the lag time between project submittal and the Director assignment. Since the Director assigns projects at the Tuesday staff meeting, there can be up to a one-week lag time between submittal and assignment of the project to a planner. So as a courtesy, the Senior Planner in charge of the DRC takes unassigned projects to the DRC to introduce them so the DRC members are aware that the project has been submitted and will be discussed at next week's meeting.

Earlier in this section, we recommend that projects immediately be assigned rather than waiting to assign them at staff meetings, which will eliminate the lag time issue.

In addition, the practice of requiring the Senior Planner in charge of DRC to schedule projects at a DRC for introduction only is unnecessary. In best practice communities, projects are scheduled for one DRC within two weeks of the submittal in order give

staff adequate review time to identify any “deal breaker issues,” as well as potential design and regulatory concerns.

Subsequent DRC meetings are only conducted when a project is required to undergo substantial revision/redesign. In addition, agendas are typically prepared for DRC meetings and are distributed in advance of the meeting. If the Division desires to inform DRC members about new projects that will be reviewed in future meetings, they can add a heading to the agenda to alert members of upcoming reviews.

142. *Recommendation:* Eliminate the practice of scheduling a project for DRC for introduction and only schedule new projects for a single DRC meeting within 2 weeks from submittal on or after the close of the 14-day review period.

143. *Recommendation:* Create and distribute a structured agenda for DRC that lists projects to be discussed and a summary of the meeting protocol (e.g., Senior Planner will chair, assigned project planner will introduce and lead discussion, participants will attend and be prepared, etc.) and email to scheduled applicants and post it on the Department web pages.

144. *Recommendation:* The CDD should create an annual “DRC Schedule,” which outlines the dates that the DRC meetings are scheduled and post it on the Department web page.

We also noted that application materials are routed either electronically or in paper format to DRC members depending on the complexity of the plans. Once TRAKiT is launched all applications materials should be routed electronically through the TRAKiT system to expedite the review process and reduce associated labor.

145. *Recommendation:* Use the TRAKiT system to route DRC materials to participants.

Currently, Planning Commission, Council and Director-level Administratively Approved applications are required to be reviewed in a DRC meeting. We believe that Director-level approved applications should be excluded from the formal DRC meeting process, except in an unusual case, because they are routine by nature. In best practice communities, we often find that only the more complex projects are taken through DRC to facilitate streamlining objectives.

See our above recommendation to exclude Director Administrative Approvals from the formal DRC meeting process.

We also discovered during interviews that the applicant is not invited to attend DRC meetings, when their project is scheduled for DRC. Instead the assigned Planner will hold a separate meeting after the DRC at a later date if needed or requested by the applicant.

We believe this practice is inefficient and reduces the effectiveness of the DRC and that every applicant scheduled for a DRC meeting should be invited to attend the meeting and be allowed to discuss identified issues with staff reviewers with the goals of developing potential solutions to issues. Written comments by DRC members should be collated by the assigned project planner in advance of the meeting, where scheduling permits and a copy given to the applicant at the close of the meeting.

146. *Recommendation:* The CDD should establish a formal policy and include it in the updated PPM, to invite applicants, whose projects appear on the DRC Agenda to attend the meeting to discuss the project with staff and to provide applicants with written comments at the close of the meeting.

Front Counter, Planning Division

There is a Planner on Duty (POD) system in place, which provides continuous counter coverage, which is a best practice. The DST and a Contract Planner have primary responsibility for counter coverage and the remaining regular FTE planners provide backup, on a rotating schedule as needed. POD's wear pagers to ensure that they are accessible during their shifts. In addition, the MSA position supports in-take counter activities by logging new projects into Tide Mark, date stamping, labeling and creating project files, distributing review materials and other activities.

Generally, the POD system is designed so that the DST covers the counter 3 days a week and the Contract Planner 2 days a week. Shifts are all day. Management staff indicated that they intend to integrate the new Associate Planner position into the POD system so that the DST and Contract Planner counter coverage is reduced, which is good. There are 4 workstations, equipped with computers at the counter and tables for plan review. The Building Division also has a counter and workstation equipped with a computer.

In addition to a POD, there is also a designated Engineer on Duty and Building person on Duty, which is good. We noticed that a calendar is posted to show the staff providing counter coverage from each function, which is good. Staff's business cards are displayed at the counter and provided to customers, which is also good.

Currently, the DST and POD have primary responsibility for handling the front Development Services Counter including phone inquiries, walk-in customers,

reviewing and approving over-the-counter planning permits (e.g., sign permits, temporary banners) and building permits (e.g., tenant improvements, small accessory structures, etc.), administrative use permits, and business license reviews, deposit processing and application submittals. Generally, the POD's will handle the TI and other building permit reviews and the DST handles the business license reviews and contract planner deposit processing.

There is a receptionist station to the left of the front counter, where walk-in customers sign in and are directed to the appropriate staff for assistance. Customers are served in the order received and their appeared to be adequate chairs and tables for customers to sit while waiting to be served.

Staff indicated that the Division has not established a policy to serve customers within 15 minutes, which is a standard typically used by best practice communities.

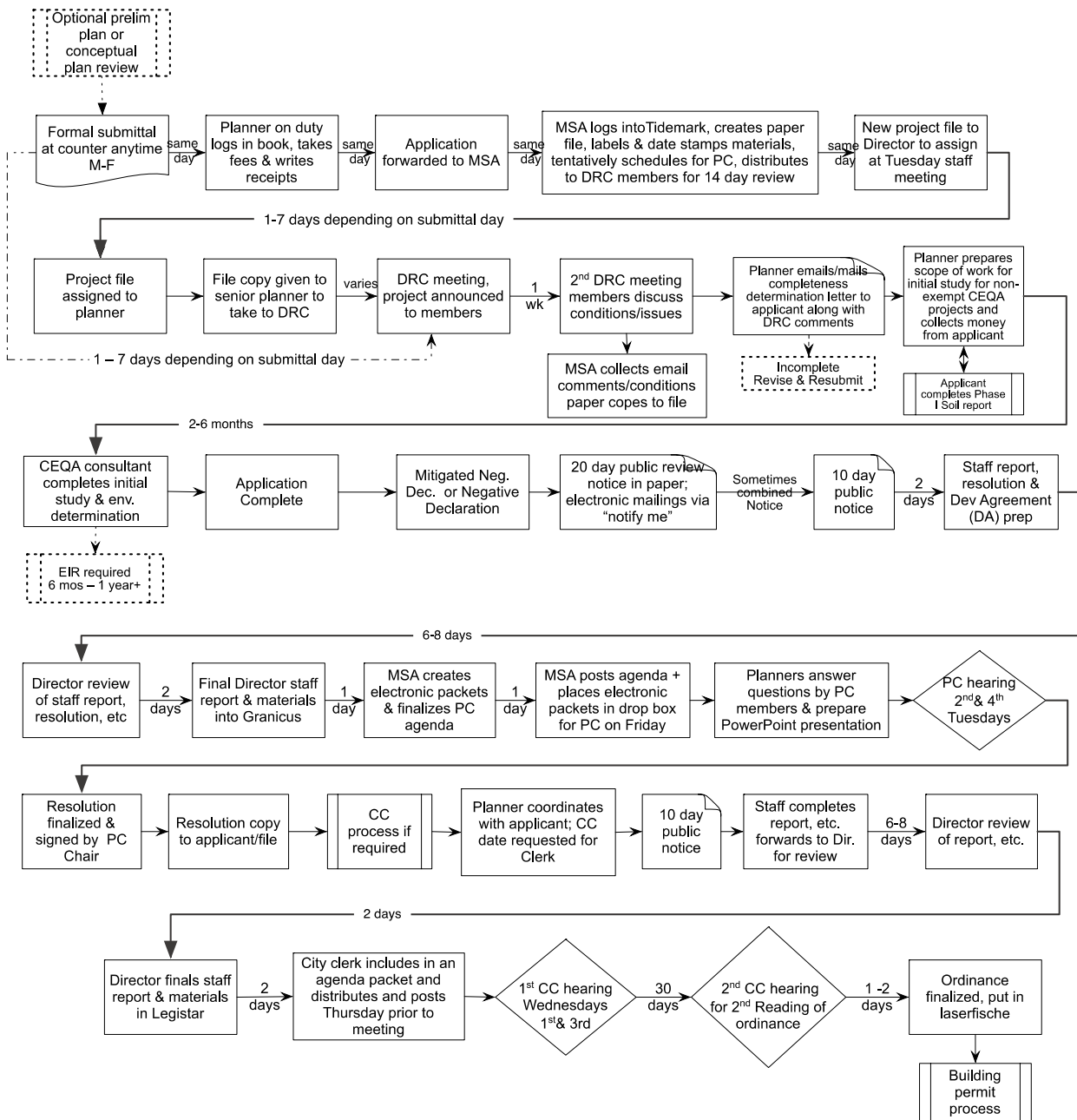
147. Recommendation: The Community Development Director should establish a formal 15-minute wait performance standard Front Counter customers, which should be tracked in TRAKiT, monitored and reported on quarterly.

Planning Commission and City Council Approval Processes

The steps involved in the Planning Application Approval process, vary, depending on the type of application, which determines whether it requires Planning Commission (PC) and/or City Council (CC) approvals.

Figure 11 below is a flow chart that shows the *general* steps in the existing PC and CC approval processes. A summary discussion follows.

Figure 11
Existing PC and CC Approval Processes



An optional Preliminary Plan Review or Conceptual Plan review meeting is held following the submission of a completed application, fees and required application materials (see “Conceptual Plan Review” heading above for details).

1. An application is submitted to the Development Services Technician (DST) or Planner on Duty (POD) at the Front Counter along with the required fee, and application materials, anytime Monday through Friday.

See our above recommendations regarding the creation of a fillable application and rejecting incomplete applications.

Submittal requirements for formal applications vary depending on the application type and staff has created submittal checklists to guide application processing and submittal screening, which is good.

Submittal materials generally include a completed, signed application, application fee/deposit, environmental assessment form, habitat plan, storm water post-construction development standards, when applicable, preliminary title report, varying number of full sized sets of plans and reduced sized plans, (e.g., depends on application type) one cd containing all plans in .pdf format, legal description, when applicable, public hearing requirements (e.g., surrounding property owner list, stamped addressed envelopes, mailing affidavit, public notice signs), justification letter, operations letter, when applicable, Additional submittal requirements are required depending on the application type.

148. Recommendation: The Planning Commission and City Council approval process should be included in the TRAKiT system to provide for online submittal, payment and electronic review and processing.

2. Steps 2 through 7 are generally the same as those outlined in the Conceptual Plan Review process outlined above.
8. Depending on the day the project is submitted (e.g., Tues-Friday), it may remain unassigned for up to 7 days because the Director assigns projects on Tuesdays at the weekly staff meeting. Unassigned projects submitted on Tues-Friday are given to the Senior Planner in charge of the DRC to take to the Wednesday DRC to introduce it to DRC members.

See our above recommendation to assign projects immediately. Also see our discussion under the “DRC” heading about eliminating the practice of the Senior Planner taking unassigned projects to a DRC meeting to introduce them and other recommended DRC improvements.

9. The project is discussed at a second DRC meeting, where applicable. DRC comments are emailed to the assigned project planner and the MSA and copies are placed in the file. Comments are not uploaded into the Tide Mark system. As described above, DRC reviewers are given 14 days to review new projects.

The Department has not formally established Performance Standards for up to three review cycles. We noted that the 14-day deadline is not always observed by reviewers, particularly Engineering.

149. Recommendation: Performance Standards should be established for the PC and CC approval processes for up to 3 review cycles and included in the TRAKiT system so that they can be tracked, monitored and reported on quarterly.

See the “Performance Standard” heading below regarding our recommended standards for PC and CC processes.

See our above recommendation about using the new TRAKiT System to record, store and transmit all DRC review comments for all planning application types.

The assigned project planner forwards a letter to the applicant by mail/email that includes DRC comments/conditions and outlines deficiencies that need to be corrected so that processing can continue. The staff review and application completeness cycle continues until the application is acceptable for further processing.

150. Recommendation: The TRAKiT system should include templates for staff review and other standard correspondences.

10. If the project is in acceptable form to continue processing, the assigned project prepares a scope of work for Initial Study per the California Environmental Quality Act (CEQA) for non-exempt CEQA projects and notifies that applicant that he/she must complete a Phase I soils report at their expense and submit the report as soon as it is completed. The cost of the Initial Study work effort is determined and applicant is notified that they must submit funds to cover the cost of the City’s CEQA Environmental Consultants performing work, including a 15% administrative fee that covers staff’s time managing the consultant.

11. Once the Initial Study (IS) funds are received, the CEQA Environmental Consultant begins the IS work, which can take 2-6 months depending on the issues (e.g., special studies, field work, etc.). A Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report (EIR'S) is prepared. EIR's can take a year or longer to complete. Once the CEQA documentation is completed the project is deemed complete.

We have studied and worked for various California communities that use environmental consultants to complete all or part of the required environmental analyses and documentation pursuant to CEQA. For example, in some communities, staff is responsible for completing the Initial Study and where projects are found to have no significant environmental impact, staff completes the Negative Declaration documentation. Projects that are found to have no significant impact with mitigation, an Environmental Consultant is often engaged to further study various impacts and develop appropriate mitigations, resulting in a Mitigated Negative Declaration determination. Many of the communities we have worked or studied use environmental consultants to prepare Environmental Impact Reports and/or Statements, where significant environmental impacts would result from a project.

We received negative feedback from some focus group members concerning the City's use of environmental consultants to perform all environmental analysis and documentation (e.g., Initial Study and resultant determination and documentation) pursuant to CEQA (except under special circumstances) because it is more costly and time consuming. Staff indicated that the City utilizes environmental consultants to complete all required analysis and documentation under CEQA primarily due to training and workload constraints.

151. *Recommendation:* The City should consider requiring project planners to complete the Initial Study (IS) for all non-exempt CEQA project to determine whether significant impacts would result.

152. *Recommendation:* If the City requires project planners to complete Initial Studies for non-exempt CEQA projects, planners should be responsible for completing Negative Declaration documentation for projects found to have no significant impact.

153. *Recommendation:* If the City requires project planners to complete Initial Studies for non-exempt CEQA projects, Planners should be empowered to determine whether proposed Mitigated Negative Declaration determinations

(e.g., have potential impacts that can be mitigated to eliminate impacts) can be processed by staff or should be outsourced to qualified consultants for further study and development of appropriate mitigation measures.

154. Recommendation: The Community Development Department should continue to engage qualified environmental consultants to prepare Environmental Impact Report and/or Environmental Impact Statements for projects with significant impacts.

12. Projects are most often found to have no significant impacts or no impacts with appropriate mitigations and a Negative Declaration (ND) or Mitigated Negative Declaration (MND) is proposed.
13. A Notice of Intent (NOI) to adopt an ND or MND is provided for a 20-day public review and response period, pursuant to state law (e.g., direct mailings, property posting, newspaper, etc.). If comments on ND or MND are received the consultant prepares a response. Completion of this step varies depending on number of comments received.
14. Following the 20-day NOI, the project is placed on a Planning Commission Agenda and a 10-day public hearing notice is provided. The City uses “Notify Me” software to alert those who have signed up for the service, which is good. In addition, notices are posted on the City’s website, mailed to surrounding property owners within 300’, placed in the local newspaper and may also include property posting. Staff indicated that the 20-day NOI and 10-day public hearing notice are combined where possible, which is a good practice that provides interested parties with advance notice of hearings.

See our above recommendation regarding the City assuming the public notice responsibility as part of the TRAKiT launch to facilitate the online submittal process.

The assigned project planner uses Legistar software to prepare a draft staff report. Staff creates a single page cover in Legistar and uploads the staff report created in MS Word as an attachment to Legistar for PC reports. The report, PC resolution and Development Agreement DA (when applicable) are written using templates. Once complete the draft documents are forwarded to the Director for review and finalization. The Director edits the documents and finalizes the staff report and staff recommendation. This process, which

includes preparing and editing the report, typically takes about 8 days to complete.

We received negative feedback from focus group participants about the staff report finalization process. Participants stated that, at times, the Director has materially changed the content of the staff report and resolution and staff recommendation without input or notice to the assigned project planner or applicant. Because finalized reports are often unavailable until the Friday afternoon before the PC hearing on Tuesday, the applicant and assigned project planner have been blindsided by the changes and left with insufficient time to resolve any issues before the meeting. Various planning staff members and other interviewees also confirmed this practice.

We disagree with this practice and it is one that we have never seen in any best practice community that we have studied. The Director should not unilaterally make significant changes to staffs' recommendation, report, resolution and DA content without first discussing the changes with the assigned project planner before the report is finalized.

The project planner and director should be collaborating on staff recommendations before a report is finalized. Where the director determines that the project should not receive a positive recommendation as discussed and subsequently proposed by staff, the change should be thoroughly discussed with the assigned project planner before the report, resolution, etc., are finalized and included in the PC agenda packet. The planner should immediately contact the applicant about the director's desired changes so that the applicant can decide whether they want to proceed or continue the project so that issues can be resolved so that the project can receive a positive recommendation, if possible.

155. Recommendation: The Community Development Director should send edited staff reports, resolutions, DA's back to the assigned project planner to finalize, rather than finalizing the reports unilaterally, without discussion.

156. Recommendation: Where the Director finds that a positive recommendation proposed by staff can't be supported, the Director should thoroughly discuss the issues with the assigned project planner before changing the recommendation, finalizing the report and including it in the PC agenda packet. The assigned project planner should immediately inform the

applicant so that the applicant can determine whether they want to continue the matter to resolve the issues or proceed.

15. The finalized reports related documents and materials are included in an electronic agenda packet and placed in Drop box software by the MSA on the Friday before the Tuesday PC hearing. The MSA also posts the agenda on the City website and e-notifications are sent to Commissioners and others requesting notification.

See our earlier recommendation under the “Planning Commission” heading regarding delivering packets at least 7 days before a scheduled meeting.

16. The assigned project planner may receive email questions about the project from individual PC members that they answer prior to the hearing. The planner also prepares a Power Point presentation prior to the hearing.
17. The PC hearing is held on the 2nd & 4th Tuesdays. A final decision may be rendered or the project may be continued. The PC can deny, approve or approve the project with conditions. If the project involves an environmental document, the environmental document is adopted.
18. Following the PC hearing, the PC Chair signs the Resolution, and a copy is sent to the applicant and placed in the file. In addition, environmental notices are filed (e.g., Notice of Determination, etc.) and the file is closed following the expiration of the appeal period.
19. If the PC is acting in a recommending capacity on a project that requires City Council approval, the project proceeds through the City Council approval process.

City Council Approval Process

1. Following the PC hearing, the assigned project planner coordinates PC conditions and project revisions (if any) with the applicant and a Council hearing date is confirmed through the City Clerk.
2. A 10-day public notice of the Council meeting is provided, as described above, which may be concurrent with the staff report update process.

3. The assigned planner uses Legistar software to update the staff report and prepares a Council Ordinance. The staff report is created in Legistar software and the PC report is added as an attachment. The report and other documents are forwarded to the Director for review and finalizing.
4. Director reviews reports and documents for Council hearing.
5. Director finalizes reports and documents for Council hearing.
6. The City Clerk incorporates the materials into the electronic Council agenda packet and posts packets the Thursday before the Wednesday Council Hearing, which are held on the 1st and 3rd Monday of each month.
7. A Council Hearing is held and the first reading of the Ordinance is completed. The Council can deny, approve or approve with conditions.
8. A Second Hearing is held to conduct a second reading of the Ordinance.
9. Following the Second hearing, the Clerk finalizes the Ordinance, which is uploaded into Laserfische. The assigned project planner files appropriate environmental notices, completes project accounting and closes out the file.

Residential Development Control System Process (RDCS)

The RDCS is a residential growth pacing system approved by voter Initiative (Measure E) in 1977. Voters amended Measure E in 1990, through the passage of Measure P and again in 2004, through the passage of Measure C.

As noted earlier in this report, the City is currently studying the RDCS system for potential streamlining opportunities. As such, we provide only a brief summary of the existing process, rather than an evaluation, since it is a major processing effort in the Department.

The RDCS is an allocation process that occurs annually and developers/property owners that want to build residential housing units that don't fall under any of the established exemptions, are required to compete for the annual distribution of housing allocations.

Projects are evaluated under competition categories so that like projects are compared in order to ensure a fair review process. The Council decides the total number of annual allotments and the specific number of allotments by competition category, based on a formula. Projects that conform to the General Plan and Zoning Ordinance are evaluated against a series of standards and review criteria established for the

separate categories. Projects with the highest points are awarded a building allotment. Following an allotment award, entitlements must be secured through the development review process.

Applicants that are granted RDCS allotments must enter into a Development Agreement (DA) with the City that describes and outlines the project commitments, phasing and construction timing. Any proposed modification to a DA has to be considered by both the Planning Commission and City Council, even if the modification benefits the community or improves the project. As such, DA modifications can create construction delays.

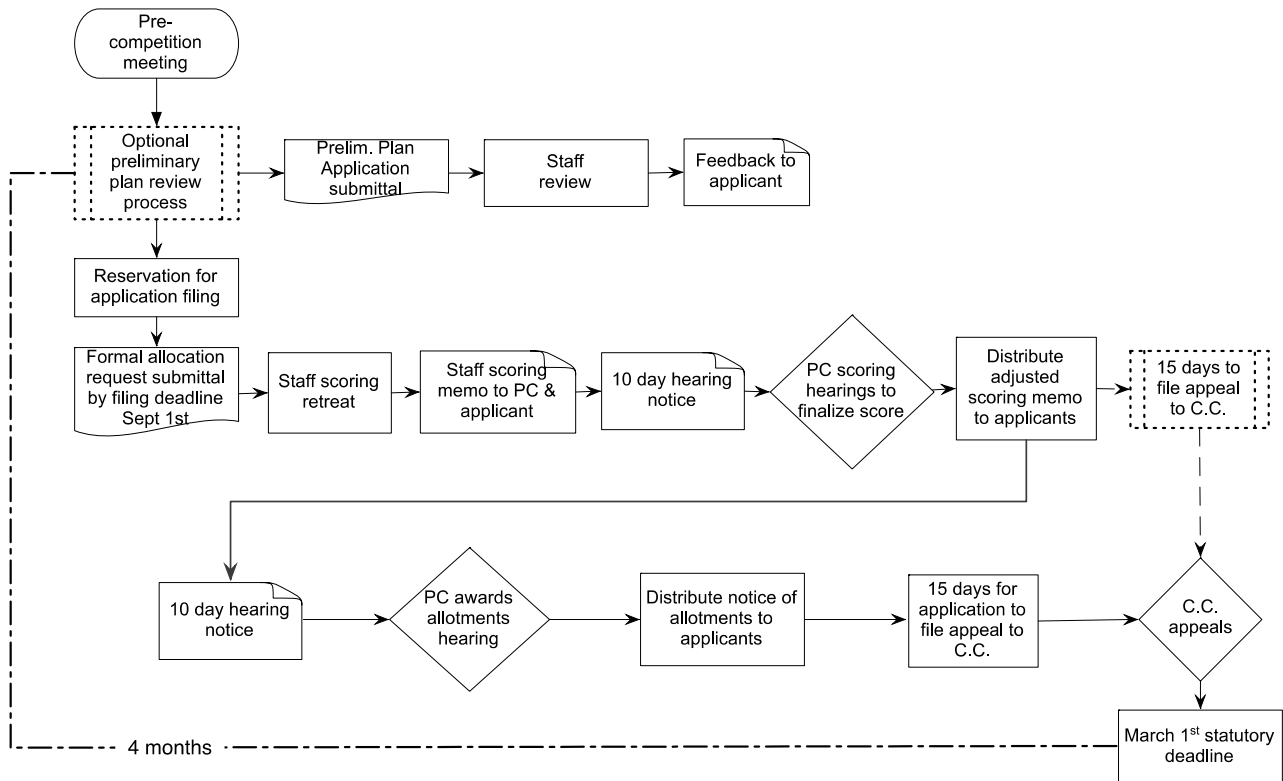
Applicants that are granted allotments are required to begin constructing the allotment by the end of the fiscal year for which the allotment was allocated. If they don't, they lose their allotment(s) and have to reapply for the allotment(s) through the competitive allotment process. The Council has discretion for granting extensions through a hearing process.

The Planning Commission (PC) determines whether to revise RDCS criteria annually. If the PC decides changes are needed, a working group is formed from that includes individuals from the development community, planning commission and council members. Recommended changes are then studied by a Sub-committee of the Planning Commission. Sub-Committee recommendations are then considered by the full PC in a public hearing. PC's recommended changes are then forwarded to the Council for final consideration and formal adoption as an Ordinance Amendment in a public hearing. The Planning Commission determined that revisions to the RDCS criteria would not be undertaken this year.

Currently, a major update of Measure C is underway and will be voted on in November. The replacement Measure would establish a 2035 population cap and provide a new competition manual (e.g., standards and criteria) and other potential features such as preliminary review requirements.

Administration of the RDCS process is fairly labor intensive and requires nearly 1 fulltime staff person, annually, to administer. Figure 12 below shows the milestone steps in the administration process.

Figure 12
RDCS Milestone Steps Process Flowchart



Staff indicated that the RDCS process will be included in the TRAKiT permit processing system, which is good. However, the workflow processes have not yet been completed for TRAKiT so staff is not sure whether online RDCS submittals are planned.

Staff noted that online submittal would be complicated by the fact that the City currently requires applicants to provide lists of surrounding/adjacent property owners for public notices, as well as stamped envelopes for city distribution of notices. The public notice procedures would need to be changed so that the City would produce public notice lists, mailing envelopes and postage.

See our above recommendation regarding the City assuming these tasks and charging the applicant accordingly.

157. Recommendation: The RDCS process should be included in the TRAKiT permit processing effort to allow for online submittal, payment, review, data collection and reporting.

Other Process Issues

Business License Reviews by Planning Division

Table 12 above shows Business License Review activities from 2010 to 2015. According to the data, the average number of reviews over this period was 266 and includes license reviews for home-based, fixed and professional classifications, as well applications for construction companies, apartment complexes, hotels and change of business address requests within Morgan Hill's city limits.

The Finance Department is responsible for managing and processing the Business Licensing system. Finance staff sends license applications for businesses located within the City to the Development Services Technician (DST, also known as the Planning Technician) for zoning review and approval, electronically via email. Business license applications that are outside city limits, but provide service in the City are only reviewed by Finance. The DST completes a zoning review and if appropriate, signs and prints the application form and sends to Finance for permit issuance. The DST will verify business licenses applications over the counter whenever possible, which is good.

Planning staff indicated that there were discussions with Finance staff about eliminating the practice of Planning staff reviewing business licenses for Tenant Improvement (TI) projects, since planning is already conducting a conformance review for the TI as part of the building permit review and felt that a business license is redundant.

In addition, Planning and Finance discussed Planning's request to delegate Planning review authority on certain types of business licenses (e.g., home based business and certain commercial/industrial sites) to reduce Planning's volume of reviews, however, the parties were not able to agree on these proposed review changes.

We asked Finance staff why they felt the proposed changes could not be implemented. With regard to assuming some review responsibility for planning, Finance indicated that the City's Municipal Code (e.g., Section 5.04.020 C) requires Planning to review and approve business licenses prior to issuance. Additionally, Planning's rationale for delegating certain reviews to Finance was based on the notion that Finance staff held basic knowledge of what was an acceptable business to operate home based, and certain commercial and industrial locations and could seamlessly absorb Planning's review of these business licenses.

However, Finance staff do not have formal training on the City's Zoning Code and as such, assuming reviews would create an unacceptable risk. Further, Finance did not have adequate staffing resources (particularly with regard to back-up resources) and existing municipal code requirements required Planning Division review. Thus, Planning retained full review responsibility for reviews.

Finance staff explained that some of the confusion relating to duplicative TI reviews occurred because one Planning staff member was reviewing TI's, while another staff member was reviewing business licenses. To eliminate this confusion, Planning implemented review changes to ensure that TI and business license reviews were assigned to one Planning staff member. In addition, planning, building and finance staff also determined that more coordination was needed in the document submittal process because most TI's are submitted and reviewed before the submittal of the required business license application. To ensure business licenses are captured for TI's that may, by oversight, not submit their business application at a later date, the Building Division now requests all TI applicants to submit their business license application at the same time. Now, the planning staff assigned to review TI's, receives a review referral for the corresponding business license, during the TI review building permit review.

We agree with the changes that the Planning Division instituted to eliminate confusion and work effort duplication, as well as the Finance Department's rationale for not assuming Planning Division review responsibility.

Business Licensing activities are prime candidates for electronic permitting systems, since they are straightforward and typically generate significant activity volumes, which can usurp available staffing resources.

We understand that the business licensing process will be included in the TRAKiT initiative and if so, TRAKiT significantly streamline the business licensing review and approval process.

158. *Recommendation:* The TRAKiT module for Business Licensing process should include online electronic submittal, online payment and receipting, electronic review, electronic sign off and licensing issuance and provide auto populating templates and a reminder feature. It should also be programmed to measure processing timeframes and collect discrete activity data for each process so that reporting is accurate and streamlined.

Planner Certificate of Occupancy Inspections

Project Planners are tasked with completing an inspection of new and/expanded development projects and signing off on required landscaping and architecture before the Building Official will issue a certificate of occupancy (CO).

In some communities, the Building Inspection staff are trained to perform planner-related inspections and are delegated this responsibility, since they are already onsite conducting other building-related inspections. In addition, to being more efficient and

speeding up the CO inspection process, it frees up the planners' time so they can focus on development review and other tasks. We agree with this practice and frequently recommend it in our studies. However, given that the City has established architectural and landscaping criteria, it may not be practical for Inspectors to assume this responsibility.

159. Recommendation: The Community Development Director should explore whether Building Inspectors or Code Inspectors can perform required Planning inspections to streamline the inspection process and free up more project processing time for Planners.

Planning Application Processing Times

Table 22 shows sample data on six (6) recent Planning Applications that were processed by the Division.

Table 22
Six Recent PA Applications Processed

Application Type	Case #	Date Submitted	Date Staff Deemed complete	Total # of Calendar Days from Submittal to Complete	Date of PC or Director Decision	# of Calendar days from Deemed Complete to PC or Director Decision	Date of Council Decision (if applicable)	# of days from PC decision to Council Decision (if applicable)	# of Cal days from Submittal to Final Decision
Administrative (Director approval) Case	CAUP-15-13 Approval Cert No. 15-031	10/8/15	10/8/15	0	10/27/15	19	n/a	n/a	19
Administrative (Director approval) Case	ASD-15-06 Approval Cert No. 15-029	7/31/15	9/14/15	44	10/9/15	25	n/a	n/a	69
Planning Commission Approval Case	UP-15-10 Resolution No. 15-58	7/15/15	8/24/15	39	9/8/15	15	n/a	n/a	54
Planning Commission Approval Case	USA-15-01 PC Reso. No. 15-56 CC Reso No. 15-218	7/31/15	7/31/15	0	8/11/15	11	9/2/15	22	32
City Council Approval Case	DA-15-12 CC Ord No. 2174	7/31/15	-	-	9/22/15	-	10/21/15	29	81
City Council Approval Case	DA-14-09 PC Reso 15-53 CC Ord No. 2170	8/29/14	Incomplete ltr on 4/9/15	-	8/11/15	-	10/7/15	56	404

As the above table shows, the completeness determination data was incomplete, however, timeframes ranged from immediate to 44 days for administrative projects

and took 39 days for a PC project. Unlike some other Cities we have studied, Morgan Hill does not consider a project technically complete until the CEQA determination is made, which results in varying determination timeframes.

Data on the number of review cycles was not presented, so it is unclear how many review cycles each project underwent.

The time frames from completeness to decision were quicker for the PC case shown than for two Director decision cases shown, which is curious, since Director cases are by nature more routine and should take less time.

The overall process completion timeframes for projects requiring Council action, varied significantly, from 32 to 404 days. It is not clear whether processing variations are attributable to expedited review, CEQA, multiple reviews, applicant delays or some combination of these. The varying completion timeframes is consistent with feedback we received in that applicants desire more predictability in the approval processes.

We understand that processing timeframes can vary by project due to CEQA and other complexities. Nonetheless, many of the California communities we've studied have successfully implemented review Performance Standards, which have helped to improve accountability, efficiency and predictability. We believe the City needs to establish and implement performance standards as well to increase accountability and predictability.

Performance Standards

The Division has not established formal Performance Standards to measure decision time frames for Director Administratively approved applications or Planning Commission and Council Approved Applications. However, a 14-day timeframe has been established for first cycle reviews for all planning application types.

Best practice communities establish performance standards for planning application processing so that they can more effectively gauge processing effectiveness and meet customer timeline expectations or needs. Performance Standards are typically established for application completeness (e.g., depending on how an agency interprets "completeness"), staff review time frames for up to three review cycles (e.g., each review following the initial review until the project is accepted for final decision-making) and overall processing time frames (e.g., from submittal to decision).

Table 23 below shows our Suggested Performance Standards.

Table 23
Suggested Performance Standards for Planning Applications (PA's)

Application Types	Existing Staff Review Timeframe Calendar/Business Days	Suggested Staff Review Performance Standard in Calendar/Business Days			Suggested Submittal to Feedback Processing	Suggested Deemed Complete to Decision in Calendar Days/Business Days	Suggested Goal for % Time Met
	Cycle One	Cycle One	Cycle Two	Cycle Three			
Conceptual Plan Review Applications	14 calendar/ 10 business	14 calendar/ 10 business	N/A	N/A	14 calendar/ 10 business	N/A	90%
Preliminary Plan Review (non-Measure C) Applications	14 calendar/ 10 business	14 calendar/ 10 business	N/A	N/A	PC - 21 calendar/ 15 business Council – 30 calendar/20 business	N/A	90%
Director Decision Planning Applications	14 calendar/ 10 business	7 calendar/ 5 business	3 Bus.	1 Bus.	N/A	N/A	90%
Planning Commission Decision Planning Applications	14 calendar/ 10 business	Same	5 Bus.	3 Bus.	N/A	CEQA Cat. Exempt. - 35 calendar/ 25 Bus. CEQA Neg. Declaration - 55 calendar/ 40 Bus.	90%
City Council Decision Planning Applications	14 calendar/ 10 business	Same	5 Bus.	3 Bus.	N/A	CEQA Cat. Exempt or Neg. Declaration – 80 calendar / 58 Bus.	90%

We have suggested a Performance Standard for the overall processing time (e.g., from submittal to feedback) for Conceptual Plan Review and Preliminary Plan Reviews (e.g., non-RDCS) which are likely shorter than typical processing timeframes. The suggested Performance Standards for these processes provides time for DRB review, followed by immediate PC and Council review, when requested.

Our suggested staff reviews standards are shorter for Director Decision applications because they are more routine and can typically be processed more quickly. After the first review cycle, subsequent review time frames are further shortened.

Staff review time frames for PC and Council Decision applications are 14 calendar days for the first review, which is the existing review time frame, so that the project can be considered by the DRB to help flush out major issues, which is an important

tool for staff. Subsequent cycle has been reduced by half, which streamlines the review process.

We have suggested processing time frames from the point of CEQA determination to PC Decision for Exempt and Negative Declaration projects, which are typical performance standards established in other California communities we have studied. The suggested standard provides staff with 35 calendar days to get a project scheduled and considered by the PC, from the date a project is deemed to be Exempt and 55 calendar days for projects where a Negative Declaration is proposed. We have not proposed standards for where a Mitigated Negative Declarations is proposed or Environmental Impact Report or Study is required.

We also suggest a Performance Standard of 80 calendar days from the point of CEQA completeness determination to Council decision for projects that are Exempt or where a Negative Declaration is proposed, which provides staff with 25 calendar days following PC to get the project scheduled and considered by Council.

All Performance Standards should be set up in the TRAKiT System and proactively tracked, monitored and reported on, as we have recommended throughout this report and met 90% of the time.

The suggested Performance Standards for staff reviews for up to three cycles, coupled with our suggestions to create more structured DRB meetings should help applicant's prepare requested revisions timely and help streamline the overall process.

By formally establishing the above suggested Performance Standards for Completeness Reviews, Three Cycles of Staff Review and overall processing timeframes for all planning applications the City will be better able to gauge the efficiency and effectiveness of planning application by tracking monitoring and evaluating the success of Performance Standards, and ensuring that they are met 90% of the time.

160. Recommendation: The review times for Planning applications should be set as shown in Table 23 and be met at least 90% of the time.

VIII. EMPLOYEE PERCEPTIONS

Short Employee Questionnaire

A confidential and anonymous short questionnaire was completed by 13 City employees, 7 in Planning, 2 in Building, 3 in Engineering, and 1 manager. The questionnaire is shown in Appendix C. The raw scores are only shown for the 7 planning employees and 3 engineers. Showing less than 3 tends to make them non-anonymous.

The short questionnaire also asked employees to list pet peeves and give suggestions for improvements. These comments were used as part of our analysis for this report and are shown in Appendix B.

The short, closed-ended questionnaire consisted of a series of statements to be rated by the respondents. Responses were tallied and averaged and the raw scores are displayed in Appendix B. The statements were designed to elicit the mood and feelings of each employee about overall division or department excellence. For each of the 3 statements, the employee was asked to respond as follows:

- | | |
|-----------------------|--------------------|
| 1 – Strongly Disagree | 4 – Somewhat Agree |
| 2 – Somewhat Disagree | 5 – Strongly Agree |
| 3 – Neutral | 6 – Not Applicable |

Generally, the higher the rating (i.e., 4's and 5's) the better the employee perceives the subject area and the more excellent the division or department.

We've conducted this survey in many planning and building departments and divisions. Generally, a score below 3.0 is an indication of issues that need to be addressed. We like to see average scores in the high 3's and 4's. We believe that the scores give a reasonably accurate assessment of the employee's view of their division or department.

The overall average score for the planning questionnaires was 3.72 and it was 3.4 for the engineers. These are overall positive scores indicating satisfied employees.

Questions with average scores below 3.0 are discussed below.

Planning

Only two planning questions had scores below 3.0.

- #14. *We have an efficient records management and documentation system in our Division.* (2.67)

Records management is discussed in other parts of this report.

- # 31. *The Zoning and Development Code is good. (1.50)*

The Zoning and Development Code is discussed in other parts of this report.

Building

Seven of the building staff questions were below 3.0 as follows:

- #6. *Managers in our Division encourage and advance new ideas from employees. (2.67)*
- #7. *We have a strong emphasis on training in our Division (2.33).*
- # 11. *Our Division encourages practical risk-taking and supports positive effort. (2.67)*
- #14. *We have an efficient records management and documentation system in our Division. (2.67)*
- #15. *I am satisfied with the type of leadership I have been receiving from my supervisor in our Division. (2.67)*
- #16. *I have enough time to do my work as it needs to be done. (2.33)*
- #20. *I am able to meet standard turnaround times for processing plans and permits in our Division as communicated by my supervisor. (2.33)*

Question 6, 11, 15, and 16 had low scores for only one of the three employees and are not an indicator of a broader issue. Question 7 addresses training and question 14 addresses records. Both are discussed in other parts of this report.

Question 20 is the more significant question with two employees scoring a negative 2 and a neutral 3. This question is reviewed as part of the engineering analysis.

Long Employee Questionnaire

A long employee 15-page questionnaire consisted of 42 questions. The questionnaire was confidential but not anonymous. Most employees completed the questionnaire using Survey Monkey with results going directly to Zucker Systems. The questionnaire is shown in Appendix B.

IX. CUSTOMER PERCEPTIONS

In today's environment, governmental performance is measured by customer satisfaction. In order to determine the City's performance, we used several techniques consisting of interviews with the Mayor and City Council members, City Manager, Chairperson of the Planning Commission, two customer focus group, and an email surveys to applicants.

This Chapter includes a summary of customer comments for improving the functions. The intent of this customer input was to elicit views and opinions on positive and negative aspects of activities and to seek ideas for change that will improve and enhance the functions. However, as would be expected, the focus was on perceived problems.

In considering the results, the reader must bear in mind that, unlike documents and statistics, the views expressed by individuals are subjective and may reflect personal biases. Nonetheless, these views are at least as important as objective material because it is these people, with their feelings and prejudices that work with or are often affected by City activities. A second important consideration is that in analyzing the material, it may not be as important to determine whether a particular response is "correct" as it is to simply accept a response or try to determine why customers feel the way they do. Tom Peters, the noted management consultant, has said that in relation to customer service, "Perception is everything." In other words, perception is reality to the person holding the perception.

These comments are not the conclusions of the consultants. Using our methodology as described in Figure 1 and Section B of Chapter II, the customer comments are taken as one form of input to be merged by input of others and our own judgment. Our specific response is in the form of the various recommendations included in this report.

A. MAYOR AND CITY COUNCIL PERSPECTIVE

We met the Mayor and four City Council members in individual confidential meetings/conference calls in order to gain their perspective on the Community Development Department.

Overview

Over the past few years the Council has had increasing concerns about issues arising from the Community Development Department. In response to these concerns the City Manager felt that a full independent outside audit should be conducted. This led to the issuance of a Request for Proposal and this current study or audit.

The following are important perspectives we received during our interviews with the Mayor and City Council members. There was not unanimous opinion on all topics.

Building Division

Some Members expressed concern that Building Inspection services are too slow (e.g., sometimes a week before a customer can receive an inspection). In addition, at least one case, occupancy of the first phase of one market rate development was allowed before the developer had completed improvement to provide for internet, telephone and mail service.

Customer Service

Customer service was generally reported as being good, however, some staff don't return phone calls or emails in a timely manner.

Development Review Process

A general concern about the development community's perception that the Development Review Process is too slow, inefficient and ineffective and the Community Development Department needs to take a more proactive oversight role in the Process. Some Members felt that it seemed as though some of the new staff did not fully understand the City's procedures and that the developers are being asked to produce too much detail in the early stages of project conception. Developer resources should be put into projects and facilities rather than in producing costly, detailed plans at the conceptual stage in the process.

General Plan

The City is concurrently updating its General Plan, RDCS and Zoning Code, Development and Infrastructure Master Plans for water, sewer, storm drain and telecommunications, which is collectively called the Morgan Hill 2035 Project. Council does not anticipate any major philosophical shifts in the General Plan and RDCS updates.

Planning Commission

Council members indicated that the City relies heavily on the Planning Commission (PC) as considerable responsibility has been delegated to the PC. Council members generally expressed that the PC is doing their job, however, some members believed that the Planning Commission should be strengthened to improve their effectiveness (e.g., agenda management, concise decision-making, professionalism.). In addition, some members had received occasional feedback that the PC has been confrontational with members of the development community and planning staff during public hearing proceedings, which was not acceptable. Although the PC sometimes has

different recommendations and decisions that the Council, it was felt that some disagreement is expected and that the PC was thought to be in alignment with the Council.

Residential Development Control System (RDCS)

RDCS was approved by voter initiative in 1977 and the city, in partnership with the community and other stakeholders, is actively working on amendments to the System, which will be voted on by the citizens in November of this year. Administration of the System is labor intensive for staff and difficult for developers, however it has produced quality development and generally paced growth as intended. Currently, the City is experiencing a lot of development activity as a result of the backlog of housing units not built during the great recession now under construction (e.g., allocations granted in previous years and during the recession are now being exercised), which is concerning for some citizens. RDCS revisions are anticipated to encourage a more consistent annual distribution of housing units, among other things.

Staffing

Some Council Members indicated that building and the engineering function in Public Works may be short staffed and expressed that staffing shortages need to be identified and corrected. Members indicated that the Community Development Department lost a lot of institutional knowledge over the last few years due to layoffs, retirements, etc. of tenured staff. Additional training may be needed for CDD staff to boost skills.

Zucker Systems Study – City Comparisons

The majority of Council expressed little desire to include a comparative analysis in this Study, which would compare Morgan Hill against similarly situated cities in the area would add little value, since Morgan Hill is so unique as compared to other cities. Two Council Members suggested that Morgan Hill be compared with Livermore, Danville and Vacaville, in the areas of application fees, staffing levels and processing time, if a comparative analysis was to be included.

B. FOCUS GROUP ONE

A group of three customers met on January 26 at the Community Center in a confidential meeting with a Zucker Systems staff to discuss their experience with the Morgan Hill development process. The group included two consultants specializing in development entitlements and one general contractor. Issues discussed are arranged alphabetically below.

Building Permit and Inspection Function

The Morgan Hill building permit function is seen as “great.” However, it takes over a week to get an inspection. Next day inspection is desired.

Communication

There is poor communication between Community Development and Public Works. Some communication issues also exist with Building and the others but less so.

Consultants

The use of consultants is fine. The use of third party plan checks is particularly good.

Development Review Committee

The DRC is not considered effective and developers are not allowed to attend, which is an issue.

Overview

Morgan Hill staff are very friendly.

Partnering

Developers like to see themselves as being in partnership with the city and this was the case in Morgan Hill. However, in recent years this approach in Morgan Hill seems to have deteriorated.

Problem Solving

Most Morgan Hill managers are seen as good problem solvers and willing to work with you, particularly the Assistant City Manager and the Building Manager.

Process

Morgan Hill’s development processes are not well defined. Once you get out of the processes that do exist it can be very difficult – “things are loose and goosy”.

Staff comments on reviews are not clear or concise. The same issues come up on repeat processes and it is hard to rely on prior processes. Issues tend to be revisited for each process.

There are no clear timelines for most of the processes and timelines are very slow.

Virtually everything in the city requires a development agreement.

The city lacks performance standards.

Issues often come up late in a process because one of the functions has not seen the plans. Plans should be distributed to all functions at the outset of a project.

Public Projects

Approvals often require the developer to pay for public projects that may even be across town from the proposed development.

Public Works

There is a disconnect between Public Works plan check and Public Works inspection. Staff wants to use the same standards that are used for public property for construction on private property.

Residential Allotment

Residential Allotment is the first step in the process and then everything starts at the same time creating logjams. If the project does not proceed on schedule the applicant can ask for an extension, which is generally granted. During the recession many projects were not built and the granting of extensions means that projects carried over resulting in today's high number of permits.

The RDO had many problems and there have been attempts to streamline it. There is a committee currently discussing possible changes. A major problem that a project may change after an allotment is given and there is not clear process for changes at that time.

Other Communities

Other cities considered good include Ventura. Fremont is tough but they do provide good timelines. Mountain View is tough but the process is well defined.

Cities considered bad include Gilroy, Oakland, Los Gatos, and San Jose.

Staffing

Engineering and Fire are particularly understaffed. Planning and Building are also likely understaffed.

C. FOCUS GROUP TWO

A group of six customers met on January 26 at the Community Center in a confidential meeting with a Zucker Systems staff to discuss their experience with the Morgan Hill development process. The group included a major business owner, real

estate, surveyor/planner, developer, engineer, and a homebuilder. Issues discussed are arranged alphabetically below.

City Council

The City Council normally sides with the neighborhoods.

Cooperation

There used to be more applicant – staff cooperation than there is today. Issues primarily relate to Planning.

Direction of the City

There is a shift in the direction of the city, partially caused by hiring of staff from San Jose. This shift may not reflect the desires of the citizens.

Engineering

Engineering is very slow.

Fees

Fees are very high and they escalate 5% each year. The voluntary (required) conditions also add to the cost of the project.

Measure C

Last year a committee was appointed to look at measure C and it is still meeting. Agreements can be re-negotiated during an extension. During the recession, many of the allotments were bought by larger out-of-town developers changing the nature of the city.

Other Communities

Good communities include Hollister, and San Juan Bautista. Building was once good in San Jose. Mountain View is tough but you know what you will get. Gilroy has pre-develop meeting which is good. Comparable communities include Gilroy and Pleasanton.

Performance Standards

Performance standards are needed, particularly related to timelines for reviews and approvals.

Planning Commission

The Planning Commission is not well respected. Staff and the Commission are often on the opposite side of issues.

The Commission gets the staff report on Thursday night but some members feel they need more time to review.

Planning/Public Works

There are many conflicts between planning and public works.

Problem Solving

Most Morgan Hill managers are seen as good problem solvers and willing to work with you, particularly the Assistant City Manager and the Building Manager. However, their agreements are not always followed through.

Staff Reports

The applicant gets the staff report on Friday before the Tuesday meeting, which is not enough time for review.

Staffing

Staff levels should be compared to five years ago. It seems like previously staff was more efficient.

Telephone Calls

Some communities require calls to be returned in 24 hours.

Traffic Issues

Traffic review often comes too late in the process.

D. CUSTOMER EMAIL SURVEY

A customer survey was sent to 138 customers with 9 returned or bounced for a total of 126. Only 18 surveys were returned for a return rate of 14%. This is near our normal return rate of 15 to 20%. Although we normally want at least 30 surveys for analysis, some useful data can be gleaned from the survey.

Many of the questions asked respondents to score Strongly Agree, Agree, No Opinion, Disagree, Strongly Disagree or Not Applicable. Many of the questions also asked for an answer related to Building, Engineering/Public Works, or Planning. Normally we like to see negative comments below 15% meaning 85% are positive. Negatives over 15% indicate areas of concern and negative over 25% more serious issues.

Specific results include:

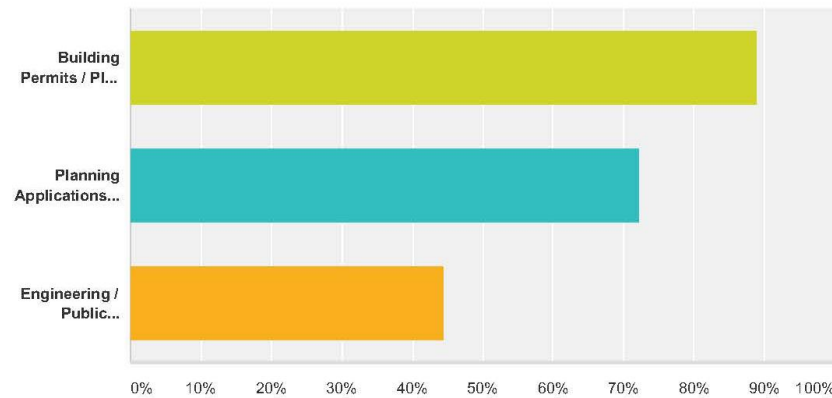
Types of Applications

Q1. The 18 survey cut across Building, Planning and Engineering as can be seen in Figure 13.

Figure 13
Types of Applications Covered in the Survey

Q1 Please check off the types of development actions you have applied for through the City during the past 12 months.

Answered: 18 Skipped: 0



Answer Choices		Responses	
Building Permits / Plan Review / Inspection for Private Property Construction		88.89%	16
Planning Applications / City Plan Commission / Board of Zoning Adjustment		72.22%	13
Engineering / Public Infrastructure / Platting		44.44%	8
Total Respondents: 18			

#	Other (please specify)	Date
1	Zoning change and General Plan Change of 5.75 acre parcel on Butterfield Blvd in 2014 & 2015, in conjunction with my client Community Development Partners.	1/6/2016 3:04 PM

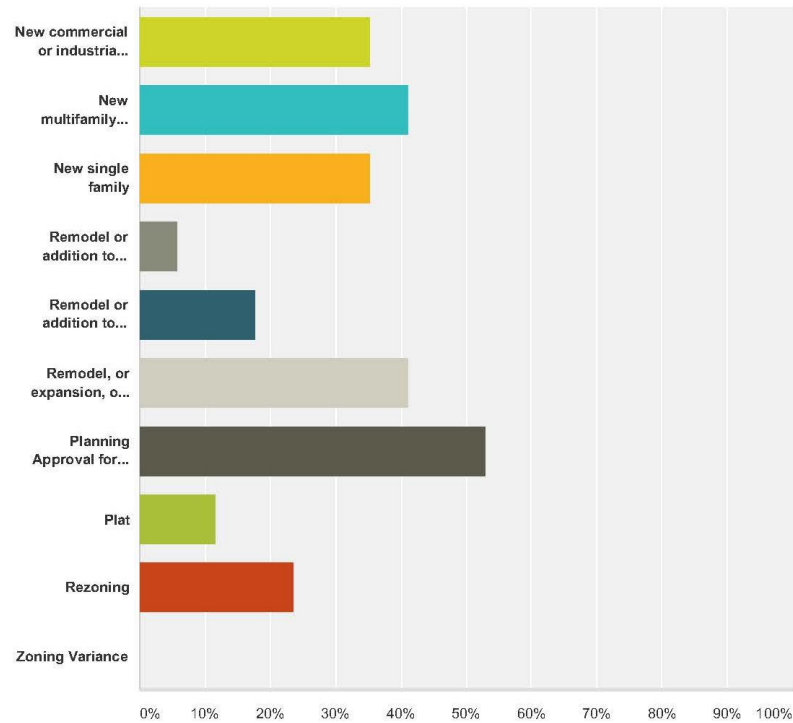
Types if Permits

Q2. Roughly half of the applications were for planning approval with others distributed across all categories. Figure 14.

Figure 14
Types of Permits

Q2 Please indicate what the permit or approval was for.

Answered: 17 Skipped: 1



Answer Choices		Responses	
New commercial or industrial building		35.29%	6
New multifamily dwelling/condo		41.18%	7
New single family		35.29%	6
Remodel or addition to multifamily dwelling/condo		5.88%	1
Remodel or addition to single family		17.65%	3
Remodel, or expansion, or tenant improvement to commercial or industrial building		41.18%	7
Planning Approval for Development Plan or Special Use Permit		52.94%	9
Plat		11.76%	2
Rezoning		23.53%	4
Zoning Variance		0.00%	0

#	Other (please specify)	Date
1	The first Phase of this project is 111 unit Senior Congregate Care Residential project.	1/6/2016 3:04 PM
2	solar permits for new subdivisions	12/16/2015 10:17 PM

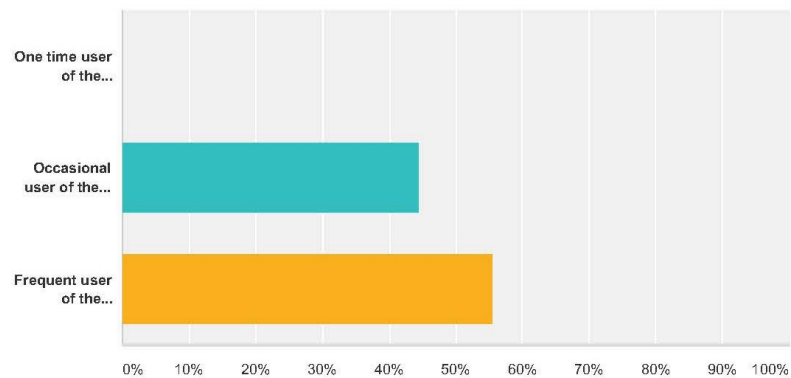
Frequency of Customers

Q3. None of the respondents were one time users of the process and 56% were frequent users as can be seen in Figure 15.

Figure 15
Frequency of Working With the Process

Q3 Please indicate how often you work with the City's development review and plan checking process.

Answered: 18 Skipped: 0



Answer Choices	Responses
One time user of the development review and plan checking process	0.00% 0
Occasional user of the development review and plan checking process	44.44% 8
Frequent user of the development review and plan checking process	55.56% 10
Total	18

#	Type any comments here	Date
1	NOT a solution oriented, can do, approach. Slow to respond, slow to assist in solving problems efficiently so development may move forward asap	1/6/2016 4:42 PM
2	City Planning and City Building Department is very responsive for questions, applications, and permit processing	1/6/2016 3:54 PM
3	I am a commercial RE Broker and developer. Over the years 1995-2004, my partner Mark Brannan and I have built 10 light industrial buildings for owner users, including the Morgan Hill Police Facility at 16200 Vineyard Boulevard.	1/6/2016 3:04 PM
4	The Building permit process is clear and Building staff are very easy to work with.	12/16/2015 10:17 PM

Approvals

94% of applicants had their projects approved.

Specific Positive Responses

Questions 16 and 22 had positive responses above 85% for all three functions finding that all staff was courteous (Q16) and aware of and utilize available City information that is online (Q22).

Building

Of the other 18 questions, building had positive responses above 85% for all but three questions, 4, 13, and 17.

Q4. I understand the City's Development Review and Plan Check processes. They are straightforward and not unnecessarily cumbersome or complex, 22% negative responses.

Q13. The turnaround time for review and approval or disapproval or my application was not any longer in Morgan Hill than other cities or counties where I have filed applications, 25% negative.

Q17. The conditions of approval or plan check corrections applied to my project were reasonable and justified, 19% negative.

Although these three question exceed our 15% negative threshold they are 25% or less. Overall the data would conclude that customer service by Building is quite good.

Engineering/Public Works

Engineering had many negative responses on 15 of 18 questions, 4 exceeding our 15% negative, 6 exceeding 25% and 5 exceeding 40%. These are some of the worst scores we have seen in our many studies.

Q4. I understand the City's Development Review and Plan Check processes. They are straightforward and not unnecessarily cumbersome or complex, 53% negative responses.

Q9. Plan checking is complete and accurate. Additional problems did not surface later that should have been caught in the initial review, 40% negative.

Q10. Services were completed by the date promised, 67 % negative.

Q11. The City's promised delivery dates are reasonable and acceptable, 44% negative.

Q13. The **turnaround time** for review and approval or disapproval of my application was not any longer in Morgan Hill than other cities or counties where I have filed applications, 53% negative.

Planning

Planning had many negative responses on 18 of 18 questions, 3 exceeding our 15% negative, 6 exceeding 25% and 9 exceeding 40%. These are some of the worst scores we have seen in our many studies.

Q4. I **understand** the City's Development Review and Plan Check processes. They are straightforward and not unnecessarily cumbersome or complex, 56% negative responses.

Q6. Staff provides **prompt feedback** on incomplete submittals, 56% negative.

Q8. In general, the City staff **anticipated obstacles** early on and provided options where they were available, 56% negative.

Q9. **Plan checking** is complete and accurate. Additional problems did not surface later that should have been caught in the initial review, 44% negative.

Q10. Services were completed by the **date promised**, 63 % negative.

Q11. The City's promised **delivery dates** are reasonable and acceptable, 53% negative.

Q13. The **turnaround time** for review and approval or disapproval of my application was not any longer in Morgan Hill than other cities or counties where I have filed applications, 53% negative.

Development Review Committee

The Development Review Committee was considered useful by Building and Engineering/Public Works but Planning was 33% negative.

Planning Commission and City Council

All respondents found that the Planning Commission and City Council treated them fairly and were courteous.

Appendix A

Persons Interviewed

Attachment: Zucker Development Services Review (2127 : Development Services Review Update - Zucker)

Administration

Steve Rymer, City Manager
 Leslie Little, Assistant City Manager – Community Development
 Hilary Holeman, Administrative Analyst
 Cindy Murphy, CPA, Assistant City Manager - Administrative Services

Community Development

Andrew Crabtree, Community Development Director
 John Baty, Senior Planner
 Gina Paolini, Senior Planner
 Terry Linder, Senior Planner
 Steve Golden, Associate Planner
 Elaine Collins, Development Services Technician
 Jim Rowe, Contract Planner

Building Division

Ken DeLuna, Building Manager/Building Official
 Eric Bloomquist, Supervising Building Inspector
 John Amos, Code Enforcement Officer
 Wayne Hokanson, Fire Plan Review/Inspection – Contract
 Ron Wake, Building Inspector
 Daniel Cardwell, Building Inspector
 Anna Saenz, Development Services Technician
 Elizabeth Bassett, Development Services Technician

Community Services Department

Chris Ghione, Director of Community Services

Economic Development

Edith Ramirez, Economic Development Manager
 John Lang, Econ. Dev. Coordinator

Finance Department

Dat Nguyen, Assistant Finance Director
 Harjot Sangha, Accountant

Information Systems

Jeff Rosenberger, Information Systems Manager

Mayor and City Council

Steve Tate, Mayor

Larry Carr, City Council member

Rich Constantine, City Council member

Marilyn Librers, City Council member

Gordon Siebert, City Council member

Planning Commission

Joe Mueller, Planning Comm. Chair

Public Works/Engineering

Karl Bjarke, Public Works Director/City Engineer

Scott Creer, Senior Civil Engineer

Charlie Ha, Associate Engineer

Mario Jimenez, Junior Engineer

Appendix B

Employee Long Questionnaire

Attachment: Zucker Development Services Review (2127 : Development Services Review Update - Zucker)

**Morgan Hill, California
Development Services Department**

EMPLOYEE QUESTIONNAIRE

Employee Name _____ **Job Title** _____

Division _____

The following questionnaire is an important and essential part of the City's Analysis of the Development Services Department being conducted by Zucker Systems. The study is aimed at improving effectiveness and efficiency. Your ideas and thoughts are essential to the study. This questionnaire will supplement other work being undertaken by the consultants.

Please complete this questionnaire and return it to us **within one week**. You can do this in one of the following ways:

1. The best way to complete the questionnaire is on line at www.zuckersystems.com. You will find the Morgan Hill Questionnaire under the links tab. If you have any problems call us at 619-260-2680. Note: For confidentiality the program will **not** save your answers to be completed at separate times. If you cannot complete the survey in one sitting, please submit the answers you have completed. Then, you can just access the survey again and answer the questions unanswered the first time and submit that portion of the survey. We will merge your surveys together for a complete survey. Just be sure to put your name on all submittals so we can paste the parts together.
2. You can also access the questionnaire directly online at the following link: [https://www.surveymonkey.com/s/Morgan HillQ](https://www.surveymonkey.com/s/MorganHillQ)
3. You can also mail the questionnaire in a sealed envelope to Zucker Systems, 3038 Udall St. San Diego, CA 92106.

Take your time in answering the questions and be as thorough as possible. You are encouraged to email (paul@zuckersystems.com) or mail attachments or examples. Note that all questions may not apply to you. In that case, simply skip that question.

Your comments may be merged with others and included in our report; however, the consultants will not identify individuals in relation to specific comments. Your responses and comments will be held in confidence.

Thank you for your help.

Paul C. Zucker, President, Zucker Systems

-
1. What do you see as the major **strengths** of the Development Services Department or your Division, the things you do well?
 2. What do you see as the major **weaknesses** of the Development Services Department or your Division, and what can be done to eliminate these weaknesses?
 3. What important policies, services or programs are no longer pursued or have never been pursued in relation to the Development Services Department or your Division that you feel should be added?
 4. Do you feel any of the City's ordinances, policies, plans, or procedures related to the Development Services Department or your Division should be changed? If so, list them and explain why.
 5. Are there any programs, activities or jobs related to the Development Services Department or your Division that you would eliminate or reduce and why?
 6. How would you describe the goals or mission of your function, the Development Services Department, or your Division?
 7. What would help you perform your specific duties more effectively and efficiently?
 8. What problems, if any, do you experience with your records or files and what should be done to eliminate these problems? (Please be specific.)

9. What problems, if any, do you experience with the current office layout, work spaces and public counters and what should be done to eliminate these problems? (Please be specific.)
10. Are there any problems in providing good service to your customers? If so, please list them and give recommendations to solve these problems.
11. Do you feel that the processing of development applications and permits should be shortened, sped up or simplified? If so, what do you suggest? Or conversely, do you feel that you try to move development applications through the permit process too quickly? In either case, how would you suggest it be improved?
12. What suggestions do you have for improving internal communication in your function, the Development Services Department, your Division or the City?
13. What suggestions do you have for improving external communication from your function to customers or Stakeholders related to the Development Services Department.
14. Do you have any difficulty in carrying out your function due to problems with other departments or divisions? If so, please explain and provide suggestions on how to correct these problems.
15. Have you received sufficient training for your responsibilities? If not, please comment and indicate areas you would like more training.
16. What functions are you currently handling manually that you believe could or should be automated? (Please be specific.)

17. What functions that are currently computer-automated need improvement? List your suggested improvements.
18. What problems, if any, do you have with the telephone system and what would you suggest to correct the problems?
19. What problems, if any, do you have with the email system and what do you suggest to correct these problems?
20. Do you have all the equipment you need to properly do your job? If not, please list what you need.
21. Please provide comments concerning good or bad aspects of the City's organizational structure for the Development Services Department or your Division. Provide any suggestions for improvement or changes.
22. Do you use consultants or should consultants be used for any of the functions in the Development Services Department or your Division?

23. If you use consultants for any of the functions in the Development Services Department or your Division what problems, if any, do you experience with these consultants and what would you recommend to correct this problem?
24. What changes, if any, would you recommend in relation to the City Council processes in relation to the Development Services Department or your Division functions?
25. What changes, if any, would you recommend in relation to the City Planning Commission processes in relation to your department or division functions?
26. What changes, if any, would you recommend in relation to the General Plan?
27. What changes, if any, would you recommend in relation to the City's Codes and Ordinances?
28. What changes, if any, would you recommend in relation to the City's engineering construction standards?
29. If you are short of time to do your work, what changes would you recommend to correct this problem?

30. Please list the major tasks or work activity you undertake and provide a rough estimated percentage of your time for each task. The percentages should total 100%.

[illegible]

31. What additional handouts to the public or changes to existing handouts to the public would be helpful?

32. How well do the Departments current Public outreach methods and social media efforts work and what suggestions do you have to improve them?

33. What additional educational materials would help you do your job?

34. What changes if any would you recommend for the City's web page or e-government applications?

35. What changes, if any, would you recommend in relation to the City's GIS system?
36. What changes, if any, would you recommend in relation to the City's computer permitting system?
37. Do relations between the office staff and inspectors work well? If not, what do you recommend to improve the relations?
38. Who is your direct supervisor, list name and position?
39. List the names and positions of the staff that you supervise.
40. What changes, if any, would you recommend in relation to the Code Enforcement and Housing Appeals Board processes in relation to your department or division functions?
41. What changes, if any, would you recommend in relation to the Design Review Committee processes in relation to your department or division functions?
42. What changes, if any, would you recommend in relation to the Historic Preservation Board processes in relation to your department or division functions?

43. Do you have any concerns about the way human resource issues are handled in the Department? If so, please describe and what would you suggest to resolve your concerns.
44. List any other topics you would like the consultants to consider, or other suggestions you have for your function, the Development Services Department, your Division, or the City. Take your time and be as expansive as possible.

Note: Feel free to call us at 1.619.804.1769 or email to paul@zuckersystems.com to discuss any concerns or provide recommendations. When calling, ask for Paul.

Appendix C

Employee Short Questionnaire

Attachment: Zucker Development Services Review (2127 : Development Services Review Update - Zucker)

**Development Services Review
Morgan Hill, CA**

Please check your Division or function:

- ☐ Building Division
☐ Planning Division
☐ Engineering Division
☐ Other (list) _____

1 Strongly Disagree	4 Somewhat Agree
2 Somewhat Disagree	5 Strongly Agree
3 Neutral	6 Not Applicable
	7 Don't Know

- | | |
|---|--------|
| 1. Our Division seeks to identify problems quickly. | [] |
| 2. When problems are identified, our Division moves quickly to solve them. | [] |
| 3. Our Division has an effective process for listening to citizen or client concerns. | [] |
| 4. The concern for employees in our Division is sincere. | [] |
| 5. Good service is the rule rather than the exception in our Division. | [] |
| 6. Managers in our Division encourage and advance new ideas from employees. | [] |
| 7. We have a strong emphasis on training in our Division. | [] |
| 8. Management in our Division discusses objectives, programs and results with employees regularly. | [] |
| 9. There is free and open communication in our Division between all levels of employees about the work they are performing. | [] |
| 10. Employees in our Division treat citizens with respect. | [] |
| 11. Our Division encourages practical risk-taking and supports positive effort. | [] |
| 12. Our Division has a clear sense of what its programs are trying to accomplish. | [] |

**Development Services Review
Morgan Hill, CA**

1 Strongly Disagree
2 Somewhat Disagree
3 Neutral

4 Somewhat Agree
5 Strongly Agree
6 Not Applicable
7 Don't Know

-
- | | | |
|-----|---|--------|
| 13. | We do our jobs very well in our Division. | [] |
| 14. | We have an efficient records management and documentation system in our Division. | [] |
| 15. | I am satisfied with the type of leadership I have been receiving from my supervisor in our Division. | [] |
| 16. | I have enough time to do my work as it needs to be done. | [] |
| 17. | I am kept abreast of changes that affect me. | [] |
| 18. | There is good teamwork and communication between the different departments, divisions or organizations conducting development review, plan checking and inspection in the City. | [] |
| 19. | I am aware of standard turnaround times in our Division for processing plans and permits as communicated by my supervisor. | [] |
| 20. | I am able to meet standard turnaround times for processing plans and permits in our Division as communicated by my supervisor. | [] |
| 21. | The City has a clear and coordinated development review and plan checking process. | [] |
| 22. | Permit and development processes in the City are not unnecessarily complex nor burdensome on the applicant. | [] |
| 23. | Applications are reviewed in the City in a timely manner. | [] |
| 24. | Application review in the City is undertaken in a consistent manner. | [] |
| 25. | It should be the policy of the City and its employees to assist any applicant in completing his/her application, see that it is complete as soon as possible, and process it without undue delay. | [] |

**Development Services Review
Morgan Hill, CA**

1 Strongly Disagree
2 Somewhat Disagree
3 Neutral

4 Somewhat Agree
5 Strongly Agree
6 Not Applicable
7 Don't Know

-
- | | |
|---|--------|
| 26. It should be the policy of the City to make the development and permit process as pleasant and expeditious as possible. | [] |
| 27. We are doing the right amount of long range planning for the City. | [] |
| 28. The Planning Commission works well and is effective. | [] |
| 29. The Development Review Committee works well and is effective. | [] |
| 30. The Plans we prepare for the City are good. | [] |
| 31. The Zoning and Development Code is good. | [] |
| 32. Building permits are reviewed in a short and timely way. | [] |
| 33. Planning applications are reviewed in a short and timely way. | [] |
| 34. Engineering reviews are reviewed in a short and timely way. | [] |

Please briefly answer the following:

35. Please list any “pet peeves” or concerns about your Department, Division, or the City as related to the City's development services.

**Development Services Review
Morgan Hill, CA**

36. Please provide at least one suggestion or recommendation for improvement related to your Department, Division, or the City as related to the City's development Services.
37. What are you most proud of in relation to your Department or Division?



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

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

ADOPT ORDINANCE 2294 APPROVING DEVELOPMENT AGREEMENT APPLICATION DA2018-0002: E. DUNNE-YOUNG FOR THE FIRST 20 UNITS OF A 46-UNIT, THREE STORY, MULTI-FAMILY RESIDENTIAL CONDOMINIUM PROJECT PROPOSED ON A 3.5 ACRE PARCEL LOCATED ON THE NORTH SIDE OF E. DUNNE AVENUE, ADJACENT TO THE NORTH SIDE OF THE MORGAN HILL KINDER CARE LEARNING CENTER AT 605 E. DUNNE AVENUE

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2294, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Preserving and Cultivating Public Trust

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

On December 19, 2018, the City Council introduced Ordinance No. 2294 New Series, by the following roll call vote: AYES: Carr, Spring, McKay, Constantine; NOES: None; ABSTAIN: None; ABSENT: Martinez Beltran (recused).

Ordinance 2294 will approve a Development Agreement between the City of Morgan Hill and Diana Investors LLC. The subject development agreement contains the Residential Development Control System (RDCS) public benefit commitments for the 20, Fiscal Year 2019-2020 allotments awarded to application RDCS 2017-0012: E. Dunne-Young. The 20 allotments represent phase one of the 46-unit Andalusia project located on a 3.5 -acre site on the north side of East Dunne Avenue, adjacent to the north side of the Kindercare facility located at 605 East Dunne Avenue.

COMMUNITY ENGAGEMENT: Involve/Inform

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period and a sign was posted on the project site pursuant to the Planning Division requirements.

ALTERNATIVE ACTIONS:

None.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On January 17, 2018, the City Council adopted Ordinance No. 2266 amending the zoning designation on the property from R-2 3,500/RPD to R-3 to achieve consistency with the General Plan adopted in July 2016.

On June 20, 2018, the City Council adopted Resolution No.18-050 reaffirming the Planning Commission's award of 20, FY 2019-20 residential building allotments for RDCS 2017-0012: E. Dunne-Young.

On November 27, 2018, the Planning Commission unanimously (5-0-2 vote, McKay and Martinez-Beltran recused themselves) approved the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and tentative map, and recommended City Council approval of the project's phase one development agreement.

FISCAL AND RESOURCE IMPACT:

The City development review functions are cost-recovery, with fees collected from applicants to cover cost of services. These fees have been collected.

CEQA (California Environmental Quality Act): Project

An Initial Study and Mitigated Negative Declaration (IS/MND) have been completed and approved by the Planning Commission as part of the subdivision application approval in accordance with the requirements of CEQA. The project results in no significant environmental impacts with the inclusion of Mitigation Measures for Biological Resources (Burrowing owl, Raptors and Tree protection) and Noise to address short-term construction impacts.

LINKS/ATTACHMENTS:

1. 2294 E. Dunne-Young DA

ORDINANCE NO. 2294, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT DA2018- 0002: E. DUNNE- YOUNG FOR A 20-UNIT PORTION OF A 46-UNIT RESIDENTIAL DEVELOPMENT ON A 3.5-ACRE SITE LOCATED ON THE NORTH SIDE OF THE KINDERCARE FACILITY LOCATED AT 605 DUNNE AVENUE (APN 726-02-007)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

SECTION 1. The Planning Commission, pursuant to Chapter 18.156 of the Morgan Hill Municipal Code, awarded 20 building allotments for application RDCS 2017-0012: EAST DUNNE-YOUNG for FY 2019-20.

SECTION 2. The City Council of the City of Morgan Hill enacted Ordinance number 1594, establishing a procedure for processing Development Agreements in Chapter 18.116 for projects receiving allotments through the Residential Development Control System, Chapter 18.156, of Title 18 of the Morgan Hill Municipal Code.

SECTION 3. Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and Development Agreement approved by this Ordinance is consistent with the goals, objectives, policies, general land uses, and programs specified in the General Plan and any applicable specific plan. The project would provide 46, multi-family residential units. There have been no General Plan policy conflicts identified with the proposed project.

SECTION 6. The City Council hereby finds that the Development Agreement is compatible with the uses authorized in the zoning district in which the real property is located because the housing development project is a permitted use within the Residential Attached Medium zoning district and is compatible with the surrounding residential and commercial uses.

SECTION 7. The City Council has duly considered city mitigation programs in effect at the time of execution of the agreement and hereby finds that the project is subject to the payment of applicable impact fees and community benefit commitments as part of the RDCS process.

SECTION 8. The City Council hereby finds that the project will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood because project construction would adhere to state, local and federal laws. The project is residential housing that would include the normal daily operations of other residential sites.

SECTION 9. The City Council of the City of Morgan Hill finds that the Development Agreement complies with the provisions of the California Environmental Quality Act and city's procedures adopted pursuant thereto. The City Council further finds that, on the basis of the whole record before it, there is no substantial evidence that the project as currently proposed will have a significant effect on the environment beyond what was anticipated in the Initial Study and the Mitigated Negative Declaration and this finding reflects the City Council's independent judgment and analysis. The custodian of the documents or other material which constitute the record shall be the Development Services Department.

SECTION 10. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values because the project will provide high quality architecture consistent with the City's Architectural Design Guidelines. The project will also be consistent with state and local laws.

SECTION 11. Testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

SECTION 12. 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 13. 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 or a summary thereof pursuant to 36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 19th DAY OF DECEMBER 2018, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 23rd DAY OF JANUARY 2019, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

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

APPROVED:

Rich Constantine, Mayor

ATTEST:

DATE:

IRMA TORREZ, City Clerk

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2294, New Series adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 23rd day of January 2019.

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

DATE:_____

IRMA TORREZ, City Clerk

Attachment: 2294 E: Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Morgan Hill
Development Services Department
17575 Peak Avenue
Morgan Hill, CA 95037

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MORGAN HILL

AND

DIANA DUNNE INVESTORS LLC

REGARDING

ANDALUSIA RESIDENTIAL DEVELOPMENT PROJECT

Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

RESIDENTIAL DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MORGAN HILL

AND

**DIANA DUNNE INVESTORS LLC REGARDING THE ANDALUSIA RESIDENTIAL
DEVELOPMENT PROJECT**

This Development Agreement ("**Agreement**") is entered into on the below-stated "**Effective Date**" by and between the City of Morgan Hill, a California municipal corporation, (hereinafter "**City**"), and Diana Dunne Investors, a **California limited liability company**, and its successor and assigns (hereinafter, collectively, "**Developer**"), pursuant to Section 65864 *et seq.* of the Government Code of the State of California and City's police powers. City and Developer are, from time to time, also hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other considerations, the value and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 *et seq.* ("**Development Agreement Statute**"), which regulates development agreements with any person having a legal or equitable interest in real property providing for the development of that property and establishes certain development rights in the property. In accordance with the Development Agreement Statute, and by virtue of its police powers, City has the authority to enter into development agreements, and has reflected that authority in its Morgan Hill Municipal Code (Chapter 18.116 *et seq.*) ("**Enabling Ordinance**"). This Agreement has been drafted and processed pursuant to the Development Agreement Statute and the Enabling Ordinance.

B. Developer currently has a legal and/or equitable interest in the Property.

C. Developer proposes to plan, develop, construct, operate and maintain the Project on the Property (as such terms are defined herein).

D. As of the Effective Date, various land use regulations, allotments, entitlements, grants, permits and other approvals have been adopted, issued, and/or granted by City relating to the Project (collectively "**Existing Approvals**"), including without limitation, all of the following:

1. **RDCS Application:** RDCS 2017-0012: E. Dunne-Young, 20 FY 2019-20 allotments
2. **EA 2018-0014: E. Dunne-Young;**
3. **SD 2018-0004: E. Dunne-Young;**

E. For the reasons recited herein, Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in

Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

planning, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

F. On June 20, 2018, the Morgan Hill City Council confirmed the award of allotments for the Project as set forth in the Developer's application for residential allotments pursuant to Chapter 18.156 ("**Residential Development Control System**", or "**RDCS**") of the Morgan Hill Municipal Code ("**Code**"). This Agreement serves to secure in a permanent and enforceable manner the public benefits and commitments included in the Developer's application as required under Section 18.156.120.J of the Code.

G. On October 23, 2018, November 13 and November 27, 2018, following a duly noticed and conducted public hearing, the Planning Commission of the City ("**Planning Commission**") considered the Development Agreement for recommendation to the City Council, and determined that the Development Agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan; is compatible with the uses authorized in the zoning district in which the real property is located; duly considers City mitigation programs in effect at the time of execution of the agreement; will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood; complies with the provisions of the California Environmental Quality Act and City's procedures adopted pursuant thereto; and will not adversely affect the orderly development of property or the preservation of property values.

ARTICLE 1 **ADMINISTRATION**

1.01 Effective Date. Following a duly noticed and conducted public hearing, the Morgan Hill City Council ("City Council") introduced an ordinance ("**Ordinance**"), accepting the recommendation of the Planning Commission, finding that this Agreement's provisions are consistent with the General Plan and any applicable specific plan, approving this Agreement, and directing this Agreement's execution by City. The City adopted the Ordinance, and the Ordinance became effective thirty (30) days later. The "Effective Date" in this Agreement shall be the date that the Ordinance became effective.

1.02 Definitions.

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

- (1) "**Allotments**" shall mean those residential allotments awarded Developer through the Residential Development Control System
- (2) "**Applicable Law**" shall have that meaning set forth in Section 2.01(a) of this Agreement.
- (3) "**Commitments**" shall have that meaning set forth in Section 2.04(a) of this Agreement.
- (4) "**Director**" shall mean the Director of Community Development, and his or her designee.

- (5) **“Existing Approvals”** shall have that meaning set forth in paragraph D of the Recitals of this Agreement.
- (6) **“Existing City Laws”** shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, RDCS, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.
- (7) **“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.
- (8) **“Legal Effect”** shall mean the ordinance, resolution, permit, license or other grant of approval that 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.
- (9) **“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.
- (10) **“Project”** means the development containing 20, three story, condominium units and .83 acres of open space, as more particularly described in Exhibit B. Any reference in this Agreement to the "Project" shall mean and include the "Property".
- (11) **“Project Approvals”** mean, collectively, the Project's Existing Approvals and the Subsequent Approvals.
- (12) **“Property”** shall mean that certain real property consisting of approximately 3.5 acres located within the City, as more particularly described and shown on Exhibit A to this Agreement.
- (13) **“RDCS”** means the Residential Development Control System set forth in Chapter 18.156 of the Morgan Hill Municipal Code.
- (14) **“Second Notice”** shall have that meaning set forth in Section 4.07(c) of this Agreement.
- (15) **“Subdivision Document”** means, pursuant to Government Code Section 66452.6(a) and this Agreement, any tentative map, vesting tentative map, parcel map, or final map, or any such new map or any amendment to any such map, or any resubdivision.
- (16) **“Subsequent Approvals” and "Subsequent Approval"** mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City after the City Council adopts the Ordinance, including without limitation, subdivision maps and building permits.

(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, including the Morgan Hill Municipal Code.

1.03 **Term.**

(a) The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated or modified as provided in this Agreement) until the earliest of (1) the loss of all residential allotments for the Project pursuant to the RDCS, if applicable, (2) the issuance of a certificate of occupancy for all units in the Project or (3) ten (10) years plus one day after the Effective Date; provided however that Developer's obligations pursuant to Sections 2.03 and 2.04 shall survive the termination of this Agreement until such obligations are fully performed and completed in accordance with this Agreement.

(b) If any "**Third-Party Challenge**" (as that term is defined in Section 4.06(a) of this Agreement) is filed, then the Term of this Agreement shall be tolled for the period or periods of time from the date of the filing of such litigation until the conclusion of such litigation by dismissal or entry of a final judgment ("**Litigation Tolling**"). Notwithstanding the foregoing, regardless of the number of Third-Party Challenges that may be filed during the Term of this Agreement, the sum total of such Litigation Tolling shall not exceed five (5) years. The filing of any Third-Party Challenge shall not delay or stop the development, processing or construction of the Project, or the approval or issuance of any Project Approvals, unless enjoined or otherwise controlled by a court of competent jurisdiction. The Parties shall not stipulate to the issuance of any such order unless mutually agreed to.

ARTICLE 2 APPLICABLE LAW

2.01 **Applicable Law—Generally.**

(a) As used in this Agreement, "**Applicable Law**" shall mean the rules, regulations, official policies, standards, and specifications applicable to the development of the Property 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) Existing Approvals.
- (3) The Subsequent Approvals provided such Subsequent Approvals are:
 - (i) In compliance with all controlling California law;
 - (ii) Mutually agreed to by the Parties;
 - (iii) In compliance with this Agreement; and
 - (iv) 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 as provided in Section 2.09 of this Agreement.

(b) 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 Vested Right to Applicable Law.

(a) During the Term of this Agreement, Developer shall have the vested right to develop the Project subject only to, and in accordance with, the Applicable Law, and during the Term of this Agreement, City shall have the right to regulate the development and use of the Project subject only to, and in accordance with, the Applicable Law.

(b) Nothing contained herein will give Developer a vested right to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

(c) Pursuant to this Agreement, the Applicable Law will be an expanding body of law, such as, for example, when Subsequent Approvals are granted by City, and/or when Developer becomes subject to a New City Law pursuant to this Agreement.

(d) The vested rights to develop the Project in accordance with Applicable Law and this Agreement shall be vested only to those residential units having an RDCS residential allotment. Nothing contained herein shall give Developer a vested right to develop the described Project absent valid RDCS residential allotments.

(e) Developer agrees that the terms and conditions of this Agreement and conditions of approval issued pursuant to this Agreement shall govern and dictate the vesting of the Developer's right to develop in lieu of any other instrument of vesting, including any vesting tentative map or any other agreement, instrument or document purporting to vest any right of development. Developer agrees to waive any vesting rights by operation of any otherwise applicable City, state or federal law.

2.03 Project Impacts and Costs.

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Developer. Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts, Homeowners Associations, and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent

of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, in its sole and exclusive discretion, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04 and as part of the Developer's sole and exclusive obligation to cover Project Mitigation, Developer shall pay all Impact Fees and in the amounts in legal effect at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code.

(c) Processing Fees. In addition to any agreed-upon Project-specific requirements as set forth in Section 2.04, the Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, and environmental studies required pursuant to 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 Developer. Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

2.04 RDCS and Other Specific Project-Specific Requirements.

(a) The Specific Restrictions and Requirements set forth in Exhibit C are public benefit commitments ("**Commitments**") voluntarily assumed by Developer in return for benefits derived from the City's RDCS allotment approval program. These requirements are not Project Mitigation within the meaning of Section 2.03 of this Agreement. Developer hereby agrees that these requirements are not subject to credit, refund or reimbursement or prohibition pursuant to otherwise applicable City, state or federal law and hereby waives any such right to credit, refund, reimbursement or prohibition. These Commitments are voluntarily assumed by Developer in return for benefits derived from the RDCS. Pursuant to the RDCS, awarding of residential allotments to new development is a competitive process based on a point system. Additional points can be awarded to a development proposal that voluntarily commits towards providing a public benefit contribution in addition to those already required to mitigate its impacts. The Commitments result in additional points, thereby allowing the development proposal to secure a higher score pursuant to the RDCS, which in turn may provide a high enough score for the development proposal to secure residential allotments. The Commitments set forth in Exhibit C, derived from that RDCS process, are enforced through this Agreement.

(b) Substitution of Commitments within the same Objective may be allowed in limited circumstances, as provided in Section IV. F of the RDCS Competition Manual, with approval of the Community Development Director documented through an Administrative Amendment as provided in Section 3.05 of this Agreement. Substitution may be allowed only if the proposed changes result in the project receiving the same or

higher score within each Objective, maintain or improve the quality of the project, and would result in the same or greater value to the City or its future residents. No changes which would subject the Project to further environmental review under CEQA shall be approved. In circumstances in which Substitution within the same Objective is not possible, Substitution may be allowed only by resolution of the Planning Commission.

(c) The Developer's RDCS application – RDCS 2017 – 0012: E. Dunne-Young approved on June 20, 2018, by the City Council and approval actions (as reflected in the official records, including agendas and minutes of the City Planning Commission and City Council) shall be incorporated into this Agreement by this reference.

2.05 Construction Codes.

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

2.06 Timing of Development.

(a) Securing Building Permits and Beginning Construction. Developer is required to obtain any approvals or permits for the development of the Project in accordance with this Agreement, the Applicable Law, and the Project Approvals. However, any Subsequent Approval initiated by Property Owner which substantially changes the permitted uses or substantially increases the height, and density or floor area allowed under the Project Approvals, shall be subject to the rules, regulations, ordinances and official policies of the City then in effect. Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes and the RDCS, if applicable. In the event Developer fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Construction Codes, Project Approvals, and RDCS, Developer shall be in default of this Agreement, and must cure said default as provided in section 4.01 of this Agreement.

(b) Progress Reports Until Construction of Project is Complete. Developer shall make reports regarding the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of construction, off-site and landscaping contracts or documents, Developer agrees to furnish such documents to the City.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units in the Project, the City shall provide Developers with an instrument in recordable form certifying completion of the entire project.

2.07 Improvements.

In any instance where Developer is required to install improvements (including those set forth in Exhibit C), Developer shall obtain City approval of the plans and specifications and the timing and manner of the installation of improvements and provided Developer has supplied all information required by City, City shall review and act on the application for such approval with good faith and in a reasonable manner. Where the actual cost of any improvement exceeds Developer's estimated cost or commitment, Developer shall be solely responsible for all improvement costs in excess of those approved by City unless otherwise provided for in a reimbursement agreement.

2.08 Overcapacity, Oversizing.

(a) City may require Developer to construct on-site and off-site improvements in a manner that provides for oversizing or overcapacity so that the constructed improvement will serve other development or residents or facilities and services outside of the Project ("**Oversizing**"). Such Oversizing shall be reasonable in scope. The Parties recognize that the City shall not require any Oversizing from Developer except in connection with the Project Approvals and in accordance with provisions of the Subdivision Map Act and Applicable Law.

(b) Unless no credit or reimbursement is owed to Developer pursuant to Section 2.04 of this Agreement, Developer's right to receive credits and reimbursements for Oversizing or excessive payment or performance shall be determined and processed pursuant to the City's Municipal Code and controlling practices (relative to credits and reimbursements) on the Effective Date.

2.09 New City Laws.

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals.

(c) If City determines that it has the right pursuant to this Agreement to impose and apply a New City Law on the Property and 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 pursuant to this Agreement, including without limitation Developer's obligations of full "Project Mitigation" pursuant to Section 2.03 or the "RDCS and Other Project Specific Requirement" pursuant to Section 2.04. Further, for the purposes of this Agreement, the "New City Laws" Developer may elect to be subject to pursuant to this Section shall not mean nor include any or all individual development agreements with other developers (including without limitation such development agreements' term and conditions, exhibits, etc.) executed before or after the Effective Date of this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations,

and implemented through the Federal, State, regional and/or local level ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute, 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. This Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later added to this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including Planning and Zoning Law and CEQA), and are adopted/approved by City, which shall retain all lawful discretion in this regard. The 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. The Parties agree that this Agreement does not modify, alter or change the City's obligations pursuant to CEQA and acknowledge that Subsequent Approvals may require additional environmental review pursuant to CEQA.

(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 Existing 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 Establishment and Extension of Residential Development Control System Building Allotments.

Allotments shall be exercised pursuant to Section 18.156.160 of the Morgan Hill Municipal Code and Section IV.J of the RDCS Competition Manual. The City may approve an extension to the date by which an allotment must be exercised only as allowed by Section 18.156.170 of the City of Morgan Hill Municipal Code and Section IV.L of the RDCS Competition Manual. Extensions shall be processed by Planning Commission resolution as provided in Section IV.H of the RDCS Competition Manual.

3.04 Amendments.

This Agreement may be amended from time to time by mutual consent in writing of the Parties to this Agreement in accordance with Government Code Section 65868. Any request by Developer for an amendment or modification to this Agreement or a Project Approval 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.

No amendment to this Development Agreement shall be necessary to extend the RDCS exercise of allotment date as provided in Section 3.03, nor to substitute an RDCS Commitment as provided in Section 2.04(b) of this Agreement. Future minor amendments, such as allotment adjustments for ongoing projects, shall be approved by Planning Commission resolution.

3.05 Administrative Amendment

Upon the written request of, and payment of the established fee by, Developer, Substitution of Commitments within the same criteria category may be processed administratively by the Community Development Director. Any Administrative Amendment must be made in writing approved by the Director and approved by the City Attorney and signed by the Developer.

ARTICLE 4 **DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT**

4.01 Defaults.

(a) Any failure by City or Developer to perform any material term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days (or 150 days for a Mortgagee (as that term is defined in Section 4.10(a)) following written notice of such failure from the other Party (unless such period is extended by written mutual consent) ("**Notice of Default**"), shall constitute a default pursuant to this Agreement ("**Default**"). Any Notice of Default shall specify the nature of the alleged failure and, where appropriate, the

manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period (or 150 days for a Mortgagee), then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period (or 150 days for a Mortgagee). If the alleged failure is cured, then no Default shall exist, and the noticing Party shall take no further action. If the alleged failure is not cured, then a Default shall exist pursuant to this Agreement and the non-defaulting Party may exercise any of the remedies available pursuant to this Article.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of written notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default. Waiver of a breach or default pursuant to this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

4.02 Actions During Cure Period.

(a) During any cure period and during any period prior to any delivery of notice of failure or default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder to the maximum extent practicable in light of the disputed matter and pending its resolution, or formal termination of the Agreement, as provided herein.

(b) City will continue to process in good faith development applications during any cure period but need not approve any such application if it relates to an alleged default of Developer hereunder.

4.03 Resolution of Disputes.

(a) In the event either Party is in default pursuant to 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 pursuant to this Agreement, any City Council determination pursuant to this Agreement shall be deemed a final agency action.

(c) If any dispute arises between or among the Parties as to interpretation or application of any of the terms of this Agreement, the Parties shall attempt to resolve the dispute in accordance with this Agreement prior to third party mediation, arbitration, or formal court action. As to any such dispute, the Parties shall first meet and confer in good faith to resolve the matter between themselves. Each Party shall make all reasonable efforts to provide to the other Party or Parties all information relevant to the dispute, to the end that all Parties will have appropriate and adequate information to resolve the dispute. Should the Parties not resolve the dispute

informally, the Parties agree to meet and confer in an effort to agree on utilizing Judicial Arbitration Mediation Services ("JAMS") for Alternative Dispute Resolution ("ADR"). However, no party shall be required to use JAMS or ADR.

4.04 Periodic Review.

(a) The City shall review this Agreement at least once annually to assure compliance with the RDCS, at which time the Developer is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such annual review, the City finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded pursuant to the RDCS, in addition to all other legally available remedies.

4.05 Force Majeure Delay, Extension of Times of Performance.

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

4.06 Third Party Legal Actions.

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review pursuant to CEQA ("**Third-Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third-Party Challenge or to tender the complete defense of such Third-Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third-Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys' fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys' fees and costs (including related court costs) and shall indemnify and hold harmless

City against any and all third-party fees and costs arising out of such Third-Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys' fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys' fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

4.07 Estoppel Certificate.

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations pursuant to this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate.**" A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.07(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

4.08 Assignment/Covenants Run with the Land.

(a) Right to Assign. Developer shall have the right to sell, assign, or transfer this Agreement with all its rights, title and interests therein to any person, firm or corporation acquiring an interest in the Project or Property (or portion thereof associated with the Project) at any time during the term of this Agreement

("Assignee"). Developer shall provide City with written notice of any assignment or transfer of all or a portion of the Property no later than thirty (30) days prior to such action, which notice shall include specific portions of the Project or Property to be assigned and the proposed form of assignment. Any proposed assignment shall be subject to the express written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned. City's approval of a proposed assignment or transfer shall be based upon the proposed assignee's reputation, experience, financial resources and access to credit and capability to successfully carry out the development of the Property to completion. The written assignment, assumption or release of rights or obligations with respect to a portion of the Project or of the Property shall specify the portion of the Project or Property and the rights assigned and obligations assumed and shall be approved by the City Attorney. The express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred shall relieve Developer of such obligations so assumed. Any such assumption of Developer's obligations pursuant to this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form as may be approved by the City Attorney.

(b) Release Upon Assignment. Upon assignment, in whole or in part, and the express written assumption by the Assignee of such assignment, of Developer's rights and interests pursuant to this Agreement, Developer shall be released from its obligations with respect to the Property/Project (or any portion thereof), and any lot, parcel, or portion thereof so assigned to the extent arising subsequent to the effective date of such assignment. A default by any Assignee shall only affect that portion of the Property/Project owned by such Assignee and shall not cancel or diminish in any way Developer's rights or obligations hereunder with respect to the assigned portion of the Property/Project not owned by such Assignee. The Assignee shall be responsible for the reporting and annual review requirements relating to the portion of the Property/Project owned by such Assignee, and any amendment to this Agreement between City and Assignee shall only affect the portion of the Property/Project owned by such Assignee.

(c) Covenants Run with the Land. This Agreement and all of its provisions, agreements, rights, powers, standards, terms, covenants and obligations shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons or entities acquiring the Project and/or Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Civil Code Section 1468. This Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee, or any other successor of Developer acquiring a completed residential unit comprising all or part of the Project ("**Consumer**") unless such Consumer is specifically bound by a provision of this Agreement or by a separate instrument or Agreement.

4.09 Encumbrances on the Property.

The parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole and absolute discretion, from encumbering the Property, or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use or operation of the Project. Mortgagee may require certain modifications to this Agreement, and City shall negotiate in good faith any such request for modification or subordination.

4.10 Obligations and Rights of Mortgage Lenders.

(a) The holder of any mortgage, deed of trust or other security arrangement with respect to the Property, or any portion thereof ("**Mortgagee**"), shall not be obligated pursuant to this Agreement to construct or complete improvements or to guarantee such construction or completion, but shall otherwise be bound by all of the terms and conditions of this Agreement that pertain to the Property or such portion thereof in which it holds an interest.

(b) Each Mortgagee shall be entitled to receive written notice from City of results of the annual review to be done pursuant to Section 4.04 and any default by Developer pursuant to this Agreement, provided such Mortgagee has informed City of its address for notices. Each Mortgagee shall have a further right, but not an obligation, to cure such default in accordance with the default and default cure provisions in Sections 4.01, 4.02, and 4.03 of this Agreement. In the event Developer (or any permitted Assignee) becomes subject to an order for relief pursuant to any chapter of Title 11 of the United States Code (the "**Bankruptcy Code**"), the cure periods provided for a Mortgagee in Section 4.01(a) of this Agreement shall be tolled for so long as the automatic stay of Section 362 of the Bankruptcy Code remains in effect as to Developer (or any permitted Assignee); provided, however, if City obtains relief from the automatic stay pursuant to Bankruptcy Code Section 362 to declare any default by or exercise any remedies against Developer (or any permitted Assignee), the tolling of any Mortgagee's cure period shall automatically terminate on the earlier of: (i) the date that is sixty days after entry of the order granting City relief from the automatic stay, or (ii) the date of the entry of an order granting Mortgagee relief from the automatic stay. Each Mortgagee shall be entitled to receive written notice from City of the filing of any motion by City in which City seeks relief from the automatic stay of Section 362 of the Bankruptcy Code to declare any default by or exercise any remedies against Developer (or any permitted Assignee).

(c) Any Mortgagee who comes into possession of the Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Property, or such portion thereof, that have accrued prior to the time such holder comes into possession. In addition, any Mortgagee who comes into possession of the Property or any portion thereof, pursuant to a foreclosure of mortgage or deed of trust, or deed in lieu of such foreclosure, shall, subject to Section 4.10(a) above, be a permitted Assignee and, as such, shall succeed to all the rights, benefits and obligations of Developer pursuant to this Agreement.

(d) Nothing in this Agreement shall be deemed to be construed to permit or authorize any such holder to devote the Property, or any portion thereof, to any uses, or to construct any improvements thereof, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

4.11 Termination.

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.03(a), or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first. Upon termination of this Agreement, the City shall record a notice of such termination, in a form satisfactory to the City Attorney that the Agreement has been terminated.

ARTICLE 5 GENERAL PROVISIONS

5.01 Miscellaneous.

(a) Preamble, Recitals, Exhibits. References herein to "this Agreement" shall include the Preamble, Recitals and all of the exhibits of this Agreement.

(b) Requirements of Development Agreement Statute. The permitted uses of the Property; density and/or intensity of use of the Property; the maximum height and size of proposed buildings and other structures; provisions for reservation or dedication of land for public purposes; location of public improvements; and other terms and conditions applicable to the Project shall be those set forth in the Applicable Law.

(c) Governing Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California and legal actions commenced pursuant to or pursuant to this Agreement shall be brought in Santa Clara Superior Court. Should any legal action be brought by a Party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court.

(d) Project as a Private Undertaking. No partnership, joint venture, or other association of any kind between Developer, on the one hand, and City on the other hand, is formed by this Agreement. The development of the Property is a separately undertaken private development. The only relationship between City and Developer is that of a governmental entity regulating the development of private Property and the owners of such private Property.

(e) Indemnification. Developer shall hold City, its elective and appointive boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Developer's contractors, subcontractors', agents' or employees' operations on the Project, whether such operations be by Developer or by any Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors. Developer shall indemnify and defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations and Developer shall pay all reasonable attorney's fees and costs that the City may incur. City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless requirement of Developer because of the acceptance of improvements by City, or the deposit of security with City by Developer. The aforesaid hold-harmless requirement of Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this subsection, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the subdivision. Notwithstanding anything herein to the contrary, Developer's indemnification of City shall not apply to the extent that such action, proceedings, demands, claims, damages, injuries or liability is based upon the active negligence of the City.

(f) Insurance. Developer shall, during the life of this Agreement take out and maintain insurance coverage with an insurance carrier authorized to transact business in the State of California as will protect the Developer or any Contractor or any Subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable, from claims for damages because of bodily injury, sickness, disease, or death of their employees or any person other than their employees, or for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom. The minimum limits of

liability for such insurance coverage which shall include comprehensive general and automobile liability, including contractual liability assumed pursuant to this Agreement, shall be as follows:

Limit of Liability for Injury or Accidental Death:
Per Occurrence \$1,000,000
Limit of Liability for Property Damage:
Aggregate Liability for Loss \$1,000,000

Such liability insurance policies shall name the City as an additional insured, by separate endorsement, and shall agree to defend and indemnify the City against loss arising from operations performed pursuant to this agreement and before permitting any Contractor or Subcontractors to perform work pursuant to this agreement, the Developer shall require Contractor or Subcontractors to furnish satisfactory proof that insurance has been taken out and is maintained similar to that provided by the Developer as it may be applied to the Contractor's or Subcontractor's work.

(g) 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.

(h) 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, via first class mail, to the respective Party at the below listed address. Notice shall be deemed effective and received five days after the date of mailing or upon personal delivery.

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

With a Copy To: Community Development Director
17575 Peak Avenue
Morgan Hill, CA 95037
Tel: (408) 779-7271
Fax: (408) 779-1592

Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

If to Developer: Diana Dunne Investors LLC
c/o Dick Oliver
385 Woodview Ave, Suite 100
Morgan Hill, CA 95037

(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.

(i) Recordation. The Clerk of the City shall record, within ten (10) days after the Effective Date, a copy of this Agreement in the Official Records of the Recorder's Office of Santa Clara County. Developer shall be responsible for all recordation fees, if any.

(j) 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.

(k) Jurisdiction. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed pursuant to the laws of the State of California.

(l) 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.

(m) 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.

(n) 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.

Attachment: 2294 E: Dunne-Young DA (2128 : Adopt Ordinance 2294- E: Dunne Young DA)

(0) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

Exhibit A Legal Description of Lot on Which Project is to be Located.

Exhibit B Description of Project.

Exhibit C RDCS Specific Restrictions and Requirements.

Signatures of all parties are on the following page.

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Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

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:

Diana Dunne Inv. LLC

s/ _____

James Pedicini
President

Date: November 28, 2018

*Corporate entities must provide a
second signature:*

s/ _____

Name/Title [print]

Date: _____

Adopted by Ordinance No. _____
by action of City Council on _____

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

NOTARY ACKNOWLEDGEMENT

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

State of California
County of Santa Clara

On November 28, 2018 before me, Jamie Jessel, Notary Public
(insert name and title of the officer)

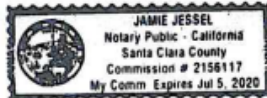
personally appeared James A. Pedicini

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

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

WITNESS my hand and official seal.

Signature Jamie Jessel (Seal)



Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

ROA-Diana Dunne Inv. LLC

EXHIBIT A
**LEGAL DESCRIPTION OF THE PROPERTY ON WHICH
PROJECT IS BE LOCATED**

LEGAL DESCRIPTION

Real property in the City of Morgan Hill , County of Santa Clara, State of California, described as follows:

PARCEL ONE:

PARCEL "A", AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "PARCEL MAP IN THE CITY OF MORGAN HILL OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, PORTION OF LOT 71 MORGAN HILL RANCH, MAP NO. [1](#)", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MAY 21, 1986 IN [BOOK 560 OF MAPS, AT PAGE 1](#).

PARCEL TWO:

AN EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES OVER THE NORTHEAST 30 FEET OF PARCEL B, AS SHOWN ON PARCEL MAP ABOVE REFERRED TO.

APN: 726-02-007

EXHIBIT B

DESCRIPTION OF PROJECT

PHASE 1 (20 UNITS) OF RDCS APPLICATION 2017-0012: E. DUNNE YOUNG.

Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

EXHIBIT C
SPECIFIC RESTRICTIONS AND REQUIREMENTS
(INCLUDING RDCS REQUIREMENTS)

The following restriction and requirements apply to Phase 1 (20 units) of the Development proposed in RDCS application 2017-0012 E. Dunne -Young and shall apply to that portion of the Property included in the said phases of the development on the Property. The following chart describes the applicable reference in the Morgan Hill Municipal Code to the requirement, a description of the commitments specific to the Project, the requirement timing of the implementation and the total estimated costs of improvement or applicable fee commitment. These commitments are IN ADDITION to any mitigation requirements pursuant to CEQA, impact fees, in-lieu fees or other requirements pursuant to federal or state laws, or the Morgan Hill Municipal Code (See Section 2.03 of the Agreement)

*Contribution estimates may require augmentation for the completion of improvements. Impact fees are subject to the provisions of Section 2.03 (b) of this Agreement.

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
1.	Schools			
4.	Student Transportation Improvements	\$5000 per unit to contribute to the City's Safe Access to Schools Fund	Prior to issuance of building permit	\$5000/Unit
2.	Location			
6.a	Water distribution lines	Local water distribution lines are of sufficient size to serve the proposed project. The project does not require replacing existing local water distribution lines with larger diameter pipes. New water mains to serve the site do not need to be installed.	NA	NA
6.b	Wastewater collection	The existing wastewater collection system is sufficient to serve the proposed project. The project does not require extending or replacing existing sewer pipes or lift stations outside of the project site.	NA	NA
6.c	Off-site drainage facilities	Existing off-site storm drainage facilities are sufficient to serve the project.	NA	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
3.	Affordable Housing			
2.	Voluntary Contribution to Housing Fund	NA	NA	NA
3.	Development of Affordable Units	Developer committed to 4 BMR's - 3 at 80% AMI and 1 at 90% AMI. Phase 1 BMR's will be located in Bldg. #2 - unit #7 and Bldg. #4 - unit #15. Unit type for BMR's is AZ – approximately 1628 sq. feet (the same size as Unit type A - Market Rate Units) The Project shall provide in Phase 1 at least 2 units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR units shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. Applicant commits as part of phase one, two (2), low income BMR(s): 3-bedroom, 2 bath and approximately 1628 sq. ft of living area. BMR sales price determination is based on median income and household size. All BMR units, including Moderate BMRs are deed restricted. Final BMR sales price is based on verification of property zoning and housing types. Low Income for this BMR commitment is defined as 80% Area Median Income and Moderate Income for this BMR commitment is defined as 90% Area Median Income (as determined and updated annually by the State HCD). Individual unit prices are dependent on unit sizes/bedroom counts and subject to the prices shown in the City of Morgan Hill's "New BMR Sales Pricing Index" table. BMRs are also subject to the requirements listed under "Additional Requirements" and as referenced per the Affordable Housing Agreement (AHA).	Prior to issuance of a building permit.	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		BMR units are subject to the following development standards: 1. Location. BMR units shall be distributed evenly throughout the project. 2. Lot Size. Lot size shall be at least the same size as the smallest lot of a market rate unit within the project; 3. Bedroom Count. Average bedroom count shall be the same as the average bedroom count in the market rate units in the project; 4. Exterior. Exterior trim entry door hardware, and finish to the same standard as the Market Rate 5. Minimum standards for equipment, fixtures, appliances and finishes have been established for the BMR units. All items installed by the developer shall be of good quality and in new condition. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home. 6. Minimum Interior standard finishes will be as follows a. All closets shall have doors b. Interior doors to be raised panel type or same as market rate c. Door hardware to be brass finish or equivalent d. Appliances shall be major brand name e. Microwave with an exhaust vent shall be installed over the range f. Kitchen counters shall be white ceramic tile g. Kitchen cabinets shall be stained wood with white melamine interiors h. Units will be roughed in for AC including electrical and line set i. Basic alarm system to secure all accessible openings to the home j. Carpet in bedrooms, hallways, family rooms k. Linoleum or tile entry, bathroom kitchens		

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		l. Laminate flooring may substitute for carpet or linoleum m. Electric garage door opener 7. Timing of Construction. BMR units shall be constructed in proportion to the BMR ownership housing requirement applicable to the project per the rules established for the RDCS. At least one (1) BMR unit shall be constructed before or concurrently with every 11th market rate unit constructed. The last two (2) market rate units to be completed in the project may not receive a certificate of occupancy until the last BMR unit has received a certificate of occupancy. The director may approve a modified schedule if the timing requirement will create unreasonable delays in the issuance of certificates of occupancy for market rate units		
4.	Housing Diversity			
1.	Accessory Dwelling Units	NA	NA	NA
2.	Diversity of Housing Types	Commits to two (2) different types of Housing - Triplex or Quadplex and Multi-Family	Design Permit approval	NA
3.	Variation in Housing Size	10 units will be 2 bedroom and approximately 1628 sq. ft. 3 units will be 3 bedroom and approximately 1850 sq. ft. 7 units will be 4 bedroom and approximately 1725-1845 sq. ft.	Design Permit approval	NA
4.	Small Units	NA	NA	NA
5.	Housing Stock Diversity	100% Owner Occupied Multi-Family Housing	NA	NA
6.	Single-Story Homes	NA	NA	NA
5.	Parks and Open Space			
1.	Park Fund Contribution	NA	NA	NA
2.	Excess Park Land	NA	NA	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
3.	Agricultural Conservation or Open Space Easement	NA	NA	NA
4.	Agricultural Buffer	NA	NA	NA
5.	Agricultural Preservation or Open Space Fund Contribution	The project contributes to the City's agriculture preservation or open space fund beyond the minimum requirement. The project shall pay \$3,899.09 per unit.	Paid prior to unit occupancy	\$3,899.09 per unit
6.	On-Site Recreational Amenities	As part of phase one (20 units) project shall provide one of the two tot lots each with a minimum of three age-appropriate activities.	Design Permit approval	NA
7.	Amenities for Age Group	Project provides an outdoor picnic/ barbeque area for adults. The second "gathering area" would be a space for grandparents to watch their grandchildren plan. Seniors could also use the first "gathering area."	Future Phases	NA
8.	Public Gathering Places	Gathering place #1 with seat wall, trellis, wind-break, adjacent to public street, visible to Plaza, for public, residents, senior, adults and guests. Gathering Place #2 also. Cost is at least \$1,000/unit.	Design Permit approval	\$1000/unit
9.	Proximity to Public Parks	Project is within 1/4 mile of Diana Park and Stone Creek Park.	NA	NA
10.	Open Space Design	Project will maintain appropriate open space size, edges of Plaza are the buildings and landscaping. A plaza visible from street & at least 6-units. 2nd tot lot (for toddlers) is provided which is viewable from units and away from streets for safety. Pedestrian walks are provided for access.	Future Phases	NA
6.	Environmental Protection			
1.	Energy Efficiency	Project will provide a 5% reduction in its energy budget compared to the standard design building, as calculated by Title 24, Part 6 Compliance Software certified by the California Energy Commission.	Prior to issuance of a building permit.	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
2.	On-site Solar Energy Generation	NA	NA	NA
3.	Indoor Water Use	projects that exceed the minimum indoor water efficiency and conservation requirements by 5%. Project shall demonstrate attainment of water efficiency standards utilizing methods consistent with Cal Green and industry standards.	Prior to issuance of a building permit.	NA
4.a	Natural Turf	Less than 50% of landscaped area contains natural turf.	Prior to issuance of a building permit.	NA
4.b	No Natural Turf Outside Common Areas	Project will contain no natural turf outside common areas used for active play	Prior to issuance of a building permit.	NA
4.c	Exceeds Outdoor Water Efficiency 10%	NA	NA	NA
4.d	Exceeds Outdoor Water Efficiency 20%	NA	NA	NA
4.e	Exceeds Outdoor Water Efficiency 30%	NA	NA	NA
4.f	Subsurface Irrigation	NA	NA	NA
5.	Sustainable Site and Building Design	Project agrees to a minimum of 94 BIG points, over the minimum required by Chapter 15.65 of the City of Morgan Hill Municipal Code.	Prior to issuance of a building permit.	NA
7.	Transportation			
1.	Bicycle and Pedestrian Improvements	NA	NA	NA
2.	Transit Improvements		NA	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		NA		
3.	Off-Site Street and Parking Improvements or Fund Contribution	NA	NA	NA
4.a	Transportation Demand Management fund	NA	NA	NA
4.b	Transportation Demand Management (rental projects)	NA	NA	NA
5.a	Aligns and connects streets	The project aligns and connects streets intersecting the project boundary with all adjoining streets.	Subdivision Map approval	NA
5.b	Extends Streets	The project extends streets to the adjoining undeveloped land to provide access to undeveloped land in the event of its future development.	Subdivision Map approval	NA
5.c	Off-street bicycle and pedestrian connections	The project provides off-street bicycle and pedestrian connections to adjacent destinations, including parks, open space, transit facilities, and commercial areas. Connections must be established and maintained through an easement, dedication or other similar method to guarantee it remains accessible to the general public.	Improvement Plan approval	NA
6.a	Complete Streets	The project incorporates “complete streets” that meet the needs of multiple users, including motorists, bicyclists, pedestrians, transit users, and persons of different physical capabilities.	Design Permit approval	NA
6.b	Enhanced bicycle and pedestrian improvements	The project incorporates enhanced bicycle and pedestrian improvements such as bicycle storage facilities, traffic calming measures, intersection crossings, and wayfinding signage.	Design Permit approval	NA
6.c	Direct pedestrian connections	The project provides direct pedestrian connections from units to common open space, recreational facilities, and other project amenities.	Design Permit approval	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
6.d	Neighborhood traffic management techniques	The project incorporates neighborhood traffic management techniques, such as traffic circles, narrow lanes, and bulb-outs, to control vehicle speeds and increase the safety of bicycle and pedestrian travel.	Design Permit approval	NA
7.	Electric Vehicle Charging Stations	Project will provide four publicly available charging stations	Design Permit approval	NA
8.	Municipal Infrastructure			
1.	Water Infrastructure	NA	NA	NA
2.	Wastewater Infrastructure	NA	NA	NA
3.a	Reduces off-site storm water flows	The project reduces the volume of off-site storm water flows beyond minimum requirements using low impact development (LID) techniques.	Building permit approval	NA
3.b	Off-site storm water improvements	The project provides off-site stormwater infrastructure improvements beyond minimum requirements.	Improvement Plan approval	\$1000/unit
4.	Infrastructure and Services Fund Contribution	Project will contribute to the City's infrastructure and Services Fund.	NA	NA
5.a	Installs broadband conduit in public right-of-way	The project installs broadband conduit in the public right-of way.	Improvement plan approval	NA
5.b	Installs broadband conduit to home/buildings	The project installs broadband conduit from the public right-of-way to each home or occupied building in the project.	Building permit approval	NA
5.c	Pre-installs indoor conduit	The project pre-installs indoor conduit, wiring and other necessary infrastructure so that broadband service may be provided to each unit.	Building permit approval	NA
5.d	Provides primary broadband service	NA	NA	NA
9.	Project Quality			
1.a	Front Porches	A minimum of 50 percent of homes facing a street or common interior courtyard include a front porch. Porches must be part of the	Design Permit approval	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		home's primary entrance, connected to the front yard or common interior courtyard, a minimum of 6 feet by 5 feet, and in full view of the street or common interior courtyard.		
1.b	Balconies Facing Street or Courtyard	A minimum of 25 percent of homes facing a street or common interior courtyard include a balcony overlooking a public space. Balconies must provide usable private outdoor space for residents, be in full view of a street or common interior courtyard, and face away from neighbors' yards to maintain privacy. 25 percent of upper floor units facing a street or common interior courtyard include a balcony.	Design Permit approval	NA
1.c	Balconies Facing Alleys	A minimum of 25 percent of homes abutting a shared alley include a balcony overlooking the alley, parking area, or drive aisle.	Design Permit approval	NA
1.d	Façade Articulation and Finishes	Front building facades feature quality façade articulation and finishes to break up blank, flat walls and provide visual interest.	Design Permit approval	NA
1.e	360-degree Architecture	The project features full and consistent articulation and design detail on all building facades.	Design Permit approval	NA
1.f	Corner Treatments	For projects where the side or rear of a home faces a street or common courtyard street, the project incorporates enhanced treatments of these side and rear facades to support a welcoming and visually interesting public realm.	Design Permit approval	NA
1.g	Colors and Materials	The project incorporates a mix of exterior finish materials and colors that is compatible with the architecture of the homes and enhances visual interest.	Design Permit approval	NA
1.h	Multi-family Ground Level Entrances	Project provides as many private, exterior ground-level entries to individual units as possible.	Design Permit approval	NA
1.i	Individual Residences-Attached Projects	Large buildings are architecturally subdivided so that they appear as individual residences or small groups of units. Buildings incorporate features such as window bays, balconies, porches and entrance vestibules, varied color schemes, and individual roof volumes to define individual units.	Design Permit approval	NA
1.j	Residential-Scale Design	Buildings incorporate design details, including but not limited to	Design Permit approval	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
	Elements- Attached Projects	porches, projections, eaves, bay windows, and other similar architectural elements, that provide residential scale and help to break up the building mass.		
2.a	Entrance Orientation-Collector and Residential Streets	The primary entrance of homes face streets along the project perimeter	Design Permit approval	NA
2.b	Entrance Orientation-Single-Family Detached Projects/Arterial Streets	NA	NA	NA
2.c	Variation in Building Height	The project incorporates variation in building heights to minimize monotony and enhance visual interest.	Design Permit approval	NA
2.d	Variation in Building Placement	The project incorporates variation in building front setbacks and placement on lots to minimize monotony and enhance visual interest.	Design Permit approval	NA
2.e	Roof Line Variation	Variation in roof lines through changes in roof height and form break of building massing and create visual interest.	Design Permit approval	NA
2.f	Upper Floor Setback-Detached Homes	NA	NA	NA
2.g	Upper Floor Setback-Attached Homes	NA	NA	NA
2.h	Height and Project Edge-Attached Projects	NA	NA	NA
2.i	Separate Structures-Attached Projects	Divides units into multiple separate structures. Maximum 10 units maximum per structure	Design Permit approval	NA
2.j	Adjacent Building Types-Attached Projects	NA	NA	NA
3.a	Landscaping-Parkway Design	The project provides a landscape parkway along the street 50 percent wider than the minimum required for the street type. Street trees and pedestrian-scale lighting within or adjacent to the parkway exceed minimum requirements and help create a distinctive and	Design Permit approval	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
		memorable design environment.		
3.b	Landscaping-Visual Relief	Landscaping is placed and designed to minimize the appearance of building bulk and mass and to emphasize building features that create visual interest and support a pedestrian-friendly environment.	Design Permit approval	NA
3.c	Exterior Lighting	Exterior lighting fixtures are architecturally integrated with the primary building's design, style, material, and colors	Design Permit approval	NA
3.d	Entrance Pathways	No more than 50 percent of multi-family homes feature an identical garage configuration. Garage configuration may include front loaded attached, front loaded detached, side loaded, and rear loaded garages.	Design Permit approval	NA
3.e	Public/Private Transitions	NA	NA	NA
3.f	Mechanical Equipment	Parking visible from a public street is screened with fences, walls, and/or landscaping to the greatest extent possible.	Design Permit approval	NA
4.a	Garage Door Orientation	Garage doors do not face the front street. Garages are configured on the site such that garage doors face either the side or rear of the property.	Design Permit approval	NA
4.b	Garage Door Design-Minimizing Visual Dominance	NA	NA	NA
4.c	Garage Door Design-Detailing	Garage doors feature enhanced windows or architectural detailing consistent with the main dwelling.	Design Permit approval	NA
4.d	Garage Configuration	NA	NA	NA
4.e	Parking-Attached Projects	The project locates parking lots serving attached residential units at the rear or side of the site to allow a majority of dwelling units to front on the street or an internal courtyard. Parking is not located between a building and any public sidewalk or street.	Design Permit approval	NA
4.f	Screening	Parking visible from a public street is screened with fences, walls, and/or landscaping to the greatest extent possible.	Design Permit approval	NA

Section No.	Category/Criteria	Public Benefit/Commitment	Implementation	Estimated Contribution*
4.g	Landscaping-Attached Projects	The project incorporates landscaping to soften the appearance of off-street parking areas and private drive aisles in attached single family and multi-family projects	Design Permit approval	NA
4.h	Setback Areas	NA	NA	NA
4.i	Pavement Design	Areas for vehicle parking and circulation feature enhanced paving finishes such as stone, brick, and colored and textured concrete that complement the architectural style of buildings.	Design Permit approval	NA
4.j	Cluster Units	NA	NA	NA
5.	Public Art	NA	NA	NA
6.a	Home Automation	The project installs home automation devices within units.	Prior to unit occupancy	\$2000/unit
6.b	Home Automation (reduce energy)	The project installs home automation devices within units that reduce energy consumptions, such as devices that automatically adjust lighting, heating, and air conditioning.	Prior to unit occupancy	\$1000/unit

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Attachment: 2294 E. Dunne-Young DA (2128 : Adopt Ordinance 2294- E. Dunne Young DA)

DRAFT



Meeting Minutes City Council

Rich Constantine - Mayor
Yvonne Martinez Beltran - Council Member
Larry Carr - Council Member
John McKay - Council Member
Rene Spring - Council Member

Wednesday, December 19, 2018 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

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

CALL TO ORDER

Mayor Constantine called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Rich Constantine	Mayor	Present	
Yvonne Martinez Beltran	Council Member	Present	
Larry Carr	Council Member	Present	
John McKay	Council Member	Present	
Rene Spring	Council Member	Present	

DECLARATION OF POSTING AGENDA

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

Minutes Acceptance: Minutes of Dec 19, 2018 7:00 PM (CONSENT CALENDAR)

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Mayor Constantine welcomed the two new Council Members to the Council. He wished those that celebrate Christmas, a Merry Christmas and wished Happy Holidays to everyone.

CITY MANAGER'S REPORT

City Manager Christina Turner spoke to the evening's supplements and presentations. She shared that earlier today, in conjunction with the Chamber of Commerce and the Silicon Valley Small Business Development Center, we held an educational seminar related to the Americans with Disabilities Act (ADA). There were speakers and a program that focused on the importance of making businesses accessible to all from outside to inside, understanding service animals in the workplace, as well as, the importance of receiving an accessibility standards compliance report from a certified access specialist. They also reviewed how insurance policies can mitigate punitive damages. The event was attended by eight Morgan Hill businesses along with subject matter experts. She shared that recently the Holiday Lake Estates Homeowners Association (HOA) earned national recognition for being a Firewise Community from the National Fire Protection Association. Firewise is a nation-wide initiative that provides formal recognition to communities that take actions to protect people and properties from the risk of fire in the wild land urban interface. The HOA worked with Morgan Hill Fire to complete a community wildfire hazard assessment and developed an action plan that produced risk reduction benefits to the residents and their homes. Implementation of the plan has begun and will continue as a part of the program's annual renewal requirements. Staff will be returning to the Council as requested, to talk about our plans in the event of a wildfire, including prevention efforts.

CITY ATTORNEY'S REPORT

None.

OTHER REPORTS

None.

PRESENTATIONS

Morgan Hill Community Library, Heather Geddes

YAC PRESENTATION ASSET # 39 - SENSE OF PURPOSE

PUBLIC COMMENT

The public comment was opened at 7:17 p.m. The following people were called to speak:

Rocke Garcia

Malisha Kumar

Charles Weston

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

PUBLIC COMMENT SUPPLEMENT 1

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

CONSENT CALENDAR

MOTION:

Approving consent calendar items 2, 3, 5, and 7 through 12.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

1. ITEM PULLED FOR DISCUSSION

2. APPROVE AGREEMENT WITH HINDERLITER, DE LLAMAS AND ASSOCIATES (HDL), FOR SALES AND USE TAX AUDIT AND BUSINESS LICENSE ADMINISTRATION SERVICES

Recommendation:

1. Approve an agreement with Hinderliter, de Llamas and Associates (HdL), for sales and use tax audit, and business license administration services;
2. Authorize the City Manager to execute and administer that certain agreement; and
3. Adopt resolution authorizing certain City officials and HdL to examine the sales, use, and transaction tax records of the State of California Department of Tax and Fee Administration.

3. ACCEPT GRANT FUNDING FOR AN EMERGENCY BACKUP GENERATOR FOR THE CENTENNIAL RECREATION CENTER AND AUTHORIZE THE PURCHASE AND INSTALLATION OF THE GENERATOR

Recommendation:

Adopt resolution to amend the City's Fiscal Year (FY) 2018-19 adopted budget, to appropriate \$235,000 from the Community/Recreation Centers Impact Fund (360) for the purchase and installation of an emergency back up generator for the Centennial Recreation Center, subject to reimbursement of \$140,249.80 from the State of California Hazard Mitigation Program.

4. ITEM PULLED FOR DISCUSSION

5. APPROVE AGREEMENT WITH OUTREACH SERVICES IN PARTNERSHIP WITH THE COUNTY OF SANTA CLARA

Recommendation:

1. Approve an agreement with the County of Santa Clara Office of Supportive Housing for Homeless Services to continue support for joint Rapid Re-Housing and Homeless Outreach Services specifically for South County; and
2. Authorize the City Manager to execute and administer the certain agreement.

6. ITEM PULLED FOR DISCUSSION

7. APPROVE AGREEMENT FOR TRANSPORTATION FUND FOR CLEAN AIR (TFCA) FUNDING FOR THE MAIN AVENUE BIKE LANE AND SIDEWALK PROJECT

Recommendation:

Adopt resolution:

1. Approving the Santa Clara Valley Transportation Authority's funding agreement for the Bay Area Air Quality Management District TFCA grant program for up to \$65,100 towards the construction of the Main Avenue Bike Lane and Sidewalk Project;
2. Amending the adopted Fiscal Year (FY) 2018-19 budget in School Pedestrian and Traffic Safety Fund (355) to recognize the TFCA Grant as revenue; and
3. Authorizing the Public Services Director to execute and administer the TFCA agreement.

8. APPROVE STORMWATER BEST MANAGEMENT PRACTICES OPERATION AND MAINTENANCE AGREEMENT FOR THE RESIDENTIAL CARE FACILITY FOR THE ELDERLY AT 16515 BUTTERFIELD BLVD (APN: 817-57-049)

Recommendation:

1. Approve a Stormwater Best Management Practices (BMP) Operation and Maintenance Agreement for the Residential Care Facility for the Elderly at 16515 Butterfield Blvd. (APN: 817-57-049); and
2. Authorize the City Manager to execute the Stormwater BMP Operation and Maintenance Agreement pending review and approval by the City Attorney.

9. ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS - CONNEMARA PHASE 2 - TRACT NO. 10357

Recommendation:

1. Accept the Subdivision Public Improvements for Connemara Phase 2 – Tract No. 10357;
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.

10. APPROVE PHASE 1 RECORDS RETENTION SCHEDULE UPDATE

Recommendation:

Approve changes to the City's Records Retention Schedule.

11. APPROVE THE DECEMBER 5, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

12. APPROVE THE DECEMBER 12, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

ITEMS PULLED FOR DISCUSSION**1. ACKNOWLEDGE NO BIDS FOR PARKING STRUCTURE SAFETY ENHANCEMENT PROJECT AND DIRECT STAFF TO NEGOTIATE CONTRACT FOR SERVICES**

Recommendation:

1. Adopt resolution appropriating up to \$220,000 from the Public Facilities Fund (346) for improvements within the Parking Structure;
2. Authorize the City Manager to negotiate, execute, and administer agreements up to \$420,000 for parking structure improvements; and
3. Direct the City Manager to provide a full report to the City Council on actions implemented and the associated agreements for services and materials.

Senior Project Manager Yat Cho and Public Services Director Chris Ghione presented the report.

The public comment was opened at 7:38 p.m.

Rocke Garcia was called to speak.

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

MOTION:

Approving the recommended actions, amending action item 3 directing the City Manager to provide a full report to council before actions are implemented and the associated contracts are signed.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

4. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION

Recommendation:

Adopt a resolution:

1. Accepting a donation from the Community Law Enforcement Foundation in the amount of \$25,439, for the purchase of ballistic plates and carriers for first responders, enhanced communication equipment for our tactical team, and integration costs for a community engagement and evaluation program;
2. Amending the adopted Fiscal Year (FY) 2018-19 budget in the General Fund (010) to recognize the CLEF donation as revenue, and appropriate \$25,439 in the Police Department budget for associated expenditures; and
3. Appropriating a transfer of \$15,840 from the Asset Seizure Fund (225) and to the General Fund

(010) for the annual program subscription services.

Police Chief David Swing answered questions.

The public comment was opened at 7:46 p.m.

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

MOTION:

Approving the recommended actions.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Martinez Martinez Beltran, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

6. REJECT BID PROTEST AND AWARD NEW COMMUNITY GARDEN INSTALLATION PROJECT

Recommendation:

1. Reject bid protest;
2. Award contract to Castlewood Construction Company, Inc. in the amount of \$195,000 for Community Garden construction;
3. Authorize the expenditure of contingency funds not to exceed \$19,500; and
4. Authorize the City Manager to execute and administer that certain construction contract with Castlewood Construction Company, Inc.

Program Administrator Anthony Eulo answered questions.

The public comment was opened at 7:55 p.m.

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

MOTION:

Approving the recommended actions.

RESULT:	AWARDED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

OTHER BUSINESS

13. RECEIVE HIGH SPEED RAIL (HSR) UPDATE AND APPROVE HDR ENGINEERING INC. CONTRACT FOR GRADE SEPARATIONS STUDY

Recommendation:

1. Authorize City Manager to execute a contract with HDR Engineering, Inc., in the amount of \$125,000 to study roadway grade separations at Dunne Avenue and Tennant Avenue; and
2. Adopt resolution approving a three-year interfund loan in the amount of \$125,000 to the Traffic Impact Fund from the Local Drainage Impact Fund and amend the City's adopted Fiscal Year 2018-19 budget in funds No. 303 and 309 for related expenditures.

Council Member Carr excused himself from the dais.

Economic Development Director Edith Ramirez, Associate Planner Tiffany Brown, and Boris Lipkin with the High Speed Rail Authority presented the report.

The public comment was opened at 8:45 p.m. The following people were called to speak:

John Horner
Roland Lebrun
Brian Sullivan
Dick Oliver

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

MOTION:

Continuing the item to a future meeting.

RESULT:	CONTINUED TO A FUTURE MEETING [4 TO 0]
MOVER:	John McKay, Council Member
SECONDER:	Rich Constantine, Mayor
AYES:	Constantine, Martinez Beltran, McKay, Spring
ABSTAIN:	Carr

Council Member Carr resumed his seat at the dais.

The meeting was recessed at 9:36 p.m.

The meeting was reconvened at 9:45 p.m.

14. APPROVE OUTDOOR SPORTS CENTER OPERATOR AGREEMENT

Recommendation:

1. Authorize the City Manager to execute an operations and maintenance agreement with MHOSC, LLC. for the Outdoor Sports Center; and
2. Adopt resolution appropriating \$100,000 from the Park Impact Fund (301) and \$50,000 from the General Fund (010), a total of \$150,000, for improvements and repairs to the Outdoor Sports Center.

Public Services Director Chris Ghione presented the report.

The public comment was opened at 10:25 p.m. The following people were called to speak:

Jeff Dixon
Bob Joyce
John Horner

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

MOTION:

Approving the recommended actions.

RESULT:	AUTHORIZED [UNANIMOUS]
MOVER:	Yvonne Martinez Martinez Beltran, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

15. APPROVE MAGICAL BRIDGE MORGAN HILL PLAYGROUND CONCEPT DESIGN

Recommendation:

Approve the updated conceptual design for the Magical Bridge Inclusive Playground at Community Park.

Public Services Director Chris Ghione and Peter Jensen with the Magical Bridge Foundation presented the report.

The public comment was opened at 11:12 p.m.

Ron Locicero was called to speak.

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

MOTION:

Extending the meeting to midnight.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

MOTION:

Approving the recommended action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

The meeting was recessed at 11:19 p.m.

The meeting was reconvened at 11:22 p.m.

**16. ADOPT POLICY FOR RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS)
AGRICULTURAL PRESERVATION EXEMPT SET-ASIDES, TRANSFER OF
DEVELOPMENT RIGHTS AND/OR AUCTION**

Recommendation:

1. Adopt a policy for Agricultural Set-A-Sides, Transfer of Development Rights, and/or Auction process;
2. Establish number of Agricultural Set-A-Sides Available for Auction in 2019; and
3. Authorize 2019 Auction.

Assistant City Manager Leslie Little and Principal Planner John Baty presented the report.

The public comment was opened at 12:13 a.m.

Bill Chiala was called to speak.

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

MOTION:

Extending the meeting until 1:00 a.m.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

MOTION:

Continuing the item to a future meeting.

RESULT:	CONTINUED TO A FUTURE MEETING [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Yvonne Martinez Martinez Beltran, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

17. PROVIDE DIRECTION REGARDING MONTEREY CORRIDOR BLOCK-LEVEL MASTER PLAN ALTERNATIVES

Recommendation:

Receive report and provide direction to staff on follow-up recommendation for Block-Level Master Plan Alternative for two Monterey Road Corridor projects.

Principal Planner John Baty and Development Services Director Jennifer Carman presented the report.

The public comment was opened at 12:35 a.m.

Dick Oliver was called to speak.

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

Council accepted the report and provided direction.

RESULT:	ACCEPT REPORT
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18. SELECT CITY COUNCIL MAYOR PRO TEMPORE AND REVIEW CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

Recommendation:

1. Open floor to nomination(s) for Mayor Pro Tempore;
2. Select a Council Member to serve as Mayor Pro Tempore per City Council Policy 99-01; and
3. Review and discuss the listing of City Council Appointments to Outside Agencies.

Deputy City Clerk Michelle Bigelow provided the report.

The public comment was opened at 12:53 a.m.

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

Mayor Constantine nominated Council Member Rene Spring for Mayor Pro Tem.

MOTION:

Appointing Council Member Rene Spring to serve as Mayor Pro Tem for 2019.

RESULT:	APPOINTED [UNANIMOUS]
MOVER:	Rich Constantine, Mayor
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

PUBLIC HEARING

19. ACCEPT PUBLIC COMMENT REGARDING THE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID)

Recommendation:

Receive and accept public comment on the formation of a Morgan Hill TBID.

Economic Development Director Edith Ramirez presented the report.

The public hearing was opened at 12:51a.m.

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

Council accepted the report.

RESULT:	ACCEPT REPORT
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20. DEVELOPMENT AGREEMENT APPLICATION DA2018-0002: E. DUNNE-YOUNG: REQUEST FOR APPROVAL OF A DEVELOPMENT AGREEMENT FOR THE FIRST 20 UNITS OF A 46-UNIT, THREE STORY, MULTI-FAMILY RESIDENTIAL CONDOMINIUM PROJECT PROPOSED ON A 3.5 ACRE PARCEL LOCATED ON THE NORTH SIDE OF E. DUNNE AVENUE, ADJACENT TO THE NORTH SIDE OF THE MORGAN HILL KINDER CARE LEARNING CENTER AT 605 E. DUNNE AVENUE

Recommendation:

1. Open and close public hearing;
2. Waive the first and second reading of Development Agreement Ordinance; and
3. Introduce the Development Agreement Ordinance.

Council Member Martinez Beltran and City Attorney Donald Larkin excused themselves from the dais.

Senior Planner Terry Linder presented the report.

The public hearing was opened at 1:02 a.m.

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

MOTION:

Extending the meeting to 1:05 a.m.

RESULT:	EXTENDED [4 TO 0]
MOVER:	Rene Spring, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Carr, McKay, Spring
RECUSED:	Martinez Beltran

MOTION:

Waiving the first and second reading of the ordinance.

RESULT:	WAIVED [4 TO 0]
MOVER:	Rich Constantine, Mayor
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Carr, McKay, Spring
RECUSED:	Martinez Beltran

MOTION:

Introducing the ordinance.

RESULT:	INTRODUCED [4 TO 0]
MOVER:	Rich Constantine, Mayor
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Carr, McKay, Spring
RECUSED:	Martinez Beltran

City Attorney Donald Larkin resumed his seat at the dais.

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Carr asked that staff have the County of Santa Clara come to a Council meeting to talk about roads and airports.

Council Member McKay asked for a fire plan to come back to Council.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:05 a.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Terry Linder, Senior Planner
APPROVED BY: City Manager

INTRODUCE ORDINANCE AMENDING THE MADRONE VILLAGE SHOPPING CENTER PRECISE DEVELOPMENT MASTER PLAN TO ALLOW HOTEL DEVELOPMENT

RECOMMENDATION(S)

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment Ordinance; and
3. Introduce Ordinance amending the PD zoning.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2018 Strategic Priorities

Community Engagement and Messaging
Economic Development and
Telecommunications

GUIDING DOCUMENTS

Economic Blueprint
General Plan/Housing Element

REPORT NARRATIVE:

The applicant TBI, is requesting approval to amend the Madrone Village Shopping Center Precise Development Master Plan (adopted in April 2006), to include two, four-story hotels (55,078 and 63,054 square feet) in lieu of the Phase II, 48,632 square foot, single user retail space. Also requested is amendment to the Madrone Village Shopping Center Development Guideline's list of permitted and conditional uses, architectural development standards and parking and loading/circulation requirements. (Attachment No. 1)

The Madrone Village Shopping Center was approved for 76,897 square feet of commercial building, of which approximately 28,000 square feet has been developed. Phase II of the Planned Development (PD) was to include one 48,632 square foot retail building pad on a 4.42-acre parcel. The proposed amended master plan divides Phase II into two parcels; 1.91-acres for a 107-room Fairfield Inn; and a 2.51-acre parcel for a 99-room Home2 Suites.

The parking requirement for hotels is one space per room, plus one space for every ten rooms. The minimum number of parking spaces required to support both hotels and the existing retail space is 337 and the number proposed on the amended master plan is 383 spaces.

The Madrone Village Shopping Center has access points on Cochrane and Madrone Parkway. The Phase II area of the approved PD plan shows two planned drive-way access points onto Woodview Avenue. The proposed amended master plan (Attachment No. 3) eliminates one of the two drive-way access points onto Woodview Avenue. Minimizing the number of access point and off-setting the driveway location on Woodview Avenue will help discourage cut through traffic. The amended master plan meets the City's Parking and Loading standards.

To incorporate the two hotels into the Madrone Village PD, the introduction statement and the "Allowed and Conditional Uses" section within the Madrone Village Development Guidelines (adopted as part of Ordinance 1764) would need to be amended to include multi-story hotels as a permitted use within the PD. These specific text amendments to the Development Guidelines are illustrated within attached Exhibit B (Attachment No. 4)

In addition to the changes to the conditional and permitted uses, the applicant is requesting amendment to the Commercial Development Standards 1 & 3 under the "Architecture/Site Planning" section of the Guidelines. These amendments would allow for architecture that is compatible with the established "Mission Style" architecture and allow for an overall maximum building height of 61 feet. These specific amendments are also illustrated within the attached Exhibit B. (Attachment No. 4)

The proposed amendments to the guidelines are necessary to accommodate the proposed four-story hotels. The Mission California Theme requirement for the building exteriors is not conducive to multi-story buildings and the current 40-foot height limitation will not accommodate four story buildings. To accommodate the hotels' architectural styles, consideration of architectural styles compatible with the Mission California theme will be needed for the Phase II area of the PD.

The 30-foot limitation (38 for architectural features) will remain for the Phase I development area. The Phase II area will be amended to allow for a maximum overall building height of 61 feet to allow for elevator shafts, screening of mechanical features and building articulation. The basic building heights for the proposed hotels are 50 feet. However, height of the elevator shafts and other features is 61 feet. The additional height allowance is necessary to allow for horizontal interest to be introduced into the building roof lines.

Amendment to subsection eight, of the "Parking and Loading/Circulation" section of the development guidelines is requested to eliminate the prohibition of dead-end drive aisles. The elimination of this circulation requirement is necessary to allow for a minor dead-end drive-aisle in the north east corner of the proposed site plan. The proposed dead-end is a result of complying with Architectural/Site Planning Standard number 18, *"Buildings shall be placed at the front setback line for at least 35 percent of the street frontage of the PUD, unless infeasible due to the size or configuration of the property."* In compliance with this standard, one of the two hotel buildings have been located at the front setback on Madrone Parkway. Positioning the building closer to Madrone Parkway

allows for a greater architectural presence at the street, helps minimize the view of the parking, creates a service entrance, and expands the landscape and recreation areas surrounding the hotel. Alteration of this standard allows for other site planning, architectural and landscaping benefits.

PD Design Guidelines Consistency

Development of the hotels within the Phase II area would be subject to the Development Guidelines (as amended). The applicant has provided representative architectural and preliminary landscape plans for both hotels as part of the PD master plan amendment request. A complete analysis of the project's conformance with city design standards and development guidelines will occur as part of each hotel's Design Permit application.

General Plan

The site has a Commercial land use designation in the Morgan Hill 2035 General Plan. This designation is intended to allow a wide range of retail businesses, administrative and executive office uses, and professional services, either in stand-alone buildings or as part of shopping centers.

The project site is also located within Industrial Sub Area 2 (General Plan Figure CNF-4). This area is considered a Core Employment Area, which includes many of the City's largest employers and will continue to be the strongest location for future employment growth with an emphasis on Research and Development, light manufacturing, office, and supporting uses. Hotels are considered supporting uses.

Economic Development Blueprint

The City's 2017 Economic Blueprint (Blueprint) was created to further the community's quality of life by attracting investment, development, and jobs to ensure continued economic prosperity. The Blueprint has been founded on guiding principles from the General Plan, Morgan Hill 2035, and incorporates feedback from over 400 residents, businesses, and community leaders.

To foster economic growth and support fiscal sustainability, the Economic Blueprint is envisioned to be a "big picture" document to drive land use, policy development, and budget decisions for the next five to ten years. The City's role is to make land use and policy decisions that will attract investment, remove unnecessary barriers, achieve economic sustainability and in return, enhance the community's quality of life. As a result, the Economic Blueprint targets four key industries:

1. **Innovation and Advanced Manufacturing** -- *Grow existing companies, attract new industry, and grow professional jobs.*
2. **Retail** -- *Grow retail offerings and strengthen commercial nodes.*
3. **Tourism** -- *Grow leisure, agriculture, wine country & recreational tourism.*
4. **Health Care** -- *Grow and foster the medical service and diagnostics industry by attracting services and facilities.*

The Blueprint's primary responsibility is to aid policy makers in making efficient land use decisions that support the four key industries; the Blueprint also serves as a marketing tool to inform the private sector that the City is serious about supporting certain uses that promote the four key industries identified in the Blueprint with the clear intention to generate jobs, investment, and economic vitality, while providing needed goods and services to the community and grow revenues for the City to maintain a good quality of life in Morgan Hill.

Tourism & Hotel Industry

The City's Economic Blueprint identifies Tourism as one of the four key industries for Morgan Hill and specifically 'support lodging' as a key strategy. Growing tourism is also a basic tenet of the General Plan because growing tourism supports promotion and attraction of events, increase visitors, and hotel stays, which in turn will grow revenue to the City. Currently, the City collects a 10% Transient Occupancy Tax (TOT) that generates \$2.7 million from lodging facilities in Morgan Hill. Starting March 1, 2019, the TOT will increase to 11% and the City is projected to collect almost \$3 million in TOT to support the General Fund.

The Blueprint suggests the City of Morgan Hill should grow leisure, agriculture, wine country, and recreational tourism. More specifically, the Blueprint recommends four key strategies to grow tourism, including 1) enhance facility utilization and grow sports/recreation facilities, 2) support lodging, 3) leverage resources through professional linkages and partnerships, and support a tourism environment. Strategy #2, Support Lodging, identifies the following actions to support lodging:

- ☐ Ensure General Plan and Zoning Code Address Bed & Breakfast, Air B&B, and Hotel Development (Action 25); and to
- ☐ Develop Plan to help upgrade or transition aging hotel facilities (Action 26)
- ☐ Identify pre-zoned Lodging Sites (Action 27)

The Zoning Code has been updated and modified to support streamlining of hotel development along the freeway commercial properties and to increase height requirements.

To support the continued growth of tourism in Morgan Hill, the City must continue to support leisure and recreation destinations and also ensure the availability of high-quality lodging to accommodate visitors. A hotel study commissioned by the City of Morgan Hill and produced by Hotel Appraisers and Advisors in 2015 noted that many of the City's existing hotels could benefit from reinvestment since over half of the lodging facilities in Morgan Hill have exceeded their economic lifespan, and some of them are no longer functioning primarily as lodging facilities.

2015 Hotels Study

In 2015, the City of Morgan Hill contracted with Hotel Appraisers & Associates to conduct a hotel market analysis. The purpose of the study was to analyze the viability of the Morgan Hill lodging marketplace to support new hotel development. The comprehensive study found the following:

- Morgan Hill hotels are demonstrating sustained strong performance, with strong occupancy and ADR (average daily rate) recovery, which suggest there is a market for new hotel development, especially for brands not represented in Morgan Hill. New hotel development occurs when existing hotels demonstrate occupancies in excess of 70% for multiple years on an annual basis. Upscale hotel development is typically targeted when RevPAR (revenue per available room) levels can be expected to exceed approximately \$90 on an annual basis.
- Morgan Hill hotels have strong weekly occupancy patterns (compared to national trends) which indicate that there is a substantial unaccommodated demand.
- Only six hotels are considered upscale or midscale (including La Quinta Hotel that was constructed after the Study was completed).
- More than half of the hotels are nearing the end of their economic life. Additionally, Morgan Hill has other lodging facilities such as Paradise Motel, the Rancho Motel, and the Maple Leave RV Park that are were not included in the study because they are not considered primarily lodging facilities.
- There are missing brands that present opportunities for new hotel development.
- Hotel development is cyclical. Morgan Hill missed the last hotel development cycle in 2008-09.
- Historical trends show that new hotel supply has a positive impact on TOT revenue.

Conclusion

The proposed changes to the existing PD enable the addition of two hotels into the Madrone Village Shopping Center. The addition of the hotel use would be compatible with the character of adjacent structures and the immediate neighborhood. The proposed hotel use does not conflict with the existing neighborhood but instead provides a use that will serve and support the adjacent commercial and industrial areas, creates additional employment opportunities as well as additional service amenities for residents within the City. The proposed PD Guideline amendments and master plan amendment would provide additional lodging opportunities that would directly support the tourism industry and surrounding industrial uses.

The Planning Commission considered this application request at its December 11, 2018 meeting and found the PD amendment request to be consistent with the General Plan, zoning, and the Economic Blue Print, and it will not be detrimental to the public interest, health, safety, convenience, or welfare of the City. The Commission voted 4-0 (McKay and Beltran-Martinez recused, Tanda absent) to recommend Council approval.

COMMUNITY ENGAGEMENT: Inform/Involve

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period and a sign was posted on the project site pursuant to the Planning Division requirements.

ALTERNATIVE ACTIONS:

The City Council could decide to deny the request to amend the Planned Development zoning. This action would result in hotels not being listed as a permitted or conditional use.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In September 2004, the City Council adopted Ordinance No. 1695 & Resolution 5845, changing the general plan land use designation from Industrial to Commercial and rezoning the property to Planned Development.

April 5, 2006, the City Council adopted Ordinance No. 1764, N.S. approving a Precise Development Master Plan and Development Guidelines for the Madrone Village Shopping Center. (Attachment No. 5)

In July 2011, the Planned Development (PD) zoning was amended by Ordinance No. 2018, to include medical offices, dental offices, and commercial recreation (<3,000 sq. ft.) as a permitted use; commercial recreation greater than 3,000 square feet was added as a conditional use. (Attachment No. 6)

On December 11, 2018, the Planning Commission considered this application and found the request to be consistent with General Plan, Zoning and Economic Blue Print, and recommended City Council to approve the application. (Attachment No. 7)

FISCAL AND RESOURCE IMPACT:

The City development review functions are cost-recovery, with fees collected from applicant to cover cost of services. These fees have been collected.

CEQA (California Environmental Quality Act): Project.

On September 15, 2004, the Morgan Hill City Council adopted the Mitigated Negative Declaration (MND) for the change in land use from Industrial to Commercial. The MND found that the project would result in impacts that were either less than significant or less than significant with mitigation. A Mitigation Monitoring and Reporting Program was adopted. In February 2006, an addendum was completed which evaluated the impacts of the Madrone Village Shopping Center Planned Development. (Attachment No. 8)

The City of Morgan Hill contracted with David J. Powers & Associates (DJP&A) to prepare additional environmental review for the proposed project amendment, which includes an Addendum to the Cochrane-TBI Project Expanded IS/MND (2004). The Addendum confirmed that the project, as revised, would not result in any new significant impacts that were not addressed in the Initial Study or would cause any impacts to be substantially greater than were identified in the Initial Study.

The City Council should consider the attached Addendum (Attachment No. 9) with the final adopted MND, prior to making a decision on the project.

EXHIBIT A: Proposed text changes to the Madrone Village Development Guidelines

The introduction statement within the Madrone Village Development Guidelines (adopted as part of Ordinance 1764) would be amended to read as follows (underline for additions, strike-out text for deletions):

Introduction to Project:

A ~~76,897~~27,580 square feet foot retail shopping center consisting of ~~five~~four single-story buildings and two, four-story hotels with a collective total of 206 rooms and 118,132 square feet.

The “Allowed and Conditional Uses” section (adopted as part of Ordinance 1764 and revised by Ordinance 2018) would be amended as follows (underline for additions, strike-out text for deletions):

Allowed and Conditional Uses:

Permitted Uses

- Retail Stores
- Restaurants
- Offices and Professional Offices (including medical and dental offices)
- Financial Services
- Personal Services
- Business and Trade Schools
- Specialty Grocery Stores, not to exceed 15,000 square feet
- Drug Stores
- Commercial Recreation Uses ~~3,000 sq. ft.~~ 15,000 square feet or less in area (exclusive of parking)
- Hotels

Conditional Uses

- Day Care Centers/Nursery Schools
- Commercial Recreation Uses greater than 3,000 sq. ft. 15,001 square feet in area (exclusive of parking)
- Gasoline Service Stations (including ancillary convenience stores)
- Drive-thru uses
- ~~Grocery Stores exceeding 15,000 sf but less than 50,000 sf~~
- Any other use which the Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified above

~~Original PUD — Allowed Uses:~~

~~Same as Above.~~

Commercial Development Standards one and three, for Madrone Village Shopping would be amended to read as follows (underline for additions, strike-out text for deletions):

Architecture/Site Planning

1. The general aesthetic character of all building exteriors shall be early Mission California theme or of a compatible architectural style as determined by the Community Development Director for the PUD.
3. No building within this PUD Phase I shall exceed 30 feet in height with the exception of specific architectural features (34 feet maximum) except as otherwise authorized by the City Council through the PUD approval process. No building within this PUD Phase II shall exceed 40 61-feet in height, with the exception of specific The 61-foot maximum height includes all architectural features, roof top screening and equipment. ~~(50 feet maximum) except as otherwise authorized by the City Council through the PUD approval process.~~

Amendment to the Parking and Loading/Circulation section of the development guidelines would be amended to read as follows (underline for additions, strike-out text for deletions):

8. Drive aisles shall allow for complete circulation within the PUD, with sufficient width for emergency vehicles. ~~Dead end drive aisles shall not be allowed.~~

LINKS/ATTACHMENTS:

1. TBI Letter of request
2. Ordinance - Amending Planned Development Master Plan for Madrone Village
3. Exhibit A to Ordinance - Madrone Village Master Plan
4. Exhibit B to Ordinance - Madrone Village Shopping Center PUD Guidelines
5. ORDINANCE No. 1764, New Series

6. ORDINANCE No. 2018, New Series
7. December 11, 2018 Planning Commission Staff Report (web link)
8. 2006-2004 Addendum and Mitigation Negative Declaration (MND)
9. Madrone Village Hotels Final Addendum 1.14.19



DEVELOPMENT
SERVICES

NOV 26 2018

CITY OF MORGAN HILL

November 26, 2018

Planning Commission
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037-4128

Hand Delivered

Re: Madrone Village – Zoning Amendment Application ZAA04-11b

Dear Planning Commission,

Madrone Village Shopping Center was first approved in February 2006 as a two phased development totaling 80,000 square feet of buildings on nearly eight acres. Phase I of the project was completed ten years ago and consists of four buildings totaling approximately 28,000 square feet. Many of us have become accustomed to visiting Madrone Village retail shops that include Peets' Coffee, Chipotle, Bikram Yoga, FedEx Office, Erik's Deli and Anytime Fitness, among others. While Madrone Village appears as a successful retail center, it has had several business failures and has been unable attract retail businesses that would complete the shopping center. There are a number of factors that have limited the expansion of Madrone Village including economic cycles, local demographics, and the current approved uses. The zoning amendment that is before the Planning Commission will expand approved uses to include hotels, allowing us to move forward and complete Madrone Village.

There are a number of significant benefits associated with the proposed zoning amendment. These benefits can be summarized as follows:

- The addition of hotel rooms support existing retail businesses at Madrone Village and the surrounding area,
- Marriott and Hilton are recognized brands that will provide quality lodging for business travelers and tourism,
- The project will generate significant revenue for City's general fund.

These benefits are consistent with the goals established by the City of Morgan Hill's "Economic Blueprint" adopted in 2017, as well as the priorities ("Pillars") of the 2035 General Plan. Fiscal sustainability, job growth, and tourism all benefit from the proposed zoning amendment.

While the proposed zoning amendment provides a number of benefits consistent with City goals, there are few, if any, negative impacts associated with the project. Madrone Village Phase II is currently approved for almost 50,000 square feet of retail use served by three street frontages.

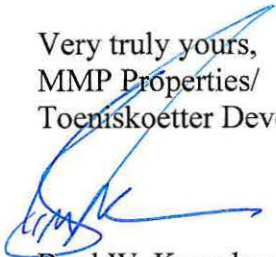
Attachment: TBI Letter of request (2138 : AAE2018-0005 (ZAA-04-11b): Cochran-TBI)

Madrone Village Parkway and Woodview Avenue were constructed as part of the Madrone Business Park Acquisition District providing direct access to Phase II. The suggested revisions to PUD development guidelines are compatible with the surrounding area.

- Hotels as an approved use are compatible with surrounding retail, office, and industrial uses,
- An increase in height is consistent with recently revised City standards in the highway commercial zoning district and consistent with adjacent properties (Marriott Courtyard and Residence Inn),
- Architectural features of the proposed hotels are compatible with surrounding properties which utilize plaster, brick, stone, and tile details.

We look forward to our discussion and the Planning Commission's support at the December 11th hearing.

Very truly yours,
MMP Properties/
Toeniskoetter Development, Inc.



Brad W. Krouskup
President & CEO

cc: Jennifer Carman
Terry Linder
Leslie Little
Edith Ramirez

BWK/ll

ORDINANCE NO. NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
APPROVING AN AMENDMENT TO A PLANNED
DEVELOPMENT MASTER PLAN FOR “MADRONE
VILLAGE SHOPPING CENTER” LOCATED ON THE
NORTHWEST CORNER OF MADRONE PARKWAY AND
COCHRANE ROAD (APN’s 726-33-029, 030 AND 031)**

WHEREAS, the City Council at their regular meeting of April 5, 2006, adopted Ordinance 1764 N.S. which approved a PD Master Plan and development standards for the Madrone Village Shopping Center Planned Development;

WHEREAS, TBI and West Coast Property Management, the owners of the property, identified by Assessor Parcel Number(s) 726-33-029, 030 and 031, on the northwest corner of Madrone Parkway and Cochrane Road, are seeking amendment to allow two, four story hotels;

WHEREAS, said proposal requires the adoption of an amendment to the PD Master Plan prior to development on the site;

WHEREAS, said proposal requires the adoption of an amendment to the Madrone Village Shopping Center Development Guidelines prior to development of the hotels.

WHEREAS, findings must be made pursuant to Section 18.114.060 to support a request for an amendment to a PD Master Plan, and any Plan shall be found consistent with such findings;

WHEREAS, such request was considered by the Planning Commission at its regular meeting of December 11, 2018 at which time the Planning Commission recommended approval of Zoning Amendment application AAE2018-0005, amending application ZA 04-11: Cochrane-TBI; 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.

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

SECTION 1. The proposed zoning amendment is consistent with the General Plan. The development plan established by this amended PD Master Plan and amended Development Guidelines will define an orderly and logical development plan and establish uses that are supportive of the surrounding development and future development permitted in the Madrone Business Park.

SECTION 2. The proposed project will not be detrimental to the public welfare, will be in the best interests of the city and will be in keeping with the general intent and spirit of the zoning regulations of the City of Morgan Hill, with the City of Morgan Hill General Plan and with any applicable plans adopted by the city. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.114.060 of the Municipal Code.

SECTION 3. The City Council of the City of Morgan Hill hereby finds that, on the basis of the whole record before it, there is no substantial evidence that the project as currently proposed will have a significant effect on the environment beyond what was anticipated in the previously adopted Mitigated Negative Declaration (April 5, 2006) and the project specific Addendum to the Mitigated Negative Declaration prepared, and this finding reflects the Council's independent judgment and analysis; therefore, the City Council approves of the addendum to the Mitigated Negative Declaration. The custodian of the documents or other material which constitute the record shall be the Development Services Department.

SECTION 4. In accordance with Section 18.114.060 (Findings for Approval), the City Council approves the amendments to the Madrone Village master plan and Madrone Village Design Guidelines based on the following findings:

1. **The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.**

In addition to the General Plan Goals and Policies discussed in the December 11, Planning Commission staff report, the proposed amendments allowing for the addition of hotels to the Madrone Village Shopping Center also satisfy the following General Plan Goals and Policies.

GOAL CNF-18 Integrated job-generating centers that offer workers and businesses a range of services to meet their daily needs.

Policy CNF-18.1 Vibrant Job Centers. Encourage land with a Commercial/Industrial designation to develop with job-generating uses with amenities that support workers and businesses, such as restaurants, lodging, fitness centers, and hair salons.

Policy CNF-18.2 Thoughtful Design. Encourage integrated and appropriate commercial uses on lands with a Commercial/Industrial designation that relate to and support surrounding businesses.

GOAL ED-3 A high-quality business community with established roots in Morgan Hill.

Policy ED-3.8 Allow amenities, such as retail, services, restaurants, and lodging, as ancillary uses to support the primary job-generating uses within business park settings to create dynamic working environments.

GOAL ED-4 A vibrant, enhanced, visible, and well promoted tourist industry that draws on Morgan Hill's unique character and variety of amenities.

Policy DE-4.9 Overnight Accommodations. Support the construction of a full range of new lodging facilities to build the local tourism industry, enhancing the City's position as a hub for wine tourism and for visitors attracted to the City's sports facilities.

Policy ED-4.11 Tourism Support Services. Actively promote development of tourist-oriented commercial, industrial, and recreational uses and facilities, including such uses as lodging, meeting and conferenced centers, outdoor restaurants, wine and beer tasting, and farmers 'markets.

2. **The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.**

As described in the analysis above, the proposed amendments have been found to be consistent with the General Plan, and it will not be detrimental to the public interest, health, safety, convenience, or welfare of the City. The proposed change to the existing PD enables the addition of two hotels to the existing shopping center. The addition of the hotel use and their location within the PD would be compatible with the character of adjacent structures and the immediate neighborhood. The proposed hotel use does not conflict with the existing neighborhood but instead provides a use that will serve and support the adjacent commercial and industrial areas as well as the larger Morgan Hill community.

SECTION 5. The City Council hereby approves an amended PD Master Plan, on file at the Development Services Department date stamped November 26, 2018, entitled "Madrone Village" prepared by AE Arbia Architects, ARC Tec Inc, Architects, Kier & Wright Engineers, Sandis Engineering, and KLA Inc, Landscape Architects. The Master Site plan and Landscape Plans are attached as Exhibit A.

SECTION 6. The City Council hereby approves the amended development guidelines "The Madrone Village Shopping Center" as attached as Exhibit B.

THE FORGOING ORDINANCE WAS INTRODUCED AT THE MEETING OF THE CITY COUNCIL HELD ON THE 23rd DAY OF JANUARY 2019, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF FEBUARY, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: COUNCIL MEMBERS:

ATTEST:

DATE:

Effective Date: _____, 2019

☞ CERTIFICATE OF THE CITY CLERK

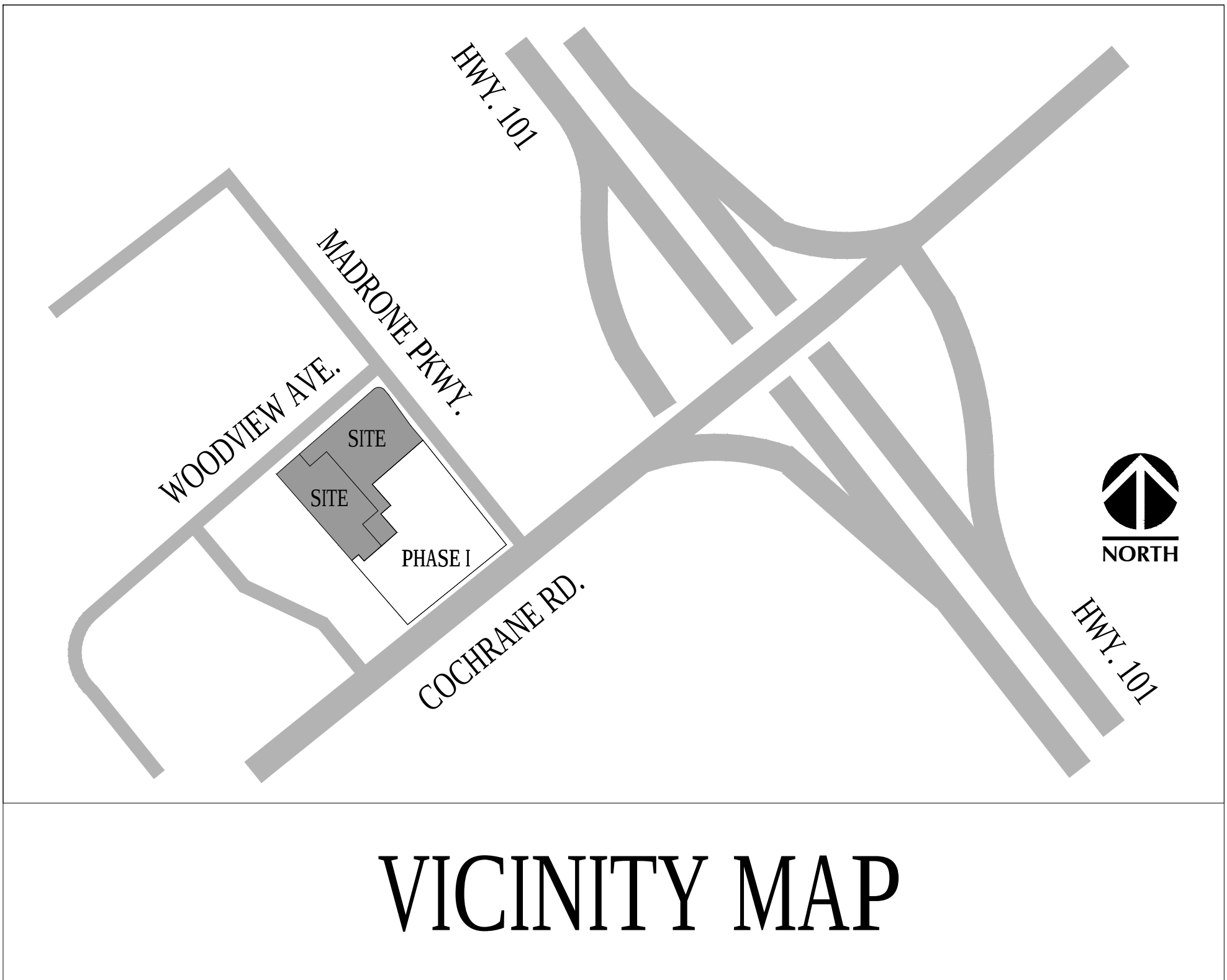
1, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the ____day of February 2019.

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

DATE:

DRAWING INDEX

COVER SHEET (REVISED)			●	●	●
CIVIL					
C-1.0	(REVISED)	CONCEPTUAL GRADING PLAN	●	●	●
C-1.1	(NEW)	CONCEPTUAL UTILITY PLAN			●
T-1.0	(NEW)	TENTATIVE PARCEL MAP			●
LANDSCAPE					
L-1.1	(REVISED)	COLORED LANDSCAPE PLAN	●	●	●
L-1.2	(NEW)	PRELIMINARY LANDSCAPE PLAN			●
ARCHITECTURAL					
A1.0	(REVISED)	SITE PLAN	●	●	●
A1.1		SITE DETAILS	●	●	●
A1.2	(NEW)	PHASE II - HOME 2 SUITES ENLARGED SITE PLAN			●
A1.3	(NEW)	PHASE II - FAIRFIELD INN & SUITES ENLARGED SITE PLAN			●
A2.0		BANK A FLOOR PLAN AND ROOF PLAN	●	●	●
A2.1		RETAIL B FLOOR PLAN AND ROOF PLAN	●	●	●
A2.2		RETAIL C FLOOR PLAN	●	●	●
A2.3		RETAIL C ROOF PLAN	●	●	●
A2.4		RETAIL D FLOOR PLAN AND ROOF PLAN	●	●	●
A2.5	(REVISED)	PHASE II - HOME 2 SUITES FLOOR PLAN	●	●	●
A2.6	(REVISED)	PHASE II - HOME SUITES TYPICAL UPPER LEVEL PLAN	●	●	●
A2.7	(NEW)	PHASE II - HOME 2 SUITES ROOF PLAN			●
A2.8	(NEW)	PHASE II - FAIRFIELD INN & SUITES FLOOR PLAN			●
A2.9	(NEW)	PHASE II - FAIRFIELD INN & SUITES TYPICAL UPPER LEVEL PLAN			●
A2.10	(NEW)	PHASE II - FAIRFIELD INN & SUITES ROOF PLAN			●
A3.0		BANK A EXTERIOR ELEVATIONS	●	●	●
A3.1		RETAIL B EXTERIOR ELEVATIONS	●	●	●
A3.2		RETAIL C EXTERIOR ELEVATIONS	●	●	●
A3.3		RETAIL C EXTERIOR ELEVATIONS	●	●	●
A3.4		RETAIL D EXTERIOR ELEVATIONS	●	●	●
A3.5	(REVISED)	PHASE II - HOME 2 SUITES EXTERIOR ELEVATIONS			●
A3.6	(REVISED)	PHASE II - HOME 2 SUITES EXTERIOR ELEVATIONS			●
A3.7	(NEW)	PHASE II - HOME 2 SUITES EXTERIOR ELEVATIONS			●
A3.8	(NEW)	PHASE II - FAIRFIELD INN & SUITES EXTERIOR ELEVATIONS			●
A3.9	(NEW)	PHASE II - FAIRFIELD INN & SUITES EXTERIOR ELEVATIONS			●
A3.10	(NEW)	PHASE II - FAIRFIELD INN & SUITES EXTERIOR ELEVATIONS			●
A4.0		TYPICAL WALL SECTIONS		●	●
A4.1		TYPICAL WALL SECTIONS		●	●
A4.2		TYPICAL WALL SECTIONS		●	●
A4.3		TYPICAL WALL SECTIONS		●	●



VICINITY MAP

Madrone Village
Madrone Parkway and Cochran Road
Morgan Hill, California

PHASE I
Retail Shopping Center
AS APPROVED BY ORDINANCE No. 1764, FEBRUARY 21, 2006

PHASE II
Hotels
AS APPROVED BY ORDINANCE No. _____, _____
No. DATE

PHASE I

PROJECT TEAM

OWNER
TOENISKOETTER & BREEDING INC.
1960 THE ALAMEDA, SUITE 20
SAN JOSE, CA 95126

CIVIL ENGINEER
KIER & WRIGHT
3350 SCOTT BLVD. BLDG 22
SANTA CLARA, CA 95054
PHONE: 408.727.6665
FAX: 408.727.5641
CONTACT: BARRY SCHMITT
bschmitt@kierwright.com

LANDSCAPE
WINTERBOTHAM PARTNERSHIP
212 HIGH STREET
PALO ALTO, CA 94301
PHONE: 650.325.3137
FAX: 650.325.1810
CONTACT: LINN WINTERBOTHAM
winterbotham@jps.net

ARCHITECT
ARC TEC INC.
2960 E. NORTHERN, BLDG C
PHOENIX, AZ 85028
PHONE: 602.953.2355
FAX: 602.953.2988
CONTACT: CRAIG ALMELEH
craig@arctecinc.com

PHASE II

PROJECT TEAM

OWNER
MMP PROPERTIES
1150 NORTH MOUNTAIN AVE. STE 102
UPLAND, CA 91786
PHONE: 909.477.1447
CONTACT: JIGISH SHAH

CIVIL ENGINEER
SANDIS ENGINEERING
1700 WINCHESTER BLVD. STE 200
CAMPBELL, CA 95008
PHONE: 408.636.0900
CONTACT: STEVE YAZALINA
syaz@sandis.net

LANDSCAPE
KLA, INC.
151 NORTH NORLIN ST.
SONORA, CA 95730
PHONE: 209.532.2856
CONTACT: TOM HOLLOWAY
tom@kla-ca.com

ARCHITECT
AE URBIA ARCHITECTS
909 W. SOUTH JORDAN PKWY
SOUTH JORDAN, UT 84095
PHONE: 801.746.0456
CONTACT: RYAN MACKOWIAK
ryan@aeurbia.com



20 November 2018

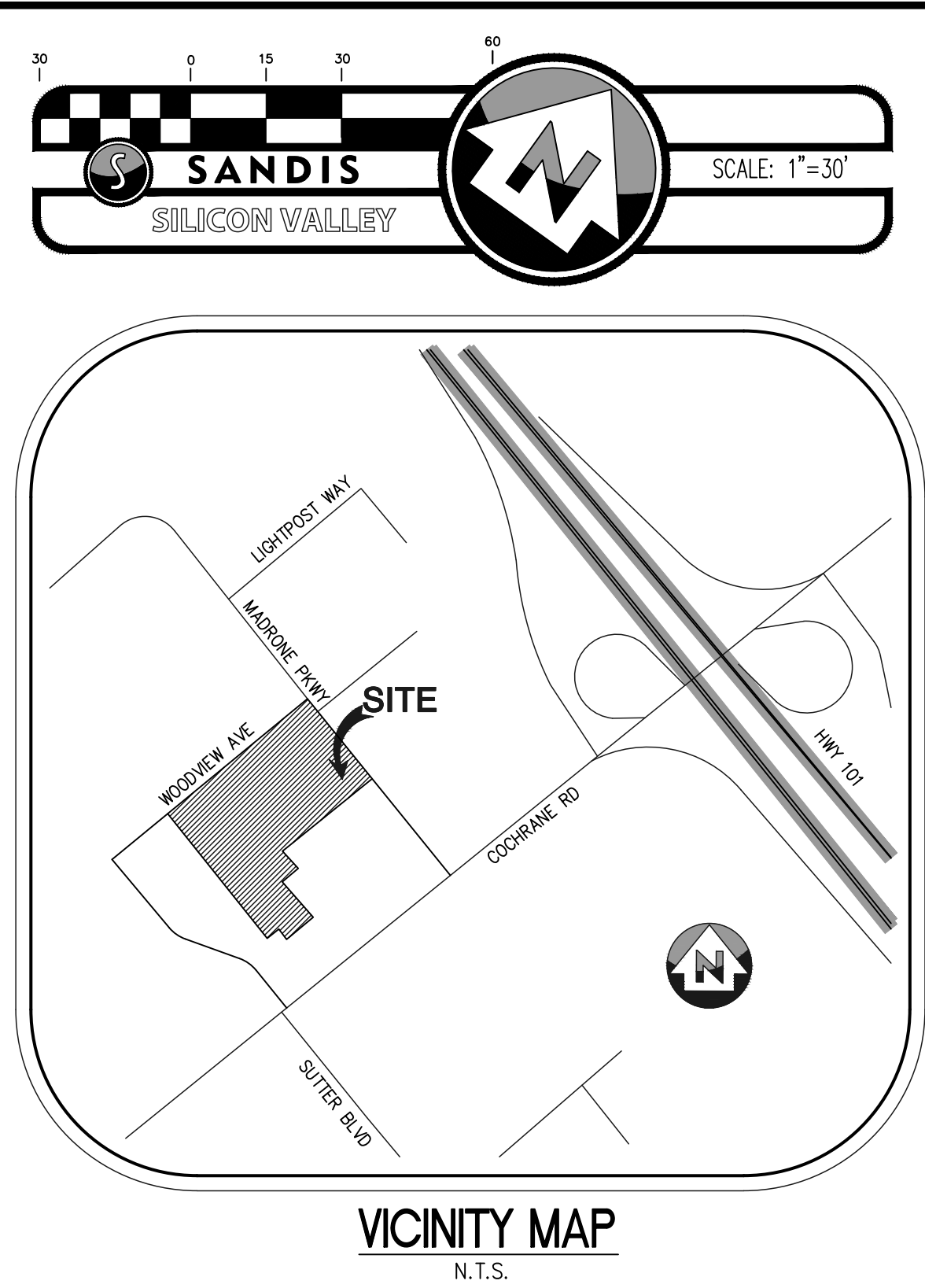
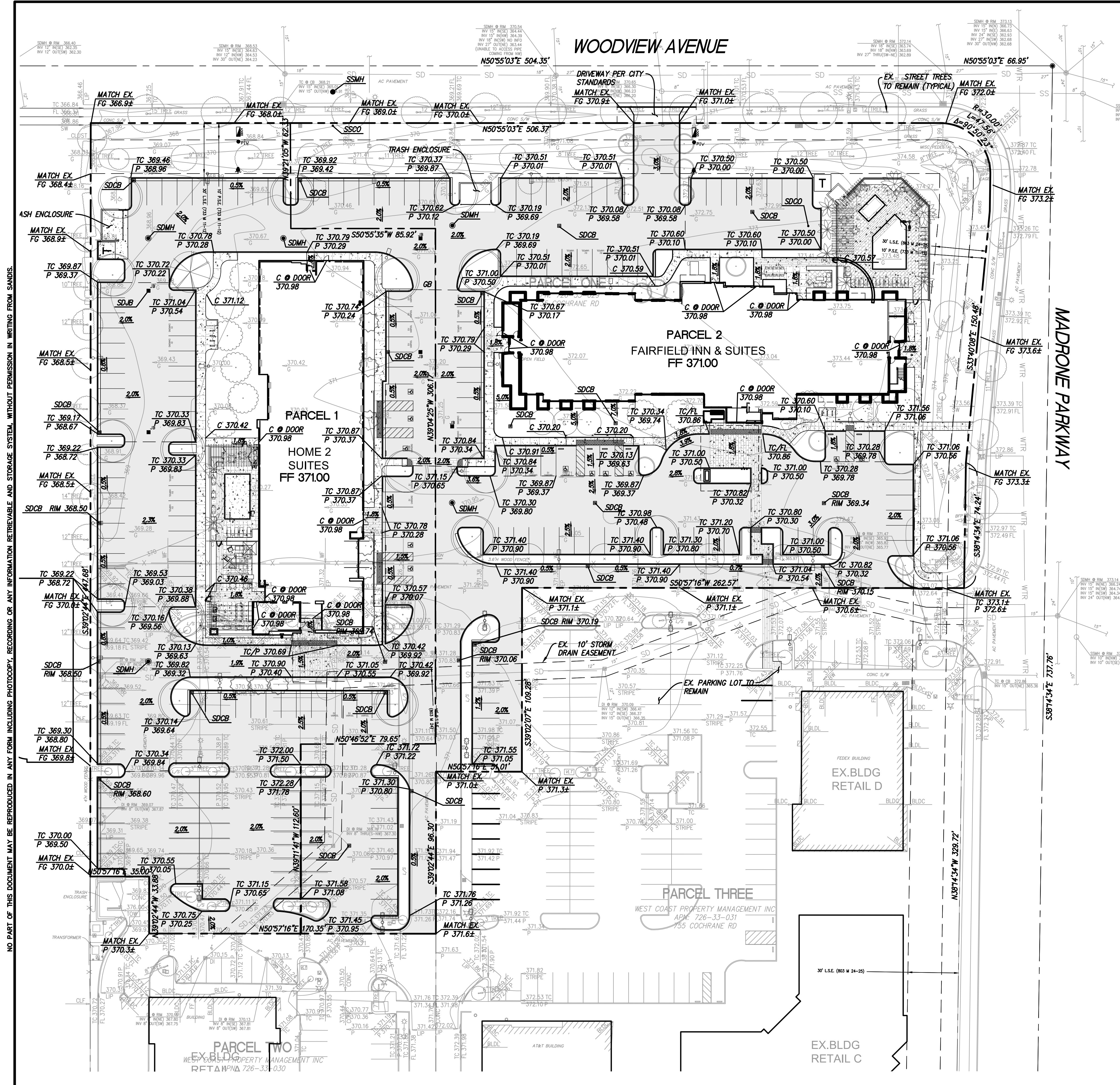
MADRONE VILLAGE
MADRONE PARKWAY & COCHRANE ROAD
MORGAN HILL, CA

COVER SHEET

AE2018_047

REVISIONS:

DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.



LEGEND

- ASPHALT CONCRETE PAVING
- CONCRETE PAVING
- LANDSCAPE AREA
SEE LANDSCAPE PLANS FOR DETAILS
- PEDESTRIAN PAVERS
SEE LANDSCAPE PLANS FOR DETAILS
- LIMIT OF WORK LINE
- GRADE BREAK
- EASEMENT LINE
- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- CATCH BASIN
- JUNCTION BOX
- SD MANHOLE

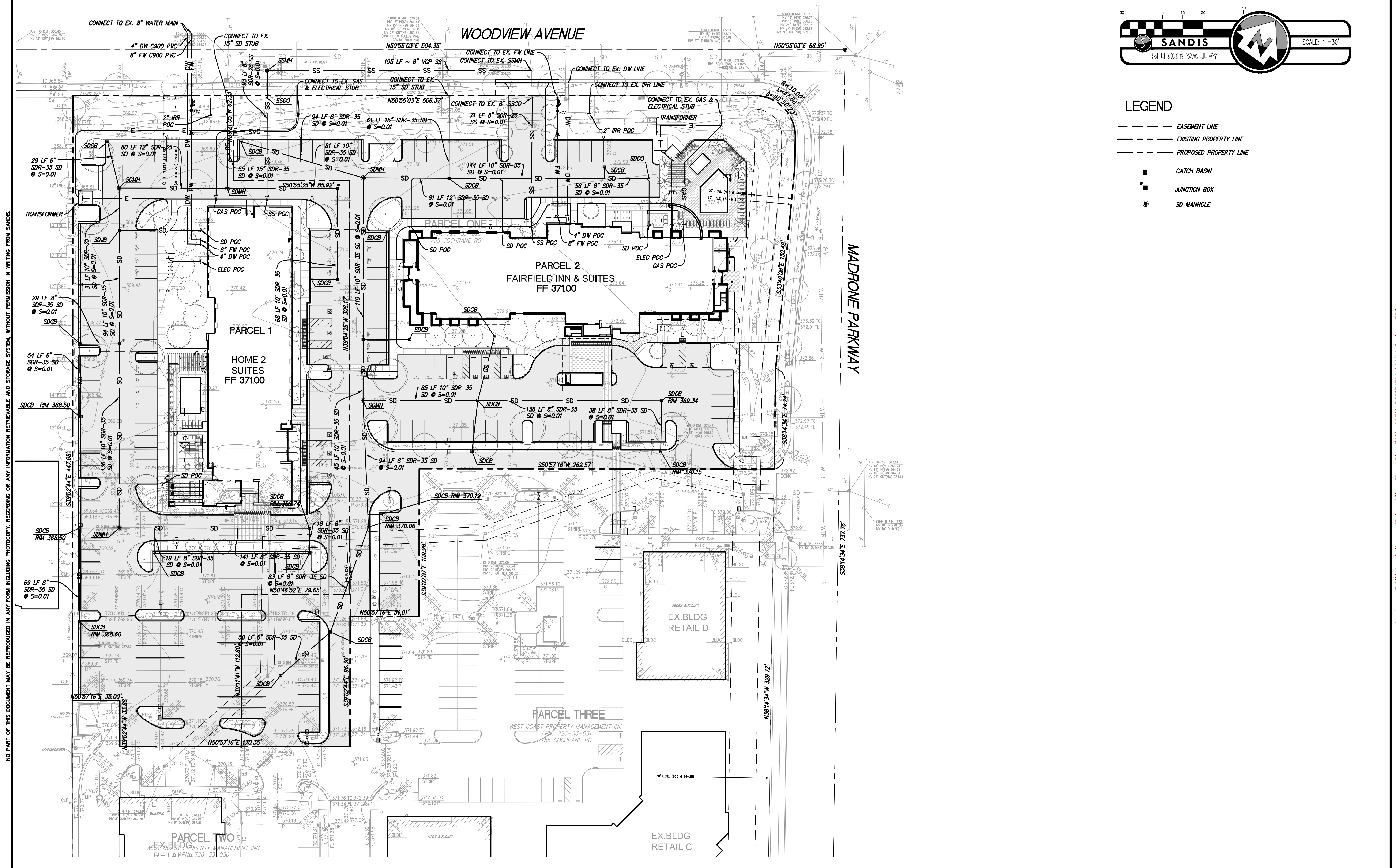
EARTHWORK QUANTITIES

CUT 4200 CY
FILL 4000 CY
BALANCE 200 CY EXPORT

THE EARTHWORK QUANTITIES SHOWN ARE PROVIDED FOR THE PURPOSE OF GRADING PERMIT APPROVAL ONLY. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CARRY OUT THE CUT/FILL, IMPORT/EXPORT AS NECESSARY TO MEET THE DESIGN GRADES AS SHOWN ON THE PLANS REGARDLESS OF THE ESTIMATED EARTHWORK QUANTITIES AS INDICATED. SIGNIFICANT REVISIONS TO THE QUANTITIES NEED REVIEW BY THE CITY. FILL SHORTAGE IS ANTICIPATED TO COME FROM ON-SITE SPOILS ACQUIRED FROM UTILITY TRENCHES AND FOOTING SPOILS.

GRADING NOTES

- PROVIDE POSITIVE SURFACE DRAINAGE AWAY FROM ALL STRUCTURES BY SLOPING ALL HARDSCAPE SURFACES AT 2% AND LANDSCAPE SURFACES AT 5% AWAY FROM STRUCTURES UNLESS OTHERWISE NOTED ON PLANS.
- STRUCTURE WALLS: PER CBC 2304.11.2.2 (WOOD SUPPORTED BY FOUNDATION) PROVIDE 8" MINIMUM CLEAR TO EXTERIOR GRADE.
- ALL FILL, IMPORT SOILS AND GRADING SHALL BE IN CONFORMANCE WITH THE GEOTECHNICAL REPORT PERFORMED BY ~~XXXX~~ DATED ~~XXXX~~ PROJECT NUMBER ~~XXXX~~
- COORDINATE THE PLACEMENT OF ALL SLEEVES FOR LANDSCAPE IRRIGATION (WATER AND CONTROL WIRING) AND SITE LIGHTING PRIOR TO THE PLACEMENT OF ANY ASPHALT, BASEROCK OR CONCRETE SURFACING. SEE LANDSCAPING AND SITE ELECTRICAL DRAWINGS.
- ROUGH GRADING TO BE WITHIN 0.1' AND FINISH GRADES ARE TO BE WITHIN 0.05', HOWEVER CONTRACTOR SHALL NOT CONSTRUCT ANY IMPROVEMENTS THAT WILL CAUSE WATER TO POND OR NOT MEET REQUIREMENTS IN GRADING NOTE #1 OR THE ADA REQUIREMENTS BELOW. DO NOT ADJUST GRADES ON THIS PLAN WITHOUT PRIOR WRITTEN APPROVAL OF THE ENGINEER/ARCHITECT.
- THE CONTRACTOR SHALL EXERCISE EXTREME CARE TO CONFORM TO THE LINES, GRADES, SECTIONS, AND DIMENSIONS AS SET FORTH ON THESE PLANS. ALL GRADED AREAS SHALL CONFORM TO THE VERTICAL ELEVATIONS SHOWN WITH A TOLERANCE OF ONE-TENTH OF A FOOT WHERE GRADED AREAS DO NOT CONFORM TO THESE TOLERANCES, THE CONTRACTORS SHALL BE REQUIRED TO DO CORRECTIVE GRADING, AT NO EXTRA COST TO THE CLIENT.
- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CONFIRM THE GROUND ELEVATIONS AND OVERALL TOPOGRAPHY OF THE SITE PRIOR TO THE START OF CONSTRUCTION AS TO THE ACCURACY BETWEEN THE WORK SET FORTH ON THESE PLANS AND THE WORK IN THE FIELD. ANY DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE CONSTRUCTION MANAGER AND CIVIL ENGINEER IN WRITING PRIOR TO START OF CONSTRUCTION WHICH MAY REQUIRE CHANGES IN DESIGN AND/OR AFFECT THE EARTHWORK QUANTITIES.
- ALL GRADING SHALL CONFORM TO APPROVED SPECIFICATIONS PRESENTED HEREON OR ATTACHED HERETO. ALL GRADING WORK SHALL BE OBSERVED AND APPROVED BY THE SOILS ENGINEER. THE SOILS ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS BEFORE BEGINNING ANY GRADING. UNOBSERVED AND UNAPPROVED GRADING WORK SHALL BE REMOVED AND REDONE AT THE CONTRACTORS EXPENSE.
- THE CONTRACTOR SHALL BE RESPONSIBLE TO REPAIR OR REPLACE ANY EXISTING IMPROVEMENTS OF UNDERGROUND FACILITIES DAMAGED DURING THE CONSTRUCTION PERIOD.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL ENCROACHMENT, EXCAVATION, CONCRETE, ELECTRICAL, PLUMBING, ETC. PERMITS NECESSARY PRIOR TO BEGINNING CONSTRUCTION FOR ANY WORK.
- THE RISE/ RUN/ STEP COUNT IS FOR REFERENCE ONLY. THE CONTRACTOR SHALL VERIFY ELEVATIONS AND BUILDING CODE COMPLIANCE PRIOR TO ANY WORK.
- AREAS LACKING TOPOGRAPHIC INFORMATION (ELEVATIONS) HAVE BEEN INTERPOLATED USING STANDARD ENGINEERING METHODS. CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS AT CONFORMS PRIOR TO COMMENCEMENT OF CONSTRUCTION AND REPORT BACK ANY DISCREPANCIES TO THE CIVIL ENGINEER.
- ADJUST ANY MANHOLE OR UTILITY STRUCTURES TO PROPOSED GRADE PRIOR TO INSTALLING FINAL LIFT OF AC OR POURING CONCRETE.



CIVIL ENGINEERS
SURVEYORS
PLANNERS

1700 S. Winchester Blvd, Suite 200, Campbell, CA 95008 | P. 408.636.0900 | F. 408.636.0999 | www.sandis.net

SILICON VALLEY TRI-VALLEY CENTRAL VALLEY SACRAMENTO EAST BAY/ SF

DATE: 11/15/18
SCALE: 1"=30'
DRAWN BY: TN
APPROVED BY: SY
DRAWING NO.: 218260

No.	REVISION/ISSUE	DATE	BY

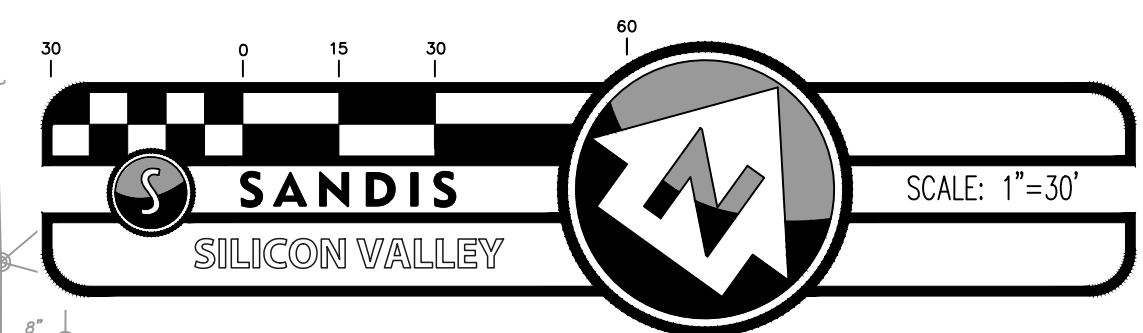
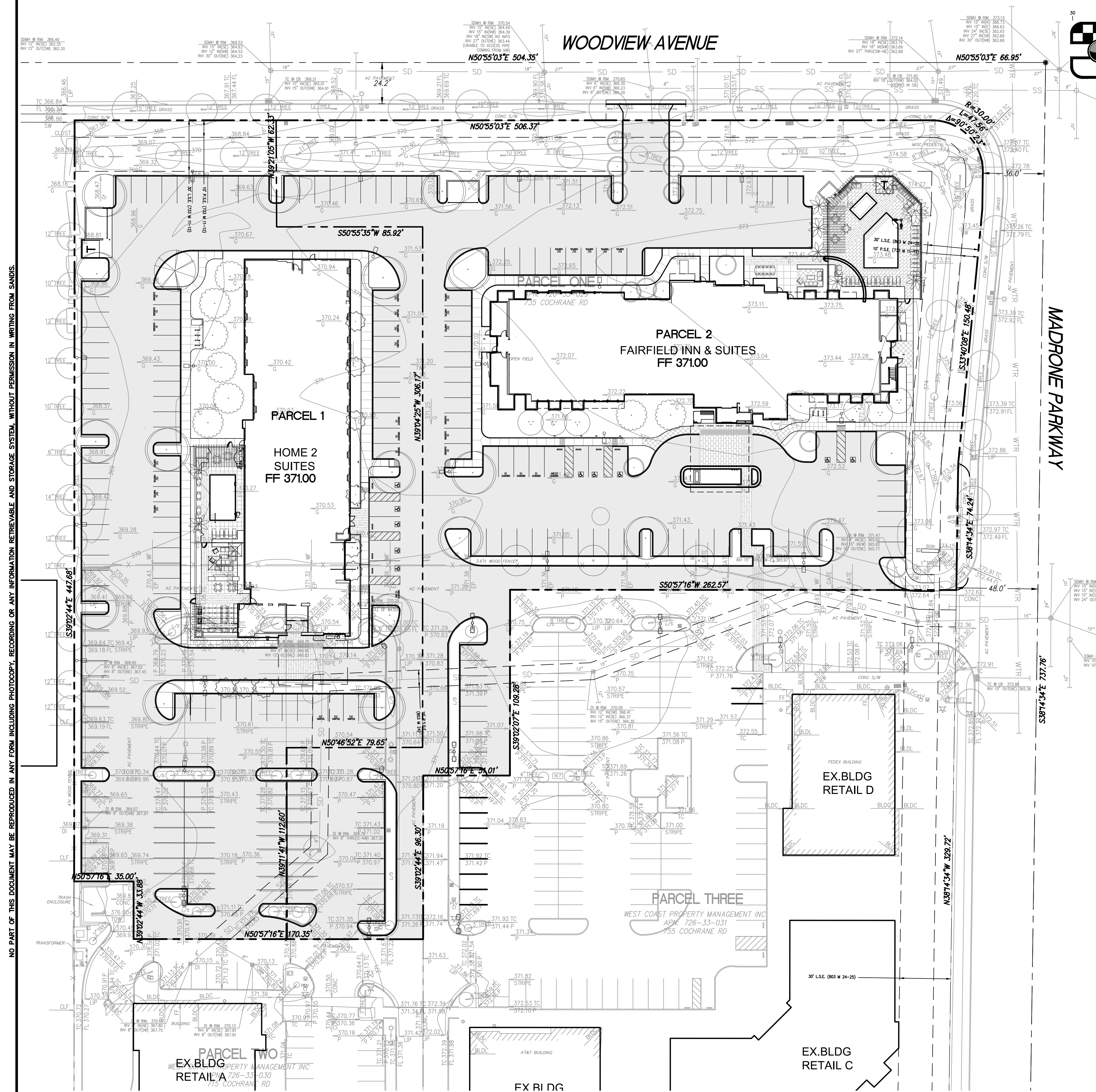
HOME 2 SUITES AND
FAIRFIELD INN & SUITES
MORGAN HILL CALIFORNIA

CONCEPTUAL UTILITY PLAN

SHEET

C-1.1

OF SHEETS



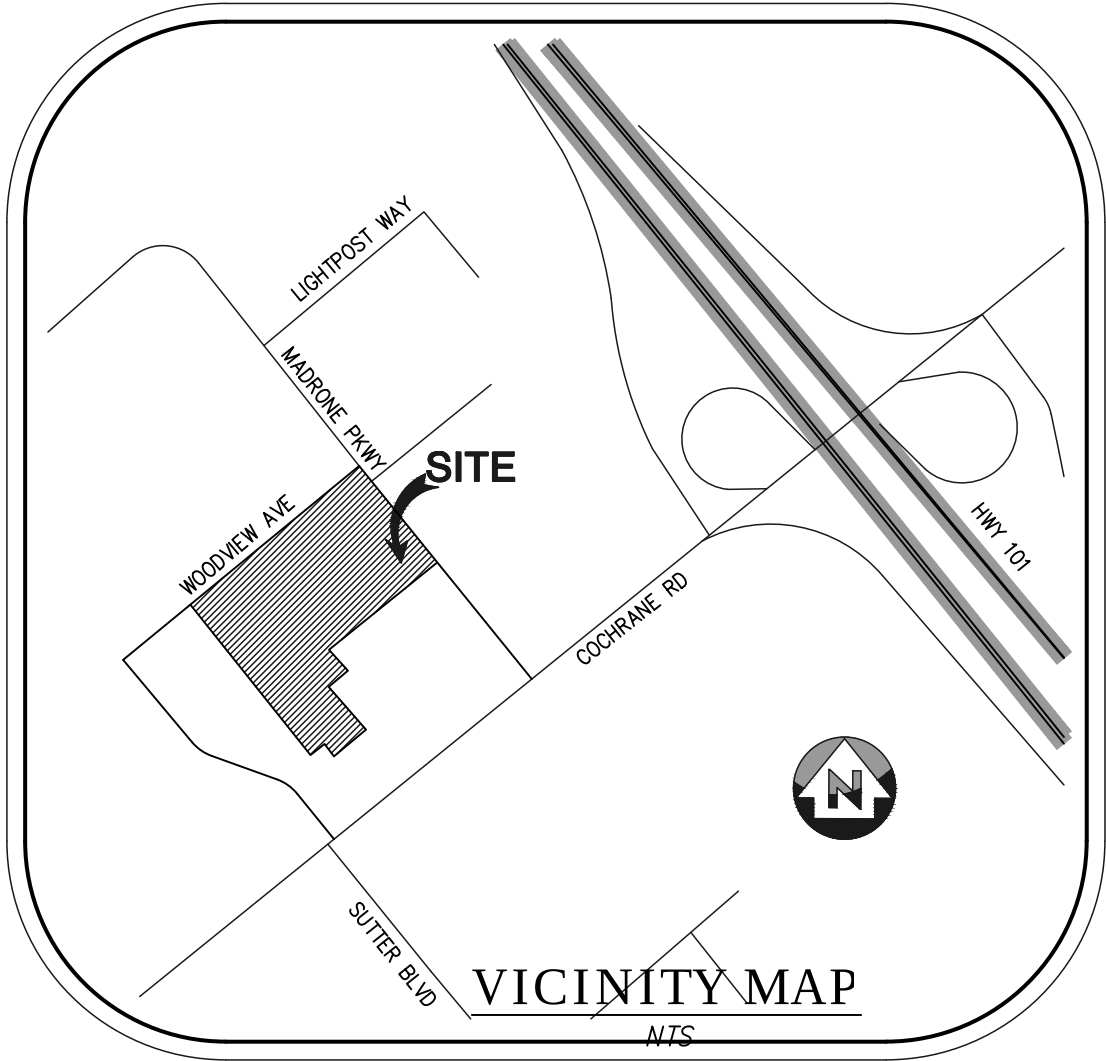
TENTATIVE PARCEL MAP

TWO LOT SUBDIVISION OF A PORTION OF
THE MADRONE VILLAGE SHOPPING CENTER

THE LAND REFERRED TO AS MADRONE VILLAGE SHOPPING
CENTER IS SITUATED IN THE CITY OF MORGAN HILL, COUNTY OF
SANTA CLARA, STATE OF CALIFORNIA

CITY OF MORGAN HILL, COUNTY OF SANTA CLARA CALIFORNIA

AUGUST 2018



VICINITY MAP
N.T.S.

- LEGEND**
- CENTERLINE
 - CURB LINE
 - EASEMENT LINE
 - EXISTING FENCE LINE
 - EXISTING PROPERTY LINE
 - PROPOSED PROPERTY LINE
 - OTHER PROPERTY LINE

- ABBREVIATIONS**
- L.S.E. LANDSCAPE EASEMENT
 - P.S.E. PUBLIC SERVICE EASEMENT
 - P.S.D.E. PUBLIC STORM DRAIN EASEMENT

- GENERAL NOTES**
- OWNER: JIGISH SHAH
MMP PROPERTIES
1150 N. MOUNTAIN AVE
UPLAND, CA 91786
TEL: (909) 477-1447

- MAP PREPARED BY:
CHAD BROWNING, RCE 68315
SANDIS CIVIL ENGINEERS, PLANNERS
& SURVEYORS
1700 WINCHESTER BLVD, SUITE 200
CAMPBELL, CA 95008
TEL: (408) 636-0900

- EXISTING ZONING: PLANNED DEVELOPMENT
- EXISTING APN: 726-33-029
- EXISTING USE: EMPTY LOT AND PARTIAL PARKING LOT
- PROPOSED USE: COMMERCIAL
- EXISTING BUILDINGS: NONE
- GENERAL PLAN: COMMERCIAL

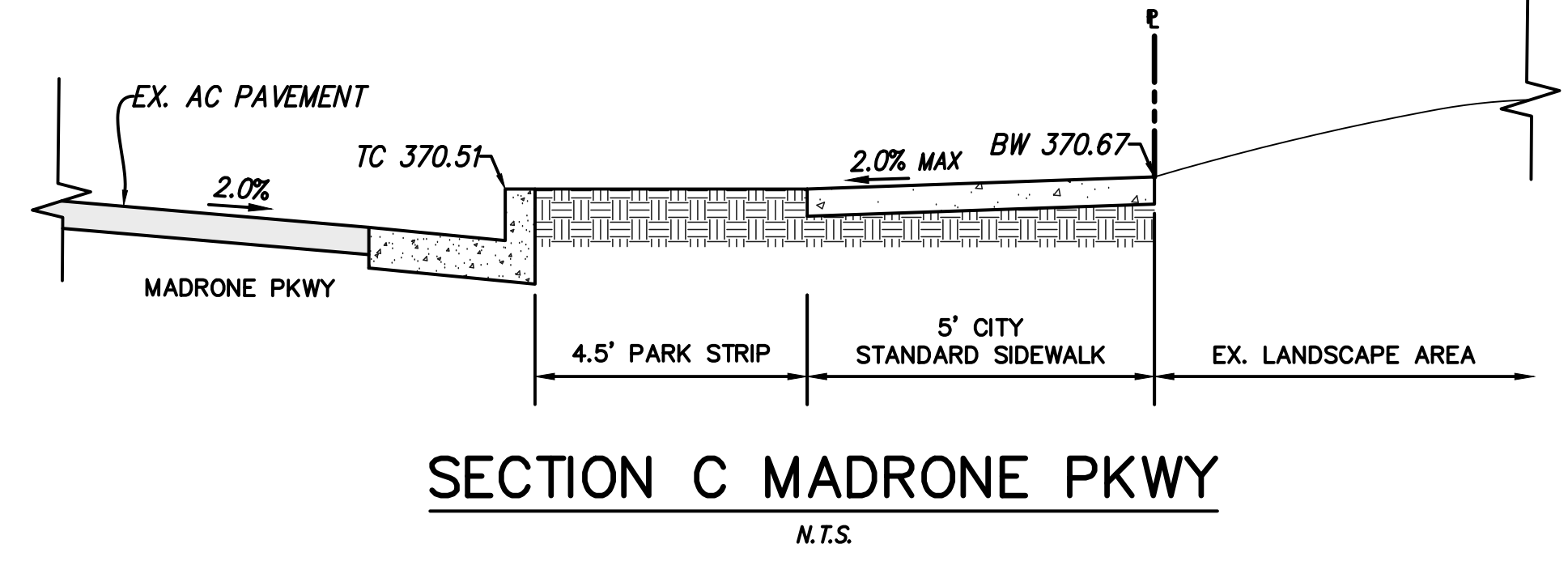
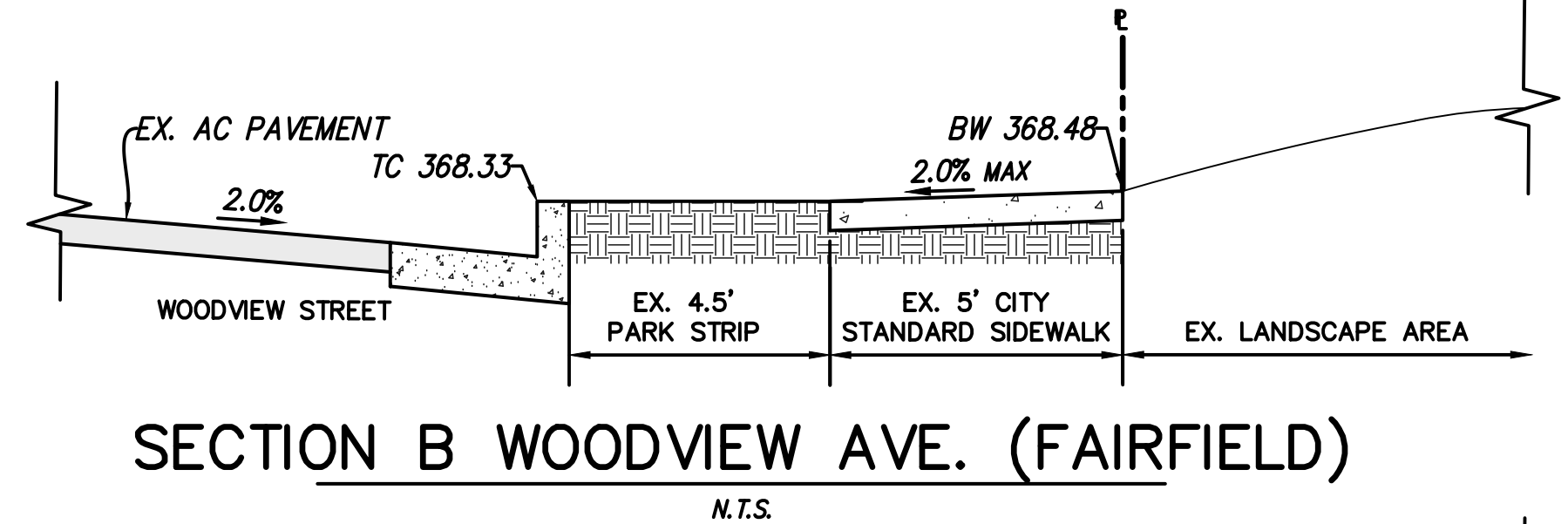
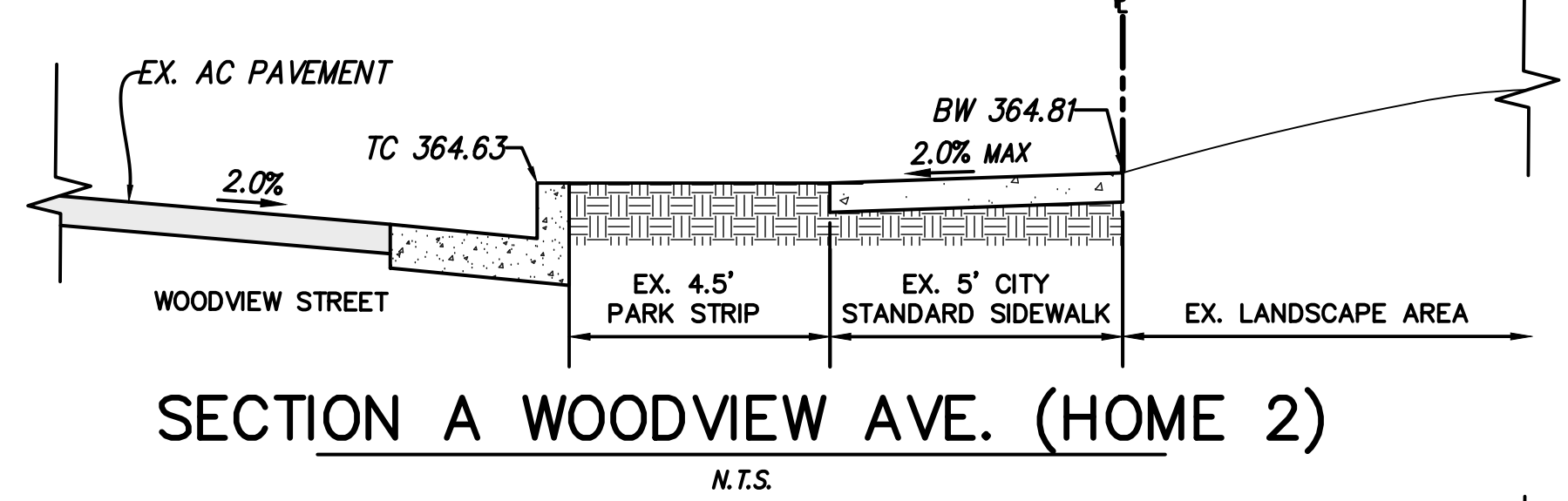
- PROPOSED CROSS ACCESS EASEMENT AND SHARED PARKING EASEMENT SHALL BE RECORDED IN THE CONDITIONS COVENANTS AND RESTRICTIONS AND SHALL BE RECORDED CONCURRENTLY WITH THE PARCEL MAP.

AREA SUMMARY

PARCEL 1: 83,047 SF
PARCEL 2: 109,130 SF

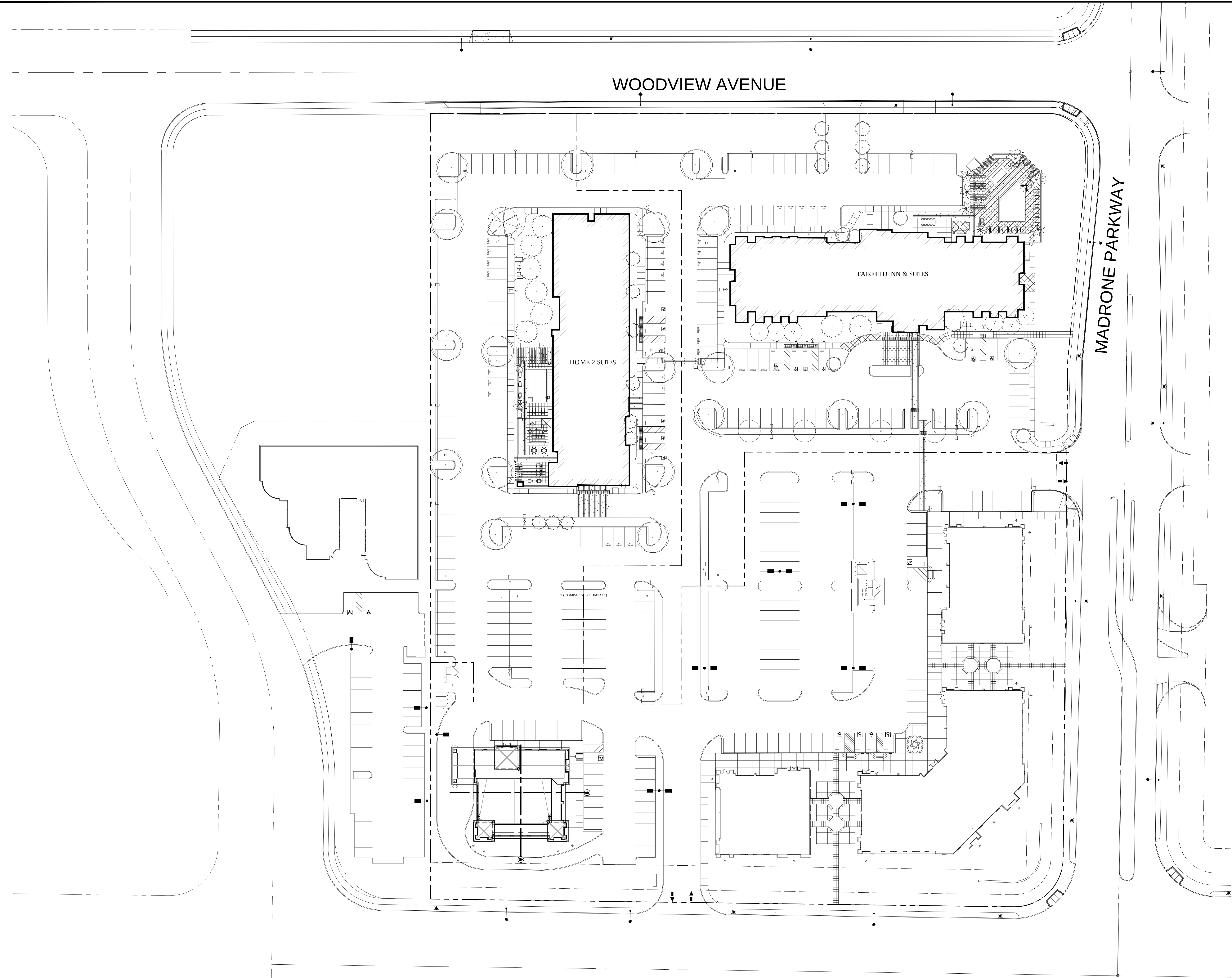
EARTHWORK QUANTITIES

CUT 4200 CY
FILL 4000 CY
BALANCE 200 CY EXPORT



NO PART OF THIS DOCUMENT MAY BE REPRODUCED IN ANY FORM INCLUDING PHOTOCOPY, RECORDING OR ANY INFORMATION RETRIEVABLE AND STORAGE SYSTEM, WITHOUT PERMISSION IN WRITING FROM SANDIS.

SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS 1700 S. Winchester Blvd, Suite 200, Campbell, CA 95008 P. 408.636.0900 F. 408.636.0999 www.sandis.net SILICON VALLEY TRI-VALLEY CENTRAL VALLEY SACRAMENTO EAST BAY/SF	DATE: 10/18/18 SCALE: 1"=30' DRAWN BY: TN APPROVED BY: SY DRAWING NO.: 218260	No. REVISION/ISSUE DATE BY	HOME 2 SUITES AND FAIRFIELD INN & SUITES MORGAN HILL CALIFORNIA	TENTATIVE PARCEL MAP 735 COCHRANE ROAD	SHEET T-1.0 OF 1 SHEETS Copyright Packet Pg. 456
	File: S:\218260\4 ENGINEERING\2 PLAN SETS\3 SHEET SET\ONSITE\T-1.0 TMAP.dwg Date: Oct 18, 2018 - 3:18pm, nguyenv				



1 MASTER SITE PLAN
SCALE: 1" = 30'-0"



APPLICATION INFORMATION	
APPLICANT:	MMP PROPERTIES 1150 N MOUNTAIN AVE., SUITE 102 UPLAND, CA 91786 (909) 946-0818
LAND OWNER:	MMP PROPERTIES 1150 N MOUNTAIN AVE., SUITE 102 UPLAND, CA 91786 (909) 946-0818
EXHIBIT PREPARER:	RYAN MACKOWIAK, ARCHITECT AE URBIA ARCHITECTS 909 W. SOUTH JORDAN PKWY. SOUTH JORDAN, UT 84095 (801) 746-0456

PROJECT INFORMATION	
MADRONE VILLAGE MASTER PLAN (REVISED) MORGAN HILL, CA MADRONE PARKWAY & COCHRANE RD.	
SITE	
PROJECT BOUNDARY	7.72 ACRES 336,219 SF
APN:	APN: 723-33-028, 726-33-029
ZONING	PLANNED DEVELOPMENT
GENERAL PLAN	COMMERCIAL

PROJECT SITE IS NOT LOCATED IN A FIRE HAZARD AND SEVERITY ZONE ACCORDING TO MAPS ADOPTED BY CAL FIRE 07 NOV 2007

SITE COVERAGE		
BUILDING AREA	57,591 SQ. FT.	17.1%
LANDSCAPE AREA	121,990 SQ. FT.	36.3%
ASPHALT AREA	156,638 SQ.FT.	46.6%

BUILDING AREA PHASE I	
BANK A	5,880 SF
RETAIL B	5,011 SF
RETAIL C	11,499 SF
RETAIL D	5,875 SF
TOTAL:	28,265 SF

BUILDING AREA PHASE II	
HOTEL PHASE II (HOME 2 SUITES)	13,633 SF
HOTEL PHASE II (FAIRFIELD INN & SUITES)	15,693 SF
TOTAL:	29,326 SF
TOTAL PHASE I & II:	57,591 SF

REQUIRED PARKING		
RETAIL 1 PER 250 SF.	28,265 / 250	= 114 SPACES
HOTEL 1 PER GUESTROOM		= 206 SPACES

PARKING PROVIDED	
COMPACT	67 SPACES
STANDARD	298 SPACES
ACCESSIBLE	18 SPACES
TOTAL PROVIDED	383 SPACES

LOT COVERAGE	57,591 SF. / 336,219 SF.	= 17.1% FAR
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TOTAL BUILDING AREA	
HOME 2 SUITES	
MAIN LEVEL	APPROX. 13,633 sf
UPPER LEVELS	APPROX. 13,815 sf
TOTAL BUILDING	APPROX. 55,078 sf

FAIRFIELD INN & SUITES	
MAIN LEVEL	APPROX. 15,693 sf
2nd, 3rd LEVELS	APPROX. 15,980 sf
4th LEVEL	APPROX. 15,401 sf
TOTAL BUILDING	APPROX. 63,054 sf

TOTAL BUILDING AREA	146,397 SF. / 336,219 SF.	= 43.5% FAR
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J.M. Williams and Associates
909 west south jordan parkway
south jordan, utah 84095
phone: 801.746.0456 - fax: 801.572.6456
www.aeurbia.com

20 November 2018

MADRONE VILLAGE
MADRONE PARKWAY & COCHRANE ROAD
MORGAN HILL, CA

MASTER SITE PLAN

AE2018_047

REVISIONS:

DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

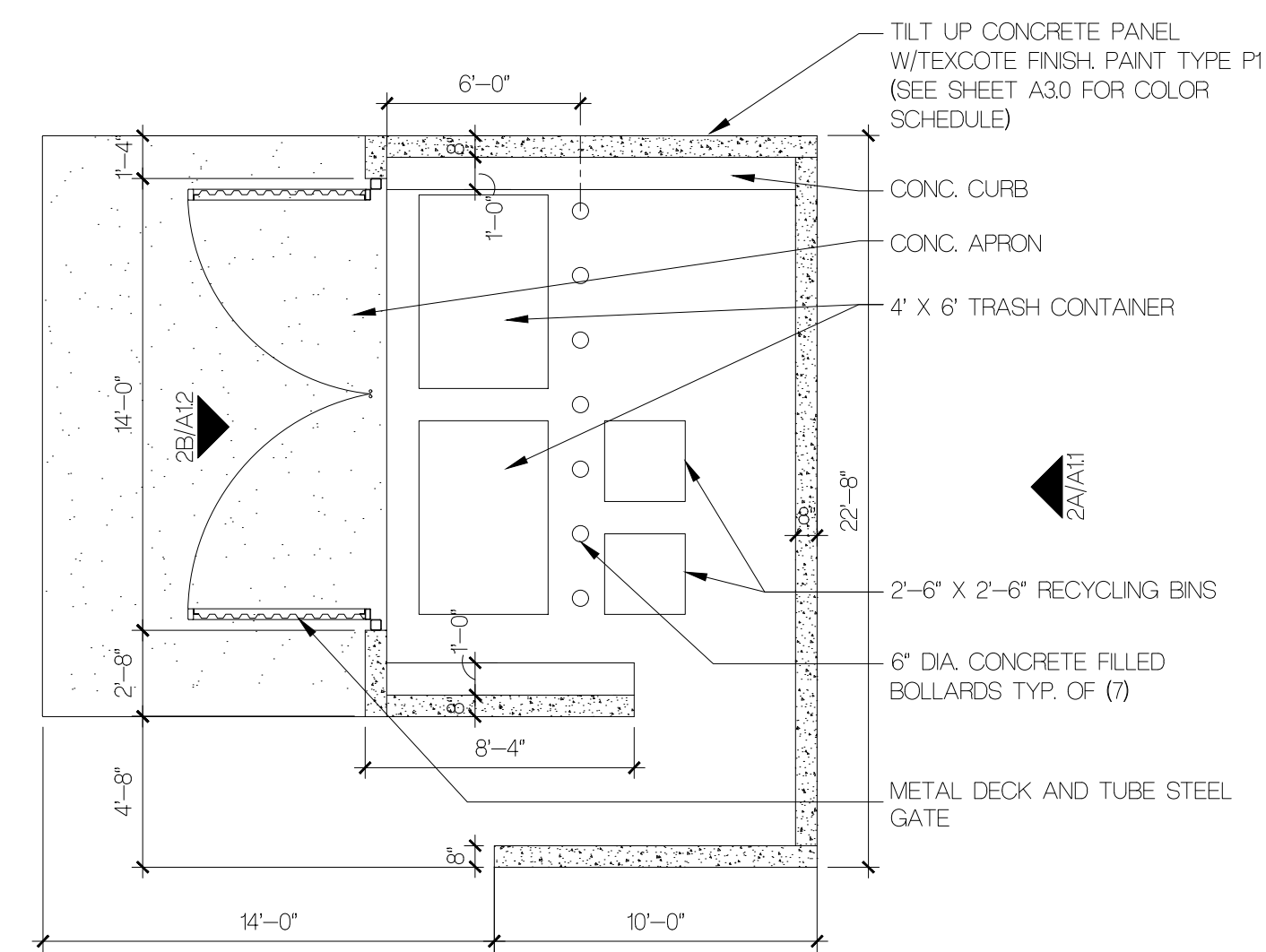
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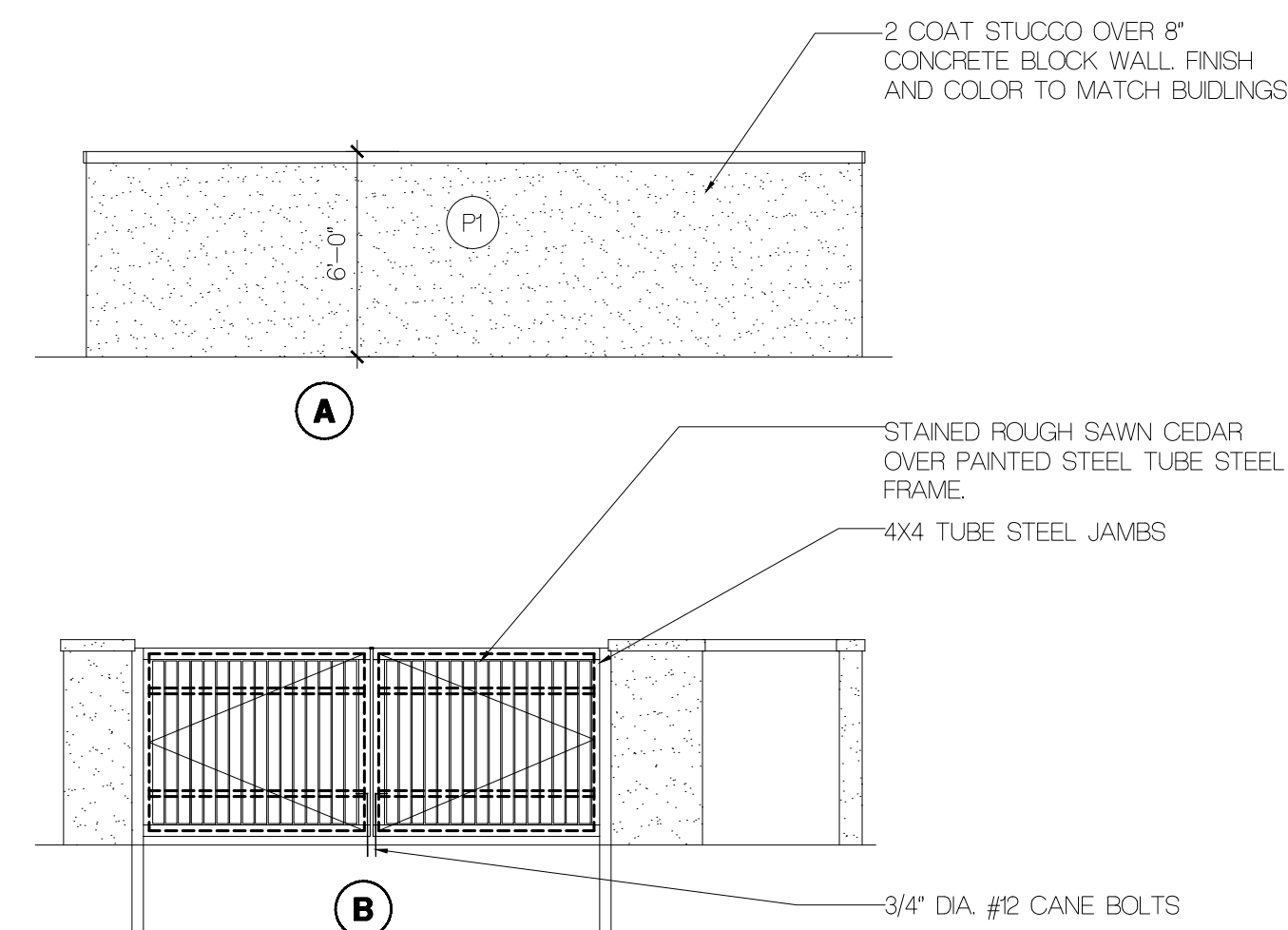
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Attachment: Exhibit A to Ordinance - Madrone Village Master Plan (2138 - AAE2018-0005 (CAA-04-11b): Cochran-TB)



1 PLAN AT TRASH ENCLOSURE



2 ELEVATION AT TRASH ENCLOSURE

PARKING COMPLIANCE NOTES:



3 ACCESSIBLE PARKING

A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

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PLANNING SUBMITTAL
PLANNING COMMENTS

SITE DETAILS

A1.1

041346.01



A. REFER TO DESIGN STANDARDS 'SITE & BUILDING EXTERIOR' CHAPTER FOR MAIN REQUIREMENTS RELATED TO THIS SHEET.

B. SEE SITE LANDSCAPING & PLANTING PLAN, SHEET 101, FOR ADDITIONAL INFORMATION ON PLANTING AND TREE LOCATIONS AND HARDSCAPING INCLUDING OPTIONAL SIDE WALK PATTERN.

CIVIL:

C1 CONCRETE APRON 8'-0" DEEP x WIDTH OF DUMPSTER ENCLOSURE.

C2 SLOPE ENTRANCE DRIVEWAY AT PORTE COCHERE TO BRING PAVEMENT FLUSH WITH CURB AT TRANSITION. PROVIDE TRUNCATED DOME TACTILE

C3	SLOPED SIDEWALK FOR ACCESSIBLE PARKING. PROVIDE MAXIMUM SLOPE OF 1:12 AND ENSURE CURB IS 6" HIGH OR LESS - PROVIDE 3" TRUNCATED DOME AS SHOWN - SEE 1/A120 & 2/A120
C4	VAN ACCESSIBLE PARKING STALL - PROVIDED SIGNAGE PER SITE DETAILS SHEET
C5	ACCESSIBLE PARKING STALL - PROVIDED SIGNAGE PER SITE DETAILS SHEET

L1	DECORATIVE NON-SLIP PAVING. REFER TO EXTERIOR FINISH SPECS
L2	SCREEN DUMPSTER ENCLOSURE WITH LARGE EVERGREEN SHRUBS OR TREES.
L3	BENCH - REFER TO SHEET XX/AXX FOR DETAILS
L4	NOT USED
L5	LANDSCAPE PLANTERS - SEE LANDSCAPE DWGS

A1	ELECTRICAL TRANSFORMER SCREENED WITH SHRUBS - SEE LANDSCAPE DRAWINGS
A2	DUMPSTER ENCLOSURE PER CITY STANDARDS AND 9/41/20 DO NOT BLOCK OVERHEAD FUNCTIONING OF TRUCK.
A3	FLAGPOLE WITH IN-GROUND UP-LIGHT
A4	SIDE ENTRY CANOPY ABOVE. SEE RCP FOR EXTERIOR LIGHTING.
A5	MONUMENT SIGN
A6	EDGE OF PORTE COCHERE CANOPY ABOVE. SEE GROUND FLOOR RCP FOR EXTERIOR LIGHTING.

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LAND OWNER:	MMP PROPERTIES 1150 N MOUNTAIN AVE., SUITE 102 UPLAND, CA 91786 (909) 946-0818
EXHIBIT PREPARER:	RYAN MACKOWIAK, ARCHITECT AE URBIA ARCHITECTS 909 W. SOUTH JORDAN PKWY. SOUTH JORDAN, UT 84095 (801) 746-0456

PROJECT DESCRIPTION:
PROJECT INCLUDES THE CONSTRUCTION OF A NEW 4-STORY HOTEL, WOOD FRAMED (V.A. 82 OCCUPANCY) STRUCTURE WITH CONCRETE SLAB-ON-GRADE. SITE WORK TO ALL EARTH WORK, CONCRETE CURB & GUTTER, BUILDING AND FOUNDATION, MASONRY TRASH ENCLOSURE, ASPHALT PAVING, STRIPING, EXTERIOR LIGHTING, CON FLATWORK AND LANDSCAPING. BUILDING TO BE 4-STORY HOTEL WITH INSULATED ALUMINUM WINDOWS AND ALUMINUM STOREFRONT AND 2-HR RATED STAIR & ELEVATOR ENCLOSURES, EPS AND FIBER CEMENT SIDING EXTERIOR FINISHES, ROOFING TO BE TYPICAL AT ALL ROOFS. INTERIOR WORK TO INCLUDE MILLWORK, CORE BOARD WALL & CEILING ASSEMBLIES, ACOUSTICAL TILE CEILINGS, CERAMIC RESILIENT CARPET FLOORING, PLUMBING, MECHANICAL, ELECTRICAL & PLUMBING SYSTEMS WITH AUTOMATIC FIRE SPRINKLING SYSTEMS THROUGHOUT. NO BUILDINGS OR STRUCTURE CURRENTLY EXIST ON THE PROPERTY.

REVISION	DATE	COMMENTS
INITIAL APPLICATION	24 AUG 2018	
SECONDARY APPLICATION	17 OCT 2018	

HOME 2 SUITES, MORGAN HILL, CA
735 COCHRANE RD.

SITE

PROJECT BOUNDARY	83066.5238 (1.91 ACRES)
APN:	726-33-029
ZONING	PLANNED DEVELOPMENT
GENERAL PLAN	COMMERCIAL

PROJECT SITE IS NOT LOCATED IN A FIRE HAZARD AND SEVERITY ZONE ACCORDING TO MAPS ADOPTED BY CAL FIRE 07 NOV 2007

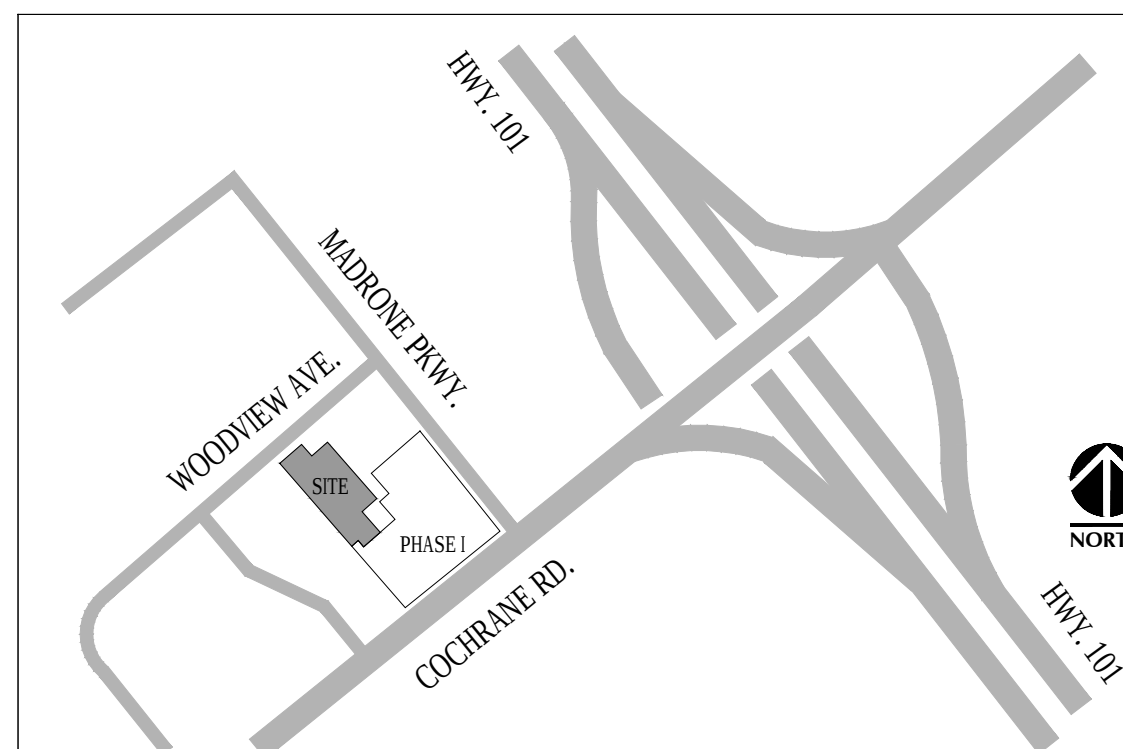
HOTEL	13,633 sf	16.41%
OUTDOOR POOL/PATIO	3,217 sf	3.87%
LANDSCAPE/SIDEWALK	20,902 SF	25.16%
ASPHALT	45,315 sf	54.55%

<u>HOTEL</u>		
4 STORIES	99 GUESTROOMS	
MAIN LEVEL	15 GUESTROOMS	APPROX. 13,633 sq ft
UPPER LEVELS	28 GUESTROOMS EA.	APPROX. 13,815 sq ft
TOTAL BUILDING		APPROX. 55,078 sq ft
FLOOR AREA RATIO		66.31%
(MAIN + UPPER FLOORS / SITE BOUNDARY)		

<u>PARKING REQUIRED</u>	
TOTAL	99 (HOTEL - 1/GUESTROOM)
ADA	5 (11B-208.2 -- 1 MUST BE VAN ACCESSIBLE)
EV CHARGING	7 (CGBSC 5.106.5.3.3)
CLEAN AIR	11 (CGBSC 5.106.5.2)

BIKE PARKING REQUIRED	10 STALLS
TOTAL PROVIDED	120
ADA	5 (1 VAN ACC.)
EV CHARGING	7 (1 VAN)
CLEAN AIR	11
COMPACT	9

BIKE PARKING PROVIDED 10 STALLS



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SCALE: AS NOTED

DATE:

SHEET NO.

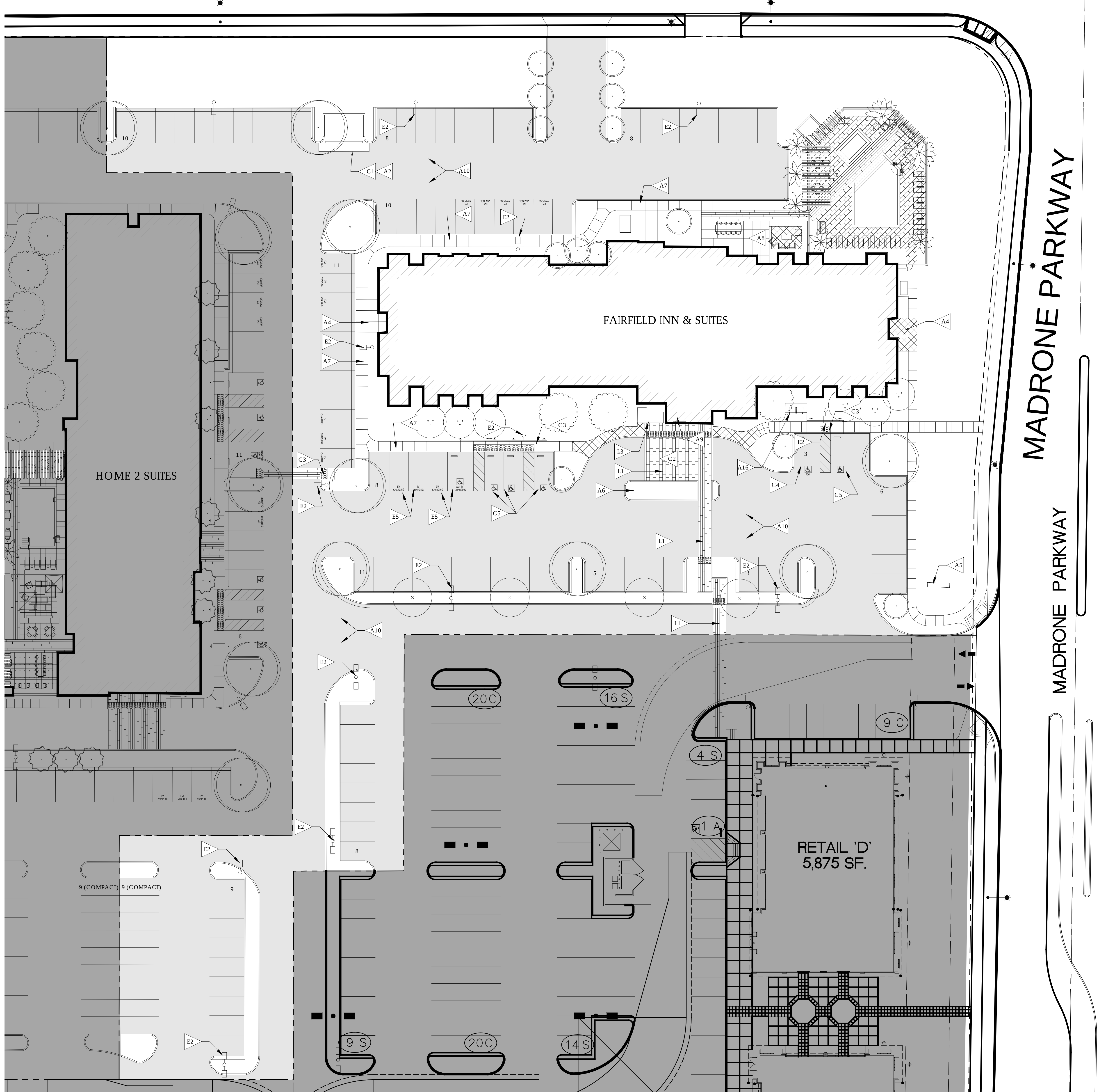
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HOME 2 SUITES
735 COCHRANE RD
MORGAN HILL, CA

SITE PLAN

WOODVIEW AVENUE



1 ARCHITECTURAL SITE PLAN
SCALE: 1" = 20'-0"



REFERENCE NOTES

A. REFER TO DESIGN STANDARDS 'SITE & BUILDING EXTERIOR' CHAPTER FOR MAIN REQUIREMENTS RELATED TO THIS SHEET.

B. SEE SITE LANDSCAPING & PLANTING PLAN, SHEET 101, FOR ADDITIONAL INFORMATION ON PLANTING AND TREE LOCATIONS AND HARDSCAPING, INCLUDING OPTIONAL SIDE WALK PATTERN.

CRITERIA NOTES

CRITERIA NOTES ARE SHOWN CATEGORIZED BY DISCIPLINE AND COULD BE INTERPRETED TO APPLY TO MORE THAN ONE DISCIPLINE. FOR EFFICIENCY, NOTES ARE ONLY SHOWN UNDER ONE PREDOMINANT DISCIPLINE. CONSULTANTS SHOULD FAMILIARIZE THEMSELVES WITH ALL CRITERIA NOTES.

CIVIL:

C1 CONCRETE APRON 8'-0" DEEP x WIDTH OF DUMPSTER ENCLOSURE.

C2 SLOPE ENTRANCE DRIVEWAY AT PORTE COCHERE TO BRING PAVEMENT FLUSH WITH CURB AT TRANSITION. PROVIDE TRUNCATED DOME TACTILE WARNING AT FLUSH CURB CONDITION.

C3 SLOPED SIDEWALK FOR ACCESSIBLE PARKING. PROVIDE MAXIMUM SLOPE OF 1:12 AND ENSURE CURB IS 6" HIGH OR LESS. PROVIDE 3" TRUNCATED DOMES AS SHOWN - SEE 1A120 & 2A120

C4 VAN ACCESSIBLE PARKING STALL - PROVIDED SIGNAGE PER SITE DETAILS SHEET

C5 ACCESSIBLE PARKING STALL - PROVIDED SIGNAGE PER SITE DETAILS SHEET

LANDSCAPE ARCHITECTURE:

L1 DECORATIVE NON-SLIP PAVING. REFER TO LANDSCAPE DRAWINGS

L2 SCREEN DUMPSTER ENCLOSURE WITH LARGE EVERGREEN SHrub OR TREES.

L3 BENCH - REFER TO SHEET XX/XXX FOR DETAILS

L4 NOT USED

L5 LANDSCAPE PLANTERS - SEE LANDSCAPE DWGS

ARCHITECTURE:

A1 ELECTRICAL TRANSFORMER SCREENED WITH SHRUBS - SEE LANDSCAPE DRAWINGS

A2 DUMPSTER ENCLOSURE PER CITY STANDARDS AND 9A120. DO NOT BLOCK OVERHEAD FUNCTIONING OF TRUCK.

A3 FLAGPOLE WITH IN-GROUND UP-LIGHT

A4 SIDE ENTRY CANOPY ABOVE. SEE RCP FOR EXTERIOR LIGHTING.

A5 MONUMENT SIGN

A6 EDGE OF PORTE COCHERE CANOPY ABOVE. SEE GROUND FLOOR RCP FOR EXTERIOR LIGHTING.

A7 PAVED WALKWAY SLOPE AWAY FROM BLDG. (MAX 2% CROSS SLOPE) - SILICA BASED AGGREGATE

A8 OUTDOOR LOUNGE AREA - REFER TO FREE SPECS FOR LOOSE FURNISHINGS

A9 DEPRESSED SIDEWALK AND FLOOR SLAB AT VESTIBULE FOR WALK-OFF MAT.

A10 ASPHALT DRIVE AISLE - SEE CIVIL. FIRE ACCESS ROAD SHALL BE AN ALL WEATHER DRIVING SURFACE CAPABLE OF 60,000 LB GROSS VEHICULAR WEIGHT

A11 GAS METER, SEE PLUMB.

A12 STRIPE CROSSWALK WITH WHITE STRIPING - TREAT CROSSWALK IN ACCORDANCE CITY

A13 PAINT "NO PARKING" SIGNAGE IN 12" TALL LETTERS - TYP AT ALL ACCESS AISLES - TEXT TO ALIGN WITH END OF STRIPE

A14 "UNAUTHORIZED VEHICLE PARKING" SIGNAGE - SEE A120

A15 PAINT "CLEAN AIR / VANPOOL EV" SIGNAGE IN 12" TALL LETTERS - TYP AT CLEAN AIR STALLS - TEXT TO ALIGN WITH END OF STRIPE

A16 BICYCLE PARKING - PROVIDE 2 RACKS TO EQUAL 10 BICYCLE PARKING STALLS

STRUCTURAL:

S1 REINFORCE BUILDING ELEMENTS AND STRUCTURE TO PROTECT AGAINST VEHICLE IMPACT. SEE ALSO PORTE COCHERE DETAILS.

ENGINEERING:

E1 FLOOD LIGHTS. ADJUST & AIM LIGHTS TO GRAZE TEXTURED WALL SURFACE.

E2 SITE LIGHTING POLES. INDICATE TO BE CENTERED ON PARKING STRIPES TO PROTECT FROM CAR OVERHANG DAMAGE.

E3 LIGHT BOLLARDS @ 10'-0" ON CENTER. LOCATE IN GROUND 18" FROM EDGE OF SIDEWALK (CENTER TO EDGE). PROVIDE CONCRETE FOUNDATION W/ J-BOX PER MANUF. REQUIREMENTS.

E4 ALTERNATE HVAC EQUIPMENT LOCATION. PROVIDE SPLIT FACE CMU SCREENWALL ON BUILDING SIDE OF ENCLOSURE & ALUMINUM PICKET RAILING ON REMAINING SIDES. COORDINATE FOOTPRINT W/ EDGES OF PLANTING BEDS.

E5 PROVIDE UNDERGROUND ELECTRICAL CONDUIT (NOT WIRED) FOR THE ABILITY TO ADD ELECTRIC CAR (EV) CHARGING STATIONS FOR A MINIMUM OF 3% OF THE TOTAL PARKING COUNT. MAINTAIN ACCESSIBLE WIDTH REQUIREMENT OF ADJACENT SIDEWALK. PROVIDE PIPE BOLLARD TO PROTECT CHARGING STATION. PROVIDE SIGN STATING "ELECTRIC VEHICLE PARKING AND CHARGING STATION." COORDINATE ALL REQUIREMENTS WITH CHARGING STATION MANUFACTURER. INSTALL (1) 4" CONDUIT TO THE NEAREST ELECTRICAL ROOM AND (1) 2" CONDUIT TO THE NEAREST EV CHARGING STATION FROM THE LOCATION WHERE THE ELECTRIC CAR CHARGES ARE PROPOSED TO BE INSTALLED NOW OR IN THE FUTURE.

APPLICATION INFORMATION

APPLICANT:

MMP PROPERTIES
1150 N MOUNTAIN AVE., SUITE 102
UPLAND, CA 91786
(909) 946-0818

LAND OWNER:

MMP PROPERTIES
1150 N MOUNTAIN AVE., SUITE 102
UPLAND, CA 91786
(909) 946-0818

EXHIBIT PREPARER:

RYAN MACKOWIAK, ARCHITECT
AE URBIA ARCHITECTS
909 W. SOUTH JORDAN PKWY.
SOUTH JORDAN, UT 84095
(801) 746-0456

PROJECT DESCRIPTION:

PROJECT INCLUDES THE CONSTRUCTION OF A NEW 4-STORY HOTEL, WOOD FRAMED (TYPE I-A, E2 OCCUPANCY) STRUCTURE WITH CONCRETE SLAB-ON-GRADE. SITE WORK TO INCLUDE ALL EARTH WORK, CONCRETE CURB & GUTTER, BUILDING FOOTING AND FOUNDATION, MASONRY TRASH ENCLOSURE, ASPHALT PAVING, STRIPING, EXTERIOR LIGHTING, CONCRETE FLOORWORK AND LANDSCAPING. BUILDING TO BE A 4-STORY HOTEL WITH INSULATED ALUMINUM WINDOWS AND ALUMINUM STOREFRONT AND 24HR RATED STAR & ELEVATOR ENCLOSURES, EPS AND FIBER CEMENT SIDING EXTERIOR FINISHES. ROOFING TO BE TPO MEMBRANE & METAL AT PORTE COCHERE. INTERIOR WORK TO INCLUDE MILLWORK, GYPSUM BOARD WALL & CEILING ASSEMBLIES, ACOUSTICAL TILE CEILINGS, CERAMIC, RESILIENT AND CARPET FLOORING, PAINTING, MECHANICAL, ELECTRICAL & PLUMBING SYSTEMS WITH AUTOMATIC FIRE SPRINKLING SYSTEMS THROUGHOUT. NO BUILDINGS OR STRUCTURES CURRENTLY EXIST ON THE PROPERTY.

REVISION	DATE	COMMENTS
INITIAL APPLICATION	24 AUG 2018	

PROJECT INFORMATION

FAIRFIELD INN & SUITES, MORGAN HILL, CA
735 COCHRANE RD.

SITE

PROJECT BOUNDARY 108,714 SF (2.50 ACRES)

APN: 726-33-029

ZONING: PLANNED DEVELOPMENT

GENERAL PLAN: COMMERCIAL

PROJECT SITE IS NOT LOCATED IN A FIRE HAZARD AND SEVERITY ZONE ACCORDING TO MAPS ADOPTED BY CAL FIRE 07 NOV 2007

SITE COVERAGE

HOTEL	15,693 sf	14.44%
OUTDOOR POOL/PATIO	4,828 sf	4.44%
LANDSCAPE/SIDEWALK	38,931 SF	35.81%
ASPHALT	49,262 sf	45.31%

HOTEL

4 STORIES 107 GUESTROOMS

MAIN LEVEL 14 GUESTROOMS

2nd, 3rd LEVELS 31 GUESTROOMS EA.

4th LEVEL 31 GUESTROOMS

TOTAL BUILDING APPROX. 15,693 sf

FLOOR AREA RATIO APPROX. 15,401 sf

(MAIN & UPPER FLOORS / SITE BOUNDARY) APPROX. 63,054 sf

58.00%

(MAIN & UPPER FLOORS / SITE BOUNDARY)

TYPE V-A CONSTRUCTION

PARKING REQUIRED

TOTAL 107 (HOTEL - 1/GUESTROOM)

ADA 5 (11B-208.2 - 1 MUST BE VAN ACC.)

EV CHARGING 7 (CGBSC 5.106.5.3.3)

CLEAN AIR 11 (CGBSC 5.106.5.2)

BIKE PARKING REQUIRED 10 STALLS

TOTAL PROVIDED 109

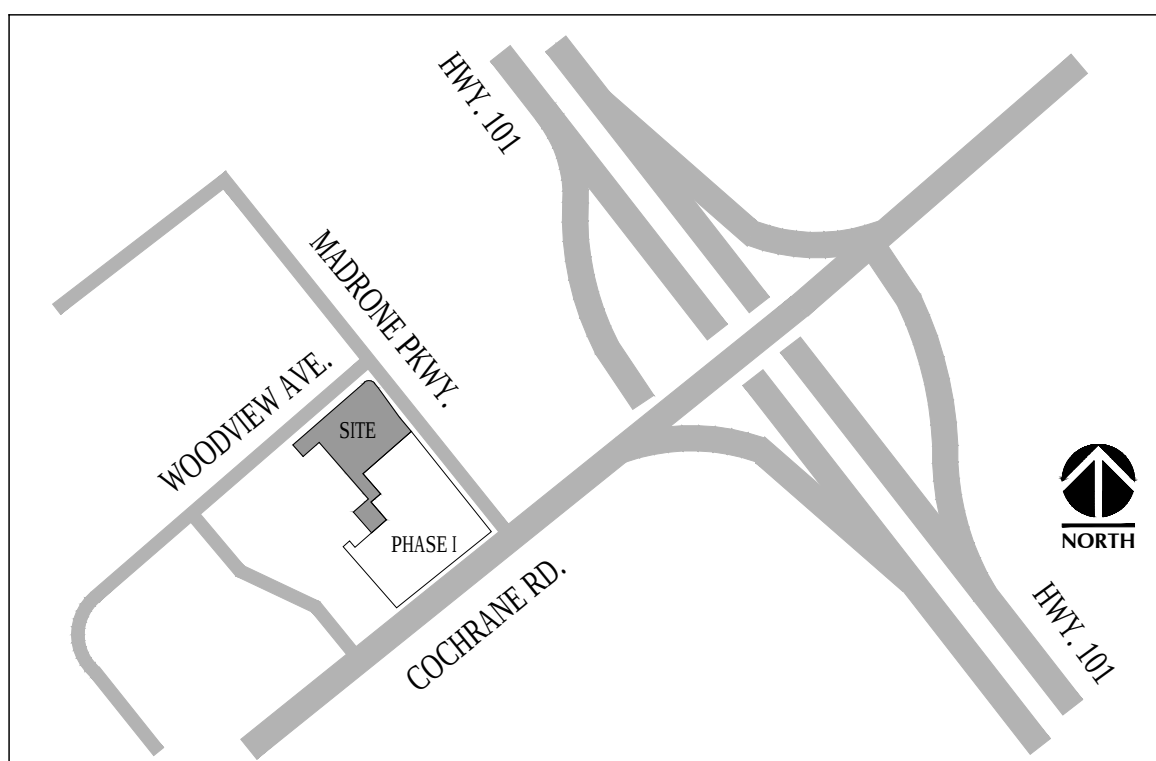
ADA 5 (1 VAN ACC.)

EV CHARGING 7 (1 VAN)

CLEAN AIR 11

COMPACT 9

BIKE PARKING PROVIDED 10 STALLS



VICINITY MAP

FAIRFIELD INN & SUITES
MADRONE PKWY & COCHRANE RD
MORGAN HILL, CA

SITE PLAN

AE2018 048

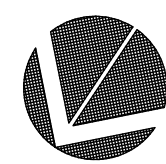
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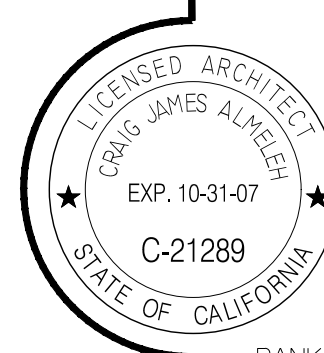


SCALE: 1/8" = 1'-0"

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

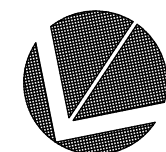
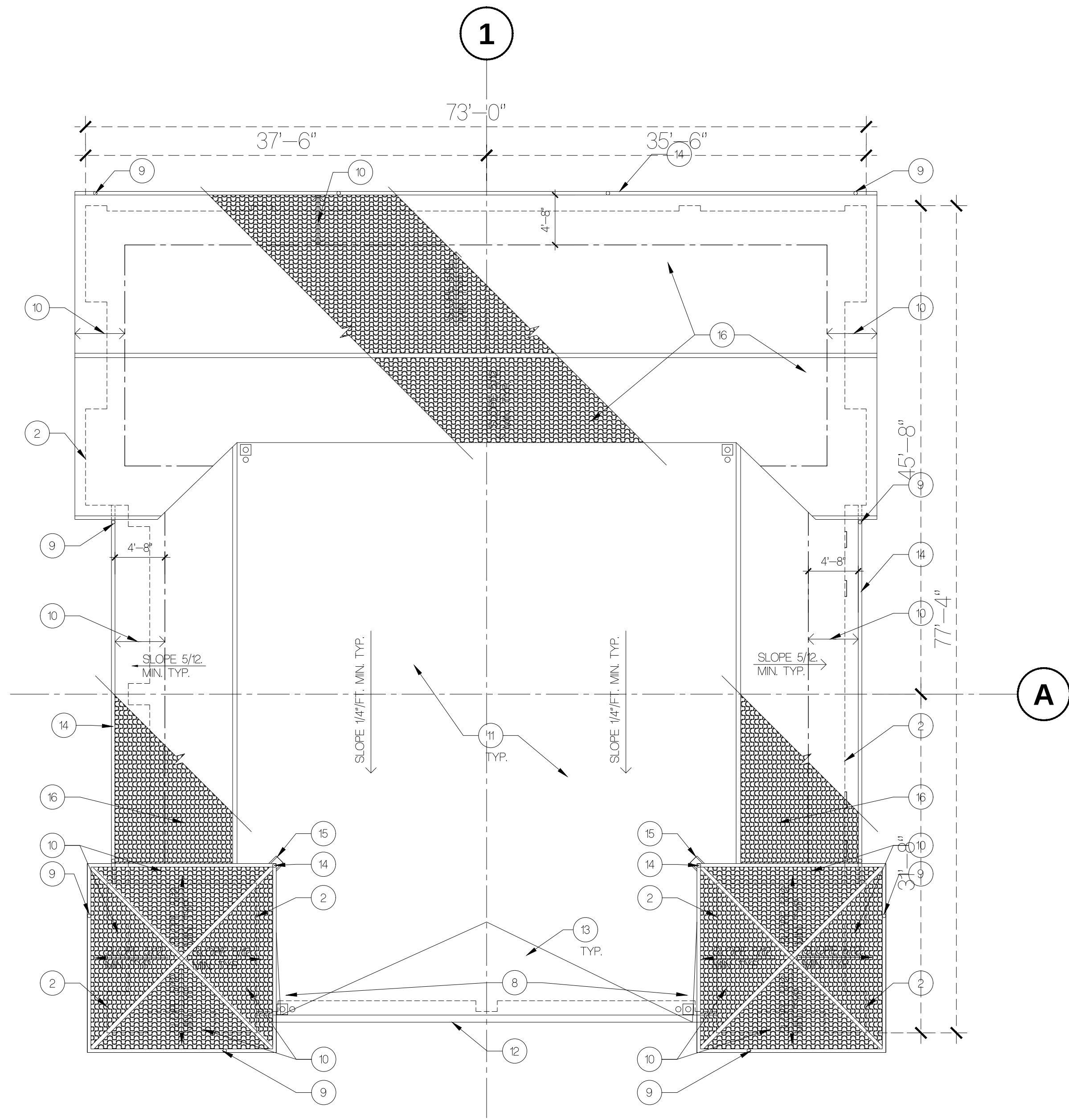
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SCALE: 1/8" = 1'-0"



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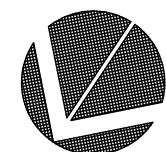
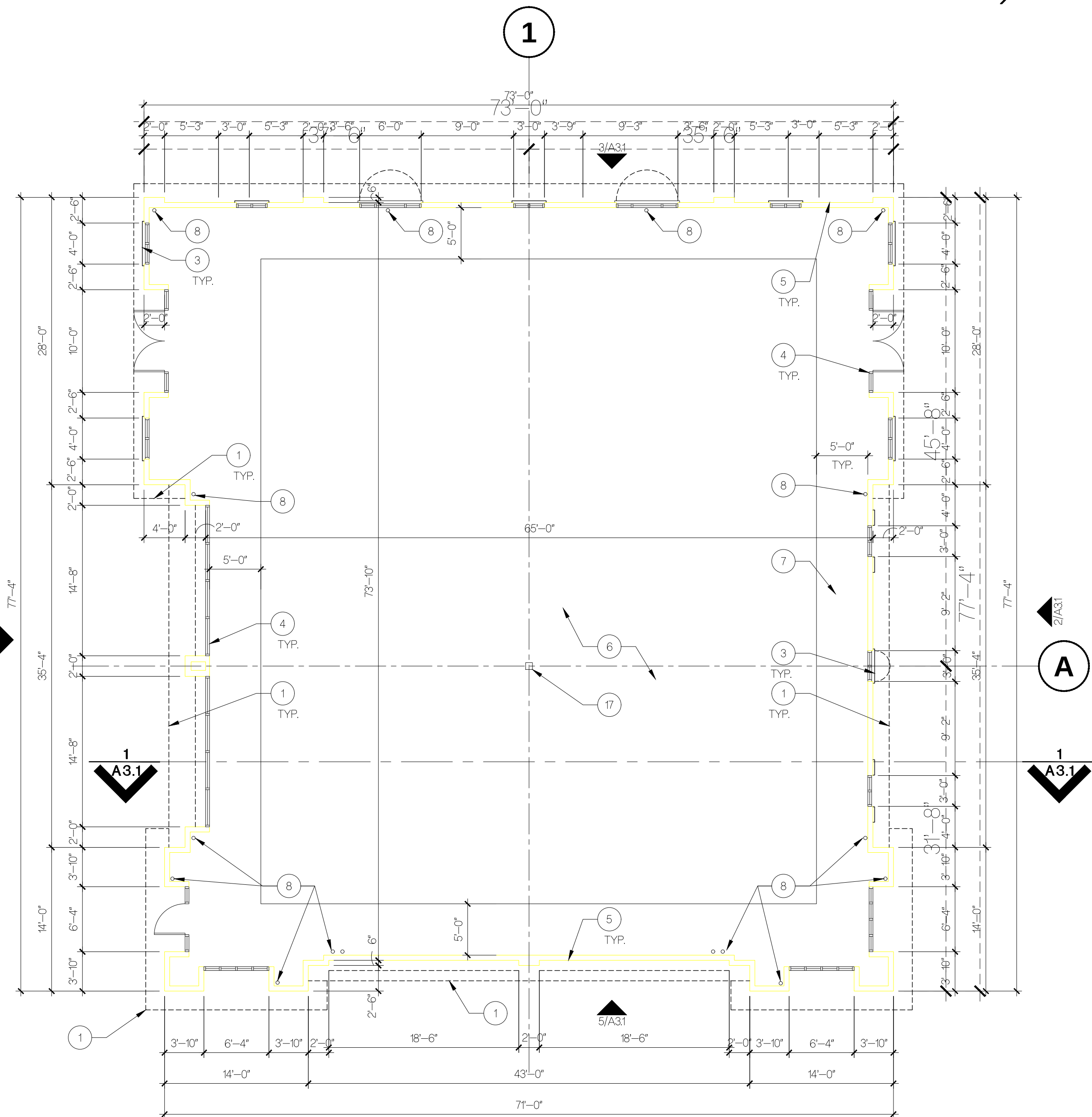
RETAIL B ROOF PLAN

SCALE: 1/8" = 1'-0"

KEYNOTES

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

- | | |
|---|--|
| 1 LINE OF OVERHANG ABOVE. | 12 LINE OF PARAPET. |
| 2 LINE OF WALL BELOW. | 13 PLYWOOD CRICKET. |
| 3 LINE OF SILL BELOW. | 14 PAINTED METAL GUTTER/DOWNSPOUT. |
| 4 ALUMINUM WINDOW WITH 1/4" GLAZING. | 15 PRE CAST CONCRETE SPLASH BLOCK ON ROOF. |
| 5 STUCCO ON WOOD FRAMING. | 16 S - SHAPE MISSION TILE |
| 6 NO CONCRETE SLAB THIS AREA. | 17 STRUCTURAL COLUMN. |
| 7 CONCRETE SLAB | 18 TRENCH DRAIN. |
| 8 RAIN WATER LEADER | 19 CONCRETE STAIRS (7 RISERS, 6 TREADS) |
| 9 PAINTED METAL DOWNSPOUT. | 20 FABRIC CANOPY |
| 10 2 PIECE MISSION TILE | |
| 11 SPRAY ON URETHANE FOAM ROOFING SYSTEM. | |



RETAIL B FLOOR PLAN

SCALE: 1/8" = 1'-0"

A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

ARCHITECTURAL TECHNOLOGIES
2960 East Northern Avenue, Bldg. C
Phoenix, Arizona 85028
602-953-2355 FAX 602-953-2988

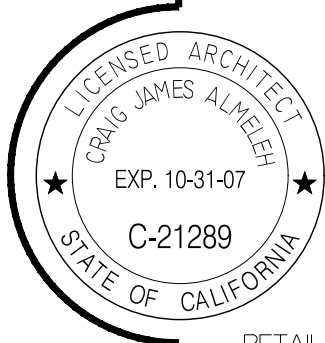
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PLANNING COMMENTS

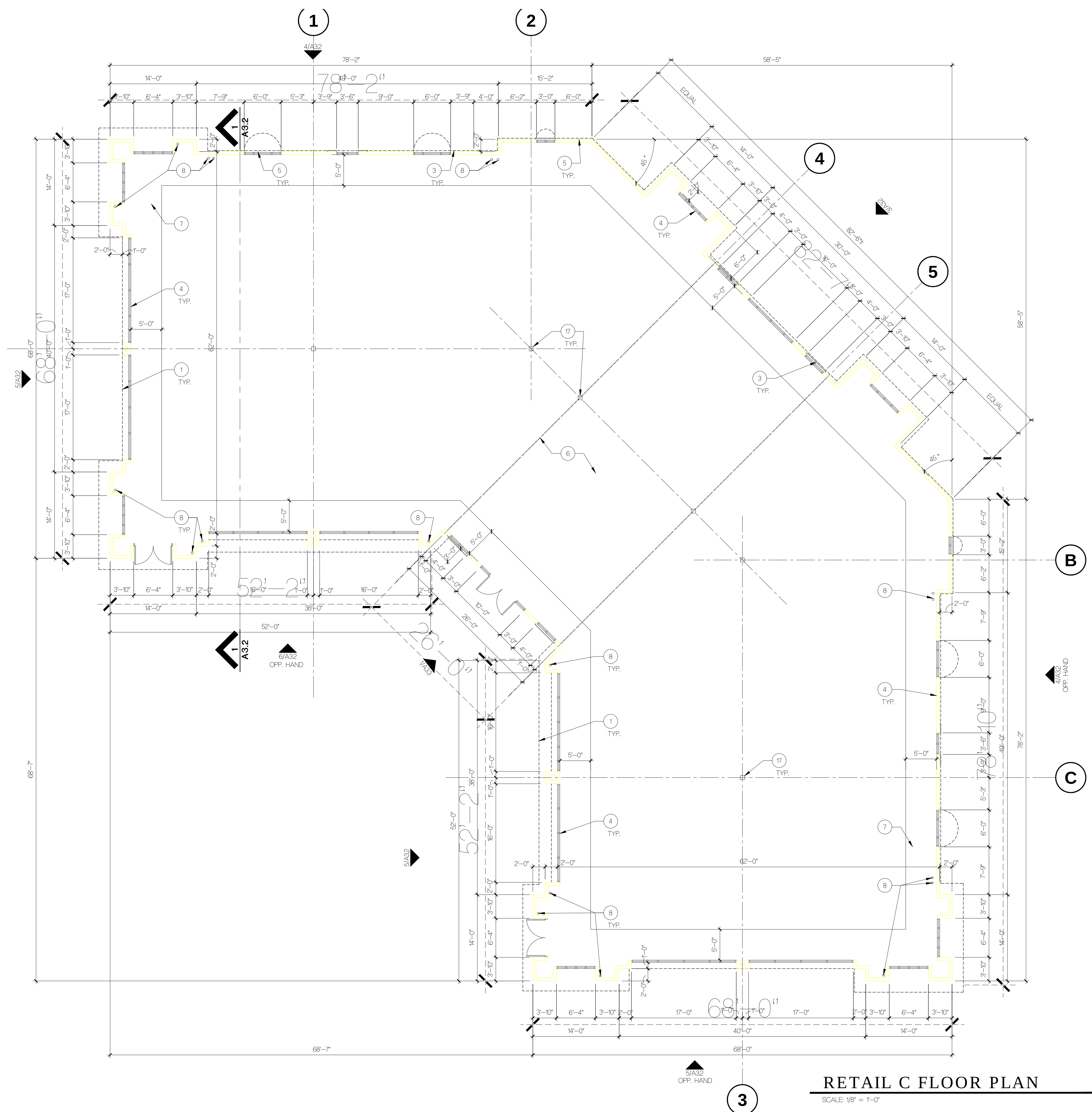
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RETAIL B
FLOOR PLAN
AND ROOF PLAN

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KEYNOTES

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

- 1 LINE OF OVERHANG ABOVE.
- 2 LINE OF WALL BELOW.
- 3 LINE OF SILL BELOW.
- 4 ALUMINUM WINDOW WITH 1/4\"/>
- 5 STUCCO ON WOOD FRAMING.
- 6 NO CONCRETE SLAB THIS AREA.
- 7 CONCRETE SLAB
- 8 RAIN WATER LEADER
- 9 PAINTED METAL DOWNSPOUT.
- 10 2 PIECE MISSION TILE
- 11 SPRAY ON URETHANE FOAM ROOFING SYSTEM.
- 12 LINE OF PARAPET.
- 13 PLYWOOD CRICKET.
- 14 PAINTED METAL GUTTER/DOWNSPOUT.
- 15 PRE CAST CONCRETE SPLASH BLOCK ON ROOF.
- 16 S - SHAPE MISSION TILE
- 17 STRUCTURAL COLUMN.
- 18 TRENCH DRAIN.
- 19 CONCRETE STAIRS (7 RISERS, 6 TREADS)
- 20 FABRIC CANOPY

A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

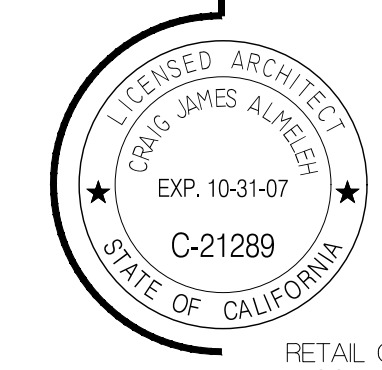
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Phoenix, Arizona 85028
602-953-2355 FAX 602-953-2988

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PLANNING COMMENTS 02/20/06



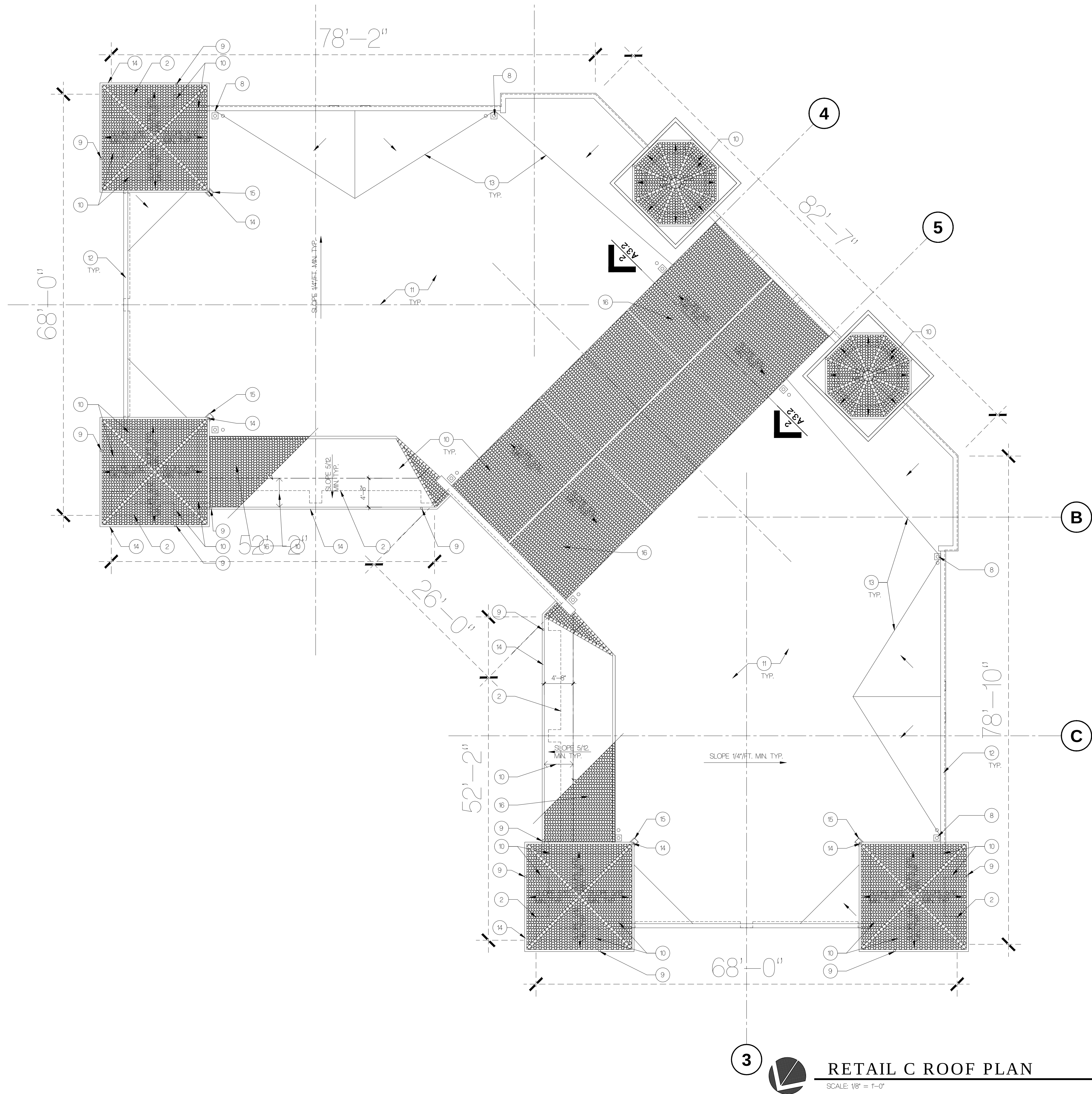
RETAIL C
FLOOR PLAN

A2.2

RETAIL C FLOOR PLAN

SCALE: 1/8" = 1'-0"

041346.01



GENERAL NOTES

- 1. -
- 2. -
- 3. -
- 4. -

KEYNOTES

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

- 1. LINE OF OVER-HANG ABOVE.
- 2. LINE OF WALL BELOW.
- 3. LINE OF SILL BELOW.
- 4. ALUMINUM WINDOW WITH 1/4" GLAZING.
- 5. STUCCO ON WOOD FRAMING.
- 6. NO CONCRETE SLAB THIS AREA.
- 7. CONCRETE SLAB.
- 8. ROOF DRAIN.
- 9. PAINTED METAL DOWNSPOUT.
- 10. 2 PIECE MISSION TILE.
- 11. SPRAY ON URETHANE FOAM ROOFING SYSTEM.
- 12. LINE OF PARAPET.
- 13. PLYWOOD CRICKET.
- 14. PAINTED METAL GUTTER/DOWNSPOUT.
- 15. PRE CAST CONCRETE SPLASH BLOCK ON ROOF.
- 16. S - SHAPE MISSION TILE.
- 17. STRUCTURAL COLUMN.
- 18. TRENCH DRAIN.
- 19. CONCRETE STAIRS (7 RISERS, 6 TREADS).
- 20. FABRIC CANOPY.

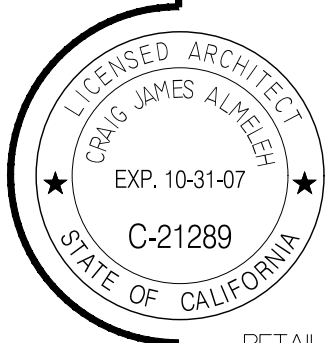
A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

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PLANNING COMMENTS 02/20/06

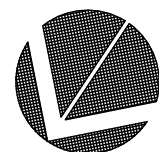
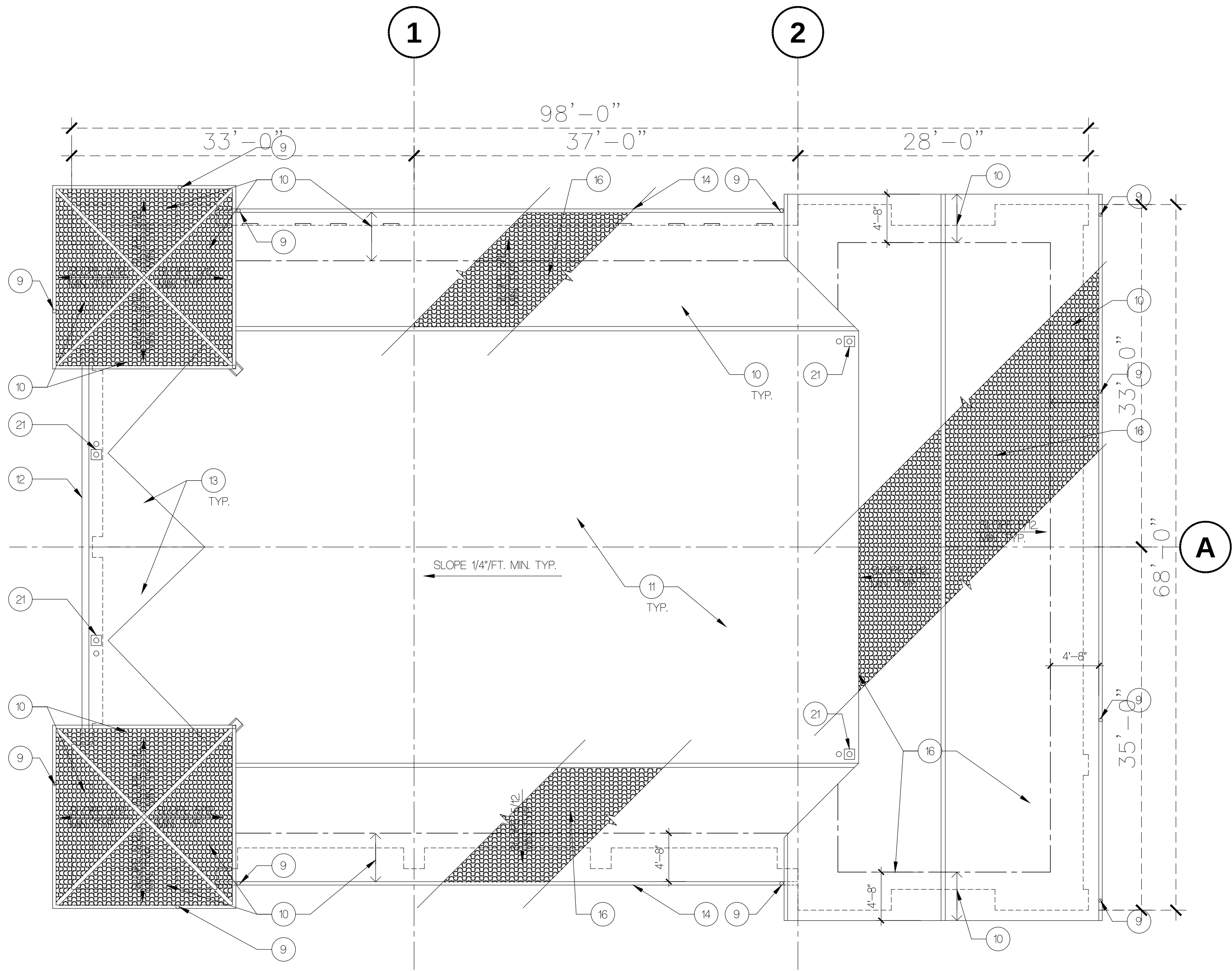


RETAIL C
ROOF PLAN

A2.3

RETAIL C ROOF PLAN

SCALE: 1/8" = 1'-0"



RETAIL D ROOF PLAN

SCALE: 1/8" = 1'-0"

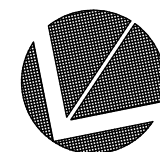
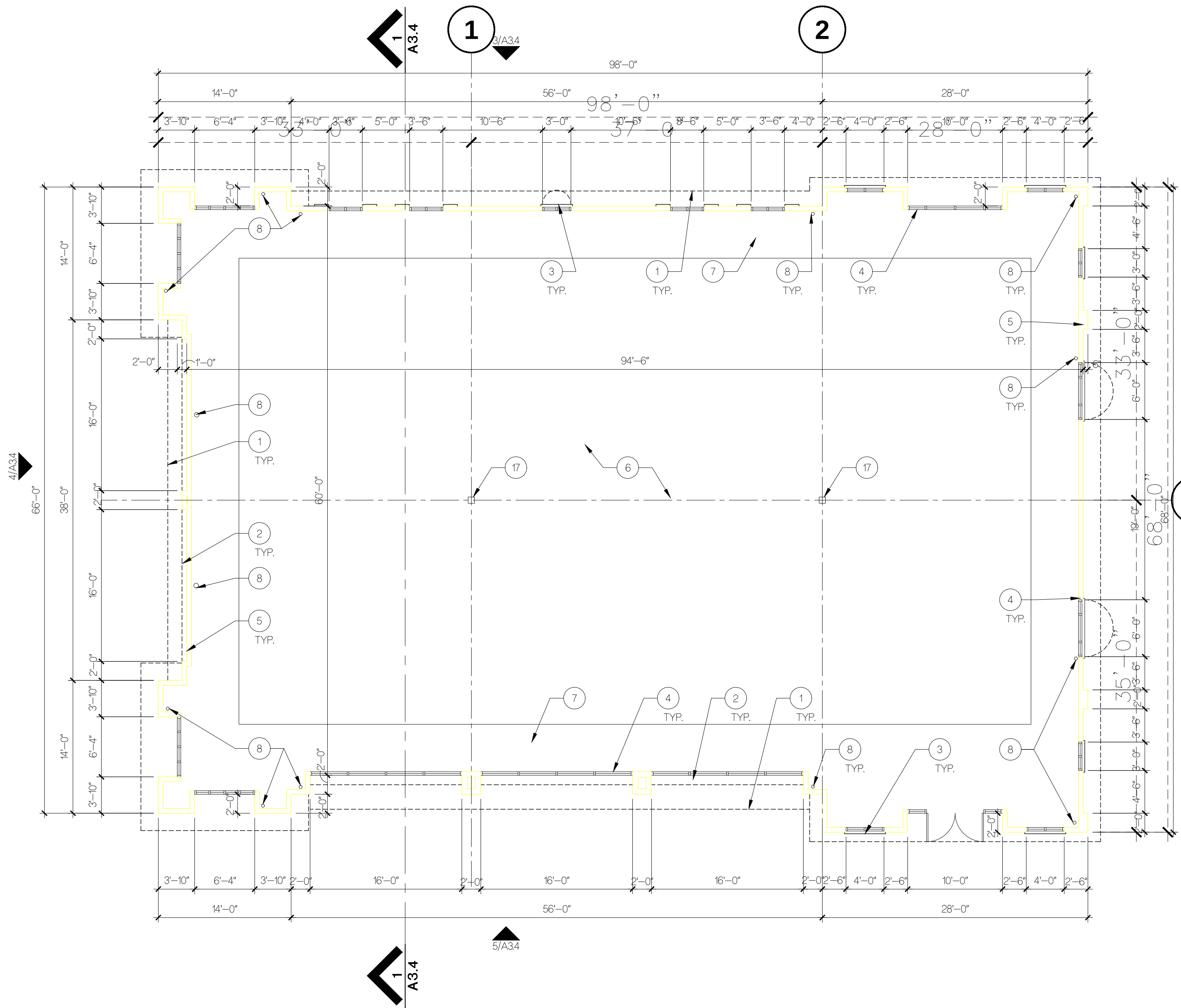
GENERAL NOTES

- 1. —
- 2. —
- 3. —
- 4. —

KEYNOTES

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

- | | | | |
|----|--|----|---|
| 1 | LINE OF OVERHANG ABOVE. | 12 | LINE OF PARAPET. |
| 2 | LINE OF WALL BELOW. | 13 | PLYWOOD CRICKET. |
| 3 | LINE OF SILL BELOW. | 14 | PAINTED METAL GUTTER/DOWNSPOUT. |
| 4 | ALUMINUM WINDOW WITH 1/4" GLAZING. | 15 | PRE CAST CONCRETE SPLASH BLOCK ON ROOF. |
| 5 | STUCCO ON WOOD FRAMING. | 16 | S - SHAPE MISSION TILE |
| 6 | NO CONCRETE SLAB THIS AREA. | 17 | STRUCTURAL COLUMN. |
| 7 | CONCRETE SLAB | 18 | TRENCH DRAIN. |
| 8 | RAIN WATER LEADER | 19 | CONCRETE STAIRS (7 RISERS, 6 TREADS) |
| 9 | PAINTED METAL DOWNSPOUT. | 20 | FABRIC CANOPY |
| 10 | 2 PIECE MISSION TILE | 21 | ROOF DRAIN |
| 11 | SPRAY ON URETHANE FOAM ROOFING SYSTEM. | | |



RETAIL D FLOOR PLAN

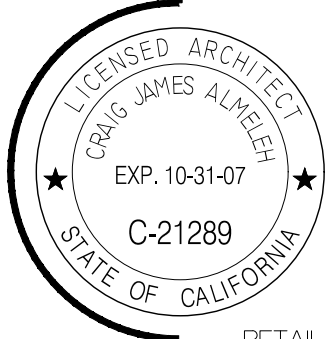
SCALE: 1/8" = 1'-0"

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Phoenix, Arizona 85028
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PLANNING SUBMITTAL	12/13/05
PLANNING COMMENTS	02/20/06



RETAIL D
FLOOR PLAN
AND ROOF PLAN

A2.4

041346.01

12 November 2018

HOME 2 SUITES
735 COCHRANE RD
MORGAN HILL, CA

MAIN LEVEL FLOOR PLAN

AE2018_047

REVISIONS:

DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

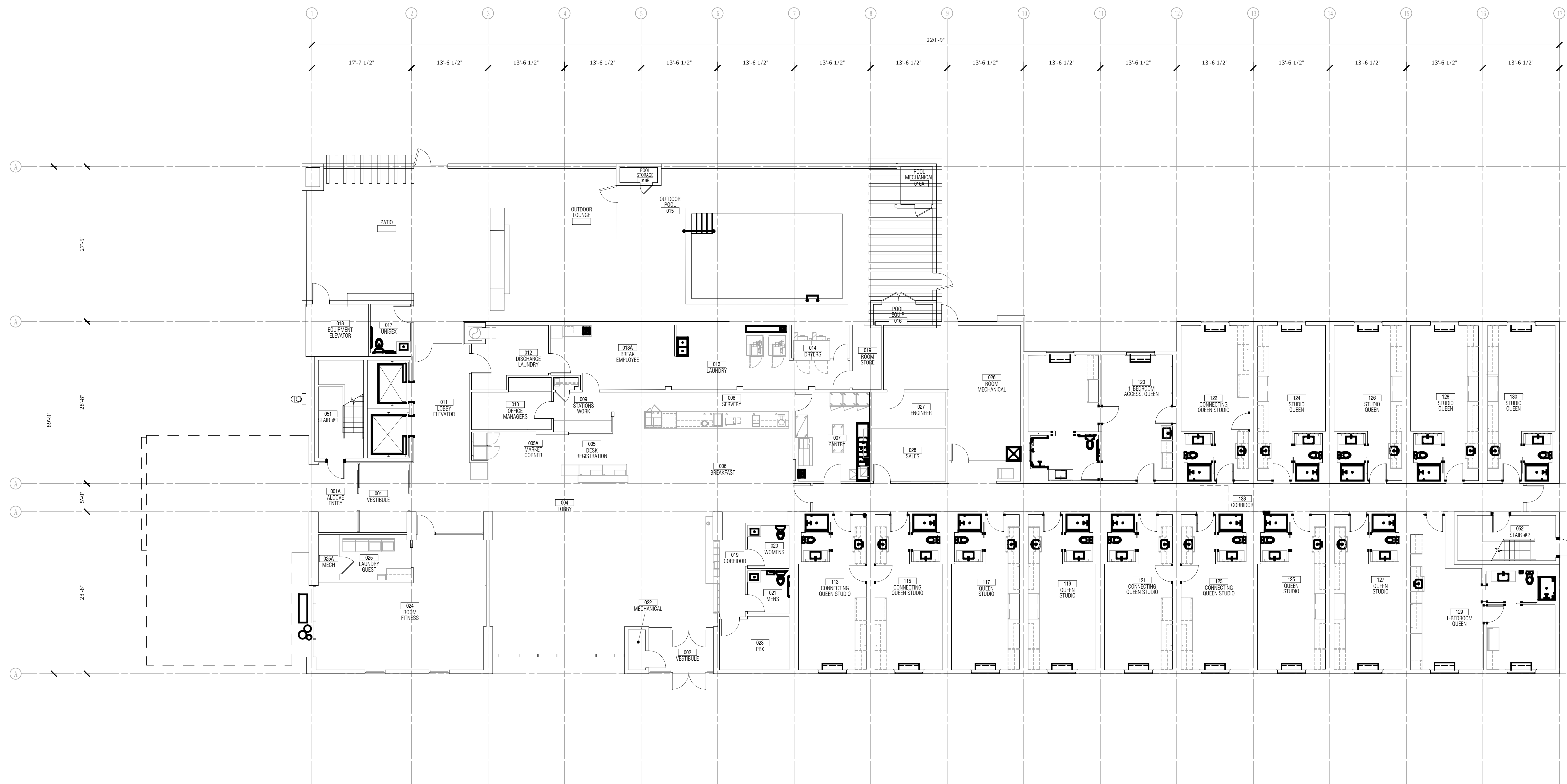
A2.5

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[illegible]

Attachment: Exhibit A to Ordinance - Madrone Village Master Plan (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

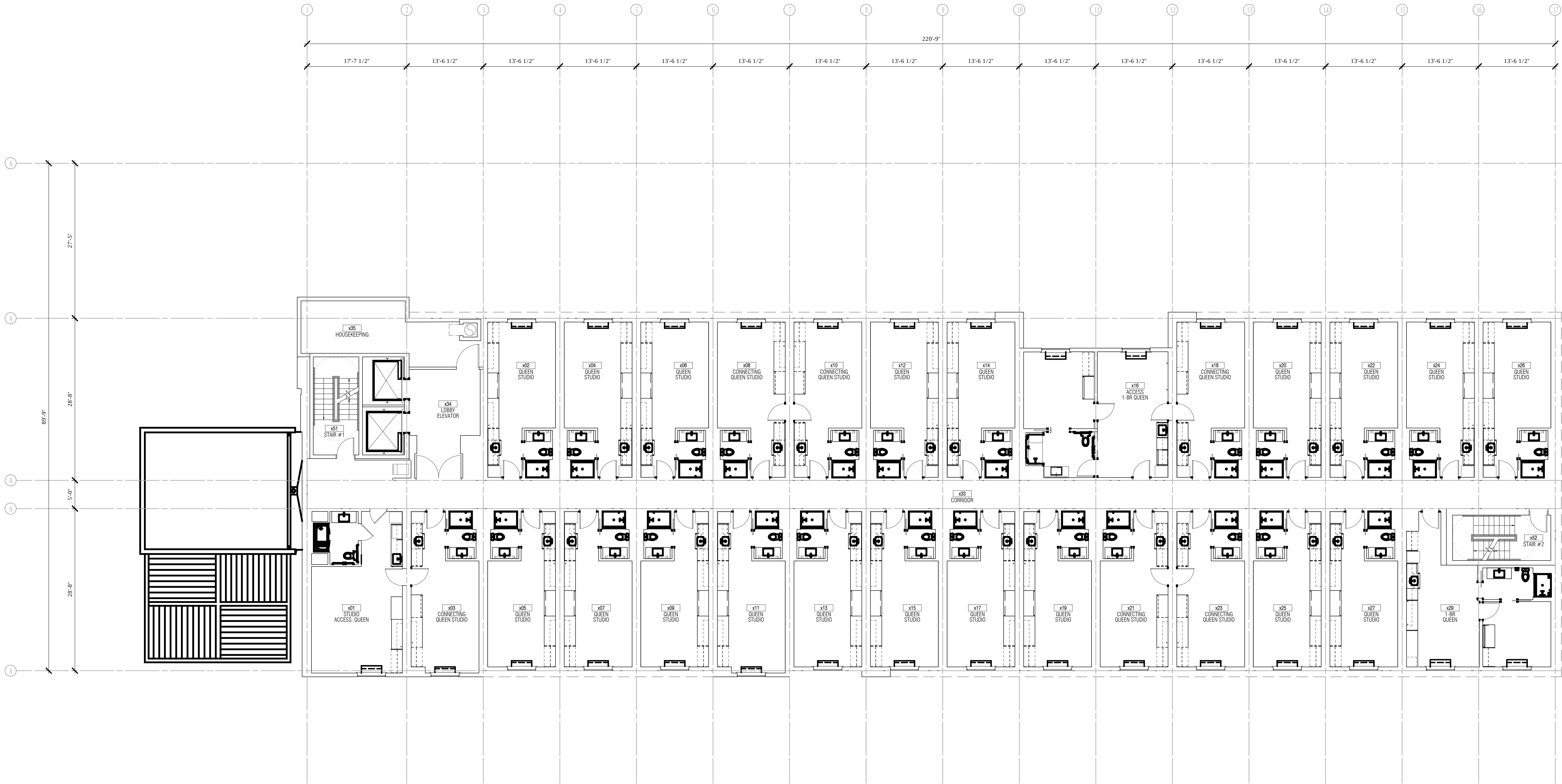
Packet Pg. 468



1 MAIN LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



CONCEPTUAL DRAWINGS ONLY - NOT FOR CONSTRUCTION



1 SECOND LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



CONCEPTUAL DRAWINGS ONLY - NOT FOR CONSTRUCTION

**TYPICAL UPPER
LEVEL FLOOR PLAN**

AE2018_047
REVISIONS:

DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

A2.6

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13 November 2018

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South Jordan, Utah 84095
Phone: 801.746.0456 - Fax: 801.572.6456
www.aeurbia.com



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ROOF PLAN

AE2018_047

REVISIONS:

DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

A2.7

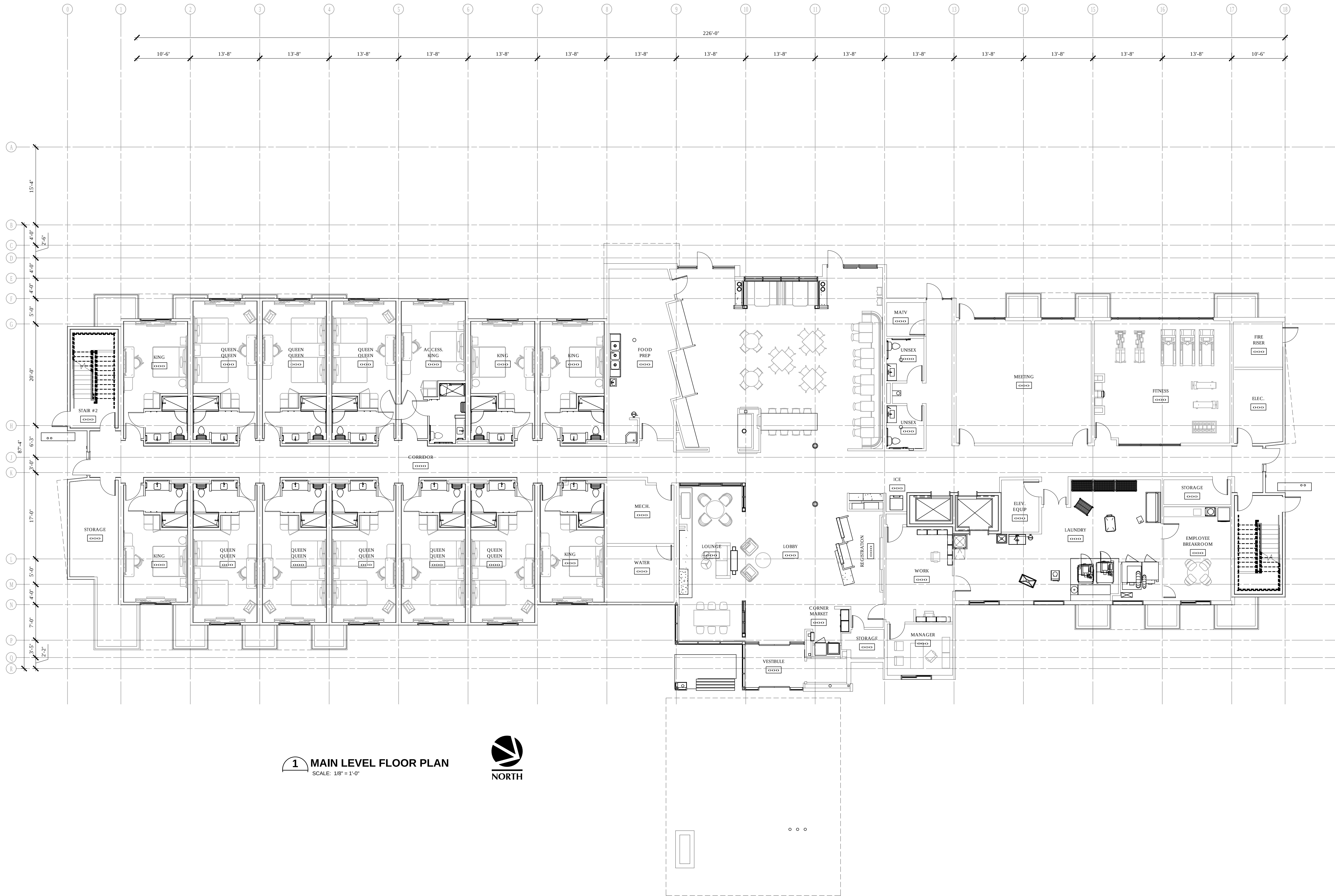
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13 November 2018



Attachment: Exhibit A to Ordinance - Madrone Village Master Plan (2138 : AAE2018-0005 (ZAA-04-11b) : Cochrane-Tbi)



CONCEPTUAL DRAWINGS ONLY - NOT FOR CONSTRUCTION

MAIN LEVEL
FLOOR PLAN

AE2018_048
REVISIONS:
-
DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

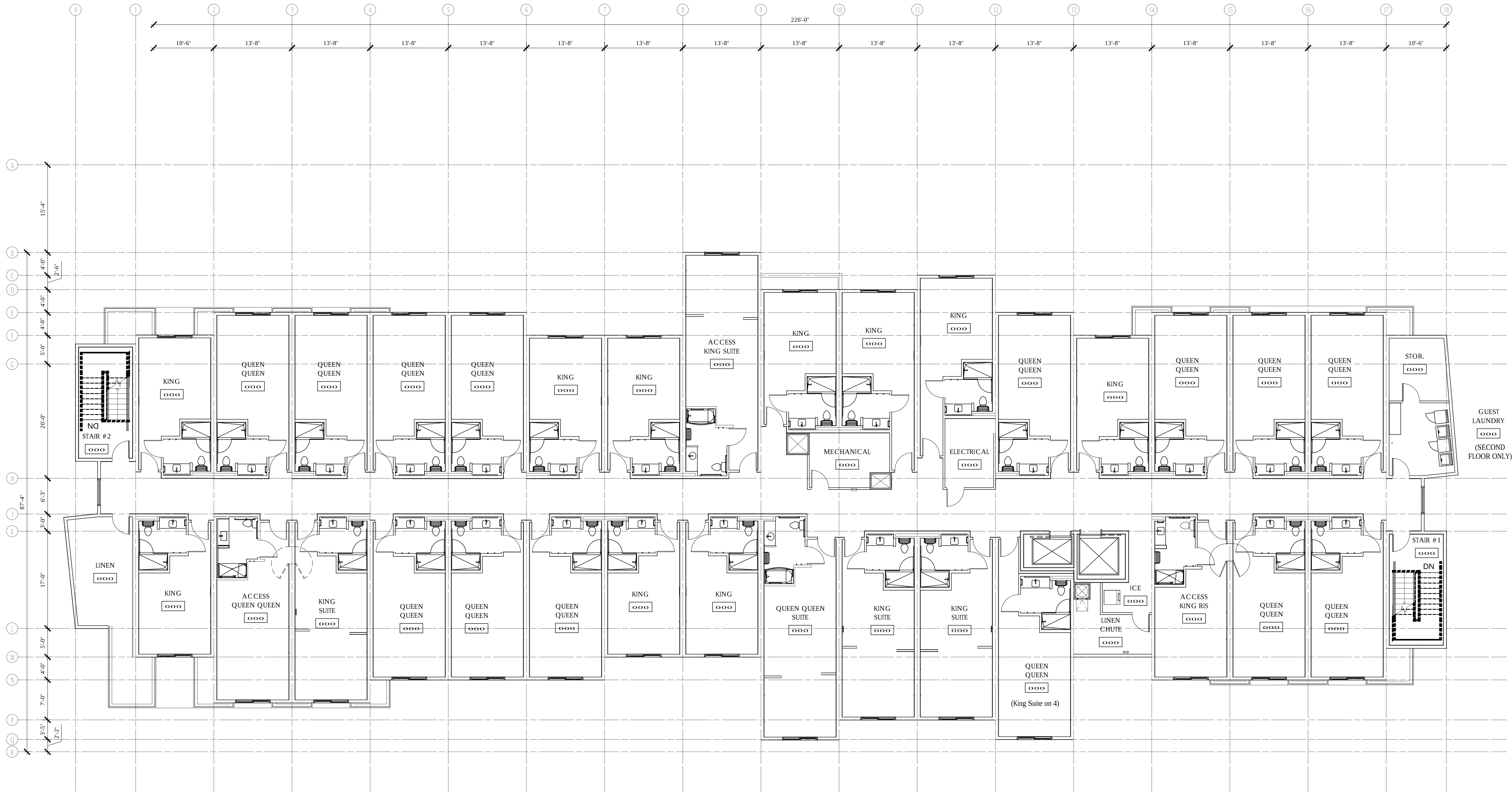
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13 November 2018

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architects and engineers
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909 west south jordan parkway
south jordan, utah 84095
phone: 801.746.0456 - fax: 801.572.6456
www.aeurbia.com



1 SECOND LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



CONCEPTUAL DRAWINGS ONLY - NOT FOR CONSTRUCTION

TYPICAL UPPER
LEVEL FLOOR PLAN

AE2018_048
REVISIONS:
DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

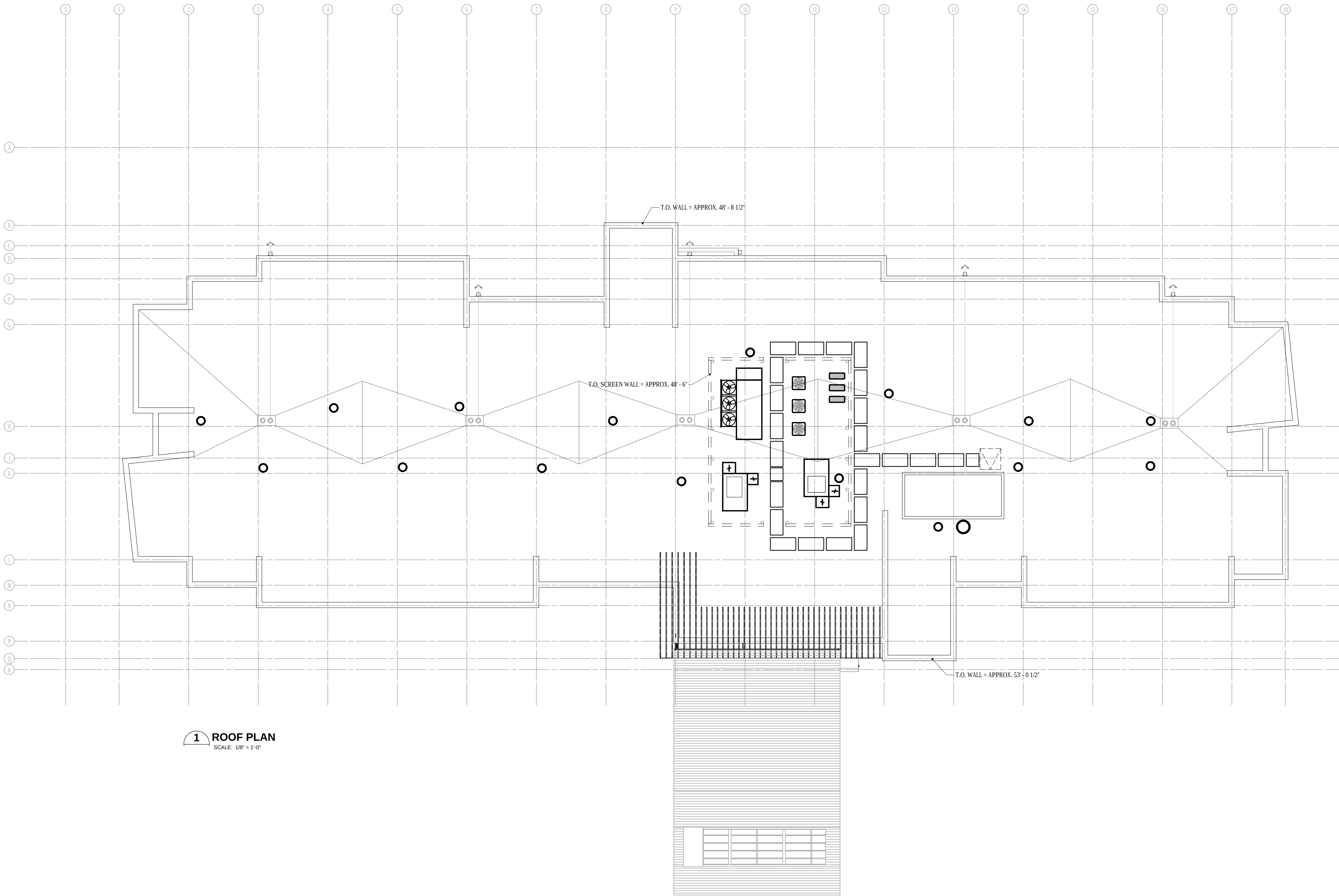
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phone: 801.746.0456 - fax: 801.575.6456
www.aeurbia.com



1 ROOF PLAN
SCALE: 1/8" = 1'-0"

CONCEPTUAL DRAWINGS ONLY - NOT FOR CONSTRUCTION

ROOF PLAN

AE2018_048
REVISIONS:
DRAWN BY: RPM
SCALE: AS NOTED
DATE:
SHEET NO.

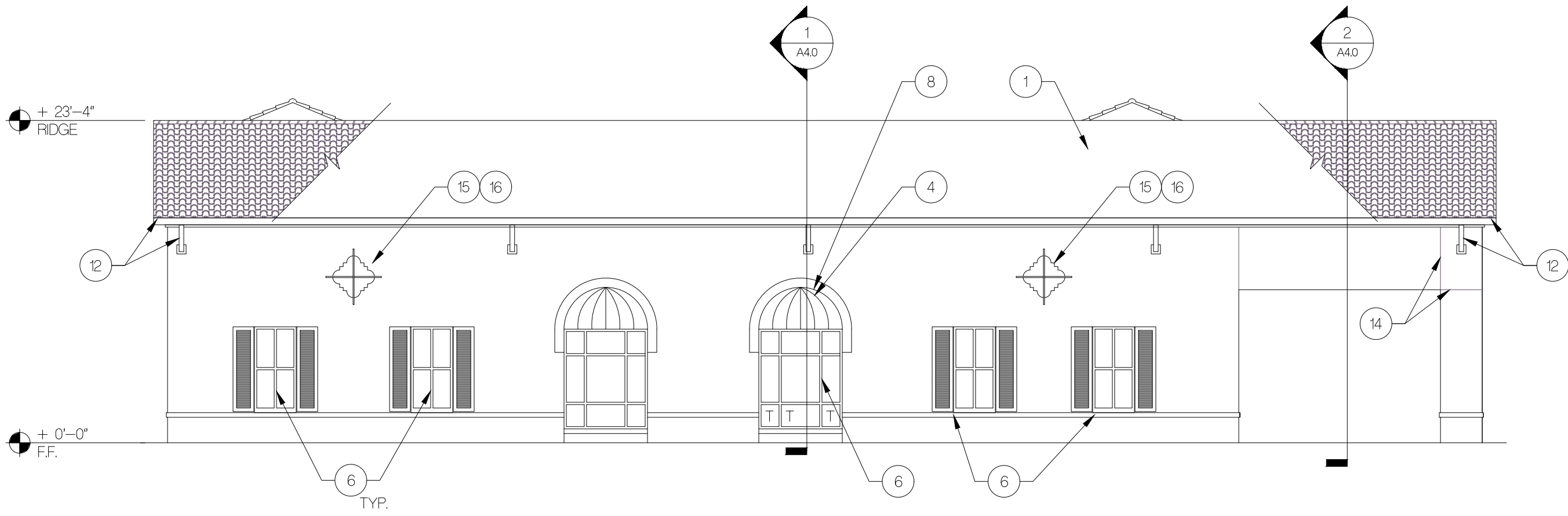
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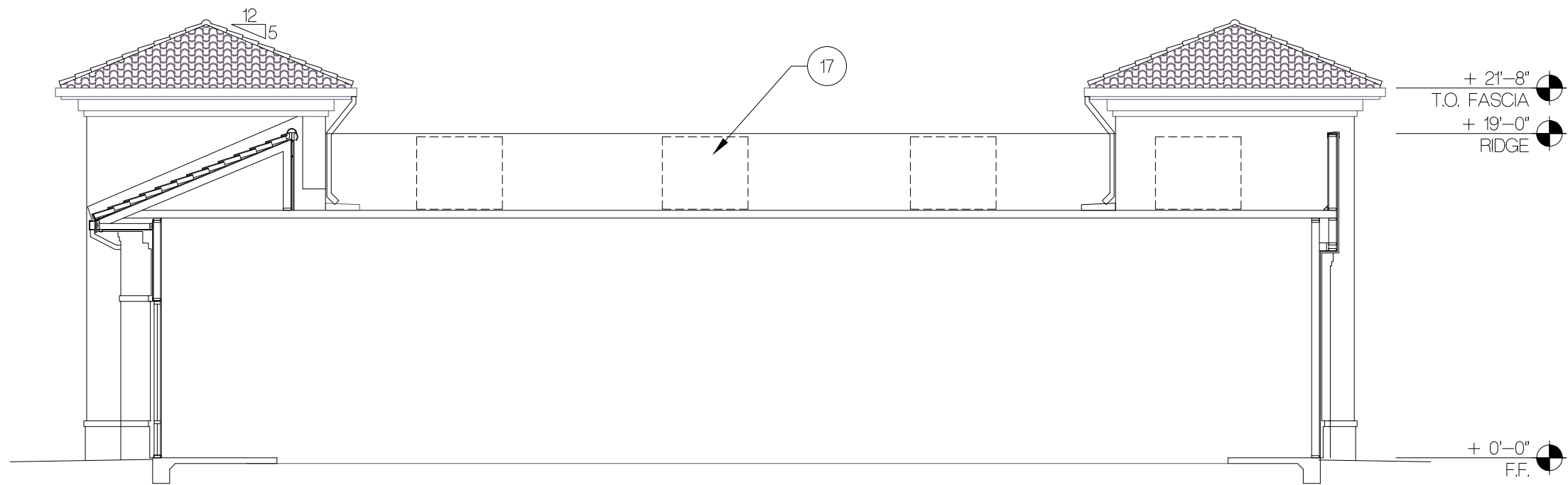
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MADRONE PKWY & COCHRANE RD
MORGAN HILL, CA

13 November 2018

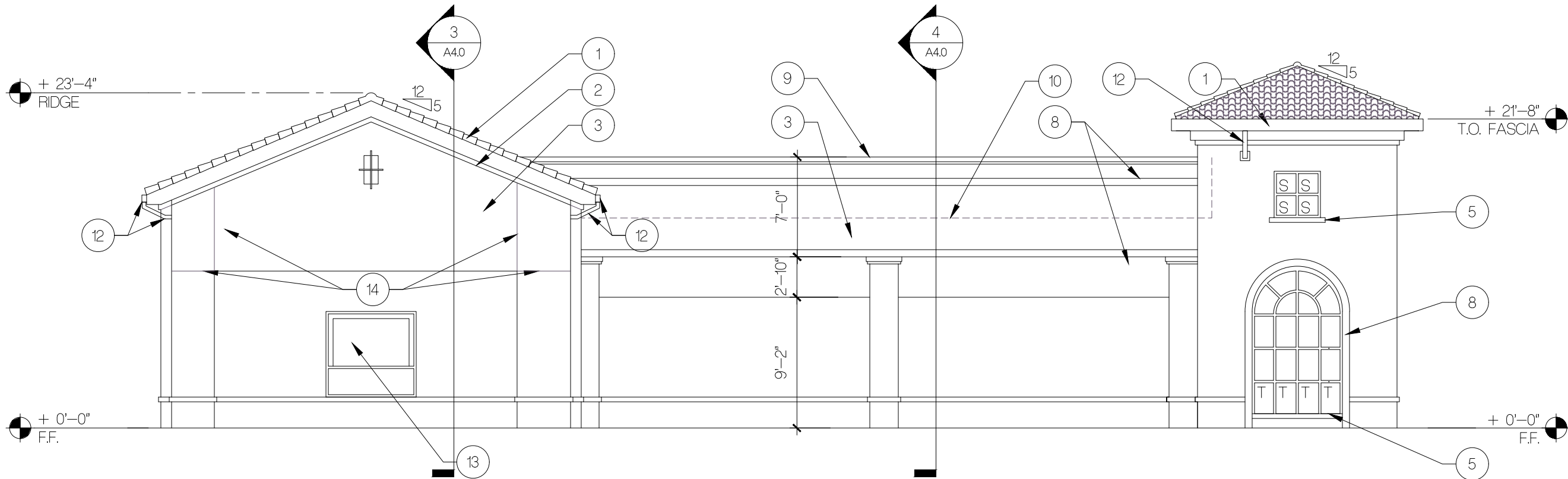
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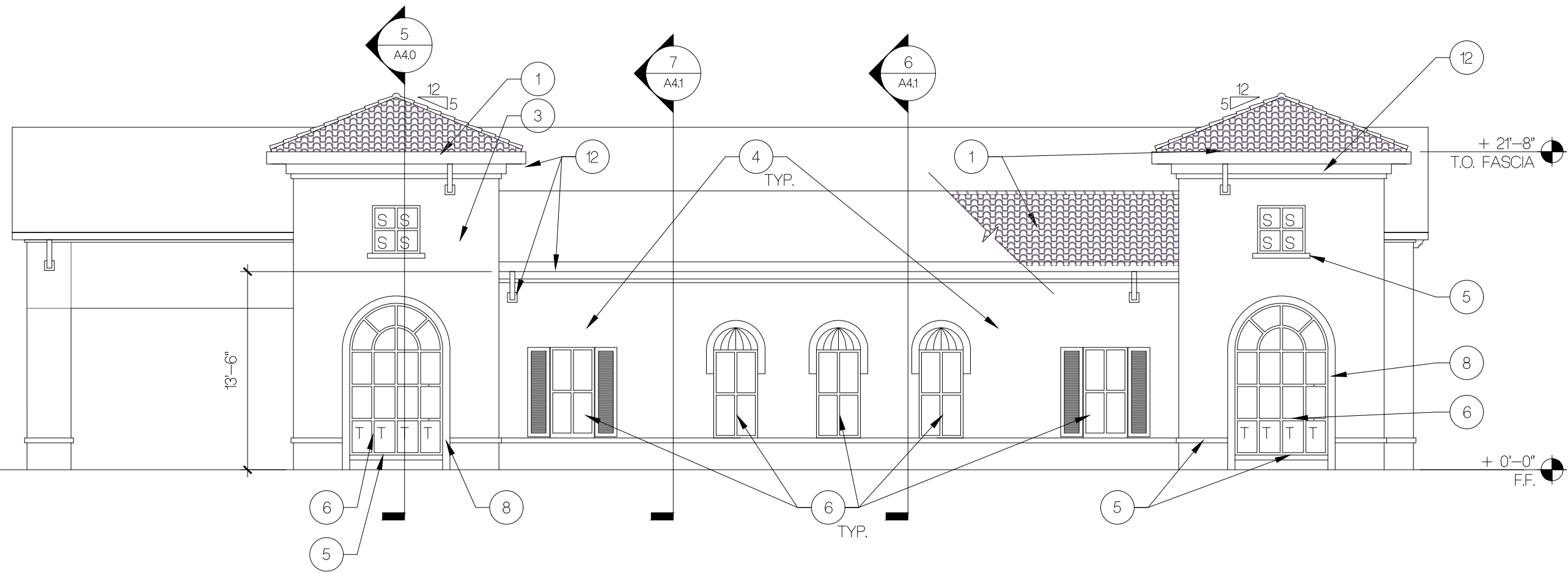
4 BANK A WEST ELEVATION
SCALE: 1/8" = 1'-0"



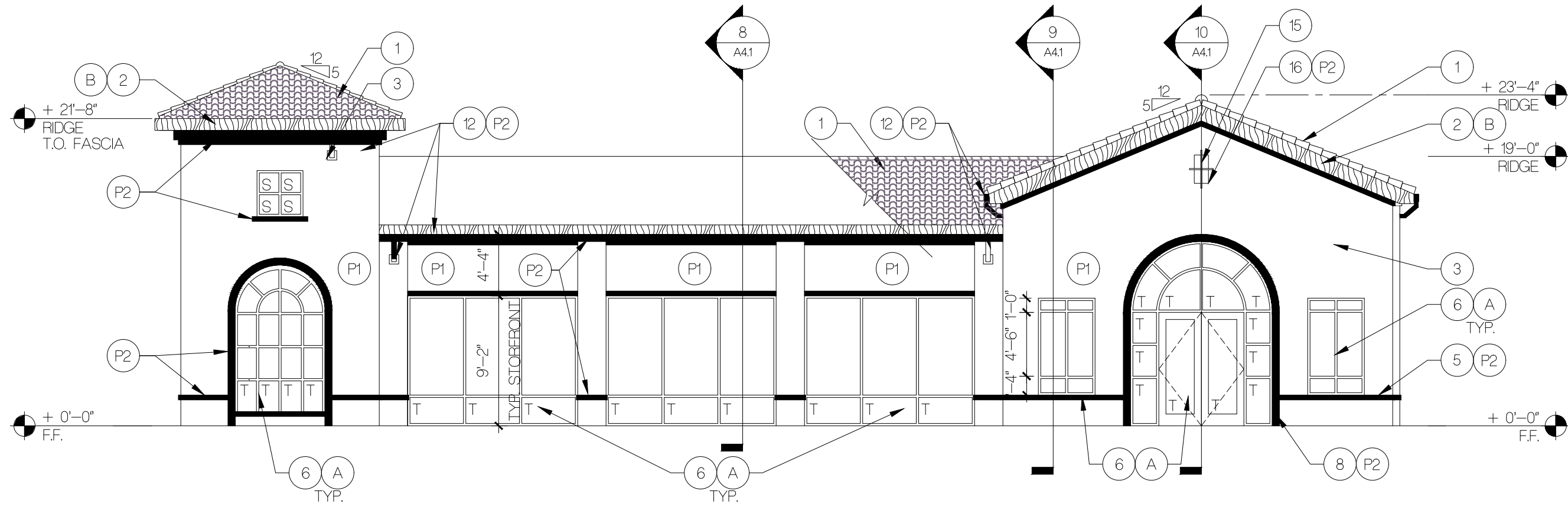
1 BANK A BUILDING SECTION
SCALE: 1/8" = 1'-0"



5 BANK A SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 BANK A EAST ELEVATION
SCALE: 1/8" = 1'-0"



3 BANK A NORTH ELEVATION
SCALE: 1/8" = 1'-0"

GENERAL NOTES

- 1 -
- 2 -
- 3 -
- 4 -

KEYNOTES

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 - 2 WOOD TRIM FASCIA/EAVE-STAINED. (B)
 - 3 STUCCO ON WOOD FRAMING. (P1)
 - 4 FABRIC AWNING.
 - 5 4" HIGH 2" DEEP STUCCO SILL LINE. (P2)
 - 6 ALUMINUM WINDOW WITH 1/4" BRONZE TINTED GLAZING. (A)
 - 7 WOOD SHUTTERS PAINTED. (P2)
 - 8 STUCCO RAISED ACCENT BAND 6" WIDE 1 1/2" DEEP. (P2)
 - 9 METAL COPING. (P2)
 - 10 LINE OF ROOF BEYOND.
 - 11 GLAZED TILE ACCENT 4 TILE AT 8 X 8 GLAZ.
 - 12 PAINTED METAL GUTTER WITH DOWNSPOUT. (P2)
 - 13 DRIVE UP TELLER WINDOW.
 - 14 STUCCO CONTROL JOINT.
 - 15 BRONZE ANODIZE ALUMINUM TUBE ACCENT FEATURE ANCHORED TO WALL.
 - 16 1 1/2" RECESSED FEATURE IN STUCCO WALL. (P2)
 - 17 FUTURE MECHANICAL PACKAGE UNIT.

COLOR SCHEDULE

- P1 PAINT (FIELD), SHERWIN WILLIAMS COLONIAL REVIVAL TRIM SW 2828
- P2 PAINT (ACCENT), SHERWIN WILLIAMS INDIAN WHITE SW 0035
- A WINDOW FRAMES LIGHT BRONZE ANODIZED ALUMINUM FRAMING WITH BRONZE TINTED GLAZING.
- B WOOD TRIM-ROUGHSAWN CEDAR STAINED TO MATCH WILSONART LAMINATE 704A-60 FIGURED MAHOGANT.

SYMBOL KEY

- T TEMPERED GLAZING.
- S SPANDREL GLAZING.

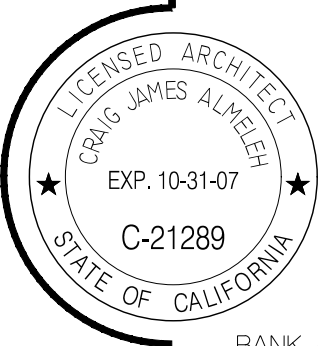
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Phoenix, Arizona 85028
602-953-2355 FAX 602-953-2988

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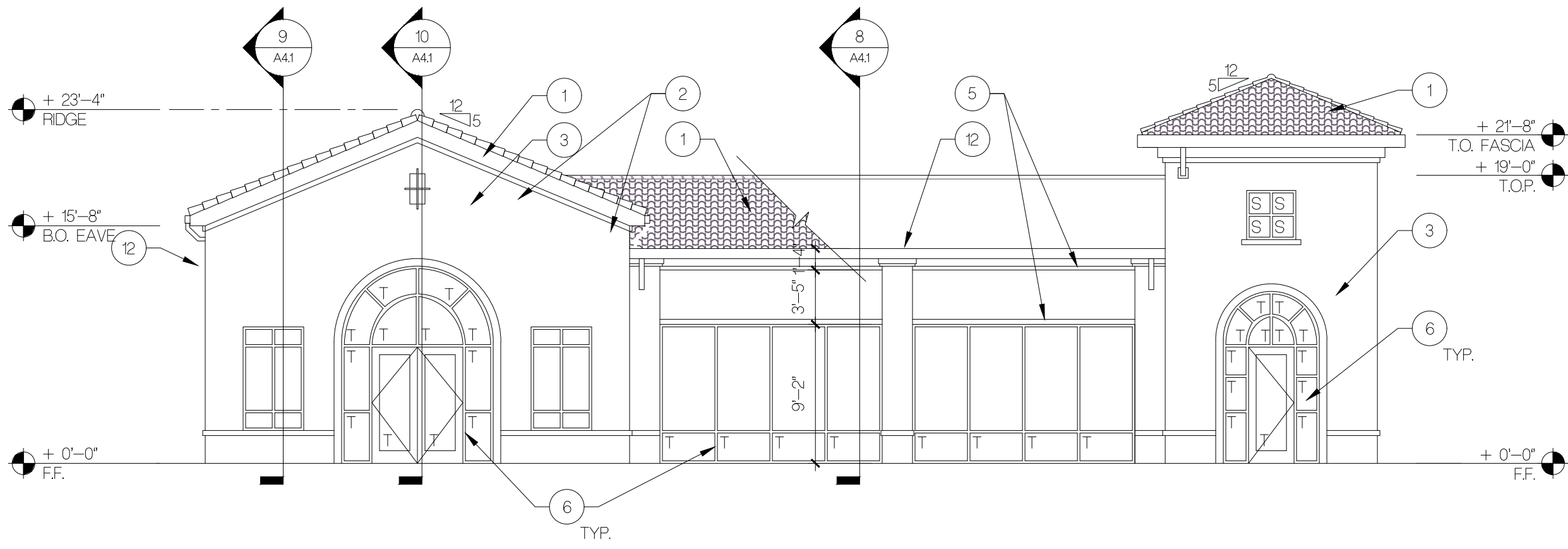
PLANNING SUBMITTAL 12/13/05
PLANNING COMMENTS 02/20/06



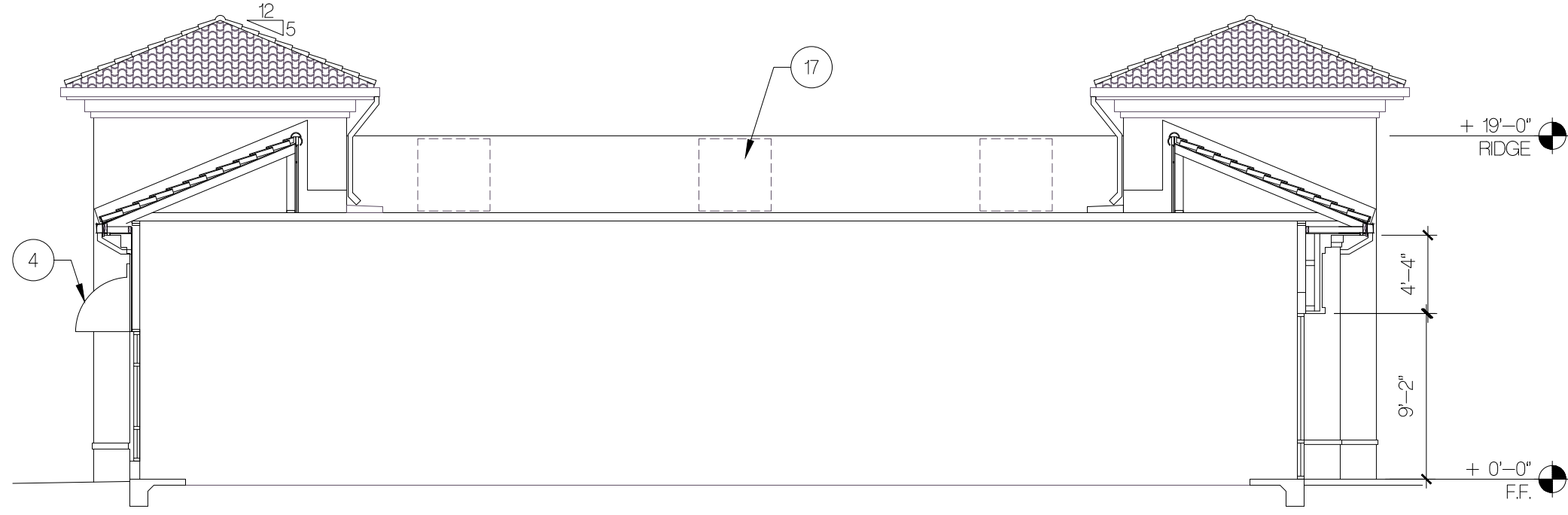
BANK A
EXTERIOR ELEVATIONS

A3.0

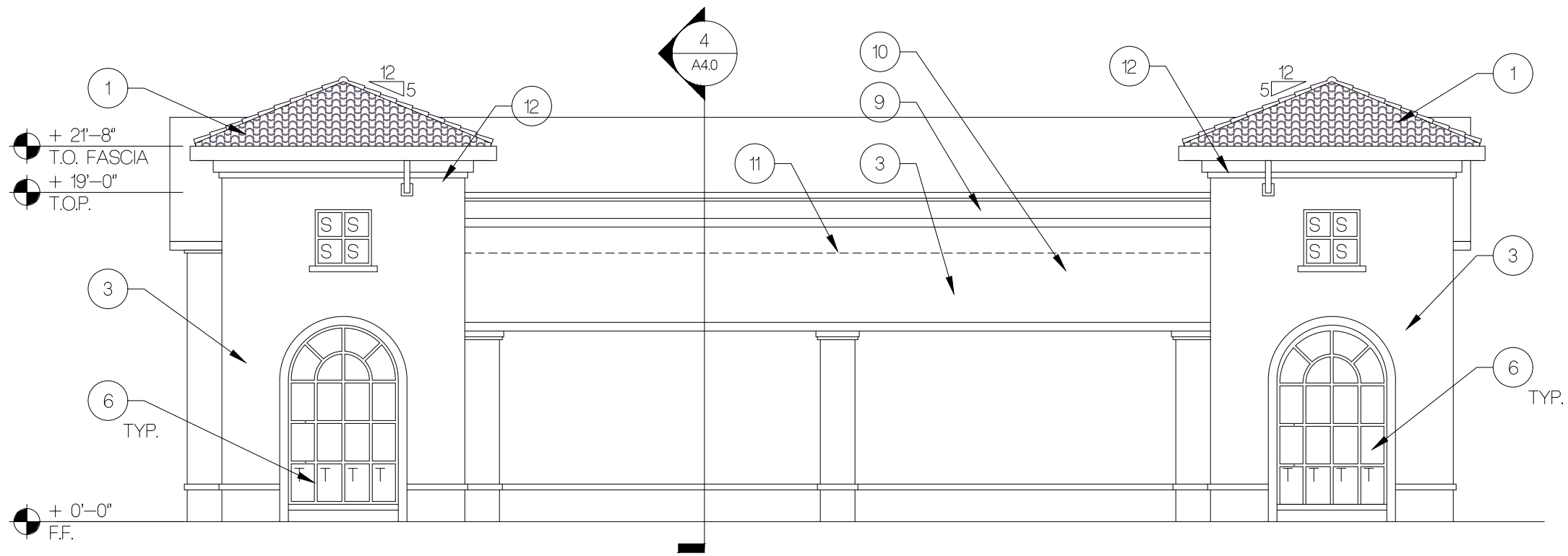
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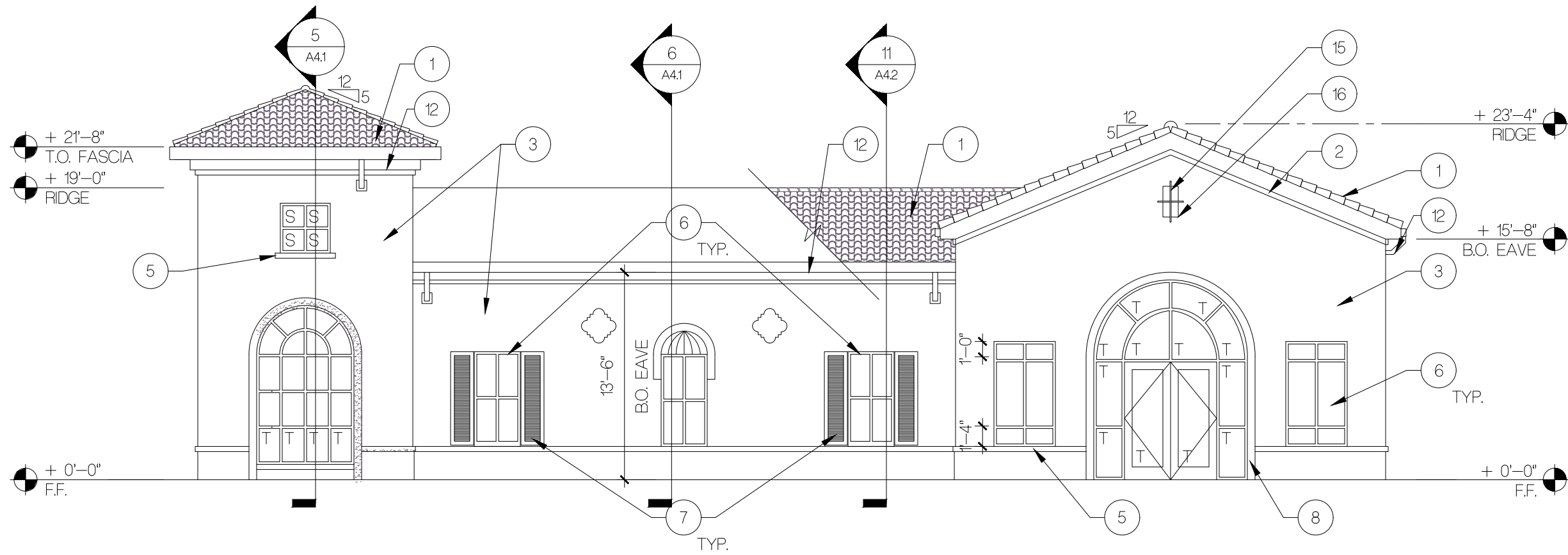
4 RETAIL B WEST ELEVATION
SCALE: 1/8" = 1'-0"



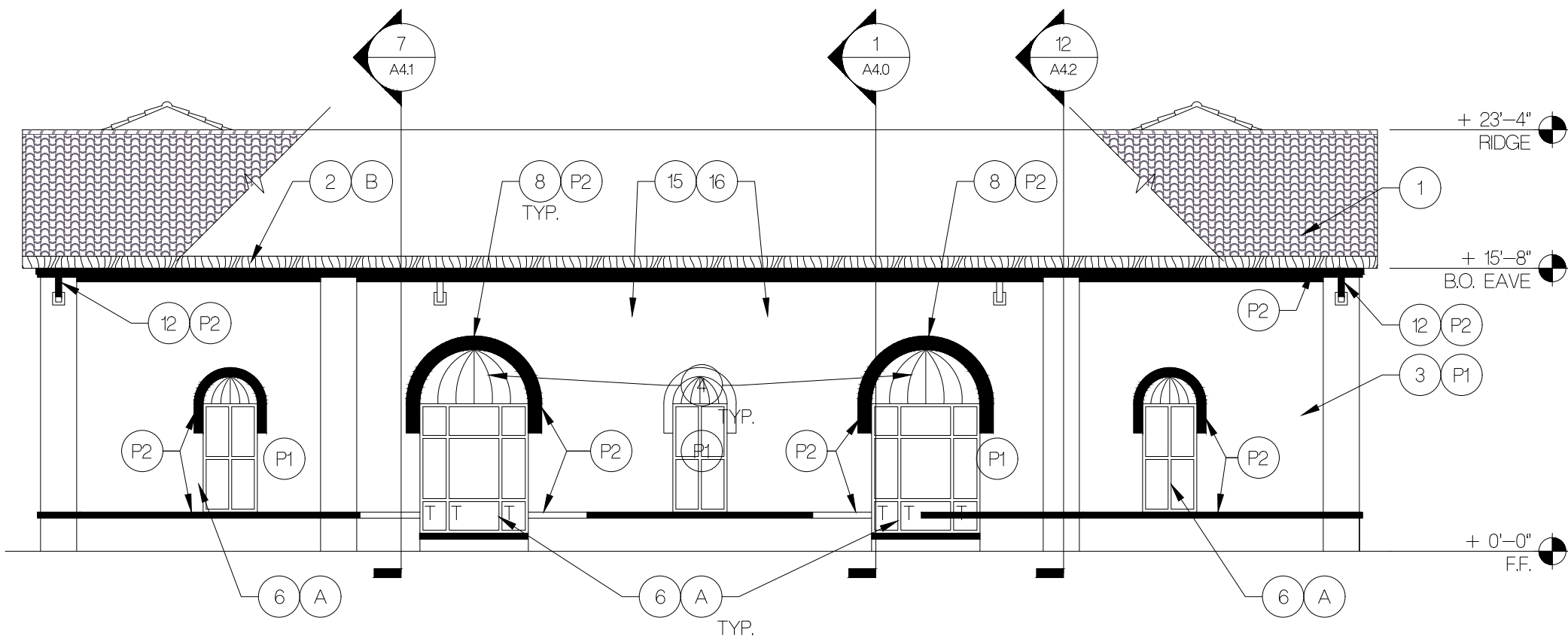
1 RETAIL B BUILDING SECTION
SCALE: 1/8" = 1'-0"



5 RETAIL B SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 RETAIL B EAST ELEVATION
SCALE: 1/8" = 1'-0"



3 RETAIL B NORTH ELEVATION
SCALE: 1/8" = 1'-0"

GENERAL NOTES

- 1 -
- 2 -
- 3 -
- 4 -

KEYNOTES

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- 9 METAL CORING. (P2)
- 10 LINE OF ROOF BEYOND.
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COLOR SCHEDULE

- (P1) PAINT (FIELD), SHERWIN WILLIAMS COLONIAL REVIVAL TRIM SW 2828
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SYMBOL KEY

- T TEMPERED GLAZING.
- S SPANDREL GLAZING.

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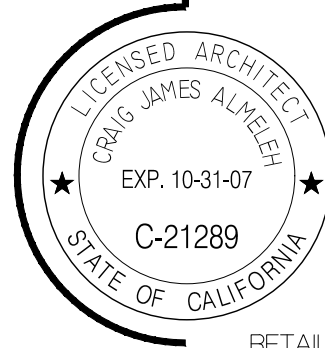
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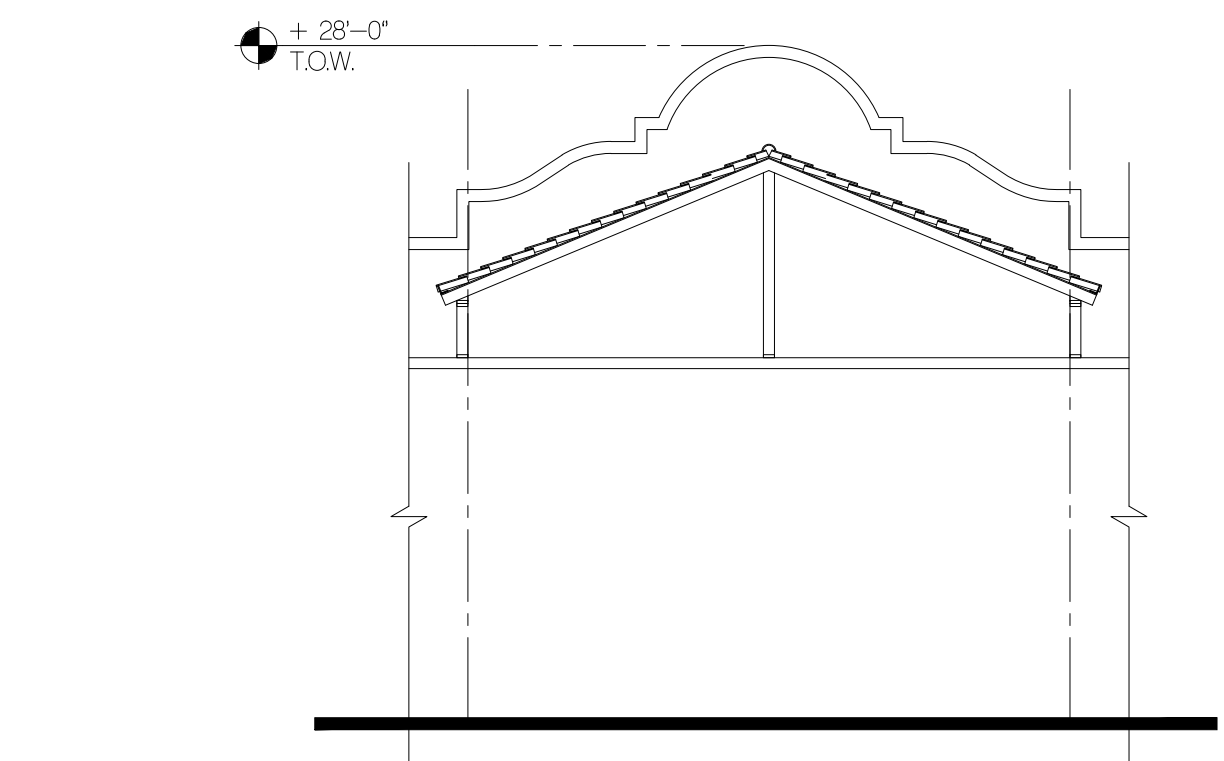
PLANNING SUBMITTAL 12/13/05
PLANNING COMMENTS 02/20/06



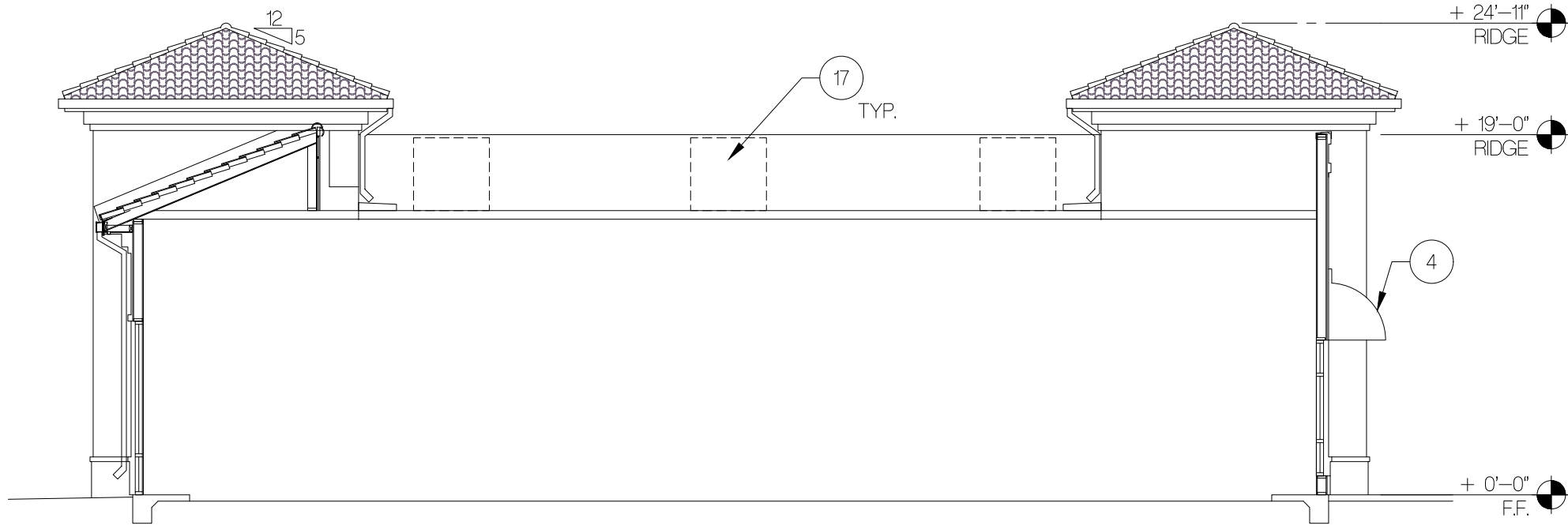
RETAIL B
EXTERIOR ELEVATIONS

A3.1

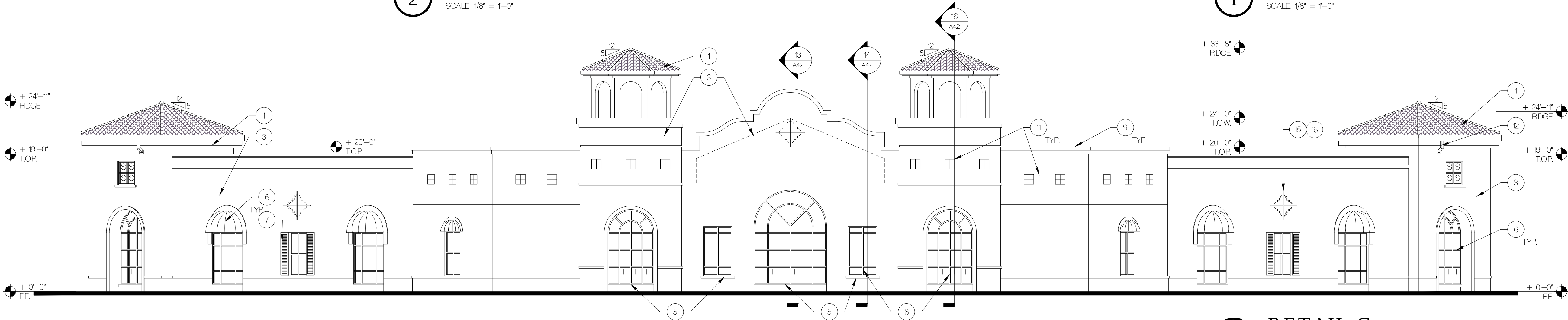
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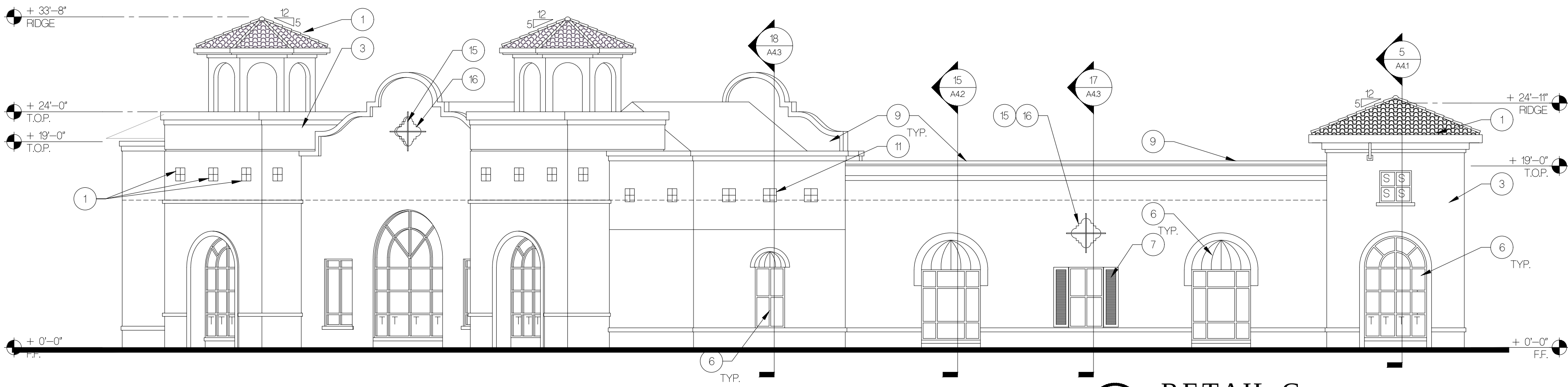
2 BUILDING SECTION
SCALE: 1/8" = 1'-0"



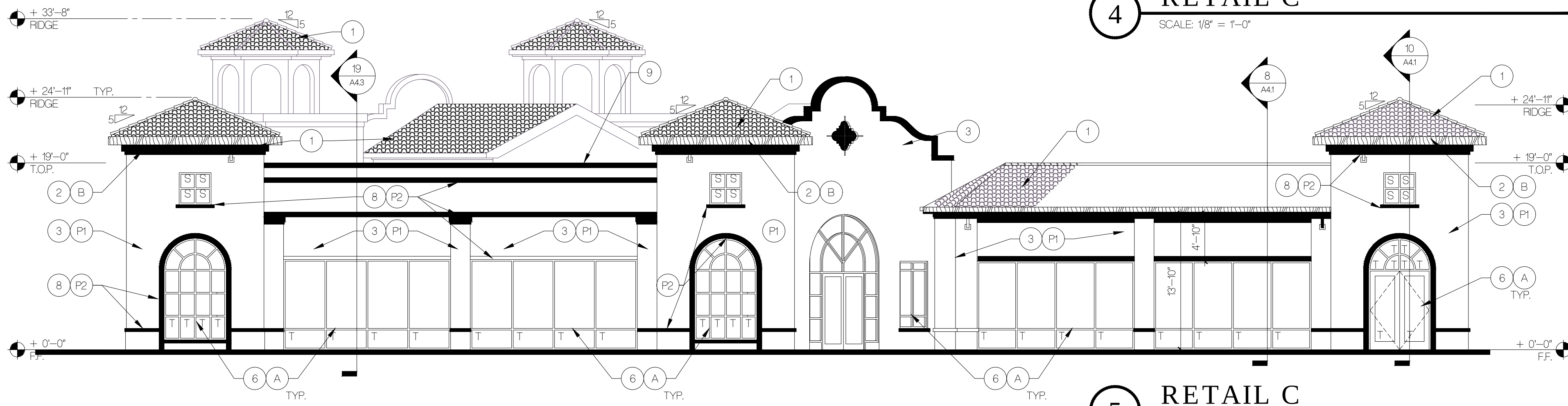
1 BUILDING SECTION
SCALE: 1/8" = 1'-0"



3 RETAIL C
SCALE: 1/8" = 1'-0"



4 RETAIL C
SCALE: 1/8" = 1'-0"



5 RETAIL C
SCALE: 1/8" = 1'-0"

GENERAL NOTES

- 1 -
- 2 -
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KEYNOTES

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- 17 FUTURE MECHANICAL PACKAGE UNIT

COLOR SCHEDULE

- (P1) PAINT (FIELD), SHERWIN WILLIAMS COLONIAL REVIVAL TRIM SW 2828
- (P2) PAINT (ACCENT), SHERWIN WILLIAMS INDIAN WHITE SW 0035
- (A) WINDOW FRAMES LIGHT BRONZE ANODIZED ALUMINUM FRAMING WITH BRONZE TINTED GLAZING.
- (B) WOOD TRIM-ROUGH-SAWN CEDAR STAINED TO MATCH WILSONART LAMINATE 704A-60 FIGURED MAHOGANT.

SYMBOL KEY

- T TEMPERED GLAZING.
- S SPANDREL GLAZING.

A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

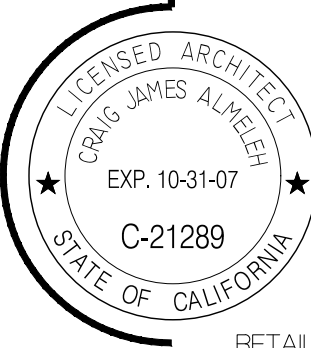
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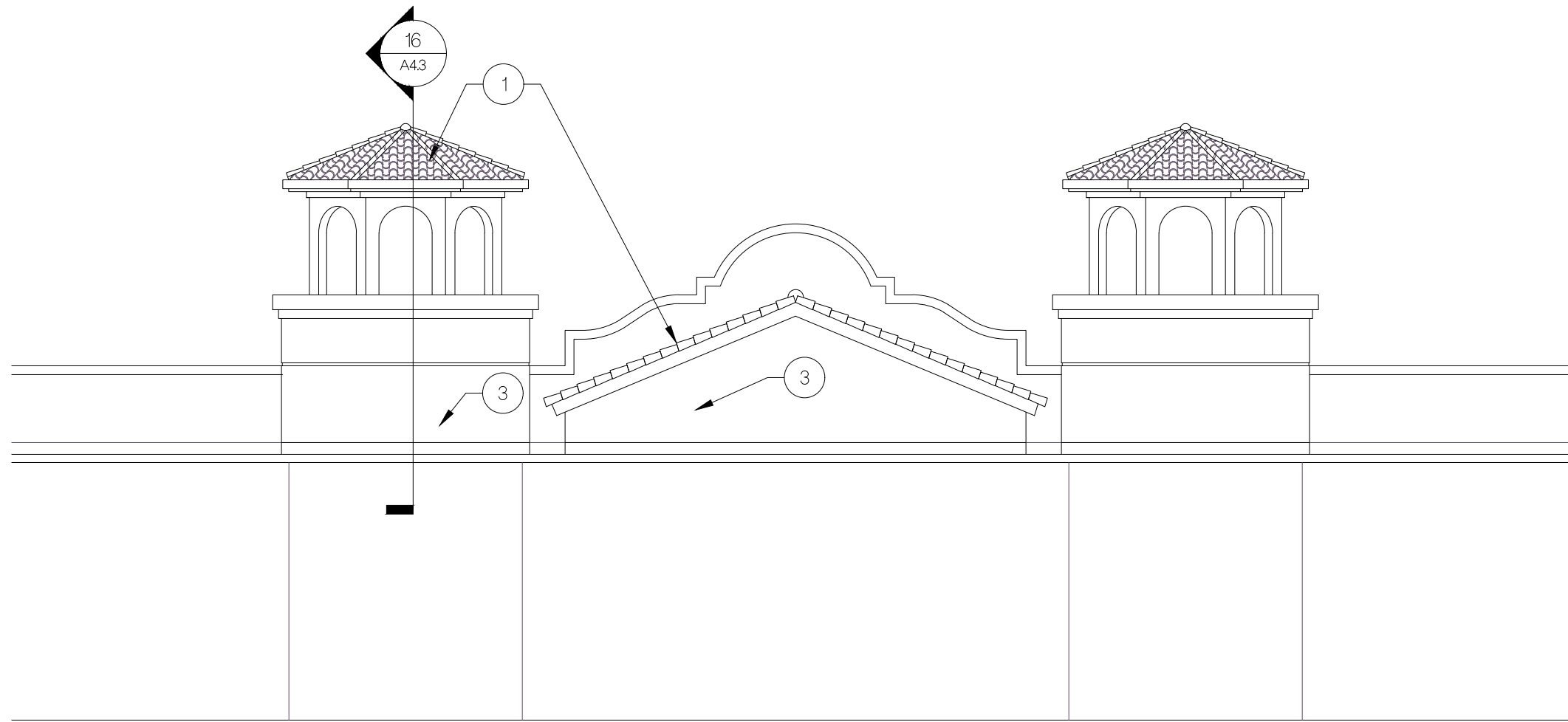
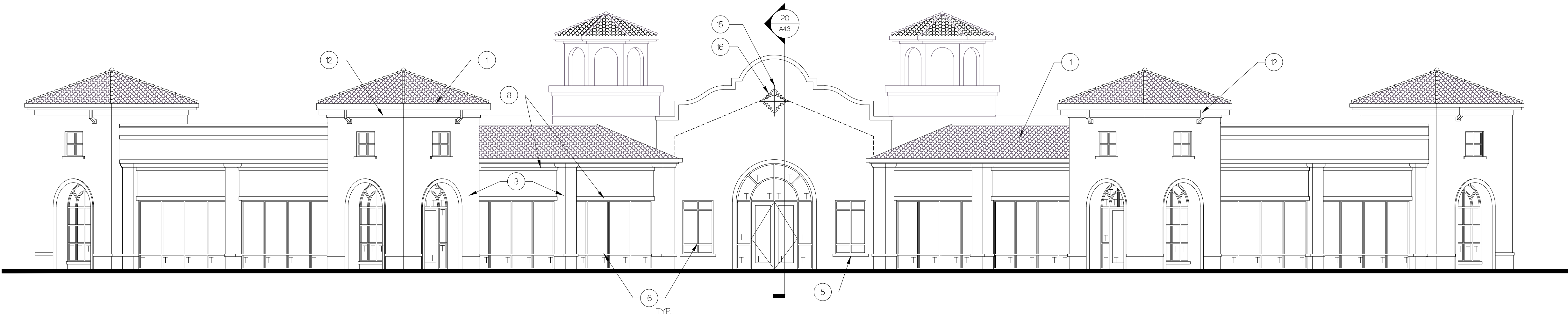
PLANNING SUBMITTAL 12/13/05
PLANNING COMMENTS 02/20/06



RETAIL C
EXTERIOR ELEVATIONS

A3.2

041346.01



GENERAL NOTES

1. —
2. —
3. —
4. —

KEYNOTES

NOTES: NOT ALL THE NOTES APPLY TO THIS SHEET.

1. SPANISH CLAY TILE ROOF REFER TO ROOF PLAN FOR SPECIFICATIONS AND LIMITS.
2. WOOD TRIM FASCI/EAVE-STAINED. (B)
3. STUCCO ON WOOD FRAMING. (P1)
4. FABRIC AWNING.
5. 4" HIGH 2" DEEP STUCCO SILL LINE. (P2)
6. ALUMINUM WINDOW WITH 1/4" BRONZE TINTED GLAZING. (A)
7. WOOD SHUTTERS PAINTED. (P2)
8. STUCCO RAISED ACCENT BAND 6" WIDE 1 1/2" DEEP. (P2)
9. METAL CORING. (P2)
10. LINE OF ROOF BEYOND.
11. GLAZED TILE ACCENT 4 TILE AT 8 X 8 GLAZ.
12. PAINTED METAL GUTTER WITH DOWNSPOUT. (P2)
13. DRIVE UP TELLER WINDOW.
14. STUCCO CONTROL JOINT.
15. BRONZE ANODIZE ALUMINUM TUBE ACCENT FEATURE ANCHORED TO WALL.
16. 1 1/2" RECESSED FEATURE IN STUCCO WALL. (P2)
17. FUTURE MECHANICAL PACKAGE UNIT.

COLOR SCHEDULE

- (P1) PAINT (FIELD), SHERWIN WILLIAMS COLONIAL REVIVAL TRIM SW 2828
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- (B) WOOD TRIM-ROUGHSAWN CEDAR STAINED TO MATCH WILSONART LAMINATE 704A-60 FIGURED MAHOGANT.

SYMBOL KEY

- | | |
|-----|-------------------|
| "T" | TEMPERED GLAZING. |
| "S" | SPANDREL GLAZING. |

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Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

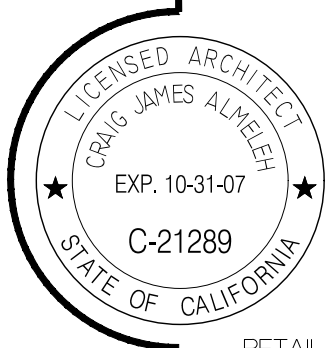
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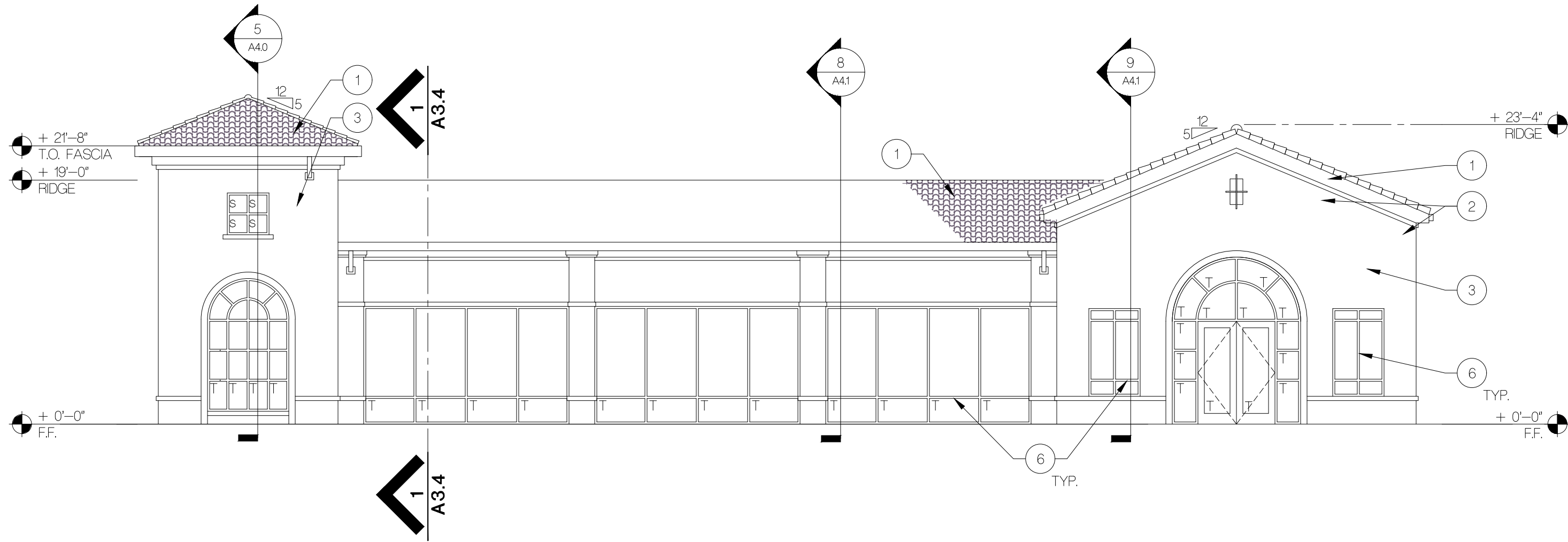
PLANNING SUBMITTAL	12/13/05
PLANNING COMMENTS	02/20/06



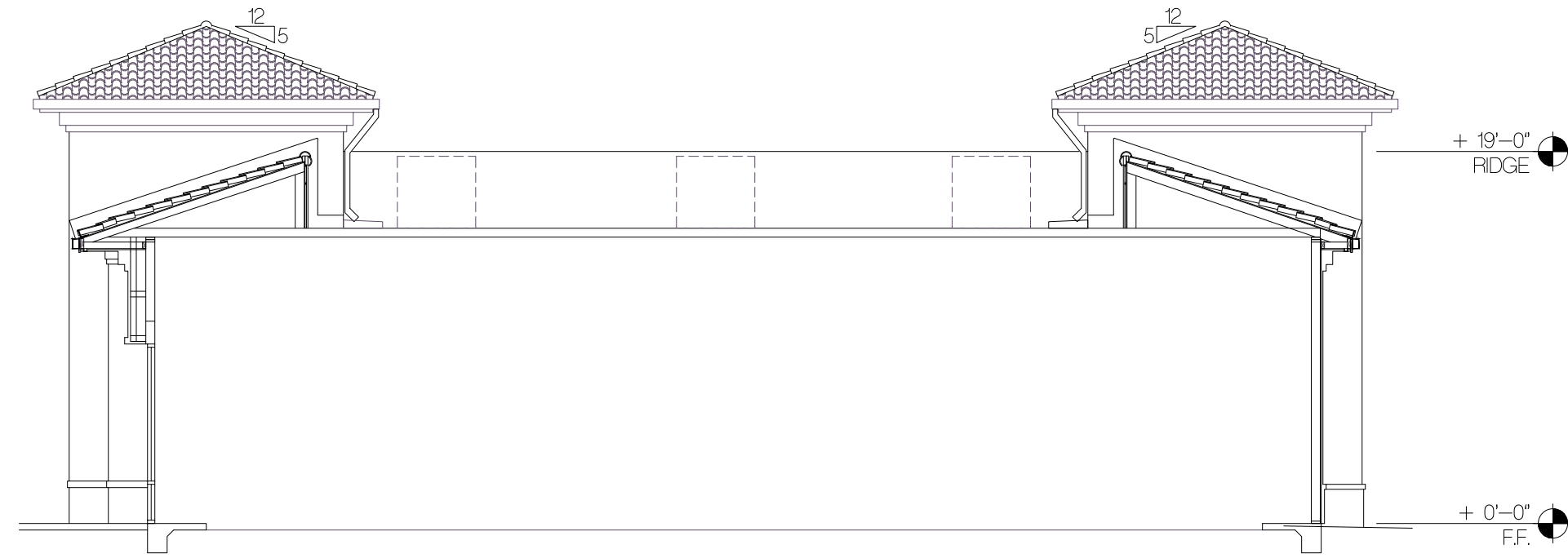
RETAIL C
EXTERIOR ELEVATIONS

A3.3

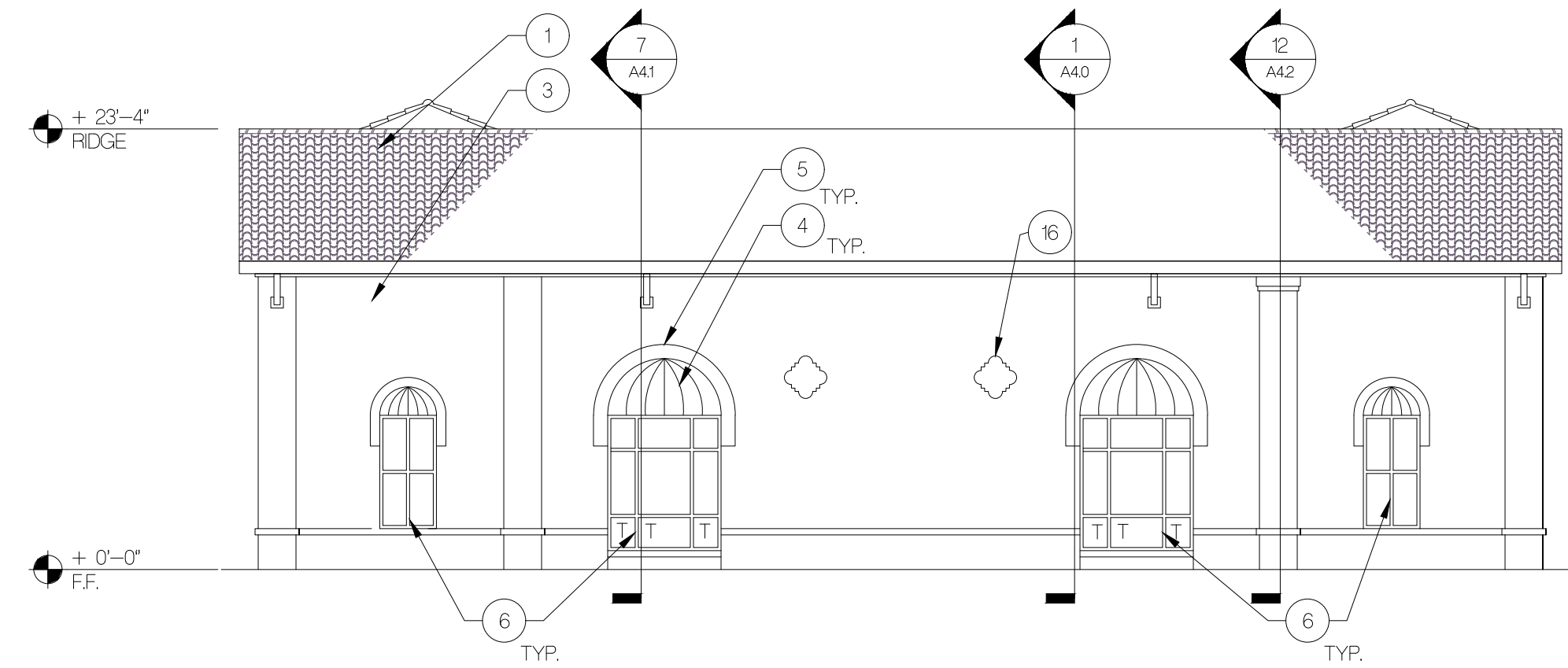
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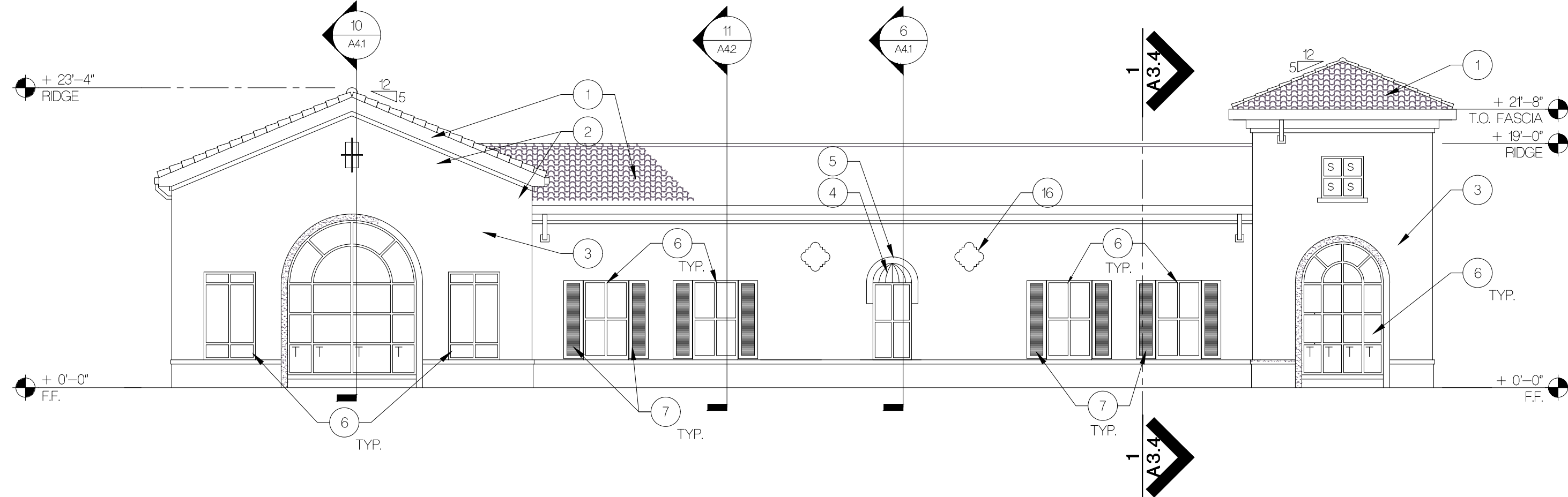
4 RETAIL D
SCALE: 1/8" = 1'-0"



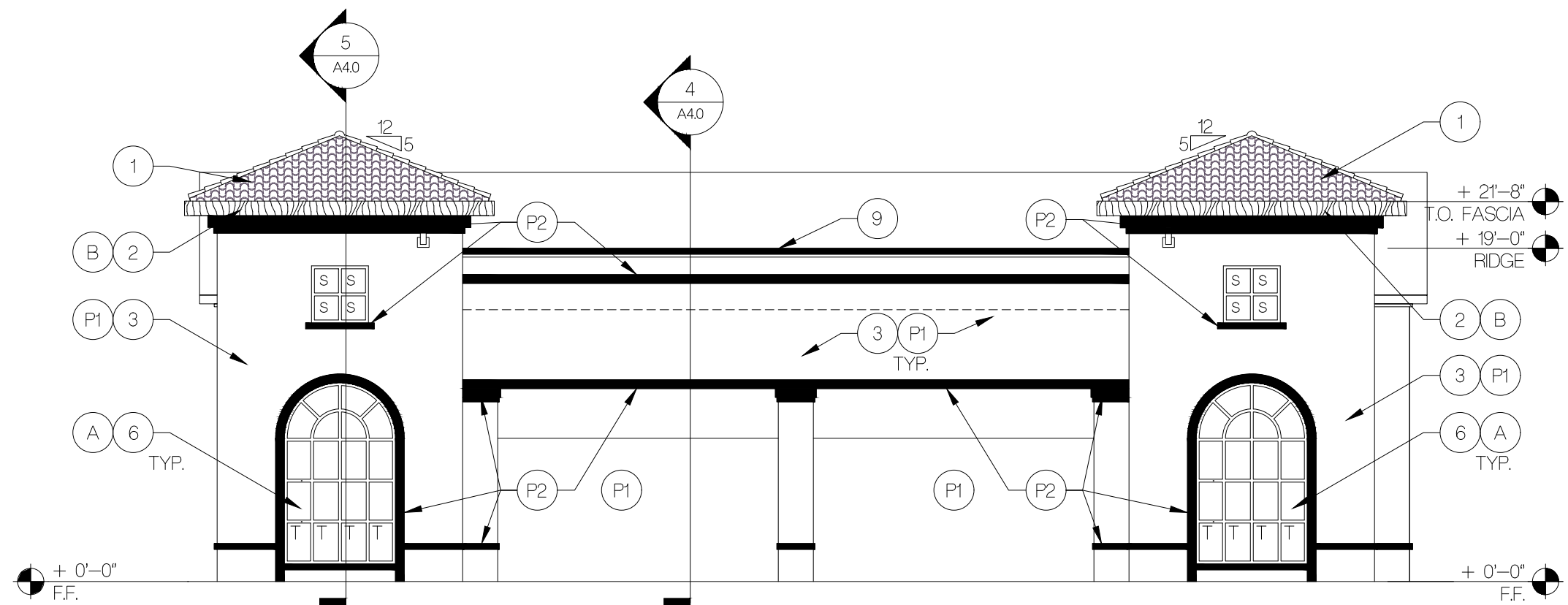
1 RETAIL D BUILDING SECTION
SCALE: 1/8" = 1'-0"



5 RETAIL D
SCALE: 1/8" = 1'-0"



2 RETAIL D
SCALE: 1/8" = 1'-0"



3 RETAIL D
SCALE: 1/8" = 1'-0"

GENERAL NOTES

- 1 -
- 2 -
- 3 -
- 4 -

KEYNOTES

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- 2 WOOD TRIM FASCIA/EAVE-STAINED. (B)
- 3 STUCCO ON WOOD FRAMING. (P1)
- 4 FABRIC AWNING.
- 5 4" HIGH 2" DEEP STUCCO SILL LINE. (P2)
- 6 ALUMINUM WINDOW WITH 1/4" BRONZE TINTED GLAZING. (A)
- 7 WOOD SHUTTERS PAINTED. (P2)
- 8 STUCCO RAISED ACCENT BAND 6" WIDE 1 1/2" DEEP. (P2)
- 9 METAL COPING. (P2)
- 10 LINE OF ROOF BEYOND.
- 11 GLAZED TILE ACCENT 4 TILE AT 8 X 8 GLAZ.
- 12 PAINTED METAL GUTTER WITH DOWNSPOUT. (P2)
- 13 DRIVE UP TELLER WINDOW.
- 14 STUCCO CONTROL JOINT.
- 15 BRONZE ANODIZE ALUMINUM TUBE ACCENT FEATURE ANCHORED TO WALL.
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SYMBOL KEY

- T' TEMPERED GLAZING.
- S' SPANDREL GLAZING.

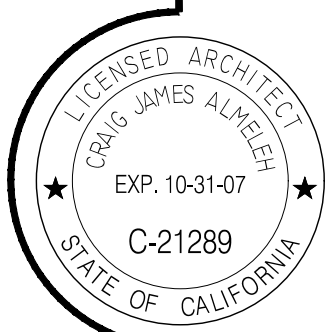
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RETAIL D
EXTERIOR ELEVATIONS

A3.4

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1 PROPOSED EXTERIOR ELEVATION
SCALE: 3/32" = 1'-0"

aeurbia

architects and engineers

J. M. Williams and Associates

909 west south Jordan parkway

South Jordan, Utah 84095

Phone: 801.460.0456 • Fax: 801.572.6456

www.jmwilliams.com

20 March 2018

HOME 2 SUITES
MORGAN HILLS, CA

EXTERIOR
ELEVATION

REVISIONS:

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SCALE:
DATE:
SHEET NO.

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Attachment: Exhibit A to Ordinance - Madrone Village Master Plan (2138 - AAE2018-0005 (ZAA-04-11b); Cochran-TB)



3 PROPOSED EXTERIOR ELEVATION
SCALE: 3/32" = 1'-0"

- TO WALL
EL. 50'-0"
- FOURTH LEVEL
EL. 36'-0"
- THIRD LEVEL
EL. 25'-0"
- SECOND LEVEL
EL. 14'-0"
- MAIN LEVEL
EL. 0'-0"



4 PROPOSED EXTERIOR ELEVATION
SCALE: 3/32" = 1'-0"

aeurbia architects and engineers
J.M. Williams and Associates
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www.aeurbia.com

20 March 2018

HOME 2 SUITES
MORGAN HILLS, CA

EXTERIOR
ELEVATIONS

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2 PROPOSED EXTERIOR ELEVATION
SCALE: 3/32" = 1'-0"

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20 March 2018

HOME 2 SUITES
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EXTERIOR
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1 FRONT ELEVATION
SCALE: 3/32" = 1'-0" Referenced from 200

EXTERIOR FINISH KEY		
	EF1	PEARLESCENT ACCENT EIFS FINISH
	EF2	DARK EIFS FINISH COLOR
	EF2a	DARK EIFS FINISH COLOR - TEXTURED
	EF3	STAIR TOWER EIFS COLOR
	EF4	MAIN BUILDING EIFS COLOR
	EF4a	ACCENT EIFS COLOR
	ST1	CULTURED STONE
	ST2	COPING
	SP1	EXTERIOR ACCENT FINISH AT RAINSCREEN - SOLID PHENOLIC BOARD SIDING - CEMENT BOARD SIDING (OPTION)
	PT1	PAINT COLOR - ALUM. ROOF SHADE CANOPY & OTHER METAL COPINGS, FASCIAS, ETC.

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south Jordan, utah 84095
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www.aeurbia.com

17 October 2018

FAIRFIELD INN & SUITES
MADRONE PKWY & COCHRANE RD
MORGAN HILL, CA

**EXTERIOR
ELEVATION**

AE2018_048

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**EXTERIOR
ELEVATION**

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Attachment: Exhibit A to Ordinance - Madrone Village Master Plan (2138 - AAE2018-0005 (ZAA-04-11b): Cochrane-TB)



2 REAR ELEVATION
SCALE: 3/32" = 1'-0" Referenced from 200

- EXTERIOR FINISH KEY**
- EP1 PEARLESCENT ACCENT EIFS FINISH
 - EP2 DARK EIFS FINISH COLOR
 - EP2a DARK EIFS FINISH COLOR - TEXTURED
 - EP3 STAIR TOWER EIFS COLOR
 - EP4 MAIN BUILDING EIFS COLOR
 - EP4a ACCENT EIFS COLOR
 - ST1 CULTURED STONE
 - ST2 COPING
 - SP1 EXTERIOR ACCENT FINISH AT RAINSCREEN
 - SOLID PHENOLIC BOARD SIDING
 - CEMENT BOARD SIDING (OPTION)
 - PT1 PAINT COLOR - ALUM. ROOF SHADE CANOPY & OTHER METAL COPINGS, FASCIAS, ETC.



3 SIDE ELEVATION
SCALE: 3/32" = 1'-0"



4 SIDE ELEVATION
SCALE: 3/32" = 1'-0" Referenced from 200

EXTERIOR FINISH KEY		
	EP1	PEARLESCENT ACCENT EIFS FINISH
	EP2	DARK EIFS FINISH COLOR
	EP3a	DARK EIFS FINISH COLOR - TEXTURED
	EP3	STAIR TOWER EIFS COLOR
	EP4	MAIN BUILDING EIFS COLOR
	EP4a	ACCENT EIFS COLOR
	ST1	CULTURED STONE
	ST2	COPING
	SP1	EXTERIOR ACCENT FINISH AT RAINSCREEN - SOLID PHENOLIC BOARD SIDING - CEMENT BOARD SIDING (OPTION)
	PT1	PAINT COLOR - ALUM. ROOF SHADE CANOPY & OTHER METAL COPINGS, FASCIAS, ETC.

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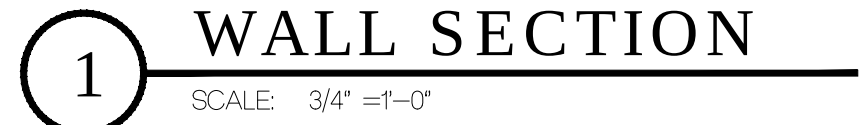
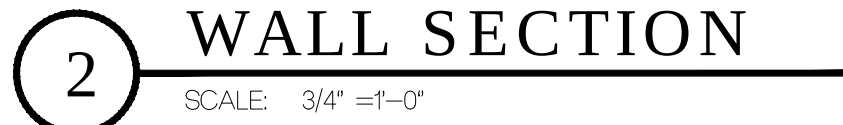
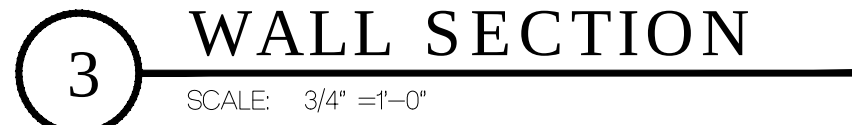
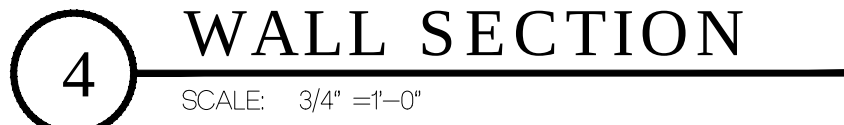
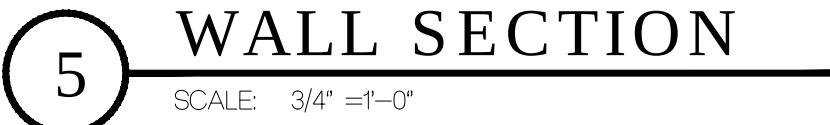
EXTERIOR ELEVATIONS

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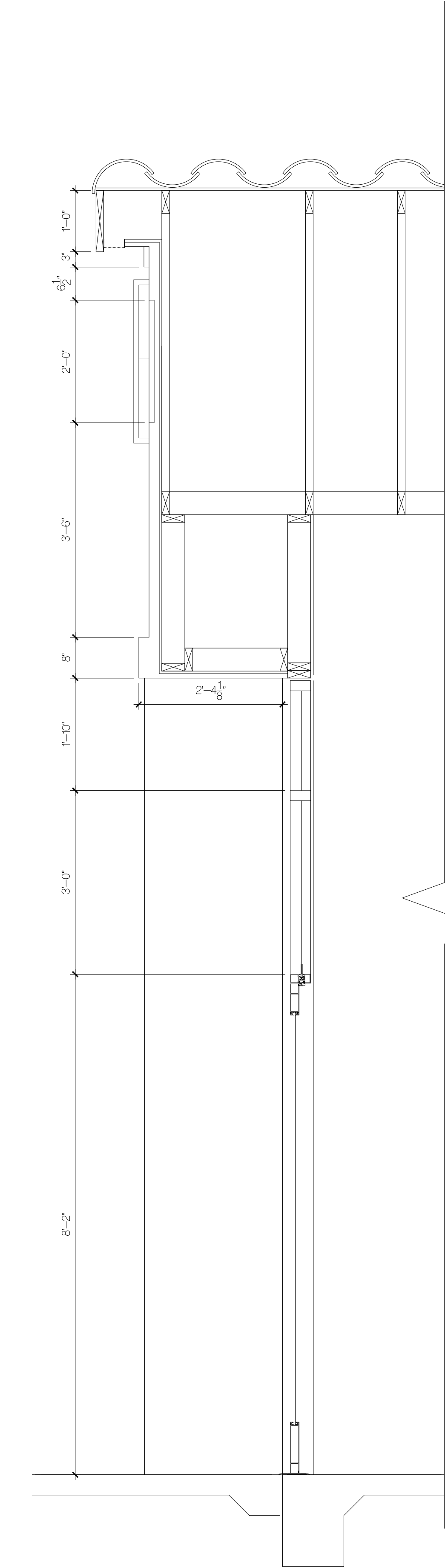
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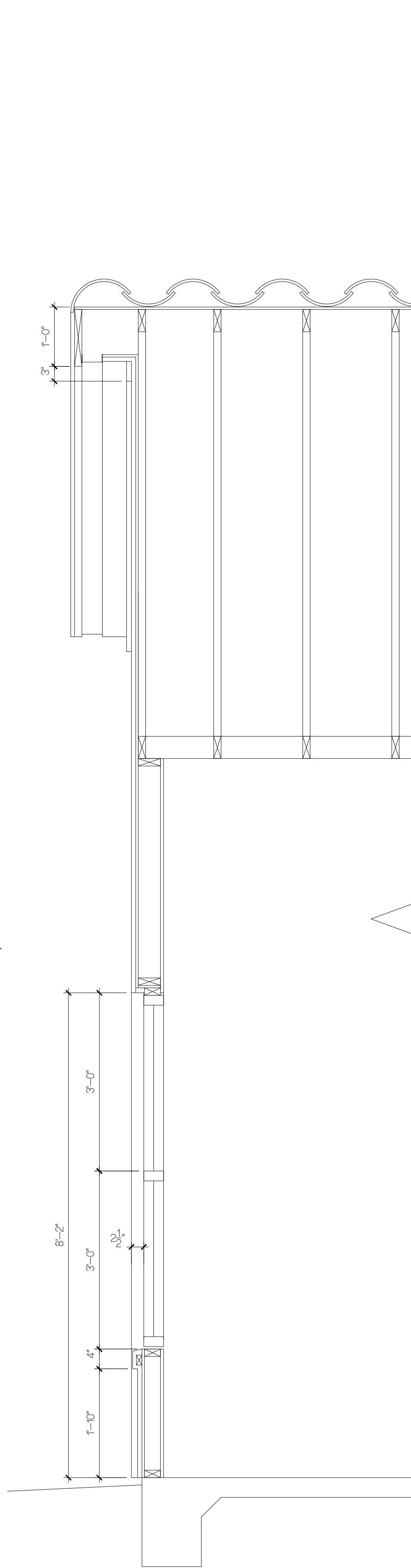
PLANNING SUBMITTAL
PLANNING COMMENTS



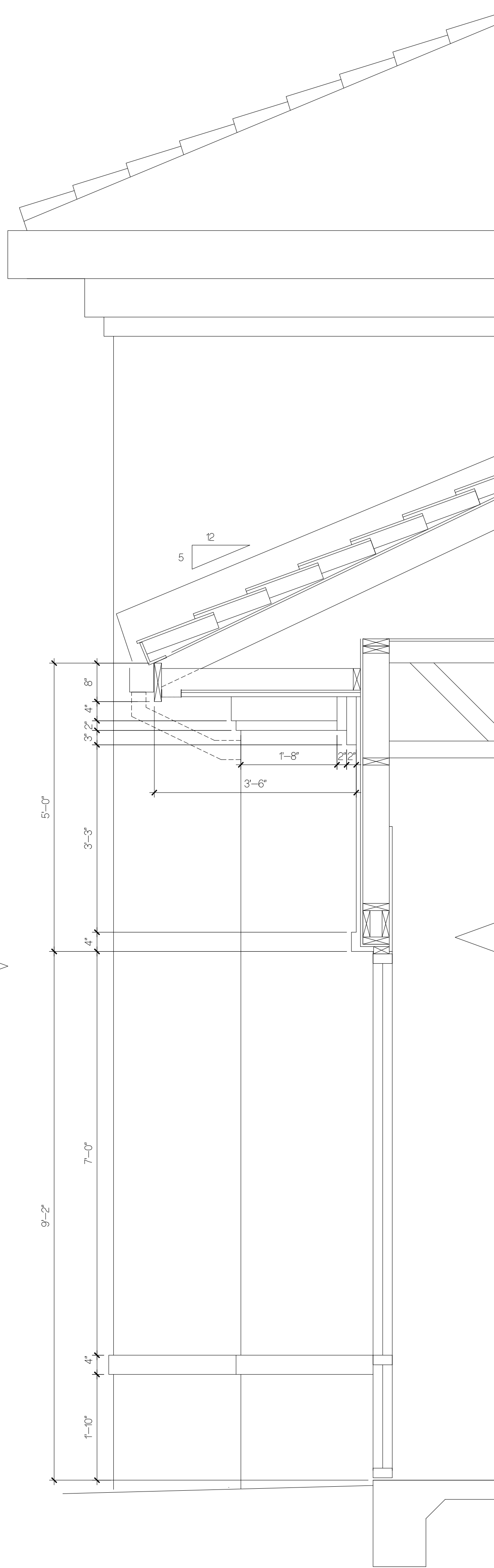
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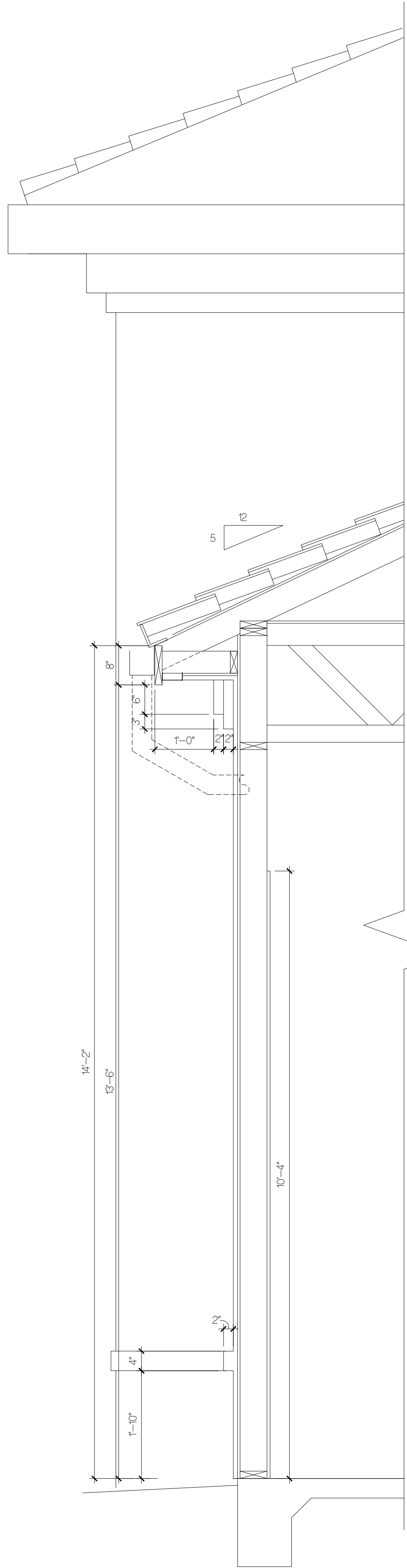
10 WALL SECTION
SCALE: 3/4" = 1'-0"



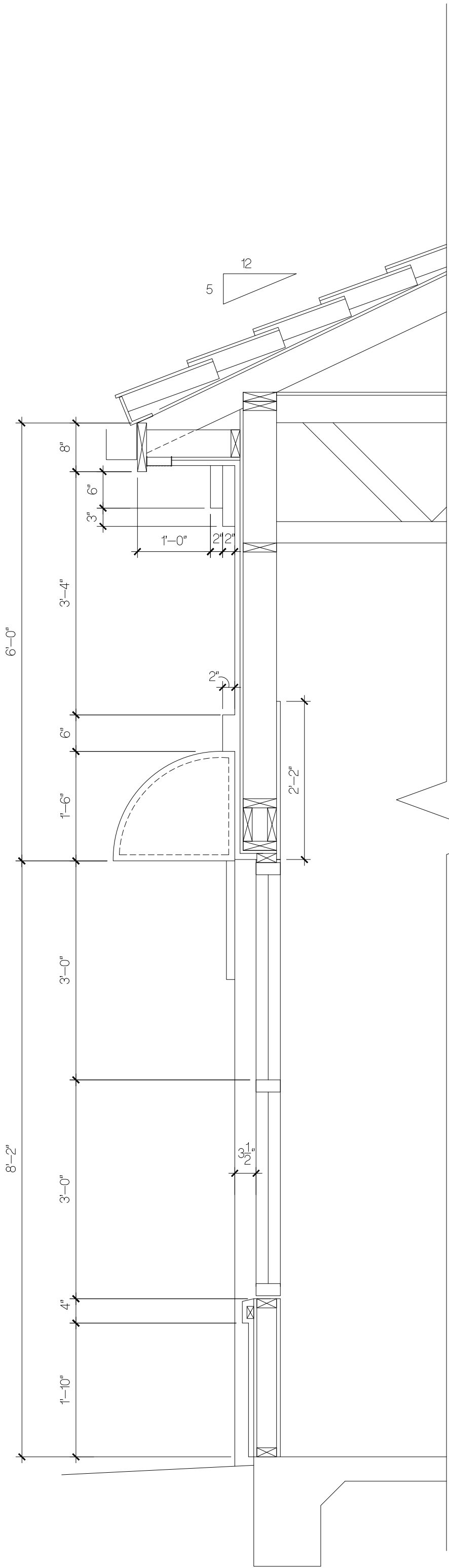
9 WALL SECTION
SCALE: 3/4" = 1'-0"



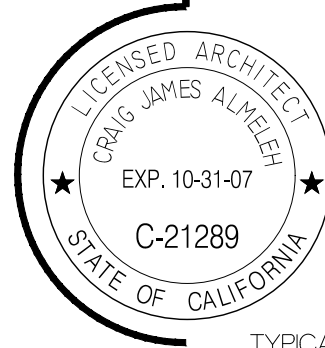
8 WALL SECTION
SCALE: 3/4" = 1'-0"



7 WALL SECTION
SCALE: 3/4" = 1'-0"



6 WALL SECTION
SCALE: 3/4" = 1'-0"



TYPICAL
WALL SECTIONS

A Retail Shopping Center for
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Morgan Hill, California

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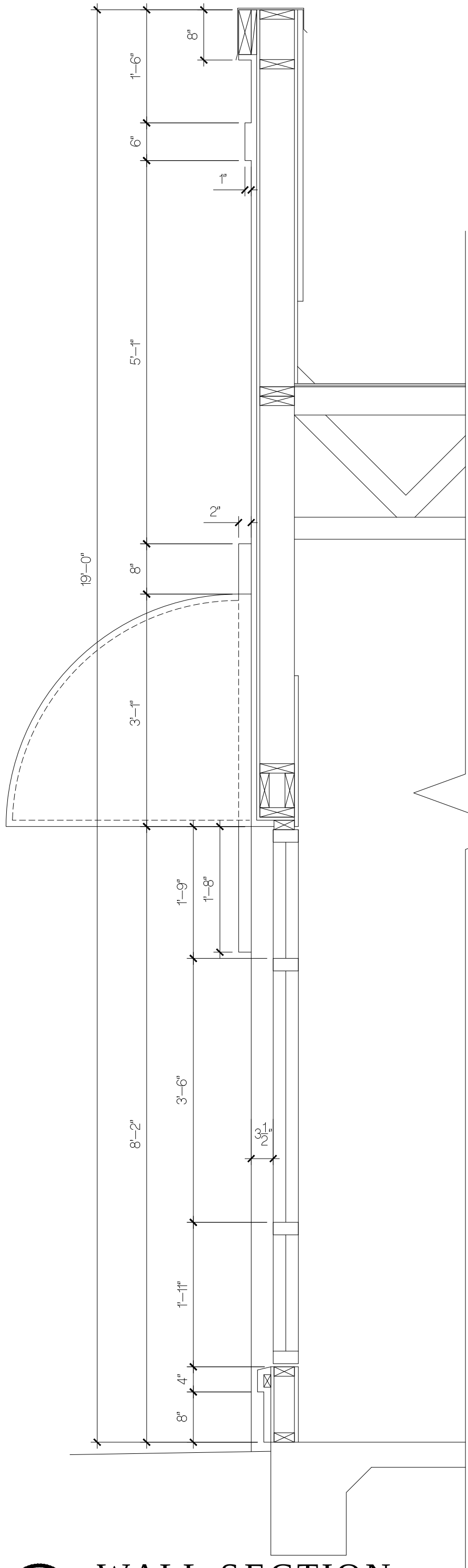
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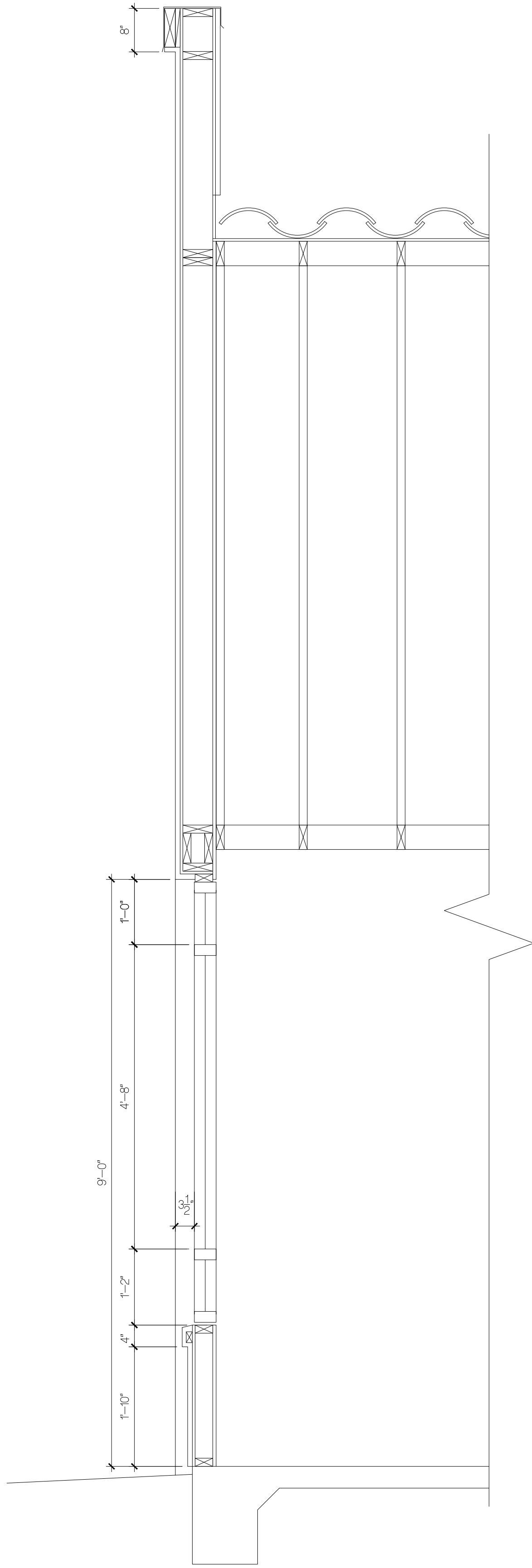
PLANNING SUBMITTAL 12/13/05
PLANNING COMMENTS 02/20/06

A4.1

041346.01

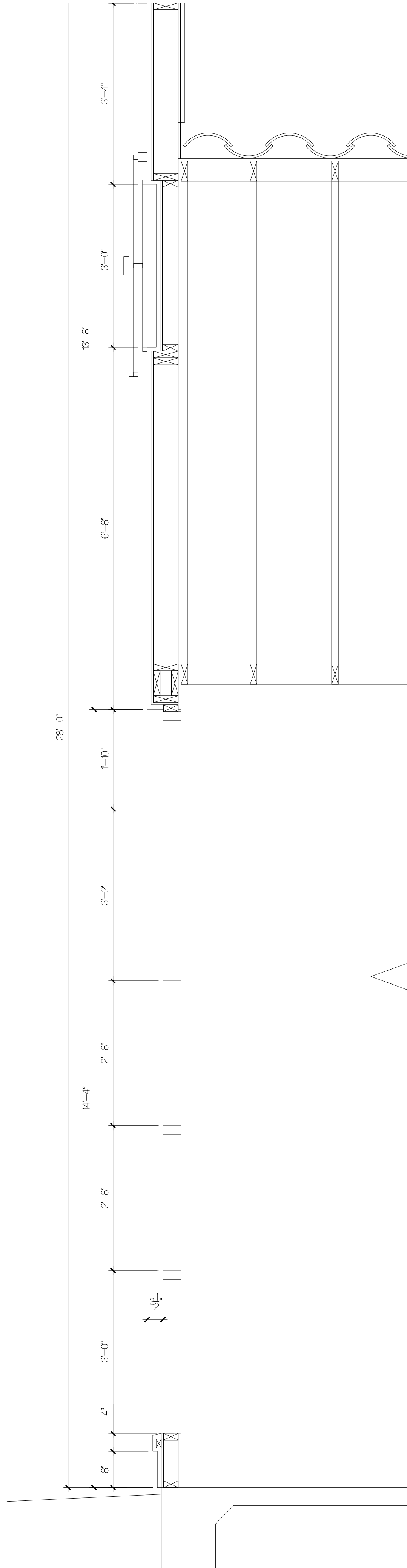


15 WALL SECTION
SCALE: 3/4" = 1'-0"

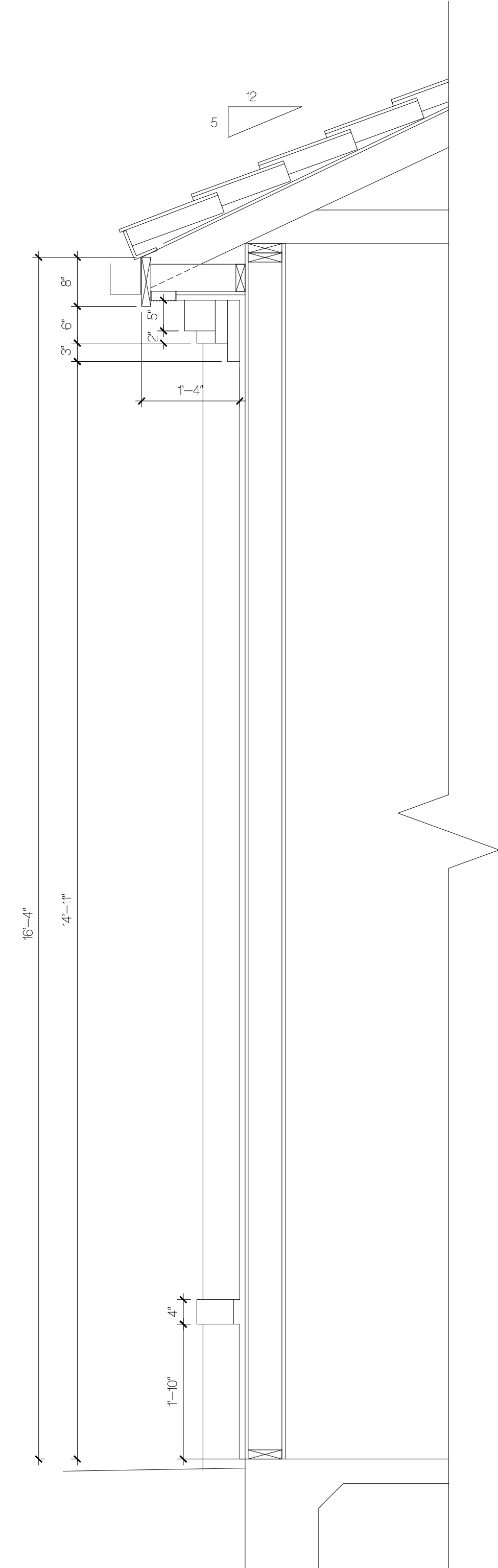


14 WALL SECTION
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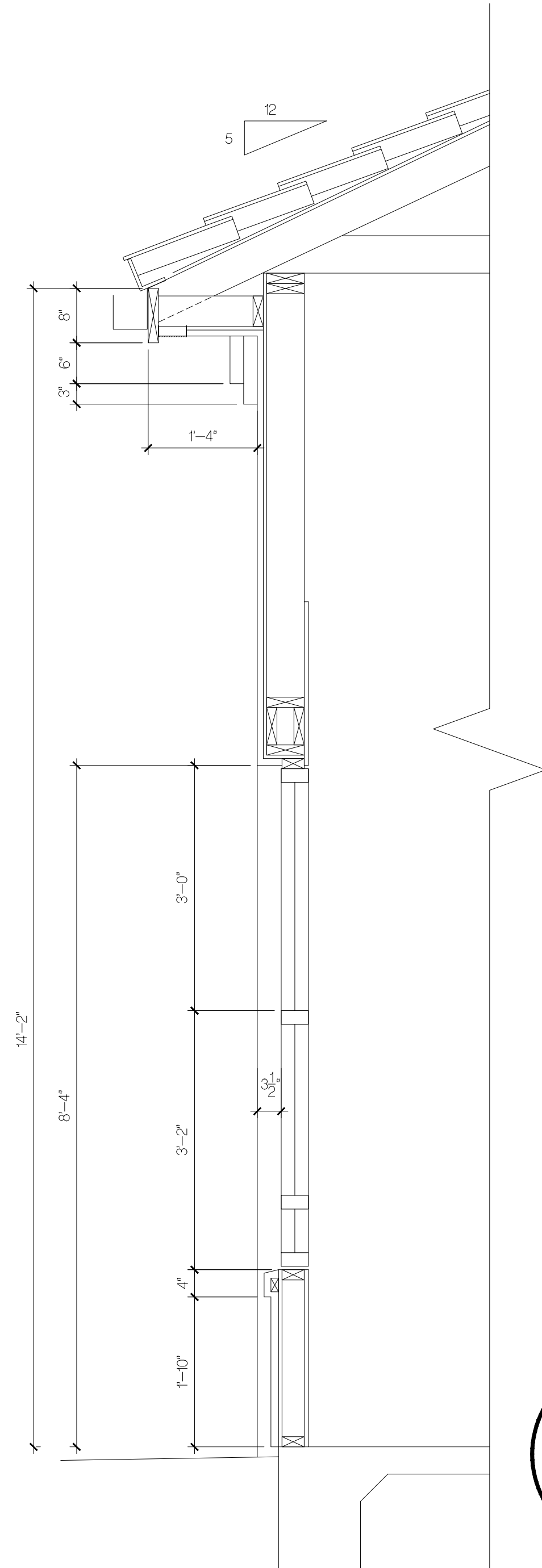
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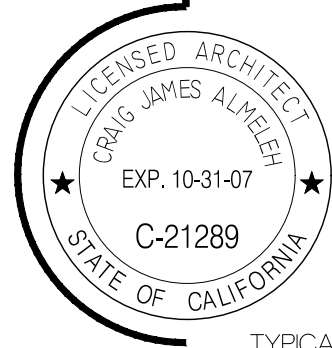
13 WALL SECTION
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12 WALL SECTION
SCALE: 3/4" = 1'-0"



11 WALL SECTION
SCALE: 3/4" = 1'-0"



TYPICAL
WALL SECTIONS

A Retail Shopping Center for
Madrone Village
Madrone Parkway and Cochrane Road
Morgan Hill, California

ARCHITECTURAL TECHNOLOGIES
2960 East Northern Avenue, Bldg. C
Phoenix, Arizona 85028
602-953-2355 FAX 602-953-2988

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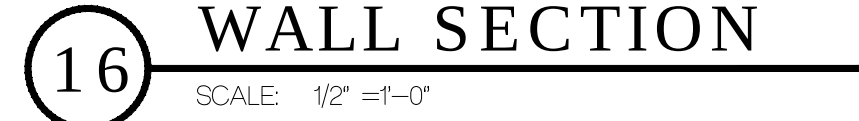
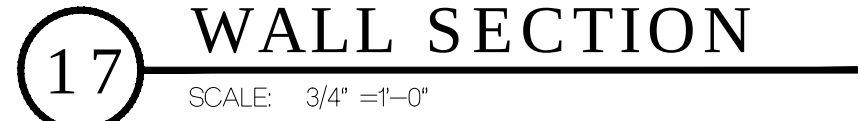
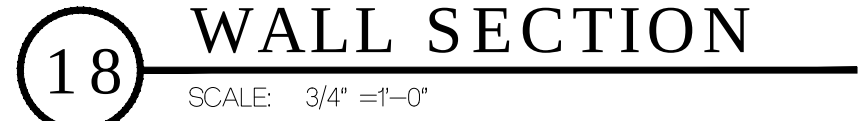
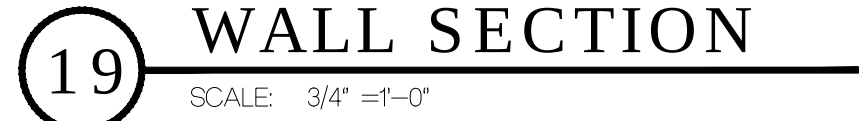
Written dimensions on this drawing shall have precedence over any scaled dimension. Do not scale this drawing for accurate dimensions, and notify APC TEC of any discrepancies.

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PLANNING SUBMITTAL 12/13/05
PLANNING COMMENTS 02/20/06

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PLANNING SUBMITTAL	12/13/05
PLANNING COMMENTS	02/20/06



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EXHIBIT B

PLANNED UNIT DEVELOPMENT GUIDELINES MADRONE VILLAGE SHOPPING CENTER MORGAN HILL, CA

Description of Project:

Madrone Village Shopping Center

Location of Project:

North West Corner of Madrone Parkway and Cochrane Road, Morgan Hill, California

Introduction to Project:

A ~~76,897~~ **27,580** square feet retail shopping center consisting of ~~five~~ **four** single-story buildings **and two, four-story hotels with a collective total of 206 rooms.**

Allowed and Conditional Uses:

Permitted Uses

- Retail Stores
- Restaurants
- Offices and Professional Offices (including medical and dental offices)
- Financial Services
- Personal Services
- Business and Trade Schools
- Specialty Grocery Stores, not to exceed 15,000 sf
- Drug Stores
- Commercial Recreation Uses ~~3,000~~ **15,000** sq. ft. or less in area (exclusive of parking)
- **Hotels**

Conditional Uses

- Day Care Centers/Nursery Schools
- Commercial Recreation Uses **greater than 15,001 sq. ft. in area (exclusive of parking)**
- Gasoline Service Stations (including ancillary convenience stores)
- Drive-thru uses
- ~~Grocery Stores exceeding 15,000 sf but less than 50,000 sf~~
- Any other use which the Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified above

Original PUD — Allowed Uses:

~~Same as Above.~~

Commercial Development Standards:

The following standards shall apply to all commercial PUDs:

A. Architecture/Site Planning

1. The general aesthetic character of all building exteriors shall be early Mission California theme **or of a compatible architectural style as determined by the Community Development Director** for the PUD.
2. The location of all physical improvements shall be consistent with the Development Plan established for the PUD.
3. No building within this PUD Phase I shall exceed 30 feet in height with the exception of specific architectural features (34 feet maximum) except as otherwise authorized by the City Council through the PUD approval process. No building within this PUD Phase II shall exceed ~~40~~ **61**-feet in height, ~~with the exception of specific~~ **The 61-foot maximum height includes all** architectural features, **roof top screening and equipment.** ~~(50 feet maximum) except as otherwise authorized by the City Council through the PUD approval process.~~
4. Rooflines shall vary in height and shall incorporate a maximum of two varying roof types (e.g., hip, gable).
5. Structures shall incorporate breaks in horizontal planes by stepping or staggering setbacks and recessing windows and entrances, to provide substance and scale.
6. Doors and windows shall be enhanced by use of various sizes and shapes,, and highlighted by the use of accent trim (e.g. molding, pop-out or wood trim). The design shall be complementary to the architectural style of the PUD.
7. All exterior wall elevations visible from and/or facing public roadways shall have architectural treatment.
8. Facade architectural treatment shall be applied to all building elevations with the same degree of detail as the building entrance.
9. No franchise architecture shall be permitted.
10. Buildings situated or near the front setback shall provide public access from the side(s) of the buildings at or near the front setbacks.
11. Building design shall be compatible with the immediate environment and provide harmonious transition between various uses.
12. No mechanical equipment shall be exposed on the wall surface of any building.
13. Mechanical and utility equipment shall be located below the roofline or parapet wall and out of public view. Location within the building or at ground level is preferred to roof-mounting. When such equipment cannot be so located, all roof-mounted mechanical equipment or ductwork which projects vertically above the roof or roof parapet shall be screened by an enclosure which is detailed consistently with the building design.
14. Gutters and downspouts shall be located interior to the wall when facing a roadway frontage. All other gutters and downspouts that cannot be located interior to the wall shall be treated to blend into the facade to which it is attached, unless used as a major design element, in which case the color shall be consistent with the color schemes of the building.
15. Any outdoor storage of goods, materials or equipment shall be limited to 8 feet in height and screened from view of any roadway or adjacent property. The screening shall be designed as an integral part of the building design and site layout. Chain link fencing with wood inserts is not an acceptable manner of screening.

16. Trash enclosures shall be constructed of solid masonry material, consistent with the building on-site, and shall be a minimum 6 ft. in height, with solid view obstructing gates. Trash enclosures shall be located in inconspicuous locations.
17. Fences and walls shall be designed to be compatible with the surrounding landscape and architectural style of the PUD.
18. Buildings shall be placed at the front setback line for at least 35 percent of the street frontage of the PUD, unless infeasible due to the size or configuration of the property.
19. Provisions for connecting driveways and walkways between adjacent properties within the PUD are to be provided.
20. Convenient pedestrian access shall be provided to commercial uses from residential areas within or adjacent to the PUD.

B. Easements

1. Easements for the installation and maintenance of utilities, walkways, roads, shared driveways, parking and drainage facilities shall be recorded as part of any subdivision map or lot line adjustment.

C. Landscaping

- 1 The design and location of all landscaping shall be consistent with the Development Plan established for the PUD.
- 2 The general characteristics of the plant palette for the PUD shall be a combination of year-round color and textural interest. Plants shall be selected on the basis of color combinations, growth patterns, low maintenance and water conservation characteristics. At time of installation, all trees shall have a minimum height of eight feet and minimum crown diameter of three feet.
- 3 All street trees and trees planted within the front setback areas shall have a minimum height of ten feet and minimum crown diameter of four feet.
- 4 A minimum 30-foot wide landscape area (excluding any landscaping in the right of way) shall be provided adjacent to all public streets within the PUD. Encroachment into this area may be permitted where it can be substantiated that provision of the 30-foot area is impracticable or would result in an undue hardship to the development. Encroachment shall only be allowed to the extent necessary and shall not exceed 50 percent of the required landscape width. Where encroachment is allowed, the reduced width shall be mitigated through additional landscape planting or a combination of an earthen berm and screen wall or both. An encroachment into the 30-ft wide Cochrane Road landscape area shall be permitted only to the extent necessary to allow a drive-thru exit lane for the proposed bank. The encroachment shall be mitigated through the existing berm and additional landscaping.
- 5 Landscaping shall be placed adjacent to a minimum of 50% of the perimeter of all buildings.
- 6 Landscaping at the entrance of building shall include box size and/or accent trees with a minimum height of 10 feet and crown width of four feet to create a focal point to help direct people to the building entrances.
- 7 Native oaks and field stones shall be incorporated into the landscape plan of the PUD.
- 8 A minimum of 15% of all parking areas shall be landscaped. Required setback and perimeter planting areas shall not be counted in this area but may include the building perimeter landscaping.
- 9 Canopy-providing trees shall be planted in the parking lot planter islands to produce shade.

- 10 Entrances to the PUD shall be well landscaped and serve as a focal point.
- 11 Shrubs and vine planting shall be provided to screen utilities and trash enclosures.
- 12 All landscape areas provided (with the exception of areas adjacent to public streets) shall have a minimum width of 5 feet. This includes but is not limited to landscaping adjacent to buildings, alongside and rear property lines, and finger planters within parking lots.
12. All parking areas shall be screened from view of public streets by use of the existing berming.
13. Landscaping shall be used to soften the appearance of fences and walls and building elevations which lack fenestration or other architectural detailing.

D. Lighting

- 1 The design of the exterior building lighting and parking lot lighting fixtures shall be compatible with the architectural style of the PUD.
- 2 Parking lot lighting shall be consistent throughout the PUD. The maximum height of the lighting shall be 20 ft. except that lighting standards within 100 ft. of residentially zoned properties shall be limited to a maximum height of 15 ft.
- 3 Lighting for pedestrian pathways shall be reduced in height and scale, to create a more human-scale feeling and atmosphere.
- 4 All lighting shall be shielded and directed in such a manner so as not to directly cast light on neighboring properties. Adjustments to the lighting intensity may be required after commencement of the use.

E. Parking and Loading/Circulation

- 1 Parking shall be screened from public view through the use of berming, hedgerow planting, shrubs, trees, fences or walls, or any combination thereof, provided that no more than 35% of the total screening shall consist of fences or walls. At time of installation, shrub plantings shall be minimum 5-gallon size, trees shall have a minimum height of eight feet and minimum crown diameter of four feet, and berming/fences/walls shall be a minimum 3 ft. in height, as measured from the nearest street curb.
- 2 No angled parking or one-way drive aisles shall be utilized in any parking lot.
- 3 Parking areas shall be designed to include provision for pedestrian walkways for access to building entrances. Walkways that cross traffic lanes shall have special design features such as raised and/or textured pavement, narrowed roadway, or combination thereof. Walkways shall be provided through landscaped areas to protect landscaping from foot traffic damage.
- 4 Reciprocal access and shared parking between properties shall be used, whenever possible.
- 5 Loading areas and docks shall be screened from view by a solid wall. The wall shall be architecturally treated and screened with landscaping. Loading areas shall not be located adjacent to or visible from public streets.
- 6 Truck deliveries shall be limited to 6 a.m. to 9 p.m., Sunday through Saturday.
- 7 Cross access easements and joint-use drive aisles shall be provided throughout the PUD.
- 8 Drive aisles shall allow for complete circulation within the PUD, with sufficient width for emergency vehicles. ~~Dead end drive aisles shall not be allowed.~~
- 9 Shared access easements and driveways shall be used to minimize paved areas and curb cuts.
- 10 Pedestrian access shall be provided between the adjacent properties.

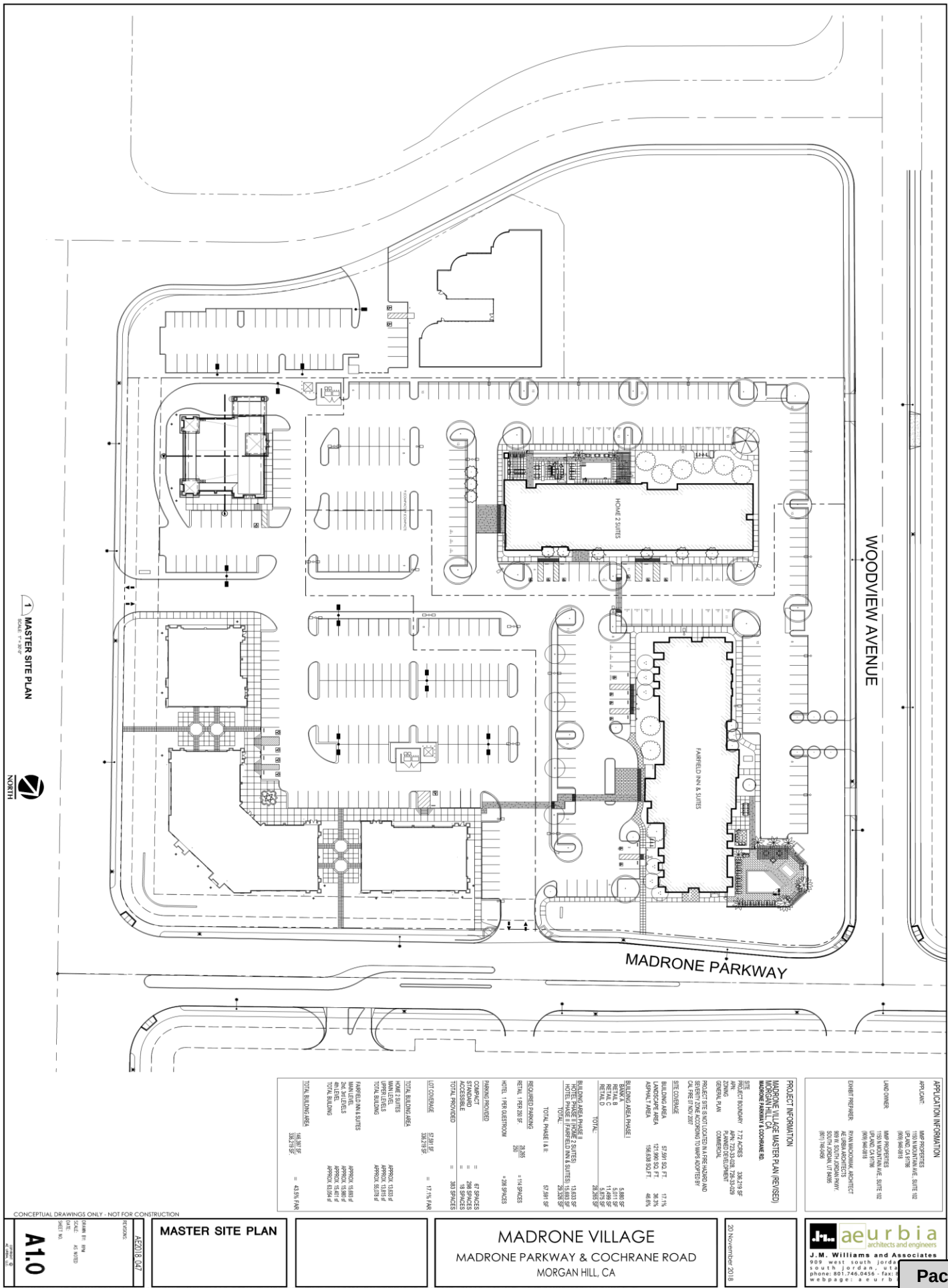
F. Signage/Displays

- 1 PUDs which are, due to their location, eligible for freeway signage shall utilize a single freeway sign consistent with the provisions of the City Sign Ordinance.
- 2 No exterior retail displays shall be allowed.
- 3 A uniform sign program shall be required for all properties and uses within the PUD.
- 4 Signage shall be prohibited on the raised architectural features and shall not extend above the height of the main building elevation.

G. Utilities and Appurtenant Uses/Devises

- 1 The proposed project will discharge storm drainage to existing storm drain laterals that were stubbed to the site when the Business Park was constructed. The storm drain laterals are connected to the detention pond that provides detention for the entire Park.
- 2 All backflow devices, fire risers and check valves shall be screened with landscaping.
- 3 No utility equipment shall be located within the front setback area unless placed within an underground vault. All transformers shall be located interior to the site, outside of the front setback area, and shall be screened with landscape material. * EXCEPTION: If it is determined by P.G. & E. that more than one (1) transformer is required for Buildings 'B, C & D', only one (1) transformer shall be within the parking lot (Building 'C' only).
- 4 Uses within the PUD that utilize shopping carts shall provide indoor storage of the carts and shall provide for collection areas throughout the parking lots.
- 5 Vending machines, rides, newspaper racks or any coin-operated devices shall not be placed on the exterior of any buildings.

(End)



ORDINANCE NO. 1764, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A PRECISE DEVELOPMENT PLAN AND PUD GUIDELINES FOR A PLANNED UNIT DEVELOPMENT LOCATED AT THE NORTHWEST CORNER OF COCHRANE ROAD AND MADRONE PARKWAY (APN 726-33-028) (ZAA-04-11: COCHRANE-TBI)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration was filed with the associated General Plan Amendment and Zoning Amendment Applications, and an Addendum to the Mitigated Negative Declaration was approved with the proposed project.
- SECTION 4.** Section 18.30.090 of the Morgan Hill Municipal Code establishes minimum development standards for commercial PUDs.
- SECTION 5.** In accordance with Section 18.30.110 of the Morgan Hill Municipal Code, the City Council may grant exceptions to the minimum PUD development standards upon recommendation of the Planning Commission with the following affirmative findings:
- a. Approval of the exception is necessary for the preservation and enjoyment of substantial property rights of the applicant; and
 - b. The exception will only be approved to the extent necessary for the preservation and enjoyment of the substantial property rights of the applicant; and
 - c. The effect of the reduction or elimination of the development standard will be substantially mitigated by the provision of other design features or enhancements to the project; and
 - d. Approval of the exception will not be outweighed by the adverse effects to the public health, safety and welfare of persons working or residing in the area.
- SECTION 6.** Strict adherence to the city-wide PUD standards would hinder the establishment of an economically and functionally successful commercial shopping center at the proposed site.

- SECTION 7.**
- (a) Section 18.30.090.A.3 of the MHMC restricts building heights to 30 feet except as otherwise authorized by the City Council through the PUD process.
 - (b) Four of the five buildings proposed would meet the 30-ft standard with the exception of architectural elements which are proposed at heights of up to 34 feet. Section 18.56.040 of the Morgan Hill Municipal Code allows architectural elements of up to 50 ft in height as an exception to the code.
 - (c) One building is proposed to be 40 ft in height with architectural elements up to 50 feet in height. Precedent has been established for the approval of buildings that exceed 30 feet in height in other PUDs in the City, specifically the Tharaldson PUD and Cochrane Road PUD. Therefore, approval of an exception to Section 18.30.090.A.3 would not be a grant of special privilege, but would preserve the property rights of the applicant. Modification of this development standard for the shopping center will be mitigated through the exceptional design of the buildings with architectural elements that vary in height, as shown on the project plans.
 - (d) Therefore, the Council approves, on a separate and distinct basis, buildings that exceed 30 feet in height within the PUD.

- SECTION 8.**
- (a) Section 18.30.090.A.4 of the MHMC prohibits visual flat rooflines in a PUD.
 - (b) Precedent has been established for the approval of buildings designed with parapet walls in other PUDs in the City, specifically the Tharaldson PUD, Gateway PUD, Tennant Station (Safeway) PUD and the Cochrane Road PUD. Therefore, approval of an exception to Section 18.30.090.A.4 would not be a grant of special privilege, but would preserve the property rights of the applicant. Elimination of this development standard for the shopping center will be mitigated through the provision of site perimeter landscaping, building perimeter landscaping, and exceptional design of the buildings, as shown on the project plans.
 - (c) Therefore, the Council approves, on a separate and distinct basis, the use of parapet walls in the building designs.

- SECTION 9.**
- (a) Section 18.30.090.B.4 of the MHMC requires minimum 30-ft wide landscape areas adjacent to public streets within a PUD.
 - (b) Encroachment into the landscape area is permitted where it can be substantiated that provision of the 30-ft area is impracticable or would result in an undue hardship to the development. Per Section 18.30.090.B.4, encroachment shall not exceed 50 percent of the required landscape width and the reduced width shall be mitigated through additional landscape planting or a combination of an earthen berm and screen wall or both.

- (c) An encroachment into the Cochrane Road landscape buffer is needed to redirect a drive-thru exit lane for a proposed bank toward an interior drive aisle and to eliminate an exit only driveway on Cochrane Road. Elimination of the driveway will prevent conflicting traffic movements between vehicles traveling westbound on Cochrane with vehicles exiting the site and traversing two lanes of traffic to access the nearby Sutter Boulevard intersection. Strict adherence to Section 18.30.090.B.4 is impracticable as there is insufficient room for a drive-thru lane without the proposed encroachment. The encroachment will occur only to the extent necessary to provide the drive-thru exit lane, and will be mitigated through the existing berm and proposed landscaping.
- (d) The Council therefore approves, on a separate and distinct basis, an encroachment into the 30-ft wide Cochrane Road landscape area only to the extent necessary to provide a bank drive-thru exit lane.

- SECTION 10.**
- (a) Section 18.30.090.C.12 of the MHMC requires all landscaped areas provided in PUDs (with the exception of areas adjacent to public streets) to have a minimum width of 10 feet.
 - (b) Section 18.74.550 of the MHMC requires minimum five feet of landscaping within landscape planters citywide. An exception to Section 18.30.090.C.12 of the MHMC to allow five foot landscape areas would not be a grant of special privilege, but would preserve the property rights of the applicant. Furthermore, precedent has been established for the approval of reduced landscape areas in other PUDs in the City, specifically the Tharaldson PUD and the Cochrane Road PUD. An exception to Section 18.30.090.C.12 of the MHMC will be mitigated through 30-ft wide site perimeter landscaping along all street frontages and building perimeter landscaping as shown on the project plans.
 - (c) The City Council requires that the applicant provide minimum 10-ft wide landscaped areas where possible within all City required parking areas, but hereby approves, on a separate and distinct basis, landscaped areas no less than five feet in width.

- SECTION 11.**
- (a) Section 18.30.090.E.2 of the MHMC prohibits parking stalls to be located directly adjacent to the front of a major use occupying 10,000 sf or more floor area.
 - (b) Precedent has been established for the approval of parking in front of uses occupying 10,000 sf or more floor area in other PUDs in the City, specifically the Condit Road (Harley Davidson) PUD and the Cochrane Road PUD. Therefore, approval of an exception to Section 18.30.090.E.2 would not be a grant of special privilege, but would preserve the property rights of the applicant.
 - (c) The Council therefore approves, on a separate and distinct basis, parking directly adjacent to the front of buildings occupying 10,000 sf or more floor area.

- SECTION 12.** (a) Section 18.30.090.E.7 of the MHMC limits truck deliveries from 7 am to 7 pm Monday through Saturday.
- (b) The intent of Section 18.30.090.E.7 is to minimize noise impacts to surrounding residential uses. The proposed shopping center will be located along an arterial roadway adjacent to business park and commercial uses, which also have truck deliveries. Strict adherence to this standard would limit the type of tenants that could locate in the proposed shopping center, and deny the property owner the preservation and enjoyment of his substantial property rights.
- (c) The Council therefore approves, on a separate and distinct basis, truck deliveries between the hours of 6 a.m. to 9 p.m., Sunday through Saturday.

- SECTION 13.** (a) Section 18.30.090.G.3 of the MHMC prohibits utility equipment within the front setbacks in a PUD.
- (b) The intent of Section 18.30.090.G.3 is to minimize views of unsightly utilities and equipment along street frontages. An exception to Section 18.30.090.G.3 of the MHMC is needed only in the event that PG&E requires more than one transformer for Buildings B, C & D, and will be mitigated through extensive landscape screening. Precedent has been established for the approval of utilities in front setback areas in other PUDs in the City, specifically the Cochrane Road PUD. Therefore, approval of an exception to Section 18.30.090.G.3 would not be a grant of special privilege, but would preserve the property rights of the applicant.
- (c) The Council therefore approves, on a separate and distinct basis, one transformer within the front setback only in the event that PG&E requires more than one transformer for Buildings B, C & D.

SECTION 14. Therefore, based upon the above reasons, and the record in this matter, the City Council hereby approves exceptions to the city-wide PUD development standards for the proposed retail shopping center. The Council hereby finds that:

- a. Approval of the exceptions is necessary for the preservation and enjoyment of substantial property rights of the applicant; and
- b. The exceptions will only be approved to the extent necessary for the preservation and enjoyment of the substantial property rights of the applicant; and
- c. The effect of the reduction or elimination of the development standards will be substantially mitigated by the provision of other design features or enhancements to the project; and
- d. Approval of the exceptions will not be outweighed by the adverse effects to the public health, safety and welfare of persons working or residing in the area.

SECTION 15. Based on the foregoing, the City Council hereby approves a precise development plan as contained in that certain series of documents date stamped February 21, 2006, on file in the Community Development Department, entitled

"A Retail Shopping Center For Madrone Village" prepared by ARCTEC. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, basic design, uses, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.

SECTION 16. The approved project shall be subject to the following conditions:

- a. The applicant shall comply with the mitigation measures of the approved mitigated Negative Declaration.
- b. The project shall be subject to compliance with the Madrone Village Shopping Center PUD Guidelines as attached in Exhibit A of this Resolution.
- c. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of applicant's project. In addition, developer shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, developer shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted.

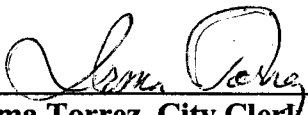
SECTION 6. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

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 the special meeting of the City Council of the City of Morgan Hill held on the 22nd Day of March 2006, and was finally adopted at a regular meeting of said Council on the 5th Day of April 2006, and said ordinance was duly passed and adopted in accordance with law by the following vote:

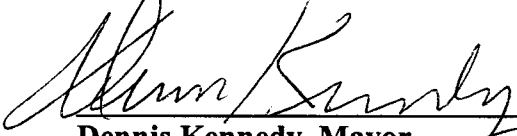
AYES:	COUNCIL MEMBERS:	Mark Grzan, Dennis Kennedy, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	Larry Carr

ATTEST:



Irma Torrez, City Clerk

APPROVED:



Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1764, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 5th Day of April 2006.

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

DATE: 4/13/06



IRMA TORREZ, City Clerk

Attachment: ORDINANCE No. 1764, New Series (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

PLANNED UNIT DEVELOPMENT GUIDELINES MADRONE VILLAGE SHOPPING CENTER MORGAN HILL, CA

Description of Project:

Madrone Village Shopping Center

Location of Project:

North West Corner of Madrone Parkway and Cochrane Road, Morgan Hill, California

Introduction to Project:

76,897 square feet retail shopping center consisting of five single-story buildings.

Allowed and Conditional Uses:

Permitted Uses

- Retail Stores
- Restaurants
- Offices and Professional Offices (excluding medical, dental and/or health related offices)
- Financial Services
- Personal Services
- Business and Trade Schools
- Specialty Grocery Stores, not to exceed 15,000 sf
- Drug Stores

Conditional Uses

- Day Care Centers/Nursery Schools
- Commercial Recreation
- Gasoline Service Stations (including ancillary convenience stores)
- Drive-thru uses
- Grocery Stores exceeding 15,000 sf but less than 50,000 sf
- Any other use which the Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified above

Original PUD – Allowed Uses:

Same as Above

Commercial Development Standards

The following standards shall apply to all commercial PUDs:

A. Architecture/Site Planning

1. The general aesthetic character of all building exteriors shall be early Mission California theme for the PUD.
2. The location of all physical improvements shall be consistent with the Development Plan established for the PUD.
3. No building within this PUD Phase I shall exceed 30 feet in height with the exception of specific architectural features (34 feet maximum) except as otherwise authorized by the City Council through the PUD approval process. No building within this PUD Phase II shall exceed 40 feet in height with the exception of specific architectural features (50 feet maximum) except as otherwise authorized by the City Council through the PUD approval process.
4. Rooflines shall vary in height and shall incorporate a maximum of two varying roof types (e.g., hip, gable).
5. Structures shall incorporate breaks in horizontal planes by stepping or staggering setbacks and recessing windows and entrances, to provide substance and scale.
6. Doors and windows shall be enhanced by use of various sizes and shapes, and highlighted by the use of accent trim (e.g. molding, pop-out or wood trim). The design shall be complementary to the architectural style of the PUD.
7. All exterior wall elevations visible from and/or facing public roadways shall have architectural treatment.
8. Façade architectural treatment shall be applied to all building elevations with the same degree of detail as the building entrance.
9. No franchise architecture shall be permitted.
10. Buildings situated or near the front setback shall provide public access from the side(s) of the buildings at or near the front setbacks.
11. Building design shall be compatible with the immediate environment and provide harmonious transition between various uses.
12. No mechanical equipment shall be exposed on the wall surface of any building.
13. Mechanical and utility equipment shall be located below the roofline or parapet wall and out of public view. Location within the building or at ground level is preferred to roof-mounting. When such equipment cannot be so located, all roof-mounted mechanical equipment or ductwork which projects vertically above the roof or roof parapet shall be screened by an enclosure which is detailed consistently with the building design.
14. Gutters and downspouts shall be located interior to the wall when facing a roadway frontage. All other gutters and downspouts that cannot be located interior to the wall shall be treated to blend into the façade to which it is attached, unless used as a major design element, in which case the color shall be consistent with the color schemes of the building.
15. Any outdoor storage of goods, materials or equipment shall be limited to 8 feet in height and screened from view of any roadway or adjacent property. The screening shall be designed as an integral part of the building design and site layout. Chain link fencing with wood inserts is not an acceptable manner of screening.
16. Trash enclosures shall be constructed of solid masonry material, consistent with the building on-site, and shall be a minimum 6 ft. in height, with solid view obstructing gates. Trash enclosures shall be located in inconspicuous locations.

17. Fences and walls shall be designed to be compatible with the surrounding landscape and architectural style of the PUD.
18. Buildings shall be placed at the front setback line for at least 35 percent of the street frontage of the PUD, unless infeasible due to the size or configuration of the property.
19. Provisions for connecting driveways and walkways between adjacent properties within the PUD are to be provided.
20. Convenient pedestrian access shall be provided to commercial uses from residential areas within or adjacent to the PUD.

B. Easements

1. Easements for the installation and maintenance of utilities, walkways, roads, shared driveways, parking and drainage facilities shall be recorded as part of any subdivision map or lot line adjustment.

C. Landscaping

1. The design and location of all landscaping shall be consistent with the Development Plan established for the PUD.
2. The general characteristics of the plant palette for the PUD shall be a combination of year round color and textural interest. Plants shall be selected on the basis of color combinations, growth patterns, low maintenance and water conservation characteristics. At time of installation, all trees shall have a minimum height of eight feet and minimum crown diameter of three feet.
3. All street trees and trees planted within the front setback areas shall have a minimum height of ten feet and minimum crown diameter of four feet.
4. A minimum 30-foot wide landscape area (excluding any landscaping in the right of way) shall be provided adjacent to all public streets within the PUD. Encroachment into this area may be permitted where it can be substantiated that provision of the 30-foot area is impracticable or would result in an undue hardship to the development. Encroachment shall only be allowed to the extent necessary and shall not exceed 50 percent of the required landscape width. Where encroachment is allowed, the reduced width shall be mitigated through additional landscape planting or a combination of an earthen berm and screen wall or both. An encroachment into the 30-ft wide Cochrane Road landscape area shall be permitted only to the extent necessary to allow a drive-thru exit lane for the proposed bank. The encroachment shall be mitigated through the existing berm and additional landscaping.
5. Landscaping shall be placed adjacent to a minimum of 50% of the perimeter of all buildings.
6. Landscaping at the entrance of building shall include box size and/or accent trees with a minimum height of 10 feet and crown width of four feet to create a focal point to help direct people to the buildings=entrances.
7. Native oaks and field stones shall be incorporated into the landscape plan of the PUD.
8. A minimum of 15% of all parking areas shall be landscaped. Required setback and perimeter planting areas shall not be counted in this area, but may include the building perimeter landscaping.
9. Canopy-providing trees shall be planted in the parking lot planter islands to produce shade.
10. Entrances to the PUD shall be well landscaped and serve as a focal points.
11. Shrubs and vine planting shall be provided to screen utilities and trash enclosures.
12. All landscape areas provided (with the exception of areas adjacent to public streets) shall have a minimum width of 5 feet. This includes but is not limited to landscaping

adjacent to buildings, along side and rear property lines, and finger planters within parking lots.

13. All parking areas shall be screened from view of public streets by use of the existing berming.
14. Landscaping shall be used to soften the appearance of fences and walls and building elevations which lack fenestration or other architectural detailing.

D. Lighting

1. The design of the exterior building lighting and parking lot lighting fixtures shall be compatible with the architectural style of the PUD.
2. Parking lot lighting shall be consistent throughout the PUD. The maximum height of the lighting shall be 20 ft. except that lighting standards within 100 ft. of residentially zoned properties shall be limited to a maximum height of 15 ft.
3. Lighting for pedestrian pathways shall be reduced in height and scale, to create a more human-scale feeling and atmosphere.
4. All lighting shall be shielded and directed in such a manner so as not to directly cast light on neighboring properties. Adjustments to the lighting intensity may be required after commencement of the use.

E. Parking and Loading/Circulation

1. Parking shall be screened from public view through the use of berming, hedgerow planting, shrubs, trees, fences or walls, or any combination thereof, provided that no more than 35% of the total screening shall consist of fences or walls. At time of installation, shrub plantings shall be minimum 5-gallon size, trees shall have a minimum height of eight feet and minimum crown diameter of four feet, and berming/fences/walls shall be a minimum 3 ft. in height, as measured from the nearest street curb.
2. No angled parking or one-way drive aisles shall be utilized in any parking lot.
3. Parking areas shall be designed to include provision for pedestrian walkways for access to building entrances. Walkways that cross traffic lanes shall have special design features such as raised and/or textured pavement, narrowed roadway, or combination thereof. Walkways shall be provided through landscaped areas to protect landscaping from foot traffic damage.
4. Reciprocal access and shared parking between properties shall be used, whenever possible.
5. Loading areas and docks shall be screened from view by a solid wall. The wall shall be architecturally treated and screened with landscaping. Loading areas shall not be located adjacent to or visible from public streets.
6. Truck deliveries shall be limited to 6 a.m. to 9 p.m., Sunday through Saturday.
7. Cross access easements and joint-use drive aisles shall be provided throughout the PUD.
8. Drive aisles shall allow for complete circulation within the PUD, with sufficient width for emergency vehicles. Dead end drive aisles shall not be allowed.
9. Shared access easements and driveways shall be used to minimize paved areas and curb cuts.
10. Pedestrian access shall be provided between the adjacent properties.

F. Signage/Displays

1. PUDs which are, due to their location, eligible for freeway signage shall utilize a single freeway sign consistent with the provisions of the City Sign Ordinance.
2. No exterior retail displays shall be allowed.
3. A uniform sign program shall be required for all properties and uses within the PUD.
4. Signage shall be prohibited on the raised architectural features, and shall not extend above the height of the main building elevation.

G. Utilities and Appurtenant Uses/Devises

1. The proposed project will discharge storm drainage to existing storm drain laterals that were stubbed to the site when the Business Park was constructed. The storm drain laterals are connected to the detention pond that provides detention for the entire Park.
2. All backflow devices, fire risers and check valves shall be screened with landscaping.
3. No utility equipment shall be located within the front setback area unless placed within an underground vault. All transformers shall be located interior to the site, outside of the front setback area, and shall be screened with landscape material. * EXCEPTION: If it is determined by P.G. & E. that more than one (1) transformer is required for Buildings 'B, C & D', only one (1) transformer shall be within the parking lot (Building 'C' only).
4. Uses within the PUD that utilize shopping carts shall provide indoor storage of the carts and shall provide for collection areas throughout the parking lots.
5. Vending machines, rides, newspaper racks or any coin-operated devices shall not be placed on the exterior of any buildings.

(End)



ORDINANCE NO. 2018

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ORDINANCE NO. 1764, N.S., TO EXPAND THE LIST OF PERMITTED USES FOR THE MADRONE VILLAGE SHOPPING CENTER LOCATED AT THE NORTHWEST CORNER OF COCHRANE ROAD AND MADRONE PARKWAY

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.070 of the Municipal Code.
- SECTION 3.** The City Council of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis. A Mitigated Negative Declaration was adopted with the associated General Plan and Zoning Amendment applications, and an Addendum to the Mitigated Negative Declaration was approved with the adoption of the precise development plan and PD Guidelines for the Madrone Village Shopping Center. The custodian of the documents or other material which constitute the record shall be the Community Development Department.
- SECTION 4.** The City Council finds that the proposed PD Overlay District is consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code and Council Ordinance No. 1764, New Series (APNs 726-33-029 thru -031).
- SECTION 5.** The City Council hereby approves an amendment to the '*Planned Unit Development Guidelines for the Madrone Village Shopping Center, Morgan Hill, CA*' adopted as part of Council Ordinance No. 1764, New Series, as listed below. All other provisions of the planned developed zoning established and approved by Ordinance No. 1764, New Series, shall still apply.

Permitted Uses

- Retail Stores
- Restaurants
- Offices and Professional Offices (~~excluding including~~ medical, and dental ~~and/or health-related~~ offices)
- Financial Services
- Personal Services
- Business and Trade Schools

- Specialty Grocery Stores, not to exceed 15,000 sf
- Drug Stores
- *Commercial Recreation Uses 3,000 sq. ft. or less in area (exclusive of parking)*

Conditional Uses

- Day Care Centers/Nursery Schools
- Commercial Recreation *greater than 3,000 sq. ft.*
- Gasoline Service Stations (including ancillary convenience stores)
- Drive-thru uses
- Grocery Stores exceeding 15,000 sf but less than 50,000 sf
- Any other use which the Planning Commission finds to be of similar nature to the permitted uses and conditional uses specified above

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.

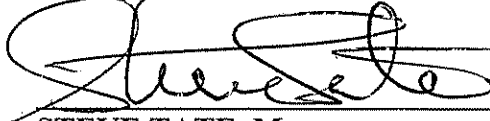
The foregoing ordinance was introduced at a meeting of the city council held on the 20th day of July 2011 and was finally adopted at a meeting of the city council held on the 27th day of July, 2011 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:	Carr, Constantine, Librers, Tate
NOES:	COUNCIL MEMBERS:	Siebert
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

ATTEST:


JULIE DRIMAKIS, Deputy City Clerk

APPROVED:


STEVE TATE, Mayor

Effective: August 27, 2011

~ CERTIFICATION ~

I, JULIE DRIMAKIS, DEPUTY CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2018 adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the 27th day of July, 2011.

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

DATE: 8/29/2011


JULIE DRIMAKIS, Deputy City Clerk

2006 Addendum and 2004 Mitigated Negative Declaration

ADDENDUM TO A NEGATIVE DECLARATION COCHRANE -TBI PROJECT FEBRUARY 2006

Purpose of Addendum

The purpose of this Addendum is to document the environmental impacts associated with a proposed change in which a Mitigated Negative Declaration has been adopted. CEQA allows Lead Agencies to prepare an Addendum to an Initial Study/Mitigated Negative Declaration when it can be demonstrated that the changes to the project – and the environmental impacts from such changes – are minor, when compared to the original scope of the project and the original impacts.

Description of Proposed Change to the Project

The original scope of the project, as evaluated in the Cochrane-TBI Project Expanded Initial Study/Mitigated Negative Declaration (IS/MND) adopted October 7, 2004, included an amendment to the General Plan land use designation and rezoning of a 7.72-acres site in the Madrone Business Park to *Commercial* and *Planned Unit Development (PUD)*, respectively. The project also proposed to construct an approximately 80,000 square foot commercial development on the project site. At the time the IS/MND was prepared there was not precise development plan for the site.

The applicant now has a precise development plan for the site. The plan includes 76,897 square feet of commercial development. The single-story retail shopping center is proposed to be constructed in two phases. Phase I would include a bank and other small retail uses totaling 28,265 square feet in four buildings and Phase II would include the anchor retail totaling 48,632 square feet in one building.

Environmental Impacts of the Proposed Change to the Project

The original project evaluated the construction of an 80,000 square foot commercial shopping center, paved surface parking, and landscaping on a 7.72 acre site. The proposed precise development plan proposes construction of a 76,897 square foot commercial shopping center, paved surface parking, and landscaping on a 7.72 acre site. The traffic report for the IS evaluated an 80,000 square foot commercial shopping center. Therefore, since the applicant is now proposing a 76,897 square foot commercial development, the traffic study is a conservative projection of the project's traffic impacts and would adequately address the proposed development.

The proposed project site would contain a surface parking lot with 398 spaces. Section 18.50.020 of the Morgan Hill Municipal Code establishes minimum parking space standards based on the nature and size of a given use. Based on the Municipal Code, the project is required to provide 307 parking spaces. Therefore, the project is consistent with the City's parking standards.

All of the original project's impacts and proposed mitigation and avoidance measures will be the same. Therefore, the revised project will not result in any new impacts that were not already addressed in the Initial Study.

Conclusion

Based on the above discussion, it is concluded that the proposed change in the scope of the project will not result in any new environmental impacts. Nor will the revised project result in an increase in

the magnitude of previously-identified environmental impacts. Therefore, no further environmental review is required pursuant to CEQA Section 15162 and 15164. This Initial Study Addendum will be included in or attached to the Initial Study/Mitigated Negative Declaration and the City of Morgan Hill will consider the addendum with the IS/MND, prior to making a decision on the proposed precise development plan.

E12012



COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT:

Date: August 6, 2004

Application No.: GPA-04-05/ZA-04-11: Cochrane - TBI

APN: 726-33-028

Address of Project: The project site is located at the northwest corner of Cochrane Road and Madrone Parkway in the Madrone Business Park.

Applicant: Brad W. Krouskup
TBI/MADRONE II, LLC
1960 The Alameda
San Jose, CA 95126

Project Description: The applicant is requesting to amend the General Plan land use designation and zoning designation of a 7.72-acre area in the Madrone Business Park to Commercial and Planned Unit Development (PUD), respectively. The current land use and zoning designations are Industrial and ML, Light Industrial.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- ☐ The proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** is hereby adopted.
- ☒ Although the project, as proposed, could have had a significant effect on the

Attachment: 2006-2004 Addendum and Mitigation Negative Declaration (MND) (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

environment, there will not be a significant effect in this case because mitigation measures have been added to the project, and, therefore, a **MITIGATED DECLARATION** is hereby adopted.

III. FINDINGS

Based on the findings of the Initial Study, the proposed project will not have a significant effect on the environment for the following reasons:

1. The project does not have the potential to significantly degrade the quality of the environment, including effects on animals or plants, or to eliminate historic or prehistoric sites.
2. The project will not have any significant adverse impacts on traffic or land use.
3. The project will not generate significant adverse effects on the water, air quality, or increase noise levels substantially.
4. In addition, the project will not:
 - a. Create significant impacts which achieve short-term, to the disadvantage of long-term environmental goals.
 - b. Create impacts which are individually limited, but cumulatively considerable to a significant degree.
 - c. Create environmental effects which will cause significant adverse effects on human beings, either directly or indirectly.

IV. CONDITIONS:

Water

- W-1. The project shall include post-construction structural controls including Best Management Practices (BMP) for reducing contamination in stormwater runoff, such as swales, drop inlets, etc. (i.e., permanent features of the project).
- W-2. Construction practices shall include use of erosion control devices, including hay bales and/or Petromat, and on-site retention to minimize contamination of stormwater runoff.
- W-3. Whenever possible, dust-proof chutes shall be used for loading construction debris onto trucks.
- W-4. All trucks removing debris from the site shall be covered.
- W-5. Internal haul roads shall be paved, sealed or stabilized to control dust from truck traffic. Paved haul roads shall be regularly swept or cleaned to remove accumulated dust.
- W-6. The project shall implement regular maintenance activities including sweeping, cleaning stormwater inlets, and litter control at the site to prevent soil, grease, and litter from accumulation on the project site and contamination of surface runoff. Stormwater

E12012

GPA-04-05/ZA-04-11: Cochrane – TBI
Mitigated Negative Declaration

- catch basins shall be stenciled to discourage illegal dumping.
- W-7. The applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) (or, if a SWPPP has already been prepared, revise the SWPPP as necessary to reflect the current project) for the review and approval by the State Water Resources Control Board (SWRCB). The new or updated SWPPP shall be prepared by the project sponsors, who shall provide a copy to the City along with evidence of its approval by the SWRCB.

Air Quality

- AQ-1. Water all active construction areas at least twice daily.
- AQ-2. Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
- AQ-3. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- AQ-4. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- AQ-5. Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- AQ-6. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- AQ-7. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- AQ-8. Enclose, cover, water twice daily or apply non-toxic binders to exposed stockpiles (dirt, sand, etc.).
- AQ-9. Limit traffic speeds on unpaved roads to 15 mph.
- AQ-10. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- AQ-11. Replant vegetation in disturbed areas as quickly as possible.

Transportation/Circulation

- T/C-1. Insufficient vehicle storage is available at the northbound left-turn lane at the project driveway on Madrone Parkway. To mitigate the impact, U-turns at the intersection shall be prohibited. Also, the northbound left turn lane shall be channelized between median treatments to provide entry to the project only. The median treatment shall extend back beyond the gas station driveway and improvements shall be provided which may include a pork chop at the gas station driveway and the provision of NO U-TURN signs. The applicant shall prepare a concept design for review and approval by the Public Works Department to determine the detail requirements of the required improvements.
- T/C-2. The project shall provide a right-turn lane for inbound traffic on Cochrane Road at the project driveway.
- T/C-3. The project shall provide right-of-way (ROW) for the third southbound left-turn lane at the intersection of Cochrane Road/Madrone Parkway. The lane shall extend back to the Woodview intersection to accommodate the expected queue demand. The applicant shall prepare a concept design for review and approval by the Public Works Department to determine the actual ROW, roadway widening and layout.

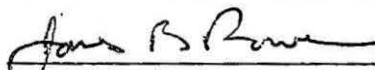
- T/C-4. The project shall provide ROW for the additional third westbound through lane at the intersection of Cochrane Road/Madrone Parkway. The applicant shall prepare a concept design for review and approval by the Public Works Department for the required improvements to determine the actual ROW, roadway widening and layout.
- T/C-5. The project shall contribute to the traffic impact fees of the City of Morgan Hill for the project's incremental contribution to the City-wide traffic impact mitigations.
- T/C-6. Frontage improvements as required by the Public Works Department shall be completed on Cochrane Road including the reconstruction of curb, gutter and sidewalk where the right turn lane and the driveway would be located.

Biological Resources

- BR-1. The project shall comply with the Citywide Burrowing Owl Habitat Mitigation Plan, including but not limited to the payment of the development mitigation fee and completion of a preconstruction Burrowing Owl survey no more than 30 days before initial ground disturbance.
- BR-2. Prior to approval of any further entitlement, an arborist study shall be completed to evaluate the type, health and condition of existing trees. The study shall identify measures to protect any trees proposed to be retained, and the project applicant shall be subject to compliance with these tree protective measures. Removal of any tree shall be subject to compliance with Chapter 12.32 of the Morgan Hill Municipal Code, Restrictions on Removal of Significant Trees.

Noise

- N-1. The project applicant shall implement the following construction period measures to reduce construction noise impacts to a less than significant level:
- (a) Based on the City of Morgan Hill Noise Ordinance, limit noise-generating construction activities, including truck traffic to and from the project site, to daytime hours (7:00 am to 8:00 pm) during normal weekdays and between 9:00 am and 6:00 pm on Saturdays. Prohibit activities on Sundays and federal holidays;
 - (b) Properly muffle and maintain all internal combustion engines for construction equipment used on the site; and
 - (c) Locate all stationary noise-generating construction equipment, such as air compressors, crushers, and portable power generators, as far as practical from existing businesses.



James Rowe

Interim Community Development Director

Date: 10-7-04

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Addendum to an Initial Study/Mitigated Negative Declaration

Madrone Village Hotel Project

File Nos.: AAE 2018-0005: Cochrane-TBI
SD 2018-0003: Cochrane-TBI
SR2018-0010: Cochrane-Fairfield Inn
SR2018-011: Cochrane-Home 2 Suites



January 2019

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ACRONYMS AND ABBREVIATIONS

CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
MND	Mitigated Negative Declaration
NOD	Notice of Determination
RWQCB	Regional Water Quality Control Board
USFWS	United States Fish and Wildlife Service

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

SECTION 1.0 INTRODUCTION AND PURPOSE

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is completed and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusion in the environmental document.

In 1997, an Initial Study/Mitigated Negative Declaration was adopted by the City of Morgan Hill for a General Plan Amendment and Zoning Amendment at the northwest corner of Cochrane Road and Madrone Parkway (APN 726-33-028) in Morgan Hill. The zoning was amended to *Planned Unit Development* and minimum development standards were established in accordance with Section 18.30.090 of the Morgan Hill Municipal Code.

In October of 2004, an Expanded Initial Study/Mitigated Negative Declaration (IS/MND) was adopted by the City of Morgan Hill for the Cochrane-TBI Project. The development project proposed an amendment to the General Plan land use designation and a rezoning of a 7.72-acres site in the Madrone Business Park to *Commercial* and *Planned Development (PD)*, respectively. The project also proposed the construction of approximately 80,000 square feet of commercial use buildings. At the time of approval, there was not a precise development plan for the project site.

In February of 2006, an Addendum to the IS/MND for the Cochrane-TBI Project was adopted by the City of Morgan Hill which assessed potential environmental impacts resulting from a precise development plan for the project site. The plan included 76,897 square feet of commercial development in the form of a single-story retail shopping center, to be constructed in two phases. Phase I included a bank and other small retail uses totaling 28,265 square feet in four buildings, and Phase II included an anchor retail store (grocery store) totaling 48,632 square feet in one building. Since the time of the previous addendum in 2006, changes have been proposed to the project which require additional analysis under CEQA. The purpose of this Addendum is to evaluate the environmental impacts of a proposed amendment to the current Planned Development zoning to allow for the addition of two hotels totaling 206 rooms on the site (see Section 3.1 *Proposed Changes to the Approved Project*). The 48,632 square feet of commercial space, previously approved for use as a grocery store, is proposed to be used instead as space to accommodate the development of the two hotels.

The CEQA Guidelines §15162 state that when an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken that will require major revisions of the previous EIR or negative declaration, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164 states that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in §15162 (see above) calling for preparation of a subsequent EIR have occurred.

Given the proposed project description and knowledge of the project site disseminated through the preparation and circulation of the 2004 Cochrane-TBI IS/MND and 2006 Addendum to the Cochrane-TBI Expanded IS/MND, the City of Morgan Hill has concluded that the proposed amended project would not result in any new impacts not previously disclosed through prior analysis, nor would it result in a substantial increase in the magnitude of any significant environmental impact identified in the 2004 Cochrane-TBI IS/MND or the 2006 Addendum to the IS/MND. Therefore, a Supplemental or Subsequent EIR or Subsequent MND is not required and an Addendum has been prepared for the proposed project.

This Addendum will not be circulated for public review, but will be attached to the 2004 Cochrane-TBI Initial Study, pursuant to CEQA Guidelines §15164(c). All documents referenced in this Initial Study/Addendum are available for public review in the Community Development Department at the City of Morgan Hill during normal business hours.

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Madrone Village Hotel Project Addendum

2.2 LEAD AGENCY CONTACT

Terry Linder, Senior Planner
 City of Morgan Hill
 Community Development Services, Planning Division
 17575 Peak Avenue
 Morgan Hill, CA 95037
 (408) 778-6480
terry.linder@morganhill.ca.gov

2.3 PROJECT APPLICANT

Jigish Shah
 MMP Properties
 1150 N. Mountain Avenue, Ste. 102
 Upland, CA 91786
 (909) 477-1447
jigish@mmp72.com

2.4 PROJECT LOCATION

The project site is located at the southwest corner of Madrone Parkway and Woodview Avenue, approximately 400 feet north of Cochrane Road in the City of Morgan Hill, California. The project location is shown on the following Figures 2.4-1 (Regional Map), 2.4-2 (Vicinity Map), and 2.4-3 (Aerial Photograph and Surrounding Land Uses).

2.5 ASSESSOR'S PARCEL NUMBER

726-33-029

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

The project site has a General Plan land use designation of Commercial, and is currently zoned Planned Development (PD).

2.7 HABITAT PLAN DESIGNATION

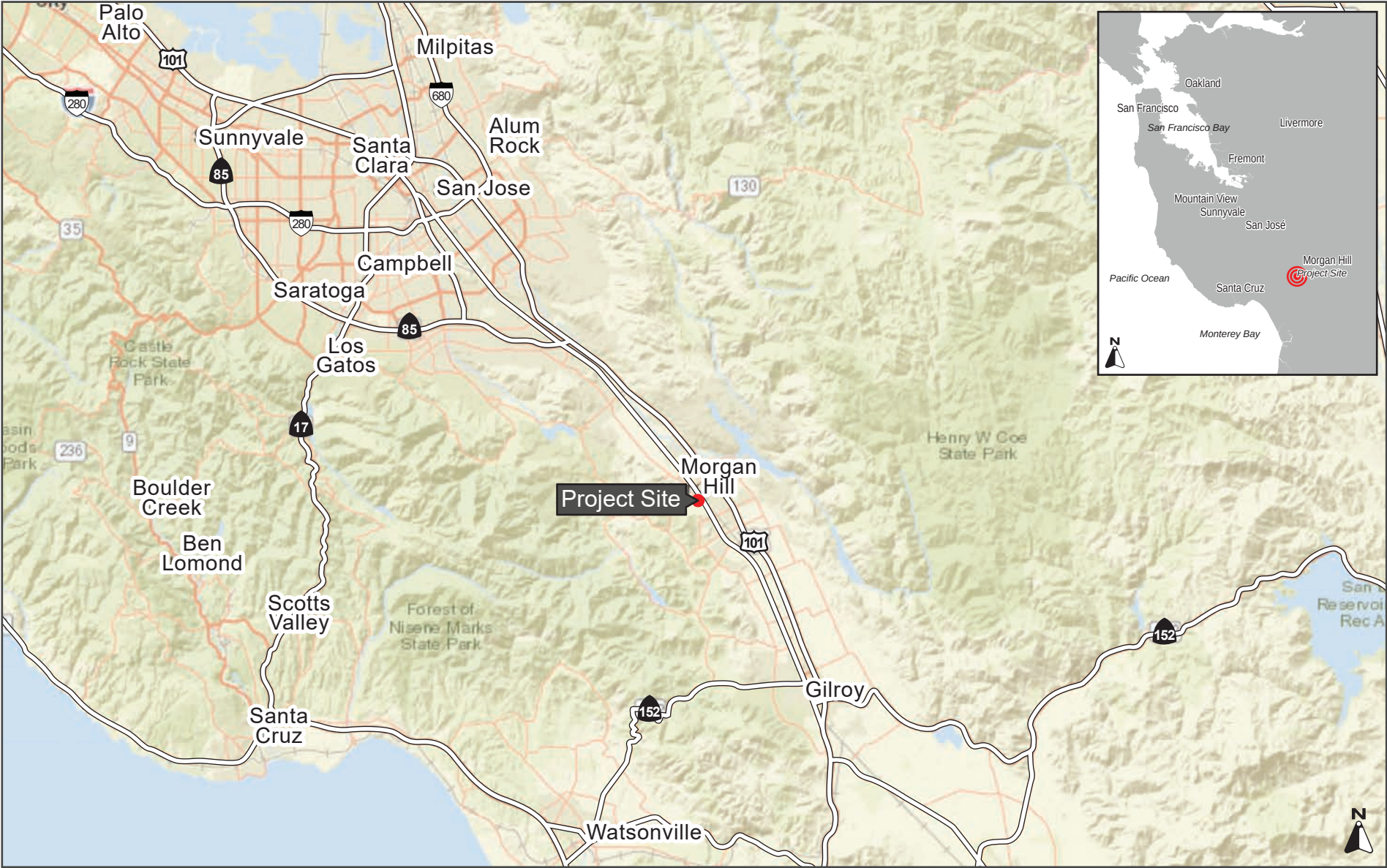
The project site is located within the Santa Clara Valley Habitat Conservation Plan area, and has a designation of Private Development Covered.

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

The proposed hotel development project requires the following City of Morgan Hill approvals:

- Zoning Amendment Application
- Development Approval Amendment Application
- Subdivision Application
- Site Review Application

In addition, construction of the proposed hotel project would also necessitate obtaining grading and building permits in conformance with City requirements.



REGIONAL MAP

FIGURE 2.4-1

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b):



VICINITY MAP

FIGURE 2.4-2

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b):



AERIAL PHOTOGRAPH AND SURROUNDING LAND USES

FIGURE 2.4-3

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b):

SECTION 3.0 PROJECT DESCRIPTION

3.1 PROPOSED CHANGES TO THE APPROVED PROJECT

The proposed project would amend the existing Planned Development zoning to allow for the addition of two hotels totaling 206 rooms on the site, replacing the previously approved 48,632 square feet of retail/commercial use. The zoning amendment would increase the allowable height limit to allow for architectural features on the proposed four story hotels to project above 40 feet, and modify development standards to support the proposed hotel architecture, landscape, and site development needs. The proposed hotel buildings have maximum heights of 61 feet. The currently vacant 4.4-acre parcel (APN 726-33-029) would be subdivided into one 2.0-acre parcel and one 2.4-acre parcel, with each parcel being developed for use as a hotel.

3.2 SUMMARY OF PREVIOUSLY APPROVED PROJECT

The previously approved project consists of a 76,897-square foot commercial development on a 7.72 acre site, with construction to be completed in two phases. Phase I of the approved project, which has been constructed and is currently occupied, consists of four commercial/retail buildings, including a bank with a drive-through lane, totaling 28,265 square feet. The buildings are located along the Cochrane Road and Madrone Parkway frontages of the site, with surface parking located in the interior of the site. Single driveways on Cochrane Road and Madrone Parkway provide vehicle access to the interior parking lot. Sidewalks and walkways leading to the commercial buildings are provided along the street frontages. Phase II proposed a single-story grocery store, totaling 48,632 square feet. The area of the project site designated for Phase II development is currently vacant.

3.3 PROJECT DESCRIPTION

This Addendum provides project-level CEQA analysis for a Development Agreement and Planned Development Zoning Amendment for the proposed development of two hotels on the 4.4-acre Phase II site of the Madrone Village Shopping Center. The site is designated *Commercial* in the City of Morgan Hill's General Plan and is currently zoned *Planned Development (PD)*. Approval of the project would amend the Planned Development (PD) zoning designation to allow hotel uses and modify the development standards and parking requirements accordingly.

The two hotels, Fairfield Inn & Suites and Home 2 Suites, will be located on lots of 103,553 square feet and 88,624 square feet, respectively. Fairfield Inn & Suites will provide 107 rooms and 118 parking stalls, while Home 2 Suites will provide 99 rooms and 109 parking stalls. Fairfield Inn & Suites will be 63,054 square feet in size and Home 2 Suites will be 55,078 square feet in size. Both hotels will be four stories in height. The site layout and preliminary landscape concept are shown on Figure 3.3-1, and conceptual building elevations are shown on **Figures 3.3-2 through 3.3-5.**

3.3.1 Project Site

The proposed project is located south of the intersection of Woodview Avenue and Madrone Parkway, and northwest of the intersection of Cochrane Road and Madrone Parkway, in the Madrone Village Shopping Center. Surrounding uses are primarily retail and commercial, with another vacant lot present across Woodview Avenue, which has a General Plan designation of *Industrial* and is zoned for *Light Industrial (ML)*. A landscaped area consisting of manicured grass and trees separates

the northern edge of the project site from Woodview Avenue, and a landscaped area consisting of manicured grass and sparse trees separates the eastern edge of the project site from Madrone Parkway. There are existing light industrial buildings southwest of the site, separating the site from Sutter Boulevard. The four commercial/retail buildings previously approved and constructed as a part of Phase I in the 2006 Cochrane-TBI Project are located south of the project site, with a 398-stall parking lot separating the existing commercial buildings from the project site. Ground-level views of the site and surrounding area are shown on the following Photo exhibits.

3.3.2 Planned Development Zoning Amendment

The City of Morgan Hill adopted Ordinance No. 1764 in 2006 following the submittal of a precise development plan for the Madrone Village Shopping Center at the northwest corner of Cochrane Road and Madrone Parkway. Ordinance No. 1764 amended the City of Morgan Hill's Zoning Code to allow for the development of five commercial buildings on a 7.72-acre site in accordance with the precise development plan and established Planned Development Guidelines for the project site. The Guidelines set parameters for allowed and conditional uses and set development standards for all future commercial development on the site. The proposed project would amend Ordinance No. 1764 to allow hotels as a permitted use and modify the commercial development standards to align with the architectural and landscape design standards of the proposed hotels.

3.3.3 Site Access and Parking

Vehicular access to the site would be provided by the two currently existing driveways on Cochrane Road, southeast of the site, and Madrone Parkway, east of the site. On Cochrane Road, entry is only permitted for traffic moving in a southwestern direction due to the presence of a median, and can be accessed via right-turn only. On Madrone Parkway, vehicular traffic moving in both directions can access the site, with a left-turn lane provided for traffic moving in a northwestern direction. No alterations or improvements to circulation patterns in the vicinity of the project site are proposed by the applicant.

The applicant proposes a total of 383 parking stalls to accommodate guests at both hotels. Paved surfaced parking will surround each hotel, with 118 parking stalls designated for Fairfield Inn & Suites and 109 parking stalls designated for Home 2 Suites. Construction of Home 2 Suites will partially infringe on existing retail parking, however 156 parking stalls will be retained for retail usage as part of the proposed project.



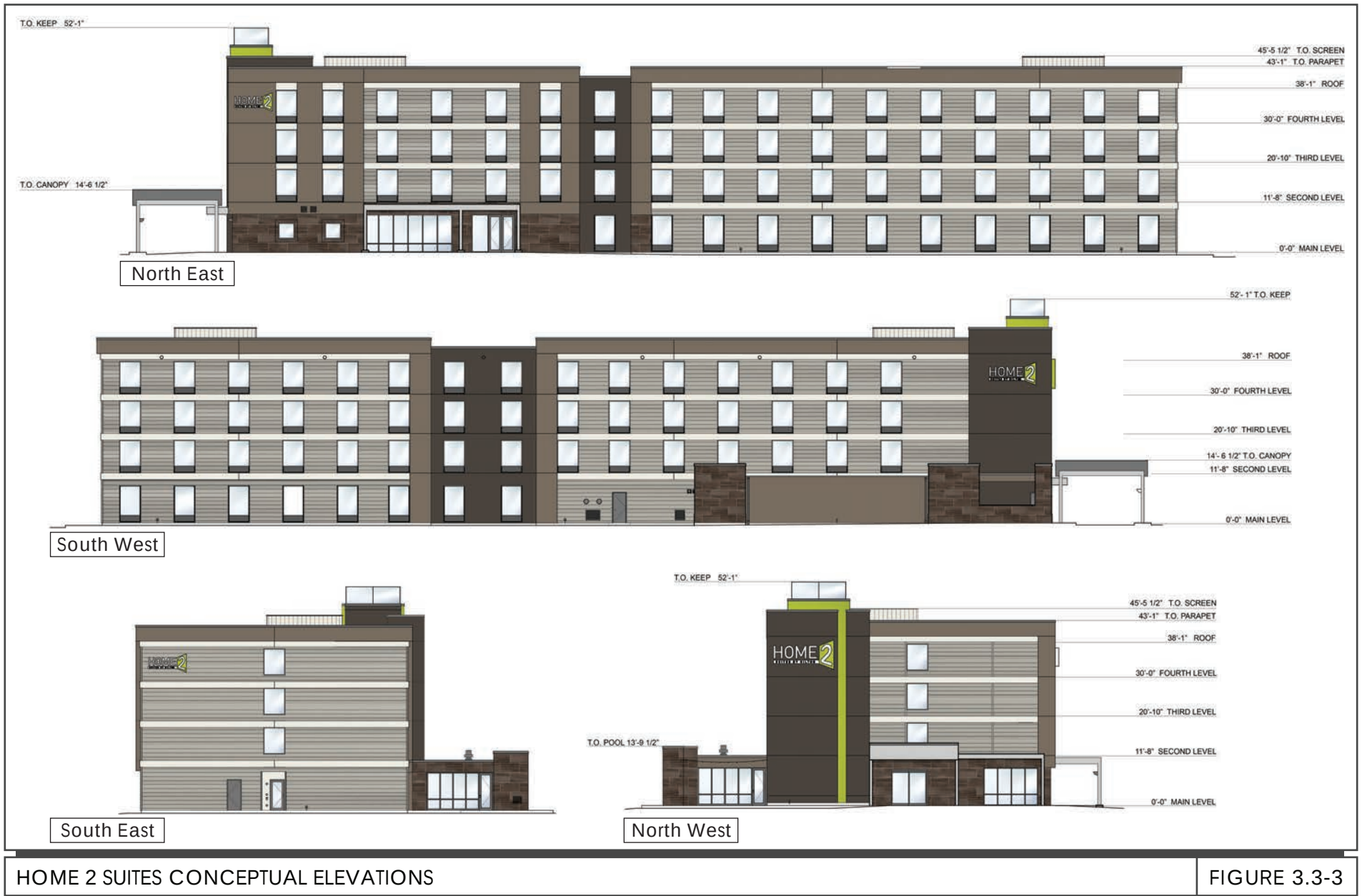
PRELIMINARY LANDSCAPE PLAN

FIGURE 3.3-1



FAIRFIELD INN CONCEPTUAL ELEVATIONS

FIGURE 3.3-2



Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b)):



Photo 1: Viewing east across the project site towards the Phase I development, from Woodview Avenue.



Photo 2: Viewing east along the northern boundary of the project site on Woodview Avenue.

PHOTOS

1 & 2



Photo 3: Viewing south along the eastern boundary of the project site on Madrone Parkway.



Photo 4: Facing towards Madrone Parkway from the southwest corner of the project site.



Photo 5: Viewing north towards the western boundary of the project site from the existing parking lot.



Photo 6: Viewing northwest from the southeastern corner of the project site at Madrone Parkway.

SECTION 4.0 ENVIRONMENTAL CHECKLIST AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise and Vibration
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

- **Environmental Setting** – This subsection 1) provides a brief overview of relevant plans, policies, and regulations that compose the regulatory framework for the project and 2) describes the existing, physical environmental conditions at the project site and in the surrounding area, as relevant.
- **Checklist and Discussion of Impacts** – This subsection includes a checklist for determining potential impacts and discusses the project’s environmental impact as it relates to the checklist questions. For significant impacts, feasible mitigation measures are identified. “Mitigation measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines Section 15370). Each impact is numbered using an alphanumeric system that identifies the environmental issue. For example, **Impact HAZ-1** denotes the first potentially significant impact discussed in the Hazards and Hazardous Materials section. Mitigation measures are also numbered to correspond to the impact they address. For example, **MM NOI-2.3** refers to the third mitigation measure for the second impact in the Noise section.
- **Conclusion** – This subsection provides a summary of the project’s impacts on the resource.

Important Note to the Reader

The California Supreme Court in a December 2015 opinion in *California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (*BIA v. BAAQMD*) confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of Morgan Hill has policies that address existing conditions affecting a proposed project, which are also discussed in this Addendum. This is consistent with one of the primary objectives of

CEQA, which is to provide objective information to decision-makers and the public. The CEQA Guidelines and the courts are clear that a CEQA can include information of interest even if such information is not an environmental impact as defined by CEQA.

Therefore, in addition to describing the impacts of the project on the environment, this Addendum will discuss operational issues as they relate to City of Morgan Hill policies. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, geologic hazard zone, high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Existing Conditions*

The 4.4-acre project site is located in central Morgan Hill in the southwest quadrant of the Madrone Parkway and Woodview Avenue intersection. The project site is a flat, undeveloped field covered with non-native grasses and invasive weeds. Landscaped areas consisting of maintained grass and sparse trees border the project site on Woodview Avenue and Madrone Parkway. Denser shrubs and trees are present on the western border of the site, separating the project site from two existing light industrial buildings.

4.1.1.2 *Surrounding Visual Character*

The project site is surrounded by developed and undeveloped parcels. Across Woodview Avenue to the north, there is an existing vacant lot zoned for *Light Industrial (ML)* with a General Plan land use designation of *Industrial*. The adjacent vacant lot is similar in appearance to the project site (non-native grasses and invasive weeds) and is bordered by well-maintained landscaping. Across Madrone Parkway to the east, there are two three-story hotels, a gas station, and several commercial buildings. South of the site, there are four single-story commercial buildings, separated from the project site by a paved parking lot with landscaped parking stalls developed as Phase I of the 2006 project. West of the site, there are two single-story industrial buildings with brick exteriors, separating the site from Sutter Boulevard. Sidewalks border the project site on Madrone Parkway and Woodview Avenue, running parallel to the maintained landscaping.

4.1.1.3 *Scenic Vistas and Resources*

Due to the flat topography, existing development, and large trees in the project area, views of the project site are limited to the immediate vicinity. The site is not located within a designated scenic view corridor or visible from a designated scenic highway. The nearest state-designated highway is State Route (SR) 9, approximately 20 miles west of the site (at the SR 17 interchange).¹

4.1.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	☐	1, 2

¹ California Department of Transportation. "California Scenic Highway Mapping System: Santa Clara County." Accessed July 30, 2018. Available at: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	☐	1, 2, 5
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒	☐	1, 2
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	☐	1, 2

4.1.2.1 *Impacts to Scenic Views or Scenic Resources (Checklist Questions a and b)*

The project site is not located along a state scenic highway. Views of the project site area are limited to the immediate area. The nearest residential area to the site are single family residences located approximately 0.25 miles north of the site, on Calle Moniz. Residential views of the hillsides across Highway 101 will not be impacted by the proposed project due to the distance of residences from the project site and the scale of proposed development.

The project does not propose to remove any of the existing landscaping on Woodview Avenue and Madrone Parkway. Shrubs and trees separating the site from adjacent industrial buildings on Sutter Boulevard will be left intact. Trees are considered visual resources in urban environments since they contribute to aesthetic interest and character. By leaving the present trees and landscaping intact as part of the project design, impacts to scenic resources can be avoided.

Development of this site would not have a significant adverse effect on a scenic vista or damage scenic resources within a state scenic highway. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.2.2 *Impacts to Visual Character (Checklist Question c)*

The proposed project would subdivide an existing 4.4-acre lot into a 2.0-acre parcel and a 2.4-acre parcel, both for development as hotels with paved surface parking. While development under the proposed project would change the existing visual character of the undeveloped project site, the proposed commercial buildings would be similar in scale to the existing development in the project area and would not constitute a significant adverse change to the aesthetic environment. Surrounding uses of the site are commercial/retail and light industrial. The proposed development would not conflict with any of these uses and would complement adjacent developments as a mix of commercial and retail. Furthermore, the commercial development to the east of the project site

consists of two hotels and three single-story commercial buildings, consistent in visual character and size with the proposed development. All development on the site would be subject to review and approval by the City of Morgan Hill Design Permit process to ensure the development meets local design and aesthetic standards. Architecture and landscape plans will be subject to review and approval by the Morgan Hill Architectural Review Board to ensure compatibility with the surrounding built environment. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.2.3 *Light and Glare Impacts (Checklist Question d)*

The proposed development of two hotels on the project site would incrementally increase light and glare in the project area, due to the new reflective surfaces of the buildings and outdoor lighting on the site and vehicles traveling to and from the site. These new sources of light and glare from the project would be similar in character to light and glare from the nearby existing commercial and light industrial development. Building design, glazing materials and outdoor lighting would be subject to review by the City of Morgan Hill Design Permit process for conformance with City standards. The project would be required to comply with the City's Commercial and Industrial Performance Standards for glare. For these reasons, development on the site under the proposed project would not result in a new source of substantial light or glare that would affect day or nighttime views in the area. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.1.3 Conclusion

The proposed development of two hotels with associated landscape and architectural features would be subject to review by the City of Morgan Hill's Design Permit Process for compatibility with surrounding uses, and for its compliance with the City's Commercial and Industrial Performance Standards for light and glare. Thus, the proposed project would not result in significant aesthetic impacts. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

The project site is not used for agricultural production and is not the subject of a Williamson Act contract. No land adjacent to the project site is used for agricultural production. The City of Morgan Hill General Plan Land Use Diagram designates the project site *Commercial*, and the Zoning Map designates the project site *Planned Development (PD)*. The land in the project vicinity is also designated and zoned for urban uses. Existing development adjacent to the site includes commercial, light industrial, and residential uses. The land on and adjacent to the site is not forest land or timberland, or zoned for timberland production. According to the Santa Clara County Important Farmland 2014 Map, the surrounding area is designated *Urban and Built-up Land*.

There are four farmland categories in the California Department of Conservation Farmland Mapping Program: *Prime Farmland*, *Farmland of Statewide Importance*, *Unique Farmland* and *Farmland of Local Importance*. According to the Santa Clara County Important Farmland 2014 Map, the project site is designated *Farmland of Local Importance*, which is defined as land with small orchards and vineyards, primarily in the foothill areas, and land cultivated as dry cropland for grains and hay.² The project site is not subject to a Williamson Act contract.

4.2.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	☐	1, 2, 4
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	☐	1, 2, 4

² California Department of Conservation, Division of Land Resource Protection, Farmland Mapping and Monitoring Program. *Santa Clara County Important Farmlands Map 2014*. Map. October 2016.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	☐	1, 2
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1, 2
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	☐	1, 2, 4

4.2.2.1 Agricultural and Forest Resources (Checklist Question a-e)

The City of Morgan Hill adopted its Agricultural Lands Preservation Program (Preservation Program) in November 2014 to preserve potential agricultural land subject to development. Lands classified as *Prime Farmland*, *Farmland of Statewide Importance*, *Unique Farmland*, *Farmland of Local Importance*, or *Grazing Land* under the California Department of Conservation Farmland Mapping Program are covered under the Preservation Program. The project site is designated *Farmland of Local Importance* and would be required to comply with Preservation Program's mitigation measures as detailed in the Agricultural Mitigation Ordinance (ZA-14-11). The loss of Farmland of Local Importance was a result of development of Phase I commercial on a portion of the site, and would be a result of development of the rest of the site Phase II development of either the approved grocery store of the proposed hotels. The proposed project would pay all applicable agricultural preservation in-lieu fees and/or provide sufficient agricultural conservation easements at a 1:1 ratio.³ The project site is not a forest resource, nor are there forest lands in its vicinity. For these reasons, the project would not impact agricultural or forest resources. **[Same Impact as Approved Project (Less than Significant Impact)]**

³ Chapter 18.152 of the Morgan Hill Municipal Code.

4.2.3 Conclusion

The proposed project would not result in any new or more significant impacts to agricultural, forestry or timberland resources on the project site or project area than the approved project. **(Less than Significant Impact)**

4.3 AIR QUALITY

The following discussion is based, in part, on an air quality and greenhouse gas emissions assessment prepared by *Illingworth & Rodkin, Inc.* A copy of the report, dated December 2018, is included in Appendix A of this Addendum.

4.3.1 Environmental Setting

Air quality and the amount of a given pollutant in the atmosphere are determined by the amount of pollutant released and the atmosphere's ability to transport and dilute the pollutant. The major determination of transport and dilution are wind, atmospheric stability, terrain, and, for photochemical pollutants, sunlight.

The project site is located at the south end of the Santa Clara Valley, within the San Francisco Bay Area Air Basin. The region typically has moderate ventilation and frequent inversions that restrict vertical dilution. The Santa Cruz Mountains and Diablo Range, located on either side of the Santa Clara Valley, restrict horizontal dilution. The surrounding terrain results in a prevailing wind that follows along the valley's northwest-southeast axis. The combined effects of these geographical and meteorological factors make air pollution potential in the Santa Clara Valley quite high. The San Francisco Bay Area, however, is considered to be one of the cleanest metropolitan areas in the country, with respect to air quality.

The undeveloped project site generates no air pollutant emissions, except for dust from wind blowing across unvegetated areas of the site.

4.3.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

Federal, state, and regional agencies regulate air quality in the San Francisco Bay Area Air Basin, within which the proposed project is located. At the federal level, the US Environmental Protection Agency (EPA) is responsible for overseeing implementation of the federal Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the state agency that regulates mobile sources throughout the state and oversees implementation of the state air quality laws and regulations, including the California Clean Air Act.

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the US EPA to set national ambient air quality standards for six common air pollutants (referred to as "criteria pollutants"): particulate matter (PM); ground-level ozone; carbon monoxide; sulfur oxides; nitrogen oxides; and lead. The US EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. "Attainment" status for a pollutant means that a given Air District

meets the standard set by the US EPA and/or CARB. The Bay Area as a whole does not meet state or federal ambient air quality standards for ground level ozone and fine particulate matter (PM_{2.5}), nor does it meet state standards for respirable particulate matter (PM₁₀). The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants and Fine Particulate Matter (Local Community Risks)

Besides criteria pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air; however, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects. TACs are primarily regulated through state and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. A chemical becomes a regulated TAC in California based on designation by the California Office of Environmental Health Hazard Assessment (OEHHA). Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and accounts for roughly 60 percent of the total cancer risk associated with TACs in the Bay Area. Other TACs found in urban air include lead, benzene and formaldehyde.

Fine Particulate Matter (PM_{2.5}) is a complex mixture of substances that includes elements such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), PM_{2.5} can lodge deeply into the lungs. According to the Bay Area Air Quality Management District (BAAQMD), PM_{2.5} is the air pollutant most harmful to the health of Bay Area residents.

Common stationary sources of TACs and PM_{2.5} include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common mobile source is motor vehicles on roadways and freeways. Unlike regional criteria pollutants, local risks associated with TACs and PM_{2.5} are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and state air quality laws and regulations.

Regional air quality management districts such as BAAQMD must prepare air quality plans specifying how state air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely-related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the plan describes how the BAAQMD will continue its progress toward attaining all state and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other “super-GHGs” that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

City of Morgan Hill 2035 General Plan

Adopted July 27, 2016, the *Morgan Hill 2035 General Plan* includes goals, policies, and actions to improve air quality issues facing the City of Morgan Hill and to reduce greenhouse gas emissions.⁴ The following goals, policies, and actions are applicable to the proposed project:

Air Quality

Goal NRE-11: *Minimized exposure of people to toxic air contaminants such as ozone, carbon monoxide, lead, and particulate matter.*

Policy NRE-11.3: **Health Risk Assessments.** For proposed development that emits toxic air contaminants, require project proponents to prepare health risk assessments in accordance with Bay Area Air Quality Management District procedures as part of environmental review and implement effective mitigation measures to reduce potential health risks to less-than-significant levels. Alternatively, require these projects to be located an adequate distance from residences and other sensitive receptors to avoid health risks. Consult with the Bay Area Air Quality Management District to identify stationary and mobile toxic air contaminant sources and determine the need for and requirements of a health risk assessment for proposed developments

Goal NRE-12: *Minimized air pollutant emissions from demolition and construction activities*

Policy NRE-12.1: **Best Practices.** Requirement that development projects implement best management practices to reduce air pollutant emissions associated with construction and operation of the project.

Climate Change

Goal NRE-15: *An adaptive and resilient community that responds to climate change*

Policy NRE-12.1: **Greenhouse Gas Emission Reduction Targets.** Maintain a greenhouse gas reduction trajectory that is consistent with the greenhouse gas reduction targets of Executive Orders B-30-15 (40 percent below 1990 levels by 2030) and S-03-05 (80 percent below 1990 levels by 2050) to ensure the City is consistent with statewide efforts to reduce greenhouse gas emissions.

⁴ City of Morgan Hill, California (2016). “Chapter 8 Natural Resources and Environment”. *City of Morgan Hill General Plan 2035*. <https://www.morgan-hill.ca.gov/DocumentCenter/View/22839/MH2035-General-Plan---December-2017?bidId=>

4.3.1.1 Existing Conditions

Sensitive Receptors

BAAQMD defines sensitive receptors as facilities where sensitive receptor population groups (children, the elderly, the acutely ill and the chronically ill) are likely to be located. These land uses include residences, school playgrounds, childcare centers, retirement homes, convalescent homes, hospitals and medical clinics. Currently, there are no sensitive receptors adjacent to the project site. The nearest sensitive receptors are single family residences located approximately 0.25 miles north of the site, on Calle Moniz. There are also multi-family residences located in the Cochrane Village residential area, at the corner of Cochrane Road and Butterfield Boulevard, approximately 0.5 miles southwest of the project site.

Odors

Common sources of odors include wastewater treatment plants, transfer stations, coffee roasters, painting/coating operations etc. Based on BAAQMD guidance, an odor source is considered significant by the City when the source has five or more confirmed odor complaints per year, averaged over three years. There are no known existing odor sources affecting the site.

Attainment Status

As mentioned previously, the San Francisco Bay Area Air Basin, within which the proposed project is located, has non-attainment status for ground level ozone, fine particulate matter (PM_{2.5}), and respirable particulate matter (PM₁₀). The San Francisco Bay Area Air Basin has attainment or undetermined status for all other regional criteria pollutants for which the US EPA and CARB have set standards.

4.3.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1, 2
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1, 2, 6
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	1, 2, 6
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	1, 2, 6

	Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
Would the project:					
a) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐	1, 2, 6

4.3.2.1 *Thresholds of Significance*

In June 2010, BAAQMD adopted thresholds of significance to assist in the review of projects under CEQA and these significance thresholds were contained in the District’s 2011 *CEQA Air Quality Guidelines*. These thresholds were designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. The thresholds were challenged through a series of court challenges and were mostly upheld. BAAQMD updated the *CEQA Air Quality Guidelines* in 2017 to include the latest significance thresholds, which were used in this analysis and are summarized in Table 4.3-1. The hotel occupants would not be considered a sensitive receptor given occupants are transient and not subject to chronic exposure, so health risk standards would not apply to the proposed use.

Table 4.3-1: Air Quality Significance Thresholds			
Pollutant	Construction Thresholds	Operational Thresholds	
	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)	Average Daily Emissions (lbs./day)
Criteria Air Pollutants			
ROG	54	54	10
NO _x	54	54	10
PM ₁₀	82 (Exhaust)	82	15
PM _{2.5}	54 (Exhaust)	54	10
CO	Not Applicable	9.0 ppm (8-hour average) or 20.0 ppm (1-hour average)	
Fugitive Dust	Construction Dust Ordinance or Other Best Management Practices	Not Applicable	
Greenhouse Gas Emissions			
GHG Annual Emissions	Compliance with a Qualified GHG Reduction Strategy OR 1,100 metric tons or 4.6 metric tons per capita for 2020 660 metric tons or 2.6 metric tons per capita for 2030		
Note: ROG = reactive organic gases, NO _x = nitrogen oxides, PM10 = coarse particulate matter or particulates with an aerodynamic diameter of 10 micrometers (µm) or less, PM2.5 = fine particulate matter or particulates with an aerodynamic diameter of 2.5µm or less; and GHG = greenhouse gas.			

Project Criteria Emissions

The Bay Area is considered a non-attainment area for ground-level ozone and PM_{2.5} under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for PM₁₀ under the California Clean Air Act, but not the federal act. The area has attained both State

and federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM₁₀, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NO_x), PM₁₀, and PM_{2.5} and apply to both construction period and operational period impacts.

4.3.2.3 *Air Quality Impacts (Checklist Questions a, b, c)*

Clean Air Plan Consistency

As will be discussed in the following section, operation of the proposed hotel project would not result in criteria air pollutant or TAC emissions in exceedance of BAAQMD thresholds. Application of best management practices for dust control and particulate matter emissions reduction (**MM AQ-1**) would ensure that construction of the project does not exceed acceptable air quality standards. Therefore, by adhering to the mitigation measures included in the following discussion, the proposed project would not conflict with goals or policies established in the 2017 CAP for the purpose of reducing air quality impacts at the local and regional level. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Operational Period Emissions

Emissions from construction and operation of the site, assuming full build-out of the project, were estimated by Illingworth & Rodkin, Inc. using the California Emissions Estimator Model (CalEEMod) Version 2016.3.2. The project land use types and sizes, and anticipated construction schedule were input to CalEEMod.

Operational air emissions from the project would be generated primarily from autos driven by guests, employees and truck deliveries. Evaporative emissions from architectural coatings and maintenance products (classified as consumer products) are typical emissions from these types of uses.

Although not the baseline condition, for comparative purposes against the approved grocery store project, a CalEEMod model run was developed to compute emissions from use of the entitled land use as if it was operating in 2021. Inputs for this modeling scenario included 48,000 sf entered as “Supermarket”, 250 spaces entered as “Parking Lot”, and the trip rate generation rates used in the traffic report. These inputs were applied to the modeling in the same manner described for the proposed project.

As shown in Table 4.3-2, operational emissions of the proposed hotels would be less than the entitled grocery store and would not exceed the BAAQMD significance thresholds.

Table 4.3-2: Operational Emissions

Scenario	ROG	NO_x	PM₁₀	PM_{2.5}
2021 Hotel Project Operational Emissions (tons/year)	1.1 tons	2.4 tons	1.7 tons	0.5 tons
2021 Groceries Entitled Use Emissions (tons/year)	1.3 tons	4.0 tons	2.2 tons	0.6 tons
Net Annual Emissions (tons/year)	-0.2 tons	-1.6 tons	-0.5 tons	-0.1 tons
BAAQMD Thresholds (tons /year)	10 tons	10 tons	15 tons	15 tons
Exceed Threshold?	No	No	No	No
2021 Net Project Operational Emissions (lbs/day) ¹	-1.0 lbs.	-8.5 lbs.	-2.7 lbs.	-0.7 lbs.
BAAQMD Thresholds (pounds/day)	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	No	No	No

Note: ¹ Assumes 365-day operations

4.3.2.4 Construction Period Emissions (Checklist Question d)

CalEEMod provided annual emissions estimates for both on-site and off-site construction activities. On-site activities are primarily made up of construction equipment emissions, while off-site activity includes worker, hauling, and vendor traffic. A construction build-out scenario, including equipment list and schedule, was based on CalEEMod defaults for a project of this type and size.

A construction build-out scenario, including equipment list and schedule, was based on information provided by the project applicant. The proposed project land uses were inputted into CalEEMod, which included: 203 rooms entered as “Hotel” and 227 spaces entered as “Parking Lot” on a 8.93-acre site. The CalEEMod default site acreage was used to account for grading and trenching of any below-grade levels and for building construction of mid-rise levels. In addition, 2 tons (1 trip) of demolition debris and 100 one-way cement truck deliveries for building construction were also entered into the model. The CalEEMod default areas sizes of 6.87 acres for the hotel and 2.06 acres for the parking lot were used, which are conservative, since the site is only 4.4 acres in total.

The construction schedule assumed that the project would be built out over a period of approximately 11 months, beginning in September 2019. Based on the applicant provided construction schedule and equipment usage assumptions, there were an estimated 159 construction workdays. Average daily emissions were computed by dividing the total construction emissions by the number of construction days. Table 4.3-3 shows average daily construction emissions of ROG, NO_x, PM₁₀ exhaust, and PM_{2.5} exhaust during construction of the project. As indicated in the table, predicted construction period emissions would not exceed the BAAQMD significance thresholds. A health risk assessment of the project’s construction Toxic Air Contaminants (TACs) emissions was not completed since no sensitive receptors are within 1,000 feet, the nearest sensitive receptors are 0.25 miles north of the site.

Table 4.3-3: Construction Period Emissions

<i>Scenario</i>	<i>ROG</i>	<i>NO_x</i>	<i>PM₁₀</i> <i>(Exhaust)</i>	<i>PM_{2.5}</i> <i>(Exhaust)</i>
Total construction emissions (tons)	0.8 tons	1.7 tons	0.1 tons	0.1 tons
Average daily emissions (lbs.) ¹	10.3 lbs./day	21.2 lbs./day	1.0 lbs./day	1.0 lbs./day
<i>BAAQMD Thresholds (lbs./day)</i>	<i>54 lbs./day</i>	<i>54 lbs./day</i>	<i>82 lbs./day</i>	<i>54 lbs./day</i>
<i>Exceed Threshold?</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Note: ¹Assumes 159 work days.

Construction activities (e.g., roadway grading and preparation) associated with the proposed project would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. Sources of fugitive dust could include wind blowing over exposed dry soil at the construction site and trucks hauling soil and gravel to/from the project site. Unless properly controlled, vehicles leaving the site could deposit mud on local streets, which could be an additional source of airborne dust after it dries. Project construction impacts are considered significant since they can generate dust that could pose health and nuisance impacts if uncontrolled. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant if best management practices are implemented to reduce these emissions. As described below, the proposed project includes mitigation measures to reduce this impact to a less than significant level.

Impact AQ-1: Construction activities associated with the proposed project could temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. **(Significant Impact)**

Mitigation Measures: The following measures, which are consistent with the Basic Construction Mitigation Measures identified in the BAAQMD CEQA Guidelines to reduce impacts from construction dust emissions to a less than significant level, would be implemented:

MM AQ-1: The project applicant shall ensure the following measures are implemented during construction of the proposed project:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material offsite shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph)

- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints shall be posted. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the mitigation measures listed above, dust emissions during construction of the proposed project would be reduced to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

4.3.2.5 *Odors (Checklist Question e)*

The proposed project would be a hotel development and would not generate objectionable odors. The project would generate localized emissions of diesel exhaust during construction phases. The odor emissions may be noticeable from time to time by nearby receptors; however, the odors would be localized and temporary and are not likely to affect people off-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.3.3 Conclusion

The proposed project will not result in significant long-term regional or local air quality impacts. Short-term air quality impacts associated with construction will be reduced to less than significant levels with the implementation of the mitigation measure listed above. The project is small enough such that it will not obstruct the Bay Area 2017 Clean Air Plan, and it will not violate any air quality standard. **[Same Impact as Approved Project (Less Than Significant Impact with Mitigation)]**

4.4 BIOLOGICAL RESOURCES

4.4.1 Environmental Setting

4.4.1.1 *Existing Conditions*

The project site is predominantly populated with non-native grasses and ruderal vegetation, making up a grassland habitat that is common to the area. Approximately 30 landscape trees border the site to the northeast and the northwest, with several large shrubs intermixed. In between the site and the currently developed light industrial buildings to the southwest there are dense shrubs and trees. There are no waterways or wetlands adjacent to the site.

4.4.1.2 *Applicable Plans, Policies, and Regulations*

Migratory Birds

The Federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The trustee agency that addresses issues related to the MBTA is the US Fish and Wildlife Service (USFWS). Species of birds protected under the MBTA include all native birds and certain game birds. The MBTA protects whole birds, parts of birds, bird eggs, and nests and prohibits the possession of all nests of protected bird species whether they are active or inactive. An active nest is defined as having eggs or young. Birds protected by the MBTA may be present in the grassland habitat and/or in the trees located on the project site.

Birds of Prey

Birds of prey are protected in California under provisions of the State Fish and Game Wildlife Code, Section 3503.5, which states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Construction disturbance during the breeding season that results in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment is considered a “taking” by the California Department of Fish and Wildlife.

Local Plans and Policies

Santa Clara Valley Habitat Plan/Natural Communities Conservation Plan

The project site is located within the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) area. The HCP/NCCP was developed by the County of Santa Clara, the Cities of San Jose, Gilroy and Morgan Hill, the Santa Clara Valley Water District, and the Santa Clara Valley Transportation Authority (collectively the "local partners") under the guidance of the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife (CDFW). The HCP/NCCP provides ‘take’ authorization [per the Federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA)] for 18 listed and non-listed species (i.e. covered species). The HCP/NCCP also includes conservation measures to protect all 18 species and

a conservation strategy designed to mitigate impacts on covered species and to contribute to the recovery of these species in the study area.

City of Morgan Hill Tree Removal Controls

The City of Morgan Hill maintains the urban natural landscape partly by promoting the health, safety, and welfare of the City by controlling the removal of significant sized trees (Municipal Code 12.32.020 G and H). According to the City of Morgan Hill Tree Removal Controls, a significant tree is considered to be a tree with a single stem or trunk of a circumference of 40 inches (or diameter of 12.7 inches) or more for nonindigenous species and a circumference of 18 inches (or diameter of 5.7 inches) or more for indigenous species measured at four and one-half feet vertically above the ground. In addition, the Tree Removal Controls specify that all commercial tree farms, nonindigenous tree species in residential zones, and orchards (including individual fruit trees) are exempted from the definition of significant tree.

Because no trees are proposed for removal within the scope of the proposed project, the City of Morgan Hill's Tree Removal Controls will be inapplicable.

4.4.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	☐	1, 2
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	☐	1, 2

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	☐	1, 2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	☐	1, 2
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	☐	1, 2, 3
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	☐	1, 2, 7

4.4.2.1 *Impacts to Sensitive Habitat (Checklist Question b-d)*

The non-native grassland habitat provided by the project site is regionally abundant. There are no sensitive habitats, including areas of high biological diversity, areas providing important wildlife habitat, or unusual or regionally restricted habitat types on the site. The proposed development of the project site would not directly affect wetlands, riparian habitat or other sensitive natural communities.

Because the project site is surrounded by development, the site provides minimal dispersal habitat for native wildlife and does not function as a wildlife movement corridor. For these reasons, loss of the 4.4 acres of non-native grassland habitat present on the site that would occur under the proposed project would not be significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.4.2.2 *Impacts to Special Status Species (Checklist Question a)*

Burrowing Owls

Although burrowing owls were not seen on or adjacent to the project site during a site reconnaissance by DJP&A staff, the project site contains open areas and ground squirrel burrows that could support burrowing owls. Therefore, there is the possibility for burrowing owls to be present on the project site at the time of project development. If owls occupy the site, construction on the site during the nesting season could disturb or destroy occupied nests, resulting in the loss of the reproductive effort; this would be a significant impact.

Impact BIO-1: Construction activities on the project site could result in the loss of burrowing owl eggs or nestlings, either directly by destroying an active nest or indirectly by disturbing and causing the abandonment of an active nest. **(Significant Impact)**

Mitigation Measures: The developer would participate in the Citywide Burrowing Owl Habitat Mitigation Plan, a mitigation program acceptable to the California Department of Fish and Wildlife. Under the Plan, the City has adopted a fee program that funds setting aside or managing preserve land to provide habitat for burrowing owls. Providing habitat for burrowing owls elsewhere offsets indirect and cumulative impacts from the loss of foraging and nesting habitat in the City.

In conformance with the City's Burrowing Owl Habitat Mitigation Plan, the project would be required to implement the following measures to avoid direct impacts to burrowing owls and to offset impacts to non-native grassland habitat on the site. Implementation of this measure would avoid or reduce significant impacts to burrowing owls and their habitat.

MM BIO-1.1: Complete pre-construction surveys to determine if burrowing owls are present within the footprint of the proposed grading area, no more than 30 days prior to initiation of any construction-related activities.

MM BIO-1.2: Should burrowing owls be found on the site during the breeding season (February 1 through August 31), exclusion zones with a 250-foot radius from occupied burrows, shall be established. All project-related activities shall occur outside of the exclusion area until the young have fledged.

MM BIO-1.3: If preconstruction surveys are completed during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the California Department of Fish and Game once mitigation has been provided.

MM BIO-1.4: A final report on burrowing owls, including any protection measures, shall be submitted to the Director of Community Development prior to grading.

Conformance with the City's Burrowing Owl Habitat Mitigation Plan (or any adopted HCP/NCCP), including mitigation measures, MM BIO-1.1 through MM BIO-1.4, would ensure impacts to burrowing owls would be less than significant. **[Same Impact as Approved Project (Less than Significant With Mitigation Incorporated)]**

Nesting Raptors and Migratory Birds

Nesting raptors and migratory birds are protected under State and Federal regulations. At the time of development, raptors and migratory birds could be nesting in the trees and vegetation on and adjacent

to the project site. Construction during the nesting season could disturb occupied nests, resulting in the loss of the reproductive effort.

Impact BIO-2: Construction activities on the project site could result in the loss of raptor and/or migratory bird eggs or nestlings indirectly by disturbing and causing the abandonment of an active nest. **(Significant Impact)**

Mitigation Measures: The following mitigation measures will reduce impacts from construction at the project site nesting raptors and migratory birds to a less than significant level:

MM BIO-2.1: Construction shall be scheduled to avoid the nesting season to the extent feasible. If construction can be scheduled to occur between September 1st and January 31st (inclusive) to avoid the raptor nesting season, no impacts will be expected. If construction will take place between February 1st and August 31st, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Surveys will be completed within 30 days of the on-set of site clearing or construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, buildings) onsite trees as well as all trees within 250 feet of the site for nests.

MM BIO-2.2: If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 250 feet for raptors and 50-100 feet for other species) that will remain off limits to construction until the nesting season is over, to ensure that no nests of species protected by the Migratory Bird Treaty Act and California Fish and Wildlife Code will be disturbed during project implementation. A report indicating the result of the survey and any designated buffer zones shall be submitted to the satisfaction of the Director of Community and Economic Development prior to the start of construction.

Implementation of the above listed mitigation measures would sufficiently reduce impacts to nesting raptors and migratory birds to a less than significant level. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.4.2.3 *Impacts to City-Protected Trees (Checklist Question e)*

The City of Morgan Hill has established Tree Removal Controls that control the removal of significant sized trees (Municipal Code 12.32.020 G and H). A significant tree is considered to be a tree with a single stem or trunk of a circumference of 40 inches (or diameter of 12.7 inches) or more for nonindigenous species and a circumference of 18 inches (or diameter of 5.7 inches) or more for indigenous species measured at four and one-half feet vertically above the ground. The proposed project includes the preservation of existing trees on-site within the project design, therefore the City of Morgan Hill's Tree Removal Controls will be inapplicable, and impacts to city-protected trees will be avoided. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.4.2.4 *Consistency with Habitat Conservation Plan/Natural Community Conservation Plan (Checklist Question f)*

The proposed project is a covered activity under the HCP/NCCP (Private Development Covered 4.5 acres). The land cover at the project site is designated as Golf Courses/Urban Parks (4.3 acres) and Urban-Suburban (0.3 acres) and is mapped as *Fee Zone B* (Agricultural and Valley Floor Lands).⁵ The proposed project would be required to pay a fee to offset the removal of this land cover type. The project site is not located in any other fee zone or within or adjacent to any plant or wildlife survey area.

The HCP/NCCP also considers covered activities to result in a certain amount of indirect impacts from urban development mostly in the form of increased impervious surface and from the effects of nitrogen deposition. Urban development that increases the intensity of land use results in increased air pollutant emissions from passenger and commercial vehicles and other industrial and nonindustrial sources. Emissions from these sources are known to increase airborne nitrogen, of which a certain amount is converted into forms that can fall to earth as depositional nitrogen. It has been shown that increased nitrogen in serpentine soils can favor the growth of nonnative annual grasses over native serpentine species and these nonnative species, if left unmanaged, can overtake the native serpentine species, which are host plants for larval Bay Checkerspot butterfly. As such, covered projects within the HCP/NCCP area are subject to paying a “Nitrogen Deposition Impact Fee” which is calculated based on the number of daily vehicle trips attributed to the activity and collected prior to the commencement of the use.

In addition, all covered activities in the HCP/NCCP are subject to certain conditions (as identified in Chapter 6 of the Plan) based on the project’s location and type of project. To ensure that the project complies with conditions of the HCP/NCCP, the conditions will be applied to each component as part of the entitlement approval conditions and/or other permits (i.e. grading permits, building permits, etc.).

The City of Morgan Hill has adopted the HCP/NCCP and approved an ordinance⁶ implementing the measures and conditions set forth in the HCP/NCCP, and will levy applicable impact fees and incorporate relevant conditions on covered activities into the proposed commercial project. Therefore, the project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.4.3 Conclusion

The proposed project, with the implementation of the above mitigation measures **MM BIO-1** and **MM BIO-2**, would not result in any new or more significant impacts to biological resources than the approved project. **[Same Impact as Approved Project (Less than Significant With Mitigation Incorporated)]**

4.5 CULTURAL RESOURCES

⁵ Santa Clara Valle Habitat Agency. “Geobrowser”. Accessed July 12, 2018. <http://www.hcpmaps.com/habitat/>.

⁶ Chapter 18.132 of the City of Morgan Hill Municipal Code

4.5.1 Environmental Setting

4.5.1.1 *Existing Conditions*

The project site is an undeveloped field covered by non-native grassland and ruderal vegetation. The area surrounding the project site is developed with a mix of commercial and light industrial buildings. There are no historic structures located on or adjacent to the project site.

4.5.1.2 *Archaeological Resources*

The project site is not located at, or adjacent to, a designated archaeologically sensitive area as outlined in the City of Morgan Hill's Archaeological Sensitivity Map. Section 18.75.110 of the City of Morgan Hill's Municipal sets Standard Conditions of Approval for proposed development projects that are located within or adjacent to archaeologically sensitive areas. If the site is found to be 'sensitive' for archaeological resources but determined to not be located within or adjacent to a known archaeological site, then the project applicant will have the option to either have an archaeological survey be completed for the site to determine what, if any, conditions of approval will be required as mitigation measures; or agree to comply with standard conditions of approval which will reduce potentially significant impacts on archaeological resources to a less than significant level. These standards require an archaeologist to be present on-site during construction activities to monitor for the possibility of accidental excavation of archaeological/paleontological resources, and details the procedure to be followed should sensitive resources be discovered. The site is not located within an archaeologically sensitive area, therefore standard conditions of approval will be applied only upon the accidental discovery of a sensitive archaeological resource.

The 2004 IS/MND was adopted prior to the effective date of AB 52, which became effective in 2015, and therefore the project is not subject to the normal procedural requirements of AB 52, including notification of culturally-affiliated tribes to allow for requests for consultation. AB 52 applies to projects for which a Notice of Intent or Notice of Availability are circulated after the AB 52 effective date in 2015. No known tribal cultural resources are present on the site.

4.5.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐	1, 2, 8
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	☐	1, 2, 8

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	☐	1, 2, 8
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	☐	1, 2, 8

4.5.2.1 *Impacts to Historic Resources (Checklist Question a)*

The project site is currently undeveloped, without a listed, determined, or pending status on the California Register of Historical Resources. No significant or potentially significant local, State, or Federal cultural resources/historic properties are located on or adjacent to the project site. Therefore, the proposed project would have no impact on historic resources. **[Same Impact as Approved Project (No Impact)]**

4.5.2.2 *Impacts to Archaeological and Paleontological Resources (Checklist Question b-d)*

The project site is not located within an archaeologically sensitive area, as delineated by the City of Morgan Hill's Archaeological Sensitivity Map. Archaeological resources are unlikely to be discovered during construction activities at the project site due to this designation. There are no unique paleontological resources or unique geologic features located at the project site, so ground disturbing activities required by the proposed project will be unlikely to disturb any undiscovered resources. However, in the event that cultural materials are found during site grading or excavation, standard measures would be implemented, in accordance with Section 18.75.110 of the Morgan Hill Municipal Code, that would ensure the development on the project site would not result in significant impacts to archaeological resources.

SM CULT-1: All development projects located within an archaeological sensitivity area and/or containing known archaeological resources on-site shall also be subject to the following measures as standard conditions of project approval:

- This project may adversely impact undocumented human remains or unintentionally discover significant historic or archaeological materials. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans.
 - If human remains are encountered they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know

basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.

- Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
- Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
- In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials, and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
- An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the Monitoring Archaeologist (typically 25-50ft for single burial or archaeological find).
- The exclusion zone shall be secured (e.g., 24 hour surveillance) as directed by the City or County if considered prudent to avoid further disturbances.
- The Contractor Foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
 - The City of Morgan Hill Community Development Director
 - The Contractor’s Point(s) of Contact
 - The Coroner of the County of Santa Clara (if human remains found)
 - The Native American Heritage Commission (NAHC) in Sacramento
 - The Amah Mutsun Tribal Band
- The Coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American the Coroner has 24 hours to notify the NAHC.
- The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.)
- Within 24 hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
- Within 24 hours of their notification by the NAHC, the MLD may recommend to the City’s community development director the recommended

means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.

- If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance. **[Same Impact as Approved Project (Less than Significant)]**

No known tribal cultural resources are present on the site. In the event of an unforeseen discovery during construction, **SM CULT-1** identified above would be implemented.

4.5.3 Conclusion

By conforming to the City's standard conditions of approval to protect archaeological resources, the proposed project would have a less than significant impact on archaeological resources. The project would not have a significant impact on paleontological or historic resources. **[Same Impact as Approved Project (Less than Significant)]**

4.6 GEOLOGY AND SOILS

4.6.1 Environmental Setting

4.6.1.1 *Geology and Soils*

The project site is located in the Santa Clara Valley, an alluvial basin, bounded by the Santa Cruz Mountains to the west, the Hamilton/Diablo Range to the east, and the San Francisco Bay to the north. The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Hamilton/Diablo Range were exposed by the continued tectonic uplift and regression of the inland sea that had previously inundated this area. Bedrock in this area is made up of the Franciscan Complex, a diverse group of igneous, sedimentary, and metamorphic rocks of Upper Jurassic to Cretaceous age (70-140 million years old). Overlaying the bedrock at substantial depths are marine and terrestrial sedimentary rocks of Tertiary and Quaternary age.

Soils on the project site and in adjacent areas consist of Arbuckle gravelly loam and San Ysidro Loam.⁷ The predominant soil type on the site is Arbuckle gravelly loam, a well-drained soil with moderately slow to slow permeability and a low shrink-swell potential. San Ysidro Loam is present on a small percentage of the project site in the northeastern corner, and in adjacent parcels to the north. San Ysidro Loam is a moderately well-drained soil with very slow permeability and a high shrink-swell potential.

The slope of the project site and adjacent areas is flat, therefore the potential for erosion and landslides are low. The project site is not located within a landslide hazard zone or a compressible soil hazard zone, according to the County of Santa Clara's *Geologic Hazard Zones Map*.

4.6.1.2 *Seismicity*

An earthquake of moderate to high magnitude generated within the San Francisco Bay region could cause considerable ground shaking at the project site. The degree of shaking is dependent on the magnitude of the event, the distance to its zone of rupture and local geologic conditions. According to Santa Clara County's *Geologic Hazard Zones Map*, the project site is not located in a fault rupture hazard zone.

The nearest active fault lines to the site include the Calaveras Fault, San Andreas Fault, Greenville Fault, and Hayward Fault Southeast Extension, located 3 miles to the northeast, 11 miles to the west, 17 miles to the northeast, and 27 miles to the northwest, respectively.⁸ The project site is not located within an Alquist-Priolo Earthquake Fault Zone.

4.6.1.3 *Liquefaction*

Soil liquefaction can be defined as ground failure or loss of strength that causes otherwise solid soil to take on the characteristics of a liquid. This phenomenon is triggered by earthquake or ground shaking that causes saturated or partially saturated soils to lose strength, potentially resulting in the soil's inability to support structures. According to the County of Santa Clara's *Geologic Hazard Zones Map*, the project site is not located within a liquefaction hazard zone.

⁷ United States Department of Agriculture, Natural Resources Conservation Service. *Custom Soil Resource Report for Eastern Santa Clara Area, California*. July 20, 2018.

⁸ US Geological Survey. *The San Andreas and Other Bay Area Faults*. Available at: <https://earthquake.usgs.gov/earthquakes/events/1906calif/virtualtour/bayarea.php>

4.6.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:						
2. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42.)?	☐	☐	☐	☒	☐	1, 2, 9
3. Strong seismic ground shaking?	☐	☐	☐	☒	☐	1, 2
4. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	☐	1, 2, 9
5. Landslides?	☐	☐	☐	☒	☐	1, 2, 9
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	☐	1, 2
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	☐	1, 2, 9
d) Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☐	☒	☐	1, 2, 10

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	☐	1

4.6.2.1 Soil Impacts (Checklist Question b, d, e)

Soil Conditions

While the predominant soil type at the project site is Arbuckle gravelly loam, which has a low shrink-swell potential, there are portions of the site that contain soils with high expansion potential. Expansive soil conditions can be damaging to future structures proposed for development at the project site and present health and safety risks. By incorporating appropriate engineering into the grading and foundation design of proposed buildings, substantial damage to the proposed buildings can be avoided. The City of Morgan Hill has set standards for building engineering design that will be adhered to by the proposed project to reduce the potential for significant impacts to a less than significant level.

Standard Measures: Implementation of the following City of Morgan Hill standard measure would ensure that impacts to the project from soil conditions and seismic hazards would be less than significant.

1. To avoid or minimize potential damage from seismic shaking, the proposed commercial development shall be built using standard engineering and seismic safety design techniques. Prior to issuance of grading and building permits, building design and construction at the site shall be completed in conformance with the recommendations of a design-level geotechnical investigation, which will be included in a report to the City. The structural designs for the proposed development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by the City of Morgan Hill Building Division prior to issuance of a building permit. The buildings will be required to meet the requirements of applicable Building and Fire Codes, including the 2013 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project will be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property to the extent feasible and in compliance with the Building Code.

Capability of Soils

New development at the site would connect to the existing sewer sanitary system. No septic systems would be developed under the project; therefore, no impacts to soils related to septic systems would occur. **[Same Impact as Approved Project (No Impact)]**

Soil Erosion

Grading, trenching, and construction of the proposed project would result in ground disturbance at the site. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete. The City has developed standard conditions to avoid significant soil erosion impacts during construction. The following conditions would be included as part of the project:

Standard Condition (Storm Drain System): Prior to final map approval or issuance of a grading permit the applicant shall complete the following to the satisfaction of the Director of Public Works.

1. Storm drain calculations to determine detention pond sizing and operations.
2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
3. Water Pollution Control Drawings for Sediment and Erosion Control.

Standard Condition (NPDES Permit Conformance): As required by the State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ, construction activity resulting in a land disturbance of one acre or more of soil, or whose projects are part of a larger common plan of development that in total disturbs more than one (1) acre, are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated with Construction Activity (General Permit). To be permitted with the SWRCB under the General Permit, owners must file a complete Notice of Intent (NOI) package and develop a Storm Water Pollution Prevention Plan (SWPPP) Manual in accordance with Section A, B, and C of the General Permit prior to the commencement of soil disturbing activities. A NOI Receipt Letter assigning a Waste Discharger Identification number to the construction site will be issued after the State Water Resource Control Board (SWRCB) receives a complete NOI package (original signed NOI application, vicinity map, and permit fee); copies of the NOI Receipt Letter and SWPPP shall be forwarded to the Building and Public Works Department review. The SWPPP shall be made a part of the improvement plans. (SWRCB NPDES General Permit CA000002)

[Same Impact as Approved Project (No Impact)]

4.6.2.2 Seismic Hazards (Checklist Question a, c)

Based on Santa Clara County's *Geologic Hazard Zones Map*, the project site is not located in an area which would make new development susceptible to damage from fault rupture, landslide, or liquefaction. While the site is located in a seismically active region, the likelihood that a fault rupture would occur at the site is low. Ground shaking will likely occur during the life of the project, but the project's location on relatively stable ground with flat slopes will make it minimally susceptible to landslides and lateral displacement type ground failures. Additionally, the soils on the site are not prone to liquefaction and the site is not near a creek or other open channel, making the

probability of lateral spreading occurring on-site low. By conforming to standard engineering and seismic safety design techniques outlined in the City of Morgan Hill's Building Division and California Building Code, impacts from seismic and seismic-related hazards can be minimized and the risk to life or property can be reduced to the maximum extent feasible. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.6.3 Conclusion

The application of the City's standard conditions of approval for storm drain systems, soil erosion reduction and seismic hazard reduction (see SM GEO-1, SC GEO-1, SC GEO-2) would avoid significant impacts to geology and soil at the project site. Additionally, conformance with the recommendations of a design-level geotechnical engineering report and the California Building Code will further reduce the potential for significant impacts to geology and soils on-site. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.7 GREENHOUSE GAS EMISSIONS

The following discussion is based in part on a greenhouse gas assessment prepared for the project site by *Illingworth & Rodkin, Inc.* The report, dated December 2018, is included as an attachment to this Addendum as Appendix A.

4.7.1 Environmental Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of greenhouse gases (GHGs) have a broader, global impact. Global warming is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial/manufacturing, utility, residential, commercial, and agricultural sectors.

4.7.1.1 *Regulatory Framework*

State of California

Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill (AB) 32, the California Air Resources Board (CARB) established a statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions would be achieved from significant GHG sources.

In 2016, Senate Bill (SB) 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO₂e). Based on the emissions reductions directed by SB 32, the annual 2030 statewide target emissions level for California is 260 MMTCO₂e.

Senate Bill 375

Senate Bill 375 (SB 375), known as the Sustainable Communities Strategy and Climate Protection Act, was signed into law in September 2008. It builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035 in comparison to 2005 emissions. The per capita reduction targets for passenger vehicles in the San Francisco Bay Area include a seven percent reduction by 2020 and a 15 percent reduction by 2035.

SB 32 and AB 197

SB 32 and AB 197 were signed into law in September 2016. SB 32 legislation amended provisions of AB 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code Division 25.5), to require CARB to ensure that statewide GHG emissions are reduced to 40 percent below the 1990 level by December 31, 2030. This legislation incorporates the Executive Order B-30-15 target discussed above into state law. Changes to the California Health and Safety Code under the

companion AB 197 legislation call for each scoping plan update to identify emissions reduction measures and include the range of projected GHG emissions reductions as well as the range of projected air pollution reductions that result from the emission reduction measures.

Regional

Bay Area 2017 Clean Air Plan (2017 CAP)

The 2017 Clean Air Plan (2017 CAP), entitled *Spare the Air/Cool the Climate*, was adopted by the Bay Area Air Quality Management District (BAAQMD) in April of 2017. The 2017 CAP built on the *Bay Area 2010 Clean Air Plan* (2010 CAP) and will serve as a blueprint for BAAQMD's efforts to reduce air pollution and protect public health and the global climate. The 2017 CAP aims to lead the region to a post-carbon economy, continue progress toward attaining all state and federal air quality standards, and eliminate health risk disparities from exposure to air pollution among Bay Area residents. The 2017 CAP, in alignment with AB 32, sets the goal of emissions reductions to 80 percent below 1990 levels by 2050.

4.7.2 Checklist and Discussion of Impacts

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1, 6, 11
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1, 6, 11

4.7.2.1 *Thresholds of Significance*

The BAAQMD's CEQA Air Quality Guidelines recommended a GHG threshold of 1,100 metric tons or 4.6 metric tons (MT) per capita. These thresholds were developed based on meeting the 2020 GHG targets set in the scoping plan that addressed AB 32. Development of the project would occur beyond 2020, so a threshold that addresses a future target is appropriate. Although BAAQMD has not published a quantified threshold for 2030 yet, this assessment uses a "Substantial Progress" efficiency metric of 2.6 MT CO_{2e}/year/service population and a bright-line threshold of 660 MT CO_{2e}/year based on the GHG reduction goals of EO B-30-15. The service population metric of 2.6 is calculated for 2030 based on the 1990 inventory and the projected 2030 statewide population and employment levels⁹. The 2030 bright-line threshold is a 40 percent reduction of the 2020 1,100 MT CO_{2e}/year threshold. The use of this 2030 threshold also aligns with the City of Morgan Hill's GHG emission reduction target in their 2035 general plan.

4.7.2.2 *Greenhouse Gas Impacts (Checklist Questions a, b)*

⁹ Association of Environmental Professionals, 2016. *Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California*. April.

GHG emissions associated with development of the proposed project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust and worker and vendor trips. There would also be long-term operational emissions associated with vehicular traffic within the project vicinity, the generator, energy and water usage, and solid waste disposal. Emissions for the proposed project were analyzed by *Illingworth & Rodkin, Inc.* using the methodology recommended in the BAAQMD CEQA Air Quality Guidelines, and are discussed below.

CalEEMod was used to predict GHG emissions from operation of the site assuming full build-out of the project. The project land use types and size and other project-specific information were input to the model, as described in *Section 4.3.2, Air Quality*, above. The project service population efficiency rate is based on the number of future full-time employees. The number of future full-time employees is estimated at 45 for both hotels based on applicant-provided information.

Construction Emissions

GHG emissions associated with construction were computed to be 222 MT of CO₂e for the total construction period (assumed to be 11 months). These are the emissions from on-site operation of construction equipment, vendor and hauling truck trips, and worker trips. Neither the City nor BAAQMD have an adopted threshold of significant for construction-related GHG emissions, though BAAGMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. Best management practices assumed to be incorporated into construction of the proposed project include, but are not limited to: using local building materials of at least 10 percent and recycling or reusing at least 50 percent of construction waste or demolition materials.

Operational Emissions

The CalEEMod model, along with the project vehicle trip generation rates, was used to estimate emissions associated with operation of the fully-developed site under the proposed project. As shown in Table 4.7-1, annual emissions resulting from operation of the proposed hotel project are predicted to be 2,133 MT of CO₂e in 2021 and 1,739 MT of CO₂e in 2030 (reflecting that certain sector emissions will decrease over time due to regulatory requirements already in place). The annual emissions from operation of the entitled building in 2021 are computed as 2,850 MT of CO₂e. The net emissions (i.e. approved grocery store vs. proposed hotels) resulting from the hotel project would be -717 MT of CO₂e in 2021 and -1,111 MT of CO₂e in 2030. The proposed project's GHG emissions would be less than the entitled project's GHG emissions.

However, the proposed project's GHG emissions would be above the 2030 thresholds. This would be considered a significant impact, however, as noted above, the grocery store approved for the site, if constructed, would generate increased emissions compared to the proposed hotels. The 2004 IS/MND did not disclose the anticipated GHG emissions as the CEQA Guidelines at the time did not require analysis of GHG emissions, and did not until 2010 with adoption of SB 97, and a 2020 statewide target was not established until adoption of AB 32 in 2006, while 2030 targets were set with adoption of SB 32 in 2016. Courts have held that the issue of climate change due to GHG emissions from human activities has been known since at least the 1970s and the fact a prior CEQA document prepared prior to 2010 did not discuss a project's GHG emissions does not render the prior CEQA document inadequate given the issue was known at the time, and could have been raised. Accordingly, the

discussion of GHG emissions in this Addendum does not introduce “New Information” as defined in CEQA Guidelines Section 15162(3)(c), as this Addendum discloses the proposed change in the project, i.e. development of Phase II with two hotels would result in decreased GHG emissions than if the site were developed with the approved grocery store, and while the hotel GHG emissions would exceed applicable 2030 targets set by SB 32, they are capable of reduction to the point that they will comply with the state’s 2030 targets.

Table 4.7-1: Annual Project GHG Emissions (CO₂e) in Metric Tons

<i>Source Category</i>	<i>Entitled Grocery in 2021</i>	<i>Proposed Project in 2021</i>	<i>Proposed Project in 2030</i>
Area	< 1	< 1	< 1
Energy Consumption	289	290	290
Mobile	2,417	1,778	1,384
Solid Waste Generation	136	57	57
Water Usage	8	7	7
Total	< 2,850	< 2,133	<1,739
Bright-Line Significance Threshold		660	660
<i>Emissions Reduction to meet 2030 Threshold</i>		<i>1,473</i>	<i>1,079</i>

Impact GHG-1: Operation of the two hotels would generate GHG emissions that would have a cumulatively considerable contribution to global climate change.

Mitigation Measures: Prior to issuance of any grading or building permit, the project applicant shall implement the following mitigation measures. It is assumed that the following mitigation measures would apply to both hotels, both hotels would be fully operational post-2021, and emissions reduction measures would cumulatively decrease the GHG emissions of the two hotels to below the appropriate threshold.

MM GHG-1: Develop a GHG emissions reduction plan that would (1) reduce emissions from implementation of the proposed project, and (2) demonstrate GHG emissions resulting from implementation of the proposed project would be reduced by a sufficient amount for both hotels to achieve the 2030 standard of 660 MT of CO₂e/year.

- The earliest both hotels would become fully operational would be after December 31, 2020; therefore, they are subject to 2030 GHG reduction targets, and the project would require GHG emission reductions of at least 1,079 MT of CO₂e/year to reduce the operational GHG emissions of both hotels to below the 2030 standard of 660 MT of CO₂e/year.

Elements of the GHG emissions reduction plan may include, but would not be limited to, the following:

- Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;

- Construct on-site or fund off-site carbon sequestration projects (such as a forestry or wetlands project for which inventory and reporting protocols have been adopted). If the project develops and off-site project, it must be registered with the Climate Action Reserve or otherwise be approved by the BAAQMD in order to be used to offset project emissions;
- Purchase of carbon credits to offset project annual emissions. Carbon offset credits must be verified and registered with the Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City of Morgan Hill;
- Develop and implement a transportation demand management (TDM) program to reduce mobile GHG emissions.

The GHG reduction plan to reduce the cumulative GHG emissions of both hotels to below 2030 thresholds shall be submitted to the City of Morgan Hill Director of Community Development, for approval prior to issuance of any grading or building permit for the proposed project. **[New Impact (Less than Significant with Mitigation Incorporated)]**

Conformance with Applicable Plans

By adhering to **MM GHG-1** described above, the proposed project would remain consistent with State and local plans and policies pertaining to GHG emission reductions. Using the 2030 threshold is consistent with the City of Morgan Hill's GHG emission reduction target included in the 2035 General Plan. An emissions reduction plan that meets the 2030 thresholds would sufficiently reduce the GHG impact of the proposed project, and ensure the project does not conflict with policies adopted at the State and local levels for the purpose of reducing GHG emissions. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.7.3 Conclusion

With implementation of **MM GHG-1**, the proposed project would reduce its GHG emissions to below the BAAQMD 2030 threshold and not result in a significant impact. **[Less than Significant Impact with Mitigation (Same as Approved Project)]**

4.8 HAZARDS AND HAZARDOUS MATERIALS

The following discussion is based upon a Phase I Environmental Site Assessment prepared for the project site by *Geologica Inc.*, dated August 28, 2018, included as Appendix D of this Initial Study.

4.8.1 Environmental Setting

The approximately 4.4-acre project site consists of an undeveloped field. Surrounding uses are primarily commercial and light industrial. The project site was historically used for agricultural production, and maintains a *Farmland of Local Importance* designation within the California Department of Conservation Farmland Mapping Program. To the north, there is an existing vacant lot zoned for *Light Industrial (ML)* with a General Plan land use designation of *Industrial*. Across Madrone Parkway to the east, there are two three-story hotels, a gas station, and several commercial buildings. South of the site, there are four single-story commercial buildings, separated from the project site by a paved parking lot with landscaped parking stalls. West of the site, there are two single-story light industrial buildings. The project site is not subject to wildland fires. The site is not located within the Santa Clara County Airport Land Use Commission (ALUC) jurisdiction, and there are no private airstrips located near the project site.

4.8.1.1 *Site History*

The project site was either orchard or cultivated field as early as 1939. From 1958 until 1993, the San Jose Trap and Skeet (SJTS) Club shooting range was in commission on the eastern side of the site. During the 1990s, the project site was investigated for lead contaminated soil in relation to SJTS operations, although most of the affected land was located east of the site. The site remained undeveloped following the closure of the SJTS Club shooting range. The adjacent lands to the south were developed in 2006/07 as the Madrone Village Shopping Center. *Geologica Inc.* prepared the Phase I ESA for the Madrone Village development in 2012, when the project site was analyzed for planned build-out of the Madrone Village Shopping Center to include a single-story grocery store. Since then, the land uses have remained predominantly the same.

4.8.1.2 *Onsite Sources of Contamination*

Due to the former presence of the SJTS shooting range, lead-impacted soils are present on the project site. Lead has been found in the soil in pellet form throughout the site in prior investigations. The previous Phase I ESA prepared by *Geologica* in 2012 incorporated the results of a Human Health Risk Assessment (*Harza*, 2000) which indicated various levels of lead contamination distributed throughout the project site and on adjacent properties. Contamination levels varied throughout the site; however, the Risk Assessment prepared by *Harza* indicated lead concentrations as high as 710 ppm in soil samples taken from the northern part of the project site. This concentration of lead is in exceedance of residential standards and qualifies as a Recognized Environmental Condition (REC). As a result, *Geologica* included recommendations in its 2012 Phase I ESA for additional soil sampling and analysis on the project site in order to characterize current lead levels prior to development. A limited program of testing 18 soil samples for lead was performed as part of the current Phase I ESA.

A total of 18 shallow soil samples from depths ranging from 0.5 feet to 3.5 feet below ground surface were submitted for analytical testing for lead. Out of the 18 soil samples analyzed, 16 were found to

be below the RWQCB's Environmental Screening Levels (ESL) of 80 mg/kg for lead contamination in soil. Detections of 320 and 210 mg/kg were noted in two samples at a depth of 1.5 feet. The RWQCB Commercial/Industrial standard ESL for hotel land use is 320 mg/kg while the construction worker ESL for lead in soil is 160 mg/kg. While the majority of the site is likely below the ESL for lead contamination in soil, the two samples indicate that elevated lead concentrations may be present in shallow soils at the project site.

An on-site reconnaissance was performed by *Geologica* for the project site to visually identify any environmental conditions that could potentially affect the proposed development. No hazardous materials or hazardous wastes were identified during the site reconnaissance. No evidence of underground storage tanks (USTs) or aboveground storage tanks (ASTs) was observed. No other on-site sources of environmental contaminants were noted during the site visit.

4.8.1.3 Offsite Sources of Contamination

The Risk Assessment performed by *Harza* indicated that the soil at APN 726-33-027 is highly impacted by lead as a result of the former SJTS shooting range. APN 726-33-027 is located two parcels to the northeast of the project site. Concentrations of lead as high as 2,615 mg/kg were reported during soil sampling on the parcel, representing the most impacted soils in the vicinity of the project site. A preliminary remediation goal (PRG) of 1,000 mg/kg was recommended for APN 726-33-027 in the Risk Assessment prepared by *Harza* and its use was restricted in a deed restriction preventing inappropriate sensitive uses (acceptable uses are industrial, commercial, or office space). The deed restriction does not appear to affect the land use at the proposed project site.

Federal, state, and local agency environmental databases were searched to identify hazardous waste generators, corrective action sites, landfills, UST facilities, and sites currently or previously under investigation for environmental violations within a one mile radius of the project site. The results of the database search are described below.

Three Envirostor sites were found within one mile of the project site, with only one site located within ¼ mile. The nearest Envirostor site to the project site is listed as the Madrone Land Corporation at 645 Cochrane Road. This case is related to the lead-contaminated soil associated with the SJTS club site, and is referenced as closed. The RWQCB is listed as the lead agency. The property at 645 Cochrane Road is also identified as a Spills, Leaks, Investigations, and Clean-ups (SLIC) site, which was listed as closed in 1995.

One Leaking Underground Storage Tank (LUST) is listed within ½ mile of the project site; however, it is greater than ¼ mile away and is not a concern to the proposed development. Additionally, the LUST case was closed in 1988.

4.8.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	☐	1, 2, 13
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	☐	1, 2, 13
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	☐	1, 2
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	☐	1, 2
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1, 2
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	☐	1, 2
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	☐	1, 2

Attachment: Madrone Village Hotels Final Addendum 1.14.19 (2138 : AAE2018-0005 (ZAA-04-11b): Cochrane-TBI)

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	☐	1, 2

4.8.2.1 *Impacts from Construction and Operations at the Site (Checklist Questions a, c)*

The proposed hotel development would not require the routine transport, use, or disposal of any hazardous materials during construction activities or post-construction operation. The use and storage of hazardous materials in the City of Morgan Hill is regulated by the Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division (SCCDEH). The construction and operation of the proposed project would conform to the requirements of the SCCDEH, in addition to all applicable Federal, State, and local handling, storage, and disposal requirements for hazardous materials. As a result, the storage and handling of hazardous materials on the site, under the proposed project, would not result in a significant impact.

The nearest schools to the site are El Toro Elementary (approximately 1.2 miles southeast of the site) and Stratford School (approximately 2.2 miles southwest of the site). Due to the distance of the site from nearby schools (< ¼ mile), the project impacts of hazardous construction emissions and transport of hazardous materials on nearby schools would be less than significant. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.8.2.2 *Impacts of Soil Contamination and Hazardous Building Materials (Checklist Questions b, d)*

The Phase I ESA conducted for the project site indicated levels of lead contamination in the soil above the ESL for the proposed use of the site as a hotel development. The majority of soil samples collected at the site revealed acceptable levels of lead, however, there is still the potential for slightly elevated levels of lead in shallow soils scattered throughout the site, stemming from the site's former use as a gun range. Two of the 18 soil samples analyzed in the Phase I ESA were above the construction worker ESL for lead in soil (160 mg/kg). Elevated concentrations of lead in soil can present a health hazard to construction workers from lead released in airborne dust during construction. This potential exposure of construction workers to lead in the soil would be presented by either development of the site with the approved grocery store or the proposed hotels.

Impact HAZ-1: Construction activities on the project site could result in exposure of construction workers and adjacent uses to lead released in airborne dust. **(Significant Impact)**

Mitigation Measure: The following mitigation measure will reduce potential health impacts to construction workers and adjacent uses from contaminated soils on the project site to a less than significant level.

MM HAZ-1: Prior to grading and construction activities, a Soil Management Plan (SMP) shall be prepared for the proposed project. The SMP shall describe procedures for dust suppression and stockpile management to be implemented during earthmoving activities. Soil hauled offsite should be tested for disposal prior to removal.

Upon the application of the mitigation measure discussed above, project-level impacts related to lead contamination in soil would be reduced to a less than significant level. Preparation of a SMP would ensure that excessive amounts of dust are not generated from grading and construction activities, and that any contaminated soils transported off the project site are disposed of properly. **[Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)]**

There are no existing structures present, as the project site is located in an undeveloped field. A review of historic topographic maps and aerial photographs indicated no evidence of historic buildings or structures on the site or in the immediate area, and that the site was historically used for agricultural production. Adjacent uses consist of commercial, retail, and light industrial buildings, none of which are proposed for removal under the proposed project. The project would be constructed in compliance with the most recent California Building Code. Therefore, the proposed project would not use hazardous building materials or expose nearby uses to hazardous building materials, such as asbestos and lead-based paints, through demolition activities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.8.2.3 *Other Hazards (Checklist Questions e - h)*

Airport Safety Hazard

The project site is not located within the South County Airport Influence Area or Federal Aviation Administration Height Restriction Area; therefore, the project would not result in an airport safety hazard. The project site would not be subject to Santa Clara County Airport Land Use Commission (ALUC) evaluation due to its location outside of the airport influence area (AIA). The nearest airport, Norman Y. Mineta San Jose International Airport, is approximately 20 miles away from the project site and would not be affected by the proposed project. **[Same Impact as Approved Project (Less than Significant Impact)]**

Private Airstrip

The project site is not within the vicinity of a private airstrip; therefore, the proposed development would not result in a safety hazard in relation to a private airstrip. **[Same Impact as Approved Project (Less than Significant Impact)]**

Emergency Response

The proposed project would not interfere with the City-adopted Local Hazard Mitigation Plan or any adopted statewide emergency response or evacuation plans. **[Same Impact as Approved Project (No Impact)]**

Wildfires

The project site is located in northern Morgan Hill in a developed urban area. The site is not adjacent to any wildland areas that would be susceptible to fire. It has not been identified as an area of Very High Fire Hazard Severity nor is it within the City of Morgan Hill's wildland-urban interface.¹⁰
[Same Impact as Approved Project (No Impact)]

4.8.3 Conclusion

With implementation of **MM HAZ-1** discussed above, the proposed project would not result in significant hazards or hazardous materials impacts. **[Same Impact as Approved Project (Less than Significant with Mitigation Incorporated)]**

¹⁰ CAL FIRE. *Very High Fire Hazard Severity Zones in LRA*. Map. October 2008.

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Environmental Setting

4.9.1.1 *Drainage and Flooding*

The City of Morgan Hill is divided into several hydrologically distinct drainage areas, with each having a system of conveyance facilities, pumps, and detention basins to collect and dispose the runoff. The stormwater runoff from these areas is collected and ultimately discharged into creeks that flow through the City and are tributary to either of the Monterey Bay or San Francisco Bay. The project site is located in the Fisher Creek storm drainage basin. Fisher Creek generally drains the area north of Llagas Road and Cochrane Road west of US 101, and continues in a northerly direction to San Francisco Bay. The project is currently an undeveloped field, and consequently generates little storm water runoff.

The project site is not located within a 100-year flood hazard area. According to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), the project site is located within Zone X. Zone X is an area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.¹¹

4.9.1.2 *Water Quality*

The water quality of ponds, creeks, streams, and other surface water-bodies can be greatly affected by pollution carried in contaminated surface runoff. Pollutants from unidentified sources, known as “non-point” source pollutants, are washed from streets, construction sites, parking lots, and other exposed surfaces into storm drains. Grading and excavation activities during construction of the proposed billboard could increase the amount of surface water runoff (i.e., particles of fill or excavated soil) from the site, or could erode soil downgradient, if the flows are not controlled. Deposition of eroded material in water features could increase turbidity, thereby endangering aquatic life, and reducing wildlife habitat. Excessive precipitation can carry these non-point pollutants downstream.

Regulatory Overview (Water Quality)

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by water quality control boards, which for the Morgan Hill area north of Cochrane Road is the San Francisco Bay Regional Water Quality Control Board (RWQCB). The RWQCB issues and enforces NPDES permits for discharges to water bodies in the portion of Santa Clara County that drains to the San Francisco Bay. The RWQCB is also tasked with preparation and revision of a regional Water Quality Control Plan, also known as the Basin Plan. The Basin Plan was

¹¹ Federal Emergency Management Agency, Flood Insurance Rate Map, Community Panel #06085C0443H, May 18, 2009.

most recently updated in May 2017. The RWQCB implements the Basin Plan by issuing and enforcing waste discharge requirements to control water quality and protect beneficial uses.

NPDES General Permit for Construction Activity

The State Water Resources Control Board has implemented a NPDES General Construction Permit (Construction General Permit) for the State of California. Construction activity subject to this permit includes clearing, grading, and ground disturbances such as stockpiling or excavation. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.

NPDES Municipal Stormwater Permit

The U.S. Environmental Protection Agency has delegated management of NPDES requirements for municipal urban runoff discharges in California to the State Water Resources Control Board and the nine RWQCB's. The City of Morgan Hill has adopted and prepared a Storm Water Management Plan (SWMP) and been issued the NPDES Small Municipal Separate Storm Sewer Systems (small MS4s) General Permit by the Central Coast RWQCB [Order Number 2003-0005-DWQ, Waste Discharge Identification Number (WDID#) 3-43MS03020]. The City of Morgan Hill is designated by the EPA as a small MS4, serving less than 100,000 people. Morgan Hill's previous Small MS4 permit expired in June 2010, and the new regional permit serves as a renewal of the Small MS4 permit for Morgan Hill. The City's SWMP plan outlines a comprehensive five year plan to establish Best Management Practices (BMPs) through six Minimum Control Measures (MCMs) to help reduce the discharge of pollutants into waterways and to protect local water quality caused by stormwater and urban runoff within the corporate limits of Morgan Hill.

4.9.1.3 Groundwater

The site is located near the boundary between the Santa Clara Valley Groundwater Basin on the north, and the Llagas Subbasin of the Gilroy-Hollister Groundwater Basin on the south. Soil boring data from the site indicated a depth to groundwater of 64-68 feet below ground surface (bgs) in March 1992, and data from a monitoring well on the adjacent property north of Woodview Avenue indicated a depth to groundwater ranging from 36 to 55 feet bgs between April and November 1995.

¹² The site does not contain aquifer recharge facilities, such as streams or ponds.

4.9.1.4 Dam Failure

The Association of Bay Area Governments has compiled dam failure inundation hazard maps submitted to the State Office of Emergency Services by dam owners throughout the Bay Area. The maps for the City of Morgan Hill show the project site to be in the dam failure inundation hazard zone for Anderson Reservoir.¹³ The dams in Santa Clara County are managed by the Santa Clara Valley Water District. Anderson Dam is currently limited to about half its capacity due to seismic

¹² Geologica Inc., *Phase I Environmental Site Assessment. Madrone Village Hotel Parcel, APN 726-33-029, Morgan Hill, California 95037*, August 28, 2018.

¹³ Santa Clara Valley Water District. *Anderson Dam Flood Inundation Maps*. April 2016, <https://www.valleywater.org/sites/default/files/Anderson%20Dam%20Inundation%20Maps%202016.pdf>.

concerns, in order to protect against potential dam failure. The dam is currently being retrofitted to solve the seismic issue.¹⁴

4.9.1.5 *Seiches, Tsunamis, and Mudflows*

A seiche is an oscillation of the surface of a lake or landlocked sea varying in period from a few minutes to several hours. There are no landlocked bodies of water near the project site that in the event of a seiche will affect the site.

A tsunami is a series of water waves caused by the displacement of a large volume of a body of water, such as an ocean or a large lake. Due to the immense volumes of water and energy involved, tsunamis can devastate coastal regions. The project site does not lie within a tsunami inundation hazard area.¹⁵

A mudflow is the rapid movement of a large mass of mud formed from loose soil and water. The project site is relatively flat and is not susceptible to mudflows.

4.9.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	☐	1, 2
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	☐	1, 2

¹⁴ Santa Clara Valley Water District. "Anderson Dam Seismic Retrofit". 2018.

<https://www.valleywater.org/project-updates/dam-reservoir-projects/anderson-dam-seismic-retrofit>.

¹⁵ California Emergency Management Agency, Tsunami Inundation Map for Emergency Planning San Francisco Bay Area, December 9, 2009.

http://www.consrv.ca.gov/cgs/geologic_hazards/Tsunami/Inundation_Maps/Documents/Tsunami_Inundation_SanFranciscoBayArea300.pdf.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☐	☒	☐	1, 2
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	☐	1, 2
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	☐	1, 2
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒	☐	1, 2
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	☐	13
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	☐	13
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	☐	1, 14
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	☐	1, 2

4.9.2.1 *Impacts to Drainage (Checklist Questions c-e)*

The project site is currently vacant and undeveloped, and contains no impervious surface area. The proposed hotel development project would add approximately 147,250 square feet of impervious surface area, consisting of building roof, walkways, and asphalt paved parking areas and driveways. The project would increase the percentage of impervious area on the site from zero to approximately 75 percent.

Under RWQCB regulations, new and redevelopment projects that create or replace 22,500 square feet or more of impervious surface are required to incorporate post-construction controls into the design of the project. Post-construction controls are permanent features designed to reduce pollutants in stormwater and/or erosive flows during the life of the project. Types of post-construction controls include low impact development (LID) site design, pollutant source control, stormwater treatment, and hydromodification management measures. The LID approach reduces stormwater runoff impacts by minimizing disturbed areas and impervious surfaces, maximizing opportunities for infiltration and evapotranspiration, and using stormwater as a resource (e.g. rainwater harvesting for non-potable uses).¹⁶ The LID treatment systems are required to be designed to retain stormwater runoff generated by the 85th percentile 24-hour storm.

According to the City's Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements, projects that create or replace 22,500 square feet or more of impervious surface area require the applicant, in addition to implementing structural and/or operational pollutant source and runoff treatment control measures, to manage post-development peak flows discharged from the site (hydromodification management). The Project Engineer must provide a hydrology report demonstrating that post-development stormwater runoff peak flows discharged from the site do not exceed pre-project peak flows for the 2- through 10- year storm events. Peak flow controls must also meet the flood control standards established by the Santa Clara County Drainage Manual.

The project proposes to connect on-site storm drains to the existing City storm drain system via storm drain pipes in Woodview Avenue and Madrone Parkway, adjacent to the site. The pipes drain to a large existing detention basin located north of the site, known as the Madrone Business Park detention basin. The basin is sized to store the 24-hour, 100-year design storm, consistent with City and SCVWD standards. By discharging its runoff into the detention basin, the project would be in compliance with the City's post-construction requirements, and would not contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems, provide substantial additional sources of polluted runoff, or substantially increase the rate or amount of surface runoff in a manner which will result in on- or off-site flooding. **[Same Impact as Approved Project (Less than Significant Impact)]**

¹⁶ City of Gilroy, City of Morgan Hill and Santa Clara County. *Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements*. June 2015.

4.9.2.2 *Impacts to Water Quality (Checklist Question a, f)*

Construction

There is the potential for water quality impacts to occur during project construction. In addition to generating dust, litter, oil, and other pollutants that could contaminate runoff from the site, construction activities would increase the potential for erosion and sedimentation by disturbing and exposing underlying soil to the erosive forces of water and wind. The proposed project would disturb more than one acre of soil and would be required to follow the requirements of the Construction General Permit. The same amount of disturbance would occur with the approved grocery store or the proposed hotels.

Standard Measures: In accordance with the City of Morgan Hill Standard Conditions of Approval and the Construction General Permit, the following measures are included in the project to reduce construction-related water quality impacts to a less than significant level:

SM HYD-1.1: The following BMPs shall be implemented during project construction:

- Burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities will be suspended during periods of high winds.
- All exposed or disturbed soil surfaces will be watered at least twice daily to control dust.
- Stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- All trucks hauling soil, sand, and other loose materials will be covered and all trucks will be required to maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction site will be swept daily (with water sweepers).
- Vegetation in disturbed areas will be replanted as quickly as possible.

[Same as Approved Project (Less than Significant Impact)]

Post – Construction

Stormwater runoff from urban uses such as the proposed project contains metals, pesticides, herbicides, and other contaminants such as oil, grease, lead, and animal waste. As previously described, the project would be required to conform to the City's Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements, which would ensure that increases in stormwater runoff pollutant loads, rates and volumes generated by the project's increase in impervious surface area on the site would be controlled through the implementation of pollutant source controls and LID-based treatment controls.

Post-construction stormwater runoff flows from the project site would be conveyed through the existing City storm drain pipes in the surrounding streets to an existing detention basin located two

blocks north of the site. The basin has been designed to function as both a stormwater treatment and hydromodification management facility, as well as a flood control facility for the surrounding area.

Conformance with the City's Stormwater Management Guidance Manual for Low Impact Development & Post-Construction Requirements for implementing pollutant source controls and LID-based treatment controls would reduce potential post-construction water quality impacts to a less than significant level. **[Same as Approved Project (Less than Significant Impact)]**

4.9.2.3 *Impacts to Groundwater (Checklist Question b)*

As previously described, the depth to groundwater at the project site has been recorded at between 36 and 55 feet bgs. The groundwater is deep enough such that the project, which entails only shallow ground disturbance for building foundations and utility trenching, would not interfere with groundwater flow or expose any aquifers. The project site is not an aquifer recharge facility (i.e., streams or ponds); therefore, development of the project site would not substantially interfere with aquifer recharge. **[Same as Approved Project (No Impact)]**

4.9.2.4 *Flooding Impacts (Checklist Questions g, h, i)*

The project is not located within a 100-year flood hazard zone and, therefore, would have no impact on 100-year flows or expose people to flood hazards associated with the 100-year flood. **[Same as Approved Project (No Impact)]**

4.9.3 Conclusion

With the implementation of standard measures and the City's policies and standards, the proposed hotel development would have a less than significant impact on hydrology and water quality. **[Same as Approved Project (Less Than Significant Impact)]**

4.10 LAND USE AND PLANNING

4.10.1 Environmental Setting

The 4.4-acre project site is an undeveloped parcel of land in the southwest quadrant of the Madrone Parkway and Woodview Avenue intersection, in the City of Morgan Hill. The site's existing General Plan land use designation and zoning are *Commercial* and *Planned Development (PD)*, respectively. The surrounding land uses are primarily commercial and light industrial. There is an existing vacant lot north of the project site zoned as *Light Industrial (ML)*. East of the project site is an existing commercial development, and south of the project site is an existing commercial development that was previously approved in conjunction with the project site as a planned development. Land west of the project site is developed for light industrial use.

4.10.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Physically divide an established community?	☐	☐	☐	☒	☐	1, 2
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	☐	1, 2
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	☐	1, 2, 7

4.10.2.1 *Land Use Impacts from the Project (Checklist Question a – c)*

Impacts on Established Communities

The site is in an urban setting primarily consisting of commercial, retail, and light industrial uses. The nearest residences are approximately 0.25 miles north of the site, on Calle Moniz. There are also multi-family residences located in the Cochrane Village residential area, at the corner of Cochrane Road and Butterfield Boulevard, approximately 0.5 miles southwest of the project site. The proposed development is consistent with adjacent uses (commercial, retail, and industrial) and the development

of two hotels within the Madrone Village Shopping Center would not physically divide an established community. **[Same as Approved Project (No Impact)]**

Land Use Plan Conflicts

The project site has a General Plan designation of *Commercial* and is zoned for *Planned Development (PD)*. Specific design standards were implemented with the adoption of Ordinance No. 1764 for a planned development of five single-story commercial buildings to ensure consistency with the City's General Plan and Zoning Code and avoid potential environmental impacts. The proposed project would modify the development standards to allow for the change in use from the previously approved grocery store to the two proposed hotels, thus avoiding conflict with the City of Morgan Hill's Zoning Code. The proposed project is a commercial development and would be consistent with the site's current General Plan designation.

As discussed in Section 4.4.2.4 of this Addendum, the proposed project is a covered activity under the HCP/NCCP (Private Development Covered 4.5 acres). The site is mapped as Fee Zone B (Agricultural and Valley Floor Lands). The proposed project would be required to pay a fee to offset the removal of this land cover type. The project site is not located in any other fee zone or within or adjacent to any plant or wildlife. Additionally, covered projects within the HCP/NCCP area are subject to paying a "Nitrogen Deposition Impact Fee" which is calculated based on the number of daily vehicle trips attributed to the activity and collected prior to the commencement of the use. Fees and conditions required for covered projects within the HCP/NCCP will be levied at the time of issuance of construction permits, grading permits, and other development permits required by the project. In this manner, the proposed project would not conflict with any habitat conservation plan and/or natural community conservation plan. **[Same as Approved Project (Less than Significant Impact)]**

4.10.3 Conclusion

The proposed project would not physically divide an existing community, nor would it conflict with any applicable land use plans, habitat conservation plans, or natural community conservation plans. The current designation of the project site is consistent with adjacent uses, therefore impacts from land use conflict would be less than significant. **[Same as Approved Project (Less than Significant Impact)]**

4.11 MINERAL RESOURCES

4.11.1 Environmental Setting

The project site is located in an urban area within the City of Morgan Hill. Mineral resource recovery activities do not occur on or near the project site, nor does the site contain any known mineral resources.

4.11.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	☐	1, 2
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	☐	1, 2

4.11.2.1 *Mineral Resources Impacts (Checklist Questions a, b)*

The project site is currently undeveloped and does not contain any known state or locally important mineral resources. Therefore, the proposed project would not impact mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.11.3 Conclusion

Implementation of the proposed project would result in no impact to mineral resources. **[Same Impact as Approved Project (No Impact)]**

4.12 NOISE AND VIBRATION

The following discussion is based in part on the Noise and Vibration Assessment prepared by *Illingworth & Rodkin, Inc.* A copy of the report, dated December 4, 2018, is included as Appendix B to this Addendum.

4.12.1 Environmental Setting

4.12.1.1 *Regulatory Framework*

The State of California and the City of Morgan Hill have established regulatory criteria that are applicable in this assessment. The State of California Environmental Quality Act (CEQA) Guidelines, Appendix G, are used to assess the potential significance of impacts pursuant to local General Plan policies, Municipal Code standards, or the applicable standards of other agencies. A summary of the applicable regulatory criteria is provided below.

State CEQA Guidelines

The CEQA contains guidelines to evaluate the significance of effects of environmental noise attributable to a proposed project. Under CEQA, noise impacts would be considered significant if the project would result in:

- (a) Exposure of persons to or generation of noise levels in excess of standards established in the local General Plan or Noise Ordinance, or applicable standards of other agencies;
- (b) Exposure of persons to or generation of excessive ground-borne vibration or ground-borne noise levels;
- (c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;
- (d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project;
- (e) For a project located within an airport land use plan or where such a plan has not been adopted within two miles of a public airport or public use airport, if the project would expose people residing or working in the project area to excessive noise levels; or
- (f) For a project within the vicinity of a private airstrip, if the project would expose people residing or working in the project area to excessive noise levels.

Pursuant to recent court decisions, the impacts of site constraints, such as exposure of the proposed project to excessive levels of noise and vibration, are not included in the Impacts and Mitigation Section of this report. These items are discussed in a separate section addressing the project's consistency with the policies set forth in the City's General Plan.

CEQA does not define what noise level increase would be considered substantial. Typically, project-generated noise level increases of 3 dBA L_{dn} or greater would be considered significant where exterior noise levels would exceed the normally acceptable noise level standard (60 dBA L_{dn} for residential land uses). Where noise levels would remain at or below the normally acceptable noise level standard with the project, noise level increases of 5 dBA L_{dn} or greater would be considered significant.

State Building Code

The State Building Code, Title 24, Part 2 of the State of California Code of Regulations establishes uniform minimum noise insulation performance standards to protect persons within new buildings which house people, including hotels, motels, dormitories, apartment houses and dwellings other than single-family dwellings. Title 24 mandates that interior noise levels attributable to exterior sources shall not exceed 45 dBA DNL or CNEL¹⁷ in any habitable room.

City of Morgan Hill General Plan

The Safety, Services and Infrastructure Chapter in the Morgan Hill 2035 General Plan sets forth policies with the goal of minimizing the impact of noise on people through noise reduction and suppression techniques, and through appropriate land use policies in the City of Morgan Hill. The following policies are applicable to the proposed project:

Policy SSI-8.2- Impact Evaluation: The impact of proposed development project on existing land uses should be evaluated in terms of the potential for adverse community response based on significant increase in existing noise levels, regardless of compatibility guidelines.

Policy SSI-8.3- Commercial and Industrial Noise Level Standards: Evaluate interior noise levels in commercial and industrial structures on a case-by-case basis based on the use of the space.

Policy SSI-8.5- Traffic Noise Level Standards: Consider noise level increases resulting from traffic associated with new projects significant if: a) the noise level increase is 5 dBA L_{dn} or greater, with a future noise level of less than 60 dBA L_{dn} , or b) the noise level increase is 3 dBA L_{dn} or greater, with a future noise level of 60 dBA L_{dn} or greater.

Policy SSI-8.6- Stationary Noise Level Standards: Consider noise levels produced by stationary noise sources associated with new projects significant if they substantially exceed existing ambient noise levels.

Policy SSI-8.9- Site Planning and Design: Require attention to site planning and design techniques other than sound walls to reduce noise impacts, including: a) installing earth

¹⁷ DNL (or L_{dn}) stands for Day-Night Level and is a 24-hour average of noise levels, with 10 dB penalties applied to noise occurring between 10:00 PM and 7:00 AM. CNEL stands for Community Noise Equivalent Level; it is similar to the DNL except that there is an additional five (5) dB penalty applied to noise which occurs between 7:00 PM and 10:00 PM. Title 24 states that the determination of whether to apply DNL or CNEL should be consistent with the metric used in the noise element of the local general plan.

berms, b) increasing the distance between the noise source and the receiver; c) using non-sensitive structures such as parking lots, utility areas, and garages to shield noise-sensitive areas; d) orienting buildings to shield outdoor spaces from the noise source; and e) minimizing the noise at its source.

City of Morgan Hill Municipal Code

The City of Morgan Hill's Municipal Code Chapter 8.28 states that "It is unlawful and a misdemeanor for any person to make or continue, or cause to be made or continued, any loud, disturbing, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, health, repose, peace or safety of other persons within the city." The following policies would be applicable to the project:

- C. Blowers, Fans, and Combustion Engines. The operation of any noise-creating blower, power fan or internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device to deaden such noise;
- D. 1. Construction activities as limited below. "Construction activities" are defined as including but not limited to excavation, grading, paving, demolition, construction, alteration or repair of any building, site, street or highway, delivery or removal of construction material to a site, or movement of construction materials on a site. Construction activities are prohibited other than between the hours of seven a.m. and eight p.m., Monday through Friday and between the hours of nine a.m. to six p.m. on Saturday. Construction activities may not occur on Sundays or federal holidays. No third person, including but not limited to landowners, construction company owners, contractors, subcontractors, or employers, shall permit or allow any person working on construction activities which are under their ownership, control or direction to violate this provision. Construction activities may occur in the following cases without violation of this provision:
 - a. In the event of urgent necessity in the interests of the public health and safety, and then only with a permit from the chief building official, which permit may be granted for a period of not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.
 - b. If the chief building official determines that the public health and safety will not be impaired by the construction activities between the hours of eight p.m. and seven a.m., and that loss or inconvenience would result to any party in interest, the chief building official may grant permission for such work to be done between the hours of eight p.m. and seven a.m. upon an application being made at the time the permit for the work is issued or during the progress of the work.
- 2. If it is determined necessary in order to ensure compliance with this section, the chief building official may require fences, gates or other barriers prohibiting access to a construction site by construction crews during hours in which construction is prohibited by this subsection. The project manager of each project shall be responsible for ensuring the fences, gates or barriers are locked and/or in place during hours in which no

construction is allowed. This subsection shall apply to construction sites other than public works projects or single dwelling units which are not a part of larger projects.

- F. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- G. Loading or Unloading Vehicles and Opening Boxes. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers;
- J. Pile Drivers, Hammers and Similar Equipment. The operation, between the hours of eight p.m. and seven a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

Section 18.48.075 (Noise) of the Municipal Code establishes additional noise performance standards.

- A. At the lot line of all uses specified in Section 18.48.010, the maximum sound generated by any use shall not exceed seventy to seventy-five db(A) when adjacent uses are industrial or wholesale uses. When adjacent to offices, retail or sensitive industries, the sound level shall be limited to sixty-five to seventy db(A). When uses are adjacent or contiguous to residential, park or institutional uses, the maximum sound level shall not exceed sixty db(A).
- B. Excluded from these standards are occasional sounds generated by the movement of railroad equipment, temporary construction activities, or warning devices.

4.12.1.2 Existing Noise Environment

The site is undeveloped and bordered by commercial retail land uses to the south and commercial office land uses to the west. Opposite Madrone Parkway to the east is an existing hotel and additional commercial uses. Undeveloped land is located to the north of the site, opposite Woodview Avenue. A Courtyard by Marriott hotel is located east of the site, opposite Madrone Parkway.

The noise environment at the site and in the surrounding area results primarily from vehicular traffic along Madrone Parkway, U.S. Highway 101, and Cochrane Road. Nearby commercial land uses produce noise from sources including a carwash and vehicle circulation in the parking lots.

A noise monitoring survey was made between Tuesday, August 21, 2018 and Thursday, August 23, 2018. The monitoring survey included two long-term noise measurements and one short-term noise measurement, which are shown in Figure 4.12-1.

Figure 4.12-1: Noise and Vibration Measurement Locations



Source: Google Earth 2018

Long-term noise measurement LT-1 was made in the southwest corner of the project site, adjacent to the parking lots of the commercial retail and the commercial offices. The daily trend in noise levels at LT-1 is shown in Figures 2 - 4. Hourly average noise levels at LT-1 ranged from 51 to 55 dBA L_{eq} during daytime hours (7:00 a.m. and 10:00 p.m.) and from 44 to 54 dBA L_{eq} during nighttime hours (10:00 p.m. and 7:00 a.m.). The day-night average noise level measured on Wednesday, August 22, 2018 was 58 dBA L_{dn} .

LT-2 was made approximately 55 feet from the centerline of Madrone Parkway and approximately 150 feet from the centerline of Woodview Avenue. When the meters were picked up, it was observed that the grass had recently been cut. A review of the data between the hours of 7:00 a.m. and 10:00 a.m. on Wednesday, August 22, 2018 indicated that landscaping activities were completed in this time frame. Noise levels occurring within this time period were removed from the data set in order to establish typical trends in hourly average noise levels and day-night average noise levels. Hourly average noise levels at LT-2 typically ranged from 58 to 67 dBA L_{eq} during the day and from 53 to 62 dBA L_{eq} at night. The day-night average noise level measured on Wednesday, August 22, 2018 was 66 dBA L_{dn} .

The short-term noise measurement was made on Tuesday, August 21, 2018 between 12:10 p.m., and 12:20 p.m. in the southeastern corner of the project site. During the lunchtime hour, traffic at the commercial retail entrance/exit driveway was busy, as was traffic along Madrone Parkway. Typical heavy trucks generated noise levels of 72 dBA when passing by ST-1, and a motorcycle pass-by resulted in noise levels of 75 to 77 dBA. In the absence of local traffic, the carwash located southeast of the site produced noise levels ranging from 55 to 56 dBA. The carwash entrance was approximately 165 feet from ST-1. The 10-minute average noise level measured at ST-1 was 64 dBA $L_{eq(10-min)}$. The results of these short-term measurements are summarized in Table 4.12-2.

Table 4.12-2: Summary of Short-Term Noise Measurements (dBA)							
		Measured Noise Level, dBA					
Noise Measurement Location	Date, Time	L_{max}	$L_{(1)}$	$L_{(10)}$	$L_{(50)}$	$L_{(90)}$	$L_{eq(10-min.)}$
ST-1: ~40 feet from Madrone Parkway centerline	8/21/2018, 12:10 – 12:20	77	73	67	61	56	64

Groundborne Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One method is the Peak Particle Velocity (PPV). The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. In the *Illingworth & Rodkin* report, a PPV descriptor with units of mm/sec or in/sec is used to evaluate construction generated vibration for building damage and human complaints.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to cause damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life, are evaluated against different vibration limits. Human perception to vibration varies with the individual and is a function of physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels, such as people in an urban environment, may tolerate a higher vibration level.

4.12.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project result in:						
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒	☐	1, 15
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒	☐	1, 15
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1, 15
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒	☐	1, 15
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	☐	1

4.12.2-1 *Thresholds of Significance*

According to Appendix G of the CEQA Guidelines, a project would normally result in significant noise impacts if noise levels generated by the project conflict with adopted environmental standards or plans, if the project would generate excessive ground-borne vibration levels, or if ambient noise levels at sensitive receivers would be substantially increased over a permanent, temporary, or periodic basis. The following criteria were used to evaluate the significance of environmental noise resulting from the project:

- A significant noise impact would be identified if the project would expose persons to or generate noise levels that would exceed applicable noise standards presented in the General Plan or Municipal Code.

- A significant impact would be identified if the construction of the project would expose persons to excessive vibration levels. Groundborne vibration levels exceeding 0.3 in/sec PPV would have the potential to result in cosmetic damage to normal buildings.
- A significant impact would be identified if traffic generated by the project would substantially increase noise levels at sensitive receivers in the vicinity. A substantial increase would occur if: a) the noise level increase is 5 dBA Ldn or greater, with a future noise level of less than 60 dBA Ldn, or b) the noise level increase is 3 dBA Ldn or greater, with a future noise level of 60 dBA Ldn or greater.
- A significant noise impact would be identified if construction-related noise would temporarily increase ambient noise levels at sensitive receptors. Hourly average noise levels exceeding 70 dBA Leq, and the ambient by at least 5 dBA Leq, at the property lines shared with commercial land uses for a period of more than one year would constitute a significant temporary noise increase.

4.12.2.2 *Noise Impacts from the Project (Checklist Question a – d)*

Mechanical Equipment Noise

Under the City of Morgan Hill's Municipal Code, noise levels produced by the operation of mechanical equipment would be considered significant if the sound level exceeds 65 to 70 dBA when adjacent to offices, retail, or sensitive industries.

Information regarding the number, type, or size of the mechanical equipment units that would be required as part of the project, was not available at the time of this study. Typically, hotel HVAC units are installed on the roof of the building and produce noise levels of 50 to 60 dBA at 50 feet from the equipment. Mechanical equipment on the roof of the proposed hotels would be at least 70 feet from the nearest commercial property line, and at this distance, operational noise levels would be expected to be below the Municipal Code noise limits, ranging from 47 to 57. When considering additional shielding from building rooftop or parapet walls, and additional 10 to 20 dBA of noise reduction could be expected, resulting in noise levels that are below ambient noise levels. This will be verified by a qualified acoustical engineer prior to issuance of building permits, based on the specific proposed location of equipment and the manufacturer specifications. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Parking Lot Noise

The proposed surface parking lots will surround the hotels and border nearby commercial office buildings. The major noise sources attributed to parking lot activities is the sound of vehicles as they drive by, noise generated when vehicles start their engines, door slams, and the occasional sound of car alarms. Sounds of voices generally produce less noise. Typical parking lot activities generate maximum noise levels of 50 to 60 dBA L_{max} when measured at 50 feet from the source. Car alarms generate maximum noise levels of 63 to 70 dBA L_{max} at 50 feet. The hourly average noise level resulting from all these noise-generating activities in a small parking lot would reach 40 dBA L_{eq} at a distance of 50 feet from the parking area. Parking lot activities could result in intermittent, loud noises at adjoining office land uses, but these sounds would not be expected to exceed existing noise levels

due to parking lot activities in the area or result in noise levels exceeding the 65 to 70 dBA noise limit established in the Municipal Code for projects adjacent to offices, retail, or sensitive industries. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Construction Noise

The construction of the project would generate noise and would temporarily increase noise levels at adjacent commercial land uses. Construction phases would include site preparation, grading, building construction, paving, trenching, and architectural coatings. The total construction period is estimated to last approximately 11 months. During each stage of construction, there would be a different mix of equipment operating, and noise levels would vary by stage and vary within stages, based on the amount of equipment in operation and the location at which the equipment is operating. The hauling of excavated materials and construction materials would generate truck trips on local roadways as well.

Noise impacts resulting from construction depend on the noise generated by various pieces of construction equipment operating on site, the timing and duration of noise generating activities, the presence of intervening terrain or noise barriers, and the distance between construction noise sources and noise sensitive receptors. Noise from construction activities that exceed 70 dBA L_{eq} and the ambient noise environment by at least 5 dBA L_{eq} for a period of more than one year would constitute a significant temporary noise increase.

Construction activities generate considerable amounts of noise, especially during demolition activities and when project infrastructure improvements are made with the use of heavy construction equipment. The highest maximum noise levels generated by project construction would typically range from approximately 90 to 95 dBA at a distance of 50 feet from the noise source. Typical hourly average construction generated noise levels for hotel projects range from 78 dBA to 89 dBA at 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.). Construction generated noise levels drop off at a rate of about 6 dBA per doubling of distance between the source and receptor. Shielding by buildings or terrain often result in lower construction noise levels at distant receptors. Construction noise levels received at nearby commercial land uses are anticipated to exceed 70 dBA L_{eq} and the ambient levels by more than 5 dBA for a period of less than a year. The construction noise impacts from building the 206 hotel rooms in two structures are expected to be similar to the noise impacts from building the approved grocery store, and would require similar mitigation, as noted below.

Impact NOI-1: Short-term noise increases due to construction would result in a significant impact to sensitive receptors located at adjacent land uses. **(Significant Impact)**

Mitigation Measures: The following construction noise mitigation measures, recommended for the previously-approved 48,000-square foot grocery store on the site, will reduce noise level impacts from construction to a less than significant level:

MM NOI-1: The project applicant shall implement the following construction period measures to reduce construction noise impacts to a less than significant level:

- (a) Based on the City of Morgan Hill Noise Ordinance, limit noise-generating construction activities, including truck traffic to and from the project site, to daytime hours (7:00 am to 8:00 pm) during normal weekdays and between 9:00 am and 6:00 pm on Saturdays. Prohibit activities on Sundays and federal holidays;
- (b) Properly muffle and maintain all internal combustion engines for construction equipment used on the site; and
- (c) Locate all stationary noise-generating construction equipment, such as air compressors, crushers, and portable power generators, as far as practical from existing businesses.

[Same Impact as Approved Project (Less Than Significant With Mitigation Incorporated)]

Vibration

The construction of the project may generate perceptible vibration at nearby commercial land uses when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used near the perimeter of the project site. Vibration-producing activities would occur when heavy equipment is used to during site preparation work, grading and excavation, trenching, and paving. Foundation construction techniques involving impact or vibratory pile driving, which can cause excessive vibration, are not anticipated as part of the project.

Project construction activities, such as drilling, the use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment (tracked vehicles, compactors, etc.), may generate substantial vibration in the immediate vicinity of the activities, but the vibration levels would be expected to attenuate with distance from the source. Commercial buildings adjoining the site would be located approximately 70 feet from the primary work areas. At 70 feet, vibration levels due to construction activities would reach 0.068 in/sec PPV if heavy objects are dropped or vibratory rollers are used. Groundborne vibration levels would not exceed the 0.3 in/sec PPV threshold.

Vibration levels would at times be perceptible to occupants. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of high power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.12.2.3 *Airport Impacts (Checklist Questions e, f)*

The project is not located within an airport land use plan, or within the vicinity of a private airstrip, therefore, the project will not expose people residing or working in the project area to excessive noise levels. **[Same Impact as Approved Project (Less Than Significant Impact)]**

4.12.3 Conclusion

Operational noise generated by the proposed hotel project would not result in significant impacts.

The construction noise mitigation measures **MM NOI-1** above shall be implemented during all phases of construction activity to reduce the noise exposure of neighboring properties. Implementation of the above measures would reduce construction noise levels emanating from the site, minimizing disruption and annoyance. These controls, in combination with the limitations on hours set forth in the Municipal Code, and relatively short construction duration, would result in a less-than-significant impact. **[Same Impact as Approved Project (Less than Significant With Mitigation Incorporated)]**

4.13 POPULATION AND HOUSING

4.13.1 Environmental Setting

Based on the California Department of Finance population estimates, the City's total population was approximately 44,513 in January 2018 and the average persons per household was an estimated 3.06.^{18,19} The City grew in population by 1.9% from January 2017 to January 2018. The City's total population is projected to grow to approximately 46,100 by 2030.²⁰

As part of the General Plan, residential development within the City of Morgan Hill is controlled by the Residential Development Control System (RDCS). Morgan Hill's RDCS process meters the amount of residential development occurring within the City in any given year, typically up to 215 units annually, to ensure the rate of development does not outstrip the availability of public services and infrastructure to serve the City's residents. RDCS establishes a population ceiling of 58,200 for the City as of January 1, 2035.

The Housing Element of the City of Morgan Hill's General Plan was adopted in February of 2015. The Housing Element builds on the previously adopted Housing Element, certified in 2010, and is based on three strategic goals: (1) provide an adequate supply of housing to meet future needs, (2) preserve the existing housing supply, and (3) provide adequate housing for groups with special needs. The Housing Element provides guidance for decision-making regarding housing, zoning, and development projects within the City of Morgan Hill.

4.13.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒	☐	1, 2
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1, 2

¹⁸ California Department of Finance. *E-1: City/County Population Estimates with Annual Percent Change - January 2017 and 2018*. July 2018.

¹⁹ City of Morgan Hill. *Pop-Facts: Demographic Snapshot 2015 Report*. Available at: <<http://www.morgan-hill.ca.gov/717/Demographics-Community-Profile>>. Accessed July 15, 2018.

²⁰ City of Morgan Hill. *Morgan Hill General Plan: City of Morgan Hill Housing Element*. Adopted February 2015.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	☐	1, 3

4.13.2.1 *Impacts to Population and Housing*

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

4.13.2.2 *Population Growth (Checklist Question a)*

The proposed project involves the construction of two hotels, paved surfaced parking, and associated landscaping within a currently undeveloped 4.4-acre lot. The two hotels would provide 206 rooms in total. The proposed businesses would not induce population growth due to the nature of the services provided (temporary lodging). No new roads or infrastructure improvements are proposed within the scope of the project that would facilitate further population growth in the City. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.13.2.3 *Displacement of People/Housing (Checklist Questions b, c)*

The currently undeveloped site is not in use or proposed for use as a residential development. Therefore, the proposed project would not displace people or necessitate the construction of housing elsewhere. **[Same Impact as Approved Project (No Impact)]**

4.13.3 Conclusion

The proposed project would not induce substantial population growth or displace people or housing. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.14 PUBLIC SERVICES

4.14.1 Environmental Setting

4.14.1.1 *Fire Protection*

The City of Morgan Hill contracts with the California Department of Forestry and Fire Protection (CalFire) for fire and emergency medical services. The City is served by three stations at the following locations: 1) El Toro Fire Station, located at 18300 Old Monterey Road (approximately 1.4 miles southwest of the site), 2) Dunne Hill Fire Station, located at 2100 East Dunne Avenue (approximately 2.4 miles east of the project site), and 3) 15670 Monterey Street (approximately 3.0 miles south of the project site). In general, the response time meets the current standard of eight minutes 95 percent of the time. Based on estimated driving times provided by Google Maps, the project site is located within eight minutes driving distance of the El Toro Fire Station.

4.14.1.2 *Police Protection*

Police service is provided to the project site by the City of Morgan Hill Police Department (MHPD). The MHPD facility is located at 16200 Vineyard Boulevard, approximately 2.5 miles southeast of the project site. The department employs 39 sworn officers.²¹ The Police Department's goal is to respond to Priority One calls within five minutes and Priority Two calls within eight minutes.²² Priority One calls are reports of a crime in progress or where an injury has occurred and Priority Two calls are reports of felonies and other major calls.

4.14.1.3 *Schools*

The project site is located within the Morgan Hill Unified School District. The District has eight elementary schools, two middle schools, two comprehensive high schools, one continuation high school, and a community adult school, as well as a home schooling program. The nearest schools to the site, El Toro Elementary and Stratford School, are approximately 1.2 miles southeast and 2.2 miles southwest, respectively, from the site.

4.14.1.4 *Parks*

The City owns 70 acres of developed park land and 59 acres of recreation facilities. The City maintains two community parks, five neighborhood parks, two neighborhood/school parks, and 15 mini-parks, in addition to its public trail system and open space. In addition to publicly-owned park land, there is also a substantial amount of recreational land and open space in the City that is privately owned and maintained. The nearest park to the project site is Murphy Springs Park, located approximately one mile to the southwest.

The City also owns and operates special use facilities for recreational purposes. These facilities include the Morgan Hill Aquatics Center, Community and Cultural Center, the Centennial Recreation Center, the 38 acre Outdoor Sports Center, and Skateboard/BMX park. Many sports leagues and teams use Morgan Hill School District facilities after school hours and on weekends. These facilities

²¹ City of Morgan Hill. *Police*. Accessed July 21, 2018. <http://www.morgan-hill.ca.gov/index.aspx?nid=129>.

²² City of Morgan Hill. *Operating and CIP Budget, FY 13-14. Police Field Operations, Performance Measures*. 2013.

include 12 baseball/softball fields, two football fields, two tracks, and four swimming pools. The nearest recreational facility to the project site is the sports field at Ann Sobrato High School, just under one mile northwest of the site.

The City has adopted General Plan policies that contribute to the preservation and continued establishment of park land for the benefit of the community. General Plan Policy HC-3.29 supports the continued acquisition and development of parks, trails and other recreation facilities through development fees and/or land dedication.

4.14.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project						
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:						
- Fire Protection?	☐	☐	☐	☒	☐	1, 2
- Police Protection?	☐	☐	☐	☒	☐	1, 2
- Schools?	☐	☐	☐	☒	☐	1, 2
- Parks?	☐	☐	☐	☒	☐	1, 2
- Other Public Facilities?	☐	☐	☐	☒	☐	1, 2

4.14.2.1 *Impacts to Public Services (Checklist Question a)*

Fire and Police Services

The proposed project is an in-fill, commercial development project that will not require the construction or expansion of additional fire or police facilities. CalFIRE and the Morgan Hill Police Department will review the development plans to ensure safety features to reduce the risk of fire hazard and criminal activity are incorporated into the project design. These features include fire hydrants, emergency vehicle turnarounds and access locations, and appropriate lighting within the project site and its vicinity. The proposed project would be constructed in conformance with current building and fire codes. Response times for police and fire protection services will not be substantially lowered as a result of the proposed project, due to its location in an urban area of Morgan Hill and its proposed commercial usage. Therefore, the proposed project will not result in a

significant impact to fire and police services. **[Same Impact as Approved Project (Less than Significant Impact)]**

Schools

The proposed project does not propose to develop residential units and would not increase the student population of the City. Therefore, the proposed project would not increase demand on, or require additional construction of, school facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

Parks

Chapter 17.28 of the City's Municipal Code establishes parkland dedication/in-lieu fee requirements for new residential development, dependent on the type of development (single-family or multi-family) and expected population increases. The responsibility for payment of in-lieu fees, or establishment of required parkland, lies with the subdivider when a subdivision for residential purposes is proposed. The proposed project involves the subdivision of a 4.4-acre parcel into a 2.0-acre parcel and a 2.4-acre parcel, however the proposed use is commercial and not residential. Therefore, no parkland dedication or in-lieu fees will be required, and the proposed project would have no impact on park facilities. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.14.3 Conclusion

The proposed hotels would incrementally increase demand for public services in the project area, however, this increase in demand would not result in a significant impact on the environment. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15 RECREATION

4.15.1 Environmental Setting

The City owns 70 acres of developed park land (including the Civic Center, assessment district parks and city owned trails) and 59 acres of recreation facilities. Included within this inventory, the City maintains two community parks, five neighborhood parks, two neighborhood/school parks, and 15 mini-parks, in addition to its public trail system and open space. In addition to publicly-owned park land, there is also a significant amount of recreational land and open space in the City that is privately owned and maintained.

The City also owns and operates special use facilities for recreational purposes. These facilities include the Morgan Hill Aquatics Center, Community and Cultural Center, the Centennial Recreation Center, the 38-acre Outdoor Sports Center, and Skateboard/BMX park. Many sports leagues and teams use Morgan Hill School District facilities after school hours and on weekends. These facilities include 12 baseball/softball fields, two football fields, two tracks, and four swimming pools.

The nearest park to the project site is Murphy Springs Park, located approximately one mile to the southwest. The nearest recreational facility to the project site is the sports field at Ann Sobrato High School, just under one mile northwest of the site.

4.15.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☐	☒	☐	1
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	☐	1

4.15.2.1 *Impacts on Parks and Recreational Facilities (Checklist Question a, b)*

The proposed project does not include the development of residential units and the anticipated workforce for the two hotels will come from the existing City population. For this reason, substantial impacts to existing neighborhood and regional parks or recreational facilities will not occur or be accelerated by the proposed project. Due to the lack of residential development, no additional parkland will be designated as a requirement of the project, and recreational facilities will not need to

be constructed or expanded to accommodate the project. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.15.3 Conclusion

The proposed project is a solely commercial development that will not incorporate any residential units into its design. No additional burden will be placed on parks or recreational facilities, and no additional parks or facilities will need to be established. Therefore, the proposed project will have no impact on recreation. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16 TRANSPORTATION AND TRAFFIC

The following discussion is based on a trip generation and operations analysis completed for the proposed project by *Hexagon Transportation Consultants, Inc.* in July of 2018. The analysis is attached as Appendix C to this Initial Study/Addendum.

4.16.1 Environmental Setting

Regional Access

US 101 is a north-south freeway extending northward to San Francisco and southward through Gilroy. US 101 is an eight-lane freeway (three mixed-flow lanes and one high-occupancy vehicle [HOV] lane in each direction) north of Cochrane Road. South of Cochrane Road, it is a six-lane freeway with no HOV lanes. Existing access to and from the project area is provided via an interchange at Cochrane Road.

Local Access

Cochrane Road is an east-west divided roadway that runs from Monterey Road to Malaguerra Avenue east of US 101. Cochrane Road is a four-lane road between Monterey Road and Sutter Boulevard. Between Sutter Boulevard and US 101, Cochrane Road widens to three lanes eastbound and two lanes westbound, then narrows back to four lanes east of US 101, and to two lanes east of Mission View Drive. Cochrane Road has a posted speed limit of 45 mph. It runs along the southern portion of the project site and provides access to the Madrone Village Shopping Center via right-turn only.

Madrone Parkway is a two-lane, partially divided roadway that begins at its intersection with Cochrane Road and ends at its intersection with Monterey Road. Madrone Parkway runs along the eastern edge of the project site and provides access to the Madrone Village Shopping Center for traffic headed in both directions.

Woodview Avenue is a two-lane undivided roadway that begins at its intersection with Madrone Parkway and ends at its intersection with Cochrane Road. Woodview Avenue runs along the northwestern portion of the project site. No ingress/egress points currently exist from Woodview Avenue, and none are proposed.

Existing Bicycle and Pedestrian Facilities

There are existing bike lanes along the entire length of Cochrane Road. Currently, there are no bike lanes on either Madrone Parkway or Woodview Avenue.

Sidewalks border the project site on Madrone Parkway and Woodview Avenue, with pedestrian access primarily provided by the entrance on Madrone Parkway. Pedestrians may access the project site by way of Cochrane Avenue, however the large parking lot present in between Cochrane Avenue and the site interrupts the ease of access for foot traffic.

4.16.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒	☐	1, 2, 16
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒	☐	1, 2, 16
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	☐	1, 2, 16
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	☐	1, 2, 16
e) Result in inadequate emergency access?	☐	☐	☐	☒	☐	1, 2, 16

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒	☐	1, 2, 16

4.16.2.1 Impacts to Roadways (Checklist Question a, b)

A trip generation and operations analysis was conducted by *Hexagon Transportation Consultants, Inc.* to determine whether a comprehensive traffic study would be required for the proposed change in approved uses at the project site. Based on the analysis and the parameters set forth by the City of Morgan Hill, a comprehensive traffic impact study was not required for the proposed project. (See Appendix C, attached to this Initial Study/Addendum, for a more detailed discussion of what necessitates a traffic impact study in the City of Morgan Hill.)

Thresholds of Significance

All intersections within the City of Morgan Hill are required to meet the City's LOS standard of LOS D, with the exception of Downtown intersections permitted to operate at LOS F, and nine intersections and three freeway zones permitted to operate at LOS E. According to the City's LOS guidelines, a development is said to create a significant adverse impact on traffic conditions at a signalized intersection if for either peak hour:

1. The level of service at the intersection degrades from an acceptable LOS D or LOS E as identified above under existing conditions to an unacceptable LOS E or LOS F under project conditions, or
2. The level of service at the intersection is an unacceptable level of LOS E or LOS F as identified above under existing conditions and the addition of project trips causes the average critical delay to increase by four or more seconds and the volume-to-capacity ratio (V/C) to increase by 0.01.

An exception to this rule applies when the addition of project traffic reduces the amount of average delay for critical movements (i.e., the change in average delay for critical movements is negative). In this case, the threshold of significance is an increase in the critical V/C value by 0.01 or more.

Unsignalized intersections within the City have a minimum operating level of LOS D. According to the City's LOS guidelines, a development is said to have a significant adverse impact on traffic conditions at an unsignalized intersection if for either peak hour the addition of project traffic causes the worst approach delay to LOS E or F and the traffic volumes at the intersections are sufficiently high to satisfy the peak hour volume warrant.

A project is said to create a significant adverse impact on traffic conditions on a CMP freeway segment if for either peak hour:

1. The level of service on a freeway segment is an unacceptable LOS F under no project conditions, and the number of project trips on that segment constitutes at least one percent of capacity on that segment.
2. The level of service on the freeway segment degrades from an acceptable LOS E or better under existing conditions to an unacceptable LOS F under project conditions.

A significant impact by CMP standards is said to be satisfactorily mitigated when measures are implemented that would restore freeway conditions to LOS E or better

Study Intersections

The trip generation and operations analysis completed for the proposed project evaluates the following six signalized intersections and four freeway segments for potentially significant impacts to traffic circulation and congestion in the vicinity of the project site.

Intersections

1. Monterey Road and Cochrane Road
2. Butterfield Boulevard and Cochrane Road
3. Sutter Boulevard and Cochrane Road
4. Madrone Parkway/Cochrane Plaza and Cochrane Road
5. US 101 Southbound Ramps and Cochrane Road
6. US 101 Northbound Ramps and Cochrane Road

Freeway Segments

1. US 101 from East Dunne Avenue to Cochrane Road
2. US 101 from Cochrane Road to Burnett Avenue (Lane Drop)
3. US 101 from Burnett Avenue (Lane Drop) to Cochrane Road
4. US 101 from Cochrane Road to East Dunne Avenue

Existing Plus Project

The magnitude of traffic generated by both the approved retail (grocery) and proposed hotel development was estimated by applying to the size of the development the applicable trip generation rates published in the Institute of Transportation Engineers (ITE) manual entitled Trip Generation, Tenth Edition. The proposed project is estimated to contribute 126 AM peak-hour trips (73 inbound, 53 outbound) and 148 PM peak-hour trips (73 inbound, 75 outbound). When compared to trip generation rates estimated for the previously approved project, the proposed project will result in an increase of five AM peak-hour trips and a decrease of 174 PM peak-hour trips. As defined by the City of Morgan Hill, a substantial change in traffic resulting from a project would be indicated by an increase of more than 50 peak-hour trips. Since AM peak-hour trips will only increase marginally with the addition of the proposed project, and PM peak-hour trips will decrease substantially, the change in traffic from the approved grocery store to the hotels would not be substantial.

Upon a review of the six intersections analyzed by *Hexagon Traffic Consultants*, the proposed project is determined to not result in deterioration of current LOS to below the City of Morgan Hill's acceptable standards. For all intersections studied, the average critical delay will not increase by four or more seconds and the V/C ratio will not increase by more than 0.01. See Table 4.16-1 for a summary of existing plus project intersection LOS. **[Same Impact as Approved Project (Less Than Significant Impact)]**

Table 4.16-1: Existing Plus Project Intersection Levels of Service									
Intersection	Peak Hour	Existing		Approved		Proposed			
		Delay	LOS	Delay	LOS	Delay	LOS	Δ in Crit. Delay	Δ in Crit. V/C
1. Monterey Road/Cochrane Road	AM	28.1	C	28.2	C	28.1	C	0.9	0.001
	PM	24.0	C	24.9	C	24.1	C	0.1	0.001
2. Butterfield Boulevard and Cochrane Road	AM	12.8	B	12.9	B	12.9	B	0.2	0.006
	PM	14.7	B	14.9	B	14.8	B	0.2	0.008
3. Sutter Boulevard and Cochrane Road	AM	17.6	B	17.6	B	17.6	B	0.0	0.009
	PM	18.3	B	18.7	B	18.4	B	0.1	0.011
4. Madrone Parkway/Cochrane Plaza and Cochrane Road	AM	19.1	B	19.8	B	19.6	B	0.7	0.047
	PM	31.4	C	34.0	C	32.3	C	0.5	0.012
5. US 101 Southbound Ramps and Cochrane Road	AM	12.8	B	12.9	B	12.9	B	0.1	0.038
	PM	16.5	B	16.7	B	16.6	B	0.2	0.040
6. US 101 Northbound Ramps and Cochrane Road	AM	8.6	A	8.7	A	8.8	A	0.1	0.006
	PM	11.3	B	11.4	B	11.4	B	0.1	0.006

4.16.2.2 *Impacts to Freeways*

Four freeway segments were determined to be within the scope of the proposed project. Per CMP technical guidelines, freeway segment level of service analysis shall be conducted on all segments to which the project is projected to add one percent or more to the segment capacity. Table 4.16-2 provides a summary of estimated increases in freeway segment capacities resulting from project trips.

Table 4.16-2: Freeway Segment Capacities After Project Trips

Intersection	Peak Hour	NB/SB	Mixed-Flow Lane		HOV Lane	
			Volume	% of Capacity	Volume	% of Capacity
1. US 101 from East Dunne Avenue to Cochrane Road	AM	NB	18	0.26	-	-
	PM	NB	18	0.26	-	-
2. US 101 from Cochrane Road to Burnett Avenue (Lane Drop)	AM	NB	10	0.14	3	0.18
	PM	NB	16	0.23	3	0.18
3. US 101 from Burnett Avenue (Lane Drop) to Cochrane Road	AM	SB	18	0.26	-	-
	PM	SB	18	0.26	-	-
4. US 101 from Cochrane Road to East Dunne Avenue	AM	SB	13	0.19	-	-
	PM	SB	19	0.28	-	-

The analysis determined that none of the four affected freeway segments are projected to increase in segment capacity by one percent or more. Therefore, a freeway analysis under CMP guidelines is not required, and impacts to affected freeway segments are negligible as a result of the proposed project. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.16.2.3 Air Traffic Patterns (Checklist Question c)

The project site is not located near a major airport or private airstrip. The nearest major airport, Norman Y. Mineta San Jose International Airport, is located approximately 20 miles northwest of the site. Therefore, the proposed project would not result in a change in air traffic patterns.

[Same Impact as Approved Project (No Impact)]

4.16.2.4 Site Access, Design and Circulation (Checklist Question d, e)

Access to the project site is provided by driveways on Cochrane Road and Madrone Parkway. As mentioned previously, Cochrane Road only permits access for vehicular traffic moving in a southwestern direction due to the division of the road by a median. Traffic moving in both directions can access the site via the driveway on Madrone Parkway. The project proposes no modifications to circulation patterns in the vicinity of the site and thus will not contribute to hazards as a result of accessibility issues or traffic flow changes,

The landscape and architectural features of the project will be designed in accordance with the City of Morgan Hill's design standards, as well as modified Planned Development Guidelines established through an amendment of Ordinance No. 1764. The design of the project will ensure adequate width and turn-radii at and along all drive/parking aisles to allow for two-way circulation and adequate circulation of larger vehicles (such as emergency trucks, garbage trucks, and delivery trucks) throughout the project site.

By adhering to the City of Morgan Hill's standards and requirements for emergency access, the proposed site access points and layout of the surface parking areas would be adequate to accommodate circulation of both passenger and emergency vehicles.

[Same Impact as Approved Project (Less than Significant Impact)]

4.16.2.5 *Bicycle and Pedestrian Facilities (Checklist Question f)*

The proposed project would not result in the alteration or removal of any existing bicycle or pedestrian facilities (bike paths, sidewalks, crosswalks, bus stops, etc.) in the vicinity of the site. Sidewalks that border the project site on Woodview Avenue, Madrone Parkway, and Cochrane Road will remain in place, with pedestrian access primarily provided by access points east of the project site on Madrone Parkway and southeast of the project site on Cochrane Road. Due to the preservation of existing pedestrian, bicycle, and public transit facilities in the vicinity of the site, the proposed project will not conflict with, or decrease the performance of, these facilities.

[Same Impact as Approved Project (No Impact)]

4.16.3 Conclusion

As discussed above, the proposed project would not result in significant transportation and traffic impacts.

[Same Impact as Approved Project (Less than Significant Impact)]

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Environmental Setting

4.17.1.1 *Water Service*

The City of Morgan Hill provides potable water service to its residential, commercial, industrial, and institutional customers within the City limits. The City's water system facilities include 17 groundwater wells, 12 potable water storage tanks, 10 booster stations, and over 180 miles of pressured pipes ranging from two to 14 inches in diameter. The City's water distribution system meets the needs of existing customers. In anticipation of future growth the City has planned and constructed water projects in conjunction with new street construction.

The City of Morgan Hill relies on groundwater as its sole source of supply. The City relies on water imports from the State Water Project and the federal Central Valley Project for the purpose of groundwater recharge of the sub-basins that supply water to the City (Coyote Valley sub-area of the Santa Clara sub-basin and the Llagas sub-basin). The City's 2015 Urban Water Management Plan (UWMP) identified potential shortages which may occur during prolonged years of drought, however, upon implementation of water shortage contingency actions these shortages in supply can be mitigated in dry-year and multiple dry-year scenarios.²³

The project site is vacant and does not place any demands on the City's water supply. There are existing 12-inch water pipes in Madrone Parkway, Woodview Avenue, and Cochrane Road that provide water service to the commercial development surrounding the project site.²⁴

4.17.1.2 *Wastewater*

The City of Morgan Hill sewer collection system consists of approximately 165 miles of six-inch through 30-inch diameter sewers, and includes 14 sewage lift stations and associated force mains. The "backbone" of the system consists of the trunk sewers, generally 12-inches in diameter and larger, that convey the collected wastewater flows south to the South County Regional Wastewater Authority (SCRWA) Wastewater Treatment Plant. The treatment plant provides service to the cities of Morgan Hill and Gilroy. The treatment plant has capacity to treat an average dry weather flow (ADWF) of 8.5 million gallons per day (mgd) and is currently permitted by the Central Coast RWQCB to treat up to 8.5 mgd.²⁵ Currently, Morgan Hill is allocated 42% of the treatment plant's 8.5 mgd capacity, amounting to 3.6 mgd. In 2016, the ADFW in the City was 2.35, leaving approximately 1.2 mgd of allowable growth within the City's General Plan before capacity at the plant is reached.

Using data through 2016, the SCRWA estimated in 2017 that the Wastewater Treatment Plant will reach capacity in 2025, using anticipated permit issuances/associated wastewater allocations and projected population data for the cities of Morgan Hill and Gilroy.²⁶ The SCRWA recommends that a

²³ City of Morgan Hill. *2015 Urban Water Management Plan*. August 2016.

²⁴ City of Morgan Hill. *2017 Water System Master Plan*. October 2017.

²⁵ California Regional Water Quality Control Board. *Waste Discharge Requirements, South County Regional Wastewater Authority Wastewater Treatment and Reclamation Facility, Santa Clara County (NPDES Permit No. CA0049964) – Order No. R3-2010-0009*. April 2010.

²⁶ California Regional Water Quality Control Board. *Technical Memorandum- Wastewater Flow Projections for Cities of Gilroy and Morgan Hill*. March 2017.

fully commissioned plant expansion be completed by 2024 to ensure that the treatment plan has adequate capacity to service both cities. Following completion of the design process, appropriate project-level CEQA review would be completed by SCRWA.

4.17.1.3 *Storm Drainage*

The City of Morgan Hill is divided into several hydrologically-distinct drainage areas. Each drainage area has a system of curb and gutter facilities, inlets, conveyance facilities, pumps, and detention basins to collect and dispose of runoff. The stormwater runoff from these areas is ultimately discharged into creeks that flow through the City and are tributary to either Monterey Bay or San Francisco Bay. The drainage areas include Coyote Creek, Fisher Creek, Tennant Creek, Madrone Channel, Butterfield Channel, West Little Llagas Creek, and Llagas Creek.

The project site is vacant and generates little to no stormwater runoff when it rains. The project site is located in the Fisher Creek watershed, and any water that does not infiltrate locally would run off from the site north toward the San Francisco Bay. There are existing storm drain lines adjacent to the site in Woodview Avenue, Madrone Parkway and Cochrane Road that convey flows from the surrounding areas into the City's storm drain system.²⁷

4.17.1.4 *Solid Waste*

Recology South Valley provides solid waste and recycling services to the residents and businesses of the City. Recology South Valley is contracted with the Salinas Valley Solid Waste Authority for the disposal of municipal solid waste at Johnson Canyon Sanitary Landfill. Johnson Canyon Sanitary Landfill is expected to reach capacity in 2040.²⁸ No solid waste is currently generated at the project site.

4.17.2 Checklist and Discussion of Impacts

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒	☐	1, 20
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1, 20

²⁷ City of Morgan Hill, *2018 Storm Drainage Master Plan*. September 2018.

²⁸ California Integrated Waste Management Board. *Facility/Site Summary Details: Johnson Canyon Sanitary Landfill*. 2008. Accessed July 19, 2018. <http://www.calrecycle.ca.gov/SWFacilities/Directory/27-AA-0005/Detail/>.

	New Potentially Significant Impact	New Less Than Significant With Mitigation Incorporated	New Less Than Significant Impact	Same Impact as "Approved Project"	Less Impact than "Approved Project"	Checklist Source(s)
Would the project:						
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒	☐	1, 17
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒	☐	1, 19
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒	☐	1, 20
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒	☐	1, 21

4.17.2.1 *Impacts to Sewer System and Wastewater (Checklist Questions a, b, e)*

Wastewater Treatment Capacity

As it stands, there is no wastewater being generated at the project site. Wastewater generation is approximately equal to 85 percent of a project's water demand. The water demand of the proposed project is estimated to be 5.7 million gallons per year²⁹, resulting in the generation of approximately 4.9 million gallons of wastewater per year by the proposed project.³⁰ As mentioned above, there is sufficient treatment capacity at the SCWRA's Wastewater Treatment Plant to accommodate estimated build-out within the City's General Plan. The Wastewater Treatment Plant is estimated to reach capacity in 2025, according to projected demand from future permit issuance and population growth discussed in the General Plan. The proposed project would decrease the estimated amount of water (refer to *Section 4.17.2.2, Impacts to Water Supply*) and wastewater generated relative to the approved commercial development discussed in the Addendum to the 2004 Cochrane-TBI Initial Study, thus reducing the demand on the Wastewater Treatment Plant. **[Same Impact as Approved Project (Less than Significant Impact)]**

²⁹ Table 9.1 CAIEMod Water Calculations. 2016

³⁰ Assuming wastewater is equivalent to 85% of total water usage.

Sanitary Sewer Infrastructure

There are existing sanitary sewer lines on Cochrane Road and Madrone Parkway which will serve the proposed project. There are no proposed expansions to the sewer system in the vicinity of the project site, according to the Sewer System Master Plan.³¹ By utilizing existing infrastructure to serve the demands of the development, the proposed project will avoid impacts resulting from the construction of new sewer lines. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.2.2 *Impacts to Water Supply (Checklist Question d)*

According to the 2016 CalEEMod estimates of water use based on land use, a full service four-story hotel will use 69.49 gallons of indoor water per day per room and 7.72 gallons of outdoor water per day per room.³² The proposed project involves the development of two hotels to total 206 rooms on-site, thus resulting in a cumulative water demand of 15,675 gallons/day, or 5,721,470 gallons/year. The previously approved use (48,632 sf grocery store) would result in a water demand of 16,438 gallons of indoor water per day and 508 gallons of outdoor water per day, totaling to 16,946 gallons/day, or 6,185,290 gallons/year. Therefore, the proposed project would reduce projected water demand by 1,271 gallons/day, or 463,820 gallons/year. The previously approved project was determined to have sufficient water supply to accommodate its development, as discussed in the 2004 Cochrane-TBI Initial Study. Because the modified project will result in less water demand on the existing water infrastructure and supply system in the City of Morgan Hill, impacts to water supply will be lessened by the proposed project. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.2.3 *Impacts to Storm Drainage (Checklist Question c)*

The proposed project site is undeveloped with no impervious surfaces. Development of the proposed project would fully develop the project site and substantially increase the amount of impervious surfaces and stormwater runoff. Per the implementation of the SWPPP and other drainage standards implemented by the City, the project should not significantly increase storm water flows into the existing system. The project will be required to minimally retain all water from the 85th percentile of rainfall events (approximately two to five year storm events) on site; therefore, during 85 percent of the rainfall events, the existing storm drain system would not be impacted by the project. Furthermore, the on-site systems (retention basins) will be required to be designed to detain a volume of water up to a 25-year storm event while releasing water at a rate reflective of the 10-year predevelopment flow. This design limits storm water flows off-site to less than 10-year predevelopment flows. The existing public storm water system is already designed to convey a 10-year storm event; therefore, the project should not significantly contribute to any additional flooding during the most frequent events. The final drainage system design for the proposed commercial development will be subject to review and approval by the City of Morgan Hill Public Works Department, who will confirm that the proposed drainage system for the project is consistent with the City's Storm Drainage Master Plan and standard stormwater-related conditions of approval. **[Same Impact as Approved Project (Less than Significant Impact)]**

³¹ City of Morgan Hill. *Sewer System Master Plan*. October 2017.

³² Table 9.1 CalEEMod Water Calculations. 2016.

4.17.2.4 *Impacts to Landfills (Checklist Question f)*

The City of Morgan Hill has contracted with Recology South Valley to provide solid waste disposal and recycling service within the City. Recology South Valley will dispose of solid waste from the City at Johnson Canyon Sanitary Landfill which has a projected permitted capacity of approximately 13,800,000 cubic yards and is expected to remain open through 2040.³³ The proposed project will result in increased waste disposal from the project site; however, future development would be served by a landfill with adequate capacity to serve the project site. **[Same Impact as Approved Project (Less than Significant Impact)]**

4.17.3 Conclusion

The proposed project would not result in excess demand on existing utility systems or services, nor would the project require the construction of additional infrastructure to support it. Therefore, the proposed project would have a less than significant impact on utility services and systems. **[Same Impact as Approved Project (Less than Significant Impact)]**

³³ California Integrated Waste Management Board. *Facility/Site Summary Details: Johnson Canyon Sanitary Landfill*. 2008. Accessed July 19, 2018. <http://www.calrecycle.ca.gov/SWFacilities/Directory/27-AA-0005/Detail/>.

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

4.18.1 Environmental Checklist

	New Potentially Significant Impact	New Less Than Significant Impact	Same Impact as “Approved Project”	Less Impact than “Approved Project”	Checklist Source(s)
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐	1
b) Does the project have impacts that are individually limited, but cumulatively considerable (“cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	1
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1

4.18.2 Impact Discussion

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

This Addendum evaluates the environmental impacts that could result from the project’s implementation. With implementation of the mitigation measures included in the project related to pre-construction surveys and described in *Section 4.4, Biological Resources* and compliance with General Plan policies, Standard Measures and Standard Conditions of Approval, the proposed project would not result in significant adverse environmental impacts to fish or wildlife species, rare plants, or cultural resources. **[Same Impact as Approved Project (Less than Significant Impact with Mitigation Incorporated)]**

- b) Does the project have impacts that are individually limited, but cumulatively considerable?**

Pursuant to Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects “that are individually limited, but cumulatively considerable.” As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means “that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.”

The discussion in *Section 4.3 Air Quality*, addresses the project’s contribution to regional criteria pollutants, and by its very nature presents the project’s impacts in the context of regional cumulative emissions. The thresholds of significance recommended by BAAQMD are used to determine whether a project’s emissions are cumulatively considerable, and according to the modeling completed for the project, emissions would be below applicable thresholds. Similarly, the discussion in *Section 4.7 Greenhouse Gas Emissions* presents the project’s GHG emissions in the cumulative context of GHG emissions within the City, the Bay Area region, and within the statewide framework created by AB 32 and SB 32, among other recent state legislation. While the proposed hotel emissions would be less than the emissions expected if the site were developed with the approved grocery store use, the hotel emissions would exceed emissions established for developments expected to be built and operational after 2020, and therefore, mitigation would be necessary to reduce the hotel emissions to levels consistent with SB 32.

As discussed in *Section 4.4, Biological Resources*, the proposed project would implement mitigation measures to avoid impacts to nesting birds, burrowing owls, and American badgers that could potentially be present on, or in the vicinity of, the project site. The project would pay applicable fees under the HCP/NCCP to offset its cumulative contribution to nitrogen deposition. The project would, therefore, not contribute to a cumulatively considerable impact to wildlife species in the City.

As discussed in *Section 4.8, Hazards and Hazardous Materials*, the proposed project would implement mitigation measures to avoid exposure of construction workers and nearby uses to harmful concentrations of lead released as construction dust. Implementation of the mitigation measures discussed in this section would ensure that the project does not result in a cumulative hazards and hazardous materials impact. Development activities on surrounding properties that may also be impacted by lead may also have the potential to release lead into the environment, and those projects would be subject to similar mitigation measures to control release of lead-impacted soil.

As discussed in *Section 4.16, Transportation and Traffic*, the proposed development would not increase traffic levels at affected intersections above the City’s established LOS, nor would the project substantially impact the capacity of affected freeway segments. The proposed development would decrease the total trips generated relative to the previously approved commercial project. Therefore, no cumulative impact on the roadway network is anticipated.

With implementation of mitigation measures, standard measures, and conditions of approval to address environmental impacts to cultural resources, geology and soils, hydrology and water quality, and noise, the proposed project would not result in cumulative impacts on these resources. **[Same Impact as Approved Project (Less than Significant Cumulative Impact with Mitigation Incorporated)]**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include construction impacts related to release of hazardous materials and construction noise. However, Implementation of the Standard Permit Conditions and mitigation measures, and adherence to General Plan, City Code, and state and federal regulations described in these sections of the report, would avoid significant impacts. No other direct or indirect adverse effects on human beings have been identified.

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SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of Morgan Hill

Terry Linder, Senior Planner

6.2 CONSULTANTS

David J. Powers & Associates, Inc.

Akoni Danielsen, Principal Project Manager

Mike Campbell, AICP, Project Manager

Danny DeBrito, Assistant Project Manager

Zach Dill, Graphic Artist

Geologica, Inc.

Mark Hallee, P.G., Senior Geologist

Brian F. Aubrey, P.G., C.E.G., C.Hg, Principal

Hexagon Transportation Consultants Inc.

Robert Del Rio, Vice President & Principal Associate

Illingworth & Rodkin, Inc.

Michael Thill, Noise Consultant

James Reyff, Air Quality Consultant



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

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

ADOPT A RESOLUTION DECLARING THE RESULTS OF THE MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT (MHTBID)

RECOMMENDATION(S)

1. Open/close the public hearing;
2. Ratify the amendments to the Management District Plan;
3. Declare the results of majority protest proceedings; and
4. Adopt resolution establishing the Morgan Hill Tourism Business Improvement District (MHTBID).

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Economic Development and
Telecommunications
Financial Stewardship
Regional Initiatives

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan
Downtown Specific Plan
Economic Blueprint
General Plan/Housing Element

REPORT NARRATIVE:

On July 18, 2018, the City Council directed staff to proceed with the creation of a Morgan Hill Tourism Business Improvement District (MHTBID). On November 7, 2018, the City Council approved the District Management Plan (Plan) (Attachment No. 1) that identifies the proposed MHTBID's boundary, budget, services, and governance and directed staff to circulate the MHTBID Petition form. Staff mailed the petition to the 17 lodging establishments that contribute Transient Occupancy Taxes (TOT) and received petitions in favor of the District formation by five hotels which represent 75% of the total district assessment.

On November 28, 2018, the Council approved the Resolution of Intention which allows the Council to initiate proceedings for District formation and scheduled the Public

Hearing for January 23, 2019, at which time the Council can officially consider the adoption of a resolution establishing the MHTBID. Additionally, a written notice was mailed to the owners or representatives of all lodging facilities within the district and began the mandatory 45-day period in which owners may protest the District formation and a public meeting was held giving the community an opportunity to provide public comment at the December 19, 2018 Council meeting.

If written protests are received from businesses in the proposed District that collectively represent more than fifty percent (50%) of the assessments proposed to be levied, the MHTBID cannot be established and no further proceedings to levy the proposed assessment against such businesses shall be taken for a period of one year from the date of the Public Hearing. As of January 18, 2019, no written protests have been received.

If the Council, following the public hearing, decides to establish the proposed District, the Council shall adopt a resolution of formation (Attachment No. 3). If approved, the MHTBID will establish an annual assessment rate of 1.5% of gross short-term room rental revenue, producing an annual budget of approximately \$410,000. These funds are separate from and in addition to the City's new TOT increase to 11% from the previous 10% rate that the voters approved on November 6, 2018. The City's 11% TOT are public funds that support the General Fund while the MHTBID 1.5% are public funds that are managed by a non-profit board and will be used for 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.

BACKGROUND:

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 approval. Funds raised through TBIDs are returned to a non-profit corporation which contracts 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 March 1, 2019 through February 29, 2024, 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 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.

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 proposed District will have a five (5) year life. The previously adopted MDP dated October 25, 2018 stated a term of five (5) years beginning on February 1, 2019 and ending on January 31, 2024. Pursuant to the Streets and Highways Code section

36624, the City Council may adopt the revised MDP (Attachment No. 2) dated January 23, 2019 with a new District start date of March 1, 2019 and ending February 29, 2024. The assessment will be implemented beginning March 1, 2019. Once per year, beginning on the anniversary of District formation, there is a thirty (30) day period in which business owners paying more than fifty percent (50%) of the assessment may protest and begin proceedings to terminate the district.

The City will be responsible for collecting the assessment on a monthly basis from each lodging business located in the District boundaries. The City shall forward the assessments to Visit Morgan Hill, which will have the responsibility of managing District programs as provided in this Management District Plan. The City shall be paid a fee equal to two percent (2%) of the amount of assessment collected to cover its costs of collection and administration.

Owners' Association Makeup (Visit Morgan Hill Board of Directors):

The Owner's Association, Visit Morgan Hill, will be a private entity, separate from the City of Morgan Hill. The proposed make-up of the Visit Morgan Hill 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 tourism. On November 28, 2018, the City Council appointed the Public Services Director and the Economic Development Director as the two City representatives to the Owner's Association Board. On December 4, 2018, the hotels discussed the corporate formation process, bylaw parameters and selected the following hotel representatives to the Owner's Association Board:

- Andrew Firestone, La Quinta Hotel
- Michael Meredith, Hampton Inn
- Bina Roy Desai, Holiday Inn Express
- Karen Mendez, Marriott Hotels

The remaining directors will be appointed by the Visit Morgan Hill Board of Directors. The City and MHTBID steering committee are currently soliciting interest from the community for the three community seats and is scheduled to hold interviews in late January.

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 (March 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 approves the MHTBID, the next step will be to execute a contract between the City and the MHTBID Owner's Association since the City will be responsible for collecting and forwarding the assessments to Visit Morgan Hill. The City will be paid two percent (2%) of the amount of assessment collected to cover its costs of collection and administration. 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 choose not to adopt a Resolution Declaring Results of Majority Protests Proceedings and Establishing the District.

The City Council may choose to adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them.

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 TBIDs. Council directed staff to pursue a community survey on Revenue measures for the 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.

On July 18, 2018, the City Council directed staff to proceed with the creation of a Morgan Hill Tourism Business Improvement District (MHTBID).

On November 7, 2018 the City Council approved the Management District Plan (Plan) that identifies the proposed MHTBID's boundary, budget, services, and governance and directed staff to circulate the MHTBID Petition Form.

On November 28, 2018, the Council approved the Resolution of Intention that directed staff to issue MHTBID Public Notice and set the Public Hearing for January 23, 2019.

On December 19, 2018, the Council held a Public Meeting to receive public comment on the creation of the MHTBID. No public comment was received.

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 2018 Amgen Tour of California related expenses, and \$45,000 for the costs associated with the creation of the MHTBID.

CEQA (California Environmental Quality Act):

Pursuant to CEQA, organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment are exempt activities.

LINKS/ATTACHMENTS:

1. MHTID MDP (Redline)
2. MHTBID MDP (Final)
3. MHTBID Resolution

2019-2024

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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.*

January 23, 2019

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Attachment: MHTID MDP (Redline) (2131 : ESTABLISHMENT OF MHTBID)

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Prepared by
Civitas

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Attachment: MHTID MDP (Redline) (2131 : ESTABLISHMENT OF MHTBID)

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 March 1, 2019.

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 March 1, 2019 through February 29, 2024. 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 (March 1).

MHTBID Management District Plan
January 23, 2019

2

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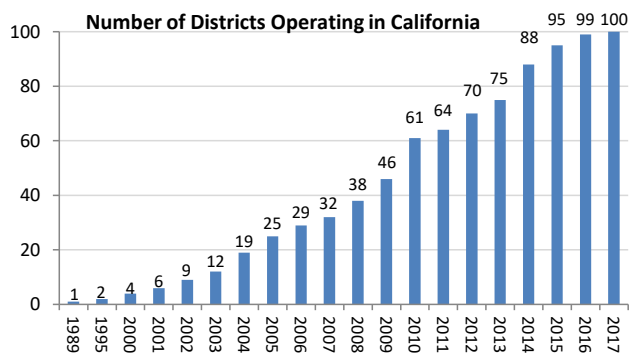
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II. BACKGROUND

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:

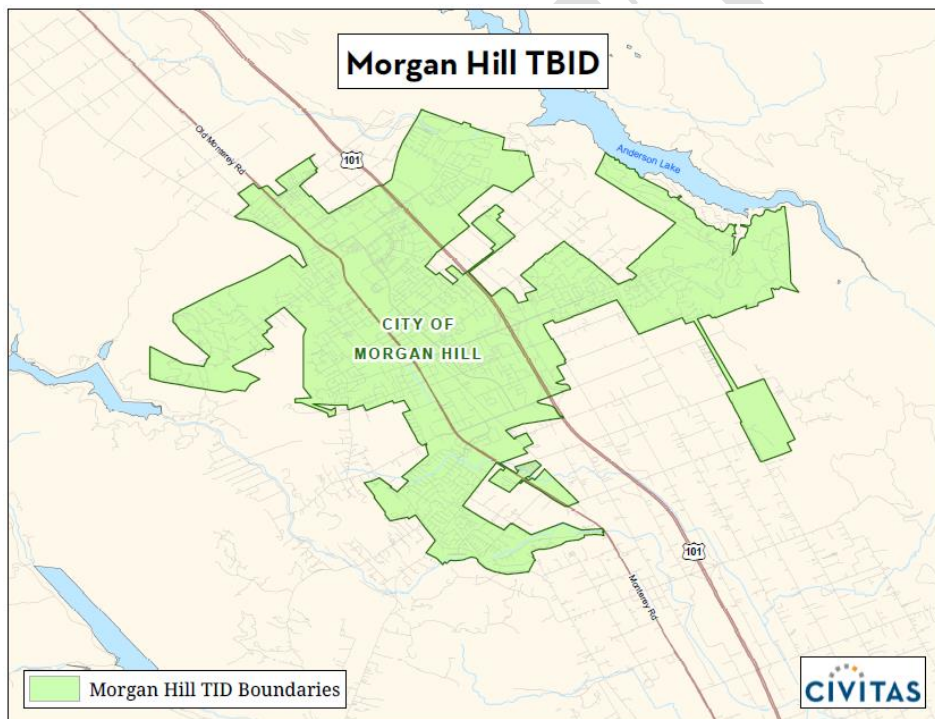
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, 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.

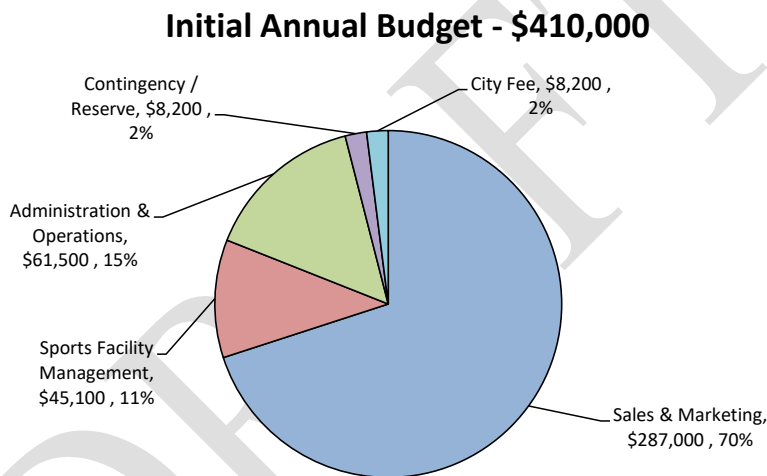


IV. BUDGET AND SERVICES

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

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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 2024. This amount may fluctuate as sales and revenue increase and decrease at assessed businesses, but is not expected to change significantly over the term.

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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 assessees. 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.

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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)

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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 non-payor 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 non-payor 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 (March 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.

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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 March 1, 2019.

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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)

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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 March 1, 2019 and will continue for five (5) years through February 29, 2024. The City will be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The

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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 (~~March 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 (~~March 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.

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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 (March 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.

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- The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

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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

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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.

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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

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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))

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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

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- (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 assesses 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.

2019-2024



MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT MANAGEMENT DISTRICT PLAN

Attachment: MHTBID MDP (Final) (2131 : ESTABLISHMENT OF MHTBID)

*Prepared pursuant to the Property and Business Improvement District Law of
1994, Streets and Highways Code section 36600 et seq.*

January 23, 2019

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Prepared by
Civitas



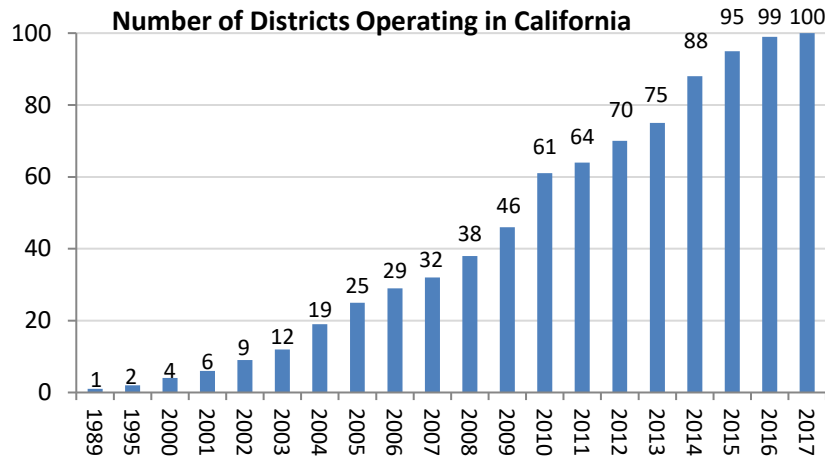
I. OVERVIEW

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 March 1, 2019.
- 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 March 1, 2019 through February 29, 2024. 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 (March 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:

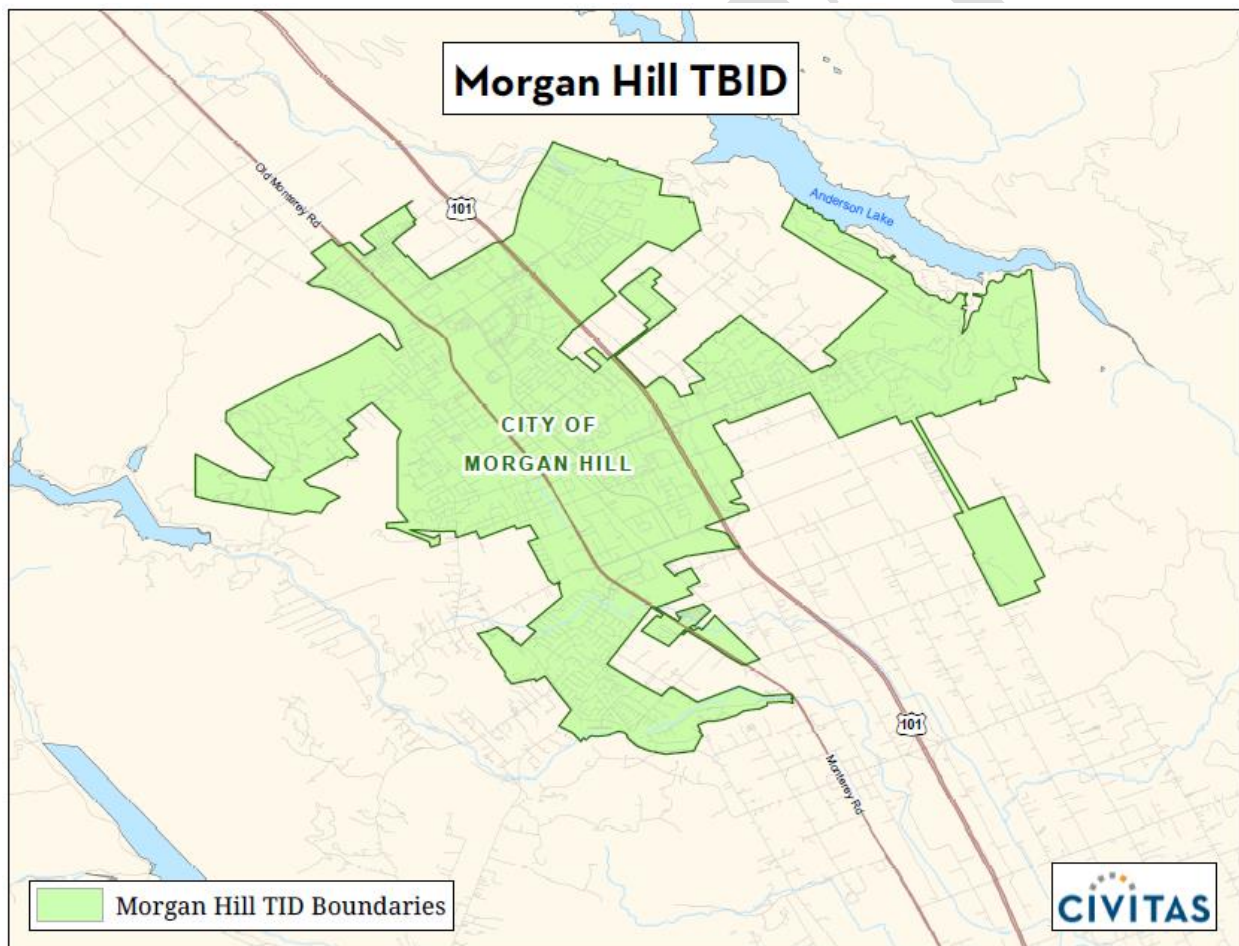
- Funds must be spent on services and improvements that provide a specific benefit only to those who pay;
- Funds cannot be diverted to general government programs;
- They are customized to fit the needs of payors in each destination;
- They allow for a wide range of services;
- They are ***designed, 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.

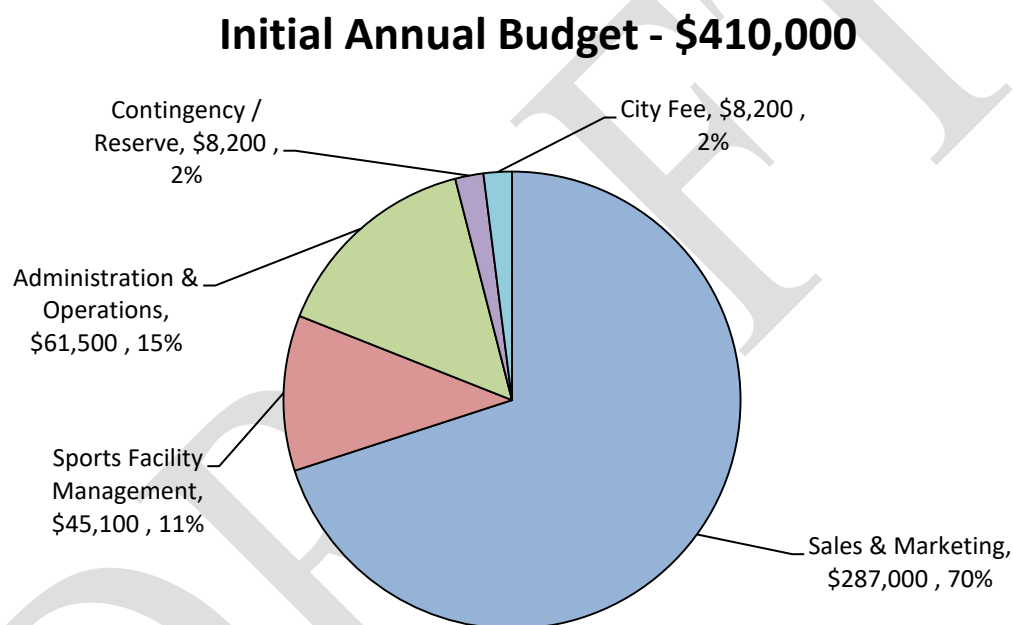


IV. BUDGET AND SERVICES

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 2024. 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 (March 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 March 1, 2019.

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 March 1, 2019 and will continue for five (5) years through February 29, 2024. 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 (March 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 (March 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 (March 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

Attachment: MHTBID MDP (Final) (2131 : ESTABLISHMENT OF MHTBID)

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.

RESOLUTION NO. 2018 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING RESULTS OF MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT (MHTBID)

WHEREAS, the Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et. seq.) authorizes the City to establish business improvement districts upon petition by a weighted majority of the business owners located within the boundaries of the district; and

WHEREAS, lodging business owners who will pay more than fifty percent (50%) of the proposed assessment, as weighted according to the amount of the assessment to be paid by the petitioner, within the boundaries of the MHTBID have petitioned the City Council to establish the MHTBID; and

WHEREAS, included with the petitions was a Management District Plan (Plan) summary that describes the proposed assessment to be levied on lodging businesses within the MHTBID to pay for sales and marketing programs, sports facility management, and other improvements and activities set forth in the Plan; and

WHEREAS, the assessed lodging businesses within the MHTBID will receive a specific benefit from the activities and improvements set forth in the Plan; and

WHEREAS, on November 28, 2018 at 7:00 PM at 17555 Peak Avenue, Morgan Hill, CA 95037, the City Council adopted a Resolution of Intention, Resolution No. 2018-084; and

WHEREAS, the public meeting and public hearing to consider the establishment of the MHTBID have been properly noticed in accordance with Streets and Highways Code §36623; and

WHEREAS, on December 19, 2018 at 7:00 PM at 17555 Peak Avenue, Morgan Hill, CA 95037, the City Council held a public meeting regarding the establishment of the MHTBID, and the City Council heard and received objections and protests, if any, to the establishment of the MHTBID and the levy of the proposed assessment; and

WHEREAS, on January 23, 2019 at 7:00 PM at 17555 Peak Avenue, Morgan Hill, CA 95037, the City Council held a public hearing regarding the establishment of the MHTBID, and the City Council heard and received all objections and protests, if any, to the establishment of the MHTBID and the levy of the proposed assessment; and

WHEREAS, the City Clerk has determined that there was no majority protest. A majority protest is defined as written protests received from owners of businesses in the proposed MHTBID which would pay fifty percent (50%) or more of the assessments proposed to be levied. Protests are weighted based on the assessment proposed to be levied on each lodging business; and

Attachment: MHTBID Resolution (2131 : ESTABLISHMENT OF MHTBID)

WHEREAS, the City bears the burden of proving by a preponderance of the evidence that an assessment imposed for a specific benefit or specific government service is not a tax, that the amount is no more than necessary to cover the costs to the City in providing the specific benefit or specific government service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the specific benefits or specific government services received by the payor.

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

1. The recitals set forth herein are adopted by the City Council as findings and they are true and correct.
2. The MHTBID is hereby established for a five (5) year term, beginning March 1, 2019 through February 29, 2024.
3. The Plan dated January 23, 2019 is hereby adopted and approved.
4. The activities to be provided to benefit businesses in the MHTBID will be funded by the levy of the assessment. The revenue from the assessment levy shall not be used: to provide activities that directly benefit businesses outside the MHTBID; to provide activities or improvements outside the MHTBID; or for any purpose other than the purposes specified in this Resolution, the Resolution of Intention, and the Plan. Notwithstanding the foregoing, improvements and activities that must be provided outside the MHTBID boundaries to create a specific benefit to the assessed businesses may be provided, but shall be limited to marketing or signage pointing to the MHTBID.
5. The City Council finds as follows:
 - a) The activities funded by the assessment will provide a specific benefit to assessed businesses within the MHTBID that is not provided to those not paying the assessment.
 - b) The assessment is a charge imposed for 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.
 - c) The assessment is a charge imposed for 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.
 - d) Assessments imposed pursuant to the MHTBID are levied solely upon the assessed business, and the business owner is solely responsible for payment of the assessment when due. If the owner chooses to collect any portion of the assessment from a transient, that portion shall be specifically called out and identified for the transient in any and all

communications from the business owner as the “MHTBID Assessment” or “Tourism Assessment” as specified in the Plan.

6. The assessments levied for the MHTBID shall be applied towards sales and marketing programs and sports facility management to market Morgan Hill lodging businesses as tourist, meeting and event destinations, and other improvements and activities as set forth in the Plan.

7. Assessments levied on lodging businesses pursuant to this resolution shall be levied on the basis of benefit. Because the services provided are intended to increase room rentals, an assessment based on room rentals is the best measure of benefit.

8. The assessments for the entire MHTBID will total approximately \$410,000 in year one (1).

9. Bonds shall not be issued to fund the MHTBID.

10. The MHTBID shall include all lodging business located within the boundaries of the City of Morgan Hill. A boundary map is attached hereto and incorporated herein by reference.

11. The assessments shall be used for the purposes set forth above and any funds remaining at the end of any year may be used in subsequent years in which the MHTBID assessment is levied as long as they are used consistent with the requirements set forth herein.

12. The assessments to fund the activities and improvements for the MHTBID will be collected by the City of Morgan Hill on a monthly basis, and in accordance with Streets and Highways Code §36631.

13. The City Council, through adoption of this Resolution and the 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 shall be the MHTBID Owners’ Association.

14. Visit Morgan Hill, pursuant to Streets and Highways Code §36650, 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 improvement and activities described in the report. The first report shall be due after the first year of operation of the MHTBID.

15. The MHTBID established pursuant to this resolution will be subject to any amendments to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code §36600 et. seq.).

16. The City Clerk, or his or her designee, is directed to take all necessary actions to complete the establishment of the MHTBID and to levy the assessments.

17. This Resolution shall take effect immediately upon its adoption by the City Council.

I HEREBY CERTIFY that the foregoing Resolution of Formation was introduced and adopted at a regular meeting of the City Council on the _____ day of _____, 2019 by the following vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members:

RICH CONSTANTINE, Mayor

Attest

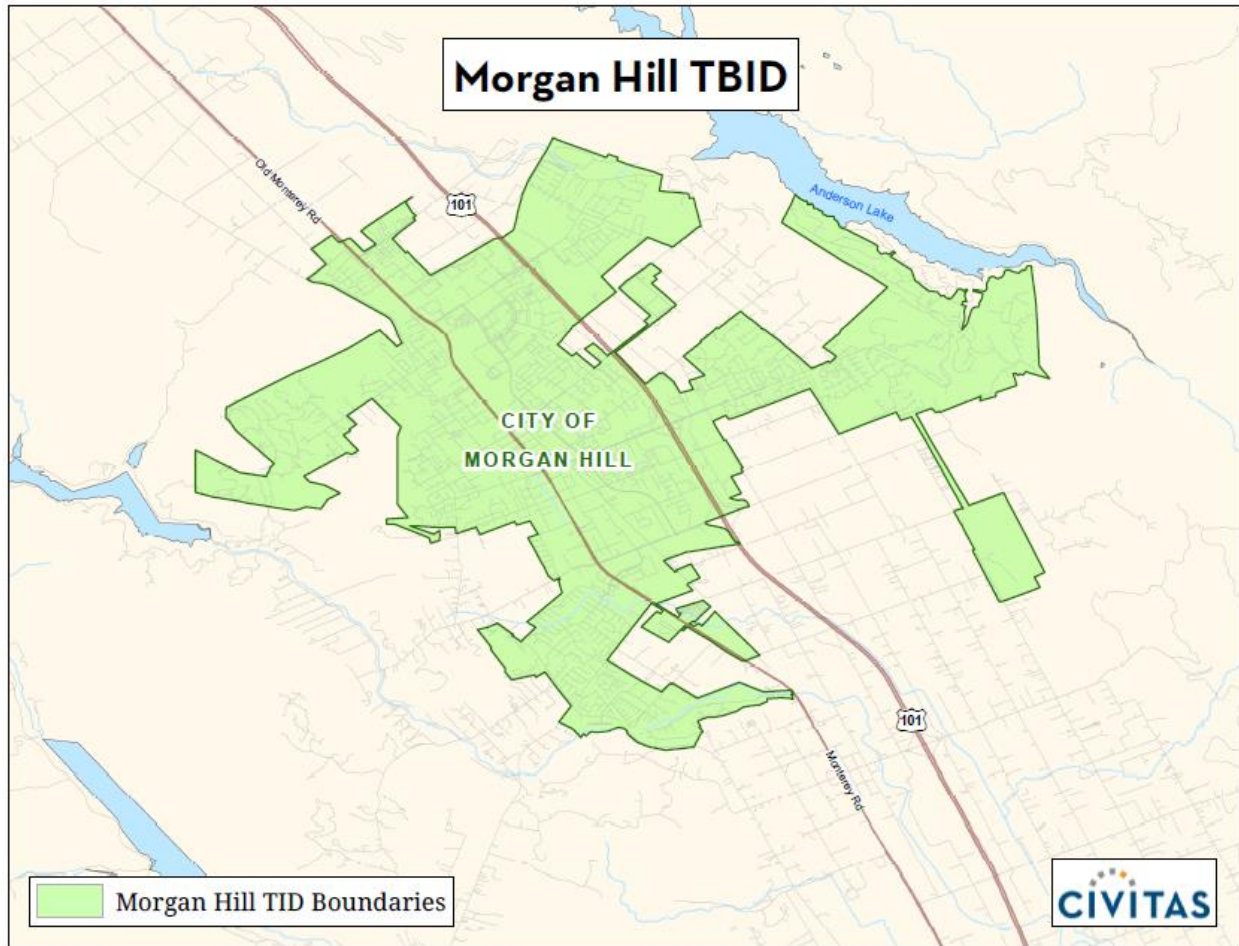
Approved as to Form:

City Clerk

City Attorney

Attachment: MHTBID Resolution (2131 : ESTABLISHMENT OF MHTBID)

Boundary Map



Attachment: MHTBID Resolution (2131 : ESTABLISHMENT OF MHTBID)



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

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

INTRODUCE ORDINANCE ESTABLISHING PROCESS FOR CONTINUITY OF GOVERNMENT IN THE EVENT OF A DISASTER

RECOMMENDATION(S)

1. Accept the Morgan Hill City Council Emergency Procedures;
2. Open/Close public hearing;
3. Waive first and second reading of the ordinance; and
4. Introduce ordinance establishing a process to maintain continuity of government in the event of a disaster relating to the appointment and duties of an emergency standby council.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Preserving and Cultivating Public Trust

2018 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The Office of Emergency Services (OES) operates under the Special Operations Division within the Police Department and serves the City of Morgan Hill including City teammates and community Members. OES ensures the Emergency Operations Center (EOC) and team are ready to activate in response to large scale emergencies at any time and that the community is ready for and resilient to whatever the next emergency may be.

The EOC team structure follows the Incident Command System with a Director of Emergency Services and Section Coordinators overseeing Operations, Planning, Logistics, and Finance. Within the Operations Section a Law Enforcement and Fire Rescue Branch are staffed respectively by a MHPD Police Captain and a Morgan Hill Fire Battalion Chief. Partner agencies are also integral to the EOC organization and include the Morgan Hill Unified School District and American Red Cross.

As Morgan Hill's governing body, the City Council plays a critical leadership role before, during, and after an emergency or natural disaster; however, the Council is not part of the EOC organization.

The newly developed Council Emergency Procedures expand on and provide necessary detail on the Council's leadership role contained in the City of Morgan Hill's Emergency Operations Plan. These Procedures provide City Council Members with

information specific to their roles and responsibilities in the event of an emergency in Morgan Hill. The Council Emergency Procedures apply to the City Council and Standby Officers if they are called upon to serve as Council Members.

The Civil Disaster and Emergency Organization Chapter of the City of Morgan Hill's Municipal Code will be updated to include the appointment and duties of emergency standby council members by adding the section "Continuity of government in the event of disaster. This addition outlines the duties and assignment of the emergency standby council. The current default per California Code states when Council Members are not available during a large-scale event the authority goes to a neighboring municipalities City Council with the largest population. Morgan Hill OES staff recommends the appointment of past City Council members as emergency standby council consistent with the current protocol for other jurisdictions in the County such as the City of Palo Alto.

At the next regularly scheduled city council meeting, council members may consider appointing emergency standby council members and adopting the ordinance.

COMMUNITY ENGAGEMENT: Inform

The City's Emergency Operations Plan is a public document and is posted on the [city's website](#).

ALTERNATIVE ACTIONS:

Not Applicable

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City's Emergency Operations Plan was adopted January 2018. The Plan is reviewed by the Office of Emergency Services each year, with significant changes brought forward to the City Council.

FISCAL AND RESOURCE IMPACT:

No fiscal impact associated with adoption of this proposed ordinance.

CEQA (California Environmental Quality Act):

Not a Project.

This ordinance is not a project as defined in Section 15378 of the State CEQA guidelines as it is an administrative activity of government that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. Ordinance for 2.44.094 Continuity
2. Morgan Hill Council Emergency Procedures

ORDINANCE NO. ____, NEW SERIES

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORGAN HILL
ADDING SECTION 2.44.094 (CONTINUITY OF GOVERNMENT IN THE
EVENT OF A DISASTER) TO CHAPTER 2.44 (CIVIL DISASTER AND
EMERGENCY ORGANIZATION) OF TITLE 2 (ADMINISTRATION AND
PERSONNEL) OF THE MORGAN HILL MUNICIPAL CODE RELATING
TO THE APPOINTMENT AND DUTIES OF EMERGENCY STANDBY
COUNCIL MEMBERS**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Section 2.44. 094 (Continuity of government in the event of disaster) is hereby added to Chapter 2.44 (Emergency Organization and Functions) of Title 2 (Administration and Personnel) of the Morgan Hill Municipal Code is to read as follows:

"(a) At the second council meeting in January each year or as soon thereafter as may be practicable, the City Council shall appoint five (5) emergency standby council members. Emergency standby council members shall be selected from former members of the City Council who agree to serve in that capacity during that year and to reside within the City of Morgan Hill during that year so long as they elect to participate as members of the emergency standby council. If insufficient numbers of former members of the City Council are available or willing to serve, City Council shall select emergency standby council members from current Planning Commissioners.

(b) A member of the emergency standby council shall serve in that capacity from the date of appointment until the appointment of another emergency standby council the following year or until the member notifies the City Clerk in writing that the member has elected to terminate participation in the emergency standby council. Each emergency standby council member shall take the oath of office required for the City Council prior to assuming the position of emergency standby council member.

(c) Each emergency standby council member appointed by the City Council as described in section (a) shall have the duty during the term of that member's appointment to remain informed of the duties of City Council members and the business and affairs of the City of Morgan Hill to the extent necessary to enable participation as a member of the City Council upon appointment in the event of an emergency as provided hereafter.

(d) In the event of the declaration of a state of war emergency, a state of emergency, or a local emergency as those terms are designated in Articles 12, 13, and 14 of Title 2 of the California Government Code and less than a quorum of the City Council is available and a City Council meeting is urgently required, the members of the emergency standby council shall be contacted for service. At that meeting, any City Council members who are unavailable for duty at the time of that meeting as defined by section 8636 of the California Government Code (unavailable such as the member is either killed, missing; or so seriously injured as to be unable to attend meetings and otherwise perform the duties of office), shall be replaced by a member of the emergency

standby council as necessary to reach five members. The order of selection of emergency standby council members shall be determined by Council Policy. The appointment of members of the emergency standby council to fill vacancies created by the unavailability of City Council members at any time during a state of emergency shall be performed by City Council, and additional emergency standby members shall be appointed during the state of emergency as required to maintain a total of five members on the City Council.

(e) Members of the emergency standby council who are appointed to serve as City Council members shall serve in that position until replaced by a member of the City Council who becomes no longer unavailable such that the addition of emergency standby council members is no longer necessary in order to constitute a quorum, until termination of the state of emergency, or until the election or appointment of a new regular City Council member as provided by law."

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. Effective Date; Posting. This Ordinance shall take effect on ____ ____, 2019. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Morgan Hill held on the ____ of ____, 2019 and was finally adopted at a meeting of said Council on the ____ day of ____, 2019 and said Ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**

NOES: **COUNCIL MEMBERS:**

ABSENT: **COUNCIL MEMBERS:**

ABSTAIN: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Richard Constantine, Mayor



Morgan Hill City Council Emergency Procedures

PRELIMINARY

Revision D
January 4, 2019



Revision History

REV	DATE	DESCRIPTION	AUTHOR
1.0			

Approval Signatures

REV	NAME	TITLE/POSITION	SIGNATURE
1.0			

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SECTION 1: EXECUTIVE SUMMARY

1.1 PURPOSE

As Morgan Hill's governing body, the City Council plays a critical leadership role before, during and after an emergency. The Council Emergency Procedures expand on and provide necessary detail on the Council's leadership role contained in Section 7 (Continuity of Government) of the City of Morgan Hill's Emergency Operations Plan (EOP). These Procedures provide City Council Members with information specific to their roles and responsibilities in the event of an emergency in Morgan Hill.

This document is aligned with the City's EOP.

1.2 APPLICABILITY AND SCOPE

The Council Emergency Procedures apply to the City Council and Standby Officers if they are called upon to serve as Council Members.

These Procedures are aligned with Morgan Hill's EOP and provide necessary detail on Council Member required roles and responsibilities as per the City's EOP.

Morgan Hill's EOP adopts an all-hazard approach for dealing with emergencies and focuses on the preservation of life and property. The EOP identifies the City's emergency planning, organization, and response policies and procedures. It meets the requirements of the National Incident Management System (NIMS) and the State of California Standardized Emergency Management System (SEMS). Compliance with NIMS and SEMS is required for Morgan Hill to be eligible to receive state/federal funding and reimbursement following proclamation/declaration for preparedness, training, response, and recovery operations.

1.3 PURPOSE AND ASSUMPTIONS

The purpose of these Procedures is to provide the City Council with information needed to guide its actions and meet its required roles and responsibilities in the event of an emergency.

Assumptions guiding this document are:

- The City Council is the governing body of the City of Morgan Hill during an emergency.
- The City Council has an important leadership role to play in the community during an emergency.
- Some or all of the elected members of the City Council may not be available during an emergency.
- Special ordinances, policies and legislation will need to be enacted to ensure the continuity of government operations and the protection of life and property during emergency response and recovery.
- Residents, the media, private and non-profit organizations, and the business community are important participants in Morgan Hill's emergency operations planning, preparedness, response and recovery.
- City Council communication and involvement with residents, the media, private and nonprofit organizations, and the business community is a high priority.

1.4 AUTHORITIES AND REFERENCES

Morgan Hill's Emergency Operations Plan is guided by federal, state and local legislation, plans and agreements. These are referenced in the EOP and included in the EOP Annexes. During an emergency the City Council must make policy decisions and grant legal authority to ensure the continuity of government operations. The California

Government Code, Morgan Hill Municipal Code (MHMC) and the Brown Act provide specific legal authority to the City Council to assist it in fulfilling this role during an emergency. Relevant sections of these authorities and samples of emergency resolutions are included in the EOP Annexes.

Specific authorities relevant to the City Council are as follows:

- It is the City Council's role to proclaim a local emergency or to ratify a local emergency that has been proclaimed by the Director of Emergency Services (DES). Council ratification must take place within seven days of a proclamation by the Director of Emergency Services.
- A proclamation of a local emergency must be reviewed by the City Council at least every fourteen days.
- The City Council is legally responsible for proclaiming the termination of the local emergency at the "earliest possible date that conditions warrant" (California Government Code Section 8630).
- The City Council has the obligation to promulgate or ratify other orders and regulations necessary to protect life and property. Among them are, if necessary, the imposition of a curfew; the suspension of automatic approval deadlines for all land use, subdivision and zoning applications; and authorizing staff to register and swear-in spontaneous volunteers, allowing the volunteers to be eligible for workers' compensation benefits.
- Brown Act requirements for public meetings continue to apply during emergencies. If the regularly scheduled Council meeting dates are insufficient, the Brown act contains requirements for special meetings and emergency meetings.

SECTION 2: CONCEPT OF OPERATIONS

This section focuses on the City Council's roles and responsibilities in an emergency. It provides the organization, context, and structure within which the Council will be operating during an emergency and outlines the Council's roles and responsibilities to ensure the continuity of government during emergency response and recovery.

2.1 EMERGENCY ORGANIZATION

Morgan Hill's EOP is an operations manual designed to define the actions required of the City of Morgan Hill before, during, and after an emergency and to guide the City's response to major emergencies/disasters. Like EOPs of other jurisdictions in California, it is based on the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services plan models. Morgan Hill is in compliance with these federal and state requirements and therefore will be eligible for state and federal disaster preparedness and recovery funding in the event of a qualifying emergency.

The EOP details the emergency management staffing organization that will be in place during an emergency. Overall management and coordination of Morgan Hill's emergency response effort is the responsibility of the Director of Emergency Services. The Morgan Hill Municipal Code (MHMC) designates the City Manager to fulfill that role. The director's duties are clearly spelled out in MHMC section 2.44.070 and include the authority to issue a proclamation of the existence or threatened existence of a "local emergency."

Morgan Hill's Emergency Management Staffing chart is contained within the *Emergency Operations Center Guidelines and Checklist*.

2.2 LEADERSHIP: CITY COUNCIL ROLES AND RESPONSIBILITIES

The City Council has two critical roles during an emergency.

- To exercise its policy and decision making role by ratifying or proclaiming a local emergency and by making other executive level policy decisions as necessary and required for the management of emergency response and recovery.
- To serve as the face of government in a liaison role with residents, community organizations and local businesses, through an on-site community presence. In this role the Council will provide assistance, information and guidance throughout emergency response and recovery.

The Council will receive regular situational briefings from the Director of Emergency Services, or his/her designee, as well as pertinent advice from the City Attorney's office and other emergency management staff to assist it in fulfilling these two critical roles.

2.3 EMERGENCY ACTIVATION, CITY COUNCIL NOTIFICATION AND EARLY ACTIONS

The following summarizes key EOP activation, notification and early action information for the Council.

2.3.1 Emergency Activation

Morgan Hill's EOP and Emergency Operations Center (EOC) are activated simultaneously under any one of five conditions:

1. On the order of the Director of Emergency Services following proclamation of a Local Emergency by the Director or the City Council.
2. When the Governor has proclaimed a State of Emergency in an area that includes Morgan Hill.

3. On the proclamation of a State of War Emergency as defined by the California Emergency Services Act.
4. By a Presidential Declaration of a National Emergency.
5. On receipt of an attack warning or the observation of a nuclear detonation.

2.3.2 Council Notification

- City Council Members will be notified by the City Manager's or City Clerk's Office immediately upon EOP and EOC activation (see attached City Council Emergency Notification Procedure). The methods of contact, in order of priority, will be phone, email, or personal notification at home or work by a Police Officer or Amateur Radio Emergency Services (ARES) team member.
- Council Members are encouraged to listen to the radio for information on a local emergency and to make their own decision to report to City Hall should other means of communication not be available.
- Upon notification, City Council Members are to report to the Council Chambers at City Hall. When they are initially notified, if Council Chambers are unavailable, the Council will be directed to an alternate site.

2.3.3 Early Actions

- The Council will receive a briefing on the emergency incident situation from the Director of Emergency Services or his/her designee and a priority list of next step actions for the Council to consider. Included will be advice on whether there is an urgent need for the Council to call a special meeting to deal with emergency matters.
- If a proclamation of a local emergency has already been proclaimed, the Council will need to meet within seven (7) days to ratify it in order for Morgan Hill to be eligible to receive emergency response and recovery funding. The Director of Emergency Services and the City Attorney's office will advise on this and other meeting related matters.

2.3.4 Meeting During a Proclaimed Emergency

- Special or emergency meetings may be called during emergency situations and must comply with the Brown Act requirements for public meetings in California Government Code sections 54950 et seq. The Director of Emergency Services and the City Attorney can assist the Council in determining the need and appropriate times to meet and ensuring that the appropriate Brown Act requirements are met.
- Special meetings of the Council may be called at any time by the Mayor or a majority of the Council. (Cal. Gov't. Code § 54956). Written notice specifying the time and place of the meeting and the business to be discussed must be delivered to each member of the council and each local newspaper at least 24 hours before the meeting, posted on the City's Internet Web site, and posted in a location that is freely accessible for at least 24 hours before the meeting. (Cal. Gov't. Code § 54956).
- The Brown Act allows emergency meetings only in emergency situations, which are limited to activities that severely impair public health or safety, other "dire emergencies" such as crippling disasters such as mass destruction, or terrorist acts. (Cal. Gov't. Code § 54956.5(a), (b)). If the situation qualifies as an emergency, the Council may hold an emergency meeting to discuss "matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities." (Cal. Gov't. Code § 54956.5(b)). Emergency meetings do not require compliance with the 24-hour notice and posting requirements, but each newspaper of general circulation and radio or television station that has requested notice shall be given notice at least one hour prior to the meeting by calling all telephone numbers provided. (Cal. Gov't. Code § 54956.5(b) (2)).
- Closed sessions during emergency meetings are allowed only if agreed to by a two-thirds vote of the members of the legislative body, or unanimous vote if less than two thirds of the body is present. (California Gov't. Code § 54956.5).

- The minutes of an emergency meeting, a list of persons the City notified or attempted to notify prior to the meeting, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible. (Cal. Gov't. Code § 54956.5(e)).

2.3.5 The Council in the Community

The Council plays an important liaison role between members of the community and government. Council Members will be the face of local government in the community, showing concern, providing accurate information, engaging in two-way communication between the local government and the community, assisting residents, and problem-solving to speed response and aid recovery.

After receiving a situational briefing, Council Members will proceed to assigned locations throughout the city. During the initial briefing with the Director of Emergency Services and his/her designee, the Council will determine which locations to visit and the appropriate mode of transportation to the site. The Council will also receive special instructions related to site security or conditions. The nature of the emergency incident and the Council's particular interests will determine the locations.

Council activities in the community could include:

- Visiting impacted areas, shelters and temporary facilities to identify problems and issues.
- Assisting residents, organizations and local businesses in finding solutions to problems resulting from the emergency.
- Convening community meetings to share information and problem-solve.
- Providing hands-on assistance to local residents.
- Escorting County, State and Federal government representatives, such as the Governor, on site visits and assisting any dignitaries who may be in residence at the time of the emergency.

2.3.6 The Council as Communicators

Communication is a key factor in emergency management. Effective communication can potentially reduce the impact of a hazard, while poor communication can potentially result in increased injury and deaths. The City Council will provide an important communication link between the community and the emergency operations staff. Morgan Hill's strong partnership relationships with its active, well-organized neighborhood associations, Stanford University, the Morgan Hill Unified School District, local businesses, nearby major medical facilities, and community non-profits provide unique opportunities for the Council in this role.

As communicators, it is important that Council Members strive to reduce fear, anxiety and panic, and promote calm, confidence and trust. They can only do so with good information and access to a means of communication.

- If cell or telephone communications are unavailable, Council Members will be teamed up with, and "shadowed", by members of the Amateur Radio Emergency Services (ARES). This initial pairing up with an ARES member will happen at the briefing site prior to moving to a location in the community.
- ARES members will have radio communication ability with the Director of Emergency Services and the Emergency Operations Center.
- Through ARES, Council Members will receive regular updates from the Emergency Operations Center via the Director of Emergency Services or his/her designee to pass along to members of the community.
- Through ARES, Council Members will also be able to update the Director of Emergency Services and Emergency Operations Center staff with reports from the field.

A City Council Emergency Operations Checklist that includes key Council responsibilities in an emergency is attached to these Procedures. Checklists have been developed for all key positions in the EOP. It is important that each person/position follow its respective checklist so that all critical responsibilities are fulfilled and met in an emergency.

2.3.7 Continuity of Government: Lines of Succession and the Emergency Standby Council

Individual City Council Members may not be available to serve during an emergency. Morgan Hill's Emergency Standby Council has been designated to fill lines of succession for the City Council. Morgan Hill Municipal Code section 2.12.094 requires the City Council to annually appoint five (5) former members of the City Council as the City's Emergency Standby Council. If five former members of the City Council are not able or willing to serve, the City Council may then appoint current Planning Commissioners to the City's Emergency Standby Council. The Director of Emergency Services or designee will notify Members of the Emergency Standby Council of an emergency as soon as possible after the implementation of the EOP and the activation of the EOC. Standby Council Members will be separately notified by the Director of Emergency Services or designee if and when their services are needed.

Standby council members may be called to serve during an emergency when a quorum of current City Council Members is not available, and a City Council meeting is urgently required. "Unavailable" is defined in MHMC 2.12.094 and California Government Code section 8636 as killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform duties of the office. If there is a need for standby council members to serve on the Council, standby council members shall be appointed to the Council to replace unavailable members as necessary to reach five members. (MHMC section 2.12.094). Order of appointment and service requirements for Standby Council Members is provided in the Council's "Policy for Appointment of Emergency Standby Council" (see attached).

California Government Code sections 8642-8644 provide guidance for appointing Council Members in the unlikely event that all Council and Emergency Standby Council Members are unavailable to serve. For example, if only one member of the Council or one member of the Emergency Standby Council is available, that person shall have the power to reconstitute the City Council. (Cal. Gov't. Code § 8642). Should all members of the Council and the Emergency Standby Council be unavailable, members of the City Council could be appointed by the Chair of the Santa Clara County Board of Supervisors, by the Chair of a nearby County Board of Supervisors, or by the mayor of a nearby city, in that order (Cal. Gov't. Code § 8644).

2.3.8 Alternate Seat of Government

City Hall is the main seat of government for Morgan Hill. If City Hall is unavailable during an emergency, operations will shift to an alternate site. At this point two alternate sites have been identified.

First Alternate:

Community & Cultural Center
17000 Monterey Road, Morgan Hill

Second Alternate:

Morgan Hill Library
660 W. Main Avenue, Morgan Hill

Other alternate sites may be more suitable depending on the emergency. Council Members and Emergency Standby Council Members will be notified whether to report to City Hall or to an alternate site when notified of the emergency.

2.3.9 Recovery

Recovery refers to those measures undertaken by Morgan Hill during and following a disaster/emergency until there is a return to normal operations. A recovery operations organization, similar to the emergency response organization, will be established. There are short-term and long-term recovery goals and operations.

The City Council will continue to perform its policy and decision-making role and its role on behalf of the continuity during recovery. Examples of Council recovery actions include:

- Continuing to serve as key liaisons and communicators to residents, community organizations and local businesses by convening Council and community meetings and maintaining an on-site community presence.
- Providing direction for and reviewing short- and long-term recovery strategies.
- Providing direction on land use, zoning and development policies to expedite the recovery process.
- Developing, adjusting or approving policies and procedures to streamline the recovery process (i.e., expediting building plan approval process, developing alternative building code enforcement regulations, etc.).
- Implementing special initiatives and/or incentives to aid in the reestablishment of the local economy.
- Initiating formal requests for emergency government disaster relief and recovery of operations funding.
- Participating in and overseeing post-disaster emergency mitigation plans and studies.

2.4 TEST, TRAINING AND EXERCISES

Council and Emergency Standby Council Members' familiarity with Morgan Hill's Emergency Operations Plan, these Council Emergency Procedures, SEMS/NIMS, and risk communications is crucial to being able to fulfill the vital leadership role during an emergency.

The City Council and the Emergency Standby Council are currently required to take a modified version of the IS-700 NIMS overview course. It is recommended that they take the full IS-700 NIMS course.

It is also recommended that Council and Emergency Standby Council Members receive training in crisis communication. A valuable resource on effective emergency communications strategies is the California Office of Emergency Services Risk Communication Guide for State and Local Agencies, which can be downloaded from the OES website www.oes.ca.gov under Plans and Publications.

The Emergency Standby Council should receive orientation and training on how they might be called upon to serve, and their specific roles and responsibilities during an emergency.

2.5 COUNCIL EMERGENCY PROCEDURES MAINTENANCE/BUDGET

Morgan Hill's Emergency Operations Plan and these Procedures are living documents that require ongoing updating, maintenance and fine-tuning. This is the responsibility of Morgan Hill's Office of Emergency Services. The City Council will need to review and approve the updating of this procedure.

ATTACHMENT A: CITY COUNCIL EMERGENCY PROCEDURES CHECKLIST

GENERAL RESPONSIBILITIES:

- ☐ Ratify and/or proclaim a local emergency.
- ☐ Make other executive level policy decisions as necessary and required for the management of emergency response and recovery.
- ☐ Serve as the face of government for the community, helping to ensure two-way communication between emergency operations staff and members of the community throughout emergency response and recovery.
- ☐ Assist residents, organizations and local businesses in finding solutions to problems resulting from the emergency.
- ☐ Provide policy input to the Director of Emergency Services and Emergency Management Staff.
- ☐ Work closely with the Director of Emergency Services and the Public Information Officer to provide accurate information to local residents, the media, and other officials, including visiting dignitaries.
- ☐ Provide direction for and review short- and long-term recovery strategies.

NOTE: Council Members should refrain from direct involvement with the Emergency Operations Center (EOC) and/or visiting the EOC unless directly invited by the Director of Emergency Services (normally the City Manager or his/her designee). Members of the Council will receive regular updates from the Director of Emergency Services or his/her designee to assist them in performing their leadership responsibilities. Council activities may include visits to the Emergency Operations Center or various field operations centers.

CHECKLIST OF ACTIVITIES DURING AN EMERGENCY:

- ☐ After receiving notification of an emergency, report to the City Council Chambers, or alternate location, for briefing and further instructions.
- ☐ Call emergency meeting of the City Council if there is an urgent need to meet. The Director of Emergency Services and the City Attorney's Office will advise.
- ☐ If needed, receive pairing with an ARES team member who will provide radio communication support for Council Members.
- ☐ Proceed to locations in Morgan Hill to serve as the face of government for residents, businesses, schools, other organizations, and emergency operations staff.
- ☐ Provide hands-on assistance to local residents and emergency operations staff as practicable.
- ☐ Continue to receive briefings and updated information from the Director of Emergency Services or designee.

- ☐ After approval by the Director of Emergency Services and Safety Officers, visit impacted areas, shelters and temporary facilities to identify problems and issues.
- ☐ Convene community meetings to share information and problem solve.
- ☐ Host and accompany visiting dignitaries and government officials on tours of the emergency/disaster area as coordinated by the Director of Emergency Services or Public Information Officer.
- ☐ Provide interviews to the media coordinated by the Director of Emergency Services or the Public Information.
- ☐ Ratify a proclamation of local emergency within 7 days of proclamation, review the need for continuing the proclamation of local emergency every 14 days, and proclaim the termination of the local emergency as conditions warrant.
- ☐ In consultation with the Director of Emergency Services, Emergency Management Staff and the City Attorney's Office, develop and approve other resolutions to aid in the City's response to the emergency and the continuity of government operations.
- ☐ Initiate formal requests for emergency government disaster relief and recovery of operations funding.

ATTACHMENT B: POLICY FOR APPOINTMENT OF EMERGENCY STANDBY COUNCIL

1. The City Council shall appoint the five-member Emergency Standby Council at the second regular City Council meeting in January or as soon thereafter as possible.
2. The criteria that the City Council shall consider for appointments shall include: former City Council Member (or current Planning Commissioner if insufficient numbers of former City Council Members are available or willing to serve), residency in the City of Morgan Hill, availability, interest in serving and a lack of conflicts of interest.

ACTIVATION:

1. Emergency Standby Council Members shall be called to serve on the Council in order of their most recent departure, and then by seniority, from the City Council.
2. The Emergency Standby Council Members ("Emergency Council") shall be activated only following a declared National, State or Local Emergency and when a majority of the City Council is unavailable to serve and the urgent need for a City Council meeting arises.
3. The Emergency Standby Council will consist of a total of five members which may include available City Council members. Four members will constitute a quorum and be sufficient for all actions to be taken.
4. The Emergency Standby Council Member shall only serve unless and until a majority of the City Council is again available to serve.
5. In the event that the majority of Council Members are unavailable for an extended period of time, the Standby Council Member shall continue to serve until the end of the unavailable member's term or until a majority of the City Council is again available to serve, whichever occurs first.
6. The Emergency Standby Council Members shall attend any additional training as deemed appropriate by the City Council.
7. Each Emergency Standby Council Member shall be replaced by returning Council Members as they become available. Those most recently on the Council shall depart the Emergency Standby Council last.
8. Any tie for seating or departure shall first be resolved by the selection of those serving two terms. In the event of a continued tie, the tie shall be resolved by drawing straws. The straws are to be drawn by the highest ranking available City Council Member or Director of Emergency Services (or designee) if no Council Members are available.
9. Minutes of all City Council meetings shall be sent to all members of the Emergency Standby Council
10. All Members of the Emergency Standby Council are expected to keep themselves apprised of current City issues.
11. Emergency Standby Council Members shall be sworn in at the first meeting at which they are called to serve.

ATTACHMENT C: MORGAN HILL MUNI CODE SECTION 2.44.094 TO BE AMENDED BY CITY COUNCIL, FEBRUARY __, 2019

*****NOT YET APPROVED*****

ORDINANCE NO. ____, NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MORGAN HILL ADDING SECTION 2.44.094 (CONTINUITY OF GOVERNMENT IN THE EVENT OF A DISASTER) TO CHAPTER 2.44 (CIVIL DISASTER AND EMERGENCY ORGANIZATION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE MORGAN HILL MUNICIPAL CODE RELATING TO THE APPOINTMENT AND DUTIES OF EMERGENCY STANDBY COUNCIL MEMBERS

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.44. 094 (Continuity of government in the event of disaster) is hereby added to Chapter 2.44 (Emergency Organization and Functions) of Title 2 (Administration and Personnel) of the Morgan Hill Municipal Code is to read as follows:

"(a) At the second council meeting in January each year or as soon thereafter as may be practicable, the City Council shall appoint five (5) emergency standby council members. Emergency standby council members shall be selected from former members of the City Council who agree to serve in that capacity during that year and to reside within the City of Morgan Hill during that year so long as they elect to participate as members of the emergency standby council. If insufficient numbers of former members of the City Council are available or willing to serve, City Council shall select emergency standby council members from current Planning Commissioners.

(b) A member of the emergency standby council shall serve in that capacity from the date of appointment until the appointment of another emergency standby council the following year or until the member notifies the City Clerk in writing that the member has elected to terminate participation in the emergency standby council. Each emergency standby council member shall take the oath of office required for the City Council prior to assuming the position of emergency standby council member.

(c) Each emergency standby council member appointed by the City Council as described in section (a) shall have the duty during the term of that member's appointment to remain informed of the duties of City Council members and the business and affairs of the City of Morgan Hill to the extent necessary to enable participation as a member of the City Council upon appointment in the event of an emergency as provided hereafter.

(d) In the event of the declaration of a state of war emergency, a state of emergency, or a local emergency as those terms are designated in Articles 12, 13, and 14 of Title 2 of the California Government Code and less than a quorum of the City Council is available and a City Council meeting is urgently required, the members of the emergency standby council shall be contacted for service. At that meeting, any City Council members who are unavailable for duty at the time of that meeting as defined by section 8636 of the California Government Code (unavailable such as the member is either killed, missing; or so seriously

injured as to be unable to attend meetings and otherwise perform the duties of office), shall be replaced by a member of the emergency standby council as necessary to reach five members. The order of selection of emergency standby council members shall be determined by Council Policy. The appointment of members of the emergency standby council to fill vacancies created by the unavailability of City Council members at any time during a state of emergency shall be performed by City Council, and additional emergency standby members shall be appointed during the state of emergency as required to maintain a total of five members on the City Council.

(e) Members of the emergency standby council who are appointed to serve as City Council members shall serve in that position until replaced by a member of the City Council who becomes no longer unavailable such that the addition of emergency standby council members is no longer necessary in order to constitute a quorum, until termination of the state of emergency, or until the election or appointment of a new regular City Council member as provided by law."

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. Effective Date; Posting. This Ordinance shall take effect on _____, 2019. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Morgan Hill held on the ____ of ____, 2019 and was finally adopted at a meeting of said Council on the ____ day of ____, 2019 and said Ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**

NOES: **COUNCIL MEMBERS:**

ABSENT: **COUNCIL MEMBERS:**

ABSTAIN: **COUNCIL MEMBERS:**

ATTEST: **APPROVED:**

Irma Torrez, City Clerk

Richard Constantine, Mayor

ATTACHMENT D: REFERENCE DOCUMENT – MORGAN HILL CODE OF ORDINANCES; CHAPTER 2.44 – CIVIL DISASTER AND EMERGENCY ORGANIZATION (AS OF SEPTEMBER 5, 2018)

2.44.010 - PURPOSES.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within the city in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of the city with all other public agencies, corporations, organizations and affected private persons.

(Ord. 706 N.S. (IV-2-1.01), 1984)

2.44.020 - EMERGENCY DEFINED.

As used in this chapter, "emergency" means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot or earthquake, or other conditions including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the city, requiring the combined forces of other political subdivisions to combat.

(Ord. 706 N.S. (IV-2-2.01), 1984)

2.44.030 - DISASTER COUNCIL—CREATED—MEMBERSHIP.

The disaster council is created and shall consist of the following:

- A. The mayor, who shall be chairman;
- B. The director of emergency services, who shall be vice-chairman;
- C. The assistant director of emergency services;
- D. The chief of police, the director of public works and the fire chief;
- E. Such other persons as may be appointed by the mayor with the advice and consent of the city council.

(Ord. 706 N.S. (IV-2-3.01), 1984)

2.44.040 - DISASTER COUNCIL—POWER AND DUTIES.

It is the duty of the disaster council, and it is empowered, to develop and recommend for adoption by the city council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman or, in his absence from the city or inability to call such meeting, upon call of the vice-chairman.

(Ord. 706 N.S. (IV-2-4.01), 1984)

2.44.050 - OFFICE OF EMERGENCY SERVICES—CREATED—RESPONSIBILITIES.

- A. There is created the office of emergency services.
- B. The responsibilities of the office of emergency services shall include:

1. The development of emergency plans with the assistance of the emergency service chiefs;
2. The day-to-day administration of the city's emergency preparedness program.

(Ord. 706 N.S. (IV-2-5.01), 1984)

2.44.060 - DIRECTOR—ASSISTANT DIRECTOR—COORDINATOR.

- A. There is created the office of director of emergency services. The city manager shall be the director of emergency services.
- B. There is created the office of assistant director of emergency services, who shall be appointed by the director.
- C. There is created the position of emergency services coordinator, who shall be appointed by the director.

(Ord. 706 N.S. (IV-2-6.01), 1984)

2.44.070 - DIRECTOR—POWERS AND DUTIES.

The director is empowered to:

- A. Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
- B. Request the Governor to proclaim a "state of emergency" when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency;
- C. Develop emergency plans with the assistance of emergency service chiefs for consideration by the disaster council, and manage the emergency programs of the city;
- D. Control and direct the effort of the emergency organization of the city for the accomplishment of the purposes of this chapter;
- E. Direct cooperation between and coordination of services and staff of the emergency organization of the city, and resolve questions of authority and responsibility that may arise between them;
- F. Represent the city in all dealings with public or private agencies on matters pertaining to emergencies as defined in this chapter;
- G. In the event of the proclamation of a "local emergency" as provided in this chapter, the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the director is empowered to:
 1. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council,
 2. In addition to any appropriation made to support activities contemplated by this section, the director is empowered to make expenditures from any fund legally available in order to deal with actual or threatened conditions of a state of war emergency, state of emergency, or local emergency,
 3. To make expenditures to obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property, and, if required immediately, to commandeer the same for public use. Appropriations will be made to provide fair value compensation to the owner of any property commandeered during a state of emergency,

4. Require emergency services of any city officer or employee and, in the event of the proclamation of a "state of war emergency," to command the aid of as many citizens of the community as he or she deems necessary in the execution of his or her duties; such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers. Appropriations will be made to support such activities to the extent funds are available for that purpose,
5. Requisition necessary personnel or material of any town department or agency, and
6. Execute all his or her ordinary powers as city manager, all of the special powers conferred upon him or her by this chapter or by resolution or emergency plan pursuant to this chapter adopted by the city council, all powers conferred upon him or her by any statute, by an agreement approved by the city council, and by any other lawful authority.

(Ord. 1193 N.S. § 1, 1994; Ord. 706 N.S. (IV-2-7.01), 1984)

2.44.080 - ASSISTANT DIRECTOR—COORDINATOR—POWERS AND DUTIES.

- A. The assistant director will supervise the emergency services coordinator and perform other duties as assigned by the director.
- B. The emergency services coordinator is responsible for the day-to-day administration of the office of emergency services.

(Ord. 706 N.S. (IV-2-8.01), 1984)

2.44.090 - EMERGENCY ORGANIZATION.

All officers and employees of the city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may, by agreement or operation of law, including persons impressed into service under the provisions of subsection (G)(3) of [Section 2.44.070](#) of this chapter, be charged with duties incident to the protection of life and property in the city during such emergency, shall constitute the emergency organization of the city.

(Ord. 706 N.S. (IV-2-9.01), 1984)

2.44.100 - STRUCTURE—DUTIES—FUNCTION.

The structure, duties and functions of the Morgan Hill emergency organization and the order of emergency succession to the position of director of emergency services shall be contained in the city emergency plan and adapted by resolution of the city council.

(Ord. 706 N.S. (IV-2-10.01), 1984)

2.44.110 - MUTUAL AID.

It is the purpose of the city council in enacting this chapter to facilitate the rendering of mutual aid to and for the people of the city. Emergency plans adopted and approved by the city council shall provide for the interchange of mutual aid and for coordination with the emergency plans of the county operational area.

(Ord. 706 N.S. (IV-2-11.01), 1984)

2.44.120 - EXPENDITURES.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

(Ord. 706 N.S. (IV-2-12.01), 1984)

2.44.130 - VIOLATIONS—PENALTIES.

It is unlawful for any person during an emergency to:

- A. Willfully obstruct, hinder or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter;
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter;
- C. Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state.

(Ord. No. 2276 N.S., § 3, 5-2-2018, Ord. 1192 N.S. § 3, 1994: Ord. 706 N.S. (IV-2-13.01), 1984)

ATTACHMENT E: REFERENCE DOCUMENTS – CALIFORNIA CODES



GOVERNMENT CODE

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

DIVISION 1. GENERAL

CHAPTER 7. California Emergency Services Act

ARTICLE 14. Local Emergency

8630.

(a) A local emergency may be proclaimed only by the governing body of a city, county, or city and county, or by an official designated by ordinance adopted by that governing body.

(b) Whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.

(c) The governing body shall review the need for continuing the local emergency at least once every 30 days until the governing body terminates the local emergency.

(d) The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

ARTICLE 15. Preservation of Local Government

8636.

As used in this article, "unavailable" means that an officer is either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform his duties. Any question as to whether a particular officer is unavailable shall be settled by the governing body of the political subdivision or any remaining available members of said body (including standby officers who are serving on such governing body).

8642.

Whenever a state of war emergency a state of emergency or a local emergency exists the governing body of the political subdivision shall meet as soon as possible. The place of meeting need not be within the political subdivision. The meeting may be called by the chief executive of the political subdivision or by a majority of the members of the governing body. Should there be only one member of the governing body, he may call, and hold said meeting and perform acts necessary to reconstitute the governing body.

8643.

During a state of war emergency, a state of emergency or a local emergency the governing body shall:

(a) Ascertain the damage to the political subdivision and its personnel and property. For this purpose, it shall have the power to issue subpoenas to compel the attendance of witnesses and the production of records.

(b) Proceed to reconstitute itself by filling vacancies until there are sufficient officers to form the largest quorum required by the law applicable to that political subdivision. Should only one member of the governing body or only one standby officer be available, that one shall have power to reconstitute the governing body.

- (c) Proceed to reconstitute the political subdivision by appointment of qualified persons to fill vacancies.
- (d) Proceed to perform its functions in the preservation of law and order and in the furnishing of local services.

8644.

Should all members of the governing body, including all standby members, be unavailable, temporary officers shall be appointed to serve until a regular member or a standby member becomes available or until the election or appointment of a new regular or standby member. Temporary officers shall be appointed as follows:

- (a) By the chairman of the board of supervisors of the county in which the political subdivision is located, and if he is unavailable,
- (b) By the chairman of the board of supervisors of any other county within 150 miles of the political subdivision, beginning with the nearest and most populated county and going to the farthest and least populated, and if he is unavailable,
- (c) By the mayor of any city within 150 miles of the political subdivision, beginning with the nearest and most populated city and going to the farthest and least populated.



GOVERNMENT CODE

TITLE 5. LOCAL AGENCIES

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES

CHAPTER 9. Meetings

54950.

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54952.

As used in this chapter, "legislative body" means:

- (a) The governing body of a local agency or any other local body created by state or federal statute.
- (b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.
- (c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:
 - (A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.
 - (B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.
- (2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.
- (d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a

legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

54956.

(a) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

(b) Notwithstanding any other law, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in subdivision (d) of Section 3511.1. However, this subdivision does not apply to a local agency calling a special meeting to discuss the local agency's budget.

(c) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

54956.5.

(a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Donald Larkin, City Attorney
APPROVED BY: City Manager

PROVIDE DIRECTION REGARDING THE ADOPTION OF A LOBBYIST REGISTRATION ORDINANCE

RECOMMENDATION(S)

Direct the City Attorney to prepare an ordinance requiring registration of paid lobbyists.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Preserving and Cultivating Public Trust

2018 Strategic Priorities

Community Engagement and Messaging

POLICY CONSIDERATIONS:

Should the City Council adopt an ordinance requiring the registration of paid lobbyists?
Are there alternatives to lobbyist regulation, which should be adopted instead of or in addition to a lobbyist registration ordinance?

REPORT NARRATIVE:

Mayor Constantine asked staff to prepare an ordinance regulating paid lobbyists, similar to the ordinance adopted by the City of San Jose. The purpose of this report is to seek direction from the entire City Council regarding the proposed ordinance prior to its introduction.

San Jose's ordinance can be found in Chapter 12.12 of the San Jose Municipal Code (see [link](#)). More information about the San Jose Ordinance can be found [here](#).

In 2012, the League of California Cities published two articles regarding lobbyist registration ordinances. The first article explains the mechanics of lobbyist regulations. That article can be found [here](#). The second article (linked [here](#)) discusses some of the challenges in regulating lobbyist activities. The second article outlines several alternative and/or complementary transparency regulations that may be appropriate for adoption by Morgan Hill either instead of, or in addition to, a lobbyist registration ordinance.

If the City Council directs the City Attorney to prepare an ordinance, the ordinance will be introduced at the February 20th City Council meeting.

COMMUNITY ENGAGEMENT: Inform

Should the Council direct the City Attorney to prepare a lobbyist registration ordinance, the draft ordinance will be distributed to members of the development community in advance of the February 20th City Council meeting.

ALTERNATIVE ACTIONS:

1. The City Council could decide not to regulate lobbyist activities.
2. The City Council could direct the City Attorney to prepare alternative ordinances, including restrictions on *ex parte* communications.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

None.

FISCAL AND RESOURCE IMPACT:

While the drafting of ordinances would require some City Attorney time, these efforts should not impact other tasks. Depending on Council direction, implementation of the ordinances could require significant staff time from the Planning Department and/or City Clerk's Office. Those impacts would be further analyzed in future staff reports. Ongoing costs to carry out implementation and related activities could be recovered through fees.

CEQA (California Environmental Quality Act):

Continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, or general policy and procedure making are not projects subject to environmental review (except where the policies and procedures may result in a change to the physical environment).



CITY COUNCIL STAFF REPORT

MEETING DATE: January 23, 2019

PREPARED BY: Chris Ghione, Public Services Director
APPROVED BY: City Manager

RECEIVE CAPITAL IMPROVEMENT PROJECT UPDATE

RECOMMENDATION(S)

Receive an update on City Capital Improvement Projects.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community
Preserving Our Cultural Heritage

2018 Strategic Priorities

Economic Development and
Telecommunications
Infrastructure
Regional Initiatives

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan
Sewer System Master Plan
Station Area Master Plan
Vision Zero
Water System Master Plan

REPORT NARRATIVE:

In late 2018, Council Members requested a general update on the City's Capital Improvement Projects. This report is designed to provide a brief update on all approved Projects within the current Capital Improvement Program. The update outlined in Attachment 1 provides brief update information on each project. The Capital Improvement Program is available online as part of the City Budget Document.

COMMUNITY ENGAGEMENT: Inform

This report is informational in nature and serves to inform the community of project status.

ALTERNATIVE ACTIONS:

There is no alternative action to receiving the report. The Council may wish to provide staff direction on specific projects or the Capital Improvement Program in general.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council adopted the Fiscal Year 2018-19 through 2023-24 Capital Improvement Program on June 6, 2018.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with receiving this report.

CEQA (California Environmental Quality Act):

Not a Project.

Varying levels of environmental review are required for the various capital improvement projects outlined in this report. Since receiving this update report is an administrative program that in itself 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. Attachment 1 CIP Update
2. Capital Improvement Program (web link)

Attachment 1 - Capital Improvement Project Update

Parks, Recreation, Open Space	
Project Name: Borello School/Park Project Status: Delayed	Project Update: The Borello School/Park would utilize City Park Impact Funds to support jointly constructing a School/Park on the School District Property on Peet Road. A joint-use/funding agreement would be required for the project. The project is currently delayed due to pending litigation relating to the School District's plans for mitigation of soil issues on the site. The timeframe for resolution is unknown at this time, although a ruling is anticipated in the coming months.
Project Name: Park Land Purchase and Development Project Status: Planning	Project Update: No planned park land purchases are funded until FY 2022-23. Staff continue to evaluate options for future parkland including acquisition through development. Recently, Proposition 68 has resulted in the State authorizing the issuance of bonds for a significant amount of competitive park grants. City staff is evaluating these grant opportunities, but the City must also evaluate the operational funding needs should park acquisition or development funds become available. City staff intends to bring these policy questions to the City Council in early 2019.
Project Name: West Little Llagas Creek Trail Project Status: In Progress On Schedule	Project Update: This project will move forward immediately following the construction of the Water District's Upper Llagas Creek Flood Control Project occurring south of Watsonville Road to Silveira Lake. The City has been awarded over \$500,000 in grant funding for this project and intends to design and build the project as early as possible. The City has an approved joint-use agreement and recreational access easements with the Water District and construction on the Flood Control Project south of Watsonville Road is scheduled to go out to bid in the coming months.
Project Name: Madrone Channel Trail Improvements Project Status: Flexible Schedule Based on Grant Funding	Project Update: The Madrone Channel Trail is planned to primarily utilize grant funding for construction of a paved path on the existing joint use pathway adjacent to Highway 101 and the Madrone Channel. A grant funding resolution has been requested by the City Council, to apply for Water District funds for the first phase of this project.
Project Name: El Toro Trail Project Status: In Progress	Project Update: In 2017, the City provided funding to the Santa Clara County Open Space Authority (OSA) for the purchase of property off West Main Avenue. The Open Space Authority is leading engagement with the residents of this area as a precursor to a potential neighborhood access point. The City and OSA are actively working to identify and acquire property and easements to create a primary access and parking area for the trail near Spring and Dewitt Avenues.

Project Name: Inclusive Playground Project Status: In Progress On Schedule	Project Update: The concept design for the Magical Bridge Morgan Hill Playground was approved by the City Council in December 2018. Fundraising is still actively being pursued. The project will be out to bid in the Spring of 2019 with construction commencing in the Summer.
Project Name: Centennial Recreation Center Project Status: In Progress On Schedule	Project Update: This project is scheduled to go out to bid in the Spring of 2019. The Council has approved concept designs, but the project cost estimates are high, and bids are anticipated to be very close to budget estimates. City staff will provide alternative options for funding if necessary, once the project is bid.
Project Name: Agricultural Preservation Project Status: In Progress	Project Update: The City continues to identify opportunities to acquire agriculture easements in support of the Agriculture Preservation Policy. The City has acquired 10 acres on Maple Avenue and is working on finalizing the agricultural easement on this property. The City is also in negotiations to acquire a 20-acre easement on Hill Road. On December 5, 2018, the City Council authorized the acquisition of a 33-acre easement on the Fountain Oaks Ranch. City staff continues to look for future opportunities for agricultural easements, while discussing partnership opportunities with regional partners.
Project Name: Community Garden Project Status: In Progress On Schedule	Project Update: On December 19, 2018, the City Council awarded a project for constructing the major components of the new Community Garden site, located off Railroad Avenue near the Butterfield overpass. The local Morgan Hill Community Garden volunteers will also be assisting with development of the site over the next year. Funding for the construction was provided by a grant from the Santa Clara Valley Open Space Authority.
Project Name: Tree Planting/Urban Forestry Management Plan Project Status: In Progress On Schedule	Project Update: Funding for this program was solely through a grant from CAL FIRE. The tree planting component has already commenced on both public and private property. City staff have been working with a group of community members, partners, and experts on the development of the Urban Forestry Management Plan, which will be presented to the City Council for review in 2019.

Project Name: Villa Mira Monte Improvements Project Status: In Progress On Schedule	Project Update: In Fiscal Year 2017-18 the City provided funding of \$206,000 for various improvements and repairs at Villa Mira Monte. To date the Historical Society has utilized \$64,000 in funding towards fencing/gates and video surveillance systems at the site. The remaining \$142,000 is designated for repairs for which the Historical Society plans to begin implementation in the coming months. The City is currently identifying a consultant to evaluate the current Villa Mira Monte site Master Plan in relation to the long-term fiscal sustainability of the site. Funding for design of the Master Plan is allocated in Fiscal Year 2019-20.
Project Name: Butterfield Connector Path Project Status: In Progress Behind Schedule	Project Update: This project is a \$1.9 million grant funded project that will connect the multi-use path on the east side of Butterfield Boulevard from San Pedro Avenue South to Railroad Avenue and the new Community Garden site. Currently the project is in the design phase and will be bid in the Spring of 2019 for construction to commence in the Summer of 2019. The project design is approximately six months behind schedule due to limited staffing resources needed for implementation.
Project Name: Sports Facility Development Project Status: Planning	Project Update: There are currently no projects budgeted for Fiscal Year 2018-19. In Fiscal Year 2019-20 there is funding allocated for a feasibility study for sand volleyball courts and improvements at the Outdoor Sports Center.
Project Name: Park Enhancements Project Status: In Progress On Schedule	Project Update: This project allocates \$40,000 to add shade to a park area within the City in Fiscal Year 2018-19. Staff is currently developing a list of priority locations for this addition.

Public Facilities	
Project Name: New Fire Stations Project Status: Planning	Project Update: The new Fire Station must be constructed by 2024 for the City to retain the selected site on Butterfield Blvd. However, several policy questions remain relating to fully funding construction of the station and funding the operations. Design will need to be complete in early 2022 to allow for adequate time for construction and any potential delays.
Project Name: Library Expansion Project Status: In Progress Behind Schedule	Project Update: The City Council approved a revised concept design in October 2018, after receiving bids much higher than the available budget. The project is scheduled to go out to bid in the Spring of 2019 with construction scheduled to commence in the Summer.
Project Name: Corporation Yard Long Term Planning Project Status: In Progress On Schedule	Project Update: The City partnered with the Morgan Hill Unified School District to issue a request for proposals for a space study to identify current and future needs for the School District and the City. Proposals were received in December and will be brought to the Council in February for final consultant selection.
Project Name: Citywide Fiber Network Infrastructure Project Status: Planning	Project Update: Currently City staff are working with a consultant to develop the scope for a request for proposals to develop a connectivity master plan for City facilities. In addition, the City has assets (buildings, conduits, parcels of land, access to the right-of-way, etc.) that could be leveraged to incentivize investments in high speed connectivity to new and existing business parks and potentially to residents. While the request for proposals will look to comprehensively address the short-term needs to connect City facilities, the intent is to also use the RFP to leverage opportunities to have a greater impact for businesses and residents. The request for proposals is anticipated to be issued in the spring of 2019.

Storm Drainage	
Project Name: Storm Pipe Installation Project Status: Planning Behind Schedule	Project Update: For Fiscal Year 2018-19, planned improvements include the installation of a concrete base at the Monterey Road Box culvert to prevent erosion. This project will likely be delayed until Fiscal Year 2019-20 as staff focus on higher priority projects.
Project Name: Llagas Flood Control Project Status: Planning On Schedule	Project Update: This project has been established to support the Upper Llagas Creek Flood Control Project managed by the Santa Clara Valley Water District. The City funds will be used to support the development of City owned infrastructure as the project develops. The project is critical to alleviating the regular flooding that occurs in Morgan Hill. City staff intends to bring a design contract for City infrastructure to the Council in early 2019.

Streets and Roads	
Project Name: Intersection Improvements Project Status: No Projects this Fiscal Year	Project Update: No projects are scheduled for FY 2018-19 due to funding limitations associated with the Hale Avenue Project property acquisitions.
Project Name: Pavement Rehabilitation Project Project Status: In Progress On Schedule	Project Update: With SB1 and City Funding, the City was able to rehabilitate Sutter Boulevard and Hill Road in 2018. The next pavement rehabilitation project will include Monterey North of Cochrane and other areas. The project scope is in development for work to occur in the Summer of 2019, but the exact size of the project will be dependent on the potential release of Measure B funding. City staff intends to bring a pavement update report with details on the proposed improvements to the Council in February.
Project Name: Downtown Safety Improvements Project Status: Design	Project Update: This project includes the installation of flashing pedestrian activated lights on Monterey Road at Fifth Street and First Street. The project is currently in the design phase and construction should occur prior to the end of this Fiscal Year.
Project Name: Citywide Pedestrian Improvements Project Status: Planning Behind Schedule	Project Update: This project provides funding for pedestrian safety improvements throughout the City. The funding will support the installation of pedestrian activated lighting at crosswalks or other improvements. Staff spent a significant amount of time in the planning process identifying areas for these improvements for a very large Safe Routes to School Grant that was not received. Over the next few months, City staff will work to review utilizing City funds for many of the enhancements outlined in the grant study
Project Name: Hale Avenue Extension Project Status: Design Land Acquisition On Schedule	Project Update: The City has completed the majority of the land acquisition necessary for this project. Two properties are currently being acquired through eminent domain. City staff are finalizing the project design to be ready for bidding Spring of 2019. Bidding will be dependent upon the release of Measure B Funding and the City being awarded that funding from the County and Santa Clara Valley Transportation Authority. City staff are actively engaging County and VTA staff to request priority and additional funding needed for the project. It is estimated the project will require \$14.5 million in funding for construction.

Project Name: RDCS School Safety Improvements Project Status: Planning	Project Update: The two major projects this Fiscal Year identified were improvements adjacent to Britton Middle School and Nordstrom Elementary School. City and District Staff recently outlined timing of Britton Middle School construction and are developing a phasing plan for the off-site improvements that works timing wise with the school construction. Improvements will include traffic safety improvements on Central Ave, sidewalk improvements on all surrounding streets, and undergrounding of utility lines. The District will not begin construction of the Nordstrom School improvements this Fiscal Year, so the related traffic safety improvements will be delayed until the time the school improvements move forward. City staff spent a significant amount of time in the planning process identifying areas for school safety improvements for a very large Safe Routes to School Grant that was ultimately not awarded to the City. Over the next few months, City staff will work to review utilizing City funds for many of the enhancements outlined in the grant study.
Project Name: Assessment District Streets Project Status: Planning	Project Update: There are currently no projects budgeted for Fiscal Year 2018-19 and there is no update on this project.
Project Name: Parking Lot Maintenance and Rehabilitation Project Status: Complete for FY 2018-19	Project Update: This project has been completed for Fiscal Year 2018-19 and included the sealing of the parking lot at the Outdoor Sports Center and the existing Butterfield Linear Path.
Project Name: Sidewalk Repairs Project Status: Planning/Design On Schedule	Project Update: The annual sidewalk repair project will occur in the Spring/Summer of 2019. This project is Citywide in nature and will replace and repair damaged sidewalks throughout the City.
Project Name: Cochrane Road Green Bike Lane Striping Project Status: Design/Planning On Schedule	Project Update: This grant funded project is currently in the design/permit phase. Staff intend to bid the project with the annual Pavement Rehabilitation Project, since the project will require the pavement to be sealed before the striping is applied.

Project Name: Main Avenue Bike Lane & Sidewalk Project Project Status: In Progress Land Acquisition Behind Schedule	Project Update: This project has received grant funding and is in the design phase. The project requires the acquisition of right of way from private property owners. Initial outreach to the property owners has been initiated. Land acquisition for this project is taking longer than anticipated and delaying the project. Staff expects the project to get underway this summer.
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Wastewater	
Project Name: Sewer System Repair and Replacement Project Status: Completed for FY 2018-19 Unfunded for Future Years	Project Update: This project is intended to be an annual project that funds repairs to the existing wastewater system, including repairs and replacements relating to regulatory compliance. Although the project is unfunded, the City is currently undergoing a rate study that will identify the additional funding needs to perform the required maintenance. It is anticipated that after review of the rate study, the City will develop a plan to finance the initial compliance related repairs over the next several years. The Wastewater Rate Study is anticipated to be presented to the City Council in late February 2019.
Project Name: Vault Lining Project Project Status: Completed	Project Update: The final acceptance of this project occurred at the December 5, 2018 City Council Meeting.
Project Name: Trouble Spot Evaluation and Repair Project Status: Completed Closeout Underway	Project Update: With Funding from Fiscal Year 2017-18 this project addressed areas across the City that were identified as allowing infiltration and inflow into the wastewater system. This project has been substantially completed and will be formally accepted in the coming months. For Fiscal Year 2018-19, the project will repair several deteriorated pipes within the wastewater system. The project is currently in the design phase.
Project Name: East Dunne and Tennant Sewer Mains Project Project Status: Design Behind Schedule	Project Update: The Tennant Avenue portion of the project was planned for construction in Fiscal Year 2018-19. Design and permitting relating to the crossing below the Union Pacific Tracks have delayed the project slightly, but it is planned to be out to bid with construction occurring in 2019.
Project Name: Sewer Plant Expansion Project Status: Design/Planning	Project Update: This project is owned and managed by the South County Regional Wastewater Authority (SCRWA), with the City of Morgan Hill responsible for 41.9% of costs. SCRWA staff are still in the process of evaluating exact timing of the treatment plant expansion. Design is currently underway. It anticipated that the SCRWA Board will receive an update on cost estimates and timing in early 2019. City staff continue to evaluate financing options for the Plant Expansion along with the new Trunk Line Project. Both projects rely on Development Impact Fees for funding and the timing of the projects would be critical in determining the most appropriate financing strategies for both the projects.

Project Name: Sewer Plant Improvements Project Status: In Progress	Project Update: Like the Plant Expansion, the City is responsible for project costs associated and approved by SCRWA. Current improvement projects include: - Recycled Water Pump Station - Septage Receiving Station - Building Maintenance
Project Name: Lift Station Improvements Project Status: In Progress Design	Project Update: Two lift stations have been renovated and are nearing project closeout (J&W). Two lift station renovations are in the design phase in preparation for bidding (F&K).
Project Name: New Trunk Line Project Status: Design Phase	Project Update: Design of the second trunk line is currently on hold as the staff are coordinating with the City of Gilroy for alignment approval through the City. Gilroy staff intend to seek approval of the trunk line alignment from the Gilroy City Council in early 2019. Once the alignment is approved the exact timing of construction will be determined. In coordination with the Plant Expansion Project, City staff are continuing to evaluate financing options for the two projects. Both projects rely on Development Impact Fees for funding and the timing of the projects would be critical in determining the most appropriate financing strategies for both the projects.
Project Name: Sewer Capacity Improvements Project Status: Planning Behind Schedule	Project Update: This initial plan for the design and construction for the project to occur was in Fiscal Year 2018-19. It is now more likely that the design will occur this year with construction occurring in Fiscal Year 2019-20.
Project Name: Wastewater Planning Project Status: In Progress On Schedule	Project Update: Wastewater Planning for the Fiscal Year 2018-19 calls for an assessment of the City's existing trunk line to the SCRWA Treatment Plant. A request for proposals was issued in the Fall of 2018 in partnership with the City of Gilroy. Staff intend to bring a consultant agreement for review by Council in the coming months along with a cost sharing agreement with the City of Gilroy.

Water	
Project Name: Water Storage System Improvements – Glen Ayre Tank Project Status: Planning	Project Update: This project is currently not budgeted until Fiscal Year 2020-21.
Project Name: Water Storage System Improvements – Woodland Tank Project Status: Planning	Project Update: This project is currently not budgeted until Fiscal Year 2021-22.
Project Name: New Water Mains Project Status: In Progress Behind Schedule	Project Update: Design on this project has been delayed due to higher priority projects. The project will likely occur in Fiscal Year 2019-20.
Project Name: Water Pipeline Repair and Replacement Project Status: Planning	Project Update: There is no funding for this project in Fiscal Year 2018-19, with projects currently planned for Fiscal Year 2019/20 and the years following.
Project Name: Holiday Lake Improvements Project Status: Design	Project Update: Funding to construct the new tank on East Dunne Avenue and associated infrastructure is not anticipated to be available until Fiscal Year 2021-22. City staff are working to complete the design work to have the project ready should funding become available sooner.
Project Name: Water Supply Facility Improvements Project Status: In Progress Design	Project Update: Replacement of fixed generators is planned for Fiscal Year 2018-19 and currently in the design phase.

Project Name: Reservoir Recoating Project Status: Planning	Project Update: This project is currently not budgeted until Fiscal Year 2020-21.
Project Name: El Toro Tank Improvements Project Status: Planning	Project Update: This project is currently not budgeted until Fiscal Year 2019-20.
Project Name: Holiday Tank Repair #2 Project Status: In Progress	Project Update: City staff are working to identify appropriate contractors to make this repair. Bidding is anticipated to occur in the Spring of 2019.
Project Name: Water Planning Project Status: Planning	Project Update: There are no Water Planning projects scheduled for Fiscal Year 2018-19. Water supply planning projects are anticipated and funded for Fiscal Year 2019-20.
Project Name: Well Demolition and Abandonment Project Status: Planning	Project Update: This project is currently not budgeted until Fiscal Year 2020-21.
Project Name: New and Replacement Well Projects (Fiscal Year 2017-18) Project Status: Construction	Project Update: In Fiscal Year 2017-18, the City worked on new well projects to replace the existing Boys Ranch 2 and Jackson wells along with the construction of a new well on Main Avenue. These projects remain under construction, with the City staff and consultants having to provide considerable extra work in efforts to remove bacteria from the wells to finalize the projects. City staff will be returning to Council in early 2019 with an update on the progress on the well construction.

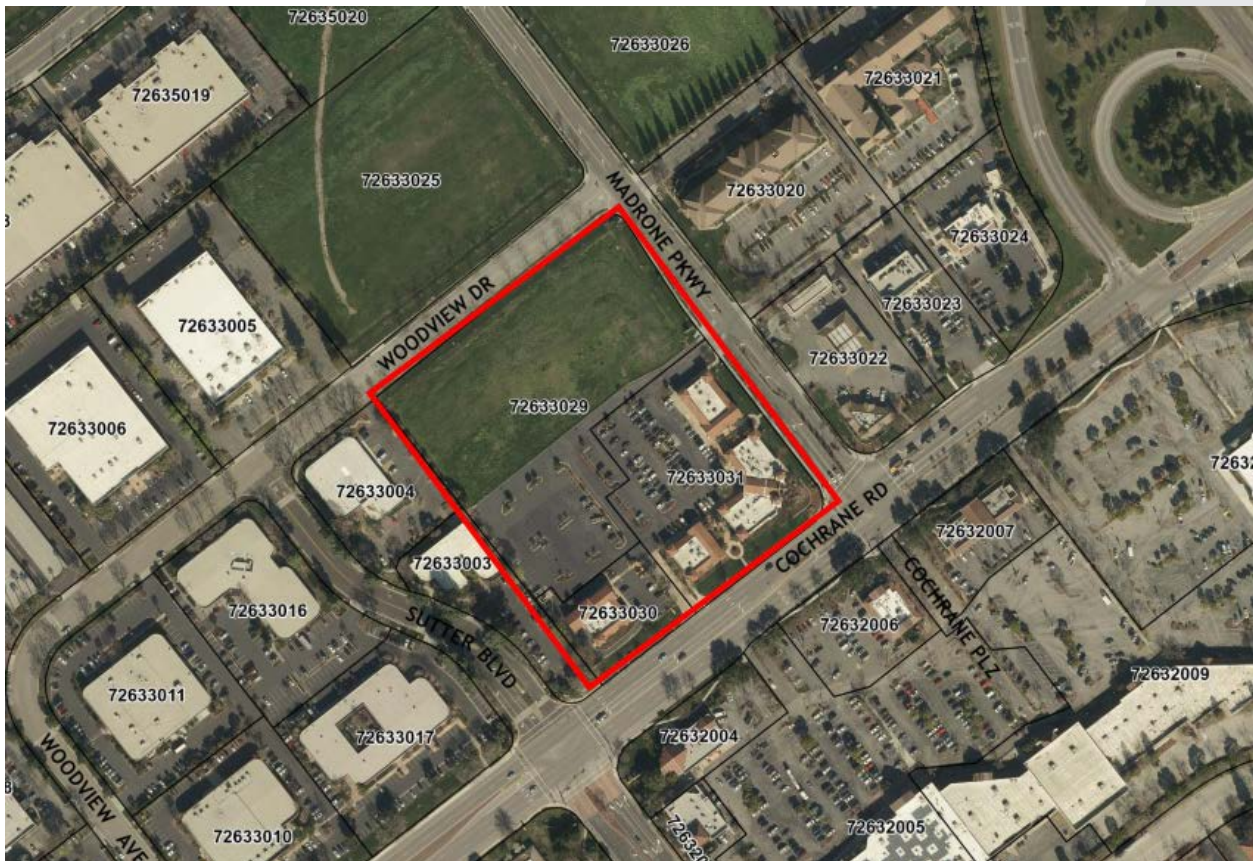


January 23, 2018- Agenda (AAE2018-0005): Cochran-TBI Item 15

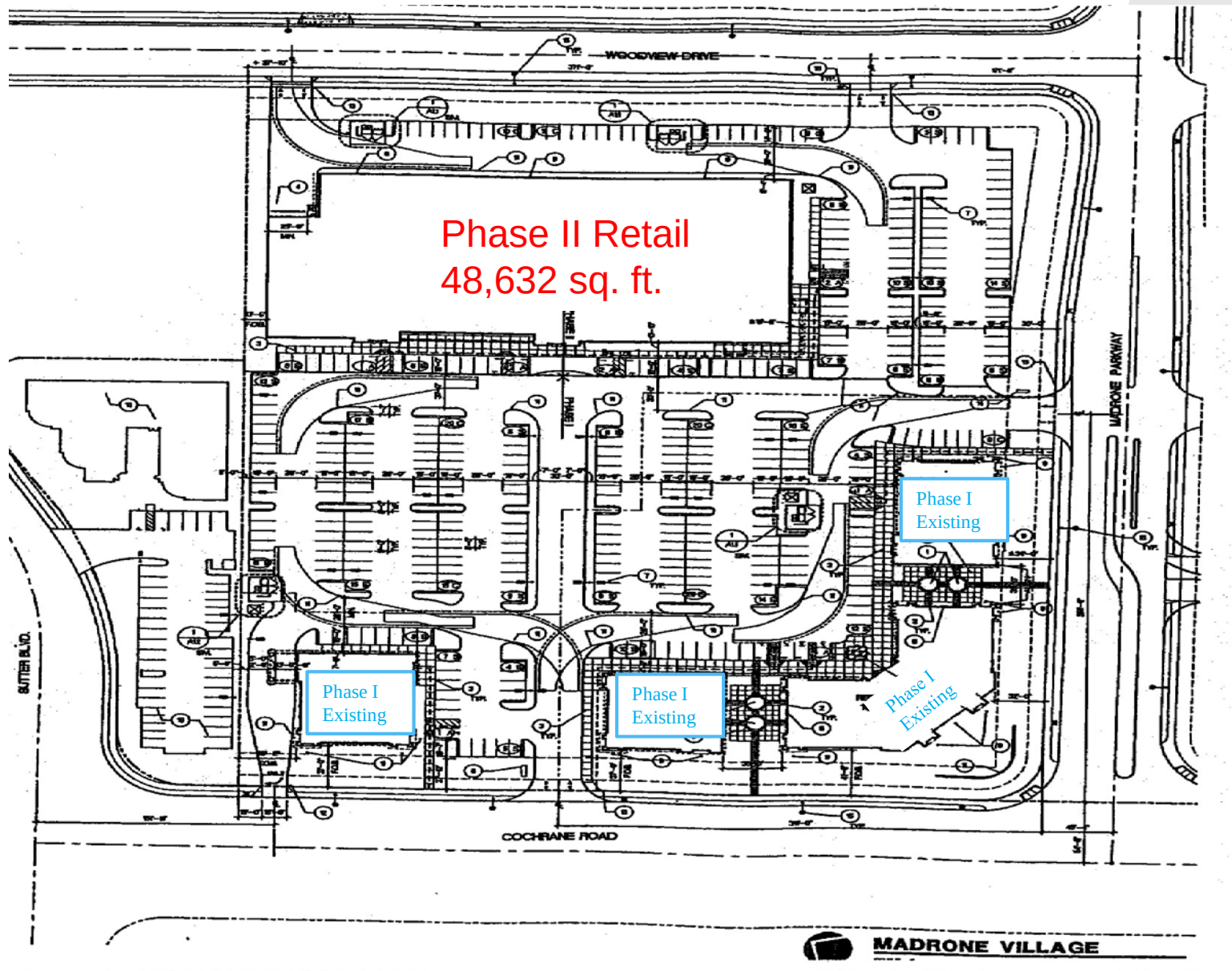


Request

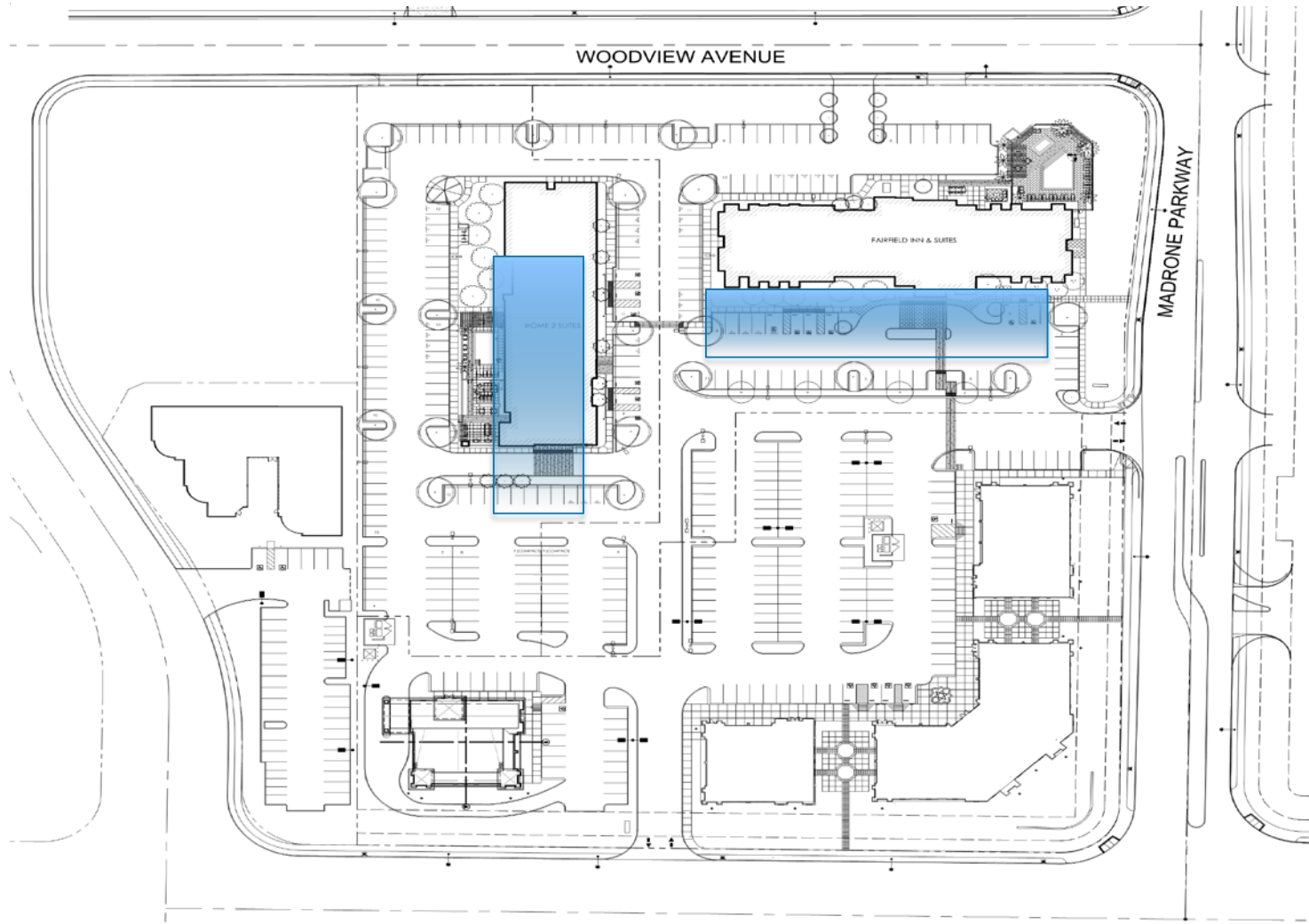
- Amend Madrone Village Planned Development Master Plan
- Amend Madrone Village Development Guidelines



Approved Master Plan



Proposed Master Plan: Includes two, four-story hotels (55,078 and 63,054 square feet)



Circulation: One new access point on Woodview Avenue

Parking Spaces: Required 337/Provided 383

Proposed amendments to the Madrone Village Development Guidelines:



Allowed and Conditional Uses:

Add: “Hotels” to the list of Permitted Uses

Delete: “Grocery Stores exceeding 15,000 sf but less than 50,000 sf” from list of Conditional Uses

Architecture/Site Planning:

Add: “Compatible architectural styles” in addition to the specified early Mission Style

Add: 61-foot maximum height to facilitate architectural roofline variation with maximum heights for screening, equipment and elevator shaft

Surrounding Land Use



Proposed Compatible Architecture



Proposed Compatible Architecture



Building Height – Fairfield Inn & Suites



South elevation

Building Height – Home 2 Suites



Findings

PD Amendment

- Proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860
- Proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City

Recommendations



- Adopt Ordinance amending the Madrone Village PD Master Plan and Development Guidelines.

Questions?





17485 Monterey Road, Suite 105
Morgan Hill, CA 95037
(408)779-9444

January 18, 2019

RE: January 23, 2019 Council Meeting Item # 15

Dear Mayor Constantine and Council Members Carr, Martinez-Beltran, McKay and Spring:

The Morgan Hill Chamber of Commerce supports zoning amendment ZAA-04-11B allowing for hotel use as an alternative to traditional retail use for the vacant land within the Planned Unit Development known as Cochrane Village TBI.

Traditional retail store growth has slowed dramatically over the most recent decade, which is unsurprising when you realize that the US has at least five times more retail space per person as do other developed nations around the world. The already overbuilt retail landscape now must compete with internet and mobile app based retail delivery models which largely sidestep the construction of traditional storefronts. Given these realities, any new retail construction in Morgan Hill is only likely to happen in extraordinarily desirable locations, and when it does happen it will likely only replace older retail locations over time. Given this reality and the very real need to find tax producing, community serving uses for commercial land our organization supports the use of retail zoned properties for other income producing uses such as hotels.

While we understand the desire to add a full-service hotel and/or large conference spaces to the Morgan Hill market, we also realize that investors have to build projects which are financeable and financially viable. We urge city staff and the developer to continue working on the possibility of adding meeting room capacity to meet needs of the surrounding business park as part of the post-zoning approval design detail approval process. Given the proximity of this location to restaurants such as Forbes Grill there does not seem to be as much need for the food service aspect of a "full-service" hotel as might otherwise be desirable.

We have also considered the argument that allowing hotel construction on the property in question somehow gives an unfair cost advantage to the developers. The property value information we have seen does not support that contention. More importantly, the significant construction cost escalation of recent years surely means that no brand new construction is likely to have a capital investment advantage over existing properties.

As uncomfortable as additional competition is in any industry, it is a fact of commercial life and we support the proposed zoning amendment.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John T. Horner".

John T. Horner
President & CEO

MORGAN HILL COMFORT INN



BY CHOICE HOTELS

January 20, 2019

Dear City Council:

Re: ZAA-04-11B, Madrone Village Shopping Center

My family owns the Comfort Inn, and we oppose amending the PD zoning for Madrone Village to allow two new hotels. First, it provides a windfall to the out-of-town hotel developer. By allowing hotel use on land where it is not permitted, the out-of-town hotel developer is able to buy land at a rate below market. The applicant admitted that the purchase price was \$14.75 per square foot. See attached transcript from planning commission hearing where the co-applicant provided the purchase price.

Commercially zoned land that permits hotel use is approximately \$20-25 a square foot. For example, the parcel at 16275 Condit Road is selling for \$23 a square foot. Thus, amending the PD zoning results in windfall of \$1.5 million dollars to the buyer/hotel developer. Amending the zoning is effectively the same as writing a check to our competitors for \$1.5 million dollars. It is unfair to the existing hotels that contribute to the local economy, and it creates instant wealth for a developer.

The plans submitted would also add 206 rooms to a 530 room hotel market. There are already plans to add 120 room hotel on the Evergreen parcel at Cochrane and Butterfield. Adding two more hotels would lead to an increase of over 60% in the supply of hotel rooms in a short period of time. Morgan Hill is unable to support that many hotels as once. We support sustainable growth. Building three hotels at once will lead a downward spiral in hotel room rates. Occupancy will decrease dramatically. Furthermore, tax revenue will shrink as prices drop as Morgan Hill has failed to add demand generators that would support our hotels. Morgan Hill is a spillover market for San Jose, and demand for our rooms will decrease as 4,000 new hotel rooms enter their market.

The proposed Home 2 Suites and Fairfield Inn are similar to many other hotels that currently exist in Morgan Hill. They do not have conference room space nor banquet facilities. They are not destination hotels. They are merely hotels where people stay when one has already decided to stay in the city where they are located. There is not a demand for the additional hotels rooms as our city wide occupancy rate is lower than other markets such as San Jose, Santa Clara or Mountain View. The businesses located in Madrone Park are not able to support multiple hotels. Thus, these hotels fail to satisfy any unmet needs that may exist in the City.

16225 CONDIT ROAD

MORGAN HILL, CALIFORNIA 95037

PHONE 408.778.3400

FAX 408.782.2300

www.comfortinnmorganhill.comgm.ca531@choicehotels.comFor reservations worldwide: 800.4CHOICE choicehotels.com



BY CHOICE HOTELS

The government should not in the business of choosing winners and losers. Our market system works best when no one is given a financial advantage. We did not oppose the La Quinta, nor have we opposed the hotel coming to the Evergreen parcel because those owners paid market value for commercially zoned land that permitted hotel use. We oppose this amendment because it provides a huge windfall to the buyer at our expense. Thank you.

Yours,

Asit Panwala

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4 MORGAN HILL PLANNING COMMISSION MEETING DECEMBER 11, 2018

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6 TRANSCRIPT OF PARTIAL HEARING
7 ELAPSED TIME 2:17:20-2:19:00
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1 **CM: COMMISSIONER MULLER**

2 **BK: BRAD KRAUSKUP**

3 **UM: JAMES CHUNG**

4
5 CM: So the last speaker, not the last speaker, well before that, brought up the idea that by
6 converting or by allowing a hotel here we are giving these hotels a cost advantage because it's a
7 rezoned? Or not a rezoned, it's an allowed use in a different space, is that true?

8 JC: Unfortunately, I'm not an expert in the hospitality sector. Would the applicant like to
9 speak to that?

10 BK: I'm not exactly sure what the question means but if you're talking about comparable land
11 prices in terms of the suitability or price of, this is a retail center versus a hotel site, versus
12 industrial?

13 CM: It's the first two. Not the industrial part.

14 JC: As far as land value?

15 CM: Yeah. Hotel versus retail. Not hotel, retail, industrial.

16 BK: Um, I don't mean to skirt the question, but I'll just tell you that the most recent property
17 that's gone under contract in Madrone business park is an industrial piece. Is at \$15 a foot. Six
18 months ago, that was less than that. This property is in contract at I think it's \$14.75 a foot. I
19 don't see any difference in terms of the value landscape of land along Cochrane Road.

20 CM: Excellent, close enough to an answer.

21 BK: Okay.

22 **END OF REQUESTED TRANSCRIPT**

1 CERTIFICATE OF TRANSCRIPTION OF TAPE RECORDINGS

2 --o0o--

3 I, the undersigned, hereby certify as follows:

4 That the foregoing transcript, page 1 through and including 3, to the best of my
5 knowledge and belief is a full, complete and true transcription of certain tape recordings
6 as described below to the best of my ability to hear, understand, identify speakers and transcribe
7 said recordings, with the exception of any portion indicated as (inaudible), and words contained
8 in parentheses, which indicate the best guess. (Any errors, changes or omissions should be
9 brought to my attention for correction.)

10 That said tape recordings were furnished to CTI Transcription Services at 79
11 Pizarro Avenue, Novato, California 94949, by Asit Panwala, Attorney at Law and requested to
12 be transcribed.

13 IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of
14 December 2018.

15
16 /s/ Kathy Kay

17 KATHY KAY

18 By Electronic Mail
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24
25



AN IHG® HOTEL

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

January 23, 2019
Re: ZAA-04-11B/ Madrone Village Center

Dear Morgan Hill City Council,

This letter is intended to address concerns about the proposed two hotels' development on the land owned by Toeniskoetter on Cochrane/Madrone (Phase II).

The ownership group of the Holiday Inn Express Morgan Hill is ***strongly opposed*** to the rezoning of the property to allow for hotel use. Two brand new hotel builds within the city of Morgan Hill (an increase of approximately 206 rooms) would create a ***devastating oversupply*** in this overflow market. There are several other projects confirmed within the Morgan Hill City limits, including another 100+ room hotel for the Evergreen project + 60 room Downtown hotel + potentially a hotel with Riverpark Hospitality (150 rooms).

In order to understand why this project would create an oversupply situation, I have provided below an illustration of the current mid to upper scale hotel supply in Morgan Hill, which is the **SAME** segment the proposed Fairfield Inn and Home2 Suites would compete in:

Hotel Name:	Number of rooms	% of Total:
Courtyard by Marriott	90 Rooms	16.8%
Residence Inn by Marriott	90 Rooms	16.8%
Hampton Inn by Hilton	106 Rooms	19.8%
Holiday Inn Express	85 Rooms	15.8%
LaQuinta & Suites	104 Rooms	21.3%

Comfort Inn	60 Rooms	11.2%
Total Current Rooms:	535 Rooms	100%
Evergreen Project	+ 120 Rooms	+22.4%
Downtown Hotel	+60 Rooms	+11.2%
Riverpark Hospitality	+150 Rooms	+28%
Phase II (Toeniskoetter)	+206 Rooms	+38%
TOTAL NEW SUPPLY	+536 ROOMS	+100%

In addition, the San Jose market segment has a confirmed 4,851 rooms in planning and 4,136 rooms currently under construction. See below chart provided by STR, a hotel data analytics firm, as of November 19, 2018:

Pipeline			
Market: San Jose/Santa Cruz, CA			
Under Construction		Planning	
Properties	Rooms	Properties	Rooms
28	4136	36	4851

San Jose has an employment base which may support this growth, but unfortunately the job creation from major employers (other than construction) in Morgan Hill is *extremely* limited. The TBID efforts may marginally help during specific months of the year; but, it certainly will *not* help alleviate a **100% supply increase** within a few years.

Unfortunately, one of the biggest employers in Morgan Hill, Specialized Bicycles, has downsized their meetings / annual conference attendance and general travel spending, which therefore decreases local hotel demand.

An oversupply of hotels could be an impediment, not a catalyst for Morgan Hill's financial growth. As a city, we need to focus more on bringing corporate/commercial businesses to our neighborhood that create significant job growth and opportunity to our locals. The Holiday Inn Express is NOT opposed to hotel supply growth, but rather wants a **balanced and coordinated growth that is integrated with job growth** in our local economy.

Both the City Council and community have clearly expressed their desire for a Downtown Morgan Hill boutique hotel, which will positively increase traffic to the new downtown restaurants and enhance the vibe / ambience of the area. However, given the above stats, any potential lender and/or developer would be very skeptical to have this project move forward once they see this enormous supply growth.

Therefore, your decision to approve this project may indirectly be in conflict with City Council's long term vision.

Please consider the above concerns when you are contemplating your decisions and reach out to me with any questions.

Sincerely,

Bina Desai (bina@hiemorganhill.com, 408.666.1022)

Managing Partner, El Toro Group LLC



Presentation to Morgan Hill City Council

January 23, 2019

Item # 15

AGENDA DATE: 01/23/19

SUPPLEMENT # 4

**RE: ZAA-04-11B
Madrone Village Center**

Zoning Amendment to allow Hotel Use



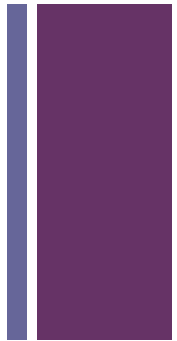
Current Morgan Hill Supply of Hotel Rooms – Upper Midscale Segment

Hotel Name:	Number of rooms	% of Total:
Courtyard by Marriott	90 Rooms	16.8%
Residence Inn by Marriott	90 Rooms	16.8%
Hampton Inn by Hilton	106 Rooms	19.8%
Holiday Inn Express	85 Rooms	15.8%
LaQuinta & Suites	104 Rooms	21.3%
Comfort Inn	60 Rooms	11.2%
Total Current Rooms:	535 Rooms	100%
Evergreen Project	+ 120 Rooms	+22.4%
Downtown Hotel	+60 Rooms	+11.2%
Riverpark Hospitality	+150 Rooms	+28%
Phase II (Toeniskoetter)	+206 Rooms	+38%
TOTAL NEW SUPPLY	+536 ROOMS	+100%

NEW
Hotels



Corporate Room Demand Generators in Morgan Hill



> 300 Nights per Year*	< 300 Night per Year*
Anritsu	Anaerobe Systems
Specialized Bicycles	Infineon
IBM (in San Jose)	Sakata Seeds
	In N Out
	ITT Corporation
	Paramit
	Tencate
	Flextronics
	Construction companies

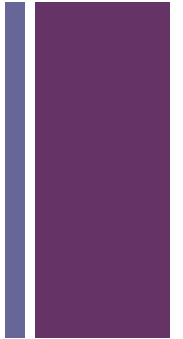
Notable decrease in demand as they open offices in Milpitas

Conclusion: There are not sufficient large corporate demand generators in Morgan Hill to fill its existing supply. Our hotels are busy because of **San Jose overflow**.

*Note: Room demand differs between hotels.



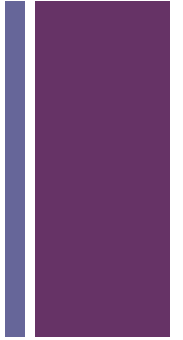
Employers that have left Morgan Hill in past 5 Years



- Hospira
 - Replaced by Shoe Palace
 - Little room demand
- Comcast
- Custom Chrome
- Fox Racing
- Sunseed



New Large Employers entering Morgan Hill (150+ Employees) in past 5 years



- On positive note, Morgan Hill's existing businesses are expanding
- No new major employers are entering market
- Shifting demand closer to San Jose / Milpitas



San Jose Hotel Room Supply **Explosion**

July 2017

Pipeline			
Market: San Jose/Santa Cruz, CA			
Under Construction		Planning	
Properties	Rooms	Properties	Rooms
9	1281	41	5775

November 2018

Pipeline			
Market: San Jose/Santa Cruz, CA			
Under Construction		Planning	
Properties	Rooms	Properties	Rooms
28	4136	36	4851

21 properties
and over
4100 rooms
under
construction +
4800 in the
planning
phase

- San Jose is expected to have an increase supply of 9000 rooms in next 12 months to 24 months



What happens to the Morgan Hill Hotel economy when San Jose's supply comes on line?

- San Jose corporations stop sending their travelers to Morgan Hill because there is adequate room supply in San Jose at attractive rates, and Morgan Hill hotels occupancy drops by 15-25%
 - **With 100% increase in room supply in Morgan Hill, occupancy may drop by 30-40%**
- Average Daily Rate Decreases by 20-40% to attract those corporate clients back to Morgan Hill
- City's TOT Revenue drops by **at least 20%**

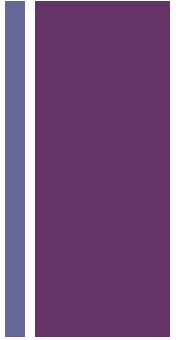
Result:

- Lower end clientele entering Morgan Hill
 - More criminal activity, disturbances, car thefts, etc...
 - Increased burden Morgan Hill Police and Fire Department
- Deferred maintenance and overall quality of existing room supply
 - Morgan Hill gains reputation of "hospitality ghost-town" and poor quality hotels



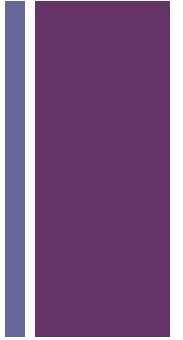
Facts:

- Hotel room supply does **NOT** create hotel room demand
- Most of Morgan Hill's weekday guest travel OUTSIDE of Morgan Hill for business
 - High concentration traveling to San Jose
- Morgan Hill is an overflow market for San Jose and the Bay Area
 - Conventions
- Morgan Hill does not have the corporate base to fill its **existing** supply of hotel rooms on weekdays
- Weekend business: A hotel cannot survive on weekend business alone: tourism and sports tournaments create demand 7-8 months of the year only
- Downtown boutique hotel cannot be support with additional supply
- **Conclusion:** The market **cannot** absorb an additional **536 rooms**



Key Takeaways

- Morgan Hill hotels are **NOT** anti-growth
 - Proposed hotels are same category as existing supply, no differentiation
 - Advocate sustainable growth
 - Allow 1 hotel only and observe the rate and occupancy trends
- Morgan Hill's economy should not be tied to San Jose's fate, so we need our own strong employment base before expanding the hospitality sector
 - Attract higher wage jobs
- Expand the Morgan Hill room supply in proportion to actual demand, not speculation
 - The market needs more demand generators
 - Industrial users and or larger corporations
 - Tourism alone cannot support increased supply
- Rezoning gives unfair advantage to user
 - Changes risk profile for future developers and existing hotels



Recommended Next Steps

- Allow 1 hotel development until there are additional corporate demand generators
- Hotel needs to have large Conference and Meeting Space
- Understand the occupancy and rate impact of San Jose Room supply increase
- Request for Continuance for this proposal



Capital Improvement Project Update

Item 19



Parks, Recreation & Open Space



- Borrello School/Park – Delayed
- WLLC Trail – In Progress
- El Toro Trail – In Progress
- CRC Expansion – In Progress
- Community Garden – In Progress
- Butterfield Path - Behind Schedule

Public Facilities & Storm



- New Fire Station – Planning
- Library Expansion – In Progress
- Corporation Yard Planning – In Progress
- Citywide Fiber Network Infrastructure – In Progress
- Flood Control Project Support – In Progress

Streets & Roads



- Pavement Rehabilitation – In Progress
- Downtown Safety Improvements – In Progress
- School and Pedestrian Safety – Behind Schedule, but in Progress
- Hale Avenue Extension – In Progress

Water and Wastewater



- Sewer Repair and Replacement – Funding Needed
- Tennant Sewer Main – Behind Schedule
- SCRWA Plant Expansion – Design
- New Trunk Line - Design
- Well Projects – Behind Schedule
- Holiday Improvements/Reservoir Project – Design

Questions?





CITY OF MORGAN HILL

Regular Meeting Agenda

City Council

Rich Constantine - Mayor
Rene Spring - Mayor Pro Tem
Yvonne Martinez Beltran - Council Member
Larry Carr - Council Member
John McKay - Council Member

Wednesday, January 23, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

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

CALL TO ORDER

(Mayor Constantine)

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
(Deputy City Clerk Bigelow)

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Carr

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PRESENTATIONS

YAC PRESENTATION ASSET #7 - COMMUNITY VALUES YOUTH

RECOGNITIONS

STEM Winners - Santa Clara Valley Science and Engineering Fair Association

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 PURCHASE OF POLICE VEHICLE

Recommendation:

1. Accept \$59,324 in insurance proceeds for the 2012 Police Chevy Tahoe (#142), from York Insurance;
2. Authorize the salvage of 2012 Chevy Tahoe Patrol #142 (vin# 9099);
3. Adopt resolution amending the City's Fiscal Year (FY) 2018-19 adopted budget to appropriate \$70,987 in the Equipment Replacement Fund (790) for the purchase of a 2019 Chevy Tahoe, including build-out; and
4. Authorize the City Manager to approve a purchase order for \$70,987 with Priority 1 Public Safety Equipment Installation Inc.

2. APPROVE PURCHASE OF A VACTOR HYDRO EXCAVATOR

Recommendation:

1. Approve purchase of a Vactor Hydro Excavator from Owen Equipment Company in the amount of \$451,541 through a Sourcewell cooperative bid contract; and
2. Authorize the City Manager to approve a purchase order for \$451,541 with Owen Equipment Company.

3. APPROVE PURCHASE OF A NEW BACKHOE

Recommendation:

1. Approve purchase of a new John Deere 410L backhoe loader from Pape Machinery in the amount of \$129,481 through a Sourcewell cooperative bid contract;
2. Authorize the City Manager to approve a purchase order for \$129,481 with Pape Machinery;
3. Declare the 2000 Backhoe to be surplus; and
4. Authorize the disposal of equipment in accordance with Section 3.04.400 of the City of Morgan Hill Municipal Code.

4. APPROVE AGREEMENT WITH JEFFCO PAINTING AND COATING, INC. FOR WELL SITES AND BOOSTER STATIONS PAINTING

Recommendation:

Approve and authorize the City Manager to execute and administer a three-year agreement with Jeffco Painting & Coating, Inc. in the amount of \$120,000, for annual painting of well sites and booster stations.

5. APPROVE IMPACT FEE FREEZE AGREEMENTS WITH TBI-MISSION WEST II, LLC FOR THE DEVELOPMENT OF TWO HOTELS AND A NEW CARPENTERS' TRAINING FACILITY BUILDING IN THE MADRONE BUSINESS PARK

Recommendation:

1. Approve an Impact Fee Freeze Agreement with the TBI-Mission West II, LLC (Toeniskoetter Development) for the development of a 55,000 s.f. training center building on 4.92 acres on Madrone Parkway identified by Assessor Parcel Number 726-35-028;
2. Approve an Impact Fee Freeze Agreement with TBI-Mission West II, LLC (Toeniskoetter Development) for the construction of Two Upper Mid-Scale Hotels on 4.41 acres on Cochrane Road identified by Assessor Parcel Number 726-33-029; and
3. Authorize the City Manager to execute and administer the Impact Fee Freeze Agreements.

6. AWARD CONTRACT TO AIR EXCHANGE INC. FOR THE INSTALLATION OF SOURCE CAPTURE EXHAUST SYSTEMS UNDER FEMA ASSISTANCE TO FIREFIGHTERS GRANT 2017

Recommendation:

Adopt resolution:

1. Awarding bid to Air Exchange Inc. for the installation of source capture exhaust systems and authorize the City Manager to execute all necessary agreements subject to City Attorney review; and
2. Amending the Fiscal Year (FY) 2018-19 adopted budget to appropriate \$51,812 from the General Fund (010) to fully fund the grant related expenditures.

7. ACCEPT MONTEREY ROAD PRESERVATION PROJECT

Recommendation:

1. Accept as complete, the Monterey Road Preservation Project, in the final amount of \$2,417,154;
2. Authorize the City Engineer to sign the attached Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

8. RESOLUTION AUTHORIZING SANTA CLARA VALLEY WATER DISTRICT SAFE, CLEAN WATER GRANT APPLICATION

Recommendation:

Adopt resolution approving the following actions:

1. Authorizing staff to prepare and submit a Safe, Clean Water and Natural Flood Protection Program Grant Application to the Santa Clara Valley Water District for the Madrone Channel Trail Project; and
2. Authorizing the City Manager to negotiate and execute the Safe, Clean Water grant agreement and other documents, reports, forms and agreements related to the performance of the identified projects.

9. APPROVE APPOINTMENT OF NEIL BERMAN TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY'S (VTA) BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE (BPAC)

Recommendation:

Direct the City Clerk's Office to send correspondence to the VTA requesting the appointment of Parks and Recreation Commissioner Neil Berman as the City of Morgan Hill's representative to the BPAC.

10. ACCEPT OCTOBER 2018 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

11. ACCEPT ELEVENTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS

Recommendation:

Receive and accept report.

12. ACCEPT UPDATE ON IMPLEMENTATION OF DEVELOPMENT SERVICES REVIEW - ZUCKER SYSTEMS

Recommendation:

Accept Report.

13. ADOPT ORDINANCE 2294 APPROVING DEVELOPMENT AGREEMENT APPLICATION DA2018-0002: E. DUNNE-YOUNG FOR THE FIRST 20 UNITS OF A 46-UNIT, THREE STORY, MULTI-FAMILY RESIDENTIAL CONDOMINIUM PROJECT PROPOSED ON A 3.5 ACRE PARCEL LOCATED ON THE NORTH SIDE OF E. DUNNE AVENUE, ADJACENT TO THE NORTH SIDE OF THE MORGAN HILL KINDER CARE LEARNING CENTER AT 605 E. DUNNE AVENUE

Recommendation:

Waive the reading, adopt Ordinance No. 2294, 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. APPROVE THE DECEMBER 19, 2018 MEETING MINUTES

Recommendation:

Approve Minutes.

PUBLIC HEARING

15. INTRODUCE ORDINANCE AMENDING THE MADRONE VILLAGE SHOPPING CENTER PRECISE DEVELOPMENT MASTER PLAN TO ALLOW HOTEL DEVELOPMENT

Recommendation:

1. Open/close public hearing;
2. Waive the first and second reading of Zoning Amendment Ordinance; and
3. Introduce Ordinance amending the PD zoning.

Estimated Time: 30 Minutes

16. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE MAJORITY PROTEST PROCEEDINGS AND ESTABLISHING THE MORGAN HILL TOURISM BUSINESS IMPROVEMENT DISTRICT (MHTBID)

Recommendation:

1. Open/close the public hearing;
2. Ratify the amendments to the Management District Plan;
3. Declare the results of majority protest proceedings; and
4. Adopt resolution establishing the Morgan Hill Tourism Business Improvement District (MHTBID).

Estimated Time: 30 Minutes

OTHER BUSINESS

17. INTRODUCE ORDINANCE ESTABLISHING PROCESS FOR CONTINUITY OF GOVERNMENT IN THE EVENT OF A DISASTER

Recommendation:

1. Accept the Morgan Hill City Council Emergency Procedures;
2. Open/Close public hearing;
3. Waive first and second reading of the ordinance; and
4. Introduce ordinance establishing a process to maintain continuity of government in the event of a disaster relating to the appointment and duties of an emergency standby council.

Estimated Time: 10 Minutes

18. PROVIDE DIRECTION REGARDING THE ADOPTION OF A LOBBYIST REGISTRATION ORDINANCE

Recommendation:

Direct the City Attorney to prepare an ordinance requiring registration of paid lobbyists.

Estimated Time: 5 Minutes

19. RECEIVE CAPITAL IMPROVEMENT PROJECT UPDATE

Recommendation:

Receive an update on City Capital Improvement Projects.

Estimated Time: 20 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Initiation of Litigation Pursuant to Government Code Section 54956.9(d)(4)

Number of Cases: One (1)

RECONVENE

CLOSED SESSION ANNOUNCEMENT

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.



January Developmental Asset #7 Community Values Youth

Young person perceives that adults in the
community value youth.

How does our community value youth?



Youth Roles:

- o YAC
- o Volunteering at public places
- o Youth groups at Church
- o School clubs

Opportunities to express talents:

- o Friday Night Music
- o Festivals
- o Teen Center



How YAC is Connected to Youth



Advertise events to youth

- o Older Adult Ball (formally known as Senior Ball)
- o YLMH
- o Make balloons and do face painting for community events
- o Teen Center events



January Complementary Asset number #8 Youth as Resources

Young people are given useful roles in the community.

What Roles Youth Have in the Community.

- o YAC
- o Future Women Leaders of America
- o Interact
- o Scouting
- o Miss CEO
- o Youth groups within the Church

How do you value the
youth in our community?

