



Special - 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, May 1, 2019 6:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council is called at 6:00 p.m. for the purpose of conducting a closed session.

6:00 p.m. Closed Session

7:00 p.m. Regular Meeting

SPECIAL MEETING

6:00 P.M.

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

Deputy Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Bigelow

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation under Government Code section 54956.9(b).

One potential case

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(CA Govt Code 54956.9(a))

City of Morgan Hill v. Bushey (Morgan Hill Hotel Coalition), et al. Case No. 16-CV-292595

RECONVENE

REGULAR MEETING

7:00 P.M.

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

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member McKay

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PROCLAMATIONS

Proclaiming the Month of May as Aquatics Month

Proclaiming the Weeks of May 3 through 17, 2019 as Affordable Housing Weeks

Proclaiming the Week of May 6 through 12, 2019 as Wildfire Awareness Week

PUBLIC COMMENT

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

ADOPTION OF AGENDA

May 1, 2019

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. ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – SOLERA RANCH – TRACT NO. 10290

Recommendation:

1. Accept the subdivision public improvements for Solera Ranch – Tract No. 10290;
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.

2. ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – THE COMMONS – TRACT NO. 10047

Recommendation:

1. Accept the subdivision public improvements for The Commons – Tract No. 10047;
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.

3. AWARD 2019 SIDEWALK REPAIR CONTRACT

Recommendation:

1. Award a contract to Golden Bay Construction, Inc. in the amount of \$95,219;
2. Authorize the expenditure of construction contingency funds not to exceed \$19,044; and
3. Authorize the City Manager to execute and administer that certain construction contract with Golden Bay Construction, Inc.

4. APPROVE THE PURCHASE OF PLAY EQUIPMENT FOR THE INCLUSIVE PLAYGROUND PROJECT

Recommendation:

Authorize the City Manager to approve sole source purchase of playground equipment at the Morgan Hill Magical Bridge Playground at a not to exceed total of \$170,373.

5. PROVIDE DIRECTION REGARDING PARK DEVELOPMENT GRANT OPPORTUNITY

Recommendation:

Receive report on park development grant opportunity.

6. ADOPT RESOLUTION OPPOSING A POTENTIAL DECREASE IN THE SUBSIDY FOR AGRICULTURAL WATER

Recommendation:

Adopt resolution opposing a potential decrease in the subsidy for agricultural water.

7. APPROVE THE APRIL 17, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

8. APPROVE THE APRIL 17, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

9. ACCEPT 2019 CITY INFRASTRUCTURE UPDATE REPORT

Recommendation:

Accept the updated 2019 Report on City Infrastructure.

Estimated Time: 20 Minutes

PUBLIC HEARING

10. HOLD PUBLIC HEARING REGARDING REVISIONS TO WASTEWATER RATES AND ADOPT RELATED AMENDMENTS TO CHAPTER 13.16 - SEWER RATES AND INTERIM GROWTH MANAGEMENT

Recommendation:

1. Receive and adopt final draft of 2019 Wastewater Rate Study Report prepared by NBS;
2. Open public hearing and receive public comment;
3. Request submission or withdrawal of proposition 218 protest letters from the public/audience;
4. Close public hearing and allow Deputy City Clerk, or designee, to tabulate final Proposition 218 protest letter count;
5. Receive and accept verbal report from Deputy City Clerk, or designee, on ballot tabulation results;
6. Adopt resolution approving wastewater rates adjustments;
7. Waive the first and second reading of the ordinance; and
8. Introduce the ordinance amending Chapter 13.16 of the Morgan Hill Municipal Code.

Estimated Time: 20 Minutes

11. APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION TO REJECT A RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) APPLICATION FOR PROPERTY IDENTIFIED BY ASSESSOR'S PARCEL NUMBER 817-04-059, LOCATED ALONG TENNANT AVENUE, WEST OF VINEYARD BOULEVARD (OSITO HOLDINGS, LLC, APPLICANT)

Recommendation:

City Council to consider the appeal and determine whether the applicant's modified plans may be accepted allowing the project to continue in the 2018 RDCS competition.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community

Choose Morgan Hill:

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

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 Community History ·
Enhancing Diversity and Inclusiveness · Advancing Regional Initiatives

2019-2020 STRATEGIC PRIORITIES

Agricultural Preservation
Cannabis Policy
Community Engagement and Messaging
Economic Development
Financial Stewardship
High Speed Rail
Homelessness
Housing Infrastructure
Telecommunications
Traffic/Transportation



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

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

ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – SOLERA RANCH – TRACT NO. 10290

RECOMMENDATION(S)

1. Accept the subdivision public improvements for Solera Ranch – Tract No. 10290;
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.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2019 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

Solera Ranch – Tract 10290 is a 31-lot subdivision located at the southerly corner of Monterey Road and Old Monterey Road (see attached site map). The subdivision improvements have been completed in accordance with the requirements of the Subdivision Improvements Agreement between the City of Morgan Hill and City Ventures Homebuilding, LLC dated September 23, 2015 and as specifically set forth in the plans and specifications approved by the City.

To date, the total length of streets previously accepted by the City is 128.29 miles. Additional 0.13 mile of street is being accepted as part of this subdivision improvement.

Street Name	Miles
Peral Avenue	0.13
Total	0.13

The value of the public improvements being accepted is \$1,217,507.

COMMUNITY ENGAGEMENT: Inform

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

ALTERNATIVE ACTIONS: Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved the Final Map and Subdivision Improvements Agreement for Solera Ranch – Tract No. 10290 on July 15, 2015.

FISCAL AND RESOURCE IMPACT:

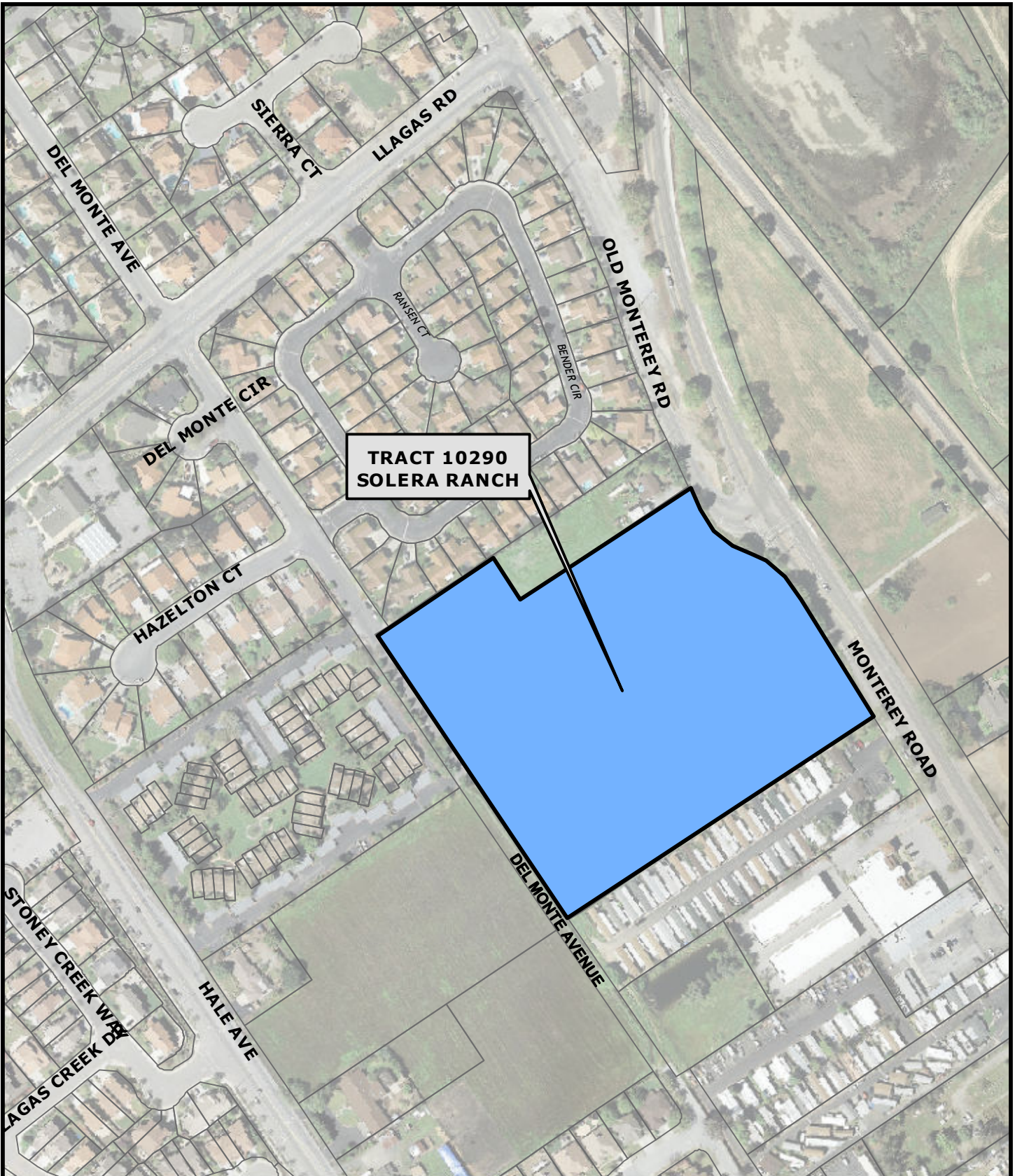
Staff time for this project was paid by the developer's land development fees.

CEQA (California Environmental Quality Act):

A Mitigated Negative Declaration was adopted on 12/9/2014.

LINKS/ATTACHMENTS:

1. Site Map
2. Notice of Completion



CITY OF MORGAN HILL
Development Services
Land Development Engineering

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SITE MAP SOLERA RANCH TRACT 10290

0 95 190 380 570 760
Feet



Attachment: Site Map (2277 : ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – SOLERA RANCH – TRACT NO. 10290)

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 **September 23, 2015**, the City of Morgan Hill, a Municipal Corporation, entered into a contract with **City Ventures Homebuilding, LLC** for the **Solera Ranch – Tract No. 10290** subdivision project located at the southerly corner of Monterey Road and Old Monterey Road, Morgan Hill, California.
- 2) The owner of the subdivision public improvements is the City of Morgan Hill, a Municipal Corporation, located at 17575 Peak Avenue, Morgan Hill, CA 95037.
- 3) The contractor is **City Ventures Homebuilding, LLC**.
- 4) The surety is **International Fidelity Insurance Company**.
- 5) The project was completed on **March 29, 2019** and accepted by the City Council of the City of Morgan Hill on **May 1, 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



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

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

ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – THE COMMONS – TRACT NO. 10047

RECOMMENDATION(S)

1. Accept the subdivision public improvements for The Commons – Tract No. 10047;
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.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

2019 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

The Commons – Tract 10047 is a 12-lot subdivision located at the northwest corner of Church Street and San Pedro Avenue (see attached site map). The subdivision improvements have been completed in accordance with the requirements of the Subdivision Improvements Agreement between the City of Morgan Hill and Presidio Van Daele Monterey 12, LLC dated November 29, 2016 and as specifically set forth in the plans and specifications approved by the City.

To date, the total length of streets previously accepted by the City is 128.29 miles.

There are no new streets to be accepted as part of this development. Public improvements being accepted are frontage public improvements along Church Street and San Pedro Avenue.

The value of the public improvements being accepted is \$246,905.

COMMUNITY ENGAGEMENT: Inform

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

ALTERNATIVE ACTIONS: Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved the Final Map and Subdivision Improvements Agreement for The Commons – Tract No. 10047 on October 19, 2016.

FISCAL AND RESOURCE IMPACT:

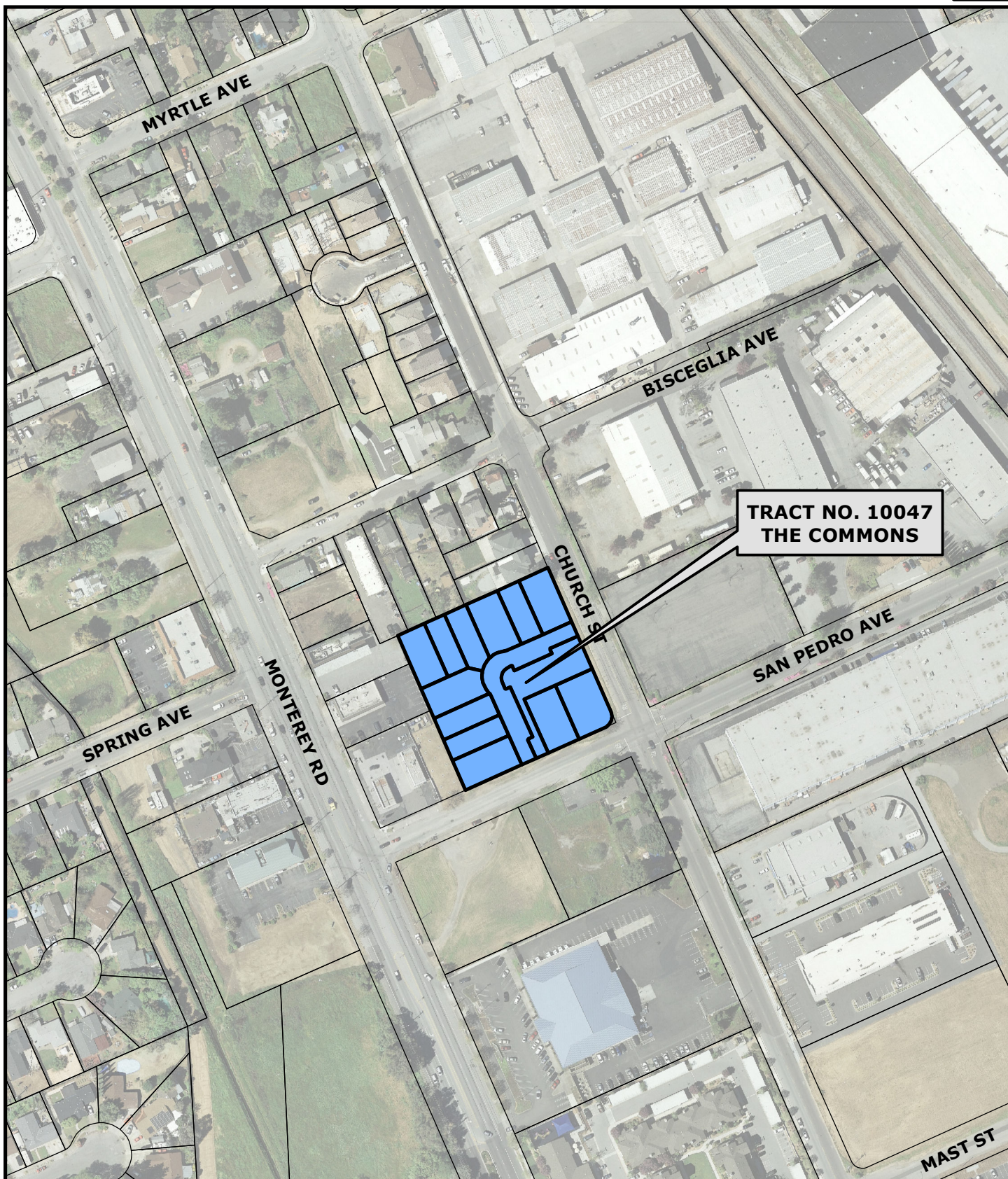
Staff time for this project was paid by the developer's land development fees.

CEQA (California Environmental Quality Act):

A Mitigated Negative Declaration was adopted on June 11, 2013.

LINKS/ATTACHMENTS:

1. Site Map
2. Notice of Completion



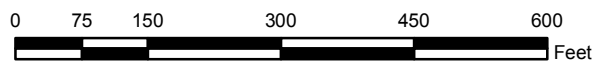
Attachment: Site Map (2279 : ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS - THE COMMONS - TRACT NO. 10047)



CITY OF MORGAN HILL
Development Services
Land Development Engineering

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**SITE MAP
TRACT NO. 10047
THE COMMONS**



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 **November 29, 2016**, the City of Morgan Hill, a Municipal Corporation, entered into a contract with **Presidio Van Daele Monterey 12, LLC** for **The Commons – TRACT NO. 10047** subdivision project located at northwest corner of Church Street and San Pedro Avenue, Morgan Hill, California.
- 2) The owner of the subdivision public improvements is the City of Morgan Hill, a Municipal Corporation, located at 17575 Peak Avenue, Morgan Hill, CA 95037
- 3) The contractor is **Presidio Van Daele Monterey 12, LLC**.
- 4) The surety is **American Contractors Indemnity Company**.
- 5) The project was completed on **April 9, 2019** and accepted by the City Council of the City of Morgan Hill on **May 1, 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



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

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

AWARD 2019 SIDEWALK REPAIR CONTRACT

RECOMMENDATION(S)

1. Award a contract to Golden Bay Construction, Inc. in the amount of \$95,219;
2. Authorize the expenditure of construction contingency funds not to exceed \$19,044; and
3. Authorize the City Manager to execute and administer that certain construction contract with Golden Bay Construction, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Fiscal Responsibility

2019 Strategic Priorities

Infrastructure

REPORT NARRATIVE:

The purpose of this item is to present the Council with an opportunity to review and consider the contract prepared to complete the 2019 sidewalk repairs.

The scope of work for the 2019 Sidewalk Repair Project will include the removal and replacement of concrete sidewalks at various locations within the City. Over 4,300 square feet of sidewalks will be repaired with this project. The exact locations and City bid documents are attached.

In soliciting bids for the sidewalk repair contract, the City advertised in the Morgan Hill Times and on two online services, Public Purchase and Online Plan Services, whose subscribers include hundreds of contractors as well as Northern California Building Exchanges. General Engineering (A) and Concrete (C-8) contractors registered on the City's bidders list were also informed of the bid opportunity via an e-mail.

The bid opening was held on April 10, 2019, and three bids were received as listed below:

Contractor	Bid Amount
Golden Bay Construction	\$95,219
California Highway Construction Group	\$212,800
Precision Grade, Inc.	\$226,126

The low bidder, Golden Bay Construction, has over 35 years of experience and has completed multiple projects for the City of Morgan Hill including sidewalk replacement projects. Staff recommends the award of this contract to Golden Bay Construction, Inc. for \$95,219. Staff also recommends a 20% contingency of \$19,044, which will yield a total construction authorization of \$114,263 for the sidewalk repair and replacement contract.

COMMUNITY ENGAGEMENT: Inform

Signs will be posted at the sidewalk repair sites to inform pedestrians and cars of the construction underway. Notification will be posted on the City's website and Nextdoor Morgan Hill to inform residents that sidewalk repairs will be underway throughout the City from May through June.

ALTERNATIVE ACTIONS:

An alternative action would be to delay the repair of citywide sidewalks.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

While the City Council has not previously taken action on this particular item, conducting sidewalk repairs is an ongoing public safety activity and the Council has approved numerous contracts for sidewalk repairs in the past.

FISCAL AND RESOURCE IMPACT:

There are adequate funds appropriated for this work in the adopted Capital Improvement Program, within CIP Project 574015 (Fund 355, School Pedestrian & Traffic Safety); and various operational budgets for sidewalk repairs within parks, facilities, and the Landscape Assessment District.

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 Guidelines (Existing Facilities), as the subject work involves the repair, maintenance or minor alterations of existing City facilities involving negligible or no expansion of use of those facilities.

LINKS/ATTACHMENTS:

1. 2019 MH Sidewalk Repair_Bid Docs
2. Executed Contract_Golden Bay Construction

SPECIFICATIONS AND CONTRACT DOCUMENTS
for

2019 SIDEWALK REPAIR PROJECT



MORGAN HILL, CALIFORNIA
COMMUNITY SERVICES DEPARTMENT

March 2019

INSTRUCTIONS TO BIDDERS

Each Bid Proposal submitted to the City of Morgan Hill ("City") for its 2019 Sidewalk Repair Project ("Project") must be submitted in accordance with the following instructions and requirements:

1. Bid Submission.

1.1 General. Each bid ("Bid Proposal") must be signed, sealed and submitted to City, using the form provided in the Contract Documents, by or before the date and time set forth in the Notice Inviting Informal Bids, or as amended by subsequent addendum. Faxed or emailed Bid Proposals will not be accepted, unless otherwise specified. Late submissions will be returned unopened. City reserves the right to postpone the date and time for receiving or opening bids. Each bidder is solely responsible for all of its costs to prepare and submit its bid and by submitting a bid waives any right to recover those costs from City. The bid price(s) must include all costs to perform the Work as specified, including all indirect costs such as applicable taxes, insurance and field offices.

1.2 Bid Envelope. The envelope containing the sealed Bid Proposal and required attachments must be clearly labeled as follows:

BID PROPOSAL
Morgan Hill DSC
2019 Sidewalk Repair Project
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Bid Opening/RFP
Bid Date: Wednesday, April 10, 2019
Bid Time: 2:30 p.m.

The envelope must also be clearly labeled, as follows, with the bidder's name, address, and its registration number with the California Department of Industrial Relations ("DIR") for bidding on public works contracts (Labor Code sections 1725.5 and 1771.1):

[Contractor company name]
[Street address]
[City, state, zip code]
DIR Registration No. _____

Please note: If City is unable to confirm that the bidder's DIR registration is current, City must disqualify the bidder and return its bid unopened (Labor Code section 1725.5).

2. **Examination of Contract Documents and Project Site.** Each bidder is solely responsible for diligent and thorough review of the Contract Documents (as defined in the General Conditions), examination of Project site, and reasonable and prudent inquiry concerning known and potential site conditions prior to submitting a Bid Proposal. However, bidders should not enter onto City's property or the Project site without prior written authorization from City. Bidders are responsible for reporting any errors or omissions in the Contract Documents to City prior to submitting a Bid Proposal, subject to the limitations of Public Contract Code Section 1104. City expressly disclaims responsibility for assumptions the bidder might draw from the presence or absence of information provided by City.
 3. **Requests for Information.** Questions regarding the Project, the bid procedures or any of the Contract Documents must be submitted in writing to Cynthia Iwanaga, Management Analyst at cynthia.iwanaga@morganhill.ca.gov, no later than Tuesday, April 2, 2019 at 5:00 p.m. All questions will be answered in an addendum to be posted on Public Purchase and City Website no later than Thursday, April 4, 2019 at 5:00 p.m.
 4. **Addenda.** Any addenda issued prior to the bid opening are part of the Contract Documents. Subject to the limitations of Public Contract Code section 4104.5, City reserves the right to issue addenda prior to bid time.
 5. **Brand Designations and "Or Equal" Substitutions.** Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate quality and type of item desired, and bidders may request use of any equal material, product, thing, or service. All data substantiating the proposed substitute as an "equal" item must be submitted with the written request for substitution. This provision does not apply to materials, products, things, or services that may lawfully be designated by a specific brand or trade name under Public Contract Code Section 3400(c).
- 5.1 Pre-Bid Requests.** Any request for submission made before the Contract is awarded must be submitted to the City Engineer at least ten (10) days before the opening of bids so that all interested bidders may be notified of any approved alternative.

5.2 Post-Award Requests. After the Contract is awarded, Contractor may submit a substitution within fourteen (14) days after the date of award of the Contract, or as specified in the Special Conditions.

- 6. Bidders Interested in More Than One Bid.** No person, firm, or corporation may submit or be a party to more than one (1) Bid Proposal unless alternate bids are specifically called for. However, a person, firm, or corporation that has submitted a subcontract proposal or quote to a bidder may submit subcontract proposals or quotes to other bidders.
- 7. Bid Proposal Form and Enclosures.** Each Bid Proposal must be completed in ink using the Bid Proposal form included in the Contract Documents. The Bid Proposal form should be fully completed without interlineations, alterations, or erasures. Any necessary corrections must be clear and legible, and must be initialed by the bidder's authorized representative. A Bid Proposal submitted with terms such as "negotiable," "will negotiate," or similar, will be considered non-responsive. Each Bid Proposal must be accompanied by bid security, as set forth in Section 9 below, and by the completed Subcontractor List, and Non-Collusion Declaration using the forms included in the Contract Documents.
- 8. Authorization and Execution.** Each Bid Proposal must be signed by the bidder's authorized representative. A Bid Proposal submitted by a partnership must be signed in the partnership name by a general partner with authority to bind the partnership. A Bid Proposal submitted by a corporation must be signed with the legal name of the corporation, followed by the signature and title of two officers of the corporation with full authority to bind the corporation to the terms of the Bid Proposal, under California Corporation Code section 313.
- 9. Bid Security.** Each Bid Proposal must be accompanied by bid security of ten percent (10%) of the maximum bid amount, in the form of a cashier's check, a certified check, or a bid bond, using the form included in the Contract Documents, executed by a surety licensed to do business in the State of California, made payable to City. The bid security must guarantee that upon award of the bid, the bidder will execute and submit the Contract on the form included in the Contract Documents, will submit payment and performance bonds for one hundred percent (100%) of the maximum Contract Price, and will submit the insurance certificates and endorsements as required by the Contract Documents within ten (10) days after issuance of the notice of award.
- 10. Withdrawal of Bid Proposals.** A Bid Proposal may not be withdrawn for a period of ninety (90) days after the bid opening without forfeiture of the bid

security, except as authorized for material error under Public Contract Code Section 5100 et seq.

- 11. Bid Protest.** Any bid protest must be in writing and received by City at the City Attorney's Office at 17575 Peak Avenue, Morgan Hill, CA, (Fax: (408) 779-1592), before 5:00 p.m. no later than two (2) working days following bid opening (the "Bid Protest Deadline") and must comply with the following requirements:

11.1 General. Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by City, the protesting bidder must submit a non-refundable fee in the amount specified by City, based upon City's reasonable costs to administer the bid protest. Any such fee must be submitted to City no later than the Bid Protest Deadline, unless otherwise specified. For purposes of this Section 11, a "working day" means a day that City is open for normal business, and excludes weekends and holidays observed by City.

11.2 Protest Contents. The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder.

11.3 Copy to Protested Bidder. A copy of the protest and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

11.4 Response to Protest. The protested bidder may submit a written response to the protest, provided the response is received by City before 5:00 p.m., within two (2) working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.

11.5 Copy to Protesting Bidder. A copy of the response and all supporting documents must be concurrently transmitted by fax or by email, by or before the Response Deadline, to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

11.6 Exclusive Remedy. The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. A bidder's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

11.7 Right to Award. City reserves the right to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a notice to proceed with the Work notwithstanding any pending or continuing challenge to its determination.

- 12. Rejection of Bids; Award of Contract.** City reserves the right, acting in its sole discretion, to waive immaterial bid irregularities, the right to accept or reject any and all bids, or to abandon the Project entirely. The Contract will be awarded, if at all, within ninety (90) days after opening of bids or as otherwise specified in the Special Conditions, to the responsible bidder that submitted the lowest responsive bid.
- 13. Bonds.** The successful bidder is required to submit payment and performance bonds as specified in the Contract Documents using the bond forms included in the Contract Documents. All required bonds must be calculated on the maximum total Contract price as awarded, including additive alternates, if applicable.
- 14. Evidence of Responsibility.** Within twenty four (24) hours following a request by City, a bidder must submit to City satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work being required by City, the bidder's organization available for the performance of the Contract and any other required evidence of the bidder's qualifications to perform the proposed Contract. City may consider such evidence before making its decision awarding the proposed Contract.
- 15. License(s).** The successful bidder and its Subcontractor(s) must possess the California contractor's license(s) in the classification(s) required by law to perform the Work. This Project requires a valid California contractor's license for the following classification(s): A (General Engineering) or C-8 (Concrete).

- 16. Taxes.** The bid price must include all applicable federal, state, and local taxes.
- 17. Ineligible Subcontractor.** Any Subcontractor who is ineligible to perform work on a public works project under Labor Code Sections 1777.1 or 1777.7 is prohibited from performing work on this Project.
- 18. Subcontract Limitation.** The successful bidder may not subcontract out more than fifty percent (50%) of the original total contract price, except that any items of work in the Engineer's Estimate designated "Specialty Items" may be performed by subcontract and the value of the work may be deducted from the original total contract price before computing the amount of work required to be performed by Contractor's own forces. When items of work in the Engineer's Estimate are preceded by the letters (S) or (S-F), those items are designated as "Specialty Items." Where an entire item is subcontracted, the value of work subcontracted will be based on the contract item bid price. When a portion of an item is subcontracted, the value of work subcontracted will be determined by the Engineer based on the estimated percentage of the contract item bid price.
- 19. DIR Registration.** City will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the DIR to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
- 20. Bid Schedule.** Bidders are required to fully complete the Bid Schedule form accompanying the Bid Proposal form with unit prices as indicated, and to submit the completed Bid Schedule with their Bid Proposal.
- 20.1 Incorrect Totals.** In the event of a computational error for any bid item (base bid or alternate) resulting in an incorrect extended total for that item, the submitted base bid or bid alternate total will be adjusted to reflect the corrected amount (estimated quantity X unit cost), unless the cumulative amount of correction changes the total amount of the base bid or bid alternate by more than five percent (5%). In the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid, and the amount entered as the base bid on the Bid Proposal form, the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid will be deemed the base bid price. Likewise, in the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for any bid alternate, and the amount entered for the alternate on the Bid Proposal form, the actual total of the itemized prices shown on the Bid Schedule for that alternate will be deemed the alternate price. Nothing in this provision is intended to

prevent a bidder from requesting to withdraw its bid for material error under Public Contract Code Section 5100 et seq.

20.2 Estimated Quantities. The quantities shown on the Bid Schedule are estimated and the actual quantities required to perform the Work may be greater or less than the estimated amount. The Contract Price will be adjusted to reflect the actual quantities required for the Work based on the itemized or unit prices provided in the Bid Schedule, with no allowance for anticipated profit for quantities that are deleted or decreased.

- 21. Bidder's Questionnaire.** A completed, signed Bidder's Questionnaire using the form provided with the Contract Documents and including all required attachments must be submitted within forty eight (48) hours following a request by City. A bid that does not fully comply with this requirement may be rejected as nonresponsive. A bidder who submits a Bidder's Questionnaire which is subsequently determined to contain false or misleading information, or material omissions, may be disqualified as non-responsible.
- 22. Mandatory Bidders' Conference and Optional Tour of Sites.** A bidders' conference will be held on Tuesday, March 26, 2019 at 9:00 a.m., at the following location: Corporation Yard Training Room for the purpose of acquainting all prospective bidders with the Contract Documents and the Worksite. The bidders' conference is mandatory with an optional tour of the sites following the pre-bid meeting. A bidder who fails to attend the mandatory bidders' conference may be disqualified from bidding.

END OF INSTRUCTIONS TO BIDDERS

BID PROPOSAL

2019 Sidewalk Repair Project

_____ (“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”):
\$ _____.

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

Addendum:	Date Received:	Addendum:	Date Received:
#01	_____	#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 \$_____.

_____ 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 _____, 20__:

s/ _____
Name and Title [print]

Company Name License # and Classification

DIR Registration #

Address Phone

City, State, Zip Fax

END OF BID PROPOSAL

Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

BID SCHEDULE I – 2019 SIDEWALK REPAIR PROJECT

NAME OF CONTRACTOR:_____

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	Remove and Replace Concrete Sidewalks at various locations within the City of Morgan Hill	4,336 SF		
2	Construct an Americans with Disabilities Act (ADA) compliant ramp into the Hamilton Square Playground per ADA standards.			
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

Bid Schedule I Total	
----------------------	--

END OF BID SCHEDULE

2019 Sidewalk Repair Project

SUBCONTRACTOR LIST

For each Subcontractor who will perform a portion of the Work in an amount in excess of one-half of 1% of the Bidder's total Contract Price,¹ the bidder must list a description of the work, the name of the Subcontractor, its California contractor license number, the location of its place of business, and DIR registration number. **Bidders: Please print legibly. Illegible forms may be rejected.**

DESCRIPTION OF WORK	SUBCONTRACTOR NAME	CALIFORNIA CONTRACTOR LICENSE NUMBER	DIR REG. NO.	LOCATION OF BUSINESS	LOCAL VENDOR ² YES/NO

END OF SUBCONTRACTOR LIST

¹ For street or highway construction this requirement applies to any subcontract of \$10,000 or more.

² A Subcontractor is considered local if its principle place of business is within the city limits of Morgan Hill.

NONCOLLUSION DECLARATION

(To be executed by bidder and submitted with bid)

State of California	)	SS.
	)	
County of _____	)	

The undersigned declares:

I am the _____ [title] of
 _____ [business name], the party
 making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has no paid and will not pay, any person or entity for such purpose.

This declaration is intended to comply with California Public Contract Code Section 7106 and Title 23 U.S.C Section 112.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on
 _____ [date], at _____ [city],
 _____ [state].

s/ _____

 Name [print]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE ' 1189

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 _____, before me,

a Notary Public in and for said County and State, personally appeared

 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 OF NOTARY PUBLIC

Place Notary Seal Above

BID BOND

_____ (“Bidder”) has submitted a bid, dated _____, 20____ (“Bid”), to the City of Morgan Hill (“City”) for work on the 2019 Sidewalk Repair Project (“Project”). Under this duly executed bid bond (“Bid Bond”), Bidder as Principal and _____, its surety (“Surety”), are bound to City as obligee in the penal sum of ten percent (10%) of the maximum amount of the Bid (the “Bond Sum”). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. **Submittals.** Within ten (10) days following issuance of the notice of award to Bidder, Bidder must submit to City the following:
 - 2.1 **Contract.** The executed Contract, using the form provided by City in the Project contract documents (“Contract Documents”);
 - 2.2 **Payment Bond.** A payment bond for one hundred percent (100%) of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
 - 2.3 **Performance Bond.** A performance bond for one hundred percent (100%) of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents; and
 - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required under the Instructions for Bidders.
3. **Enforcement.** If Bidder fails to execute the Contract and to submit the bonds and insurance certificates as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____
 Fax: _____

Email: _____

- 4. Duration; Waiver.** If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise it will remain in full force and effect for ninety (90) days following award of the Contract or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code Sections 2819 and 2845.

This Bid Bond is entered into and is effective on _____,
20____.

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgement, Notary Seal, and Attorney-In-Fact Certificate)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Donald A. Larkin, City Attorney

Date: _____

Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

BIDDER'S QUESTIONNAIRE

2019 Sidewalk Repair Project

Within forty eight (48) hours following a request by City, a bidder must submit to City a completed, signed Bidder's Questionnaire using this form and including all required attachments. City may request the Questionnaire from one (1) or more of the apparent low bidders following the bid opening, and may use the completed Questionnaire to evaluate a bidder's qualifications for this Project. The Questionnaire must be filled out completely, accurately, and legibly. Any errors, omissions, or misrepresentations in completion of the Questionnaire may be grounds for rejection of the bid or termination of a Contract awarded pursuant to the bid.

Part 1: General Information

Bidder Business Name: _____ ("Bidder")

Check One: ☐ Corporation
☐ Partnership
☐ Sole Proprietorship
☐ Joint Venture of: _____
☐ Other: _____

Address: _____

Phone: _____

Fax: _____

Owner of Company: _____

Contact Person: _____

Email: _____

Bidder's California Contractor's License Number(s):

Part 2: Bidder Experience

1. How many years has bidder been in business under its present business name? _____

2. Has bidder completed projects similar in type and size to this Project as a general contractor? _____

3. Has bidder ever been disqualified on grounds that it is not responsible? If yes, provide additional information on a separate sheet of paper regarding the disqualification, including the name and address of the agency or owner of the subject project, the type and size of the project, the reasons that bidder was disqualified as not responsible, and the month and year in which the disqualification occurred.

4. Has bidder ever been terminated from a construction project, either as a general contractor or as a subcontractor? If yes, provide additional information on a separate sheet of paper regarding the termination, including the name and address of the agency or owner of the subject project, the type and size of the project, whether bidder was under contract as a general contractor or a subcontractor, the reasons that bidder was terminated, and the month and year in which the termination occurred.

5. Provide information about bidder's past projects performed as general contractor as follows:

5.1 Six (6) most recently completed public works projects within the last three (3) years;

5.2 Three (3) largest completed projects within the last three (3) years; and

5.3 Any project which is similar to this Project.

6. Use separate sheets of paper provide all of the following information for each project identified in response to the above three (3) categories:

- 6.1 Project name
- 6.2 Location
- 6.3 Owner
- 6.4 Owner contact (name and current phone number)
- 6.5 Architect or engineer name
- 6.6 Architect or engineer contact (name and current phone number)
- 6.7 Project manager (name and current phone number)
- 6.8 Description of project, scope of work performed
- 6.9 Initial contract value (at time of bid award)
- 6.10 Final cost of construction (including change orders)
- 6.11 Original scheduled completion date
- 6.12 Time extensions granted (number of days)
- 6.13 Actual date of completion
- 6.14 Number and amount of stop notices or mechanic's liens filed

- 6.15 Amount of liquidated damages assessed against Bidder
 6.16 Nature and resolution of any claim, lawsuit, and/or arbitration between Bidder and the owner.

Part 3: Verification

In signing this document, I, the undersigned, declare that I am duly authorized to sign and submit this Bidder's Questionnaire on behalf of the named bidder, and that all responses and information set forth in this Bidder's Questionnaire and accompanying attachments are, to the best of my knowledge, true, accurate and complete as of the date of submission. **I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Signature: _____ Date: _____

By [name, title]: _____

END OF BIDDER'S QUESTIONNAIRE

CONTRACT

This public works contract ("Contract") is entered into by and between the City of Morgan Hill ("City") and [REDACTED] ("Contractor") for work on the 2019 Sidewalk Repair Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Informal Bids, Contractor has submitted a Bid Proposal to perform work on the Project, and on [REDACTED], 20[REDACTED], (Contract Date) City authorized award of this Contract to Contractor for the amount of Contractor's bid.

2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
 - 2.1 Notice Inviting Informal Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment and Performance Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Drawings and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Award;
 - 2.12 Notice to Proceed;
 - 2.13 And the following:

3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor [REDACTED] Dollars (\$ [REDACTED]) (the "Contract Price"), in accordance with the payment provisions in the General Conditions. The Contract Price includes all applicable federal, state, and local taxes.
5. **Time for Completion.** Contractor will fully complete the Work for the Project within 35 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of Five Hundred Dollars (\$500.00) for each day of unexcused delay in completion, and the Contract Price will be reduced accordingly.
7. **Labor Code Compliance.**
 - 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
 - 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
 - 7.3 **DIR Registration.** City will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Under Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

- 9. Notice.** Any notice, billing, or payment required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

City of Morgan Hill
 17575 Peak Avenue
 Morgan Hill, CA 95037
 Phone: (409) 779-7259
 Attn: City Clerk
 Email: michelle.bigelow@morganhill.ca.gov
 Copy to: cynthia.iwanaga@morganhill.ca.gov

Contractor:

Name: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____
 Attn: _____
 Email: _____
 Copy to: _____

10. General Provisions.

- 10.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's successors and permitted assigns.
- 10.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 10.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Santa Clara County, and no other place.
- 10.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

10.5 Integration; Severability. This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.

10.6 Authorization. Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two (2) officers of the corporation are required pursuant to California Corporation Code Section 313.

[Signatures are on the following page.]

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.

The parties agree to this Contract as witnessed by the signatures below:

CITY OF MORGAN HILL:

Christina J. Turner
City Manager

Date: _____

Attest:

Michelle Bigelow
Deputy City Clerk

Date: _____

Approved as to Form:

Donald A. Larkin
City Attorney

Date: _____

CONTRACTOR:

[NAME OF CONTRACTOR]

Signature

Name/Title [print]

Date: _____

Corporate entities must provide a second signature:

Signature

Name/Title [print]

Date: _____

Contractor's License Number(s)

Expiration Date(s)

Seal:

Contractor's DIR Registration Number(s)

END OF CONTRACT

PAYMENT BOND

The City of Morgan Hill ("City") and _____ ("Contractor") have entered into a contract, dated _____, 20__ ("Contract") for work on the 2019 Sidewalk Repair Project ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee in an amount not less than _____ Dollars (\$_____) ("Bond Sum"), under California Civil Code Sections 9550, et seq.
2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay any of the persons named in California Civil Code Section 9100 amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors, under California Unemployment Insurance Code Section 13020, with respect to the work and labor, then Surety will pay for the same.
3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code Section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code Sections 2819 and 2845. City waives requirement of a new bond for any supplemental contract under Civil Code Section 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____
 Fax: _____
 Email: _____

6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.
7. **Effective Date; Execution.** This Bond is entered into and is effective on _____, 20____.

SURETY:

CONTRACTOR:

s/ _____

s/ _____

Name: _____

Name: _____

Title: _____

Title: _____

(Attach Acknowledgment with Notary
 Seal and Power of Attorney)

APPROVED AS TO FORM:

By: _____
 Donald A. Larkin, City Attorney

Date: _____

END OF PAYMENT BOND

Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

PERFORMANCE BOND

The City of Morgan Hill ("City") and _____ ("Contractor") have entered into a contract, dated _____, 20____ ("Contract") for work on the 2019 Sidewalk Repair Project ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as Principal and _____, its surety ("Surety"), are bound to City as obligee for an amount not less than _____ Dollars (\$_____) (the "Bond Sum"). By executing this Bond, Contractor and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.

2. **Surety's Obligations; Waiver.** If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void upon recordation of the notice of completion, provided Contractor has timely provided a warranty bond as required under the Contract. Otherwise Surety's obligations will remain in full force and effect until expiration of the one (1) year warranty period under the Contract. Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code Sections 2819 and 2845.

3. **Application of Contract Balance.** Upon making a demand on this Bond, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which City is entitled under the terms of the Contract.

4. **Contractor Default.** Upon written notification from City that Contractor is in default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
 - 4.1 Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

4.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense; or

4.3 Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.

- 5. Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.
- 6. Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____
 Fax: _____
 Email: _____

- 7. Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.
- 8. Effective Date; Execution.** This Bond is entered into and is effective on _____, 20____.

[Signatures are on the following page.]

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgment with Notary
Seal and Power of Attorney)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Donald A. Larkin, City Attorney

Date: _____

END OF PERFORMANCE BOND

WARRANTY BOND

The City of Morgan Hill ("City") and _____ ("Contractor") have entered into a contract, dated _____, 20__ ("Contract") for work on the 2019 Sidewalk Repair Project ("Project"). The Contract is incorporated by reference into this Warranty Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee in the maximum amount of _____ Dollars (\$_____) or 50% of the final Contract Price, whichever is greater ("Bond Sum").
2. **Warranty Period.** The Contract requires Contractor to guarantee its work and that of its Subcontractors on the Project, against defects in materials or workmanship which are discovered during the one (1) year period commencing with recordation of the Notice of Completion (the "Warranty Period").
3. **Surety's Obligations.** If Contractor faithfully carries out and performs its guarantee under the Contract, and, on due notice from City, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Contractor promptly reimburses City for all loss and damage that City sustains because of Contractor's failure to makes such repairs in accordance with the Contract requirements, then Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
4. **Waiver.** Surety waives the provisions of Civil Code Sections 2819 and 2845.
5. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

 Attn: _____
 Address: _____
 City/State/Zip: _____
 Phone: _____
 Fax: _____
 Email: _____
6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's

attorneys' fees and costs in any action to enforce the provisions of this Bond.

7. Effective Date; Execution. This Bond is entered into and is effective on _____, 20____.

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
Donald A. Larkin, City Attorney

Date: _____

END OF WARRANTY BOND

Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

GENERAL CONDITIONS

Table of Contents:

Article 1 – Definitions	1
Article 2 – Roles and Responsibilities	5
Article 3 – Contract Documents	9
Article 4 – Bonds, Indemnity and Insurance.....	11
Article 5 – Contract Time	16
Article 6 – Contract Modification	21
Article 7 – General Construction Provisions.....	24
Article 8 – Payment.....	32
Article 9 – Labor Provisions	37
Article 10 –Safety Provisions	40
Article 11 – Completion and Warranty Provisions	41
Article 12 – Dispute Resolution.....	44
Article 13 – Suspension and Termination	49
Article 14 – Miscellaneous Provisions.....	51

Article 1 Definitions

1.1 Definitions. The following definitions apply to all of the Contract Documents unless otherwise indicated. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the words “day,” “furnish,” “including,” “install,” “work day” or “working day.”

Allowance means an amount included in the Bid Proposal for Work that may or may not be included in the Project, depending on conditions that will not become known until after bids are opened. If the Contract Price includes an Allowance and the cost of performing the Work covered by that Allowance is greater or less than the Allowance, the Contract Price will be increased or decreased accordingly.

Article, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.

Change Order means a written document duly approved and executed by City, which changes the scope of Work, the Contract Price, or the Contract Time.

City means the City of Morgan Hill, acting through its City Council, officers, employees, and authorized representatives.

City Engineer means the City Engineer for the City and his or her authorized delegee(s) designated to oversee and manage the Project on City’s behalf.

Claim means a separate demand by Contractor for change in the Contract Time or Contract Price, that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

Contract means the signed agreement between City and Contractor.

Contract Documents means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Informal Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the notice of award and notice to proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Drawings and Specifications; any Change Orders; and any other documents expressly made part of the Contract Documents.

Contract Price means the total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, or equipment following submission of the Bid Proposal. The Contract Price is deemed to include all applicable federal, state, and local taxes

Contract Time means the number of calendar days for performance of the Work, as set forth in the Contract and as amended by Change Order.

Contractor means the individual, partnership, corporation, or joint-venture who has signed the Contract with City to perform the Work.

Day means a calendar day unless otherwise specified.

Design Professional means the licensed individual(s) or firm(s) retained by City to provide architectural or engineering services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.

Drawings means City-provided plans and graphical depictions of the Project requirements, and does not include Shop Drawings.

Engineer means the City Engineer for the City of Morgan Hill and his or her authorized delegee(s).

Final Completion means Contractor has fully completed all of the Work required by the Contract Documents, including all punch list items, any required commissioning, and has provided all required submittals, including the warranty bond, instructions and manuals, and as-built drawings to City's satisfaction.

Final Payment means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld pursuant to the Contract Documents, including liquidated damages, up to one hundred twenty five percent (125%) of the amount of any unreleased stop notice, amounts subject to setoff, up to one hundred fifty percent (150%) of any unresolved third-party claim for which Contractor is required to indemnify City, and up to one hundred fifty percent (150%) of any amount in dispute as authorized by Public Contract Code Section 7107.

Furnish means to purchase and deliver to the Worksite designated for installation.

Hazardous Materials means any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal, or cleanup.

Including, whether or not capitalized, means “including, but not limited to,” unless the context requires otherwise.

Inspector means the individual(s) or firm(s) retained by City to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all applicable codes, regulations, and permits.

Install means to fix in place for materials, and to fix in place and connect for equipment.

Project means the public works project referenced in the Contract.

Project Manager means the individual designated by City to oversee and manage the Project on City’s behalf and may include his or her authorized delegee(s) when Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer.

RFI means a written request from Contractor for information from City or Design Professional.

Section as used in these General Conditions, means a numbered Section of the General Conditions, unless otherwise indicated by the context.

Shop Drawings means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to City approval, which are

intended to provide details for fabrication, installation, and the like, of items required by or shown in the Drawings and Specifications.

Specifications means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into this Project by or on behalf of City, and does not include the Contract, General Conditions or Special Conditions.

Subcontractor means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors, suppliers, fabricators, and equipment lessors of all tiers, unless otherwise indicated by the context.

Technical Specifications means Specifications.

Work means all of the construction and services necessary or incidental to completing the Project in conformance with the requirements of the Contract Documents.

Work Day or Working Day, whether or not capitalized, means a weekday which is not a holiday observed by City.

Worksite means the place or places where the Work is performed.

CITY OF MORGAN HILL

2019 SIDEWALK REPAIR AND REPLACEMENT PROJECT TECHNICAL PROVISIONS

SCOPE OF WORK:

The Sidewalk Replacement Project will occur at multiple locations within Morgan Hill, CA 95037, and the Scope of Work is described as follows:

- Remove and replace damaged sidewalk totaling approximately 4,336 square feet
- Construct an Americans with Disabilities Act (ADA) compliant ramp into the Hamilton Square Playground per ADA standards. The closest address to the playground is 15160 Via Corfino.

GENERAL REQUIREMENTS:

1.01 ORDER OF WORK

a. Description: Order of work shall conform to the provisions in the CalTrans "Standard Specifications" (CSS) and these special provisions.

Prior to construction, contractor must obtain an Encroachment Permit from the City.

Upon scheduled date of the preconstruction meeting, contractor shall prepare and submit a detailed schedule to the City Project Manager for review and approval. In addition, contractor shall provide and deliver a notice (minimum of 48 hours prior to construction) to all affected residents.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Order of Work" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.02 MAINTAINING TRAFFIC

a. Description: Attention is directed to Sections 7-1.03, "Public Convenience", 7-1.04, "Public Safety", and 12, "Construction Area Traffic Control Devices", of the Standard Specifications and to the provisions in "Public Safety" of these special provisions and these special provisions. Nothing in these special

provisions shall be construed as relieving the Contractor from the responsibilities specified in Section 7-1.04.

The Contractor may detour traffic in a route approved by the City Project Manager. Flaggers shall be provided at non-signalized intersections when traffic conditions warrant as determined by the City Project Manager. At least one lane of traffic shall be provided through the construction area during construction. Two lanes of traffic shall be provided through the project area during non-construction time.

Vehicular and pedestrian access to all properties shall be maintained at all times. Contractor shall place "no parking" signs as required in order to prevent the public from blocking the work. Contractor shall provide trench plates where necessary to accommodate access or provide other means of access.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Maintaining Traffic" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.03 PUBLIC SAFETY

a. Description: The Contractor shall provide for the safety of traffic and the public in conformance with the provisions in Section 7-1.04, "Public Safety", of the Standard Specifications and these special provisions.

The Contractor shall install temporary railing (Type K) between a lane open to public traffic and an excavation, obstacle or storage area when the following conditions exist:

A. Excavations.—The near edge of the excavation is 12 feet or less from the edge of the lane, except:

1. Excavations covered with sheet steel or concrete covers of adequate thickness to prevent accidental entry by traffic or the public.
2. Excavations less than one foot deep.
3. Trenches less than one foot wide for irrigation pipe or electrical conduit, or excavations less than one foot in diameter.
4. Excavations parallel to the lane for the purpose of pavement widening or reconstruction.
5. Excavations in side slopes, where the slope is steeper than 1:4 (vertical:horizontal).
6. Excavations protected by existing barrier or railing.

B. Temporarily Unprotected Permanent Obstacles.—The work includes the installation of a fixed obstacle together with a protective system, such as a sign structure together with protective railing, and the Contractor elects to install the obstacle prior to installing the protective system; or the Contractor, for the Contractor's convenience and with permission of the City Project Manager,

removes a portion of an existing protective railing at an obstacle and does not replace such railing complete in place during the same day.

C. Storage Areas.—Material or equipment is stored within 12 feet of the lane and the storage is not otherwise prohibited by the provisions of the Standard Specifications and these special provisions.

The approach end of temporary railing (Type K), installed in conformance with the provisions in this section "Public Safety" and in Section 7-1.04, "Public Safety," of the Standard Specifications, shall be offset a minimum of 15 feet from the edge of the traffic lane open to public traffic. The temporary railing shall be installed on a skew toward the edge of the traffic lane of not more than one foot transversely to 10 feet longitudinally with respect to the edge of the traffic lane. If the 15 feet minimum offset cannot be achieved, the temporary railing shall be installed on the 10 to 1 skew to obtain the maximum available offset between the approach end of the railing and the edge of the traffic lane, and an array of temporary crash cushion modules shall be installed at the approach end of the temporary railing.

Temporary railing (Type K) shall conform to the provisions in Section 12-3.08, "Temporary Railing (Type K)," of the Standard Specifications. Temporary railing (Type K), conforming to the details shown on 1999 Standard Plan T3, may be used. Temporary railing (Type K) fabricated prior to January 1, 1993, and conforming to 1988 Standard Plan B11-30 may be used, provided the fabrication date is printed on the required Certificate of Compliance. Temporary crash cushion modules shall conform to the provisions in "Temporary Crash Cushion Module" of these special provisions.

Except for installing, maintaining and removing traffic control devices, whenever work is performed or equipment is operated in the following work areas, the Contractor shall close the adjacent traffic lane unless otherwise provided in the Standard Specifications and these special provisions:

Approach Speed of Public Traffic (Posted Limit)	Work Areas
45 Miles Per Hour	Within 6 feet of a traffic lane but not on a traffic lane
35 to 45 Miles Per Hour	Within 3 feet of a traffic lane but not on a traffic lane

The lane closure provisions of this section shall not apply if the work area is protected by permanent or temporary railing or barrier.

When traffic cones or delineators are used to delineate a temporary edge of a traffic lane, the line of cones or delineators shall be considered to be the edge of the traffic lane, however, the Contractor shall not reduce the width of an existing lane to less than 10 feet without written approval from the City Project Manager.

When work is not in progress on a trench or other excavation that required closure of an adjacent lane, the traffic cones or portable delineators used for the lane closure shall be placed off of and adjacent to the edge of the traveled way. The spacing of the cones or delineators shall be not more than the spacing used for the lane closure. Suspended loads or equipment shall not be moved nor positioned over public traffic or pedestrians.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Public Safety," including furnishing and installing temporary railing (Type K) and temporary crash cushion modules, shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.04 DUST CONTROL

a. Description: Dust control shall conform to the provisions in Section 10, "Dust Control", of the Standard Specifications and these Special Provisions.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Dust Control" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.05 WATER POLLUTION CONTROL

a. General: *Water pollution control work shall conform to the provisions in Section 7-1.01G, "Water Pollution," of the Standard Specifications and these special provisions.*

Water pollution control work shall conform to the requirements in the "Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual" and the "Construction Site Best Management Practices (BMPs) Manual," and addenda thereto issued up to, and including, the date of advertisement of the project, hereafter referred to respectively as the "Preparation Manual" and the "Construction Site BMP Manual" and collectively as the "Manuals." Copies of the Manuals may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520. Copies of the Manuals may also be obtained from the Department's Internet Web Site at: <http://www.dot.ca.gov/hq/construc/stormwater.html>.

The Contractor shall know and fully comply with the applicable provisions of the Manuals and Federal, State, and local regulations that govern the Contractor's operations and storm water discharges from both the project site and areas of disturbance outside the project limits during construction.

Under no circumstances, shall concrete wash water, water from saw-cutting operations or any other contaminated water be allowed to enter the storm drain system or other drainage courses.

Unless arrangements for disturbance of areas outside the project limits are made by the City of Morgan Hill and made part of the contract, it is expressly agreed that the City assumes no responsibility whatsoever to the Contractor or property owner with respect to any arrangements made between the Contractor and property owner to allow disturbance of areas outside the project limits.

The Contractor shall be responsible for the costs and for liabilities imposed by law as a result of the Contractor's failure to comply with the requirements set forth in this section "Water Pollution Control" including, but not limited to, compliance with the applicable provisions of the Manuals and Federal, State, and local regulations. For the purposes of this paragraph, costs and liabilities include, but are not limited to, fines, penalties, and damages whether assessed against the State or the Contractor, including those levied under the Federal Clean Water Act and the State Porter Cologne Water Quality Act.

In addition to the remedies authorized by law, an amount of the money due the Contractor under the contract, as determined by the City of Morgan Hill, may be retained by the State of California until disposition has been made of the costs and liabilities.

The retention of money due the Contractor shall be subject to the following:

A. The City give the Contractor 30 days notice of the City's intention to retain funds from partial payments, which may become due to the Contractor prior to acceptance of the contract. Retention of funds from payments made after acceptance of the contract, may be made without prior notice to the Contractor.

B. No retention of additional amounts out of partial payments will be made if the amount to be retained does not exceed the amount being withheld from partial payments pursuant to Section 9-1.06, "Partial Payments," of the Standard Specifications.

C. If the City has retained funds and it is subsequently determined that the State is not subject to the costs and liabilities in connection with the matter for which the retention was made, the City shall be liable for interest on the amount retained at the legal rate of interest for the period of the retention.

Conformance with the provisions in this section "Water Pollution Control" shall not relieve the Contractor from the Contractor's responsibilities as provided in Section 7, "Legal Relations and Responsibilities," of the Standard Specifications.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Water Pollution Control" shall be considered as

included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.06 DAMAGE REPAIR

a. Description: Attention is directed to Section 7-1.16, "Contractor's Responsibility for the Work and Materials", and Section 7-1.11, "Preservation of Property", of the Standard Specifications and these Special Provisions.

Any damage to existing facilities or properties during the period of the work shall be returned to the original condition.

b. Measurement and Payment: All damage to existing facilities shall be repaired and or replaced at the Contractor's expense.

1.07 RESPONSIBILITY FOR DAMAGE

a. General: Responsibility for damage shall conform to the provisions in Section 7-1.12, "Responsibility for Damage", of the Standard Specifications.

1.08 PROGRESS SCHEDULE

a. General: The progress schedule shall be in accordance with Section 8-1.04 of the CSS. Furthermore, on a weekly basis, the schedule shall be updated and submitted to the City Project Manager. This update shall show the progress on salient features, mark the dates of completion and incorporate changes in construction sequencing or in items of construction.

b. Format: The construction schedule shall be a CPM format. The schedule shall be submitted in the following formats: Time-scaled Logic Diagram showing the name of the activity, the logical relationships, the duration, and the actual or scheduled start dates in a bar chart format; and an Activity Report showing the name of the activity, the actual and scheduled finish and start dates, the scheduled and actual durations, the logical relationships and other pertinent data. The schedule shall be subject to review, correction and acceptance by the City Project Manager.

c. Periodically Scheduled Meetings: Periodically scheduled meetings will be required, in which the project teams of the Contractor and his agents and the City can meet to discuss the schedule and progress of project.

d. Measurement and Payment: Full compensation for conforming to the provisions in this section "Progress Schedule" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.09 COORDINATION OF WORK

a. Description: The Contractor shall give specified notifications to the property owners effected by the work. All properties affected by the work shall be notified in writing, 48 hours prior to the interruption. In addition, the Contractor shall attempt to notify the affected occupants or residents, in person, on the same day of the work.

Failure to notify property owners with written notification shall result in stopping the project progress.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Coordination of Work" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

1.10 DAILY AND FINAL CLEAN UP

a. Description: The Contractor shall clean up all rubbish and excess materials from the work site on a daily basis, the material storage site, and all ground occupied by Contractor in connection with this work. All tree, roots, wood chips, branches, soil and concrete debris shall be removed from each repair location on a daily basis. The Contractor shall leave all parts of the work in a neat and presentable condition on a daily basis and prior to final inspection of the work by the Project Manager.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Daily and Final Clean Up" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

SIDEWALK REPAIR, CURB & GUTTER REMOVAL AND REPLACEMENT

2.01 MOBILIZATION

a. Description: Mobilization shall conform to the provisions in Section 11, "Mobilization", of the Standard Specifications. Mobilization shall include mobilizing labor and equipment and all necessary incidentals to complete the work at the various addresses listed in the Appendix 1. Underground Service Alert-Northern California (USA) shall be contacted prior to removal of sidewalks, curb and gutters, and trees in order to prevent possible utility damage.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Mobilization" shall be considered as included in the contract unit prices paid for the various items of work involved and no additional compensation will be allowed therefore.

2.02 SCHEDULING

a. Description: The Contractor shall submit a complete, tentative project schedule at the time of the preconstruction meeting. A minimum of five (5) working days prior to beginning work on any of the streets, the Contractor shall submit to the City Project Manager for approval a detailed written schedule of work listing the dates on which individual streets shall be surfaced. Following approval, the Contractor shall adhere diligently to the approved written schedule in the prosecution of the work.

The contractor shall post No Parking signs on affected streets indicating the date of work at least 48 hours prior to the actual work. As previously noted in Section 1.09-Coordination of Work, the Contractor shall also notify individual residents who will be adversely affected by the work in writing via fliers or door hangers at least 48 hours prior to work. The Contractor shall submit for approval by the City Project Manager a sample of the written notification to be supplied to residents. This sample shall be submitted at the time of the preconstruction meeting. Any expenses incurred by delays caused by the failure of the Contractor to adhere to the approved schedule or to properly notify residents shall be borne solely by the Contractor.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Scheduling" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

2.03 PROJECT APPEARANCE

a. Description: The Contractor shall maintain a neat appearance at the work site in all areas visible to the public. Broken concrete, asphalt concrete, soil, tree branches and roots and other debris developed during construction shall be disposed of concurrently with its removal on a daily basis. Stockpiling of

new materials shall be permitted only with the approval of the City Project Manager and only in approved locations.

The Contractor shall sweep the streets daily within the project area as directed by the City Project Manager for the duration of the project. The Contractor shall not sweep construction materials or other debris onto private properties.

The Contractor shall be responsible for any and all damage to public and private property (including driveways, trees, plants, shrubs, fences, etc...) and shall replace with new material or correct any damaged property to the satisfaction of the City Project Manager.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Project Appearance" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

2.04 CONSTRUCTION AREA SIGNS

a. Description: Construction area signs shall be furnished, installed, maintained, and removed when no longer required in conformance with the provisions in Section 12, "Construction Area Traffic Control Devices", of the Standard Specifications and these special provisions.

Attention is directed to the provisions in "Prequalified and Tested Signing and Delineation Materials" of these special provisions. Type II retro reflective sheeting shall not be used on construction area sign panels.

The Contractor shall notify the appropriate regional notification center for operators of subsurface installations at least 2 working days, but not more than 14 calendar days, prior to commencing excavation for construction area sign posts. The regional notification centers include, but are not limited to, the following:

Notification Center	Telephone Number
Underground Service Alert-Northern California (USA)	1-800-642-2444 1-800-227-2600
Underground Service Alert-Southern California (USA)	1-800-422-4133 1-800-227-2600

Excavations required to install construction area signs shall be performed by hand methods without the use of power equipment, except that power equipment may be used if it is determined there are no utility facilities in the area of the proposed post holes.

Sign substrates for stationary mounted construction area signs may be fabricated from fiberglass reinforced plastic as specified under "Prequalified and Tested Signing and Delineation Materials" of these special provisions.

The Contractor may be required to cover certain signs during the progress of the work. Signs that are no longer required or that convey inaccurate information to the public shall be immediately covered or removed, or the information shall be corrected. Covers for construction area signs shall be of sufficient size and density to completely block out the complete face of the signs. The retro-reflective face of the covered signs shall not be visible either during the day or at night. Covers shall be fastened securely so that the signs remain covered during inclement weather. Covers shall be replaced when they no longer cover the signs properly.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Construction Area Signs" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

2.05 TRAFFIC & PEDESTRIAN CONTROL

a. Description: The Contractor shall comply with all of the requirements of the current edition of the State of California "Manual of Traffic Controls for Construction and Maintenance and Work Zones" for traffic control, pedestrian control and all construction area signs. Attention is also directed to Sections 7-1.03, "Public Convenience", and 7-1.04, "Public Safety", of the CSS and these Special Provisions. Nothing in these Special Provisions shall be construed as relieving the Contractor from his responsibility as provided in said Section 7-1.04.

Construction area signs shall be furnished, installed, maintained, and removed when no longer required in accordance with the provisions in Section 12, "Construction Area Traffic Control Devices", of the CSS, the Manual of Traffic Controls and these Special Provisions. **Sidewalk closure signs shall be placed at each sidewalk replacement location.**

When traffic control is not performed in compliance with the submitted Traffic Control Plan, the project shall be suspended until the Contractor conforms to the approved plan. During the period of suspension, all construction expenses incurred shall be the sole responsibility of the Contractor.

b. Measurement and Payment: Full compensation for conforming to the provisions in this section "Traffic Control" shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefore.

2.06 REMOVE AND REPLACE CONCRETE SIDEWALK

a. Description: This work consists of the removal and replacement of damaged concrete sidewalk and the removal and replacement of concrete curb and gutter. Root removal may be necessary at each location. City Project Manager should be consulted prior to root removal. Exact locations of sidewalk replacement and root removals are to be determined by the City Project

Manager. It is anticipated that at least 5,271 SF of concrete sidewalk including curb and gutter will be removed and replaced.

Sidewalk replacement Work includes removal and disposal of existing sidewalk, saw-cutting, root removal, expansion joints if required, score joints, removal/replacement & compaction of base material, formwork, curing compound, and rebar doweling per 2007 City Standard Details, to the dimensions at the locations listed in these special provisions or as directed by the City Project Manager and in conformance with Section 73 Concrete Curbs and Sidewalks, Section 15 Existing Highway Facilities of the CSS and the City's Standard Details for Construction. The City's Standard Details for Construction are attached to these technical specifications.

b. Submittals: Concrete mix design, concrete curing compound, asphalt mix design, and aggregate baserock mix design

c. Order of Work: Contractor shall demo concrete sidewalk or curb & gutter to expose roots. Roots in conflict with the replacement sidewalk shall be **hand cut** and not torn-out using force or equipment. Work shall be performed by an ISA certified arborist. Roots shall be trimmed approximately 3 inches below the aggregate base. Contractor shall perform demo and replacement of sidewalk and all incidentals at each location within 5 working days, including root removals in coordination with current City Tree Contractor/Arborist.

d. Materials: Portland Cement Concrete: Portland cement concrete shall be in conformance with Section 90 "Portland Cement Concrete" of the CSS for Class B Concrete. Curing Compound: shall be in conformance with Section 90 "Portland Cement Concrete" of the CSS. Asphalt Concrete: Asphalt concrete used shall be Type A, 2" medium in accordance with Section 39 of the CSS. Aggregate base: AB shall be Class 2, 3/4" maximum grading, and shall conform to the provisions in Section 26, "Aggregate Bases", of the Standard Specifications and these special provisions.

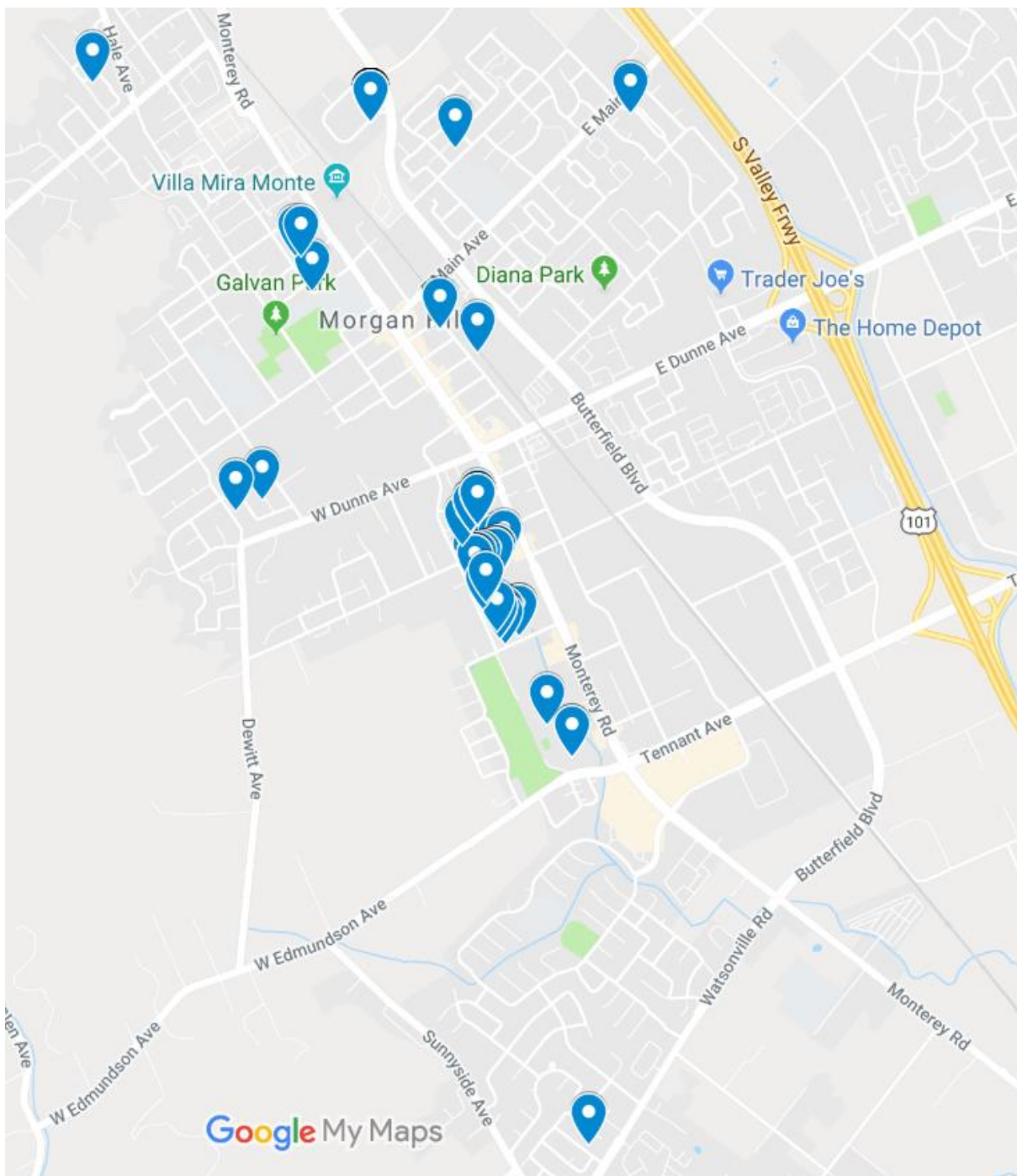
e. Measurement and Payment: The contract unit price paid, as shown in the Bid Schedule, for "Remove and Replace Concrete Sidewalk" shall include full compensation for performing all of the work listed above, complete in place, including traffic/pedestrian control/signage, and all incidentals as specified in theses Standard Specifications and these Special Provisions, 2007 City Design Standards, and as directed by the City Project Manager.

2.07 TREE REMOVAL

Tree removal will be completed by current City Tree Contractor/Arborist and coordination of this effort will be discussed at the pre-construction meeting.

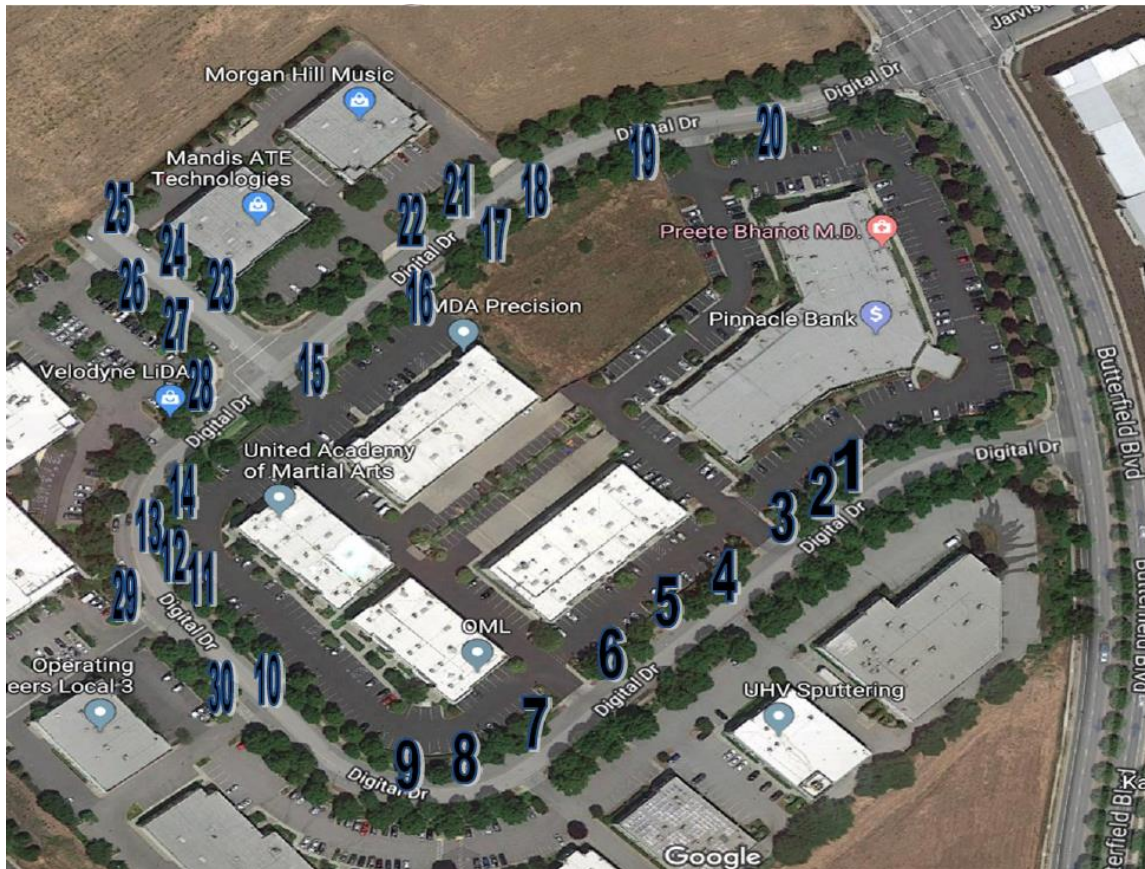
END

City of Morgan Hill 2019 Sidewalk Project Locations



Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

City of Morgan Hill 2019 Sidewalk Repairs: Digital Drive Locations



Attachment: 2019 MH Sidewalk Repair_Bid Docs (2294 : Award 2019 Sidewalk Repair Contract)

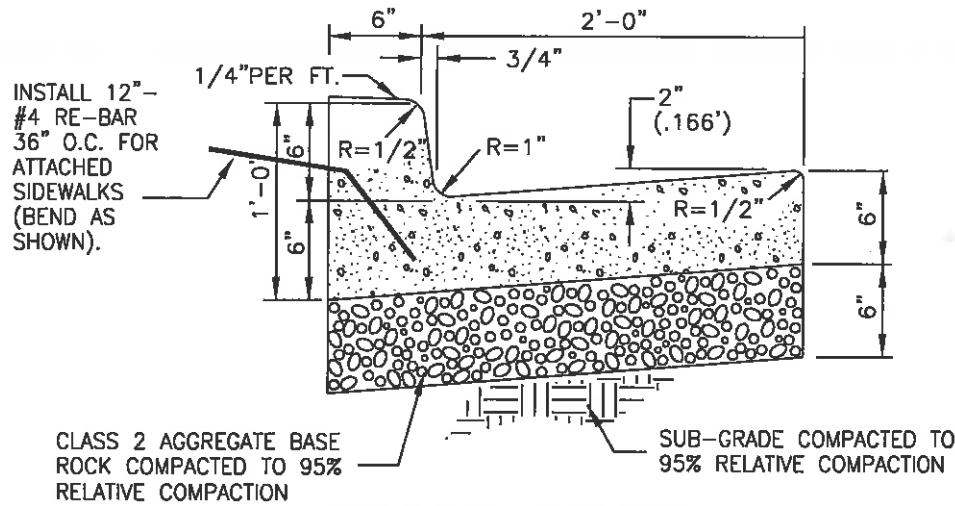
Morgan Hill Sidewalk Repair List of Locations

Address	Sidewalk SF	Total SF	Curb & Gutter	Notes
Hamilton Square ADA Ramp				Create an ADA ramp into playground per ADA standards; closest address is 15160 Via Corfino
Railroad Park Locations		113		Landscaped areas to concrete; closest address 17300 Depot St
100 Edes Ct		282		Dirt lunch area to concrete pad
195 Foothill Ct	15.0	75	1	Del Monte Side
195 Foothill Ct	15.6	78	2	
185 Foothill Ct	19.8	99	1	
175 Foothill Ct	12.6	63	1	
135 Foothill Ct	6.0	30	1	
115 Foothill Ct	5.8	29	1	
130 Foothill Ct	18.9	94.5	1	
140 Foothill Ct	15.6	78	1	
140 Foothill Ct	5.0	25		
140 Foothill Ct	11.0	55	1	
170 Foothill Ct	11.0	55	1	
180 Foothill Ct	20.4	102	1	
190 Foothill Ct		38.61		Crosswalk on corner
190 Foothill Ct	5.8	29	1	Del Monte Side
190 Foothill Ct	5.0	25	1	Del Monte Side
190 Foothill Ct	16.0	80	1	Del Monte Side
190 Spring	20.0	100	1	Del Monte Side
125 Cosmo Apt C	10.0	50	1	

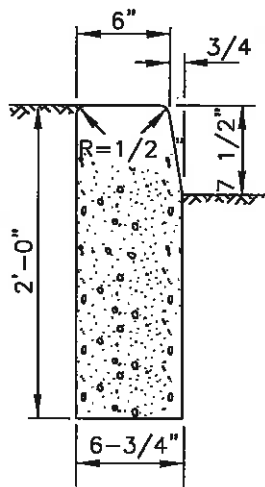
125 Cosmo	5.0	25	1	
175 Cosmo	20.3	101.5	1	By East Driveway
175 Cosmo	5.2	26		By West Driveway
185 Cosmo A	6.0	30	1	
Corner Del Monte / Cosmo	6.0	30		
Corner Del Monte / Cosmo	6.6	33		
Del Monte	5.0	25		Close to corner Cosmo / Del Monte
16440 Del Monte	10.0	50		
16440 Del Monte	10.0	50	1	
16460 Del Monte B	10.0	50	1	
16550 Del Monte	5.0	25		
190 Matilda A	9.8	49	1	
17245 Torrey Ct	21.0	105		Tree already removed and replaced
17270 DeWitt	4.0	20	1	
95 El Toro Ave	5.0	25	1	
85 El Toro Ave	12.7	63.5	1	
516 Rio Grand Ct	10.0	50		
180 Manor Ct	14.3	71.5	1	
165 Manor Ct	14.0	70	1	
165 Manor Ct	5.0	25	1	
165 Manor Ct	5.5	27.5		
105 Manor Ct	15.0	75	1	
101 Manor Ct	19.0	95	1	
101 Manor Ct	5.0	25	1	
101 Manor Ct	5.5	27.5	1	Driveway entrance
101 Manor Ct	10.0	50	1	
17467 Depot St	10.6	53	1	

171 W Edmundson	5.0	25	1	Near Senior Center/Limited Mobility Parking
171 W Edmundson	10.0	50		Near Senior Center/Limited Mobility Parking
17565 Serene	5.5	27.5		
18410 Murphy Springs	10.0	50		
Digital Dr (see map for details)				
Inner Circle Starting West on Digital/Butterfield				
Map 1	10.0	50	1	Between 1-2 driveway
Map 2	10.0	50		Between 1-2 driveway
Map 3	10.0	50	1	Between 1-2 driveway
Map 4	10.0	50	1	Between 2-3 driveway
Map 5	9.5	47.5	1	Between 2-3 driveway
Map 6	10.2	51	1	Between 2-3 driveway
Map 7	5.0	25	1	Between 3-4 driveway
Map 8	10.0	50	1	Between 3-4 driveway
Map 9	5.0	25	1	Between 3-4 driveway
Map 10	10.0	50	1	Between 3-4 driveway
Map 11	5.0	25	1	Between 3-4 driveway
Map 12	14.5	72.5	1	Between 3-4 driveway
Map 13	15.0	75	1	Between 3-4 driveway
Map 14	4.0	20	1	Between 3-4 driveway
Map 15	10.2	51	1	Between 4-5 driveway
Map 16	16.0	80		Between 4-5 driveway
Map 17	5.0	25	1	Between 4-5 driveway
Map 18	15.0	75	1	Between 4-5 driveway
Map 19	11.0	55	1	Between 4-5 driveway
Map 20	5.5	27.5	1	Between 5 driveway and Butterfield

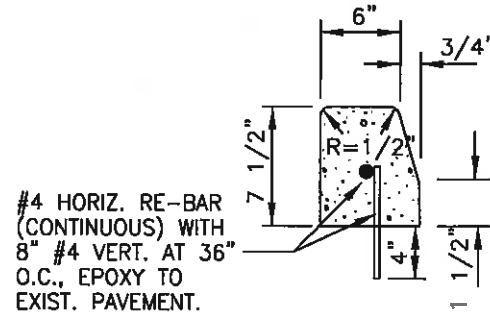
Outer Circle and Sutter				
Map 21	10.0	50	1	
Map 22	4.0	20	1	
Map 23	5.5	27.5	1	Sutter East
Map 24	5.0	25	1	Sutter East
Map 25	10.0	50	1	Sutter East
Map 26	5.0	25	1	Sutter West
Map 27	5.0	25	1	Sutter West
Map 28	20.0	100		
Map 29	20.0	100		Near suite 325
Map 30	5.5	27.5		Near suite 315
TOTAL		4,336		



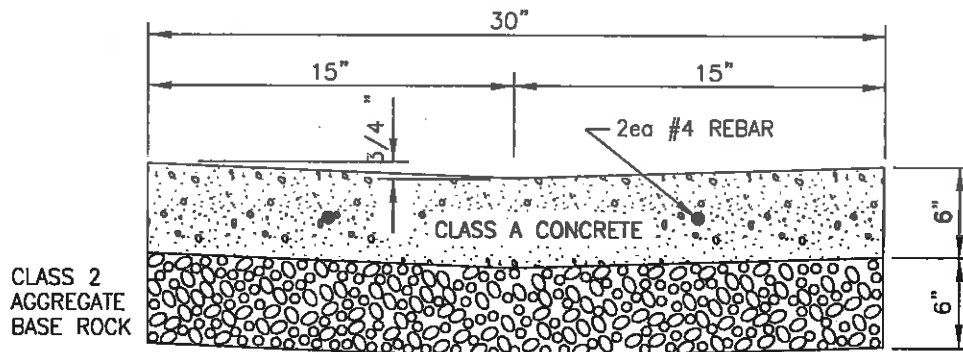
TYPE 1' CURB AND GUTTER



TYPE 2' FULL VERTICAL CURB



TYPE 3' (TEMPORARY) EXTRUDED CURB



TYPE 4' VALLEY GUTTER

- NOTES:**
1. A DEEP SCORE JOINT AT EVERY 10' (1/4" X 1 1/4" MIN.) AND A FELT SEPARATOR AT EVERY 60' (1/2") SHALL BE INSTALLED FOR ALL GUTTER TYPES.
 2. TYPE 3 (TEMPORARY) EXTRUDED CURB SHALL ONLY BE USED UPON WRITTEN APPROVAL BY THE CITY ENGINEER.



City of Morgan Hill
Public Works Department

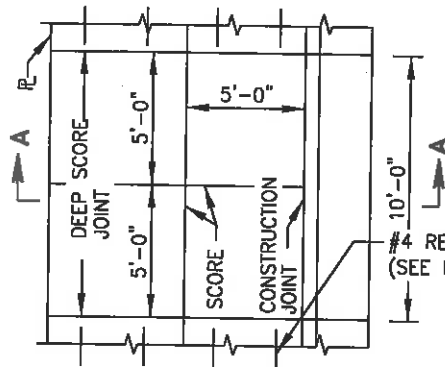
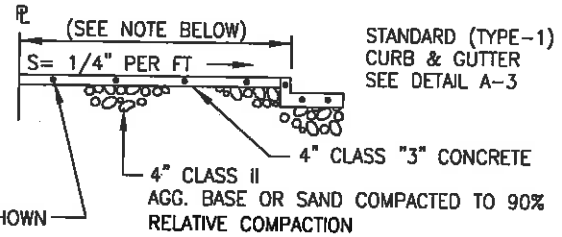
Jim Ashcraft
CITY ENGINEER

4/1/96
DATE

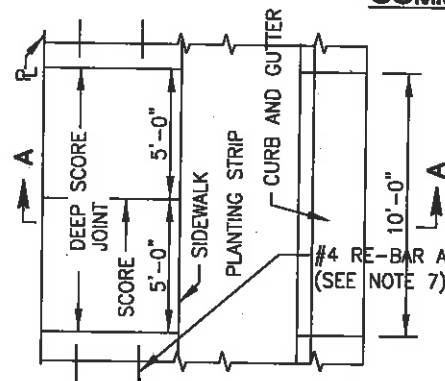
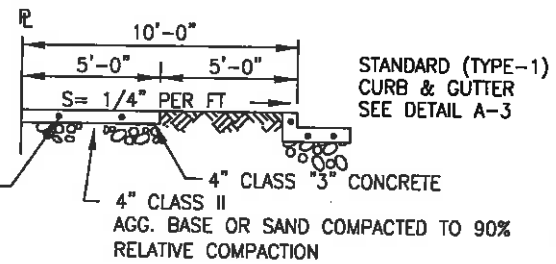
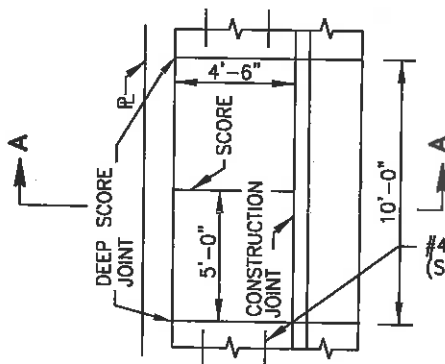
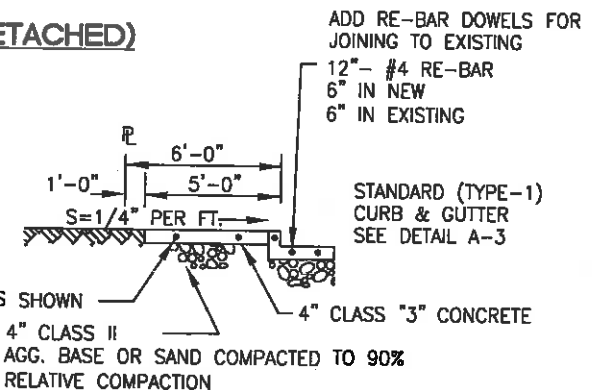
3/15/07
REVISED

CONCRETE CURB AND/OR GUTTER TYPES

DRAWING
NO.
A-3

**COMMERCIAL****SECTION A-A**

NOTE: 10' COMMERCIAL SIDEWALK IN DOWNTOWN CORE. FOR 5' SIDEWALK, SEE RESIDENTIAL ATTACHED OR DETACHED, DEPENDING UPON PLANNING DEPARTMENT REQUIREMENTS.

**RESIDENTIAL (DETACHED)****SECTION A-A****RESIDENTIAL (ATTACHED)****SECTION A-A****NOTES:**

1. CONSTRUCT 3/8" EXPANSION JOINTS WITH FELT FILLER AT RETURNS AND MAJOR STRUCTURES.
2. ROUND ALL EXPOSED EDGES TO 1/2" RADIUS.
3. PLACE EXPANSION JOINTS EVERY 60' (1/2" FELT SEPARATOR).
4. PLACE DEEP SCORE JOINTS EVERY 10'. (1/4" X 1 1/4" MIN.)
5. PLACE SCORE MARKS EVERY 5' IN SIDEWALK SECTIONS ONLY. (1/8" X 1/2" MIN.)
6. PLACE AN "S" FOR SEWER LATERAL AND A "W" FOR WATER SERVICE ON FACE OF CURB (NEW DEVELOPMENTS ONLY).
7. FOR NEW SIDEWALK POURED TO ADJOIN EXISTING SIDEWALK, 2-#4 REBARS SHALL BE DOWELLED 6" INTO EXISTING SIDEWALK AND EXTEND 6" INTO NEW SIDEWALK POUR (SEE DIAGRAM ABOVE).
8. FOR NEW ATTACHED SIDEWALK POURED TO ADJOIN EXISTING CURB, #4 REBARS SHALL BE DOWELLED 6" INTO BACK OF CURB AT EVERY 36" (NOT SHOWN IN DIAGRAM, SEE DETAIL A-3).



City of Morgan Hill
Public Works Department

Jim Ashcraft
CITY ENGINEER

4/1/96
DATE

3/15/07
REVISED

**SIDEWALK COMMERCIAL,
DETACHED RESIDENTIAL,
AND ATTACHED RESIDENTIAL**

DRAWING
NO.

A-4

CONTRACT

Golden Bay Construction, Inc. – 2019 Sidewalk Repair Project

This public works contract ("Contract") is entered into by and between the City of Morgan Hill ("City") and Golden Bay Construction, Inc. ("Contractor") for work on the 2019 Sidewalk Repair Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Informal Bids, Contractor has submitted a Bid Proposal to perform work on the Project, and on May 1, 2019, (Contract Date) City authorized award of this Contract to Contractor for the amount of Contractor's bid.

2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
 - 2.1 Notice Inviting Informal Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment and Performance Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Drawings and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Award;
 - 2.12 Notice to Proceed;
 - 2.13 And the following: *"No other documents"*

3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

Attachment: Executed Contract_Golden Bay Construction (2294 : Award 2019 Sidewalk Repair Contract)

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor Ninety Five Thousand Two Hundred Nineteen Dollars (\$95,219.00) (the "Contract Price"), in accordance with the payment provisions in the General Conditions. The Contract Price includes all applicable federal, state, and local taxes.
5. **Time for Completion.** Contractor will fully complete the Work for the Project within 60 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of Five Hundred Dollars (\$500.00) for each day of unexcused delay in completion, and the Contract Price will be reduced accordingly.
7. **Labor Code Compliance.**
 - 7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.
 - 7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.
 - 7.3 **DIR Registration.** City will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
8. **Workers' Compensation Certification.** Under Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. **Notice.** Any notice, billing, or payment required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

City of Morgan Hill
 17575 Peak Avenue
 Morgan Hill, CA 95037
 Phone: (409) 779-7259
 Attn: City Clerk
 Email: michelle.bigelow@morganhill.ca.gov
 Copy to: keri.russell@morganhill.ca.gov

Contractor:

Name: Golden Bay Construction, Inc.
 Address: 3826 Depot Road
 City/State/Zip: Hayward, CA 94545
 Phone: (510) 783-2960
 Attn: Johnny Zanette, President
 Email: johnny@gbayinc.com
 Copy to: brian@gbayinc.com

10. General Provisions.

- 10.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's successors and permitted assigns.
- 10.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 10.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of Santa Clara County, and no other place.
- 10.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

10.5 Integration; Severability. This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.

10.6 Authorization. Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two (2) officers of the corporation are required pursuant to California Corporation Code Section 313.

[Signatures are on the following page.]

Attachment: Executed Contract_Golden Bay Construction (2294 : Award 2019 Sidewalk Repair Contract)

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.

The parties agree to this Contract as witnessed by the signatures below:

CITY OF MORGAN HILL:

 Christina J. Turner
 City Manager

Date: _____

Attest:

 Michelle Bigelow
 Deputy City Clerk

Date: _____

Approved as to Form:

 Donald A. Larkin
 City Attorney

Date: _____

CONTRACTOR:

GOLDEN BAY CONSTRUCTION, INC.

 Signature

Johnny Zanette - President

 Name/Title [print]

Date: 4/18/2019

Corporate entities must provide a second signature:

 Signature

Brent Zanette - Secretary
 Name/Title [print]

Date: 4/18/2019

451401

Contractor's License Number(s)

01/31/20

Expiration Date(s)

Seal:

1000002870

Contractor's DIR Registration Number(s)

END OF CONTRACT



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

PREPARED BY: Yat Cho, Senior Project Manager
APPROVED BY: City Manager

APPROVE THE PURCHASE OF PLAY EQUIPMENT FOR THE INCLUSIVE PLAYGROUND PROJECT

RECOMMENDATION(S)

Authorize the City Manager to approve sole source purchase of playground equipment at the Morgan Hill Magical Bridge Playground at a not to exceed total of \$170,373.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community

2019 Strategic Priorities

Economic Development

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan

REPORT NARRATIVE:

Since early 2015, the City has been working with a group of volunteers to obtain funding for an Inclusive Playground in Morgan Hill. An “inclusive playground” is different from an “accessible playground” as it has the aim to provide accessibility for those with mobility issues. More importantly, it encourages and enables all children to engage with one another while using the playground.

On July 19, 2017, the City Council authorized a consultant agreement with the Magical Bridge Foundation for fundraising, design support, and grant support. In 2018, this agreement was amended to support full design of the playground. In December 2018, the City Council approved updated concept designs for the playground. Since that time the Magical Bridge has worked with City staff on design development and the plans are now at 50% complete. It is now anticipated that the schedule for bidding the project will be:

June	Finalized plans and specifications
July	Bidding
September	Council Approval and Groundbreaking

The Committee and Magical Bridge Foundation have continued to work on fundraising and grant opportunities for this project. Current committed funding includes:

Estimated Funding	
State Grants	\$ 220,000
County Park Grant	\$ 150,000
Fundraising with Community Foundation	\$ 70,000
Park Impact Fund*	\$ 2,630,000
County Playground Grant	\$ 2,000,000
Magical Bridge Fundraising	\$ 300,000
Project Total Funding	\$ 5,370,000

*\$1,730,00 FY 18/19, \$200,000 FY 19/20 and \$700,000 appropriated in prior years.

One of the State Grants, the State Housing Related Parks Grant, received by the City, for approximately \$200,000, has a grant expenditure deadline of June 30, 2019. In order to receive this funding, the City must expend funds prior to June 30. City staff have worked with the Magical Bridge Foundation to identify playground equipment that will be used in the project for immediate purchase, allowing the City to meet the grant deadline and then install the equipment during construction of the project.

City staff are recommending a sole source purchase of the equipment from three vendors. Each piece of equipment has been specifically selected for purchase. Due to the structure of the playground equipment industry, each playground manufacturer sells its equipment through regional sales distributors, meaning that the City only has a single option for equipment purchase for each of the types of equipment selected. Should staff issue an RFP the City would only receive one bid per equipment manufacturer, therefore, staff is recommending the sole source purchase per section 3.04.150 of the Municipal Code which states, "By affirmative vote of three city council members upon a determination that competitive bids upon notice would not be likely to result in a lower price to the city from a responsible bidder or would cause unnecessary expense or delay under the circumstances." It is recommended that the City Council make this finding and approve the sole source purchase as it is not believed going to RFP would provide for better pricing and would risk the potential loss of grant funds.

Staff have received playground equipment quotations from the regional sales representative of three equipment manufacturers totaling \$170,373. The table below outlines the equipment and costs for the equipment:

Manufacturer/Distributor	Cost	Equipment
Goric/All About Play	\$87,915.25	Spinning carousel & spinning disk
Dynamo/All About Play	\$56,891.96	Large spinner and & disk swings
Dave Bang Assoc/ Play World	\$25,565.44	Whirl spinner, swings, and tot lot equipment

The City has spent \$30,000 on the project design, which is eligible for reimbursement from the State Housing Related Parks Grant, allowing the City to receive the full \$200,000 grant funding awarded.

COMMUNITY ENGAGEMENT: Consult

This project was brought forward by community members and was initially driven by community members. The concept design and identifying playground equipment was reviewed with community members associated with the project, the Parks and Recreation Commission and approved by the City Council.

ALTERNATIVE ACTIONS:

City Council may elect to not approve the playground equipment purchase at this time, understanding that the state grant funding will be lost as the amount needs to be spent by June 30, 2019. This will affect the overall project budget.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 18, 2016 – The Council approved the original conceptual design for the Inclusive Playground Project.
- June 21, 2017 – The City Council approved updates for the Capital Improvement Plan, including funding in FY 2017-18 for the Inclusive Playground Project.
- July 19, 2017 – Inclusive Playground Consultant Service Agreement with Magical Bridge was approved.
- October 4, 2017 – County All Inclusive Playground Grant application was authorized by Council.
- September 26, 2018 – The City accepted a donation from the Chiala Family for Playground Project.
- October 17, 2018 – The Council approved amending the agreement with Magical Bridge Foundation for full design services.
- December 18, 2019 – The City Council approved the updated concept design for the Playground.

FISCAL AND RESOURCE IMPACT:

There are sufficient funds appropriated for this work in the adopted Capital Improvement Program, within CIP Project 137015, from the Park Impact Fund (301). The State Grant funds received upon reimbursement will be deposited into the Park Impact Fund (GL#301.37715).

CEQA (California Environmental Quality Act):

Categorically Exemption

A Notice of Exemption was filed and recorded for the project on October 17, 2017 under the following categorical exemptions:

- 15031 – Existing Facilities;
- 15304 – Minor Alterations to Land; and
- 15311 – Accessory Structures.

LINKS/ATTACHMENTS:

1. Play Equipment Quotes

jean@playgroundpros.com

REFERENCE: Magical Bridge OPTION 2

	Dynamo				
MATERIALS:	Qty	Description	Each	Total	
			\$	-	
	1	DX2100-F Apollo with Floor		23,922.00	
	1	DX-3300 Biggo Trio		23,922.00	
				-	
				-	
				-	
				-	
				-	
				-	
				-	
				-	
				-	
SUB TOTAL:			\$	47,844.00	
TAX:			9.00%	\$	4,305.96
FREIGHT:				\$	4,742.00
TOTAL:				\$	56,891.96

Quote Good for 30 Days

This quote is for equipment only delivered and dose not include installation of any kind.
Freight is for delivery only customer is responsible for receipt and offloading of equipment.

A 50% Deposit is Required for All Non-Municipal Orders

50% Balance Due When Order Ships

Cash in Advance required for all orders under \$5,000.00.

I accept the terms and pricing listed on the above quotation:

Signature: _____

Date:

Please Make Checks & Purchase Orders Out To:
All About Play 3844 Presidio St. Sacramento, CA 95838

Your Business Is Greatly Appreciated.

jean@playgroundpros.com

To City of Morgan Hill
Attn: Chris Ghione
17555 Peak Avenue
Morgan Hill, CA 95037

Quotation Date 4/15/2019	Salesperson Eric Huber
------------------------------------	----------------------------------

Terms
 Net 30

Magical Bridge

Estimated Shipping Date 4-6 Weeks	Shipped Via Truck	F.O.B. Morgan Hill		
Quantity	Description	Unit Price	Total Extended	
1	Playworld # SWING-ALONG-500, 5in Swing Along Color: BLUE posts with _____ seat (Seat is available in Beige or Gray ONLY)	3,123.00	3,123.00	
1	Playworld # ZZXX0822, 7' Early Childhood T-Swing Color: BLUE	1,415.00	1,415.00	
1	Playworld # ZZXX1158, Accessible Whirl Color: BLUE	11,095.00	11,095.00	
2	Playworld # ZZXX0725, Pony Spring Mate with Coil Spring, ages 2-12	999.00	1,998.00	
1	Playworld # ZZXX0409, Pup Tent Climber, ages 2-12 Color: GREEN with Green / Sand Sheet Plastic	3,885.00	3,885.00	
	Subtotal		21,516.00	
	Shipping	2,113.00	2,113.00	
THIS QUOTATION IS SUBJECT TO THE ATTACHED TERMS & CONDITIONS		Subtotal	\$23,629.00	
THANK YOU FOR THIS CHANCE TO QUOTE		Tax (9.0%)	\$1,936.44	
DAVE BANG ASSOCIATES, INC OF CALIFORNIA IS PLEASED TO SUBMIT THE ABOVE QUOTATION FOR YOUR CONSIDERATION. SHOULD YOU PLACE AN ORDER, BE ASSURED IT WILL RECEIVE OUR PROMPT ATTENTION. THIS QUOTATION IS SUBJECT TO THE ATTACHED TERMS & CONDITIONS, AND IS VALID FOR 30 DAYS. THEREAFTER IT IS SUBJECT TO CHANGE WITHOUT NOTICE.		TOTAL	\$25,565.44	

By: **Eric Huber** Accepted _____ Date _____

PLEASE SIGN AND RETURN ONE COPY WHEN ORDERING.

Thank You!



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

PREPARED BY: Chris Ghione, Public Services Director
APPROVED BY: City Manager

PROVIDE DIRECTION REGARDING PARK DEVELOPMENT GRANT OPPORTUNITY

RECOMMENDATION(S)

Receive report on park development grant opportunity.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility
Supporting Our Youth
Seniors
and Entire Community

2019 Strategic Priorities

Economic Development

GUIDING DOCUMENTS

Bikeways
Trails
Parks and Recreation Masterplan

REPORT NARRATIVE:

The State of California is preparing to accept grant applications for its Statewide Parks Program. This program is the largest park related grant program in California's history and possibly U.S. history, with over \$1 billion in funding between the 2018 Prop. 68 and 2006 Prop. 84 Bond Acts. More information can be found on the State's website. This will be a highly competitive grant program and City staff believe Morgan Hill's best chance to be competitive in the grant program will be in the first round of applications occurring this summer.

The City has a good track record in competitive grant programs but will have some hurdles due to significant grant scoring points being allocated to low income and park deficient communities. The State's Community Fact Finder Webpage allows for these aspects to be viewed for specific park site locations. After engaging State of California grant staff and discussing with other communities, City staff believe the best opportunity for Morgan Hill will be to apply for the first round of funding with the August 5, 2019 application deadline. By applying early, it is believed other communities will be prepared to apply to receive maximum points.

Part of the grant application process is to engage the Community on the potential new park site location and amenities. The meetings for this process have been outlined below:

Date	Location
Thursday, April 18th @ 6:30 p.m.	West Conference Room
Wednesday, May 8th @ 6:30 p.m.	West Conference Room
Wednesday, May 29th @ 6:30 p.m.	West Conference Room
Wednesday, June 12th @ 6:30 p.m.	West Conference Room
Tuesday, July 16th @ 7:00 p.m.	PRC Meeting, West Conference Room

Due to the compressed schedule for the grant application, one community meeting has already been held and the Parks and Recreation Commission has been engaged. Although the first community meeting had limited attendance, there were several ideas for park components discussed. City staff will be coordinating the meetings to build on community outreach and priorities outlined in the 2017 Bikeways, Trails, Parks and Recreation Master Plan. Due to the limited timeline and grant points available for compliance with the California Environmental Qualities Act (CEQA), the process will be very fast. City staff believe if the process can be completed for this grant cycle (before many other cities are ready) it may be the only opportunity for Morgan Hill to receive this competitive funding. It is also believed that acquisition of new park land is not a likely option for the grant, within the short application period due to the need for advanced environmental work to be completed.

City staff are actively evaluating options and sites for the grant proposal but have identified a potential park site owned by the City that may be an opportunity to score full points for the park deficient community category (meaning no other park site within a half mile radius). This site is City owned property near the southern end of the City at the Butterfield overpass. The site is approximately 8 acres in size and currently unused. It would be connected to the area near Barrett School by the soon to be constructed Butterfield Linear Path. It would also have easy bicycle access from the southwest side of the town. The site will meet size requirements for a new Small Community Park as outlined in the recent 2017 Bikeways, Trails, Parks and Recreation Master Plan, but would be slightly south of the location identified in the plan.

The City intends to engage partners who are willing to take on significant portions of the park maintenance as the City does not have the funding available to increase park maintenance services on a Citywide basis. Such examples could include a baseball group willing to take on all maintenance of a baseball/softball field, a bicycle group willing to maintain bmx/pump track, or a service organization willing to take on regular litter cleanups from the site. The City taking on the maintenance of a new fully developed park site in the future is not recommended, so staff are assuming these partnerships will be mandatory in moving the park project forward.

The grant application will take significant staff work and finding partners for the ongoing maintenance of the park will be challenging. However, the potential for an \$8.5 million (maximum request per application) grant is believed to be too significant of an opportunity to be passed up on. It is also important to note there is no match required by the grant and therefore could be obtained without impacting the current Capital Improvement Program.

COMMUNITY ENGAGEMENT: Collaborate

The grant application process will require extensive outreach to the community. Finding partners to collaborate on ongoing park operations if the grant is received is critical for the success of the project.

ALTERNATIVE ACTIONS:

The City Council could direct staff not to move forward on the grant application. Considering the staff time required for the project and the ongoing operational costs for a new park, this is a reasonable option. The Council will have another opportunity at the end of the community engagement process to decide not to move forward. The Council may also elect to provide additional feedback to staff on the grant application process or potential park sites.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

This is the first opportunity for the Council to review this grant opportunity. The Parks and Recreation Commission received an update on the opportunity at its April 16, 2019 meeting. The City Council adopted its Bikeways, Trails, Parks and Recreation Master Plan in July 2017.

FISCAL AND RESOURCE IMPACT:

To complete the grant application process, significant staff resources from the Community Services Department will be required and lower priority work will likely be delayed. Additionally, funding for consultant work to prepare the grant could require up to \$30,000. Funding for this is available across multiple operating divisions (Park Maintenance, Community Services, and the Sports Facility Development Capital Improvement Project) within the FY19/20 Budget.

CEQA (California Environmental Quality Act):

Not a Project.

This update is administrative and in itself will not result in a change to the physical environment, therefore this action is not a project under the California Environmental Quality Act. City staff intend to complete required environmental work during the grant application development. This additional environmental work will be presented to the Council prior to moving forward with the grant application.

LINKS/ATTACHMENTS:

1. Potential Park Location

Attachment 1 Potential Park Location



Park Site

8.25 acres

Owned by City



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

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

ADOPT RESOLUTION OPPOSING A POTENTIAL DECREASE IN THE SUBSIDY FOR AGRICULTURAL WATER

RECOMMENDATION(S)

Adopt resolution opposing a potential decrease in the subsidy for agricultural water.

COUNCIL PRIORITIES, GOALS & STRATEGIES

REPORT NARRATIVE:

Director John Varela of the Santa Clara Valley Water District (Valley Water) has asked the City to adopt a resolution opposing a potential decrease in the subsidy for agricultural water. The purpose of this report is to provide the Council with an opportunity to consider this resolution.

Valley Water has historically set their groundwater extraction fee substantially lower for agricultural (Ag) users than for municipal and industrial (M&I) users like the City. The Ag rate is currently 6% of the M&I rate. For example, the City is paying \$450 per acre-foot for water and nearby agricultural users are paying \$27 per acre-foot. Since these are fees and it is illegal to make one ratepayer pay to subsidize another, the \$423 difference is being made up by the "Open Space Credit" which is comprised of tax revenues that Valley Water collects. (Tax revenues can be used discretionarily – fee revenues cannot.) Some Valley Water Board members would like to be able to use more of the agency's tax revenues to pay for other priorities, like flood protection, and asked staff to analyze and propose a shift in agricultural water rates to reduce the subsidy. In addition, there is concern that the funding sources for the Open Space Credit will not be adequate to fund the subsidy for agricultural users in the future.

Valley Water staff has recommended a gradual decrease in the Open Space Credit subsidy from 94% to 90% feathered in over seven years. Most importantly, farms can maintain their current 94% subsidy rate if they place a conservation easement on their land or enroll their land in the Williamson Act. A Valley Water staff report, and presentation are attached which further explain the proposal (Attachment No 1 & 2). The Valley Water Board voted on April 23 to delay any change in the subsidy for two years with the intention of finding a permanent sustainable funding source for the subsidy during this time.

Since water is an essential input in growing crops and a major cost center on nearly every farm, the agricultural community is opposed to this decrease in the subsidy. While the opportunity to maintain the 94% subsidy if the land is committed to agriculture on a long-term or permanent basis is good, this option is not possible for the significant number of tenant farmers in the County. Since the City is very supportive of maintaining economically viable agricultural operations in South County, adopting the resolution (Attachment No. 3) will record the City's support for maintaining the subsidy at its current level for the next two years.

Since agricultural operations in South County consume more water than the cities of Morgan Hill and Gilroy combined, one advantage to municipal users from reducing the 94% subsidy to 90% would be that agricultural users consume less water. Since this is primarily a concern during drought periods, the resolution includes a provision requesting that Valley Water establish a program to encourage voluntary land fallowing during droughts by providing farms some form of compensation in exchange for voluntarily not consuming water.

COMMUNITY ENGAGEMENT: Not Applicable

No community engagement activities were conducted for this item.

ALTERNATIVE ACTIONS:

An alternative action would be to take no action or to adopt a resolution supporting the decrease in subsidies for agricultural users.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council has not previously considered this item.

FISCAL AND RESOURCE IMPACT:

Maintaining the existing subsidy of agricultural rates has no impact on the rate that the City pays Valley Water for the water that the City pumps and delivers to City customers. Since the Open Space Credit subsidy comes from Valley Water's tax revenues, maintaining the 94% subsidy reduces the funding that Valley Water has for other activities in the community like flood prevention, flood response, weed abatement on District-owned lands, and grants to cities and other organizations. If the 94% subsidy was reduced to 90% over the next seven years, Valley Water would have approximately \$2 million of additional tax revenues for these other purposes.

CEQA (California Environmental Quality Act): Not a Project

This is a fee-related administrative issue that is not a project per the CEQA guidelines.

LINKS/ATTACHMENTS:

1. Valley Water Board Memo
2. Valley Water Presentation on Open Space Credit
3. Ag Water Subsidy Resolution

BOARD AGENDA MEMORANDUM

SUBJECT:

Open Space Credit Policy Discussion Continued.

RECOMMENDATION:

- A. Provide direction to increase Agricultural Rates to 10% of the Municipal and Industrial (M&I) charge over a 7-Year period;
- B. Direct staff to implement an agricultural water charge adjustment for Williamson Act and Conservation Easement participants that would hold their agricultural water charge to 6% of the M&I charge; and
- C. Provide further direction as necessary for the Fiscal Year (FY) 2019-20 rate setting cycle.

SUMMARY:

The purpose of this discussion is to continue reviewing the District's Open Space Credit policy, address Board questions following the December 5, 2018 Board meeting, discuss and consider potential changes, and provide direction as appropriate. The following is a summary of the Board inquiries to be addressed and discussed:

- 1. Provide a refresh of the 2013 Economic Study
- 2. Provide more detail on the Proposed Agricultural Charge Adjustment for Williamson Act and Conservation Easement Properties
- 3. Provide an analysis on setting agricultural charges at different levels over a 5-Year, 7-year, and 10-Year timeframe and the associated Open Space Credit savings

Background

The District Board has historically recognized that agriculture brings value to Santa Clara County in the form of open space and local produce. In an effort to help preserve this value, the District Act limits the agricultural charge to be no more than 25% of the M&I charge. In 1999, to further its support for agricultural lands, a policy was put into place further limiting the agricultural groundwater production charge to no more than 10% of the M&I charge. The agricultural community currently benefits from low groundwater charges that are 2% of M&I charges in North County and 6% of M&I charges in South County. According to Section 26.1 of the District Act, agricultural water is "water primarily used in the commercial production of agricultural crops or livestock."

The credit to agricultural water users has become known as an "Open Space Credit." It is paid for by fungible, non-rate related revenue. To offset lost revenue that results from the difference between the adopted agricultural groundwater production charge and the agricultural charge that would have resulted at the full cost of service, the District redirects a portion of the 1% ad valorem property taxes generated in the Water Utility,

General and Watershed Stream Stewardship Funds. The South County Open Space Credit is currently estimated to be \$8.0 million in FY 2018-19 and projected to continually increase in the years that follow.

Since 2013, the Board has continued the past practice of setting the agricultural charge at 6.0% of the South County M&I charge. On September 18, 2017, in response to the President's Day Flood event, the Board's Capital Improvement Program Committee analyzed scenarios to decrease the Open Space Credit and therefore provide more funding for flood protection projects. Accordingly, alternatives were prepared to reduce the Open Space Credit by increasing the agricultural charge to 10% or 25% of the M&I charge over a multi-year timeframe. For FY 2018-19, staff recommended increasing the agricultural charge to 6.8% of the M&I charge. On May 8, 2018, the Board chose to continue the past practice of setting the agricultural charge at 6.0% of the South County M&I charge for FY 2018-19.

Background on the Williamson Act and Conservation Easement Classification

The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. Under these voluntary contracts, landowners gain substantially reduced property tax assessments. A land owner whose property is devoted to agricultural use and is within an agricultural preserve may file an application for a Williamson Act contract with the County. Per the Santa Clara County of Ordinances section C13-12, to be eligible for a Williamson Act contract:

1. The property proposed for inclusion in the contract is at least ten acres in size in the case of prime agricultural land, and 40 acres in size in the case of nonprime agricultural land;
2. All parcels proposed for inclusion in the contract are devoted to agricultural use; and
3. There are no existing or permitted uses or development on the land that would significantly displace or interfere with the agricultural use of the land.

Even if all of the criteria are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Conservation easement is a power invested in a qualified organization or government to constrain, as to a specified land area, the exercise of rights otherwise held by a landowner so as to achieve certain conservation purposes. For example, a land owner whose property constitutes open-space land as defined in Government Code §§ 51075(a) and 65560 may file an application for an agreement with the County.

Per the Santa Clara County of Ordinances section C13-36, to be eligible for an Open Space Easement Agreement with the County:

1. The land proposed for inclusion in the agreement is at least 20 acres in size;

2. All parcels proposed for inclusion in the agreement are devoted to open-space;
3. There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and
4. The Board of Supervisors makes the required findings in Government Code § 51084.

Even if all of the criteria in are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

There are also three open space authorities that have jurisdiction to enter into conservation easements in Santa Clara County.

There are 174 Williamson Act parcels and 10 conservation easement parcels in the combined Zone W-2 and Zone W-5. The parcels comprise roughly 33% of total agricultural water use on average.

Conservation easement is a power invested in a qualified organization or government to constrain, as to a specified land area, the exercise of rights otherwise held by a landowner so as to achieve certain conservation purposes. For example, a land owner whose property constitutes open-space land as defined in Government Code §§ 51075(a) and 65560 may file an application for an agreement with the County.

Consideration of an Agricultural Water Charge Adjustment

An agricultural water charge adjustment could be predicated on Williamson Act or conservation easement participation and paid for by the Open Space Credit. Staff recommends implementing an adjustment such that if the District were to increase the agricultural water charge to something greater than 6% of the M&I charge, then an adjustment would be applied to all Williamson Act and conservation easement properties, that would result in a net agricultural charge of 6% of M&I charges for those properties. The Williamson Act or Conservation Easement property classification would be determined by the authorities managing those programs, not the District. There would be no need for an application process, and as such the incremental costs associated with the adjustment would be negligible. The District currently receives from the County the list of Williamson Act properties and would use properties of record in February and August for the upcoming billing cycle. Staff would obtain the conservation easement property information direct from the open space organizations in parallel during the February and August timeframe. Property status changes occurring after staff data collection would be handled on a case-by-case basis for the potential proration of rates, if applicable. Agricultural wells are predominately charged bi-annually in arears in January and June.

If the District were to increase the agricultural charge to 10% of the M&I charge over a 7-year timeframe, and adjust back to 6% of the M&I charge for Williamson Act and conservation easement properties, then staff anticipates a cumulative savings to the Open Space Credit of roughly \$2 million over that 7-year timeframe. Savings would be

\$1.4M if the transition occurred over a 5-year timeframe, and would be \$3.4M if the transition occurred over a 10-year timeframe. The savings could be reduced if additional eligible properties were to change status to be classified as Williamson Act or Conservation Easement properties. Staff estimates that there are 245 agricultural properties that may qualify, but are not classified as Williamson Act or Conservation Easement properties.

FINANCIAL IMPACT:

Depending on direction provided by the Board, there could be a future financial impact to the District, and the various rate payers.

CEQA:

CEQA Guidelines section 15273: CEQA does not apply to establishment or modification of water rates.

ATTACHMENTS:

Attachment 1: PowerPoint

UNCLASSIFIED MANAGER:

Darin Taylor, 408-630-3068

Open Space Credit Policy Discussion Continued

January 8, 2019



- 2013**
 - ▶ Staff completes extensive OSC policy review and stakeholder engagement process
 - ▶ Board maintains OSC policy as is
 - ▶ South County Ag charge maintained at 6% of M&I
- 2014 - 2016**
 - ▶ Board confirms direction to maintain OSC policy as
- 2017**
 - ▶ Presidents Day Flood occurs, CIP Committee explores OSC reductions to free up funding for flood protection projects
- Feb 2018**
 - ▶ Special Ag Advisory Committee meeting convened to discuss OSC Policy

April 2018

► **Board directs staff to:**

- 1. Analyze ag water usage trend scenarios and potential impact on Open Space Credit projection**
- 2. Research feasibility of a reduced ag charge for Williamson Act participants**
- 3. Seek contributions from local private companies or other governmental agencies to fund Open Space Credit**

May 2018

► **Board continues past practice of setting Ag Charge at 6.0% of South County M&I charge for FY 19**

Williamson Act & Conservation Easements

6.b

- ▶ Williamson Act provides tax benefits to property owners who do not develop their land
- ▶ Conservation Easements permanently extinguish development rights

	Williamson Act Parcels	Conservation Easement Parcels	Average % of Total Ag Water Use
North County	3	0	1%
South County	171	10	32%
Total	174	10	33%

- ▶ **Ag Charge Adjustment Program Alternative for Consideration**
 - ▶ Predicated on Williamson Act or Conservation Easement participation
 - ▶ If: Ag charge increased to >6% of M&I
 - ▶ Then: Adjust back to 6% for Williamson Act and Conservation Easement properties
 - ▶ Staff could implement with minimal effort

- ▶ Staff estimates that Santa Clara County currently has 245 agricultural properties that may qualify, but are NOT classified as Williamson Act or Conservation Easement properties
- ▶ Approximately 16,000 Acre-Feet of water consumed annually by these properties

Williamson Act & Conservation Easements

6.b

5-Year Transition

South County

6% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652
Ag Rate % of M&I Rate	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
Agricultural	\$27.02	\$29.10	\$31.34	\$33.75	\$36.35	\$39.15

10% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652
Ag Rate % of M&I Rate	6.0%	6.9%	7.8%	8.6%	9.4%	10.0%
Agricultural	\$27.02	\$33.61	\$40.71	\$48.37	\$56.61	\$65.49
OSC Savings (\$K)		\$83	\$173	\$270	\$374	\$486

Total Anticipated Savings to Open Space Credit **\$1.4M**

Potential savings reduction of **\$298K** if 25% of eligible properties convert

25% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652
Ag Rate % of M&I Rate	6.0%	10.4%	14.5%	18.3%	21.8%	25.1%
Agricultural	\$27.02	\$50.40	\$75.58	\$102.70	\$131.91	\$163.36
OSC Savings (\$K)		\$393	\$815	\$1,270	\$1,761	\$2,289

Total Anticipated Savings to Open Space Credit **\$6.5M**

Potential savings reduction of **\$1.4M** if 25% of eligible properties convert

Williamson Act & Conservation Easements

6.b

7-Year Transition

South County

6% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756
Ag Rate % of M&I Rate	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
Agricultural	\$27.02	\$29.10	\$31.34	\$33.75	\$36.35	\$39.15	\$42.16	\$45.41

10% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756
Ag Rate % of M&I Rate	6.0%	6.7%	7.4%	8.0%	8.6%	9.1%	9.6%	10.0%
Agricultural	\$27.02	\$32.55	\$38.51	\$44.94	\$51.86	\$59.31	\$67.34	\$75.98
OSC Savings		\$58	\$127	\$200	\$279	\$364	\$456	\$555

Total Anticipated Savings to Open Space Credit **\$2.0M**

Potential savings reduction of **\$446K** if 25% of eligible properties convert

25% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756
Ag Rate % of M&I Rate	6.0%	9.4%	12.5%	15.4%	18.0%	20.5%	22.8%	25.0%
Agricultural	\$27.02	\$45.34	\$65.08	\$86.34	\$109.24	\$133.90	\$160.46	\$189.06
OSC Savings		\$299	\$622	\$969	\$1,343	\$1,746	\$2,180	\$2,647

Total Anticipated Savings to Open Space Credit **\$9.8M**

Potential savings reduction of **\$2.1M** if 25% of eligible properties convert

Attachment: Valley Water Presentation on Open Space Credit (2295 : Resolution on

Williamson Act & Conservation Easements

6.b

10-Year Transition

South County

6% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756	\$815	\$877	\$938
Ag Rate % of M&I Rate	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
Agricultural	\$27.02	\$29.10	\$31.34	\$33.75	\$36.35	\$39.15	\$42.16	\$45.41	\$48.90	\$52.67	\$56.78

10% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756	\$815	\$877	\$938
Ag Rate % of M&I Rate	6.0%	6.6%	7.1%	7.5%	8.0%	8.4%	8.8%	9.1%	9.5%	9.8%	10.1%
Agricultural	\$27.02	\$31.76	\$36.87	\$42.38	\$48.31	\$54.70	\$61.59	\$69.00	\$76.98	\$85.58	\$94.99
OSC Savings (\$K)		\$49	\$102	\$159	\$221	\$287	\$358	\$435	\$518	\$607	\$700

Total Anticipated Savings to Open Space Credit **\$3.4M**

Potential savings reduction of **\$730K** if 25% of eligible properties convert

25% of M&I

	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028
Municipal & Industrial	\$450	\$485	\$522	\$562	\$605	\$652	\$702	\$756	\$815	\$877	\$938
Ag Rate % of M&I Rate	6.0%	8.6%	11.0%	13.3%	15.3%	17.3%	19.1%	20.7%	22.3%	23.7%	25.0%
Agricultural	\$27.02	\$41.69	\$57.50	\$74.52	\$92.86	\$112.61	\$133.88	\$156.79	\$181.46	\$208.04	\$236.59
OSC Savings (\$K)		\$232	\$482	\$751	\$1,041	\$1,354	\$1,690	\$2,052	\$2,442	\$2,863	\$3,314

Total Anticipated Savings to Open Space Credit **\$16M**

Potential savings reduction of **\$3.5M** if 25% of eligible properties convert

▶ Program Details for Ag Charge Adjustment Program

- ▶ Williamson Act or Conservation Easement property classification will be determined by the authorities managing those programs, not the District
- ▶ Staff currently obtains Williamson Act property data from the County and will use properties of record in February and August for the upcoming billing cycle
- ▶ Staff will contact the Open Space Authority in parallel during the February and August timeframe for any Conservation Easement property changes

- ▶ **Program Details for Ag Charge Adjustment Program**
 - ▶ Property status changes occurring after Staff data collection will be handled on a case by case basis for the potential proration of rates, if applicable
 - ▶ Agricultural wells are predominantly charged bi-annually in arrears in January and June
 - ▶ All other standard processes are applicable

Conservation Organizations support an Ag Charge Adjustment program for Williamson Act and conservation easement properties:

- ▶ **Santa Clara Valley Open Space Authority**
- ▶ **Peninsula Open Space Trust**
- ▶ **Midpeninsula Regional Open Space**

► Work In Process

- Staff researching avenues to receive donations from individual and corporate sponsors

- ▶ **Study prepared by ERA Economics LLC**
- ▶ **Constructed an economic model of agriculture in Santa Clara County**
 - ▶ **3 scenarios with 10 year phase-in**
 - ▶ **Baseline (Maintain Ag Charge at 6% of M&I rate)**
 - ▶ **10 % of M&I rate**
 - ▶ **25 % of M&I rate**

► Horizon of the study was FY 2015 through 2024

Projected Remaining Agricultural Rates	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26
2011 Study BASE	\$21.30	\$21.91	\$22.51	\$23.11	\$23.71	\$24.82	n/a	n/a
2011 Study @10% Increase	\$27.52	\$29.86	\$32.40	\$35.16	\$38.14	\$41.39	n/a	n/a

► Economic Evaluation Conclusions:

- A 10% increase in Ag Rates would fallow 0.11% of land after 10 years
- A 25% increase in Ag Rates would fallow 3.5% of land after 10 years

Projected Remaining Agricultural Rates	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26
2017 Current Ag Rate Projection	\$27.02	\$29.10	\$31.34	\$33.75	\$36.35	\$39.15	\$42.16	\$45.41
2011 Study Ag Rate Projection @10% Increase Delta	(\$0.50)	(\$0.76)	(\$1.06)	(\$1.41)	(\$1.79)	(\$2.24)	n/a	n/a

► Staff Analysis of Economic Evaluation Conclusions:

Calendar Year	Fruit and Nuts	Field Crops	Onions and Garlic	Vegetables	Processed Tomatoes	Grapes	Dryland Hay	Total
	<i>Acres Harvested</i>							
2011	1,197	1,339	520	9,248	1,060	1,550	3,510	18,424
2017	1,613	1,195	784	13,224	322	1,601	4,044	22,783
Acres Delta	416	(144)	264	3,976	(738)	51	534	4,359
Acres Delta %	35%	-11%	51%	43%	-70%	3%	15%	24%

► Potential factors contributing to the 24% increase in harvested acreage:

- Drought
- Central Valley water management
- Transition to higher value crops
- Irrigation efficient technologies
- SCVWD Ag Rates

Recommendation

6.b

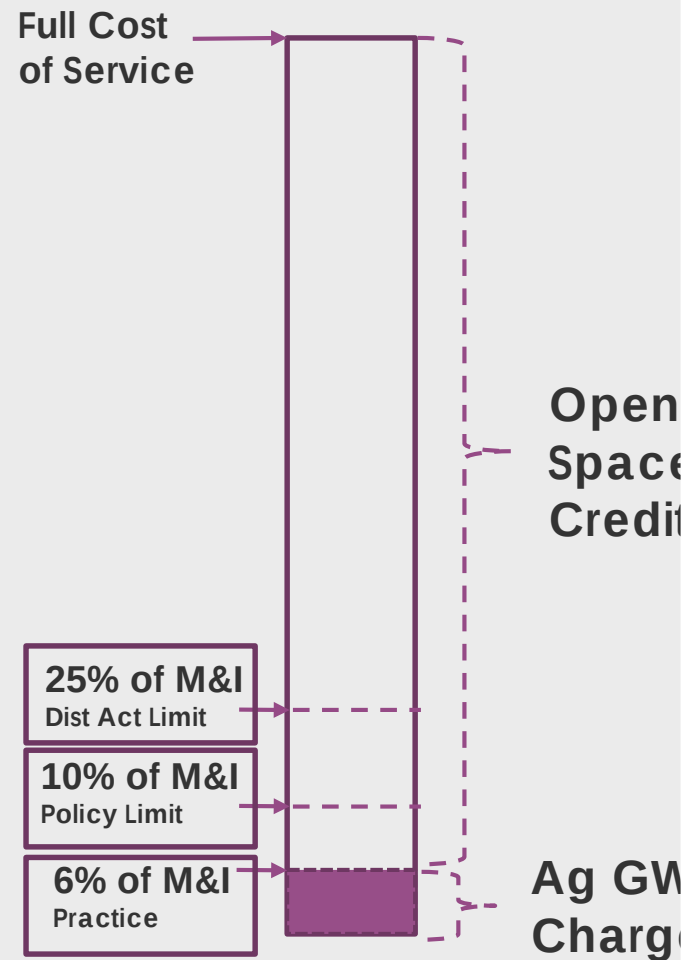
- ▶ **Increase Agricultural Rates to 10% of M&I over a 7-Year period**
- ▶ **Proceed with an adjustment program for Williamson Act and Conservation Easement participants that would hold their agricultural water charge to 6% of M&I**
- ▶ **Provide further direction as necessary for the FY 20 rate setting cycle**

Back Up Slides

What is the Open Space Credit (OSC)?

6.b

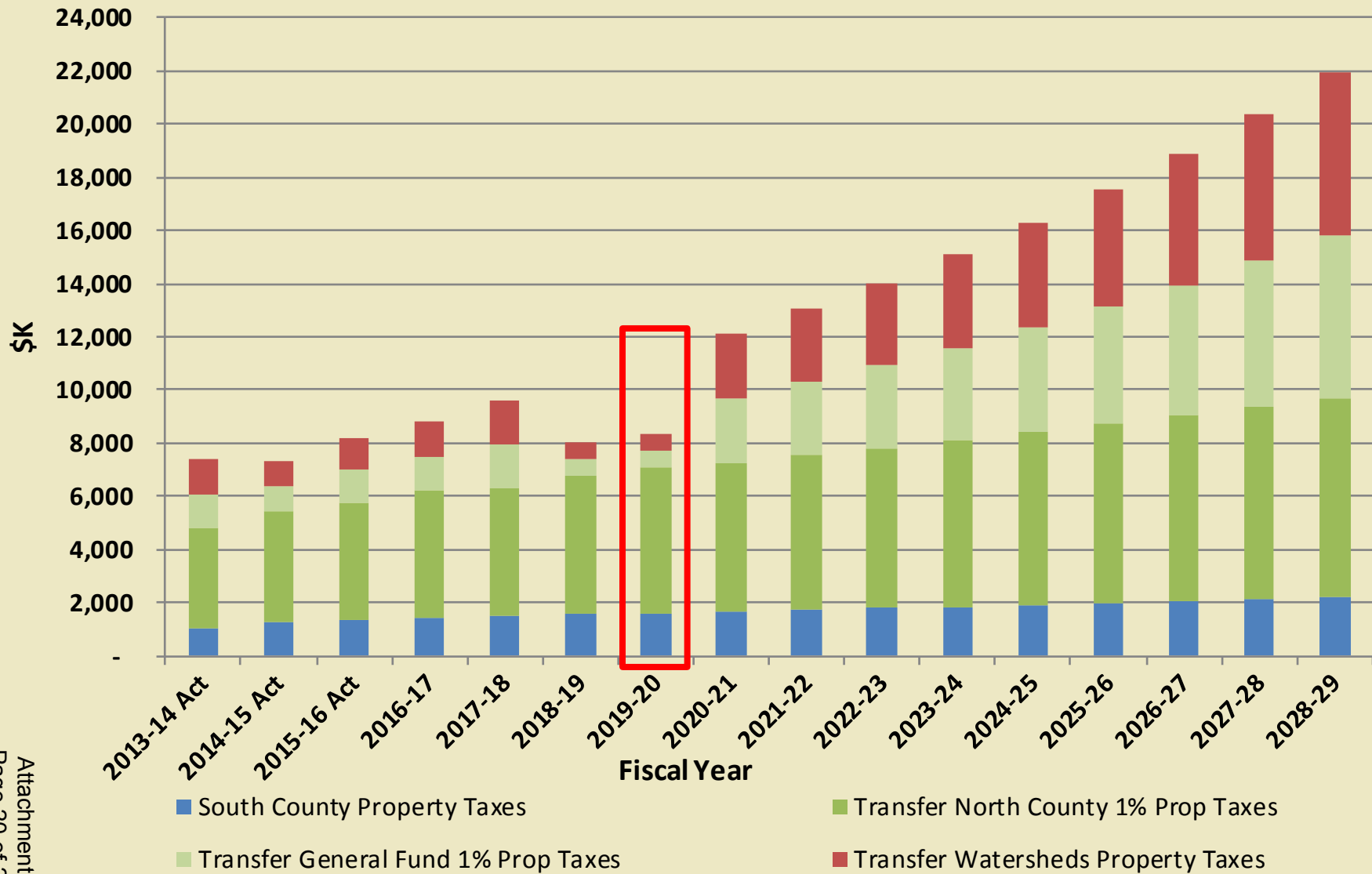
- ▶ **Formal definition:** “The use of non-rate related revenue to offset reduced agricultural revenue as a result of keeping agricultural rates lower than needed to recoup the full cost of service”
- ▶ **Applies to agricultural water users only, not to all open space**



Attachment: Valley Water Presentation on Open Space Credit (2295 : Resolution on

Open Space Credit: Preliminary Projection

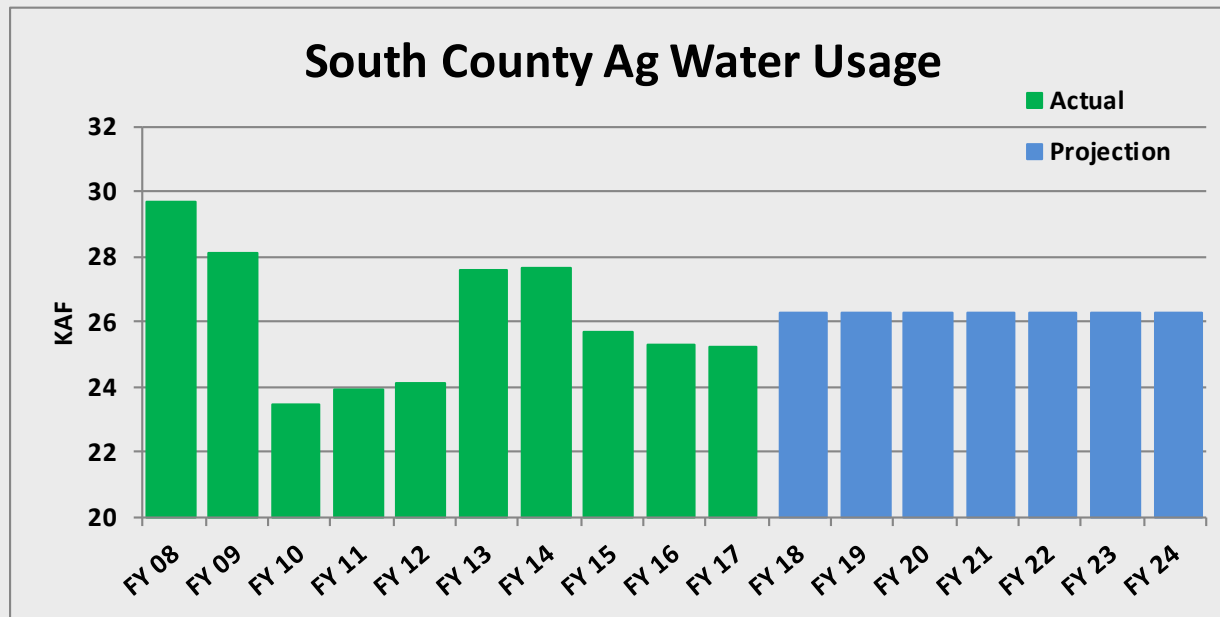
6.b



Agricultural Water Use Projection

6.b

- ▶ Santa Clara Farm Bureau confirms that flat ag water use projection for next 5 to 10 years is reasonable
- ▶ Consistent with current staff projection



▶ If ag water use ramps down to 90% of current projection by FY 30, then OSC savings would be \$11M over that timeframe

Pre-1991

- ▶ Ag charge set at 25% of M&I charge

1991

- ▶ Board implements “Open Space Credit” to avoid spike in Ag charge (caused by drought) that would have threatened viability of agriculture in the county
 - ▶ Board establishes practice of setting Ag charge at 10% of M&I

1999

- ▶ Board practice to set Ag charge at 10% of M&I becomes policy under Resolution 99-21

2011

- ▶ Open Space Credit methodology changes to conform to Proposition 218

At February 12, 2013 Board meeting, Board expressed concern about the sustainability of the Open Space Credit and requested stakeholder engagement.

- 1. Contracted with Economic Consultant, era economics LLC**
- 2. Established a Working Group**
- 3. Conducted Community Stakeholder Meeting**
- 4. Obtained feedback from 3 Advisory Committees**
- 5. Reviewed Findings with Board on 11/12/13**

► Constructed an economic model of agriculture in Santa Clara County

► 3 scenarios with 10 year phase-in

- Baseline (Maintain Ag Charge at 6% of M&I rate)
- 10 % of M&I rate
- 25 % of M&I rate

Scenario	Permanent Fallow (acres)	% Change in Irrigated Acres	Irrigated Acre
Baseline	-	-	15,668
10% of M&I	17	0.11%	15,651
25% of M&I	549	3.50%	15,119

¹ Harvested acreage includes an additional 3,650 acres of grain hay

► Constructed an economic model of agriculture in Santa Clara County

► 3 scenarios with 10 year phase-in

- Baseline (Maintain Ag Charge at 6% of M&I rate)
- 10 % of M&I rate
- 25 % of M&I rate

Scenario	Permanent Fallow (acres)	% Change in Irrigated Acres	Irrigated Acre
Baseline	-	-	15,668
10% of M&I	17	0.11%	15,651
25% of M&I	549	3.50%	15,119

¹ Harvested acreage includes an additional 3,650 acres of grain hay

1. **Maintain Open Space Credit Policy language as is (limit Ag charge to 10% of M&I charge)**
 - Staff to continue referring to the Board's policy as the "Open Space Credit Policy"
2. **Explore other sources of funding to improve the financial health of the Watershed Stream Stewardship Fund**
3. **Maintain the South County agricultural charge at 6% of M&I**
 - Continue practice of setting the North County Ag charge equal to South County Ag charge

Board direction as of November 2016 has been consistent

- Study prepared by era economics LLC
- Ecosystem service benefits of Agricultural lands quantified below:

Service	Low Value per acre	High Value per acre
Flood Control	\$40	\$85
Recharge	\$55	\$70
Water Quality	\$25	\$30
Pollination	\$20	\$65
Bio diversity	\$20	\$30
Open Space	\$450	\$1,000
Total	\$610	\$1,280

RESOLUTION NO: 19-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL OPPOSING A REDUCTION IN THE OPEN SPACE CREDIT AGRICULTURAL WATER RATE SUBSIDY

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; and

WHEREAS, Valley Water has historically subsidized water rates for agricultural users using the “Open Space Credit” to backfill lost revenues; and

WHEREAS, funding sources for the Open Space Credit may not be adequate to permanently fund the Open Space Credit in the future; and

WHEREAS, Valley Water is considering a reduction in the Open Space Credit subsidy for agricultural rates; and

WHEREAS, the City values its agricultural neighbors and the vital role they play in contributing to the South County economy, in providing lands for water to infiltrate into the groundwater, and in preserving an open semirural atmosphere; and

WHEREAS, the cost of water is a major economic factor for agricultural operations and increases in the cost of water could threaten the economic viability of some farms; 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. The City of Morgan Hill supports delaying any reductions in the Open Space Credit for the next two years; and
- b. The City of Morgan Hill encourages Valley Water to seek out additional permanent funding sources for the Open Space Credit during the two-year period; and

- c. The City of Morgan Hill encourages Valley Water to establish a voluntary land fallowing program in which agricultural operations would receive compensation for significantly reducing their use of water during droughts and other water shortage events.

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 1st day of May 2019 by the following vote:

AYES:	COUNCIL MEMBERS:	
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

IRMA TORREZ, City Clerk

∞ CERTIFICATION ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 19-XXX, adopted by the City Council at the meeting held on May 1, 2019.

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

DATE: _____

Irma Torrez, CITY CLERK

DRAFT



Meeting Minutes City Council

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

Wednesday, April 17, 2019 5:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council was called at 5:00 p.m. for the purpose of conducting Planning Commission interviews.

5:00 p.m. Planning Commission interviews

7:00 p.m. Regular Meeting

TELECONFERENCE

Council Member Martinez Beltran participated in the meeting via teleconference as follows:

Crown Paradise Club Puerto Vallarta
 Sala de Hospitalidad
 Las Garzas 3, Zona Hotelera
 Zona Hotelera Nte., 48333
 Puerto Vallarta, Jal., Mexico

Public comment from the teleconference location was allowed.

SPECIAL MEETING

5:00 P.M.

Minutes Acceptance: Minutes of Apr 17, 2019 5:00 PM (CONSENT CALENDAR)

CALL TO ORDER

Mayor Constantine called the special meeting to order at 5:16 p.m.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Rich Constantine	Mayor	Present	
Rene Spring	Mayor Pro Tem	Present	
Yvonne Martinez Beltran	Council Member	Remote	
Larry Carr	Council Member	Present	
John McKay	Council Member	Present	

DECLARATION OF POSTING AGENDA

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

PLANNING COMMISSION INTERVIEWS

1. INTERVIEWS TO FILL SIX (6) SEATS ON THE PLANNING COMMISSION

Recommendation:

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

Mayor Constantine introduced the item. The Council shared what they are looking for in Planning Commissioners.

The following people were interviewed:

Joe Mueller
Chris Wood
James Dill
Juan Miguel Munoz-Morris
Laura Gonzalez Escoto
Liam Downey
Malisha Kumar
Paul Morgan
Sally Casas
Victor Gaxiola
Wayne Tanda

The following applicants were interviewed on February 20, 2019 and did not re-interview:

Andrew Froumis
Chip Williams
Ken Murray

The Council re-appointed Joe Mueller, Liam Downey, Juan Miguel Munoz-Morris, and Wayne Tanda to serve on the Planning Commission with terms ending June 1, 2023 and appointed Laura Gonzalez Escoto and Malisha Kumar to fill the two vacancies on the Planning Commission with terms ending June 1, 2021.

RESULT: APPOINT

THE SPECIAL MEETING ADJOURNED AT 7:26 P.M.

REGULAR MEETING

7:00 P.M.

The regular meeting was called to order at 7:28 p.m.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Spring spoke regarding his outside assignment on the South County Regional Wastewater Authority (SCRWA). He shared that the wastewater treatment plant co-owned with the City of Gilroy was named first place winner in California by the Environmental Association for the 2018 Plant and Operator of the Year. He shared that he just got back from traveling in Spain and encouraged everyone to go. He also mentioned that he traveled to India recently for work and commented that whenever he is there and sees the extremes between the haves and have nots, he is grateful to live in Morgan Hill.

PRESENTATIONS

YOUTH ACTION COUNCIL ASSET # 9 - SERVICE TO OTHERS

CITY MANAGER'S REPORT

City Manager Christina Turner spoke regarding the evening's supplements and presentations. She then provided her quarterly City Manager's recognitions.

CITY MANAGER QUARTERLY RECOGNITIONS

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin shared that the City is very close to completing the property acquisitions for the Hale Avenue Extension project which will provide an important north/south corridor for people living on the west side of Monterey Road. The only piece of property left to acquire is owned by PG&E. Last year the Council adopted a declaration of necessity which would allow us to use eminent domain to acquire that property. We initiated those proceedings last November; shortly after that, PG&E declared bankruptcy. What happens when a company declares bankruptcy is that all civil actions are stayed. Initially we thought we would have to wait until the bankruptcy was over in order to complete our property acquisition, however, with the help of outside bankruptcy counsel, we have been able to negotiate a stipulated judgment with PG&E in the bankruptcy court that would allow us to move forward with that property acquisition and give PG&E the ability to enter into a settlement agreement. We negotiated the proposed order along with the cities of Oakland and some other public agencies. The order was approved last week, which means that we can move forward with the acquisition of the last remaining property needed to start the project.

OTHER REPORTS

None.

PROCLAMATIONS

Proclaiming the Week of April 14th through April 20th as
National Telecommunicator's Week

LEGISLATIVE UPDATE

ASSEMBLY MEMBER ROBERT RIVAS

RECOGNITIONS

Daniel Redfield and Norma Bussing for their Service on the Library, Culture, and Arts Commission

PUBLIC COMMENT

The public comment was opened at 8:24 p.m.

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rene Spring, Mayor Pro Tem
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Spring, Martinez Beltran, Carr, McKay

CONSENT CALENDAR

MOTION:

Approving consent calendar items 2 through 10, 12, and 13.

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

2. APPROVE SECOND AMENDMENT TO SERVICE AGREEMENT FOR DESIGN PROFESSIONALS WITH MARK THOMAS & COMPANY FOR THE HALE AVENUE EXTENSION PROJECT

Recommendation:

1. Approve Second Amendment to Service Agreement for Design Professionals with Mark Thomas & Company for additional scope of services for the Hale Avenue Extension Project to a revised not to exceed total of \$583,433; and
2. Authorize the City Manager to execute and administer the amended agreement.

3. APPROVE THIRD AMENDMENT TO AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.

Recommendation:

1. Approve the Third Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. to a revised not exceed total of \$145,000 for four years; and
2. Authorize the City Manager to execute and administer the amended agreement.

4. APPROVAL OF DENNIS KENNEDY AQUATICS CENTER CONCESSIONAIRE LICENSE AGREEMENT

Recommendation:

Authorize the City Manager to execute, administer, and further negotiate as necessary a Concessionaire License Agreement with Sycamore Concessions Corporation for the provision of food and beverage concessions at the Morgan Hill Dennis Kennedy Aquatics Center.

5. ACCEPT FUNDS FROM THE SANTA CLARA COUNTY OFFICE OF EMERGENCY SERVICES/ DEPARTMENT OF HOMELAND SECURITY FOR PORTABLE BARRICADE SYSTEM

Recommendation:

1. Adopt a resolution:
 - a. Accepting grant funds from the Santa Clara County Office of Emergency Services via the Department of Homeland Security in the amount of \$90,000, for the purchase of portable vehicle incursion barriers; and
 - b. Amending the adopted Fiscal Year (FY) 2018-19 budget in the General Fund to recognize the Santa Clara County Office of Emergency Services/ Department of Homeland Security funds as revenue, and appropriate \$90,000 in the Police Department budget for the capital expenditures; and
2. Authorize the City Manager to approve purchase order in the amount of \$90,000 with Delta Scientific Corporation.

6. APPROVE PURCHASE OF THREE HEART MONITOR AND DEFIBRILLATOR DEVICES

Recommendation:

1. Adopt resolution amending the City's adopted Fiscal Year (FY) 2018-19 Budget to appropriate \$40,000 from the General Fund (010) for the purchase of three Advanced Life Support (ALS) Heart Monitor Defibrillator devices; and
2. Authorize the City Manager to approve the purchase order in the amount of \$121,162, for the purchase of said devices from Physio-Control, Inc.

7. APPROVE 3 YEAR PROPERTY LEASE AGREEMENT WITH MONUMENT (TECCHON) CONSTRUCTION AT 16200 VINEYARD BOULEVARD

Recommendation:

Approve and authorize the City Manager to amend and execute a new Standard Lease Agreement with Monument Construction dba Techcon for the property located at 16200 Vineyard Blvd with an initial annual lease amount of \$68,424.

8. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR FISCAL YEAR 2019-20

Recommendation:

Approve Fiscal Year (FY) 2019-20 Community Promotions funding requests totaling \$47,000.

9. APPOINT EMERGENCY STANDBY COUNCIL

Recommendation:

Appoint former City Council Members Steve Tate, Caitlin Jachimowicz, Marilyn Librers, Marby Lee, Greg Sellers, and Mark Grzan as Emergency Standby Council Members to be called upon as needed in the event of an emergency.

10. ACCEPT FEBRUARY 2019 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

11. ITEM PULLED FOR SEPARATE VOTE

12. ADOPT ORDINANCE 2301 NEW SERIES, AMENDING REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES REGARDING POLE-MOUNTED WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

Recommendation:

Waive the reading, adopt Ordinance No. 2301, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

13. APPROVE THE APRIL 3, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

ITEM PULLED FOR SEPARATE VOTE

11. ADOPT ORDINANCE 2300 NEW SERIES, APPROVING DEPOT-LATALA DEVELOPMENT AGREEMENT TO CONFIRM RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCA) PUBLIC BENEFIT COMMITMENTS FOR 49 DOWNTOWN RDCA BUILDING ALLOTMENTS. THE PROPERTY, IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-13-049, IS LOCATED ON THE EAST SIDE OF DEPOT STREET, NORTH OF EAST DUNNE AVENUE

Recommendation:

Waive the reading, adopt Ordinance No. 2300, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

MOTION:

Approving the recommended action.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Larry Carr, Council Member
SECONDER:	Rene Spring, Mayor Pro Tem
AYES:	Constantine, Carr, McKay
NAYS:	Spring, Martinez Beltran

PUBLIC HEARING

14. APPROVE SOLID WASTE MANAGEMENT RATE ADJUSTMENT FOR 2019

Recommendation:

Adopt resolution approving an adjustment in the maximum allowable solid waste charges effective July 1, 2019.

Program Administrator Anthony Eulo presented the report.

The public hearing was opened at 8:49 p.m.

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

MOTION:

Approving the recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Spring, Martinez Beltran, Carr, McKay

CONTINUED PUBLIC HEARINGS

15. ADOPT RESOLUTION UPDATING THE CITY'S SELECT DEVELOPMENT IMPACT FEES - ITEM CONTINUING TO THE MAY 15, 2019 CITY COUNCIL MEETING

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Spring requested that staff bring a climate action resolution back to council.

Council Member McKay would like to spend some time discussing the homeless issues with the community and the Gilroy City Council.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:00 p.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk

DRAFT



Meeting Minutes City Council

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

Wednesday, April 17, 2019 7:30 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL MEETING

A Special Meeting of the City Council was called at 7:30 p.m. for the purpose of conducting city business.

TELECONFERENCE

Council Member Martinez Beltran participated in the meeting via teleconference as follows:

Crown Paradise Club Puerto Vallarta Sala de Hospitalidad Las Garzas 3, Zona Hotelera Zona Hotelera Nte., 48333 Puerto Vallarta, Jal., Mexico

Public comment from the teleconference location was allowed.

CALL TO ORDER

Mayor Constantine called the meeting to order at 7:35 p.m.

ROLL CALL

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Rich Constantine	Mayor	Present	
Rene Spring	Mayor Pro Tem	Present	

Minutes Acceptance: Minutes of Apr 17, 2019 7:30 PM (CONSENT CALENDAR)

Yvonne Martinez Beltran	Council Member	Remote	
Larry Carr	Council Member	Present	
John McKay	Council Member	Present	

DECLARATION OF POSTING

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

OTHER BUSINESS

1. **ADOPT RESOLUTION CERTIFYING THE REFERENDUM PETITION REGARDING ORDINANCE NO. 2295, NEW SERIES (AMENDING THE PLANNED DEVELOPMENT MASTER PLAN FOR THE “MADRONE VILLAGE SHOPPING CENTER” LOCATED ON THE NORTHWEST CORNER OF MADRONE PARKWAY AND COCHRANE ROAD) (ASSESSOR’S PARCEL NUMBERS 726-33-029, 030, AND 031)**

Recommendation:

1. Adopt resolution accepting the City Clerk’s Certificate of Sufficiency for the Referendum Petition Regarding Ordinance No. 2295, New Series; and
2. Direct staff to prepare a staff report for the May 15, 2019 City Council meeting for the Council to consider next steps.

Deputy City Clerk Michelle Bigelow presented the report.

The public comment was opened at 8:56 p.m.

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

MOTION:

Approving the recommended actions.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	Rene Spring, Mayor Pro Tem
AYES:	Constantine, Spring, Martinez Beltran, Carr, McKay

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:57 p.m.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

PREPARED BY: Chris Ghione, Public Services Director
APPROVED BY: City Manager

ACCEPT 2019 CITY INFRASTRUCTURE UPDATE REPORT

RECOMMENDATION(S)

Accept the updated 2019 Report on City Infrastructure.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Fiscal Responsibility

2019 Strategic Priorities

Infrastructure

GUIDING DOCUMENTS

Bikeways

Trails

Parks and Recreation Masterplan

Sewer System Master Plan

Water System Master Plan

POLICY CONSIDERATIONS:

This report is intended to provide an overview of the various issues the City is facing in relation to maintaining the various areas of infrastructure for which the City is responsible. The report reviews service levels and funding considerations. The timing of the report is intended to provide the City Council an opportunity to receive information on these issues ahead of the mid-cycle Budget Review for the adopted Fiscal Year (FY) 2018-19 and 2019-20 biennial budget. The 2019 Infrastructure Report is very similar to the report provided in 2018, with some additions and updates, including:

- Additional detail on Open Space Maintenance
- Discussion on herbicide use in Parks
- The inclusion of information from the 2019 Wastewater Rate Study
- Confirmed Funding for Pavement Rehabilitation from Measure B
- Funding appropriated in the adopted FY 2018-19 and 2019-20 Biennial Budget

The 2019 Report is included as Attachment 1.

COMMUNITY ENGAGEMENT: Inform

The purpose of this report is to inform the Council and community of the status of the City's Infrastructure.

ALTERNATIVE ACTIONS:

This report is intended to provide information only, as such, there are no alternative actions.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Previous Infrastructure Reports were provided to the City Council in November 2014 and April 2018.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with receiving this report. Preparation of this report is an activity of the Community Services Department's annual workplan.

CEQA (California Environmental Quality Act):

Categorical Exemption

Discussion of this report is exempt from CEQA under Public Resources Code § 21102, 21150 (Feasibility or planning studies for possible future actions that the agency has not approved, adopted, or funded).

LINKS/ATTACHMENTS:

1. 2019 Infrastructure Update Report

INFRASTRUCTURE UPDATE REPORT

City of Morgan Hill

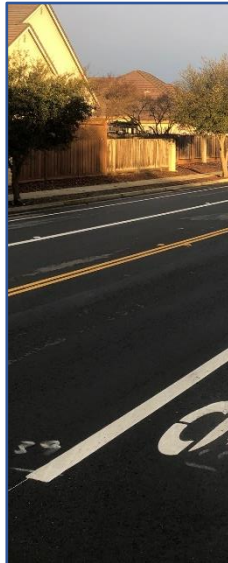


Table of Contents

Introduction and Summary.....	3
Buildings and Facilities	7
Downtown.....	11
Landscape Assessment District.....	12
Parks, Trails and Open Space	14
Storm Water Collection System	16
Streets and Sidewalks	17
Wastewater System.....	20
Water System.....	22

Appendices/Weblinks

Bikeways, Trails, Parks & Recreation Master Plan –

<http://www.morganhill.ca.gov/1429/Master-Plan-for-Parks-Trails-and-Bikeway>

2018 Engineers Report for the Landscape Assessment District –

<http://morganhillca.igm2.com/Citizens/FileOpen.aspx?Type=4&ID=3363>

Storm Water Memo - <http://www.morganhill.ca.gov/DocumentCenter/View/22850>

2013 Sustainable Streets Study - <http://www.morganhill.ca.gov/DocumentCenter/View/22852>

2017 Pavement Condition Report - <http://www.morganhill.ca.gov/DocumentCenter/View/22851>

Water System Master Plan - <http://www.morganhill.ca.gov/1646/Utilities-Master-Plans>

Water & Wastewater Rate Study - <http://www.morganhill.ca.gov/DocumentCenter/View/17363>

2019 Wastewater Rate Study -

<https://www.morgan-hill.ca.gov/DocumentCenter/View/24328/2019-Wastewater-Rate-Study>

Wastewater System Master Plan - <http://www.morganhill.ca.gov/1646/Utilities-Master-Plans>

Sanitary Sewer Management Plan - <http://www.morganhill.ca.gov/589/Sewer-Division>

Acknowledgements

This report was developed “in-house” by teammates within the Community Services Department and the Engineering and Utilities Department.

Introduction

Purpose of the Report

The City of Morgan Hill's infrastructure is a very diverse system that supports a number of essential community needs and is utilized by both residents and visitors. Maintenance of this infrastructure is an expensive endeavor for the City, and one that is vital for public safety, economic development, and quality of life. Well-maintained infrastructure is a critical element for a "Sustainable Morgan Hill" that is safe, inclusive, socially responsible, environmentally conscious, and economically sound. This report is intended to provide an overview of the various issues the City is facing in relation to maintaining the various areas of infrastructure. In particular, the service levels and funding considerations are reviewed. The report has been amended and updated from the 2018 report based on new/updated information, changes in funding and changes in maintenance practices. However, the report format and material is very similar to the report provided in 2018. Major changes include:

- Additional detail on Open Space Maintenance
- Discussion on herbicide use in Parks
- The inclusion of information from the 2019 Wastewater Rate Study
- Confirmed Funding for Pavement Rehabilitation from Measure B
- Funding appropriated in the adopted Fiscal Year (FY) 2018-19 and 2019-20 Biennial Budget

The timing of the report is intended to provide the City Council an opportunity to receive information on these issues ahead of the development mid-cycle review of the adopted FY 2018-19 and 2019-20 biennial budget.

Overview

The City of Morgan Hill has the responsibility of planning, constructing, and maintaining infrastructure to meet the needs of the community, which can be divided into two categories: 1) those needed to accommodate new growth; and 2) those needed to maintain the existing system. The City utilizes "development impact fees" charged to new development in order to mitigate the impacts of new growth on the existing community. This funding source can only be used to pay for projects to expand the City's infrastructure capacity and not for ongoing maintenance. To fund maintenance activities, the City primarily relies on General Fund revenues or customer charges. This report attempts to answer two foundational questions:

1. What is the City's existing infrastructure maintenance needs?
2. Are there existing funding gaps?

The City owns, operates and maintains a variety of infrastructure assets. For the purpose of this report the areas are broken down into the following areas:

- | | |
|---------------------------------|-------------------------------|
| • Buildings and Facilities | • Storm Water Drainage System |
| • Downtown | • Streets and Sidewalks |
| • Landscape Assessment District | • Wastewater System |
| • Parks, Trails and Open Spaces | • Water System |

For each of these areas, a section of this report has been established to focus on both funding associated with the day to day operations and the capital projects. Each section discusses conditions, developments, and opportunities associated with that specific area of infrastructure. The sections also provide policy questions for the Council to consider for future decision making.

Summary of Current Infrastructure Needs and Funding Sources

The matrix on the next page outlines the primary funding and current status for each of the infrastructure areas. The current level of unfunded maintenance is at approximately \$3.4 million, which is down from \$5.8 million identified in 2014 and down over \$200,000 from 2018. This reduction from 2014 is primarily due to the additional revenue for pavement maintenance that the City is receiving and reduction from 2018 is due to the increased contributions to the Building Replacement Fund. The \$3.4 million does not include the future anticipated funding needs related to park maintenance and storm water, nor does it account for actions necessary to deliver the future capital project needs related to the Water and Wastewater Enterprises. In addition, reducing the unfunded maintenance needs itemized, the City has proactively moved forward to address Water System capital project needs through an updated development impact fee study and Wastewater Capital Improvement needs through a rate study. The City has also begun to address the long-term Park Maintenance Fund issues by increasing the General Fund contribution in that area.

Areas of Infrastructure Summary Primary Funding Sources	Current Status
Buildings and Facilities • General Fund Non-Discretionary Revenue (Rec Facilities) • General Fund Discretionary Revenue • Other funds based on percentage use of facilities • Recreation Center Impact Fees (expansion)	• Facilities are well maintained • Base Level Operations are fully funded • \$257,100 annually in unfunded future capital replacement costs • Majority of unfunded capital replacement costs are with the OSC and the new operator agreement may significantly fund
Downtown • General Fund Discretionary Revenue • Public Facilities Fund - Developer Contributions	• Facilities are well maintained • Base Level Operations are fully funded • There may be a need for additional maintenance resources as the Downtown continues to grow.
Landscape Assessment District (LAD) • Property Tax Assessments for those within District	• Maintenance levels vary by subarea: 11 areas are well maintained, 5 areas are average, 4 areas maintained below average or poorly • \$41,990 in unfunded maintenance needs
Parks, Trails and Open Spaces • Park Maintenance Fund - Developer Contributions • General Fund Discretionary Revenue	• Facilities are maintained in average condition • Additional annual investment of an undetermined amount would be necessary to maintain the parks in above average condition • Base Level Operations Funding is in jeopardy due to declining RDCS revenues. Park Maintenance Fund balance will be depleted within 12 years, utilizing current funding strategy (~\$700,000/yr) • \$586,000 in annual future replacement needs are unfunded
Storm Water Drainage System • General Fund Discretionary Revenue • Storm Drain Fund - Prior Developer Contributions • Storm Drain Impact Fees (expansion)	• Facilities are well maintained • No identified funding for future capital needs • Funding available (Impact fees) to connect to Water District Flood Control Project • New State regulations may require millions in capital investment over the next decade
Streets and Sidewalks • Gas Tax (Including New SB1 Revenue) • VTA Passthrough of Vehicle Registration Fees • Grant Funds - Includes One Bay Area Grant • New VTA Measure B Sales Tax Revenue • General Fund Discretionary Revenue • School Pedestrian Safety Fund - Developer Contributions • Public Facilities Fund - Developer Contributions	• City Streets and Sidewalks are well maintained • 2017 Citywide weighted average pavement condition "very good" • \$193,000 in annual revenue is needed to fully fund basic maintenance • \$2.3 million annually in unfunded capital street repair • Ongoing sidewalk repair funding and other street related enhancements may be impacted in the future due to declining RDCS revenues.
Wastewater System • Customer Charges • Sewer Impact Fees (expansion)	• System is well managed, but in need of significant capital rehabilitation work related to infiltration and inflow issues • Base Level Operations are near fully funded with requests for new technology and equipment to improve efficiency • Increased funding for capital projects for rehabilitation and expansion is necessary and included in current rate study
Water System • Customer Charges • Water Impact Fees (expansion)	• System is well maintained • Base Level Operations are near fully funded with requests for new technology and equipment to improve efficiency • Increased funding for capital projects and expansion is necessary and included in current impact fee study.

Infrastructure Considerations

There are several considerations the City must continue to review as the City continues to develop its strategies to maintain its infrastructure at a high level. Some of the general considerations are outlined below:

Decline in prior revenues – The significance of the loss of Redevelopment Agency (RDA) continues to grow for the City. The RDA previously was able to expend dollars to offset impact fees and General Fund Revenues in support of economic development, fund the construction of major infrastructure projects, and support the maintenance of the facilities it owned. For many years, the Residential Development Control System (RDCS) competition resulted in significant funds to support maintenance and rehabilitation projects for City infrastructure. As the City has slowed growth and updated the competition, it appears the voluntary contributions from developers will decline significantly. This may be a consideration to review prior to the next competition.

New Requirements – The City often has to fulfill requirements developed by the State and other regulating entities. The City has commitments relating to future Wastewater System projects that must be completed in the next five years. The City is also anticipating increased requirements resulting in new projects for the Storm Water system in the next decade.

Economic Development and Impact Fees – The City is currently conducting an updated impact fee study. When this item returns to Council for review, a policy question will undoubtedly be how the updated fees impact economic development and the attraction of new businesses. At the same time, the importance of collecting full fees cannot be understated, as these fees are necessary to fund the basic infrastructure necessary to attract these businesses.

Impact of Visitors – Visitors to Morgan Hill support economic development through increased sales tax and transient occupancy tax revenues. These same visitors impact City services and infrastructure. Maintaining the infrastructure of the City roadways and facilities is needed to support tourism through quality visitor experiences. Consideration of increased fees (facility fees at the OSC) or Transient Occupancy Tax (TOT) revenues for those visiting be may another consideration.

Construction Costs of the Area – A major factor magnifying the infrastructure funding issue is construction costs, which have increased nationwide, but have increased even more severely in the Bay Area.

New Revenues and Opportunities – Recent legislative actions have provided for new revenues, including approximately \$1.6 million in funding annually for pavement maintenance from the VTA Measure B sales tax increase and State Senate Bill 1 (SB1) increasing the gas tax. Until the recent passage of SB1, the real value of gas tax revenues dropped for decades, contributing to the backlog in pavement maintenance across the State of California. Additionally, the recent passage of State Senate Bill 231 in October 2017 may provide an opportunity to collect revenues to support storm water management.

Funding Options – The City has reviewed a number of options over the last two years to fund infrastructure. These options may continue to be opportunities the City Council considers going forward. Options include:

- **New Tax Revenue Source** – Some communities have successfully passed ballot measures to increase local taxes. The most recent polling that was conducted did not show a desire from residents for an increase in taxes.
- **New or Expanded Mello-Roos Community Facility Districts (CFD)** – A form of financing district could be created which would be responsible for the care and maintenance of a portion of the City's Street Infrastructure or the City's Parks. Financing districts typically require approval (typically 2/3 majority) by the property owners within the district's boundaries. Revenues are generated from property owners and are levied annually against property within the district. It may be possible to expand the City's current Landscape Assessment District (LAD) to encompass all the City. There are a variety of opportunities for

expanding the financing districts in addition to the current LAD. City staff have continued to review this option, but were previously deterred, as it was believed a new assessment would poll similarly to the tax measures previously discussed with the community. However, more recently City staff have been considering an option where the format of a District may be flexible in applying assessments based on current residents versus future residents. Staff plan to continue to review this option and return to Council if it is found to be a viable opportunity.

- **Increase Fees** – The considerable capital projects outlined in the Wastewater (Sewer) System Masterplan that consist of repairs to existing system are currently underfunded. Existing wastewater rates are currently in the process of being updated to ensure the necessary capital projects can be constructed. .
- **Dedication of increased General Fund Revenues for Infrastructure** - It is at the City Council's discretion to decide on utilization of any amount of General Fund dollars to support the maintenance of infrastructure. However, any use of General Fund resources would mean a reduction in service in another area and could have an adverse impact on the community.

Next Steps

This report has been developed to provide the City Council and community background information and the current status of the City's infrastructure in preparation for the mid-cycle budget review. The considerations outlined in the report have been developed for the Council to continue the discussion on infrastructure funding and maintenance on an ongoing basis.

Buildings and Facilities

The City owns 13 facilities that are operated for a variety of public purposes including facilities operated and maintained by the City and others operated and maintained by partner organizations. These facilities include the two City Fire Stations, City Hall/Development Services Center, Council Chambers Building, Police Station, Corp Yard, Library, Aquatics Center, Centennial Recreation Center, Community and Cultural Center, Friendly Inn Non-Profit Center, El Toro Youth Center, and Outdoor Sports Center.

Revenue Support

Maintenance of City facilities is funded via the fund that uses the facility. The City's Recreation Centers, although part of the General Fund, recover costs through user fees for operations, including facility maintenance. Other City facility maintenance funding is provided through the funds that fund the departments that use each of the facilities. For example, the maintenance of the Corporation Yard is funded through the Water Fund, Wastewater (Sewer) Fund, Park Maintenance Fund, and the General Fund.

Base Service Operations

Facility maintenance is managed by the Community Services Department. In some cases, facilities are maintained through agreements with partner organizations (CALFIRE, County Library, Boys & Girls Club and the MHOSC). The current base level maintenance services are fully funded and being provided at an adequate to high level throughout all the City facilities.

Capital Replacement

Each facility has a future replacement schedule that has been developed for the facility. For a significant period of time funding was not adequate to fully fund the replacement schedules for the City facilities, however, during the FY 2018-19 and 2019-20 Budget process, significant increases in funding were made. Most of the City facilities are now fully funded for these replacement costs. It is now estimated that the facility replacement fund is underfunded by approximately \$257,000 annually. However, majority of that funding is needed at the Outdoor Sports Center, which has a new operating agreement designed to address this funding deficit. The table below outlines each facility, current replacement funding, and the current funding gap.

Facility Replacement	Current Annual	Recommended Annual	Funding Gap
Aquatics Center	\$ 215,610	\$ 215,610	\$ -
Centennial Recreation Center	\$ 190,141	\$ 190,141	\$ -
Community and Cultural Center	\$ 76,615	\$ 76,615	\$ -
Civic Center	\$ 38,387	\$ 87,772	\$ 49,385
Corporation Yard	\$ 5,290	\$ 23,052	\$ 17,762
Friendly Inn	\$ -	\$ 12,517	\$ 12,517
El Toro Youth Center	\$ -	\$ 6,620	\$ 6,620
Police Station	\$ 121,396	\$ 121,396	\$ -
Outdoor Sports Center	\$ -	\$ 170,818	\$ 170,818
Fire Stations	\$ 26,928	\$ 26,928	\$ -
Total	\$ 674,367	\$ 931,469	\$ 257,102

Infrastructure

6 Recreation Facilities

Police Station

2 Fire Stations

Library

City Hall/Development Services Center

Council Chambers Building

Corporation Yard

The following provides additional information on each of the City facilities noted in the schedule.

Aquatics Center (AC) – The AC was constructed by the former RDA in 2004 and ownership was transferred to the City of Morgan Hill. The Community Services Department budget includes an annual contribution to the Building Replacement Fund for the annual depreciation of the major building and facility systems. The replacement schedule for this facility is fully funded.

Centennial Recreation Center (CRC) – The CRC was constructed by the former RDA and opened in the City's centennial year, 2006. Ownership was transferred to the City which, through the annual Community Services budget contributes to the Building Replacement Fund. The expansion of the CRC in 2010 was paid for by the former RDA since the facility is located in the former Project Area and specifically included in the Redevelopment Plan. There are currently plans to expand the CRC utilizing Recreation Center Impact Funds. The replacement schedule for this facility is fully funded.

Community and Cultural Center (CCC) – The CCC was constructed by the former RDA in 2001 and ownership was transferred to the City of Morgan Hill. The Community Services Department budget includes an annual contribution to the Building Replacement Fund in an amount equivalent to the annual depreciation of the major building and facility systems. The replacement schedule for this facility is fully funded.

El Toro Youth Center – The El Toro Youth Center is leased to Community Christian who now serves as a master tenant at the site coordinating use by Alcoholics Anonymous and Narcotics Anonymous. Community Christian is currently responsible for all maintenance of the facility, but this may not be the case indefinitely and it would be prudent for the City to fund contributions for future maintenance and or replacement. Currently, there is no contribution to the replacement fund for the facility. The City is considering selling the facility and there is no recommendation to increase funding at this time.

Friendly Inn – The Friendly Inn has served the community in a variety of roles for over half of a century. It was renovated by the former RDA in 2010 as a non-profit center. It is now leased to the Boys and Girls Club of Silicon Valley for their El Toro Clubhouse. The Boys and Girls Club subleases a small portion of the building to Advent Ministries. The Boys and Girls Club is responsible for day to day maintenance and operations, but the City still has the responsibility for capital replacement costs. Funding for future replacement would need to be allocated from the General Fund.

Outdoor Sports Center (OSC) – The former RDA purchased the land for the Center and initially leased it to the California Youth Soccer Association to operate as a regional tournament facility. In 2007 the former RDA improved the area with artificial turf fields, parking, lighting, and restrooms. The former RDA conveyed the property to the City which, in turn, has leased it to the Morgan Hill Youth Sports Alliance (MHYSA) for a community serving sports center as well as host for regional tournaments. As previously noted, a replacement schedule and annual operating funding were not initiated when the OSC came online. At the time of opening, the fees for the facility were directly related to recovering costs for operations. Including replacement funding would have more than quadrupled the user fee for use of the facility. Shortly after the initial opening, the City entered into a concessionaire agreement to operate the OSC and it was envisioned that a capital fund would be created. This did not materialize and neither the City nor the operator has contributed significantly to such a fund. In 2017, the City replaced the artificial turf fields at the OSC, without replacement funding established for the OSC, the City was forced to utilize Park Maintenance Funds to keep the facility open. The City will be transitioning to a new operator in July 2019 and the agreement provides a mechanism for replacement funding for the facility. However, it will be important to monitor what levels of replacement funding actually are obtained. At this time there is no recommended increase in contributions to the replacement fund on behalf of the OSC.

Civic Center Campus – The Civic Center includes the City Hall/Development Services Center (CH/DSC), Council Chamber Building and Morgan Hill Library. The Council Chamber Building recently went through a \$2 million dollar renovation to become a state-of-the-art Chamber with new meeting room space, upgraded restrooms, and a new lobby area. It is utilized for City Council, commission, or other public meetings. The current CH/DSC is home to the City's Administrative Services Department, Development Services Department, Engineering Division, City Manager's Office, and City Attorney's Office. The building was remodeled in 2009 using the proceeds from debt issuance. The Library was constructed by the City of Morgan Hill and is leased to the County Library Joint Powers Authority for operations and maintenance. The City is responsible for exterior maintenance only. Increasing the contributions to the replacement fund is recommended for this site.

Police Station – In 2004, the City acquired an industrial building and upgraded the building to serve as an "essential public safety" building and Police Station. The costs were financed via debt issuance. Because the facility was sized to accommodate future growth, a portion of the annual debt service is paid by Police Impact Fees. The balance of debt service is paid as an annual operating cost of the Police Department and charged to the General Fund. The General Fund receives a small amount of revenue from a lease of current excess space to a private party. The replacement schedule for this facility is fully funded.

Corporation Yard – The City's field crews and equipment are housed at the "Corporation Yard" at Edes Court. The land including the adjacent Community Park was acquired by the City decades ago and initially developed as the City's first wastewater treatment facility. In the 1970's, the Corporation Yard was developed with the proceeds of bonds issued by a Joint Powers Agency which included improvements for the school "bus yard" north of Edes Court. The City leases the Bus Yard site to the Morgan Hill Unified School District but is responsible for capital repairs. The City's operating funds of the utilities (sewer and water) and the annual budgets of the streets and parks operations make annual contribution to the Building Replacement Fund. Increasing the contributions to the replacement fund is recommended for this site.

Fire Stations – As part of the transition of CALFIRE in 2013, the City financed the purchase of its two fire stations. The debt service payments are included in the Fire Department's annual operating budget and paid by the General Fund. The base level maintenance of these fire stations is coordinated by CALFIRE as part of the agreement with the City and funded through the General Fund within the Fire Department's operating budget. The replacement schedule for these facilities is fully funded.

Policy Discussion

The City has fully funded the replacement of most of its facilities and there are only recommendations to increase contributions at three of its facilities. The City has an agreement with a new operator for the OSC and the agreement, if successful, will provide replacement funding at the facility. The level of replacement funding will be closely monitored for incorporation into future versions of this report. Overall policy questions for Building and Facility Maintenance include:

1. Should replacement funding at Corporation Yard, Civic Center and Friendly Inn be expanded to fully plan for all future capital replacement and repair costs?
2. Are there additional revenue sources that may be available to fund replacement cost at the Outdoor Sports Center if the new operating agreement is not successful in generating these funds?

Downtown

Maintenance of the Downtown includes a variety of public spaces, landscaping, medians, parks and parking areas. With the recent investments in the Downtown Area, the City has increased its investment in maintaining the area at a high level. The day to day lighting, janitorial and landscaping components are coordinated through ongoing maintenance contracts. City staff from the Community Services Maintenance team regularly repair damage, remove graffiti, and coordinate more complicated maintenance tasks.

Base Service Operations

Base level maintenance services are adequately funded through the General Fund at approximately \$320,000 per year. In FY 2018-19, the Council invested \$15,000 to match funding from the Downtown Association to install new “twinkle” tree lights through the Downtown areas. The funding was one time in nature and replacement of the lights is anticipated to be necessary in FY 2020-21. While the City is maintaining its Downtown facilities in a quality manner, there has been a desire expressed for increased litter cleanup and sidewalk cleaning throughout the Downtown area. This level of service is currently not funded, and the City would need increased funding to provide this additional level of service.

Capital Improvements

The major capital components that would require future capital replacement costs are the Downtown Parking Structure and the Park’s play equipment components. Ongoing funding into a capital replacement fund for the parking garage has been included in the Downtown operating budget. As is the case for all parks, future replacement of the equipment is not funded.

Additional improvements in the Downtown are still planned, including additional in-ground crosswalk lights.

Policy Discussion

As the number of residents and visitors to the Downtown increases, the need for additional litter and cleaning services will also continue to increase. Daily cleaning of litter and sidewalks is not currently provided, should this higher level of service become necessary, additional resources will be required.

- Should the City look to invest additional General Fund dollars in the Downtown to maintain the “twinkle” tree lights on an ongoing basis?
- Should the City look for opportunities to partner with Downtown Businesses in the cleaning and maintenance of the areas directly in front of businesses?
- Should the City begin to consider increasing resources and funding to support future maintenance needs?

Infrastructure

3 Downtown Parks

Public Restrooms

Parking Structure

Parking Lots

Public Art

Sidewalks

Medians

Landscaped Areas

Lighting

City owned retail space



Landscape Assessment District

The LAD is made up of 19 separate subareas that collect assessments from 757 properties located in the District boundaries. While the District is a single entity, each of the 19 subareas must be managed independently. Proper maintenance of the properties benefits the owners. Assessment charges are collected by the County on property tax rolls and remitted to the City. The District revenues and expenses total approximately \$185,000 annually. Of these 19 subareas, 7 contain parks. Each lot within a specific subarea is assessed the same amount to obtain the level of service desired by the subarea residents.

Infrastructure Elements

19 Subareas

757 Assessed Properties

7 Parks

2 Tennis Courts

The requirement for independent financial management of each subarea requires extensive staff monitoring and management from both a contract management perspective and an accounting perspective. This work allows for each subarea to be evaluated financially. City staff has been able to further evaluate in detail the infrastructure needs and financial stability at each site.

Landscape Assessment Areas			
# of Areas	Category	Unfunded Annual Capital Replacement	Unfunded Basic Service
10	Healthy with reserve funds for infrastructure.	\$ -	\$ -
5	Stable with limited reserve funds	\$ 27,590	\$ -
4	Unhealthy with no reserve funds or declining reserves	\$ 2,400	\$ 12,000
19	Total for all subareas	\$ 29,990	\$ 12,000

Base Service Operations

Base level maintenance services are provided based on each subarea's available funding. Many of these areas are funded and well maintained, while others are limited to weed abatement only, due to lack of funding and property owners' unwillingness to increase assessments.

Capital Improvements

All capital funding for the facility replacement is allocated from each subarea's fund balance. Each subarea has an established fund balance reserve target based on the size, maintenance requirements, and amenities of the subarea. However, in the case of the LAD subareas which contain parks, the fund balances maintained would not be sufficient to replace or repair major park components.

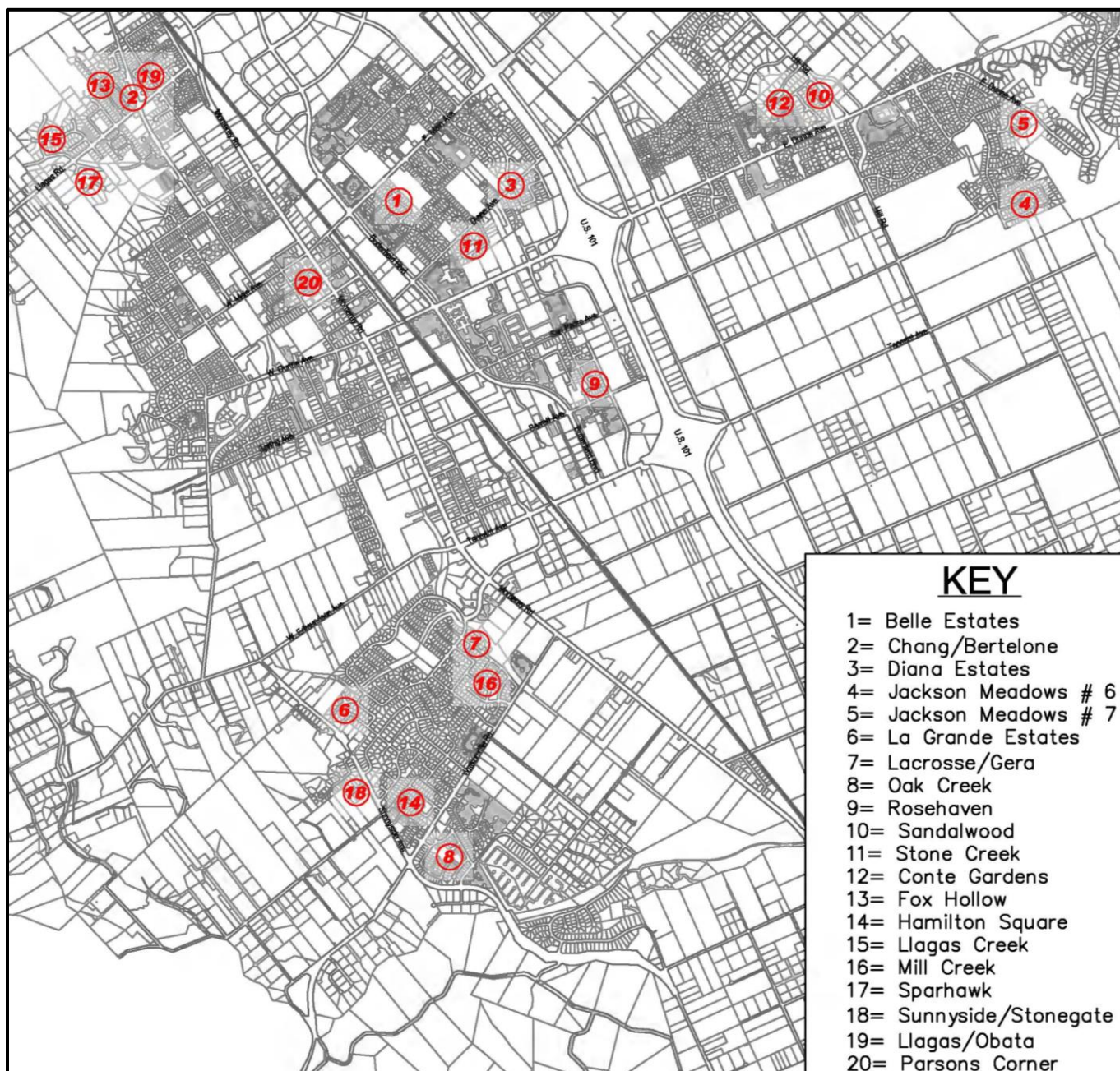
Policy Discussion

While funding issues at any subarea are difficult, LAD subareas with parks provide a unique challenge. The parks are open and available to use for the entire community but are paid for by a specific set of residents located in the LAD subarea. In essence, a small percent pay for amenities used by many. One example of this challenge is occurring at Diana Estates, which has a tennis court that needs significant funding to resurface and has insufficient replacement dollars. This scenario will eventually play out in other subareas. Many subareas are at the max assessment cap, which means an increase for funding would need to be approved by voters in that subarea. In the past, LAD residents have shown reluctance to increase their own assessments for increased maintenance, resulting in some subareas receiving the bare minimum maintenance services. Over the last four years, City staff has worked to develop relationships with residents of many subareas and discussed increases to assessments. In 2018, the residents of the Sandalwood subarea worked with staff to conduct a vote and raise their assessments to fund maintenance in their area. More recently, staff has worked with the residents of

Parsons Corner to vote for detaching from the Assessment District, with intent for the neighborhood's HOA to take on the maintenance of the common area. Staff will continue this outreach, but it is a long tedious process for each subarea. Alternate approaches to funding LAD maintenance may be necessary to prevent additional subareas from turning into empty dirt lots.

1. Should the City continue to address each subarea individually working with individual neighborhoods?
2. Should a Citywide LAD or CFD for all City owned Parks be explored?
3. Should supplemental funding be used to ensure that LAD Park resources are maintained when assessment funds do not cover the cost of maintenance and residents are unwilling to increase their assessments?

LAD Subarea Locations



Parks, Trails and Open Space

The City of Morgan Hill has parks, trails and open space totaling over 300 acres, of which, 60 are maintained. Parks in Morgan Hill are funded in one of three ways, that include:

1. City Parks and Trails – Owned by the City and funded through the Park Maintenance Fund and General Fund.
2. Home Owners Association (HOA) Parks – Privately owned and funded by residents of the HOA.
3. Landscape Assessment District Parks – Owned by the City and funded by a limited number of residents within the assessment district for a specific park.

This section refers specifically to the maintenance of the first category, which includes parks, bicycle and walking trails, and open spaces. These areas include a wide variety of amenities, including: playgrounds, basketball courts, fields, tennis courts, picnic areas, lighting and many more.

Base Service Operations

Park Maintenance activities are managed by the Community Services Maintenance Team. Maintenance functions are performed by both in-house staff and via contract. It is estimated that base level City park and trail maintenance services are funded at an adequate level to be safely used and to protect the City's assets in these areas. However, the level of service for these areas is not "top notch" and City park maintenance is considered average in comparison to parks in other communities. Increased funding of base level services could improve aesthetics and user experience, but would not considerably increase sustainability of park and trail infrastructure. It should be noted that the recently constructed Downtown Parks are being maintained in coordination with the other Downtown areas and are maintained at a higher level.

The Park Maintenance Fund relies on voluntary contributions through the City's RDCS to sustain the fund. Currently, base level park maintenance service is funded via the Park Maintenance Fund and supplemented by \$350,000 annually from the General Fund (increased by \$150,000 to the current level in FY 2018-19). It was previously anticipated that this strategy could be sustainable for 20 or more years. However, the recently adopted General Plan updated the City's population cap, thus reducing the annual allotments for new housing. Along with reduced allocations, the RDCS competition scoring criteria was updated. The recent competition has resulted in almost no contributions committed to the Park Maintenance Fund. These developments lead staff to believe the current Park Maintenance funding strategy will deplete the Fund in less than 12 years.

In 2018, the City received numerous requests to eliminate the use of herbicides in City parks, specifically the use of the chemical Glyphosate. In response, Maintenance staff initiated a trial at Paradise Park, eliminating the use and measuring additional costs and impacts of discontinuing the use of herbicides in the park. This trial will be completed at the end of the summer and the results should provide indications on increased costs or reduced service, should the City wish to move in that direction. No increased costs are included in this report.

The City maintenance of Open Space areas is primarily comprised of the functions of weed abatement and fire protection. In recent months, the City has received many comments from residents of the Jackson Oaks Area in relation to maintenance of the open space in that area. Typically the City has contracted with the County for maintenance of brush abatement and discing for fire protection purposes. Maintenance staff are currently working with Fire Department staff to evaluate open space maintenance options and future needs. It is anticipated that there will be increased needs for enhanced maintenance, however, there are also believed to be significant grant opportunities on the horizon for this work. No future cost estimates are included in this report, since the current evaluation is still underway.

Infrastructure

22 Parks

60+ acres of
Developed Park Land

250+ Acres of Open
Space

3 Maintained Trails

15+ Parks with Play
structures

10 Tennis Courts

5 Ball Fields

1 Duck Pond

Capital Improvements

The City staff have identified over \$6 million in future replacement needs, stretching over the next 50 years, with a total unfunded annual replacement cost of approximately \$586,000. No funds have been set aside for this replacement, although a past practice has been to use the Park Maintenance Fund for annually identified replacement projects. However, with the Park Maintenance Fund funding the base level maintenance and drawing down the Fund at an increasingly rapid rate, use of the Fund for capital replacement and repair projects is not sustainable.

Policy Discussion

When unfunded replacement needs to occur in parks, it is currently viewed on an annual project-specific basis and weighted against other projects of a citywide nature. In some cases, the life cycle of equipment is extended through repairing versus replacing equipment. In other cases, a choice may be to remove an asset. For example, turf could degrade to a point where it is in poor condition, but this would really only result in a decrease in user experience. Conversely, while a playground could degrade to a point where it must be removed for safety standards and, if not funded, would not be replaced. This funding shortfall for future replacement and repair of City Parks is a new discussion. Some policy questions that should be explored in this area include, but are not limited to:

1. Should a replacement/repair fund be established and funded for future park needs?
2. Should it be a goal for the existing Park Maintenance Fund to be utilized for this purpose?
3. Should a new revenue source for parks be explored? These may include tax revenue or assessments through a LAD or CFD.

The updated Bikeways, Trails, Parks and Recreation Master Plan sets ambitious goals for park development, including the planned construction of the new Magical Bridge Morgan Hill Playground. Additionally, the City has been very successful in obtaining grant funding for park and trail development, and there appears to be significant opportunity for additional grant funding on the horizon. While improved park maintenance and new park facilities support many of the Council's priorities, including economic development, alternate strategies for park development may need to be considered.

4. Should future park development be slowed until sustainable funding for existing parks can be established?
5. Should the City look at only developing Park and Trail sites that require minimum maintenance or where partner organizations agree to take on maintenance?

City Parks and Trails	Annual Unfunded Replacement
Community	\$224,557
Galvan	\$109,352
Paradise	\$38,106
Diana	\$31,052
Nordstrom	\$47,407
Jackson	\$17,201
Howard Weichert	\$7,235
Sanchez	\$3,188
Skate Park	\$23,219
Civic Center	\$47,026
Trails	\$37,429
Total	\$585,771

Storm Water Collection System

The City is responsible for maintenance of the Storm Water Collection System that transfers rain water from the developed areas of the City into our local creeks. Day to day maintenance is managed by the Community Services Maintenance Team in coordination with general street maintenance, the Engineering Division is responsible for improvement projects that expand or rehabilitate the System, and the Environmental Programs Division is responsible for managing the City's storm water pollution prevention programs.

Base Service Operations

Funding for the day to day operations management of our storm drain systems is primarily supported by the General Fund and has been adequate with the exception of future replacement funding for storm drain pumps and funding for inspections. These funding issues are outlined in the Streets and Sidewalks Section of this report.

Capital Improvements

Capital projects that expand the City's system are funded through impact fees. The City has reserved several million dollars in the Storm Drain Impact Fund to support connection to the upcoming Upper Llagas Creek Flood Control Project. The Flood Control Project is managed and funded by the Santa Clara Valley Water District, but once completed, the City plans to connect to the new system. This project will eliminate the majority of the flooding issues for the City.

Funding for capital improvements relating to rehabilitation to the storm drain system cannot be funded through impact fees. The City previously received fees from developers for storm drain rehabilitation. There are no dedicated capital funding sources for rehabilitation and major rehab projects would need to identify funding on a project by project basis.

The City is regulated by the State Water Resources Control Board in regard to storm water pollution prevention. In 2015, the Board adopted the Statewide Trash Provisions which will eventually require the City to install, operate, and maintain State-certified devices that capture all trash down to 5 millimeters in size from Priority Land Use areas including industrial, commercial, mixed-use, high-density residential and public transportation stations. It is anticipated these provisions will be adopted in 2019, with a ten-year period to complete improvements relating to compliance by 2029. Although this is far into the future, planning on this issue is important as the improvements related to the provision could be extend into the range of millions of dollars.

Policy Discussion

The State of California recently passed State Senate Bill 231, which redefines "sewer" to include storm water, which in turn allows the charge of a fee for the management of the storm water systems. The intent of the legislation is to allow cities and counties to establish fees for storm water systems, versus having to pass ballot measures to establish a tax for this purpose. No cities have utilized the provision of the new law, but a group of large cities is working together to implement, as law suits relating to the validity of the new law are anticipated. If SB 231 stands up to legal scrutiny, it could be a viable option to fund the future needed capital improvements and potentially even operations.

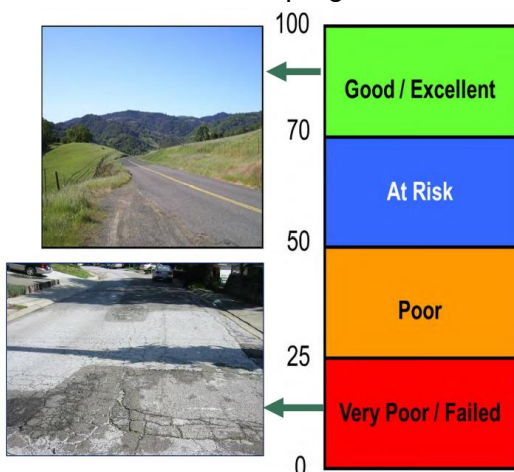
Streets and Sidewalks

The City Council has identified the “Streets Infrastructure” as a vital community element and over the last several years has devoted significant amounts of General Fund reserves to pavement maintenance. The City has approximately 129 miles of local streets with a variety of attached ancillary elements including: street trees, traffic signals, signs, curb & gutter, streetlights, bridges, medians and planters, furnishings, guard rails, parking lots, and sidewalks. It should be noted that maintenance of the City’s Storm Drain System is not included in this section of the report and is discussed independently in the previous section. Management of the streets and sidewalk infrastructure is broken into two areas:

- Base Level Operations – Day to day routine operations
- Capital Repairs and Improvements – Large projects, including the pavement rehabilitation program

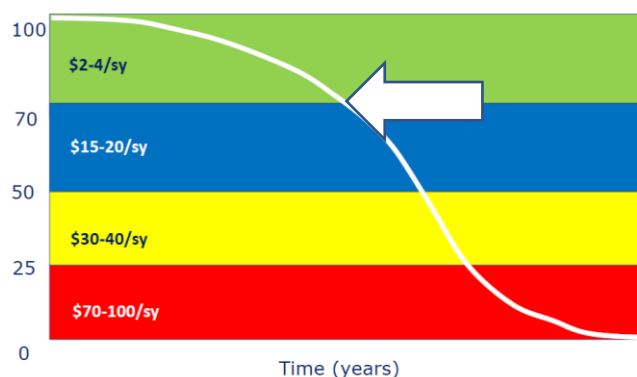
Infrastructure

129 Miles of Streets
3,700 Street Lights
45 Traffic Signals
60 Acres of Maintained Parks
13 Public Facilities
18 Sports Fields
4 Swimming Pools



The greatest concern in the area of street maintenance continues to be the degradation of the streets themselves. Evaluating the condition of the City’s Streets is accomplished using the Pavement Condition Index (PCI). The City via grants from the Metropolitan Transportation Commission (MTC) has regularly received consultant generated Pavement Condition Reports. The last report received was conducted in early 2017. The City conducts the report utilizing grant funding from MTC on a three-year cycle and will next receive the funding to conduct the report in 2020. In the 2017 report, the weighted PCI for the City’s roadway network was 72. For 2018 it has been estimated at 70, down from 76 in 2012. The current backlog of street maintenance was estimated at \$23.2 million for 2017.

At the current level of funding, the City’s weighted PCI will continue to fall. Since it costs less to maintain roads in good condition than bad, investing early to keep the weighted PCI higher is critical. As demonstrated in the chart to the right, the maintenance cost grows much faster as the PCI drops. Once a roadway deteriorates to the point of failure the only option is complete roadway replacement.



Funding

The City funds ongoing base service street maintenance activities through the General Fund and Gas Tax Revenue, while the capital pavement rehabilitation program is funded primarily through the streets fund which receives revenues from gas taxes, vehicle registration fees (via VTA), and the One Bay Area Grant. Over the last six years, the City has supplemented capital funds with significant dollars from the General Fund. Two new significant funding sources have been established through the passage of VTA Measure B to increase the sales tax in Santa Clara County and SB 1 which increases the gas tax. New funding from these sources has increased funding for pavement rehabilitation projects by approximately \$1.6 million annually. SB1 funding was utilized in 2018 and Measure B funding will begin to be utilized in 2019 for pavement rehabilitation projects.

Base Service Operations

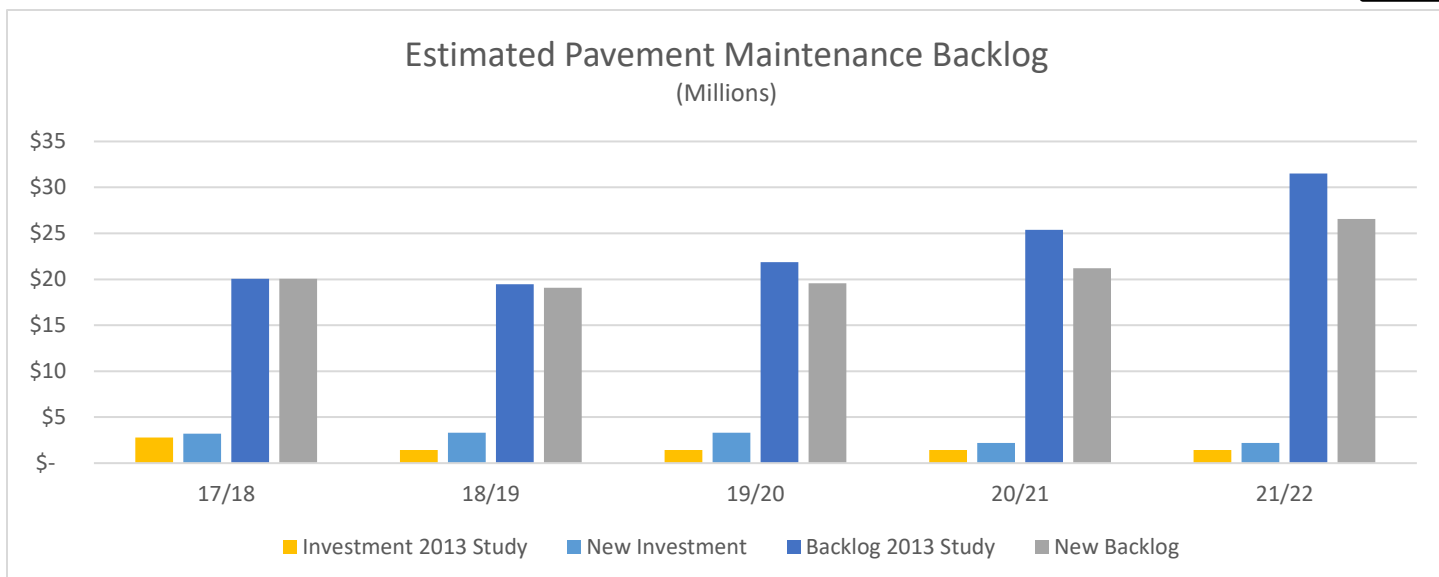
The Community Services Maintenance Team is responsible for the day-to-day maintenance of streets and associated infrastructure for the City. A combination of City employees and contract services are used to perform regular street maintenance. In 2013 Sustainable Streets Study was conducted that looked holistically at base level operations for streets and associated infrastructure elements. The report identified several service areas that were unfunded, this total included annual funding of \$368,000 and one-time funding of \$107,000. However, through increased investment authorized by the City Council and innovative improvements in maintenance operations these unfunded programs have been significantly reduced over the last several years as detailed in the following table (amounts in thousands).

Unfunded Base Maintenance Services	Annual	1-time	Notes
<i>Downtown Park Lot Slurry & Striping</i>			Funded ongoing through Parking Lot CIP Program.
<i>Concrete/Brick Paver Repairs</i>			Some locations repaired in DT Streetscape Project. Ongoing spot repairs funded in Downtown Maintenance budget.
<i>Sidewalk Repairs</i>			Funded through sidewalk CIP Project annually.
<i>Curb & Gutter Repairs</i>			Funded through sidewalk CIP Project annually.
<i>Repaint Colored Curbs</i>	40		Not funded, annual funding needed.
<i>Replace Aging Wood Streetlight Poles</i>	15		Not funded, annual funding needed.
<i>Renovate Medians</i>	30		Not funded, annual funding needed.
<i>Repair & Renovate Brick Planters</i>			Some locations repaired in DT Streetscape Project. Ongoing spot repairs funded in Downtown Maintenance budget.
<i>Prepare & Maintain Street Tree Inventory</i>	10		Partially funded. Inventory has been prepared by consultant, resources for coordination and management are not present.
<i>Remove/Replace Street Trees</i>	38		Tree removal and replacement are done retroactively versus proactively.
<i>Regular Street Tree Trimming 5 Year Cycle</i>			Funded.
<i>Storm Drain Pipe & Culvert Inspection & Repair</i>	10	25	Not funded. Repairs performed as time and funding permits.
<i>Storm Drain Pump Station Future Replacement Funding</i>	50		Not funded.
Total Unfunded Base Level Services	193	25	

While unfunded maintenance has been reduced, the increased maintenance on additional streets and the inability to maintain streets from a capital perspective have increased the amount of resources needed to perform “pothole” maintenance considerably. Continued increases in this area is placing stress on the response to lower priority maintenance needs and reducing the ability to proactively address maintenance issues. In many areas of both street and park maintenance, City maintenance functions are reactive instead of proactive.

Capital Improvements

Capital improvements for street maintenance are managed by the Engineering Division through the City’s Capital Improvement Program. Over the last four years, the City has invested one-time grant dollars augmented by General Fund dollars to increase the amount of funds used on pavement rehab projects. The City will be receiving both Measure B funding and SB1 funding in the coming years. In 2018, City staff utilized the information from the 2017 Pavement Condition Report along with proposed increased funding to anticipate the future backlog for the next six years. The next chart outlines these estimates.



As is demonstrated in the chart above, the increased funding related to the new measures slows the growth of the pavement maintenance backlog. Instead of reaching \$31.5 million in FY 2021-22, the backlog is estimated to only grow to about \$27 million. To maintain the current PCI and try to stabilize the backlog of work, approximately \$4.5 million in funding would be necessary. To increase the PCI by five points and reduce the backlog, approximately \$6.1 million in funding would be required.

Investing at a level that increases PCI from its current condition is important, because investing enough to just maintain the current PCI will not reduce the backlog of maintenance and will end up costing the City more in the long run. It is also important to note that investing in the capital pavement rehabilitation component directly impacts base level operations. As the streets deteriorate, increasing amounts of maintenance resources will be necessary to make interim repairs (filling pot holes, etc.). As more resources are needed to support interim street repairs, other service areas will need to be reduced.

Policy Discussion

To eliminate the backlog of street maintenance and fulfill base operational needs relating to street maintenance, over \$2.3 million in additional annual funding will be needed to be dedicated to this purpose. Although the recent increased funding from Measure B and SB 1 will provide for much needed maintenance, the City's streets will continue experiencing declines in condition, which will in turn begin to impact and increase the resources needed for base level operations, and the deferred maintenance for streets will continue to grow. This degradation and funding backlog will only continue to mount unless a new sustainable revenue source can be identified, or current General Fund services are significantly reduced to reallocate funding to streets.

1. Should General Fund discretionary revenues be prioritized to support street maintenance, which would require reduction in other services?
2. Should the City explore the development of a new tax revenue source?

Wastewater System

The City's Water and Wastewater systems are the critical components in ensuring health and safety of the Morgan Hill Community. The System also is critical to achieving the City's economic development priority, serving commercial and industrial users. The City provides sewer collection services to approximately 12,700 residential, commercial, industrial, and institutional accounts. The City's collection system consists of approximately 158 miles of up to 30-inch gravity sewer pipes, which includes part of the Morgan Hill-Gilroy Joint Sewer Trunk, that convey flows to the South County Regional Wastewater Authority (SCRWA) Wastewater Treatment Plant (WWTP), located southeast of the City of Gilroy.

The City's Utilities Division manages the day to day operations utilizing experienced and knowledgeable staff to manage the system. The day to day operations are guided by the Sanitary Sewer Management Plan, recently adopted in February 2018. The Utilities Division coordinates with the Engineering Division and consultants to plan for major capital projects associated with repair, replacement and expansion of the system. In follow-up to the City's recent General Plan Update, the City Council adopted the 2017 Sewer System Master Plan. This plan identifies significant projects in the coming years.

Infrastructure

12,700 Connections
158 Miles of Sewer Lines
14 lift stations
3,284 manholes
2.9 miles of force mains
23 siphons

Project Type	Relief Trunk	Suggested Expenditure Budget ¹			
		General Plan Horizon			
		Near-Term	Intermediate Term	Long-Term	
		2018-2020	2021-2025	2026-2030	2031-2035
Pipeline Capacity	\$27,823,301	\$3,030,098	\$2,133,295	\$1,807,775	\$0
Infiltration and Inflow		\$782,921	\$0	\$0	\$0
Rehabilitation		\$8,848,893	\$5,731,826	\$0	\$0
Joint Trunk Condition Assessment		\$200,000	\$0	\$0	\$0
Comprehensive Plan Updates		\$400,000	\$400,000	\$400,000	\$400,000
CCTV-Sewer System		\$380,160	\$633,600	\$633,600	\$633,600
Currently Planned Projects		\$28,420,000	\$26,150,000	\$0	\$0
Total	\$27,823,301	\$42,062,072	\$35,048,721	\$2,841,375	\$1,033,600
Cumulative Cost	\$27,823,301	\$69,885,373	\$104,934,093	\$107,775,469	\$108,809,069

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ENGINEERING GROUP, INC.

8/15/2017

Funding

Wastewater System Operations are funded through fees for service to users of the system. Capital projects associated with the expansion of the system are funded through Impact Fees to developers as new construction is connected to the system. A Comprehensive Rate Study was completed and approved by the City Council in January 2016. The 2016 rate study did not include projects from the 2017 Sewer Master Plan and since the time of the study significant new data and developments has arisen, creating the need for the City to review wastewater rates in 2019. These developments include:

- Infiltration and Inflow (I&I) Projects – Due to recent sewer overflows, the City has begun a systemwide assessment to fully identify I&I issues within the system. This assessment still in its initial stages, is comprehensively identifying needed repairs to the Wastewater System. This will result in a significant investment in capital projects needed to be undertaken in the next three years.
- Relief Trunk Line to Treatment Plant – Also in relation to the overflows, the design of a second relief trunk line to the treatment plant in Gilroy was accelerated. This project, estimated at \$28 million, would be funded 25% by rate payers.

An update of the City's Impact Fees is currently underway based on the updated Sewer System Master Plan, which takes recent needs into consideration. In addition to the Relief Trunk Line costs, the City anticipates Morgan Hill's share of the expansion of the Wastewater Treatment Plant to cost \$29 million. The City has developed a financing plan that will appropriately fund these projects through impact fees from new development.

Base Service Operations

In operation of the Wastewater System, the Utilities must follow requirements outlined by the State Water Resources Control Board. The recently adopted Sanitary Sewer Management Plan (SSMP) is required for operations. Wastewater operations have been traditionally funded at adequate levels and rates have been adjusted to meet the needs of operating the System. Driven by both the SSMP and increases in I&I, some operational enhancements have been made and others are proposed in connection with the updated rate study. The Division is conducting most of the I&I assessment utilizing "in-house" staff and a new CCTV truck has been approved and purchased to conduct this work. Future technological upgrades will be recommended to provide efficiencies that'll allow existing staff within the Division to conduct increased work related to the updated SSMP and I&I.

Capital Improvements

Aging infrastructure is an issue the City is facing in multiple areas; however, the City's wastewater system has been prioritized. With much of the infrastructure out of sight, the ongoing planning and evaluation is critical. The current Master Plan calls for \$109 million in projects to be funded through 2035, including approximately \$52 million funded through ratepayers and \$57 million funded through impact fees.

The urgent projects relating to I&I, the Relief Trunk Line, and the Treatment Plant Expansion are all priorities that must continue to move forward. At the same time, City staff are reviewing and analyzing alternate options for expanding capacity and improving the system. A major component of this review includes a full assessment of the existing trunk line in relation to capacity enhancements and rehabilitation needs. This project has been funded, but the City is currently waiting for the City of Gilroy to approve funding for their portion of the project, which is anticipated in the coming months.

Policy Discussion

Available funding in the wastewater utility is not adequate to support the proposed capital plan. Due to this the City Council has authorized a wastewater rate study. The updated proposed rates will support bonding for the major improvements necessary for the wastewater system.

"Infiltration and Inflow"

Inflow and infiltration or I & I are terms used to describe the ways that groundwater and stormwater enter into dedicated wastewater or sanitary sewer systems. Inflow is stormwater that enters into sanitary sewer systems at points of direct connection to the systems. Various sources contribute to the inflow, including footing/foundation drains, roof drains or leaders, downspouts, drains from window wells, outdoor basement stairwells, drains from driveways, groundwater/basement sump pumps, and even streams. These sources are typically improperly or illegally connected to sanitary sewer systems. Infiltration is groundwater that enters sanitary sewer systems through cracks and/or leaks in the sanitary sewer pipes. Cracks or leaks in sanitary sewer pipes or manholes may be caused by age related deterioration, loose joints, poor design, installation or maintenance errors, damage or root infiltration.

Water System

The City's municipal water system provides service to approximately 14,072 residential, commercial and industrial customers. The City's Water and Wastewater systems are the critical components in ensuring health and safety of the Morgan Hill community. The System also serves as the key component for fire response through the network of fire hydrants located throughout the City. The City's water system consists of approximately 165 miles of pipeline throughout the City.

The City's Utilities Division manages the day to day operations managing both water and wastewater system operations. The City's Finance Division manages the billing of both water and wastewater utilities. The Utilities Division partners with the Engineering Division and consultants in planning for major Capital Improvement Projects. In follow-up to the City's recent General Plan Update, the City Council adopted the 2017 Water System Master Plan. This plan identifies significant expansion and some rehabilitation projects in the coming years.

Funding

Operation of the Water System is funded through an enterprise fund, receiving fees for service from users of the system. Capital projects that expand the system to accommodate growth are funded through Impact Fees charged to developers as new construction is connected to the system. A comprehensive rate study was completed and approved by the City Council in January 2016. An update of the City's impact fees is currently underway based on the updated 2017 Water System Master Plan, this update is taking recent needs into consideration.

Base Service Operations

Similar to the City's wastewater system, funding for the water system operations have been adequate to address the day to day system management needs. Rates were adjusted to meet the needs of operating the System. The greatest needs for enhancements relate to technology and equipment upgrades to support ongoing system management. The Utilities Division recently completed upgrades to its metering system bringing online fully deployed Advanced Metering Infrastructure. This deployment was completed with existing "in-house" staff over a four-year time period. Upgraded equipment and technology provides for increases in efficiency and will allow existing staff within the Division to conduct work related to major projects such as this.

Capital Improvements

In 2014, the City issued bonds to fund several water rehabilitation and expansion projects. The bond proceeds were utilized in the rehabilitation of two wells, the construction of one new well, along with the other rehabilitation and transmission line projects. However, due to very large increases in construction costs over the last several years, the bond funds did not fund as many projects as were anticipated. The most notable project that adequate funding was not available for was the East Dunne Water Supply Improvement Project which includes a new reservoir, pump station, and pipelines. This project is needed to increase the capacity for future growth within the City, and to improve service to those in the east hills. The increased construction costs are not an issue exclusive to Morgan Hill and have been seen across the country but are even more severe here in the Silicon Valley.

Infrastructure

17 Groundwater Wells

10.5 Million Gallons in Storage

20 Pressure Zones

12 Storage Tanks

9 Pumping Stations

165 Miles of Pipeline

The table to the right outlines the proposed water system future capital projects. In total \$48.4 million in water system capital improvements have been identified, \$16.8 million allocated for existing ratepayers and \$31.6 million to be funded through impact fees.

Policy Discussion

The funding considerations associated with the Water System are similar in nature to those for the Wastewater System, in that the recently adopted Water Master Plan identifies significant projects for the system. The Water Utility is underfunded primarily for expansion projects. The City Council is currently reviewing updates to its impact fee schedule that would increase funding for projects that have been delayed. Although, Water Rates appear adequate for currently identified repair and rehabilitation projects, staff is continuing to evaluate the needs of the existing system.

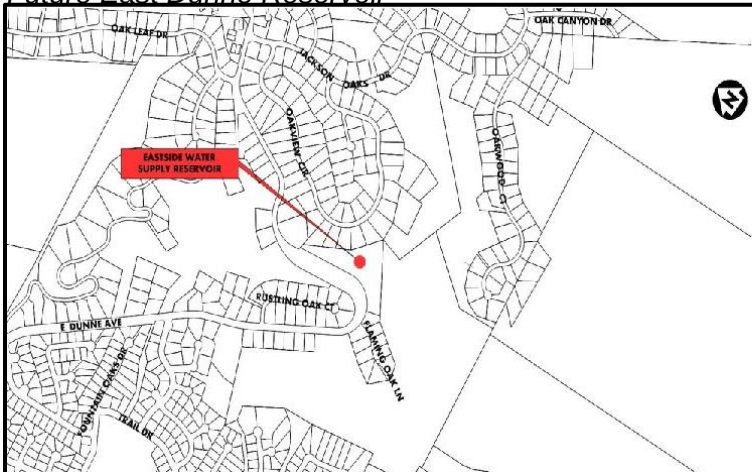
Additionally, the Water Utility has not programmed dollars into its capital improvement program to specifically support the development of recycled water in the City. The policy question for City Council is should recycled water be added to the capital program or should the City continue to rely on Santa Clara Valley Water District or grants to move the needle in this area. The City is currently partnering with the City of Gilroy on a South County Cities Water Supply Strategy, which will be used to inform the Council on this and other policy questions. The Strategy is anticipated to be available in the coming months.

Project Type	Suggested Expenditure Budget ¹			
	General Plan Horizon			
	Near-Term	Intermediate Term	Long-Term	
	2018-2020	2021-2025	2026-2030	2031-2035
Pipe	\$4,427,213	\$4,450,858	\$3,825,186	\$5,749,896
Tank	\$3,087,596	\$1,816,233	\$6,756,385	
Well				\$7,909,200
Pump Station	\$2,197,900	\$1,881,759		
Valve	\$79,937			
Comprehensive Plan Updates	\$400,000	\$400,000	\$400,000	\$400,000
Currently Planned Projects	\$4,190,000	\$450,000		
Total	\$14,382,645	\$8,998,850	\$10,981,572	\$14,059,096
Cumulative Cost	\$14,382,645	\$23,381,495	\$34,363,067	\$48,422,162

AKEL
ENGINEERING GROUP, INC.

7/2/2017

Future East Dunne Reservoir





CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

PREPARED BY: Harjot Sangha, Accounting Manager

APPROVED BY: City Manager

HOLD PUBLIC HEARING REGARDING REVISIONS TO WASTEWATER RATES AND ADOPT RELATED AMENDMENTS TO CHAPTER 13.16 - SEWER RATES AND INTERIM GROWTH MANAGEMENT

RECOMMENDATION(S)

1. Receive and adopt final draft of 2019 Wastewater Rate Study Report prepared by NBS;
2. Open public hearing and receive public comment;
3. Request submission or withdrawal of proposition 218 protest letters from the public/audience;
4. Close public hearing and allow Deputy City Clerk, or designee, to tabulate final Proposition 218 protest letter count;
5. Receive and accept verbal report from Deputy City Clerk, or designee, on ballot tabulation results;
6. Adopt resolution approving wastewater rates adjustments;
7. Waive the first and second reading of the ordinance; and
8. Introduce the ordinance amending Chapter 13.16 of the Morgan Hill Municipal Code.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment
Maintaining Fiscal Responsibility

2019 Strategic Priorities

Financial Stewardship
Infrastructure

GUIDING DOCUMENTS

Sewer System Master Plan

REPORT NARRATIVE:

The City owns and operates the Wastewater Collection System within the Engineering and Utilities Department. The system collects wastewater from residences and businesses throughout the City and delivers the wastewater for treatment to the South County Regional Wastewater Facility (SCRWA).

In 2017, the City Council approved a Sewer System Master Plan for future repairs and improvements to the City's wastewater system. The Master Plan identified \$57 million in expansion and capacity related improvement projects (impact fee funded) and \$52 million in improvements necessary to repair the City's existing system (ratepayer funded). City staff have determined the impact fee funded projects can likely be funded through the projected impact fees and/or financed through bonding against future

impact fees. However, staff identified a significant shortage in funding to make the legally required repairs and improvements to the existing system, which was the primary factor in moving forward with a rate study.

On February 8, 2019, the 2019 Draft Wastewater Rate Study (Attachment No. 1), prepared by NBS Government Finance Group, was released to the community via an eblast along with the posting on City's website.

On February 20, 2019, the rate study was introduced to the City Council. The City Council directed staff to proceed with updating the City's wastewater rates as presented in the rate study. In addition, Council agreed with staff's recommendation for the following items:

- Finance, via issuance of bonds, the immediate capital project needs to allow for smaller gradual rate increases.
- Extend the annual adjustment of 3.6% for the lift station charge, for the next five-year period.
- Extend the annual adjustment to low-income subsidy, reflecting 5% from July 1, 2021 through July 1, 2023.
- Remove the current cap of 13 units used in calculating annual sewer rates for the residential and multifamily customer classes.

The proposed percent adjustments to the rates are as follows:

	Proposed 7/1/2019	Proposed 7/1/2020	Proposed 7/1/2021	Proposed 7/1/2022	Proposed 7/1/2023
Wastewater Rates	9.0%	9.0%	5.0%	5.0%	5.0%
Lift Station Charge	3.6%	3.6%	3.6%	3.6%	3.6%

In addition, the proposed low-income subsidy adjustments are as follows:

	Current Rate	Approved 1/1/2020	Proposed 7/1/2021	Proposed 7/1/2022	Proposed 7/1/2023
Wastewater Subsidy	\$ 11.13	\$ 12.24	\$ 12.85	\$ 13.49	\$ 14.17
Percent Change		10.0%	5.0%	5.0%	5.0%

On February 25, 2019, a public meeting was held at the City Council Chambers. Two community members attended the meeting. The following topics were discussed:

- Proposition 218 notice and vote count
- City's existing wastewater infrastructure and immediate need for improvements
- SCRWA treatment plant operations/expansion
- Proposed rate increases
- Removal of minimum two (2) units, in addition to removal of maximum cap of thirteen (13) units, used in calculating the volumetric portion of the annual sewer charge for residential and multifamily customer classes

On March 6, 2019, City Council received a report on the public meeting, adopted a resolution of intent to adjust wastewater rates, authorized the commencement of proposition 218 noticing, and set May 1, 2019 as the date of the Public Hearing and adoption of the new wastewater rates.

Public Hearing

This Public Hearing regarding wastewater rate adjustments is a requirement of the Proposition 218 process. It is being held after a minimum of 45 days have passed since the mailing of the official notification of the proposed rate adjustments to all affected property owners. The Proposition 218 official notice (Attachment No. 2) includes a description of proposed rates and information detailing the protest process requirements. To meet legal requirements, protests submitted by email or other electronic means cannot be accepted. Only one written protest will be counted per identified parcel. All written protests must be received (not postmarked) before the close of the Public Hearing. The Council shall accept all protest votes received up to and including the time of the public hearing. If a majority (50% plus one) of customers oppose the proposed rate adjustments, City Council cannot implement the proposed adjustment.

If a majority protest is not received and the City Council elects to approve the recommended wastewater rate adjustments by adopting the resolution (Attachment No. 3), the first of the approved increases would become effective July 1, 2019.

Subject to tonight's approval of new wastewater rates, staff is introducing an ordinance amending Chapter 13.16 – Sewer Rates and Interim Growth Management, as needed. The amendments are outlined in the ordinance (Attachment No. 4), with additions underlined, and deletions in strikeout.

COMMUNITY ENGAGEMENT: Inform and Consult.

On February 8, 2019, the draft 2019 wastewater rate study was made available to the community. Email notifications were generated, and information was presented in the weekly 411.

On February 25, 2019, a public meeting was held to answer any questions and seek feedback from the community.

All rate payers in Morgan Hill were mailed a Proposition 218 notice detailing the proposed rate adjustments. Those wishing to protest the proposed adjustments have provided written communication stating their opposition. The City has maintained a voting box in the City Hall lobby to accommodate anyone wishing to drop off a protest prior to tonight's hearing.

ALTERNATIVE ACTIONS:

The Council could determine that sufficient protest opposition exists to not move forward with rate adjustments at this time. However, this action could imperil the funding for the required upgrades to the City's wastewater infrastructure.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The required wastewater infrastructure improvements and the wastewater rate study were discussed with City Council during the FY 2018-19 and 2019-20 budget development process and at the 2019 annual goal setting workshop in January 2019.

On February 6, 2019, staff presented a report on the wastewater system needs and discussed the rate study schedule.

On February 20, 2019, the rate study was introduced to the City Council.

On March 6, 2019, City Council adopted a resolution of intent to adjust wastewater rates, authorized commencement of proposition 218 noticing, and set the date of public hearing and adoption of new wastewater rates.

FISCAL AND RESOURCE IMPACT:

The fiscal impact of preparing this report is included in the staff's annual workplan. The cost for the wastewater rate study, was budgeted in the Wastewater Operations Fund (640) in the current fiscal year.

If the Proposition 218 majority protest process is concluded without majority protest, and the wastewater rate adjustments are adopted as presented, the new rate increases could generate an average of \$2.6 million annually, for the next five years, to assist in recovery of costs to provide and maintain infrastructure and services.

CEQA (California Environmental Quality Act):

Not a Project.

Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. 2019 Wastewater Rate Study (web link)
2. Proposition 218 Notice
3. Resolution Adopting new rates
4. Ordinance_Chapter_13.16 (redline version)
5. wastewater rates ordinance - clean version



Proposition 218 Notification

Notice of Public Hearing On Wastewater Rate Adjustments

17555 PEAK AVENUE
MORGAN HILL, CA 95037-4128
WWW.MORGANHILL.CA.GOV

10.b

Hearing Date and Time: May 1, 2019, at 7:00 pm or as soon thereafter as possible
Hearing Location: City Council Chambers • 17555 Peak Avenue • Morgan Hill, CA 95037-4128

The City of Morgan Hill is proposing a five-year wastewater rate program adjustment for all customers. The proposal will be considered by the City Council at a Public Hearing on **May 1, 2019**. If approved, the wastewater rate adjustments will commence July 1, 2019. You are receiving this notification in compliance with California Constitution Article XIII D Section 6 (Proposition 218) requirements that all impacted property owners are mailed notice of proposed rate changes at least 45 days prior to a public hearing. In addition, Section 53755 of the Government Code authorizes that notices be mailed to customers who are billed for the service. Proposition 218 also establishes a protest process for the public to follow if they wish to oppose the proposed rates.

BASIS OF PROPOSED RATES

The City is required by State law and City policy to collect revenues sufficient to cover the costs of operating the wastewater system. These revenues allow the City to protect public health and safely and reliably convey and treat wastewater. Costs that must be recovered through rate revenue include electricity, equipment, supplies and services, wastewater treatment, debt service, and salaries and benefits. Additionally, revenues generated from wastewater rates would be used to finance the repair and renovation of aging wastewater infrastructure and maintain reserve funds. The rates proposed herein were developed through a Wastewater Rate Study designed to meet all legal requirements and fairly and equitably recover the required revenue from all customer classes. The Rate Study is available for review at www.morgan-hill.ca.gov/1754/2019-Wastewater-Rate-Adjustment.

WHAT DO WASTEWATER RATES FUND?

The City provides wastewater utility services to residential and commercial customers. All revenue generated from customer wastewater bills is used to pay for the ongoing operation, maintenance, repair and replacement of the existing wastewater systems. The cost of system expansions, to serve new development, is recovered through connection or impact fees imposed on the developer requesting City services. By State law, the City may not collect more revenue than is necessary to recover the costs of providing services.

WHY IS THE RATE ADJUSTMENT NEEDED?

Unlike private utility companies that benefit financially from increased rates associated with increased costs, the City strives to maintain low rates to support its residents and businesses. However, significant improvements to the City's aging wastewater infrastructure are necessary soon. The City's system includes certain pipe sections that are over 90 years old. As the system ages and is damaged by natural changes in the environment (such as tree roots) the sewer pipes begin allowing rainwater and groundwater to enter the wastewater system. During extremely wet conditions this infiltration can cause the wastewater system to be overwhelmed and spill. To ensure safety of residents and to meet the requirements of the State of California, the City must repair these issues. The capital projects associated with the repair of the aging system require appropriate funding, which result in an increase to the wastewater rates.

WHAT IS BEING DONE TO MINIMIZE THE IMPACT TO RATE-PAYERS?

The City plans to utilize municipal bonds to cover the majority of the City's existing wastewater infrastructure improvements. Financing allows the costs to be spread out over 20-30 years, reducing the immediate impact to rates. The City balanced the levels of financing and rate adjustments necessary to provide for moderate rate increases, while keeping debt at a manageable level. The Wastewater Rate Study prepared by an independent financial firm, NBS Government Finance Group, concludes that the proposed rates would provide sufficient funds to pay the costs of operations, maintenance, administration, debt service, and the capital improvements over the next five years.

Attachment: Proposition 218 Notice (2297 : Wastewater Rates Adoption)

PROPOSED WASTEWATER RATES

The City currently charges residential and non-residential customers a monthly fixed wastewater charge based on meter size. In addition to a fixed monthly charge, residential customers pay a variable charge (volumetric charge) of \$4.17 per unit of baseline water use for wastewater service, with a minimum volume of 2 units and maximum of 13 units. It is proposed the maximum 13 units cap be removed to assess customers their true winter water average. Variable charges for residential customers are determined by the average monthly water usage for the three lowest consecutive months in the period between November and April of each year. As a general rule, a household's average monthly water use for the months of November through April provides a reasonable baseline estimate of the wastewater produced by the household each month of the year. Commercial and industrial customers are billed according to the volume of flow and strength of their wastewater discharges. The proposed wastewater rate charges for the next five years are presented in detail on *Table 1: Proposed Wastewater Rate Adjustment Schedule 2019-2023*, below.

Table 1: Proposed Wastewater Rate Adjustment Schedule 2019-2023.

Description		Proposed Wastewater Rates				
Fixed Charge	Current	1-Jul-19	1-Jul-20	1-Jul-21	1-Jul-22	1-Jul-23
Meter Size						
<i>Single & Multi-Family Residential</i>						
5/8" – 1"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
<i>All Other Customers</i>						
5/8"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
3/4"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
1"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
1-1/2"	\$73.63	\$80.26	\$87.48	\$91.85	\$96.45	\$101.27
2"	\$117.23	\$127.78	\$139.28	\$146.25	\$153.56	\$161.24
3"	\$255.39	\$278.38	\$303.43	\$318.60	\$334.53	\$351.26
4"	\$458.73	\$500.02	\$545.02	\$572.27	\$600.88	\$630.93
6"	\$1,018.18	\$1,109.82	\$1,209.70	\$1,270.18	\$1,333.69	\$1,400.38
8"	\$1,572.90	\$1,714.46	\$1,868.76	\$1,962.20	\$2,060.31	\$2,163.33
10"	\$1,966.13	\$2,143.08	\$2,335.96	\$2,452.76	\$2,575.39	\$2,704.16
Volumetric Charge – Rate per baseline estimate HCF						
<i>Single & Multi-Family Residential</i>	\$4.17	\$4.55	\$4.95	\$5.20	\$5.46	\$5.74
<i>Commercial/Industrial/Public</i>						
Commercial 1	\$3.99	\$4.35	\$4.74	\$4.98	\$5.23	\$5.49
Commercial 2	\$4.67	\$5.09	\$5.55	\$5.83	\$6.12	\$6.42
Commercial 3	\$5.68	\$6.19	\$6.75	\$7.09	\$7.44	\$7.81
Commercial 4	\$6.44	\$7.02	\$7.65	\$8.03	\$8.44	\$8.86
Commercial 5	\$7.65	\$8.34	\$9.09	\$9.54	\$10.02	\$10.52
Commercial 6	\$12.77	\$13.92	\$15.17	\$15.93	\$16.73	\$17.56
Lift Station Service Charge						
	\$9.41	\$9.75	\$10.10	\$10.46	\$10.84	\$11.23

Attachment: Proposition 218 Notice (2297 : Wastewater Rates Adoption)

LIFT STATION SERVICE CHARGES

Due to Morgan Hill's varying topography, additional infrastructure is required to provide wastewater services to residents living at different elevations within the City. Lift station charges based on the cost of service to operate and replace this additional infrastructure will be charged to those residents living in the areas requiring the use of the additional infrastructure. Proposed lift station service charges are included on *Table 1: Proposed Wastewater Rate Adjustment Schedule 2019-2023*. Maps that allow customers to determine if they fall within an area serviced by lift stations are available for review at www.morgan-hill.ca.gov/1754/2019-Wastewater-Rate-Adjustment.

IMPACT TO WASTEWATER CHARGE ON THE BILL

If approved, wastewater rate increases would commence July 1, 2019, and adjust annually on July 1 thereafter.

The total amount of customer's wastewater charge will depend on the amount of water used between the months of November and April. For an average single family residence (8 units of wastewater), the wastewater charge on the utility bill will increase as shown below.

Table 2: Average Monthly Single Family Residence Wastewater Charge (8 units)

	CURRENT	UNDER PROPOSED RATES				
		1-Jul-19	1-Jul-20	1-Jul-21	1-Jul-22	1-Jul-22
Wastewater	\$ 53.03	\$ 57.80	\$ 63.00	\$ 66.15	\$ 69.46	\$ 72.93
Total Percent Increase		9%	9%	5%	5%	5%

HOW TO PROTEST THE PROPOSED RATE ADJUSTMENTS

As the owner or customer of record of a parcel subject to the imposition of the proposed rate adjustments, you may submit a written protest against the proposed rate changes. If the City receives written protests against proposed wastewater rates by a majority of the affected property owners or tenants or utility customers on record prior to the end of the hearing, the Council will not approve the change. Only one written protest will be counted per identified parcel.

You have the right to withdraw a written protest that you previously submitted prior to the conclusion of the public hearing. The City Council will count all written protests received (not postmarked) prior to the conclusion of the public hearing. The City Council will not count written protests submitted after the conclusion of the public hearing. Only one protest per parcel will be counted.

A written protest must include (1) your name; (2) identification of the parcel by address or assessor's parcel number; (3) whether you are the owner of the parcel or the person receiving the service for which the fee is charged; and (4) your statement of the specific rate changes for which you protest the increase in the fee; and (5) your original signature. Written protests will not be accepted by e-mail or by fax. Verbal protests will not be counted. Written protests may be submitted by mail or in person to:

**City of Morgan Hill
Attn: Rate Protest
17575 Peak Avenue
Morgan Hill, CA 95037-4128**

For more information, visit www.morgan-hill.ca.gov/1754/2019-Wastewater-Rate-Adjustment or call Utility Billing at (408) 779-7221.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN
HILL ADJUSTING WASTEWATER SYSTEM SERVICE FEES**

WHEREAS, Chapter 13.16 of the Municipal Code of the City of Morgan Hill (“Municipal Code”) established Wastewater Service Fees;

WHEREAS, Pursuant to Municipal Code section 13.16.085, the City Council of the City of Morgan Hill (“City Council”) has the authority to set, adjust and collect fees for wastewater system service by resolution;

WHEREAS, the City Council has received and duly considered the report entitled “City of Morgan Hill Final Wastewater Rate Study Report” dated April 2019, authored by NBS;

WHEREAS, the fees calculated by the NBS report do not exceed the cost of providing wastewater system services and proportionally distributing these costs to different geographic zone’s users;

WHEREAS, the NBS report, as well as all material supplementary thereto, and all background data referenced in the report, was available for public inspection and review at the Finance Department of the City of Morgan Hill;

WHEREAS, the California Constitution article XIII D (Proposition 218) specifically authorizes a wastewater system service provider to adopt wastewater system service fees for its customers that do not exceed the cost of providing the service and are proportionate to the cost of service for all customers;

WHEREAS, pursuant to Article XIID of the California Constitution, the City has properly notified all owners of record about proposed wastewater system service fee adjustments, and about their right to protest the proposed adjustments, at least 45 days prior to the public hearing held on May 1, 2019 (“Hearing”), for this purpose;

WHEREAS, such mailing was completed on March 15, 2019;

WHEREAS, instructions on the proper method for submitting a protest were included in the notice;

WHEREAS, the City Council has previously set May 1, 2019 as the date for the Hearing for consideration of an adjusted schedule of wastewater system service fees (including automatic adjustments to become effective each year through 2023) for the City wastewater service;

WHEREAS, the City Council has received and duly considered all written and verbal comments provided to it by staff and the public, which comments are hereby incorporated into the record on this matter;

WHEREAS, the NBS report recommends that the wastewater service system reserve funds maintain the target level of reserves designated therein as the Reserve Funds

640 (Operating Reserve Fund), 642 (Rate Stabilization Fund), and 643 (Capital System Replacement Reserve Fund). These reserve funds are necessary for the financial stability of the wastewater system service as well as for emergency operation and capital needs;

WHEREAS, the City Council finds that revenues derived from the proposed fees, (a) do not exceed the cost of wastewater system service including basic costs, incremental costs and allocated costs and, (b) do not exceed the proportional cost of service attributable to the customer's parcel, as determined by giving considerations to the factors set forth in the NBS report;

WHEREAS, the Hearing on adoption of this resolution and the fees outlined in Exhibit "A" attached hereto was noticed pursuant to and in compliance with Government Code section 6062a, and set as part of a regular City Council meeting and Hearing held on May 1, 2019, in the Council Chambers located at City Hall, 17555 Peak Avenue; and

WHEREAS, the number of protests compared to the number of parcels currently receiving wastewater system service from the City is less than 50%.

NOW, THEREFORE, the City Council, based upon all documents, statements and facts known to the City, does hereby resolve:

SECTION 1. Findings: The City Council hereby finds as follows:

- A. All provisions set forth above are true and correct, and are hereby incorporated herein as findings of this City Council by reference.
- B. The purposes of the fees and reserves set forth herein are to finance the wastewater system service costs.
- C. There is a need for wastewater system services to protect the public's health, safety, and welfare.
- D. The facts and evidence presented to the City Council establish that the cost determinations set forth are reasonable and proportional, and the fees expected to be generated will not exceed those reasonable and proportional costs.

SECTION 2. Adoption of Fees, Reserves and the NBS report. Therefore, the City Council hereby adopts the adjusted wastewater system service fees, the reserve fund targets, and the NBS report. The fees are shown in Exhibit "A", which is attached hereto and incorporated by reference.

SECTION 3. Implementation Dates. The City Council hereby orders that the adjustments to wastewater system service rates be effective for each monthly billing cycle beginning on or after July 1, 2019, July 1, 2020, July 1, 2021, July 1, 2022, and July 1, 2023, as described in Exhibit "A".

SECTION 4. Challenges to Resolution. Any judicial action or proceeding to attack, review, set aside or annul this resolution or any provision thereof shall be brought within

City of Morgan Hill
 Resolution No. _____
 Page 3 of 4

the time periods prescribed in Government Code section 66022 and Municipal Code section 3.08, et seq.

SECTION 5. Exemption from CEQA. The City Council finds that this resolution is for the establishment, modification, structuring, restructuring, or approval of fees for the purpose of: (1) meeting operating expenses, including employee wages and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain wastewater system service within existing service areas, and therefore is exempt from the California Environmental Quality Act Pursuant to Title 14, California Code of regulations, Sections 15061(b) and 15273(a).

SECTION 6. Severability. If any portion of this resolution is declared invalid by a court of competent jurisdiction, then it is the intent of the City Council that all other provisions of the resolution shall be severed and remain in full force and effect.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 1st day of May 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 May 1, 2019.

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

DATE: _____

Irma Torrez, CITY CLERK

Attachment: Resolution Adopting new rates (2297 : Wastewater Rates Adoption)

Exhibit “A”

Wastewater Rate Adjustment Schedule 2019-2023

Description		Adopted Wastewater Rates				
Fixed Charge	Current	1-Jul-19	1-Jul-20	1-Jul-21	1-Jul-22	1-Jul-23
Meter Size						
<i>Single & Multi-Family Residential</i>						
5/8" – 1"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
<i>All Other Customers</i>						
5/8"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
3/4"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
1"	\$19.67	\$21.44	\$23.37	\$24.54	\$25.77	\$27.05
1-1/2"	\$73.63	\$80.26	\$87.48	\$91.85	\$96.45	\$101.27
2"	\$117.23	\$127.78	\$139.28	\$146.25	\$153.56	\$161.24
3"	\$255.39	\$278.38	\$303.43	\$318.60	\$334.53	\$351.26
4"	\$458.73	\$500.02	\$545.02	\$572.27	\$600.88	\$630.93
6"	\$1,018.18	\$1,109.82	\$1,209.70	\$1,270.18	\$1,333.69	\$1,400.38
8"	\$1,572.90	\$1,714.46	\$1,868.76	\$1,962.20	\$2,060.31	\$2,163.33
10"	\$1,966.13	\$2,143.08	\$2,335.96	\$2,452.76	\$2,575.39	\$2,704.16
Volumetric Charge – Rate per baseline estimate HCF						
<i>Single & Multi-Family Residential</i>	\$4.17	\$4.55	\$4.95	\$5.20	\$5.46	\$5.74
<i>Commercial/Industrial/Public</i>						
Commercial 1	\$3.99	\$4.35	\$4.74	\$4.98	\$5.23	\$5.49
Commercial 2	\$4.67	\$5.09	\$5.55	\$5.83	\$6.12	\$6.42
Commercial 3	\$5.68	\$6.19	\$6.75	\$7.09	\$7.44	\$7.81
Commercial 4	\$6.44	\$7.02	\$7.65	\$8.03	\$8.44	\$8.86
Commercial 5	\$7.65	\$8.34	\$9.09	\$9.54	\$10.02	\$10.52
Commercial 6	\$12.77	\$13.92	\$15.17	\$15.93	\$16.73	\$17.56
Lift Station Service Charge (As Applicable)						
	\$9.41	\$9.75	\$10.10	\$10.46	\$10.84	\$11.23

Attachment: Resolution Adopting new rates (2297 : Wastewater Rates Adoption)

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 13.16.030 "RATES- RESIDENTIAL AND NONRESIDENTIAL", 13.16.035 "RATES- LOW INCOME", 13.16.040 "RATES- MOBILE HOME UNITS", 13.16.080 "RATE INCREASES-EFFECTIVE WHEN", 13.16.090 "RATES - ADJUSTMENT PROCEDURE - APPEAL", OF CHAPTER 13.16 "SEWER RATES AND INTERIM GROWTH MANAGEMENT" OF TITLE 13 PUBLIC SERVICES OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT AND INCREASE OF SEWER RATES

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.16.030-Rates Residential and Nonresidential of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.030 - Rates—Residential and nonresidential.

- A. —Rates for residential and nonresidential users shall be in accordance with subsection E of this section set by resolution, enacted under section 13.16.085. The residential sewer volume charge shall be based on the average measured volume of water usage for the three consecutive low water usage months between the months of November 1st and April 30th with a minimum of two HCF per dwelling unit ~~and a maximum of thirteen HCF per dwelling unit~~. The three low water usage months shall be annually determined by the finance director based on the total water consumed by all customers. The sewer volume charge for nonresidential users shall be based on actual monthly water usage.
- B. —Residential and commercial sewer service customers served by one or more sewer lift station, shall pay the monthly surcharge ~~described in subsection E of this section~~ established under section 13.16.085.
- C. —New single-family dwelling units and single-family customers without past history of water usage during the designated months shall be assigned the calculated average single-family water use for the city, which is eight HCF, for billing purposes until the actual water usage for the designated months is measured and implemented with other rate changes in July.
- D. —New multifamily units and multifamily customers without past history of water usage during the designated months shall be assigned the calculated average multifamily water use for the city, which is four HCF, for billing purposes until the actual water usage for the designated months is measured and implemented with other rate changes in July.

~~E. Residential and nonresidential sewer service charges are as follows:~~

Meter Size	Service Charge	Meter Size	Service Charge
Individual single-family and multifamily units served by an individual water meter			\$12.09
Low income rate—Individual single-family and multifamily units served by an individual water meter (50% of monthly service charge above).			\$6.04
5/8 " and 3/4"	\$12.09	3"	\$157.04
1"	\$23.02	4"	\$282.08
1 1/2"	\$45.27	6"	\$626.09
2"	\$72.08		
MONTHLY SEWER LIFT STATION SURCHARGE			\$5.05
VOLUME USAGE CHARGES Residential Customers			Rate per HCF
Single-family (average volume usage for accounts without usage history is 8 HCF)			\$2.56
Multifamily (average volume usage for accounts without usage history is 4 HCF)			\$2.56
Nonresidential Customers			Rate per HCF
Low-Strength Commercial			\$2.87
Car wash and laundromats	Barber and beauty shops	Department, retail stores and general commercial	
Medical offices	Warehouse	Hospitals and convalescent	
Medium-Low Strength Commercial			\$3.49
Hotels without dining	Auto repair/sales/service	Shopping center	
Bars without dining	Nurseries	RV parks	

Movie theaters	Photo finishers/printers	Laundry/dry cleaners	
Medium-Strength Commercial			
Convenience/liquor with deli	Lumber yards	Industrial laundry	\$4.70
High-Strength			\$7.84
Bakery	Food processor	Restaurant and bars with food	
Grocery	Mortuary	Auto repair with steam clean	
Institutional			\$2.45
Churches/schools	Membership organizations	Government	
Light Industry			\$3.96
Nonresidential Monthly Pretreatment Charge Nonresidential users determined to be Regulated Class 1 or Class 2 users by the Chemical Control Division			
Class 1 and Class 2			\$120.90

Section 2. Section 13.16.035 Rates- Low Income of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.035 - Rates—Low income.

Customers residing in dwelling units which have individual city water meters may qualify for the low-income rate by presenting a copy of a utility bill indicating that they are receiving a ~~"LIRA" rate from P.G. & E.~~ the "CARE" discount from PG&E and/or a "Lifeline" rate from GTE. The sewer service charge shall be the rate adopted by the City Council under 13.156-.085, less any approved low-income subsidy in effect at the time. ~~fifty percent of the monthly residential base rate.~~ The supplemental rate per HCF, and lift station surcharge shall apply in accordance with Section 13.16.030.

Section 3. Section 13.16.040 Rates- Mobile Home Units of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.040 - Rates—Mobile home units.

For each mobile home park or trailer park, the sewer service charge shall be a base rate ~~of seven dollars and five cents per month~~ plus a supplemental rate ~~of three dollars and forty-five cents~~ for each one hundred cubic feet (HCF) of water used per dwelling unit based on the average measured volume of water usage for the months of December, January and February ~~up to a maximum of thirteen hundred cubic feet per average dwelling unit~~. In addition, for those areas served by one or more lift stations, there shall be a surcharge rate ~~of five dollars and five cents~~ per month per mobile home park.

Section 4. Section 13.16.080 Rate Increases- Effective When of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.080 - Rate increases—Effective when.

~~Sewer service rate increases are effective September 1996. The effective dates are for any~~ rate increase shall be set in the resolution adopted under section 13.16.085.

Section 5. Section 13.16.090 - Rates—Adjustment Procedure—Appeal of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.090 - Rates—Adjustment procedure—Appeal.

Residential sewer users who by reason of special circumstances find that the foregoing rates are unjust or inequitable as applied to their premises, may make written application to the director of finance. Commercial sewer users who by reason of special circumstances find that the foregoing rates are unjust or inequitable as applied to their premises, may make written application to the director of public ~~works~~services. Such application shall state the circumstances and request a different basis of sewer service charge. If the director of finance or public ~~works~~services denies such application, the sewer user may appeal the decision to the city manager.

Section 6. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 7. 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.

This ordinance was introduced at a meeting of the City Council held on the ____ day of ____, 20__, and adopted at a meeting held on the ____ day of ____, 20__, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

RICHARD CONSTANTINE, 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. ____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of ____, 2019.

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

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 13.16.030 "RATES- RESIDENTIAL AND NONRESIDENTIAL", 13.16.035 "RATES- LOW INCOME", 13.16.040 "RATES- MOBILE HOME UNITS", 13.16.080 "RATE INCREASES-EFFECTIVE WHEN", 13.16.090 "RATES - ADJUSTMENT PROCEDURE - APPEAL", OF CHAPTER 13.16 "SEWER RATES AND INTERIM GROWTH MANAGEMENT" OF TITLE 13 PUBLIC SERVICES OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING THE ESTABLISHMENT AND INCREASE OF SEWER RATES

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

Section 1. Section 13.16.030-Rates Residential and Nonresidential of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.030 - Rates—Residential and nonresidential.

- A. Rates for residential and nonresidential users shall be set by resolution, enacted under section 13.16.085. The residential sewer volume charge shall be based on the average measured volume of water usage for the three consecutive low water usage months between the months of November 1st and April 30th with a minimum of two HCF per dwelling unit. The three low water usage months shall be annually determined by the finance director based on the total water consumed by all customers. The sewer volume charge for nonresidential users shall be based on actual monthly water usage.
- B. Residential and commercial sewer service customers served by one or more sewer lift station, shall pay the monthly surcharge established under section 13.16.085.
- C. New single-family dwelling units and single-family customers without past history of water usage during the designated months shall be assigned the calculated average single-family water use for the city, which is eight HCF, for billing purposes until the actual water usage for the designated months is measured and implemented with other rate changes in July.
- D. New multifamily units and multifamily customers without past history of water usage during the designated months shall be assigned the calculated average multifamily water use for the city, which is four HCF, for billing purposes until the actual water usage for the designated months is measured and implemented with other rate changes in July.

Section 2. Section 13.16.035 Rates- Low Income of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.035 - Rates—Low income.

Customers residing in dwelling units which have individual city water meters may qualify for the low-income rate by presenting a copy of a utility bill indicating that they are receiving the "CARE" discount from PG&E and/or a "Lifeline" rate from GTE. The sewer service charge shall be the rate adopted by the City Council under 13.16.085, less any approved low-income subsidy in effect at the time. The supplemental rate per HCF and lift station surcharge shall apply in accordance with Section 13.16.030.

Section 3. Section 13.16.040 Rates- Mobile Home Units of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.040 - Rates—Mobile home units.

For each mobile home park or trailer park, the sewer service charge shall be a base rate plus a supplemental rate for each one hundred cubic feet (HCF) of water used per dwelling unit based on the average measured volume of water usage for the months of December, January, and February. In addition, for those areas served by one or more lift stations, there shall be a surcharge rate per month per mobile home park.

Section 4. Section 13.16.080 Rate Increases- Effective When of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.080 - Rate increases—Effective when.

The effective dates for any rate increase shall be set in the resolution adopted under section 13.16.085.

Section 5. Section 13.16.090 - Rates—Adjustment Procedure—Appeal of Chapter 13.16 Sewer Rates and Interim Growth Management of Title 13 Public Services is hereby amended to read as follows (additions in underline, deletions in strikeout):

13.16.090 - Rates—Adjustment procedure—Appeal.

Residential sewer users who by reason of special circumstances find that the foregoing rates are unjust or inequitable as applied to their premises, may make written application to the director of finance. Commercial sewer users who by reason of special circumstances find that the foregoing rates are unjust or inequitable as applied to their premises, may make written application to the director of public services. Such application shall state the circumstances and

request a different basis of sewer service charge. If the director of finance or public services denies such application, the sewer user may appeal the decision to the city manager.

Section 6. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 7. 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.

This ordinance was introduced at a meeting of the City Council held on the ____ day of ____, 20__, and adopted at a meeting held on the ____ day of ____, 20__, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

RICHARD CONSTANTINE, 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. ____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of ____, 2019.

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

Attachment: wastewater rates ordinance - clean version (2297 : Wastewater Rates Adoption)

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: May 1, 2019

PREPARED BY: Gina Paolini, Interim Principal Planner
APPROVED BY: City Manager

APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION TO REJECT A RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) APPLICATION FOR PROPERTY IDENTIFIED BY ASSESSOR'S PARCEL NUMBER 817-04-059, LOCATED ALONG TENNANT AVENUE, WEST OF VINEYARD BOULEVARD (OSITO HOLDINGS, LLC, APPLICANT)

RECOMMENDATION(S)

City Council to consider the appeal and determine whether the applicant's modified plans may be accepted allowing the project to continue in the 2018 RDCS competition.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment
Preserving and Cultivating Public Trust

2019 Strategic Priorities

Community Engagement and Messaging
Housing

GUIDING DOCUMENTS

General Plan/Housing Element

REPORT NARRATIVE:

Residential Development Control System (RDCS) application RDCS2019-0003 Tennant-Osito Holdings was submitted March 8, 2019. As required by Section 18.156.120.D, the project was evaluated for consistency with the General Plan, any applicable specific plan, the Morgan Hill Municipal Code, Architectural Review Handbook and other applicable City rules and regulations.

The project applicant, Osito Holdings, LLC. has requested 11 allotments for a residential attached development (1 Quadplex, 1 Triplex, 2 Duets) on a 1-acre site. The site is zoned Residential Attached Low-3,000. The project has been designed using the Alternative Zoning Standards for Medium Density Residential Development (Chapter 18.40). Chapter 18.40 of the City of Morgan Hill Municipal Code establishes minimum standards for new development, including minimum lot area, lot widths, depths, and front, side, and rear yard building setbacks. Any application that does not conform to the required development standards must be rejected by the Community Development Director, and the decision is appealable to the City Council.

The applicant was notified on March 25, 2019, that the proposed duet lots required a minimum lot depth requirement of 85 feet. The project plans indicated a lot depth of

84.6 feet. A deviation for zoning consistency is not offered through Table 55 in the RDCS Competition Manual or through the City's Zoning Code. It was also determined that through the Preliminary RDCS process the applicant was notified of the inconsistency; however, there was an error in the consistency table provided by the City and the applicant relied upon that as confirmation that the reduced lot depth was acceptable. Section 18.156.120.C of the Morgan Hill Municipal Code states that applications may not be modified after submittal, therefore, the applicant filed an appeal of the RDCS consistency review on April 4, 2019 (Attachment 1).

The RDCS includes a provision (Section 18.156.120.D) that the City Council may consider an appeal and direct the applicant to make modifications to the application. If these modifications bring the application into compliance with the General Plan and Zoning Code the application may continue to compete for allotments. The City team has continued to work with the applicant to determine whether the plans could be modified to conform with the lot depth requirement. During this process, it was determined that the measurements indicated on the plans were incorrect and that the lot depth did conform to the zoning provisions; however, several other measurement errors were identified on the plans. All errors have been identified in the revised Site Development Plan (Attachment 2). A notable change from the original submittal to the revised submittal is duet units to be located on Lots 8 and 9 have been shifted slightly, increasing the private yard space. All other errors appear to be labeling corrections. The original Site Development Plan has been provided for reference (Attachment 3).

In order to meet the RDCS process deadlines, the RDCS team has continued to score the project as originally submitted subject to the appeal so that scoring is completed prior to Planning Commission review of scores should the appeal be granted. The preliminary scoring for this project indicates that it would meet the minimum RDCS score required to qualify for allotments.

The revised project complies with the City's Zoning Code. We now know that the original project did comply at initial submittal however lot measurements at that time indicated that the development plan was inconsistent with the code. Modifications made to the plans were primarily to correct measurement errors, but the location of buildings on two lots in the revised plans were also changed. The City Council may allow the project applicant to continue to compete for allotments with the modified Site Development Plan. RDCS preliminary scores are to be provided to the Planning Commission on May 3, 2019.

COMMUNITY ENGAGEMENT: 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.

ALTERNATIVE ACTIONS:

None.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Not Applicable

FISCAL AND RESOURCE IMPACT:

The RDCS is administered as a cost recovery program with fees collected from project applicants to cover the costs of the City's processes. The Appellant has expressed a desire to receive a refund for the cost of the Appeal if the Appeal is granted. Staff has communicated to the Appellant that it would be inconsistent with the City's cost recovery operation to refund the cost of the Appeal once the Appeal process has been completed. A fee was collected to cover the costs for processing the subject Appeal. A refund of the fee is not supported.

Should the City Council deny the Appeal, a partial refund of the RDCS application fees could be authorized based upon the percentage of work completed to date.

CEQA (California Environmental Quality Act):

Not a Project.

The RDCS application process is an administrative process and is not a project subject to CEQA.

LINKS/ATTACHMENTS:

1. Applicant's Appeal Letter
2. Revised Site Development Plan
3. Initial Site Development Plan

April 18, 2019

Mayor Rich Constantine, and
Members of the Morgan Hill City Council
17575 Peak Avenue
Morgan Hill, CA 95037

RE: RDCS Zoning Consistency Appeal – Tennant Square – REVISED APPEAL LETTER

Honorable Mayor Constantine and City Council Members:

Our proposed project submitted in this year's RDCS competitions is known as Tennant Square. It is a 0.99 acre in-fill project that is surrounded by existing developments. It consists of 11 units made up of 4 duets and 7 single family attached homes (APN 817-04-059) located on Tennant Ave between Church St. and Vineyard Blvd.

Taking our first project through the RDCS process has been a learning and growing process. The city staff has been extremely responsive and helpful while navigating these waters and trying to design a project worthy of Morgan Hill. All city staff have gone above and beyond, including both Gina Paolini and Rebecca Garcia.

During the preliminary review, the staff noted several changes to our project that needed to be addressed in order to comply with the zoning code. The depth of our duet lots were noted to be 84.6' and the zoning code called out a minimum depth of 85'. The notes from the staff stated that these lots were compliant and that no changes were necessary. Because we relied on the staff's comments to make adjustments for our final submittal and the notes showed that the depth of these lots were in compliance, we did not make any changes. Had the comments noted that a correction was needed, we have sufficient room on our site to increase the depths of the lots by 5" to put them in compliance. We were able to correct all of the staff's comments that required corrections.

We discussed with city management and staff how best to handle this situation and we were encouraged to submit an appeal requesting to be able to correct the depth of the lots now and proceed with this year's competition because we relied on the staff's comments from the preliminary submittal and no changes were requested for the depth of the duet lots during that time. We were also encouraged to seek a refund for the appeal fee.

After submitting the appeal and while waiting for the city council meeting, the city staff asked us to update our site plan to show how changing the dimensions of the duet lots would impact the site. As we set about updating the plans, we realized that the buildings, lots, and street layouts on the plans were correct all along. What was incorrect were the manual dimensions for the depth of the lots. We found some other incorrect dimensions as well. In all, there were (3) items that we updated/clarified on the site plan.

1. Clarified the correct lot dimensions and front setbacks for the (4) duet homes that were out of compliance but were told by city staff that they were in compliance during the preliminary review. Had we been told that these needed to be updated during the preliminary review, we could have been able to resolve this issue as well as the following issue.

Attachment: Applicant's Appeal Letter (2292 : RDCS Appeal)

2. Clarified the lot dimensions and front setbacks on (4) single family attached homes that were always in compliance and are now even in more compliance with the clarified lot dimensions and front setbacks.
3. Adjusted the building on lots 8 & 9 to enhance the project. Moving these buildings makes for a better project but does not affect our scores or zoning consistency. We are able to move these buildings back to the original location if the City Council feels it necessary.

We are asking the City Council to allow us to keep working with the city staff to clarify the depth dimensions and front setbacks so we can continue with this year's competition.

Sincerely,

David Halvorsen, Manager
Osito Holdings LLC

Attachment: Applicant's Appeal Letter (2292 : RDCS Appeal)

April 3, 2019

Mayor Rich Constantine, and
Members of the Morgan Hill City Council
17575 Peak Avenue
Morgan Hill, CA 95037

RE: RDCS Zoning Consistency Appeal – Tennant Square – ORIGINAL APPEAL LETTER

Honorable Mayor Constantine and City Council Members:

Our proposed project submitted in this year's RDCS competitions is known as Tennant Square. It is a 0.99 acre in-fill project that is surrounded by existing developments. It consists of 11 units made up of 4 duets and 7 single family attached homes (APN 817-04-059) located on Tennant Ave between Church St. and Vineyard Blvd.

Taking our first project through the RDCS process has been a learning and growing process. The city staff has been extremely responsive and helpful while navigating these waters and trying to design a project worthy of Morgan Hill. All city staff have gone above and beyond, including both Gina Paolini and Rebecca Garcia.

During the preliminary review, the staff noted several changes to our project that needed to be addressed in order to comply with the zoning code. The depth of our duet lots were noted to be 84.6' and the zoning code called out a minimum depth of 85'. The notes from the staff stated that these lots were compliant and that no changes were necessary. Because we relied on the staff's comments to make adjustments for our final submittal and the notes showed that the depth of these lots were in compliance, we did not make any changes. Had the comments noted that a correction was needed, we have sufficient room on our site to increase the depths of the lots by 5" to put them in compliance. We were able to correct all of the staff's comments that required corrections.

We discussed with city management and staff how best to handle this situation and we were encouraged to submit an appeal requesting to be able to correct the depth of the lots now and proceed with this years competition because we relied on the staff's comments from the preliminary submittal and no changes were requested for the depth of the duet lots during that time. We were also encouraged to seek a refund for the appeal fee.

We are asking the City Council to allow us to keep working with the city staff to correct the minimum depth of the duet lots to meet the 85' minimum depth standard so we can continue with this year's competition. We are also asking for a refund on the appeal fee.

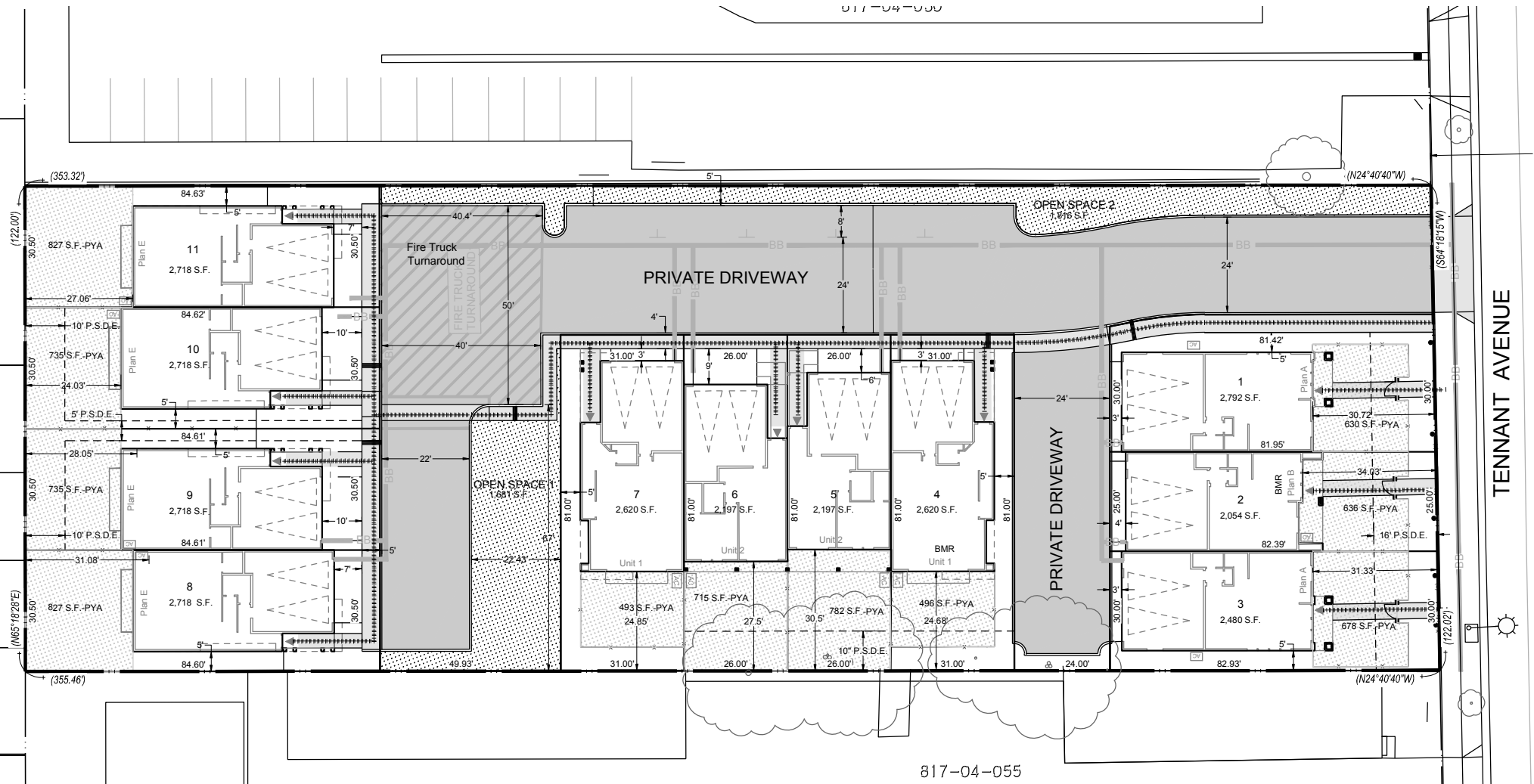
Sincerely,

David Halvorsen, Manager
Osito Holdings LLC

Attachment: Applicant's Appeal Letter (2292 : RDCS Appeal)

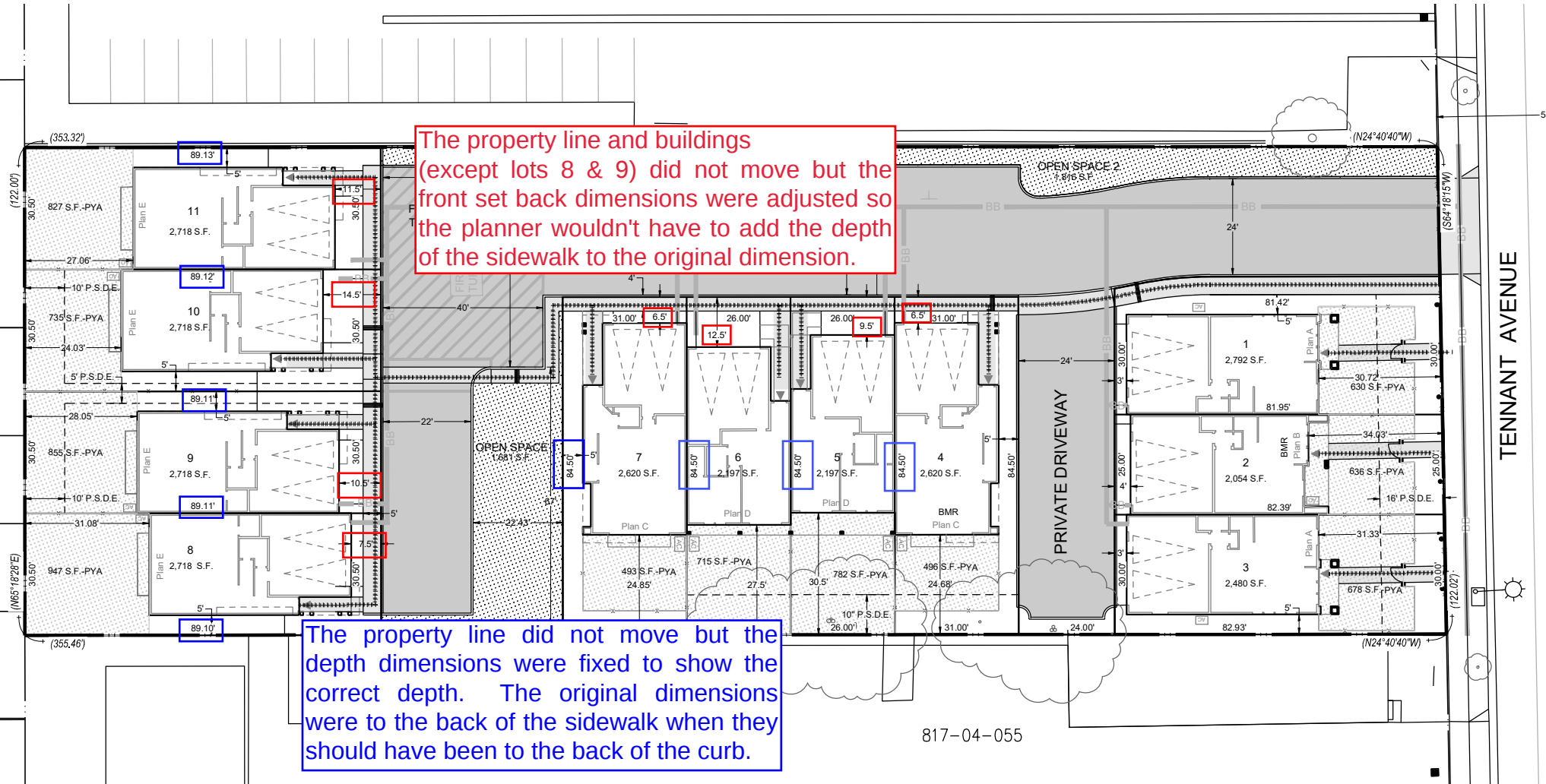


ORIGINAL SITE MAP



817-04-055

PROPOSED SITE MAP



IDENTIFIED PLAN MODIFICATIONS

- 1. Duets 8 and 9 adjusted increasing private yard area. Front setbacks adjusted.
- 2. Setbacks were not measured from property line in all cases. Plans modified to indicate correct setback in all cases.
- 3. Lot Depth incorrectly labeled for duets and quadplex units.

legend:

	Existing tree to be removed
	Air Conditioner
	Below Market Rate Unit
	Broad Band Conduit
	Entrance to Unit
	Private Yard Area
	ADA Path of Travel

building coverage calcs:

PROJECT NET AREA:	0.9925 ACRES
DRIVEWAY AND PRIVATE STREET COVERAGE:	0.2217 ACRES
BUILDING COVERAGE:	0.3024 ACRES
SIDEWALK COVERAGE:	0.0830 ACRES
% BUILDING COVERAGE:	30.47%

density calcs:

TOTAL PROJECT AREA:	0.9925 ACRES
SITE NET AREA:	0.9925 ACRES
NO. UNITS ALLOWED:	11 UNITS
NO. UNITS PROPOSED:	11 UNITS
OPEN SPACE AREA:	0.0802 ACRES (3494 SF)

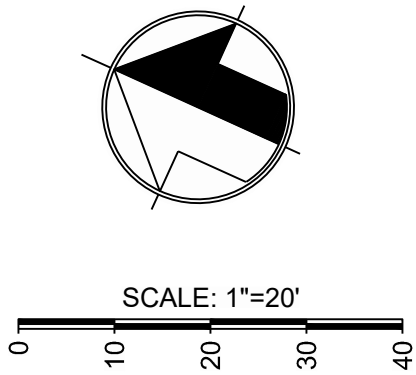
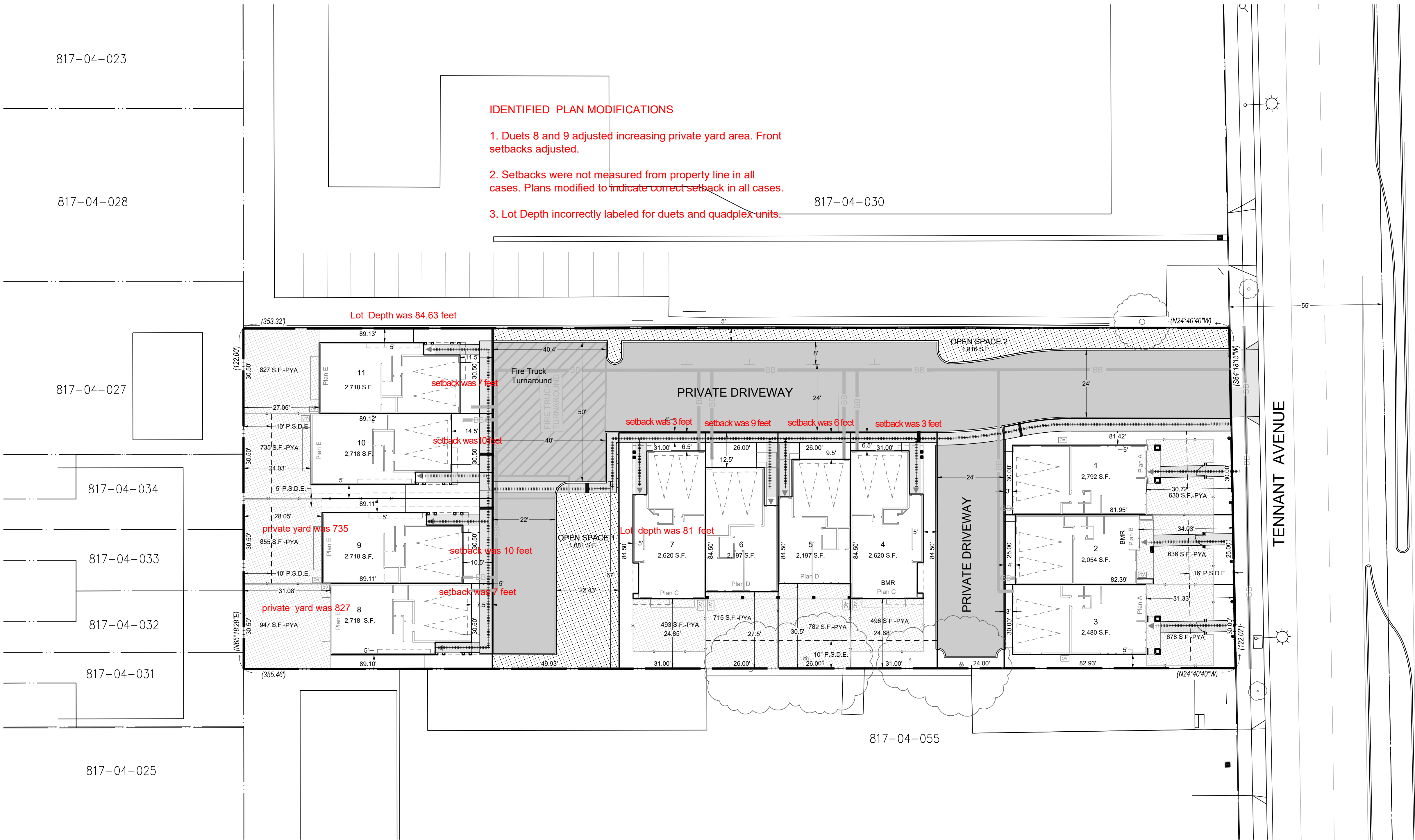
setback notes:

GP-RAL (6-16)	ZONING: RAL-3500 (Alternative Stanadards)
---------------	---

TYPICAL FRONT YARD SETBACK:	15' (3')
TYPICAL REAR YARD SETBACK:	15' (3')
TYPICAL SIDE YARD SETBACK:	5' (0')

notes:

ASSESSOR'S PARCEL NO:	817-04-059
PRESENT USE:	VACANT
PROPOSED USE:	RESIDENTIAL
PRESENT ZONING:	RAL-3,500
PROPOSED ZONING:	RAL-3,500
SANITARY SEWER:	CITY OF MORGAN HILL
GAS and ELECTRIC:	PG&E
WATER:	CITY OF MORGAN HILL
TELEPHONE:	VERIZON
EXISTING IMPROVEMENTS:	AS SHOWN
GENERAL PLAN:	RAL (6-16 DU/AC)



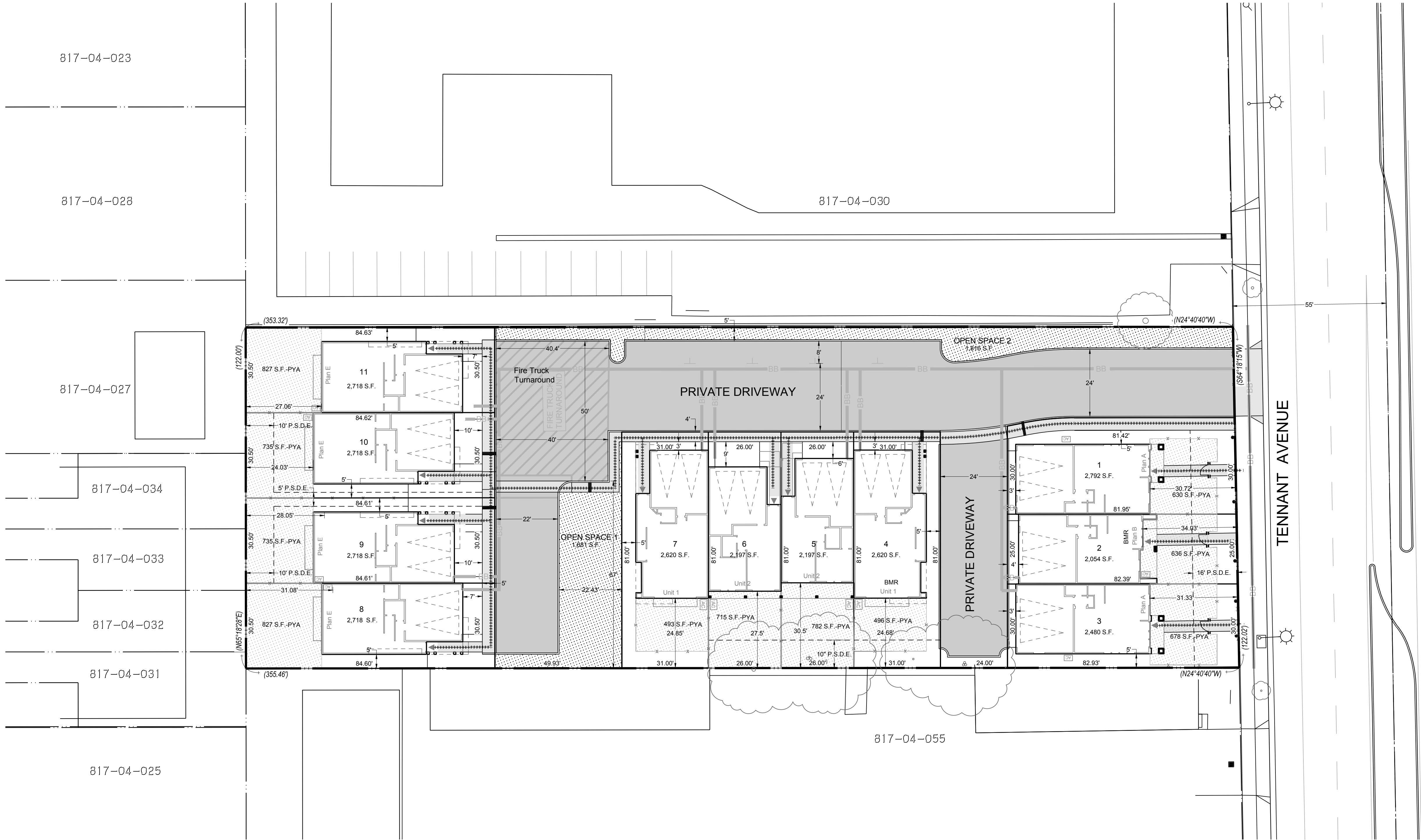
Osito Holdings, LLC
site development plan

applicant:
OSITO HOLDINGS LLC.
PO BOX 362
MORGAN HILL, CA 95038
(408) 981-9114

engineer:
MH ENGINEERING
16075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381

MH engineering Co.
16075 Vineyard Boulevard
Morgan Hill, CA 95037

DATE: 3/19 DRAWN:RS CHECKED: WJM



Legend:

BR	Existing tree to be removed
AC	Air Conditioner
BMR	Below Market Rate Unit
BB	Broad Band Conduit
◀	Entrance to Unit
PYA	Private Yard Area
	ADA Path of Travel

building coverage calcs:

PROJECT NET AREA:	0.9925 ACRES
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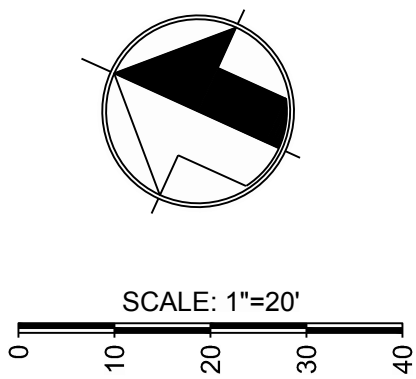
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notes:

ASSESSOR'S PARCEL NO:	817-04-059
PRESENT USE:	VACANT
PROPOSED USE:	RESIDENTIAL
PRESENT ZONING:	RAL-3,500
PROPOSED ZONING:	RAL-3,500
SANITARY SEWER:	CITY OF MORGAN HILL
GAS and ELECTRIC:	PG&E
WATER:	CITY OF MORGAN HILL
TELEPHONE:	VERIZON
EXISTING IMPROVEMENTS:	AS SHOWN
GENERAL PLAN:	RAL (6-16 DU/AC)



Osito Holdings, LLC
site development plan

applicant:
OSITO HOLDINGS LLC.
PO BOX 362
MORGAN HILL, CA 95038
(408) 981-9114

engineer:
MH ENGINEERING
18075 VINEYARD BLVD.
MORGAN HILL, CA 95037
(408) 779-7381

From: [D. Muirhead](#)
To: [Michelle Bigelow](#)
Subject: comment Morgan Hill City Council Meeting May 01, 2019 Item #6: Support agricultural water subsidy
Date: Monday, April 29, 2019 9:12:11 AM

Warning: this message is from an external user and should be treated with caution.

Dear Morgan Hill City Council,

Comments for the Public Record for:
Morgan Hill City Council
Meeting May 01, 2019
Item #6: Support agricultural water subsidy

#6: Oppose a potential decrease in subsidy for agricultural water.

I support this action as one part of our effort to create sustainable agriculture in South County. I would encourage you to take two additional steps:

- 1) advocate for funding for agricultural water as well as for land acquisition and preservation.
 - 2) expand MTC Priority Conservation Areas to include the City Agriculture Conservation Area (formerly known as the SEQ).
-
- 1) Michael Meehan, the lead for agricultural preservation in County Planning, told me to expect a significant ballot measure in 2020. I have urged County Planning, the Open Space Authority, and the Water District to support funding for agricultural water in that ballot measure as one part of a permanent sustainable funding source for the subsidy.
 - 2) MTC/ABAG Plan Bay Area defines Priority Conservation Areas (PCAs), which are regionally significant open spaces that support a wide variety of conservation values. PCAs complement PDA's emphasis on housing and transportation, by supporting compatible investments in communities' recreational, agricultural, natural, and scenic resources. These areas become eligible for grant funding while not interfering with land use decisions by local jurisdictions. Morgan Hill supported PCAs nominated by OSA within the City's Sphere of Influence on May 20, 2015 only after OSA removed the SEQ from the proposal. While I have mis-placed the source reference, an opportunity to nominate new PCAs is expected to occur later this year as part of the Horizon project (Plan Bay Area 2050 planning process).

A history note, to clarify staff's comment:

Valley Water has historically set their groundwater extraction fee substantially lower for agricultural (Ag) users than for municipal and industrial (M&I) users like the City. The District creation act limits the agricultural charge to be no more than 25% of the municipal and industrial (M&I) charge. In 1999, to further its support for agricultural lands, a District policy was put into place to limit the agricultural groundwater charge

to no more than 10% of the M&I charge.

I also need to object to:

COMMUNITY ENGAGEMENT: Not Applicable

No community engagement activities were conducted for this item.

Once again, using the Consent calendar, you miss the opportunity to contribute to the awareness of the efforts for sustainable agriculture in South County. And to make clear your advocacy.

Thank you for your consideration,

Doug Muirhead, Morgan Hill



Morgan Hill City Council Meeting – May 1, 2019

Infrastructure Report

Agenda Item: 9



Purpose of Report



1. Identify infrastructure maintenance needs.
2. Report on funding issues relating to infrastructure.

Updates from 2018

- Open Space Maintenance Discussion
- Herbicide Use Discussions
- Rate Studies
- Measure B Funding Confirmed
- New Funding Appropriated in FY18/19

Infrastructure Considerations



- Decline in prior revenues and funding options for the City
- New requirements and regulations
- Local construction costs
- New revenues and opportunities
- Funding opportunities for infrastructure

Buildings and Facilities



Primary Funding Sources

- General Fund Non-discretionary
- General Fund Discretionary
- Other funds based on % use of facilities

Infrastructure Status

- Facilities are well maintained
- Base Level Operations are fully funded
- \$257,100 annually in unfunded future capital replacement costs (Down from 2018)

Primary Funding Sources

- General Fund Discretionary revenue
- Public Facilities Fund - Developer Contributions

Infrastructure Status

- Facilities are well maintained
- Base Level Operations are fully funded, but maintenance needs are increasing
 - o Increased expectations
 - o Increased use

Landscape Assessment District



Primary Funding Sources

- Property Tax Assessments for those within District

Infrastructure Status

- Maintenance levels vary by subarea:
 - o 10 areas are well maintained
 - o 5 areas are average
 - o 4 areas maintained below average or poorly
- \$41,990 in unfunded maintenance needs (Down from 2018)

Parks, Trails and Open Spaces



Primary Funding Sources

- Park Maintenance Fund - Developer Contributions
- General Fund Discretionary revenue

Infrastructure Status

- Facilities are maintained in average condition
- Additional annual investment of an undetermined amount would be necessary to maintain the parks in above average condition
- Base Level Operations Funding is in jeopardy due to reliance on RCDS revenues (Increased GF Contribution in 2018/19 Budget)
- \$585,771 in annual future replacement needs are unfunded

Storm Water Collection System



Primary Funding Sources

- General Fund Discretionary revenue
- Storm Drain Fund - Prior Developer Contributions
- Storm Drain Impact Fees (expansion)
- Possible “Sewer” Fees may be available

Infrastructure Status

- Facilities are well maintained
- No identified funding for future capital needs
- Funding available (Impact fees) to connect to Water District Flood Control Project
- New State regulations may require millions in capital investment over the next decade

Streets and Roads



Primary Funding Sources

- Gas Tax (Including New SB1 Revenue)
- VTA Passthrough of Vehicle Registration Fees
- Grant Funds - Includes One Bay Area Grant
- New Measure B Sales Tax Revenue
- General Fund Discretionary Revenue
- School Pedestrian Safety Fund - Developer Contributions
- Public Facilities Fund - Developer Contributions

Streets and Roads



Infrastructure Status

- City Streets and Sidewalks are well maintained
- Citywide weighted average pavement condition estimated at "very good" at 70
- Next comprehensive PCI update will be in Spring 2020
- \$2.3+ million annually in unfunded capital street repair – to stabilize PCI

Streets and Roads



Infrastructure Status

- \$193,000 in annual revenue is needed to fully fund basic maintenance, including:
 - o Red Curb repainting
 - o Median repair and renovation
 - o Remove and replace Street Trees
 - o Storm Drain Inspection and Pump Replacement Funding
- Ongoing sidewalk repair funding and other street related enhancements may be impacted in the future due to declining RDCS revenues.

Wastewater System



Primary Funding Sources

- Customer Fees
- Sewer Impact Fees (expansion)

Infrastructure Status

- System is well maintained
- Base Level Operations are near fully funded with requests for new technology and equipment to improve efficiency
- Increased funding for capital projects for rehabilitation and expansion is believed to be necessary (Rate Study underway)

Water System



Primary Funding Sources

- Customer Fees
- Water Impact Fees (expansion)

Infrastructure Status

- System is well maintained
- Base Level Operations are near fully funded with requests for new technology and equipment to improve efficiency
- Increased funding for capital projects for rehabilitation and expansion is believed to be necessary (Impact Fee Study underway)

Questions?





2019 Wastewater Rates Adjustment Public Hearing May 1, 2019 – Item 10



Overview

- Background
- Process to Date
- Tonight's Recommendations

Background



- 2015 Rate Study
- 2017 Sewer System Master Plan and legal requirements
- 2019 Wastewater Rate Study

Process to Date



- February 6, 2019 – Report on Wastewater System needs
- February 8, 2019 – Consultant Rate Study made available
- February 20, 2019 – Introduced Rate Study and received Council direction
 - Finance immediate CIP needs, through bonds, to allow for smaller gradual rate increases
 - Extend the annual adjustment for lift station charge of 3.6% (5 Years)
 - Extend the annual adjustment to low-income subsidy (5% from 2021 through 2023)
 - Remove the current cap of 13 units
- February 25, 2019 – Public Meeting
- March 6, 2019 – Declared Intent, Commenced Noticing, and set May 1, 2019 as Public Hearing

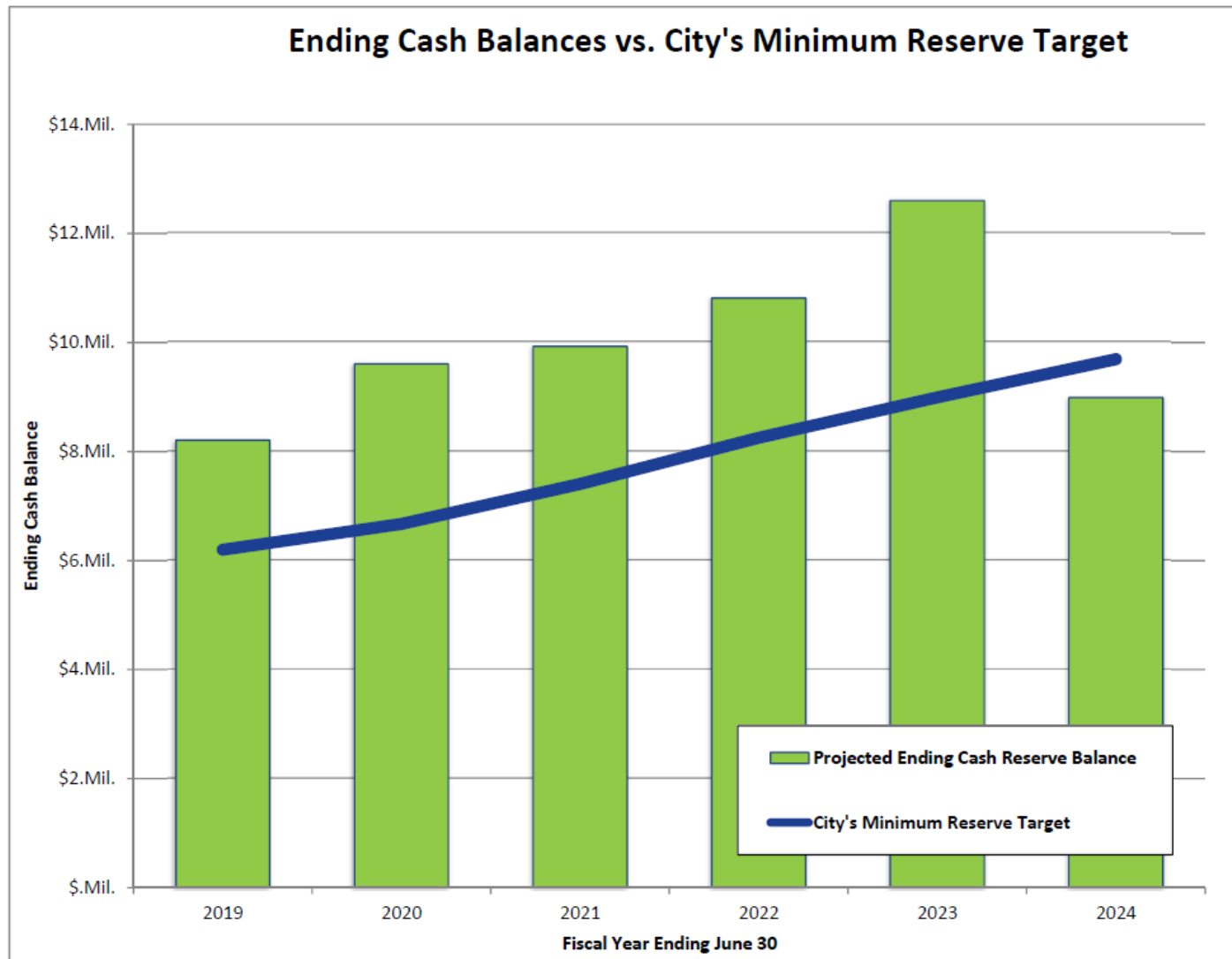
Cash Balances and Reserve



Beginning Reserve Fund Balances and Recommended Reserve Targets	Budget	Projected				
	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
Sewer Operations Fund (640)	\$ 2,081,319	\$ 2,294,000	\$ 2,356,000	\$ 2,440,000	\$ 2,483,000	\$ 2,600,000
<i>City's Minimum Reserve Target</i>	<i>2,263,000</i>	<i>2,294,000</i>	<i>2,356,000</i>	<i>2,440,000</i>	<i>2,483,000</i>	<i>2,600,000</i>
Sewer System Replacement Fund (643)	\$ 4,046,243	\$ 5,191,916	\$ 5,409,584	\$ 6,169,667	\$ 7,866,900	\$ 4,091,216
<i>City's Minimum Reserve Target</i>	<i>1,857,900</i>	<i>2,077,900</i>	<i>2,503,000</i>	<i>3,102,100</i>	<i>3,621,100</i>	<i>4,014,300</i>
Rate Stabilization Fund (642)	\$ 2,078,200	\$ 2,119,764	\$ 2,162,159	\$ 2,205,402	\$ 2,249,511	\$ 2,294,501
<i>City's Minimum Reserve Target</i>	<i>2,078,200</i>	<i>2,299,217</i>	<i>2,543,738</i>	<i>2,710,989</i>	<i>2,889,237</i>	<i>3,079,204</i>
Total Ending Fund Balances	\$ 8,205,762	\$ 9,605,680	\$ 9,927,743	\$ 10,815,069	\$ 12,599,411	\$ 8,985,717
<i>Total City's Minimum Reserve Target</i>	<i>\$ 6,199,100</i>	<i>\$ 6,671,117</i>	<i>\$ 7,402,738</i>	<i>\$ 8,253,089</i>	<i>\$ 8,993,337</i>	<i>\$ 9,693,504</i>

- Excludes bond debt reserve

Cash Balances and Reserve



Proposed Sewer Rates – Fixed Charges



Sewer Rate Schedule	Current Rates Effective 1/1/19	Proposed Rates				
		7/1/2019	7/1/2020	7/1/2021	7/1/2022	7/1/2023
		9.00%	9.00%	5.00%	5.00%	5.00%
Monthly Fixed Charges:						
Residential (5/8-1 inch meters)	\$19.67	\$21.44	\$23.36	\$24.52	\$25.74	\$27.02
All Other Customers:						
5/8 inch	\$19.67	\$21.44	\$23.36	\$24.52	\$25.74	\$27.02
3/4 inch	\$19.67	\$21.44	\$23.36	\$24.52	\$25.74	\$27.02
1 inch	\$19.67	\$21.44	\$23.36	\$24.52	\$25.74	\$27.02
1.5 inch	\$73.63	\$80.25	\$87.47	\$91.84	\$96.43	\$101.25
2 inch	\$117.23	\$127.78	\$139.28	\$146.24	\$153.55	\$161.22
3 inch	\$255.39	\$278.37	\$303.42	\$318.59	\$334.51	\$351.23
4 inch	\$458.73	\$500.01	\$545.01	\$572.26	\$600.87	\$630.91
6 inch	\$1,018.18	\$1,109.81	\$1,209.69	\$1,270.17	\$1,333.67	\$1,400.35
8 inch	\$1,572.90	\$1,714.46	\$1,868.76	\$1,962.19	\$2,060.29	\$2,163.30
10 inch	\$1,966.13	\$2,143.08	\$2,335.95	\$2,452.74	\$2,575.37	\$2,704.13

Proposed Sewer Rates – Volumetric Charges

Sewer Rate Schedule	Current Rates Effective 1/1/19	Proposed Rates				
		7/1/2019	7/1/2020	7/1/2021	7/1/2022	7/1/2023
		9.00%	9.00%	5.00%	5.00%	5.00%
Monthly Volumetric Charges:						
Single-Family	\$4.17	\$4.54	\$4.94	\$5.18	\$5.43	\$5.70
Multi-Family	\$4.17	\$4.54	\$4.94	\$5.18	\$5.43	\$5.70
Commercial Charge						
Commercial 1	\$3.99	\$4.34	\$4.73	\$4.96	\$5.20	\$5.46
Commercial 2	\$4.67	\$5.09	\$5.54	\$5.81	\$6.10	\$6.40
Commercial 3	\$5.68	\$6.19	\$6.74	\$7.07	\$7.42	\$7.79
Commercial 4	\$6.44	\$7.01	\$7.64	\$8.02	\$8.42	\$8.84
Commercial 5	\$7.65	\$8.33	\$9.07	\$9.52	\$9.99	\$10.48
Commercial 6	\$12.77	\$13.91	\$15.16	\$15.91	\$16.70	\$17.53

Proposed Lift Station Charge



	Current Rate	Proposed 7/1/2019	Proposed 7/1/2020	Proposed 7/1/2021	Proposed 7/1/2022	Proposed 7/1/2023
Lift Station Charge	\$ 9.41	\$ 9.75	\$ 10.10	\$ 10.46	\$ 10.84	\$ 11.23
% Change		3.6%	3.6%	3.6%	3.6%	3.6%

Proposed Low-Income Subsidy



	Current Rate	Approved 1/1/2020	Proposed 7/1/2021	Proposed 7/1/2022	Proposed 7/1/2023
Wastewater Subsidy	\$ 11.13	\$ 12.24	\$ 12.85	\$ 13.49	\$ 14.17
% Change		10%	5%	5%	5%

Tonight's Recommendation



1. Conduct Public Hearing.
2. Tabulate Final Proposition 2018 protest letter count (Deputy City Clerk or Designee).
3. If no majority protest received, approve the recommended rates by adopting resolution.
4. Introduce ordinance amending Chapter 13.16 of the Morgan Hill Municipal Code.

Questions and Answers





Additional Tables/Charts for Reference if Needed

Financial Plan, cont.

Summary of Sources and Uses of Funds and Net Revenue Requirements	Budget	Projected				
	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
<i>Sources of Wastewater Funds</i>						
Rate Revenue Under Prevailing Rates ¹	\$ 10,391,000	\$ 10,796,865	\$ 10,958,818	\$ 11,123,200	\$ 11,290,048	\$ 11,459,399
Other Operating Revenue	318,700	331,665	345,580	360,109	375,284	391,130
Interest Earnings	96,002	164,115	192,114	198,555	216,301	251,988
Use of Impact Fees for Debt Service	232,695	232,635	2,732,740	2,732,980	2,714,020	2,566,255
Total Sources of Funds	\$ 11,038,397	\$ 11,525,280	\$ 14,229,252	\$ 14,414,844	\$ 14,595,654	\$ 14,668,773
<i>Uses of Wastewater Funds</i>						
Operating Expenses	\$ 9,051,382	\$ 9,177,519	\$ 9,423,428	\$ 9,760,289	\$ 9,931,201	\$ 10,401,015
Existing Debt Service	1,939,125	1,938,625	1,939,500	1,941,500	1,783,500	552,125
Planned Debt Service ²	-	-	4,600,279	4,600,279	4,600,279	4,600,279
Total Use of Funds	\$ 10,990,507	\$ 11,116,144	\$ 15,963,207	\$ 16,302,068	\$ 16,314,980	\$ 15,553,419
Surplus (Deficiency) before Rate Increase	\$ 47,890	\$ 409,136	\$ (1,733,956)	\$ (1,887,224)	\$ (1,719,326)	\$ (884,647)
Additional Revenue from Rate Increases	-	949,218	2,013,623	2,689,301	3,417,554	4,201,961
Surplus (Deficiency) after Rate Increase	\$ 47,890	\$ 1,358,354	\$ 279,668	\$ 802,077	\$ 1,698,228	\$ 3,317,315
Projected Annual Increase to Rate Revenue ³	0.00%	9.00%	9.00%	5.00%	5.00%	5.00%
Net Revenue Requirement ⁴	\$ 10,575,805	\$ 10,620,364	\$ 15,425,514	\$ 15,743,404	\$ 15,723,395	\$ 14,910,301
Projected Debt Coverage After Rate Increase	1.65	2.22	1.76	1.91	2.13	3.16
Debt Coverage Requirement	1.25	1.25	1.25	1.25	1.25	1.25

1. Includes additional rate revenue from removal of consumption cap.

2. The City plans to secure two debt issues to fund the wastewater treatment plant expansion and other capital improvement projects; this is the approximate annual payment.

3. Rate adjustments will be effective on July 1st of each year.

4. Total Use of Funds less non-rate revenues and interest earnings. This is the annual amount needed from sewer rates.

Financial Plan, cont.

Five-Year Capital Improvement Program:

Project Description	2019	2020	2021	2022	2023	2024
302018 Sewer System Repair and Replacements	\$ 40,000	\$ 6,045,965	\$ 3,939,405	\$ 4,804,487	\$ 2,694,130	\$ 2,774,954
302m15 Vault Lining Project	25,000	-	-	-	-	-
302n15 Trouble Spot Evaluation and Repair	996,154	51,500	-	-	-	-
302t17 East Dunne Ave & Tennant Ave Sewer Mains	2,285,000	1,648,000	-	-	-	-
304k15 Lift Station Improvements	1,523,000	-	-	-	-	-
308A08 New Trunk Line - CIP Funded	137,500	167,375	265,225	2,260,424	2,609,614	2,687,902
315006 Sewer Capacity - CIP Funded	525,297	-	465,181	-	508,829	-
317a18 Wastewater Planning	735,000	159,650	79,568	81,955	450,204	-
303093 Sewer Plant Expansion (SCRWA)	420,000	489,250	10,609,000	9,157,052	6,617,992	3,681,854
303a11 Sewer Plant Improvements	351,394	379,242	379,506	45,785	9,432	-
308a08 New Trunk Line - Impact Funded	412,500	502,125	795,675	6,781,273	7,828,842	8,063,708
315006 Sewer Capacity - Impact Funded	45,678	-	180,905	-	279,351	-
Total: Capital Improvement Program Costs	\$ 7,496,523	\$ 9,443,107	\$ 16,714,465	\$ 23,130,975	\$ 20,998,394	\$ 17,208,419

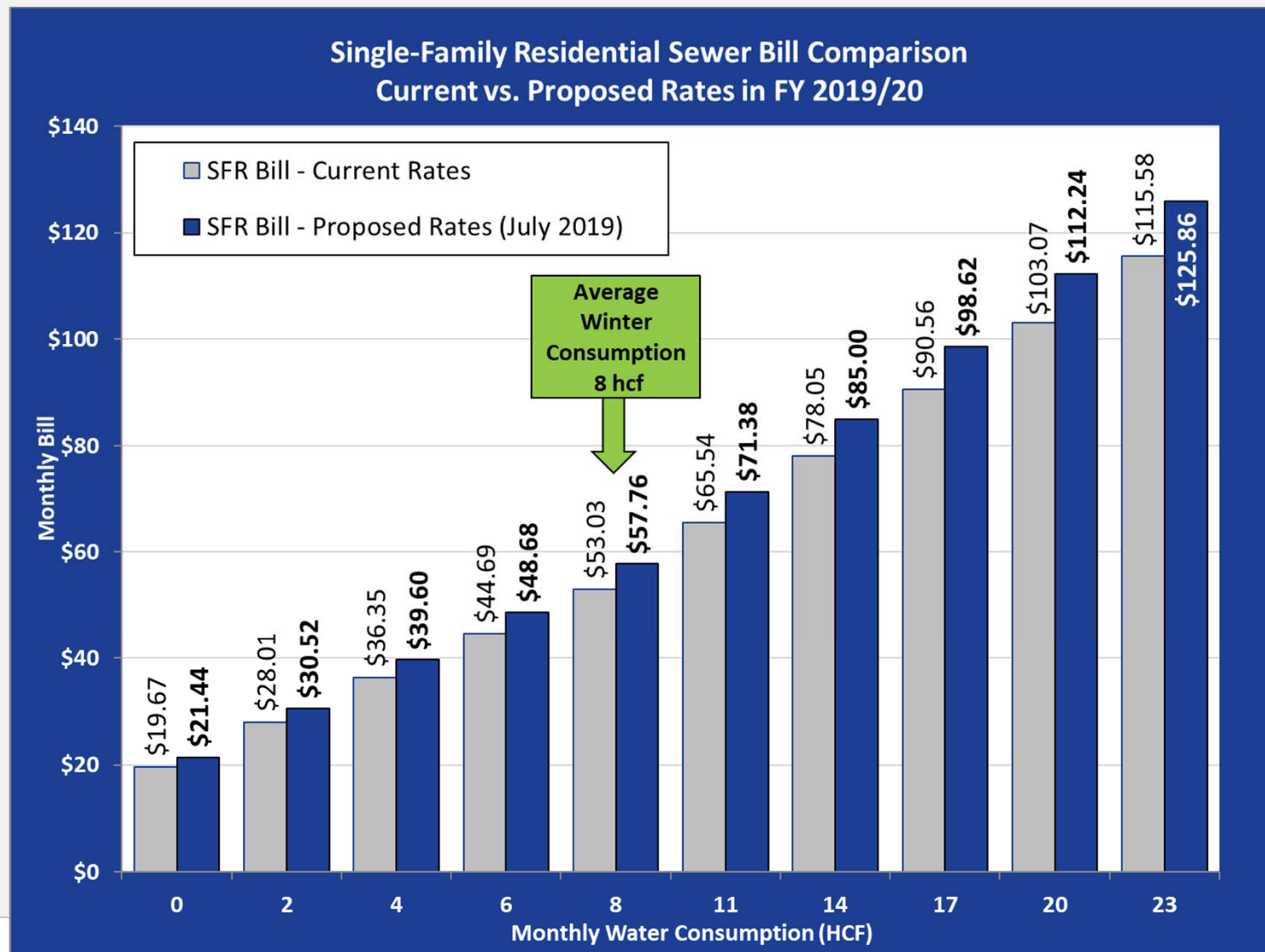
Note: costs are adjusted to reflect estimated cost inflation.

Financial Plan, cont.

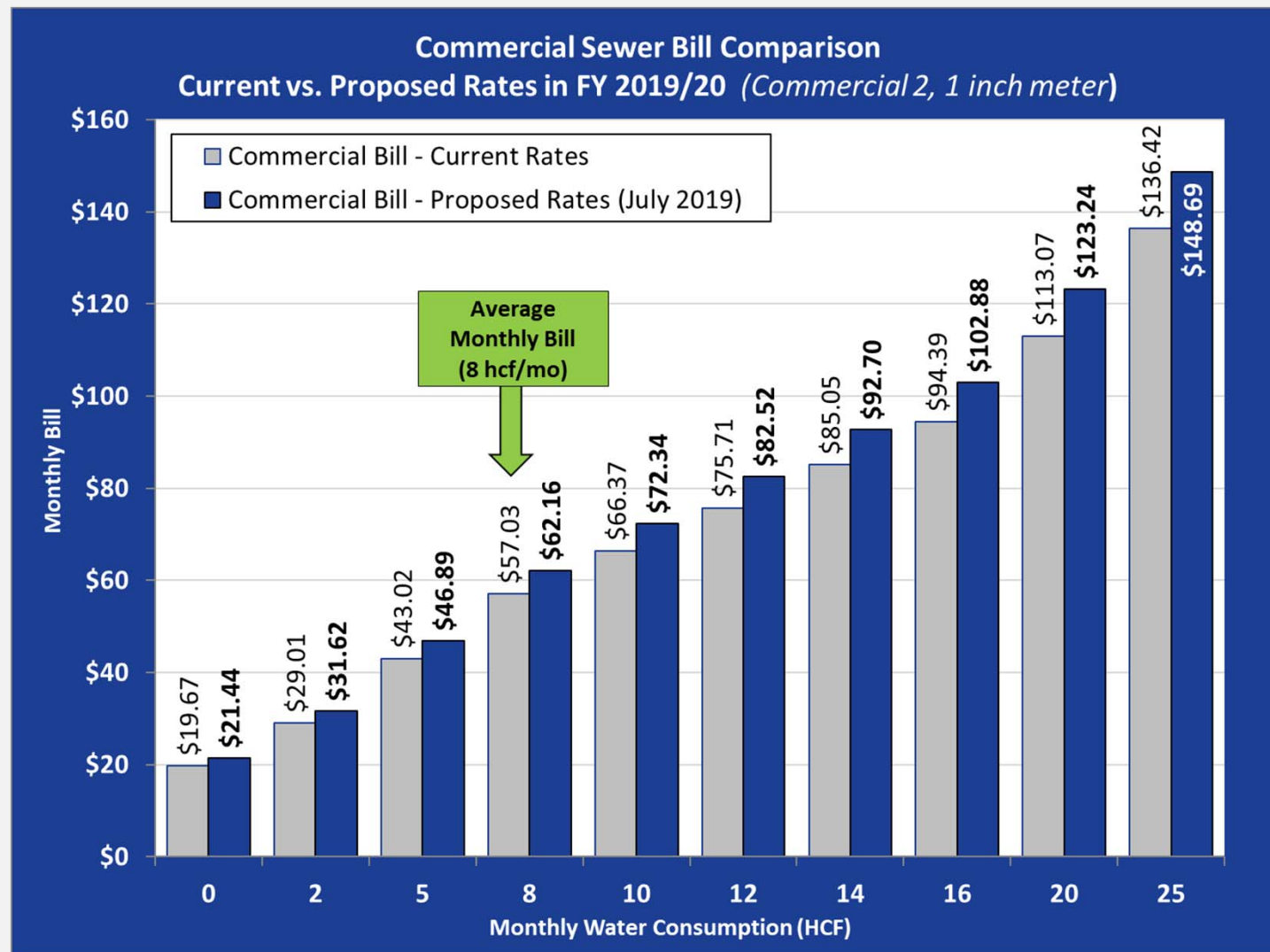
Proposed Debt Financing for Capital Projects:

Terms	Issue #1	Issue #2
Issue Amount	\$29,000,000	\$26,231,511
Issue Year	FY 2019/20	FY 2019/20
Repayment Period	20 years	30 years
Interest Rate	6%	6%
1st Year of Repayment	FY 2020/21	FY 2020/21
Annual Debt Service Payment	\$2,500,000	\$2,100,279

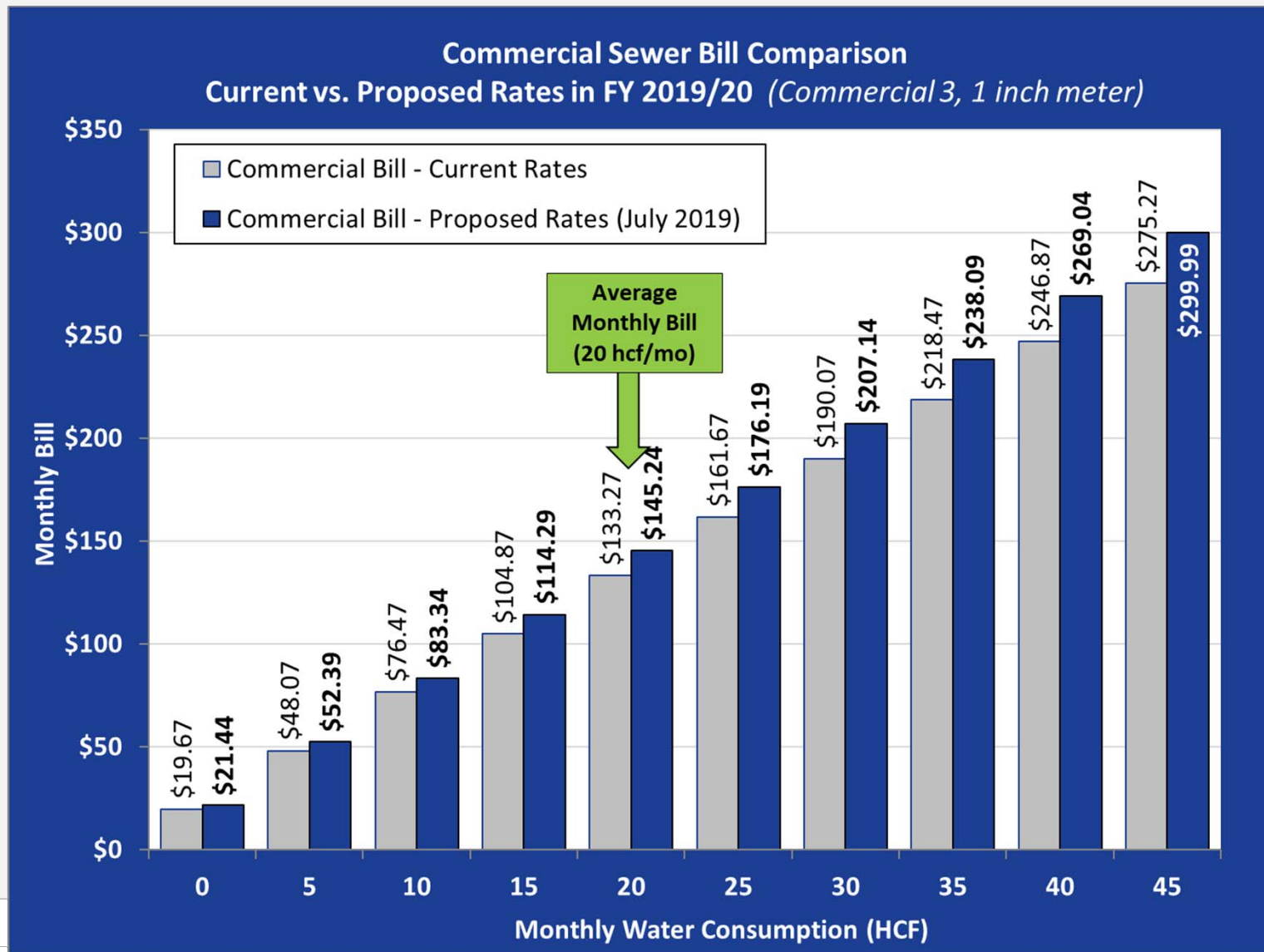
Bill Impact – Single Family Residential



Bill Impact – Commercial Class 2



Bill Impact – Commercial Class 3



Bill Impact – Single Family Residence – 5 years

	CURRENT	UNDERPROPOSED RATES				
		1-Jul-19	1-Jul-20	1-Jul-21	1-Jul-22	1-Jul-23
Wastewater	\$ 53.03	\$ 57.80	\$ 63.00	\$ 66.15	\$ 69.46	\$ 72.93
Total Percent Increase		9%	9%	5%	5%	5%

From: [D. Muirhead](#)
To: [Michelle Bigelow](#)
Subject: comment Morgan Hill City Council Meeting May 01, 2019 Item #10: Wastewater rates
Date: Monday, April 29, 2019 9:18:48 AM

Warning: this message is from an external user and should be treated with caution.

Dear Morgan Hill City Council,

Comments for the Public Record for:
Morgan Hill City Council
Meeting May 01, 2019
Item #10: Wastewater rates adjustments

#10: Wastewater rates adjustments

Because the City team of Repp, Sangha, and Ghione gave a persuasive explanation for the timing and need for wastewater infrastructure at the community input meeting, I am not protesting the rate increase.

However, I do want to mention two ways you discriminate against some of our residents:

- 1) those who live in apartments.
 - 2) those who use very small amounts of water.
-
- 1) The La Crosse Village apartment complex consists of 80 units under a single APN. While all rate payers in Morgan Hill were mailed a Proposition 218 notice, only one written protest will be counted per identified parcel. So of the 80 families and the property owner, 80 of 81 property owners and ratepayers are excluded from any protest. As you encourage building more apartments, more residents will be discriminated against each time you raise rates.
 - 2) The sewer charge is composed of a fixed part and a volume part. The volume part is not actual usage but instead is based on the average measured volume of water usage for the three consecutive low water usage months between the months of November 1st and April 30th with a minimum of two HCF per dwelling unit.
Your model assumes that residents live in single-family homes with landscaping, but I will not address that today.
The volume charge is not based on actual volume. The discrimination arises because of the minimum 2 HCF per month. You provide no justification for this arbitrary number. More importantly, since I use 1/2 HCF per month, you are over-charging me by 300% each month.

Thank you for your consideration,
Doug Muirhead, Morgan Hill



May 1, 2019 – Item 11

Appeal of RDCS Application: RDCS2019-0003 Tennant-Osito Holdings



Request



- For the City Council to grant an Appeal
- Allow the applicant to modify the RDCS project plans
- Allow the project to continue in the 2018 RDCS competition

RDCS Consistency Review



- Duet lots required minimum lot depth- 85 feet
- Deviation not offered in Zoning Code or RDCS Manual
- March 25, 2019 – RDCS application rejected for inconsistency

Consideration of Appeal



- City Council may consider an appeal (Section 18.156.120.D)
- May direct applicant to make modifications to the application
- Modifications must bring the application into compliance with the General Plan and Zoning Code to allow a project to continue to compete for allotments

Consideration of Appeal



- Plans have been modified
- Nearly all measurements on plans were initially incorrect (setbacks and lot dimensions)
- Lot depth did conform to zoning provisions
- All errors have been identified and corrected
- One change- Duet units shifted to increase private yard space

Recommendation



Consider the Appeal and determine whether the applicant's modified plans may be accepted allowing the project to continue in the 2018 RDCS competition.

Questions?





Special - 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, May 1, 2019 6:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

SPECIAL/REGULAR MEETING

A special meeting of the City Council is called at 6:00 p.m. for the purpose of conducting a closed session.

6:00 p.m. Closed Session

7:00 p.m. Regular Meeting

SPECIAL MEETING

6:00 P.M.

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

Deputy Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Bigelow

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation under Government Code section 54956.9(b).

One potential case

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION

(CA Govt Code 54956.9(a))

City of Morgan Hill v. Bushey (Morgan Hill Hotel Coalition), et al. Case No. 16-CV-292595

RECONVENE

REGULAR MEETING

7:00 P.M.

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

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member McKay

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PROCLAMATIONS

Proclaiming the Month of May as Aquatics Month

Proclaiming the Weeks of May 3 through 17, 2019 as Affordable Housing Weeks

Proclaiming the Week of May 6 through 12, 2019 as Wildfire Awareness Week

PUBLIC COMMENT

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

ADOPTION OF AGENDA

May 1, 2019

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. ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – SOLERA RANCH – TRACT NO. 10290

Recommendation:

1. Accept the subdivision public improvements for Solera Ranch – Tract No. 10290;
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.

2. ACCEPT SUBDIVISION PUBLIC IMPROVEMENTS – THE COMMONS – TRACT NO. 10047

Recommendation:

1. Accept the subdivision public improvements for The Commons – Tract No. 10047;
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.

3. AWARD 2019 SIDEWALK REPAIR CONTRACT

Recommendation:

1. Award a contract to Golden Bay Construction, Inc. in the amount of \$95,219;
2. Authorize the expenditure of construction contingency funds not to exceed \$19,044; and
3. Authorize the City Manager to execute and administer that certain construction contract with Golden Bay Construction, Inc.

4. APPROVE THE PURCHASE OF PLAY EQUIPMENT FOR THE INCLUSIVE PLAYGROUND PROJECT

Recommendation:

Authorize the City Manager to approve sole source purchase of playground equipment at the Morgan Hill Magical Bridge Playground at a not to exceed total of \$170,373.

5. PROVIDE DIRECTION REGARDING PARK DEVELOPMENT GRANT OPPORTUNITY

Recommendation:

Receive report on park development grant opportunity.

6. ADOPT RESOLUTION OPPOSING A POTENTIAL DECREASE IN THE SUBSIDY FOR AGRICULTURAL WATER

Recommendation:

Adopt resolution opposing a potential decrease in the subsidy for agricultural water.

7. APPROVE THE APRIL 17, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

8. APPROVE THE APRIL 17, 2019 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

9. ACCEPT 2019 CITY INFRASTRUCTURE UPDATE REPORT

Recommendation:

Accept the updated 2019 Report on City Infrastructure.

Estimated Time: 20 Minutes

PUBLIC HEARING

10. HOLD PUBLIC HEARING REGARDING REVISIONS TO WASTEWATER RATES AND ADOPT RELATED AMENDMENTS TO CHAPTER 13.16 - SEWER RATES AND INTERIM GROWTH MANAGEMENT

Recommendation:

1. Receive and adopt final draft of 2019 Wastewater Rate Study Report prepared by NBS;
2. Open public hearing and receive public comment;
3. Request submission or withdrawal of proposition 218 protest letters from the public/audience;
4. Close public hearing and allow Deputy City Clerk, or designee, to tabulate final Proposition 218 protest letter count;
5. Receive and accept verbal report from Deputy City Clerk, or designee, on ballot tabulation results;
6. Adopt resolution approving wastewater rates adjustments;
7. Waive the first and second reading of the ordinance; and
8. Introduce the ordinance amending Chapter 13.16 of the Morgan Hill Municipal Code.

Estimated Time: 20 Minutes

11. APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION TO REJECT A RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) APPLICATION FOR PROPERTY IDENTIFIED BY ASSESSOR'S PARCEL NUMBER 817-04-059, LOCATED ALONG TENNANT AVENUE, WEST OF VINEYARD BOULEVARD (OSITO HOLDINGS, LLC, APPLICANT)

Recommendation:

City Council to consider the appeal and determine whether the applicant's modified plans may be accepted allowing the project to continue in the 2018 RDCS competition.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

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

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community

Choose Morgan Hill:

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

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 Community History ·
Enhancing Diversity and Inclusiveness · Advancing Regional Initiatives

2019-2020 STRATEGIC PRIORITIES

Agricultural Preservation
Cannabis Policy
Community Engagement and Messaging
Economic Development
Financial Stewardship
High Speed Rail
Homelessness
Housing Infrastructure
Telecommunications
Traffic/Transportation