



Special - Regular Meeting Agenda
City Council

Rich Constantine - Mayor
John McKay - Mayor Pro Tem
Gino Borgioli - Council Member
Yvonne Martinez Beltran - Council Member
Rene Spring - Council Member

Wednesday, March 3, 2021 6:00 p.m.

Virtual Meeting

VIRTUAL MEETING GUIDELINES AND PUBLIC COMMENT

In accordance with Executive Order N-25-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. Physical meetings will not be in the City Council Chamber until further notice.

City Council meetings will be live streamed on Channel 17, on the City's website and on the City's Facebook page. Those members of the community that would like to participate in the meetings remotely may do so by joining the virtual meeting at: <https://bit.ly/MHCityCouncilMeeting> or by calling in to: (669) 900-9128, then enter the webinar id: 873 3200 8380#.

Public comment may be provided in the following ways:

- Join the virtual City Council meeting via the link above, when public comment is opened, raise your virtual hand and be called upon to speak for up to 3 minutes
- Join the virtual meeting by calling in to the number above, dial *9 to raise your hand and be called upon to speak for up to 3 minutes
- Send public comments in writing to the City Clerk at ccpubliccomment@morganhill.ca.gov <<mailto:ccpubliccomment@morganhill.ca.gov>>

* Please note that comments made on Facebook are not considered public comment.

SPECIAL/REGULAR MEETING

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

6:00 pm Closed Session

7:00 pm Regular Meeting

SPECIAL MEETING

6:00 pm Closed Session

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
City Clerk Michelle Bigelow

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to § 54956.9(c)

One case

CONFERENCE WITH LEGAL COUNSEL- THREATENED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9.

One case

CONFERENCE WITH REAL PROPERTY NEGOTIATIONS

Pursuant to: Government Code Section 54956.8

Property: APN's - 81706001, 81714004, 81714009, 81714005

Negotiating Parties: Christina Turner and Chris Ghione

Property Owner: CHU JOHN C AND MAY-JIH C TRUSTEE

Under Negotiation: Price and Terms of Sale

REGULAR MEETING

7:00 pm

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.

PROCLAMATIONS

Proclaiming the Month of March 2021 as Youth Arts Month

CITY COUNCIL REPORTS

Mayor Pro Tem McKay

March 3, 2021

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PUBLIC COMMENT

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

ADOPTION OF AGENDA

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. ADOPT RESOLUTION CONDEMNING ALL FORMS OF HATE AND VIOLENCE INCLUDING THE JANUARY 6, 2021 RIOTS AT THE UNITED STATES CAPITOL BUILDING IN WASHINGTON D.C

Recommendation:

Adopt resolution condemning all forms of hate and violence including the January 6, 2021 riots at the United States Capitol Building in Washington D.C.

2. ADOPT RESOLUTION EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES

Recommendation:

Adopt resolution expressing support for actions to further strengthen local democracy, authority, and control as related to local zoning and housing issues.

3. APPROVE 2020 EMERGENCY MANAGEMENT PERFORMANCE GRANT MEMORANDUM OF UNDERSTANDING

Recommendation:

Adopt resolution:

1. Authorizing the City Manager to execute and administer the Memorandum of Understanding with the County of Santa Clara for the 2020 Emergency Management Performance Grant; and
2. Amending the City's Fiscal Year 2020-21 adopted budget to recognize revenue and appropriate related expenditures, in the amount of \$7,340 from the General Fund (010).

4. APPROVE COST-SHARING AGREEMENT WITH SOUTH SANTA CLARA COUNTY FIRE DISTRICT

Recommendation:

Approve and authorize the City Manager to execute and administer a cost-sharing agreement with South Santa Clara County Fire District (SSCCFD) for City's contribution to the District's Engine 67.

5. APPROVE FIRST AMENDMENT TO AGREEMENT WITH KEYSER MARSTON ASSOCIATES, INC. FOR HOUSING PROGRAM SERVICES

Recommendation:

Approve and authorize the City Manager to execute and administer an amendment to the Consultant Agreement with Keyser Marston Associates, Inc. for Housing Program services through June 30, 2022, for an additional \$50,000 and a total not-to-exceed amount of \$90,000.

6. RATIFY CITY POSITION ON ASSEMBLY BILL 271 - AUTHORIZING VALLEY WATER TO UTILIZE "BEST VALUE" METHOD TO SELECT THE CONSTRUCTION CONTRACTOR FOR THE ANDERSON DAM SEISMIC RETROFIT PROJECT

Recommendation:

Ratify City position on pending State Legislation Assembly Bill 271.

7. APPROVE THE FEBRUARY 17, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

8. AWARD 2020 INFLOW AND INFILTRATION SEWER REPAIR PROJECT

Recommendation:

1. Approve 2020 Inflow and Infiltration Sewer Repair Project plans and specifications;
2. Award contract to Pacific Underground Construction, Inc. for the 2020 Inflow and Infiltration Sewer Repair Project in the amount of \$2,034,350;
3. Authorize expenditure of construction contingency funds not to exceed \$406,870; and
4. Authorize the City Manager to execute and administer the construction contract with Pacific Underground Construction, Inc.

PUBLIC HEARING

9. ADOPT RESOLUTION AUTHORIZING THE COUNTY TO COMMENCE 2021 HAZARDOUS VEGETATION ABATEMENT PROGRAM

Recommendation:

1. Open/Close public hearing; and
2. Adopt resolution authorizing Santa Clara County to commence hazardous vegetation abatement activities on the attached list.

Estimated Time: 15 Minutes

OTHER BUSINESS

10. ADOPT RESOLUTION CERTIFYING THE INITIATIVE PETITION TITLED: CITIZENS' INITIATIVE CHANGING ZONING REGULATIONS THROUGHOUT THE CITY OF MORGAN HILL TO PROHIBIT CERTAIN NEW STORAGE AND DISTRIBUTION USES IN ALL AREAS OF THE CITY AND AMENDING THE REVIEW PROCESS FOR LARGE-SCALE DEVELOPMENT PROJECTS, AND DIRECT STAFF TO PREPARE IMPACT REPORT

Recommendation:

1. Adopt resolution accepting the City Clerk's Certificate of Sufficiency for the Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the city of Morgan Hill to prohibit certain new storage and distribution uses in all areas of the City and amending the review process for large-scale development projects; and
2. Direct staff to prepare an impact report under Elections Code section 9212 no later than April 2, 2021 for City Council meeting, for the Council to consider next steps.

Estimated Time: 30 Minutes

11. PROVIDE INPUT ON POLICY OPTIONS RELATING TO TREE PROTECTION

Recommendation:

Provide guidance to staff on the type and scope of policy changes the City Council is interested in considering relating to the protection of trees in the community.

Estimated Time: 30 Minutes

12. APPROVE COUNTYWIDE SOLID WASTE SERVICES CONCEPT AND RELATED BUDGETARY AND POLICY CHANGES

Recommendation:

1. Approve the concept of providing countywide solid waste administrative services;
2. Adopt resolution amending Fiscal Year 2020-21 Budget to recognize \$54,127 as revenue and expenditures for the administration of countywide solid waste program;
3. Adopt updated Management, Professional, and Confidential Employees Resolution establishing the Environmental Services Manager position and salary;
4. Authorize the increase of the existing Part-Time Management Analyst position to a Full-Time position;
5. Authorize the City Manager to execute an agreement with the County of Santa Clara for Fiscal Agent and Related Planning Services subject to the review and approval of the City Attorney; and
6. Provide direction to staff to return to the Council with required actions to increase the threshold for purchases made exclusively with countywide funds received for solid waste management program.

Estimated Time: 30 Minutes

13. RECEIVE MONTHLY BUDGET UPDATE AND JANUARY 2021 FINANCIAL AND INVESTMENT REPORTS

Recommendation:

Accept and file report.

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 cityclerk@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 cityclerk@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, equitable, 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 and Preserving Open Space and Agricultural Land
- Maintaining Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Equity, Diversity, and Inclusiveness
- Advancing Regional Initiatives
- Advocating for Local Control

2020-2021 Strategic Priorities

- **Fiscal Sustainability**
- Affordable Housing and Homelessness
- Community Outreach, Engagement, and Messaging
- Economic Development
- Transportation



These strategic priorities were established prior to the COVID-19 pandemic. In light of recent events, we recognize that all of these goals and priorities will be viewed through the lens of the global pandemic, and we will continue to have equity, public health, and financial responsibility in mind.





CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

PREPARED BY: Christina Turner, City Manager
APPROVED BY: City Manager

ADOPT RESOLUTION CONDEMNING ALL FORMS OF HATE AND VIOLENCE INCLUDING THE JANUARY 6, 2021 RIOTS AT THE UNITED STATES CAPITOL BUILDING IN WASHINGTON D.C

RECOMMENDATION(S)

Adopt resolution condemning all forms of hate and violence including the January 6, 2021 riots at the United States Capitol Building in Washington D.C.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community
Advancing Regional Initiatives

2020-2021 Strategic Priorities

Community Outreach
Engagement and Messaging

REPORT NARRATIVE:

The purpose of this report is for the City Council to adopt a resolution condemning hate and violence as demonstrated at the January 6, 2021 riots at the United States Capitol in Washington D.C.

At the January 20, 2021 City Council meeting, Councilmember Martinez Beltran requested this item be brought before the City Council for consideration.

At the February 17, 2021 City Council Meeting, Council directed staff to bring back a resolution (Attachment 1) for consideration in March 2021 condemning all forms of hate and violence, including the riots at the US Capitol.

The City Council has included diversity and inclusiveness as its ongoing priorities and has made a statement in 2016, which was reaffirmed via adoption of a resolution in 2017, regarding the City's commitment to a diverse, supportive, inclusive community and to protecting the constitutional rights of its residents (Attachment 2).

COMMUNITY ENGAGEMENT: Inform

The report serves to inform the community of the consideration of City Council adopting a resolution condemning the January 6, 2021 riots at the U.S. Capitol.

ALTERNATIVE ACTIONS:

City Council could elect not to adopt the resolution or direct staff to amend the resolution.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On February 17, 2021, City Council voted to direct staff to return with a proposed resolution for Council consideration.

FISCAL AND RESOURCE IMPACT:

There are no direct fiscal impacts to this item. The resource impact for research, preparation and presentation of the resolution is accommodated within the department's existing workplan.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. Resolution
2. 17-033

RESOLUTION NO. 21 - ____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CONDEMNING ALL FORMS OF HATE AND VIOLENCE INCLUDING THE JANUARY 6, 2021 RIOTS AT THE UNITED STATES CAPITOL BUILDING IN WASHINGTON D.C.**

WHEREAS, on December 16, 2016, the Morgan Hill City Council affirmed a statement of Support and Assurance to the community assuring that hate crimes will not be tolerated in Morgan Hill; and

WHEREAS, on May 3, 2017, the Morgan Hill City Council reaffirmed the City's commitment to a diverse, supportive, inclusive community and to protecting the constitutional rights of its residents; and

WHEREAS, in January 2021, the Congregation Emeth in Morgan Hill and City's Paradise Park were marked with anti-semitic graffiti; and

WHEREAS, in January 2021, various locations throughout the City were marked with anti-police graffiti; and

WHEREAS, the January 6, 2021, attack on the U.S. Capitol Building is unprecedented and resulted in the terrorizing of our senators, congressional representatives and staff persons, the theft of personal possessions, and the violation of an important symbol of our democracy; and

WHEREAS, five people were killed as a result of the attack, including Capitol Police Officer Brian Sicknick; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY RESOLVE AS FOLLOWS:

1. The City of Morgan Hill does not tolerate discrimination, hate crimes, harassment, or assault;
2. Any form of hate or violence on any individual or place is condemned;
3. The January 6, 2021 attack on the US Capitol Building is condemned;
4. The City Council offers its deepest condolences to the family of Officer Brian Sicknick and honors Officer Sicknick for his dedication and service to our country;
5. Our democracy is resilient to such acts of violence;
6. The City Council is committed to protecting our democracy;

Attachment: Resolution [Revision 5] (3014 : resolution condemning January 6 2021 riots)

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

MICHELLE BIGELOW, City Clerk

∞ **CERTIFICATION** ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.21-xxxx, adopted by the City Council at the meeting held on March 3, 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

RESOLUTION NO. 17-033**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL REAFFIRMING THE CITY'S COMMITMENT TO A DIVERSE, SUPPORTIVE, INCLUSIVE COMMUNITY AND TO PROTECTING THE CONSTITUTIONAL RIGHTS OF ITS RESIDENTS**

WHEREAS, On December 14, 2016 the Morgan Hill City Council affirmed a Statement of Support and Assurance to the community assuring that hate crimes will not be tolerated in Morgan Hill, our Police will not be used for federal immigration enforcement, and our Constitutional rights will be protected; and

WHEREAS, The Morgan Hill City Council adopted "Sustainable Morgan Hill" as the Council's and organization's guiding principle; and

WHEREAS, The vision of Sustainable Morgan Hill is to be "a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all"; and

WHEREAS, The Morgan Hill City Council adopted Inclusiveness as a 2017 Strategic Priority committing the City to embrace all community members as partners to advance our vision of being a socially responsible community; and

WHEREAS, The City of Morgan Hill values a community characterized by diversity, multiculturalism, and unity and acknowledges that the dignity, health, rights and privacy of all our residents must be respected; and

WHEREAS, each person is naturally and legally entitled to live a life without harassment, discrimination, persecution or assault, whether perpetrated by individuals, groups, businesses, or governments; and

WHEREAS, there exists significant and growing concern among our residents based upon recent national and regional incidents of hate crimes, intolerance of religious beliefs, discrimination, sexual harassment and assault, and the fear of a trend toward more of these crimes in the future; and

WHEREAS, there also exists considerable concern in our city about the potential risks for discrimination, harassment, persecution, assault, and deportation; and

WHEREAS, the city and its residents continually reject bigotry and affirm their commitment to a diverse, supportive, inclusive community; and

WHEREAS, all members of the city are valued regardless of religion, immigration status, ethnicity, disability, gender, sexual orientation, or gender identity.

Attachment: 17-033 (3014 : resolution condemning January 6 2021 riots)

NOW, THEREFORE, BE IT RESOLVED that the City Council reaffirms its commitment to a diverse, supportive and inclusive community and resolves as follows:

The City of Morgan Hill rejects bigotry in all its forms, including, but not limited to, Islamophobia, anti-Semitism, racism, nativism, misogyny, and homophobia; and

The City of Morgan Hill does not tolerate discrimination based on race, national origin, ethnicity, religion, age, gender, sexual orientation, color, or disability; and

The City of Morgan Hill does not tolerate Hate crimes, harassment, or assault; and

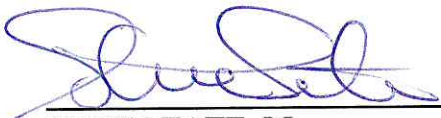
The City of Morgan Hill will oppose any attempts to undermine the safety, security, and rights of members of our community and will work proactively to ensure the rights and privileges of everyone in the city, regardless of religion, country of birth, immigration status, disability, gender, sexual orientation, or gender identity; and

The City of Morgan Hill will promote safety, a sense of security, and equal protection of constitutional and human rights, leading by example through equitable treatment of all by City officials and departments.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 3rd day of May, 2017.

AYES:	COUNCIL MEMBERS:	Larry Carr, Rich Constantine, Rene Spring, Caitlin Robinett Jachimowicz, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:


STEVE TATE, Mayor

ATTEST:


IRMA TORREZ, City Clerk

Attachment: 17-033 (3014 : resolution condemning January 6 2021 riots)

∞ 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. 17-033, adopted by the City Council at a regular meeting held on May 3, 2017.

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

DATE:

May 9, 2017



IRMA TORREZ, City Clerk

Attachment: 17-033 (3014 : resolution condemning January 6 2021 riots)



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

PREPARED BY: Christina Turner, City Manager
APPROVED BY: City Manager

ADOPT RESOLUTION EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES

RECOMMENDATION(S)

Adopt resolution expressing support for actions to further strengthen local democracy, authority, and control as related to local zoning and housing issues.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment and Preserving
Open Space and Agricultural Land
Maintaining Infrastructure
Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust
Preserving Our Community History
Enhancing Equity
Diversity and Inclusiveness
Advancing Regional Initiatives

2020-2021 Strategic Priorities

Community Outreach
Engagement and Messaging
Economic Development
Fiscal Sustainability
Affordable Housing and Homelessness
Transportation

REPORT NARRATIVE:

Often the State and local governments work together on broad policy issues, and State legislation generally affords flexibility to local governments to design policies to reflect their needs. Nonetheless, local governments still find themselves in positions to oppose certain legislation that undermines the “local control” over important issues such as land use/zoning, housing, and infrastructure.

It is important to note that each City has its own unique characteristics and community, and its land use and zoning are best assessed and designated by their local elected officials and government. Often these land use and zoning decisions are cumulated efforts of significant community outreach and input, resulting in General Plans and other future planning or guiding documents.

In recent years, the legislature of the State of California has proposed numerous bills that limit and/or eliminate the authority of local jurisdictions to determine their own land use policies and best practices that best suit their cities and residents. Morgan Hill, a city that has thoughtfully planned and paced growth for decades to maintain its character, recently was preempted by State law to utilize its voter approved Residential Development Control System (RDCS) by Senate Bill 330.

Legislation introduced beginning in 2017 by the state legislature has continually threatened local control in contrast to the principle of governmental subsidiarity. This loss of local control has included, but is not limited to:

- Senate Bill 649 (Hueso) Wireless Telecommunications Facilities (“SB 649”) in 2017
- Assembly Bill 252 (Ridley-Thomas) Local government: taxation: prohibition: video streaming services (“AB 252”) in 2017
- Senate Bill 827 (Wiener) Planning and Zoning: Transit -Rich Housing Bonus (“SB 827”) in 2018
- Senate Bill 50 (Wiener) Planning and Zoning: housing development: incentives (“SB 50”) in 2019; and
- Senate Bill 1120 (Atkins) Subdivision: tentative maps (“SB 1120”) in 2020

SB 649 would have allowed the use of small cell wireless antennas and related equipment without a local discretionary permit in all zoning districts as a use by-right, subject only to an administrative permit. SB 649 passed out of the State Assembly and the State Senate despite over 300 cities and 47 counties in California providing letters of opposition. Ultimately, Governor Brown vetoed the bill.

AB 252 would have prohibited any tax on the sale or use of video streaming services, including sales and use taxes and utility user taxes. Prior to its first Committee hearing in 2017, AB 252 received opposition letters from 37 cities, the League of California Cities, South Bay Council of Governments, California Contract Cities Association, and nine other organizations. This bill failed in the Assembly Revenue and Taxation Committee 8-0-2.

In 2018, SB 827 was introduced and would have overridden local control on housing development that was within ½ mile of a major transit stop or ¼ mile from a high-quality bus corridor as defined by the legislation with some limitations. On April 17, 2018, SB 827 failed in the Senate Transportation and failed to move forward during the legislative cycle.

In 2018, the City of Beverly Hills sponsored a resolution adopted by the League of California Cities (“League”). The resolution called for the League to assess the

increasing vulnerabilities to local authority, control, and revenue. It also called for the League to explore the preparation of a ballot measure and/or constitutional amendment.

In 2019, Senator Wiener reintroduced many of the provisions contained in SB 827 in SB 50. The League of California Cities, working in concert with numerous jurisdictions and state elected officials, were able to secure a narrow defeat of this bill in the state Senate in January 2020.

In 2020, Senate Pro Tem Toni Atkins introduced SB 1120, which would have, among other things, required a proposed housing development containing two residential units to be considered ministerially in zones where allowable uses are limited to single-family residential development. This bill passed out of the State Senate in 2020 but the State Senate was unable to vote on this bill to send it to the Governor's desk for signature on time. SB 1120 is returning in 2021 as SB 9 by Senate Pro Tem Atkins. The City is drafting a letter to request various amendments to the proposed legislation text of SB 9, including a request that local governments reserve discretion over application of the law.

The City recognizes affordable housing and homelessness is an ongoing challenge/priority for the State and local governments, including Morgan Hill. With the dissolution of redevelopment agencies, which was the primary funding source for local affordable housing, local governments have next to no resources left, other than General Funds, to allocate to this issue. General Fund resources are already limited to begin with, and small cities like Morgan Hill often do not receive direct funding allocation, left to lobby State or County to invest in their region. Yet Morgan Hill has a proud history of affordable housing production that has resulted in 1 out of every 8 (13%) of for-ownership housing units being income restricted. As a subset of this amazing accomplishment, Morgan Hill has created more affordable ownership units per capita, than any other City in northern California.

Therefore, it is critical we all do our part in addressing the statewide housing and homelessness challenge, but equally important is that we do not lose sight of local governments continue expressing support for actions that strengthen and maintain local democracy, authority, and control. Over the recent years, the City has taken on an active role in responding to proposed legislations, especially that impact local control on land use issues and will continue to do so. The City Council, at its January 2021 annual goal setting, added advocating for local control as an ongoing priority. Adoption of the resolution (Attachment 1) is in line with Council's current priorities.

COMMUNITY ENGAGEMENT: Inform, Empower

City staff periodically brings updates and call to action items to the Council and community regarding pending legislations to consider potential impacts to the community. This report serves to inform the community of the City's position on maintaining local control and empowers them to communicate to the state legislative representatives.

ALTERNATIVE ACTIONS:

The City Council could elect not to adopt the resolution as proposed, or direct staff to amend the resolution.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On February 17, 2021, the City Council approved bringing forward this Council initiated agenda item to consider adopting a resolution expressing support for actions that strengthen local democracy, authority, and control.

FISCAL AND RESOURCE IMPACT:

Adoption of the resolution does not have a direct fiscal impact. However, following adoption, the resources involved could range from minor to significant depending upon further steps directed by the City Council for legislative and other forms of advocacy.

Staff resources to research and prepare this resolution for Council consideration was accommodated within the department's workplan.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. Resolution - Local Control

RESOLUTION NO. 21 - ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES

WHEREAS, the legislature of the State of California each year proposes, passes, and has signed into law a number of bills addressing a range of housing issues; and

WHEREAS, the legislature of the State of California does not allow sufficient time between each legislative cycle to determine if the legislation is successful in bringing about the change for the State of California's housing issues; and

WHEREAS, the majority of these bills usurp the authority of local jurisdictions to determine for themselves the land use policies and practices that best suit each city and its residents and instead impose mandates that do not consider the needs and differences of jurisdictions throughout the State of California; and

WHEREAS, the ability of local jurisdictions to determine for themselves appropriate land uses which uphold the City's desire to maintain the existing character and fabric of the community, with projects requiring review beyond a ministerial approval; what plans and programs are suitable and practical for this community rather than having these decisions imposed upon cities without regard to the circumstances of each individual city; and what zoning should be allowed for residential properties is a matter of great import to the City of Morgan Hill among other items related to local zoning and housing issues; and

WHEREAS, the City Council of the City of Morgan Hill feels strongly that our local government is best able to assess the needs of our community and objects to the proliferation of State legislation that deprives us of that ability;

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

Section 1. The City of Morgan Hill is opposed to the current practice of the legislature of the State of California of continually proposing and passing multitudes of bills that directly impact and interfere with the ability of cities to control their own destiny through use of the zoning authority that has been granted to them.

Section 2. The City of Morgan Hill will explore various ways to protect the ability of cities to retain local control over zoning as each individual city within the State of California is best suited to determine how the zoning in their city should be allocated in order to meet the housing needs of the community.

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 3rd day of March 2021 by the following vote:

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

DATE: _____

Rich Constantine, MAYOR

∞ **CERTIFICATION** ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No.21-xxxx, adopted by the City Council at the meeting held on March 3, 2021.

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

DATE: _____

Michelle Bigelow, CITY CLERK



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

APPROVE 2020 EMERGENCY MANAGEMENT PERFORMANCE GRANT MEMORANDUM OF UNDERSTANDING

RECOMMENDATION(S)

Adopt resolution:

1. Authorizing the City Manager to execute and administer the Memorandum of Understanding with the County of Santa Clara for the 2020 Emergency Management Performance Grant; and
2. Amending the City's Fiscal Year 2020-21 adopted budget to recognize revenue and appropriate related expenditures, in the amount of \$7,340 from the General Fund (010).

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Preserving and Cultivating Public Trust

2020-2021 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

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

Cal OES is expected to award the Santa Clara County 2020 EMPG funding in the amount of \$518,214 for the purpose of sustaining and improving comprehensive emergency management programs.

Per the Memorandum of Understanding (MOU) with the County, Morgan Hill will receive up to \$7,340 in grant funds for equipment to enhance the Emergency Operations Center (EOC) capabilities including laptops and technology in the EOC Management Room of the Police Department. The laptops will be for use by the City's EOC team during training exercises and activations.

Although the grant amount is within the City Manager's signatory authority, pursuant to the Grant Certification and Assurances, the governing body must authorize the

acceptance and approval of the grant expenditure.

COMMUNITY ENGAGEMENT: Inform

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

ALTERNATIVE ACTIONS:

One alternative action by the Council could be to decline the funds for the EOC equipment. Without approval, the EOC would continue to function without widespread technology capabilities and utilize aging EOC laptops.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In March 2019, City Council accepted the EPMG grant for the 2018 cycle year.

FISCAL AND RESOURCE IMPACT:

Recognize \$7,340 in grant revenue towards the Homeland Security Grant account (010.37561) and appropriate this maximum of \$7,340 in expenditures to the Office of Emergency Services operating budget (010.3230.42245). A Budget Scorecard is attached.

CEQA (California Environmental Quality Act):

Not a Project

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

LINKS/ATTACHMENTS:

1. EMPG 2020 Resolution
2. EMPG MOU FOR 2020 Morgan Hill

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ACCEPTING A GRANT AND APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND ADMINISTER, THAT CERTAIN GRANT AGREEMENT WITH COUNTY OF SANTA CLARA FOR THE 2020 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2020-21 BUDGET IN THE GENERAL FUND (FUND NO. 010) TO APPROPRIATE \$7,340 THEREFORE**

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

WHEREAS, the reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Memorandum of Understanding for Emergency Management Performance Grant" submitted for City Council consideration at its meeting of March 3, 2021, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 2020-21, as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

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

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

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

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

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

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

- a. That the Memorandum of Understanding Agreement with County of Santa Clara for the Emergency Management Performance Grant substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the "Agreement") is hereby approved; and
- b. That the City Manager is hereby delegated authority to and is authorized and directed to execute, and subsequently administer including the authority to terminate as necessary or appropriate, the Agreement substantially in the form attached hereto as Exhibit B; provided, specifically, that the total amounts to be received in grant funds by City under the Agreement shall in no event exceed Seven Thousand Three Hundred Forty Dollars (\$7,340); and
- c. That the City's previously adopted Fiscal Year 2020-21 Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- d. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2020-21 Budget of the City.

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on the 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 21-XXX, adopted by the City Council at a regular meeting held on March 3, 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

EXHIBIT A

AGENDA BUDGET SCORECARD

FISCAL YEAR 2020-21

ADJUSTMENT #

014

FUND:

DEPARTMENT:

OBJECT:

010	General Fund
3230	Police-Emergency Services
42245	COMPUTER HARDWARE-NON CAPITAL

AGENDA DATE:

AGENDA ITEM TITLE:

02/04/21
Grant from County Civil Protection and Emergency Services

	07/01/20 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/21 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	16,484,740	39,631,603	43,763,247	12,353,096
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	173,707	280,915	(107,208)
RECOMMENDED ACTION		7,340	7,340	-
RESULT OF RECOMMENDED ACTION	<u>16,484,740</u>	<u>39,812,650</u>	<u>44,051,502</u>	<u>12,245,888</u>

EXHIBIT B

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
THE CITY OF MORGAN HILL GRANTING PROGRAM FUNDS FOR THE
2020 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG)**

THIS AGREEMENT is made effective July 1, 2020, by and between the County of Santa Clara (“County”) and the City of Morgan Hill (“City”) for the allocation and distribution of 2020 Emergency Management Performance Grant (“EMPG”) funds.

RECITALS

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

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

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

WHEREAS, Cal OES has awarded County 2020 EMPG funding in the amount of \$518,214 for the purpose of sustaining and improving comprehensive emergency management programs;

NOW, THEREFORE, this AGREEMENT is to allocate the sum of **\$7,340** from County to City, so that City may implement the “EOC Computers & Technology” project as provided under this Agreement and specified in the EMPG Grant Certifications and Assurances, Exhibit B. The performance period for County for this grant expires on June 30, 2022. The performance period for City for the subgrant expires on March 31, 2022.

County and City agree as follows:

THE AGREEMENT

Article I. Definitions

1. Specific Terms

- (a) **“Burdened Labor Rate”** shall mean the labor rate including benefits, taxes and other deductions from an employee’s paycheck. This rate does not include vacation benefits. The hourly burdened labor rate is used to calculate City’s match obligation.

Attachment: EMPG MOU FOR 2020 Morgan Hill [Revision 1] (1992 : 2020 - Emergency Management Performance Grant MOU)

- (b) **“City”** shall mean the City of Morgan Hill, its officers, board members, employees, and agents.
- (c) **“County”** shall mean the County of Santa Clara, its officers, board members, employees, and agents.
- (d) **“EMPG funds” or “EMPG funding”** shall mean the funding City receives under this Agreement.
- (e) **“Emergency Operations Center” or “EOC”** shall mean the physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place.
- (f) **“Federal Program Guidance”** shall mean guidance documents issued by the Federal Emergency Management Agency, including the EMPG Program Funding Opportunity Announcement, for Fiscal Year 2020.
- (g) **“Grant Certifications and Assurances”** shall mean the FY19 “Standard Assurance For All Cal OES Federal Grant Programs”, “Certification Regarding Lobbying”, and “Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure”
- (h) **“Highly Compensated Individual”** shall mean an individual whose income is \$300,000 or more per year.
- (i) **“Prime Recipient”** shall refer to County.
- (j) **“Project Manager”** shall refer to the City employee identified as “Requestor” on an EMPG Project Proposal form.
- (k) **“Spend Plan”** shall mean a written document that explains the project on which City intends to spend 2020 EMPG funding, including project deliverables and milestone dates by which any funds allocated to City must be spent.
- (l) **“State Guidance”** shall mean the California Supplement to the Federal Program Funding Opportunity Announcement, issued by Cal OES for Fiscal Year 2020
- (m) **“Subgrant”** shall mean funds awarded to the City under this Agreement.
- (n) **“Sub-Recipient”** shall refer to City.

2. References to This Agreement

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

Article II. Allocation and Spend Plans

1. Allocation.

The 2020 EMPG funds shall be disbursed pursuant to the County's FY 2020 EMPG Grant application for each City. County shall reimburse to City funds that City expends under the 2020 EMPG program for eligible expenditures. The amount for City shall not exceed **\$7,340**, unless additional funds become available under the 2020 EMPG program following the execution of this Agreement. If additional funds are allocated, an amendment to this Agreement shall follow.

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

City acknowledges and agrees that County shall have no obligation to disburse EMPG funds to City unless and until the State of California has approved \$518,214 in FY 2020 EMPG funding.

2. Spend Plans

Upon execution of this agreement, City shall provide County with Spend Plans for review by County's Office of Emergency Management ("OEM") Director or designee. All Spend Plans must be approved by County's OEM Director or designee based on projects County has submitted to the State for the 2020 EMPG program. If County's OEM Director does not approve City's Spend Plan, County OEM shall notify City, and City shall have 10 days from the date of the notice to submit a revised Spend Plan to County OEM for approval or risk reallocation of funds. City's Spend Plans are a required part of this MOU.

Article III. Requests for Reimbursement and Reimbursements

1. Required Documentation for Reimbursement

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

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

(a) Requests for Equipment

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

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

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

- Quote or solicitation documents
- Summary of pricing and chosen vendor
- Documentation that vendor is not on the excluded parties list (<https://sam.gov/>) a print-out of the search result page will suffice)
- Purchase order and/or contract
- Receiving documentation/packing slip
- Invoice
- Proof of payment

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

(b) Subcontracts

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

- Name of entity receiving award;
- Amount of award;
- Funding agency;
- Catalog of Federal Domestic Assistance program number;
- Award title (descriptive of the purpose of the funding action);
- Location of the receiving entity and primary location of performance including city, state, and federal Congressional district;
- Dun & Bradstreet (D&B) DUNS Number of the receiving entity, and of its parent if applicable; and
- Total compensation and names of receiving entity's five most highly compensated executives if:
 - In the preceding fiscal year, the subcontractor received 80 percent or more, and \$25,000,000 or more, of its gross annual revenue from federal procurement contracts or subcontracts or from federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.230; and
 - The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), 78o(d), or under section 6104 of the Internal Revenue Code of 1986.
 - City must report subcontractor executive compensation by the end of the month following the month in which it makes the subaward. For example, if the subaward is obligated in any date in April 2021, City must report any required compensation information by May 31, 2021.

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

(c) Sole Source Contracts

Sole source contracts of \$250,000 or more are not allowable under the EMPG program unless first approved by Cal OES. City must obtain sole source request documentation and submit it to the Grants Manager of County's OEM. Upon City's completion and submission of the required sole source documentation, County's Grants Manager shall forward all sole source documents to the appropriate Cal OES contact for review and approval. Only after Cal OES approval is given can a sole source procurement be completed and expenditures reimbursed using EMPG allocated funds. All sole source procurements must follow Federal procurement requirements for grants and, if more restrictive, the City's own procurement policies.

(d) Grant Funded Personnel

EMPG grant-funded personnel are any personnel paid at any percentage with EMPG funding. This includes M&A staff funded by EMPG Program funds. All EMPG Program funded personnel shall complete the training requirements in Article IV, Section 2 (c) by December 31, 2021.

Recorded proof of completion, such as all certificates of completion, must be submitted by the City to County (OEM) before any reimbursements to the City will be made. In any case, proof of completion must be provided by December 31, 2021.

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

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

(e) Other Requests

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

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

2. Submission of Requests for Reimbursement

- (a) City shall submit reimbursement requests to County's OEM (see Article V.1 below) on a quarterly basis, as detailed in the chart below. Unless pre-approved by County's OEM Director or designee, all reimbursement requests shall be due fifteen calendar days after the end of the quarter, with the exception of the final expenditure and/or invoice, as indicated below. Any expenditure during the final period identified in the chart below shall be made by March 15, 2021, and any related invoice shall be submitted by March 31, 2021, unless otherwise pre-approved by County's OEM Director or designee, in order to meet 2020 EMPG deadlines. Reimbursement requests shall be due for expenditures during specified periods as follows:

For Expenditures During the Period:	Due Dates for Reimbursement Requests:
July 1, 2020 through December 31, 2020	January 20, 2021
January 1, 2021 through June 30, 2021	July 20, 2021
July 1, 2021 through December 31, 2021	January 20, 2022
January 1, 2022 through March 31, 2022	April 15, 2022

- (b) During the term of this Agreement, County is not obligated to honor any request for reimbursement that is submitted after the due dates for reimbursement requests for expenditures within a given quarter as specified above in Article II, Section 2(a).
- (c) All grant funds not claimed by City via a proper reimbursement request, which includes all required documentation, by April 15, 2022 will be forfeited. County may then determine how to spend those funds in accordance with grant requirements.

Article IV. Use of Funds

1. Master Grant Obligations

- (a) City shall comply with the EMPG Federal Program Guidance, the State Guidance, and the Grant Certifications and Assurances, attached as Exhibit B. City shall require any subgrantee, contractor, or other entity receiving EMPG funds through or from City to execute a copy of the Grant Certifications and Assurances, and shall be responsible for ensuring that subgrantee, contractor, or other entity complies with the Grant Certifications and Assurances.
- (b) City shall ensure its Project Manager attends a grant kickoff meeting with County OEM staff. Additionally, City shall ensure its Project Manager is available to meet with County OEM staff upon request during the period of this agreement to report on progress on each project funded under this Agreement.
- (c) City shall comply with all other applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement, provided that if any provisions of this Agreement conflict with any State requirements, the State requirements will control. City shall ensure that any subgrantee, contractor, or other entity receiving EMPG funds through or from City complies with all applicable statutes,

regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; the approved Spend Plans; and any other conditions imposed by Cal OES or by this Agreement.

- (d) By executing this Agreement, City certifies that it is not debarred, suspended, or otherwise ineligible to receive EMPG funds. In addition, City shall ensure and independently verify that any subgrantee, contractor, or other entity receiving EMPG funds through or from City is not debarred, suspended, or otherwise excluded from participation in the EMPG program. City shall maintain documentary proof of this verification in its files.

2. Scope of Services

- (a) City shall use the funds granted under this Agreement only for the purpose of implementing applicable initiatives under the 2020 EMPG program, as indicated in Exhibit C, Program Narrative. City shall not use the funds granted under this Agreement for any other purpose. County shall not be required to disburse funds to or otherwise pay City for services, materials, equipment, or supplies provided by City that are beyond the scope of the services, materials, equipment, or supplies agreed upon in this Agreement or a lawfully executed written amendment.

Indirect costs are allowable under the FY20 EMPG grant. Allowability of Indirect costs does not increase the total amount of the State, Operational Area or other sub-recipient (i.e. jurisdictions) grant awards. Claims for indirect costs therefore necessarily decrease the federal funds available to pay for direct project costs. Subawards are based on the direct cost of approved projects. Sub-recipients wishing to claim indirect costs must use an indirect cost rate in compliance with applicable Federal guidance and regulations including 2 C.F.R. § 200.68 and Subpart E.

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

- v. IS 120.c Introduction to Exercises
- vi. IS 230.d Fundamentals of Emergency Management
- vii. IS 235.c Emergency Planning
- viii. IS 240.b Leadership and Influence
- ix. IS 241.b Decision Making and Problem Solving
- x. IS 242.b Effective Communication
- xi. IS 244.b Developing and Managing Volunteers

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

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

Article V. Term and Termination

1. Term of Agreement

This Agreement is effective from July 1, 2020 through June 30, 2022—the FY 2020 EMPG performance period established by the State for the County.

2. Availability of Funds

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

3. Termination

- (a) Termination for Convenience. County shall have the option, in its sole discretion, to terminate this Agreement at any time without cause upon written notice to City. The written notice shall specify the date on which termination shall become effective, which shall be no less than seven (7) days from the date of the notice.
- (b) Termination for Cause. Either party may terminate this Agreement for cause upon written notice to the other party. The written notice shall specify the date on which termination shall become effective, which shall be no less than thirty (30) days from the date of the notice. Termination for cause includes, but is not limited to, a material breach of this

Agreement, a violation of any applicable laws, or failure to comply with applicable EMPG guidelines.

- (c) **Opportunity to Cure.** In the event of termination for material breach of this Agreement, the non-breaching party shall give written notice of the breach to the breaching party, specifying the breach/cause. The breaching party shall not be deemed in default and the non-breaching party shall not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within thirty (30) days after the breaching party's receipt of the notice of breach, or within such longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced its cure, correction or remedy within the thirty (30) day period and diligently and continuously pursues that cure, correction or remedy.
- (d) If this Agreement is terminated, City shall return EMPG funding in accordance with EMPG program guidelines.

Article VI. Indemnification and Liabilities

1. Indemnification by City

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

2. Duty to Defend

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

3. Limitation on Liability

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

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

Article VII. Miscellaneous

1. Notice

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

To City:

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

To County:

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

2. Compliance with all Laws, Including Nondiscrimination, Equal Opportunity, and Wage Theft Prevention

- (a) Compliance with All Laws. City shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, "Laws"), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- (b) Compliance with Non-Discrimination and Equal Opportunity Laws: City shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County's policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of

2008. In addition to the foregoing, City shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall City discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

- (c) **Compliance with Wage and Hour Laws:** City shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.
- (d) **Definitions:** For purposes of this Subsection, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality of Assurance.
- (e) **Prior Judgment, Decisions or Orders against City:** By signing this Agreement, City affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that City violated an applicable wage and hour law or pay equity law. City further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.
- (f) **Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract:** If at any time during the term of this Agreement, City receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then City shall promptly satisfy and comply with any such Final Judgment. City shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. City shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice

provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

- (g) **Access to Records Concerning Compliance with Pay Equity Laws:** In addition to and notwithstanding any other provision of this Agreement concerning access to City's records, City shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, City shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during City's normal business hours upon no less than 10 business days' advance notice.
- (h) **Pay Equity Notification:** City shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to City for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of City's Employees and Job Applicants.
- (i) **Material Breach:** Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:
 - 1. Suspend or terminate any or all parts of this Agreement.
 - 2. Withhold payment to City until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
 - 3. Offer City an opportunity to cure the breach.
- (j) **Subcontractors:** City shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

3. County No-Smoking Policy

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

4. Food and Beverage Standards

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

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low-fat and low-calorie foods; (2) minimally processed foods

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

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

5. Governing Law, Venue

This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California. Proper venue for legal action regarding this Agreement shall be in the County of Santa Clara.

6. Assignment

No assignment of this Agreement or of the rights and obligations hereunder shall be valid without the prior written consent of the other party.

7. Entire Agreement

This Agreement and its Appendices (if any) constitutes the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

8. Amendments

This Agreement may only be amended by a written instrument signed by the Parties.

9. Counterparts

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

10. Contract Execution

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

11. Severability

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

12. Waiver

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

13. Conflicts of Interest

City shall comply, and require its subcontractors to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the County.

In accepting this Agreement, City covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. City further covenants that, in the performance of this Agreement, it will not employ any contractor or person having such an interest. City, including but not limited to contractor’s employees and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the “Act”), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, City shall, upon execution of this Agreement, provide the County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to City’s employees, agents and subcontractors, that could be substantively involved in “making a governmental decision” or “serving in a staff capacity and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position,” (2 CCR 18701(a)(2)), as part of City’s service to the County under this Agreement. City shall immediately notify the County of the names and email addresses of any additional individuals later assigned to provide such service to the County under this Agreement in such a capacity. City shall immediately notify the County of the names of individuals working in such a capacity who, during the course of the Agreement, end their service to the County.

If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, City shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other laws and regulations listed in subsection (A) including, as required, filing of Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

14. Contracting Principles

All entities that contract with the County to provide services where the contract value is \$100,000 or more per budget unit per fiscal year and/or as otherwise directed by the Board, shall be fiscally responsible entities and shall treat their employees fairly. To ensure compliance with these contracting principles, the City and all contractors shall: (1) comply with all applicable federal, state and local rules, regulations and laws; (2) maintain financial records, and make those records available upon request; (3) provide to the County copies of any financial audits that have been completed during the term of the contract; (4) upon the County's request, provide the County reasonable access, through representatives of the City, to facilities, financial and employee records that are related to the purpose of the contract, except where prohibited by federal or state laws, regulations or rules.

15. California Public Records Act

County and City are public agencies subject to the disclosure requirements of the California Public Records Act ("CPRA"). If either County's or City's proprietary information is contained in documents or information submitted to the other party, and the submitting party claims that such information falls within one or more CPRA exemptions, the submitting party must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the receiving party will make best efforts to provide notice to the submitting party prior to such disclosure. If the submitting party contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the receiving party is required to respond to the CPRA request. If the submitting party fails to obtain such remedy within the time the receiving party is required to respond to the CPRA request, the receiving party may disclose the requested information.

16. Third Party Beneficiaries

This agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties.

17. Certified Resolution of Signature Authority

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

Signed:

COUNTY OF SANTA CLARA

CITY OF MORGAN HILL

By _____
Garry Herceg
Deputy County Executive

Date

Christina Turner
City Manager

Date

Approved as to Form and Legality:

Approved as to Form:

Kavita Narayan
Assistant County Counsel

Date

Donald Larkin
City Attorney

Date

Enclosures

- | | |
|-----------|--|
| Exhibit A | Santa Clara County EMPG Notification of Subrecipient Subaward Approval |
| Exhibit B | Grant Certifications and Assurances |
| Exhibit C | Project Narratives |
| Exhibit D | Functional Timesheet Template |

EXHIBIT A

GAVIN NEWSOM
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR



October 19, 2020

Garry Herceg
Deputy County Executive
Santa Clara County
70 West Hedding St. 11th Floor
San Jose, CA 95110

SUBJECT: **NOTIFICATION OF SUBRECIPIENT SUBAWARD APPROVAL**

Fiscal Year (FY) 2020 Emergency Management Performance Grant
Program (EMPG)
Subaward #2020-0006, Cal OES ID#085-00000
Subaward Performance Period: July 1, 2020, to June 30, 2022

Dear Mr. Herceg:

We are pleased to announce the approval of your FY 2020 EMPG subaward in the amount of \$518,214. Once the completed application is received and approved, you may request reimbursement of eligible subaward expenditures using the California Governor's Office of Emergency Services (Cal OES) Financial Management Forms Workbook. Failure to provide documentation in a timely manner could result in a financial hold, pursuant to Title 2, Code of Federal Regulations (CFR), Sections 200.338(a) and 200.207(b)(1)-(2).

This subaward is subject to requirements in 2 CFR, Part 200, including the Notice of Funding Opportunity (NOFO), the Preparedness Grants Manual, the California Supplement to the NOFO, and all applicable federal, state, and local requirements. All activities funded with this subaward must be completed within the subaward performance period.

Subrecipients must obtain additional written approval from Cal OES **prior** to incurring costs involving activities such as aviation, watercraft, allowability requests, noncompetitive procurement, and projects requiring Environmental Planning and Historic Preservation review.



3650 SCHRIEVER AVENUE, MATHER, CA 95655
www.CalOES.ca.gov

Garry Herceg
October 19, 2020
Page 2 of 2

You are required to prepare and submit the Biannual Strategy Implementation Report to Cal OES via the Federal Emergency Management Agency's Grants Reporting Tool (GRT) semi-annually for the duration of the subaward performance period or until all activities are completed and the subaward is formally closed. Failure to submit required reports could result in subaward reduction, suspension, or termination. Throughout the subaward cycle, milestones set in the GRT will be used as indicators of project feasibility, performance, and grant management capacity. This information may also be used to assess proposals in future grant opportunities.

Your dated signature is required on this letter. Please sign and return the original to your Cal OES Program Representative within 20 calendar days upon receipt and keep a copy for your records. For further assistance, please contact your Cal OES Program Representative.

Sincerely,



MARK S. GHILARDUCCI
Director

Garry Herceg
Santa Clara County

Date



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

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

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

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

Federal Regulations

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

State and federal grant award requirements are set forth below. The Applicant hereby agrees to comply with the following:

1. Proof of Authority

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

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

- (d) Applicant is authorized by the city council, governing board, or authorized body to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project cost, if any) to ensure proper planning, management and completion of the project described in this application; and
- (e) Official executing this agreement is authorized by the Applicant.

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

2. Period of Performance

The period of performance is specified in the Award. The Applicant is only authorized to perform allowable activities approved under the award, within the period of performance.

3. Lobbying and Political Activities

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

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

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

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

4. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.213 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, recipients, or subrecipients:

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

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

5. Non-Discrimination and Equal Employment Opportunity

The Applicant will comply with all state and federal statutes relating to non-discrimination, including:



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et. seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§ 12101- 12213), which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs;
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)— be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);
- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
- (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

- (k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
- (l) The Applicant will comply with California's Fair Employment and Housing Act (FEHA) (California Government Code §§ 12940, 12945, 12945.2), as applicable. FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave, military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions;
- (m) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- (n) The requirements of any other nondiscrimination statute(s) that may apply to this application.

6. Drug-Free Workplace

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

7. Environmental Standards

The Applicant will comply with state and federal environmental standards, including:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000- 21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000- 15387);
- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

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

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

8. Audits

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

9. Access to Records

In accordance with 2 C.F.R. § 200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

10. Conflict of Interest

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

11. Financial Management

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

12. Reporting - Accountability

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

13. Whistleblower Protections

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

14. Human Trafficking

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

15. Labor Standards

The Applicant will comply with the following federal labor standards:

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

16. Worker's Compensation

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

17. Property-Related

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

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

- (c) Assist the awarding agency in assuring compliance with Section 106 of the
- (d) National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.); and
- (e) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

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

19. Use of Cellular Device While Driving is Prohibited

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

20. California Public Records Act and Freedom of Information Act

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

EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) – PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS

21. Acknowledgment of Federal Funding from DHS

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

22. Activities Conducted Abroad

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

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

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

24. Copyright

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

25. Duplication of Benefits

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

26. Energy Policy and Conservation Act

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

27. Federal Debt Status

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

28. Fly America Act of 1974

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

29. Hotel and Motel Fire Safety Act of 1990

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

30. Non-supplanting Requirement

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

31. Patents and Intellectual Property Rights

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

32. SAFECOM

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

33. Terrorist Financing

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

34. Reporting of Matters Related to Recipient Integrity and Performance

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

35. USA Patriot Act of 2001

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

36. Use of DHS Seal, Logo, and Flags

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



Standard Assurances For Cal OES Federal Non-Disaster Grant Programs

IMPORTANT

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

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

All of the language contained within this document must be included in the award documents for all subawards at all tiers. All recipients are bound by the [Department of Homeland Security Standard Terms and Conditions 2020, Version 10.1](#), hereby incorporated by reference, which can be found at:
<https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

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

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____



Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure

Public Law (PL) 109-282 Federal Funding Accountability and Transparency Act of 2006, as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (PL 110-252), which is outlined in the Federal Emergency Management Agency, Grant Programs Directorate Information Bulletin No. 350.

As defined by the Office of Management Budget, the following are subject to FFATA reporting requirements:

1. All new federal awards of \$25,000 or more as of October 1, 2010.
NOTE: Cal OES reports on this requirement in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS).
2. The Total Compensation and Names of the top five executive, if the Subrecipient in the preceding year received:
 - a. 80 percent or more of its annual gross revenues in Federal Awards; **and**
 - b. \$25,000,000 or more in annual gross revenues from Federal awards; **and**
 - c. The public does not have access to information about the compensation of the senior executives of the entity.

Subrecipients are required to provide the Executive compensation information in the below chart, if applicable.

Executive Name	Title	Annual Salary	Annual Dollar Value of Benefits	Total Compensation

☐ Not subject to the Executive Compensation requirement of the FFATA Financial Disclosure.



Federal Funding Accounting and Transparency Act (FFATA) Financial Disclosure

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

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____



Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Certification Regarding Lobbying

The Subrecipient, as identified below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Subrecipient: _____

Signature of Authorized Agent: _____

Printed Name of Authorized Agent: _____

Title: _____ Date: _____

EXHIBIT C

2020 EMPG

Project Proposal Request Form / Template



I. Background Information

I	A.	Requestor Contact Information
	Agency	Santa Clara County Office of Emergency Management
	Name	Ivan Williams
	Position/Title	OAC Liaison/Senior Management Analyst
	Phone	408-808-7835
	Mobile Number	
	Agency Address	Office of Emergency Management 55 West Younger Avenue, Suite 450 San Jose, CA 95110
	Email	
I	B.	Project Name
EOC Computers & Technology		
TOTAL PROJECT COST (Insert the total from Funding section)		\$100,000 (scalable)
I	C.	Project Type Use the checkbox to indicate corresponding project
	☐	This project is a new Project.
	☒	This project is part of an ongoing Project.
	☐	This project is for sustainment of a previously funded Project.

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

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

I E. Core Capability and Specific Measures/Metrics				
Identify which of the 11 Emergency Management Core Capabilities (or other Core Capability) this project addresses as well as the specific measures and metrics it is expected to improve or sustain.				
☒ Planning	☒ Public Information & Warning	☒ Operational Coordination	☐ Long-Term Vulnerability Reduction	☐ Risk and Disaster Resilience Assessment
☒ Situational Assessment	☐ Community Resilience	☐ Threats and Hazard Identification	☐ Logistics and Supply Chain	☐ Mass Care Services
☐ Economic Recovery	☐ Other (please specify) _____			
Please identify each specific measure/metric this project is expected to improve /sustain:				
1. Measure/Metric: Operational Coordination —Jurisdiction (County, Cities and Town) EOCs have information technology and communications equipment that is standardized and interoperable for information sharing with: local governments including special districts in the Op Area, County and city agency DOCs in the Op Area, Incident Command Systems in incorporated or unincorporated areas either directly or through DOCs in the Op Area, Volunteer and private agencies in the Op Area, Operational Area Mutual Aid Coordinators, CalOES Regional EOC and Regional Mutual Aid Coordinators.				
2. Measure/Metric: Situational Assessment —100% of Jurisdiction (County, City and Town) DOCs and EOCs have information technology equipment and software that is standardized/interoperable and can facilitate and maintain situational awareness across the Operational Area.				
3. Measure/Metric: Planning —Jurisdictions (County, Cities and Towns) have up-to-date computers and current and specific software tools to help its homeland security and emergency management planners effectively track, update, and manage its EOP.				
4. Measure/Metric: Public Information & Warning —Jurisdictions (County, Cities and Towns) can deliver an initial public warning to up to 50,000 people within 30 minutes following the discovery of the hazard causing the warning to be issued.				

I F. Project Description/Justification	
Briefly describe exactly what the project entails (including any equipment purchases or contracting that will be necessary for the project). Please also describe how the project is expected to impact (improve/sustain) the Core Capability(ies) and specific measures/metrics identified above.	
This project enables Operational Area emergency managers to fully leverage data communication capabilities and sharing of critical information in their EOCs. Computers support response and mitigation during emergencies and disasters via common operating picture and resource management web based programs such as Web EOC, HSIN, COPLink, Mutualink, etc. as well as by supporting situational awareness. Eligibility of Operational Area jurisdictions for this funding is based on the following criteria: <u>Equipment criteria—Laptops/Computers</u> - Funding is primarily for replacement of existing EOC laptops that are at least 4 years old. - Written justification must be provided if funding is requested for additional laptop capacity (i.e. non-replacement laptops) in the City/Town EOC. This written justification must identify the specific EOC needs the additional laptop(s) would provide for as well as specifically how the laptop will be used in the EOC during an activation. These requests will be evaluated and approved on an individual basis. - Funding is limited to a maximum of \$1,700 per computing device (including all peripherals, tax and shipping).	

- Grant funds cannot be used to purchase warranties, maintenance/service agreements, or software that aren't bundled/included with the laptop.
- Any computing device purchased under this project must be capable of running WebEOC—e.g. able to connect to the city/town network and run the necessary browser or other software to access WebEOC.

Equipment Criteria—

Projectors/Screens/Monitors/Displays/Printers/Laminators/Switches

- Each piece of equipment under this category must be fully described including both equipment quantities and specifications (e.g. 2 50" displays), where in the EOC it will be mounted/ located (e.g. North wall) and how it will be used (e.g. to provide situational awareness, WebEOC status boards, etc.).
- Mounted equipment will require State and Federal Environmental and Historic Preservation (EHP) approval prior to purchase of equipment. Forms must be submitted as soon as possible after grant award.
- Cost estimates, including actual bids/pricing information for the equipment must be provided to the grant manager for review and approval. The overall EOC technology project budget may require prioritization of individual jurisdiction's specific technology projects.

City/Town Criteria

- The City/Town must email their intent to use EMPG funding for computing devices—along with the number and type (e.g. laptop) of devices and any required justifications—by June 30, 2019.
- Each City/Town must enter into an MOU with the County for the computers by January 31, 2020.
- Each City/Town must procure any approved computers under an existing competitive contract OR obtain bids in accordance with local (City/Town) and Federal procurement rules (whichever is more restrictive).

Each City/Town must procure any approved computers / equipment and submit all invoices to the County Office of Emergency Management by September 30, 2021.

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

I	H. Installation Does this project require installation, new construction or renovation, retrofitting, or modification of existing structures?
	☒ Yes, If "Yes", please: ☐ No
	1. Provide an explanation AND 2. Attach a completed Environmental and Historic Preservation screening form (EHP) available from http://www.fema.gov/media-library/assets/documents/90195 Specific jurisdiction equipment may be mounted and require an EHP. Completed EHP forms will be required once a specific project that requires installation is selected.

FUNDING

III	A. Proposed funding amount Provide the proposed funding amount to be obligated from this Project towards Planning and Equipment elements. (Please check the appropriate box(es) on the left side for all that apply). Also, for each funding area selected, provide a brief narrative below describing the items or services being funded.
ELEMENT	PROPOSED FUNDING
☐ Planning	\$
☒ Equipment	\$100,000
☐ Management & Administration	\$
☐ Training	\$
☐ Exercise	\$
TOTAL PROJECT COSTS	\$

Description of Expenditures That Will Be Used for Project Grant Match
Emergency Management Personnel Expenditures via Functional Timesheets and Burdened Labor Rate.

AEL #	Equipment
	Use this link to locate and provide the Authorized Equipment number needed for equipment approval https://www.fema.gov/media-library/assets/documents/101566
☒ 04HW-01-INHW 04MD-03-DISP 04MD-02-PROJ	Information Technology
☐	Cyber Security Enhancement Equipment
☐	Interoperable Communications Equipment
☐	Detection Equipment
☐	CBRNE Reference Materials
☐	CBRNE Incident Response Vehicle
☐	Physical Security Enhancement Equipment
☐	Power Equipment
☐	CBRNE Logistical Support Equipment
☐	Other Authorized Equipment: Contact grants manager prior to selected this sub-category

III	B.	Other Source(s) of funding
List other source(s) of funding that is being requested or utilized for this project (check the appropriate box(es) on the left side)		
ELEMENT		PROPOSED FUNDING
☐	UASI	\$
☐	SHSGP	\$
☐	General Funds	\$
☐	Other Grant Funds	\$
TOTAL OTHER FUNDING		\$0

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

III. PROJECT MANAGEMENT AND IMPLEMENTATION

IV	A.	Milestones	
Identify up to 5 additional milestones, with start and end dates, which will be achieved within the performance period under the 2020 EMPG. No start date should begin before July 1, 2020 and no end date should end after March 31, 2022. These dates are subject to change based on notification of application approval. No equipment may be purchased, contracts started or project costs incurred until notified by Grant Administrator that funds may be spent. If unsure of exact dates, use Quarter timeframes Include key steps in the procurement process—i.e. RFP issuance, Contract execution, PR issuance, delivery, etc.			
MILESTONE NUMBER	MILESTONE NAME/DESCRIPTION (1,000 CHARACTER LIMIT)	START DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4	END DATE (MM/DD/YYYY)OR Q1, Q2, Q3, Q4
1	MOU between City/Town and County in Place	As early as July 1, 2020	March 31, 2021
2	Functional Timesheet Collection and Submission to Grant Manager for Project Grant Match	July 1, 2020	March 31, 2022
3	Environmental Historic Preservation (EHP) FEMA Review Completed (If applicable)	As early as August 1, 2020	December 31, 2020
4	City/ Town Performance Period	As early as July 1, 2020	No later than March 31, 2022
5	City/Town Service Agreement for Contracted Services / Purchase Requisition Issued	As early as January 1, 2021	No later than May 31, 2021
6	City/Town Procurement of Project Equipment (once grant award is made and MOU is signed)	As early as January 1, 2021	No later than June 30, 2021
7	Installation and testing of Project Equipment	As early as January 1, 2021	No later than July 31, 2021
8	City/Town submits invoice to County for reimbursement	As early as January 1, 2021	No later than September 30, 2021
9			
10			
IV	B.	Project Outcomes	

Describe the outcomes and benefits that will be achieved as a result of this project. The outcomes should address specific core capability measures/metrics.

EOC laptops and EOC equipment will increase the ability for first responders and emergency managers to effectively collect and provide information and data throughout the operational area and region. In addition they enhance local emergency managers' abilities to respond to and mitigate the emergency or disaster. Laptops must meet minimum standard requirements to support WebEOC, HSIN, COPLink, and WebLink as well as other websites and software that may be needed in a disaster.

A laminator with the capacity to create large sized documents and maps provides staff with the ability to quickly create operational maps and charts when a hazard occurs. Maps and charts of relevant information, such as the location of the city's power lines, can be made in advance and prepared so that in an emergent situation they can be quickly accessed and used. Staff will can affix the laminated documents to walls for easy viewing and updating by ops center personnel.

Enhanced technology in EOCs create more efficient and effective Emergency Operations Center. The equipment will be interoperable with existing communications systems, enabling live updates during hazard events. Situational awareness will be available to all EOC personnel at all times, with multiple screens in various strategic locations around the room projecting and sharing updated information for events throughout the City/Town as well as the region. Updated technology facilitates the exchange of real time data with outside agencies and provides timely communication and notification to the public when a hazard occurs.

IV C. Project Deliverables

Describe the specific deliverables that will be produced as a result of this project.

EOC laptops for jurisdictions within the Operational Area capable of supporting and displaying WebEOC, HSIN, COPLink, and WebLink as well as the other work of an Emergency Operations Center during a disaster.

EOC displays (projector, monitor, wall maps, etc.) will be upgraded to facilitate better situational awareness and to communicate a common operating picture within the EOC as well as facilitate interoperable communication with the public and outside agencies.

EXHIBIT D

3.b

LABOR DISTRIBUTION TIME SHEET	Week Ending		First and Last Name								City/County Participating					
	2/7/21		Sample Name								SCC OEM					
	WBS # 107-G107EM20															
PROJECTS	HOURS WORKED BY DAY															
	M	T	W	TH	F	S	S	M	T	W	TH	F	S	S	TOTAL	
	1/25/21	1/26/21	1/27/21	1/28/21	1/29/21	1/30/21	1/31/21	2/1/21	2/2/21	2/3/21	2/4/21	2/5/21	2/6/21	2/7/21	HOURS	
A - EMPG Grant Administration																
B - OAC Liaison																
C - CSTI Training																
D - EOC Computers/Equipment																
E - ReadySCC App																
F - Preparedness Materials and Outreach																
G - CADRE Community Preparedness																
H - Disaster Sheltering for Companion Animals																
I - Disaster Cost Recovery Training																
J - Joint City and Op Area Safety and Damage Assessment Plan																
Emergency Management PLANNING Activities																
Emergency Management TRAINING Administration, Development and Delivery Activities																
Emergency Management EXERCISE Activities																
Public Risk Communication Officer/PIO Activities																
Other Federal Grant Hours																
Total Work Hours (Max = 8 a day)																

Employee Signature _____

Supervisor's Signature _____

Attachment: EMPG MOU FOR 2020 Morgan Hill [Revision 1] (2020 : 2020 - Emergency Management



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

PREPARED BY: Dwight Good, Fire Marshal

APPROVED BY: City Manager

APPROVE COST-SHARING AGREEMENT WITH SOUTH SANTA CLARA COUNTY FIRE DISTRICT

RECOMMENDATION(S)

Approve and authorize the City Manager to execute and administer a cost-sharing agreement with South Santa Clara County Fire District (SSCCFD) for City's contribution to the District's Engine 67.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety

Advancing Regional Initiatives

2020-2021 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

Per the existing boundary drop agreement, the City of Gilroy, South Santa Clara County Fire District (District), and Morgan Hill respond to calls within each other's jurisdiction.

Engine 67, which is owned and maintained by the District, spends approximately 50% of its total annual hours responding to calls within Morgan Hill. As a result, the District's expenditures to respond to incidents in Morgan Hill exceed benefits that the District receives from Morgan Hill responses to incidents in the District. As a result, the City, via its current cooperative fire protection agreement with CALFIRE, funds 50% of the personnel of Engine 67, and informally has shared the costs of fueling, maintenance, and repair costs.

The cost-sharing agreement (Attachment 1) formalizes the current cost-sharing arrangement based upon all the prior formal and informal agreements in which the District and the City share equally in paying the personnel, fueling, maintenance, and repair costs of Engine 67. The District and the City review annually the apparatus utilization data to determine whether to adjust the 50% cost share. Further, as discussed during the annual goal setting workshop on January 29 and 30, the City will be implementing a two-person squad pilot program to help alleviate the simultaneous calls for service. It is unknown at this time what the full impact of the two-person squad will be on the calls for service, therefore staff will monitor and review annually to see if adjustments to the cost-sharing is warranted.

COMMUNITY ENGAGEMENT: Inform

This staff report serves to inform the community regarding the City's cost-sharing of District's Engine 67.

ALTERNATIVE ACTIONS:

The cost-sharing for personnel is already in place via the City's existing cooperative fire protection agreement with CALFIRE. This cost-sharing agreement formalizes that and other informal agreement of sharing the maintenance of the Engine 67. Therefore, while City Council could alternatively elect to not approve this agreement, it is not recommended.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

In July 2016, the City Council approved the boundary drop agreement.

In June 2018, the City Council approved the current cooperative fire protection agreement with CALFIRE.

FISCAL AND RESOURCE IMPACT:

The fiscal and resource impacts due to this cost-sharing have already been in place and practice and are included in the adopted biennial budget. The annual cost of 50% of personnel for Engine 67 is approximately \$550,000. The annual maintenance cost varies based on utilization. Over the last year, Engine 67 spent a little over \$5,000 for maintenance and repair. The District's engine is scheduled to be replaced later this year, therefore, absent any catastrophic failures, minimum maintenance is expected.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. COST-SHARE AGREEMENT

**COST SHARING AGREEMENT BETWEEN
CITY OF MORGAN HILL
AND
SOUTH SANTA CLARA COUNTY FIRE DISTRICT**

THIS COST SHARING AGREEMENT BETWEEN THE CITY OF MORGAN HILL AND THE SOUTH SANTA CLARA COUNTY FIRE DISTRICT, effective retroactively on January 1, 2021 ("AGREEMENT") is made and entered by and between the City of Morgan Hill ("MRG"), and the South Santa Clara County Fire District ("SCC"), collectively referred to as "the Parties."

RECITALS:

1. Through existing informal agreements between 2014 and 2020, MRG and SCC have shared the staffing, fueling, maintenance, and repair costs, for Engine 67, which is owned by SCC and used for the benefit of both agencies.
2. This AGREEMENT is intended to formalize the current cost-sharing arrangement based upon all of the prior informal agreements in which the Parties share equally in paying the staffing, fueling, maintenance, and repair costs, for Engine 67. This equal share is roughly based upon apparatus utilization hours during the previous years.
3. This AGREEMENT covers only financial cost sharing for Engine 67 and does not change any existing contractual or legal relationships between the parties.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree as follows:

1. COMPENSATION

In order to continue to compensate SCC for MRG's shared use of Engine 67, MRG agrees to contribute funding to SCC. On a quarterly basis, SCC shall invoice MRG for 50% of the fueling and maintenance and repair costs related to the operation of SCC Engine 67. The Parties acknowledge that MRG is already paying 50% of the fully loaded personnel costs relating to staffing SCC Engine 67 directly to the California Department of Forestry and Fire Protection ("CalFire") by separate agreement. To the extent that MRG no longer pays 50% of the personnel costs directly to CALFire (and continues to utilize Engine 67), the Parties agree to amend this Agreement to provide for MRG to pay its pro rata share of personnel costs. SCC shall provide appropriate documentation to support the invoices. The parties agree to meet and confer on an annual basis to review apparatus utilization data to determine whether or not an adjustment of the current 50% cost share is warranted, resulting in a need to amend this

**Cost Sharing Agreement
Between South Santa Clara County Fire District and
City of Morgan Hill**
_____, 2021

Page 2

Agreement. The parties shall send a written summary of this analysis to the County Executive on behalf of SCC and the City Manager on behalf of MRG.

The parties agree that to the extent that compensation, including but not limited to statutory cost recovery is available from third parties as a result of an incident in which response was rendered by Engine 67, it is the intention of the parties to cooperatively pursue such compensation, and to allocate any recovery pro rata in accordance with the cost incurred by each party in providing response to the incident.

2. TERM AND TERMINATION

The term of this Agreement shall be five years from January 1, 2021 to December 31, 2025, unless extended by mutual agreement of the parties. This Agreement may be terminated for convenience and without cause upon one-hundred and eighty (180) days written notice from the terminating party to the non-terminating party.

3. EXECUTION AND AMENDMENT

This AGREEMENT may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original provided all of the Parties have fully executed the AGREEMENT. Unless otherwise prohibited by law, all Parties agree and intend that an electronic copy of this signed AGREEMENT, or an electronically signed version of this AGREEMENT, shall have the same force and legal effect as if executed with an original ink signature. The Parties each represent, warrant, and agree that signatures on the documents identified in this section, whether in ink or electronic, by their respective signatories are intended to authenticate such signatures and to give rise to a valid, enforceable, and fully effective agreement when so executed by the Parties.

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IN WITNESS THEREOF, the parties hereto have caused this AGREEMENT to be executed as of the day and year first herein above written.

Attachment: COST-SHARE AGREEMENT [Revision 2] (3006 : Approve Cost-Sharing Agreement with South Santa Clara County Fire District)



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

APPROVE FIRST AMENDMENT TO AGREEMENT WITH KEYSER MARSTON ASSOCIATES, INC. FOR HOUSING PROGRAM SERVICES

RECOMMENDATION(S)

Approve and authorize the City Manager to execute and administer an amendment to the Consultant Agreement with Keyser Marston Associates, Inc. for Housing Program services through June 30, 2022, for an additional \$50,000 and a total not-to-exceed amount of \$90,000.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community
Advancing Regional Initiatives

2020-2021 Strategic Priorities

Affordable Housing and Homelessness

GUIDING DOCUMENTS

Morgan Hill 2035 General Plan

REPORT NARRATIVE:

The City of Morgan Hill's Housing Program has historically contracted with Keyser Marston Associates, Inc. (KMA) to assist the City with economic advisory services and analysis on various Affordable Housing Program activities. The City has used KMA for economic analysis, such as to prepare an analysis in support of establishing a housing in-lieu fee equivalent to the cost of on-site development, strategies to increase the supply of affordable housing, to identify options for Morgan Hill's inclusionary program to include Low-income units and a range of Moderate-income units, and an analysis of the property tax revenues in relationship to the affordable housing portfolio.

The City currently has a budgeted contract with KMA for \$40,000, effective July 1, 2020 through June 30, 2022 for general housing matters. However, there are several upcoming housing work program needs that were not anticipated. Staff is recommending a \$50,000 increase to the existing contract with KMA for a total not-to-exceed amount of \$90,000 for services through June 30, 2022.

A continued relationship will provide needed expertise, responsiveness to inquiries and continued program stability. The Affordable Housing program enhanced with years of support through the former Redevelopment Agency, has culminated in the production of a significant number of affordable housing units city-wide, both rental and ownership,

and programmatic needs that evolve over time. The additional services of KMA are being requested to support the added work described below.

As a follow up to the December 2, 2020 City Council meeting, the Council directed the City Manager to return to Council with options to consider amending the Inclusionary Housing Ordinance (IHO) to require a percentage of low-income units in addition to lower moderate-income units in new ownership housing developments. Prior to returning to Council in April 2021 on the IHO item, staff will work with KMA on an economic analysis to determine the financial cost to developers, and KMA would translate that cost in a proportionate increase to the in-lieu fee, in order to establish the financial burden of the in-lieu fee to be equivalent to the burden of providing on-site BMR Units within Downtown Morgan Hill and outside of Downtown Morgan Hill. This work will include preparing a series of pro formas, modeling the development costs, sales revenues, profit margins and supported residual land values in the City.

The KMA work program will occur in this sequence:

1. An economic analysis to determine the financial cost to developers and the impacts to the housing in-lieu fee.
2. KMA will provide a technical report of their analysis.
3. Staff and KMA will seek input from the Development Community and the Planning Commission prior to returning to Council.
4. Upon completing these deliverables, staff will return to Council to present amendments for consideration to the IHO and possibly the Housing in-lieu fee, ideally at the same time if possible.

Additionally, there is a need to determine the allowable Mobile Home Rent Increase to Recover Capital Improvement Costs. It is our understanding that a mobile home park is anticipating the possibility of undertaking some capital improvements and would like to pass on a portion of the allowable cost of the improvements to the tenants of the mobile home park. The City's municipal code regulates the magnitude of annual rent increases. Prior to any rent increases occurring, KMA will determine the amount that the mobile home park may increase its rents in accordance with the provisions of the Chapter 5.36 of the municipal code that governs mobile home park rents. KMA will undertake the analysis in consultation with our legal counsel regarding the applicable City codes.

COMMUNITY ENGAGEMENT: This report serves to inform the community of the proposed amendment to the services agreement.

ALTERNATIVE ACTIONS:

The Council could alternatively choose not to approve the agreement and or direct staff to seek another qualified firm for these services.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- Beginning in May 2016, several Housing Workshops were held to discuss several elements of the City of Morgan Hill's Housing Program.
- May 2, 2016, City Council BMR Workshop.
- June 15, 2016 City Council Meeting adopted a BMR Ordinance regulating administration of the Ownership Program.
- June 15, 2016, KMA Housing In-lieu fee workshop with the development community.
- June 22, 2016, KMA Housing In-lieu fee discussion with City Council.
- November 1, 2016, Second KMA Housing In-lieu fee workshop with the development community.
- April 19, 2017, Housing Program workshop with City Council to discuss the 8% annual percentage of affordable units in projects and the RDCS competition.
- May 17, 2017, City institutes a \$12.92 housing in-lieu fee (based on 8% affordability provision), per square foot of livable space of the entire project, effective with the Fiscal Year (FY) 2019-20 Residential Development Control System (RDCS).
- May 2, 2018, City Council meeting to discuss meeting the Housing Accountability Act requirements, Morgan Hill's Regional Housing Needs Allocation (RHNA) housing goals. Additionally, the Council received a KMA report, "Strategy for Increasing the Supply of Affordable Housing."
- The IHO was adopted on July 25, 2018. Staff returned to Council on March 6, 2019 with amendments that were later adopted on March 20, 2019.

FISCAL AND RESOURCE IMPACT:

There are sufficient budgetary appropriations within the Housing Services Fund 236 to support the increase in the contract. No additional appropriations are needed at this time.

CEQA (California Environmental Quality Act):

Not a Project – CEQA does not apply to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. Keyser Marston Associates-1st Amendment

FIRST AMENDMENT TO AGREEMENT KEYSER MARSTON ASSOCIATES, INC.

This FIRST AMENDMENT TO AGREEMENT is entered into and becomes effective on _____ (Effective Date), by THE CITY OF MORGAN HILL, a municipal corporation, ("CITY") and KEYSER MARSTON ASSOCIATES, INC., a California Corporation ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. This First Amendment to Agreement is entered into pursuant to the action of the Morgan Hill City Council taken on _____, _____, 20____.
2. The CITY and CONSULTANT entered into that "Consultant Agreement" made as of July 1, 2020, for on-call consultant services for a maximum compensation of Forty Thousand Dollars (\$40,000.00) ("CONSULTANT AGREEMENT"). The CONSULTANT AGREEMENT is attached as Exhibit "1" to this Agreement.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Amendments:** All terms and conditions of the CONSULTANT AGREEMENT, as amended, as attached as Exhibit "1," shall remain in full force and effect; except that the following amendments shall be made as set forth below:

A. Paragraph 2 shall be amended and replaced in its entirety by the following:

"2. **Term of Agreement.** This Agreement shall be effective and cover services rendered from July 1, 2020, until June 30, 2022. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both parties to this Agreement."

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

"4.1. **Amount.** Compensation under this Agreement shall not exceed NINETY-THOUSAND AND NO/100 DOLLARS (\$90,000.00). If the City Manager extends the term of this Agreement for up to one year pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council."

C. Exhibit 2 is added to the on-call housing services Agreement to describe the scope of work, list of deliverables, budget, and schedule for two specific assignments requested at this time as follows:

To evaluate the financial feasibility of requiring new ownership residential projects to include low-income units and to determine allowable mobile home rent increase to recover capital improvement costs."

2. **Conflicts.** In the event of a conflict between the terms and provisions of this First Amendment to Agreement and the terms and provisions of the CONSULTANT AGREEMENT, the terms of this First Amendment to Agreement shall govern and control.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

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

ATTEST:

CITY OF MORGAN HILL

Michelle Bigelow, City Clerk

Date: _____

Christina J. Turner, City Manager

Date: _____

APPROVED AS TO FORM:

Donald Larkin, City Attorney

KEYSER MARSTON ASSOCIATES, INC.

By: _____

Date: _____

Debbie M. Kern

By: _____

Title: *Debbie M. Kern, Vice President*

Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: *2/25/21*

Aline M. Chambers

By: _____

Title: *DIANE M. CHAMBERS*

SECRETARY

Print Name and Title of Signer.

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

Date: *2/25/21*

Exhibit 2

Scope Of Work to Evaluate the Financial Feasibility of Requiring New Ownership Residential Projects to Include Low-Income Units

The purpose of the evaluation is to determine the supported in-lieu fee amount for projects within Downtown Morgan Hill and outside of Morgan Hill. Per the City's objectives, Consultant shall evaluate the magnitude of an in-lieu fee that would be equivalent in cost to a development providing the following mix of affordable on-site units:

<i>Inclusionary Requirement</i>	<i>Outside of Downtown</i>	<i>Within the Downtown</i>
Low Income (Income up to 80% of AMI; prices at 70% of AMI)	5%	5%
Lower end of Moderate Income (Income from 81% to 100% of AMI; Prices at 90% of AMI)	5%	
Upper end of Moderate Income (Income from 101% to 120% of AMI; Prices at 110% of AMI)	5%	
Moderate Income (Income up to 120% of AMI; prices at 110% of AMI)		5%

Specific tasks will be as follows:

1. Prepare a series of pro formas, modeling the development costs, sales revenues, profit margins and supported residual land values corresponding with the inclusionary requirements identified in Table 1 of the following residential product types:
 - Outside downtown:
 - Single family detached product
 - Townhome attached product
 - Within the downtown:
 - Townhome attached product
2. Estimate the magnitude of in-lieu fee amounts that would yield equivalent residual land value as providing on-site inclusionary units, consistent with the findings of Task 1;
3. Participate in one meeting with the development community to discuss the preliminary analyses and findings;
4. Prepare a report summarizing the analyses undertaken by KMA and its recommendations for the City's Inclusionary Housing program.
5. Participate in one meeting with the Planning Commission and two meetings with the City Council.

Deliverables and Schedule

Deliverable	Description	Schedule	Estimated Date
#1	Draft financial pro forma analyses of the prototypes	Within three weeks of receiving requested information on prototypes.	March 31, 2021
#2	Revised financial pro forma analyses of inclusionary options	Within one week of receiving City staff comments on first draft feasibility analysis.	April 14, 2021
#3	Meeting with Development Community	Within one week of receiving staff agreement on inclusionary options/ recommendations	April 30, 2021
#4	Draft Report	Within one week of receiving comments on revised draft feasibility analysis	May 14, 2021
#5	Final Draft	Within one week of receiving city comments on Draft Report	May 28, 2021
#6	Planning and City Council meetings		June 2021

Proposed Budget

Services will be performed on a time and materials basis, with the total fee for the specific tasks and deliverables identified above to not exceed \$28,000.

Requested Information from City Staff

1. Representative Project Profiles

To complete the analysis, City staff will review recent development applications or completed projects and identify representative single family and attached townhome prototypes for the analysis. City staff will provide the following information:

- Site size;
- Number of total units; market rate units; and affordable units;
- Configuration of project (building heights; parking design)
- Mix of market rate unit sizes;
- Mix of affordable inclusionary unit sizes;

2. Residential Building Permit and Impact Fees

City staff will provide an estimate of the amount of total local building permit and impact fees that new residential projects are required to pay. This will be provided on a per square foot or per unit basis.

Scope of Work to Determine Allowable Mobile Home Rent Increase to Recover Capital Improvement Costs

A mobile home park is anticipating undertaking some capital improvements and would like to pass on a portion of the cost of the improvements to the tenants of the mobile home park. The City's municipal code regulates the magnitude of annual rent increases.

KMA will determine the amount that the mobile home park may increase its rents in accordance with the provisions of the Chapter 5.36 of the municipal code that governs mobile home park rents.

The findings of KMA's analysis will be reported in a technical memorandum.

Needed Information

KMA will need the following information from the applicant:

1. Detailed net operating income statement for 1981 (Base year) per Section 5.36.260.
2. For each category of planned capital improvement, provide the following:
 - Cost estimate
 - Source of the cost estimate
 - Completion date
 - Number of years of useful life
3. Proposed schedule/amount of rent increases to off-set the capital improvement costs
4. Consultation with legal counsel regarding interpretation of the applicable City codes

Budget and Schedule

KMA will undertake the analysis on a time and materials basis, with the total fee to not exceed \$7,500. We anticipate completing a draft of the analysis within two weeks of receiving the information requested above.

126-04-20-042

EXHIBIT 1

**CONSULTANT AGREEMENT
KEYSER MARSTON ASSOCIATES, INC.**

THIS AGREEMENT is entered into and becomes effective on July 1, 2020 (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and KEYSER MARSTON ASSOCIATES, INC. a California corporation ("CONSULTANT") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the authority of the City Manager pursuant to Chapter 3.04 of the Morgan Hill Municipal Code.
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until June 30, 2022 at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by CONSULTANT shall be housing services as further described in Exhibit A.
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$40,000.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed forty thousand dollars and shall be billed based on the rate and basis set forth in Exhibit B. If the City Manager extends the term of this Agreement for up to one year pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to CONSULTANT during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed the City Manager's authority pursuant to Chapter 3.04 of the Morgan Hill Municipal Code, unless otherwise authorized by City Council.
 - 4.2. **Billing.** CONSULTANT shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by CONSULTANT on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 13 Notices. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY's judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.
5. **Termination.** CITY or CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, CONSULTANT shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require CONSULTANT to complete certain work product or documents and CONSULTANT shall deliver to CITY all documents in its possession without additional compensation to

1
Updated June 2020

CONSULTANT. The City Manager of CITY is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

- 5.1. **Non-Appropriations.** Notwithstanding anything contained in this Agreement to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for CITY for any reason whatsoever in any fiscal year, for payments due under this Agreement, CITY will immediately notify CONSULTANT of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

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

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

7.1. **Insurance Types and Amounts.**

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

of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

- 7.1.3. Workers' Compensation Insurance and Employer's Liability. CONSULTANT shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If CONSULTANT is self-insured, CONSULTANT shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.
- 7.1.4. Pollution (Environmental) Liability. If the performance of CONSULTANT'S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, CONSULTANT shall procure and maintain Pollution Liability covering the CONSULTANT'S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.5. Professional Liability.
- 7.1.5.1. If the performance of CONSULTANT's work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), CONSULTANT shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if CONSULTANT maintains a claims-made policy, CONSULTANT shall provide written evidence of such insurance to the CITY for at least three (3) years after the completion of work performed under this Agreement.
- 7.1.5.2. If the performance of CONSULTANT's work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers, hardware engineers, or other systems consultants), CONSULTANT shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.
- 7.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of CONSULTANT's work or service under this Agreement involves contact with minors, CONSULTANT shall

procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to CONSULTANT under CONSULTANT's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

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

7.2.1. **General Liability and pollution liability (when pollution liability applies).**

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

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

7.2.1.3. Insurance shall be primary non-contributing.

7.2.2. **Workers Compensation.**

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

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

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

Certificate Holder address:

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

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

9. **Compliance with Law.**

- 9.1. CONSULTANT and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. CONSULTANT and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.
- 9.2. Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

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

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

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

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

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

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

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

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

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

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

Address of CONSULTANT is as follows:

Keyser Marston Associates, Inc.
2040 Bancroft Way Suite 302
Berkeley, CA 94704

Address of CITY is as follows:

Rebecca Garcia, Housing Manager
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

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

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

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

16. **Maintenance of Records.**

16.1. **Maintenance.** CONSULTANT shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. CONSULTANT shall maintain records for a period of at least

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Updated June 2020

3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then CONSULTANT shall retain said records until such action is resolved.

- 16.2. **Access to and Audit of Records.** The CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONSULTANT and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of the CITY or as part of any audit of the CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 16.3. **Ownership of Work Product.** All documents or other information developed or received by CONSULTANT for work performed under this Agreement, with the exception of CONSULTANT'S proprietary computer models, shall be the property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand or upon termination of this Agreement.
17. **Familiarity with Work.** By executing this Agreement, CONSULTANT represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.
18. **Time of Essence.** Time is of the essence in the performance of this Agreement.
19. **No Assignment.** Neither this Agreement nor any portion shall be assigned by CONSULTANT, without prior written consent of CITY. Any attempted assignment not first approved by CITY shall be void and, at CITY's option, shall terminate this Agreement effective as of the date of such attempted assignment.
20. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.
21. **Defense and Indemnification.**
- 21.1. **Defense and Indemnification.** CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to CONSULTANT'S negligence or willful misconduct in the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by CONSULTANT, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").
- 21.2. **Exceptions.** CONSULTANT is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of the CITY.

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

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

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

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

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

24. Interpretation. This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

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

26. Binding Agreement. Notwithstanding the provisions of Section 19 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of CONSULTANT in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

27. ☐ Data Sharing. This Agreement requires access by CONSULTANT to CITY's Geographic Information System (GIS) DATA for CONSULTANT to perform the work. CITY agrees to provide the GIS DATA to CONSULTANT solely for the purpose of performance of contracted work with the CITY upon the terms and conditions specified in Exhibit D, incorporated herein by this reference.

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[Signatures on Next Page]

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Updated June 2020

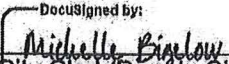
28. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

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

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

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

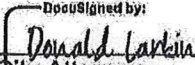
ATTEST:

DocuSigned by:

 Michelle Bigelow
 City Clerk/Deputy City Clerk

Michelle Bigelow
 Print Name

Date: 7/10/2020

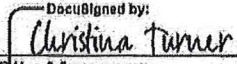
APPROVED AS TO FORM:

DocuSigned by:

 Donald A. Larkin
 City Attorney

Donald A. Larkin
 Print Name

Date: 7/9/2020

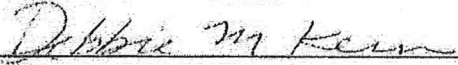
CITY OF MORGAN HILL

DocuSigned by:

 Christina J. Turner
 City Manager

Christina J. Turner
 Print Name

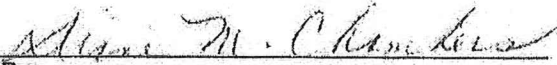
Date: 7/9/2020

Keyser Marston Associates, Inc.

By: 

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

Date: July 8, 2020

By: 

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

Date: July 8, 2020

**EXHIBIT A
SCOPE OF SERVICES**

Consultant shall provide affordable housing assistance as requested by CITY, including but not limited to conducting ongoing research and analysis regarding affordability programs, evolving program best practices, legislation interpretation and analysis, BMR program analysis, and any other general housing matters. Consultant shall also provide other housing assistance, including the housing element.

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

KEYSER MARSTON ASSOCIATES, INC. PUBLIC SECTOR HOURLY RATES

CHAIRMAN, PRESIDENT, MANAGING PRINCIPALS* \$280.00
SENIOR PRINCIPALS* \$270.00
PRINCIPALS* \$250.00
MANAGERS* \$225.00
SENIOR ASSOCIATES \$187.50
ASSOCIATES \$167.50
SENIOR ANALYSTS \$150.00
ANALYSTS \$130.00
TECHNICAL STAFF \$95.00
ADMINISTRATIVE STAFF \$80.00

Directly related job expenses not included in the above rates are: auto mileage, parking, air fares, hotels and motels, meals, car rentals, taxis, telephone calls, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within Thirty (30) days of invoice date.

* Rates for individuals in these categories will be increased by 50% for time spent in court testimony.

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

As directed by City staff.



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

PREPARED BY: Harjot Sangha, Assistant to the City Manager
APPROVED BY: City Manager

RATIFY CITY POSITION ON ASSEMBLY BILL 271 - AUTHORIZING VALLEY WATER TO UTILIZE "BEST VALUE" METHOD TO SELECT THE CONSTRUCTION CONTRACTOR FOR THE ANDERSON DAM SEISMIC RETROFIT PROJECT

RECOMMENDATION(S)

Ratify City position on pending State Legislation Assembly Bill 271.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment and Preserving
Open Space and Agricultural Land
Maintaining Infrastructure
Advancing Regional Initiatives

REPORT NARRATIVE:

Per Resolution No. 20-010 (Attachment 1), the City Council recognizes occasional situations arise where communication indicating support or opposition on pending State, County, or other regional boards' legislation or action that could be important and may occur prior to the next scheduled City Council meeting. Under these circumstances, the Mayor or City Manager is delegated the authority to prepare, execute and transmit written or verbal communications indicating a City's position when any of the following criteria are met: a) the League of California Cities, or a similar organization, has requested the City to comment or take a position, b) the timing to express a position occurs prior to the next scheduled Council meeting, and c) the pending State, County, or other regional boards' legislation or action clearly supports or clearly hinders the implementation or fulfillment of an adopted City Council Priority, Goal, or Strategy in a substantial manner such that it is in the best interest of the City to indicate its comment or position. When this occurs, a written report to the City Council for comment and acceptance is required at the next possible meeting.

AB 271 (Attachment 2), authored by Assemblymember Robert Rivas and sponsored by Valley Water, will authorize use of the "best value" method to select the construction contractor for the Anderson Dam Seismic Retrofit Project, instead of a mandated selection of the lowest bidder, and will require use of a skilled and trained workforce.

Anderson Dam, owned and operated by Valley Water, is located in the City of Morgan

Hill. Because of the size and complexity of this critical project, and direct impact to the City, the Mayor communicated a letter of support (Attachment 3) regarding AB 271 to ensure the project is constructed in the safest manner, while delivering the best overall value. The bill has been referred to the Local Government Committee in the Assembly.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community on City's position on pending legislation which directly impact the City of Morgan Hill.

ALTERNATIVE ACTIONS:

The City Council could rescind positions taken.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

City Council periodically ratifies City positions on various pending State, County or other regional board legislations or actions that have a direct impact on the City of Morgan Hill.

FISCAL AND RESOURCE IMPACT:

Tracking legislation is an activity included in the annual workplan of the City Manager's Office.

CEQA (California Environmental Quality Act):

Not a Project – administrative action/activity without an impact.

LINKS/ATTACHMENTS:

1. 20-010 - Resolution
2. Assembly Bill 271 Text
3. AB271 - Anderson Dam Support Letter

RESOLUTION NO. 20-010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE MAYOR OR CITY MANAGER TO PREPARE, EXECUTE AND TRANSMIT COMMUNICATIONS INDICATING A POSITION ON PROPOSED STATE, COUNTY, OR OTHER REGIONAL BOARDS' LEGISLATION OR ACTION ON CERTAIN MATTERS THAT MAY HAVE IMPACTS UPON THE CITY IN CERTAIN CIRCUMSTANCES AND DIRECTING A REPORT BACK TO CITY COUNCIL ON ANY SUCH COMMUNICATIONS TRANSMITTED. (THIS RESOLUTION RESCINDS RESOLUTION NO. 6851)

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to indicate City's position on proposed legislation of the State of California and is sometimes requested to so indicate City's position on such legislation for the benefit of the City; and

WHEREAS, the reasons supporting the adoption of this Resolution are set forth in detail in that certain City Council Staff Report submitted for City Council consideration at its meeting of February 5, 2020, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

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

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

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

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

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

Section 2. **Approval and Authorization.** The City Council prefers, whenever possible, that determinations on whether to take a position on pending State, County, or other regional boards' legislation or action be brought before the City Council as a whole for consideration and action. However, the City Council recognizes that occasional, limited situations arise where communications indicating support or opposition on pending State, County, or other regional boards' legislation or action that could be important to City are requested from cities within timeframes that have deadlines occurring prior to the next scheduled meeting of the City Council as a whole at which the City Council could consider and determine City's position on such pending legislation. For these reasons, the City Council does further resolve, order and/or direct as follows:

- a. That the Mayor and/or the City Manager is delegated authority to and is authorized to prepare, execute and transmit written or verbal communications indicating a City position on proposed pending State, County or other regional boards' legislation or action that may have impacts upon City when any of the following criteria are met:
 - i. The League of California Cities, or a successor or similar organization, has requested City comment or position on a piece of pending legislation or action, or the City has otherwise become aware of such pending legislation or action;
 - ii. A public hearing and an opportunity for City to comment or take a position upon such pending legislation or action is occurring in a timeframe and with a deadline to comment or express a position that occurs prior to the next scheduled meeting of the City Council at which the City Council could consider and determine City's comment or position on such pending legislation or action; or
 - iii. The pending legislation or action clearly supports or clearly hinders the implementation or fulfillment of an adopted City Council Priority, Goal or Strategy in a substantial manner such that it is in the best interests of City to indicate its comment or position on such pending legislation or action.
- b. That the Mayor and/or City Manager is hereby directed to provide a written report to the City Council for the Council's comment and acceptance at the City Council's next possible meeting whenever the Mayor or City Manager prepares, executes and transmits a communication indicating a comment or position on pending legislation or action pursuant to the authority delegated under this Resolution, which report shall include a copy of such pending legislation or action, and the comment or position transmitted.

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

PASSED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 5th day of February 2020 by the following vote:

AYES:	COUNCIL MEMBERS:	Yvonne Martinez Beltran, Rene Spring, John McKay, Larry Carr, Rich Constantine
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:



RICH CONSTANTINE, Mayor

ATTEST:



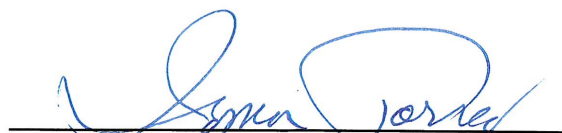
IRMA TORREZ, City Clerk

∞ 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. 20-010, adopted by the City Council at the meeting held on the 5th day of February 2020.

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

DATE: 3/3/2020



Irma Torrez, CITY CLERK

ASSEMBLY BILL**No. 271**

Introduced by Assembly Member Robert Rivas
(Principal coauthor: Senator Laird)
(Coauthors: Assembly Members Berman and Kalra)

January 19, 2021

An act to add Section 21163 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 271, as introduced, Robert Rivas. Santa Clara Valley Water District: contracts: best value procurement.

Existing law authorizes certain local entities to select a bidder for a contract on the basis of “best value,” as defined. Existing law governs various types of contract procedures applicable to the Santa Clara Valley Water District and prescribes competitive bidding procedures for any improvement or unit of work over \$50,000.

This bill would authorize the district, upon approval by the board of directors of the district, to award contracts on a best value basis for any work of the Anderson Dam project, defined to include prescribed activities and works of construction with regard to the Leroy Anderson Dam and Reservoir and certain fish and aquatic habitat measures described in a federal-state settlement agreement. The bill would require the district, if the board elects to award contracts on a best value basis, to comply with specified requirements governing the documents prepared setting forth the scope and estimated price of the project and the request for qualifications. The bill would prohibit a best value contractor from being prequalified, shortlisted, or awarded a contract unless the contractor provides an enforceable commitment to the district

that the contractor and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project, in accordance with certain criteria. By requiring certain information of bidders to be certified under penalty of perjury, the bill would expand an existing crime, thereby imposing a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Leroy Anderson Dam and Reservoir, owned by the
- 4 Santa Clara Valley Water District and located in the County of
- 5 Santa Clara, is the largest reservoir in the county with a capacity
- 6 of 89,278 acre-feet, is a critical part of the region's water supply
- 7 system, and provides incidental flood protection, as well as
- 8 environmental and recreational benefits.
- 9 (b) A breach of the Leroy Anderson Dam at full capacity could
- 10 have catastrophic consequences, including inundation of a land
- 11 area extending more than 30 miles northwest to San Francisco
- 12 Bay, including the Cities of Milpitas, San Jose, Santa Clara, and
- 13 Sunnyvale, and more than 40 miles southeast to Monterey Bay,
- 14 including the Cities of Gilroy, Morgan Hill, and Watsonville. This
- 15 area includes a significant part of the region known as Silicon
- 16 Valley and is home to thousands of job-creating businesses that
- 17 drive the regional, state, and national economies.
- 18 (c) The dam has been determined by the Santa Clara Valley
- 19 Water District, the Department of Water Resources Division of
- 20 Safety of Dams, and the Federal Energy Regulatory Commission
- 21 to be at risk of an uncontrolled release of water due to a seismic
- 22 event. On February 20, 2020, the Federal Energy Regulatory
- 23 Commission directed the Santa Clara Valley Water District to

1 maintain the reservoir at a level that is equivalent to 35 percent of
2 the reservoir's capacity, begin draining the reservoir to deadpool
3 by October 1, 2020, and expedite reconstruction and improvement
4 of the dam outlet structure to begin as soon as feasible to allow
5 the deadpool to be maintained. The Santa Clara Valley Water
6 District is in the process of complying with the federal order and
7 began the draining of the reservoir on October 1, 2020, and is
8 moving expeditiously to construct a new dam outlet structure.

9 (d) Built in 1950 to the seismic and dam safety standards of the
10 day, the dam would not withstand the largest likely earthquake,
11 known as the maximum credible earthquake, on the nearby
12 Calaveras and Coyote Creek faults. A 2008 seismic stability
13 evaluation identified potential embankment instability as a result
14 of seismic shaking and liquefaction. In 2012, and again in 2020,
15 voters in the County of Santa Clara approved parcel taxes to pay
16 for the initiation of the Anderson Dam Seismic Retrofit Project
17 and pay for a portion of the overall project costs. By 2016, findings
18 from the geotechnical and geologic investigations performed during
19 the project's design phase led to the conclusion that a more
20 extensive dam retrofit than had originally been envisioned would
21 have to be performed, causing a necessary delay and redesign of
22 the project.

23 (e) In February 2017, an atmospheric river event, which
24 conveyed a series of wet storms to the region, resulted in flows
25 over the dam's spillway that, together with heavy flows from
26 surrounding waterways, eventually exceeded the capacity of Coyote
27 Creek. The creek flooded homes and businesses in economically
28 diverse neighborhoods in San Jose, including disadvantaged
29 communities and communities of color, requiring the evacuation
30 of 14,000 people. The dam's outlet, used to draw down the
31 reservoir in an emergency, is too small by modern standards, and
32 in advance of the 2017 storms, the outlet had been releasing as
33 much water as possible for more than a month.

34 (f) The Santa Clara Valley Water District's Anderson Dam
35 Seismic Retrofit Project will remove and replace the dam. It will
36 be constructed to modern seismic and dam safety standards,
37 including increased capacities for the dam's spillway and outlet
38 to allow a rapid, controlled drawdown in an emergency and to
39 enhance incidental flood protection.

(g) The Anderson Dam Seismic Retrofit Project is complex and must be evaluated under both state and federal environmental laws. The independent Board of Consultants, convened pursuant to the Federal Energy Regulatory Commission process, has recommended the “best value” method for awarding the construction contracts for the Anderson Dam Seismic Retrofit Project due to its complex design, delivery, and installation.

(h) Authorizing the Anderson Dam Seismic Retrofit Project for the “best value” method of contract award, similar to other major surface storage projects, is in keeping with construction industry practices and is prudent for a project of this scale and importance.

SEC. 2. Section 21163 is added to the Public Contract Code, to read:

21163. (a) As used in this section:

(1) (A) “Anderson Dam project” or “project” means any activity or work of construction to retrofit, repair, replace, or improve the safety of the Leroy Anderson Dam and Reservoir, owned by the Santa Clara Valley Water District and located in the County of Santa Clara, including any upstream or downstream construction, improvements, changes in operational activities, and flood protection measures that may be required to implement that activity or work.

(B) The “Anderson Dam project” or “project” includes any avoidance, minimization, or mitigation measures, including the Coyote Creek-related Phase 1 measures of the Fish and Aquatic Habitat Collaborative Effort, as described in the settlement agreement, determined to be appropriate by the district, in consultation with state and federal agencies identified as “responsible agencies” or “trustee agencies” pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) “Best value” means a procurement process whereby the selected bidder may be selected on the basis of objective criteria for evaluating the qualifications of bidders with the resulting selection representing the best combination of price and qualifications.

(3) “Best value contract” means a competitively bid contract entered into pursuant to this section.

1 (4) “Best value contractor” means a properly licensed person,
2 firm, or corporation that submits a bid for, or is awarded, a best
3 value contract.

4 (5) “District” means the Santa Clara Valley Water District.

5 (6) “Project labor agreement” has the same meaning as in
6 paragraph (1) of subdivision (b) of Section 2500.

7 (7) “Settlement agreement” means the agreement entitled
8 “Settlement Agreement Regarding Water Rights of the Santa Clara
9 Valley Water District on Coyote, Guadalupe, and Stevens Creeks”
10 initialed on May 27, 2003, by the district, the United States
11 Department of the Interior, United States Fish and Wildlife Service,
12 the United States Department of Commerce, National Marine
13 Fisheries Service, the California Department of Fish and Game,
14 the Guadalupe-Coyote Resource Conservation District, Trout
15 Unlimited, the Pacific Coast Federation of Fishermen’s
16 Associations, and California Trout, Incorporated.

17 (b) Upon the approval of the board, the district may award
18 contracts on a best value basis for any work for the Anderson Dam
19 project.

20 (c) If the board elects to award a contract on a best value basis
21 pursuant to the authorization in subdivision (b), the district shall
22 comply with both of the following:

23 (1) The district shall prepare a set of documents setting forth
24 the scope and estimated price of the project. The documents may
25 include, but need not be limited to, the size, type, and desired
26 design character of the project, performance specifications covering
27 the quality of materials, equipment, workmanship, preliminary
28 plans or layouts, or any other information deemed necessary to
29 adequately describe the district’s needs. The performance
30 specifications and any plans shall be prepared by a design
31 professional who is duly licensed and registered in California.

32 (2) The district shall prepare and issue a request for
33 qualifications in order to prequalify or short-list the entities,
34 including subcontractors and suppliers, whose bids shall be
35 evaluated for final selection. The request for qualifications shall
36 include, but need not be limited to, all of the following elements:

37 (A) Identification of the basic scope and needs of the project or
38 contract, the expected cost range, the methodology that will be
39 used by the district to evaluate bids, the procedure for final
40 selection of the bidder, and any other information deemed

1 necessary by the district to inform interested parties of the
2 contracting opportunity.

3 (B) Significant factors that the district reasonably expects to
4 consider in evaluating qualifications, including technical
5 design-related expertise, construction expertise, acceptable safety
6 records, and all other non-price-related factors.

7 (C) A standard template request for statements of qualifications
8 prepared by the district. In preparing the standard template, the
9 district may consult with the construction industry, the building
10 trades and surety industry, and other local agencies with experience
11 awarding a contract on a best value basis. The template shall
12 require all of the following information:

13 (i) If the bidder is a privately held corporation, limited liability
14 company, partnership, or joint venture, composed of privately held
15 entities, a listing of all of the shareholders, partners, or members
16 known at the time of statement of qualification submission who
17 will perform work on the project.

18 (ii) Evidence that the members of the contracting team have
19 completed, or demonstrated the experience, competency, capability,
20 and capacity to complete, projects of similar size, scope, or
21 complexity and that proposed key personnel have sufficient
22 experience and training to competently manage and complete the
23 project, and a financial statement that ensures that the bidder has
24 the capacity to complete the project.

25 (iii) The licenses, registration, and credentials required for the
26 project, including, but not limited to, information on the revocation
27 or suspension of any license, credential, or registration.

28 (iv) Evidence that establishes that the bidder has the capacity
29 to obtain all required payment and performance bonding, liability
30 insurance, and errors and omissions insurance.

31 (v) Information concerning workers' compensation experience
32 history and a worker safety program.

33 (vi) An acceptable safety record. "Safety record" means the
34 prior history concerning the safe performance of construction
35 contracts. The criteria used to evaluate a bidder's safety record
36 shall include, at a minimum, its experience modification rate for
37 the most recent three-year period, and its average total recordable
38 injury or illness rate and average lost work rate for the most recent
39 three-year period.

1 (vii) The information required under this subparagraph shall be
2 certified under penalty of perjury by the bidder and its general
3 partners or joint venture members.

4 (d) (1) A best value contractor shall not be prequalified,
5 shortlisted, or awarded a contract, regardless of whether the best
6 value process is used, unless the contractor provides an enforceable
7 commitment to the district that the contractor and its subcontractors
8 at every tier will use a skilled and trained workforce to perform
9 all work on the project or contract that falls within an
10 apprenticeable occupation in the building and construction trades,
11 in accordance with Chapter 2.9 (commencing with Section 2600)
12 of Part 1.

13 (2) Paragraph (1) shall not apply if either of the following
14 requirements are met:

15 (A) The district has entered into a project labor agreement that
16 will bind all contractors and subcontractors performing work on
17 the project or contract to use a skilled and trained workforce, and
18 the contractor agrees to be bound by that project labor agreement.

19 (B) The contractor has entered into a project labor agreement
20 that will bind the contractor and all its subcontractors at every tier
21 performing the project or contract to use a skilled and trained
22 workforce.

23 SEC. 3. The Legislature finds and declares that a special statute
24 is necessary and that a general statute cannot be made applicable
25 within the meaning of Section 16 of Article IV of the California
26 Constitution because of the findings set forth in Section 1 of this
27 act.

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

O



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www.morganhill.ca.gov

February 16, 2021

Assemblymember Robert Rivas
State Capitol
Sacramento, CA 95814

Re: Support for AB 271

Dear Assemblymember Rivas:

On behalf of the City of Morgan Hill, I am pleased to submit this letter in support of AB 271. This important legislation will ensure the timely, safe, and expert construction of the Anderson Dam Seismic Retrofit Project by allowing Valley Water to use the “best value” method to select the construction contractor for the Anderson Dam Seismic Retrofit Project and will require a skilled and trained workforce to ensure expert construction.

Federal, state, and local officials have determined that the Leroy Anderson Dam and Reservoir, located in Morgan Hill—owned by the Santa Clara Valley Water District (Valley Water)—would be at risk of an uncontrolled release of water in the event of a large earthquake, which could inundate cities and rural areas from San Francisco Bay south to Monterey Bay, including much of Silicon Valley.

Expert construction is critical for a project of this size and complexity. “Best Value” is a procurement process that allows a public agency to select contractors based on objective criteria for evaluating the qualifications of bidders, rather than the lowest price, with the resulting selection providing the best combination of price and qualifications. Under current California law, Valley Water must select the contractor offering the lowest bid rather than the best value. Because of the size and complexity of the Anderson Project, Valley Water needs authorization in state law to award the contract to the most qualified bidder. “Best value” selection of the construction contractor will help ensure the best combination of price, expertise, and value for the Anderson Dam project.

AB 271 will provide that much-needed strategic approach to these ongoing challenges. Thank you again for your leadership on this important issue which has a direct impact to the Morgan Hill community. Should you have any questions or concerns, or want to discuss further, I can be reached at Rich.Constantine@morganhill.ca.gov.

Sincerely,

Rich Constantine
Mayor

Attachment: AB271 - Anderson Dam Support Letter (3002 : Ratify City position AB 271)

DRAFT



Meeting Minutes City Council

Rich Constantine - Mayor
John McKay - Mayor Pro Tem
Gino Borgioli - Council Member
Yvonne Martinez Beltran - Council Member
Rene Spring - Council Member

Wednesday, February 17, 2021 5:00 pm

Virtual Meeting

SPECIAL/REGULAR MEETING

A special meeting of the City Council was called at 5:00 pm for the purpose of conducting a workshop.

5:00 pm Workshop

7:00 pm Regular Meeting

SPECIAL MEETING

5:00 pm Workshop

CALL TO ORDER

Mayor Constantine called the special-regular meeting to order at 5:00 pm.

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow called the roll.

Minutes Acceptance: Minutes of Feb 17, 2021 5:00 PM (CONSENT CALENDAR)

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

DECLARATION OF POSTING AGENDA

City Clerk Michelle Bigelow declared the posting of the agenda.

WORKSHOP

1. LAST MILE (LOCAL) DELIVERY/DISTRIBUTION

Recommendation:

Examine what "last mile (local) delivery" is and how it could serve or impact our community, discuss what the City has done to date to regulate distribution, and explore regulations for last mile (local) delivery uses.

City Manager Christina Turner introduced the workshop and turned it over to Development Services Director Jennifer Carman who gave a presentation.

Public comment opened at 6:13 pm. The following people were called to speak:

Liam Downey

Brittney Sherman

Natalie Sparrer

Joe Baranowski (Rick Kent and Terry Williams ceded their time)

Miguel Jimenez (Susie Jimenez ceded her time)

There being no further requests, public comment closed.

The workshop adjourned at 6:55 pm.

REGULAR MEETING

7:00 pm

PRESENTATIONS

YAC PRESENTATION- ASSET # 26- CARING

RECOGNITIONS

Recognizing Communications and Engagement Director Maureen Tobin for her Hard Work, Dedication, and Many Years of Service to Morgan Hill

Morgan Hill Community Foundation Donation for Inclusive Playground
Nick Gaich, Matt Wendt, Peggy Martin, Ron Locicero, and Pamela Meador

PROCLAMATIONS

Proclaiming the month of February 2021 as Black History Month.

CITY COUNCIL REPORTS

Mayor Constantine announced that since it is early in the year, the boards and committees he is a part of are just starting to assign positions. He gave a list of the committees he is on so that the community

knows what they can expect to hear from him throughout the year.

- Bay Area Air Quality Management District (BAAQMD) Board member
 - The Community of Equity, Health, and Justice Subcommittee
 - The Stationary Source and Climate Impacts Subcommittee
 - The Administration Subcommittee
- Valley Water's Water Commission
- Cities Association of Santa Clara County Board
 - Executive Board subcommittee
 - Chair of the Legislative Action Committee
 - City Selection Committee
- Local Agency Formation Commission (LAFCO) Board Member
- VTA Board Member
 - Various subcommittees

CITY MANAGER'S REPORT

City Manager Christina Turner spoke to the evening's supplements and presentations.

She introduced Emergency Operations Coordinator Jennifer Ponce who provided a brief update on the City's Emergency Operations Plan.

City Manager Turner provided an update on COVID-19. She shared that county officials announced that healthcare providers across the county are going to expand access to vaccinations to workers in education, child-care, emergency services, as well as food and agriculture industries. That is going to start on February 28th. She announced that as of today, we have 45 deaths in our Morgan Hill community due to COVID-19. The message we have shared with the community is to continue wearing your mask and even to double up and wear two masks as that is more effective, continue to social distance and remain vigilant. She spoke regarding the news stories on ABC7 and Telemundo stating that, unfortunately Morgan Hill is now second in the county in regard to case rates. She also shared that Council Member Martinez Beltran serves on the Latinx Coalition for the county and she is also working in the Ambassador Program specifically reaching out to our Latinx community. The Latinx community has COVID rates that are higher than other ethnic groups. Through her work with the county, Council Member Martinez Beltran has helped get additional testing sites, specifically at the Grange. She has also been coordinating the scheduling of vaccination appointments at the Grange.

Many community members have reached out to help during this time. The county has not committed to putting a vaccination site in Morgan Hill yet. However, she announced that we have let the county know that we are ready and available when vaccination supply is available and when county staff is able to allow a vaccination site in Morgan Hill. In the meantime, our community members can attend any vaccination site within the county. The Gilroy Senior Center is offering vaccinations on Wednesdays for seniors 65 and older. She shared that all individuals in long term congregate facilities have had or will soon have both doses of the vaccine with one exception. We have one care facility that will receive their first vaccination tomorrow. That is full coverage of our facilities. The county is now in the process of determining how to get out to our housebound seniors.

She concluded by commenting on the disruptive internet outage we experienced on February 3rd. The City had already scheduled a series of workshops for the Council and the community to discuss broadband in Morgan Hill. She encouraged the community to join us on the fourth Wednesdays of the next three months with the first one being on February 24th.

MORGAN HILL EMERGENCY OPERATIONS PLAN UPDATE

RESPONSES TO 2/3/21 AGENDA QUESTIONS

CITY MANAGER'S REPORT SUPPLEMENT 1

CITY MANAGER'S REPORT SUPPLEMENT 2

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin announced that there was no reportable action on the closed session items from the February 9, 2021 Special City Council Meeting.

PUBLIC COMMENT

Public comment opened at 8:03 pm. The following people were called to speak:

Nikki Carpendale

Joe Baranowski

There being no further requests, public comment closed.

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted, moving item 12 before item 11.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Martinez Beltran, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

CONSENT CALENDAR

MOTION:

Approving consent calendar items 2 through 10.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John McKay, Mayor Pro Tem
SECONDER:	Gino Borgioli, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

2. ACCEPT DONATION FROM THE MORGAN HILL COMMUNITY FOUNDATION FOR THE MORGAN HILL MAGICAL BRIDGE INCLUSIVE PLAYGROUND

Recommendation:

1. Accept donation of \$72,660 from the Morgan Hill Community Foundation for the construction of the Morgan Hill Magical Bridge Inclusive Playground at Community Park; and
2. Authorize the City Manager to execute and administer any agreements necessary to accept the funds.

3. ADOPT RESOLUTION FINDING AN UNREASONABLE HARDSHIP WILL OCCUR UNLESS ATTORNEYS' FEE AWARD IS PAID IN INSTALLMENTS

Recommendation:

Adopt the proposed resolution declaring that an unreasonable hardship will occur unless City's share of the judgment awarded to the Hotel Coalition on November 13, 2020 is paid in installments.

4. ADOPT RESOLUTION TEMPORARILY TOLLING PLANNING, SUBDIVISION, AND BUILDING PERMIT APPROVALS

Recommendation:

Adopt resolution tolling Planning, Subdivision, and Building Permit approvals due to COVID-19 emergency.

5. APPROVE FUNDING AGREEMENT WITH THE VTA FOR THE MADRONE CHANNEL TRAIL PROJECT

Recommendation:

Approve and authorize the City Manager to execute and administer a funding agreement with the Santa Clara Valley Transportation Authority (VTA) for improvements to the Madrone Channel Trail.

6. APPROVE AGREEMENT WITH MARK THOMAS AND COMPANY FOR CONSTRUCTION SUPPORT SERVICES FOR THE HALE AVENUE EXTENSION PROJECT

Recommendation:

Approve and authorize the City Manager to execute and administer a Service Agreement for Design Professionals with Mark Thomas & Company for construction support services for the Hale Avenue Extension Project for \$143,295.

7. APPROVE FIFTH AMENDMENT TO THE LEASE AGREEMENT WITH THE MORGAN HILL UNIFIED SCHOOL DISTRICT FOR USE OF SPACE AT THE CORPORATION YARD

Recommendation:

Approve and authorize the City Manager to enter into a Fifth Amendment to the lease agreement with the Morgan Hill Unified School District.

8. APPROVE THE JANUARY 20, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

9. APPROVE THE JANUARY 29 AND 30, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

10. APPROVE THE FEBRUARY 9, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

12. CONSIDER CITY COUNCIL INITIATED AGENDA ITEM REQUESTING CITY COUNCIL ADOPT A RESOLUTION CONDEMNING THE JANUARY 6, 2021 RIOTS AT THE UNITED STATES CAPITOL IN WASHINGTON D.C.

Recommendation:

Consider whether to direct staff to prepare a resolution condemning the January 6, 2021 riots at the United States Capitol in Washington D.C.

City Manager Christina Turner provided a brief report.

Public comment opened at 8:17 pm. The following people were called to speak:

Suman Ganapathy

Nikki Carpendale

Brian Faircloth

There being no further requests, public comment closed.

MOTION:

Directing staff to bring a resolution to the City Council condemning violence.

RESULT:	DIRECTED [UNANIMOUS]
MOVER:	Yvonne Martinez Beltran, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

The meeting recessed at 8:33 pm and reconvened 8:42 pm.

PUBLIC HEARING

11. REVIEW PLANNING COMMISSION'S DECISION ON CONDITIONAL USE PERMIT (UP2020-0004) MAST - TITAN SPORTS ACADEMY/KINETIC PERFORMANCE INSTITUTE TO ALLOW INDOOR COMMERCIAL RECREATION FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 817-02-063 LOCATED AT 195 MAST STREET.

Recommendation:

1. Open/close public hearing; and
2. Adopt resolution:
 - a. reaffirming the decision of the Planning Commission to deny the Conditional Use Permit.
 - OR
 - b. making the necessary findings to support a Conditional Use Permit.
3. Direct staff to return to the City Council with Zoning Code changes removing conditional use conflicts with industrial preservation.

Associate Planner Joey Dinh and Development Services Director Jennifer Carman provided the report and presentation.

The public hearing opened at 9:33 pm. The following people were called to speak:

Angelica McDonald and Erik Waggle (Applicants)

Matthew Monaco (Nora Monaco ceded time)

Paul Pascoal

Valerie Renggli

Chris Keenan

Maddison Lara

Angela Campbell

Teressa Francis

Mia Flores
 Isabel Massman
 Marcus Chung
 Joseph Mendoza
 Christy Marbry
 Kris Massman
 Andria Leaf
 Alison McElravey
 Jennifer Uyeda-Allen
 Carlton Pace
 Wayne Perrier
 Greg Grattan
 Sean Bolin
 Joe Baranowski
 Dianna
 John Amaral
 Jen Alvernaz
 E. Murawsky
 Brandon Fitzpatrick
 Jacqui Kitson
 Alyssa Marcoullier
 Gloria Murray
 Keith Ducker

There being no further requests, the public hearing closed.

MOTION:

Extending time to 11:30 pm.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	John McKay, Mayor Pro Tem
SECONDER:	Yvonne Martinez Beltran, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

MOTION:

Adopting resolution overturning the Planning Commission decision and making the necessary findings supporting a Conditional Use Permit, not allowing outside activity.

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

MOTION:

Extending the meeting to 11:45 pm.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Rich Constantine, Mayor
SECONDER:	John McKay, Mayor Pro Tem
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

OTHER BUSINESS

12. ITEM MOVED AHEAD OF ITEM 11

13. CONSIDER CITY COUNCIL INITIATED AGENDA ITEM REQUESTING CITY COUNCIL ADOPT A RESOLUTION EXPRESSING SUPPORT FOR ACTIONS TO STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL

Recommendation:

Consider whether to direct staff to prepare a resolution expressing support for actions to strengthen local democracy, authority, and control.

City Manager Christina Turner provided the report.

Public comment opened at 11:25 pm.

There being no requests to speak, public comment closed.

MOTION:

Direct staff to prepare a resolution expressing support for actions to strengthen local democracy, authority, and control.

RESULT:	DIRECTED [UNANIMOUS]
MOVER:	Gino Borgioli, Council Member
SECONDER:	Yvonne Martinez Beltran, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

14. APPROVE UPDATES TO SUSTAINABLE MORGAN HILL VISION, ONGOING AND STRATEGIC PRIORITIES, CITY COUNCIL NORMS, AND COUNCIL POLICY REGARDING RULES FOR CONDUCT OF CITY COUNCIL MEETINGS

Recommendation:

Adopt updates to:

1. Sustainable Morgan Hill vision, ongoing priorities, and 2020 – 2021 strategic priorities;
2. City Council Norms; and
3. City Council Policy (CP 97-01) – Rules for Conduct of City Council Meetings.

City Manager Christina Turner provided the report.

Public comment opened at 11:42 pm.

There being no requests to speak, public comment closed.

MOTION:

Adopting the updated Sustainable Morgan Hill Document, updated City Council Norms, and Updated City Council Policy 97-01.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Gino Borgioli, Council Member
AYES:	Constantine, McKay, Borgioli, Martinez Beltran, Spring

FUTURE COUNCIL INITIATED AGENDA ITEMS

City Council Member Martinez Beltran requested an item to come back to Council adding telecommunications to the Sustainable Morgan Hill Document.

City Council Member Martinez Beltran requested that staff review commercial zoning code to provide a clear opportunity for recreation uses.

City Council Member Spring would like Mayor or Council to submit a letter of opposition of Senate Bill 9 and to have staff also review Senate Bill 10.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:44 pm.

MINUTES PREPARED BY:

Michelle Bigelow, City Clerk

Minutes Acceptance: Minutes of Feb 17, 2021 5:00 PM (CONSENT CALENDAR)



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

AWARD 2020 INFLOW AND INFILTRATION SEWER REPAIR PROJECT

RECOMMENDATION(S)

1. Approve 2020 Inflow and Infiltration Sewer Repair Project plans and specifications;
2. Award contract to Pacific Underground Construction, Inc. for the 2020 Inflow and Infiltration Sewer Repair Project in the amount of \$2,034,350;
3. Authorize expenditure of construction contingency funds not to exceed \$406,870; and
4. Authorize the City Manager to execute and administer the construction contract with Pacific Underground Construction, Inc.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Infrastructure

2020-2021 Strategic Priorities

Fiscal Sustainability

GUIDING DOCUMENTS

Wastewater System Master Plan

REPORT NARRATIVE:

The City's current Sewer System Master Plan identifies infiltration and inflow as one of the largest infrastructure issues the City is facing. The City's Capital Improvement Program allocates funding for significant repairs to the system over the next five years. The recent sewer condition assessment performed by Schaaf and Wheeler has identified numerous locations where sewer mains require repairs to lower the overall ground water and storm water inflow and infiltration into the City's sewer system. On December 4, 2019, City Council approved a professional design agreement with Schaaf and Wheeler to prepare plans and specifications for the 2020 Inflow and Infiltration Sewer Repair Project. Once the agreement was executed, Schaaf and Wheeler worked with staff to begin design work on this project.

The plans and specifications were completed in December 2020 and included sewer main repairs at 21 locations within the City (See attached Vicinity Map for locations). The scope of work for this project includes the cleaning and videoing of the identified sewer mains to be repaired/replaced, repairing and/or replacement of sewer main using pipe bursting, pipe lining, or open trench method, manhole replacement or rehabilitation, and final sewer videoing of pipe condition after repair.

The bid opening for this project was held on February 17, 2021 and three bids were received:

Pacific Underground Construction, Inc.	\$2,034,350
D'Arcy and Harty Construction, Inc.	\$2,102,172
Golden Bay Construction, Inc.	\$2,319,836

Pacific Underground Construction, Inc.'s bid of \$2,034,350 is approximately 13% less than the engineer's estimate of \$2,300,000. Pacific Underground Construction, Inc. is an experienced construction for this type of work and has performed work for the City on previous undergrounding utility projects. Staff recommends award of the contract to Pacific Underground Construction, Inc. in the amount of \$2,034,350. Due to possible unforeseen conditions for underground utility work, staff requests 20% contingency to this project. The project is scheduled to start in April 2021 and be completed by December 2021.

The project plans and specifications can be found on the [City's webpage in the Community Project link](#).

COMMUNITY ENGAGEMENT: Inform

The 2020 Inflow and Infiltration Sewer Repair Project is located within residential neighborhoods. While there may be inconveniences to residents, staff will work with the contractor to minimize these inconveniences to residents and provide email and door notifications prior to any construction activities. Staff will also provide regular updated construction information weekly through Nextdoor and on the City's website.

ALTERNATIVE ACTIONS:

City Council may elect to not award this construction contract and request the project be re-bid. Staff does not recommend this alternative as competitive bids were received. Rebidding the project is not likely to result in significant savings and it will delay the project approximately three to four months.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

October 18, 2017 – City Council adopted the 2017 Sewer System Master Plan.

January 17, 2018 – City Council approved a professional design agreement with Schaaf and Wheeler for sewer condition assessment of the existing sewer system.

December 4, 2019 – City Council approved design services agreement with Schaaf and Wheeler for Inflow and Infiltration Project.

June 17, 2020 - City Council adopted the FY 2020-21 through FY 2025-26 Capital Improvement Budget which identifies funding for the proposed sewer projects through bond proceeds.

November 20, 2020 – City Council adopted resolution authorizing the execution of an installment purchase agreement to provide financing of the City’s anticipated projects through the sale of \$20 million in sewer revenue bonds.

FISCAL AND RESOURCE IMPACT:

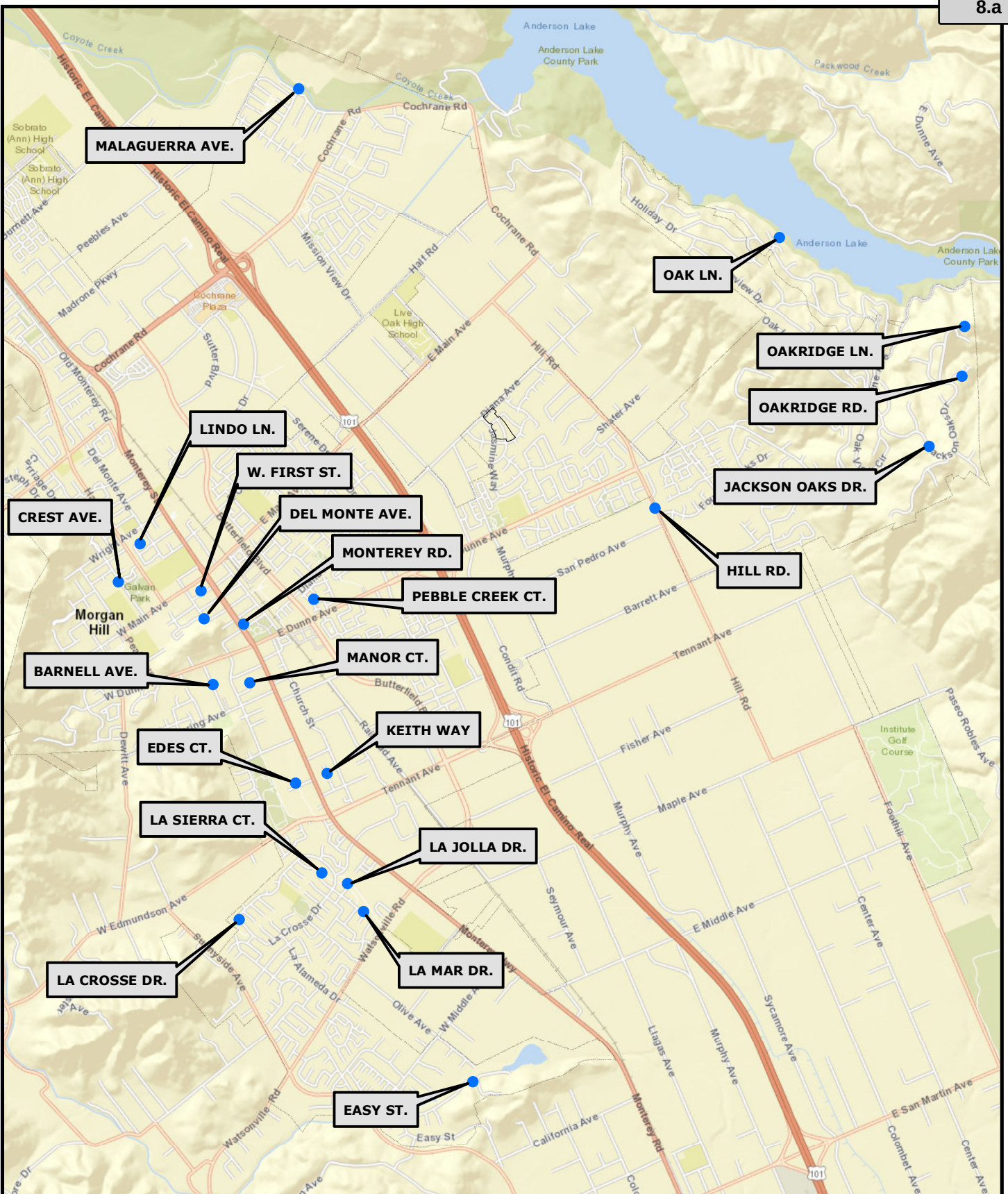
The total authorization for the project would be \$2,441,220, which includes a 20% contingency of \$406,870. The project is sufficiently funded in the Fiscal Year 2020-21 Capital Improvement Program (CIP) budget under CIP Project 302018, Sanitary Sewer Rehabilitation, utilizing Sewer CIP Funds (643).

CEQA (California Environmental Quality Act): Categorical Exemption

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

LINKS/ATTACHMENTS:

1. Vicinity Map 3-3-21



Attachment: Vicinity Map 3-3-21 (3007 : 2020 Inflow and Infiltration Sewer Repair Project)



CITY OF MORGAN HILL
Engineering and Utilities Department
Capital Improvement Program Division

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INFLOW AND INFILTRATION SEWER REPAIR PROJECT



0 1,250 2,500 5,000 7,500 10,000
 Feet



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

ADOPT RESOLUTION AUTHORIZING THE COUNTY TO COMMENCE 2021 HAZARDOUS VEGETATION ABATEMENT PROGRAM

RECOMMENDATION(S)

1. Open/Close public hearing; and
2. Adopt resolution authorizing Santa Clara County to commence hazardous vegetation abatement activities on the attached list.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Protecting the Environment and Preserving
Open Space and Agricultural Land

REPORT NARRATIVE:

On December 2, 2020, the City Council adopted Resolution 20-064 declaring hazardous vegetation growing in the City of Morgan Hill to be a public nuisance. The Resolution further established February 3, 2021 as the date for a public hearing on properties proposed for inclusion in the 2021 Hazardous Vegetation Program (Program). Program notices (Attachment 1) have been mailed to property owners in Morgan Hill whose properties have been identified as having, or potentially having, a problem with hazardous vegetation. In addition, notices of this public hearing have been published in the newspaper per Government Code Section 39566. The purpose of this hearing is to allow property owners to object to having their property in the 2021 Hazardous Vegetation Management Program, have the City Council consider these objections and or provide general public comment regarding the program. The list of properties (Attachment 2) in the Program has been posted at City Hall for over ten days prior to this public hearing. Following the emergency cancellation of the February 3rd meeting, the County sent out a corrected notice to all affected parties informing them that the public hearing was now scheduled for March 3rd. The public hearing was noticed again in the newspaper as well.

The City controls the growth of hazardous vegetation under the authority set out in Chapter 8.20 of the Morgan Hill Municipal Code and in Government Code Sections 39560 and following. The City has a contract with the Santa Clara County Consumer and Environmental Protection Agency (Agency) which provides for abatement of the property if the property owner does not maintain the property as required. If the work is completed by the Agency's contractor, costs for the work are assessed to the property

owner. Properties on the Hazardous Vegetation Program List have been inspected by Agency staff and have been found to have unsafe vegetation during the growing season. Once a property is added to the Program, it remains on the program for a minimum of three years.

COMMUNITY ENGAGEMENT: Empower

The hazardous vegetation abatement program relies on a full range of community engagement approaches. Much of it begins when the County Program or City Fire Department informs a property owner that a hazardous situation has been observed on their property. As noted in the attached packet mailed to the property owners, each property owner is given several months during which he or she may consult and work together with Program staff to understand the situation and the needed remedies. Ultimately, each property owner is invited and empowered to remedy the situation themselves in order to minimize their program charges while maintaining public safety. In addition, many of the properties on the original list are placed on the list as a result of a complaint from a community member about a hazardous situation.

ALTERNATIVE ACTIONS:

The Council can choose to adopt the resolution (Attachment 3) as presented or to exclude any of the properties on the list. In addition, the Council can choose to delay action on the resolution. Delaying action could ultimately provide the affected property owners with less notice and time to plan for abating their hazardous vegetation. These alternative actions are not recommended as they result in diminished customer service and/or increased fire risk.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Council adopted the annual resolution in December. This hearing and the abatement schedule are consistent with the actions taken by the Council for over a decade.

FISCAL AND RESOURCE IMPACT:

The Hazardous Vegetation Program is user fee supported. The per-lot assessment includes costs for doing the weed and brush control work plus overhead County costs to administer the program. The City does not retain any revenues for this activity. In addition to charges for failed inspections and actual abatement work, an annual inspection fee of \$84 is charged to all property owners in the Program. These fees are communicated to the property owners when they are annually notified about the Program. The actual total charge per parcel will vary based on whether or not the property owner abated their own weeds and whether or not they did so before the County's inspection, after the May 1 deadline. The County returns the actual proposed assessment list to the City in the summer for the assessment of program charges. Per the approach adopted by the Council, the program charges are discussed at a local prehearing with City staff and then imposed via an administrative hearing held by the County's Hearing Officer.

Item

Current County
Fee

Annual Inspection and Administration	\$84 annually
Failed Inspection (only charged if property fails inspection)	\$466
Abatement Administration (only charged if County abates weeds)	\$809

As the County has found that its revenues in the past were not always adequate to support the program, the Board of Supervisors has adopted a fee schedule designed to achieve full cost recovery and has shifted ultimate fiscal responsibility to participating jurisdictions. If the County determines that program-wide revenues in a given year were insufficient to cover program-wide costs, the jurisdictions participating in the Program will be billed for their prorata share of the shortfall.

Administering this Program is an activity in the Community Services Department work program and budget.

CEQA (California Environmental Quality Act): Categorical Exemption

These activities are categorically exempt from environmental review under the California Environmental Quality Act pursuant to California Code of Regulations, Title 21, Section 15304(i) (Minor Alterations to Land - Fuel Management Activities).

LINKS/ATTACHMENTS:

1. 2021 Morgan Hill Mailing Packet
2. 2021 Morgan Hill Property List
3. Resolution Commencement

2021 Return Reply Form

PATEL JITENDRAKUMAR M

IMPORTANT: Please complete this form and mail back to the Weed Abatement Program **within 15 days of receipt of this notice.** Thank you.

TRA: 02000

PATEL JITENDRAKUM R M
39625 FREMONT BLVD
FREMONT CA 94538

841-03-063

Please check the box that applies for each parcel (see explanations below):

[illegible]

841-03-063

341 LEWIS ST GILROY CA



B

C

[illegible]

--	--

[illegible]

A I am no longer the owner of this property, and the new owner information is listed below. Please return Reply Form immediately.

B I intend to maintain this parcel in a manner consistent with the Minimum Fire Safety Standards from May 15, 2020 through the end of the fire season (typically runs through October). All parcels on the abatement list are subject to inspection to ascertain compliance. Non-compliance by the deadline will result in an Inspection fee or the abatement of weeds by the County contractor and the resulting charges added to the property tax.

C I request that the County Contractor perform weed abatement work on this parcel. Charges for this work will be added to my property tax bill. **(All County fees Apply)**

Please provide any additional information such as new owners, presence of piping, irrigation, crops or other improvement. If your property is fenced/locked, please provide instructions on how to enter the property. If you are no longer the owner of the property identified by this mailing, please notify the County immediately. If you sell your property after December 1st, 2020, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be liable for all hazard abatement charges assessed to the property.

Thank You

11

Please check if you feel this parcel is environmentally sensitive

Signature

Name (please print)

Date _____

Day time phone



Community Services Department
17575 Peak Ave.
Morgan Hill, CA 95037
(408)779-7271
www.morganhill.ca.gov

December 5, 2019

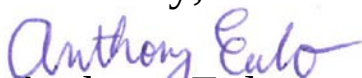
Dear Property Owner:

This package is not junk mail, or a mailing being sent to all property owners. It is being sent to you because your specific property has been included in the City's Weed Abatement Program. The City contracts with the County for program administration.

Please read the attached sheets carefully. Action on your part is requested and failing to act may result in substantial program charges being added to your property tax bill.

I encourage you to contact the County if you have any questions about your property or need on-site advice to help you achieve compliance with the Minimum Fire Standards. They are available to help you. The Santa Clara County Weed Abatement Program can be reached at (408) 282-3145.

Sincerely,


Anthony Eulo

Program Administrator

Attachment: 2021 Morgan Hill Mailing Packet (2990 : 2021 Hazardous Vegetation Abatement Commencement)

County of Santa Clara

Consumer and Environmental Protection Agency
Weed Abatement Division

1553 Berger Drive
Building 1
San Jose, CA 95112
(408) 282-3145
Fax (408) 286-2460



December 7, 2020

IMPORTANT NOTICE TO ABATE WEEDS

Dear Property Owner:

To protect your property and the surrounding area from possible fire, your jurisdiction (city or County if in unincorporated areas) contracts with the County of Santa Clara to operate a Weed Abatement Program. You are receiving this notice and information because our staff has determined that your parcel is part of this Program. Please read the information carefully and contact us for clarification or additional information.

Your jurisdiction has or will adopt a resolution declaring your property as one that may contain fire hazards from weeds or other debris. Following this action, your jurisdiction will conduct a public hearing to consider an abatement order, which would require you to remove any hazardous vegetation or combustible debris prior to the deadline in the attached abatement schedule. The public hearing will be held on the date and location stated in the attached notice and provides an opportunity for you to raise any objections or concerns with this requirement.

If you believe your parcel includes an environmentally sensitive habitat, please check the box and provide additional information on the reply form to assist us in determining the best approach to abating your property.

If, after the public hearing, the Weed Abatement Program is approved for your property, the County is authorized by your city and the California Health and Safety Code sections 14875-14922 to inspect your property to confirm that the property has been cleared of hazards according to Minimum Fire Safety Standards (see enclosed brochure). Inspections will begin after the abatement deadline for your jurisdiction. This notice does not relieve you of your responsibility to complete the necessary work prior to the deadline for your jurisdiction. You will be responsible for an annual fee of \$84 to cover the cost of this compliance inspection.

If you fail to complete the abatement work prior to our inspection of your property, you will be responsible for an inspection fee of \$466 per parcel; and your property will be scheduled for abatement by the County contractor. You will be assessed a County administrative fee of \$809 per parcel plus the County's cost of abatement if the County completes this work. If you complete the abatement work before the County contractor, you will not incur further charges.

The County will use the least costly method of abatement considering the physical characteristics of your property and any other environmental or related concerns. Fees are detailed in the attached price list. The total amount will be included as a special assessment on your property tax bill following confirmation of the charges by your city or the County if parcel is not in a city at a public hearing?. This hearing would be scheduled in late spring/summer 2021 with the exact date determined by your jurisdiction. Jurisdictions

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Attachment: 2021 Morgan Hill Mailing Packet (2990 : 2021 Hazardous Vegetation Abatement Commencement)

post hearing information at a physical location (typically at a city hall building or other government center and most jurisdictions also publish this information on their websites) at least three days prior to the meeting.

You can avoid all costs, other than the annual compliance fee, by completing the abatement work yourself according to Minimum Fire Safety Standards (see enclosed brochure) prior to the abatement deadline for your jurisdiction and maintaining the Minimum Fire Safety Standards for the duration of fire season, which typically runs March Through October. Parcels will be removed from the program after three consecutive years of voluntary compliance (work completed by property owner prior to the deadline and confirmed by our inspection).

In preparation for this program, please complete and return the enclosed Reply Form by January 15, 2021 so we are notified of your plans for abating your property.

If you designate in your reply that you intend to abate the weeds yourself, you need to complete the abatement before the deadline listed on the attached abatement schedule and maintain fire-safe conditions for the duration of the fire season. Responding that you intend to provide maintenance yourself does not release you from this responsibility to have the maintenance *completed* before your deadline and *repeated* as necessary to maintain Minimum Fire Safe Standards. The County will abate hazardous vegetation as required after the deadline for your jurisdiction at your cost.

Enclosed you will find the following information:

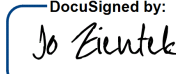
- ✓ Reply Form specific to your property. Please complete and return by January 15, 2021.
- ✓ Notice to Destroy Weeds informing you of an upcoming public meeting (that you must attend if you have any objections to the proposed removal of hazardous vegetation or debris from your property. Your Jurisdiction may offer the ability for you to participate in this meeting virtually; please confirm directly with your jurisdiction.
- ✓ Weed Abatement Program Schedule for your city with current County abatement fees.
- ✓ County of Santa Clara Weed Abatement Brochure.

Please be aware that any abatement performed by the County must comply with all applicable regulations. If your property falls within an area designated as a possible habitat for burrowing owls or any other protected species of bird or animal, the methods used to remove vegetation may be regulated by specific laws or local ordinances.

If you are no longer the owner of the property identified by this mailing, please notify us immediately at (408) 282-3145. If you sell your property after the date of this letter, it is your responsibility to notify the new owner and to include the obligation to pay any abatement costs in your agreement of sale. Without taking this action, you will be responsible for all-hazard abatement charges assessed to the property.

Our goals are voluntary compliance with the Minimum Fire Safety Standards and all properties remain safe from fire. If you have any questions or need on-site advice to help you achieve compliance with the Minimum Fire Standards, please call us at (408) 282-3145.

Sincerely,

DocuSigned by:

 23BC95461D52437...
 Jo Zientek, Director
 Consumer and Environmental Protection Agency

Attachment: 2021 Morgan Hill Mailing Packet (2990 : 2021 Hazardous Vegetation Abatement Commencement)

Notice to Destroy Weeds

NOTICE IS HEREBY GIVEN that on December 2, 2020, pursuant to the provisions of Section 8.20.030 of the Morgan Hill Municipal Code, the City Council of said City passed a resolution declaring that all weeds growing upon any private property or in any public street or alley, as defined in Section 8.20.010, constitute a public nuisance, which nuisance must be abated by the destruction or removal thereof.

NOTICE IS FURTHER GIVEN that property owners shall without delay, remove all such weeds from their property, and the abutting half of the street in front and alleys, if any, behind such property, and between the lot lines thereof as extended, or such weeds will be destroyed or removed and such nuisance abated by the City authorities, in which case the cost of such destruction or removal will be assessed upon the lots and lands from which, or from the front or rear of which, such weeds shall have been destroyed or removed; and such cost will constitute a lien upon such lots or lands until paid, and will be collected upon the next tax roll upon which general municipal taxes are collected. All property owners having any objections to the proposed destruction or removal of such weeds are hereby notified to attend a meeting of said City to be held in the Council Chambers of the City of Morgan Hill located at 17555 Peak Avenue, Morgan Hill, California, on **Wednesday, February 3rd, 2021, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, when their objections will be heard and given due consideration.

The language and format for this notice is required by California Health and Safety Code Sections 14891 Et. Seq.

MORGAN HILL WEED ABATEMENT PROGRAM SCHEDULE

February 3, 2021	Public hearing to consider objections to Abatement List.
May 1, 2021	<u>PARCEL ABATEMENT DEADLINE</u> Parcel must be free from hazardous vegetation by this date or Inspector will order abatement.
July/August 2021	Assessment Hearing date to be scheduled by City Council.

2021 COUNTY WEED ABATEMENT FEES

Properties in the Weed Abatement Program, you will be responsible for an annual inspection fee of \$84.00 per parcel.

Please be advised that the property owner of any parcel found to be non-compliant on or after the March 1st deadline will be charged a processing fee of \$466.00 and the property will be scheduled for abatement by the County contractor. If you complete the abatement work before the County contractor performs the abatement, you will not incur further charges. Should the abatement work be performed by a County contractor, you will be assessed the contractor's charges plus a County administrative fee of \$809.00 per parcel.

2021 COUNTY CONTRACTOR'S WEED ABATEMENT PRICE LIST

A) Disc Work**

PARCEL SIZE:	1 st Disc	+	2 nd Disc	=	Total Discs
0-12,500 sq.ft.	<u>\$399.80</u>		<u>\$160.73</u>		<u>\$560.53</u>
12,501sq.ft.- 43,560sq.ft.	<u>\$399.80</u>		<u>\$160.73</u>		<u>\$560.53</u>
Larger than 1 Acre	<u>\$290.41</u>		<u>\$141.83</u>		<u>\$432.24</u> (PER ACRE)

** It is required that parcels be disced twice a year. The cost for the first discing is higher due to additional work normally required during the first discing.

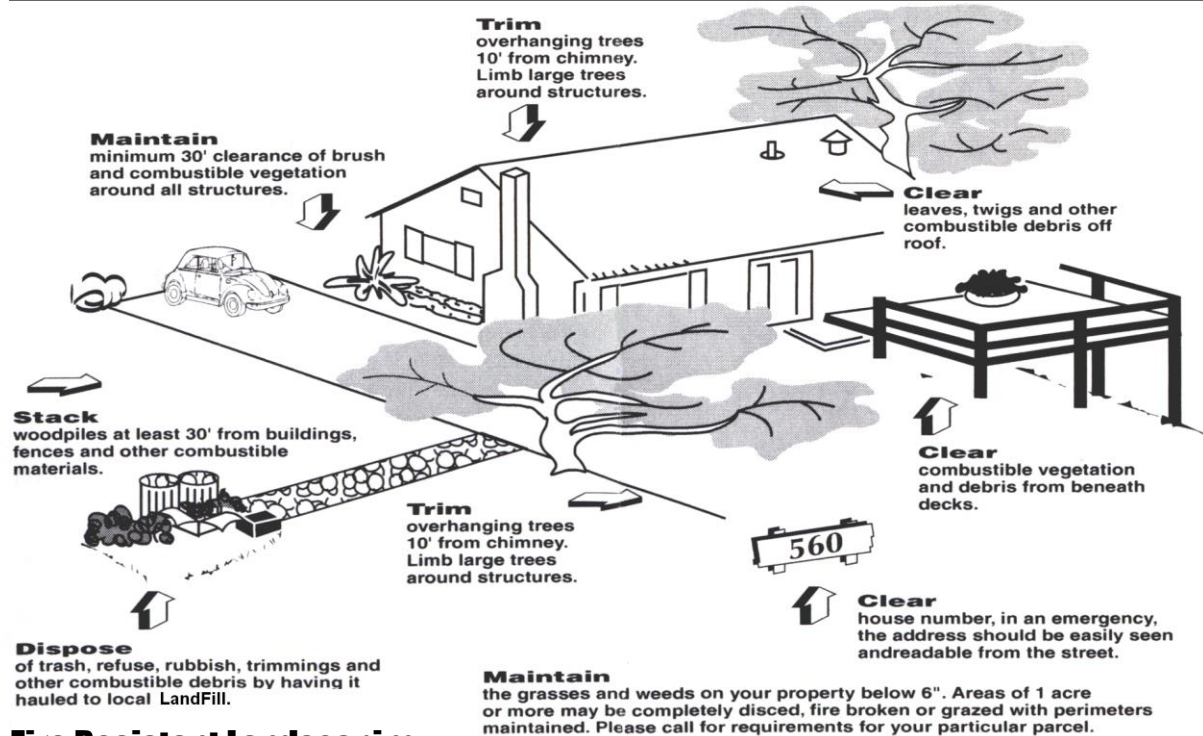
B) HANDWORK	<u>\$5.40 PER 100 Square Feet (SF)</u>
C) FLAIL	6 Foot Mower <u>\$6.89 PER 1,000 SF</u>
MOWING	12 Foot Mower <u>\$6.89 PER 1,000 SF</u>
D) LOADER WORK	<u>\$165.20 PER HOUR</u>
E) DUMP TRUCK	<u>\$152.49 PER HOUR</u>
F) BRUSH WORK	<u>\$5.16 PER 100 SF</u>
G) DEBRIS REMOVAL	<u>\$56.73 PER HOUR</u>
H) DUMP FEE	<u>100%</u>

Added to orders with debris removal at 100% of the dump site charge.

***Please note this program does not offer herbicide application as a method of abatement.**

MINIMUM FIRE SAFETY STANDARDS

1. **Vegetation must not exceed 6 inches in height any time after the compliance deadline.**
2. Maintain grasses and weeds below 6 inches for 10 feet horizontally on both sides of all roadways, including driveways and access routes. Roads and Driveways must maintain a clearance of 10' W by 13'6" H for all vegetation
3. Clear flammable vegetation a minimum of 30 feet around any structure, occupied or not. Ornamental vegetation should be kept clear of dead material. Some conditions, such as slopes, may require up to a 100-foot clearance.
4. Parcels one acre or less shall be completely abated. Parcels over one acre up to five acres require 30-foot clearance around structures and perimeter property lines. Additional 30-foot cross fuel breaks may also be required.
5. Parcels larger than five acres require 30-foot clearance around structures and perimeter property lines in addition to 30-foot cross fuel breaks as needed to separate the remaining vegetation into sections no larger than five acres.
6. Keep property clear of accumulation of combustible debris, such as trash, wood, and dead vegetation. Stacked firewood and neatly piled yard waste is not considered to be combustible debris.
7. Keep vegetation cleared from under the eaves of houses.
8. Trim tree branches to at least 10 feet away from chimney.
9. Clear leaves, pine needles and debris from roof and gutters.



Fire Resistant Landscaping

The following is a partial list of fire resistant plants that you may choose to use around your home to reduce the risk of fire. Contact your local nursery for selections appropriate to your area. All grasses, including those purportedly fire resistant, must be maintained below 6" in height.

Trees:

African Sumac
California Pepper

Shrubs:

Bearberry
Carmel Creeper
Carolina Cherry
Catalina Cherry

Escallonia

Hopseed Bush
Lemonade Berry

Groundcover:

Aaron's Beard
Australian Daisy
Candytuft
Sterile Capeweed

Freeway Daisy

Rock rose (except Gum Variety)

Fire Safety Through Vegetation Management

Santa Clara County
Consumer and Environmental
Protection Agency

Weed Abatement Program



1553 Berger Drive #1

San Jose, Ca 95112

Phone (408) 282-3145

Fax: (408) 286-2460

SCC.WeedAbatement@cep.sccgov.org

The Santa Clara County Weed Abatement Program

The Santa Clara County Consumer and Environmental Protection Agency and your city are working together to protect your community from fire. We need your help. Please read and follow the directions provided in this brochure regarding fire prevention on your property. The purpose of the Weed Abatement Program is to prevent fire hazards posed by vegetative growth and the accumulation of combustible materials.

The Weed Abatement program is entirely funded from fees charged to residents. Fees will be assessed for any property in the program. This is to cover the cost of the compliance inspection for the property. Properties that fail the compliance inspection will be charged a failed inspection fee, even if the resident completes the weed abatement. If the property requires abatement by the County contractor, the property owner will be responsible for the actual cost of abatement plus an administrative fee. Properties that meet and maintain the minimum fire safety standards will not be charged other than the annual fee.

Program staff annually inspect parcels at the beginning of the fire season, which is typically in March or April depending on your jurisdiction. If the parcel is not in compliance at the time of inspection, the property owner will be charged a failed inspection fee, and the owner will be sent a courtesy notice as a reminder to abate the weeds. If the weeds are not abated by the property owner, the work will be completed by the County contractor. The property owner will pay the contractor's fees plus a County administrative fee. All fees will be included in your property tax bill.

Our Goal Is Voluntary Compliance

Property Owner's Responsibilities

- Do not allow a fire hazard to exist on your property. The Minimum Fire Safety Standards (MFSS) in this brochure give you guidelines to follow in order to maintain your property and protect against a fire hazard. **Please contact our office if you need guidance or have any questions regarding the requirements!**
- Make arrangements to have your property maintained throughout the year. Contractors can be found in the yellow pages. You may choose to have the County contractor maintain your property. A current price list is included in your packet.
- Please complete and return the Reply Form provided in your mailing packet by the date on the form. Indicate your preference regarding performance of weed abatement services.

Program Staff Responsibilities

- Weed Abatement Inspectors will perform periodic inspections on all parcels included in the Santa Clara County Weed Abatement Program. Properties that fail the compliance inspection will be charged a failed inspection fee, even if the resident completes the weed abatement.

- Inspectors will order the County contractor to perform all necessary abatement work on any parcel where the MFSS are not met. An attempt will be made to give the owner a courtesy notice prior to releasing the work order.
- The County contractor uses several methods of abatement including discing and handwork. The property owner is free to select whatever method they choose, provided the MFSS of all federal, state and local laws are met.
- The Weed Abatement Program will place inspection costs and the charges for County contractor services plus a County administrative fee on the property owner's tax bill during the next fiscal year.

Burrowing Owls

These small owls nest in abandoned ground squirrel burrows. Discing collapses the burrows and kills the young. These owls are listed as a state Species of Special Concern and are protected by the federal Migratory Bird Treaty Act. If you suspect burrowing owls on your property you **must** use another form of weed abatement such as mowing or weed-eating. If you request the County perform abatement services, please notify program staff or your City if burrowing owls are known to exist on your property.

Frequently Asked Questions

Q. Why have I received an Abatement Notice?

A. Typically, a property is placed on the program if a Weed Abatement Inspector identified a potential fire hazard on the property. Fire Departments and other agencies also submit complaints to the Weed Abatement Program.

Q. What is required of me now that I am in the Program?

A. All property owners are required to maintain their property free of fire hazards throughout the year.

Q. The grasses planted on my property are fire resistant. Are they exempt from the Weed Abatement program?

A. No. Even grasses that possess some fire resistant qualities are not fire proof, and they can add fuel to any site that is subject to a fire. Additionally, fire resistant grasses are rarely found in a pure, homogenous stand but rather are usually found to occur mixed with other common introduced annual grasses that are highly flammable and hazardous in a fire event. Finally, many grasses occur in Santa Clara County and species identification is difficult in the field, especially after the spring when the reproductive portions required for identification have dried and dispersed. Weed Abatement Inspectors can only focus on the presence of grasses and weeds on your property and the Minimum Fire Safety Standards, and not on grass species identification. Therefore, all grasses are required to be below 6 inches in height.

Q. What is the SC County Weed Abatement Program?

A. This is a monitoring program and our primary objective is voluntary compliance. See the first two paragraphs of this brochure for further specifics.

More FAQ:

Q. How long will I be on the Program?

A. Your property will remain on the Program for three years. If no hazards are found during that time, your property may be removed from the program.

Q. How much will this cost me?

A. There will be an annual fee to cover the cost of the compliance inspection. If the parcel does not meet the MFSS when it is first inspected in the spring, or if work is required by the County contractor, you will be charged additional fees. Our goal is to ensure that the MFSS are met at the lowest possible cost to the property owner.

Q. How will I be billed?

A. Any charges for the inspection and any abatement work performed will appear as a special assessment on your next property tax bill.

Q. Why have you performed work on my property while the vegetation is still green?

A. Grass, weeds or piles of combustible debris have been declared a public nuisance by your jurisdiction. Abating fire hazards in the spring minimizes the volume of combustible material before the hazards increase and dries out completely during the peak fire season.

Q. Will you notify me prior to beginning abatement work?

A. Property owners are responsible for preventing fire hazards on their property. If the MFSS have been met, but further work is necessary, you will receive notice prior to the County contractor performing the work. If the MFSS have **not** been met, an attempt will be made to give the owner a courtesy notice prior to initial abatement.

Q. Where can I find someone to provide abatement services?

A. Weed Abatement contractors can be found in the Yellow Pages under "Weed Control Services" or "Discing Services". You may have the County contractor perform the necessary work; see your mailing packet for a current price list as administrative costs are charged.

Q. How can I get additional information or assistance regarding the specific requirements for my property?

A. Weed Abatement Inspectors are available to assist you and answer your questions. Please call our Customer Service line at (408) 282-3145 to schedule a consultation with program staff or to obtain additional information.

Q. I have Grazing Animals do I need to perform abatement?

A. Grazing animals do not absolve you of your responsibilities to provide a fire safe condition on your property. You will need to check with our office to determine if grazing is adequate or if additional work is required.

**2021 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

9.b

Exhibit A

Situs		APN		CITY/STATE					
1	0	MONTEREY	725-01-018	LUCKYSHING LLC	950 3RD STS	SAN JOSE	CA	95112-5839	04-
2	0	DIANA	726-02-007	TSAI, YOUNG H AND SO M ET AL	3 FERRAND	NEWPORT COAST	CA	92657	04-
3		NO SITUS	726-02-016	HUNG, WEN JUNG	179 CUESTA DE LOS GATOS	LOS GATOS	CA	95032	04-
4	17364	WALNUT	726-07-021	DELUKE COMPANY LTD	535 ARRASTADERO RD	PALO ALTO	CA	94306	04-
5		NO SITUS	726-07-023	SILICONSAGE BUILDERS LLC	560 MATHILDA AVS	SUNNYVALE	CA	94086	04-
6	17374	WALNUT	726-07-089	SILICONSAGE BUILDERS LLC	560 MATHILDA AVS	SUNNYVALE	CA	94086	04-
7	17361	SAINT ARCHER	726-07-090	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
8	17365	SAINT ARCHER	726-07-091	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
9	17369	SAINT ARCHER	726-07-092	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
10	17373	SAINT ARCHER	726-07-093	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
11	17378	SAINT ARCHER	726-07-094	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
12	920	DIANA	726-07-095	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
13	17376	WALNUT	726-07-096	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
14	17374	WALNUT	726-07-097	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
15	17372	WALNUT	726-07-098	WALNUT MORGAN HILL LLC	560 SOUTH MATHILDA AV	SUNNYVALE	CA	94086	04-
16	761	DAKOTA	726-09-024	DUNNE, MICHAEL F AND JONNA	761 DAKOTA DR	MORGAN HILL	CA	95037-0000	04-
17	570	CAPRICE	726-10-052	PULSIPHER, BYRON K AND RHONDA	570 CAPRICE CT	MORGAN HILL	CA	95037-3721	04-
18	18110	MONTEREY	726-25-006	MONTEREY MORGAN HILL LLC ETAL	1002 WALNUTST STE 300	BOULDER	CO	80302	04-
19		NO SITUS	726-25-026	CLAYTON PLAZA LLC	5752 COUNTRY CLUBPY	SAN JOSE	CA	95138	04-
20	325	DIGITAL	726-25-041	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	04-
21	315	DIGITAL	726-25-065	TERRASAT COMMUNICATIONS INC	315 DIGITAL DR	MORGAN HILL	CA	95037-0000	04-
22		NO SITUS	726-31-038	MERSHO INVESTMENTS LLC	5752 COUNTRY CLUB PKWY	SAN JOSE	CA	95138	04-
23	0	COCHRANE	726-32-021	EVERGREEN-BUTTERFIELD &	200 NORTH MARYLAND AV	GLENDALE	CA	91206	04-
24	735	COCHRANE	726-33-029	MADRONE VILLAGE SHOPPING	1960 THE ALAMEDA STE 20	SAN JOSE	CA	95126	04-

Attachment: 2021 Morgan Hill Property List (2990 : 2021 Hazardous Vegetation Abatement

**2021 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

9.b

Exhibit A

Situs		APN	CITY/STATE						
25	875	LIGHTPOST	726-35-015	LIGHTPOST LLC	20421 PACIFICA DR	CUPERTINO	CA	95014-3013	04-
26		NO SITUS	726-35-021	TBI-MISSION WEST ILLC	1960 THE ALAMEDA STE 20	SAN JOSE	CA	95126	04-
27	18640	MADRONE	726-35-028	NORTHERN	ONE FRONT ST STE 500	SAN FRANCISCO	CA	94111	04-
28	19095	ROSE	726-36-005	HU, WEIBIAO TRUSTEE & ET AL	P.O.BOX 1594	SAN MARTIN	CA	95046	04-
29	0	ROSE	726-36-007	MAGINCALDA, LEROY J ET AL	4475 WOODWARD RDE	MANTECA	CA	95337	04-
30	0	GINGER	726-36-057	WALTON, GARY A AND JEAN M	PO BOX 1265	MORGAN HILL	CA	95038-1265	04-
31		NO SITUS	726-36-078	1493 INVESTORS LLC	15700 WINCHESTER BL	LOS GATOS	CA	95030	04-
32	25	PEEBLES	726-41-065	PEEBLES SQUARE LLC	1630 OAKLANDRD STE 215	SAN JOSE	CA	95131	04-
33	17200	KRUSE RANCH	728-01-001	VALENCIA, EVERARDO TRUSTEE	17200 KRUSE RANCH LN	MORGAN HILL	CA	95037-6700	04-
34	2275 B E	DUNNE	728-02-003	SERENE HILLS LLC	11541 SEVEN SPRINGS DR	CUPERTINO	CA	95014	04-
35	17005	HILL	728-11-045	MISSION PACIFIC HOMES LLC	1615 VENTURA DR	MORGAN HILL	CA	95037-0000	04-
36	17015	HILL	728-11-046	MISSION PACIFIC HOMES LLC	1615 VENTURA DR	MORGAN HILL	CA	95037-0000	04-
37	17025	HILL	728-11-047	MISSION PACIFIC HOMES LLC	1615 VENTURA DR	MORGAN HILL	CA	95037-0000	04-
38	17035	HILL	728-11-048	MISSION PACIFIC HOMES LLC	1615 VENTURA DR	MORGAN HILL	CA	95037-0000	04-
39	17045	HILL	728-11-049	CONNORS, GABRIEL J TRUSTEE & ET	495 BEL AIR WY	MORGAN HILL	CA	95037-0000	04-
40	17055	HILL	728-11-050	MISSION PACIFIC HOMES LLC	1615 VENTURA DR	MORGAN HILL	CA	95037-0000	04-
41	1370	JASMINE	728-15-041	LANGDON, JOSEPH A	1370 JASMINE WY	MORGAN HILL	CA	95037-3334	04-
42	0	HALF	728-30-002	THE CROSSWINDS AT MORGAN HILL	385 WOODVIEWAV SUITE 100	MORGAN HILL	CA	95037	04-
43	1105	HALF	728-30-003	THE CROSSWINDS AT MORGAN HILL	385 WOODVIEWAV SUITE 100	MORGAN HILL	CA	95037	04-
44	1485	COCHRANE	728-36-012	M V S COMPANY	P.O. BOX 2067	SARATOGA	CA	95070	04-
45	1485	COCHRANE	728-36-017	M V S COMPANY	P.O. BOX 2067	SARATOGA	CA	95070	04-
46	19139	BLUE LYNX	728-44-088	BUSH, CORY R AND ROBERT J	19139 BLUE LYNX CT	MORGAN HILL	CA	95037-0000	04-
47	2780	THOMAS	729-01-009	LI, LING TRUSTEE	2780 THOMAS GRADE RD	MORGAN HILL	CA	95037-6705	04-
48	2990	THOMAS	729-02-004	DE LURGIO, LOUIS J AND DONNA M	2990 THOMAS GRADE	MORGAN HILL	CA	95037-6714	04-

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Situs			APN	CITY/STATE					
49	3105	OAK LEAF	729-04-014	LYON, JOHN W AND BONITA E	3105 OAK LEAF CT	MORGAN HILL	CA	95037-6702	04-
50	3115	OAK LEAF	729-04-015	CAPUTO-SEYBOLD, ROSANNE M AND	3115 OAK LEAF CT	MORGAN HILL	CA	95037-6702	04-
51	16980	OAK LEAF	729-04-051	EMERTON, MARY	16980 OAK LEAF DR	MORGAN HILL	CA	95037-6624	04-
52	17180	OAK LEAF	729-05-004	KELSEY, REBECCA L AND LEONARD J	17180 OAK LEAF DR	MORGAN HILL	CA	95037-6621	04-
53	2935	BENT OAK	729-07-009	BREHL, BLAKE R	2935 BENT OAK LN	MORGAN HILL	CA	95037-6706	04-
54	3440	OAKWOOD	729-16-016	KRAKENBERG, DENNIS	480 20TH AVW	SAN MATEO	CA	94403	04-
55	0	OAKWOOD	729-16-025	VINCENT, MICHELE J AND DAVID P	16360 OAKWOOD LN	MORGAN HILL	CA	95037-6934	04-
56	3590	OAKWOOD	729-17-001	WOLLASTON, DEBRA L	3590 OAKWOOD CT	MORGAN HILL	CA	95037-6921	04-
57	0	OAK CANYON	729-17-004	VASQUEZ, JORGE AND LOPEZ,	16375 OAK CANYON DR	MORGAN HILL	CA	95037-6813	04-
58	16275	OAK CANYON	729-17-012	SHERMAN HOUSE ASSOCS LP	15600 OAKRIDGE CT	MORGAN HILL	CA	95037	04-
59	16280	OAK CANYON	729-17-015	SHERMAN HOUSE ASSOCS	15600 OAKRIDGE CT	MORGAN HILL	CA	95037	04-
60	3795	OAK CANYON	729-17-021	RANGOLE, TIFFANY M ET AL	13933 EVANS CREEKRDE	ROGUE RIVER	OR	97537-9780	04-
61	16335	JACKSON DR	729-18-015	MARIN, THERESA J TRUSTEE	1005 SUMMERVIEW DR	SAN JOSE	CA	95132-2951	04-
62	16460	JACKSON	729-18-031	HALVORSEN, JAN T TRUSTEE	16460 JACKSON OAKS DR	MORGAN HILL	CA	95037-6902	04-
63	16645	JACKSON	729-19-024	KHAN, MOHAMED AND FARHAT	16645 JACKSON OAKS DR	MORGAN HILL	CA	95037-6930	04-
64	15905	OAKRIDGE	729-22-028	SHAH, JAY AND SUNDARAM,	15905 OAKRIDGE RD	MORGAN HILL	CA	95037-6827	04-
65	15860	JACKSON	729-24-018	SAIGAL, RAKESH KUMAR AND	37552 CHAUNTRY COMMON	FREMONT	CA	94536	04-
66	3745	RIDGEVIEW	729-24-026	HUANG, JENNY F ET AL	6951 GRANDWOOD WY	SAN JOSE	CA	95120	04-
67	0	E DUNNE	729-26-002	UNGER, EUGENE C AND ROSE A	134 VISTA DEL CAMPO	LOS GATOS	CA	95030-6313	04-
68	0	COPPER HILL	729-30-001	RAISSI, SASSAN	17045 COPPER HILL DR	MORGAN HILL	CA	95037-6502	04-
69	3210	QUAIL	729-33-026	POWELL, ROBERT J AND JENNIFER S	3210 QUAIL LN	MORGAN HILL	CA	95037-6413	04-
70	17205	QUAIL	729-33-029	GUERRERO, JUAN C AND SHELLY D	17205 QUAIL CT	MORGAN HILL	CA	95037-6419	04-
71	17245	QUAIL	729-35-005	CASTRO, IRENE ET AL	2723 KEPPLER CT	SAN JOSE	CA	95148-3411	04-
72	17246	QUAIL	729-35-007	WINSTEAD, DONALD D ET AL	3337 LUCIA DRW	PHOENIX	AZ	85083-5885	04-

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Situs			APN	CITY/STATE					
73	17451	HOLIDAY	729-38-028	SMITH, WARREN J AND DIANA L	17451 HOLIDAY DR	MORGAN HILL	CA	95037-6512	04-
74	17520	HOLIDAY	729-39-035	WUNDERLICH, JOHN AND BURNS,	17520 HOLIDAY DR	MORGAN HILL	CA	95037-6303	04-
75	17495	BLUE JAY	729-41-011	STETSON, ERIC H AND VIRGINIA D	17495 BLUE JAY DR	MORGAN HILL	CA	95037-6428	04-
76	17474	LAKE VIEW	729-41-017	FRANCIS, TERESA C AND OLIVER,	724 LUTONDR	GLENDALE	CA	91206-2628	04-
77	17770	HOLIDAY	729-44-025	BROWN, DARYL SCOTT AND NAJAFI,	17770 HOLIDAY DR	MORGAN HILL	CA	95037-6305	04-
78	17810	HOLIDAY	729-44-027	BINDER, ANDREW J AND DENICE D	17810 HOLIDAY DR	MORGAN HILL	CA	95037-6316	04-
79	17820	HOLIDAY	729-44-028	MCBRIDE, M THERESE TRUSTEE	2555 OAK PARK LN	CAMPBELL	CA	95008-4914	04-
80	2085	ROLLING	764-02-005	MCMANIS, DEAN AND KELLY,	2085 ROLLING HILLS DR	MORGAN HILL	CA	95037-9437	04-
81	2220	ROLLING	764-03-002	HARTOGS, DIRK H AND KEILERS,	2220 ROLLING HILLS DR	MORGAN HILL	CA	95037-9438	04-
82	0	BLACK OAK	764-03-017	TULLY, SUSAN S AND TULLY 2008	7151 VIA ROMERA	SAN JOSE	CA	95139-1158	04-
83	2105	ROCKY RIDGE	764-03-024	MAYELIAN, HARRY AND MABEL	27519 ALTA KNOLL DR	SANTA CLARITA	CA	91350-1900	04-
84	17915	WOODLAND	764-03-034	AVELAR, ANTONIO M TRUSTEE & ET	1212 EL CAMINO REAL 101	SANTA CLARA	CA	95050	04-
85	17625	WOODLAND	764-03-040	CARDINAL, MARC ANDRE AND	17625 WOODLAND CT	MORGAN HILL	CA	95037-9444	04-
86	17610	WOODLAND	764-03-043	BELLI, KAREN M	17610 WOODLAND AV	MORGAN HILL	CA	95037-9140	04-
87	280	TILTON	764-09-004	COUNTY PROPERTY EXCHANGE INC	16275 MONTEREY RD STE E	MORGAN HILL	CA	95037-0000	04-
88	0		764-10-003	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	04-
89	18545	MONTEREY RD	764-10-013	TRINH, OANH OANH NGUYEN ET AL	1717 MESSINA DR	SAN JOSE		95132	04-
90	18565	MONTEREY	764-10-015	TRINH, OANH OANH NGUYEN ET AL	1717 MESSINA DR	SAN JOSE	CA	95132	04-
91	140	CHRISTINE	764-20-089	VON ALMEN, SONJA C	140 CHRISTINE LYNN DR	MORGAN HILL	CA	95037-0000	04-
92	150	CHRISTINE	764-20-091	KULCHYTSKA, IRYNA AND	150 CHRISTINE LYNN DR	MORGAN HILL	CA	95037-0000	04-
93	0	VIA LOMA	764-27-003	CHILDS, JOHN WILLIAM AND	363B VIA LOMA	MORGAN HILL	CA	95037-3024	04-
94	363 B	VIA LOMA	764-27-004	CHILDS, JOHN WILLIAM AND	363B VIA LOMA	MORGAN HILL	CA	95037-3024	04-
95	18560	MURPHY	764-27-028	DISANTO, MICHAEL A AND	18560 MURPHY SPRINGS CT	MORGAN HILL	CA	95037-0000	04-
96	650	SPARHAWK	764-31-036	RAUSCHNOT, MICHAEL J AND JULIA	P.O. BOX 668	MORGAN HILL	CA	95038	04-

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Situs		APN		CITY/STATE					
97	640	SPARHAWK	764-31-037	ENDERSON, EDWARD F TRUSTEE	PO BOX 313	MORGAN HILL	CA	95038	04-
98	17996	HILLWOOD	764-32-044	CRONK, JON E AND DIANE D	17996 HILLWOOD LN	MORGAN HILL	CA	95037-3529	04-
99	18200	CHRISTEPH	764-32-064	TANSY, MICHAEL K AND	1967 STANWOOD DR	SANTA BARBARA	CA	93103	04-
100	18280	SHADOWBROO	764-41-002	SERAFINI, CHARLES P AND	850 UNION HEIGHTS DR	HOLLISTER	CA	95023	04-
101	18300	SHADOWBROO	764-41-004	DIMAS, RENE A TRUSTEE	PO BOX 1604	MORGAN HILL	CA	95038-1604	04-
102	18320	SHADOWBROO	764-41-006	BRIGGS, WILLIAM G TRUSTEE & ET	16467 CARLSON DR	MORGAN HILL	CA	95037-9656	04-
103	18305	SHADOWBROO	764-41-013	VAN WINGERDEN, SHARON	18305 SHADOWBROOK WY	MORGAN HILL	CA	95037-3021	04-
104	18285	SHADOWBROO	764-41-015	SKEEN, JOHN A TRUSTEE & ET AL	1725 SHADY HOLLOW DR	MORGAN HILL	CA	95037	04-
105	18275	SHADOWBROO	764-41-016	CHERRY LANE LLC	1122 BRACE AV	SAN JOSE	CA	95125-3202	04-
106	18655	GLEN AYRE	764-43-009	WILLIAMS, NORMAN J AND KARLA	18655 GLEN AYRE DR	MORGAN HILL	CA	95037-9167	04-
107	1715	JASPER	764-44-010	DINAN, STEPHEN J AND JANICE K	1715 JASPER HIGHLANDS DR	MORGAN HILL	CA	95037-9165	04-
108	18685	GLEN AYRE	764-44-011	MCELHINEY, JOHN R AND DENISE P	18685 GLEN AYRE DR	MORGAN HILL	CA	95037-9167	04-
109	1815	JASPER	764-44-012	JONES, DENIS AND CAROLYN	520 OLMOLN	MORGAN HILL	CA	95037-4462	04-
110	1725	SHADY	764-44-018	SKEEN, JOHN A AND BARBARA I	1725 SHADY HOLLOW DR	MORGAN HILL	CA	95037-9161	04-
111	1775	SHADY	764-44-019	BRUSASCHETTI, RONALD N AND	1775 SHADY HOLLOW DR	MORGAN HILL	CA	95037-9161	04-
112	18425	CASTLE RIDGE	764-45-002	BUCHANAN, NANCY C TRUSTEE	18425 CASTLE RIDGE DR	MORGAN HILL	CA	95037-9458	04-
113	18630	CASTLE HILL	764-45-014	MOROZUMI, PIUS A AND SHARON L	18630 CASTLE HILL DR	MORGAN HILL	CA	95037-9452	04-
114	18580	CASTLE HILL	764-45-021	GLENROCK BUILDERS INC	P.O. BOX 1179	MORGAN HILL	CA	95038	04-
115	18530	CASTLE HILL	764-45-023	CHADBAND, LISA L TRUSTEE	18530 CASTLE HILL DR	MORGAN HILL	CA	95037-9169	04-
116	0	CASTLE HILL	764-45-030	GLENROCK BUILDERS INC	14500 SYCAMORE DR	MORGAN HILL	CA	95037-0000	04-
117	0	CASTLE HILL	764-45-031	GLENROCK BUILDERS INC	P.O. BOX 1179	MORGAN HILL	CA	95038	04-
118	18303	LLAGAS	764-53-005	MELLOW, CATHY	18303 LLAGAS CT	MORGAN HILL	CA	95037-0000	04-
119		NO SITUS	767-01-052	GARCIA, W ROCKE AND GLENDA	14500 SYCAMORE DR	MORGAN HILL	CA	95037	04-
120	0	DEL MONTE	767-03-005	RICHTER, GAYLE H TRUSTEE & ET AL	P O BOX 784	MORGAN HILL	CA	95038	04-

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Situs				APN	CITY/STATE					
121	0	W	DUNNE	767-03-036	BETPOLICE, FARIDEH TRUSTEE	21515 HAWTHORNE BL STE	TORRANCE	CA	90503	04-
122	0			767-05-001	PACIFIC GAS AND ELECTRIC CO	111 ALMADEN BLVD	SAN JOSE	CA	95115-0005	04-
123	17205		MONTEREY RD	767-08-006	PETERSON, VIRGINIA	P.O. BOX 285	GILROY	CA	95021	04-
124	50	W	4TH	767-08-012	TONUS, VIRGINIA R TRUSTEE & ET	1654 SUNNYSLOPE RD	HOLLISTER	CA	95023	04-
125	50	W	5TH	767-08-027	WALLEY, JOAN L ET AL	P.O. BOX 141	MORGAN HILL	CA	95038	04-
126	40	W	5TH	767-08-028	GUTIERREZ, GERALDINE P TRUSTEE	40 5TH STW	MORGAN HILL	CA	95037-4510	04-
127	17245		MONTEREY	767-08-045	WRIGHT, GARY AND NADINE	5430 PARK DR	ROCKLIN	CA	95765	04-
128	16815		MONTEREY RD	767-10-004	HE, ANTHAN WEICHUAN AND	16815 MONTEREY RD	MORGAN HILL	CA	95037-5118	04-
129	16805		MONTEREY	767-10-046	HE, ANTHAN W AND HUANG, SALLY	3828 CANADA RD	GILROY	CA	95020-0000	04-
130	170	W	DUNNE	767-11-024	RICHTER, GAYLE H ET AL	170 DUNNE AVW	MORGAN HILL	CA	95037-4938	04-
131	335		SPRING	767-11-030	GIANCOLA, JOSEPH TRUSTEE & ET	2290A COCHRANE RD	MORGAN HILL	CA	95037-9306	04-
132	16625		DEL MONTE	767-16-013	CARUSO, LUCAS A AND VICTORIA	16625 DEL MONTE AV	MORGAN HILL	CA	95037-5002	04-
133	16615		DEL MONTE	767-16-043	CARUSO, SALVATORE AND	20431 MCKEAN RD	SAN JOSE	CA	95120-2403	04-
134	180		FOOTHILL	767-17-012	PRATT, TERYL L AND ELIZABETH A	180 FOOTHILL CT	MORGAN HILL	CA	95037-5003	04-
135	16595		MONTEREY	767-17-046	MONTEREY DYNASTY LLC	PO BOX 2610	CUPERTINO	CA	95015	04-
136	220	W	EDMUNDSON	767-21-015	PANCAL EDMUNDSON LP	4125 BLACKFORD AVE #200	SAN JOSE	CA	95117	04-
137	15590		LA ALAMEDA	767-27-005	CONTI, JAMES E AND JULIE M	15590 LA ALAMEDA	MORGAN HILL	CA	95037-5715	04-
138	695		ENCINO	767-27-007	MAESE, SUSAN K ET AL	695 ENCINO DR	MORGAN HILL	CA	95037-0000	04-
139	700		ENCINO	767-27-026	CAMISA, MATTHEW J	700 ENCINO DR	MORGAN HILL	CA	95037-5802	04-
140	880		ENCINO	767-31-004	AMARO, FELIX C TRUSTEE	880 ENCINO DR	MORGAN HILL	CA	95037-5804	04-
141	895		ENCINO	767-31-030	LAHUE, MERIL E AND KARLEE R	895 ENCINO DR	MORGAN HILL	CA	95037-5803	04-
142	15175		VIA CORFINIO	767-36-082	ADAMS, TAMMY J	15175 VIA CORFINIO	MORGAN HILL	CA	95037-5847	04-
143			NO SITUS	767-55-038	PRESIDIO VAN DAELE WATSONVILLE	9740 APPALOOSA RD	SAN DIEGO	CA	92131	04-
144	16975		JOHN TELFER	773-07-006	RAMIREZ, ESTRELLA A	16975 JOHN TELFER DR	MORGAN HILL	CA	95037-4725	04-

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145	1210	LLAGAS	773-20-012	PETTEWAY, PATRICIA G	1210 LLAGAS RD	MORGAN HILL	CA	95037-9459	04-
146	1148	DEANA	773-20-024	TANDA, WAYNE K AND DIANE L	1148 DEANA CT	MORGAN HILL	CA	95037-3404	04-
147	18105	SABINI	773-27-003	WOOD, SHARON A TRUSTEE	18105 SABINI CT	MORGAN HILL	CA	95037-3422	04-
148	18005	OLIVE	773-27-010	MCNAMARA, DANIEL TRUSTEE & ET	18005 OLIVE BRANCH LN	MORGAN HILL	CA	95037	04-
149	1270	ALMOND	773-27-016	SHROPSHIRE, MICHAEL B TRUSTEE	1270 ALMOND ORCHARD DR	MORGAN HILL	CA	95037-3402	04-
150	15580	VIA VENETO	773-29-008	SHU, HUI-CHEN	15580 VIA VENETO	MORGAN HILL	CA	95037-5352	04-
151	15585	VIA VENETO	773-29-011	MACHADO, EDWARD F AND ERIN D	15585 VIA VENETO	MORGAN HILL	CA	95037-5352	04-
152	1092	LLAGAS	773-32-012	COLHOUR, ROBERT M AND FOLTZ,	1092 LLAGAS RD	MORGAN HILL	CA	95037-3413	04-
153	1110 B	LLAGAS	773-32-013	STROLATA PROPERTIESLLC	999 FRANQUETE AV	SAN JOSE	CA	95125	04-
154	14905	SANTA TERESA	779-02-023	BLACKROCK LLC A CALIF LLC	2730 LONE OAK CT	GILROY	CA	95020	04-
155	660	EASY	779-35-036	CRUZ, ANTONIO M AND BARRAGAN,	660 EASY ST	MORGAN HILL	CA	95037-6211	04-
156	16780	MONTEREY	817-01-006	ATES LLC	34695 LOWER TRAIL	CARMEL	CA	93923	04-
157	16870	MONTEREY	817-01-018	MERINO, FRED S TRUSTEE & ET AL	1170 MCKENDRIESTS	SAN JOSE	CA	95126	04-
158	16780	MONTEREY	817-01-081	ATES LLC	34695 LOWER TRAIL	CARMEL	CA	93923	04-
159	16495	VINEYARD	817-02-043	TANSY DEVELOPMENT INC	1967 STANWOOD DR	SANTA BARBARA	CA	93103	04-
160	16470	VINEYARD	BL 817-02-044	TANSY DEVELOPMENT INC	1967 STANWOOD DR	SANTA BARBARA	CA	93103	04-
161		NO SITUS	817-02-057	LABRUCHERIE, ARMAND R AND	P.O. BOX 716	MADERA	CA	93639	04-
162	16143	KEITH	817-03-053	GREGG, JEANNE TRUSTEE	15640 LA TIERRA DR	MORGAN HILL	CA	95037-5838	04-
163	215	TENNANT	817-04-059	OSITO HOLDINGS LLC	PO BOX 362	MORGAN HILL	CA	95037	04-
164	0	RAILROAD	817-05-070	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	04-
165	0	TENNANT	817-08-029	TENNANT & RAILROAD AVENUES	19912 WEEMS LN	HUNTINGTON BEACH	CA	92646	04-
166	800	TENNANT	817-08-030	D DEVI OIL INC	41805 ALBRAE ST	FREMONT	CA	94538-3120	04-
167	740	TENNANT	817-08-032	BIEDERMANN, ATHUR AND SUSAN	7 MAPLE AV	ATHERTON	CA	94027-4065	04-
168	0	JUAN	817-09-039	THE HEALTH TRUST	3180 NEWBERRY DR STE 200	SAN JOSE	CA	95118	04-

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169	0	JUAN	817-09-041	THE HEALTH TRUST	3180 NEWBERRY DR STE 200	SAN JOSE	CA	95118	04-
170	965 A	SAN PEDRO	817-11-073	965 PEDRO GROVE LLC	1457 EDGEWOOD DR	PALO ALTO	CA	94301-3118	04-
171	16375	CONDIT	817-13-021	NG, BETTY TRUSTEE & ET AL	1835 FRANKLIN APT 903	SAN FRANCISCO	CA	94109-3457	04-
172	1075 A	CONDIT	817-13-022	NG, BETTY TRUSTEE & ET AL	1835 FRANKLIN APT 903	SAN FRANCISCO	CA	94109-3457	04-
173	16275	CONDIT	817-13-024	HSU FAMILY LP ET AL	1401 GRAYWOOD DR	SAN JOSE	CA	95129-4778	04-
174	0	HILL	817-20-031	LEWIS MORGAN HILL LLC	PO BOX 5368	SAN JOSE	CA	95150	04-
175	16015	CAPUTO	817-29-027	MORGAN HILL CAR WASH INC	5542 MONTEREY RD #217	SAN JOSE	CA	95138	04-
176	0	BARRETT	817-30-080	SANDHU, ATAM PARKASH SINGH	1800 SILVERWINGS CT	MORGAN HILL	CA	95037-9308	04-
177	16290	RAILROAD	817-32-057	LEVEL 10 CONSTRUCTION LP	1050 ENTERPRISE WY STE 250	SUNNYVALE	CA	94089-0000	04-
178	2200	HERMOSA	817-48-070	LICATA, MICHAEL J AND ELIZABETH	4466 FARAONE CT	SAN JOSE	CA	95136-1808	04-
179	2250	FOUNTAIN	817-48-079	MOORE, DAVID W AND BETH R	2250 FOUNTAIN OAKS DR	MORGAN HILL	CA	95037-3818	04-
180	380	SAN PEDRO	817-58-014	REBOZZI, LOUIS J AND MAUREEN L	315 CLARKE LN	MORGAN HILL	CA	95037-9231	04-
181	16693	SAN BENITO	817-59-028	ESQUIVEL-TANCHICO, CLARINA	17310 HENDRY DR	MORGAN HILL	CA	95037-9710	04-
182	470	SAN PEDRO	817-59-068	AHMADI, RAHMATOLLAH AND	3629 BERCAW LN	SAN JOSE	CA	95124-2831	04-
183	16680	NINA	817-60-024	BUTTERICK, TIMOTHY W AND	16680 NINA LN	MORGAN HILL	CA	95037-5240	04-
184	770	SAN PEDRO	817-60-057	705A INVESTORS LLC	15700 WINCHESTER BL	LOS GATOS	CA	95030	04-
185		NO SITUS	817-78-004	BUSK, BETTY G TRUSTEE	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
186		NO SITUS	817-78-005	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
187		NO SITUS	817-78-006	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
188		NO SITUS	817-78-007	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
189		NO SITUS	817-78-008	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
190		NO SITUS	817-78-009	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
191		NO SITUS	817-78-010	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-
192		NO SITUS	817-78-011	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224	04-

Attachment: 2021 Morgan Hill Property List (2990 : 2021 Hazardous Vegetation Abatement

**2021 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

9.b

Exhibit A

Situs			APN	CITY/STATE				
193		NO SITUS	817-78-012	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224
194		NO SITUS	817-78-013	BUSK, BETTY G TRUSTEE	1390 DUNNE AVE	MORGAN HILL	CA	95037-7058
195		NO SITUS	817-78-014	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224
196		NO SITUS	817-78-015	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224
197		NO SITUS	817-78-016	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224
198		NO SITUS	817-78-017	NORDSTROM CAL HOMES LLC	720 SAN MARCOS CT	MORGAN HILL	CA	95037-5224
199	0	(LAND ONLY)	825-06-014	GLENROCK BUILDERS INC.	14500 SYCAMORE DR	MORGAN HILL	CA	95037-0000
200	0	(LAND ONLY)	825-06-015	GLENROCK BUILDERS INC.	14500 SYCAMORE DR	MORGAN HILL	CA	95037-0000
201	14900	MONTEREY	825-06-016	CHANG, SANDY TRUSTEE	105 CROW CANYON DR	FOLSOM	CA	95630

Attachment: 2021 Morgan Hill Property List (2990 : 2021 Hazardous Vegetation Abatement

RESOLUTION NO. 21-XXX**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL INSTRUCTING THE SANTA CLARA COUNTY CONSUMER AND ENVIRONMENTAL PROTECTION AGENCY TO ABATE NUISANCES ARISING OUT OF HAZARDOUS VEGETATION GROWING UPON LOTS OR IN FRONT OF PROPERTY IN THE CITY OF MORGAN HILL AS REQUIRED BY TITLE 8, CHAPTER 8.20 OF THE MORGAN HILL MUNICIPAL CODE**

WHEREAS, pursuant to Title 8, Chapter 8.20 of the Morgan Hill Municipal Code, the City Council hereto adopted Resolution No. 20-064 declaring hazardous vegetation growing in the City of Morgan Hill to constitute a public nuisance; and

WHEREAS, a Public Hearing was held pursuant to Resolution No. 20-064 and Chapter 8.20 of the Morgan Hill Municipal Code in that time and manner required by law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill authorizes as follows:

1. That the Santa Clara County Consumer and Environmental Protection Agency (Agency) is hereby ordered to abate the nuisance or cause the same to be abated by having the vegetation destroyed by cutting, discing or any other method as may be determined by the Agency for the properties on the attached list excluding the properties struck out.
2. That any property owner shall have the right to destroy or remove at his or her expense prior to removal of said vegetation by the Agency.
3. That the Agency shall keep an account of the cost of removing said vegetation and document such account in a report and assessment list, and file the same with the City Clerk. Such report shall refer to each separate lot or parcel of land, together with the expense of removal of hazardous vegetation therefrom.

PASSED AND ADOPTED by the City Council of Morgan Hill on this 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 21-XXX, adopted by the City Council at its meeting held on March 3, 2021.

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

DATE: _____

Michelle Bigelow, City Clerk

Attachment: Resolution Commencement [Revision 2] (2990 : 2021 Hazardous Vegetation Abatement Commencement)



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

ADOPT RESOLUTION CERTIFYING THE INITIATIVE PETITION TITLED: CITIZENS' INITIATIVE CHANGING ZONING REGULATIONS THROUGHOUT THE CITY OF MORGAN HILL TO PROHIBIT CERTAIN NEW STORAGE AND DISTRIBUTION USES IN ALL AREAS OF THE CITY AND AMENDING THE REVIEW PROCESS FOR LARGE-SCALE DEVELOPMENT PROJECTS, AND DIRECT STAFF TO PREPARE IMPACT REPORT

RECOMMENDATION(S)

1. Adopt resolution accepting the City Clerk's Certificate of Sufficiency for the Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the city of Morgan Hill to prohibit certain new storage and distribution uses in all areas of the City and amending the review process for large-scale development projects; and
2. Direct staff to prepare an impact report under Elections Code section 9212 no later than April 2, 2021 for City Council meeting, for the Council to consider next steps.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Preserving and Cultivating Public Trust

REPORT NARRATIVE:

Certification:

On August 4, 2020, proponents representing the Responsible Growth Coalition submitted a Notice of Intention, written text of initiative, and the reasons for the proposed initiative.

On January 6, 2021, the City of Morgan Hill (City) requested that the Santa Clara County Registrar of Voters Office (ROV) conduct a random sampling of the signatures on the referendum petitions (Attachment 1). The City only requested the random sampling as the ROV instructed that they would only do a full count after first conducting the random sampling.

On February 2, 2021, the City of Morgan Hill was notified by the Registrar of Voter's Office (ROV) that the random sampling results fell between 95% and 110%, necessitating a full count. On February 12, 2021, the City of Morgan Hill was notified by

the ROV that 2,642 signatures were found to be sufficient (Attachment 2). The petitions were received from the ROV on February 19, 2021.

Pursuant to state law, to qualify for further action, an initiative petition must contain signatures of at least 10% of the registered voters of the City of Morgan Hill. The ROV indicated that as of July 15, 2020, there were 26,240 registered voters in the City of Morgan Hill, such that at least 2,624 valid signatures would be required on the referendum petition. The ROV reviewed and examined the signatures contained on the initiative petition and the signature verification resulted in the verification of a total of 3,038 signatures, of the 3,528 signatures submitted, with 2,642 signatures found valid. Therefore, the City Clerk has prepared and issued a Certificate of Sufficiency of Initiative Petition (Attachment 3) for City Council consideration and acceptance.

Impact Report:

Upon City Council adoption of the resolution (Attachment 4) accepting the City Clerk's Certificate of Sufficiency of Initiative Petition, California Elections Code sections 9211, 9212, and 9114 provide that the City Council may refer the proposed initiative measure to any City agency or agencies for a report on its effect on municipal operations. Staff recommends that the Council refer the initiative measure for a report on the following in accordance with Elections Code section 9212:

1. The fiscal impact of the measure;
2. The effect of the measure on consistency with the City's general and specific plans, including the Economic Blueprint;
3. Its impact on funding for infrastructure;
4. Its impact on the community's ability to attract and retain business and employment;
5. Its impact on vacant parcels of land;
6. Its impact on traffic congestion, existing business districts, and developed areas designated for revitalization; and
7. Any other matters the City Council would like to be in the report.

If requested, the report will be submitted to the Council no later than April 2, 2021 for consideration at the April 7 City Council meeting. At the April 7, 2021 City Council meeting, the Council would be required to either 1) adopt the ordinance contained in the initiative measure without alteration; or) place the initiative measure on the ballot at the next regular municipal election.

COMMUNITY ENGAGEMENT: Involve

As a General Law City, Morgan Hill is governed by Government and Election Codes for the purpose of electing municipal officers (e.g., mayor, council members, city clerk and city treasurer), ballot measures and the initiative and referendum processes.

By City Council adoption of the attached resolution, it will be accepting the City Clerk's Certificate of Sufficiency of the Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the city of Morgan Hill to prohibit certain new storage and

distribution uses in all areas of the City and amending the review process for large-scale development projects.

ALTERNATIVE ACTIONS:

The Council could choose not to request an impact analysis for the initiative and could instead adopt the ordinance without alteration or place the measure on the ballot for the November 2022 general municipal election.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On September 22, 2020, the Planning Commission recommended changes to the Zoning Ordinance that included language implementing provisions of the initiative related to review of large projects. The September 22 recommendation also included a prohibition on all large-scale e-commerce distribution uses but would have allowed some local delivery.

On October 28, 2020, the City Council introduced a Zoning Ordinance amendment adopting the Planning Commission's recommendations, but also prohibiting local e-commerce delivery uses. This ordinance was adopted on November 18, 2020.

FISCAL AND RESOURCE IMPACT:

The City of Morgan Hill has not yet been invoiced to perform the count of the initiative petitions. Depending on the action(s) taken by the Council, additional costs will vary:

Impact Report: Due to the nature and breadth of the analysis, staff recommends engaging the services of Strategic Economics and Keyser Marsten & Associates to develop, review and confirm impact analysis. Given the time limitations, staff will work with consultants to complete as much analysis as possible in the next three weeks. No budget amendment or score card is necessary as the anticipated cost of this work will be absorbed by the Development Services budget and will be done within the City Manager's signature authority.

Election Cost: If Council elects to place the initiative on the ballot, it will be placed on the next regular municipal election scheduled for November 2022. The cost for the November 2022 ballot measure is unknown at this time. In November 2020, the estimated cost for placing a ballot measure was approximately \$60,000. It is safe to assume the cost for the additional ballot measure in November 2022 would likely be more, if not similar. Ballot measure costs are in addition to the regularly scheduled election costs of two Council district seats, and one Mayoral seat, which are estimated to be \$150,000 or more.

Resource Impact: Thus far, staff has been able to accommodate the additional work due to the initiative petition within its existing workplan. Staff will add the facilitation of the impact analysis to its current workplan.

CEQA (California Environmental Quality Act):

Certification of an initiative petition is not a project under CEQA.

LINKS/ATTACHMENTS:

1. Letter to ROV Requesting Signature Validation
2. Letter from ROV Stating Sufficient Signature
3. CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION 3-3-2021
4. Resolution Accepting City Clerk Sufficiency Initiative Petition 3-3-21



City Clerk's Office

17575 Peak Avenue
Morgan Hill, CA 95037-4128
(408)776-7380 (Phone)
(408)779-3117 (Fax)
irma.torrez@morganhill.ca.gov

January 6, 2021

Shannon Bushey
Registrar of Voters
County of Santa Clara
1555 Berger Drive, Building 2
San Jose, CA 95112

Subject: Submittal of Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the city of Morgan Hill to prohibit certain new storage and distribution uses in all areas of the City and amending the review process for large-scale development projects

Dear Ms. Bushey:

On August 4, 2020, proponents representing the Responsible Growth Coalition submitted a Notice of Intention, written text of initiative, and the reasons for the proposed initiative.

The last report from the Santa Clara County Registrar of Voters to the Secretary of State dated July 15, 2020 states that there were 26,240 registered voters in Morgan Hill. To find the Initiative Petition to be sufficient, 10% of the 26,240 qualified registered voters in Morgan Hill would need to sign the petition (2,624 signatures).

On January 5, 2021, I was presented with 367 Sections of the Initiative Petition. My prima facie review resulted in the Petitions containing 3,497 signatures; exceeding the 2,624 signatures required to qualify.

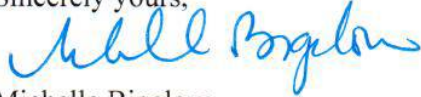
The City of Morgan Hill is requesting that the Santa Clara County – Registrar of Voters conduct a **Random Sampling** of **500 signatures** on the Referendum Petition. Should the random selections result in 95% to 110% valid signatures, and necessitate a 100% signature verification, the City of Morgan Hill requests that the Registrar of Voters Office **verify up to the 2,624** signatures required to declare the Referendum Petition sufficient.

Ms. Shannon Bushey
January 6, 2021
Page – 2 –

The City of Morgan Hill will reimburse the Registrar of Voters Office for the services rendered to certify the results of the Referendum Petition.

Please contact me for any questions you may have at (408) 310-4678 or e-mail: michelle.bigelow@morganhill.ca.gov.

Sincerely yours,



Michelle Bigelow
City Clerk

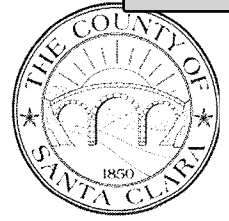
Enclosures: 1) Referendum Petitions
 2) Petition Worksheet Breakdown
 3) Two (2) blank copies of the Referendum Petition

Attachment: Letter to ROV Requesting Signature Validation (3001 : Certification of Initiative Petition)

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg. 2
San Jose, CA 95112
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360
(408) 299-VOTE (8683) (866) 430-VOTE (8683) FAX: (408) 998-7314
www.sccvote.org



February 12, 2021

Ms. Michelle Bigelow, City Clerk
City of Morgan Hill
110 E. Main St.
Los Gatos, CA 95030

RE: Citizens' Initiative Changing Zoning Regulations in Morgan Hill

Dear City Clerk Bigelow:

The petition named above was submitted to our office on January 6, 2021 and contained a raw count of 3,528 signatures. Pursuant to your request, 10% of the number of registered voters for the City of Morgan Hill, per the July 15, 2020 Report of Registration would equal 2,624 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a random sampling of 500 signatures, as well as a full check should the random results fall within 95% to 110% valid signatures. The random sampling of 500 signatures resulted in a statistical sampling showing the number of valid signatures was within 95% to 110%, therefore we continued with the full check of the signatures. At your request and pursuant to Elections Code Section 9115 (b) the ROV verified up to the 2,624 number of signatures required for the petition to qualify.

The signature verification resulted in the verification of a total of 3,038 signatures of the 3,528 signatures submitted, with 2,642 signatures found valid.

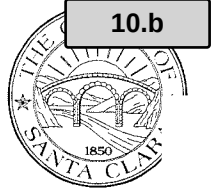
Please contact our office to arrange to pick up your completed petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

Voter Registration Division
County of Santa Clara

Enc: Certificate of Results
Petition Result Breakdown

Attachment: Letter from ROV Stating Sufficient Signature (3001 : Certification of Initiative Petition)



CERTIFICATE TO INITIATIVE PETITION

I, SHANNON BUSHEY, Registrar of Voters of the County of Santa Clara, State of California, hereby certify:

That the "**Citizens' Initiative Changing Zoning Regulations in Morgan Hill**" was submitted for signature verification on January 6, 2021.

That said petition consists of 376 sections;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponent filed this petition, I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

- | | | |
|----|---|--------------|
| 1. | Number of signatures on petition (raw count): | <u>3,528</u> |
| 2. | Number of signatures verified: | <u>3,038</u> |
| a. | Number of signatures found SUFFICIENT | <u>2,642</u> |
| b. | Number of signatures found NOT SUFFICIENT | <u>396</u> |
| 1. | NOT SUFFICIENT because DUPLICATE | <u>34</u> |
| 3. | Number of unverified signatures: | <u>490</u> |

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 12th day of February 2021.

Shannon Bushey
Registrar of Voters

By: _____
Deputy



Petition Result Breakdown

JobE18 City of Morgan Hill -Citizen's Initiative Changing Zoning Reg Citizen's Initiative Changing Zoning Regulations in Morgan Hill

Signatures Required	2624		
Raw Count	3,528		
Sample Size	3,528	Percent of Sigs Checked	Percent of Sample Size
Sigs Checked	3,038		
Sigs Not Checked	490		13.9 %
Sigs Valid	2,642	87.0 %	74.9 %
Sigs Invalid	396	13.0 %	11.2 %
Duplicated	34	1.1 %	1.0 %
Non-duplicate Invalids	362	12.0 %	10.3 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	2,642	87.0 %
NotReg	Not Registered	112	3.7 %
OutOfDist	Out of District	99	3.3 %
Duplicate	Signed more than once	34	1.1 %
RegLate	Registered Late	24	0.8 %
RegDiffAdd	Registered at a Different Address	72	2.4 %
CantIdntfy	Cannot Identify	2	0.1 %
NoResAdd	No Residence Address Given	8	0.3 %
NoSig	No Signature	6	0.2 %
SigNoMatch	Signatures Don't Match	21	0.7 %
NotCompBySignr	Not Completed by Signer	17	0.6 %
Inv	Invalid-See Doc	1	0.0 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	376	0.0 %		
Total Checked	3038	86.1 %	115.8 %	
Uncorrected Valid	2642	74.9 %	100.7 %	
Duplicate Adjustment	0			Min Required (95%): 2492.8
Estimated Valid	2642	74.9 %	100.7 %	Min Required to pass Based on Sample (110%): 2886.4

Attachment: Letter from ROV Stating Sufficient Signature (3001 : Certification of Initiative Petition)



CERTIFICATE OF SUFFICIENCY OF PETITION

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, County of Santa Clara, State of California, hereby certify that:

The petition entitled "Citizens' Initiative Changing the Zoning Regulations throughout the City of Morgan Hill to Prohibit Certain New Storage and Distribution Uses in All Areas of the City and Amending the Review Process for Large-Scale Development Projects" was filed with the City Clerk Department on January 5, 2021.

That said petition consists of 376 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of Morgan Hill, California;

That attached to this petition at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that Section, that all of the signatures were made in his or her presence, and that to the best of his or her own information and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponents filed this petition and based on the County of Santa Clara Registrar of Voters' Signature Verification Certificate, I have determined the following facts regarding this petition:

1. Total number of signatures filed by proponent raw count:	<u>3,528</u>
2. Total number of signatures verified:	<u>3,038</u>
3. Number of signatures found sufficient:	<u>2,642</u>
4. Number of signatures found insufficient:	<u>396</u>
5. Number of signatures insufficient because duplicate:	<u>34</u>
6. Number of unverified signatures:	<u>490</u>

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Morgan Hill, this 3rd day of March 2021.

Michelle Bigelow, City Clerk
City of Morgan Hill

RESOLUTION NO. 21-XXX**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ACCEPTING THE CITY CLERK'S CERTIFICATE OF SUFFICIENCY FOR THE INITIATIVE PETITION TITLED: CITIZENS' INITIATIVE CHANGING ZONING REGULATIONS THROUGHOUT THE CITY OF MORGAN HILL TO PROHIBIT CERTAIN NEW STORAGE AND DISTRIBUTION USES IN ALL AREAS OF THE CITY AND AMENDING THE REVIEW PROCESS FOR LARGE-SCALE DEVELOPMENT PROJECTS**

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California ("City"), is authorized to take those actions required of or authorized by legislative bodies of cities as the legislative body of the City of Morgan Hill;

WHEREAS, the reasons supporting the adoption of this Resolution are set forth in more detail in that certain City Council Staff Report entitled "Adopt resolution certifying the initiative petition titled: Citizens' Initiative Changing the Zoning Regulations throughout the City of Morgan Hill to Prohibit Certain New Storage and Distribution Uses in All Areas of the City and Amending the Review Process for Large-Scale Development Projects" (Initiative) submitted for City Council consideration at its meeting of March 3, 2021, submitted to the City Council by the City Clerk (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

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

WHEREAS, the activities allowed under this Resolution do not constitute a project under the provisions of California Environmental Quality Act of 1970 as such activities result in no change in the physical environment; and

WHEREAS, on January 5, 2021, the City Clerk (also referred to herein as the Elections Official) received the Initiative; and

WHEREAS, after a prima facie review by the City Clerk, the Initiative was deemed filed on January 5, 2021; and

WHEREAS, pursuant to California Elections Code section 9215, an initiative petition must be signed by at least 10% of the registered voters of the City based upon the county election official's last official report of registrations to the Secretary of State; and

WHEREAS, on February 12, 2021 the Santa Clara County Registrar of Voters concluded and determined that the Referendum petition contained at least 2,642 sufficient signatures of registered voters in the City of Morgan Hill based on a full count, and notified the City Clerk of this information pursuant to that certain correspondence attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the Santa Clara County Registrar of Voters last official report of registration of voters to the Secretary of State for the City of Morgan Hill was 26,240 registered voters, such that 10% of said registration of voters would equal 2,624 as the number of valid signatures required to qualify the Referendum for further action; and

WHEREAS, the City Clerk has prepared and submitted a Certificate of Sufficiency of Initiative Petition for consideration by City Council in accordance with California Elections Code section 9114, which Certificate is attached hereto as Exhibit B and incorporated herein by this reference.

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

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

Section 2. Acceptance. The City Council further resolves that the Council hereby accepts the Certificate of Sufficiency for the Initiative Petition prepared by the City Clerk for the Initiative Petition titled: Citizens' Initiative Changing the Zoning Regulations throughout the City of Morgan Hill to Prohibit Certain New Storage and Distribution Uses in All Areas of the City and Amending the Review Process for Large-Scale Development Projects, which Certificate is attached hereto as Exhibit B.

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

PASSED, APPROVED, AND ADOPTED by the City Council of the of the City of Morgan Hill at a Regular Meeting held on the 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 21-XXX, adopted by the City Council at a regular meeting held on March 3, 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

EXHIBIT A

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg. 2
 San Jose, CA 95112
 Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360
 (408) 299-VOTE (8683) (866) 430-VOTE (8683) FAX: (408) 998-7314
www.sccvote.org



February 12, 2021

Ms. Michelle Bigelow, City Clerk
 City of Morgan Hill
 110 E. Main St.
 Los Gatos, CA 95030

RE: Citizens' Initiative Changing Zoning Regulations in Morgan Hill

Dear City Clerk Bigelow:

The petition named above was submitted to our office on January 6, 2021 and contained a raw count of 3,528 signatures. Pursuant to your request, 10% of the number of registered voters for the City of Morgan Hill, per the July 15, 2020 Report of Registration would equal 2,624 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters' Office conduct a random sampling of 500 signatures, as well as a full check should the random results fall within 95% to 110% valid signatures. The random sampling of 500 signatures resulted in a statistical sampling showing the number of valid signatures was within 95% to 110%, therefore we continued with the full check of the signatures. At your request and pursuant to Elections Code Section 9115 (b) the ROV verified up to the 2,624 number of signatures required for the petition to qualify.

The signature verification resulted in the verification of a total of 3,038 signatures of the 3,528 signatures submitted, with 2,642 signatures found valid.

Please contact our office to arrange to pick up your completed petition. If you have any questions concerning this matter, please feel free to contact our office at (408) 282-3009.

Sincerely,

Voter Registration Division
 County of Santa Clara

Enc: Certificate of Results
 Petition Result Breakdown

Santa Clara County
 Registrar of Voters



CERTIFICATE TO INITIATIVE PETITION

I, SHANNON BUSHEY, Registrar of Voters of the County of Santa Clara, State of California, hereby certify:

That the "**Citizens' Initiative Changing Zoning Regulations in Morgan Hill**" was submitted for signature verification on January 6, 2021.

That said petition consists of 376 sections;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponent filed this petition, I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

1.	Number of signatures on petition (raw count):	<u>3,528</u>
2.	Number of signatures verified:	<u>3,038</u>
a.	Number of signatures found SUFFICIENT	<u>2,642</u>
b.	Number of signatures found NOT SUFFICIENT	<u>396</u>
1.	NOT SUFFICIENT because DUPLICATE	<u>34</u>
3.	Number of unverified signatures:	<u>490</u>

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 12th day of February 2021.

Shannon Bushey
 Registrar of Voters

By: _____
 Deputy

JobE18



Petition Result Breakdown

JobE18 City of Morgan Hill -Citizen's Initiative Changing Zoning Reg
 Citizen's Initiative Changing Zoning Regulations in Morgan Hill

Signatures Required	2624		
Raw Count	3,528		
Sample Size	3,528	Percent of Sigs Checked	Percent of Sample Size
Sigs Checked	3,038		
Sigs Not Checked	490		13.9 %
Sigs Valid	2,642	87.0 %	74.9 %
Sigs Invalid	396	13.0 %	11.2 %
Duplicated	34	1.1 %	1.0 %
Non-duplicate Invalids	362	12.0 %	10.3 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	2,642	87.0 %
NotReg	Not Registered	112	3.7 %
OutOfDist	Out of District	99	3.3 %
Duplicate	Signed more than once	34	1.1 %
RegLate	Registered Late	24	0.8 %
RegDiffAdd	Registered at a Different Address	72	2.4 %
CanIdntfy	Cannot Identify	2	0.1 %
NoResAdd	No Residence Address Given	8	0.3 %
NoSig	No Signature	6	0.2 %
SigNoMatch	Signatures Don't Match	21	0.7 %
NotCompBySignr	Not Completed by Signer	17	0.6 %
Inv	Invalid-See Doc	1	0.0 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	376	0.0 %		
Total Checked	3038	86.1 %	115.8 %	
Uncorrected Valid	2642	74.9 %	100.7 %	
Duplicate Adjustment	0			Min Required (95%): 2492.8
Estimated Valid	2642	74.9 %	100.7 %	Min Required to pass Based on Sample (110%): 2886.4

EXHIBIT B



CERTIFICATE OF SUFFICIENCY OF PETITION

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, County of Santa Clara, State of California, hereby certify that:

The petition entitled "Citizens' Initiative Changing the Zoning Regulations throughout the City of Morgan Hill to Prohibit Certain New Storage and Distribution Uses in All Areas of the City and Amending the Review Process for Large-Scale Development Projects" was filed with the City Clerk Department on January 5, 2021.

That said petition consists of 376 sections;

That each section contains signatures purporting to be signatures of qualified electors of the City of Morgan Hill, California;

That attached to this petition at the time it was filed, was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that Section, that all of the signatures were made in his or her presence, and that to the best of his or her own information and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponents filed this petition and based on the County of Santa Clara Registrar of Voters' Signature Verification Certificate, I have determined the following facts regarding this petition:

1. Total number of signatures filed by proponent raw count:	<u>3,528</u>
2. Total number of signatures verified:	<u>3,038</u>
3. Number of signatures found sufficient:	<u>2,642</u>
4. Number of signatures found insufficient:	<u>396</u>
5. Number of signatures insufficient because duplicate:	<u>34</u>
6. Number of unverified signatures:	<u>490</u>

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Morgan Hill, this 3rd day of March 2021.

Michelle Bigelow, City Clerk
 City of Morgan Hill



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

PROVIDE INPUT ON POLICY OPTIONS RELATING TO TREE PROTECTION

RECOMMENDATION(S)

Provide guidance to staff on the type and scope of policy changes the City Council is interested in considering relating to the protection of trees in the community.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment and Preserving
Open Space and Agricultural Land

POLICY CONSIDERATIONS:

What changes, if any, should the City make to its tree protection ordinance and policies? The major questions are:

1. Should the City expand the universe of existing trees that are protected by the City's ordinance?
2. Should the City establish a Heritage Tree Program in which special trees, like majestic oaks and very large trees, are afforded special protections?
3. Should the City require compensation (e.g., replacement tree plantings) from property owners whenever a protected tree is removed?
4. Should the City, instead of a property owner, be in charge of arborist evaluations for trees proposed to be removed at existing homes and businesses and on new development lands? (with a full cost recovery fee established to pay for the arborist and City staff oversight of the program)
5. Should an enhanced fine schedule be adopted for illegal tree removal?
6. Should the cost of a tree removal permit be increased or should these permits continue to be subsidized by the General Fund?

REPORT NARRATIVE:

The purpose of this item is to present the City Council with an opportunity to provide initial input to staff on potentially changing the City's tree protection ordinance. At this point, staff is asking for guidance on the "big picture" of tree protection in the community and not answers to micro-level questions.

The City's Municipal Code includes the City's current ordinance relating to the protection of existing trees in the community. (Attachment 1) While there are currently

tree protection provisions, they are less strict than those found in some communities. Several members of our Urban Forest Management Plan Advisory Committee indicated that the provisions should be strengthened.

While protecting trees seems like a concept that would be universally embraced, protecting trees on private property can become thorny as property owners often feel like they should have ultimate discretion on the fate of trees that they literally own. Trees considered for removal could be threatening homes or hardscapes, causing allergic reactions, creating a fire risk, or even threatening to fall and injure someone. For properties undergoing development, trees may be located in areas that significantly infringe on the development potential of the property.

The attached memo (Attachment 2) is submitted to frame some of these major issues and receive the Council's feedback on the types of changes, if any, the Council would like staff to work on further in this area.

COMMUNITY ENGAGEMENT: Consult

As noted above, this work was initiated as a result of input received from the Advisory Committee established for the City's Urban Forest Management Plan. Staff intends to take the guidance provided by the Council and do additional engagement with the general community before preparing an ordinance and returning to the Council for further action.

ALTERNATIVE ACTIONS:

Not Applicable – no action is suggested at this time.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council last revised this section of the Municipal Code on June 15, 2016. At that time, the amendments to the Code were primarily minor clarifications of the ordinance.

FISCAL AND RESOURCE IMPACT:

While there are no impacts associated with the recommended action of providing policy impacts, the process could ultimately result in fiscal impacts if the number of tree removal permits increases or if the Council directs that additional activities be implemented. As noted in the attached memo, the current fee for tree removal permits does not cover the City's full costs of processing the permit. While the fee was set at the reduced level for affordability and practicality reasons, increasing the number of permits considered and issued will increase the level of subsidy needed if the fee is not increased. To the extent that the Development Services Fund occasionally requires support from the General Fund, this subsidy must be properly recognized as a subsidy that draws support away from other prioritized programs that are funded by the General Fund.

It is essential to note that increasing the cost of tree removal permits could result in customer dissatisfaction and an increase in the number of trees removed with no permit at all.

The funds to conduct this staff work have, to date, been grant funded. As this grant will shortly expire, future work will likely come from existing appropriations in the Environmental Services budget.

As tree permits do require staff time to process, it is important to note that any increase in the number of permits or additional processes will need to be planned for and funded in the City budget without significant impacts on the Development Services Department's ability to respond to the myriad of other applications and queries from the public that it receives.

CEQA (California Environmental Quality Act): Categorical Exemption

This Ordinance is exempt from environmental review under Section 15061(b)(3) of the State CEQA Guidelines. The consideration of proposed text amendments are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The scope of proposed amendments are minor changes to text within the Municipal Code and will not result in any direct impact upon the physical environment. Any tree removal or required replacement tree, as a result of a tree removal permit, subject to the revised standards will undergo an independent analysis pursuant to the requirements of CEQA.

LINKS/ATTACHMENTS:

1. Current Tree Ordinance (Attachment 1)
2. Tree Protection Memo to City Council (Attachment 2)

ORDINANCE NO. 2205, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL
AMENDING CHAPTER 12.23 (RESTRICTIONS ON
REMOVAL OF SIGNIFICANT TREES) OF TITLE 12
(STREETS, SIDEWALKS AND PUBLIC PLACE) OF THE
MORGAN HILL MUNICIPAL CODE TO ADD SEPARATE
SPECIFIC PROVISIONS FOR THE REMOVAL AND
REPLACEMENT OF STREET TREES**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION 1: Chapter 12.32 (Restrictions on Removal of Significant Trees) of Title 12 (Streets, Sidewalks and Public Places) of the Morgan Hill Municipal Code is hereby amended to read in its entirety as follows:

Chapter 12.32 - RESTRICTIONS ON REMOVAL OF SIGNIFICANT TREES

12.32.010 - Council determinations.

The city council finds and declares:

A. The existing and future trees and tree communities located in the city are a valuable and distinctive natural resource. The trees and tree communities of the city augment the economic base through agricultural production, encouragement of tourism and enhancement of the living environment. These resources are a major component of both the highly localized and area-wide environment.

B. The following environmental consequences are among those which could result from the indiscriminate removal or destruction of trees and tree communities in the city:

1. Modification of microclimates;
2. Change or elimination of animal habitat, possibly including habitats of endangered species;
3. Change in soil conditions, resulting in modified biological activity and erosion of soils;
4. Creation of increased susceptibility of flood hazards;
5. Increased risk of landslides;
6. Increased cost of construction and maintenance of drainage systems through increased flow and diversion of surface waters;
7. Degradation of the human habitat;

8. Loss of environmental benefits of trees in neighborhoods, such as noise reduction, oxygen replacement, carbon dioxide reduction, interception of particulates and aesthetic qualities; and/or

9. Potential for irreparable wind damage to adjacent trees.

C. The preservation and replacement of significant tree communities on private and public property is necessary to protect the natural beauty of the area, protect property values, and prevent undesirable changes in the environment.

D. It is necessary to enact the ordinance codified in this chapter for the reasons stated in this section and to promote the public health, safety, general welfare and prosperity of the city, while respecting and recognizing individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity.

12.32.020 - Definitions.

For the purposes of this chapter, the following words shall have the meaning ascribed to them in this section:

A. "City" means the city of Morgan Hill, California, acting by and through its authorized representatives.

B. "Community development director" means the community development director of the city, including his or her authorized or appointed representatives.

C. "Community of trees" means a group of trees of any size which are ecologically or aesthetically related to each other such that loss of several of them would cause a significant ecological, aesthetic, or environmental impact in the immediate area.

D. "Person" means an individual, public agency, including the city and its departments, firms, associations, and corporations, and their employees, agents, or representatives.

E. "Private property" means all property not owned by the city or any other public agency.

F. "Public property" means all property owned by the city, and any other city, county, city and county, special district, or other public agency in the incorporated area of the city.

G. "Ordinance Sized Tree" means any live woody plant rising above the ground with a single stem or trunk of a circumference of forty (40) inches or more for nonindigenous species and eighteen (18) inches or more for indigenous species measured at four and one-half (4 1/2) feet vertically above the ground or immediately below the lowest branch, whichever is lower, and having the inherent capacity of naturally producing one (1) main axis continuing to grow more vigorously than the lateral axes. All commercial tree farms, nonindigenous tree species in residential zones and orchards (including individual fruit trees) are exempted from the definition of tree for the purpose of this chapter.

H. "Street Tree" is a tree, of any size, situated within the public street right-of-way or publicly accessible private street (e.g., trees within a landscape park strip), or within five (5) feet of a publicly accessible sidewalk adjacent to a public or private street in the case of a street without a landscape park strip.

I. "Indigenous tree" means any tree which is native to the Morgan Hill region. Such trees include, oaks (all types), California Bays, Madrones, Sycamore, and Alder.

12.32.030 - Permit—Required.

It is unlawful for any person to cut down, remove, poison, or otherwise kill or destroy, or cause to be removed, any ordinance sized tree, street tree, or a community of trees on any city or private property without first securing a permit as provided in this chapter; provided, however, that a permit shall not be required for the following:

A. Developments which have been reviewed and approved by the planning commission or community development director and the tree removal conforms with the landscape plans of those developments.

B. Commercial tree farms.

C. Non-indigenous trees within a single-family residential zoning district that do not qualify as street trees.

A permit shall otherwise be required for the removal of or pruning of which would reduce the canopy area by more than twenty five percent (25%) of any trees as defined in subsection G of Section 12.32.020 of this chapter.

12.32.040 - Permit—Application.

Any person desiring to cut down, remove, destroy, or cause to be removed any tree regulated in this chapter shall apply to the community development department for a tree cutting permit on forms provided by the department. The application shall be accompanied by such drawings, written material, photographs, and other information as are necessary to provide necessary data concerning trees within the affected area and which shall include:

A. The diameter and height of the tree;

B. The type of trees (e.g. coniferous, evergreen hardwood and deciduous hardwood);

C. A map or accurate sketch of location and trees proposed to be cut (showing other significant trees, shrubs, buildings or proposed buildings; photographs may be used to show the area);

D. Method for marking the tree proposed to be cut down, removed, or destroyed;

E. Description of method to be used in removing the tree;

- F. Description of tree planting or replacement program;
- G. Reasons for proposing removal of the tree;
- H. Address where tree is located;
- I. General health of tree to be cut down or removed; and
- J. Other pertinent information which the community development director may require.

12.32.050 - Permit—Public notice procedures.

Within five (5) days after submission of a completed application, the applicant shall cause a notice of application on a form provided by the community development department to be posted in at least two (2) conspicuous locations clearly visible to the public on or close to the property affected, indicating the date of the application, a brief description thereof, identification of the subject property, the address to which comments may be directed and from which further information may be obtained, and the final date for receipt of comments. No action shall be taken upon any application until the applicant has filed an affidavit that such posting has been done.

12.32.060 - Permit—Review and action.

The community development director or his or her designee shall review the application and, if necessary, inspect the site, and shall determine on the basis of the information provided, the site inspection, and the criteria contained in this chapter whether to grant, grant with conditions, or deny the permit. Such action shall be taken within twenty (20) days after receipt of the affidavit referred to in the preceding section. Upon taking action, the community development director or his or her designee shall provide the applicant with a written statement indicating the action taken, any conditions imposed, and the findings made in support thereof.

12.32.070 - Permit—Approval—Criteria.

The community development director or any other person or body charged with determining whether to grant, conditionally grant, or deny a tree cutting permit may approve a permit only if one or more of the following findings are made:

- A. Removal of the tree is warranted because the tree meets one of the following conditions:
 1. Is diseased as demonstrated in a report provided by a qualified arborist or tree surgeon documenting the extent and nature of the disease and how the diseased conditions warrants the trees removal,
 2. Could adversely affect the general public health and safety,
 3. Could cause substantial damage,

4. Is a public nuisance,
 5. Is in danger of falling,
 6. Is too closely located to existing structures,
 7. All practical design alternatives for site layout have been exhausted without being able to design around the tree(s), etc.
 8. Interferes with utility service,
 9. Acts as a host for a plant which is parasitic to another species of tree which is in danger of being infested or exterminated by the parasite,
 10. Is a substantial fire hazard,
 11. Is necessary for the continuing agricultural use of the property, or
 12. Is a street tree that is not identified on a list of Suitable Street Trees maintained by the community development director.
- B. The required action is necessary:
1. To utilize the property in a manner which is of greater public value than any environmental degradation caused by the action, or
 2. To allow reasonable economic or other enjoyment of the property.
- C. The tree will be replaced by plantings approved by the community development director, unless special conditions indicate otherwise.

12.32.080 - Permit—Approval—Conditions.

In granting any permit as provided in this chapter, the community development director, planning commission, or city council may attach reasonable conditions to insure compliance with the intent and purpose of this chapter including, but not limited to,:

- A. Replacement of trees removed with plantings of trees acceptable to the community development director. In all cases, native trees shall be planted to replace native trees removed unless practical reasons preclude this option;
- B. Use of measures to effect erosion control, soil and water retention and diversion or control of increased flow of surface waters;

C. Use of measures to insure that the contemplated action will not have adverse environmental effects relating to shade, noise buffers, protection from wind, air pollution and historic features; and/or

D. Posting of a bond to insure maintenance of substitute landscaping pursuant to the requirements of Chapter 18.74 of this code.

12.32.090 - Application constitutes permission to enter property.

Filing of an application for a tree cutting permit shall constitute a grant of permission for city personnel concerned with administering this part to enter the subject permit area during normal working hours from the date of application to the completion of any approved action for the purpose of inspecting the area for compliance with the provisions of this chapter and applicable law.

12.32.100 - Inspection—Notification of violations.

The community development department may cause sufficient inspections to be made of the permit area to assure compliance with the provisions of this chapter and the requirements of any applicable law. Upon completion of any inspection, the permittee shall be given a written notice of any violations observed at the time of inspection for correction thereof.

12.32.110 - Commencement of work—Time limitations.

If work authorized by an approved permit is not commenced within a period of one (1) year from the date of approval, the permit shall be considered void.

12.32.120 - Emergencies.

In case of emergency caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this chapter, except that the person responsible for the cutting or removal of the tree shall report such action to the community development director within five (5) working days thereafter.

12.32.130 - Appeal procedures.

The applicant or any other person who is aggrieved by the issuance or nonissuance of the permit or any conditions thereof may appeal in the manner set forth in this section. A statement by the appellant shall be required indicating how the appellant is aggrieved or adversely affected by the decision. At the time the appeal is heard, the planning commission shall rule upon the appellant's standing as an aggrieved party. If the planning commission rules that the appellant is not aggrieved, all further proceedings shall be stayed except that the appellant may appeal the planning commission decision on standing to the city council as provided in this chapter.

A. Permits considered and acted upon by the community development director may be appealed to the planning commission by filing a written notice of appeal with the secretary of the planning commission within ten (10) days of the issuance or denial of the permit. The planning commission shall hear such appeal within thirty (30) days of the date of filing of the written protest or at a date selected by mutual consent of the appellant and the planning commission. The planning commission shall render a decision on the appeal within fifteen (15) days of the public hearing. The community development director shall notify the affected parties of the action.

B. Permits considered and acted upon by the planning commission may be appealed to the city council by filing a written notice of appeal with the secretary of the planning commission within ten (10) days from the decision of the planning commission. The city council shall hear such appeal within sixty (60) days or at a date selected by mutual consent of the appellant and the city council and render a decision within fifteen (15) days following such hearing. The decision of the city council shall be final. The action taken by the city council shall be reported to the affected parties.

12.32.140 - Removal or trimming without a permit deemed a misdemeanor.

Any property owner, lessee or his or her agent, or representative who engages in tree cutting or removal or conspires with another to engage in tree cutting or removal without a valid tree cutting permit is guilty of a misdemeanor. In addition, such party shall be liable to the city for a civil penalty in the amount of the cost of replacing the removed tree with a new tree as comparable to the removed tree as is reasonably feasible plus all attorney's fees.

SECTION 2. Environmental Determination. This Ordinance is exempt from environmental review under Section 15061(b)(3) of the State CEQA Guidelines. The proposed text amendments are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed amendments are minor changes to text within the Municipal Code and will not result in any direct impact upon the physical environment. Any tree removal or required replacement tree, as a result of a tree removal permit, subject to the revised standards will undergo an independent analysis pursuant to the requirements of CEQA.

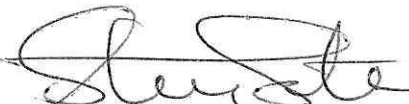
SECTION 3. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4. Effective Date; Publication. This ordinance shall take effect on July 15, 2016. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 1ST DAY OF JUNE 2016 AND WAS FINALLY ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 15TH DAY OF JUNE 2016 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES:	COUNCIL MEMBERS:	Rich Constantine, Marilyn Librers, Gordon Siebert, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	Larry Carr

APPROVED:


STEVE TATE, Mayor

ATTEST:


IRMA TORREZ, City Clerk

DATE:

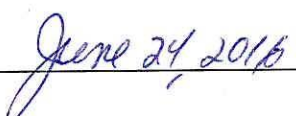


Effective Date: July 15, 2016

∞ 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. 2205, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 15th day of June 2016.

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

DATE: 


IRMA TORREZ, City Clerk



Memorandum

Community Services Department

Date: March 3, 2021

To: City Council

From: Anthony Eulo and Shannon Keener

Subject: Potential Enhancements to Tree Protection Ordinance

During the course of preparing an Urban Forest Management Plan for the City, most members of the advisory group formed to guide the effort expressed that the City's current tree protection ordinance did not offer enough protection to the community's trees. The purpose of this memo is to present some policy options to the Council and obtain direction from the Council on developing amendments to the ordinance. Once the Council provides staff with some preliminary policy guidelines, staff will draft proposed changes to the ordinance, engage the community on the proposed changes, and return to the Council for additional action.

The current City of Morgan Hill ordinance can be found in Chapter 12.32 of the Municipal Code and is attached to this item. Staff has compared the City's current ordinance with those from other communities and developed the following policy questions for the Council to consider.

1. Should the City expand the universe of existing trees that are protected by the City's ordinance?
 - a. When it comes to existing residential neighborhoods, the current ordinance only effectively addresses "Ordinance Sized" indigenous tree in City neighborhoods. This effectively means that the removal of only a few species of trees over 18 inches in diameter is regulated in any sense. All other trees on private property can be removed at any time without the need for a permit, notice to neighbors, or the planting of replacement trees. It is important to note that the removal of trees that are regulated by the ordinance is still allowed if a tree removal permit is obtained and, in most instances, a tree removal permit is granted because the reasons cited are compliant with the City's ordinance.
 - b. The rules in existing nonresidential neighborhoods work similarly except nonindigenous trees that are over 40 inches in diameter are also addressed.
 - c. Recommended provisions to consider based upon trees protected in other cities:
 - i. Protected Species – while the current provisions cover indigenous trees in residential neighborhoods, should other species be covered as well? It has been found that a diverse urban forest, of both indigenous and nonindigenous species, leads to reducing the risk for disease and insects to spread between trees.
 - ii. Size of Trees Regulated – should trees smaller than the existing limits be protected

- as well? Should trees over a certain height be protected?
- iii. Required Trees – should trees that were required to be planted or retained by the conditions of approval for any use permit, building site approval, grading permit, architectural and site approval, design review, special permit or subdivision receive additional protection?
 - iv. New Developments – should tree protection measures in new developments be strengthened?
 - v. Street trees – should there be additional protections afforded to any tree, regardless of size, planted within road rights-of-way and easements of the City?
2. Should the City establish a Heritage Tree Program in which special trees, like majestic oaks and very large trees, are afforded special protections?
 - a. The existing City ordinance does not provide for any “special” trees.
 - b. Should there be a list of Heritage Trees created that are provided additional special protections and would only be subject to removal in extraordinary circumstances?
 - c. What should the rules be for Heritage Trees?
 - d. How would the City fund a Heritage Tree program?
 3. Should the City require compensation (e.g., replacement tree plantings or funding) from property owners whenever a protected tree is removed?
 - a. The current ordinance only effectively addresses that tree removal may include one of the following: 1) replacement of trees removed with plantings acceptable, 2) erosion control, soil and water retention and diversion, 3) insure that the contemplated action will not have adverse environmental effects, or 4) posting of a bond.
 - b. What should the tree replacement ratio be when replacement plantings are required?
 - c. When trees cannot be replaced on site due to crowding or other physical constraints that make it impossible or undesirable to replace a tree of equal value in the same place, should there be alternative options available? Alternative options could possibly include ideas such as:
 - i. A carbon bank payment
 - ii. Creation of a “Tree Planting Fund”
 - iii. Trees of same value be planted on different property, instead of on site
 4. Should the City, instead of a property owner, be in charge of arborist evaluations for trees proposed to be removed at existing homes and businesses and on new development lands? (with a full cost recovery fee established to pay for the arborist and City staff oversight of the program)
 5. Should an enhanced fine schedule be adopted for illegal tree removal?

6. Should the cost of a tree removal permit be increased or should these permits continue to be subsidized by the General Fund?
 - a. The current ordinance only effectively funds its tree protection activities with the Tree Removal permit fee of \$105. This is less than the City's costs to process the permit application and was set at a level that encourages applications and discourages illicit tree removals. If the City increases the number of applications expected, this will require further support from the General Fund.
 - b. Recommended provisions to consider based upon trees protected in other cities:
 - i. Permit Fee Collection – should the permit application fee be increased to eliminate the subsidy?
 - ii. Additional Potential Fees – should there be any additional fees for protected trees that fall into different categories?
 1. Unsuitable and/or Dead Tree removal permit fee waiver
 2. Heritage Tree removal permit fee for extraordinary circumstances
 3. Appeals to City Council



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

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

APPROVE COUNTYWIDE SOLID WASTE SERVICES CONCEPT AND RELATED BUDGETARY AND POLICY CHANGES

RECOMMENDATION(S)

1. Approve the concept of providing countywide solid waste administrative services;
2. Adopt resolution amending Fiscal Year 2020-21 Budget to recognize \$54,127 as revenue and expenditures for the administration of countywide solid waste program;
3. Adopt updated Management, Professional, and Confidential Employees Resolution establishing the Environmental Services Manager position and salary;
4. Authorize the increase of the existing Part-Time Management Analyst position to a Full-Time position;
5. Authorize the City Manager to execute an agreement with the County of Santa Clara for Fiscal Agent and Related Planning Services subject to the review and approval of the City Attorney; and
6. Provide direction to staff to return to the Council with required actions to increase the threshold for purchases made exclusively with countywide funds received for solid waste management program.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Advancing Regional Initiatives

2020-2021 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this item is to present a proposed new program to the Council for consideration along with accompanying implementing actions. The primary purpose for the proposed program is to support the City's budget by engaging in a new service activity that is complementary to the City's existing administrative services.

The City has actively participated in the countywide solid waste technical advisory committee (TAC) and the accompanying County Recycling and Waste Reduction Commission (RWRC) since the early 1990's. Some basic organizing principles for the operation of the TAC and its sibling Implementation Committee (IC) were formalized in 2013 in the attached Memorandum of Agreement (MOA) (Attachment 1) which was signed by the County and every city in the County.

Staffing for the TAC, IC, and RWRC has always been provided by the County utilizing revenues from the Countywide Planning Fee to offset expenses. The County notified the cities last summer that it desired to step back from its role as TAC Administrator and

TAC Contracting Agent effective July 1, 2021 in order to focus more on County activities and better accommodate the enhanced workload it was facing. Per the process defined in the MOA, the IC began the job of identifying an entity to take over these roles. City of Morgan Hill staff expressed interest in fulfilling these roles to the IC and developed a proposal. The City's proposal was accepted by the IC, reflecting their confidence in the City's abilities, and recommended to the RWRC which approved the City's proposal as submitted.

The City's proposal (Attachment 2) is designed to provide focused professional services to the TAC, IC, Subcommittees, and RWRC while also benefitting the City's budget by appropriately including existing staff, rent, and overhead expenses in the proposed costs. Thus, the revenues associated with the work will exceed the City's increased costs and will benefit the General Fund (010). The proposal envisions the addition of one new teammate in the organization, an Environmental Services Manager, and increases the working hours for one Management Analyst from 32 hours per week to 40. If approved, small portions of four other existing teammates will be assigned to the Countywide project with no increase in their working hours or compensation.

As identified in the proposal, the new Environmental Services Manager will be solely dedicated to countywide activities. The Manager will plan to attend every meeting associated with the program and will take the lead in writing contract scopes of work and other implementing documents. The Management Analyst will take the lead on establishing the needed service contracts for the work and sending out meeting agendas and packets. The Community Services Supervisor will lend expertise to the TAC Public Education Subcommittee and the Council Services Assistant will support the major meetings. Overall management for the program will fall to the Program Administrator and Public Services Director positions.

The County is interested in maintaining its role as the Fiscal Agent for these programs and is well-suited to collect the fees and account for them. In addition, there are some planning obligations that are uniquely the County's to perform and, therefore, staff has presented the County with a contract for Fiscal Agent and Related Planning Services. This draft contract is based on the City's standard form and is still being negotiated.

During the IC's consideration of the City's proposal, members of the IC expressed concern that any contract over \$60,000 issued for countywide work would need to be approved by the Morgan Hill City Council even though the source of funding for the contract would be countywide fees, not City funds. Staff agreed to present the Council with an option to increase the purchasing limit of the City Manager for purchases made exclusively with countywide funds for the administration of solid waste management program. If desired, staff will return to the City Council with an amendment to the City's purchasing ordinance authorizing the City Manager to execute agreements up to \$300,000 without Council approval if they are solely utilizing countywide funds for this program. Note: approving this increase is not required in order to proceed with this program concept. The City's obligation is limited to considering the increase. Given the City Council's current workload and the support from funding organizations for this increased authorization, City staff recommend this authorization.

The recommended actions for the Council include:

1. Approve concept of providing countywide solid waste administrative services;
2. Adopt resolution (Attachment 3) amending the Fiscal Year (FY) 2020-21 Budget to cover program expenses from May 1 – June 30, 2021;
3. Adopt updated Management Resolution (Attachment 4) establishing the Environmental Services Manager position and salary;
4. Authorize increase of the existing Part-Time Management Analyst position to a Full-Time position;
5. Authorize the City Manager to execute an agreement with the County of Santa Clara for Fiscal Agent and Related Planning Services subject to the review and approval of the City Attorney; and
6. Provide direction to staff to return to the Council with required actions to increase the threshold for purchases made exclusively with countywide funds.

COMMUNITY ENGAGEMENT: Not Applicable

This work will not result in impacts to the Morgan Hill community so no community engagement activities were conducted prior to this meeting and no engagement activities on this work are planned after this meeting.

ALTERNATIVE ACTIONS:

The Council can reject the concept though doing so would result in the General Fund not benefitting from this work. As noted above, the targeted increase in the purchasing authority for the City Manager can be amended or rejected in its entirety without impacting the other recommended actions.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

This item has not been considered by the Council previously. The Council has, however, previously endorsed the general concept of performing environmental services work for other agencies as the City has been providing support services to the City of Gilroy for over a decade. The Council approved the MOA in 2013.

FISCAL AND RESOURCE IMPACT:

The projected annual cost to administer the program is \$324,763, which will be covered by the Countywide funds transferred to the City on a quarterly basis. The proposed program will have a net positive impact of approximately \$90,000 annually to the City's General Fund. This impact will be primarily realized from the assignment of existing staff to this activity (thereby reducing their expenses charged to the General Fund), the rent charged to the program, and the increased General Fund overhead that will be collected.

Should the City Council elect to move forward with the concept, staff recommends adopting a resolution amending the budget for FY 2020-21 to appropriate the related revenue and expenditures from May 1 through June 30, 2021 (\$54,127). Subsequently, staff will bring back appropriation changes at mid-cycle for FY 2021-22 and subsequent years. It is proposed a separate fund be established to account for the activities of this

program, the name and number for which are to be determined pending Council decision.

CEQA (California Environmental Quality Act): Not a Project

The activities associated with this item are administrative activities that will not result in direct changes to the physical environment.

LINKS/ATTACHMENTS:

1. Attachment 1: Executed Countywide MOA
2. Attachment 2: Revised Proposal to provide Contract Agent and TAC Administrator Services (Dec 2 2020)
3. Attachment 3: Budget Resolution
4. Attachment 4: 2020-2021 Mgmt Reso 3.3.21

AGREEMENT
CREATING THE SANTA CLARA COUNTY
RECYCLING AND WASTE REDUCTION
TECHNICAL ADVISORY COMMITTEE

THIS AGREEMENT, is made and entered into this 4th day of June 2013 by and between the COUNTY OF SANTA CLARA, a political subdivision of the State of California; CITY OF CAMPBELL, a municipal corporation of the State of California; CITY OF CUPERTINO, a municipal corporation of the State of California; CITY OF GILROY, a municipal corporation of the State of California; CITY OF LOS ALTOS, a municipal corporation of the State of California; TOWN OF LOS ALTOS HILLS, a municipal corporation of the State of California; TOWN OF LOS GATOS, a municipal corporation of the State of California; CITY OF MILPITAS, a municipal corporation of the State of California; CITY OF MONTE SERENO, a municipal corporation of the State of California; CITY OF MORGAN HILL, a municipal corporation of the State of California; CITY OF MOUNTAIN VIEW, a municipal corporation of the State of California; CITY OF PALO ALTO, a municipal corporation of the State of California; CITY OF SAN JOSE, a municipal corporation of the State of California; CITY OF SANTA CLARA, a chartered municipal corporation of the State of California; CITY OF SARATOGA, a municipal corporation of the State of California; and CITY OF SUNNYVALE, a municipal corporation of the State of California.

All of the above-mentioned entities are hereinafter collectively referred to as "PARTIES" or individually as "PARTY."

RECITALS:

- A. In 1989, the California Legislature passed and enacted the California Integrated Waste Management Act, known as "AB 939", (Public Resources Code Section 40000 et. seq) requiring jurisdictions to divert 25% of waste from disposal by 1995 and 50% of waste from disposal by 2000. AB 939 required each County to develop and periodically update a County Integrated Waste Management Plan and to appoint an AB 939 Local Task Force.
- B. Prior to 1992, the Solid Waste Committee of the Santa Clara County Intergovernmental Council advised the cities and the County on solid waste and recycling issues. The Technical Advisory Committee, also originally convened by the Intergovernmental Council, provided technical advice to the Solid Waste Committee on solid waste and recycling issues.
- C. On or about February 1992, the Santa Clara County Board of Supervisors and the cities in Santa Clara County designated the Solid Waste Committee of the Intergovernmental Council as the AB 939 Task Force for Santa Clara County.
- D. On February 4, 1992, the Santa Clara County Board of Supervisors replaced the Solid Waste Committee of the Intergovernmental Council with the Solid Waste Commission of Santa Clara County ("Commission") in order to streamline the

TAC MEMORANDUM OF AGREEMENT

decision-making process on solid waste and recycling issues. (Ordinance No. NS-300.495) The powers and duties of the Commission are defined in Chapter XVII, Division A6 of the County of Santa Clara Ordinance Code.

- E. On December 4, 2001, the Santa Clara County Board of Supervisors approved Ordinance No. NS-300.658 changing the name of the Commission to the Recycling and Waste Reduction Commission of Santa Clara County.
- F. The Commission advises city councils and the Board of Supervisors in Santa Clara County on countywide solid waste and recycling planning issues and on the County Solid Waste Management Plan/County Integrated Waste Management Plan.
- G. The By-Laws of the Commission (also approved by the County Board of Supervisors on February 4, 1992) continued the existence of the Recycling and Waste Reduction Technical Advisory Committee (the "TAC"). The purpose of the TAC was to provide technical advice to the Commission on solid waste management and policy; to bring together a wide spectrum of viewpoints and expertise on countywide solid waste and recycling issues affecting individual jurisdictions; and to assist in development of policies, programs and revisions and amendments to countywide plans.
- H. On an annual basis, the TAC prepares and submits an Annual Workplan and Budget for review and approval by the Commission. The Commission-approved Annual Workplan is then implemented by the TAC using funds in the Commission-approved Annual Budget.
- I. In accordance with the AB 939 provisions for financing solid waste diversion and planning activities, the County of Santa Clara levies and collects the Countywide Solid Waste Planning Fee ("SWPF") on each ton of solid waste disposed at landfills located within the County, on tons taken to non-disposal facilities located within the county and subsequently transported for disposal to landfills outside Santa Clara County, and on tons transported directly to disposal facilities located outside Santa Clara County. The current SWPF of \$0.78 per ton was established by the County Board of Supervisors on May 19, 2009. Funds from the SWPF are used to fund the activities and programs of the Commission and the TAC. In addition, funds from grants, voluntary contributions from other agencies and other revenue sources are used to fund these activities and programs. Such funds, including monies from the SWPF, are referred to herein as "Countywide Funds".
- J. In 2011, Assembly Bill 341 ("AB 341") was signed into law establishing a statewide goal of diverting 75% of solid waste from disposal by 2020 and requiring The California Department of Resources, Recycling and Recovery to prepare and submit a plan to the Legislature on or before January 1, 2014 on how to achieve this goal.
- K. Since the TAC was originally established, the field of solid waste management and recycling has become much more complex and the PARTIES must comply with an increasing number of laws and regulations. In order to achieve the statewide goal of 75% diversion, many materials currently disposed in landfills must be segregated and

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

processed at new facilities, and channeled into useful purposes. New infrastructure, diversion systems and enhanced producer responsibility measures must be implemented in order to accomplish this goal.

- L. Commensurate with changes in the breadth and complexity of the solid waste and recycling field, the work and functions of the TAC have evolved over time to encompass not only providing advice to the Commission, but also recommending, implementing and monitoring countywide public education and diversion programs included in the Commission-approved Annual Workplan and Budget where it is cost effective for the PARTIES to jointly provide such programs.
- M. The TAC requires expanded powers and authority to monitor ongoing staffing support for programs in the Commission-approved Annual Workplan as well as the power and authority to recommend, monitor and audit the funding for these programs, at the levels contained in the Commission-approved Annual Budget.
- N. In order to address these issues, the Commission appointed the Ad Hoc Committee for TAC Organizational Study, and the TAC appointed the TAC Ad Hoc Organizational Study Subcommittee. Pursuant to recommendations from these Committees, the County retained Arroyo Associates in 2010 to conduct an independent Organizational Study. The study evaluated the countywide integrated waste management programs and services and provided operational and organizational recommendations to enhance the efficiency and effectiveness of the countywide solid waste management system. The Commission's Ad Hoc Committee held a meeting on May 29, 2012 with representatives of the TAC and the public to discuss the recommendations of the Organizational Study and options for restructuring the operating parameters of the TAC.
- O. The purpose of this Agreement is to implement the recommendations of the Commission's Ad Hoc Committee and the TAC Ad Hoc Subcommittee to revise the functions, powers, membership, structure and duties of the TAC to make these consistent with the manner in which the TAC currently functions; and to simplify the reporting relationship between the Commission and the TAC. Such changes are desired by the PARTIES in order to facilitate countywide and regional approaches for meeting the statewide goal of 75% diversion articulated in AB 341; remaining in compliance with the existing requirements of AB 939, SB 1016 and all other state and federal laws and regulations, and planning for the goal of zero waste in the future.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

I. PURPOSES AND FUNDING

The Santa Clara County Recycling and Waste Reduction Technical Advisory Committee ("TAC") is hereby established to replace the Recycling and Waste Reduction Technical Advisory Committee referred to in Article V of the Commission Bylaws dated October 2001.

A. *Purposes.* The purposes of the TAC are:

TAC MEMORANDUM OF AGREEMENT

1. To implement the Commission-approved Annual Workplan and Budget;
2. To advise the Commission and the decision-making bodies of all PARTIES on technical and policy issues related to solid waste management and recycling including plans to achieve the statewide AB 341 goal of 75% diversion by 2020 and plans for working toward the goal of zero waste;
3. To bring together a wide spectrum of viewpoints and expertise to focus on countywide solid waste management, issues affecting individual communities, and solid waste and recycling issues affecting public environmental health;
4. To assist in development of policies, programs and revisions and amendments to countywide plans that can meet countywide needs and, thus, receive countywide approval;
5. To provide a forum for exchange of solid waste, recycling, composting and other diversion information;
6. To inform the PARTIES' respective agencies and jurisdictions about issues and recommendations of the Commission, and perform follow-up actions, as necessary;
7. To recommend Commission approval of countywide programs to maximize the effectiveness of local funds spent for public education and recycling programs, and to implement and monitor such programs.
8. To assist with future master planning for facilities and infrastructure, as requested by the Commission.
9. To perform technical and policy review and make technical and policy recommendations to the Commission and technical recommendations to the PARTIES concerning best practices in solid and hazardous waste management; recycling, composting, diversion programs, source reduction; litter reduction on land; reduction of litter that originates from the storage, collection, transportation, and processing of solid waste, recyclable materials and organic materials that affects water quality in local creeks, San Francisco Bay, and oceans; and 'cradle-to-cradle' extended producer responsibility for products and packaging from creation through use and ultimate recycling or other disposition, with regard to:
 - a. The feasibility of technical proposals;
 - b. Analysis of issues and problems in solid waste management;
 - c. Proposed and/or needed national and state legislation and policies;
 - d. New infrastructure required to achieve countywide goals, and;
 - e. Financing and management options for creation of such infrastructure.
10. To perform other duties as directed by the Commission.

B. Funding. The TAC is funded by the Solid Waste Planning Fee ("SWPF") that is charged to customers by the operators of all disposal and non-disposal facilities located within the County of Santa Clara, and remitted, by those facility operators, to the County of Santa Clara. The SWPF is also charged on tons of solid waste that are hauled directly to out-of-county disposal facilities. The amount of the SWPF is established by the Board of Supervisors based upon input and recommendations from the Commission and the TAC Implementation Committee. Additional revenues come from grants; voluntary contributions of other agencies and other sources. These, together with the SWPF funds constitute the Countywide Funds used to fund the Commission-approved Annual Workplan and Budget.

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II. COMPOSITION

A. Voting members, not to exceed 27 in number, shall include:

1. One (1) staff person from each City or Town that is a PARTY
2. Three (3) staff persons from the County as follows:
 - a. One (1) to represent the Unincorporated Area
 - b. One (1) to represent County interests related to environmental health
 - c. One (1) to represent County interests related to integrated waste management
3. One (1) staff person from the Santa Clara Valley Water District
4. Up to eight (8) persons from non-governmental organizations appointed by the Commission as follows:
 - a. No more than three (3) representing for-profit industry groups and/or business organizations (however, no member shall represent a single for-profit company)
 - b. No more than four (4) representatives of non-profit groups that advocate for source reduction, recycling programs, sustainability, and/or producer responsibility
 - c. No more than two (2) representatives of institutions of higher learning located within Santa Clara County

B. *Appointment of Members.* All members representing a public agency shall be re-designated annually via a letter on agency letterhead addressed to the TAC Administrator ("Administrator"). The Commission will accept requests and nominations for non-governmental organizations to serve on the TAC. The Administrator will publish a notice in a daily local newspaper of general circulation to a minimum of two-hundred fifty thousand (250,000) people in September of every other year announcing that nominations and requests to serve are being accepted. The Administrator will take other reasonable and cost-effective measures to distribute the announcement via other media, including, but not limited to, websites, local publications and social media, to reach persons who might not see the notice in a daily newspaper. The Commission will select the non-governmental organizations to be represented on the TAC. Those organizations will, in turn, submit a letter to the Administrator designating a member and an alternate. Members representing non-governmental organizations shall serve for a period of two (2) years beginning in January. At the end of that time, the Commission shall select the non-governmental organizations to be represented on the TAC for the new two (2) year term. The initial group of non-governmental organization representatives will be selected by the Commission on or before December 31, 2013 and will begin serving their terms on January 1, 2014. The Administrator will publish a notice in the newspaper, and distribute the notice via other suitable media, in September 2013 announcing that the Commission will consider nominations and applications for non-governmental organizations to be represented on the TAC.

C. *Alternates.* Each PARTY may designate one or more alternate representative(s) to serve in the absence of the regular member. The alternate(s) will be designated in writing as described in Section II B. Alternates may serve on TAC committees,

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subcommittees, and ad hoc subcommittees.

D. *Vacancies.* Each PARTY is responsible for designating a replacement for its member if the member can no longer serve. In the event of a vacancy, the Chair shall, by letter, request that the PARTY designate a new member. If a vacancy occurs with regard to a representative of a non-governmental organization, the Administrator shall notify the non-governmental organization to designate a new member. In the event the non-governmental organization declines, the TAC shall notify the Commission and request that a new non-governmental organization be selected to fill the remainder of the term created by the vacancy.

E. *Attendance.* Attendance at meetings is vital to the proper and effective functioning of the TAC. Three (3) consecutive absences or a member missing over fifty percent (50%) of the TAC meetings in a calendar year are sufficient grounds for the Administrator to notify the member and request their attendance. Should a PARTY be unable to send its representative to meetings for an extended period of time, the PARTY shall notify the Chair in writing on letterhead and a replacement representative will not be requested from that PARTY.

III. QUORUM AND VOTING

A. *Quorum.* A quorum consists of thirteen (13) voting members physically present at a meeting.

B. *Voting.* Actions of the TAC shall be taken by a majority vote of the members present at the meeting. Each member has one vote. (See Section VI B for voting and quorum requirements for the Implementation Committee that differ from those for the full TAC.)

C. *Attendance From A Remote Location.* In the event of an unavoidable schedule conflict, a member may participate in a meeting from a remote location via telephone or video-conference provided that all requirements of the Brown Act (Government Code Section 54950, et seq.) are met and further provided that the scheduled meeting room has the technical capability to accommodate the request. In such event, the member will notify the Administrator at least ten (10) days in advance of the meeting and ask to attend from a remote location. The Administrator will advise the member if this is possible. If so, the Administrator will comply with all Brown Act requirements including stating the alternate location in the meeting notice. The member shall also comply with all Brown Act requirements in Government Code Section 54953 (b), including, but not limited to, posting a meeting notice and agenda on the door of the remote location for the duration of the meeting, and allowing members of the public to participate in the meeting from the remote location along with the member. The member's vote will be counted; however, the member will not be included in the count to determine a quorum. Attendance from a remote location is to be used only in rare cases of unavoidable schedule conflicts. In-person attendance and participation at meetings is strongly preferred and encouraged.

D. *Bylaws.* The TAC may, as necessary, recommend adoption of Bylaws for its

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governance to the Commission for approval, and operate according to Bylaws approved by the Commission. In the event revisions to Commission-approved Bylaws are desired, the TAC may recommend such revisions to the Commission.

IV. OFFICERS AND THEIR RESPONSIBILITIES

A. *Officer Positions.* The officers of the TAC shall be the Chair, Vice Chair, and the Subcommittee Chairs. The Chair and Vice Chair of the TAC must be voting members or alternates representing a PARTY.

B. *Election and Term.* Each officer shall be elected by majority vote of a quorum of the voting membership at the last meeting of each calendar year or as soon thereafter as possible. All officers' terms begin with the first meeting of each calendar year.

C. *Duties.* The Chair of the TAC shall be responsible for chairing all meetings of the TAC and the Implementation Committee (IC), and representing the TAC and the IC at Commission meetings. The Chair shall approve the draft agendas for TAC and IC meetings, except that any agenda item proposed by two (2) or more voting members must be placed on the next available agenda. The Vice Chair shall serve as the Chair in the Chair's absence. The Chairs of the Subcommittees shall be responsible for calling meetings of their respective Subcommittees and chairing those meetings. The Subcommittee Chairs shall approve the draft agendas for their respective Subcommittees except that any items proposed by two (2) or more voting members of a Subcommittee shall be placed on the next available Subcommittee agenda.

V. MEETINGS

A. *Meetings.* The TAC shall meet monthly at the time and place published on the agendas. Additional meetings may be called as needed. The Chair shall provide every member of the TAC with seventy-two (72) hours written notice of regular and additional TAC meetings. The agenda for each meeting shall be developed by the Administrator in consultation with the TAC Chair, and shall be approved by the Chair.

B. *Conduct of Meetings.* All meetings of the TAC, including all Committees, Subcommittees, Ad Hoc Committees and Subcommittees and any closed sessions with legal counsel, shall be properly noticed and conducted in accordance with the "Brown Act" (Government Code Section 54950 et seq.) Except for official meetings of the TAC and its Committees, Subcommittees and Ad Hoc Committees and Subcommittees, nothing herein shall be interpreted to require meetings between staff members of the individual PARTIES (including designated representatives of the PARTIES) to be subject to the Brown Act, where the Brown Act would not otherwise apply. Each PARTY is individually responsible for ensuring it complies with the Brown Act. Wherever this Agreement is silent with regard to procedure, Robert's Rules of Order shall apply.

VI. IMPLEMENTATION COMMITTEE

A. *Composition and Duties.* The TAC Implementation Committee (IC) is comprised of one voting member from each PARTY to this Agreement plus one voting member from the Santa Clara Valley Water District (SCVWD). The PARTY'S

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IC representative is usually also the PARTY'S TAC representative. Each PARTY and the SCVWD may also designate an alternate. The purpose of the IC is to make decisions and recommendations on all fiscal, management and administrative issues of the TAC. The IC selects, monitors and provides oversight of the Administrator, the Fiscal Agent, the Contracting Agent, and legal counsel to the TAC. The IC recommends the level and setting of the SWPF to the Commission.

B. Quorum, Voting and Meetings. A quorum of the IC is nine (9) voting members. (Note: the City of San Jose representative counts as two (2) voting members toward the IC quorum.) The affirmative vote of at least eight (8) voting members of the IC, including PARTIES collectively representing at least forty percent (40%) of the population of the incorporated and unincorporated areas of the County of Santa Clara, is necessary to approve any measure brought before the IC. (For purposes of calculating whether or not the forty percent (40%) figure has been reached, the population of each PARTY shall be counted; however, no population shall be attributed to the SCVWD due to the fact that it encompasses such a large percentage of the population of the entire incorporated and unincorporated County.) Each member of the IC shall have one vote, with the exception of the City of San Jose which shall have two (2) votes. The IC shall meet at least annually to consider and recommend approval of the Annual Workplan and Budget to the Commission for the upcoming fiscal year. The Chair may call other meetings of the IC as needed. All IC meetings are open to the public and to all TAC members. Participation and discussion by all TAC members and by members of the public is encouraged. The Chair of the IC forwards all recommendations made by the IC directly to the Commission, and also makes an informational report to the TAC on the recommendations forwarded to the Commission. The Chair shall strive to achieve consensus among IC members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event, the Chair will report the recommendation of the IC along with the dissenting opinion(s) and viewpoints, to the Commission and to the TAC. In the event of a tie, the Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Chair may, in the Chair's sole discretion, re-agendize the item for another IC meeting.

C. Use of Outside Contractors. The IC is responsible for selecting any consultant(s) or contractor(s) ("Outside Contractors") to perform tasks included in the Commission-approved Annual Workplan and Budget and who are to be paid from Countywide Funds, using a process created in consultation with the Contracting Agent. The IC is responsible for reviewing and approving the parameters of any contracts with Outside Contractors, including the scope(s) of work, schedules of performance, use of subcontractors, and compensation for such Outside Contractors. The IC then directs the Contracting Agent to conduct the procurement process for Outside Contractors and to execute contracts with the selected Outside Contractor(s).

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VII. TAC SUBCOMMITTEES

A. *Issue and Policy Subcommittees.* Issue and policy subcommittees shall be established as needed by the TAC. The TAC will evaluate and establish standing Subcommittees in December of each year. Additional Subcommittees may be established at other times throughout the year as needed.

B. *Membership and Meetings.* Membership on all issue and policy Subcommittees is open to all TAC voting members and designated alternates. There is no maximum size for each Subcommittee. The TAC shall appoint a Chair for each Subcommittee. A quorum is two (2) or more Subcommittee members. Subcommittees may elect a Vice-Chair to serve in the Chair's absence. Subcommittee chairs shall be responsible for calling and chairing meetings. The Subcommittee chairs shall approve the draft agenda and report the activities and recommendations of the Subcommittee to the TAC. Subcommittee chairs shall strive to achieve consensus among members. Consensus is defined as general agreement in sentiment or belief. If clear consensus cannot be reached, the Chair will call for a vote of the voting members present. In such event, the Chair will report the recommendation of the Subcommittee along with the dissenting opinion(s) and viewpoints, to the TAC. In the event of a tie, the Subcommittee Chair will report that outcome and the viewpoint(s) expressed that led to that outcome. In the alternative, the Subcommittee Chair, in consultation with the TAC Chair, may decide to re-agendize the item for discussion at another meeting.

C. *Ad Hoc Subcommittees.* The TAC may establish Ad Hoc Subcommittees as needed to address specific issues or problems. The TAC shall appoint a Chair for each Ad Hoc Subcommittee. All Ad Hoc Subcommittees shall follow the same operating procedures as the standing issue and policy subcommittees. The TAC Chair shall monitor the work of all Ad Hoc Subcommittees, and all such Subcommittees shall be promptly disbanded by the TAC once their tasks have been accomplished.

VIII. TAC ADMINISTRATOR

A. *Duties.* The TAC Administrator provides administration and management services to the TAC and carries out the Annual Workplan. Duties of the Administrator include, but are not limited to: scheduling meetings of the TAC and all committees, subcommittees, and ad hoc subcommittees; preparing agendas and meeting minutes; maintaining all TAC records and files; notifying the TAC of correspondence received and preparing outgoing correspondence; completing all tasks in the Annual Workplan; providing monthly reports at TAC meetings on the status of the Workplan; and other duties as directed by the IC. The Administrator reports to the Chair of the TAC. The Administrator shall work cooperatively and collaboratively with the IC, the Fiscal Agent and the Contracting Agent. The Administrator is paid from funds in the adopted TAC budget.

B. *Selection.* The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. The IC will receive and evaluate proposal(s) and make a recommendation to the Commission on selection of an Administrator, as further described in Attachment 2.

TAC MEMORANDUM OF AGREEMENT

C. Initial Administrator. The initial Administrator for the TAC shall be the County of Santa Clara, Integrated Waste Management Division ("County IWMD"). The initial staff provided is described on Attachment 1. In the event of a change in the initial staff, the procedures described in Attachment 2 shall be followed. In the event the IC determines there is a need for a change in the Administrator in the future (due to costs, availability of designated employees or for other reasons), or in the event the County IWMD is unable or unwilling to serve, the procedures for selection of a new Administrator in Attachment 2 shall be followed.

D. If Administrator Is Also A PARTY. In the event the Administrator is a PARTY, that PARTY shall appoint a TAC/IC representative whose function is to represent the PARTY's point of view on issues, policy and fiscal matters. The PARTY'S TAC/IC representative shall be a person who is not be involved in the work of the Administrator. This designation shall be made in writing on the PARTY'S letterhead to the Chair of the TAC. The person(s) fulfilling the duties of the Administrator shall act as staff to the TAC, TAC committees and subcommittees, and to the IC.

E. Contract With Administrator. All duties and responsibilities of the Administrator, and a list and description of all staff assigned to provide Administrator services, shall be included in a contract between the Contracting Agent and the Administrator. The contract term may be for a single year or for multiple years, at the discretion of the IC. In the event that the Administrator is a PARTY, a letter agreement will be prepared between the Contracting Agent and the Administrator, containing all of the duties, responsibilities, staffing commitments and costs for the Administrator to serve for the upcoming fiscal year. The letter agreement will include the Annual Workplan and costs for the Administrator's services. The letter agreement shall state that the Administrator agrees to provide the described services at the approved costs for the upcoming fiscal year and that all employee and overhead costs will be maintained at the levels specified in the agreement for that fiscal year. With regard to the initial Administrator, the first letter agreement shall be prepared and executed prior to July 1, 2014 to reflect the costs and the scope of work to be performed for FY 2014/15. If the Administrator and the Contracting Agent are the same PARTY, the letter agreement will be prepared and signed by a staff person designated to represent the Administrator and also signed by a separate staff person designated to represent the Contracting Agent.

F. Annual Workplan and Budget. As the work of the TAC progresses each year, the Administrator will maintain a list of potential work items to be placed in the Annual Workplan for the upcoming fiscal year. Beginning with preparation of the Annual Workplan and Budget for fiscal year 2014/15, the following schedule will apply. In November of each year, the IC will review the list of potential work items compiled by the Administrator, add additional items as needed, and direct the Administrator to prepare a proposed Workplan and Budget for the upcoming fiscal year. The proposed Annual Workplan will contain the elements described in Attachment 3.

The Administrator shall submit the final draft of the proposed Annual Workplan and

TAC MEMORANDUM OF AGREEMENT

Budget to the IC no later than December 15 of each year. If required, the IC will provide revisions and comments to the Administrator, who will then revise and finalize the Annual Workplan and Budget. The IC will approve the Annual Workplan and Budget on or before January 31 of each year and forward it to the Commission for approval. Commission approval is anticipated to be during the month of February. Upon approval by the Commission, the Contracting Agent will prepare agreements with the Administrator, the Fiscal Agent and the Contracting Agent that include the approved Annual Workplan and Budget (for the Administrator) and the approved costs and duties (for the Fiscal Agent and the Contracting Agent) as described in Sections VIII E, IX D and X C. The agreements will be signed by designated representatives of the Administrator, the Fiscal Agent and the Contracting Agent. In the event the Administrator, the Fiscal Agent and/or the Contracting Agent are the same PARTY, that PARTY shall designate separate representatives to execute the agreements on behalf of the Administrator, the Fiscal Agent and the Contracting Agent. Said agreements shall be fully executed and in place prior to July 1 of each year.

G. Annual Reporting and Evaluation. The Administrator shall prepare a self-evaluation/audit report to the IC including significant accomplishments, work items planned but not accomplished, work items not planned but completed, and the status of all work items in the Annual Workplan. The report will include recommendations and suggestions for improving the work of the Administrator and will be submitted on or before September 15 each year. The IC will consider the report at a regular meeting and discuss and provide recommendations and feedback to the Administrator. The IC will rate the overall implementation and effectiveness of the Workplan and, in turn, rate the performance of the Administrator based upon the ability of the Administrator to meet the timelines and budget in the Workplan and to effectively support the Commission and the TAC. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Administrator. This feedback will be used by the Administrator to make any required changes in operations, procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Administrator, the IC may, at any time, discuss questions, concerns or issues of performance with the Administrator.

IX. FISCAL AGENT

A. Duties. The Fiscal Agent serves as the treasurer of the Countywide Funds and is responsible for collecting the SWPF from all solid waste disposal facilities and non-disposal facilities located within Santa Clara County. The Fiscal Agent also collects and receives grant funds and revenues from other sources. The Fiscal Agent shall diligently pursue collection of all SWPF funds and shall keep the IC apprised of the amount and entity owing delinquent payments, as well as of the status of collection activity initiated by the Fiscal Agent regarding the delinquent payments. The Fiscal Agent shall manage all funds in accordance with generally accepted government accounting procedures. The Fiscal Agent shall keep Countywide Funds segregated from all other funds administered by the Fiscal Agent in separately numbered and coded accounts that are readily identifiable as those containing Countywide Funds; shall credit appropriate interest income earned on such funds in each fiscal year; and shall not expend, use or transfer

TAC MEMORANDUM OF AGREEMENT

any funds except in accordance with the Annual Workplan and Budget approved by the IC and the Commission, or as otherwise directed by the IC. In the event the Fiscal Agent is not also the Contracting Agent, the Fiscal Agent shall transfer Countywide Funds to the Contracting Agent as directed by the IC, in accordance with the procedures in Attachment 5. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. Initial Fiscal Agent. The initial Fiscal Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Fiscal Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the following procedures for selection of a new Fiscal Agent shall be followed.

C. Selection. Any PARTY willing to serve as the Fiscal Agent may be nominated by another PARTY. The nominated PARTY(IES) will submit a letter proposal to the IC containing the costs for performing the services of the Fiscal Agent, including all employee and overhead costs and all proposed expenses. If the same PARTY is also already serving, or is proposing to serve, as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The IC will hold discussions with representatives of the nominated PARTY(IES) as needed. The recommendation of the IC will be forwarded to the Commission for approval. Upon receipt of Commission approval, the Contracting Agent will execute an agreement with the new Fiscal Agent that includes the approved costs for the PARTY to provide Fiscal Agent services for the upcoming fiscal year.

D. Payment For Services. The Fiscal Agent shall provide the Administrator with proposed costs to perform the duties of TAC Fiscal Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Fiscal Agent is also serving as the Administrator, the Contracting Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs, the Chair of the IC and the Administrator will meet with the Fiscal Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Contracting Agent will prepare an agreement to be signed by the Fiscal Agent and the Contracting Agent to perform services for the new fiscal year. In the event that the Contracting Agent and the Fiscal Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Fiscal Agent and the (separate) designated employee of the PARTY serving as the Contracting Agent.

E. Quarterly and Annual Budget Status. The Fiscal Agent shall prepare and submit quarterly budget updates to the IC every three (3) months, and shall provide a Year-End Budget Report. These reports shall be formatted in a clear and concise manner such that all expenditures, revenues, movement of monies, reallocation of funds and adjustments to the budget are detailed by project and line item (i.e. numerical reference and narrative

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

description). The Year-End Budget Report shall be submitted to the IC on or before October 31 each year. The IC may, at any time, request additional budget information, detail, documentation and updates. The Fiscal Agent shall respond promptly to all such requests.

F. Biennial Audit. The Fiscal Agent shall arrange for an audit by an independent third party Certified Public Accounting Firm (CPA) to be conducted every other year beginning with an audit of the 2013/14 fiscal year. The Fiscal Agent may utilize the CPA firm retained by the jurisdiction of which the Fiscal Agent is a part, to perform that PARTY's annual audit. In such event, the results of the audit of the Countywide Funds and accounts shall be clearly and separately called out in the CPA's audit report. The results of the audit shall be reported to the IC on or before January 15 every other year.

G. Evaluation of the Fiscal Agent. Each year, the Fiscal Agent shall prepare a self-evaluation, along with the Year-End Budget Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Fiscal Agent. The self-evaluation shall be submitted at the same time as the Year-End Budget Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Fiscal Agent based upon the ability of the Fiscal Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Fiscal Agent. This feedback will be used by the Fiscal Agent to make any required changes in operations and procedures and/or work tasks for the next fiscal year. In addition to the annual review of the Fiscal Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Fiscal Agent.

X. CONTRACTING AGENT

A. Duties. The Contracting Agent executes contracts with Outside Contractors, including the Administrator and the Fiscal Agent (where applicable) that have been requested and approved by the IC. The Contracting Agent consults with the IC to establish a procurement process for Outside Contractors, and then conducts that process once the IC has approved a scope of work, schedule, budget and other parameters of the contract that will be awarded by the Contracting Agent. The Contracting Agent shall conduct the procurement process and execute all contracts within a reasonable period of time after being directed to do so by the IC. The Contracting Agent shall provide a copy of any contract executed on behalf of the TAC to any PARTY, any TAC member, and to any PARTY or person designated by any PARTY or the IC upon request. The governing body of the Contracting Agent, at its discretion, may delegate authority to execute agreements and contracts approved by the IC to a designated employee. Notice of any such delegation of authority shall be provided in writing to the Chair of the IC and to the Administrator.

TAC MEMORANDUM OF AGREEMENT

In the event the Contracting Agent is not also the Fiscal Agent, the Contracting Agent shall receive Countywide Funds transferred to the Contracting Agent by the Fiscal Agent on a periodic basis as described in Attachment 5. The Contracting Agent shall manage all Countywide Funds in accordance with generally accepted government accounting procedures. The Contracting Agent shall keep Countywide Funds segregated from all other funds administered by the Contracting Agent in separately numbered and coded accounts that are readily identifiable as Countywide Funds, and shall not expend, use or transfer any funds except as specifically directed by the IC. At the close of the fiscal year, the Contracting Agent shall, pursuant to the procedures in Attachment 5, comply with all directions from the IC with regard to retention of funds for contracts with Outside Contractors that are still in effect, and with regard to return of unexpended or unencumbered funds to the Fiscal Agent. The Fiscal Agent shall work cooperatively and collaboratively with the IC, the Administrator, and the Contracting Agent.

B. Initial Contracting Agent. The initial Contracting Agent shall be the County of Santa Clara. The specific contact person shall be designated in writing to the Administrator and to the TAC Chair. In the event the IC determines there is a need for a change in the Contracting Agent in the future (due to costs, lack of availability of designated employees or for other reasons), or in the event the County is unable or unwilling to serve, the procedures for selection of a new Contracting Agent shall be the same as those for selection of a Fiscal Agent as described in Section IX C.

C. Payment For Services. The Contracting Agent shall provide the Administrator with proposed costs to perform the duties of TAC Contracting Agent for the upcoming fiscal year upon request. The proposed costs shall be at the level of detail described in Attachment 2. If the Contracting Agent is also serving as the Administrator, the Fiscal Agent, or both, the proposed costs to perform each function shall be separately specified. The proposed costs will be reviewed by the IC as part of review of the Annual Workplan and Budget. If there is a question or concern about the proposed costs, the Chair of the IC and the Administrator will meet with the Contracting Agent concerning the issues. Upon approval of the Annual Workplan and Budget by the IC and the Commission, the Administrator will prepare an agreement to be signed by the Contracting Agent and the Administrator to perform services for the new fiscal year. In the event that the Administrator and the Contracting Agent are the same PARTY, the agreement shall be signed by the designated employee of the PARTY serving as the Contracting Agent and the (separate) designated employee of the PARTY serving as the Administrator.

D. Annual Contract Status Report. The Contracting Agent shall prepare and submit an annual report to the IC on the status of all contracts (listing all contracts in progress, expired, terminated, and the amount of work and budget remaining in each) on or before October 31 each year. The report shall also note the amount of Countywide Funds held by the Contracting Agent, and specify the amount(s) of funds encumbered for contracts, and the amount(s) of funds that are unspent and unencumbered. The IC may, at any time, request additional information, detail, documentation and updates on any or all contracts. The Contracting Agent shall respond promptly to all such requests.

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

E. *Audits.* The Contracting Agent shall cooperate with and provide all information and documentation required in order to complete the bi-annual audit described in Section IX F. In the event the IC decides that any actions or activities of the Contracting Agent are not in compliance with this Agreement, or if the IC determines there are other reasons for an audit to be performed, the IC may perform an audit of the Countywide Funds received and expended by the Contracting Agent. In such event, the Contracting Agent shall cooperate fully, and in a timely manner, with persons performing the audit.

F. *Evaluation of the Contracting Agent.* Each year, the Contracting Agent shall prepare a self-evaluation, along with the Annual Contract Status Report, for submittal to the IC. The self-evaluation will include a description of key work tasks performed, any duties or tasks not completed, and any non-planned work tasks completed. The report will include recommendations and suggestions for improving the services of the Contracting Agent. The self-evaluation shall be submitted at the same time as the Annual Contract Status Report. The IC will review the report at a regular meeting and discuss any suggested or needed changes or improvements. The IC will rate the overall performance of the Contracting Agent based upon the ability of the Contracting Agent to perform its duties in a timely manner and in accordance with all requirements of this Agreement. The final recommendations and feedback of the IC will be recorded in the minutes and also in a letter from the IC Chair to the Contracting Agent. This feedback will be used by the Contracting Agent to make any required changes in operations and procedures for the next fiscal year. In addition to the annual review of the Contracting Agent, the IC may, at any time, discuss questions, concerns or issues of performance with the designated representative of the Contracting Agent.

XI. LEGAL COUNSEL

A. *Selection.* The IC may select an attorney or firm that is experienced in solid waste, recycling and municipal law to research legal issues, proposed legislation, and to provide legal advice to the TAC ("Legal Counsel") as provided for in the Commission-approved Annual Workplan and Budget. Legal Counsel may be a City Attorney or County Counsel (i.e. an employee of one of the PARTIES) or may be an outside attorney or law firm. The IC will interview and select Legal Counsel as needed, and direct the Contracting Agent to prepare a contract with Legal Counsel for the provision of legal services. The IC shall direct the work of Legal Counsel. The Administrator may assist in coordination of activities with Legal Counsel, but shall not give direction without prior authorization from the IC. Legal Counsel shall not be responsible for providing legal advice to individual PARTIES related to their individual compliance with Public Resources Code Section 40000 et. seq., but may provide such services under separate contract with any PARTY or PARTIES.

XII. OTHER AGREEMENTS OF THE PARTIES

A. *Term of Agreement.* The term of this Agreement shall commence on the date the last duly authorized representative of the PARTIES executes it. This Agreement shall remain in effect until terminated by the PARTIES or until eight (8) or more PARTIES containing more than fifty percent (50%) of the population of the incorporated and unincorporated areas of County of Santa Clara withdraw from the Agreement, whichever

TAC MEMORANDUM OF AGREEMENT

occurs first. A PARTY may withdraw from the Agreement by providing written notice to the Administrator, stating the effective date of the PARTY'S withdrawal. The withdrawal of a PARTY shall not entitle that PARTY to receive or retain any portion of the SWPF.

B. Ethical Code of Conduct. All TAC members and Alternates shall adhere to the Ethical Code of Conduct in Attachment 4. All TAC members and Alternates shall attend a TAC-sponsored ethics training every other year beginning in FY 2013/14. The Administrator shall arrange for this training and include the cost in the Annual Workplan and Budget for each year the training is required to be conducted.

C. Counterparts. This Agreement may be executed and delivered in any number of copies ("counterparts") by the PARTIES, including by means of facsimile and e-mail of PDF copies. When each PARTY has signed and delivered at least one counterpart to the Administrator, each counterpart shall be deemed an original, and taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the PARTIES hereto.

D. Non-Compliance With State and Federal Laws. No PARTY shall, by entering into this Agreement, participating in the TAC or the IC, or agreeing to serve as Administrator, Fiscal Agent, Contracting Agent, and/or Legal Counsel, assume or be deemed to assume responsibility for any other PARTY in complying with the requirements of state and federal solid waste and recycling laws, including but not limited to, the California Integrated Waste Management Act of 1989 as amended (Public Resources Code Section 40000 et seq). This Agreement is intended solely for the convenience and benefit of the PARTIES hereto and shall not be deemed for the benefit of any third party and may not be enforced by any third party, including, but not limited to, the United States Environmental Protection Agency and the California Department of Resources, Recycling and Recovery, or any person acting on their behalf or in their stead.

E. Indemnification. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the PARTIES pursuant to Government Code Section 895.6, the PARTIES agree that all losses or liabilities incurred by a PARTY, or by the Santa Clara Valley Water District in carrying out its duties under Section VI. Implementation Committee shall not be shared pro rata, but instead the PARTIES agree that pursuant to Government Code Section 895.4, each of the PARTIES hereto shall fully defend, indemnify and hold harmless each of the other PARTIES, and the Santa Clara Valley Water District in the carrying out of its duties under Section VI. Implementation Committee, from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying PARTY, its officers agents or employees, or in connection with or arising from any work, authority or jurisdiction delegated to such PARTY under this Agreement. No PARTY, nor any officer, board member, employee or agent thereof, shall be responsible for any damage or liability incurred by reason of the negligent acts or omissions or willful misconduct of the other PARTIES hereto, their officers, board members, employees or agents under or in connection with or arising from any work, authority or jurisdiction delegated to such

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

PARTY under this Agreement.

F. *Entire Agreement.* This Agreement supersedes any prior arrangement or agreement among the PARTIES regarding the composition, structure, duties and powers of the TAC including, but not limited to, the TAC Rules of Procedure dated May 22, 2006, but does not supersede any other agreements between any of the PARTIES.

G. *Amendments.* This Agreement may be amended by unanimous written agreement of the PARTIES. All PARTIES agree to bring any proposed amendments to this Agreement to their Council or Board, as applicable, within three (3) months following acceptance by the IC. The IC shall, on a biennial basis, evaluate this Agreement and determine if any amendments are needed. The first biennial evaluation shall be in 2015. The IC may recommend amendments on a more frequent basis if desired.

H. *Venue.* In the event that suit shall be brought by any PARTY to this Agreement, the PARTIES agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

I. *Attachments.* Attachments 1 through 5 are attached hereto and incorporated herein by this reference.

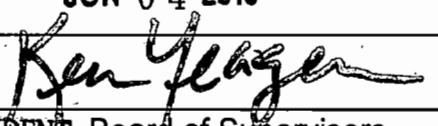
Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

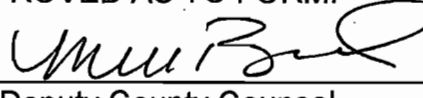
COUNTY OF SANTA CLARA, a public entity of the State of California

Date: JUN 04 2013

By: 
PRESIDENT Board of Supervisors

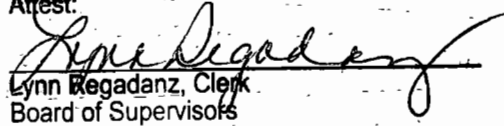
KEN YEAGER

APPROVED AS TO FORM:

By:  6/3/2013
Deputy County Counsel

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

Attest:


Lynn Regadanz, Clerk
Board of Supervisors

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

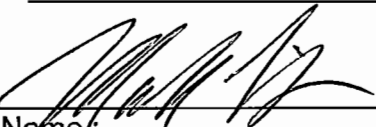
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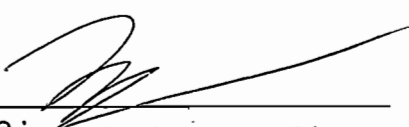
By: _____

CITY OF CAMPBELL

Date: July 17, 2013

APPROVED AS TO FORM:

By: 
Name: Mark Linder
Title: City Manager

By: 
Name: William R. Seligmann
Title: City Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name : _____
Title: _____

By: _____
Name : _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

CITY OF CAMPBELL

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Mark Linder

Name: _____

Title: City Manager

Title: City Attorney

CITY OF CUPERTINO

Date: 8/28/13

APPROVED AS TO FORM:

By: Carol Atwood forBy: Melissa Thonauer

Name: David Brandt

Name: Melissa Thonauer

Title: City Manager

Title: City Attorney

CITY OF GILROY

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Thomas Haglund

Name: _____

Title: City Administrator

Title: City Attorney

CITY OF LOS ALTOS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Marcia Somers

Name: _____

Title: City Manager

Title: _____

TOWN OF LOS ALTOS HILLS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Carl Cahill

Name: _____

Title: City Manager

Title: Town Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF CAMPBELL

Date: _____

By: _____

Name: Mark Linder

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF CUPERTINO

Date: _____

By: _____

Name: David Brandt

Title: City Manager

APPROVED AS TO FORM:

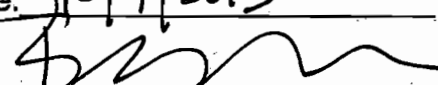
By: _____

Name: _____

Title: City Attorney

CITY OF GILROY

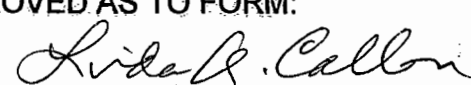
Date: 10/7/2013

By: 

Name: Thomas Haglund

Title: City Administrator

APPROVED AS TO FORM:

By: 

Name: LINDA A. CALLON

Title: City Attorney

ATTEST:

CITY OF LOS ALTOS

Date: _____

By: _____

Name: Marcia Somers

Title: City Manager

City Clerk

APPROVED AS TO FORM:

By: _____

Name: _____

Title: _____

TOWN OF LOS ALTOS HILLS

Date: _____

By: _____

Name: Carl Cahill

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: Town Attorney

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

Date: _____

By: _____

CITY OF LOS ANGELES

Date: 7-9-13

APPROVED AS TO FORM:

By: Marcia Somers
Name: MARCIA SOMERS
Title: CITY MANAGER

By: Jolie Houston
Name: Jolie Houston
Title: City Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

Date: _____

By: _____

CITY OF LOS ALTOS HILLS

Date: 10/14/2013

APPROVED AS TO FORM:

By: Carl Cahill
Name: Carl Cahill
Title: City Manager

By: Steve Mattas
Name: Steve Mattas
Title: City Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name : _____
Title: _____

By: _____
Name : _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

COUNTY OF SANTA CLARA, a public entity of the State of California

Date: _____ APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
Deputy County Counsel

ATTEST:

Date: _____

By: _____

~~TOWN~~
CITY OF LOS GATOS

Date: 7/1/17

APPROVED AS TO FORM:

By: [Signature]
Name: Gary Larson
Title: Town Manager

By: [Signature]
Name: Judith J. Propp
Title: Town Attorney

CITY OF _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TAC MEMORANDUM OF AGREEMENT

Title: City Manager

Title: Town Attorney

TOWN OF LOS GATOS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Greg Larson

Name: _____

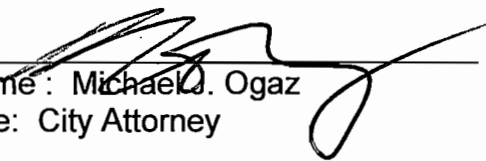
Title: Town Manager

Title: Town Attorney

CITY OF MILPITAS

Date: 9/11/13

APPROVED AS TO FORM:

By: By: 

Name: Tom Williams

Name: Michael J. Ogaz

Title: City Manager

Title: City Attorney

CITY OF MONTE SERENO

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Brian Loventhal

Name: _____

Title: City Manager

Title: _____

CITY OF MORGAN HILL

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Steve Rymer

Name: _____

Title: City Manager

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

TOWN OF LOS GATOS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Greg Larson

Name: _____

Title: Town Manager

Title: Town Attorney

CITY OF MILPITAS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Tom Williams

Name: Michael J. Ogaz

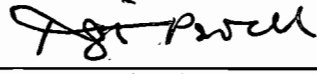
Title: City Manager

Title: City Attorney

CITY OF MONTE SERENO

Date: 7/19/13

APPROVED AS TO FORM:

By: By: 

Name: Brian Loventhal

Name: Kirsten Powell

Title: City Manager

Title: City Attorney

CITY OF MORGAN HILL

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Steve Rymer

Name: _____

Title: City Manager

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

TOWN OF LOS GATOS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Greg Larson

Name: _____

Title: Town Manager

Title: Town Attorney

CITY OF MILPITAS

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Tom Williams

Name: Michael J. Ogaz

Title: City Manager

Title: City Attorney

CITY OF MONTE SERENO

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Name: Brian Loventhal

Name: _____

Title: City Manager

Title: _____

CITY OF MORGAN HILL

Date: 10/1/13

APPROVED AS TO FORM:

By: SKBy: [Signature]

Name: Steve Rymer

Name: Rene Guzman

Title: City Manager

Title: City Attorney

for Resolution NO. 6638

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: 7-24-13By: Daniel H. Rich
Name: Daniel H. Rich
Title: City Manager

APPROVED AS TO FORM:

By: Jannie L. Quinn
Name: Jannie L. Quinn
Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____
Name: James Keene
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____
Name: Norberto Dueñas
Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____
Name: Rosa Tsongtaatarii
Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____
Name: Julio J. Fuentes
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: Richard E. Nosky, Jr.
Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____
Name: Dave Anderson
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: Richard Taylor
Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name : Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: 7.31.13By: [Signature]

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: [Signature]Name: Cara Silver

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name : Rosa Tsongtaarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

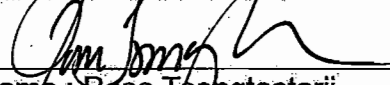
CITY OF SAN JOSE

Date: 8/1/13By: 

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: 

Name: Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

5/6/13

21

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name: Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: 9-11-13

By: _____

Name: Julio J. Fuentes

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

CITY OF SARATOGA

Date: _____

By: _____

Name: Dave Anderson

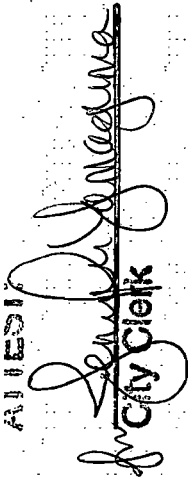
Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Richard Taylor

Title: City Attorney

AYES:

 Jannie L. Quinn
 City Clerk

TAC MEMORANDUM OF AGREEMENT

CITY OF MOUNTAIN VIEW

Date: _____

By: _____

Name: Daniel H. Rich

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Jannie L. Quinn

Title: City Attorney

CITY OF PALO ALTO

Date: _____

By: _____

Name: James Keene

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: _____

Title: City Attorney

CITY OF SAN JOSE

Date: _____

By: _____

Name: Norberto Dueñas

Title: Deputy City Manager

APPROVED AS TO FORM:

By: _____

Name: Rosa Tsongtaatarii

Title: Senior Deputy City Attorney

CITY OF SANTA CLARA

Date: _____

By: _____

Name: Julio J. Fuentes

Title: City Manager

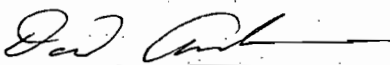
APPROVED AS TO FORM:

By: _____

Name: Richard E. Nosky, Jr.

Title: City Attorney

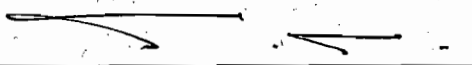
CITY OF SARATOGA

Date: 7-25-2013By: 

Name: Dave Anderson

Title: City Manager

APPROVED AS TO FORM:

By: 

Name: Richard Taylor

Title: City Attorney

TAC MEMORANDUM OF AGREEMENT

CITY OF SUNNYVALE

Date: 7/22/13

APPROVED AS TO FORM:

By: [Signature]

Name: Gary M. Luebbers

Title: City Manager

By: [Signature]

Name: Joan A. Borger

Title:

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

ATTACHMENT 1

INITIAL STAFFING OF ADMINISTRATOR

The following is the initial staff complement for the Administrator:

Staff Person	% FTE Committed To Administrator Duties	% FTE Committed To County Unincorporated Duties
Elizabeth Constantino, Program Manager II Provides oversight of all Annual Workplan tasks and all functions of the Administrator.	0.82 FTE	0.18 FTE
Lisa Rose, Senior Management Analyst Coordinates the Green Business Program, serves as staff to the Commission, and performs various other duties.	0.87 FTE	0.13 FTE
Clifton Chew, Management Analyst Serves as staff to the TAC, prepares state reporting and DRS, and performs various other duties.	0.80 FTE	0.20 FTE
Zachary DeVine, Management Analyst Contracts monitoring, budget tracking, Outreach Specialist, and various other duties.	0.67 FTE	0.33 FTE
Sue Sherrin, Associate Management Analyst B, Green Business Specialist	0.98 FTE	0.02 FTE
Sarah Smith, Management Analyst Home Composting Education Program Coordinator	1.0 FTE	0.00 FTE
Joanne Chapa, Office Specialist III	0.94 FTE	0.06 FTE

TAC MEMORANDUM OF AGREEMENT

ATTACHMENT 2

SELECTION PROCESS FOR THE ADMINISTRATOR

1. **Selection.** The IC shall select a PARTY or an Outside Contractor to serve as the Administrator for the TAC. As part of the selection process, the potential candidate(s) shall submit a proposal to the IC for providing Administrator services. The proposal shall include: a detailed scope of work for the upcoming fiscal year, detailed costs and work hours for the completion of each task, and a list of the employees proposed to perform each part of the Annual Workplan, as well as the administrative and management duties of the Administrator. The proposal shall also include a resume and description of the education, experience and expertise of each proposed staff member highlighting experience in solid waste management, recycling, diversion programs, producer responsibility, public education and outreach, legislative analysis, budgeting, public sector management, administration and policy development. It is of great importance that each member of the Administrator staff possess a high level of experience and expertise in the listed areas. The proposal shall designate the duties and activities to be carried out by each employee. The IC will review the proposal(s) and conduct interview(s) with the potential Administrator(s). The IC will select an Administrator and recommend approval to the Commission.
2. **Change in Administrator Staff.** In the event any member of the Administrator's staff is unable or unavailable to serve in the capacity indicated in the original proposal, the IC shall work with the Administrator to determine if an acceptable alternate staff member is available. This shall include, if desired by the IC, having representatives from the IC participate in the selection process for the alternate staff person; review the resumes, references and writing samples of proposed candidates; attend and participate in interviews; and provide input to the decision-making process for selection of the proposed alternate staff member. If the proposed alternate staff person is not acceptable to the IC, and the IC determines that the employee who is unavailable is a key employee, the IC may give written notice to the Administrator that the TAC will seek another Administrator, and the IC may recommend to the Commission that the selection process for a new Administrator be commenced. Upon receipt of Commission approval, the IC will begin that process. The Administrator shall serve until such time as either a replacement Administrator is selected and approved by the Commission, or (if the Administrator is not a PARTY) until the current contract for the services of the Administrator expires, whichever occurs first. In the IC's sole discretion, the services of the Administrator may be terminated prior to the selection of a new Administrator. In the event the Administrator is not a PARTY, an early termination clause shall be placed in the contract with the Administrator for use by the IC in the event a key staff person becomes unavailable.
3. **Key Employee.** A "key employee" includes, but is not limited to, any one of the following:
 - a. An employee who is performing twenty percent (20%) or more of the work hours in the Annual Workplan.

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

- b. An employee whose work tasks require a high level of technical expertise and experience in recycling, solid and/or hazardous waste management programs and practices.
- c. An employee whose work tasks require a high level of professional judgment that is the product of numerous years of experience in recycling, solid and hazardous waste management, and/or in work for public agencies.
- d. An employee whose work tasks involve a high level of interaction with the public (e.g. in trainings, liaison with businesses or non-profit organizations, etc.).
- e. An employee whose work tasks involve presentations or testimony to public agencies (e.g. City Councils, the Board of Supervisors) and/or community organizations (e.g. service organizations, community groups, homeowner's associations, etc.).

ATTACHMENT 3

ELEMENTS TO BE CONTAINED IN THE ANNUAL WORKPLAN AND BUDGET

1. **Scope of Work.** The proposed Annual Workplan and Budget will contain a detailed scope of work for each proposed task, the employee work hours estimated to complete each task, the name(s) of the specific employees that will perform the work for each task, the cost of the work hours for each task, all proposed overhead costs for the Administrator and all other projected costs. If the Administrator is a public agency, the costs may be shown as a percentage of each Full Time Equivalent (FTE) and the cost therefore, as long as the position (such as 'Analyst I') and the name of the employee filling that position are indicated, along with the fully burdened cost of the specified percentage of each FTE. The proposed Annual Workplan shall contain a list of key milestones for each task.
2. **Administrative Tasks.** The Workplan shall include a task for providing administrative support for the TAC including work hours to prepare meeting agendas, to schedule meetings, attend meetings, prepare minutes and correspondence, and carry out the direction of the TAC and all Committees and Subcommittees. The Workplan shall also include a separate task for providing administrative support to the Commission including work hours to prepare agendas, attend Commission meetings, prepare minutes, and carry out the direction of the Commission, its Committees and Subcommittees.
3. **Other Staff Commitments.** The proposed Workplan will contain a listing of the other duties and responsibilities of each assigned employee (other than the work to be performed as Administrator for the TAC and the Commission) including the work hours and a general description of the key tasks and projects to be performed. This will serve as a cross-check (regardless of whether the Administrator is a public agency or a private firm) to ensure that the time of each employee is not overcommitted, and that sufficient time exists for each employee to complete all their assigned tasks.
4. **Fiscal Agent and Contracting Agent Costs.** The Administrator shall consult with the Fiscal Agent and with the Contracting Agent (in the event they are separate PARTIES) and shall incorporate the proposed costs for the services of each into the proposed Workplan and Budget. Such costs shall be clearly and separately identified for each function (and identified separately from those of the Administrator) and shall include the costs for employee time, expenses (such as bank fees), overhead charges and all other proposed costs.
5. **Cost Detail For Comparison.** The budget shall be formatted in a clear and concise manner such that all projected expenditures and revenues are detailed by project and line item. The proposed Workplan and Budget shall contain sufficient detail about proposed work hours and costs such that a comparison can be made between the proposed costs for the current Administrator, the current Fiscal Agent and the current

TAC MEMORANDUM OF AGREEMENT

Contracting Agent, and other potential providers of these services.

6. Projected Amount of Fund Transfer From Fiscal Agent to Contracting Agent. In the event the Fiscal Agent and the Contracting Agent are different PARTIES, the budget shall include the projected amount of funds to be transferred from the Fiscal Agent to the Contracting Agent in order to pay for contracts with Outside Contractors that will be awarded by the Contracting Agent in the upcoming year. Such projections shall take into account all funds currently held by the Contracting Agent (if any) and the amount of such funds already encumbered for contracts in progress. The projection shall be accompanied by a recommendation as to the frequency of fund transfers from the Fiscal Agent to the Contracting Agent that will be required to fund contracts awarded by the Contracting Agent for the upcoming year (e.g. annual one-time transfer of funds quarterly transfer of funds, or other recommended timing.)

7. Discussion Concerning Potential Conflicts. Once the initial draft of the proposed Annual Workplan is prepared, the IC Chair, the Administrator, the Fiscal Agent and the Contracting Agent shall meet to review and discuss the Workplan and shall work cooperatively to identify and address any potential conflicts that could arise with regard to policies of the Administrator, the Fiscal Agent or the Contracting Agent. Examples include proposed sale of recycling containers or other goods at less than the purchase price (i.e. subsidized cost of compost bins for the home composting program); provision of recycling grants, prizes, incentives; and other such items. At the direction of the IC Chair, the Administrator shall further investigate any potential conflicts that have been identified, and shall, in consultation with the Fiscal Agent and the Contracting Agent research and propose solutions for each. If solutions cannot be found, the issue may be presented to the IC for further consideration and/or the IC Chair may direct the Administrator to revise the Workplan and Budget to remove the items creating the potential conflict. In this event the IC Chair will inform the IC of such action when the Annual Workplan and Budget are considered for approval.

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

TAC MEMORANDUM OF AGREEMENT

ATTACHMENT 4

CODE OF ETHICAL CONDUCT

1. Members shall strive to conduct all meetings, discussions and deliberations in a spirit of collaboration and partnership. Members shall treat all persons with respect and courtesy. In the course of discussions, members shall make their arguments on the merits of the issue rather than engaging in personal remarks or attacks on persons holding positions other than their own.
2. All members shall remain aware that the activities of the TAC are funded by fees raised from the public; and that the TAC is recommending expenditures of public funds. Members shall act prudently and in the best interest of the public when making fiscal and policy decisions.
3. Members shall voluntarily recuse themselves from all discussions and votes, and shall refrain from expressing any opinion to other members on issues where any one of the following apply:
 - a. The member holds a financial interest such that the member could financially benefit from the action or issue being considered.
 - b. The member is an owner or investor of a business the TAC is considering doing business with.
 - c. The member owns land that is being considered for purchase or lease by the TAC or by any program funded by the TAC.
 - d. A charity, community group or non-governmental organization to which the member belongs or contributes funds would receive funds from the TAC for projects or services.
 - e. A person in the member's family could benefit financially from the action or issue being considered. Family includes the members' spouse, children, step-children, grandchildren and step-grandchildren, as well as siblings and parents of the member and the member's spouse.
4. A member recusing themselves shall mean (a) announcing the member has a conflict of interest when the item is opened for discussion, (b) leaving the meeting room before discussion on the matter commences, and (c) not returning to the room until after discussion and any vote on the matter is concluded.
5. Members shall periodically conduct a self-assessment and inventory of any potential conflicts of interest they may have and, if the member is unsure whether or not a conflict exists, the member shall discuss the issue with the TAC Chair, the Administrator, TAC Legal Counsel or legal counsel for the member's own agency.
6. In the event a member fails to recuse him or her self during discussion of an issue where the member appears to have a conflict of interest, the Chair of the meeting shall ask the member to recuse him or her self and shall halt discussion about the issue until the member has left the room.
7. Members shall not engage in financial transactions using non-public information nor allow the improper use of such information to further any personal or private interest.

TAC MEMORANDUM OF AGREEMENT

8. Members shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the TAC, or whose interests may be substantially affected by actions of the TAC. Gifts do not include coffee, tea, donuts, discounts available to the general public, greeting cards or plaques of minor intrinsic value. It is appropriate and prudent for members to decline even items of minor intrinsic value from sources described in this section.
9. Members shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the TAC to take any type of action or to approve any contract, program or other commitment.
10. Members shall not use their membership on the TAC for private gain.
11. Members shall always act impartially and objectively and not give preferential treatment to any organization or individual.
12. Members shall not seek or accept any contract to provide services to the TAC for a period of at least six (6) months after termination of their membership on the TAC.
13. Members shall adhere to, and be vigilant that the TAC adheres to, all applicable state, federal and local laws and regulations.
14. All members shall participate in a TAC-sponsored Ethics Training biennially.
15. Members shall endeavor to avoid any actions or statements that violate, or that create the appearance that they are violating, the law or any ethical standards set forth in this Attachment.

TAC MEMORANDUM OF AGREEMENT

ATTACHMENT 5

PROCEDURES FOR TRANSFER OF COUNTYWIDE FUNDS FROM FISCAL AGENT TO CONTRACTING AGENT

The following procedures shall be used in the event the Fiscal Agent and the Contracting Agent are different PARTIES.

1. As part of its review and approval of the Annual Workplan and Budget, the IC shall establish the amount of funds and the schedule for transfer of funds from the Fiscal Agent to the Contracting Agent for the upcoming fiscal year.
2. Upon approval of the Annual Workplan and Budget by the Commission, the IC may take appropriate actions consistent with the Annual Workplan and Budget, including but not limited to, the following:
 - A. Direct the Fiscal Agent to transfer specific amount(s) of Countywide Funds to the Contracting Agent on a specified schedule. The schedule may call for annual, quarterly, or more frequent transfers, as needed for the fiscal year.
 - B. Adjust the timing and/or the amount(s) of funds to be transferred by the Fiscal Agent to the Contracting agent if circumstances change during the year, or if there are other reasons to do so.
 - C. In the event the IC directs a change in the scope of work for an existing Outside Contractor that will increase the cost of the work, the IC may direct the Fiscal Agent to transfer additional funds to the Contracting Agent to pay for the amended scope of work.
3. In the event the Fiscal Agent is also serving as the Administrator, the IC shall direct the Fiscal Agent to transfer funds to the Contracting Agent for payment of the Administrator. The Contracting Agent shall pay the Administrator pursuant to the contract executed between the Contracting Agent and the Administrator.
4. If a single PARTY is serving as the Fiscal Agent and the Contracting Agent, the IC may direct that PARTY to retain a specified amount of Countywide Funds to pay the PARTY for performing the services of Fiscal Agent and Contracting Agent.
5. In the event a single PARTY is serving as the Fiscal Agent, the Administrator and the Contracting Agent, the IC will direct the PARTY to implement the Annual Workplan and Budget as approved by the IC and the Commission. This includes paying the costs specified in the approved Budget for the PARTY performing the duties of the Administrator, the Fiscal Agent and the Contracting Agent, as well as carrying out the duties of each.
6. If the Contracting Agent is, at any time, running out of funds or projects a shortfall in funds due to changed conditions or circumstances, the Contracting Agent shall immediately inform the IC and the Fiscal Agent and proceed according to the directions of the IC.
7. When making transfers of funds to the Contracting Agent, the Fiscal Agent shall make the required arrangements for an electronic transfer of funds or for preparation of a check made payable to the Contracting Agent.
8. If the Contracting Agent does not receive funds from the Fiscal Agent pursuant to the schedule directed by the IC, the Contracting Agent shall promptly inform the Fiscal Agent and the Fiscal Agent shall promptly arrange for the funds to be transferred.

TAC MEMORANDUM OF AGREEMENT

9. At the end of the fiscal year, the IC will review the Year End Contract Status Report from the Contracting Agent, the Year-End Budget Report from the Fiscal Agent, and the Year-End Report from the Administrator. The IC may direct the Contracting Agent to transfer unspent, unencumbered funds to the Fiscal Agent or to retain such funds for use in the following fiscal year. The Contracting Agent will promptly comply with the directions of the IC.

10. If the IC directs the Contracting Agent to transfer unspent funds to the Fiscal Agent, the Fiscal Agent shall acknowledge receipt of such funds to the Contracting Agent and shall note the transfer in the accounting records of the Fiscal Agent pursuant to generally accepted government accounting procedures.

County of Santa Clara

Department of Agriculture and Environmental Management
Recycling and Waste Reduction Division

1555 Berger Drive Suite 300
San Jose, CA 95112
(408) 282-3180
Fax (408) 282-3188



<http://www.ReduceWaste.org>

DATE: September 2, 2014
TO: Clerk of the Board
FROM: Lisa Rose 
RE: Memorandum of Agreement

Attached are the original, signed copies of the Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, signed by each Party to the Agreement. Please forward an executed copy to me (electronically) and I will distribute to each of the cities. Please contact me at 408-282-3166 or lisa.rose@aem.sccgov.org if you have any questions.

Attachment: Attachment 1: Executed Countywide MOA (3004 : Countywide Solid Waste Services)

Revised Proposal to provide Contracting Agent and TAC Administrator Services (December 2, 2020)

Background

The City of Morgan Hill proposes to become the Contracting Agent (Agent) and Technical Advisory Committee Administrator (Administrator) as defined in the Agreement Creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee (Agreement). While it may seem unusual for a city to propose to take on countywide duties, the City of Morgan Hill has found that it can leverage its existing investments in equipment, software, buildings, and personnel to efficiently and effectively provide services to other agencies. The City currently provides environmental management services to the City of Gilroy and provides meeting clerk services to the Santa Clara Valley Habitat Agency. The Community Services Department, which currently supports two City Commissions, is the proposed administrative home for these services as the City of Morgan Hill department with both the technical background and Brown Act experience needed to successfully serve as Agent and Administrator.

Revision Notes

The City received comments in November on its original proposal and has prepared this proposal in response. This proposal differs from the November proposal primarily in the following ways:

- Includes table (Attachment 1) directly responding to comments received
- Increases Management Analyst's time allocated from .05 FTE to .25 FTE and the associated budget
- Includes sample of "Action Minutes"
- Addresses IC and TAC's role in recruitment and governance

General Approach and Staff

The City proposes to support the Technical Advisory Committee (TAC) and the Implementation Committee (IC) in a similar manner as the County has used while successfully serving in these roles for the past decade. Program staff will be present at every noticed meeting to present the agenda, take notes, and administratively support and record the meeting. Policy guidance will come from the Commission, IC, TAC, and the Subcommittees - not from City management. The major difference will be the presence of a single staffperson, with no duties outside of their role as Agent and Administrator, to perform much of the work. By having a staffperson dedicated solely to countywide programs, it is

anticipated that much of the work presently done by city representatives, e.g., drafting scopes of work for contracts and providing direction to contractors, will now be led and completed by program staff. As the vast majority of the countywide work conducted is done via contracts, the dedicated staffperson's role will function as part of the Contracting Agent team.

This dedicated staffperson, an Environmental Services Manager who will be new to the City of Morgan Hill Team, will have solid waste experience and a background in public agency support. They will be completely uninvolved in the solid waste programs of the cities of Morgan Hill and Gilroy. The IC will have the opportunity to be involved in finalizing the job description, interviewing the candidates, and making recommendations to the hiring manager. These countywide bodies will essentially function as the Manager's "customer" in this service agreement.

If the City is also chosen to serve as the Administrator, small percentages of three additional staffmembers will be added to the effort. They will complete some of the Administrator tasks as well as take on some of the Agent tasks in order to provide time for the Environmental Services Manager to complete some Administrator tasks. These three positions include a Management Analyst to perform some of the administrative work relating to procurements and to generally support the Manager; a Council Services Assistant to assist with Commission administration, Brown Act compliance, and logistics; and a Community Services Supervisor (subject matter expert) to staff the Public Education Subcommittee and lead contracts in the public education area.

The Agreement states that the Annual Workplan for a TAC Administrator should address the commitments that existing staff have in order to ensure that the time of each employee is not overcommitted. As stated above, the Environmental Services Manager will have no other work commitments and will be 100% dedicated to countywide efforts. As for the other positions, the additional assignments will be accommodated into their work schedules as follows:

- Management Analyst: Currently works 75% time. Adding these activities would bring her up to 100% time;
- Community Services Supervisor: Additional work activities will be accommodated by hiring additional part-time staff to address some of her existing work promoting the City's recreational programs;
- Council Services Assistant: Additional work activities will be accommodated by making overtime hours available as needed and shifting some of her assignments to a coworker as needed;
- Program Administrator and Public Services Director: Management staff that will work additional hours to ensure that countywide programs are properly managed and that the City's top executive and Council are fully informed and supportive of the work assignment.

The resumes for key staff are included as Attachment 3 as well as the draft job description for the Environmental Services Manager.

Scope of Work

Contracting Agent

Goal: Support the overall goals and missions of the RWRC, TAC, IC, and TAC Subcommittees in addressing solid waste management through the successful execution of contracts and agreements.

Objective 1: To engage in the policy work of TAC, IC, and TAC Subcommittees in order to fully anticipate and comprehend the work needed to be achieved by contractors.

Task 1-1: Attend all meetings of TAC, IC, and TAC Subcommittees

Task 1-2: Conduct research in order to stay abreast of trends and changes in the field of solid waste management

Objective 2: To complete procurements for services and supplies required.

Task 2-1: Draft requests for proposals for projects approved by the TAC, IC, and/or TAC Subcommittees and solicit comments

Task 2-2: Develop final requests for proposals based on the comments received

Task 2-3: Solicit proposals from individuals and firms likely to be potentially interested in the identified project

Task 2-4: Recruit an evaluation subcommittee and conduct interviews, if desired

Task 2-5: Make final recommendations to TAC, IC, and/or TAC Subcommittee

Task 2-6: Finalize contract and complete City administrative steps to execute agreements

Objective 3: To administer and report on executed contracts.

Task 3-1: Establish reporting and check-in schedule with selected contractors

Task 3-2: Engage selected contractors appropriately to ensure the project is being completed in a timely manner and within budget

Task 3-3: Provide periodic reports (monthly or less often depending on the project and the desire of the TAC Subcommittee) to the relevant TAC Subcommittee and ensure that TAC Subcommittee input is incorporated and reflected in the work completed by the contractor

Task 3-4: Oversee development of final work products for each project

Objective 4: To report on accomplishments

Task 4-1: Prepare monthly report(s) on status of all projects for TAC agenda packet

Task 4-2: Prepare annual report summarizing accomplishments for the year

TAC Administrator

Goal: Support the overall goals and missions of the RWRC, TAC, IC, and TAC Subcommittees in addressing solid waste management through the provision of meeting clerk and organizational management services.

Objective 1: To manage committee rosters for TAC, IC, and all TAC subcommittees

Task 1-1: Annually solicit and record membership designations from the County and all cities

Task 1-2: Biennially solicit requests and nominations for non-governmental appointees to the TAC and prepare a summary report for the RWRC

Task 1-3: Maintain a separate, broader list of interested parties for TAC communications

Objective 2: To prepare and distribute meeting agendas and minutes

Task 2-1: Prepare draft meeting agendas for TAC, IC, and TAC Subcommittees and incorporate comments provided by the relevant committee's chairperson

Task 2-2: Distribute agendas to the relevant mailing lists and post agendas in compliance with the Brown Act

Task 2-3: Prepare action minutes and make corrections as needed based on input provided by committee members

Objective 3: To provide logistical support, as needed, for TAC, IC, and TAC Subcommittees

Task 3-1: Ensure meeting locations are secured and that Brown Act compliance is supported by the location

Task 3-2: Ensure that a computer, projector, remote meeting software, and recording equipment are in place, as needed, for each meeting

Task 3-3: Address other reasonable logistical concerns as they arise

Objective 4: To prepare an annual workplan and budget

Task 4-1: Develop a draft workplan and budget based on the needs identified during the year

Task 4-2: Prepare a final workplan and budget based on direction received from the IC

Task 4-3: Present the recommended workplan and budget to the RWRC for adoption

Objective 5: To provide administrative support for the RWRC

Task 5-1: Monitor and administer RWRC membership and solicit new members, as needed, from the relevant appointing body

Task 5-2: Prepare draft meeting agendas for the RWRC, incorporating comments provided by the RWRC chairperson

Task 5-3: Prepare staff reports for the RWRC based on the work of TAC, IC, and TAC subcommittees

Task 5-4: Distribute agendas to the relevant mailing lists and post agendas in compliance with the Brown Act

Task 5-5: Prepare action minutes and make corrections as needed based on input provided by the RWRC

Note: The Agreement indicates that the Scope of Work should include information including the hours allocated per task, staff assigned to the task, and the cost per task. The City would be happy to provide this level of detail once it is determined that the City is likely to be selected as the Agent and whether or not the City is likely to be selected as the Administrator as well. This is the result of the shift in staffing that is planned if both roles are engaged. The Agreement also reflects that Key Milestones are to be noted in the Scope of Work. The City believes that this requirement is more suited for project work and isn't applicable to work proposed here.

Assumptions

- **Fund Transfer:** As indicated in Attachment 5 of the Agreement, the IC establishes the amount and schedule of fund transfers from the Fiscal Agent to the Contracting Agent. This proposal assumes that all fee revenues received are transferred quarterly from the Fiscal Agent to the Contracting Agent. This proposal does not include the preparation of invoices and documentation to the Fiscal Agent in order to receive reimbursement. Naturally, accounting statements and budget updates will be provided at every IC meeting as desired.
- **Action Minutes:** Creating summary minutes, as is done now, is both time consuming and unnecessary if recordings of the meetings are made available. This proposal assumes that action minutes, as are used by many jurisdictions, will be the only minutes prepared in the future.
- **No Meeting Space Costs:** This proposal assumes that meeting rooms, if needed, will continue to be available without cost from member jurisdictions. This would include reasonable access and Brown Act agenda postings as needed. Given the work assignments faced by all jurisdictions and the efficiencies of remote meetings, the City of Morgan Hill prefers to rely on remote meetings to conduct the majority of the TAC and IC's business. Whether meetings are held in-person or remotely, however, is a decision to be made by the IC, TAC, or the group meeting. This proposal includes support for either in-person or remote meetings.
- **Five-Year Initial Term:** A five-year initial term is anticipated with the intention of re-evaluating the service relationship at the end of the third year in order to best plan for refinements or transitions. Regardless, it is recognized that discussions on service refinements and amendments can occur at any time and should be done iteratively during the preparation of the annual budget.
- **One-year Notice for Termination:** Since the City will be hiring an additional staffperson for this work, a one-year notice of intent to terminate without cause is included.

- Start May 1, 2021: In order to properly ramp up services to being on July 1, 2021, this proposal envisions a service start date of May 1, 2021 in order to onboard the new teammate.
- Annual escalation of 3%.

Budget

Revised Proposed Budget - December 2, 2020				
<i>Contracting Agent</i>				
	Staff Services	% FTE	Fully Burdened Hourly Rate	Total
	Environmental Services Manager	1	\$111.04	\$230,971.21
	Program Administrator	0.05	\$151.60	\$15,766.78
	Public Services Director	0.01	\$170.24	\$3,540.98
	Supplies and Services			
	Office Space			\$2,400.00
	Phone, Computer, Etc.			\$10,000.00
	Total			\$262,678.97
<i>TAC Administrator</i>				
	Staff Services	% FTE	Fully Burdened Hourly Rate	Total
	Management Analyst	0.25	\$84.50	\$43,941.32
	Community Services Supervisor	0.05	\$97.88	\$10,179.52
	Council Services Assistant	0.05	\$76.57	\$7,963.63
	Supplies and Services			
	Office Space			\$0.00
	Phone, Computer, Etc.			\$0.00
	Total			\$62,084.47

Attachment 1

Table of Responses to Comments

	Item	Response
<i>Strengths</i>		
1	Action minutes have benefits – how do we decide how long to hold recordings for?	Agree - recordings can be kept on-line for a minimum of three years
2	Overhead is limited compared to the County, and streamlined costs are beneficial	Agree and the City looks forward to collaboratively applying the conserved dollars on more-impactful diversion programs
3	A Leveraged benefit is received from one agency providing Contracting Agent and Administrator – economies of scale – cost efficiencies	Agree
<i>Opportunities</i>		
4	Can some web content move to the Recycle stuff site?	The City will set up a dedicated web page for Countywide activities and, assuming the County transfers ownership of it, have ReduceWaste.Org go directly to this site. The dedicated page will be similar to the existing site and, as it does now, will feature key links to related sites.
5	Review benefit of in person meetings – Proposal should include a schedule or considerations for both sub-committee and TAC meetings considering COVID guidelines – how many in person meetings should be planned when those meetings are possible?	The City believes that the Commission, each committee, and each subcommittee should determine whether in-person meetings, hybrid meetings, or remote meetings are most productive and appropriate. While the City's proposal indicates a preference for remote meetings due to their efficiency, the proposal does not limit the number of in-person meetings the City will support beyond the normal limits of meeting frequency, i.e., the proposal assumes that the existing normal (pre-COVID) meeting schedule will not significantly increase and is prepared to support all of the normal meetings in-person.
6	Members want networking and other benefits of some in person meetings. This may require cost increases to increase the number of in-person meeting.	Please refer to the response to #5.

7	Proposal for action minutes should include a brief written summary of the meeting highlights to avoid need for listening to whole meeting if not needed	Action minutes do provide a summary of the important decisions made during the meeting but do not summarize “who said what” and do not summarize comments in general unless the comments are reflected in the final action or lead to requested follow-up activities by staff. There is typically little or no reason to refer to meeting recordings. Attachment 2 is a recent set of action minutes that model what the proposed product would look like.
8	Will the new approval process be longer? Compare County thresholds and consent process to Gilroy/MH for contract approval and account for that in staff needs, etc. Is there a work around as the money is not City money? Consider this in proposal. Simpler process may net out with any Council approval needed	While the City’s threshold is lower than the County’s, the City’s administrative processes are substantially streamlined and the net result is expected to be procurements that can be concluded faster than typically experienced in the County – even considering City Council approval. Regardless, the City believes that the suggestion to have these procurements approved administratively without Council review has merit, since the funding is not the City’s, and will propose this method when bringing this core agreement to the City Council.
<i>Weaknesses</i>		
9	No consideration for web continuity for the Reduce Waste content, which members would like to maintain as a branded source– Proposal should include web hosting and cost for that service. County mentioned that ReduceWaste.org content and name would need to be transferred.	Agree. Please refer to the response to #4.
10	ESS and other staff members seem to be overextended at the % proposed – Proposal should flesh out a deeper staffing plan for contingency/flexibility	Largely agree. The revised proposal now increases the Management Analyst position to .25 FTE which will enable her to more broadly support the Environmental Services Manager, be more conversant on the broad range of related issues, and be available to backfill the Manager during vacations, illness, etc. This increase effectively adds an additional 400 hours to the team.
11	Staffing time seems light – plan should be more detailed including a potential increase in staff time. Consider the impact of non-direct reporting relationships that are included in the proposal	As indicated in the response to #10, the dedicated staff time has been increased. The non-direct reporting relationships will not generate a substantial impact as the City has a strong team work ethic and environment.

12	Proposal should clarify how IC provides input/ approval over hiring for positions per the MOU	While the City must maintain the final say in the hiring process, the City absolutely envisions a dedicated panel of IC members being involved in the hiring process and is open to considering other thoughts on how to best involve the IC in the process.
13	Online meetings not as productive – distractions, no networking	Please refer to the response to #5.
14	Concern over a disadvantage to multiple staff members who would be attending different meetings – lose some of the economy of scale – Consider fewer staff members with more tasks	Largely disagree with this concern. The proposal envisions the Council Services Assistant attending RWRC and TAC, in addition to the Manager, in order to provide a higher level of preparation and support at these meetings. It seems like having two staffmembers in attendance at these higher-profile meetings would be appropriate. The Manager is planned to attend every single meeting except the Public Education Subcommittee because the Community Services Supervisor has subject matter expertise in this area and will be able to better support this particular Subcommittee. If the IC believes that the net impact of having the Community Services Supervisor staff the Public Education Subcommittee would be negative, the City can withdraw her from the team and reduce the costs accordingly.
<i>Threats</i>		
15	Is there any greater risk of Sub-contracts going through Gilroy Council that may not have same environmental focus as RWRC? This could drag timelines based on # contracts that need to go to Council	Largely disagree with this concern. Assuming the intention of the comment was the Morgan Hill City Council, the City does not believe this is a significant concern because the Council would understand that the funding for the proposed project is 100% attached to the countywide solid waste program. Regardless, please refer to the response to #8. (For the sake of clarity, the City of Gilroy is completely uninvolved in this proposal.)
16	Confirm that MOU fail-safes of Committee oversight are in the proposal to be sure Committee priorities are protected and we avoid previous conditions where the agency was functioning with limited oversight	Agree completely and have incorporated this in the revised proposal.

Attachment 2

Sample Action Minutes

DRAFT



Meeting Minutes Joint Morgan Hill Financing Authority/City Council

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

Wednesday, November 18, 2020 7:00 pm

Virtual Meeting

AMENDED AGENDA

MEETING GUIDELINES

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

CALL TO ORDER

Mayor Constantine called the meeting to order at 7:00 pm.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow called the roll.

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

DECLARATION OF POSTING AGENDA

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

PRESENTATIONS

YAC PRESENTATION- ASSET #34- CULTURAL COMPETENCE

CITY MANAGER'S REPORT

CITY MANAGER'S REPORT SUPPLEMENT- DEVELOPMENT PROJECTS

City Manager Christina Turner spoke to the evening's supplements and presentations.

COVID Update

Over the past weeks it has become clear that we are in the midst of another significant spike in COVID-19 cases. The State has moved our County to the purple tier, the most restrictive tier in the State's Blueprint for a Safer Economy. These changes went into effect yesterday, November 17th. It is imperative that we come together as a community and continue the safe practices that we know help stop the spread of this deadly virus. The County is urging us to remind the community of some of these things, wearing a proper face mask or facial covering at all times when in public, maintaining social distancing of at least six feet, and limiting contact with people outside of our household. The impacts with this tier include the closure of indoor dining, which was already planned for Santa Clara County with the assumption that we were moving into the red tier. In addition, it involves the closure of all indoor activities associated with gyms, museums, aquariums, places of worship, as well as movie theaters. Shopping malls and all retail establishments must reduce to a maximum of 25% and grocery stores are at 50%. We sent a letter to all of our businesses with this information, urging them to reach out to their vendors as well.

Upcoming Council Meetings

December 2, 2020 Virtual Regular Council Meeting

December 9, 2020 Virtual Ceremonial meeting to recognize departing members and welcome new members

December 16, 2020 Virtual Regular Council Meeting

Christina Turner summarized the supplement on Development Projects.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin had no report.

PUBLIC COMMENT

PUBLIC COMMENT SUPPLEMENT

Public comment opened at 7:22 pm. The following people were called to speak:

Don Little

Brian Faircloth

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

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

MORGAN HILL FINANCING AUTHORITY MEETING

CONSENT CALENDAR

1. ADOPT RESOLUTION AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND (LAIF)

Recommendation:

Adopt resolution of the Morgan Hill Financing Authority authorizing investment of monies in the local agency investment fund (LAIF).

MOTION:

Approving the recommended action.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John McKay, Authority Commissioner
SECONDER:	Rene Spring, Authority Commissioner
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

OTHER BUSINESS

2. ADOPT RESOLUTION OF THE MORGAN HILL FINANCING AUTHORITY AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF A SERIES OF ITS SEWER REVENUE BONDS, APPROVING THE EXECUTION AND DELIVERY OF A TRUST INDENTURE, AN INSTALLMENT PURCHASE AGREEMENT, A BOND PURCHASE AGREEMENT, AND A PRELIMINARY OFFICIAL STATEMENT; AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

Recommendation:

1. Adopt resolution authorizing the execution of an installment purchase agreement to provide financing of the City's anticipated projects through the sale of \$20 million in sewer revenue bonds; and
2. Authorize the Chief Administrative Officer to execute all related documents for the sale of the sewer revenue bonds.

Finance Director Dat Nguyen provided the report.

Public comment opened at 7:34 pm.

There being no requests to speak, public comment closed.

MOTION:

Approving the recommended actions.

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

CITY COUNCIL MEETING

CONSENT CALENDAR

MOTION:

Approving consent calendar items 6 through 11 and 13 through 15.

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

3. ITEM PULLED FOR DISCUSSION

4. ITEM PULLED FOR DISCUSSION

5. ITEM PULLED FOR DISCUSSION

6. APPROVE AGREEMENT WITH BURKE, WILLIAMS & SORENSEN FOR AFFORDABLE HOUSING LEGAL SERVICES

Recommendation:

Authorize the City Attorney to execute and administer a Consultant Agreement with Burke Williams & Sorensen, LLP (BWS) for Housing Program legal services through June 30, 2022, in an amount not to exceed \$75,000.

7. APPROVE FINAL MAP FOR EIGHT LOT SUBDIVISION AT SAN SEBASTIAN PHASE 2D - TRACT NO. 10529

Recommendation:

1. Approve the Final Map;
2. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
3. Authorize the recordation of the Final Map and the Stormwater BMP Operation and Maintenance Agreement.

8. APPROVE FINAL MAP FOR TWO LOT SUBDIVISION AT SAN SEBASTIAN PHASE 3 - TRACT NO. 10534

Recommendation:

1. Approve the Final Map; and
2. Authorize the recordation of the Final Map.

9. APPROVE THE FINAL MAP, AND AGREEMENTS FOR SUBDIVISION IMPROVEMENTS AND STORMWATER BEST-MANAGEMENT-PRACTICES OPERATION AND MAINTENANCE FOR ANDALUSIA - TRACT NO. 10521

Recommendation:

1. Approve the Final Map;
2. Authorize the City Manager to execute the Subdivision Improvements Agreement with MH Andalusia 2020 Inc.;
3. Authorize the City Manager to execute a Stormwater Best-Management-Practices (BMP) Operation and Maintenance Agreement pending review and approval by the City Attorney; and
4. Authorize the recordation of the Final Map, Subdivision Improvements Agreement, and the Stormwater BMP Operation and Maintenance Agreement.

10. APPROVE THE OCTOBER 28, 2020 MEETING MINUTES

Recommendation:

Approve Minutes.

11. APPROVE THE NOVEMBER 4, 2020 MEETING MINUTES

Recommendation:

Approve Minutes.

12. ITEM PULLED FOR DISCUSSION

13. AWARD PHASE 1 OF HALE AVENUE EXTENSION PROJECT TO DESILVA GATES CONSTRUCTION

Recommendation:

1. Approve the Hale Avenue Extension Project plans and specifications;
2. Award contract to DeSilva Gates Construction for the Hale Avenue Extension Project in the amount of \$14,174,174;
3. Authorize expenditure of construction contingency funds not to exceed \$1,417,417; and
4. Authorize the City Manager to execute and administer the construction contract with DeSilva Gates Construction pending review and approval by the City Attorney's office.

14. APPROVE COST SHARE AGREEMENT WITH VALLEY WATER FOR THE HALE AVENUE EXTENSION PROJECT AND FLOOD CONTROL IMPROVEMENTS

Recommendation:

1. Authorize the City Manager to execute and administer a cost share agreement with Valley Water for the construction of the Hale Avenue Extension Project south of Warren Avenue and improvements supporting the Upper Llagas Creek Flood Control Project for up to \$3.5 million; and
2. Authorize the City Manager to make minor modifications to the agreement as necessary with approval of the City Attorney.

15. RECEIVE REPORT REGARDING SILICON VALLEY COMMUNITY FOUNDATION 2020 CENSUS OUTREACH GRANT ACTIVITIES AND OUTCOMES

Recommendation:

Receive Report.

ITEMS PULLED FOR DISCUSSION

3. CAMPAIGN CONTRIBUTION LIMITS

Recommendation:

Adopt resolution accepting the State of California's campaign contribution limits for local campaigns as set forth in the provisions of AB 571.

Public comment opened at 7:46 pm. The following people were called to speak:

Brian Faircloth

Armando Benavides

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

MOTION:

Mayor Pro Tem Martinez Beltran moved to not adopt the resolution as presented and to direct staff to bring more information back at a future meeting.

RESULT:	LACK OF SECONDER
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MOTION:

Council Member Carr moved to adopt the recommended campaign contribution limits and limiting the personal loan contribution amount to \$4700.

RESULT:	LACK OF SECONDER
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MOTION:

Approving the recommended action.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Rene Spring, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, McKay, Spring
NAYS:	Carr

4. ADOPT ORDINANCE 2317 INDUSTRIAL ORDINANCE

Recommendation:

Waive the reading, adopt Ordinance No. 2317, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

Public comment opened at 8:09 pm.

Joe Baranowski was called to speak.

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

MOTION:

Approving the recommended action.

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

5. ADOPT ORDINANCE 2318 LILLIAN COMMONS

Recommendation:

Waive the reading, adopt Ordinance No. 2318, 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.

Development Services Director Jennifer Carman provided a presentation and report.

Public comment opened at 8:38 pm.

Joe Baranowski was called to speak.

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

MOTION:

Approving the recommended action.

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

The meeting recessed 8:54 pm and reconvened at 9:00 pm.

12. JANITORIAL SERVICES AGREEMENT

Recommendation:

1. Deny bid protest and appeal filed by JLP Maintenance;
2. Award a two-year service agreement to Firato Service Company, Inc. in the amount of \$874,332; and
3. Authorize the City Manager to execute and administer the service agreement with Firato Service Company, Inc.

Program Administrator Anthony Eulo provided the report.

Public comment opened at 9:06 pm.

There being no requests to speak, public comment closed.

MOTION:

Approving the recommended actions.

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

OTHER BUSINESS

16. ADOPT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE AGREEMENT, A BOND PURCHASE AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A CONTINUING DISCLOSURE CERTIFICATE; AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

Recommendation:

1. Adopt resolution authorizing the execution of an installment purchase agreement to provide financing of the City's anticipated projects through the sale of \$20 million in sewer revenue bonds; and
2. Authorize City Manager to execute all related documents with the sale of the sewer revenue bonds.

Finance Director Dat Nguyen provided the report.

Public comment opened at 9:18 pm.

There being no requests to speak, public comment closed.

MOTION:

Approving the recommended actions.

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

FUTURE COUNCIL INITIATED AGENDA ITEMS

Mayor Pro Tem Martinez Beltran would like a discussion regarding equity.

Mayor Pro Tem Martinez Beltran would like a discussion regarding RFP criteria specific to women owned and minority owned businesses.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:20 pm.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk

Attachment 3 Resumes

Environmental Services Manager – Countywide Services

Job Summary

JOB SUMMARY:

Under general direction of the Program Administrator, the Environmental Services Manager engages in a broad variety of activities in support of the Recycling and Waste Reduction Commission (RWRC) of Santa Clara County, the Technical Advisory Committee (TAC) to the RWRC, the Implementation Committee (IC), and subcommittees of the TAC.

CLASS CHARACTERISTICS:

This is a mid-management classification which requires knowledge of a wide variety of solid waste issues including waste disposal, recycling, composting, source reduction, household hazardous waste management, food waste recovery, and public engagement. The Environmental Services Manager is also responsible for the division's budget administration, cost recovery efforts, and the development of operating procedures.

Successful performance in this class requires highly developed interpersonal skills to provide positive supervision and leadership for City staff and an understanding of cost-effective and efficient use of technology solutions to support countywide activities.

Examples of Duties

The following duties are performed personally, in cooperation with Department management, other City staff, and representatives serving on the broad range of countywide committees. Additional duties may be assigned.

1. Assumes management responsibility for services and activities of the Countywide Solid Waste Management Services Division.
2. Attends numerous committee meetings to support the committee in achieving the desired work products in support of countywide solid waste management.
3. Conducts procurements and negotiates contracts to support countywide solid waste program management goals and the adopted workplan.
4. Assigns, prioritizes, directs and schedules duties and work assignments.
5. Assesses countywide interests, participates in strategic planning and makes recommendations to ensure productive implementation of countywide solid waste program management goals and the adopted workplan.
6. Performs specialized and complex assignments in developing solid waste programs.
7. Prepares and monitors division budgets and expenditures.
8. Provides updates and reports to the RWRC, TAC, and IC as needed.
9. Keeps abreast of laws and standards in solid waste management related service areas and maintains current knowledge of job requirements and responsibilities.

10. Makes presentations to the City Council, other agencies, and community groups as needed.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. Requirements listed below are representative of the knowledge, skill, and/or ability required.

Education & Experience:

1. Possess a Bachelor's degree from an accredited college with emphasis in environmental services or a closely related field.
2. At least four years of increasingly responsible solid waste program experience including at least two years in a supervisory or coordinator position.

Certificates and Licenses:

1. Possession of a valid California Class C driver's license in compliance with adopted City driving standards.

Other Requirements:

1. Those working must successfully complete a state mandated background investigation.
2. Bilingual English/Spanish desirable.

Knowledge of:

1. Philosophies, techniques, trends and principles of solid waste management.
2. Legislative and regulatory issues relating to solid waste management.
3. Principles of organization, administration, and budget management.
4. Principles and practice of management, supervision, training, and performance evaluations.
5. Principles of customer satisfaction related to the delivery of environmental programs.

Skill in:

1. Assessing and implementing environmental services program needs and desires.
2. Effectively using automated systems, including personal computers and office software packages.
3. Organizing and preparing clear and concise reports in a non-bureaucratic style.
4. Providing outstanding customer satisfaction (internally and externally).

Ability to:

1. Provide organizational leadership to all Department employees, volunteers, and partners.
2. Effectively plan the work of professional and para-professional staff.
3. Prepare, analyze, and make recommendations pertaining to program service delivery.
4. Analyze problems quickly and draw logical conclusions, plan and implement an effective course of action.
5. Develop as necessary, interpret, and apply policies and procedures, laws and regulations.
6. Develop and maintain effective working relationships with those contacted in the course of work.
7. Manage, direct, train, coordinate and evaluate the work of staff.
8. Exercise responsibility to work with limited direction; and complete assigned work within deadlines.

Supplemental Information

PHYSICAL DEMANDS:

Physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

1. While performing the duties of this job, the employee is regularly required to talk or hear. Employee frequently is required to sit, stand, walk, use hands and fingers to handle or feel objects, tools, or controls; reach with hands and arms; climb or balance; stoop, kneel, or crouch.
2. Employee must occasionally lift and/or move up to 20 pounds. Specific vision abilities required by this job include close vision, distance vision, peripheral vision, depth perception, and the ability to adjust focus.

WORK ENVIRONMENT:

Work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

1. Employee generally works 80% indoors and 20% outdoors.
2. The work environment is generally indoors in a temperature-controlled office; some travel is required.
3. Noise level in the work environment is usually moderate.
4. While performing the duties of this job, the employee occasionally works near waste management equipment, sorting equipment, and landfills.

CORE VALUES COMMON TO ALL POSITIONS:

- Developing and maintaining a thorough working knowledge of all Department and applicable City policies and procedures in order to help facilitate compliance with such policies and procedures by all employees.

- Demonstrating by personal example the service excellence and integrity expected from all employees by representing the City in a professional manner within our organization, to the general public, and with other agencies.
- Developing respectful and cooperative relationships with co-workers, including a willingness to assist newer employees.
- Conferring regularly with and keeping the immediate supervisor informed of all important matters pertaining to those functions and job responsibilities for which accountable.
- Working collaboratively within the organization and community to advance the values of teamwork, innovation, customer service, professional development, and meeting challenges.

Cynthia B. Iwanaga

cynthia.iwanaga@morganhill.ca.gov

Professional Experience:

CITY OF MORGAN HILL

Morgan Hill, CA

2015-Present

Management Analyst

Oversee procurement, purchasing and buying processes for city maintenance contracts via public bids, informal bids, and requests for proposals (RFPs). Work cross-functionally with maintenance, finance, legal, recreation and engineering departments. Submit council staff reports to award projects and adjust budgets.

- Ensure compliance with City purchasing policies, California Uniform Public Construction Cost Accounting Act (CUPCCAA), applicable state and federal regulations.
- Implement CUPCCAA to provide alternative bidding procedures for public projects
- Coordinate procurement activities with multiple City Departments
- Develop detailed specifications for goods and services
- Facilitate pre-bid conferences
- Evaluate bids and proposals
- Prepare contracts for vendors and contractors to review and execute
- Submit purchase requisitions and obtain purchase orders
- Compile and track procurement data for over 50+ maintenance projects annually
- Manage the City's Informal Bidders list, which identifies over 200 prospective contractors
- Establish and maintain vendor relationships
- Track State prevailing wages, Dept. of Industrial Relations (DIR) registrations and contractor state licensing board (CSLB) licenses.

MIDPEN HOUSING**2011-2015**

Watsonville, CA

Project Manager

Managed all aspects of project development. Prepared all project applications, contracts and agreements pertaining to permits, construction, private and public financing.

- Procured, negotiated and managed General Contractor, Architectural, Engineering, Environmental consultant contracts up to \$10M through Request for Qualifications or Request for Proposals process.
- Coordinated outside team of construction and financial professionals to effectively complete projects on time within budget.
- Collaborated with cross-functional team of Asset Management, Finance, Property Management and Resident Services

HOUSING AUTHORITY OF THE COUNTY OF SANTA CLARA**2008-2011**

San Jose, CA

Project Manager

Managed all aspects of project development from acquisition of land through construction of apartments and rent-up. Prepared all project applications, contracts, permitting, construction and financing.

SOUTH COUNTY HOUSING CORPORATION**1991-2008**

Gilroy, CA

Senior Project Manager: 2003-2008**Project Manager: 1993-2003****Administrative Analyst/Housing Specialist: 1991-1993**

Organized and tracked monthly reporting to lenders. Completed lender due diligence requirements in order to successfully complete loan closings.

Education:**University of California, Los Angeles (UCLA)**

Master of Arts, Urban Planning

University of California, Berkeley

Bachelor of Arts, Legal Studies

Bachelor of Arts, Social Science Field Study- Thesis: San Francisco Redevelopment

NICHOLE MARTIN

CITY OF MORGAN HILL • COMMUNITY SERVICES SUPERVISOR

SUMMARY

Driven communications professional helping organizations effectively communicate with stakeholders and community members. Committed to evaluating and improving upon communications efforts to increase effectiveness. Dedicated to utilizing knowledge and experience in social media marketing, project communications, and event planning to produce relevant content and engage the community.

EXPERIENCE

8/4/2014 TO PRESENT City of Morgan Hill Morgan Hill, CA

COMMUNITY SERVICES COORDINATOR

- Create and manage marketing efforts for the Community Services Department, including social media campaigns, print and web ads, program and facility brochures, articles, recreation events, and the tri-annual recreation activity guide.
- Create and manage communications for major Citywide engineering projects, including pavement, and facility and parks projects.
- Coordinate permits for over twenty community special events that take place in the City of Morgan Hill each year. Work with multiple departments and agencies to ensure all requirements are met.
- Serve as one of three Public Information Officers on the City's Emergency Operations Center.

2/1/2011 TO 7/1/2014 Community Solutions Gilroy, CA

COMMUNICATIONS MANAGER

- Raised awareness around issues such as mental health, sexual assault, domestic violence and human trafficking through various marketing efforts.
- Wrote and coordinated donor-centered communications and social media marketing to support agency branding, fundraising and advocacy efforts, including program brochures, directs mailings, and event invitations.
- Managed all media and public relations on behalf of the agency.

3/1/2010 TO 2/1/2011 Harrington Insurance Agency San Jose, CA

SOCIAL MEDIA MARKETING MANAGER

- Established a social media presence utilizing platforms such as Facebook, Twitter, YouTube and Wordpress blogging, while maintaining the brand personality.
- Created and maintained relationships with current and prospective clients through promotional programs including video and blogging promotions.

EDUCATION

GRADUATED IN 12/2010 San Jose State University San Jose, CA

BACHELOR OF SCIENCE, ADVERTISING

- Minor, Creative Writing

SKILLS

Social media marketing, event coordination, copywriting, and public relations
Experience with programs such as: Microsoft Office, Adobe Creative Suite, RecPro, and Constant Contact

REFERENCES

References are available on request.

ANTHONY EULO

(408) 921-6473

EXPERIENCE City of Morgan Hill

Program Administrator (June 2004 - Present)

Assistant to the City Manager (January 2000 – June 2004)

Environmental Programs Manager (March 1996 – January 2000)

- Responsible for a wide variety of functions and projects in the areas of sustainability, energy efficiency, communications, intergovernmental affairs, information technology management, customer service, and environmental programs.
- Led City participation in Silicon Valley Clean Energy Authority as staff representative and alternate boardmember. Coordinated City “gas ban” ordinance and drafted secondary Reach Code development.
- Managed highly-successful water conservation programs and led Urban Water Management Plan development effort. Chaired Countywide Water Conservation Subcommittee, represented City on Water Retailers Committee, and served on Valley Water Landscape Advisory Committee.
- Managed solid waste franchise and negotiated with waste hauler on significantly expanding curbside recycling collection system. Issued an RFP for multifamily and commercial recycling services and established a no-cost commercial recycling program. Led landfill capacity contract negotiations and hauling franchise extension negotiations for both Morgan Hill and Gilroy.
- Managed street maintenance, park maintenance, and facility maintenance functions. Coordinated integration of maintenance functions into community services department. Oversaw lighting and landscape assessment district and weed abatement functions.
- Edited monthly City newsletter. Directed and expanded government access cable programming. Authored biweekly newspaper column and monthly articles in the City’s newsletter. Prepared press releases, annual reports, and other publications for public dissemination.
- Served as staff liaison to City Council’s legislative affairs subcommittee. Interacted directly with elected officials on a broad range of topics and concerns. Authored Mayor’s Annual State of the City Address for several years. Staffed Utilities and Environment Council Subcommittee.
- Led Information Technology Management Committee for the City. Purchased hardware and software for departments citywide. Administered computer services maintenance contract.
- Coordinated the development of the citywide workplan and legislative platform.

Principal, Eulo and Associates, Eugene, Oregon (September 1994 to June 1996).

Assisted counties in establishing waste prevention education programs. Facilitated meetings, workshops, and conferences. Produced statewide series of nine workshops on composting for schools and local governments along with numerous backyard composting workshops. Authored statewide newsletter, *The County Waste Prevention News*. Coordinated National Pollution Prevention Week. Developed series of newspaper advertisements on waste prevention. Managed contracts and ensured that desired services were provided with quality and excellence.

Director of Finance and Administration and Policy Director, Local Government Commission, Sacramento, California, (October 1988 to December 1994).

Oversaw the Commission's financial and administrative operations and directed the solid and hazardous waste reduction activities of the Commission, a statewide nonprofit organization. Provided technical policy assistance to local governments establishing environmental protection programs. Wrote funding proposals that raised over \$1 million in project funding and managed contracts of over \$2 million in project funding. Prepared organizational budget and staff reports to Board of Directors. Oversaw organizational investments. Managed a variety of projects designed to assist businesses reduce waste including the statewide materials exchange, CALMAX, and the statewide awards program, WRAP. Developed workshop programs and oversaw logistical arrangements for over 30 local government and business waste reduction trainings. Facilitated approximately 100 meetings, workshops, and conferences. Assisted the State in developing SB 14 and SB 1082 regulations. Successfully sponsored legislation and lobbied for bill passage. Directed statewide pollution prevention week outreach activities. Cofounded and provided staff support and leadership for two organizations serving local government pollution prevention programs, the Bay Area Hazardous Waste Reduction Committee and the Consortium of California Pollution Prevention Committees. Developed model ordinances to encourage pollution prevention. Directly supervised staff of six professionals and numerous interns.

EDUCATION

Master of Public Administration, San Jose State University. Coursework completed / thesis started and incomplete. GPA was 3.9.

Bachelor of Science, University of California, Davis, 1987. Majored in Environmental Policy Analysis and Planning; Minored in Environmental Toxicology. Coursework was interdisciplinary with an emphasis on developing analytical skills in the area of policy analysis. Cumulative GPA was 3.6.

Chris Ghione

Summary of Qualifications

A driven professional with a proven track record for improving efficiency, customer service, and business operations. Offering more than 20 years of community service experience. Highly successful in delivering community services that balance cost recovery with access for the community. Strong background in strategic planning, community needs assessment, community engagement and improving organization efficiency. Passionate public servant with a focus on providing the best service possible to the community.

Education

- San Jose State University, MS, Recreation Administration, emphasis in Public Administration, 2006
- San Jose State University, BS, Recreation and Leisure Studies emphasis in Park Resource Management, 2000

Professional Experience

City of Morgan Hill

June 2013-Present

Public Services Director

- Responsible for the oversight and success of the City's Community Services Department and Engineering and Utilities Department.
- Manage department budget and parks and recreation portion of the City's Capital Improvement Budget.
- Lead the Recreation Division to high levels of cost recovery, while increasing access to recreation facilities.
- Successfully led the effort to update the City's Bikeways, Trails, Parks and Recreation Master Plan.
- Serve as the Logistics Section Coordinator for the City's Emergency Operations Center, enhancing the EOC effectiveness by leading the section in developing agreements with local vendors to provide goods and services during emergencies.
- Provide leadership to the City's partnership with the YMCA of Silicon Valley for operations of the Centennial Recreation Center, successfully extended the partnership agreement through June of 2021.
- Serve as staff liaison to the Parks and Recreation Commission and the Library, Culture and Arts Commission, successfully coordinating with commissioners in developing and implementing Work Plans that are aligned with Council Priorities.
- Coordinated development of partnership agreements with a variety of community organizations, including the Healthier Kids Foundation, Teen Force, the Boys & Girls Club of Silicon Valley and the Morgan Hill Historical Society.
- Expanded funding for future recreation services through the reinstatement of the Recreation Center Impact Fee.
- Coordinated the planning, design and construction of the Downtown Parks Project, scheduled for completion in November.
- Developed and implemented the Senior Services Support Strategy, which led to increased services to the community and improved strategic planning for older adults. Additional recent accomplishments include the City receiving the World Health Organization Age Friendly City designation, implementation of a volunteer driver program, and an endowment campaign scheduled for kick-off in the fall.
- Supported the development and ongoing use of strategic planning documents for membership services and aquatics in support of balancing cost recovery and community access.
- Supported the update to the City's Purchasing Code and Policy and led the effort for the City to opt in to the State's "Informal Bidding Act".
- Supported the Maintenance Team in the implementation of a new electronic work order management system, which has improved customer service for internal and external customers.
- Oversaw the acquisition of property for future ball fields and parking adjacent to the Outdoor Sports Center and Aquatics Center.

- Increased the number of grant applications and awards coordinated by the Community Services Department, receiving over \$2 million in grant funding over the last three years.
- Renegotiated the lease with the Morgan Hill Unified School District for use of the Bus Yard.
- Implemented a small-scale reorganization of the Community Services Department to enhance communication and improve maintenance efficiency.
- Served on various working groups supporting major Citywide projects and functions, including various development projects, High-Speed Rail, the Downtown Placemaking and Investment Strategy, infrastructure planning, labor negotiations, capital projects, Safe Routes to School, Vision Zero, and the RDCS Handbook Development.
- Led a variety of community engagement initiatives at a Citywide level and for targeted community groups, including the BTPR Master Plan Update, Recreation Center Impact Fee Update, Crest Neighborhood/Galvan Park planning effort, Downtown Park planning, and the Inclusive Playground Project.
- Provided interim oversight to the City's Information Services Division, and supported development of a business alignment strategy.
- Assigned to serve as Acting City Manager on numerous occasions.

Mt. Madonna YMCA/YMCA of Silicon Valley

January 2011-June 2013

Executive Director

- Responsible for success of the Mt. Madonna Branch, serving residents of Morgan Hill, Gilroy, and San Martin.
- Managed annual branch budget.
- Oversaw a team of 22 full-time employees and 160 part-time employees.
- Led volunteer based Annual Giving Campaign, raising over \$174,000 in the February 2013 Campaign.
- Increased donated resources for the branch by over 65% in two years.
- Supported and motivated a Branch Board of Directors in strategic planning and fundraising.
- Supervised partnership with the City of Morgan Hill for operation of the Centennial Recreation Center.
- Expanded unique partnership with the Gilroy Unified School District for the "Power School" afterschool program.
- Improved program quality and marketing for ten afterschool and childcare sites, increasing enrollment and revenue.
- Expanded Mt. Madonna YMCA program offerings starting a variety of new programs, including: two "Afterschool Academies", a girls basketball league, and several health and wellness programs for low income families in Gilroy.
- Partnered with school districts to provide afterschool, childcare, noontime sports, and physical education programs at school sites.
- Reorganized branch structure to improve marketing and communication efforts.
- Served as a member of the YMCA of Silicon Valley's Executive Leadership Team.
- Helped increase awareness and utilization of the 41 Developmental Assets for Youth, co-founding the Morgan Hill Community Asset Builders group and helping to lead the first ever Morgan Hill Developmental Asset Conference.
- Obtained several grants from government entities and private organizations for youth and senior programs.
- Developed strong relationships with a variety of Morgan Hill based groups, including the Morgan Hill Community Foundation, Friends of the Morgan Hill Senior Center, the Intero Foundation, local religious organizations, Discovery Counseling Center, and others.
- Represented the YMCA with local government officials and staff in Gilroy, Morgan Hill and the County of Santa Clara.

City of Morgan Hill, Recreation and Community Services Department

July 2006-December 2010

Recreation Manager

- Responsible for overall operations at multiple City recreation facilities.
- Served in the key role of facilitating the City's partnership with the YMCA of Silicon Valley for operation of the City's Centennial Recreation Center.

- Led the formation of the initial team responsible for opening the Centennial Recreation Center.
- Played a key role in reducing the department's net impact to the City's General Fund by \$1,000,000 over 4 years without reducing services to the community.
- Supervised 8 full-time and 120 part-time employees in administration, programs and maintenance.
- Led the City/YMCA partnership to exceed facility membership sales and retention goals, reaching membership levels 50% higher than anticipated by an initial market study.
- Implemented a customer comment tracking system that allowed team members to respond directly to over 500 customers per year.
- Managed a community engagement process and led the development of a strategic plan for aquatics in the community.
- Implemented new technologies and developed systems to utilize existing available technologies to create efficiencies and improve business processes.
- Oversaw the development of several new revenue based recreation program areas, including a preschool program and youth swim team.
- Coordinated the successful integration of a multiple aquatics center program user groups into the overall membership model.
- Implemented several facility improvement projects that provided enhanced safety and ongoing cost savings.
- Coordinated several large scale special events including Grand Opening for the Centennial Recreation Center.
- Worked with team members to infuse the principles of the 41 Developmental Assets into a variety of program areas.

City of Campbell, Recreation and Community Services

October 2000- July 2006

Recreation Supervisor

- Supported the Community Center Division, responsible for supervision, hiring and training of part-time employees.
- Supervised use of community center rental facilities, City athletic facilities, and School District athletic fields.
- Served as liaison to the Campbell Unified School District for joint use agreement of School District facilities.
- Provided oversight to the City's annual Summer Concert Series and obtaining sponsorships to fund the series.
- Coordinated the production of the department's quarterly activity guide and the City's quarterly newsletter.
- Co-managed the "in-house" redesign project of the City's website.
- Supervised the City's special event application and planning process, coordinating with numerous organizers and City departments.
- Served as an administrator and trainer for recreation management software.
- Worked on cooperative projects/events with the School District, Chamber of Commerce, and other nonprofits.
- Regularly prepared and presented reports to the City Council and Parks and Recreation Commission.

Other Experience

- Presentation experience at professional association conferences, university classes and regional trainings.
- Past experience as a CPR and First Aid instructor for the American Red Cross.
- Served as Mentor and Coach in various capacities, including supervising graduate and undergraduate interns, participants in the Santa Clara County Management Talent Exchange Program and the Santa Clara County Leadership Academy
- Team building facilitator for groups ranging from 10 to 100 people.
- Volunteer sports coach at various levels ranging from pre-school to high-school.
- City of Morgan Hill Employee of the Year in 2009.
- Past graduate of Leadership Gilroy. Class of 2012.
- Past Member of California Parks and Recreation Society District 4 Board.
- Experience in graphic design, journalism, publication production, and website design

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ~~APPROVING~~ APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2020/2021 ANNUAL BUDGET ~~IN THE~~ TO APPROPRIATE \$54,127 AS REVENUE AND 53,819 EXPENDITURE FOR ADMINISTRATION OF THE COUNTYWIDE SOLID WASTE SERVICES PROGRAM THEREFOR

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

WHEREAS, the reasons supporting the amendment of the City's budget and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report entitled "Approve Countywide Solid Waste Services Concept and Related Budgetary and Policy Changes" submitted for City Council consideration at its meeting of March 3, 2021, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 2020-/2021, as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by the Staff Report; and

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

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

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

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

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

- a. That the City's previously adopted Fiscal Year 2020-21 Annual Budget, as the same has been amended to date, is hereby further amended in accordance with and as reflected on Exhibit A attached hereto and incorporated herein by this reference; and
- b. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2020-21 Annual Budget of City.

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

 RICH CONSTANTINE, Mayor

 MICHELLE BIGELOW, City Clerk

⌘ CERTIFICATION ⌘

I, **Michelle Bigelow, City Clerk of the City of Morgan Hill, California**, do hereby certify that the foregoing is a true and correct copy of Resolution No.21-XXX , adopted by the City Council at the meeting held on March 3, 2021.

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

DATE: _____

 Michelle Bigelow, CITY CLERK

AGENDA BUDGET SCORECARD

FISCAL YEAR 2020-21

ADJUSTMENT #

015

FUND:

000

TBD

DEPARTMENT:

0000

TBD

OBJECT:

00000

TBD

AGENDA DATE:

03/03/21

AGENDA ITEM TITLE:

Countywide Solid Waste Administration

	07/01/20 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/21 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	-	-	-	-
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION		54,127	54,127	-
RESULT OF RECOMMENDED ACTION	-	54,127	54,127	-

RESOLUTION NO. 21-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADJUSTING THE SALARY SCHEDULE FOR MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEES (THIS RESOLUTION RESCINDS RESOLUTION NO. 20-065)

WHEREAS, the City Manager has presented to the City Council of the City of Morgan Hill a recommended set of salary ranges and benefits for the Management, Professional, and Confidential employees; and

WHEREAS, the City Council of the City of Morgan Hill has reviewed said recommendations;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill as follows:

SECTION 1 - SALARY RANGES

- A. Effective December 29, 2019, base salaries for Groups 1-A, 1-B, 1-C, and 1-D, increase by 3.5%.
See Salary Schedule attached as **Exhibit A**.
- B. Groups 1-A, 1-B, 1-C, and 1-D base salary ranges include the employee PERS contribution which is deducted from payroll (See SECTION 3, E-H.)

SECTION 2 - ESTABLISHMENT OF COMPENSATION AND JOB DESCRIPTIONS FOR GROUPS 1-A, 1-B, 1-C, and 1-D

- A. The City Manager will establish the monthly compensation for the classifications in Group 1-A. In order to attract high quality executive managers, foster job security within a professional climate, and provide the flexibility to remain competitive within the area job market, the City Manager has authority to enter into individual employment agreements with each executive manager; provided that the terms of the employment agreement do not exceed the total compensation permitted by this Resolution.

Employees listed in Group 1-A may receive a severance allowance as provided for in an individual employment agreement when they are separated in good standing from employment; provided that such separation is not for cause, or for reasons listed in Government Code 19572, or for any employee who voluntarily resigns from City service for personal reasons.

- 1. The City Manager shall establish an allowance amount, not to exceed six months' salary, which is determined to be in the best interest of the city for the following executive

classifications of the Group 1-A:

Assistant City Manager for Administrative Services*
 Assistant City Manager for Development Services
 Chief of Police
 Public Services Director

**Currently Unfunded Position*

2. The City Manager shall establish an allowance amount, not to exceed three months' salary, which is determined to be in the best interest of the City for the remaining classifications of the Group 1-A.
 3. This severance allowance is in addition to any unused vacation or administrative leave pay unused at the time of separation.
- B. Each Department Director will recommend to the City Manager the proposed monthly salary to be paid to each of the employees whose classification appears in Group 1-B, 1-C, and 1-D. Upon approval of the City Manager, the monthly salary will be set within the prescribed range for each classification. The City Manager has the authority to increase the monthly compensation for employees in Group 1-B, 1-C, and 1-D, by a maximum of 10% within the prescribed range each fiscal year based on each individual employee's performance.
- C. The City will contribute to a City-sponsored IRS 457 deferred compensation program of the employee's choice (ICMA or MassMutual) according to the following schedule:
1. 1% of base salary per pay period for employees who have been employed with the City from four to eight years.
 2. 2% of base salary per pay period for employees who have been employed with the City for over eight years.
- D. When it is proposed by the Personnel Officer that a new classification be created or an existing classification be changed, the City Manager shall submit justification for approval of that action to the City Council and if that action is approved, the City Manager will have the authority to approve new and revised job descriptions.

SECTION 3 - CONTRIBUTIONS TO THE CalPERS RETIREMENT SYSTEM, GROUPS 1-A, 1-B, 1-C, and 1-D

- A. For "Classic Members" as defined by the Public Employees' Pension Reform Act of 2013 (PEPRA) and in the CalPERS retirement system:
1. Non-Safety (miscellaneous) employees listed in Groups 1-A, 1-B, 1-C, and 1-D will receive CalPERS retirement benefits under the 2.5% at age 55 plan.

2. Safety (sworn) employees listed in Groups 1-A and 1-B, will receive CalPERS retirement benefits under the 3% at age 50 plan.
- B. For "New Members" as defined by PEPRA and in the CalPERS retirement system:
1. Non-Safety (miscellaneous) employees listed in Groups 1-A, 1-B, 1-C, and 1-D will receive CalPERS retirement benefits under the 2.0% at 62 plan.
 2. Safety (sworn) employees listed in Groups 1-A and 1-B will receive CalPERS retirement benefits under the 2.7% at age 57 plan.
- C. CalPERS defines a "New Member" as:
1. A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any other California public retirement system.
 2. A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who is not eligible for reciprocity with another California public retirement system.
 3. A member who established CalPERS membership prior to January 1, 2013, and who is hired by a different CalPERS employer after January 1, 2013, after a break in service of greater than six months.
 4. CalPERS refers to all members that do not fit the definition of a "new member" as a "classic member."
- D. Non-Safety (miscellaneous) employees: Beginning with CalPERS rates effective July 1, 2013, the City and Non-Safety (miscellaneous) Management, Professional, and Confidential employees agreed to split future employer rate increases at a 50/50 ratio. This methodology will be used in subsequent years should CalPERS increase the Miscellaneous contribution rates.
- E. The Miscellaneous "Classic Members" shall contribute, in addition to the "Classic Members" rate of 8.0%, an additional 4.485% towards the "Classic Members" CalPERS contribution rate for FY 2020-21. The total "Classic Members" employee contribution obligation shall be 12.485%.
- F. The Miscellaneous "New Members" shall contribute, in addition to the "New Members" rate of 6.25%, an additional 4.485% towards the "New Members" CalPERS contribution rate for FY 2020-21. The total "New Members" employee contribution obligation shall be 11.485%.
- G. Safety (sworn) PEPRA employees: Beginning with CalPERS rates effective July 1, 2013, at which time the City's employer contribution PEPRA rate was 11.5%, the City and Association agreed that, beginning with CalPERS PEPRA rates effective July 1, 2013, safety (sworn) PEPRA employees would not pay less than 11.50% and would split future increases to the City's employer PEPRA contribution rates, including both the normal cost and any unfunded

actuarial liability at a 50/50 ratio. For example, the City's employer CalPERS safety PEPRA obligation was 12.114% in FY 16-17 with the PEPRA employees' obligation was at 11.50%. Therefore, City paid half of the 0.614% increase over the base year City's employer PEPRA cost of 11.50% (equal to 0.307%) and safety PEPRA employees paid the other half (also equal to 0.307%). This methodology has been used in each year subsequent to FY 2016-17 and will be used in future years should CalPERS increase the City's employer Safety PEPRA contribution rates. The Safety PEPRA employees CalPERS contributions rate for 2020-21 shall be 14.867% (13.00% employee + 1.867% of the employer share).

- H. Safety (sworn) Classic employees: Beginning December 30, 2018, the City and Safety (sworn) Management, Professional, and Confidential employees agreed, in addition to employee CalPERS rate of 9.0%, a 6.12% towards the employer's share of pension costs (i.e. the total safety (Sworn) employee contribution for FY 2019-20 shall be 15.12% (9.00% employee + 6.12% of the employer share). The total employee contribution shall remain at 15.12% for the Safety (sworn) classic employees during the term of the Morgan Hill Police Officers' Association Memorandum of Understanding (MOU), which is December 30, 2018 – December 31, 2021.

SECTION 4 - HEALTH CARE CONTRIBUTIONS AND IRS 125 PLAN, GROUPS 1-A, 1-B, 1-C, and 1-D

- A. The City will contribute to the City's medical and dental plans as follows:
1. For employees with family coverage, up to \$1,976/month in 2020 and up to \$2,055/month in 2021.
 2. For employees with employee plus one coverage, up to \$1,508/month in 2020 and up to \$1,568/month in 2021.
 3. For employees with employee only coverage, up to \$800/month in 2020 and up to \$832/month in 2021.
 4. Employees enrolling in City health but not using the maximum amount available from the City for their premium category (employee only, employee + 1, employee + family) shall not be entitled to the surplus. Employees enrolling in plans whose cost exceeds the maximum amount available from the City for their premium category shall have the difference deducted on a pre-tax basis from their paycheck.
 5. Employees who waive medical coverage and annually provide proof of alternate medical coverage shall be entitled to a taxable health in lieu payment of six hundred ten dollars (\$610) per month.
 6. If an employee waives medical and elects dental coverage, the employee will receive the taxable health in lieu payment of six hundred ten dollars (\$610) per month but will pay the appropriate dental premium.
- B. The City will continue to provide coverage under the Concern Employee Assistance Program.
- C. The City will continue to offer an IRS Section 125 program.

SECTION 5 - GENERAL BENEFIT PROVISIONS, GROUPS 1-A, 1-B, 1-C, AND 1-D

The City will comply with the requirements of the City Personnel Rules and Regulations and the Fair Labor Standards Act governing the use of taking and reporting time off work for management employees.

A. Holidays

1. The City will grant the following paid holidays to employees:

New Year's Day
 Martin Luther King, Jr. Day
 President's Day
 Cesar Chavez Day
 Memorial Day
 Independence Day
 Labor Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Eve
 Christmas Day

One-half (1/2) day holiday to be used during the furlough period or on the last workday before the holiday.

Two floating holidays which must be used during the fiscal year.

2. Holidays are paid at a rate of eight hours of time off; employees on alternate work schedules must use additional leave balances to receive full pay on a holiday.
3. With the approval of the employee's supervisor, employees may "float" holidays to another day within the same fiscal year provided they work on the holiday.

B. Sick Leave Accrual

1. Sick Leave credit for employees will be accumulated on the basis of eight hours of sick leave per month (96 hours per year).
2. The City will, at the end of each calendar year, pay each employee twenty-five percent of the unused sick leave earned that year unless the employee requests not to receive such a payment.
3. The balance of the unused sick leave will then be accumulated on an unlimited basis.
4. Upon retirement, 100% of the employee's unused sick leave balance will be credited to

the employee's retirement eligibility. This amount would then be converted into time in service and added to the employee's retirement eligibility. (Reference - City contract with CalPERS, Section 20862.8)

5. Each employee may take 16 hours of personal leave time during the fiscal year which is charged against the current year's sick leave accrual.
6. The City Manager may negotiate establishing a leave "bank" with new employees at time of hire.

C. Vacation Leave Accrual

1. Each employee will be credited vacation on the basis of 120 hours per year for the first five years of City service. After five years of service, vacation will be credited on the basis of 160 hours per year.
2. The maximum accumulation of vacation will be no more than that earned for two years.
3. Additional vacation accrual will not be provided until the employee's vacation balance drops below the maximum accrual limit as of June 30 in any given year.
4. The City Manager may negotiate vacation accrual rates and/or establish a leave "bank" with new employees at time of hire.

D. Administrative Leave, Groups 1-A, 1-B, and 1-C

1. Employees listed in Groups 1-A, 1-B, and 1-C receive and may use up to 72 hours of administrative leave with pay per fiscal year.
2. Administrative leave time for employees in Groups 1-A, 1-B, and 1-C will be available for one additional year if not used in the fiscal year that it was initially available. If, however, the administrative leave time that was carried over to the following fiscal year is not used during the second year, it will be lost at the end of the second fiscal year. In effect, the maximum amount of administrative leave time that may be available to an employee at any given time is 144 hours.
3. Effective July 1, 2016, new employees who are hired during any month other than July, will initially receive prorated administrative leave hours of six (6) hours per month depending on date of hire and the hours will be banked at time of hire (i.e. employees hired in the month of August would receive 66 hours of administrative leave because they will be working a total of eleven (11) months in the fiscal year). All regular, full-time employees will receive 72 hours of administrative leave each fiscal year following their hire date. Part-time employees have prorated benefits and their total administrative leave hours will be prorated based on their position allocation.

E. Leave Cash Out

Employees listed in Groups 1-A, 1-B, 1-C and 1-D may cash out up to 120 hours of accrued vacation, administrative leave, or a combination of the two, per calendar year. Employees must make an irrevocable election by December 1 of each year for the following calendar year stating their intent to cash out and the eligible number of hours. If employees do not request payment of the elected cash amount by November 1 of each year, Payroll will automatically cash out the amount designated by the employee on or after the pay period including November 1st.

F. Bereavement Leave

Management, Professional, and Confidential employees shall, per occurrence, be granted Bereavement Leave when a death occurs in the employee's or spouse's immediate family. For the purpose of this section, "immediate family" is defined as father, mother, brother, sister, spouse, natural or legally adopted child, step-child, in-laws, grandparents, and grandchildren. Up to three (3) days of bereavement leave shall be granted when the death and service are within the State of California and up to five (5) days when the death or service is outside the State. Bereavement Leave usage shall not be charged against the employee's Sick Leave or Vacation Time. Employees may also use up to two (2) additional days of Sick Leave to supplement their allotted Bereavement Leave if other circumstances require absence during this time, subject to the approval of the employee's supervisor and deducted from the employee's other leave banks.

Special circumstances beyond this definition may be considered on a case-by-case basis and must be approved by the City Manager. This leave will not affect the twenty-five percent cash out of sick leave for the same calendar year.

G. Professional Development

It shall be the philosophy of the City to encourage employees to attend classes, seminars, conferences, etc. which will enable the employee to develop professionally. Such attendance must be approved by the Department Director or the City Manager. The City may request employees who complete such a course to report or train other employees in the skills they have attained.

1. Tuition Reimbursement Program

Employees are eligible to receive tuition reimbursement of up to \$3,000 per fiscal year for the cost of books and tuition for classes or courses beneficial to the employee's career development. All classes must be approved in advance by the Department Director or City Manager. Reimbursement will take place upon a successful completion or passing of the course.

2. Membership Dues

For employees listed in Groups 1-A and 1-B, the City shall provide a personal membership dues reimbursement of up to \$1,200 per fiscal year for costs associated

with joining and participating in Morgan Hill community service organizations such as Rotary or Kiwanis. Reimbursement of membership dues for community service organizations requires the prior approval by the Department Director or the City Manager.

H. **Life and Disability Insurance**

The City shall pay the premiums for short-term disability, long-term disability, and life insurance plans.

1. Life insurance levels shall be as follows for the employees listed in Section 1:

Group 1-A	\$250,000
Group 1-B	\$150,000
Group 1-C	\$100,000
Group 1-D	\$100,000

This amount decreases when the employee reaches age 65, 70, and 75. The Life Insurance benefit will be paid to the employee's beneficiary upon the death of the employee as outlined in the program documents.

2. Short-term disability coverage for employees shall be at the maximum rate of \$1,384 per week based on 66⅔% of the actual weekly salary after an eight-day elimination period.
3. Long-term disability coverage for employees shall be at the maximum rate of \$6,000 per month based on 66⅔% of the actual monthly salary after a 60-day elimination period.

I. **Retirement Medical Plan**

Upon retirement, employees may continue enrollment in the medical insurance plans provided by CalPERS without an interruption of coverage. Such enrollment will be contingent upon the employee meeting the requirements of the medical plans provided by CalPERS and paying the monthly premium to CalPERS at the employee's expense. It will be the employee's responsibility to make sure the insurance premium is paid to CalPERS before the due date. Failure to do so will result in the employee being terminated from their medical coverage.

J. **Special Assignment Pay**

Special Assignment Pay may be granted to employees who have assumed, for an extended period, significant additional responsibilities outside their current classification. The request for special assignment shall describe the assignment, justify why it is to be performed by the designated employee, and give a specific duration for completion of the assignment with a start and end date. Special assignment pay is up to 10% above the employee's normal pay rate. The special assignment and related compensation may be revoked at any time at the discretion of the Department Director, or the City Manager or designee. Special Assignment Pay will be requested in advance by the Department Director and authorized by the City Manager or designee, and then processed by the Human Resources Division. Special Assignment Pay shall be discontinued on the date originally identified for completion of the assignment, unless an extension of specific duration is approved by the City Manager or designee prior to the end of the original assignment end date. This pay will not be considered

additional compensation as defined by the California Public Employees' Retirement Systems (CalPERS).

K. Employee Uniform Allowance

Safety employees in Groups 1-A and 1-B will be eligible for the following uniform allowance:

Chief of Police and Police Captain:	\$1,400
Police Support Services Manager:	\$810

L. Work Schedule

The City Manager will establish the standard work schedule for employees. Based on the needs of the City, the City Manager may at his/her discretion, change the work schedules of employees at any time.

M. Auto Allowance

The City Manager may establish a monthly allowance for selected employees listed in Groups 1-A and 1-B who use their personal vehicles on City business. Based on the needs of the City, the City Manager may, at his/her discretion, change the auto allowance of employees at any time. The current monthly allowance range is \$225 - \$325.

N. Cell Phone Allowance

The City Manager may establish a monthly allowance for selected employees who use their personal cell phones on City business. Based on the needs of the City, the City Manager may, at his/her discretion, change the cell phone allowance of employees at any time. The current monthly allowance is established in Administrative Policy III019.

SECTION 6 - EFFECTIVE DATE

This resolution shall be effective December 2, 2020. Compensation shall be made available to only those employees covered by this section who are still employed as a Management, Professional, or Confidential employee with the City as of the effective date of this agreement. As of the effective date of this Resolution, Resolution No. 20-065 shall be superseded and rescinded.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd day of March 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

Michelle Bigelow, 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. 21-XXX, adopted by the City Council at the meeting held on March 3, 2021.

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

DATE: _____

Michelle Bigelow, City Clerk

EXHIBIT A

**CITY OF MORGAN HILL
MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEE
SALARY SCHEDULE**

Revised: March 3, 2021

Effective: December 29, 2019

* Currently Unfunded Positions

Job Classification	Bottom of Range Monthly	Top of Range Monthly
Group 1-A: Executive Management		
Assistant City Manager for Administrative Services *	\$14,430	\$18,961
Assistant City Manager for Development Services	\$14,430	\$18,961
Chief of Police	\$14,430	\$18,961
Public Services Director	\$14,430	\$18,961
Community Services Director *	\$13,746	\$18,100
Development Services Director	\$13,746	\$18,100
Economic Development Director	\$13,746	\$18,100
Engineering and Utilities Director *	\$13,746	\$18,100
Finance Director	\$13,746	\$18,100
Communications and Engagment Director	\$11,861	\$15,586
Human Resources Director	\$11,861	\$15,586
Information Technology Director	\$11,861	\$15,586
Group 1-B: Middle Management		
Police Captain	\$12,096	\$15,893
Building Official	\$11,861	\$15,586
Deputy Director for Engineering	\$11,861	\$15,586
Deputy Director for Utilities Services	\$11,861	\$15,586
Housing Manager	\$11,861	\$15,586
Planning Manager *	\$11,861	\$15,586
Program Administrator	\$11,861	\$15,586
Assistant City Attorney	\$11,114	\$14,579
Assistant to the City Manager	\$11,114	\$14,579
City Clerk	\$11,114	\$14,579
Economic Development Manager	\$10,486	\$13,754
Principal Planner	\$10,486	\$13,754
Senior Civil Engineer	\$10,486	\$13,754
Senior Project Manager	\$10,486	\$13,754
Budget Manager	\$9,696	\$12,752
Building Manager *	\$9,696	\$12,752
Communications and Engagement Manager *	\$9,696	\$12,752
Community Services Manager *	\$9,696	\$12,752
Environmental Services Manager	\$9,696	\$12,752
Information Services Manager *	\$9,696	\$12,752
Maintenance Manager	\$9,696	\$12,752
Police Support Services Manager	\$9,696	\$12,752
Recreation Manager	\$9,696	\$12,752
Supervising Civil Engineer	\$9,696	\$12,752
Utility Systems Manager	\$9,696	\$12,752
Accounting Manager *	\$9,025	\$11,863
Financial and Policy Analyst	\$9,025	\$11,863
Senior Planner	\$9,025	\$11,863
Community Services Supervisor	\$8,177	\$10,433
Council Services and Records Manager *	\$8,177	\$10,433
Deputy City Attorney *	\$8,177	\$10,433
Economic Development Coordinator *	\$8,177	\$10,433
Emergency Services Coordinator	\$8,177	\$10,433
GIS / Land Use Data Administrator	\$8,177	\$10,433
Maintenance Services Coordinator	\$8,177	\$10,433
Older Adult Services Supervisor	\$8,177	\$10,433
Programmer Analyst	\$8,177	\$10,433
Senior Human Resources Analyst	\$8,177	\$10,433
Risk Management Analyst (.50 FTE)	\$3,898	\$5,114
Group 1-C: Confidential Exempt		
Administrative Analyst	\$7,794	\$10,227
Legal Specialist	\$7,012	\$9,226
Group 1-D: Confidential Non-Exempt		
Accounting Technician	\$6,217	\$8,159
Human Resources Technician	\$6,217	\$8,159
Human Resources Assistant *	\$4,869	\$6,369

Attachment: Attachment 4: 2020-2021 Mgmt Reso 3.3.21 [Revision 4] (3004 : Countywide Solid Waste Services)



CITY COUNCIL STAFF REPORT

MEETING DATE: March 3, 2021

PREPARED BY: Dat Nguyen, Finance Director
APPROVED BY: City Manager

RECEIVE MONTHLY BUDGET UPDATE AND JANUARY 2021 FINANCIAL AND INVESTMENT REPORTS

RECOMMENDATION(S)

Accept and file report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Infrastructure
Preserving and Cultivating Public Trust

2020-2021 Strategic Priorities

Community Outreach
Engagement and Messaging
Fiscal Sustainability

REPORT NARRATIVE:

As part of the City Council's expectation to maintain a high level of transparency and to be responsible stewards of public funds, staff is providing this monthly budget update, along with the January 2021 financial and investment reports (Attachment 1 and 2).

January 2021 Financial Report

The Revenue and Expense Summary through January 2021 is included on the first page of the monthly financial report (Attachment 2). Overall, General Fund revenues total \$18.4 million or about 46% of the budget. Expenditures, including encumbrances, amounted to \$24.1 million or 54% of the budget.

Budget Update

There has been no material change to the City's major revenue categories for the General Fund since the last budget update at the Annual Council Goal Setting Workshop on January 30, 2021. However, certain revenue categories such as recreation services and Transient Occupancy Tax (TOT) are negatively impacted by the surge in the number of Covid-19 cases and the County's moving to the Purple Tier (Tier One – Widespread transmission). Staff's earlier projection for recreation services of an additional net loss of approximately \$1.6 million in the worst-case scenario is becoming more of a reality. The December 2020 receipts for TOT, a full month of the impact from the Purple Tier, decreased by about one third compared to the prior month and less than half of the prior year, at 44%. The more restricted stay-at-home order for the region has impacted travel and negatively impacted the TOT. Hotels and lodging can only offer accommodation for COVID-19 mitigation and containment measures, treatment

measures, accommodation for essential workers, or providing housing solutions, including measures to protect homeless populations.

As for sales tax, the latest estimate shows no material impact compared to previous estimate for the year of about \$9.7 million.

COMMUNITY ENGAGEMENT: Inform

Finance staff prepares these financial reports to inform City officials, the Council, the community, and various lenders and stakeholders about the financial health of the organization, which assists each one of the interested parties in making sound financial and investment decisions.

ALTERNATIVE ACTIONS:

No alternative action is recommended, as this is a monthly financial report on City transactions which have already occurred.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council receives and files the financial and investment report for each month. At the September 16, 2015 meeting, City Council recommended monthly financial and investment reports be agendized under the Consent Agenda, and quarterly financial and investment reports be presented to City Council as an “Other Business” item. Beginning in FY 2020-21, budget reports are presented to the City Council monthly.

FISCAL AND RESOURCE IMPACT:

The preparation of the report is a part of the Finance workplan. Staff does not recommend any budget adjustments at this time.

CEQA (California Environmental Quality Act):

Not a Project.

This report is not a project, as defined in Section 15378 of the State CEQA Guidelines. Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

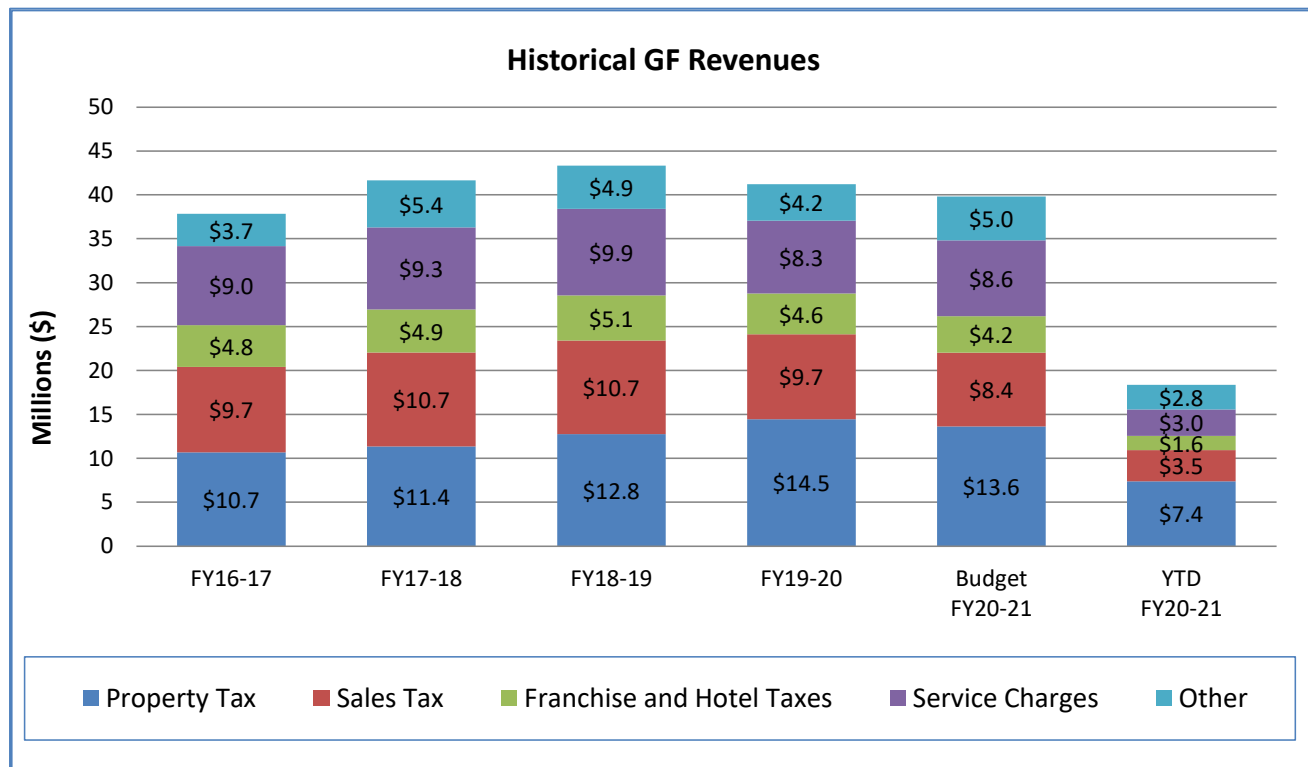
1. January 2021 Financial Statement Analysis
2. January 2021 Financial and Investment Report



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21
FOR THE MONTH ENDED JANUARY 2021 – 58% OF YEAR COMPLETE

- **General Fund** – Revenues through January totaled \$18.4 million, or about 46% of the budgeted revenues. The most recent County’s estimate projected Morgan Hill property tax revenue, excluding the property transfer tax and excess Educational Revenue Augmentation Fund (ERAF), at \$13.7 million for the fiscal year 2020-21, higher than budget by about \$0.4 million mainly due to higher receipts of former RDA residual distribution as a result of bond refunding savings. The preliminary estimate of the City’s excess ERAF is approximately \$1.7 million versus \$250,000 budgeted. The County’s estimate of City’s excess ERAF amount is subject to State Controller’s Office adjustment which is not known until later in the fiscal year. Excess ERAF is the money that is returned to the cities, counties, and special districts after schools reach their state-mandated thresholds. Property tax is the largest source of Morgan Hill’s General Fund revenue. However, it accounts for only 34% of the approximately \$39.8 million General Fund revenue. Although property tax tends to be a more predictable revenue source, other major revenue categories such as sales tax and transient occupancy tax, which account for a large portion of the City’s General Fund revenue, are more volatile and tend to fluctuate more with swings in the economy.

The chart below shows historical General Fund revenues by major revenue category from FY16-17 through FY19-20 Actual, FY20-21 Budget, and YTD as of January 31, 2021.

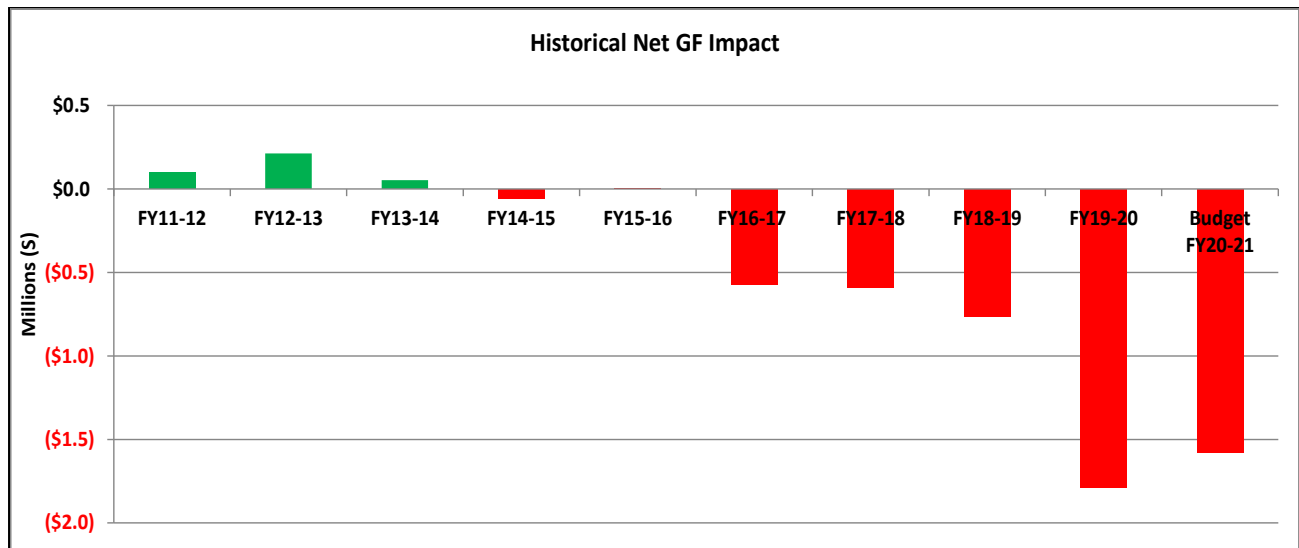


General Fund expenditures and encumbrances as of January 31, 2021 totaled \$24.1 million, of which approximately \$1.6 million is attributable to outstanding encumbrances.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21
FOR THE MONTH ENDED JANUARY 2021 – 58% OF YEAR COMPLETE

- **Community Services** - The Community Services Department's recreation operations, as reflected in the schedule presented on page 4 of the Monthly Financial and Investments Reports, shows a negative impact to the General Fund of approximately \$2.6 million as of January 31, 2021. The large operating loss for recreation operations reflects the continued closure of indoor recreation facilities since March 2020 due to the shelter-in-place order as a result of the coronavirus pandemic. The indoor recreation facilities had just begun to open with a very limited capacity in recent months, however, with the County moving into the Purple Tier (Tier One), which is most restrictive, indoor recreation facilities closed again.



Due to longstanding governmental accounting and budgeting convention, the City's recreation operations are not charged for indirect costs (known in Morgan Hill as "General Fund Administration") from the central services departments of City Attorney, City Manager, and Administrative Services. The City's other governmental funds, such as Community Development, and the proprietary funds, such as Water and Wastewater, and the Information Services Fund, are assessed such charges through the City's indirect cost allocation plan, prepared in compliance with the Federal government's OMB Circular No. A-87, which mandates certain calculation and cost allocation practices that must be followed in order to qualify for Federal grant funding, but which also represent best practice for non-grant funded City operations like utilities and information services.

- **Development Services Fund** – Revenues received through January 31, 2021 totaled approximately \$2.4 million. Expenditures, including encumbrances, totaled \$3.1 million. The fund is projected to borrow \$1.0 million from the General Fund for the current fiscal year. Staff has engaged a consultant to conduct a comprehensive fee study to update the current fees which were developed about five years ago.
- **Debt Service Funds** – Expenditures through January 31, 2021 totaled \$537,352. The debt service for the first half of the year includes both interest and principal, while the second half of the year will include interest only. Debt service payments were all scheduled when the bonds were issued, and are budgeted for in the months delineated in the underlying bond documents. The General Fund's portion of the annual debt service payments is approximately \$200,000, less than one percent of the General Fund's budgeted revenues.



CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21
FOR THE MONTH ENDED JANUARY 2021 – 58% OF YEAR COMPLETE

- **Wastewater Operations** – Revenues from Sewer Operations through January 31, 2021 totaled \$6.7 million. Expenditures and outstanding encumbrances totaled \$7.5 million or 57% of the budget. The table below shows historical Sewer Operations revenues and expenditures from FY16-17 through FY19-20 Actual, FY20-21 Budget, and YTD as of January 31, 2021.

(amount in millions)	FY16-17	FY17-18	FY18-19	FY19-20	Budget FY20-21	YTD FY20-21
Revenues	9.7	10.3	11.4	11.9	13.3	6.7
Expenditures	9.8	10.8	11.4	12.3	13.3	7.5
Operating Margin	(0.1)	(0.5)	-	(0.4)	-	(0.8)
Operating Margin without Encumbrances	(0.0)	(0.3)	0.4	(0.1)	-	(0.6)

- **Water Operations** – Water Operations includes Utility Billing, Water Conservation, and Water Operations. Revenues from Water Operations through January 31, 2021 totaled \$8.9 million. Water Operations expenditures, including outstanding encumbrances, totaled \$9.1 million. Without the encumbrances, however, the expenditures amounted to \$8.3 million. The table below shows Water Operations revenues and expenditures from FY16-17 through FY19-20 Actual, FY20-21 Budget, and YTD as of January 31, 2021.

(amount in millions)	FY16-17	FY17-18	FY18-19	FY19-20	Budget FY20-21	YTD FY20-21
Revenues	10.9	13.0	14.2	15.3	15.6	8.9
Expenditures	11.2	12.1	14.3	16.4	15.6	9.1
Operating Margin	(0.3)	0.9	(0.1)	(1.1)	-	(0.2)
Operating Margin without Encumbrances	(0.1)	1.4	0.8	(0.1)	-	0.6

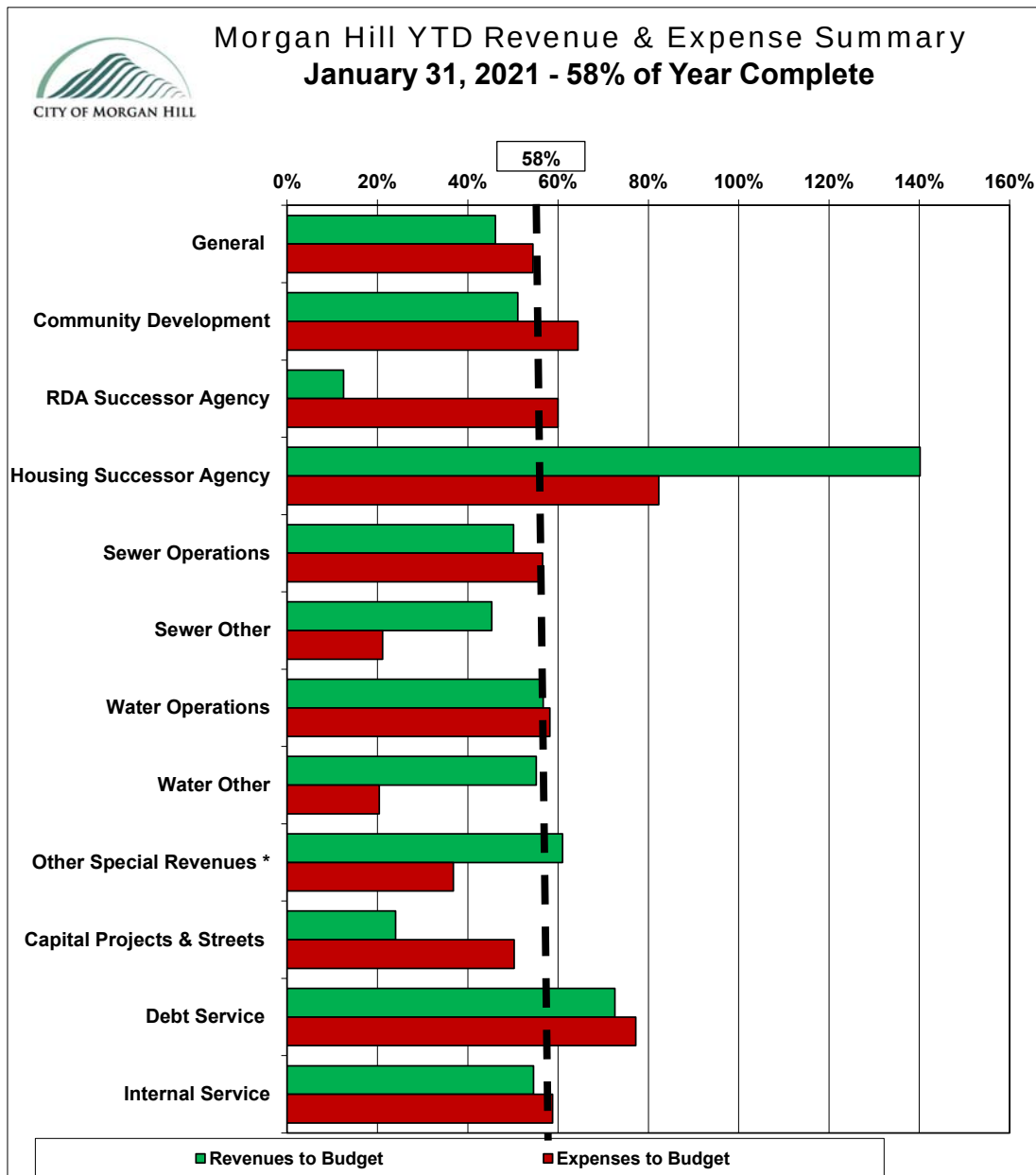
- **Investments** – Three securities were purchased during the month of January 2021.

CITY OF MORGAN HILL
Monthly Financial and Investment Reports
January 31, 2021 - 58% of Year Complete



CITY OF MORGAN HILL

Prepared by:
FINANCE DIVISION



FUND NAME	REVENUES		EXPENSES	
	ACTUAL	% OF BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET
General	\$ 18,368,328	46%	\$ 24,108,631	54%
Community Development	2,425,862	51%	3,133,538	64%
RDA Successor Agency	889,017	13%	4,161,712	60%
Housing Successor Agency	298,696	140%	818,878	82%
Sewer Operations	6,658,213	50%	7,549,071	57%
Sewer Other	4,959,185	45%	5,451,595	21%
Water Operations	8,864,987	57%	9,096,953	58%
Water Other	3,684,113	55%	1,004,352	20%
Other Special Revenues *	2,261,606	61%	1,786,750	37%
Capital Projects & Streets	7,317,413	24%	33,209,583	50%
Debt Service	505,391	73%	537,352	77%
Internal Service	6,412,737	55%	7,458,644	59%
TOTAL FOR ALL FUNDS	\$ 62,645,550	43%	\$ 98,317,060	49%

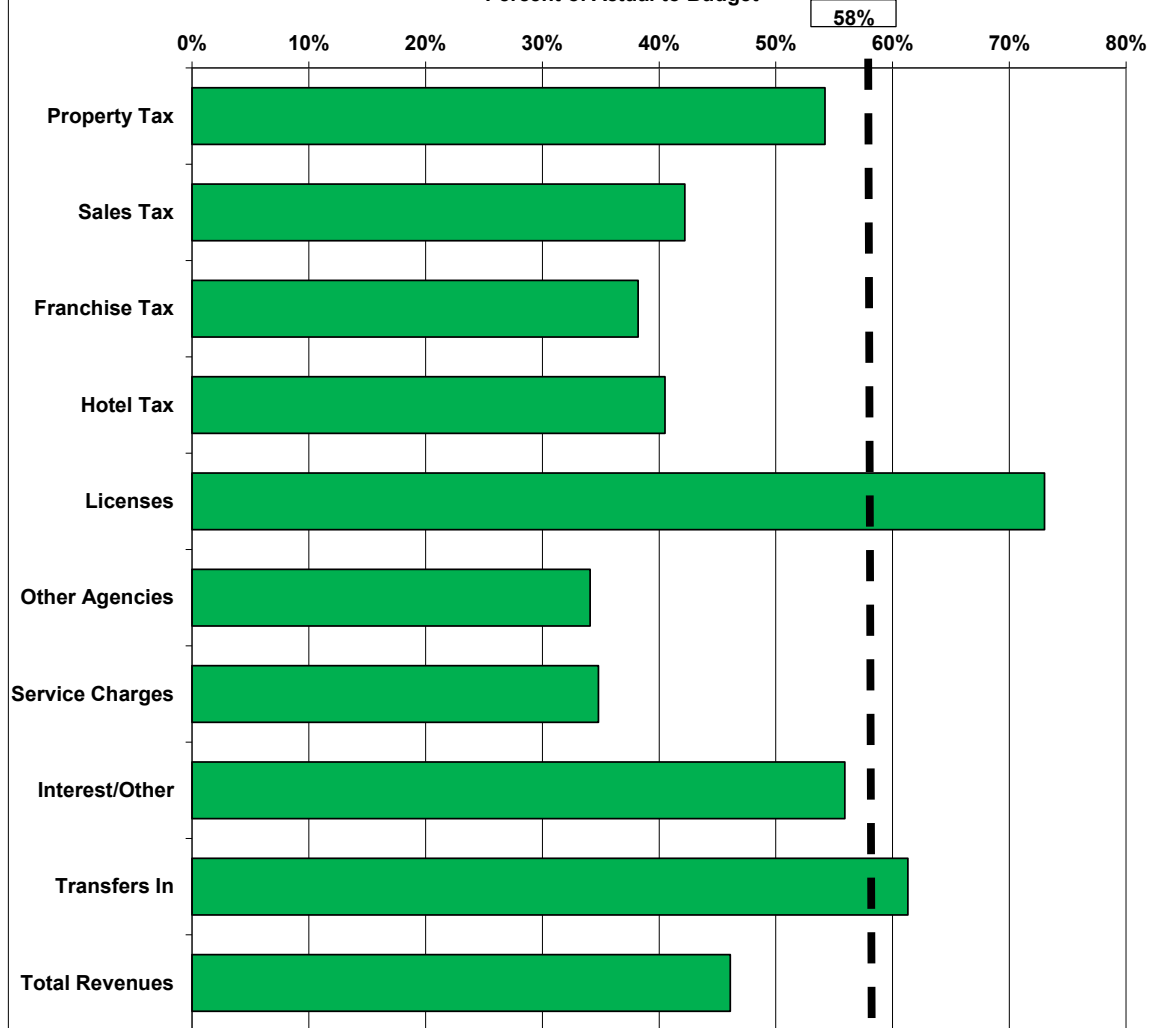
* Includes all Special Revenue Funds except Community Development, Street Funds, and RDA and Housing Successor Agencies.



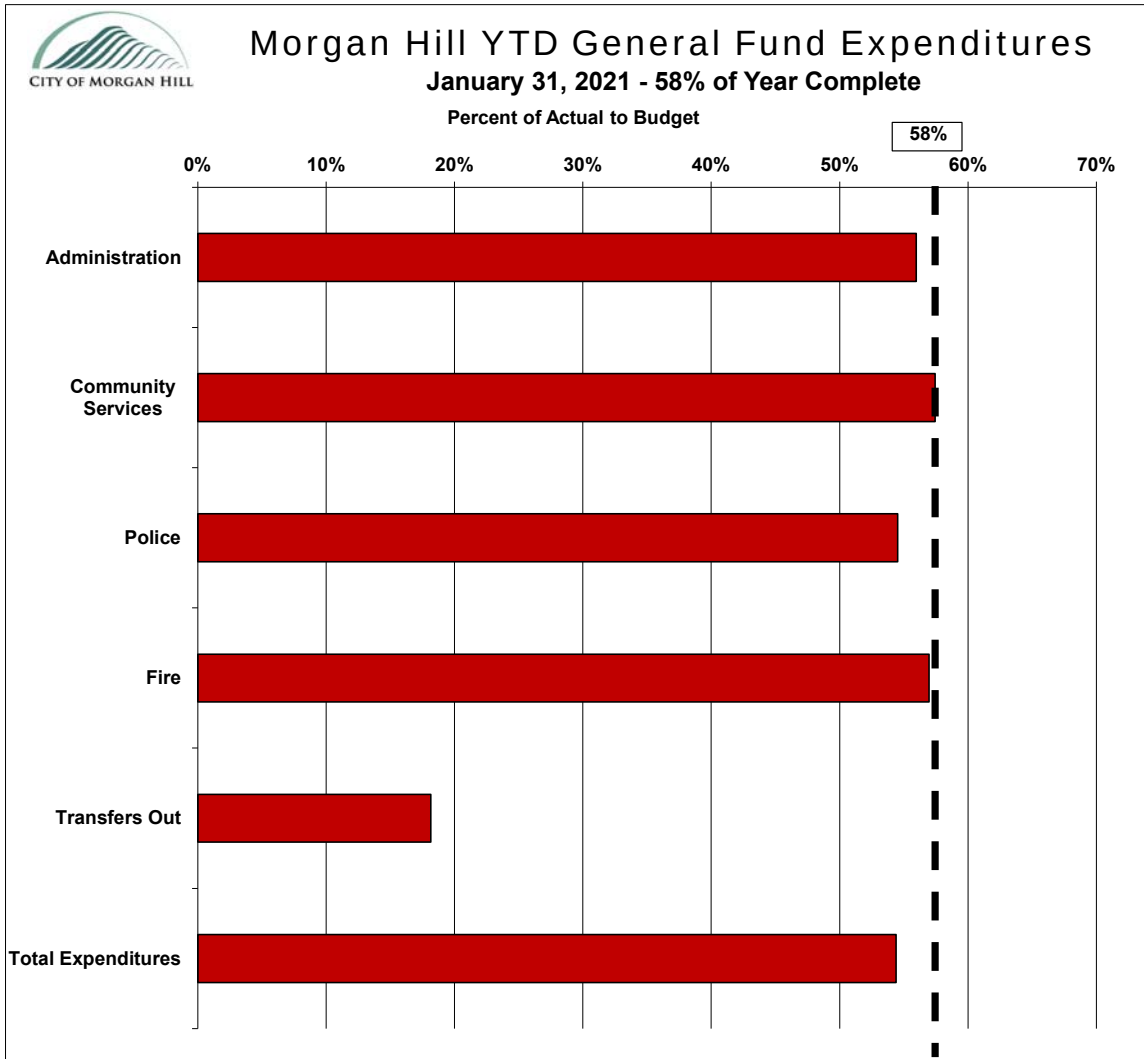
Morgan Hill YTD General Fund Revenues

January 31, 2021 - 58% of Year Complete

Percent of Actual to Budget



REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
Property Tax	\$ 13,640,000	\$ 7,392,312	54%	\$ 6,553,913	13%
Sales Tax	8,370,868	3,532,485	42%	4,383,180	-19%
Franchise Tax	2,351,000	898,869	38%	913,478	-2%
Hotel Tax	1,819,000	736,955	41%	1,519,843	-52%
Licenses	185,444	135,452	73%	138,296	-2%
Other Agencies	703,650	239,700	34%	206,965	16%
Service Charges	8,632,432	3,004,549	35%	6,099,533	-51%
Interest/Other	1,619,336	905,853	56%	965,131	-6%
Transfers In	2,483,580	1,522,153	61%	830,227	83%
TOTAL REVENUES	\$ 39,805,310	\$ 18,368,328	46%	\$ 21,610,566	-15%



EXPENDITURE CATEGORY	BUDGET	ACTUAL PLUS ENCUMBRANCES	% OF BUDGET	PRIOR YTD PLUS ENCUMBRANCES	% CHANGE FROM PRIOR YEAR
Administration	\$ 4,633,295	\$ 2,592,745	56%	\$ 2,952,110	-12%
Community Services	12,794,868	7,348,112	57%	7,752,017	-5%
Police	17,890,973	9,755,081	55%	10,205,371	-4%
Fire	7,162,540	4,079,515	57%	4,128,586	-1%
Transfers Out	1,834,702	333,179	18%	1,094,331	-70%
TOTAL EXPENDITURES	\$ 44,316,377	\$ 24,108,631	54%	\$ 26,132,414	-8%

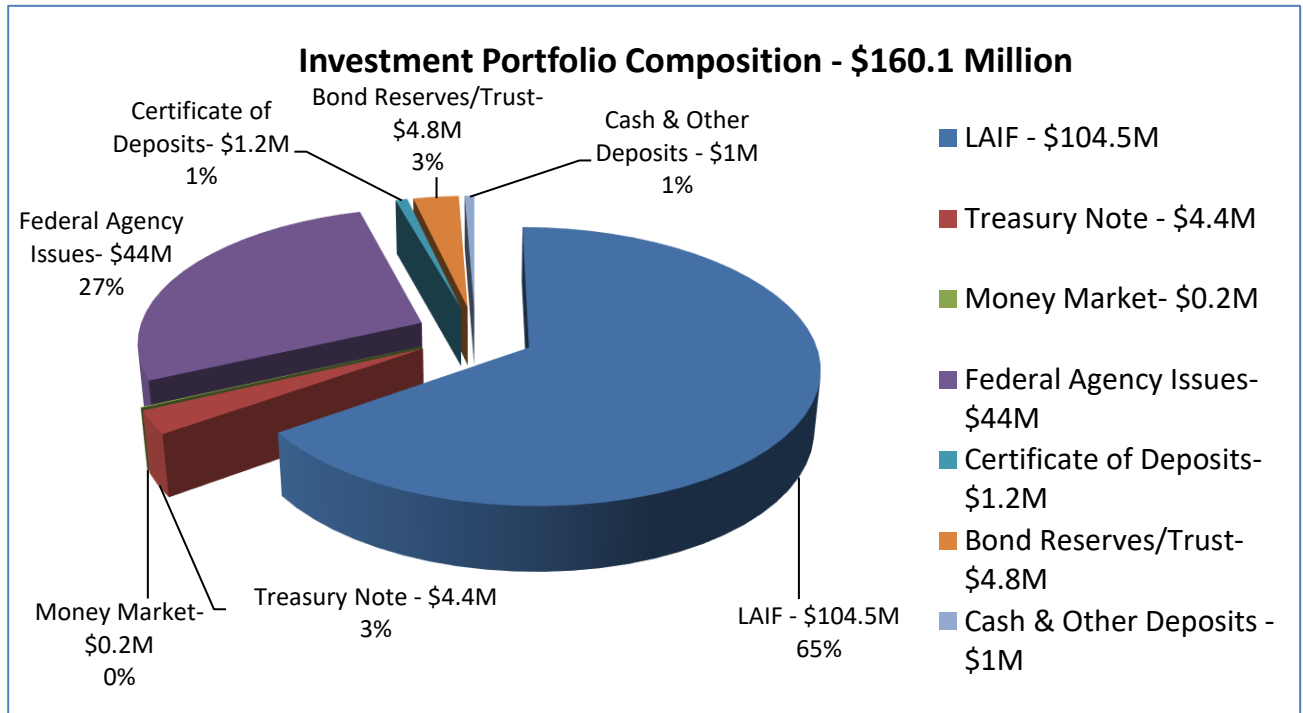


**City of Morgan Hill
Recreation Report - Fiscal Year 2020-21
For the Month and Seven Months Ended January 31, 2021
58% of Year Complete**

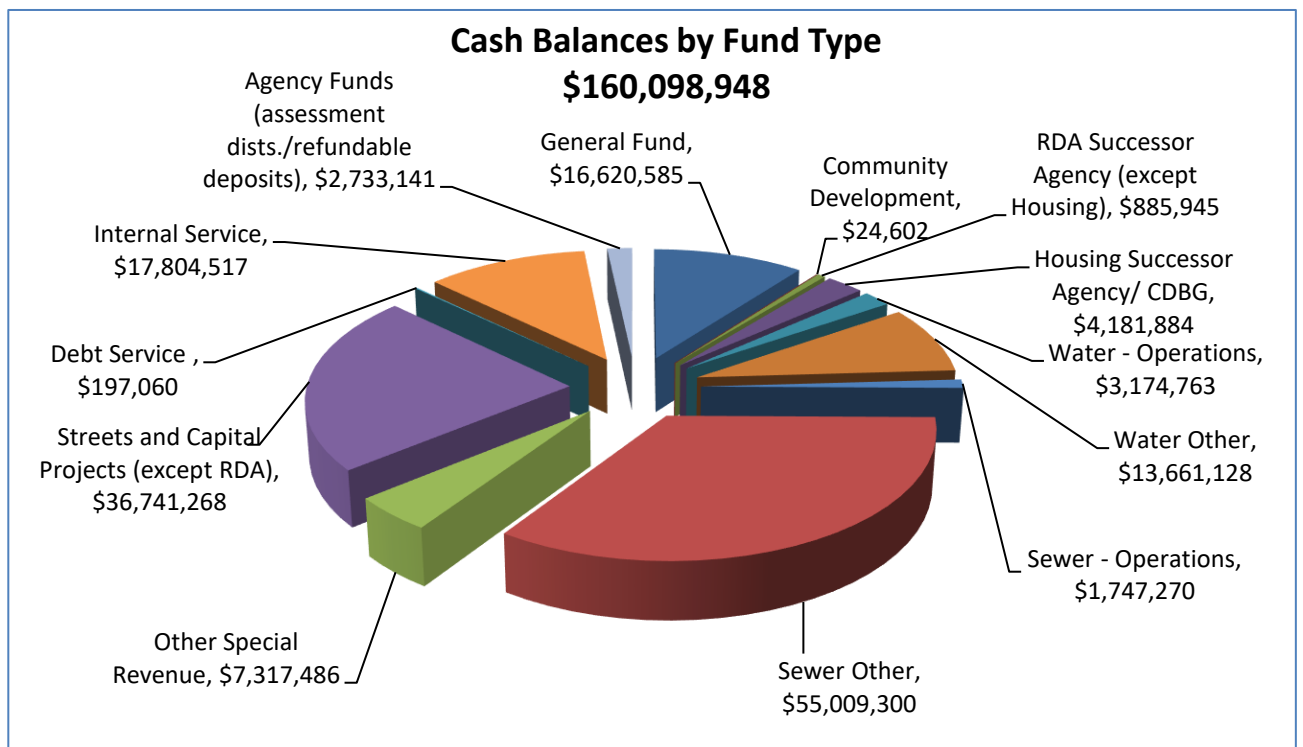
	<u>Budget</u>	<u>January 2021</u>	<u>YTD</u>	<u>% of Budget</u>
Revenues				
Membership Services & Rec Programs	\$ 5,068,448	\$ 206,160	\$ 1,554,929	
Facility Rentals	696,431	(2,835)	84,996	
Community Services	104,460	3,693	4,082	
Transfers in	75,000	6,250	43,750	
Total Revenues	<u>\$ 5,944,339</u>	<u>\$ 213,268</u>	<u>\$ 1,687,756</u>	28%
Less: Expenditures				
Membership & Program Services	\$ 5,675,307	\$ 315,101	\$ 2,598,361	
Facility Rentals	1,236,339	76,853	555,339	
Community Services	609,834	32,873	249,332	
Total Expenditures	<u>\$ 7,521,481</u>	<u>\$ 424,826</u>	<u>\$ 3,403,032</u>	45%
Net Impact without encumbrances	<u>\$ (1,577,142)</u>	<u>\$ (211,558)</u>	<u>\$(1,715,276)</u>	
Encumbrances	-	-	880,533	
Net Impact with encumbrances	<u>\$ (1,577,142)</u>	<u>\$ (211,558)</u>	<u>\$(2,595,809)</u>	

City of Morgan Hill Monthly Investment Report - January 31, 2021

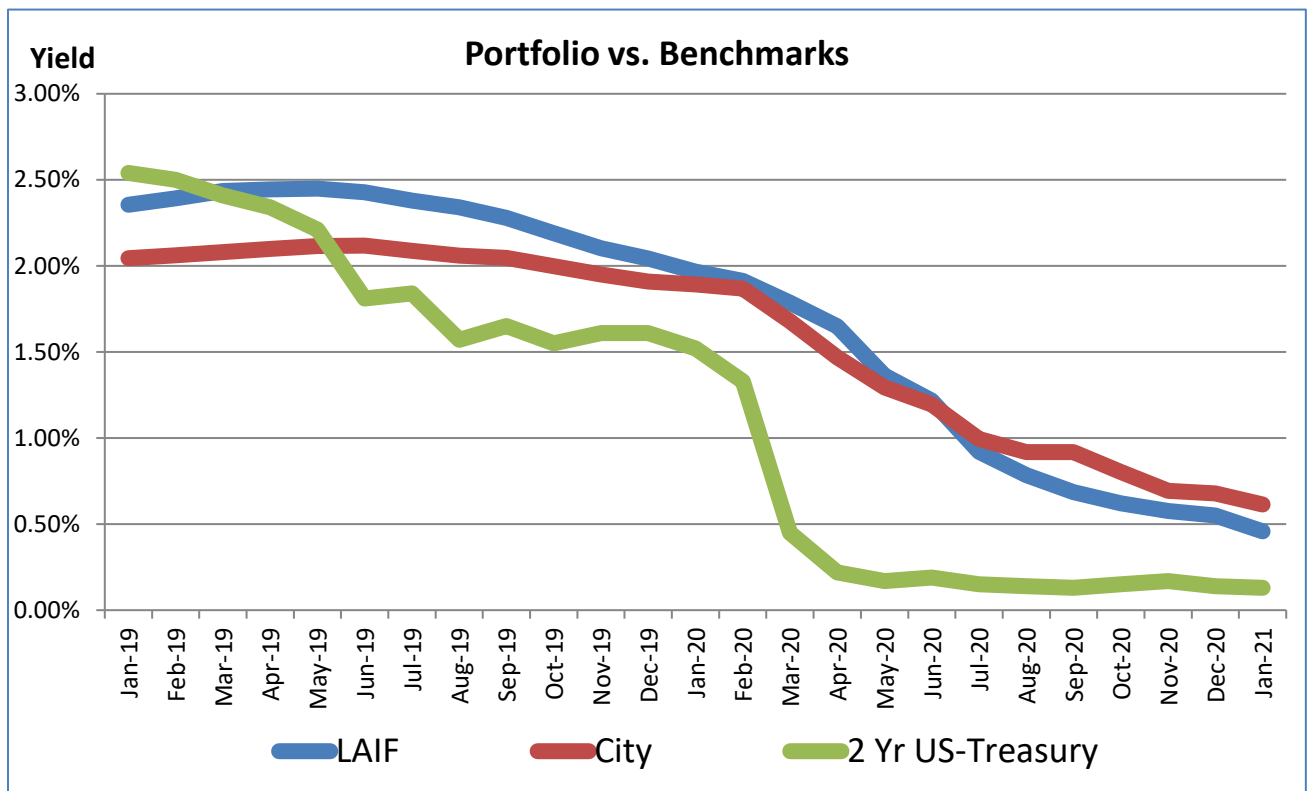
The following are the snapshots of City's investment portfolio as of January 31, 2021. The first chart shows the portfolio composition by investment type:



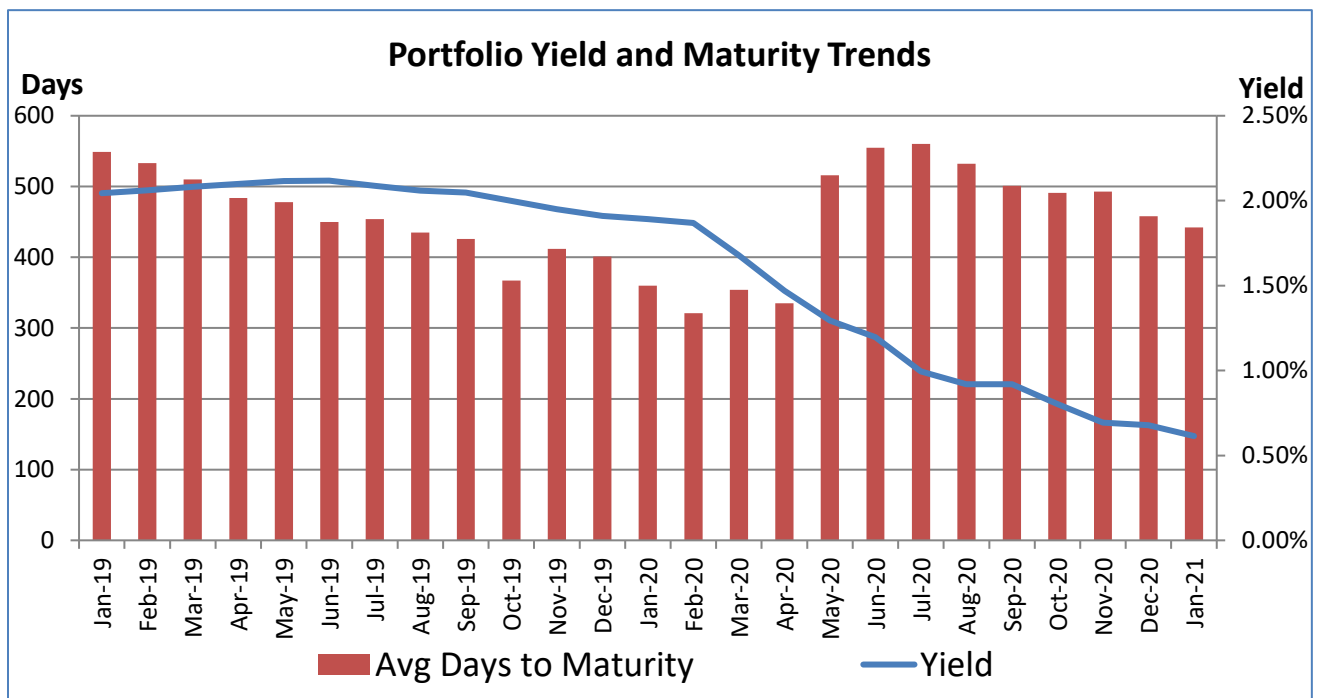
The chart below shows cash balances by fund type reconciled to City's financial system:



The following chart illustrates a yield comparison by month among the City's portfolio, LAIF and 2-Year US Treasury:



The chart below illustrates monthly average days to maturity of the City's portfolio along with the weighted average yield for the past two years:





**City of Morgan Hill
Investment Portfolio Detail
As of January 31, 2021**

Investment Type	Settlement Date	Book Value	% of Portfolio	Market Value	YTM at Cost	Next Call Date	Date of Maturity
L A I F		\$ 104,491,607	65.27%	\$ 104,728,940	0.46%		
City Managed							
FNMA Bond	8/25/2016	4,000,000	2.50%	4,029,400	1.40%	8/25/2021	8/25/2021
Treasury Note	4/30/2018	4,388,518	3.28%	4,632,210	2.73%	3/31/2023	3/31/2023
FFCB Bond	3/17/2020	3,000,000	1.87%	3,002,970	1.13%	3/17/2021	3/17/2025
FFCB Bond	3/24/2020	2,000,000	1.25%	2,001,940	1.00%	3/24/2021	3/24/2023
FFCB Bond	3/25/2020	3,000,000	1.87%	3,002,310	1.20%	3/25/2021	3/25/2025
FFCB Bond	4/8/2020	2,000,000	1.25%	2,003,340	0.88%	4/8/2021	4/8/2024
FFCB Bond	5/27/2020	2,000,000	1.25%	2,001,840	0.73%	5/27/2021	5/27/2025
FHLMC Bond	6/3/2020	2,000,000	1.25%	1,999,820	0.60%	6/3/2021	12/3/2024
FHLMC Bond	10/20/2020	2,000,000	1.25%	2,003,420	0.60%	4/20/2021	10/20/2025
FHLMC Bond	10/27/2020	2,000,000	1.25%	1,987,980	0.63%	4/27/2021	10/27/2025
FHLMC Bond	11/2/2020	2,000,000	1.25%	2,001,220	0.32%	5/2/2021	11/2/2023
FFCB Bond	11/3/2020	2,000,000	1.25%	1,995,340	0.54%	5/3/2021	11/3/2025
FNMA Bond	11/18/2020	2,000,000	1.25%	2,007,640	0.65%	5/18/2021	11/18/2025
FHLMC Bond	11/24/2020	2,000,000	1.25%	2,004,580	0.64%	5/24/2021	11/24/2025
FFCB Bond	11/24/2020	1,000,000	0.62%	1,000,020	0.60%	5/24/2021	11/24/2025
FHLMC Bond	11/25/2020	3,000,000	1.87%	3,006,000	0.63%	5/25/2021	11/25/2025
FHLMC Bond	11/30/2020	2,000,000	1.25%	2,004,760	0.65%	5/26/2021	11/26/2025
FFCB Bond	12/22/2020	2,000,000	1.25%	1,994,980	0.47%	6/22/2021	12/22/2025
FHLB Bond	1/22/2021	2,000,000	1.25%	2,000,480	0.63%	7/22/2021	1/22/2026
FNMA Bond	1/28/2021	2,000,000	1.25%	1,998,240	0.55%	7/28/2021	1/28/2026
FHLB Bond	1/28/2021	2,000,000	1.25%	2,000,000	0.65%	7/28/2021	1/28/2026
CD - Goldman Sachs Bank USA	5/13/2020	250,000	0.16%	251,378	0.50%	5/13/2021	5/13/2022
CD - Woori America Bank	5/13/2020	250,000	0.16%	250,190	0.30%	5/13/2021	5/13/2021
CD - Safra Nat'l Bank	5/14/2020	250,000	0.16%	250,225	0.35%	5/13/2021	5/13/2021
CD - State Bank of India	5/14/2020	250,000	0.16%	250,265	0.40%	5/14/2021	5/14/2021
CD - American Nat'l Bank	5/20/2020	250,000	0.16%	251,070	0.40%	3/20/2021	5/20/2022
Sub Total/Average		\$ 49,638,518	31.54%	\$ 49,931,618	0.94%		
Money Market		\$ 169,640	0.11%	\$ 169,640	0.03%		
Total City Managed/Average		\$ 154,299,765	96.91%	\$ 154,830,198	0.61%		
Bond Reserve Accounts - Held By Trustees		\$ 1,397,519	0.87%	\$ 1,397,519			
Cash/Deposits		\$ 1,014,261	0.63%	\$ 1,014,261			
PARS Trust		\$ 3,387,404	2.12%	\$ 4,326,322			
GRAND TOTAL/AVERAGE		\$ 160,098,948	101%	\$ 161,568,300			

Attachment: January 2021 Financial and Investment Report (3005 : Monthly Budget Update and January 2021 Financial and Investment



CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
FOR THE MONTH OF JANUARY 31, 2021
FOR THE FISCAL YEAR OF 2020-21

	Invested in Fund	Yield	Book Value End of Month	% of Total	Market Value
Investments					
State Treasurer LAIF - City	All Funds Pooled	0.46%	\$ 84,488,512	52.77%	\$ 84,680,412
2015 Wastewater Rev Bonds - CIP	Wastewater Fund	0.46%	20,003,095	12.49%	20,048,528
Federal Issues	All Funds Pooled	0.84%	44,000,000	27.48%	44,046,280
US Treasury Notes	All Funds Pooled	2.73%	4,388,518	2.74%	4,632,210
Certificate of Deposits	All Funds Pooled	0.39%	1,250,000	0.78%	1,253,128
Dreyfus Treas Cash Management Acct	All Funds Pooled	0.03%	169,640	0.11%	169,640
	SUBTOTAL		\$ 154,299,765	96.38%	\$ 154,830,198
Bond Reserve Accounts - held by trustees					
Zions Bank - Civic Center/Library Facility	Debt Service	0.00%	5	0.00%	5
Blackrock Liq Fund					
Zions Bank - MH Police Facility Lease Revenue Bonds	Debt Service	0.00%	6	0.00%	6
Blackrock Liq Fund					
BNY - RDA Bonds					
Dreyfus Cash Mgmt 521	Successor Fund	0.00%	879,804	0.55%	879,804
Zions Bank - MH Ranch 2015					
Blackrock Liq Funds Fed Fund -DI -2015	Agency Fund	0.00%	255,215	0.16%	255,215
Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015					
Blackrock Liquidity Temp Fund-2015	Agency Fund	0.00%	262,488	0.16%	262,488
	SUBTOTAL		1,397,519	0.87%	1,397,519
Other Cash/Deposits					
General Checking	All Funds		977,149	0.61%	977,149
Workers' Comp Administrators	Workers' Comp		30,000	0.02%	30,000
Petty Cash & Emergency Cash	General Fund		7,112	0.00%	7,112
PARS - OPEB Trust			2,187,404	1.37%	2,839,091
PARS - PENSION Trust			1,200,000	0.75%	1,487,231
	SUBTOTAL		4,401,665	2.75%	5,340,583
Total Cash and Investments			\$ 160,098,948	100.00%	\$ 161,568,300

CASH ACTIVITY SUMMARY
FY 2020-21

Fund Type	07/1/20 Balance	Change in Cash Balance	1/31/2021 Balance
General Fund	\$ 16,482,660	\$ 137,926	\$ 16,620,585
Community Development	972,100	(947,498)	24,602
RDA Successor Agency (except Housing)	11,666,343	(10,780,398)	885,945
Housing Successor Agency/ CDBG	4,593,710	(411,826)	4,181,884
Water - Operations	3,747,502	(572,740)	3,174,763
Water Other	8,567,976	5,093,153	13,661,128
Sewer - Operations	3,220,859	(1,473,589)	1,747,270
Sewer Other	32,031,933	22,977,367	55,009,300
Other Special Revenue	5,770,282	1,547,204	7,317,486
Streets and Capital Projects (except RDA)	40,583,676	(3,842,408)	36,741,268
Debt Service	227,953	(30,894)	197,060
Internal Service	17,977,892	(173,374)	17,804,517
Agency Funds (assessment dists./refundable deposits)	3,260,978	(527,836)	2,733,141
Total	\$ 149,103,863	\$ 10,995,085	\$ 160,098,948

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.

I certify the information on the investment reports on pages has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by:

Gina Nazareno, Senior Accountant

Approved by:

Caitlin Jachimowicz, Treasurer

Reviewed by:

Dat Nguyen, Finance Director



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2020-21
For The Seven Months Ended January 31, 2021
58% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
010 GENERAL FUND							
TAXES							
Property Tax - Secured/Unsecured	\$ 11,354,000	\$ 11,354,000	\$ 6,036,360	53%	\$ 5,793,333	\$ 243,027	4%
Property Tax - RPTTF Residual Distribution	2,144,000	2,144,000	1,123,570	52%	673,465	450,105	67%
Property Tax - Supplemental Roll	142,000	142,000	232,383	164%	87,116	145,267	167%
Sales Tax	8,027,793	8,027,793	3,407,731	42%	4,229,672	(821,941)	-19%
Public Safety Sales Tax	343,075	343,075	124,755	36%	153,508	(28,753)	-19%
Transient Occupancy Taxes	1,819,000	1,819,000	736,955	41%	1,519,843	(782,888)	-52%
Franchise (Refuse, Cable, PG&E)	2,351,000	2,351,000	898,869	38%	913,478	(14,609)	-2%
Property Transfer Tax	436,000	436,000	346,656	80%	277,036	69,620	25%
TOTAL TAXES	26,616,868	26,616,868	12,907,277	48%	13,647,450	(740,173)	-5%
LICENSES/PERMITS							
Business License	154,500	154,500	132,833	86%	132,447	386	0%
Other Permits	30,944	30,944	2,619	8%	5,849	(3,230)	-55%
TOTAL LICENSES/PERMITS	185,444	185,444	135,452	73%	138,296	(2,844)	-2%
FINES AND PENALTIES							
Parking Enforcement	8,000	8,000	1,868	23%	2,756	(888)	-32%
Bails & Fines	73,645	73,645	21,406	29%	28,089	(6,683)	-24%
Administrative Citations	10,079	10,079	12,703	126%	77,606	(64,903)	-84%
TOTAL FINES AND PENALTIES	91,724	91,724	35,977	39%	108,451	(72,474)	-67%
OTHER AGENCIES							
Motor Vehicle in-Lieu	25,392	25,392	6,286	25%	-	6,286	n/a
Other Revenue - Other Agencies	529,943	703,650	239,700	34%	206,965	32,735	16%
TOTAL OTHER AGENCIES	555,335	729,042	245,986	34%	206,965	39,021	19%
CHARGES CURRENT SERVICES							
Police False Alarm Charge	30,428	30,428	29,719	98%	15,214	14,505	95%
Business License Application Review	37,080	37,080	25,903	70%	23,682	2,221	9%
Membership Services & Rec Programs	5,068,448	5,068,448	1,554,929	31%	3,767,751	(2,212,823)	-59%
Facility Rentals	696,431	696,431	84,996	12%	608,964	(523,969)	-86%
Community Services	104,460	104,460	4,082	4%	65,140	(61,059)	-94%
General Administration Overhead	1,780,917	1,780,917	1,038,842	58%	1,044,995	(6,153)	-1%
Other Charges Current Services	914,668	914,668	266,079	29%	573,786	(307,707)	-54%
TOTAL CURRENT SERVICES	8,632,432	8,632,432	3,004,549	35%	6,099,533	(3,094,984)	-51%
OTHER REVENUE							
Use of money/property	816,362	816,362	224,954	28%	330,321	(105,367)	-32%
Other Revenues	249,858	249,858	291,979	117%	249,323	42,657	17%
TOTAL OTHER REVENUE	1,066,220	1,066,220	516,933	48%	579,644	(62,711)	-11%
TRANSFERS IN							
One Time Transfer	225,000	225,000	119,574	53%	104,993	14,581	14%
Public Safety Facilities Fund	25,000	25,000	100,000	400%	92,415	7,585	8%
Supplemental Law Enforcement Fund	100,000	100,000	58,000	58%	-	58,000	n/a
Fire Impact	-	-	-	n/a	25,000	(25,000)	-100%
Streets	699,706	699,706	408,156	58%	138,995	269,161	194%
Park Maintenance	650,000	650,000	379,169	58%	-	379,169	n/a
Police Impact	-	-	-	0%	14,581	(14,581)	-100%
Sewer Operations	354,437	354,437	206,752	58%	205,247	1,505	1%
Water Operations	354,437	354,437	206,752	58%	205,247	1,505	1%
Park Development	75,000	75,000	43,750	58%	43,750	-	n/a
TOTAL TRANSFERS IN	2,483,580	2,483,580	1,522,153	61%	830,227	691,926	83%
TOTAL GENERAL FUND	39,631,603	39,805,310	18,368,328	46%	21,610,566	(3,242,238)	-15%
SPECIAL REVENUE FUNDS							
202 STREET MAINTENANCE							
Gas Tax 2105 - 2107.5	698,292	698,292	379,547	54%	431,531	(51,985)	-12%
Interest / Other Revenue/Other Charges	1,414	1,414	775	55%	1,664	(889)	-53%
202 STREET MAINTENANCE	699,706	699,706	380,322	54%	433,196	(52,874)	-12%



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2020-21
For The Seven Months Ended January 31, 2021
58% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
SPECIAL REVENUE FUNDS							
205 SUPPLEMENTAL LAW ENFORCEMENT FUND							
Interest Income	842	842	741	88%	990	(249)	-25%
Police Grant/SLEF/JAG	100,000	100,000	90,060	90%	89,281	779	1%
205 SUPPLEMENTAL LAW ENFORCEMENT FUND	100,842	100,842	90,801	90%	90,271	530	1%
206 DEVELOPMENT SERVICES							
Building Fees	2,162,357	2,162,357	1,341,007	62%	1,870,543	(529,535)	-28%
Planning Fees	743,344	743,344	740,848	100%	809,269	(68,421)	-8%
Engineering Fees	708,809	708,809	268,951	38%	154,732	114,219	74%
Other Revenue/Current Charges	1,133,225	1,133,225	75,055	7%	23,851	51,204	215%
206 DEVELOPMENT SERVICES	4,747,735	4,747,735	2,425,862	51%	2,858,395	(432,533)	-15%
207 LONG RANGE PLANNING	677,026	677,026	376,653	56%	412,531	(35,878)	-9%
215 and 216 HCD BLOCK GRANT							
Interest Income/Other Revenue	3,111	3,111	278	9%	676	(397)	-59%
215 and 216 HCD BLOCK GRANT	3,111	3,111	278	9%	676	(397)	-59%
225 ASSET SEIZURE	1,893	1,893	611	32%	17,290	(16,679)	-96%
229 LIGHTING AND LANDSCAPE	191,075	191,075	104,175	55%	97,338	6,838	7%
230 COMMUNITY FACILITIES DISTRICT	1,216	1,216	20,282	1668%	24,711	(4,429)	-18%
232 ENVIRONMENTAL PROGRAMS	446,843	446,843	283,425	63%	256,456	26,969	11%
234 MOBILE HOME PARK RENT STAB.	742	742	3,690	497%	6,230	(2,540)	-41%
235 SENIOR HOUSING	3,793	3,793	1,000	26%	2,427	(1,427)	-59%
236 HOUSING MITIGATION	2,248,764	2,248,764	1,289,159	57%	621,124	668,035	108%
237 BEGIN	-	-	718	n/a	-	718	n/a
238 CAL HOMES	-	-	81,037	n/a	-	81,037	n/a
240 EMPLOYEE ASSISTANCE	29,068	29,068	8,683	30%	12,064	(3,381)	-28%
247 ENVIRONMENT REMEDIATION	2,400	2,400	1,095	46%	2,678	(1,584)	-59%
250 COMH-SUCCESSOR AGENCY-MHRDA	7,112,060	7,112,060	889,017	13%	7,331,586	(6,442,568)	-88%
255 HOUSING SUCCESSOR AGENCY	213,057	213,057	298,696	140%	205,419	93,277	45%
TOTAL SPECIAL REVENUE FUNDS	16,479,332	16,479,332	6,255,503	38%	12,372,391	(6,116,887)	-49%
CAPITAL PROJECTS FUNDS							
301 PARK DEVELOPMENT	2,384,665	2,384,665	1,439,407	60%	807,934	631,472	78%
302 PARK MAINTENANCE	359,071	359,071	53,699	15%	245,433	(191,734)	-78%
303 LOCAL DRAINAGE	1,693,351	1,693,351	787,472	47%	566,859	220,613	39%
304 LOCAL DRAINAGE/NON AB1600	80,333	130,122	6,947	5%	16,538	(9,591)	-58%
306 AGRICULTURE & OPEN SPACE PRESERVATION	178,958	178,958	123,468	69%	743,631	(620,163)	-83%
308 STREET CIP	2,571,010	2,571,010	979,420	38%	2,638,997	(1,659,577)	-63%
309 TRAFFIC IMPACT	16,415,755	16,415,755	853,873	5%	830,433	23,440	3%
311 POLICE IMPACT	-	-	-	n/a	142,645	(142,645)	-100%
313 FIRE IMPACT	-	-	-	n/a	86,468	(86,468)	-100%
315 PUBLIC SAFETY FACILITIES IMPACT	984,769	984,769	247,232	25%	-	247,232	n/a
346 PUBLIC FACILITIES NON-AB1600	611,297	611,297	884,407	145%	177,100	707,307	399%
347 PUBLIC FACILITIES IMPACT	336,106	336,106	106,125	32%	148,875	(42,750)	-29%
348 LIBRARY	946,889	946,889	455,779	48%	295,039	160,740	54%
350 UNDERGROUNDING	12,817	12,817	4,147	32%	9,151	(5,003)	-55%
355 SCHOOL PEDESTRIAN/TRAFFIC SAFETY	591,721	591,721	299,402	51%	82,025	217,377	265%
360 COMMUNITY/REC IMPACT FUND	1,498,683	1,498,683	695,714	46%	514,200	181,514	35%
375 QUIMBY FEE	1,072,238	1,072,238	-	n/a	-	-	n/a
TOTAL CAPITAL PROJECTS FUNDS	29,737,663	29,787,452	6,937,092	23%	7,305,328	(368,237)	-5%
DEBT SERVICE FUNDS							
420 CIVIC CENTER DEBT	312,272	312,272	181,102	58%	175,958	5,145	3%
441 POLICE FACILITY BOND	384,252	384,252	324,289	84%	187,213	137,076	73%
TOTAL DEBT SERVICE FUNDS	696,524	696,524	505,391	73%	363,171	142,220	39%

Attachment: January 2021 Financial and Investment Report (3005 : Monthly Budget Update and January 2021 Financial and Investment



City of Morgan Hill
Year to Date Revenues - Fiscal Year 2020-21
For The Seven Months Ended January 31, 2021
58% of Year Complete

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% CHANGE
ENTERPRISE FUNDS							
640 SEWER OPERATION							
Sewer Service Fees	12,972,441	12,972,441	6,515,062	50%	5,590,940	924,122	17%
Interest Income/Transfers	36,691	36,691	14,872	41%	39,520	(24,647)	-62%
Other Revenue/Current Charges	267,694	267,694	128,279	48%	677,150	(548,871)	-81%
640 SEWER OPERATION	13,276,826	13,276,826	6,658,213	50%	6,307,609	350,604	6%
641 SEWER EXPANSION							
Interest Income	215,876	215,876	97,141	45%	209,658	(112,518)	-54%
Development Impact Fee	6,225,545	6,225,545	2,245,100	36%	2,894,475	(649,375)	-22%
641 SEWER EXPANSION	6,441,421	6,441,421	2,342,241	36%	3,104,133	(761,893)	-25%
642 SEWER RATE STABILIZATION	44,423	44,423	11,482	26%	27,878	(16,396)	-59%
643 SEWER-CAPITAL PROJECT	4,455,944	4,455,944	2,605,463	58%	1,741,986	863,477	50%
TOTAL SEWER FUNDS	24,218,614	24,218,614	11,617,399	48%	11,181,606	435,793	4%
650 WATER OPERATION							
Water Sales	14,525,500	14,525,500	8,064,148	56%	7,307,149	756,999	10%
Meter Install & Service	24,600	24,600	52,054	212%	11,928	40,126	336%
Transfers-In / Interest Income	521,171	521,171	270,508	52%	287,969	(17,461)	-6%
Other Revenue/Current Charges	572,081	572,081	478,277	84%	557,802	(79,525)	-14%
650 WATER OPERATION	15,643,352	15,643,352	8,864,987	57%	8,164,848	700,139	9%
651 WATER EXPANSION							
Interest Income/Other Revenue/Transfer	62,748	62,748	13,862	22%	27,281	(13,419)	-49%
Development Impact Fee	1,689,416	1,689,416	783,540	46%	710,894	72,646	10%
651 WATER EXPANSION	1,752,164	1,752,164	797,402	46%	738,175	59,226	8%
652 Water Rate Stabilization	65,904	65,904	38,144	58%	18,710	19,433	104%
653 Water Capital Project	4,863,152	4,863,152	2,848,568	59%	2,236,695	611,873	27%
TOTAL WATER FUNDS	22,324,572	22,324,572	12,549,100	56%	11,158,428	1,390,672	12%
TOTAL ENTERPRISE FUNDS	46,543,186	46,543,186	24,166,499	52%	22,340,034	1,826,465	8%
INTERNAL SERVICE FUNDS							
730 INFORMATION SYSTEMS	1,850,422	1,850,422	1,099,523	59%	1,057,141	42,382	4%
740 BUILDING MAINTENANCE	3,486,066	3,486,066	1,999,732	57%	1,877,308	122,424	7%
741 BUILDING REPLACEMENT	726,251	726,251	397,716	55%	468,614	(70,898)	-15%
745 CIP ADMINISTRATION	1,721,606	1,721,606	801,451	47%	976,809	(175,358)	-18%
760 UNEMPLOYMENT INSURANCE	102,463	102,463	58,750	57%	1,478	57,272	3876%
770 WORKERS COMPENSATION	876,368	876,368	420,211	48%	489,564	(69,352)	-14%
790 EQUIPMENT REPLACEMENT	1,084,748	1,084,748	782,053	72%	692,258	89,796	13%
791 EMPLOYEE BENEFITS	1,031,234	1,031,234	349,443	34%	461,814	(112,370)	-24%
795 GENERAL LIABILITY INSURANCE	877,248	877,248	503,857	57%	626,351	(122,493)	-20%
TOTAL INTERNAL SERVICE FUNDS	11,756,406	11,756,406	6,412,737	55%	6,651,334	(238,597)	-4%
TOTAL FOR ALL FUNDS	\$ 144,844,714	\$ 145,068,210	\$ 62,645,550	43%	\$ 70,642,824	\$ (7,997,275)	-11%



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2020-21
For the Month and Seven Months Ended January 31, 2021
58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRICED YTD
010 GENERAL FUND								
I. ADMINISTRATION								
	CITY COUNCIL	\$ (3,121)	\$ 348,053	\$ 175,763	\$ -	\$ 175,763	50%	\$ 31,111
	CITY ATTORNEY	47,737	717,004	376,100	91,712	467,812	65%	4,444
	CITY MANAGER	39,866	504,773	289,030	-	289,030	57%	2,222
	HUMAN RESOURCES	52,546	674,377	370,623	-	370,623	55%	4,444
	COUNCIL SVCS & RECORDS MGMT							
	Council Svcs & Records Mgmt	45,457	616,687	327,844	31,300	359,144	58%	3,333
	Elections	1,870	186,470	101,438	-	101,438	54%	4,444
	COUNCIL SVCS & RECORDS MGMT	47,326	803,157	429,282	31,300	460,582	57%	3,333
	FINANCE	109,025	1,585,931	815,934	13,000	828,934	52%	9,999
	TOTAL ADMINISTRATION	293,379	4,633,295	2,456,733	136,012	2,592,745	56%	2,777
II. COMMUNITY SERVICES								
	Membership Services & Rec. Programs	315,101	5,675,307	2,598,361	805,124	3,403,485	60%	3,555
	Recreation Facility Rentals	76,853	1,236,339	555,339	-	555,339	45%	7,777
	Community Services	32,873	609,834	249,332	75,409	324,741	53%	3,333
	Park Maintenance	93,680	1,103,136	595,441	87,214	682,655	62%	-
	Environmental Services	16,262	314,680	113,344	-	113,344	36%	1,111
	Street Maintenance	173,502	2,411,237	1,194,132	175,295	1,369,427	57%	1,222
	Downtown Maintenance	38,688	271,270	125,285	54,057	179,342	66%	11,111
	Cable Television	1,770	23,156	12,651	-	12,651	55%	-
	COMMUNITY SERVICES	748,728	11,644,959	5,443,885	1,197,099	6,640,984	57%	6,222
	CODE COMPLIANCE	12,775	160,479	91,119	-	91,119	57%	1,111
	INFRASTRUCTURE PLANNING & CONGESTION MGMT	53,995	335,902	203,759	-	203,759	61%	11,111
	ECONOMIC DEVELOPMENT PROGRAMS	35,349	653,527	362,212	50,038	412,250	63%	3,333
	TOTAL COMMUNITY SERVICES	850,847	12,794,868	6,100,975	1,247,137	7,348,112	57%	6,888
III. PUBLIC SAFETY								
	POLICE							
	PD Administration	112,559	1,373,018	930,945	46,335	977,280	71%	7,777
	Field Operations	614,523	8,709,877	4,655,201	95,066	4,750,267	55%	5,222
	Support Services	180,798	2,370,491	1,284,845	14,000	1,298,845	55%	1,333
	Emergency Services/Haz Mat	14,027	194,391	102,084	-	102,084	53%	1,111
	Special Operations	223,174	3,452,365	1,692,855	5,203	1,698,058	49%	1,555
	Dispatch Services	138,042	1,790,831	928,548	-	928,548	52%	1,000
	POLICE	1,283,123	17,890,973	9,594,477	160,604	9,755,081	55%	10,000
	FIRE	564,317	7,162,540	4,058,581	20,934	4,079,515	57%	4,000
	TOTAL PUBLIC SAFETY	1,847,439	25,053,513	13,653,058	181,537	13,834,596	55%	14,000
IV. TRANSFERS								
	Other	(448,063)	1,834,702	333,179	-	333,179	18%	1,000
	TOTAL TRANSFERS	(448,063)	1,834,702	333,179	-	333,179	18%	1,000
	TOTAL GENERAL FUND	2,543,602	44,316,377	22,543,945	1,564,686	24,108,631	54%	24,777

Attachment: January 2021 Financial and Investment Report (3005 : Monthly Budget Update and January 2021 Financial and Investment



City of Morgan Hill
Year to Date Expenses - Fiscal Year 2020-21
For the Month and Seven Months Ended January 31, 2021
58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRIC YTD
SPECIAL REVENUE FUNDS								
202	STREET MAINTENANCE	95,835	703,934	410,620	-	410,620	58%	14
205	PUBLIC SAFETY/SUPP.LAW	100,589	107,069	104,123	-	104,123	97%	9
206	DEVELOPMENT SERVICES FUND							
	Planning	115,159	1,590,704	886,390	56,104	942,493	59%	1,21
	Building	155,510	2,114,110	1,138,080	17,970	1,156,049	55%	1,14
	Engineering	120,959	1,161,439	716,846	318,150	1,034,996	89%	8
206	DEVELOPMENT SERVICES FUND	391,628	4,866,253	2,741,315	392,223	3,133,538	64%	3,21
207	LONG RANGE PLANNING	91,417	1,523,735	583,031	272,110	855,142	56%	21
215/216	CDBG	447	5,365	3,129	-	3,129	58%	3
225	ASSET SEIZURE	-	60,024	-	-	-	-	-
229	LIGHTING AND LANDSCAPE	30,334	168,662	101,918	13,281	115,199	68%	11
230	COMMUNITY FACILITIES DISTRICT	1,297	36,418	14,398	-	14,398	40%	4
232	ENVIRONMENT PROGRAMS	30,050	420,519	223,709	22,171	245,880	58%	23
234	MOBILE HOME PARK	37	438	259	-	259	59%	3
236	HOUSING MITIGATION	60,941	2,494,568	251,627	186,583	438,210	18%	81
237	BEGIN	-	-	-	-	-	n/a	-
240	EMPLOYEE ASSISTANCE	84	28,506	8,132	-	8,132	29%	3
247	ENVIRONMENTAL REMEDIATION	596	-	2,279	-	2,279	n/a	3
250	COMH-SUCCESSOR AGENCY-MHRDA	4	6,936,625	4,161,712	-	4,161,712	60%	4,16
255	HOUSING SUCCESSOR AGENCY	172,123	994,782	702,211	116,667	818,878	82%	51
TOTAL SPECIAL REVENUE FUNDS		975,381	18,346,897	9,308,464	1,003,035	10,311,499	56%	9,61
CAPITAL PROJECT FUNDS								
301	PARK DEVELOPMENT	179,161	10,956,438	2,780,342	4,202,626	6,982,968	64%	1,74
302	PARK MAINTENANCE	54,167	748,230	379,169	25,014	404,183	54%	61
303	LOCAL DRAINAGE	31,515	7,278,922	270,633	41,527	312,161	4%	2
304	LOCAL DRAIN. NON-AB1600	30,352	883,162	173,027	41,165	214,192	24%	4
306	AGRICULTURE & OPEN SPACE PRESERVATIK	2,228	132,691	15,596	35,956	51,552	39%	3,11
308	STREET CIP	228,523	6,132,529	2,792,326	952,159	3,744,485	61%	4,44
309	TRAFFIC IMPACT	110,878	32,689,024	1,264,453	15,619,668	16,884,122	52%	61
311	POLICE IMPACT	-	-	-	-	-	n/a	1
313	FIRE IMPACT	-	-	-	-	-	n/a	1
315	PUBLIC SAFETY FACILITIES IMPACT	19,525	344,301	136,675	-	136,675	40%	-
346	PUBLIC FAC.NON AB1600	906	330,590	143,766	42,975	186,741	56%	1
347	PUBLIC FACILITIES IMPACT	3,717	38,692	34,340	-	34,340	89%	9
348	LIBRARY IMPACT	44,210	1,732,111	613,232	129,754	742,986	43%	81
350	UNDERGROUNDING	92	1,107	644	-	644	58%	1
355	SCHOOL PEDESTRIAN & TRAFFIC SAFETY	85,107	1,995,044	1,033,980	95,349	1,129,330	57%	21
360	COMM/REC CENTER IMPACT	180,424	1,954,607	1,443,807	530,778	1,974,585	101%	51
375	QUIMBY FEE	-	100,000	-	-	-	n/a	-
TOTAL CAPITAL PROJECTS FUNDS		970,804	65,317,446	11,081,991	21,716,972	32,798,963	50%	12,91
DEBT SERVICE FUNDS								
420	CIVIC CENTER DEBT	865	307,813	232,169	-	232,169	75%	21
441	POLICE FACILITY BOND DEBT	329	388,040	305,183	-	305,183	79%	31
TOTAL DEBT SERVICE FUNDS		1,194	695,853	537,352	-	537,352	77%	51

Attachment: January 2021 Financial and Investment Report (3005 : Monthly Budget Update and January 2021 Financial and Investment



City of Morgan Hill
 Year to Date Expenses - Fiscal Year 2020-21
 For the Month and Seven Months Ended January 31, 2021
 58% of Year Complete

FUND NO.	FUND/ACTIVITY	CURRENT MONTH ACTUAL EXPENSES	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET	PRICED YTD
ENTERPRISE FUNDS								
SEWER								
640	SEWER OPERATIONS	1,037,422	13,351,981	7,382,767	166,304	7,549,071	57%	6,01
641	SEWER CAPITAL EXPANSION	43,727	7,487,155	367,992	691,160	1,059,151	14%	6:
642	SEWER RATE STABILIZATION	93	1,111	651	-	651	59%	
643	SEWER-CAPITAL PROJECTS	70,021	18,341,671	2,230,964	2,160,829	4,391,793	24%	3,3
TOTAL SEWER FUND(S)		1,151,263	39,181,919	9,982,374	3,018,293	13,000,666	33%	10,01
WATER								
	Water Operations	1,077,257	14,624,090	7,767,488	732,443	8,499,931	58%	7,81
	Utility Billing	79,758	863,064	488,464	23,560	512,024	59%	41
	Water Conservation	5,188	153,047	37,891	47,107	84,998	56%	
650	WATER OPERATIONS	1,162,203	15,640,201	8,293,843	803,110	9,096,953	58%	8,31
651	WATER CAPITAL EXPANSION	48,382	1,064,517	358,927	187,307	546,234	51%	8:
652	WATER RATE STABILIZATION	30	362	210	-	210	58%	
653	WATER-CAPITAL PROJECTS	11,015	3,865,574	133,013	324,896	457,909	12%	31
TOTAL WATER FUND(S)		1,221,631	20,570,655	8,785,993	1,315,312	10,101,305	49%	9,6:
TOTAL ENTERPRISE FUNDS		2,372,894	59,752,574	18,768,366	4,333,605	23,101,971	39%	19,7
INTERNAL SERVICE FUNDS								
730	INFORMATION SYSTEMS	130,567	2,240,628	1,019,173	220,145	1,239,318	55%	1,01
740	BUILDING MAINTENANCE	249,123	3,450,173	1,400,210	338,045	1,738,255	50%	1,61
741	BUILDING REPLACEMENT	3,099	457,000	48,338	601	48,939	11%	11
745	CIP ADMINISTRATION	127,661	1,655,366	916,448	12,340	928,789	56%	9:
760	UNEMPLOYMENT	30	75,000	(7,658)	-	(7,658)	-10%	
770	WORKERS COMPENSATION	14,088	860,729	496,446	-	496,446	58%	7:
790	EQUIPMENT REPLACEMENT	99,457	1,863,653	782,119	589,826	1,371,945	74%	2:
791	EMPLOYEE BENEFITS FUND	139,381	625,000	434,625	-	434,625	70%	31
795	GEN. LIABILITY INSURANCE	15,230	1,457,651	1,207,984	-	1,207,984	83%	8:
TOTAL INTERNAL SERVICE FUNDS		778,635	12,685,200	6,297,687	1,160,957	7,458,644	59%	6,11
REPORT TOTAL		\$ 7,642,512	\$ 201,114,348	\$ 68,537,804	\$ 29,779,255	\$ 98,317,060	49%	\$ 73,81

Attachment: January 2021 Financial and Investment Report (3005 : Monthly Budget Update and January 2021 Financial and Investment

		 City of Morgan Hill Fund Activity Summary - Fiscal Year 2020-21 For The Seven Months Ended January 31, 2021 58% of Year Complete							
Fund No.	Fund	Fund Balance 06-30-20	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved
010	GENERAL FUND	\$ 19,175,235	\$ 18,368,328	46%	\$ 22,543,945	51%	\$ (4,175,617)	\$ 1,564,686	\$ 13,434,932
TOTAL GENERAL FUND		\$ 19,175,235	\$ 18,368,328	46%	\$ 22,543,945	51%	\$ (4,175,617)	\$ 1,564,686	\$ 13,434,932
202	STREET MAINTENANCE	3,417	\$ 380,322	54%	\$ 410,620	54%	\$ (30,298)	\$ -	\$ (26,881)
205	PUBLIC SAFETY/SUPPL. LAW	144,963	90,801	90%	104,123	62%	(13,322)	-	131,641
206	DEVELOPMENT SERVICES	(24,043)	2,425,862	51%	2,741,315	56%	(315,454)	392,223	(731,720)
207	LONG RANGE PLANNING	1,250,193	376,653	56%	583,031	38%	(206,378)	272,110	771,704
215 / 216	CDBG	39,777	278	9%	3,129	58%	(2,851)	-	36,926
225	ASSET SEIZURE	142,239	611	32%	-	n/a	611	-	142,850
229	LIGHTING AND LANDSCAPE	163,636	104,175	55%	101,918	60%	2,257	13,281	152,612
230	COMMUNITY FACILITIES DISTRICT	126,360	20,282	1668%	14,398	40%	5,884	-	132,244
232	ENVIRONMENTAL PROGRAMS	161,766	283,425	63%	223,709	53%	59,716	22,171	199,311
234	MOBILE HOME PK RENT STAB.	58,766	3,690	497%	259	59%	3,431	-	62,197
235	SENIOR HOUSING	232,918	1,000	26%	-	n/a	1,000	-	233,918
236	HOUSING MITIGATION	3,056,699	1,289,159	57%	251,627	10%	1,037,532	186,583	3,907,648
237	BEGIN	217,113	718	n/a	-	n/a	718	-	217,831
240	EMPLOYEE ASSISTANCE	63,113	8,683	30%	8,132	29%	551	-	63,664
247	ENVIRONMENT REMEDIATION	136,785	1,095	46%	2,279	n/a	(1,185)	-	135,600
250	COMH-SUCCESSOR AGENCY-MHRDA	(568,362)	889,017	13%	4,161,712	60%	(3,272,695)	-	(3,841,057)
255	HOUSING SUCCESSOR AGENCY	4,538,622	298,696	140%	702,211	71%	(403,515)	116,667	4,018,441
260	PUBLIC ART	-	-	n/a	-	-	-	-	-
TOTAL SPECIAL REVENUE FUNDS		\$ 9,743,962	\$ 6,174,466	38%	\$ 9,308,464	51%	\$ (3,133,997)	\$ 1,003,035	\$ 5,606,929
301	PARK DEV. IMPACT FUND	\$ 3,569,152	\$ 1,439,407	60%	\$ 2,780,342	25%	\$ (1,340,936)	\$ 4,202,626	\$ (1,974,410)
302	PARK MAINTENANCE	3,411,843	53,699	15%	379,169	51%	(325,470)	25,014	3,061,359
303	LOCAL DRAINAGE	12,068,666	787,472	47%	270,633	4%	516,839	41,527	12,543,978
304	LOCAL DRAINAGE/NON-AB1600	1,442,477	6,947	5%	173,027	20%	(166,080)	41,165	1,235,232
306	AGRICULTURE AND OPEN SPACE PRESERV	5,860,492	123,468	69%	15,596	12%	107,872	35,956	5,932,408
308	STREET CIP	3,866,352	979,420	38%	2,792,326	46%	(1,812,906)	952,159	1,101,287
309	TRAFFIC IMPACT FUND	(538,762)	853,873	5%	1,264,453	4%	(410,581)	15,619,668	(16,569,011)
315	PUBLIC SAFETY FACILITIES IMPACT	3,452,398	247,232	25%	136,675	40%	110,557	-	3,562,955
346	PUBLIC FACILITIES NON-AB1600	389,161	884,407	145%	143,766	43%	740,641	42,975	1,086,827
347	PUBLIC FACILITIES IMPACT FUND	830,098	106,125	32%	34,340	89%	71,785	-	901,883
348	LIBRARY IMPACT FUND	1,680,413	455,779	48%	613,232	35%	(157,452)	129,754	1,393,206
350	UNDERGROUNDING	966,109	4,147	32%	644	58%	3,503	-	969,612
355	SCHOOL PEDESTRIAN/TRAFFIC SFTY	1,076,228	299,402	51%	1,033,980	52%	(734,578)	95,349	246,300
360	COMM/REC CTR IMPACT FUND	2,050,691	695,714	46%	1,443,807	74%	(748,093)	530,778	771,820
TOTAL CAPITAL PROJECT FUNDS		\$ 40,125,318	\$ 6,937,092	23%	\$ 11,081,991	17%	\$ (4,144,899)	\$ 21,716,972	\$ 14,263,446
420	CIVIC CENTER DEBT	\$ 154,609	\$ 181,102	58%	\$ 232,169	75%	\$ (51,067)	\$ -	\$ 103,542
441	POLICE FACILITY BOND DEBT	74,409	324,289	84%	305,183	79%	19,106	5	93,510
TOTAL DEBT SERVICE FUNDS		\$ 229,018	\$ 505,391	73%	\$ 537,352	77%	\$ (31,961)	\$ 5	\$ 197,052

		 City of Morgan Hill Fund Activity Summary - Fiscal Year 2020-21 For The Seven Months Ended January 31, 2021 58% of Year Complete							
Fund No.	Fund	Fund Balance 06-30-20	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved ¹	Unreserved
640	SEWER OPERATIONS	\$ 3,482,225	\$ 6,658,213	50%	\$ 7,382,767	55%	\$ (724,554)	166,304	2,591,367
641	SEWER IMPACT FUND*	20,830,270	2,342,241	36%	367,992	5%	1,974,249	691,160	22,113,359
642	SEWER RATE STABILIZATION	2,674,255	11,482	26%	651	59%	10,831	-	2,685,086
643	SEWER-CAPITAL PROJECTS	7,626,168	2,605,463	58%	2,230,964	12%	374,499	2,160,829	5,839,838
650	WATER OPERATIONS	3,930,425	8,864,987	57%	8,293,843	53%	571,144	803,110	3,698,459
651	WATER IMPACT FUND*	2,803,482	797,402	46%	358,927	34%	438,475	187,307	3,054,650
652	WATER RATE STABILIZATION	3,094,803	38,144	58%	210	58%	37,934	-	3,132,737
653	WATER -CAPITAL PROJECT	4,517,933	2,848,568	59%	133,013	3%	2,715,555	324,896	6,908,592
TOTAL ENTERPRISE FUNDS		\$ 48,959,561	\$ 24,166,499	52%	\$ 18,768,366	31%	\$ 5,398,132	\$ 4,333,605	\$ 50,024,088
730	INFORMATION SERVICES	\$ 701,746	\$ 1,099,523	59%	\$ 1,019,173	45%	\$ 80,350	\$ 220,145	\$ 561,951
740	BUILDING MAINTENANCE	223,214	1,999,732	57%	1,400,210	41%	599,521	338,045	484,691
741	BUILDING REPLACEMENT	3,050,163	397,716	55%	48,338	11%	349,379	601	3,398,941
745	CIP ENGINEERING	56,754	801,451	47%	916,448	55%	(114,997)	12,340	(70,584)
760	UNEMPLOYMENT	63,318	58,750	57%	(7,658)	-10%	66,408	-	129,726
770	WORKERS COMPENSATION	2,035,759	420,211	48%	496,446	58%	(76,235)	-	1,959,524
790	EQUIPMENT REPLACEMENT	5,830,858	782,053	72%	782,119	42%	(66)	619,826	5,210,966
791	EMPLOYEE BENEFITS FUNDS	55,383	349,443	34%	434,625	70%	(85,182)	-	(29,799)
795	GEN. LIABILITY INSURANCE	1,243,527	503,857	57%	1,207,984	83%	(704,127)	-	539,400
TOTAL INTERNAL SERVICE FUNDS		\$ 13,260,722	\$ 6,412,737	55%	\$ 6,297,687	50%	\$ 115,050	\$ 1,190,957	\$ 12,184,815
SUMMARY BY FUND TYPE									
GENERAL FUND GROUP		\$ 19,175,235	\$ 18,368,328	46%	\$ 22,543,945	51%	\$ (4,175,617)	\$ 1,564,686	\$ 13,434,932
SPECIAL REVENUE GROUP		9,743,962	6,174,466	38%	9,308,464	51%	(3,133,997)	1,003,035	5,606,929
DEBT SERVICE GROUP		229,018	505,391	73%	537,352	77%	(31,961)	5	197,052
CAPITAL PROJECTS GROUP		40,125,318	6,937,092	23%	11,081,991	17%	(4,144,899)	21,716,972	14,263,446
ENTERPRISE GROUP		48,959,561	24,166,499	52%	18,768,366	31%	5,398,132	4,333,605	50,024,088
INTERNAL SERVICE GROUP		13,260,722	6,412,737	55%	6,297,687	50%	115,050	1,190,957	12,184,815
TOTAL ALL GROUPS		\$ 131,493,816	\$ 62,564,513	43%	\$ 68,537,804	34%	\$ (5,973,292)	\$ 29,809,260	\$ 95,711,264

For Enterprise Funds: Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

*Unreserved fund balance includes bond proceeds reserved for projects listed in bond documents.

¹ Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

² Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.

Item # 01
AGENDA DATE: 03/03/2021
SUPPLEMENT # 1

From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: City Council Agenda Items 1, 2, 6, and 10
Date: Tuesday, March 2, 2021 8:58:10 PM

From: Armando Be <[REDACTED]>
Sent: Tuesday, March 2, 2021 1:25 PM
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>
Subject: City Council Agenda Items 1, 2, 6, and 10

Hello Mayor, Council Members, and
City Manager.

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The council should remember that recently a majority of voters rejected Measure A, a ballot initiative that the city was ultimately forced to place before before the voters. Voters in Morgan Hill are highly protective of the idea of preserving the small town fell as long as possible. Many voters moved to Morgan Hill precisely because it reflects a "small town feel" relative to our sister cities, north and south. This protective sentiment is going to weigh in heavily in voters minds as they cast their votes to accept or reject the initiative dealing with last mile distribution centers, should you chose option 3.

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Regards

Armando Benavides

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: hate speech resolution
Date: Wednesday, March 3, 2021 11:17:19 AM

From: Nichola Carpendale <[REDACTED]>
Date: March 2, 2021 at 09:11:07 PST
To: John McKay <john.mckay@morganhill.ca.gov>
Cc: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>
Subject: hate speech resolution

Dear Mr McKay,

Thank you for bringing up a condemnation of the recent hate crimes in our area at the recent City Council meeting.

You seemed to be thinking of attaching it to the resolution condemning the insurrection on January 6 in the Capitol.

I would suggest these be two separate resolutions.

A resolution regarding hate speech and crimes seems like a very important part of our City values.

These seem separate and distinct from acts meant to undermine the vote which is such an important part of holding onto a true democracy.

Thank you for all the time and effort you put into representing our City

Nikki Carpendale

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From: [NICHOLA CARPENDALE](#)
To: [CC Public Comment](#); [Christina Turner](#); [Rich Constantine](#); [John McKay](#); [Rene Spring](#); [Yvonne Martinez Beltran](#); [Gino Borgioli](#)
Subject: Pulling of resolution on actions of January 6
Date: Wednesday, March 3, 2021 7:41:57 PM

Dear Morgan Hill city council members and team,

Please consider moving the resolution regarding actions of January 6 to another night rather than putting at the end of tonight's agenda.

It has been delayed once due to the internet outage .

Pulling the resolution without reasons given does not give us a reasonable time to respond. Having to respond at the end of a very long day is not in the best interests of a robust discussion and feels like a "fast one" is being pulled to bury it.

Thank you
Nikki Carpendale

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Item # 01

AGENDA DATE: 03/03/2021
SUPPLEMENT # 4

From: [Robyn Carrillo](#)
To: [CC Public Comment](#)
Subject: City Council Meeting Tonight
Date: Wednesday, March 3, 2021 7:47:03 PM

Please move agenda item #1 up so the public has time to address it. I feel Gino is hoping people drop off and won't speak out. This is outrageous. I'm requesting it be moved earlier. Have to put child to bed.
Thanks
Robyn Carrillo

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From: [Suman Ganapathy](#)
To: [Michelle Bigelow](#); [CC Public Comment](#); [Rene Spring](#); [Yvonne Martinez Beltran](#); [John McKay](#); [Rich Constantine](#); [Gino Borgioli](#)
Subject: Re: Requesting regarding the Resolution regarding Jan 6 Riots etc.
Date: Wednesday, March 3, 2021 7:58:27 PM

Pardon me: I meant "Request regarding the Resolution Condemning the Jan 6 Riots & all forms of hate"

On Wed, 3 Mar 2021 at 19:54, Suman Ganapathy <[REDACTED]> wrote:

On Wed, 3 Mar 2021 at 19:53, Suman Ganapathy <[REDACTED]> wrote:

Dear Morgan Hill City Council Members and City Officials,

I wanted to respectfully request you to move the resolution regarding the Jan 6 riots to the next council meeting rather than at the end of the agenda tonight (which would possibly be 11 pm?).

Such a late time is not conducive to giving input regarding the item. I know you would like to hear from residents, and help them participate in the democratic process which the resolution is also about. We would be ever so appreciative and grateful.

Thanks ever so much!

Sincerely in anticipation,
Suman

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From: [Jordan Rosenfeld](#)
To: [CC Public Comment](#); [Christina Turner](#); [Rich Constantine](#); [John McKay](#); [Rene Spring](#); [Yvonne Martinez Beltran](#); [Gino Borgioli](#)
Subject: Disagreement with pulling of resolution on actions of January 6
Date: Wednesday, March 3, 2021 8:14:27 PM

Dear Morgan Hill city council members and team,

Please consider moving the resolution regarding actions of January 6 to another night rather than putting at the end of tonight's agenda.

It has been delayed once already, and it makes for a weak showing of support for reprehensible actions. Considering that a Gilroy resident was arrested for storming the capitol, we need to realize how close to home these events were.

Pulling the resolution does not give us a reasonable time to respond. Having to respond at the end of a very long day is not realistic and suggests a lack of commitment.

Respectfully,
Jordan Rosenfeld (she/her)

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: City Council Agenda Items 1, 2, 6, and 10
Date: Tuesday, March 2, 2021 8:58:10 PM

From: Armando Be <[REDACTED]>
Sent: Tuesday, March 2, 2021 1:25 PM
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>
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City Council Meeting Item #10 Certification of the Citizens' Initiative Petition



March 3, 2021

Recommendations



1. Adopt resolution accepting the City Clerk's Certificate of Sufficiency for the Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the City of Morgan Hill to prohibit certain new storage and distribution uses in all areas of the City and amending the review process for large-scale development projects and
2. Direct staff to prepare an impact report under Elections Code section 9212 no later than April 2nd for the Council to consider next steps.

BACKGROUND



- August 4, 2020 Notice of Intention
- January 6, 2021 Requested random sampling of the signatures
- February 2, 2021 Notification of need for a full count
- February 12, 2021 Notification of sufficient signatures (2,642)

Timeline

August
2020

- Council directed staff to amend **Industrial Ordinance**

August
2020

- Responsible Growth Coalition **Initiative**- Notice of Intent

October
2020

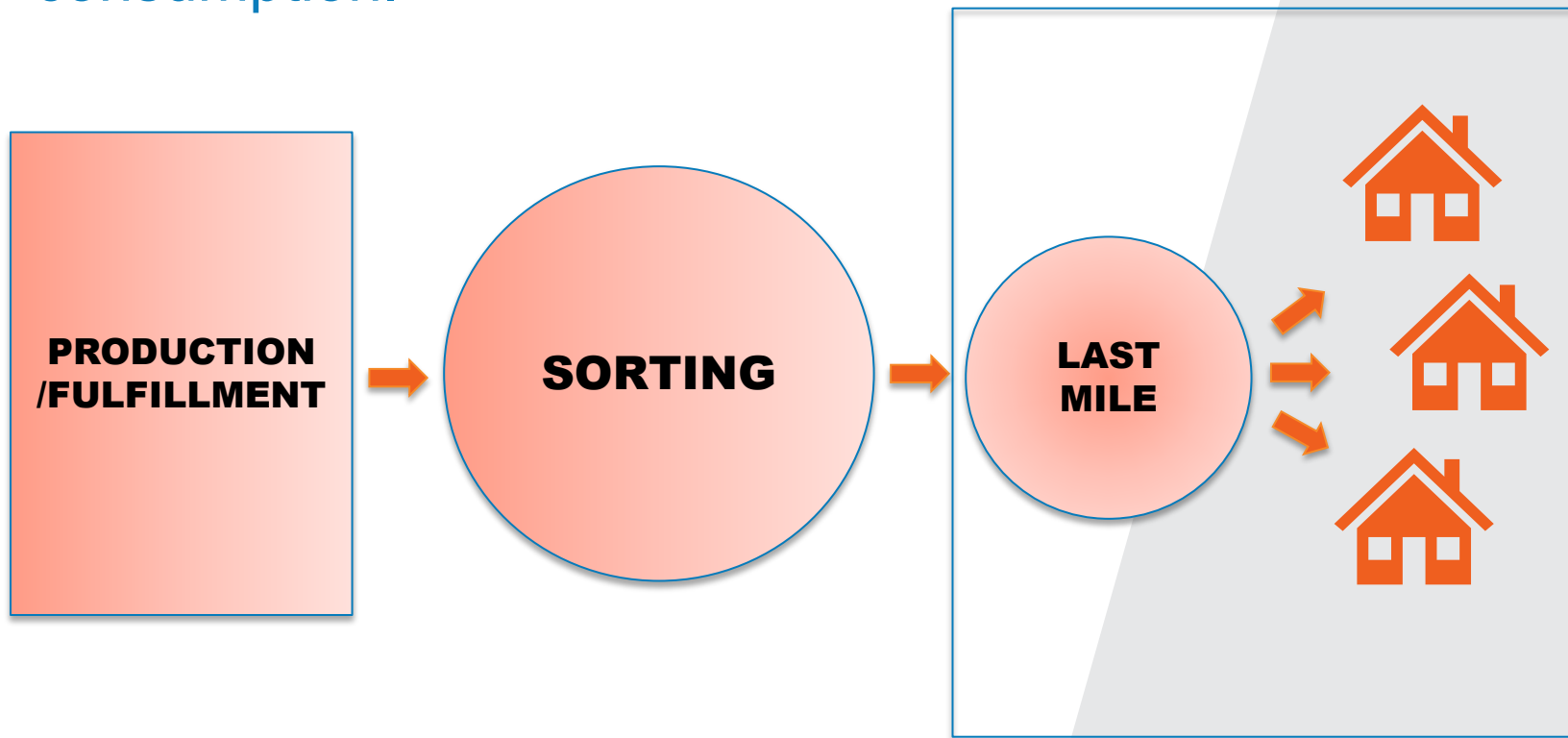
- Council Approves Industrial Ordinance **prohibiting** fulfillment, sorting & distribution centers

February
2021

- Council affirms **NO distribution centers** policy

What is Last Mile Delivery?

Last-mile delivery represents the final leg of the supply chain as goods are delivered from production to consumption.



Industrial Zoning & Initiative Comparison

USE	Initiative	City Ordinance
HEAVY DISTRIBUTION (FULFILLMENT CENTER)	Not Allowed	Not Allowed
SORTING CENTER	Not Allowed	Not Allowed
LARGE PARCEL HUB (LAST MILE/LOCAL DISTRIBUTION)	Permitted	Not Allowed
SMALL PARCEL HUB (LAST MILE/LOCAL DISTRIBUTION)	Permitted	Not Allowed

Industrial Zoning & Initiative Comparison (Cont'd)



Initiative	City Action
Prohibition of Fulfillment Centers	Fulfillment Centers and other distribution uses prohibited by City Council in November 2020
Thresholds for Large Scale Development (square footage and height)	Thresholds (square footage, height and number of residential units) adopted by City Council in November 2020
Approval Authority of Large-Scale Development to Planning Commission	Adopted by City Council in November 2020
Approval Authority Change from Director to Planning Commission	Adopted by City Council in November 2020

Impact Analysis

1. The fiscal impact of the measure;
2. The effect of the measure on consistency with the City's general and specific plans, including the Economic Blueprint;
3. Its impact on funding for infrastructure;
4. Its impact on the Community's ability to attract and retain business and employment;
5. Its impact on vacant parcels of land;
6. Its impact on traffic congestion, existing business districts, and developed areas designated for revitalization; and
7. Any other matters the City Council would like to be in the report.

Impact Analysis (Cont'd)



To be submitted no later than April 2nd for consideration at the April 7th City Council meeting.

The Council would be required to either:

1. adopt the ordinance contained in the initiative measure without alteration;
- or
2. place the initiative measure on the ballot at the next regular municipal election.

Properties Impacted by any future City Regulations

Industrial Zoned Properties

- YES

Properties with Planned Developments & Development Agreements

- NO
- ...unless PD or DA defaults to current Municipal Code or allows applicant to choose to use current code

Properties vested under Previous Code

- NO
- ...but would create legal non conformity

Industrial Zoned land
that could accommodate
75K+ development and
would be subject to
proposed ordinance



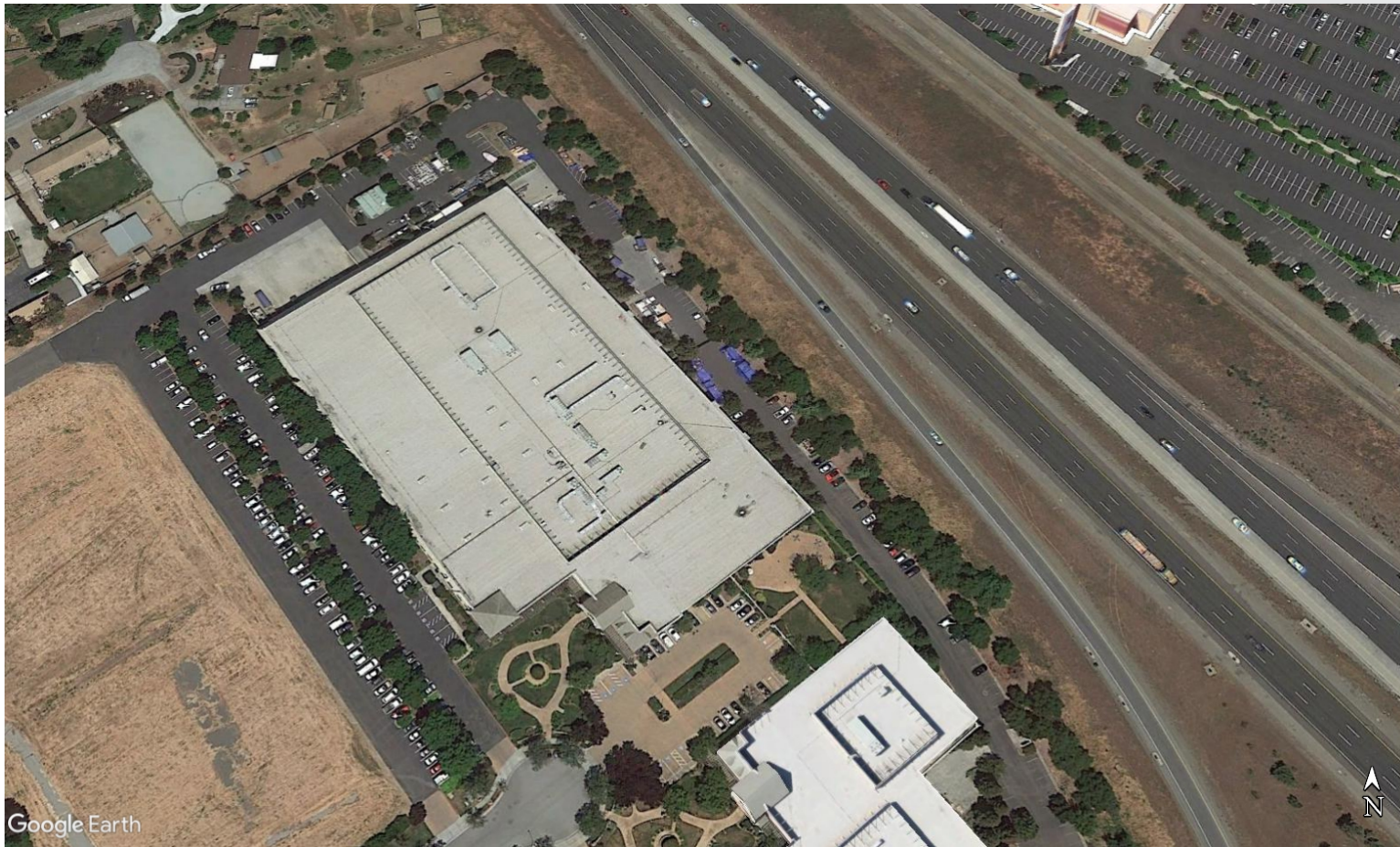
Known Legal-Nonconformity Under Initiative



Specialized Headquarters



- 312,000 sq. ft.
- 24 ft. ceiling height
- Dock doors: 15 (13 dock high)



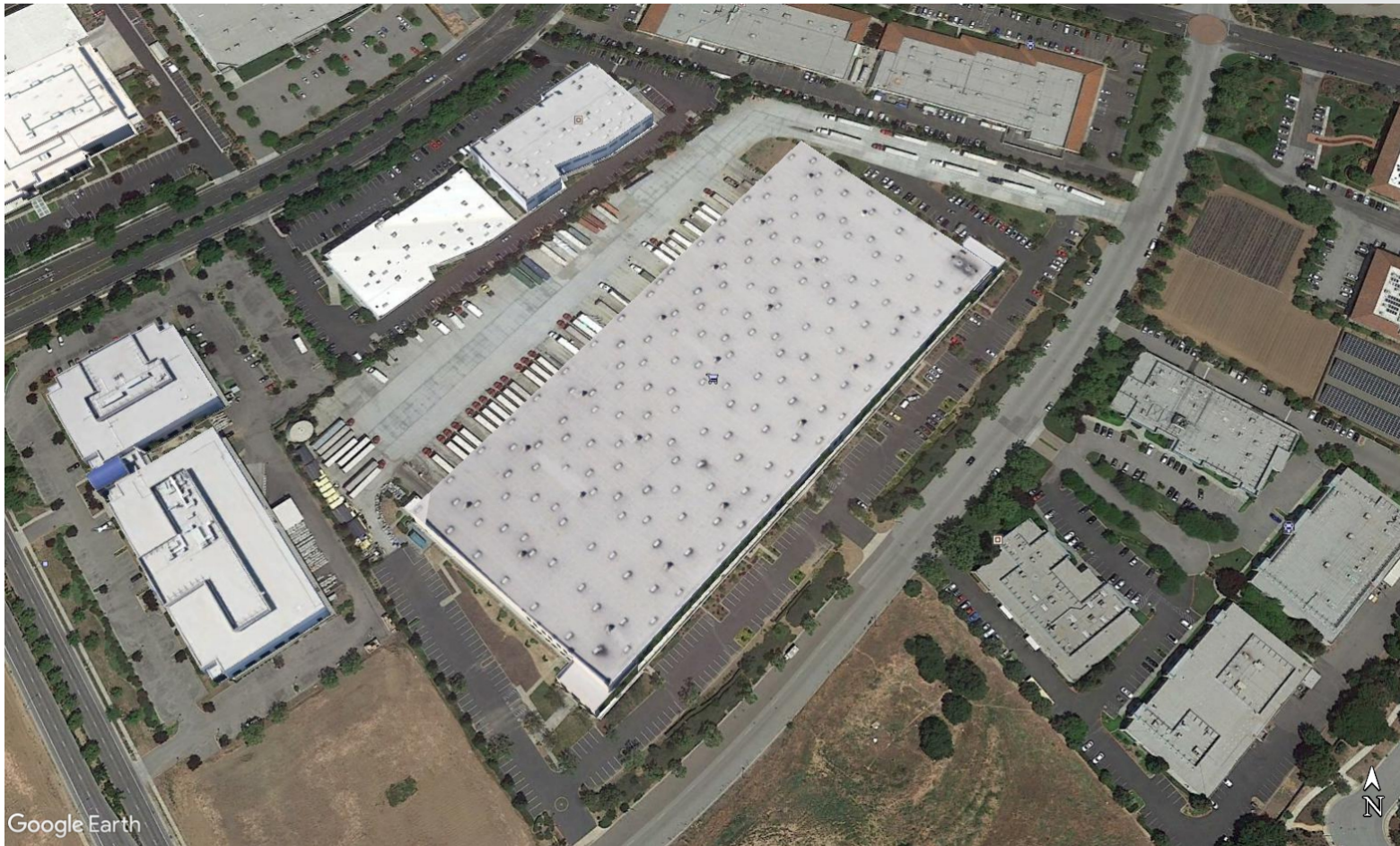
- 155,520 sq. ft.
- 24 ft. ceiling height
- 12 dock doors (8 dock high)

Sunbasket/Talamo Foods



- 126,370 sq. ft.
- 28-32 ft. ceiling heights
- 16 dock doors (12 dock high)

Young's Market



- 286,000 sq. ft.
- 32 ft. ceiling height
- 40 dock doors (40 dock high)

Recommendation



- Accept the City Clerk's Certificate of Sufficiency of Initiative Petition
- Direct staff to prepare an impact report under Elections Code section 9212 no later than April 2 for Council consideration at April 7 City Council meeting

From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: A Morgan Hill Resident's Plea
Date: Friday, February 26, 2021 1:12:10 PM

From: Mary Lai <[REDACTED]>

Date: February 25, 2021 at 4:22:12 PM PST

To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli
<Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran
<yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring
<Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>

Subject: A Morgan Hill Resident's Plea

Hello Morgan Hill City Council Members and Mr. Mayor,

First, I thank you for your public service. I know it's a challenging and sometimes thankless job. It is also an honorable job and one of great importance as it comes with great responsibility to steer the city into a future that all residents will enjoy to partake.

Before writing this letter, I've read thru many materials and gave it many months of thoughts. The materials I read are not sourced from just one source nor do I only read the materials that are favorable to my position. The decisions I make, in general, are strongly influenced by what I can gather to be the best for my neighbors and myself, even if that may not prove to be monetarily profitable or of convenience to me. I believe we're all tied together - your success and welfare is mine and vice versa. We all advance together. One man's fall cannot possibly in anyway benefit another man. With the materials I've read and this mindset, I made the following plea.

The building of further warehouses that promote significant increase of large vehicles with little factual benefit to the City without equally significant or meaningful employment and have potential dire & irreversible consequences to the health of the residents should be limited, if not completely prohibited going forward. There are factual data points of what this had done to other cities like ours.

Can we put a halt to approving such warehouse type buildings and let the existing ones that are in process of development to build out first and fully operated first, then from there we'll have actual data points of how it benefits or detracts the city - financially, environmentally, health impacts, quality of life impact, safety considerations, employment quality/quantity, infrastructure burden/cost, etc? Can we wait so we can make decisions based on irrefutable facts to all sides?

Approving such large scale, similar type of developments, consecutively without letting one to play out first - is this not a large gamble where if it turns out badly, we'll become another statistic of the towns that have gone before us in this way? How can we play such a gamble on our future generations who will bear the most of the consequences? They have so much to bear already. What we decide today is their tomorrow.

Have you, in your research, find any article or materials of a town similar to ours in density and population, where the residents in the majority have voiced their quality of life increased as a result of these large scale warehouses in multitudes nearby? Not the developers, not the city, not the business, but the residents? Or if nothing similar in town size, then residents in general where they live in close proximity amongst multiple large scale warehouse buildings with high dock doors. I welcome your input and experience.

I hope to work with you in preserving and enhancing our city together. We are first and foremost, neighbors.

Respectfully and with gratitude always,
Mary Lai

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Item # 10

AGENDA DATE: 03/03/2021

SUPPLEMENT # 2



2/29/2021

ATTN: Morgan Hill City Council

John McKay, Gino Borgioli, Rene Spring, Yvonne Martinez-Beltran

The Morgan Hill Chamber of Commerce has been representing business and the building community since 1958. Being an advocate of the business and workforce communities, our organization supports development that satisfies the following measures: SMART Growth, Economic Sustainability, Quality Jobs and Tax Revenue, while keeping the character of our community intact.

The discussion over Last Mile Distribution centers has been a long, contentious and complex one. We understand the City's current zoning does not allow distribution centers, including last mile, in any zoning. Our organization's position on distribution is challenging and we expect to spend more time on the topic and how restrictions effect current and future businesses. We are deeply committed to economic development which provides more jobs, revenue and we are opposed to efforts that limit existing Morgan Hill business expansion opportunities. On the other hand, we understand the importance of maintaining the character and quality of life of our community.

Up to this point, we the chamber, and much of the existing business community, have not been invited to the table in this conversation. Please consider where we have common ground. The Chamber is completely opposed to anything that makes it even harder for existing businesses to survive and grow in Morgan Hill but also doesn't want to compromise the character of our town to get there. As we come out of this pandemic, the more roadblocks placed on the businesses, the more difficult it will be to succeed and hopefully expand in Morgan Hill. To date, the business community has largely been left out of this conversation. Existing businesses, many of which are hurting during this pandemic, cannot take on more challenges.

Before making a decision, we implore you to order an economic impact analysis of this proposed initiative and revisit the document in 30-days. It is imperative we understand the immediate and long-term implications of such a measure and take the time to be fully informed before drawing conclusions. Furthermore, we ask that the Council accept the professional opinions of the qualified economists hired to conduct said study. The discussion should be about the results of the analysis, not finding fault. As a Chamber we are happy to offer our time and knowledge to this effort.



City Council, it is all of our responsibility to ensure we offer existing businesses the opportunity to succeed in the current and future market, which has taken a sharp pivot to a virtual ordering and delivery platform. Similarly, it is all our responsibility to encourage future economic development to sustain the viability of our city while also maintaining its character. Please take the time to order an economic impact analysis and make an informed decision on the proposed initiative based on the findings. We lend our support in this effort.

Sincerely,

Brittney Sherman

Brittney Sherman

CEO/President

Morgan Hill Chamber of Commerce

From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: no more distribution centers
Date: Tuesday, March 2, 2021 8:14:23 PM

From: Debbie Hernandez [REDACTED] >
Date: February 27, 2021 at 5:17:48 PM PST
To: Rene Spring <Rene.Spring@morganhill.ca.gov>, Rich Constantine
<Rich.Constantine@morganhill.ca.gov>, Gino Borgioli
<Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran
<yvonne.martinezbeltran@morganhill.ca.gov>, John McKay
<john.mckay@morganhill.ca.gov>
Subject: no more distribution centers

As a resident of Morgan Hill for 34 years, I am against any logistical warehouse delivery sites within the city of Morgan Hill. It doesn't matter whether they are 'Heavy' Distribution, Last-Mile Distribution or any other type, it is well known they won't help our budget crisis and they won't generate sustainable jobs. What they will do is cause massive traffic problems. Morgan Hill is not Fremont, Newark or Tracy, nor does it have the geography to accommodate these operations. If you want to see what a Last Mile Distribution center does to a small town more like our town look at Milford, MA. (https://www.youtube.com/watch?v=31ggm_iUbm4&feature=youtu.be)The detrimental impacts of distribution centers on the environment and the health of the surrounding community are well documented.

Please protect the safety of our residents and the environment from the air and noise pollution generated by distribution centers Morgan Hill is better suited to other economic options that would generate General Fund revenues we need to recover from the impacts of Covid-19 and to begin to address the 'unfunded general funds needs', a gap that has resulted in the City not providing critical services to the level of best practices. Other industries like advanced manufacturing and R&D are not only of significantly higher fiscal benefit, but they are also consistent with the traditions of the city and the deep desire of residents like me to preserve the family-friendly and close-knit character of Morgan Hill Please, **do not** detract from what Morgan Hill is, an attractive lifestyle community. The roads are already becoming dangerous for pedestrians, cyclists, and motorists along Hwy 101. **I urge you to adopt the Responsible Growth for Morgan Hill Initiative or enact equivalent Zoning changes that will prevent more distribution centers from ruining the place I love.**

In His grip,

Debbie Hernandez
[REDACTED]
Morgan Hill, CA 95037

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: PLEASE ! Vote to Approve the MHRGC Initiative
Date: Tuesday, March 2, 2021 8:14:53 PM

From: D W <[REDACTED]>
Date: February 28, 2021 at 9:14:55 PM PST
To: Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>
Subject: **PLEASE ! Vote to Approve the MHRGC Initiative**
Reply-To: D W <[REDACTED]>

Morgan Hill City Council Member:

My wife and I have lived in Morgan Hill for almost 40 years, watching our city grow into an amazing place to live. Have seen Mayors and Council members come and go. The best ones Listen to their constituents. Some don't and the voters find out.

There has been significant voter interest in the huge warehouse Developers activities in the past couple of years. The Voters don't want these projects. Thousands of them have made their wishes known. Yet many, in city positions do not appear to understand the voters preferences and continue to appease these developers much to the detriment of our community, now and into the future.

On March third you will have to decide just where you stand.

Hopefully it will be with the citizens. We urge you to look deeply into the citizens wishes and **Vote to Approve** the MHRGC initiative to change our outdated zoning code. Please avoid another costly election as you know, when put to a vote the wishes of the citizens will prevail and the initiative will be approved

Vote for Morgan Hill's people and their continued preferred way of life. None of the residents wanted the huge Shoe Palace fiasco that was unexpectedly forced upon us.. Don't make us the warehouse and distribution center of silicone valley.

Sincerely,

David Wendt Peggy Wendt

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Item # 10

AGENDA DATE: 03/03/2021
SUPPLEMENT # 5

From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: Responsible Growth Initiative
Date: Tuesday, March 2, 2021 8:17:28 PM

From: Ruth Ann Armstrong [REDACTED] >
Date: February 25, 2021 at 10:22:25 PM PST
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli
<Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran
<yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring
<Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>
Subject: Responsible Growth Initiative

PLEASE VOTE to adopt this initiative.

It is crucial to the long term outlook of our city.
Have you seen this video? It gives great insight to what happens to a town of our size.....

Here is a video that was posted on [Nextdoor.com](https://www.nextdoor.com) regarding the same topic https://youtu.be/31ggm_iUbm4

--

[Ruth Ann Armstrong](#)
[REDACTED]

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: Trammel Crowe
Date: Tuesday, March 2, 2021 8:18:26 PM

From: Carol Coursey <[REDACTED]>

Date: February 28, 2021 at 10:15:12 PM PST

To: Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>

Subject: Trammel Crowe

When I saw the new plans Trammel Crowe has for the property on De Paul, I couldn't believe it. This is just a new arrangement of the old proposal. It has the same problems as the old proposal. I spoke at a planning meeting in Oct of 2019. Perhaps you remember me. I was in a wheel chair because I had just broken my ankle the day before. My husband lives at Westmont of Morgan Hill, property across the street from the project. The new proposal will still create air pollution, noise pollution, and traffic issues. None of these issues can be mitigated by any project that has trucks going in and out. I am frustrated because I thought that it was accepted that this would not be a good project for that sight. I know Edith Ramirez thinks this is a good use of vacant properties in our city, but most of the people I have spoken with disagree. I think Ms Ramirez needs to be tuned into community opinion.

All the problems I spoke about last year pertain to this new plan. There will still be noise pollution, air pollution and traffic problems which will adversely affect residents at Westmont of Morgan Hill. I understand that senior citizens may not be considered important, but there are a lot of us and we deserve respect and a pleasant environment for our older years.

Besides this, I am sure that there will be many trucks using the Cochrane interchange to bring materials and equipment to work on the dam retrofit. Perhaps you don't live in that area, but I know people who do and are concerned that their property values will be affected. I really am upset about the impact on Westmont of Morgan Hill. Again, I don't think that the company or our government has considered the impact on people of our community. Our town is not just about business, it's about the residents. This project does not enhance our community or provide anything for our residents.

As a (long time) resident of MH, please place my vote as against any and all logistical warehouse delivery sites with the city limits of Morgan Hill. It doesn't matter whether they are 'Heavy' Distribution, Last-Mile Distribution or any other type, it is well known they won't help our budget crisis, they won't generate sustainable jobs, and they will cause massive traffic problems that are easy to foresee even if developer funded studies attempt to 'prove' otherwise

Morgan Hill is not Fremont, Newark or Tracy, nor does it have the geography to easily assist with such an operation. If you want to see what a Last Mile Distribution center does to a small town more like our town look at Milford, MA. The detrimental impacts of distribution centers on the environment and the health of the surrounding community are well documented. **Please protect the safety of our residents and the environment from the air and noise pollution generated by distribution centers. And please protect our residents at Westmont of Morgan Hill from the air pollution, traffic congestion and noise. They have been contributing members of our society, and should be respected and allowed to live out their lives in a peaceful, quiet and clean air environment. They should be able to spend time outdoors in their patio, walk around the community, and open their windows. This plan is not community friendly.**

I am also concerned about the extra stress our Police Department will have when trying to keep our citizens safe with a facility like this built here.

Morgan Hill is better suited to other economic options that would generate the General Fund revenues we need to recover from the impacts of Covid-19 and to begin to address the 'unfunded general funds needs' gap which has resulted in the City not being able to provide critical services to best practices level. Other industries like advanced manufacturing and R&D are not only of significantly higher fiscal benefit, but they are also consistent with the traditions of the city and the deep desire of residents like me to preserve the family-friendly and close-knit character of Morgan Hill

Please, do not detract from what Morgan Hill an attractive lifestyle community. The roads are already becoming dangerous for pedestrians, cyclists, and motorists along Hwy 101. **Also the trucks are using city streets such as Mission View for shortcuts through town. The damage to our roads is a problem from heavy trucks.** I urge you to adopt the Responsible Growth for Morgan Hill Initiative or enact equivalent Zoning changes that will prevent more distribution centers from ruining the place I love.

Sincerely,
Carol Coursey

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: Initiative signature count
Date: Tuesday, March 2, 2021 8:50:37 PM
Attachments: [Snapshot-25141.pdf](#)

From: Miguel Jimenez <[REDACTED]>
Sent: Sunday, February 28, 2021 3:22 PM
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>
Cc: Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Joe Baranowski <[REDACTED]>
Subject: Initiative signature count

Dear Council Members,

I hope you are all doing well and staying healthy.

In the Staff report for the March 3rd meeting, item 10 (ADOPT RESOLUTION CERTIFYING THE INITIATIVE PETITION...) it notes on page 2:

- The ROV reviewed and examined the signatures contained on the initiative petition and the signature verification resulted in the verification of a total of 3,038 signatures, of the 3,528 signatures submitted, with 2,642 signatures found valid.

We've heard from some members of the community that read the staff report and thought the initiative barely qualified with only a margin of 18 signatures (2,642 deemed valid versus the required amount of 2,624). However, it's important to note that **when the ROV stopped the verification process, there were 490 signatures that were just put aside and never checked (exhibit b, page 2, item 3 - attached).**

In summary, there were 3,528 signatures gathered and submitted for the initiative. Of the 3,038 signatures the Registrar of Voters verified, 2,642 were deemed SUFFICIENT and 396 were found NOT SUFFICIENT. The required number of valid signatures to qualify the initiative was 2,624.

Why the ROV validated 2,624 + 18 isn't known for certainty but I assume, and the full report seems to indicate, they count in 'batches' and it makes sense that the person doing the actual verification of that 'batch' may not have even know they hit 100% exactly. But for whatever reason they stopped checking at 2,624 + 18 (2,642).

The valid percentage for the 3,038 they reviewed was 86.965% (2,642 divided by 3,038). If we

assume the remaining 490 that were not reviewed had the same valid percentage as the 3,038 population, that means 426 more valid signatures for a total of 3,068 (2,642 + 426) or **116.9%** (3,068 divided by 2,624) of the required amount.

I wanted to point this out in case someone makes the assumption that the initiative only qualified with 18 valid signatures to spare, when the reality is **490 (3,528 - 3,038) signatures didn't even need to be verified since the required number of SUFFICIENT signatures had already been achieved by only reviewing 3,038 or 86% of the 3,528 submitted signatures.**

Sincerely,
Miguel

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What does the Responsible Growth for Morgan Hill Initiative mean to Morgan Hill's hospitality sector?

[Sent to Hotel Coalition members on March 1, 2021]

Item # 10

**AGENDA DATE: 03/03/2021
SUPPLEMENT # 8**

My name is Joe Baranowski. I am one of the founding members of the Morgan Hill Responsible Growth Coalition (MHRGC). We are a diverse group with backgrounds in business, technology, education, health sciences, and construction management. All members of the coalition are volunteers. We have no paid positions, and no affiliation with any developer, business, or organization that has a financial interest in city projects.

Our core belief is that new development should bring quality jobs, support existing businesses, protect the environment, and preserve the quality of life for Morgan Hill residents. I represented the MHRGC in joining the Morgan Hill Hotel Coalition to oppose Measure A in March 2020 because after a detailed look at the facts it became clear the fiscal benefit that was being projected (TOT revenue of \$1M per year) could not possibly be realized unless completely unrealistic assumptions about room demand growth in Morgan Hill were made. We concluded that Measure A was more likely to have a negative, not an exaggerated positive, impact on the City's net TOT revenue and that impact would persist for many years even if the macro-economic expansion that was still underway at that time was assumed to continue uninterrupted. The fiscal benefit argument made no sense and it certainly was not consistent with our goal of supporting local businesses like yours.

I believe the broad support that Measure A received from City officials is a prime example of an 'anything is better than nothing' view of development that is unfortunately prevalent. That fallacy is incredibly difficult to overcome because almost every project generates some initial revenue in fees and other sources; many residents believe all businesses pay a lot of taxes that contribute to the City revenue and ignore the cost of services which the City must provide, and developers that need project approvals market their proposals with claims that are not verified by independent analysis. Strong Towns author Charles Mahron calls this practice the 'Growth Ponzi scheme'.

I am not writing to ask that you consider supporting the Responsible Growth for Morgan Hill Initiative (RG4MHI) because of our decision to support the Hotel Coalition. I am writing because every Ponzi scheme ends poorly and there is usually a lot of collateral damage. If the proliferation of buildings in Morgan Hill optimized to meet the insatiable demand for distribution facilities is not immediately halted, your hotels will be negatively impacted for decades to come. The issues are much more complex than in Measure A which is why we have spent more than two years and tens of thousands of hours deep diving into what is really happening.

Our focus has been on Public Benefit but without attempting to quantify them, it is easy to foretell that two consequences of allowing more distribution facilities will also impact room demand at your hotels:

1) Low employment density: Growth in weekday room demand from guests whose final destination is a company in Morgan Hill will continue to be limited. Distribution facilities create very few jobs, - a reality that City leaders including the mayor have recently acknowledged (finally). Even as the aggregate number of workers in distribution has increased because more people are making online purchases due to Covid-19, the number of workers being displaced by automation is accelerating because of social distancing and related issues and the already large discrepancy in employment density between distribution and advanced manufacturing / R&D uses is growing. Additionally, only a low percentage of the jobs and activities that do exist in distribution are likely to induce business travel.

With many people expecting the 'zoom effect' to permanently reduce business travel overall and more room availability in San Jose, 'overflow' guest demand may take several years to recover to 2019 levels. I am sure you are concerned about whether current development policy in Morgan Hill will lead to an expansion of the local corporate base that is needed more than ever to support weekday demand and you should be. Projects that are targeted to capture the high demand for distribution space are not the answer.

2) Large increase in traffic congestion: *Everyone* will be impacted by significantly worse traffic conditions caused by the high number of big rig trucks and delivery van trips that already built or approved and proposed projects will generate. Our city is going to see a massive increase in congestion on city streets and especially on and around 101 ramps even if no more distribution facilities are permitted. In their review of the 2018 Shoe Palace expansion project, the California Department of Transportation notified the City they were concerned about the 101/Cochrane ramps in both the northbound and southbound directions, stating the traffic analysis that had been done “does not accurately represent the existing performance of these ramps” and “inadequate vehicle storage could result in queues backing up onto the freeway mainline creating significant conflicts”. The developer, their consultants and the City all ignored the request to do additional analysis based on a bogus assumption that a 56-dock door, 500,000 square foot distribution facility will generate a maximum of eight truck trips per day. State experts were concerned that ramp congestion from ‘just’ Shoe Palace will back up traffic all the way on to the highway.

In December of last year, the Trammel Crow Butterfield project was approved which will add another 410,000 square feet of distribution space and 51 dock doors^[1] across five buildings. The approval for this project was based on traffic projections made 40 years ago. The recently announced ‘Redwood/101’ project, half the size of the original MH ‘technology center’ proposal, on roughly half the site would accelerate the transformation of our city into a distribution hub adding 501,314 square feet and 70 dock doors^[1]. These building are being called "spec buildings" but everyone knows the dominant sector driving the industrial market is e-commerce and the only thing speculative about these building is *which* e-Commerce or third-party logistics provider will occupy them.

Does it take anything more than common sense to visualize how big rig truck and delivery vehicle trips generated from 1.4 million square feet of distribution space with 185 truck docks and headed for highway 101 would impact traffic? I challenge any of you to name a city that is known as both a distribution hub and a getaway destination. The ‘easy accessibility and abundance of fresh air’ image that Visit Morgan Hill is working hard to promote will be lost in the gridlock and Morgan Hill will become a place to avoid not a place to visit.

While the low number of jobs and high traffic distribution facilities generate will impact TOT revenue, there are more significant reasons (e.g., how the portion of local sales tax from goods delivered from distribution centers are allocated, not being subject to business-to-business taxes, ...) why these projects do not produce any meaningful net revenue to the city’s general fund. That reality, confirmed by the experience of other cities, objective fiscal impact studies, and recognized by experts that City staff rely on, makes opposition to the RG4MHI by those who say they support these projects because of the *public* economic benefit they will create truly inexplicable.

Nobody is questioning that the RG4MHI would address both of the above issues. However, some people opposed to the RG4MHI are, either intentionally or out of inexcusable carelessness, mischaracterizing what types of development would be prohibited by the Initiative. Here are the facts.

ALL three of the following criteria must be met for a development to be prohibited under the initiative:

1) Building greater than 75,000 square feet

AND

2) Clear ceiling height^[2] of 24 feet over more than 25% of the floor area

AND

3) More than 1 dock-high door per 25k square feet (there are no restrictions on grade-level doors)

One could surely find an actual or invent a hypothetical company that may have unique requirements which would require custom built rather than ‘spec’ buildings because of the Initiative. That is not the risk to having a thriving industrial sector in Morgan Hill. The real risk is what happened in the city for which the RG4MHI was modelled after. Kent, Washington was practically overrun with distribution centers because of ecommerce building demand and a zoning code that did not give city

planners the ability to prevent developers from getting approval to build more. They realized they needed to change their zoning code to encourage advanced manufacturing and R&D businesses while discouraging trucking-intensive uses.

If we continue to allow our industrial lands to be consumed with distribution uses, a similar thing will happen. Not only will land availability become a bigger issue than it already is, but companies need to be confident that they will be able to recruit the skilled workers they need which is already difficult for R&D and advanced manufacturing companies in Morgan Hill. Kent's planners and economic development team provided the proper context for the real issue. People's experience of where they live and work is shaped by the environment and what they perceive visually while moving in, around or through the city. Visual cues – components of the physical environment distinguish one place from another – contribute to or detract from a city's image as an attractive location for people to be and for businesses to invest. This matters to the industrial workforce and if there are fewer indicators signifying the unique and dynamic activities taking place around their workplace, employee satisfaction will be lost and the already difficult task of recruiting skilled workers will become a barrier to attracting the companies we want.

You can use 'lush landscaping' and make sure the dock doors do not face adjacent streets, but you cannot hide distribution centers or the heavy truck traffic they generate. This is a reality that the Chief Financial Officer of Paramit Corporation, one of Morgan Hill's largest employers, understands and why he is a named proponent of the RG4MHI.

The Responsible Growth for Morgan Hill Initiative ensures our industrial land will be used for advanced manufacturing and R&D businesses that will: (1) create sustainable jobs, (2) generate significant net revenue which, over time will allow the City to recover from the severe budget crisis it faces, and (3) preserve public health and safety and Morgan Hill's unique character. It also fulfills our commitment to support local businesses like yours and I hope you will consider supporting it.

Despite the COVID-19 pandemic, fires, and unsafe air quality, MHRGC and 60+ community volunteers collected more than 3,500 signatures and the Registrar of Voters recently completed their verification that showed we had more than 116% of the required number of signatures to qualify the initiative. On Wednesday, March 3 the City Council will consider the next steps and we hope the voices those signatures represent and the clear Public Interest in prohibiting more distribution centers in Morgan Hill will result in a vote to adopt the initiative.

Meeting details can be found on the City meeting calendar

here: http://morganhillca.iqm2.com/Citizens/Detail_Meeting.aspx?ID=2056

Members of the MHRGC recognize the severe impact Covid-19 has had on hospitality business owners and their employee's and we sincerely hope recent trends and the vaccine rollout will soon allow everyone to resume more normal activities and guests will return to hotels which are such an important contributor to the well-being of Morgan Hill and so many other cities.

Best of luck to you all,

Joe Baranowski

[1] You may have heard that the Butterfield project will only have 38 dock doors and that the proposed Redwood @101 project will 'only' have 50 docks. If not, I have no doubt someone will point out the supposed 'misinformation' that the MHRGC folks are spreading. There is no misinformation. The developer has said they listened to the community concerns and have "responded to the community's desires". Actually, the main response has been the realization that Morgan Hill residents understand that dock door density is a reliable proxy for the intended use and the introduction of a "let's hide the dock doors" marketing campaign which the City is going along with. One example from the Butterfield project is illustrated below.

How many dock doors are being ‘marketed’ to the public and shown in site plan drawings? 7

How many dock doors are included in approval document text ? 9



The impact these buildings will have on the community will not be based on site plans that show punch-out panels instead of dock doors, it will be based on the number of docks that become operational when the building is used at full capacity. In public meetings where the MH ‘technology park’ was discussed the developer gave several reasons why they needed to include so many docks including that their financing partners require them. *That* reason is indeed consistent with the developer’s impressive track record of delivering outstanding results to their investors by selling the entire project to REIT’s or hedge funds eager to acquire properties in the booming ecommerce space. In today’s market, when the buildings are optimized for distribution uses, this often is possible before the building is even fully leased. The high number of dock doors are required because the buildings are targeted for ecommerce distribution . It is unfortunate the public is being misled about what the most likely long-term use and impact of these projects will really be.

[2] In case the term is not familiar, clear ceiling height is the distance from the floor to the lowest-hanging ceiling member or hanging objects, beams, joists or truss work descending down into a substantial portion of the area. It is a measure of usable space within the structure not the nominal interior ceiling height.

From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: Update Regarding Fulfillment Centers/Distribution Uses in Morgan Hill
Date: Tuesday, March 2, 2021 8:55:06 PM

From: Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Sent: Tuesday, March 2, 2021 4:57 PM
To: D. Muirhead <[REDACTED]>
Cc: Christina Turner <Christina.Turner@morganhill.ca.gov>; Michelle Bigelow <Michelle.Bigelow@morganhill.ca.gov>
Subject: Re: Update Regarding Fulfillment Centers/Distribution Uses in Morgan Hill

Hi Doug:

Thank you for your questions. There are several steps City Council is required to complete to address an initiative submitted by the public. Each step has timelines attached to it.

- Once the County has validated signatures, it goes to the City Council for a certification determination via resolution. This is the basis for the agenda item.
- City Council may ask for an impact analysis to be prepared. The City has 30 days to return to City Council with that analysis. Due to the existing conflicts with what City Council has already adopted and potential impacts on businesses and land use, staff is recommending proceeding with that impact analysis so City Council has a full understanding of the impact of the initiative prior to making a decision.
- City Council may also choose to forgo the analysis and either 1) adopt the initiative immediately or 2) place the initiative on the ballot.

Asking for the study causes a 30-day delay in making the decision to adopt as is or place on the ballot. Currently, if placed on the ballot it would appear as part of the 2022 election unless City Council chose to ask for a special election (which is a significant cost to the City).

Thank you,

Jennifer

From: D. Muirhead <[REDACTED]>
Sent: Tuesday, March 2, 2021 11:39 AM
To: Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Cc: PIO <PIO@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>
Subject: Re: Update Regarding Fulfillment Centers/Distribution Uses in Morgan Hill

Hello Development Services Director Jennifer Carman,

While I appreciate these targeted updates, this particular one is more confusing than enlightening to me. The email said

- 1) At the March 3rd City Council meeting, the City Council will certify that the Initiative Petition has received a sufficient amount of signatures from voters in the community to move forward.
- 2) Staff recommends obtaining an impact analysis of the Initiative. Alternatively, at the March 3rd City Council meeting, the City Council could choose not to request an impact analysis.
- 3) The City Council adopt the Initiative ordinance without alteration OR place the Initiative on the ballot for the next regular election in November 2022.

So my two questions are

- 1) Is the obtaining of an impact analysis mutually exclusive from action on March 3 to adopt the Initiative ordinance or place it on the ballot?
- 2) If not mutually exclusive, does the study cause a delay on when the item would be on the ballot?

The actual staff report for March 3 appears to answer these questions as follows.

- 1) If requested, the report will be submitted to the Council no later than April 2, 2021 for consideration at the April 7 City Council meeting.
- 2) At the April 7, 2021 City Council meeting, the Council would be required to either 1) adopt the ordinance contained in the initiative measure without alteration; or) place the initiative measure on the ballot at the next regular municipal election.
- 3) The Council could choose not to request an impact analysis for the initiative and could instead [on March 3?] adopt the ordinance without alteration or place the measure on the ballot for the November 2022 general municipal election.

Thank you for your consideration, Doug Muirhead, Morgan Hill

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: City Council Agenda Items 1, 2, 6, and 10
Date: Tuesday, March 2, 2021 8:58:10 PM

From: Armando Be <[REDACTED]>
Sent: Tuesday, March 2, 2021 1:25 PM
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>
Subject: City Council Agenda Items 1, 2, 6, and 10

Hello Mayor, Council Members, and
City Manager.

Here are some comments I have on several agenda items.

ITEM 1: I applaud the city and the city council for bringing forth the Item 1 resolution condemning hate and violence. As the facts recited in the resolution show, such contemptuous acts of hate and violence have been carried out within our city ("The Congregation Emeth in Morgan Hill and City's Paradise Park were marked with anti-semitic graffiti"). By taking this resolute action the City and Council sends a clear message that such abhorrent acts are not tolerated nor condoned in our community. I do want to give special thanks to Councilmember Martines for her efforts to bring this item for consideration.

ITEM 2: I also applaud the city and city council for addressing the CA legislature attempts to usurp local control over zoning and housing development. More recently, the State Governor and Legislature have been extremely proactive in imposing significant restrictions over local control. The description of the item includes a list of all legislative acts that passed and failed that had the intent to limit local control. I would recommend that the city put together an advisory committee of interested citizens who would be tasked with monitoring all bills coming out of the the state and work with the City Manager and the City Council to defeat any measure that seeks to limit local control related to housing and zoning matters.

ITEM 6 (a Consent Item): BEST VALUE IN CONTRACTS AWARDS FOR DAMN RETROFIT PROJECT: As noted in the description, the opposite of "best value" would be competitive bidding with the selection of the lowest bid. The lowest bid assumes well qualified and excellent references for those seeking a contract. The lowest bid assumes that the City and County would save money by the award of the contract to the lowest bidder. The "best value" allows the governmental agency to award the contract to a company weighing other criteria, besides the lowest bidder.

There is no historical data or evidence that awarding a contract to the lowest bidder created or resulted in shoddy work or defective or delayed construction, no matter the size of the project. The lowest bid requirement makes the contract less expensive and would save the government agencies millions of dollars that could be spent on other vital infrastructure projects. Why would we want to replace the lowest bid procedures that we have followed for decades in the past and has served us well? I appreciate the effort of Assemblyperson Rivas, but I believe the proposed legislature will

significantly increase the construction costs for the retrofit project overall. Even with competitive lowest cost bidding in place, the current and projected future costs of the retrofit project have increased tremendously over the years. Take away the lowest bid paradigm and that escalation will skyrocket. It is difficult to justify this request to change the bidding process criteria.

AGENDA ITEM 10: INITIATIVE PETITION: The CA Constitution, Ca statutes, and case law all favor the initiative process. It is a populist grassroots effort of direct governance, bypassing the wisdom, and political position of political and city leaders. The purpose and intent of the initiative process is to address perceived shortfalls in the management of the city's policy directions, both by the executive and the council. Hundreds of hours are invested by ordinary citizens to successfully complete the process and get to the initiative qualified. Most are not successful but a few do make it to the finish line.

Morgan Hill has had its share of initiative petitions. The last one dealing with rezoning was mishandled by the city and resulted in a significant loss to the city in money spent, the loss of hundred of hours in personnel time, the ultimate loss in the CA Supreme Court, and a loss at the ballot (and may be liable for attorney's fees to the prevailing party). I sure do hope that we avoid those shortfalls.

The Council is presented three choices on this item: 1. Direct the city to prepare an Impact Report, 2. Adopt the initiative, and 3. place the initiative to the ballot.

Option 1 would be costly and no matter what conclusions are reached in the report, it is highly doubtful it will have any impact in shaping the resolve of any party to change their stance. It will only delay the outcome and further divide the city constituencies once the report is publish as any conclusions rendered are going to be deemed biased. Option 2, accepts the will of the voters who signed the initiative petition and assumes they represent the will of the majority of voters and the matter is resolved with no further political costs. Option 3 assumes that the council does not deem the signatures represent a majority of voters and therefore the majority decide to place the initiative on the ballot. There are substantial costs associated with the selection of option 3.

The council should remember that recently a majority of voters rejected Measure A, a ballot initiative that the city was ultimately forced to place before before the voters. Voters in Morgan Hill are highly protective of the idea of preserving the small town fell as long as possible. Many voters moved to Morgan Hill precisely because it reflects a "small town feel" relative to our sister cities, north and south. This protective sentiment is going to weigh in heavily in voters minds as they cast their votes to accept or reject the initiative dealing with last mile distribution centers, should you chose option 3.

I look forward .hearing the discussion on this item and which option the majority council selects.
Regards
Armando Benavides

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Item # 10
AGENDA DATE: 03/03/2021
SUPPLEMENT # 11

City of Morgan Hill
Attention Mr. John Lang
17575 Peak Avenue
Morgan Hill, CA 95037

March 2, 2021

Ref: Citizens Initiative to define buildings as Fulfillment Centers

Dear Council Members,

Earlier today, NxEdge was notified of language in the Citizen's Initiative on defining buildings within the city as fulfillment centers. By defining a building's use solely based on its size, height, and number of dock doors (without regard to what our dedicated employees are doing each day) misconstrue our light manufacturing facility producing essential components for the semiconductor industry as a "fulfillment center". The consequences of the language in the Citizen's Initiative would then prevent NxEdge, and other non-fulfillment centers, from making any exterior adjustment to meet our future manufacturing needs. At present, any contemplated future modifications would already require NxEdge go through normal governmental approval processes and be approved (or denied) based on then current building and zoning restrictions; therefore, I do not understand the benefit of defining all buildings of a certain size (or number of dock doors) as a "fulfillment center."

On behalf of NxEdge and other non-fulfillment businesses, we respectfully request you direct city staff to conduct a fiscal analysis of the Citizen's Initiative and its unconventional zoning language. Our further request is that after the fiscal analysis is considered, the City Council not adopt this initiative, but put the initiative forth for a public vote.

NxEdge believes it has been a good neighbor with minimal associated truck traffic. As a manufacturer, we bring sought after jobs to the economic region. We hope that the faulty methodology of forcing a use definition on a building as a "fulfillment center" can be seen as contrary to all normal zoning protocols and would legislate constraints on businesses without said parties having the ability to address these changes through normal city channels and processes.

This issue is critical to NxEdge. My cell phone for contact is (206) 850-8995. If I am out of the country, Steve Neighbors, who manages our property concerns, can be reached at his cell at (208) 863-7007.

NxEdge, Inc.

A handwritten signature in black ink, appearing to read 'Jackson Chao', written over a horizontal line.

Jackson Chao
Chief Executive Officer

925 Lightpost Way • Morgan Hills, CA 95037

From: Christina Turner

Sent: Wednesday, March 3, 2021 7:24 AM

To: Joe Baranowski <[REDACTED]>; 'Miguel Jimenez' <[REDACTED]>

Cc: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay

<john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez

Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>;

Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>;

Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Follow up to our meeting last week

Good Morning Joe and Miguel –

We are sad and disappointed to hear that you feel compelled to ask the Council to adopt the initiative at tonight's meeting. As we all agreed, the best way to stop distribution centers from being built in the first place is to prohibit them. **The City Council has already taken action to prohibit any form of distribution center**—large or small. In November 2020, the City Council amended the industrial ordinance to prohibit fulfillment centers, sorting centers and last mile/local distribution centers. This action was affirmed at the February 2021 Council workshop.

The initiative as proposed is confusing, difficult to implement and would allow last mile/distribution centers. The City's industrial ordinance is more restrictive.

Additionally, the Council has taken steps to amend the design review of large projects to make sure projects like Shoe Palace or any large housing or industrial projects require public meeting review.

As you know, we have great concerns with the unintended impacts of the initiative. The initiative regulates buildings, not uses. Regulating buildings can impact existing companies who do advanced manufacturing and research and development but happen to be in large buildings, with certain height and a certain number of dock doors. **We need to protect existing companies.** We need to keep the jobs we have and continue to attract good jobs to the community.

We understand that you are concerned about more than just distribution uses. We understand your goal is to restrict new businesses that would create excessive truck traffic. To that end, we proposed several ideas that would regulate and reduce truck-intensive businesses in Morgan Hill. Our proposals would close loopholes in the initiative and reduce truck traffic without impacting existing businesses or preventing desired R&D and advanced manufacturing businesses from coming to Morgan Hill.

The initiative would have long lasting impacts on our businesses that may not be able to grow and thrive in Morgan Hill. Additionally, it sends the wrong message to the market and job-generating companies that may be looking to locate in Morgan Hill.

As stated earlier, we are sad and disappointed that after months of working through solutions....solutions that you stated at our last meeting were promising, that you choose to end the discussion.

Regards,

Christina

CITY OF MORGAN HILL

Christina J. Turner, CPA
City Manager

17575 Peak Avenue, Morgan Hill, California, USA 95037
d 408.776.7382 | c 408.839.1705
e christina.turner@morganhill.ca.gov | www.morganhill.ca.gov
[Facebook](#) | [Twitter](#)

From: Miguel Jimenez <[REDACTED]>
Sent: Monday, March 1, 2021 12:55 PM
To: Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Cc: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; Joe Baranowski <[REDACTED]>
Subject: Follow up to our meeting last week

Dear Edith, Christina, Don, and Jennifer,

Thank you for your time last week. We really appreciate the cordial, open and thoughtful conversation.

We found some of the suggestions discussed during our meeting interesting. However, our fundamental view is that the best approach to prevent distribution centers in Morgan Hill is by not allowing them to be built in the first place, rather than trying to regulate use after the fact.

We also want to reiterate that **ALL three** of the following criteria must be met for a development to be prohibited under the initiative:

- 1) Building greater than 75,000 square feet
AND
- 2) Clear ceiling height of 24 feet over more than 25% of the floor area
AND
- 3) More than 1 dock-high door per 25k square feet (there are no restrictions on grade-level doors)

For example:

- If Specialized needed a building with clear internal ceiling height of greater than 24 feet, that is fine as long as it doesn't constitute more than 25% of the total floor area of the building.

- If a satellite manufacturer wants to come to Morgan Hill and needs an internal clear ceiling height of greater than 24 feet over more than 25% of the floor space, that's fine as long as they don't have more than 1 dock-high door per 25,000 square feet (which we don't think they would need given the time it takes to build a satellite).

In fact, only one of eight different possible combinations of the 3 different physical characteristics outlined in the Responsible Growth for Morgan Hill Initiative is not allowed (please see table below).

Responsible Growth for Morgan Hill Initiative Allowed Criteria

There are 3 different physical characteristics outlined in the Responsible Growth for Morgan Hill Initiative. Only one of the possible eight different combinations is not allowed.									
Criteria		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7	Scenario 8
1	Building greater than 75,000 square feet?	No	No	No	No	Yes	Yes	Yes	Yes
2	Clear ceiling height of 24 feet over more than 25% of the floor area?	Yes	No	No	Yes	No	No	Yes	Yes
3	More than 1 dock-high door per 25k square feet? (No restrictions on the number of grade level doors)	Yes	Yes	No	No	No	Yes	No	Yes
Under the Initiative:		Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed

Based on careful research, and following best practices of City's like Kent, Washington, the combination of physical characteristics set forth in the Initiative under Scenario 8 in the table above is the only one prohibited since this combination is representative of a distribution center.

The CFO of a highly respected Advanced Manufacturing company based in Morgan Hill stated that his company would NOT occupy any of the proposed Trammell Crow buildings because they won't meet the needs of Paramit. Allowing large areas of industrial land to be used to construct buildings that have all the characteristics of a distribution center and then to try and restrict use after the fact is not efficient. Not only will it crowd out investment from other industries that the community and our City Council desire, such as life sciences and advanced manufacturing, but it will also prevent local business like Paramit from expanding. In addition, the monitoring and enforcement of the use of these buildings will put a large burden on City staff.

Relying on resident complaints to see if the Shoe Palace expansion is exceeding 8 truck trips per day is not efficient. During the February 17th workshop meeting on 'last mile distribution' there was discussion about City staff driving around town and counting delivery vans using an iPhone calculator to estimate if a facility was making deliveries outside of the 95037 zip code. These are not acceptable nor viable options for enforcement. While we understand there was discussion in our meeting last week about other ways to enforce use, we strongly

feel that the logical, most efficient and proactive approach is to prevent distribution centers from being built in the first place.

After careful thought and consideration about next steps, and while we are committed to continuing our conversations with you, we feel compelled to ask City Council to adopt the Initiative during the March 3rd meeting. With developments pending review for approval, we strongly feel there's too much at risk to not advocate for adopting the Initiative now. Between the Shoe Palace expansion and the Trammell Crow development off of Butterfield, there's already 910,000 square feet of buildings with 107 semi-truck dock doors approved or under construction that have the building characteristics of a distribution center. These buildings have been called "spec buildings" but everyone knows the dominant sector driving the industrial market is e-commerce, and the only thing speculative about these buildings is which e-commerce or third party logistical provider will occupy them.

We can't afford to add an additional half million square feet and 70 more dock high doors with the Trammell Crow Redwood development. The opportunity to use our strategic industrial land to realize the vision of an economically healthy and fiscally sustainable mix of job generating advanced manufacturing and R&D uses will be lost with long-term consequences. We should not let that happen.

Sincerely,
Joe & Miguel

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From: [Angie Gonzalez](#)
To: [Angie Gonzalez](#)
Subject: FW: Initiative to Amend Zoning Regulation
Date: Wednesday, March 3, 2021 11:18:48 AM

From: Rick Kent [REDACTED] >
Date: March 3, 2021 at 9:35:01 AM PST
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, John McKay
<john.mckay@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>,
Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Gino Borgioli
<Gino.Borgioli@morganhill.ca.gov>, Planning Commission
<Planning_Commission@morgan-hill.ca.gov>
Cc: Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>, Christina Turner
<christina.turner@morganhill.ca.gov>, Donald Larkin
<Donald.Larkin@morganhill.ca.gov>, John Lang <John.Lang@morganhill.ca.gov>
Subject: Initiative to Amend Zoning Regulation

Good morning Mayor, City Council and Planning Commission.

I am the CFO of Paramit Corporation and President of the Mission Ranch Homeowners Association. I would encourage the City Council to adopt the Initiative without alteration. The Initiative prohibits buildings that have all three of these conditions:

- 1) greater than 75,000 square feet, AND
- 2) CLEAR ceiling height of 24 feet over more than 25% of the floor area, AND
- 3) a dock-high door density of 1 in 25k square feet or greater.

Paramit is an advanced manufacturer. We manufacture medical devices and life science instruments. Some of our products include robotic surgery, dialysis machines, DNA analysis and diagnostic devices including COVID-19 detection. We have a 150,000 square foot facility, most of the ceiling height is 12 feet and we have 4 dock-high doors. Additionally 20% of our building has clear ceiling height of 21 feet 9 inches. Our current building meets the Initiative criteria and if we were to build a new building today it would meet those criteria. Paramit's CEO, the Board of Directors and myself support the Initiative.

The Initiative uses an example from a City in Washington State which wanted to eliminate the possibility of large scale distribution within the City limits. The Initiative would Amend the City of Morgan Hill Zoning Code to prohibit these types of buildings. The Initiative has helped push action by the Planning Commission and the City Council to prohibit all large scale distribution and parcel hubs. The City Council is still studying local e-commerce delivery uses. Such e-commerce delivery or last mile distribution will commonly be 100,000 square feet and support a fleet of 200 delivery vans. The pollution, noise and traffic from this activity would be unacceptable to the residents of the City especially my neighbors in the Mission Ranch neighborhood. The prohibition of the building previously described would ensure that these uses would not find their way into the City.

The Economic Blueprint and the 2035 General Plan define the priorities of Maintaining the Quality of Life, Fiscal Sustainability, Job Growth and Tourism. It

does this through attracting Advanced Manufacturing, Retail, Tourism and Healthcare. Last mile distribution does not support any of these industries and has a negative effect on Quality of Life, minimal financial contribution and provides only a few low paying jobs.

I encourage the City Council to adopt the Initiative and put this issue to rest permanently.

Thank you,

Rick

Rick Kent CPA, CGMA

Chief Financial Officer

[REDACTED]

[REDACTED]

[REDACTED]

Morgan Hill, CA 95037

www.paramit.com



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Responsible Growth for Morgan Hill Initiative

Item # 10

AGENDA DATE: 03/03/2021

SUPPLEMENT # 14

- 3,528 signatures
- All done with volunteers (no paid signature gatherers)
 - Over 60 individuals in our community donated their time to collect signatures
- The Santa Clara County Registrar of Voters only needed to review 86% (3,038 of the 3,528) of the total gathered signatures to confirm a sufficient number were obtained.
 - The valid percentage for the 3,038 they reviewed was 86.965% (2,642 divided by 3,038).
- If we assume the remaining 490 that were not reviewed had the same valid percentage as the 3,038 population, that means 426 more valid signatures for a total of 3,068 (2,642 + 426) or **116.9%** (3,068 divided by 2,624) of the required amount.

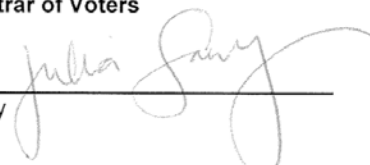
That after the proponent filed this petition, I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of such signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

1.	Number of signatures on petition (raw count):	<u>3,528</u>
2.	Number of signatures verified:	<u>3,038</u>
a.	Number of signatures found SUFFICIENT	<u>2,642</u>
b.	Number of signatures found NOT SUFFICIENT	<u>396</u>
1.	NOT SUFFICIENT because DUPLICATE	<u>34</u>
3.	Number of unverified signatures:	<u>490</u>

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 12th day of February 2021.

Shannon Bushey
Registrar of Voters

By: _____
Deputy



JobE18

~ These next 3 slides will provide an overview of recently approved and pending developments ~

Shoe Palace Expansion Project

Status: Approved

503,400 SF development with 56 loading docks
(under construction, recently listed for lease)

Property Type: Industrial, Sub-type: **Distribution**



Sources:

<https://www.loopnet.com/Listing/745-Jarvis-Dr-Morgan-Hill-CA/17594064/>

<https://www.morgan-hill.ca.gov/1739/Shoe-Palace-Expansion>

Butterfield Technology Park – 5 buildings with a total of 410,076 square feet and 51 dock doors ⁽¹⁾

Status: Approved by Planning Commission December 8, 2020



BUTTERFIELD TECH PARK - BLDG 4

Morgan Hill, CA

TC BUTTERFIELD VENTURE, LLC



Job No. 20182

CONCEPTUAL COLORED ELEVATIONS

10.21.2020

Sources:

<http://www.morgan-hill.ca.gov/2087/Butterfield-Technology-Park>

<https://www.morgan-hill.ca.gov/DocumentCenter/View/37472/Building-4-Elevation> Elevations Building 4 - Trammell Crow - 'Butterfield Technology Park' - page 1

(1) 38 dock doors in the elevation drawings plus 13 more 'cut outs' in the architectural drawings.

RedwoodTech @101 – 5 buildings with a total of 501,314 square feet and 70 dock doors ⁽¹⁾

Status: **Pending** Planning Commission agenda/approval



Job No. 18181



Morgan Hill, CA

Trammell Crow Company

CONCEPTUAL COLORED ELEVATIONS

01.29.2021

Sources:

<http://www.morgan-hill.ca.gov/2128/Redwood-Tech-at-101>

<http://www.morgan-hill.ca.gov/DocumentCenter/View/37858/Building-Elevations---Lot-A> Building Elevations - Lot A - Trammell Crow - 'RedwoodTech@101' - page 1

(1) 50 dock high doors in the elevation drawings but 20 more spaces noted as 'knock out panels' in the architectural drawings (see the last page)

~ These next 3 slides will provide an overview of some Trammell Crow projects noted on their website ~

Trammell Crow Company (TCC)

Coldwater Depot Logistics Center - Phase III

The Vitamin Shoppe, Inc. - Western Region distribution center, serving customers within the western half of the US from Texas to Washington

Coldwater Depot Logistics Center Phase III is a Class A industrial building featuring a **cross-dock design with dock-high and grade-level loading, 30-foot ceiling clear heights**, trailer parking and secured truck courts. The project is located on 11.4 acres at the northeast corner of Van Buren and 127th Avenue in Avondale, Arizona.



Source: <https://www.trammellcrow.com/en/projects/coldwater-depot-logistics-center-phase-iii>

Trammell Crow Company (TCC)
I-215 Logistics Center

Amazon Fulfillment center in Moreno Valley, CA



Source: <https://www.trammellcrow.com/en/projects/i-215-logistics-center-amazon-fulfillment>

Trammell Crow Company (TCC)
FedEx Distribution Center, Austin TX



Sources:

<https://rebusinessonline.com/trammell-crow-clarion-complete-85000-sf-distribution-center-for-fedex-in-austin/>

<https://www.trammellcrow.com/en/about/media-center/tcc-announces-completion-of-85k-sf-austin-distribution-facility-for-fedex>

~ These next 2 slides will provide examples of Advanced Manufacturing Facilities ~

3D SYSTEMS – Rock Hill, South Carolina

85,028-Square-Foot Facility with Rapid Manufacturing Center



Source:

<https://kdc.com/our-work/3d-systems>

paramit – ‘Factory in the Forecast’, Malaysia
82,000-Square-Foot Building

Winner of the 2018 FutureArc Green Leadership Award and the 2017 LEAF (Leading European Architects Forum) award for the best commercial building in the world.



Source:

<https://www.paramit.com/penang-facility/>

The elevation drawings of both the already approved Butterfield Trammell Crow buildings and the proposed development off of Cochrane Rd look very similar to previously constructed distribution center facilities.

Butterfield



Cochrane Rd – RedwoodTech@101



Amazon Fulfillment Center



FedEx Distribution Center



Vitamin Shoppe Distribution Center



Compare the above to examples of Advanced Manufacturing Facilities

3D Systems



- The best approach to prevent distribution centers in Morgan Hill is by not allowing them to be built in the first place, rather than trying to regulate use after the fact.
 - ALL three of the following criteria must be met for a development to be prohibited under the initiative:
 - 1) Building greater than 75,000 square feet
AND
 - 2) Clear ceiling height of 24 feet over more than 25% of the floor area
AND
 - 3) More than 1 dock-high door per 25k square feet (there are no restrictions on grade-level doors)

Responsible Growth for Morgan Hill Initiative Allowed Criteria									
There are 3 different physical characteristics outlined in the Responsible Growth for Morgan Hill Initiative. Only one of the possible eight different combinations is not allowed.									
Criteria		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7	Scenario 8
1	Building greater than 75,000 square feet?	No	No	No	No	Yes	Yes	Yes	Yes
2	Clear ceiling height of 24 feet over more than 25% of the floor area?	Yes	No	No	Yes	No	No	Yes	Yes
3	More than 1 dock-high door per 25k square feet? (No restrictions on the number of grade level doors)	Yes	Yes	No	No	No	Yes	No	Yes
Under the Initiative:		Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed

- Based on careful research, and following best practices of City's like Kent, Washington, the combination of physical characteristics set forth in the Initiative under Scenario 8 in the table above is the only one prohibited since this combination is representative of a distribution center.

Adopt the initiative now to prevent anymore distribution centers from being built!

- Between the Shoe Palace expansion and the Trammell Crow development off of Butterfield, there's already **910,000 square feet of buildings with 107⁽¹⁾ semi-truck dock doors** approved or under construction that have the building characteristics of a distribution center.
- We can't afford to add **an additional half million square feet and 70⁽²⁾ more dock high doors** with the Trammell Crow RedwoodTech development.
- New developments in our town should bring sustainable jobs, support existing businesses in our community, and result in meaningful positive net revenue for the City while making sure the health and safety of our residents and the environment are upheld.
- The initiative should be adopted tonight to protect our strategic industrial land.
 - The Chief Financial Officer for Paramit, an advanced manufacturing company of medical devices headquartered here in Morgan Hill, is one of the official proponents of the Responsible Growth for Morgan Hill Initiative.
 - This Initiative will help make sure there's sufficient industrial land available for companies like Paramit to expand.
 - Allowing distribution centers to be built in Morgan Hill will crowd out investment from the industries residents and City Council desire such as life science and advanced manufacturing.
- **Time is of the essence!** We believe the Initiative can prevent additional buildings from being constructed that have all the physical characteristics of a distribution center.

(1) 56 dock high doors in the Shoe Palace expansion. 38 dock dock doors in the elevation drawings plus 13 more 'cut outs' in the architectural drawings.

(2) 50 dock high doors in the elevation drawings but 20 more spaces noted as 'knock out panels' in the architectural drawings (see the last page)

Time is of the Essence - Vested Development Rights

- **WHY**

Certainty that the rules will not change in the middle of the development process.

- **HOW**

Under California law, there are three ways in which developers can obtain vested rights for their projects:

- 1) **Obtain a VTM** (Vesting Tentative Map)
- 2) Enter into a DA (Development Agreement) with a local agency; or
- 3) Under common law, **obtain a building permit, then perform substantial work and incur substantial liabilities in good faith reliance on the permit.**

REDWOOD TECH AT 101

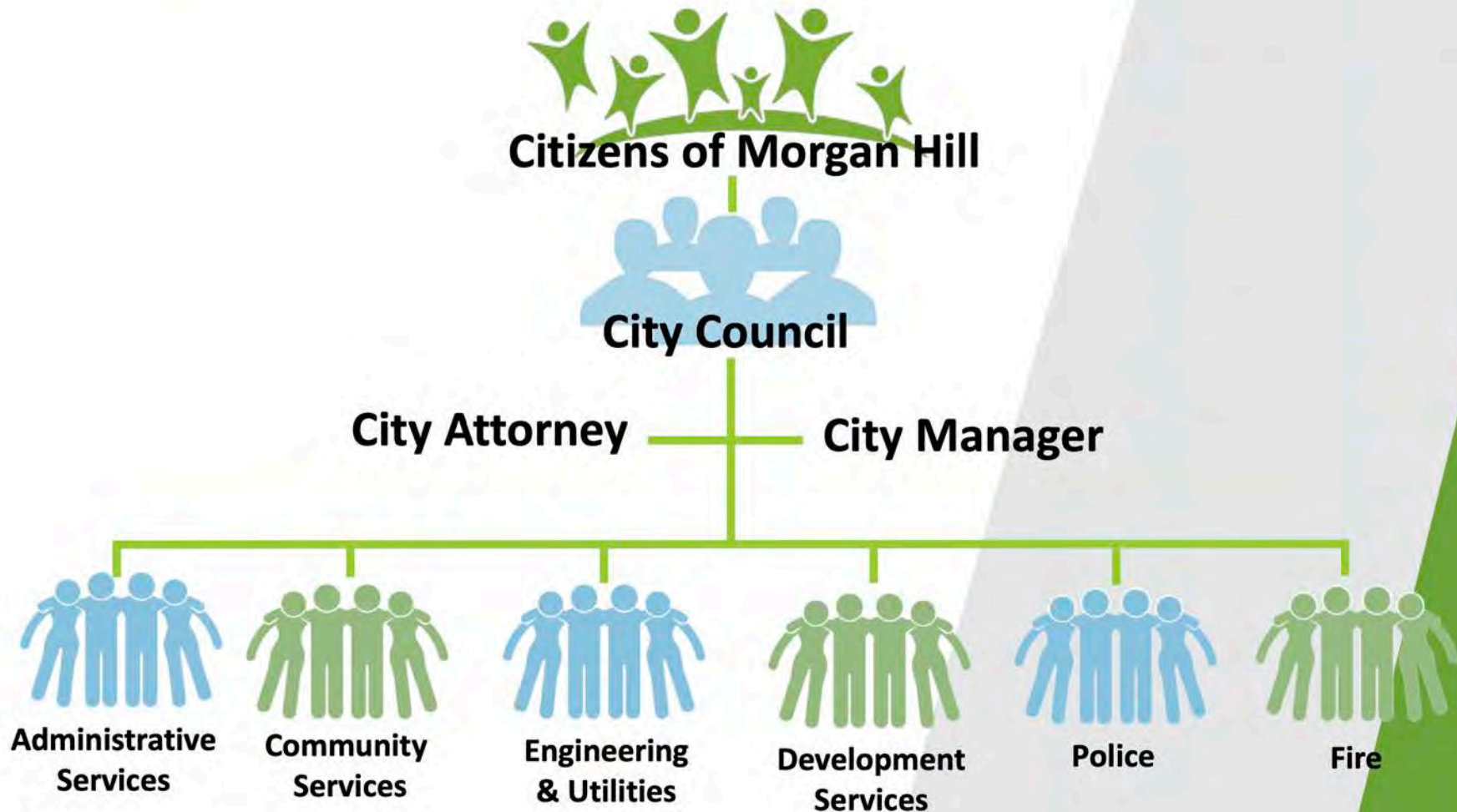
Project Description:

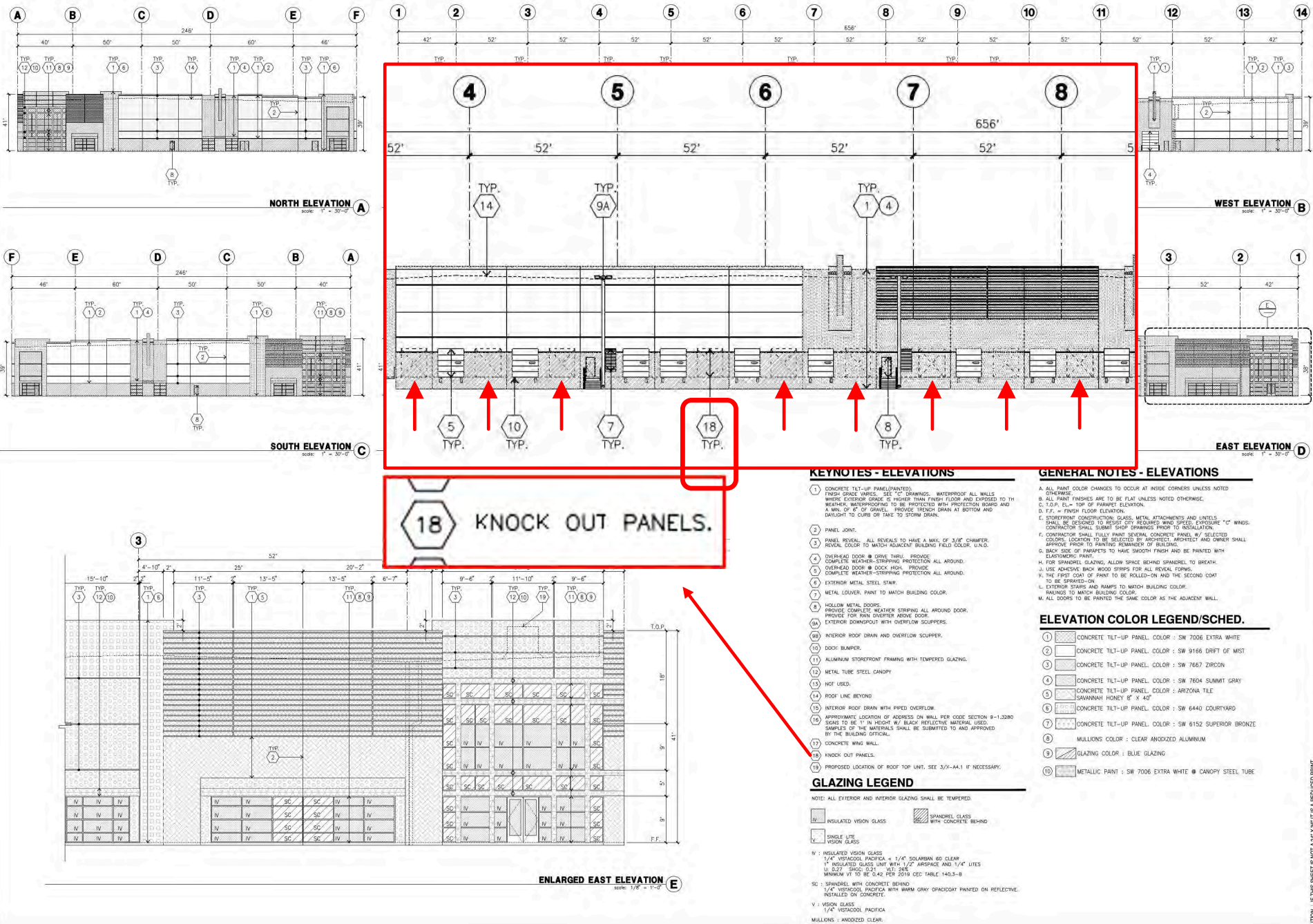
Redwood Tech at 101 (SR2020-0029 through SR2020-0033 and SD2020-0011) proposes approximately 501,314 square feet of flexible industrial/commercial space spread across 5 separate buildings on four separate lots in the approximately 29-acre lot south of the former Tree Farm site on Hwy 101 south of Cochrane Road. The property is currently configured in 2 parcels, with a Commercial/Industrial General Plan designation and Light Industrial (IL) zoning. The property will be reconfigured into 4 legal lots with 5 buildings designated for flexible industrial and commercial uses, including advanced manufacturing, warehouse, supporting office, and similar industrial and commercial uses. A Vesting Tentative Parcel Map and Design Permit are required for this application and will be heard by the Planning Commission. Different from the last project proposed for this site, no changes are proposed to the General Plan designation or zoning designation.

Sources:

https://www.reubenlaw.com/vesting_tentative_map_may_offer_protection_against_changes_in_development_r/
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.&title=7.&part=&chapter=3.&article=2.
<http://www.morgan-hill.ca.gov/2128/Redwood-Tech-at-101>

Organizational Chart





Source: <http://www.morgan-hill.ca.gov/DocumentCenter/View/37864/Architectural-Plans>
 Architectural Plans – Trammell Crow - 'RedwoodTech@101' - page 6 (building A)

hpa, inc.
600 grand ave. suite 302
oakland, ca
94610
tel: 949-852-2113
fax: 949-853-0851
email: hpa@hparchs.com

DAVID N. HPA
Professional Engineer
State of California
License No. 22451
3.5.01.01
P.E. SEAL

Development Management Company
415 Mission Street, 4th Floor,
San Francisco, CA 94105

Tel. No.: (855) 224-8707

Project:
REDWOODTECH@101

1840 Cochran Rd.
Morgan Hill, CA

Consultants:
Kier & Wright
Green Design

Title: ELEVATION

Project Number: 18181
 Drawn by: TSP
 Date: 12/11/2020
 Revision:

Sheet:
A-A3.1

From: Joe Baranowski <[REDACTED]>
Sent: Wednesday, March 3, 2021 11:49 AM
To: Christina Turner <Christina.Turner@morganhill.ca.gov>
Cc: Miguel Jimenez <[REDACTED]>; Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Subject: RE: Follow up to our meeting last week

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Proponents (including Rick Kent) main point, is not a 'concern' but a reality and one the City has *never* addressed. Buildings are being approved that are designed and optimized for distribution uses. This is integral to the 'Industrial Preservation Policy' that unfortunately was never fully discussed or 'absorbed'. The core of the policy is that "**Morgan Hill can capitalize on the e-Commerce market** demand to build speculative product to capture advanced industries, but it must have facilities available." It recognized that 80% of the industrial market demand in Silicon Valley is for e-Commerce .

Developers listened. They *are* building product to capitalize on the e-Commerce demand which we then turn around and say we don't want. This is circular and inconsistent and can only lead to bad outcomes, such as one of the largest employers (Paramit) in Morgan Hill looking to expand and only finding buildings that are not suitable. What is happening today is developers are addressing the market demand and we are then to add regulations which that would prohibit the very use (distribution) that is the dominant driver of that demand. This makes no sense, and we are on the path to having 1.4 million square feet of 'spec' space. Who is going to fill it?

Another part of our response that was apparently missed is that "we are committed to continuing our conversations with you." If you are disappointed please stop for just one minute. Think about the disappointment that a team of dedicated citizens that have no vested interest at all in anything other than making Morgan Hill the place we all want it to be. We have accepted any and every opportunity to work in good-faith. If you believe we would consider 'ending the discussion', whether the Initiative is adopted or not, with the end goal of seeing a thriving industrial sector not even at the starting point, I don't think you have been listening to what we have been saying at all.

We will continue the discussion with whoever wishes to engage,

Joe & Miguel

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Good Morning Joe and Miguel –

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As you know, we have great concerns with the unintended impacts of the initiative. The initiative regulates buildings, not uses. Regulating buildings can impact existing companies who do advanced manufacturing and research and development but happen to be in large buildings, with certain height and a certain number of dock doors. **We need to protect existing companies.** We need to keep the jobs we have and continue to attract good jobs to the community.

We understand that you are concerned about more than just distribution uses. We understand your goal is to restrict new businesses that would create excessive truck traffic. To that end, we proposed several ideas that would regulate and reduce truck-intensive businesses in Morgan Hill. Our proposals would close loopholes in the initiative and reduce truck traffic without impacting existing businesses or preventing desired R&D and advanced manufacturing businesses from coming to Morgan Hill.

The initiative would have long lasting impacts on our businesses that may not be able to grow and thrive in Morgan Hill. Additionally, it sends the wrong message to the market and job-generating companies that may be looking to locate in Morgan Hill.

As stated earlier, we are sad and disappointed that after months of working through solutions....solutions that you stated at our last meeting were promising, that you choose to end the discussion.

Regards,

Christina

CITY OF MORGAN HILL

Christina J. Turner, CPA
City Manager

17575 Peak Avenue, Morgan Hill, California, USA 95037
d 408.776.7382 | c 408.839.1705
e christina.turner@morganhill.ca.gov | www.morganhill.ca.gov
[Facebook](#) | [Twitter](#)

From: Miguel Jimenez <[REDACTED]>
Sent: Monday, March 1, 2021 12:55 PM
To: Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>
Cc: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; Joe Baranowski <[REDACTED]>
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Dear Edith, Christina, Don, and Jennifer,

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We found some of the suggestions discussed during our meeting interesting. However, our fundamental view is that the best approach to prevent distribution centers in Morgan Hill is by not allowing them to be built in the first place, rather than trying to regulate use after the fact.

We also want to reiterate that **ALL three** of the following criteria must be met for a development to be prohibited under the initiative:

- 1) Building greater than 75,000 square feet
AND
- 2) Clear ceiling height of 24 feet over more than 25% of the floor area
AND
- 3) More than 1 dock-high door per 25k square feet (there are no restrictions on grade-level doors)

For example:

- If Specialized needed a building with clear internal ceiling height of greater than 24 feet, that is fine as long as it doesn't constitute more than 25% of the total floor area of the building.
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than 1 dock-high door per 25,000 square feet (which we don't think they would need given the time it takes to build a satellite). In fact, only one of eight different possible combinations of the 3 different physical characteristics outlined in the Responsible Growth for Morgan Hill Initiative is not allowed (please see table below).

Responsible Growth for Morgan Hill Initiative Allowed Criteria

There are 3 different physical characteristics outlined in the Responsible Growth for Morgan Hill Initiative. Only one of the possible eight different combinations is not allowed.									
Criteria		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7	Scenario 8
1	Building greater than 75,000 square feet?	No	No	No	No	Yes	Yes	Yes	Yes
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<i>Under the Initiative:</i>		Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Not Allowed

Based on careful research, and following best practices of City's like Kent, Washington, the combination of physical characteristics set forth in the Initiative under Scenario 8 in the table above is the only one prohibited since this combination is representative of a distribution center.

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Relying on resident complaints to see if the Shoe Palace expansion is exceeding 8 truck trips per day is not efficient. During the February 17th workshop meeting on 'last mile distribution' there was discussion about City staff driving around town and counting delivery vans using an iPhone calculator to estimate if a facility was making deliveries outside of the 95037 zip code. These are not acceptable nor viable options for enforcement. While we understand there was discussion in our meeting last

week about other ways to enforce use, we strongly feel that the logical, most efficient and proactive approach is to prevent distribution centers from being built in the first place.

After careful thought and consideration about next steps, and while we are committed to continuing our conversations with you, we feel compelled to ask City Council to adopt the Initiative during the March 3rd meeting. With developments pending review for approval, we strongly feel there's too much at risk to not advocate for adopting the Initiative now. Between the Shoe Palace expansion and the Trammell Crow development off of Butterfield, there's already 910,000 square feet of buildings with 107 semi-truck dock doors approved or under construction that have the building characteristics of a distribution center. These buildings have been called "spec buildings" but everyone knows the dominant sector driving the industrial market is e-commerce, and the only thing speculative about these buildings is which e-commerce or third party logistical provider will occupy them.

We can't afford to add an additional half million square feet and 70 more dock high doors with the Trammell Crow Redwood development. The opportunity to use our strategic industrial land to realize the vision of an economically healthy and fiscally sustainable mix of job generating advanced manufacturing and R&D uses will be lost with long-term consequences. We should not let that happen.

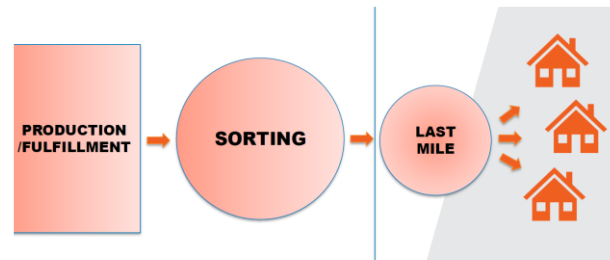
Sincerely,
Joe & Miguel

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Understanding the Responsible Growth Coalition's Citizens' Initiative

Standalone distribution facilities can range from 40,000 square feet to millions of square feet. These facilities distribute goods to consumers, and include services such as Amazon or other online retailers, or delivery services like UPS. In 2020, a group of Morgan Hill residents collected signatures to place an Initiative on the ballot to prevent distribution centers from locating in Morgan Hill.



The Initiative intends to prevent large truck/high traffic that comes with heavy distribution uses. However, instead of regulating the use (no distribution centers), the Initiative would regulate the building type. The Initiative would prevent buildings that are 75,000 square feet or larger, have heights of 24 feet for 25% or more of their floor area, and have one or more dock doors per 25,000 square feet.



To address the Community's concerns about distribution uses, the Council amended the City's Industrial Zoning Ordinance to **prohibit fulfillment centers and standalone distribution uses** in Morgan Hill. The City has taken immediate action to respond to the Community's concerns and the Initiative's intent. Below is a summary of the measures taken to respond to the Community's concerns about distribution and truck traffic and review of large projects:

- 1) Prohibit fulfillment centers: **Done**. The current zoning approved in November 2020 prohibits fulfillment centers.
- 2) Require Planning Commission Review for Large Scale Projects: **Done**. Adopted by Council November 2020.
- 3) Removes Community Development Director's approval authority and requires Planning Commission approval: **Done**. Large-scale projects (beyond what was required by the Initiative) will now have to be reviewed by the Planning Commission.

There are several problems with the Initiative:

#1 Under the Initiative, large parcel hubs and last-mile distribution centers could still be allowed.

#2 The Initiative impacts existing businesses regardless of their use. For example, Specialized Bicycles (and several other companies) fit the Initiative's definition of "fulfillment center," and if the Initiative is approved, their ability to modify their buildings or expand their operations in the future would be limited.

USE	Initiative	City Ordinance
HEAVY DISTRIBUTION (FULFILLMENT CENTER)	Not Allowed	Not Allowed
SORTING CENTER	Not Allowed	Not Allowed
LARGE PARCEL HUB (LAST MILE/LOCAL DISTRIBUTION)	Permitted	Not Allowed
SMALL PARCEL HUB (LAST MILE/LOCAL DISTRIBUTION)	Permitted	Not Allowed

#3 The Initiative may have long-lasting impacts on our business community and limit our ability to attract Advanced Manufacturing and Research and Development (R & D) to Morgan Hill.



March 3, 2021

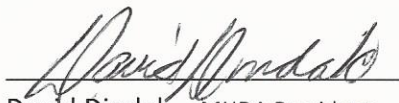
Honorable City Council:

Thanks for taking the time to address citizen concerns over Fulfillment, Distribution and Last Mile centers and discussing the Initiative Petition of Agenda Item #10. Listening to members of a community is a sign of great leadership.

Unlike other cities in the Bay Area, ours still has much open land ripe for businesses that could diminish Morgan Hill's small town feel and family-friendly character. Thus, we also thank you for recently deciding to prohibit any form of fulfillment centers in our wonderful city. Going forward we advocate for decision-making authority in dealing with proposed projects to be in the hands of Planning Commission for vetting purposes and recommendations.

As Morgan Hill matures, we encourage the City to promote speculative development of Advanced Manufacturing, R&D and Engineering that creates higher-level income employment opportunities. Therefore, in the essence of transparency and as a matter of historical policy, we respectfully ask that you follow staff's recommendation for obtaining an Impact Analysis of the Initiative. This action should be amenable to all and will serve as a check-and-balance answering any outlying questions. In the event it meets with unsatisfactory results to some, step 2 would be educating the populace and placing the Initiative on the Ballot in November 2022.

We sincerely thank you for all the effort and concern.


David Dindak — MHDA President

From: Christina Turner

Sent: Wednesday, March 3, 2021 4:39 PM

To: Joe Baranowski <[REDACTED]>; Miguel Jimenez <[REDACTED]>

Cc: Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

Subject: RE: Follow up to our meeting last week

Hi Joe and Miguel -

I understand you are seeking additional security and confidence through the Initiative. Let us agree to disagree on what is more efficient.

City Hall is getting many messages from the community because of the outreach and comments made by you and the Responsible Growth Coalition. We find that many of the people reaching out to us do not know that the Council already acted to respond to the intent of the initiative, prohibiting distribution uses and requiring large scale development to require a public hearing.

The Council will soon vote on the Initiative, and my hope is that regardless of how the Council votes tonight, that we can begin to move the dialog to how we build trust and heal the community. We have big issues ahead and can benefit from this amount of energy and attention to help us develop solutions on how to create a safe and sustainable economy.

Thank you,
Christina

From: Joe Baranowski <[REDACTED]>

Sent: Wednesday, March 3, 2021 11:49 AM

To: Christina Turner <Christina.Turner@morganhill.ca.gov>

Cc: Miguel Jimenez <[REDACTED]>; Rich Constantine <Rich.Constantine@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

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CITY OF MORGAN HILL

Christina J. Turner, CPA
City Manager

17575 Peak Avenue, Morgan Hill, California, USA 95037

d 408.776.7382 | **c** 408.839.1705

e christina.turner@morganhill.ca.gov | www.morganhill.ca.gov

[Facebook](#) | [Twitter](#)

From: Miguel Jimenez <[REDACTED]>

Sent: Monday, March 1, 2021 12:55 PM

To: Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>

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Sincerely,
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From: merri <[REDACTED]>
Date: March 3, 2021 at 4:23:20 PM PST
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>
Subject: Putting the initiative on the ballot

Councilpersons,

I urge you to pass the initiative to give us the option to vote on controlling distribution facilities and stop rezoning properties. They knew what they bought so they should build within the current zoning.

I truly believe the city needs to reevaluate how things are zoned and adjust it to the growing community. Not change the zoning to accommodate large companies.

Traffic on Cochrane is already a nightmare during peak times. We already wait through three cycles of lights sometimes when large full slow moving trucks are on the road. Anderson being fixed will make thing worse for the next 10 Year.....

See you tonight,

Merri Muir

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From: Ruth <[REDACTED]>
Date: March 3, 2021 at 3:35:27 PM PST
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>
Subject: Do your job and vote to accept the Responsible Growth Initiative

Morgan Hill City Council Member:

I have lived in Morgan Hill for almost 20 years, watching our city grow into an amazing place to live. Have seen Mayors and Council members come and go. The best ones Listen to their constituents. Some don't and the voters - vote them out of office.... There has been significant voter interest in the huge warehouse Developers activities in the past couple of years. The Voters don't want these projects.

Thousands of them have made their wishes known. Yet many, in city positions do not appear to understand the voters preferences and continue to appease these developers much to the detriment of our community, now and into the future.

Are you being paid to stand with the developers??? Maybe there needs to be an investigation regarding payoffs to city council members...

On March third you will have to decide just where you stand. Hopefully it will be with the citizens. We urge you to look deeply into the citizens wishes and Vote to Approve the MHRGC initiative to change our outdated zoning code.

Please avoid another costly election as you know, when put to a vote the wishes of the citizens will prevail and the initiative will be approved !!!!! Vote for Morgan Hill's people and their continued preferred way of life. Isn't that you are supposed to do in your job???

None of the residents wanted the huge Shoe Palace fiasco that was unexpectedly forced upon us.. Don't make us the warehouse and distribution center of silicon valley.

WARNING: This message is from an external user. Confidential information such as social security numbers, credit card numbers, bank routing numbers, gift card numbers, wire transfer information and other personally identifiable information should not be transmitted to this user. For question, please contact the Morgan Hill IT Department by opening a new helpdesk request online or call 408-909-0055.

**Morgan Hill Responsible Growth Coalition (MHRGC)**

16600 Monterey ST #87

Morgan Hill, CA 95038

mhrgc@mh-rgc.org

August 5, 2020

VIA HAND DELIVERY

Irma Torrez, City Clerk
City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

Dear Ms. Torrez,

Attached please find a copy of the text of a proposed initiative and Notice of Intent to Circulate Petition, which sets forth the reasons for the proposed petition. Andrew Plant, President of Westmont Living, Rick Kent, Chief Financial Officer of Paramit Corporation, and myself, Joseph Baranowski, are the proponents of the foregoing initiative measure. Enclosed is a check for \$200 to cover the filing fee for the petition.

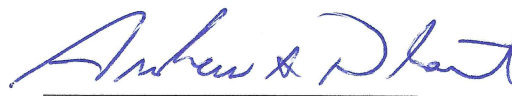
Pursuant to California Elections Code Sections 9202 and 9203, this is a request that a ballot title and summary be prepared. It is my understanding that the City Attorney will prepare a title and summary within 15 days and that you will provide the summary to us upon receipt from the City Attorney. The proponents of the petition respectfully request the City Attorney consider the title "Responsible Growth for Morgan Hill Initiative" which accurately represents the intention of the proposed ordinance.

The proponents have signed and attached hereto the Declaration required pursuant to Elections Code Section 9608.

Please contact me at 408-674-2846 if you require any additional information or have any questions. Thank you for your assistance, and for all your public service, always.

Sincerely yours,


Joseph Baranowski
MHRGC President
Proponent

 
Andrew Plant
President, Westmont Living
Proponent

Rick Kent
CFO, Paramit Corporation
Proponent



Morgan Hill Responsible Growth Coalition (MHRGC)

16600 Monterey ST #87

Morgan Hill, CA 95038

mhrgc@mh-rgc.org

Notice of Intent to Circulate Petition (Election Code §9202)

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Morgan Hill for the purpose of amending the Zoning Code (Article 18) of the City of Morgan Hill Municipal Code.

A statement of reasons of the proposed action as contemplated in the petition is as follows:

The purpose of this ordinance is to preserve the small-town feel and family-friendly character of Morgan Hill, to protect the health and safety of its residents, and to support the viability of local businesses by enacting legislation that will enable our city to remain distinctive in the midst of the rapidly changing logistics and distribution industry.

This ordinance safeguards our General Plan and land use entitlement process, allowing it to evolve in a sustainable manner that encourages high quality job growth and meets the needs of our residents and visitors.

This ordinance updates the Morgan Hill Zoning Code to include Fulfillment Center (commonly known as Distribution Center) as a defined land use, and to distinguish this use from traditional Warehouse & Distribution associated with manufacturing or static storage buildings that already exist in Morgan Hill. This ordinance will strictly prohibit Fulfillment Centers as a permitted land use anywhere within the City limits of Morgan Hill.

The proposed ordinance also changes the review and decision-making authority for administering the Zoning Code to allow Morgan Hill residents, through their elected officials and appointed planning commissioners, to have a voice in deciding whether large-scale development projects are permitted in the City.

The intent of this ordinance is to allow responsible growth for job-generating land use in our City, consistent with the General Plan, Zoning Code and Economic Blueprint while preserving public health and safety and Morgan Hill's special character and unique quality of life for generations to come.

Respectfully submitted by Proponents pursuant to Election Code §9202.

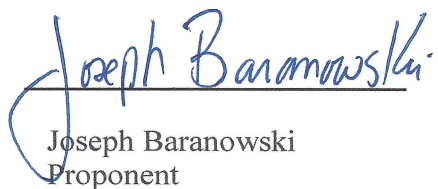
Joseph Baranowski
MHRGC President
Proponent
16600 Monterey ST #87
Morgan Hill, CA 95038

Andrew Plant
President, Westmont Living
Proponent
7660 Fay Ave., Suite N
La Jolla, CA 92037

Rick Kent
CFO, Paramit Corporation
Proponent
18735 Madrone Parkway
Morgan Hill, CA 95037

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

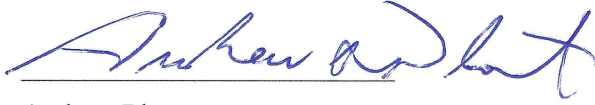
I, Joseph Baranowski, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.


Joseph Baranowski
Proponent

Dated this 31st day of July, 2020.

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Andrew Plant, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Andrew Plant
Proponent

Dated this 3rd day of August, 2020

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Rick Kent, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.

A handwritten signature in black ink, appearing to read "Rick Kent", is written over a horizontal line.

Rick Kent
Proponent

Dated this 31st day of July, 2020.

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Morgan Hill for the purpose of amending the Zoning Code (Article 18) of the City of Morgan Hill Municipal Code. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The purpose of this ordinance is to preserve the small-town feel and family-friendly character of Morgan Hill, to protect the health and safety of its residents, and to support the viability of local businesses by enacting legislation that will enable our city to remain distinctive in the midst of the rapidly changing logistics and distribution industry.

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This ordinance updates the Morgan Hill Zoning Code to include Fulfillment Center (commonly known as Distribution Center) as a defined land use, and to distinguish this use from traditional Warehouse & Distribution associated with manufacturing or static storage buildings that already exist in Morgan Hill. This ordinance will strictly prohibit Fulfillment Centers as a permitted land use anywhere within the City limits of Morgan Hill.

The proposed ordinance also changes the review and decision-making authority for administering the Zoning Code to allow Morgan Hill residents, through their elected officials and appointed planning commissioners, to have a voice in deciding whether large-scale development projects are permitted in the City.

The intent of this ordinance is to allow responsible growth for job-generating land use in our City, consistent with the General Plan, Zoning Code and Economic Blueprint while preserving public health and safety and Morgan Hill's special character and unique quality of life for generations to come.

INITIATIVE PETITION

The people of the City of Morgan Hill, California, do hereby ordain and enact as follows:

ARTICLE I FINDINGS, PURPOSE, AND INTENT OF INITIATIVE

Section 1.1. Findings. The People of the City of Morgan Hill ("City") find and declare as follows:

- A. The Morgan Hill General Plan represents the collective vision of the community and serves as the primary policy document governing land use in the City. The MORGAN**

HILL 2035 GENERAL PLAN (“General Plan”) represents countless hours of collaborative work by City staff and residents to develop a collective vision for what Morgan Hill will look and feel like through the year 2035. The overarching goal of the General Plan is to “maintain Morgan Hill’s family-friendly character and strong sense of community while the community grows and prospers.” In accordance with Government Code Section 65032, the General Plan defines a framework of detailed goals and policies intended to provide clear guidance for decision makers in the areas of land use, circulation, housing, conservation, open space, noise, and safety. Residents want the City to respect and follow the principles of the General Plan.

- i. **Preserve the City’s unique character and quality of life:** Often called the “hidden gem” of Silicon Valley, Morgan Hill has long been known for its pastoral valley and hillsides, quaint downtown, and family-friendly atmosphere. These qualities are eloquently expressed in the General Plan as: “strong connections between Morgan Hill’s developed neighborhoods, natural setting, and agricultural surroundings establish the feeling of a traditional, family-oriented, high quality, progressive, and active small town removed, although easily accessible, from the crowded, fast-paced Silicon Valley communities to the north.”
 - ii. **Adhere to principles for responsible growth in all land use decisions.** Incorporated in 1906, Morgan Hill has slowly evolved from an agrarian area into a small suburban community; yet its small-town charm has not been lost, even as the population has grown to over 45,000 residents. This ideology is further affirmed by the General Plan: “Morgan Hill is proud of its small town character, strong sense of community, abundant access to open space and recreational amenities and ever growing participation in the Silicon Valley economy, and seeks to promote these desirable qualities through thoughtful land use planning.” As we go forward, “the City seeks to build upon its previous success by maintaining a steady, well-defined, and responsible rate of growth.”
 - iii. **Protect environmental resources for future generations.** The residents of Morgan Hill declare that irresponsible development cannot easily be undone. The General Plan has “safety, services, and infrastructure” policies intended to “protect people from detrimental impacts associated with development”. Residents want the City to make the most conscientious land use decisions based on these elements to protect the pastoral landscape and family-friendly atmosphere for years to come, as these qualities make Morgan Hill a beautiful place to visit and an extraordinary place to live.
- B. **The Morgan Hill Zoning Code regulates land use in the City by implementing policies of the General Plan to protect public health, safety, and welfare.** Codified as Title 18 in the Morgan Hill Municipal Code, the Zoning Code of the City of Morgan Hill (the “Zoning Code”) implements the General Plan through detailed land use and

development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all property in Morgan Hill. The Zoning Code identifies which specific land uses are permitted in each zoning district and establishes development standards for each zoning district. As set forth in Section 18.04.040 of the Morgan Hill Municipal Code, the City's Zoning Code aims to achieve each of the following purposes:

- i. "Preserve and enhance Morgan Hill's small-town feel and family friendly character."
- ii. "Protect and enhance the quality of life in residential neighborhoods."
- iii. "Support a vibrant, diverse, and dynamic local economy."
- iv. "Protect environmental resources and promote a sustainable development pattern."

C. **Morgan Hill Zoning Code contains outdated definitions related to land use for Warehousing and Distribution.** Revisions to the Zoning Code have not kept pace with the evolution of e-commerce and fails to adequately distinguish characteristics of traditional "warehouse and distribution" from modern-day Fulfillment Centers. Many industry and government organizations recognize and clearly define the differences between traditional warehouses and Fulfillment Centers and this initiative updates the Zoning Code to do the same.

- i. **Current Zoning Code describes a traditional warehouse facility only.** The Zoning Code describes Warehousing and Distribution under Industrial Land Uses (18.124.050) as "a use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies." This description characterizes a traditional warehouse facility but not a modern Fulfillment Center.
- ii. **Current Zoning Code does not presently include a definition for Fulfillment Center.** Fulfillment Centers and Distribution Centers have revolutionized the way e-commerce companies meet the demands of their customers. The most common term for these facilities is "Distribution Center", also labeled as Fulfillment Center, Ecommerce Center, Logistics Center, Parcel Hub, Cold Storage Facility, High Cube Warehouse, Last-Mile Distribution Facility, and many other names that describe these specialized facilities in the logistics and distribution industry. The term "Fulfillment Center" was selected for the purpose of this ordinance, rather than "Distribution Center", because the Morgan Hill Zoning Code already contains the defined term "Warehouse and

Distribution Facility” to refer to traditional uses associated with manufacturing, wholesaling, and other business-to-business commerce, none of which are affected by this proposed ordinance. It was determined that allowing “Distribution Facility” and “Distribution Center” to refer to two different types of land uses in the Zoning Code, would create unnecessary confusion. Therefore, “Fulfillment Center” is used to represent all related facilities.

- iii. **The function of a Fulfillment Center is vastly different from a traditional warehouse.** Driven primarily by the massive growth in e-commerce over the past decade, the role of warehousing has been radically transformed in the supply chain and logistics industry. While many different types of Fulfillment Centers have evolved to meet the demands of e-commerce, they share each of the following characteristics which differentiate them from traditional warehouses.
 - a. **Primary role:** While traditional warehouses are used for more static long-term storage of manufactured goods, Fulfillment Centers are used for short-term storage, fast intake and rapid shipment of goods driven by customer demand.
 - b. **Operations:** A typical warehouse has fairly simple everyday operations that include organizing stored goods, shipping pallets of goods, and replenishing stock at periodic intervals. Fulfillment Centers usually ship individual products directly to customers making operations much more complex when they are managing tens of thousands of unique products, or stock keeping units (SKUs). To meet customer demand, product flow volume and velocity are also much greater in Fulfillment Centers.
 - c. **Technology:** Technology is an integral part of the order fulfillment process for all e-commerce companies. Unlike traditional warehouses, in order to handle the high volume and rapid movement of products, Fulfillment Centers use advanced technology for functions such as warehouse management, transportation management, package identification, sorting, picking, packaging, labeling, etc. many of which are becoming fully automated using robots and computer-controlled automated systems. These value-added services are designed to reduce inventory carrying costs and act as a bridge between a supplier and its customers.
- iv. **Design specifications for a Fulfillment Center differ from those for a traditional warehouse.** Because of the dynamic nature of its operations, modern Fulfillment Centers have different building requirements than traditional warehouse and distribution facilities in order to optimize the high-volume product flow. While there are many types of Fulfillment Centers being built

across the country, they share each of the following physical characteristics which distinguish them from a traditional warehouse:

- a. **Floor area and ceiling heights:** Fulfillment Centers usually require more square footage of available floor area (75,000 square feet or more) and higher clear ceiling heights (greater than 24 feet) that are geared for high volume and velocity of modern e-commerce distribution.
 - b. **Service Doors and Docks:** A dock-high door is a loading dock that is not at ground level but rather is elevated in order to align with the standard tractor-trailer height for loading or unloading goods without a change in elevation. The number of dock-high doors is a key characteristic of modern Fulfillment Centers. The Dock-High-Door-to-Square-Foot Ratio (DHDSFR) is the ratio of the total number of dock-high doors to the building's total square feet of floor area. Fulfillment Centers have a higher ratio of DHDSFR >1:25,000 (i.e. more than one dock-high door for every 25,000 square feet of available floor area) than traditional warehouses. The number of dock-high doors is an indicator of the anticipated truck traffic that will be generated by a Fulfillment Center.
 - c. **Located for convenient highway access:** Whereas traditional warehouses are typically located in urban industrial areas, Fulfillment Centers are located along interstate highways in rural or urban periphery areas. With explosive e-commerce growth and competition to offer shorter delivery times (same-day and even one-hour delivery are becoming common), many Fulfillment Centers are moving into urban and suburban areas located along major highways where available land offers convenient highway access.
- D. **Fulfillment Centers are unsuitable for land use in our city due to the relatively few quality jobs generated.** The General Plan establishes that land use should “support the development of office and industrial facilities to meet local demand, compete for regional growth opportunities, and create high-quality jobs.” City leaders and residents recognize the need to diversify and expand employment opportunities in Morgan Hill. The City’s Economic Blueprint states that “attracting high-quality jobs that are well-suited to the skills and preferences of local workers, may increase the number of people who can both live and work in Morgan Hill.” However, permitting Fulfillment Centers on parcels allocated for “vibrant job centers” is not consistent with the General Plan or Economic Blueprint, and does not ensure the long-term economic strength of the City.
- i. **Residents want City planners to be mindful of the limited supply of commercial and industrial land available for development in Morgan Hill.** But, with little or no public input, City staff approved a 503,400 square foot Fulfillment Center for the Shoe Palace Expansion project. City staff was also asked to review and recommend approval of a proposal for General Plan and Zoning Code

amendments to permit the development of the Morgan Hill Technology Center, designed as a 1,040,000 square foot Fulfillment Center. The City has also submitted documents to organizations collectively known as Bay Area Metro, identifying 797 acres of land to be classified as a Priority Production Area (PPA) with “last mile production and distribution” as the key industry envisioned for expansion within the PPA area.

- ii. **Fulfillment Centers do not provide an influx of quality jobs.** Studies show that the number of jobs created per square foot of building or per acre of land, called the ‘employment density’, differs depending on the land use. In 2020, Kent, Washington, which has a substantial number of Fulfillment Centers and advanced manufacturing, flex, and engineering buildings, reported the number of jobs created per square foot of development is almost five times higher for advanced manufacturing than for Fulfillment Centers. They stated, “with market forces strongly favoring storage and pass-through operations for goods produced elsewhere, there is a need for a deliberate, proactive approach to preserve and grow the manufacturing sectors in Kent’s industrial lands.” Fulfillment Center jobs also generally have a lower pay scale than manufacturing jobs. Fulfillment Center jobs are highly repetitive and workers experience both physical and psychological stress with the demands of the work environment - bending, twisting, running, and lifting boxes in a high-pressure setting that prioritizes line speed over employee health.
- iii. **Automation is displacing Fulfillment Center jobs.** Most jobs at Fulfillment Centers involve repetitive tasks, so to increase efficiency and reduce costs, many e-commerce companies have begun to reduce their human work force by deploying automation technology. Sorting, picking, labeling and even janitorial work can be done by robots. Experts in automation at Cornell University and University of Redlands predict this trend will accelerate and 75% to 90% of Fulfillment Center jobs will be displaced in the near future. As automation increases, so too will the disparity in the number of jobs created per square foot of land use. If the predicted number of job displacements does occur, land developments for advanced manufacturing and research & development are forecast to support 20 to 50 times more jobs per square foot than Fulfillment Centers.

- E. **Fulfillment Centers generate intense truck activity around the clock, increasing both highway and surface street traffic, and causing significant damage to roadways.** The City General Plan establishes the importance of an effective Transportation System and recognizes that “congestion in Morgan Hill can be substantially affected by regional traffic if Highway 101 capacity does not meet demand, as regional travelers attempt to decrease travel times by using local roads”. The most recent 10th Edition of the Institute of Transportation Engineers Trip Generation manual, a compilation of traffic generation studies, shows that Fulfillment Centers are likely to generate

significantly more peak hour and overall more traffic on a daily or weekly basis than traditional warehouses. A 2016 study by *the Institute of Transportation Engineers* (High-Cube Warehouse Vehicle Trip Generation Analysis) found that Fulfillment Centers of four different types generate between forty-five (45) and four hundred (400) daily truck trips per 100,000 gross square feet of building area. Residents of Morgan Hill are concerned how traffic could intensify at the Cochrane Road interchange, known as the “choke point” of South County, if Fulfillment Centers are built in that area. As Morgan Hill residents have declared, “Traffic on Hwy 101 is barely tolerable now, it would become absolute gridlock for anyone traveling through this region of the Bay Area.” It is likely that intense trucking activity from Fulfillment Centers would cause significantly more wear and tear on our roadways. Relevant news articles and government documents describe unexpected economic repercussions of Fulfillment Centers, including effects on roadways and other infrastructure. The *American Association of State Highway and Transportation Officials* estimate that one big-rig truck results in street maintenance costs that are equivalent to approximately seven thousand (7,000) passenger cars. In Kent, Washington, the city’s long-range planning manager, in her report to the city council stated, “One truck is equal to about eight thousand (8,000) cars when it comes to impact on our pavement. And those costs are borne by the city, which puts us in a difficult fiscal situation to keep that infrastructure maintained.” The City of Morgan Hill already struggles to fund these repairs to infrastructure as evident by more than \$2.0 million in general fund needs for pavement rehabilitation and street maintenance that are unfunded as of year-end 2019.

- F. **Fulfillment Centers can produce a significant amount of pollution that would have a detrimental impact on the health and safety of residents.** The General Plan establishes that “protecting environmental resources for future generations” and making development decisions that “contribute to the overall health and well-being of Morgan Hill Residents” should be priorities. The General Plan also defines policies for “safety, services, and infrastructure” that “intends to protect people from detrimental impacts associated with development, including noise impacts.” Fulfillment Centers in Morgan Hill would result in neighborhoods congested with trucks queued up for loading docks while polluting the air with diesel emissions. Onsite equipment like forklifts, and large numbers of robots inside open dock doors, produce continuous sounds that travel a considerable distance, especially at night. There are many articles in the news that describe air pollution, noise pollution, and serious health effects from fulfillment centers developed too close to schools and residential areas. The *Union of Concerned Scientists*, stated in a 2017 report: “Driven by the fast-paced e-commerce industry, warehousing construction has grown dramatically over the past 10 years in the US and bringing with it, big negatives like air pollution, noise, traffic safety and road damage. Developers are searching for locations with low land rent, low-wage labor pool, weak political power and favorable public policies. The exposure of residents, especially, the young and elderly, to truck emissions, like NOx and particulate matter, causes asthma and other

serious respiratory issues.” Another article, by Carlos De La Cruz of *Sierra Club’s My Generation* campaign states: “Trucks generate more than three-fourths the nitrogen oxides emissions statewide. These contribute to ozone, which damages the lungs, lowers resistance to diseases and causes wheezing and chest pain. For such a small segment (of the overall number of vehicles), they present a big health risk.”

- G. **Fulfillment Centers will negatively impact the General Plan Goals for Retail and Tourism.** It is widely reported by industrial real estate firms that rapid e-commerce growth is expected to continue, driving the insatiable demand for Fulfillment Centers for the foreseeable future. This is true for all types of Fulfillment Centers and especially last-mile Fulfillment Centers where developers and investors are expanding their search for available land to secondary and tertiary markets near population centers. Space for last-mile distribution has become so valuable that, in cities which have allowed it, office buildings are being torn down and the land repurposed as Fulfillment Centers. Not only is a high percentage of Morgan Hill’s vacant land located adjacent to Highway 101, but such land is less expensive than comparable properties in other Bay Area cities. The land that is now associated with the proposed Morgan Hill Technology Center was purchased in 2019 at a significant discount on a per acre basis compared to land in Fremont which was purchased in 2018 for a large Fulfillment Center development. If allowed, developers will almost certainly build more Fulfillment Centers in Morgan Hill and they will target areas adjacent to highway exits. They are likely to request zoning amendments to convert parcels currently zoned for Commercial uses as is the case for the proposed Morgan Hill Technology Center. Given the large footprint, high building heights and number of dock-high doors with resulting trucking activity, the Morgan Hill General Plan goals to “support the development of regional retail facilities that are visible and accessible from the City’s freeway exits, to provide easy access by local residents as well as shoppers traveling from the City” and to support “a vibrant, enhanced, visible, and well-promoted tourist industry that draws on Morgan Hill’s unique character and variety of amenities” will certainly not be met.
- H. **This Initiative encourages development of advanced manufacturing, research and development, and engineering facilities on industrial land.** Other jurisdictions who sought to bring more advanced manufacturing into their industrial employment areas, such as robotics and industrial R&D, recognize that limiting dock-high doors for truck loading to a ratio of one dock-high door per 25,000 square feet of building area discourages trucking-intensive uses such as Fulfillment Centers while providing the flexibility that modern advanced manufacturing facilities need. Because some, albeit a low percentage, of advanced manufacturing operations require more grade-level truck docks or service doors, no limitations are put on grade-level doors which are understood not to facilitate trucking intensive operations.

- I. **This initiative promotes democracy in land use planning, ensuring that citizens have a voice in deciding whether large development projects should be permitted.** Despite the protections in our General Plan, our community is facing new, imminent threats. Residents have noticed that City planners, under the sway of developers and under the pressure of an ongoing budget crisis, are taking steps to radically change our town and open it up to development that is not consistent with the General Plan. Allowing large-scale development projects to be approved by one person, without review oversight and approval (voting) by the Planning Commission and City Council is not responsible land use planning. Morgan Hill residents, through their elected officials and appointed planning commissioners, should have a voice in deciding whether large development projects, that could radically alter the character of our community and have significant long term fiscal impacts, are approved.
- J. **This initiative proposes Fulfillment Centers not be permitted as a land use in the City of Morgan Hill.** Fulfillment Centers should not be permitted due to their adverse impacts on the health and safety of residents, detrimental effect to existing and future retail businesses and tourism, inability to generate high-quality jobs, and impact on regional traffic and transportation. Fulfillment Centers would erode the small-town character of Morgan Hill and forever change our quality of life here.
- K. **This Initiative proposes regulations that will prevent new Fulfillment Centers from being established in Morgan Hill that are also consistent with the Morgan Hill General Plan, Zoning Code, and Economic Blueprint.**
 - i. The proposed amendments to the Morgan Hill Municipal Code will implement the goals, objectives, and policies of the General Plan.
 - ii. The proposed amendments are consistent with the purposes of the Zoning Ordinance.
 - iii. The proposed amendments to the Morgan Hill Municipal Code are reasonably related to the public interest, and that public necessity, convenience and general welfare require the proposed amendments.

Section 1.2. Statement of Purpose. In establishing this Act, the people of the City do hereby declare it is their purpose and intent to:

- A. Preserve our community's unique small-town character and protect the safety and health of our residents and the environment by adopting provisions that will ensure our city remains unique in the midst of a rapidly changing logistics and distribution industry, while at the same time ensuring the City's land use entitlement process continues to evolve in a sustainable manner that encourages high quality job growth and meets the needs of our residents and visitors.

- B. Update the City of Morgan Hill Municipal Code to identify and prohibit proposed developments that exceed threshold Dock-High-Doors-to-Square-Foot Ratios (DHDSFR) and are therefore indicative of Fulfillment Centers.
- C. Update the City of Morgan Hill Municipal Code to distinguish between traditional Warehouse & Distribution facilities and modern Fulfillment Centers.
- D. Prevent new Fulfillment Centers from being built anywhere in the City.
- E. Ensure thoughtful accountable long-term planning by requiring Planning Commission review and approval for large-scale developments.
- F. Ensure that no member of City staff, whose compensation is funded, in whole or in part, by the payment of fees by the applicants whose applications are requiring approval, has discretionary authority to grant land use entitlements for a proposed Large-Scale Development within the City.

ARTICLE II

AMENDMENT OF CITY OF MORGAN HILL ZONING CODE

Section 2.1. Amendments to City of Morgan Hill Land Use Regulations. Title 18 – ZONING, Division I. – Zoning Code, of the City of Morgan Hill Municipal Code, is amended as follows:

Section 2.1.1. Definition of Dock-High Door and Dock-High-Door-to-Square-Foot-Ratio. Chapter 18.12 (“Rules of Measurement”) of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Section 18.12.045 (“Dock-High-Door-and-Dock-High-Door-to-Square-Foot-Ratio”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

“§18.12.045 - Dock-High-Door-and-Dock-High-Door-to-Square-Foot-Ratio.

A. Dock-High-Door means an opening to the outside of a building used to interface with trucks for the loading and /or unloading of goods, products, merchandise or wares of any type and where the bottom of the opening is not at ground level but rather elevated by twenty-four (24) inches or more. Dock-High-Doors are used so that the bed of a truck and /or shipping container will match the building slab elevation at the opening. The typical configuration allows a semi-truck to back up to a building and directly align the back doors of the truck with a loading dock door. The elevation of the dock apron, the approach pavement area, is lower than the building slab elevation so that the bed of the truck will match the building slab elevation. The typical offset is forty-eight (48) inches and the typical loading dock door is nine (9) feet wide by ten (10) feet tall. (Dock-High-Doors are also sometimes known as loading dock doors.)

B. Dock-High-Door-to-Square-Foot Ratio (DHDSFR) means the ratio of the total number of Dock-High-Doors that a building has to the total square feet of building floor area.

Section 2.1.2. Definition of Clear Ceiling Height. Section 18.12.060 (“Height”) of Chapter 18.12 (“Rules of Measurement of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Paragraph B (“Clear Ceiling Height”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

* * *

A. Building Height.

* * *

B. Clear Ceiling Height. Distance from the floor to the lowest-hanging ceiling member or hanging objects, beams, joists or truss work descending down into a substantial portion of the area. This measure of the interior height of an industrial building defines the minimum height of usable space within the structure. Also known as clear height, clear headway, or clearance.

B. C. Number of Stories.

* * *

Section 2.1.3. Definition of Large-Scale Development. Chapter 18.12 (“Rules of Measurement”) of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Section 18.12.065 (“Large-Scale Development”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

“§18.12.065 – Large-Scale Development. Large-Scale Development means any development which proposes the construction and/or addition of more than seventy-five thousand (75,000) square feet of new floor area, or a new building or addition to an existing building which is more than thirty-five (35) feet in height.

Section 2.1.4. Amendment of Chapter 18.92 (“Supplemental Standards”). Chapter 18.92 of Part 3 (“CITYWIDE STANDARDS”) of Division 1 (“Zoning Code”) of Title 18 (“ZONING”) of the City of Morgan Hill Municipal Code is amended to include a new Section 18.92.105 (“Fulfillment Centers”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted):

“Chapter 18.92 – Supplemental Standards.

“§18.92.100 – Mini-Storage

* * *

§18.92.105 -- Fulfillment Centers

Fulfillment Centers, as defined in Section 18.124.050, are prohibited uses in all Zoning Districts and Overlay Zones in the City of Morgan Hill. Fulfillment Centers lawfully existing prior to the effective date shall not be affected by this section.

Section 2.1.5. Amendment of Section 18.124.050 (“Industrial Uses”). Section 18.124.050 “Industrial Uses” of Chapter 18.124 (“LAND USE DEFINITIONS”) of Part 5 (“GLOSSARY”) of Division 1 (“Zoning Code”) of Title 18 (“ZONING”) of the City of Morgan Hill Municipal Code is amended to insert a new Paragraph H (“Fulfillment Center”), which reads in its entirety, as follows (language in **bold double underline text** is inserted):

“§18.124.050 – Industrial Uses

* * *

G. Warehousing and Distribution

* * *

H. Fulfillment Center. Any structure, building or other facility that has all of the following three attributes: (1) a floor area of seventy-five thousand (75,000) square feet or greater, and (2) a clear ceiling height of twenty-four (24) feet or greater over more than twenty-five (25) percent of the floor area, and (3) more than one dock-high door per 25,000 square feet of floor area (i.e., a proposed or as built DHDSFR greater than 1:25,000). For purposes of this section, "Fulfillment Center" shall include, but not be limited to, the following structures, buildings, and facilities: distribution center, sortable fulfillment center, e-commerce center, non-sort fulfillment center, transload facility, parcel hub, cold storage facility, short-term storage facility, high-cube warehouse, cross-dock facility, bulk break center, package handling center, order fulfillment center, logistics center or facility, receive center, sortation center, delivery station, specialty facility, last-touch facility, last-mile facility, last-mile distribution facility, city distribution facility, multi-market distribution facility, gateway facility, warehousing center; or any building, structure, or other facility, provided it has all three attributes listed above.

Section 2.1.6. Amendment of Table 18.26-2 INDUSTRIAL ZONING DISTRICT DEVELOPMENT STANDARDS. Table 18.26-2, which is set forth in Section 18.26.030 "Development Standards" of Chapter 18.26 ("INDUSTRIAL ZONING DISTRICTS") of Part 2 ("ZONING DISTRICTS") of Division 1 ("Zoning Code") of Title 18 ("ZONING") of the City of Morgan Hill Municipal Code is amended to insert a reference ("[2]") to the "Structure Requirements" table cell and a Note ("[2]") , which read in their entirety, as follows (language in **bold double underline text** is inserted):

Table 18.26-2: INDUSTRIAL ZONING DISTRICT DEVELOPMENT STANDARDS.

* * *

Structure
Requirements **[2]**

* * *

Notes:

[1] An FAR of 0.6 is allowed for industrial uses. An FAR of 0.5 is allowed for non-industrial uses.

[2] Fulfillment Center structures, as defined in Section 18.124.050, are prohibited per Section 18.92.105.

* * *

Section 2.2. Amendments to Specific Permit Requirements. Title 18 – ZONING, Division I. – Zoning Code, Part 1 – GENERAL PROVISIONS, Chapter 18.08 – INTERPRETATION OF ZONING CODE, and Part 4 - PERMITS AND ADMINISTRATION, Chapter 18.100 – ADMIMINSTRATIVE RESPONSIBILITY, and Chapter 18.108 - SPECIFIC PERMIT REQUIREMENTS, of the Zoning Code of the City of Morgan Hill Municipal Code are amended as follows:

Section 2.2.1. Amendment of Review Authority and Notice Requirements for Administrative Use Permits. Paragraph C (“Review Authority”) and Paragraph D (“Public Notice and Hearing”) of Section 18.108.020 (“Administrative Use Permits”) of Chapter 18.108 (“Specific Permit Requirements”) of Part 4 (“Permits and Administration”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code are amended to read, in their entireties, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

18.108.020 - Administrative Use Permits.

* * *

C. Review Authority. The Community Development Director ~~takes action on~~ **shall review and act on all** Administrative Use Permit applications. ~~The Community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision~~ **other than applications relating to Large-Scale Developments; provided, however, that the Community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision. The Planning Commission shall review and act on all Administrative Use Permit applications, which: (1) relate to Large-Scale Developments; and/or (2) are otherwise referred to the Planning Commission by the Community Development Director pursuant to this paragraph.**

D. Public Notice and Hearing. Public notice of a pending action on an Administrative Use Permit application **other than applications relating to Large-Scale Developments** shall be provided in compliance with Section 18.104.100 (Notice of Pending Action). The Community Development

Director shall hold a public hearing for a minor use permit application only upon receiving a written request for a public hearing as provided in Section 18.104.090. **The Planning Commission, shall review and act on an Administrative Use Permit application related to Large-Scale Developments or an application otherwise referred to the Planning Commission at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).**

Section 2.2.2. Amendment of Definitions, Review Authority, and Notice Requirements for Design Permits. Paragraphs B (“Review Authority”), C. (“When Required”), D (“Significant Projects”), E (“Sensitive Sites”), and G (“Public Notice and Hearing”) of Section 18.108.040 (“Design Permit”) of Part 4 (“Permits and Administration”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code are amended as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

18.108.040 – Design Permit.

* * *

B. Review Authority.

1. The Community Development Director shall review and act on all Design Permit applications **other than applications relating to Large-Scale Developments; provided, however, that the Community Development Director may refer any Design Permit application to the Planning Commission for review and final decision. The Planning Commission shall review and act on all Design Permit applications, which: (1) relate to Large-Scale Developments; and/or (2) are otherwise referred to the Planning Commission by the Community Development Director pursuant to this paragraph.**

~~2. The Community Development Director may refer any Design Permit application to the Planning Commission for review and final decision.~~

~~3.~~ The City Council shall review and act on all Design Permit applications for new City projects (e.g., new

municipal buildings, parks) determined by the Community Development Director to be significant in accordance with Subsection D below.

C. When Required. The following types of projects require a Design Review permit:

* * *

12. Other projects determined by the Community Development Director to be significant in accordance with Paragraph D below, or which may adversely affect the environment or adjacent development or otherwise be considered a sensitive site in accordance with Paragraph E below.

D. Significant Projects.

* * *

2. The Community Development Director's determination that a project is or is not significant may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

E. Sensitive Sites.

* * *

2. The Community Development Director's determination that a site is or is not sensitive and that a Design Permit is required may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

Section 2.2.3. Blanket Prohibition of City Staff Authority to Grant Discretionary Land Use Approvals. Section 18.08.020 ("Authority") of Chapter 18.08 ("Interpretation of the Zoning Code") of Part 1 ("General Provisions") of Division 1 ("Zoning Code") of Title 18 ("Zoning") of the City of Morgan Hill Municipal Code is amended to read, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

18.08.020 - Authority.

The City Council delegates to the Community Development Director and the director's designees the authority to interpret the meaning and applicability of all provisions in the Zoning Code; provided, however that, notwithstanding any other provision of this code, in no event shall any staff employee of the City of Morgan Hill have authority to approve a land use application for a Large-Scale Development project which requires environmental review under the California Environmental Quality Act (Public Resources Code Section 21000, et seq., as amended), including without limitation, any application for a "project" (as defined in 14 CCR §15378) requiring discretionary approval (as defined in 14 CCR §15357). All such authority having been vested in the City Council of the City of Morgan Hill and/or the Planning Commission of the City of Morgan Hill, as appropriate.

Section 2.2.4. Amendment of Table 18.100-1 - Review and decision-making authority.

Table 18.100-1, which is set forth in Section 18.100.030 (Review and Decision-Making Authority.) of Part 4 ("Permits and Administration") of Division 1 ("Zoning Code") of Title 18 ("Zoning") of the City of Morgan Hill Municipal Code shall be amended as necessary to update the information presented in Table 18.100-1 consistent with the terms and conditions of the various provisions of this Act.

ARTICLE III MISCELLANEOUS

Section 3.1. Effective Date. As used herein, "effective date" shall mean the date on which this initiative measure has been adopted by the City Council of the City of Morgan Hill or the date upon which it shall have been approved by the voters of the City of Morgan Hill in accordance with applicable laws, whichever shall occur first.

Section 3.2. Exemptions for Certain Projects. This initiative shall not be construed to apply to any application or development, property, or contemplated use that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.

Section 3.3. No Interference with State Law Housing Obligations. Nothing in this initiative shall be construed or applied to prevent the City from complying with its housing obligations under state law. The City Council may, without voter ratification, approve a change to the amendments of the General Plan or Zoning Ordinance set forth in this initiative for the sole purpose of complying with the City's housing obligations if it (1) makes a finding that such change is necessary to comply with the City's housing obligation under the laws of the United States of America or the State of California and there is no

suitable land available elsewhere in the City that may be used to satisfy the obligation; and (2) makes such a change or approves a project only to the extent necessary to comply with the applicable state law housing obligation.

Section 3.4. Liberal Construction. The provisions of this Act shall be liberally construed to effectuate its purposes. Nothing herein shall be construed to make illegal any lawful use being made of any land in compliance with all required permits in force before the effective date of this Act. This Act shall be interpreted and applied in as far as is possible in a manner that is consistent with all federal, state, and local laws, rules, and regulations. If any provision of this Act or any portion thereof, or any application thereof, is, for any reason held to be invalid or unconstitutional or otherwise unenforceable, the remaining sections and applications shall not be affected but shall remain in full force and effect, and to this end, the provisions of this Act are severable.

Section 3.5. Interpretation. If this initiative measure and another measure on the same subject matter should appear on the same ballot, and a majority of the voters vote in favor of both measures but this measure receives more votes than the other measure, this measure alone shall become valid, binding, and adopted in its entirety, and the other measure shall be null and void in its entirety. If a majority of the voters vote in favor of both measures but this measure receives less votes than the other measure, only those provisions of the other measure that are in direct and irreconcilable conflict with the provisions of this measure shall control, and all other provisions of this measure shall become valid, binding, and adopted. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Section 3.6. Amendment. This Act may be amended only by a vote of the People at a future municipal election conducted in accordance with laws governing initiative measures then in effect.

Section 3.7. Judicial Enforcement. Any aggrieved person or City of Morgan Hill registered voter shall have the right to maintain an action for equitable relief to restrain any violation of this Act, or to enforce the duties imposed on the City by this Act.

From: [Michelle Bigelow](#)
To: [Michelle Bigelow](#)
Subject: FW: Responsible growth for MH
Date: Wednesday, March 3, 2021 9:37:41 PM

From: Denean DD Richards

Date: March 3, 2021 at 7:28:10 PM PST

To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>

Subject: Responsible growth for MH

Dear council members,

Responsible growth is not about restricting commercial building in town. Or at least it shouldn't be. It should be about a well rounded approach that considers all of the needs of the community.

When I worked in San Jose, I would have lunch at a restaurant near my office and shop for groceries before my commute back home. I'd shop for gifts, grab a book at the bookstore and run any errands before I made the commute back to Morgan Hill, so that I didn't have to do all of those things when I got home. There are thousands of people who live in Morgan Hill and are spending their dollars elsewhere because they work outside of Morgan Hill and spend a majority of their time in the city where they work. The taxes generated from their spending aren't coming here and that's a shame.

We need more people who work right here in town so they spend money at our local stores, restaurants, gyms, grocery stores and spas. COVID has been incredibly difficult for so many of our small businesses. They deserve and need a larger base of customers to support them. We need increased tax revenue to support the demands of our residents, have the ability to hire more police and firefighters and improve our infrastructure. If we do not have additional businesses and their workforce to contribute more tax revenue to the community, will taxes be raised on the rest of us?

I am asking you to strongly consider approving reasonable projects that will bring more business and workers to town. We

certainly need more business in town now, more dollars spent here and more tax revenue and we also need it in the future. I understand that angry voices get attention, but there must be a balanced approach to how we move forward in the evolution of Morgan Hill. We have so many people living here and more homes and apartments being built all the time. Let's add some more business in as well, in a responsible, balanced fashion.

Thank you

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From: Carolyn Wallace
To: [CC Public Comment](#)
Subject: City Council Meeting - March 3rd 2021
Date: Wednesday, March 3, 2021 6:58:07 PM

To: Morgan Hill City Council

I would like to make the following public comment.

While we are suffering the greatest economic threat in our lifetimes creating a reputation that Morgan Hill is not a business-friendly community is truly harmful and will have long-term and negative consequences.

I would like to see us find ways to actually stimulate 'education' on our City Planning Process. Some of the negative influences tell one side and an incomplete side at that on development going on in Morgan Hill.

It seems irresponsible to harm a businesses by placing unreasonable demands on how business is conducted i.e.having someone build a building in a manner that is not-viable for the market. My fear is that we are losing our ability to use common sense and it appears that the loud negative voices are taking over our community. A good reminder for us all is that in order for evil to prevail, it only needs good men to stay silent. I implore you to make sure we have a free society where we all still have a voice and not just a few. We should never adopt changes in how our city is managed by a small group of people and the city council. We should put things out for a vote where people have a chance to use their voice by voting.

Let's all look for ways to really listen to each other and know that we need to have the right businesses to have the city we all enjoy. It's been said that Morgan Hill is the Jewel of Silicon Valley - let's all work together to keep it that way.

Thank you for listening. Carolyn Wallace - [REDACTED]

[REDACTED]

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City Council Meeting Item #11

Provide Input on Policy Options Related to Tree Protection Ordinance



March 3, 2021

Topics

- Discuss potential enhancements to the City's Tree Protection Ordinance
- Review examples from other local cities

Should the City expand the universe of existing trees that are protected by the City's ordinance?



- **Palo Alto** – specific species are protected (such as Coast Live Oak and Valley Oaks of 11.5" diameter) and all trees, when associated with a development project
- **Saratoga** – all trees of 10" diameter or more are protected (regardless of species) and a specific list of native trees 6" or more in diameter are protected
- **Santa Clara County** – protection is extended to any tree to be planted as a replacement for an unlawfully removed tree, trees planted or retained by the conditions of approval for any use permit
- Heritage Trees located on private properties are protected by **all of these cities**, previously mentioned, as well as **Menlo Park** and **San Jose**



Should the City establish a Heritage Tree Program, in which special trees, like majestic oaks and very large trees, are afforded special protections?



- **Gilroy** – any tree with a single trunk of 28” or more in diameter
- **Saratoga** – property owners submit an application with a certified arborist report
- **Palo Alto** – City Council members decide which trees deserve Heritage status and can either deny or approve property owner applications
- **San Jose** – a list and map of approved Heritage Trees is provided, which includes tree species, size, and location. Fines for unlawful action against Heritage Trees is much higher.
- **Mountain View** – the Heritage Tree removal process differs from that of street trees



Should the City require compensation (e.g., replacement tree plantings or funding) from property owners whenever a protected tree is removed?



- **Palo Alto** – a defined tree replacement ratio is available and when tree replacement cannot occur at the removal site, there is a Tree Value Replacement Standard to determine the amount of money that shall be used to provide trees elsewhere
- **Los Gatos** - When a replacement tree cannot be planted, property owners can pay In-Lieu Fee to the Town Tree Replacement Fund to:
 - a) add or replace trees on public property near the subject property
 - b) add or replace trees on other Town property
 - c) support the Town's urban forestry management program
- **Gilroy** - tree replacement ratio available



Should the City, not the property owner, be in charge of arborists evaluations for tree removal on existing and new development lands?

(with a full cost recovery fee established to pay the arborist and city staff oversight of the program)



- **Menlo Park** – a list of 25 City approved arborists is available for property owners
- **Palo Alto** – has a City Arborist for all large pruning projects and a certified arborist is required for all removals and development projects. Palo Alto has recommendations for choosing a certified arborist, but does not provide a specific person or group
- **Gilroy** – requires a report from an International Society of Arboriculture (ISA) arborist
- **San Jose** – the City Arborist is responsible for all street trees and Heritage Trees

Should an enhanced fine schedule be adopted for illegal removals?



- **Menlo Park** – if the Municipal Code is violated a fee of no more than \$5,000 (per violation) is applied and if the violation results in the removal of a Heritage Tree the fine will not exceed \$5,000 (per tree) or the appraised value, whichever is higher
- **Santa Clara County** – up to \$15,000 per tree unlawfully removed
- **Gilroy** – a civil penalty of no more than \$5,000 (per violation) is applied
- **San Jose** – for Heritage Trees unlawfully cut fines up to \$30,000 (per tree) may apply



Should the cost of tree removal permit be increased, or should these permits continue to be subsidized by the General Fund?



- **Gilroy** – Planning Application fee is \$300
- **Palo Alto** – protected tree removal permit is \$437
- **Saratoga** – tree removal permit is \$125
- **Santa Clara County** – permit fee for unsuitable or dead tree removal is \$254 and permit fee for live tree removal is \$2,204 and higher
- **Menlo Park** – Heritage Tree Removal Permit fees:
 - 1 - 3 trees = \$210 per tree
 - 4 or more = additional \$180 per tree

Thank You



CITY OF MORGAN HILL

From: [D. Muirhead](#)
To: [CC Public Comment](#)
Subject: comment City Council March 3 Item #12: MH as admin/contract agent for County RWRC/TAC
Date: Wednesday, March 3, 2021 9:55:42 AM

A comment for City Council Meeting March 3, 2021
Agenda Item #12: MH as admin/contract agent for County RWRC/TAC

Dear Morgan Hill City Council and Staff,

I support the Administration providing administrative and analyst support to other jurisdictions (regional involvement is a strategic priority) as long as we understand the impact on existing work priorities of existing City staff. The Staff Report says that "small portions of four other existing teammates will be assigned to the Countywide project with no increase in their working hours or compensation."

So what is the answer to the question

"What do you want me to stop doing in order to take on this new unplanned assignment?"

I suspect that the Community Engagement evaluation is overly optimistic:

"This work will not result in impacts to the Morgan Hill community so no community engagement activities were conducted prior to this meeting and no engagement activities on this work are planned after this meeting."

I also want to highlight that Council is being asked to approve a proposal already accepted by countywide solid waste technical advisory committee (TAC) and the accompanying County Recycling and Waste Reduction Commission (RWRC) in response to a drop-dead date of July 1 for the County to withdraw from its role as TAC Administrator and TAC Contracting Agent. What is Council offered as Plan B should you decide not to take on this additional responsibility?

I think that this "concept" should have come to Council as FYI much earlier. But a \$90,000 bump to the General Fund is awfully tempting, is it not?

Thank you for your consideration, Doug Muirhead, Morgan Hill

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County of Santa Clara

Recycling and Waste Reduction Commission of Santa Clara County
Recycling and Waste Reduction Division

1555 Berger Drive, Building 2, Suite 300
San Jose, CA 95112-2716
(408) 282-3180 FAX (408) 280-6479
www.ReduceWaste.org



RECYCLING AND WASTE REDUCTION COMMISSION MINUTES
December 16, 2020
Virtual Meeting at 5:30 p.m.

Voting Members in Attendance

Susan M. Landry, City of Campbell, Chair
Nancy Smith, City of Sunnyvale, Vice Chair
Pam Foley, City of San Jose
Linda J. LeZotte, SCVWD, Vice-Chair
Rod Sinks, City of Cupertino
Mike Wasserman, County of Santa Clara
Kathy Watanabe, City of Santa Clara

Representing

Member-at-Large
SMaRT Station® Cities
City of San Jose
Santa Clara Valley Water District
North County Cities
County of Santa Clara
Central County Cities

Voting Members Not in Attendance

Mary-Lynne Bernald, City of Saratoga
Anthony Phan, City of Milpitas
Fred Tovar, City of Gilroy

Representing

West Valley Cities
City of Milpitas
South County Cities

County Staff to the Commission

Clifton Chew, Commission Staff
Bill Grimes, RWRD Manager, TAC Administrator
Jason Ino, Commission Staff
Michele Young, Commission Staff

Others in Attendance

Erin Brewster, City of Mountain View
Mark Bowers, City of Sunnyvale
Teresa Curiel, County of Santa Clara Recycling and Waste Reduction Division
Jennifer Cutter, City of Mountain View
Tony Eulo, Cities Gilroy and Morgan Hill
Karen Gissibl, City of Sunnyvale
Karin Hickey, City of Santa Clara
Elaine Marshall, City of Milpitas
Roel Meregillano, County of Santa Clara Environmental Health
Jeff Nabhan, Clara-Mateo
Jerame Renteria, Clara-Mateo
Marva Sheehan, West Valley Cities
Dave Staub, City of Santa Clara
Francisco Villalobos, County of Santa Clara Board of Supervisors
Tracy Weatherby, Second Harvest

Commissioners: Susan M. Landry, Chair ~ Nancy Smith, Vice-Chair ~ Mary-Lynne Bernald ~ Pam Foley ~ Linda J LeZotte ~ Anthony Phan ~ Rod Sinks ~ Fred Tovar ~ Mike Wasserman ~ Kathy Watanabe

1. Call to Order and Roll Call

Chair Landry called the meeting to order at 5:30 p.m. There was a quorum of seven present at the meeting.

2. Special Orders of the Day

Chair Landry acknowledged the out-going Commissioners and thanked them for their commitment and contributions to the Recycling and Waste Reduction Commission (RWRC). Each of the out-going Commissioners thanked Chair Landry for the acknowledgement. Commissioner Wasserman said he had appointed Otto Lee as his replacement on the RWRC.

3. Public Presentations

There were no public presentations.

4. Approve Consent Calendar

Commissioner Wasserman made a motion to approve items #10, #11 and #12 on Consent Calendar and move item #6 to the Consent Calendar as well. Commissioner LeZotte seconded the motion, and a roll call vote was conducted. All voting members present voted to approve the motion.

5. SB1383 and Legislative Updates

Chair Landry introduced Mark Bowers, from Californians Against Waste, who gave a PowerPoint presentation on the Legislative Update - attached.

Michele Young gave a PowerPoint presentation on SB1383 outlining key responsibilities for TAC cities and the County including:

- The SB 1383 Rule was finalized by the State on November 3, 2020
- All County Jurisdictions must implement the following programs:
 - Mandatory collection of organic waste at all businesses and residences
 - Route Monitoring, Ordinances, and Enforcement Programs for organic waste collection
 - Procurement Programs for paper products as well as organic waste products such as compost, mulch, and energy from organic waste
 - Edible Food Programs to collect edible food from businesses, and distribute to food insecure populations.
 - Annual Record Keeping and Reporting to the State
- The County is responsible for the following key activities:
 - Developing edible food tools for use by all County cities and coordinating the capacity for edible food collection and distribution with all County cities
 - Analyzing the organic waste processing capacity, and edible food infrastructure capacity available in the County and reporting to the State
- Commissioners and their constituents can get more information at the Cal Recycle website:
 - <https://www.calrecycle.ca.gov/organics/slcp/education>

Commissioner Wasserman made a motion to accept the 2021 Legislative Policies and Priorities and forward a recommendation to the Board of Supervisors. The motion was seconded by Commissioner Foley and a roll call vote was conducted. All voting members present voted to approve the motion.

6. Selection of Non-Governmental Organizations (NGO) to Serve on TAC

This item was moved to the Consent Calendar.

7. Transition of TAC Administrator and Contracting Agent

Karin Hickey, IC and TAC Chair, gave a PowerPoint presentation outlining the process that was entered into to recommend a new Administrator and Contracting agent:

- The County announced that they were stepping down from the Administrator and Contracting Agent role on August 13, 2020.
- According to the TAC MOA, this triggers IC to consider other MOA Parties who may be interested in the positions
- Morgan Hill was nominated and expressed interest in submitting a proposal to the Implementation Committee
- Morgan Hill provided a scope of work and budget for the roles, which were reviewed at the November 11 IC meeting
- Morgan Hill was recommended by the IC to be brought forward to the RWRC at the December 10, 2020 Commission meeting
- Morgan Hill will begin with a transition period in May 2021, so that they can overlap with County operations, and avoid any activity delays

Commissioner Sinks made a motion to approve proposed TAC Administrator and Contracting Agent. The motion was seconded by Commissioner Wasserman and a roll call vote was conducted. All voting members present voted to approve the motion.

Tony Eulo expressed his gratitude for the Commissioners' support of Morgan Hill's transition into the Administrator and Contracting Agent roles.

Michele Young acknowledged Karin Hickey for her great work as the IC and TAC Chair during this unprecedented year.

8. Announcements/Future Agenda Items

COVID Vaccinations

Commissioner Wasserman wanted to announce the great news that the County was on track with vaccinating residents, as the VA hospital in Palo Alto administered the first COVID vaccine to their staff today.

District Odor Study

Commissioner Sinks wanted to let the other Commissioners know that the Air District Odor Study is continuing. They are looking at the waste streams and the complex web of relationships at Newby, ZWED and the wastewater treatment plant. The work has been impeded by COVID but is still

ongoing. With all the stakeholder input, there have already been useful modifications to the processing of the waste stream which is anticipated to mitigate some of the odors.

Impacts of Cardboard

Commissioner Landry expressed her interest in the impact of cardboard delivery boxes, including the cost and resources to making and breaking down the boxes. This is important based on the increasing trend in the amount of online shipping, which has increased even more during the Pandemic. Commissioner Landry made a motion that staff look into cost, resource allocation and waste stream for cardboard boxes. The motion was seconded by Commissioner Watanabe and a roll call vote was conducted. All voting members present voted to approve the motion.

9. Adjournment

The meeting was adjourned at 6:30 p.m.

Consent Calendar – Items will be considered under Item No. 4. Items removed from the consent calendar will be considered at the end of the regular agenda.

10. Approval of Minutes from February 26, 2020 RWRC Meeting*

11. Review approved Implementation Committee (IC) Minutes from August 13, September 10, October 8 and October 22, 2020 IC meetings

12. Review approved Technical Advisory Committee (TAC) Minutes from August, September, and October 2020 TAC meetings



City Council Meeting Item #13 Monthly Budget Update



March 3, 2021

Overview



- Monthly Budget Update
- Staff does not recommend any budget adjustments at this time

General Fund



- No material change since last update
- State and County restrictions in light of recent surge in COVID-19 cases has negatively impacted recreation services and TOT
 - Recreation Services: Additional \$1.6 million loss
 - TOT: Additional \$0.5 million loss
- Effective March 3, 2021, County moves into the “Red Tier” on the State’s Blueprint for Safer Economy

Development Services



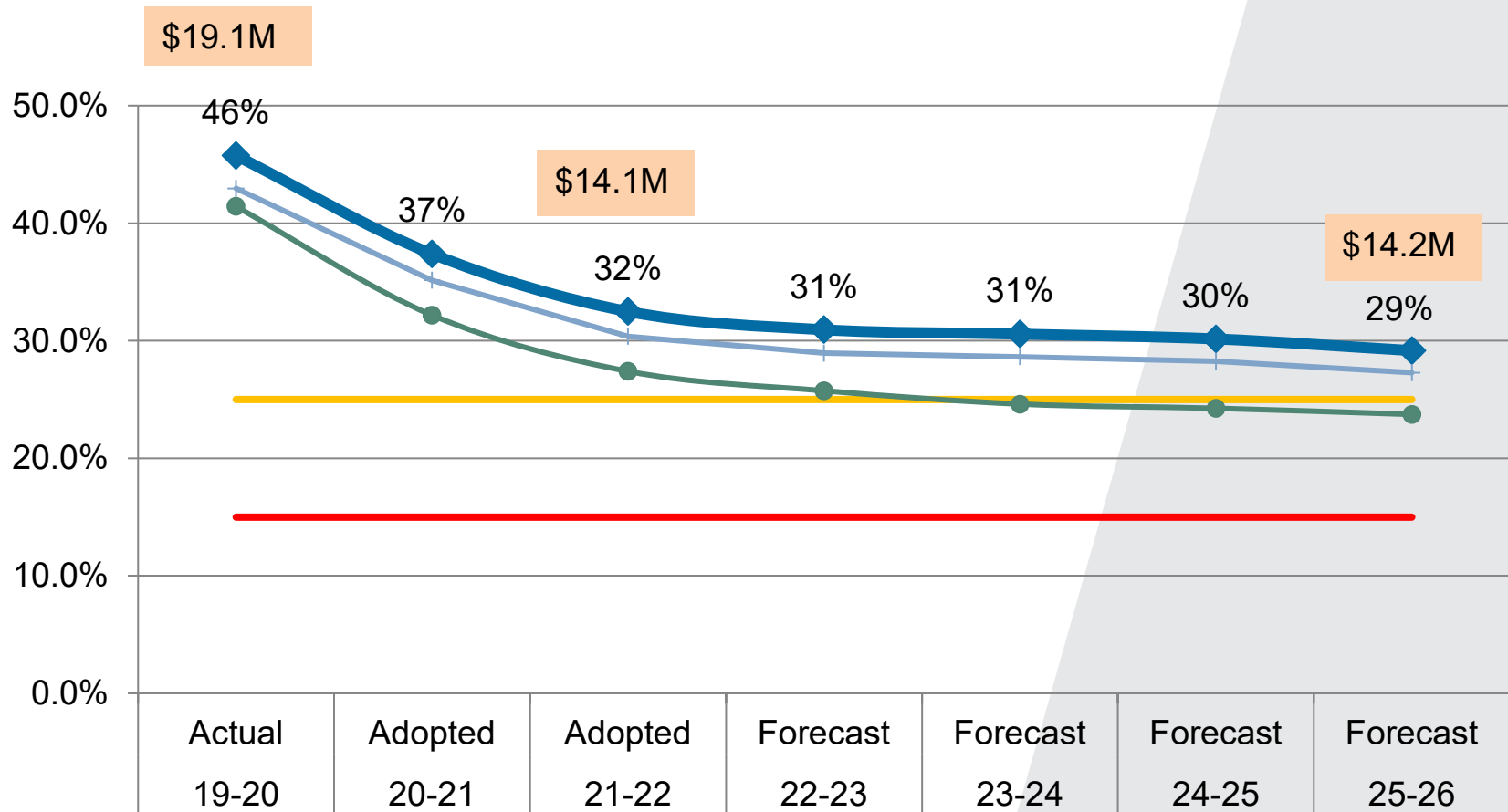
- Revenues are tracking higher than budget
- \$2.4 million received to date or 63% of budget (without \$1.0 million loan)
- No significant impact to development services from County being in the “Purple Tier”

Enterprise Funds



- Expecting higher water revenue as well as increased wastewater flows due to higher levels of stay at home residents
- Number of accounts delinquent steady but with higher balance

Updated General Fund Forecast



◆ GF Six Year Forecast October 21, 2020

— Fund Balance Minimum Level of 15% of Revenues

+ GF Six Year Forecast July 22, 2020

— Fund Balance Goal of 25% of Revenues

● GF Six Year Forecast Budget Adoption June 17, 2020

Questions?



CITY OF MORGAN HILL

**PENINSULA DIVISION
MEMBER CITIES**

ATHERTON
BELMONT
BRISBANE
BURLINGAME
CAMPBELL
COLMA
CUPERTINO
DALY CITY
EAST PALO ALTO
FOSTER CITY
GILROY
HALF MOON BAY
HILLSBOROUGH
LOS ALTOS
LOS ALTOS HILLS
LOS GATOS
MENLO PARK
MILLBRAE
MILPITAS
MONTE SERENO
MORGAN HILL
MOUNTAIN VIEW
PACIFICA
PALO ALTO
PORTOLA VALLEY
REDWOOD CITY
SAN BRUNO
SAN CARLOS
SAN FRANCISCO
SAN JOSE
SAN MATEO
SANTA CLARA
SARATOGA
SOUTH SAN FRANCISCO
SUNNYVALE
WOODSIDE

DIVISION OFFICERS

PRESIDENT
EMILY BEACH
COUNCILMEMBER
BURLINGAME

VICE PRESIDENT
NEYESA FLIGOR
MAYOR, LOS ALTOS

TREASURER
CHAPPIE JONES
VICE MAYOR, SAN JOSE

SECRETARY
JULIA MATES
VICE MAYOR, BELMONT

SAN MATEO COUNTY REP.
ALICIA AGUIRRE
COUNCILMEMBER
REDWOOD CITY

**SANTA CLARA LEGISLATIVE
ACTION COMMITTEE**
JOHN MCKAY
MAYOR PRO TEM
MORGAN HILL

**SAN MATEO LEGISLATIVE
ACTION COMMITTEE**
MARK NAGALES
VICE MAYOR
SOUTH SAN FRANCISCO

PAST PRESIDENT
MARICO SAYOC
MAYOR, LOS GATOS

STAFF LIAISON
SETH MILLER
REGIONAL MANAGER

Peninsula Division
Santa Clara County
San Mateo County
San Francisco County



February 2, 2021

CITY COUNCIL REPORTS
AGENDA DATE: 03/03/2021
SUPPLEMENT # 1

Dear President Viegas-Walker and The Cal Cities Board of Directors:

Our Cal Cities Peninsula Division thanks and applauds your leadership and renewed commitment to Diversity, Equity, and Inclusion. We appreciate the Board's June 2020 statement: "we stand firmly opposed to any expression of discrimination or racism towards any person and we commit to rooting out systemic racial bias wherever, and whenever, it exists." This is a bold declaration of values, and our Division stands shoulder-to-shoulder with you.

Following the Board's adoption of Cal Cities 2021 Strategic Advocacy Priorities, the Peninsula Division finalized our strategic plans for the year ahead. In addition to supporting COVID-19 recovery, housing, disaster preparedness, and infrastructure modernization, we also adopted an overarching theme for 2021: the advancement of equity and social justice. Through this lens, we will create our Division's programs and events, debate opinions on bills, advocate with legislators, recruit new members to our Executive Committee, and appoint our Division's policy committee representatives.

Congratulations also on launching the Cal Cities Advancing Equity Committee. We think this is a great step and we are eager to learn more about the tools, resources, and best practices the Committee will develop in support of local leaders. We also hope the Committee will explore ways Cal Cities can improve its own internal diversity, equity, and inclusion efforts.

In this spirit, we challenge the Cal Cities Board of Directors to lead from the front and explore ways to diversify Board membership to reflect the diversity of our state. We know there are many ways to define diversity on the Board — like race, gender, ethnicity, geography, population, age, and socioeconomics. We hope all diversity markers and ideas will be considered, including possible structural and/or procedural amendments to the Board's by-laws in support of this goal. We suggest using Cal Cities' Diversity Caucuses as thinking partners during this process.

Once again, we appreciate the creation of the Cal Cities Advancing Equity Committee and wish everyone success. On behalf of our Peninsula Division Executive Committee, thank you for your visionary leadership, service, and dedication to Cal Cities' mission.

Sincerely,

A handwritten signature in blue ink, appearing to read "Emily Beach".

Emily Beach
President, Cal Cities Peninsula Division
Councilmember and former Mayor, City of Burlingame
ebeach@burlingame.org
415-377-8125 (mobile)

CAL CITIES PENINSULA DIVISION EXECUTIVE COMMITTEE

Emily Beach, President
Councilmember, Burlingame



Neysa Fligor, Vice President
Mayor, Los Altos



Chappie Jones, Treasurer
Vice Mayor, San Jose



Julia Mates, Secretary
Vice Mayor, Belmont



Alicia Aguirre, San Mateo County Representative
Councilmember and Former Mayor, Redwood City



John McKay, Santa Clara County Legislative Action
Mayor Pro Tem, Morgan Hill



Mark Nagales, San Mateo County Legislative Action
Vice Mayor, South San Francisco



Marico Sayoc, Past President
Mayor, Los Gatos



Special - Regular Meeting Agenda
City Council

Rich Constantine - Mayor
John McKay - Mayor Pro Tem
Gino Borgioli - Council Member
Yvonne Martinez Beltran - Council Member
Rene Spring - Council Member

Wednesday, March 3, 2021 6:00 p.m.

Virtual Meeting

VIRTUAL MEETING GUIDELINES AND PUBLIC COMMENT

In accordance with Executive Order N-25-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. Physical meetings will not be in the City Council Chamber until further notice.

City Council meetings will be live streamed on Channel 17, on the City's website and on the City's Facebook page. Those members of the community that would like to participate in the meetings remotely may do so by joining the virtual meeting at: <https://bit.ly/MHCityCouncilMeeting> or by calling in to: (669) 900-9128, then enter the webinar id: 873 3200 8380#.

Public comment may be provided in the following ways:

- Join the virtual City Council meeting via the link above, when public comment is opened, raise your virtual hand and be called upon to speak for up to 3 minutes
- Join the virtual meeting by calling in to the number above, dial *9 to raise your hand and be called upon to speak for up to 3 minutes
- Send public comments in writing to the City Clerk at ccpubliccomment@morganhill.ca.gov <<mailto:ccpubliccomment@morganhill.ca.gov>>

* Please note that comments made on Facebook are not considered public comment.

SPECIAL/REGULAR MEETING

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

6:00 pm Closed Session

7:00 pm Regular Meeting

SPECIAL MEETING

6:00 pm Closed Session

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
City Clerk Michelle Bigelow

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to § 54956.9(c)

One case

CONFERENCE WITH LEGAL COUNSEL- THREATENED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9.

One case

CONFERENCE WITH REAL PROPERTY NEGOTIATIONS

Pursuant to: Government Code Section 54956.8

Property: APN's - 81706001, 81714004, 81714009, 81714005

Negotiating Parties: Christina Turner and Chris Ghione

Property Owner: CHU JOHN C AND MAY-JIH C TRUSTEE

Under Negotiation: Price and Terms of Sale

REGULAR MEETING

7:00 pm

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.

PROCLAMATIONS

Proclaiming the Month of March 2021 as Youth Arts Month

CITY COUNCIL REPORTS

Mayor Pro Tem McKay

March 3, 2021

CITY MANAGER'S REPORT

City Manager Christina Turner

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin

OTHER REPORTS

PUBLIC COMMENT

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

ADOPTION OF AGENDA

CONSENT CALENDAR

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

Time Estimate for Consent Calendar: 1 - 10 Minutes

1. ADOPT RESOLUTION CONDEMNING ALL FORMS OF HATE AND VIOLENCE INCLUDING THE JANUARY 6, 2021 RIOTS AT THE UNITED STATES CAPITOL BUILDING IN WASHINGTON D.C

Recommendation:

Adopt resolution condemning all forms of hate and violence including the January 6, 2021 riots at the United States Capitol Building in Washington D.C.

2. ADOPT RESOLUTION EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES

Recommendation:

Adopt resolution expressing support for actions to further strengthen local democracy, authority, and control as related to local zoning and housing issues.

3. APPROVE 2020 EMERGENCY MANAGEMENT PERFORMANCE GRANT MEMORANDUM OF UNDERSTANDING

Recommendation:

Adopt resolution:

1. Authorizing the City Manager to execute and administer the Memorandum of Understanding with the County of Santa Clara for the 2020 Emergency Management Performance Grant; and
2. Amending the City's Fiscal Year 2020-21 adopted budget to recognize revenue and appropriate related expenditures, in the amount of \$7,340 from the General Fund (010).

4. APPROVE COST-SHARING AGREEMENT WITH SOUTH SANTA CLARA COUNTY FIRE DISTRICT

Recommendation:

Approve and authorize the City Manager to execute and administer a cost-sharing agreement with South Santa Clara County Fire District (SSCCFD) for City's contribution to the District's Engine 67.

5. APPROVE FIRST AMENDMENT TO AGREEMENT WITH KEYSER MARSTON ASSOCIATES, INC. FOR HOUSING PROGRAM SERVICES

Recommendation:

Approve and authorize the City Manager to execute and administer an amendment to the Consultant Agreement with Keyser Marston Associates, Inc. for Housing Program services through June 30, 2022, for an additional \$50,000 and a total not-to-exceed amount of \$90,000.

6. RATIFY CITY POSITION ON ASSEMBLY BILL 271 - AUTHORIZING VALLEY WATER TO UTILIZE "BEST VALUE" METHOD TO SELECT THE CONSTRUCTION CONTRACTOR FOR THE ANDERSON DAM SEISMIC RETROFIT PROJECT

Recommendation:

Ratify City position on pending State Legislation Assembly Bill 271.

7. APPROVE THE FEBRUARY 17, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

8. AWARD 2020 INFLOW AND INFILTRATION SEWER REPAIR PROJECT

Recommendation:

1. Approve 2020 Inflow and Infiltration Sewer Repair Project plans and specifications;
2. Award contract to Pacific Underground Construction, Inc. for the 2020 Inflow and Infiltration Sewer Repair Project in the amount of \$2,034,350;
3. Authorize expenditure of construction contingency funds not to exceed \$406,870; and
4. Authorize the City Manager to execute and administer the construction contract with Pacific Underground Construction, Inc.

PUBLIC HEARING

9. ADOPT RESOLUTION AUTHORIZING THE COUNTY TO COMMENCE 2021 HAZARDOUS VEGETATION ABATEMENT PROGRAM

Recommendation:

1. Open/Close public hearing; and
2. Adopt resolution authorizing Santa Clara County to commence hazardous vegetation abatement activities on the attached list.

Estimated Time: 15 Minutes

OTHER BUSINESS

10. ADOPT RESOLUTION CERTIFYING THE INITIATIVE PETITION TITLED: CITIZENS' INITIATIVE CHANGING ZONING REGULATIONS THROUGHOUT THE CITY OF MORGAN HILL TO PROHIBIT CERTAIN NEW STORAGE AND DISTRIBUTION USES IN ALL AREAS OF THE CITY AND AMENDING THE REVIEW PROCESS FOR LARGE-SCALE DEVELOPMENT PROJECTS, AND DIRECT STAFF TO PREPARE IMPACT REPORT

Recommendation:

1. Adopt resolution accepting the City Clerk's Certificate of Sufficiency for the Initiative Petition Titled: Citizens' initiative changing zoning regulations throughout the city of Morgan Hill to prohibit certain new storage and distribution uses in all areas of the City and amending the review process for large-scale development projects; and
2. Direct staff to prepare an impact report under Elections Code section 9212 no later than April 2, 2021 for City Council meeting, for the Council to consider next steps.

Estimated Time: 30 Minutes

11. PROVIDE INPUT ON POLICY OPTIONS RELATING TO TREE PROTECTION

Recommendation:

Provide guidance to staff on the type and scope of policy changes the City Council is interested in considering relating to the protection of trees in the community.

Estimated Time: 30 Minutes

12. APPROVE COUNTYWIDE SOLID WASTE SERVICES CONCEPT AND RELATED BUDGETARY AND POLICY CHANGES

Recommendation:

1. Approve the concept of providing countywide solid waste administrative services;
2. Adopt resolution amending Fiscal Year 2020-21 Budget to recognize \$54,127 as revenue and expenditures for the administration of countywide solid waste program;
3. Adopt updated Management, Professional, and Confidential Employees Resolution establishing the Environmental Services Manager position and salary;
4. Authorize the increase of the existing Part-Time Management Analyst position to a Full-Time position;
5. Authorize the City Manager to execute an agreement with the County of Santa Clara for Fiscal Agent and Related Planning Services subject to the review and approval of the City Attorney; and
6. Provide direction to staff to return to the Council with required actions to increase the threshold for purchases made exclusively with countywide funds received for solid waste management program.

Estimated Time: 30 Minutes

13. RECEIVE MONTHLY BUDGET UPDATE AND JANUARY 2021 FINANCIAL AND INVESTMENT REPORTS

Recommendation:

Accept and file report.

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 cityclerk@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 cityclerk@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, equitable, 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 and Preserving Open Space and Agricultural Land
- Maintaining Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Equity, Diversity, and Inclusiveness
- Advancing Regional Initiatives
- Advocating for Local Control

2020-2021 Strategic Priorities

- **Fiscal Sustainability**
- Affordable Housing and Homelessness
- Community Outreach, Engagement, and Messaging
- Economic Development
- Transportation



These strategic priorities were established prior to the COVID-19 pandemic. In light of recent events, we recognize that all of these goals and priorities will be viewed through the lens of the global pandemic, and we will continue to have equity, public health, and financial responsibility in mind.



PUBLIC COMMENT

AGENDA DATE: 03/03/2021
SUPPLEMENT # 1

From: [REDACTED]
To: [Christina Turner](#); [John McKay](#)
Cc: ["Michael Moore"](#); [REDACTED]
Subject: Trammell Crow New Development Proposal.docx
Date: Saturday, February 27, 2021 1:27:32 PM
Attachments: [Trammell Crow New Development Proposal.docx](#)

Dear Morgan Hill Planning Commissions, City Manager, and City Council Members,

I am writing you to ask that the City support this new proposal from Trammell Crow. I believe that Trammell Crow is practicing good faith and that is reflected in the new proposal. I believe that this Company really listened to the community members that stood and voiced their concerns about the previous proposal, traffic, size and congestion have been addressed here. Please read the attached Silicon Valley Business article about the project. I think that we can agree that they are supporting it as well.

Continue with receiving public comment. It will be a challenge to have anyone change their minds completely, once someone is non supportive it becomes a challenge to have an open mind. Morgan Hill needs this smart growth as well as providing jobs where people live!

Thank you for your consideration of this matter.

Swanee Edwards

[REDACTED]

Morgan Hill, CA 95037

WARNING: This message is from an external user. Confidential information such as social security numbers, credit card numbers, bank routing numbers, gift card numbers, wire transfer information and other personally identifiable information should not be transmitted to this user. For question, please contact the Morgan Hill IT Department by opening a new helpdesk request online or call 408-909-0055.

Developer cuts size of planned Morgan Hill industrial park in half, citing community feedback



Image: Trammell Crow Co

[Enlarge](#)

One of the light industrial buildings, rendered, at the Redwood Tech @ 101 project in Morgan Hill. The planned Class A business park is located east of Highway 101 and comprised of five buildings ranging from 73,000 to 139,000 square feet in size.

By [Matthew Niksa](#) – Commercial real estate reporter, Silicon Valley Business Journal
Feb 23, 2021 **Updated** 25 minutes ago

Trammell Crow Company has cut in half the size of a planned industrial park for Morgan Hill after pushback from city residents.

The Texas-based developer now plans to build [501,314 square feet](#) of light industrial space on the southern half of the 60 acres it owns in the northeast part of the city, according to a proposal it submitted last week. Previously, the company had submitted — then withdrew — plans to build more than 1 million square feet of space that would have covered nearly the entire site.

There was "clear disinterest" in the community to have industrial space on the northern half of the property, Don Little, senior vice president of development at Trammell Crow's Northern California Business Unit, said in an email Monday.

The revised proposal reflects "substantial input from city leadership, planners, Morgan Hill residents, local business leaders, and other civic-minded individuals," Trammell Crow said on the [project's website](#).

In addition to shrinking the total size and scope of the project, now dubbed Redwood Tech @ 101, Trammell Crow also reduced the size and number of buildings it plans to construct. The development is named for a row of mature, 35-foot to 40-foot-tall redwood trees Trammell Crow has incorporated into its design, the company said in a Feb. 18 news release.

The developer now proposes to erect five Class A industrial buildings on the property. Each of those could either be leased by one tenant or split between two or three, according to a news release by Trammell Crow and the city of Morgan Hill's website.

Trammell Crow purchased the undeveloped site, which is roughly bounded by Cochrane Road to the north, Half Road to the south, De Paul Drive to the east and Highway 101 to the west, in January 2019 for about \$30.7 million, according to data from commercial real estate analytics firm Reonomy. Later that year, it submitted plans to the city for an advanced manufacturing business park comprised of three buildings that would offer up to 1.2 million square feet of office and industrial space combined.

Last May, while making its pitch for the project, then dubbed the "[Morgan Hill Technology Center](#)," Trammell Crow [said](#) it would generate an estimated \$700,000 in total tax revenue for the city and would provide more than 1,000 jobs.

But the project drew opposition from the public almost immediately. At a public hearing on the development in October 2019, about two dozen Morgan Hill residents spoke out against it, some expressing concern that instead of being a tech center, it would be used as a distribution center. Such a use would add to the already heavy traffic along Highway 101 and generate fewer jobs than Trammell Crow was promising, they argued.

Some city residents also formed the [Morgan Hill Responsible Growth Coalition](#) to lobby against the development. After receiving community input on its initial proposal, Trammell Crow reduced the technology center's total size to more than 1.04 million square feet and increased the number of buildings from three to six.

Yet faced with continued opposition, the company last September withdrew its application for the center.

City officials and planners advised Trammell Crow to revise the design of the planned buildings, add more glass to their exteriors and make each of them smaller, Little said. The revised plan reflects that input, he said.

The company still intends to develop the northern half of the property. But instead of constructing industrial buildings there, it now plans to build a mix of office and commercial space, according to a Trammell Crow news release. The developer expects to submit a proposal to the city for that portion of the property later this year.

"We plan to design a thoughtful plan that would find a viable market for occupiers that align with zoning regulations with community input," Little said.

The buildings that Trammell Crow and HPA Architecture have designed for Redwood Tech @ 101 range in size from 73,000 to 139,000 square feet. That size, plus the fact that the buildings could be split among two or three companies, ought to make them attractive to local companies in need of expansion space, said Edith Ramirez, Morgan Hill's assistant city manager for development services.

The city's vacancy rate for industrial space currently hovers around 6% with "very little" available inventory at the moment, she said.

Ramirez said Monday that she would like to see Trammell Crow incorporate as much office space as allowed by the city's general plan into its proposal for the northern half of the property. Among other things she'd like to see there are an entertainment and event venue like Topgolf, an outdoor gear retailer like Bass Pro Shops, an upscale hotel with restaurant and meeting space, and an arts and recreation center.

In addition to Redwood Tech @ 101, Trammell Crow is slated to break ground on a new industrial park located west of Highway 101 at Butterfield and Sutter boulevards by the end of February.

The project, called "Butterfield 5 Technology Park," is comprised of five Class A buildings offering 410,076 square feet of space combined and located more than two miles southwest of the Redwood Tech @ 101 site. It represents the first clustered multi-building industrial development in Morgan Hill in at least 20 years.

PUBLIC COMMENT

AGENDA DATE: 03/03/2021

SUPPLEMENT # 2

From: [Donald Larkin](#)
To: [Miguel Jimenez](#)
Cc: [Christina Turner](#); [Edith Ramirez](#); [Jennifer Carman](#); [Rich Constantine](#); [Yvonne Martinez Beltran](#); [Rene Spring](#); [John McKay](#); [Gino Borgioli](#); [Joe Baranowski](#)
Subject: Re: Trammell Crow RedwoodTech@101 proposed development - Vesting Tentative Map question
Date: Wednesday, March 3, 2021 11:55:36 AM

Hi Miguel,

The short answer is that the map application was determined to be complete by City staff on February 16, but the decision to approve or deny the map will be made by the Planning Commission.

The Planning Commission will review both the vesting tentative parcel map and the design review applications in conjunction, most likely in late April or early May. However, under the California Subdivision Map Act, when "determining whether to approve or disapprove an application for a tentative map, the [City] shall apply only those ordinances, policies, and standards in effect at the date the [City] determined that the application is complete." See Govt. Code, § 66474.2. Please note, we have a legal requirement to make a completeness determination within 30 days after an application is filed (or resubmitted if the initial application is incomplete). See Govt. Code § 65943. Also, the Planning Commission has very little discretion to deny a map that is consistent with the General Plan and no discretion to modify a map without the applicant's consent.

Thanks,
Don

Donald A. Larkin
City Attorney
City of Morgan Hill
Tel: (408) 778-3490
Email: donald.larkin@morganhill.ca.gov

This e-mail may contain confidential and/or attorney-client privileged material. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

From: Miguel Jimenez <[REDACTED]>
Sent: Wednesday, March 3, 2021 9:49 AM
To: Donald Larkin <Donald.Larkin@morganhill.ca.gov>
Cc: Christina Turner <Christina.Turner@morganhill.ca.gov>; Edith Ramirez <Edith.Ramirez@morganhill.ca.gov>; Jennifer Carman <Jennifer.Carman@morganhill.ca.gov>; Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Joe Baranowski <[REDACTED]>

Subject: Trammell Crow RedwoodTech@101 proposed development - Vesting Tentative Map question

Dear Don,

I hope you are doing well.

I would like to ask you a quick question that I think is critical in light of the City Council meeting tonight.

On the project webpage for the proposed Trammell Crow RedwoodTech@101 development it states:

(<http://www.morgan-hill.ca.gov/2128/Redwood-Tech-at-101>)

- A Vesting Tentative Parcel Map and Design Permit are required for this application and will be heard by the Planning Commission.

There's also the following map as an exhibit on the same webpage (Vesting Tentative Parcel Map):

<http://www.morgan-hill.ca.gov/DocumentCenter/View/37863/Vesting-Tentative-Parcel-Map>

Does the Planning Commission need to approve **both** the Vesting Tentative Parcel Map and the Design Permit? In other words, is this Vesting Tentative Parcel Map already approved, and if so, by whom and when?

Thanks,
Miguel

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PUBLIC COMMENT

AGENDA DATE: 03/03/2021

SUPPLEMENT # 3

From: [Doug Hall](#)
To: [CC Public Comment](#)
Subject: Request for traffic calming solutions and PBID
Date: Wednesday, March 3, 2021 1:55:17 PM
Attachments: [PastedGraphic-1.png](#)

Dear Morgan Hill City Council,

As a Morgan Hill resident and downtown business owner, I respectfully ask that the City of Morgan Hill develop an action plan to improve safety in our downtown corridor on Monterey St. I have frequently witnessed pedestrians attempting to cross Monterey St, in crosswalks, and have vehicles fail to stop for them. With multiple lanes, it is often difficult to see pedestrians coming from the median if you are in the number one lane. An action plan that includes traffic calming will also add to quieting the streets, making it easier to enjoy outdoor dining...a vital part of downtown businesses' recovery during the COVID pandemic. Several City Hall staff were on a call this morning with the restaurant community and heard how loud and fast traffic can be downtown and, it seems, there is much that can be done to improve the situation.

the COVID-19 pandemic has brought many challenges to all of us. The pandemic has also provided a unique opportunity for our amazing community to reflect on what is important. How do we want our downtown to be in 5 years? 10 years? We have the opportunity to re-imagine what we want our little town to look like. A safe, inviting, walkable downtown with peaceful outdoor dining and wide sidewalks seems very picturesque and I bet a lot of other residents feel the same way. As a member of the Visit Morgan Hill Tourism Board, I'm sure this is what would attract more out-of-town visitors and keep them here longer to spend their tourist dollars.

Do we want a vibrant downtown for all users? Is Monterey Rd to be considered a highway or a way to get to our downtown shopping district? I know there are plans for expansions of the Hale/DeWitt corridor, alleviating traffic from Monterey. This should help improve our options on what we can make downtown Morgan Hill be.

Another concern beyond traffic concerns is crime. I would request that we continue to explore adding a PBID for the downtown business corridor to supplement security, maintenance and safety measures to keep our city hub safe and clean.

Thank you for your consideration.

Regards,

Doug Hall



www.ridemorganhill.com

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From: Ruth <[REDACTED]>
Date: March 3, 2021 at 3:35:27 PM PST
To: Rich Constantine <Rich.Constantine@morganhill.ca.gov>, Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>, Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>, Rene Spring <Rene.Spring@morganhill.ca.gov>, John McKay <john.mckay@morganhill.ca.gov>
Subject: Do your job and vote to accept the Responsible Growth Initiative

Morgan Hill City Council Member:

I have lived in Morgan Hill for almost 20 years, watching our city grow into an amazing place to live. Have seen Mayors and Council members come and go. The best ones Listen to their constituents. Some don't and the voters - vote them out of office.... There has been significant voter interest in the huge warehouse Developers activities in the past couple of years. The Voters don't want these projects.

Thousands of them have made their wishes known. Yet many, in city positions do not appear to understand the voters preferences and continue to appease these developers much to the detriment of our community, now and into the future.

Are you being paid to stand with the developers??? Maybe there needs to be an investigation regarding payoffs to city council members...

On March third you will have to decide just where you stand. Hopefully it will be with the citizens. We urge you to look deeply into the citizens wishes and Vote to Approve the MHRGC initiative to change our outdated zoning code.

Please avoid another costly election as you know, when put to a vote the wishes of the citizens will prevail and the initiative will be approved !!!!! Vote for Morgan Hill's people and their continued preferred way of life. Isn't that you are supposed to do in your job???

None of the residents wanted the huge Shoe Palace fiasco that was unexpectedly forced upon us.. Don't make us the warehouse and distribution center of silicon valley.

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