CITY OF MORGAN HILL

**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, August 18, 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
  - In order to speak, please be sure that your version of Zoom is up to date.
- 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.

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## SPECIAL/REGULAR MEETING

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

6:00 p.m. Closed Session

7:00 p.m. Regular Meeting

## SPECIAL MEETING

**6:00 p.m. 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 LABOR NEGOTIATOR**

| | |
|---|---|
| Authority: | Pursuant to Government Code Section 54957.6 |
| City Negotiators: | Christina Turner, City Manager; Donald Larkin, City Attorney; Michael Horta, Human Resources Director; Dat Nguyen, Finance Director |
| Employee Organization: | Morgan Hill Police Officers Association<br>Employees Covered under Management Resolution #21-025<br>AFSCME Local 101 Morgan Hill<br>Community Service Officers Association |

## REGULAR MEETING

**7:00 p.m.**

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

## PRESENTATIONS

YAC Presentation- Asset # 7- Community Values Youth

2021 PG&E Community Wildfire Safety Program update

## RECOGNITIONS

Recognizing Phil Couchee, Recology General Manager, for his years of service to the community

Recognizing the many agencies who supported the vaccination clinics in Morgan Hill

## PROCLAMATIONS

Proclaiming the week of August 22-28, 2021 as Women's Equality Week

## CITY COUNCIL REPORTS

Mayor Pro Tem McKay

## 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 AUTHORIZING TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 GRANT APPLICATION FOR BICYCLE LANE IMPROVEMENTS

Recommendation:

Adopt resolution approving the following actions:
1. Authorizing staff to prepare and submit a Transportation Development Act (TDA) Article 3 Bicycle Expenditure Program (BEP) grant application to the Santa Clara Valley Transportation Authority for implementation of a Bike Lane Improvement project; and
2. Authorizing the City Manager to negotiate and execute the TDA grant agreement and other documents, reports, forms, and agreements related to the performance of the identified project.

**2. ADOPT ORDINANCE 2324, NEW SERIES, APPROVING AMENDMENTS TO DEVELOPMENT AGREEMENT DA2018-0001: OLD MONTEREY-KELLY VO FOR A 6-UNIT RESIDENTIAL DEVELOPMENT ON A 1.13-ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE (APN 764-24-061)**

Recommendation:

Waive the reading, adopt Ordinance No. 2324, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**3. APPROVE AGREEMENT FOR CONDIT ROAD SPORTS FACILITIES MASTER PLAN CONSULTANT**

Recommendation:

Authorize the City Manager to execute and administer a consultant services agreement with Verde Design, Inc. for $135,718 for the development of a Sports Facilities Master Plan for the Condit Road Recreation Facilities.

**4. APPROVE AN IMPROVEMENT AGREEMENT WITH LEVEL 10 CONSTRUCTION, LP**

Recommendation:

1. Approve and authorize the City Manager to execute an Improvement Agreement with Level 10 Construction, LP; and
2. Authorize the recordation of the Improvement Agreement.

**5. APPROVE THE AUGUST 4, 2021 MEETING MINUTES**

Recommendation:

Approve Minutes.

**6. APPROVE THE AUGUST 6, 2021 MEETING MINUTES**

Recommendation:

Approve Minutes.

## PUBLIC HEARING (TO BE HEARD AT 8:00 P.M.)

**7. RECEIVE INPUT FROM THE COMMUNITY REGARDING RE-DRAWING OF CITY COUNCIL DISTRICT BOUNDARIES**

Recommendation:

Open and close the public hearing.

Estimated Time: 60 Minutes

## OTHER BUSINESS

8. **MONTHLY BUDGET UPDATE; PRELIMINARY FY 20-21 FINANCIAL AND INVESTMENT REPORTS; CITY MANAGER AUTHORITY REPORT; ADOPT BUDGET AMENDMENTS; AND APPROVE AMENDMENT TO FISCAL POLICIES**

Recommendation:

1. Accept and file Preliminary Fiscal Year (FY) 2020-2021 Financial and Investment Report and City Manager Authority Report; and
2. Adopt resolution authorizing changes to the adopted Fiscal Year (FY) 2020-2021 and 2021-22 City of Morgan Hill Operating Budget, including appropriation of American Rescue Plan Act (ARPA) Funding; and
3. Approve amendment to Fiscal Policies to fund General Fund unfunded needs and unfunded liabilities from General Fund budget savings.

Estimated Time: 45 Minutes

9. **APPOINT VOTING DELEGATES FOR THE 2021 LEAGUE OF CALIFORNIA CITIES (LEAGUE) ANNUAL CONFERENCE AND APPROVE CITY SUPPORT OF THE RESOLUTIONS TO BE CONSIDERED**

Recommendation:

1. Appoint a voting delegate and up to two (2) alternate voting delegates to the League of California Cities' Annual Conference;
2. Direct the Clerk team to complete and forward the voting delegate form to the League of California Cities;
3. Confirm "support" positions on resolutions to be considered on sales tax and litter along railroad lines; and
4. Authorize the City's voting delegate(s) to vote on the resolutions to be considered at the League of California Cities (LOCC) annual conference.

Estimated Time: 20 Minutes

# FUTURE COUNCIL INITIATED AGENDA ITEMS

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

# 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 OF MORGAN HILL

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: David Gittleson, Associate Engineer
APPROVED BY: City Manager

## ADOPT RESOLUTION AUTHORIZING TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 GRANT APPLICATION FOR BICYCLE LANE IMPROVEMENTS

**RECOMMENDATION(S)**
Adopt resolution approving the following actions:
1. Authorizing staff to prepare and submit a Transportation Development Act (TDA) Article 3 Bicycle Expenditure Program (BEP) grant application to the Santa Clara Valley Transportation Authority for implementation of a Bike Lane Improvement project; and
2. Authorizing the City Manager to negotiate and execute the TDA grant agreement and other documents, reports, forms, and agreements related to the performance of the identified project.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

| **Ongoing Priorities** | **2020-2021 Strategic Priorities** |
|---|---|
| Enhancing Public Safety | Transportation |
| Maintaining Infrastructure | |

**GUIDING DOCUMENTS**
Bikeways
Trails
Parks
and Recreation Masterplan

**REPORT NARRATIVE:**
The purpose of this report is to request the City Council's adoption of a grant resolution relating to bike lane improvements on Monterey Road between Main Avenue and Dunne Avenue.

In March 2021, the Santa Clara Valley Transportation Agency (VTA) released a Call for Projects for the fiscal year 2021-2022 Transportation Development Act (TDA) Article 3 Program funding cycle. The City of Morgan Hill's guaranteed share from this program is $92,870.

As a component of the proposed Downtown Traffic Calming and Monterey Road Lane Reduction Project (Project), the City would add protected bike lanes along Monterey Road from Main Avenue to Dunne Avenue. Details on the Project are available as part of the May 19, 2021 City Council Staff Report. The Project would be eligible for use of

Morgan Hill's share of the TDA funding. This TDA grant would pay for $92,870 of the estimated project costs.

The Project will be brought to Council in October for full review by the Council, so a decision on moving forward on the Project will occur then. However, staff needs to move forward with the resolution for the funding now to meet the TDA grant schedule. Should the Council elect to not move forward with the Project, work on the next steps for the grant program would be halted and staff would request the funds be banked for future use. Staff recommends adopting the attached resolution authorizing the City to submit a grant application to the program.

**COMMUNITY ENGAGEMENT: Inform, Consult, Involve, and Collaborate**
Significant engagement occurred prior to the May 19 City Council Direction. The engagement has included involvement from the Downtown businesses in discussions on the public private partnership as well as the opportunity for the general community to be involved through the Town Hall and the community survey. Future work with a working group will create a collaborative opportunity to gather input on the program. Through this process the City would continue to use all of its appropriate media channels to continue engaging the Community.

**ALTERNATIVE ACTIONS:**
The Council could decide not to authorize the submission of the TDA Article 3 grant application and forego the opportunity to receive these guaranteed funds. If the funds are not used at this time, they will be banked for future use. The alternate future use of the funds would go towards improvements to bicycle facilities within the City. Examples of the type of projects the funding could be used for are the Madrone Channel Trail extension, West Little Llagas Creek Trail extension, and the addition of new buffered bike lanes on City roadways. This would require the Council to provide additional funding for the Downtown Traffic Calming and Monterey Road Lane Reduction Project if that project is approved.

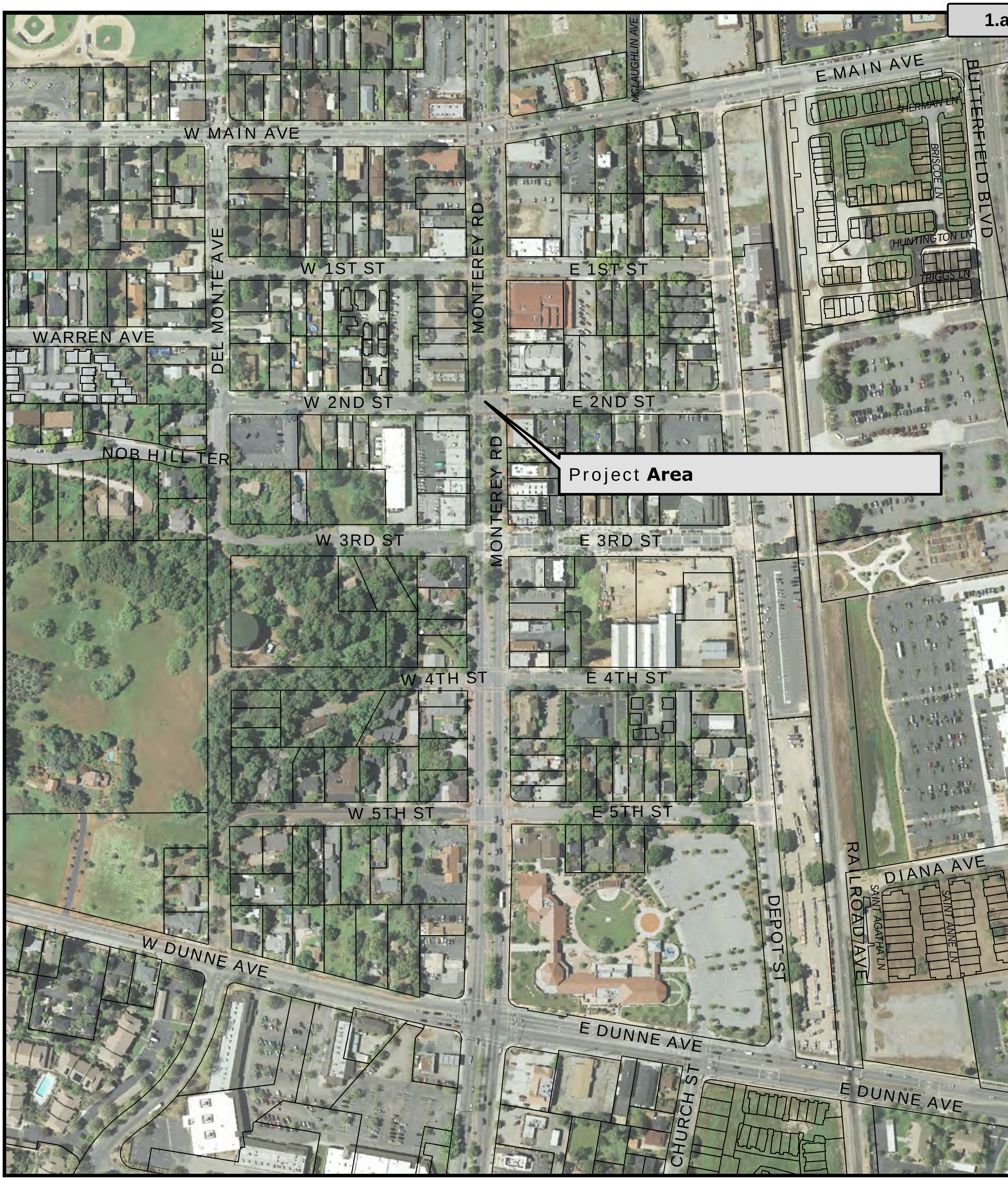
**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
On May 19, 2021, the City Council approved the Downtown Traffic Calming and Monterey Road Lane Reduction concept.

**FISCAL AND RESOURCE IMPACT:**
The Council has approved moving forward with the first step in designing the Project for which $50,000 has been approved. The future costs for the program may range from $200,000-$400,000 depending upon the ultimate project scope. This grant funding will pay for $92,870 of the total cost with the remaining funds coming from the American Rescue Act Funds.

**CEQA (California Environmental Quality Act):**
The Transportation Element of the General Plan provides the option for the City of Morgan Hill to narrow Monterey Road from its existing four lanes to a two-lane arterial through Downtown. The Master EIR for the Downtown Specific Plan and the EIR

prepared for the 2010 Transportation Element Update contain information about impacts and traffic levels of service conditions under both scenarios.

**LINKS/ATTACHMENTS:**
1. Project Location Map
2. TDA Resolution




Attachment: Project Location Map [Revision 1] (3125 : Adopt Resolution for TDA Grant Funds)

CITY OF MORGAN HILL
Engineering Division
Community Development Agency
Document Path: G:\R-14\PROJ\GIS\Marks\SITE MAPS\Monterey_median.mxd

SITE MAP Monterey Road **Bike Lane** Project

0 80 160 320 480 640 Feet

# RESOLUTION NO.

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2021 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Morgan Hill desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this

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 of Morgan Hill declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code, and furthermore, be it

b. That there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Morgan Hill to carry out the project; and furthermore, be it

c. That the City of Morgan Hill attests to the accuracy of and approves the statements in Attachment A to this resolution; and furthermore, be it

d. That a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of City of Morgan Hill for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

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 18th day of August, 2021 by the following vote:

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

**DATE: ______________________** ____________________________________
**Rich Constantine, MAYOR**

**CERTIFICATION**

**I, Irma Torrez, City Clerk of the City of Morgan Hill, California,** do hereby certify that the foregoing is a true and correct copy of Resolution No.XXXX , adopted by the City Council at the meeting held on August 18, 2021.

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

**DATE: ______________________** ____________________________________
**Michelle Bigelow, CITY CLERK**

Resolution No.
Attachment A

Re: Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year **2021** Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

**Findings**

Page 1 of 1

1. That the **City of Morgan Hill** is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the **City of Morgan Hill** legally impeded from undertaking the project(s) described in "Attachment B" of this resolution.
2. That the **City of Morgan Hill** has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the **City of Morgan Hill** within the prior five fiscal years.
8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Attachment B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Attachment B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).
11. That the **City of Morgan Hill** agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

Resolution No.
Attachment B
page 1 of 1

# TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2021 Applicant: City of Morgan Hill

Contact person: David Gittleson, PE, Associate Engineer

Mailing Address: 17575 Peak Avenue, Morgan Hill, CA 95037

E-Mail Address:David.gittleson@morganhill.ca.gov Telephone:408-310-4642

Secondary Contact (in event primary not available) Chris Ghione, Public Services Director

E-Mail Address:chris.ghione@morganhill.ca.gov Telephone:

Project Title (Short Description): Install protected/buffered bike lanes

Amount of claim: $92,870

Description of Overall Project:

Install protected and buffered bike lanes on Monterey Road between Main Avenue and Dunne Avenue.

Project Scope Proposed for Funding: (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Construction Only

Project Budget and Schedule

| | TDA | City | Total |
|---|---|---|---|
| PA&ED | | | - |
| PS&E | | 50,000 | 50,000 |
| ROW | | - | - |
| CON | 92,870 | 150,000 | 242,870 |
| Total Cost | 92,870 | 200,000 | 292,870 |

-

| Project Eligibility: | YES?/NO? |
|---|---|
| A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated). October 6, 2021 | no |
| B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page. | no |
| C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov). | yes |
| D. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? (If "NO," provide an explanation) The Project is included in the Bikeways Master Plan and is now being initiated by the City Council. | no |
| E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction). | no |
| F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) October 2022 | yes |
| G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: ) | yes |

Attachment: TDA Resolution (3125 : Adopt Resolution for TDA Grant Funds)

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: Angie Gonzalez, Council Services Assistant
APPROVED BY: City Manager

## ADOPT ORDINANCE 2324, NEW SERIES, APPROVING AMENDMENTS TO DEVELOPMENT AGREEMENT DA2018-0001: OLD MONTEREY-KELLY VO FOR A 6-UNIT RESIDENTIAL DEVELOPMENT ON A 1.13-ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE (APN 764-24-061)

**RECOMMENDATION(S)**
Waive the reading, adopt Ordinance No. 2324, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

| **Ongoing Priorities** | **2020-2021 Strategic Priorities** |
|---|---|
| Preserving Our Community History | Community Outreach<br>Engagement and Messaging |

**GUIDING DOCUMENTS**
Morgan Hill 2035 General Plan

**REPORT NARRATIVE:**
On August 4, 2021, the City Council introduced Ordinance No. 2324 New Series, by the following roll call vote: AYES: Borgioli, Constantine, Martinez Beltran, McKay, Spring; NOES: None; ABSTAIN: None; ABSENT: None.

Ordinance 2324 would approve an amendment to Development Agreement DA2018-0001: Old Monterey – Kelly Vo (Appletree Residential Project) that will add one additional residential unit. The project will develop a 6-lot single family residential subdivision on a 1.13-acre parcel and develop 6 new single-family residences, retain and restore the existing historic house to be used as a detached accessory dwelling unit on Lot 4, and associated improvements.

**COMMUNITY ENGAGEMENT: Inform**
The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period and a sign was posted on the project site pursuant to the Planning Division requirements.

**ALTERNATIVE ACTIONS:**
Not applicable.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
On July 23, 2008, the City Council adopted Ordinance No.1892 to update the City's Historical Resources Code by repealing Chapter 18.75 Cultural Resources Preservation and adopting Chapter 18.75 Historical Resources (renumbered to Chapter 18.60 by Ordinance No. 2277). The City Inventory List identified the property as potentially historically significant.

An application was submitted for the 2016 Residential Development Control System (RDCS) competition requesting five (5) building allotments for the project site. At the January 10, 2017, Planning Commission meeting, the Commission adopted Resolution No. 17-01 awarding the project five Fiscal Year 2018/2019 building allotments.

On June 6, 2018, the City Council adopted Ordinance No. 2277, approving a comprehensive update to Title 18 (Zoning), including an amendment to the City's Official Zoning Map. The update renamed the R-1 Single Family Medium Density (R1-7,000) zone district to Residential Detached Medium (RDM-7,000) and did not change the development standards.

On June 11, 2019, the Planning Commission adopted Resolution No. 19-06, approving a Tentative Subdivision Map for a six (6) lot residential subdivision. The Planning Commission also recommended approval of DA2018-0001 to the City Council.

On September 18, 2019, the City Council adopted Ord. No. 2303, approving a DA for the project. The DA specified terms for the development of five new single-family detached dwellings.

On June 8, 2021, the Planning Commission adopted Resolution No. 21-06 and No. 21-07. Resolution No. 21-06 approved a Historical Relocation Permit to move the historic house to the southwest corner of Lot No. 4. Resolution No. 21-07 recommended approval of a DA amendment.

**FISCAL AND RESOURCE IMPACT:**
The City's development review functions are cost-recovery, with fees collected from applicants to cover cost of services. These fees have been collected.

**CEQA (California Environmental Quality Act): Categorical Exemption**
An environmental assessment was prepared for the project by David J. Powers & Associates, Inc. dated February 27, 2019, in conformance with the California Environmental Quality Act (CEQA). The assessment determined the project qualifies for a Class 32 In-Fill Development exemption because it meets the criteria set forth in CEQA Guidelines Section 15332(a) through 15332(e). The Categorical Exemption Memorandum included a historical and architectural evaluation performed by Urban Programmers dated September 25, 2018. This report contemplated the historic house and determined that any proposed alteration or relocation would require a Historic Alteration or Relocation Permit from the City.

The Development Services Director concluded that the project proposed for Old Monterey - Kelly Vo is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines.

An addendum to the Historic Evaluation dated March 25, 2021, was performed by Urban Programmers to analyze the proposed relocation. The report found relocating the historic house would be consistent with the CEQA guidelines and provided recommendations for rehabilitation consistent with the Secretary of the Interior's Standards for Rehabilitating Historic Buildings. These recommendations are included as part of the Conditions of Approval. No further CEQA clearance is required.

**LINKS/ATTACHMENTS:**
1. 2324 Amending Development Agreement Old Monterey-Kelly Vo

# ORDINANCE NO. 2324, NEW SERIES

**AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AMENDMENTS TO DEVELOPMENT AGREEMENT DA2018-0001: OLD MONTEREY-KELLY VO FOR A 6-UNIT RESIDENTIAL DEVELOPMENT ON A 1.13-ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE (APN 764-24-061)**

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

**SECTION 1**. The Planning Commission, pursuant to Chapter 18.78 (now Chapter 18.156) of the Morgan Hill Municipal Code, awarded five (5) building allotments for application RDCS 2016-0008: Old Monterey-Kelly Vo for Fiscal Year (FY) 2018-19.

**SECTION 2.** The City Council of the City of Morgan Hill enacted Ordinance number 1594, as revised by Ordinance Number 2277, establishing a procedure for processing Development Agreements in Chapter 18.116 for projects receiving allotments through the Residential Development Control System, Chapter 18.156, of Title 18 of the Morgan Hill Municipal Code.

**SECTION 3**. Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 4**. The City Council adopted Ordinance No. 2303 on September 18, 2019, approving a Development Agreement for the Old Monterey-Kelly Vo project.

**SECTION 5.** The Development Agreement Amendment request was considered by the Planning Commission at its regular meeting of June 8, 2021 at which time the Planning Commission recommended approval amendments to Development Agreement DA2018-0001: Old Monterey-Kelly Vo based on the findings described below;

**SECTION 6**. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 7.** **The Development Agreement is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan.**

The project would provide 6 single-family residential units. No General Plan policy conflicts have been identified with the proposed project.

**SECTION 8.** **The Development Agreement is compatible with the uses authorized in the zoning district in which the real property is located.**

The proposed residential use is permitted within the RDM-7,000 zoning district and would be compatible with the surrounding residential and commercial uses.

**SECTION 9.** **The Development Agreement duly considers city mitigation programs in effect at the time of execution of the agreement**.

The project would be subject to the payment of applicable impact fees and community benefit commitments as part of the RDCS process.

**SECTION 10.** **The Development Agreement will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood.**

The project's construction would adhere to state, local and federal laws. The project is residential housing and would be compatible with the surrounding neighborhood.

**SECTION 11.** **The Development Agreement complies with the provisions of the California Environmental Quality Act and city's procedures adopted pursuant thereto**.

The project is Categorical Exempt from CEQA and meets the criteria for a Class 15332 - In-Fill Development exemption. A CEQA Categorical Exemption Memorandum has been prepared and adopted for the project.

**SECTION 12.** **The Development Agreement will not adversely affect the orderly development of property or the preservation of property values.**

The project will provide high quality architecture consistent with the City's Architectural Design Guidelines. The project will also be consistent with state and local laws.

**SECTION 13**. Testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**SECTION 14.** 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 15.** Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance or a summary thereof pursuant to 96933 of the Government Code.

**THE FOREGOING ORDINANCE WAS INTRODUCED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 4th DAY OF AUGUST 2021, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 18TH DAY OF AUGUST 2021, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:**

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

**APPROVED:** **ATTEST:**

______________________________ ______________________________
**RICH CONSTANTINE, Mayor** **MICHELLE BIGELOW, City Clerk**

**ꕤ CERTIFICATE OF THE CITY CLERK ꕤ**

**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 Ordinance No. 2324, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th day of August 2021.

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

DATE: ________________________ ______________________________
**MICHELLE BIGELOW, City Clerk**

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Morgan Hill
Development Services Department
17575 Peak Avenue
Morgan Hill, CA 95037

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT
CODE SECTION 27383

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## AMENDMENT TO DEVELOPMENT AGREEMENT

THIS AMENDMENT TO DEVELOPMENT AGREEMENT ("**Amendment**") is entered into as of the ____day of _______________, 2021, by and among 18755 OLD MONTEREY, LLC ("**Developer**") and CITY OF MORGAN HILL, a municipal corporation of the State of California ("**City**").

## RECITALS

A. Appletree Investment, LLC, Developer's predecessor in interest, entered into a Development Agreement (DA) with City on September 18, 2019 adopted by the City Council as Ordinance No. 2303, to facilitate the development of that certain real property owned by Developer within the City of Morgan Hill, State of California, which is legally described in Exhibit A to the Development Agreement ("**Property**"). The DA was recorded on September 26, 2019 as document number 24290883. The DA was assigned to Developer on July 7, 2021. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement.

B. Developer has applied for a Historical Relocation Permit to allow for the existing building to be moved and a new residential be additionally located on Parcel 4.

C. Developer and City desire to enter into this Amendment to revise the project description to include an additional residential unit.

## AGREEMENT

NOW, THEREFORE, Developer and City hereby agree as follows:

1. Amendment to Development Agreement.

   A. Section 1.02(a)(10) is revised to read as follows:

   "**Project**" means the development containing 6 units in a residential subdivision project, as more particularly described in the RDCS Application RDCS2016-0008, Historical Relocation Permit CUL2021-0001, Design Permit SR2019-0001, and Subdivision Application SD2018-0002 as described in

Exhibit B. Any reference in this Agreement to the "Project" shall mean and include the "Property".

B. Exhibit B “Description of Project” is amended to read as follows:

RDCS APPLICATION NO. RDCS2016-0008: OLD MONTEREY-KELLY VO FOR A RESIDENTIAL DEVELOPMENT PROJECT THAT INCLUDES SIX (6) SINGLE FAMILY RESIDENCES.

2. Building Design. The new single-family detached home on Lot 4 must have a similar and complementary architectural design to the other five single-family homes within the Appletree Subdivision.

3. RDCS Commitments. The design of the new single-family detached home on Lot 4 must meet the Residential Development Control System (RDCS) commitments established in the Appletree Subdivision Development Agreement.

4. Building Code Requirements. The construction of a new dwelling unit on this lot will require that building to have its own construction plans and documentations. The construction plans and documentation for this building are required to comply with the 2019 California Building Standard Codes and the current Morgan Hill Municipal Code. The Master Plan for the other five building fall under the 2016 California Building Code since their Permit Application was submitted prior to the adoption of the 2019 California Building Standards codes and the current Morgan Hill Municipal Code prohibiting natural gas in newly constructed building ordinance.

5. Development Agreement in Full Force and Effect. Except as specifically provided herein with respect to the assignment, all the terms, covenants, conditions and provisions of the Development Agreement shall remain in full force and effect.

6. Recording. City shall cause this Amendment to be recorded in the Official Records of Santa Clara County.

7. Severability. Except as otherwise provided herein, if any provision(s) of this Amendment is (are) held invalid, the remainder of this Amendment shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the Parties.

8. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the Parties to this Amendment had executed the same counterpart.

9. Effective Date/Amendments. The Effective Date of this Amendment shall be the date upon which this Amendment is approved by the City of Morgan City Council. This Amendment shall not be amended except by an agreement in writing signed by the parties hereto or their respective successors-in-interest.

[Signature Page Follows]

IN WITNESS WHEREOF, Developer and City have entered into this Agreement as of the date first above written.

**"CITY"**

CITY OF MORGAN HILL

_________________________
Christina J. Turner
City Manager

Approved as to form:

__________________________
Donald A. Larkin
City Attorney

Date: ___________________

**"DEVELOPER"**

18775 Old Monterey, LLC

By_____________________

Name________________________

Its __________________________

Date: ________________

(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY, MUST BE ACKNOWLEDGED BEFORE A NOTARY)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )
) ss.
COUNTY OF ___________________)

On ____________________________, before me, _____________________________________
_________________________________________________ (*insert name and title of the officer*)

personally appeared ____________________________________________________________,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature ______________________________________ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )
) ss.
COUNTY OF ___________________)

On ___________________________, before me, _____________________________________
_________________________________________________ (*insert name and title of the officer*)

personally appeared ____________________________________________________________,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____________________________________ (Seal)

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

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

## APPROVE AGREEMENT FOR CONDIT ROAD SPORTS FACILITIES MASTER PLAN CONSULTANT

**RECOMMENDATION(S)**
Authorize the City Manager to execute and administer a consultant services agreement with Verde Design, Inc. for $135,718 for the development of a Sports Facilities Master Plan for the Condit Road Recreation Facilities.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

**Ongoing Priorities**
Supporting Our Youth
Seniors
and Entire Community
Advancing Regional Initiatives

**2020-2021 Strategic Priorities**
Economic Development

**GUIDING DOCUMENTS**
Bikeways
Trails
Parks
and Recreation Masterplan
Economic Blueprint

**REPORT NARRATIVE:**
Over the last 7 years the City has acquired property along Condit Road for use as potential future recreation facilities. Most recently the City Council has reviewed opportunities for a future sand volleyball center. In addition to these new sites the City also owns and operates the Outdoor Sports Center and Aquatics Center on Condit Road. Both of these facilities have had past plans for expansion and improvements. City staff are proposing a comprehensive review of the area to identify improvements and new construction to develop the site overall. These properties proposed for the site master plan are included in Attachment 1.

The funding for consultant work on the site master plan is included in the City’s Capital Improvement Program and is in follow-up to the 2017 Bikeways, Trails, Parks and Recreation Master Plan and the feasibility study relating to sand volleyball development on the undeveloped property.

City staff has worked with the Parks and Recreation Commission to develop a scope for the planning process. This process will include outreach to the community, meetings with stakeholders and user groups and review of past work performed by the City. Additionally, the ultimate conceptual design will include development of up to three design scenarios. This can allow for the design of the build out of sand volleyball, additional soccer fields, and other amenities on the site. The resulting work is intended to provide a basis for future environmental clearances, planning for the Capital Improvement Program, and options for future partnerships.

City staff are recommending that an agreement be entered into with Verde Design, Inc. to provide these services. Verde previously performed the Sand Volleyball Conceptual Design work and has worked on numerous projects at the Outdoor Sports Center. This past work gives the City a significant head start on development of the conceptual designs for the facilities. Staff believes it will provide cost savings by not having to repeat significant front-end work. The proposed contract with Verde is included as Attachment 2.

**COMMUNITY ENGAGEMENT: Involve**
Previous community engagement occurred during development of the 2017 Parks and Recreation Master Plan. The process to develop the Master Plan will include engagement to the community and stakeholders.

**ALTERNATIVE ACTIONS:**
The City could choose to not move forward with approving the agreement and postpone or cancel this work. The City Council could also choose to direct staff to issue a Request for Proposals (RFP) for this design work. Should the Council choose this alternative it is estimated the RFP would not be developed until late 2021 or early 2022 due to staff workload constraints.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
June 1, 2016 – The City Council authorizes purchase of 10 acres of property adjacent to the Aquatics Center.

July 20, 2017 – The City Council adopts the Bikeways, Trails, Parks and Recreation Master Plan, including a Sports Market Business Strategy.

May 19, 2019 – The City Council receives Sand Volleyball Feasibility Study Update.

December 1, 2019 – The City Council approves the purchase of 3.85 acres adjacent to the Aquatics Center.

**FISCAL AND RESOURCE IMPACT:**
The proposed work provided by Verde Design will cost $135,718 and will be funded through CIP Project 148018 and the Community Recreation Center Impact Fund (360).

**CEQA (California Environmental Quality Act):** Categorical
Funding the development of a master plan is exempt from CEQA under Public Resources Code § 21102, 21150 (Feasibility or planning studies for possible future actions that the agency has not approved, adopted, or funded).

**LINKS/ATTACHMENTS:**

1. Sports Facilities Master Plan Site Area
2. Sports Facilities Master Plan Consultant Agreement

**Morgan Hill Condit Road Sports Facilities Master Plan**

# CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS
## VERDE DESIGN, INC.

**THIS AGREEMENT** is entered into and becomes effective on _______________ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Verde Design, 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 action of the Morgan Hill City Council taken on _____________, ____, 20___.

2. **Term of Agreement**. This Agreement shall cover services rendered from the Effective Date of this Agreement until December 31, 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 Sports Facilities Master Plan as further described in **Exhibit A.**

4. **Compensation**. CONSULTANT shall be compensated as follows:

4.1. Amount. $135,718.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed One Hundred Thirty Five Thousand Seven Hundred Eighteen 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, 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 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 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. Any deductibles or self-insured retentions must be declared to and approved by City. 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 five (5) years after the completion of work performed under this Agreement.

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

7.1.6. 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 certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. 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. A "material change" is a change that results in non-compliance with any insurance requirements in this section 7. 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:

Verde Design, Inc
Attn: Derek McKee
2455 The Alameda, Suite 200
Santa Clara, CA 95050

Address of CITY is as follows:

| | |
|---|---|
| Chris Ghione<br>City of Morgan Hill<br>17575 Peak Avenue<br>Morgan Hill, CA 95037 | with a copy to:<br>City Clerk<br>City of Morgan Hill<br>17575 Peak Avenue<br>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 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 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 for Design Professional Services. Consistent with California Civil Code Section 2782.8, for design professional services to be performed under this agreement by a design professional, as that term is defined under said Section 2782.8, CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, and/or its agents, officers, employees, subcontractors, or independent contractors in performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement ("CLAIM") to the extent of CONSULTANT'S proportionate percentage of fault.

21.2. Defense and Indemnification for Non-Design Professional Services. For all services performed under this agreement not covered by Section 21.1 above, CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by CONSULTANT, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

21.3. 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, active negligence or willful misconduct of the CITY.

21.4. 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.

21.5. 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.

21.6. 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.

*[Signatures on Next Page]*

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

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

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:
(1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
(2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

| | |
|---|---|
| ATTEST: | CITY OF MORGAN HILL |
| City Clerk/Deputy City Clerk | City Manager |
| Michelle Bigelow<br>Print Name | Christina J. Turner<br>Print Name |
| Date: | Date: |
| APPROVED AS TO FORM: | Verde Design, Inc. |
| City Attorney | Derek McKee Digitally signed by Derek McKee DN: cn=Derek McKee, o=Verde Design, Inc., ou, email=derek@verdedesinginc.com, c=US Date: 2021.07.12 07:48:02 -07'00'<br>By: |
| Donald A. Larkin<br>Print Name | Derek C McKee, President<br>Print Name and Title of Signer.<br>If Corporate: Chairman, President or Vice President |
| Date: | Date: 7/12/21 |
| | By: Nance ... |
| | Nance h Cronin CFO<br>Print Name and Title of Signer.<br>If Corporate: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer |
| | Date: 7/12/21 |

U:\Legal Forms\Consultant Agreements\City Services Agreement For Design Professionals.Docx

Exhibit A Scope of Services

In response to your request, Verde Design, Inc. is pleased to submit the following revised proposal to provide athletic design on the above mentioned project. This proposal shall remain valid for a period of sixty (60) days.

**PROJECT UNDERSTANDING / HISTORY:**
The City of Morgan Hill (City) is requesting a proposal for design services to develop a master plan and community process. Past experience has taught us that the key to envisioning and developing public parks begins with a simple, clear approach - Investigate, Listen, Understand, and Recommend.

Investigate - Beginning with our initial kick-off meeting with City staff and OSC operator, we will establish project parameters, such as program, schedule, and budget. We will review the draft schedule and update. At the meeting we will recap the site information and other City standards available for use and guidance relate to the project as well as, review grant opportunities and any funding sources staff has researched.

Part of the meeting should also review the City staff's program input for the proposed improvements. We would like to understand what the City envisions for the park master plan and historical steps that led to creating this opportunity. We typically recap all the program input into a document we designate as the "basis of design" to log the input and decisions.

Initial input from staff has indicated they are looking for the site plans to generally follow:

- Build off the previous designs we completed for sand volleyball and expanded parking.
- Provide additional soccer/multi-use fields and parking.
- Provide future baseball fields (but with multi-use included) and parking

For the existing/new space, we would like to look at adding new amenities to be identified through the process. New amenities include, but are not limited to:

- Potential restaurant or convenience store to serve the area.
- Locker room and small meeting room facility that could potentially serve multiple areas of the area
- Additional field lighting
- Location of permanent corp yard site (potentially shared for entire area)
- Location of miniature golf course area.
- Expanded aquatics picnic space
- Calculating and ensuring parking adequacy for the area
- Other ideas brought up through the process

We will meet with the Parks and Recreation Commission (PRC) or their Subcommittee to review their input and priorities.

Establishing a solid foundation for success begins with project investigation. We will review existing utility documents, acquire the site record drawings, and conduct a site visit with City staff and OSC operator to confirm our understanding of the existing conditions and better evaluate the opportunities and constraints for developing the specific amenities identified. We will review all known existing utility lines, and easements, as necessary, to fully understand the requirements for the project.

We will setup a site base plan and create a site analysis graphic. Withing the graphic opportunities and constraints will be identified. This plan will graphically illustrate these elements for planning purposes of the proposed improvements.

Through this investigation, we will gain a thorough understanding of the existing site conditions, topography, and infrastructure. This site analysis effort will be utilized throughout the duration of the project, enabling educated and effective decisions to be made. The site analysis will be a compilation of information and shown on separate plans for clarity.

Listen - We will listen to stakeholders' concerns and desires, acknowledge the guidance provided by City staff and OSC operator, and communicate what we are hearing back to these parties so we can collectively move forward together with a shared goal. We will meet with staff to attain input on the desired program, layout, materials, and design.

Preliminary program options, goals and policies will be generated to help garner the input. We will review with staff and OSC operator first and then our intent is to hear what the community would like to include for the park expansion/renovation. The preliminary program, goals, and policies are used to stimulate the input to attain priorities and comments. We will then meet with the Parks and Recreation Commission (PRC) or their Subcommittee to review their input.

A community survey will be utilized provide input on the program, layout, and priorities. With these meetings and the community survey, we will be able to receive input on the desired program and priorities from the community.

To further support our clients' goals, the Verde team develops a detailed "Basis of Design" document as a means of tracking the programmatic input and infrastructural requirements for each project. We typically tally the input by element, category, or program. This document is a summary of all the project information assembled to date, and represents the direction we, as a team, have agreed upon for the development of our conceptual designs.

Understand - Using the tools mentioned above, we expect to have nearly all of the information needed to develop design solutions that respond to site constraints, stakeholder input, and budget. These initial concepts will reflect the input we received in a graphic form, which everyone can understand and respond to.

By developing a maximum of three conceptual alternative plans for the park expansion/renovation so we can obtain authentic, focused input and direction. The options will convey different layouts, materials, and configurations to enable the staff and community to provide input. We generally create more options with the options that can be included based on our review with staff. Graphics will be setup in plan and possibly 3D view for the improvements.

Demonstrating that we understand what is important, needed, required, and affordable is often the most challenging aspect of a project. We will prepare cost estimates for construction, as well as provide the City with identified issues relating to the options we have developed. We will meet with City staff and OSC operator first to review the conceptual alternatives.

We will then meet with the Parks and Recreation Commission (PRC) or their Subcommittee to review their input on the alternatives. Another community survey will be setup at this stage for input on the options. The designs will be updated and presented at the community meeting.

Recommend - Based on the community's input, we will update the designs to a single preferred design labeled draft master plan. Updated estimate will be provided. We will review with staff and OSC operator, then update the presentation materials. We will then meet with the Parks and Recreation Commission (PRC) or their Subcommittee to review their input on the draft master plan. Another community survey will be setup at this stage for input on the draft master plan.

Based on the input from the community, we will develop the final draft master plan and review with staff and OSC operator. We will assist staff with the council report and setup the presentation. A report will be setup to capture the outcome of the community process, input, costs and content of the master plan.

We will prepare presentation materials and present the final draft master plan to the City Council. If there are updates or comments required following these presentations, we will provide and coordinate with staff to develop the final master plan.

At each submittal, we will include an updated cost estimate and schedule so the City staff can review and track the construction budget. Included in the final costs will include design and engineering costs/contingencies.

For the architecture elements, we have included Dahlin Group to assist with the building programming and design during this process. This would include the potential architecture elements: clubhouse/community building, convenience store/restaurant and corp yard. They will attend the staff and community meetings during the process.

Our timeline is proposed below.

**SCOPE OF SERVICES**

Verde Design proposes to provide the following services base on the above stated project understanding.

A. Project Start-up:

1. Establish files and in-house documentation.
2. Receive all available data, maps, reports, etc.
3. Obtain City documents relating to the site and other requirements, standards, and regulations for development of the facilities. Shall include the General Plan and previous plans for the existing park improvements.
4. Update and provide input on the milestone schedule with design team.

B. Kick-Off Meeting:

1. Meet with City staff and OSC operator to determine the project intent, scope, project budget and timetable.
2. Identification of roles and responsibilities of consultant team, and City staff.
3. Review the existing site plan, proposed park improvements and steps toward input, consensus and development of the community design process.
4. Review or develop the project's goals and objectives with staff.
5. Review proposed or potential new park amenities, prior input, etc. Develop a preliminary program list to be utilized for the park's programming development.
6. Scheduling, by purpose, for each phase of the design process, public meetings, community surveys, Parks and Recreation Commission (PRC) or Subcommittee meetings, and City Council.

7. Review the draft schedule submitted with the proposal and coordinate updates and adjustments.

C. Site and Data Review:

1. Review assembled project data, as-builts and historical information.
2. Review City codes, ordinances, standards and policies pertaining to project design.
3. Review and record utility information related to electrical, sewer, communications, irrigation and storm drainage.
4. Review any relevant geotechnical engineer reports.
5. Review management and maintenance practices and concerns with City staff.
6. Site visit to review prepared survey, perform visual analysis and become familiar with existing conditions and constraints. We recommend walking the site with City staff and OSC operator to review conditions and known issues or constraints.
7. Develop a site analysis graphic with opportunities and constraints for the park's expansion/renovation and additional City owned parcels.

D. Refine Project Schedule and provide updates as the project progresses.

E. Meeting with PRC or Subcommittee.

F. Programming Input

1. Prepare information from the existing conditions analysis.
2. Develop and refine the project goals and objectives.
3. Develop a preliminary program list of potential park development elements.
4. Provide recommendations for code compliance, utility service, sustainability, safety and facility condition.
5. Develop preliminary use-relationship diagrams showing program areas, connections and layout.
6. Meet with City staff and OSC operator to review the preliminary program, use-relationship diagrams and existing conditions items.
7. Meeting with PRC or Subcommittee.
8. Revise the presentation graphic and information to reflect City comments and prepare for the first community survey.
9. Setup community survey and review with staff. Initiate community survey and document results. Review recap of the results with staff for input/direction.

G. Conceptual Alternatives Input

1. Based on input received from the programming task, prepare a maximum of three (3) conceptual plans and other materials.
2. Provide construction cost estimates based on the conceptual alternative designs.
3. Meet with City staff and OSC operator to review the presentation materials.
4. Meeting with PRC or Subcommittee.
5. Prepare and refine community meeting materials, presentation materials displaying the three conceptual designs, and any other material needed to garner input from the public to determine a final design concept.
6. Setup community survey and review with staff. Initiate community survey and document results. Review recap of the results with staff for input/direction.
7. Attend and present at the community meeting and prepare a summary of input collected from the meeting.

H. Draft Master Plan Input

1. Prepare the draft master plan, incorporating the input received at the community meetings and from City staff.
2. Update the construction cost estimate.
3. Electrical services to provide conceptual electrical design for lighting, electrical service, data and security needs. Electrical costs have increased substantially, and it is important we are accurate with these costs.
4. Meet with staff and OSC operator to review the draft master plan, updated estimate and prepare for the third community meeting.
5. Meeting with PRC or Subcommittee.
6. Setup community survey and review with staff. Initiate community survey and document results. Review recap of the results with staff for input/direction.

I. City Council Presentation

1. Prepare the final draft master plan, incorporating the input received.
2. Provide a report to summarize the community process, input received, cost estimates and master plan content.
3. Update the construction cost estimate.
4. Review the updates with staff.
5. Assist the City with presentation materials and packet preparation.
6. Attend and assist City staff at presentation.

J. Project Administration

**PRODUCTS**
Verde Design will provide the following products as outlined in the above Scope of Services:

A. Meeting reports
B. Graphics - Electronic copy in JPEG or PDF format
C. Site analysis graphic
D. Community on-line survey and results at three intervals
E. Programming options and graphics
F. Conceptual alternative graphics and costs
G. Draft master plan graphics and costs
H. Final draft master plan graphics, costs and report.
I. Community meeting presentation
J. City Council presentation

**PROJECT TIMELINE**
Verde Design proposes the following general timeline for design:

A. Master Plan Development — Approximately Twelve Weeks

**CLIENT'S RESPONSIBILITIES**
In order to complete the items described in Scope of Services above, we respectfully request that the City provide the following information:

1. Any available construction, utility or record drawings of the project area.
2. Program use criteria by the City's athletic user groups.
3. Any specific owner requests regarding field design and maintenance.
4. Any new development plans related to the project site.
5. Applicable City standards and guidelines.

**SPECIAL PROVISIONS**

A. Without attempting to be all-inclusive and for purposes of clarity, the following items are specifically not included in the Scope of Services:

1. Meetings other than those listed
2. Renderings and presentations to public bodies other than those listed
3. Architecture design
4. Structural, Geotechnical, Mechanical Engineering services
5. Construction documents
6. Site topographical survey
7. Geotechnical investigation / report
8. CEQA documents
9. Design for areas not identified in the project understanding
10. Signage design

Exhibit B Schedule of Compensation Rates

# Verde Design, Inc.

## Charge Rate Schedule

**Effective until December 31, 2021**

The following chart outlines the current charge rate for professional and office costs. Reimbursable rates and expenses are shown at the bottom.

### *Project Rates*

| | |
|---|---|
| Principal | $245.00 per hour |
| Project Manager/Construction Manager | |
| Level Four | $230.00 per hour |
| Level Three | $210.00 per hour |
| Level Two | $175.00 per hour |
| Level One | $160.00 per hour |
| IT Manager | $175.00 per hour |
| CAD Manager | $170.00 per hour |
| Project Designer | $155.00 per hour |
| Job Captain/Staff Engineer/Construction Administrator | $145.00 per hour |
| Draftsperson Level II | $130.00 per hour |
| Draftsperson Level I | $125.00 per hour |
| Project Administrator | $85.00 per hour |
| Intern | $75.00 per hour |

### *Reimbursable Rates*

| | |
|---|---|
| Blueprints, Printing and Reproductions | Cost plus 10% |
| Sub Consultant Services | Cost plus 10% |

### *Reimbursable Expenses*

| | |
|---|---|
| Blueprints and Reproductions | Travel Expenses |
| Photography | Parking and Toll Expenses |
| Models and Renderings | Permit Fees |
| Postage/Overnight Mail Service | Courier Delivery Service |

# EXHIBIT C
# SCHEDULE OF PERFORMANCE

**The project shall be completed within 6 months from issuance of notice to proceed.**

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: Lynette Kong, Associate Engineer
APPROVED BY: City Manager

## APPROVE AN IMPROVEMENT AGREEMENT WITH LEVEL 10 CONSTRUCTION, LP

**RECOMMENDATION(S)**

1. Approve and authorize the City Manager to execute an Improvement Agreement with Level 10 Construction, LP; and
2. Authorize the recordation of the Improvement Agreement.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

| **Ongoing Priorities** | **2020-2021 Strategic Priorities** |
|---|---|
| Protecting the Environment and Preserving Open Space and Agricultural Land | Economic Development |
| Maintaining Infrastructure | |

**GUIDING DOCUMENTS**

Morgan Hill 2035 General Plan

**REPORT NARRATIVE:**

The Level 10 Construction Corporation Yard project is a proposed 70,857 sq. ft. single story, high-bay warehouse with an 8,130 sq. ft. two-story office located on the southeast corner of the Railroad Avenue and Barrett Avenue intersection with Assessor's Parcel Number 817-32-057 (Attachment 1). As required by the project's conditions of approval for the Design Review Permit (SR2019-0033), the developer is required to enter into an Improvement Agreement (Attachment 2) with the City of Morgan Hill and provide a financial guarantee covering the project's public improvements

The developer has furnished the City with the necessary documents to complete the processing of the Improvement Agreement by providing the surety bonds and insurance for the project's proposed public improvements.

Staff recommends that the City Council approve the Improvement Agreement and authorize the City Manager to sign and record the Improvement Agreement on behalf of the City.

**COMMUNITY ENGAGEMENT: Inform**

Notification of the Development Services Director's consideration of the project's Design Review Permit application (SR2019-0033) was mailed out on July 22, 2020 to all property owners within 300 feet of the project boundaries.

A second notification for the Development Services Director's consideration of the project's amended Design Review Permit application (AAE2020-0007) was mailed out on November 30, 2020 to all property owners within 300 feet of the project boundaries and published in the newspaper on December 4, 2020.

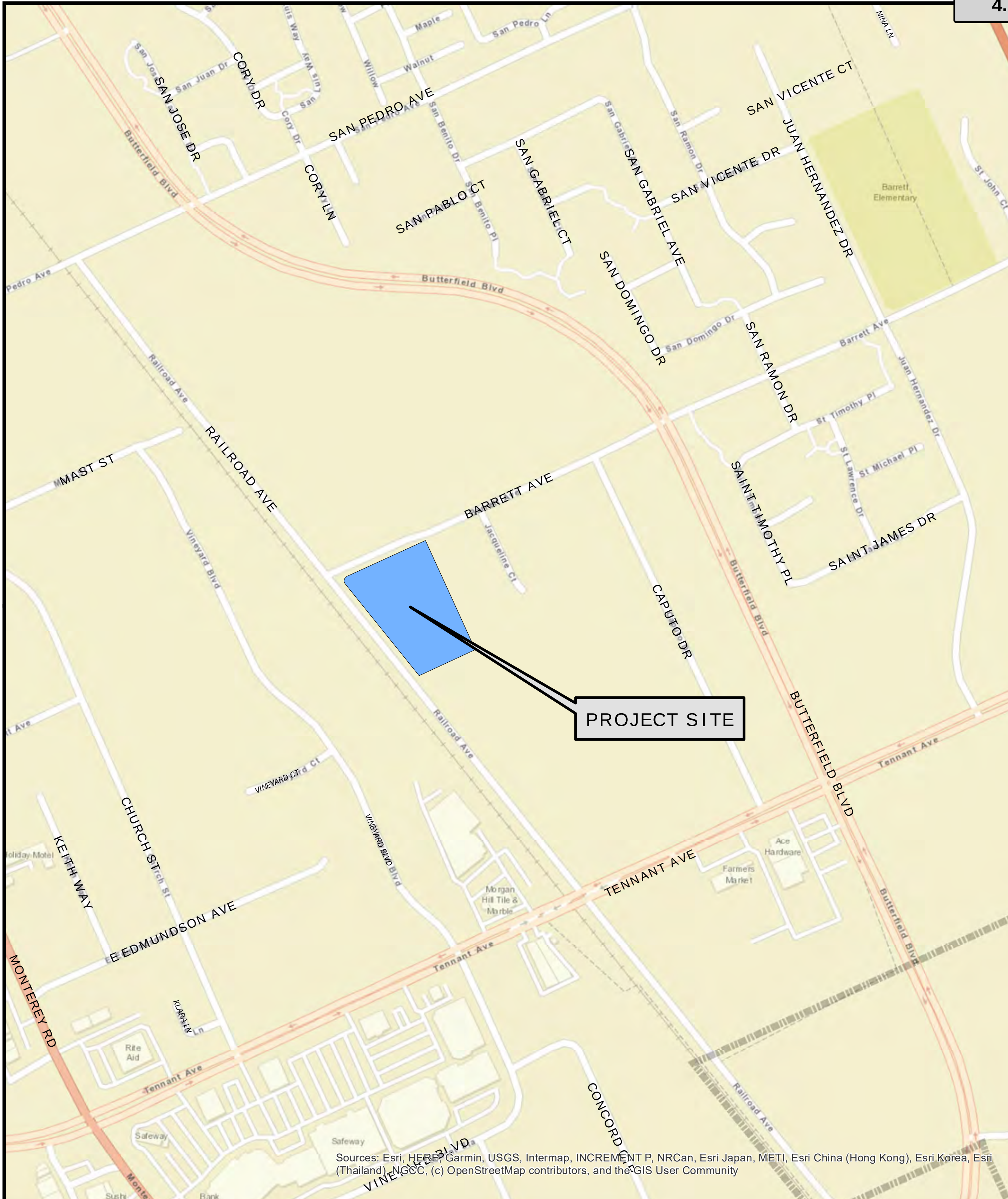
**ALTERNATIVE ACTIONS:**
There are no feasible alternative actions on the approval of the Improvement Agreement as the developer has furnished the necessary documents to complete the processing of the Improvement Agreement.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
On May 5, 2021, City Council approved an Impact Fee Freeze Agreement with Level 10 Construction, LP for the proposed project's 79,000 sq. ft. industrial building located on Railroad Avenue.

**FISCAL AND RESOURCE IMPACT:**
Development review costs for this project are paid from development processing fees. The public improvements to be constructed under this agreement are valued at $924,825.

**CEQA (California Environmental Quality Act):** Categorical Exemption
Pursuant to CEQA Section 15332, the project is considered exempt from CEQA (In-Fill Development Project), and does not meet any of the exceptions to categorical exemptions set forth in Section 15300.2 of the CEQA Guidelines.

**LINKS/ATTACHMENTS:**
1. Site Map
2. Improvement Agreement




CITY OF MORGAN HILL
Land Development Engineering
Engineering and Utilities Department
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SITE MAP
LEVEL 10 CORPORATION YARD
APN-817-32-057

0 250 500 1,000 1,500 2,000 Feet

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF MORGAN HILL
17575 PEAK AVENUE
MORGAN HILL, CA 95037

(RECORD AT NO FEE PURSUANT TO GOVERNMENT
CODE SECTION 27383)

THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

# IMPROVEMENT AGREEMENT

Level 10 Construction, LP, a California Limited Partnership Company
16290 Railroad Avenue
APN: 817-32-057
Level 10 Corporation Yard

THIS AGREEMENT is made on this _____ day of ________, 20__, by the CITY OF MORGAN HILL, a municipal corporation ("CITY"), and LEVEL 10 CONSTRUCTION, LP, a California Limited Partnership Company ("PROPERTY OWNER").

## RECITALS

The following Recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Morgan Hill Municipal Code Chapter 12.02.

2. PROPERTY OWNER has filed a Development Application and supporting documents on the property with the address of **16290 Railroad Avenue**, and the **APN: 817-32-057** having the development name of **Level 10 Corporation Yard** (“Development”).

3. CITY requires as a condition of approval of the Development Permit, as described on said permit, that certain improvements be installed by PROPERTY OWNER as shown on the fully executed Development Improvement Plans entitled **Improvement Plans for Level 10 Corporation Yard** (“Improvements”), on file with CITY and incorporated herein by this reference.

4. PROPERTY OWNER has been unable to complete, prior to the issuance of the Development Permit, all of the Improvements required by CITY to the satisfaction of the City Engineer.

5. PROPERTY OWNER is required by the terms of the Morgan Hill Municipal Code to improve all streets, highways, or public areas which are part of the Development, including but not limited to necessary paving, curbs, sidewalks, catch basins, water mains, culverts, storm drains, and sanitary sewers, in accordance with the plans and specifications on file with the City Engineer.

6. To assure CITY that PROPERTY OWNER will complete all the work and Improvements required for the Development, the parties have entered into this Agreement.

**AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement**. This term of this Agreement shall be six (6) months from the date of issuance of the Development Permit ("Term") unless extended by written agreement.

2. **Improvements**. PROPERTY OWNER agrees to construct the Improvements in a good and workmanlike manner in accordance with the plans and documents filed with and approved by CITY in conjunction with the Development, all of which are incorporated herein by reference. These items of the Improvements shall be completed, constructed and installed at PROPERTY OWNER's sole expense unless agreed to otherwise by CITY.

3. **Rights-of-Way**. Except as otherwise provided by this Agreement, CITY can hold without acceptance or recordation all lands, rights-of-way, and easements offered for dedication. All such offers shall, however, remain open, and shall constitute irrevocable offers of dedication in accordance with the Government Code. All such offers may be accepted and recorded by CITY in its sole discretion at any later date without further notice to PROPERTY OWNER as provided by law. By way of explanation only, it is the current intention of CITY to accept all or part of the irrevocable offers to dedicate upon acceptance of the Improvements called for in this Agreement.

4. **Improvements: Time Limits**. PROPERTY OWNER agrees to cause all Improvements to be made and constructed to comply with all requirements of Morgan Hill Municipal Code Chapter 12.02, according to the improvement plans for the Development approved by the City Engineer and including any changes or alteration in the Improvements required by the City Engineer. The Improvements shall be completed utilizing CITY standards and specifications. PROPERTY OWNER agrees to complete the Improvements prior to the expiration of this Agreement, or the issuance of the certificate of occupancy, whichever is earlier; provided however, the City Manager may extend the deadline for completion by not more than six (6) months at his or her reasonable discretion and determination that granting the extension will not be detrimental to the public welfare. No extension of this deadline for completion shall be made except upon the basis of a written application made by PROPERTY OWNER stating fully the ground for the application and the facts relied upon for an extension.

It is further agreed by and between PROPERTY OWNER and CITY that any extension granted shall in no way affect the validity of this Agreement or release the surety(ies) on any bond attached hereto or the financial institution guaranteeing the same. PROPERTY OWNER further agrees to maintain the securities described in Section 6 in full force and effect during the terms of this Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by CITY.

In the event that PROPERTY OWNER shall fail to complete the Improvements within the time provided by this Agreement, CITY may in its sole discretion and in addition to any other remedy provided in this Agreement or by law, enter upon the Development and complete the Improvements and recover the full cost and expense of construction from PROPERTY OWNER, PROPERTY OWNER's successors and assigns, PROPERTY OWNER's Performance/Labor & Material Bonds associated with this Development, or from the then owner of the Development, and/or place a lien upon the Development property for the cost and expense. Any and all CITY costs shall include but not be limited to administrative and attorney costs.

5. **Acquisition and Dedication of Easements or Rights-of-Way**. If any of the Improvements is to be constructed or installed on land not within the Development or already existing public right-of-way, no construction or installation shall be commenced before the irrevocable offer of dedication or conveyance to CITY of appropriate rights-of-way, easements or other interest in real property, and appropriate authorization from PROPERTY OWNER to allow construction or installation of the Improvements or work has been obtained and paid for by PROPERTY OWNER.

6. **Bond Requirements**. To secure the performance of each Improvement required under this Agreement and to ensure full payment to all persons furnishing or supplying labor or materials for each Improvement required, PROPERTY OWNER shall provide to CITY concurrently with the execution of this Agreement, payment and performance bonds each in the amount of 100% of the total estimated cost of the Improvements as determined by the City Engineer,. A performance bond to secure faithful performance of this Agreement as required by Section 12.02.160 of the Morgan Hill Municipal Code for performance shall be provided in substantially the form set forth in Exhibit B. A payment bond to secure full payment to all persons furnishing or supplying labor or materials as required by Section 12.02.160 of the Morgan Hill Municipal Code for labor and materials shall be provided in substantially the form set forth in Exhibit C. PROPERTY OWNER shall provide an additional guarantee and warranty security (in substantially the form set forth in Exhibit D) of fifty (50%) percent of the cost of construction of the Improvements to guarantee and warranty the Improvements for a period of one year following its completion and acceptance against any defective work or labor done, or defective materials furnished, as required by Section 12.02.170 of the Morgan Hill Municipal Code.

Improvements and the City Engineer's Estimated Costs of Improvements as of **July 22, 2021** are attached hereto as Exhibit "A".

Any bonds submitted under this Agreement shall be executed by a surety company authorized to write the same in the State of California, and subject to the review and approval of the City's risk manager. All required securities shall be in a form approved by the City Attorney. The bonds shall be executed on CITY forms by a surety authorized to do business in the State of California and shall be approved by the City Attorney and the City Engineer. Submittal of the Performance/Labor & Material Bonds is a requirement prior to CITY's issuance of an encroachment permit to do work in CITY's right-of-way. Submittal of the Warranty Bond is a requirement prior to the City Engineer's consideration of acceptance of the public improvements.

Note: If Cash Deposit Agreement Guaranteeing Improvements is utilized for security purposes, the Cash Deposit Agreement amount shall be two hundred (200%) percent of the aforementioned City Engineer's Estimated Costs of Improvements. In lieu of the above, CITY will accept a certificate of deposit in CITY's name with escrow instructions acceptable to the City Engineer, subject to the approval of the City Attorney.

The release of any securities shall be governed by the provisions of Section 12.02.170 of the Morgan Hill Municipal Code.

7. **Irrevocability of Security**. The securities provided under this Agreement shall be irrevocable, shall

not be limited as to time, and may be released only upon the written approval of the City Engineer and City Council.

8. **Duty to Warn**. PROPERTY OWNER shall give adequate warning to the public of each and every dangerous condition which may exist in the Improvements, and will take all reasonable actions to protect the public from any dangerous condition.

9. **Warranty**. PROPERTY OWNER guarantees and warrants the Improvements required by this Agreement and agrees to remedy any defects in the Improvements arising from faulty or defective materials or construction occurring within twelve (12) months after acceptance by CITY of said Improvements. Following notice, PROPERTY OWNER shall, without delay or cost to CITY, repair, replace, or reconstruct any defective or unsatisfactory portion of Improvements. CITY may, at its sole option, perform the repair or replacement itself if PROPERTY OWNER has failed to commence repair within twenty (20) days after CITY has mailed written notice to PROPERTY OWNER. In such event, PROPERTY OWNER agrees to pay the cost of repair and replacement, plus 15%, by CITY; and CITY may recover such costs as a lien against the Development. CITY may proceed immediately to make repairs should an emergency arise without waiving its rights of recovery against PROPERTY OWNER.

10. **Failure of Performance**. In addition to the other remedies provided by this Agreement, CITY shall have recourse to the security given. In the event that CITY seeks recourse against any security, CITY shall have recourse against PROPERTY OWNER for any and all amounts necessary to complete the obligation. All administrative costs, including attorneys' fees shall be a proper charge against the security and PROPERTY OWNER pursuant to Government Code. The right of CITY to draw upon or utilize the security is additional and not in lieu of any other remedy available to CITY at law or in equity. The parties agree that the estimated costs and security amounts may not reflect the actual cost of construction or installation of Improvements, and therefore, CITY damages for PROPERTY OWNER's default shall be measured by the cost of completing the required Improvements.

11. **Certificate of Occupancy**. PROPERTY OWNER understands that CITY will expect completion, to the satisfaction of CITY, of specific public improvements as well as private utility improvements prior to CITY Approval of a Certificate of Occupancy for any building on the Development property. The specific improvements shall include activation of all public utilities (water, sewer, storm drain); activation of all private utilities (electric, gas, phone) except for cable; street lights turn-on request filed with P G & E; and full street improvements (curb-gutter and paving with/without final lift) from existing public street to building under consideration for Certificate of Occupancy. PROPERTY OWNER, furthermore, agrees to so inform successor in lot interest should lot be transferred to another party prior to CITY acceptance of public improvements.

12. **Final Toxic Report**. Where applicable, PROPERTY OWNER hereby agrees to furnish the City Attorney with a copy of the Final Toxic Report issued by the appropriate licensed consultant on the proposed Development. This report must be received prior to final acceptance of on-site improvements and issuance of certificate of occupancy.

13. **Public Improvements Fee Schedule**. PROPERTY OWNER shall pay the following sums in cash to CITY pursuant to the provisions of Resolution 1383 and any amendments thereto. These sums shall be paid to CITY at the time of issuance of the Development Permit, and shall be in accordance with the Department of Public Works Fee Schedule attached hereto demonstrating a current Total Fee Obligation of

**$810,672**. All Fees are estimated and may be increased by CITY subject to current resolutions and ordinances. These fees are subject to a minimum annual revision. PROPERTY OWNER consents to increases in these fees. This Agreement shall not be construed to fix or freeze fees as of any point prior to issuance of Development Permits.

All development fees shall be those in effect at the time of the issuance of the Development Permit for this Development. This Agreement does not entitle the developer to any permit including a grading permit. A separate application for a grading permit should be made to the Building Department.

14. **Other Agreements Associated with This Improvement Agreement:** The following "checked off" Agreements are understood to be associated with this Agreement and have been fully executed prior to or concurrent with this Agreement:

[ ] CITY "Streets" Reimbursement Agreement (CITY Ordinance 982)

> PROPERTY OWNER acknowledges and agrees that the property is subject to a Reimbursement Agreement whereby PROPERTY OWNER must reimburse CITY for all costs associated with off-site improvements completed by the CITY and/or others or to be completed by CITY and/or others. PROPERTY OWNER agrees to pay CITY for all sums already incurred under the reimbursement agreement prior to issuance of any building permits. If the improvement has not been completed by CITY and/or others, then PROPERTY OWNER or successor-in-interest agrees to fully reimburse CITY for all costs incurred by CITY and/or others in constructing the improvements.

[ ] CITY Public/Private Utility Reimbursement Agreement
[ ] Landscape & Lighting Maintenance Assessment District Annexation
[ ] Improvements Deferral Agreement
[X] Impact Fee Freeze Agreement

15. **Insurance Requirements**.

Commencement of Improvements. Before beginning construction of the improvements, PROPERTY OWNER is required to 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 PROPERTY OWNER and its subcontractors relating to or arising from the performance of work associated with the Improvements, and must remain in full force and effect at all times during the period covered by the Agreement, including any extensions of time as may be granted, and until such time as the Improvements have been accepted for maintenance by CITY. 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. Any deductibles or self-insured retentions must be declared to and approved by City. Coverages may be provided by PROPERTY OWNER's General Contractor if PROPERTY OWNER is not directly insuring such exposures under an “Owners and Contractors Protective Liability Policy (OCP)” on which CITY would be an additional insured. If PROPERTY OWNER will utilize the services of a General Contractor to perform all of the work associated with the Improvements, then PROPERTY OWNER may opt to have all coverages provided by PROPERTY OWNER’s General Contractor, provided that a written contract is executed between PROPERTY OWNER and the General Contractor whereby the written contract specifically required General Contractor to fulfill all of the City insurance requirements as outlined in this Agreement, including all endorsements in favor of the City. Verification of the written contract must be provided to City upon request. If PROPERTY OWNER fails to provide any of the required coverage in full compliance with the requirements outlined in this Agreement, CITY may, at its sole discretion, purchase such coverage at PROPERTY OWNER's expense and deduct the cost from payments due to PROPERTY OWNER, assess payment against Development, or terminate the Agreement for default. Any deductibles or self-insured retentions must be declared to and approved by City. PROPERTY OWNER further understands that CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days' notice provided to PROPERTY OWNER, at any time as deemed necessary to protect the interests of CITY.

(a) Policies and Limits. The following insurance policies and limits are required for this Agreement:

(1) Commercial General Liability Insurance ("CGL"): PROPERTY OWNER shall maintain CGL and shall include coverage for liability arising from PROPERTY OWNER's or its subcontractor's acts or omissions in the performance of work associated with the Improvements against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) five million dollars ($5,000,000.00) combined single limit each occurrence and either a general aggregate limit of ten million dollars ($10,000,000.00) or a general aggregate limit of five million dollars ($5,000,000) as applied on a "per project" or "per location" basis, or (ii) the maximum amount of such insurance available to PROPERTY OWNER under PROPERTY OWNER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

a. CGL policy may not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

b. CGL policy must include blanket contractual and completed operations.

c. CGL policy will apply as though separate policies have been issued to each insured ("separation of insureds").

(2) Workers' Compensation Insurance and Employer's Liability: PROPERTY OWNER shall maintain Workers Compensation coverage, as required by law. The policy must comply with the requirements of the California Workers' Compensation Insurance and Safety Act and provide protection 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 PROPERTY OWNER under PROPERTY OWNER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater. If PROPERTY OWNER is self-insured, PROPERTY OWNER must provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

(3) Automobile Liability: PROPERTY OWNER shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if PROPERTY OWNER does not own automobiles, then PROPERTY OWNER 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, or (ii) the maximum amount of such insurance available to PROPERTY OWNER under PROPERTY OWNER's combined insurance

policies (including any excess or "umbrella" policies), whichever is greater.

(4) Pollution (Environmental) Liability: The performance of PROPERTY OWNER's work or service under this Agreement involves handling of hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials. PROPERTY OWNER shall procure and maintain Pollution Liability covering PROPERTY OWNER'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 PROPERTY OWNER under PROPERTY OWNER's combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

(b) Required Endorsements. PROPERTY OWNER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

(1) ALL Policies:

"Waiver of Subrogation" - Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against CITY and CITY's elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

(2) ALL policies except Workers Compensation:

a. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds.

b. "Primary and Non-Contributing" - Insurance shall be primary non-contributing.

(c) Subcontractors. PROPERTY OWNER must ensure that each subcontractor is required to maintain the same insurance coverage required under this Section 15, with respect to its performance of work associated with the Improvements, including those requirements related to the additional insureds and waiver of subrogation.

(d) 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.

(e) Certificates. PROPERTY OWNER shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, CONSULTANT shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to the PROPERTY OWNER's agreement with CITY shall be reduced, canceled, allowed to expire, or materially changed except after thirty (30) days' notice by the insurer to CITY, unless due to non-payment of premiums, in which case ten days written notice must be made 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

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

17. **Non-Discrimination**. PROPERTY OWNER covenants there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, disability, national origin, or ancestry, in any activity pursuant to this Agreement.

18. **Independent Contractor**. It is agreed to that PROPERTY OWNER shall act and be an independent contractor, and not an agent or employee of CITY.

19. **Compliance with Law**. PROPERTY OWNER shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

20. **Right to Inspect and Inspection Fees**. PROPERTY OWNER shall at all times maintain proper facilities and provide safe access for inspection for CITY and its employees to all parts of the Improvements. PROPERTY OWNER shall pay and reimburse CITY for all expenses incurred by CITY for inspecting and checking all work to be performed under the provisions of the Municipal Code or this Agreement. CITY Engineering plan checking and field improvement inspection costs are included in the Department of Public Works Fee Schedule which may be revised from time to time.

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

22. **Notices**. All notices shall be personally delivered or mailed, via first class mail to the below listed addresses. 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.

a. Address of PROPERTY OWNER is as follows:

LEVEL 10 CONSTRUCTION, LP
1050 Enterprise Way, Suite #250
Sunnyvale, CA 94089

b. Address of CITY is as follows: With a copy to:

| | |
|---|---|
| City Engineer<br>City of Morgan Hill<br>17575 Peak Avenue<br>Morgan Hill, CA 95037 | City Clerk<br>City of Morgan Hill<br>17575 Peak Avenue<br>Morgan Hill, CA 95037 |

23. **PROPERTY OWNER'S Representations**. This Agreement shall include application or items submitted by PROPERTY OWNER to CITY'S Planning Department, Building Department, Planning Commission, and City Council. In the event of any inconsistency between their representations and this Agreement, this Agreement shall govern.

24. **Licenses, Permits and Fees.** PROPERTY OWNER shall obtain a CITY Business License, all permits, and licenses as may be required by this Agreement.

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

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

27. **Limitations Upon Subcontracting and Assignment**. Neither this Agreement nor any portion shall be assigned by PROPERTY OWNER without prior written consent of CITY.

28. **Authority to Execute**. The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

29. **Counterparts**. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

30. **Indemnification**. PROPERTY OWNER agrees to protect, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by PROPERTY OWNER, PROPERTY OWNER'S agents, officers, employees, subcontractors, or independent contractors hired by PROPERTY OWNER. The only exception to PROPERTY OWNER'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by PROPERTY OWNER.

31. **Modification**. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written. This Agreement may be modified on provisions waived only by

subsequent mutual written agreement executed by CITY and PROPERTY OWNER.

32. **California Law**. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Santa Clara County Superior Court.

33. **Interpretation**. This Agreement shall be interpreted as though prepared by both parties.

34. **Preservation of Agreement**. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

35. **Agreement Runs With the Land**. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties. It shall be recorded in the Office of the Recorder of Santa Clara County concurrently with the issuance of the Development Permit and shall constitute a covenant running with the land and an equitable servitude upon the Development real property.

36. **Recording**. It shall be the responsibility of CITY to cause the executed Agreement to be recorded.

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

[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: | THE CITY OF MORGAN HILL |
| ______________________________ | ______________________________ |
| Michelle Bigelow, City Clerk | Christina J. Turner, City Manager |
| Date: ________________________ | Date: ________________________ |
| APPROVED AS TO FORM: | "PROPERTY OWNER" |
| ______________________________ | ______________________________ |
| Donald A. Larkin, City Attorney | By: |
| Date: ________________________ | Title: ________________________ |
| | Date: ________________________ |
| | ______________________________ |
| | By: |
| | Title: ________________________ |
| | Date: ________________________ |

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On __________________ 20__, before me, _____________________ a Notary Public in and for said County and State, personally appeared ___________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On __________________ 20__, before me, _____________________ a Notary Public in and for said County and State, personally appeared ___________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

# EXHIBIT A
## IMPROVEMENTS AND ESTIMATED COSTS OF IMPROVEMENTS
## AS OF JULY 22, 2021

Date: 07/22/21

Project #: 219241
Project: Level 10 Corporation Yard
Prepared By: SPP

SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS

**Engineering Opinion of Probable Construction Costs**

## DEMOLITION

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 1 | Tree Removal | EA | 5 | $880.00 | $4,400 |
| 2 | Sawcut | LF | 1730 | $3.10 | $5,363 |
| 3 | Remove Fire Hydrant | EA | 2 | $3,500.00 | $7,000 |
| 4 | AC Paving | SF | 20650 | $1.16 | $23,954 |
| 5 | Water Service Abandonment | EA | 1 | $2,500.00 | $2,500 |
| | | | | **TOTAL** | **$43,217** |

## EARTHWORK

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 6 | Clear and Grub | SF | 12275 | $0.15 | $1,841 |
| | | | | **TOTAL** | **$1,841** |

## PAVING

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 1 | Concrete paving - sidewalk | SF | 4755 | $5.50 | $26,153 |
| 2 | Concrete Driveway including sidewalk, gutter | EA | 4 | $5,000.00 | $20,000 |
| 3 | 4" AC on 11" AB | SF | 31835 | $5.75 | $183,051 |
| 4 | 2" Mill & Conform | SF | 4800 | $1.25 | $6,000 |
| 5 | Road thermoplastic striping | LF | 2157 | $2.00 | $4,314 |
| 6 | No Parking Signage | EA | 5 | $150.00 | $750 |
| | | | | **TOTAL** | **$240,268** |

## CURB AND GUTTER

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 7 | 6" curb and gutter | LF | 900 | $23.00 | $20,700 |
| | | | | **TOTAL** | **$20,700** |

## ELECTRIC/TELECOM

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 8 | Communications Vault Lid Replacement | EA | 1 | $2,000.00 | $2,000 |
| 9 | Underground of Telecom System | EA | 1 | $25,000.00 | $25,000 |
| 10 | Street Lights including Pull Boxes | EA | 6 | $8,268.00 | $49,608 |
| 11 | Telecom conduit will pull rope | LF | 810 | $4.00 | $3,240 |
| | | | | **TOTAL** | **$79,848** |

## SANITARY SEWER

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 12 | 6" PVC SDR-26 | LF | 103 | $40.00 | $4,120 |
| 13 | Connection to existing sewer main | EA | 2 | $2,500.00 | $5,000 |
| | | | | **TOTAL** | **$9,120** |

## STORM DRAINAGE

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 14 | 4" PERF PIPE | LF | 210 | $20.00 | $4,200 |
| 22 | 10" PVC SDR 35 | LF | 239 | $20.00 | $4,780 |
| 23 | 15" RCP | LF | 127 | $65.00 | $8,255 |
| 24 | 18" RCP | LF | 42 | $120.00 | $5,040 |
| 25 | Connection to existing manhole | EA | 2 | $2,500.00 | $5,000 |
| 26 | SD Cleanout | EA | 5 | $250.00 | $1,250 |
| 27 | Catch basin - 24" square | EA | 6 | $2,000.00 | $12,000 |
| 28 | SD Manhole | EA | 1 | $5,000.00 | $5,000 |
| 29 | Flow-Through Planter | SF | 925 | $200.00 | $185,000 |
| 30 | Filterra Treatment System | EA | 1 | $30,000.00 | $30,000 |
| | | | | **TOTAL** | **$260,525** |

## WATER

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 31 | 2" Water line | LF | 95 | $62.00 | $5,890 |
| 32 | 6" DIP | LF | 111 | $65.00 | $7,215 |
| 33 | 8" DIP | LF | 55 | $63.00 | $3,465 |
| 34 | 8" Gate Valve | EA | 1 | $1,500.00 | $1,500 |
| 35 | 6" Gate Valve | EA | 3 | $1,100.00 | $3,300 |
| 36 | 2" Gate Valve | EA | 2 | $500.00 | $1,000 |
| 37 | 8" Detector check valve assembly and vault | EA | 1 | $15,000.00 | $15,000 |
| 38 | Fire Department Connection | EA | 1 | $2,000.00 | $2,000 |
| 39 | Backflow preventer | EA | 2 | $4,923.00 | $9,846 |
| 40 | Fire hydrant | EA | 3 | $6,500.00 | $19,500 |
| 41 | Connection to existing water main | EA | 6 | $2,500.00 | $15,000 |
| | | | | **TOTAL** | **$83,716** |

**LANDSCAPING**

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 42 | Landscaping (Based on Square Footage) | SF | 1710 | $2.25 | $3,848 |
| | | | | **TOTAL** | **$3,848** |

**MISCELLANEOUS**

| Item | Description | Unit | Quantity | Unit Price | Bid Amount |
|---|---|---|---|---|---|
| 43 | Mobilization | LS | 1 | $10,000.00 | $10,000 |
| 44 | Traffic control | LS | 1 | $5,000.00 | $5,000 |
| 45 | 12" White STOP Bar | LF | 10 | $9.00 | $90 |
| 46 | Standard Corner Handicap ramp | EA | 1 | $3,000.00 | $3,000 |
| | | | | **TOTAL** | **$18,090** |

| | no. of years | % | |
|---|---|---|---|
| | | **Sub Total** | **$761,173** |
| **General Conditions = 15%** | N/A | 15 | **$114,176** |
| **Design Contingency = 3.5%** | N/A | 3.5 | **$26,641** |
| **Escalation = 3% per year** | 1 | 3 | **$22,835** |
| **TOTAL** | | | **$924,825** |

Notes:
1. This Preliminary opinion of probable construction costs should be used only as a guide. There is no responsibility assumed for fluctuations in cost or quantity of material, labor or components.

**EXHIBIT "B"**
**FORM OF PERFORMANCE BOND**
**(100% of Engineer's Estimate)**

Bond No.: ____________
Premium: ____________

Whereas, the City Council of the City of Morgan Hill, State of California, and Level 10 Construction, LP (hereinafter designated as "principal") have entered into an Improvement Agreement:

**Level 10 Construction, LP**
**APN: 817-32-057**
**16290 Railroad Avenue**

whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated ___________________, 20_______, and identified as project **Level 10 Corporation Yard**, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and [ENTER SURETY NAME], as surety, are held and firmly bound unto the City of Morgan Hill, hereinafter called ("City"), in the penal sum of **Nine Hundred Twenty-Four Thousand Eight Hundred Twenty-Five Dollars ($924,825)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The Surety's office is located at_________________________,
Telephone No.____________; the Surety is licensed to do business in the State of California; and the California Insurance Agent's License No., address, and telephone number are as follows:

License No.: __________________________________
Address: __________________________________
Telephone No.: __________________________________.

The non-resident agent for the Surety, if any, is a party to the transaction:

Name of non-resident agent: ____________________________________
Non-resident agent's office address: _______________________________
_______________________________________________
Telephone No.: _______________________________________________

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

Executed this ____________________ day of _______________ 20 _____ .

________________________________________
Principal

________________________________________
Principal

By: __________________________________
Surety

By: __________________________________
Attorney-in Fact

By: __________________________________
California Resident Agent

By: __________________________________
Non-resident Agent - Attorney-in-Fact

APPROVED:

________________________________________
Scott Creer, City Engineer

Date: ________________________________

APPROVED AS TO FORM:

By: __________________________________
Donald A. Larkin, City Attorney
Date: ________________________________

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On ___________________ 20__, before me, ______________________ a Notary Public in and for said County and State, personally appeared _____________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

---

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On ___________________ 20__, before me, ______________________ a Notary Public in and for said County and State, personally appeared _____________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

_______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

**EXHIBIT "C"**
**FORM OF LABOR AND MATERIAL BOND**
**(100% of Engineer's Estimate)**

Bond No.: _____________
Premium: _____________

Whereas, the City Council of the City of Morgan Hill, State of California, and Level 10 Construction, LP (hereinafter designated as "the principal") have entered into an Improvement Agreement:

**Level 10 Construction, LP**
**APN: 817-32-057**
**16290 Railroad Avenue**

whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated ____________________, 20_______, and identified as project **Level 10 Corporation Yard**, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Morgan Hill, hereinafter called "City," to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the principal and the undersigned as corporate surety, and their successors and assigns are held firmly bound unto City and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of **Nine Hundred Twenty-Four Thousand Eight Hundred Twenty-Five Dollars ($924,825)** for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety's office is located at __________________________,
Telephone No. __________; the Surety is licensed to do business in the State of California; and

the California Insurance Agent's License No., address, and telephone number as follows:

License No.: ____________________________________
Address: ____________________________________
Telephone No.: ___________________________________.

The following non-resident agent, if any, for the Surety is a party to the transaction:

Name of non-resident agent: ____________________________________,
Non-resident agent's office address: ______________________________
________________________________________________
Telephone No.: _______________________________________________.

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Executed this __________________ day of ______________ 20 ____ .

| | |
|---|---|
| ____________________________________ | ____________________________________ |
| Principal | Principal |

By: ________________________________
Surety

By: ________________________________
Attorney-in Fact

By: ________________________________
California Resident Agent

By: ________________________________
Non-resident Agent - Attorney-in-Fact

APPROVED:

____________________________________
Scott Creer, City Engineer

Date: ______________________________

APPROVED AS TO FORM:
By: ________________________________
Donald A. Larkin, City Attorney
Date: ______________________________

(Acknowledgment on following page.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On __________________ 20__, before me, _____________________ a Notary Public in and for said County and State, personally appeared ___________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

---

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On __________________ 20__, before me, _____________________ a Notary Public in and for said County and State, personally appeared ___________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

______________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

**EXHIBIT "D"**
**FORM OF WARRANTY BOND**
**(50% of Cost of Construction)**

Bond No.: ______________

Premium: ______________

Whereas, the City Council of the City of Morgan Hill, State of California (hereinafter designated as "City"), and Level 10 Construction, LP (hereinafter designated as "Principal") have entered into an Improvement Agreement (hereinafter "Agreement"):

**Level 10 Construction, LP**
**APN: 817-32-057**
**16290 Railroad Avenue**

whereby the Principal agrees to install and complete certain designated public improvements (hereinafter "Improvements"), which said Agreement, dated ____________________, 20_______, and identified as project **Level 10 Corporation Yard**, is hereby referred to and made a part hereof; and

Whereas, under the terms of said Agreement, the Principal is required to furnish a bond to guarantee and warrant the work required by said Agreement for a period of one year following the completion and acceptance by the City of the Improvements, against any defective work or labor performed, or defective materials furnished by Principal.

Now, therefore, we, the Principal and ___________________________ as Surety, are held and firmly bound unto the City of Morgan Hill in the penal sum of **Four Hundred Sixty-Two Thousand Four Hundred Twelve Dollars and Fifty Cents ($462,415.50)** for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

If Principal faithfully carries out and performs its guarantee and warranty under the Agreement, and, on due notice from City, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Principal promptly reimburses City for all loss and damage that City sustains because of Principal's failure to makes such repairs in accordance with the Agreement requirements, then Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.

Surety waives the provisions of Civil Code Sections 2819 and 2845. Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Any notice to Surety may be given in the manner specified in the Agreement and delivered or transmitted to Surety as follows:

Attn: ______________________________

Address: ___________________________

City/State/Zip: _______________________

Phone: ____________________________

Fax: ______________________________

Email: _____________________________

This Bond will be governed by California law, and the venue for any dispute pursuant to this Bond will be in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

In witness whereof, this instrument has been duly executed by the principal and surety above named.

| SURETY: | Principal: |
| --- | --- |
| Date: ____________________ | Date: ____________________ |
| s/ ________________________ | s/ ________________________ |
| Name: ____________________ | Name: ____________________ |
| Title: _____________________ | Title: _____________________ |

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**APPROVED AS TO FORM:**

By:___________________________ Date:_________________________

Donald A. Larkin, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **California**
County of **Santa Clara**

On ______________________ 20__, before me, ___________________________ a Notary Public in and for said County and State, personally appeared ______________________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

____________________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

---

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State of **California**
County of **Santa Clara**

On ______________________ 20__, before me, ___________________________ a Notary Public in and for said County and State, personally appeared ______________________________________________________ proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

____________________________________
SIGNATURE OF NOTARY PUBLIC

(ABOVE AREA FOR NOTARY SEAL)

CITY OF MORGAN HILL

# CITY OF MORGAN HILL PUBLIC WORKS DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 - Office (408)778-6480 Fax (408)779-7236

**FEE SCHEDULE: 01.15.2019**

| | | |
|---|---|---|
| **7/20/2021**<br>DATE | PER RESOLUTION 5902, EFFECTIVE JULY 1, 2006 AND PER RESOLUTION 5592, INCREASED JANUARY 15, 2009 AND PER RESOLUTION 6082, EFFECTIVE FEBRUARY 5, 2007<br>**SEE BACK PAGE FOR ADDITIONAL FEE RESOLUTIONS | **Level 10 Construction, LP**<br>NAME |
| **817-32-057**<br>TRACT / APN | | **1050 Enterprise Way, Suite #250**<br>MAILING ADDRESS |
| **16290 Railroad Avenue**<br>ADDRESS / LOT | | **Sunnyvale, CA 94089**<br>CITY, STATE, ZIP CODE |
| **(N) 70,226 SF Warehouse/Office Bldg; 8,734 SF Covered Storage**<br>PROJECT DESCRIPTION | 6/30/2024<br>FEE SCHEDULE EXPIRATION DATE | **(650) 740-8451**<br>PHONE NUMBER |

**NOTES:**

1. PRESSURE REGULATORS ARE REQUIRED ON ALL WATER SERVICES.

2. BACKFLOW PREVENTORS ARE REQUIRED ON ALL NON-RESIDENTIAL WATER SERVICES & FIRE SPRINKLER SERVICES. BACKFLOW INSPECTION FEE SHALL BE PAID PRIOR TO INSPECTION.

3. **MULTI-FAMILY** IS DEFINED AS ANY UNIT WITH TWO BEDROOMS OR LESS. **SINGLE FAMILY** IS DEFINED AS ANY UNIT WITH 3 BEDROOMS OR MORE.

☐ **THIS FEE SCHEDULE IS ESTIMATE ONLY**

LK
CALCULATED BY

MA
CHECKED BY

**BCOM2020-0070**
BUILDING PERMIT #

DATE BLD PERMIT ISSUED

**SEWER IMPACT FEES WITHIN RDA BOUNDARY**

**CHECK APPLICABLE SCENARIO BELOW**

◉ **COMMERCIAL OR INDUSTRIAL WITHIN RDA BOUNDARY**

SEWER IMPACT FOR COMMERCIAL & INDUSTRIAL PROJECTS TEMPORARILY ADJUSTED TO $0 EFFECTIVE 02/05/07 PER RES# 6082.

○ **RESIDENTIAL PROJECTS WITHIN RDCS DOWNTOWN AREA**

SEWER IMPACT FOR SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL TEMPORARILY ADJUSTED TO $0 EFFECTIVE 02/05/07.

○ **NOT IN RDA AREA BOUNDARY**

** BOTH NORMAL FEES AND ADJUSTED FEES ARE SUBJECT TO ANNUAL CPI INCREASES.

☐ **COMMERCIAL OR INDUSTRIAL SHELL**

**RDA SEWER ALLOCATION COMPLETED BY:**
(write Initials below)

______________________________

version 01.15.19 std

N:\PROJECTS\DEVELOP\PWPR 2020-0018- Railroad - Level 10\Fees\16290 Railroad - 01 PW FEES 01.15.19

## WATER FEES:

| 1. METER DEPOSIT: | | | | 650-37672 |
|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | |
| 1″ | $493 | x | 0 | = $0 |
| 1 ½″ | $1,737 | x | 0 | = $0 |
| 2″ | $2,134 | x | 2 | = $4,268 |
| 3" or larger-Time & Material + Meter Cost | | | | = $0 |
| **METER CREDITS** | | | | |
| | $493 | x | 1 | = -$493 |
| | | | **SUBTOTAL =** | $3,775 |

| 2. BACKFLOW CONST. INSPECTION: | | | | | 650-37859 |
|---|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | | |
| $66 | x | 3 | Each | = | $198 |

| 3. WATER FRONTAGE CHARGE: | | | | | | 650-37663 |
|---|---|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | | | |
| 1 Side | $70 | x | 0 | LF | = | $0 |
| 2 Sides | $39 | x | 0 | LF | = | $0 |

| 4. WATER IMPACT FEE: | | | | | | 651-37648 |
|---|---|---|---|---|---|---|
| *(Auth: Res. #5592 approved 08.21.02, Increased 01.15.19)* | | | | | | |
| a) Residential | | | | | | |
| $3,902 | /DU | x | 0 | DU | = | $0 |
| *(Single Family)* | | | | | | |
| $3,520 | /DU | x | 0 | DU | = | $0 |
| *(Multi Family)* | | | | | | |
| b) Commercial & Industrial | | | | | | |
| *(Includes Landscape Service)* | | | | | | |
| $11,076 | /AC | x | 3.64 | AC | = | $40,317 |
| **WATER CREDITS** | | | | | | |
| $11,076 | | x | 3.64 | | = | -$40,317 |
| | | | | **SUBTOTAL** | = | $0 |
| | | | | **WATER FEE TOTALS** | = | **$3,973** |

| 5. ENGINEERING & INSPECTION FEE: | | | | | 206-38734 |
|---|---|---|---|---|---|
| *(Minimum $500.00):* | | | | | |
| *(Authority: Res. #5902 approved 05.04.05, Updated 07.01.09)* | | | | | |
| ENGINEERING ESTIMATE: | | | | | $924,825 |
| DATE ENGINEERING EST. SUBMITTED: | | | | | 7/15/2021 |
| % APPLIES TO ENGINEER'S ESTIMATE | | | | | |
| 13.3% | $1 | to | $100,000 | = | $13,300 |
| 11.8% | $100,001 | to | $200,000 | = | $11,800 |
| 10.3% | $200,001 | to | $500,000 | = | $30,900 |
| 8.8% | OVER | | $500,000 | = | $37,385 |
| ENGINEERING FEE | | | | = | $93,384 |
| DEPOSIT PAID | | | | = | $10,000 |
| | | | ENGINEERING FEE TOTAL | = | **$83,384** |

| 5A. LONG RANGE PLANNING FEE: | 207-37912 |
|---|---|
| LONG RANGE PLANNING FEE (15% of E&I) = | $14,008 |

## SEWER FEES:

| 6. SEWER FRONTAGE CHARGE: | | | | | | | 640-37663 |
|---|---|---|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | | | | |
| 1 Side | $70 | /LF | x | 0 | LF | = | $0 |
| 2 Sides | $39 | /LF | x | 0 | LF | = | $0 |

| 7. SEWER IMPACT FEE: | | | | | | 641-37648 |
|---|---|---|---|---|---|---|
| *(Auth: Res. #6082 approved 02.05.07 & Res. #5592 approved 08.21.02, Increased 01.15.19).* | | | | | | |
| a) Residential | | | | | | |
| $15,269 | /DU | x | 0 | DU | = | $0 |
| *(Single Family)* | | | | | | |
| $12,923 | /DU | x | 0 | DU | = | $0 |
| *(Multi Family)* | | | | | | |
| b) Commercial & Industrial | | | | | | |
| $52.28 | /GPD | x | 3721.98 | GPD | = | $194,585 |
| $52.28 | /GPD | x | 0 | GPD | = | $0 |
| **SEWER CREDITS** | | | | | | |
| $52.28 | | x | 35.62 | | = | -$1,862 |
| **RDA ASSUMED SEWER OBLIGATION** | | | | | | |
| $15,269 | /DU | x | 0 | DU | = | $0 |
| *(Single Family)* | | | | | | |
| $12,923 | /DU | x | 0 | DU | = | $0 |
| *(Multi Family)* | | | | | | |
| $52.28 | /GPD | x | 0 | GPD | = | $0 |
| *(Commercial & Industrial)* | | | | | | |
| | | | | **SUBTOTAL** | = | $192,723 |
| | | | | **SEWER FEE TOTALS** | = | **$192,723** |

## STORM DRAIN FEES:

| 8. STORM FRONTAGE CHARGE: | | | | | | | 304-37663 |
|---|---|---|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | | | | |
| 1 Side | $116 | /LF | x | 0 | LF | = | $0 |
| 2 Sides | $57 | /LF | x | 0 | LF | = | $0 |

| 9. STORM DRAIN IMPACT FEE: | | | | | | 303-37648 |
|---|---|---|---|---|---|---|
| *(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)* | | | | | | |
| $4,142 | /DU | x | 0 | DU | = | $0 |
| *(Single Family)* | | | | | | |
| $2,154 | /DU | x | 0 | DU | = | $0 |
| *(Multi Family)* | | | | | | |
| $45,106 | /ACRE | x | 0 | AC | = | $0 |
| *(Commercial)* | | | | | | |
| $32,840 | /ACRE | x | 3.64 | AC | = | $119,538 |
| *(Industrial)* | | | | | | |
| $56,384 | /ACRE | x | 0 | AC | = | $0 |
| *(Auto Dealership)* | | | | | | |
| $1,372 | /ROOM | x | 0 | RM | = | $0 |
| *(Hotel)* | | | | | | |
| **STORM CREDITS** | | | | | | |
| $32,840 | | x | 3.64 | | = | -$119,538 |
| | | | | **SUBTOTAL** | = | $0 |
| | | | | **STORM DRAIN FEE TOTALS** | = | **$0** |

## 10a. PARK IMPACT FEE: 301-37648

*(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $5,790 *(Single Family - Sub)* | /DU | x | 0 | DU | = | $0 |
| $4,210 *(Single Family - No Sub)* | /DU | x | 0 | DU | = | $0 |
| $5,578 *(Multi Family - Sub)* | /DU | x | 0 | DU | = | $0 |
| $4,060 *(Multi Family - No Sub)* | /DU | x | 0 | DU | = | $0 |

## 10b. PARK MAINTENANCE DEV. FEE: 302-37649

| | | | | | |
|---|---|---|---|---|---|
| $0 | x | 0 | EACH | = | $0 |

**PARK CREDITS**

| | | | | |
|---|---|---|---|---|
| $0 | x | 0 | = | $0 |

**PARK FEE TOTAL = $0**

## 11. TRAFFIC IMPACT FEE: 309-37648

*(Auth: Res. #15-152 approved 06.17.15 & Res. #5592 approved 08.21.02, Increased 01.15.19).*

| | | | | | | |
|---|---|---|---|---|---|---|
| $2,005 *(Single Family)* | /DU | x | 0 | DU | = | $0 |
| $1,244 *(Multi Family)* | /DU | x | 0 | DU | = | $0 |
| $2,005 *(Commercial)* | /PHT | x | 0 | PHT | = | $0 |
| $2,005 *(Industrial)* | /PHT | x | 55.27 | PHT | = | $110,816 |

**TRAFFIC CREDITS**

| | | | | |
|---|---|---|---|---|
| $2,005 | x | 0.47 | = | -$942 |

**TRAFFIC FEE TOTAL = $109,874**

## 12. LIBRARY IMPACT FEE: 348-37648

*(Auth: Res. #5837 apprv'd 09.01.04,Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $2,126 *(Single Family)* | /DU | x | 0 | DU | = | $0 |
| $2,048 *(Multi Family)* | /DU | x | 0 | DU | = | $0 |

**LIBRARY CREDITS**

| | | | | |
|---|---|---|---|---|
| $0 | x | 0 | = | $0 |

**LIBRARY FEE TOTAL = $0**

## 13. COMMNTY/REC CTRS IMPACT FEE: 360-37648

*(Auth: Res. #15-152 apprv'd 8.17.15, increased 01.15.19)*

| | | | | | |
|---|---|---|---|---|---|
| $3,943 *(Single Family)* | /DU | 0 | DU | = | $0 |
| $3,460 *(Multi Family)* | /DU | 0 | DU | = | $0 |

**COMMUNITY/REC CENTERS CREDITS**

| | | | |
|---|---|---|---|
| $0 | 0 | = | $0 |

**PUBLIC FACILITIES FEE TOTAL = $0**

## 14. POLICE IMPACT FEE: 311-37648

*(Auth: Res. #5686 apprv'd 06.18.03, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $826 *(Single Family)* | /DU | x | 0 | DU | = | $0 |
| $798 *(Multi Family)* | /DU | x | 0 | DU | = | $0 |
| $1,793 *(Commercial)* | /ACRE | x | 0 | AC | = | $0 |
| $2,512 *(Industrial)* | /ACRE | x | 3.64 | AC | = | $9,144 |
| $2,145 *(Office)* | /ACRE | x | 0 | AC | = | $0 |
| $715 *(Auto Dealership)* | /ACRE | x | 0 | AC | = | $0 |
| $21 *(Hotel)* | /ROOM | x | 0 | RM | = | $0 |

**POLICE CREDITS**

| | | | | |
|---|---|---|---|---|
| $2,512 | x | 3.64 | = | -$9,144 |

**POLICE FEE TOTAL = $0**

## 15. FIRE IMPACT FEE: 313-37648

*(Auth: Res. #6671 approved 07.17.13, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $127 *(Single Family)* | /DU | x | 0 | DU | = | $0 |
| $121 *(Multi Family)* | /DU | x | 0 | DU | = | $0 |
| $1,668 *(Commercial)* | /ACRE | x | 0 | AC | = | $0 |
| $1,668 *(Industrial)* | /ACRE | x | 3.64 | AC | = | $6,072 |
| $2,022 *(Office)* | /ACRE | x | 0 | AC | = | $0 |
| $546 *(Auto Dealership)* | /ACRE | x | 0 | AC | = | $0 |
| $5 *(Hotel)* | /ROOM | x | 0 | RM | = | $0 |

**FIRE CREDITS**

| | | | | |
|---|---|---|---|---|
| $1,668 | x | 3.64 | = | -$6,072 |

**FIRE FEE TOTAL = $0**

## 16. PUBLIC FACILITIES IMPACT FEE: 347-37648

*(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $551 *(Single Family)* | /DU | x | 0 | DU | = | $0 |
| $530 *(Multi Family)* | /DU | x | 0 | DU | = | $0 |
| $1,214 *(Commercial)* | /ACRE | x | 0 | AC | = | $0 |
| $1,214 *(Industrial)* | /ACRE | x | 3.64 | AC | = | $4,419 |
| $1,443 *(Office)* | /ACRE | x | 0 | AC | = | $0 |
| $487 *(Auto Dealership)* | /ACRE | x | 0 | AC | = | $0 |
| $14 *(Hotel)* | /ROOM | x | 0 | RM | = | $0 |

**PUBLIC FACILITIES CREDITS**

| | | | | |
|---|---|---|---|---|
| $1,214 | x | 3.64 | = | -$4,419 |

**PUBLIC FACILITIES FEE TOTAL = $0**

| **17. MAP CHECK FEE:** | | | **206-38716** |
|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | |
| PARCEL MAP: | $5,146 | = | $0 |
| TRACT MAP: | $8,111 | = | $0 |
| LOT LINE ADJ/MERGER: | $2,843 | = | $0 |

| **18. UNDERGROUNDING UTILITIES:** | | | | | | **350-37649** |
|---|---|---|---|---|---|---|
| *(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)* | | | | | | |
| 1 Side | $730 | x | 496 | LF | = | $362,080 |
| 2 Sides | $368 | x | 0 | LF | = | $0 |

| **19. BURROWING OWL MITIGATION:** | | | | | **232-38145** |
|---|---|---|---|---|---|
| *(Authority: Res. #5765 approved 01.21.04, Increased 07.01.18)* | | | | | |
| $214 *(Residential)* | /DU | 0 | DU | = | $0 |
| $1,496 *(Commercial/Industrial)* | /AC | 3.64 | AC | = | $5,445 |

| **20. RDCS MEASURE C FEES:** | | | |
|---|---|---|---|
| **School Pedestrian Safety** | **(355-37655)** | = | $0 |
| **Public Facilities** | **(346-37649)** | = | $0 |
| **Park Development** | **(302-37649)** | = | $0 |
| **Public Fac. - Circulation** | **(346-37649)** | = | $0 |
| **TOTAL RDCS MEASURE C FEES** | | = | **$0** |

| **OTHER:** | | | |
|---|---|---|---|
| **GIS/Technology Fee (5% of E&I Fee)** | **(206-37913)** | = | $4,169 |
| **Engineering Services** | **(206-38719)** | = | $21,229 |
| **Public Easement Review** | **(206-38737)** | = | $2,433 |
| **Storm Water Runoff Management Plan** | **(206-38734)** | = | $2,725 |
| **SWPPP Document Review 1st** | **(232-37687)** | = | $1,168 |
| **SWPPP Offsite Inspection - 6 month** | **(232-37688)** | = | $6,097 |
| **Post Construction BMP Initial/Base Setup** | **(206-37721)** | = | $620 |
| **Post Construction Each Additional BMP** | **(206-37721)** | = | $744 |
| **TOTAL FEES DUE** | | = | **$810,672** |

Notes & Comments:

1) THE IMPACT FEES FOR THIS PROJECT IS LOCKED TO THE FISCAL YEAR 2019-2020 FEE SCHEDULE. THIS IS DUE TO THE IMPACT FEE FREEZE AGREEMENT BETWEEN THE CITY AND LEVEL 10 CONSTRUCTION, LP, AND IS IN EFFECT UNTIL 6/30/2024. (Copy of Fee Freeze Agreement is attached for reference).

2) Proposed Use: (N) 70,226 SF Warehouse/Office Bldg; 8,734 SF Covered Storage (Industrial Use)

Office: 7,973 SF/78,960 SF = 0.10 < 0.20 (Office building area to be included in the warehouse building area/industrial use for applicable impact fee calculations).

3) Traffic Impact Fee:

*"ITE Trip Generation Manual", 10th Edition - Code 110 "General Light Industrial"; Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.*

*Existing use: 672 SF * 0.7 PHT/1000 SF = 0.47 PHT*

New use: 78,960 SF * 0.7 PHT/1000 SF = 55.27 PHT

4) Other Fees - Engineering Services: Engineering & Inspection fees for the on-site grading operations (8.8% of on-site grading cost estimate)

5) Other Fees - Public Easement Review: 10' Public Service Easement grant along Barrett & Railroad frontages

6) Other Fees - Stormwater Post Construction BMP Initial Setup

Setup: $620.00/Base Fee & 1st BMP + $124.00/Additional BMP * 6 BMPs = $1,364

**OTHER FEE RESOLUTIONS:
RESOLUTION 5006, EFFECTIVE 07.03.1996
RESOLUTION 5128, EFFECTIVE 01.05.1998
RESOLUTION 5658, EFFECTIVE 03.19.2003
RESOLUTION 5686, EFFECTIVE 08.18.2003
RESOLUTION 5765, EFFECTIVE 01.21.2004
RESOLUTION 5837, EFFECTIVE 10.18.2004
RESOLUTION 6080, EFFECTIVE 01.17.2007
RESOLUTION 6133, EFFECTIVE 12.05.2007
RESOLUTION 6326, EFFECTIVE 04.28.2010
RESOLUTION 6671, EFFECTIVE 09.16.2013

# IMPACT FEE FREEZE AGREEMENT

**BY AND BETWEEN**

**THE CITY OF MORGAN HILL**

**AND**

**LEVEL 10 CONSTRUCTION, LP**

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

# LEVEL 10 CONSTRUCTION, LP

This Impact Fee Freeze Agreement (the "Agreement") is entered into as of 5/7/2021, 2021, by LEVEL 10 CONSTRUCTION, LP, a Limited Partnership and its successors and assigns (the "Developer") and the City of Morgan Hill, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), with reference to the following facts and purposes:

## RECITALS

A. Pursuant to the authority of Morgan Hill Municipal Code Sections 3.56.095, 12.02.115, the City has established an Impact Fee Freeze Program (the "Program") to freeze Development Impact Fees to the Fiscal Year 2019-2020 Fee Schedule for new commercial/industrial construction.

B. Developer owns certain real property in the City described in the attached Exhibit A, with the street address of 16290 Railroad Avenue, (the "Subject Property") upon which improvements are to be made for a new or expanding industrial or commercial business (the "Project").

C On May 5, , 2021, the City Council of the City granted a request of the Developer to be a Program participant with respect to locking in Development Impact Fees at the Fiscal Year 2019-2020 Impact Fee Schedule in the attached Exhibit B.

D. Developer and City have determined that the Project is the type of development for which this Agreement is appropriate. This Agreement will help to eliminate uncertainty in annual changes to Development Impact Fees, provide for the orderly development of the Project consistent with the planning goals, policies, and other provisions of the City's General Plan and City's Municipal Code, and otherwise achieve the goals and purposes for which the Development Impact Fee Program was adopted.

## ARTICLE 1

## ADMINISTRATION

**1.01 Definitions.**

(a) The following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section:

(1) "**Existing City Laws**" shall mean all City ordinances, resolutions, rules, regulations, guidelines, motions, practices and official policies governing land use, zoning and development, permitted uses, density and intensity of use, maximum height, bulk and size of proposed buildings, and other City land use regulations in force and effect on the Effective Date of this Agreement.

(2) "**Impact Fees**" shall mean those fees imposed so that developments bear a proportionate share of the cost of public facilities and service improvements that are reasonably related to the impacts and burdens of the Project, adopted pursuant to Morgan Hill Municipal Code Chapter 3.56 and California Government Code Section 66001 et seq.

(3) "**Legal Effect**" shall mean the ordinance, resolution, permit, license or other grant of approval has been adopted by City and has not been overturned or otherwise rendered without legal and/or equitable force and effect by a court of competent jurisdiction, and all applicable administrative appeal periods and statutes of limitations have expired.

(4) "**New City Laws**" shall mean any and all City ordinances, resolutions, orders, rules, official policies, standards, specifications and other regulations, whether adopted or enacted by City, its staff or its electorate (through their powers of initiative, referendum, recall or otherwise) that is not a Subsequent Approval, that takes "**Legal Effect**" after the Effective Date of this Agreement, and that applies City wide.

(5) "**Project Approvals**" mean, collectively, the Project's existing approvals and the Subsequent Approvals.

(6) "**Property**" shall mean that certain real property consisting of approximately 3.67 acres located within the City, as more particularly described and shown on ***Exhibit A*** to this Agreement, and also defined as the Subject Property in the Recitals hereto.

(7) "**Subsequent Approvals**" and "**Subsequent Approval**" mean those City permits, entitlements, approvals or other grants of authority (and all text, terms and conditions of approval related thereto), that may be necessary or desirable for the development of the Project, that are sought by Developer, and that are granted by City.

(b) To the extent that any defined terms contained in this Agreement are not defined above, then such terms shall have the meaning otherwise ascribed to them elsewhere in this Agreement, or if not in this Agreement, by controlling law.

**1.02 Term.**

The term ("**Term**") of this Agreement shall commence on the Effective Date, and then shall continue (unless this Agreement is otherwise terminated, modified or extended as provided in this Agreement) until the earliest of (1) the issuance of a certification of occupancy for the Project or (2) June 30, 2024.

# ARTICLE 2

# APPLICABLE LAW

**2.01 Applicable Law—Generally.**

(a) As used in this Agreement, "**Applicable Law**" shall mean all of the items listed below in this Section 2.01. The order of their importance is the order in which they are listed (with highest importance listed first, second most important listed second, etc.); in the event of a conflict between them, their order shall determine which one controls (the one listed higher controlling over the one listed lower):

(1) All the provisions, terms and conditions of this Agreement.

(2) The Existing Approvals. Developer hereby waives any legal or equitable right to challenge administratively or judicially any Existing Approvals including conditions of those Existing Approvals. Such waiver includes any requirements for notice, acts of protest and/or right to litigation pursuant to the Mitigation Fee Act and/or any other applicable law.

(3) The Subsequent Approvals, provided such Subsequent Approvals are:

(i) In compliance with all controlling California law;

(ii) Mutually agreed to by the Parties; and

(iii) Duly enacted by City.

(4) The "Existing City Laws" that are not in conflict with this Agreement and the Project Approvals.

(5) Any "New City Laws" Developer is subject to under this Agreement; for example, as provided in, but not limited to, Section 2.05. Additionally, any New City Laws to which Developer elects to be subject pursuant to Section 2.05(d).

(b) The Parties acknowledge that the Subsequent Approvals may be processed in stages and therefore one or more Subsequent Approvals may be adopted and approved before other Subsequent Approvals needed for development of the Project are adopted and approved by City.

(c) The Parties shall cooperatively assemble all of the necessary documents to memorialize, to the best of their abilities, the Project Approvals, Existing City Laws, and the terms and conditions contained in this Agreement to assist Developer to maintain the documents assembled and to provide a continuing reference source for the approvals granted and the ordinances, policies and regulations in effect on the Effective Date of this Agreement.

**2.02 Project Impacts and Costs.**

(a) Agreement Subject to Project Mitigation Requirements. Notwithstanding any other express or implied term or condition of this Agreement (or the Approvals) to the contrary, throughout the Term of this Agreement, the full and complete mitigation of all environmental (including any mitigation measure adopted pursuant to CEQA), physical, fiscal and other impacts of the Project and the Property on the community and on the City of Morgan Hill and its services, facilities, operations and maintenance (collectively, "**Project Mitigation**") shall be borne by and shall be the sole and exclusive responsibility of the Project (and the Developer who is the owner of same). Such Project Mitigation may be conditions of any Applicable Law or Project Approval and may include a mix of different approaches, including without limitation, Developer construction of and/or financing of such services, facilities, operations and maintenance through the payment of impact fees or other fees, taxes, levies, assessments, or other financing mechanisms including without limitation, reimbursement agreements, Landscaping and Lighting Districts, Mello-Roos Districts, Community Facilities Districts, Assessment Districts, Tax-Exempt and Taxable Financing Mechanisms, Maintenance Districts and participation in the Statewide Communities Infrastructure Program (collectively, "**Financing Mechanisms**"). The necessary scope and extent of such Project Mitigation, and which combination of Financing Mechanisms should be employed relating to such Project Mitigation to assure success of the Project Mitigation, shall be determined by City, pursuant to appropriate City ordinance, resolution, regulations or procedures, taking into account and guided by the pre-existing rights of others in the existing and future public services and facilities (including their operations and maintenance) that Developer may seek to use. If no Financing Mechanism is available to fund the Project Mitigation, then the Project shall not progress forward.

(b) Impact Fees. As part of the Project's sole and exclusive obligation (and the Developer's as the owner of same) to cover Project Mitigation, Developer shall pay all Impact Fees as described in Exhibit B at the time any such Impact Fees become due and payable as provided for in the City's Municipal Code or as agreed between Developer and City.

(c) Processing Fees. The Project (including Developer as owner of same) shall be responsible for the costs to City of processing any and all Developer-requested land use approvals, including without limitation, building permits, plan checks, environmental studies required under CEQA and other similar requests for City permits and entitlements, when such costs are incurred by City. City shall impose those funding requirements needed to ensure that the processing costs to the City are fully covered by the Project (including Developer as owner of same). Further, if additional, accelerated, or more frequent inspections are requested by Developer of City than would otherwise take place in City's ordinary course of business, then City may either hire additional contract inspectors, plan checkers, engineers or planners, or City may hire a full or part time employee. If City hires additional contractors, then Developer shall reimburse City, on a monthly basis in arrears, the cost to City of hiring such additional contract inspectors, plus Developer shall pay to City an additional ten percent (10%) of such cost to City on the same payment schedule. City shall use such additional 10% to defray administrative costs. If City hires a full or part time employee, then Developer shall reimburse City, on a monthly basis, in arrears, for a pro rata share of the total cost to the City of such employee, plus ten percent (10%) for administrative costs, for the period from hire to the end of the Term of this Agreement.

**2.03 Construction Codes.**

With respect to the development of any or all of the Project or the Property, Developer shall be subject to the California Building Code and all those other State-adopted construction, fire and other codes applicable to improvements, structures, and development, and the applicable version or revision of said codes by local City action (collectively referred to as "**Construction Codes**") in place at that time that a plan check application for a building, grading or other permit subject to such Construction Codes is submitted to City for approval, provided that such Construction Codes have been adopted by City and are in effect on a City-wide basis.

**2.04 Timing of Development.**

Developer agrees to secure building permits and to begin construction of the Project in accordance with the time requirements set forth in the Construction Codes, as these exist on the Effective Date. In the event Developer fails to comply with the above permit issuance and beginning construction by June 30, 2024 the Impact Fee Freeze Program shall expire.

**2.05 New City Laws.**

(a) City may apply any New City Law to the Project that is not in conflict with this Agreement and the Applicable Law it describes. City shall not apply any New City Law to the Project that is in conflict with this Agreement and the Applicable Law it describes, nor otherwise reduces the development rights or assurances provided by this Agreement. City shall not apply to the Project nor Property any no-growth or slow-growth ordinance, measure, policy, regulation or development moratorium either adopted by City or by a vote of the electorate and whether or not by urgency ordinance, interim ordinance, initiative, referendum or any other change in the laws of the City by any method or name which would alter the Applicable Law that may stop, delay, or effect the rate, timing or sequence of development.

(b) Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, a New City Law shall be deemed to be in conflict with this Agreement or the Applicable Law or to reduce the development rights provided hereby if the application to the Project would accomplish any of the following results, either by specific reference to the Project or as part of a general enactment which affects or applies to the Project:

(1) Change any land use designation or permitted use of the Property allowed by the Applicable Law or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the square footage, floor area ratio, height of buildings, or number of proposed non-residential buildings, or other improvements;

(2) Limit or control the availability of public utilities, services, or facilities otherwise allowed by the Applicable Law;

(3) Limit or control the rate, timing, phasing or sequencing of the approval, development, or construction of all or any part of the Project in any manner, or take any action or refrain from taking any action that results in Developer having to substantially delay

construction of the Project or require the acquisition of additional permits or approvals by the City other than those required by the Applicable Law;

(4) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations in the Existing Approvals and the Subsequent Approvals (as and when they are issued);

(5) Limit the processing of Subsequent Approvals.

(c) If City determines that it has the right under this Agreement to impose/apply a New City Law on the Property/Project, it shall send written notice to Developer of that City determination (**"Notice of New City Law"**). Upon receipt of the Notice of New City Law, if Developer believes that such New City Law is in conflict with this Agreement, Developer may send written notice to the City of the alleged conflict within thirty (30) days of receipt of City's Notice of New Law ("**Objection to New City Law**"). Developer's Objection to New City Law shall set forth the factual and legal reasons why Developer believes City cannot apply the New City Law to the Property/Project. City shall respond to Developer's Objection to New City Law ("**City Response**") within thirty (30) days of receipt of said Developer Objection to New City Law. The City Response shall set forth the factual and legal reasons why City believes it can apply the New City Law to the Project. Thereafter, the Parties shall meet and confer within thirty (30) days of the date of Developer's receipt of the City Response (the "**Meet and Confer Period**") with the objective of attempting to arrive at a mutually acceptable solution to this disagreement. Within fifteen (15) days of the conclusion of the Meet and Confer Period, City shall make its determination, and shall send written notice to Developer of that City determination. If City determines to "impose/apply" the New City Law to the Project, then Developer shall have a period of ninety (90) days from the date of receipt of such City determination within which to file legal action challenging such City action. In other words, a 90-day statute of limitations regarding Developer's right to judicial review of the New City Law shall commence upon Developer's receipt of City's determination following the conclusion of the Meet and Confer Period. If upon conclusion of judicial review of the New City Law (at the highest judicial level sought and granted), the reviewing court determines that Developer is not subject to the New City Law, such New City Law shall cease to be a part of the Applicable Law, and City shall return Developer to the position Developer was in prior to City's application of such New City Law (*e.g.*, City return fees, return dedications, etc.). The above-described procedure shall not be construed to interfere with City's right to adopt or apply the New City Law with regard to all other areas of City (excluding the Project).

(d) Developer in its sole and absolute discretion may elect to have applied to the Project a New City Law that is not otherwise a part of the Applicable Law, subject to the limitations set forth in this subdivision (d). In the event Developer so elects to be subject to a New City Law that is not otherwise a part of the Applicable Law, Developer shall provide notice to City of that election and thereafter such New City Law shall be part of the Applicable Law. In no event shall any New City Law become part of the Applicable Law if it would relieve Developer from, or impede Developer's compliance with, Developer's obligations under this Agreement.

(e) City shall not be precluded from adopting and applying New City Laws to the Project to the extent that such New City Laws are specifically required to be applied by State or Federal laws or regulations, and implemented through the Federal, State, regional and/or local level) ("**Mandated New City Laws**"), including without limitation those provisions in the Development Agreement Statute concerning property located in a flood hazard zone (Gov. Code § 65865.5), or that such New City Laws are necessitated by or arise from a declaration of City, local, state or federal declaration of a state of emergency.

(f) In the event that an administrative challenge and/or legal challenge (as appropriate) to a Mandated New City Laws preventing compliance with this Agreement is brought and is successful in having the Mandated New City Law determined to not apply to this Agreement, this Agreement shall remain unmodified and in full force and effect.

## ARTICLE 3

## PROCESSING

**3.01 Processing.**

(a) This Agreement does not provide Developer with any right to the approval of Subsequent Approvals nor to develop or construct the Project beyond that which is authorized in the Existing Approvals. For any Subsequent Approvals necessary for the Project, this Agreement simply provides a process by which such Subsequent Approvals may be processed by Developer, and later included into this Agreement, if and only if such Subsequent Approvals are compliant with all controlling California law (including proper Planning and Zoning Law and CEQA compliance), have secured approval of the Parties, and are adopted/approved by City, which shall retain all lawful discretion in this regard. That public review process is ongoing, and following the City's adoption of this Agreement, that public review process shall continue. Nothing in this Agreement shall be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit the discretion of City or any of its officers or officials with regard to the Project Approvals that legally require the exercise of discretion by City. City's discretion as to the granting of Subsequent Approvals shall be the discretion afforded by the Applicable Law.

(b) Upon submission by Developer of any and all necessary and required applications for Subsequent Approvals and payment of any and all appropriate processing and other fees as provided in this Agreement, City shall use its best efforts to promptly commence and diligently complete all steps necessary to acting on the requested Subsequent Approvals, including, but not limited to, (i) the holding of any and all required public hearings and notice for such public hearings, and (ii) the granting of the requested approval to the extent that it is consistent with Applicable Law.

**3.02 Significant Actions by Third Parties Necessary to Implement the Approvals.**

(a) At Developer's sole discretion, Developer shall apply for such other permits, grants of authority, agreements, and other approvals from other private and/or public and quasi-public agencies, organizations, associations or other entities ("**Other Entity**") as may be necessary to the development of, or the provision of services and facilities to, the Project ("**Other Permits**").

(b) City shall cooperate with Developer in its endeavors to obtain any Other Permits and shall, from time to time, at the request of Developer, join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency.

(c) In the event that any such Other Permit is not obtained from an Other Entity within the time permitted by law for such other entity to act and such circumstance materially deprives Developer of the ability to proceed with development of the Project or any portion thereof, or materially deprives City of a bargained-for public benefit of this Agreement, then, in such case, and at the election of either party, Developer and City shall meet and confer with the objective of attempting to mutually agree on solutions that may include alternatives, Subsequent Approvals, or an amendment(s) to this Agreement to allow the development of the Project to proceed with each Party substantially realizing its bargained-for benefit therefrom.

**3.03 Administrative Amendments.**

(a) Upon the written request of Developer for an amendment or modification of this Agreement or a Project Approval, the City Manager or designee shall determine: (1) whether the requested amendment or modification is minor; and (2) whether the requested amendment or modification is consistent with this Agreement and the Applicable Law. If the City Manager or designee finds that the proposed amendment or modification is both minor and consistent with this Agreement and the Applicable Law, and provided further that the Project and the Developer are otherwise in compliance with all agreements and approvals related to the project, the City Manager or designee may approve the proposed amendment or modification without notice. Such minor amendments or modifications approved pursuant to this Section shall not constitute subsequent discretionary approvals triggering further CEQA review. Any minor amendment must be made in writing signed by the City Manager (and approved by the City Attorney) of the City and by the Developer.

(b) For the purpose of this Agreement, a "minor amendment" shall not include any of the following:

(i) Any material amendment or modification, or elimination of provisions required pursuant to the Morgan Hill Municipal Code or by California law, including provisions relating to: (1) the duration or term of this Agreement, (2) the permitted uses of the subject property, (3) the density or intensity of uses, (4) the maximum height and size of proposed buildings, (5) provisions for reservation or dedication of land for public purposes, (6) general location of the uses or proposed buildings or (7) the relation of the project to adjacent properties; or

(ii) Any material amendment or modification, or elimination of provisions set forth in Article 2 of this Agreement.

**3.04 Amendments.**

Any request by Developer for an amendment or modification to this Agreement or a Project Approval that is determined to be not minor by the City Manager or designee shall be subject to the applicable substantive and procedural provisions of the City's General Plan, zoning, subdivision, and other applicable land use ordinances and regulations (i.e., City review and approval) in effect when such an amendment or modification request is approved.

## ARTICLE 4

## DEFAULT, VALIDITY PROVISIONS, ASSIGNMENT

**4.01 Resolution of Disputes.**

(a) In the event either Party is in default under the terms of this Agreement, the other Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies as provided herein; (iii) pursue judicial remedies as provided for herein; and/or (iv) terminate this Agreement.

(b) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default by another Party to this Agreement, to enforce any covenant or agreement herein, to enjoin any threatened or attempted violation hereunder, or to seek specific performance. It is expressly understood and agreed that the sole legal remedy available to Developer for a breach or violation of this Agreement by City shall be a legal action in mandamus, specific performance, and/or other injunctive or declaratory relief to enforce the provisions of this Agreement, and that Developer shall not be entitled to bring an action for damages including, but not limited to, lost profits, consequential damages or other economic damages. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement shall be deemed a final agency action.

(c) The Parties agree to meet and confer regarding any dispute, in an effort to agree on utilizing Judicial Arbitration Mediation Services ("**JAMS**") for Alternative Dispute Resolution ("**ADR**"). However, no party shall be required to use JAMS or ADR.

**4.02 Force Majeure Delay, Extension of Times of Performance.**

(a) Performance by any Party hereunder shall be excused, waived or deemed not to be in default where delays or defaults are due to acts beyond a Party's control such as war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, unexpected acts of governmental entities other than City, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, enactment of conflicting State or Federal laws or regulations, or litigation (including without limitation litigation contesting the validity, or seeking the enforcement or clarification of this Agreement whether instituted by the Developer, City, or any other person or entity) (each a "**Force Majeure Event**").

(b) Any Party claiming a delay as a result of a Force Majeure Event shall provide the other Party with written notice of such delay and an estimated length of delay. Upon the other Party's receipt of such notice, an extension of time shall be granted in writing for the period of the Force Majeure Event, or longer as may be mutually agreed upon by the Parties, unless the other Party objects in writing within ten (10) days after receiving the notice. In the event of such objection, the Parties shall meet and confer within thirty (30) days after the date of objection to arrive at a mutually acceptable solution to the disagreement regarding the delay. If no mutually acceptable solution is reached, any Party may take action as permitted in this Agreement.

**4.03 Third Party Legal Actions.**

(a) In the event of any administrative, legal or equitable action or other proceeding instituted by any person, entity or organization (that is not a Party to this Agreement) challenging the validity of this Agreement, any Project Approvals, or the sufficiency of any environmental review under CEQA ("**Third Party Challenge**"), the Parties shall cooperate with each other in good faith in the defense of any such challenge.

(b) City shall have the option to defend such Third Party Challenge or to tender the complete defense of such Third Party Challenge to the Developer ("**Tender**"). If City chooses to defend the Third Party Challenge or Developer refuses City's Tender, City shall control all aspects of the defense and Developer shall pay City's attorneys fees and costs (including related court costs).

(c) If Developer accepts City's Tender, Developer shall control all aspects of the defense and shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge. If City wishes to assist Developer when Developer has accepted the Tender, Developer shall accept that assistance and City shall pay City's own attorneys fees and costs (including related court costs) ("**City Costs**"), and Developer shall pay its own attorneys fees and costs (including related court costs), and shall indemnify and hold harmless City against any and all third-party fees and costs arising out of such Third Party Challenge (such third party fees and costs shall not include City Costs).

(d) If any part of this Agreement or any Project Approval is held by a court of competent jurisdiction to be invalid, the City shall: (1) use its best efforts to sustain and/or re-enact that part of this Agreement and/or Project Approval; and (2) take all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement, and then adopting or re-enacting such part of this Agreement and/or Project Approval as necessary or desirable to permit execution of this Agreement and/or Project Approval.

**4.04 Estoppel Certificate.**

(a) Any Party may, at any time, and from time to time, deliver written notice to any other Party, and/or to the Developer's lender, requesting such Party to certify in writing that, to the knowledge of the certifying Party:

(1) This Agreement has not been amended or modified either orally or in writing or if so amended, identifying the amendments.

(2) The Agreement is in effect and the requesting Party is not known to be in default of the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults.

(b) This written certification shall be known as an "**Estoppel Certificate.**" A Party receiving a request hereunder shall execute and return such Estoppel Certificate within ten (10) days following the receipt of the request, unless the Party, in order to determine the appropriateness of the Estoppel Certificate, promptly commences and proceeds to conclude an Annual Review. The Parties acknowledge that an Estoppel Certificate may be relied upon by Assignees and other persons having an interest in the Project, including holders of mortgages and deeds of trust. The City Manager shall be authorized to execute an Estoppel Certificate for City.

(c) If a Party fails to deliver an Estoppel Certificate within the ten (10) day period, as provided for in Section 4.04(b) above, the Party requesting the Estoppel Certificate may deliver a second notice (the "**Second Notice**") to the other Party stating that the failure to deliver the Estoppel Certificate within ten (10) working days following the receipt of the Second Notice shall constitute conclusive evidence that this Agreement is without modification and there are no unexcused defaults in the performance of the requesting Party. Failure to deliver the requested Estoppel Certificate within the ten (10) working day period shall then constitute conclusive evidence that this Agreement is in full force and effect without modification and there are no unexcused defaults in the performance of the requesting Party.

**4.05 Assignment.**

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

**4.06 Termination.**

This Agreement shall terminate upon the expiration of the Term, as set forth in Section 1.02, or at such other time as this Agreement is terminated in accordance with the terms hereof, whichever occurs first.

## ARTICLE 5

## GENERAL PROVISIONS

**5.01 Miscellaneous.**

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

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

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

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

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

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

(g) Notices.

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

| | |
|---|---|
| If to City: | City Clerk<br>17575 Peak Avenue<br>Morgan Hill, CA 95037<br>Tel: (408) 779-7259<br>Fax: (408) 779-3117 |
| With a Copy To: | City Attorney<br>17575 Peak Avenue<br>Morgan Hill, CA 95037<br>Tel: (408) 779-7271<br>Fax: (408) 779-1592 |
| If to Developer: | Level 10 Construction, LP<br>1050 Enterprise Way, Suite 250<br>Sunnyvale, CA 94089 |

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

(h) Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a specific situation, is found to be invalid, void, or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect.

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

(j) Entire Agreement. This Agreement, including these pages and all the exhibits (set forth below) inclusive, and all documents incorporated by reference herein, constitute the entire understanding and agreement of the Parties; however, the payment, if any, of the Storm Drain Impact Fee and Storm Drain Frontage Charge shall be determined by separate agreement between the Parties

(k) Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement may be executed in multiple originals, each of which is deemed to be an original.

(l) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument.

(m) Exhibits. The following exhibits are attached to this Agreement and are hereby incorporated herein by this reference for all purposes as if set forth herein in full:

***Exhibit A*** ***Legal Description of Lot on Which Project is to be Located.***

***Exhibit B*** ***2019/2020 Impact Fee Schedule***

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the date first hereinabove written.

**CITY OF MORGAN HILL:**

DocuSigned by:
s/ Christina Turner
6D0198AF549944D...

Christina J. Turner
City Manager

Date: 5/7/2021

**Attest:**

DocuSigned by:
s/ Michelle Bigelow
C0FCB7EABA7C4C8...

5/7/2021
Deputy City Clerk

**Approved as to Form:**

DocuSigned by:
s/ Donald Larkin
45E6F0273EA2464...

Donald A. Larkin
City Attorney
Date: 5/6/2021

**DEVELOPER:**

LEVEL 10 CONSTRUCTION, LP

s/

James F Evans, CFO
Name/Title [print]

*Corporate entities must provide a second signature:*

s/ __________________

__________________
Name/Title [print]

Date: __________________

# *EXHIBIT A*

## LEGAL DESCRIPTION OF THE PROPERTY ON WHICH

## PROJECT IS BE LOCATED

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

PARCEL A, AS SHOWN ON THAT CERTAIN CERTIFICATE OF COMPLIANCE LOT LINE ADJUSTMENT EVIDENCED BY DOCUMENT RECORDED JUNE 3, 2008 AS DOCUMENT NO. 19873084 OF OFFICIAL RECORDS, AND BEING MORE PARTICULARLY DESCRIBED IN THE DOCUMENT AS FOLLOWS:

BEING ALL OF PARCEL 1 AND A PORTION OF PARCEL 2 AS SAID PARCELS ARE DESCRIBED ANO DELINEATEDIN THAT 'CERTIFICATE OF COMPLIANCE - LOT LINE ADJUSTMEN T', RECORDED JANUARY 10, 2001 AS DOCUMENT NO. 15522920, SANTA CLARA COUNTY RECORDS AND MORE SPECIFICALLY BEING ALL OF PARCEL BAS SHOWN UPON THAT PARCEL MAP FILED JULY 13TH, 1977 IN BOOK 400 OF MAPS AT PAGE 21, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY BOUNDARY LINE OF THAT ABOVE REFERRED TO PARCEL BAT THE SOUTHERN MOST CORNER OF PARCEL C AS SAID PARCEL C IS SHOWN UPON THAT PARCEL MAP FILEDAUGUST 19TH, 1986 IN BOOK 563 OF MAPS AT PAGE 35, SANTA CLARA COUNTY RECORDS AND RUNNING THENCE FROM SAID POINT OF BEGINNING ALONG THE SAID EASTERLY BOUNDARY LINE OF PARCEL B, SOUTH 25° 28' 27" EAST, 95.69 FEET

TO THE SOUTHEASTERN CORNER THEREOF; THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAIDPARCEL B, SOUTH 64° 31' 00" WEST, 319.75 FEET

TO THE SOUTHWESTERN CORNER OF SAID PARCEL BON THE SOUTHWESTERLY RIGHT-OFWAY LINE OF RAILROAD AVENUE, AS SAID AVENUE IS SHOWN UPON THAT ABOVE REFERRED TO PARCEL MAP FILED IN BOOK 400 OF MAPS AT PAGE 21; THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, BEING COINCIDENT WITH THE SOUTHWESTERLY BOUNDARY LINE OF SAID PARCEL B, NORTH 39° 25' 02" WEST, 545.75 FEET

TO THE NORTHWEST CORNER OF SAID PARCEL B AT THE POINT OF INTERSECTION OF THE SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF RAILROAD AVENUE WITH THE CENTERLINE OF BARRETT AVENUE, AS SAID BARRETT AVENUE IS SHOWN UPON THAT LAST MENTIONED PARCEL MAP; THENCEALONG SAID CENTERLINE, NORTH 64° 31' 00" EAST, 451.25 FEET

TO THE NORTHERN MOST CORNER OF SAID PARCEL B; THENCE LEAVING SAID CENTERLINE AND RUNNING ALONG THE SAID EASTERLY BOUNDARY LINE OF PARCEL B, SOUTH 25° 28' 27" EAST, 434.00 FEETTO THE POINT OF BEGINNING.

APN: 817-32-057
ARB NO. 817-9-6.01, 6.01.01

# *EXHIBIT B*

## 2019-2020 Impact Fee Schedule

CITY OF MORGAN HILL

# CITY OF MORGAN HILL PUBLIC WORKS DEPARTMENT

17575 Peak Avenue Morgan Hill CA 95037 - Office (408)778-6480 Fax (408)779-7236

**FEE SCHEDULE: 01.15.2019**

PER RESOLUTION 5902,
EFFECTIVE JULY 1, 2006
AND PER RESOLUTION 5592,
INCREASED JANUARY 15, 2009
AND PER RESOLUTION 6082,
EFFECTIVE FEBRUARY 5, 2007
**SEE BACK PAGE FOR ADDITIONAL FEE RESOLUTIONS

| | | |
|---|---|---|
| DATE | | NAME |
| TRACT / APN | | MAILING ADDRESS |
| ADDRESS / LOT | | CITY, STATE, ZIP CODE |
| PROJECT DESCRIPTION | FEE SCHEDULE EXPIRATION DATE | PHONE NUMBER |

**NOTES:**

1. PRESSURE REGULATORS ARE REQUIRED ON ALL WATER SERVICES.

2. BACKFLOW PREVENTORS ARE REQUIRED ON ALL NON-RESIDENTIAL WATER SERVICES & FIRE SPRINKLER SERVICES. BACKFLOW INSPECTION FEE SHALL BE PAID PRIOR TO INSPECTION.

3. **MULTI-FAMILY** IS DEFINED AS ANY UNIT WITH TWO BEDROOMS OR LESS. **SINGLE FAMILY** IS DEFINED AS ANY UNIT WITH 3 BEDROOMS OR MORE.

☐ **THIS FEE SCHEDULE IS ESTIMATE ONLY**

CALCULATED BY

CHECKED BY

BUILDING PERMIT #

DATE BLD PERMIT ISSUED

SEWER IMPACT FEES WITHIN RDA BOUNDARY

CHECK APPLICABLE SCENARIO BELOW

○ **COMMERCIAL OR INDUSTRIAL WITHIN RDA BOUNDARY**

SEWER IMPACT FOR COMMERCIAL & INDUSTRIAL PROJECTS TEMPORARILY ADJUSTED TO $0 EFFECTIVE 02/05/07 PER RES# 6082.

○ **RESIDENTIAL PROJECTS WITHIN RDCS DOWNTOWN AREA**

SEWER IMPACT FOR SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL TEMPORARILY ADJUSTED TO $0 EFFECTIVE 02/05/07.

◉ **NOT IN RDA AREA BOUNDARY**

** BOTH NORMAL FEES AND ADJUSTED FEES ARE SUBJECT TO ANNUAL CPI INCREASES.

☐ **COMMERCIAL OR INDUSTRIAL SHELL**

**RDA SEWER ALLOCATION COMPLETED BY:**
(write Initials below)
______________________________

version 01.15.19 std

Attachment: Improvement Agreement [Revision 2] (3155 : Improvement Agreement with Level 10 Construction, LP)

## WATER FEES:

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

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | | | |
|---|---|---|---|---|---|
| 1″ | $493 | x | ______ | = | ______ |
| 1 ½″ | $1,737 | x | ______ | = | ______ |
| 2″ | $2,134 | x | ______ | = | ______ |
| 3" or larger-Time & Material + Meter Cost | | | | = | ______ |

**METER CREDITS**

______ x ______ = ______

**SUBTOTAL =** ______

**2. BACKFLOW CONST. INSPECTION: 650-37859**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

$66 x ______ Each = ______

**3. WATER FRONTAGE CHARGE: 650-37663**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | | | | |
|---|---|---|---|---|---|---|
| 1 Side | $70 | x | ______ | LF | = | ______ |
| 2 Sides | $39 | x | ______ | LF | = | ______ |

**4. WATER IMPACT FEE: 651-37648**

*(Auth: Res. #5592 approved 08.21.02, Increased 01.15.19)*

a) Residential

| | | | | | | |
|---|---|---|---|---|---|---|
| $3,902 *(Single Family)* | /DU | x | ______ | DU | = | ______ |
| $3,520 *(Multi Family)* | /DU | x | ______ | DU | = | ______ |

b) Commercial & Industrial
*(Includes Landscape Service)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $11,076 | /AC | x | ______ | AC | = | ______ |

**WATER CREDITS**

______ x ______ = ______

**SUBTOTAL =** ______

**WATER FEE TOTALS =** ______

**5. ENGINEERING & INSPECTION FEE: 206-38734**

*(Minimum $500.00):*
*(Authority: Res. #5902 approved 05.04.05, Updated 07.01.09)*

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

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

ENGINEERING FEE TOTAL = ______

**5A. LONG RANGE PLANNING FEE: 207-37912**

LONG RANGE PLANNING FEE (15% of E&I) = ______

## SEWER FEES:

**6. SEWER FRONTAGE CHARGE: 640-37663**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 1 Side | $70 | /LF | x | ______ | LF | = | ______ |
| 2 Sides | $39 | /LF | x | ______ | LF | = | ______ |

**7. SEWER IMPACT FEE: 641-37648**

*(Auth: Res. #6082 approved 02.05.07 &*
*Res. #5592 approved 08.21.02, Increased 01.15.19).*

a) Residential

| | | | | | | |
|---|---|---|---|---|---|---|
| $15,269 *(Single Family)* | /DU | x | ______ | DU | = | ______ |
| $12,923 *(Multi Family)* | /DU | x | ______ | DU | = | ______ |

b) Commercial & Industrial

| | | | | | | |
|---|---|---|---|---|---|---|
| $52.28 | /GPD | x | ______ | GPD | = | ______ |
| $52.28 | /GPD | x | ______ | GPD | = | ______ |

**SEWER CREDITS**

______ x ______ = ______

**RDA ASSUMED SEWER OBLIGATION**

| | | | | | | |
|---|---|---|---|---|---|---|
| $15,269 *(Single Family)* | /DU | x | ______ | DU | = | ______ |
| $12,923 *(Multi Family)* | /DU | x | ______ | DU | = | ______ |
| $52.28 *(Commercial & Industrial)* | /GPD | x | ______ | GPD | = | ______ |

**SUBTOTAL =** ______

**SEWER FEE TOTALS =** ______

## STORM DRAIN FEES:

**8. STORM FRONTAGE CHARGE: 304-37663**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 1 Side | $116 | /LF | x | ______ | LF | = | ______ |
| 2 Sides | $57 | /LF | x | ______ | LF | = | ______ |

**9. STORM DRAIN IMPACT FEE: 303-37648**

*(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $4,142 *(Single Family)* | /DU | x | ______ | DU | = | ______ |
| $2,154 *(Multi Family)* | /DU | x | ______ | DU | = | ______ |
| $45,106 *(Commercial)* | /ACRE | x | ______ | AC | = | ______ |
| $32,840 *(Industrial)* | /ACRE | x | ______ | AC | = | ______ |
| $56,384 *(Auto Dealership)* | /ACRE | x | ______ | AC | = | ______ |
| $1,372 *(Hotel)* | /ROOM | x | ______ | RM | = | ______ |

**STORM CREDITS**

______ x ______ = ______

**SUBTOTAL =** ______

**STORM DRAIN FEE TOTALS =** ______

Attachment: Improvement Agreement [Revision 2] (3155 : Improvement Agreement with Level 10 Construction, LP)

## 10a. PARK IMPACT FEE: 301-37648

*(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $5,790 | /DU | x | | DU | = | |
| *(Single Family - Sub)* | | | | | | |
| $4,210 | /DU | x | | DU | = | |
| *(Single Family - No Sub)* | | | | | | |
| $5,578 | /DU | x | | DU | = | |
| *(Multi Family - Sub)* | | | | | | |
| $4,060 | /DU | x | | DU | = | |
| *(Multi Family - No Sub)* | | | | | | |

## 10b. PARK MAINTENANCE DEV. FEE: 302-37649

| | | | | | |
|---|---|---|---|---|---|
| | x | | EACH | = | |

**PARK CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**PARK FEE TOTAL =**

## 11. TRAFFIC IMPACT FEE: 309-37648

*(Auth: Res. #15-152 approved 06.17.15 &*
*Res. #5592 approved 08.21.02, Increased 01.15.19).*

| | | | | | | |
|---|---|---|---|---|---|---|
| $2,005 | /DU | x | | DU | = | |
| *(Single Family)* | | | | | | |
| $1,244 | /DU | x | | DU | = | |
| *(Multi Family)* | | | | | | |
| $2,005 | /PHT | x | | PHT | = | |
| *(Commercial)* | | | | | | |
| $2,005 | /PHT | x | | PHT | = | |
| *(Industrial)* | | | | | | |

**TRAFFIC CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**TRAFFIC FEE TOTAL =**

## 12. LIBRARY IMPACT FEE: 348-37648

*(Auth: Res. #5837 apprv'd 09.01.04,Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $2,126 | /DU | x | | DU | = | |
| *(Single Family)* | | | | | | |
| $2,048 | /DU | x | | DU | = | |
| *(Multi Family)* | | | | | | |

**LIBRARY CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**LIBRARY FEE TOTAL =**

## 13. COMMNTY/REC CTRS IMPACT FEE: 360-37648

*(Auth: Res. #15-152 apprv'd 8.17.15, increased 01.15.19)*

| | | | | | |
|---|---|---|---|---|---|
| $3,943 | /DU | | DU | = | |
| *(Single Family)* | | | | | |
| $3,460 | /DU | 0 | DU | = | |
| *(Multi Family)* | | | | | |

**COMMUNITY/REC CENTERS CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**PUBLIC FACILITIES FEE TOTAL =**

## 14. POLICE IMPACT FEE: 311-37648

*(Auth: Res. #5686 apprv'd 06.18.03, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $826 | /DU | x | | DU | = | |
| *(Single Family)* | | | | | | |
| $798 | /DU | x | | DU | = | |
| *(Multi Family)* | | | | | | |
| $1,793 | /ACRE | x | | AC | = | |
| *(Commercial)* | | | | | | |
| $2,512 | /ACRE | x | | AC | = | |
| *(Industrial)* | | | | | | |
| $2,145 | /ACRE | x | | AC | = | |
| *(Office)* | | | | | | |
| $715 | /ACRE | x | | AC | = | |
| *(Auto Dealership)* | | | | | | |
| $21 | /ROOM | x | | RM | = | |
| *(Hotel)* | | | | | | |

**POLICE CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**POLICE FEE TOTAL =**

## 15. FIRE IMPACT FEE: 313-37648

*(Auth: Res. #6671 approved 07.17.13, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $127 | /DU | x | | DU | = | |
| *(Single Family)* | | | | | | |
| $121 | /DU | x | | DU | = | |
| *(Multi Family)* | | | | | | |
| $1,668 | /ACRE | x | | AC | = | |
| *(Commercial)* | | | | | | |
| $1,668 | /ACRE | x | | AC | = | |
| *(Industrial)* | | | | | | |
| $2,022 | /ACRE | x | | AC | = | |
| *(Office)* | | | | | | |
| $546 | /ACRE | x | | AC | = | |
| *(Auto Dealership)* | | | | | | |
| $5 | /ROOM | x | | RM | = | |
| *(Hotel)* | | | | | | |

**FIRE CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**FIRE FEE TOTAL =**

## 16. PUBLIC FACILITIES IMPACT FEE: 347-37648

*(Auth: Res. #5592 apprv'd 8.21.02, Amdd by Res. 6326 4.28.10, Increased 01.15.19)*

| | | | | | | |
|---|---|---|---|---|---|---|
| $551 | /DU | x | | DU | = | |
| *(Single Family)* | | | | | | |
| $530 | /DU | x | | DU | = | |
| *(Multi Family)* | | | | | | |
| $1,214 | /ACRE | x | | AC | = | |
| *(Commercial)* | | | | | | |
| $1,214 | /ACRE | x | | AC | = | |
| *(Industrial)* | | | | | | |
| $1,443 | /ACRE | x | | AC | = | |
| *(Office)* | | | | | | |
| $487 | /ACRE | x | | AC | = | |
| *(Auto Dealership)* | | | | | | |
| $14 | /ROOM | x | | RM | = | |
| *(Hotel)* | | | | | | |

**PUBLIC FACILITIES CREDITS**

| | | | | |
|---|---|---|---|---|
| | x | | = | |

**PUBLIC FACILITIES FEE TOTAL =**

**17. MAP CHECK FEE: 206-38716**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | |
|---|---|---|---|
| PARCEL MAP: | $5,146 | = | |
| TRACT MAP: | $8,111 | = | |
| LOT LINE ADJ/MERGER: | $2,843 | = | |

**18. UNDERGROUNDING UTILITIES: 350-37649**

*(Authority: Res. #5658 approved 03.19.03, Updated 07.01.18)*

| | | | | | | |
|---|---|---|---|---|---|---|
| 1 Side | $730 | x | | LF | = | |
| 2 Sides | $368 | x | | LF | = | |

**19. BURROWING OWL MITIGATION: 232-38145**

*(Authority: Res. #5765 approved 01.21.04, Increased 07.01.18)*

| | | | | | |
|---|---|---|---|---|---|
| $214 *(Residential)* | /DU | | DU | = | |
| $1,496 *(Commercial/Industrial)* | /AC | | AC | = | |

**20. RDCS MEASURE C FEES:**

| | | | |
|---|---|---|---|
| **School Pedestrian Safety** | **(355-37655)** | = | |
| **Public Facilities** | **(346-37649)** | = | |
| **Park Development** | **(302-37649)** | = | |
| **Public Fac. - Circulation** | **(346-37649)** | = | |
| **TOTAL RDCS MEASURE C FEES** | | = | |

**OTHER:**

| | | | |
|---|---|---|---|
| **LED Streetlight Fund** | **(010-37722)** | = | |
| | | = | |
| | | = | |
| **TOTAL FEES DUE** | | = | |

Notes & Comments:

**OTHER FEE RESOLUTIONS:
RESOLUTION 5006, EFFECTIVE 07.03.1996
RESOLUTION 5128, EFFECTIVE 01.05.1998
RESOLUTION 5658, EFFECTIVE 03.19.2003
RESOLUTION 5686, EFFECTIVE 08.18.2003
RESOLUTION 5765, EFFECTIVE 01.21.2004
RESOLUTION 5837, EFFECTIVE 10.18.2004
RESOLUTION 6080, EFFECTIVE 01.17.2007
RESOLUTION 6133, EFFECTIVE 12.05.2007
RESOLUTION 6326, EFFECTIVE 04.28.2010
RESOLUTION 6671, EFFECTIVE 09.16.2013

DRAFT

CITY OF MORGAN HILL

**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, August 4, 2021 7:00 pm**

**Virtual Meeting**

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 7:01 p.m.

## ROLL CALL ATTENDANCE

Deputy City Clerk Angie Gonzalez called the roll.

| 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

Deputy City Clerk Angie Gonzalez declared the posting of the agenda.

## CITY COUNCIL REPORTS

Mayor Constantine spoke regarding the drought. He stated that on April 21, 2021, Governor Newsom declared a drought in Mendocino and Sonoma Counties. On May 10, 2021, he expanded that to 41 counties which includes Santa Clara County. On June 22, 2021, the County of Santa Clara declared an extreme drought. On June 16, 2021, Morgan Hill declared a level 2 water emergency. At the July 28, 2021 Valley Water Commission meeting they went over the percentages of the amount of water we receive to fill our aquifers. 50% comes from imported sources like the Delta Hetch Hetchy, about 15% of the water is conserved, and only 5% is recycled water. At that meeting, he made a motion to "move to request of the Valley Water Board to take up the issue of increasing the production/use of recycled water with defined goals and benchmarks." That motion passed unanimously, the Board will now have to come back and provide defined goals. We really need to use our recycled water a lot better than we are doing now.

## CITY MANAGER'S REPORT

City Manager Christina Turner thanked the Police Department and all of the teammates that helped support another successful National Night Out. She announced the launch of Cafecito con Edith. It is an invitation to our Spanish speaking neighbors and everyone to have a casual conversation about city programs, projects, services, or anything else. Our Assistant City Manager, Edith Ramirez, will be launching this event. The first event will be Saturday August 14, 2021 at 9:00 a.m. at La Soledad Bakery. In addition to doing on-site events, Edith will also be alternating with Zoom events. She shared that we are ramping up efforts to combat climate change and a recent budget has been established to develop a limited climate action plan. The plan will focus on the decarbonization of buildings and the accessibility of electric vehicles. The Environmental Services Climate Action Plan Community Meeting will be on August 5, 2021 at 7:00 p.m. We are looking to create a group of dedicated community members to participate in this working group. She invited community members to attend the City Council's Mid-Year Goal Review Workshop on Friday, August 6, 2021 at 9:00 a.m. She shared that the County announced a mask mandate which means masks are required indoors now. She provided an update on City Hall's soft opening, we have our doors open for four hours a day four days a week, we have started passport services, we have available teammates to help take in utility payments, and help navigate for those who need additional assistance on how to access different services that we offer. Currently we anticipate the team coming back at the end of August, with a full re-opening right after Labor Day. However, we are watching the updates with Covid-19, the Delta Variant, and other variants to validate that that is the right timing. She concluded by introducing and welcoming Matt Mahood who is the City's new Economic Development Director.

## CITY ATTORNEY'S REPORT

City Attorney Donald Larkin announced that there was no reportable action from the June 23, 2021 City Council closed session.

## OTHER REPORTS

Mayor Pro Tem John McKay shared that he attended a Joint Water Resources Meeting today. One of the items that came up was the use of recycled water and how to work on water strategies. He looks forward to hearing and talking more about this at the August 23, 2021 Joint Meeting.

## PUBLIC COMMENT

Public comment opened at 7:13 p.m. The following people were called to speak:

Carl Guardino

Michael Elliot

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:** | John McKay, Mayor Pro Tem |
| **AYES:** | Constantine, McKay, Borgioli, Martinez Beltran, Spring |

# CONSENT CALENDAR

**MOTION:**

Approving consent calendar items 2, 4 and 5.

| | |
|---|---|
| **RESULT:** | **APPROVED [UNANIMOUS]** |
| **MOVER:** | Gino Borgioli, Council Member |
| **SECONDER:** | Yvonne Martinez Beltran, Council Member |
| **AYES:** | Constantine, McKay, Borgioli, Martinez Beltran, Spring |

**1. ITEM PULLED FROM CONSENT**

**2. APPROVE FISCAL YEAR 2021-22 WORK PLANS FOR PARKS AND RECREATION AND LIBRARY, CULTURE AND ARTS COMMISSIONS**

Recommendation:

1. Approve the proposed Parks and Recreation Commission FY 2021-22 Work Plan; and
2. Approve the proposed Library, Culture and Arts Commission FY 2021-22 Work Plan.

**3. ITEM PULLED FROM CONSENT**

**4. APPROVE AN EXTENSION OF THE TRAFFIC AND SEWER IMPACT FEES CREDIT PROGRAM**

Recommendation:

Adopt resolution amending the Reduction of Traffic and Sewer Impact Fees program resolution (Resolution No. 6080) to extend the Sewer Impact Fees Credit Program until December 31, 2025.

**5. APPROVE THE JUNE 23, 2021 MEETING MINUTES**

Recommendation:

Approve Minutes.

# ITEMS PULLED FROM CONSENT

## 1. ACCEPTANCE OF MADRONE CHANNEL TRAIL IMPROVEMENTS PHASE I PROJECT

Recommendation:

1. Accept as complete the Madrone Channel Trail Improvements Phase I Project;
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

Mayor Pro Tem McKay congratulated and thanked the members of the Bicycle-Pedestrian Advisory Group for being consistent, persistent, and ultimately successful with this project.

**MOTION:**
Approving the recommended action.

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

**3. APPROVE PARK AND RECREATION LAND PURCHASE AND TRANSFER OF EXISTING PARKS AND RECREATION PROPERTY TO THE AGRICULTURE AND OPEN SPACE FUND**

Recommendation:

1. Authorize the City Manager to enter into a purchase and sale agreement for the purchase of a 19.58-acre site (APN 817-06-001) located on Monterey Road south of Butterfield Boulevard for use for future park and recreation purposes for a total price of $3 million;
2. Approve the transfer of $5,383,018 from the Agriculture and Open Space Preservation Fund to the Park Impact Fund to transfer existing City owned property on Tennant Avenue (APNs 817-14-004, 817-14-009 and 817-14-005) from future use for parks and recreation purposes to future use for agriculture and open space preservation purposes; and
3. Adopt resolution appropriating funds for the purchase and transfer of the properties.

Public comment opened at 7:22 p.m.
Joe Baranowski was called to speak.
There being no further requests to speak, public comment closed.

**MOTION:**
Approving the recommended action.

| | |
|---|---|
| **RESULT:** | **AUTHORIZED [UNANIMOUS]** |
| **MOVER:** | Rene Spring, Council Member |
| **SECONDER:** | Gino Borgioli, Council Member |
| **AYES:** | Constantine, McKay, Borgioli, Martinez Beltran, Spring |

## PUBLIC HEARING

**6. INTRODUCE ORDINANCE TO APPROVE A DEVELOPMENT AGREEMENT AMENDMENT FOR PROPERTY IDENTIFIED BY ASSESSOR PARCEL NUMBER 764-24-061 LOCATED AT 18755 OLD MONTEREY ROAD AT THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE (AAE2021-0002: OLD MONTEREY - APPLETREE (KELLY VO))**

Recommendation:

1. Open and close public hearing;
2. Waive first and second reading of Development Agreement Ordinance; and
3. Introduce Development Agreement Ordinance.

Associate Planner Joey Dinh and Development Services Director Jennifer Carman gave a presentation and answered questions.

Applicant Reyad Katwan gave a presentation and answered questions.

The public hearing opened at 8:06 p.m.

David Stites was called to speak.
There being no further requests to speak, the public hearing closed.

**MOTION:**
Waiving the first and second reading of the Development Agreement Ordinance.

| | |
|---|---|
| **RESULT:** | **WAIVED [UNANIMOUS]** |
| **MOVER:** | Yvonne Martinez Beltran, Council Member |
| **SECONDER:** | Rene Spring, Council Member |
| **AYES:** | Constantine, McKay, Borgioli, Martinez Beltran, Spring |

**MOTION:**
Introducing the Development Agreement Ordinance.

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

## OTHER BUSINESS

### 7. APPROVE CONDITIONAL FUNDING FOR ROYAL OAKS VILLAGE AFFORDABLE HOUSING PROJECT BY URBAN HOUSING COMMUNITIES/IKAIKA OHANA (UHC) FROM DESIGNATED HOUSING FUNDS

Recommendation:

Approve conditional funding for the UHC Housing Project, “Royal Oaks Village,” in the amount of $400,000, contingent on UHC’s ability to obtain the remaining gap funds, subject to an agreement negotiated by the City Attorney.

The meeting recessed at 8:26 p.m. and reconvened at 8:30 p.m.

Housing Director Rebecca Garcia gave a presentation and answered questions.

Public comment opened at 8:57 p.m.
Joe Baranowski was called to speak.
There being no further requests to speak, public comment closed

**MOTION:**
Approving the recommended action.

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

## FUTURE COUNCIL INITIATED AGENDA ITEMS

Mayor Pro Tem McKay asked for a discussion on a noise/sound ordinance regarding traffic.

## ADJOURNMENT

There being no further business, the meeting adjourned at 9:13 p.m.

**MINUTES PREPARED BY:**

Angie Gonzalez, Deputy City Clerk

# DRAFT

CITY OF MORGAN HILL

**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*

**Friday, August 6, 2021 9:00 am**

**Virtual Meeting**

## MID-YEAR GOAL REVIEW WORKSHOP

**A Special Meeting of the City Council was called Friday, August 6, 2021 at 9:00 a.m. for the Mid-Year Goal Review Workshop.**

## CALL TO ORDER

Mayor Constantine called the meeting to order at 9:00 a.m.

## ROLL CALL ATTENDANCE

City Clerk Michelle Bigelow called the roll.

| 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 OF AGENDA

City Clerk Michelle Bigelow declared the posting of the agenda.

## PUBLIC COMMENT

Public comment opened at 9:02 a.m. The following people were called to speak:

Joe Baranowski

Diya Kandhra

Joe Guerra

Dashiell Leeds

There being no further requests to speak, public comment closed.

## WORKSHOP:

### 1. MID-YEAR GOAL REVIEW WORKSHOP

Recommendation:

1. Review 2021 Accomplishments;
2. Review and discuss City Council Norms and Policies;
3. Review and discuss 2020 - 2021 Sustainable Morgan Hill, including Vision, Ongoing Priorities, Strategic Priorities, and Staff Work Plan;
4. Review Council Follow-up/Future Business Items; and
5. Receive updates on Re-Districting, Budget, American Rescue Plan Act (ARPA) Funding, and Significant Projects.

City Manager Christina Turner kicked off the workshop by having the City Council share what they are hoping to accomplish with this workshop. She then introduced Shawn Spano as her co-facilitator followed by an overview of the agenda for the day.

The leadership team introduced themselves and shared some accomplishments. City Manager Turner then introduced Dr. Carmen Garcia as the new Morgan Hill Unified School District Superintendent.

Public comment opened at 9:44 a.m.
Joe Baranowski was called to speak.
There being no further requests to speak, public comment closed.

Shawn Spano facilitated a conversation with the City Council regarding the Council Norms.

Public comment opened at 11:05 a.m.
Joe Baranowski was called to speak.
There being no further requests to speak, public comment closed

The meeting recessed at 11:07 a.m. and reconvened at 11:15 a.m.

The City Council reviewed the Sustainable Morgan Hill document and the Council Follow-up and Future Business Items.

City Clerk Michelle Bigelow provided an update on the City Council Redistricting process.

Public comment opened at 12:01 p.m. The following people were called to speak:
Joe Baranowski
Armando Benavides
There being no further requests to speak, public comment closed.

The meeting recessed for lunch at 12:04 p.m. and reconvened at 12:46 p.m.

Fire Chief Jake Hess provided an update on fire services.

Public comment opened at 1:13 p.m. The following people were called to speak:

Joe Baranowski
Doug Muirhead
Armando Benavides
There being no requests to speak, public comment closed.

City Manager Christina Turner provided a budget and American Rescue Plan Act (ARPA) update.

Public Comment opened at 1:51 p.m. The following people were called to speak:
Tim Davis
Doug Muirhead
Armando Benavides
Krista Rupp
Sally Casas
There being no further requests to speak, public comment closed.

## ADJOURNMENT

The meeting adjourned at 2:11 p.m.

**MINUTES PREPARED BY:**

Michelle Bigelow, City Clerk

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: Angie Gonzalez, Council Services Assistant
APPROVED BY: City Manager

## RECEIVE INPUT FROM THE COMMUNITY REGARDING RE-DRAWING OF CITY COUNCIL DISTRICT BOUNDARIES

**RECOMMENDATION(S)**
Open and close the public hearing.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

**Ongoing Priorities**
Supporting Our Youth
Seniors
and Entire Community
Preserving and Cultivating Public Trust
Enhancing Equity
Diversity and Inclusiveness

**2020-2021 Strategic Priorities**
Community Outreach
Engagement and Messaging

**REPORT NARRATIVE:**
Every ten years, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have nearly equal population. The redistricting process for the City of Morgan Hill must be completed by April 15, 2022.

The City adopted its current district boundaries on September 6, 2017 based on 2010 census data as required by law. The districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020.

Elections Code Section 21607.1 directs that the City must conduct at least four (4) public hearings throughout the redistricting process; one (1) Public Hearing before maps are drawn, at least two (2) Public Hearings after draft maps are drawn, and one (1) public hearing scheduled on an evening or weekend, at which time the public is invited to provide input regarding the composition of the districts.

The purpose of this public hearing is to update the community on the redistricting process and to receive feedback about what neighborhoods and/or communities of interest (COI) should be taken into consideration while creating district boundaries. A COI is a group of people that share common social or economic interests, live in a geographically definable area, and should be included within a single district for purposes of effective and fair representation in future elections. There are some communities of interest that are considered “protected classes” in that they have rights through state or federal civil rights or voting rights laws. Some examples of protected classes in districting would be ethnic and racial minorities such as a concentration of Latinx, Asian, Black, or African American people. There are other potential Communities of Interest that can also be considered in districting, such as: senior citizens, college students, people who live in a particular neighborhood, or even people who share concerns such as parents with young children, bicycle enthusiasts, topic interest groups, etc. Communities of Interest do not include relationships with political parties, incumbents, or political candidates.

Possible community features include, but are not limited to:

1. School attendance areas;
2. Natural dividing lines such as major roads, hills, or highways;
3. Areas around parks and other neighborhood landmarks;
4. Common issues, neighborhood activities, or legislative/election concerns; and
5. Shared demographic characteristics, such as:
   a) Similar levels of income or education;
   b) Languages spoken at home; and
   c) Single-family and multi-family housing unit areas.

The City must ensure compliance with the following state and federally-mandated criteria:
- Each district shall contain a nearly equal population.
- Each district shall be drawn in a manner that complies with the Federal Voting Rights Act.

Each district shall not be drawn with race as the predominate factor in violation of the principles established by the U.S. Supreme Court.

**COMMUNITY ENGAGEMENT: Collaborate**

The City Clerk’s Office and Communications Team have developed the following community outreach plan:

Public Messaging via Social Media, City’s Website, Press Releases, newsletters, and other public communications, in English and Spanish, including:

- Social media engagement on Facebook, Instagram, Twitter, and NextDoor in both English and Spanish
- Updated webpage on City’s website for redistricting updates and information
- Information provided via website newsflashes, eblasts, “Morgan Hill Weekly 411,” and print
- Press releases sent to various outlets and groups, including individuals and churches who have connections to our Spanish speaking community
- Public notices posted at City facilities
- Display advertisements on local public access network by using Channel 17
- Mailers, infographics, and videos
- Online Interactive Tools:

- An updated online interactive mapping tool will be established to allow residents to draw their own lines. The City's consulting demographer will provide training for the public on how to use the new online mapping tool

**ALTERNATIVE ACTIONS:**
Not Applicable.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
January 29, 2021 Annual Goal Setting Workshop - City Council received presentation outlining the requirements and process for redistricting.

At the May, 5, 2021 City Council Meeting - the City Council voted to move forward with a staff-led approach to the redistricting process.

At the August 6, 2021 Mid-Year Goal Review Workshop - City Council received an update on the redistricting process.

**FISCAL AND RESOURCE IMPACT:**
For the FY 2021-2022 redistricting process, staff estimates that the currently budgeted funds will be sufficient.

**CEQA (California Environmental Quality Act):**
Not a Project

The reformatting of electoral districts is not a project as defined in Section 15060(c) of the State CEQA Guidelines.

**LINKS/ATTACHMENTS:**
1. NDC Redistricting Update Presentation
2. Redistricting Outreach Plan Presentation

National Demographics Corporation


# City of Morgan Hill Public Hearing 1

August 18, 2021

Dr. Justin Levitt, Vice-President
National Demographics Corporation

# Redistricting Process

| Step | Description |
| --- | --- |
| **Kickoff**<br>May 5, 2021 | Initial discussion of districting process |
| **Initial Hearing**<br>August 18, 2021 | Held prior to release of draft maps.<br>Education and to solicit input on the communities in the Districts. |
| **Census Data Release**<br>August 12, 2021 | Census Bureau releases official 2020 Census population data. |
| **California Data Release**<br>Early October 2021 | California Statewide Database releases California's official 'prisoner-adjusted' 2020 redistricting data. |
| **Community Meetings**<br>Fall 2021 | Prior to the release of draft maps<br>Training on the tools<br>Provide feedback on communities in the Districts |
| **Two Draft Map Hearings**<br>Spring 2022 | At least two Public Hearings to discuss and revise the draft maps and to discuss the election sequence. |
| **Map Adoption**<br>By April 15, 2022 | Final map must be posted at least 7 days prior to adoption.<br>Map adopted via ordinance. |

# Redistricting Rules and Goals

## 1. Federal Laws

Equal Population

Federal Voting Rights Act

No Racial Gerrymandering

## 2. California Criteria for Cities

1. **Geographically contiguous**
2. **Undivided neighborhoods and "communities of interest"**
   (Socio-economic geographic areas that should be kept together)
3. **Easily identifiable boundaries**
4. **Compact**
   (Do not bypass one group of people to get to a more distant group of people)

**Prohibited:**

"Shall not favor or discriminate against a political party."

## 3. Other Traditional Redistricting Principles

Minimize voters shifted to different election years

Respect voters' choices / continuity in office

Future population growth

Preserving the core of existing districts

NDC

# Defining Neighborhoods

**1st Question: What is your neighborhood?**

**2nd Question: What are its geographic boundaries?**

**Examples of physical features defining a neighborhood boundary:**

- Natural neighborhood dividing lines, such as highway or major roads, rivers, canals and/or hills
- Areas around parks or schools
- Other neighborhood landmarks

**In the absence of public testimony, planning records and other similar documents may provide definition.**

# Beyond Neighborhoods: Defining Communities of Interest

## 1st Question: What defines your community?

- Geographic Area, plus
- Shared issue or characteristic
  - Shared social or economic interest
  - Impacted by county policies
- Tell us "your community's story"

## 2nd Question: Would this community benefit from being "included within a single district for purposes of its effective and fair representation"?

- Or would it benefit more from having multiple representatives?

Definitions of Communities of Interest may not include relationships with political parties, incumbents, or political candidates.

NDC

# Beyond Neighborhoods: Communities

Under the California Elections Code, “community of interest” has a very specific definition in the context of districting and redistricting cities and counties:

A “community of interest” is a population that shares common social or economic interests **that should be included within a single district for purposes of its effective and fair representation.**

Communities of interest do not include relationships with political parties, incumbents, or political candidates.

(emphasis added)

NDC

# Demographic Summary of Existing Districts

| District | | A | B | C | D | Total |
|---|---|---|---|---|---|---|
| **2020** | 2020 Est. Total Pop | 9,066 | 12,372 | 11,528 | 11,136 | 44,103 |
| | Deviation from ideal | -1,960 | 1,347 | 503 | 110 | 3,307 |
| | % Deviation | -17.78% | 12.21% | 4.56% | 1.00% | 29.99% |
| Citizen Voting Age Pop | Total | 6,045 | 8,112 | 7,268 | 7,944 | 29,369 |
| | % Hisp | 25% | 27% | 28% | 19% | 25% |
| | % NH White | 59% | 50% | 53% | 62% | 56% |
| | % NH Black | 3% | 3% | 2% | 2% | 2% |
| | % Asian/Pac.Isl. | 12% | 18% | 16% | 16% | 16% |

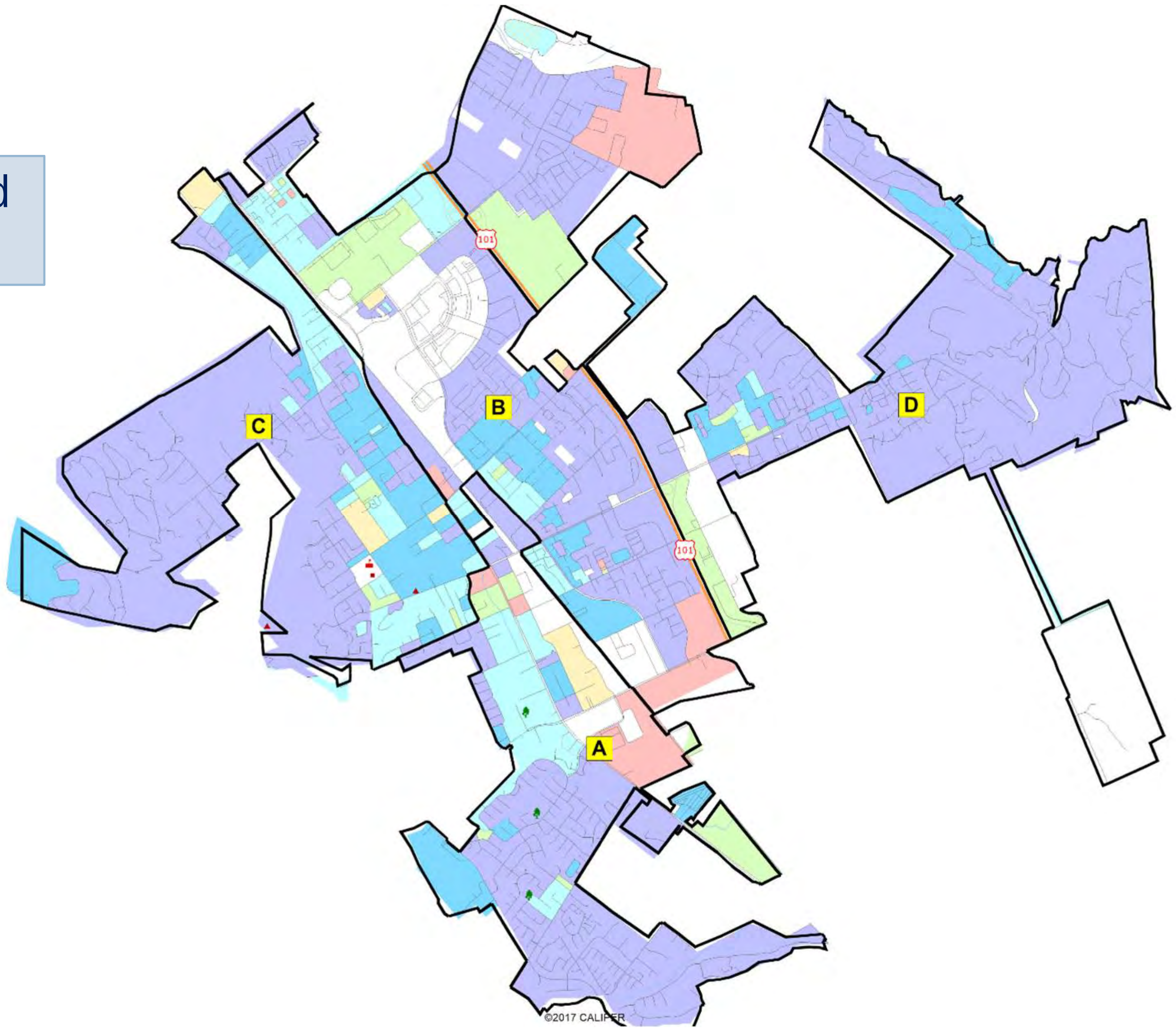
Estimates using official 2020 demographic data and NDC's estimated total population figures.

Each of the 4 districts must contain about 11,026 people.

NDC

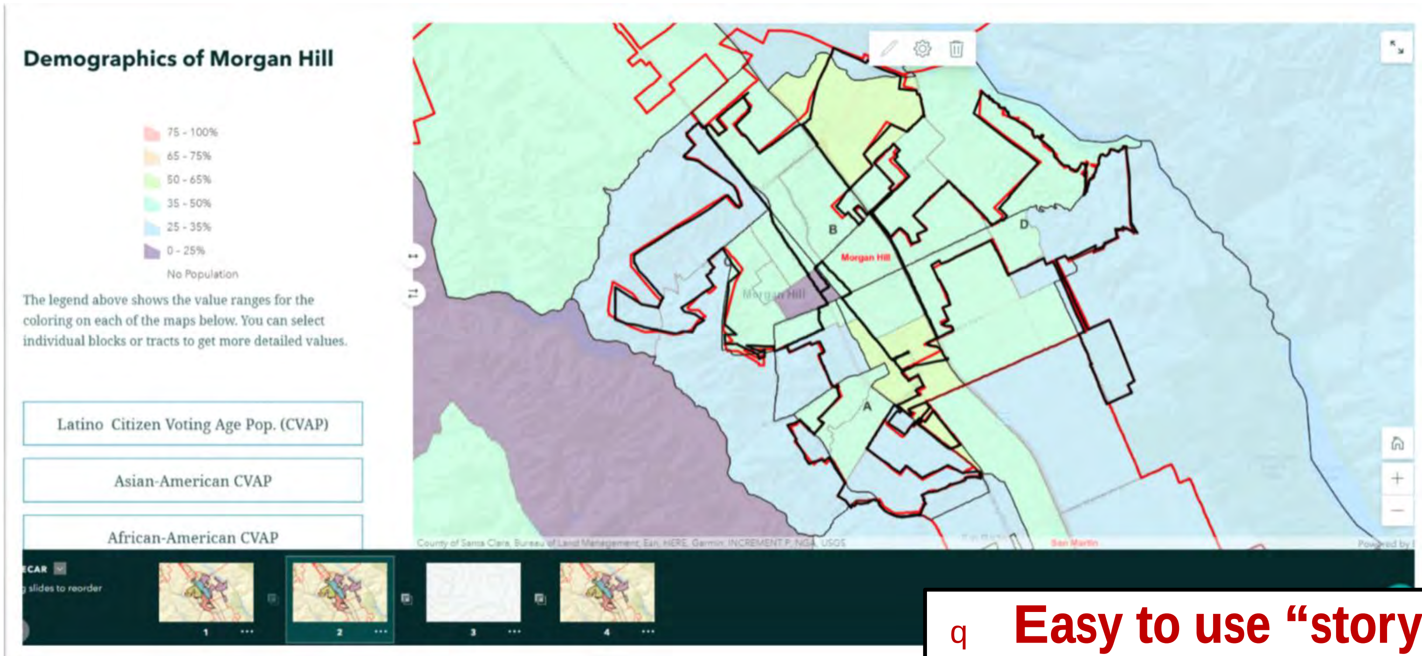
# Latino CVAP

Latinos are concentrated along Butterfield Road




0% - 10%
10% - 25%
25% - 35%
35% - 50%
50% - 75%
75% - 100%

# Story Map – Interactive Viewer




**View Morgan Hill's Story Map at https://arcg.is/1bbOru**

- **Easy to use "story" of demographic and other data**
  - Similar to PowerPoint, but interactive
  - Used to identify "communities of interest"

# Public Mapping and Map Review Tools

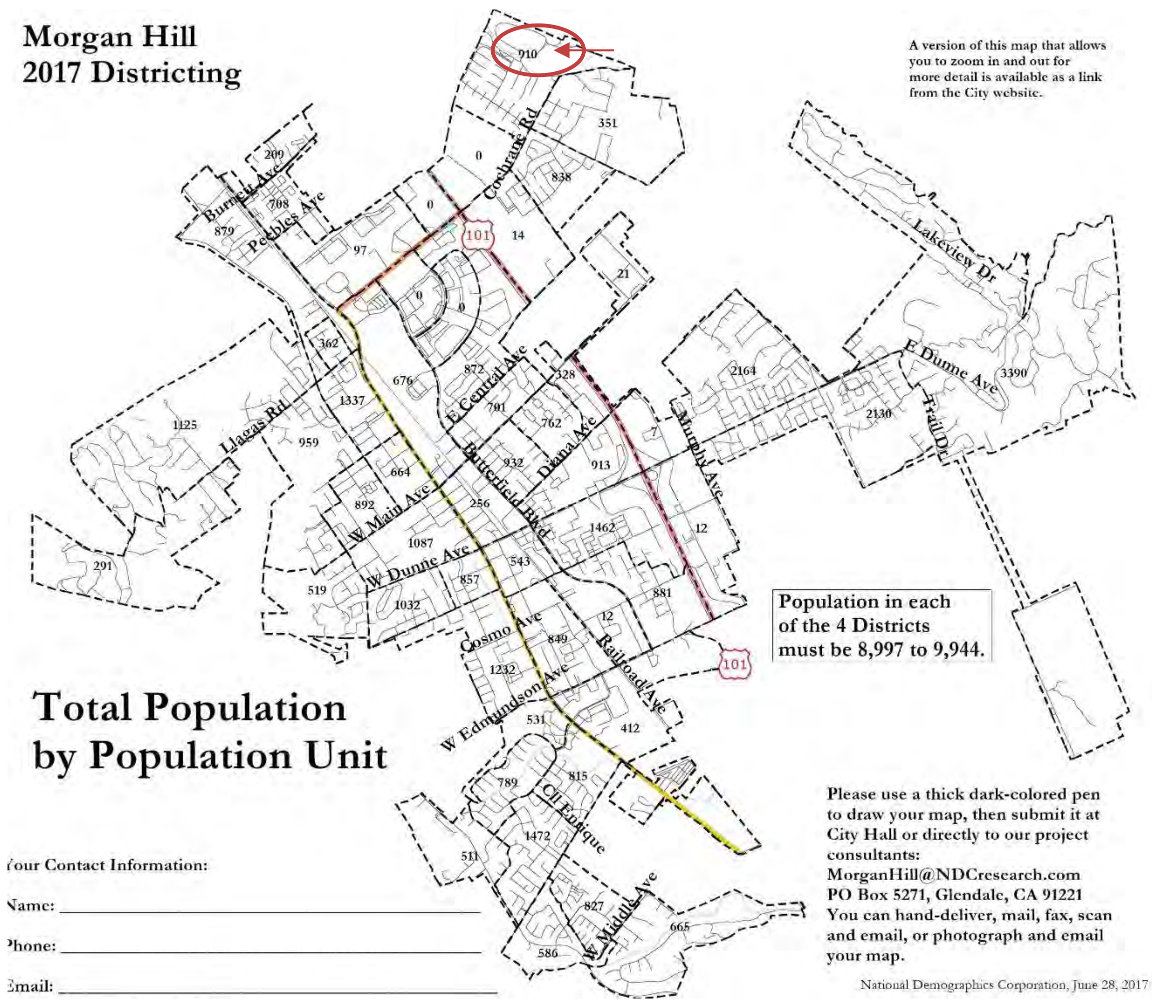
- **Different tools for different purposes**
- **Different tools for different levels of technical skill and interest**
  - Simple "review draft maps" tool
  - Easy-to-use "Draw your neighborhood" tool
  - Paper- and Excel-based simple "Draw a draft map" tools
  - Powerful, data-rich "Draw a draft map" tool

Whether you use the powerful (but complicated) online mapping tool, Excel, the paper kit, or just draw on a napkin, we welcome your maps!

# Simple Map Drawing Tool

## Paper "Public Participation Kit"

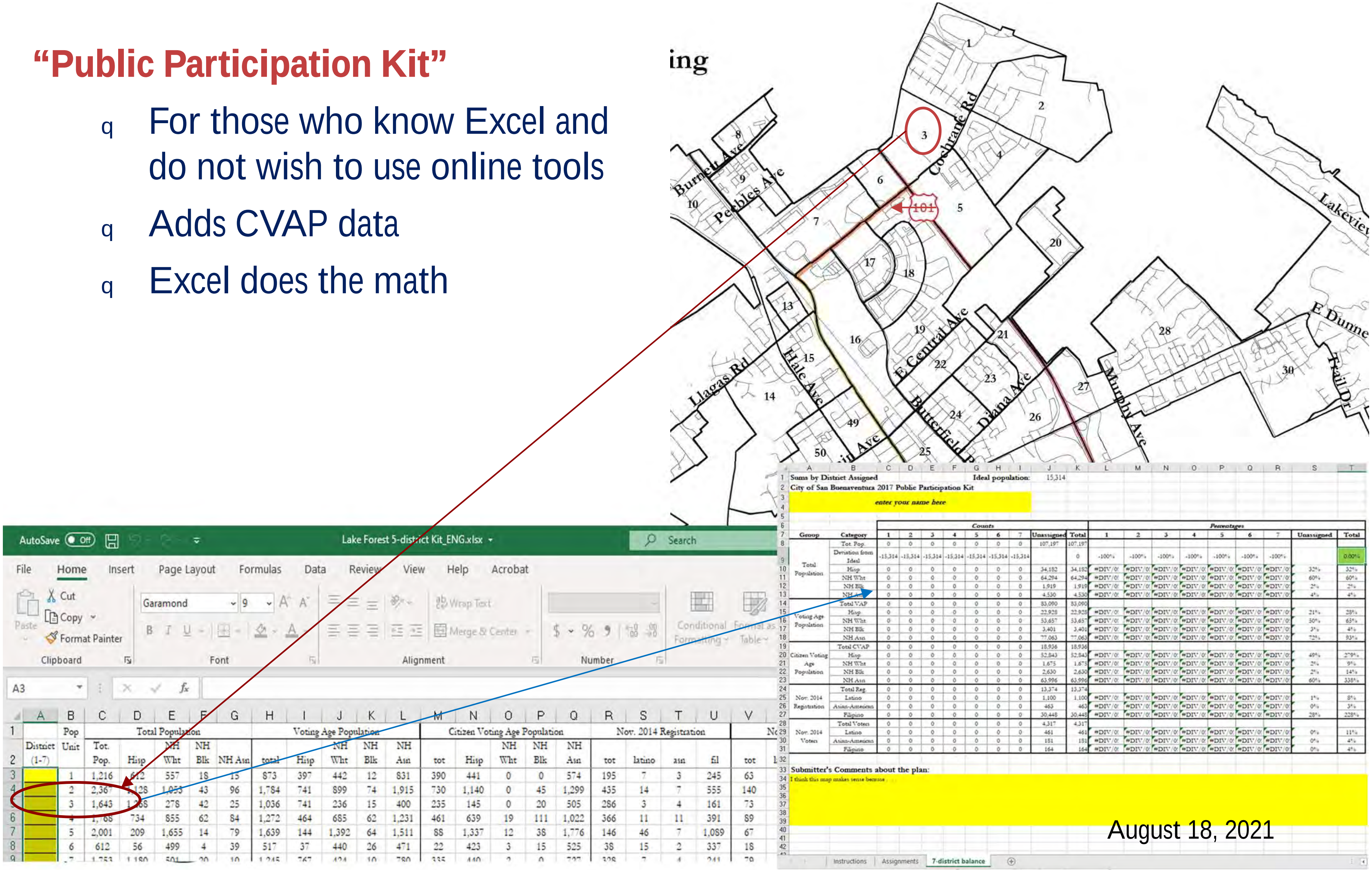
- For those without internet access or who prefer paper
- Total Population Counts only – no demographic numbers



# Simple Map Drawing Tool + Excel Supplement

## "Public Participation Kit"

- For those who know Excel and do not wish to use online tools
- Adds CVAP data
- Excel does the math

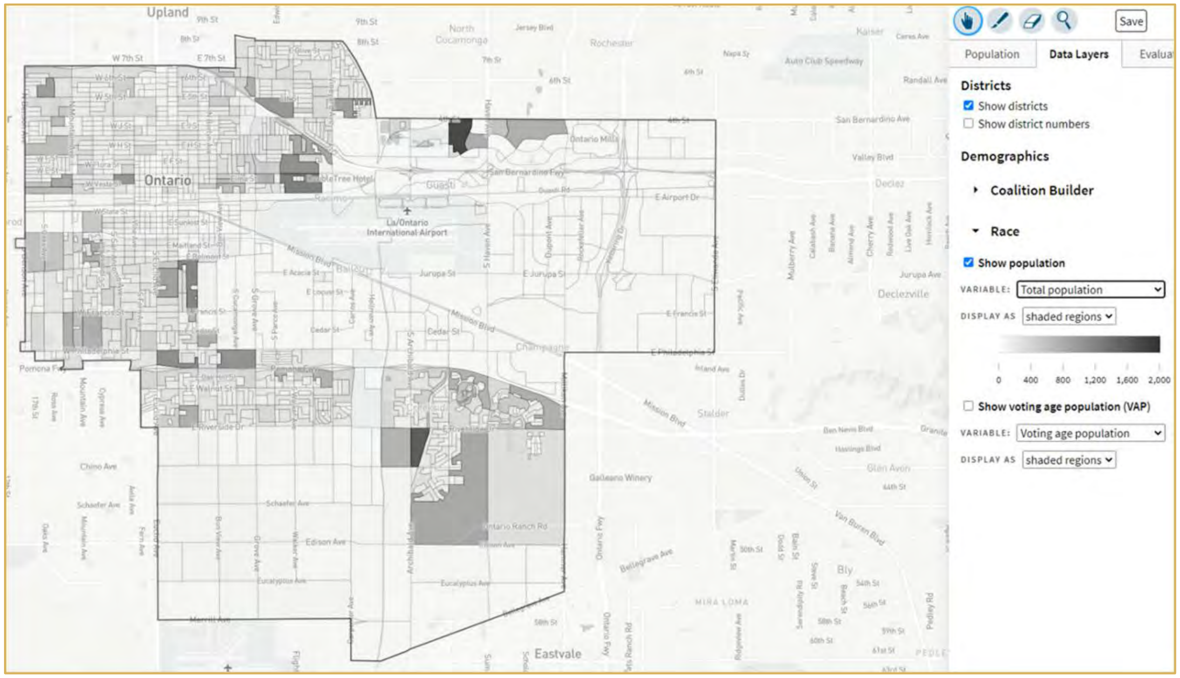



August 18, 2021

# DistrictR

## "Draw Your Community of  Interest" focus

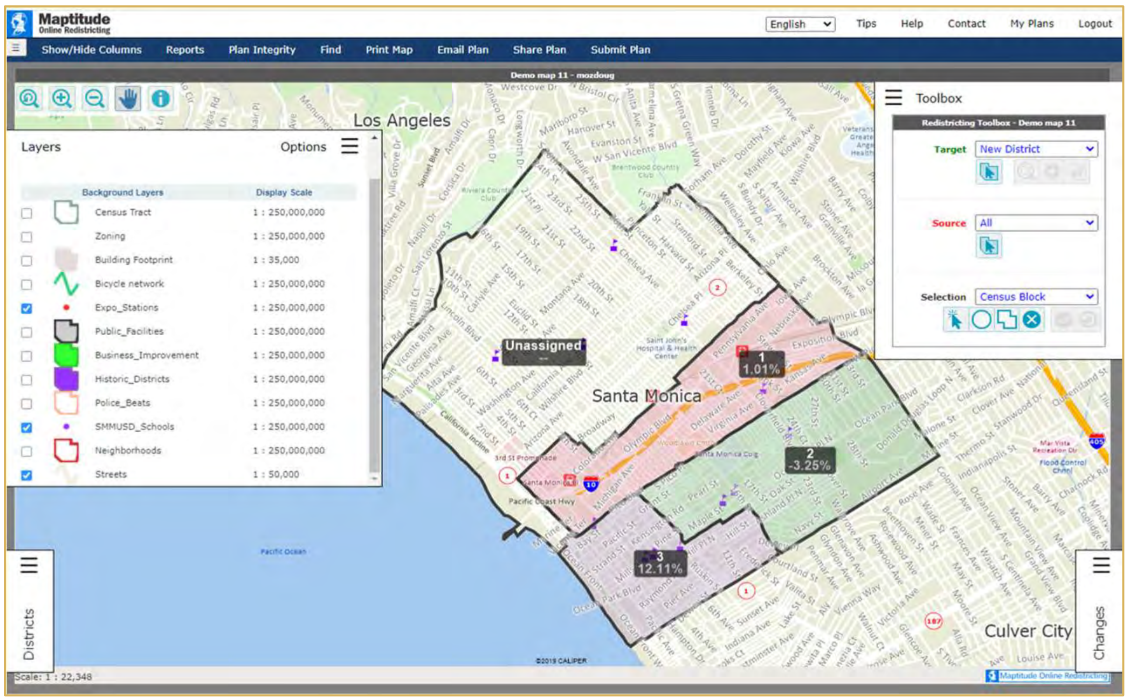
- **districtR.org**
- Also includes simple district-mapping tool; Only available in English
- Similar external options: Representable.org, DrawMyCACommunity.org; multiple language options



# Caliper's "Maptitude Online Redistricting"

## Full Database, Powerful Online Mapping Tool

- Powerful, common, data-rich online tool
- Six language options: English, Spanish, Portuguese, Vietnamese, Mandarin and Korean
- Quick Start Guide



# Public Hearing & Discussion

- What is your neighborhood and what are its boundaries?
- What other notable areas are in the City, and what are their boundaries?

- Any questions about the mapping tools?

**Discussion on:**

- “neighborhoods”
- “communities of interest”

# Share Your Thoughts

## Website

morganhillredistricting2021.com

## Phone

408-310-4678

## Email

redistricting2021@morganhill.ca.gov

# Redistricting Outreach Plan
# City of Morgan Hill

Council Meeting - August 18, 2021

CITY OF MORGAN HILL

# Outreach Plan’s Purpose

- An Outreach Plan guides all communications activities of an initiative
  - Details communications plan
  - Identifies the methods used to increase public engagement
  - Includes schedule of public engagement opportunities
  - Calls out target audiences
  - Provides reporting metrics to measure effectiveness

CITY OF MORGAN HILL

# Digital Communications Plan

- Website: www.MorganHillRedistricting2021.com
- Social Media
- Media outreach, inclusive of ethnic media
- Meeting & Workshop Flyers
- Public Notices
- Multilingual in approach: English and Spanish
  - Other languages provided upon request 48 hours before a meeting

CITY OF MORGAN HILL

# Methods of Community Engagement

- Hearings (legally required)
- Workshops (beyond the minimum legal requirements)
- Community Based Organization (CBO) & Resident Outreach
- Mapping tools
- Public Review of Draft Maps
- Emailed comments and questions to redistricting email address: redistricting2021@morganhill.ca.gov

CITY OF MORGAN HILL

# Meetings & Public Hearings

- Meetings & Public Hearings (legally required)
  - Presentations from Demographer on what redistricting is
  - Tutorials of mapping tools
  - Council discussions on redistricting priorities
  - Opportunity for public comment and feedback and communities of interest and neighborhood characteristics, made part of the public record
  - Translation services available-48 hrs notice required (72 hrs notice required by law)

CITY OF MORGAN HILL

# Workshops

- Informal opportunity to meet in each district with residents and stakeholders
- Presentations and interactive discussion about communities of interest and neighborhood characteristics
- Hands-on familiarization and practice with online and paper mapping tools
- Public comment and community feedback all part of the public record
- Spanish Translation services available at all workshops (Other languages available by request)

CITY OF MORGAN HILL

# CBO & Resident Outreach

- List Development
- Emails
- City’s ListServ/Subscription
- Neighborhood & City Events
- Publicity through existing city channels

CITY OF MORGAN HILL

# Mapping Tools & Demographic Analysis

Mapping tools

- Online
- Paper Mapping Tools
- Paper Mapping Tools with a Microsoft Excel spreadsheet to calculate population totals

Demographic Analysis

- Story Map

CITY OF MORGAN HILL

# Timeline

Current Stage

| Summer 2021 | Fall 2021 | January 2022 | March 2022 |
| --- | --- | --- | --- |
| • 1st Public Hearing | • Receive Census data from the State<br>• Conduct Community Workshops | • Public Hearing<br>• Present draft maps | • Public Hearing<br>• Adopt final map |

*<u>Note</u>: Timeline is subject to change.*

# We Need You!

- Outreach Plan is all to get public involved
  - Communicate on Communities of Interest (COI)
  - Draw Maps
- Stay up-to-date on Morgan Hill's redistricting efforts, and find ways to participate

www.MorganHillRedistricting2021.com
redistricting2021@morganhill.ca.gov

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: Dat Nguyen, Finance Director
APPROVED BY: City Manager

## MONTHLY BUDGET UPDATE; PRELIMINARY FY 20-21 FINANCIAL AND INVESTMENT REPORTS; CITY MANAGER AUTHORITY REPORT; ADOPT BUDGET AMENDMENTS; AND APPROVE AMENDMENT TO FISCAL POLICIES

**RECOMMENDATION(S)**

1. Accept and file Preliminary Fiscal Year (FY) 2020-2021 Financial and Investment Report and City Manager Authority Report; and
2. Adopt resolution authorizing changes to the adopted Fiscal Year (FY) 2020-2021 and 2021-22 City of Morgan Hill Operating Budget, including appropriation of American Rescue Plan Act (ARPA) Funding; and
3. Approve amendment to Fiscal Policies to fund General Fund unfunded needs and unfunded liabilities from General Fund budget savings.

**COUNCIL PRIORITIES, GOALS & STRATEGIES**

| Ongoing Priorities | 2020-2021 Strategic Priorities |
|---|---|
| Maintaining Infrastructure | Community Outreach |
| Preserving and Cultivating Public Trust | 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 the monthly budget update, preliminary Fiscal Year (FY) ending June 30, 2021 financial and investment reports, along with the recommended changes to the adopted FY 2020-2021 and 2021-22 City of Morgan Hill Operating Budget, including an additional appropriation of American Rescue Plan Act (ARPA) Funding.

**Preliminary Fiscal Year Ending June 30, 2021**

General Fund: Revenues totaled $40.2 million, compared to amended budget of $44.7 million. This is mainly due to the timing of receipt and recognition of ARPA funding in FY 2021-22 as opposed to FY 2020-21, as projected. Excluding ARPA funds of $4.3 million, overall revenue for the General Fund came in as projected. Expenditures, including encumbrances, totaled $40.0 million, compared to amended budget of $44.2 million. FY 2020-21 general fund expenditures came in better than anticipated partially due cost containment strategies implemented due to the reduction in operating hours at the Centennial Recreation Center (CRC) and Aquatics Center (AC), lower membership units in Recreation services, savings from CalFire contract, and better performance in

Development Services Fund 206, which does not expect a loan from the General Fund of $1.0 million for FY 2020-21 as budgeted.

Development Services: Revenues totaled $4.6 million, compared to budget of $3.8 million, this is mainly a result of increased construction activity. Expenditures, including encumbrances, totaled $5.0 million, resulting in a net operating deficit of approximately $0.4 million. As a result of better performance of the Development Services Fund, it is not anticipated the fund will require a loan from the General Fund of $1.0 million, as originally budgeted. Though the Development Services Fund completed FY 2020-21 better than anticipated, it still operates with a deficit. Staff is in the process of working with a consultant to finalize a fee study to update current development fees, which were last updated over five years ago.

Enterprise Funds: Water and Sewer revenue totaled $45.2 million. The Sewer Operating Fund's preliminary total revenue amounted to $13.3 million, slightly better than budget by approximately $0.1 million or less than 1%. The Water Operating Fund's preliminary total revenue amounted to $16.5 million, approximately $0.9 million or about 6% over budget. Preliminary FY 2020-21 expenditures, including encumbrances for the Enterprise Funds totaled $41.1 million. Per City Council reserve policy, any excess funds after appropriate reserves have been set aside for the Operating and Rate Stabilization Reserve Funds, shall be transferred to capital projects for the ongoing maintenance and improvement of the City's utilities systems. For FY 2020-21, Wastewater Operating Funds transferred approximately $3.5 million and Water Operating Funds transferred approximately $4.5 million to capital projects funds.

**Proposed Budget Amendments**

ARPA Funds:

Since the adoption of the midcycle budget adjustments on May 26, 2021, the California Department of Finance (DOF) notified the City of Morgan Hill that the City's allocation for the distribution of ARPA funds is $10,992,695 versus $8,649,458 as forecasted earlier. The City received its first distribution of ARPA funds on July 13, 2021. Staff is recommending using the additional ARPA funds for the staffing of the 3rd fire station which is legally required to be completed by August 2024; restoring two Recreation Services positions; and other programs and items as itemized in Attachment D.

**Revenue**

Property Tax - FY 2021-22 Roll Close:

On July 1, 2021, the County of Santa Clara Assessor's Office released the assessment roll close for FY 2021-22. The assessment roll for the County grew 4.6% for FY 2021-22 versus 6.87% for the prior year. This "slower" growth still exceeds expectations mainly due to strong residential growth as well as limited impact to the commercial properties from the pandemic. The City of Morgan Hill's assessment roll for FY 2021-22 grew 5.75% versus 6.12% for the prior year. Though lower growth than the prior year, the City's growth is the 2nd highest in the County, behind only Mountain View of 8.06% mainly due to the construction of Google's new campus in Bayview, and it is also much better than our budget of no growth for the year. The City's total net assessed value for FY 2021-22 is about $11.5 billion, increased by about $625 million from the prior year total net assessed value of about $10.9 billion. The assessment roll growth of 5.75% for the City equates to approximately $700,000 more in property tax revenue.

Recreation Services

Revenues are tracking about $275,000 better than projected to start the year primarily due to higher than anticipated membership growth. However, with the new mask mandate, which went into effect earlier this month as a result of increasing Covid-19 cases, the rate of growth has begun to slow.

**Expenditures**

**FY 2020-21**

Due to various reasons, total FY 2020-21 expenditures for certain funds have exceeded budget amounts, as such additional appropriations are required as itemized in Attachment C.

**FY 2021-22**

Restore two Recreation Services positions

For the FY 2020-21 Budget the City reduced full-time staffing in Recreation Services by 2.5 FTE's to reduce costs. Staff is proposing reinstating two new FTEs in Recreation Services. There are several factors that go into the timing of this proposal. The first, is the ability to use ARPA funding to offset costs of the positions in the short term. Additionally, Recreation revenues have begun to bounce back slightly faster than expected. Revenues are tracking about $275,000 better than anticipated to start the year. Finally, in order to restore programs previously offered, additional teammates are needed. Activities to be restored include programming for Senior Services, opening of the Magical Bridge Playground, community use of recreation facilities, support and outreach to lower income residents to participate in programs, sports programs, the splash pad at the Community Center and many other smaller programs that have been put on hold. Additionally, many existing programs are requiring enhanced oversight and management to support safety during the Covid-19 epidemic. The return of these positions will also be critical for implementation of additional revenue generating programs.

Upon the return to operations following the Covid-19 epidemic, Recreation Services has completely restructured management of the facilities. Many transactions can now be completed online, and management functions have changed to better address the needs of Recreation Services. Many of these changes continue to be enhanced, while at the same time the Division will continue to focus on balancing cost recovery with community access and affordability, ensuring all members of the community are able to participate in recreation services. To adjust to these changing needs, it is proposed that two FTE's be reinstated, a Community Services Supervisor and a Community Services Coordinator. The Community Services Coordinator position will replace the eliminated former Municipal Services Assistant Position. This new position will cost an additional $12,000 annually, offset by savings in part-time temporary staffing.

City staff recognize that closures related to Covid-19 may still occur and set recreation revenues back further. The recent masking requirements indoors have slowed membership growth slightly. Should these trends continue, hiring of new staff will be delayed.

Upgrade Audiovisual (AV) Technician from Part-Time Temporary to Permanent
Due to the recent hybrid meeting mandate and the rollout of hybrid meeting capability for City staff, staff is recommending upgrading an existing part-time temporary AV Technician to a permanent position at an additional cost of approximately $110,000 annually.

**Amendment to Fiscal Policies**
As the City anticipates General Fund budget savings in FY 2020-21, it is prudent to plan as well as begin funding the City's unfunded needs and liabilities. Currently, the City has unfunded General Funds needs of approximately $5.2 million annually and unfunded liabilities of Public Employees Retirement System (PERS) and Other Postemployment Benefits (OPEB) of approximately $55.9 million of which the General Fund share is about 67% or $37.5 million. Staff proposes an amendment to the City's Fiscal Policies to add Policy A.9 to automatically fund the aforementioned unfunded needs and liabilities from 50% of the annual General Fund budget savings, effective with the FY 2020-21 General Fund budget savings. The proposed allocation from the annual General Fund budget savings, if any, is below:

- 20% to Fund 308 Street CIP for pavement and rehabilitation of City streets
- 20% to Section 115 Trusts for OPEB and PERS Rate Stabilization Funds
- 10% to Fund 302 Park Maintenance for maintaining of City parks
- 50% to the Unassigned General Fund Reserve

In addition, any funding to the Section 115 Trusts from the General Fund budget savings will be matched by 20% funding from the Enterprise Funds as this is the percentage share of the Enterprise Funds of the unfunded liabilities.

**City Manager's Authority Report**
Pursuant to the City Council Policy 18-05 – Report on delegation of authority to City Manager, Page 17 of Attachment 2 lists the contracts and or agreements between $25,000 to $60,000, or the limit of the California Uniform Public Construction Cost Accounting Act (CUPCCAA), entered into by the City Manager since the last report from April 8, 2021 through August 6, 2021.

**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:**
City Council could decide to make adjustments to the recommended budget

amendments or fiscal policies.

**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.

**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.

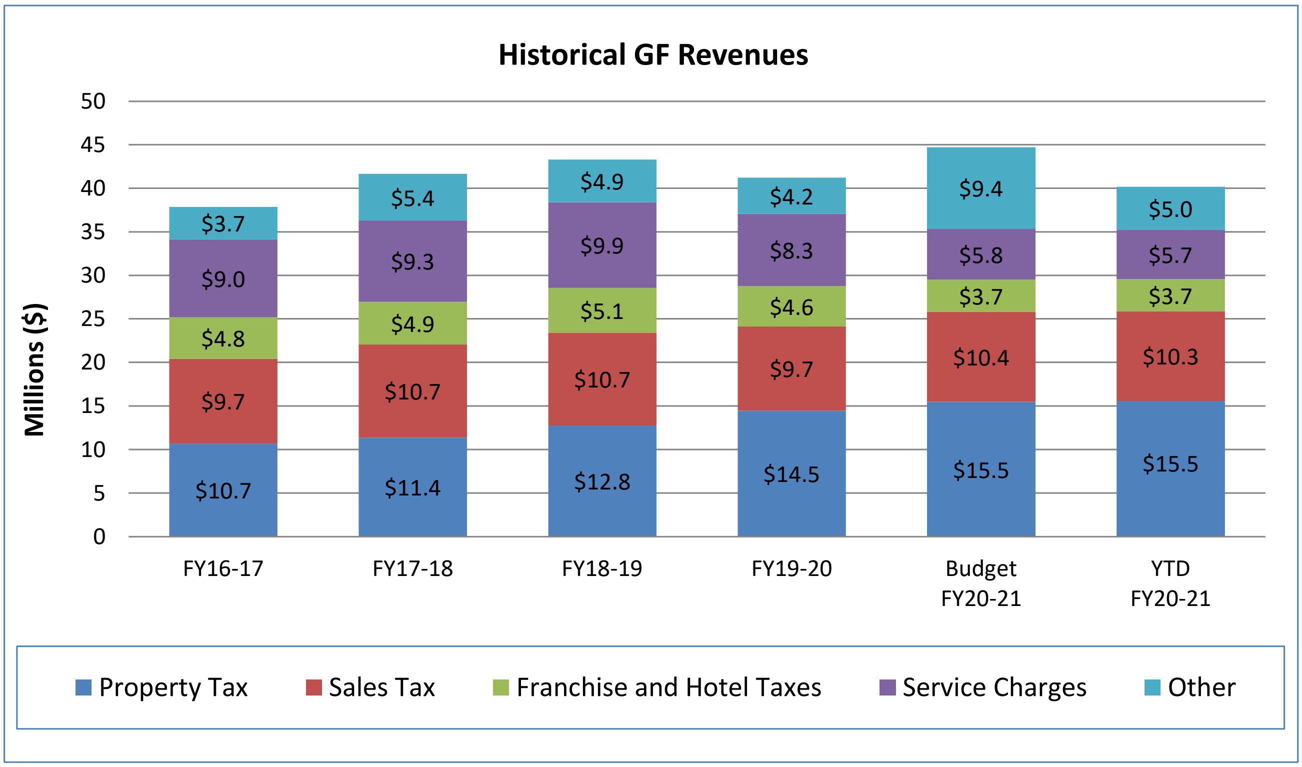
**LINKS/ATTACHMENTS:**
1. Attachment A - Preliminary FY2020-21 Financial Statement Analysis
2. Attachment B - Preliminary FY2020-21 Financial and Investment Report
3. Attachment C - Proposed Changes FY2020-21
4. Attachment D - Proposed Changes FY2021-22
5. Attachment F - Budget Amendments Resolution

CITY OF MORGAN HILL

**CITY OF MORGAN HILL, CALIFORNIA**
**FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21**
**FOR THE MONTH ENDED JUNE 2021 – 100% OF YEAR COMPLETE**

- **General Fund** – Preliminary revenues for the fiscal year ending June 30, 2021 totaled $40.2 million, compared to amended budget of $44.7 million. This is mainly due to the timing of receipt and recognition of American Rescue Plan Act (ARPA) funding in FY 2021-22 versus expected in FY 2020-21. Excluding the ARPA funds of $4.3 million, overall revenue for the General Fund came in as expected. TOT and recreation services revenues continued to be negatively impacted from the pandemic especially with the recent rise in COVID-19 cases and the County mandate of wearing a well-fitting mask indoors in public and non-public indoor settings.

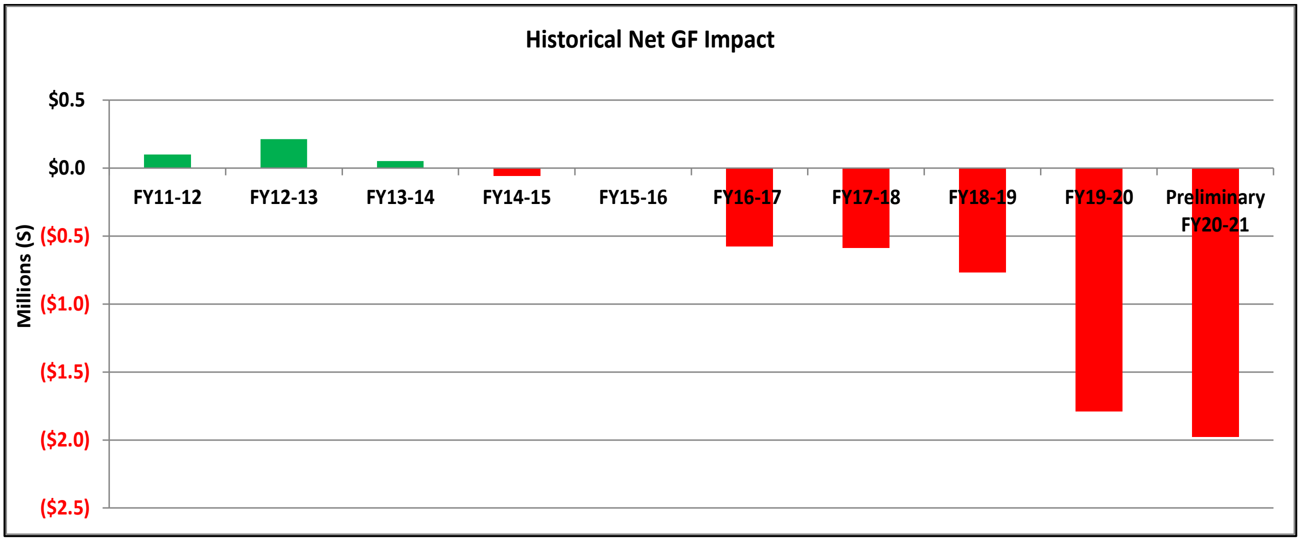
  The chart below shows historical General Fund revenues by major revenue category from FY16-17 through FY19-20 Actual, FY20-21 Budget, and Preliminary FY20-21.




  Expenditures, including encumbrances totaled $40.0 million, compared to amended budget of $44.2 million projected. Better fiscal year 2021-21 general fund expenditures is partially due cost containment strategies implemented to match limited opening hours and lower membership in Recreation Services, savings from CalFire contract, and better performance in development services Fund 206, which does not expect to require a loan from the general fund of $1.0 million for fiscal year 2020-21 as originally anticipated.

- **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 $2.0 million for the fiscal year 2020-21. The large operating loss for recreation operations reflect the restrictions and limited opening of recreation facilities since March 2020 due to shelter-in-place order as a result of coronavirus pandemic.

CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21
FOR THE MONTH ENDED JUNE 2021 – 100% OF YEAR COMPLETE




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 totaled $4.6 million, compared to $3.8 million budgeted as construction activities continued to fare better than expected. Expenditures, including encumbrances, totaled $5.0 million resulting in a net operating deficit of approximately $0.4 million. As a result of better than anticipated revenue collection, the fund doesn't expect to require a general fund loan of approximately $1.0 million for fiscal year 2019-20. Though the fund had a better result, it still operates with a deficit. Staff, with the assistance of the consultant, is in the process of finalizing a fee study to update the current fees which were developed over five years ago to address the fund's shortfall.

- **Debt Service Funds** – Preliminary revenues for fiscal year 2020-21 totaled $0.7 million. 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.

- **Wastewater Operations** – Preliminary revenues for fiscal year 2020-21 totaled $13.3 million. Expenditures and outstanding encumbrances totaled $13.3 million. The amount includes a transfer to capital projects fund to fund the on-going maintenance and improvement of the wastewater system in

CITY OF MORGAN HILL, CALIFORNIA
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2020-21
FOR THE MONTH ENDED JUNE 2021 – 100% OF YEAR COMPLETE

the amount of $3.5 million. The table below shows historical Sewer Operations revenues and expenditures from FY16-17 through FY19-20 Actual, FY20-21 Budget, and Preliminary FY20-21.

| (amount in millions) | FY16-17 | FY17-18 | FY18-19 | FY19-20 | Budget FY20-21 | Preliminary FY20-21 |
|---|---|---|---|---|---|---|
| Revenues | 9.7 | 10.3 | 11.4 | 11.9 | 13.3 | 13.3 |
| Expenditures | 9.8 | 10.8 | 11.4 | 12.3 | 13.3 | 13.3 |
| Operating Margin | (0.1) | (0.5) | - | (0.4) | - | - |
| Operating Margin without Encumbrances | (0.0) | (0.3) | 0.4 | (0.1) | - | - |

- **Water Operations** – Water Operations includes Utility Billing, Water Conservation, and Water Operations. Preliminary revenues for fiscal year 2020-21 totaled $16.5 million. Water Operations expenditures, including outstanding encumbrances, totaled $16.5 million for the year. The amount includes a transfer to capital projects fund to fund the on-going maintenance and improvement of the water system in the amount of $4.5 million. The table below shows Water Operations revenues and expenditures from FY16-17 through FY19-20 Actual, FY20-21 Budget, and YTD as of Preliminary FY20-21.

| (amount in millions) | FY16-17 | FY17-18 | FY18-19 | FY19-20 | Budget FY20-21 | Preliminary FY20-21 |
|---|---|---|---|---|---|---|
| Revenues | 10.9 | 13.0 | 14.2 | 15.3 | 15.6 | 16.5 |
| Expenditures | 11.2 | 12.1 | 14.3 | 16.4 | 15.7 | 16.5 |
| Operating Margin | (0.3) | 0.9 | (0.1) | (1.1) | (0.1) | - |
| Operating Margin without Encumbrances | (0.1) | 1.4 | 0.8 | (0.1) | (0.1) | - |

- **Investments** – Two securities were called and five securities were purchased. Total interest earnings received on investments were $21,000 during the month.

# CITY OF MORGAN HILL

## Monthly Financial and Investment Reports

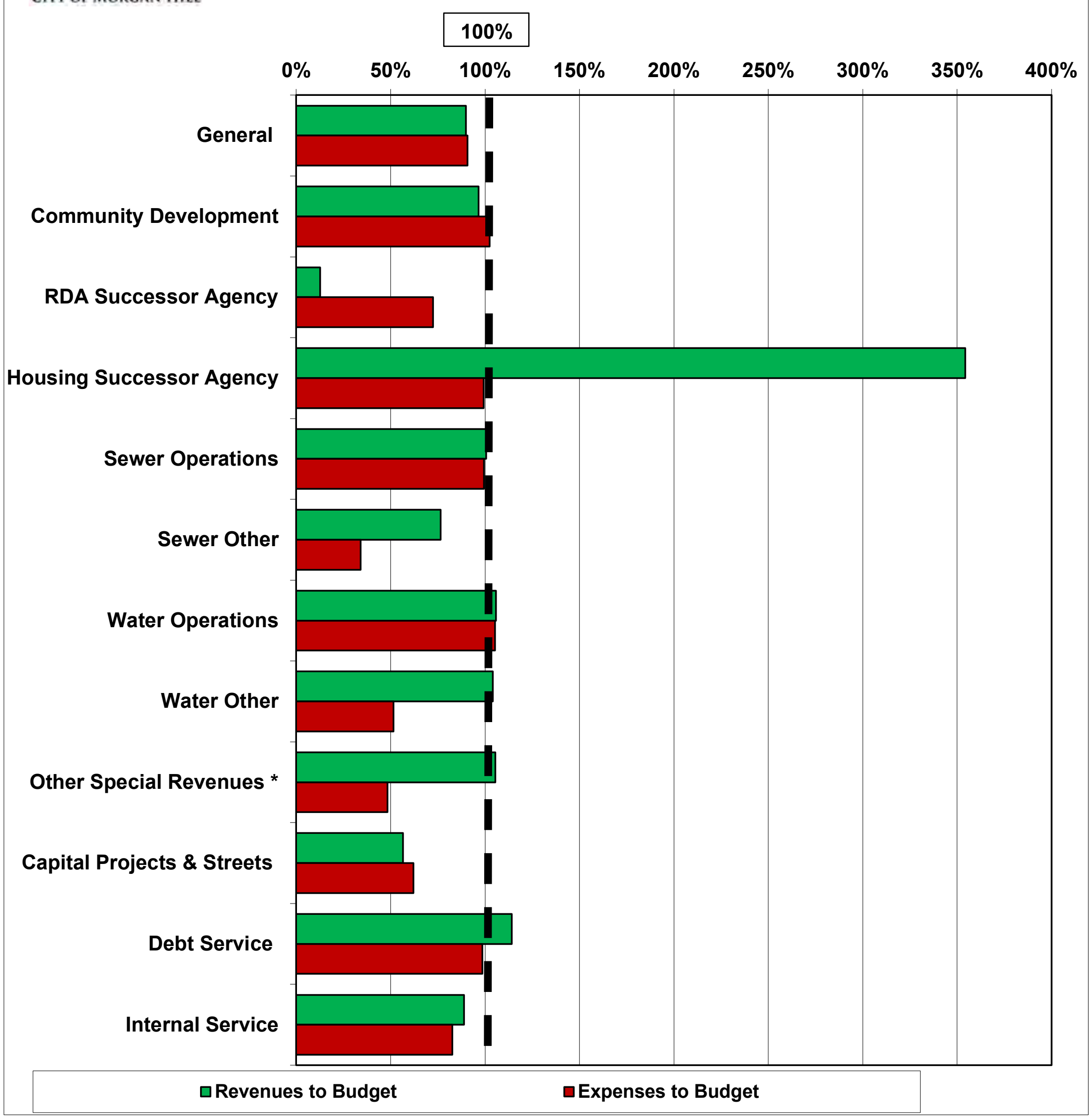
### June 30, 2021 - 100% of Year Complete

CITY OF MORGAN HILL

**Prepared by:**

**FINANCE DIVISION**

# Morgan Hill YTD Revenue & Expense Summary
## June 30, 2021 - 100% of Year Complete

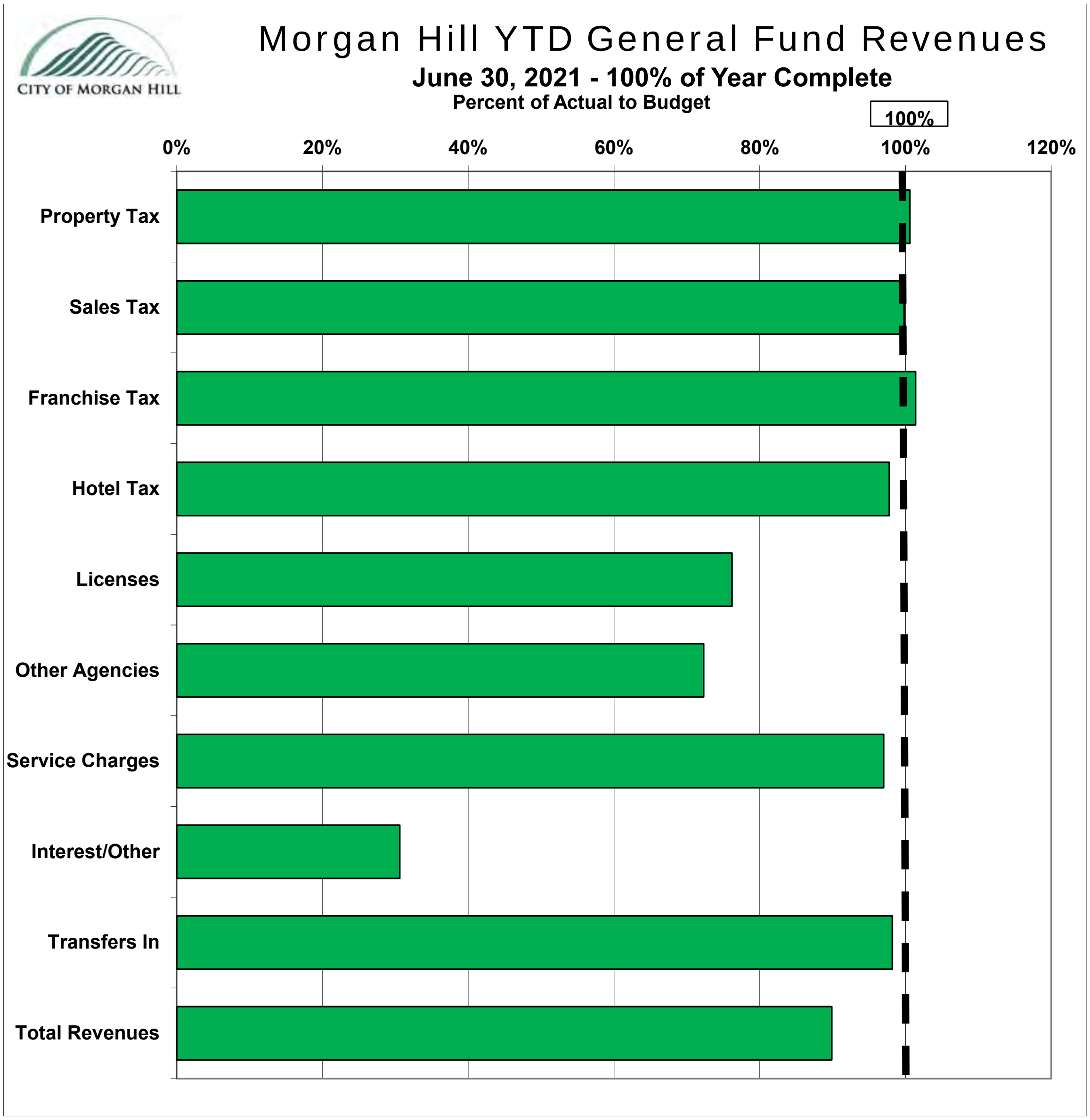



| FUND NAME | REVENUES ACTUAL | REVENUES % OF BUDGET | EXPENSES ACTUAL PLUS ENCUMBRANCES | EXPENSES % OF BUDGET |
|---|---|---|---|---|
| General | $ 40,193,283 | 90% | $ 40,031,107 | 91% |
| Community Development | 4,579,404 | 96% | 4,983,660 | 102% |
| RDA Successor Agency | 896,941 | 13% | 5,021,940 | 72% |
| Housing Successor Agency | 754,760 | 354% | 987,036 | 99% |
| Sewer Operations | 13,343,615 | 101% | 13,272,974 | 99% |
| Sewer Other | 8,358,141 | 76% | 8,799,957 | 34% |
| Water Operations | 16,541,789 | 106% | 16,479,788 | 105% |
| Water Other | 6,949,336 | 104% | 2,533,980 | 51% |
| Other Special Revenues * | 3,966,057 | 105% | 2,400,400 | 48% |
| Capital Projects & Streets | 17,670,621 | 57% | 40,984,249 | 62% |
| Debt Service | 794,512 | 114% | 686,191 | 99% |
| Internal Service | 10,904,095 | 89% | 10,513,356 | 83% |
| TOTAL FOR ALL FUNDS | $ 124,952,554 | 83% | $ 146,694,638 | 73% |

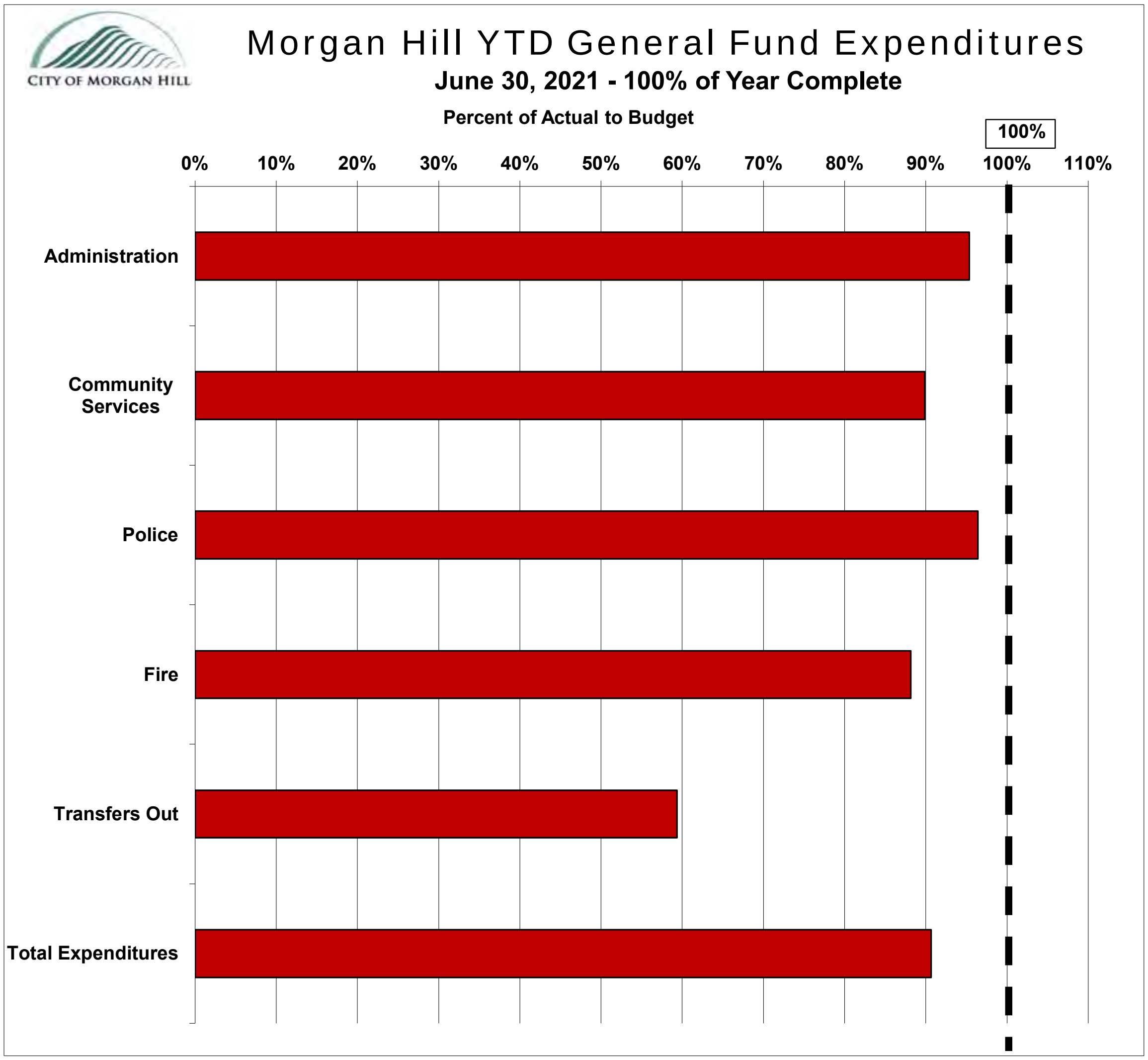
* Includes all Special Revenue Funds except Community Development, Street Funds, and RDA and Housing Successor Agencies.

# Morgan Hill YTD General Fund Revenues

## June 30, 2021 - 100% of Year Complete




| REVENUE CATEGORY | BUDGET | ACTUAL | % OF BUDGET | PRIOR YEAR TO DATE | % CHANGE FROM PRIOR YEAR |
|---|---|---|---|---|---|
| Property Tax | $ 15,463,175 | $ 15,549,159 | 101% | $ 14,460,361 | 8% |
| Sales Tax | 10,370,868 | 10,345,833 | 100% | 8,964,103 | 15% |
| Franchise Tax | 2,351,000 | 2,384,106 | 101% | 2,382,639 | 0% |
| Hotel Tax | 1,319,000 | 1,290,059 | 98% | 2,260,140 | -43% |
| Licenses | 185,444 | 141,280 | 76% | 149,594 | -6% |
| Other Agencies | 710,990 | 513,710 | 72% | 712,954 | -28% |
| Service Charges | 5,832,432 | 5,660,095 | 97% | 8,298,374 | -32% |
| Interest/Other | 5,943,836 | 1,816,366 | 31% | 1,498,624 | 21% |
| Transfers In | 2,537,707 | 2,492,675 | 98% | 1,766,663 | 41% |
| TOTAL REVENUES | $ 44,714,452 | $ 40,193,283 | 90% | $ 40,493,453 | -1% |



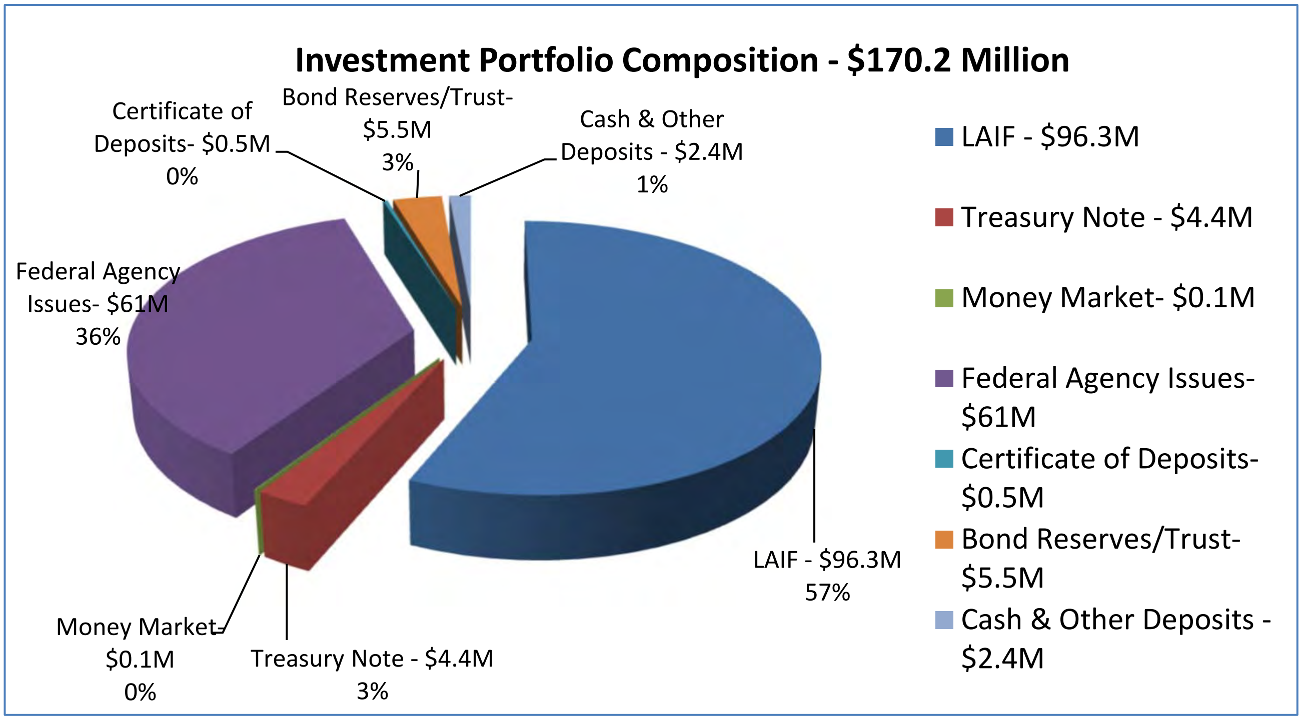

| EXPENDITURE CATEGORY | BUDGET | ACTUAL PLUS ENCUMBRANCES | % OF BUDGET | PRIOR YTD PLUS ENCUMBRANCES | % CHANGE FROM PRIOR YEAR |
|---|---|---|---|---|---|
| Administration | $ 4,633,295 | $ 4,418,900 | 95% | $ 4,519,366 | -2% |
| Community Services | 11,348,995 | 10,200,044 | 90% | 10,742,262 | -5% |
| Police | 17,898,313 | 17,253,544 | 96% | 17,191,925 | 0% |
| Fire | 7,162,540 | 6,313,455 | 88% | 6,877,234 | -8% |
| Transfers Out | 3,108,702 | 1,845,164 | 59% | 975,996 | 89% |
| TOTAL EXPENDITURES | $ 44,151,844 | $ 40,031,107 | 91% | $ 40,306,784 | -1% |

**City of Morgan Hill**
**Recreation Report - Fiscal Year 2020-21**
**For the Month and Twelve Months Ended June 30, 2021**
**100% of Year Complete**

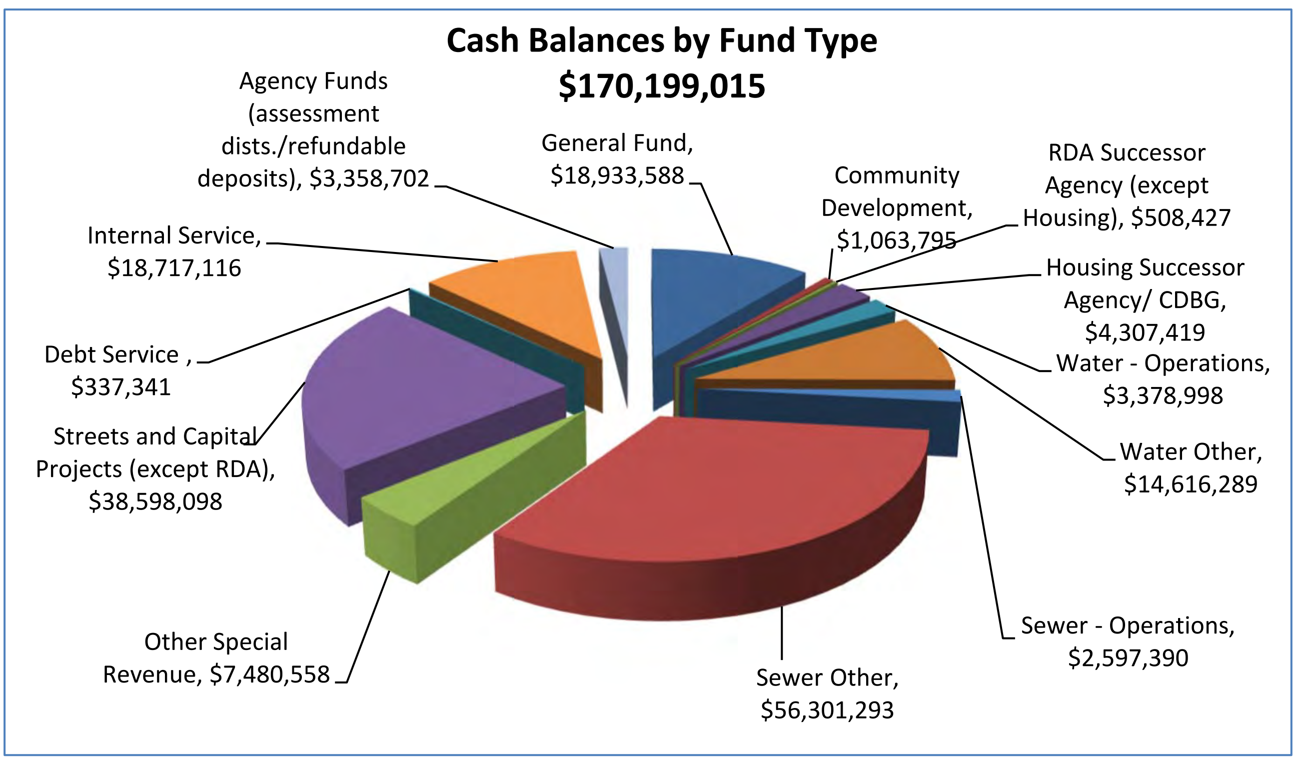
| | Budget | June 2021 | YTD | % of Budget |
|---|---|---|---|---|
| Revenues | | | | |
| Membership Services & Rec Programs | $ 2,860,448 | $ 378,752 | $ 2,994,955 | |
| Facility Rentals | 189,431 | 8,208 | 122,222 | |
| Community Services | 19,460 | (39,094) | 41,188 | |
| Transfers in | 75,000 | 6,250 | 75,000 | |
| Total Revenues | $ 3,144,339 | $ 354,117 | $ 3,233,366 | 103% |
| Less: Expenditures | | | | |
| Membership & Program Services | $ 4,480,307 | $ 372,682 | $ 3,957,280 | |
| Facility Rentals | 931,339 | 46,936 | 769,150 | |
| Community Services | 609,834 | 69,913 | 484,977 | |
| Total Expenditures | $ 6,021,481 | $ 489,529 | $ 5,211,407 | 87% |
| **Net Impact without encumbrances** | **$ (2,877,142)** | **$ (135,413)** | **$(1,978,042)** | |
| Encumbrances | - | - | 38,939 | |
| **Net Impact with encumbrances** | **$ (2,877,142)** | **$ (135,413)** | **$(2,016,981)** | |

# City of Morgan Hill
## Monthly Investment Report - June 30, 2021

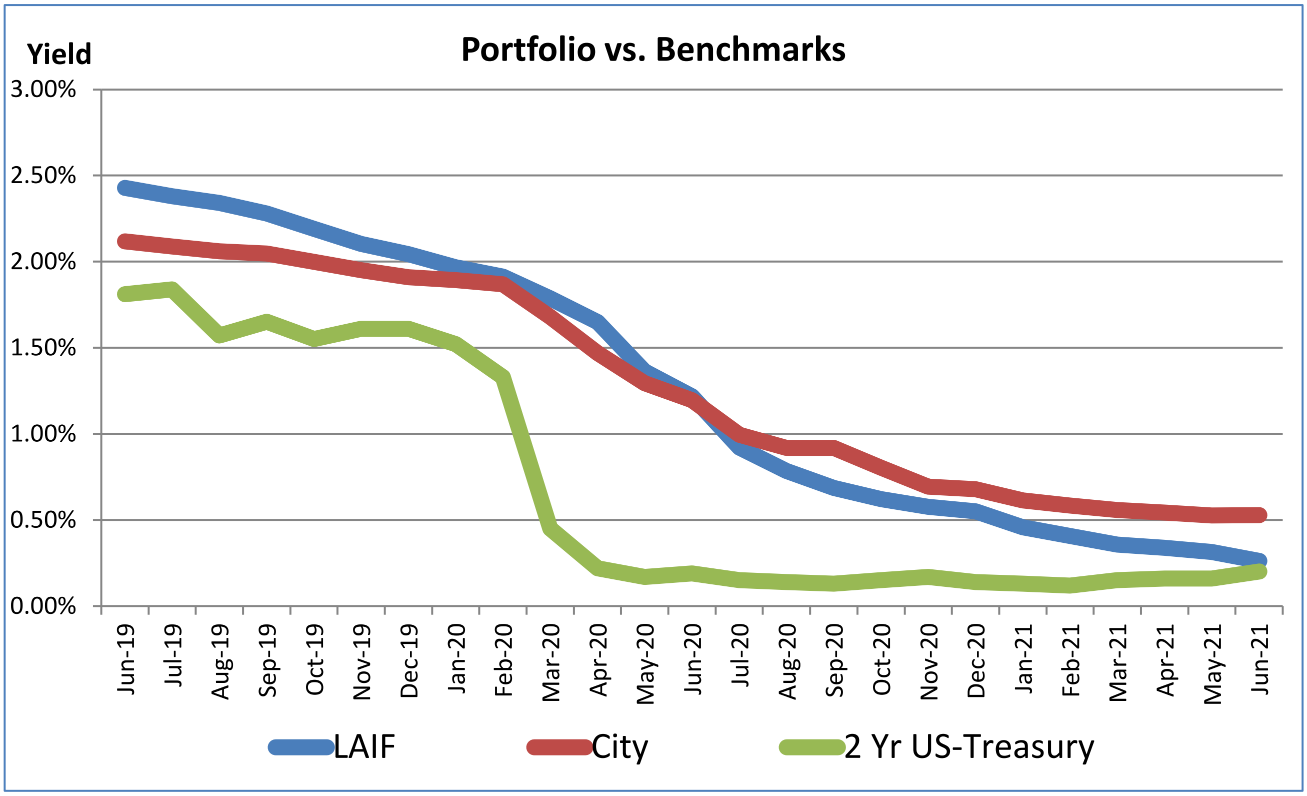
The following are the snapshots of City's investment portfolio as of June 30, 2021. The first chart shows the portfolio composition by investment type:



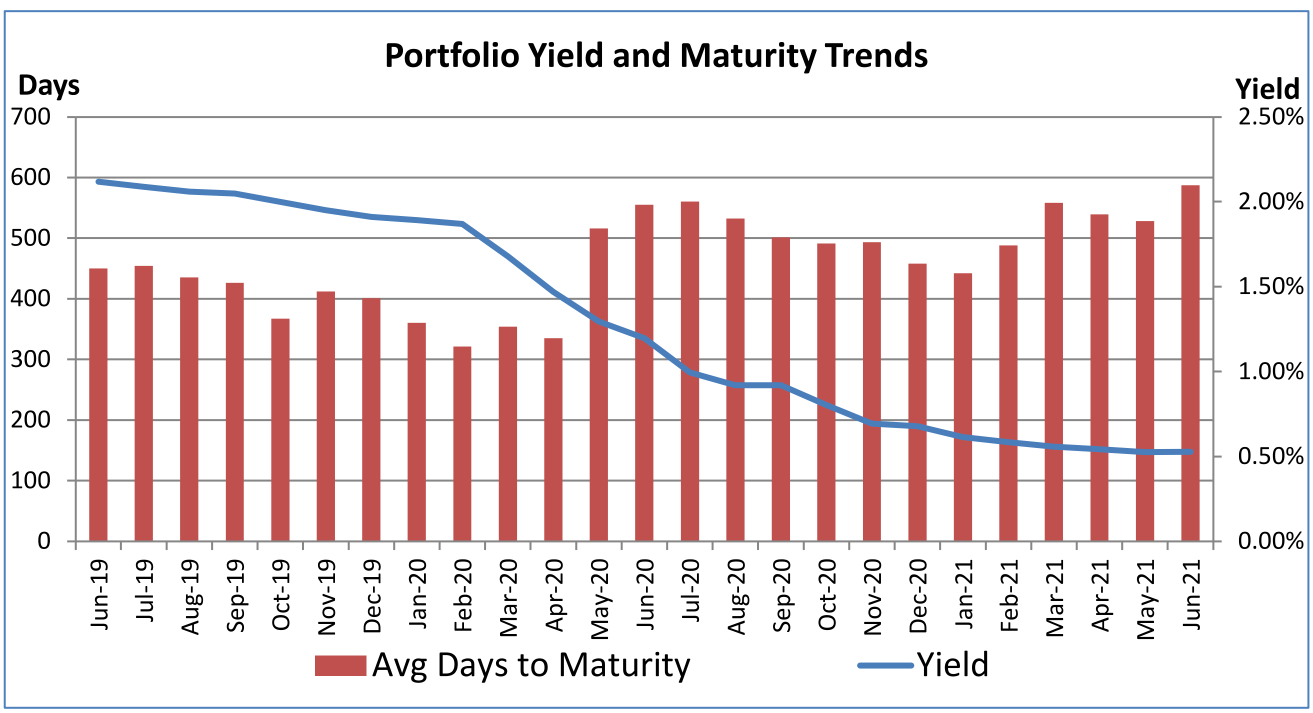

The chart below shows cash balances by fund type reconciled to City's financial system:



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

# City of Morgan Hill
## Investment Portfolio Detail
## As of June 30, 2021

| Investment Type | Settlement Date | Book Value | % of Portfolio | Market Value | YTM at Cost | Next Call Date | Date of Maturity |
|---|---|---|---|---|---|---|---|
| **L A I F** | | **$ 96,303,995** | **56.58%** | **$ 96,311,985** | **0.26%** | | |
| **City Managed** | | | | | | | |
| FNMA Bond | 8/25/2016 | 4,000,000 | 2.35% | 4,008,120 | 1.40% | 8/25/2021 | 8/25/2021 |
| Treasury Note | 4/30/2018 | 4,409,940 | 3.28% | 4,600,395 | 2.73% | 3/31/2023 | 3/31/2023 |
| FFCB Bond | 4/8/2020 | 2,000,000 | 1.18% | 2,007,380 | 0.88% | 10/8/2021 | 4/8/2024 |
| FFCB Bond | 5/27/2020 | 2,000,000 | 1.18% | 1,984,260 | 0.73% | 11/27/2021 | 5/27/2025 |
| FHLMC Bond | 6/3/2020 | 2,000,000 | 1.18% | 2,000,660 | 0.60% | 12/3/2021 | 12/3/2024 |
| FHLMC Bond | 10/20/2020 | 2,000,000 | 1.18% | 1,979,460 | 0.60% | 10/20/2021 | 10/20/2025 |
| FHLMC Bond | 10/27/2020 | 2,000,000 | 1.18% | 1,980,260 | 0.63% | 10/27/2021 | 10/27/2025 |
| FHLMC Bond | 11/2/2020 | 2,000,000 | 1.18% | 1,999,080 | 0.32% | 11/2/2021 | 11/2/2023 |
| FFCB Bond | 11/3/2020 | 2,000,000 | 1.18% | 1,965,620 | 0.54% | 11/3/2021 | 11/3/2025 |
| FNMA Bond | 11/18/2020 | 2,000,000 | 1.18% | 1,984,580 | 0.65% | 11/18/2021 | 11/18/2025 |
| FHLMC Bond | 11/24/2020 | 2,000,000 | 1.18% | 1,985,600 | 0.64% | 11/24/2021 | 11/24/2025 |
| FFCB Bond | 11/24/2020 | 1,000,000 | 0.59% | 988,990 | 0.60% | 11/24/2021 | 11/24/2025 |
| FHLMC Bond | 11/25/2020 | 3,000,000 | 1.76% | 2,969,040 | 0.63% | 11/25/2021 | 11/25/2025 |
| FHLMC Bond | 11/30/2020 | 2,000,000 | 1.18% | 1,987,620 | 0.65% | 11/26/2021 | 11/26/2025 |
| FFCB Bond | 12/22/2020 | 2,000,000 | 1.18% | 1,964,160 | 0.47% | 12/22/2021 | 12/22/2025 |
| FHLB Bond | 1/22/2021 | 2,000,000 | 1.18% | 1,972,800 | 0.63% | 7/22/2021 | 1/22/2026 |
| FNMA Bond | 1/28/2021 | 2,000,000 | 1.18% | 1,970,520 | 0.55% | 7/28/2021 | 1/28/2026 |
| FHLB Bond | 1/28/2021 | 2,000,000 | 1.18% | 1,981,540 | 0.65% | 7/28/2021 | 1/28/2026 |
| FHLB Bond | 2/24/2021 | 2,000,000 | 1.18% | 1,996,560 | 0.75% | 8/24/2021 | 2/24/2026 |
| FHLB Bond | 2/25/2021 | 2,000,000 | 1.18% | 1,975,340 | 0.66% | 8/25/2021 | 2/25/2026 |
| FHLB Bond | 2/26/2021 | 2,000,000 | 1.18% | 1,979,700 | 0.65% | 8/26/2021 | 2/26/2026 |
| FHLB Bond | 3/10/2021 | 2,000,000 | 1.18% | 1,995,660 | 0.85% | 9/10/2021 | 3/10/2026 |
| FHLB Bond | 3/16/2021 | 2,000,000 | 1.18% | 1,983,580 | 0.70% | 9/16/2021 | 3/16/2026 |
| FHLB Bond | 3/16/2021 | 2,000,000 | 1.18% | 1,992,940 | 0.80% | 9/16/2021 | 3/16/2026 |
| FHLB Bond | 3/17/2021 | 2,000,000 | 1.18% | 1,989,340 | 1.00% | 9/17/2021 | 3/17/2026 |
| FHLB Bond | 6/9/2021 | 2,000,000 | 1.18% | 1,999,000 | 1.08% | 12/9/2021 | 6/9/2026 |
| FHLB Bond | 6/22/2021 | 2,000,000 | 1.18% | 1,992,980 | 1.13% | 7/22/2021 | 6/22/2026 |
| FHLB Bond | 6/30/2021 | 2,000,000 | 1.18% | 1,998,020 | 1.10% | 12/30/2021 | 6/30/2026 |
| FHLB Bond | 6/30/2021 | 3,000,000 | 1.76% | 3,000,030 | 1.11% | 12/30/2021 | 6/30/2026 |
| FHLB Bond | 6/30/2021 | 2,000,000 | 1.18% | 1,997,280 | 1.00% | 12/30/2021 | 6/30/2026 |
| CD - Goldman Sachs Bank USA | 5/13/2020 | 250,000 | 0.15% | 250,935 | 0.50% | 5/13/2022 | 5/13/2022 |
| CD - American Nat'l Bank | 5/20/2020 | 250,000 | 0.15% | 250,718 | 0.40% | 5/20/2022 | 5/20/2022 |
| **Sub Total/Average** | | **$ 65,909,940** | **39.41%** | **$ 65,732,168** | **0.73%** | | |
| **Money Market** | | **$ 119,256** | **0.07%** | **$ 119,256** | **0.01%** | | |
| **Total City Managed/Average** | | **$ 162,333,191** | **96.06%** | **$ 162,163,409** | **0.45%** | | |
| **Bond Reserve Accounts - Held By Trustees** | | **$ 1,687,803** | **0.99%** | **$ 1,687,803** | | | |
| **Cash/Deposits** | | **$ 2,390,617** | **1.40%** | **$ 2,390,617** | | | |
| **PARS Trust** | | **$ 3,787,404** | **2.23%** | **$ 4,987,778** | | | |
| **GRAND TOTAL/AVERAGE** | | **$ 170,199,015** | **100%** | **$ 171,229,606** | | | |

Attachment: Attachment B - Preliminary FY2020-21 Financial and Investment Report (3159 : Monthly Budget Update, Preliminary FY20-21

# CITY OF MORGAN HILL CASH AND INVESTMENT REPORT
## FOR THE MONTH OF JUNE 30, 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 | 0.26% | $ 76,277,504 | 44.82% | $ 76,283,833 |
| 2015 Wastewater Rev Bonds - CIP | Wastewater Fund | 0.26% | 20,026,491 | 11.77% | 20,028,152 |
| Federal Issues | All Funds Pooled | 0.84% | 61,000,000 | 35.84% | 60,630,120 |
| US Treasury Notes | All Funds Pooled | 2.73% | 4,409,940 | 2.59% | 4,600,395 |
| Certificate of Deposits | All Funds Pooled | 0.45% | 500,000 | 0.29% | 501,653 |
| Dreyfus Treas Cash Management Acct | All Funds Pooled | 0.01% | 119,256 | 0.07% | 119,256 |
| | **SUBTOTAL** | | **$ 162,333,191** | **95.38%** | **$ 162,163,409** |
| **Bond Reserve Accounts - held by trustees** | | | | | |
| Zions Bank - Civic Center/Library Facility | | | | | |
| Blackrock Liq Fund | Debt Service | 0.01% | 1 | 0.00% | 1 |
| Zions Bank - MH Police Facility Lease Revenue Bonds | | | | | |
| Blackrock Liq Fund | Debt Service | 0.01% | 1 | 0.00% | 1 |
| BNY - RDA Bonds | | | | | |
| Dreyfus Cash Mgmt 521 | Successor Fund | 0.00% | 503,079 | 0.30% | 503,079 |
| Zions Bank - MH Ranch 2015 | | | | | |
| Blackrock Liq Funds Fed Fund -DI -2015 | Agency Fund | 0.01% | 595,724 | 0.35% | 595,724 |
| Zions Bank - Madrone Bus Park Taxable/ Tax Exempt 2015 | | | | | |
| Blackrock Liquidity Temp Fund-2015 | Agency Fund | 0.01% | 588,997 | 0.35% | 588,997 |
| | **SUBTOTAL** | | **1,687,803** | **0.99%** | **1,687,803** |
| **Other Cash/Deposits** | | | | | |
| General Checking | All Funds | | 2,353,505 | 1.38% | 2,353,505 |
| 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 | | | 2,587,404 | 1.52% | 3,441,666 |
| PARS - PENSION Trust | | | 1,200,000 | 0.71% | 1,546,111 |
| | **SUBTOTAL** | | **6,178,021** | **3.63%** | **7,378,394** |
| **Total Cash and Investments** | | | **$ 170,199,015** | **100.00%** | **$ 171,229,606** |

### CASH ACTIVITY SUMMARY
### FY 2020-21

| Fund Type | 07/1/20 Balance | Change in Cash Balance | 6/30/2021 Balance |
|---|---|---|---|
| General Fund | $ 16,482,660 | $ 2,450,928 | $ 18,933,588 |
| Community Development | 972,100 | 91,695 | 1,063,795 |
| RDA Successor Agency (except Housing) | 11,666,343 | (11,157,916) | 508,427 |
| Housing Successor Agency/ CDBG | 4,593,710 | (286,291) | 4,307,419 |
| Water - Operations | 3,747,502 | (368,504) | 3,378,998 |
| Water Other | 8,567,976 | 6,048,313 | 14,616,289 |
| Sewer - Operations | 3,220,859 | (623,469) | 2,597,390 |
| Sewer Other | 32,031,933 | 24,269,360 | 56,301,293 |
| Other Special Revenue | 5,770,282 | 1,710,277 | 7,480,558 |
| Streets and Capital Projects (except RDA) | 40,583,676 | (1,985,578) | 38,598,098 |
| Debt Service | 227,953 | 109,388 | 337,341 |
| Internal Service | 17,977,892 | 739,225 | 18,717,116 |
| Agency Funds (assessment dists./refundable deposits) | 3,260,978 | 97,724 | 3,358,702 |
| **Total** | **$ 149,103,863** | **$ 21,095,153** | **$ 170,199,015** |

Note: See Investment Porfolio 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:

Reviewed by: ______________________

Dat Nguyen, Finance Director

______________________

Caitlin Jachimowicz, Treasurer

City of Morgan Hill
Year to Date Revenues - Fiscal Year 2020-21
For The Twelve Months Ended June 30, 2021
100% 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 | $ 12,600,175 | $ 12,548,327 | 100% | $ 11,923,428 | $ 624,899 | 5% |
| Property Tax - RPTTF Residual Distribution | 2,144,000 | 2,557,000 | 2,594,999 | 101% | 2,305,787 | 289,213 | 13% |
| Property Tax - Supplemental Roll | 142,000 | 306,000 | 405,833 | 133% | 231,146 | 174,686 | 76% |
| Sales Tax | 8,027,793 | 10,027,793 | 9,940,321 | 99% | 8,608,413 | 1,331,909 | 15% |
| Public Safety Sales Tax | 343,075 | 343,075 | 405,511 | 118% | 355,690 | 49,821 | 14% |
| Transient Occupancy Taxes | 1,819,000 | 1,319,000 | 1,290,059 | 98% | 2,260,140 | (970,081) | -43% |
| Franchise (Refuse ,Cable ,PG&E) | 2,351,000 | 2,351,000 | 2,384,106 | 101% | 2,382,639 | 1,467 | 0% |
| Property Transfer Tax | 436,000 | 436,000 | 646,892 | 148% | 479,688 | 167,204 | 35% |
| **TOTAL TAXES** | **26,616,868** | **29,940,043** | **30,216,048** | **101%** | **28,546,931** | **1,669,117** | **6%** |
| **LICENSES/PERMITS** | | | | | | | |
| Business License | 154,500 | 154,500 | 136,791 | 89% | 143,258 | (6,467) | -5% |
| Other Permits | 30,944 | 30,944 | 4,489 | 15% | 6,336 | (1,847) | -29% |
| **TOTAL LICENSES/PERMITS** | **185,444** | **185,444** | **141,280** | **76%** | **149,594** | **(8,314)** | **-6%** |
| **FINES AND PENALTIES** | | | | | | | |
| Parking Enforcement | 8,000 | 8,000 | 3,809 | 48% | 3,737 | 72 | 2% |
| Bails & Fines | 73,645 | 73,645 | 45,832 | 62% | 45,584 | 248 | 1% |
| Administrative Citations | 10,079 | 10,079 | 16,043 | 159% | 55,134 | (39,091) | -71% |
| **TOTAL FINES AND PENALTIES** | **91,724** | **91,724** | **65,684** | **72%** | **104,455** | **(38,771)** | **-37%** |
| **OTHER AGENCIES** | | | | | | | |
| Motor Vehicle in-Lieu | 25,392 | 25,392 | 40,357 | 159% | 36,203 | 4,154 | 11% |
| Other Revenue - Other Agencies | 529,943 | 710,990 | 513,710 | 72% | 712,954 | (199,244) | -28% |
| **TOTAL OTHER AGENCIES** | **555,335** | **736,382** | **554,067** | **75%** | **749,157** | **(195,089)** | **-26%** |
| **CHARGES CURRENT SERVICES** | | | | | | | |
| Police False Alarm Charge | 30,428 | 30,428 | 50,190 | 165% | 33,593 | 16,597 | 49% |
| Business License Application Review | 37,080 | 37,080 | 54,432 | 147% | 33,272 | 21,160 | 64% |
| Membership Services & Rec Programs | 5,068,448 | 2,860,448 | 2,994,955 | 105% | 4,707,680 | (1,712,725) | -36% |
| Facility Rentals | 696,431 | 189,431 | 122,222 | 65% | 738,085 | (615,863) | -83% |
| Community Services | 104,460 | 19,460 | 41,188 | 212% | 82,511 | (41,322) | -50% |
| General Administration Overhead | 1,780,917 | 1,780,917 | 1,787,564 | 100% | 1,791,420 | (3,856) | 0% |
| Other Charges Current Services | 914,668 | 914,668 | 609,545 | 67% | 911,814 | (302,269) | -33% |
| **TOTAL CURRENT SERVICES** | **8,632,432** | **5,832,432** | **5,660,095** | **97%** | **8,298,374** | **(2,638,279)** | **-32%** |
| **OTHER REVENUE** | | | | | | | |
| Use of money/property | 816,362 | 816,362 | 650,728 | 80% | 520,863 | 129,864 | 25% |
| Other Revenues | 249,858 | 4,574,358 | 412,706 | 9% | 357,415 | 55,291 | 15% |
| **TOTAL OTHER REVENUE** | **1,066,220** | **5,390,720** | **1,063,434** | **20%** | **878,278** | **185,155** | **21%** |
| **TRANSFERS IN** | | | | | | | |
| One Time Transfer | 225,000 | 225,000 | 179,984 | 80% | 179,988 | (4) | 0% |
| Public Safety Facilities Fund | 25,000 | 25,000 | 25,000 | 100% | 25,000 | - | 0% |
| Supplemental Law Enforcement Fund | 100,000 | 100,000 | 100,000 | 100% | 100,000 | - | n/a |
| Countywide Solid Waste | | 54,127 | 54,127 | 100% | - | 54,127 | n/a |
| Streets | 699,706 | 699,706 | 699,696 | 100% | 682,971 | 16,725 | 2% |
| Park Maintenance | 650,000 | 650,000 | 650,004 | 100% | - | 650,004 | n/a |
| Sewer Operations | 354,437 | 354,437 | 354,432 | 100% | 351,852 | 2,580 | 1% |
| Water Operations | 354,437 | 354,437 | 354,432 | 100% | 351,852 | 2,580 | 1% |
| Park Development | 75,000 | 75,000 | 75,000 | 100% | 75,000 | - | n/a |
| **TOTAL TRANSFERS IN** | **2,483,580** | **2,537,707** | **2,492,675** | **98%** | **1,766,663** | **726,012** | **41%** |
| **TOTAL GENERAL FUND** | **39,631,603** | **44,714,452** | **40,193,283** | **90%** | **40,493,453** | **(300,169)** | **-1%** |
| **SPECIAL REVENUE FUNDS** | | | | | | | |
| **202 STREET MAINTENANCE** | | | | | | | |
| Gas Tax 2105 - 2107.5 | 698,292 | 698,292 | 705,863 | 101% | 680,481 | 25,382 | 4% |
| Interest / Other Revenue/Other Charges | 1,414 | 1,414 | 881 | 62% | 3,245 | (2,364) | -73% |
| **202 STREET MAINTENANCE** | **699,706** | **699,706** | **706,744** | **101%** | **683,726** | **23,018** | **3%** |

CITY OF MORGAN HILL

**City of Morgan Hill**
**Year to Date Revenues - Fiscal Year 2020-21**
**For The Twelve Months Ended June 30, 2021**
**100% 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 | 1,089 | 129% | 1,562 | (473) | -30% |
| Police Grant/SLEF/JAG | 100,000 | 100,000 | 156,727 | 157% | 155,948 | 779 | 0% |
| **205 SUPPLEMENTAL LAW ENFORCEMENT FUND** | **100,842** | **100,842** | **157,816** | **156%** | **157,510** | **306** | **0%** |
| **206 DEVELOPMENT SERVICES** | | | | | | | |
| Building Fees | 2,162,357 | 2,162,357 | 2,739,017 | 127% | 2,711,999 | 27,019 | 1% |
| Planning Fees | 743,344 | 743,344 | 984,893 | 132% | 931,155 | 53,738 | 6% |
| Engineering Fees | 708,809 | 708,809 | 708,938 | 100% | 599,902 | 109,035 | 18% |
| Other Revenue/Current Charges | 1,133,225 | 1,133,225 | 146,556 | 13% | 75,991 | 70,565 | 93% |
| **206 DEVELOPMENT SERVICES** | **4,747,735** | **4,747,735** | **4,579,404** | **96%** | **4,319,047** | **260,358** | **6%** |
| **207 LONG RANGE PLANNING** | **677,026** | **677,026** | **710,721** | **105%** | **727,428** | **(16,707)** | **-2%** |
| **215 and 216 HCD BLOCK GRANT** | | | | | | | |
| Interest Income/Other Revenue | 3,111 | 3,111 | 434 | 14% | 1,058 | (624) | -59% |
| **215 and 216 HCD BLOCK GRANT** | **3,111** | **3,111** | **434** | **14%** | **1,058** | **(624)** | **-59%** |
| **225 ASSET SEIZURE** | **1,893** | **1,893** | **932** | **49%** | **18,149** | **(17,217)** | **-95%** |
| **229 LIGHTING AND LANDSCAPE** | **191,075** | **191,075** | **187,823** | **98%** | **181,089** | **6,734** | **4%** |
| **230 COMMUNITY FACILITIES DISTRICT** | **1,216** | **1,216** | **37,094** | **3050%** | **45,074** | **(7,980)** | **-18%** |
| **232 ENVIRONMENTAL PROGRAMS** | **446,843** | **446,843** | **473,146** | **106%** | **449,032** | **24,114** | **5%** |
| **234 MOBILE HOME PARK RENT STAB.** | **742** | **742** | **3,829** | **516%** | **6,578** | **(2,748)** | **-42%** |
| **235 SENIOR HOUSING** | **3,793** | **3,793** | **1,525** | **40%** | **3,801** | **(2,276)** | **-60%** |
| **236 HOUSING MITIGATION** | **2,248,764** | **2,248,764** | **2,168,772** | **96%** | **1,180,534** | **988,238** | **84%** |
| **237 BEGIN** | **-** | **-** | **1,207** | **n/a** | **-** | **1,207** | **n/a** |
| **238 CAL HOMES** | **-** | **-** | **81,151** | **n/a** | **-** | **81,151** | **n/a** |
| **240 EMPLOYEE ASSISTANCE** | **29,068** | **29,068** | **16,741** | **58%** | **19,299** | **(2,557)** | **-13%** |
| **246 COUNTYWIDE SOLID WASTE** | | **54,127** | **54,127** | **100%** | **-** | **54,127** | **n/a** |
| **247 ENVIRONMENT REMEDIATION** | **2,400** | **2,400** | **1,740** | **72%** | **4,423** | **(2,683)** | **-61%** |
| **250 COMH-SUCCESSOR AGENCY-MHRDA** | **7,112,060** | **7,112,060** | **896,941** | **13%** | **7,391,856** | **(6,494,915)** | **-88%** |
| **255 HOUSING SUCCESSOR AGENCY** | **213,057** | **213,057** | **754,760** | **354%** | **628,764** | **125,996** | **20%** |
| **260 PUBLIC ART** | **-** | **-** | **69,000** | **n/a** | **-** | **69,000** | **n/a** |
| **TOTAL SPECIAL REVENUE FUNDS** | **16,479,332** | **16,533,459** | **10,903,906** | **66%** | **15,817,366** | **(4,913,461)** | **-31%** |
| **CAPITAL PROJECTS FUNDS** | | | | | | | |
| **301 PARK DEVELOPMENT** | **2,384,665** | **2,384,665** | **2,993,314** | **126%** | **1,627,721** | **1,365,594** | **84%** |
| **302 PARK MAINTENANCE** | **359,071** | **359,071** | **60,521** | **17%** | **494,037** | **(433,517)** | **-88%** |
| **303 LOCAL DRAINAGE** | **1,693,351** | **1,693,351** | **2,421,399** | **143%** | **1,003,192** | **1,418,207** | **141%** |
| **304 LOCAL DRAINAGE/NON AB1600** | **80,333** | **130,122** | **28,337** | **22%** | **50,499** | **(22,162)** | **-44%** |
| **306 AGRICULTURE & OPEN SPACE PRESERVATION** | **178,958** | **178,958** | **257,230** | **144%** | **1,137,954** | **(880,724)** | **-77%** |
| **308 STREET CIP** | **2,571,010** | **3,321,010** | **2,411,807** | **73%** | **6,148,202** | **(3,736,395)** | **-61%** |
| **309 TRAFFIC IMPACT** | **16,415,755** | **16,415,755** | **5,254,630** | **32%** | **1,265,175** | **3,989,454** | **315%** |
| **315 PUBLIC SAFETY FACILITIES IMPACT** | **984,769** | **984,769** | **430,209** | **44%** | **425,775** | **4,434** | **1%** |
| **346 PUBLIC FACILITIES NON-AB1600** | **611,297** | **611,297** | **886,892** | **145%** | **297,186** | **589,705** | **198%** |
| **347 PUBLIC FACILITIES IMPACT** | **336,106** | **336,106** | **249,545** | **74%** | **253,823** | **(4,278)** | **-2%** |
| **348 LIBRARY** | **946,889** | **946,889** | **518,956** | **55%** | **804,395** | **(285,439)** | **-35%** |
| **350 UNDERGROUNDING** | **12,817** | **12,817** | **108,159** | **844%** | **102,981** | **5,178** | **5%** |
| **355 SCHOOL PEDESTRIAN/TRAFFIC SAFETY** | **591,721** | **591,721** | **300,383** | **51%** | **98,070** | **202,313** | **206%** |
| **360 COMMUNITY/REC IMPACT FUND** | **1,498,683** | **1,498,683** | **1,042,497** | **70%** | **1,105,231** | **(62,734)** | **-6%** |
| **375 QUIMBY FEE** | **1,072,238** | **1,072,238** | **-** | **n/a** | **-** | **-** | **n/a** |
| **TOTAL CAPITAL PROJECTS FUNDS** | **29,737,663** | **30,537,452** | **16,963,878** | **56%** | **14,814,242** | **2,149,636** | **15%** |
| **DEBT SERVICE FUNDS** | | | | | | | |
| **420 CIVIC CENTER DEBT** | **312,272** | **312,272** | **310,477** | **99%** | **301,754** | **8,723** | **3%** |
| **441 POLICE FACILITY BOND** | **384,252** | **384,252** | **484,035** | **126%** | **374,428** | **109,607** | **29%** |
| **TOTAL DEBT SERVICE FUNDS** | **696,524** | **696,524** | **794,512** | **114%** | **676,182** | **118,329** | **17%** |

City of Morgan Hill
Year to Date Revenues - Fiscal Year 2020-21
For The Twelve Months Ended June 30, 2021
100% 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 | 13,048,252 | 101% | 11,037,154 | 2,011,098 | 18% |
| Interest Income/Transfers | 36,691 | 36,691 | 20,536 | 56% | 57,762 | (37,226) | -64% |
| Other Revenue/Current Charges | 267,694 | 267,694 | 274,828 | 103% | 829,431 | (554,604) | -67% |
| **640 SEWER OPERATION** | **13,276,826** | **13,276,826** | **13,343,615** | **101%** | **11,924,348** | **1,419,268** | **12%** |
| **641 SEWER EXPANSION** | | | | | | | |
| Interest Income | 215,876 | 215,876 | 149,198 | 69% | 333,343 | (184,145) | -55% |
| Development Impact Fee | 6,225,545 | 6,225,545 | 2,699,288 | 43% | 4,902,247 | (2,202,959) | -45% |
| **641 SEWER EXPANSION** | **6,441,421** | **6,441,421** | **2,848,486** | **44%** | **5,235,590** | **(2,387,104)** | -46% |
| **642 SEWER RATE STABILIZATION** | **44,423** | **44,423** | **17,512** | **39%** | **43,654** | **(26,142)** | **-60%** |
| **643 SEWER-CAPITAL PROJECT** | **4,455,944** | **4,455,944** | **5,492,143** | **123%** | **4,332,681** | **1,159,462** | **27%** |
| ***TOTAL SEWER FUNDS*** | ***24,218,614*** | ***24,218,614*** | ***21,701,756*** | ***90%*** | ***21,536,273*** | ***165,484*** | ***1%*** |
| **650 WATER OPERATION** | | | | | | | |
| Water Sales | 14,525,500 | 14,525,500 | 14,975,143 | 103% | 13,839,250 | 1,135,893 | 8% |
| Meter Install & Service | 24,600 | 24,600 | 105,826 | 430% | 39,410 | 66,416 | 169% |
| Transfers-In / Interest Income | 521,171 | 521,171 | 463,728 | 89% | 482,994 | (19,266) | -4% |
| Other Revenue/Current Charges | 572,081 | 572,081 | 997,092 | 174% | 901,735 | 95,357 | 11% |
| **650 WATER OPERATION** | **15,643,352** | **15,643,352** | **16,541,789** | **106%** | **15,263,389** | **1,278,400** | **8%** |
| **651 WATER EXPANSION** | | | | | | | |
| Interest Income/Other Revenue/Transfer | 62,748 | 62,748 | 21,610 | 34% | 42,556 | (20,946) | -49% |
| Development Impact Fee | 1,689,416 | 1,689,416 | 1,177,287 | 70% | 1,403,333 | (226,046) | -16% |
| **651 WATER EXPANSION** | **1,752,164** | **1,752,164** | **1,198,897** | **68%** | **1,445,889** | **(246,992)** | **-17%** |
| **652 Water Rate Stabilization** | **65,904** | **65,904** | **66,024** | **100%** | **1,029,298** | **(963,274)** | **-94%** |
| **653 Water Capital Project** | **4,863,152** | **4,863,152** | **5,684,415** | **117%** | **4,242,980** | **1,441,435** | **34%** |
| ***TOTAL WATER FUNDS*** | ***22,324,572*** | ***22,324,572*** | ***23,491,124*** | ***105%*** | ***21,981,555*** | ***1,509,569*** | ***7%*** |
| **TOTAL ENTERPRISE FUNDS** | **46,543,186** | **46,543,186** | **45,192,881** | **97%** | **43,517,828** | **1,675,053** | **4%** |
| **INTERNAL SERVICE FUNDS** | | | | | | | |
| **730 INFORMATION SYSTEMS** | **1,850,422** | **1,850,422** | **1,882,014** | **102%** | **1,811,529** | **70,485** | **4%** |
| **740 BUILDING MAINTENANCE** | **3,486,066** | **3,486,066** | **2,668,920** | **77%** | **3,318,135** | **(649,215)** | **-20%** |
| **741 BUILDING REPLACEMENT** | **726,251** | **726,251** | **679,786** | **94%** | **800,337** | **(120,551)** | **-15%** |
| **745 CIP ADMINISTRATION** | **1,721,606** | **1,721,606** | **969,055** | **56%** | **1,497,353** | **(528,299)** | **-35%** |
| **760 UNEMPLOYMENT INSURANCE** | **102,463** | **302,463** | **300,738** | **99%** | **2,267** | **298,472** | **13169%** |
| **770 WORKERS COMPENSATION** | **876,368** | **876,368** | **749,194** | **85%** | **895,858** | **(146,664)** | **-16%** |
| **790 EQUIPMENT REPLACEMENT** | **1,084,748** | **1,084,748** | **1,592,681** | **147%** | **1,196,184** | **396,497** | **33%** |
| **791EMPLOYEE BENEFITS** | **1,031,234** | **1,031,234** | **598,122** | **58%** | **791,312** | **(193,190)** | **-24%** |
| **795 GENERAL LIABILITY INSURANCE** | **877,248** | **1,201,248** | **1,463,586** | **122%** | **1,073,929** | **389,657** | **36%** |
| **TOTAL INTERNAL SERVICE FUNDS** | **11,756,406** | **12,280,406** | **10,904,095** | **89%** | **11,386,903** | **(482,808)** | **-4%** |
| **TOTAL FOR ALL FUNDS** | **$ 144,844,714** | **$ 151,305,479** | **$ 124,952,554** | **83%** | **$ 126,705,974** | **$ (1,753,419)** | **-1%** |

City of Morgan Hill
Year to Date Expenses - Fiscal Year 2020-21
For the Month and Twelve Months Ended June 30, 2021
100% of Year Complete

| FUND NO. | FUND/ACTIVITY | CURRENT MONTH ACTUAL EXPENSES | AMENDED BUDGET | YTD EXPENSES | OUTSTANDING ENCUMBRANCE | TOTAL ALLOCATED | PERCENT OF TOTAL TO BUDGET | PRIOR YTD |
|---|---|---|---|---|---|---|---|---|
| 010 | **GENERAL FUND** | | | | | | | |
| I. | **ADMINISTRATION** | | | | | | | |
| | **CITY COUNCIL** | $ 19,445 | $ 348,053 | $ 263,939 | $ - | $ 263,939 | 76% | $ 2[illegible]9 |
| | **CITY ATTORNEY** | 93,383 | 717,004 | 685,200 | - | 685,200 | 96% | 7[illegible]7 |
| | **CITY MANAGER** | 51,674 | 504,773 | 495,878 | - | 495,878 | 98% | 4[illegible]3 |
| | **HUMAN RESOURCES** | 73,237 | 674,377 | 642,201 | - | 642,201 | 95% | 7[illegible]4 |
| | **COUNCIL SVCS & RECORDS MGMT** | | | | | | | |
| | Council Svcs & Records Mgmt | 86,940 | 616,687 | 632,336 | - | 632,336 | 103% | 5[illegible]3 |
| | Elections | 2,878 | 186,470 | 232,006 | - | 232,006 | 124% | [illegible]3 |
| | **COUNCIL SVCS & RECORDS MGMT** | 89,818 | 803,157 | 864,342 | - | 864,342 | 108% | 6[illegible]5 |
| | **FINANCE** | 188,030 | 1,585,931 | 1,467,341 | - | 1,467,341 | 93% | 1,4[illegible]3 |
| | **TOTAL ADMINISTRATION** | 515,588 | 4,633,295 | 4,418,900 | - | 4,418,900 | 95% | 4,3[illegible]7 |
| II. | **COMMUNITY SERVICES** | | | | | | | |
| | Membership Services & Rec. Programs | 372,682 | 4,480,307 | 3,957,280 | - | 3,957,280 | 88% | 5,4[illegible]5 |
| | Recreation Facility Rentals | 46,936 | 931,339 | 769,150 | - | 769,150 | 83% | 1,2[illegible]5 |
| | Community Services | 69,913 | 609,834 | 484,977 | 38,939 | 523,916 | 86% | 5[illegible]7 |
| | Park Maintenance | 130,195 | 1,103,136 | 1,057,814 | - | 1,057,814 | 96% | - |
| | Environmental Services | 29,348 | 314,680 | 210,964 | - | 210,964 | 67% | 2[illegible]5 |
| | Countywide Solid Waste Program | 13,896 | 54,127 | 13,896 | | 13,896 | 26% | - |
| | Street Maintenance | 379,490 | 2,411,237 | 2,382,741 | - | 2,382,741 | 99% | 2,3[illegible]4 |
| | Downtown Maintenance | 30,425 | 271,270 | 224,928 | - | 224,928 | 83% | 3[illegible]7 |
| | Cable Television | 2,855 | 23,156 | 22,577 | - | 22,577 | 97% | [illegible]0 |
| | **COMMUNITY SERVICES** | 1,075,739 | 10,199,086 | 9,124,327 | 38,939 | 9,163,266 | 90% | 10,1[illegible]4 |
| | **CODE COMPLIANCE** | 21,515 | 160,479 | 164,777 | - | 164,777 | 103% | 1[illegible]3 |
| | **INFRASTRUCTURE PLANNING & CONGESTION MGMT** | 37,973 | 335,902 | 338,605 | - | 338,605 | 101% | 3[illegible]3 |
| | **ECONOMIC DEVELOPMENT PROGRAMS** | 36,058 | 653,527 | 528,285 | 5,110 | 533,395 | 82% | 6[illegible]4 |
| | **TOTAL COMMUNITY SERVICES** | 1,171,287 | 11,348,995 | 10,155,995 | 44,049 | 10,200,044 | 90% | 11,3[illegible]9 |
| III. | **PUBLIC SAFETY** | | | | | | | |
| | **POLICE** | | | | | | | |
| | PD Administration | 128,776 | 1,373,018 | 1,450,348 | - | 1,450,348 | 106% | 1,3[illegible]5 |
| | Field Operations | 1,170,430 | 8,709,877 | 8,486,704 | - | 8,486,704 | 97% | 8,7[illegible]0 |
| | Support Services | 254,934 | 2,370,491 | 2,285,475 | - | 2,285,475 | 96% | 2,2[illegible]7 |
| | Emergency Services/Haz Mat | 24,030 | 201,731 | 189,532 | - | 189,532 | 94% | 2[illegible]5 |
| | Special Operations | 408,654 | 3,452,365 | 3,099,510 | - | 3,099,510 | 90% | 2,7[illegible]5 |
| | Dispatch Services | 255,093 | 1,790,831 | 1,741,976 | - | 1,741,976 | 97% | 1,7[illegible]3 |
| | **POLICE** | 2,241,918 | 17,898,313 | 17,253,544 | - | 17,253,544 | 96% | 17,0[illegible]0 |
| | **FIRE** | 553,753 | 7,162,540 | 6,313,455 | - | 6,313,455 | 88% | 6,8[illegible]4 |
| | **TOTAL PUBLIC SAFETY** | 2,795,671 | 25,060,853 | 23,566,999 | - | 23,566,999 | 94% | 23,8[illegible]4 |
| IV. | **TRANSFERS** | | | | | | | |
| | Other | 47,597 | 3,108,702 | 1,845,164 | - | 1,845,164 | 59% | 9[illegible]5 |
| | **TOTAL TRANSFERS** | 47,597 | 3,108,702 | 1,845,164 | - | 1,845,164 | 59% | 9[illegible]5 |
| | **TOTAL GENERAL FUND** | 4,530,142 | 44,151,844 | 39,987,058 | 44,049 | 40,031,107 | 91% | 40,5[illegible]5 |

City of Morgan Hill
Year to Date Expenses - Fiscal Year 2020-21
For the Month and Twelve Months Ended June 30, 2021
100% of Year Complete

| FUND NO. | FUND/ACTIVITY | CURRENT MONTH ACTUAL EXPENSES | AMENDED BUDGET | YTD EXPENSES | OUTSTANDING ENCUMBRANCE | TOTAL ALLOCATED | PERCENT OF TOTAL TO BUDGET | PRI[illegible] YT[illegible] |
|---|---|---|---|---|---|---|---|---|
| **SPECIAL REVENUE FUNDS** | | | | | | | | |
| **202 STREET MAINTENANCE** | | **58,660** | **703,934** | **703,920** | **-** | **703,920** | **100%** | [illegible] |
| **205** | **PUBLIC SAFETY/SUPP.LAW** | **589** | **107,069** | **107,068** | **-** | **107,068** | **100%** | [illegible] |
| **206 DEVELOPMENT SERVICES FUND** | | | | | | | | |
| | Planning | 163,153 | 1,590,704 | 1,536,940 | - | 1,536,940 | 97% | [illegible] |
| | Building | 250,899 | 2,114,110 | 2,035,941 | - | 2,035,941 | 96% | [illegible] |
| | Engineering | 253,599 | 1,161,439 | 1,405,585 | 5,195 | 1,410,779 | 121% | [illegible] |
| **206 DEVELOPMENT SERVICES FUND** | | **667,651** | **4,866,253** | **4,978,466** | **5,195** | **4,983,660** | **102%** | [illegible] |
| **207** | **LONG RANGE PLANNING** | **6,867** | **1,523,735** | **826,266** | **-** | **826,266** | **54%** | [illegible] |
| **215/216** | **CDBG** | **447** | **5,365** | **5,364** | **-** | **5,364** | **100%** | [illegible] |
| **225** | **ASSET SEIZURE** | **-** | **60,024** | **-** | **-** | **-** | | [illegible] |
| **229** | **LIGHTING AND LANDSCAPE** | **28,899** | **168,662** | **168,766** | **-** | **168,766** | **100%** | [illegible] |
| **230** | **COMMUNITY FACILITIES DISTRICT** | **4,736** | **36,418** | **25,637** | **-** | **25,637** | **70%** | [illegible] |
| **232** | **ENVIRONMENT PROGRAMS** | **60,953** | **420,519** | **420,877** | **-** | **420,877** | **100%** | [illegible] |
| **234** | **MOBILE HOME PARK** | **37** | **438** | **444** | **-** | **444** | **101%** | [illegible] |
| **236** | **HOUSING MITIGATION** | **99,889** | **2,494,568** | **778,259** | **-** | **778,259** | **31%** | [illegible] |
| **237** | **BEGIN** | **-** | **-** | **-** | **-** | **-** | **n/a** | **-** |
| **238** | **CAL HOMES** | **-** | **-** | **-** | **-** | **-** | **n/a** | **-** |
| **240** | **EMPLOYEE ASSISTANCE** | **84** | **28,506** | **10,910** | **-** | **10,910** | **38%** | [illegible] |
| **246** | **COUNTYWIDE SOLID WASTE PROGRAM** | **-** | **54,127** | **54,127** | **-** | **54,127** | **100%** | [illegible] |
| **247** | **ENVIRONMENTAL REMEDIATION** | **593** | **-** | **2,681** | **-** | **2,681** | **n/a** | [illegible] |
| **250** | **COMH-SUCCESSOR AGENCY-MHRDA** | **8** | **6,936,625** | **5,021,940** | **-** | **5,021,940** | **72%** | [illegible] |
| **255** | **HOUSING SUCCESSOR AGENCY** | **54,285** | **994,782** | **987,036** | **-** | **987,036** | **99%** | [illegible] |
| **260** | **PUBLIC ART** | **-** | | **-** | | | | |
| **TOTAL SPECIAL REVENUE FUNDS** | | **983,697** | **18,401,024** | **14,091,761** | **5,195** | **14,096,956** | **77%** | [illegible] |
| **CAPITAL PROJECT FUNDS** | | | | | | | | |
| **301** | **PARK DEVELOPMENT** | **847,539** | **10,956,438** | **6,032,594** | **3,475,133** | **9,507,726** | **87%** | [illegible] |
| **302** | **PARK MAINTENANCE** | **86,662** | **748,230** | **696,849** | **65,560** | **762,409** | **102%** | [illegible] |
| **303** | **LOCAL DRAINAGE** | **2,080,160** | **7,278,922** | **2,505,837** | **53,944** | **2,559,781** | **35%** | [illegible] |
| **304** | **LOCAL DRAIN. NON-AB1600** | **6,796** | **883,162** | **199,075** | **69,685** | **268,759** | **30%** | [illegible] |
| **306** | **AGRICULTURE & OPEN SPACE PRESERVATI(** | **2,228** | **132,691** | **109,766** | **35,956** | **145,722** | **110%** | [illegible] |
| **308** | **STREET CIP** | **11,384** | **6,132,529** | **2,842,191** | **965,643** | **3,807,833** | **62%** | [illegible] |
| **309** | **TRAFFIC IMPACT** | **1,083,268** | **32,689,024** | **3,484,855** | **14,271,486** | **17,756,342** | **54%** | [illegible] |
| **315** | **PUBLIC SAFETY FACILITIES IMPACT** | **19,525** | **344,301** | **234,329** | **-** | **234,329** | **68%** | [illegible] |
| **346** | **PUBLIC FAC.NON AB1600** | **632** | **395,190** | **174,051** | **42,975** | **217,026** | **55%** | [illegible] |
| **347** | **PUBLIC FACILITIES IMPACT** | **2,273** | **38,692** | **45,713** | **-** | **45,713** | **118%** | [illegible] |
| **348** | **LIBRARY IMPACT** | **18,407** | **1,732,111** | **705,298** | **129,754** | **835,052** | **48%** | [illegible] |
| **350** | **UNDERGROUNDING** | **92** | **1,107** | **1,104** | **-** | **1,104** | **100%** | [illegible] |
| **355** | **SCHOOL PEDESTRIAN & TRAFFIC SAFETY** | **75,540** | **1,995,044** | **1,166,873** | **882,057** | **2,048,930** | **103%** | [illegible] |
| **360** | **COMM/REC CENTER IMPACT** | **12,597** | **1,954,607** | **1,695,282** | **394,321** | **2,089,602** | **107%** | [illegible] |
| **375** | **QUIMBY FEE** | **-** | **100,000** | **-** | **-** | **-** | **n/a** | **-** |
| **TOTAL CAPITAL PROJECTS FUNDS** | | **4,247,103** | **65,382,046** | **19,893,816** | **20,386,514** | **40,280,329** | **62%** | [illegible] |
| **DEBT SERVICE FUNDS** | | | | | | | | |
| **420** | **CIVIC CENTER DEBT** | **865** | **307,813** | **299,642** | **-** | **299,642** | **97%** | [illegible] |
| **441** | **POLICE FACILITY BOND DEBT** | **329** | **388,040** | **386,549** | **-** | **386,549** | **100%** | [illegible] |
| **TOTAL DEBT SERVICE FUNDS** | | **1,194** | **695,853** | **686,191** | **-** | **686,191** | **99%** | [illegible] |

CITY OF MORGAN HILL

**City of Morgan Hill**
**Year to Date Expenses - Fiscal Year 2020-21**
**For the Month and Twelve Months Ended June 30, 2021**
**100% of Year Complete**

| FUND NO. | FUND/ACTIVITY | CURRENT MONTH ACTUAL EXPENSES | AMENDED BUDGET | YTD EXPENSES | OUTSTANDING ENCUMBRANCE | TOTAL ALLOCATED | PERCENT OF TOTAL TO BUDGET | PRI[illegible] YT[illegible] |
|---|---|---|---|---|---|---|---|---|
| ENTERPRISE FUNDS | | | | | | | | |
| SEWER | | | | | | | | |
| 640 | SEWER OPERATIONS | 600,138 | 13,351,981 | 13,245,059 | 27,915 | 13,272,974 | 99% | 11,9[illegible]4 |
| 641 | SEWER CAPITAL EXPANSION | 123,552 | 7,487,155 | 863,140 | 586,839 | 1,449,979 | 19% | 1,6[illegible] |
| 642 | SEWER RATE STABILIZATION | 93 | 1,111 | 1,116 | - | 1,116 | 100% | [illegible] |
| 643 | SEWER-CAPITAL PROJECTS | 570,505 | 18,341,671 | 3,252,007 | 4,096,855 | 7,348,862 | 40% | 4,8[illegible] |
| TOTAL SEWER FUND(S) | | 1,294,288 | 39,181,919 | 17,361,322 | 4,711,609 | 22,072,931 | 56% | 18,5[illegible] |
| WATER | | | | | | | | |
| | Water Operations | 2,364,576 | 14,624,090 | 15,490,263 | 28,199 | 15,518,462 | 106% | 14,4[illegible]3 |
| | Utility Billing | 109,719 | 863,064 | 874,824 | - | 874,824 | 101% | 8[illegible]3 |
| | Water Conservation | 22,357 | 173,047 | 86,502 | - | 86,502 | 50% | [illegible] |
| 650 | WATER OPERATIONS | 2,496,651 | 15,660,201 | 16,451,589 | 28,199 | 16,479,788 | 105% | 15,3[illegible]7 |
| 651 | WATER CAPITAL EXPANSION | 53,765 | 1,064,517 | 595,697 | 238,880 | 834,577 | 78% | 1,1[illegible] |
| 652 | WATER RATE STABILIZATION | 30 | 362 | 360 | - | 360 | 99% | [illegible]3 |
| 653 | WATER-CAPITAL PROJECTS | 937,538 | 3,865,574 | 1,447,741 | 251,303 | 1,699,043 | 44% | 1,7[illegible]7 |
| TOTAL WATER FUND(S) | | 3,487,984 | 20,590,655 | 18,495,386 | 518,382 | 19,013,768 | 92% | 18,2[illegible] |
| TOTAL ENTERPRISE FUNDS | | 4,782,272 | 59,772,574 | 35,856,709 | 5,229,991 | 41,086,699 | 69% | 36,7[illegible]4 |
| INTERNAL SERVICE FUNDS | | | | | | | | |
| 730 | INFORMATION SYSTEMS | 220,084 | 2,240,628 | 1,729,439 | - | 1,729,439 | 77% | 2,0[illegible]3 |
| 740 | BUILDING MAINTENANCE | 385,387 | 3,450,173 | 2,817,614 | - | 2,817,614 | 82% | 2,9[illegible]3 |
| 741 | BUILDING REPLACEMENT | 47,949 | 485,101 | 142,375 | 4,581 | 146,956 | 30% | 2[illegible]4 |
| 745 | CIP ADMINISTRATION | 204,156 | 1,655,366 | 1,648,872 | 285 | 1,649,157 | 100% | 1,6[illegible]5 |
| 760 | UNEMPLOYMENT | - | 75,000 | 30,327 | - | 30,327 | 40% | [illegible] |
| 770 | WORKERS COMPENSATION | 87,125 | 860,729 | 670,563 | - | 670,563 | 78% | 8[illegible]2 |
| 790 | EQUIPMENT REPLACEMENT | 206,700 | 1,863,653 | 1,436,153 | - | 1,436,153 | 77% | 6[illegible]3 |
| 791 | EMPLOYEE BENEFITS FUND | 8,953 | 625,000 | 650,446 | - | 650,446 | 104% | 5[illegible]5 |
| 795 | GEN. LIABILITY INSURANCE | 23,878 | 1,457,651 | 1,382,699 | - | 1,382,699 | 95% | 9[illegible]5 |
| TOTAL INTERNAL SERVICE FUNDS | | 1,184,231 | 12,713,301 | 10,508,491 | 4,865 | 10,513,356 | 83% | 9,9[illegible] |
| REPORT TOTAL | | $ 15,728,639 | $ 201,116,643 | $ 121,024,024 | $ 25,670,613 | $ 146,694,638 | 73% | $ 120,4[illegible] |

**City of Morgan Hill**
**Fund Activity Summary - Fiscal Year 2020-21**
**For The Twelve Months Ended June 30, 2021**
**100% of Year Complete**

| Fund No. | Fund | Fund Balance 06-30-20 | Revenues YTD Actual | Revenues % of Budget | Expenses YTD Actual | Expenses % of Budget | Year to-Date Deficit or Carryover | Ending Fund Balance Reserved[1] | Ending Fund Balance Unreserved |
|---|---|---|---|---|---|---|---|---|---|
| 010 | GENERAL FUND | $ 19,175,235 | $ 40,193,283 | 90% | $ 39,987,058 | 91% | $ 206,226 | $ 44,049 | $ 19,337,411 |
| **TOTAL GENERAL FUND** | | **$ 19,175,235** | **$ 40,193,283** | **90%** | **$ 39,987,058** | **91%** | **$ 206,226** | **$ 44,049** | **$ 19,337,411** |
| 202 | STREET MAINTENANCE | 3,417 | $ 706,744 | 101% | $ 703,920 | 96% | $ 2,824 | $ - | $ 6,241 |
| 205 | PUBLIC SAFETY/SUPPL. LAW | 144,963 | 157,816 | 156% | 107,068 | 121% | 50,748 | - | 195,711 |
| 206 | DEVELOPMENT SERVICES | (24,043) | 4,579,404 | 96% | 4,978,466 | 102% | (399,062) | 5,195 | (428,299) |
| 207 | LONG RANGE PLANNING | 1,250,193 | 710,721 | 105% | 826,266 | 54% | (115,545) | - | 1,134,648 |
| 215 / 216 | CDBG | 39,777 | 434 | 14% | 5,364 | 100% | (4,930) | - | 34,847 |
| 225 | ASSET SEIZURE | 142,239 | 932 | 49% | - | n/a | 932 | - | 143,171 |
| 229 | LIGHTING AND LANDSCAPE | 163,636 | 187,823 | 98% | 168,766 | 100% | 19,057 | - | 182,693 |
| 230 | COMMUNITY FACILITIES DISTRICT | 126,360 | 37,094 | 3050% | 25,637 | 70% | 11,457 | - | 137,817 |
| 232 | ENVIRONMENTAL PROGRAMS | 161,766 | 473,146 | 106% | 420,877 | 100% | 52,269 | - | 214,035 |
| 234 | MOBILE HOME PK RENT STAB. | 58,766 | 3,829 | 516% | 444 | 101% | 3,385 | - | 62,151 |
| 235 | SENIOR HOUSING | 232,918 | 1,525 | 40% | - | n/a | 1,525 | - | 234,443 |
| 236 | HOUSING MITIGATION | 3,056,699 | 2,168,772 | 96% | 778,259 | 31% | 1,390,512 | - | 4,447,211 |
| 237 | BEGIN | 217,113 | 1,207 | n/a | - | n/a | 1,207 | - | 218,320 |
| 238 | CAL HOMES | - | 81,151 | n/a | - | n/a | 81,151 | | 81,151 |
| 240 | EMPLOYEE ASSISTANCE | 63,113 | 16,741 | 58% | 10,910 | 38% | 5,831 | - | 68,944 |
| 246 | COUNTYRWIDE SOLID WASTE | | 54,127 | 72% | 54,127 | 100% | - | - | - |
| 247 | ENVIRONMENT REMEDIATION | 136,785 | 1,740 | 72% | 2,681 | n/a | (942) | - | 135,843 |
| 250 | COMH-SUCCESSOR AGENCY-MHRDA | (568,362) | 896,941 | 13% | 5,021,940 | 72% | (4,124,999) | - | (4,693,361) |
| 255 | HOUSING SUCCESSOR AGENCY | 4,538,622 | 754,760 | 354% | 987,036 | 99% | (232,276) | 503,079 | 3,803,267 |
| 260 | PUBLIC ART | - | 69,000 | n/a | - | | 69,000 | - | 69,000 |
| **TOTAL SPECIAL REVENUE FUNDS** | | **$ 9,743,962** | **$ 10,903,906** | **66%** | **$ 14,091,761** | **77%** | **$ (3,187,855)** | **$ 508,274** | **$ 6,047,833** |
| 301 | PARK DEV. IMPACT FUND | $ 3,569,152 | $ 2,993,314 | 126% | $ 6,032,594 | 55% | $ (3,039,279) | $ 3,475,133 | $ (2,945,260) |
| 302 | PARK MAINTENANCE | 3,411,843 | 60,521 | 17% | 696,849 | 93% | (636,328) | 65,560 | 2,709,955 |
| 303 | LOCAL DRAINAGE | 12,068,666 | 2,421,399 | 143% | 2,505,837 | 34% | (84,438) | 53,944 | 11,930,284 |
| 304 | LOCAL DRAINAGE/NON-AB1600 | 1,442,477 | 28,337 | 22% | 199,075 | 23% | (170,738) | 69,685 | 1,202,054 |
| 306 | AGRICULTURE AND OPEN SPACE PRESERV | 5,860,492 | 257,230 | 144% | 109,766 | 83% | 147,464 | 35,956 | 5,971,999 |
| 308 | STREET CIP | 3,866,352 | 2,411,807 | 73% | 2,842,191 | 46% | (430,384) | 965,643 | 2,470,326 |
| 309 | TRAFFIC IMPACT FUND | (538,762) | 5,254,630 | 32% | 3,484,855 | 11% | 1,769,774 | 14,271,486 | (13,040,474) |
| 315 | PUBLIC SAFETY FACILITIES IMPACT | 3,452,398 | 430,209 | 44% | 234,329 | 68% | 195,880 | - | 3,648,278 |
| 346 | PUBLIC FACILITIES NON-AB1600 | 389,161 | 886,892 | 145% | 174,051 | 44% | 712,841 | 42,975 | 1,059,027 |
| 347 | PUBLIC FACILITIES IMPACT FUND | 830,098 | 249,545 | 74% | 45,713 | 118% | 203,832 | - | 1,033,930 |
| 348 | LIBRARY IMPACT FUND | 1,680,413 | 518,956 | 55% | 705,298 | 41% | (186,342) | 129,754 | 1,364,316 |
| 350 | UNDERGROUNDING | 966,109 | 108,159 | 844% | 1,104 | 100% | 107,055 | - | 1,073,164 |
| 355 | SCHOOL PEDESTRIAN/TRAFFIC SFTY | 1,076,228 | 300,383 | 51% | 1,166,873 | 58% | (866,490) | 882,057 | (672,319) |
| 360 | COMM/REC CTR IMPACT FUND | 2,050,691 | 1,042,497 | 70% | 1,695,282 | 87% | (652,785) | 394,321 | 1,003,586 |
| **TOTAL CAPITAL PROJECT FUNDS** | | **$ 40,125,318** | **$ 16,963,878** | **56%** | **$ 19,893,816** | **30%** | **$ (2,929,938)** | **$ 20,386,514** | **$ 16,808,866** |
| 420 | CIVIC CENTER DEBT | $ 154,609 | $ 310,477 | 99% | $ 299,642 | 97% | $ 10,835 | $ - | $ 165,444 |
| 441 | POLICE FACILITY BOND DEBT | 74,409 | 484,035 | 126% | 386,549 | 100% | 97,487 | - | 171,896 |
| **TOTAL DEBT SERVICE FUNDS** | | **$ 229,018** | **$ 794,512** | **114%** | **$ 686,191** | **99%** | **$ 108,321** | **$ (1)** | **$ 337,339** |

**City of Morgan Hill**
**Fund Activity Summary - Fiscal Year 2020-21**
**For The Twelve Months Ended June 30, 2021**
**100% of Year Complete**

| Fund No. | Fund | Fund Balance 06-30-20 | Revenues YTD Actual | Revenues % of Budget | Expenses YTD Actual | Expenses % of Budget | Year to-Date Deficit or Carryover | Ending Fund Balance Reserved[1] | Ending Fund Balance Unreserved |
|---|---|---|---|---|---|---|---|---|---|
| 640 | SEWER OPERATIONS | $ 3,482,225 | $ 13,343,615 | 101% | $ 13,245,059 | 99% | $ 98,556 | 27,915 | 3,552,867 |
| 641 | SEWER IMPACT FUND* | 20,830,270 | 2,848,486 | 44% | 863,140 | 12% | 1,985,346 | 586,839 | 22,228,777 |
| 642 | SEWER RATE STABILIZATION | 2,674,255 | 17,512 | 39% | 1,116 | 100% | 16,396 | - | 2,690,651 |
| 643 | SEWER-CAPITAL PROJECTS | 7,626,168 | 5,492,143 | 123% | 3,252,007 | 18% | 2,240,136 | 4,096,855 | 5,769,449 |
| 650 | WATER OPERATIONS | 3,930,425 | 16,541,789 | 106% | 16,451,589 | 105% | 90,200 | 28,199 | 3,992,426 |
| 651 | WATER IMPACT FUND* | 2,803,482 | 1,198,897 | 68% | 595,697 | 56% | 603,200 | 238,880 | 3,167,802 |
| 652 | WATER RATE STABILIZATION | 3,094,803 | 66,024 | 100% | 360 | 99% | 65,664 | - | 3,160,467 |
| 653 | WATER -CAPITAL PROJECT | 4,517,933 | 5,684,415 | 117% | 1,447,741 | 37% | 4,236,675 | 251,303 | 8,503,305 |
| **TOTAL ENTERPRISE FUNDS** | | **$ 48,959,561** | **$ 45,192,881** | **97%** | **$ 35,856,709** | **60%** | **$ 9,336,172** | **$ 5,229,991** | **$ 53,065,743** |
| 730 | INFORMATION SERVICES | $ 701,746 | $ 1,882,014 | 102% | $ 1,729,439 | 77% | $ 152,575 | $ - | $ 854,321 |
| 740 | BUILDING MAINTENANCE | 223,214 | 2,668,920 | 77% | 2,817,614 | 82% | (148,695) | - | 74,519 |
| 741 | BUILDING REPLACEMENT | 3,050,163 | 679,786 | 94% | 142,375 | 29% | 537,410 | 4,581 | 3,582,993 |
| 745 | CIP ENGINEERING | 56,754 | 969,055 | 56% | 1,648,872 | 100% | (679,818) | 285 | (623,349) |
| 760 | UNEMPLOYMENT | 63,318 | 300,738 | 99% | 30,327 | 40% | 270,411 | 30,000 | 303,729 |
| 770 | WORKERS COMPENSATION | 2,035,759 | 749,194 | 85% | 670,563 | 78% | 78,631 | - | 2,114,390 |
| 790 | EQUIPMENT REPLACEMENT | 5,830,858 | 1,592,681 | 147% | 1,436,153 | 77% | 156,528 | - | 5,987,386 |
| 791 | EMPLOYEE BENEFITS FUNDS | 55,383 | 598,122 | 58% | 650,446 | 104% | (52,325) | - | 3,058 |
| 795 | GEN. LIABILITY INSURANCE | 1,243,527 | 1,463,586 | 122% | 1,382,699 | 95% | 80,887 | - | 1,324,414 |
| **TOTAL INTERNAL SERVICE FUNDS** | | **$ 13,260,722** | **$ 10,904,095** | **89%** | **$ 10,508,491** | **83%** | **$ 395,605** | **$ 34,865** | **$ 13,621,461** |
| **SUMMARY BY FUND TYPE** | | | | | | | | | |
| | GENERAL FUND GROUP | $ 19,175,235 | $ 40,193,283 | 90% | $ 39,987,058 | 91% | $ 206,226 | $ 44,049 | $ 19,337,411 |
| | SPECIAL REVENUE GROUP | 9,743,962 | 10,903,906 | 66% | 14,091,761 | 77% | (3,187,855) | 508,274 | 6,047,833 |
| | DEBT SERVICE GROUP | 229,018 | 794,512 | 114% | 686,191 | 99% | 108,321 | (1) | 337,339 |
| | CAPITAL PROJECTS GROUP | 40,125,318 | 16,963,878 | 56% | 19,893,816 | 30% | (2,929,938) | 20,386,514 | 16,808,866 |
| | ENTERPRISE GROUP | 48,959,561 | 45,192,881 | 97% | 35,856,709 | 60% | 9,336,172 | 5,229,991 | 53,065,743 |
| | INTERNAL SERVICE GROUP | 13,260,722 | 10,904,095 | 89% | 10,508,491 | 83% | 395,605 | 34,865 | 13,621,461 |
| | **TOTAL ALL GROUPS** | **$ 131,493,816** | **$ 124,952,554** | **83%** | **$ 121,024,024** | **60%** | **$ 3,928,530** | **$ 26,203,692** | **$ 109,218,654** |

For Enterprise Funds: Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.
*Unreserved fund balance includes bond proceeds reserved for projects listed in bond documents.
[1] Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.
[2] Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.

**City Manager's Signature Authority**
**Contracts and Agreements Between $25,000 to $60,000 Entered Since 4/8/2021 to 8/6/2021**

| Vendor Name | Desription of Service | Begin Date | End Date | Department | Amount |
|---|---|---|---|---|---|
| County of Santa Clara | Animal Sheltering Services | 3/29/2021 | 6/30/2022 | PD | $32,782 |
| Sedaru, Inc. | Software Licensing and Managed Technical Support Services | 4/28/2021 | 6/30/2022 | E&U | $43,646 |
| Hinderliter de Llamas & Associates, HdL | Demographic and Sales Tax Analysis | 2/25/2021 | 12/30/2021 | DS | $28,000 |
| County of Santa Clara | TAC Administrator and Contracting Agent duties to the RWRC | 5/5/2021 | 6/30/2021 | CS | $54,127 |
| DRYCO Construction, Inc | 2021 Seal Coat and Striping Project | 5/18/2021 | 6/30/2021 | E&U | $45,802 |
| California Roofing Company, Inc | On-Call Roof Repair Agreement | 5/22/2021 | 4/15/2023 | E&U | $60,000 |
| ALCAL Specialty Contracting, Inc | On-Call Roof repair Maintenance Service Agreement | 5/22/2021 | 4/15/2023 | E&U | $60,000 |
| Online Enterprises, Inc. dba Online Business Systems | IT Risk Assessment | 6/3/2021 | 12/31/2021 | PD | $31,850 |
| NBS Government Finance Group | Morgan Hill Water Rate Study | 6/3/2021 | 6/30/2022 | Admin | $39,000 |
| Advanced Auto Body, Inc | Police Dept Auto Body & Paint Services for Fleet | 6/24/2021 | 6/30/2022 | PD | $30,000 |
| Critical Incident Videos, LLC | Technical Expertise for putting together a critical incident video | 7/13/2021 | 6/30/2023 | PD | $45,000 |

**Proposed Changes FY 2020-21**

| Fund | FY 2020-21 Amended | FY 2020-21 Recommended | FY 2020-21 Change | Description of Change |
|---|---|---|---|---|
| Revenue | | | | |
| 010 - General | $ 44,714,452 | $ 40,389,952 | $ (4,324,500) | Reclassify revenue recognition of the 1st installment of ARPA dollars to FY 2021-22. |
| Total Revenue | $ 44,714,452 | $ 40,389,952 | $ (4,324,500) | |
| | | | | |
| Expenditures | | | | |
| 206 - Development Services | $ 4,866,253 | $ 4,986,253 | $ 120,000 | Consultant hired to work on stormwater requirements |
| 355 - School Pedestrian & Traffic Safety | 1,995,044 | 2,055,044 | 60,000 | Higher charge back for CIP administration or internal staffing costs than anticipated |
| 360 - Community/ Recreation Center Impact Fee | 1,954,607 | 2,109,607 | 155,000 | Higher charge back for CIP administration or internal staffing costs than anticipated |
| 791 - Employee Benefits | 650,446 | 676,446 | 26,000 | Higher staff turnover including retirement resulted in higher leave paid out |
| Total Expenditures | $ 9,466,350 | $ 9,827,350 | $ 361,000 | |

**Summary of Proposed Changes FY 2021-22**

| Fund | FY 2021-22 Adopted | FY 2021-22 Recommended | FY 2021-22 Change | Description of Change |
|---|---|---|---|---|
| Revenue | | | | |
| 010 - General | $ 48,361,583 | $ 50,508,431 | $ 2,146,848 | Recognize 1st installment of ARPA dollars plus an increase in Property Tax and Recreation Services revenue. |
| Total Revenue | $ 48,361,583 | $ 50,508,431 | $ 2,146,848 | |
| | | | | |
| Expenditures | | | | |
| 010 - General | $ 46,627,772 | $ 47,494,572 | $ 866,800 | Restore two recreation services positions and upgrade AV Tech to permanent to meet demand as well as funding for local nonprofit and other organizations. In addition, funding for DEI and community outreach and engagement. |
| Various Funds | | | 108,200 | General liability and property insurance increase, and outdated IT servers replacement. |
| Total Expenditures | $ 46,627,772 | $ 47,494,572 | $ 975,000 | |

**Detail Listing of Proposed Changes**

| Description | Fund No. | Fund Name | Fiscal Year 2021-2022 | Fiscal Year 2022-2023 | Fiscal Year 2023-2024 | Fiscal Year 2024-2025 | Fiscal Year 2025-2026 | ARPA |
|---|---|---|---|---|---|---|---|---|
| Funding for 3rd fire station operation | 010 | General Fund | $ - | $ - | $ - | $ 1,725,000 | $ 2,300,000 | Y |
| Support for local nonprofit and other organizations | 010 | General Fund | 100,000 | | | | | Y |
| Citywide maintenance, litter clean-up | 010 | General Fund | 50,000 | 50,000 | 50,000 | 50,000 | 50,000 | Y |
| Restore two Recreation Services positions | 010 | General Fund | 240,000 | | | | | Y |
| Upgrade audiovisual technician from part-time temporary to permanent | 010 | General Fund | 95,000 | 110,000 | 110,000 | 110,000 | 110,000 | Y |
| Community outreach and engagement | 010 | General Fund | 120,000 | | | | | Y |
| Funding for Diversity, Equity, and Inclusion (DEI) | 010 | General Fund | 100,000 | 25,000 | 25,000 | 25,000 | 25,000 | Y |
| Adjust general liability and property insurance increase | 010 | General Fund | 37,800 | 38,556 | 39,327 | 40,114 | 40,916 | Y |
| | Various | Various (Except GF) | 32,200 | 32,844 | 33,501 | 34,171 | 34,854 | |
| Replace outdated IT server/storage | 010 | General Fund | 124,000 | | | | | Y |
| | Various | Various (Except GF) | 76,000 | | | | | |
| | | | | | | | | |
| **TOTAL** | | | $ 975,000 | $ 256,400 | $ 257,828 | $ 1,984,285 | $ 2,560,770 | |
| **RUNNING TOTAL** | | | $ 975,000 | $ 1,231,400 | $ 1,489,228 | $ 3,473,513 | $ 6,034,283 | |

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE FISCAL YEAR 2020-21 AND 2021-22 AMENDED BUDGETS**

WHEREAS, the City of Morgan Hill Fiscal Year 2020-21 and 2021-22 Operating Budget was adopted on June 17, 2020; and

WHEREAS, modifications and amendments to the Adopted FY 2020-21 and 2021-22 City of Morgan Hill Budget can only be made in accordance with Fiscal Policy 4.D in the Adopted Budget document; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Budget for Fiscal Year 2020-21 and 2021-22 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

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

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

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

a. That the City's previously adopted Fiscal Year 2020-21 and 2021-22 Budget, as the same has been amended to date, is hereby further amended totaling $361,000 in FY 2020-21 and $975,000 in FY 2021-22; 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 and 2021-22 Budget of the City.

<u>Section 3</u>. 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 August 18, 2021.

**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 August 18, 2021.

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

**DATE:** ______________________ ______________________________
**MICHELLE BIGELOW, City Clerk**

CITY OF MORGAN HILL

# CITY COUNCIL STAFF REPORT
# MEETING DATE: August 18, 2021

PREPARED BY: Angie Gonzalez, Council Services Assistant
APPROVED BY: City Manager

## APPOINT VOTING DELEGATES FOR THE 2021 LEAGUE OF CALIFORNIA CITIES (LEAGUE) ANNUAL CONFERENCE AND APPROVE CITY SUPPORT OF THE RESOLUTIONS TO BE CONSIDERED

**RECOMMENDATION(S)**

1. Appoint a voting delegate and up to two (2) alternate voting delegates to the League of California Cities' Annual Conference;
2. Direct the Clerk team to complete and forward the voting delegate form to the League of California Cities;
3. Confirm "support" positions on resolutions to be considered on sales tax and litter along railroad lines; and
4. Authorize the City's voting delegate(s) to vote on the resolutions to be considered at the League of California Cities (LOCC) annual conference.

**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
Infrastructure
Regional Initiatives
Telecommunications
Agricultural Preservation
Affordable Housing and Homelessness
Transportation

**REPORT NARRATIVE:**

CalCities (formerly known as the League of California Cities or League) will be holding its Annual Conference September 22-24, 2021. At the Annual Conference, the League will conduct its General Assembly Meeting at which League Members vote on resolutions from member cities and elected officials. These resolutions help guide cities and the League in their efforts to improve the quality, responsiveness, and vitality of local government in California. This year, two resolutions have been introduced for consideration at the conference and referred to the appropriate League Policy Committee (Attachment 1). The League's bylaws provide that each city is entitled to one vote on matters affecting municipal or League policy. The voting delegate and/or alternate(s) must be registered for the conference and present to vote. The memorandum from the League requesting the designation of a voting delegate for the League's Annual Conference is attached (Attachment 2).

It has been the City Council's past practice to appoint the Mayor as the primary voting delegate and the Mayor Pro Tem as the alternate voting delegate. Staff is requesting the Council appoint a primary voting delegate and up to two alternate voting delegates. In 2006, the League authorized the appointment of up to two alternates to plan for unforeseen situations (bylaw amendment).

The General Assembly Meeting will convene on Friday, September 24th at 12:30 p.m., to consider the resolutions that have been brought forward:

> **RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION**

The City concurs with the League's position to support this resolution. The City loses approximately $150K - $200K per year from the current structure. If sales tax from the applicable online purchases revert back to the County pool, we anticipate regaining some of the lost funds.

> **A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CUPC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT OF-WAY**

The City is in support of the League's position to support this resolution. This resolution would provide needed support and resources to clean railroad tracks throughout Morgan Hill and other cities, as well as, allowing for enforcement which provides balance for the whole issue.

The Annual Conference Resolutions Packet containing details regarding the resolutions are included as attachment 1 to this report.

By approving the recommendation, our League representatives will have the Council's general guidance for the vote to be taken on the resolution and are authorized to vote on amendments in the manner they deem to be in the best interest of the City.

**COMMUNITY ENGAGEMENT: Inform**
This report serves to inform the community of the League's resolution for consideration.

**ALTERNATIVE ACTIONS:**
Council could decide to not support the recommended positions.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**
Each year the City Council appoints voting delegates to attend and vote at the League of California Cities Annual Conference.

**FISCAL AND RESOURCE IMPACT:**
The cost of the conference registration is included in the adopted FY 2021-22 City Council budget.

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

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

**LINKS/ATTACHMENTS:**
1. 2021 Resolutions Packet
2. Voting Delegate Packet

LEAGUE OF CALIFORNIA CITIES

# *Annual Conference Resolutions Packet*

## *2021 Annual Conference Resolutions*

2021 ANNUAL CONFERENCE & EXPO
LEAGUE OF CALIFORNIA CITIES
SACRAMENTO SEPTEMBER 22 - 24

## *September 22 - 24, 2021*

## INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET**: The League of California Cities (Cal Cities) bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to Cal Cities policy committees.

**POLICY COMMITTEES**: Three policy committees will meet virtually one week prior to the Annual Conference to consider and take action on the resolutions. The sponsors of the resolutions have been notified of the time and location of the meetings.

**GENERAL RESOLUTIONS COMMITTEE**: This committee will meet at 1:00 p.m. on Thursday, September 23, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of Cal Cities regional divisions, functional departments, and standing policy committees, as well as other individuals appointed by the Cal Cities president. Please check in at the registration desk for room location.

**CLOSING LUNCHEON AND GENERAL ASSEMBLY**: This meeting will be held at 12:30 p.m. on Friday, September 24, at the SAFE Credit Union Convention Center.

**PETITIONED RESOLUTIONS**: For those issues that develop after the normal 60-day deadline, a petition resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Closing Luncheon & General Assembly. This year, that deadline is 12:30 p.m., Thursday, September 23. Resolutions can be viewed on Cal Cities Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Meg Desmond mdesmond@calcities.org.

# GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within Cal Cities. The principal means for deciding policy on the important issues facing cities is through Cal Cities seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop Cal Cities policy. Resolutions should adhere to the following criteria.

## Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.

2. The issue is not of a purely local or regional concern.

3. The recommended policy should not simply restate existing Cal Cities policy.

4. The resolution should be directed at achieving one of the following objectives:

   (a) Focus public or media attention on an issue of major importance to cities.

   (b) Establish a new direction for Cal Cities policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.

   (c) Consider important issues not adequately addressed by the policy committees and board of directors.

## KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

| Number | Key Word Index | Reviewing Body Action | | |
|---|---|---|---|---|
| | | 1 | 2 | 3 |

1 - Policy Committee Recommendation to General Resolutions Committee
2 - General Resolutions Committee
3 - General Assembly

### HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

| | | 1 | 2 | 3 |
|---|---|---|---|---|
| 2 | Securing Railroad Property Maintenance | | | |

### REVENUE & TAXATION POLICY COMMITTEE

| | | 1 | 2 | 3 |
|---|---|---|---|---|
| 1 | Online Sales Tax Equity | | | |

### TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

| | | 1 | 2 | 3 |
|---|---|---|---|---|
| 2 | Securing Railroad Property Maintenance | | | |

**KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)***

Resolutions have been grouped by policy committees to which they have been assigned.

**<u>KEY TO REVIEWING BODIES</u>**

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

**<u>ACTION FOOTNOTES</u>**

* Subject matter covered in another resolution

** Existing League policy

*** Local authority presently exists

**<u>KEY TO ACTIONS TAKEN</u>**

| | |
|---|---|
| A | Approve |
| D | Disapprove |
| N | No Action |
| R | Refer to appropriate policy committee for study |
| a | Amend+ |
| Aa | Approve as amended+ |
| Aaa | Approve with additional amendment(s)+ |
| Ra | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+ |
| Da | Amend (for clarity or brevity) and Disapprove+ |
| Na | Amend (for clarity or brevity) and take No Action+ |
| W | Withdrawn by Sponsor |

**<u>Procedural Note</u>:**
The League of California Cities resolution process at the Annual Conference is guided by the Cal Cities Bylaws.

1. **RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION**

<u>Source</u>: City of Rancho Cucamonga
<u>Concurrence of five or more cities/city officials:</u>
<u>Cities</u>: Town of Apple Valley; City of El Cerrito; City of La Canada Flintridge; City of La Verne; City of Lakewood; City of Moorpark; City of Placentia; City of Sacramento
<u>Referred to</u>: Revenue and Taxation Policy Committee

**WHEREAS**, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

**WHEREAS**, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

**WHEREAS**, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

**WHEREAS,** for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

**WHEREAS,** in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city where the warehouse fulfillment center is located as opposed to going into a countywide pool that is shared with all jurisdictions in that County, as was done previously; and

**WHEREAS**, this all-or-nothing change for the allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue from the retailer that was once spread amongst all cities in countywide pools is now concentrated in select cities that host a fulfillment center; and

**WHEREAS,** this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting a 1 million square foot fulfillment center, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

**WHEREAS**, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their RHNA obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

**WHEREAS,** the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

**WHEREAS,** while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering product from that center now receive no revenue from the center's sales activity despite also experiencing the impacts created by the center, such as increased traffic and air pollution; and

**WHEREAS,** the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

**NOW, THEREFORE, BE IT RESOLVED** that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

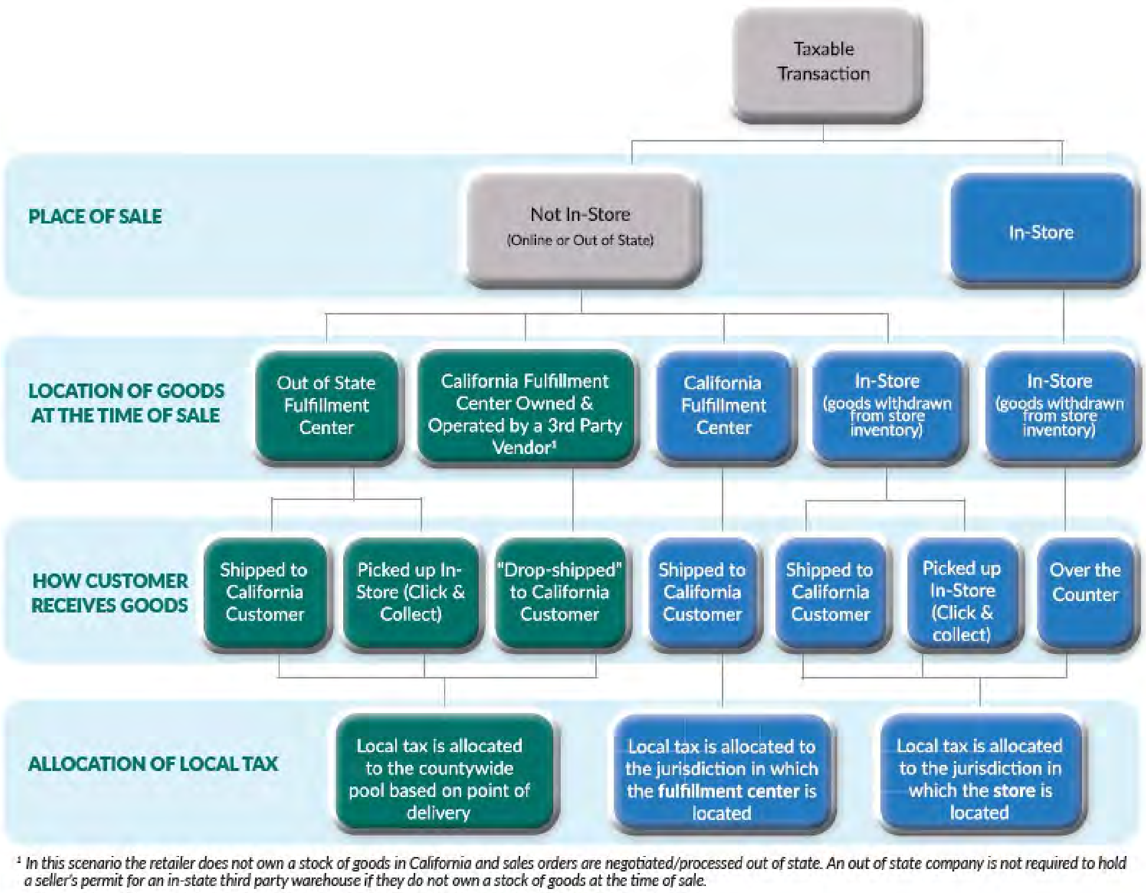
## Background Information to Resolution

**Source:** City of Rancho Cucamonga

**Background:**
Sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries.

Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances. The California Department of Tax and Fee Administration (CDTFA) is responsible for administering this system and issuing rules regarding how it is applied in our state.

The following chart created by HdL Companies, the leading provider of California sales tax consulting, illustrates the complex structure of how sales and use tax allocation is done in California, depending on where the transaction starts, where the goods are located, and how the customer receives the goods:




With the exponential growth of online sales and the corresponding lack of growth, and even decline, of shopping at brick and mortar locations, cities are seeing much of their sales tax growth coming from the countywide sales tax pools, since much of the sales tax is now funneled to the pools.

Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated. Following the chart above, previously much of the sales tax would have followed the green boxes on the chart and been allocated to the countywide pool based on point of delivery. Now, much of the tax is following the blue path through the chart and is allocated to the jurisdiction in which the fulfillment center is located. (It should be noted that some of the tax is still flowing to the pools, in those situations where the fulfillment center is shipping goods for another seller that is out of state.)

This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers.

This has brought to light again the need to address the issues in how sales and use taxes are distributed in the 21st century. Many, if not most cities will never have the opportunity have a warehouse fulfillment center due to lack of space or not being situated along a major travel corridor. These policies especially favor retailers who may leverage current policy in order to negotiate favorable sales tax sharing agreements, providing more money back to the retailer at the expense of funding critical public services.

With that stated, it is important to note the many impacts to the jurisdictions home to the fulfillment centers. These centers do support the ecommerce most of us as individuals have come to rely on, including heavy wear and tear on streets – one truck is equal to about 8,000 cars when it comes to impact on pavement – and increased air pollution due to the truck traffic and idling diesel engines dropping off large loads. However, it is equally important that State policies acknowledge that entities without fulfillment centers also experience impacts from ecommerce and increased deliveries. Cities whose residents are ordering products that are delivered to their doorstep also experience impacts from traffic, air quality and compromised safety, as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping. These cities are rightfully entitled to compensation in an equitable share of sales and use tax. We do not believe that online sales tax distribution between fulfillment center cities and other cities should be an all or nothing endeavor, and not necessarily a fifty-fifty split, either. But we need to find an equitable split that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Over the years, Cal Cities has had numerous discussions about the issues surrounding sales tax in the modern era, and how state law and policy should be revisited to address these issues. It is a heavy lift, as all of our cities are impacted a bit differently, making consensus difficult. We believe that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger.

It is for these reasons, that we should all aspire to develop an equitable sales tax distribution for online sales.

# LETTERS OF CONCURRENCE
Resolution No. 1

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The Town of Apple Valley strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool. Now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents.

We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the Town of Apple Valley concurs that the resolution should go before the General Assembly. If you have any questions regarding the Town's position in this matter, please do not hesitate to contact the Town Manager at 760-240-7000 x 7051.

Sincerely,

Curt Emick
Mayor

July 21, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Letter of Support for the City of Rancho Cucamonga's Resolution for Fair and Equitable Distribution of the Bradley Burns 1% Local Sales Tax**

Dear President Walker:

The City of El Cerrito supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the Cal Cities 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Previously, all sales tax revenue generated by this retailer's sales went into a countywide pool and was distributed amongst the jurisdictions in the pool; now the revenue from in-state sales goes entirely to the city where the fulfillment center is located and the packages are shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities such as El Cerrito who have no chance of ever obtaining a fulfillment center as we are a built out, four square mile, small city. Additionally, cities not situated along major travel corridors and no/low property tax cities that rely on sales tax revenue are especially impacted, as well as cities struggling to build much needed affordable housing that may require rezoning commercial parcels in order to meet their RHNA allocations.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies serve to divide local agencies, exacerbate already difficult municipal finances, and in the end results in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of El Cerrito concurs that the resolution should go before the General Assembly.

Sincerely,

Paul Fadelli, Mayor
City of El Cerrito

cc: El Cerrito City Council
City of Rancho Cucamonga

LA CAÑADA FLINTRIDGE

City Council
Terry Walker, Mayor
Keith Eich, Mayor Pro Tem
Jonathan C. Curtis
Michael T. Davitt
Richard B. Gunter III

July 14, 2021

Ms. Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Cañada Flintridge strongly supports the City of Rancho Cucamonga's effort to introduce a resolution for consideration by the General Assembly at CalCITIES' 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1% Bradley Burns local tax revenue (sales tax) from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool, as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as an out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the jurisdiction where the fulfillment center is located and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state transactions even though their packages are delivered to locations within those cities' borders and paid for by residents in those locations. Cities that abut jurisdictions with fulfillment centers experience fulfillment centers' impacts just as much, such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers, that was once spread amongst all cities in countywide pools, is now concentrated in select cities fortunate enough to host a fulfillment center. This benefits only those few hosting jurisdictions and is particularly unfair to cities who have no chance of ever hosting a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely heavily on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably eager to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances and, in the end, result in a net loss of local government sales tax proceeds that simply serve to make private





One Civic Center Drive, La Cañada Flintridge, CA 91011 • (818) 790-8880 • Fax (818) 790-7536
www.lcf.ca.gov

sector businesses even more profitable at the expense of cities' residents. We should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Cañada Flintridge concurs that the proposed resolution should go before the General Assembly.

Sincerely,

Terry M. Walker

Terry Walker
Mayor

# CITY OF LA VERNE
## CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.cityoflaverne.org

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of La Verne strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities which have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exacerbate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of La Verne concurs that the resolution should go before the General Assembly.

Sincerely,

Bob Russi
City Manager
City of La Verne

Steve Croft
Vice Mayor

Ariel Pe
Council Member

CITY OF LAKEWOOD
CALIFORNIA

Jeff Wood
Mayor

Vicki L. Stuckey
Council Membe

Todd Rogers
Council Member

July 15, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Lakewood strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities that have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Lakewood concurs that the resolution should go before the General Assembly.

Sincerely,

Jeff Wood

Jeff Wood
Mayor



Lakewood
5050 Clark Avenue, Lakewood, CA 90712 • (562) 866-9771 • Fax (562) 866-0505 • www.lakewoodcity.org • Email: service1@

# CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021
Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov


July 14, 2021 **TRANSMITTED ELECTRONICALLY**

Cheryl Viegas-Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Moorpark strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies of the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates both as an in-state online retailer and as an out-of-state online retailer. Whereas all sales tax revenues generated by this retailer's sales previously went into countywide pools and were distributed amongst the jurisdictions in the pool, sales tax revenues from in-state sales now go entirely to the city where the fulfillment center is located and the package is shipped from. Cities that do not have a fulfillment center now receive no sales tax revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution, and deteriorating road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenues from large online retailers that were once spread amongst all cities in countywide pools are now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted, as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone limited commercial properties for residential land uses.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and ultimately result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses more profitable at the expense of everyone's residents. We can do better than this, and we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Moorpark concurs that the resolution should go before the General Assembly at the 2021 Annual Conference in Sacramento.

Sincerely,

Janice S. Parvin

Janice S. Parvin
Mayor

cc: City Council
City Manager

*The People are the City*

***Mayor***
CRAIG S. GREEN

***Mayor Pro Tem***
CHAD P. WANKE

***Councilmembers:***
RHONDA SHADER
WARD L. SMITH
JEREMY B. YAMAGUCHI

***City Clerk:***
ROBERT S. MCKINNELL

***City Treasurer***
KEVIN A. LARSON

***City Administrator***
DAMIEN R. ARRULA

***401 East Chapman Avenue – Placentia, California 92870***

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Placentia strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the 1 percent (1%) Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas, all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their RHNA allocations that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Placentia concurs that the resolution should go before the General Assembly. Should you have any questions regarding this letter, please contact me at (714) 993-8117 or via email at administration@placentia.org.

Sincerely,

Damien R. Arrula
City Administrator

City of
SACRAMENTO
Office of the City Manager

*Leyne Milstein*
*Assistant City Manager*

*City Hall*
*915 I Street, Fifth Floor*
*Sacramento, CA 95814-2604*
*916-808-5704*

July 19, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear President Walker:

The City of Sacramento strongly supports the City of Rancho Cucamonga's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

Current policies by the California Department of Tax and Fees (CDTFA) require that the one percent Bradley Burns local tax revenue from in-state online retailers be allocated to the jurisdiction from which the package was shipped from, as opposed to going into a countywide pool as is the practice with out-of-state online retailers. Earlier this year, one of the largest online retailers shifted its ownership structure and now operates as an in-state online retailer as well as out-of-state online retailer. Whereas all sales tax revenue generated by this retailer's sales previously went into a countywide pool and was distributed amongst the jurisdictions in the pool, now the revenue from in-state sales goes entirely to the city where the fulfillment center is located, and the packages shipped from. Cities that do not have a fulfillment center now receive no revenue from this retailer's online in-state sales transactions, even when the packages are delivered to locations within the cities' borders and paid for by residents in those locations. Cities that border jurisdictions with fulfillment centers also experience its impacts such as increased truck traffic, air pollution and declining road conditions.

This all-or-nothing practice has created clear winners and losers amongst cities as the online sales tax revenue from large online retailers that was once spread amongst all cities in countywide pools is now concentrated in select cities fortunate enough to host a fulfillment center. This has created a growing inequity amongst California cities, which only benefits some and is particularly unfair to cities who have no chance of ever obtaining a fulfillment

City of
SACRAMENTO
Office of the City Manager

*Leyne Milstein*
*Assistant City Manager*

*City Hall*
*915 I Street, Fifth Floor*
*Sacramento, CA 95814-2604*
*916-808-5704*

center, such as those that are built out or are not situated along major travel corridors. No/low property tax cities that rely on sales tax revenue are especially impacted as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) that are being pressured by Sacramento to rezone precious commercial parcels to residential.

The current online sales tax distribution policies are inherently unfair and exasperate the divide between the winners and losers. Ultimately, the real winners may be the retailers, who leverage these policies to negotiate favorable sales tax sharing agreements from a small group of select cities understandably wanting to host fulfillment centers. The current online sales tax distribution policies unfairly divide local agencies, exacerbate already difficult municipal finances, and in the end, result in a net loss of local government sales tax proceeds that simply serve to make private sector businesses even more profitable at the expense of everyone's residents. We can do better than this. And we should all aspire to develop an equitable sales tax distribution of online sales that addresses the concerns noted above.

For these reasons, the City of Sacramento concurs that the resolution should go before the General Assembly.

Sincerely,

Leyne Milstein (Jul 19, 2021 14:48 PDT)

Leyne Milstein
Assistant City Manager

## League of California Cities Staff Analysis on Resolution No. 1

Staff: Nicholas Romo, Legislative Affairs, Lobbyist

Committee: Revenue and Taxation

**Summary**:
This Resolution calls on the League of California Cities (Cal Cities) to request the Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

**Background:**
The City of Rancho Cucamonga is sponsoring this resolution to *"address the issues in how sales and use taxes are distributed in the 21st century."*

The City notes that *"sales tax is a major revenue source for most California cities. Commonly known as the local 1% Bradley-Burns tax, since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at the store, restaurant, car dealer, or other location within a jurisdiction's boundaries. Over the years, however, this simple tax structure has evolved into a much more complex set of laws and allocation rules. Many of these rules relate to whether or not a given transaction is subject to sales tax, or to use tax – both have the same 1% value, but each applies in separate circumstances.*

*Recently, one of the world's largest online retailers changed the legal ownership of its fulfillment centers. Instead of having its fulfillment centers owned and operated by a third-party vendor, they are now directly owned by the company. This subtle change has major impacts to how the 1% local tax is allocated.*

*This change has created a situation where most cities in California – more than 90%, in fact – are experiencing a sales tax revenue loss that began in the fourth quarter of calendar year 2021. Many cities may not be aware of this impact, as the fluctuations in sales tax following the pandemic shutdowns have masked the issue. But this change will have long-term impacts on revenues for all California cities as all these revenues benefiting all cities have shifted to just a handful of cities and counties that are home to this retailer's fulfillment centers."*

The City's resolution calls for action on an unspecified solution that *"rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction,"* which aims to acknowledge the actions taken by cities to alleviate poverty, catalyze economic development, and improve financial stability within their communities through existing tax sharing and zoning powers.

Ultimately, sponsoring cities believe *"that by once again starting the conversation and moving toward the development of laws and policies that can result in seeing all cities benefit from the growth taxes generated through online sales, our state will be stronger."*

**Sales and Use Tax in California**

The Bradley-Burns Uniform Sales Tax Act allows all local agencies to apply its own sales and use tax on the same base of tangible personal property (taxable goods). This tax rate currently is fixed at 1.25% of the sales price of taxable goods sold at retail locations in a local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Cities and counties use this 1% of the tax to support general operations, while the remaining 0.25% is used for county transportation purposes.

In California, all cities and counties impose Bradley-Burns sales taxes. California imposes the sales tax on every retailer engaged in business in this state that sells taxable goods. The law requires businesses to collect the appropriate tax from the purchaser and remit the amount to the California Department of Tax and Fee Administration (CDTFA). Sales tax applies whenever a retail sale is made, which is basically any sale other than one for resale in the regular course of business. Unless the person pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming taxable goods in the state. The use tax rate is the same rate as the sales tax rate.

Generally, CDTFA distributes Bradley-Burns tax revenue based on where a sale took place, known as *a situs-based system*. A retailer's physical place of business—such as a retail store or restaurant—is generally the place of sale. "Sourcing" is the term used by tax practitioners to describe the rules used to determine the place of sale, and therefore, which tax rates are applied to a given purchase and which jurisdictions are entitled to the local and district taxes generated from a particular transaction.

California is primarily an origin-based sourcing state – meaning tax revenues go to the jurisdiction in which a transaction physically occurs if that can be determined. However, California also uses a form of destination sourcing for the local use tax and for district taxes (also known as "transactions and use taxes" or "add-on sale and use taxes"). That is, for cities with local add-on taxes, they receive their add-on rate amount from remote and online transactions.

Generally, allocations are based on the following rules:

- The sale is sourced to the place of business of the seller - whether the product is received by the purchaser at the seller's business location or not.
- If the retailer maintains inventory in California and has no other in state location, the source is the jurisdiction where the warehouse is situated. *This resolution is concerned with the growing amount of online retail activity being sourced to cities with warehouse/fulfillment center locations.*
- If the business' sales office is located in California but the merchandise is shipped from out of state, the tax from transactions under $500,000 is allocated

via the county pools. The tax from transactions over $500,000 is allocated to the jurisdiction where the merchandise is delivered.

- When a sale cannot be identified with a permanent place of business in the state, the sale is sourced to the allocation pool of the county where the merchandise was delivered and then distributed among all jurisdictions in that county in proportion to ratio of sales. *For many large online retailers, this has been the traditional path.*

Online Sales and Countywide Pools

While the growth of e-commerce has been occurring for more than two decades, led by some of the largest and most popular retailers in the world, the dramatic increase in online shopping during the COVID-19 pandemic has provided significant revenue to California cities as well as a clearer picture on which governments enjoy even greater benefits.

In the backdrop of booming internet sales has been the steady decline of brick-and-mortar retail and shopping malls. For cities with heavy reliance on in-person retail shopping, the value of the current allocation system has been diminished as their residents prefer to shop online or are incentivized to do so by retailers (during the COVID-19 pandemic, consumers have had no other option but to shop online for certain goods). All the while, the demands and costs of city services continue to grow for cities across the state.

As noted above, the allocation of sales tax revenue to local governments depends on the location of the transaction (or where the location is ultimately determined). For in-person retail, the sales tax goes to the city in which the product and store are located - a customer purchasing at a register. For online sales, the Bradley Burns sales tax generally goes to a location other than the one where the customer lives – either to the city or county where an in-state warehouse or fulfillment center is located, the location of in-state sales office (ex. headquarters) or shared as use tax proceeds amongst all local governments within a county based on their proportionate share of taxable sales.

Under current CDTFA regulations, a substantial portion of local use tax collections are allocated through a countywide pool to the local jurisdictions in the county where the property is put to its first functional use. The state and county pools constitute over 15% of local sales and use tax revenues. Under the pool system, the tax is reported by the taxpayer to the countywide pool of use and then distributed to each jurisdiction in that county on a pro-rata share of taxable sales. If the county of use cannot be identified, the revenues are distributed to the state pool for pro-rata distribution on a statewide basis.

Concentration of Online Sales Tax Revenue and Modernization

Sales tax modernization has been a policy goal of federal, state, and local government leaders for decades to meet the rapidly changing landscape of commercial activity and ensure that all communities can sustainably provide critical services.

For as long as remote and internet shopping has existed, policy makers have been concerned about their potential to disrupt sales and use tax allocation procedures that underpin the funding of local government services. The system was designed in the early twentieth century to ensure that customers were paying sales taxes to support local government services within the community where the transactions occurred whether they resided there or not. This structure provides benefit to and recoupment for the public resources necessary to ensure the health and safety of the community broadly.

City leaders have for as long been concerned about the loosening of the nexus between what their residents purchase and the revenues they receive. Growing online shopping, under existing sourcing rules, has led to a growing concentration of sales tax revenue being distributed to a smaller number of cities and counties. As more medium and large online retailers take title to fulfillment centers or determine specific sales locations in California as a result of tax sharing agreements in specific cities, online sales tax revenue will be ever more concentrated in a few cities at the control of these companies. Furthermore, local governments are already experiencing the declining power of the sales tax to support services as more money is being spent on non-taxable goods and services.

*For more on sales and use tax sourcing please see Attachment A.*

State Auditor Recommendations

In 2017, the California State Auditor issued a report titled, "The Bradley-Burns Tax and Local Transportation Funds, noting that:

*"Retailers generally allocate Bradley Burns tax revenue based on the place of sale, which they identify according to their business structure. However, retailers that make sales over the Internet may allocate sales to various locations, including their warehouses, distribution center, or sales offices. This approach tends to concentrate Bradley Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Consequently, counties with a relatively large amount of industrial space may receive disproportionately larger amounts of Bradley Burns tax, and therefore Local Transportation Fund, revenue.*

*The State could make its distribution of Bradley Burns tax revenue derived from online sales more equitable if it based allocations of the tax on the destinations to which goods are shipped rather than on place of sale."*

The Auditor's report makes the following recommendation:

*"To ensure that Bradley-Burns tax revenue is more evenly distributed, the Legislature should amend the Bradley-Burns tax law to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale."*

In acknowledgement of the growing attention from outside groups on this issue, Cal Cities has been engaged in its own study and convening of city officials to ensure pursued solutions account for the circumstances of all cities and local control is best protected. These efforts are explored in subsequent sections.

Cal Cities Revenue and Taxation Committee and City Manager Working Group
In 2015 and 2016, Cal Cities' Revenue and Taxation Policy Committee held extensive discussions on potential modernization of tax policy affecting cities, with a special emphasis on the sales tax. The issues had been identified by Cal Cities leadership as a strategic priority given concerns in the membership about the eroding sales tax base and the desire for Cal Cities to take a leadership role in addressing the associated issues. The policy committee ultimately adopted a series of policies that were approved by the Cal Cities board of directors. Among its changes were a recommended change to existing sales tax sourcing (determining where a sale occurs) rules, so that the point of sale (situs) is where the customer receives the product. The policy also clarifies that specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood. See "Existing Cal Cities Policy" section below.

Cal Cities City Manager Sales Tax Working Group Recommendations
In the Fall of 2017, the Cal Cities City Managers Department convened a working group (Group) of city managers representing a diverse array of cities to review and consider options for addressing issues affecting the local sales tax.

The working group of city managers helped Cal Cities identify internal common ground on rapidly evolving e-commerce trends and their effects on the allocation of local sales and use tax revenue. After meeting extensively throughout 2018, the Group made several recommendations that were endorsed unanimously by Cal Cities' Revenue and Taxation Committee at its January, 2019 meeting and by the board of directors at its subsequent meeting.

The Group recommended the following actions in response to the evolving issues associated with e-commerce and sales and use tax:

Further Limiting Rebate Agreements: The consensus of the Group was that:

- Sales tax rebate agreements involving online retailers should be prohibited *going forward*. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.
- Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited *going forward*. Existing law already prohibits such agreements for auto dealers and big box stores.

Shift Use Tax from Online Sales, including from the South Dakota v. Wayfair Decision Out of County Pools: The Group's recommendation is based first on the principle of "situs" and that revenue should be allocated to the jurisdiction where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v. Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

- Shift of these revenues, from purchases from out of state retailers including transactions captured by the South Dakota v. Wayfair decision, out of county pools to full destination allocation on and after January 1, 2020.
- Allow more direct reporting of use taxes related to construction projects to jurisdiction where the construction activity is located by reducing existing regulatory threshold from $5 million to $100,000.

Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts: After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the Group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the CDTFA administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature in early 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.

Conditions for considering a Constitutional Amendment that moves toward destination allocation: Absent better data on the impacts on individual agencies associated with a shift to destination allocation of sales taxes from CDTFA, the Group declined to prescribe if/how a transition to destination would be accomplished; the sentiment was that the issue was better revisited once better data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the Group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing Cal Cities policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed; and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

This Resolution builds upon previous work that accounts for the impacts that distribution networks have on host cities and further calls on the organization to advocate for changes to sales tax distribution rules.

The Resolution places further demands on data collected by CDTFA to establish a "fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases." Such data is proposed to be collected by SB 792 (Glazer, 2021). More discussion on this topic can be found in the "Staff Comments" section.

**Staff Comments**:

**Proposed Resolution Affixes Equity Based, Data Driven Approach to Existing Cal Cities Policy on Sales Tax Sourcing**

The actions resulting from this resolution, if approved, would align with existing policy and efforts to-date to modernize sales tax rules. While not formalized in existing Cal Cities policy or recommendations, city managers and tax practitioners generally have favored proposals that establish a sharing of online sales tax revenues rather than a full destination shift. City leaders and practitioners across the state have acknowledged during Cal Cities Revenue and Taxation and City Manager's working group meetings that the hosting of fulfillment centers and ancillary infrastructure pose major burdens on local communities including detrimental health and safety impacts. This acknowledgement has moved mainstream proposals such as this one away from full revenue shifts towards an equity-based, data driven approach that favors revenue sharing. This Resolution would concretely affix this approach as Cal Cities policy.

**More Data is Needed to Achieve Equity Based Approach**

A major challenge is the lack of adequate data to model the results of shifting in-state online sale tax revenues. Local government tax consultants and state departments have limited data to model the effects of changes to sales tax distribution because their information is derived only from cities that have a local transactions and use tax (TUT). Tax experts are able to model proposed tax shifts using TUTs since they are allocated on a destination basis (where a purchaser receives the product; usually a home or business). However, more than half of all cities, including some larger cities, do not have a local TUT therefore modeling is constrained and incomplete.

Efforts to collect relevant sales tax information on the destination of products purchased online are ongoing. The most recent effort is encapsulated in SB 792 (Glazer, 2021), which would require retailers with online sales exceeding $50 million a year to report to CDTFA the gross receipts from online sales that resulted in a product being shipped or delivered in each city. The availability of this data would allow for a much more complete understanding of online consumer behavior and the impacts of future proposed changes to distribution. SB 792 (Glazer) is supported by Cal Cities following approval by the Revenue and Taxation Committee and board of directors.

**Impact of Goods Movement Must Be Considered**

As noted above, city leaders and practitioners across the state acknowledge that the hosting of fulfillment centers and goods movement infrastructure pose major burdens on local communities including detrimental health, safety, and infrastructure impacts. Not least of which is the issue of air pollution from diesel exhaust. According to California Environmental Protection Agency (Cal EPA):

*“Children and those with existing respiratory disease, particularly asthma, appear to be especially susceptible to the harmful effects of exposure to airborne PM from diesel exhaust, resulting in increased asthma symptoms and attacks along with decreases in lung function (McCreanor et al., 2007; Wargo, 2002). People that live or work near heavily-traveled roadways, ports, railyards, bus yards, or trucking distribution centers may experience a high level of exposure (US EPA, 2002; Krivoshto et al., 2008). People that spend a significant amount of time near heavily-traveled roadways may also experience a high level of exposure. Studies of both men and women demonstrate cardiovascular effects of diesel PM exposure, including coronary vasoconstriction and premature death from cardiovascular disease (Krivoshto et al., 2008). A recent study of diesel exhaust inhalation by healthy non-smoking adults found an increase in blood pressure and other potential triggers of heart attack and stroke (Krishnan et al., 2013) Exposure to diesel PM, especially following periods of severe air pollution, can lead to increased hospital visits and admissions due to worsening asthma and emphysema-related symptoms (Krivoshto et al., 2008). Diesel exposure may also lead to reduced lung function in children living in close proximity to roadways (Brunekreef et al., 1997).”*

The founded health impacts of the ubiquitous presence of medium and heavy-duty diesel trucks used to transport goods to and from fulfillment centers and warehouses require host cities to meet increased needs of their residents including the building and maintenance of buffer zones, parks, and open space. While pollution impacts may decline with the introduction of zero-emission vehicles, wide scale adoption by large distribution fleets is still in its infancy. Furthermore, the impacts of heavy road use necessitate increased spending on local streets and roads upgrades and maintenance. In addition, many cities have utilized the siting of warehouses, fulfillment centers, and other heavy industrial uses for goods movements as key components of local revenue generation and economic development strategies. These communities have also foregone other land uses in favor of siting sales offices and fulfillment networks.

All said, however, it is important to acknowledge that disadvantaged communities (DACs) whether measured along poverty, health, environmental or education indices exist in cities across the state. For one example, see: California Office of Environmental Health Hazard Assessment (OEHHA) CalEnviroScreen. City officials may consider how cities without fulfillment and warehouse center revenues are to fund efforts to combat social and economic issues, particularly in areas with low property tax and tourism-based revenues.

The Resolution aims to acknowledge these impacts broadly (this analysis does not provide an exhaustive review of related impacts) and requests Cal Cities to account for them in a revised distribution formula of the Bradley Burns 1% local sales tax from in-state online purchases. The Resolution does not prescribe the proportions.

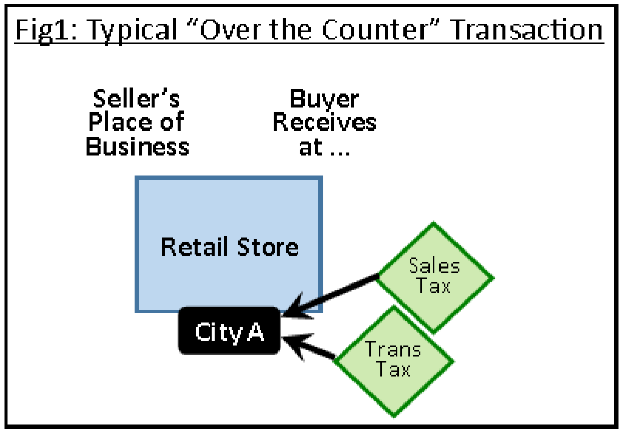
**Clarifying Amendments**
Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. *To review the proposed changes, please see Attachment B.*

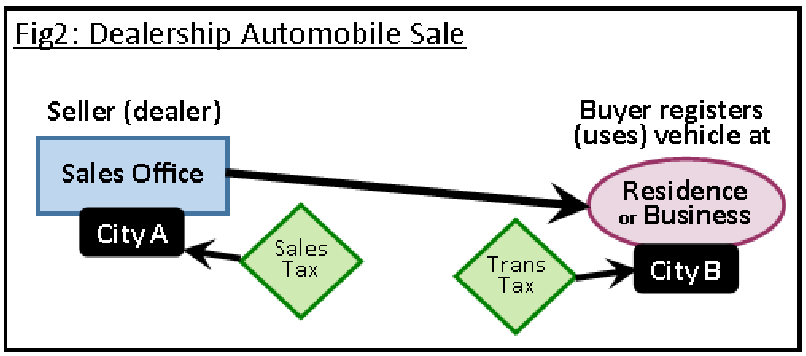
**Fiscal Impact**:
Significant but unknown. The Resolution on its own does not shift sales tax revenues. In anticipation and mitigation of impacts, the Resolution requests Cal Cities to utilize online sales tax data to identify a fair and equitable distribution formula that accounts for the broad impacts fulfillment centers involved in online retail have on the cities that host them. The Resolution does not prescribe the revenue distribution split nor does it prescribe the impacts, positive and negative, of distribution networks.

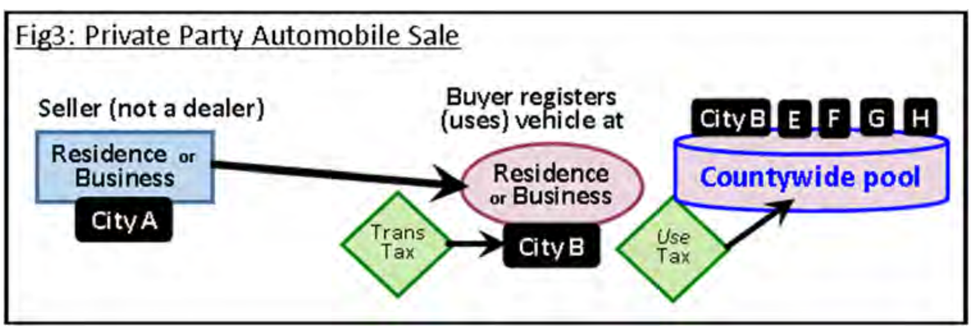
**Existing Cal Cities Policy**:
- Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.
- Support as Cal Cities policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)
- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.
- Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change. Sales tax rebate agreements involving online retailers are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one. Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward.
- Support Cal Cities working with the state California Department of Tax and Fee Administration (CDTFA) to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered). Use Tax collections from online sales, including from the South Dakota v Wayfair Decision, should be shifted out of county pools and allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.

**Support:**
The following letters of concurrence were received:
Town of Apple Valley
City of El Cerrito
City of La Canada Flintridge
City of La Verne
City of Lakewood

City of Moorpark
City of Placentia
City of Sacramento

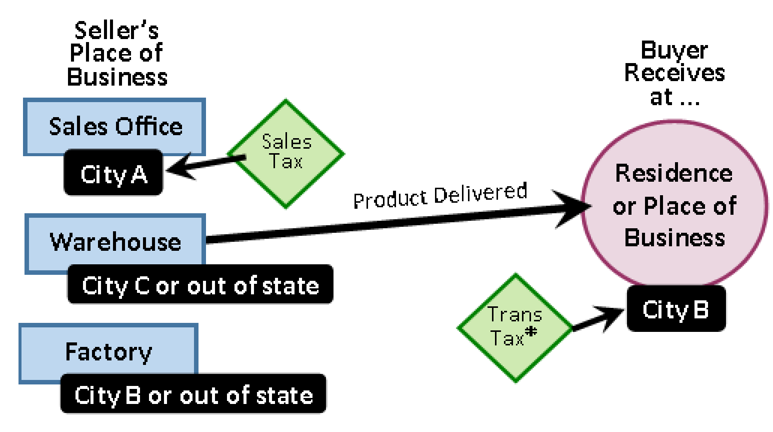


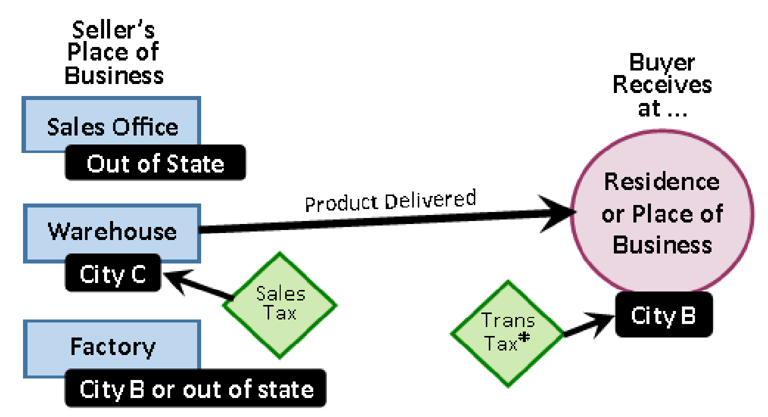

CaliforniaCityFinance.com

Fig4: Remote (Online) Sale—In-State Business Office

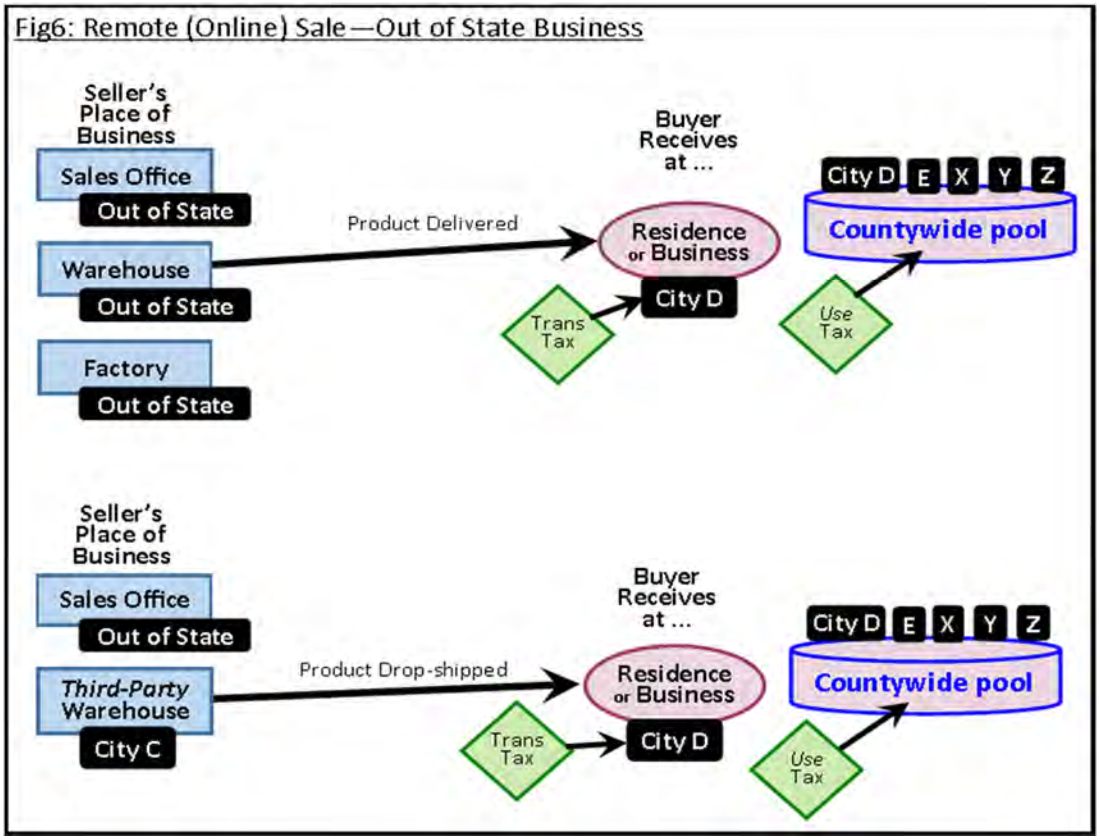



*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.

Fig5: Remote (Online) Sale—In-State Warehouse, Out-of-State Sales Office




*If the seller is in the same Transactions and Use Tax "district" as the buyer, then the seller is responsible for collecting and remitting the tax. If the buyer is in a different district, the buyer is responsible.




| GUIDELINES FOR ALLOCATION OF LOCAL TAX - ONLINE AND IN-STORE | | | |
|---|---|---|---|
| **Place of Sale** | **Location of Goods at the Time of Sale** | **How Customer Receives Goods** | **Allocation of Tax** |
| Online – Order is placed or downloaded outside California | California Fulfillment Center | Shipped to California Customer | Local tax is allocated to the jurisdiction in which the fulfillment center is located |
| Online – Order is placed or downloaded in California | California Fulfillment Center | Shipped to California Customer | Per CDTFA Regulation 1802, local tax is allocated to the jurisdiction where the order is placed |
| Online | Out of State Fulfilment Center | Shipped to California Customer | Local tax is allocated to the countywide pool based on point of delivery |
| Online | Out of State Fulfilment Center | Picked Up In-Store (Click & Collect) | Local tax is allocated to the countywide pool based on point of delivery |
| Online | California Fulfillment Center Owned and Operated by Third Party Vendor | Drop-Shipped to California Customer | Local tax is allocated to the countywide pool based on point of delivery |
| Online | In-Store (Goods withdrawn from store inventory) | Shipped to California Customer | Local Tax is allocated to the jurisdiction where the store is located |
| Online | In-Store (Goods withdrawn from store inventory) | Picked Up In-Store (Click & Collect) | Local Tax is allocated to the jurisdiction where the store is located |
| In-Store | In-Store (Goods withdrawn from store inventory) | Over the Counter | Local Tax is allocated to the jurisdiction where the store is located |

*Courtesy of HdL Companies*

*CaliforniaCityFinance.com*

## Tax Incentive Programs, Sales Tax Sharing Agreements

In recent years, especially since Proposition 13 in 1978, local discretionary (general purpose revenues) have become more scarce. At the same time, options and procedures for increasing revenues have become more limited. One outcome of this in many areas has been a greater competition for sales and use tax revenues. This has brought a rise in arrangements to encourage certain land use development with rebates and incentives which exploit California's odd origin sales tax sourcing rules.

The typical arrangement is a sales tax sharing agreement in which a city provides tax rebates to a company that agrees to expand their operations in the jurisdiction of the city. Under such an arrangement, the company generally agrees to make a specified amount of capital investment and create a specific number of jobs over a period of years in exchange for specified tax breaks, often property tax abatement or some sort of tax credit. In some cases, this has simply taken the form of a sales office, while customers and warehouses and the related economic activity are disbursed elsewhere in the state. In some cases the development takes the form of warehouses, in which the sales inventory, owned by the company, is housed.[6]

Current sales tax incentive agreements in California rebate amounts ranging from 50% to 85% of sales tax revenues back to the corporations.

Today, experts familiar with the industry believe that between 20% to 30% of local Bradley-Burns sales taxes paid by California consumers is diverted from local general funds back to corporations; over $1 billion per year.

### The Source of Origin Based Sourcing Problems

Where other than over-the-counter sales are concerned origin sourcing often causes a concentration of large amounts of tax revenue in one location, despite the fact that the economic activity and service impacts are also occurring in other locations.

The large amounts of revenue concentrated in a few locations by California's "warehouse rule" origin sourcing causes a concentration of revenue far in excess of the service costs associated with the development.

In order to lure jobs and tax revenues to their communities, some cities have entered into rebate agreements with corporations. This has grown to such a problem, that 20% to 30% of total local taxes paid statewide are being rebated back to corporations rather than funding public services.

## Moving to Destination Sourcing: The Concept[7]

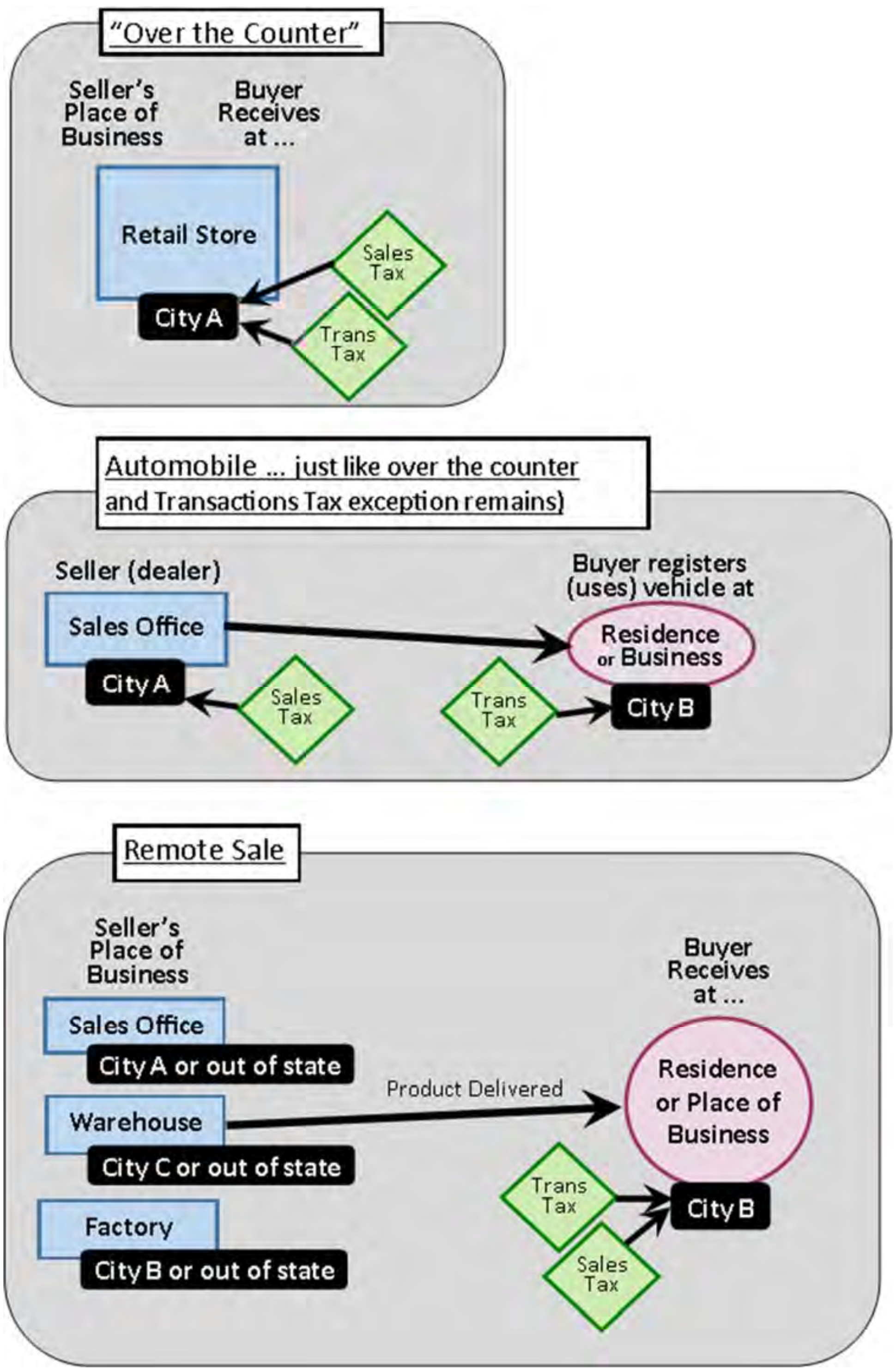
A change from origin sourcing rules to destination sourcing rules for the local tax component of California's sales tax would improve overall revenue collections and distribute these revenues more equitably among all of the areas involved in these transactions.

A change from origin based sourcing to destination based sourcing would have no effect on state tax collections. However, it would alter the allocations of local sales and use tax revenues among local agencies. Most retail transactions including dining, motor fuel purchases, and in-store purchases would not be affected. But in cases where the property is received by the purchaser in a different jurisdiction than where the sales agreement was negotiated, there would be a different allocation than under the current rules.

[6] See Jennifer Carr, "Origin Sourcing and Tax Incentive Programs: An Unholy Alliance" Sales Tax Notes; May 27, 2013.

[7] The same issues that are of concern regarding the local sales tax do not apply to California's Transactions and Use Taxes ("Add-on sales taxes") as these transactions, when not over the counter, are generally allocated to the location of use or, as in the case of vehicles, product registration. There is no need to alter the sourcing rules for transactions and use taxes.

# Destination Sourcing Scenario 1: Full-On

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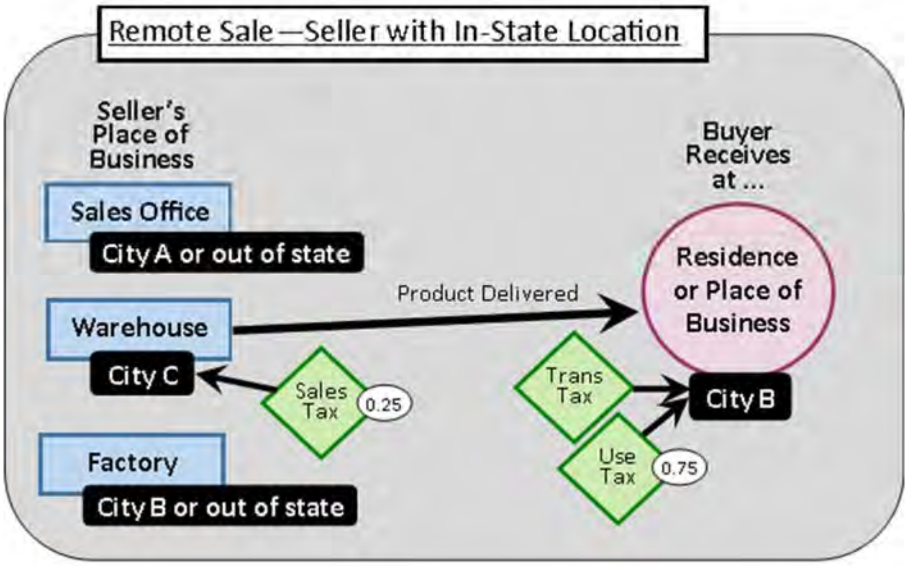
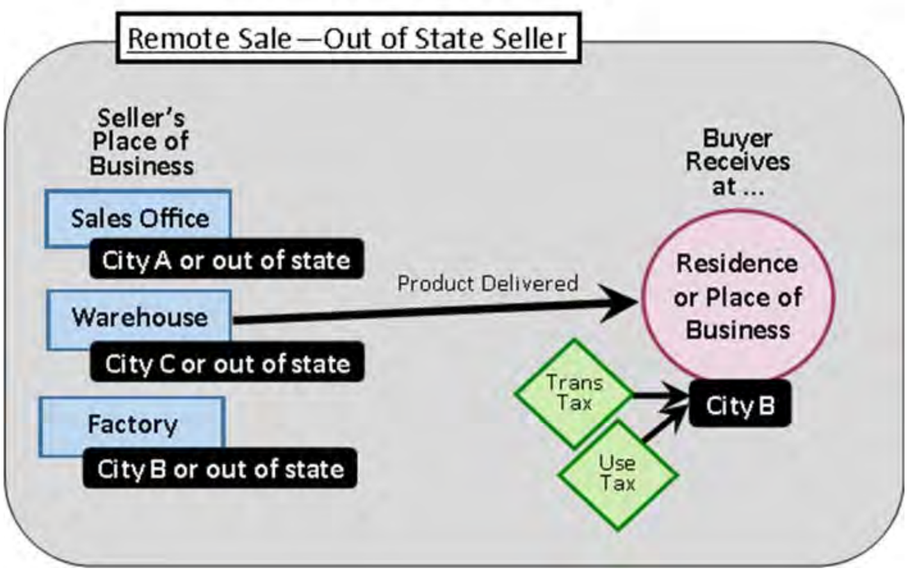
# Destination Sourcing Scenario 2: Split Source

- Same as now for "over the counter" and automobile.
- Leave 0.25% on current seller if instate (origin)
- Could be phased in.




mjgc

CaliforniaCityFinance.com

RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES ("CAL CITIES") CALLING ON THE STATE LEGISLATURE TO PASS LEGISLATION THAT PROVIDES FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE BRADLEY BURNS 1% LOCAL SALES TAX FROM IN-STATE ONLINE PURCHASES, BASED ON DATA WHERE PRODUCTS ARE SHIPPED TO, AND THAT RIGHTFULLY TAKES INTO CONSIDERATION THE IMPACTS THAT FULFILLMENT CENTERS HAVE ON HOST CITIES BUT ALSO PROVIDES A FAIR SHARE TO CALIFORNIA CITIES THAT DO NOT AND/OR CANNOT HAVE A FULFILLMENT CENTER WITHIN THEIR JURISDICTION

**WHEREAS**, the 2018 U.S. Supreme Court decision in *Wayfair v. South Dakota* clarified that states could charge and collect tax on purchases even if the seller does not have a physical presence in the state; and

**WHEREAS**, California cities and counties collect 1% in Bradley Burns sales and use tax from the purchase of tangible personal property and rely on this revenue to provide critical public services such as police and fire protection; and

**WHEREAS**, in terms of "siting" the place of sale and determining which jurisdiction receives the 1% Bradley Burns local taxes for online sales, the California Department of Tax and Fee Administration (CDTFA) determines "out-of-state" online retailers as those with no presence in California that ship property from outside the state and are therefore subject to use tax, not sales tax, which is collected in a countywide pool of the jurisdiction where the property is shipped from; and

**WHEREAS,** for online retailers that have a presence in California and have a stock of goods in the state from which it fulfills orders, CDTFA considers the place of sale ("situs") as the location from which the goods were shipped such as a fulfillment center; and

**WHEREAS,** in early 2021, one of the state's largest online retailers shifted its ownership structure so that it is now considered both an in-state and out-of-state retailer, resulting in the sales tax this retailer generates from in-state sales now being ~~entirely~~ allocated to ~~the specific~~ ~~city~~ cities where ~~the~~ warehouse fulfillment centers ~~is~~ are located as opposed to going into ~~a~~ countywide pools that ~~is~~ are shared with all jurisdictions in those counties ~~that County~~, as was done previously; and

**WHEREAS**, this all-or-nothing ~~change for the~~ allocation of in-state sales tax has created winners and losers amongst cities as the online sales tax revenue ~~from the retailer~~ that was once spread amongst all cities in countywide pools is now concentrated in select cities that host ~~a~~ fulfillment centers; and

**WHEREAS,** this has created a tremendous inequity amongst cities, in particular for cities that are built out, do not have space for siting ~~a 1 million square foot~~ fulfillment centers, are not located along a major travel corridor, or otherwise not ideally suited to host a fulfillment center; and

**WHEREAS**, this inequity affects cities statewide, but in particular those with specific circumstances such as no/low property tax cities that are extremely reliant on sales tax revenue as well as cities struggling to meet their Regional Housing Needs Allocation (RHNA) obligations that are being compelled by the State to rezone precious commercial parcels to residential; and

**WHEREAS,** the inequity produced by allocating in-state online sales tax revenue exclusively to cities with fulfillment centers is exasperated even more by, in addition to already reducing the amount of revenue going into the countywide pools, the cities with fulfillment centers are also receiving a larger share of the dwindling countywide pool as it is allocated based on cities' proportional share of sales tax collected; and

**WHEREAS,** while it is important to acknowledge that those cities that have fulfillment centers experience impacts from these activities and deserve equitable supplementary compensation, it should also be recognized that the neighboring cities whose residents are ordering products from **those** ~~**that**~~ centers now receive no **Bradley Burns** revenue ~~**from the center's sales activity**~~ despite also experiencing the impacts created by them ~~center~~, such as increased traffic and air pollution; and

**WHEREAS,** the COVID-19 pandemic greatly accelerated the public's shift towards online purchases, a trend that is unlikely to be reversed to pre-pandemic levels; and

**NOW, THEREFORE, BE IT RESOLVED** that Cal Cities calls on the State Legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

**2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE NECCESARY FUNDING FOR CUPC TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE QAULITY OF LIFE AND RESULTS IN INCREASED PUBLIC SAFETLY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUTT THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate
Concurrence of five or more cities/city officials:
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

**WHEREAS,** ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

**WHEREAS,** Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the California Public Utilities Commission for operational safety and maintenance; and

**WHEREAS,** the California Public Utilities Commission (CPUC) is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

**WHEREAS,** areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

**WHEREAS,** many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

**WHEREAS,** local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

**WHEREAS,** that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

**WHEREAS,** the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well a betterment to rail safety.

**RESOLVED,** at the League of California Cities, General Assembly, assembled at the League Annual Conference on September 24, 2021, in Sacramento, that the League calls for the Governor and the Legislature to work with the League and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. The League will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

<u>**Background Information to Resolution**</u>

**Source:** City of South Gate

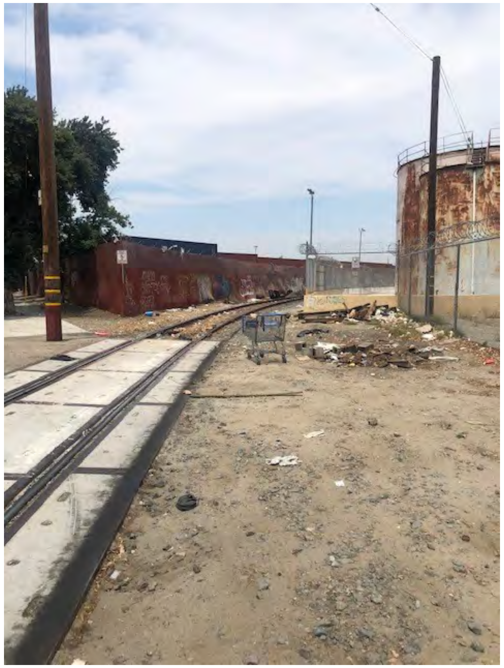
**Background:**
The State of California has over 6,000 miles of rail lines, with significant amount running through communities that are either economically disadvantaged and/or disadvantaged communities of color. While the Federal Railroad Administration (FRA) has primary oversight of rail operations, they delegate that obligation to the State of California for lines within our State. The administration of that oversight falls under the California Public Utilities Commission (CPUC). The CPUC has only 41 inspectors covering those 6,000 miles of railroad lines in the State of California. Their primary task is ensuring equipment, bridges and rail lines are operationally safe.

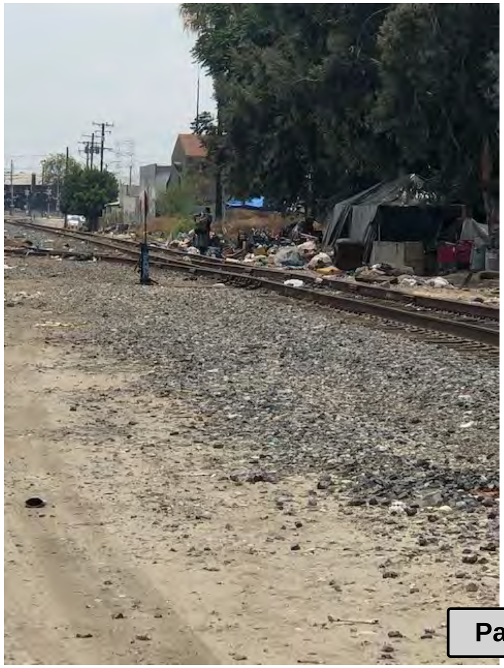
The right-of-way areas along the rail lines are becoming increasingly used for illegal dumping, graffiti and homeless encampments. Rail operators have admitted that they have insufficient funds set aside to clean up or sufficiently police these right-of-way areas, despite reporting a net income of over $13 billion in 2020. CPUC budget does not provide the resources to oversee whether rail operators are properly managing the right-of-way itself.

The City of South Gate has three rail lines traversing through its city limits covering about 4 miles. These lines are open and inviting to individuals to conduct illegal dumping, graffiti buildings and structures along with inviting dozens of homeless encampments. As private property, Cities like ourselves cannot just go upon them to remove bulky items, trash, clean graffiti or remove encampments. We must call and arrange for either our staff to access the site or have the rail operator schedule a cleanup. This can take weeks to accomplish, in the meantime residents or businesses that are within a few hundred feet of the line must endure the blight and smell. Trash is often blown from the right-of-way into residential homes or into the streets. Encampments can be seen from the front doors of homes and businesses.

South Gate is a proud city of hard working-class residents, yet with a median household income of just $50,246 or 65% of AMI for Los Angeles County, it does not have the financial resources to direct towards property maintenance of any commercial private property. The quality of life of communities like ours should not be degraded by the inactions or lack of funding by others. Cities such as South Gate receive no direct revenue from the rail operators, yet we deal with environmental impacts on a daily basis, whether by emissions, illegal dumping, graffiti or homeless encampments.

The State of California has record revenues to provide CPUC with funding nor only for safety oversight but ensuring right-of-way maintenance by operators is being managed properly. Rail Operators should be required to set aside sufficient annual funds to provide a regular cleanup of their right-of-way through the cities of California.





# LETTERS OF CONCURRENCE

Resolution No. 2

City of BELL GARDENS
7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

The City of Bell Gardens supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Marco Barcena at 562-7761 if you have any questions.

Sincerely,

Marco Barcena
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

City of BELL GARDENS
7100 Garfield Avenue • Bell Gardens, CA 90201 • 562-806-7700 • www.bellgardens.org

CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

As a Councilwoman with the City of Bell Gardens, I support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Lisseth Flores at (562) 806-7763 if you have any questions.

Sincerely,

Lisseth Flores

Lisseth Flores
Councilwoman

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

CITY OF SOUTH GATE ANNUAL CONFERNCE RESOLUTION

July 15, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

The city of Bell supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Paul Philips, City Manager at 323-588-6211, if you have any questions.

Sincerely,

Alicia Romero

Alicia Romero
Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division,





6330 Pine Avenue, Bell, California 90201 • Phone (323) 588-6211 Fax (323) 771-9473

# CITY OF COMMERCE

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Railroad Oversight Annual Conference Resolution**

President Walker:

The City of Commerce supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' ("League") 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially disadvantaged communities of color that are home to the State's freight rail lines. While I am supportive of the economic base the railroad industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Edgar Cisneros, City Manager, via email at ecisneros@ci.commerce.ca.us or at 323-722-4805, should you have any questions.

Sincerely,

Mayor Leonard Mendoza

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

# CITY OF **CUDAHY** CALIFORNIA

*Incorporated November 10, 1960*

5220 Santa Ana Street
Cudahy, California 90201
(323)773-5143


July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: City of South Gate Annual Conference Resolution

Dear President Walker:

The City of Cudahy supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions, please do not hesitate to call my office at 323-773-5143.

Sincerely,

Jose Gonzalez
Mayor

CC: Chris Jeffers, City Manager, City of South Gate

# City of El Segundo

## Office of the Mayor

July 16, 2021

**Elected Officials:**

*Drew Boyles, Mayor*
*Chris Pimentel, Mayor Pro Tem*
*Carol Pirsztuk, Council Member*
*Scot Nicol, Council Member*
*Lance Giroux, Council Member*
*Tracy Weaver, City Clerk*
*Matthew Robinson, City Treasurer*

**Appointed Officials:**

*Scott Mitnick, City Manager*
*Mark D. Hensley, City Attorney*

**Department Directors:**

*Barbara Voss, Deputy City Manager*
*Joseph Lillio, Finance*
*Chris Donovan, Fire Chief*
*Charles Mallory, Information Technology Services*
*Melissa McCollum, Community Services*
*Rebecca Redyk, Human Resources*
*Denis Cook, Interim Development Services*
*Jamie Bermudez, Interim Police Chief*
*Elias Sassoon, Public Works*

www.elsegundo.org
www.elsegundobusiness.com
www.elsegundo100.org

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

The City of El Segundo supports the Los Angeles County Division's City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact El Segundo Public Works Director Elias Sassoon at 310-524-2356, if you have any questions.

Sincerely,

Drew Boyles
Mayor of El Segundo

CC: City Council, City of El Segundo
Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org
Jeff Kiernan, League Regional Public Affairs Manager (via email)

***350 Main Street, El Segundo, California 90245-3813***
***Phone (310) 524-2302 Fax (310) 322-7137***

CITY OF GLENDORA CITY HALL (626) 914-8200
116 East Foothill Blvd., Glendora, California 91741
www.ci.glendora.ca.us

July 14, 2021

Cheryl Viegas Walker, President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**SUBJECT: SUPPORT FOR THE CITY OF SOUTH GATE'S ANNUAL CONFERENCE RESOLUTION**

Dear President Walker:

The City of Glendora is pleased to support the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League of California Cities' 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue that many communities, small and large, are experiencing along active transportation corridors, particularly rail lines. Given the importance and growth of the ports and logistics sector, and the economic support they provide, we need to do more to ensure that conflicts are appropriately addressed and mitigated to ensure they do not become attractive nuisances. Our cities are experiencing increasing amounts of illegal dumping (trash and debris) and the establishment of encampments by individuals experiencing homelessness along roadways, highways and rail lines. Such situations create unsafe conditions – safety, health and sanitation – that impact quality of life even as we collectively work to address this challenge in a coordinated and responsible manner.

As members of the League of California Cities, Glendora values the policy development process provided to the General Assembly and strongly support consideration of this issue. Your attention to this matter is greatly appreciated. Should you have any questions, please feel free to contact Adam Raymond, City Manager, at araymond@cityofglendora.org or (626) 914-8201.

Sincerely,

Karen K. Davis
Mayor

C: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

PRIDE OF THE FOOTHILLS

Office of the Mayor

July 21, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**Re: Resolution No. 2021-18 Supporting City of South Gate Annual Conference Resolution**

President Walker:

The City of Huntington Park (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Enclosed is Resolution No. 2021-18 adopted by the City Council of the City of Huntington Park.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impacts of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively affect our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, Ricardo Reyes, at 323-582-6161, if you have any questions.

Sincerely,

Graciela Ortiz
Mayor, City of Huntington Park

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

Enclosure(s)

13700 La Mirada Boulevard
La Mirada, California 90638
P.O. Box 828
La Mirada, California 90637-0828
Phone: (562) 943-0131 Fax: (562) 943-1464
www.cityoflamirada.org

# CITY OF LA MIRADA

*DEDICATED TO SERVICE*

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, California 95814

**SUBJECT: LETTER OF SUPPORT FOR CITY OF SOUTH GATE'S PROPOSED RESOLUTION AT CALCITIES ANNUAL CONFERENCE**

President Walker:

The City of La Mirada supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City of South Gate's resolution seeks to address a critical issue within communities that are home to the State's freight rail lines. While the City of La Mirada is supportive of the economic base the railroad industry serves to the State, the rail lines have become places where illegal dumping and a growing homeless population are significant problems. The negative impact of these illegal activities decreases the quality of life for the La Mirada community, increases blight and unhealthy sanitation issues, and negatively impacts the City's ability to meet State water quality standards under the MS4 permits.

As members of the League, the City of La Mirada values the policy development process provided to the General Assembly. We appreciate your consideration on this issue. Please feel free to contact Assistant City Manager Anne Haraksin at (562) 943-0131 if you have any questions.

Sincerely,

**CITY OF LA MIRADA**

Ed Eng
Mayor

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

July 22, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Support for City of South Gate Resolution—Cleanup Activities on Rail Operator Properties**

Dear President Walker,

On behalf of the City of Long Beach, I write to support the City of South Gate's proposed resolution for the League of California Cities' (League) 2021 Annual Conference. This resolution seeks to direct the League to adopt a policy urging State and federal governments to increase oversight of rail operators' land maintenance. The City is a proponent of increased maintenance along railways and believes a League advocacy strategy would help expedite regional responses.

The COVID-19 pandemic has exacerbated the public health and safety concerns on rail rights-of-way, as trash, debris, and encampments have increased exponentially. These challenges erode the quality of life for our communities, increase blight, and contribute to public health and sanitation issues. To address these concerns, the City has engaged directly with regional partners to prioritize ongoing maintenance and cleanups, and has invested $4 million in the Clean Long Beach Initiative as part of the City's Long Beach Recovery Act to advance economic recovery and public health in response to the COVID-19 pandemic.

The City of South Gate's proposed resolution would further advance these efforts for interjurisdictional coordination. The increased oversight proposed by the resolution will help support better coordination and additional resources to address illegal dumping and encampments along private rail operator property. This is a critical measure to advance public health and uplift our most vulnerable communities. For these reasons, the City supports the proposed League resolution.

Sincerely,

THOMAS B. MODICA
City Manager

cc: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

OFFICE OF THE
**MAYOR**
**MARISELA SANTANA**

*City of*
**LYNWOOD**
Incorporated 1921

11330 Bullis Road, Lynwood, CA 90262
(310) 603-0220 x 200

Lynwood
All-America City

CITY OF SOUTH GATE ANNUAL CONFERNCE RESOLUTION

July 20, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

The City of Lynwood supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. These impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Ernie Hernandez at (310) 603-0220 ext. 200, if you have any questions.

Sincerely,

Marisela Santana, Mayor

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

100 YEARS
CITY OF MONTEBELLO CALIFORNIA
1920 2020

July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: Resolution in Support of City of South Gate Annual Conference Resolution**

President Walker:

The City of Montebello (City) supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. Attached is the Resolution to be considered for adoption by the City Council of the City of Montebello at our July 28, 2021, City Council meeting.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State, their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact our City Manager, René Bobadilla, at 323-887-1200, if you have any questions.

Sincerely,

Kimberly Cobos-Cawthorne

Kimberly Cobos-Cawthorne
Mayor, City of Montebello

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

THE CITY

*Safe, Healthy, and Attractive*



July 19, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: SUPPORT FOR ANNUAL LEAGUE OF CITIES CONFERENCE GENERAL ASSEMBLY RESOLUTION**

President Walker:

The City of Paramount supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento. The proposed resolution is attached

South Gate's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantage communities of color that are home to the State's freight rail lines. While supportive of the economic boon the freight industry serves to the State, their rail line rights of way have often become places where illegal dumping is a constant problem and where our growing homeless populations reside. The impact of these activities further erode the quality of life for our communities, increase blight, increase unhealthy sanitation issues and negatively impact our ability to meet State water quality standards under the MS4 permits.

As a member of the California League of Cities, the City of Paramount values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact City Manager John Moreno at (562) 220-2222 if you have any questions.

# City of Pico Rivera
## OFFICE OF THE CITY MANAGER
6615 Passons Boulevard · Pico Rivera, California 90660
**(562) 801-4371**
*Web:* www.pico-rivera.org *e-mail:* scastro@pico-rivera.org

**Steve Carmona**
City Manager

**City Council**
Raul Elias
*Mayor*
Dr. Monica Sánchez
*Mayor Pro Tem*
Gustavo V. Camacho
*Councilmember*
Andrew C. Lara
*Councilmember*
Erik Lutz
*Councilmember*


**CITY OF SOUTH GATE ANNUAL CONFERENCE RESOLUTION**

July 14, 2021

Cheryl Viegas Walker
President
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

**RE: City of South Gate Annual Conference Resolution**

President Walker:

The City of Pico Rivera supports the City of South Gate's effort to submit a resolution for consideration by the General Assembly at the League's 2021 Annual Conference in Sacramento.

The City's resolution seeks to address a critical issue within communities, especially those of economic disadvantage and disadvantaged communities of color that are home to the State's freight rail lines. While supportive of the economic base the industry serves to the State; their rail lines have often become places where illegal dumping is a constant problem and our growing homeless population call home. The impact of these activities further erodes the quality of life for our communities, increases blight, increases unhealthy sanitation issues, and negatively impacts our ability to meet State water quality standards under the MS4 permits.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact Steve Carmona at (562) 801-4405 if you have any questions.

Sincerely,

City Manager
City of Pico Rivera

CC: Blanca Pacheco, President, Los Angeles County Division c/o
Jennifer Quan, Executive Director, Los Angeles County Division, jquan@cacities.org

# League of California Cities Staff Analysis on Resolution No. 2

Staff: Damon Conklin, Legislative Affairs, Lobbyist
Jason Rhine, Assistant Director, Legislative Affairs
Caroline Cirrincione, Policy Analyst

Committees: Transportation, Communications, and Public Works
Housing, Community, and Economic Development

**Summary**:
The City of South Gate submits this resolution, which states the League of California Cities should urge the Governor and the Legislature to provide adequate regulatory authority and necessary funding to assist cities with railroad right-of-way areas to address illegal dumping, graffiti, and homeless encampments that proliferate along the rail lines and result in public safety issues.

**Background**:
*California Public Utilities Commission (CPUC) Railroad Oversight*
The CPUC's statewide railroad safety responsibilities are carried out through its Rail Safety Division (RSD). The Railroad Operations and Safety Branch (ROSB), a unit of RSD, enforces state and federal railroad safety laws and regulations governing freight and passenger rail in California.

The ROSB protects California communities and railroad employees from unsafe practices on freight and passenger railroads by enforcing rail safety laws, rules, and regulations. The ROSB also performs inspections to identify and mitigate risks and potential safety hazards before they create dangerous conditions. ROSB rail safety inspectors investigate rail accidents and safety-related complaints and recommend safety improvements to the CPUC, railroads, and the federal government as appropriate.

Within the ROSB, the CPUC employs 41 inspectors who are federally certified in the five Federal Railroad Administration (FRA) railroad disciplines, including hazardous materials, motive power and equipment, operations, signal and train control, and track. These inspectors perform regular inspections, focused inspections, accident investigations, security inspections, and complaint investigations. In addition, the inspectors address safety risks that, while not violations of regulatory requirements, pose potential risks to public or railroad employee safety.

*CPUC's Ability to Address Homelessness on Railroads*
Homeless individuals and encampments have occupied many locations in California near railroad tracks. This poses an increased safety risk to these homeless individuals of being struck by trains. Also, homeless encampments often create unsafe work environments for railroad and agency personnel.

While CPUC cannot compel homeless individuals to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by homeless encampments. The disposal of waste materials or other disturbances of walkways by homeless individuals can create tripping hazards in the vicinity of railroad rights-of-way. This would cause violations of Commission GO 118-A, which sets standards for walkway surfaces alongside railroad tracks. Similarly, tents, wooden structures, and miscellaneous debris in homeless encampments can create violations of

Commission GO 26-D, which sets clearance standards between railroad tracks, and structures and obstructions adjacent to tracks.

*Homelessness in California*
According to the 2020 Annual Homeless Assessment Report (AHAR) to Congress, there has been an increase in unsheltered individuals since 2019. More than half (51 percent or 113,660 people) of all unsheltered homeless people in the United States are found in California, about four times as high as their share of the overall United States population.

Many metro areas in California lack an adequate supply of affordable housing. This housing shortage has contributed to an increase in homelessness that has spread to railroad rights-of-way. Homeless encampments along railroad right-of-way increase the incidents of illegal dumping and unauthorized access and trespassing activities. Other impacts include train service reliability with debris strikes, near-misses, and trespasser injuries/fatalities. As of April 2021, there have been 136 deaths and 117 injuries reported by the Federal Railroad Administration over the past year. These casualties are directly associated with individuals who trespassed on the railroad.

Cities across the state are expending resources reacting to service disruptions located on the railroad's private property. It can be argued that an increase in investments and services to manage and maintain the railroad's right-of-way will reduce incidents, thus enhancing public safety, environmental quality, and impacts on the local community.

*State Budget Allocations – Homelessness*
The approved State Budget includes a homelessness package of $12 billion. This consists of a commitment of $1 billion per year for direct and flexible funding to cities and counties to address homelessness. While some details related to funding allocations and reporting requirements remain unclear, Governor Newsom signed AB 140 in July, which details key budget allocations, such as:

- $2 billion in aid to counties, large cities, and Continuums of Care through the Homeless Housing, Assistance and Prevention grant program (HHAP);
- $50 million for Encampment Resolution Grants, which will help local governments resolve critical encampments and transitioning individuals into permanent housing; and
- $2.7 million in onetime funding for Caltrans Encampment Coordinators to mitigate safety risks at encampments on state property and to coordinate with local partners to connect these individuals to services and housing.

The Legislature additionally provided $2.2 billion specifically for Homekey with $1 billion available immediately. This funding will help local governments transition individuals from Project Roomkey sites into permanent housing to minimize the number of occupants who exit into unsheltered homelessness.

With regards to this resolution, the State Budget also included $1.1 billion to clean trash and graffiti from highways, roads, and other public spaces by partnering with local governments to pick up trash and beautify downtowns, freeways, and neighborhoods across California. The program is expected to generate up to 11,000 jobs over three years.

*Cities Railroad Authority*
A city must receive authorization from the railroad operator before addressing the impacts made by homeless encampments because of the location on the private property. Additionally, the city

must coordinate with the railroad company to get a flagman to oversee the safety of the work crews, social workers, and police while on the railroad tracks.

A city may elect to declare the encampment as a public nuisance area, which would allow the city to clean up the areas at the railroad company's expense for failing to maintain the tracks and right-of-way. Some cities are looking to increase pressure on railroad operators for not addressing the various homeless encampments, which are presenting public safety and health concerns.

Courts have looked to compel railroad companies to increase their efforts to address homeless encampments on their railroads or grant a local authority's application for an Inspection and Abatement Warrant, which would allow city staff to legally enter private property and abate a public nuisance or dangerous conditions.

In limited circumstances, some cities have negotiated Memoranda of Understandings (MOU) with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way, and clean-ups of homeless encampments. These MOUs also include local law enforcement agencies to enforce illegally parked vehicles and trespassing in the railroad's right-of-way. MOUs also detailed shared responsibility and costs of providing security and trash clean-up. In cases where trespassing or encampments are observed, the local public works agency and law enforcement agency are notified and take the appropriate measures to remove the trespassers or provide clean-up with the railroad covering expenses outlined in the MOU.

Absent an MOU detailing shared maintenance, enforcement, and expenses, cities do not have the authority to unilaterally abate graffiti or clean-up trash on a railroad's right-of-way.

**Fiscal Impact**:
If the League of California Cities were to secure funding from the state for railroad clean-up activities, cities could potentially save money in addressing these issues themselves or through an MOU, as detailed above. This funding could also save railroad operators money in addressing concerns raised by municipalities about illegal dumping, graffiti, and homeless encampments along railroads.

Conversely, if the League of California Cities is unable to secure this funding through the Legislature or the Governor, cities may need to consider alternative methods, as detailed above, which may include significant costs.

**Existing League Policy**:
Public Safety:
*Graffiti*
The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism.

Transportation, Communications, and Public Works
*Transportation*
The League supports efforts to improve the California Public Utilities Commission's ability to respond to and investigate significant transportation accidents in a public and timely manner to improve rail shipment, railroad, aviation, marine, highway, and pipeline safety

Housing, Community, and Economic Development
*Housing for Homeless*
Homelessness is a statewide problem that disproportionately impacts specific communities. The state should make funding and other resources, including enriched services, and outreach and case managers, available to help assure that local governments have the capacity to address the needs of the homeless in their communities, including resources for regional collaborations.

Homeless housing is an issue that eludes a statewide, one-size-fits-all solution, and collaboration between local jurisdictions should be encouraged.

**Staff Comments**:
Clarifying Amendments
Upon review of the Resolution, Cal Cities staff recommends technical amendments to provide greater clarity. To review the proposed changes, please see Attachment A.

The committee may also wish to consider clarifying language around regulatory authority and funding to assist cities with these efforts. The resolution asks that new investments from the state be sent to the CPUC to increase their role in managing and maintaining railroad rights-of-ways and potentially to cities to expand their new responsibility.

The committee may wish to specify MOUs as an existing mechanism for cities to collaborate and agree with railroad operators and the CPUC on shared responsibilities and costs.

**Support:**
The following letters of concurrence were received:
City of Bell Gardens
City of Bell
City of Commerce
City of Cudahy
City of El Segundo
City of Glendora
City of La Mirada
City of Paramount
City of Pico Rivera
City of Huntington Park
City of Long Beach
City of Lynwood
City of Montebello

**ATTACHMENT A**

**2. A RESOLUTION CALLING UPON THE GOVERNOR AND THE LEGISLATURE TO PROVIDE ~~NECCESARY~~ NECESSARY FUNDING FOR ~~CUPC~~ THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) TO FUFILL ITS OBLIGATION TO INSPECT RAILROAD LINES TO ENSURE THAT OPERATORS ARE REMOVING ILLEGAL DUMPING, GRAFFITI AND HOMELESS ENCAMPMENTS THAT DEGRADE THE ~~QAULITY~~ QUALITY OF LIFE AND RESULTS IN INCREASED PUBLIC ~~SAFETLY~~ SAFETY CONCERNS FOR COMMUNITIES AND NEIGHBORHOODS THAT ABUT~~T~~ THE RAILROAD RIGHT-OF-WAY.**

Source: City of South Gate
Concurrence of five or more cities/city officials
Cities: City of Bell Gardens; City of Bell; City of Commerce; City of Cudahy; City of El Segundo; City of Glendora; City of Huntington Park; City of La Mirada; City of Long Beach; City of Lynwood; City of Montebello; City of Paramount; City of Pico Rivera
Referred to: Housing, Community and Economic Development; and Transportation, Communications and Public Works

**WHEREAS,** ensuring the quality of life for communities falls upon every local government including that blight and other health impacting activities are addressed in a timely manner by private property owners within its jurisdictional boundaries for their citizens, businesses and institutions; and

**WHEREAS,** Railroad Operators own nearly 6,000 miles of rail right-of-way throughout the State of California which is regulated by the Federal Railroad Administration and/or the ~~California Public Utilities Commission~~ CPUC for operational safety and maintenance; and

**WHEREAS,** the ~~California Public Utilities Commission (~~CPUC~~)~~ is the enforcing agency for railroad safety in the State of California and has 41 inspectors assigned throughout the entire State to inspect and enforce regulatory compliance over thousands of miles of rail line; and

**WHEREAS,** areas with rail line right-of-way within cities and unincorporated areas are generally located in economically disadvantaged zones and/or disadvantaged communities of color where the impact of blight further lowers property values and increases the likelihood of unsound sanitary conditions and environmental impacts upon them; and

**WHEREAS,** many communities are seeing an increase in illegal dumping, graffiti upon infrastructure and homeless encampments due to the lax and inadequate oversight by regulatory agencies; and

**WHEREAS,** local governments have no oversight or regulatory authority to require operators to better maintain and clean their properties as it would with any other private property owner within its jurisdictional boundaries. Thus such local communities often resort to spending their local tax dollars on cleanup activities or are forced to accept the delayed and untimely response by operators to cleaning up specific sites, and;

**WHEREAS,** that railroad operators should be able to provide local communities with a fixed schedule in which their property will be inspected and cleaned up on a reasonable and regular schedule or provide for a mechanism where they partner with and reimburse local governments for an agreed upon work program where the local government is enabled to remove items like illegal dumping, graffiti and encampments; and

**WHEREAS,** the State has made it a priority to deal with homeless individuals and the impacts illegal encampments have upon those communities and has a budgetary surplus that can help fund the CPUC in better dealing with this situation in both a humane manner as well as a betterment to rail safety.

**RESOLVED,** at the League of California Cities, General Assembly, assembled at the ~~League~~ Cal Cities Annual Conference on September 24, 2021, in Sacramento, that ~~the~~ Cal Cities ~~League~~ calls for the Governor and the Legislature to work with ~~the~~ Cal Cities ~~League~~ and other stakeholders to provide adequate regulatory authority and necessary funding to assist cities with these railroad right-of-way areas so as to adequately deal with illegal dumping, graffiti and homeless encampments that proliferate along the rail lines and result in public safety issues. ~~The~~ Cal Cities ~~League~~ will work with its member cities to educate federal and state officials to the quality of life and health impacts this challenge has upon local communities, especially those of color and/or environmental and economic hardships.

LEAGUE OF CALIFORNIA CITIES

**Council Action Advised by August 31, 2021**

June 16, 2021

**TO:** **City Managers and City Clerks**

**RE:** **DESIGNATION OF VOTING DELEGATES AND ALTERNATES**
**League of California Cities Annual Conference & Expo – September 22-24, 2021**

Cal Cities 2021 Annual Conference & Expo is scheduled for September 22-24, 2021 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 24. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Wednesday, September 15. This will allow us time to establish voting delegate/alternate records prior to the conference.**

**Please note:** Our number one priority will continue to be the health and safety of participants. We are working closely with the Sacramento Convention Center to ensure that important protocols and cleaning procedures continue, and if necessary, are strengthened. Attendees can anticipate updates as the conference approaches.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.

- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open mid-June at www.cacities.org. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.

- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 22, 8:00 a.m. – 6:00 p.m.; Thursday, September 23, 7:00 a.m. – 4:00 p.m.; and Friday, September 24, 7:30 a.m.– 11:30 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Wednesday, September 15. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:
- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form

LEAGUE OF CALIFORNIA CITIES

CITY:________________________________

**2021 ANNUAL CONFERENCE**
**VOTING DELEGATE/ALTERNATE FORM**

**Please complete this form and return it to Cal Cities office by Wednesday, September 15, 2021. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.**

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note**: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

**1. VOTING DELEGATE**

Name: ________________________________

Title: ________________________________

**2. VOTING DELEGATE - ALTERNATE**

Name:________________________________

Title:________________________________

**3. VOTING DELEGATE - ALTERNATE**

Name: ________________________________

Title: ________________________________

**PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR**

**ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).**

Name: ________________________________ Email ________________________________

Mayor or City Clerk________________________ Date____________ Phone________________
(circle one) (signature)

**Please complete and return by Wednesday, September 15, 2021 to:**
Darla Yacub, Assistant to the Administrative Services Director
E-mail: dyacub@cacities.org
Phone: (916) 658-8254

LEAGUE OF CALIFORNIA CITIES

## Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.

2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.

3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.

4. **Signing Initiated Resolution Petitions**. Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.

5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.

6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.

7. **Resolving Disputes**. In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.

| | |
|---|---|
| **From:** | Christina Turner |
| **To:** | Michelle Bigelow; Angie Gonzalez |
| **Cc:** | Chris Ghione; Edith Ramirez |
| **Subject:** | FW: [EXTERNAL] Agenda Item: ADOPT RESOLUTION AUTHORIZING TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 GRANT APPLICATION FOR BICYCLE LANE IMPROVEMENTS |
| **Date:** | Wednesday, August 18, 2021 4:54:50 PM |

Please supplement.

**From:** Armando Be <[redacted]>
**Sent:** Wednesday, August 18, 2021 1:55 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:** [EXTERNAL] Agenda Item: ADOPT RESOLUTION AUTHORIZING TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 GRANT APPLICATION FOR BICYCLE LANE IMPROVEMENTS

Dear City Manager, Mayor, and City Council Members.

We have $92.870 to spend from the grant, now or it could be banked for the future. The proposed plan is to spend it on the 5 block downtown enclave. But we have other bike lanes spread throughout the city of Morgan Hill. The question for me is- Is this money solely and exclusively required to be spent on those five blocks or could it be spent anywhere in the city where we have bike lanes? The bike lanes along the 5 blocks of the downtown are in better condition than other lanes within the city limits.

If the money can be spent on any bike lanes within the city, it might be wise before you approve this item for the city staff to report on the conditions of the bike lanes throughout our community and target the grant funds to those bike lanes that are the most in disrepair and in need of rehabilitation.

It is of utmost importance that we ensure that our tax dollars for bike lanes are apportioned fairly and equitably throughout the community.

Regards,
Armando Benavides
[redacted]

**From:** Doug Hall <[redacted]>
**Sent:** Wednesday, August 18, 2021 5:02 PM
**To:** CityClerk <clerk@morganhill.ca.gov>
**Subject:** [EXTERNAL] Support for bike lane grant application

You don't often get email from [redacted]. Learn why this is important

Please forward to City Council.

Dear Morgan Hill City Council,

Please support and approve the City of Morgan Hill's request to apply for The Transportation Act Article 3 grant to improve bicycle lanes on Monterey Road in Morgan Hill. There is currently no safe route for bicycles through downtown Morgan Hill. Please be aware that "sharrows" are not a substitute for bike lanes. The City of Morgan Hill removed the bicycle lanes on Depot Street two years ago, along with no current bicycle lane on Monterey Road. As someone highly involved in the betterment of our awesome town as a bicycle-friendly city, we desperately need these improvements. People For Bikes, a National advocacy organization, rates Morgan Hill at a rank of 26/100 in terms of being a bikeable city (this is compared to other similar sized towns). The highest rated cities received 83/100. We have a lot of work to do.

Regardless of your thoughts on street calming, etc, we need bike lanes to make us a livable city and a safer city.

Thank you,

Doug Hall

**Doug Hall**
**Bike Therapy**

[redacted] [redacted] [redacted] | www.ridemorganhill.com

17540 Depot St. Morgan Hill, CA 95037

**From:** Christina Turner
**To:** Michelle Bigelow; Angie Gonzalez
**Cc:** Chris Ghione
**Subject:** Agenda Item 3 questions and responses
**Date:** Monday, August 16, 2021 10:10:16 PM

Please supplement –

**Although Verde Design has worked with the city previously, did a competitive bid go out? How do you know the dollar amount is within a fair scope?**
A competitive bid or request for proposals (RFP) did not go out for this service. Verde has been awarded contracts through multiple RFPs in the past with the City and their pricing is consistently on the more affordable end. They have consistently demonstrated high quality work. City staff has reviewed the price structure and believe it is very competitive for a project this size. One advantage is Verde has significant information and experience related to the site based on their work on the Sand Volleyball Courts concept designs and work at the Outdoor Sports Center on several projects. With that said, an alternative action noted for the Council would be to direct staff to issue an RFP for the work. Although not the staff recommendation, this alternative is acceptable and could result in selection of another highly qualified consultant. It is important to remember that cost will be just one of the criteria in selecting a professional services consultant. Should the Council select to go this route, it will delay moving forward with the work by several months due to existing staff workload, which may be acceptable to the Council.

**Will this miniature golf be a revenue source to the city?**
Yes. The golf course already has been purchased and has a location at the Aquatics Center. The design work here would just be to ensure that it has a location within the final site master plan.

| | |
|---|---|
| **From:** | Christina Turner |
| **To:** | CityCouncil |
| **Cc:** | Michelle Bigelow; Angie Gonzalez; Chris Ghione |
| **Subject:** | Item 3 Questions and Answers |
| **Date:** | Wednesday, August 18, 2021 4:47:21 PM |

Please find below inquiries we received and our responses for Item 3 – this will be supplemented:

**Is there an agreement with LAFCO, that development on the proposed areas that are currently unused would get their approval? What is the end-goal and end-use of the $130K design work intended to be?**

LAFCO will not provide any sort of agreement without us formally requesting something of them. We would need to go through an environmental review process to develop the site or request any annexation down the road. That review cannot happen without some site planning. Staff has been in ongoing conversations with the agencies outlined especially the County. Additionally, the City does have the ability to use the site for a public purpose without LAFCO approval, we would just not be able to extend City services. On this site (unlike the site south of Tennant) the areas necessitating sanitary sewer could be left in the incorporated City areas and that makes future development much more feasible. Additionally the sites have not been used for ag in many years, which makes them less concerning from a loss of active agriculture perspective.

The site planning would review and outline opportunities for enhancement to the existing sites within the City which is equally important for future planning. It could also help prepare us to be competitive in future grant applications.

The Council could choose to not move forward with the analysis as well and wait for the next GP Plan update or for the City to come to some agreement with the County. However, having the site options defined prior to that would be beneficial. Waiting is not unreasonable, but planning for the future at the concept level could provide us with quite a bit more planning data.

**Regarding the scope of services document:**
**On what land would *additional soccer/multi-use fields* be considered?**
They could be constructed on the vacant land in the nearly 14 acres owned by the City adjacent to the Aquatics Center. See the undeveloped areas in the site map (directly east and south of the Aquatics Center). http://morganhillca.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=8404&MeetingID=2082. With this said, long term there could be some opportunity for site reconfiguration on what is existing parking being converted to fields or vice versa. Although I don't see this as likely, it could be a possibility.

**Is p*rovide future baseball fields* still in scope**
I think that it is reasonable to say baseball would be planned for the alternate site the Council recently approved purchase of, but we would like to discuss this through the public process we move into with the site planning. The actual scope of the contract includes development of three site alternatives, so we are not tied to baseball in the scope, it could be another alternative that comes out of the process.

**What was the total cost of the Volleyball Feasibility Demand Analysis, estimated cost, and conceptual layout work that was completed in May 2020?**

Costs the City paid for the consultant work included $38,000 with the consultant Management Partners for the feasibility work and $6,500 with Verde Design for the concepts and cost estimates. If you are asking about the cost estimates to construct the Sand Volleyball facilities they are available with this report to the Council:
http://morganhillca.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=2819&highlightTerms=sand

| | |
|---|---|
| **From:** | Christina Turner |
| **To:** | Michelle Bigelow |
| **Cc:** | Angie Gonzalez |
| **Subject:** | Agenda Item 7 questions and responses |
| **Date:** | Monday, August 16, 2021 10:08:38 PM |

Please supplement.

**Is there a plus/minus factor on this equation? In other words, can one district have, for example 8,500 population and the other district have 6,500?**
Districts have to have a maximum 10% difference between the largest and the smallest. So, for example, if each district needs a target of 11,000 people, the difference between the largest and smallest must be 1,100. That could be one district over by 700 and three under by 300, or two each over by 500 and two under by 500.

**Why was the deviation so drastic in District B? Conversely, why was district A so much in the minus deviation?**
The data we included were estimated data based on American Community Survey and Census projections. We expected the final counts would vary, especially in small geographic areas like council districts. When the final Census counts are available, the deviation will probably be smaller.

| | |
|---|---|
| **From:** | Michelle Bigelow |
| **To:** | [redacted]; CC Public Comment |
| **Subject:** | RE: [EXTERNAL] comment City Council August 18 #7. Re-Drawing Council District Boundaries |
| **Date:** | Monday, August 16, 2021 2:26:40 PM |

Hi Doug,

Thank you for providing your thoughts and feedback on the communities of interest. In response to your questions, please see below:

Taking these jointly, the traditional districting principles are factors we can consider after all the state, and federal criteria, including the FAIR MAPS Act criteria.  While factors like incumbency, as well as other court-recognized traditional criteria, can be considered, they must be considered only after all the rank-ordered criteria are taken into account.  This includes factors like preserving the "cores" of old districts and minimizing the number of voters who change election years/cycles.

Michelle Bigelow, MMC, CPMC
City Clerk/Interim Communications & Engagement Director
she | her | hers

City of Morgan Hill
City Clerk's Office
17575 Peak Avenue, Morgan Hill, CA 95037

D: 408.310.4678  O: 408.779.7259
michelle.bigelow@morganhill.ca.gov
morganhill.ca.gov | facebook | twitter

-----Original Message-----
From: D. Muirhead <doug muirhead@stanfordalumni.org>
Sent: Monday, August 16, 2021 10:23 AM
To: CC Public Comment <CCPublicComment@morganhill.ca.gov>
Subject: [EXTERNAL] comment City Council August 18 #7. Re-Drawing Council District Boundaries

Dear Morgan Hill City Council,
A comment for your August 18 meeting of the City Council
  Item #7. Re-Drawing Council District Boundaries

It is ironic that while communities in other parts of the country are working to reduce the effects of segregated neighborhoods, our lawmakers choose to have us divide ourselves based on various "identities". Their theory is that this causes effective and fair representation in future elections. Of course, if Council members and Administration staff regularly shared what you individually hear from residents with the larger community, we would have a sense of what "other" communities of interest care about to balance against our own interests and concerns.
A real Community rather than a collection of Islands.

But since the FAIR MAPS Act restricts the hand we can be dealt, that is the game we will have to play.

---
The staff report lists a subset of potential community features:
1. School attendance areas;
2. Natural dividing lines such as major roads, hills, or highways; 3. Areas around parks and other neighborhood landmarks; 4. Common issues, neighborhood activities, or legislative/election concerns; and 5. Shared demographic characteristics, such as:
   a) Similar levels of income or education;
   b) Languages spoken at home; and

c) Single-family and multi-family housing unit areas.
Missing from the last drawing effort was clearly identifying the community features considered and how the various proposals ranked against them.
I think including these will be very important in helping the community chose from the final set of maps this time.
---
The Monterey corridor (including downtown) could be a community of interest.
But I would prefer that it be sliced east-west so that several districts have a stake in those businesses and housing.
---
Except for the tail created for incumbent protection, I like my district in the south end of town. We have a little bit of everything: single-family and multi-unit housing, a school, two large parks, a City facility, shopping centers, and a mix of commercial and industrial businesses.
---
A question on NDC presentation slide "Redistricting Rules and Goals".
I do not understand if "Other Traditional Redistricting Principles"
is telling us things we can/should do or no longer can/should do?
* Minimize voters shifted to different election years
* Respect voters' choices / continuity in office
* Future population growth
* Preserving the core of existing districts I have repeatedly spoken against incumbent protection.

In the May 5, 2021 staff report on district boundaries, a substantive requirement for district boundaries is
* Districts must not be adopted for the purpose of favoring
or discriminating against a political party.

Since our Council seats are theoretically non-partisan, this does not affect us. In the May meeting, responding to public comment, I thought I heard City Clerk Bigelow say that creating districts around existing incumbents was still possible but far down on the list of priorities.
---
If nothing else, having the community features clearly identified will be a valuable education tool for all of us.
Good Luck. Doug Muirhead, Morgan Hill

# Demographic Summary of Existing Districts

| District | | A | B | C | D | Total |
|---|---|---|---|---|---|---|
| **2020** | 2020 Est. Total Pop | 11,083 | 11,515 | 11,135 | 11,750 | 45,483 |
| | Deviation from ideal | -288 | 144 | -236 | 379 | 667 |
| | % Deviation | -2.53% | 1.27% | -2.07% | 3.34% | 5.87% |
| 2020 Total Pop | % Hisp | 45% | 46% | 45% | 25% | 40% |
| | % NH White | 53% | 50% | 47% | 63% | 53% |
| | % NH Black | 3% | 4% | 2% | 3% | 3% |
| | % Asian-American | 14% | 23% | 18% | 25% | 20% |
| Citizen Voting Age Pop | Total | 6,045 | 8,112 | 7,268 | 7,944 | 29,369 |
| | % Hisp | 25% | 27% | 28% | 19% | 25% |
| | % NH White | 59% | 50% | 53% | 62% | 56% |
| | % NH Black | 3% | 3% | 2% | 2% | 2% |
| | % Asian/Pac.Isl. | 12% | 18% | 16% | 16% | 16% |

Counts using official 2020 Census and American Community Survey demographic data and are subject to change with the release of the final adjusted dataset in September

Each of the 4 districts must contain about 11,370 people.

CITY OF MORGAN HILL

# Item #8
# Budget Update and
# Proposed Budget Amendments

August 18, 2021

# Overview

CITY OF MORGAN HILL

- Monthly Budget Update
- Recommended Budget Amendments
- Proposed Amendment to Fiscal Policies

# Budget Update

CITY OF MORGAN HILL

# General Fund

- Preliminary FY20-21 revenues came in as expected

- Expenditures came in better due to cost savings in CRC, Fire, and Development Services

# Development Services

- Preliminary FY20-21 revenues came in better

- $4.6 million received in FY20-21

- Net operating deficit of $0.4 million

- No short-term loan needed from the General Fund for FY20-21

# Enterprise Funds

CITY OF MORGAN HILL

- Water revenues came in higher at $16.5 million versus $15.6 million budgeted
- Wastewater revenues came in as expected
- Water operating fund transferred to capital projects fund of $4.5 million versus $3.7 million budgeted
- Wastewater operating fund transferred to capital projects fund of $3.5 million versus $2.5 million budgeted

# Budget Amendments and ARPA Funds

CITY OF MORGAN HILL

# FY2020-21 Budget Adjustments

CITY OF MORGAN HILL

- Reclassify 1st installment of ARPA dollars to FY21-22

- Additional appropriations:

| Fund | Amount |
|---|---|
| 206 – Development Services | $120,000 |
| 355 – School Ped/Traffic Safety | 60,000 |
| 360 – CRC Impact Fee | 155,000 |
| 790 – Employee Benefits | 26,000 |
| **Total** | **$361,000** |

# State and Local Fiscal Recovery Funds

CITY OF MORGAN HILL

- First ever and largest amount of assistance to all eligible cities and towns
- Severe fiscal impacts from the pandemic
- Stimulus to bolster local governments' response and address economic impacts
- State and local governments have cut over 1 million jobs
- Morgan Hill has cut or unfunded 9.5 FTEs since FY19-20

# State and Local Fiscal Recovery Funds (cont'd)

- Morgan Hill's revised allocation is **$10.99 million** versus $8.65 million expected
- 1st of two payments received on 7/13/2021
- Allocated amount still far short of estimated revenue loss of about $17 million

# Proposed Use of ARPA Funds

CITY OF MORGAN HILL

- Approved on May 26, 2021

| FY20-21 | FY21-22 | FY22-23 | FY23-24 | FY24-25 | Total |
|---|---|---|---|---|---|
| $1.3M | $2.8M | $1.9M | $1.9M | $2.0M | $9.9M |

- Additional Proposed Use of ARPA Funds

| FY20-21 | FY21-22 | FY22-23 | FY23-24 | FY24-25 | Total |
|---|---|---|---|---|---|
| $0.0M | $0.9M | $0.2M | $0.2M | $1.9M | $3.2M |

# Proposed Use of ARPA Funds (cont'd)

- Funding for 3rd fire station operations
- Support for local nonprofit and other organizations
- Restore two Recreation positions
- Upgrade audiovisual technician from part-time temporary to full-time
- Citywide maintenance litter clean-up

# Proposed Use of ARPA Funds (cont’d)

- Community outreach and engagement
- Funding for Diversity, Equity, and Inclusion (DEI) consultant
- General liability and property insurance
- Outdated IT servers replacement

# Amendment to Fiscal Policies

CITY OF MORGAN HILL

# Unfundded General Fund Needs - $5.2 million

- Police $1.3 million
- Fire: $2.3 million
- Infrastructure: $0.6 million
- Operational loss due to RDCS suspension: $1.0 million

# Unfunded Liabilities- $55.9 million

CITY OF MORGAN HILL

- Public Employees Retirement System (PERS) - $52.5 million
- Other Postemployment Benefits (OPEB) - $3.4 million
- General Fund Share - 67% or $37.5 million
- Current Funded Status
  - Misc. Plan – 72.9%
  - Safety Plan – 68.5%

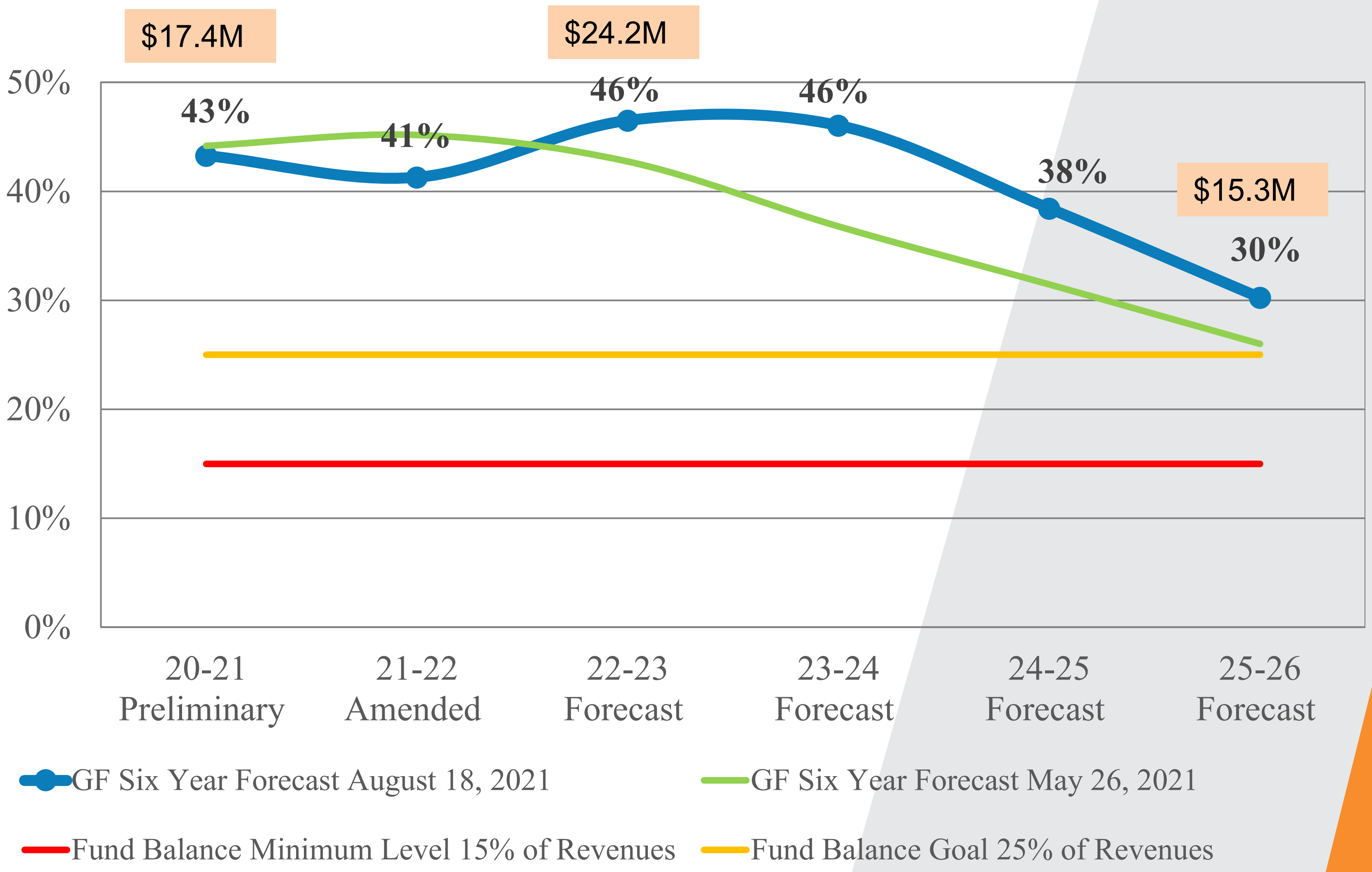
# Proposed Amendment

CITY OF MORGAN HILL

- Establish Fiscal Policy A.9 to set aside year-end General Fund budget savings to address unfunded needs and liabilities:
  - 20% to Street CIP
  - 20% to Section 115 Trusts
  - 10% to Park Maintenance

- Enterprise Funds matching of 20% for any funding to Section 115 Trusts

# Updated General Fund Forecast



# Recommended Actions

CITY OF MORGAN HILL

- Adopt resolution authorizing changes to adopted FY 2020-2021 and FY2021-2022 Operating Budget, including additional appropriation of ARPA funding

- Approve Fiscal Policy amendment establishing Policy A.9 to fund General Fund unfunded needs and unfunded liabilities from General Fund budget savings

# Questions?

City of Morgan Hill

City of Morgan Hill

# Item #8
# Budget Update and
# Proposed Budget Amendments


August 18, 2021

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CITY OF MORGAN HILL

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CITY OF MORGAN HILL

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CITY OF MORGAN HILL

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CITY OF MORGAN HILL

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# Proposed Use of ARPA Funds (cont'd)

- Funding for 3rd fire station operations
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# Proposed Use of ARPA Funds (cont'd)

- Community outreach and engagement
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# Amendment to Fiscal Policies

CITY OF MORGAN HILL

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CITY OF MORGAN HILL

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  - Misc. Plan – 72.9%
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# Proposed Amendment

CITY OF MORGAN HILL

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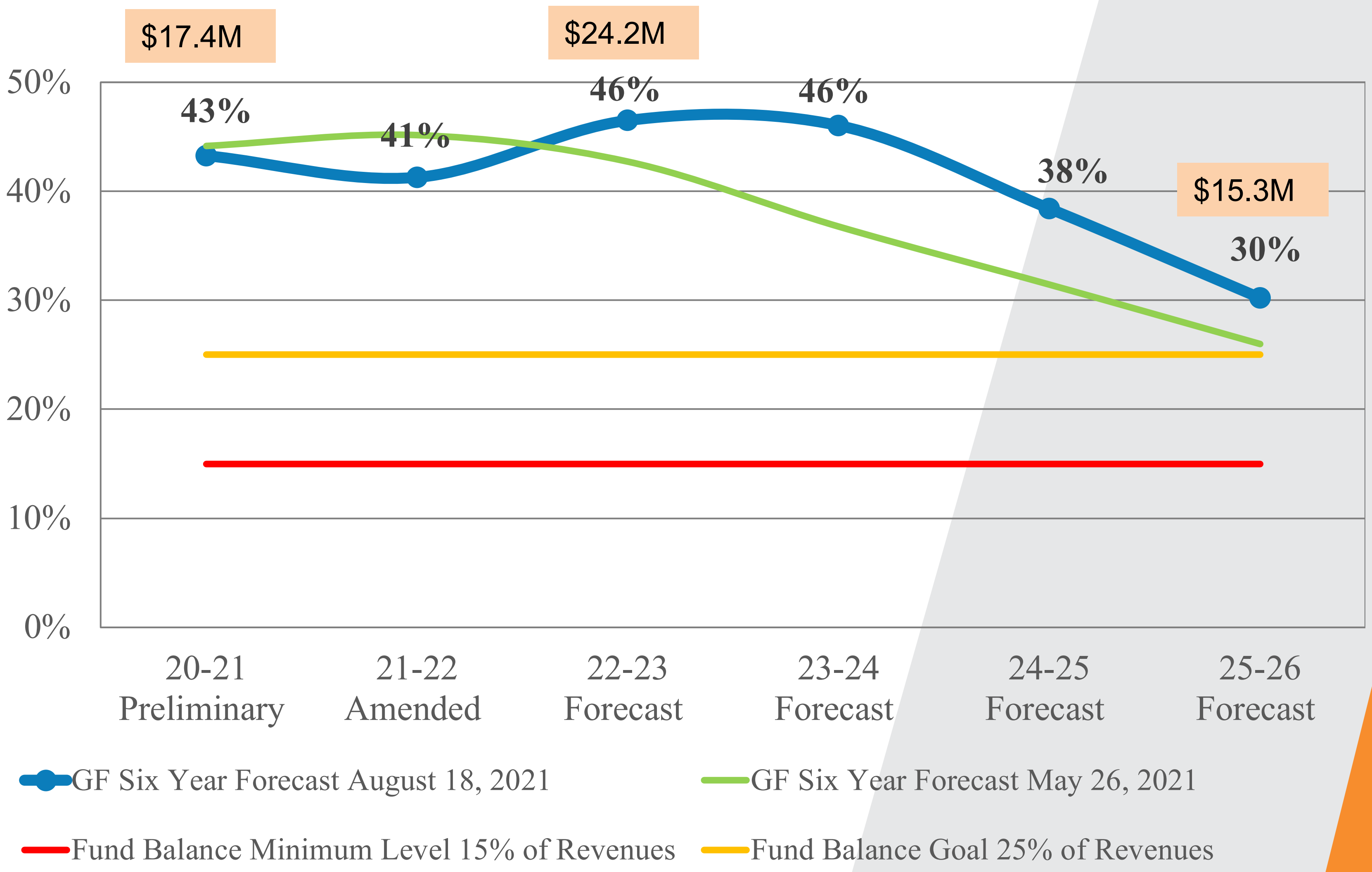
# Updated General Fund Forecast



# Recommended Actions

CITY OF MORGAN HILL

- Adopt resolution authorizing changes to adopted FY 2020-2021 and FY2021-2022 Operating Budget, including additional appropriation of ARPA funding

- Approve Fiscal Policy amendment establishing Policy A.9 to fund General Fund unfunded needs and unfunded liabilities from General Fund budget savings

# Questions?

CITY OF MORGAN HILL

**Item # 8**
**AGENDA DATE: 8/18/2021**
**SUPPLEMENT # 1**

**From:** Christina Turner
**To:** Michelle Bigelow; Angie Gonzalez
**Cc:** Dat Nguyen
**Subject:** Agenda Item 8 questions and responses
**Date:** Monday, August 16, 2021 8:18:55 PM

Please supplement.

---

**Development Services**

**Can the net operating deficit be more specifically identified as to specific areas of loss?**

Yes, please refer to page 10 of Attachment B for revenue by division of Fund 206 and page 13 of the same attachment for expenditures by division.

-

**Enterprise Funds**

**Wastewater Operating Funds transferred approximately $3.5 million and Operating Funds transferred approximately $4.5 million to capital projects funds. Was this an improvement over the prior years?**

Yes. In prior FY2019-20, wastewater operating fund transferred to wastewater capital projects fund in the amount of approximately $2.3 million versus $3.5 million in current FY2020-21, and water operating fund transferred to water capital projects fund in the amount of approximately $2.8 million in prior FY versus about $4.5 million in the current FY.

**Attachment B**

**What is Other in Historical General Fund Revenues related to?**

It includes categories not already identified in the chart including transfers in from other funds, grants, interest, etc.

**Can you explain what internal services is?**

They are funds/accounts that were established to provide services to other funds such as Information Technology, general liability and property insurance, workers compensation, etc.

**Administration expenditures. Was this lesser amount due to reduced staff (compared to budget and prior year)?**

Yes, as well as vacancies. The department unfunded the Assistant City Manager for Administrative Services, Accounting Manager, and part time HR assistant positions during FY19-20. In addition, the Assistant to the City Manager was vacant for about one quarter of the fiscal year.

**Can you explain the Asset Seizure fund revenue negative amount of ($17,217)?**

This fund accumulates revenue from the seizure of assets obtained by the Police Department from drug enforcement activities. Expenditures may be made from these funds only for police related activities in accordance with guidelines established by the state and federal governments. This negative amount is the comparative amount to prior fiscal year - the fund’s prior fiscal year revenue of $18,149 versus current fiscal year of $932, thus the negative ($17,217).

**What is School Pedestrian/Traffic Safety Fund?**

This fund accounts for the Residential Development Control System (RDCS) fee that the City collected from developers to fund traffic safety projects and improvements close or nearby schools.

CITY OF MORGAN HILL

**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, August 18, 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
    - In order to speak, please be sure that your version of Zoom is up to date.
- 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 p.m. for the purpose of conducting a closed session.**

6:00 p.m. Closed Session

7:00 p.m. Regular Meeting

# SPECIAL MEETING

**6:00 p.m. 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 LABOR NEGOTIATOR**

| | |
|---|---|
| Authority: | Pursuant to Government Code Section 54957.6 |
| City Negotiators: | Christina Turner, City Manager; Donald Larkin, City Attorney; Michael Horta, Human Resources Director; Dat Nguyen, Finance Director |
| Employee Organization: | Morgan Hill Police Officers Association |
| | Employees Covered under Management Resolution #21-025 |
| | AFSCME Local 101 Morgan Hill |
| | Community Service Officers Association |

# REGULAR MEETING

**7:00 p.m.**

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

## PRESENTATIONS

YAC Presentation- Asset # 7- Community Values Youth

2021 PG&E Community Wildfire Safety Program update

## RECOGNITIONS

Recognizing Phil Couchee, Recology General Manager, for his years of service to the community

Recognizing the many agencies who supported the vaccination clinics in Morgan Hill

## PROCLAMATIONS

Proclaiming the week of August 22-28, 2021 as Women's Equality Week

## CITY COUNCIL REPORTS

Mayor Pro Tem McKay

## 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 AUTHORIZING TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 GRANT APPLICATION FOR BICYCLE LANE IMPROVEMENTS

Recommendation:

Adopt resolution approving the following actions:

1. Authorizing staff to prepare and submit a Transportation Development Act (TDA) Article 3 Bicycle Expenditure Program (BEP) grant application to the Santa Clara Valley Transportation Authority for implementation of a Bike Lane Improvement project; and
2. Authorizing the City Manager to negotiate and execute the TDA grant agreement and other documents, reports, forms, and agreements related to the performance of the identified project.

2. **ADOPT ORDINANCE 2324, NEW SERIES, APPROVING AMENDMENTS TO DEVELOPMENT AGREEMENT DA2018-0001: OLD MONTEREY-KELLY VO FOR A 6-UNIT RESIDENTIAL DEVELOPMENT ON A 1.13-ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF OLD MONTEREY ROAD AND MUSTARD AVENUE (APN 764-24-061)**

Recommendation:

Waive the reading, adopt Ordinance No. 2324, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

3. **APPROVE AGREEMENT FOR CONDIT ROAD SPORTS FACILITIES MASTER PLAN CONSULTANT**

Recommendation:

Authorize the City Manager to execute and administer a consultant services agreement with Verde Design, Inc. for $135,718 for the development of a Sports Facilities Master Plan for the Condit Road Recreation Facilities.

4. **APPROVE AN IMPROVEMENT AGREEMENT WITH LEVEL 10 CONSTRUCTION, LP**

Recommendation:

1. Approve and authorize the City Manager to execute an Improvement Agreement with Level 10 Construction, LP; and
2. Authorize the recordation of the Improvement Agreement.

5. **APPROVE THE AUGUST 4, 2021 MEETING MINUTES**

Recommendation:

Approve Minutes.

6. **APPROVE THE AUGUST 6, 2021 MEETING MINUTES**

Recommendation:

Approve Minutes.

## PUBLIC HEARING (TO BE HEARD AT 8:00 P.M.)

7. **RECEIVE INPUT FROM THE COMMUNITY REGARDING RE-DRAWING OF CITY COUNCIL DISTRICT BOUNDARIES**

Recommendation:

Open and close the public hearing.

Estimated Time: 60 Minutes

## OTHER BUSINESS

**8. MONTHLY BUDGET UPDATE; PRELIMINARY FY 20-21 FINANCIAL AND INVESTMENT REPORTS; CITY MANAGER AUTHORITY REPORT; ADOPT BUDGET AMENDMENTS; AND APPROVE AMENDMENT TO FISCAL POLICIES**

Recommendation:

1. Accept and file Preliminary Fiscal Year (FY) 2020-2021 Financial and Investment Report and City Manager Authority Report; and
2. Adopt resolution authorizing changes to the adopted Fiscal Year (FY) 2020-2021 and 2021-22 City of Morgan Hill Operating Budget, including appropriation of American Rescue Plan Act (ARPA) Funding; and
3. Approve amendment to Fiscal Policies to fund General Fund unfunded needs and unfunded liabilities from General Fund budget savings.

Estimated Time: 45 Minutes

**9. APPOINT VOTING DELEGATES FOR THE 2021 LEAGUE OF CALIFORNIA CITIES (LEAGUE) ANNUAL CONFERENCE AND APPROVE CITY SUPPORT OF THE RESOLUTIONS TO BE CONSIDERED**

Recommendation:

1. Appoint a voting delegate and up to two (2) alternate voting delegates to the League of California Cities' Annual Conference;
2. Direct the Clerk team to complete and forward the voting delegate form to the League of California Cities;
3. Confirm "support" positions on resolutions to be considered on sales tax and litter along railroad lines; and
4. Authorize the City's voting delegate(s) to vote on the resolutions to be considered at the League of California Cities (LOCC) annual conference.

Estimated Time: 20 Minutes

## FUTURE COUNCIL INITIATED AGENDA ITEMS

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

## 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 OF MORGAN HILL

# Community Wildfire Safety Program

## MORGAN HILL CITY COUNCIL

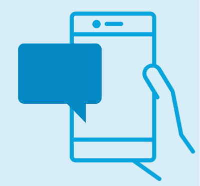
August 18, 2021

# Safety

## General Safety Tips


**Identify two exit routes** from your current work area in the event of a fire or other emergency.

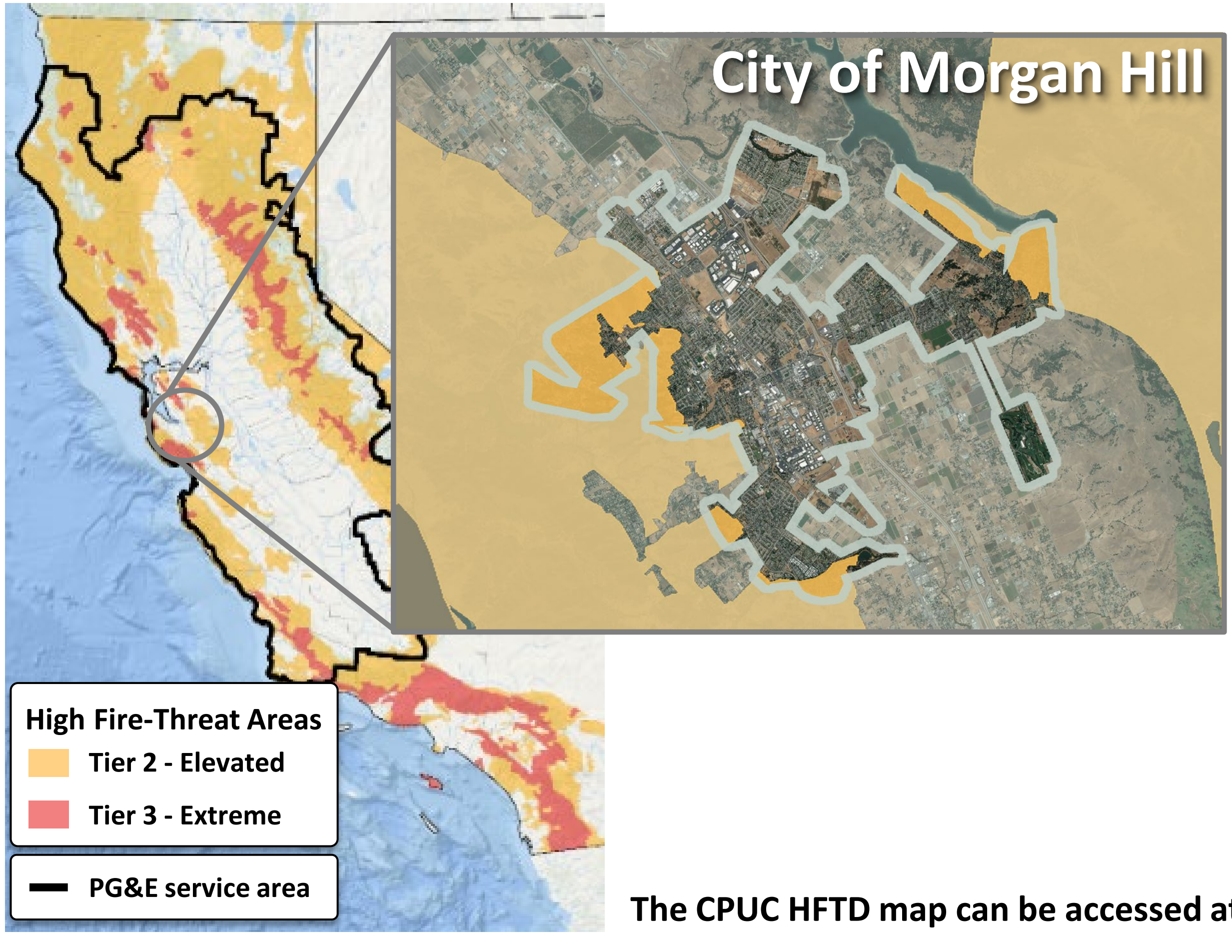
**“Drop, cover and hold”** in the event of an earthquake.



**Notify emergency services** if you are in danger. You can also ask for help by putting a message in the chat function of this meeting.

# Wildfire Risks Across PG&E's Service Area

**The California Public Utilities Commission (CPUC) has a map that designates areas that are most at risk for wildfire.** This map helps us plan and prioritize wildfire prevention efforts.




| SANTA CLARA COUNTY | |
|---|---|
| Total Customers Served | 640,832 |
| Customers in HFTD | 12,916 |
| Total Distribution Line Miles | 2,897 |
| Distribution Line Miles in HFTD | 585 |
| Total Transmission Line Miles | 688 |
| Transmission Line Miles in HFTD | 209 |

**The CPUC HFTD map can be accessed at:** ia.cpuc.ca.gov/FireMap

*Source: California Public Utilities Commission*

*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.* *Data as of June 30, 2021.*

# Community Wildfire Safety Program

## REDUCE WILDFIRE POTENTIAL

- Asset inspection and repair
- Enhanced vegetation management (EVM)
- System hardening
- Targeted device replacement
- Public Safety Power Shutoffs (PSPS)

## IMPROVE SITUATIONAL AWARENESS

- Wildfire Safety Operations Center
- Weather stations
- High-definition cameras
- Meteorology
- Satellite detection
- Bolster field-based wildfire expertise for program validation

## REDUCE IMPACTS OF PSPS

- Focus on areas of highest risk
- Continuously improve based on feedback and past experience
- Further expand our ongoing coordination with and support for customers and communities
- Enhanced microgrid capability

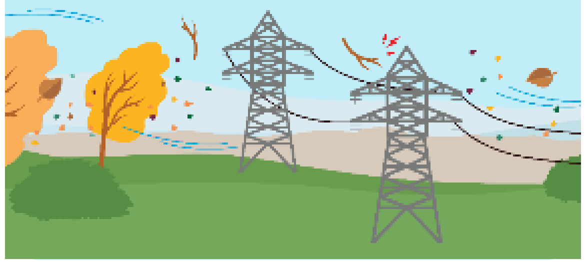
*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.*

# What is a Public Safety Power Shutoff?

**Safety is our most important responsibility. That is why we may need to turn off power as a last resort to prevent wildfires during severe weather conditions.**

High winds and dangerous conditions can cause branches and debris to contact energized power lines.

This could damage our equipment and cause a wildfire.



To prevent such fires, we may need to turn off power.

This is called a **Public Safety Power Shutoff (PSPS).**

Once severe weather has passed, we will inspect the system and repair any damage.

Once inspections and any repairs are complete, power is restored.

*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.*

# What Conditions Could Lead to a PSPS Event?

**We carefully review a combination of factors when deciding if power must be turned off for safety. These factors include:**

**Low humidity levels** generally 30% and below

**Forecasted high winds** above 20 mph and gusts above 30-40 mph

**A Red Flag Warning** issued by the National Weather Service

**Condition of dry material** on the ground and vegetation near lines

**On-the-ground, real-time observations**

This year, our decision-making process is evolving to also account for the presence of trees tall enough to strike power lines when determining if a PSPS is necessary.

*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.*

# How Will Customers be Notified?

**When severe weather is forecast, we provide advance notice prior to turning off power** and updates until power is restored.

## Timing of Notifications (when possible)

**1-2 days** before power is turned off **(WATCH)**

**Just before** power is turned off **(WARNING)**

**When** power is turned off

**Daily** until power is restored

**Once** power has been restored

**Notifications sent via automated calls, texts and emails.**

We will also use **pge.com**, social media and will inform local news and radio.

- Facebook: @pacificgasandelectric
- Twitter: @PGE4Me
- Instagram: @pacificgasandelectric

## New for 2021 | Address Alerts

**Receive PSPS notifications, available in multiple languages, for any location, such as:**

- The home of a friend or loved one
- Your child's school or day care
- Your work or business

Enroll at: **pge.com/addressalerts**

*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.*

# Customer Preparedness and Resources

## We are increasing resources to help customers and communities before, during and after PSPS events:

**Partnerships with 250+ Community-Based Organizations (CBOs)** to provide emergency preparedness information and PSPS event assistance

**Sponsored food replacement** through partner food banks and Meals on Wheels organizations

**California Foundation for Independent Living Centers (CFILC)** providing emergency planning, portable backup power, accessible transportation, hotel stays and food stipends

**Providing portable backup batteries** for income qualified Medical Baseline customers in high fire-threat areas

**Generator rebate programs** offered to customers who depend on well water pumps and live in high-fire threat areas

**Providing better information** about when power will be turned off and back on in 16 languages

## Santa Clara County
### Community-Based Organizations

**CFILC**
- Silicon Valley Independent Living Center

**Food Bank**
- Second Harvest Food Bank of Silicon Valley

**Other**
- California Council of the Blind

**In-Language Media**
- ABS-CNB
- Alianza News
- KBTV-Crossings TV
- KDTV Univision
- KIQI Radio
- KRON 4.2-Skylink TV
- KSFN-News for Chinese Radio
- KSJZ-Korean American Radio
- KTSF-TV
- KTVO-Sing Tao Radio
- KZSF Radio
- PAMA One Radio
- Radio Lazer Sacramento
- Radio Lazer SJ (KXZM 93.7 FM)
- Russian American Media
- Saigon Radio
- Sound of Hope Radio Network

**Potential Partnership:**
- 211 (Other)

*Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.* *Data as of June 30,2021.*

# More Information and Tools to Prepare

**For more information about our wildfire safety efforts, visit** pge.com/wildfiresafety

## For specific information, please consider the following:

**Would you like to receive PSPS notifications but are not the PG&E account holder?**
Sign up to receive PSPS alerts for any address at
pge.com/addressalerts

**Do you need information in a language other than English?** Find assistance at
pge.com/mywildfirealerts

**Do you want to learn more about the live weather conditions we are tracking in your area?**
Get up-to-the-minute weather information at
pge.com/weather

**Are you looking for tools and activities to help children prepare for an emergency?** Visit our interactive site at
kidsemergencysafety.com

**Are you looking for more information on how to stay safe before and during a PSPS event?**
Learn more about wildfire risks and how to prepare for emergencies at safetyactioncenter.pge.com

**Do you need backup power?** Check out backup power options, safety tips and financing at pge.com/backuppower
See if you qualify for the Portable Battery Program at pge.com/storage

# Thank You

For more information, please:

- Call us at **1-866-743-6589**
- Email us at **wildfiresafety@pge.com**
- Visit **pge.com/wildfiresafety**

**From:** [redacted]
**To:** CC Public Comment
**Subject:** [EXTERNAL] City Council Special - Regular Meeting 8/18/2021 6:00 PM Virtual Meeting comments
**Date:** Monday, August 16, 2021 11:04:09 PM
**Attachments:** Comments.doc

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Some people who received this message don't often get email from [redacted]. Learn why this is important

Here are my comments for this meeting or for general consideration.

Here is a list of comments, observations, and questions for the city to consider. These are in no particular order and are often interrelated and overlapping.

Safety:

Monterey Street Calming / Depot Street Realignment / Devco / Condit:

Safety -

Monterey Street Calming – Is purported to increase safety: have these claims been independently substantiated? Past experience? Consider make it one way north and the other south, same as traffic. Studies of safety of mixed use bike/pedestrian/children/dog?

Depot Street Realignment – safety of street cutting through busy parking lot? Necessity to add safety features -
"DEPOT – LATALA: Tentative Map and Design Review Permit
morganhillca.iqm2.com/Citizens/Detail_LegiFile.aspx
MeetingID=1845&MediaPosition=2562.482&ID=2370&CssClass=&Print=Yes 6/8
There is a crosswalk from the south parking lot to the north parking lot sidewalk that connects with the CCC entrance. To ensure vehicle awareness of the pedestrian crossing, pavement flashers will be installed within the decorative crosswalk to heighten the visual aspect of the crosswalk. In addition, the new Depot Street will include cobblestones that create a sound when driving over them to alert the driver that there entering an area with a high level of pedestrians!!!!. Details are provided on Plan Sheet C-04 of the site plans."
Also, changing parking to compact – has anyone not seen large cars, including SUV's parked in compact spaces?

Devco – Exits onto Barrett and Fountain pose serious safety concerns as documented in many prior inputs. Should the layout be changed to have the main exit onto Hill St.? Why not, why is the developer so opposed to this?

Condit – Turning left from San Pedro onto Condit continues to be at best very uncomfortable and at worst dangerous. I have spoken to others about it, including a police officer who patrols that area (lots of speeding on Condit), and they agreed. I encourage the city to take action. A very simple solution would be to make a small area on Condit no parking, losing only 3 spaces, and there is lots of parking in the immediate vicinity. Note – I've requested this more then once previously and haven't received a response. I encourage city representatives to see for themselves and I have photos to demonstrate the problem.

Downtown -

There have been several projects purported to encourage greater activity in downtown.

First was the Parking Garage which was built at a location other than the one specified in the general plan. The rational was that commuters would stop and shop downtown rather than zoom home after a lond day of work and commuting which they didn't do because of the walk from the Caltrain parking lot. Regarding the Parking Garage please install a 'Lot Full' sign as is done for other garages. During heavy use times like Friday Night music there is a log jam of cars making u-turns because they arrived at the top and and need to go back down, of course passing the hapless folks also looking for a space.

Staff report 'the Depot Street realignment would provide a local (Downtown) area benefit in regard to improved vehicular, bike, and pedestrian circulation to and from areas south of Dunne Avenue.'

Former Councilman - 'We need to make sure that the entire length of Depot Street is pedestrian friendly, safe for kids going to the park or people on bikes going to Bike Therapy and pleasant for the many new families that will live on Depot Street.'
'Depot - Hale Mixed Use Project; Initial Study; SR-19-03 Depot – Latala; August 2019
'Provide bicycle lanes, sidewalks and/or paths, connecting project residences to adjacent schools, parks, the nearest transit stop and nearby commercial areas.'

Why add bike lanes to Monterrey when a block away there will be bike lanes? Also the proposal says people within a 15 minute walk will go to downtown. Really? These aren't the same people who wouldn't walk from the Caltrain parking lot to downtown.

Communication / Access to information

Zoning – the last time I looked there wasn't zoning laws on the town web site or even a link to the county information.

Devco – the announcements continue to downplay the real impact of this development. Even though I live in Jackson Meadows I wasn't aware of it until it came up on Nextdoor. I requested that a development this large and with significant ramifications should be widely publicized which it then was.The best description of it was in the initial staff report which is almost impossible to find.

ATT Tower – I happened to come across the sign on San Pedro announcing the tower when I stopped to get a better look at the speed limit sign sandwiched between 2 crosswalk signs (this can't have been by design and probably should be corrected). The tower will 'tower over' everything nearby and may be a surprise when it is erected. I posted the information on Nextdoor to favorable comments from people who are frustrated with cell phone reception.

Modifications to General Plan – I requested documentation to learn what changes had been made to the General Plan. I expected a summary or overview but instead got a marked up copy of the original plan.

Meanwhile the Agenda Packet for City Council Special - Regular Meeting
8/18/2021 Meeting is 246 pages!

Ron Rzesniowiecki

**Phil Couchee Recognition**

The City of Morgan Hill has worked with Recology South Valley for decades to provide for the prompt and safe removal of solid wastes from residents and businesses.

During the past 17 years, Recology South Valley has been aptly led by Phil Couchee

Phil has proven to be an outstanding leader in serving the community by demonstrating professionalism, cooperation, responsiveness, graciousness, and creativity in responding to a variety of challenges and changes in the solid waste world

Phil is retiring from Recology South Valley after decades of serving customers throughout the Silicon Valley

Phil leaves behind a legacy of unparalleled partnership with the City that will be greatly missed by the City Council, the City staff, and the entire community

**Recognizing Vaccination Clinic Community volunteers and engagement**

In Morgan Hill COVID-19 vaccination clinics were held and supported by many local organizations including; The County of Santa Clara, Monterey Mushrooms, United Farm Workers (UFW) and UFW Foundation, Nueva Esperanza de Morgan Hill, The Grange, Community Solutions; and Martha's Kitchen

These efforts included registration for COVID-19 vaccination clinics, community outreach and education in Spanish and English, and food delivery and coordination

This collaborative team gave many hours to support the vaccination clinic operations with care and compassion to ensure our community members had a positive vaccination experience the "Morgan Hill way"

The City is recognizing these volunteers and local agencies for their service and dedication to our community

Proclamation- Celebration of Women's Right to Vote and Women's Equality Day

on the 101$^{st}$ anniversary of the 19th Amendment, Women's Equality Day, we celebrate the progress that has been made toward securing women's full participation in our democracy and renew our commitment to securing equal rights, freedoms, and opportunities for all women;

In honor of Women's Equality Day, there will be a series of events throughout the week of August 22nd-28th to highlight the work women in our community do, and honor their accomplishments; with support from community organizations, local residents, businesses, the Morgan Hill Chamber of Commerce, and the City of Morgan Hill;

women have been leaders, not only in securing their own rights of Suffrage and equal opportunity, but also in the Abolitionist movement, the Emancipation movement, the Industrial Labor movement, the Civil Rights movement, the Environmentalist movement, the Me Too movement, the Black Lives Matter movement and other movements, especially the Peace movement, and in fighting the COVID-19 pandemic, all of which have created a more fair and just society for all in honor of the Celebration's inclusiveness and diversity in keeping with the goals of the City Council, the City of Morgan Hill would like to recognize Women's Equality Day as the Celebration of Women's Right to Vote in Morgan Hill and join in recognizing and ensuring equity to the women who work and volunteer in and contribute to our city and community in every way.

**From:** Doug Hall <[redacted]>
**Sent:** Wednesday, August 18, 2021 5:02 PM
**To:** CityClerk <clerk@morganhill.ca.gov>
**Subject:** [EXTERNAL] Support for bike lane grant application

You don't often get email from [redacted]. Learn why this is important

Please forward to City Council.

Dear Morgan Hill City Council,

Please support and approve the City of Morgan Hill's request to apply for The Transportation Act Article 3 grant to improve bicycle lanes on Monterey Road in Morgan Hill. There is currently no safe route for bicycles through downtown Morgan Hill. Please be aware that "sharrows" are not a substitute for bike lanes. The City of Morgan Hill removed the bicycle lanes on Depot Street two years ago, along with no current bicycle lane on Monterey Road. As someone highly involved in the betterment of our awesome town as a bicycle-friendly city, we desperately need these improvements. People For Bikes, a National advocacy organization, rates Morgan Hill at a rank of 26/100 in terms of being a bikeable city (this is compared to other similar sized towns). The highest rated cities received 83/100. We have a lot of work to do.

Regardless of your thoughts on street calming, etc, we need bike lanes to make us a livable city and a safer city.

Thank you,

Doug Hall

**Doug Hall**
**Bike Therapy**

[redacted] [redacted] [redacted] | www.ridemorganhill.com

17540 Depot St. Morgan Hill, CA 95037